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PROCEEDINGS AND DEBATES OF THE 101st CONGRESS
SECOND SESSION

VOLUME 136—PART 18

SEPTEMBER 24, 1990 TO SEPTEMBER 30, 1990
(PAGES 25291 TO 26693)

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PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, SECOND SESSION

SENATE—*Monday, September 24, 1990*

(Legislative day of Monday, September 10, 1990)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable WENDELL H. FORD, a Senator from the State of Kentucky.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Wherewithal shall a young man cleanse his way? by taking heed thereto according to Thy word. Thy word have I hid in mine heart, that I might not sin against Thee. Teach me, O Lord, the way of Thy statutes; and I shall keep it until the end.—Psalm 119:9, 11, 33.

Eternal God, perfect in all Thy ways, Creator, Sustainer, Consummator of history in these crucial, unpredictable hours lead us in Thy way.

Thou knoweth each of us; none is a stranger to Thee, whether they be leaders in the Middle East, Europe, Africa, Asia, or the Americas. History is known to Thee, to the end, from the beginning and where we are in between.

Give us grace, dear God, to seek Thy way, to take Thee seriously, lest we turn from Thee and lose our way. Lead us in Thine way everlasting.

In Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 24, 1990.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. FORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting majority leader is recognized.

SCHEDULE

Mr. CRANSTON. Mr. President, this morning following the time for the two leaders, there will be a period for morning business not to extend beyond 10 a.m. with Senators permitted to speak therein for up to 5 minutes each.

Today, from 10 a.m. to 5 p.m., the Senate will consider S. 1224, the CAFE standards bill. Any rollcall votes on amendments on which agreement can be reached will occur after the Senate completes action on S. 1511, the older workers bill.

Under the previous unanimous-consent agreement, the Senate will consider S. 1511 for 2 hours today, beginning at 5 p.m.

Therefore, Mr. President, there will be no rollcall votes before 7 p.m. If there are votes, they will commence at that time relative to S. 1511.

RESERVATION OF LEADER TIME

Mr. CRANSTON. Mr. President, I ask unanimous consent that the time for the two leaders be reserved for their use later today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to exceed 10 minutes, with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from California.

Mr. CRANSTON. Mr. President, I am about to speak on the nomination of Judge David Souter.

I believe following my remarks Senator MOYNIHAN, the distinguished Senator from New York, will speak on another matter of very, very grave concern to the gulf situation and the role of Congress in respect to that.

I ask unanimous consent that I may proceed for 18 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MOYNIHAN. Mr. President, reserving the right to object, and I shall not object, I ask the distinguished acting majority leader, would it be possible that the time for morning business be extended to 10:30? And if so, I so request.

EXTENSION OF MORNING BUSINESS

Mr. CRANSTON. Mr. President, I think that is possible.

If there is no objection, I ask unanimous consent that the time for morning business be extended until 10:30 a.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The period for morning business has now been extended to the hour of 10:30 a.m.

SOUTER NOMINATION

Mr. CRANSTON. Mr. President, I rise to express my position on the nomination of David Souter to succeed Justice William Brennan as an Associate Justice of the U.S. Supreme Court.

The vote to confirm an individual to assume a lifetime position on the Supreme Court is one of the most important votes that any member of the Senate is ever called upon to cast.

The Constitution requires that those serving in two branches of our govern-

ment, the Congress and the Presidency, shall serve for fixed terms and shall be directly accountable to the electorate at regular intervals. In contrast, those serving in the third branch on the Supreme Court may serve for life. A Justice can be removed from office only upon impeachment and conviction of the severest of high crimes. The individual who succeeds Justice Brennan may serve for two and perhaps three decades, affecting the lives of millions of Americans and generations of future Americans. Those individuals who serve on the highest court of this Nation are entrusted with the responsibility of safeguarding the individual rights and liberties secured by the Constitution, and particularly the Bill of Rights.

Mr. President, the founders of the Constitution gave the U.S. Senate a very important check and balance: the power to approve or disapprove the nomination by the President of an individual to serve on the Supreme Court. Each individual Senator must determine what criteria he or she will apply when voting on a Supreme Court nomination.

Some take the position, espoused by former Attorney General Griffin Bell during his testimony supporting the Souter nomination, that there should be a rebuttable presumption in favor of confirming a nominee selected by the President.

In view of the eminently clear formula for checks and balances between the three branches of our government which is set forth in the Constitution, I have a very different view of the Senate's responsibilities.

In 1986, after extensive research and deliberation, I set forth my view on the responsibilities of the Senate in exercising its advise and consent with respect to a nomination to the Supreme Court. I did so in a Senate speech that appears in the CONGRESSIONAL RECORD of July 21, 1986. That view—expressed long before this nomination or even the Bork nomination—is that the Founding Fathers intended that the Senate should have a coequal responsibility with the executive branch in placing individuals on the Supreme Court. One of the framers of the Constitution, Gouverneur Morris, summed up the constitutional provisions on judicial appointments as giving the Senate the power "to appoint judges nominated to them by the President." Indeed, I believe that this coequal role generally has been recognized throughout most of our Nation's history, with nearly one in five of the nominations to the Supreme Court having been rejected by the Senate.

Thus, I approach this responsibility with much more gravity than merely approving a President's nomination. Way back in 1971 when the Senate considered the nomination of Justice Powell, I articulated a standard which I believe must be met by a nominee to win my vote for confirmation.

I have said in the past that the nominee must demonstrate "a basic commitment to and respect for individual rights and liberties inherent in the fabric of the Bill of Rights, for it is these rights that stand as the last bulwark between the force of government and individual freedom."

I believe that under the Constitution the burden of proof is on the nominee to establish a commitment to these fundamental rights which are protected by our Constitution.

The nomination of Judge Souter poses a perplexing dilemma. On the one hand, there is no question that he possesses the intellect and character appropriate for a judicial office. A former Rhodes Scholar, Judge Souter has impressed me with his impressive command of the law, his engaging personality, and his humility regarding the responsibilities of members of the judicial system to ensure the fair administration of justice.

The question for me is whether he has met the burden of proof in establishing his understanding of, and his commitment to, the concept of individual liberty, as embodied in the spirit and words of the Constitution.

In the case of Judge Souter, this task is complicated by the fact that although he has made the law his vocation and has performed admirably, he has virtually no prior record by which the presence or absence of that committee can be measured. The nominee at the age of 51 has served as Federal judge for only a few months prior to his nomination to the Supreme Court and has participated in no decisions. His service as a trial court judge for 5 years and as a member of the New Hampshire Supreme Court for 7 years likewise resulted in few decisions of constitutional dimension.

Prior to his service in the New Hampshire State judiciary, Judge Souter served for a number of years in the State attorney general's office, eventually becoming the New Hampshire attorney general. Quite frankly, Mr. President, some of the positions he espoused as attorney general of the State of New Hampshire—particularly those relating to separation of church and state under the first amendment and the power of Congress to implement the 14th amendment's provisions relating to racial equility—are disturbing. Although I share some of the concern expressed by various members of the Judiciary Committee regarding positions he took as attorney general that appear inconsistent with his oath of office to defend the Constitution, it is important to distinguish between those positions he felt obligated to assert on behalf of his client and his personal views.

However, Judge Souter was unwilling to make that distinction clear in matters relating to abortion in his testimony before the Judiciary Committee. Of course, if an attorney cannot in good conscience represent the needs and views of his client, he can either refuse to handle the case or he can resign his post.

In the case of Judge Souter, the restraints upon evaluating what an attorney is obligated to assert for a client and the limited number of constitutional issues addressed in his opinions on the State court result in a very scanty prior record upon which the Senate must render its decision.

In contrast, Mr. President, the last nominee to be confirmed to serve on the Supreme Court, Justice Anthony Kennedy, although only 51, had served as a Federal judge for 12 years and had taught constitutional law for a number of years. His opinions on the Federal court and activities as a constitutional scholar provided the Members of the Senate with numerous examples of his reasoning and approach to fundamental constitutional questions.

This is not the case with regard to Judge Souter. Indeed, it is no secret that many believe that President Bush selected Judge Souter precisely because there was no prior record of his views on constitutional issues. It may well be that after he has served on the Federal bench for a reasonable time, he will have developed a distinguished record on constitutional issues that would establish him as an outstanding nominee for a future Supreme Court vacancy.

However, in the absence of any meaningful prior record that would help determine how Judge Souter approaches fundamental constitutional questions, Members of the Senate are left to make a judgment based almost exclusively on Judge Souter's 3 days of testimony before the Senate Judiciary Committee.

And here, Mr. President, lies the crux of the problem for me and, I presume for other Senators.

Judge Souter has determined that the Members of the U.S. Senate are not entitled to know his views on one particular area of constitutional law—the area involving the right to privacy in matters relating to procreation—before voting on his nomination.

He steadfastly and persistently refused to answer any questions relating to this complex area although he was forthcoming in various other areas of constitutional law which may come before the Supreme Court during his term. It is difficult for the Senate to advise and consent to a nomination when the nominee is not forthcoming during the very process which is clearly defined in the Constitution as our obligation to carry out.

Mr. President, Judge Souter told the Judiciary Committee that he did not know how he would rule on any prospective future specific case involving reconsideration of Roe versus Wade and would listen to the arguments made on both sides.

That is a position which any judicial nominee is obligated to take. Indeed, any nominee who could not make that commitment should be rejected out-of-hand. A commitment not to prejudge an issue prior to hearing the arguments is an essential element of justice. No member of the Judiciary Committee or the U.S. Senate, to my knowledge, has asked Judge Souter to state how he would rule on any prospective case.

That is not what this debate is about. What Judge Souter has declined to do is reveal any of his views on the line of cases involving the fundamental right to privacy, of which Roe versus Wade is part.

During the course of his testimony, Judge Souter conceded that he did have a view regarding Roe versus Wade at the time the decision was rendered in 1973, but he would not reveal to the members of the Judiciary Committee what that view had been.

He declined to state whether he agreed or disagreed with the specific holding in the 1963 Griswold decision relating to the right of married couples to use contraceptives. He was unwilling to address the question in Eisenstadt of whether the right of privacy encompassed the rights of unmarried individuals to utilize contraceptives, although he did acknowledge the existence of a marital right of privacy.

He declined to tell the committee what his personal views on the issue of abortion were on the grounds that some might not accept the fact that his personal views would have no impact upon his judicial views. I would note that Justice O'Connor answered precisely that question and told the Judiciary Committee that she was personally opposed to abortion. She was nonetheless endorsed by numerous women's groups and confirmed by the Senate which recognized that her personal views and her judicial views were distinguishable. Justice Kennedy also distinguished his personal views from his judicial views on this issue when he appeared before the Judiciary Committee.

Mr. President, it is important to note that Judge Souter did feel free to discuss his views on numerous other issues that will be coming before the Supreme Court in the years ahead. He did not hesitate to tell the committee that he found no basis for a constitutional bar against capital punishment. He talked at length about specific cases and legal principles relating to the free exercise and establishment clauses of the first amendment—issues which are the subject of heated contemporary constitutional debate and most likely to come before the Court in the very near future. He expressed his areas of discomfort with the Lemon decision relating to separation of church and state as well as his views on the appropriateness of the strict scrutiny test for free exercise cases.

Yet, illustrating the problem which troubles me about his nomination, he declined to discuss similar matters—including the level of scrutiny to be applied—in privacy cases.

My quandary, simply put, is whether I can vote to confirm a Supreme Court nominee who refuses to reveal his views on the legal doctrines involving one of the most important constitutional issues of our time.

Mr. President, I respect and do not challenge Judge Souter's conclusion that he cannot discuss what might be his ultimate decision on Roe versus Wade. I accept the sincerity of his statement that he will not go on the Court with a preconceived agenda on how he will rule before he hears the arguments of the parties.

However, I do not believe that I can fulfill my own constitutional responsibility as a member of this body to make a judgment on the basis of the record before me as to whether or not this nominee has an adequate understanding of and commitment to one of the most fundamental and important constitutional rights citizens of the country inherently possess—the right to privacy.

For that reason, I will vote against the nomination.

THE "SINGLE ISSUE" ISSUE

Mr. President, I want to address the question which has been raised as to whether it is somehow inappropriate to vote against a nominee because of problems relating to a "single issue."

First, let me make it clear that I am not voting against this nomination because I disagree with Judge Souter on the issue of abortion, since I have no idea what his views are on abortion.

I will vote "no" because Judge Souter will not reveal his views on a fundamental constitutional issue—the right of privacy.

I will vote "no" because I do not believe that I can exercise responsibly my constitutional duty to advise and consent to a nomination when the nominee has determined to carve out one special and controversial area of the law in which he refuse to reveal his opinions—for whatever reason.

Second, it is important to understand that it is not simply the single issue of abortion or the 1973 Roe versus Wade decision that Judge Souter has refused to discuss in his testimony. He has declared the entire line of cases involving the right to privacy off-limits for discussion.

Finally, Mr. President, I am dismayed that the issue of privacy is regarded by some as "just a single issue" lacking in the kind of substantive weight that would justify a negative vote on this nomination.

There is no question but that a nominee who would vote to overturn Brown versus Board of Education or refuse to discuss that case would be rejected on the basis of the single issue of desegregation.

There is no question but that a nominee who asserted that the establishment clause of the first amendment would not preclude state officials from placing crucifixes in every public school classroom or who refused to discuss his views on cases involving freedom of speech would be rejected on the basis of such "single issues."

The right of privacy, encompassed in the long line of cases that preceded Roe and which are inextricably entwined in the Roe holding, is as important to millions of Americans as are rights relating to race or religion.

The right of privacy—the right of each American to be left alone and to be free from government surveillance and the right of each American to determine the ways in which he or she lives his or her personal life—is one of the most fundamental liberties that each American expects to enjoy. The founding fathers sought to ensure these rights two centuries ago in the Bill of Rights.

The United States of America is not a nation like Romania where government officials forced women to submit to monthly pregnancy tests or like China where the government imposes sanctions on citizens who bear more than their allotted number of children. As Justice Douglas articulated in the Griswold decision, this is not a society where we would allow the police to search our bedrooms for the "telltale" evidence of contraceptive use.

To me, the right of privacy in matters relating to family life and procreation goes to the very essence of the liberty and freedom from Government control that Americans deeply cherish. The right of privacy is not just a single issue—it is part and parcel of the fabric of ideals and values that is unique to our Nation.

Mr. President, the Supreme Court cannot overturn the Roe decision without also dismantling the cases which preceded and follow it relating to the fundamental right to privacy. The Supreme Court cannot take away the constitutional basis for the right to choose in matters relating to termination of a pregnancy without endangering the constitutional protections laid out in Griswold and Eisenstadt that allow individuals, married or unmarried, the right to purchase and utilize contraceptives to prevent pregnancy. Judge Souter understands that

linkage and indicated that is precisely the reason that he will not discuss the holdings in the two Supreme Court decisions involving contraceptives, Griswold and Eisenstadt.

OTHER CIVIL RIGHTS CONCERNS

Mr. President, in focusing my remarks on the problems which arise for me as a result of Judge Souter's refusal to respond to questions relating to the constitutional issues involving the right of privacy, I am not unmindful that a number of other concerns also have been raised about his position relating to basic civil rights questions. I also am concerned that his statement that there are no racial discrimination problems in the State of New Hampshire suggests a surprising lack of awareness of the nature of these issues.

CONCLUSION

Mr. President, let me conclude by saying that my decision to vote "no" on the nomination of Judge Souter did not come about lightly.

I recognize that in many of the statements Judge Souter made during the course of his hearing he appeared to be willing to embrace an expansive reading of the nature of constitutional liberties. This is very encouraging to those of us who see the Court's role as a guardian of individual liberties. His acknowledgement that the Bill of Rights and the Constitution itself were intended to limit the powers of Government over the liberty of individuals in areas not specifically enumerated is also encouraging. I hope that if Judge Souter is confirmed that the promise of these statements will be borne out in his actions in specific cases before the Court. I also am keenly aware of the argument that Judge Souter's commitment to keep an open mind when the Court reconsiders Roe versus Wade is probably the best that I and millions of other Americans who believe in a woman's right to choose can hope for from any nominee proposed by a President who has asked the Supreme Court to overturn Roe versus Wade. But given my view of the obligation of a Senator in casting a vote to confirm a nomination to the Supreme Court and given my view of abortion as reflected in my authorship of the Freedom of Choice Act now pending in the Senate and given the fact that Judge Souter, if confirmed, may well be the swing vote on this issue, I cannot vote to confirm his nomination.

I cannot support a nominee who refuses to acknowledge that a woman's right to choose to terminate a pregnancy is a fundamental right or that the right of individuals, married or unmarried, to use contraceptives to prevent a pregnancy, is a matter of settled law. I cannot support a nominee who regards these issues as open questions.

My view of my responsibility under the Constitution to the generations of Americans who will be affected by those decisions—particularly the millions of young women whose very lives may well depend on the right to choose whether or not to carry a pregnancy—compels me to vote "no" on this nomination.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I just briefly want to thank the distinguished, able, learned, indefatigable Senator from California, the acting majority leader. He spoke this morning of various constitutional rights of the American people, and I would like to say, and I am sure he would agree, that there is one further right which might be alluded to here which is the right, the constitutional right of the American people, to know that the Supreme Court is formed jointly by actions of the President and the Senate. The Senator cited Gouverneur Morris' evocative and interesting phrase that the Senate appoints the Court from persons nominated by the President.

Any motion that there is a rebuttable presumption on behalf of a nomination—that the Senate ought to be basically pliant in response to a nomination—is altogether unconstitutional—even anticonstitutional, and speaks to a right of the American people. The American people have a right to know, a right that resides in the Constitution, to see that the procedures of the Constitution are maintained.

No one has spoken better, more forcefully, or in a more timely fashion to that issue than the Senator from California. I thank him.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. CRANSTON. I wish to speak on the time of the Senator from New York for just 1 minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRANSTON. I thank my friend from New York for his very kind and thoughful remarks. He is a remarkable constitutional scholar, as well as a scholar on many other matters, and I think it is a rather remarkable coincidence that I came to the floor today to speak on a matter relating to the rights and prerogatives and responsibilities of the U.S. Senate and individual Senators on a matter of vast importance to the people of our country, the nomination of an individual to serve on the Supreme Court, and our joint powers in that matter, with the President of the United States.

The Senator from New York is here to speak on another grave constitutional issue at this very moment, what is occurring in the gulf, and the role of the Senate of the United States and the Congress, coequal with the President, in determining how force shall be used.

The Founding Fathers gave the Congress the right to declare war, and that is the subject upon which the Senator from New York is about to speak. I urge the Senate and the Nation to heed his words.

The ACTING PRESIDENT pro tempore. The Senator from Alabama is recognized.

JUDGE DAVID SOUTER

Mr. HEFLIN. Mr. President, the confirmation hearings on the nomination of Judge David Souter have been completed. They were comprehensive and thorough. These hearings reflected that careful study had been conducted by all members of the Senate Judiciary Committee during the August recess. Following the hearings I spent considerable time reviewing his writings and testimony, as well as further research on his background.

I am now persuaded that Judge David Souter should be confirmed for a seat on the U.S. Supreme Court. As I said in my opening statement before the committee hearings, the Senate must exercise its advise-and-consent responsibilities and in order to perform that role properly, we must have necessarily examined Judge Souter's background as to his legal competence, integrity, judicial temperament and the manner in which he would perceive his role as an Associate Justice on the Court.

There are those who testified before the committee who felt that the Senate needed to know Judge Souter's precise opinion on several issues of great interest, but I am of the opinion that this view is wrong—wrong especially for that of a judge whose prime function is to dispense justice fairly and impartially to those who come before his or her court and therefore not to prejudge issues without the benefit of briefs, research, and arguments.

Judge Souter's background—from excellent educational credentials to his experience as a State attorney general, trial judge, and Supreme Court Justice—has, in my opinion, more than adequately prepared him to sit on this Nation's highest court.

He perhaps ideally brings to the High Court the reflected values of a small town that is tightly knitted, that cares about its neighbors, and that reflects traditional American concepts of respect for the rights of others and respect for a fair and just society.

In listening to the several days of testimony, including those who spoke on his behalf as well as those who spoke against him, I think it is noteworthy that those who know Judge Souter personally have the highest regards for his professionalism, his char-

acter and his integrity, and his humaneness. To a person, these witnesses, who have been practitioners and former associates of Judge Souter, have spoken highly of his fairness, impartiality, and willingness to listen. This listening quality must not be underestimated in the factors which go to make up a good judge. A judge may be brilliant, he or she may be a tireless worker, but if he or she has rigid predetermined notions, how can any citizen realistically expect a fair hearing of his or her case? I am persuaded that Judge Souter possesses this endearing quality of being willing to listen—to be fair and impartial.

I accept Judge Souter's response to our committee's questions on the issues regarding the doctrines of original intent, stare decisis, statutory construction, and judicial restraint. I believe he will respect precedent regarding previous interpretations of the Bill of Rights, the due process and the equal protection clauses of the Constitution, as amended. Judge Souter will not bring a scorched earth philosophy to the Court, but he will bring a sense of historical prospective and a clearheaded approach to the analysis of legal issues.

In the end we in the Senate must ask ourselves, what is the primary role of the Supreme Court of our Nation? It is the ultimate arbiter of the Constitution and last guarantor of our freedoms.

The late Supreme Court Justice Tom Clark in an article on Justice Felix Frankfurter stated:

> For the highest exercise of judicial duty is to subordinate one's personal pulls and one's private views to the law of which we are all guaradians—those impersonal convictions that made a society a civilized community, and not the victims of personal rule.
>
> [Mr. Justice Frankfurter: "A Heritage For All Who Love The Law" 51 ABAJ 330 (1965).]

The Senate's advise and consent function of the Constitution has required that we look into Judge David Souter's mind and heart and ask if he will dispense justice fairly and impartially to all of those who will come before him.

Judge Frankfurter perhaps stated a judge's function best in a tribute to the late Supreme Court Justice Robert Jackson when he said:

> What becomes decisive to a Justice's functioning on the Court in the large area within which his individuality moves is his general attitude toward law, the habits of the mind that he has formed or is capable of unforming, his capacity for detachment, his temperament or training for putting his passion behind his judgment instead of in front of it. The attitudes and qualities which I am groping to characterize are ingredients of what compendiously might be called *dominating humility.*
>
> [Frankfurter, Felix, Foreward, to Memorial issue for Robert H. Jackson, 55 Columbia Law Review (April, 1955) p. 436.]

I am willing to chance that Judge David Souter possesses these qualifications. I hope he will be a faithful steward of our Constitution and will uphold the Supreme Court standard of equal justice under law.

The ACTING PRESIDENT pro tempore. The senior Senator from New York is recognized for 5 minutes.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that I be allowed to speak in morning business for as long as is necessary, in the absence of any other Senator seeking immediate recognition. I had thought we had an understanding that the acting majority leader planned to be speaking about 18 minutes and that I would take about the same amount of time. Will I be allowed 20 minutes?

The ACTING PRESIDENT pro tempore. Is there objection to the Senator's request? If not, without objection, it is so ordered. The Senator may speak until some Senator arrives, and that could be 6 minutes.

THE PERSIAN GULF AND A NEW WORLD ORDER

Mr. MOYNIHAN. Mr. President, on Thursday morning of last week our learned and hugely respected colleague, the senior Senator for Oregon, addressed the Senate on the subject of the recent deployment of American forces in the Persian Gulf. He began by expressing the pride which he felt, which we all feel, on the occasion that he took that majestic oath of office: "to support and defend the Constitution of the United States * * *."

He continued:

> But today, Madam President, that pride has somewhat diminished, because, as tens of thousands of American men and women are being sent to defend Saudi Arabia and the nations of the Persian Gulf—as the largest United States military deployment since the Vietnam war is well underway—this very Congress is cheering with one hand and sitting on the other hand. With the responsibility entrusted to this body by the Constitution and the War Powers Resolution staring us in the face, we are turning the other way. Collectively and individually, we are turning our backs on that sacred oath of office that we have taken. We are turning our backs on the law that we swore to uphold—and we are turning our backs on the responsibilities given to us by the framers of the Constitution.

And he concluded:

> As things stand now, U.S. soldiers are implementing only an executive branch policy.
>
> And that is not enough. They should be implementing a U.S. policy that has the full support of the Congress of the United States and involves all of this Nation's people.

It happens that at the very hour Senator HATFIELD was speaking here, out Permanent Representative to the United Nations, Ambassador Thomas R. Pickering, was testifying before the Foreign Relations Committee on the subject of the Persian Gulf crisis and I raised with him precisely the same point. I come to the floor this Monday morning to continue with the matter.

I should perhaps state at the outset that Senator HATFIELD and I are not entirely of the same mind as regards the relevance of the War Powers resolution to the present situation. I would hold that the relevant statute, if indeed there is a relevant statute, would be the United Nations Participation Act of 1945. But this is a small matter alongside the great fact that the Constitution surely indicates that the Senate ought to—must—participate in this action through debate and, soon now, a formal statement.

Another cogent statement on this subject appeared in this morning's Post. In an editorial entitled "Action in the Gulf: Get Congress to Vote Now," our distinguished colleague Senator COHEN argues that—

> President Bush would serve his own decision and America's cause well by complying with the formal provisions of the War Powers Act and asking the congressional leadership to schedule a vote in support or rejection of American forces being placed in circumstances involving imminent hostilities. It would not be impossible for Congress to reverse its course later and cast stones at the Oval Office, but it would be harder for it to do so once its members formally are on record in support of the operation.

The opening statements at the committee hearing led directly to this question. Senator PELL began

> In his speech to the nation Tuesday evening President Bush spoke movingly of a "fifth objective" for our Persian Gulf policy. This objection is the creation of a new world order, a world, to quote President Bush, "quite different from the one we've known, a world where the rule of law supplants the rule of the jungle."

Ambassador Pickering responded in perfect harmony.

> Two weeks ago Secretary Baker testified that "the Iraqi invasion of Kuwait is one of the defining moments of a new era—a new era full of promise, but also one that is replete with new challenges" Much of that promise and many of those challenges are to be found at the United Nations.

These are large pronouncements that respond, if anything, to even larger events. A new world order. A defining moment of a new era. The sudden reappearance of the United Nations as the setting of American foreign policy. We have not spoken in such terms for nearly half a century.

At one level events are simple enough. Almost half a century after it was founded, the United Nations appears to be working in the way we had hoped it would do. In the way we designed it to do, for the United Nations, after all, was preeminently the creation of President Franklin D. Roosevelt and his Secretary of State Cordell Hull. It embodied both the great hopes and the great anxieties that accompanied the end of the Second

World War. The great hope that the world would finally organize itself to put a stop to aggression, to war as an instrument of national policy. The great anxiety that this has been promised before, in the form of the League of Nations that ended the First World War, and that promise had failed dismally. Would this fail also?

In short order the answer seemed to be yes. A totalitarian regime in Russia simply continued the long, seemingly suicidal war of the European powers, now engaging the United States also. However the cold war gradually emerged, in the words of John L. Gaddis, as a kind of long peace. Then the regime in Russia commenced to change. It would be too much to call that country democratic today; but it is surely no longer totalitarian. It is protodemocratic, trying to learn a system it has never known—perhaps partially at times, but never entirely—but which it plainly needs and seemingly aspires to. Just Friday Mr. Gorbachev urged his parliament to grant him "emergency powers" of a kind his predecessors routinely exercised without having to bother to ask anyone! Without overstating the democratic nature of the Russian regime, nor yet asserting that democratic nations are invariably opposed to aggression by autocracies or otherwise, the fact is that when Iraq invaded and annexed Kuwait 53 days ago, a unanimous Security Council could immediately pronounce the action null and void and proceed both to impose economic sanctions, and to authorize the use of force to maintain the consequent embargo.

All this is clear. There are two crucial matters, however, that are not clear. That are not resolved.

Each takes the form of a question.

The first question has to do with the sudden emergence of "the rule of law" as the lodestar of American foreign policy. More accurately the re-emergence. Roosevelt spoke in such terms; as had Presidents before him. But the subject gradually faded, lost, if I may cite my own work, in the fog of the cold war. Thus the Security Council reacted with instant indignation at the Iraqi intrusion into various embassies in Kuwait, producing Resolution 667. Yet the United States military did as much in Panama earlier this year. The President's response on that occasion was so mild that a Washington Post editorial said that he was virtually condoning the raid. Now, however, he finds the behavior of Iraqi soldiers to be outrageous acts and clear violations of international law. May I note that I spoke in the Senate on this particular event last Thursday. See CONGRESSIONAL RECORD, page S13488.

The Senator from New York does not propose to inquire at all into what might have brought about such a seeming transformation in the language in which we discuss international events, our reference points, or announced strategies. But it does seem important that the administration make clear that such a conversion—that may not be the right word—such a transformation has taken place. That we now think what until recently we seemed not to think.

Do we really have in mind, as the President states, "a world where the rule of law supplants the rule of the jungle?" There is no reason to look upon this as inherently unlikely. To the contrary, President Bush was speaking in a direct line of Presidential pronouncements that goes back at least as far as Theodore Roosevelt. But the President and his Cabinet officers need to be candid with the Nation. This is not what our Government has been saying of late. Of late the rule of law has been a secondary object of American foreign policy; at most a weak guide to it. Thus we have begun to hear comment about the signals sent to the Iraqi regime. And this is fair enough. In 1980 that nation invaded Iran just as it has now invaded Kuwait. There was little if any American protest. Certainly the United States did not take this violation of the United Nations Charter to the United Nations Security Council. Subsequently the Iraqi regime used poison gas in direct violation of the Geneva protocol of 1925, to which it is a party. To his and our credit, our distinguished Secretary of State, George P. Shultz, protested, but the United States did nothing. As recently as June 15 of this year this Senator pressed the Assistant Secretary of State for Near Eastern and South Asian Affairs to allow that the Iraqi use of poison gas was a violation of the Geneva Treaty, to be told "I am not * * * a laywer." When the Iraq International Law Compliance Act of 1990 was offered on the Senate floor 7 days before the invasion of Kuwait the State Department opposed its enactment. The initiative for this measure came from my able colleague and fellow New Yorker, Senator D'AMATO. The Committee on Foreign Relations compiled a devastating bill of particulars. Senator D'AMATO was the principal sponsor, followed by Senator PELL, Senator HELMS, and myself. When the chairman and ranking member of the Committee on Foreign Relations assert that another nation has been in outrageous violation of international law, and offers particulars which were scarcely refutable you would suppose the Department of State would take notice. It did not. In those days it could care less about international law and suchlike fancies.

But that, of course, was 7 weeks ago. We talk differently now. So far as this Senator is concerned, this transformation is hugely to be welcomed and encouraged. I would only suggest that the President would do well to indicate that, yes, there has been a change, and, yes, the United States has returned to its earlier position in these matters. Whereupon we can get on with a new world order which is remarkably like that which America has sought through much of the 20th century. There need be no apology for this. To the contrary, we are never more ourselves than when we return to the roots of American conviction.

This prompts a second question. Do we quite understand what this rule of law involves? It would seem likely that the success of the new world order the President has spoken of will in large measure turn on the success of the current effort to impose that order in the Persian Gulf through economic sanctions. On Thursday morning I raised this subject with Ambassador Pickering. I suggested that there might be some misapprehension abroad that economic sanctions are, well, a kinder, gentler way of responding to the illegal use of force.

I suggested that it was nothing of the sort. That to succeed an economic embargo would involve a form of coercion for which the Nation has not been readied. For which the Nation has as yet but little comprehension; which in turn raised the question as to whether the administration fully or even partially understands what it is about. It had better do if it is going to succeed.

Yesterday's Washington Post carried a front page story by E.J. Dionne, Jr., entitled "Ethical Questions Arise From Gulf Strategy." The story began:

> To those who study the ethics of war, Air Force General Michael J. Dugan's declaration that the United States has planned a massive bombing campaign "whose cutting edge would be in downtown Baghdad" underscored the unexamined moral implications of taking military action against Saddam Hussein.
>
> Defense Secretary Richard B. Cheney promptly fired Dugan for his outspoken interview with three reporters, but Cheney did not dispute the accuracy of what Dugan had said. The Secretary said the Air Force chief of staff had stepped out of line by speaking speculatively about "operational details."
>
> "I'm concerned that there has never been an exact repudiation of that statement," said the Rev. J. Bryan Hehir, a professor of ethics and international politics at Georgetown University. "They've just said that he was not wise in saying it."
>
> The United States has options far short of sending bombers after Iraqi President Saddam Hussein and his mistress—another of Dugan's suggestions—that also raises ethical questions. But the threats by generals and public officials including Dugan to unleash U.S. air power against Iraq—while usually accompanied by a careful distinction that targets would be military rather than civilian—have led some ethicists to question whether the ramifications of using U.S. military forces against Iraq have been fully considered.

"We're going to give them the most violent three to five minutes they've ever seen," said Marine Maj. Gen. Royal N. Moore, expressing the Pentagon's desire to use maximum force if there is war. And Rep. Les Aspin (D-Wis.), chairman of the House Armed Services Committee, commenting on the military's opposition to gradual escalation, said, "Once you get air superiority, they will want to flatten Baghdad."

Such statements worry people such as George Weigel, president of the Ethics and Public Policy Center here, because if there is one generally accepted position among the ethics experts, it is that targeting civilian populations is the most morally alarming approach to war possible."

Mr. Dionne is a careful writer and took care to note that "The United States has options far short of sending bombers * * * that also raise ethical questions." Such questions inevitably arise in connection with economic sanctions, and it would seem to this Senator that we would do well to think about them a bit now, at the outset, rather than wait for them to crash in upon us further down the line.

The idea of economic sanctions has a long and so far unsuccessful history in the 20th century quest for a new world order that would put war behind us. It takes effort to reconstruct the intensity and optimism with which Americans responded to The Hague Conference of 1899 and those that followed. James T. Shotwell, who had a part in much of that history, describes it as "The Beginnings of Organized Peace."

In 1932 he summed up as follows:

All through history there had been protests against war, but seldom any idea that the world could get along without it. The way to escape it was to escape the world. The pathway of material development which is the basis of civilization and progress was thought to lie through fields of conflict; and advances could only be made by frankly accepting the inevitable challenge of wars, domestic or foreign. Down to our own times, the philosophy of peace was a philosophy of escape from the realities of history; the unique significance of what is happening now is that it has turned its back upon its past and in the name of practical politics, instead of unreal idealism, seeks to get rid of an instrument which has become too dangerous to be used any longer for the purpose which it had served from the beginning of time.

A revolution of this magnitude has no dates, no definite beginning at a given hour and place. The roots of it lie in that very teaching of morals and religion which we have contrasted with the practical movement of today. At the dawn of modern international law, Grotius distinguished between wars that were "just" and wars that were "unjust," and even when international anarchy was at its height, this fundamental distinction played its part. War could not be safely used as an instrument of national policy by a nation which did not believe in the justice of that policy, and governments sought to win public opinion for their cause by propaganda and the camouflage of diplomacy.

This passage is from a volume entitled "Boycotts and Peace" sponsored by the Twentieth Century Fund. The specific context was the Pact of Paris, known to us as the Kellogg-Briand pact, an American-French initiative by which most of the nations of the "civilized world" renounced war as an instrument of national policy. This was essentially an American substitute for our not having joined the League of Nations, but was not sufficient in itself. As the foreword to "Boycotts and Peace" states:

It is evident that some further agreement among all the nations, including the United States, to take positive action in the maintenance of peace is not only a condition precedent to disarmament, but a vital necessity for American diplomacy. It has been equally evident that public opinion in the United States would not tolerate any commitment to use the armed forces of the nation in the enforcement of peace in other parts of the world such as is implied in membership in the League. Some form of tangible international security is urgently called for which will rest on other foundations than military force.

The answer was economic sanctions.

John Foster Dulles, who had been counsel to the United States Commission to Negotiate Peace in Paris in 1919, was a member of the Committee on Economic Sanctions which prepared the Twentieth Century publication. He put it this way.

Since the World War there have emerged for the first time, treaties of which it can truly be said that their fulfillment is of paramount importance. I refer to treaties to maintain the peace, of which the latest and most solemn and most all-inclusive, is the Pact of Paris. By this treaty virtually all the nations of the world have agreed to renounce war as an instrument of national policy and to seek the settlement of international differences only by pacific means.

It is not disputed that this result is of vital importance to the whole world. Indeed, if the war system cannot be eliminated, the so-called civilized nations may all be obliterated through their excessive skill in devising means of destruction. Treaties to prevent this result are so important as to warrant intensive study of the problem of ensuring that their promises will be lived up to.

The Covenant of the League of Nations proposed two types of penalties applicable to aggressor states: one was the use of armed force; the other was the use of economic pressure. It is quite clear that the United States is not ready to engage itself in advance to use force, even though this is ostensibly to maintain the peace. Our rejection of membership in the League was due, more than anything else, to dislike of the commitment assumed by League members to use force in certain contingencies. Consequently in this country, thought has particularly centered on the possible use of economic pressure to ensure that the nations will live up to their agreement to renounce war.

All this will seem naive to us who know what happened next. The American establishment—the committee was headed by Nicholas Murray Butler, president of Columbia University and of much else—had not comprehended the suicide of European civilization in World War I. After all, it had not happened to us. We saw the event as merely an interruption in ever greater progress of the Hague Peace Conferences. We had no comprehension that the First World War, as William Pfaff writes, brought about totalitarianism, a wholly new experience for mankind. The Committee on Economic Sanctions issued its report (calling for a supplementary protocol to the Pact of Paris that would deter offending nations by sanctions "as might seriously hamper its military operations and jeopardize its civil industry and trade") a year before Hitler came to power in the course of free elections in Germany. Stalin and Mussolini were already in place. The Sixty Years War that ended only last year was about to begin. In the run up to the main event, first Italy, then Japan would demonstrate that the League of Nations, at all events, was incapable of making economic sanctions deter aggression.

Even so, grant the earnest New Yorkers a measure of realism. For one thing, they knew you had to know a lot about a nation's economy to know what will hurt. Chapter after chapter describes the economies of large nations and seeks out their vulnerabilities. It is made clear that sanctions cut both ways. Thus we learn that in 1929 shipments of silk to the United States made up more than one-third of Japan's entire export trade. Cutting this off would hurt Japan. "'But again * * * sacrifice would be demanded of individuals, chiefly of the 250,000 persons employed in the silk industry, for silk is one of our large manufacturing interests."

Food presented a special case. Nothing works like famine. World War I had come to an end when northern Russia, central Europe and the Central Powers succumbed to famine or "shortage approaching famine." Not all powers are vulnerable. But then:

The possibility of * * * creating a food shortage would probably seem serious to any power of the European Continent (Russia excepted), though hardly to the island powers, Britain and Japan. We may fairly conclude that the General Staff of any country not blessed with a huge surplus would view a food blockade with concern, but that in our munitions-making list the British Empire, United States, Russia, Poland, Spain, Czechoslovakia, and probably Sweden, France, and Japan, could fight hard and long in spite of a blockade of foodstuffs.

The evidence also shows that some of the other powers, especially Italy, Germany, and Belgium, would be wholly unable to endure a food blockade. Perhaps for that reason they are unlikely to engage in war unless assured of food from some ally with a surplus. Against these countries, complete non-intercourse, including foodstuffs, would be cruelly effective.

In fact, it would be so effective that world opinion would be slow to support it. The punishment would bear most cruelly upon the non-combatants, especially upon chil-

dren. To many, a hunger blockade would seem nothing short of war of the most savage kind.

Finally, there is this passage, by Edwin C. Eckel, written by an engineer and geologist who specialized in the distribution and uses of the world's mineral resources and who was a former major of engineers in the American expeditionary force in Europe during the First World War.

FOOD EMBARGOES

Food embargoes will be extremely efficacious in some cases, and useless in others; again, the problem must be studied with reference to the particular country under punishment. But in considering them at all, we must in all honesty admit that food embargoes, placed against a country which really needs the food, are not persuasive measures, but the most savage of war measures. They are particularly difficult to uphold on merely moral grounds, since they bear more heavily on the civilian population than on the army, and more heavily on women and children than on the men. For effectiveness, and for moral standing, a really successful food embargo ranks well in advance of torpedoing hospital ships and is somewhere near the class of gassing maternity hospitals. So if a food embargo be considered an act of war, well and good. If it be considered a means of moral suasion, there seems to be some weakness in the argument.

I cite Major Eckel not to indicate any reservation as to the course of action the Security Council has taken as regards economic sanctions against Iraq. Ours is an age that has seen things as hideous as "gassing maternity hospitals." In Kurdistan, for example. But surely it is necessary to insist that what we have set about will require nerve no less than resolve.

It should also be emphasized that the Security Council has been mindful of these concerns. The United Nations has imposed two embargoes in the course of the past 46 years: Rhodesia and South Africa. Neither, however, was effective to the point that famine has appeared. The embargo of South Africa extended only to arms. But this could be brought about in Iraq.

Resolution 661, which imposed economic sanctions on Iraq, exempted "supplies intended strictly for medical purposes, and, in humanitarian circumstances, foodstuffs * * *.

Resolution 666 recognizes that "circumstances may arise in which it will be necessary for foodstuffs to be supplied to the civilian population in Iraq and Kuwait in order to relieve human suffering * * *.

However, it also emphasizes that "It is for the Security Council, alone or acting through the [Sanctions] Committee, to determine whether humanitarian circumstances have arisen * * *.

The Security Council then decided that "if the [Sanctions] Committee, after receiving reports from the Secretary-General, determines that circumstances have arisen in which there is an urgent humanitarian need to supply foodstuffs to Iraq or Kuwait in order to relieve human suffering, it will report promptly to the Council its decision as to how much need should be met * * *.

The Council directed that foodstuffs and medicines should be provided only through "the International Committee of the Red Cross or other appropriate humanitarian agencies * * * to ensure that they reach the intended beneficiaries * * *.

It appears to be our view that in the event of actual civilian starvation the United States would not oppose foodstuffs going to Iraq. There will be a problem however, if, as is likely, Iraq refuses to allow international supervision of food distribution. Article 23 of the Fourth Geneva Convention provides that the commander of investing forces should allow passage for consignments of food intended for "children under 15, expectant mothers, and maternity cases." We may assume that the drafters of this provision had in mind the terrible sieges of World War II, most notably the 900-day siege of Leningrad.

This provision was strengthened in article 54(1) of protocol I to the Geneva Conventions (1977). As one author described the new protocol:

These vague rules of protection for the benefit of the civilian population have been greatly improved by Protocol I of 1977. This recent attempt is intended to prohibit starvation being used as a method of warfare and such regulation thus prohibits siege in the old meaning and function of the term.

The drafters of this provision may well have had in mind the Biafra conflict, 1967-70 since the prohibition on starvation as a method of war applies to internal conflicts as well as international ones. The United States, incidentially, has signed but not ratified Protocol I. American officials describe it as "quasi-law".

Let there be no doubt that the embargo against Iraq can bring about tremendous disruption short of starvation, and do so lawfully. It is within the power of the U.N. resolutions to wreck that economy and devastate that society. The power, that is, to demonstrate the force of John Norton Moore's contention that international law is far from a system of "negative restraint" telling nations what they may not do. Law, including international law, does not imply the absence of force, a point Alfred P. Rubin patiently reiterates. To the contrary, it is force exercised in accordance with prior understanding and community acceptance. My concern is that we prepare ourselves for events we have already set in motion.

It has been seven weeks since Saddam Hussein's regime invaded Kuwait. During that time the United Nations has adopted seven resolutions condemning Iraq. Six of these resolutions were approved without dissent. The seventh was approved by a margin of 13 to 2: a total of 2 negative votes out of a possible 105. The Council has acted under chapter VII, implementing a strict economic embargo against Iraq and authorizing the use of force to maintain the embargo. The President has responded to the crisis with the largest overseas deployment of United States forces since the Vietnam war.

What has not occurred during the last 7 weeks is a Senate debate on these extraordinary events. No comprehensive resolution has been introduced much less adopted. And there is every prospect that this situation will continue. No floor time has been scheduled for such a debate. Draft resolutions are around, but there seems to be no desire, much less any sense of urgency on the part of the administration that we proceed to debate the subject, as Senators HATFIELD and COHEN propose.

Some Members on both sides of the aisle are reluctant to debate a resolution. Some are concerned that any resolution on the Persian Gulf crisis would turn into a Tonkin Gulf resolution for the 1990's. At the opposite end of the spectrum are those Senators who fear that they are somehow being lured into endorsing a resolution that will be amended to include War Powers Resolution restrictions. The combination of exaggerated fears of the Gulf of Tonkin resolution and needless fear of the War Powers Resolution might be just enough to insure that no resolution at all is adopted concerning the Persian Gulf.

I say exaggerated and needless fears for such they are. Few seem to grasp just how different is this crisis from previous exercises in the use of American force. There has been nothing like it in the 200 years of tugging between Congress and the President over the constitutional contours of the war power. Five times in our history the President has acted following a congressional declaration of war. On dozens of other occasions he acted without one. This time the President has acted pursuant to the Charter of the United Nations and the resolutions of the Security Council. The Senate concurred in the ratification of the Charter. Its mandates are part of the "supreme Law of the Land." For the last 45 years the Congress has been on record, the U.N. Participation Act of 1945, as being willing to place U.S. forces at the disposal of the Security Council in a manner agreed to under article 43 of the Charter. No one in Congress can claim to be surprised to see the President acting to assist the Security Council enforce its resolutions. He is acting as the drafters of the Charter anticipated. There is nothing imperial about his conduct to date and, thus, little need to be con-

cerned about arrogations of Executive power at the expense of the Congress.

Stating these elemental facts in no manner endorses over to the President a blank check to act as he pleases. Should the President decide to act beyond the scope of action permitted by the Charter the Congress will be well within its rights to object.

The path that the President is treading is likely to be a difficult one. We are already enforcing a total embargo on Iraq. Although conditions may reach such an extreme that humanitarian relief is ultimately allowed under strictly controlled circumstances, it is entirely possible, even likely, that the embargo will endanger tremendous human suffering. To say again, an embargo which cuts off food, causes massive unemployment and paralyzes Iraq's economy is not an example of a "kinder, gentler" diplomacy.

As the human toll begins to rise, the President may well find his popularity ratings slumping and his congressional support evaporating. This will be even more the case should fighting break out. If, for example, American soldiers are shipped home in body bags because they were the victims of a gas attack, President Bush might rue his decision to forgo the opportunity to have a tangible expression of support from the Congress. How much better it would be if the Congress and the President take this opportunity to state that in this crisis we stand together in opposing this illegal invasion and enforcing the resolutions of the Security Council.

It is instructive that other nations have gathered their councils to debate these great issues. The Parliament of the United Kingdom was in recess, but on September 6 and 7 it returned to debate the response to the gulf crisis.

I urge the Senate to do likewise. The President has spoken of creating "a new world order." Have we nothing to say on such an important topic? More than 100,000 American soldiers are now in Saudi Arabia. Have we no opinion concerning whether there is any issue at stake in this crisis sufficient to justify risking their lives? I believe that we should air these great questions on the Senate floor and conclude by adopting a bipartisan resolution which would neither provide a blank check nor refight the battle of the War Powers Resolution, but would instead reaffirm the Senate's support for the principles of the Charter and its belief that the United States should assist the Security Council in enforcing its resolutions.

If we do not do this it is not difficult to foresee that very shortly now the President will be seen as having put in place a dead end policy, to use Elizabeth Drew's phrase. We will not be able to withdraw without abandoning a world coalition which we, for the most part, put together. In the course of doing so we will devastate any notion of a new world order based on the rule of law. Alternatively, there will be pressure to see what the most violent 3 to 5 minutes in recent history can do. We would almost certainly be acting on our own in such a strike, surgical or otherwise; possibly, in defiance of the Security Council. In which event, our new world order will be similarly short-lived. As Murray Kempton has written,

> The United States and its allies have plainly done as much as they sensibly can, and anything further would be dangerous nonsense in a world that for 50 years has been crying out for the peaceful resolution of disputes and, now for the first time, has a glimpse of how it could work.

My premonition, I fear it; I will hate it if it happens, is that the President himself will fail to see this. In consequence of which his extraordinary initiative will fail and his Presidency also. For he has staked his Presidency on this venture. A huge risk; now compounded by the failure to enlist the support of Congress when it can still be had.

I have one concluding thought: That the President's political operatives are caught in a time warp that makes it difficult if not impossible for them to grasp how much has changed. They observe American forces of a sudden sent off in battle gear to a distant part of the world of which we know little. This time it is a desert not a jungle, as it was last time. It was a mountainous terrain the time before that. They conclude that the President has done this on his own, as a response to a move by a Communist power, the Soviet Union or a surrogate. They assume the Senate will not now approve of this unilateral action which had to be unilateral because, they further assume, the Senate would never have approved of the action, in advance either. Therefore, hunker down, stonewall, delay. If need be, get personal. But never yield 1 ounce of Presidential prerogative. Let the ranters rant; how many divisions do they have?

From within this time warp it is impossible for the President's operatives to perceive that he has acted on wholly different grounds than in the case, let us say, of Vietnam. He is acting in accordance with the U.N. Charter and a newly professed but surely sincere commitment to international norms. Further, he has not committed our forces to combat, but rather to the maintenance of international sanctions against an aggressor nation. In each regard this is a first ever event. This escapes the President's men; rather the men who decide on relations with Congress.

Mr. President, in closing I ask unanimous consent that this morning's editorial by our distinguished colleague Senator COHEN on this subject which I quoted earlier be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 24, 1990]

ACTION IN THE GULF: GET CONGRESS TO VOTE NOW

(By William S. Cohen)

President Bush's handling of the Persian Gulf crisis is enjoying strong bipartisan support—for now. Long knives are already being drawn and sharpened concerning administration policies toward Iraq prior to its invasion of Kuwait, but that bloodletting is likely to come after the crisis either eases or is resolved. At the very least, it will come after the November elections.

In spite of the general spirit of support for the deployment of American forces to the Middle East, though, there is a good bit of muttering and kicking up of dirt on the foreign policy playing field, Congress wants to assert its constitutional role in the decision-making of war rather than be forced into a post-departum rally-round-the-flag choral assignment.

But what is Congress to do? There is a general consensus that the War Powers Act—whose purpose was to build unity at home before troops were sent abroad—has proved unworkable. Presidents neither like nor respect it. Its 60-day and 90-day deadlines for troop withdrawal are arbitrary and may only succeed in making America's adversaries bolder and more obdurate. And its provisions that permit Congress to reverse a Presidential decision without taking any affirmative action are seen as cowardly.

All of the above may be true, but it is nonetheless the law of the land. Congressional failure to insist upon compliance with the act raises serious questions about the role of Congress in the field of foreign policy and the rule of law in our lives.

Congress has rarely displayed the temerity to challenge a president who is either personally popular or whose policies enjoy popular support. It is unlikely that Congress will challenge President Bush to abide by the provisions of the War Powers Act. But the President, even in the absence of congressional demands, would be wise to place co-responsibility on the shoulders of those who are often deft at avoiding it.

With the passage of time, American citizens may become increasingly disenchanted with the notion of their sons and daughters remaining at risk in the Persian Gulf. Budget cuts for domestic programs and higher taxes (sorry, I mean enhanced revenues) are likely to generate an animus that will not respect foreign policy boundaries.

As editorial commentators from the ideologoical left and right continue to question the wisdom or need to deploy American forces abroad, members of Congress even now are starting to hedge their support with a subtle shift here, another reservation there. And should there be blood in the Saudi Arabian sands, it will come as no surprise to find Congress in full flight behind public opinion raging in a direction quite opposite from the prevailing winds of today.

President Bush would serve his own decision and America's cause well by complying with the formal provisions of the War Powers Act and asking the congressional leadership to schedule a vote in support or rejection of American forces being placed in circumstances involving imminent hostil-

ities. It would not be impossible for Congress to reverse its course later and cast stones at the Oval Office, but it would be harder for it to do so once its members formally are on record in support of the operation.

Important as these practical and political considerations are, there is a more compelling reason involved. In the past, Congress has not hesitated to turn its wrath against presidents who either subvert or seek to circumvent the law. Watergate and the Iran-Contra scandal easily come to mind. Indeed, one would need an abacus or an Apple II to count the times Justice Louis Brandeis' words—"If the government becomes a law breaker, it breeds contempt for law"—were invoked during those disquieting days.

Congress can claim no high moral ground if the executive branch chooses to flout its laws when Congress itself deliberately ignores the laws it has fashioned. If the War Powers Act is unworkable, it should be immediately modified or nullified. Until that occurs, Congress should insist upon executive compliance. To do otherwise is to invite not only a contempt for the rule of law but contempt for Congress itself.

Mr. MITCHELL. Mr. President, I have a brief statement on an unrelated matter. Then the distinguished Republican leader wishes to address still another unrelated matter. I expect to participate in colloquy with him.

THE ADMINISTRATION'S PLAN FOR THE SPOTTED OWL

Mr. MITCHELL. Mr. President, on Friday afternoon the administration announced its response to the listing of the northern spotted owl as a threatened species under the Endangered Species Act.

President Bush's plan for the spotted owl and the old growth forests of the Pacific Northwest is to exempt the owl from protection under the Endangered Species Act and to suspend environmental review of ancient forest logging under the National Environmental Policy Act and the National Forest Management Act.

Secretary Yeutter and Secretary Lujan urged in a press release that it is essential for Congress to enact quickly "legislation authorizing the immediate convening of the Endangered Species Committee."

Mr. President, that statement is not correct. It is a statement with which I disagree. No action by the Congress is necessary to convene the Committee. No legislation is essential to the convening of the Committee.

Secretary Yeutter or Secretary Lujan could start the exemption process today by submitting their proposed timber sales and land management plans to the U.S. Fish and Wildlife Service. If this consultation process finds that the proposed actions would be likely to jeopardize the continued existence of the spotted owl and fails to identify any reasonable and prudent alternatives, then an application can be filed for an exemption.

Secretaries Yeutter and Lujan recognized that no legislation was needed when they promised on June 26 that the administration will seek to convene the Endangered Species Committee, under existing law, should a Federal agency receive a jeopardy opinion from the U.S. Fish and Wildlife Service on a proposed timber sale or harvest plan.

They recognized in their own statement in June that under existing law the administration had the authority to convene the Endangered Species Committee. But, unfortunately, the administration never followed through on its commitment in June to take the Endangered Act seriously and * * * implement the law faithfully.

Instead, the administration has had 3 months to ask its own Fish and Wildlife Service whether its plan would be likely to cause extinction of the spotted owl. It has had 3 months to make a good faith effort to develop and fairly consider alternatives that would both prevent extinction of the owl, and allow continued cutting of old growth timber.

But Secretary Yeutter and Secretary Lujan apparently decided that the Forest Service and Bureau of Land Management should not allow the Endangered Species Act by initiating consultation on timber sales and forest plans for fiscal year 1991 and beyond.

Instead, the administration has spent 3 critical months trying to chart a political course around the Endangered Species Act and other Federal environmental laws.

The joint statement released Friday afternoon by Secretary Yeutter and Secretary Lujan claims that its request for legislation "would not in any way alter the substance of the Endangered Species Act." But legislation authorizing the immediate convening of the act's exemption committee would do exactly that.

The Endangered Species Act requires all Federal agencies to ensure that their actions are not likely to jeopardize the continued existence of endangered and threatened species. Section 7(g) of the act allows a Federal agency, such as the Forest Service, to apply to the Secretary of the Interior for an exemption from this requirement.

In considering an agency's exemption application, the Interior Secretary must determine whether the agency has carried out consultation in good faith, and made a reasonable effort to develop and fairly consider modifications or alternatives to the proposed action which would not violate the act.

Any exemption application that fails to meet these threshold criteria must be denied by the Secretary. Consequently, under current law, the Cabinet-level Endangered Species Committee may only consider exempting agency actions if the Secretary determines that they have complied with the act's requirements.

The administration's requested legislation would eliminate this critical finding.

The Congress wisely chose to prevent immediate consideration of an exemption by the Endangered Species Committee unless it could be shown that there was a truly irresolvable conflict.

By forcing Federal agencies to show that there is such an impasse, the act has been remarkably successful in identifying alternatives that allow activities to go forward, while ensuring the continued existence and recovery of endangered species. It is precisely that mechanism which has caused the act to be successful that the administration now proposes to eliminate.

As a result of this act's requirement, less than 1 percent of the 48,538 biological opinions issued from 1979 through 1986 concluded that a project would be likely to jeopardize a species' continued existence. Only about 3 projects in every 10,000 were withdrawn or canceled because of jeopardy opinions issued under the Endangered Species Act during that 8-year period.

The flexibility of the Endangered Species Act already has been demonstrated with respect to the spotted owl. The U.S. Fish and Wildlife Service has concluded that none of the over 700 timber sales made this fiscal year will place the owl's existence in jeopardy, even though it found that over 91,000 acres of owl habitat will be destroyed and 667 pairs of owls will be harmed.

Given the flexibility that the Endangered Species Act has shown for the past 17 years, the administration's first response to conflict should not be to ask the Congress to exempt it from showing that an irresolvable conflict exists.

The administration says that the plan they have developed strikes a balance between conservation and economic concerns. I believe that each of us has a similar objective. But what kind of balance is there in a plan that seeks to void every major environmental law governing management of Federal forest lands?

The administration should not respond to an alarm that has been sounded by disabling the warning mechanism.

To do so would be an unforgivable dereliction of our duty to this country's natural heritage and to our descendants.

Mr. President, I yield the floor, and I invite the distinguished Republican leader to address the Senate.

The PRESIDING OFFICER. The Chair recognizes the Republican leader.

THE SCHEDULE

Mr. DOLE. Mr. President, on another matter, in my leader's time I would like to engage the Democratic leader in a colloquy about the schedule for the remainder of the week.

I think many realize, will realize we are getting very close to October 1, which is, among other things, the first of the month but also could be a sequester, and it could have an impact on millions of Americans unless we reach some agreement on the budget or unless we postpone the sequester. In addition, we need a continuing resolution to continue the Government beyond September 30.

It is my understanding, and I just ask the majority leader, we have a number of must items that must be completed prior to sundown on Friday, since Saturday is a holiday, unless we came back on Sunday. So we would have to do it prior to sundown on Friday, September 29, because the House is scheduled to recess Thursday evening and to reconvene on Monday, October 1.

The must items will be the continuing resolution; budget agreement numbers, if there is a budget agreement, as I understand it; and a sequester delay. It is also my understanding, based on our meeting last evening, the House hopes to send us a continuing resolution on Wednesday afternoon. There is some indication that would be through October 20. It will also include a sequester delay and a supplemental for Operation Desert Shield, and also in the continuing resolution, will be the budget agreement numbers, if an agreement can be reached. Then we will have to have a reconciliation bill later on to implement all these things.

Is that the understanding of the majority leader?

In addition, I would say the debt limit, I understand—we can tolerate no extension of that until October 4, but there may be some extension in the House CR on that action, too.

Mr. MITCHELL. Mr. President, it is my understanding that the House leadership has not reached a decision on each of the items identified by the distinguished Republican leader that might be included in a continuing resolution coming over here. I refer specifically to the question of whether or not there should be a delay in the sequester date absent a budget agreement. I believe the matter is still under consideration by the House leadership.

But for that one modification, I believe the distinguished Republican leader's analysis is correct. I have not had a chance to read it, but just listening to him as he describes it, I believe it is correct.

It is my hope, and this may be a vain or foolish hope, given the difficulty we have had so far, that we can soon reach a budget agreement. I have said all along that I believe the best thing we could do is concentrate our energies and efforts on trying to get an agreement. If we are able to do so, to follow the process which the distinguished Republican leader suggested in his statement, and include in the continuing resolution the aggregate limits, and do that hopefully this week in such a way that would permit us to then assess and identify the time necessary to complete implementation of the agreement in the form of a reconciliation bill, that would then follow.

Mr. DOLE. I think the point I would make to my colleague is, time is running out. We do not have much time left. The clock is ticking and we are counting down, whether or not we are going to take off, be sequestered, remains to be seen.

I agree with the majority leader. The best result would be to get an agreement. We do not have an agreement. We are going to meet again, instead of at 4, at 7 o'clock this evening, which means we will meet late into the evening, and inch a little closer.

To some it may not seem like progress, but we have made progress. We made progress last evening. But there are still several major areas yet to be resolved. Some we cannot resolve among the leadership; we have to go back to our colleagues on appropriate committees and those with jurisdictions to make certain they all agree that we might accomplish some of those items.

But it is my hope, and I know it is the majority leader's hope, because he has expressed it at every turn, that we reach an agreement. That is the best solution. Hopefully, if not tonight, no later than tomorrow night, because it is going to take some time for the House to put this together, for them to act, to send it over to us. Then I hope my colleagues, if we get an agreement, will be cooperative and let us take up a CR with a short sequester delay, and then we can go ahead with the reconciliation process maybe the following week.

One thing in the House provision I think some of my colleagues are concerned about is the extension of the CR until October 20. I think on this side of the aisle, I can say without much reservation, we hope that can be shortened at least until October 13.

Mr. MITCHELL. If I might comment on that. I think that is a widely held view on all sides of the aisle. It is my view that as soon as we can practically complete action on the budget, this session ought to come to an end so that those Senators who wish to do so and are up for reelection can return to their home States.

Again, I emphasize it may be vain or foolish, but I really think we will reach an agreement, because we have to reach an agreement, and I hope we will do it very soon. We are trying very hard.

If we do that, even meeting these deadlines will be very difficult. Failure to reach an agreement will require a whole separate colloquy with the distinguished Republican leader; unfortunately a different scenario, which I think none of us look forward to and which will be very difficult for us to get through.

Mr. DOLE. The reason I raise it, and I thank the majority leader, is because one of my colleagues asked if we will be in on Saturday. I said we could be; there may not be any votes until after sundown. We could be here Saturday working on a continuing resolution. That hopefully will not be the case, but it is possible.

Mr. MITCHELL. It is possible, and it will, as so many matters in this body do, depend upon the consent and discipline and restraint of Senators in trying to get this done. I thank my colleague, the distinguished Republican leader, for raising this issue and alerting other Members of the Senate of what will be coming up this weekend and the difficulties that are likely to exist.

THE 50TH ANNIVERSARY OF COASTAL ELECTRIC COOPERATIVE

Mr. THURMOND. Mr. President, I rise today to recognize and commend the Coastal Electric Cooperative, Inc., located in Walterboro, SC, which is celebrating its 50th anniversary this year.

Coastal Electric Cooperative, Inc. was organized in January 1940 when a group of farmers from Colleton County called a meeting of the farmers of the county at the Colleton County Court House. It was decided at this meeting to organize a cooperative to serve the people of Colleton County and the lower part of Bamberg County. The name Coastal Electric Cooperative, Inc. was adopted. Coastal's goal is to make electric energy available to its members at the lowest cost consistent with sound economy and good management. When Coastal began in 1940, members consumed 60 kilowatt hours per month; today, the average is over 900 kilowatt hours per month.

After my remarks, I would like to have inserted into the RECORD a resolution by Gov. Carroll A. Campbell, Jr., of South Carolina, recognizing the 50th anniversary of Coastal Electric Cooperative. In addition, both Mayor W. Harry Cone, Jr., of the city of Walterboro and the Colleton County Council have proclaimed the week of October 1–6, 1990 as "Coastal Electric Cooperative Week," so I would also like to include their resolutions in the RECORD. I again commend Coastal

Electric Cooperative for its service to over 8,000 consumers in Colleton, Bamberg, and Dorchester Counties and its important role in developing this area's industrial economy.

Mr. President, I ask unanimous consent that the resolutions I mentioned earlier be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTION BY GOV. CARROLL A. CAMPBELL, JR., OF SOUTH CAROLINA ON THE 50TH ANNIVERSARY OF COASTAL ELECTRIC COOPERATIVE, INC.

Whereas, fifty years ago, most of Colleton County was without electricity; and

Whereas, on May 11, 1935 President Franklin D. Roosevelt signed the executive order creating the Rural Electrification Administration; and

Whereas, the Rural Electrification Administration was designed to bring electric power into the countryside to stimulate economic growth and relieve unemployment; and

Whereas, Coastal Electric Cooperative, Inc. was first organized in February 1940 with assistance from the Rural Electrification Administration; and

Whereas, Coastal Electric Cooperative, Inc. has significantly improved the lives of more than 8,000 consumer-members in Colleton, Bamberg and Dorchester counties by providing low-cost electricity.

Now, therefore, I, Carroll A. Campbell, Jr., Governor of the state of South Carolina, do hereby recognize Coastal Electric Cooperative, Inc. on their 50th anniversary for their dedicated efforts to provide the best possible electric service at the lowest possible rates to the consumer-members they serve in Colleton, Bamberg and Dorchester counties.

CITY OF WALTERBORO,
Walterboro, SC, August 14, 1990.

A RESOLUTION

Whereas, fifty years ago most of rural Colleton County was without electricity; and

Whereas, Coastal Electric Cooperative, Inc. was organized in February, 1940 with assistance from the Federal Rural Electrification Administration; and

Whereas, Coastal Electrical has significantly improved the lives of more than eight-thousand consumer-members in Colleton, Bamberg and Dorchester Counties by providing electrical service to them.

Now, therefore, be it resolved by the mayor and city council of Walterboro, South Carolina, in council assembled, that Coastal Electric Cooperative, Inc. is congratulated on this fiftieth anniversary; and further that the week of October 1-6, 1990 is designated "Coastal Electric Cooperative Week" within the City of Walterboro to honor the cooperative, its consumer-members and employees who are working together to provide this fine service.

Done this fourteenth day of August, 1990.

W. HARRY CONE, JR.
Mayor.

COLLETON COUNTY COUNCIL,
Walterboro, SC, August 7, 1990.

RESOLUTION No. 90-R-4

Resolution Commemorating the 50th Anniversary of Coastal Electric Cooperative, Inc.

Whereas: fifty years ago, most of Collection County was without electricity; and

Whereas: on May 11, 1935, President Franklin Delano Roosevelt signed the executive order creating the Rural Electrification Administration; and

Whereas: the Rural Electrification Administration was designed to bring electric power into the countryside to stimulate economic growth and relieve unemployment: and

Whereas: the Coastal Electric Cooperative, Inc., was first organized in February 1940 with assistance from the Rural Electrification Administration: and

Whereas: the Coastal Electric Cooperative, Inc., has significantly improved the lives of more than 8,000 consumer-owner in Collection, Bamberg, and Dorchester counties by providing low cost electricity: now

Therefore, be it resolved: that the week of October 1-6 be designated "Coastal Electric Cooperative Week" to honor the cooperative, its consumer-owners, and its employees, who work together to provide the best possible electric service at the lowest possible rates.

Attest: JACQUELINE HOLMES,
Clerk.

CONSCIENCE OF KENYA

Mr. KENNEDY. Mr. President, I would like to call to the attention of my colleagues an insightful article by one of the world's leading human rights advocates, Gibson Kamau Kuria of Kenya. Mr. Kuria details the Government of Kenya's systematic refusal to honor the human and constitutional rights of Kenyan citizens advocating political pluralism.

The Kenyan Constitution guarantees freedom of expression and association and prohibits discrimination against individuals on the basis of their political opinions. In spite of these constitutional guarantees, Kenya President Daniel arap Moi has declared an end to the debate over political pluralism in Kenya and promised that advocates of multiparty democracy will be "hunted like rats."

True to his word, President Moi continues to harass, detain, and jail journalists, lawyers, church leaders, and other citizens who have advocated changes in the Kenyan political system, despite repeated expressions of concern about such practices by the United States Ambassador to Kenya.

Mr. Kuria truly represents the conscience of Kenya. He has dedicated his life, often at great personal risk, to defending individuals persecuted by the Government of Kenya. Mr. Kuria has been tortured and jailed by the Government, and in 1988 was awarded the Robert Kennedy Human Rights Award for his selfless contributions to the improvement of human rights of Kenya.

I ask unanimous consent that Mr. Kuria's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 13, 1990]

CONSCIENCE OF KENYA

(By Gibson Kamau Kuria)

A few weeks ago on this page, Bill Kovach wrote of the detention of Gitobu Imanyara, a courageous and able young lawyer who edits The Nairobi Law Monthly ["An Arrest in Kenya," July 18]. Imanyara was released a week later but rearrested on the same day and charged with sedition. He is at present free on bail, but he faces the possibility of years in prison.

Imanyara's offense? In the April/May issue of the Monthly, he ran an article called "The Historic Debate: Law, Democracy and Multi-Party Politics in Kenya." For that, he may spend six years in prison—the standard sentence for sedition in Kenya, regardless of the strength of the defense.

Kenya does not have jury trials; the magistrate in charge is a judge of both the facts and the law. Although the trial takes place in open court, the allegedly seditious passage in a document is never made public. It is seen only by the magistrate and the lawyers. From my experience defending clients accused of sedition, I am virtually certain that Gitobu Imanyara will be convicted.

Since it first appeared in 1987, The Nairobi Law Monthly has earned a reputation both within and outside Kenya for for objectivity, depth, thoroughness and feeling in its coverage of human rights and the constitution.

The Kenyan constitution guarantees freedom of expression and association, and it further ensures that no one shall be discriminated against because of his political opinions. Kenyan citizens are promised the full protection of the law and an independent judiciary. Arbitrary searches and arrests are not permitted.

The government of President Daniel arap Moi has systematically attempted to undermine the constitution since 1982, when KANU, the ruling party, introduced amendments that would replace a multi-party system with a one-party state. On June 16 President Moi, who has ruled Kenya since 1978, declared that the debate on political pluralism had come to an end and that advocates of such a system would be "hunted like rats." He instructed the police to start the hunt, and Gitobu Imanyara was one of the first to be taken.

The one-party state forced The Nairobi law journal to become the conscience of the Kenyan nation. The judicial system has been corrupted by the Moi government. Civil servants and judges serve at the pleasure of the president. Any minister who makes a principled statement may well find himself out of the Cabinet, out of the only political party and out of Parliament. Journalists, lawyers, church leaders and other citizens have been harassed or detained for advocating changes in the system.

In "The Historic Debate" editor Imanyara presents the various arguments for and against the political pluralism that threatens the Moi government's long control. Vice President George Saitoti's views are reprinted from another magazine. A second pro-government position is presented by Mark Too, KANU chairman of the Nandi District. In his introduction, Imanyara writes: "This is essentially a souvenir issue. It contains the arguments for and against the multi-party system of government. We have left out the insults and condemnations that have characterized the main argument of the proponents of the single-party form of

government. We trust that you will have an enjoyable read."

The United States and other Western nations have vigorously supported the end to one-party rule in Eastern Europe. The reluctance to support the same goal in Africa reflects a combination of Western paternalism—"Africans are not ready for democracy"—and of Western guilt—"Africans were victimized by colonial rule, so how can we tell them how to run their government now that they are independent?" It is a combination that does a disservice to the vast majority of Africans who suffer under the entrenched rule of the corrupt and brutal elite. Gitobu Imanyara, who has studied Western ideas of political pluralism, is as deserving of support as were the activists of Solidarity in Poland and of Charter 77 in Czechoslovakia when they were imprisoned for publishing similar views.

HALT AID TO ZAIRE

Mr. CRANSTON. Mr. President, last May, the slaughter of about 300 Zairian University students at the hands of President Mobutu's personal guard went virtually unnoted in the United States. In recent months, human rights groups such as Africa Watch, Amnesty International, and the Lawyers Committee for Human Rights confirmed reports that the massacre was a punitive action against student demonstrators who had called for political reforms earlier in April.

Research Director Richard Carver, speaking on behalf of Africa Watch, called the massacre:

A brutal indication of how far the Mobutu regime is prepared to go to silence its critics. This incident casts serious doubt on the Government's announcement last month that it would embark on a course of limited liberalization.

Corruption and repression in Zaire have risen to intolerable heights. Analysts report that large portions of foreign aid are diverted to the Government's deep pockets, never to resurface. Studies show that only 3 percent of the national budget is spent on health and other human services in Zaire, and that the people there have come to rely on private voluntary organizations for the basic services which the Government has failed to provide.

It is shocking that Mr. Mobutu is reported to be one of the wealthiest men in the world, while the average annual per capita income in Zaire is about $200. The standard of living in Zaire has dropped since Mobutu took power in 1965.

The international community has not looked lightly upon the recent events and trends in Zaire. After the May massacre, the Governments of Belgium and France, as well as the European Community, condemned the violence and called for an investigation. The Government of Belgium suspended preparations for an economic cooperation agreement between the two countries. The Government of France suspended a series of discussions for the planned 1991 summit of French speaking nations, to take place in Zaire.

The World Bank will no longer issue nonproject loans to Zaire. Bank officials and the Zairian Government have been unable to reach an agreement on a spending program. The World Bank held on to its position that more money needed to be spent on education and other programs to promote economic growth in Zaire. The World Bank has indicated that funds will not be disbursed until Mr. Mobutu spends more on health, education, and other public services.

Mr. President, it is time for United States policy toward Zaire to take a turn. Our support of the Mobuto regime must stop. We can no longer close our eyes to Zaire's deplorable human rights conditions. Mr. Mobutu should not be rewarded with the $56 million—the highest level of U.S. aid to any African nation—that the administration has requested.

The House foreign operations bill for 1991 responds to the atrocious conditions in Zaire. The House language calls for the end of foreign military assistance to Zaire in 1991. It also requires that all other foreign aid to Zaire be channeled through private voluntary organizations. At present, at least 20 percent of United States foreign aid successfully reaches Zairians through such organizations.

I believe that only a firm measure such as the House proposal will indicate to Mr. Mobutu that his practice of repression and flagrant human rights abuses will not go unheeded.

I urge my colleagues on the Appropriations Committee to consider seriously the House language when preparing the foreign operations bill. I also urge that future bilateral United States aid to Zaire be conditioned on demonstrable progress by the Zairian Government in providing its citizens with their basic rights.

I ask unanimous consent for certain articles to be published in the RECORD.

There being no obligation, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 17. 1990]

ZAIRE DOESN'T DESERVE THAT AID

(By Makau wa Mutua)

(The writer is head of the Africa Project of the Lawyers Committee for Human Rights.)

In mid-May, Zairian security forces stormed the campus of the University of Lubumbashi. According to several recent reports, these soldiers massacred at least 300 unarmed students. One member of the government's Garde Civile who was at the campus that night says that he counted 347 bodies as they were being evacuated from the university grounds by government agents. Some of the victims were reportedly buried in a mass grave near the local airport.

Several days later, Assistant Secretary of State for Africa Herman Cohen arrived in Zaire. Without even mentioning the violence at Lubumbashi, he told reporters that the United States would direct its future foreign aid toward "emerging democracies, such as Eastern Europe, Zaire and some other African countries."

Cohen's ill-timed and inappropriate support for the Mobutu government is sadly characteristic of U.S. policy toward Zaire for the past 25 years. Equating pronouncements of reform in Zaire with the sweeping changes in Eastern Europe was particularly troubling, coming as it did in the immediate aftermath of the Lubumbashi killings. Regrettably, Cohen's noisy diplomancy is only the most recent example of the administration's failure to exert needed pressure on President Mobutu. In 1984, barely a year after Zairian security forces brutually attacked several opposition politicians following their meeting with visiting U.S. congressmen, Assistant Secretary of State Elliott Abrams told a congressional committee that "human rights conditions in Zaire had improved over the last 20 years." Dismissing these and other acts of violence by Zaire's security forces, Abrams implored Congress to provide more aid to the of government Zaire.

Several months later, Mobutu was treated as an honored guest by President Reagan. Reagan gave Mobutu a "warm welcome" and praised him as "a faithful friend for some 20 years." Responding to criticism of the administration's negative handling of the human rights issue in Zaire, Assistant Secretary of State Chester Crocker asserted that "it was wrong to characterize Zaire as a brutal police state." Rather he suggested that "abuses that do occur tend to be committed at the lowest level by individuals acting on their own, without sufficient training or material support." In 1986, Reagan renewed his unqualified praise for Mobutu, calling him "a voice of good sense and goodwill."

This misguided U.S. approach to Zaire has continued during the Bush administration's first 18 months in office. Mobutu was the first African leader received by President Bush at the White House in June 1989. The administration has requested that Congress provide Zaire with $56 million in military and economic aid for FY 1991, citing Zaire's support of various Western policies.

What this policy ignores is a prolonged and systematic pattern of institutionalized abuses of human rights in Zaire. Since Mobutu came to power in 1965, Zaire's security forces have continued to routinely harass, arrest, detain and abuse perceived political opponents. Thousands of Zairians have been tortured, subjected to cruel treatment and prolonged incommunicado detention, actions that have led to a total breakdown in the rule of law.

Official bodies created to protect the rights of Zairian citizens—specifically, the courts and a government human rights ministry called the Department of Citizens Rights and Liberties—have failed to carry out their mission. The judiciary has been plagued by interference from Zaire's sole political party, the Movement Populaire de la Revolution, and from the executive branch. Despite annual pronouncements of reforms for more than a decade, Zaire's judiciary has not punished the security forces for arbitrary arrests and illegal detentions.

The DCRL, which was formed in 1986 to promote and protect human rights, lacks the credibility, authority and political will to redress abuses. It has not resolved a single human rights case since its creation.

Instead, it has been used cynically by the government to defend the government's human rights record before international tribunals such as the United Nations.

In April, Mobutu announced his intention to abolish the one-party state and to sanction a three-party political system. But Mobutu clearly asserted that he would remain as chief of state and as the "ultimate recourse" for future governments of Zaire. He also emphasized that he would remain above all state organs even if a multiparty government were allowed. Since the announcement, Mobutu has failed to take any steps to reform the security forces, which are the main perpetrators of human rights abuses.

Soon, the U.S. Senate will decide whether the administration's request of $56 million in aid to Zaire should be granted. The Senate vote provides an excellent opportunity for the U.S. government to make it clear that in the post-Cold War era, allies like Zaire must demonstrate concrete progress in human rights before further U.S. aid is forthcoming.

[From the New York Times, Apr. 21, 1990]

WHY BANKROLL AFRICA'S CEAUSESCU?

Mobutu Sese Seko seized power in Zaire through a military coup in 1965, the same year Nicolae Ceausescu became the Communist boss of Romania. Mr. Mobutu is no Communist. But his methods of rule resemble those of the executed Romanian tyrant. Wholesale repression, corruption and megalomania have deformed Zaire.

There is a further regrettable resemblance. President Mobutu, like Mr. Ceausescu, has known how to profit from his outspoken opposition to Soviet foreign policy moves. Washington has winked at his disastrous misrule and made his regime the leading African recipient of United States economic assistance.

The end of the cold war removes any possible justification for this taxpayer subsidy to a repellent dictator. Representatives Howard Wolpe of Michigan, Stephen Solarz of New York, David Obey of Wisconsin and Ronald Dellums of California are proposing changes in the aid relationship. Their efforts deserve support.

American aid dollars have not measurably helped Zaire's people. Annual per capita income is about $150; living standards are lower than when Mr. Mobutu took power. His government has not built a single hospital in its 25 years. Only 3 percent of Zaire's budget goes to health and education while 23 percent goes to the military and 50 percent to "political institutions."

Meanwhile, Mr. Mobutu's personal fortune has, by some estimates, grown to $6 billion. His holdings include perhaps a dozen French and Belgian chateaus, a Spanish castle and a 32-bedroom Swiss villa. Mr. Mobutu protests that his fortune is a mere $50 million, and that none of it has come out of the pockets of his people. But recent World Bank studies have found hundreds of millions of dollars in mineral revenues unreported in the national budget, and more gold and coffee smuggled out of the country than legally exported.

Mr. Mobutu has supported anti-Communist initiatives of successive U.S. Administrations, especially in Angola. But he has done so for his own reasons, not always in coordination with Washington. For him the U.S. has proved a useful alley. He uses his conspicuous access to American leaders to further discourage dissent.

Mr. Solarz, Mr. Wolpe and Mr. Obey would end military aid to Zaire and channel most economic aid through non-government organizations. Mr. Dellums would go further and press international aid institutions to consider the abuses and corruption in Zaire. Americans have better uses for their tax dollars than reinforcing the Mobutu tyranny.

DEL WEBB CORP. ENDS 44-YEAR HISTORY

Mr. REID. Mr. President, one of the most significant chapters in the history of legal gaming in Nevada closed on September 30, 1990, when the Del Webb Corp. ended a 44-year history of involvement with the gaming industry. That date marked completion of the sale of the High Sierra Casino, the last of eight casinos that had been owned and operated by Webb.

Webb began its involvement with the Nevada gaming industry as a general contractor, constructing the Flamingo Hotel and Casino in Las Vegas in 1946. The Flamingo established the pattern for what is now the Las Vegas Strip, which is famed worldwide as the leading gaming center in the world.

Webb later was involved in the construction of the Mint Hotel, the Sahara Hotel and Casino, Caesars Palace, the Las Vegas Hilton, the Sahara Reno, Nevada Club, the Riviera Hotel and Casino, the Aladdin Hotel and Casino, and the High Sierra. The Sahara, completed in 1951, was the first high-rise casino-hotel in our State. The Mint, completed in 1961, was the first skyscraper in Nevada.

In 1961, Webb became the first major public company to be involved in the ownership of Nevada casino-hotels when it acquired the Mint, the Sahara, and the Lucky Casino. Webb subsequently acquired and operated the Thunderbird, the Primadonna, the Nevada Club, the Sahara Reno, and the High Sierra.

Webb was the first casino operator to install overhead closed circuit television cameras to monitor gaming for the protection of the licensee and the public, which was only one of the gaming industry innovations contributed by Webb. Another innovation was the use of professional sports events, such as the Gold Cup hydroplane races on Lake Mead and the PGA Sahara Invitational, to make Nevada a tourist destination.

By 1972, Webb had become the largest gaming operator in Nevada as well as its largest private employer. Webb became a respected spokesman for the gaming industry and played a major role in the improvement of the statutes, regulations, and policies that governed it.

When I served as Nevada's Lieutenant Governor, I had a good association with Del Webb. Some of my fondest memories involve dinner at the Governor's mansion with Del Webb and Gov. Mike O'. He was not only a baseball fan, but a Nevada booster as well.

Today, Webb no longer has a presence in construction or in gaming in Nevada. However, it continues to be one of our State's most valued corporate citizens. Under the leadership of Philip J. Dion, its chairman and chief executive officer, Webb has made a remarkable transition into a national leader in the development of active adult communities.

The newest of the Webb adult communities is Sun City Las Vegas, which is located in southern Nevada. Sun City Las Vegas held its grand opening in January 1989 and has set sales records ever since, under the direction of General Manager LeRoy C. Hanneman, Jr. Among its awards was Builder of the Year from the Southern Nevada Home Builders Association.

Webb believes Nevada has the ingredients, including lack of a State income tax, low property taxes, and accessibility to natural and manmade attractions, to make active adult communities a major factor in the continued development of the State.

Although Webb's role in Nevada has changed, Mr. Dion has made clear to me that Webb's commitment to the State and its citizens is undiminished.

I wish to congratulate the Del Webb Corp. on the completion of over four decades of achievement in the fields of construction and gaming and I extend best wishes to Webb and Philip J. Dion for continued achievement as a developer of active adult communities and as a responsible corporate citizen in Nevada.

WILL ASSAD BE ANOTHER SADDAM?

Mr. DECONCINI. Mr. President, Secretary of State Baker met last week in Damascus with Syria's President, Hafez Assad. It was a private meeting, with only Baker, Assad, his Foreign Minister, our Ambassador to Syria, and translators in attendance. During the meeting, Assad assured Secretary Baker that Syria is prepared to send additional troops to Saudi Arabia. If the Saudis formally request those troops, and apparently they have. On its face, this is a positive response from an Arab nation in the international effort to pressure Saddam Hussein to withdraw from Kuwait.

I do not need to remind you, Mr. President, or any body else, exactly who is President Assad. He is a very shrewd individual with an historic sense of himself and his destiny. This is the man who sent his armed forces into Lebanon in 1976 and aided in the destabilization of that war-ravaged Nation. President Assad currently maintains nearly 40,000 troops in Lebanon. During my visit with him last

year, he expressed his view that Lebanon is part of Syria because the people of Lebanon and the people of Syria are the same people. That was what he told me.

Mr. President Assad is also an active sponsor, supporter, and host of international terrorism. The history of the 1980's is littered with evidence that his government has been involved in and associated with acts of terrorism. Assad's government is widely believed to have been behind the assassination of political leaders in Lebanon, as well as being implicated in terrorist attacks against Americans there, including the bombing of the Marine Corps barracks in Beirut. Syria has been an active supporter of radical elements within the PLO, including the popular front for the Liberation of Palestine. Assad's intelligence agents and diplomats have been linked to terrorist attacks on Jordanian officials. The media has also reported that Italian investigators found evidence of direct Syrian involvement in the attacks on the Rome and Vienna airports in December 1985 and Great Britain charged in a court action that the Syrian Government was behind the plot to put a bomb aboard an Israeli El Al passenger plane in London in January 1986. Finally, we cannot forget the bombing of the Pan Am 103 over Lockerbie, Scotland in December 1988. While Syria has apparently not been directly linked to the bombing, those responsible appear to have been provided safehaven in Syria from which this horrible crime was launched.

Mr. President, I am pleased that news accounts of the Baker-Assad meeting report that the issue of terrorism was a major topic of the discussions. President Assad must hear this message loud and clear: We will make common cause with him to oppose Iraqi aggression, but we will not overlook or ignore the major impediments to normalization of relations between our two countries.

We only need look at the path which has led us to this point in the Persian Gulf to realize that we must be cautious, extremely cautious, in our dealings with Assad. Throughout the 1960's and 1970's, successive administrations—both Republican and Democrat—followed a policy of unwavering support for one individual, the Shah of Iran. Driven by a fear of communism and a need for oil, we chose to ignore the many problems of the Shah's rule, including his disregard for human rights, and the rise of Islamic fundamentalism. His flight from Iran and subsequent death brought our policy to a tragic end. The subsequent regime of the Ayatollah Khomeni, fueled by anti-American sentiment, encouraged the taking of American hostages and promoted the image of the United States as the great satan. Not only did our policies in Iran destroy a Presidency, they established a precedent for hostage taking which other adversaries have eagerly followed.

The Ayatollah thus replaced communism as the evil of the day. Our policy seemed to become one that said: "Whoever is an enemy of Iran is a friend of the United States." This started the downward spiral of the Reagan and Bush administrations' turning a blind eye to Saddam's excesses and abuses. In 1982, Iraq was taken off the State Department's list of international terrorists. It became eligible for a fuller range of U.S. trade and credits.

The Washington Post reported that in 1983, Iraq's foreign minister met with then-Secretary of State George Shultz and said, "We want help from you."

Because Iraq was engaged in a war with Iran, the United States was willing to quietly assist the Iraqis. In 1984, the Iraqi Ambassador, Nizar Hamdoon, and others reportedly met secretly with CIA Director Casey to receive satellite reconnaissance photos which assisted Iraqi military planners in their bombing raids against Iran. Additionally, since 1985, the Commerce Department has approved 485 export licenses to Iraq for various technologies which it assured were not going to be used for military purposes. The Commerce Department, in its zealous desire to expand markets, had processed all but 160 of them before the August invasion.

This is but one example of the holes which our own Government has knowingly or unknowingly punched in the missile technology control regime [MTCR]. The United States and its allies, many of whom have joined the MTCR, have pursued profits over principles. They have sold to Iraq, through third parties and dummy and front corporations, the weapons and technology by which Saddam has been able to terrorize his neighbors. This technology was sold even after the "butcher of Baghdad" gassed thousands of innocent and defenseless Iraq kurds. The West sold him the weapons which are now trained on American men and women in the desert.

Reports indicate that Iraq has obtained missile technology from Brazil, electronic guidance systems from France, tools to build missile bodies and components from Britain, and solid fuel and missile propellants from Belgium. The Post reports that Iraq can produce up to 70 tons of chemical warfare agents per year. This capacity is expected to increase in the 1990's.

Finally, various experts claim that Iraq has, or soon will obtain, the capability to place nuclear warheads on its ballistic missiles. These missiles, fitted with chemical, biological, or even nuclear warheads, would place practically the entire Middle East at risk.

We knew that Saddam was obtaining this technology and these capabilities. Our intelligence experts told the Commerce Department, the State Department, and the Defense Department that Saddam was a very real threat to the United States, its interests, and regional stability. Yet it was the British who prevented the American-made nuclear triggering devices from being exported to Iraq—not our own Commerce Department. the Bush administration sent assistant Secretary of State John Kelly up to the Hill to tell Congress that sanctions against Iraq, "would hurt U.S. exporters and worsen our trade deficit." Columnist Jim Hoagland wrote that the President asked some of our Senate colleagues to express support for Saddam during their trip to Baghdad in April. Only days before the Iraqi invasion, the United States ambassador to Iraq, April Glaspie, told Saddam Husssein that we did not have a defense pact with Kuwait and had "not opinion on the Abab-Arab conflicts, like your border disagreement with Kuwait." This left Saddam with the distinct impression—as if he needed any prompting—that the United States would not intervene if he moved against Kuwait.

He was wrong, Mr. President, very wrong. But so was our policy of appeasement toward Saddam.

Now we are talking with Assad. We hear about a new era of moderation from Syria. The Christian Science Monitor reports that some U.S. officials are talking with hope about a "Cairo-Damascus-Riyadh Axis" to act as a new force for moderation in the gulf.

Mr. President, we must be cautious in our dealings with Assad. We must be certain that we do not try to win his support by subverting our principles. We must not find ourselves in the position of offering to sell Syria weapons to ensure that it acts as we would like it to act. If other countries want to sell Syria weapons, let then sell Syria weapons. We must not attempt to buy Assad's cooperation.

Let our able Ambassador in Damascus deal with Assad. That is what Ambassadors are for. There may be areas in which our mutual interests converge, such as the present situation in Iraq. But there are many other areas where we disagree. We must never lose sight of these disagreements and these principles.

Our policies must reflect our national interests and our national principles. We must never forget that we have relations with nations, not with individuals. We were friends with the Shah, but his country turned against us. We supported Saddam, but Iraqi troops now face American troops. We will have to deal with the Soviet Union long after Gorbachev is gone. We

must be very alert in our dealings with Assad.

Former U.N. Ambassador Jeane Kirkpatrick has prophetically warned that our past policies may "lead us to become more entangled with Hafez Assad than is either necessary or desirable." I strongly agree. She goes on to say that, "international politics may sometimes justify or even require an alliance with unpalatable leaders or regimes. It never justifies asking unreasonable risks of a democratic ally such as Israel or forgetting that the United States permanent interests lie with democracy and democracies."

Mr. President, I urge President Bush to exercise extreme caution in his dealings with Assad. History has demonstrated that prudence in these actions is imperative.

Mr. President, I ask unanimous consent that an article from today's Wall Street Journal entitled "Washington would be smart to keep the Syrian government at arms's length," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 24, 1990]

WASHINGTON WOULD BE SMART TO KEEP THE SYRIAN GOVERNMENT AT ARM'S LENGTH

(By Walter S. Mossberg)

WASHINGTON.—Just as the U.S. is coming to grips with the consequences of years of cozying up to Iran, it risk heading down the same path with another of the world's bad actors—Syria.

When Secretary of State James Baker met with President Hafez Assad in Damascus recently, his purpose was to bolster the U.S.-led effort against Mr. Assad's long-time foe, Iraq's Saddam Hussein.

That may have been a reasonable tactical maneuver in a big crisis. But unless the sudden warming of relations with Syria is carefully contained, it could well embolden that country's ruthless regime, just as Iraq was strengthened by the support it won from Washington during its war with Iran. Iraq's invasion of Kuwait demonstrates the hazards of setting aside long-term considerations in favor of building ties to enemy's enemy.

Already, there are troubling signs of a softening of U.S. attitudes toward Syria on the most important issue separating the two nations—Syrian support for terrorists who have killed hundreds of Americans over the past decade.

"There are still problems revolving around this question of terrorism," Mr. Baker blandly said at a Damascus news conference that the Assad regime had packed with sullen secret police trying to look like journalists. He then gave the floor to Syria's foreign minister, who blamed the media in the West" for "exaggerating the terrorism issue in our region."

President Assad, for his part, pleaded with Mr. Baker that he was being unfairly branded as a backer of terrorism.

How could the U.S. expect him to help solve the Pan Am Flight 103 bombing case, Mr. Assad asked, when the Central Intelligence Agency and the Federal Bureau of Investigation were refusing to provide him details of their investigation? If he had hard evidence, Mr. Assad said, he'd be willing to put on trial in Syria the Damascus-based terrorist the U.S. blames for the atrocity, the Popular Front for the Liberation of Palestine-General Command.

Mr. Baker apparently took this request seriously. He told reporters: "There is . . . a disagreement between us on the sufficiency of the evidence. We will work to resolve the disagreement." Last week, meetings began here among U.S. officials to see what more about the case could be told to Mr. Assad.

In the past two years, Mr. Assad has taken pains to quieten his public role in terrorism, much as Iraq did in the early 1980s. Syria also had tried to curry favor here by "facilitating" the release of U.S. hostages in Lebanon.

But Mr. Assad isn't an innocent by-stander, a landlord with an open mind whose country happens to house a few killers. According to U.S. intelligence officials, he has been an active backer of terrorists who kill Americans. In fact, they believe he is far worse on this score than Saddam Hussein.

"I've been around long enough to recognize the need for democratic societies to make temporary alliances with unsavory regimes for immediate military advantage," says Rep. Tom Lantos (D., Calif.). "But I particularly caution the State Department not to portray President Assad of Syria and the Syrian regime as an ally. That regime in terms of its recent history is no less bloodthirsty, no less brutal . . . than the bloodthirsty regime of Saddam Hussein.

The Syrian government created, and still controls, the Popular Front for the Liberation of Palestine-General Command—the group believed to have planted the bomb that went off on the Pam Am Flight as it flew over Lockerbie, Scotland, in December 1988, murdering 270 people, including 189 Americans. The group's leader, Ahmad Jibril, is a former Syrian army captain who is believed to report to Syrian intelligence officials close to Mr. Assad.

U.S. intelligence believes Mr. Assad already has all the datailed evidence he would need against the PFLP-GC. The group is thought to have bombed the Pan Am airliner under contract to Syria's ally, Iran, with Syrian permission.

The leader of the cell that is thought to have assembled the bombs for the Pan Am attack entered Germany before the bombing on an official Syrian passport. And that cell leader, Hafez Dalkamoni, is under indictment in Germany for trying to blow up two U.S. troop trains there. If he had succeeded, he would have slaughtered hundreds of the same U.S. soldiers with whom Syrian troops now stand shoulder to shoulder against Iraq.

And that isn't all. Throughout the 1980s, Mr. Assad helped Iran organize the Shiite terrorist network that took U.S. citizens hostage and staged the 1983 bombing of the U.S. Marine barracks in Lebanon that killed 241.

The intelligence and counterterrorism arms of the U.S. government are resisting turning detailed information on Pan Am 103 over to Mr. Assad because that might enable him to find out how much they know about the bombing and how they learned it. They fear such information would soon be in the hands of the terrorists themselves, who could use it to improve their security.

The counterterrorists also are loath to see the PFLP-GC tried in the friendly confines of Damascus instead of in Scotland, where the crash occurred. But it remains to be seen whether they will be able to resist State Department pressure to compromise with Mr. Assad.

TRIBUTE TO JOHN A. DANAHER

Mr. LIEBERMAN. Mr. President, I rise today to honor the memory of the Honorable John A. Danaher, an important figure in the legacy of public service in the State of Connecticut.

John Danaher, who passed away on Saturday, September 22, served the people of my State, and this Nation, as a prosecutor, a secretary of state, a U.S. Senator, and a justice of the U.S. Circuit Court of Appeals.

His long and distinguished career began at the early age of 23, when he was selected to be a Federal prosecutor in Connecticut. From 1935 to 1938, he served as secretary of state for Connecticut. In 1938, he was nominated by the Republican Party to run for the U.S. Senate, and he went on to win in November of that year.

John Danaher ran unsuccessfully for reelection in 1944, but his loss did not detract from his desire to serve the public interest. Giving credence to the saying that "there is life after death in politics," Danaher became a judge and developed a reputation as an honorable and fair man, one who was adept at settling legal conflicts.

President Eisenhower appointed John Danaher to the U.S. Circuit Court of Appeals in 1954. He became so highly regarded in that position that he was a serious contender for the vacancy on the U.S. Supreme Court that was filled by William J. Brennan. Judge Danaher's tenure on the appellate court continued for decades, and he retired in 1980 on the same day that he swore in his grandson as an attorney in the Federal courts in Connecticut.

Mr. President, John Danaher's life exemplified the best traditions of government service in Connecticut. He was a selfless man whose primary interest was in contributing to the welfar of the people of his State and this Nation. He helped to fashion laws as a Senator, enforce them as a prosecutor, and interpret them as a judge. There is an old saying that goes, "Justice in the life and conduct of the State is possible only as first it resides in the hearts and souls of the citizens." Justice did, indeed, reside in the heart and soul of John Danaher, and we are the better off for it.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

U.N. PARTICIPATION ACT OF 1945

Mr. CRANSTON. Mr. President, I see Senator BRYAN is on the floor who will be handling the CAFE standards.

I would like to take a moment to comment on the remarks of the Senator from New York. In his usual penetrating way, he has applied his mind to a very serious matter before the whole world, the United States, and this body, the U.S. Senate. He is very correct, I think, in stating that the important act to consider is the U.N. Participation Act of 1945, more than the War Powers Act. We hope to avoid war. We hope to develop an international law and reign of peace in this world. I simply want to state that I look forward to working as hard as I can with the Senator from New York to see that we do all we can to promote the new world order, based upon world law that the President and the Senator from New York have spoken of.

The Senator from New York has just wrote a very forceful, persuasive, and eloquent, well-reasoned book on the matter of international law between nations. He is now following through in the U.S. Senate on that theme. I look forward to working with him.

A major point he made is that Congress has not been adequately involved in the decisionmaking relating to the gulf. I said the other day on the floor, "However strong and true American hearts are in this matter, there is a gnawing feeling that perhaps a vital component has been left out of this international effort. The missing ingredient is quite simply Congress."

I look forward to working with the Senator to see that Congress is involved in a very constructive way in these affairs.

Mr. MOYNIHAN. Mr. President, if I could respond to our revered deputy majority leader and whip and call the attention of the Senate to the fact that Senator CRANSTON also has raised the question of the U.N. Participation Act of 1945. The President has, in fact, so far, in conducting our affairs, acted precisely as it was contemplated the President would act.

When the U.N. Charter was drawn, when President Roosevelt described it to the world and to the Nation, and when the statute was put in place, it was specifically contemplated, for example, that the Security Council would have available forces which it could commit to situations such as the gulf crisis, if they should arise. These forces should have been made available pursuant to an agreement between the United States and the Security Council, which agreement would have been approved here in the Congress. That never happened.

In the forties, it turned out Stalin was not going to go along. We have reason to think that downtown there is an apprehension that any action or debate by this Senate would revive all the stalemated problems of the War Powers Resolution. They need not do so. Indeed, they ought not do so, in the view of this Senator, if we are going to proceed and give the President the support he now needs. He can get it now, and 6 months from now it may be unattainable, and he shall have ruined an enormous initiative. They ought to consult their hopes. If they have been bold enough to go to the Security Council, they can be bold enough to come to the U.S. Senate.

Thank you.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER (Mr. HOLLINGS). The Senator from Nevada is recognized.

STAR PRINT OF EXECUTIVE REPORT NO. 101-31

Mr. BRYAN. Mr. President, I ask unanimous consent that there be a star print of Executive Report No. 101-31 to reflect the changes which I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHILDREN'S TELEVISION ACT

Mr. BRYAN. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 715, H.R. 1677, regarding the Children's Television Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1677) to require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2713

(Purpose: To make an amendment in the nature of a substitute)

Mr. BRYAN. Mr. President, I ask for the immediate consideration of a substitute amendment by Senators INOUYE, HOLLINGS, and WIRTH.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN], for Mr. INOUYE (for himself, Mr. HOLLINGS, and Mr. WIRTH), proposes an amendment numbered 2713.

Mr. BRYAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Children's Television Act of 1990".

TITLE I—REGULATION OF CHILDREN'S TELEVISION

FINDINGS

SEC. 101. The Congress finds that—

(1) it has been been clearly demonstrated that television can assist children to learn important information, skills, values, and behavior, while entertaining them and exciting their curiosity to learn about the world around them;

(2) as part of their obligation to serve the public interest, television station operators and licensees should provide programming that serves the special needs of children;

(3) the financial support of advertisers assists in the provision of programming to children;

(4) special safeguards are appropriate to protect children from overcommercialization on television;

(5) television station operators and licensees should follow practices in connection with children's television programming and advertising that take into consideration the characteristics of this child audience; and

(6) it is therefore necessary that the Federal Communications Commission (hereinafter referred to as the "Commission") take the actions required by this title.

STANDARDS FOR CHILDREN'S TELEVISION PROGRAMMING

SEC. 102.(a) The Commission shall, within 30 days after the date of enactment of this Act, initiate a rulemaking proceeding to prescribe standards applicable to commercial television broadcast licensees with respect to the time devoted to commercial matter in conjunction with children's television programming. The Commission shall, within 180 days after the date of enactment of this Act, complete the rulemaking proceeding and prescribe final standards that meet the requirements of subsection (b).

(b) Except as provided in subsection (c), the standards prescribed under subsection (a) shall include the requirement that each commercial television broadcast licensee shall limit the duration of advertising in children's television programming to not more than 10.5 minutes per hour on weekends and not more than 12 minutes per hour on weekdays.

(c) After January 1, 1993, the Commission—

(1) may review and evaluate the advertising duration limitations required by subsection (b); and

(2) may, after notice and public comment and a demonstration of the need for modification of such limitations, modify such limitations in accordance with the public interest.

(d) As used in this section, the term "commercial television broadcast licensee" incldes a cable operator, as defined in section 602 of the Communications Act of 1934 (47 U.S.C. 522).

CONSIDERATION OF CHILDREN'S TELEVISION SERVICE IN BROADCAST LICENSE RENEWAL

SEC. 103. (a) After the standards required by section 102 are in effect, the Commission shall, in its review of any application for renewal of a television broadcast license, consider the extent to which the licensee—

(1) has complied with such standards; and

(2) has served the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs.

(b) In addition to consideration of the licensee's programming as required under subsection (a), the Commission may consider—

(1) any special nonbroadcast efforts by the licensee which enhance the educational and informational value of such programming to children; and

(2) any special efforts by the licensee to produce or support programming broadcast by another station in the licensee's marketplace which is specifically designed to serve the educational and informational needs of children.

PROGRAM LENGTH COMMERCIAL MATTER

SEC. 104. Within 180 days after the date of enactment of this Act, the Commission shall complete the proceding known as "Revision of Programming and Commercialization Policies, Ascertainment Requirements and Program Log Requirements for Commercial Television Stations", MM Docket No. 83-670.

TITLE II—ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION

SHORT TITLE

SEC. 201. This title may be cited as the "National Endowment for Children's Educational Television Act of 1990".

FINDINGS

SEC. 202. The Congress finds that—

(1) children in the United States are lagging behind those in other countries in fundamental intellectual skills, including reading, writing, mathematics, science, and geography;

(2) these fundamental skills are essential for the future governmental and industrial leadership of the United States;

(3) the United States must act now to greatly improve the education of its children;

(4) television is watched by children about three hours each day on average and can be effective in teaching children;

(5) educational television programming for children is aired too infrequently either because public broadcast licensees and permittees lack funds or because commercial broadcast licensees and permittees or cable television system operators do not have the economic incentive; and

(6) the Federal Government can assist in the creation of children's educational television by establishing a National Endowment for Children's Educational Television to supplement the children's educational programming funded by other governmental entities.

NATIONAL ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION

SEC. 203. (a) Part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.) is amended—

(1) by redesignating section 394 as section 393A;

(2) by redesignating subparts B, C, and D as subparts C, D, and E, respectively; and

(3) by inserting immediately after section 393A, as so redesignated, the following new subpart:

"Subpart B—National Endowment for Children's Educational Television

"ESTABLISHMENT OF NATIONAL ENDOWMENT

"SEC. 394. (a) It is the purpose of this section to enhance the education of children through the creation and production of television programming specifically directed toward the development of fundamental intellectual skills.

"(b)(1) There is established, under the direction of the Secretary, a National Endowment for Children's Educational Television. In administering the National Endowment, the Secretary is authorized to—

"(A) contract with the Corporation for the production of educational television programming for children; and

"(B) make grants directly to persons proposing to create and produce educational television programming for children.

The Secretary shall consult with the Advisory Council on Children's Educational Television in the making of the grants or the awarding of contracts for the purpose of making the grants.

"(2) Contracts and grants under this section shall be made on the condition that the programming shall—

"(A) during the first two years after its production, be made available only to public television licensees and permittees and noncommercial television licensees and permittees; and

"(B) thereafter be made available to any commercial television licensee or permittee or cable television system operator, at a charge established by the Secretary that will assure the maximum practicable distribution of such programming, so long as such licensee, permittee, or operator does not interrupt the programming with commercial advertisements.

The Secretary may, consistent with the purpose and provisions of this section, permit the programming to be distributed to persons using other media, establish conditions relating to such distribution, and apply those conditions to any contract or grant made under this section. The Secretary may waive the requirements of subparagraph (A) if the Secretary finds that neither public television licensees and permittees nor noncommercial television licensees and permittees will have an opportunity to air such programming in the first two years after its production.

"(c)(1) The Secretary, with the advice of the Advisory Council on Children's Educational Television, shall establish criteria for making contracts and grants under this section. Such criteria shall be consistent with the purpose and provisions of this section and shall be made available to interested parties upon request. Such criteria shall include—

"(A) criteria to maximize the amount of programming that is produced with the funds made available by the Endowment;

"(B) criteria to minimize the costs of—

"(i) selection of grantees,

"(ii) administering the contracts and grants, and

"(iii) the administrative costs of the programming production; and

"(C) criteria to otherwise maximize the proportion of funds made available by the Endowment that are expended for the cost of programming production.

"(2) Applications for grants under this section shall be submitted to the Secretary in such form and containing such information as the Secretary shall require by regulation.

"(d) Upon approving any application for a grant under subsection (b)(1)(B), the Secretary shall make a grant to the applicant in an amount determined by the Secretary, except that such amounts shall not exceed 75 percent of the amount determined by the Secretary to be the reasonable and necessary cost of the project for which the grant is made.

"(e)(1) The Secretary shall establish an Advisory Council on Children's Educational Television. The Secretary shall appoint ten individuals as members of the Council and designate one of such members to serve as Chairman.

"(2) Members of the Council shall have terms of two years, and no member shall serve for more than three consecutive terms. The members shall have expertise in the fields of education, psychology, child development, or television programming, or related disciplines. Officers and employees of the United States shall not be appointed as members.

"(3) While away from their homes or regular places of business in the performance of duties for the Council, the members of the Council shall serve without compensation but shall be allowed travel expenses, including per diem in lieu of subsistence, in accordance with 5703 of title 5, United States Code.

"(4) The Council shall meet at the call of the Chairman and shall advise the Secretary concerning the making of contracts and grants under this section.

"(f)(1) Each recipient of a grant under this section shall keep such records as may be reasonably necessary to enable the Secretary to carry out the Secretary's functions under this section, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such grant, the total cost of the project, the amount and nature of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purposes of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to a grant received under this section.

"(g) The Secretary is authorized to make such rules and regulations as may be necessary to carry out this section, including those relating to the order of priority in approving applications for projects under this section or to determining the amounts of contracts and grants for such projects.

"(h) There are authorized to be appropriated $2,000,000 for fiscal year 1991 and $4,000,000 for fiscal year 1992 to be used by the Secretary to carry out the provisions of this section. Sums appropriated under this subsection for any fiscal year shall remain available for contracts and grants for projects for which applications approved under this section have been submitted within one year after the last day of such fiscal year.

"(i) For purposes of this section—

"(1) the term 'educational television programming for children' means any television program which is directed to an audience of children who are 16 years of age or younger and which is designed for the intellectual development of those children, except that such term does not include any television program which is directed to a general audience but which might also be viewed by a significant number of children; and

"(2) the term 'person' means an individual, partnership, association, joint stock company, trust, corporation, or State or local government entity.".

(b) Section 397 of the Communications Act of 1934 (47 U.S.C. 397) is amended—

(1) in paragraph (2) by striking "subpart C" and inserting in lieu thereof "subpart D"; and

(2) in paragraph (15)—

(A) by inserting "and subpart B" immediately after "Subpart A"; and

(B) by striking "subpart B, subpart C" and inserting in lieu thereof "subpart C, subpart D".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2713) was agreed to.

Mr. BRYAN. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, a short time ago, both the Senate and House passed legislation concerning children's television programming—legislation that we have been working on for the past two Congresses. Since these two bills differed, we have been meeting with our House colleagues to work out the differences without convening a formal conference. I am delighted to announce that we have now worked out all differences and are ready to proceed to pass this legislation through the Congress and send it to the President.

Before discussing the substitute, let me thank Chairmen DINGELL and MARKEY and the ranking member of the Telecommunications Subcommittee, Mr. RINALDO, for their cooperation in resolving the differences in the legislation.

The changes we are considering today to H.R. 1677—in the form of an amendment in the nature of a substitute—make only minor changes to the Senate-passed legislation. These changes only affect title II of the legislation, the National Endowment for Children's Educational Television. The provisions on broadcaster obligations in title I are unchanged from the Senate-passed bill.

The substitute revises title II, the National Endowment for Children's Educational Television, as follows:

First, it permits the Secretary of the Department of Commerce to either award grants directly or contract with the Corporation for Public Broadcasting to actually select the persons who shall receive the grants to produce programming. Should the Secretary contract with the CPB, the CPB will be bound by the criteria governing the award of any grants, established by the Secretary.

Second, it requires the Department of Commerce to maximize the amount of programming produced with the Endowment funding and minimize costs incurred in selecting the grantees.

Third, it reduces the authorization level for fiscal year 1991 from $10 million to $2 million and authorizes $4 million for fiscal year 1992.

As stated above, the substitute does not change the provisions that require the FCC to consider at renewal time whether the licensee has met the educational and informational needs of children in its programming and impose limits on the amount of time that can be devoted to commercials during a children's television program. The legislation is not intended to restrict the FCC's ability to exercise its discretion at renewal time with regard to enforcement of licensees' compliance with rules and policies. For example, the Commission may consider the good faith efforts of licensees toward compliance, including the adoption of policies to adhere to the guidelines and their development of reasonable methods to ensure compliance.

In closing, H.R. 1677 will increase the educational television programming available for our children, programming which we desperately need. I again urge my colleagues to support this important measure.

Mr. HOLLINGS. Mr. President, I am here today to urge support for H.R. 1677 and the amendment in the nature of a substitute for H.R. 1677 offered by Senator INOUYE. This legislation represents years of work by Members of this body and the House of Representatives. I thank Senator INOUYE for all of his work.

The legislation is designed to ensure that television programming aimed at our children is responsive to their needs and interests. It also limits the amount of time that can be devoted to commercials during children's programming. In view of the educational crisis this country faces today, we must do all we can to enhance and increase the educational material to which our children are exposed.

In addition, the substitute provides for the establishment of an endowment for children's educational programming. The endowment provides funding for educational and informational children's programming. The programming produced with the assistance of the endowment ultimately will be available to anyone who wants to air it, including broadcast stations, cable systems and schools. This program also will further the important educational interests of our children and enhance the educational function of children's television programming.

I believe that the legislation represents a giant step forward for our Nation's children. Our responsibility today is to enact this legislation to protect our children and enhance their educational opportunities. I urge my colleagues to support H.R. 1677, as amended.

Mr. WIRTH. Mr. President, I have been concerned with the state of children's television in this country for many years. Television is a unique medium that offers incredible opportunities to enrich the lives of America's children. Virtually every developed country in the world devotes more resources than we do on educational television for children. In contrast, our broadcasters often ignore the child audience or offer cartoon programs that are principally designed to promote toys to children. We can do better than this. Indeed, we must do better if we expect America's youth to enjoy the same opportunities to learn from television as children from countries where television is used more wisely as an educational resource.

Senators HOLLINGS, INOUYE and I are offering a substitute amendment to H.R. 1677—previously S. 1992—that reflects a new agreement on the National Endowment for Children's Television, the single issue on which the House- and Senate-passed bills differ. I am pleased that this agreement has been reached, allowing the legislation to move forward.

Importantly, the substitute amendment does not in any way alter the licensing provisions included in title I of the legislation passed by the Senate on July 19. Under the renewal standards included in this legislation, each television licensee must provide at least some educational programming specifically designed for children in order to qualify for license renewal. This requirement is unequivocal. Senator INOUYE and I discussed this requirement in a colloquy on July 19. The substitute amendment does not affect the substance of that colloquy which remains an accurate description of the license renewal standards.

Finally, licensees must also adhere to appropriate limits on the amount of commercial content presented during children's programming, an area in which FCC deregulation has led to abuses of the child audience. Commercial content will be limited to 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays, again unchanged from the legislation approved by the Senate in July.

This amendment provides for meaningful reform and improvement in children's television. The legislation is a substantial accomplishment, and heralds a major shift in the way television will address America's children. Broadcasting in this country remains a privilege, not a right, and those who hold that privilege reap substantial economic benefits. With the enactment of this measure, we can soon expect America's broadcasters to meet the very specific obligation of serving the educational needs of America's children. Now that we have reached an agreement on the programming endowment, I hope we can swiftly send the legislation to the President. I urge

my colleagues to join me in supporting this important measure.

Mr. DANFORTH. Mr. President, I am pleased to support the substitute amendment that Senator INOUYE is offering today to H.R. 1677, the Children's Television Act. This measure is only slightly different than S. 1992, which the Senate passed in July. It limits the time that can be devoted to advertising in all children's television programming. The bill also requires the Federal Communications Commission to determine, in broadcast license renewal proceedings, whether the television broadcaster has served the educational and informational needs of children in its programming. Finally, it establishes a national endowment to fund educational children's television programming.

This measure includes my amendment to apply the advertising limits to children's programming on cable television. Children do not distinguish between cable and over-the-air broadcasts when they watch television. This provision ensures that they will be protected from excessive advertising from either source. As the courts have long held, children are a special class, deserving of special protections.

This legislation serves the interests of children without imposing unreasonable burdens on broadcasters and cable operators. Therefore, I recommend its immediate passage.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 1677), as amended, was passed.

Mr. BRYAN. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOTOR VEHICLE FUEL EFFICIENCY ACT

The ACTING PRESIDENT pro tempore. The hour of 10:30 a.m. having arrived, the Senate will resume consideration of S. 1224.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1224) to amend the Motor Vehicle Information and Cost Savings Act to require new standards for corporate average fuel economy, and for other purposes.

The Senate resumed with the consideration of the bill.

Mr. BRYAN. Mr. President, we begin debate this morning on S. 1224, the corporate average fuel economy bill, and we do so at a time in which we have more than 150,000 American men and women in our armed services either on land, in the gulf, or on the sea, as it immediately surrounds that area. So when the question arises why we are debating CAFE now, and why is it significant and what is the importance of it, I think that we need to underscore the importance of what the past few weeks have revealed in a high profile way to all Americans.

That is, as the President pointed out in his joint address to the Congress some days back, we import too much oil. We are heavily dependent on foreign sources for the oil that we consume in this country. Although many of us are supportive of the President's policy in the Middle East, and I reaffirm my support for that policy this morning during the course of this talk, very clearly, I think none of us in this Chamber, or none of our constituents across this land, are unmindful of the fact that were it not for our enormous dependence on overseas oil, we would not have 150,000 men and women in our armed services in the Persian Gulf. We are heavily dependent, and our situation, Mr. President, has deteriorated.

In 1973, when the Arab OPEC oil embargo first hit this country, Americans were shocked, they were stunned; gas lines formed and prices soared, and for the first time we realized how dependent we were upon imported oil.

In that distant year, 1973, we imported about 37 percent of the oil that we consumed in this country, and learning as we did, at that time we thought that was far too much; we should never again put ourselves in a position where we are so dependent.

The fall of the Shah of Iran sent another shock wave through the economy of this country and again the price of gas rose rather dramatically and curtailment strategies were developed, and there were concerns in many parts of the country whether indeed we would have enough fuel available for day-to-day usage.

Many of us recall those long lines, particularly on Sunday when a relatively few retail service stations were open, and in which it was very, very difficult to get gasoline on Sundays. Well, those events of the 1970's passed and we forgot all the lessons that we had begun to learn.

The Congress of the United States in the 1970's responded courageously and responsibly in considering how can we reduce our dependence on overseas oil, what conservation strategies make sense. Among them, hearings were held in 1974, as the occupant of this Chair will recall, and the Congress adopted CAFE, corporate average fuel efficiency, for the first time. At that time we were only importing 37 percent of our oil. Today we import 50 percent of our oil.

What was the effect of that CAFE legislation? There have been suggestions in earlier colloquys on the floor, that somehow all of the policies of the 1970's were misguided, that they were mistakes, that indeed we do not want to revisit that era again. Mr. President, CAFE was a remarkable success, an extraordinary success, and a great tribute to the men and women who served in the Congress during that period of time, the occupant of the Chair included, because at that time the national fuel economy average for our automobile fleet was about 14 miles per gallon.

That legislation required incremental improvements during the course of a period of time to virtually double that fuel efficiency from 14 miles per gallon to 27½ miles per gallon. There were naysayers, particularly in the auto industry, that said it could never be done, that this was beyond the capabilities of our scientific community, that there simply was not the ability to do so, and there were all kinds of prophetic doom and gloom prophesies that it simply could not be done. In fact, Mr. President, it was done.

Remarkably it was done. And as a result there is a permanent built-in savings each day of 2½ million barrels of oil per day. That is a great success.

Unfortunately, we did not continue to move with updated versions of the mandated fuel economy standards of the 1980's, and on at least two occasions as I recall during that decade a waiver was given which permitted the automobile industry to fall back from achieving the full impact of the mandated benefit of 27½ miles per gallon.

So we are here on the floor this morning, Mr. President, to talk about a logical extension and a continuation of the CAFE standards or mandated fuel economy standards of the 1970's and contrary to some of the statements which I have heard and which have been bandied about the chamber that somehow this is a knee-jerk reaction, that is a panic, that all of this was conjured up in the aftermath of the events of August 2.

Let me dissipate that notion and set the record straight. More than a year ago the Consumer Subcommittee of the Commerce Committee began hearings and, Mr. President, those hearings preceded the introduction of this legislation, S. 1224. We sought input from the automobile industry, we sought input from consumers groups and others as to what could be achieved with the technology that today is available, that is off the shelf, and assuming for the sake of argument the ludicrous possibility that the Patent Office literally closed the

doors, that no new technology would be introduced in the decade ahead.

It was the considered judgment of the committee after hearing testimony that a 20-percent fuel economy improvement by the year 1995 and a 40-percent fuel economy improvement by the year 2001 was achievable with a technology that was then available, and it could be implemented by the auto industry in a timely period.

The auto industry did not like the notion of CAFE. They pretty much gave us a replay of what we had been treated to in the 1970's. But there were a couple points they made, a couple points that my distinguished colleague, Senator GORTON, from Washington State, who participated in the drafting of this piece of legislation from its inception, made. They said,

Look, rather than take us up so much each year, which had been done in the 1975 version, set a series of plateaus; give us time to develop and work the technology into that legislation.

I thought that seemed reasonable, so we did do that. We set 1995 as the first tier to give the industry time to develop the model lines and to program into the vehicles coming out in that year the necessary changes to achieve the first tier, which is a 20-percent fuel improvement, or to take us to 34 miles per gallon by the year 1995.

The second tier we put in an out year, even further out there, in the year 2001, and 40 percent was the number that the evidence that we received during the course of those subcommittee hearings indicated was achievable, and we said,

Look, the industry should be able to reach the 40 percent standard by the year 2001 and that will take us to 40 percent standards by the year 2001 and that will take us to 40 miles per gallon.

Finally, the distinguished Senator from Washington and myself looked at this, and we said, nobody can say with the view of a clairvoyant precisely what that technology will be, although we believe it to be a most conservative estimate, using the technology that is on the shelf today, just pull it off, design it into the automobiles of the future, and we can achieve those. We said,

Look, let us give the Secretary of Transportation the ability to grant a waiver not to exceed 10 percent if indeed because of circumstances totally unforeseen at this time the standard could not be achieved.

Now, it has been argued and suggested that this bill provides no immediate relief; in fact, some have said to the sponsors of this bill: "Do you think that the crisis in the Middle East is going to last for 8 years, 9 years, 10 years, to the year 2001?" That is when the second tier phase becomes fully effective. I think all of us would hope that that is not the case.

But I must tell you, Mr. President, seeing the front page of the Washington Post this morning, this unstable, self-aggrandizing leader of Iraq threatens to destroy oil fields in the Persian Gulf if Iraq itself is not only subject to attack, but he said, "Look, if the going gets too tough, if the noose is tightened too greatly, if my people endure too much hardship."

That is something that ought to frighten all of us, because clearly, we know that he has the missile technology and capability of reaching those oil fields outside of Iraq and Kuwait on which we depend, as does much of the world, for a great portion of its imports.

But the point to be made here, is that there is a benefit to be gained immediately, and that is the automobile industry will have a target and a policy to pursue, because in just the past 2 years we have seen a deterioration of the standards that have been reached in 1980. For example, from 1988 to 1990 we have seen a decline in the domestic automobile fleet in terms of fuel efficiency of 4 percent. Clearly I think everybody would agree that that is the wrong direction. We have seen an increase in weight of 6 percent. We have seen an increase in horsepower, the so-called muscle cars, that is the cars that emphasize that they can get you from zero to 60 in just a flash of an eyelash.

As distressing as this trend is with respect to the domestic industry, let me tell you with respect to our Asian imports, the news is even worse.

The Asian fleet fuel economy has declined by 6 percent in the past 2 years, weight has increased by 9 percent, and the horsepower has increased by 22 percent. Clearly, if we are going to have any kind of a rational policy as it deals with energy conservation, those kinds of developments must be arrested and brought to a stop immediately. And that is what this legislation does. It sends a message to the industry, and says: Look, these are the targets. This is what you have to do. And we are establishing as a matter of policy, that the new technology that you are putting into these automobiles needs to be focused on conservation, not enhanced horsepower offerings and performance that emphasizes the acceleration rates which one can achieve with that new technology.

Now in the first 6 years, Mr. President, of the implementation of this legislation, from 1995 to the year 2001, we save 49 billion gallons of gasoline—49 billion gallons of gasoline. And by the year 2005—that is when the two tiers become fully effective—we will achieve a permanent savings, permanent each and every day, of 2.8 million barrels of oil.

Now to put that into some kind of context that we can relate to in light of the Persian Gulf crisis that has set the oil market into the ionosphere, oil prices now are $35 a barrel. That is more than twice what they were in the weeks that preceded the August 2 invasion. It has threatened our economy.

There is concern that this just may be the propelling force that could cause this economy to slip into a recession. All of us hope that that will not be the case, but none of us can be unmindful of the fact that we clearly are seeing the economy evidence signs of a slowdown, and there are massive amounts of money being taken literally out of the hand of the consumer as the price of oil and gas at the pump have increased by 20 to 25 cents a gallon in the period of time since August 2.

Here is what that 2.8 million barrels of oil that we save a day would amount to. That is roughly four times, Mr. President, what we were importing from Kuwait and Iraq prior to the Middle East developments of August 2. Prior to that time, we were importing from Kuwait and Iraq combined into the United States about 730,000 barrels of oil a day. We get permanent savings by the year 2005 of about 4 times that amount, or 2.8 million barrels a day.

Mr. President, there is also a benefit that I would like to comment on, and others during the course of the day will add to that, but all of us have been concerned about the environment. The news has not been altogether encouraging.

Whether one fully subscribes to the impact of the global warming theory, I know of no scientist, Mr. President, none, who would tell us that it is not in our best interest to reduce the amount of the carbon dioxide emissions into the atmosphere. Every one, I believe, agrees that that ought to be a goal. Many believe, and I think it is fair to say that the preponderance of scientific evidence would indicate that there is a global warming effect believed to be taking place, and all would acknowledge that carbon dioxide is the principal, largest greenhouse gas. We save in the first 6 years of this legislation some 483.5 million tons of carbon dioxide that we take out of the environment.

I would say that this is another compelling public policy argument of taking action now, this year, before this Congress adjourns.

Let me just say a couple of words about feasibility. It has been argued by industry and its supporters that where it may be desirable to achieve full savings that we outline in this bill, the technology is simply not there. It cannot be done. It just cannot be done. It is beyond our capabilities; beyond our capabilities.

Well, Mr. President, you will recall, having been a part of that debate back in the seventies—I just want to read one or two of these—that in 1974,

General Motors testified that this legislation, referring to the first round of mandated fuel economy legislation, the very bill that was passed by the Congress would have the effect of placing restrictions on the availability of five- and six-passenger cars, regardless of consumer needs or intended use of the vehicle.

Mr. President, I suggest with the greatest respect we are going to hear a great deal about that, that in effect if this piece of legislation before us, S. 1224, is enacted, it is the death knell of the five- or six-passenger family sedan and family classes of vehicles will be limited and, in effect, everybody is going to be driving around in a tiny automobile.

Ford testified at that same time in 1974–75, that this proposal, again referring to the first congressional proposal for mandated fuel economies, would require a Ford product line consisting of either all sub-Pinto sized vehicles or some mix of vehicles ranging from a sub-subcompact to perhaps a Maverick. And then Chrysler, completing the testimony of the Big Three, predicted that in effect this bill will outlaw a number of engine lines and car models, including most full-size sedans and station wagons.

Mr. President, that just did not happen. That just did not happen. To the credit of the industry—and I think we ought to compliment them—they were able to design the technology that today we do have, under the law passed by Congress in 1975, a full-sized choice of vehicles. The six-passenger vehicle is there, just as it was prior to the 1975 enactment. So I would respectfully suggest that it is deja vu when one hears these arguments that were advanced more than a decade ago.

The basis for our conclusion that the technology is available relies upon the Environmental Protection Agency and its testimony before the committee. It involves testimony from some highly respected experts—and I suspect that we will get involved in debating whether the expert conclusions are supportable or justified—from a host of experts engaged by the Department of Energy itself and by others, including the Office of Technology Assessment, all of which conclude that achievements at this level can in fact be reached within the timeframe suggested in the outlines of this bill.

And so to conclude, Mr. President, I argue and suggest strongly to my colleagues that this legislation was carefully put together. Without the help of my friend and colleagues on the floor, we would not have been there. And I acknowledge publicly his support and cooperation, and acknowledge the cooperation and support of the Chair, who serves as chairman of the full committee.

But it was very carefully considered. This is not something rash or hasty or a knee-jerk, thoughtless reaction, a headline grabbing attempt to take advantage of the Persian Gulf crisis. The distinguished Senator from Washington and I have known each other for many years. I consider him one of the clearest thinkers in the legislature. But I do not believe we could import to him or to anybody else that in May of last year, when this legislation was crafted, that he or anybody else could have anticipated the series of events that unfolded in the Middle East. We did not. But, frankly, he and I were both concerned about the energy dependency that this country has grown almost riverted to, and it is increasing rather dramatically; and also the environmental concerns that are of concern to this Congress and to each of us.

So I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, this morning, while eating breakfast with the radio on, I heard an advertisement sponsored by a group calling itself the Automobile Manufacturers Association, asserting that the Bryan bill—in this advertisement they created the bill to my distinguished friend from Nevada—was a "death on the highways" bill, in that it would have no real impact other than to increase the highway death rate.

We have on our desk, in addition, a letter from the Secretary of Transportation opposing this bill on the basis stated by the Secretary of Transportation that the only way by which the goals of the bill could be reached would be weight reductions and downsizing of passenger cars and light trucks and that that would result in increased deaths on the highways.

Mr. President, that idea might have more force and more validity were it not for two undisputed factors, both arising, of course, out of the fact that a bill exactly like this one was passed a decade and a half ago designed to increase the average fuel economy of car fleets from what was then less than 14 miles per gallon to a figure approximately twice that.

The distinguished Senator from Nevada has already shared with Members of the Senate some of the comments made in the early 1970's by automobile manufacturers with respect to requirements which they fought as vehemently then as they are fighting this bill today. I will repeat only one of them, and this is a direct quote from the opposition of the Ford Motor Co. in 1974. That company states:

This proposal—

That is to say the original CAFE law—

would require a Ford product line consisting of either all sub-Pinto-sized vehicles or some mix of vehicles ranging from a sub-subcompact to perhaps a Maverick.

We hardly need to go out into one of the parking lots to look at automobiles with a Ford name tag on them to understand that that statement was a wild misrepresentation. The qualities of the engineers at Ford and the other companies surmounted those challenges and met the present standards without having to do anything remotely comparable to what they claimed in 1974 they would have to do.

As a consequence, the statement on this radio commercial by the Automobile Manufacturers Association that these standards could only be met by sharp downsizing and a considerable worsening in safety standards is simply not believable.

But, let us go to those safety standards themselves and let us look at a similar comparison. In 1975, when Congress passed the original CAFE law, the average new car made 13.8 miles per gallon. By last year that had more than doubled to 28 miles per gallon. What had happened to the automobile fatality rate? In 1975, it was 3.6 death per 100 million vehicle miles traveled. In 1989 it was 2.2, reduction, Mr. President, of 39 percent.

The combination of these two facts shows far better than can any debate on the floor of the Senate that we have the genius in the United States to improve both fuel economy and auto safety at the same time.

If, in fact, the arguments of the Secretary of Transportation and the automobile manufacturers had been accepted in 1974, we would not be using some 2.5 million gallons of gas per day more than we are at the present time. We would be in a serious crisis rather than a significant inconvenience. We are unlikely, Mr. President, to substantially decrease our dependence on foreign sources for petroleum products while we manufacture, for all practical purposes, all of our automobiles to be run on gasoline. As a consequence, we better do something rather considerable and rather dramatic to reduce our use, or our use per vehicle, while we search for an alternative which does not use gasoline at all or which uses mixtures which are not entirely dependent upon gasoline.

One of the interesting elements of this entire debate, Mr. President, is that we have not listened to a sentence on the floor of the Senate nor have we seen anything from any of the opponents which deprecate the desire for greater auto fuel efficiency. It is a goal sought to all.

The Secretary of Transportation, for example, in his news release opposing this bill says:

The administration favors market incentives to reduce gasoline use. We want to increase fuel efficiency, but we must approach

it in a prudent way that does not reverse safety advances.

We have sure had some market incentives to reduce gasoline use in the course of the last 6 weeks. They have come through sharp increases in the cost of gasoline. It may be that some, including the auto manufacturers and perhaps the Secretary of Transportation, would like to free market us up to $2 or $2.50 a gallon gas, which probably would have pretty much the impact of this bill. I submit that that is not the desirable way in which to reach these goals. Calling on our auto manufacturers to use their intelligence and their genius to create automobiles which save money rather than simply to increase the cost of gasoline seems to this Senator to be far, far preferable.

In addition, of course, the Secretary of Transportation, while giving lip service to increased fuel efficiency, has stated his implicit view that the only way in which one obtains it is by downsizing of automobiles. Under those circumstances, he should logically be against increased fuel efficiency in its entirety. But he is not. Why? Because he recognizes, as do others, that it is not necessary to downsize automobiles to reach the goals which are set in the bill sponsored by the distinguished Senator from Nevada and myself. Study after study after study has reached the conclusion that we can reach these goals without downsizing. Our own Office of Technology Assessment, this administration's Environmental Protection Administration, a Lawrence Berkley Laboratory report, this administration's Department of Energy as recently as this year, the International Institute for Energy Conservation, all have shared with us their views that technology, some of which is presently in use and available and the balance of which is clearly attainable between this year and the year 2000, can reach these goals for us.

Mr. President, the goal of auto fuel efficiency, the goal of energy independence for the United States, the goal of continued technological innovation, the goal of discouraging the use of muscle cars—which at high speeds are far more dangerous to their own occupants and to others on the highways than can be the case with any automobile conforming to these standards—these goals are vitally important for the people of the United States.

At this point, Mr. President, we feel it vitally important to use the graphic lesson of energy dependence placed upon the backs of the American people by the Iraqi invasion of Kuwait to cause a serious debate on this bill, and we surely trust its passage.

As the distinguished Senator from Nevada has already said, he and I worked on and introduced this bill early last year. The committee, chaired by the distinguished occupant of the chair, passed that bill earlier this year by a vote of 14 to 4. All of these decisions were made before the present Mideast crisis, but interest in this subject has clearly been enhanced by that crisis, just as the original CAFE bill was triggered by an earlier Arab oil boycott.

This is an opportunity which we should not miss, Mr. President. We should be debating at this point not whether or not we should have increased and better standards, but simply what those standards ought to be. For the balance of this day, Mr. President, I understand we will be dealing with amendments to this proposal. In many respects, the Senator from Nevada and I welcome and encourage those amendments.

There are several on the list which we have seen with which we are likely to agree, or at least can modify so that we do agree. But many of the amendments, Mr. President, are simply designed to see to it that no bill passes at all and that responsibility for ignoring necessity for increased auto efficiency can be so diffused so as not to be aimed at any given individual.

Particularly significant among these are a series of amendments which we will get, which will, in effect, say: We should not do this unless we do a whole lot of other things as well. If we are going to require automobiles to increase their efficiency, every other user of energy should be required to increase his, its, her efficiency at the same rate and at the same time. If we are going to pass this, we must pass other legislation, whether relating to speed limits or the like, at the same time.

Mr. President, as is generally the case, that counsel of perfection is, in effect, counsel to do nothing at all. This is the single most important step we can take to demonstrate our serious concern about energy independence. It does not mean that it is the only step that we can take.

It is perfectly appropriate to propose other and additional methods by which to increase our energy—or to decrease our energy dependence. But to say that we cannot pass this bill unless we deal with every single challenge we face is simply to say we will never face any of those challenges. This is the time, this is the place, this is the opportunity for the Congress of the United States to say we are serious about the challenges we face in the world; we are serious about the dependence of the United States on foreign oil; we are serious about doing something about it.

Mr. RIEGLE. Mr. President, suddenly we are worried about our energy supply again. And there is much to be concerned about.

Our domestic supply of oil is falling. The Department of Energy says that in the first 235 days of this calendar year the amount of oil produced in the United States fell 5.4 percent from the same period as last year. Domestic production of oil peaked at 11.3 million barrels per day in 1970. It has been falling ever since. Last year even Alaskan oil production turned downward. We're now producing, according to the Department of Energy, about 7 million barrels per day of crude oil, a loss of more than 4 million barrels per day from our alltime high.

Yet, our consumption of oil has generally been rising after it bottomed out in 1983, in the wake of stiff price increases. The result is that we are importing more oil. According to the DOE, in the first 235 days of 1990, our net imports of petroleum, both crude and refined product, rose 8.5 percent from the level during the same period of the previous year.

In the first quarter of 1990, net imports—imports minus exports—of petroleum crude and refined product were 45 percent of our total supply. That is 7.7 million barrels per day. In terms of gallons, we are importing 323 million gallons per day of petroleum. Note that the highest dependence we have ever had was in 1977 at 46.5 percent. So we are very close to breaking or all time record for dependence on foreign oil. The proportion of our oil imports from Arab OPEC is rising rapidly. In the first quarter of 1990 we were importing 2.4 million barrels per day from them.

When we look at a geological map, we see that well over half the crude oil reserves in the entire world are located in the Middle East. About one-quarter of world's natural gas reserves are located there. As our domestic oil supply declines, it isn't hard to see where we will have to turn for more imported oil.

And of course, I haven't said anything about other forms of energy such as electricity. Many believe that we face a future crisis in having adequate electrical energy supply. Some say that the energy crisis of the 1990's will not be gasoline lines, but instead electrical brownouts.

But of course, all these problems existed before Iraq invaded Kuwait. It was the invasion of Kuwait and the threat of the invasion of Saudi Arabia that have jolted us into a serious look at our energy supply. Iraq has bot four times the oil reserves of the entire United States. Kuwait, which Saddam Hussein illgally annexed, also has about four times the oil reserves of the entire United States. Had he successfully attacked and conquered Saudi Arabia he would have controlled an oil empire having 18 times the oil reserves of the United States. And he would have held the throat of the Western World in his grasp.

Before the Iraqi invasion, we saw some vague connection between our energy security and our national security. Now there is no doubt. Now, Americans who led comfortable lives as private citizens are sweltering in the Saudi desert as reservists called to active duty. Fathers have left families and even mothers have left their families to answer the call of duty.

Let's fact it. Energy policy has been neglected until recently. The last comprehensive energy legislation enacted was the National Energy Act in 1978. After Jimmy Carter, energy policy just faded away. The Reagan administration rejected the notion of energy planning. They rejected energy conservation as a serious instrument of government for addressing our energy security.

The Reagan administration even proposed abolishing the Department of Energy altogether. Energy Secretary Edwards, the former dentist, said he wanted to bury the DOE and salt the ground over. They probably would have, except that someone discovered that the DOE was where nuclear weapons were made.

Consider the man chosen to head the Energy Information Administration in the Reagan administration. He testified before a House subcommittee prior to his confirmation. He said that he thought the Government should not collect any energy information because if we did, the Government might be tempted to use it to regulate.

Our energy policy in the 1980's seemed to be that we were going to produce our way out of our energy dependence. The free market would solve the problem, we were told. Well, we took that route, perhaps not as fast as the Reagan administration would have liked. But we deregulated oil and eventually natural gas. We abolished, or allowed to wither, much of the Government's energy apparatus that had been put in place during the 1970's.

But, Mr. President, ideology holds no sway over geology. We simply have drilleed our oil reserves much more intensively than anyone else in the world. And conservation has faltered.

What happened? By the end of Mr. Reagan's term, in fact in the last week of his Presidency, he formally declared in a message to Congress that imports of foreign oil threaten to impair the national security. So much for producing our way out of our energy dependence.

Fortunately, Mr. President, the Bush administration parted company with the Reagan administration on the subject of energy planning. Within 5 days of his Senate confirmation, Secretary Watkins issued a memorandum for all department and contract employees. One of the "near-term issues" he listed as requiring his "immediate attention" was: "commencing development of an integrated national energy strategy * * * highlighting reestablishment of conservation as a key component."

This was a welcome change from his predecessors. In attempting to put together a national energy strategy or NES, the DOE has held more than 15 hearings across the country with more than 375 witnesses. The plan is for the DOE to submit their NES options to the President in December of this year. As I understand it, the President will submit his NES to Congress as part of the fiscal year 1992 budget. That was the plan even before the Iraqi crisis.

I wish the NES could have been assembled sooner. Hopefully, current events will expedite it somewhat. But better late than never, considering the neglect of the prior administration on energy policy.

In the meanwhile, we have been formulating national energy policy by default. When we passed the Clean Air Act earlier this year, there was a national fuels policy embedded in it. Make no mistake about that. Much of our environmental legislation has been deciding energy policy by default.

So, Mr. President, there is a lot of frustration among my colleagues about energy policy right now. I feel it. You each feel it. We're sending a couple of hundred thousand troops to defend the Mid-East oil fields, and we don't even have a current energy policy in place.

We are under a lot of pressure to make up for the time wasted in the 1980's, to find the first opportunity to vote for a bill to show we want a tough energy policy. It does not much matter what the bill is, just whatever is in the pipeline to the floor right now.

That would be a mistake, Mr. President, a serious mistake because that isn't creating a national energy policy, it is just running scared. What we sought to do is insist that the United States have a sensible national energy policy.

What should be done then, Mr. President? Well, look at what Congress did in the past two energy crises. Soon after each of them, Congress passed comprehensive energy legislation.

Well, what kind of legislation do we need? Well, first, it's got to be comprehensive. It can't just cover one sector of the economy. Not just transportation. You can't ignore the industrial sector. After all, the industrial sector uses more energy in total in the United States than does the transportation sector. So does the residential and commercial sector. We can't look just at oil supply. We have to cover electricity, natural gas, all the major forms of energy—if we want adequate energy supplies for a competitive economy.

An energy policy must cover all the sectors. And a national energy policy must be considered all together, not piecemeal.

And Mr. President, formulation of a national energy policy must involve the President as well as the Congress. We should have learned well during the Reagan years that Congress can't force an energy policy on any President. We went to the extraordinary extent in the early 1980's of mandating on appropriations bills minimum staffing levels at certain DOE R&D offices to prevent the Reagan administration from sacking the talented people. In the final analysis it didn't work.

The legislation on energy we really want must include energy conservation as well as energy production. We aren't going to produce our way out of our energy dependence. Not in my lifetime. Not with oil. The current decline in our domestic oil production is just too steep.

And we cannot expect to get there with energy conservation alone. We cannot just ignore opportunities for improving domestic energy supply.

Finally, a good national energy policy must be directed to both the short term and the long term. What good does it do to address an imminent threat of an oil supply problem with a bill that does not have any direct effect on our energy situation for 5 years?

We should be insisting on a national energy policy that has these characteristics:

Is comprehensive, include all sectors of the economy, and all major forms of energy supply;

Involves the administration in formulating it;

Addresses conservation as well as production; and

Addresses the short term as well as the long term.

I think this is what many of my colleagues really want here today. They want a chance to say it's time for the United States to put together a comprehensive national energy policy.

I am offering an amendment to the pending bill that will enable us to say what we really want to say—we need a national energy policy, not a partial surrogate.

The fact is, we are entitled by law, not just by circumstances in the Mideast, to have the opportunity to consider a national energy policy plan.

Let me explain.

When Congress created the Department of Energy in the DOE Organization Act of 1977, we included a title VIII entitled, "Energy Planning." Under that provision the President is required to submit to Congress every 2 years, beginning on April 1, 1979, a proposed national energy policy plan. Title VIII is a step-by-step prescription for how a national energy policy

should be drawn up and what must be included in that plan.

In fact the Reagan administration never submitted a proposal that complied with the requirements of the act. They didn't believe in energy planning, so they never did it the way the act required. They sent us bits and pieces of legislation to enhance oil production and to repeal most of the energy legislation in then-current law.

The Reagan administration has been soundly criticized for their failure to comply with the law, for their failure to send Congress a comprehensive national energy policy plan.

We should not be guilty of the same infraction. We would if we voted on a national energy policy piecemeal, without waiting for the President to give us a good, comprehensive proposal. After a decade, the President is about to send us at last a national energy strategy. Why shouldn't we follow the procedure of the act. That doesn't mean of course we cannot revise what the President sends us. Clearly, title VIII expects us to review and revise the NES.

My amendment is a sense-of-the-Senate resolution on the need for a national energy policy plan.

So, it would declare that it is the sense of the Senate that the President should submit, as the law requires, a proposed national energy policy plan. This is something the President has already committed to do, except he calls it a national energy strategy.

How soon must he do it? My amendment says he should do it within 6 months of date of enactment. That is, we don't expect him to drop everything at the moment he's doing with respect to getting Saddam Hussein out of Kuwait. But once the crisis passes, or even once it cools down to a static situation, the President should send Congress his NES.

That does not mean, of course, that the Congress must accept the President's NES and the proposed legislation to implement it. The current law is very clear. Congress should review and revise the NES, the national energy policy plan, as necessary, including the implementing legislation.

Mr. President, I urge my colleagues to ask themselves what message are they really trying to send here today? Is it just to the transportation sector? If they truly want a national energy policy, do they want to write it piecemeal? Do they want to ignore the procedures in current law that prescribe how a national energy policy plan ought to be assembled?

AMENDMENT NO. 2714

(Purpose: To provide financial assistance to terminated automobile workers)

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself, Mr. MCCLURE and Mr. KENNEDY, proposes an amendment numbered 2714.

Mr. SIMON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, between lines 16 and 17, insert the following:

TERMINATED WORKERS

SEC. 15. (a) This section may be cited as the "Relief for Terminated Workers Act".

(b) Subject to the availability of appropriations, not later than 120 days after the date of the enactment of this Act, the Secretary of Labor shall, by regulation, establish for eligible terminated employees—

(1) a program of readjustment allowances substantially similar to the trade readjustment allowance program under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.) and

(2) a program for job training and related services substantially similar to the program under part II of subchapter B of chapter 2 of title II of such Act (19 U.S.C. § 2295 and 2296), and

(3) a program for job search and relocation allowances substantially similar to the program under part III of subchapter B of chapter 2 of title II of such Act (19 U.S.C. § 2297 and 2298).

(c) The Secretary is authorized to enter into agreements with any State to assist in carrying out the programs under subsection (b) in the same manner as under subchapter C of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2311 et seq.).

(d) For purposes of this section, the term "eligible terminated employees" means any individual who is a member of a group of workers engaged in the production of motor vehicles in the United States or related industries that the Secretary of Labor certifies, under the procedures described in subchapter A of chapter 2 of title II of the Trade Act of 1974, as eligible to apply for assistance under this section because the Secretary determines that—

(1) a significant number or proportion of the workers in such workes' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the sales or production, or both, of such firm or subdivision have decreased absolutely; and

(3) compliance with the provisions of the Motor Vehicle Fuel Efficiency Act of 1990 were the primary cause of such total or partial separation, or threat thereof, and to such decline in sales or production.

(e) There is authorized to be appropriated for fiscal year 1991, and each of the next following 4 fiscal years, such sums as may be necessary, but not in excess of $50,000,000 for any such fiscal year, to carry out the provisions of this section. Such sums shall remain available until expended.

(f) An application for benefits under this section shall be filed after on or before the date that is 4 years after the date of enactment of this Act.

On page 34, line 18, strike out "15" and insert in lieu thereof "16".

Mr. SIMON. Mr. President, I offer this amendment on behalf of Senator MCCLURE, Senator KENNEDY and myself. It is an amendment that would protect workers if this bill does become law.

First, by way of general background, this bill ought to be part of an overall energy package. We need an energy policy in this country. We have none. We are the world's biggest economic power, and we have absolutely no energy policy. It is just irrational. We are spending, according to the latest Pentagon estimates I know, $15 billion in the Middle East right now. What if 10 years ago we had said, let us take 10 percent of that amount, $1.5 billion, and put it toward research of electrical cars? I think we would be in infinitely better shape securitywise, environmentally and in every other way.

That is a digression from this particular bill.

This amendment says let us take the Trade Adjustment Act and apply it to the effect of this bill so that an employee of General Motors, Ford, Chrysler, who draws the full unemployment compensation for 26 weeks, would have another 26 weeks, if the Secretary of Labor so drafts this, of unemployment compensation or training available. This bill has been endorsed by the AFL–CIO, by the auto manufacturers, and I know of no objection from the environmental community.

Under the Trade Adjustment Act, only one-fourth of the employees who are so affected ultimately take advantage of the Trade Adjustment Act; one-fourth of those who draw some unemployment compensation. My guess is we would have the same thing here.

This is somewhat similar to the amendment offered by Senator BYRD on the Clean Air Act for coal miners, except it is appreciably smaller in terms of benefits. The Byrd proposal, which I supported, offered in excess of $500 million. This has a cap over a 5-year period of $250 million.

In the debate in the House on the Byrd-type of proposal, Congressman BOB WISE of West Virginia used this example. He said, "When you build a house and the highway department says we want this house for a public purpose, they have to move you and compensate you and help you make the transition. It just seems to me, if you are going to run a highway through a house and you ought to give people a transition, that when you run a law through their livelihood, you have to help them make the same transition."

That is basically what this amendment calls for.

As I indicated, it is appreciably less than the Byrd amendment called for. It called for, for example, 52 weeks of additional compensation. This calls for 26 weeks and it gives the Secretary of Labor some flexibility. It simply says, as drafted, it should be substantially similar, the precise words of the amendment, to the Trade Adjustment Act.

If my colleagues—and I am one of the supporters of this legislation; I do not do this as one who opposes the legislation—but if my colleagues from Nevada and Washington are correct that there really will be no fallout in terms of loss of jobs, then there will be literally no cost to this particular piece of legislation.

In my own State of Illinois, we have 4,000 workers at the Belvidere plant of Chrysler that makes the New Yorker. We have 2,900 people who work at a Ford plant making a midsize car there. I want to protect those workers, as they are not protected under the present legislation. My amendment would do that.

Finally, Mr. President, let me just add a very practical word. The reality is, I think this bill is going to pass the Senate. I think it will not likely pass the House, and if it were to pass the House, the President has indicated he is going to veto it. So we are not going to get a bill this year. But, we can shape the dimensions of the bill that I am sure is going to come up after the first of the year. This is a signal to whomever is involved in any negotiations: Let us protect the workers in these automobiles plants in the process. That is what my amendment does.

I will be pleased if the two managers were to accept the amendment. I have not received any final word from either one of them. If they do not accept the amendment, then I will ask for a rollcall vote, Mr. President.

Mr. RIEGLE. Will the Senator yield?

Mr. SIMON. I will be pleased to yield to my colleague.

Mr. RIEGLE. Mr. President, I ask unanimous consent to be added as a cosponsor of the amendment.

Mr. SIMON. I will be pleased to add Senator RIEGLE as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, the distinguished Senator from Illinois in prefacing the discussion of his amendment listed a number of groups who were enthusiastically in its support including again the automobile manufacturers. In fact, my inclination is that the entire list of the proponents of the amendment were among those who most vehemently opposed the bill, and therefore one happens to question to a certain extent their motives in backing the amendment.

The distinguished Senator from Illinois, on the other hand, says that he favors this bill and the theory behind it, the necessity for increasing the efficiency of our automobiles, the high desirability of reducing our dependendce of foreign sources of oil and the desirability of cleaning up our air and the like, and yet when he predicts that this bill will pass the Senate but in all probability not get any further during the course of this session of Congress, he does so I think without reflecting on the impact of this amendment should it be a part of the bill.

My inclination is that the adoption of this amendment will doom this bill even in the Senate. The distinguished Senator from Illinois and the Presiding Officer know how controversial the Byrd amendment was at the time of the debate over a Clean Air Act which everyone in this body knew was going to pass this body and which almost every Senator was quite certain would eventually become law.

But that kind of force is not to be found behind this bill. This CAFE standards proposal is itself highly controversial. I wish I shared the unrestrained enthusiasm of the Senator from Illinois for its prospects of surviving a vote on cloture tomorrow and then passing the Senate. I think passage is very possible but not certain. But I am convinced that the passage of this amendment will doom any opportunity to get 60 votes tomorrow for cloture on the bill.

Let us go on to the amendment itself. Its rationale is stated to be similar to that of the Byrd amendment during the debate on clean air. It seems to me to the contrary, Mr. President, that there is a profound distinction between the two. There was clearly no argument on the floor of the Senate during the long debate on the Byrd amendment and on the Clean Air Act as to whether or not the passage of the Clean Air Act being considered by the Senate would result in unemployment in soft coal mines in West Virginia and adjacent States. It was implicit in that bill that the people of the United States would use far less high sulfur soft coal and would move substantially to other fuels. That adverse economic impact was clearly present, present beyond debate. I do not believe a single Member of the Senate ever stood up and said, oh, no, there will not be any effect on the production of coal in West Virginia.

The Byrd amendment was controversial. It was controversial partly because of its cost, but most particularly for the blunt proposition that to a person who is unemployed by reason of technological change or by reason of any other changes in our economy is unemployed. That individual suffers just as much in one State as he or she does in another, suffers just as much by reason of one cause for that employment as for any other. The debate was on whether or not it is either fair or rational to take one group of people put out of jobs and treat them differently and more favorably than any other.

Certainly it is appropriate to argue at the right time and place that we should have more generous unemployment compensation and greater eligibility for retraining in the opportunity for new jobs. Certainly we are not lacking in the Committee on Labor and Human Resources services sympathetic with those views, but when we do deal with that issue we ought to deal with that issue with respect to everyone who finds himself or herself in this particular position and not just specially selected, relatively small groups of individuals in one State or in one industry or in one kind of business or another as this amendment does and for that matter the Byrd amendment did.

The profound difference between this and the Byrd amendment, however, is where in the Byrd amendment we were dealing with real people, real unemployment, and real needs, we clearly do not know that in this case as has been acknowledged by the distinguished sponsor of the amendment.

What possible relationship can there be between the construction of more efficient cars for consumers in the United States and increased unemployment? It seems to me, Mr. President, that the probable impact of this bill will be exactly the opposite. These automobiles will not be less desirable to consumers. They will be more desirable. Both the Senator from Nevada and I have already shared with Members of the Senate the high degree of acceptability in public opinion surveys of increased energy efficiency.

Mr. SIMON. Will my colleague yield?

Mr. GORTON. I will be happy to yield.

Mr. SIMON. The amendment says that the Secretary of Labor has to determine that this legislation is the primary cause of the loss of jobs. And if my distinguished colleague, for whom I have great respect, from Washington, is correct in his assumption that there will be no loss of jobs, then in fact this amendment will not cost one penny. Is that not correct?

Mr. GORTON. The Senator from Illinois is, of course correct, but we could set up an infinite number of amendments based on iffy propositions which are almost certainly not to come true and justify them in exactly the same fashion.

It seems to me the minimum threshold for any amendment on a subject of this sort or for that matter any conditional amendment of any nature at all should be that there is a reasonable

responsibility at least, perhaps a probability, that the condition which the amendment is sought to address is going to take place. In this case, I do not see the remotest connection between the focus of the bill itself and increased unemployment.

It was certainly argued at the time of the CAFE bill in the seventies that because foreign manufacturers were already more energy efficient and could meet the goals of that bill more readily than could domestic manufacturers we would suffer a loss in domestic employment. It is for exactly that reason that the distinguished Senator from Nevada and I in this bill require each manufacturer to meet the same percentage challenge, the same percentage goals. In fact, one of the objections that some Member who strongly defend the foreign and particularly the Japanese auto manufacturers have is that this is unfair to imports. In fact, it is the thrust of their argument that this bill will probably increase employment in domestic manufacturers because it will have a heavier burden to the laid on manufacturers of automobiles overseas and imported into the United States.

But it is not a justification for adopting this amendment that if its premise does not take place it will have no impact. Under those circumstances it is, of course, completely worthless. One must submit, it seems to me, the proposition that this result, that is increased unemployment, is a likely result of the passage of this bill.

And I say to the Senator from Illinois, there is nothing to indicate that that is the case. Will people use automobiles less when their engine efficiency is greater? That seems to me to be highly unlikely. Will people refuse to buy automobiles because they are more efficient? Will we drive more of our purchasers to purchase imported automobiles when their standards are even higher than Americans are? We do not have that.

Would the Senator from Illinois be proposing this as an amendment to a bill to encourage rapid transit in this country? Are we now to attach proposals like this to anything which increases transportation efficiency in the United States? If we are to give, let us say, an appropriation of $1 billion or $2 billion to the city of Los Angeles to build a subway, to take automobiles off the road, will the Senator from Illinois aks for trade adjustment assistance because that might have some remote impact at some point or another on employment in the automobile industry? I do not think so. I think the Senator from Illinois has not in the past.

I must say that it seems to me that the Senator from Illinois is putting up an amendment which whether it is designed by him to do so or not is going to have the inevitable effect of seeing to it that no bill passes and therefore no additional trade adjustment assistance when his proposal is not connected with any probable or likely impact of the passage of the bill.

If anything, it would seem to me, the complaint by the automobile companies would be that this will cause them to make very substantial capital investments which will increase rather than decrease employment.

Mr. SIMON. Mr. President, if I could respond just briefly to my colleague from Washington, I hope he is correct in his conclusions. I think there is a real possibility that he is correct. But I also think there is a real possibility that as we make this progress there are going to be people out of work. This strikes me as not just a remote possibility. I think it is a real possibility. Despite that real possibility I am going to be voting with the Senator from Washington and with the Senator from Nevada on cloture. I am going to be voting for the passage of this bill. But I think we have to recognize that workers in this country may be affected. It is not just some far off, remote possibility. I think it may happen. I think we ought to have the protection for them.

So my hope is that we will accept this amendment.

Mr. RIEGLE. Will the Senator yield at that point?

Mr. SIMON. My colleague from Washington has the floor.

Mr. RIEGLE. I think he yielded the floor.

Mr. SIMON. I yield the floor.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Michigan.

Mr. RIEGLE. I thank the Chair.

I just say to the Senator from Illinois, no money is spent unless workers lose their jobs.

Mr. SIMON. That is absolutely correct.

Mr. RIEGLE. If I may just continue, that is what troubles the sponsors of the amendment because they do not want to have the knowledge in a direct way that there are going to be jobs that are taken away, eliminated as a result of this amendment because, if there were not, then the amendment does not mean anything. If we do not lose any jobs, no money is required.

Your amendment only has an effect if jobs are lost. They ought to be for this amendment. The reason they are not for the amendment is that they know jobs are going to be lost, and they are going to be lost for one reason, because the Government, if this bill were to pass, is mandating the requirement, the net effect of which will be to lose a certain number of jobs in this country. So the decision to eliminate those jobs will come right out of here.

The Senator's amendment says if that happens, let us have something in place that recognizes that impact and let us at least have the responsibility to recognize that we caused that to happen. They want it both ways. They want to get rid of the jobs. They do not want to have the acknowledge they are getting rid of the jobs, and they sure do not want to have the Government accept any responsibility for the fact that we will have caused it.

I will just say one other thing to the Senator; that is, the extra capital costs out through 1995 are estimated to be, the extra capital costs for the automobile industry to get this job done, over $60 billion. Those are the estimates as to the additional capital that will have to be required to meet the mandates in this bill.

There is no idea where it is going to come from. We are not providing it here in the bill. We are not providing 5 cents in the bill to actually cover the capital costs of getting it done. The economic impact is going to be tremendous and on the automobiles. I will talk about that later.

But am I correct in my understanding that the only way the amendment kicks in is if we can identify jobs that are lost because of what they are proposing to do?

Mr. SIMON. The Senator from Michigan is correct. We leave this up to the Secretary of Labor to determine.

I find myself, Mr. President, caught somewhere between the Senator from Michigan, who is sure we are going to lose jobs, and my colleagues from Nevada and Washington, who are sure we are not going to lose jobs. I do not know. But I think we ought to protect workers in the event that it happens.

Mr. RIEGLE. If the Senator will just yield to me again or respond, the point is, if they did not feel jobs were going to be lost, they should be for the amendment because the amendment does not have any effect if no jobs are lost. The only reason they are against the amendment is because they know jobs will be lost because, if no jobs are lost, then the amendment never has any effect. So that want it both ways. They want to pretend there is no job loss and the Senator is saying if it turns out that there is, let us have the Government come in because we will have caused it and let us respond in an affirmative way. They say no, they are not prepared to do that. They want it both ways. They want to eliminate the jobs but they do not want to accept the responsibility for doing it.

I thank the Senator.

Mr. SIMON. Mr. President, just to add a word or two here, I have voted for, I believe, every amendment that has come up during my years in the House and the Senate to increase requirements for standards. I have voted for airbags. Why the industry did not years ago accept airbags to make high-

way driving safer, I do not know. For one of the major manufacturers, General Motors, to say "We are going to have them in all cars in 1995," we ought to have them in all cars by 1992. I want to press for more requirements. But I also think we have to protect workers.

I hope my colleague from Nevada and my colleague from Washington are correct in saying there are going to be no loss of jobs.

I hope my colleague from Michigan is incorrect. I do not know. I do not think anyone knows for sure.

In the event of this uncertainty, it seems to me we ought to have some protection.

So, Mr. President, since there appears to be opposition—unless my colleague from Nevada is willing to accept this amendment—I ask for a rollcall vote.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. BRYAN. Mr. President, I desire to be recognized for the purpose of speaking further on the amendment.

Mr. RIEGLE. Mr. President, a parliamentary inquiry. In a situation such as that, because we are going to be here a long time, if we are not going to get an understanding, if we are going to vote on amendments that are asked for, normally we do that around here, how many affirmative indications are required in this situation, if I can inquire of the Chair?

The PRESIDING OFFICER. One-fifth of the presumed quorum could be 11.

Mr. RIEGLE. It would seem to me we have an option here that we can—I have seen votes ordered with less than 11 on the floor. Is that an iron requirement?

The PRESIDING OFFICER. The Chair would put the question for a second time. Is there a sufficient second? There is not a sufficient second.

Mr. SIMON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. My understanding, am I correct, is that it requires one-fifth of those present to require a rollcall? Is that incorrect?

The PRESIDING OFFICER. The constitutional requirement is one-fifth of the presumed quorum, which would require 11.

Mr. SIMON. Well, Mr. President, if we do not have that one-fifth, I think we will have very extended discussion on this. We are going to get the rollcall. I would be pleased to yield to my colleague from Nevada, if he wishes to say something. But we will get a rollcall on this amendment.

Mr. RIEGLE. If we want to have all the Members come over to establish a quorum, we can do that. It is an inconvenience to a lot of people. It is unnecessary. I think we can accomplish the same end by getting indication that we have support for a rollcall on this. Might I inquire of the Chair, a parliamentary inquiry?

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. There are four Senators on the floor at the moment. If all four of us were to so indicate that we supported the request for the yeas and nays, would that be sufficient?

The PRESIDING OFFICER. The Chair is advised that the appropriate response to that inquiry is that the Chair is bound by the rules of the Chamber.

Mr. RIEGLE. I understand that. A further parliamentary inquiry. I have been on the floor any number of times when I have seen a vote ordered with far less than 11 persons on the floor. Have we been in error in those situations, or is it a flexible rule that can be applied in different ways at different times?

This is a serious question, and we are just not going to proceed unless we get a clear understanding. I have seen it done dozens of times. Every Senator in the Chamber has. I am not saying something that everybody is not aware of.

The PRESIDING OFFICER. If the Senator would give the Chair a chance to consult with the Parliamentarian, we will attempt to give him an answer.

Mr. SIMON. Mr. President, maybe I have a way out of this dilemma. I ask unanimous consent that we have a rollcall on this amendment.

The PRESIDING OFFICER. The Chair is advised that I cannot rule that in order, a request for unanimous consent on a call for a sufficient second.

The yeas and nays cannot be ordered by unanimous consent.

Mr. SIMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I ask again for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Are the managers of the bill aware that a request for a sufficient second is before the body?

Mr. GORTON. They are.

Mr. BRYAN. We are.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. SIMON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, let me address those with an interest in this subject. We are not in a position right now to settle this unless we want to order a quorum call and interrupt the budget summit and some other things.

I am wondering if we can leave the situation precisely as it stands with respect to the Senator from Illinois. I intend by one means or another to get a vote on his amendment. I do not think we can properly deny him one.

Senator NICKLES has an amendment he wishes to offer. The amendment of the Senator from Illinois has been offered and debated.

I am wondering if we can set aside for now the request for the yeas and nays and offer that again so that we might proceed to the Senator from Oklahoma being able to offer his amendment.

Mr. SIMON. Mr. President, if my colleague will yield, I agree to having my amendment still be the pending amendment, and then we ask unanimous consent, as the Nickles amendment or any other amendment comes up, to set that aside. But frankly, I intend to get a vote also on my amendment.

I have not been here as long as my colleague from Michigan has. I cannot remember when we ever had a situation where we tried to deny anyone a vote on an amendment.

Mr. RIEGLE. I cannot either, I say to my colleague from Illinois. I do not recall not raising my hand on any amendment, no matter how objectionable I might have found it to be.

I think this is quite unusual. I am wondering.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan retains the floor.

Mr. RIEGLE. Can I yield the floor and yield to the Senator from Oklahoma?

The PRESIDING OFFICER. The Senator can yield to the Senator from Oklahoma for a question. He cannot yield the floor to another Senator directly.

Mr. RIEGLE. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I ask unanimous consent that the Simon amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, let me comment on Senator SIMON's comment. I am disappointed he did not get a second for a vote on his amendment.

I will assure him that many of us will work on this side of the aisle to make sure he does.

I think the Senator is entitled to a rollcall vote on the amendment. It is a substantive amendment. I am not sure I agree with it. I am not sure what it does to the bill. It may do as some have said; it may kill the bill.

Frankly, this bill is not going anywhere, anyway. It may or may not pass the Senate. I do not think it will. It may pass the Senate, but it is not going to pass the House of Representatives and become law this session.

Certainly, the Senator is entitled to a vote on his amendment. We have a tradition around here, even if we disagree with the amendment, to give the Senator a rollcall vote if he insists on it. If he wants to have a rollcall vote, I think he is entitled to have a rollcall vote. I am confident we can find 11 Senators, if not before 7 o'clock, then by 7 o'clock; and when we begin voting on other amendments, he will then be able to have the necessary second to have a rollcall vote on his amendment.

Mr. President, I have an amendment. I am going to send it to the desk.

AMENDMENT NO. 2715

(Purpose: To require Government purchased vehicles to individually meet or exceed CAFE levels)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 2715.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, between lines 16 and 17, insert the following:

GOVERNMENT PURCHASED VEHICLES

SEC. 15. Section 510 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2010) is amended to read as follows:

"GOVERNMENT PURCHASED VEHICLES

"SEC. 510. (a) All passenger automobiles acquired, on and after the expiration of the 120 days following the date of enactment of the Motor Vehicle Fuel Efficiency Act of 1990, by any agency, department, or other instrumentality of the executive, legislative, or judicial branch of the United States Government in each fiscal year shall exceed the fuel economy standard applicable under section 502(a) for the model year which includes January 1 of such fiscal year, and for model years 1995 and thereafter, shall exceed the weighted national average fuel efficiency of new vehicles, determined by the Secretary in accordance with this Act, sold in the United States during the preceding model year. Commencing with model year 1995 and each model year thereafter, all light trucks purchased by any such department, agency, or instrumentality shall exceed the fuel economy standard applicable for such model year under section 515.

(b) Effective March 31, 1991, no member of Congress or official of the legislative branch of the United States Government may utilize a passenger automobile acquired by any agency, department, or other instrumentality of the legislative branch of the United States Government unless such passenger automobile meet or exceeds the fuel economy standard applicable under section 502(a) for the model year which includes January 1 of such fiscal year, and for model years 1995 and thereafter, meets or exceeds the weighted national average fuel efficienty of new vehicles, determined by the Secretary in accordance with this Act, sold in the United States during the preceding model year.

"(c) As used in this section, the term 'acquired' means leased for a period of 60 continuous days or more, or purchased.

"(d) The provisions of this section shall not apply to any vehicle—

"(1) used by or for the protection of the President and Vice President of the United States;

"(2) used for law enforcement or other emergencies;

"(3) classified as a military vehicle;

"(4) which uses compressed natural gas;

"(5) which uses 85 percent or more methanol;

"(6) which uses 85 percent or more ethanol; or

"(7) which uses 100 percent propane or electricity.".

Mr. NICKLES. Mr. President, this amendment is really fairly simple and one I expect the managers will agree to. I am not sure if they have seen a copy of it. If not, we will get both managers a copy.

This bill basically requires all Federal agencies in the executive, legislative, and judicial branches to buy cars and light trucks that exceed the CAFE standard. It is about that simple. In other words, the CAFE standard says the automobile companies have to manufacture cars that exceed a certain standard, and, under the Bryan bill, it will increase the present standard by 20 percent by the year 1995 or 1996 and 40 percent by the year 2000.

This bill says that GSA, when it is purchasing vehicles for the Federal Government, has to purchase vehicles that meet or exceed CAFE standards so the Government agencies will have fuel-efficient automobiles. If it is good enough for us to mandate it on the entire public, certainly Government should set the standard and purchase vehicles that meet or exceed the standard.

I also have an amendment which would require that, by March 31 of next year, all the vehicles that are owned or operated by the legislative branch will meet or exceed the current CAFE standard. Again, this is the idea that if we are going to mandate this on the rest of the consuming public, then the vehicles we purchase and the vehicles that the legislative branch has would meet or exceed the standard.

I have seen the Sergeant at Arms and others drive big cars that do not meet the standard. Frankly, they miss the standard by a lot. I do not know exactly what their fuel economy standard is, but it is my guess it certainly is less than 20, and the current standards is 27.5. So if we are going to mandate fuel economy standards on basically the entire American public, we should make sure that the Federal Government leads the way, leads by example. So I hope that my colleagues will agree to this amendment.

I have been informed that the GSA currently purchases something like 55,000 automobiles per year. So we are talking about a fairly significant purchase.

I might mention for the information of those who have been working on this bill—does the Senator have a copy of the amendment yet?

Mr. BRYAN. No.

Mr. NICKLES. They are being produced. I will give it to the Senator.

We put in exemptions for the President and the Vice President. We put in an exemption for law enforcement and emergency type vehicles such as ambulances. We have an exemption for vehicles classified as military vehicles; also exemptions for vehicles which use compressed natural gas, or uses 85 percent or more methanol, or uses 85 percent or more ethanol, or vehicles which use 100 percent propane or electricity. We want to encourage the use of those vehicles. We certainly did in the clean air bill. I think this amendment would complement that as well.

So, environmentally, I think this amendment is a good amendment and certainly, as far as fuel economy, if we are going to mandate it on the rest of the consuming public, we should mandate it on the Federal Government as well.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BRYAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I ask unanimous consent that it now be in order that the yeas and nays be requested on the amendment offered by Senator SIMON earlier this afternoon. I do so without in any way trying to preclude any debate or time for him to return to the floor but simply to clear a procedural obstacle.

Mr. RIEGLE. Reserving the right to object, I wish to make an inquiry. I appreciate the effects of the Senator from Nevada to try to resolve this, but may I ask, if the yeas and nays are ordered does that indicate an understanding that we will actually then have a vote on the amendment by Senator SIMON?

Mr. GORTON. If I may answer that, it certainly is not going to preclude a motion to table.

Mr. RIEGLE. I understand. But is it clear that the understanding is that, with the yeas and nays being ordered, it will be disposed of one way or another by a recorded vote? Is that the understanding?

Mr. BRYAN. That is certainly the intention of the Senator from Nevada making this unanimous-consent request.

Mr. RIEGLE. I ask that the unanimous-consent request be amended by making it clear that the yeas and nays are ordered and that by either a tabling motion or an up-or-down vote, there will in fact be a recorded vote on the Simon amendment.

If I can inquire of the chair, the unanimous consent request, then, would be that the yeas and nays be oredered on the Simon amendment and that after the Betts votes tonight, that the Simon amendment will be voted on, either up or down, or if a tabling motion is offered then the tabling motion—but the request will be that there will be a certain vote on one basis or the other on the Simon amendment?

Mr. BRYAN. Mr. President, I do not have any objection to that.

The PRESIDING OFFICER. Does the Senator from Nevada then include that in the unanimous-consent request?

Mr. BRYAN. The Senator from Nevada would so request.

The PRESIDING OFFICER. Is there objection.

Mr. RIEGLE. Mr. President, let me let you make the ruling and then I would like to inquire.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Mr. RIEGLE. Am I correct in understanding then that the yeas and nays have been ordered?

The PRESIDING OFFICER. No.

Mr. RIEGLE. Mr. President, I ask for the yeas and nays on the Simon amendment.

The PRESIDING OFFICER. Is there a sufficient second? Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. RIEGLE. Mr. President, I wonder, could I have the attention of the Senator from Oklahoma for just a moment? The yeas and nays having been ordered on his amendment, I wonder if we can have the same condition of the unanimous-consent request that, in fact, there be a recorded vote on the Senator's amendment, either up or down or, if a motion is made to table, then a tabling motion. We have to have it clearly understood in the unanimous-consent agreement that there will not only be a vote but that a vote will take place.

Mr. GORTON. Mr. President, I think that that is premature at this point. We are working out as to whether or not there are going to be second-degree amendments. We may, under these circumstances, have something which is voted on by a voice vote. We certainly are not going to stand in the way of anything, but we are not going to agree to that unanimous-consent agreement just yet. Let us work it out and see if we have an agreement we are going to agree to first.

Mr. RIEGLE. To make it clear, I take it the yeas and nays have been ordered and the issue is still up in the air as to whether there will be with certainty a vote on the amendment of the Senator from Oklahoma or a tabling motion, and that issue is left unsettled at this point; is that correct?

Mr. GORTON. That is correct, Mr. President.

Mr. BRYAN addressed the Chair.

Mr. RIEGLE. Will the Senator yield, just for parliamentary inquiry? I am advised this is a requirement that we ask unanimous consent that no amendments be in order to the Simon amendment, simply that the matter be locked in place as we have agreed. I make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I am going to shortly send to the desk an amendment and ask for its consideration. I want to describe it before I send it down.

This issue which has been raised and joined has to do with the question of how the United States does a better job of dealing with its energy policy needs and its conservation needs, and certainly that has been brought into very sharp focus by the events in the Middle East with which we are all familiar.

It is clear that the country needs a comprehensive national energy strategy. The Secretary of Energy has now been working for better part of this year with a series of meetings around the country to gather information, expert testimony, and so forth, to put us in a position as a nation to develop a new comprehensive national energy strategy. The presumption is that sometime early next year we will get started on that as a nation because of the urgency of our doing so.

So I want to read the amendment that I am going to send to the desk, which is in the form of a joint resolution. It sets forth specifically the need for a national energy policy plan of which CAFE, being one of many components, would, of course, eventually be a part. It reads as follows:

Whereas, recent events in the Mideast precipitated by the Iraq invasion of Kuwait are a poignant and threatening reminder that the security of our economy and that of the modern industrial world is dependent on a fragile supply of energy, especially Mideastern oil,

Whereas, over a decade has passed since the United States enacted comprehensive legislation addressing our energy security,

Whereas, the United States does not have an up-to-date national energy policy,

Whereas, the United States needs a comprehensive, not a piecemeal, national energy policy plan meeting the following criteria:

(a) the policy would cover:

(1) all sectors of the economy,

(2) both the short-term and the long-term,

(3) both the demand for, and supply of, energy;

(b) the policy would be formulated by the President and the Congress;

(c) the policy would be based on current data and analysis and on a quantitative projection of our future energy needs and supply,

(d) the policy would include recommendations for development of new technologies to forestall energy shortages and to encourage conservation,

(e) the policy would identify the resources needed to carry out the objectives of the plan,

(f) the policy would recommend legislative and administrative actions necessary to achieve the objectives of the plan.

Whereas, current law contained in Title VIII—"Energy Planning" of the Department of Energy Organization Act of 1977 already mandates a specific procedure for creation of a National Energy Policy Plan that contains such criteria,

Whereas, the President has called for creation of a National Energy Strategy that the Department of Energy has nearly completed;

Therefore, it is the sense of the Senate that in accordance with such law, the President should submit, within six months of enactment, and the Congress should review and revise as necessary, a National Energy Policy Plan, including appropriate legislation to implement such plan."

That is the full text of the-sense-of the-Senate resolution that I will be sending to the desk. It addresses itself to a number of the points made by both the proponents of the bill that is before the Senate and those of us who are opponents of this particular bill.

I think there is general agreement among all of us that we need to have a new national energy policy and plan developed and put in place that can save energy, that can look for alternative sources of energy, and that can generally improve our overall situation with respect to energy savings and energy efficiency. That, of course, touches almost every area of our national life. It touches all forms of energy use, automobiles and cars being one of those, but there are a vast number of other uses as well that have to be considered in context of a national energy policy plan.

Mr. GORTON. Mr. President, will the Senator from Michigan yield for a question?

Mr. RIEGLE. I will definitely yield, but if I could just add a couple of the other thoughts.

I want to make sure that the sense-of-the-Senate resolution is put in the proper amendment form before I send it to the desk.

I have a rather long statement that goes on for about 21 pages, double spaced, which lays out in some detail the history of our episodic efforts as a nation to deal with the energy problem as we have sort of had an on-again off-again strategy over the past couple decades. This statement goes through and draws from it certain conclusions that become the foundation for the argument I am presenting now with respect to this particular sense-of-the-Senate resolution I will be offering.

Yes, I yield to the Senator.

Mr. GORTON. I have two questions. The first is, is this amendment an addition to or a substitute for the bill which is being debated at the present time?

Mr. RIEGLE. No. This would be in addition to. This would not be a substitute. In other words, this would be an add-on as opposed to something that would replace the bill.

Mr. GORTON. The second question I have is, if this Senator is not incorrect, the Department of Energy has been working on a proposal, which will be the President's proposal, for a national energy policy by the end of this year or by the beginning of next year. Is the understanding of this Senator correct and, if it is correct, is not the proposal of the Senator from Michigan going to take a longer period of time and somewhat duplicative?

Mr. RIEGLE. No. In fact, I think it dovetails with that. It puts the Senate and, hopefully, the whole Congress, if the legislation passes, on record as saying that we would take the results of the study which the Energy Secretary is completing, and we would, in turn, convert that into a full-blown national strategy with whatever administrative and legislative actions would be required to implement it.

So I would envision that after his recommendations are made, there will be a period of discussion. There will be a give and take in terms of public debate. But this would be a statement of purpose which would lock the country in, saying take those recommendations, have the debate, put it into tangible form, and within 6 months be prepared to actually set up whatever implementing machinery is required to clear the track and to get the administrative agencies and the legislative branch in position to actually go ahead and do whatever steps are required to apply that new strategy.

In a sense, it goes beyond the notion of coming up with some policy ideas and putting them out there. This would be, in effect, a legislative commitment that we would be making to assign it that kind of priority, to do it in a comprehensive way, and to take it up within that time frame.

Does that answer the question of the Senator?

Mr. GORTON. Yes.

Mr. RIEGLE. On this amendment, at an appropriate point, after I have sent it to the desk, just so everybody is aware, I will ask for the yeas and nays. I hope that will be agreeable. But in any case, I am going to be sending it to the desk in due course. Until that time, I would yield the floor.

Mr. BRYAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. We have the amendment in a form now that conforms to the parliamentary situation which we are now in. As I understand, I also need to make a unanimous-consent request that the other two amendments ahead of me in line, namely, the Simon amendment and the Nickles amendment, be temporarily set aside so that this amendment can be now offered to the Senate. So I make the request that those other two amendments be temporarily set aside for the purpose of offering this amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2722

Mr. RIEGLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE] proposes an amendment numbered 2722.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

"SEC. . NEED FOR A NATIONAL ENERGY POLICY PLAN.

The Senate finds that:

Recent vents in the Mideast precipitaed by the Iraqi invasion of Kuwait are a poignant and threatening reminder that the security of our economy and that of the modern industrial world is dependent on a fragile supply of energy, especially Mideastern oil,

Over a decade has passed since the United States enacted comprehensive legislation addressing our engery security,

The United States does not have an up-to-date national energy policy,

The United States needs a comprehensive, not a piecemeal, national engergy policy plan meeting the following criteria:

(a) the policy would cover:

(1) all sectors of the economy,

(2) both the short-term and the long-term,

(3) both the demand for, and supply of, energy;

(b) the policy would be formulated by the President and the Congress;

(c) the policy would be based on current data and analysis and on a quantitative projection of or future energy needs and supply,

(d) the policy would include recommendations for development of new technologies to forestall energy shortages and to encourage conservation,

(e) the policy would identify the resources needed to carry out the objectives of the plan,

(f) the policy would recommend legislative and administrative actions necessary to achieve the objectives of the plan.

Current law contained in Title VIII—"Energy Planning" of the Department of Energy Organization Act of 1977 already mandates a specific procedure for creation of a National Energy Policy Plan that contains such criteria,

The President has called for creation of a National Energy Strategy that the Department of Energy has nearly completed;

Therefore, it is the sense of the Senate that in accordance with such law, the President should submit, within six months of enactment, and the Congress should review and revise as necessary, a National Energy Policy Plan, including appropriate legislation to implement such plan."

Mr. RIEGLE. Mr. President, with that amendment now before the

Senate, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. RIEGLE. I thank my colleagues. I thank the Chair. I have no further debate to engage in on that amendment at this particular time, so my inclination would be to yield the floor, and so do.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr President, if we may have an opportunity to look over the amendment which has just been proffered by the Senator from Michigan, we want to review that and perhaps there is something we might be able to agree with.

I do not disagree for the need for a national energy policy. If we can get such a copy, we could take a look at it to see if we might be able to reach an agreement. In the interim, I will suggest the absence of a quorum.

Mr. RIEGLE. Will the Senator yield before he makes that request? The amendment is being copied on the copy machine and there should be a copy available in a moment. I would be very happy to have the Senator take a look at it.

Mr. BRYAN. I renew my suggestion of the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I am here to speak in support of the Bryan amendment, the pending business before the Senate. I am aware that we are going to have amendments to it. I am aware that tomorrow we will have a cloture vote on it. I want to take this occasion to speak to the merits of the amendment, without respect to any of the amendments, be they perfecting or other, to the Bryan amendment.

I want to say at the outset, contrary to the assertions made by some, the decision that each of us is going to have to make on this amendment, whether it is to impose a higher corporate average fuel economy standard on automobiles or not, is by no means a simple or an easy call. The policy question before us promises rewards, but I would be the first to say that there are some legitimate risks that are entailed as well.

The most direct reward, and it is unrebutted, I believe, is that full compliance with the standards proposed in this bill will lessen America's dependence in foreign oil and improve our balance of payments, as well as lower total emissions from automobiles which degrade the environment or, in some cases, threaten human health. Nevertheless, the opponents of this amendment have pointed out that the higher CAFE standards could undermine the competitive position of American-made automobiles and undercut highway safety.

I am not here to dismiss any of those arguments. On competitiveness, automobile manufacturing remains a key sector of our economy. Erosion of the automotive sector has repercussions far beyond Detroit, and we feel it in my hometown, in the steel valleys, in the coal fields, and in the hundreds of small plants supplying parts for the carmakers in my home State. It is an argument that you do not dismiss out of hand.

It is true, it seems, that the CAFE standard contemplated by this legislation will require much greater and sustained levels of investment by both foreign and domestic automobile manufacturers. In some countries, they will be able to borrow or raise capital at cheaper rates or costs than our domestic producers. Such are the facts of life in a more global economy, and they do indeed need to be recognized for what they are; they are the facts.

And, of course, some of us are all too familiar with these realities, because in Pennsylvania, we have seen jobs, good jobs, lost to unfair foreign competition. Our manufacturing base has been decimated by the predatory practices of other nations. So when the Senators from Michigan debate the merits of this proposal as an issue of competitiveness in jobs, it is an argument that I listen to and I certainly understand.

However, Mr. President, as somebody who is indeed sensitive to that issue, it seems, at least to this Senator, that the competitiveness arguments advanced against this legislation stem from endemic problems we ought to be addressing not through this legislation. The endemic problems are the Federal budget deficit, which keeps the cost of capital artificially expensive; an extremely passive trade policy, a soup-line trade policy which lets others establish a one-way street into this country while putting up stop signs into theirs; and a Tax Code that penalizes progrowth, proinvestment strategies.

In the next few weeks, the Senate will have an opportunity, if the budget negotiators are successful, to attack the most critical of these endemic policy flaws. We will have an opportunity to enact measures designed to facilitate and reduce the cost of the investments in automotive design and production that the CAFE standards will require.

As to the second concern, safety, highway safety specifically, if you look at the statistics, smaller cars do appear to have become less safe than bigger cars, and in fact may have done so because automobile makers have down-sized the weight and the size of their vehicles as the primary means of improving fuel economy. The major companies can produce 40-mile-per-gallon cars, but today they are 18 percent smaller than the average car purchased. Smaller cars can expose their occupants to more injuries as currently constructed, because they have less crush space to absorb the impact of the crash.

Since we all put a very high value on human life and limb, these two are concerns that should not be dismissed out of hand, Mr. President.

But it needs to be pointed out at the same time that in this connection, there are steps that Detroit can and should take to improve mileage without cutting the margin of safety for motorists. Fuel efficiency can be improved by using more front wheel drive cars, multivalve engines, automatic transmissions with overdrive gears, and more aerodynamic styling to reduce wind resistance. Technological improvements that could be used to improve fuel economy are too often instead being used to make vehicles faster and more powerful.

Furthermore, if achieving enhanced CAFE standards requires down-sizing, there are additional safety features that can be incorporated. No. 1, automatic crash protection such as airbags. There are roll bars, side protection, and automatic rear seat crash protection, as well. In short, if safety is a concern—and it ought to be—then we have a variety of advances at hand to improve the protection of motorists.

The case for the benefits of this legislation is indeed compelling. I do not intend to discuss the environmental benefits at length here, but suffice it to say that auto pollution remains a health hazard in nearly every urban area of this Nation, and fossil fuel combustion is the primary cause of the increase of greenhouse gases. Any measure which has the effect of reducing emissions can only assist in the improvement of America's health and in the reduction of the risk of global warming. Of most critical concern is America's economic vulnerability.

The United States is more dependent on foreign oil today than before the first OPEC oil embargo. America now consumes a staggering total of 17 million barrels of oil per day, 60 percent of it in our transportation sector, and half of it comes from foreign lands. Oil imports are a major contributor to our trade deficit, but more important, this dependency exposes the foundation of our modern economy, energy, to the whims and to the wiles of those whose interests and values may conflict with our own.

The situation in the Middle East is a reminder of that danger. Our presence in the Persian Gulf is foremost an act of principle: That criminal, brutal aggression will not be tolerated by the international community. There is a cost to acting on that principle; thus far, in dollars, and while all us pray it will not be so, perhaps in blood as well. But we should all remember there was also a cost in not acting and allowing Saddam Hussein to invade Saudi Arabia, to cow the other oil producing nations, and to blackmail the industrialized and developing nations of the world.

When this legislation is fully implemented, it is estimated to save 1 in 4 barrels of oil in the transportation sector today. That translates into nearly 3 million barrels of oil per day, a third more than we import from the Persian Gulf now, savings so substantial that they represent a real opportunity to prevent our energy needs from being used as economic and foreign policy leverage against us.

As it stands now, every dollar rise in the price of a gallon of oil drains $3 billion a year from the U.S. economy. If oil prices settle at let us say $28 a barrel, the crisis in the gulf and our dependency on imported oil will drain $30 billion more from our economy this year, and it will be of course much worse at higher prices. The impact of uncontrolled price hikes will be—and they are already being felt by consumers and businesses alike, and industrial users of oil and related energy sources—put under competitive pressures as their energy costs balloon.

Frankly, in aggressively attacking the consumption side of the equation, there are few alternatives as promising as higher CAFE standards to reduce our dependence on foreign oil and enhance our overall economic competitiveness. Greater production of domestic oil from pristine lands or off-shore wells poses a threat to the environment. Switching to alternative fuels would entail greater investment and technological breakthroughs by the automakers than those in response to higher CAFE standards. Increasing gasoline prices through higher taxes could make a difference in the short term, but history shows that Americans soon adapt to higher prices and resume normal consumption patterns.

Mr. President, as I stated at the outset, this vote on the Byron amendment is not a simple decision for any of us. But it seems to me that the competitive and safety risks America runs by adopting this bill are capable of being mitigated by other policy choices which are within our power to take in the very near future. Therefore, I support this measure, despite the risks, because it is the most effective tool we have to cut consumption of motor fuels and reduce our dependence on foreign oil.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I thank the distinguished Senator from Pennsylvania for his comments and for his support of this legislation.

There does not appear to be any other Senator seeking recognition at this point. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I am just going to speak on this issue for a moment. I do not have an amendment to offer. We have amendments that have been presented and are pending in a sense. But I want to make a few comments about the amendment itself and, having not made an oral opening presentation, I want to just touch on some of the items that are directly in the center of this debate and of this bill that I think need to be understood, and which I think pose some real dangers to our economy.

As I rise to speak right now, I just was out in the cloakroom and I looked at the ticker tape. It indicated the stock market today was off again nearly 50 percent in the Dow Jones averages, and at that particular hour, the stock market averages dipped below the previous low point that we had some months ago. So it shows that the stock market itself is under some considerable pressure and it is a result of a whole host of economic events; the fact that the economy is sluggish and perhaps tilting into a recession, the fact that we have a huge Federal budget deficit, huge private borrowing outstanding, we are a debtor Nation with respect to our international financial standing with the rest of the world.

So that there are a lot of distressing signs out there. We have had quite a sharp drop in real estate values in very many areas of the country. And so there are a lot of things that show the stress and strain that is presently there on our economic system. And, as the global economy continues each day to change and to put additional pressure on us, it is coming at a time when there are many things in the United States and our economic trend lines that are not good and are working against us.

But in that vein—I was looking at the stock prices through the close of business on Friday to see how the automobile companies were doing as part of the major list of companies in the United States. It is well to note that the largest single company in the United States is General Motors. Ford Motor Co. is right behind it and Chrysler is somewhere in the top 10 or so. So for the industry as a whole, or taken separately, the three companies are a very significant part of the manufacturing and industrial strength of this country.

If you look at the closing prices on Friday, in the case of Ford, for example, it closed at 33⅞ths. Its dividend yield, based on the existing dividend, was 8.9 percent and selling was roughly five times earnings. That is a very low price/earnings ratio for a major company and particularly one of the quality of the Ford Motor Co.

But I think it is a measure that the capital markets are showing some concern, if you will, about the future prospects in the automobile industry. And so that is reflected in part in the high dividend yield and also in the low price/earnings ratio, the multiplier, as it is sometimes called, with respect to the number of times that the annual earnings are being capitalized in the market value of the stock.

General Motors, on the other hand, closed Friday at 36⅝ths. Based on its current dividend payment, it is yielding 8.2 percent and selling at roughly nine times earnings. That, too, is well below the average of most of the Dow Jones stocks in terms of the price/earnings ratio, price to the underlying annual earnings of the company.

Chrysler at the present time is not showing a deposit of earnings picture, selling at 10⅞ths. It has previously been well up close to 50 or in that area over the last 2 or 3 years. So obviously its situation is also changed.

Now why do I take the time to cite this? I do so because the capital markets are making an evaluation every single day of all of the investment opportunities represented by publicly held companies. And so they decide, for example, whether to put the money, if they are going to buy stocks, into an IBM or Tandy Corp. or into an automobile company or some other company. Or, of course, they can, in fact, take their money right out of the stock market and put it somewhere else, put it overseas, put it in bonds, put it in the bank, put it under the mattress, whatever. We are seeing that today, so far, with the drop on the stock market average on Wall Street that I was just mentioning.

Now it is significant how the markets are valuing the automobile companies in terms of their future prospects and the degree to which they were capitalizing these earnings. I think one of the conclusions that you would draw is that the capital markets are expressing some concern about the future of the domestic automobile industry or we would be seeing stronger

numbers than these reflected in the stock prices.

One of the reasons for that is this amendment, because this amendment proposes some enormous new financial burdens upon the industry and it is not clear where that money is going to come from. And yet, it is going to have to be raised in one form or another because, if we adopt this Bryan amendment, it is going to impose an enormous cost. And the rough numbers, nobody is precisely sure, but the best estimates we have indicate that between now and the middle of the 1990's, when these new fuel economy standards would have to come into effect and be achieved, that the extra capital cost to the industry, the extra capital cost beyond what they now have to spend to upgrade product and to change models and so forth, the additional cost caused by this amendment, would be about $62.5 billion.

Now, it is hard to fathom how much $62.5 billion is, but it is an extraordinary amount of money, and specially at a time when our economy does not have a high savings rate. There is not a lot of equity capital available to go into all of American business, let alone just the automobile part of American business.

Last year, for example, in Japan—just to show you how strong they are in this category and how weak we are by comparison—Japan last year raised and invested in its private sector companies five times the amount of equity capital that we were able to raise and invest in American companies. That is one of the reasons that the Japanese companies and the Japanese economy is surging and that ours is not surging in a comparable way. And in many ways we are falling behind and we are seeing that.

Now, in light of that, any time we have a bill here on the floor, however well-intentioned, that says, we think forcing capital expenditures is good public policy. Let us increase by legal mandate the requirement to get certain fuel economy goals met by 1995, and then further extend those requirements out through the years 2000, and we are going to require that as a matter of law.

And, it is going to require these companies to go out and find and raise an extra $62½ billion. And they are going to have to get it out of these capital markets right now that are not very optimistic about the industry and do not want to pay very much for the stock and, frankly, are not going to be very enthusiastic about providing the $62½ billion that the industry is going to have to raise, in order to meet these new standards.

Now I know my friends who are the sponsors of this amendment are very conscientious people, and I have great feeling and affection for them. But it is a totally impractical requirement to impose on that industry at this time. I am sure there are industries in their regions of the country, of a different sort and different type. If we had a bill in here today that was imposing standards on those industries anything like a brand new and extra $62.5 billion capital requirement, I am sure they would be in here arguing against those amendments. No matter how meritorious the purpose of the amendment might be, the practical effect and the weight of it would be so damaging to perhaps industries that they were familiar with that I think they would find themselves having to oppose it.

Now you might say, well, if the capital costs are that extreme and you have market conditions that are very adverse, and it is going to be very difficult, if not impossible, for the industry to raise this kind of money out of the private sector, then the question would be—if the public benefit to be gained is so great by these higher mileage standards and more mileage efficiency, and if the public benefit is seen to be that great—then the question might well be posed, well then should we take public money, should we invest public money to achieve that public goal?

If we want to take and somehow try to drive technology way beyond anything that the top technologists tell us is feasible over that timeframe, and it is going to cost this much money just to try to do it, and the Government is going to require that it be done, should not the Government then provide the money for it?

Of course, the sponsors of the amendment are not saying that. They are saying, you get the money some other place. We are just going to tell you what you have to do, but you are going to have to figure out how to do it and you are going to have to go get the money yourself to pay for it.

Where do you suppose they are going to get the money, if they get the money at all? Where are the auto companies going to get it? If they can raise the money and redesign all the cars that are now coming down the track, 2, 3, 4, 5, 6, 7 years ahead of us, they are going to have to put that cost in the price of the cars. They are going to put the cost in the price of the cars because somebody is going to have to pay the money. The person who is going to end up having to pay the money is the consumer who buys the car. So somebody is going to get stuck with this bill, assuming that the capital can be raised which I think is terrifically difficult under the circumstances we see right this very day in the capital markets and because of the fact that the people who are in charge of technology tell us that these are blue sky projections.

But the fact of the matter is if we plow all this money in, it is going to get tacked right on the price of the car and we are all going to pay it as consumers. We paid for a lot of the efficiencies that have already been developed over the last 15 years. We have talked about the fact that since the midseventies, about 1,200 to 1,500 pounds has been taken out of the weight of the average car. It has been a very sophisticated, difficult exercise to do that, to reduce the weight and the wind resistance so the mileage would improve and at the same time maintain good safety performance and also have good auto emissions performance. Because those two things cross relate and are connected to what you can do with respect to fuel economy.

So, over that 15-year period of time we have taken roughly 1,200 to 1,500 pounds out of the car. So we have had a very substantial increase in miles per gallon that we now get.

But we are now getting toward the very outer bounds of what we can do with respect to just taking weight out of cars because we have taken most of the weight out of the cars. Now, if we want to take more weight out of the cars so they are lighter and get higher miles per gallon, cars have to be made smaller and more compact and they have to look about like the cars we see today that are for sale that get 40, 45, 50 miles a gallon that are for sale in almost every automobile dealership in the country.

They are there today but people are not buying them because people do not want them. About 3 percent of the American people buy those kinds of cars because they are so small and really quite unsafe because they are so small and because we do not have as much protection because we do not have as much car around us in an accident situation. So we have cars like that and, in fact, the authors of this amendment can put the industry and the country on a forced march to end up so all cars look like that. But I do not think that is a wise decision and I do not think that is what people want. I think if people were able to participate fully in this debate and see these tradeoffs and could vote right here—if we could just plug everybody right in the voting machine and let everybody vote—they would not vote for that because it is not a practical answer.

Oftentimes, even with the best intention in drafting and putting forward legislation, we end up with answers that are not terribly practical. This is a classic example. This is an amendment that, when we get down into it, is not a practical amendment in large part because of the enormous capital requirements.

I am going to yield the floor in a minute because I see the Senator from Missouri here. I think he has an amendment that he wants to offer.

But we talked about millions and billions and trillions, and it is very hard to understand how much money we are talking about. I think when somebody wins 1 million in a State lottery, for example, that that is a lot of money. It is seen as a lot of money. But if we compare $1 billion to $1 million, we start to see the difference between these.

For example, if you won $1 million in the lottery and you went down to collect and they gave you brand new $1,000 bills and they gave you a stack of brand new $1,000 bills and it finally added up to $1 million, it is a stack about 8 inches high. That is $1 million dollars' worth of $1,000 bills, brandnew ones, if you win the million-dollar prize in the lottery.

But if you stack brandnew $1,000 bills until you have $1 billion, you have a stack higher than the Washington Monument. So you have a stack higher than the Washington Monument in comparison to 8 inches here; that is the difference between a billion and a million. We are talking about 62½ stacks of brand new $1,000 bills, higher than the Washington Monument, to pay for this amendment. And the stock market is telling us today and Friday and every other day that the money is really not there to do that because it is really not a practical, economic allocation of resources.

I said the other day that in other countries where fuel costs are much higher than here, $3, $4 a gallon, like in Japan and parts of Europe, that in those particular areas they have not been able even with those financial incentives to develop more fuel efficient cars, to be able to make the kind of breakthroughs in fuel efficiency that this bill, sort of with the wave of a wand, says will happen. So it is impractical on its face for financial reasons.

I will yield, saying, bringing it back down to the human side, the Senator from Illinois, Senator SIMON earlier offered the amendment that would deal with the job impact of this because we are going to lose tens of thousands of jobs, good jobs and important jobs in our manufacturing economy in the United States. That is one of the few things that is maintaining our international financial strength. This amendment is going to eliminate those jobs.

That is why there is an amendment pending to at least have the Government come in and provide some job assistance help for people who are going to lose their jobs. But there is a human dimension to this as well and an awful lot of people are going to get hurt by this amendment.

I could go on about the other reasons as to why this particular amendment is not wise at this time but the $62.5 billion of additional capital requirements is one that I think really needs to be considered today, particularly as the stock market seems to be continuing its downward slide.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The chair recognizes the Senator from Washington.

Mr. GORTON. Mr. President, will the Senator from Michigan answer one or two questions of this Senator about his amendment calling for a national energy policy plan before this Senator speaks on another subject?

Mr. RIEGLE. I would. Let me get it in front of me. My colleague is referring to the one that we sent to the desk a half-hour ago?

Mr. GORTON. Yes. The distinguished Senator from Nevada and this Senator have gone over the text of that amendment, and speaking for both of us we agree with the general thrust of the amendment, the desirability, obviously, of a comprehensive national energy plan. We have a couple of concerns with it and we wondered whether or not the Senator from Michigan can deal with them.

Obviously, in connection with this proposal as the Senator from Michigan said to me earlier, as a result of one of my questions, it is an add-on. Equally obviously, the Senator from Michigan does not like this bill at all and he has explained his reasons. We want to cooperate with the Senator from Michigan to the greatest extent that we can. We do not want to see ourselves accepting an amendment which destroys the philosophical basis for our bill.

As a result, I ask the Senator whether or not he regards it as entirely essential to his amendment that, in the fourth of the subparagraphs, beginning with "Whereas the United States needs a comprehensive"—obviously the Senator has talked about this bill being undesirable as being piecemeal. It seems to us that, "needs a comprehensive national energy policy meeting the following criteria" solves, in a neutral fashion, what the differences are between us.

Our question is whether or not the Senator is willing to take out those three words, "not a piecemeal"?

My second question is more for informational purposes than any other.

Mr. RIEGLE. Should I maybe deal with the first question?

Mr. GORDON. Go ahead, please.

Mr. RIEGLE. I am open to a change in language. I do not know if the word piecemeal is particularly offensive. If it is I am willing to look at a substitute. But it is an important part of the amendment in the sense that I want to make it clear that a bits and pieces strategy is not going to get the job done. Even if one of the bits and one of the pieces in some form end up being part of the comprehensive strategy later, it is important that we not mistake one for the other.

In other words, we cannot take discrete elements, nor should we, and think that somehow or another we have, in effect, provided a comprehensive and wall-to-wall national energy strategy.

So I would be open to some other phraseology, but I do want to establish the point we are not talking bits and pieces, we are talking about the whole thing. I do want to establish that in this context.

Mr. GORTON. It is the view of this Senator and the Senator for Nevada that the word itself, "comprehensive," does that in an affirmative fashion. The second phrase is a negative one. We would prefer that we deal with it strictly as an affirmative matter.

My second question is: What is the meaning of the phrase, in the third from the bottom line of the resolution, "within 6 months of enactment?"

It is our understanding that the President intends to submit the plan now under study by the Department of Energy in less than 6 months from the debate which we are here engaged in today and because most Members have serious reservations about whether this bill will, in fact, be enacted this year, that phrase could be taken to mean that we can delay this forever. It is only a sense-of-the-Senate resolution which is a part of a Senate bill which may or may not become law and 6 months from today may be longer than needs is to be taken.

Will the Senator not agree that it might be better to say by January 1 or by February 1, 1991—put a date in here that we mean? We want a national energy policy. We do not want its submission depending on the passage of this bill, which the Senator from Michigan opposes. Should we not put a specific date in there?

Mr. RIEGLE. I think that is a reasonable point. I think we are really talking about the same thing because this is, of course, predicated on the notion that the bill is enacted. So this carries with it the timing of getting it enacted as it has been presented here.

The presumption that is built into this amendment is the notion that it will be done still this year, this legislative session, and that would give us the 6 months that would run after the date the President signed it.

I gather he has said or his surrogates have said he will veto this bill. I have not heard those words out of his mouth, but that is certainly the message that is coming out of the others in the White House, as I am sure the Senator knows. What I have in mind here is, in fact, something like midyear next year. So going to a fixed date is something I want to think about a little bit before making that change here as I stand.

Let me just say my view would be that with or without this amendment,

with or without the Senator's bill, I think by midyear next year, if we have not taken these energy recommendations that are going to be forthcoming from the Secretary of Energy, and given the presumed support of the President himself in taking them up and acting upon them in a timely fashion as a top priority item within the first 6 months of next year, I would view that as a grave error. I think we are trying to catch up for lost time now. That is certainly what I am arriving at.

Mr. GORTON. The Senator has now given me a different view of the urgency of his own feeling. My scanning of the way this is written leads me to believe that within 6 months of enactment refers to the time at which the President should submit this proposal, not the time within which the Congress should act on it. If the Senator from Michigan believes that we should have acted upon this by, say, the first of July 1991, I strongly suggest that he rewrite this with a specific date and make sure he places it in that sentence in a position which indicates the Congress should have done more than receive it; it should have received it and done something about it.

Mr. RIEGLE. Bear in mind, when it says within 6 months of enactment, it does not assume the President waits until the last day of the 6-month period. It fully presumes if he gets his operation to move at that speed that he could present us with a comprehensive energy plan any time. I expect it at the front end of that period of time.

The clear intention I have in drafting this is that it would come within that period of time, hopefully, on the front end of the 6-month period of time, and that the Congress should review and revise as is necessary and go forward with it, including appropriate legislation to implement such plans. In my mind, at least, I do not find that very confusing. I find that a very tight deadline and a statement of purpose that the President will provide such a set of recommendations and that we would move with all speed to get them enacted.

Mr. GORTON. In any event, Mr. President, these are the suggestions the Senator from Nevada and I have. They are two relevantly minor in nature. We think a greater degree of clarity and a more specific set of deadlines in that last paragraph would help. We would much prefer to speak of a national energy policy in the affirmative rather than in the negative. I think the word comprehensive does so. If the Senator from Michigan would consider those two suggestions, I think that they would improve his resolution, and he would probably end up receiving a unanimous or near unanimous vote for it.

On another subject, Mr. President, we see the Senator from Missouri on the floor and I believe ready to propose an amendment.

If this Senator understands the parliamentary situation, we are now already three deep in amendments. We have had some debate, perhaps a conclusion of our debate, on the amendment of the distinguished Senator from Illinois [Mr. SIMON].

We have had a brief explanation from the Senator from Oklahoma on his proposal which would impose CAFE standards on vehicles owned and operated by all of the agencies of the Government of the United States.

The Senator from Nevada and I have discussed that proposition with the Senator from Oklahoma. We will either have a second-degree amendment for that amendment or we hope an agreement on a modification which will make the amendment acceptable to the two of us.

And the third deep is the sense-of-the-Senate resolution proposed as an amendment by the Senator from Michigan.

But I believe we are ready at this point to go forward with the Senator from Missouri and he has one amendment which we can agree on.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, it is my understanding that there is an amendment pending. Therefore, I ask unanimous consent that the pending amendment be laid aside and that it be in order for me to offer in succession two first-degree amendments.

The PRESIDING OFFICER. Is there objection? Hearing none, the pending amendment will be laid aside.

AMENDMENT NO. 2754

(Purpose: To clarify the definition of "small passenger automobile" for purposes of the airbag credit)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. DANFORTH], proposes an amendment numbered 2754.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, lines 7 through 10, strike all and insert in lieu thereof the following:

"(B) For the purposes of this paragraph, the term 'small passenger automobile' means a passenger automobile (i) with a wheel base of less than 100 inches, or with a curb weight of 2,750 pounds or less, and (ii) whose measured fuel economy is at least 35 miles per gallon.".

Mr. DANFORTH. Mr. President, when this legislation was being considered in the Commerce Committee, an amendment was offered and agreed to relating to airbags in small automobiles. The amendment provided that automobile manufacturers would receive a 10-percent CAFE credit for installing airbags in small cars—5 percent for the driver's side and an additional 5 percent if an airbag were installed on the passenger side.

This was done in recognition of the fact that the sale of compact cars and subcompact cars did present us with a safety problem and that we should address the safety problem at the same time we were addressing the energy problem.

The definition that we used in the legislation was one that relied purely on the length of the wheelbase, and we provided that the credit for the airbags was going to be available for cars that had a wheelbase of less than 100 inches.

Since the Commerce Committee dealt with this legislation, it has been called to my attention that wheelbase is not the only way of measuring the size of an automobile. It has been suggested that greater flexibility could be given to the automobile companies to put airbags in small cars if we had alternative definitions, one relating to the 100-inch or less wheelbase and the other relating to so-called curb weight of an automobile.

This amendment then would provide that the credit for the installation of airbags would be available either to cars where there is a curb weight of 2,750 pounds or less or a wheelbase of less than 100 inches. So that is the amendment, and I believe this has been run by both sides. I know of no controversy relating to the amendment.

Mr. BRYAN. Mr. President, I thank the distinguished Senator from Missouri for his constructive amendment. There is no objection to it on this side of the aisle.

The amendment of the Senator from Missouri has been offered in a spirit of improving the legislation and in no way derogating from it. There are those who have sought to invoke the argument that, indeed, this legislation makes automobile travel less safe in America. That is a fallacious argument.

From the type of constructive approach which the Senator from Missouri has offered, as well as his support over many, many years on highway traffic safety, serving with him as I do on the Commerce Committee, I know of his longstanding interest in that.

I note, as he has on prior occasions on the floor, it has been 8 years since we have had a reauthorization of the National Highway Traffic Safety Administration, in which there are many, many provisions which will enhance and improve the safety of the automo-

tive fleet, not only the airbags as he is encouraging with the credit provision but we have labored in the vineyards at least in the last year and a half since I have been a member of the committee to try to encourage side impact standards.

I commented during the hearing we had on S. 673 that we placed a man on the Moon in a shorter period of time from the challenge President Kennedy issued in the 1960's than we have in getting the side impact standard, and we still await that standard being promulgated, as the distinguished Senator knows.

There are a whole host of the other things. But I do commend him for automobile safety and acknowledge that his amendment will be a constructive addition to the bill.

Mr. GORTON. Mr. President, I join my distinguished subcommittee chairman, the Senator from Nevada, in saying that this is not an amendment which the sponsors of the bill reluctantly accept in order to get the bill further down the road toward passage. It is one which we enthusiastically accept because we recognize the vital importance of safety on our highways.

We believe that the incentive which is given to manufacturers to increase that safety is quite appropriate. We believe by the passage of this amendment that we should—and we do not think we will have heard the end of the arguments on the other side—put to rest the arguments by those who say a bill of this sort will hurt highway safety. We are convinced that it will enhance highway safety and this amendment will contribute greatly to that end.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Missouri.

The amendment (No. 2754) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider that vote.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2755

(Purpose: To remove the cap on increases in average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles)

Mr. DANFORTH. Mr. President, I send my second amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri [Mr. DANFORTH], for himself and Mr. BURNS, proposes an amendment numbered 2755.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Subsection (g) of section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) is amended to read as follows:

"(g) AMENDMENT OF AVERAGE FUEL ECONOMY STANDARDS.—In carrying out section 502(a)(4) and (f), the Secretary shall not consider the fuel economy of alcohol powered automobiles or natural gas powered automobiles, and the Secretary shall consider dual energy automobiles and natural gas dual energy automobiles to be operated exclusively on gasoline or diesel fuel.".

Mr. DANFORTH. Mr. President, it is conceivable that this amendment is somewhat more controversial than the previous amendment. It deals with alternative fueled vehicles and it deals with legislation that we passed entitled the Alternative Motor Fuels Act of 1988. This amendment, if it is adopted, will make the bill considerably more acceptable to a number of parties who are now opposing the legislation, although there are those who would continue to oppose it whether or not this amendment is agreed to.

The purpose of this amendment is to make it much more practical for automobile manufacturers to meet the CAFE requirements by producing automobiles that are capable of burning alternative fuels as opposed to downsizing the automobiles.

A number of people have pointed out that automobiles that are downsized, even if equipped with air bags, are not as safe as cars that are somewhat larger. A number of people have pointed out that automobiles that are very small are less likely to be made in the United States. So one way to deal with this situation is to provide meaningful incentives for automobile manufacturers to produce automobiles which have the capability of burning something other than products that are based on oil.

I think it was 1984, I and other Senators introduced a bill which would provide CAFE credits for cars that could burn alternative fuel, and we struggled with that legislation for some period of time. Then, fortunately, back in the last Congress Senator ROCKEFELLER took a very keen interest in this legislation, and he was successful, where we had not been successful, in having the Alternative Motor Fuels Act enacted into law.

However, at the time it was enacted, an amendment was added to it which very significantly reduced the value of the incentive that we had provided when we conceived of this legislation in the first place.

In order to understand the issue that is involved it is important to distinguish between two types of alternative fueled vehicles. One is a vehicle which is totally dedicated to the burning of an alternative fuel: methanol, ethanol, some other type of fuel. It is possible to manufacture automobiles that can burn methanol and can burn nothing but methanol. It is also possible to produce automobiles that can burn ethanol and nothing but ethanol.

In the case of a dedicated vehicle, we provided in the legislation passed in 1988 that that vehicle be considered as though it is burning no gasoline at all because it is not burning any gasoline.

There is a practical problem with dedicated vehicles at this point in our history. Let us suppose a dedicated vehicle were manufactured, burning something like methanol produced from coal. Imagine that you went out and bought a vehicle that was capable of burning methanol. What would you do when the tank ran dry?

And the answer is you would be out of luck. You would have a car that just could not function because there are very few places in the United States, if any, today where somebody can drive into the local gas station and say fill her up with methanol, or fill her up with ethanol.

So as a practical first step toward getting to the dedicated vehicles, it has been important to provide incentives to create something called a flexible fuel vehicle or an FFV. An FFV is something that can burn anything. It can burn gasoline; it could burn methanol; it could burn ethanol, thereby giving the owner of the FFV the assurance that if he was, for example, on the road between Washington and Kansas City, he could pull into any gas station, regardless of what he had in his tank, fill it up with something else, and be on his way, and would not be caught high and dry. That is the importance of having as an intermediate step on FFV, a flexible fuel vehicle.

What we did when we originally conceived of the legislation was to provide for a partial credit for an automobile that was capable of burning both gasoline and something else. The way that credit was worked out was a formula. It was assumed that there would be a 50–50 mix. Why 50–50? Why not 50–50? It seemed like a reasonable number.

Then there was a further computation for the energy values of the alternative fuels. So that, for example, in the legislation that we were working on, and in fact the legislation that was passed in 1988, an FFV that gets 25 miles per gallon on a 50–50 mix would be rated at 38.5 miles per gallon for CAFE purposes. That was the theory of the legislation.

The reason for the legislation was to deal with what could be called a chicken and egg situation. The automobile manufacturers are not going to manu-

facture cars that will not sell. Automobile manufacturers will not manufacture cars that are dedicated to alternative fuel because people will not buy them because there is no alternative fuel market right now.

So in order to get automobile manufacturers to get into the business of alternative fuel, we conceived of this FFV concept. The problem arose in the 1988 legislation because an amendment was offered to the bill which capped the credit for the flexible fuel vehicles. And the cap was extremely tight and extremely onerous. It was provided in the 1988 legislation that the maximum amount of credit that a manufacturer could get for manufacturing a flexible fuel vehicle was 1.2 miles per gallon until the year 2005. After 2005, from 2005-08, it was to go down to nine-tenths of a mile per gallon.

That is such a puny little credit that the result is that in effect we passed legislation that said we are going to provide automobile manufacturers a real incentive to manufacture vehicles that can burn other types of fuel, but then we are going to take that incentive away from the manufacturers. We spoke out of both sides of our mouths, and the result of speaking out of both sides of our mouth is that nothing has been done. The industry has not taken off as we hoped it would take off, and really there is no possibility that it will.

My hope in offering this particular amendment is that we can restore the concept of the legislation that was first introduced 5 or 6 years ago, and that we can create automobiles that are capable of meeting the fuel efficiency standards which are sought by the sponsors of this legislation without necessarily manufacturing those automobiles in Korea or Yugoslavia; and that we can meet those standards and provide automobiles that are not tiny putt-putts; that we can give the American consumer the possibily of driving in a somewhat more comfortable automobile; and we can give American car manufacturers the ability to produce competitive automobiles which burn something other than gasoline.

If America is less energy dependent, it makes little difference whether the cause of that lesser dependence is that we are driving very small automobiles or driving automobiles that are burning something other than gasoline. As far as national energy policy, the question is how dependent are we on foreign sources of fuel?

Obviously, the question is going to be asked: Well, right now, people might prefer gasoline. Let us say that Mr. Jones owns an alternative fuel car, and he prefers to burn gasoline rather than methanol, rather than ethanol. Let us suppose that methanol is still not readily available. Should the auto companies still get the credit? My answer to that question is obviously yes.

Why obviously yes? Because I think that, at least in the short term, it is less important how much gasoline an automobile, a particular automobile is actually burning, than that the economic incentives exist to produce something other than gasoline to burn in cars. As a matter of fact, if we have automobiles that are capable of burning something other than gasoline, then the potential supply of alternative fuels itself should operate as something of a break on runaway oil prices.

And conversely, if oil prices do go through the roof, then the incentives exist for the fuel manufacturers to produce fuel out of coal or corn or biomass, of some other substance.

So the economic arguments are very real, even if in the short-term alternative fuel vehicles are in fact burning mainly gasoline. I do not understand how we are going to get to alternative fuel vehicles unless we do it through the pathway of the so-called flexible fuel vehicle. That is what the amendment is all about.

Mr. President, obviously there are interested parties in this particular amendment because when we talk about alternative fuel we are offering the possibility that there will be some beneficiaries in our economy if we move to alternative fuel.

For example, American automobile manufacturers are more likely to be competitive if they have the option of the alternative fuel vehicle than if they do not have that option. For that reason, the American manufacturers do support this amendment, and so do the United Auto Workers.

Mr. President, I ask unanimous consent that letters from General Motors, from the Chrysler Corp., Ford Motor Co., and from the United Auto Workers be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

GENERAL MOTORS CORP.,
Washington, DC, September 20, 1990.

Hon. JOHN C. DANFORTH,
U.S. Senate, Washington, DC.

DEAR SENATOR DANFORTH: Shortly, the Senate is expected to resume consideration of S. 1224, the fuel economy bill introduced by Senator Richard Bryan. General Motors is strongly opposed to this bill. We believe that it will severely disrupt our ability to provide the types of vehicles Americans want and need—affecting consumer choices, the safety of Americans on the highways, and jobs in the automobile and related industries. We urge you to oppose attempts to limit debate on the bill and to vote against it on final passage.

We understand that during the debate on the bill, you may offer an amendment to remove the limits on the amount of fuel economy credits available to manufacturers who produce dual fueled vehicles. This "cap" on credits was established during consideration of Senator Rockefeller's alternative fuels bill in the last Congress. We supported enactment of the Rockefeller bill, but we did not favor inclusion of the cap.

General Motors has long maintained that if a goal of more widespread use of alternative fuels is to be pursued, approaches based on incentives are greatly preferred to, and would be far more effective than, "command and control" mandates. This whole area deserves a more comprehensive review. Many incentive approaches, aimed at either the vehicles to be produced or the fuels themselves, are possible. We believe that your proposal to remove the cap on CAFE credits would enhance the right type of incentive program for the development of alternative fueled vehicles.

Even if this amendment is adopted, however, we believe that S. 1224 should still be defeated, because the bill is so fundamentally flawed. The expansion of CAFE credits by removing the cap which applies to variable fueled vehicles will not overcome the serious conflict at which we will be placed with our customers and their needs in trying to comply with the proposed standards of the Bryan bill.

We urge you to vote against cloture on and final passage of S. 1224!

Sincerely,

JAMES D. JOHNSTON.

CHRYSLER CORP.,
Washington, DC, September 19, 1990.

Hon. JOHN C. DANFORTH,
U.S. Senate, Washington, DC.

DEAR SENATOR DANFORTH: As you know, Chrysler strongly opposes passage of S. 1224 because it sets CAFE standards at levels and in a time frame which are unachievable in any practical way. It would require a 7 mpg increase for Chrysler's average car fuel economy in four model years from today. We understand your intent to offer an amendment which would remove the cap on the credit which is available to manufacturers for the production of vehicles capable of running on alcohol fuels and/or gasoline. Given the totally unrealistic requirements contained in S. 1224, we would support your amendment to the bill in the Senate this year.

We wish to emphasize that if your amendment is adopted, we would continue to oppose the bill. The inclusion of additional credits does not justify the imposition of unrealistic CAFE standards. We strongly hope that next year, when the Senate again considers CAFE, the Senate Commerce Committee will not include your amendment in its bill as a justification for unrealistic standards and time frames.

We are grateful for your assistance on this bill this year, and look forward to working with you as the CAFE issue is considered again in the next Congress.

Sincerely,

BOB PERKINS.

FORD MOTOR CO.,
Washington, DC, September 19, 1990.

Hon. JOHN C. DANFORTH,
U.S. Senate, Washington, DC.

DEAR SENATOR DANFORTH: Thank you for the opportunity to express our views regarding your proposal to increase the potential CAFE benefit which would be available for production of dual energy vehicles pursuant to the 1988 Alternative Motor Fuels Act.

As we indicated in our September 19, 1990, testimony before the House Energy and Power Subcommittee the ". . . role . . . al-

ternative fuels play in diversifying our energy base, . . . how this role relates to environmental priorities . . . and the relative benefits of this approach versus CAFE" are issues that should be considered as part of a comprehensive energy policy. Your amendment also recognizes the need to encourage the study and development of alternative fuels.

We believe strongly that a comprehensive approach is required with respect to our future energy policy. Our present policy, which focuses almost exclusively on new cars and trucks using a "command and control" approach, we believe is not appropriate in the future. The provisions of S. 1224, which perpetuate and, in fact, amplify the problems of the current policy and require substantial increases in sales-weighted average fuel economy without benefit of thorough study of technical feasibility, consideration of the effects of safety and emission standards, and benefit of market studies to ascertain customer acceptance with the cars and trucks that would result.

The problems inherent in S. 1224 cannot be resolved by the addition of CAFE incentive for production of alternative fuel vehicles; and therefore, we would continue to oppose S. 1224 whether or not your amendment is adopted. However, in the context of this bill, this year we would support your amendment to remove the cap on alternative fuels credits.

We continue to believe legislative action on any CAFE increases should not be taken until a thorough study is undertaken which looks in detail at the above issues and at the broader issue of an integrated and complementary approach to energy policy.

Sincerely,

ELLIOTT S. HALL.

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW,
Washington, DC, September 18, 1990.

Hon. JOHN C. DANFORTH,
U.S. Senate, Washington, DC.

DEAR SENATOR DANFORTH: We understand that you may be offering an amendment to S. 1224 which would remove the "cap" on the alternative fuels credit that is now part of the federal fuel economy statute. As you know, we oppose S. 1224 because we believe the standards that it proposes (a 20 percent increase above the existing standard in 1995 and 40 percent in 2001) cannot be achieved with existing technology.

Under such circumstances and unless new technology to achieve the standards could be developed, the manufacturers might make drastic changes in their product mix which could result in plant closings and job loss for workers in the automotive and related industries. We cannot support a bill which could place in jeopardy the jobs of the workers we represent.

In the context of this bill, this year, we would support the amendment you may be offering. Even if your amendment were adopted, however, we would hope that Senators would oppose S. 1224.

Our hope is that this measure can be put off until the next Congress when it might be possible to develop legislation with standards which we can support because we do not oppose an increase in the fuel efficiency standards. It is S. 1224, as it now stands, that we oppose.

Sincerely,

DICK WARDEN,
Legislative Director.

Mr. DANFORTH. Mr. President, because of the possibility of automobiles burning ethanol, those who are interested in providing more outlets for American agricultural production are supportive of this amendment.

I ask unanimous consent that letters in support of the amendment from the American Farm Bureau and the National Corn Growers Association be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, September 21, 1990.

Hon. JOHN C. DANFORTH,
U.S. Senate, Washington, DC.

DEAR SENATOR DANFORTH: The American Farm Bureau Federation strongly supports your amendment to S. 1224 which would provide to automobile manufacturers additional incentives for manufacturing alternative fuel vehicles.

Sincerely,

JOHN C. DATT,
Executive Director, Washington Office.

NATIONAL CORN GROWERS ASSOCIATION,
Washington, DC., September 19, 1990.

Hon. JOHN C. DANFORTH,
U.S. Senate, Washington, DC.

DEAR SENATOR DANFORTH: As President of the National Corn Growers Association (NCGA), I am pleased to inform you of our organization's endorsement of your amendment on Flexible Fuel Vehicles to the Motor Fuel Efficiency Act of 1990.

This period of energy uncertainty highlights the need to cut our dependence on foreign oil. Your amendment would encourage automobile manufacturers to develop and build cars which run on higher levels of alternative fuels such as ethanol. This would lessen our dependence on imports, create jobs and improve the quality of our air.

The members of NCGA appreciate your efforts on this important issue.

Sincerely,

ALAN KEMPER,
President.

Mr. DANFORTH. Mr. President, I have spoken with Mr. Boyden Gray, White House legal counsel, about this amendment. The position of the administration is that they support the amendment. However, whether or not the amendment is agreed to, they do not support the bill. So for whatever it is worth, those who want to support the administration at least half of the time can support this amendment. I do not have anything from the coal miners or the coal producers but, obviously, if there is a way of putting our coal production to good use in this country, they would be supporters, as well. I might say, however, that probably in the near term, say in the next 20 years, most of the methanol that is produced would not be produced from coal but would be produced from natural gas.

So, Mr. President, that is the nature of the amendment. It does undo a part of what was done in the 1988 legislation. But the caps that were placed on the credit for flexible fuel vehicles in that 1988 legislation really served to be very counterproductive to the whole thrust of the legislation. Given the fact that these caps were placed on the credit, we may as well not have gone to all the effort and trouble to try to pass the bill in the first place. It turned out to be kind of a useless piece of legislation. But if this amendment is agreed to, the 1988 Alternative Motor Fuels Act would become highly useful legislation, allowing us to meet the CAFE requirements of this legislation in a way that is in the best interests of the American auto worker and the American automobile manufacturers, in a way that is in the best interests of the American farmers seeking to sell more ethanol, in a way that is in the best interests of the American coal miners, and I think in the best interests of our economy as a whole.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Nevada [Mr. BRYAN].

Mr. BRYAN. I thank the Chair.

As always, our colleague from Missouri has offered a very thoughtful amendment, one that has provoked considerable discussion within the staff that has worked together with the distinguished Senator from Washington in processing this legislation.

I must say, Mr. President, that I certainly agree with the objective that the Senator seeks to achieve; that is, I do believe it is desirable to encourage the automotive industry to manufacture, to produce, to market more flexible fuel vehicles, for all of the reasons which the Senator so persuasively outlined. There may be a basis upon which we can address his interests and concerns, not by eliminating the cap entirely, but by modifying it.

The Senator touched briefly upon the thrust of the objective. The thrust of the objective is simply that, although flexible fuel vehicles, by definition, as he has shared with us, are desirable in that they make the owner/driver of the vehicle able to select from choices of fuel other than gasoline, which is clearly in the national interest, there is no mechanism to determine whether in fact the owner, the driver, will do so.

So, although the concept of the credit in the amendment as offered by the distinguished Senator from Missouri provides some encouragement to the manufacturer, it still does not assure us that, indeed, we will be saving fuel in the sense of the traditional gasoline-propelled option which, for most vehicles on the highway today, is the only option.

I am somewhat reluctant to completely abandon the cap in its entirety. I wonder if I might inquire as to whether the Senator would be willing to have our staffs work to see if we can

work out some kind of a compromise to enhance the incentives, the CAFE credit that he wants, and yet leave some ceiling, some cap, some restraint that does not completely eliminate that, because I share his objective.

I think the Senator offers some food for thought here that ought to be part of a national energy policy to encourage alternatives—ethanol, natural gas, and other things that may be on the horizon that we may not even be contemplating in the context of that debate.

I wonder if my colleague is willing to respond to that.

Mr. DANFORTH. I am always willing to discuss virtually anything with the Senator from Nevada. I point out that if the cap is eliminated, which is what I think should be done, the result will not be 100 percent credit for something that is a flexible fuel vehicle. It is only a partial credit with or without the cap. That was the way the legislation was written back in 1988.

As I pointed out earlier, a car that could get 25 miles per gallon on gasoline would still be rated only 38.5 gallons as a flexible fuel vehicle. So I think that the concept of a limitation is built into the plan as it was originally conceived.

The difficulty of the cap that was put in place in 1988 is we really said to the automobile manufacturers: Here is a great idea. Please proceed on it. But, by the way, we have our fingers crossed.

And we do not really need a cap. So we gave an incentive with one hand, and we took it away with the other hand in the same legislation, and then put out our press releases. I was one who certainly did, and said what a wonderful thing we had done. And we had not done anything at all. We just denuded the whole effort.

I would be happy to look at anything, but I think that we should decide whether we want real incentives or whether we do not want any incentives. If the concept is worth doing, then let us send a clear message, not a muted message. If the concept is worthwhile, let us get on with it and not equivocate in doing so.

As I pointed out in my remarks, I understand that a lot of automobiles that would be produced, that are capable of burning anything, would at least begin by burning gasoline. But the fact that anything else is available means that there would be another source of supply, and that is, in my opinion, what we should be trying to create. If the problem is that we are too dependent on other sources of energy, then let us create alternative sources of energy when oil is dried up.

The Iraqis would not have their hands around our throats right now if people could go out and buy something else to put in their cars. Whether they are doing it today or not, if they could do it tomorrow, it would have the same economic effect. I am told in California, which has tough air quality standards and has a difficult time meeting those standards, some methanol is being used, and that the present price of methanol equivalent of a gallon of gasoline is $1.33. It already is competitive in California because it is being used in California, although in smaller quantities because the cars just are not there.

So I think if we were to produce an incentive for the auto companies to manufacture something that was capable of burning anything, the effect of that would be that we would, in fact, be finding methanol that was available; we would in fact be finding ethanol available not just in 10-percent quantities, but whatever amount you want to put in your tank.

As everybody knows, we have an abundant supply of corn on this country, and we have an abundant supply of coal in this country. If we could solve the problem of energy dependence and at the same time did give a leg up to our U.S. auto manufacturers and our U.S. corn growers and our U.S. coal miners, what a positive thing that would be.

I remember the eloquent debate that was offered in the Senate by Senator BYRD a few months ago, relating to the plight of the coal miners in the United States. Here is a potential use of American coal and it would be environmentally clean.

So this is not simply an energy issue, it also is an environmental issue. Cars that burn methanol, cars that burn ethanol are less of a pollution problem than cars that burn gasoline or diesel fuel.

Mr. BRYAN. Mr. President, if I might, just by way of brief rejoinder, I am sure that an amendment that enjoys the support of General Motors, Chrysler, Ford, United Auto Workers, and American agriculture has much merit, in addition to the forceful and eloquent presentation made by the distinguished Senator from Missouri.

What I would suggest that we do, if the Senator is amenable to it, and we have some time left during the course of this debate this afternoon, if I could inquire again if he would be willing to have our staffs work together to see if we can reach some kind of accord on this. If we cannot, then I respect the Senator's right to wish to proceed further in debate, because I do agree with the objective.

I was in Detroit, I might indicate, just a couple months ago, and I was pleased and, frankly, encouraged, Mr. President, that indeed there was a great deal of talk about the FFV—the flexible fuel vehicle. So I do think that the Senator's long-term strategy is a correct one.

As we know, there is some concern about what the elimination of the cap does, entirely. I would like an opportunity to review that further before giving the Senator a firm commitment as to whether or not this amendment could be accepted.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington [Mr. GORTON].

Mr. GORTON. Mr. President, I join with my distinguished colleague from Nevada, both in being intrigued by the positive impacts which this amendment can have on energy independence and, as the distinguished Senator from Missouri knows, that has been one of the focal points motivating my support for this bill.

I guess that I also share some of the same reservations of the Senator from Nevada, and I will put it to the distinguished Senator from Missouri as we work this out, that one of his examples ended up by troubling this Senate. The example he gave was that an automobile, which makes 25 miles per gallon on gasoline, if it were capable of using alternative fuels would be allowed to be treated by the manufacturer as though it received, I think the Senator from Missouri said, 37½ miles per gallon.

Mr. DANFORTH. Thirty-eight and a half; that would be a car that would be the rating of a flexible fuel vehicle that got 25 miles per gallon on gasoline.

Mr. GORTON. Correct.

Now that 38½ miles per gallon is higher than this CAFE standards bill requires for the middle of the decade of the 1990's, and almost as high as required after the turn of the century.

It may be an unbased fear, but the concern I have is the production of a farily substantial number of automobiles of this nature which, in theory, can use alternative fuels, which, in fact, do not use alternative fules and which, therefore, transfer a CAFE standards bill designed to increase the average fuel economy in the United States into one which authorizes those standards to go down.

I recognize that while this is mathematically possible, it seems to me to be highly unlikely that we will have that large a percentage of the automobiles manufactured in the United States capable of taking two or more different fuels. But, nonetheless, the possibility is there.

If I can advance the request made by my colleague from Nevada one step further, I am not so much concerned even by this formula as I am by the proposition that there ought to be some floor under the formula. I do not think that the Senator from Missouri wants to create a situation in which the average fuel economy of gasoline-powered automobiles actually declines as a result of the use of the formula

or, for that matter, that it fails to go up even if it goes up at a more modest rate than would be possible without this amendment.

So as we search for a solution on it, that, at least expresses the concern of this Senator, the mathematics of this amendment would actually allow a CAFE standards bill to be something which decreases actual fuel economy in the United States of what will be used over the course of the next 5 or 10 years. I do not think any of us would wish to do that.

Mr. DANFORTH. Mr. President, I do not think that mathematically that would happen. But I would say if we are interested in increasing the supply of what can be burned in our automobiles, then we are going to be less energy dependent.

It seems to me that the goal that is before us and obviously the triggering event of bringing this legislation to the floor is to make us less dependent on Iraq, Kuwait, the Middle East. There are couple of ways to do that.

One is to drive little cars. If we drove little cars, and that is the theory of the bill that is now before us, then we would be using less oil; we would be less dependent on the Middle East. We would have some people who would be hurt by that; they would be less safe; the American automobile companies would be less competitive than they are today as a result of this.

Therefore, it seems to me that what we should do is to try to find some other way of meeting the objective, the objective being less dependency on foreign sources of oil.

And the other alternative to the putt-putt concept, is to increase our domestic sources of available fuel. And we can do that. We recognized that in 1988, except that what we did when we passed the legislation in 1988 is to give with one hand and to take back with the other. If we remove the cap that we placed in the 1988 legislation it will have the effect of increasing the available supply of domestic energy, if the auto companies choose to use it. If they do not use it, all right, we are no worse off.

But this amendment, if it has any effect on CAFE requirements at all, will have that effect because we are actually producing automobiles that can burn any amount of ethanol. We do not have those cars now. It would be folly for somebody to try to buy one. And it would be folly for General Motors, or Ford, or Chrysler to try to make one, because the buyer would be left literally high and dry.

I had one of the early diesel cars. I can remember having to drive, I do not know, 5 miles or so to the nearest service station to find someplace with a diesel pump. It was a pain.

Well, somebody who wanted to fill his car up with methanol and ethanol would have no idea where to go. And it would be highly dangerous to get out on the highway and drive any distance at all because the fuel might not be available.

We are not going to succeed in getting to alternative fuel vehicles except through the route of the the flexible fuel vehicles that can burn anything. It cannot happen. There is no conceivable way to create automobiles capable of burning methanol or capable of burning any amount of ethanol unless it is by way of the route of the flexible fuel vehicles.

Congress recognized this in 1988 and then Congress got snookered. What happened when we got snookered is we agreed to an amendment that undid the program. A cap that says, "You get a credit, but, by the way, the credit is only 1.2 miles per gallon" is to say to Detroit, "Forget it. Move your plants overseas. Buy your cars in Japan or in Korea and put your label on them." That is the effect of what we have done.

So, I think that this is a worthwhile amendment.

Now let me ask the Chair if I could make a parliamentary inquiry. I am delighted to talk to Senator BRYAN or anybody else between now and later this afternoon. There are, as I understand it, a number of votes that have been stacked up. I do want, if necessary, if this is not agreed to, to have a rollcall vote. I am reluctant to ask for the yeas and nays at this point because it limits the flexibility.

Do I have as a right the ability to ask for the yeas and nays at the end of the day before we start voting, or do I have to make the unanimous-consent agreement now to make it in order to ask for the yeas and nays?

The PRESIDING OFFICER. The yeas and nays can only be ordered when the amendment is actually pending. If the amendment is in fact pending this evening, then a request for the yeas and nays would be in order at that time.

Mr. DANFORTH. I am not sure I follow that. The amendment is pending now.

The PRESIDING OFFICER. The Senator is correct.

Mr. DANFORTH. As I understand it, we are going to start voting at 7 o'clock on this bill and then we are going to set this bill aside at 5 o'clock. Let us say it appears at, say, 6 o'clock, that it is impossible to work anything out on this amendment. Would it be in order for me at 7 o'clock to ask for the yeas and nays on this amendment?

The PRESIDING OFFICER. Again, it would depend on whether or not the amendment was the pending question at that particular time.

Mr. DANFORTH. Mr. President, I ask unanimous consent that it may be in order for me to ask for the yeas and nays between 7 o'clock and when we actually start voting on the bills or the amendments to the bills.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that Barry Zalcman, a congressional fellow in my office, be extended floor privileges during the debate on this matter pending before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I rise today to speak to the opportunity that S. 1224 affords us, the Congress of the United States, in establishing long-term energy policy.

Mr. President, I have been in Congress almost 8 years. During that period, I have spoken numerous times about the need for a long-term energy policy. The conflict in the Persian Gulf has focused the attention of Americans on our existing national energy plan. Mr. President, it is missing in action.

We may very well have a collection of policies related to energy supplies, but surely we can agree that we have no comprehensive national energy plan. For this reason, I commend the President for the administration's recognition and for its effort to launch the search for this missing plan. The Department of Energy has been surveying the land over the last year in search for the national energy strategy but delayed excavating for fear of disturbing the status quo. And that status quo is cheap oil. Now, as this Nation's policy is being set by external forces, we are not reassured that the DOE plan, due out by the end of this year, will be adequate.

Since the 1970's, when we had two oil crises, the United States has taken considerable steps to reduce the threat to its oil supply. We have created and filled the strategic petroleum reserve with nearly 600 million barrels of oil and diversifed our reliance on a limited number of sources of this precious oil. But we could have done much more during the eighties to foster energy self-sufficiency; however, market forces drove us to cheap energy—oil.

The consequences of cheap oil were really profound. In addition to masking a weakening economy, which certainly it did, the conservation forces that dominated the behavior of corporate America and Americans individually after the oil shocks of 1973–74 and 1979–80 were all but forgotten.

Mr. President, I have listened to my colleagues speak here on the Senate floor about their memories of the long lines during the fuel crises of the 1970's. My colleague from Nevada spoke just this morning about the impacts that took place nationwide. Especially hard hit were resort areas like

the State of Nevada on Sunday afternoons, when visitors attempted to return home and were confronted with long lines for a fillup of gasoline.

But, what has happened since then? The yearly use of the automobile has increased by 1,000 miles per year; we're not conserving, we're driving more and more. In 1980, on the average, automobiles were driven approximately 9,100 miles per year. This rose steadily through the eighties, and in 1988, the last year for which we have information, they were driven 10,100 miles per year.

Cheap oil played some part in the relaxing of the CAFE standards between 1986 and 1989. The loss of fuel economy because of this relaxation, just for the 1989 fleet of cars, will total 900 million gallons of fuel.

Apart from the financial loss of fuel burned needlessly, air pollution effects from consuming such fuel and the continuing specter of man's impact on the global environment will still remain.

We all seem to have forgotten the naysayers' forecast of doom and gloom when the first set of CAFE standards were enacted. Mr. President, American technology is incomparable to any other in the world. The bright minds of Americans and their innovative ideas undertook the challenge that faced them and they succeeded in improving fuel economy by over 100 percent. But absent that congressionally mandated goal for fuel economy, the impact to the environment would be far greater than the challenge we face here today.

At this very time, the conference committee on the Clean Air Act amendments of 1990 is considering the strategy to deal with the pollution problem from mobile sources. One of the big areas of contention with the conference is mobile sources. The emissions reductions that resulted from improvements in fuel economy have been outdistanced by the sheer numbers of automobiles on the roads.

Mr. President, with the previous CAFE legislation, fuel efficiency was improved and automobiles consumed less fuel per mile traveled. At the same time, we have put millions of more automobiles on the road, this has meant more pollution, even though fuel economy has improved. If, in fact, the population of automobiles had remained fixed, real progress would have been made on cleaning up the environment. Because the number of automobiles increased so significantly, we lost rather than gained.

The resolution that we will come to on clean air will not be a short-term solution. It will address issues into the next century. The clean air bill that we passed in April was not in reaction to a particular event that captured our attention, but a demonstration, Mr. President, of leadership. The CAFE bill before us now is likewise not in reaction to a particular event that captured our attention; it, too, is a demonstration of leadership. This effort to improve fleet fuel economy, spearheaded by my colleague from Nevada, was not a reaction to the events in the Persian Gulf.

If my colleagues have participated in and followed the debate on clean air, they will recall that CAFE was graciously extracted from the clean air bill in order that it may have at some time in the future its own day in the Sun. I would suggest that its day in the Sun has arrived.

S. 1224 was considered in the Commerce Committee, and it was reported out favorably by a large margin. All parties were given an opportunity to present their views, and my colleagues on the Commerce Committee considered the facts very carefully. We recognize that the administration—and that consists of OMB, the Office of Management and Budget DOT, the Department of Transportation; and DOE; the Department of Energy—is not supportive of this legislation for a variety of reasons. They have argued that it would impact competitiveness and highway safety.

We appreciate the significance of the administration's testimony and statements made by the Office of Technology Assessment, the Environmental Protection Agency, public interest groups, the automobile industry, and the environmental community. The opinions and supporting information were varied and these will contribute to the decision that we make as individuals and collectively as the Senate.

The CAFE bill has broad implications. Roughly 60 percent of all oil consumption is transportation related. For perspective, the Kuwaiti and Iraqi oil production that has been excluded from the marketplace is approximately 4.5 million barrels of oil per day; only a portion of this shortfall would have been destined for United States consumption.

As a direct result of the CAFE improvements between 1973 and 1987, the United States reduced consumption by 1.8 million barrels of oil per day. It is expected that this legislation would further reduce consumption by another 2.8 million barrels per day by the year 2005. I have not heard anything to refute these estimates. These savings would exceed this Nation's entire consumption of oil from the Middle East. So, are we serious about a remedy to extract ourselves from dependence on foreign oil or are we not serious?

Curbing carbon dioxide emissions, which is the primary greenhouse gas, will be a significant contributor to reducing the impending threat of global climate change. We need to recognize that every gallon of gasoline that is burned yields 19.7 pounds of carbon dioxide. It was estimated that the proposed legislation would result in a reduction of CO_2 emissions of 483.5 million tons over the period from 1995 to 2001. Let me repeat that staggering statistic, 483.5 million tons. While these reductions are a fraction of all manmade emissions, it represents a start toward addressing the fundamental threat to man's survival—global climate change.

The subtle positive actions that we can take today to mitigate the impacts and risks associated with global climate change will have cumulative beneficial impacts over the decades that follow.

Mr. President, the leaders of this Nation have shied away from focusing on the threat posed by global climate change. If this threat will cause future generations of Americans to take comparatively dramatic steps by radical changes to their lifestyles, then we should be held accountable for our inaction. We have an opportunity to act decisively or timidly to deal with long-term energy needs and energy use recognizing its impact on the global environment.

For the information of my colleagues, Nevada is the fastest growing State in the Nation. We have transportation and traffic problems that we are trying to resolve. So when I see estimates of potential nationwide savings from this legislation in terms of improving the air pollution picture, energy independence, and savings, I find myself supportive of this legislation. In Nevada, it is estimated that we will conserve nearly one quarter of a billion gallons of fuel per year as a result of this legislation. We can certainly make use of the resources, either in precious fuel or revenue, that would otherwise be burned.

Today we understand the environmental impact of man's activities better than we understood them yesterday. Today we have technology literally by the tail; we are in control. We must come to grips with our actions across the full spectrum of man's activities to ensure that future generations have the opportunity to prosper as we now prosper. Just imagine if our forebears lived only for their generation, without sincere hopes and aspirations for their children's future. We cannot consume and pollute to our heart's desire. We need to act and we need to act responsibility. Certainly, our goal is not to plunder the Earth. It is to use it wisely, to carry on the example set for us, and to ensure that future generations do the same.

Mr. President, the impact of uncontrolled energy consumption and industrialization in the United States during this century has resulted in unhealthful air and water quality and ecological damage that will take a long

time to correct. Some claim that we may have gone too far already; the optimists among us who claim that it can be repaired recognize that it will take considerable expense to repair or mitigate the damage.

So, at this time, we should look at a number of issues that drive us toward sustainable development rather than those that lead us to reliance on the unstable situation in the Persian Gulf.

We need to incorporate conservation, efficiency, renewables, and pollution prevention into our philosophy and lifestyle if we expect to be successful in dealing with the environmental and energy issues that face this and future generations. To disagree with these principles, we will threaten the quality of the air we breathe, the water we drink, the foodstuffs we consume, and the land upon which we live. We can no longer have an insatiable appetite that requires risking the health of Mother Nature.

We do not need an energy crisis to conserve energy. We do not need an energy crisis to use fossil fuels in transportation and the production of electricity more efficiently. We do not need an energy crisis to develop renewable energy technologies, such as solar—which has been put on the back burner—geothermal—Nevada is the leading proponent of geothermal energy—wind energy and biomass. And we do not need an energy crisis to redesign industrial production processes to reduce, and, in some cases, eliminate industrial waste. These can all be achieved with the technical know-how that exists already.

What we need to do is recognize that this plentiful society has afforded us the opportunity to be wasteful like no other time in history. It is our wasteful practices that really are catching up with us, and one of the reasons I am here today. Mr. President, we must act as responsible citizens of the only planet that we have. Let us say that our gluttonous behavior was an abberation.

We can do more than we have done already, and on the issues of climate change and ozone depletion, we need to do more. If we begin addressing the problem sooner, our actions will be less dramatic and have less impact on our lifestyle and, especially, the lifestyle of future generations of Americans. Results of our efforts to enter into multilateral agreements to reduce threats to the ozone layer, which protects mankind from the harmful effects of the Sun's rays, and to changes in climate from man's activities are slow in coming. The results are slow because our Nation's commitment to global environment is low. This is because economic factors have dominated the discussion until today.

So, Mr. President, today and in the days ahead we can, we should, and I hope we will, send a message that is loud and clear, that fuel economy and conservation are achievable goals.

I yield the floor.

Mr. BRYAN. Mr. President, there does not appear to be any Senator who seeks recognition at this time, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call roll.

The bill clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I ask unanimous consent that the pending amendment be set aside for the purpose of introducing a new amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2756

(Purpose: To make certain amendments to the National Traffic and Motor Vehicle Safety Act of 1966 and Motor Vehicle and Cost Savings Act, and for other purposes)

Mr. BRYAN. Mr. President, I ask for the immediate consideration of an amendment, which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. BRYAN], for himself and Mr. GORTON, proposes an amendment numbered 2756.

Mr. BRYAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Designate the existing text as title I, redesignate sections 2 through 15 and any reference thereto as sections 101 through 114, respectively, and add at the end the following new title:

TITLE II—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AUTHORIZATION

SHORT TITLE

SEC. 201. This title may be cited as the "National Highway Traffic Safety Administration Authorization Act of 1990".

DEFINITIONS

SEC. 202. As used in this title, the term—

(1) "multipurpose passenger vehicle" and "passenger automobile" shall have the meaning given such terms by the Secretary; and

(2) "Secretary" means the Secretary of Transportation.

Subtitle A—Authorization of Appropriations

GENERAL AUTHORIZATIONS

SEC. 221. (a) Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof ", $65,424,000 for fiscal year 1990, and $68,433,000 for fiscal year 1991.".

(b) Section 111 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1921) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof ", $336,000 for fiscal year 1990, and $351,000 for fiscal year 1991.".

(c) Section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof ", $2,384,000 for fiscal year 1990, and $2,493,000 for fiscal year 1991.".

(d) Section 417 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1990g) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof ", $640,000 for fiscal year 1990, and $669,000 for fiscal year 1991.".

(e) Section 211(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by striking "and" the second time it appears; and

(2) by inserting immediately before the period at the end the following: "not to exceed $5,315,000 for fiscal year 1990, and not to exceed $5,559,000 for fiscal year 1991"."

COMMUNITY EDUCATION PROGRAM

SEC. 222. In order to carry out a national program of community education regarding (1) drunk driving prevention and (2) the use and effectiveness of airbag technology, the Secretary may derive an additional amount not to exceed $10,000,000 from unobligated balances of funds made available for highway safety programs under section 408 of title 23, United States Code. Of the funds allocated to such efforts, not less than one-half shall be used for educational efforts related to airbags. Such amounts shall remain available until expended.

Subtitle B—Side Impact Protection and Crashworthiness Data

SIDE IMPACT PROTECTION

SEC. 241. (a) The Secretary shall, not later than twelve months after the date of enactment of this Act, issue a final rule amending Federal Motor Vehicle Safety Standard 214, published as section 571.214 of title 49, Code of Federal Regulations. The rule shall establish performance criteria for improved protection for occupants of passenger automobiles in side impact accidents.

(b) Not later than sixty days after the date of enactment of this Act, the Secretary shall issue a notice of proposed rulemaking to extend the applicability of such standard 214 to multipurpose passenger vehicles. The Secretary shall, not later than two years after such date of enactment, issue a final rule on such extension, taking into account the performance criteria established by the final rule issued in accordance with subsection (a).

AUTOMOBILE CRASHWORTHINESS DATA

SEC. 242. (a)(1) The Secretary shall, within thirty days after the date of enactment of this Act, enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation regarding means of establishing a method for calculating a uniform numerical rating which will enable consumers to compare meaningfully the crashworthiness of different passenger automobile and multipurpose passenger vehicle makes and models.

(2) Such study shall include examination of current and proposed crashworthiness tests and testing procedures and shall be directed to determining whether additional objective, accurate, and relevant informa-

tion regarding the comparative crashworthiness of different passenger automobile and multipurpose passenger vehicle makes and models reasonably can be provided to consumers by means of a crashworthiness rating rule. Such study shall include examination of at least the following proposed elements of a crashworthiness rating rule:

(A) information on the degree to which different passenger automobile and multipurpose passenger vehicle makes and models will protect occupants across the range of motor vehicle crash types when in use on public roads;

(B) a repeatable and objective test which is capable of identifying meaningful differences in the degree of crash protection provided occupants by the vehicles tested, with respect to such aspects of crashworthiness as occupant crash protection with and without use of manual seatbelts, fuel system integrity, and other relevant aspects;

(C) ratings which are accurate, simple in form, readily understandable, and of benefit to consumers in making informed decisions in the purchase of automobiles;

(D) dissemination of comparative crashworthiness ratings to consumers either at the time of introduction of a new passenger automobile or multipurpose passenger vehicle make or model or very soon after such time of introduction; and

(E) the development and dissemination of crashworthiness data at a cost which is reasonably balanced with the benefits of such data to consumers in making informed purchase decisions.

(3) Any such arrangement shall require the National Academy of Sciences to report to the Secretary and the Congress not later than nineteen months after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall, to the extent permitted by law, furnish to the Academy upon its request any information which the Academy considers necessary to conduct the investigation and study required by this subsection.

(4) Within sixty days after transmittal of the report of the National Academy of Sciences to the Secretary and the Congress under paragraph (3) of this subsection, the Secretary shall initiate a period (not longer than ninety days) for public comment on implementation of the recommendations of the National Academy of Sciences with respect to a rule promulagted under title II of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger automobiles and multipurpose passenger vehicles.

(5) Not later than one hundred and eighty days after the close of the public comment period provided for in paragraph (4) of this subsection, the Secretary shall determine, on the basis of the report of the National Academy of Sciences and the public comments on such report, whether an objectively based system can be established by means of which accurate and relevant information can be derived that reasonably predicts the degree to which different makes and models of passenger automobiles and multipurpose passenger vehicles provide protection to occupants against the risk of personal injury or death as a result of motor vehicle accidents. The Secretary shall promptly publish the basis of such determination, and shall transmit such determination to the Congress.

(b)(1) If the Secretary determines that the system described in subsection (a)(5) of this section can be established, the Secretary shall, subject to the exception provided in paragraph (2) of this subsection, not later than three years after the date of enactment of this Act, promulgate a final rule under section 201 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1941) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger automobiles and multipurpose passenger vehicles. The rule promulgated under such section 201 shall be practicable and shall provide to the public relevant objective information in a simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger automobiles and multipurpose passenger vehicles so as to contribute meaningfully to informed purchase decisions.

(2) The Secretary shall not promulgate such rule unless (A) a period of sixty calendar days has passed after the Secretary has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a summary of the comments received during the period for public comment specified in subsection (a)(4) of this section, or (B) each such committee before the expiration of such sixty-day period has transmitted to the Secretary written notice to the effect that such committee has no objection to the promulgation of such rule.

(c) If the Secretary promulgates a rule under subsection (b) of this section, not later than six months after such promulgation, the Secretary shall be rule establish procedures requiring passenger automobile and multipurpose passenger vehicle dealers to make available to prospective passenger automobile and multipurpose passenger vehicle purchasers information developed by the Secretary and provided to the dealer which contains data comparing the crashworthiness of a passenger automobiles and multipurpose passenger vehicles.

Subtitle C—Miscellaneous Provisions

STANDARDS COMPLIANCE

SEC. 261. Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end the following new subsection:

"(j)(1) The Secretary shall establish a schedule for use in ensuring compliance with each Federal motor ehicles safety standard established under this Act which the Secretary determines is capable of being tested. Such schedule shall ensure that each such standard is the subject of testing and evaluation on a regular, rotating basis.

"(2) The Secretary shall, not later than six months after the date of enactment of this subsection, conduct a review of the method for the collection of data regarding accidents related to Federal motor vehicles safety standards established of collecting data in addition to that information collected as of the date of enactment of this subsection, and shall estimate the costs involved in the collection of such additional data, as well as the benefits to safety likely to be derived from such collection. If the Secretary determines that such benefits outweight the costs of such collection, the Secretary shall collect such additional data and utilize it in determining which motor vehicles should be subject of testing for compliance with Federal motor vehicles safety standards established under this Act.".

INVESTIGATION AND PENALTY PROCEDURES

SEC. 262. (a) Section 112(a)(1) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1401(a)(1)) is amended by adding at the end the following: "The Secretary shall establish written guidelines and procedures for conducting any inspection or investigation regarding noncompliance with this title or any rules, regulations, or orders issued under this title. Such guidelines and procedures shall indicate timetables for processing of such inspections and investigations to ensure that such processing occurs in an expeditious and thorough manner. In addition, the Secretary shall develop criteria and procedures for use in determining when the results of such an investigation should be considered by the Secretary to be the subject of a civil penalty under section 109 of this title. Nothing in this paragraph shall be construed to limit the ability of the Secretary to exceed any time limitation specified in such timetables where the Secretary determines that additional time is necessary for the processing of any such inspection or investigation.".

(b) Section 109(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1398(a)) is amended by adding at the end thereof the following: "The Secretary shall establish procedures for determining the manner in which, and the time within which, a determination should be made regarding whether a civil penalty should be imposed under this section. Nothing in this subsection shall be construed to limit the ability of the Secretary to exceed any time limitation specified for making any such determination where the Secretary determines that additional time is necessary for making a determination regarding whether a civil penalty should be imposed under this section.".

TRAFFIC SAFETY FOR HANDICAPPED INDIVIDUALS

SEC. 263. (a) The Congress finds that—

(1) a number of States fail to recognize the symbols of other States for the identification of motor vehicles transporting individuals with handicaps that limit or impair the ability to walk; and

(2) the failure to recognize such symbols increases the likelihood that such individuals will be involved in traffic accident incidents resulting in injury or death, posing a threat to the safety of such individuals as well as the safety of the operators of motor vehicles and others.

(b)(1) After the date that is eighteen months following the date of enactment of this Act, the Secretary shall require that each State provide for the implementation of a uniform system for handicapped parking designed to enhance the safety of handicapped and nonhandicapped individuals. If a State fails to meet such requirement, the funds that would otherwise be apportioned to the State under section 402 of title 23, United States Code, shall be reduced by 2 percent, until such time as the Secretary determines that the requirement is being met.

(2) For purposes of this subsection, a uniform system for handicapped parking designed to enhance the safety of handicapped and nonhandicapped individuals is a system which—

(A) adopts the International Symbol of Access (as adopted by Rehabilitation International in 1969 at its 11th world Congress on Rehabilitation of the Disabled) as the only recognized symbol for the identification of vehicles used for transporting indi-

viduals with handicaps which limit or impair the ability to walk;

(B) provides for the issuance of license plates displaying the International Symbol of Access for vehicles which will be used to transport individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

(C) provides for the issuance of removable windshield placards (displaying the International Symbol of Access) to individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

(D) provides that fees charged for the licensing or registration of a vehicle used to transport such individuals with handicaps do not exceed fees charged for the licensing or registration of other similar vehicles operated in the State; and

(E) for purposes of easy access parking, recognizes licenses and placards displaying the International Symbol of Access which have been issued by other states and countries.

(c) Beginning not later than twenty-four months after the date of enactment of this Act, the Secretary shall annually evaluate compliance by the States with the requirement established by the Secretary under subsection (b). The Secretary shall submit to Congress an annual report regarding such evaluation.

MULTIPURPOSE PASSENGER VEHICLE SAFETY

SEC. 264. (a) The Congress finds that—

(1) multipurpose passenger vehicles have become increasingly popular during this decade and are being used increasingly for the transportation of passengers, not property; and

(2) the safety of passengers in multipurpose passenger vehicles has been compromised by the failure to apply to them the Federal motor vehicle safety standards applicable to passenger automobiles.

(b) In addition to the rulemaking requirements applicable to multipurpose passenger vehicles under other provisions of this title, the Secretary shall initiate (not later than sixty days after the date of enactment of this Act) and complete (not later than twelve months after such date of enactment) a rulemaking to revise, where appropriate, in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms—

(1) Federal Motor Vehicle Safety Standard 216, published as section 571.216 of title 49, Code of Federal Regulations, to provide minimum roof crush resistance standards for multipurpose passenger vehicles;

(2) Federal Motor Vehicle Safety Standard 108, published as section 571.108 of title 49, Code of Federal Regulations, to provide for a single, high-mounted stoplamp on multipurpose passenger vehicles; and

(3) Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations, to extend the requirements of outboard front seat passive restraint occupant protection systems to multipurpose passenger vehicles.

(c) In accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms, the Secretary shall, not later than twelve months after the date of enactment of this Act, complete a rulemaking—

(1) to review the system of classification of vehicles with a gross vehicle weight under ten thousand pounds to determine if such vehicles should be reclassified;

(2) to revise Federal Motor Vehicle Safety Standard 202, published as section 571.202 of title 49, Code of Federal Regulations, to provide for head restraints for multipurpose passenger vehicles; and

(3) to consider establishment of a Federal Motor Vehicle Safety Standard to protect against unreasonable risk of rollover of multipurpose passenger vehicles.

Any reclassification pursuant to paragraph (1) shall, to the maximum extent practicable, classify as a passenger automobile every motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor car or other motor vehicle principally designed for the transport of persons under heading 8703 of the Harmonized Tariff Schedule of the United States. Nothing in this section shall prevent the Secretary from classifying as a passenger automobile any motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor vehicle for the transport of goods under heading 8704 of such Harmonized Tariff Schedule.

REAR SEATBELTS

SEC. 265. (a) In accordance with applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Secretary shall complete, within twelve months after the date of enactment of this Act, a rulemaking to amend Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations, to provide that the outboard rear seat passengers of all passenger automobiles, except convertibles, manufactured on or after September 1, 1989, shall have lap and shoulder seatbelt protection, and that the outboard rear seat passengers of all multipupose passenger vehicles and all convertible passenger automobiles manufactured on or after September 1, 1991, shall have lap and shoulder seatbelt protection.

(b) Notwithstanding any other provision of law, not less than 10 percent of the funds authorized to be appropriated under section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) in fiscal years 1990 and 1991 shall be utilized to disseminate information to consumers regarding the manner in which passenger automobiles may be retrofitted with lap and shoulder rear seatbelts.

CERTIFICATION OF BUMPERS

SEC. 266. The motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by inserting after section 102 the following new subsection:

"DISCLOSURE OF BUMPER IMPACT CAPABILITY

"SEC. 102A. (a) The Secretary shall promulgate, in accordance with the provisions of this section, a regulation establishing passenger motor vehicle bumper system labeling requirements. Such regulation shall apply to passenger motor vehicles manufactured for model years beginning more than one hundred and eighty days after the date such regulation is promulgated, as provided in subsection (c)(2) of this section.

"(b)(1) The regulation required to be promulgated in subsection (a) of this section shall provide that, before any passenger motor vehicle is offered for sale, the manufacturer shall affix a label to such vehicle, in a format prescribed in such regulation, disclosing an impact speed at which the manufacturer represents that the vehicle meets the applicable damage criteria.

"(2) For purposes of this subsection, the term 'applicable damage criteria' means the damage critieria applicable under section 581.5(c) of title 49, Code of Federal Regulations (as in effect on the date of enactment of this section).

"(c)(1) Not later than ninety days after the date of enactment of this section, the Secretary shall publish in the Federal Register a proposed initial regulation under this section.

"(2) Not later than one hundred and eighty days after such date of enactment, the Secretary shall promulgate a final initial regulation under this section.

"(d) The Secretary may allow a manufacturer to comply with the labeling requirements of subsection (b) of this section by permitting such manufacturer to make the bumper system impact speed disclosure required in subsection (b) of this section on the label required by section 506 of this Act or section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

"(e) The regulation promulgated under subsection (a) of this section shall provide that the information disclosed under this section be provided to the Secretary at the beginning of the model year for the model involved. As soon as practicable after receiving such information, the Secretary shall furnish and distribute to the public such information in a simple and readily understandable form in order to facilitate comparison among the various types of passenger motor vehicles. The Secretary may by rule require automobile dealers to distribute to prospective purchasers any information compiled pursuant to this subsection.

"(f) For purposes of this section, the term 'passenger motor vehicle' means any motor vehicle to which the standard under part 581 of title 49, Code of Federal Regulations, is applicable.".

CHILD BOOSTER SEATS

SEC. 267. (a) In accordance with applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Secretary shall conduct a rulemaking to amend Federal Motor Vehicle Safety Standard 213, published as section 571.213 of title 49, Code of Federal Regulations, to increase the safety of child booster seats used in passenger automobiles. The rulemaking shall be initiated not later than thirty days after the date of enactment of this Act and completed not later than twelve months after such date of enactment.

(b) As used in this section, the term "child booster seat" has the meaning given the term "booster seat" in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

AIRBAG REQUIREMENT FOR FEDERAL PASSENGER VEHICLES

SEC. 268. The Secretary, in cooperation with the Administrator of General Services and the heads of other appropriate Federal agencies, shall establish a program requiring that all passenger automobiles acquired after September 30, 1990, for use by the Federal Government be equipped, to the maximum extent practicable, with driver-side airbags and that all passenger automobiles acquired after September 30, 1993, for

use by the Federal Government be equipped, to the maximum extent practicable, with airbags for both the driver and front seat outboard seating positions.

STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

SEC. 269. Part A of title III of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1961 et seq.) is amended by adding at the end the following new section:

"STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

"SEC. 304. (a) The Secretary shall, within thirty days after the date of enactment of this section, enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the effectiveness of State motor vehicle safety inspection programs in—

"(1) reducing motor vehicle accidents that result in injuries and deaths; and

"(2) limiting the number of defective or unsafe motor vehicles on the highways.

"(b)(1) The study shall include an evaluation of the implementation, inspection criteria, personnel, budgeting, and enforcement of all types of State motor vehicle inspection programs or periodic motor vehicle inspection programs, including inspections of motor vehicle brakes, glass, steering suspension, and tires.

"(2) If warranted by the study, the National Academy of Sciences shall develop and submit to the Congress recommendations for an effective and efficient State motor vehicle safety inspection program.

"(c) The study shall also consider the feasibility of use by States or private organizations to conduct motor vehicle safety inspection programs and of combining safety and emission inspection programs.

"(d) Appropriate public and private agencies and organizations, including the Secretary, the Administrator of the Environmental Protection Agency, affected industries and consumer organizations, State and local officials, and the motor vehicle insurance industry should be consulted in conducting the study required under this section.

"(e) The study required by subsection (a) shall be completed and transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives within nineteen months after the date of enactment of this section.".

RECALL OF CERTAIN MOTOR VEHICLES

SEC. 270. (a) Section 153 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413) is amended by adding at the end the following new subsections:

"(d) If the Secretary determines that a notification sent by a manufacturer pursuant to subsection (c) of this section has not resulted in an adequate number of vehicles or items or equipment being returned for remedy, the Secretary such manner as the Secretary may by regulation prescribe.

"(e)(1) Any lessor who receives a notification required by section 151 or 152 pertaining to any leased motor vehicle shall send a copy of such notice to the lessee in such manner as the Secretary may be regulation prescribe.

"(2) For purposes of this subsection, the term 'leased motor vehicle' means any motor vehicle which is leased to a person for a term of at least four months by a lessor who has leased five or more vehicles in the twelves months preceding the date of the notification.".

(b) Section 154 of the National Traffic and Motor Vehicles Safety Act of 1966 (15 U.S.C. 1414) is amended by adding at the end the following:

"(d) If notification is required under section 151 or by an order under section 152(b) and has been furnished by the manufacturer to a dealer of motor vehicles with respect to any new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification which fails to comply with an applicable Federal Motor Vehicle Safety Standard or contains a defect which relates to motor vehicle safety, such dealer may sell or lease such motor vehicle or item of replacement equipment only if—

"(1) the defect or failure to comply has been remedied in accordance with this section before delivery under such sale or lease; or.

"(2) in the case of notification required by an order under section 152(b), enforcement of the order has been restrained in an action to which section 155(a) applies or such order has been set aside in such an action.

Nothing in this subsection shall be construed to prohibit any dealer from offering for sale or lease such vehicles or item of equipment.".

STUDY OF DARKENED WINDOWS

SEC. 271. The Administrator of the National Highway Traffic Safety Administration shall conduct a study of the use of darkened windshields and window glass in passenger automobiles. In particular, the study shall consider the effects of such use on the safe operation of passenger automobiles, as well as on the hazards from such use to the safety of law enforcement personnel. In conducting such study, the Administrator shall consult with appropriate industry representatives, officials of law enforcement departments and agencies, and consumer representatives. The Administrator shall submit the results of such study to the Committees on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives not later than six months after the date of enactment of this Act.

PETITIONS REGARDING CORPORATE AVERAGE FUEL ECONOMY STANDARDS

SEC. 272. Section 502(d)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(d)(1)) is amended by striking "1980. Such application" and inserting in lieu thereof the following: "1980, or for any model year after model year 1991. Any application seeking such modification".

JUDICIAL REVIEW OF ACTIONS ON CERTAIN PETITIONS

SEC. 273. Section 124(d) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1410a(d)) is amended by adding at the end the following: "The denial of such petition is final agency action subject to judicial review as provided in section 706 of title 5, United States Code.".

BUMPER STANDARD

SEC. 274. (a) Not later than one year after the date of enactment of this Act, the Secretary shall amend the bumper standard published as part 581 of title 49, Code of Federal Regulations, to ensure that such standard is identical to the bumper standard under such part 581 which was in effect on January 1, 1982. The amended standard shall apply to all passenger automobiles manufactured after September 1, 1990.

(b) Nothing in this section shall be construed to prohibit the Secretary from requiring under such part 581 that passenger automobile bumpers be capable of resisting impact speeds higher than those specified in the bumper standard in effect under such part 581 on January 1, 1982.

GRANT PROGRAM CONCERNING USE OF SEATBELTS AND CHILD RESTRAINT SYSTEMS

SEC. 275. (a) Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 411. Seatbelt and child restraint programs

"(a) Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement seatbelt and child restraint programs which include measures described in this section to foster the increased use of seatbelts and the correct use of child restraint systems. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for seatbelt and child restraint programs at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this section.

"(c) No State may receive grants under this section in more than three fiscal years. The Federal share payble for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the seatbelt and child restraint program adopted by the State pursuant to subsection (a) of this section;

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) Subject to subsection (c), the amount of a grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) of this section shall equal 20 percent of the amount approportioned to such State for fiscal year 1990 under section 402.

"(e) A State is eligible for a grant under this section if such State—

"(1) has in force and effect a law requiring all front seat occupants of a passenger automobile to use seatbelts;

"(2) has achieved—

"(A) in the year immediately preceding a first-year grant, the lesser of either (i) 70 percent seatbelt use by all front seat occupants of passenger automobiles in the State or (ii) a rate of seatbelt use by all such occupants that is 20 percentage points higher than the rate achieved in 1989;

"(B) in the year immediately preceding a second-year grant, the lesser of either (i) 80 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 35 percentage points higher than the rate achieved in 1989; and

"(C) in the year immediately preceding a third-year grant, the lesser of either (i) 90 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 45 pecentage points higher than the rate achieved in 1989; and

"(3) has in force and effect an effective program, as determined by the Secretary, for encouraging the correct use of child restraint systems.

"(f) As used in this section, the term 'child restraint system' has the meaning given such term in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(g) There are authorized to be appropriated, from any funds in the Treasury not otherwise appropriated, to carry out this section, $10,000,000 for the fiscal year 1990, and $20,000,000 for each of the fiscal years 1991 and 1992.".

(b) The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

"411. Seatbelt and child restraint programs.".

METHODS OF REDUCING HEAD INJURIES

SEC. 276. The Secretary shall initiate (not later than sixty days after the date of enactment of this Act) and complete (not later than two years after such date of enactment) a rulemaking to revise, in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal Motor Vehicle Safety Standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms, the Federal Motor Vehicle Safety Standards. Such rulemaking shall consider methods of reducing head injuries in passenger automobiles and multipurpose passenger vehicles from contact with vehicle interior components, including those in the head impact area as defined in section 571.3(b) of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

PEDESTRIAN SAFETY

SEC. 277. The Secretary shall initiate (not later than six months after the date of enactment of this Act) and complete (not later than two years after such date of enactment) a rulemaking to consider the establishment of a standard to minimize pedestrian death and injury, including injury to the head, thorax, and legs, attributable to vehicle components. Any such standard shall be established in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

Mr. BRYAN. Mr. President, may I inquire if the amendment reflects the cosponsorship of the Senator from Nevada, as well as the Senator from Washington [Mr. GORTON]?

The PRESIDING OFFICER. It does.

Mr. BRYAN. Mr. President, there has been a lot of discussion about safety, and that is certainly a proper area to be concerned about. I can represent to my colleagues that, having worked with the distinguished ranking member of the subcommittee that processed the underlying amendment we are talking about today, the CAFE legislation, safety was a concern that as uppermost in our minds, as well.

It is something that he and I early on last year attempted to get the National Traffic Safety Administration reauthorization through this body and hopefully through the other body and if successful would make the first time in some 8 years, since 1982, as I recall, that there was indeed a reauthorization.

I must say, Mr. President, there has been much that has been said by NHTSA, and by the Secretary of Transportation about safety, but the single most important thing that we can do is to pass S. 673 which cleared this body by unanimous consent many months back. I would like to spend a few moments if I may to discuss with you and with my colleagues what S. 673 accomplishes.

Among other things it establishes and requires the establishment of side impact standards. I must say, Mr. President, that as one who was relatively new to the body I find it absolutely astounding that after all of the years and by common agreement a side impact standard would enhance safety. We are not talking now about looking forward to a major breakthrough in technology. We are talking about a side impact standard. That is to protect the interior of the vehicle from dramatic impact on either side and thus be able to enhance the protection of the occupants of the vehicle. That is still now, 9 years after the original discussion, not yet a reality.

S. 673 would require that information and that standard.

Consumer information on crashworthiness requires the agency to develop to the extent possible and to make available to consumers data to permit comparison of the crashworthiness of the different vehicles and ability of bumpers to withstand impact. This in my view is the essence of informed consumer choice, to provide the information in a responsible and comparative way, so that the individual in the marketplace, the customer, if you will, makes the decision depending upon what weight he or she may wish to attach to the crashworthiness evaluation.

This amendment also would require handicapped parking to be the subject of a uniformed national procedure for safe parking. It requires with respect to multipurpose vehicles a certain limited time for rulemaking to establish the side impact standard to which I made reference and to consider prevention of an unreasonable risk of rollover. It requires rulemaking on the following safety standards for multipurpose vehicles. The front seat passive restraints, head restraints, the high mounted stoplights, and roof crush resistance.

Mr. President, rear seatbelts are also under the language of this proposed amendment to be required. There is a provision for rulemaking to ensure the safety of child booster seats which was the subject of another hearing that the Consumer Subcommittee had earlier in the year and it does require that airbags in all Federal fleet passenger care if economically feasible be required and it returns to a bumper standard rescinded by the previous administration in 1982 in that bumpers must prevent damage to the safety features of the car and incur limited damage in crashes of up to 5 miles per hour. And finally it grants programs to encourage seatbelt use and child restraints to the various States.

And it requires a rulemaking to consider means of preventing head injury caused by contact with interior components of the vehicle.

Returning once again to the issue of pedestrian safety, it requires rulemaking to consider ways of preventing pedestrian injuries caused by contact with the vehicle exterior.

Mr. President, as I indicated at the outset there has been a lot of talk about safety and I think rightfully so. We all ought to be concerned about safety. But I must say that it strikes me as a bit incongruous that indeed the NHTSA Administrator and the Secretary of Transportation who both held press conferences last week decrying the effect of the CAFE standards which are proposed in S. 1224 and took the occasion to be highly critical of it have yet to take the same kind of forceful and aggressive conduct that would help us get S. 673 through the other body.

I offer this as an amendment to the underlying bill so that no one will be misled that those of us who have worked for the past year and some months on the CAFE legislation are not equally concerned about the safety issue as well.

This piece of legislation was opposed by the industry, as one may well presume. That is why it has languished for a period that approaches a year now in the other body. It was opposed by the administration and no action has been forthcoming.

For those who have a primary focus on safety, let me just indicate to my colleagues what this legislation, this particular amendment, could do. It has been estimated that the airbag requirement would save 12,000 lives a year.

Mr. President, I note within the past few months incidents that have been reported in the Washington Post. There was a head-on collision between two automobiles. The first, insofar as we know, in recorded history in which two automobiles that were engaged in a head-on collision—and which the highway patrolman was quoted as saying that he expected to be making out fatality reports—that both of the occupants, both drivers, if you will, one in one vehicle, one in the other,

survived. They were, in effect, exiting the vehicle at the time that he came over to the place where the two vehicles were at rest after the accident.

I notice that this morning's Washington Post, in the Metro section, talks about an accident in which one of the individuals involved in the accident credits his survival with airbags.

So we know that airbags work. We know that airbags save lives. We know that airbags make vehicles safer—12,000 lives a year might be saved. I think the record should be amplified to the extent that it should reflect that the industry has resisted this for the past 20 years and ultimately litigated the issue before the U.S. Supreme Court.

Now, the original passive restraint rule was adopted back in 1977, 13 years ago, to be effected in 1983. The rule was rescinded in 1981. It was not reinstated until 1984 and there has been a continual foot dragging since that period of time.

Now I would also say with respect to light truck and van safety that a GAO report in 1978 found unwarranted delays by the Department of Transportation to improve light truck safety. By 1990, as we speak, NHTSA has still not adopted the side impact standard, a passive restraint standard, a rollover protection standard, or roof crush standard for light trucks, and, instead, to repeat, has opposed this legislation. The industry has consistently opposed rulemaking.

So I would have to say that at least those who profess an interest in safety, an overriding concern, when CAFE is being debated have a credibility gap, I would respectfully suggest, insofar as there is an opportunity to do something that, agreed by all, would improve the quality of safety in the vehicles that travel along our roads and highways and yet they have consistently resisted this kind of legislation.

Now there was a GAO report, Mr. President, in January of 1989 that noted that these rulemakings with respect to shoulder belts, impact protection, and head restraint standards had been pending for some 21 to 27 months without completion; again, indicating in my view, a lack of urgency or a sense of responsibility that indeed we need to move forward.

The NHTSA report of May 1990 found that increased risk of rollover is responsible for 66 percent of deaths in jeeps and 24 percent of deaths in other passenger cars. Now that is their own report and yet the agency took no action on its own on this issue and denied a petition for rulemaking in early 1988 and then belatedly granted a petition for rulemaking in September 1988. That was 2 years ago. No rule has been issued, as we are debating this legislation this afternoon.

Again, NHTSA has opposed S. 673 which incorporates such a requirement.

It is estimated that improved vehicle design to minimize injury to pedestrians hit by cars would save 1,000 to 2,000 lives a year. S. 673 requires rulemaking on vehicle design to prevent predestrian injury.

So I would say to my colleagues that insofar as safety is an issue, as it ought to be, there is a clear and consistent avenue for us all to pursue, and that is to urge our colleagues in the other body to be supportive of S. 673 and to adopt the amendment which has just offered by this member a moment ago which incorporates the provisions of S. 673 which cleared this body by unanimous consent some time back.

Mr. President, I note that there may be other Members seeking recognition at this point.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BOND. Mr. President, the Senate is currently debating a very important bill, S. 1224, which would require an increase in the corporate average fuel economy standards for automobiles.

As important as this issue is, I believe that the broader issue of our national energy policy is even more crucial. We all realize that there is no single solution to the problem of reducing our dependency on foreign oil. There is no neat, simple solution that we all wish there were. We understand that we will have to utilize several approaches to solve the problem.

For example, we must provide incentives to speed the development of alternative fuels like ethanol. Extending the current 6-cent exemption from the Federal gasoline tax for ethanol wuld be a good way to start. Other alternative fuels also should be developed, and I know that work is ongoing in those areas.

We must also have an energy policy which encourages increased conservation, provides incentives for increased domestic production, and promotes mass transportation and car pooling, to name just a few proposals.

California is considering an idea that has appealed to me. It would pay people to turn in their old gas guzzlers in order to get those gas guzzlers, those polluters, those wasters of fuel, off the road. I think this is perhaps a fast and practical ways to get people into higher mileage cars.

This winter, when Congress evaluates the Department of Energy's energy policy recommendations, we must ensure that they include incentive for developing additional energy sources in the United States. We have failed to move forward in producing energy from some sources because of environmental and safety concerns. I hold those concerns to be of the highest magnitude and greatest importance. I would expect, however, that development of new technology and the development of better resource management practices could help us maintain our commitment to the environment and to safety as we develop energy sources that are here in the United States.

And I certainly support making cars more fuel efficient. In fact, as recent events in the Middle East have reminded us, we really do not have much choice. We used to be conscious of fuel economy and conserving gasoline, but our memories of the earlier oil shortages have faded, and we have forgotten the lessons we learned so painfully a decade ago.

But while I support the goals of this legislation, I do not support the deadlines for achieving them. Under S. 1224, automakers must make a 20-percent improvement in fuel economy standards for passenger cars by 1995 and achieve a 40-percent increase by 2001. As much as we want to see these improvements, I think that we will suffer by demanding too much too soon. Let me explain.

There are several problems with S. 1224 which have not been addressed to my satisfaction. First, it is not clear to me how these large increases will be made, given that we do not yet have an advanced engine technology which would achieve them. While the bill's proponents assert that there are some smaller technical adjustments that can be made which will improve fuel economy by several miles per gallon, there is currently no magic, new technology which can be pulled off the shelf and used to meet the bill's stringent requirements.

Supporters of the legislation also claim that mileage can be improved by reducing vehicle weight. Auto makers have already reduced the weight of their cars by over 500 pounds since Congress passed the first CAFE bill in 1975. Weight reduction has, in fact, been one of the major tools that companies have used to meet these previous requirements. There has been some compromise in the safety of cars as a result of this downsizing, but it has generally been minimal.

Now, however, we are at a crossroads with regard to auto safety. Mr. President, one does not have to be a rocket scientist to know that smaller, lighter, and narrower cars are not as safe in a crash as larger, heavier, and wider ones. If we reduce vehicle weight much further, I believe we could be placing lives at risk, a conclusion supported by several studies of the Department of Transportation.

Mr. President, one of the basic principles of our economic system has been consumer choice. Companies offer consumers as many choices and as many products as possible, and consumers tell companies what they think

of these products every day through the products they buy.

Consumers have been telling auto makers for years that they do not buy cars only on the basis of fuel economy. In fact, only 3 percent of all cars sold each year are the very high-mileage models like the Geo. Consumers want good mileage, but they also want interior space, good performance, and safety. Safety measures are vitally important.

So, one of my other major concerns about this bill is that it will limit consumer choice. This is because the auto companies will not be able to meet the proposed deadlines for any of their vehicles except for the very small ones, so they will stop making large and even medium-size cars in order to get their nationwide average up.

I submit to my colleagues that a more honest approach, but one I do not advocate at this point, and I do not believe this body is ready to enact, is to set a deadline and to allow only the production of fuel-efficient cars and to ban the production of anything but these vehicles on the roads and highways of this country. Perhaps even a higher excise tax on cars with fuel consumption below certain minimums would be an approach we should consider.

But I cannot guarantee that the majority of American people would agree with this approach. They want to exercise their choice when they purchase cars. They want to conserve fuel, but they have other equally important concerns. I think they would object long and hard if we tell them what kind of cars they can buy.

Mr. President, I believe that the auto companies have a very real obligation to improve on the current CAFE standards. We cannot let them off the hook. The goal of reducing our dependency on imported oil is too important. I strongly urge them, and I'm sure my colleagues would join me, to expedite their research and development so that we have the next generation of engine technology as soon as possible.

But as the Senator from the third largest auto producing State in the country, I cannot support the bill in its current form. I cannot endorse a measure which would throw many Missourians out of work, perhaps reduce significantly auto safety, and which would work against consumer choice.

I could support a measure which set reasonable deadlines and goals matched with our current technology, and which did not compromise safety. I have yet to see that legislation, and I cannot support the bill in its present form.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, first I want to say that I join my distinguished colleague from Nevada not only in sponsoring but in speaking for the amendment which he proposed not long ago to add to this bill, an amendment which would reinforce the support of this body for the reauthorization of the National Highway Traffic Safety Administration.

As the Senator from Nevada pointed out during the course of his remarks, that proposal has already passed the Senate by a voice vote. It has not so much as been granted a hearing, however, in the House of Representatives.

Since so many of the Members who have expressed concern with S. 1224 have spoken to issues of safety, however, it seems to me appropriate that the Senate once again emphasize its strong support for safety and for the kind of measures which effectively can only be carried out through the efforts of the National Highway Traffic Safety Administration.

This amendment is a good and important one and deserves the support of all Members of the Senate, both those who are in favor of the bill, which the Senator from Nevada and I have sponsored, and those who are not in favor of it.

The Senator from Missouri, who was just here, however, has made a number of remarks which lead me to reflect on the proposition that once the Senator from Nevada made his opening statement this morning, we have been debating details and not the entire thrust of this bill and the reasons that it is so important.

This bill, S. 1224, is important because a tremendous national success in increasing the fuel economy of our automobiles, triggered by legislation arising out of the Arab oil boycott and one of the last rapid runups in the cost of fuel for automobiles and, the greatly increasing consciousness of the weaknesses imposed on the United States of America by dependence on foreign oil, caused a policy decision in the mid-1970's which has been a remarkable success.

(Mr. DECONCINI assumed the chair.)

Mr. GORTON. Mr. President, the average fuel economy of automobiles manufactured and sold in the United States more than doubled as a result of that legislation. It more than doubled in a relatively short period of time, a period of time perhaps not so long as a single decade. It has made us infinitely stronger than would otherwise have been the case had that bill not been passed. It makes what is now a serious challenge to the United States with respect to unrest in the Middle East just that, a serious challenge, and not the unmitigated disaster with which we were faced a decade and a half ago.

It is, therefore, appropriate to consider whether or not a proposal which was so great a success in the late seventies and early eighties cannot be replicated now. In spite of that success, we are more dependent on foreign sources for our petroleum products than ever before.

The Senator from Nevada and I, and I believe a majority of the other Members of this body, believe it is time to move forward and to ask for an increase in fuel economy in automobiles which is modest by comparison with that requested by Congress in 1975. The result of that action was a doubling of fuel economy. This bill asks for an increase of 20 percent in the average fuel economy of each of the manufacturers' fleets by 1995 and 40 percent by early in the 21st century.

We constantly, on the other hand, Mr. President, are met with the argument that while it is desirable to increase fuel economy, we should not act on this bill or this philosophy now because the only way in which these goals could be reached would be by sharply downsizing automobiles and threatening the safety of the American driver.

Mr. President, that simply is not a valid argument. The distinguished Senator from Nevada has prepared a notebook from a multiplicity of sources on both our history and on our future. At least half a dozen organizations dealing with energy-related challenges—some private, some a part of this administration—have pointed out that the goals which we seek are eminently attainable. For the benefit of my colleagues who will have to vote on cloture tomorrow, I want to go through simply one page.

Without changes in the size of our automobiles, the following steps can be adopted based on presently available production technologies which will more than meet the 1995 intermediate goals set out by this bill. I will list them and the percent of fleet fuel efficiency gained which each one of them would produce.

Front-wheel drive, 2.4 percent; 4-valve per cylinder in 4- and 6-cylinder engines, 6 percent; intake valve control, 1.6 percent; 4-speed automatic transmission, 3 percent; electronic transmission control, 1.3 percent; reduced drag, 3.4 percent; additional drag reduction, 2.7 percent; tire changes, one-half of 1 percent; lubricants, one-half of 1 percent; accessories, 1 percent; and engine improvements, including roller cams, low-friction rings and pistons, throttled body fuel injection, multipoint fuel injection, and overhead cam, a total of 5.8 percent. That is an increase of 29.4 percent, Mr. President, half again as much as the requirements which this bill imposes. None of those requirements require downsizing. None of

them is a threat to safety. In fact, if anything, they are almost certain to contribute to the safety of our automobiles.

The Senator from Missouri is, regrettably, typical of many of those who oppose this bill in giving lip service to the proposition that we must reduce our dependence on foreign sources for oil and for petroleum but not now, not this way, not in this form, but in some other way or at some other time, which he does not define. He states, quite correctly, that our automobile manufacturers have an obligation to improve fuel economy, but during the course of the last several years they not only have not improved fuel economy; fuel economy is going down by reason of the production of a greater share of larger, very high-horsepower, very high-speed, so-called muscle cars.

On the other hand, I believe that the Senator from Missouri is entirely correct when he says that few American consumers buy cars primarily for fuel economy reasons. His percentage, which is probably accurate, is on the order of 3 percent. That is the case, of course, Mr. President, because we have essentially the lowest prices for automobile fuel, for gasoline, of any major industrialized nation in the world.

Already, with a 25- or 30-percent increase in gasoline prices during the course of the last 2 or 3 months, we are seeing what we saw in the seventies, emphasis in commercials for automobiles on fuel economy. But it is engaging in this process backward, to wait until we are forced into fuel price increases by the action of oil companies or by the action of rulers in the Middle East or in other parts of the world. We should be ahead of the wave in this connection. We should have created our own technology to reduce our dependence on foreign energy and not simply to do it as a reaction to increased prices forced on us from overseas.

The Senator from Missouri went on to say that the American people are concerned with size, many of them are interested in performance, some of them are interested in safety, although I may point out that when the automobile companies come to testify on bills like the reauthorization of the National Highway Traffic Safety Administration they constantly argue against mandatory safety devices on the ground that consumers do not really choose them or would not choose them freely.

That is not at all surprising. Every one of us, I suspect, considers himself or herself to be an above-average driver, perhaps to be an excellent driver. We do not think that we are going to be involved in automobile accidents. We feel that we have the skills to avoid them. I suspect one would find that true even with people who have just been in accidents; they have felt they were above-average drivers. We do not get major increases in safety-related items without being required through society, through requirements of the Congress or an administration created by Congress, and, bluntly, we would not have gotten the increases in fuel economy which we have had over the last decade and a half without mandating it in the way the CAFE standards bill did in 1975.

If we are serious about the proposition that we should reduce our dependence on foreign oil, if we are serious about the proposition that we wish to increase the quality of our air, if we are serious about the proposition that we should have more fuel-efficient vehicles, Mr. President, we are going to gain that goal only by this bill or a bill which is similar to it.

It is perfectly appropriate to hold proposition, I think, that perhaps we should do it a little bit differently. In fact, we have or we are about to accept amendments to this bill which will change it in some minor respects. But the goal of increased efficiency, the goal of less dependence on foreign oil goals which all of us share, are, in fact, going to be attained only if we pass this bill or we pass a bill like it.

Will the impact of the failure of this bill, of its actual failure to get a majority of the votes in this Senate, the failure of cloture tomorrow, will that encourage automobile companies to live up to the obligation which the distinguished Senator from Missouri said they had, to produce more efficient engines in automobilies? Mr. President, I submit to you that they will not.

They have used against this bill exactly the arguments that they used—spectacular, unacceptable and spectacularly—wrongly in 1974 and 1975. If we listen to those arguments, if we listen to those arguments which were wrong before and wrong today, the message which we will send to the automobile companies is that not only do the people of the United States not care, the Congress of the United States does not care, that they can go on their merry way doing what they have done since they reached requirements the present CAFE standards legislation imposes, because they will do nothing more in this direction until they are forced to do it by a conscious decision in this American society, or until they are forced to do it by an economy so bad and so subject to the blackmail of foreign countries that the price of gasoline will not only remain where it is today, but go up by another 25 or 50 or 100 percent.

It is far better to control our own fate than to have that fate imposed upon us by others outside the United States, far better to deal with this problem today in a straightforward and first-rate fashion than to come back to it 1 year or 2 years or 3 years from now having lost all the intervening time, and having lost billions of dollars in treasure and in our psychological independence. Because, Mr. President, while neither the Senator from Nevada nor I can speak with overwhelming confidence for the proposition that this bill will become law before this calendar year is over, both of us though, I know, join in stating with great confidence that this bill is in America's future. Since it is in America's future, better sooner than later. We need it now.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. I know there are some other amendments that may be coming to the floor here, and if so, I will extend such time as anyone who has such an amendment to offer, to make such comments.

I see my colleague from Montana has come in. I do not know whether he has an amendment to offer or not. But in any event, I want to respond to a few of the points that were made here.

I want to make it clear, as I have at other points in the debate, that I think early next year in the context of looking at the development of a comprehensive national energy strategy that every issue, every way to save energy, should be put on the table, including CAFE. I think in the context of an overall assessment and effort to streamline and have a comprehensive national energy policy—that area has to be part of what we look at.

Everyone will not agree with that. But I argue that is the case.

That is not the same thing as saying now that we should, even as we stand today, have an energy policy based on just that attempt. That is what this amendment would do—attempt, to try to make it seem as if we are somehow in a material way, gettting at the energy problem by just this piece of legislation that has been offered.

I mentioned earlier that the stock market today had a tough day. They are off about 58 points. They are revising the Dow Jones industrial numbers. But that would be a 52-week closing low on the stock market.

I know my colleage from Michigan is on the floor. I know he has an amendment he wants to offer, and I know of two colleagues wanting to speak on a pending amendment, I am told the Danforth amendment. So I will not talk at length. I will just speak briefly now.

But I think the stress we are seeing in the financial markets—I talked earlier about the great pressure that our companies are under, the automobile industry, and elsewhere—in terms of raising capital—we are finding it very difficult. Interest rates were up again today. There are signs that the Japa-

nese are raising their interest rates and are cutting down on the flow of capital to the United States which we to a great extent have been depending upon.

We cannot lose sight of the fact that this amendment imposes a new $62.5 billion cost on the automobile industry in order to meet the technical requirements in this bill, assuming that they can be met. Most of the experts do not think they can be, and argue strongly to the contrary. But even to try is going to cost that kind of money, and it certainly is not there. We do not have that kind of money to spend.

On the safety issue, I know my colleague will be addressing that, but it is clear as a bell from the insurance industry, from the Department of Transportation itself, the Department of Highway and Safety Administration, that if we go down this track by imposing these kinds of very sharp increases in mileage requirements, it means smaller cars, it means less safe cars. There is just no way around that. That is a direct and known tradeoff. The data is there for us to see.

The last point I would like to make at this time is this: It is important for people to realize, to think there is somehow magic technology out there to reach for. I pointed out that gasoline prices per gallon in other countries, Japan and parts of Europe, are as much as $3 and $4 a gallon. If there was a technology that could get this much higher fuel efficiency out of cars, the private sector, American producers and foreign producers, would be building those cars and selling them to those markets where a vast amount of money could be made because so much more money could be saved with gas at that higher price per gallon. If there were a technological way to do this, it would be done. We would see that happen.

The fact is that the mile-per-gallon averages in Europe and Japan are only slightly above what we have here. So the notion that somehow or another there is a technological windfall out there, if we went the $62.5 billion, if we could find it, not worry about the tradeoff on safety, reduction in car size, not worry about the increased emissions going up into the atmosphere because of the tradeoffs in that area, we are fooling ourselves.

So this amendment sounds great but there is tremendous difficulty associated with it. It is going to cause great damage. I hope the Senate will decide not to proceed with it.

I yield the floor.

Mr. BURNS. Mr. President, I would like to associate myself with the amendment to the CAFE bill offered by Senator DANFORTH of alternative fuel vehicles. I would also like to commend Senator RIEGLE of Michigan, who is right on target. There is not a vast amount of technology out there when we talk about fossil-fuel-based fuels and trying to achieve a better miles per gallon on automobiles today. We do it at the risk of safety.

As I stated the other day, I do not know how many Senators here have taken a cutting torch and removed people from a small car after an accident. You cannot even recognize them. I also had a daugther who was involved in an accident—broadsided by a truck. Had she been driving a little bitty car, that young lady might not be with us today.

Under the Alternative Fuels Act, the total amount a manufacturer can boost its overall CAFE rating by making flexible fuels vehicles is limited. For model years 1993 through 2004, the maximum increase in limited to 1.2 miles per gallon; and for the years 2005 through 2008, it is limited to 0.9 miles per gallon, limits on the CAFE increases.

It would not affect the way in which the credit for a flexible fuel car is calculated. We need this amendment if automobile companies are gong to truly begin to design and build alternative fuel vehicles.

Consumers currently have no real choice in the marketplace, even if they want to contribute to lessening of our dependence on foreign oil. Nearly half—when I say nearly half, it is getting close—of our oil needs right now are coming in from foreign sources. We have heard it stated over and over again on the floor of this body. We in Montana are very proud of our vast fuel-based resources. I do not care if you want to talk about coal, oil and gas, ethanol or methanol, Montana is rich in alternative fuel resources.

In addition, our State, along with others in the west and the intermountain west are seemingly poised to provide alternative energy answers to America's energy needs in the foreseeable future. It is clear to me, since I have joined the U.S. Senate, that alternative fuels are the fuels of the future. Our traditional fuels are important; do not mistake me. But in the long-term future of this country, alternative fuels are certain to play an even more crucial role.

I believe the time is right for the forward movement in this Congress and in this administration. The President has offered his clear air legislation which calls for alternative fuels use in a way not contemplated 10 years ago. In addition, the Energy Committee has been moving forward on its own alternative fuels agenda.

The Senate Finance Committee recently agreed to an amendment to the budget reconciliation bill, clarifying that the ethanol used in the manufacture of ETBE, ethyl tertiary butyl ether, qualifies for the alcohol fuels credit. This is a major step forward for this important fuel octane enhancer.

We are making progress. But more needs to be done. And we in the West, who have not always fully shared in the progress that has been made elsewhere need to begin now to offer the solutions to the problems that will soon confront all of us.

WIFE, women involved in farm economics, has worked diligently for the past several years in raising the American consciousness to the virtues or grain based alcohol fuels. It is in grassroot efforts such as theirs that true changes will be accomplished. In the meantime, we need to do what we can to help move the process forward. This amendment will help to do that.

Mr. President, I yield the floor.

Mr. GORE addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. GORE. Mr. President, I rise to speak about the problem this bill is intended to address. We have had a great deal of debate about the details and which approach is better. We have had some debate about whether we should move forward and do something or wait and do nothing.

But I think it is important to step back from the details just for a moment and look at the larger problem within which this debate takes place. It is not just a problem defined by the recent events in the Persian Gulf, but let us take those events as a starting point. In response to the invasion of Kuwait by Iraq, we have put together a very impressive military policy. The President has also coordinated a very impressive diplomatic policy.

What we do not have is an energy policy. We have not had one for quite a long time. The recent events in the Persian Gulf merely underscore the need which has existed since well before the invasion of Kuwait by Iraq. We are more dependent on foreign sources of energy today than we were when the great energy crisis of 1973 hit. We are more dependent on foreign energy sources today than we were when the second energy crisis of 1979 hit.

When you compare what we are doing with energy to other nations around the world, with whom we now compete in the world economy, the comparison is really striking. We have about 2 percent of the world's people. We are consuming more than 25 percent of the world's energy. Well, you might say that includes a comparison with all of the developing nations which do not use a lot of energy per capita. Well, look at the comparison between us and the Federal Republic of Germany, or Japan, or any of the other industrial nations with which we are competing everyday in the world marketplace.

The fact is, for every unit of gross national product that we produce, we

use twice as much energy to get that unit of gross national product as our competition uses. That does not make good sense. It is something that simply cannot be allowed to continue.

So I hope that the President of the United States, building upon his success in this diplomatic policy, building upon the Nation's unprecedented support for our military deployment to the sands of Saudi Arabia, would not come before the Nation and introduce a national energy policy, which would emphasize the new efficiency with which we use energy, emphasize conservation to save energy, knew technologies that can substitute for some of the ones that are so wasteful in the environmental that is destructive today.

The President has been asked why he does not talk about this, and he decided to announce his policy on the spot. You may have seen it; it was up at Kennebunkport. Here is the full text of the President's stirring call for a national energy policy. "I call on all Americans to conserve."

Mr. President, even that was a statement some in the television audience had difficulty hearing because of the sound of that high-powered motorboat in the background. The words themselves were so thin and so weak and so faint as to make a mockery of the phrase "energy policy."

The fact is, we as a nation need leadership. We also need followership. I think those of us in the legislative branch of Government understand how difficult it will be to put in place meaningful energy policies, and the President understands that, as well. But we need leadership from the President in articulating and selling to the American people a national energy policy that makes sense.

At this moment in our history, as we mobilize our military resources in Saudi Arabia and in the Persian Gulf, it is easier to see clearly why it was a mistake 10 years ago to abandon the policies that were encouraging the development of alternatives to the wasteful technologies that we use so much today.

When you stop and think about it, we arrived at this point after two crises, which I mentioned, that were both followed by a wave of national awareness and concern and a new sense of urgency and demands from all over our Nation that we not allow ourselves to be so dependent on foreign oil.

The first crisis of the early seventies forced reductions, and we relaxed a little and forgot that sense of urgency. In 1979 the same thing happened all over again. After that sense of urgency waned, then we went right back to the false complacency that characterized our policy up until the invasion of Kuwait.

What is different this time is that even now after the events in the Middle East, even after the price of oil has reached an all-time high, $35 a barrel on Friday; I do not know what the closing quote was today——

Mr. RIEGLE. Up $3.

Mr. GORE. Up $3; $38, I am advised by my colleague.

Even after the price rises began, this time we still do not have leadership from the White House to catalyze the development of a national energy policy. That is just wrong. I have to quote my favorite philosopher, Yogi Berra, who said "It's deja vu all over again."

How many times do we have to go through this kind of rude surprise and economic shock before we get the kind of policy that can be sustained over time—to save energy and avoid this kind of dangerous overdependence?

I just think it is time to start recognizing the fundamental linkages between energy policy, national security policy, economic health, and environmental quality. For the last 10 years we had leadership that has chosen to ignore those linkages. During the 1980's, development of energy-efficient and alternative energy technologies suffered from inattention and sometimes even outright hostility from the executive branch of the Government.

I hear in Mr. Sununu's derisive statements about conservation an echo of what James Watt and Anne Burford used to say about conservation. I really do not understand where this hostility comes from, where the derision comes from, where the absolute determination to stifle any kind of meaningful energy policy comes from. I think it is irresponsible to delay any further important decisions about securing our energy future. And it is just not happening.

The current exercise that the Department of Energy has under way to develop its so-called national energy strategy seems to be nothing more than paper at this point. There are some awful good people over at DOE who would like to do more. But 2 years after this administration has come to office and 10 years after its predecessor began the effort to destroy national energy policy, we are still waiting and still hoping for a real national energy policy to emerge from the current exercise. I hope it does. It would be a refreshing break from the administration's usual style of dodging the hard decisions on energy and opting instead for recommendations that ultimately translate into inaction.

I would like to say just another word about this question of efficiency which is linked to conservation. We made some great strides after the first two oil shocks on efficiency. But then, in 1986, efficiency gains leveled off and they have not gone up since that time.

What caused this slowdown? Well, lower energy prices did, and also a decreased Federal commitment to conservation. In short, our Nation's leadership has failed, or refused, to fill the policy vacuums created by cheap energy.

In a few areas, we lead the world in energy-efficient technology—appliances, lighting products, windows, and a few other examples. But the sad truth is today other nations, notably Japan, are developing and marketing their own technologies that are better in this area than ours because more attention has been paid to it.

The same is true in the development of renewable energy sources like solar and biomass. The same is true of a number of promising new energy technologies, especially voltaic where we are losing the lead to the Japanese who recognized the tremendous world market potential for that technology. We really have to reverse this trend and recapture the lead.

Of course, in the transportation sector, because it accounts for such a large fraction of the energy we use, we need to pay attention to efficiency improvement there as well. That is what this debate is all about. There will be amendments. Let us look at the amendments. Let us try to get the best bill we can. But given a choice between doing something and doing nothing, it seems to me, especially in these circumstances, that choice is pretty clear.

U.S. TRANSPORTATION SECTOR ENERGY USE

If there is an economic sector in the United States where improvements in energy efficiency can simultaneously benefit our Nation's economy, environment, and national security, it is our Nation's transportation sector.

So, one of the first steps to demonstrate U.S. leadership in attaining energy security and protecting the global environment must be to increase the efficency of our transportation sector, in which each American consumes more energy than a person in almost any other country consumes in all economic sectors combined. We do not need to speed development of environmentally sensitive areas to produce more oil for our vehicles; we do not need to be so dependent on the Middle East for our energy supplies; we can produce that oil, so to speak, in an environmentally and economically sound way, through increased energy efficiency, including increased vehicle fuel efficiency.

We need to send clear signals to the manufacturers: we want efficiency improvements to continue, we want you to invest in the R&D needed to meet increased efficiency standards, we want the U.S. automotive industry to be the most competitive in the world, and we want the energy, economic, and environmental rewards that an ef-

ficient passenger vehicle fleet will bring.

GROWTH IN VEHICLE MILES TRAVELED

Mr. President, let's define the problem—the problem here is defined as, "How can we reduce the amount of oil consumed in our transportation sector, and therefore the amount of pollution and energy consumption associated with our Nation's vehicles?" Now, there are two key components to the answer. One component is the efficiency of our automobiles and trucks. But another component, just as important as the first, is the total number of miles that our Nation drives. As an illustration, if we require vehicles to be twice as efficient, but at the same time, the amount of miles driven in this country doubles, then we will still be consuming the same amount of oil as we are today. We will still be pumping the same amount of pollutants into the atomosphere, and we will still be dependent on foreign oil supplies.

Well, that is exactly what is happening. The number of vehicle miles traveled in the United States grew 2.7 percent each year between 1980 and 1986, and it is estimated that the number of vehicle miles traveled will grow about 2.5 percent per year between now and the year 2000. That means, even if we were to pass legislation today, requiring a 40-percent increase in the efficiency of our vehicles by the year 2000—about 40 mpg for new cars, and 30 mpg for new light trucks—the amount of gasoline consumed by cars and light trucks will remain approximately constant.

Looking further into the future, the Federal Highway Administration projects that in urban areas, the total number of miles traveled by vehicles will increase 50 to 80 percent by the year 2010.

Addressing the growth in vehicle miles traveled is not the subject of today's debate, but it is an issue that we must ultimately address if we truly intend to reduce our Nation's dependence on foreign oil.

RECENT TRENDS IN VEHICLE FUEL EFFICIENCY

As far as vehicle fuel efficiency is concerned, let me review some of the facts. After dramatic improvements in the 1970's, and general stability in the 1980's, average new vehicle efficiency in 1988 was actually lower than the standards set originally for 1985. The average new vehicle produced in the United States got 27 miles per gallon in 1988; the average Asian import got 32 miles per gallon. The trend away from improved vehicle fuel efficiency has been hastened by another trend during the 1980's, back toward higher horsepower; in effect, the fuel efficiency wars of the 1970s ha've been replaced by the horsepower wars of this decade.

PROBLEMS ASSOCIATED WITH INEFFICIENT VEHICLES

Clearly, improvements in vehicle fuel efficiency are long overdue, and they make sense for a variety of reasons:

Oil imports cost our trade balance $40 billion in 1988; for every 1-mile-per-gallon increase in overall car and light truck fleet efficiency, we could reduce oil imports by 320,000 barrels per day—even at only $25 per barrel, that's $3 billion off our trade deficit each year.

Our national security is threatened by an overreliance on those oil imports to fuel the majority of the entire U.S. transportation sector.

Our competitiveness in international markets is compromised by energy-inefficient products in a world where continued depletion of finite oil resources can only lead to increased fuel costs.

Our vehicle fleet contributes as much as one-third of U.S. carbon dioxide emissions—overall, our Nation emits more carbon dioxide than any other nation in the world.

Last but not least, urban air quality in many cities is not coming into compliance with standards deemed necessary to avoid adverse impacts on human health. Among the major pollutants addressed by the Clean Air Act, the two that have proven most difficult to control—carbon monoxide and ozone—are largely due to our automobiles. Over 100 urban areas are not meeting air quality standards for one or both of these pollutants.

MARKET-BASED INCENTIVES FOR INCREASED VEHICLE EFFICIENCY

This challenge will require imaginative, far-reaching, and unprecedented new programs. New CAFE legislation is a start, but I would like to see a series of new programs that dovetail with CAFE mandates, which would demonstrate to the world that our Nation at least is ready to take the lead in developing an energy-efficient economy.

I am thinking about a series of programs in which consumers pay fees for actions that lead to increased energy consumption, and get money back for actions that conserve energy. Through a series of fees and rebates, a revenue-neutral program would give consumers market incentives to use energy efficiently, and thereby to benefit our economy, national security, and to protect and restore the environment.

In the case of automobiles, fees collected from the purchase of new vehicles with low fuel efficiency would go to pay for rebates on vehicles with high fuel efficiency. Over time, this concept could be applied to other energy-consuming products and, in general, to other products with a significant impact on the global environment, from electric stoves to ozone-depleting refrigerators.

This type of market-based program would aim squarely at reducing energy consumption and minimizing emissions of pollutants. At the same time, such market incentives would encourage the development, and introduction, of the technologies and techniques of sustainable development.

VEHICLE FUEL-EFFICIENCY IMPROVEMENTS

One could expect vehicle efficiency improvements to come into the market much more quickly as a result of such a program, because consumers would be demanding fuel-efficient cars and trucks. A market-based incentive program would allow consumers, not just the Government, to put pressure on the automakers to make efficiency improvements. As we all have learned, that is the most effective kind of pressure.

Basically, such a program would work as follows: At the time of purchase, a consumer buying a car that has a fuel economy lower than an established standard would pay, to the dealer, a fee based on the amount by which the car's fuel economy was below the standard. The fee would be transferred from the dealer to a trust fund. Purchasers of vehicles with fuel economies greater than the standard would receive a rebate form that fund. The program would be overseen by, for example, the EPA, to ensure that revenue flowing into and out of the fund was regulated in a manner that guaranteed the fund would remain revenue-neutral.

ENERGY EFFICIENCY IMPROVEMENTS FOR APPLIANCES AND BUILDINGS

The concept could be extended to other energy-consuming products, such as new appliances—refrigerators and water heaters, for example—and to new buildings. In all cases, a fee or rebate would be based on the relative level of energy used by the product over its lifetime.

In addition to energy efficiency, the concept could be applied to encourage the purchase of technologies that do not rely on ozone-depleting chemicals—charging fees on appliances, for example, that rely on ozone-depleting chemicals, and awarding rebates for the purchase of alternative technologies that do not pose a threat to the ozone layer.

This is a serious matter, though, Mr. President, and before closing I simply would like to say that on Saturday morning in my home town of Carthage, TN, population 2,000, I went over to a breakfast for the 1175th Quartermaster Unit. A lot of the members of that National Guard unit probably thought a few years back the chances were pretty slim they would be called up and sent to the desert of Saudi Arabia. But along with many other units in Tennessee, they were called up and this was a good-bye ceremony, where their wives and husbands and

children and parents came, and I shared that morning with them and helped serve breakfast and we shared some words together and the chaplain had a moving prayer and it was a moving ceremony all the way around. I thought about this debate while I was there with them Saturday morning.

Now, Monday, here we are talking about this same subject. And I will just tell you if the National Guardsmen and National Guardswomen from Carthage, TN, are going to have to go over to Saudi Arabia because of Saddam Hussein threat to Kuwait and his threat to the oil fields, it seems to me like we can do a better job in this country of promoting energy efficiency and supplementing that military policy which has called them to the desert and supplementing that diplomatic policy which has seen notable successes by our Secretary of State and President with an energy policy that begins to address some of the difficult decisions that have been put off for 10 years.

So this matter is an important one, and I wanted to try to put it into that larger context, and I look forward to the debate on this bill and on the amendments as that debate proceeds.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 2755

Mr. DANFORTH. Mr. President, I ask unanimous consent that there be a vote on my amendment concerning flexible fuel vehicle credits this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I further ask unanimous consent that it now be in order to order the yeas and nays on that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I rise in support of S. 1224, the Motor Vehicle Fuel Efficiency Act of 1990.

It is interesting that Saddam Hussein and his Iraqi army have mobilized the United States Congress and American people faster than any time in recent memory. In fact, his invasion of Kuwait was such an unlawful and unjustified attempt to dramatically alter the balance of power in the Middle East that it virtually guaranteed the kind of unity of reaction, and his use of Western hostages and human shields has sickened freedom-loving people around the world.

I think President Bush has wisely used the proper mix of diplomatic pressure and the threat of military force to build a consensus in the United Nations by diplomatic and economic and military pressure to push Saddam Hussein out of Kuwait.

But this crisis is not just about the sovereignty and sanctity of nations. It is also about oil. Some people have even called it a threat to our way of life.

Mr. President, there is something about our way of life that is going to have to change in light of the Iraqi invasion of Kuwait, and that is dependence on foreign oil and the way we use and, unfortunately, the way we misuse national resources.

The United States currently imports about 45 percent of its oil. That is more than we imported before the oil embargo of 1973. We ought to be ashamed of ourselves for that.

Mr. President, I believe it is time to get serious about energy conservation. And that is going to mean more than one line in a Presidential speech or a congressional speech.

Yet the administration opposes this bill that is sensible before us, and instead of stressing conservation, it wants to open up the Arctic National Wildlife Refuge to drilling. It is allowing its Forest Service staff to push a plan to squeeze a few more barrels out of our precious public lands. A lot of the things that it wants to do, a lots of areas where it wants to drill, notwithstanding the danger to the environment, would get us less oil than we could get by just stressing good, sensible, and reasonable conservation methods.

So the proposals they have made are wrong headed. The most effective means of reducing foreign reliance on oil and protecting our environment is to develop a national energy policy where energy conservation is the primary component. We have a long way to go.

But Senator BRYAN's Motor Vehicle Fuel Efficiency Act is a good place. The Senator from Nevada has worked tirelessly on this important piece of legislation. Senator BRYAN deserves our thanks.

We cannot continue to pretend that fossil fuels are renewable resources. Let us learn this lesson today for having squandered our chance to learn from the oil crisis of the 1970's. Do we want our successors to be standing here 4 years from now, 6 years from now, 10 years from now, saying in 1990 the U.S. Senate had a chance to act and did nothing about it?

I do not want the next Senator who represents Vermont in my place to be standing up here and saying, "Just awhile ago they could have done something to cut our dependence on foreign oil and they did not."

I want you to know, Mr. President, that Vermont's voice, at least as I represent them, will be to stand up for this very sensible conservation method. It is a good method. It makes sense environmentally and economically.

Furthermore, it should be very obvious to everybody in this country by now, it does a great deal to protecting our national security. We put ourselves in a position that we allow our dependence on imported oil to make it possible for a handful of countries that would otherwise be insignificant on the world picture to be able to shape our foreign policy, our economic policy, domestic policy, in a way no countries have been able to do in the past 100 years. Let us at least diminish that. Let us take back that part of our national security, take back that part of our economic security, take back that part of our domestic security, by cutting out our dependence on imported oil. That is why I support this bill.

I commend the Senator from Nevada and those who joined with him to bring this bill before us.

Mr. BRYAN. Mr. President, we have a couple of housekeeping matters which I believe my distinguished colleague, the senior Senator from Michigan, and I can agree on. One is to perfect what Senator DANFORTH intended to accomplish, to which there is no objection. In that vein, I ask unanimous consent that a vote on the Danforth amendment No. 2755 occur this evening upon disposition of the Simon amendment, and that no further amendments be in order to the Danforth amendment No. 2755.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2756

Mr. BRYAN. Mr. President, I believe that we have agreement on the Bryan-Gorton amendment which incorporates the provisions of the NHTSA reauthorization act. I believe we have agreement on that. I ask unanimous consent that amendment be added to the bill.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I need to ask at this time to refer back to the Simon amendment for purposes of offering a motion to table procedurally, if I may.

The PRESIDING OFFICER. The Chair has to apologize to the Senator from Nevada. Could he restate his request?

Mr. BRYAN. The Senator from Nevada apologizes to the Chair. What we need to do procedurally is to get back on the Simon amendment for a moment so that a motion to table would be in order. That, of course, will occur tonight with a rollcall vote, as

we discussed with the Senator from Michigan.

The PRESIDING OFFICER. Is the Senator from Nevada asking that the Bryan amendment be agreed to?

Mr. BRYAN. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2756) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BRYAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair would advise the Senator from Nevada that a call for the regular order would bring back the Simon amendment.

Mr. BRYAN. I do not want to do anything to preclude the senior Senator from Michigan. Let me move through that first. I know the junior Senator from Michigan also desires to speak, and it is not my purpose to in any way preclude him from having an opportunity to do so.

AMENDMENT NO. 2722, AS MODIFIED

Mr. RIEGLE. If the Senator would yield just briefly, we had talked about a modification to the amendment that I offered earlier on the need for a national energy plan. You will recall in the last paragraph of that amendment, which is pending and a vote has been locked in on it, which we may well vitiate, there was this issue over whether we would use the phraseology "within 6 months of enactment" which would tie it to this bill. Senator GORTON raised an issue with respect to this.

I am going to propose that those words be stricken. I will make such a modification to my amendment that "within 6 months of enactment" would be replaced with this language: "no later than May 1, 1991."

The PRESIDING OFFICER. The Senator from Michigan would need unanimous consent to modify his amendment.

Mr. RIEGLE. I ask unanimous consent to so modify my amendment.

The PRESIDING OFFICER. The Chair hears no objection. Without objection. The amendment is so modified.

Would the Senator send the modification to the desk?

The amendment, (No. 2722), as modified, is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . NEED FOR A NATIONAL ENERGY POLICY PLAN.

The Senate finds that

Recent events in the Mideast precipitated by the Iraqi invasion of Kuwait are a poignant and threatening reminder that the security of our economy and that of the modern industrial world is dependent on a fragile supply of energy, especially Mideastern oil;

Over a decade has passed since the United States enacted comprehensive legislation addressing our energy security;

The United States does not have an up-to-date national energy policy;

The United States needs a comprehensive, not a piecemeal, national energy policy plan meeting the following criteria:

(a) the policy would cover:

(1) all sectors of the economy,

(2) both the short-term and the long-term,

(3) both the demand for, and supply of, energy;

(b) the policy would be formulated by the President and the Congress;

(c) the policy would be based on current data and analysis and on a quantitative projection of our future energy needs and supply,

(d) the policy would include recommendations for development of new technologies to forestall energy shortages and to encourage conservation,

(e) the policy would identify the resources needed to carry out the objectives of the plan,

(f) the policy would recommend legislative and administrative actions necessary to achieve to objectives of the plan.

Current law contained in Title VIII—"Energy Planning" of the Department of Energy Organization Act of 1977 already mandates a specific procedure for creation of a National Energy Policy Plan that contains such criteria,

The President has called for creation of a National Energy Strategy that the Department of Energy has nearly completed;

Therefore, it is the sense of the Senate that in accordance with such law, the President should submit, no later than May 1, 1991, and the Congress should review and revise as necessary, a National Energy Policy Plan, including appropriate legislation to implement such plan.

Mr. BRYAN. Mr. President, if I might engage the distinguished senior Senator from Michigan in a moment of colloquy. We do not intend to object to this and will agree. However, during the course of our discussion on this it has been my understanding that the Senator, by offering this amendment, in no way indicates that, if S. 1224 should pass this body and the other body, this amendment would preclude the CAFE legislation from going into effect. It is not contingent upon it, it is supplemental to it. Am I correct?

Mr. RIEGLE. That is correct. I wish I could say that is incorrect; but the answer is the Senator is correct.

Mr. BRYAN. With that understanding, if the Senator seeks unanimous consent, I am delighted to accept that.

Mr. RIEGLE. I will accept that kind offer, and then I think we can vitiate the yeas and nays on that amendment. I ask unanimous consent that we vitiate the yeas and nays earlier ordered on the amendment on the understanding that it is accepted.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection; without objection, the yeas and nays are vitiated.

The question is on agreeing to the amendment of the Senator from Michigan, as modified.

The amendment (No. 2722), as modified, was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. BRYAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRYAN. Mr. President, I need to do one other thing. I do not intend to prolong this. Procedurally we need to get back now to the Simon amendment which is the first amendment that had been offered, and we also need to address Senator NICKLES' amendment. We are going to be able to work out something with Senator NICKLES' amendment by a second-degree amendment.

Mr. LEVIN. I am wondering if the Senator would withhold his tabling motion until after the time has expired, which I understand is 5 o'clock.

The PRESIDING OFFICER. The Chair would advise the distinguished managers of the bill that a call for the regular order would bring back the Simon amendment or alternatively the managers could ask for the regular order on the Nickles amendment which would bring that before the Senate.

AMENDMENT NO. 2714

Mr. BRYAN. Mr. President, it is our desire to expedite this so that we do not encroach upon the time that I know the junior Senator from Michigan has. I call for the regular order.

The PRESIDING OFFICER. Regular order is called for and the Simon amendment is now before the Senate.

Mr. KENNEDY. Mr. President, I am pleased to join my distinguished colleague from the State of Illinois in sponsoring this amendment to ensure that workers in the automobile industry are not required to shoulder a disproportionate share of the burden of achieving the fuel efficiency standards established under S. 1224.

The program established under this amendment will provide benefits to displaced autoworkers similar to those currently available to workers under the Trade Adjustment Assistance Program. In circumstances where it has been determined that compliance with the increased CAFE standards is the primary cause of a worker's job loss, that worker will be eligible for up to 26 weeks of supplemental employment benefits as well as counseling, testing, and placement services to assist that worker in making the transition to other employment. Benefits are, except in extraordinary circumstances, limited to employees enrolled in approved job training programs, and

total spending is capped at $50 million a year over a 5-year period.

Mr. President, this is a program that is both reasonable and necessary to ensure that the costs of achieving our national goals of reducing our dependency on foreign oil imports and improving the quality of our environment are distributed fairly, and that workers and their families are not asked to pay disproportionately for these national initiatives.

Studies conducted by the Office of Technology Assessment and the Department of Energy have concluded that the fuel efficiency standards established under S. 1224 can be achieved with existing technology, and without significant worker dislocations. If this is the case, and I hope it is, then this amendment will cost us nothing. But if the pending legislation, whose goals I support, does in fact have the negative impact of displacing workers, then we owe at least this modest level of assistance to those workers and their families.

Achieving reduced dependency on foreign oil and a cleaner, healthier environment is not a zero sum game. When the Nation wins, workers do not have to lose. There is no fundamental incompatibility between higher fuel efficiency standards and the livelihoods of those who build our cars. We do not have to pit auto workers against fuel efficiency, or one region against another. We can fashion reasonable legislation to reduce the burden of our action on innocent victims and their families.

The cost of the Simon amendment, if there is a cost, will be only a fraction of the benefit that the Nation will gain from increased fuel efficiency. Basic equity requires us to pay this cost, as an investment in a stronger nation and a sounder economy for the future. We must handle the transition that this legislation will entail with compassion and common sense in a manner that does not bring unnecessary uncertainty and pain to the workers in the automobile industry.

I command the Senator from Illinois for raising this issue, and I urge the Senate to adopt his amendment.

Mr. BRYAN. Mr. President, I move to table the Simon amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2715

Mr. BRYAN. We next call for the Nickles amendment.

The PRESIDING OFFICER. The regular order has been called for on the Nickles amendment. The Nickles amendment is now before the Senate.

AMENDMENT NO. 2758 TO AMENDMENT NO. 2715

Mr. GORTON. Mr. President, I have an amendment to the amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 2758 to amendment No. 2715.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Strike "SEC. 510." and all the following matter prior to page 2, line 14, and insert in lieu thereof the following:

"SEC. 510. (a) The Governmentwide average of all passenger automobiles acquired, on and after the expiration of the 120 days following the date of enactment of the motor Vehicle Fuel Efficiency Act of 1990, for and by the agencies, departments, and other instrumentalities of the executive, legislative, and judicial branches of the United States Government in each fiscal year shall meet or exceed the fuel economy standard applicable under section 502(a) for the model year which includes January 1 of such fiscal year, and for model years 1995 and thereafter, shall meet or exceed the weighted national average fuel efficiency of new vehicles determined by the Secretary in accordance with this Act, sold in the United States during the preceding fiscal year. Commencing with model year 1995 and each model year thereafter, the Governmentwide average of all light trucks purchased by such agencies, departments, and instrumentalities shall meet or exceed the weighted national average fuel efficiency of new such vehicles.

On page 2, lines 14 and 17, redesignate subsections (c) and (d) as subsections (b) and (c), respectively.

Mr. GORTON. Mr. President, Senators will remember that the Senator from Oklahoma this morning introduced an amendment designed to see to it that the Federal Government lives up, essentially, to the theme, the spirit of the requirements it was imposing on automobile fleets overall by requiring that purchases of automobiles for the use of the Federal Government meet the standards set by this bill.

The way the amendment was written, it required each individual automobile to meet those standards, which is of course not the imposition which the bill places on fleets. This second-degree amendment adopts the spirit of the Nickles amendment. It simply says that on average over a period of each year, the purchases of automobiles and small trucks by the Federal Government will meet the fleet requirements laid out for the manufacturers themselves.

With that change, the amendment is acceptable to the sponsors of the bill. I am told it is acceptable to the distinguished Senator from Oklahoma [Mr. NICKLES] and he has authorized me to ask unanimous consent that the yeas and nays on his amendment be vitiated.

I think it would first be appropriate to put the amendment to the amendment to a vote, and then I will ask for a vitiation of the yeas and nays.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment to the amendment.

The amendment (No. 2758) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. BRYAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON. With the authorization of the Senator from Oklahoma, I ask unanimous consent that the yeas and nays on his amendment be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered. The yeas and nays are vitiated.

Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment of the Senator from Oklahoma as amended by the Senator from Washington.

The amendment (No. 2715), as amended, was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. BRYAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, there was some discussion last week of a report of the Energy Environmental Analysis, Inc., the so-called Duleep report, or the Duleep study, which serves as the principal basis for the CAFE standards in this bill.

It is clear, Mr. President, no matter how you read the Duleep numbers, they do not support the standards that would be imposed by S. 1224. Mr. Duleep is acknowledged to be the leading independent expert on automobile fuel efficiency, and his conclusions simply do not support or come close to supporting the numbers that are set forth in this bill.

S. 1224 requires that domestic automobile manufacturers reach 33 miles per gallon by 1995. What does Mr. Duleep say that we can do by 1995? Initially, his first cut was that we could get to 31 miles per gallon without downgrading size or performance. That was the first Duleep conclusion. Not 33 miles, as proposed by the bill, but 31 miles per gallon.

Then Mr. Duleep came and revised his earlier figures and he determined

that we cannot come close to 31 miles per gallon. When he looked at his numbers again, he concluded that he had overestimated the improvements that could be made through technology and failed to account for the impact that new safety and emissions standards will have on fuel efficiency levels.

Mr. Duleep concluded—and again, this is the independent expert relied on most heavily by the committee—Mr. Duleep concluded that 28 miles per gallon is the highest cost-effective level that can be achieved by 1995 and that 29.1 miles per gallon is the maximum technology level. That is 5 miles per gallon lower than the level mandated in the bill for a cost-effective improvement, and 4 miles lower for a maximum technolgy case.

The same is true for the year 2001. S. 1224 requires 38.5 miles per gallon. Duleep says that 32.4 is the cost-effective level, and 35.7 is the maximum technology level. Either way, it does not support the levels mandated by this bill.

On June 4 of this year, Mr. Duleep explained his revised estimates in a letter to me. The letter states as follows:

You are probably aware that the study on domestic manufacturer CAFE conducted by EEA for DOE concluded that a "maximum technology" level of 39 miles per gallon was feasible in 2001 if size, luxury, and performance were constant at 1987 levels. The study did not account for new safety or emission standards other than airbags. It also concluded that the maximum technology scenario was technologically risky and not cost effective to the consumer at the expected 2001 gasoline prices. * * *

The study—

He continued—

was the subject of intense manufacturer scurtiny. Having met with the manufacturers to review the technology improvement forecasts, we have made modest adjustments to the technology specific benefits, revising some upward, others downward. The net effect was a downward adjustment of about 1.1 miles per gallon. In addition, we recognized some improvements already present in the baseline that led to further downward adjustment of 0.4 miles per gallon, for a net adjustment of 1.5 miles per gallon.

New emission standards and safety standards planned for the 1990's may bring about a reduction in fuel economy of 0.6 miles per gallon.

Finally, if one considers that it is too late to roll back performance, luxury, and size to 1987 levels, but instead freezes these variables at expected 1991 levels, a further reduction of 1.2 miles per gallon is estimated for the 2001 forecast.

Here is his conclusion:

My revised CAFE estimate in a "maximum technology" scenario for the domestic manufacturers in 2001 is 35.7 miles per gallon.

In short, Mr. President, Mr. Duleep has now determined that the maximum technologically achievable CAFE level for 2001 is not 38.5, as the bill requires, but 35.7 miles per gallon. And that fuel economy level, according to Mr. Duleep, is "technologically risky and not cost effective to the consumer."

But this risky and expensive CAFE level is 3 miles per gallon below the requirements of Senate bill 1224. What levels of fuel economy does Mr. Duleep think are cost effective? He has provided us with this answer, too.

According to Mr. Duleep, the maximum cost-effective CAFE level for 2001 is 32.4 miles per gallon. That is more than 6 miles per gallon below the standards imposed by the pending bill. If supporters of S. 1224 would follow the study that they rely on in the committee report and go with the levels that that study says are practical, we would have a more realistic bill.

The proponents of the bill then fall back to an EPA study that they rely on. They say that a technical report issued by the EPA in May 1989 concludes that if we take the most fuel-efficient model presently available today in each size category, we would achieve a 33.9-mile-per-gallon fuel fleet average.

But that is the best in class vehicle that they are looking at. The proponents when they rely on a EPA report are not looking at the average of the class, as you must do to fairly report that study. They look at the best vehicle in the class, from their perspective.

And the EPA report indicates that the best in class vehicle, the one that the proponents have to rely on to substantiate the conclusion, and the only thing they can rely on, that that vehicle, which is the best in class, is on average over 500 pounds, or 20 percent lighter, than the average vehicle in the class, and these vehicles also have markedly lower levels than the average vehicle in their class.

According to the EPA report, their engines are 36 percent smaller, have 26 percent less horsepower and achieve 12 percent slower acceleration. In short, Mr. President, the EPA report itself indicates that the so-called best-in-class vehicles which the proponents are relying on are smaller, slower, and less powerful then the typical vehicle on the street today. The EPA report does not fairly support the conclusion that we can achieve the standards in the bill without sacrificing vehicle size and performance.

Mr. President, do I need to make a unanimous-consent request at this point?

The PRESIDING OFFICER. We are just about at the hour where we will go to S. 1511.

Mr. RIEGLE. Will the Senator yield for a moment? I want to make a unanimous-consent request.

Mr. LEVIN. I will be happy to yield.

Mr. RIEGLE. I am wondering how much time my colleague feels he needs. I will make that request now.

Mr. LEVIN. I will need a few minutes——

THE PRESIDNG OFFICER. Is the unanimous-consent request being made for the extension of time?

Mr. LEVIN. I am wondering if we can withhold. Are the managers who are supposed to be on the bill at 5 presently here? I do not want to cut into their time with whatever request I make. If not, I would like 4 additional minutes.

Mr. RIEGLE. I ask unanimous consent the Senator from Michigan be given 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I have a letter that has just come in from William Reilly that needs to be read into the RECORD that is exactly on the point Senator LEVIN was just making. It is a new letter from the Secretary. This might be the appropriate point for that letter to be printed in the RECORD, and I ask unanimous consent it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC September 24, 1990.

Hon. GEORGE J. MITCHELL,
The Majority Leader,
U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: I am writing with regard to S. 1224 which is now before the U.S. Senate. I want to add my opposition to that of Energy Secretary Watkins and Transportation Secretary Skinner to S. 1224. I believe, as they stated in their letter of September 13, 1990, that the fuel economy levels required by S. 1224 are not achievable with available fuel technology without sacrificing performance and size.

In addition to the technical feasibility, there are other important factors which need to be considered before a decision can be made on fuel economy improvements. These include the effects of the proposed changes on the competitiveness of the domestic auto industry and the changes in vehicle design and product mix that would be required by overly stringent standards. These also include a potential impacts on air quality because higher vehicle costs would likely cause some consumers to keep their older, less fuel efficient, more polluting automobiles longer.

I also want to reiterate the point Secretaries Watkins and Skinner made regarding auto industry's engineering resources. The Clean Air Act and other new requirements will tax the ability of the industry without the additional need to make rapid changes in fuel economy technology.

I urge Congress not to rush ahead with ill-considered policies, such as S. 1224 that may unnecessarily jeopardize other equally important goals.

Sincerly yours,

WILLIAM K. REILLY.

Mr. BRYAN. Mr. President, if the distinguished Senator from Michigan will yield for just a moment, I ask

unanimous consent for 2 minutes after he finishes his remarks.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. At 5:08, we will resume consideration of S. 1511.

The Senator from Michigan.

Mr. LEVIN. Mr. President, let me briefly read a letter from Administrator Reilly, of EPA, to Senator MITCHELL, which Senator RIEGLE just made reference to:

DEAR SENATOR MITCHELL: I am writing with regard to S. 1224, which is now before the U.S. Senate. I want to add my opposition to that of Energy Secretary Watkins and Transportation Secretary Skinner to S. 1224. I believe, as they stated in their letter of September 13, that the fuel economy levels required by S. 1224 are not achievable with available fuel technology without sacrificing performance and size.

In addition to the technical feasibility, there are other important factors which need to be considered before a decision can be made on fuel economy improvements. These include the effects of the proposed changes on the competitiveness of the domestic auto industry and the changes in vehicle design and product mix that would be required by overly stringent standards. These also include potential impacts on air quality because higher vehicle costs will likely cause some consumers to keep their older, less fuel-efficient, more air-polluting automobiles longer.

I also want to reiterate the point Secretaries Watkins and Skinner made regarding the auto industry's engineering resources. The Clean Air Act and other new requirements will tax the ability of the industry without the additional need to make rapid changes in fuel economy technology.

I urge Congress not to rush ahead with ill-considered policies, such as S. 1224 that may unnecessarily jeopardize other equally important goals.

Mr. President, as the Administrator made reference, both the Secretary of Transportation and the Secretary of Energy have firmly concluded that the requirements of the pending bill are not technically feasible and could have devastating effects. As the Secretary of Transportation stated in a March 7, 1990, letter regarding a virtually identical proposal then pending:

The amendment would have a devastating impact on American consumers, auto workers, highway safety, and our vehicle industry. While there are a number of reasons to oppose this amendment, we would highlight the following points:

Here the Secretary of Transportation wrote the following:

Technical Feasilbility. The technical feasibility of achieving CAFE standards * * * without significant vehicle downsizing, has simply not been demonstrated. Most readily available techniques for improving fuel economy (e.g., front-wheel drive, four-speed automatic transmissions, aerodynamics) have already been implemented in much of the U.S. fleet. The Administration believes that continuing application of those technologies will provide only modest CAFE improvements—much lower than suggested by proponents of this amendment. The proposed CAFE standards would surely require significant additional downsizing of both the passenger car and light truck fleets.* * *

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. LEVIN. I thank the Chair. Mr. President, the Secretary of Transportation went on to say the following:

These drastic increases in CAFE standards are highly impractical since they would radically curtail the choice of new vehicles available to American consumers. Manufacturers would be forced to scale back or eliminate the production of large and mid-size cars and trucks, leaving only small vehicles for sale—which would adversely affect those with large families, those in carpools, and those who desire the security of large cars, among others.

The Secretary of Transportation went on to say that:

Major downsizing of vehicles, such as the amendment would require, does have a noticeable adverse impact on the safety of occupants. Our statistical analyses have demonstrated that the market-driven downsizing of the 1970's had adverse safety effects. In my view, it would be a tragic mistake to enact legislation (despite its noble intentions) that served to undermine this country's progress in highway safety.

And, Mr. President, Energy Secretary Watkins wrote, in June 1990, that:

Notwithstanding the claim made in section 2 of the bill, DOE has not estimated that * * * "increased fuel efficiency is possible utilizing currently available technology and without significant changes in the size, mix, or performance of the fleet * * * [and] that the fuel economy of the entire new car fleet could range from 33 to 38 miles per gallon by 1995."

This is the conclusion of the Energy Secretary:

In fact, DOE analysis indicates that the CAFE requirements that this bill would place on U.S. manufacturers could not be achieved without significant changes to the size, mix, and performance of these vehicles.

Mr. President, that conclusion is exactly the opposite of the conclusion which has been stated over and over again on this floor that the standards in this bill could be achieved without significant downsizing.

He goes on to say:

These changes would cause significant economic losses to domestic manufacturers. Consumers would be unable to purchase the vehicles that meet their requirements and could face increased risk of injuries and fatalities due to reduced vehicle weight and size.

The motor vehicle industry is already facing substantial regulatory demands, including the emerging Clean Air Act amendments and upgraded side-impact protection. These air quality and safety requirements need to be carefully assessed before imposing yet another, potentially conflicting, set of requirements on the automobile industry.

In short, the standards imposed by the pending bill go far beyond the levels that the Department of Transportation, the Department of Energy, and their independent experts have concluded are technologically feasible.

Moreover, these standards address only one industry—the automobile industry—and place no other requirements on any other industry that consumes oil or other fossil fuels.

Section 2 of the bill states that the light duty vehicle fleet in the United States accounts for about 39 percent of U.S. oil consumption. But the bill does not even attempt to identify the other 61 percent of oil consumption in this country. And it does not even start to consider the conservation of other fossil fuels, which also contribute to pollutant emissions, the greenhouse effect, and our dangerous energy dependency.

Fossil fuels are consumed in huge quantities by cement kilns, iron and steel plants, pulp and paper mills, synthetic fiber plants, chemical plants, glass plants, and electric utilities, among others. Yet this bill, which purports to address energy conservation and the emission of greenhouse gases, imposes no requirements on these other industries.

The Department of Energy is working on a national energy strategy, which it expects to have ready in draft form by the end of the year. The Environmental Protection Agency has already issued a lengthy report detailing dozens of ways in which emissions of carbon dioxide can be reduced.

Just last month, the Senate itself approved a bill requiring the development of a least cost national energy policy. The stated purpose of that bill is to—establish a national energy policy that will fully consider the contribution of energy use to potential changes in global climate and will include cost-effective strategies to lessen the generation of energy related greenhouse gases consistent with the achievement of other domestic energy, economic, social, and environmental goals.

Instead of waiting for this policy, however, the committee chose to single out one sector of the economy to make huge changes without regard to whether they are cost effective or technologically feasible. Indeed, there is no evidence that the committee even considered the costs of energy conservation and reduction of carbon dioxide emissions by other sectors of the economy or attempted to develop a reasonable, balanced, least-cost approach to these problems.

Mr. President, the automobile industry must do its share to conserve energy and it must do its share to reduce the emission of greenhouse gases. I believe we should adopt cost-effective measures to achieve these objectives and I believe that the automobile industry should be included in a comprehensive energy and greenhouse strategy.

At the same time, however, we should not require wasteful steps that could cost American consumers billions of dollars, severely restrict consumer choice, and seriously weaken an important industry in this country.

Mr. President, this bill would impose extraordinary and unnecessary costs on consumers and workers in order to achieve standards that independent experts have concluded are not technologically or economically feasible in the timeframe established.

Finally, enactment of this bill could cost lives. Just last week, the Insurance Institute for Highway Safety issued a report concluding that the toll could be in the thousands. I read from that report last week, but I think it bears repeating in this debate. The Insurance Institute report states:

Car size is perhaps the most important single factor when it comes to protecting occupants in crashes. All other things being equal, people in larger cars sustain fewer injuries in crashes than people in smaller cars. Why? Because the smaller cars have less crush space to absorb energy and, therefore, higher crash forces are transmitted to their occupants.* * *

Overall, the death rate in the smallest cars on the road is more than double the rate in the largest cars. For every 10,000 registered cars one to three years old in 1989, 3.0 deaths occurred in the smallest cars on the road, compared with 1.3 in the largest cars. The death rate is at least twice as high in small cars, compared with large cars, in both single- and multiple-vehicle crashes. The effects of car size are true without regard to the ages of the drivers.* * *

Insurance claims for occupant injuries are also more frequent in small cars than in large ones. Among the 29 two- and four-door cars with the highest frequencies of injury claims, 27 are small. Two are midsize. And not one of the 29 is large. Among the nine two- and four-door cars with the lowest injury claim frequencies, on the other hand, seven are large. The other two are midsize, and not one of the nine is small. * * *

What's true is this: A relationship exists between death rates and fuel use, even if it isn't a precise one-to-one relationship. * * * According to a regression equation estimated by Institute researchers from death rates and EPA fuel ratings of 47 four-door cars, on average every one mile-per-gallon improvement in fuel economy translates into a 3.9 percent increase in the death rate.

Let me repeat that last sentence. According to the Insurance Institute for Highway Safety, "every one mile-per gallon improvement in fuel economy translates into a 3.9 percent increase in the death rate."

If this is true, it means every 1-mile-per-gallon increase in CAFE standards kills 1,800 people per year. This bill, which would require an 11-mile-per gallon increase in CAFE standards, would result in 20,000 deaths per year. That's 20,000 added deaths per year, estimated to occur if this bill becomes law.

Mr. President, the Insurance Institute does not stand alone in reaching this conclusion. It is supported by the Department of Transportation, the National Highway Traffic Safety Administration, and other independent experts.

A 1989 report issued by the Department of Transportation concludes that downsizing of cars has resulted in increased traffic fatalities. According to the report:

Narrower, lighter, shorter cars have higher rollover rates than wide, heavy, long ones under the same crash conditions. During 1970-82, as the market shifted from large domestic cars to downsized, subcompact or imported cars, the fleet became more rollover prone.

The net effect, the Department of Transportation concluded, was an increase of approximately 1,340 rollover fatalities per year.

Another 1989 study, by researchers at Harvard University and the Brookings Institution concluded that automobile weight reductions in the late seventies and early eighties led to a 14 to 27 percent increase in occupant fatality risk. They projected that existing fuel economy standards result in 2,200 to 3,900 excess occupant fatalities for each model year.

Obviously, if fuel economy standards were dramatically tightened, these numbers would go up.

The Secretary of Transportation and the Administrator of the National Highway Traffic Safety Administration have both stated that this bill, if enacted, would create substantial traffic safety problems.

Let me quote from a letter that Transportation Secretary Samuel Skinner wrote to the Congress this spring:

Major downsizing of vehicles, such as the amendment would require, does have a noticeable adverse impact on the safety of occupants. Our statistical analyses have demonstrated that the market-driven downsizing of the 1970's had adverse safety effects. In my view, it would be a tragic mistake to enact legislation (despite ite noble intentions) that served to undermine this country's progress in highway safety.

And here is what NHTSA Administrator Jerry Ralph Curry had to say about CAFE standards and traffic safety earlier this year:

If an upward movement in CAFE numbers produces a significant reduction in vehicle size and weight—which seems inevitable—the safety consequences are not hard to predict. Injuries will be more severe; deaths will increase.

These statements are reinforced by the conclusion of the president of the Insurance Institute that the standards in S. 1224 could not be achieved without significant downsizing.

Here is how the Washington Post reported it:

Institute President Brian O'Neill said the [Institute's] report is not meant to defend gas-guzzling cars. "I'm as good an environmentalist as the next guy, but I believe that we have to look at the whole picture," O'Neill said. * * * O'Neill and his staff agreed that [new technologies] can help save gasoline, but he said those savings will not yield the 40 miles per gallon standard that many conservationists believe the auto industry can achieve by the year 2000. "Even with those technologies, to get that kind of mileage, your're talking about downsizing," O'Neill said.

We heard last week on the Senate floor that highway deaths have declined since 1975, while vehicle size has declined. But the causal connection isn't there. Many other critical steps were taken to increase highway safety in this period—mandatory seatbelt laws, 55 mile-per-speed limits, drunk driving campaigns.

The American Coalition for Traffic Safety estimates that State seatbelt laws and minimum drinking laws alone have saved 20,000 lives in recent years. These factors caused small car fatalities to decline, and they caused large car fatalities to decline. The differential between deaths in small and large cars during that period remained the same. That is the point.

Department of Transportation data indicates that in 1978, there were 17.01 occupant fatalities per 100,000 cars for the largest cars and 31.73 fatalities per 100,000—or roughly twice as many—for the smallest cars. By 1987, the fatalities for large cars had declined from 17.01 to 15.56, and the fatalities for small cars had declined from 31.73 to 28.81. There were still roughly twice as many traffic fatalities in the small cars.

All other things being equal, whether it is 1975 or 1990, twice as many people die in small cars than large cars. That cannot be disputed.

Finally, Senator BRYAN cited a letter from Mr. Duleep responding to the Insurance Institute study. This letter concludes that the Insurance Institute has underestimated the fuel efficiency improvements that can be made through technology alone.

Assume for a minute that the Insurance Institute has overestimated the amount of downsizing that would be required to meet the standards set in S. 1224. Duleep himself says that the only way we can meet these standards is through downsizing. The Insurance Institute says that downsizing will cost lives, and Duleep does not dispute that. There may be a dispute over how many but not over whether lives will be lost by downsizing.

Mr. President, we need to reduce our dependency on imported oil. We need to address the greenhouse effect. We need a national energy policy. I do not doubt that we can make reasonable increases in automobile fuel efficiency without excessive downsizing and without a significant increase in highway fatalities.

There are technologies available that should enable us to increase fuel efficiency levels by several miles per gallon over the next decade. There are areas in which the auto makers have opted for increased power and accel-

eration, when they could have chosen increased fuel economy instead. Improvements can be made.

But Mr. President, the experts agree that the standards in this bill are far too stringent to be met without significant, across-the-board reductions in the size and weight of new automobiles. And downsizing will lead to a significant increase in highway deaths. That is just not acceptable.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator's time has expired.

The Senator from Nevada is recognized for 2 minutes.

Mr. BRYAN. Thank you very much, Mr. President. I would not want my colleagues on the floor or those watching from their offices to conclude that silence is acquiescence. It is our view, after a very carefully considered series of hearings, that, indeed, the technology necessary to achieve the 20- percent fuel improvement by the year 1995 and the 40 percent by the year 2001 is fully supported by the record.

I look forward to extended discussion with my good friend, the distinguished Senator from Michigan, tomorrow during the course of our hour which has been set aside for debate where we will respond point by point to his contention with respect to the technology and, in our view, the proper interpretation of it and also to discuss any concerns which have been raised about issues of safety. We believe the evidence overwhelmingly supports that S. 1224 does not involve a compromise of safety, it does not involve downsizing, and that the two are completely compatible and harmonious each with the other and that there are a number of safety experts who will bear witness to that position.

I thank the Chair. I yield back my time.

Mr. HATCH. Mr. President, I would like to alert my colleagues to a problem associated with S. 1224 that I believe has been overlooked so far in this discussion. Much of the debate over S. 1224 has focused on the potential effects of more stringent fuel economy standards, the resulting downsizing and weight reduction efforts by automobile manufacturers, and the inevitable loss of lives through increased highway traffic fatalities. Studies released recently by the U.S. Department of Transportation and by the Insurance Institute for Highway Safety provide dramatic evidence that downsizing can have a significant adverse effect on occupant safety.

Somewhat overlooked in this debate is the even more far-reaching effect that S. 1224 could have on the development of safety technology, which would affect all drivers. Single and limited line manufacturers such as Volvo, BMW, and Mercedes-Benz have provided the development of safety technology which is standard on virtually every car sold in the United States today. Critical features such as 3-point seatbelts, airbags, antilock brakes, head restraints, and side-intrusion bars were first introduced on large, relatively expensive cars manufactured by these limited line manufacturers. These features not only add weight to an automobile, but they are relatively expensive to produce until economies of scale can be achieved, and they can be included on smaller, less-expensive automobiles.

The effect of S. 1224 would be to stifle this development of safety technology. Single and limited line manufacturers do not have small car fleets with which to average their larger cars. Even though their cars are no less fuel efficient than comparable cars produced by full-line manufacturers, they would be subject to much greater and even prohibitive penalties under the provisions of S. 1224. The resulting effect on safety development would be detrimental to all automobile owners, regardless of the size of the automobile which they prefer.

OLDER WORKERS BENEFIT PROTECTION ACT

The PRESIDING OFFICER. Under the previous order, the hour of 5:10 having arrived, the Senate now resumes consideration of S. 1511, which the clerk will report.

The bill clerk read as follows:

A bill (S. 1511) to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

The Senate resumed consideration of the bill.

Mr. BRYAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is S. 1511.

AMENDMENT NO. 2759

Mr. METZENBAUM. Mr. President, I send to the desk an amendment in the nature of a substitute on behalf of myself and Senator HATCH and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself, Mr. HATCH, Mr. PRYOR, Mr. HEINZ, and Mr. JEFFORDS, proposes an amendment numbered 2759.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Older Workers Benefit Protection Act".

TITLE I—OLDER WORKERS BENEFIT PROTECTION

SEC. 101. Finding.

The Congress finds that, as a result of the decision of the Supreme Court in *Public Employees Retirement System of Ohio* v. *Betts*, 109 S.Ct. 256 (1989), legislative action is necessary to restore the original congressional intent in passing and amending the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), which was to prohibit discrimination against older workers in all employee benefits except when age-based reductions in employee benefit plans are justified by significant cost considerations.

SEC. 102. DEFINITION.

Section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630) is amended by adding at the end the following new subsection:

"(1) The term 'compensation, terms, conditions, or privileges of employment' encompasses all employee benefits, including such benefits provided pursuant to a bona fide employee benefit plan.".

SEC. 103. LAWFUL EMPLOYMENT PRACTICES.

Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended—

(1) in subsection (f), by striking paragraph (2) and inserting the following new paragraph:

"(2) to take any action otherwise prohibited under subsection (a), (b), (c), or (e) of this section—

"(A) to observe the terms of a bona fide seniority system that is not intended to evade the purposes of this Act, except that no such seniority system shall require or permit the involuntary retirement of any individual specified by section 12(a) because of the age of such individual; or

"(B) to observe the terms of a bona fide employee benefit plan—

"(i) where, for each benefit or benefit package, the actual amount of payment made or cost incurred on behalf of an older worker is no less than that made or incurred on behalf of a younger worker, as permissible under section 1625.10, title 29, Code of Federal Regulations (as in effect on June 22, 1989); or

"(ii) that is a voluntary early retirement incentive plan consistent with the relevant purpose or purposes of this Act.

Notwithstanding clause (i) or (ii) of subparagraph (B), no such employee benefit plan or voluntary early retirement incentive plan shall excuse the failure to hire any individual, and no such employee benefit plan shall require or permit the involuntary retirement of any individual specified by section 12(a), because of the age of such individual. An employer, employment agency, or labor organization acting under subparagraph (A), or under clause (i) or (ii) of subparagraph (B), shall have the burden of proving that such actions are lawful in any

civil enforcement proceeding brought under this Act; or";

(2) by redesignating the second subsection (i) as subsection (j); and

(3) by adding at the end the following new subsections:

"(k) A seniority system or employee benefit plan shall comply with this Act regardless of the date of adoption of such system or plan.

"(1) Notwithstanding clause (i) or (ii) of subsection (f)(2)(B)—

"(1) It shall not be a violation of subsection (a), (b), (c), or (e) solely because—

"(A) an employee pension benefit plan (as defined in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2))) provides for the attainment of a minimum age as a condition of eligibility for normal or early retirement benefits; or

"(B) a defined benefit plan (as defined in section 3(35) of such Act) provides for—

"(i) payment that constitutes the subsidized portion of an early retirement benefit; or

"(ii) social security supplements for plan participants that commence before the age and terminate at the age (specified by the plan) when participants are eligible to receive reduced or unreduced old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.), and that do not exceed such old-age insurance benefits.

"(2)(A) It shall not be a violation of subsection (a), (b), (c), or (e) solely because following a contingent event unrelated to age—

"(i) the value of any retiree health benefits received by an individual eligible for an immediate pension; and

"(ii) the value of any additional pension benefits that are made available solely as a result of the contingent event unrelated to age and following which the individual is eligible for not less than an immediate and unreduced pension,

are deducted from severance pay made available as a result of the contingent event unrelated to age.

"(B) For an individual who receives immediate pension benefits that are actuarially reduced under subparagraph (A)(i), the amount of the deduction available pursuant to subparagraph (A)(i) shall be reduced by the same percentage as the reduction in the pension benefits.

"(C) For purposes of this paragraph, severance pay shall include that portion of supplemental unemployment compensation benefits (as described in section 501(c)(17) of the Internal Revenue Code of 1986) that—

"(i) constitutes additional benefits of up to 52 weeks;

"(ii) has the primary purpose and effect of continuing benefits until an individual becomes eligible for an immediate and unreduced pension; and

"(iii) is discontinued once the individual becomes eligible for an immediate and unreduced pension.

"(D) For purposes of this paragraph, the term 'retiree health benefits' means benefits provided pursuant to a group health plan covering retirees, for which (determined as of the contingent event unrelated to age)—

"(i) the package of benefits provided by the employer for the retirees who are below age 65 is at least comparable to benefits provided under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); and

"(ii) the package of benefits provided by the employer for the retirees who are age 65 and above is at least comparable to that offered under a plan that provides a benefit package with one-fourth the value of benefits provided under title XVIII of such Act.

"(E)(i) If the obligation of the employer to provide retiree health benefits is of limited duration, the value for each individual shall be calculated at a rate of $3,000 per year for benefit years before age 65, and $750 per year for benefit years beginning at age 65 and above.

"(ii) If the obligation of the employer to provide retiree health benefits is of unlimited duration, the value for each individual shall be calculated at a rate of $48,000 for individuals below age 65, and $24,000 for individuals age 65 and above.

"(iii) The values described in clauses (i) and (ii) shall be calculated based on the age of the individual as of the date of the contingent event unrelated to age. The values are effective on the date of enactment of this subsection, and shall be adjusted on an annual basis, with respect to a contingent event that occurs subsequent to the first year after the date of enactment of this subsection, based on the medical component of the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(iv) If an individual is required to pay a premium for retiree health benefits, the value calculated pursuant to this subparagraph shall be reduced by whatever percentage of the overall premium the individual is required to pay.

"(F) If an employer that has implemented a deduction pursuant to subparagraph (A) fails to fulfill the obligation described in subparagraph (E), any aggrieved individual may bring an action for specific performance of the obligation described in subparagraph (E). The relief shall be in addition to any other remedies provided under Federal or State law.

"(3) It shall not be a violation of subsection (a), (b), (c), or (e) solely because an employer provides a bona fide employee benefit plan or plans under which long-term disability benefits received by an individual are reduced by any pension benefits (other than those attributable to employee contributions)—

"(A) paid to an individual that the individual voluntarily elects to receive; or

"(B) for which an individual who has attained the later of age 62 or normal retirement age is eligible.".

SEC. 104. RULES AND REGULATIONS.

Notwithstanding section 9 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 628), the Equal Employment Opportunity Commission may issue such rules and regulations as the Commission may consider necessary or appropriate for carrying out this title, and the amendments made by this title, only after consultation with the Secretary of the Treasury and the Secretary of Labor.

SEC. 105. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this section, this title and the amendments made by this title shall apply only to—

(1) any employee benefit established or modified on or after the date of enactment of this Act; and

(2) other conduct occurring more than 180 days after the date of enactment of this Act.

(b) COLLECTIVELY BARGAINED AGREEMENTS.—With respect to any employee benefits provided in accordance with a collective bargaining agreement—

(1) that is in effect as of the date of enactment of this Act;

(2) that terminates after such date of enactment;

(3) any provision of which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)); and

(4) that contains any provision that would be superseded (in whole or part) by this title and the amendments made by this title, but for the operation of this section,

this title and the amendments made by this title shall not apply until the termination of such collective bargaining agreement or June 1, 1992, whichever occurs first.

(c) STATES AND POLITICAL SUBDIVISIONS.—

(1) IN GENERAL.—With respect to any employee benefits provided by an employer—

(A) that is a State or political subdivision of a State or any agency or instrumentality of a State or political subdivision of a State; and

(B) That maintained an employee benefit plan at any time between June 23, 1989, and the date of enactment of this Act that would be superseded (in whole or in part) by this title and the amendments made by this title but for the operation of this subsection, and which plan may be modified only through a change in applicabe State or local law,

this title and the amendments made by this title shall not apply until the date that is 2 years after the date of enactment of this Act.

(2) ELECTION OF DISABILITY COVERAGE FOR EMPLOYEES HIRED PRIOR TO EFFECTIVE DATE.—

(A) IN GENERAL.—An employer that maintains a plan described in paragraph (1)(B) may, with regard to disability benefits provided pursuant to such a plan—

(i) following a reasonable notice to all employees, implement new disability benefits that satisfy the requirements of the Age Discrimination in Employment Act of 1967 (as amended by this title); and

(ii) then offer to each employee covered by a plan described in paragraph (1)(B) the option to elect such new disability benefits in lieu of the existing disability benefits, it—

(I) the offer is made and reasonable notice provided no later than the date that is 2 years after the date of enactment of this Act; and

(II) the employee is given up to 180 days after the offer in which to make the election.

(B) PREVIOUS DISABILITY BENEFITS.—If the employee does not elect to be covered by the new disability benefits, the employer may continue to cover the employee under the previous disability benefits even though such previous benefits do not otherwise satisfy the requirements of the Age Discrimination in Employment Act of 1967 (as amended by this title).

(C) ABROGATION OF RIGHT TO RECEIVE BENEFITS.—An election of coverage under the new disability benefits shall abrogate any right the electing employee may have had to receive existing disability benefits. The employee shall maintain any years of service accumulated for purposes of determining eligibility for the new benefits.

(3) STATE ASSISTANCE.—The Equal Employment Opportunity Commission, the Secretary of Labor, and the Secretary of the Treasury shall, on request, provide to States assistance in identifying and securing inde-

pendent technical advice to assist in complying with this subsection.

(4) DEFINITIONS.—For purposes of this subsection:

(A) EMPLOYER AND STATE.—The terms "employer" and "State" shall have the respective meanings provided such terms under subsections (b) and (i) of section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630).

(B) DISABILITY BENEFITS.—The term 'disability benefits' means any program for employees of a State or political subdivision of a State that provides long-term disability benefits, whether on an insured basis in a separate employee benefit plan or as part of an employee pension benefit plan.

(C) REASONABLE NOTICE.—The term "reasonable notice" means, with respect to notice of new disability benefits described in paragraph (2)(A) that is given to each employee, notice that—

(i) is sufficiently accurate and comprehensive to appraise the employee of the terms and conditions of the disability benefits, including whether the employee is immediately eligible for such benefits; and

(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

(d) DISCRIMINATION IN EMPLOYEE PENSION BENEFITS PLANS.—Nothing in this title, or the amendments made by this title, shall be construed as limiting the prohibitions against discrimination that are set forth in section 4(j) of the Age Discrimination in Employment Act of 1967 (as redesignated by section 103(2) of this Act).

(e) CONTINUED BENEFIT PAYMENTS.—Notwithstanding any other provision of this section, on and after the effective date of this title and the amendments made by this title (as determined in accordance with subsections (a), (b), and (c)), this title and the amendments made by this title shall not apply to a series of benefit payments made to an individual or the individual's representative that began prior to the effective date and that continue after the effective date pursuant to an arrangement that was in effect on the effective date, except that no substantial modification to such arrangement may be made after the date of enactment of this Act if the intent of the modification is to evade the purposes of this Act.

TITLE II—WAIVER OF RIGHTS OR CLAIMS

SEC. 201. WAIVER OF RIGHTS OR CLAIMS.

Section 7 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626) is amended by adding at the end the following new subsection:

"(f)(1) An individual may not waive any right or claim under this Act unless the waiver is knowing and voluntary. Except as provided in paragraph (2), a waiver may not be considered knowing and voluntary unless at a minimum—

"(A) the waiver is part of an agreement between the individual and the employer that is written in a manner calculated to be understood by such individual, or by the average individual eligible to participate;

"(B) the waiver specifically refers to rights or claims arising under this Act;

"(C) the individual does not waive rights or claims that may arise after the date the waiver is executed;

"(D) the individual waives rights or claims only in exchange for consideration in addition to anything of value to which the individual already is entitled;

"(E) the individual is advised in writing to consult with an attorney prior to executing the agreement;

"(F)(i) the individual is given a period of at least 21 days within which to consider the agreement; or

"(ii) if a waiver is requested in connection with an exit incentive or other employment termination program offered to a group or class of employees, the individual is given a period of at least 45 days within which to consider the agreement;

"(G) the agreement provides that for a period of at least 7 days following the execution of such agreement, the individual may revoke the agreement, and the agreement shall not become effective or enforceable until the revocation period has expired;

"(H) if a waiver is requested in connection with an exit incentive or other employment termination program offered to a group or class of employees, the employer (at the commencement of the period specified in subparagraph (F)) informs the individual in writing in a manner calculated to be understood by the average individual eligible to participate, as to—

"(i) any class, unit, or group of individuals covered by such program, any eligibility factors for such program, and any time limits applicable to such program; and

"(ii) the job titles and ages of all individuals eligible or selected for the program, and the ages of all individuals in the same job classification or organizational unit who are not eligible or selected for the program.

"(2) A waiver in settlement of a charge filed with the Equal Employment Opportunity Commission, or an action filed in court by the individual or the individual's representative, alleging age discrimination of a kind prohibited under section 4 or 15 may not be considered knowing and voluntary unless at a minimum—

"(A) subparagraphs (A) through (E) of paragraph (1) have been met; and

"(B) the individual is given a reasonable period of time within which to consider the settlement agreement.

"(3) In any dispute that may arise over whether any of the reuqirements, conditions, and circumstances set forth in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H) of paragraph (1), or subparagraph (A) or (B) of paragraph (2), have been met, the party asserting the validity of a waiver shall have the burden of proving in a court of competent jurisdiction that a waiver was knowing and voluntary pursuant to paragraph (1) or (2).

"(4) No waiver agreement may affect the Commission's rights and responsibilities to enforce this Act. No waiver may be used to justify interfering with the protected right of an employee to file a charge or participate in an investigation or proceeding conducted by the Commission.".

SEC. 202. EFFECTIVE DATE.

"(a) IN GENERAL.—The amendment made by section 201 shall not apply with respect to waivers that occur before the date of enactment of this Act.

(b) RULE ON WAIVERS.—Effective on the date of enactment of this Act, the rule on waivers issued by the Equal Employment Opportunity Commission and contained in section 1627.16(c) of title 29, Code of Federal Regulations, shall have no force and effect.

TITLE III—SEVERABILITY

SEC. 301. SEVERABILITY

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

The PRESIDING OFFICER. Under the previous order, the time between now and 7 p.m. is equally divided and controlled by the Senator from Utah [Mr. HATCH] and the Senator from Ohio [Mr. METZENBAUM].

The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that a statement in behalf of the managers with respect to the final substitute be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1511 FINAL SUBSTITUTE: STATEMENT OF MANAGERS

VOLUNTARINESS

1. The managers wish to make clear that it is the plaintiff's burden under the ADEA to demonstrate that his or her retirement was involuntary. Such a claim would be raised under section 4(a). Under the ADEA, an employer does not have to prove that an early retirement incentive plan is voluntary. Of course, no employee benefit plan—including an early retirement incentive plan—may require or permit the involuntary retirement of any individual.

2. The fifth sentence of the second full paragraph on page 27 of the Committee Report is expressly disavowed.

3. Because, by definition, early retirement incentive plans are made available exclusively to olders workers, relevant circumstances must be carefully examined to ensure that older workers make a voluntary decision. In order to determine whether a voluntary decision has been made, among the factors that may be relevent are (1) whether the employee had sufficient time to consider his or her options; (2) whether accurate and complete information has been provided regarding the benefits available under the early retirement incentive plan; and (3) whether there have been threats, intimidation and/or coercion. The employee retains the burden of proof regarding the issue of involuntariness.

4. Some observers have construed language in the Committee Report to mean that an early retirement incentive offer that was very generous, in other words, almost too good to refuse, might also be challenged on the basis of voluntariness. Nothing in these amendments should be construed to give rise to any challenge to an early retirement incentive plan on the basis that the attractiveness of the offer induces employees to retire. The attractiveness of an early retirement incentive does not call into question the voluntariness of an employee's decision to take advantage of that incentive.

EARLY RETIREMENT INCENTIVE PLANS

1. At the outset, we wish to explain the meaning of the provision requiring that certain early retirement incentive plans must be "consistent with the relevant purpose or purposes of the Act." This standard does not apply to early retirement incentive plans described in paragraph 4(1)(1). It also does not apply to such plans unless a prima facie case of age discrimination has been established under section 4(a).

Under new paragraph 4(f)(2)(B), an early retirement incentive plan must be consistent with the relevant purpose or purposes of

the ADEA. The phrase "purposes of the Act" has been used as a standard in the ADEA for over 20 years, and the common approach has been to consider only the purpose or purposes that are relevant to the issue at hand. We endorse that approach. An early retirement incentive plan need not be shown to be consistent with every purpose of the ADEA in order to be found lawful. That would be an impossible burden for an employer to meet. As a general matter, the purpose implicated in considering an early retirement incentive plan or any particular feature of such a plan is the purpose of prohibiting arbitrary age discrimination in employment.

Early retirement incentive plans that withhold benefits to older workers above a specific age while continuing to make them available to younger workers may conflict with the purpose of prohibiting arbitrary age discrimination in employment. The purpose of prohibiting arbitrary age discrimination in employment also is undermined by denying or reducing benefits to older workers based on age-related stereotypes. For example, it would be unlawful under this substitute to exclude older workers from an early retirement incentive plan based on stereotypical assumptions that "older workers would be retiring anyway."

2. It is also clear that a wide variety of voluntary early retirement incentive plans would be lawful under the ADEA. For example, early retirement incentives that provide a flat dollar amount (e.g., $20,000), service-based benefits (e.g., $1,000 multiplied by the number of years of service), or a percentage of salary to all employees above a certain age were permissible before the *Betts* decision and would remain lawful under this substitute. Similarly, early retirement incentives that provide flat dollar increases in pension benefits (e.g. $200 per month) or percentage increases (e.g. 20%), would continue to remain lawful. Finally, early retirement incentives that impute years of service and/or age would satisfy the ADEA. For example, a plan that gives employees who have attained age 55 and who retire during a specified window period credit for 5 additional years of service and/or age would be lawful.

We recognize that employees may welcome the opportunity to participate in such programs, and we do not intend to deprive employees of such opportunities or to deny employers the flexibility to offer such programs rather than resorting to involuntary layoffs.

BURDEN OF PROOF IN SECTION 4(f)

1. Under section 4(f)(2)(A), the substitute provides that the employer bears the burden of proving that a bona fide seniority system is not intended to evade the purposes of the ADEA. The managers wish to make clear that this burden of proof does not disturb or affect the allocation of burdens of proof for seniority systems under Title VII.

2. The substitute deletes any reference to paragraphs 4(f)(1) and (3) of the Age Discrimination in Employment Act (ADEA). The *Betts* decision did not involve interpretation of those two paragraphs. The two paragraphs are removed because they are unchanged by *Betts* or by this bill.

In particular, the managers declare that they are not disturbing or in any way affecting the allocation of the burden of proof for paragraph 4(f)(1) under pre-*Betts* law. Prior to *Betts*, courts had allocated the burden of proof under paragraph 4(f)(1). This bill overturns the Supreme Court's allocation of the burden of proof under paragraph 4(f)(2). Because the allocation of the burden of proof under paragraph 4(f)(1) was not at issue in *Betts*, the managers find no need to address it in this bill.

ACTUARIAL PRACTICES

The substitute incorporates the equal benefit equal cost rule into section 4(f)(2). We note that in complying with this provision, the employer may base necessary cost data on generally accepted actuarial principles, such as actuarial extrapolation, smoothing and averaging, and on the use of reasonable related data—*e.g.*, as to the effects of aging on disability incidence and costs. In all circumstances, the employer must base calculations on the best reasonably available data.

STATE ELECTION PROCEDURES

The substitute allows state and local governments to offer existing employees an election between existing and newly-created disability benefits. The decision whether to have an election procedure is at the discretion of the affected state or local government. It is the managers' intent that the election provided for under section 105(c) of the bill be a one-time election to be used in the context of complying with this bill. The managers intend that once an employee either elects or does not elect to be covered by the new disability benefits under section 105(c)(2), the employee may not change his or her decision. Thus, an employee will not be permitted to opt in and out of two plans. The flexibility that the substitute provides for state and local governments is negated if employees are given such discretion. An employer shall use an effective method of transmitting notice, such as the mailing of notice to an employee's last known address, or the inclusion of notice in the employee's paycheck.

WAIVERS AS A DEFENSE

The managers intend that in any dispute over whether the requirements, conditions and circumstances set forth in paragraph 7(f)(1)(A)–(H) or 7(f)(2)(A)–(B) have been met, the party asserting the validity of the waiver shall have the burden of proving in a court of competent jurisdiction as an affirmative defense that the waiver process satisfied each of the factors in that paragraph. With respect to the allocation of burdens of proof and production on the issue of whether a waiver was "knowing and voluntary," the managers do not intend to distrub the law as it existed prior to passage of this bill, including the law under Rule 12 and Rule 56 of the Federal Rules of Civil Procedure.

RETIREE HEALTH

Many employer-sponsored retiree medical plans provide medical coverage for retirees only until the retiree becomes eligible for Medicare. In many of these cases, where coverage is provided to retirees only until they attain Medicare eligibility, the value of the employer-provided retiree medical benefits exceeds the value of the retiree's Medicare benefits. Other employers provide medical coverage to retirees at a relatively high level until the retirees become eligible for Medicare and at a lower level thereafter. In many of these cases, the value of the medical benefits that the retiree receives before becoming eligible for Medicare exceeds the total value of the retiree's Medicare benefits and the medical benefits that the employer provides after the retiree attains Medicare eligibility. These practices are not prohibited by this substitute. Similarly, nothing in this substitute should be construed as authorizing a claim on behalf of a retiree on the basis that the actuarial value of employer-provided health benefits available to that retiree not yet eligible for Medicare is less than the actuarial value of the same benefits available to a younger retiree.

Mr. METZENBAUM. Mr. President, I rise to inform the Senate that the managers have reached agreement on a compromise substitute amendment. I am pleased that we have reached this agreement because we can now all work together to ensure that this bill becomes law this year. The negotiations were long, they were tedious, they were drawn out, they were difficult at times. I think it is fair to say that without the unbelievable tenacity, patience, and willingness of our respective staffs, this compromise would never have been reached.

So I want to say publicly how grateful I am to my own staff, as well as to the staff of Senator HATCH who have given so much of themselves. I will address myself further to that subject at a later point.

This agreement means that will be overwhelming bipartisan support for the effort to protect the civil rights of millions of older Americans. I intend to outline the contents of the agreed-upon compromise, but first I must pay tribute to those Senators who in addition to the staffs have worked so diligently to bring this matter to a close.

Senator HATCH has shown great courage and leadership as chief architect of the compromise. He is a tough, but fair negotiator. He demanded many concessions from us and argued strongly for his position. But he also shared our commitment to enact the a law this year to protect older workers. It was that shared commitment that drove us to reach consensus.

On the side of the aisle, Senator PRYOR, the chairman of the Aging Committee, was my stalwart partner. He never wavered in his belief that we could reach an agreement. His calm, steady leadership guided us through a number of difficult issues. He pushed us to remain steadfast to our ultimate goal: to get a fair law enacted to protect older workers.

On the other side of the aisle, Senators HEINZ and JEFFORDS played key roles. Senator HEINZ, the ranking member of the Aging Committee, was a great help in these negotiations. He combined substantive expertise on some of these very complex issues with the common sense necessary to arrive at mutually agreeable language. Senator JEFFORDS, my ranking counterpart on the Labor Subcommittee, has been struggling with this bill as long as I have. He has been a presistent voice of reason throughout this long process.

I am frank to say that this substitute amendment is far from perfect—it is a true compromise. The managers

were forced to make some very painful concessions. Advocates for older Americans may be disappointed because this agreement is not all that they wanted. Many lobbyists for the business community will be upset because they wanted no law at all. But in the end we can hold our heads high, because older Americans will be better off once this compromise becomes law.

Some may ask, why did the supporters of this bill agree to such a painful compromise? After all, in the only vote on this bill last week, some 80 Senators supported the Pryor-Metzenbaum approach against an amendment offered by Senator HATCH. We also have a time agreement to vote final passage on the bill, deal or no deal, by 7 o'clock this evening.

But the answer is simple: we want a law, not just a bill enacted by a very strong majority of the Senate. The best way to get a law at this late stage of the session is by consensus. Now that Senator HATCH is on our side, we will work together to ensure quick passage by the House and final approval by the President.

I am frank to say it was meaningful to me during the negotiations that Senator HATCH pledged that he would indeed call the leadership of the House committees working on this measure to prevail upon them to join with us andmove this legislation promptly. I knwo that Senator HATCH's intervention will help the process because in the late days of a session, a bill can bog down easily.

Let me review briefly what is in the compromise agreement. I ask unanimous consent that a more detailed summary of the agreement be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. METZENBAUM. The basis of this agreement is that the committee substitute amendment as modified that was put before the Senate last Monday. We have made a number of changes in that amendment to accommdate Senator HATCH's concerns.

First, we modified the long-term disability benefit offset provision. Under the compromise, we allow an employer to offset those disability benefits against pension benefits: First, when an employee voluntarily elects to receive pension benefits; or second, when an employee becomes eligible for an unreduced pension and has reached the greater of age 62 or normal retirement age, generally age 65.

Second, we have expanded the number of employers who are eligible to offset any plant shutdown sweeteners against normal severance pay. Under the committee modification, only employers who offered retiree health benefits were eligible to take advantage of this offset. The compromise eliminates the requirement that retiree health benefits are a necessary pre-condition for this offset.

Third, we adjust the standard for judging the legality of an early retirement incentive plan. The compromise recognizes that such a plan is legal if it is consistent with the "relevant purpose or purposes" of the adea.

Fourth, in the waiver section, we provide that the employers' burden is to demonstrate that a waiver meets the enumerated requirements in the bill. We also eliminate any reference to the burden of proof allocation for the affirmative defenses under section 4(f)(1), so as to make clear that the pre-Betts allocation remains unchanged.

Fifth, we extend the effective date for private employers, not subject to a collective-bargaining agreement, from 60 days to 180 days after the date of enactment. We also clarify the effective date as it relates to a stream of benefit payments made to an individual that began prior to the effective date. We exempt such a benefit stream from the requirements of the bill, provided that the employer has not initiated the stream pursuant to a modification made after the date of enactment, with the intent to evade the purposes of the bill.

Finally, at Senator HATCH's request, we have deleted coverage of Federal employees under the bill.

Each one of those changes is the product of hours of hard bargaining. This compromise is well below where I thought we should be. In fact, on the issues of disability and integration, it is worse than what our bottom line position was.

But one has to be a realist. Regrettably, the administration had vowed to veto the bill in its earlier versions. This compromise represents our best effort at the end of a session to deal with all remaining problems raised by those parties who are serious about this issue. Simply put, I believe this compromise is our only real chance for a law this year.

We now have overwhelming broad-based support for this bill. State Governments are now expressing their view that we have fairly accommodated their concerns. My own State of Ohio, which ignited this issue by its treatment of June Betts, is now satisfied with the bill. In a letter I received last week, the Ohio retirement study commission stated that the bill now "accommodates the major concerns of Ohio's public pension funds." The State of Maine also supports the bill. The State of Maine has called the bill, as modified, "a fair compromise in addressing both the concerns of older workers regarding their eligibility for disability benefits and the cost to public employers."

I ask unanimous consent that the letters from Ohio and Maine be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. METZENBAUM. In addition, a number of responsible business leaders have had the courage to support the bill publicly because they recognize that we have accommodated their legitimate concerns. For example, Western Union, in its letter of support indicated:

> We recognize the need for Congress to act to close the broad loophole created in ADEA in Betts. * * * We believe that this legislation, which is prospective only, addresses our concerns regarding retroactivity. Accordingly, we will support this legislation and we will take whatever steps are necessary to conform our benefit plans to this legislation should it become law.

There are other companies that feel the same way. For example, the Unum Corp., America's leading provider of group long-term disability insurance, has repeatedly stated its support for this bill. Unum has praised the objective standards set forth in the bill as valid, reasonable, and workable.

Both public and private sector unions also support this legislation. For example, the United Autoworkers made this statement about the Pryor-Metzenbaum committee substitute: "The UAW urges you to give this substitute your enthusiastic support."

But the support of corporations, States, and trade unions pales in comparison to the overwhelming support by millions of older Americans. They want justice; they demand fair treatment. They need this bill to protect them from irrational, arbitrary age discrimination.

Older workers saw what happened to June Betts, and they do not want it to happen again. She lost her right to disability retirement benefits—thousands of dollars in earned benefits—simply because of her age.

June Betts now lives in a nursing home. She is destitute. She suffered from Alzheimer's disease. She worked hard for her money, but she was robbed of her dignity by a system that punished her simply because she has the bad fortune to become disabled 1 year after the age 60 cutoff for benefits.

Older workers saw what happened to Harry Sousa, a rubberworker from Rhode Island, and they do not want it to happen again. He worked for his company for over 30 years. He was entitled to severance pay. But because Harry was an older worker eligible for a reduced pension, he was denied over $30,000 in severance pay that younger workers received.

It is wrong to punish a dedicated, loyal worker like Harry Sousa. It is outrageous to punish Harry Sousa simply because of his age.

Under this compromise, we will not tolerate such outrages against another June Betts or another Harry Sousa.

Older Americans will be able to rest a little easier assured in the knowledge that their employment benefits will be subject to the protections of the ADEA. That is why, despite all the pain involved, we can be proud of this compromise, because it restores basic civil rights protection for millions of older workers.

As we all know, this bill involves complex, highly technical issues.

Staffs on both sides of the aisle have been able to master these complexities, and they deserve great credit for moving this bill forward.

I want to pay special tribute to Sharon Prost, Senator HATCH's chief labor counsel, for her tireless effort on this bill. She went above and beyond the call of duty to hammer out a tough compromise. Steve Williams and Chris Jennings, with Senator PRYOR, were extraordinary in all phases of this process. Jeff Lewis and Janice Fiegener, with Senator HEINZ, played major roles in shaping this compromise. Reg Jones and Mark Powden, with Senator JEFFORDS, have worked with us in a constructive way from the very beginning of this process.

I would certainly be remiss if I did not mention the efforts of my own staff director on the Labor and Human Resources Committee, Jim Brudney, the fine work by labor counsels Al Cacozza and Michele Varnhager, and the contribution of able staff assistants Kelly Murphy and Pat Preston. But I have to pick on one in particular: Jim Brudney has given so much of himself. When he was supposed to be doing babysitting duties at home, he was babysitting the Betts bill. No matter what the hour of the day or night, he was working with Sharon Prost on Senator HATCH's staff. It was an unbelievable effort on his part, a sense of dedication you do not see often.

At an earlier point today when I felt that we had negotiated long enough and far enough and it was time to draw the line, I was the one who said, "Let just go in and say to Senator HATCH, 'This is it. Take it or leave it.' Jim Brudney said, 'No, that is not what we ought to do. We ought to try to work it out once more. Let us go far beyond a reasonable doubt and try to work it out.'"

There were a couple more items. In fact, that is what we did do, and we were able to work it out. He was right. I was wrong. And I think that the senior citizens of this country owe him a great debt of gratitude. I am pleased that I played a part in this, and all those involved have a right to be proud of their effort. Passage of this bill will make our society more just and fair.

I yield the floor.

EXHIBIT 1

SUMMARY OF PRYOR-HATCH-METZENBAUM-HEINZ AGREEMENT ON BETTS LEGISLATION

1. LONG-TERM DISABILITY

Change the bill to allow employers to offset long-term disability benefits against pension benefits when an employee elects to receive pension benefits; or, when an employee becomes eligible for an unreduced pension and has reached the greater of age 62 or normal retirement age.

2. INTEGRATION

On page 6, lines 7 and 8 of the substitute, following "(ii)" strike the words "in any case in which retiree health benefits as described in clause (i) are provided,". This allows to employers that do not offer retiree health an offset against severance of any shutdown sweeteners that make the employee eligible for an unreduced pension.

3. EARLY RETIREMENT INCENTIVES

Change the "consistent with the purposes of the Act" standard to "consistent with the relevant purpose or purposes of the Act."

4. CONTINUING STREAM OF BENEFITS (RETROACTIVITY)

Accept Hatch-Kassebaum language with the proviso that it does not apply to modifications to a benefits arrangement after the date of enactment that are made to evade the purposes of the bill.

5. BURDEN OF PROOF

With respect to waivers, change burden of proof section in the bill to state that employers have the burden of the specific requirements in this section.

Delete paragraphs 4(f) (1) and (3) from the bill. Employers have burden on 4(f)(2).

6. EFFECTIVE DATE

180 days rather than 60 for non-collectively bargained private employers.

7. STATE AND LOCAL CONCERNS

Change "establish" to "implement" on p. 11, line 17.

8. MISCELLANEOUS

Change the word "individual" in section 4(f)(2)(B) back to "worker."

9. FEDERAL SECTOR

Delete the coverage of Federal employees.

EXHIBIT 2

THE OHIO RETIREMENT
STUDY COMMISSION,
Columbus, OH, September 17, 1990.

Hon. HOWARD M. METZENBUAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR METZENBAUM: On behalf of the Ohio Retirement Study Commission, I am writing to thank you for your support of the bipartisan substitute of S. 1511 which accommodates the major concerns of Ohio's public pension funds.

I would also like to commend your staff for their patience and diligence in seeking an acceptable solution for all interested parties involved with this legislation. Our hats are off to them.

The Commission intends to recommend to the Ohio General Assembly as soon as possible all changes necessary to place Ohio pension law in compliance with the letter and spirit of the Older Workers Benefit Protection Act.

Sincerely,

ARISTOTLE HUTRAS,
Director.

MAINE STATE RETIREMENT SYSTEM,
Augusta, ME, September 17, 1990.

Re: Older Workers' Benefit Protection Act—Senate Bill 1511.

Senator GEORGE MITCHELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MITCHELL: I have had an opportunity to review the latest proposed revisions to Senate Bill 1511 which incorporate the transition language for state and local governments. As you may already know, the Maine State Retirement System originally proposed this transition language in order to minimize the financial impact on Maine's public employers if required to modify their existing disability programs to comply with the provisions of ADEA.

Overall, the bill appears to be a fair compromise in addressing both the concerns of older workers regarding their eligibility for disability benefits and the cost to their public employers.

I would also take this opportunity to extend my appreciation to Mr. Robert Corolla who worked diligently in addressing the concerns of the State of Maine regarding this legislation. Please feel free to contact me at any time if I can be of further assistance on this or any other matter affecting the State of Maine.

Yours truly,

CLAUDE R. PERRIER,
Executive Director.

Mr. HATCH. Mr. President, after having listened to my distinguished friend from Ohio, I am glad Mr. Brudney was there, too, because he told me to take it or leave it so many times that I almost left it.

In all honesty, the staffs on both sides in this issue have been just excellent. I want to pay tribute to them, because this is one of the most complex, difficult sets of issues that I have seen since I have been here. We see them on the Labor Committee. They are very, very difficult issues. Whenever you get into these benefit programs, they are complicated and expanded issues that are just horrendous sometimes to handle.

Mr. President, at the outset, I say that I appreciate the efforts made by the bill sponsors, Senators PRYOR, Senator METZENBAUM, my counterpart in the Labor Committee, Senator HEINZ and Senator JEFFORDS from the Labor Committee, as well. All four of them worked very hard on this bill. They are the prime sponsors of this bill.

Now we have a Metzenbaum-Hatch substitute that we hope will help to correct some of the issues and some of the problems with this bill.

To be truthful, this agreement may be a little like a hippopotamus. Right away some will say that it is big and it is ugly.

The proponents of S. 1511 will say this compromise does not go far enough in amending the Age Discrimination in Employment Act, and the opponents will say that it does not go far enough in correcting the problems in S. 1511.

In my own view, to the extent that this legislation still, despite our changes, will cause some reallocation of employee benefits, it is certainly not perfect. I would not be surprised if, after this bill is implemented, we begin hearing from workers whose benefits are affected.

Let us all be very honest with our constituents. Let us be honest with both current and retired workers. We identified some major problems with S. 1511 that we have addressed in this compromise, but I will be frank to admit that I do not know if we identified them all.

This legislation is so complex, and the administration of employee benefit arrangements is so esoteric, that it is quite possible that I or the sponsors and advocates of this legislation have inadvertently overlooked some of its pitfalls. I would not be surprised if we are back on the floor of the Senate in 2 or 3 years' time debating amendments to this very bill.

The fact that we are not imposing requirements on the private sector, as well as the State and local government that we do not impose on the Federal Government, is still very bothersome to me. We cannot remedy this double standard without imposing one-half billion dollars' worth of costs on Federal taxpayers and without sacrificing the bill altogether. I am sure that the majority of the Senate would not support the latter option.

While a substantial majority of this body voted for the Pryor amendment to cover Federal workers under the bill, it may be the better part of valor to retain the exemption for the Federal Government and save the taxpayers the expense of compliance. I base this option on the old adage that "two wrongs don't make a right."

Given the substantial bipartisan interests in correcting the Supreme Court's decision in Betts, interest that was expressed by those on our side of the aisle a long time ago, I am glad to be moving forward on this compromise legislation. On balance, I believe it is a good compromise, and I urge my colleagues to adopt it.

Last week I circulated a "Dear Colleague" letter outlining my major concerns with S. 1511. These concerns extended to the version 5 of S. 1511. I believe that the change made by this compromise address these concerns. I want to take a few minutes to describe them for my colleagues.

One of my principal concerns with the bill and the subsequent versions was the adverse effect it would have on voluntary early retirement programs.

Version 5 of the Pryor legislation would have required many retirement incentive plans to conform to all purposes of the Age Discrimination in Employment Act. This is clearly an impossible task for any employer to meet. Employers who will most likely respond to this change by eliminating early retirement incentive programs that many older workers find very attractive.

The compromise we have agreed on clarifies the statute such that an early retirement incentive program must meet only "the relevant purpose or purposes" of ADEA. There is no intent on either side of the aisle to sanction arbitrary age discrimination; but, neither do we want to subject voluntary early retirement programs to unnecessary litigation.

The change in statute we have agreed upon makes our intent clear: only the relevant purpose or purposes of ADEA have to be applied to early retirement incentive programs in determining their lawfulness. And, generally, the purpose of prohibiting arbitrary age discrimination is the relevant purpose under the act.

This change provides protection for legitimate early retirement incentive plans. This is a significant improvement over the language in the pending bill. Protecting early retirement incentive plans inures to the benefit of older workers who may, someday, want to take advantage of such plans.

Further, the floor manager's statement sets forth our detailed views on many critical aspects of early retirement incentive programs. We have tried to provide guidance in this area which I hope preserves the employer's ability and incentive to offer such programs. At the same time, we have tried to protect employees who are, in fact, coerced into participating in such programs, or unlawfully excluded from participating, on the basis of age.

Second, version 5 of S. 1511 would have required the restructuring and possible cutbacks in disability benefits. It would have required duplicate payments for certain groups of employees, forcing significant restructuring of large numbers of disability plans now provided by employers and a decrease in the level of disability benefits for large numbers of employees.

The distinctions between the legal and the illegal uses of integration under S. 1511 had little relationship to the purposes of the Age Discrimination in Employment Act. In fact, these provisions would have resulted in mandated types and levels of benefits for certain employees and the concomitant reallocation of other employee benefits.

The compromise permits the complete integration of disability and pension benefits after an employee's normal retirement age, defined as ages 62 to 65, whichever is later.

The compromise also permits the integration on pension sweeteners without strings attached. Version 5 of S. 1511 would have allowed the integration of such sweeteners only if an employer also provided a specific package of retiree health benefits.

Third, while the sponsors of S. 1511 made changes in the provisions related to retroactivity, it still appeared that all the new requirements would be applied to ongoing benefit payments that began before the bill's effective date. Conceivably, all ongoing payments for disability, severance, and even retirement benefits could have been challenged.

In my opinion, it was critical to amend the bill to remove the possibility that current recipients of these various benefits could suffer disruptions in their payments.

The compromise provides that ongoing benefit payments to individuals that began prior to the effective date of the bill will not be affected by this legislation.

Version 5 of S. 1511 included a provision permitting State and local governments to offer employees the option of staying under their current disability plan or of enrolling in a new plan that conforms to the provisions of this new legislation.

While I have lingering concerns about the extent in which this procedure will mitigate the costs of compliance for State and local governments, I believe that, on balance, the bill's proponents have made a sincere effort to address these legitimate concerns.

This compromise goes a step further. The statement of managers clarifies the procedures of this election process. Such clarification will help State and local governments avoid litigation in the implementation of this act.

This compromise also makes additional, and I believe significant, changes with regard to the allocation of burdens of proof relevant to various matters arising under this bill.

First, certain sections which already appear in the ADEA have been deleted from the bill. Current law will continue to apply with respect to these provisions.

Second, we have made absolutely clear that it is an employee's and not an employer's burden to prove that he or she was involuntarily retired. Without this change, I believe that employers would have had a serious disincentive to offer early retirement incentive programs.

Many employers continue health benefits for persons who retire before they are eligible for Medicare and/or continue certain benefits that are supplemental to Medicare.

This is a positive practice which helps provide important protections for retirees.

This compromise ensures that the bill will not interfere with these important benefits that are vital to retirees of all ages.

Finally, we have made other modifications in the waiver title regarding

the burden of proof on questions of "knowing and voluntariness."

In general, I think that the modifications are important and achieve a proper balance with respect to the rights and obligations of the parties involved in litigation under this act.

Finally, the compromise extends the effective date from 60 to 180 days after enactment for all private nonunion employers.

This change is essential to giving the affected parties sufficient time to implement the changes that will be required. Sixty days was simply unrealistic.

My principal goal, Mr. President, is to protect older workers' right to fair and equitable benefits under the Age Discrimination in Employment Act, that is, to overturn the Betts decision, without disrupting the variety of employer-sponsored policies that benefit all workers.

It has been our policy to encourage employers to provide generous employee benefits. Clearly, this objective is frustrated, if not defeated, if Congress enacts legislation that so heavily encumbers American companies that they must reduce or eliminate such benefits.

Today, in the absence of this measure and other legislative proposals for employer-paid benefits, almost 40 percent of the employment dollar is designated for employee benefits. The employment cost index for benefit packages increased 7.2 percent during the 12 months between March 1989 and March 1990.

We must be concerned about the impact on all employees of additional Federal requirements that unnecessarily complicate existing arrangements or that will shift a firm's resources from actual benefits into regulatory compliance or litigation.

If an employer is forced to reduce or eliminate benefits for some workers to avoid litigation exposure or to avoid going afoul of the law, we have to ask the question: Is it worth it?

Of course, to help protect Americans from arbitrary discrimination, the answer, in my view, is yes. But, we must be careful not to cross the line between the legitimate protection of workers' legal rights and overregulation that is detrimental to their economic benefits.

I believe the compromise that is before us enables every Senator to vote in favor of overturning the Betts decision without causing the massive disruption in benefit plans that surely would have resulted under version 5 of the Pryor-Metzenbaum bill.

I urge my colleagues on both sides of the aisle to support it.

I also say again all of these Senators have played very important roles on this bill. Senator METZENBAUM certainly has worked long and hard on this, as has Senator PRYOR. They and their respective staffs have been terrific in trying to work out the problems on this bill.

Senator HEINZ has worked day in and day out and has had such perseverance in trying to pull all of the parties together and he deserves a lot of credit.

Senator JEFFORDS is an expert in these areas. He is probably the single person on the Labor and Human Resources Committee that really works on these areas the way he should, and he has played a very noble and a very important role in helping to bring about this result.

All of the respective staff members—I will enter their names into the RECORD—have done a terrific job.

With regard to Senator METZENBAUM, Jim Brudny, has helped the effort; Al Cacozza and Michele Varnhagen.

Senator PRYOR: Chris Jennings and Steve Williams.

Senator HEINZ: Jeff Lewis and Janice Fiegener.

Senator KASSEBAUM: Ted Verhaggen.

Of course, on my own staff, Sharon Prost has done a terrific job. What a labor counsel she is. I could not be more proud of her. For someone who just had a baby and is entitled to take her parental leave under our office policy, she came in and worked day in and day out, weekends and everything else, after having this beautiful baby. I tell her how much I personally appreciate it and how much our prayers are with her that her health will continue to remain good.

Kris Iverson, the minority counsel to the Labor Committee, has done a good job, as has Michael Benson and Greg Engeman.

All these folks have.

We also had a number of staffers from the Congressional Research Service, Kathy Schwindeman, Carolyn Mertz, and Ray Schmit.

From Senator JEFFORDS' office, Vicki Caldeira, and Reg Jones.

Last but not least I want to pay tribute to Jim McMillan, who has done a terrific job working with us on this matter, and I certainly did not mean to put him last because he played a very important and noble role.

Mr. President, I am proud of the Senators who worked on this and proud to have been able to work with the fellow Senator to try to fashion a compromise, a compromise I think most every Senator can vote on for this bill and feel reasonably confident we have done a pretty good job under the circumstances in trying to overrule the Betts decision while still upholding the better parts of the law.

So with that, I just want to thank everybody and recommend that all of our colleagues vote for this bill. I reserve the remainder of my time.

Mr. METZENBAUM. Mr. President, I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. ADAMS. I thank the Chair, and I thank the Senator from Ohio.

Mr. President, I rise today to express my support for S. 1511, the Older Workers Benefit Protection Act. This legislation would reverse the recent U.S. Supreme Court decision in Public Employees Retirement System versus Betts by reinstating the protection against arbitrary discrimination based upon age that was relied upon by older workers for over 20 years leading up to this decision.

In the Betts decision, the Court held that the Age Discrimination in Employment Act did not cover June Betts' benefits, despite the fact that the legislative history of ADEA clearly demonstrates that Congress intended such benefits to be covered. I believe this decision was wrong, Mr. President, and proves that even the present makeup of the Supreme Court is no guarantee that the judiciary will avoid legislating from the bench.

The purpose of S. 1511 is very simple: To make clear that older workers cannot be subjected to arbitrary age discrimination in benefits, and to reinforce the regulations that governed this area of the law prior to the Betts decision.

At the very heart of this bill is the codification of the regulation which requires that employers either provide equal benefits regardless of age, or cost-justify any age-based distinctions.

This equal benefit or equal cost rule is a good common sense rule that worked well for over 20 years. It protects older workers from arbitrary discrimination, while allowing employers to make cost-based distinctions. Despite claims to the contrary now being raised in opposition to this bill, most employers were in compliance with and supported that rule for the past two decades.

Protecting older workers from discrimination in all aspects of employment is simple fairness. And one of the reasons that I am here today to support this bill and the compromise that has been made is that simple fairness is an uncompromising goal that I intend to follow as the new chairman of the Senate Labor Committee's Subcommittee on Aging.

It is good public policy. It is good public policy for our Nation, because we are going to need the skills and experience of our older work force more and more. We should not allow them to be forced out by policies that either overly discriminate against them because of age or other factors connected with age.

Older workers need this protection. I strongly urge my colleagues to support this legislation.

I compliment the Senator from Ohio [Mr. METZENBAUM], the Senator from Utah [Mr. HATCH], and the Senator from Arkansas [Mr. PRYOR], especially, for their long work and for the things that they have done in pursuing getting this matter on the floor and compromised so that it could be passed.

This bill now enjoys bipartisan support. I look forward to working with these Senators and others on the principle of simple fairness that we will not have discrimination against our citizens because of age.

I thank the managers of the bill for this time. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I yield 10 minutes to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, I thank the Senator from Utah for yielding. I shall not take all the 10 minutes.

Mr. President, I want to ask my colleague from Ohio a question: Under our substitute, section 1(1) provides that it shall not be unlawful age discrimination for a pension plan to discontinue the payment of Social Security supplements upon the pensioner's attaining eligibility for Social Security old age insurance benefits. As I understand it, this reference to old age benefits is not intended to imply that it would be unlawful age discrimination for a pension plan to discontinue Social Security disability supplements upon the pensioner's attainment of eligibility for Social Security disability benefits.

Mr. METZENBAUM. That is correct. Many pension plans offer retirement to certain participants suffering disability or permanent incapacity. Because Social Security disability benefits do not begin until completion of a waiting period, some pension plans offer, in addition to a basic disability pension benefit, a disability supplement intended to take the place of Social Security disability insurance benefits. However, as I understand it, such pension plans not infrequently discontinue payment of the disability pension supplement upon the participant's attaining eligibility for Social Security disability insurance benefits. Throughout the extended deliberations over the bill, there has been no suggestion that the receipt of Social Security disability benefits—for which there is no minimum age requirement—is so related to age as to be tantamount to an age-related disqualification.

Mr. HEINZ. I thank the Senator from Ohio for that clarification.

Mr. President, I commend the chairman and the ranking member on the Committee on Labor and Human Resources for what I know from personal experience has been an enormous labor, not only on behalf of the public interest that Senator HATCH and Senator METZENBAUM serve, but it is an enormous service to the Senate.

Correcting a Supreme Court decision, as many of us learned during the consideration of the Civil Rights Restoration Act, the CRRA, is incredibly complicated. It is full of uncountable pitfalls. It engenders the maximum amount of disagreement. Without the kind of determination and fortitude to work out a solution, it can embroil the entire Senate for not just hours, not just days, but sometimes weeks on the Senate floor.

Here we are. September is closing out fast, with only a few days of legislative session in October, maybe 10, if we are lucky. There is not much time to get the work of the Senate done. And, thanks to the perseverance of Senator METZENBAUM, the chairman of this subcommittee, and Senator HATCH, we have arrived at this occasion where the work of the Senate has been expedited enormously by their determination and good will.

It is a fact, Mr. President, that for over 12 months now, we have been sitting on this legislation that would overturn the U.S. Supreme Court decision in what was known and is known as the Public Employees Retirement System of Ohio versus Betts.

Congressional inattention up until now has resulted in thousands of workers being denied their rights to employee benefits in the workplace.

Each day that we have postponed floor debate, each day that we have delayed on compromising our differences and fashioning a thoughtful solution, we placed, whether we wanted to or not, more and more older workers in jeopardy of inequitable treatment simply by reason of the number of candles on their birthday cakes.

The intent of the legislation being discussed today, namely the Older Workers Benefit Protection Act, like that of my own legislation which I introduced earlier in this Congress, S. 1293, is to keep the Age Discrimination and Employment Act, the ADEA, on target and true to its intent.

When we enacted the ADEA over two decades ago, one of the primary purposes was to "prohibit age discrimination in employment," just as earlier civil rights legislation rejected such treatment based on race or sex or disability or political leaning. We wanted to close the door that led to discrimination based on age.

Yet, despite what we in Congress saw as a clear intent to ensure equitable treatment for older workers in the workplace, these rights were threatened by that June 1989 Supreme Court decision, the Betts decision, which ruled that employee benefit plans were not protected by the Age Discrimination in Employment Act.

Undermining more than 20 years of protection under the ADEA, and, I might add, the Department of Labor and Equal Employment Opportunity Commission [EEOC] regulations, this one Supreme Court ruling opened the door wide for potential discrimination in older workers' health, disability, life insurance, and severance benefits. It did so, in effect, by threatening or permitting the use of deferred compensation in the form of pension benefits to be converted to an unintended and counterproductive use.

The Supreme Court decision sanctions discrimination in benefits solely on the basis of a worker's age, without regard to who the worker is or what he contributes to the work force. It was a decision that was not in the larger national interest.

The disincentives to remain employed, which constitute the heart of the Betts decision, will, if uncorrected as we seek to correct them here today, have the practical effect of premature exits from offices and assembly lines by some of America's most valued employees. Although more subtle than mandatory retirement, discrimination of employee benefits can, and it does, coerce workers into early resignation and retirement.

Mr. President, my concern was that, during the months of negotiations on this legislation as we inched our way down the twisted path of compromise, we not lose sight of our original goal, and, specifically, that our primary purpose with this, or any so-called Betts legislation, was to protect the rights of older workers against unfair discrimination.

Historically, we in Congress have a tradition of speaking loudly and with conviction against any policy, be it shaped in the courtroom or in this Chamber, that fosters age discrimination. I ask that we speak again with equal force today. By passing legislation to overturn the Betts decision, Congress sends a clear message that it will reject all barriers to older workers' full and equitable participation in the workplace.

As the biological clock advances on this Nation's work force, the pool of younger workers will shrink. The Supreme Court's decision takes us in a direction that fails to recognize the implication of these demographics. We must take steps now to eliminate policies which discriminate against older workers and, instead, develop strategies that will assist businesses to encourage more workers to remain in the workplace, to remain productive, to be a national asset, and to help us move this country ahead.

I am very pleased that a bipartisan compromise has been reached. This process of reaching a compromise has been long and it certainly has been cumbersome. But the proposal before us today demonstrates a willingness on both sides to underscore that the Supreme Court erred—it made a mistake and it was wrong in its decision on Betts.

I wish to thank, as I have, not only Senator HATCH, Senator METZENBAUM, and Senator PRYOR, for their tremendous work on this, but our staff for their tireless work. I want to single out James Brudney, Sharon Prost, Steve Williams, and Chris Jennings for special thanks, and, I also want to thank Senator JEFFORDS and, his staff, Reg Jones and Vicki Caldeira.

But I want to save the best for last. I want to thank some of my staff. First, Jeffrey Lewis, the Republican staff director on our Special Committee on Aging, and Janice Fiegener, who is our senior professional staff member on issues of this kind, also on the Aging Committee. They have been superb. I know as recently as yesterday they spent most of their Sunday working, trying to get this compromise put together. To them I give my heartfelt thanks. I also want to take this opportunity to tell my colleagues that in a few days, Janice Fiegener will be an alumna of the Aging Committee. She will be leaving Washington, DC, to go out to the great State of Oregon to join her husband.

For those Senators who may not remember, Janice Fiegener is one of the Senate's experts on Social Security and other pension related issues. I do not think we will soon forget her help and efforts on behalf of the disabled and the elderly of this country, particularly those in Pennsylvania. She has helped ensure in so many ways that they get the kind of due process rights and benefits to which they are entitled, including the administration of a Social Security program that is conducted in a manner recognizing that every recipient is entitled to humane and equitable treatment.

Mr. President, there are, as I say, many others we could thank. I am delighted once again to have had this opportunity, as I have had on so many occasions, to work with the Senator from Arkansas [Mr. PRYOR] who brings such fine leadership to the committee I was privileged to chair for 6 years, the Senate Committee on Aging. Senator PRYOR has done an outstanding job on this legislation. He has been steadfast. He has been thoughtful. He has been creative. And, most of all, he has been determined to get a result that the Senate can be proud of. I think that result is before us, and I urge my colleagues to support it wholeheartedly.

I yield the remainder of my time.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, may I inquire of the Chair as to the situation regarding time on the measure?

The PRESIDING OFFICER. Time is controlled by the Senator from Ohio and the Senator from Utah. The Senator from Ohio has 32 minutes remaining.

If the Senator will suspend for just a moment?

The Chair will rule, by prior arrangement, the Senator from Ohio has yielded time to the Senator from Arkansas.

The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me. In a few moments, I am going to touch on a few of the issues with regard to the so-called Betts bill where final compromises have been reached.

Before I do that, let me take this opportunity to publicly thank my colleague from Utah, Senator HATCH. Senator HATCH, during these negotiations, I must say, has lived up to his reputation. He has been extremely tough; he has been a hard negotiator. He has fought very, very hard for his specific positions and philosophies to remain intact in this legislation. In every way, in every step, we have attempted to accommodate Senator HATCH and his original concerns. I must say, Mr. President, for those who have supported, for a long time, the override of the Betts decision, some may have thought that we gave a little too much. Senator HATCH probably thinks he gave a little too much. But truly, we think this is the best of the legislative process in that we have reached a compromise on a very constructive bill, a far-reaching bill that will satisfy those who do not in any way want to see a continuing age discrimination pattern in this country.

So I want to thank Senator HATCH, my colleague, and his very capable staff—most particularly Sharon Prost.

Mr. President, next I would like to thank Senator METZENBAUM, of Ohio, and his very knowledgeable and determined staff, in particular Jim Brudney. I must say, Mr. President, during these days and weeks of negotiation, I have felt myself being sort of the middle man between these two extremely knowledgeable and forceful legislators in attempting to make certain that they did not each, or respectively, give too much from their respective positions or philosophies in the bill. I can report, Mr. President, that both Senator METZENBAUM and Senator HATCH have in every way performed their legislative duties in a courteous and efficient fashion. I must say—and I share the thoughts expressed a few moments ago by the Senator from Ohio—there were times when I, too, felt: Let us stop all this negotiation, let us go to the floor, let us have a vote up or down, let us settle this matter; it has been before the Senate since August of 1989.

But I say, Mr. President, and I say this in all respect to my friend from Ohio and with respect to my friend from Utah, when the Senators might say, "Let us just go to the floor and duke it out, have a big battle, see who wins," once again our staffs sort of brought this into perspective.

They let us cool down a little bit; let us allow a few hours to take place. So each of the Senators decided to see if we could work out a compromise. As a result, staff worked further into the night, into the weekends. I want to compliment not only the staff members but also the two principals in this matter: the Senator from Ohio [Mr. METZENBAUM] and the Senator from Utah [Mr. HATCH].

As we know, Mr. President, Senator METZENBAUM ably represents June Betts. It was the June Betts case that brought this matter to the U.S. Senate this evening. Without the perseverance of Senator METZENBAUM and others, I do not know that we would have ever reached this point. To Senator HEINZ, the ranking member of the Special Committee on Aging—and his staff of Jeff Lewis and Janis Fiegener, Senator JEFFORDS—and Reg Jones of his staff, and those other individual Senators and their staffs who have played a key role in developing, in evolving over a period of a year, and 2 months, this legislation, I would like to say on behalf of all of us how much we appreciate their dedication to this cause.

Mr. President, I would be remiss if I did not single out from my aging committee staff, a young man who has been in Washington for about 3 years, Steve Williams. Steve Williams has lived with the Betts case for a period of a year and 2 months. I do not think a day has gone by during this past year and 2 months where he has not consulted me about the progress or, better, the lack of progress on the Betts bill in getting it to this point. So, Mr. President, I would like to thank very much Steve Williams, who has really dedicated a year of his life, even though he being a young man, dedicated a year of his life to making certain that the elderly were not discriminated against in the workplace.

To Chris Jennings, the deputy director of the Committee on Aging in the Senate, who has spent nights and days and weekends in working through the nuances and the forces of this legislation, pro and con, I would say that he, along with Steve and all of the members of the staff involved, have done a job that could not be short of being labeled absolutely splendid.

Mr. President, there is another player in this area that I must recognize at this point, and that is the majority leader. Senator MITCHELL of Maine has stated he wanted this to be a high priority, not of the Democratic Senate, but of this Senate that represents the entirety of this country. He has stated on several occasions that any message or any policy that implied age discrimination against the elderly worker in the workplace would not be permitted on his watch.

The majority leader has allocated a lot of time for this bill to be brought before the Senate. He has set aside, Mr. President, other mattters of great import to this country and to our Government in order to bring this particular case to the U.S. Senate in a timely fashion, and he has allocated the proper amount of time for us to allow these negotiations and a final vote on the Betts bill to go forward.

The majority leader, at all stages, knew the importance of this particular bill to the elderly workers. So, Mr. President, on behalf of all of us who have been a part of the long, laborious negotiations, discussions on this bill, I would like to extend my personal thanks to the Senate majority leader, Senator MITCHELL.

Mr. President, we will vote in about 45 minutes on the Betts bill I would like to once again thank those who have been a part of reaching this moment.

Over the past several months, a number of things have been said about the Betts bill. Opponents have said that it is so complicated that no one understands it. They have said that it outlaws legitimate business practices. They have said that it takes away from employers the flexibility that they need to structure employee benefit plans that are fair to everyone, regardless of age. They have also said that it will send every State in the union to the brink of financial ruin. I want to take a few moments if I might, to address these charges leveled at certain sections of the bill.

It is my understanding that there were five major concerns with the early version of the bill. One was the early retirement incentive plans; two, denying severance pay to pension eligible workers; three, disability; four, retroactivity and; five, how the States might be able to comply with the mandates issued by the U.S. Congress. Early retirement incentives, Mr. President, was certainly one area that was of early concern. Some charged that the bill jeopardizes all early retirement incentive programs. We want to make it clear that none of the sponsors of this legislation are against the use of exit incentives. We believe they are a very humane way of achieving necessary work force reductions. We also believe that they can be structured in abusive ways which impact adversely on older workers.

The bill that we will be voting on grants a safe harbor for the two most common forms of exit incentives: Pension subsidies and Social Security bridge payments. According to the General Accounting Office, as many as two-thirds of the early retirement incentives offered by employers take one of these two forms.

Mr. President, I would like to make certain my colleagues heard and understood just exactly what I said. This bill now immunizes from challenge two-thirds of the early retirement incentive programs offered by employers today. And the charge, once again, is that the Betts bill jeopardizes all exit incentives. We feel that we have addressed that issue.

What does the compromise amendment do to those early retirement incentive programs that do not fall under the safe harbor clause? It requires only that they be "consistent with the relevant purpose or purposes of the act."

I must say, Mr. President, this was a section that during the negotiating process was extremely complex, but it was a part of this legislation that was very, very critical. Once again, the charge that the bill jeopardizes all early retirement incentive programs is one that we feel we have dealt with.

Pension severance integration: Mr. President, another charge against the early version of the Betts bill was that by not allowing employers to deny severance pay to pension eligible employees, it takes away the flexibility that is essential. Mr. President, employers never had this flexibility in the first place. Prior to the Betts decision, there was very little doubt that the practice of denying severance pay to pension eligible employees violated the ADEA. Under both the Reagan and the Bush administration, the EEOC has sued employers over this very practice and won almost every single case. The same has been true with private suits. For reasons that will be outlined during the remainder of this discussion, we sponsors feel very strongly about staying with pre-Betts law on this issue. But in the compromise, we have attempted and made a good faith effort to work out this problem to allow employers some flexibility in the area by allowing them to offset retiree health benefits and shutdown-related-pension subsidies.

To summarize, Mr. President, this bill does not take away any flexibility from employers that they had prior to the Betts decision. In fact, the bill itself, as well as the compromise we are voting on today, significantly expands that flexibility.

Disability pension integration was an issue raised by many in the early stages of this legislation and its development. On the issue of long-term disability, the charge against this bill has been that it will require the employer to pay the employee disability and pension benefits at the same time. Since an employee who is on disability is considered to still be actively working, it makes sense that an employer should not be forced to duplicate disability and pension benefits. The compromise, Mr. President, allows complete integration of disability with pension benefits. The employer may offset against disability; first, any pension benefit that the employee has voluntarily elected to receive, and second, any pension benefit for which an employee who is at least age 62 or normal retirement age, whichever is greater, is eligible to receive. This effectively eliminates any duplicate payments.

Mr. President, one of the major concerns in the early stages of the Betts bill was the issue of retroactivity—making this legislation apply retroactively. In fact, this concern was so great that this became one of the sticking points in our negotiation. We compromised on language, Mr. President, that specifically addresses this concern. It leaves no doubt that this legislation applies only in a prospective manner.

Finally, Mr. President, the States. Much has been said about how this bill is going to affect the States. We must keep in mind that this bill got to the Senate because a State—in this instance, the State of Ohio—discriminated against June Betts when she was the age of 61 and an employee for the State of Ohio. In fact, she was a teacher, and she was a very good one. But the early stages of Alzheimer's disease made it necessary that June Betts retire.

Mr. President, the protections of this legislation must be extended to public as well as private employees. There will be some cost to States, but we have made every effort to minimize that cost by allowing a 2-year delayed effective date. They have also been given a cost-saving election option.

I believe that this legislation is fair to the States. In a recent letter to Senator MITCHELL, the majority leader, the executive director of the Main State retirement system said, "The bill appears to be a fair compromise in addressing both the concerns of older workers regarding their eligibility for disability benefits and the cost to their public employees."

Mr. President, once again we have reached a momentous time. We are about to vote on the Betts bill, and it has been a bill that has been long developed. We truly believe that there has been a good-faith effort on both sides of the aisle and from all political persuasions. This compromise is a constructive one. We hope that it will be

supported by our colleagues. In fact, Mr. President, we would love to receive a unanimous vote.

Mr. President, I ask unanimous consent that a very short summary of the compromise amendment that we will be voting on momentarily be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF PRYOR-HATCH-METZENBAUM-HEINZ AGREEMENT OF BETTS LEGISLATION

1. LONG-TERM DISABILITY

Change the bill to allow employers to offset long-term disability benefits against pension benefits when an employee elects to receive pension benefits; or, when an employee becomes eligible for an unreduced pension and has reached the greater of age 62 or normal retirement age.

2. INTEGRATION

On page 6, lines 7 and 8 of the substitute, following "(ii)" strike the words "in any case in which retiree health benefits as described in clause (i) are provided,". This allows to employers that do not offer retiree health an offset against severance of any shutdown sweetners that make the employee eligible for an unreduced pension.

3. EARLY RETIREMENT INCENTIVES

Change the "consistent with the purposes of the Act" standard to "consistent with the relevant purpose or purposes of the Act."

4. CONTINUING STREAM OF BENEFITS (RETROACTIVITY)

Accept Hatch-Kassebaum language with the proviso that it does not apply to modifications to a benefits arrangement after the date of enactment that are made to evade the purposes of the bill.

5. BURDEN OF PROOF

With respect to waivers, change burden of proof section in the bill to state that employers have the burden on the specific requirements in this section.

Delete paragraphs 4(f) (1) and (3) from the bill. Employers have burden on 4(f)(2).

6. EFFECTIVE DATE

180 days rather than 60 for non-collectively bargained private employers.

7. STATE AND LOCAL CONCERNS

Change "establish" to "implement" on p. 11, line 17.

8. MISCELLANEOUS

Change the word "individual" in section 4(f)(2)(B) back to worker.

9. FEDERAL SECTOR

Delete the coverage of federal employees.

ACCOMMODATION OF STATES THROUGH TRANSITION PROVISION

Mr. MITCHELL. Mr. President, I am pleased to support this legislation. I commend Senator PRYOR, chairman of the Special Committee on Aging, and Senator METZENBAUM, chairman of the Labor Subcommittee, for their leadership on the issue.

I also wish to note that Senator COHEN, the senior Senator from Maine, is an original cosponsor of the bill, and provided early leadership in organizing bipartisan support for the measure. S. 1511 also is supported by the American Association of Retired Persons and by the Maine State Employees Association, which is affiliated with the Service Employees International Union.

This legislation is necessary and reasonable. It restores and clarifies the original purposes of the Age Discrimination in Employment Act [ADEA] of 1967, so as to eliminate arbitrary age discrimination in employee benefit plans. It overturns the Supreme Court's 1989 decision in Public Employees Retirement System of Ohio versus Betts, and should resolve, once and for all, any ambiguity or confusion that has accompanied some ADEA interpretations in recent years. With the exception of certain limited safe harbor provisions now provided in the substitute amendment, age-based differences among employee benefits must be justified by age-based differences in cost; for example, through an equal benefit or equal cost principle.

The legislation will require adjustment of employee benefit plans—including those of some States for State employees. However, the inconvenience of the need for adjustments is not a reason that can justify opposition to the legislation. Arbitrary, unfair age discrimination cannot be justified. That is the simple, basic premise for this legislation.

At the same time, I understand the concerns of the States which will need to make adjustments in State employee benefit plans in order to comply with the requirements of this bill. The State of Maine is one of those States, and I have worked with the Maine State Retirement System [MSRS] to mitigate any financial impact of the legislation. In May 1990, Mr. Claude Perrier, the MSRS director, proposed a transition provision, which has been included in the legislation. The provision accommodates legitimate State needs, but without undermining the basic premise of the legislation.

Like some other States, Maine State law currently denies disability benefits for any State employees who work beyond the age of 60. The State law was adopted long before the ADEA was enacted, and in some respects may have served as a rough rule of thumb in the State's apportionment of benefits. I do not believe there necessarily is any deliberate discriminatory intent in such age 60 rules; however, the effect is more than a just rough rule of thumb. The actual impact is a discrimination and disincentive for older workers continuing to work beyond age 60.

Under the legislation, States will need to remove such restrictions on disability benefits. They will need to adjust State employee benefit plans simply to comply with Federal law. The legislation does not preempt State authority to determine the scope or level of State employee benefits. Application to the States will be much the same as other Federal laws which prohibit discrimination on the basis of race or sex. The adjustment of State employee benefit plans is left entirely to the States, so long as unfair or arbitrary age discrimination does not occur relative to specific benefits or benefit plans.

The cost of State adjustments should not be as large as some estimates which unfortunately have been used in discussions of this legislation. For the State of Maine, for example, one estimate of $50 to $100 million has been offered. It is my understanding, however, that this estimate is distorted and often considered out of context. First, it is an estimate of costs that will be spread over a long period of time; that is, over 20 years or more. By comparison, the highest estimate for the first year's cost to the State of Maine under the new legislation is no more than $1 million. Second, these estimates both assume that revisions of State law would provide full disability benefits to persons who become disabled after age 60. This is not necessarily so.

State legislatures will be able to choose among different alternatives in making adjustments, including some benefit reductions. Under the equal cost or equal benefit principle, for example, States could provide for progressive reduction of disability benefits for older workers in accordance with actuarial assessments. For the same cost for each State worker, the State of Maine might choose to provide a progressively smaller disability benefit as workers get older.

Under the contract clause of State constitutions or anticutback statutes, States may face prohibitions on reductions of benefits for current State employees. To address this concern and still maximize the State's ability to mitigate any financial burden that must accompany the adjustment of State disability benefits because of termination of age 60 rules, the State transition language in the bill allows a State both to establish a new disability benefit plan and to provide for election of disability benefits by current State employees.

If a State adjusts State employee disability benefits in response to the legislation, new State employees obviously will receive benefits under the new plan. Under the transition provision, with reasonable notice, current State employees will have 180 days following the effective date of the new plan to elect whether they want to be covered under the new plan. If a State employee elects not to be covered under the new plan, the State may continue to provide disability benefits under the old plan. Current State employees will not be subject to the possible reduction of disability benefits under new disability plans unless they choose to elect such coverage. In any

case, the States will still need to determine the overall benefit structure.

I ask unanimous consent that at the end of my remarks there be inserted into the RECORD a copy of letters from the Maine State Employees Association and the Maine State Retirement System in support of the transition provision.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MITCHELL. The legislation also provides for technical assistance to States in making adjustments to bring themselves in compliance with the new law. One area for technical assistance will be in developing reasonable actuarial estimates, particularly in the absence of historical data, that will provide sufficient cost justification for different disability benefits between different age categories of workers.

UNUM Corp., the Nation's leading disability insurance underwriter, which is headquartered in the State of Maine, also has considerable experience in the area of cost justification. UNUM strongly supports this legislation and has provided significant testimony to the Senate concerning application of the equal cost or equal benefit principle.

Senator PRYOR and Senator METZENBAUM have worked diligently to make every reasonable accommodation relative to State interests in this regard. On behalf of the State of Maine, I thank them. I am pleased to join them and Senator COHEN in support of the legislation.

EXHIBIT 1

MAINE STATE EMPLOYEES ASSOCIATION,
Augusta, ME, June 25, 1990.

Hon. GEORGE MITCHELL,
U.S. Capitol, Washington, DC.

DEAR SENATOR MITCHELL: The Maine State Employees Association (MSEA), supports S. 1511, the Older Workers Benefit Protection Act. We urge that you announce that the legislation will be brought up for action by the full Senate immediately after the Fourth of July recess.

MSEA supports expansion of the coverage of the Age Discrimination in Employment Act (ADEA) to include benefit payments. Following the decision by the United States Supreme Court in Public Employees Retirement System of Ohio v. Betts, 109 S. Ct. 2854 (1989), employees have no protection from benefit reductions based on age.

We also urge your consideration of transition rules to facilitate a change over to a new employee benefit system in Maine. Employee benefits for all employees hired after the implementation of the act should fully comply with the ADEA. However, all current employees should be allowed to elect to remain in the current employee benefit system, or convert to the revised system. This election would both ease the financial burden to the state of transition to the new benefit system, and offer an element of choice to the individual.

Along with the delay in implementation for states and local governments to June 1, 1992, this transition rule enhances our support for the Older Workers Benefit Protection Act.

Again, we urge you to announce that legislation will be scheduled for action by the full Senate immediately after the Fourth of July.

Sincerely,

CARL LEINONEN,
Executive Director.

MAINE STATE RETIREMENT SYSTEM,
Augusta, ME, September 17, 1990.

Re Older Workers' Benefit Protection Act—Senate Bill 1511.

Senator GEORGE MITCHELL,
SENATE MAJORITY LEADER, RUSSELL SENATE OFFICE BUILDING, WASHINGTON, DC.

DEAR SENATOR MITCHELL: I have had an opportunity to review the latest proposed revisions to Senate Bill 1511 which incorporate the transition language for state and local governments. As you may already know, the Maine State Retirement System originally proposed this transition language in order to minimize the financial impact on Maine's public employers if required to modify their existing disability programs to comply with the provisions of ADEA.

Overall, the bill appears to be a fair compromise in addressing both the concerns of older workers regarding their eligibility for disability benefits and the cost to their public employers.

I would also take this opportunity to extend my appreciation to Mr. Robert Corolla who worked diligently in addressing the concerns of the State of Maine regarding this legislation. Please feel free to contact me at anytime if I can be of further assistance on this or any other matter affecting the State of Maine.

Yours truly,

CLAUDE R. PERRIER,
Executive Director.

Mr. JEFFORDS. Mr. President, the Older Workers Benefit Protection Act will reverse the Supreme Court's decision in Public Employees Retirement System of Ohio versus Betts. In that decision, the Court ruled that section 4(f)(2) of the ADEA exempts all provisions of a bona fide employee benefit plan unless the plan is a subterfuge for discrimination in the non fringe-benefit aspects of the employment relationship. I am personally convinced that the Congress which enacted the ADEA had no intention of broadly exempting from coverage so integral a portion of the employment relationship as employee benefits. Since such benefits have consistently amounted to approximately 40 percent of compensation costs, the contrary conclusion simply makes no sense.

Thus, I believe that we must take legislative action to reverse this court ruling and define how the ADEA effects employee benefits. This is the principal objective of the Older Workers Benefit Protection Act.

The bill would reinstate the EEOC regulations governing compliance of benefit plans with the ADEA, which were struck down by the Court in the Betts decision, and embody those regulations in the statute. The regulations have been in existence for a number of years and have formed the level playing field for the formulation of employee benefit policy. Our action in reaffirming the regulations was not intended to work any hardship on benefit plan sponsors, and we reasoned that no such hardship would be created because these sponsors were on notice of the regulations and had long-standing opportunity to comply with them.

However, since the introduction of this legislation, we have heard from representatives of the business community and, to a lesser extent, from the administration, that our interpretation of the pre-Betts importance of the regulations on employee benefit plan design and administration does not reflect the reality of benefit practice, and that this bill will upset the benefits applecart. From the outset they were concerned not only about the substantive nature of what we propose, but they also were animated by persistent rumors that once introduced this bill would proceed to the floor of the Senate without, or with only limited opportunity for hearings and debate.

Mr. President, I did not believe the public policy to be advanced by this legislation would be well served by any such closed procedure. Thus, one condition of my support for this measure was that it be managed in such a way as to allow for debate on the issues.

This is not a simple bill. There are a number of underlying policy questions regarding the approach taken by the EEOC regulations on several benefits issues, including generally the issue of benefit integration and the impact on early retirement incentive plans. We have held hearings in both the Senate and the House and heard from the interested parties on all sides of these issues. Further, we have engaged in extensive discussions and negotiations with the interested parties about the specifics and impact of our bill. These discussions have resulted in a number of changes beneficial to private and public employers as well as other plan providers which are now included in the compromise version of the bill currently under consideration.

Make no mistake Mr. President, I do wholeheartedly support the objectives of this bill. Age discrimination is intolerable and where it exists it must be eradicated. I believe that our bill is the right response to this decision by the Court. In fact, there is almost universal agreement that the Court erred in ruling that the protections of the ADEA do not apply to employee benefits, and that this error should be corrected. That, of course, is the easy part. The hard part is establishing the mechanism for accomplishing this laudable objective without disrupting other, nondiscriminatory aspects of employee benefits practice.

We have attempted to address and, in varying degrees, to accommodate the major concerns expressed by the

business community, the White House, state and local governments, and organized labor. Although there are those who will say that even this substitute does not go far enough, it is beyond dispute that all of the changes therein make the bill more favorable to plan providers. The effort clearly has been to achieve that delicate balance of providing needed protection for older workers while not intruding too heavily on the design and administration of benefit plans. I for one do not claim perfection in achieving this objective, but I do not for a moment doubt the sincerity of the effort.

The highlights of this substitute include the following:

RETROACTIVITY

The ADEA amendments made by the bill apply on a prospective basis only, thus addressing the concerns over retroactivity voiced by business, unions, and public sector employers. When enacted the bill will only govern employee benefit changes or other actions taken after enactment.

It is my clear understanding that cases that were pending at the time of the Betts decision will not be affected by the new law, even if they remain pending on the date of enactment. This, like many elements of this compromise, is a concession grudgingly made by the original sponsors. Our initial focus was to proceed rapidly to reverse the damaging Betts decision and, through retroactive application, to close any window of time during which its reasoning would constitute the state of the law. However, that objective has proven to be legislatively impossible. Thus, we have chosen the lesser evil of leaving the window open rather than losing the chance to pass a bill this year.

(A) IN GENERAL

In private sector situations where benefits are not subject to collective-bargaining agreements, the bill applies to the establishment or modification of any benefit after the date of enactment and to all other conduct occurring more than 180 days after enactment.

(B) COLLECTIVELY BARGAINED AGREEMENTS

Where a collective-bargaining agreement in effect on the date of enactment contains benefit provisions that would be wholly or partly invalidated by the amendments made in this bill, the act will not apply until the earlier of termination of the collective-bargaining agreement or June 1, 1992.

(C) PUBLIC SECTOR

Where State and local government employee benefit plans would be wholly or partly invalidated by the amendments made in this bill, and those plans may be modified only through change in the applicable State or local law, the governments will have 2 years after the date of enactment to comply with the new law.

EARLY RETIREMENT INCENTIVE PROGRAMS

(A) In general, these programs will be lawful so long as they are consistent with the relevant purpose or purposes of the act. Great concern had been expressed that the furthers the purposes of the act standard originally included in the bill would be impossible to meet. It was contended that since one of the purposes of the ADEA is to promote the employment of older workers, retirement incentives, which encourage older employees to leave the work force, would forever be subject to challenge for alleged failure to meet this test.

While the "consistent with" language was suggested by the administration as a means of addressing this problem, I was not certain that this change alone alleviated the problem. In the weekend discussions on the bill spearheaded by Senators METZENBAUM and HATCH, this point of view was reiterated and, finally, addressed. The compromise language makes clear that retirement incentive programs which are consistent with the relevant purpose(s) of the act are lawful.

(B) A special safe harbor is provided for the two most common types of early retirement incentive programs; that is, those offering Social Security bridge payments and those which subsidize a portion of an early retirement benefit.

(C) In addition to the change in standard applicable to such programs and the two safe harbors, I wish to make it clear that this sponsor does not intend that early retirement incentive plans be deemed inherently contrary to the purposes of the act. The effort to protect them in this bill is made in express recognition that such programs can be both beneficial and desirable to older workers. The EEOC, in its testimony on this bill, recognized the need to give these programs special consideration in light of their growth in the years after the EEOC regulation was promulgated. Thus, the EEOC concluded that its rule may not have been constructed with this type of benefit program in mind and it cautioned us against cutting them off legislatively without due consideration. I am confident that we now have heeded this counsel.

INTEGRATION OF PENSION WITH LONG TERM DISABILITY

Long-term disability benefits paid to an employee may be reduced by pension benefits when the employee voluntarily elects to receive them, or when the employee becomes eligible for an unreduced pension and has reached the greater of age 62 or normal retirement age under the plan.

This provision addresses the issue of double dipping by pension eligible employees who are out of work on long term disability. In discussions with representatives of the business community, the subject of allowing the offset of pensions with-long term disability under circumstances in addition to voluntary employee election was extensively examined. It is my understanding that agreement has been reached that these two benefits can be integrated in such a way that the employee receives combined payments at the level of the greater of either pension or disability. Thus, the income stream to the employee is not decreased, only the source of the funds is shifted.

SPECIAL PROTECTION FOR STATES

In addition to the 2 years it will have to comply with the new law, any State or local government that must implement a new disability plan in order to comply with this act may give current employees a choice between staying in the old plan or electing coverage under the new one. For many States with laws prohibiting a cutback in benefit levels for current employees, the free choice approach will minimize the need for additional expenditures for employee disability programs.

ADEA WAIVERS

The substitute eliminates the requirement that employers seeking a waiver in connection with an exit incentive or other employment termination program must reimburse employees for up to 8 hours of attorney consultation. Since starting to consider the subject of ADEA waivers, I have always believed that employers seeking waivers in the context of exit incentive or other termination plans should bear the burden of insuring that the employees involved are fully informed of their rights. As part of that obligation, I also happen to believe the employees should not only be told to consult an attorney, but also that the employer should share the expense of the employee's consultation with a lawyer.

The language deleted from the bill would have provided funds for this purpose on the basis of an 80/20, employer-employee copayment for up to 10 hours of attorney time at regular hourly rates. It became clear that my support of this provision was not shared by many others and that its inclusion was becoming an impediment to the possible passage of our bill to reverse the Betts decision. Given these circumstances, the deletion of the provision was mandated.

The substitute also eliminates the down side risk disclosure requirement which would have compelled employers to predict the probability and date of any demotion, termination or other adverse action which might follow an employee's decision not to participate in an exit incentive or other employment termination program. This language was specifically deleted because of the potential impact such mandated disclosures might have on involuntary retirement issues in exit incentive pro-

grams given the language included at page 27 of the committee report. Now, I understand that the offending language of the report has been expressly disavowed.

CONCLUSION

The current bill is truly in the nature of a negotiated compromise. None of the sponsors was able to include in it all of the things which were desired. The interested individuals and organizations outside of Congress all feel that they have given up too much. Perhaps it is just that feeling which demonstrates that a balance has been struck.

A tremendous amount of work has gone into achieving this compromise. It represents the best deal that we can make to address the injustice of the Betts decision in the waning legislative days of this Congress. It deserves the support of the Senate.

Mr. AKAKA. Mr. President, I rise in support of this important legislation which will give older workers the justice which the Supreme Court has taken away. As we all know, when the Supreme Court ruled that employers could discriminate against older workers in granting disability pay and other benefits, a tidal wave swept across this Nation which invalidated legal provisions that employers may not discriminate against older workers in benefits, such as disability and severance pay.

I know that negotiations have been taking place between the authors of this measure and my colleagues on the other side of the aisle. I wholeheartedly hope that the changes made to the substitute recently adopted will satisfy the objections made by its opponents. This legislation is needed to clarify the confusion created by the Supreme Court and correct the inequities which jeopardize older workers' benefits.

The 1980 census show that in my State of Hawaii there are 130,037 people above the age of 45 and 10,634 above the age of 65 still in the labor force. I am confident that these numbers are much higher in 1990, because the 65 and older population has increased by 50 percent between 1980 and 1988. Out of 10 States, Hawaii is the third highest in the Nation with over a 28-percent increase in the 65 and older population. This directly impacts the State's employment concerns because Hawaii has a 2.8 percent unemployment rate making it one of the lowest in the Nation. With statistics like this, it is important to assure these older workers that their benefits are protected for their future.

In reviewing this measure, my colleagues will find a fair bill which addressed the needs of older working Americans and their employers. Initially, businesses had tried to kill the bill, but because of the perseverance of Senators PRYOR and METZENBAUM, this measure has survived and become a priority of this 101st Congress.

Mr. GRASSLEY. Mr. President, I intend to vote for the compromise on S. 1511 which is now before us. I do for two reasons. First, as I made clear shortly after the Supreme Court handed down its decision in the BETTS case, I do not believe that we can endorse a policy which condones age discrimination in employee benefits. Clearly, Congress should go on record opposing age discrimination in employee benefits.

Second, the managers of the bill have attempted to take care of many of the problems I identified in my statement in the record of September 18, 1990. It was clear throughout the development of S. 1511 that we were dealing with a very complicated area of law, and that earlier versions of the legislation created many unnecessary potential problems.

Although not all of the concerns I identified have been resolved, the managers did attempt to deal with many of the most important of them. As a consequence, the bill before us is an improvement over the version we had before us last week.

The managers of the bill state that they have tried to insure that voluntary early retirement incentive programs commonly used by employers, and popular with employees, are not jeopardized by this legislation.

This compromise version of the bill should eliminate the possibility that an employer would be required to pay duplicate retirement and disability benefits. Otherwise, employers may have had to cutback on the disability benefits they offered. The managers of the bill have tried to make it clear that no integration of disability benefits with retirement benefits is required once an individual reaches whatever retirement age is stipulated in a pension plan.

The compromise version is drafted in such a way that ongoing benefit payments will not be disrupted once the legislation is enacted. Had earlier versions of the legislation been enacted, many felt that great disruption in employee benefit programs would have ensued.

With respect to the burden of proof issues, the version before us makes it clear that it is the plaintiff's burden under the Age Discrimination in Employment Act [ADEA] to demonstrate that his or her retirement was involuntary. Thus, an employer will not be in the position of having to prove that they are not guilty when they are accused of age discrimination. Rather, the individuals making the charge will have to prove that their accusation is correct. It seems to me that this "innocent until proven guilty" standard is more in keeping with American traditions.

The burden of proof under section 4(f)(1) of the ADEA, involving bona fide occupational qualifications, reasonable factors other than age, and violations of foreign law in cases in which the employer has a workplace in foreign countries, is not affected by this final version of the legislation. Such circumstances were not touched by the Court's Betts decision, and thus, this final version of the legislation does not open new ground on these particular issues.

The bill before us does overturn the court's allocation if the burden of proof under section 4(f)(2), the section of the ADEA dealing with bona fide seniority systems or bona fide employee benefit plans. Courts prior to Betts had stipulated that the burden of proof in such cases rested with the employer. The Court held that the burden of proof should rest with the employee. The legislation before us would allow the employer an "affirmative defense." That is, if an employer can demonstrate that they are employing a bona fide benefit plan or seniority system it would consitute a sufficient defense against a claim of age discrimination.

Under terms of this compromise, private sector employers will now have 180 days to comply with terms of the legislation. This is a much more generous compliance time line than offered in any of the earlier versions of the bill.

The statement of the managers affirms that the election a State or local public employee makes, under the provisions in the bill which permit a State to offer a choice between existing and newly created disability benefits, is permanent. The manager's statement also speaks to some of the practical objections State officials have raised about how to provide reasonable notice to employees with respect to election.

I am disappointed that we have not had an opportunity to debate, in this final version of the bill, whether its terms ought to apply to the Federal Government. The Senate voted by a large majority last week to apply the law to the Federal Government. However, under the rules the Senate accepted for consideration of the legislation today, no amendments were allowed other than the compromise version, and the provision applying the law to the Federal Government was stripped from that version.

In addition, Mr. President, the business community, and younger workers, are not going to like the strict prohibition in the bill of integration of severance and pension benefits. Both sides in this dispute over this provision supported their position with reasonable arguments reaching diametrically opposed conclusions.

It seems clear to me that there will be some reallocation of severance benefits, from nonpension eligible workers to pension-eligible workers, as a consequence of this legislation. However, the practice of not providing severance pay to workers eligible for pensions is tantamount to a mandatory retirement policy. There is no reason to assume that, just because a worker reaches the age stipulated in a pension plan as the normal retirement age, that that worker should essentially be forced to stop working and take her or his pension. I have opposed mandatory retirement for many years.

Mr. President, I am not sure we have seen the last of this legislation. As I noted earlier, employee benefit law is extremely complicated. Furthermore, we have not considered this legislation under the best of circumstances, by which I mean that we really have not had much time to consider this last version of the bill.

Thus, even though the sponsors may have tried to foresee, in this final version offered to the Senate, potential problems, we have no guarantee that they have completely succeeded. As we begin to get comment on the bill, or law, if the House passes it and the President signs it, from the affected communities, we may yet have to consider further changes in it.

Mr. KERRY. Mr. President, I am pleased to join my colleagues in supporting both the compromise substitute amendment and final passage of the Betts bill, the Older Workers Benefit Protection Act. This important legislation restores and protects the civil rights of older workers.

I also want to commend my colleagues on both sides of the aisle who worked diligently to forge a compromise agreement that we could support tonight.

Since passage of the Age Discrimination in Employment Act in 1967 [ADEA], older persons have been protected against arbitrary discrimination in the workplace based on age. In 1989, however, the Supreme Court went a long way toward eliminating this protection with their decision in the Betts case. The Court ruled that age discriminations in employee retirement and benefit plans were permissible under the ADEA in most circumstances, thus invalidating the current EEOC regulations and a 6th circuit court of appeals decision.

Left untouched, the Betts decision threatened to erode the most fundamental civil rights law safeguarding older Americans in the workplace. The legislation we will vote on today attempts to restore the rights of older workers to fair treatment in employee benefits. In addition, the bill seeks to ensure that older workers are not coerced or manipulated into waiving their rights to seek relief under the ADEA.

Support for this legislation ranges from senior citizens' groups to key labor unions to other major organizations representing the interests of older women in this country. Older individuals depend on employee benefits to protect them from what can amount to crippling medical care costs as well as to provide them with a secure retirement. The loopholes, uncertainties and fear held by many older persons after the Betts decision warranted the legislative solution we are proposing today.

I am pleased to be a cosponsor of the Older Workers Benefit Protection Act and to support its passage today.

COST JUSTIFICATION OF DISABILITY PLANS

Mr. HEINZ. Mr. President, I would like my distinguished colleague from the State of Arkansas to clarify the application of the equal benefit or equal cost principle to the benefits paid from long-term disability plans to older plan participants. I understand it is the intent of the legislation to permit long-term disability plans to link the amount or duration of benefit payments to the attainment of a specified age upon disability, so long as the amount or duration can be justified on an actuarial cost basis. For example, if the disability occurred at age 60, benefits might be payable for 5 years. At older ages, the duration of payment would be further reduced, so that if the disability occurred after age 68, the plan might not be required to pay benefits for more than 1 year.

Mr. PRYOR. Mr. President, I would say to my distinguished colleague from Pennsylvania that if an employer could show that the age based reductions in the duration of long-term disability benefits that he outlined in his example can be justified because the cost of providing the shorter duration of benefits to the oldest worker is at least equal to the cost of providing the longer duration of benefits to the younger worker, then that employer's plan would comply with the equal; benefit for equal cost principle.

Mr. HEINZ. I thank the distinguished Senator for that clarification.

Mr. GRAHAM. Mr. President, I seek clarification of section 105(c) of the substitute amendment. That section, as I understand it, is to avoid retrospective application to public employers by providing 2 years for State and local governments to achieve compliance.

Mr. PRYOR. That is correct.

Mr. GRAHAM. My concern, specifically, is with those public employers which voluntarily changed their plans to the Betts decision. If those plans, as originally written, would have been superseded by this title, would these public employer plans be protected from retrospective application by this legislation?

In other words, is it your understanding that the substitute bill would not apply retrospectively to a public employer for once having maintained such a plan?

Mr. PRYOR. That is my understanding.

Mr. FORD. Mr. President, will the distinguished author of the legislation, Senator PRYOR, yield to me for a question?

Mr. PRYOR. I yield for that purpose to the Senator from Kentucky.

Mr. FORD. I know that the Senator is very sensitive to the concerns of our elected counterparts in State and local government who will have to implement this law with respect to their employees, and I appreciate the changes he has made in the original legislation to accommodate those concerns. States, like Kentucky, which are prohibited from reducing benefits, may find themselves incurring additional costs in establishing benefit plans that comply with this legislation. While I recognize that the substitute now allows State and local governments to offer existing employees an election between existing and newly created disability benefits, Kentucky officials are concerned about the possibility that employees may attempt to opt in and out of various plans as their situation changes. Obviously, the flexibility that the substitute provides for State and local governments is negated if employees are allowed to change their election. Is it the author's intent that the election provided for under section 105(c) of the bill be a one-time election?

Mr. PRYOR. Yes; that is the intent of the legislation.

Mr. FORD. A question has also been raised about the notice requirements of section 105(c). Does the notice provision require State and local governments that decide to offer the new disability benefits election to give notice before they amend or "establish" a new disability plan, or to give notice before they implement the new plan?

Mr. PRYOR. In this case "establish" means implement. Reasonable notice must be given to employees before the new disability benefits plan is implemented, and a 180-day consideration period must be provided after the election offer is made.

Mr. FORD. I thank my colleague for these clarifications and commend him for his efforts to modify this legislation to accommodate the concerns of our State and local governments.

Mr. President, if the distinguished Senator from Arkansas will yield further, I would like to clarify a couple of points regarding this legislation that have been raised by business interests in my State.

Mr. PRYOR. I yield to the Senator from Kentucky.

Mr. FORD. I thank the Senator. As my colleagues know, employers faced with the need to reduce the size of a

work force often try to avoid involuntary layoffs by first offering incentive programs to encourage voluntary work force reductions. Many employees welcome the opportunity to participate in such programs. Is my understanding correct that S. 1511 is not intended to eliminate such opportunities or restrict the flexibility of employers to offer such programs, even if such voluntary work force reduction programs include early retirement incentives?

Mr. PRYOR. That is correct. This legislation is not intended to preclude employers from establishing early retirement incentive programs.

Mr. FORD. And what if the voluntary incentive program was not a permanent part of the benefit plan, but was offered only when necessary, such as to avoid involuntary layoffs or other reductions in force?

Mr. PRYOR. Again, if these plans are truly voluntary and are consistent with the relevant purpose, or purposes, of the act, and do not result in arbitrary age discrimination, they need not be a permanent part of the employer's benefit plan.

Mr. FORD. I Thank the Senator. I would also like to ask my distinguished colleague, the author of this legislation, to clarify the application of this legislation to existing benefit plans. Section 105 of S. 1511 clearly states that the legislation will apply only prospectively, and I thank the Senator for his assistance with this provision. However, subsection 4(k), which appears in section 103 of S. 1511, states:

> A seniority system or employee benefit plan shall comply with this Act regardless of the date of adoption of such system or plan.

Some of my constituents have raised the concern that these two provisions are potentially in conflict and create an ambiguity in the bill with regards to the effective date.

Mr. PRYOR. First let me state that I do not believe a conflict exists. S. 1511 applies only prospectively to benefits established or modified on or after the date of enactment of this legislation. This prospective application encompasses every change made in the ADEA by S. 1511, including the change contained in subsection 4(k) to which you refer. The purpose of this new subsection 4(k) is to make clear the intent of Congress that the amendments included in this legislation apply to all benefit plans, including those which predate enactment of the ADEA.

Mr. FORD. Is it correct to say, then, that subsection 4(k) will not cause the requirements of this legislation to apply retroactively to a seniority system or an early retirement incentive plan, even if it has been modified over the past 10 years?

Mr. PRYOR. That is correct.

Mr. FORD. I thank my distinguished colleague for his time and responses.

Mr. BENTSEN. Mr. President, will my friend from Arkansas yield for a few clarifying questions?

Mr. PRYOR. I yield to my friend and distinguished colleague, Senator BENTSEN, for that purpose.

Mr. BENTSEN. Is it the understanding of the Senator that the Age Discrimination in Employment Act does not apply to retirees?

Mr. PRYOR. The distinguished Senator is correct. The ADEA applies only to employees and those individuals seeking employment. However, it does apply to an individual whose retirement benefits are discriminatorily structured prior to retirement.

Mr. BENTSEN. Am I correct in saying that this bill only applies to benefits that are discriminatorily structured after the applicable effective date?

Mr. PRYOR. That is correct.

Mr. BENTSEN. My next question is regarding the equal benefit or equal cost standard which is codified by section 103 of your bill into section 4(f)(2)(B)(i) of the ADEA. As I understand section 4(f)(2)(B)(i), it completely incorporates the definition, interpretation, and application of the equal benefit or equal cost rule contained in 29 CFR section 1625.10. Is that correct?

Mr. PRYOR. That is correct. In fact, section 4(f)(2)(B)(i) specifically incorporates all 29 CFR section 1625.10.

Mr. BENTSEN. My understanding of the equal benefit or equal cost principle, as stated in 29 CFR section 1625.10, is that the rule does not require that an older worker receive the exact same level of a benefit that a younger worker receives, as long as the employer incurs the same cost in purchasing the benefit for the older worker as for the younger worker. Does my understanding correctly capture the meaning of equal benefit or equal cost?

Mr. PRYOR. The Senator is correct.

Mr. BENTSEN. Mr. President, the Teacher Retirement System of Texas administers pension plans and retiree health plans for over 80,000 retired public school teachers. The State of Texas and public school employees contribute toward the purchase of these plans. The retirement system essentially acts in the role of an intermediary, for example using contributions from the State to purchase health care plans from insurance carriers.

An issue could arise under this bill when the retirement system offers prospective retirees two packages of health care coverage. The two packages are based on whether the prospective retirees are eligible for Medicare part B health insurance coverage. As you know, eligibility for Medicare part B arises at age 65. Medicare part B is subsidized by the Federal Government and is, therefore, comparatively inexpensive health insurance which eligible persons can buy.

For those prospective retirees 65 or older, the system's health care coverage incorporates a Medicare part B "carve out." In other words, the system's private coverage does not pay for those services for which Medicare part B pays. The system does not pay because it assumes that eligible prospective retirees will purchase part B because of its cheap cost. For prospective retirees who are under 65, and therefore not yet eligible for Medicare part B, the system's health care coverage essentially pays for those services for which Medicare part B would pay. For those under 65, the coverage pays for what would be carved out under Medicare part B, plus what its private carrier normally pays.

Thus the system's coverage for these younger employees is greater than for older employees. As you can see, the system's two packages of health insurance coverage for prospective retirees are primarily distinguished by age. Consequently, this age based distinction at least raises the issue of whether the system is violating the ADEA's ban against age discrimination in employee benefits.

If the system pays approximately the equivalent amount to purchase the private insurance for the prospective retiree under 65 as for the prospective retiree 65 or older, does the system's retiree health packages violate the ADEA as amended by this bill?

Mr. PRYOR. I would say to my good friend from Texas that I wish I could give him a more definite answer than the one I am about to give. I know that he wants to provide a comfort level with this legislation for the Texas State Teacher's Retirement System.

The purpose of equal benefit or equal cost is to allow employers to take account of the fact that the cost of some benefits rises with the age of the employee. If your scenario is correct and the system spends the same amount in acquiring health coverage for all prospective retirees regardless of age, I would say that the system has a good argument that it has satisfied the equal benefit or equal cost principle.

Mr. BENTSEN. I understand the cautionsness of the Senator from Arkansas in commenting on existing employee benefit plans, and I appreciate his answers to my questions.

Mr. PRYOR. Mr. President, the unanimous-consent agreement as to the time to vote, did it say at or before 7 p.m. or did it say 7 p.m.?

The PRESIDING OFFICER. The unanimous consent order said at 7 p.m.

Mr. PRYOR. Therefore, we are prohibited from having a vote before 7 p.m.

Mr. President, I thank the Chair. I thank my colleagues.

The PRESIDING OFFICER. The Senator is correct, it is 7 p.m.

Mr. PRYOR. At 7 p.m. vote. Mr. President, I thank the Chair. I yield the floor.

Mr. METZENBAUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Kentucky is recognized.

Mr. FORD. I thank the Chair.

(The remarks of Mr. FORD) pertaining to the introduction of S. 3094 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. FORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I am about to ask unanimous consent with respect to scheduling of the time in order that this matter be brought to a conclusion, but I could not move to bring this matter to conclusion without publicly expressing not only the appreciation of this Senator but the appreciation of all of the senior citizens of this country who are affected by this legislation.

I know I speak for Mrs. Betts' daughter. I know I speak for all the senior citizens, for the AARP, for the millions of others who are affected by this legislation. We are deeply appreciative that Senator MITCHELL, the majority leader of the Senate, has seen fit to find time for this bill in the closing days of the session. When the pressure is on for any number of bills, and everybody wants their bill brought to the floor, Senator MITCHELL found the time to bring this bill to the floor, and make it possible over a period of several days for it to be debated. He was patient, courteous, and he was supportive.

I want to say publicly that I know I am speaking for more than myself when I express our appreciation for his leadership in bringing this about.

ORDER OF PROCEDURE

Mr. President, I ask unanimous consent that at 7 p.m. this evening, the Senate vote on the Metzenbaum-Hatch amendment; then vote on the committee substitute, as amended, and without intervening action or debate; then proceed to third reading and final passage of S. 1511.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I further ask unanimous consent that the vote on final passage of S. 1511 be a 15-minute vote; and the succeeding votes on S. 1224 regarding the Simon and Danforth amendments follow immediately upon disposition of S. 1511, and that the votes be 10 minutes in duration.

Mr. President, I now ask unanimous consent that the yeas and nays ordered on the committee substitute to S. 1511 be transferred to final passage of S. 1511.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. Reserving the right to object, I am not sure whether these have been cleared—have they with the Republican side of the aisle?

Mr. METZENBAUM. I have been advised by those who are part of the staff on the other side of the aisle that it has been cleared by Senator DOLE, Senator HATCH, and others—Senator GORTON, and other affected parties.

Mr. JEFFORDS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. JEFFORDS. Mr. President, if the Senator will defer, I want to praise, if he does not mind.

Mr. METZENBAUM. No. I do not mind.

Mr. JEFFORDS. I want to take a minute. Having worked so hard with the Senator from Ohio on this particular bill and others, Senator HATCH as well, I will just take a moment. I had intended to have a number of colloquys but it is my understanding that the matters of which I have concern and which were to be the subject of colloquys have been incorporated in statements already before the body. I could not comment without letting it be known that we all have tremendous praise for the Senator from Ohio on this issue. A tremendous amount of effort has gone into trying to bring something before this body which should be passed and passed into law.

I know there are differences that we are left with. Senator HATCH worked very hard in trying to come up with a compromise. I will be voting for the bill and against the Senator from Utah. But notwithstanding that, many changes were made as a result of his efforts. We have come up with a much better bill.

This is an important piece of legislation. It is one that we should attempt to do all we can to get it passed into law and signed into law. There will be individuals, many of them, that will be injured unnecessarily if we do not do what we are attempting to do in this particular bill.

I just wanted to express myself on that matter—especially also the Senator from Arkansas [Mr. PRYOR] as well, who worked very hard on these issues.

With that, I am happy to yield the floor.

Mr. METZENBAUM. Mr. President, as the Senator from Vermont may have heard at an earlier point when I first addressed myself to this legislation, I spoke about the fact that he, as well as several other Senators, have been so instrumental in bringing about the passage of this legislation. Were it not for his support at a very early stage when it was much more difficult than at this moment, there probably would not have been a bill. I have no hesitancy in saying that once again the Senator from Vermont has indicated his courage, his good judgment, and his objectivity and support for so many issues of concern to the American people. It is a real privilege to the Senator from Ohio to have an opportunity to work with him and have him as the ranking member of our Labor Subcommittee.

Mr. JEFFORDS. I thank the Senator for those very kind words.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the question now occurs upon the Metzenbaum-Hatch substitute.

The question is on agreeing to the amendment.

The amendment (No. 2759) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nebraska [Mr.

EXON] and the Senator from Rhode Island [Mr. PELL], are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from New Hampshire [Mr. HUMPHREY], and the Senator from California [Mr. WILSON], are necessarily absent.

The PRESIDING OFFICER (Mr. BREAUX). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 1, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—94

Adams	Ford	McConnell
Akaka	Fowler	Metzenbaum
Armstrong	Glenn	Mikulski
Baucus	Gore	Mitchell
Bentsen	Gorton	Moynihan
Biden	Graham	Murkowski
Bingaman	Gramm	Nickles
Bond	Grassley	Nunn
Boren	Harkin	Packwood
Boschwitz	Hatch	Pressler
Bradley	Hatfield	Pryor
Breaux	Heflin	Reid
Bryan	Heinz	Riegle
Bumpers	Helms	Robb
Burdick	Hollings	Rockefeller
Burns	Inouye	Roth
Byrd	Jeffords	Rudman
Chafee	Johnston	Sanford
Coats	Kassebaum	Sarbanes
Cochran	Kasten	Sasser
Cohen	Kennedy	Shelby
Conrad	Kerrey	Simon
Cranston	Kerry	Simpson
D'Amato	Kohl	Specter
Danforth	Lautenberg	Stevens
Daschle	Leahy	Symms
DeConcini	Levin	Thurmond
Dixon	Lieberman	Wallop
Dodd	Lott	Warner
Dole	Lugar	Wirth
Domenici	Mack	
Durenberger	McCain	

NAYS—1

McClure

NOT VOTING—5

Exon	Humphrey	Wilson
Garn	Pell	

So the bill (S. 1511), as amended, was passed; as follows:

S. 1511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Older Workers Benefit Protection Act".

TITLE I—OLDER WORKERS BENEFIT PROTECTION

SEC. 101. FINDING.

The Congress finds that, as a result of the decision of the Supreme Court in *Public Employees Retirement System of Ohio v. Betts*, 109 S.Ct. 256 (1989), legislative action is necessary to restore the original congressional intent in passing and amending the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), which was to prohibit discrimination against older workers in all employee benefits except when age-based reductions in employee benefit plans are justified by significant cost considerations.

SEC. 102. DEFINITION.

Section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630) is amended by adding at the end the following new subsection:

"(l) The term 'compensation, terms, conditions, or privileges of employment' encompasses all employee benefits, including such benefits provided pursuant to a bona fide employee benefit plan.".

SEC. 103. LAWFUL EMPLOYMENT PRACTICES.

Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended—

(1) in subsection (f), by striking paragraph (2) and inserting the following new paragraph:

"(2) to take any action otherwise prohibited under subsection (a), (b), (c), or (e) of this section—

"(A) to observe the terms of a bona fide seniority system that is not intended to evade the purposes of this Act, except that no such seniority system shall require or permit the involuntary retirement of any individual specified by section 12(a) because of the age of such individual; or

"(B) to observe the terms of a bona fide employee benefit plan—

"(i) where, for each benefit or benefit package, the actual amount of payment made or cost incurred on behalf of an older worker is no less than that made or incurred on behalf of a younger worker, as permissible under section 1625.10, title 29, Code of Federal Regulations (as in effect on June 22, 1989); or

"(ii) that is a voluntary early retirement incentive plan consistent with the relevant purpose or purposes of this Act.

Notwithstanding clause (i) or (ii) of subparagraph (B), no such employee benefit plan or voluntary early retirement incentive plan shall excuse the failure to hire any individual, and no such employee benefit plan shall require or permit the involuntary retirement of any individual specified by section 12(a), because of the age of such individual. An employer, employment agency, or labor organization acting under subparagraph (A), or under clause (i) or (ii) of subparagraph (B), shall have the burden of proving that such actions are lawful in any civil enforcement proceeding brought under this Act; or";

(2) by redesignating the second subsection (i) as subsection (j); and

(3) by adding at the end the following new subsections:

"(k) A seniority system or employee benefit plan shall comply with this Act regardless of the date of adoption of such system or plan.

"(l) Notwithstanding clause (i) or (ii) of subsection (f)(2)(B)—

"(1) It shall not be a violation of subsection (a), (b), (c), or (e) solely because—

"(A) an employee pension benefit plan (as defined in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2))) provides for the attainment of a minimum age as a condition of eligibility for normal or early retirement benefits; or

"(B) a defined benefit plan (as defined in section 3(35) of such Act) provides for—

"(i) payments that constitute the subsidized portion of an early retirement benefit; or

"(ii) social security supplements for plan participants that commence before the age and terminate at the age (specified by the plan) when participants are eligible to receive reduced or unreduced old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.), and that do not exceed such old-age insurance benefits.

"(2)(A) It shall not be a violation of subsection (a), (b), (c), or (e) solely because following a contingent event unrelated to age—

"(i) the value of any retiree health benefits received by an individual eligible for an immediate pension; and

"(ii) the value of any additional pension benefits that are made available solely as a result of the contingent event unrelated to age and following which the individual is eligible for not less than an immediate and unreduced pension,

are deducted from severance pay made available as a result of the contingent event unrelated to age.

"(B) For an individual who receives immediate pension benefits that are actuarially reduced under subparagraph (A)(i), the amount of the deduction available pursuant to subparagraph (A)(i) shall be reduced by the same percentage as the reduction in the pension benefits.

"(C) For purposes of this paragraph, severance pay shall include that portion of supplemental unemployment compensation benefits (as described in section 501(c)(17) of the Internal Revenue Code of 1986) that—

"(i) constitutes additional benefits of up to 52 weeks;

"(ii) has the primary purpose and effect of continuing benefits until an individual becomes eligible for an immediate and unreduced pension; and

"(iii) is discontinued once the individual becomes eligible for an immediate and unreduced pension.

"(D) For purposes of this paragraph, the term 'retiree health benefits' means benefits provided pursuant to a group health plan covering retirees, for which (determined as of the contingent event unrelated to age)—

"(i) the package of benefits provided by the employer for the retirees who are below age 65 is at least comparable to benefits provided under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); and

"(ii) the package of benefits provided by the employer for the retirees who are age 65 and above is at least comparable to that offered under a plan that provides a benefit package with one-fourth the value of benefits provided under title XVIII of such Act.

"(E)(i) If the obligation of the employer to provide retiree health benefits is of limited duration, the value for each individual shall be calculated at a rate of $3,000 per year for benefit years before age 65, and $750 per year for benefit years beginning at age 65 and above.

"(ii) If the obligation of the employer to provide retiree health benefits is of unlimited duration, the value for each individual shall be calculated at a rate of $48,000 for individuals below age 65, and $24,000 for individuals age 65 and above.

"(iii) The values described in clauses (i) and (ii) shall be calculated based on the age of the individual as of the date of the contingent event unrelated to age. The values are effective on the date of enactment of this subsection, and shall be adjusted on an annual basis, with respect to a contingent event that occurs subsequent to the first year after the date of enactment of this subsection, based on the medical component of the Consumer Price Index for all-urban con-

sumers published by the Department of Labor.

"(iv) If an individual is required to pay a premium for retiree health benefits, the value calculated pursuant to this subparagraph shall be reduced by whatever percentage of the overall premium the individual is required to pay.

"(F) If an employer that has implemented a deduction pursuant to subparagraph (A) fails to fulfill the obligation described in subparagraph (E), any aggrieved individual may bring an action for specific performance of the obligation described in subparagraph (E). The relief shall be in addition to any other remedies provided under Federal or State law.

"(3) It shall not be a violation of subsection (a), (b), (c), or (e) solely because an employer provides a bona fide employee benefit plan or plans under which long-term disability benefits received by an individual are reduced by any pension benefits (other than those attributable to employee contributions)—

"(A) paid to the individual that the individual voluntarily elects to receive; or

"(B) for which an individual who has attained the later of age 62 or normal retirement age is eligible.".

SEC. 104. RULES AND REGULATIONS.

Notwithstanding section 9 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 628), the Equal Employment Opportunity Commission may issue such rules and regulations as the Commission may consider necessary or appropriate for carrying out this title, and the amendments made by this title, only after consultation with the Secretary of the Treasury and the Secretary of Labor.

SEC. 105. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this section, this title and the amendments made by this title shall apply only to—

(1) any employee benefit established or modified on or after the date of enactment of this Act; and

(2) other conduct occurring more than 180 days after the date of enactment of this Act.

(b) COLLECTIVELY BARGAINED AGREEMENTS.—With respect to any employee benefits provided in accordance with a collective bargaining agreement—

(1) that is in effect as of the date of enactment of this Act;

(2) that terminates after such date of enactment;

(3) any provision of which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)); and

(4) that contains any provision that would be superseded (in whole or part) by this title and the amendments made by this title, but for the operation of this section,

this title and the amendments made by this title shall not apply until the termination of such collective bargaining agreement or June 1, 1992, whichever occurs first.

(c) STATES AND POLITICAL SUBDIVISIONS.—

(1) IN GENERAL.—With respect to any employee benefits provided by an employer—

(A) that is a State or political subdivision of a State or any agency or instrumentality of a State or political subdivision of a State; and

(B) that maintained an employee benefit plan at any time between June 23, 1989, and the date of enactment of this Act that would be superseded (in whole or part) by this title and the amendments made by this title but for the operation of this subsection, and which plan may be modified only through a change in applicable State or local law,

this title and the amendments made by this title shall not apply until the date that is 2 years after the date of enactment of this Act.

(2) ELECTION OF DISABILITY COVERAGE FOR EMPLOYEES HIRED PRIOR TO EFFECTIVE DATE.—

(A) IN GENERAL.—An employer that maintains a plan described in paragraph (1)(B) may, with regard to disability benefits provided pursuant to such a plan—

(i) following reasonable notice to all employees, implement new disability benefits that satisfy the requirements of the Age Discrimination in Employment Act of 1967 (as amended by this title); and

(ii) then offer to each employee covered by a plan described in paragraph (1)(B) the option to elect such new disability benefits in lieu of the existing disability benefits, if—

(I) the offer is made and reasonable notice provided no later than the date that is 2 years after the date of enactment of this Act; and

(II) the employee is given up to 180 days after the offer in which to make the election.

(B) PREVIOUS DISABILITY BENEFITS.—If the employee does not elect to be covered by the new disability benefits, the employer may continue to cover the employee under the previous disability benefits even though such previous benefits do not otherwise satisfy the requirements of the Age Discrimination in Employment Act of 1967 (as amended by this title).

(C) ABROGATION OF RIGHT TO RECEIVE BENEFITS.—An election of coverage under the new disability benefits shall abrogate any right the electing employee may have had to receive existing disability benefits. The employee shall maintain any years of service accumulated for purposes of determining eligibility for the new benefits.

(3) STATE ASSISTANCE.—The Equal Employment Opportunity Commission, the Secretary of Labor, and the Secretary of the Treasury shall, on request, provide to States assistance in identifying and securing independent technical advice to assist in complying with this subsection.

(4) DEFINITIONS.—For purposes of this subsection:

(A) EMPLOYER AND STATE.—The terms "employer" and "State" shall have the respective meanings provided such terms under subsections (b) and (i) of section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630).

(B) DISABILITY BENEFITS.—The term 'disability benefits' means any program for employees of a State or political subdivision of a State that provides long-term disability benefits, whether on an insured basis in a separate employee benefit plan or as part of an employee pension benefit plan.

(C) REASONABLE NOTICE.—The term "reasonable notice" means, with respect to notice of new disability benefits described in paragraph (2)(A) that is given to each employee, notice that—

(i) is sufficiently accurate and comprehensive to appraise the employee of the terms and conditions of the disability benefits, including whether the employee is immediately eligible for such benefits; and

(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

(d) DISCRIMINATION IN EMPLOYEE PENSION BENEFIT PLANS.—Nothing in this title, or the amendments made by this title, shall be construed as limiting the prohibitions against discrimination that are set forth in section 4(j) of the Age Discrimination in Employment Act of 1967 (as redesignated by section 103(2) of this Act).

(e) CONTINUED BENEFIT PAYMENTS.—Notwithstanding any other provision of this section, on and after the effective date of this title and the amendments made by this title (as determined in accordance with subsections (a), (b), and (c)), this title and the amendments made by this title shall not apply to a series of benefit payments made to an individual or the individual's representative that began prior to the effective date and that continue after the effective date pursuant to an arrangement that was in effect on the effective date, except that no substantial modification to such arrangement may be made after the date of enactment of this Act if the intent of the modification is to evade the purposes of this Act.

TITLE II—WAIVER OF RIGHTS OR CLAIMS

SEC. 201. WAIVER OF RIGHTS OR CLAIMS.

Section 7 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626) is amended by adding at the end the following new subsection:

"(f)(1) An individual may not waive any right or claim under this Act unless the waiver is knowing and voluntary. Except as provided in paragraph (2), a waiver may not be considered knowing and voluntary unless at a minimum—

"(A) the waiver is part of an agreement between the individual and the employer that is written in a manner calculated to be understood by such individual, or by the average individual eligible to participate;

"(B) the waiver specifically refers to rights or claims arising under this Act;

"(C) the individual does not waive rights or claims that may arise after the date the waiver is executed;

"(D) the individual waives rights or claims only in exchange for consideration in addition to anything of value to which the individual already is entitled;

"(E) the individual is advised in writing to consult with an attorney prior to executing the agreement;

"(F)(i) the individual is given a period of at least 21 days within which to consider the agreement; or

"(ii) if a waiver is requested in connection with an exit incentive or other employment termination program offered to a group or class of employees, the individual is given a period of at least 45 days within which to consider the agreement;

"(G) the agreement provides that for a period of at least 7 days following the execution of such agreement, the individual may revoke the agreement, and the agreement shall not become effective or enforceable until the revocation period has expired;

"(H) if a waiver is requested in connection with an exit incentive or other employment termination program offered to a group or class of employees, the employer (at the commencement of the period specified in subparagraph (F)) informs the individual in writing in a manner calculated to be understood by the average individual eligible to participate, as to—

"(i) any class, unit, or group of individuals covered by such program, any eligibility factors for such program, and any time limits applicable to such program; and

"(ii) the job titles and ages of all individuals eligible or selected for the program, and the ages of all individuals in the same

job classification or organizational unit who are not eligible or selected for the program.

"(2) A waiver in settlement of a charge filed with the Equal Employment Opportunity Commission, or an action filed in court by the individual or the individual's representative, alleging age discrimination of a kind prohibited under section 4 or 15 may not be considered knowing and voluntary unless at a minimum—

"(A) subparagraphs (A) through (E) of paragraph (1) have been met; and

"(B) the individual is given a reasonable period of time within which to consider the settlement agreement.

"(3) In any dispute that may arise over whether any of the requirements, conditions, and circumstances set forth in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H) of paragraph (1), or subparagraph (A) or (B) of paragraph (2), have been met, the party asserting the validity of a waiver shall have the burden of proving in a court of competent jurisdiction that a waiver was knowing and voluntary pursuant to paragraph (1) or (2).

"(4) No waiver agreement may affect the Commission's rights and responsibilities to enforce this Act. No waiver may be used to justify interfering with the protected right of an employee to file a charge or participate in an investigation or proceeding conducted by the Commission.".

SEC. 202. EFFECTIVE DATE.

(a) IN GENERAL.—The amendment made by section 201 shall not apply with respect to waivers that occur before the date of enactment of this Act.

(b) RULE ON WAIVERS.—Effective on the date of enactment of this Act, the rule on waivers issued by the Equal Employment Opportunity Commission and contained in section 1627.16(c) of title 29, Code of Federal Regulations, shall have no force and effect.

TITLE III—SEVERABILITY

SEC. 301. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. SHELBY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOTOR VEHICLE FUEL EFFICIENCY ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2714

Mr. LEVIN. Mr. President, I support the Simon amendment, the "Relief for Terminated Workers Act," and I am pleased to be a cosponsor.

This amendment will assist American workers producing motor vehicles, or in related industries, in making the shift to new employment if they find themselves displaced because of S. 1224, the Motor Vehicle Fuel Efficiency Act of 1990. They will be eligible for Trade Adjustment Act assistance for a full year after the Secretary of Transportation's finding, that S. 1224 is the primary cause of unemployment.

Though this amendment authorizes $250 million over 5 years for TAA, little or no money should be spent if the proponents of S. 1224 are correct in their estimates of few or no job losses as a result of S. 1224. Unfortunately, history suggests that their projections are wrong. The unfeasible levels and timeframe mandated in S. 1224 will cause the loss of many jobs.

Tens of thousands of autoworkers and workers in related industries could lose their jobs if S. 1224 becomes law. These workers deserve some consideration from the Government, if Congress is going to manipulate the market in a direction away from consumer preference. This amendment provides a safety net for workers in an industry that has been specifically targeted by this bill.

I urge my colleagues to vote for the amendment.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion to table amendment No. 2714 offered by the Senator from Illinois [Mr. SIMON]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nebraska [Mr. EXON] and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from New Hampshire [Mr. HUMPHREY], and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 49, nays 46, as follows:

[Rollcall Vote No. 246 Leg.]

YEAS—49

Armstrong	Gorton	Nickles
Baucus	Graham	Nunn
Bingaman	Gramm	Pressler
Boschwitz	Hatch	Pryor
Bryan	Helms	Robb
Bumpers	Hollings	Roth
Burns	Jeffords	Rudman
Chafee	Kassebaum	Sanford
Cochran	Kasten	Simpson
Cohen	Kerrey	Stevens
Danforth	Leahy	Symms
Dixon	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Durenberger	McCain	Wirth
Fowler	Mitchell	
Glenn	Murkowski	

NAYS—46

Adams	Bradley	Cranston
Akaka	Breaux	D'Amato
Bentsen	Burdick	Daschle
Biden	Byrd	DeConcini
Bond	Coats	Dodd
Boren	Conrad	Ford
Gore	Kohl	Reid
Grassley	Lautenberg	Riegle
Harkin	Levin	Rockefeller
Hatfield	Lieberman	Sarbanes
Heflin	McClure	Sasser
Heinz	McConnell	Shelby
Inouye	Metzenbaum	Simon
Johnston	Mikulski	Specter
Kennedy	Moynihan	
Kerry	Packwood	

NOT VOTING—5

Exon	Humphrey	Wilson
Garn	Pell	

So the motion to lay on the table amendment No. 2714 was agreed to.

Mr. BRYAN. I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2755

Mr. DASCHLE. Mr. President, I have been following the debate on Senator BYRAN'S CAFE bill and the Danforth amendment with great interest. I commend both of my colleagues for their leadership in promoting increased use of domestically produced liquid fuel alternatives to imported oil and gasoline.

Today's debate places a much-needed focus on the importance of developing such liquid fuel alternatives, especially in light of recent events in the Persian Gulf. However, it has also highlighted an unfortunate misunderstanding about the interchangeability of ethanol and methanol in dedicated alcohol vehicles.

It was stated in today's debate that a car developed to run on methanol cannot also run on ethanol. This is simply not the case.

In fact, ethanol can be used in alternative fuel vehicles with only minor, if any, alterations required. The interchangeability of the two alcohols as neat fuels is being proven every day on a large scale commercial basis in Brazil where literally hundreds of thousands of vehicles designed to run on neat ethanol are being powered by a mixture of one-third ethanol and two-thirds methanol due to that country's recent ethanol shortage. No significant modifications in the vehicles were required.

It is not only technically feasible to run a dedicated methanol car on ethanol, but the facts indicate that it is advantageous to do so. Ample data exists to verify the fact that a car designed to run on methanol would run much better on ethanol.

Because ethanol has higher energy content per gallon than methanol, the alcohol-dedicated car burning ethanol runs 34 percent farther on a tank of alcohol than it does with methanol in its tank. Ethanol is also much less corrosive than methanol, making it less taxing on automobile parts.

In addition to these significant performance-related advantages, ethanol has important environmental advan-

tages over methanol. Ethanol is less toxic than methanol. It also burns cleaner than methanol, especially in terms of little or no formaldehyde emissions.

Mr. President, it should be understood that the use of the so-called flexible fuel vehicle, that can run on gasoline, ethanol, or methanol, is not the only way to develop alternative fuel vehicles. Dedicated alcohol cars are technologically capable now of using ethanol and methanol interchangeably, or in mixture with one another. The use of ethanol would assist in making these cars turn smoother and cleaner than if just methanol alone were used.

The PRESIDING OFFICER. Under the order, the question now is on agreeing to amendment No. 2755 offered by the Senator from Missouri Mr. [DANFORTH].

The yeas and nays have been ordered. This is a 10-minute vote. The clerk will please call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nebraska [Mr. EXON] and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL], would vote "nay."

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from New Hampshire [Mr. HUMPHREY], and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 55, nays 40, as follows:

[Rollcall Vote No. 247 Leg.]

YEAS—55

Armstrong	Domenici	Murkowski
Bentsen	Ford	Nickles
Biden	Glenn	Packwood
Bond	Gramm	Pressler
Boren	Grassley	Pryor
Breaux	Harkin	Riegle
Bumpers	Hatch	Robb
Burdick	Heflin	Rockefeller
Burns	Helms	Roth
Byrd	Jeffords	Shelby
Coats	Johnston	Simon
Cochran	Kasten	Simpson
Conrad	Kerrey	Stevens
D'Amato	Levin	Symms
Danforth	Lott	Thurmond
Daschle	Lugar	Wallop
DeConcini	Mack	Warner
Dixon	McClure	
Dole	McConnell	

NAYS—40

Adams	Gorton	Metzenbaum
Akaka	Graham	Mikulski
Baucus	Hatfield	Mitchell
Bingaman	Heinz	Moynihan
Boschwitz	Hollings	Nunn
Bradley	Inouye	Reid
Bryan	Kassebaum	Rudman
Chafee	Kennedy	Sanford
Cohen	Kerry	Sarbanes
Cranston	Kohl	Sasser
Dodd	Lautenberg	Specter
Durenberger	Leahy	Wirth
Fowler	Lieberman	
Gore	McCain	

NOT VOTING—5

Exon	Humphrey	Wilson
Garn	Pell	

So the amendment (No. 2755) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote.

Mr. BRYAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. BRYAN. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATE SENATOR BOB COFFIN HONORED AS 1990 "MAN OF THE YEAR"

Mr. REID. Mr. President, on October 13, 1990, the Hispanic Business and Professional Women's Club of Las Vegas is honoring State Senator Bob Coffin as their 1990 Man of the Year. This is a prestigious award, recognizing valuable contributions made by Outstanding Hispanic leaders from southern Nevada. This year's recipient, State Senator Bob Coffin, has proven to be an effective leader and legislator, proving time and again that he is worthy of such an honor.

Bob Coffin is a long-time resident of Las Vegas, graduating from Bishop Gorman High School and from the University of Nevada, Las Vegas, with a degree in business administration and accounting. Professionally, he is an independent insurance broker and he is the owner of Bob Coffin Books, an out-of-print book dealership. He and his wife, Mary Hausch, are committed to serving the people of southern Nevada.

Bob Coffin 8 years ago, was elected to the Nevada State Assembly, where he served on the Ways and Means Committee which approves all State spending programs, and he served as chairman of the Assembly Transportation committee. Four years ago, he was elected to the State legislature's upper house, and he has served with distinction on the senate taxation committee, the commerce committee, and the natural resources committee.

As a legislator Bob Coffin has been the champion of many important causes, including fair share distribution of State funds, increasing funding for economic development and tourism, increasing appropriations for education, and strengthening Nevada's laws against drunken driving.

Senator Coffin can also be proud of two important bills he sponsored that preserved southern Nevada's historic buildings. One of these bills successfully appropriated funds to save the Old Mormon Fort, the first pioneer settlement in Las Vegas built in the mid 1850's. He was also the principal sponsor of legislation to preserve the historic Las Vegas High School as an artistic treasure. Both of these buildings would have been subjected to potential demolition without Senator Coffin's efforts.

In addition to his legislative efforts, Bob Coffin is also an active leader in community organizations. He has served as President of the UNLV Alumni Association, national committeeman for Young Democrats of Nevada, member of the Latin Chamber of Commerce and the Las Vegas Chamber of Commerce, delegate to the International Trade of State Federal Assembly and more.

Bob Coffin also has Central American concerns. In 1985, he toured Costa Rica as a representative of the National Conference of State Legislatures, and he traveled into Nicaragua on his own to see first hand the problems of the area. Since then, he has returned to the region to work with political, business, church, and labor leaders. In 1990, Senator Coffin served as an international observer to the Nicaraguan elections and was invited to attend the inauguration of new president, Violeta Chamorro.

Bob Coffin has served southern Nevada and the Hispanic community with merit and distinction. It is only appropriate that he is being honored by the Hispanic Professional Business Women's club for his outstanding achievements.

Mr. MOYNHIAN. Mr. President, I rise to inform my colleagues that today marks the 2,018th day that Terry Anderson has been held captive in Beirut.

An integral part of ending the protracted hostage crisis in Lebanon is educating ourselves about the circumstances that provoked it. In the Meeting Reports of the September 1990 Woodrow Wilson Center Report, I discovered an item of particular interest: "Who Follows Hizbullah?" Based on a lecture, "Hizbullah as a Social Movement," presented by Wilson Center fellow Martin Kramer, this article provides context for the more familiar reports.

Mr. President, I ask unanimous consent that the above mentioned article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Woodrow Wilson Center Report 3]

WHO FOLLOWS HIZBULLAH?

Hizbullah, the Iranian-supported Shiite movement based in Lebanon, represents more than rebellion against the United States, Israel, and the West. The movement, according to Martin Kramer, is a protest against the Shiite social order itself, and particularly the claims of its rival within the Shiite sect of Islam, the Amal movement. Although Hizbullah still holds an array of foreign hostages, including Americans, its violence is now turned most ferociously against its Shiite opponents.

The Shia might have become Lebanon's great success story, said Kramer. Within the state of Lebanon, newly independent in 1943, the Shiite Muslims of rural south Lebanon and the Bekka Valley suffered from governmental neglect and exploitation by a semifeudal landed elite. In both administration and commerce, there existed semimonopolies held by Christians and Sunni Muslims.

The group that evolved into the Amal movement was first organized among the fragmented Lebanese Shia by Sayyid Musa al-Sadr, an Iranian-born Shiite cleric of Lebanese descent. Sadr's movement was essentially petitionary, Kramer explained. Sadr and a group of young and upwardly mobile Shiite clerics and professionals built their plans and careers upon the reformability of the Lebanese state; and Sadr held hunger strikes and rallies that demanded that Shiites be given their due or a fair chance to earn it. The movement was a social alliance, according to Kramer: It spoke for the multitudes of Shiite poor, the disinherited, and the oppressed, but it operated as the special vehicle of salaried Shiites at the lower levels of state administration and a new Shiite commercial bourgeoisie.

The Shiite consensus forged by Sadr ultimately dissolved, however, and a dissenting faction, Hizbullah, turned completely against the Lebanese state and confessional system. Why did the existing Amal movement lose its place as the embodiment of the hopes of poor Shiites? First, according to Kramer, a number of general factors caused instability and distrust of existing institutions: the civil war and the partial collapse of the state; the clash between Israelis and Palestinians on the Shiite soil of south Lebanon. Sadr's disappearance; and millenarian expectations unleashed by Iran's 1979 revolution and by its emissaries to Lebanon. In particular, Kramer noted the impact of Israel's invasions of 1978 and 1982; the arrival of a contingent of Iranian Revolutionary Guards in the Bekaa Valley in 1982; and Syria's many interventions throughout the 1980s.

Second, a group of young clerics found their ambitions thwarted by the established Shiite structure but encouraged by Iran, said Kramer. These clerics' training in Iraq, where the traditional academies for Shiite clergy were located, had in many cases been cut short by expulsion by the hostile government of Iraq. Impatient with the limited role assigned them because of youth and inadequate education by the formal Shiite religious establishment, they took inspiration, encouragement, and funding from Iran's emissaries to create religious communities and charitable organizations independent of the Lebanese Shiite hierarchy.

Third, a group of strongmen and commanders also became disaffected with the inflexibility of the institutions created by Sadr, said Kramer. He cited the example of Imad Mughiniyya, who is responsible for Islamic Jihad and the special operations of Hizbullah, including hostage holding. Mughniyya, among other Shiites, had been recruited by Yasir Arafat's Fatah organization in the mid-1970s in a special operations, internal security, and intelligence branch called Force 17. When the Palestinian organizations were forced to evacuate Beirut in 1982, Mughniyya is believed to have found a temporary home in Amal, but later he established a liaison with some of Iran's emissaries, who had begun a widespread campaign of recruitment among Lebanese Shiite veterans of Palestinian and leftist service, said Kramer. Eventually they formed Hizbullah into a militia the equal of Amal, which "did not subordinate them to a jealous and insecure hierarchy of officials, but offered them acceptance, rapid advancement, and substantial quantities of money and arms—not to speak of divine purpose," Kramer stated.

Fourth, Amal institutions were unable to meet social needs created by the ongoing war. The Dahiya, a region of suburbs of Beirut where Hizbullah now flourishes, received waves of Shiite refugees in 1976 after clashes between Palestinians and the Christian Phalange militia and in 1978 and 1982 after Israeli invasions. While estimates vary, as many as one million Shiites may now populate the Dahiya. Kramer noted that the industrial economy of the Dahiya has, in fact, prospered under the war—it hosts six thousand small manufacturing shops for textiles, clothing, paper goods, and furniture; forty bank branches; and hundreds of automobile repair garages. But the water, sewage, and electricity networks were built for a population of only 150,000, and services fail in many ways. Garbage collection is infrequent; the telephone network has deteriorated; and road construction and paving have virtually ceased. There is no government hospital in the Dahiya, nor are there government clinics. The more successful Shiite enterprises of the Dahiya have always been solidly pro-Amal, said Kramer. But with the arrival of impoverished Shiite refugees, Hizbullah found a following in the Dahiya. Amal neglected the needs, investing its limited resources and energies in south Lebanon and, in effect, abdicating its role in the Dahiya.

Iran and Hizbullah created an Islamic welfare state for the poor and displaced people of the Dahiya, Kramer said. Hizbullah opened its own hospital and runs clinics and pharmacies throughout the Dahiya. Its cooperatives sell basic foodstuffs at subsidized prices; at times there have been free food distribution campaigns. Hizbullah has opened a number of small factories and sheltered workshops to employ families of "martyrs" and activists. It has entered the construction business, with the guidance of Iran's "Reconstruction Jihad." Hizbullah's Department for Mobilizing Students provides scholarships and book allowances to tens of thousands, and Hizbullah has virtually taken over the government school system in the Dahiya. It has undertaken major roadworks and garbage collection. It has organized a scout movement, summer camps, and football leagues for grammar and high school students.

Simiarly, Kramer related how in the Bekaa Valley of eastern Lebanon Hizbullah is directing a share of prosperity toward its flock. In the Bekaa, the colapse of the state led to a booming trade in illicit drugs, and opium is cultivated quite openly. Local labs process the crop into heroin. Hizbullah's clergy has sanctioned this trade. The cleric Subhi al-Tufayli has said, "These are believing Shiites, oppressed and deprived. After the Lebanese government abandoned us, we have no other source of livelihood. The Lebanese economy is devastated. The militias rule. We Shiite clerics decided not to cause further suffering to the believers, and we did not forbid the cultivation of drugs. Furthermore, the export goes to Israel, the West, and the United States, and the drugs weaken these three great enemies of Islam."

Thus Hizbullah may be "a new social pact of southern villagers who have suffered most from the war and Bekaa clansmen who have profited most," suggested Kramer. The groups have an alienation from Amal and from perceived privileges of the Shiite commercial, professional, and middle classes which have been Amal's bulwark.

Consequently the civil war in Lebanaon has changed, Kramer stated. Formerly it has the character of a war among sects—Sunni Muslims, Shiite Muslims, and Maronite Christians—not within them. But since 1988 there has been carnage between members of Hizbullah and adherents of Amal. "For sheer ferocity, these fratricidal wars now match any conflict between militias representing different sects, and include even the massacre of innocents," stated Kramer.

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on September 21, 1990, during the recess of the Senate, received a message from the President of the United States submitting sundry nominations, and a withdrawal, which were referred to the appropriate committees.

(The nominations and withdrawal received on September 21, 1990, are printed in today's RECORD at the end of the Senate proceedings.)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION—MESSAGE FROM THE PRESIDENT—PM 146

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Environment and Public Works:

To the Congress of the United States:

I transmit herewith the Saint Lawrence Seaway Development Corporation's Annual Report for 1989. This report has been prepared in accordance with section 10 of the Saint Lawrence Seaway Act of May 13, 1954 (33 U.S.C. 989(a)), and covers the period January 1, 1989, through December 31, 1989.

GEORGE BUSH.

THE WHITE HOUSE, *September 24, 1990.*

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 1:29 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4773. An act to authorize the President to call and conduct a National White House Conference on Small Business.

MEASURES REFERRED

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 4660. An act to authorize the establishment of a memorial at Custer Battlefield National Monument to honor the Indians who fought in the Battle of the Little Bighorn, and for other purposes; to the Committee on Energy and Natural Resources.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3618. A communication from the Deputy Associate Director for Collection and Disbursement of the Minerals Management Service of the Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3619. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, an interim report on the relationship of the Social Security trust funds to Federal budget policy; to the Committee on Finance.

EC-3620. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Development of Prospective Payment Methodology for Ambulatory Surgical Services"; to the Committee on Finance.

EC-3621. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to September 13, 1990; to the Committee on Foreign Relations.

EC-3622. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the twentieth 90-day report on the investigation into the death of Enruque Camarena, the investigations of the disappearance of United States citizens in the State of Jalisco, Mexico, and the general safety of United States tourists in Mexico; to the Committee on Foreign Relations.

EC-3623. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the Semiannual Report of the Inspector General and the Semiannual NASA Management Report on the Status of Followup; to the Committee on Governmental Affairs.

EC-3624. A communication from the Secretary of Health and Human Resources, transmitting, pursuant to law, reports of Tier III agencies' plans for the implementation of drug testing; to the Committee on Governmental Affairs.

EC-3625. A communication from the Chief Judge of the United States Claims Court, transmitting, pursuant to law, copies of the Report of the Hearing Officer and the Report of the Review Panel in "Nebraska Aluminum Castings, Inc."; to the Committee on the Judiciary.

EC-3626. A communication from the Secretary of Education, transmitting, pursuant to law, a report on projects funded by the Fund for the Improvement and Reform of Schools and Teaching; to the Committee on Labor and Human Resources.

EC-3627. A communication from the Deputy Assistant Attorney General (Legislative Affairs), transmitting a draft of proposed legislation to establish national voter registration procedures for Presidential and congressional elections, and for other purposes; to the Committee on Rules and Administration.

EC-3628. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a contingency plan for responding to a fiscal year 1991 sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985, as amended; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

Under the authority of the order of the Senate of September 20, 1990, the following reports of committees were submitted on September 21, 1990:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2415: A bill to encourage solar and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Act of 1978 (Rept. No. 101-470).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments and an amendment to the title:

S. 3017: A bill to amend section 28(w) of the Mineral Leasing Act of 1920, as amended, to repeal the 60-day waiting period for the granting of pipeline rights of way (Rept. No. 101-471).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND:

S. 3091. A bill to amend the Act incorporating the American Legion as to redefine eligibility for membership therein; to the Committee on the Judiciary.

By Mr. GORTON:

S. 3092. A bill to authorize a certificate of documentation for the vessel SYRINGA; to the Committee on Commerce, Science, and Transportation.

By Mr. RIEGLE (for himself and Mr. GARN):

S. 3093. A bill to authorize the Federal Deposit Insurance Corporation to increase deposit insurance premiums and borrow working capital funds, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FORD (for himself, Mr. MCCAIN and Mr. DANFORTH):

S. 3094. A bill to authorize certain programs of the Federal Aviation Administration, to require the Secretary of Transportation to implement a National Noise Policy, to authorize airport passenger facility charges as an exception to the general prohibition of state taxation of air commerce, and to repeal certain regulations pertaining to airport operate slots; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN (for himself, Mr. MITCHELL, Mr. KENNEDY, Mr. HARKIN, Mr. KERREY, and Mr. PELL):

S. 3095. A bill to authorize the creation of a National Education Report Card to be published annually to measure educational achievement of both students and schools and to establish a National Council on Educational Goals; to the Committee on Labor and Human Resources.

By Mr. SASSER (for himself and Mr. GORE):

S. 3096. A bill to extend the period during which certain property is required to be placed in service to qualify for transition relief under section 203 of the Tax Reform Act of 1986 and to extend the period during which certain bonds may be issued under section 1317 of the Tax Reform Act of 1986; to the Committee on Finance.

S. 3097. A bill to extend the period during which certain property is required to be placed in service to qualify for transition relief under section 203 of the Tax Reform Act of 1986 and to extend the period during which certain bonds may be issued under section 1317 of the Tax Reform Act of 1986; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. CONRAD, Mr. BAUCUS, Mr. BURDICK, Mr. KERREY, and Mr. EXON):

S. 3098. A bill to permit producers to store excess wheat in the producer reserve program for the 1990 crop of wheat, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SIMPSON:

S. 3099. A bill to amend the Immigration and Nationality Act to strengthen provisions added by the Immigration Reform and

Control Act of 1986; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 3100. A bill to amend the Harmonized Tariff Schedule of the United States to clarify the classification of linear alkylbenzene sulfonic acid; to the Committee on Finance.

By Mr. HOLLINGS (for himself and Mr. BRYAN):

S. 3101. A bill to amend the Foreign Agents Registration Act of 1938 to strengthen the registration and enforcement requirements of the Act, and to amend title 18, United States Code, to limit the representation or advising of foreign persons by certain Federal civilian and military personnel, and for other purposes; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. RIEGLE, Mr. WILSON, Mr. COCHRAN, Mr. DURENBERGER, Mr. CHAFEE, Mr. PRESSLER, Mr. D'AMATO, Mr. HEINZ, Mr. DECONCINI, Mr. HATCH, Mr. GRAHAM, and Mr. BOSCHWITZ):

S. 3102. A bill to amend title XVI of the Social Security Act to permit disabled and elderly people to maximize their independence; to the Committee on Finance.

By Mr. DOLE (for himself and Mr. MITCHELL):

S.J. Res. 369. A joint resolution designating 1991 as the "Year of Thanksgiving for the Blessings of Liberty"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND:

S. 3091. A bill to amend the act incorporating the American Legion so as to redefine eligibility for membership therein; to the Committee on the Judiciary.

AN ACT TO INCORPORATE THE AMERICAN LEGION

Mr. THURMOND. Mr. President, I am pleased to introduce today legislation which would make changes in the American Legion's Federal charter in regard to its membership eligibility criteria. These changes would offer Legion membership to men and women who were in active U.S. military service from August 24, 1982, through July 31, 1984, or from December 20, 1989, through January 31, 1990. These time periods reflect the Lebanon, Granada, and Panama conflicts.

Federal legislation was enacted on September 16, 1919, to incorporate the American Legion. The organization's purposes, powers, membership criteria and related characteristics were cited in that measure. That original law was very specific in setting the standards for Legion membership eligibility. There have been periodic changes since 1919 to accommodate veterans of World War II, the Korean war, and the Vietnam war.

The American Legion wants to offer membership to those men and women who served on active duty in the U.S. Armed Forces during several recent periods of armed conflict against military forces of other nations. These periods include the Lebanon, Granada, and Panama conflicts.

Since the principal element of Legion membership involves honorable service between specific dates, I am proposing that the original act of incorporation be amended to include the periods from August 24, 1982, through July 31, 1984, and from December 20, 1989, through January 31, 1990.

in making this most recent request for an amendment to its act of incorporation, the American Legion is seeking to maintain the principal theme that has governed membership eligibility throughout its 71 year history. The American Legion has consistently welcomed those citizen soldiers who have rendered faithful service during wartime, whether it be declared or undeclared. This request also observes, and attempts to address, the changing nature of armed hostilities in recent years—a period that has featured a trend toward very limited, mission-oriented U.S. military engagement.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD after my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3091

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act entitled "An Act to incorporate The American Legion", approved September 16, 1919 (41 Stat. 285; 36 U.S.C. 45), is hereby amended to read as follows:

"SEC. 5. No person shall be a member of this corporation unless he has served in the naval or military services of the United States at some time during any of the following periods: April 6, 1917, to November 11, 1918; December 7, 1941, to December 31, 1946; June 25, 1950, to January 31, 1955; December 22, 1961, to May 7, 1975; August 24, 1982, to July 31, 1984; December 20, 1989, to January 31, 1990; all dates inclusive, or who, being a citizen of the United States at the time of entry therein, served in the military or naval service of any governments associated with the United States during said wars or hostilities; provided, however, that such person shall have an honorable discharge or separation from such service or continues to serve honorably after any of the aforesaid terminal dates.".

By Mr. GORTON:

S. 3092. A bill to authorize a certificate of documentation for the vessel *Syringa*; to the Committee on Commerce, Science, and Transportation.

DOCUMENTATION OF VESSEL "SYRINGA"

● Mr. GORTON. Mr. President, the bill I am introducing today would provide a waiver for the M/V *Syringa* so that it could be used both as a family and a charter vessel.

The M/V *Syringa* was built in Norway in 1962. It is 93 feet long and has a gross weight of 154 metric tons. The vessel was purchased in 1984 by Mr. James M. Brown of Sandpoint, ID, for use as a family yacht and for charters to small parties. Mr. Brown is now deceased and the current owner is the Brown family business organization, Pack River Management Co. of Sandpoint, ID.

The vessel is now undergoing extensive repairs in Puget Sound shipyards.

I ask unanimous consent that the text of the bill be printed in the RECORD following this statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3092

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the vessel *Syringa*, hull identification number 363412.●

By Mr. RIEGLE (for himself and Mr. GARN) (by request):

S. 3093. A bill to authorize the Federal Deposit Insurance Corporation to increase deposit insurance premiums and to borrow working capital funds, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

DEPOSIT INSURANCE FUNDS FLEXIBILITY ACT

● Mr. RIEGLE. Mr. President, I rise to introduce, at the request of the administration, a bill to give the Federal Deposit Insurance Corporation increased flexibility to raise deposit insurance assessments and to otherwise help maintain the integrity of the insurance funds. Senator GARN joins me in introducing this legislation by request.

Ten days ago, I introduced a similar measure, S. 3045, which has been cosponsored by Senators SHELBY, KERRY, GRAHAM, D'AMATO, DODD, CRANSTON, AKAKA, WIRTH, METZENBAUM, SIMON, and BRYAN. I strongly support the thrust of the administration's proposal. Testimony before the Banking Committee by both the General Accounting Office and the Congressional Budget Office raised serious questions about the ability of the FDIC to maintain adequate reserves in the insurance fund for banks, under current law. This legislation provides additional authority to the FDIC to raise assessment premiums, if necessary. The Banking Committee will hold a hearing on Wednesday on these two bills, and it is my intention to work closely on a bipartisan basis with members of the committee and with the administration to move legislation in this area quickly.

I am particularly pleased that the administration's bill includes a provision to enable the FDIC to borrow from the Federal Financing Bank. This will give the FDIC authority to borrow at cheaper rates than currently allowed, in the event of a temporary liquidity problem. It parallels similar

authority possessed by the RTC. Last year, I urged RTC's use of that authority, which has since saved considerably on RTC's borrowing costs, and I think it is very desirable that the FDIC have a similar power.

Mr. President, I ask unanimous consent that a section-by-section analysis and the letter of transmittal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE TREASURY,
Washington, September 20, 1990.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: The Administration hereby transmits draft legislation entitled the "Deposit Insurance Funds Flexibility Act of 1990." Also enclosed is a section-by-section analysis of the draft legislation.

The draft legislation would amend the Federal Deposit Insurance Act to provide the Federal Deposit Insurance Corporation (FDIC) with new tools to preserve the solvency of the funds that insure deposits in insured banks and thrifts. These tools are critical since, along with capital, the insurance fund is a crucial buffer that prevents the taxpayer from paying for losses of insured institutions. While the Administration will provide additional recommendations for deposit insurance reform later this year in the study mandated by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the Administration urges the prompt enactment of the draft legislation in order to provide the FDIC with needed flexibility that can be used immediately to protect the deposit insurance funds. The FDIC supports this draft legislation.

The draft legislation provides the FDIC with significantly greater flexibility to set assessment and rebate levels for insured institutions, making it much more like a private insurance company that sets rates and dividends on the basis of actual experience and anticipated risks. Like other legislative proposals introduced in both the Senate and the House of Representatives, the draft legislation would remove arbitrary statutory constraints that establish absolute limits on annual and overall assessment rates. The draft legislation would also authorize the FDIC to set assessment rates for semiannual periods instead of the annual assessment rate required under current law.

In addition, the draft legislation would remove provisions in existing law that mandate rebates of assessments. Instead, rebate determinations would be left to the discretion of the FDIC, which would take into account the need to build up fund reserves to withstand future periods of unusual stress.

Although the draft legislation would remove certain constraints on assessments, it is emphasized that the FDIC would still be required to take into account the effect of any rate increase on the earnings and capitalization of insured institutions; it would be counterproductive if the revenue from increased assessments was offset by losses from insolvencies caused by the increase, or if an increase caused a substantial weakening of the industry's capital or ability to attract capital.

Finally, the draft legislation contains a specific provision stating that the FDIC is authorized to borrow from the Federal Financing Bank (FFB) for liquidity or working capital purposes. It would not be used to increase the reserves available to pay for actual losses, because the borrowing would be subject to the FDIC's obligation cap as provided in FIRREA. This statutory cap prohibits the FDIC from incurring any obligation, including loans from the FFB, that would reduce the net worth of the insurance fund to less than 10 percent of fund assets. This net worth cushion is designed to absorb unanticipated losses associated with FDIC borrowing.

The purposes of the FFB provision is to provide the FDIC with sufficient cash for fully collateralized working capital through less expensive government financing. In most cases, this is clearly preferable to using expensive FDIC notes to purchase assets during resolutions of involvent banks. The 1988 transactions of the Federal Savings and Loan Insurance Corporation make it clear the deposit insurer should resolve cases on the basis of what produces the least cost to the government, not what requires the expenditure of the least cash. This provision of the Act directly addresses this concern, and would remove incentives for costly regulatory forbearance.

The Office of Management and Budget has advised that there is no objection to the submission of the draft legislation to the Congress and that its enactment would be consistent with the program of the President.

Sincerely,

JEANNE S. ARCHIBALD,
Acting General Counsel.

SECTION-BY-SECTION ANALYSIS

Section 1. Title.—Section 1 provides that the title of this Act is the "Deposit Insurance Funds Flexibility Act of 1990."

Section 2. FDIC authorized to adjust assessment rates at such times as appropriate.—Section 2 provides that the Federal Deposit Insurance Corporation (FDIC) will set assessment rates for insured depository institutions at such times as the FDIC determines in its sole discretion to be appropriate. Any change in the assessment rate for a semiannual period would be required to be made 30 days prior to the effective date of the assessment. This section would amend current law which requires that the FDIC set assessment rates annually and requires that the FDIC announce assessment rates by September 30 of each year for the succeeding year.

Section 3. FDIC authorized to set designated reserve ratio.—Section 3 eliminates the 1.50 percent cap in current law on the designated reserve ratio for the Bank Insurance Fund (BIF) and the Savings Association Insurance Fund (SAIF). The 1.25 percent minimum under current law remains, but the FDIC would be authorized pursuant to the amendment to raise the ratio to any higher level if justified by circumstances that raise a significant risk of substantial future losses to the respective fund. Section 3 also eliminates the Earnings Participation Account and the distributions thereunder. This means that investment income on reserves in each Fund above the ratio of 1.25 percent (Supplemental Reserves) are not automatically distributed to Fund members.

Section 4. FDIC authorized to increase assessment rates as appropriate.—Section 4 amends current law with respect to assessment rates for BIF and SAIF members. Section 4 maintains the stated annual assessment rates as minimums and deletes the limitations on increasing those rates. The Board of Directors of the FDIC is authorized to determine the assessment rate for BIF and SAIF members as the Board determines to be appropriate to maintain the reserve ratio at the designated reserve ratio or, if the reserve ratio is less than the designated reserve ratio, to restore the reserve ratio to the designated reserve ratio within a reasonable period of time. In setting any rate above the stated minimum, the Board must take into consideration the following factors: expected operating expenses, case resolution expenditures, expected income (provided, however, that anticipated funds from Treasury to SAIF are not included in the calculation; thus, payments from SAIF members would reduce the taxpayers burden), the impact on earnings and capitalization of the insured institution, and any other factors that they deem appropriate. For BIF members, the foregoing assessment rate will not be less than the greater of 0.150 percent or $1,000 for each member for each year. For SAIF members, the foregoing assessment rate will not be less that the greater of $1,000 for each member in each year or 0.208 percent until December 31, 1990; 0.230 percent from January 1, 1991, through December 31, 1993; 0.180 percent from January 1, 1994, through December 31, 1997; and 0.150 percent after December 31, 1997.

In general, this section removes the maximum assessment rate limitation of 0.325 percent and the 0.075 percent per year increase restriction, and the prohibition on increasing the rate so long as the fund ratio is increasing. Also, this section makes the stated assessment rates under current law the minimum rates. Section 4 also gives FDIC added flexibility to consider any factors it deems appropriate to fix the assessment rate and excludes anticipated Treasury funding to SAIF in fixing the rate.

Section 5. Assessment procedures modified to permit semiannual assessments.—Section 5 provides for the setting of semiannual assessment rates for BIF and SAIF members. While assessments had been collected semiannually, the rate can only be set annually under current law.

Section 6. Assessment credits authorized when reserve ratio expected to exceed designated reserve ratio.—This section conforms assessment credit provisions to the proposed semiannual assessment time frame. In addition, this section amends existing law to provide that it is within the discretion of the Board of Directors of the FDIC, rather than mandatory as under current law, to prescribe assessment credits to BIF and SAIF members when the reserve ratio is expected to exceed the designated reserve ratio for the respective Fund in the succeeding year.

Section 7. FDIC authority to borrow from Federal Financing Bank.—Section 7 adds a specific provision stating that the FDIC is authorized to issue and sell its obligations to the Federal Financing Bank (FFB), and the FFB is authorized to purchase and sell the FDIC's obligations on terms and conditions determined by the FFB. This would permit the FFB to purchase FDIC obligations without regard to whether or not FDIC is a "Federal agency" under the FFB Act.●

● Mr. GARN. Mr. President, I rise today to join my colleague, the chairman of the Banking Committee, to introduce by request the Deposit Insurance Funds Flexibility Act of 1990. This bill was submitted by the Treasury Department to address the FDIC's

critical need to raise funds for the Bank Insurance Fund [BIF].

The GAO and CBO have recently testified that the BIF is under severe pressure from several years of record bank failures. Given our experience with the S&L industry, these warnings from the GAO and the CBO must be taken seriously. The FDIC, created during the depression, has never before experienced the magnitude of losses it has weathered the past 2 years. As a result of the losses, the ratio of reserves to insured deposits has been reduced to an all-time low of less than .70 cents per $100—little more than half the statutory objective of $1.25. And more losses are anticipated this year.

The Treasury's bill would provide the FDIC with new authority in three key areas:

First, the FDIC would be authorized to raise the deposit insurance premiums that banks pay without the limits set by Congress; they would be further authorized to change the rates twice each year rather than annually.

Second, the FDIC would no longer be required to rebate assessments when the fund reaches a predetermined limit. This will enable the FDIC to bolster the fund in anticipation of unusual stress on the fund such as we are experiencing now.

Third, finally the legislation would provide the FDIC with liquidity borrowing authority from the Federal Financing Bank. This borrowing authority would provide the FDIC with cheaper working capital than would be available to it in the credit markets or from assisted banks. The borrowing would be fully collateralized and would not be allowed if it would reduce the net worth of the fund to less than 10 percent.

While we must all agree that action is necessary, the FDIC should be careful not to assess increased premiums to the detriment of the fund itself. If premiums are set too high, it could exacerbate losses to the FDIC fund by causing the failure of marginal institutions. This result would be counterproductive to the goal of strengthening the insurance system.

The Treasury's language deals with this question by requiring the FDIC to consider the effect of any rate increase on the earnings and capitalization of insured institutions, acknowledging that while we must move immediately, we must not move recklessly.

There is no doubt that this body has an obligation to act on this matter before we adjourn. Although the Treasury's bill addresses my primary concerns, there are several other bills which also attempt to deal with this crisis. We should move expeditiously to examine all of these legislative proposals and then act before this session is over.●

By Mr. FORD (for himself, Mr. MCCAIN, AND MR. DANFORTH):

S. 3094. A bill to authorize certain programs of the Federal Aviation Administration, to require the Secretary of Transportation to implement a National Noise Policy, to authorize airport passenger facility charges as an exception to the general prohibition of State taxation of air commerce, and to repeal certain regulations pertaining to airport operating slots; to the Committee on Commerce, Science, and Transportation.

AIRPORT CAPACITY ACT

Mr. FORD. Mr. President, today I am introducing a bill to reauthorize certain programs of the Federal Aviation Administration [FAA], and to recognize the linkage between airport capacity constraints and noise. My bill will ensure adequate levels to continue the modernization of the national airspace system plan, the improvement of the air traffic control system, the expansion of airport capacity. It will also mandate the development and implementation of a national noise policy, and, contingent upon the noise policy, will authorize the imposition of passenger facility charges. Finally, it will resolve some of the competition concerns I and my colleagues on the Aviation Subcommittee have identified over the past couple of years.

I was disappointed last February, when the much awaited National Transportation Policy was issued by the Secretary of Transportation. Aircraft noise was mentioned but there was no call for a national noise policy. No issue facing air transportation is more important than settling the noise debate. The greatest obstacle to expanding airports and increasing air carrier service is the opposition to aircraft noise and not the cost of building more runways and establishing more technologically advanced air traffic control. The threat of jet noise has prevented the construction of a new airport in this country since 1973 when the Dallas/Fort Worth Airport was constructed. There is no doubt that the cause for the capacity crisis is aircraft noise. Delays and congestion are the result of the noise problem and airline passengers are the victims.

The lack of leadership from the Federal Government has created conflict between the airlines, the airport operators and the communities they serve. Airports are now telling the airlines what kind of aircraft they can fly as a method of regulating noise. Some airports have enforced restrictions on the type of aircraft, the number of operations and the time of day for operations.

The patchwork quilt of local noise restrictions is the major impediment to increasing airport and airway capacity. Recently, the Administrator of the Federal Aviation Administration, Admiral Busey, stated that more than 400 airports have now adopted local noise regulations and that the FAA wants to step in with a national standard. Noise has a definite impact on interstate commerce.

The Department of Transportation estimates that in 1978 more than 5 million Americans were living in unacceptable noise levels. Due to the enormous investment by the airlines in quieter aircraft the number has declined to 3.2 million. This was during a period when the airline passengers doubled and the number of aircraft operations increased by 50 percent.

Citizens are continuing to build and buy housing near airports. Local governing officials are zoning land surrounding airports to allow residential and other noncompatible land use in unacceptable noise areas. As this continues to occur throughout the country there is going to be an even greater call for noise restrictions. The solution is to establish a National Noise Policy. Since a vast number of airport operations are classified as interstate travel, it is appropriate for the Federal aviation leaders to end the noise debate.

Aircraft are rated on the amount of noise they make taking off and landing. Stage 1, the noisiest aircraft such as the Boeing 707 and the Douglas DC 8, were banned by the Congress in 1987. They no longer fly into airports unless they have been brought up to State 2 levels. State 2 are quieter than stage 1 and include the older Boeing 727, 737, and 747 and the McDonnell Douglas DC-10. The new technology and the quietest aircraft are the Stage 3, which includes the new Boeing 737, 747, 757, 767, Lockheed L10-11, McDonnell-Douglas MD 80 and the European Airbus.

Under the provisions of this legislation Stage 3 will be the nationally acceptable noise standard. There is no quieter technology even though some airports are drafting noise restrictions as if there were. Stage 3 must not be restricted even if technological improvements are developed by aircraft manufacturers.

Most of the airlines have large orders for new stage 3 aircraft. Not only are stage 3 aircraft quieter than stage 2, they are also more fuel efficient. The aircraft orders amount to $100 billion, and Wall Street predicts the airline industry will lose billions in the next 2 years. It is no wonder that the airlines want a guarantee that they can continue to use the new aircraft. The goal of the National Noise Policy is to strike a balance between local concerns, national air transportation and the need for protection of stage 3 aircraft. This is a large task and the appropriate method is a regulatory proceeding at the Department of Transportation. This legislation will

provide the framework that the Department of Transportation will use to develop a national noise policy. Local officials, airport operators, noise interest groups and the airlines will all have the opportunity to make their case before the Department of Transportation during the regulatory process.

After the implementation of the noise policy not later than January 1992, this legislation amends the Federal Aviation Act to allow the imposition of approved Passenger Facility Charges [PFC's]. PFCs have been on the lips of the Secretary of Transportation and of many in the airport community for the past 10 months. Our colleagues in the House of Representatives passed an FAA reauthorization bill which includes a PFC. I have resisted the idea and have not been shy about say so. Passengers are already paying plenty to fly. The revenues from the existing 8% ticket tax are sitting unused in the Airport and Airway Trust Fund to the tune of $7.6 billion. I am certain that the budget summiteers will increase that tax to 10 percent. Fares are high and one reasons they are is that airlines need to pay off the bonds which they bought to finance airport projects. So we already have the passenger paying twice for airport improvements. Now if you add up to $12.00 to the cost of a ticket, as the Administration proposes and the House bill authorizes, you have added significantly to the cost of travel. Furthermore, most passengers who connect through cities enroute to their final destination do so not by choice, but because there is no direct flight. Why should these passengers have to pay again to pass through an airport to which they didn't choose to go?

I am also worried about accountability after a PFC is levied and collected. The House bill does not contain the checks and balances which I believe are necessary to assure responsible use of the funds. I believe if this is to be a local tax, it should be agreed to by the community and the airport users.

Still, I think a new revenue source for airport expansion could be useful, and I accepted the challenge of developing a PFC proposal which would respond to the needs and concerns of the aviation community as well as provide me with the assurances I need about the process and disposition of the funds.

My bill provides for secretarial approval of passenger facility charges for specific projects following implementation of a national noise policy, and if the balance in the airport and airway trust fund is less than $4 billion. To assure that the trust fund does not build up again, the bill terminates PFC authorization should appropriations fail to fund at least 95 percent of the amounts authorized for the three FAA accounts drawn from the fund. The PFC charge shall not exceed $3 and shall be collected only from passengers originating at an airport opting to impose such a charge. This would avoid saddling passthrough or connecting passengers with a tax for a facility they don't really use and would tax the locals who do. The airlines will collect the PFC and the Secretary shall prescribe through regulation full compensation for collection and handling costs.

My bill does not require that airports who adopt PFC's turn back part of their entitlements, as does the House bill. Since the bill limits the PFC to originating passengers only, I did not think it would be fair to require the participating airports to return a portion of their entitlements to establish a fund for general aviation and nonhub airports. If a conference committee at a later date determines that a turnback of entitlements is desirable, then I believe that the apportionment now used by the FAA to distribute State entitlements should be the means of distributing the returned funds. The States are in a better position to assess the needs of small airports and general aviation.

This legislation requires extensive consultation with all interested groups before a request for PFC approval is sent to the Secretary. Projects for which PFC's may be used must be eligible costs under the existing airport improvement program, with the exception of gates which may be considered eligible provided they not be subject to long-term leases exceeding 10 years, or to majority in interest clauses.

I have worked hard over the last 2 years on the Aviation Subcommittee with my colleague and ranking member, Senator McCain, to identify some of the problems and barriers to competition in the airline industry. There are four airports in the United States which the FAA designated as high density in 1969, and imposed a slot limit at each of these airports. The air traffic controllers' strike in 1981 and the resulting shortage of controllers compounded the problem and the high density rule was continued. By the mid-1980's, the system for reallocation of unused slots, or for withholding slots for use by new entrants, had become so contentious and unwieldy that the Secretary of Transportation attempted to solve the problem through the buy-sell rule. This rule turned the slots over to the carriers who held them at the time, and thereafter allowed the carriers to buy and sell slots. The result has been that big carriers get more slots, and the little ones or the new ones are left out. Since the high density rule limits the number of operations, there is no way to increase capacity to accommodate new entrants. The lack of competition results in higher fares for passengers and, in many cases, less service. Furthermore, the Government gave these rights to the carriers; the Government got nothing in return; and the carriers in some cases sold the slots for big money.

In July, Senator McCain and I and others introduced the Airline Competition Equity Act to abolish the buy-sell rule; to direct the Administrator of FAA to provide extra capacity at these four airports to be used only for new entrants; and to eliminate the high density rule itself 18 months after enactment. After that, if the FAA wants to impose slot controls on any airport, the Administrator must certify to Congress that such a rule is necessary for aviation safety.

The legislation was marked up and reported out of the Commerce Committee at the end of July, and I have incorporated it in this FAA reauthorization legislation.

Mr. President, I request unanimous consent that the text of the bill be printed in the Congressional Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3094

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE

This Act may be cited as the "Airport Capacity Act of 1990".

SEC. 101. FINDINGS.

The Congress finds that:

(1) aviation noise management is crucial to the continued increase in airport capacity;

(2) community noise concerns have led to uncoordinated and inconsistent restrictions on aviation which have impeded its ability to meet transportation needs, and are imposing undue burdens on interstate and foreign commerce;

(3) a noise policy must be implemented at the national level;

(4) local interest in aviation noise management shall be considered in determining the national interest;

(5) community concerns can be alleviated through the technology aircraft, combined with the use of revenues, including those available from passenger facility charges, for noise management;

(6) federally controlled revenues can help resolve noise problems and carry with them a responsibility to the national airport system;

(7) a precondition to the establishment or collection of a passenger facility charge shall be the establishment by the Secretary of Transportation of a national noise policy;

(8) revenues derived from a passenger facility charge may be applied to noise management and increased airport capacity;

(9) provisions of subpart S of part 93 of title 14, Code of Federal Regulations (known as the "buy-sell rule"), which allow a public right to be used as a private asset, not only restrict competition at the four airports whose use is controlled through slots but also can impede competition in air transportation throughout the northeastern and midwestern United States;

(10) passengers pay higher fares at slot controlled airports than at other airports;

(11) increasing the number of slots at high density traffic airports will make it easier for carriers not already engaged in regular operations at those airports to achieve regular operations; and

(12) improvements in the air traffic control system since the initiation of slot controls, including new technology and new methods of regulating air traffic, necessitate a complete review methods of regulating air traffic, necessitate a complete review of the practice of using slots to control access to high density traffic airports.

TITLE II—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 201. FAA FACILITIES AND EQUIPMENT.

That (a) section 506(a)(1) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2205(a)(1)) is amended—

(A) by striking "and" immediately after "October 1, 1989,"; and

(B) by inserting immediately before the period at the end of the first sentence the following: "$14,625,200,000 for fiscal years ending before October 1, 1991, and $17,625,200,000 for fiscal years ending before October 1, 1992" "* * * .f the first sentence the following: ", and

SEC. 202. AIRPORT IMPROVEMENT PROGRAM.

Section 505 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2204) is amended—

(1) in subsection (a) by striking "$13,816,700,000" and inserting "$13,916,700,000"; and

(2) in subsection (b) by striking "September 30, 1987" and inserting "September 30, 1992".

SEC. 203. FAA RESEARCH, ENGINEERING AND DEVELOPMENT.

(a) Section 506(b)(2) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2205(b)(2)) is amended—

(1) in subparagraph (B)(vii), by striking "and";

(2) in subparagraph (C), by striking the period at the end and inserting in lieu thereof "; and" and

(3) by adding at the end of the following new subparagraph:

"(4) for fiscal year 1991, $260,000,000, and for fiscal year 1992, $260,000,000.".

(b) Section 506(b)(4) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2205(b)(4)) is amended—

(1) in subparagraph (A), by striking "and 1990" and inserting in lieu thereof "1990, 1991, and 1992"; and

(2) in subparagraph (B), by striking "and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

(c) Section 506(d) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2205(d)) is amended by striking "and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

SEC. 204. FAA OPERATIONS.

AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—There is authorized to be appropriated for operations of the Administration "$4,088,000,000 for fiscal year 1991 and $4,412,600,000 for fiscal year 1992.".

TITLE III—NATIONAL AVIATION NOISE POLICY

SEC. 301. NATIONAL AVIATION NOISE POLICY DEVELOPMENT.

(a) The Secretary of Transportation shall, by regulation, issue not later than January 1, 1992, develop and articulate a National Aviation Noise Policy which takes into account the Findings and Determinations and provisions of this * * *.

(b) The National Aviation Noise Policy shall include the establishment of a date or dates for the possible phasing out of Stage 2 technology aircraft as part of a comprehensive national noise management scheme. Such consideration must include a detailed economic analysis of the impact of any phaseout date on competition in the airline industry, including the carriers' ability to achieve capacity growth consistent with the projected rate of growth for the industry; the impact of constrained capacity and aircraft prices on airfares and competition within the airline and air cargo industries; the impact on non-hub and smaller community air service and the impact of such a phaseout on new entry into the airline industry. No phaseout date shall be approved if it would result in an unreasonably adverse impact on any of these considerations.

SEC. 302. NOISE AND ACCESS RESTRICTION REVIEWS.

(a) The National Aviation Noise Policy shall require the establishment of a program for the mandatory review and approval of all existing or proposed local airport noise or access restrictions by the Federal Aviation Administration.

(b) No airport noise of access restriction could be submitted for approval or approved in accordance with the program if it contains any restriction on the operation of a Stage 3, quiet technology aircraft, including but not limited to:

(1) any restriction as to noise levels generated on either a single event or cumulative basis;

(2) any limit, direct or indirect, on the total number of Stage 3 aircraft operations;

(3) any noise budget or noise allocation program which would include Stage 3 aircraft;

(4) any restriction imposing limits on hours of operations;

(5) any other limit on Stage 3 aircraft.

(c) No airport noise or access restriction could include a restriction on other than Stage 3 aircraft, unless the airport operator submitting the existing or proposed noise or access regulation to the Administrator for review and approval in accordance with this Act has submitted concurrently:

(1) a complete analysis of the anticipated or actual costs and benefits of the existing or proposed noise regulation;

(2) a detailed description of alternative regulations;

(3) a detailed description of the alternative measures considered not involving aircraft restrictions, and a comparison of the costs and benefits of such alternative measures to the costs and benefits of the proposed noise or access regulation. The analysis of anticipated costs and benefits shall include an estimate of the potential economic and operational impact of the noise or access regulation on the national air transportation system.

(d) After review of the information described in subparagraph (c) and any other information the Administrator deems necessary, the Administrator shall approve or disapprove such proposed noise regulation subject to the provision of subsection (e).

(e) The Administrator shall not approve a noise or access regulation unless the Administrator finds the following conditions to be supported by substantial evidence:

(1) the regulation is reasonable, nonarbitrary and nondiscriminatory;

(2) the regulation does not create an undue burden on interstate or foreign commerce;

(3) the regulation is not inconsistent with maintaining the safe and efficient utilization of the navigable airspace;

(4) the regulation does not conflict with any existing federal statute or regulation;

(5) the airport operator provided an adequate opportunity for public comment with respect to the regulation;

(6) the airport operator's rejection of alternative means of minimizing or otherwise managing noise was reasonable; and

(7) the benefits accruing from the regulation outweigh the associated costs, including all costs attributable to the impact or potential impact of the regulation on the national air transportation system.

(f) Sponsors of facilities operating under noise or access restrictions at the time of passage of this Act shall not be eligible to impose a Passenger Facility Charge, and shall not be eligible for grants authorized by Section 505 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2204) 90 days after the date on which the Secretary promulgates the final rule called for under Section 301 of this Act, unless the Administrator has approved the restriction under Section (e) of this Title, or the restriction has been rescinded.

(g) The Administrator shall reevaluate any previously approved noise regulation upon the request of any aircraft operator able to demonstrate to the satisfaction of the Administrator that there has been a change in the noise environment of the affected airport and that a review and reevaluation of the benefits and costs of the previously approved noise regulation is therefore justified.

(h) The Administrator shall establish by regulation procedures under which the evaluation provided in subsection (g) of this section shall be accomplished. Such evaluation shall not occur less than 2 years after a determination under subsection (g) of this section has been made.

SEC. 303. FEDERAL LIABILITY FOR NOISE DAMAGES.

In the event of a disapproval of a proposed noise or acess restriction, the Federal government shall assume liability for noise damages to the extent that a taking has occurred as a direct result of such disapproval. Action for the resolution of such a case shall be brought solely in the United States Claims Court.

SEC. 304. PRIVATE RIGHT OF ACTION.

An aircraft operator may commence a civil action against an airport proprietor for the purpose of protecting its rights under this Act, in any United States District Court without regard to citizenship or amount in controversy.

SEC. 305. LIMITATION ON AIRPORT IMPROVEMENT PROGRAM REVENUE.

Under no conditions shall any airport receive revenues under the provisions of the Airport and Airway Improvement Act of 1982, as amended, or impose or collect a passenger facility charge, unless the Administrator:

(1) assures that the airport is not imposing any noise or aceess restriction not submitted and approved in compliance with this Act;

(2) has approved any noise or access restriction in place at that airport; and

SEC. 306. NOISE COMPATIBILITY PROGRAM.

No proposal for the imposition of a passenger facility charge shall be approved by the Secretary if the airport has not conducted an airport noise compatibility program

pursuant to Section 104(b) of the Aviation Safety and Noise Abatement Act of 1979.

TITLE IV—PASSENGER FACILITY CHARGES

SEC. 401. DEFINITIONS.

For purposes of this title the following definition applies: Eligible Airport-related Project—The term "eligible airport-related project" means

(a) a project for airport development under the Airport and Airway Improvement Act of 1982;

(b) a project for airport planning under such Act;

(c) a project for terminal development described in section 513(b) of such Act;

(d) a project for airport noise capability planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979;

(e) a project to carry out noise compatibility measures which are eligible for assistance under section 104 of the Aviation Safety and Noise Abatement Act of 1979 without regard to whether or not a program has been approved for such measures such section section; and

(f) a project for construction of gates and related areas at which passengers are enplaned or deplaned.

SEC. 402. AUTHORIZATION FOR IMPOSITION.

Section 1113 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1513), as amended, is further amended by the addition of a new subsection:

"(e) Exception for Imposition of Passenger Facility Charges.

"(1) Notwithstanding the above limitations the Secretary of Transportation is hereby authorized to establish by regulation a program for the imposition of approved passenger facility charges by any airport proprietor to finance eligible projects.

"(2) Passenger facility charges shall be imposed only as approved by the Secretary of Transportation and shall be approved only in full dollar amounts not to exceed three dollars per passenger. They shall remain in effect only during such periods as are necessary to pay for such specific projects as are identified to support their imposition.

"(3) Passenger facility charges shall be collected only from revenue passengers originating their travel at the airport imposing such a charge.

"(4) No proposal for the imposition of a passenger facility charge shall be approved by the Secretary of Transportation unless:

"(a) The airport proprietor seeking to impose the Passenger Facility Charge certifies, in writing, that airport users and the general public have been provided with a minimum of seventy-five days advance notice of the proposal; a full and detailed description of the project intended to be financed; a detailed financial plan for full funding of the specific project; and an opportunity to meet with the airport proprietor to present their views. On the basis of such advance notification and information the airport proprietor shall solicit the approval or disapproval of the airport users and the general public and shall advise the Secretary of Transportation of any disagreements with the proposed imposition of a passenger facility charge and the reasons supporting such disagreement.

"(b) In the event that no disagreement is registered, the Secretary shall approve the passenger facility charge.

"(c) In the event that disagreement is registered with reference to a project otherwise eligible for funding under the provisions of the Airport and Airway Improvement Act of 1982, as amended, the Secretary shall approve such passenger facility charge unless the Secretary finds by substantial evidence it would not significantly benefit airport security, safety, noise mitigation, or capacity.

"(d) The Secretary shall establish, by appropriate rule, the procedures under which a disagreement is registered and an appeal heard under subsection (c).

"(e) In the event that disagreement is registered with reference to a project to build airport gates, the Secretary shall not approve such passenger facility charge unless he finds by substantial evidence that the project is justified by the need to increase capacity at the facility or facilities affected. Under no circumstances shall any gates constructed, improved, or repaired with passenger facility charges under this paragraph be subject to long-term leases for periods exceeding 10 years or to majority in interest clauses.

"(f) No other projects other than those defined in this title may be financed by a Passenger Facility Charge.

"(5) Any proposal to amend a project supported by an approved passenger facility charge necessitating an upward adjustment of project financing costs shall be treated as a new proposal for the imposition of a passenger facility charge and submitted for approval.

"(6) No passenger facility charge shall be approved for imposition prior to the adoption by regulation of a National Aviation Noise Policy in accordance with the provisions of Title III of this Act and, in no event, prior to such date at which the unobligated balance contained in the Airport and Airway Trust Fund is less than $4 billion.

"(7) Authority for the approval of any new passenger facility charge, or the modification of any existing charge, shall terminate in the event that appropriations fail to be made to fund at least ninety-five percent of each amount authorized for Facilities and Equipment, the Airport Improvement Program and the Research Engineering and Development programs of the Federal Aviation Administration during any fiscal year. Further, all authority to approve any passenger facility charge shall terminate at any time funds are spent from this Act except as authorized by this Act.

"(8)(a) Revenues derived from collection of a fee by an airport proprietor pursuant to this subsection shall not be treated as airport revenues for the purpose of establishing rates, fees and charges pursuant to any contract between such airport and an air carrier.

"(b) Except as otherwise provided in subparagraph (c) hereof, such airport shall not include the portion of the capital costs of any project paid for from such passenger facility charge revenues in the rate base, by means of depreciation, amortization or otherwise, in establishing fees, rates and charges for air carriers.

"(c) With respect to any project for terminal development, for gates and related area, or for any facility which is occupied or utilized by one or more air carriers on an exclusive or preferential basis, the rates, fees and charges payable by air carriers which use such facilities shall be no less than the rates, fees and charges paid by carriers using similar facilities at the airport which were not financed with revenues derived from collection of a fee pursuant to this subsection.

"(d) Except as provided in this subsection nothing contained in this Act shall be construed as endorsing or authorizing the unilateral abrogation, abridgement or alteration of any existing contract or lease provision in place at any airport.

"(9) Any passenger facility charge approved for imposition under this Act shall be collected by the air carrier or its agent selling such transportation and shall be paid to the airport imposing such a charge in accordance with regulations to be issued by the Secretary of Transportation. Such charge shall be separately identified on any ticket sold for such transportation as a local Passenger Facility Charge. The Secretary of Transportation shall provide by regulation for the full and complete compensation of air carriers based upon a uniform fee which reflects their average costs for their collection and handling costs out of the charges collected.

"(10) The Secretary of Transportation shall require that any airport imposing a passenger facility charge maintain the funds derived as a result in a separate and identifiable account which, for the purposes of this Act, shall be subject to the same record, audit and examination requirements imposed upon Airport Improvement Program revenues by section 518 of the Airport and Airway Improvement Act of 1982, as amended.

"(11) No state (or political subdivision thereof, including the commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States or political agencies of two or more states) shall levy or collect any tax on or with respect to any commercial aircraft flight, or any activity or service on board such flight, if such flight neither takes off nor lands in such state or jurisdiction.

SEC. 403. SPONSOR ASSURANCES INCLUDING MINORITY AND SMALL BUSINESS PARTICIPATION.

Section 511(a) of the Airport and Airway Improvement Act of 1982, as amended (49 U.S.C. App. 2210) is amended by after the word title striking "," and inserting "or passenger facility charge project,".

SEC. 404. PERFORMANCE OF CONSTRUCTION WORK INCLUDING MINIMUM RATES OF WAGES AND VETERANS PREFERENCE.

Section 515 of the Airport and Airway Improvement Act of 1982, as amended (49 U.S.C. App. 2214) is amended—

(1) in subsection (a) by inserting "or passenger facility charge project" after "title";

(2) in subsection (b) by inserting "or passenger facility charge project" after "title";

(3) in subsection (c) by inserting "or passenger facility charge project" after "title".

TITLE V—PURCHASE, SALE, LEASE, AND OTHER TRANSFER OF SLOTS DEFINITIONS

SEC. 501. As used in this Act, the term—

(1) "Administrator" means the Administrator of the Federal Aviation Administration.

(2) "Air carriers" has the meaning given that term in section 101(3) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301(3)).

(3) "High density traffic airport" means the Kennedy International Airport, New York, New York; LaGuardia National Airport, New York, New York; O'Hare International Airport, Chicago, Illinois; or Washington National Airport, Washington, D.C.

(4) "New entrant carrier" means an air carrier, including a commuter operator, that holds fewer than 12 slots at the relevant airport.

(5) "Secretary" means the Secretary of Transportation.

(6) "Slot" means the operational authority to conduct one landing or takeoff operation, under instrument flight rules, each day during a specific period at an airport.

SEC. 502. (a) Notwithstanding the provisions of subpart S of part 93 of title 14, Code of Federal Regulations, no slot at any airport may be purchased, sold, leased, or otherwise transferred on or after July 12, 1990, except that—

(1) one slot may be exchanged for another slot if there is no other consideration associated with the exchange;

(2) slots may be transferred on or after July 12, 1990, as a part of an overall transfer of ownership of an air carrier or substantially all of its assets, or of substantially all assets related to a discrete operation of an air carrier;

(3) slots at a high density traffic airport may be transferred by an air carrier that prior to July 12, 1990, filed for, and as of the date of enactment of this Act is receiving, bankruptcy protection under title 11 of the United States Code, if such transfer is needed to effectuate the sale of assets of that air carrier; and

(4) slot leases entered into and approved by the Administrator prior to July 12, 1990, may continue or be extended until 18 months after the date of enactment of this Act.

(b) No rule, regulation, or order (other than an emergency order) may be issued by the Secretary or the Administrator relating to restrictions on aircraft operations at any high density traffic airport unless such rule, regulation, or order is consistent with the provisions of this Act.

SLOT ALLOCATIONS FOR NEW ENTRANT CARRIERS

SEC. 503(a) Not later than 60 days after the date of enactment of this Act, the Administrator shall by rule establish a pool of air carrier slots for new entrant carriers at each high density traffic airport.

(b) The rule referred to in subsection (a) shall include, but not be limited to, provisions to accomplish the following:

(1) The new entrant slots in the pool shall be in addition to slots at each such airport which are in existence on the date of enactment of this Act, and the number of such new entrant slots shall not increase the overall number of air carrier slots at such airport by more than 5 percent in excess of the number of such existing slots.

(2) New entrant slots shall be allocated in such a way that, to the maximum extent practicable, all new entrant carriers have an equal number of slots overall at such airport, including both new entrant slots and existing air carrier slots. No new entrant carrier shall receive a new entrant slot under this section which gives that carrier more than 12 slots overall at such airport.

(3) If new entrant slots remain unused after new entrant carriers have had an opportunity to obtain such slots, the remaining new entrant slots may be made available for use by air carriers only for the purpose of providing air service to communities that lost access to a high density airport as a result of changes to the essential air service program under the Act entitled "An Act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1990, and for other purposes", approved November 21, 1989 (Public Law 101-164; 103 Stat. 1969).

(4) If new entrant slots remain unused after new entrant carriers have had an opportunity to obtain slots and air carriers have had an opportunity to obtain slots under paragraph (3), the remaining new entrant slots shall be allocated as needed for international operations authorized after the date of enactment of this Act, except for any such operation authorized under section 401(h) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1371(h)).

(5) Each new entrant slot shall be public property and its use shall represent a nonpermanent operating privilege within the exclusive control and jurisdiction of the Secretary and the Administrator. Any such privilege may be withdrawn, recalled, or reallocated by the Secretary for reasons of aviation safety, airspace efficiency, the enhancement of competition in air transportation, or any other matter in the public interest and in accordance with the public convenience and necessity.

(6) If the holder of a new entrant slot, including a slot made available under paragraph (3), fails to initiate use of the slot within 60 days after receiving the slot or thereafter fails to use the slot in accordance with rules for use of existing air carrier slots, the new entrant slot shall be withdrawn and, if appropriate, be reallocated to another new entrant carrier. In addition to such grounds for withdrawal, a new entrant slot made available under paragraph (3) shall also be withdrawn and reallocated, in accordance with this subsection, if the holder fails to use the slot in providing air service as described in paragraph (3).

(c)(1) Section 6005(c)(5)(C) of the Metropolitan Washington Airports Act of 1986 (49 App. U.S.C. 2454(c)(5)(C) is amended by inserting ", except as provided in the Airline Competition Equity Act of 1990," immediately after "of this Act".

(2) Section 6009(e)(1) of the Metropolitan Washington Airports Act of 1986 (49 App. U.S.C. 2458(e)(1)) is amended by inserting ", except as provided in the Airline Equity Competition Act of 1990," immediately after "this title".

HIGH DENSITY TRAFFIC AIRPORT RULES

SEC. 504. (a) The provisions of subpart K of part 93 of title 14, Code of Federal Regulations, and of the rule referred to in section 5(a) of this Act shall cease to have force and effect on and after the date that is 18 months following the date of enactment of this Act.

(b) If after such provisions cease to be effective the Secretary of the Administrator decides to issue a new rule, regulation, or order providing for the allocation of slots at any airport, such rule, regulation, order, or other procedure shall not be issued until the Administrator certifies, after notice and opportunity for public comment, in a report to Congress that—

(1) such a rule, regulation, order, or other procedure is required in the interest of aviation safety; and,

(2) there is no alternative means for achieving comparable safety which has a less adverse effect upon competition in air transportation at such airport.

(c) Any such rule, regulation, order, or other procedure issued in accordance with subsection (b) shall be airport-specific unless the Administrator certifies that the aviation safety sought cannot be achieved without making the rule, regulation, order, or other procedure applicable to more than one airport.

(d) The Secretary is directed—

(1) to study and determine the extent to which shuttle service presently provided by air carriers operating between LaGuardia National Airport and Boston, and between LaGuardia National Airport and Washington National Airport, is of significant public interest to the unique megalopolis of the northeastern United States; and

(2) to report to Congress within 12 months after the date of enactment of this Act on the results of such study, along with such recommendations as the Secretary determines appropriate.

TITLE VI

SEC. 601. UNIVERSITY AIR TRANSPORTATION CENTERS.

(a) UNIVERSITY AIR TRANSPORTATION CENTERS.—

(1) GRANTS FOR ESTABLISHMENT AND OPERATION.—The Administrator of the Federal Aviation Administration (hereinafter referred to as the "Administrator") is authorized to make grants to one or more nonprofit institutions of higher learning to establish and operate one university air transportation center in each of the ten Federal regions which comprise the Standard Federal Regional Boundary System.

(2) RESPONSIBILITIES.—The responsibilities of each university air transportation center established under the subsection shall include, but not be limited to, the conduct of research concerning airspace and airport planning and design, airport capacity enhancement techniques, human performance in the air transportation environment, aviation safety and security, the supply of trained air transportation personnel including pilots and mechanics, and other aviation issues pertinent to developing and maintaining a safe and efficient air transportation system, and the interpretation, publication, and dissemination of the results of such research.

(3) APPLICATION.—Any nonprofit institution of higher learning interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

(4) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

(A) The extent to which the needs of the State in which the applicant is located are representative of the needs of the Federal region for improved air transportation services and facilities.

(B) The demonstrated research and extension resources available to the applicant for carrying out this subsection.

(C) The capability of the applicant to provide leadership in making national and regional contributions to the solution of both long-range and immediate air transportation problems.

(D) The extent to which the applicant has an established air transportation program.

(E) The demonstrated ability of the applicant to disseminate results of air transportation research and educational programs through a statewide or regionwide continuing education program.

(G) The projects which the applicant proposes to carry out under the grant.

(5) MAINTENANCE OF EFFORT.—No grant may be made under this section in any fiscal year unless the recipient of such grant enters into such agreements with the Administrator as the Administrator may require to ensure that such recipient will maintain its aggregate expeditures from all other sources for establishing and operating a university air transportation center and

related research activities at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this subsection.

(6) FEDERAL SHARE.—The Federal share of a grant under this subsection shall be 50 percent of the costs of establishing and operatring the university air transportation center and related research activities carried out by the grant recipient.

(7) RESEARCH ADVISORY COMMITTEE.—

(A) Sec. 312(f)(2) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1353(f)(2) is amended by adding at the end of the following new sentence: "In addition, the committee shall coordinate the research and training to be carried out by the university air transportation centers established under the University Air Transportation Centers Act, disseminate the results of such research, act as a clearinghouse between such centers and the air transportation industry, and review and evaluate programs carried out by such centers.".

(B) Sec. 312(f)(3) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1353(f)(3) is amended by striking "20" and inserting in lieu thereof "30"; and by striking the last sentence and inserting in lieu thereof the following: "The Administrator in appointing the members of the committee shall ensure that the university air transportation centers, universities, corporations, associations, consumers, and other government agencies are represented.".

(b) AUTHORITY.—Section 312(c) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1353(c)) is amended by inserting immediately after the third sentence the following: "The Administrator shall undertake or supervise research programs concerning airspace and airport planning and design, airport capacity enhancement techniques, human performance in the air transportation environment, aviation safety and security, the supply of trained air transportation personnel including pilots and mechanics, and other aviation issues pertinent to developing and maintaining a safe and efficient air transportation system.".

TITLE VII—MISCELLANEOUS

SEC. 701. SEVERABILITY.

If any provision of this Act (including an amendment made by this Act), or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 702. AUXILIARY FLIGHT SERVICE STATION PROGRAM.

(a) GENERAL RULE.—The Secretary of Transportation shall develop and implement a system of manned auxiliary flight service stations. The auxiliary flight service stations shall supplement the services of the planned consolidation to 61 automated flight service stations under the flight service station modernization program. Auxiliary flight service stations shall be located in areas of unique weather or operational conditions which are critical to the safety of flight.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of the enacatment of this Act, the Secretary of Transportation shall report to Congress with the plan and schedule for implementation of this section.

SEC. 703. MILITARY AIRPORT PROGRAM.

(a) DECLARATION OF POLICY.—Section 502(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201(a) is further amended—

(1) by striking "and" at the end of paragraph (12);

(2) by striking the period at the end of paragraph (13) and inserting ";and"; and

(3) by adding at the end the following:

"(14) special emphasis should be placed on the conversion of appropriate former military air bases to civil use and on the identification and improvement of additional joint-use facilities.".

(b) SET-ASIDE.—Section 508(d) of such Act (49 U.S.C. App. 2204(d) is amended by striking paragraph (5) and inserting the following:

"(5) MILITARY AIRPORT SET-ASIDE.—Not less than one half of one percent of the funds made available under section 505 in each of fiscal years 1991 and 1992 shall be distributed during such fiscal year to sponsors of current of former military airports designated by the Secretary under subsection (f) for the purpose of developing current and former military airports to improve the capacity of the national air transportation system.

"(6) REALLOCATION.—If the Secretary determines that he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), (4), or (5) of this subsection for any fiscal year becasue the number of qualified applications submitted in compliance with this title is insufficient to meet such amount, the portion of such amount the Secretary determines will not be distributed shall be available for obligation during such fiscal year for other airports and for other purposes authorized by section 505 of this title.".

(c) DESIGNATION OF FORMER MILITARY AIRPORTS.—Section 508 of such Act is further amended by adding at the end the following new subsection:

"(f) DESIGNATION OF CURRENT OR FORMER MILITARY AIRPORTS.—

"(1) DESIGNATION.—The Secretary shall designate not more than 5 current or former military airports for participation in the grant program established under subsection (d)(5) and this subsection. At least 2 such airports shall be designated within 6 months after the date of the enactment of this subsection and the remaining airports shall be designated for participation no later than September 30, 1992.

"(2) SURVEY.—The Secretary shall conduct a survey of current and former military airports to identify which ones have the greatest potential to improve the capacity of the national air transportation system. The survey shall also identify the capital development needs of such airports in order to make them part of the national air transportation system and shall identify which capital development needs are eligible for grants under section 505. The survey shall be completed by September 30, 1991.

"(3) LIMITATION.—In selecting airports for participation in the program established under subsection (d)(5) and this subsection and in conducting the survey under paragraph (2), the Secretary shall consider only those current or former military airports whose conversion in whole or in part to civilian commercial or reliever airport as part of the national air transportation system would enhance airport and air traffic control system capacity in major metropolitan areas and reduce current and projected flight delays.

"(4) PERIOD OF ELIGIBILITY.—An airport designated by the Secretary under this subsection shall remain eligible to participate in the program under subsection (d)(5) and this subsection for the 5 fiscal years following such designation. An airport that does not attain a level of enplaned passengers during such 5 fiscal year period which qualifies it as a small hub airport as defined as of January 1, 1990, or reliever airport may be redesignated by the Secretary for participation in the program for such additional fiscal years as may be determined by the Secretary.

"(5) ADDITIONAL FUNDING.—Notwithstanding the provisions of section 513(b), not to exceed $3,000,000 per airport of the sums to be distributed at the discretion of the Secretary under section 507(c) for any fiscal year may be used by the sponsor of a current or former military airport designated by the Secretary under this subsection for construction, improvement, or repair of terminal building facilities, including terminal gates used by aircraft for enplaning and deplaning revenue passengers. Under no circumstances shall any gates constructed, improved, or repaired with Federal funding under this paragraph be subject to long-term leases for periods exceeding 10 years or majority in interest clauses.".

SEC. 704. EXPANDED EAST COAST PLAN.

(a) ENVIRONMENTAL IMPACT STATEMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall issue an environmental impact statement pursuant to the National Environmental Policy Act of 1969 on the effects of changes in aircraft patterns over the State of New Jersey caused by implementation of the Expanded East Coast Plan.

(b) AIR SAFETY INVESTIGATION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall conduct an investigation to determine the effects on air safety of changes in aircraft flight patterns over the State of New Jersey caused by implementation of the Expanded East Coast Plan.

(c) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report containing the results of the environmental impact statement and investigation conducted pursuant to this section. Such report shall also contain such recommendations for modification of the Expanded East Coast Plan as the Administrator considers appropriate or an explanation of why modification of such plan is not appropriate.

(d) IMPLEMENTATION OF MODIFICATIONS.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall implement modifications to the Expanded East Coast Plan recommended under subsection (c).

SEC. 705. DECLARATION OF POLICY.

Section 502(a) of the Airport and Airway Improvement Act of 1982, as amended (49 U.S.C. App. 2201) is amended—

(1) in paragraph (5) by inserting ", including as they may be applied between category and class of aircraft" after "discriminatory practices"; and

(2) in paragraph (13) by inserting "and should not unjustly discriminate between categories and classes of aircraft" after "attempted".

SEC. 706. AIRLINE MERGER.

(a) IN GENERAL.—Title IV of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new section:

SEC. 420. (a) In the event that the purchase, or acquisition of control in any manner of an air carrier by an air carrier or

any person controlling an air carrier affects the seniority rights of the carriers' flight deck crew-members, the affected employees, notwithstanding any other provision of law, shall be afforded the protections and procedures provided by the Civil Aeronautics Board in the Tiger International—Seaboard Acquisition Case, CAB Docket 33712, to ensure that seniority lists are integrated in a fair and equitable manner.

(b) On complaint by any flight deck employee or by the representative of any group of the flight deck employees affected by the transaction, the United States District Court for the district in which the complainant resides or has its principal place of business or for the District of Columbia, shall have jurisdiction to enforce the labor protective provisions specified in subsection (a). The fact that there may be pending a representation dispute before the National Mediation Board shall not deprive the court of jurisdiction.

SEC. 707. TRANSFER OF AVIATION SAFETY FUNCTIONS BACK TO FEDERAL AVIATION ADMINISTRATION.

There are hereby transferred to and vested exclusively in the Administrator of the Federal Aviation Administration the following functions, powers, and duties of the Secretary of Transportation:

(a) Those specified in Section 106(g) of Title 49 of the United States Code, and

(b) Sections 315, 316, and 317 of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1356, 1357, and 1358).

Section 2.

The Administrator shall not submit decisions rendered under the authority of the provisions cited in Section 1 for the approval of, nor be bound by the decisions or recommendations of, the Secretary or any committee, board, or other organization created by Executive Order.

Section 3.

In exercising the functions, powers and duties enumerated in Section 1, the Administrator shall be guided by the declaration of policy in Section 103 of the Federal Aviation Act of 1958, as amended, 49 U.S.C. app. 1303.

Section 708. Section 401(h) of the Federal Aviation Act of 1958, as amended (49 App. U.S.C. 1371(h)) is amended.

(1) by redesignating the existing text as paragraph (1); and

(2) by adding at the end of the following new paragraph:

"(2) The Secretary of Transportation shall, upon any such transfer, certify to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives that the transfer is consistent with the public interest.

"(3) For purposes of this subsection, a transfer of a certificate is consistent with the public interest if that transfer does not adversely affect:

(A) the viability of each of the carriers involved in the transfer;

(B) competition in the domestic airline industry, and

(C) the trade position of the United States in the international air transportation market.".

Section 1, the Administrator shall be guided by the declaration of policy in Section 103 of the Federal Aviation Act of 1958, as amended, 49 U.S.C. App. 1303.

Mr. McCAIN. Mr. President, I am pleased to join the chairman of the Commerce Committee's Aviation Subcommittee in introducing the Aviation Capacity Act of 1990. I would like to take this opportunity to recognize his dedication to aviation and to congratulate him for his work on this piece of legislation.

It is no secret that I believe aviation is the key to economic success in the nineties and the next century. Ask virtually any Arizonan. I have been preaching about the need for my State to get moving in planning its aviation future. The same must be said for the Federal Government and, sadly to say, they have not.

While we, as a country, are facing numerous needs in the aviation arena, the Federal Government sits on nearly $8 billion in funds collected in the name of improving aviation. No major airport has been built since 1974, mainly as a result of local noise concerns. Modernization and expansion have fallen behind the more than doubling in the numbers of air travelers over the last decade, again, not because of a lack of funds but rather from a lack of leadership.

Leadership should and must come from the Federal Government in the field of aviation. I can think of few industries more intricately linked with interstate commerce than aviation. I believe this legislation provides the proper level of Federal leadership, and at the same time, encourages local initiative.

It will do us no good if we supply increased financial means to build more capacity if, at the same time, we allow capacity to be reduced, restricted, or even eliminated by a proliferation of shortsighted measures. The Aviation Capacity Act of 1990 calls for the proper balancing of local and national interests in determining and executing our Nation's aviation policy into the 21st century, as well as providing the means to achieve that policy.

In addition, this bill contains the contents of S. 2851, the Airline Competition Equity Act of 1990, which I introduced in July. This measure has been reported out of the Senate Commerce Committee and is awaiting action on the Senate floor. I believe S. 2851 fits naturally into this legislation. Slots constitute as egregious a restraint on capacity, as well as competition within the airline industry, as exists. If the Federal Government is to truly exercise leadership in the aviation arena, it must address this problem.

Once again, I would like to congratulate Senator FORD and I look forward to working with him as this legislation proceeds through the legislative process.

Mr. DANFORTH. Mr. President, I am pleased to cosponsor the Aviation Capacity Act of 1990. I congratulate Senator FORD for introducing this legislation, and I commend his hard work. This bill will provide a new revenue source for airport construction, the so-called passenger facility charge [PFC]; it will reform the slot system which is widely regarded as the airline industry's number one anticompetitive problem; and it will help clarify the issue of airlines selling assets they have received from the Federal Government for free.

PEC's are the single most important element in increasing the capacity of the Nation's airports. Local airports will gain the ability to impose user fees on the passenagers who use the airport. This will greatly expand the funding options for airport authorities trying to expand, such as Lambert Airport in St. Louis.

Slots, which are takeoff and landing rights at four airports—Washington National, New York Kennedy, New York LaGuardia, and Chicago O'Hare—were created in 1969 to ensure smooth traffic flow at these busy airports. However, slots have become monopoly rights which the major airlines use to keep out competitors. In addition, in 1985, the Federal Government allowed the airlines to sell or lease these public rights as if they were private property. The sale of these slots enrich the airlines at the expense of the public. The Aviation Capacity Act, includes the text of S. 2851, the Airline Competition Equity Act, which the Senate Commerce Committee favorably voted to report to the Senate on July 31. The failed policy of buying and selling public assets for private gain must be reformed.

In addition to slots, international routes are also Government-created assets which airlines may bank and then sell for profit, regardless of the sale's affect on the public. This bill will ensure that any sale or transfer of an international route will not adversely affect the viability of the carriers involved, will not harm competition, and will not harm the U.S. trade position.

By increasing funding, drawing down the aviation trust fund surplus, and addressing concerns about airline competition and the sale of Government-created assets, this bill lays the foundation for more efficient use of our aviation system, and increased competition in the airline industry. The end result will be large benefits in time and money to the traveling public.

By Mr. BINGAMAN (for himself, Mr. MITCHELL, Mr. KENNEDY, Mr. HARKIN, Mr. KERREY, and Mr. PELL):

S. 3095. A bill to authorize the creation of a National Education Report Card to be published annually to measure educational achievement of both students and schools and to establish a National Council on Educa-

tional Goals; to the Committee on Labor and Human Resources.

NATIONAL ACADEMIC ADVISORY REPORT CARD ACT OF 1990

● Mr. BINGAMAN. Mr. President, I rise today to introduce the National Academic Report Card Act of 1990.

Over the past decade, we have witnessed a growing concern about educational achievement in the United States. Improving the quality of education of American students has become a top priority of the Nation's Governors as well as the President of the United States. There has been an increasing acceptance that there needs to be a more sustained national effort if the quality of education offered to American students is to improve.

Last September, the President and the Governors met at an education summit in Charlottesville. They agreed upon six goals to be achieved by the year 2000: "All children will start school ready to learn" "Ninety percent of high school students will graduate." "All students will master basic skills." "U.S. students will be first in the world in science and mathematics achievement." "Every adult American will be literate." "Every school will be drug-free and safe." These are laudable goals, although there was minimal participation by parents and organizations that will be responsible for implementing programs to achieve these goals.

If there is to be wise public involvement in improving our schools, the public must have accurate and timely information about the progress being made toward meeting these goals. If we are to improve the quality of American education, there is no doubt that measuring student progress will play a critical role.

A joint statement issued at the summit stated, "When goals are set and strategies for achieving them are accepted, we must establish clear measures of performance and then issue annual report cards on the progress of students, schools, the States, and the Federal Government." Clearly, establishing national goals will have little meaning unless we are able to assess where we currently stand and to measure our progress in attaining these goals.

Last October and November, I chaired two Senate hearings of the Governmental Affairs Subcommittee on Government information and regulations on the quality and use of Federal information. The focus of the hearings was the availability and quality of national education data bases to provide appropriate measures to assess progress toward the broad goals set by the President and the Governors. One conclusion reached from the testimonies at those hearings, was that there were major problems with the scope, quality, comparability, and timeliness of data on educational performance currently available from the Department of Education.

There was and is no currently effective mechanism for measuring individual school performance relative to the established national education goals. It was clear that we needed more information about the quality of education as well as more information about the conditions under which education takes place and the conditions of children receiving that education. There is a need to establish effective and direct ways to measure progress toward the national education goals so that policy makers at the local, State, and the Federal levels can begin to effectively and substantively address the issue of improving the quality of American education. There was strong support from the witnesses for the establishment of an independent council of highly respected, bipartisan, diverse experts to develop a model assessment program for the Nation's education system and report periodically to the President and the Nation.

As a result of those hearings, in January of this year, I introduced the National Report Card Act of 1990. It established a National Council on Education composed of highly respected, bipartisan experts to study, evaluate, and report on the progress of the Nation's educational achievement, from preschool through postsecondary education.

Following an initial report analyzing existing information on the educational achievement of U.S. students and schools, the Council would issue annual report cards assessing U.S. educational attainment. Each report card would: First, assess progress toward the national goals; second, identify gaps in existing data and make recommendations for improving the methods of assessing educational attainment; and third, based on input from several sources involved in implementing the goals, make revisions in the strategies for achieving the national educational goals or identify new educational goals or objectives.

This past July the Governors and some of the President's advisers met in Mobile, AL. One of the accomplishments of this meeting was to establish the National Educational Goals Panel. This Panel is charged with overseeing the development and implementation of a national education progress reporting system. This Panel would develop and establish appropriate measures to assess progress toward the national education goals established last year in Charlottesville. Each year, the Panel will report the progress made toward these goals.

Unfortunately, the Governors and the President chose to ignore the need for an independent panel expressed at three earlier hearings discussed above. Instead, they set up a panel comprised of six Governors, four administration officials, and four ex-officio members of Congress—all political office holders. In effect, as the people responsible for making and implementing National and State educational policy, they have made arrangements so that they, and no one else, would be the judge of their own work. This would serve the purpose of shielding those who set the goals from any accountability for achieving these goals.

An additional concern is that the Panel cannot act on any proposal or statement unless 75 percent or 8 out of the 10 members agree. Another severely limiting factor in terms of carrying out the Panel's mission is that there is no budget for the Panel to conduct its business nor any mechanism for it to commission data collection, particularly any new data collection. The Department of Education has had the primary responsibility for collecting information on the condition and progress of education in the United States. However, the National Center for Education Statistics—the primary source for Federal data on American education—according to testimonies heard, has long been underfunded in comparison to other general purpose statistical agencies. In summary, the Governors and the President set up a second group—totally ignoring the concept developed in the Report Card Act—to monitor education progress, and this Panel is made up of political officials who will be monitoring their own achievement and do not have funding to carry out their mission.

This past July and September I chaired two Senate hearings of the Labor and Human Resources Subcommittee on Education both of which focused on the National Report Card Act of 1990. Three major conclusions from these hearings were: First, the need for a report card that would contain information about school indicators being used to achieve national goals; second, the general public should be meaningfully involved; and third, that there be an independent national council to monitor progress toward the national goals.

I believe that there is no issue of greater long-term consequences to our Nation's future than the performance of our educational system. I do not believe that two separate groups attempting to assess education progress will be of benefit to improving the education achievement of our students. It is to address this current state of affairs that I am introducing this new bill. There are three major substantive changes from the National Report Card Act of 1990.

Instead of two separate panels this bill will create a single council made up of education stakeholders, experts, and policymakers. In effect the two panels are combined without substan-

tially affecting the integrity of either panel nor the mission of the council.

Another change that would affect the collection of data, is a recommendation that after developing its long-range timetable, the council contract with NCES or any other entity, capable of generating and/or collecting the necessary data to appropriately assess the goals based on the Counci—'s recommendations. Most importantly, there is authorizing language for the necessary appropriations.

A third major change is the authorizing of matching funds for State summits of education. The council will include in its initial report on recommended indicators as well the subsequent annual reports an analysis of the State summit summaries submitted. The State summits are, I believe, vitally important to the success of the long-term national goals. Long-term commitment will come only from a large-scale consensus. The State summit reports will help generate meaningful grassroots discussion about the national goals and will help the council evaluate the level of local and State commitment to investing in strategies for improving schools. Funding ongoing grassroots deliberations will help keep public momentum behind the process.

I believe this bill to be a substantial improvement on my earlier bill and a substantial improvement on the Panel set up by the President and the Governors. It is a good compromise and will avoid the schism in educational policy at the national level that will ultimately frustrate efforts to achieving the national goals. If this Nation is to improve the quality of education offered to our students and to improve the quality of our work force it is of the utmost importance that we pay close attention to monitoring and measuring student progress and that we sustain this effort over a long period of time. This bill will set up a monitoring and measuring infrastructure for education that will have a broad base of participation. I urge your consideration and support of this bill.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3095

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This bill may be cited as the "National Academic Advisory Report Card Act of 1990".

SEC. 2. TABLE OF CONTENTS.

The contents of this Act are as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings.
Sec. 4. Establishment.
Sec. 5. Membership and appointments.
Sec. 6. Functions.
Sec. 7. Interim Council report.
Sec. 8. Annual report card.
Sec. 9. Powers of the Council.
Sec. 10. Administrative provisions.
Sec. 11. Authorization of appropriations.

SEC. 3. FINDINGS.

The Congress finds that—

(1) the social well-being, economic stability, and national security of the United States depend upon a strong educational system that provides all citizens with the skills necessary to become active members of a productive workforce;

(2) despite the many reforms to our educational system that have been implemented since the National Council on Excellence in Education declared our Nation "at risk" in 1983, the United States remains at risk of educational failure;

(3) United States children and youth are leaving school unprepared to participate productively in the workforce, such children suffer high rates of functional illiteracy, and such children often display a lack of understanding about this Nation and the world, in both an historical and futuristic context;

(4) United States students currently rank far below students of many other countries in educational achievement, particularly in mathematics and the sciences;

(5) although States and localities bear the primary responsibility for elementary and secondary education, rapidly increasing international competitiveness that we increase our efforts in making education a national priority.

(6) the Federal Government has played a vital, leading role in funding important educational programs and research activities and should continue to do so;

(7) accurate and reliable mechanisms must be available to assess and monitor educational progress;

(8) many schools have shown considerable progress and success in improving achievement, including model schools, and those schools which have implemented innovative approaches to school structure;

(9) the mechanisms to assess and monitor educational progress, and the national information infrastructure needed to support those mechanisms, either do not exist or must be strengthened;

(10) many factors contribute to a school's performance including school finance, resources, teaching conditions and parental involvement, which should be included, along with educational achievement, in reports on school performance.

(11) there should be established an independent council of highly respected, bipartisan, diverse experts to study, make recommendations regarding, and monitor the progress on meeting national goals for education and make recommendations on the nation's educational assessment and information system; and

(12) to the council described in paragraph (11) should have the authority to—

(A) make such recommendations as such council deems necessary to the President, the Congress, and the States, and

(B) issue annual reports in the form of a "national report card".

SEC. 4. ESTABLISHMENT.

There is established a National Council on Educational Goals (hereinafter referred to as the "Council").

(a) COUNCIL MEMBERS—The Council shall consist of 18 members, of whom—

(1) 2 members shall be appointed by the President, and 6 members, equally bi-partisan, selected by the chair of the National Governors Association in consultation with the Vice-Chair from among the Governors of the States or from the individuals described in Section 4(b) hereof.

(2) 5 members shall be appointed by the Speaker of the House of Representatives in consultation with the Minority leader of the House of Representatives; and 5 members shall be appointed by the President Pro Tempore of the Senate upon the recommendation of the Majority Leader and Minority Leader of the Senate.

(b) APPOINTMENT—(1) The Members of the Council described in Section 4(a)(2) shall be appointed on the basis of:

(i) their widely recognized experience in, knowkedge of, and commitment to education and educational excellence; or

(ii) training or experience in analyzing educational data.

(iii) Members shall not include elected public officials at the state or federal level, they may include and are not limited to:

(A) individuals who are engaged in the professions of teaching and research;

(B) individuals engaged in school administration, members of school boards, parents or representives of parents or parent organizations with experience in analyzing school performance data;

(C) individuals who are state non-elected officials including research and development officers (especially those specializing in work concerned with state report card indicators) and chief state school officers; as well as

(D) individuals who are representatives of non-profit organizations or foundations and businesses who have demonstrated a commitment to the improvement of American education.

(2)(a) The representatives chosen by the President shall have their terms designated either four or six years by the President at time of appointment.

(b) The Speaker of the House shall designate appointees for one six-year, one four-year, and one two-year term. The Minority Leader shall designate appointees for one two-year and one four-year term.

(c) The President Pro Tempore of the Senate in consultation with the Majority leader shall designate appointees for one six-year, one four-year term, and one two-year term. The President Pro Tempore of the Senate in consultation with the Minority Leader shall designate appointees for one two-year and one four-year term.

(d) The Chair and the Vice Chair of the National Governors Association shall each designate appointees for one six-year, one four-year, and one two-year term.

(3) The first 18 members of the Council shall be appointed no later than 60 days after the date of enactment of the Act.

(4) Council members, in order to retain their appointment must attend at least 50% of the scheduled meetings in any given year of their appointment.

(c) CHAIR.—The Council shall have a chairman, who, (i) for the first year of the Council's existence, shall be selected from and by the members appointed by the Chair of the National Governors' Association, and (ii) thereafter, shall be selected by a majority of the voting members of the Council from the members described in section 4(b) hereof. However, if no one described in clause (i) assumes the Chair of the Council within 60 days of the enactment of this Act,

a Chair shall be selected pursuant to clause (ii) of this paragraph.

(d) VACANCIES.—A vacancy in the Council shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(e) MEMBERSHIP DURATION.—Members of the Council shall be appointed to serve for either two, four, or six year terms.

(f) COMPENSATION AND TRAVEL.—Each member of the Council shall serve without compensation, but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, when engaged in the performance of Council duties.

(g) START-UP.—The Council may begin to carry out its duties under this Act when either at least 9 members of the Council have been appointed or 6 of the members described in section 4(b) have been appointed.

SEC. 5 FUNCTIONS.

(a) FUNCTIONS.—The Council shall—

(1) compile, inventory, and analyze existing information regarding the educational achievement of United States students and schools, including public and private elementary, secondary, and post-secondary schools;

(2) monitor, and report progress on meeting the national goals and objectives of these same goals, using appropriate and agreed upon indicators;

(3) identify the information that would best advise the public about the state of our schools, develop consensus about the indicators on which data will be collected and analyzed for the Report Card, identify data bases that provide the needed information, establish benchmarks necessary to meet the long-term national goals in the year 2000, and make recommendations about additional data that will be needed; and

(4) through the interim Council report described in section 7 and the annual report card described in section 8, identify gaps in existing educational data and make recommendations for improvements in the methods and procedures of assessing attainment or realization of goals by the Department of Education and any other Federal governmental entity, including suggestions for such changes in laws and regulations as may be required to improve the assessment process, procedures, and organization of the Federal Government, through information obtained in the hearing process set forth under section 9, develop recommendations regarding federal, state, and local policymaking for meeting the national goals.

(b) PERFORMANCE OF FUNCTIONS.—In carrying out the provisions of subsection (a)(2) the Council shall—

(1) consider the goals already set forth or recommended by the National Education Summit and other governmental and nongovernmental organizations;

(2) consider the goals of the states developed through the States' Summits described in Section 12;

(3) report on the progress toward achieving the goals at the national level including appropriate comparisons of the educational achievement of the United States with other nations' and

(4) consider relevant data that affect student performance, in at least the following areas:

(A) school readiness,

(B) student achievement in elementary, secondary, and post-secondary education,

(C) school financing and equalization

(D) the degree and quality of parental involvement

(E) availability of instructional resources

(F) the degree of involvement of social service agencies

(G) school and student performance, including—

(i) attendance and completion rates;

(ii) climate (vandalism, crime, and drugs);

(iii) conditions of teaching including salary and professional development training;

(iv) parent participation; and

(v) school financing;

(H) workforce literacy and skills.

(5) report on progress comparing skill attainment or progress within similar bands of school resources

(6) consider alternative assessment instruments emphasizing mastery over skill areas rather than specific information.

(c) DATA COLLECTION.—Upon development of its long-range timetable, the Council shall contract with NCES or any other entity, capable of generating and/or collecting the necessary data to appropriately assess the goals based on the recommendations of the Council.

SEC. 6. INTERIM COUNCIL REPORT.

Not later than 1 year after the Council concludes its first meeting of members, the Council shall submit a report to the President, the Congress, the National Panel and the Governor of each State, that—

(1) establish a timetable for reporting on progress toward achieving national education goals for the year 2000.

(2) includes a series of reasonable steps for measuring the implementation and success of each recommendation of the Council.

SEC. 7. ANNUAL REPORT CARD.

(a) IN GENERAL.—Not later than 2 years after the Council concludes its first meeting of members, the Council shall submit to the President, the Congress and the Governor of each State a National Report Card, which—

(1) shall set forth an analysis of the Nation's progress toward achieving the national education goals;

(2) may, as deemed necessary by the Council based on its findings and an analysis of the views and comments of all interested parties, including the National Summit on Education and the State Summits, as well as all relevant Federal entities, the National Governor's Association, the Congress, and private organizations and citizens—

(A) describe modifications to existing goals,

(B) identify continuing gaps in existing educational data, and

(C) make recommendations for improvement in the methods and procedures of assessing educational attainment and strengthening the national educational assessment and information system by the Department of Education or any other appropriate Federal government entity.

(b) CONTINUATION.—Based on the timetable established in Section 7, the Council shall continue to issue a National Report Card on an annual basis for the duration of the existence of the Council. Such reports shall be presented in a form that is understandable to parents and the general public.

SEC. 8. POWERS OF THE COUNCIL.

(a) HEARINGS.—(1) The Council may, for the purpose of carrying out this Act, conduct such hearings, sit and act at such times and places, take such testimony and receive such evidence, as the Council considers appropriate.

(2) In carrying out this subsection the Council shall—

(A) conduct public hearings in different geographic areas of the country, both urban and rural, to receive the reports, views, and analyses of a broad spectrum of experts and the public on the status and goals of the Nation's current educational system, the need to redefine and redirect educational goals, policy recommendations for pursuing the goals at the federal, state, and local levels, and methods that could be implemented to foster higher levels of educational attainment in our Nation's schools; and

(B) receive testimony from—

(i) individuals such as practicing educators, parents, business persons, elected and appointed public officials; and

(ii) representatives of public and private organizations and institutions with an expertise or interest in improving the quality of the Nation's educational system.

(b) INFORMATION.—The Council may secure directly from any Federal agency such information as may be necessary to enable the Council to carry out this Act. Upon request of the Chairman of the Council, the head of the agency shall furnish such information to the Council.

(c) GIFTS.—The Council may accept, use, and dispose of gifts or donations of services or property.

(d) POSTAL SERVICES.—The Council may use the United States mail in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) ADMINISTRATIVE AND SUPPORTIVE SERVICES.—The Administrator of General Services Administration shall provide to the Council on a reimbursable basis such administrative and support service as the Council may request.

SEC. 9. ADMINISTRATIVE PROVISIONS.

(a) MEETINGS.—The Council shall meet on a regular basis, as necessary, at the call of the Chairman or a majority of its members.

(b) QUORUM.—50 percent of all members of the Council who have been appointed shall constitute a quorum for the transaction of business.

(c) VOTING.—All action of the Council shall be taken by a majority of the members attending a duly called and constituted meeting of the Council. No proxies will be allowed to vote.

(d) COUNCIL STAFF.—(1) subject to section 4(c), above. The Chairman and Vice Chairman of the Council shall be elected by and from the voting members of the Council and shall serve in their elected capacity until the expiration of their appointed terms as members, or until their resignation or removal by a majority of the voting members of the Council.

(2) The Chairman of the Council, in consultation with the Vice Chairman, shall appoint and fix the compensation of a staff administrator and such support personnel as may be reasonable and necessary to enable the Council to carry out its functions without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates.

(d) PERSONNEL DETAIL AUTHORIZED.—Upon request of the Chairman of the Council, the head of any Federal agency is authorized to detail, without reimbursement, any of the

personnel of such agency to the Council to assist the Council in carrying out its duties under the Act. Such detail shall be without interruption or loss of civil service status or privilege.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) Except for State Summits, there are authorized to be appropriated $2 million for the fiscal year 1991 and such sums as may be necessary for the fiscal year 1992 through 2000 to carry out the provisions of this title.

(b) To carry out the provisions of Section 12 with respect to the State Summits on education, there are authorized to be appropriated $5 million for the fiscal year 1991 and such sums as may be necessary for the fiscal years 1992 through 2000.

SEC. 11. STATE SUMMITS ON EDUCATION.

From amounts authorized under section 11(b), the Secretary shall make grants to the states to conduct State Summits on education or help support the implementation of plans adopted from said summits—

(i) States shall apply to the Secretary for such grants;

(ii) The Federal share shall be no more than 50 percent;

(iii) States, shall upon completion of the State Summit submit a report to the Council on—

(a) the State's goals for education, including changes or additions to the national goals.

(b) a plan for meeting the State's goals and a timetable for carrying out the plan.

(c) a plan for evaluating the State's progress in meeting its goals according to its timetable.●

By Mr. DASCHLE (for himself, Mr. CONRAD, Mr. BAUCUS, Mr. BURDICK, Mr. KERREY, and Mr. EXON):

S. 3098. A bill to permit producers to store excess wheat in the producer reserve program for the 1990 crop of wheat, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

PRODUCER RESERVE PROGRAM FOR 1990 CROP OF WHEAT

● Mr. DASCHLE. Mr. President, I rise today to introduce legislation that will help relieve the financial hardships currently facing our Nation's wheat farmers. The legislation will require the U.S. Department of Agriculture to allow producers to place up to 15,000 bushels of their 1990 wheat crop into the Farmer Owned Reserve Storage Program.

This action is desperately needed because of the current state of the wheat market. As a result of actions taken by the administration and favorable harvest conditions in most of the wheat producing regions of the world, wheat prices in the United States are at their lowest level since 1972 in nominal terms and at their lowest level this century in real terms. In parts of South Dakota winter wheat is selling for less than $2 per bushel.

At this price many producers face the prospect of big losses on their 1990 production. The reserve program exists to be used in just these circumstances. Producers should be allowed the opportunity to store some of their grain and wait for better marketing opportunities. In this way wheat growers will not be forced into taking an immediate loss and can have some hope of getting a decent return on their production. Also, it is vital to food security and maintaining stable prices for consumers that the government maintain adequate stock levels of basic commodities such as wheat. Currently the producer reserve is at a dangerously low level from this perspective.

The administration's decisions to initially keep the 1990 wheat ARP at only 5 percent and then to allow producers to over-plant their bases by 5 percent has resulted in surplus production overhanging the market. These are many actions that the administration could be taken to alleviate this situation. Following passage in the Senate legislation to mandate a 15 percent ARP for the 1991 crop, I am pleased that USDA has now announced a 15-percent ARP for the new crop year.

Aside from this announcement, there has been little evidence of action by the administration. USDA has the authority to reopen the producer reserve program, but has failed to do so. Together with several of my Senate colleagues, I have written to Secretary Yeutter urging him to take this action and additional measures. I am introducing this legislation today to signal to the administration that the Congress is serious about providing relief to our wheat farmers. If the administration fails to open the reserve, I shall push for swift final passage of this legislation, forcing the opening of the reserve to producers

Mr. President, I am pleased to have Senators CONRAD, BAUCUS, BURDICK, KERREY, and EXON as cosponsors of this legislation. Each Senator comes from a wheat producing State, and their support of this legislation indicates the critical need for swift action on this issue. I would urge all of my colleagues to support this effort if the administration fails to exercise their existing statutory authorities.●

By Mr. SIMPSON:

S. 3099. A bill to amend the Immigration and Nationality Act to strengthen provisions added by the Immigration Reform and Control Act of 1986; to the Committee on the Judiciary.

IRCA IMPROVEMENTS AMENDMENTS

Mr. SIMPSON. Mr. President, I rise today to introduce legislation which will assist us in the battle against illegal immigration.

In 1986, Congress passed the Immigration Reform and Control Act [IRCA]. Two of its central features were critical to the goal of controlling illegal immigration: First, penalties against employers who knowingly hire illegal aliens, employer sanctions; and second, an increase in border patrol personnel levels.

In fiscal year 1986, the INS made 1.6 million apprehensions of illegal aliens on our Southern border. In fiscal year 1987, after IRCA was enacted, the number of apprehensions fell to just over 1 million. In fiscal year 1988, apprehensions fell to 943,000, and in fiscal year 1989, apprehensions fell again to 854,000.

Unfortunately, this positive trend has reversed itself. Southern border apprehensions for fiscal year 1990 are up 25 percent. If present trends continue—and the the border patrol predicts that they surely will—apprehensions will reach 1,060,000 by the end of this fiscal year.

In addition, drug smugglers have taken increasing advantage of the illegal flow of people on our Southern border in order to smuggle controlled substances into our country. In fiscal year 1985, the INS seized $120 million worth of drugs on the Southern border while performing its routine border control duties. In fiscal year 1986, that dollar amount increased to $185 million. In every year thereafter, the value of drugs seized on the Southern border has increased: $582 million in fiscal year 1987; $700 million in fiscal year 1988, and $1.19 billion in fiscal year 1989. For fiscal year 1990 so far, it appears as if over $1 billion worth of drug apprehensions will again be made.

These are very disturbing trends, Mr. President, and I believe they now warrant additional congressional and administration efforts to control illegal immigration.

Therefore, I am today introducing legislation which would do the following: First, educate employers about their responsibility to comply with the employer sanctions law—as well as to observe carefully our Nation's antidiscrimination rules; second, require the Immigration Service to construct new barriers or upgrade existing barriers at key points where large numbers of illegal aliens attempt to cross our Southern border; third, require the States to improve the security of their drivers' licenses, and then direct that drivers' licenses—or State ID cards for those who do not drive—and alien identification cards will be the sole documents acceptable to prove employment eligibility; fourth, create a system of civil fines to deter users of fraudulent documents; and fifth, require the executive branch to report to Congress each year on the levels of illegal immigration and what additional efforts might be taken to reduce them.

It is with great concern that I announce these figures on illegal entries and drug traffic along our borders. I strongly feel that these measures to: First, improve the worker verification

system which supports employer sanctions; and second, to improve our traditional enforcement measures, are necessary to reverse this trend.

Until we are able to seriously improve the situation at our Southern border, I have come to believe that it is not wise or proper to increase our levels of legal immigration. As Father Theodore "Ted" Hesburgh, Chairman of the Select Commission on Immigration and Refugee Policy noted, we should close the back door to illegal immigration and open "the front door a little more to accommodate legal migration in the interests of this country." We must face the fact that we have not yet closed that back door. In fact, we are still leaving the back door open while considering prying open the front door much wider.

When I cosponsored the Senate legal immigration bill, S. 358, in February of 1989, illegal immigration levels were the lowest they had been in many years, and the trend in apprehensions of illegal aliens was noticeably downward. Therefore, when S. 358 raised legal immigration levels from 500,000 per year to 630,000 per year, I felt such an increase was justified because the back door flow of illegal immigration had been substantially reduced.

Now today we are observing a different situation at the Southern border. With apprehensions likely to exceed 1 million persons during this fiscal year, I am no longer comfortable with increasing our legal immigration levels by over 25 percent.

I am introducing this legislation today because I believe it will attack the two greatest weaknesses in our current enforcement efforts: First, the large number of false documents that now exist which can be used to fraudulently satisfy the employment authorization requirement of employer sanctions; and second, the few and dilapidated physical barriers that now exist on our Southern border which were originally installed to deter illegal entrants.

If this legislation is approved before or concurrently with legal immigration legislation, then I can feel justified in continuing to support a legal immigration level of up to 630,000 immigrants per year. However, if this legislation is not approved, then I just do not believe it would presently be in the national interest to approve of the increases in legal immigration that are now contemplated by proposed reform legislation.

Mr. President, I commend this legislation to my colleagues, and I encourage them to actively support it.

By Mr. HOLLINGS (for himself and Mr. BRYAN):

S. 3101. A bill to amend the Foreign Agents Registration Act of 1938 to strengthen the registration and enforcement requirements of that Act, and to amend title 18, United States Code, to limit the representation or advising of foreign persons by certain Federal civilian and military personnel, and for other purposes; to the Committee on the Judiciary.

FOREIGN REPRESENTATION ACT

Mr. HOLLINGS. Mr. President, today I am introducing a bill, the Foreign Representation Act of 1990, which amends both the Foreign Agent Registration Act enacted in 1938, and the Ethics in Government Act, enacted in 1989.

Great changes are taking place around the globe. Democratic principles are sprouting in Eastern Europe and the Soviet Union. As the world moves away from the "cold war," we find ourselves playing a new game: the "trade war." It is a no-holds-barred struggle among nations for market share and standard of living in a largely zero-sum world market place. To date, not only is the United States losing this new contest, we still haven't the foggiest idea how the game is played. Rather than mobilize for the challenge of government-controlled capitalism or trade war, recent administrations have opted for the equivalent of unilateral disarmament.

Let's be clear where America stands 4½ decades after World War II. The United States has gone from the world's largest creditor to world's fattest debtor in just 8 years. After running trade surpluses from 1945 through 1970, and as late as 1975, our trade deficits in the 1980's totalled almost $900 billion. This stunning economic reversal was America's dutiful sacrifice on the altar of free trade.

Well, now in the post-cold war era, our economic security is part and parcel of the national security. If anyone doubts this, you need look no farther than the Persian Gulf. If economic interests are to be elevated to the same national priority as defense and foreign policy, then we must take a fresh look at the laws governing those who represent foreign governments and foreign companies on trade and economic issues.

First, we must strive to ensure that foreign lobbyists comply with the Foreign Agents Registration Act, or FARA. FARA was enacted in 1938 and was primarily designed to deal with propaganda spread by Nazi agents before World War II. The purpose of the act was to focus "the spotlight of pitiless publicity" on the activities of foreign agents. Or, as the Congressional Research Service put it, quoting from verse 32 of chapter 8 of the Book of John:

> Ye shall know the truth, and the truth shall make you free.

FARA is a disclosure statute requiring foreign agents to file a registration statement with the Department of Justice. However, there are exemptions to the act and both the Congressional Research Service and the General Accounting Office have done exhaustive studies of FARA and have recommended a number of changes to FARA to increase compliance. While it is very difficult to say with any certainty, some experts have suggested that as many as 60 percent of foreign agents have not registered under FARA. If this statute is to be effective, it must be amended to encourage and require filing by all persons covered by the act. Therefore to that end, title I of the bill I am introducing today would make five changes in the act.

1. DEFINITIONAL CHANGES

The CRS report noted that the stigma attached to registering as a foreign agent is a significant obstacle to voluntary compliance. Other commentators have also recognized the stigma problem. The bill would therefore change the words "foreign agent" to "foreign representative" and "propaganda" to "promotional material" where they appear in the act, as suggested by CRS.

2. FOREIGN-OWNED U.S. COMPANIES

One murky area in the application of FARA is the definition of "foreign principlal." The question that has arisen is whether foreign-owned U.S. companies are covered by the definition. The Justice Department has used an ad hoc approach which focuses on whether the U.S. subsidiary has an actual operational presence here or is just a shell. Consequently, many lobbyists for foreign-owned U.S. companies do not know whether or not to register. A "bright-line" test is needed—some black and white criteria. The bill requires registration of foreign lobbyists for U.S. companies that are more than 50 percent owned by foreigners.

3. EXEMPTIONS

Section 3 of FARA contains a number of exemptions for activities or persons which might otherwise be covered by the act. Two exemptions may have resulted in underreporting. The first exemption, the "commercial exemption," exempts persons engaged in private, nonpolitical activities with a bona fide commercial purpose. This exemption is intended to cover the normal, nonpolitical professional activities of engineers, architects, realtors, and attorneys with foreign clients. The second exemption, the lawyer's exemption, exempts a lawyer, insofar as he represents a disclosed foreign principal before any court of law or any agency of the U.S. Government. This applies only as long as the lawyer confines his activities to rulemakings, adjudications, agency investigations, and negotiations with agencies regarding government contracts.

The bill requires the filing of an exemption notice with the Attorney General for persons whose activities are exempt under the commercial ex-

emption. Currently, agents self-determine their status under FARA. The bill also removes the lawyer's exemption for agency proceedings. Senator HEINZ, has argued, and I agree, that in "the trade area, much of the work of representation is carried on in the context of formal proceedings, such as antidumping or countervailing duty investigations.* * * To exclude this type of activity from reporting is a loophole of some significance."

4. ENFORCEMENT

The bill includes a schedule of civil fines, which has been suggested by CRS and GAO. It also gives FARA administrators subpoena power to make it easier to investigate compliance. Thirdly, the bill sets up a separate office of DOJ to administer FARA, a provision that was suggested by Senator McGovern in a 1977 bill he introduced on FARA. It has been said that location of the office within the Justice Department Criminal Division's Internal Security Section also adds to the stigma I discussed earlier.

5. ANNUAL REPORT

Finally, the bill requires an annual report to Congress by the Attorney General on the administration of the act.

Title II of the bill adds a new section 207a to the Ethics in Government Act. Congress has the responsibility to safeguard the integrity of the Government's decisionmaking process and strengthen the American public's confidence in it. We have read of officials leaving from the highest ranks of this Government and turning around to advise foreign governments, trade associations, and companies. I believe the 1-year ban on representing foreign governments in current law should be expanded and that the ban should include foreign companies. In my bill, there is a 5-year ban on the President, the Vice President, the Cabinet and other very high level appointees and a 2-year ban on other senior executive branch officials and members of Congress from representing foreigners for pay.

Mr. President, according to Business Week magazine, the Japanese Government and Japanese companies spend $100 million a year for Washington lobbyists, lawyers, and political advisers. The employ over 100 lobbying, public relations and law firms to represent their interests. We can compare this to the $52 million in salaries for all 535 Senators and Congressman.

As Pat Choate reports in the September issue of the Harvard Business Review, between 1973 and 1990, one-third of former USTR officials who held principal trade positions have represented foreign interests in the private sector. These and other examples lead me to conclude that a further cooling-off period is needed in order to protect the integrity of the U.S. Government's policy-making process. The open revolving door in Washington and the cynicism it engenders is not the fault of the Japanese or the British or the Dutch. It is our fault if we allow it to continue to undermine faith in our system of government.

I believe the Foreign Representation Act of 1990 with its dual purpose of increasing disclosure of foreign lobbying and slowing the revolving door is an important initial step in restoring confidence in the U.S Government and I urge my collegues to support it.

I ask unanimous consent that the Harvard Business Review article I mentioned be printed in the RECORD and I thank the Chair.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Harvard Busines Review, September-October 1990]

POLITICAL ADVANTAGE: JAPAN'S CAMPAIGN FOR AMERICA

(By Pat Choate)

Imagine a foreign country running an ongoing political campaign in the United States, as though it were a third major political party.

Imagine it spending more than $100 million each year to hire 1,000 Washington, D.C. lobbyists, super-lawyers, former high-ranking public officials, public relations specialists, political advisers—even former presidents. Imagine it spending another $300 million each year to build a nationwide grass roots political network to influence public opinion. Imagine that its $400 million per year political campaign sought to advance its economic interests, influence U.S. trade policy, and win market share in the United States for its target industries.

None of this is imaginary, none of it is illegal. The country that is actually undertaking this political campaign is Japan. Today Japan controls the most sophisicated and successful political-economic machine in the United States. More extensive and effective than either U.S. political party or any U.S. industry, union, or special interest group, Japan's campaign for the United States is designed to serve one very important purpose: to influence the outcome of political decisions in Washington, D.C. that directly affect Japanese corporate and economic interests, decisions in which every day hundreds of millions of dollars—and cumulatively billions of dollars—are on the line.

By knowing about these decisions ahead of the competition, by using its network of well-connected insiders and lobbyists in Washington, D.C., by activating its broad-based network in local communities across the country, by shaping American journalists' coverage of economic issues, and by promoting its opinion leaders in universities and think tanks, Japanese companies and the Japanese government are able to transform political strategy into a critical element of corporate and national strategy.

This political game is going on every day, as it was for most of the 1980s. Among the victories scored by Japanese interests during the last decade—in supercomputers, machine tools, ball and roller bearings, optical fibers, satellites, biotechnology air transport, telecommunications, semiconductors, legal and financial services—one recent example illustrates the power and importance of Japan's growing political influence in the United States: Trucks and tariffs. It is a victory in which Japanese organizations successfully outmaneuvered General Motors, Ford, Chrysler, and the United Auto Workers and, in the process, deprived the U.S. Treasury of more than $500 million per year in duties.

Since 1981, the Japanese government has set a "voluntary export restraint" on the number of passenger cars it would send to the United States. No such restraint existed for light trucks. There is, however, a substantial difference in the tariff levied by the United States on cars versus light trucks: for passenger cars it is 2.5%, for light trucks, 25%. During the early and mid-1980s, the Japanese paid the difference in duties without raising any issue; but in 1987, the situation changed. The larger number of new Japanese auto plants in the United States, combined with a growing demand for light trucks as a family vehicle, meant that the passenger-car quota was going unfilled. To fill the limit, the Japanese sent more light trucks. To avoid paying the higher tariff, they bgan to reclassify light trucks as passenger cars.

In the spring of 1988, the U.S. Customs Service became aware of Japan's abuse of tariff regulations and initiated a review process, inviting comments from interested parties. The Japan Lobby went to work. Japanese interests responded by expanding their lobbying team. In October 1988, for intance, Suzuki Motor Company hired Robert Thompson, a well-connected Republican lobbyist who had been an aide to Vice President George Bush in the 1980s.

The Japanese campaign began in the summer of 1988 with a letter from Congressman James Inhofe, cosigned by 30 representatives and 11 senators, urging Commissioner of Customs William von Raab to classify light trucks a cars. Inhofe followed up his letter by summoning von Raab to his office to explain why the review process had been initiated. When von Raab got to the congressman's office, he found Inhofe—and John Rehm, who had been general counsel in the White House, Office of the Special Representative for Trade Negotiations during the Johnson administration. Rehm's law firm represented Japanese and other foreign automotive interest, plus American automobile importers. With Inhofe's blessing, Rehem sat in on the entire meeting. Both Inhofe and Rehm urged von Raab not to pursue the reclassification issue, but von Raab refused to preempt the Customs Service's decisionmaking process.

On January 4, 1989, Customs ruled that light trucks could not be classified as cars. In an interview later, von Raab said of the decision, "These vehicles are built on truck bodies. They have truck characteristics. Most are built in truck divisions. They are advertised as trucks, off-road vehicles, vans, or vehicles that can carry cargo. For years, the Japanese have certified them as trucks when importing them into the United States. Even my grandmother can go into a parking lot and tell the difference between a passenger car and a truck. These are trucks."

Japanese interests reacted swiftly. At a meeting of the world's finance ministers, the Japanese minister of finance persuaded his German and British counterparts—each of whom had a small number of vehicles that would be affected—to approach U.S. Secretary of the Treasury Nicholas Brady, von Raab's boss, and ask for an official reconsideration of the decision. Brady agreed,

within nine days of the Customs Service decision, the ruling was suspended.

Japan's next move was to seek to kill the ruling permanently. In Washington, D.C., Japan's American lobbyists and representatives of the Japanese government met with officials from the Office of the U.S. Trade Representative, the White House, and the Treasury. Japanese automakers financed a public relations campaign built on the theme that von Raab's ruling would harm U.S. consumers by increasing prices on light trucks. Auto importers flooded Congress with letters. The government of Japan implied that an unfavorable decision could do great harm to the U.S.-Japan relationship.

In a rare show of political unity, Roger Smith of General Motors, Donald Peterson of Ford, and Lee Iacocca of Chrysler sent a joint letter to the president and Congress urging the Customs's original ruling stand. But in a fierce political contest on the Big Three's home court, the Japanese trounced their U.S. rivals. Within 45 days of von Raab's original ruling, the Treasury Department overturned the Customs Service decision: it was official U.S policy that light trucks were passenger cars for purposes of the tariff.

Then in a remarkable twist, the U.S. government made Japan's victory even more complete: the Japanese convinced the Bush administration to reclassify the vehicles as trucks for sale once they were inside the United States. This bureaucratic two-step allowed the Japanese to enjoy the best of both worlds: first, to reduce the tariff, which is lower for cars than for trucks; and second, to reduce the requirements for fuel efficiency, safety, and emissions, which are lower for trucks than for cars.

In the end, for an estimated $3 million investment in lobbyists, public relations advisers, and political consultants, the Japanese avoided more than 500 million per year in import duties—without making a single concession or agreeing to a single U.S. demand.

JAPAN'S CAMPAIGN FOR AMERICA

Lobbying, seeking political influence, using information to advance economic interest—none of this is unique to Japan or to Washington, D.C. in 1990. Examples abound across the pages of history. Japan's campaign is the most recent and most extensive effort along these lines—and as such raises important questions about how the United States wishes to conduct its democratic practices. Japan's government and leading companies together spend $400 million annually running an ongoing political campaign in the United States. This figure represents an amount equal to the expenditures of both the Republicans and Democrats in both the House and Senate elections of 1988, combined. Japan spends more on its 1,000-person lobby in Washington, D.C. than the five most influential American business organizations—the U.S. Chamber of Commerce, the National Association of Manufacturers, the Business Roundtable, the Committee for Economic Development, and the American Business Council—combined. In fact, Japan spends more in America in lobbying, politicking, and propagandizing than the 12 nations of the European Community combined. The people who it hires as its representatives, lobbyists, and spokespersons come for the highest levels of American public life—the best and the brightest policymakers, political strategists, legal experts, elected and appointed officials.

Like any high quality political campaign, the Japanese program in the United States depends on a tested formula for its success: keep your message simple, use a variety of credible messengers, and let the echo effect drown out your opponents. The Japanese have crafted six basic messages that they seek to deliver (see the insert "Japan's Six Excuses") and five techniques for delivering them. The components of their ongoing campaign are:

Intelligence gathering,
Lobbying and influencing policy,
Politicking at the grass roots level,
Dispersing propaganda, and
Influencing U.S. education and classroom instruction.

This is, of course, completely legal. It all falls within Washington, D.C.'s often self-serving definition of ethics—which one powerful lawyer-lobbyists described as, "If it's legal, it's ok." And it all deeply corrodes the integrity of the economic and political system of the United States.

To the Japanese, a political strategy in the United States—indeed, in every major market of the world—is a critical element of business strategy (see the insert "Japan in Europe"). In fact, what an in-depth analysis of Japan's systematic political strategy in the United States teaches is the dominant role of politics in the global economy. According to an A.T. Kearney survey, fewer than 30% of America's top 150 CEOs even try to influence the policies of their own government. Japanese business leaders, in contrast, have eagerly embraced the notion that politics is a critical source of advantage in global competition. Americans have become accustomed to high-quality, low-cost, innovative Japanese products in the market-place. Now the Japanese are bringing the same high level of performance to a political product offered in the corridors of Congress and the back halls of the White House.

In politics, as in manufactured products, Japanese strategy follows a simple and predictable pattern: protect your own domestic market from foreign penetration, capture as much of your competitor's market share as possible. In Japan, it is unthinkable that a top government official would become a top lobbyist for a U.S. corporation, that a candidate for high office would accept a campaign contribution from a U.S. corporation, that a foreign government would stage-manage a grass roots political campaign among its people, or that foreign companies or governments would establish think tanks to feed ideas into the government. In all these ways, Japan is a closed political market.

Yet, in all these ways, Japan is gaining political market share in the United States, spending hundreds of millions of dollars for competitive advantage. To the Japanese, politics is another legitimate business expense.

It is a business expense that the Japanese incur with remarkable consistency, coherence, and coordination. As with their larger business strategies, when it comes to global politics Japanese business and government interests work together, practicing a unique brand of "economic diplomacy" that puts the instruments of state to use for economic purposes. For example, a representative of the Keidanren, the Japan Federation of Economic Organizations, is stationed in Japan's Washington, D.C. embassy, and the consul general in Japan's nine consulates across the United States functions first and foremost as a chief economic officer. Moreover, the Japanese are prepared to spend whatever it takes on politics to secure their economic goals—recognizing that $400 million per year is a bargain if it safeguards a $50 billion per year bilateral trade surplus.

Japan's political machine in the United States is designed to serve six national and corporate goals:

1. To keep the U.S. market open for exports from Japan.
2. To smooth the way for additional purchases of key assets in the United States.
3. To blunt criticism of Japan's adversarial trade practices.
4. To neutralize or, even better, to capture the political influence of the U.S. companies that compete with Japan.
5. To influence U.S. trade policies toward Japan, Europe, and all other markets where Japan has significant economic interests.
6. To create an integrated U.S.-Japan economy that prevents the United States from confronting Japan economically and politically.

Other nations lobby on behalf of their economic interests in the United States; in fact, South Korea, Taiwan, and several European nations are now setting up their own political machines in the United States. But there are important differences, both in approach and amount. For the most part, Canada and the nations of Western Europe still rely on traditional diplomacy to influence U.S. policies; companies from these countries tend to retain representatives only when they need help to fight a specific decision that would affect their ability to compete.

Japan, by contrast, has sought to establish an integrated political strategy. Moreover, the scale of the Japan Lobby in Washington is unprecedented: the government of Japan and Japanese companies employ 92 law, public relations, and lobbying firms on their behalf, compared with Canada's 55, Britains's 42, and the Netherland's 7—the 3 other largest investors in the United States. Japanese corporations and governmental agencies have relationships with the ten largest law firms in Washington, D.C. that specialize in trade matters.

Among the nations of the world, only the Japanese government offers a tax break to its companies that make corporate contributions to civic affairs—in the United States. In February 1990, the Foreign Ministry summoned 300 of Japan's business leaders to a meeting in Tokyo and instructed them to increase their local donations in the United States. As an added inducement, the government announced that it would give them benefits on their taxes in Japan for such contributions.

The Japanese help finance both the Republican and Democratic parties, make major contributions to political action committees, and count on their payrolls top political advisers to the president, to members of Congress, to governors, and to mayors. Charles Manatt, for example, who headed the Democratic National Committee in the mid-1980s, is now a Washington, D.C. political adviser to NEC America. Frank Fahrenkopf, who chaired the Republican National Committee from 1983 to 1989, while in office arranged meetings with top U.S. government officials for his client, Toyota Motor of North America.

Moreover, the Japanese are willing to be explicit about their political goals in the United States. According to Akio Morita—chairman of Sony, vice chairman of the Keidanren, and chairman of the Keidanren-created Council for Better Corporate Citizenship in the United States—Japan's investments in the United States have a specific

political purpose. "What we mean by 'better investment,'" Morita wrote in *The Japan That Can Say "No,"* "is the type of investment which will get Americans on Japan's side". Getting "Americans on Japan's side" means changing how Americans vote. The goal set by Morita: "make politicians stop bashing Japan."

The Japanese political strategy in the United States replicates the political mindset in Japan in some fundamental respects. In Japan, money politics is an established fact. A golden triangle, consisting of the Liberal Democratic Party (LDP), elite bureaucrats in government ministries, and established corporate leaders from business, dominates Japan's domestic political machinery in a way designed to serve the country's economic interests. Money and the exchange of political favors make the system go: the Keidanren alone provides the LDP with $100 million each year. In 1990, with the LDP's 35-year uninterrupted reign in jeopardy because of money politics and the stain of the Recruit scandal, the Keidanren and other Japanese business interests contributed more than $1 billion to keep the party in power.

It is a world of very tight political, economic, and personal relationships. Take the construction industry, where politics is everything, public spending critical, and bid-rigging, or *dango*, all too commonplace. The youngest daughter of former Prime Minister Noboro Takeshita, who was forced to resign in 1989 in the wake of the Recruit scandal, is married to the son of the president of one of Japan's "Big Six" construction companies. Takeshita's eldest daughter is married to the son of the leader of the construction *zoku*—the LDP policy group covering that particular industry. Takeshita's half-brother is married to the daughter of the founder of Fukuda Construction Company, one of Japan's largest contractors. Former Prime Minister Yasuhiro Nakasone's daughter is married to the heir apparent of Kajima Construction, Japan's largest construction company.

In Japanese politics, moreover, the line between gifts and bribes is hard to discern. In the Recruit scandal, for example, former Prime Minister Nakasone admitted that he had received $300,000 from Recruit; his successor, Noboro Takeshita, admitted that he had received more than $1.5 million. Neither man was arrested or indicted; the money was classified as political contributions.

In Japan, there is a name for this approach to politics: "structural corruption." It is the same approach to politics that the Japanese are now vigorously practicing in the United States—with the active participation and eager complicity of American lobbyists, power brokers, and government officials.

It is, after all, greed and self-interest in Washington, D.C. that makes it all possible, the "revolving door" of government at the highest levels that confuses "public service" with "personal advancement" and mistakes "legal" for "ethical." For many, a top job in the cabinet is merely a sabbatical from a more permanent career as a registered agent lobbying for a foreign corporation. For example, between 1973 and 1990, one-third of the principal trade officials in the Office of the U.S. Trade Representative (USTR) left to become registered foreign agents; most did work for Japan. Fully one-half of those who held the position as the nation's top trade negotiator later became lobbyists for foreign businesses; three of those were subsequently hired to work for Japanese corporations.

This pattern of economic relationship between Japan and top U.S. officials includes other key agencies as well. A 1986 General Accounting Office survey identified 76 former federal officials who left office between 1980 and 1985 and then became registered foreign agents. The list—which the GAO acknowledges is only partial—includes 8 special assistants to the president, 5 assistants to the president, 2 deputy assistants to the president, 1 presidential counselor, a deputy White House press secretary, a chief of staff to the vice president, a chairman and vice chairman of the U.S. International Trade Commission, 2 deputy U.S. trade representatives, 6 senators, 9 representatives, 12 senior Senate staff, 5 senior House staff, and 4 retired generals. Together these 76 former top-ranking U.S. officials represented 166 foreign clients from 52 countries and 2 international organizations—20 of them went to work for Japan.

Japan's political campaign in the United States, and the eager willingness of American insiders to represent Japanese economic interests in this country, have serious implications for U.S. companies and the American public. In one critical industry after an other, U.S. companies, originally challenged by Japanese manufacturing prowess, now run the added risk of losing out to the Japanese competition because of Japan's well-managed political strategy. American companies, pressed in the market for the consumer's favor, may now face the defection of their own government as an ally in global competition. For the American public, the issue is even more stark. With so much Japanese money influencing so many officials in government, the question for the American people is, "Who do you trust?"

JAPAN'S INTELLIGENCE GATHERING

In late 1988, the Washington, D.C. trade policy community speculated over who would be named by newly elected President George Bush to the post of U.S. trade representative. During this period, Carla Hills's name never appeared in the American press. But in Tokyo, the insiders already knew. One week before the appointment was announced, a Japanese official bragged to an American friend that "the lady" who would be named was "most acceptable" to Japan. Two days before the appointment was announced, a Japanese newspaper, the *Nihon Keizai Shimbun*, broke the story in Tokyo.

Today Japan can boast the best political intelligence system in the United States. One of the most important functions of the lobbyists and public relations firms hired by the Japanese is to keep a steady flow of current information streaming back to Tokyo. According to Herbert E. Meyer, vice chairman of the National Intelligence Council during the Reagan administration, "Every branch office of every trading company operates like an information vacuum cleaner, sucking in information." Normally, the Japanese will assign three or more companies to the task of analyzing the same problem or issue. The redundancy allows them to discern the difference between *tatemae*—the official story and *honne*—the real truth. It also guarantees that they will know more than any individual lobbyist and permits them to tailor their response to the political circumstances, utilizing the firm or individual whose background, skills, or personal relationship best fits the needs of the situation.

Japan's intelligence operation extends, as well, to one of the most important and least visible parts of Washington, D.C.'s policy arena—the staff. In the 1980s, as the economic stakes of political decisions escalated, the Japanese grew to appreciate the influence of congressional and administration staff. Aides do research, draft legislation, negotiate with constituents, contributors, and special interests, and cut deals with their counterparts in Congress and the executive branch. To come to terms with congressional staff, the Japanese commissioned a major study of the role and career patterns of the 30,000 people who fill these critical slots. As a piece of political intelligence, the study is a remarkable chronicle of Japanese political strategy.

Commissioned in 1982 and published in 1984, the study, "Role of the Congressional Staff in the U.S. Decision Making Process" was prepared by Japan's National Institute for Research Advancement. An example of Japanese thoroughness and detail, it not only analyzes the operation of staff but also spells out individuals' educational backgrounds, age distribution, and levels of influence. It flags the "key watching points" that require particular attention from the Japanese and the importance of identifying "floating ideas" that are most likely to capture staff support. Most important, the study emphasizes the need for Japan to win over those staff members who presently are powerful and most likely will become even more powerful. In particular, the study targets young lawyers on the Senate Finance Committee as likely prospects to move into influential trade posts.

To implement the study's findings, the Japanese began to court congressional staff systematically. The Japanese embassy assigned four officials to get close to key congressional staff members—to learn about their backgrounds, personal ambitions, connections, and positions on important issues. The Japanese also made a point of wining and dining these staff members, each year inviting staff-level trade specialists to parties, lunches, dinners, and, increasingly, to all-expenses-paid fact-finding trips to Tokyo. While these trips and other contacts undoubtedly serve useful purposes for staff, they serve other purposes as well. After congressional staff members leave service in the U.S. government, they are increasingly going to work for Japanese clients and Japanese companies.

Because Japanese businesses hire so many senior insiders and coordinate their collection of information so effectively, the Japanese actually have a better overview of what is happening in the federal government than all but a handful of those who serve in the administration. And by having more and better information on the inside workings of the government, the Japanese are able to affect a decision before most people even know that there is a decision to be made.

In 1988, for example, during the final negotiations of the Omnibus Trade Act, a member of the House Ways and Means Committee received a call from an official in the Japanese embassy, lobbying him over a provision of the just-passed Senate version of the measure, which the committee would take up the next day. None of the members of the committee had yet obtained a copy of the Senate draft—as a courtesy and to facilitate its lobbying, the Japanese embassy had a copy hand delivered to the congressman.

LOBBYING AND INFLUENCING POLICY

To put the intelligence they gather to good use, Japanese companies excel at the next phase of politics, gaining access to the

policymakers. In Washington, D.C., access and influence go hand in hand; they are the stock-in-trade of the lobbyist, the lawyer, and the political adviser. They are, as well, the one "skill" that current office holders and staff members can take with them when they leave the government (see the insert "How to Make an American Governor a Japanese Lobbyist").

Consider a recent case involving the 1990 U.S.-Japan Super 301 talks on bilateral trade in high technology. During the negotiations, Fujitsu Ltd., one of Japan's largest electronics companies, hired David Olive, one of the State Department's principal experts on the substance of the talks, to be a senior representative in its Washington, D.C. office. Olive had helped draft State Department position papers, attended interagency meetings, had access to confidential information shared by U.S. companies, and knew the U.S. negotiating strategy for such critical high technology industries as semiconductors, telecommunications, and supercomputers. The U.S. State Department defended Olive's job change as ". . . in accord with applicable U.S. laws and regulations." Nevertheless, whether intended or not, the Japanese gained two important advantages over their U.S. rivals by this one hire: they secured the services of an individual with a finely honed sense of political possibilities, and they sowed distrust among American companies about whether to share information with their own government.

The easiest way for Japanese and other foreign interests to gain access and establish influence is simply to pay for it. Generally, an insider is hired as a lobbyist. If the former official wants to avoid the embarrassment of having to register as a "foreign agent," the arrangement can be changed to that of "consultant" or "member of an advisory board" of an agency or company. As the economic stakes have grown, the Japanese have added yet another lure to attract U.S. government officials—an equity position in a business deal, with the prospect of substantial and ongoing returns. The transaction is a simple equation: equity for influence.

The sums of money from Japan are so large and the absence of ideals in Washington, D.C. so complete that a substantial number of U.S. public officials are dramatically altering their career paths in the federal government—as well as their decisions while in office. One former U.S. trade negotiator puts it bluntly: "When people in government get ready to leave, they know where the money is. It's with the Japanese. Nobody who's looking at an opportunity to make $200,000 or more a year representing a Japanese company is going to go out of the way to hurt them while in office."

The influence of Japanese money is so pervasive that there is even a name for it: the demonstration effect. The huge sums of money made available to Japan's friends once they leave office "demonstrate" the value of a friendly Japan policy to officials still in office. Some Americans even try to prequalify for a position as a lobbyist for Japan by offering "golden nuggets" of inside information to Japanese corporate or government officials as evidence of their future value.

When it comes to the demonstration effect, nothing rivals the example set by Japan's most recent political coup: the hiring of former President Ronald Reagan as a Japanese public relations shill. In October 1989, former President Reagan hired himself out to Fujisankei Communications Group, a $5.5 billion conglomerate then headed by its founder, Nobutaka Shikanai, a right-wing, controversial tycoon who owned Japan's largest radio network, a national newspaper, and the country's most successful television chain.

For $2 million, America's former chief of state went to work for Fujisankei for one week. He made two 20-minute speeches, gave exclusive interviews to Fujisankei's newspaper and television stations, and, in the process, parroted the Japanese line about U.S.-Japan trade frictions. The bilateral trade friction, Reagan told the Japanese, was America's fault, caused by "trade protectionists" in Washington—whom he "had to fight every day."

That was the message of Reagan's trip to the Japanese; the message to public officials back in Washington was different. To them Reagan's $2 million trip was the pinnacle of the demonstration effect—proof that anyone can be bought by the Japanese if the price is right and permission for others to do the same. After all, if a former president can go to work for the Japanese, why not a lower level bureaucrat? That, despite the fact that it would be inconceivable for Yasuhiro Nakasone, Margaret Thatcher, Helmut Kohl, or François Mitterand, after retiring from public office, to accept money from a U.S. company to do a public endorsement or to advance its national standing.

Funneling money to politicians after they leave office works at one end of the political value-added chain. An even more important activity is to funnel money to them at the front end, to help them get elected in the first place. While U.S. election law prohibits a foreign national from making a direct or indirect contribution in any local, state, or federal election, foreign-owned companies in the United States are allowed to operate political action committees [PACs] and to make political contributions as if they were U.S. corporations. In the 1980s, more than 100 foreign companies—primarily from Europe and Canada—used this legal loophole to play a direct and influential role in American politics. The Japanese use a more subtle technique; they encourage Americans with whom they have important business links to make political contributions to pursue their shared political interests.

The most visible, successful, and controversial example is the Auto Dealers and Drivers for Free Trade PAC—AUTOPAC. As an industry, automobiles today account for $28 billion of the $49 billion bilateral U.S.-Japan trade deficit; therefore, it is an economic issue worthy of strong political involvement by the Japanese and other auto-exporting nations. Just how strong was vividly demonstrated in the 1988 elections. Using a fund-raising formula of $2 per every car sold or $5,000 per year, the foreign auto dealers of AUTOPAC raised $4.5 million, making AUTOPAC one of the top PACs in the United States. Of that $4.5 million, AUTOPAC dumped $1.4 million into just seven congressional races, elections where AUTOPAC picked a candidate who favored an open American market—the single issue of critical importance to the industry.

One such race was the Senate contest in Florida between Democrat Buddy McKay and Republican Connie Mack. In a statewide election decided by only 31,000 votes, McKay lost—in large part because of $326,000 spent by AUTOPAC on negative television commercials in last the days of the campaign. Looking back on the election, McKay says, "In the final analysis, I was not beaten by Connie Mack. I was beaten by Tokyo."

Political action committees like AUTOPAC are only one device for influencing U.S. politics. Another favorite Japanese technique is the use of an existing organization or the creation of an ad hoc coalition—an association of U.S. members that allows Japanese interests to put an American face on their politicking. One example of this approach is a Washington, D.C.-based public interest group, Consumers for World Trade (CWT). Since the early 1980s, CWT has been one of Washington, D.C.'s most avid advocate of unrestricted free trade; its arguments focus on the benefits free trade affords the American consumer. The organization has steadfastly opposed any reciprocal trade law that would threaten Japan with restrictions on access to the U.S. market as a way to pry open the Japanese market. In 1987, CWT organized a grass roots campaign against what it labeled the "protectionist" features of the pending Omnibus Trade Act of 1988; CWT testified in front of congressional committees six times, each time arguing the case for U.S. consumers and against tough trade sanctions aimed at the closed foreign markets, most notably the Japanese.

Starting in 1980, the Japanese began to take a deep interest in CWT. Again, the Japanese automakers led the way. Subaru, for example, paid the initial dues for 1,500 of its employees to become members; in November of 1980, Subaru employees represented more than half of CWT's 2,700 members. Toyota and other Japanese companies made direct corporate contributions. By staying in the background, they did not jeopardize the American face of CWT. Nevertheless, when the Japanese infiltration of CWT came to light, U.S. Senator John Heinz termed it "an underhanded and dishonorable way for the Japanese to try to influence public opinion."

But the most effective lobbying technique reflects the current tangle of global politics and economics. It is the high art of creating a captive competitor. The story of John Young, CEO of Hewlett-Packard and one of America's most respected senior manager, makes the point. In 1983, the Reagan administration created the President's Commission on Industrial Competitiveness and named John Young to be its head. Given the Reagan administration's unyielding laissez-faire ideological bent, most Washington, D.C. insiders considered the commission to be little more than a political fig leaf—a protective cover for the 1984 election in case Walter Mondale were somehow able to make the issue of competitiveness come alive. Predictably, after the election, the Reagan administration tried to vanish the commission and its report, releasing it in an obscure Commerce Department office rather than the White House and printing the absolute minimum number of copies.

But John Young was not so easily dismissed. While insiders might have written off the commission, Young took the issue seriously. He saw to it that the commission issued a first-class piece of work; its findings and recommendations have subsequently framed much of the ongoing debate on the issue. And when the report died within the administration, Young championed the issue on his own. In 1987, he supported sympathetic members of Congress who set up the Congressional Competitive Caucus; working with other corporate leaders, he spearheaded the creation of the Council on Competitiveness, which he currently heads.

But in 1987, another event occurred: the Toshiba Machine Company, which is 50% owned by the Toshiba Corporation, was

found to have sold sensitive technology to the Soviet Union—technology that would allow Soviet submarines to escape detection by the United States Navy. Congressional reaction was swift and fierce: in June 1987, the Senate voted 92 to 5 to impose sanctions on Toshiba; the House was prepared to vote to ban the sale of all Toshiba components in the United States for two years.

And suddenly John Young, champion of U.S. competitiveness, found himself forced to use his Washington lobbyists on behalf of Toshiba—because Hewlett-Packard, like so many American high-tech companies, simply could not do business without Toshiba's components. In a textbook example of "leverage lobbying," Toshiba, the Japanese supplier, used the leverage of its strategic components to get its U.S. customers, including Hewlett-Packard, to lobby Congress on its behalf. The U.S. companies had become Toshiba's captive competitors.

GRASS ROOTS POLITICKING

It is a guiding principle of American political life that all politics is local. It is a principle that the Japanese have been quick to grasp, building an extensive coast-to-coast network of politics at the grass roots level across America. And it is a principle best put into practice by the Electronic Industries Association of Japan (EIAJ) and Sony's Akio Morita.

In June 1985 presentation to the members of EIAJ, which is made up of Japan's 600 largest electronics companies, Morita explained that U.S. criticism of Japan "is not due to a misunderstanding of and prejudice against Japan, but rather to certain political intentions." In response, Morita said, Japan needed to mount a grass roots political campaign in the United States, a campaign that "should not stop with PR within the electronics industry but . . . should expand PR activities to the mass media, consumer groups, and political groups on the state level."

Going further, Morita next laid out an extensive list of political activities for DIAJ's grass roots campaign. The program would consist of:

Managing debates and seminars at the state and local level;

Staging local events with Japanese plants and factories;

Publishing local newsletters and magazines;

Creating exchange programs with state universities and think tanks;

Establishing links with state economic development offices, local chambers of commerce, and the local offices of federal elected officials;

Organizing exchanges with consumer groups at the local level; and

Operating student exchanges.

To weld the campaign into a coherent whole, Morita proposed a unified message that would be repeated in every locality: Japanese investment creates jobs; Japanese companies rebuild depressed U.S. communities; Japanese companies satisfy U.S. consumers; the Japanese and U.S. economies are intertwined.

Before launching the campaign on a national basis, EIAJ decided on a pilot project. It hired the Washington, D.C.-based political consulting firm of Matt Reese & Associates to help test the program in a single state: Tennessee, Tennessee was an attractive test site for several reasons. By 1987, Japanese companies had established 47 facilities, employing 10,000 Tennesseeans, a full 10 percent of Japan's total U.S. manufacturing investment. And in the early 1980s, Japan had already begin public relations and educational efforts in Tennessee, leading to university-based Japan centers, special programs in the school districts of the state's four major cities, and the formation of a Japan-Tennessee Society.

Once the Japanese had targeted Tennessee, the campaign swung into motion. A new local organization was created, the Tennessee-Japan Friends in Commerce (TJFC). The organizers recruited three non-Japanese cosponsors: the state government; the Japan Center of Tennessee, located at Middle Tennessee State University in Murfreesboro; and the Japan-Tennessee Society. For the most part, however, all the cosponsors put up was their names; two-thirds of the budget for the organization came from the EIAJ and its member companies, particularly Toshiba, Sharp, and Matsushita.

To add legitimacy and an American fact to the organization, former Lt. Governor Frank Gorrell was hired to take the position of chairman. To create membership, Matt Reese & Associates identified several thousand Tennessee opinion leaders, who were then invited to join.

As an initial test, TJFC sponsored three forums in Nashville, Knoxville, and Memphis. In attendance were Tennessee Governor Ned McWherter, other state elected officials, business executives, and academic leaders. The message: the importance to the Tennessee economy of the "friendship" between the people of Tennessee and Japanese companies. The keynote speaker: Akio Morita.

In his speech, Morita lamented the fact that politics was responsible for disturbing the otherwise superbly functioning economic relationship between Japan and the United States. He told the crowd, "At a time when the relationship between our two nations has become inextricably intertwined, it is most unfortunate that things that bear on the relationship . . . have become so politicized."

Things were about to become even more politicized—and the pilot project was about to be put to a test. The Toshiba controversy broke out in the middle of the series of public forums, creating a real political emergency. Tennessee responded. Toshiba supporters across the state and state-level elected officials led by Governor McWherter pressured the Tennessee congressional delegation not to impose sanctions on the Japanese company—which happened to be a major Tennessee employer and contributor to TJFC. Remembering the episode, one Tennessee congressman said, "My arm was twisted so hard that I feel lucky to have it."

In the end, the EIAJ deemed the experiment a success. The forums served to establish useful contacts for EIAJ with state opinion leaders; EIAJ's message of the benefits of Japanese investment had been conveyed in a credible fashion; and the forums had given Toshiba an opportunity to communicate its importance to the people and economy of Tennessee. In the wake of the Tennessee test, the Japanese made the determination to take the campaign national.

In 1988, the Keidanren, with Morita again in the lead, formed the Council for Better Investment in the United States—later renamed the Council for Better Corporate Citizenship in the United States, an organization with the avowed purpose of helping Japanese companies become fully integrated "into American society." The nationwide effort aims to win public favor and goodwill through a massive program of charitable donations and highly visible public relations activities. What makes the donations troubling, however, is the fact that Japanese companies have no tradition of charitable giving, either at home or abroad. They generally combine charity and political contributions into one accounting line on the balance sheet. Now the Japanese government is pressuring them to make large, public contributions to defuse the mounting hostility in the United States toward Japan's economic strategy.

At the same time, Japanese companies have carefully spread their investments in new plants and facilities for maximum political advantage with the U.S. Congress. To muzzle congressional critics, the Japanese sited plants in targeted districts; seven facilities have gone into the district of Georgia Congressman Ed Jenkins, a persistent critic of Japan's closed markets. Japanese plants have also been placed in the same district as U.S. competitors in an effort to "share" the elected official and neutralize the rival's political influence. By 1990, the Japanese had successfully established a formidable, fully functioning grass roots political infrastructure throughout the United States.

JAPAN'S PROPAGANDA

The mission of Japanese propaganda is simple: to persuade Americans to adopt favorable views toward Japan. Through propaganda, the endless repetition of their six messages, the Japanese have successfully stifled criticism of their own nationalistic approach to economics and shaped the prevailing U.S. view of Japan and global economics.

Japanese propaganda is effective primarily because it is delivered by highly credible spokespersons—most of them Americans. Some are long-standing experts on Japan, dubbed the Chrysanthemum Club by their critics; others are academics, members of think tanks, and journalists, often with a free-trade ideological bent. While most of them hold their views honestly, almost all are stroked, supported, and promoted by the Japanese, who recognize the enormous value of having earnest American defenders who will make Japan's case.

The Chrysanthemum Club, named after the floral symbol of Japan's imperial family, draws its membership from Americans with an intellectual, personal, or business stake in Japan. Most prestigious and influential are the long-standing members of the U.S. foreign policy establishment, the diplomats who, in many cases, helped forge the post-World War II U.S.-Japan relationship. Now these same individuals are hard at work trying to defend Japan to Americans and to preserve "the relationship"—and the work of their careers (see the insert "The Relationship").

Also in the foreign policy category of Chrysanthemum Club members are entrenched Defense Department officials, unreconstructed cold warriors who give little weight to geoeconomics and continue to place enormous emphasis on the importance of maintaining American military bases in Japan. To them, national security is defined only in military terms; economic friction should not be permitted to jeopardize the geopolitics of the U.S.-Japan relationship. Other members of the Club are free-trade ideologues and U.S. corporate leaders who do not want to see criticism of Japan change the existing rules of commerce between the two nations.

It is this defense of the economic status quo that marks the members of the Club.

Kevin Kearns, a former U.S. diplomat who served in Tokyo during the late 1980s, wrote in the *Foreign Service Journal*, the professional journal for foreign service officers, that Chrysanthemum Club members "somehow fail to see the trail from predatory Japanese policies to lost markets, to destroyed industries, to large outflows of wealth in the form of trade deficits, and finally to the resultant decline of American power and influence. . . . Chrysanthemum members seem to see their function not as representing U.S. interests but as balancing the demands of both sides. . . . to make the increasing Japanese domination of the U.S. economy as painless a process as possible for our institutions and the American people".

A second major instrument for Japanese propaganda dissemination is U.S. universities and think tanks, a majority of which depend on significant Japanese funding and Japanese access to operate their Japanese studies programs. In turn, the Japanese recognize that these institutions craft many of the ideas and conduct many of the studies that shape American opinion on trade and economic policy. Almost without exception, Japanese contributions support the work of those who advocate neoclassical laissez-faire trade policies. These views are genuinely held; the Americans who argue for this approach would make the same arguments with or without Japanese financial assistance. What the Japanese hope to accomplish through their support of these people's work is to amplify it, sustain it, and give it added influence in the highly competitive marketplace of ideas. Moreover, since ties to and support from Japan are often obscured or left unreported, the question of objectivity goes unasked.

American academics typically line up on every side of every issue. But in the case of the U.S.-Japan relationship, more than simple intellectual disagreement has come into play. The Japanese exercise extraordinarily tight control over access to information within Japan. In more than once case, U.S. scholars, academics, and students who have been critical of Japan have found their research efforts jeopardized or made more difficult. Conversely, friends of Japan can find that most obstacles are swiftly removed. Another consideration is money. It takes a great deal of money to run a major Japan studies program—and the Japanese are much more inclined to contribute substantial sums to those whose academic research supports their interests and substantiates their propaganda.

American academics have also emerged as the leading critics of the "revisionists"—particularly Karel van Wolferen, Clyde Prestowitz, Chalmers Johnson, and James Fallows—who advocate changes in the U.S.-Japan relationship. For example, George R. Packard, who is the dean of the School of Advanced International Studies (SAIS) of Johns Hopkins University, has publicly labeled van Wolferen "a hoax" and attacked the writing of Prestowitz and Fallows as threats to the U.S.-Japan relationship. Packard's program at SAIS is one of the leading academic centers for U.S.-Japan studies; it has been a regular recipient of Japanese funding.

Undoubtedly, Packard comes to his views honestly. And the Japanese come to them eagerly, ready to broadcast them to gain political advantage. For example, the February 1989 issue of *The Atlantic* carried a 16-page special advertising supplement paid for by major Japanese companies. Called "Partners in Prosperity," the supplement contained advertorial messages from Mitsubishi, Brother, Canon, Ricoh, and other Japanese companies, featuring titles such as "Toyota USA: An American Phenomenon." But the major element was an essay by George Packard, which argued that the United States and Japanese economies and cultures have been transformed "into one nearly seamless web of interdependence."

In the area of trade, Packard concluded, any differences between the two nations are "more than compensated for by the clear and well-recognized benefits that each nation draws from the partnership." On the Japanese side, Packard chalked up access to the wealthiest market in the world, to which Japan sends 40% of its exports; access to U.S. scientific and technological advances "through various arrangements"; ability to rely on the United States for defense—which means a lower level of military and defense expenditures and benefits such as an uninterrupted oil supply from the Middle East.

On the U.S. side, Packard listed: access to military bases in Japan; $7 billion in annual agricultural exports to Japan; access to Japanese management techniques and technological innovations; and U.S. consumers' access to Japanese products. Pared to its essentials, the list represents the U.S.-Japan trade relationship: Japan gets to send its products to the U.S. market; Americans get to buy them.

Nowhere does Packard mention Japan's $50 billion annual balance of trade surplus. Rather, his addition to the benefits enjoyed by each side leads him to conclude: "Thus the partnership has been firmly rooted in mutual interests"—the kind of conclusion that the Japanese argue repeatedly and are only too happy to have Americans make for them.

The third channel for carrying Japanese propaganda is the U.S. media, which Japan affects in two ways: financing programs that are presented over the airwaves and influencing the content of journalists' reporting on Japan. Since the early 1980s, Telejapan and the Japan Center for Information and Cultural Affairs (JCICA) have sponsored television and radio programs in the United States, producing shows for the Christian Broadcasting Network, the USA Cable Network, the Cable News Network, and public television stations. Both Telejapan and JCICA are directly linked to the Japanese government. Telejapan is affiliated with the Ministry of International Trade and Industry. JCICA works with the Foreign Ministry, which has had to approve the release of funds for at least one of the JCICA's television projects.

In 1986, MITI went even further in its attempt to influcence the American public's view of Japan: it established the Moonlighter Project, a $200,000 fund to pay moonlighting U.S. reporters directly. As reported in the *Mainichi Shimbun*, MITI's initial plan was to put on the Japanese payroll one reporter, editor, or local chamber of commerce director in each of 10 states. Missouri and Michigan, home to three of Japan's leading critics—Congressmen Richard Gephardt and John Dingell and Senator Donald Riegle—were among the test sites chosen. If the test worked, MITI would extend the program to include more journalists and states. The purpose of the project, as defined by MITI, was to have journalists collect information that would help Japanese companies expand in the United States and to "conduct PR on Japan's market-opening measures."

The program collapsed when Congress learned of it. Senators John Heinz, Donald Riegle, and Frank Markowski wrote angry letters to the U.S. secretary of state, the U.S. attorney general, Japan's prime minister, and the Japanese ambassador in Washington, D.C. Riegle denounced the program as "particularly insidious because it is designed to contract with influential Americans so the Japanese can make use of their personal contacts, reputations, and positions in local communities. . . . MITI's plan shows that the Japanese government, despite its promises to correct sources of trade tension between the two countries, continues its strategy of temporizing and distracting American public opinion while actively worsening the already dangerous bilateral trade imbalance."

JAPAN EDUCATES THE UNITED STATES

Japan's most forward-reaching political program is aimed at U.S. educators and students. Its goal is to shape what future generations of Americans think and know about Japan-including rewriting the history of World War II to omit Japan's atrocities against occupied nations and prisoners of war and to explain the war in the Pacific as a consequence of the U.S. decision to cut off Japan's supply of steel and oil.

The Japanese government began its effort to influence America's educational system in 1978, when it commissioned West Coast-based consultant Charles von Loewenfeldt to develop a strategy to shape what elementary and high school students in the United States are taught about Japan. Von Loewenfeldt's advice: the best way for Japan to reach the students was first to teach the teachers.

Soon the government of Japan launched its education program by offering elementary and secondary school social-studies teachers all-expenses-paid tour of Japan—"invitational diplomacy" designed to give the teachers a carefully prepared, stage-managed impression of Japan. These tours are almost always the same: they begin with a visit to historic, charming Kyoto; next they go to Shikoku, one of the main islands, where teachers stay with selected families for several nights; then they go to Hiroshima Peace Park, which retells the history of World War II and America's dropping of the atomic bomb from the Japanese perspective; then to Osaka to see modern Japanese industry; and finally, to Tokyo to see the famous Japanese juku, or cram schools.

When the teachers return to the United States, they are expected to write trip reports and are encouraged to give talks in their local communities to "explain" Japan back home. An aide to von Loewenfeldt describes the real purpose of the program: "One teacher who has visited Japan can infect hundreds, even thousands, of other teachers with his or her enthusiasm."

To help spread the "infection" even further, the Japanese have financed the production and distribution of teaching materials: handbooks, lesson plans, videotapes, and other instructional supplies. Of course, these teaching materials present history and economics from Japan's point of view. For example, according to one workbook, Japan invaded China because of American and European racist insults directed toward Japan after World War I. Another text explains in great detail the U.S. role in causing the war in the Pacific, including U.S. actions that drew Japan to attack Pearl Harbor.

In economics as well, Japanese-sponsored material carries familiar Japanese propa-

ganda as if it were established academic fact. Teaching guides either dismiss the U.S.-Japan bilateral trade imbalance as a matter of little consequence or, alternatively, blame it on U.S. business, workers, and government. One text teaches, "According to economic theory, we do not need to worry about trade imbalances because market forces cause them to disappear." The guides explain away Japan's protected markets as necessary: since "Japan is a small island country with no natural resources," it must have a trade policy that will guarantee supplies of food and energy and cash reserves with which to buy necessities on the world market (see the insert "Japan is Different"). Why the United States and other nations have no similar need is not mentioned or discussed.

In the 1980s, the Japanese extended their education effort through a $2 million per year "Program for Teaching About Japan." The program concentrated on social studies—economics, history, trade, and U.S.-Japan relations—and was designed to make it easy for teachers to offer prepackaged lessons on Japan; videotapes, sample lessons, student handouts were all provided. As one high-ranking official in the Japanese Foreign Ministry said in an interview, "I'm not worried about U.S.-Japan relations in a decade. By then, the next generation of Americans will think differently about Japan".

AMERICA'S POLITICS, AMERICA'S FUTURE

Japan's campaign for the United States is completely legal. It plays the American economic game by American rules. It uses the campaign tactics and methods of American politics. It hires Americans to lobby, educate, and influence other Americans. It is the highest stakes political-economic game in the world today, affecting whole industries, billions of dollars, million of jobs, and, ultimately, the wealth and power of nations.

It is also deeply corrosive of the U.S. political and economic system. The revolving door of Washington, D.C. breeds cynicism and mistrust. It ultimately represents a form of political corruption—completely legal, completely unethical. The problem, of course, is not in Tokyo, but in Washington D.C.

Americans have all but lost sight of some of the most basic lessons of civics—chief among them the guiding concept of civic virtue. The value of national service—for an individual to be of service to the country and to work on behalf of the country's interests—has been cheapened by a more mundance coin of the realm: personal advancement, self-interest, big money. As a consequence, the United States is not only selling corporate assets and real estate to foreign bidders; also for sale is U.S. integrity and national honor.

The revolving door must stop. Those who hold top federal positions, such as director of the Central Intelligence Agency, U.S. trade representative, and secretary of state, should be permanently prohibited from becoming foreign agents or paid lobbyists for any corporation—foreign or domestic. For lower level federal office holders, there should be a longer "cooling off" period between their departure from government service and their availability to lobby, counsel, or advise on trade matters. As of January 1991, federal law will require a one-year waiting period; five to ten years would represent a more substantial safeguard of the public interest.

In a democracy, the best disinfectant for corruption is sunshine. All foreign agents—those who represent foreign clients, whether lobbyists, journalists, academics, public relations advisers, political strategists, lawyers, or foundations—should provide full disclosure to the Justice Department. No exceptions. Foreign companies should be flatly prohibited from participating in and contributing to U.S. elections. Money politics is bad enough; foreign money politics is out of the question.

Moreover, where it is legal and ethical for companies to hire former elected officials, U.S. corporations should recognize the new reality of global competition: politics is source of competitive advantage. U.S. companies must accept and participate in both the reforms of the corrupt practices that now go on—recognizing the domestic corruption is every bit as destructive as foreign corruption is—and the legitimate pursuit of political advantages.

Japan's campaign for America should serve as a powerful wake-up call to U.S. business leaders that politics is a critical component of corporate strategy. In Washington, DC in state and local governments, in school districts across the country, politics not only shapes public opinion and perception but also drives outcomes in terms of real products and services in the marketplace. Significantly, this holds true in Tokyo as much as in Washington, D.C. and yet in the home market of American companies, the Japanese have proven more effective than their American rivals in seizing the political advangage.

Moreover, most U.S. companies, if they do business in Japan, regard the Japanese government as an alien and external entity and depend almost solely on the American embassy for political advice and counsel. Whether in Tokyo or Washington, the lesson is the same; companies can create political advantage that goes beyond the conventional boundaries of company strategy. Indeed, the political and economic dimensions are inseparable.

Finally, it is up to American business leaders and the American people to demand a higher standards of conduct from their elected and appointed representatives. Companies that are accustomed to the requirements and strictures of the Corrupt Foreign Practices Act should now demand at U.S. Version—a Corrupt Domestic Practices Act. The manipulation of the U.S. political and economic systems for foreign interests with the will and eager participation of Americans-for-hire threatens America's national sovereignty. It threatens America's future. It goes on only because Americans tolerate it. Americans are the only ones who can stop it.

JAPAN'S SIX EXCUSES

Through propaganda, Japan has been able to ward off American criticism of its protectionist economic policies. Using six simple excuses and then repeating them endlessly in countless variations, Japan has crafted an effective public relations campaign. Japan's six excuses are:

EXCUSE 1: JAPAN CREATES JOBS FOR AMERICANS

In the late 1980s, when Japan began to be criticized for its rapidly expanding investment in the United States, the propaganda theme most widely disseminated by its spokespersons was that Japanese investment created new jobs for Americans. The theme worked to defuse the criticism—but it is betrayed by the facts. Of the 677,000 jobs that all foreign investors, including Japan, claim to have created in 1988, only 34,000—a mere 5%—were created by the establishment of new foreign-owned operations in the United States. The other 95% were made up of existing jobs in U.S. companies that were taken over by foreign investors. Moreover, when we take into consideration the liquidation or cutback-related layoffs in foreign companies' newly acquired U.S. affiliates, the net number of new jobs created by all foreign investment is nominal at best and may actually be negative.

EXCUSE 2: JAPAN'S CRITICS ARE RACISTS

"Criticism of Japan is racism" has long been a mainstay of Japanese propaganda. With no apparent hestitation, Japanese propagandists automatically label critics as racists. Variations include calling critics "Japan bashers," "Jap bashers," or even "Japanophobes." Of course, some Americans are racist and some bashing of Japan does occur. But the vast majority of accusations of racism and Japan bashing is little more than a cynical gambit by the Japanese and those in their pay to silence Japan's critics and discredit legitimate American debate.

EXCUSE 3: IT'S AMERICA'S FAULT

The "It's America's fault" excuse promotes the perception that U.S. trade problems are entirely homegrown—poor quality, lazy workers, a high budget deficit, among dozens of other variations. If this were true, America would be hard put to blame the Japanese for any bilateral trade frictions. To be sure, the United States has many shortcomings. Still, these inadequacies do not explain why U.S. products that are fully competitive are kept out of Japan's market. Hundreds of U.S. companies produce goods and services that are the best in the world by any measure—price, quality, service, innovation, and marketing. These companies hire salespeople who speak Japanese. They make a long-term commitment to their Japanese customers. Yet most make only a token penetration into the Japanese market. By contrast, these products compete with great success against Japanese goods in Europe and other markets. This defies all economic logic—unless we consider one critical factor: Japan's markets are far more closed than are America's or Europe's. And that's Japan's fault.

EXCUSE 4: GLOBALIZATION

The message of globalization is that national borders are disappearing, along with such outdated concepts as national pride and national security. In their place is emerging a single world economy, where dependence and national allegiance have no place and corporations are no longer Japanese, American, or European but entities separate from nations. The underlying message: policy sophisticates shouldn't worry about the Japanese purchases of U.S. assets or about Japan's quest for global domination of key industries. What is ignored, of course, is that by selling its appreciating capital stock (real estate and companies) to buy depreciable foreign-made consumer goods (VCRs, cars, and electronic gadgets), the United States is sure to be a poorer nation in the long run. For after the consumables are gone, Japanese and other foreign investors will still be taking profits and rents from their ownership of equity.

For all of Japan's arguments that national borders are evaporating, its own borders remain substantially closed. As a consequence, American and other foreign investors own fewer than 1% of Japan's national assets—a stark contrast to the United States (9%) and West Germany (17%). Equally im-

portant, in the 1980s, the ratio of manufactured imports to GNP was less than 3% in Japan, compared with roughly 7% in the United States and more than 10% for most European countries.

EXCUSE 5: JAPAN IS UNIQUE

Japan has long sought unequal and nonreciprocal relationships with the United States by arguing that it is "unique" and thus requires special treatment. The United States, for instance, is urged to accept Japan's closed rice market and discriminatory distribution system because they are part of Japan's unique culture, even as Japanese companies have full access to the rich U.S. market. Ironically, the heart of the revisionists' argument is that Japan is indeed different from other nations and should be treated differently. When the revisionists argue that Japan is unique, however, the Japanese reject the argument.

EXCUSE 6: JAPAN IS CHANGING

Japan forestalls tough American action to open its closed markets by holding out the prospect that "change is imminent." In the 1960s, Japan was supposed to change once its youth came into positions of influence. In the 1970s, Japan was supposed to change once enough Japanese tourists and businessmen had been exposed to other nations. In the early 1980s, Japan was supposed to change because of the "internationalization" of Japan's financial market. In the late 1980s, Japan was supposed to change because political reforms created by the Recruit scandal would produce a Japanese government far less beholden to its corporations and more concerned about consumers.

For all of the American and European anticipation of change, Japan remains by far the most closed industrial market in the world. Thus it is reasonable to ask: Do Japan's policymakers really want to change?

JAPAN IN EUROPE

In the fall of 1988, Cores, a Japanes consulting firm that specializes in foreign marketing, presented 20 of Japan's largest electronics manufacturers with a detailed blueprint for lobbying, politicking, and progagandizing in Europe. The goal: influence the rules that the European Community is adopting to create a single market in 1992.

Japanese companies were advised to: join every local industry association they could; hire lobbyists and public relations personnel in each of the EC's 12 nations; establish an intelligence-gathering network in each country; spread their facilities across the EC; hire European lawyers and financial experts who could monitor local developments; invite influential European academics, journalists, and politicians to Japan; and appoint a local political personality as a figurehead chairman for Japan's European operations—someone who would be willing to open doors and lay the groundwork for the systematic lobbying of national officials and politicians. In short, every element of the political strategy that was first employed by the Japanese in the United States is now being deployed in Europe.

"THE RELATIONSHIP"

Japan's diplomatic trump card is America's obsessive concern with the U.S.-Japan "relationship." Repeatedly, the Japanese have elevated contentious bilateral issues into tests of the soundness of "the relationship." When American rice millers sought help from the U.S. Government to open Japan's closed market, both governments warned that American pressures threatened "the relationship." Critics of the FSX agreement were accused of threatening "the relationship." Efforts to open Japan's closed construction market were sidetracked because they might harm "the relationship."

Repeatedly, the United States has made political and economic concessions to preserve "the relationship." It is a uniquely Japanese form of brinkmanship. And, invariably, when America goes "eyeball to eyeball" with the Japanese, it is America that blinks. By contrast, there is no evidence that the Japanese have ever made more than a symbolic economic concession for the sake of "the relationship."

The U.S. State Department, which has assumed the role of guardian of the relationship, regularly takes Japan's side in trade and economic disagreements between the two nations. And just as regularly, U.S. economic interests are sacrificed on "foreign policy" grounds—"the relationship."

JAPAN IS DIFFERENT

In international dicussions, at different times and in different industries, the Japanese have argued that they are "different" as a way to maintain their protected domestic market. Here are some of the ways in which Japan is different:

In 1978, the Japanese government refused to permit imports of American-made blood analyzers because, it asserted, the Japanese have different blood.

In 1986, foreign companies were not allowed to participate in the land reclamation work of the Kansai Airport construction project because, the Japanese argued, they have different dirt.

In 1986, MITI attempted to prevent U.S and European ski manufacturers from offering their products in Japan because Japan has different snow.

in 1987, U.S. garbage disposals were kept out of the Japanese market because Japan has a different sewage system.

In 1987, U.S. beef imports to Japan were limited because the Japanese have intestines that are a different length from other people's.

In 1990, the Japanese tired to keep out U.S. lumber exports, because the wood wouldn't withstand Japanese earthquakes, which are different from those in the United States.

HOW TO MAKE AN AMERICAN GOVERNOR A JAPANESE LOBBYIST

When Governor Victor Atiyeh of Oregon left office in 1987, he became a registered lobbyist for Seiko Epson Corporation and Fujitsu America, Inc. Actually, the Japanese have little need to hire former governors as lobbyists since incumbents now devote much of their energies to wooing the Japanese. More states now have offices in Tokyo than in Washington, D.C. One of the biggest lures is their state's congressional clout in Washington.

In 1986, Eddie Mahe, Jr., a leading Republican political consultant and a paid adviser to the Japanese embassy in Washington, addressed Japanese businesspeople on how to transform governors who seek new Japanese investment for their states into lobbyists for Japan. "Simply stated," Mahe said, "Each and every one of you who has a business, or influences a business, has the opportunity to come to the United States and be a star."

Mahe recommends that the Japanese follow three simple principles.

The first principle: The U.S. economy is driven by politics. Most politics are local. And the most important local issue is always jobs. Thus couch all issues in terms of jobs. Said Mahe, "If you were going into Iowa and opening up a plant with 250 jobs, I guarantee you could get in to see the governor of Iowa if you wanted to do that. If at that time Congress was considering some kind of trade bill that would affect you as a businessman opening up that plant and creating those 250 jobs, the governor of Iowa would lobby for you,"

The second principle: Just as politics is local, so are matters of trade. Few Americans understand the pros and cons of the abstract theories of "free trade" versus "protectionism." In practice. North Carolinians think that trade policy means textiles. Iowans think it means beef or corn. In Michigan, it means automobiles. Couch trade issues in real rather than theoretical terms.

The third principle: When choosing a plant site, meet with as many governors and other elected officials from as many states and communities as possible. Why? Because even those officials whose communities are not selected will remain friendly and hope to have better luck next time. Mahe told the Japanese businesspeople, "If you understand and accept how open the American political system is and how accessible our elected public officials are, you really have a great opportunity if you are thinking of investing in or opening up a plant in the United States."

By Mr. DOLE (for himself, Mr. RIEGLE, Mr. WILSON, Mr. COCHRAN, Mr. DURENBERGER, Mr. CHAFEE, Mr. PRESSLER, Mr. D'AMATO, Mr. HEINZ, Mr. DECONCINI Mr. HATCH, Mr. GRAHAM, and Mr. BOSCHWITZ):

S. 3102. A bill to amend title XVI of the Social Security Act to permit disabled and elderly people to maximize their independence; to the Committee on Finance.

SSI INDEPENDENCE ACT FOR ELDERLY AND DISABLED AMERICANS

Mr. DOLE. Mr. President, I rise to introduce the Social Security Independence Maximization Act for Americans with disabilities. This legislation will build upon the strides we have made thus far in refinining the Social Security Act as it pertains to disability and eliminating the disincentives that remain. During consideration of the 1989 Budget Reconciliation package, Congress included provisions for Social Security disability income [SSDI] recipients to buy into the Medicare system. Many eligible participants receiving SSDI benefits wanted to return to work but were concerned that the loss of SSDI benefits would cause too great a risk. While monthly cash benefits were a concern—the loss of access to health insurance was a priority Congress responded to.

Providing access to health insurance is important. However, disincentives still remain and must be addressed. The SSI Independence Maximization Act will provide families with a disabled member a strong and secure role in present and future planning decisions for a family member with a disability by codifying current Social Security rules. Family members with dis-

abled dependents can plan for their child's future by providing informed contributions either directly or through trusts to Social Security Income. Recipients without such contributions jeopardize their eligibility for supplemental security income [SSI] and Medicaid. Until now, these rules have not appeared in statute and have created uncertainty for families and concerned individuals wishing to plan today for a secure future for the dependent family member.

This legislation will allow an SSDI recipient to opt into the SSI section of the 1619 Work Incentive Program if he or she is otherwise eligible for SSI. Six technical amendments to the 1619 Work Incentive Program are made which will remove disincentives that have developed since the program's inception. Also, the bill includes an important provision codifying current trust provisions within the SSI program so that parents and other family members may establish a trust fund for inheritance by the family member with a disability.

Congress must continue to refine its disability policies so they are consistent with the recently passed Americans with Disabilities Act. The message of the ADA is clear: We are tearing down barriers to increase opportunities for people with disabilities to participate in American society. Employment is clearly the key to integration into the mainstream—eliminating disincentives toward these goals will strengthen the workforce and abolish dependency.

The provisions in this act are designed to improve the way the current SSI program is working and assist individuals attempting, through the use of the Section 1619 work incentive provisions, to become more independent as productive workers.

Mr. President, I ask unanimous consent that the test of the bill and a summary of its provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REFERENCES TO SOCIAL SECURITY ACT.

(a) SHORT TITLE.—This Act may be cited as the "SSI Independence Act for Elderly and Disabled Americans".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; references to Social Security Act.
Sec. 2. Certain contributions received by recipients of SSI benefits excluded from income.
Sec. 3. Certain trusts not to be counted as a resource available to the recipient; trust not income in month in which it is established.
Sec. 4. Notification of SSI applicants and recipients of the consequences of various actions to their eligibility for benefits under title XVI and title XIX.
Sec. 5. Effective date.
Sec. 6. Benefits for persons who lose social security disability benefits.
Sec. 7. Continuing disability or blindness reviews not required more than once annually.
Sec. 8. Inapplicability of spousal deeming under section 1619(b).
Sec. 9. Attainment of age 65 not to serve as basis for termination of eligibility under section 1619(b).
Sec. 10. State supplementation for individuals under section 1619.
Sec. 11. Exclusion from income of impairment-related work expenses in State supplementation-only cases.
Sec. 12. Treatment of royalties honoraria and scholarships as earned income.
Sec. 13. Effective date.

(b) AMENDMENT OF SOCIAL SECURITY ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

SEC. 2. CERTAIN CONTRIBUTIONS RECEIVED BY RECIPIENT OF SSI BENEFITS EXCLUDED FROM INCOME.

(a) CONTRIBUTIONS (OTHER THAN CASH PAID DIRECTLY TO THE RECIPIENT) MADE TO OBTAIN SOCIAL SERVICES, CLOTHING, OR FOR MAINTENANCE OF HOME.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(1) by striking "and" at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting a semicolon; and

(3) by inserting after paragraph (16) the following:

"(17) contributions other than cash paid directly to the recipient which are for the purchase of—

"(A) any service (other than medical) including those which are—

"(i) designed to assist an eligible individual who has any physical or mental impairment to function in society on a level comparable to that of an individual who is not so impaired; and

"(ii) provided by a recognized social services or educational agency, whether governmental or private, and whether nonprofit or operated for profit;

"(B) vocational rehabilitation services;

"(C) private medical insurance coverage where the private insurer is to be the first payor;

"(D) medical care;

"(E) transportation;

"(F) educational services (including continuing adult education, postsecondary education, and vocational education), including books, tuition, laboratory fees, and any other costs related to education except those for room and board;

"(G) personal assistance or attendant care services; or

"(H) services or equipment related to the quality and liveability of the individual's shelter and which are not for the purposes of rent, mortgage, real property taxes, garbage collection and sewerage services, water, heating fuel, electricity, or gas; but permissible contributions include—

"(i) payment for telephone services;

"(ii) payment for repairs to shelter;

"(iii) payment for repairs or replacement of heating source in shelter; and

"(iv) purchase of any appliance, the result of which will not result in the individual's household goods exceeding the amount which has been determined by the Secretary to be reasonable under section 1613(a)(2)(A); and

"(18) contributions of clothing from any source.".

(b) RULES GOVERNING CIRCUMSTANCES UNDER WHICH CONTRIBUTION OF A SHELTER IS TO BE COUNTED AS INCOME.—Section 1612(a)(2) (42 U.S.C. 3182a(a)(2)) is amended—

(1) in subparagraph (E), by striking "; and" and inserting ", except that receipt of any sum or property as a result of inheritance, gift, or support shall be treated as income in the month in which the individual legally has access to the fund to use for the individual's own benefit;";

(2) in subparagraph (F), by striking the period and inserting "; and"; and

(3) by inserting at the end the following:

"(G) the value of an ownership interest in a shelter received, but the value of such interest shall be included in income only in the month of receipt and pursuant to the following rules:

"(i) If the individual resides in the shelter at the time of the conveyance, the limitations established by the Secretary for presuming a maximum value for in-kind support shall apply.

"(ii) If the individual does not reside in the shelter at the time of the conveyance, the full value of the interest shall be income in the month of receipt.".

SEC. 3. CERTAIN TRUSTS NOT TO BE COUNTED AS A RESOURCE AVAILABLE TO THE RECIPIENT; TRUST NOT INCOME IN MONTH IN WHICH IT IS ESTABLISHED.

(a) CIRCUMSTANCES UNDER WHICH TRUST CREATED FOR BENEFIT OF RECIPIENT SHALL NOT BE COUNTED AS A RESOURCE.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and "; and

(3) by inserting after paragraph (8) the following:

"(9) any amount set aside in a legally cognizable trust, either by the individual or on behalf of the individual, for the purpose of providing assistance to the individual, so long as the individual does not have access to the assets of the trust. An individual does not have access to assets held in a trust if the trustee, and not the individual, has the discretion to determine when such assets ought to be distributed to or for such individual and the amount of any such distribution. The authority for discretion by the trustee to use the assets of the trust for the support and maintenance of the individual, or to supplement any benefits available to the individual under this Title XVI or other public benefits, shall not mean that the individual has access to these assets. The fact that the trustee is also the representative payee for the individual or relative of the individual shall not be construed as causing trust assets to be accessible to the individual if all the other requirements of this subsection are satisfied.".

(b) CREATION OF TRUST NOT TO BE COUNTED AS INCOME IN MONTH OF CREATION; LATER PLACEMENT OF FUNDS OR PROPERTY IN THE TRUST ALSO NOT COUNTED AS INCOME.—Sec-

tion 1612(b) (42 U.S.C. 1382a(b)) is amended—

(1) by striking "and" at the end of the paragraph (17) added by section 2(a)(3) of this Act;

(2) by striking he period at the end of the paragraph (18) added by section 2(a)(3) of this Act and inserting "; and"; and

(3) by inserting after the paragraphs added by section 2(a)(3) of this Act the following:

"(19) any funds or other property placed in a trust for the benefit of the individual shall not be treated as income either at the time of creation of the trust or if placed in the trust after its creation.".

SEC. 4. NOTIFICATION OF SSI APPLICANTS AND RECIPIENTS OF THE CONSEQUENCES OF VARIOUS ACTIONS TO THEIR ELIGIBILITY FOR BENEFITS UNDER TITLE XVI AND TITLE XIX.

Section 1631 (42 U.S.C. 1383) is amended by adding at the end the following:

"(n)(1) The Secretary shall, in accordance with paragraph (2), provide notice to applicants for, and recipients of, benefits under this title—

"(A) that there are contributions which can be made on behalf of the applicant or recipient which will not affect the individual's eligibility for benefits under this title, and list those contributions;

"(B) that there are other contributions, such as contributions of food or shelter provided by a person or group other than a nonprofit source, which can be provided to an individual and will not be valued at more than one-third of the amount of benefits payable to the individuals under section 1611(b), plus $20;

"(C) that support or maintenance provided pursuant to section 1612(b)(13) by a private nonprofit agency or meeting the requirements for home energy assistance set forth in that provision are not counted as income;

"(D) that it is possible for an individual or others to establish a trust to benefit the individual without affecting the individual's eligibility for benefits under this title and to make distributions from that trust without affecting eligibility, if the rules of this title with regard to permissible contributions to such trusts are followed;

"(E) that, notwithstanding subparagraph (D), the individual should know that if the individual establishes the trust on his or her own behalf, the eligibility of the individual for benefits under title XIX may be affected thereby, and such notice shall include the following: 'If the individual transfers the money into a trust, it will no longer be a resource as long as the individual does not have access to the trust funds, except through a trustee. Although the penalty associated with such transfers was eliminated for SSI purposes for transfers made on or after July 1, 1988, such a transfer may still affect the individual's eligibility for Medicaid. The uncompensated value (the difference between the fair market value of the item transferred and the amount received for the item) of the money transferred into the trust may continue to be counted toward the statutory resources limit for a period of 30 months from the date of the transfer. In addition, the trust itself may be considered to be a Medicaid qualifying trust, which may also disqualify the person from Medicaid.'; and

"(F) that it is the Secretary's rule that 'cash is cash' and that cash will be counted as income if it is given directly to a recipient unless there is a restriction upon the recipient's use of the funds in which the donor states that if the funds are not spent as specified, the donor will require that the funds be repaid.

"(2) In designing the notices and pamphlets required by this section, the Secretary shall include references to all provisions of this title as well as any other statutes which provide for exclusions from income and resources for purposes of this title. The Secretary shall design such notices and pamphlets with differing degrees of detail so that individuals will receive a simple, understandable notice, but can seek supplementary, detailed information from the Secretary. The simple notices shall specifically inform the individual of the availability of such supplementary information and the source of such information.

"(3) The Secretary shall provide the notice required by paragraph (1)—

"(A) to applicants, at the time of application; and

"(B) to recipients, within 6 months after the date of the enactment of this subsection, and annually thereafter.".

SEC. 5. EFFECTIVE DATE.

The amendments made by sections 2, 3, and 4 shall take effect on the 1st day of the 1st month beginning after the date this Act becomes law.

SEC. 6. BENEFITS FOR PERSONS WHO LOSE SOCIAL SECURITY DISABILITY BENEFITS.

(a) IN GENERAL.—Part A of title XVI (42 U.S.C. 1382 et seq.) is amended by inserting after section 1619 the following:

"SEC. 1619A. BENEFITS FOR PERSONS WHO LOSE SOCIAL SECURITY DISABILITY BENEFITS.

"Each individual—

"(1) who received benefits under subsection (d), (e), or (f) of section 202 based on disability, or disability insurance benefits under section 223;

"(2) whose benefits under such provision are not payable in a month by reason of the performance of substantial gainful activity; and

"(3) who files an application for benefits under this title during the 12-month period beginning with the first month in any period of months for which a benefit described in paragraph (1) is not payable because of the performance of substantial gainful activity,

shall, for purposes of the requirement in section 1619 of a prior month of eligibility for benefits under section 1611, be deemed to have been eligible for benefits under section 1611 in the month immediately preceding such 12-month period, and such application shall be deemed to have been filed in such immediately preceding month.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to benefits under section 1619 of the Social Security Act for months after June 1990.

SEC. 7. CONTINUING DISABILITY OR BLINDNESS REVIEWS NOT REQUIRED MORE THAN ONCE ANNUALLY.

(a) IN GENERAL.—Section 1619 (42 U.S.C. 1382h) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) Subsection (a)(2) and section 1631(j)(2)(A) shall not be construed, singly or jointly, to require more than 1 determination during any 12-month period with respect to the continuing disability or blindness of an individual.".

(b) CONFORMING AMENDMENT.—Section 1631(j)(2)(A) (42 U.S.C. 1383(j)(2)(A)) is amended by inserting "(other than subsection (c) thereof)" after "1619" the first place such term appears.

SEC. 8. INAPPLICABILITY OF SPOUSAL DEEMING UNDER SECTION 1619(b).

Section 1619(b)(1)(B) (42 U.S.C. 1382h(b)(1)(B)) is amended by inserting "(determined without regard to section 1614(f)(1))" after "individual".

SEC. 9. ATTAINMENT OF AGE 65 NOT TO SERVE AS BASIS FOR TERMINATION OF ELIGIBILITY UNDER SECTION 1619(b).

Section 1619(b) (42 U.S.C. 1392h(b)) is amended by striking "under age 65".

SEC. 10. STATE SUPPLEMENTATION FOR INDIVIDUALS UNDER SECTION 1619.

Section 1616 (42 U.S.C. 1382e) is amended—

(1) in subsection (b)(1), by inserting "(including benefits under section 11619)" after "title"; and

(2) in subsection (c)(3), by striking "have the option of making" and inserting "make".

SEC. 11. EXCLUSION FROM INCOME OF IMPAIRMENT-RELATED WORK EXPENSES IN STATE SUPPLEMENTATION-ONLY CASES.

Section 1612(b)(4)(B)(ii) (42 U.S.C. 1382a(b)(4)(B)(ii)) is amended by striking "(for purposes" and all that follows through eligibility)".

SEC. 12.. TREATMENT OF ROYALTIES HONORARIA AND SCHOLARSHIPS AS EARNED INCOME.

Section 1612(a) (42 U.S.C. 1382a(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (C), by striking "and" the 2nd place such term appears; and

(B) by adding at the end the following:

"(E) any royalty which is earned in connection with any publication of an individual's work, and any portion of any grant, honorarium, scholarship, or fellowship which is not used for tuition or education expenses; and"; and

(2) in paragraph (2)(F), by inserting after "interest, and" the following: ", subject to the exception in subsection (a)(1)(E),".

SEC. 13. EFFECTIVE DATE.

The amendments made by section 7 through 12 shall apply to benefits payable for months after the month in which this Act becomes law.

INDEPENDENT LIVING TRUST AND CONTRIBUTIONS PROVISIONS

The intent of this provision is to codify current Social Security rules which dictate when direct or indirect trust contributions will not be counted as income or resources for SSI eligibility. Under current law, there is no assurance that these rules will exist in the future, therefore they must be codified in statute.

The provision will:

1. Codify those rules and explicitly permit contributions other than food, shelter and cash to be excluded as income or resources from SSI eligibility.This includes such items as social services, vocational rehabilitation services, medical care, transportation, educational services, personal assistance or attentant care services, and services or equipment related to the quality or livability of the individual's shelter which are not for the purposes of rent, mortgage, real estate property, taxes, garbage collection, sewage services, water, heating fuel, electricity or gas.

2. Adds one new minor improvement to the current rules:

(a) Allows an SSI recipient to receive clothing without it having an affect on the person's benefits.

3. Permits a beneficial trust to be established to continue to provide assistance to the SSI recipient once his parents have passed away. This beneficial trust will not be counted as a resource or as income as long as the SSI recipient does not have access to the trust.

4. Requires SSA to develop materials which explain the rules to SSI recipients and their families so that they will know what types of contirubtions will be allowed by SSA without jeopardizing the SSI recipient's eligibility for SSI and Medicaid.

OPTION FOR SSDI RECIPIENTS TO PARTICIPATE IN SSI AND THE 1619 WORK INCENTIVE PROGRAM

Allows SSDI recipients the option to come into the SSI program after completion of their trial work period when the recipient is no longer receiving SSDI cash benefits.

Allows the SSDI recipient to move into SSDI and the 1619 Work Incentive Program without first having a month of regular SSI benefits.

This option would only apply to those individuals who meet the SSI income and resource test under current law.

Gives the SSDI recipient 12 months to spend down his resources in order to qualify for SSI.

TECHNICAL AMENDMENTS TO SECTION 1619 (THE SSI WORK INCENTIVE PROGRAM)

This provision consists of six technical amendments to remove barriers to work that have developed since this program was made permanent. The amendments include:

1. Clarify that a Continuing Disability Review will occur no more than once every 12 months for 1619 participants.

2. Eliminate spousal deeming so that an SSI recipient can qualify for 1619 based on his income alone without interference of the spouse's income in any way.

3. Provide that impairment related work expenses will be deducted in cases where the disabled person is dual eligible (receiving both SSI and SSDI) but receives only state supplementation, and receives no federal dollars.

4. Provide that a disabled person who turns 65 and had been participating in the 1619 program may continue to participate.

5. Require that in calculating the breakeven point for 1619(a) states' supplementation must be included. Currently, it is optional and 8 states do not count the supplementation.

6. Provide that scholarships, fellowships, honorarium, and the royalties or other payments an SSI recipient receives from a first book will be treated as earned income and not counted against the SSI benefits.

Mr. WILSON. Mr. President, today I join the distinguished Republican leader, Senator DOLE, in introducing the SSI Independence Maximization Act.

Without the Supplemental Security Income [SSI] Program, millions of elderly, blind, and disabled Americans across the Nation would find themselves without basic life support.

That is why Congress consistently has kept SSI payments off the budget cutting table.

In California, well over 800,000 individuals will be served under the State SSI Program this year.

And, Mr. President, I am proud to represent the State which provides the highest SSI benefit levels of the top 10 most populous States.

In 1989, average individual benefit levels were $602 for the elderly and disabled and $673 for the blind. Couples benefits for the elderly and disabled were $1,116, 40 percent more than the next highest State benefit level, and $1,312 for the blind, over 50 percent higher than the next highest State benefit level.

Mr. President, the Republican leader has outlined the legislation in his remarks so I will not take too much time to recite all of the specific provisions of the legislation we are introducing today.

But briefly, Mr. President, the SSI Independence Maximization Act will codify existing direct and trust contributions rules and ease transition from the SSDI program to the SSI and Social Security Act section 1619 Work Incentive Program. In addition, the bill will allow SSI recipients to accept contributions of clothing without losing benefits.

In essence, this legislation will enable SSI recipients to pursue their goals secure in the knowledge that existing SSI rules will not be changed in the middle of the game. For many, it will guarantee an opportunity to move a step closer to independence.

I urge my colleagues to join in supporting the SSI Independence Maximization Act.

By Mr. DOLE (for himself and Mr. MITCHELL):

S.J. Res. 269. Joint resolution designating 1991 as the "Year of Thanksgiving for the Blessings of Liberty"; to the Committee on the Judiciary.

YEAR OF THANKSGIVING FOR THE BLESSINGS OF LIBERTY

Mr. DOLE. Mr. President, I am pleased to join with the distinguished majority leader, Senator MITCHELL, in introducing a joint resolution declaring 1991 as a "Year of Thanksgiving for the Blessings of Liberty."

Next year, our country will celebrate the 200th anniversary of the ratification of that remarkable statement of individual liberty, the Bill of Rights.

Unlike many past and present national constitutions and charters, the Bill of Rights is not a statement of the responsibilities and rights of government. Instead, it is a statement of the limits of government beyond which the rights of the individual citizen cannot be abridged.

Freedom of speech, freedom of association, freedom of religious belief—these are the blessings of liberty that all Americans enjoy each day. And they are blessings that we, as a nation, will celebrate next year, the bicentennial of the Bill of Rights.

Mr. President, during 1991, it is only appropriate that the Congress and the American people take the affirmative step of reflecting upon our cherished freedoms, giving thanks for the foresight of our Founding Fathers, and recommitting ourselves to the vigilant protection of the liberties guaranteed by the first 10 amendments to our Nation's Constitution.

Mr. President, I ask unanimous consent that the full text of the joint resolution be printed in the RECORD.

There being no objection the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 369

Whereas the people of the United States have expressed gratitude by celebrating a national season of thanksgiving since the 17th century;

Whereas the War for Independence was won and the Constitution written and adopted to secure the blessings of liberty for citizens;

Whereas after the first Congress drafted a Bill of Rights to be added to the Constitution, established a Federal judicial system, created departments of administration, and established the Government of the United States under the Constitution, it requested President Washington to issue a proclamation of national thanksgiving;

Whereas in the first Presidential proclamation, President Washington called on the people of the United States to acknowledge, by thanksgiving, the blessings of civil and religious liberty;

Whereas by December 15, 1791, three-quarters of the United States had ratified the proposed Bill of Rights;

Whereas 1991 is recognized as the official observance of the bicentennial of the ratification of the Bill of Rights; and

Whereas for 200 years the people of the United States have enjoyed the blessings of liberty under the Constitution and the Bill of Rights, embodied in the first 10 amendments of the Constitution: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1991 is designated as the "Year of Thanksgiving for the Blessings of Liberty," and the President is authorized and requested to issue a proclamation calling upon the Governors of the several States, the chief officials of local governments, and the people of the United States to observe the year with appropriate ceremonies and activities.

Mr. MITCHELL. Mr. President, next year, 1991, marks the 200th anniversary of the ratification of the Bill of Rights, the most concise and eloquent summary of the liberties of Americans ever written.

It is fitting, therefore, to declare the anniversary year of the passage of the Bill of Rights a "Year of Thanksgiving for the Blessings of Liberty." I am pleased to sponsor the joint resolution making that declaration.

Although we are all familiar with the words of the Bill of Rights today, it is worthwhile to remember that their passage by the Congress 200 years ago was fraught with controversy and conflict.

Those who opposed a federal government sought to increase the number of amendments enormously, so as to bring the entire system into disrepute.

Those who were concerned that the enumeration of some rights would lead to a denial of those not enumerated opposed the entire idea.

Robert Morris, a Senator from Pennsylvania, even doubted that "the nonsense they call amendments" would ever be ratified. He said:

I never expect that any part of it will go through the various Trials which it must pass before it can become a part of the Constitution.

Fortunately for all Americans, Senator Robert Morris was wrong. The 10 amendments we call the Bill of Rights were speedily passed and ratified by the States. The Bill of Rights has served as the bulwark of our liberties ever since.

The events of the past year have demonstrated dramatically that human beings hunger for freedom. The people of Eastern Europe and of the Soviet Union itself are demanding the fundamental human freedoms of speech, conscience, and movement.

We Americans take for granted those freedoms, because we have been able to enjoy the blessings of liberty for two centuries.

The bicentennial anniversary of our Bill of Rights is a good opportunity to remind ourselves that the American liberties won by the Revolutionary War were finally secured, not by war, but by the debate and decisions of a freely elected legislature.

Our system is far from perfect, but its accomplishments show that so long as the desire for liberty remains at the heart of our system, we can continue to secure and enjoy the blessings of liberty for ourselves and our descendants.

I hope my colleagues will agree and join in sponsoring the joint resolution to declare 1991 a "Year of Thanksgiving for the Blessings of Liberty."

ADDITIONAL COSPONSORS

S. 176

At the request of Mr. HEINZ, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 176, a bill to amend the Foreign Agents Registration Act of 1938 to strengthen the registration and enforcement requirements of that act.

S. 416

At the request of Mr. DOMENICI, the names of the Senator from Texas [Mr. BENTSEN] and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 416, a bill to provide that all Federal civilian and military retirees shall receive the full cost-of-living adjustment in annuities payable under Federal retirement systems for fiscal years 1990 and 1991, and for other purposes.

S. 434

At the request of Mr. REID, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 434, a bill to prohibit a State from imposing an income tax on the pension income of individuals who are not residents or domiciliaries of that State.

S. 435

At the request of Mr. REID, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 435, a bill to amend section 118 of the Internal Revenue Code to provide for certain exceptions from certain rules determining contributions in aid of construction.

S. 730

At the request of Mr. COATS, the names of the Senator from Montana [Mr. BURNS], the Senator from Nevada [Mr. REID], the Senator from Rhode Island [Mr. PELL], the Senator from Michigan [Mr. LEVIN], the Senator from Alabama [Mr. HEFLIN], the Senator from Washington [Mr. ADAMS], the Senator from Hawaii [Mr. INOUYE], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 730, a bill to request the President to award gold medals on behalf of Congress to Frank Capra, James M. Stewart, and Fred Zinnemann, and to provide for the production of bronze duplicates of such medals for sale to the public.

S. 731

At the request of Mr. COATS, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Montana [Mr. BURNS], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 731, a bill to request the President to award a gold medal on behalf of Congress to Robert Wise and to provide for the production of bronze duplicates of such medal for sale to the public.

S. 977

At the request of Mr. DOMENICI, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 977, a bill entitled the "White House Conference on Small Business Authorization Act".

S. 1214

At the request of Mr. DECONCINI, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1214, a bill to provide that ZIP code boundaries may be redrawn so that they do not cross the boundaries of any unit of general local government.

S. 1400

At the request of Mr. KASTEN, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 1400, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 1676

At the request of Mr. PELL, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1676, a bill to strengthen the teaching profession, and for other purposes.

S. 1808

At the request of Mr. BREAUX, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1808, a bill to amend section 468A of the Internal Revenue Code of 1986 with respect to deductions for decommissioning costs of nuclear powerplants.

S. 2044

At the request of Mr. BIDEN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2044, a bill to require tuna products to be labeled respecting the method used to catch the tuna, and for other purposes.

S. 2098

At the request of Mr. BENTSEN, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 2098, a bill to amend title XVIII of the Social Security Act to provide medicare coverage of Erythropoietin when self administered.

S. 2252

At the request of Mr. SIMON, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2252, a bill to encourage and facilitate entry into the teaching profession, and for other purposes.

S. 2307

At the request of Mr. RIEGLE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2307, a bill to require the Secretary of Health and Human Services to provide intensive outreach and other services and protections to homeless individuals.

S. 2356

At the request of Mr. SYMMS, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2356, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 2459

At the request of Mr. BENTSEN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2459, a bill to amend title XIX of the Social Security Act to provide improved delivery of health care services to low-income children by extending Medicaid coverage to certain low-income children, and for other purposes.

S. 2497

At the request of Mr. DECONCINI, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2497, a bill to establish a demon-

stration program to allow drug-addicted mothers to reside in drug abuse treatment facilities with their children, and to offer such mothers new behavior and education skills which can help prevent substance abuse in subsequent generations.

S. 2515

At the request of Mr. SIMON, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 2515, a bill to amend the Health Care Quality Improvement Act of 1986 to prohibit discrimination against international medical graduates, to provide for the establishment of a National Repository of Physician Records, and for other purposes.

S. 2520

At the request of Mr. CHAFEE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2520, a bill to establish permanent Federal and State drug treatment programs to criminal offenders, and for other purposes.

S. 2575

At the request of Mr. KERRY, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 2575, a bill to urge the Secretary of State to negotiate a ban on mineral resource activities in Antarctica, and for other purposes.

S. 2619

At the request of Mr. GLENN, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 2619, a bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certain individuals under part B of the Medicare Program.

S. 2641

At the request of Mr. RIEGLE, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 2641, a bill to amend title XVIII of the Social Security Act to provide for simplification in the purchase of Medicare supplemental insurance.

S. 2725

At the request of Mr. SIMPSON, his name was withdrawn as a cosponsor of S. 2725, a bill to amend the Employee Retirement Income Security Act of 1974 with respect to the preemption of the Hawaii Prepaid Health Care Act.

S. 2737

At the request of Mr. ARMSTRONG, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2737, a bill to require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the 38th anniversary of the ending of the Korean war and in honor of those who served.

S. 2754

At the request of Mr. BIDEN, the names of the Senator from Alabama [Mr. SHELBY], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 2754, a bill to combat violence and crimes against women on the streets and in homes.

S. 2782

At the request of Mr. KERRY, the names of the Senator from Maryland [Ms. MIKULSKI], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of S. 2782, a bill to amend the Coastal Zone Management Act of 1972 to authorize appropriations for fiscal years 1991 through 1995 and to require State coastal zone management agencies to prepare and submit for the approval of the Secretary of Commerce programs for the improvement of coastal zone water quality, and for other purposes.

S. 2796

At the request of Mr. COHEN, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2796, a bill to amend title IV of the Higher Education Act of 1965 to allow resident physicians to defer repayment of their title IV student loans while completing a resident training program accredited by the Accreditation Council for Graduate Medical Education or the Accrediting Committee of the American Osteopathic Association.

S. 2822

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2822, a bill to promote and strengthen aviation security, and for other purposes.

S. 2901

At the request of Mr. PRYOR, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2901, a bill to amend the Internal Revenue Code of 1986 to simplify the applications of the tax laws with respect to employee benefit plans, and for other purposes.

S. 2946

At the request of Mr. KENNEDY, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 2946, a bill to amend the Public Health Service Act to revise and extend the program establishing the National Bone Marrow Donor Registry, and for other purposes.

S. 2957

At the request of Mr. D'AMATO, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 2957, a bill entitled the "Criminal Alien Deportation and Exclusion Act."

S. 2997

At the request of Mr. BOSCHWITZ, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2997, a bill to revise and extend the programs of assistance under title X of the Public Health Service Act, and for other purposes.

S. 3002

At the request of Mr. MOYNIHAN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 3002, a bill to amend title XIX of the Social Security Act to permit coverage of residential drug treatment for pregnant women and certain family members under the medicaid program, and for other purposes.

S. 3025

At the request of Mr. GLENN, the names of the Senator from Maine [Mr. COHEN], the Senator from New York [Mr. D'AMATO], the Senator from Kentucky [Mr. FORD], the Senator from Vermont [Mr. LEAHY], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 3025, a bill to amend titles 10 and 37, United States Code, to make members of the Armed Forces involved in Operation Desert Shield or similar operations eligible for certain benefits and to make members of the reserve components of the Armed Forces and retired members of the Armed Forces eligible for certain benefits when ordered to active duty in connection with a mobilization; and for other purposes.

S. 3030

At the request of Mr. HEFLIN, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 3030, a bill to provide disaster assistance for agricultural producers, and for other purposes.

S. 3059

At the request of Mr. DECONCINI, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Virginia [Mr. WARNER], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 3059, a bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges.

S. 3068

At the request of Mr. SYMMS, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 3068, a bill to establish the Office of Take Pride in America, and for other purposes.

SENATE JOINT RESOLUTION 305

At the request of Mr. THURMOND, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from New York [Mr. D'AMATO], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Joint Resolution 305, a joint resolution to designate the month of September 1990, as "National Awareness Month of Children with Cancer."

SENATE JOINT RESOLUTION 328

At the request of Mr. SPECTER, the names of the Senator from Tennessee

[Mr. SASSER], the Senator from Mississippi [Mr. COCHRAN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Nebraska [Mr. EXON], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of Senate Joint Resolution 328, a joint resolution designating October 1990 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 342

At the request of Mr. SIMON, the names of the Senator from Idaho [Mr. SYMMS], the Senator from New Mexico [Mr. DOMENICI], the Senator from Louisiana [Mr. BREAUX], the Senator from Connecticut [Mr. DODD], the Senator from Virginia [Mr. WARNER], the Senator from Massachusetts [Mr. KERRY], the Senator from Idaho [Mr. MCCLURE], the Senator from Oregon [Mr. PACKWOOD], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Maine [Mr. COHEN], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Alabama [Mr. HEFLIN], the Senator from Georgia [Mr. FOWLER], the Senator from Oregon [Mr. HATFIELD], the Senator from Oklahoma [Mr. BOREN], the Senator from Delaware [Mr. ROTH], the Senator from Rhode Island [Mr. PELL], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of Senate Joint Resolutions 342, a joint resolution designating October 1990 as "Ending Hunger Month."

SENATE JOINT RESOLUTION 344

At the request of Mr. THURMOND, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from North Carolina [Mr. SANFORD], and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of Senate Joint Resolution 344, a joint resolution to designate the week of November 18 through 24, 1990, as "National Wild Turkey Week" and November 22, 1990, as "National Wild Turkey Day."

SENATE JOINT RESOLUTION 346

At the request of Mr. BOSCHWITZ, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Senate Joint Resolution 346, a joint resolution to designate October 20 through 28, 1990, as "National Red Ribbon Week for a Drug-Free America."

SENATE JOINT RESOLUTION 349

At the request of Mr. DECONCINI, the names of the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Utah [Mr. HATCH], the Senator from Florida [Mr. GRAHAM], the Senator from North Carolina [Mr. HELMS], the Senator from Nevada [Mr. REID], the Senator from Illinois [Mr. SIMON], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Joint Resolution 349, a joint resolution designating October 1990, as "Italian-American Heritage and Culture Month."

SENATE JOINT RESOLUTION 363

At the request of Mr. RIEGLE, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of Senate Joint Resolution 363, a joint resolution to designate the week of October 22 through October 28, 1990, as the "International Parental Child Abduction Awareness Week."

SENATE JOINT RESOLUTION 364

At the request of Mr. REID, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Virginia [Mr. WARNER], the Senator from Alaska [Mr. STEVENS], the Senator from Rhode Island [Mr. PELL], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Joint Resolution 364, a joint resolution to designate the third week of February 1991, as "National Parents and Teachers Association Week."

SENATE JOINT RESOLUTION 368

At the request of Mr. GLENN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Joint Resolution 368, a joint resolution to designate August 2, 1991, as "National Parents Against Drug Abuse Day."

SENATE CONCURRENT RESOLUTION 146

At the request of Mr. MOYNIHAN, the names of the Senator from Illinois [Mr. SIMON] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of Senate Concurrent Resolution 146, a concurrent resolution expressing the sense of the Congress that the United States should pay its outstanding debt to the United Nations.

AMENDMENTS SUBMITTED

CHILDREN'S TELEVISION ACT

INOUYE (AND OTHERS) AMENDMENT NO. 2713

Mr. BRYAN (for Mr. INOUYE, for himself, Mr. HOLLINGS, and Mr. WIRTH) proposed an amendment to the bill (H.R. 1677) to require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience, and for other purposes, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Children's Television Act of 1990".

TITLE I—REGULATION OF CHILDREN'S TELEVISION

FINDINGS

SEC. 101. The Congress finds that—

(1) it has been been clearly demonstrated that television can assist children to learn important information, skills, values, and behavior, while entertaining them and exciting their curiosity to learn about the world around them;

(2) as part of their obligation to serve the public interest, television station operators and licensees should provide programming that serves the special needs of children;

(3) the financial support of advertisers assists in the provision of programming to children;

(4) special safeguards are appropriate to protect children from overcommercialization on television;

(5) television station operators and licensees should follow practices in connection with children's television programming and advertising that take into consideration the characteristics of this child audience; and

(6) it is therefore necessary that the Federal Communications Commission (hereinafter referred to as the "Commission") take the actions required by this title.

STANDARDS FOR CHILDREN'S TELEVISION PROGRAMMING

SEC. 102.(a) The Commission shall, within 30 days after the date of enactment of this Act, initiate a rulemaking proceeding to prescribe standards applicable to commercial television broadcast licensees with respect to the time devoted to commercial matter in conjunction with children's television programming. The Commission shall, within 180 days after the date of enactment of this Act, complete the rulemaking proceeding and prescribe final standards that meet the requirements of subsection (b).

(b) Except as provided in subsection (c), the standards prescribed under subsection (a) shall include the requirement that each commercial television broadcast licensee shall limit the duration of advertising in children's television programming to not more than 10.5 minutes per hour on weekends and not more than 12 minutes per hour on weekdays.

(c) After January 1, 1993, the Commission—

(1) may review and evaluate the advertising duration limitations required by subsection (b); and

(2) may, after notice and public comment and a demonstration of the need for modification of such limitations, modify such limitations in accordance with the public interest.

(d) As used in this section, the term "commercial television broadcast licensee" includes a cable operator, as defined in section 602 of the Communications Act of 1934 (47 U.S.C. 522).

CONSIDERATION OF CHILDREN'S TELEVISION SERVICE IN BROADCAST LICENSE RENEWAL

SEC. 103. (a) After the standards required by section 102 are in effect, the Commission shall, in its review of any application for renewal of a television broadcast license, consider the extent to which the licensee—

(1) has complied with such standards; and

(2) has served the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs.

(b) In addition to consideration of the licensee's programming as required under subsection (a), the Commission may consider—

(1) any special nonbroadcast efforts by the licensee which enhance the educational

and informational value of such programming to children; and

(2) any special efforts by the licensee to produce or support programming broadcast by another station in the licensee's marketplace which is specifically designed to serve the educational and informational needs of children.

PROGRAM LENGTH COMMERCIAL MATTER

SEC. 104. Within 180 days after the date of enactment of this Act, the Commission shall complete the proceding known as "Revision of Programming and Commercialization Policies, Ascertainment Requirements and Program Log Requirements for Commercial Television Stations", MM Docket No. 83-670.

TITLE II—ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION

SHORT TITLE

SEC. 201. This title may be cited as the "National Endowment for Children's Educational Television Act of 1990".

FINDINGS

SEC. 202. The Congress finds that—

(1) children in the United States are lagging behind those in other countries in fundamental intellectual skills, including reading, writing, mathematics, science, and geography;

(2) these fundamental skills are essential for the future governmental and industrial leadership of the United States;

(3) the United States must act now to greatly improve the education of its children;

(4) television is watched by children about three hours each day on average and can be effective in teaching children;

(5) educational television programming for children is aired too infrequently either because public broadcast licensees and permittees lack funds or because commercial broadcast licensees and permittees or cable television system operators do not have the economic incentive; and

(6) the Federal Government can assist in the creation of children's educational television by establishing a National Endowment for Children's Educational Television to supplement the children's educational programming funded by other governmental entities.

NATIONAL ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION

SEC. 203. (a) Part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.) is amended—

(1) by redesignating section 394 as section 393A;

(2) by redesignating subparts B, C, and D as subparts C, D, and E, respectively; and

(3) by inserting immediately after section 393A, as so redesignated, the following new subpart:

"Subpart B—National Endowment for Children's Educational Television

"ESTABLISHMENT OF NATIONAL ENDOWMENT

"SEC. 394. (a) It is the purpose of this section to enhance the education of children through the creation and production of television programming specifically directed toward the development of fundamental intellectual skills.

"(b)(1) There is established, under the direction of the Secretary, a National Endowment for Children's Educational Television. In administering the National Endowment, the Secretary is authorized to—

"(A) contract with the Corporation for the production of educational television programming for children; and

"(B) make grants directly to persons proposing to create and produce educational television programming for children.

The Secretary shall consult with the Advisory Council on Children's Educational Television in the making of the grants or the awarding of contracts for the purpose of making the grants.

"(2) Contracts and grants under this section shall be made on the condition that the programming shall—

"(A) during the first two years after its production, be made available only to public television licensees and permittees and noncommercial television licensees and permittees; and

"(B) thereafter be made available to any commercial television licensee or permittee or cable television system operator, at a charge established by the Secretary that will assure the maximum practicable distribution of such programming, so long as such licensee, permittee, or operator does not interrupt the programming with commercial advertisements.

The Secretary may, consistent with the purpose and provisions of this section, permit the programming to be distributed to persons using other media, establish conditions relating to such distribution, and apply those conditions to any contract or grant made under this section. The Secretary may waive the requirements of subparagraph (A) if the Secretary finds that neither public television licensees and permittees nor noncommercial television licensees and permittees will have an opportunity to air such programming in the first two years after its production.

"(c)(1) The Secretary, with the advice of the Advisory Council on Children's Educational Television, shall establish criteria for making contracts and grants under this section. Such criteria shall be consistent with the purpose and provisions of this section and shall be made available to interested parties upon request. Such criteria shall include—

"(A) criteria to maximize the amount of programming that is produced with the funds made available by the Endowment;

"(B) criteria to minimize the costs of—

"(i) selection of grantees,

"(ii) administering the contracts and grants, and

"(iii) the administrative costs of the programming production; and

"(C) criteria to otherwise maximize the proportion of funds made available by the Endowment that are expended for the cost of programming production.

"(2) Applications for grants under this section shall be submitted to the Secretary in such form and containing such information as the Secretary shall require by regulation.

"(d) Upon approving any application for a grant under subsection (b)(1)(B), the Secretary shall make a grant to the applicant in an amount determined by the Secretary, except that such amounts shall not exceed 75 percent of the amount determined by the Secretary to be the reasonable and necessary cost of the project for which the grant is made.

"(e)(1) The Secretary shall establish an Advisory Council on Children's Educational Televison. The Secretary shall appoint ten individuals as members of the Council and designate one of such members to serve as Chairman.

"(2) Members of the Council shall have terms of two years, and no member shall serve for more than three consecutive terms. The members shall have expertise in the fields of education, psychology, child development, or television programming, or related disciplines. Officers and employees of the United States shall not be appointed as members.

"(3) While away from their homes or regular places of business in the performance of duties for the Council, the members of the Council shall serve without compensation but shall be allowed travel expenses, including per diem in lieu of subsistence, in accordance with 5703 of title 5, United States Code.

"(4) The Council shall meet at the call of the Chairman and shall advise the Secretary concerning the making of contracts and grants under this section.

"(f)(1) Each recipient of a grant under this section shall keep such records as may be reasonably necessary to enable the Secretary to carry out the Secretary's functions under this section, including records which fully disclose the amount and the disposition by such receipient of the proceeds of such grant, the total cost of the project, the amount and nature of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purposes of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to a grant received under this section.

"(g) The Secretary is authorized to make such rules and regulations as may be necessary to carry out this section, including those relating to the order of priority in approving applications for projects under this section or to determining the amounts of contracts and grants for such projects.

"(h) There are authorized to be appropriated $2,000,000 for fiscal year 1991 and $4,000,000 for fiscal year 1992 to be used by the Secretary to carry out the provisions of this section. Sums appropriated under this subsection for any fiscal year shall remain available for contracts and grants for projects for which applications approved under this section have been submitted within one year after the last day of such fiscal year.

"(i) For purposes of this section—

"(1) the term 'educational television programming for chldren' means any television program which is directed to an audience of children who are 16 years of age or younger and which is designed for the intellectual development of those children, except that such term does not include any television program which is directed to a general audience but which might also be viewed by a significant number of children; and

"(2) the term 'person' means an individual, partnership, association, joint stock company, trust, corporation, or State or local government entity.".

(b) Section 397 of the Communications Act of 1934 (47 U.S.C. 397) is amended—

(1) in paragraph (2) by striking "subpart C" and inserting in lieu thereof "subpart D"; and

(2) in paragraph (15)—

(A) by inserting "and subpart B" immediately after "Subpart A"; and

(B) by striking "subpart B, subpart C" and inserting in lieu thereof "subpart C, subpart D".

MOTOR VEHICLE FUEL EFFICIENCY ACT

SIMON (AND OTHERS) AMENDMENT NO. 2714

Mr. SIMON (for himself, Mr. MCCLURE, Mr. KENNEDY, Mr. RIEGLE, Mr. LEVIN and Ms. MIKULSKI) proposed an amendment to the bill (S. 1224) to amend the Motor Vehicle Information and Cost Savings Act to require new standards for corporate average fuel economy, and for other purposes, as follows:

On page 34, between lines 16 and 17, insert the following:

TERMINATED WORKERS

SEC. 15. (a) This section may be cited as the "Relief for Terminated Workers Act".

(b) Subject to the availability of appropriations, not later than 120 days after the date of the enactment of this Act, the Secretary of Labor shall, by regulation, establish for eligible terminated employees—

(1) a program of readjustment allowances substantially similar to the trade readjustment allowance program under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2291 et seq.), and

(2) a program for job training and related services substantially similar to the program under part II of subchapter B of chapter 2 of title II of such Act (19 U.S.C. § 2295 and 2296), and

(3) a program for job search and relocation allowances substantially similar to the program under part III of subchapter B of chapter 2 of title II of such Act (19 U.S.C. § 2297 and 2298).

(c) The Secretary is authorized to enter into agreements with any State to assist in carrying out the programs under subsection (b) in the same manner as under subchapter C of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2311 et seq.).

(d) For purpose of this section, the term "eligible terminated employees" means any individual who is a member of a group of workers engaged in production of motor vehicles in the United States or related industries that the Secretary of Labor certifies, under the procedures described in subchapter A of chapter 2 of title II of the Trade Act of 1974, as eligible to apply for assistance under this section because the Secretary determines that—

(1) a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the sales or production, or both, of such firm or subdivison have decreased absolutely; and

(3) compliance with the provisions of the Motor Vehicle Fuel Efficiency Act of 1990 were the primary cause of such total or partial separation, or threat thereof, and to such decline in sales or production.

(e) There is authorized to be appropriated for fiscal year 1991, and each of the next following 4 fiscal years, such sums as may be necessary, but not in excess of $50,000,000 for any such fiscal year, to carry out the provisions of this section. Such sums shall remain available until expended.

(f) An application for benefits under this section shall be filed after on or before the date that is 4 years after the date of enactment of this Act.

On page 34, line 18, strike out "15" and insert in lieu thereof "16".

NICKLES AMENDMENT NO. 2715

Mr. NICKLES proposed an amendment to the bill S. 1224, supra, as follows:

On page 34, between lines 16 and 17, insert the following:

GOVERNMENT PURCHASED VEHICLES

SEC. 15. Section 510 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2010) is amended to read as follows:

"GOVERNMENT PURCHASED VEHICLES

"SEC. 510. (a) All passenger automobiles acquired, on and after the expiration of the 120 days following the date of enactment of the Motor Vehicle Fuel Efficiency Act of 1990, by any agency, department, or other instrumentality of the executive, legislative, or judicial branch of the United States Government in each fiscal year shall exceed the fuel economy standard applicable under section 502(a) for the model year which includes January 1 of such fiscal year, and for model years 1995 and thereafter, shall exceed the weighted national average fuel efficiency of new vehicles, determined by the Secretary in accordance with this Act, sold in the United States during the preceding model year. Commencing with model year 1995 and each model year thereafter, all light trucks purchased by any such department, agency, or instrumentality shall exceed the fuel economy standard applicable for such model year under section 515.

"(b) Effective March 31, 1991, no member of Congress or official of the legislative branch of the United States Government may utilize a passenger automobile acquired by any agency, department, or other instrumentality of the legislative branch of the United States Government unless such passenger automobile meet or exceeds the fuel economy standard applicable under section 502(a) for the model year which includes January 1 of such fiscal year, and for model years 1995 and thereafter, meets or exceeds the weighted national average fuel efficienty of new vehicles, determined by the Secretary in accordance with this Act, sold in the United States during the preceding model year.

"(c) As used in this section, the term 'acquired' means leased for a period of 60 continuous days or more, or purchased.

"(d) The provisions of this section shall not apply to any vehicle—

"(1) used by or for the protection of the President and Vice President of the United States;

"(2) used for law enforcement or other emergencies;

"(3) classified as a military vehicle;

"(4) which uses compressed natural gas;

"(5) which uses 85 percent or more methanol;

"(6) which uses 85 percent or more ethanol; or

"(7) which uses 100 percent propane or electricity.".

ROTH AMENDMENT NO. 2716

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to the bill S. 1224, supra, as follows:

On page 27, between lines 11 and 12, insert the following:

"REMOVAL FROM SERVICE OF CERTAIN MOTOR VEHICLES

"SEC. 517. (a) Prior to the expiration of the 90-day period following the date of the enactment of this section, the Secretary shall issue such regulations as may be necessary to establish and implement a program encouraging the removal from use and the marketplace of motor vehicles manufactured prior to model year 1980.

"(b) Such program shall provide that any motor vehicle dealer who receives, as a trade-in on the sale by such dealer of a new motor vehicle, a motor vehicle of a model year prior to model year 1980, may remove such motor vehicle from use and the marketplace.

"(c) Such regulations shall further provide that upon certification by the motor vehicle dealer to the Secretary that the engine block and the chassis of the motor vehicle have been removed from use and the marketplace and destroyed in accordance with such program, the manufacturer of the new motor vehicle shall receive a credit to its corporate average fuel economy. Such credit shall equal the difference between the fuel economy of the new motor vehicle, and the motor vehicle removed from use and the marketplace.

"(d) Regulations under this section shall require proof from the motor vehicle dealer that the motor vehicle was destroyed in accordance with the regulation, and that the vehicle's identification number was removed from the registration list of the appropriate State or States.

"(e)(1) Such regulations under this section shall require the motor vehicle manufacturer to calculate and transmit to the Secretary the financial value per gallon credit.

"(2) No later than 30 days after receipt of the calculations under paragraph (1), the Secretary shall—

"(A) review and approve such calculations to determine if they are in accordance with regulations; and

"(B) if approved under subparagraph (A), publish such calculations in the Federal Register.

"(f) Such regulations shall require—

"(1) the motor vehicle manufacturer to rebate the financial value to an individual who traded in a motor vehicle of a model year prior to 1980 described under subsection (b);

"(2) that an individual trading in a motor vehicle shall have evidence that such vehicle has been registered and in use for 1 year prior to the date of trade-in; and

"(3) that an individual who purchases a new motor vehicle and certifies that the motor vehicle of a model year prior to 1980 was not traded in but was destroyed, shall receive such financial value.

"(g) Any person violating a regulation promulgated under this section shall be subject to a civil penalty assessed by the Secretary in an amount not to exceed $2,000.

"(h) No credits shall be given under this section on or after January 1, 1994.".

STEVENS AMENDMENT NO. 2717

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1224, supra, as follows:

S. 1224 is amended by adding a new section at the end as follows:

4-WHEEL DRIVE VEHICLES

SEC. 16. Section 502(k)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(k)(1)) is amended by deleting "after model year 1981 and before model year 1986" and inserting in lieu thereof "after model year 1991 and before model year 2006". It is further amended by deleting "under subsection (b) of this section applicable to 4-wheel drive automobiles" and inserting in lieu thereof "under any section applicable to 4-wheel drive automobiles".

Section 502(k)(3) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(k)(3)) is amended by deleting "after model year 1985" and inserting in lieu thereof "after model year 2005".

WALLOP AMENDMENT NO. 2718

(Ordered to lie on the table)

Mr. WALLOP submitted an amendment intended to be proposed by him to the bill S. 1224, supra, as follows:

On page 27, line 12, insert the following:

"(c) The Secretary shall determine whether compliance with any Federal or State regulation or requirement (or any combination thereof) has the effect of reducing the fuel economy of any automobile. The Secretary shall make such determinations for the model year beginning after the enactment of this section and for each subsequent model year. Notwithstanding any other provision of the Act, if the Secretary determines that compliance with such regulations or requirements will reduce automobile fuel economy, he shall quantify the amount of the reduction and adjust the average fuel economy standards established under section 502, 514, and 515 by an amount that fully reflects such reduction. All determinations and adjustments required under this subparagraph shall be made no later than the beginning of the model year or years in which such regulations or requirements are applicable.

GRAMM AMENDMENTS NOS. 2719 THROUGH 2721

(Ordered to lie on the table.)

Mr. GRAMM submitted three amendments intended to be proposed by him to the bill S. 1224, supra, as follows:

AMENDMENT NO. 2719

At the appropriate place in the bill, insert the following new section:

SEC. . When the President determines that decreases in automobile safety will occur as a result of the implementation of the provisions of this act, the President, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, may waive such provisions of this act as he deems appropriate.".

AMENDMENT NO. 2720

At the appropriate place in the bill, insert the following new section:

SEC. . When the President determines that significant loss of American automobile industry related jobs will occur as a result of the implementation of the provisions of this act, the President, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, may waive such provisions of this act as he deems appropriate.".

AMENDMENT NO. 2721

At the appropriate place in the bill, insert the following new section:

SEC. . When the President determines that significant disruptions in domestic automobile production occur as a result of the implementation of the provisions of this act, the President, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, may waive such provisions of this act as he deems appropriate.".

RIEGLE AMENDMENT NO. 2722

Mr. RIEGLE submitted an amendment, which was subsequently modified, to the bill S. 1224, supra, as follows:

At the appropriate place in the bill insert the following new section:

SEC. . NEED FOR A NATIONAL ENERGY POLICY PLAN.

The Senate finds that

Recent events in the Mideast precipitated by the Iraqi invasion of Kuwait are a poignant and threatening reminder that the security of our economy and that of the modern industrial world is dependent on a fragile supply of energy, especially Mideastern oil;

Over a decade has passed since the United States enacted comprehensive legislation addressing our energy security;

The United States does not have an up-to-date national energy policy;

The United States needs a comprehensive, not a piecemeal, national energy policy plan meeting the following criteria:

(a) the policy would cover:

(1) all sectors of the economy,

(2) both the short-term and the long-term,

(3) both the demand for, and supply of, energy;

(b) the policy would be formulated by the President and the Congress;

(c) the policy would be based on current data and analysis and on a quantitative projection of our future energy needs and supply,

(d) the policy would include recommendations for development of new technologies to forestall energy shortages and to encourage conservation,

(e) the policy would identify the resources needed to carry out the objectives of the plan,

(f) the policy would recommend legislative and administrative actions necessary to achieve the objectives of the plan.

Current law contained in Title VIII—"Energy Planning" of the Department of Energy Organization Act of 1977 already mandates a specific procedure for creation of a National Energy Policy Plan that contains such criteria,

The President has called for creation of a National Energy Strategy that the Department of Energy has nearly completed;

Therefore, it is the sense of the Senate that in accordance with such law, the President should submit, no later than May 1, 1991, and the Congress should review and revise as necessary, a National Energy Policy Plan, including appropriate legislation to implement such plan."

RIEGLE AMENDMENT NOS. 2723 THROUGH 2749

(Ordered to lie on the table.)

Mr. RIEGLE submitted 27 amendments intended to be proposed by him to the bill S. 1224, supra, as follows:

AMENDMENT NO. 2723

On page 34, after line 22, add the following:

REPORT

SEC. 16. (a) There is established the Fuel Economy Standards Task Force (referred to in this section as the "Task Force"), consisting of the Secretary of Transportation, Secretary of Energy, Administrator of the Environmental Protection Agency, and such other Federal officers as the President may designate.

(b) The Secretary of Transportation shall be Chairperson of the Task Force.

(c) It is the function of the Task Force to prepare and submit to the Congress a Fuel Economy Standards Report. Such report shall include—

(1) an analysis of the Technological feasibility and economic consequences of achieving higher levels of fuel economy;

(2) the effects of revisions to current emission control standards resulting from the amendments made by this Act;

(3) the effect of revisions to current safety standards resulting from amendments made by this Act;

(4) an evaluation of various forms of fuels economy standards and alternative market oriented mechanisms.

(5) an evaluation of the amount of worker dislocation that would result from amendments made by this Act.

(d) Such report shall be submitted to the Congress prior to the expiration of the 6-month period following the date of enactment of this Act.

(e) Notwithstanding any other provision of this Act, or any amendment made by this Act, no CAFE requirements shall be established, revised, or otherwise modified pursuant to this Act, or any amendment made by this Act, prior to the expiration of the 60-day period following the date on which such report is submitted to the Congress.

(f) upon the submission of such report to the Congress, the Task Force shall cease to exist.

AMENDMENT NO. 2724

On page 27, line 11, strike out the quotation marks and the last period.

On page 27, between lines 11 and 12, insert the following:

"(c) The Secretary shall determine whether compliance with any Federal or State regulations or requirement (or any combination thereof) has the effect of reducing the fuel economy of any automobile. The Secretary shall make such determinations for the model year beginning after the enactment of this section and for each subsequent model year. Notwithstanding any other pro-

vision of this Act, if the Secretary determines that compliance with such regulations or requirements will reduce automobile fuel economy, he shall quantify the amount of the reduction and adjust the average fuel economy standards established under sections 502, 514 and 515 by an amount that fully reflects such reduction. All determinations and adjustments required under this subparagraph shall be made no later than the beginning of the model year or years in which such regulations or requirements are applicable.".

AMENDMENT NO. 2725

On page 32, line 21, strike out "SMALL".
On page 33, line 6, strike out "(A)".
On page 33, line 6, strike out "small".
On page 33, line 14, strike out "small".
On page 33, line 18, strike out "small".
On page 33, line 23, strike out "small".
On page 34, line 4, strike out "small".
On page 34, line 6, immediately after the period, add quotation marks and period.
On page 34, beginning with line 7, strike out all through line 10.

AMENDMENT NO. 2726

On page 25, beginning with line 2, strike out all through the period on line 5 and insert in lieu thereof the following:

"SEC. 516. (a) The Secretary may modify any average fuel economy standard established under this Act for model years 1995 and thereafter in accordance with this section.".

On page 26, line 1, beginning with the comma, strike out all through "1988" on line 5.

On page 27, beginning with line 8, strike out all through line 9 and insert in lieu thereof the following: "carbon dioxide emissions, the economic impact of such reduction, and the availability and cost of reduction in carbon dioxide emissions from other sources; and".

On page 27, between lines 22 and 23, insert the following:

(c) Section 502(a)(4) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(a)(4)) is amended by deleting "any subsequent model year" and inserting in lieu thereof "any subsequent model year up to and including 1994".

(d) Section 502(e) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(e)) is amended—

(1) by deleting "and" after the comma in clause (3);

(2) by deleting the period at the end of clause (4) and inserting in lieu thereof a comma and the word "and"; and

(3) by inserting immediately after clause (4) the following new clause:

"(5) any negative effect on automobile safety that may be associated with any proposed level of the average fuel economy standards.".

AMENDMENT NO. 2727

On page 34, after line 22, add the following:

PARKING RESTRICTIONS

SEC. 16. (a) The Administrator of General Services, within 90 days following the date of the enactment of this Act, shall promulgate such regulations as may be necessary to require, beginning with the fiscal year ending September 30, 1991, and each fiscal year thereafter, that parking privileges associated with any Federal building, property or grounds, including any airport or other facility, available to or for the use of a Federal officer or employee by reason of their position as such, be restricted to vehicles of a model type whose fuel economy meets or exceeds the fuel economy levels established as the required average fuel economy for such model year under section 502, 514, or 515 of the Motor Vehicle Information and Cost Savings Act.

(b) The provisions of this section shall not be applicable to any parking available solely to accommodate visitors to any such buildings, property, grounds, airports, or facilities.

AMENDMENT NO. 2728

On page 27, line 11, strike out the quotation marks and the last period.

On page 27, between lines 11 and 12, insert the following:

"SIMILAR ENERGY EFFICIENCY IMPROVEMENTS

"SEC. 517. The requirements of sections 514 and 515 shall not take effect until 3 model years after the Secretary of Energy certifies to the Congress that all other users of fossil fuels have been required to make improvements in energy efficiencies of 20% by 1995 and 40% by 2001. These improvements in fuel efficiency shall apply to all users of fossil fuels, including, but not limited to, consumer products, electric utility power plants, industrial boilers, residential heating systems, railroads, ships, and aircraft.".

AMENDMENT NO. 2729

On page 22, immediately preceding line 6, insert the following:

(b) Section 502(a)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(a)(2)) is amended by striking all after the first sentence and inserting the following: "Each review shall include a comprehensive analysis of the program required by this part. Such analysis shall include an assessment of the ability of manufacturers to meet the average fuel economy standards for model years 1995 and 2001 (as determined under sections 514 and 515), and shall include a comprehensive assessment of the technical and economic feasibility of the standards and the impact of the standards on energy conservation. Among the issues the Secretary shall address in the review are the extent to which the standards would restrict consumer choice; effect consumer transportation costs; alter fleet turnover rates and the retention of older, less fuel efficient vehicles; impact the rates of car pooling or use of public transportation; effect the total number of vehicle miles traveled; and any loss of vehicle sales and any resulting loss of jobs.".

On page 22, line 6, strike out "(b)" and insert in lieu thereof "(c)".

AMENDMENT NO. 2730

At the end of the committee amendment, insert the following:

"SEC. .

"(a) On or before June 30, 1991, the Secretary shall prepare and submit to the Congress and the President a comprehensive report setting forth findings with respect to whether the fuel economy standards prescribed by this Act are likely to be achieved without an adverse effect on motor vehicle safety or compliance with Federal and State clean air act standards. The report shall pay particular attention to the questions of (1) whether fatalities related to motor vehicle accidents are likely to increase as a result of increased fuel economy standards, (2) whether each manufacturer's compliance with each applicable motor vehicle safety standard or proposed standard would be adversely affected as a result of increased fuel economy standards, and (3) whether each manufacturer's compliance with each applicable clean air act standard, proposed standard, or standard likely to be required by amendments to the Clean Air Act would be adversely affected as a result of increased fuel economy standards.

"(b) The study shall separately address the feasibility of increased fuel economy standards in relation to each of the following safety standards, proposed standards, or standards-related decisions: [Safety standards, proposed standards and related materials inserted here]

"(c) The study shall separately address the feasibility of increased fuel economy standards in relation to each of the following emissions or other clean air standards, proposed standards, or standards likely to be required by the following provisions of the Clean Air Act Amendments: [Emissions standards, proposed standards and related materials inserted here]

"(d) In the event that the Secretary's report does not contain findings that the fuel economy standards prescribed by this Act can be achieved without an adverse effect on motor vehicle safety, or if the Secretary's report concludes that the increased fuel economy standards are not feasible in light of applicable safety and emission standards, proposed standards, likely standards and the associated regulations and/or other requirements, the Secretary shall not have the authority to establish standards pursuant to sections 514 and 515 of this Act, and the amendments made by section 3(a) of this Act shall not take effect."

EXPLANATION: This amendment would ensure that consideration is given to the effect of higher CAFE standards on motor vehicle safety, compliance with applicable safety standards (including proposed standards), and compliance with applicable emission standards (including proposed standards, standards contemplated by the Clean Air Act amendments, and related requirements.) Unless the Secretary concludes that higher CAFE standards are feasible in light of safety considerations and regulatory compliance considerations, the higher standards shall not take effect.

AMENDMENT NO. 2731

Section 9(a) title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) is amended by adding at the end of the following new sections:

"PASSENGER AUTOMOBILES

"SEC. 514. *(a)* [Notwithstanding any other provision of this Act], *Except as provided in subsection (b),* the average fuel economy for passenger automobiles manufactured by any manufacturer in model year 1995 and each model year thereafter shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:	
"1995 through 2000	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for passenger automobiles in model year 1988, plus an amount equal to 20 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988; except that such standard shall not be less than 27.5 miles per gallon and shall not exceed 40 miles per gallon.
"2001 and thereafter	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for passenger automobiles in model year 1988, plus an amount equal to 40 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988; [unless such standard is modified under section 516] except that such standard shall not be less than 33 miles per gallon and shall not exceed 45 miles per gallon.

"(b) On or before June 30, 1991, the Secretary shall prepare and submit to the Congress and the President a comprehensive report setting forth findings with respect to whether the fuel economy standards prescribed by subsection (a) are likely to be achieved without an adverse effect on motor vehicle safety. The report shall pay particular attention to the question of whether fatalities related to motor vehicle accidents are likely to increase as a result of increased fuel economy standards. In the event that the Secretary's report does not contain findings that the fuel economy standards prescribed by subsection (a) can be achieved without an adverse effect on motor vehicle safety, the Secretary shall not have the authority to establish standards pursuant to subsection (a), and the amendments made by Section 3(a) of this Act will not take effect.

AMENDMENT NO. 2732

Section 9(a) title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) is amended by adding at the end the following new sections:

"PASSENGER AUTOMOBILES

SEC. 514. (a) Notwithstanding any other provision of this Act, the average fuel economy for passenger automobiles manufactured by any manufacturer in model year 1995 and each model year thereafter shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:	
"1995 through 2000	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for passenger automobiles in model year [1988] *1990*, plus an amount equal to 20 percent (as measured in miles per gallon) of such average fuel economy achieved for model year [1988] *1990;* except that such standard shall not be less than 27.5 miles per gallon and shall not exceed forty miles per gallon.
"2001 and thereafter	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for passenger automobiles in model year [1988] *1990*, plus an amount equal to 40 percent (as measured in miles per gallon) of such average fuel economy achieved for model year [1988] *1990;* unless such standard is modified under section 516 except that such standard shall not be less than 33 miles per gallon and shall not exceed 45 miles per gallon.

"AUTOMOBILES OTHER THAN PASSENGER AUTOMOBILES

"SEC. 515. Notwithstanding any other provision of this Act, commencing with model year 1995 and each model year thereafter, the average fuel economy for automobiles other than passenger automobiles manufactured by any manufacturer in any such model year shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:	
"1995 through 2000	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for light trucks in model year [1988] *1990*, plus an amount equal to 20 percent (as measured in miles per gallon) of such average fuel economy achieved for model year [1988] *1990* except that such standard shall not be less than 20 miles per gallon and shall not exceed 30 miles per gallon.
"2001 and thereafter	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer *for light trucks* in model year [1988] *1990* plus an amount equal to 40 percent (as measured in miles per gallon) of such average fuel economy achieved for model year [1988] *1990* unless such standard is modified under section 516 except that such standard shall not be less than 24 miles per gallon and shall not exceed 35 miles per gallon.

"MODIFICATIONS OF STANDARDS

"SEC. 516. (a) [Any time after the beginning of fiscal year 1995,] the Secretary may modify any average fuel economy standard established under this Act [. for model year 2001 and thereafter] in accordance with this section. In response to a petition from any person that is filed at least 12 months in advance of the model year to which it is applicable, the Secretary shall conduct a rulemaking proceeding to determine whether to increase or decrease such standard to the level which the Secretary determines is the maximum feasible average fuel economy for that model year (taking into consideration the factors listed in section 502(e) and the need to reduce carbon dioxide emissions), [except that the Secretary shall not reduce any such standard below a standard equal to a 30 percent increase over the average fuel economy achieved by the manufacturer involved for the applicable type (or class) of vehicles for model year 1988.] The Secretary may also conduct such a rulemaking on the Secretary's initiative.

"(b) In determining the maximum feasible average fuel economy during a rulemaking proceeding under this section, the Secretary shall [weigh equally] *consider* each factor listed in section 502(e) and the need to reduce carbon dioxide emissions. In evaluating the economic practicability of the standard, the Secretary shall consider—

"(1) the economic impact of the standard on the manufacturers, *the employees of the manufacturers,* and on the consumers of the vehicles subject to such standard, *as well as the continued levels of employment at the manufacturers;*

"(2) the savings in operating costs throughout the estimated average life of the vehicle compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the vehicles which are likely to result from the imposition of the standard;

"(3) the total projected amount of energy savings likely to result directly from the imposition of the standard and the economic impact of such energy savings;

"(4) any lessening of the utility or the performance of the vehicles likely to result from the imposition of the standard;

"(5) the impact of any lessening of competition or any change in foreign trade that is likely to result from the imposition of the standard;

"(6) the total projected amount of reduction in carbon dioxide emissions and the economic impact of such reduction; and

"(7) other factors the Secretary considers relevant.".

EXPLANATION: This amendment would change the base year against which the fuel economy improvements called for by Sections 514 and 515 would be measured. The amendment also clarifies that modifications to the standard may be made at any time for any model year, and that appropriate considerations may be taken into account by the Secretary during any proceeding to modify the standards.

AMENDMENT No. 2733

(a) On page 24, the text that begins on line 22 is amended to read as follows:

"PASSENGER AUTOMOBILES

"SEC. 514. (a) Notwithstanding any other provision of this Act, the average fuel economy for passenger automobiles manufactured by any manufacturer in model year 1995 and each model year thereafter shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:	
"1995 through [2000] *2005.*	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for passenger automobiles in model year 1988, plus an amount equal to 20 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988; except that such standard shall not be less than 27.5 miles per gallon and shall not exceed forty miles per gallon.
"[2001 *2006* and thereafter.	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for passenger automobiles in model year 1988, plus an amount equal to 40 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988, unless such standard is modified under section 516, except that such standard shall not be less than 33 miles per gallon and shall not exceed 45 miles per gallon.

(b) On page 25, line 4, the term "2001" is amended to read "1995".

EXPLANATION: This amendment would change the effective date of the second tier of CAFE standards for passenger cars increases from 2001 to 2006. Also, the Secretary is given the authority to amend the CAFE standards for any year at any time.

AMENDMENT No. 2734

At the end of the committee amendment, insert the following:

"SEC. .

"(a) On or before June 30, 1991, the Secretary shall prepare and submit to the Congress and the President a comprehensive report setting forth findings with respect to whether the fuel economy standards prescribed by this Act are likely to be achieved with an adverse effect on domestic employment in the automobile industry, including suppliers. The Secretary shall consult with the Secretary of Labor in preparing this report.

"(b) in the event that the Secretary's report does not contain findings that the fuel economy standards prescribed by this Act can be achieved without an adverse effect on domestic employment in the automobile industry, the Secretary shall not have the authority to establish standards pursuant to Sections 514 and 515 of this Act, and the amendments made by Section 3(a) of this Act shall not take effect."

EXPLANATION: This amendment would require a study of the potential effect on domestic employment in the automobile industry of new CAFE standards. If the study does not find that the higher standards can be achieved without an adverse effect on domestic employment in the auto industry, including suppliers, the higher standards shall not go into effect.

AMENDMENT No. 2735

At the end of the committee amendment, insert the following new section:

"SEC. .

"(a) On or before January 15, 1992, the Secretary of Transportation shall promulgate regulations establishing procedures for determining, in cases in which a manufacturer did not manufacture passenger and/or other automobiles for sale in the United States in model year 1988, the base fuel economy against which the improvements required by section 514 and/or section 515 are to be measured.

"(b) On or before January 15, 1992, the Secretary of Transportation shall promulgate regulations establishing procedures for determining the extent to which the term "manufacturer" includes a predecessor, a successor, or a joint venturer, for purposes of this title. The regulations shall include procedures for determining, in cases involving a predecessor, a successor or a joint venturer, the base fuel economy against which the improvements required by section 514 and/or section 515 are to be measured.

"(c) Proceedings under this section shall be conducted in accordance with section 553 of title 5, United States Code.

"(d) In the event that the regulations required by this section are not issued on or before January 15, 1992, the Secretary shall not have the authority to establish standards pursuant to sections 514 and 515 of this Act, and the amendments made by section 3(a) of this Act shall not take effect."

EXPLANATION: The amendment provides for the treatment of new manufacturers, addressing the possibility that new manufacturers, who have no average fuel economy in 1988, would have a substantially more lenient standard in MY 1995 than long-time manufacturers. Also, the amendment directs DOT to provide for joint ventures and other changes in the market.

AMENDMENT No. 2736

At the end of the committee amendment, insert the following new section:

"SEC. .

"(a) Section 502(1)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(1)(1) is amended by inserting "or section 514" immediately after "subsection (a) or (c)" at each place such phrase appears.

"(b) Section 502(1)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(1)(2) is amended by inserting "or section 515" immediately after "subsection (b)".

EXPLANATION: This amendment provides that credits for exceeding applicable fuel economy standards will continue to be available to manufacturers.

AMENDMENT No. 2737

Amendment to section 9 (page 27)

On page 27, beginning on line 12, section 9(b)(1) is amended to read as follows:

"(b)(1) Section 503(a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)(1)) is amended by—

(A) inserting "and section 514" immediately after "and (c)"; and

(B) striking all after the word "dividing" in the first place such word appears, and inserting in lieu thereof the following:

"(A) a sum of terms, each term of which is created by multiplying the fuel economy measured for each model type manufactured by a manufacturer by the number of passenger automobiles of that type manufactured by that manufacturer in a given model year, by

"(B) the total number of passengers automobiles manufactured in such model year by that manufacturer.

EXPLANATION: This amendment would ensure that the formula for calculating average fuel economy applies to the new CAFE standards, and furthermore converts the formula to a simpler, arithmetic average.

AMENDMENT No. 2738

At the end of the committee amendment, insert the following new section:

"SEC. .

Section 504(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2004(a)) is amended by—

"(a) deleting "or" immediately before the number "506" and inserting ", 514, 515 or 516" immediately after the number "506"; "(b) deleting the words "may be" and inserting in lieu thereof the word "is".".

EXPLANATION: This amendment would ensure that judicial review is available for the new CAFE standards and modifications to the new standards in the same manner as judicial review was available for the previous standards. The amendment would also ensure that judicial review is sought only by those who are actually (not hypothetically) aggrieved by the standards.

AMENDMENT No. 2739

(a) On page 23, beginning with line 9, strike all through line 17 and insert in lieu thereof the following:

"SEC. 7. Section 502(i) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(i) is amended by—

(a) inserting ", the Secretary of Commerce, the Secretary of Labor, the National Transportation Safety Board, the Federal Trade Commission and the United States Trade Representative" immediately after "Secretary of Energy" in each place such phrase appears,

(b) inserting "and section 514 and 515" immediately before the period in the first sentence, and

(c) inserting "and other national policy goals" in the second sentence following the word "goals" in the first place such term appears."

"SEC. 8. Section 502(j) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(j) is amended by—

(a) inserting "and section 514 and 515" immediately before "or any modification",

(b) inserting ", the Secretary of Commerce, the Secretary of Labor, the National Transportation Safety Board, the Federal Trade Commission and the United States Trade Representative" immediately after "Secretary of Energy,"

(c) inserting "Board, Commission or Representative" immediately after "Secretary" in the second place such term appears.

EXPLANATION: This amendment would require consultation with the Secretaries of Commerce and Labor, as well as the National Transportation Safety Board, the Federal Trade Commission and the United States Trade Representative and an opportunity for these agencies to comment before the Secretary of Transportation may establish or modify CAFE standards. The law already provides for consultation with the Department of Energy. The purpose of this amendment is to ensure that the record of the proceeding contains sufficient information about all the potential impacts of a proposed standard.

AMENDMENT NO. 2740

At the end of the Committee amendment, insert the following:

"SEC. .

"(a) The Governor of each state shall, after reasonable notice and public hearings, adopt and submit to the Secretary on or before June 30, 1991, a fuel conservation implementation plan for the state. The plan shall impose requirements designed to conserve gasoline and diesel fuel including, but not limited to, parking surcharge regulations, regulations imposing alternative day driving restrictions, regulations governing the management of existing and new parking supplies, preferential bus/carpool lanes on streets and highways, vehicle inspection/maintenance requirements to optimize efficiency and restrictions on suppliers of gasoline and diesel fuel.

"The plan shall provide for and assure the following:

"(i) Year 1995 through 2000: The total amount of diesel fuel and gasoline used within the state shall not exceed 80 percent of the amount utilized in 1988.

"(ii) Year 2001 and thereafter: The total amount of diesel fuel and gasoline used within the state shall not exceed 60 percent of the amount utilized in 1988.

"The total amount of diesel fuel and gasoline used within each state shall be determined based on the amounts subject to federal taxation in 1988 under the Federal Highway Act.

"(b) In the event that any State fails to submit an implementation plan in accordance with subsection (a), the Secretary shall not authorize or apportion Federal-aid Highway Funds to that state other than for mass transit during fiscal years 1992-1996. The Secretary shall review each plan by January 1, 1992 and shall reject any plan that is not reasonably calculated to achieve the reductions in petroleum use in subparagraph (a). If the Secretary rejects a plan, the Secretary shall not authorize or apportion Federal-aid Highway Funds, other than for mass transit, to the State that submitted the plan during the next fiscal year and each subsequent fiscal year through 1996.

"(c) In the event that during 1995 or any subseqent calendar year any state fails to achieve the reductions in petroleum use in subparagraph (a), the Secretary shall not authorize or apportion Federal-aid Highway Funds to that state other than for mass transit during the next fiscal year."

EXPLANATION: This amendment would impose a requirement that States develop fuel conservation plans to achieve a 20% and 40% improvement in use of gasoline and diesel fuel by the years 1995 and 2001, respectively. The plan must include transportation control measures.

AMENDMENT NO. 2741

Section 9 is amended to read as follows:

"Section 9(a) Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) is amended by adding at the end the following new sections:

"PASSENGER AUTOMOBILES

"SEC. 514. (a) Notwithstanding any other provision of this Act, the average fuel economy for passenger automobiles manufactured by any manufacturer in model year 1995 and each model year thereafter shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:	
"1995 through [2000] *2005*..	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for passenger automobiles in model year 1988, plus an amount equal to 20 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988; except that such standard shall not be less than 27.5 miles per gallon and shall not exceed 40 miles per gallon.
"[2001] *2006* and thereafter.	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for passenger automobiles in model year 1988, plus an amount equal to 40 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988 unless such standard shall not be less than 33 miles per gallon and shall not exceed 45 miles per gallon.

"AUTOMOBILES OTHER THAN PASSENGER AUTOMOBILES

"SEC. 515. Notwithstanding any other provision of this Act, commencing with model year 1995 and each model year thereafter, the average fuel economy for automobiles other than passenger automobiles manufactured by any manufacturer in any such model year shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:	
"1995 through [2000] *2005*.	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for light trucks in model year 1988, plus an amount equal to 20 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988 except such standard shall not be less than 20 miles per gallon and shall not exceed 30 miles per gallon.
"[2001] *2006* and thereafter.	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer *for light trucks* in model year 1988, plus an amount equal to 40 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988 unless such standard is modified under section 516, except that such standard shall not be less than 24 miles per gallon and shall not exceed 35 miles per gallon.

"MODIFICATION OF STANDARDS

"SEC. 516. (a) [Any time after the beginning of fiscal year 1995,] the Secretary may modify any average fuel economy standard established under this Act [. for model year 2001 and thereafter] in accordance with this section. In response to a petition from any person that is filed at least 12 months in advance of the model year to which it is applicable, the Secretary shall conduct a rulemaking proceeding to determine whether to increase or decrease such standard to the level which the Secretary determines is the maximum feasible average fuel economy for that model year (taking into consideration the factors listed in section 502(e) and the need to reduce carbon dioxide emissions). [except that the Secretary shall not reduce any such standard below a standard equal to a 30 percent increase over the average fuel economy achieved by the manufacturer involved for the applicable type (or class) of vehicles for model year 1988.] The Secretary may also conduct such a rulemaking on the Secretary's initiative.

"(b) In determining the maximum feasible average fuel economy during a rulemaking proceeding under this section, the Secretary shall [weigh equally] *consider* each factor listed in section 502(e) and the need to reduce carbon dioxide emissions. In evaluating the economic practicability of the standard, the Secretary shall consider—

"(1) the economic impact of the standard on the manufacturers, *the employees of the manufacturers*, and on the consumers of the vehicles subject to such standard, *as well as ther continued levels of employment of the manufacturers;*

"(2) the savings in operating costs throughout the estimated average life of the vehicle compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the vehicles which are likely to result from the imposition of the standard;

"(3) the total projected amount of energy savings likely to result directly from the imposition of the standard and the economic impact of such energy savings;

"(4) any lessening of the utility or the performance of the vehicle likely to result from the imposition of the standard;

"(5) the impact of any lessening of competition or any change in foreign trade that is likely to result from the imposition of the standard;

"(6) the total projected amount of reduction on carbon dioxide emissions and the economic impact of such reduction; and

"(7) other factors the Secretary considers relevant.".

EXPLANATION: This amendment would change the effective date of the second tier of increased CAFE standards from 2001 to 2006 for both passenger cars and light trucks. It also amends the section relating to modifications of the standards to permit the Secretary to amend any of the standards at any time. In amending the standards, the Secretary would be explicity directed to consider the effect of any proposed amendment on employment.

AMENDMENT NO. 2742

(a) On page 22, the text that begins following line 5 is amended to read as follows:

1985 through [1994] *1999.*	27.5
[1995] *2000* and thereafter.	As provided in accordance with Section 514 of this Act

(b) On page 24, the text that begins on line 22 is amended to read as follows:

"PASSENGER AUTOMOBILES

"SEC. 514. (a) Notwithstanding any other provision of this Act, the average fuel economy for passenger automobiles manufactured by any manufacturer in model year [1996] *2000* and each model year thereafter shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:	
"[1995] 2000 through [2000] *2008.*	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for passenger automobiles in model year 1988, plus an amount equal to 20 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988; except that such standard shall not be less than 27.5 miles per gallon and shall not exceed 40 miles per gallon.
"[2001] *2008* and thereafter.	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for passenger automobiles in model year 1988, plus an amount equal to 40 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988; except that such standard is modified under section 516, except that such standard not be less than 33 miles per gallon and shall not exceed 45 miles per gallon.

(b) On page 25, line 4, the term "2001" is amended to read "2000".

EXPLANATION: This amendment would change the effective dates of both tiers of the CAFE standards increases from 1995 to 2000 and from 2001 to 2008 for passenger cars. Also, the Sercretary is given the authority to amend the CAFE standards for any year at any time.

AMENDMENT NO. 2743

(a) On page 22, the text that begins following line 5 is amended to read as follows:

"1985 through [1994] *1990.*	27.5
[1995] *2000* and thereafter.	As provided in accordance with section 514 of this Act

(b) On page 22, line 14, delete "1995" and insert in lieu thereof "2000."

(c) On page 24, the text that begins on line 22 down through page 25, immediately before line 1 is amended to read as follows:

"PASSENGER AUTOMOBILES

"SEC. 514. (a) Notwithstanding any other provision of this Act, the average fuel economy for passenger automobiles manufactured by any manufacturer in model year [1995] *2000* and each model year thereafter shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:	
"[1995] *2000* through [2000] *2008.*	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for passanger automobiles in model year 1988, plus an amount equal to 20 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988; except that such standard shall not be less than 27.5 miles per gallon and shall not exceed 40 miles per gallon.
"[2001] *2008* and thereafter.	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for passenger automobiles in model year 1988, plus an amount equal to 40 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988, unless such standard is modified under section 516, except that such standard shall not be less than 33 miles per gallon and shall not exceed 45 miles per gallon.

"AUTOMOBILES OTHER THAN PASSENGER AUTOMOBILES

"SEC. 515. Notwithstanding any other provision of this Act, commencing with model year [1995] *2000* and each model year thereafter, the average fuel economy for automobiles other than passenger automobiles manufactured by any manufacturer in any such model year shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:	
"[1995] *2000* through [2000] *2008.*	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for light trucks in model year 1988, plus an amount equal to 20 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988; except that such standard shall not be less than 20 miles per gallon and shall not exceed 30 miles per gallon.
"[2001] *2008* and thereafter.	For each such manufacturer, the average fuel economy required by the Secretary to be equal to the average fuel economy achieved by that manufacturer *for light trucks* in model year 1988, plus an amount equal to 40 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988, unless such standard is modified under section 516, except that than 24 miles per gallon and shall not exceed 35 miles per gallon.

(d) On page 25, line 4, the number "2001" is amended to read "2000".

EXPLANATION. This amendment would change the effective dates of both tiers of the CAFE standards increases from 1995 to 2000 and from 2001 to 2008 for passenger cars and for light trucks. Also, the Secretary is given the authority to amend the CAFE standards for any year at any time.

AMENDMENT NO. 2744

(a) On page 22, line 14, delete "1995" and insert in lieu thereof "2000."

(b) On page 24, the text that begins on line 3 is amended to read as follows:

"AUTOMOBILES OTHER THAN PASSENGER AUTOMOBILES

"SEC. 515. Nothwithstanding any other provision of this Act, commencing with model year [1995] *2000* and each model year thereafter, the average fuel economy for automobiles other than passenger automobiles manufactured by any manufacturer in any such model year shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:	
"[1995] *2000* through [2000] *2008*.	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for light trucks in model year 1988, plus an amount equal to 20 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988; except that such standard shall not be less than 20 miles per gallon and shall not exceed 30 miles per gallon.
"[2001] *2008* and thereafter.	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer *for light trucks* in model year 1988, plus an amount equal to 40 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988, unless such standard is modified under section 516, except that such standard shall not be less than 24 miles per gallon and shall not exceed 35 miles per gallon.

(c) On page 25, line 4, the number "2001" is amended to read "2000".

EXPLANATION. This amendment would change the effective date for both tiers of light truck CAFE standard increases from 1995 to 2000 and from 2001 to 2008. Also, it would amend the provision regarding modifications of standards to permit the Secretary to amend standards for any year.

AMENDMENT NO. 2745

At the end of the committee amendment, insert the following new section:

"SEC. .

"No action of the Secretary taken pursuant to this title shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852) (42 U.S.C.A. § 4321 et seq.).".

EXPLANATION. To ensure that the Secretary can meet the deadlines required by this Title and to avoid redundant analyses, this amendment would provide that no action of the Secretary taken with respect to fuel economy standards shall be deemed to require the preparation of an environmental impact statement.

AMENDMENT NO. 2746

(a) On page 24, the text that begins on line 3 is amended to read as follows:

"AUTOMOBILES OTHER THAN PASSENGER AUTOMOBILES

"SEC. 515. Notwithstanding any other provision of this Act, commencing with model year 1995 and each model year thereafter, the average fuel economy for automobiles other than passenger automobiles manufactured by any manufactuer in any such model year shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:	
"1995 through [2000] *2005*.	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for light trucks in model year 1988, plus an amount equal to 20 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988; except that such standard shall not be less than 20 miles per gallon and shall not exceed 30 miles per gallon.
"[2001] *2006* and thereafter.	For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer *for light trucks* in model year 1988, plus an amount equal to 40 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988; unless such standard is modified under section 516, except that such standard shall not be less than 24 miles per gallon and shall not exceed 35 miles per gallon.

(b) On page 25, line 4, the number "2001" is amended to read "1995".

EXPLANATION: This amendment would change the effective date for the second tier of light truck standards from 2001 to 2006. Also, it would amend the provision regarding modifications of standards to permit the Secretary to amend standards for any year.

AMENDMENT NO. 2747

At the end of the committee amendment, insert the following:

"SEC. .

"(a) On or before June 30, 1991, the Secretary shall prepare and submit to the Congress and the President a comprehensive report setting forth findings with respect to whether the fuel economy standards prescribed by this Act are likely to be achieved without an adverse effect on motor vehicle safety. The report shall pay particular attention to the question of whether fatalities related to motor vehicle accidents are likely to increase as a result of increased fuel economy standards.

"(b) In the event that the Secretary's report does not contain findings that the fuel economy standards prescribed by this Act can be achieved without an adverse effect on motor vehicle safety, the Secretary shall not have the authority to establish standards pursuant to sections 514 and 515 of this Act, and the amendments made by section 3(a) of this Act shall not take effect."

EXPLANATION: This amendment would ensure that higher CAFE standards will not have an adverse effect on motor vehicle safety, by ordering a comprehensive study of the safety issue and by suspending the higher standards if they cannot be achieved without an adverse effect on safety.

AMENDMENT NO. 2748

At the end of the committee amendment, insert the following:

"SEC. .

"(a) On or before June 30, 1991, the Secretary shall prepare and submit to the Congress and the President a comprehensive report setting forth findings with respect to whether the fuel economy standards prescribed by this Act are likely to be achieved without an adverse effect on motor vehicle safety or compliance with federal and state clean air act standards. The report shall pay particular attention to the questions of (1) whether fatalities related to motor vehicle accidents are likely to increase as a result of increased fuel economy standards, (2) whether each manufacturer's compliance with each applicable motor vehicle safety standard or proposed standard would be adversely affected as a result of increased fuel economy standards, and (3) whether each manufacturer's compliance with each applicable clean air act standard, proposed standard, or standard likely to be required by amendments to the Clean Air Act would be adversely affected as a result of increased fuel economy standards.

"(b) The study shall separately address the feasibility of increased fuel economy standards in relation to each of the following safety standards, proposed standards, or standards-related decisions: [Safety standards, proposed standards and related materials inserted here]

"(c) The study shall separately address the feasibility of increased fuel economy standards in relation to each of the following emissions or other clean air standards, proposed standards, or standards likely to be required by the following provisions of the Clean Air Act Amendments: [Emissions standards, proposed standards and related materials inserted here]

"(d) In the event that the Secretary's report does not contain findings that the

fuel economy standards prescribed by this Act can be achieved without an adverse effect on motor vehicle safety, or if the Secretary's report concludes that the increased fuel economy standards are not feasible in light of applicable safety and emission standards, proposed standards, likely standards and the associated regulations and/or other requirements, the Secretary shall not have the authority to establish standards pursuant to sections 514 and 515 of this Act, and the amendments made by Section 3(a) of this Act shall not take effect.".

EXPLANATION: This amendment would ensure that consideration is given to the effect of higher CAFE standards on motor vehicle safety, compliance with applicable safety standards (including proposed standards), and compliance with applicable emission standards (including proposed standards, standards contemplated by the Clean Air Act amendments, and related requirements.) Unless the Secretary concludes that higher CAFE standards are feasible in light of safety considerations and regulatory compliance considerations, the higher standards shall not take effect.

AMENDMENT No. 2749

At the end of the committee amendment, insert the following:

"SEC. .

"(a) On or before June 30, 1991, the Secretary shall prepare and submit to the Congress and the President a comprehensive report setting forth findings with respect to whether the fuel economy standards prescribed by this Act are likely to be achieved without an adverse effect on motor vehicle safety. The report shall pay particular attention to the question of whether fatalities related to motor vehicle accidents are likely to increase as a result of increased fuel economy standards.

"(b) In the event that the Secretary's report does not contain findings that the fuel economy standards prescribed by this Act can be achieved without an adverse effect on motor vehicle safety, the Secretary shall not have the authority to establish standards pursuant to sections 514 and 515 of this Act, and the amendments made by section 3(a) of this Act shall not take effect.".

EXPLANATION: This amendment would ensure that higher CAFE standards will not have an adverse effect on motor vehicle safety, by ordering a comprehensive study of the safety issue and by suspending the higher standards if they cannot be achieved without an adverse effect on safety.

MURKOWSKI AMENDMENT NO. 2750

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill S. 1224, supra, as follows:

On page 34, after line 22, add the following:

AIRLINES

SEC. 16. On or before the expiration of the 12-month period following the date of the enactment of this Act, the Secretary of Transportation, by regulation, shall require all domestic commercial airlines to utilize only wide body aircraft with sufficient fuel efficiency for the routes used by such aircraft in transporting passengers in the ten largest route markets, by volume, within the United States.

JEFFORDS AMENDMENTS NOS. 2751 THROUGH 2753

(Ordered to lie on the table.)

Mr. JEFFORDS submitted three amendments intended to be proposed by him to the bill S. 1224, supra, as follows:

AMENDMENT NO. 2751

REPLACEMENT FUELS PROGRAM

(a) FINDINGS.—The Congress finds and declares that—

(1) In order to have a comprehensive program to reduce pollution and reduce our dependence on foreign oil, it is important to coordinate programs relating to the production of automobiles and the production of fuels.

(2) the achievement of long-term energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

(3) the displacement of energy derived from imported oil with alternative fuels will help to achieve energy security and improve air quality;

(4) transportation uses account for more than 60 percent of the oil consumption of the Nation;

(5) the Nation's security, economic, and environmental interests require that the Federal Government should assist cleanburning, nonpetroleum transportation fuels to reach a threshold level of commercial application and consumer acceptability at which they can successfully compete with petroleum based fuels;

(b) DEFINITIONS.—For purposes of this section—

(1) the term "alcohol" means methanol, ethanol, or any other alcohol which is produced from renewable resources or coal and which is suitable for use by itself or in combination with other fuels as a motor fuel;

(2) the term "replacement fuel" means alcohol or other liquid produced from coal, oil, shale, or other substance as may be determined by the Secretary, for the purpose of mixing with gasoline to be used as a motor fuel;

(3) the term "replacement motor fuel" means any fuel described in paragraph (2) mixed with gasoline for use as a motor fuel;

(4) the term "commerce" means any trade, traffic, transportation, exchange, or other commerce—

(A) between any State and any place outside of such State; or

(B) which affects any trade, traffic, transportation, exchange, or other commerce described in subparagraph (A);

(5) the term "motor fuel" means any substance suitable as a fuel for self-propelled vehicles designed primarily for use on public streets, roads, and highways;

(6) the term "refiner" means any person engaged in the refining of crude oil to produce motor fuel, including any affiliate of such person, or any importer of gasoline for use as a motor fuel;

(7) the term "Secretary" means the Secretary of Energy;

(8) the term "United States" means each State of the several States and the District of Columbia; and

(9) the term "renewable" means any source of energy which is available in an inexhaustible supply in the foreseeable future.

(c) REPLACEMENT FUEL PROGRAM.—The Secretary shall establish, pursuant to this section, a program to promote the development and use in the United States of replacement fuels produced in the United States. Such program shall be designed to promote the replacement of gasoline to be used as a motor fuel with replacement motor fuel containing the maximum percentage of replacement fuel as is economically and technically feasible for use as a motor fuel.

(d) DEVELOPMENT PLAN AND PRODUCTION GOALS.—Under the program established under subsection (c), the Secretary, in consultation with the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and the heads of other appropriate agencies, shall review appropriate information and determine—

(1) the most suitable raw materials, other than petroleum, for the production in the United States of replacement fuels;

(2) the nature of the replacement motor fuel distribution systems; and the various production processes which use feedstock other than petroleum, necessary for the rapid development of a replacement motor fuel industry in the United States, including a proposed timetable for the development of such system and processes;

(3) the technical and economic feasibility of including liquids extracted from oil shale and coal as part of the replacement fuels program; and

(4) the technical and economic feasibility of producing in the United States sufficient replacement fuels, by the calendar year 2002 in order to replace 20 percent or more, by volume, of the projected consumption of gasoline used as a motor fuel in the United States for that year.

The Secretary shall prescribe, by rule, a substitute percentage goal for purposes of paragraph (4) if he determines that 20 percent is inappropriate.

(e) RULE.—The Secretary shall, by rule, establish production goals for the optimal production of replacement fuel in the United States in each of calendar years 1994 and 1995. In establishing such goals, the Secretary shall—

(1) take into account the availability of reliable sources of replacement fuel produced from renewable resources, coal, and substances other than petroleum and natural gas; and

(2) provide that the production goal for replacement fuel for calendar year 1996 and thereafter shall be not less than 10 percent by volume of the projected consumption of gasoline used as a motor fuel in the United States for each year.

(f) RELIABLE REPLACEMENT FUEL INDUSTRY.—In carrying out subsection (d), the Secretary shall—

(1) identify ways to encourage the development of a reliable replacement fuel industry in the United States, and the technical, economic, and institutional barriers to such development, and

(2) include an estimation of the production capacity in the United States of replacement fuel needed to implement the provisions of this section.

(g) REVIEW.—Not later than 180 days after the date of the enactment of this section, the Secretary shall complete his review and determinations under this section and prepare and transmit a report thereon to each House of the Congress.

(h) REPLACEMENT FUEL REQUIREMENTS.—Of the total 25 quantity of gasoline and replacement fuel sold in commerce during any

of the following years by any refiner (including sales to the Federal Government), replacement fuel produced in the United States shall constitute the minimum percentage determined in accordance with the following table:

In the calendar year:	The minimum percentage of that volume which replacement fuel constitutes, shall be—
1994, 1995	Determined by the Secretary under subsection (i) of this section.
1996, 1997, 1998, 1999, 2000, 2001.	10 percent.
2002 and each year thereafter.	The percentage determined feasible under subsection (d)(4).

(i) MINIMUM PERCENTAGE.—Not later than January 1, 1991, the Secretary shall prescribe, by rule, the minimum percentage of United States produced replacement fuel, by volume, required to be contained in the total quantity of gasoline sold each year in commerce in the United States in calendar years 1994 and 1995 by any refiner for use as a motor fuel. Such percentage shall apply to each refiner, and shall be set for each such calendar year at a level which the Secretary determines—

(1) is technically and economically feasible, and

(2) will result in steady progress toward meeting the requirements under this section for calendar year 1996.

(j) REPORT.—Each refiner shall report annually to the Secretary the percentage of United States produced replacement fuel by volume contained on the average in the total quantity of gasoline for use as a motor fuel that refiner sold during the preceding calendar year.

(k) SATISFACTION OF REQUIREMENTS.—The Secretary shall, not later than January 1, 1991, promulgate regulations allowing the exchange of marketable credits between refiners and manufacturers of replacement fuels in order to satisfy the requirements of subsection (h).

(l) APPLICATION.—The Secretary may, on the application of any persons, make adjustments to reduce the minimum percentage requirement as it applies to that person, but only if and to the extent that such adjustments are consistent with the purposes of this section.

(m) ENFORCEMENT BY THE SECRETARY.—Any person who violates any requirement of subsection (h) is subject to a civil penalty of not more than $1 per gallon for each gallon of fuel sold that is not in compliance with subsection (h). Such penalties shall be assessed by the Secretary.

(n) ORDER.—(1) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect within 30 days after the date of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

(2)(A) Unless an election is made within 30 calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

(B) Any person against whom a penalty is assessed under this paragraph may, within 60 calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judical review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty.

(B) If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part such assessment.

(C) Any election to have this paragraph apply may not be revoked except with the consent of the Secretary.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2) or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3) the Secretary shall recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or final judgment shall not be subject to review.

(o) PROCEDURES FOR RULEMAKING.—Section 501 of the Department of Energy Organization Act of 1977 shall apply to any rule, regulation, or order having the applicability and effect of a rule (as defined in section 551(4) of title 5, United States Code) prescribed or issued under this Act.

(p) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out subsections (d), (e), (f), and (g) not exceed $1,000,000 for the fiscal year ending September 30, 1990.

(q) COORDINATION WITH OTHER ACTS.—This section shall be administered and enforced in coordination with the administration and enforcement of the Energy Security Act.

(2) CHANGES TO PUBLIC LAW 100-494.—

(a) Section 513(g) of 15 USC 2013 is amended by adding at the end of paragraph (1) the following: "The Administrator shall modify the maximum increase set forth in the preceding sentence according to the increased usage of alternative fuels and the manufacture and sale of alternative fueled vehicles to further the purposes of this Act.

(b) IN GENERAL.—Alternative fuels shall be made available by fuel providers as specified by the Administrator in any area in which clean-fuel vehicles or clean-fuel fleet vehicles are available.

(c) Not later than January 1, 1991, the Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall develop criteria for establishing fuel economy levels for vehicles manufactured to operate solely on domestic energy sources not derived from crude oil products. Such criteria shall take into consideration the relative impacts on energy security, global warming and the local environment of the dedicated fuel compared to a gasoline-powered vehicle of a similar model type. In no case shall the fuel economy level for such dedicated-fuel vehicles exceed the fuel economy level of duel energy vehicle of the same model type designed to operate on a maximum of 85% alcohol fuel.

At the appropriate place, insert the following:

The Congress finds and declares that—

(1) In order to have a comprehensive program to reduce pollution and reduce our d!÷endence on foreign oil, it is important to coordinate programs relating to the production of automobiles and the production of fuels.

(2) the achievement of long-term energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

(3) the displacement of energy derived from imported oil with alternative fuels will help to achieve energy security and improve air quality;

(4) transportation uses account for more than 60 percent of the oil consumption of the Nation;

(5) the Nation's security, economic, and environmental interests require that the Federal Government should assist clean-burning, nonpetroleum transportation fuels to reach a threshold level of commercial application and consumer acceptability at which they can successfully compete with petroleum based fuels;

Changes to Public Law 100-404—

(a) Section 513(g) of 15 U.S.C. 2013 is amended by adding at the end of paragraph (1) the following: "The Administrator shall modify the maximum increase set forth in the preceding sentence according to the increased usage of alternative fuels and the manufacture and sale of alternatively fueled vehicles to further the purposes of this Act.

(b) IN GENERAL.—Alternative fuels shall be made available by fuel providers as specified by the Administrator in any area in which clean-fuel vehicles or clean-fuel fleet vehicles are available.

(c) Not later than January 1, 1991, the Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall develop criteria for establishing fuel economy levels for vehicles manufactured to operate solely on domestic energy sources not derived from crude oil products. Such criteria shall take into consideration the relative impacts on energy security, global warming and the local environment of the dedicated fuel compared to a gasoline-powered vehicle of a similar model type. In no case shall the fuel economy level for such dedicated-fuel vehicles exceed the fuel economy level of dual energy vehicle of the same model type designed to operate on a maximum of 85% alcohol fuel.

AMENDMENT NO. 2753

On page 27, line 23, insert the following:

(c)(1)(a) No later than January 1, 1992, the Administrator may modify any average fuel economy standard established under this Act for model year 1995 and thereafter

to reflect the relative benefits achieved under the Replacement Fuel Program established by this Act. Such modification shall ensure that the average fuel economy standard for model years 1995 through 2000 shall reflect a minimum increase of 15 percent over the 1988 levels, and a minimum increase of 30 percent over the 1988 levels for model year 2001 and thereafter.

(b) DEFINTIONS.—For purposes of this section—

(1) the term "alcohol" means methanol, ethanol, or any other alcohol which is produced from renewable resources or coal and which is suitable for use by itself or in combination with other fuels as a motor fuel;

(2) the term "replacement fuel" means alcohol or other liquid produced from coal, oil, shale, or other substance as may be determined by the Secretary, for the purpose of mixing with gasoline to be used as a motor fuel;

(3) the term "replacement motor fuel" means any fuel described in paragraph (2) mixed with gasoline for use as a motor fuel;

(4) the term "commerce" means any trade, traffic, transportation, exchange, or other commerce—

(A) between any State and any place outside of such State; or

(B) which affects any trade, traffic, transportation, exchange, or other commerce described in subparagraph (A);

(5) the term "motor fuel" means any substance suitable as a fuel for self-propelled vehicles designed primarily for use on public streets, roads, and highways;

(6) the term "refiner" means any person engaged in the refining of crude oil to produce motor fuel, including any affiliate of such person, or any importer of gasoline for use as a motor fuel;

(7) the term "Secretary" means the Secretary of Energy;

(8) the term "United States" means each State of the several States and the District of Columbia; and

(9) the term "renewable" means any source of energy which is available in an inexhaustible supply in the foreseeable future.

(c) REPLACEMENT FUEL PROGRAM.—The Secretary shall establish, pursuant to this section, a program to promote the development and use in the United States of replacement fuels produced in the United States. Such program shall be designed to promote the replacement of gasoline to be used as a motor fuel with replacement motor fuel containing the maximum percentage of replacement fuel as is economically and technically feasible for use as a motor fuel.

(d) DEVELOPMENT PLAN AND PRODUCTION GOALS.—Under the program established under subsection (c), the Secretary, in consultation with the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and the heads of other appropriate agencies, shall review appropriate information and determine—

(1) the most suitable raw materials, other than petroleum, for the production in the United States of replacement fuels;

(2) the nature of the replacement motor fuel distribution systems, and the various processes which use feedstock other than petroleum, necessary for the rapid development of a replacement motor fuel industry in the United States, including a proposed timetable for the development of such systems and processes;

(3) the technical and economic feasibility of including liquids extracted from oil shale and coal as part of the replacement fuels program; and

(4) the technical and economic feasibility of producing in the United States sufficient replacement fuels, by the calendar year 2002 in order to replace 20 percent or more, by volume, of the projected consumption of gasoline used as a motor fuel in the United States for that year.

The Secretary shall prescribe, by rule, a substitute percentage goal for purposes of paragraph (4) if he determines that 20 percent is inappropriate.

(e) RULE.—The Secretary shall, by rule, establish production goals for the optimal production of replacement fuel in the United States in each of calendar years 1994 and 1995. In establishing such goals, the Secretary shall—

(1) take into account the availability of reliable sources of replacement fuel produced from renewable resources, coal, and substances other than petroleum and natural gas; and

(2) provide that the production goal for replacement fuel for calendar year 1996 and thereafter shall be not less than 10 percent by volume to the projected consumption of gasoline used as a motor fuel in the United States for each year.

(f) RELIABLE REPLACEMENT FUEL INDUSTRY.—In carrying out subsection (d), the Secretary shall—

(1) identify ways to encourage the development of a reliable replacement fuel industry in the United States, and the technical, economic, and institutional barriers to such development, and

(2) include an estimation of the production capacity in the United States of replacement fuel needed to implement the provisions of this section.

(g) REVIEW.—Not later than 180 days after the date of the enactment of this section, the Secretary shall complete his review and determinations under this section and prepare and transmit a report thereon to each House of the Congress.

(h) REPLACEMENT FUEL REQUIREMENTS.—Of the total quantity of gasoline and replacement fuel sold in commerce during any of the following years by any refiner (including sales to the Federal Government), replacement fuel produced in the United States shall constitute the minimum percentage determined in accordance with the following table:

In the calendar year:	The minimum percentage of that volume which replacement fuel constitutes, shall be—
1994, 1995, ...	Determined by the Secretary under subsection (i) of this section.
1996, 1997, 1998, 1999, 2000, 2001.	10 percent.
202 and each year thereafter.	The percentage determined feasible under subsection (d)(4).

(i) MINIMUM PERCENTAGE.—Not later than January 1, 1991, the Secretary shall prescribe, by rule, the minimum percentage of United States produced replacement fuel, by volume, required to be contained in the total quantity of gasoline sold each year in commerce in the United States in calendar years 1994 and 1995 by any refiner for use as a motor fuel. Such percentage shall apply to each refiner, and shall be set for each such calendar year at a level which the Secretary determines—

(1) is technically and economically feasible, and

(2) will result in steady progress toward meeting the requirements under this section for calendar year 1996.

(j) REPORT.—Each refiner shall report annually to the Secretary the percentage of United States produced replacement fuel by volume contained on the average in the total quantity of gasoline for use as a motor fuel that refiner sold during the preceding calendar year.

(k) SATISFACTION OF REQUIREMENTS.—The Secretary shall, not later than January 1, 1991, promulgate regulations allowing the exchange of marketable credits between refiners and manufacturers of replacement fuels in order to satisfy the requirements of subsection (h).

(l) APPLICATION.—The Secretary may, on the application of any person, make adjustments to reduce the minimum percentage requirements as it applies to that person, but only if and to the extent that such adjustments are consistent with the purposes of this section.

(m) ENFORCEMENT BY THE SECRETARY.—Any person who violates any requirement of subsection (h) is subject to a civil penalty of not more than $1 per gollon for each gallon of fuel sold that is not in compliance with subsection (h). Such penalties shall be assessed by the Secretary.

(n) ORDER.—(1) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect within 30 days after the date of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

(2)(A) Unless an election is made within 30 calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation had been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

(B) Any person against whom a penalty is assessed under this paragraph may, within 60 calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty.

(B) If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part such assessment.

(C) Any election to have this paragraph apply may not be revoked except with the consent of the Secretary.

(4) If any person fails to pay an assessment of a civil penalty after it has becomes a final and unappealable order under paragraph (2) or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3) the Secretary shall recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or final judgment shall not be subject to review.

(o) PROCEDURES FOR RULEMAKING.—Section 501 of the Department of Energy Organization Act of 1977 shall apply to any rule, regulation, or order having the applicability and effect of a rule (as defined in section 551(4) of title 5, United States Code) prescribed or issued under this Act.

(p) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out subsections (d), (e), (f), and (g) not to exceed $1,000,000 for the fiscal year ending September 30, 1990.

(q) COORDINATION WITH OTHER ACTS.—This section shall be administered and enforced in coordination with the administration and enforcement of the Energy Security Act.

(2) Changes to Public Law 100-494—

(a) Section 513(g) of 15 USC 2013 is amended by adding at the end of paragraph (1) the following: "The Administrator shall modify the maximum increase set forth in the preceding sentence according to the increased usage of alternative fuels and the manufacture and sale of alternative fueled vehicles to further the purposes of this Act.".

(b) IN GENERAL.—Alternative fuels shall be made available by fuel provisders as specificified by the Administrator in any area in which clean-fuel vehicles or clean-fuel fleet vehicles are available.

(c) Not later than January 1, 1991, the Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall develop criteria for establishing fuel economy levels for vehicles manufactured to operate solely on domestic energy sources not derived from crude oil products. Such criteria shall take into consideration the relative impacts on energy security, global warming and the local environment of the dedicated fuel compared to a gasoline-powered vehicle of a similar model type. In no case shall the fuel economy level for such dedicated-fuel vehicles exceed the fuel economy of level duel energy vehicle of the same model type designed to operate on a maximum of 85% alcohol fuel.

DANFORTH AMENDMENT NO. 2754

Mr. DANFORTH proposed an amendment to the bill S. 1224, supra, as follows:

On page 34, lines 7 through 10, strike all and insert in lieu thereof the following:

"(B) For the purposes of this paragraph, the term 'small passenger automobile' means a passenger automobile (i) with a wheel base of less than 100 inches, or with a curb weight of 2,750 pounds or less, and (ii) whose measured fuel economy is at least 35 miles per gallon.".

DANFORTH (AND BURNS) AMENDMENT NO. 2755

Mr. DANFORTH (for himself and Mr. BURNS) proposed an amendment to the bill S. 1224, supra, as follows:

At the appropriate place insert the following new section:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Subsection (g) of section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) is amended to read as follows:

"(g) AMENDMENT OF AVERAGE FUEL ECONOMY STANDARDS.—In carrying out section 502(a)(4) and (f), the Secretary shall not consider the fuel economy of alcohol powered automobiles or natural gas powered automobiles, and the Secretary shall consider dual energy automobiles and natural gas dual energy automobiles to be operated exclusively on gasoline or diesel fuel.".

BRYAN (AND GORTON) AMENDMENT NO. 2756

Mr. BRYAN (for himself and Mr. GORTON) proposed an amendment to the bill S. 1224, supra, as follows:

Designate the existing text as title I, redesignate sections 2 through 15 and any reference thereto as sections 101 through 114, respectively, and add at the end the following new title:

TITLE II—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AUTHORIZATION

SHORT TITLE

SEC. 201. This title may be cited as the "National Highway Traffic Safety Administration Authorization Act of 1990".

DEFINITIONS

SEC. 202. As used in this title, the term—

(1) "multipurpose passenger vehicle" and "passenger automobile" shall have the meaning given such terms by the Secretary; and

(2) "Secretary" means the Secretary of Transportation.

Subtitle A—Authorization of Appropriations

GENERAL AUTHORIZATIONS

SEC. 221. (a) Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof ", $65,424,000 for fiscal year 1990, and $68,433,000 for fiscal year 1991.".

(b) Section 111 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1921) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof ", $336,000 for fiscal year 1990, and $351,000 for fiscal year 1991.".

(c) Section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof ", $2,384,000 for fiscal year 1990, and $2,493,000 for fiscal year 1991.".

(d) Section 417 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1990g) is amended—

(1) by striking "and"; and

(2) by striking the period and inserting in lieu thereof ", $640,000 for fiscal year 1990, and $669,000 for fiscal year 1991.".

(e) Section 211(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by striking "and" the second time it appears; and

(2) by inserting immediately before the period at the end the following: "not to exceed $5,315,000 for fiscal year 1990, and not to exceed $5,559,000 for fiscal year 1991"."

COMMUNITY EDUCATION PROGRAM

SEC. 222. In order to carry out a national program of community education regarding (1) drunk driving prevention and (2) the use and effectiveness of airbag technology, the Secretary may derive an additional amount not to exceed $10,000,000 from unobligated balances of funds made available for highway safety programs under section 408 of title 23, United States Code. Of the funds allocated to such efforts, not less than one-half shall be used for educational efforts related to airbags. Such amounts shall remain available until expended.

Subtitle B—Side Impact Protection and Crashworthiness Data

SIDE IMPACT PROTECTION

SEC. 241. (a) The Secretary shall, not later than twelve months after the date of enactment of this Act, issue a final rule amending Federal Motor Vehicle Safety Standard 214, published as section 571.214 of title 49, Code of Federal Regulations. The rule shall establish performance criteria for improved protection for occupants of passenger automobiles in side impact accidents.

(b) Not later than sixty days after the date of enactment of this Act, the Secretary shall issue a notice of proposed rulemaking to extend the applicability of such standard 214 to multipurpose passenger vehicles. The Secretary shall, not later than two years after such date of enactment, issue a final rule on such extension, taking into account the performance criteria established by the final rule issued in accordance with subsection (a).

AUTOMOBILE CRASHWORTHINESS DATA

SEC. 242. (a)(1) The Secretary shall, within thirty days after the date of enactment of this Act, enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation regarding means of establishing a method for calculating a uniform numerical rating which will enable consumers to compare meaningfully the crashworthiness of different passenger automobile and multipurpose passenger vehicle makes and models.

(2) Such study shall include examination of current and proposed crashworthiness tests and testing procedures and shall be directed to determining whether additional objective, accurate, and relevant information regarding the comparative crashworthiness of different passenger automobile and multipurpose passenger vehicle makes and models reasonably can be provided to consumers by means of a crashworthiness rating rule. Such study shall include examination of at least the following proposed elements of a crashworthiness rating rule:

(A) information on the degree to which different passenger automobile and multipurpose passenger vehicle makes and models will protect occupants across the range of motor vehicle crash types when in use on public roads;

(B) a repeatable and objective test which is capable of identifying meaningful differences in the degree of crash protection pro-

vided occupants by the vehicles tested, with respect to such aspects of crashworthiness as occupant crash protection with and without use of manual seatbelts, fuel system integrity, and other relevant aspects;

(C) ratings which are accurate, simple in form, readily understandable, and of benefit to consumers in making informed decisions in the purchase of automobiles;

(D) dissemination of comparative crashworthiness ratings to consumers either at the time of introduction of a new passenger automobile or multipurpose passenger vehicle make or model or very soon after such time of introduction; and

(E) the development and dissemination of crashworthiness data at a cost which is reasonably balanced with the benefits of such data to consumers in making informed purchase decisions.

(3) Any such arrangement shall require the National Academy of Sciences to report to the Secretary and the Congress not later than nineteen months after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall, to the extent permitted by law, furnish to the Academy upon its request any information which the Academy considers necessary to conduct the investigation and study required by this subsection.

(4) Within sixty days after transmittal of the report of the National Academy of Sciences to the Secretary and the Congress under paragraph (3) of this subsection, the Secretary shall initiate a period (not longer than ninety days) for public comment on implementation of the recommendations of the National Academy of Sciences with respect to a rule promulagted under title II of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger automobiles and multipurpose passenger vehicles.

(5) Not later than one hundred and eighty days after the close of the public comment period provided for in paragraph (4) of this subsection, the Secretary shall determine, on the basis of the report of the National Academy of Sciences and the public comments on such report, whether an objectively based system can be established by means of which accurate and relevant information can be derived that reasonably predicts the degree to which different makes and models of passenger automobiles and multipurpose passenger vehicles provide protection to occupants against the risk of personal injury or death as a result of motor vehicle accidents. The Secretary shall promptly publish the basis of such determination, and shall transmit such determination to the Congress.

(b)(1) If the Secretary determines that the system described in subsection (a)(5) of this section can be established, the Secretary shall, subject to the exception provided in paragraph (2) of this subsection, not later than three years after the date of enactment of this Act, promulgate a final rule under section 201 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1941) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger automobiles and multipurpose passenger vehicles. The rule promulgated under such section 201 shall be practicable and shall provide to the public relevant objective information in a simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger automobiles and multipurpose passenger vehicles so as to contribute meaningfully to informed purchase decisions.

(2) The Secretary shall not promulgate such rule unless (A) a period of sixty calendar days has passed after the Secretary has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a summary of the comments received during the period for public comment specified in subsection (a)(4) of this section, or (B) each such committee before the expiration of such sixty-day period has transmitted to the Secretary written notice to the effect that such committee has no objection to the promulgation of such rule.

(c) If the Secretary promulgates a rule under subsection (b) of this section, not later than six months after such promulgation, the Secretary shall be rule establish procedures requiring passenger automobile and multipurpose passenger vehicle dealers to make available to prospective passenger automobile and multipurpose passenger vehicle purchasers information developed by the Secretary and provided to the dealer which contains data comparing the crashworthiness of a passenger automobiles and multipurpose passenger vehicles.

Subtitle C—Miscellaneous Provisions

STANDARDS COMPLIANCE

SEC. 261. Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end the following new subsection:

"(j)(1) The Secretary shall establish a schedule for use in ensuring compliance with each Federal motor vehicles safety standard established under this Act which the Secretary determines is capable of being tested. Such schedule shall ensure that each such standard is the subject of testing and evaluation on a regular, rotating basis.

"(2) The Secretary shall, not later than six months after the date of enactment of this subsection, conduct a review of the method for the collection of data regarding accidents related to Federal motor vehicles safety standards established of collecting data in addition to that information collected as of the date of enactment of this subsection, and shall estimate the costs involved in the collection of such additional data, as well as the benefits to safety likely to be derived from such collection. If the Secretary determines that such benefits outweight the costs of such collection, the Secretary shall collect such additional data and utilize it in determining which motor vehicles should be subject of testing for compliance with Federal motor vehicles safety standards established under this Act.".

INVESTIGATION AND PENALTY PROCEDURES

SEC. 262. (a) Section 112(a)(1) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1401(a)(1)) is amended by adding at the end the following: "The Secretary shall establish written guidelines and procedures for conducting any inspection or investigation regarding noncompliance with this title or any rules, regulations, or orders issued under this title. Such guidelines and procedures shall indicate timetables for processing of such inspections and investigations to ensure that such processing occurs in an expeditious and thorough manner. In addition, the Secretary shall develop criteria and procedures for use in determining when the results of such an investigation should be considered by the Secretary to be the subject of a civil penalty under section 109 of this title. Nothing in this paragraph shall be construed to limit the ability of the Secretary to exceed any time limitation specified in such timetables where the Secretary determines that additional time is necessary for the processing of any such inspection or investigation.".

(b) Section 109(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1398(a)) is amended by adding at the end thereof the following: "The Secretary shall establish procedures for determining the manner in which, and the time within which, a determination should be made regarding whether a civil penalty should be imposed under this section. Nothing in this subsection shall be construed to limit the ability of the Secretary to exceed any time limitation specified for making any such determination where the Secretary determines that additional time is necessary for making a determination regarding whether a civil penalty should be imposed under this section.".

TRAFFIC SAFETY FOR HANDICAPPED INDIVIDUALS

SEC. 263. (a) The Congress finds that—

(1) a number of States fail to recognize the symbols of other States for the identification of motor vehicles transporting individuals with handicaps that limit or impair the ability to walk; and

(2) the failure to recognize such symbols increases the likelihood that such individuals will be involved in traffic accident incidents resulting in injury or death, posing a threat to the safety of such individuals as well as the safety of the operators of motor vehicles and others.

(b)(1) After the date that is eighteen months following the date of enactment of this Act, the Secretary shall require that each State provide for the implementation of a uniform system for handicapped parking designed to enhance the safety of handicapped and nonhandicapped individuals. If a State fails to meet such requirement, the funds that would otherwise be apportioned to the State under section 402 of title 23, United States Code, shall be reduced by 2 percent, until such time as the Secretary determines that the requirement is being met.

(2) For purposes of this subsection, a uniform system for handicapped parking designed to enhance the safety of handicapped and nonhandicapped individuals is a system which—

(A) adopts the International Symbol of Access (as adopted by Rehabilitation International in 1969 at its 11th world Congress on Rehabilitation of the Disabled) as the only recognized symbol for the identification of vehicles used for transporting individuals with handicaps which limit or impair the ability to walk;

(B) provides for the issuance of license plates displaying the International Symbol of Access for vehicles which will be used to transport individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

(C) provides for the issuance of removable windshield placards (displaying the International Symbol of Access) to individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

(D) provides that fees charged for the licensing or registration of a vehicle used to

transport such individuals with handicaps do not exceed fees charged for the licensing or registration of other similar vehicles operated in the State; and

(E) for purposes of easy access parking, recognizes licenses and placards displaying the International Symbol of Access which have been issued by other states and countries.

(c) Beginning not later than twenty-four months after the date of enactment of this Act, the Secretary shall annually evaluate compliance by the States with the requirement established by the Secretary under subsection (b). The Secretary shall submit to Congress an annual report regarding such evaluation.

MULTIPURPOSE PASSENGER VEHICLE SAFETY

SEC. 264. (a) The Congress finds that—

(1) multipurpose passenger vehicles have become increasingly popular during this decade and aree being used increasingly for the transportation of passengers, not property; and

(2) the safety of passengers in multipurpose passenger vehicles has been compromised by the failure to apply to them the Federal motor vehicle safety standards applicable to passenger automobiles.

(b) In addition to the rulemaking requirements applicable to multipurpose passenger vehicles under other provisions of this title, the Secretary shall initiate (not later than sixty days after the date of enactment of this Act) and complete (not later than twelve months after such date of enactment) a rulemaking to revise, where appropriate, in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms—

(1) Federal Motor Vehicle Safety Standard 216, published as section 571.216 of title 49, Code of Federal Regulations, to provide minimum roof crush resistance standards for multipurpose passenger vehicles;

(2) Federal Motor Vehicle Safety Standard 108, published as section 571.108 of title 49, Code of Federal Regulations, to provide for a single, high-mounted stoplamp on multipurpose passenger vehicles; and

(3) Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations, to extend the requirements of outboard front seat passive restraint occupant protection systems to multipurpose passenger vehicles.

(c) In accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms, the Secretary shall, not later than twelve months after the date of enactment of this Act, complete a rulemaking—

(1) to review the system of classification of vehicles with a gross vehicle weight under ten thousand pounds to determine if such vehicles should be reclassified;

(2) to revise Federal Motor Vehicle Safety Standard 202, published as section 571.202 of title 49, Code of Federal Regulations, to provide for head restraints for multipurpose passenger vehicles; and

(3) to consider establishment of a Federal Motor Vehicle Safety Standard to protect against unreasonable risk of rollover of multipurpose passenger vehicles.

Any reclassification pursuant to paragraph (1) shall, to the maximum extent practicable, classify as a passenger automobile every motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor car or other motor vehicle principally designed for the transport of persons under heading 8703 of the Harmonized Tariff Schedule of the United States. Nothing in this section shall prevent the Secretary from classifying as a passenger automobile any motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor vehicle for the transport of goods under heading 8704 of such Harmonized Tariff Schedule.

REAR SEATBELTS

SEC. 265. (a) In accordance with applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Secretary shall complete, within twelve months after the date of enactment of this Act, a rulemaking to amend Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations, to provide that the outboard rear seat passengers of all passenger automobiles, except convertibles, manufactured on or after September 1, 1989, shall have lap and shoulder seatbelt protection, and that the outboard rear seat passengers of all multipupose passenger vehicles and all convertible passenger automobiles manufactured on or after September 1, 1991, shall have lap and shoulder seatbelt protection.

(b) Notwithstanding any other provision of law, not less than 10 percent of the funds authorized to be appropriated under section 209 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1949) in fiscal years 1990 and 1991 shall be utilized to disseminate information to consumers regarding the manner in which passenger automobiles may be retrofitted with lap and shoulder rear seatbelts.

CERTIFICATION OF BUMPERS

SEC. 266. The motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by inserting after section 102 the following new subsection:

"DISCLOSURE OF BUMPER IMPACT CAPABILITY

"SEC. 102A. (a) The Secretary shall promulgate, in accordance with the provisions of this section, a regulation establishing passenger motor vehicle bumper system labeling requirements. Such regulation shall apply to passenger motor vehicles manufactured for model years beginning more than one hundred and eighty days after the date such regulation is promulgated, as provided in subsection (c)(2) of this section.

"(b)(1) The regulation required to be promulgated in subsection (a) of this section shall provide that, before any passenger motor vehicle is offered for sale, the manufacturer shall affix a label to such vehicle, in a format prescribed in such regulation, disclosing an impact speed at which the manufacturer represents that the vehicle meets the applicable damage criteria.

"(2) For purposes of this subsection, the term 'applicable damage criteria' means the damage critieria applicable under section 581.5(c) of title 49, Code of Federal Regulations (as in effect on the date of enactment of this section).

"(c)(1) Not later than ninety days after the date of enactment of this section, the Secretary shall publish in the Federal Register a proposed initial regulation under this section.

"(2) Not later than one hundred and eighty days after such date of enactment, the Secretary shall promulgate a final initial regulation under this section.

"(d) The Secretary may allow a manufacturer to comply with the labeling requirements of subsection (b) of this section by permitting such manufacturer to make the bumper system impact speed disclosure required in subsection (b) of this section on the label required by section 506 of this Act or section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

"(e) The regulation promulgated under subsection (a) of this section shall provide that the information disclosed under this section be provided to the Secretary at the beginning of the model year for the model involved. As soon as practicable after receiving such information, the Secretary shall furnish and distribute to the public such information in a simple and readily understandable form in order to facilitate comparison among the various types of passenger motor vehicles. The Secretary may by rule require automobile dealers to distribute to prospective purchasers any information compiled pursuant to this subsection.

"(f) For purposes of this section, the term 'passenger motor vehicle' means any motor vehicle to which the standard under part 581 of title 49, Code of Federal Regulations, is applicable.".

CHILD BOOSTER SEATS

SEC. 267. (a) In accordance with applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Secretary shall conduct a rulemaking to amend Federal Motor Vehicle Safety Standard 213, published as section 571.213 of title 49, Code of Federal Regulations, to increase the safety of child booster seats used in passenger automobiles. The rulemaking shall be initiated not later than thirty days after the date of enactment of this Act and completed not later than twelve months after such date of enactment.

(b) As used in this section, the term "child booster seat" has the meaning given the term "booster seat" in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

AIRBAG REQUIREMENT FOR FEDERAL PASSENGER VEHICLES

SEC. 268. The Secretary, in cooperation with the Administrator of General Services and the heads of other appropriate Federal agencies, shall establish a program requiring that all passenger automobiles acquired after September 30, 1990, for use by the Federal Government be equipped, to the maximum extent practicable, with driver-side airbags and that all passenger automobiles acquired after September 30, 1993, for use by the Federal Government be equipped, to the maximum extent practicable, with airbags for both the driver and front seat outboard seating positions.

STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

SEC. 269. Part A of title III of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1961 et seq.) is amended by adding at the end the following new section:

"STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

"SEC. 304. (a) The Secretary shall, within thirty days after the date of enactment of this section, enter into appropriate arrange-

ments with the National Academy of Sciences to conduct a study of the effectiveness of State motor vehicle safety inspection programs in—

"(1) reducing motor vehicle accidents that result in injuries and deaths; and

"(2) limiting the number of defective or unsafe motor vehicles on the highways.

"(b)(1) The study shall include an evaluation of the implementation, inspection criteria, personnel, budgeting, and enforcement of all types of State motor vehicle inspection programs or periodic motor vehicle inspection programs, including inspections of motor vehicle brakes, glass, steering suspension, and tires.

"(2) If warranted by the study, the National Academy of Sciences shall develop and submit to the Congress recommendations for an effective and efficient State motor vehicle safety inspection program.

"(c) The study shall also consider the feasibility of use by States of private organizations to conduct motor vehicle safety inspection programs and of combining safety and emission inspection programs.

"(d) Appropriate public and private agencies and organizations, including the Secretary, the Administrator of the Environmental Protection Agency, affected industries and consumer organizations, State and local officials, and the motor vehicle insurance industry should be consulted in conducting the study required under this section.

"(e) The study required by subsection (a) shall be completed and transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives within nineteen months after the date of enactment of this section.".

RECALL OF CERTAIN MOTOR VEHICLES

SEC. 270. (a) Section 153 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413) is amended by adding at the end the following new subsections:

"(d) If the Secretary determines that a notification sent by a manufacturer pursuant to subsection (c) of this section has not resulted in an adequate number of vehicles or items or equipment being returned for remedy, the Secretary such manner as the Secretary may by regulation prescribe.

"(e)(1) Any lessor who receives a notification required by section 151 or 152 pertaining to any leased motor vehicle shall send a copy of such notice to the lessee in such manner as the Secretary may by regulation prescribe.

"(2) For purposes of this subsection, the term 'leased motor vehicle' means any motor vehicle which is leased to a person for a term of at least four months by a lessor who has leased five or more vehicles in the twelves months preceding the date of the notification.".

(b) Section 154 of the National Traffic and Motor Vehicles Safety Act of 1966 (15 U.S.C. 1414) is amended by adding at the end the following:

"(d) If notification is required under section 151 or by an order under section 152(b) and has been furnished by the manufacturer to a dealer of motor vehicles with respect to any new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification which fails to comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety, such dealer may sell or lease such motor vehicle or item of replacement equipment only if—

"(1) the defect or failure to comply has been remedied in accordance with this section before delivery under such sale or lease; or.

"(2) in the case of notification required by an order udner section 152(b), enforcement of the order has been restrained in an action to which section 155(a) applies or such order has been set aside in such an action.

Nothing in this subsection shall be construed to prohibit any dealer from offering for sale or lease such vehicles or item of equipment.".

STUDY OF DARKENED WINDOWS

SEC. 271. The Administrator of the National Highway Traffic Safety Administration shall conduct a study of the use of darkened windshields and window glass in passenger automobiles. In particular, the study shall consider the effects of such use on the safe operation of passenger automobiles, as well as on the hazards from such use to the safety of law enforcement personnel. In conducting such study, the Administrator shall consult with appropriate industry representatives, officials of law enforcement departments and agencies, and consumer representatives. The Administrator shall submit the results of such study to the Committees on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives not later than six months after the date of enactment of this Act.

PETITIONS REGARDING CORPORATE AVERAGE FUEL ECONOMY STANDARDS

SEC. 272. Section 502(d)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(d)(1)) is amended by striking "1980. Such application" and inserting in lieu thereof the following: "1980, or for any model year after model year 1991. Any application seeking such modification".

JUDICIAL REVIEW OF ACTIONS ON CERTAIN PETITIONS

SEC. 273. Section 124(d) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1410a(d)) is amended by adding at the end the following: "The denial of such petition is final agency action subject to judicial review as provided in section 706 of title 5, United States Code.".

BUMPER STANDARD

SEC. 274. (a) Not later than one year after the date of enactment of this Act, the Secretary shall amend the bumper standard published as part 581 of title 49, Code of Federal Regulations, to ensure that such standard is identical to the bumper standard under such part 581 which was in effect on January 1, 1982. The amended standard shall apply to all passenger automobiles manufactured after September 1, 1990.

(b) Nothing in this section shall be construed to prohibit the Secretary from requiring under such part 581 that passenger automobile bumpers be capable of resisting impact speeds higher than those specified in the bumper standard in effect under such part 581 on January 1, 1982.

GRANT PROGRAM CONCERNING USE OF SEATBELTS AND CHILD RESTRAINT SYSTEMS

SEC. 275. (a) Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 411. Seatbelt and child restraint programs

"(a) Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement seatbelt and child restraint programs which include measures described in this section to foster the increased use of seatbelts and the correct use of child restraint systems. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for seatbelt and child restraint programs at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this section.

"(c) No State may receive grants under this section in more than three fiscal years. The Federal share payble for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the seatbelt and child restraint program adopted by the State pursuant to subsection (a) of this section;

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) Subject to subsection (c), the amount of a grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) of this section shall equal 20 percent of the amount approprtioned to such State for fiscal year 1990 under section 402.

"(e) A State is eligible for a grant under this section if such State—

"(1) has in force and effect a law requiring all front seat occupants of a passenger automobile to use seatbelts;

"(2) has achieved—

"(A) in the year immediately preceding a first-year grant, the lesser of either (i) 70 percent seatbelt use by all front seat occupants of passenger automobiles in the State or (ii) a rate of seatbelt use by all such occupants that is 20 percentage points higher than the rate achieved in 1989;

"(B) in the year immediately preceding a second-year grant, the lesser of either (i) 80 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 35 percentage points higher than the rate achieved in 1989; and

"(C) in the year immediately preceding a third-year grant, the lesser of either (i) 90 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 45 percentage points higher than the rate achieved in 1989; and

"(3) has in force and effect an effective program, as determined by the Secretary, for encouraging the correct use of child restraint systems.

"(f) As used in this section, the term 'child restraint system' has the meaning give such term in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(g) There are authorized to be appropriated, from any funds in the Treasury not otherwise appropriated, to carry out this section, $10,000,000 for the fiscal year 1990, and $20,000,000 for each of the fiscal years 1991 and 1992.".

(b) The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

"411. Seatbelt and child restraint programs.".

METHODS OF REDUCING HEAD INJURIES

SEC. 276. The Secretary shall initiate (not later than sixty days after the date of enactment of this Act) and complete (not later than two years after such date of enactment) a rulemaking to revise, in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms, the Federal motor vehicle safety standards. Such rulemaking shall consider methods of reducing head injuries in passenger automobiles and multipurpose passenger vehicles from contact with vehicle interior components, including those in the head impact area as defined in section 571.3(b) of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

PEDESTRIAN SAFETY

SEC. 277. The Secretary shall initiate (not later than six months after the date of enactment of this Act) and complete (not later than two years after such date of enactment) a rulemaking to consider the establishment of a standard to minimize pedestrian death and injury, including injury to the head, thorax, and legs, attributable to vehicle components. Any such standard shall be established in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

NATIONAL VOTER REGISTRATION ACT

HATFIELD (AND FORD) AMENDMENT NO. 2757

(Ordered to lie on the table.)

Mr. HATFIELD (for himself and Mr. FORD) submitted an amendment intended to be proposed by them to the bill (S. 874) to establish national voteer registration for Presidential and congressional elections, and for other purposes; as follows:

On page 9, line 22, strike "1989" and insert "1990".

On page 10, strike lines 20 through 22 insert the following:

(b) NONAPPLICABILITY TO CERTAIN STATES.—This Act does not apply to a State that—

(1) has no voter registration requirement with respect to an election for Federal office; or

(2) permits registration at the polling place at the time of voting in a general election for Federal office.

On page 13, line 4, strike "section 7(3)," and insert "section 7(2), and may develop and use a mail voter registration form that meets all of the criteria stated in section 7(2),".

On page 13, between lines 12 and 13, insert the following:

(c) FIRST-TIME VOTERS.—(1) Subject to paragraph (2), a State may by law require a person to vote in person if—

(A) the person was registered to vote in a local jurisdiction by mail; and

(B) the person has not previously voted in that jurisdiction.

(2) Paragraph (1) does not apply in the case of a person—

(A) who is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.);

(B) who is provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii); or

(C) who is entitled to vote otherwise than in person under any other law.

On page 14, lines 1 through 6, strike "Offices designated under this subsection shall include public libraries, public schools, offices providing public assistance, unemployment compensation, vocational rehabilitation, and related services, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus, and government revenue offices" and insert "The State shall designate the locations that will provide services pursuant to this subsection from locations such as public libraries, public schools, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus, and government revenue offices and shall include in such designation all offices in the State providing public assistance, unemployment compensation, vocational rehabilitation, and related services".

On page 14, line 12, strike "section 7(3)" and insert "section 7(2)".

On page 16, strike lines 17 through 23 and insert the following:

(3) provide that the name of a voter may not be removed from the offical list of eligible voters other than (A) at the request of the voter, (B) as provided by State law, by reason of criminal conviction or mental incapacity, or (C) as provided under paragraph (4);

On page 16, between lines 23 and 24, insert the following:

(4) make all reasonable efforts to provide that the name of a voter will be removed from the official list of eligible voters by reason of (A) the death of the voter or (B) by reason of a change in the residence of the voter, in accordance with subsection (d);

On page 16, line 24, strike "(4)" and insert "(5)".

On page 17, line 3, strike "(5)" and insert "(6)".

On page 18, lines 10 and 11, strike "next Presidential election" and insert "second general election for Federal office after the date of such notice".

On page 18, line 23, strike "next Presidential election" and insert "second general election after the date of such notice,".

On page 19, between lines 15 and 16, insert the following:

(f) CONVICTION IN FEDERAL COURT.—(1) On the conviction of a person of a felony in a district court of the United States, the United States attorney shall give written notice of the conviction to the chief State election official designated under section 8 of the State of the person's residence.

(2) A notice given pursuant to paragraph (1) shall include—

(A) the name of the offender;

(B) the offender's age and residence address;

(C) the date of entry of the judgment;

(D) a description of the offenses of which the offender was convicted; and

(E) the sentence imposed by the court.

(3) On request of the chief State election official of a State or other State official with responsibility for determining the effect that a conviction may have on an offender's qualification to vote, the United States attorney shall provide such additional information as the United States attorney may have concerning the offender and the offense of which the offender was convicted.

(4) If a conviction of which notice was given pursuant to paragraph (1) is overturned, the United States attorney shall give the official to whom the notice was given written notice of the vacation of the judgment.

(5) The chief State election official shall notify the voter registration officials of the local jurisdiction in which an offender resides of the information received under this subsection.

(g) REDUCED POSTAL RATES.—(1) Subchapter II of chapter 36 of title 39, United States Code, is amended by adding at the end the following:

"§ 3629. Reduced rates for voter registration purposes

"The Postal Service shall make available to a State or local voting registration official the rate for any class of mail that is available to a qualified nonprofit organization under section 3626 for the purpose of making a mailing (including a return mailing to the official using a prepaid envelope supplied by the official) that the official certifies is required by, authorized by, or made in furtherance of the purposes of the National Voter Registration Act of 1990."

(2) Section 2401(c) of title 39, United States Code, is amended by striking "and 3626(a)-(h)" and inserting "3626(a)-(h), and 3629".

(3) Section 3627 of title 39, United States Code, is amended by striking "or 3626 of this title," and inserting ", 3626, or 3629 of this title".

(4) The table of sections for chapter 36 of title 39, United States Code, is amended by inserting after the item relating to section 3628 the following new item:

"3629. Reduced rates for voter registration purposes."

On page 19, strike lines 18 and 19.

On page 19, line 20, strike "(2)" and insert "(1)".

On page 20, line 1, strike "(3)" and insert "(2)".

On page 20, line 21, strike "(4)" and insert "(3)".

On page 21, line 3, strike "(5)" and insert "(4)".

On page 22, line 10, strike "law" and insert "law, and neither the remedies stated in this section nor any other provision of this Act shall supersede, restrict, or limit the application of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.)".

On page 24, strike lines 12 and 13 and insert the following:

This Act shall take effect—

(1) with respect to a State that on the date of enactment of this Act has a provision in the constitution of the State that would preclude compliance with this Act unless the State maintained separate Federal and State official lists of eligible voters, on January 1, 1994; and

(2) with respect to any State not described in paragraph (1), on January 1, 1992.

MOTOR VEHICLE FUEL EFFICIENCY ACT

GORTON AMENDMENT NO. 2758

Mr. GORTON proposed an amendment to amendment No. 2715 proposed by Mr. NICKLES to the bill S. 1224, supra, as follows:

Strike "SEC. 510." and all the following matter prior to page 2, line 14, and insert in lieu thereof the following:

"SEC. 510. (a) The Governmentwide average of all passenger automobiles acquired, on and after the expiration of the 120 days following the date of enactment of the Motor Vehicle Fuel Efficiency Act of 1990, for and by the agencies, departments, and other instrumentalities of the executive, legislative, and judicial branches of the United States Government in each fiscal year shall meet or exceed the fuel economy standard applicable under section 502(a) for the model year which includes January 1 of such fiscal year, and for model years 1995 and thereafter, shall meet or exceed the weighted national average fuel efficiency of new vehicles, determined by the Secretary in accordance with this Act, sold in the United States during the preceding fiscal year. Commencing with model year 1995 and each model year thereafter, the Governmentwide average of all light trucks purchased by such agencies, departments, and instrumentalities shall meet or exceed the weighted national average fuel efficiency of new such vehicles.".

On page 2, lines 14 and 17, redesignate subsections (c) and (d) as subsections (b) and (c), respectively.

OLDER WORKERS BENEFIT PROTECTION ACT

METZENBAUM (AND OTHERS) AMENDMENT NO. 2759

Mr. METZENBAUM (for himself, Mr. HATCH, Mr. PRYOR, Mr. HEINZ, and Mr. JEFFORDS) proposed an amendment to the bill (S. 1511) to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes, as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Older Workers Benefit Protection Act".

TITLE I—OLDER WORKERS BENEFIT PROTECTION

SEC. 101. Finding.

The Congress finds that, as a result of the decision of the Supreme Court in *Public Employees Retirement System of Ohio* v. *Betts*, 109 S.Ct. 256 (1989), legislative action is necessary to restore the original congressional intent in passing and amending the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), which was to prohibit discrimination against older workers in all employee benefits except when age-based reductions in employee benefit plans are justified by significant cost considerations.

SEC. 102. DEFINITION.

Section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630) is amended by adding at the end the following new subsection:

"(1) The term 'compensation, terms, conditions, or privileges of employment' encompasses all employee benefits, including such benefits provided pursuant to a bona fide employee benefit plan.".

SEC. 103. LAWFUL EMPLOYMENT PRACTICES.

Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended—

(1) in subsection (f), by striking paragraph (2) and inserting the following new paragraph:

"(2) to take any action otherwise prohibited under subsection (a), (b), (c), or (e) of this section—

"(A) to observe the terms of a bona fide seniority system that is not intended to evade the purposes of this Act, except that no such seniority system shall require or permit the involuntary retirement of any individual specified by section 12(a) because of the age of such individual; or

"(B) to observe the terms of a bona fide employee benefit plan—

"(i) where, for each benefit or benefit package, the actual amount of payment made or cost incurred on behalf of an older worker is no less than that made or incurred on behalf of a younger worker, as permissible under section 1625.10, title 29, Code of Federal Regulations (as in effect on June 22, 1989); or

"(ii) that is a voluntary early retirement incentive plan consistent with the relevant purpose or purposes of this Act.

Notwithstanding clause (i) or (ii) of subparagraph (B), no such employee benefit plan or voluntary early retirement incentive plan shall excuse the failure to hire any individual, and no such employee benefit plan shall require or permit the involuntary retirement of any individual specified by section 12(a), because of the age of such individual. An employer, employment agency, or labor organization acting under subparagraph (A), or under clause (i) or (ii) of subparagraph (B), shall have the burden of proving that such actions are lawful in any civil enforcement proceeding brought under this Act; or";

(2) by redesignating the second subsection (i) as subsection (j); and

(3) by adding at the end the following new subsections:

"(k) A seniority system or employee benefit plan shall comply with this Act regardless of the date of adoption of such system or plan.

"(1) Notwithstanding clause (i) or (ii) of subsection (f)(2)(B)—

"(1) It shall not be a violation of subsection (a), (b), (c), or (e) solely because—

"(A) an employee pension benefit plan (as defined in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2))) provides for the attainment of a minimum age as a condition of eligibility for normal or early retirement benefits; or

"(B) a defined benefit plan (as defined in section 3(35) of such Act) provides for—

"(i) payment that constitute the subsidized portion of an early retirement benefit; or

"(ii) social security supplements for plan participants that commence before the age and terminate at the age (specified by the plan) when participants are eligible to receive reduced or unreduced old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.), and that do not exceed such old-age insurance benefits.

"(2)(A) It shall not be a violation of subsection (a), (b), (c), or (e) solely because following a contingent event unrelated to age—

"(i) the value of any retiree health benefits received by an individual eligible for an immediate pension; and

"(ii) the value of any additional pension benefits that are made available solely as a result of the contingent event unrelated to age and following which the individual is eligible for not less than an immediate and unreduced pension,

are deducted from severance pay made available as a result of the contingent event unrelated to age.

"(B) For an individual who receives immediate pension benefits that are actuarially reduced under subparagraph (A)(i), the amount of the deduction available pursuant to subparagraph (A)(i) shall be reduced by the same percentage as the reduction in the pension benefits.

"(C) For purposes of this paragraph, severance pay shall include that portion of supplemental unemployment compensation benefits (as described in section 501(c)(17) of the Internal Revenue Code of 1986) that—

"(i) constitutes additional benefits of up to 52 weeks;

"(ii) has the primary purpose and effect of continuing benefits until an individual becomes eligible for an immediate and unreduced pension; and

"(iii) is discontinued once the individual becomes eligible for an immediate and unreduced pension.

"(D) For purposes of this paragraph, the term 'retiree health benefits' means benefits provided pursuant to a group health plan covering retirees, for which (determined as of the contingent event unrelated to age)—

"(i) the package of benefits provided by the employer for the retirees who are below age 65 is at least comparable to benefits provided under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); and

"(ii) the package of benefits provided by the employer for the retirees who are age 65 and above is at least comparable to that offered under a plan that provides a benefit package with one-fourth the value of benefits provided under title XVIII of such Act.

"(E)(i) If the obligation of the employer to provide retiree health benefits is of limited duration, the value for each individual shall be calculated at a rate of $3,000 per year for benefit years before age 65, and $750 per year for benefit years beginning at age 65 and above.

"(ii) If the obligation of the employer to provide retiree health benefits is of unlimited duration, the value for each individual shall be calculated at a rate of $48,000 for individuals below age 65, and $24,000 for individuals age 65 and above.

"(iii) The values described in clauses (i) and (ii) shall be calculated based on the age of the individual as of the date of the contingent event unrelated to age. The values are effective on the date of enactment of this subsection, and shall be adjusted on an annual basis, with respect to a contingent event that occurs subsequent to the first year after the date of enactment of this subsection, based on the medical component of the Consumer Price Index for all-urban con-

sumers published by the Department of Labor.

"(iv) If an individual is required to pay a premium for retiree health benefits, the value calculated pursuant to this subparagraph shall be reduced by whatever percentage of the overall premium the individual is required to pay.

"(F) If an employer that has implemented a deduction pursuant to subparagraph (A) fails to fulfill the obligation described in subparagraph (E), any aggrieved individual may bring an action for specific performance of the obligation described in subparagraph (E). The relief shall be in addition to any other remedies provided under Federal or State law.

"(3) It shall not be a violation of subsection (a), (b), (c), or (e) solely because an employer provides a bona fide employee benefit plan or plans under which long-term disability benefits received by an individual are reduced by any pension benefits (other than those attributable to employee contributions)—

"(A) paid to an individual that the individual voluntarily elects to receive; or

"(B) for which an individual who has attained the later of age 62 or normal retirement age is eligible.".

SEC. 104. RULES AND REGULATIONS.

Notwithstanding section 9 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 628), the Equal Employment Opportunity Commission may issue such rules and regulations as the Commission may consider necessary or appropriate for carrying out this title, and the amendments made by this title, only after consultation with the Secretary of the Treasury and the Secretary of Labor.

SEC. 105. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this section, this title and the amendments made by this title shall apply only to—

(1) any employee benefit established or modified on or after the date of enactment of this Act; and

(2) other conduct occurring more than 180 days after the date of enactment of this Act.

(b) COLLECTIVELY BARGAINED AGREEMENTS.—With respect to any employee benefits provided in accordance with a collective bargaining agreement—

(1) that is in effect as of the date of enactment of this Act;

(2) that terminates after such date of enactment;

(3) any provision of which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)); and

(4) that contains any provision that would be superseded (in whole or part) by this title and the amendments made by this title, but for the operation of this section,

this title and the amendments made by this title shall not apply until the termination of such collective bargaining agreement or June 1, 1992, whichever occurs first.

(c) STATES AND POLITICAL SUBDIVISIONS.—

(1) IN GENERAL.—With respect to any employee benefits provided by an employer—

(A) that is a State or political subdivision of a State or any agency or instrumentality of a State or political subdivision of a State; and

(B) That maintained an employee benefit plan at any time between June 23, 1989, and the date of enactment of this Act that would be superseded (in whole or in part) by this title and the amendments made by this title but for the operation of this subsection, and which plan may be modified only through a change in applicabe State or local law,

this title and the amendments made by this title shall not apply until the date that is 2 years after the date of enactment of this Act.

(2) ELECTION OF DISABILITY COVERAGE FOR EMPLOYEES HIRED PRIOR TO EFFECTIVE DATE.—

(A) IN GENERAL.—An employer that maintains a plan described in paragraph (1)(B) may, with regard to disability benefits provided pursuant to such a plan—

(i) following a reasonable notice to all employees, implement new disability benefits that satisfy the requirements of the Age Discrimination in Employment Act of 1967 (as amended by this title); and

(ii) then offer to each employee covered by a plan described in paragraph (1)(B) the option to elect such new disability benefits in lieu of the existing disability benefits, it—

(I) the offer is made and reasonable notice provided no later than the date that is 2 years after the date of enactment of this Act; and

(II) the employee is given up to 180 days after the offer in which to make the election.

(B) PREVIOUS DISABILITY BENEFITS.—If the employee does not elect to be covered by the new disability benefits, the employer may continue to cover the employee under the previous disability benefits even though such previous benefits do not otherwise satisfy the requirements of the Age Discrimination in Employment Act of 1967 (as amended by this title).

(C) ABROGATION OF RIGHT TO RECEIVE BENEFITS.—An election of coverage under the new disability benefits shall abrogate any right the electing employee may have had to receive existing disability benefits. The employee shall maintain any years of service accumulated for purposes of determining eligibility for the new benefits.

(3) STATE ASSISTANCE.—The Equal Employment Opportunity Commission, the Secretary of Labor, and the Secretary of the Treasury shall, on request, provide to States assistance in identifying and securing independent technical advice to assist in complying with this subsection.

(4) DEFINITIONS.—For purposes of this subsection:

(A) EMPLOYER AND STATE.—The terms "employer" and "State" shall have the respective meanings provided such terms under subsections (b) and (i) of section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630).

(B) DISABILITY BENEFITS.—The term 'disability benefits' means any program for employees of a State or political subdivision of a State that provides long-term disability benefits, whether on an insured basis in a separate employee benefit plan or as part of an employee pension benefit plan.

(C) REASONABLE NOTICE.—The term "reasonable notice" means, with respect to notice of new disability benefits described in paragraph (2)(A) that is given to each employee, notice that—

(i) is sufficiently accurate and comprehensive to appraise the employee of the terms and conditions of the disability benefits, including whether the employee is immediately eligible for such benefits; and

(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

(d) DISCRIMINATION IN EMPLOYEE PENSION BENEFITS PLANS.—Nothing in this title, or the amendments made by this title, shall be construed as limiting the prohibitions against discrimination that are set forth in section 4(j) of the Age Discrimination in Employment Act of 1967 (as redesignated by section 103(2) of this Act).

(e) CONTINUED BENEFIT PAYMENTS.—Notwithstanding any other provision of this section, on and after the effective date of this title and the amendments made by this title (as determined in accordance with subsections (a), (b), and (c)), this title and the amendments made by this title shall not apply to a series of benefit payments made to an individual or the individual's representative that began prior to the effective date and that continue after the effective date pursuant to an arrangement that was in effect on the effective date, except that no substantial modification to such arrangement may be made after the date of enactment of this Act if the intent of the modification is to evade the purposes of this Act.

TITLE II—WAIVER OF RIGHTS OR CLAIMS

SEC. 201. WAIVER OF RIGHTS OR CLAIMS.

Section 7 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626) is amended by adding at the end the following new subsection:

"(f)(1) An individual may not waive any right or claim under this Act unless the waiver is knowing and voluntary. Except as provided in paragraph (2), a waiver may not be considered knowing and voluntary unless at a minimum—

"(A) the waiver is part of an agreement between the individual and the employer that is written in a manner calculated to be understood by such individual, or by the average individual eligible to participate;

"(B) the waiver specifically refers to rights or claims arising under this Act;

"(C) the individual does not waive rights or claims that may arise after the date the waiver is executed;

"(D) the individual waives rights or claims only in exchange for consideration in addition to anything of value to which the individual already is entitled;

"(E) the individual is advised in writing to consult with an attorney prior to executing the agreement;

"(F)(i) the individual is given a period of at least 21 days within which to consider the agreement; or

"(ii) if a waiver is requested in connection with an exit incentive or other employment termination program offered to a group or class of employees, the individual is given a period of at least 45 days within which to consider the agreement;

"(G) the agreement provides that for a period of at least 7 days following the execution of such agreement, the individual may revoke the agreement, and the agreement shall not become effective or enforceable until the revocation period has expired;

"(H) if a waiver is requested in connection with an exit incentive or other employment termination program offered to a group or class of employees, the employer (at the commencement of the period specified in subparagraph (F)) informs the individual in writing in a manner calculated to be understood by the average individual eligible to participate, as to—

"(i) any class, unit, or group of individuals covered by such program, any eligibility factors for such program, and any time limits applicable to such program; and

"(ii) the job titles and ages of all individuals eligible or selected for the program, and the ages of all individuals in the same

job classification or organizational unit who are not eligible or selected for the program.

"(2) A waiver in settlement of a charge filed with the Equal Employment Opportunity Commission, or an action filed in court by the individual or the individual's representative, alleging age discrimination of a kind prohibited under section 4 or 15 may not be considered knowing and voluntary unless at a minimum—

"(A) subparagraphs (A) through (E) of paragraph (1) have been met; and

"(B) the individual is given a reasonable period of time within which to consider the settlement agreement.

"(3) In any dispute that may arise over whether any of the requirements, conditions, and circumstances set forth in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H) of paragraph (1), or subparagraph (A) or (B) of paragraph (2), have been met, the party asserting the validity of a waiver shall have the burden of proving in a court of competent jurisdiction that a waiver was knowing and voluntary pursuant to paragraph (1) or (2).

"(4) No waiver agreement may affect the Commission's rights and responsibilities to enforce this Act. No waiver may be used to justify interfering with the protected right of an employee to file a charge or participate in an investigation or proceeding conducted by the Commission.".

SEC. 202. EFFECTIVE DATE.

"(a) IN GENERAL.—The amendment made by section 201 shall not apply with respect to waivers that occur before the date of enactment of this Act.

(b) RULE ON WAIVERS.—Effective on the date of enactment of this Act, the rule on waivers issued by the Equal Employment Opportunity Commission and contained in section 1627.16(c) of title 29, Code of Federal Regulations, shall have no force and effect.

TITLE III—SEVERABILITY

SEC. 301. SEVERABILITY

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

PRESSLER AMENDMENT NO. 2760

(Ordered to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to the bill S. 1224, supra, as follows:

At the end of the bill add the following new section:

SEC. . REDUCTION OF PAY OF MEMBERS OF CONGRESS.

(a) REDUCTION IN PAY.—For each month during fiscal year 1991 in which, by reason of a furlough or other employment action necessitated by a sequestration order under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902), the total amount of the pay paid to any Federal employee is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law, the rate of pay payable to a Member of Congress shall be reduced to the rate of pay established for such Member pursuant to law.

(b) COMPUTATION OF REDUCED PAY.—The rate of pay payable to a Member of Congress for any month referred to in subsection (a) shall be equal to the amount determined by multiplying the rate of pay established for such Member pursuant to law by the percentage reported to Congress for such month under subsection (c)(1)(D).

(c) DETERMINATION OF PERCENTAGE FOR COMPUTATION OF REDUCED PAY.—(1) No later than the first day of each month in fiscal year 1991, the Director of the Office of Management and Budget shall—

(A) determine whether, for a reason described in subsection (a), the total amount of the pay paid to any Federal employee in that month is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law;

(B) estimate the average of the percentages that would result by dividing the monthly equivalent of the annual rate of pay established for each such Federal employee pursuant to law into the total amount projected to be paid such Federal employee for such month;

(C) aggregate the percentages determined under subparagraph (B) for Federal employees for each agency and determine the highest average percentage for any agency; and

(D) transmit to Congress a written report containing the average computed under subparagraph (C).

(2) The Office of Personnel Management may use a statistical sampling method to make the estimates and determinations under paragraph (1).

(3) For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code.

(d) APPLICATION TO OTHER FEDERAL LAWS.—For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposed any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this section and shall apply to the first applicable pay period of members of Congress occurring on or after October 1, 1990. If the date of enactment of this section is after October 1, 1990, and the provisions of this section become applicable in the reduction of pay of members of Congress, all reductions which would have occurred if this section has been enacted as provided in subsection (b) and the amount of such reduction shall be recovered for the remaining pay periods for fiscal year 1991.

NOTICES OF HEARINGS

COMMITTEE OF CONFERENCE ON S. 1630, THE CLEAN AIR ACT

Mr. BAUCUS. Mr. President, the committee on conference on S. 1630, the Clean Air Act Amendments of 1990, will meet on Tuesday, September 25, at 3 p.m. Location to be announced.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Tuesday, September 25, 1990, beginning at 10 a.m., in 485 Russell Senate Office Building on H.R. 5063, the Fort McDowell Indian water settlement; S. 3084, the Fallon Paiute-Shoshone Water Rights Settlement Act; S. 2870, the Fort Hall Indian Water Rights Act of 1990; S. 2895, the Seneca Nation Settlement Act of 1990 and S. 381, a bill to provide Federal recognition of the Mowa Band of Choctaw Indians to be followed immediately by an oversight hearing on a proposal to establish Wounded Knee Memorial and Historic site.

Those wishing additional information should contact the Select Committee on Indian Affairs at 225-2251.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings on abuses in Federal student aid programs (part 3): Lenders, guarantee agencies, loan services and the secondary market.

These hearings will take place on Tuesday, September 25, 1990, at 10 a.m., and on Wednesday, September 26, 1990, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building. For further information, please contact Eleanore Hill of the subcommittee staff at 224-3721.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. BRYAN. Mr. President, I ask unanimous consent that the Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Monday, September 24, 1990, to examine the procurement problems involving the use of contractors by the Resolution Trust Corporation to administer the savings and loan bailout.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

WEEK OF THE ILLINOIS HOME CARE PROVIDER

● Mr. DIXON. Mr. President, I would like to take this opportunity to commend the hundreds of thousands of home day care providers in my State and throughout the country. We just recognized their efforts during Illinois' "Week of the Home Day Care Provider," September 9 through September 15, 1990.

I believe most of my colleagues would agree that providing home day

care for our Nation's children is an important job. The home day care providers are a frequently overlooked service group, and I am proud to commend them today.

Illinois has formed the State Home Day Care Association to support, guide, encourage, assist, and promote professionalism among all day care providers.

The association offers invaluable support to providers through assistance with licensing, record keeping, safety, and parent-provider difficulties. The State association promotes public communication and political activism through its work with legislative representatives.

Mr. President, I am proud to honor the Illinois State Home Day Care Association. We must all work together to supervise the care of our children, and to assist their providers in any way possible.

We are fortunate to have organizations such as the Illinois State Home Day Care Association which display care, compassion, and concern for fellow citizens. Such tremendous efforts and aspirations on behalf of our childrens' care providers deserve recognition and encouragement.●

IN HONOR OF LUCY NARVAIZ, A NEW MEXICO "POINT OF LIGHT"

● Mr. DOMENICI. Mr. President, I rise today to recognize Ms. Lucy Narvaiz for her selfless dedication to helping others. On August 10, 1990, President Bush named Ms. Narvaiz as the 218th "Point of Light." I am proud to join the President in bringing her efforts to light, so that her life may serve as a shining example for us all.

I have known and respected Lucy since we met at her graduation from the College of Santa Fe in 1984. I admired her then and pay tribute to her now.

As President Bush has stated, "If you have a hammer, find a nail. If you know how to read, find someone who can't. If you're not in trouble, seek out someone who is." Likewise, Lucy has devoted her life to the betterment of the world around her.

Lucy, 79, began her community service at the early age of 9 when she served as a translator for the people living in the village of Agua Fria. She was the only member of her village who spoke English. She would help her neighbors translate medical instructions, interpret tax forms, and read letters.

Eventually, she became the 4-H club leader, a position she held for over 19 years, teaching children how to grow, harvest, and preserve fruits and vegetables.

For the last 20 years, Ms. Narvaiz has been a volunteer tutor to Hispanics and Native Americans through the local community college, Literacy Volunteers of America, the Community Action Program, and the Senior Citizens Agency.

Lucy comes to the aid of new immigrants to the United States by finding them housing and employment. She also provides financial help to needy individuals until they are able to support themselves. Lucy is currently working to preserve one of New Mexico's great cultures through a book project which traces Hispanic traditions of the Sante Fe region.

Ms. Narvaiz truly is a remarkable woman. I hope that each of us will be inspired through her courageous efforts to become more active participants in our own communities.

Through this Presidential award, New Mexico and the United States salute the dedication of Ms. Lucy Narvaiz. She truly embodies the spirit of what President Bush meant when he referred to community volunteers as "one thousand points of light."●

THE PENINSULA CHILDREN'S CENTER IN PORTLAND, OR

● Mr. PACKWOOD. Mr. President, I would like to call your attention to an outstanding program in my State. The Peninsula Children's Center [PCC] has expanded the concept of a child care center in north Portland to address multiple community needs. The center serves 200 children from the ages of 5 weeks to 11 years, providing both full-day preschool care and before and after school care for 10 area elementary schools.

Low-income and single-parent families are well served by PCC's sliding fee scale. In addition, the center also works with the Portland Public Schools' Teen Parent Program, providing care for the children of teen parents, which in turn allows teen mothers the chance to continue their education secure in the knowledge that their children are receiving quality care.

The before and after school program is currently conducted at several sites. PCC is undertaking the enormous project of purchasing and renovating a new site for its center, which will enable it to house the before and after school program in one central location. Furthermore, the building project will add space for 50 additional children, which will create 5 permanent jobs for low-income persons. When the building project is completed, Peninsula will generate an annual payroll of $400,000, a significant contribution to a local economy mostly of small businesses. PCC enjoys widespread local support, as well as support from numerous charitable organizations throughout the country for the building project.

PCC is located in an area of Portland that has been experiencing problems with drugs, crime, and gangs. There is a large low-income population and a high population of at-risk children. PCC hopes to foster a climate that will enhance revitalization efforts in its community, as well as serve the needs of at-risk children.

PCC has a well-developed plan to achieve the successful completion of its inspiring goals. I bring this program to your attention as a model of creative vision in serving community needs. This program creates an atmosphere of hope for many Portland children.

I commend the efforts of, and thank, the Peninsula Children's Center for its contribution to Oregon and, by its leadership, to other States as well.●

TRIBUTE TO J. THOMAS MONTGOMERY, PACOIMA, CA

● Mr. WILSON. Mr. President, it is with great pleasure that I rise today to commend the exemplary community service that Mr. J. Thomas Montgomery has demonstrated to Pacoima, CA.

In recognition of his extraordinary accomplishments in promoting health care for the medically indigent, Mr. Montgomery was the recipient of the 1990 John Gilbert Award on September 11 from the National Association of Community Health Centers [NACHC]. This national honor is presented annually to the individual who best champions the cause of those who are in need of appropriate and adequate health care.

His contributions over the past 20 years to his country and community are seemingly endless. A decorated World War II veteran, Mr. Montgomery has served on countless boards and committees in Pacoima; yet it is his commitment to health care that is the most laudatory and outstanding. Understanding the growing need for health care for the poor, Tom Montgomery, as he is known to those familiar with health centers, has been a vital spirit in developing the consumer interests which lie at the core of the Health Center Movement. He has successfully represented those interests as the first president of the consumer affiliate of the National Association of Community [nee Neighborhood] Health Centers [NACHC] and as the Association's second (and longest-serving) consumer representative to the executive committee, succeeding Ethel Bond.

After NACHC became a nationally recognized organization, Tom realized that it could serve as a focal point from which consumers could network within the new organization. Tom Montgomery remains at the heart of the health consumers network in his capacity as president of the board of directors of the Northeast Valley Health Corp.

I am proud to salute the tremendous accomplishments Tom Montgomery has made to the city of Pacoima and to congratulate him on receiving the John Gilbert Award from the NACHC. His bold and effective consumer advocacy on behalf of his fellow Californians has deservedly received national acclaim, as he continues to make a profound difference for the better in our society.●

COMPREHENSIVE TREATMENT PROGRAM FOR PREGNANT WOMEN

● Mr. DECONCINI. Mr. President, as a result of grants from the Office of Substance Abuse Prevention, Pima County, AZ, will soon have a watershed, comprehensive treatment program for addicted pregnant women and their infants. This is a cooperative effort by the University Medical Center, AMITY, Inc., CODAC Behavioral Health Services, and La Frontera. The services—never before offered on this scale—will provide a continuum of care for addicted women and their children and will include substance-abuse counseling, prenatal care, parenting skills, relationship skills, health care, AIDS prevention, transportation, and therapeutic child care.

At the press conference announcing the awards, Naya Arbiter, director of services at AMITY, delivered a statement which went to the heart of the problem facing women addicted to drugs and alcohol: The critical shortage of treatment programs available to women. Despite recommendations of researchers over the past two decades, women and children have been the lowest priority in terms of delivered drug treatment services. A 1990 survey conducted by the National Association of State Alcohol and Drug Abuse Directors, Inc., estimates that 280,000 pregnant women in this country need treatment, yet only 1 in 10 receive any help.

We must increase the treatment opportunities for women. As Ms. Arbiter so perceptively points out, "If one woman turns her life around," it impacts "an entire family system and can insure a life worth living for the children yet to be born." Mr. President, I ask that Naya Arbiter's statement be printed in the RECORD in its entirety, and I highly recommend it to my colleagues.

STATEMENT OF NAYA ARBITER

In September of 1962 the White House hosted the first Presidential Conference on Drug Abuse. Twenty-eight years ago, it was noted by Senator Thomas Dodd that as long as people demanded drugs, drugs would be made available. He said, "The higher the risk, the higher the price, the higher the profit". The results of that conference and the testimony given were that treatment programs opened, first on the East Coast and then around the United States. Although the sixties saw the beginning of treatment, these treatment programs were designed for and run by men. In 1974, the National Institute on Drug Abuse established its program for women's concerns. In 1976, Public Law 94-371 was passed granting priority consideration for the funding of women's treatment programs. However, children were still not included. Women continued to be tragically underserved.

A 1980 (NIDA) study showed that 70% of addicted women had been raped or molested prior to their substance abuse. In the early 1980's when a random sample was taken of drug treatment programs in the United States, 80% of them did not address any issues of sexuality. In fact, 40% of the drug-dependent women who had been interviewed reported sexual harassment within the program itself.

Women continued to be tragically underserved. In three decades, most treatment programs and services have been designed for white, high verbal males. The majority of research has bene done on that population. The addiction of profile of the male rather than the female addict. Drug treatment programs were not designed for: the convict or felon who is a women, the children of those women, the woman who is a drug-using prostitute who gets raped on a average of 30 times per year, the woman who has no skills, the pregnant teen-ager or the 14-year old drug-using girl of any race, color or creed. Drug treatment programs have not been designed for the woman who has been used, sold, beaten, photographed naked, violated, conquered, degraded and exploited. The female addict has been considered sicker, more negative and more difficult to deal with. She has frankly been ignored.

This attitude has been repeated not only in the treatment field, but in corrections as well. When innovative approaches are developed for male offenders, they are not typically put into the female institutions. Working in a female prison in most states is considered the end of the career path for corrections personnel. When we talk of the overcrowding of prisons, we think of men. We do not think of the California Institute for Women where 85% of the inmates are drug users. This is the largest prison for women in the free world. Built for 900 women in 1952, it houses 2,600 with no aid, no programs and sometimes as many as 70 live births a month. Women continue to be tragically underserved, and women are still the primary care givers in our society. Our apathy and our indifference has cost us dearly. Today, according to the Department of Justice Drug Use Forecasting statistics, in Phoenix, Arizona, 70% of all women arrested test positive for drugs. In Portland, Oregon, 72% of all women arrested test positive for drugs. In Philadelphia, 90% of all women arrested test positive for drugs.

In the midst of this tragedy are a few research studies that have tracked those women who have accessed treatment. Significantly, the women who do access treatment and stay in treatment do better than their male counterparts (see references). This has been true around the country, and this was true at Amity. For five years, we were able to run a small pilot project including women and their children. Our services were tailored specifically for those women. The most successful group of women were those who were able to participate in treatment with their children. More than 80% of them are clean and functioning today. If one woman turns her life around, it turns an entire family system and can insure a life worth living for the children yet to be born.

In Tucson, Arizona, the lack of services has manifested itself in many ways. In the jail project that Amity runs, in conjunction with the Sheriff's Department, the 90 women that have participated represent 164 children. By positively affecting 90 women's lives, the lives of 254 are touched. Of those 90 women the addiction histories of the mothers are always longer. Why? Because frustrated courts respond to young mothers and without treatment alternatives, these mothers are placed back on the streets over and over again rather than being mandated to treatment where they would be separated from their children. What happens to these children? We know that one of the biggest predictors of substance abuse is the substance abusing parent incarcerated in Arizona. These same children started on an average experimenting with drugs at the age of nine. These are the children of the mothers that we did not reach one generation ago.

In launching our drug war, we have identified the enemy. We have objectified the enemy and given the enemy names and labels. We have rejected the enemy and developed a set of prejudices to justify and continue our fight. Yet we do not have the experience in our culture of fighting a war and welcoming the enemy back into the fold. We are not skilled in separating the bad behavior from the person who has a positive possibility. We have not targeted the primary care givers of our next generation—women. The drug war has resulted in a long waiting list for the wounded. Those on the end of the line are women and children.

The grants discussed here today are a watershed for Arizona. This is the first time that services will be made available on this scale for addicted women and their children. These grants recognize that addicted and pregnant women cannot help themselves without help from others. They recognize that young drug-using mothers will access help for themselves and their families if that help is available. These grants recognize that there is a crying need for such help. Amity will be providing substance-abuse counseling; a drop-in center that will serve as a resource center, teach parenting skills, relationship skills, health care and AIDS prevention and therapeutic day care. We will network with all other community agencies; with an inter-disciplinary approach we can make a significant difference for the woman whose lives we will be able to touch.

I would particularly like to thank Senator Dennis DeConcini for his hard work in making this day possible and also two of his staff, Tim Carlsgaard and Lynn Kimmerly, who have worked many hours for a number of years helping in this effort.

AMITY, INC.

[149 Women who participated in the Amity Therapeutic Community (1981–87)]

Total enrollment	Number of entries	Clean person days	Average length of stay	Prostitution	IVDA	IV and Pros.
Mothers at Amity without children	50	9,844	197	22	24	17
Childless women	86	28,299	329	22	40	20
Mothers at Amity with children	17	8,919	525	8	9	4
Total	153	45,062	295			

Women's services need to be expanded, particularly in view of the AIDS crisis. Following is a snapshot of a portion of Amity's Women's Services recipients in 1989:

35 women, February, 1989 Amity Therapeutic Community,

Of 35 women currently in treatment:	
Intravenous drug abusers	24
Histories of prostitution	15
Average years of prostitution	2.8
Combined total of children	41
Number on probation	15

35 women, February, 1989 Amity Therapeutic Community,—Continued

Amity as first treatment alternative	16
Arrested between 1 and 5 times	9
Arrested between 6 and 10 times	7
Arrested over 11 times	9
No arrests	10

Percent of the IVDA's who consistently reported sharing needles over a two-year period: 100.

Percent of the women who reported practicing safe sex by the ocassional use of a condom: 15.

The estimated sexual partners for these 35 women during a two-year period: 21,000.

Out of 15 prostitutes, all reported acquiring a sexually-transmitted disease at least once during the period of time they prostituted; 14 reported continued sexual activity without appropriate medical treatment.

According to the June, 1988 Center for Disease Control Report the rank of Arizona in the U.S. in newly reported AIDS cases: 17.

DRUG USE BY ALL ARRESTEES [1]

City	Percent (0 20 40 60 80 100)	Range of percent positive: Low	Date	High	Date	Percent positive [1]: 2+Drugs	Cocaine	Marijuana	Amphetamines	Opiates	PCP
Males											
New York	84	76	4/89	90	6/88	41	77	24	0	20	2
San Diego	83	66	6/87	85	1/89	52	42	46	37	23	6
Philadelphia	81	79	8/88	84	4/89	33	73	25	1	8	1
Los Angeles	76	69	10/87	77	4/88	30	57	25	6	14	5
Houston	70	61	1/88	70	7/89	24	58	24	2	3	0
Cleveland	70	66	2/89	70	8/89	17	58	18	0	4	2
Ft. Lauderdale	69	62	8/88	71	3/88	27	52	32	0	3	0
Wash., D.C.	68	68	9/89	72	2/89	24	61	13	0	8	11
Detroit	67	62	4/89	69	10/88	22	57	24	0	6	[2]
New Orleans	65	58	1/88	76	4/89	24	56	23	0	5	2
Dallas	65	57	12/88	72	6/88	29	55	23	4	11	[2]
San Jose	65	[3]	[3]	[3]	[3]	25	35	27	11	7	13
Portland	64	54	1/89	76	8/88	28	37	35	10	15	0
Birmingham	63	63	8/89	75	7/88	21	52	22	[2]	5	[2]
Indianapolis	62	50	2/89	62	9/89	23	29	48	0	5	0
St. Louis	61	56	10/88	69	4/89	24	48	24	[2]	6	7
Phoenix	60	53	10/87	67	1/88	32	36	38	9	14	[2]
Kansas City	59	54	11/88	64	5/89	20	43	24	2	2	5
San Antonio	53	49	6/89	63	8/88	22	28	27	3	15	[2]
Females											
Philadelphia	90	77	1/89	90	7/89	34	75	18	0	17	0
Wash., D.C.	84	70	2/89	88	6/89	35	79	8	0	18	10
Kansas City	83	70	11/88	83	8/89	25	70	20	3	2	1
Los Angeles	80	72	7/88	80	7/89	38	67	14	6	20	7
Portland	79	69	1/89	82	8/88	35	57	24	16	27	0
New York	72	72	7/89	83	2/88	30	61	21	0	18	1
Fort Lauderdale	70	[3]	[3]	[3]	[3]	16	61	12	0	2	0
Phoenix	69	54	7/88	78	3/89	33	48	27	12	16	3
New Orleans	63	46	11/87	65	1/89	24	54	10	0	6	2
Houston	62	62	7/89	64	4/89	29	54	17	1	11	0
St. Louis	59	45	11/88	75	4/89	19	50	12	0	10	1
San Jose	59	[3]	[3]	[3]	[3]	21	30	10	12	8	17
Birmingham	56	56	8/89	77	4/89	19	43	12	0	4	0
San Antonio	55	45	2.89	55	9/89	32	36	16	5	22	0
Dallas	42	42	9/89	71	6/88	11	31	8	3	6	0
Indianapolis	42	42	9/89	47	2/89	10	22	23	0	[2]	0

Source: National Institute of Justice/Drug Use Forecasting Program.
[1] Positive Urinalysis, July through September 1989.
[2] Less than 1 percent.
[3] Datra not available.

Women—The Amity/Pima County Jail Project, 1987–89

The number of these women who are mothers	67
Total number of children represented	164
Average years of addiction for white women without children	7.1
Average years of addiction for white women who are mothers	12.5
Average years of addicition for hispanic women without children	8.7
Average years of addiction for hispanic women who are mothers	14.1
Average years of addiction for black women without children	5.8
Average years of addiction for black women who are mothers	8.2
Number of women who went on to long-term treatment	33
Total number of women rearrested: Of those rearrested that went on to prison	8

There have been 90 women who have participated in the Amity/Pima County Jail Project since its inception in 1987.

Men—The Amity/Pima County Jail Project, 1987–89

Total number of children represented	314
Average years of addiction for white men	12.7
Average years of addiction for hispanic men	10.5
Average years of addiction for black men	13.5
Average years of addiction for native American men	11.8

There have been 259 women who have participated in the Amity/Pima County Jail Project since its inception in 1987.●

CONCERNING THE AGE OF DIGITAL MUSIC

● Mr. D'AMATO. Mr. President, I rise today to address an issue that will profoundly affect one of America's great creative contributions to the entire world. During the 20th century America's musicmaking community—its composers, songwriters, musicians, and vocalists—have given the world the music which helped to define our age, and which binds diverse peoples together. Go anywhere on this planet today, turn on a radio, and chances are you will hear an American song.

Indeed, in an era where America's production and export ability is often in question, our music creating community continues to make and sell beautiful music the whole world loves. Perhaps no single element of American culture so influences the perception of America abroad. Our unrestrained creative energy, our ethnic and racial diversity, and yes, our often intense debate with ourselves, all come through in our music. From the timeless strains of the Russian immigrant Irving Berlin to the straining chords of the American song-poet Bruce Springsteen, American music cries freedom to a world that longs to hear it.

The issue that concerns me, Mr. President and my colleagues, is the

worldwide rush toward digitalization of music recording and transmission that could—if not properly managed—destroy our domestic music industry. That would have a particularly devastating economic effect in my home State of New York, but it would also diminish our entire Nation. Let me say right at the outset that neither I nor any of the people I have talked with in the music industry oppose the new digital age in music. Anyone who has heard a compact disc knows they are a wonderful improvement in sound.

That is not the issue. The problem comes when this pristine source of music is copied in violation of our copyright laws. And Mr. President, make no mistake about it, one of the fundamental reasons for the great success of America as center of creative and inventive genius over the years has been our copyright protections, which the founding fathers had the vision to enshrine in the Constitution. They could not have conceived in their wildest dreams that 200 years later we would be dealing with the potential to make unlimited exact copies of digitally recorded music, but the same principle that nurtured and protected generations of authors, composers, and inventors still applies: The creative product of the mind is a form of intellectual property that deserves just as much protection as our personal and real property. Indeed, in this information age, much of what is invented and created is intellectual property. From computer programs to music recordings, intellectual property is basic to our national economic and social well-being. It is no mere coincidence that one of the first things the newly freed nations of Eastern Europe are trying to establish is a system of protection of intellectual property that communism so ruthlessly denied.

Recently, Mr. President, we have witnessed what many consider to be the first shot in a war for the future of American music in the digital age. Through the marvels of technology—technology, I might add, that is itself protected by American patents—we now have digital audio tape machines, or DAT as its called, that can make an exact replication of a digital recording. The copy is a digital clone, with absolutely no degradation in sound quality. Imagine for a moment, Mr. President, that someone had invented a supermachine that could make an exact replica of, let us say, a compact disc player, without paying for patents or production licensing. Why the hardware manufacturers would be running to the courts and the Congress screaming for relief. And they would be right to holler, because no one should steal another's property or work. But what we face today is a potential for pilfering of intellectual property that is no less severe in its impact on its victims. These new DAT machines make it possible to make unlimited perfect copies of recordings that are protected works under our copyright law.

The people who make the music possible—the composers, songwriters, publishers, and recording manufacturers, would see their intellectual property lifted right before their very eyes and ears. That is just not right. And it is not fair. Maybe that is why at a hearing chaired early this summer by my distinguished friend, Mr. INOUYE, the American music-creating community presented such a convincing case against imposing a questionable technological fix to prevent unauthorized digital taping of prerecorded music. Some of the leading lights of American music made a stirring defense of the right of our musicmakers to be protected in their work from the potential heavy losses to DAT copying. The Senate has wisely heeded their complaint and not unilaterally imposed an unwanted technical solution to the enormous copyright questions raised by DAT.

Now there is new urgency to the plea for relief from digital copying given the dizzying pace of other changes that are literally on the horizon for digital music. Within the past few months several major communications companies have filed petitions with the FCC to begin digital transmission of music from satellites. These are not pie in the sky schemes. This summer the Canadian Broadcasting Co. conducted a pilot test for a national digital satellite music system that could be in place in just a few years. Imagine, compact disc quality music from the sky. And imagine too the potential for receiving and taping digital music directly from satellite to DAT. And just down the road are a new generation of recordable/erasable compact disc machines and even computer driven music systems that will make music copying easier still. Are we to wait until the American music industry is destroyed, or until our local record stores and radio broadcasters are driven from the marketplace, before we act to manage this monumental change?

In the last analysis, Mr. President and my colleagues, this issue—like so many others—comes down to a question of fundamental fairness and the willingness of Congress to take the hard steps to do what is right. There is one simple and straightforward way to deal with digital highjacking of music. That way is not in my estimation to deny the American consumer the benefits of DAT, but to ask him or her to pay a fair share to copy digital music. And let us not stand for those who try to deter us from doing what is right here by intoning the incendiary tax bugaboo. We should not ask consumers to pay one more cent in taxes to the Government to own a DAT machine, or buy a DAT tape.

But it is not unreasonable to ask consumers to pay for the music they use and enjoy. When we buy a book, we do not balk at the royalty paid the author. When we go to a movie, we do not jump the turnstile to get a free look. When we visit a park or go fishing we do not argue with the rangers about paying the price of admission to share in the beauty and bounty of our land and its resources. Why then, when we buy a blank tape for the express purpose of copying a protected work of musical art, should anyone denounce the idea of a portion of the purchase price going to pay a royalty to the people who gave us the music we think enough of to want to copy it in the first place.

Mr. President, many other progressive nations around the globe have recognized the legitimate claim of the creators of music to fair compensation for the use of their prerecorded works for unauthorized copying. Much of Europe already requires the payment of royalties to music creators out of the proceeds from the sale of blank audio cassettes, including analog as well as digital tapes. Now the entire European Economic Community is considering extending this protection communitywide as an element of the impending economic integration of Europe. Our American music creators are not even asking for that much relief. They have practically conceded the considerable losses from analog recording and seek only to obtain protection from the newly introduced digital copying systems. Why then, when our American musicmakers have asked for such reasonable assurance against future losses, should we be so loathe to extend protection that our European counterparts are already providing. Pardon the pun, my colleagues, but that is a heck of a way to harmonize our trade policies as they relate to the music world.

Instead let American get in tune with the worldwide trend toward protecting musicmakers. Let us have the whole world singing from the same sheet of music when it comes to encouraging those who give us the music that lightens and inspires our lives. And finally, to paraphrase the old adage, let us not balk when it is time to pay the piper.●

TRIBUTE TO SMSGT DAVID M. ORANGE, SR.

● Mr. McCONNELL. Mr. President, I would like to take a moment to inform my colleagues of the accomplishments of SMSgt. David M. Orange, Sr., of Louisville, KY. Sergeant Orange has recently been named one of the Air Force's 12 Outstanding Airmen of the Year.

Serving as a combat control supervisor with the 123d Tactical Airlift

Wing, Kentucky National Guard, Sergeant Orange's first exposure to our military was in the U.S. Marine Corps. While in the Guard, he has distinguished himself in the combat control field, and by successfully completing jump masters school.

Mr. President, I ask that a brief narrative of Sergeant Orange's accomplishments appear in the RECORD so that my colleagues may appreciate his commitment and dedication to our country's defense.

The narrative follows:

SMSgt. David M. Orange, Sr., Combat Control Supervisor, combat control team, 123d Tactical Airlift Wing, Kentucky Air NationaL Guard, Lousiville. The ANG is a second military career for Sergeant Orange, who first served in the Marine Corps. In the Corps, he was an E-6 by age twenty-two. In the Guard, Sergeant Orange has become a role model for those in the Combat Control field. This career path is new to the Reserve Forces, and Sergeant Orange has organized a complex schedule of tasks necessary to maintain the Combat Control Team's readiness. He coordinates his team's activities with the Joint Airborne Air Transportability monthly conferences, the National Guard Bueau, and Military Airlift Command.

Sergeant Orange completed the Combat Control training pipeline, which has a washout rate of eighty percent. In addition, he attended Jump Master School even before completing required minimum time on jump status and passed the course.

Sergeant Orange further distinguished himself at Combat Control School by earning two top honors: the Jerome Bennett Award for demonstrating the highest qualities of leadership and professionalism and the Honor Graduate Award for earning the highest academic and performance grades.

DEAR SENATOR MCCONNELL: I am honored to inform you that SMSgt David M. Orange, Sr., from Lousiville, KY, has been named one of the Air Force's 12 Outstanding Airmen of the year. These dozen airmen, presented each September at the AFA's National Convention, represent the best of the force.

Enclosed for your convenience is a brief narrative of the individual's accopmlishments.

LT. COL. JIM TAPP,
Chief, Senate Liaison.●

NOMINATIONS OF DAVID HACKETT SOUTER

● Mr. DECONCINI. Mr. President, I am announcing today my decision on the nomination of David Hackett Souter to be an Associate Justice of the U.S. Supreme Court. After studying his judicial record and participating in his confirmation hearings, I have decided to vote in favor of the nomination.

As I have so often said in the past, I believe that the constitutional responsibility to "advice and consent" on the President's nominee to the Supreme Court is one of the most important responsibilities granted to a U.S. Senator. For Judiciary Committee members, that duty becomes more acute since we are entrusted with the role of determining the nominee's identity and philosophy.

Once again, the hearings have proven to be a critical part of the nomination process. I would like to commend Chairman BIDEN and the ranking member, Senator THURMOND, for their stewardship in these hearings. They have done a remarkable performance in conducting these fair and impartial proceedings.

In Judge Souter, President Bush nominated an individual with intellectual ability, integrity, and judicial temperament. He has a wealth of experience as a State attorney general and a State supreme court justice. Indeed, he has devoted his life to public service. Over the 5-week period between the announcement of Judge Souter's nomination and the onset of his hearings, I had the opportunity to read numerous opinions written by Judge Souter. Opinion after opinion exhibited clear and concise legal reasoning. His writing reflected a great understanding of the legal issues before him.

In addition to his impressive credentials, Judge Souter received great accolades from his colleagues and lawyers who appeared before him. They praised his fairness, temperament and judicial skill. He was unanimously given the American Bar Association's highest ranking for this post.

My initial impression of Judge Souter was very positive. However, I stated at the outset of the hearings, there was still much to learn about Judge Souter. Supreme Court justices possess tremendous power in our system of government. Thus, it is essential that each Senator feel secure placing our individual liberty, freedoms and the future of our country in the nominee's hands. We needed to know how Souter would handle the great constitutional issues of our day.

Throughout the hearings, I personally believe that the nominee was forthcoming in his responses regarding issues that he was at liberty to discuss. During his 3 full days of testimony, Judge Souter was asked questions on a wide range of topics regarding his attorney general briefs, his State court decisions, and his opinion on settled constitutional law. At times, Judge Souter refrained from answering questions on controversial areas of the law. I do not challenge his prerogative to draw a reasonable line on the propriety of answering certain questions. We may quibble where he did in fact draw the line, but this Senator was left satisfied with his responses.

It was not too long ago when he had nominees who would stonewall this committee. That strategy will no longer be tolerated. As Chairman BIDEN so eloquently stated at the outset of these hearings, the Senate and the American public have a right to know where David Souter stands on these great issues. Now that the hearings have concluded, I believe we can envision what sort of Justice David Souter will become.

From the beginning he alleviated the concerns of many of my colleagues and myself in recognizing a general right-to-privacy in the Constitution. I believe that right does exist in the Constitution and that it is fundamental to the liberty and freedom that each American believes the Constitution protects.

It also became quite evident that Judge Souter did not have a hidden agenda he would attempt to impose upon the Court. Instead, Judge Souter is a proponent of judicial restraint. He respects and defers to precedent. He understands the respective powers of the three branches of Government. Most importantly, he understands the role of the Court in our system and its duty to protect individual liberties.

No one in this body will ever be satisfied with every response of a nominee. I would have liked to have heard Judge Souter's own standard for gender discrimination under the equal protection clause. But I feel confident that he will not attempt to dismantle the protections the Court has provided in this area.

Changes in the Court's composition are disruptive but inevitable. Justice Brennan's retirement is indeed a turning point in the history of the Supreme Court. Although I disagreed with some of Justice Brennan's decisions, no one can deny his mark on the Court or his place in history. In that respect, Judge Souter, as he so candidly admitted, has some pretty big shoes to fill. He will, I believe, serve the Court and our country well.

We have no absolute assurances how any nominee or sitting Supreme Court Justice would vote. The Constitution does not entitle the Senate such a guarantee. Our ability to predict a justice's future decisions is limited. Justices have changed their positions from time to time. Throughout their careers they face constitutional issues never contemplated at the time of their nomination. Thus, the ultimate question we as Senators must ask ourselves is whether we feel secure entrusting him with the tremendous responsibility of protecting the rights embodied in our Constitution. I feel confident that Judge Souter will guard these rights judiciously.

In the end, I believe the process worked. President Bush presented us with a nominee possessing intellectual excellence, integrity, judicial temperament and experience. The Committee thoroughly examined the nominee and questioned him on the great constitutional issues of our day.

I honestly believe that President Bush chose Judge Souter because he

will be a fair and open-minded jurist. And, most importantly, as he so often stated during the hearing, he will listen. He was not chosen to turn back the clock on the great constitutional principles of our day. Through the hearings the members of this committee and the American public heard an individual with a great understanding of the Constitution and the role of the Court in protecting our individual liberties. I urge my colleagues to confirm Judge Souter.●

IONA COLLEGE 50TH ANNIVERSARY

● Mr. D'AMATO. Mr. President, from one building and a total of 93 students, Iona College has grown over the last half-century both in size and diversity, as well as in the focus and reach of its programs.

Founded in 1940 by the Congregation of Christian Brothers, Iona takes its name from an island located in the Inner Hebrides, just off west coast of Scotland. There the Irish monk, Columba, established an abbey from which missionaries went forth to teach and evangelize. The island of Iona beame a beacon of faith and learning which contributed significantly to the civilization and cultural development of Western Europe.

The strength of this heritage still endures at Iona 50 years after its establishment, both in the commitment to its founding principles and in the resolve to discover new ways of expressing those principles in our ever-changing time.

With an enrollment of 7,000 students from all over the Nation and around the world, Iona has emerged as the 16th largest independent college in New York State. And it has grown in strature as well as size. Iona has taken a leading role in harnessing the forces of technological and global change and tying them into the traditional liberal arts and business administration curriculum. Through alumni support and the backing of prestigious foundations and corporations, Iona has been able to build new academic facilities, such as the Murphy Science and Technology Center. They have also expanded the range of its academic programs, offering four undergraduate degrees in 47 major fields, 17 separate graduate degrees, four post-master's programs, and several other post-graduate programs.

Throughout this period of expansion, Iona has worked to preserve the spirit of individual self-esteem and mutual respect—the genuine spirit of community—which characterized the college in its early days. I would like to take this opportunity to commend Iona College for its 50 years of dedication to academic excellence. During the past half-century, Iona has grown into one of New York's most respected educational institutions, and has truly lived up to its goals of scholarship, vision, and service.

CIRCLE OF POISON

● Mr. WILSON. Mr. President, this morning I would like to set the record straight on the circle of poison provisions of the 1990 farm bill.

This long overdue legislation, which incorporates provisions found in several bills which I have introduced during the last 3 years, will protect our food supply and our environment from illegal pesticides. It does so in a manner that respects the legitimate needs and interests of manufacturers and provides the flexibility needed to meet serious emergencies such as famine or plague and to encourage the development of new, less hazardous products. The Senate farm bill's circle of poison provisions that I and my colleagues on the Agriculture Committee worked so hard to draft is a responsible solution to a pressing problem. The House has made less rigorous circle of poison provisions part of their farm bill and the conference committee will soon meet to iron out the differences.

Of course there will be spirited debate on the exact terms of the final version which both the House and Senate will adopt. This is as it should be. But the debate must be fair and honest. Sadly, there are signs that this may not be the case.

One chemical company has circulated a deceptive letter to "Friends of Agriculture" which warns that "The Senate version prohibits the export of unregistered pesticides—no exceptions." This is not true, and they know it. In addition to allowing the export of unregistered pesticides for research or in cases of plague or famine, the Senate farm bill allows the export of unregistered pesticides whose active ingredient is the subject of a food tolerance; that is, a determination that it may be safely allowed on food. This latest provision was added by the Agriculture Committee to deal with pesticides which are used on crops such as coffee and bananas which are a large part of the American diet but are not grown here.

It is not necessary to register pesticides for use in the United States if they are not used here, and the bill drafted by the Agriculture Committee and adopted by the Senate does not impose that sort of senseless, makework burden on American manufacturers. But we know that today Americans eat from a global food basket and that if a pesticide is exported for use on food grown overseas, it will surely find its way to our dinner tables. Such a pesticide must be proven safe for our children's food. Thus the Senate farm bill allows the export of unregistered pesticides that are the subject of a food tolerance under the Food Drug and Cosmetic Act. Chemical manufacturers know this and have discussed the consequences of this with Agriculture Committee staff. Why then is a letter circulating that denies the existence of this carefully crafted provision?

This same letter says that the Senate farm bill will require U.S. companies "to wait until registration is achieved in the United States before testing and marketing products in other countries", thereby chilling U.S. R&D efforts. Again, this is untrue. As I mentioned earlier, the bill which we on the Agriculture Committee drafted allows the export of unregistered pesticides for experimental use including field testing. It simply requires that the manufacturer give to the government of the country where the experiments will be conducted a package of product safety data that is comparable to the data that one must make available to Americans before one may conduct pesticide experiments in the United States. The government of the country to which the experimental pesticide is being sent must also consent to the experiments which the manufacturer proposes to conduct on its soil. These perfectly reasonable provisions were added to our committee's bill in response to specific comments by domestic manufacturers.

Trade groups have also contributed to the stream of misinformation concerning the circle of poison bill. One trade journal claims that the bill imposes a "ban on research shipments" of pesticides. Again, the persons involved now that this is patently false.

As I said earlier, all of us expect a spirited debate on this bill. However, we must not allow our debate to be corrupted by those who would place falsehoods before us. Whoever engages in such behavior should know that the truth will eventually come out. Indeed we must wonder why such tactics are ever used at all.

I would be deeply offended if misinformation is being spread for the purpose of frightening Senators and Congressmen in the hope of scuttling this bill. I am certain that all of my colleagues, especially my colleagues on the Agriculture Committee who worked so hard to draft a good bill, would be similarly offended by such cynical manipulation.

I ask that all Senators join with me in urging our conferees to ignore any calculated deceptions and to consider the circle of poison provisions on its merits. I am confident that, upon doing so, the conferees will report back to us with a strong bill that preserves the provisions that were carefully wrought by our Agriculture Committee and adopted by the Senate.●

AWARD GOES TO FATHER-SON TEAM

● Mr. LEVIN. Mr. President, I rise today to pay tribute to George Curis, Sr. and George Curis, Jr., the father-son team who are this year's recipients of the March of Dimes "Alexander Macomb Citizen of the Year Award."

This duo is well-known, throughout metropolitan Detroit, for their Elias Brothers Big Boy Restaurants. George Curis, Sr., opened his first Big Boy restaurant in 1960. Currently, his three sons operate one of the largest franchisee chains in the Big Boy family. George Curis, Jr., serves as president of this franchise. His father is now president of Curis Management, Inc., which manages six different companies.

Despite their incredibly busy business schedules, both of these men devote a very considerable portion of their time to voluntary public service. George Curis, Sr., spends a good amount of his time working with the Capuchin Soup Kitchen. He is also actively involved with a number of charities, including; Boy Scouts of America, March of Dimes, and the Easter Seals. His son belongs to a large number of Michigan State University organizations. George Curis, Jr., also maintains an active role in the United Communities Services, March of Dimes, and the Easter Seals. Additionally, both of these men have dedicated much time, energy and financial assistance to the Catholic Church.

It is evident that George Curis, Sr., and George Curis, Jr., have made a life long commitment to helping the less fortunate. A wonderful example of this teams' selfless character is the emphasis they put on the March of Dimes' Award Dinner. In a statement to the press, they said, "The real award that night is knowing that the moneys raised through the benefit dinner and a silent auction will go to further birth defect research." Both generations of the Curis family can take well deserved bows upon receiving their award. I join the people of my State in congratulating the corecipients of this year's March of Dimes "Alexander Macomb Citizen of the Year Award."●

THE NOMINATION OF JUDGE DAVID SOUTER

● Mr. SHELBY. Mr. President, I rise today in support of the nomination of Judge David Souter to be an Associate Justice of the U.S. Supreme Court.

The advise and consent function, in regard to Supreme Court nominations, is one of the most important powers that a U.S. Senator possesses. However, before expounding further on the reasons that I support Judge Souter, I would first like to briefly examine my own approach to judicial nominees. I believe that a judge's only legitimate exercise of power is to apply the law to the facts of the case brought before him, under the proper judicial process, and to render a reasoned, unbiased decision. In particular, the law that a Justice of the Supreme Court must apply includes the Constitution, Acts of Congress, and prior decisions of the Supreme Court. Just as an ordinary citizen is bound by these three sources of law, so a Supreme Court Justice is bound.

If a judge were to deem himself not bound by the law, and decided cases on the basis of morality, personal or public opinion, then we would not have a government based on law. We would be faced with one of the great fears of the Framers of the Constitution, a government of men. Simply put, a dictatorship of the Judiciary.

I do not espouse a theory that judges are mere machines who look at only the letter of the law to decide cases. However, I do believe that a judge must work to ensure that his personal views do not become the basis for decisions.

I support Judge Souter because I believe that Judge Souter not only has a profound understanding of American constitutional law, but has a keen understanding of the role the Supreme Court plays in our society. Judge Souter, in his testimony, stated that judges are bound by the law. I believe that Judge Souter demonstrated in his 3 days of intense testimony before the Senate Judiciary Committee that he possesses the character, intellect, legal ability, and judicial temperament to become a great Supreme Court Justice.

I understand those individuals who have expressed concern about Judge Souter's refusal to be more forthcoming in testimony about specific issues. However, I do believe that Judge Souter was correct in refusing to respond to questions on how he will rule on specific cases that will come before the Court.

In his testimony before the Judiciary Committee, Judge Souter provided the Senate with some insights into his judicial philosophy. Judge Souter stated that the two important lessons that he learned from his days as a trial court judge were that:

First, whatever court a judge is in, whatever that judge is doing, whether it is on a trial court or appelate court, at the end of his task some human being is going to be affected; and

Second, judicial rulings affect the lives of other people and if a judge is going to change peoples lives by what he does, he had better use every power of his mind, of his heart, of his being, to get that ruling right.

Judge Souter, I hope you will remember those two lessons. When you join the Supreme Court, they will be even more important for a Supreme Court Justice than a trial court judge.●

TRIBUTE TO ISAAC STERN

● Mr. SIMON. Mr. President, one of the people who has been an inspiration through the years for my wife and me is Isaac Stern.

I have never had the privilege of meeting him, though I have talked with him on the phone.

Not only is he one of the world's greatest artists, recently he was interviewed by U.S. News & World Report and showed such eminent common sense that I thought my colleagues and staff members and others who read the CONGRESSIONAL RECORD would find it of interest.

I ask to insert the interview in the RECORD at this point.

The article follows:

ENCHANTING YOUR CHILD WITH MUSIC

When should a child be introduced to music?

Music is the most natural activity for a human being, and it should be a part of everyday life. A child should learn music just as he learns reading, writing and arithmetic; it should be just as central in his education. From the moment a child is born, he can be put to sleep with a song and awakened with a quartet by Haydn or a Bach cantata. There are dozens of wonderful musical videotapes for small children.

I was at Yo Yo Ma's the other day, and he had 30 videos and tapes in a basket for his children, classic tales like Kipling's Just So Stories set to music. They're put out by Sesame Street and Disney, by Puffin and Caedmon and even by Bobby McFerrin. Yo Yo told me he puts his kids to sleep with Mozart symphonies and Beethoven quartets—only the best-quality Muzak. You see, I believe in the subliminal power of what surrounds a child. Parents should have respect for that marvelously rich and questing thing called a child's brain. It's like a huge dry sponge, ready to absorb any kind of moisture you put near it. The more you feed it with good things, the more it will search for them.

When should formal musicial training start?

You can't really count on the normal child's span of concentration to be sufficient till the child is about 5 or 6. I know many parents are influenced by the Japanese system of teaching masses of even younger children by rote, but I don't think it's a great idea, because it becomes like teaching a kid how to pick up a fork: The child is put through a set of automatic physical maneuvers. But the child isn't learning because he wants to learn, and I think that's important from the very beginning.

It is most important to find a teacher who is passionate about music and knows how to reach a child. Education should be about discovery, about the exultation of being alive, the ecstasy of knowledge.

As for the kind of instrument, that depends on the child. The piano is probably best, because it is the musical instrument most closely connected with the way music is written—vertically, with chord structure and harmonic differences. But I think singing is a great thing to teach. There's a Hungarian system called the Kodaly [pro-

nounced ko-dye] system that I am very high on because it uses no instruments, just the human voice. Kids who learn this sytem do astonishing things musically, and their comprehension in mathematics, in logic and in reading also goes right off the graph. Even for "disenfranchised" kids, from different backgrounds and cultures, it works like magic. The teachers are carefully trained, and they use songs that are familiar to the child. They teach the kids hand signals corresponding to the notes of the scale, and professional terms like chord structure and key signature and cadence. The kids learn the melody, then the rhythm and then the words. I saw a class of 7-year-olds who were not in a music school take dictation of a melody from a teacher in Hungary. And when she asked, "Who's going to give me a Mozart cadence and a Haydn cadence and a Bach cadence?" three different kids did just that.

How do you feel about keyboards and other electronic instruments?

I realize that for today's kids, electronics are a way of life, and to some degree you have to give a kid his head and see where it leads him. But an electronic instrument can't breathe like the human voice or an acoustic instrument. It does not speak with the urgency that I can use sitting opposite you and looking at you and making you listen. What it can do is blast the living daylights out of you till you want to run out of the room screaming. The child is attracted to it because the instrument does all the work, so the kid doesn't have to. I suppose if you can teach your child just once to sing a melody without all those screaming hysterics, then let him have the other instrument. But remember that the hardest thing is simplicity.

Can pop music be part of teaching music to children?

You don't have to teach pop music to children. It's in the air. You can't turn on a television set without getting blasted by advertisements that use the kind of sound that reaches the most people in the shortest space of time, which is the very antithesis of any intellectual inquiry. You don't have to think; it thinks for you. You don't have to feel; it feels for you.

I'm not damning all pop music. I grew up with Benny Goodman and Count Basie and Ella Fitzgerald, people who were great artists, with a gentleness in their music. They were very healthy for the kids of their generation, just as the Beatles were very healthy for theirs. But some of today's more raucous, abrasive pop music not only irritates me but makes me fearful for the effect it has on thinking young minds. In some of this music, violence and the call to violence have become acceptable. It's not acceptable to me. I view the arts as freeing us from the slavery of our worst emotions. They're not a home for hatred.

So if you were a parent with teenage children . . .

I would be very careful what they listened to. I don't believe in censorship from the outside, because it never knows where to stop. But I do believe in the self-censorship of taste and education. And that's where the parent is responsible. It's not forbidding the kid to hear something. It's enchanting him with something else.

What should parents do if they believe they have an exceptionally talended kid, a prodigy?

They should have their heads examined. Oh, there are gifted children; I've seen so many hundreds of them. But prodigy is a terrible word. It is used too loosely, and it puts unnecessary baggage on the back of a very gifted child who may already have trouble handling the expectations of his elders. Children should be warmly and lovingly encouraged, not burdened. Most kids are gifted if you give them a chance.

If a child is serious about music, how long should he practice?

As long as he can concentrate. He needs to play at least a couple of hours a day. But if his attention span is 25 minutes, then let the practice be 25 minutes and then, later in the day, another 25 minutes. Hopefully, he'll learn the lesson that is best taught by the arts: That freedom comes only from discipline. I'm not talking about autocratic discipline. I'm talking about self-discipline. I personally don't think pushing a kid works.

Should young children be asked to perform for relatives or their parents' friends?

The very worst thing you can do is push kids to perform on demand. Of course, there should be a goal to work toward and an occasion to show other people what you can do. But that should be a joy, not a burdensome necessity. If the child says, "I don't want to," let him alone. Too often a kid is forced into a vicarious performance for his parents or teacher.

The other danger is that a kid will learn to be a showoff. Children's egos are easy to blow up far beyond what their talent merits. Let the kid perform with his friends, but don't show him off. Otherwise, he learns that his music is about impressing other people, rather than expressing something for himself.

Conversation with Miriam Horn.●

BLUE RIBBON SCHOOLS PROGRAM

● Mr. AKAKA. Mr. President, I rise today to extend my heartiest congratulations and deepest aloha to Aikahi and Waiahole Elementary Schools—winners in the 1989-90 Blue Ribbon Schools Program.

Education is an important priority of this country. Without educated citizens, we could not compete in the international markets or send qualified troops to defend and protect our Nation. In these trying economic times, we have placed greater accountability and increased demands on our schools. The Blue Ribbon Schools Program, or more commonly known as the School Recognition Program, brings attention to outstanding elementary and secondary schools across the country.

Based on stringent criteria, Hawaii nominated three exceptional elementary schools—Aikahi, Mokulele, and Waiahole. As a former teacher, principal, and administrator, I am proud and deeply honored to represent these schools in Washington.

Almost 500 schools were nominated during the 1989-90 selection process, and only 221 of those were recognized for their exemplary educational programs. Both Aikahi and Waiahole elementary were chosen as blue ribbon schools. In addition, Aikahi Elementary School received special honors for their excellent geography program.

Mr. President, the Blue Ribbon Schools Program is an educational program designed to improve our Nation's schools. Participating local school communities conduct self-evaluations to further pursue programs of excellence and create a sense of shared purpose. Technical assistance is also provided to bridge recognized programs with potential schools, thereby creating an environment in which all students—gifted, average, and those at risk—can learn.

I would like to commend the principals, teachers, parents, and most importantly the students, for their dedication and commitment to these worthy schools. With the cooperation of all those involved, schools become a learning and nurturing environment—an important factor in making a difference.●

HARKIN HONORED FOR COMMITMENT TO DISABLED

Mr. SIMON. Mr. President, I rise today to honor my friend and colleague, the Senator from Iowa, TOM HARKIN. Senator HARKIN is the 1990 recipient of the American Horticultural Therapy Association's Congressional Initiatives Award. As the chairman of the Subcommittee on Disability Policy, TOM HARKIN continues to be a tireless leader in the fight to ensure equal opportunity for Americans with disabilities. I want to congratulate Senator TOM HARKIN for this award and I ask that Senator HARKIN's remarks be included in the RECORD, as well as the remarks of the presentors of this distinguished award.

The material follows:

CONGRESSIONAL INITIATIVES AWARDS, SENATOR TOM HARKIN, MARCH 27, 1990

COMMENTS BY NANCY STEVENSON, PRESIDENT AMERICAN HORTICULTURAL THERAPY ASSOCIATION

On behalf of the sponsors of the 5th Annual Congressional Initiatives Award, I welcome you all to our luncheon and awards ceremony. My name is Nancy Stevenson and I am president of the American Horticultural Therapy Association. Since 1983 our association has assisted more than 1,400 persons with disabilities to become employed in horticulture and similar work and to prove to America that productivity need not be impaired or diminished by physical or mental disabilities.

The members of our association not only tend the garden but also tend to human growth and development. Through horticultural therapy they are helping in the physical rehabilitation and mental restoration of thousands of people with special needs—people who are physically, mentally, emotionally, or developmentally disabled; older adults; children and disadvantaged youth; people in correctional facilities; and others who can benefit from therapeutic exercise and outdoor activity.

The professional horticultural therapist can help those in need seek dramatic physical, educational, social, and psychological growth. In communities throughout the

country horticultural therapists are at work enriching the lives of more than 23,000 persons through horticultural therapy.

In a suburban Chicago senior center a 72 year old patient who has suffered a stroke navigates her wheelchair towards an upended drain tile full of a rich soil mix and begins to work the soil in preparation for planting a flower garden. In a New York rehabilitation center a blind child breaks into a broad grin as she savors the scent of the mint she has planted and carefully tended in her herb garden. In a Denver rehabilitation hospital a horticultural therapist assists a 30 year old paraplegic attach a full-arm cuff so he can manipulate a trowel. In Central Michigan a slender inmate serving a life sentence prunes a fruit tree and demonstrates his skill to a fellow inmate. In Suburban Washington, D.C. a mentally challenged youth is up at dawn preparing his lunch before a day of mowing and grounds maintenance at a federal facility.

Through horticultural therapy these individuals have been helped to lead happier, healthier and more productive lives. Each can benefit regardless of wealth, background, age, sex, country of national origin—or even political party.

Today we invite you to honor a member of the U.S. Congress who has helped us to make our work possible. I join our cosponsors the American Association of Nurserymen, The Florists' Transworld Delivery Association and the Society of American Florists in saluting his exceptional leadership. And now, I would like to introduce our cosponsor Mickey Oberlander, President, Florists' Transworld Delivery Association.

COMMENTS BY MICKY OBERLANDER, PRESIDENT FLORISTS' TRANSWORLD DELIVERY ASSOCIATION

Thank you, Nancy. Good afternoon and again, welcome to the American Horticulture Therapy Association's Congressional Initiatives Award Ceremony. I am pleased to stand before you today on behalf of FTD, to honor Senator Harkin.

Since 1985, FTD has been proud to participate in this award and it's commitment to both the disabled and the Floral industry. FTD applauds the work of AHTA and of Senator Harkin, because the small businesses in our industry, the floral industry, need the contributions to the workforce which can be offered by the disabled.

FTD now shares sponsorship of the AHTA awards ceremony with the American Association of Nurserymen and with the Society of American Florists and we are pleased to do so. And now, I'd like to introduce the Chairman of the National Horticulture Industry Council and the Executive Vice President of the American Association of Nurserymen, Lawrence Scovotto to present the award.

COMMENTS BY LAWRENCE SCOVOTTO, EXECUTIVE VICE PRESIDENT, AMERICAN ASSOCIATION OF NURSERYMEN

Ladies and Gentlemen, it is my privilege to introduce our Honoree this afternoon. Now more than ever our nation is recognizing the value of both our human and natural resources. In just the past few months Congress has begun consideration of a new "America the Beautiful" proposal to plant, maintain and improve one billion trees over the next several years, and the "Americans With Disabilities Act" to protect the rights of disabled Americans. Each of these landmark programs will provide a demanding challenge to our nation.

Indeed we all seek a greener and healthier America and one in which all in our society are recognized and permitted to participate fully. In the next few months we hope to see this vision take shape. Through a major public action campaign community organizations will begin to plant trees nationwide, while employers and others seek new ways to assure equality for all. Making our public transportation, public accommodations and places of employment more user-friendly for all will be our challenge.

Our honoree today has championed this vision of a better America. Elected to serve in Congress from Iowa's Fifth Congressional District in November 1974, he served for five terms. Senator Harkin was elected to the U.S. Senate in 1984. At his swearing in ceremony the Senator arranged to have a sign language interpreter available so that his brother, who is deaf, could fully participate in the ceremony.

Through his own personal experiences he brings a longstanding and abiding personal commitment to human rights. Senator Harkin has dedicated his political career to improving opportunities for children and adults with "Special Needs". He serves as a member of the Committee on Labor and Human Resources and chairs the Subcommittee on Disability Policy. He also serves as the chairman of the Labor, Health and Human Services, Education and Related Agencies Appropriations Subcommittee. By chairing authorizing and appropriations committees for committees addressing legislation which affects individuals with disabilities he can carry through his advocacy with a one-two punch.

During his term of office in the Senate, the Senator has been the chief sponsor and proponent for landmark programs including legislation to: enhance the independence of persons with developmental disabilities; provide technology related assistance for persons with disabilities; establish a new National Institute on Deafness and other Communication Disorders; strengthen advocacy and protection from abuse and neglect for persons who are mentally ill; and protect the civil rights of Americans through expansion of anti-discrimination legislation.

In referring to the pending American With Disabilities Act Senator Harkin noted: "I am also proud to be the chief sponsor of the American With Disabilities Act (ADA), which was passed overwhelmingly by the Senator in September and is now before the House of Representatives. The education of the handicapped act has prepared millions of students with disabilities to assure productive roles as adults. Passage of the ADA will give these individuals with disabilities the power to make choices, to decide for themselves what kind of life they want to lead, and provide a meaningful and effective opportunity to become independent and productive members of society."

The National Horticulture Industry Council proudly presents the 1990 Congressional Initiatives Award to Senator Tom Harkin or Iowa for his outstanding leadership in advancing employment of persons with disabilities. Through his energy in promoting a full life for all citizens he has earned our gratitude and respect.

J. Sten Crissey, President of the Society of American Florists is here with us today to honor Senator Harkin and will join me in a special presentation.

REMARKS BY SENATOR HARKIN

Thank you for this award and for your association's longstanding commitment to employment for people with disabilities.

The late Ella Grasso had this motto for overcoming adversity: "bloom where you are planted." But to bloom, a any good gardener knows, you need nourishment—fresh air, sunshine, and rain. If you are shunted into a dark corner away from the light—as people with disabilities have traditionally been—you simply cannot grow, much less bloom.

I remember when my brother Frank went off to the Iowa School for the Deaf in the 1940's. He was told he could be one of three things: a printer's assistant, a cobbler, or a baker. But Frank had his own horizons and his own dreams—and instead he became a skilled worker and union member, who helped assemble the very Navy jets I flew in the 60s.

Serving on the Senate Subcommittee on Disability Policy has given me the chance to meet some of the most "able" people I know. Educators like I. King Jordan of Gallaudet, who reminded us all that "the only thing deaf people can't do is hear." Examples like Jim Brady who fight for a stronger federal commitment to rehabilitation—and for a wider awareness that any of us, anytime, could become disabled. All it takes is an assassin's bullet, a car accident, a case of spinal meningitis or measles as a child, a war injury, a wayward gene.

When my friend Dan Piper of Ankeny, Iowa, was born with Down's Syndrome in 1970, doctors advised his parents to put him in a home. Instead, they took him home. And today—thanks to their love, their belief in him, and the local school's commitment to early intervention and special education—Dan Piper is a high school graduate.

Had he been put in a home and kept there until age 60, taxpayers would have paid close to $5 million to support him. Instead, his special education has cost just $63,000 and he is a taxpayer himself.

But what does his future hold? A job? An apartment of his own? A life like yours or mine? Or discrimination by employers, landlords and his own government? What the future holds is the Americans with Disabilities Act. This year Congress is going to pass, and the President is going to sign, landmark legislation to bring 43 million Americans into the mainstream of life. Then we can truly claim to be a nation pledged to liberty and justice for all"—and every American will be guaranteed a chance to bloom.

When I reintroduced the ADA bill early last year, there were those who warned that it would be stymied by the opposition of some in the business community. I thought about this and the work it would take to make it law. But then I concluded there was no reason for me to be a Senator, and chairman of the Subcommittee on Disability Policy, if not to speak for those too long denied a voice, too long denied a role, too long denied a day in the sun. And the result has been a truly bipartisan, broadly supported piece of legislation.

Disabilities are no respecters of party. And disability policy has always had its champions from both sides of the political aisle, be it Lowell Weicker or Paul Simon, Bob Dole or Tony Coelho, Dave Durenberger or Claude Pepper, Orrin Hatch or Ted Kennedy. President Bush, the very day he was inaugurated, announced that the Americans with Disabilities Act had his support. So this bill is not just about civil rights, but also about the kind of leadership it takes to make rights a reality.

Now, with House passage in sight, supporters of the Americans with Disabilities Act can look forward to a real horticultura-

list's delight—a Rose Garden signing ceremony at the White House!

Thank you.

COMMENTS BY J. STEN CRISSEY, PRESIDENT SOCIETY OF AMERICAN FLORISTS

As part of our ceremony each year we have traditionally presented our 21-Flower Salute to the Congressional Initiatives Honoree. Congratulations Senator for receiving our highest honor and for your personal commitment to this important work. This 21-Flower Salute comes to you from the members of our industry who seek a more beautiful America. One where we are all free to enjoy the rights and benefits of our great nation.

REMARKS BY SENATOR ALAN CRANSTON

I came up here to make sure that he got that award. Tom richly deserves the award for his leadership on behalf of disabled Americans. That's a unique group of Americans, as I trust you all have thought true. It's one area group that any one of us, any American may become a member of at any moment. I have had my own opportunities to work very hard on legislation related to disabled Americans. But nobody has been more effective than Tom Harkin. I'm delighted to recognize that and to give him this recognition today. Tom is a courageous and as conscientious and as full of appropriate vision as any member of the Senate. It's a great privilege for me to work with him. It's a privilege for me to join in honoring him today.

CLOSING COMMENTS BY LAWRENCE SCOVOTTO

Senator Harkin and Guests, to conclude our ceremonies I would like to share a quote from "Work" by Thomas Wolfe:

"So then to every man his chance, to every man regardless of his birth, his shining golden opportunity, to every man the right to live, to work, to be himself and to become whatever thing his mankind and his vision can combine to make him. This seeker, is the promise of America."

We thank you all for joining us this afternoon.●

ARCTIC RESEARCH AND POLICY ACT AMENDMENTS

Mr. BRYAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 751, S. 677, the Arctic Research and Policy Act amendments.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 677) to amend the Arctic Research and Policy Act of 1984 to improve and clarify its provisions.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. Except as specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to, or repeal of a provision, the reference shall be deemed to be made to the Arctic Research and Policy Act of 1984.

SEC. 2. Section 103(b)(1) (15 U.S.C. 4102(b)(1)) is amended—

(1) in the text above clause (A), by striking out "five" and inserting in lieu thereof "seven";

(2) in clause (A), by striking out "three" and inserting in lieu thereof "four"; and

(3) in clause (C), by striking out "one member" and inserting in lieu thereof "two members".

SEC. 3. Section 103(d)(1) (15 U.S.C. 4102(d)(1)) is amended by striking out "GS-16" and inserting in lieu thereof "GS-18".

SEC. 4. (a) Section 104(a) (15 U.S.C. 4102(a)) is amended—

(1) in paragraph (4), by striking out "suggest" and inserting in lieu thereof "recommend";

(2) in paragraph (6), by striking out "suggest" and inserting in lieu thereof "recommend";

(3) in paragraph (7), by striking out "and" at the end thereof;

(4) in paragraph (8), by striking out the period and inserting in lieu thereof a semicolon; and

(5) by adding at the end thereof the following new paragraphs:

"(9) recommend to the Interagency Committee the means for developing international scientific cooperation in the Arctic; and

"(10) not later than January 31, 1991, and every 2 years thereafter, publish a statement of goals and objectives with respect to Arctic research to guide the Interagency Committee established under section 107 in the performance of its duties.".

(b) Section 104(b) is amended to read as follows:

"(b) Not later than January 31 of each year, the Commission shall submit to the President and to the Congress a report describing the activities and accomplishments of the Commission during the immediately preceding fiscal year.".

SEC. 5. Section 106 (15 U.S.C. 4105) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) appoint, and accept without compensation the services of, scientists and engineering specialists to be advisors to the Commission. Each advisor may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Except for the purposes of chapter 81 of title 5 (relating to compensation for work injuries) and chapter 171 of title 28 (relating to tort claims) of the United States Code, an advisor appointed under this paragraph shall not be considered an employee of the United States for any purpose.".

SEC. 6. Subsection (b)(2) of section 108 (15 U.S.C. 4107(b)(2)) is amended to read as follows:

"(2) a statement detailing with particularity the recommendations of the Commission with respect to Federal interagency activities in Arctic research and the disposition and responses to those recommendations.".

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 677), as amended, was passed.

Mr. BRYAN. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS UNTIL TOMORROW AT 8:45 A.M.

Mr. BRYAN. Mr. President, if there be no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, under the previous order, until 8:45 a.m., Tuesday, September 25, 1990.

There being no objection, the Senate, at 8:05 p.m., recessed until tomorrow, Tuesday, September 25, 1990, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate September 21, 1990, under authority of the order of the Senate of January 3, 1989:

DEPARTMENT OF STATE

JOHN P. LEONARD, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SURINAME.

KATHERINE D. ORTEGA, OF NEW MEXICO, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 45TH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

THE JUDICIARY

OLIVER W. WANGER, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA, VICE MILTON LEWIS SCHWARTZ, RETIRED.

FEDERAL TRADE COMMISSION

ROSCOE BURTON STAREK III, OF ILLINOIS, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF 7 YEARS FROM SEPTEMBER 26, 1990, VICE TERRY CALVANI, TERM EXPIRED.

DEPARTMENT OF VETERANS AFFAIRS

CHARLES L. CRAGIN, OF MAINE, TO BE CHAIRMAN OF THE BOARD OF VETERANS' APPEALS FOR A TERM OF 6 YEARS. (NEW POSITION—P.L. 100-687)

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE INDICATED WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, AND TO BE APPOINTED AS CHIEF OF STAFF, U.S. AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8033:

To be general

To be chief of staff, U.S. Air Force

GEN. MERRILL A. MCPEAK, xxx-xx-xxxx U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFI-

CERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

To be colonel

ABBENANTE, THOMAS L., xxx-xx-xxxx
ADAMS, KERRY G., xxx-xx-xxxx
ADAMS, LONNIE B., xxx-xx-xxxx
AHEARN, DAVID L., xxx-xx-xxxx
ALDRIDGE, GEORGE W., xxx-xx-xxxx
ALLEN, ROBERT C., xxx-xx-xxxx
ALLENBAUGH, RICHARD, xxx-xx-xxxx
ALLEY, RICHARD F., xxx-xx-xxxx
ALLRED, KENNETH L., xxx-xx-xxxx
ANDERSON, RICHARD T., xxx-xx-xxxx
ANDERSON, ROBERT J., xxx-xx-xxxx
ANDREWS, JOHN H., xxx-xx-xxxx
ANTHONY, DAVID J., xxx-xx-xxxx
ARGERSINGER, STEVEN, xxx-xx-xxxx
ARMSTRONG, RICHARD, xxx-xx-xxxx
ATWELL, ROBERT C., xxx-xx-xxxx
AUGER, JOHN D., xxx-xx-xxxx
AYLOR, CORTEZ C., xxx-xx-xxxx
BAILEY, CLAUD, JR., xxx-xx-xxxx
BAILEY, EDWARD L., xxx-xx-xxxx
BAILEY, LINWOOD P., xxx-xx-xxxx
BAILEY, PALMER K., xxx-xx-xxxx
BAINE, WILLIAM E., xxx-xx-xxxx
BAKER, SIDNEY F., xxx-xx-xxxx
BALDWIN, ROBERT L., xxx-xx-xxxx
BANDEL, RAYMOND L., xxx-xx-xxxx
BANKS, JIMMY C., xxx-xx-xxxx
BAREFIELD, ROBERT L., xxx-xx-xxxx
BARFIELD, ANN L., xxx-xx-xxxx
BARR, GEORGE H., xxx-xx-xxxx
BARRETT, GERARD P., xxx-xx-xxxx
BASILOTTO, JOHN P., xxx-xx-xxxx
BEASLEY, CHARLES A., xxx-xx-xxxx
BENNETT, PATRICK J., xxx-xx-xxxx
BERGANTZ, JOSEPH L., xxx-xx-xxxx
BERGMAN, MICHAEL R., xxx-xx-xxxx
BESSENT, ELMO V., xxx-xx-xxxx
BETTS, DONALD W., xxx-xx-xxxx
BISHOP, EUGENE H., xxx-xx-xxxx
BLACKBURN, LINWOOD, xxx-xx-xxxx
BLAKE, JAMES T., xxx-xx-xxxx
BOCCOLUCCI, DANIEL, xxx-xx-xxxx
BOLGER, JOHN T., xxx-xx-xxxx
BOND, WILLIAM L., xxx-xx-xxxx
BORES, DAVID R., xxx-xx-xxxx
BORRENSEN, DAVID F., xxx-xx-xxxx
BOWEN, LESTER R., xxx-xx-xxxx
BOWERS, WILLIAM T., xxx-xx-xxxx
BOWRA, KENNETH, R., xxx-xx-xxxx
BRANHAM, TERRY W., xxx-xx-xxxx
BRIDGES, GARY J., xxx-xx-xxxx
BRIDGES, HUBERT JR., xxx-xx-xxxx
BRIGHT, GEORGE E., xxx-xx-xxxx
BRITTAIN, FRANK W., xxx-xx-xxxx
BROOME, RICHARD E., xxx-xx-xxxx
BROWN, BRYAN D., xxx-xx-xxxx
BROWN, DAVID A., xxx-xx-xxxx
BROWN, JOHN M., xxx-xx-xxxx
BROWN, TERRY E., xxx-xx-xxxx
BROWN, THOMAS C., xxx-xx-xxxx
BROWN, THOMAS E., xxx-xx-xxxx
BROWN, WALTER B., xxx-xx-xxxx
BROWN, WALTER T., xxx-xx-xxxx
BROWNE, ROBERT W., xxx-xx-xxxx
BRUNNER, DONALD J., xxx-xx-xxxx
BRUNS, DONALD J., xxx-xx-xxxx
BRYAN, LARRY E., xxx-xx-xxxx
BUBB, ERNEST E., xxx-xx-xxxx
BULLINGTON, TERRY W., xxx-xx-xxxx
BUSK, ARLAN N., xxx-xx-xxxx
*BUTCHER, DAVID G., xxx-xx-xxxx
CABABA, ROBIN R., xxx-xx-xxxx
CAJIGAL, GEORGE L., xxx-xx-xxxx
CALL, GORDON H., xxx-xx-xxxx
CALLEN, JAN E., xxx-xx-xxxx
CAMPBELL, JAMES L., xxx-xx-xxxx
CAMPBELL, ROBERT D., xxx-xx-xxxx
CAPKA, JOSEPH R., xxx-xx-xxxx
CARDWELL, BARRY E., xxx-xx-xxxx
CARLSON, ADOLF, xxx-xx-xxxx
CARR, JOHN, J., xxx-xx-xxxx
CARSON, ROBERT G., xxx-xx-xxxx
CARTER, RICHARD A., xxx-xx-xxxx
CARTER, ROLAND W., xxx-xx-xxxx
CASEY, JOHN T., xxx-xx-xxxx
CASSIDY, RICHARD P., xxx-xx-xxxx
CAVIGGIA, JOHN D., xxx-xx-xxxx
CHANDLER, RICHARD V., xxx-xx-xxxx
CHAPPELL, SAMUEL L., xxx-xx-xxxx
CHENEY, SUSAN P., xxx-xx-xxxx
CHRISTOPHER, PAUL E., xxx-xx-xxxx
CICCARELLO, NICHOLA., xxx-xx-xxxx
CICCOLELLA, ROBERT, xxx-xx-xxxx
CLEARY, DANIEL J., xxx-xx-xxxx
CLOYD, WALTER L. I., xxx-xx-xxxx
COAN, GEORGE P., xxx-xx-xxxx
COCHRANE, WILLIAM M., xxx-xx-xxxx
COLLIER, JAMES E., xxx-xx-xxxx
COLLINS, OLIVER J., xxx-xx-xxxx
CONWAY, RICHARD G., xxx-xx-xxxx
COOK, CHARLES B., xxx-xx-xxxx
COOK DONALD C., xxx-xx-xxxx
COON, ROBERT C., xxx-xx-xxxx
COOPER, BILLY R., xxx-xx-xxxx
CORBELL MICHAEL K., xxx-xx-xxxx
COUGHENOUR, KAVIN L., xxx-xx-xxxx
COUGHLIN, ROBERT J., xxx-xx-xxxx
COWELL, RICHARD A., xxx-xx-xxxx
COWLEY, DAVID E., xxx-xx-xxxx
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IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

JUDGE ADVOCATE GENERAL'S CORPS

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BOWMAN, QUINTON V., xxx-xx-xxxx
BURGAN, LINDA S., xxx-xx-xxxx
BURRELL, ROBERT A., xxx-xx-xxxx
CHAPMAN, KEVIN J., xxx-xx-xxxx
*CLEMENTI, VITO A., xxx-xx-xx...
COMODECA, MICHAEL P., xxx-xx-xx...
*CONNOR, MARK J., xxx-xx-xxxx
CUCULIC, LAWRENCE M., xxx-xx-x...
DEMOSS, DOUGLAS P., xxx-xx-xxxx
*DENEAU, DANIEL J., xxx-xx-xxxx
*DIXON, THEODORE E., xxx-xx-xxxx
DWORSCHAK, THOMAS W., xxx-xx-xxxx
*ELLCESSOR, KARL M., xxx-xx-xx...
*ELLING, TERRY L., xxx-xx-xxxx
*EMSWILER, THOMAS K., xxx-xx-xxxx
FLANAGAN, BRENDAN F., xxx-xx-xxxx
FOUNTAIN, FRANK W., xxx-xx-xxxx
*FRISK JOSEPH T., xxx-xx-xxxx
GERMAN, JOHN M., xxx-xx-xxxx
GILDEA, JAMES J., xxx-xx-xxxx
HARRISON, JONATHAN, xxx-xx-xxxx
HATCH, RICHARD O., xxx-xx-xxxx
HELM, ANTHONY M., xxx-xx-xxxx
*HIGGINS, NANCY A., xxx-xx-xxxx
*HOBURG, PAUL D., xxx-xx-xxxx
*HOWLETT, DAVID B., xxx-xx-xxxx
HUDSON, RODNEY E., xxx-xx-xxxx
*JENNINGS, RAYMOND J., xxx-xx-xxxx
*JOHNSON, JAMES C., xxx-xx-xxxx
KELLY, WENDY A., xxx-xx-xxxx
*KILGALLIN, WILLIAM, xxx-xx-xx...

LASSUS, KENNETH J., xxx-xx-xxxx
*LUCKY, CHARLES D., xxx-xx-x...
*MAYES, WILLIAM M., xxx-xx-xxxx
MILLER, MICHELE M., xxx-xx-xxxx
*MOORE, DIANA, xxx-xx-xxxx
*MORRIS, LAWRENCE J., xxx-xx-xxxx
MORRIS, PATRICK F., xxx-xx-xxxx
MOYE, MYRON D., xxx-xx-xxxx
*OHARE, PATRICK D., xxx-xx-xxxx
OLMSCHEID, MELVIN G., xxx-xx-xxxx
PETERSON, PAUL M., xxx-xx-xxxx
PHELPS, JOHN F., xxx-xx-xxxx
POWERS, DONALD L., xxx-xx-xxxx
*PRICE, DAVID V., xxx-xx-xxxx
PRUGH, VIRGINIA P., xxx-xx-xxxx
SELLEN, KEITH L., xxx-xx-xxxx
SHEA, MORTIMER C., xxx-xx-xxxx
STEINBECK, MARGARET, xxx-xx-xxxx
STEVENSON, SAMUEL T., xxx-xx-xxxx
STONEROCK, JEFFREY, xxx-xx-xxxx
STRANKO, WILLIAM A., xxx-xx-xxxx
SULLIVAN, ANNAMARY, xxx-xx-xxxx
SUPERVIELLE, MANUEL, xxx-xx-xxxx
*TATE, CLYDE J. II, xxx-xx-xxxx
TEETSEL, ROBERT D., xxx-xx-xxxx
*WARREN, MARC L., xxx-xx-xxxx
WASHINGTON, ROGER D., xxx-xx-xxxx
WEBSTER, LINDA K., xxx-xx-xxxx
*WELLSPETRY, MELISSA, xxx-xx-xxxx
WHATCOTT, GAYLEN G., xxx-xx-xxxx
*WILLIS, DENANA M., xxx-xx-xxxx
WINTER, MATTHEW E., xxx-xx-xxxx

Executive nominations received by the Senate September 24, 1990:

DEPARTMENT OF STATE

ROBERT A. FLATEN, OF MINNESOTA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-CONSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF RWANDA.

WITHDRAWAL

Executive message transmitted by the President during the recess of the Senate on September 21, 1990, withdrawing from further Senate consideration the following nomination:

U.S. AIR FORCE

The following-named officer for reappointment to the grade of general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Gen. Merrill A. McPeak, xxx-xx-xxxx U.S. Air Force

HOUSE OF REPRESENTATIVES—*Monday, September 24, 1990*

(Legislative day of Monday, September 10, 1990)

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are overwhelmed, O God, when we come into a vast cathedral, by Your great majesty and glory and might and we realize that Your plans are greater than our plans and Your power is greater than our power. Remind us, O loving God, that when we move about our lives, not only in magnificent cathedrals, but among the daily paths of life, that we should meditate upon Your message and Your way, for You are our Creator, our Redeemer and our eternal strength. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Mississippi [Mr. MONTGOMERY] to please lead us in the Pledge of Allegiance.

Mr. MONTGOMERY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2761. An act to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United Services Organization; and

H.R. 4962. An act to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1677. An act to require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience, and for other purposes;

H.R. 3386. An act to prohibit the use of refrigerated motor vehicles for the transportation of solid waste, to prohibit the use of cargo tanks in providing motor vehicle transportation of food and nonfood products, and for other purposes;

H.R. 4151. An act to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes;

H.R. 4653. An act to reauthorize the Export Administration Act of 1979, and for other purposes; and

H.R. 5311. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4151) "An act to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. DODD, Mr. PELL, Mr. HARKIN, Mr. ADAMS, Ms. MIKULSKI, Mr. BINGAMAN, Mr. METZENBAUM, Mr. SIMON, Mr. COATS, Mr. HATCH, Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. THURMOND, Mr. COCHRAN, and Mr. DURENBERGER to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4653) "An act to reauthorize the Export Administration Act of 1979, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5311) "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1991, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ADAMS, Mr. FOWLER, Mr. KERREY, Mr. BYRD, Mr. GRAMM, Mr. DOMENICI, and Mr. HATFIELD, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 1542. An act to amend chapter 55 of title 5, United States Code, to include certain employees of the Department of Commerce as forest firefighters;

S. 1931. An act to prevent the discharge in a chapter 13 bankruptcy proceeding of certain debts arising out of the debtor's operation of a motor vehicle while legally intoxicated;

S. 2758. An act to provide for additional membership on the Library of Congress Trust Fund Board, and for other purposes; and

S.J. Res. 346. Joint resolution to designate October 20 through 28, 1990, as "National Red Ribbon Week for a Drug-Free America."

C-SPAN CALL-IN ANNIVERSARY

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, on October 7 the Cable Satellite Public Affairs Network will celebrate the 10th anniversary of its viewer call-in program. Better known as C-SPAN, the network is funded by the cable television industry and is seen in 50 million homes across the United States.

The viewer call-in program is a unique forum that gives Americans from Maine to Hawaii the chance to talk to men and women at the highest levels of Government. I have been a guest on the show several times, and I can tell you the phone lines are always lit up. It has been a big success.

With this program, C-SPAN has provided a link between the people and their Government. It has put the average American only a phone call away from the people who make the laws here in Washington. Anything that we can do to better inform the American people about how our Government operates is a plus, and this program certainly contributes to that effort.

Mr. Speaker, I salute C-SPAN for the great job they do.

WATER PROJECTS

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, the rhetoric continued to fly all weekend as various participants in the budget

summit assessed blame for the lack of progress. But let us get this thing straight once and for all: Big-spending liberals in Congress created the budget deficit, and big-spending liberals in Congress are trying to prevent a summit agreement that would hold the line on taxes.

A case in point: H.R. 5314. Later today, the House will be debating a bill that authorizes $1.7 billion in money we don't have to go for projects we don't need. The so-called water projects authorization bill would fund 25 projects, 18 of which are still in such a preliminary planning phase that environmental and economic impact studies haven't even been started yet, much less completed. But here are the big-spending liberals doing what they do best: Throwing away hard-earned money—damn the torpedoes, full steam ahead down the path of fiscal disaster, pass the pork and blame it on someone else.

Well, Mr. Speaker, enough is enough. I'm voting no on everything, especially the oinkers around here.

AUTOMOBILE MANUFACTURERS MUST IMPROVE GASOLINE MILEAGE

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, what a sad spectacle in Washington last week. Automobile executives came to Capitol Hill to scream bloody murder about a bill which would require them to make their automobiles more fuel efficient. They solemnly announced that significant improvement in fuel economy was technologically impossible. They wanted us to know by way of warning that smaller cars meant more highway deaths.

Forgive me, Detroit, but we have heard this song before. Isn't it about time the big three roll up their sleeves and accept the challenge to make their cars more efficient and safer? Who knows, it just might help restore American pride in our automobile industry.

Incidentally, do you know how much oil the United States imported annually from Kuwait and Iraq before the crisis? According to Harper's magazine, 290 million barrels.

If the automakers could improve fuel efficiency by a little less than 3 miles per gallon, we could save 290 million barrels of oil a year, the same amount.

Mr. Speaker, for the sake of the Armed Forces in the Persian Gulf who are sitting there in harm's way, and our own struggling auto industry, American automakers should agree to set needed goals of safer and more fuel efficient cars.

VOTE NO ON UNNECESSARY SPENDING

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, what an impasse. No budget. Well, I for one am tired of taking the heat for reckless, irresponsible spending, brandnew spending. This Congress is in a foot race, a foot race to see who can create a new program to prove their loyalty to some special interest group. To prove their fidelity, to prove their worthiness, they go out and spend your money, create a brandnew program, and it is called, "Buy a Vote."

Today this House of Representatives will consider 19 brandnew authorizations for spending out of the Committee on the Interior. I totaled up those 19 bills the other day in committee, and they will cost the taxpayers at some point nearly $100 million. Child care, new parks, all worthy goals, but can we afford it?

Federal workers are having their paycheck confiscated. Contracts are being violated by the Federal Government. Not me. I agree with the gentleman from New York [Mr. SOLOMON]. I think it is time to vote no, like we have in the past.

U.S. OLYMPIC COMMITTEE RECEIVES SCREW THE AMERICAN TAXPAYER AWARD

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, this week's Nice Guy Award has to go to the IRS. The IRS has announced that they will not audit the taxes of American hostages held captive in Iraq or Kuwait. Now, that is really nice of them. I think they deserve the Nice Guy Award.

But the Screw the American Taxpayer Award has to go to the U.S. Olympic Committee. This team button for the U.S. Olympics, their logo, was sent to my office. Guess what, folks? It was made in Taiwan, Republic of China.

Now, think about it. The U.S. Olympic team goes on the air and asks the American taxpayers from their patriotic hearts to give them contributions for America's team. But then they go to Taiwan and they buy the team logo lapel pin. The U.S. Olympics' skiing team had an Isuzu for their official vehicle.

Mr. Speaker, I think the American people ought to tell the U.S. Olympic Committee to go to Taiwan and Japan for their contributions. Ralph Nader, what are you doing on this one?

□ 1210

THE BUDGET

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute.)

Mr. DONALD E. "BUZ" LUKENS. Come on, Congress. America needs political courage. Sequestration is just a few days away.

Congress passed Gramm-Rudman back in 1985 because we knew that huge Federal deficits are bad for the economy. We passed Gramm-Rudman because the more Government borrows to fund its own spending, the more expensive it is for the American taxpayer and the American businessman and woman. We passed Gramm-Rudman because we all know that a country with a huge national debt cannot continue to grow and to create good jobs. Finally, we passed Gramm-Rudman because we knew that without the threat of across-the-board cuts, sequestration, we would never in Congress, make the tough decisions on spending choices we know deep down our economy needs.

That moment has arrived. Sequestration is upon us. The question now is whether sequestration will serve its intended purpose of forcing us to fix the U.S. economy, or whether it will cause a worse deal, pushing our economy toward recession.

Come on, Congress. Let us make a deal to keep America growing. No new taxes and no more spending programs.

THE BUDGET AND FURLOUGHS

(Mr. McMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McMILLEN of Maryland. Mr. Speaker, last week, a number of Members came before this body and pledged to take a pay cut if the Gramm-Rudman budget ax falls and hundreds of thousands of Federal employees are furloughed. I share their sentiment, and also pledge to take a similar cut in pay if the furloughs go into effect.

But, Mr. Speaker, I would not want this pledge to distract us from the larger issue—reaching a budget agreement. This is the only way we can stop the furloughs and avert the severe hardships that our career civil servants are facing.

For nearly 6 months, the White House has been dancing a strange minuet with congressional leaders, teasing us with the prospect of a grand budget compromise. But in the past few weeks, White House negotiators have shown their true colors: Uncompromising, and unwilling to reach a fair agreement.

Mr. Speaker, we are not just dealing with numbers on a balance sheet—

these are real people the White House is playing with, they have real mortgages, real bills, and real problems. The issue here is job security. Many of these fine people are questioning why they're working for a Government that can't even guarantee a steady paycheck. If we are unwilling to commit to them, why should they commit to us?

Moreover, in Washington, DC, where many Federal employees live, these furloughs will wreak havoc on our local economy.

Mr. Speaker, the President should hear this message from my constituents and the hundreds of thousands of others who hang in the balance: Stop playing games with peoples lives, it is time to reach a budget agreement.

COMING TO A BUDGET AGREEMENT

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, it was said not by Democrats or Republicans but by the Washington Post this morning. It has been nearly 8 months since President Bush proposed a budget for the coming fiscal year; more than 5 months since the legal deadline for final congressional action on a spending plan; and just 1 week before the start of fiscal 1991. Still there is no budget.

Ladies and gentlemen, 7 days to Armageddon, 7 days and the Government stops. No more business as usual, no more politics as usual here in Congress.

Let us understand the American public is sick and tired of politicians playing business as usual. And what are we going to do here today? We are going to take up 34 bills under suspension of the rules, and we are going to pretend that there is no problem in America, there is no problem with deficits, no problem with a slowed-down economy.

The President in May asked for a budget summit. The President, at the expense of some of his Republican colleagues, in June said he would be willing to talk revenues. The President accepted Senator NUNN's numbers on defense, and there is still no compromise.

Are we not a little bit embarrassed here in Congress?

TAX EQUITY IN THE BUDGET SUMMIT

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS. Mr. Speaker, it appears over this weekend as though the summiteers working to try to find a way out of this budget deficit difficulty are coming ever closer to an agreement.

The break in the impasse is clear now. At least one of the leading Republican negotiators from the Senate now agrees with the Democrats that if they are going to cut taxes for the Wall Street wealthy, they should at least be willing in this time of deficit reduction to increase tax rates a bit on the rich so that while we might get the investments that will accrue from a capital gains cut, we do not take the revenue loss, which we would if we only cut taxes for the Wall Street wealthy.

So some Republicans in the Senate have now broken with the White House and said yes, we do need tax fairness, tax equity, tax justice, and they are looking over here to the Republicans on the House side. I encourage the Republicans here to come to their senses, agree that there is going to have to be tax equity included in the deficit reduction package. We cannot just cut taxes for the wealthy at a time of deficit reduction.

THE 7 DAYS WARNING

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, 7 days of Armageddon may be a little pretentious, but it is just 7 days to a good, old-fashioned train wreck of sequester.

Five months ago Congress was required by law to pass its budget resolution. It could not do it, and it would not do it.

Congress then entered into negotiations with the President. It has been negotiating, extensively and intensively, for 5 months. So far, it has not been willing, and not able, to come to an agreement.

The Democrat leadership of this Congress is not merely adamant and recalcitrant, it is also incompetent, unable to pass a budget, and unable to pass appropriations.

It is, however, willing to allow sequester to come about.

We need a budget agreement now. It has to take place in the next 24 hours, and Congress better do it or it is going to stand judged as even more incompetent than its usual low standards.

THE NATIONAL WORKPLACE SAFETY COMMISSION

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, today I have introduced legislation that would create the National Workplace Safety Commission. The role of this Commission would be to investigate workplace fatalities involving three or more victims. The Commission would report its findings to Congress, the Occupational Safety and Health Administration [OSHA], the Mine Safety and Health Administration [MSHA], and the public.

This legislation hopefully will open a dialog which will address the concerns of those in the mining industry who have reservations about having agencies perform investigations of multiple fatalities in those industries which they regulate. I offer this legislation today, having listened to the concerns of those who lost loved ones in an explosion at Pyro Mining Co.'s William Station Mine, which is located near Wheatcroft, KY, in my congressional district.

Since that accident last September 13, others in the mining industry have said that this alternative at least deserves our consideration. Some have criticized the Mine Safety and Health Administration's investigation into the cause of this accident, saying the agency's investigation failed to examine any potential role that their enforcement practices at the mine could have played in the explosion itself.

In order for such concerns to be examined we must create an independent commission.

I have drafted this legislation to encompass more than the mining industry because I am keenly aware of this situation and how it affected Pyro Mining Co., since they are a major employer in my district. However, I am sure that if this was a problem at Pyro, it is most likely a problem in other industries too.

Naturally, I hope this legislation will pass during the 101st Congress. With only a few weeks remaining in this second session, even if this bill doesn't become law this year, at least I know this legislation will have our consideration.

I plan to reintroduce this bill next January if it doesn't become law this year.

MORE WASTE, FRAUD, AND ABUSE

(Mr. HENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENRY. Here we are, Mr. Speaker, in the middle of all our fiscal problems—with cuts looming everywhere, the call goes out for austerity and, above all, the elimination of waste and fraud whenever and wherever Federal dollars are spent. At the same time, we hold the very real threat over Federal employees—the micromanagers of our massive budget—that they, personally, are going to have to shoulder a large portion of the sequester ax—not to mention budget cuts in general. We have

tasked them with the assignment to prevent waste and fraud—in the welfare system, in the S&L industry, and in the defense industry. When they don't, the cry goes up, "Why? How could these Federal employees allow this to happen? Why aren't they on top of these things?" Inevitably, hearings are held, policies changes are discussed, and we all assume that lessons will be learned.

Which brings us to the OPM decision that qualification standards for procurement professionals will be revised downward. In a fit of contradiction, the Office of Personnel Management has decided to respond to the current competency vacuum in the procurement field by adjusting standards not up—but down. Should candidates for positions in the procurement field be required to have specialized knowledge of business disciplines? OPM says, "Not necessary." How about the completion of a 4-year degree program? OPM says, "Not necessary."

Nonetheless, they have decided to reclassify the field as "professional"—which, apparently, if said with enough conviction, will somehow make it so.

If we had consistently applied, stringent, qualifying standards for employment, and a system that does not institutionalize mediocrity through undercompensation, we might actually be able to reduce the current hemorrhaging of Federal dollars to waste, fraud, and abuse.

□ 1220

DO NOT TAKE FEDERAL WORKERS HOSTAGE

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, Americans do not believe in taking hostages. We can see in the Middle East that Saddam Hussein has taken American and other Western hostages as well as the nation of Kuwait as hostage to get his goal.

The administration wants a $32,000 tax cut for the richest 6,000 residents in my State. In return, it is taking hostage all the Federal employees who presently earn 30 percent less than their private-sector counterparts in order to get this tax break for the wealthiest Americans.

Mr. President, Americans do not want you to take Federal workers hostage. We think the health and safety that they ensure, the security of this Nation is well worth paying for, and it ought not occur and we ought not bring them into the negotiations on this budget summit.

Do not take Federal workers hostage. Come to the table, give up on the capital-gains cuts, and let us face the deficit problem, which is the one we really have to solve.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would advise the Members of the House that the President and other members of the executive branch are to be addressed indirectly through the Speaker rather than directly.

WE MUST BITE THE BULLET

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, in just 7 days we will face the fiscal Armageddon of a sequestration that will cut Government spending by more than one-third. Millions of Federal workers throughout the country will be faced with furloughs. Vital services such as air traffic control and veterans health care will be disrupted.

Why are we facing this dire situation? Some would have us blame the President for a lack of leadership. Others would blame the "mindless cuts" on the Gramm-Rudman deficit reduction law. But, the real reason is that the Congress of the United States—under Democratic leadership for decades—has been unable to say no to spending. It has been "tax and spend" for years. Even now—in the face of these massive deficits—the tax and spenders cannot bring themselves to limit spending growth.

We cannot afford to continue this fiscal irresponsibility. We must bite the bullet and make the hard budget choices that we have been shirking during the years of Democratic leadership. We must "just say no" to new spending.

TIME TO GET ON WITH PRODUCING AND CONSERVING ENERGY

(Mr. YOUNG of Alaska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, we have heard much today about the budget, the deficit, and the summit. But if you think it is bad now, wait until oil hits $40 a barrel.

I suggest to the people who understand one thing, I blame one group, those who would not allow this Congress or any administration to produce energy. We hear much about conservation, pump the tires up, better fuel efficiency, but in 25 years that I have gone to the record, the Sierra Club, the Friends of the Earth, all of the environmental groups saying they are trying to protect the environment have never supported any energy legislation in the Congress.

In fact, they have proposed to deter, delay, or stop energy production in all fields.

Mr. Speaker, that is one reason we are back in the Middle East, we have troops there, because we do not have an energy plan of production and conservation neither from this Congress nor the administration. It is time that we get on with the job of producing energy of all fields and not depending upon fossil fuels but all sources of energy in the world.

HAVE WE BECOME A HOUSE OF POLITICAL EUNUCHS?

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, over the weekend I spoke with many fellow South Carolinians. They are disgusted and exasperated at the inability of the budget summit to recommend to us a plan to resolve our deficit crisis.

Furlough slips are going out, consumer confidence wanes, and financial markets tumble. Is this Government in Washington collapsing in upon itself? With 80 billion more revenue dollars to spend this year than last, why can we not freeze everything at the 1990 level, except COLA's, add that savings to the $23 billion we've cut from Defense and meet the Gramm-Rudman target for the coming year? When I asked this question of one of our summiteers his answer was: "They won't buy it because it is too simple and it makes sense." The inaction of the conferees now reflects adversely upon all of us. Mr. Speaker, are we in charge as we were sent here to be, or have we become a house of political eunuchs?

KEEP PRESSURE ON BUDGET NEGOTIATORS

(Mrs. MEYERS of Kansas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEYERS of Kansas. Mr. Speaker, we need a budget agreement now—not October 20, and certainly not after the November elections.

We have scheduled for floor consideration this week a continuing resolution that would postpone automatic cuts under Gramm-Rudman until October 20. We are told that this continuing resolution will give the summiteers time to reach a budget agreement.

Well, it is certainly true that the budget negotiators have difficult choices to make in their deliberations.

But it is also true that the voters would rather have those difficult

choices made now, rather than later. And those choices should be made before the elections, not in a lame-duck session.

Let us keep the pressure on the budget negotiators to reach an agreement.

WE ARE SHOWING OUR WORST SIDE

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, with 7 days left before sequestration, it is almost like waiting for the countdown for the explosion of a bomb. Sure we are going to have the layoff of Federal employees, which is going to be a personal tragedy not only in our own offices but across this country, and certainly across this city, but there is going to be a greater tragedy if we send out the word to the American people, if we send out to the world that we no longer here in this greatest deliberative body in the world can govern.

This is the message we are going to be sending out, and this is the message that is going to bring about the deepest recession that we have had since the Great Depression. We have got to solve the problems of our own fiscal policy. We have got to put our fiscal house in order.

While Eastern Europe is looking to us for guidance as to how to set up a democracy, how to set up a free-market system, we are showing the very worst side of this Government and perhaps the darkest time this Government has ever faced.

□ 1230

Please, summiteers, come back with an agreement. We may have to work further with that agreement, once it comes back. There are only 7 days left, 7 days before a great tragedy.

The sky may not be falling, but the ground is falling out from under our feet.

FAILURE AT THE SUMMIT

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend this remarks.)

Mr. KOLBE. Mr. Speaker, the budget summit has failed. That is a fact. We ought to admit it. The President sent his budget to this Congress last January. The budget summit began its meeting in May of this year. Here we are, today, September 24, just 6 days before the beginning of the new fiscal year, and we have no agreement, no agreement on any part of the budget.

The time has come for this Congress to admit that the summit is not working, that it has failed. The time has come for this Congress to take the budget back into its own hands.

The time has come for the leadership to bring a budget resolution to the floor, with an open rule, to allow the Members of this body an opportunity to consider every idea, to raise taxes or to cut spending, to change the process, to add fees, whatever it might be. We will keep a tab. When we reach $50 billion for 1 year and $500 billion of deficit reduction over the next 5 years, we can declare a victory. We can give directions to our appropriation committees and or tax-writing committees, and authorizing committees, to go back and draft legislation to implement it.

The fact is, this Congress has failed in its job so far. The time has come for Members to step forward and do the job we were elected to do.

HERE WE ARE TODAY, WITH NO BUDGET

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, 1 week from today the 1991 fiscal year begins and here we are with no budget. It has been 8 months since the President sent his budget request to Congress and here we are today with no budget.

We have seen teams of budget negotiators from the Congress and the administration meeting over the past few months and our hopes have been high that a budget will be forthcoming, but here we are today with no budget.

We have reached the ridiculous in this process and time is running out. We are facing the 11th hour and if the bell tolls at midnight next Sunday and October 1 begins with no budget, we will see the devastating results throughout the Federal Government with furloughed employees and programs and services that come to a screeching halt.

It is time that the budget summit be moved to the White House and that all negotiators stay at the table until a budget package is struck.

If that takes round-the-clock meetings, Mr. Speaker, then so be it. Andrews Air Force Base didn't work. The Capitol didn't work. Maybe the White House will work.

We are on the brink of domestic disaster and here we are today with no budget. The American people deserve better. The political posturing must end. A bipartisan, fair, and responsible budget must be enacted.

MAKE DRUG-RELATED AMENDMENTS IN ORDER ON THE CRIME BILL

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Speaker, if you travel throughout the United States and ask Americans what is causing the surge in violent crime they will have one unanimous answer—drugs. As we prepare to consider the Comprehensive Crime Control Act, I ask my colleagues on the Rules Committee not to forget the inextricable link between drugs and crime. It would be inexcusable to debate a major crime bill on the floor of this House without considering drug-related amendments. Mr. Speaker, the same members of the Judiciary Committee who during the last Congress pleaded with the administration to formulate a national drug control strategy should not allow amendments related to that strategy to languish in committee.

THE BUDGET CRISIS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, the budget crisis is upon Members. If anything has ever proven the incompetence of the leadership in the Congress it is failure of this budget conference. Congress has failed to meet every lawful deadline to do its budget work this year. Congress has outright ignored what the law required. Congress has failed to meet every informal deadline itself set for budgeting.

This weekend, Congress failed again to do anything meaningful in resolving the budget problem. What does the congressional leadership propose? To set another deadline, to delay the pain a little while longer. It is time to stop this ridiculous summit process that the Democrats forced upon the President. Business as usual cannot go on in this House with a crisis looming.

This should be budget week. Congress should do its work. Five months of diggling and doggling and delay is far, far too much. It is time to focus congressional attention on reality. Maybe if we defeat a bunch of the suspension bills that are before Members today we can get this message across. No more business as usual.

PEOPLE BEFORE POLITICS

(Mr. SMITH of Vermont asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Vermont. Mr. Speaker, I, too, rise to describe and discuss the crisis in the budget summit. I have just come back from 4 days on the road from my home State of Vermont, and people want to know pretty simply just what it is that is going on. The more I try to explain to them how this process is or is not working, the

less they understand as to why it is we cannot solve the problem.

The brutal fact is, Mr. Speaker, that they know, and we know, if once we would put the people of this country—the hurt that will be caused if there is a sequester—above politics, if the leaders of this Congress would sit down and talk seriously with the President of the United States about how to enforce a budget agreement of $50 billion the first year, and $500 billion for the next 5 years, because enforcement is not what we have had in the past. So taxes have gone up and the budget deficit has gotten bigger.

People understand these things. However, what we need to understand is that the credibility and the integrity of this institution and the public's willingness to believe that we can solve the pressing problems of our times are what truly are at stake.

I urge the leadership of the Congress to meet with the President, come up with a plan that is fair and enforceable for all the people, in this Congress, and do it as soon as possible.

MAJOR BUDGET STICKING POINT IS CAPITAL GAINS

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, I am very pleased to see some of my colleagues rise and voice concerns about sequester, and the status of the budget agreements. However, a lot of what I am hearing this morning seems like an effort to change the message of the last week and the message this weekend in terms of what the leadership on the Committtee on the Budget, both Republicans and Democrats, have been saying. It's Monday morning quarterbacking at best Mr. Speaker. That message is that the sticking point is not cutting spending. There is, I guess, reluctant agreement to accept a certain dose of that. However, the concern is, and has been, the capital gains tax cut—not a reduction in spending but something that actually increases the deficit by some $20 billion in 5 years.

Now, I understand my colleagues' frustration with trying to get spending plans and tax plans that stick for 5 years. The fact is we cannot tell what will happen in 5 months. No person can definitively get up and say whether we will have a recession, what the problems are going to be in the Middle East, in terms of the direction that events may take the United States in that area.

However, I think working together we can come up with a package that works now, that gets Members out of here. Now is not the time to become polarized in terms of where we are going but time to work toward compromise and avoid the sequester. All of this claiming the high moral ground by Members of this House hasn't helped. We have to come up with some agreement by the 1st of October. I hope we will do so.

RESULTS OF SEQUESTRATION

(Mr. GRANDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRANDY. Mr. Speaker, it occurs to me that this is a somewhat academic argument for Members of Congress. We will obviously be inconvenienced by the Gramm-Rudman cuts, but let me explain to Members and those who care to pay attention to these things, what it means for people who have to live by these cuts.

Next week, if the ax falls, 334,000 farmers holding Conservation Reserve Program contracts will see these contracts, these 10-year agreements, cut by 32 percent. A contract will be violated and a program will be destroyed—not just a program to save money or control agricultural production in the United States, a very important environmental component of all of our farm policy and all of the Nation's environmental policy at large. That is what will happen.

That is why people are calling my office and saying, "Why can't you in Congress get it together and reach an agreement? Why can't you live by your contract to us?" Because these people, unlike the Federal Government, are obligated to pay up on their contracts. They are obligated to fulfill their obligations.

We in Congress seem to be unable to meet ours. Mr. Speaker, 7,000 rural low-income families will be removed from Farmers Home Rural Housing Assistance programs. This goes beyond furloughing Federal employees. It is going to furlough citizens from their homes and from their farms. That is a real and immediate problem which we in this body do not fully understand.

If Members want to wake up and understand how Gramm-Rudman hurts, go home for the weekend and listen to the people we purport to represent.

□ 1240

DEMOCRATIC LEADERSHIP SHOULD NEGOTIATE WITH THE PRESIDENT

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, the President's good faith cannot be questioned. A few months ago, to the consternation of many of his supporters in conservative ranks, the President gave up the crown jewel of the 1988 election promises, and that was that he would consider increased taxes. He did that to bring the Democrat leadership of this House to the negotiating table, to the bargaining table; so he gave that up. He gave away the crown jewel in order to get an agreement, and we still have these statements coming from the other side saying that, well, the President still has not given up enough. He did hit the ball, and we are asking him to go over on the other side of the net and hit the ball back again.

My point is the Russians can negotiate and do negotiate with President Bush. The Egyptians negotiate with President Bush. Every other country of the world's leaders, except for a few in the Middle East right now, negotiate with President Bush. Why cannot the Democrat leadership of this House negotiate with President Bush over this very, very critical issue?

GET BEHIND THE PRESIDENT ON DEFICIT CONTROL

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, I had much the same comments as my colleague, the gentleman from California, who just preceded me.

I was home this weekend and everywhere I went, everybody I talked to said, "You guys"—meaning the Congress—"have got to get your act together. Solve this budget problem. Reach an agreement with the President and avoid sequestration."

The lady who seated me in church as I was walking in was pointing her finger at me and said, "You guys have to get this problem solved."

As my colleague, the gentleman from California, just said, the Democratic leadership controls the Congress. The President has gone more than halfway by even agreeing to raise taxes, if that is what is called for.

I call upon the Democratic leadership to meet the President halfway. Be willing to bend a little bit. Reach an agreement here that will not only reduce the Federal budget deficit over the next 5 years, but also in the short term, avoid sequestration.

The people back home understand what is at stake here. They understand that if Congress does not come to grips with the problem, sequestration will result, and I submit that the sequestration that will result will be on the heads of the Democratic leadership of the Congress, if that is what occurs.

Mr. Speaker, I urge my colleagues to get behind the President. Let us get an agreement. Let us get this deficit problem under control.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has been concluded on all motions to suspend the rules.

CASH MANAGEMENT IMPROVEMENT ACT OF 1990

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4279) to amend title 31, United States Code, to improve cash management of funds transferred between the Federal Government and the States, and for other purposes as amended.

The Clerk read as follows:

H.R. 4279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cash Management Improvement Act of 1990".

SEC. 2. PURPOSE.

The purpose of this Act is to ensure greater efficiency, effectiveness, and equity in the exchange of funds between the Federal Government and the States.

SEC. 3. TECHNICAL AMENDMENTS.

Section 6501 of title 31, United States Code, is amended—

(1) in paragraph (2)(B) by striking "subclause (A) of this clause (2)" and inserting in lieu thereof "subparagraph (A)";

(2) in paragraph (2)(E) by striking "subclauses (A)-(D) of this clause (2)" and inserting in lieu thereof "subparagraphs (A), (B), (C), and (D)";

(3) in paragraph (4)(A) by striking "subclause (C) of this clause (4)" and inserting in lieu thereof "subparagraph (C)"; and

(4) in paragraph (4)(B) by striking "subclause (C) of this clause (4)" and inserting in lieu thereof "subparagraph (C)".

SEC. 4. DISBURSEMENT OBJECTIVES.

(a) IN GENERAL.—Subchapter II of chapter 33 of title 31, United States Code, is amended by adding at the end thereof the following:

"§ 3335. Timely disbursement of Federal funds

"(a) Each head of an executive agency (other than the Tennessee Valley Authority) shall, under such regulations as the Secretary of the Treasury shall prescribe, provide for the timely disbursement of Federal funds through cash, checks, electronic funds transfer, or any other means identified by the Secretary.

"(b) The Secretary may collect from any executive agency which does not comply with subsection (a) a charge in an amount the Secretary determines to be the cost to the general fund of the Treasury caused by such noncompliance.

"(c) The amounts of charges collected from an executive agency under this section shall be deposited in the Treasury and credited as miscellaneous receipts.

"(d) Any charge assessed by the Secretary under this section, to the maximum extent practicable—

"(1) shall be paid out of appropriations available for executive agency operations; and

"(2) shall not be paid from amounts available for funding programs of an executive agency.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 33 of title 31, United States Code, is amended by inserting after the item relating to section 3334 the following:

"3335. Timely disbursement of Federal funds.".

(c) REGULATIONS.—The Secretary of the Treasury shall prescribe regulations under section 3335 of title 31, United States Code, as added by subsection (a), to ensure the full implementation of that section by the date which is 2 years after the date of the enactment of this Act.

SEC. 5. PAYMENT OF INTEREST.

(a) DEFINITION OF STATE.—Section 6501 of title 31, United States Code, is amended—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(2) by inserting after paragraph (6) the following new paragraph:

"(7) 'Secretary' means the Secretary of the Treasury."; and

(3) by striking out paragraph (9) (as redesignated by paragraph (1)) and inserting in lieu thereof the following:

"(9) 'State' means a State of the United States, the District of Columbia, a territory or possession of the United States, and an agency, instrumentality, or fiscal agent of a State but does not mean a local government of a State.".

(b) INTERGOVERNMENTAL TRANSFERS OF FUNDS; PAYMENT OF INTEREST.—Section 6503 of title 31, United States Code, is amended to read as follows:

"§ 6503. Intergovernmental financing

"(a) Consistent with program purposes and with regulations of the Secretary, and in accordance with an agreement under subsection (b) entered into by the Secretary and a State—

"(1) the head of an executive agency (other than the Tennessee Valley Authority) carrying out a program shall schedule transfers of funds to the State under the program so as to minimize the time elapsing between transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payments by other means by a State; and

"(2) the State shall minimize the time elapsing between transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payments by other means for program purposes.

"(b)(1) The Secretary shall enter into an agreement with each State to which transfers of funds are made, which establishes procedures and requirements for implementing this section.

"(2) An agreement under this subsection shall—

"(A) specify procedures chosen by the State for carrying out transfers of funds under the agreement;

"(B) describe the process by which the Federal Government shall review and approve the implementation of the procedures specified under subparagraph (A);

"(C) establish the methods to be used for calculating and documenting payments of interest pursuant to this section; and

"(D) specify those types of costs directly incurred by the State for interest calculations required under this section, and required the Secretary to consider those costs in computing payments under this section.

"(3) The Secretary shall issue regulations establishing procedures and requirements for implementing this section with respect to a State with which no agreement is entered into by the Secretary under paragraph (1). Such regulations shall apply to a State until such time as the Secretary enters into an agreement with the State under paragraph (1).

"(c)(1) The Secretary shall issue regulations that shall require a State, when not inconsistent with program purposes, to pay interest to the United States on funds from the time funds are deposited by the United States to the State's account until the time that funds are paid out by the State in order to redeem checks or warrants or make payments by other means for program purposes. Except as provided under paragraph (3)(B) (relating to the Unemployment Trust Fund), the interest payable under this subsection shall be calculated at a rate equal to the average of the bond equivalent rates of 13-week Treasury bills auctioned during the period for which interest is calculated, as determined by the Secretary.

"(2) Except as provided in paragraph (3), amounts received by the United States as payment of interest under this subsection shall be deposited in the Treasury and credited as miscellaneous receipts.

"(3)(A) Amounts paid by a State under paragraph (1) as interest on funds paid to a State from a trust fund for which the Secretary is the trustee shall be credited to such trust fund.

"(B) Notwithstanding any other provision of this section, amounts of interest paid by a State, on funds drawn from its account in the Unemployment Trust Fund, shall be deposited into that account and shall consist of actual interest earnings by the State, less related banking costs incurred by the State, for the period for which interest is calculated.

"(d)(1) If a State disburses its own funds for program purposes in accordance with Federal law, Federal regulation, or Federal-State agreement, the State shall be entitled to interest from the time the State's funds are paid out to redeem checks or warrants, or make payments by other means, until the Federal funds are deposited to the State's bank account. The Secretary shall pay, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary for interest owed to a State under this subsection. Such interest shall be calculated, at a rate equal to the average of the bond equivalent rates of 13-week Treasury bills auctioned during the period for which interest is calculated, as determined by the Secretary.

"(2) If interest is paid under this subsection as a result of a State disbursing its own funds before receiving payment from a trust fund for which the Secretary of the Treasury is the trustee, such interest shall be charged against such trust fund.

"(e) The budget submitted by the President under section 1105 of this title for a fiscal year shall include a statement specifying, for the most recently completed fiscal year, amounts of interest accrued to the Federal Government under subsection (c) and amounts of interest paid to States under subsection (d).

"(f) If a State receives refunds of funds disbursed by the State under a Federal pro-

gram, the State shall return those refunds to the Federal executive agency administering the program or apply those refunds to reduce the amount of funds owed by the Federal Government to the State under such program. Interest earned on such refunds shall be considered when setting overall interest obligations between the State and the Federal Government as required by this section.

"(g) If the Federal Government makes a payment to a recipient under a Federal program, and a portion of the payment is an amount which the Federal Government is paying to such recipient on behalf of a State, such amount shall be considered to be a transfer of funds between the Federal Government and the State for purposes of this section.

"(h) A State may not be required by a law or regulation of the United States to deposit funds received by it in a separate bank account. However, a State shall account for funds made available to the State as United States Government funds in the accounts of the State. The head of the State agency concerned shall make periodic authenticated reports to the head of the appropriate Federal executive agency on the status and the application of the funds, the liabilities and obligations on hand, and other information required by the head of the executive agency. Records related to the funds received by the State shall be made available to the head of the executive agency, the Inspector General of the executive agency, and the Comptroller General for necessary audits.

"(i) The Secretary shall prescribe methods for the payment of interest under this section between the Federal Government and the States, including provisions for offsetting amounts owed by the respective parties. Such methods of payment shall require payment of interest on an annual basis and shall provide for comparable treatment in manner, technique, and timing for both the States and the Federal Government.

"(j) Consistent with Federal program purposes and regulations of the Director of the Office of Management and Budget, the head of a Federal executive agency carrying out a program shall execute grant awards to States on a timely basis to assure the availability of funds to accomplish transfers in compliance with subsection (a) of this section.".

(c) CLERICAL AMENDMENT.—The item relating to section 6503 in the chapter analysis for chapter 65 of title 31, United States Code, is amended to read as follows:

"6503. Intergovernmental financing.".

(d) AGREEMENTS WITH STATES.—

(1) SECRETARY'S EFFORT TO ENTER AGREEMENTS.—The Secretary of the Treasury shall make all reasonable efforts to enter into an agreement with each State under section 6503(b) of title 31, United States Code, as added by this section (relating to procedures and requirements for transfer of funds between executive agencies and States), by not later than 2 years after the date of the enactment of this Act.

(2) EFFECTIVE DATE OF REGULATIONS.—Regulations issued by the Secretary of the Treasury under subsection (b)(3) of section 6503 of title 31, United States Code, as added by the section (relating to procedures and requirements for transfers of funds involving States not entering agreements), shall take effect 2 years after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, except that subsections (c) and (d) of section 6503 of title 31, United States Code, as added by subsection (b) of this section (relating to payments of interest between the Federal Government and State governments), shall take effect 2 years after the date of enactment of this Act.

SEC. 6. GAO REPORT.

Four years after the date of the enactment of this Act the Comptroller General shall submit an audit of the implementation of the amendments made by section 5 and submit a report to the Congress describing the results of that audit.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, annually, the Federal Government transfers over a $100 billion to the States for the operation of more than 400 Federal grant programs. Through the years, the timing of these transfers have caused considerable friction between the Federal Government and the States.

The Intergovernmental Cooperation Act does not require that States account for interest earned on Federal funds pending disbursement for grant programs. Federal officials have long complained that States take unfair advantage of this provision, drawing down Federal funds far in advance of when they need to disburse funds to make undue profits on Federal funds at the expense of the Federal Government. State officials, on the other hand, complain that the Federal Government is often late in reimbursing the States for moneys advanced by the States for use in Federal progams which cost the States money.

H.R. 4279, cosponsored by myself and the ranking minority member of the Committee on Government Operations, was recently reported out of the committee by unanimous vote. The bill would establish procedures to assure more efficient and equitable transfers of Federal funds to States for support of Federal grant programs.

This bill represents a carefully crafted compromise worked out after years of negotiations between the Federal Government and the various States. It would, I believe, offer a fair and equitable solution to this longstanding dispute over intergovernmental financing.

Under H.R. 4279, the Secretary of the Treasury would be given the authority to negotiate an agreement with each State specifiying the methods of cash transfer between the State and the Federal Government. By giving this flexibility to the Secretary the unique financial needs of each State can be met, while protecting the interests of the Federal Government.

Federal-State agreements required by this bill could include any method of financing acceptable to both the Secretary of the Treasury and the State. However, should a State opt for a financing method under which the State would routinely receive Federal funds in advance of need, the agreement would call for payment of interest by the State to the Federal Government. Similarly, where the Federal Government would be regularly reimbursing a State for funds advanced by the State for Federal programs, the agreement could provide for payment of interest by the Federal Government to the State.

Interest payments under this agreements would be made on an annual basis. In computing the payments to be made, or exchanged, under the agreements, the Secretary of the Treasury would also be authorized to consider certain costs incurred by the State for the administration of these financing methods. However, under the provisions of H.R. 4279, the costs for which the States could be reimbursed by the Federal Government would be limited only to those costs directly incurred for annual calculation of interest, if such calculation is required by the agreement.

H.R. 4279 would also grant certain authorities to the Secretary of the Treasury to encourage more efficient management of fund disbursement by Federal agencies. Regulations to be prescribed by the Secretary would require the Federal agencies provide for timely disbursement of funds. At the Secretary's discretion, a Federal agency which fails to fund its programs in a timely manner could be penalized in an amount equal to the cost incurred to the U.S. Treasury's general fund due to the agency's noncompliance with disbursement regulations.

The issues underlying H.R. 4279 have been the subject of continuing debate among representatives of the Senate, the House, the Office of Management and Budget, the Department of the Treasury, and the various States over a period of nearly 8 years. I heartily applaud these efforts to achieve more efficient cash management, and I am proud to be able to offer a sound legislative solution to these issues. I strongly urge my colleagues to join me and Mr. HORTON in support of this measure.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support in H.R. 4279, the Intergovernmental Cash Management Improvement Act of 1990. The bill received unanimous bipartisan support in the Government Operations Committee.

If implemented, this legislation will help make Government more efficient and will assist the Federal and State treasuries in working together in a more reliable and equitable fashion.

Without this act, State treasuries would continue to retain interest earned as a result of the premature drawdown of certain Federal funds for entitlement programs. Likewise, inequities would continue to result when the Federal Government is tardy in disbursing funds to the State.

If this bill becomes law, this transfer process, involving billions and billions of dollars, will be greatly streamlined by newly required agreements between the States and the U.S. Treasury.

As a result of this coordination, State treasuries will issue funds to beneficiaries at a more predictable time each month, enabling programs to function more efficiently. Early drawdown and late payment will be eliminated. In addition, implementation will be made more orderly by a clause providing for appropriate penalties for noncompliance.

The State-Federal Task Force and a number of other parties have been working for a cash management bill for about 10 years. Members and staff on the Government Operations Committee have also worked long and hard in an effort to develop an improved cash management system. The House has an opportunity today to see that these efforts are brought to fruition.

Again Mr. Speaker, I want to express my support for H.R. 4279 and urge my colleagues to join with me in voting for its approval.

□ 1250

Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker and Members, I appreciate deeply the gentleman from New York [Mr. HORTON] giving me this time on this legislation because I think this is a perfect example of exactly the situation that is at hand today.

Here you have the Intergovernmental Cash Management Improvement Act, which is good legislation, which was worked out in a bipartisan fashion, which is something I understand the administration supports and something that should be done. I have no dispute with any of that.

My only question is why we are here this week, 7 days to Armageddon, doing the kind of issues like this that could have been done earlier, that can be done once we get a budget agreement.

We cannot continue business as usual. There are 34 suspensions listed today. Somebody told me one of them has just been withdrawn, so we are now down to 33.

I am not against suspensions. I often have bills that come up on the suspension calendar and I often endorse them.

My problem, Mr. Speaker, is the public is waiting for this Congress to get serious about the deficit. They are waiting for us to recognize that there is a crisis out there. The economy is slowing down. They want a long-term deficit reduction agreement, a bipartisan compromise.

If we in the Congress do our job, we will save thousands of jobs for Federal employees, starting Sunday, and, more importantly, we will create millions of jobs for Americans over the decade of the 1990's. But we have got a process around here that says ignore the calendar, ignore the mandates we set for ourselves.

The President in January sent up a budget. We were supposed to have passed that budget by April 15. We came close, but we did not meet it.

By May, the President recognized the budget process was not working, so he asked the Congress for a budget summit.

To the consternation of many people on this side of the aisle, the President in June said that, yes, revenues are on the table, which for all practical purposes is saying the President would even accept new revenues.

Now, most of us thought that was the tradeoff, new revenues for some kind of a capital gains tax.

Now we find out that the leadership in Congress says, "No, that is not a good enough compromise for us, we want more than that from the President.

On defense, as I understand it, the administration has accepted not a Republican number on defense but Senator NUNN's recommendations for defense spending, and they are being told that is not enough in cutting defense.

And so we continue this process; the administration continues to negotiate, they continue to go that extra mile trying to get a bipartisan agreement in the interest of the American people, in the interest of growth and prosperity so that we do not have to have sequestration. And yet we continue business as usual.

Mr. HORTON. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

In the famous Broadway musical "Les Miserables," there is a song that says, "Do you hear the people sing, singing the song of angry men?"

I think the American people are singing precisely that song right now. They are angry as all get-out that this Congress cannot do its work. They take a look at what is happening here on the floor today, and they wonder where rationality and reality has gone.

We are faced, within a matter of a few days, with a major budget crisis. Are we dealing with a budget crisis in the House of Representatives today? No, we have a long list of bills being considered under suspension of the rules.

Now take a look at this bill, this bill is one which is bipartisanly agreed to on the committee. I think that is fine. But suspension of the rules means something very clear, it says that the rules of the House make no difference for these bills, we go ahead and pass them.

That has been the problem with the budget process. We have decided that the rules make no difference, the law makes no difference, and therefore we will ignore it. It is as though we have spent the entire year in one big suspension of the rules.

And here today we are using the suspension of the rules to further delay Congress in doing what it has to do, and that is, solve the budget summit.

Now, some people may say, "Well, these are bills that are all noncontroversial, why should you scream about that in the suspension-of-the-rules process?"

I will guarantee you I know of two bills on this calendar today that are not noncontroversial; they come out of my committee where there is no agreement with the minority on them. In fact, in one case, the suspension of the rules is being in order to do an end run around the conference committee so that the conference committee never meets because they knew there would be disagreement in the conference committee, so they are using the suspension of the rules to do an end run around it.

In the other case, members of our leadership wrote to the Speaker asking him not to put it on the suspension calendar because an appropriate process was not used to return it from committee, and it violates the rules on the suspension calendar. Yet the bill shows up here.

So that we have got a real problem with some of the items on the suspension calendar. Those are the two out of my committee and two that I happen to know something about, and I know that they are not unanimous consent type of bills or even suspension-of-the rules type of bills.

So I would suggest that we ought to look at what is happening and stop the business as usual, say "Halt" to business-as-usual and defeat a bunch of the suspension bills so maybe some good ones along with the bad ones, just in order to say that Congress ought to get real. We ought to be doing the real work that this House needs to do this week rather than did-

dling and dawdling and delaying even more.

If we continue to do what we are about to do under the suspension-of-the-rules process, I will assure you that we will make it through the rest of this week having dawdled our way into a crisis of major proportions.

The budget summit cannot work against legal deadlines, it cannot work against informal deadlines. We are about to readjust the deadline again, maybe to about October 20, and that is just plain ridiculous and it ought to be stopped here and now.

Mr. CONYERS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, this is a bit unusual that a gentleman from Pennsylvania, former member of the Committee on Government Operations, would come to the floor under a provision that has allowed us to expedite business, suggest that the budget ought to be expedited but, as a way to expediting the budget, he claims that the suspension process, which is an expeditive one, should be delayed and compounded and that even good bills along with bad bills should be defeated.

I think that is inimical to the whole purpose of having the House of Representatives. I think it flies in the face of good judgment about what we are doing here.

These bills were scheduled weeks before anyone knew whether or not the budget process, the conference, would in fact have been resolved. I suspect that if it had been resolved, the speech I have just been treated to would not have been made. But what is the purpose for those of us who are not members of the budget conference, who are not at Andrews Air Force Base, who are here, are we going to take up the budget process today? Are we going to sit here or go into recess?

□ 1300

Mr. Speaker, I think the Congress has a duty to move on the more than 30 suspensions that have been appropriately placed here, and I do not know why the gentleman from Pennsylvania [Mr. WALKER] takes time during a bill that has been brought up with the approval of the administration and the Republican members of the Committee on Government Operations. I have not heard anybody in the subcommittee, or the full committee, complain about this process, and so I am dumfounded by the solution to his complaint that, even if it were meritorious to expedite the budget process, we should now delay the process under which, under suspension of the rules, we move things more rapidly in this Congress.

Mr. HORTON. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of this bill, and I think that it is unfortunate that this bill happens to be the first one on today's Suspension Calendar because it does have merit.

In addition, Mr. Speaker, I want to apologize to the gentleman from Michigan [Mr. CONYERS], my good friend, and the gentleman from New York [Mr. HORTON], my good friend for having to give this speech on this bill.

However, Mr. Speaker, it is being given because this bill is No. 1 on the calendar.

I agree with the gentleman from Pennsylvania [Mr. WALKER] and the gentleman from Wisconsin [Mr. GUNDERSON], my colleague, that here we are sitting 7 days before the ax falls on domestic discretionary programs, with a reduction of almost one-third of the appropriation, talking about suspension bills today. It seems to me that this one day and this one week we could set aside for minor and agreed-upon bills and put our nose to the grindstone to reach the bipartisan agreement that we need to do to avoid the sequestration that will devastate programs that affect every one of our constituents.

Mr. Speaker, there is no reason why this bill could not have been scheduled earlier when we did not face a crisis or could be scheduled later on when the crisis was over with, because I think it would even pass on unanimous consent it is such a good piece of legislation, but scheduling is the problem in this Congress.

Mr. Speaker, we spend weeks and months in the first part of the year fiddling around and doing nothing because there is no legislative business ready for action on the calendar. Then, when we get to the end of the fiscal year, for the last couple of weeks of the session we get calendars that are a yard long simply to make up for lost time.

That is one of the reasons why the public is so disgusted at the actions of the Congress of the United States.

We all knew around here, and so did the country, how much deficit reduction we needed to reach for the fiscal year 1991 budget. The Gramm-Rudman law, which mandated the deficit reductions, was passed in 1985 and amended in 1987, and that set the targets, and that set up the sequestration procedure that would have fallen had Congress not reached those deadlines.

So, instead, what do we do? We ignore the deadlines and we ignore the targets that we have set for ourselves.

Mr. Speaker, the time has come to get down to business, and unfortunately the pressing business is not this bill or the other 34 bills on the Suspension Calendar. The pressing business is to reach that bipartisan agreement so that we can avoid the sequestration and allow the business of government to keep on going on.

The decision to schedule 34 suspensions was made by the Democratic leadership in this House. Perhaps the reason they did that was to divert the attention of the Members of the House and the American public away from the growing budget crisis and to wrongfully try to blame President Bush for where we are at now. The President is not to blame. He has bended, and I ask my colleagues, "When will you?"

Mr. HORTON. Mr. Speaker, I again want to urge my colleagues to support H.R. 4279.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill H.R. 4279, as amended.

The question was taken.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

FEDERAL CIVIL PENALTIES INFLATION ADJUSTMENT ACT OF 1990

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 535) to increase civil monetary penalties based on the effect of inflation.

The Clerk read as follows:

S. 535

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Civil Penalties Inflation Adjustment Act of 1990".

FINDINGS AND PURPOSE

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) the power of Federal agencies to impose civil monetary penalties for violations of Federal law and regulations plays an important role in deterring violations and furthering the policy goals embodied in such laws and regulations;

(2) the impact of many civil monetary penalties has been and is diminished due to the effect of inflation;

(3) by reducing the impact of civil monetary penalties, inflation has weakened the deterrent effect of such penalties; and

(4) the Federal Government does not maintain comprehensive, detailed accounting of the efforts of Federal agencies to assess and collect civil monetary penalties.

(b) PURPOSE.—The purpose of this Act is to establish a mechanism that shall—

(1) allow for regular adjustment for inflation of civil monetary penalties;

(2) maintain the deterrent effect of civil monetary penalties and promote compliance with the law; and

(3) improve the collection by the Federal Government of civil monetary penalties.

DEFINITIONS

SEC. 3. For purposes of this Act, the term—

(1) "agency" means an Executive agency as defined under section 105 of title 5, United States Code, and includes the United States Postal Service;

(2) "civil monetary penalty" means any penalty, fine, or other sanction that—

(A)(i) is for a specific monetary amount as provided by Federal law; or

(ii) has a maximum amount provided for by Federal law; and

(B) is assessed or enforced by an agency pursuant to Federal law; and

(C) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts; and

(3) "Consumer Price Index" means the Consumer Price Index for all-urban consumers published by the Department of Labor.

CIVIL MONETARY PENALTY INFLATION ADJUSTMENT REPORTS

SEC. 4. Within 6 months after the date of the enactment of this Act, and on January 1 of each fifth calendar year thereafter, the President shall submit a report on civil monetary penalty inflation adjustment to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives. Such report shall include—

(1) each civil monetary penalty as defined under section 3(2);

(2) the date each civil monetary penalty was most recently set pursuant to law;

(3) the maximum amount of each civil monetary penalty or, if applicable, the range of the minimum and maximum amounts of each civil monetary penalty in effect on the date of the submission of such report;

(4) the amount of each civil monetary penalty described under paragraph (3) other than any such penalty for which inflation adjustment is provided by law, if each such penalty is increased by the adjustment described under section 5; and

(5) a listing of the modifications to Federal law that would be required to—

(A) increase each penalty described in paragraph (1) by the adjustments described under section 5, excluding any penalty for which inflation adjustment is provided by law or that has been increased within the 5-year period immediately preceding the date of the submission of such report; and

(B) provide that any increase in any civil monetary penalty shall apply only to violations which occur after the date any such increase takes effect.

COST-OF-LIVING ADJUSTMENTS OF CIVIL MONETARY PENALTIES

SEC. 5. (a) ADJUSTMENT.—The adjustment described under paragraphs (4) and (5)(A) of section 4 shall be determined by increasing the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, for each civil monetary penalty by the cost-of-living adjustment. Any increase determined under this subsection shall be rounded to the nearest—

(1) multiple of $10 in the case of penalties less than or equal to $100;

(2) multiple of $100 in the case of penalties greater than $100 but less than or equal to $1,000;

(3) multiple of $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000;

(4) multiple of $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000;

(5) multiple of $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; and

(6) multiple of $25,000 in the case of penalties greater than $200,000.

(b) DEFINITION.—For purposes of subsection (a), the term "cost-of-living adjustment" means the percentage (if any) for each civil monetary penalty by which—

(1) the Consumer Price Index for the month of June of the calendar year preceding the adjustment, exceeds

(2) the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

ANNUAL REPORT

SEC. 6. No later than January 1 of each year, the President shall submit a report on civil monetary penalties to the Congress which shall include—

(1) to the extent possible, the number and amount of civil monetary penalties imposed pursuant to each provision of law providing for such civil monetary penalties, during the complete fiscal year preceding the submission of such report;

(2) to the extent possible, the number and amount of such civil penalties collected during such fiscal year; and

(3) any recommendations that the President determines appropriate to—

(A) eliminate obsolete civil monetary penalties;

(B) modify the amount of any civil monetary penalty; or

(C) make any other legislative modifications concerning civil monetary penalties.

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the past 30 years, the Congress has enacted numerous statutes providing for regulation of matters critical to the health and welfare of the U.S. public—programs such as those setting standards for automobile safety, workplace safety, and protecting the environment. These statutes often include civil monetary penalties intended to deter and punish violations of the regulatory statute.

Recent studies by public and private groups, however, have pointed out that these penalties have been greatly weakened over time because they failed to keep pace with inflation. Thus, for example, where penalties to enforce workplace safety standards have remained unchanged since the enactment of the Occupational Health and Safety Act in 1970, such penalties have been effectively reduced to one-third of their original value if one takes into account the intervening rate of inflation. This despite the fact that the over 100,000 occupationally related deaths each year tell us we need to do far more to protect worker health.

S. 535, cosponsored by Senators FRANK LAUTENBERG and CARL LEVIN, passed the Senate on February 26, 1990, and was recently reported favorably by the Committee on Government Operations.

This bill would require the President to send two periodic reports to Congress on civil penalties. The first report would inventory all civil monetary penalties currently available in the legal code. For each penalty identified, the administration would then calculate the amount by which the penalty would need to be adjusted in order to match the rate of inflation. An initial report on the necessary inflation adjustments would be due 6 months after enactment, and then would be updated every 5 years thereafter.

The second report would be an annual report on usage of each penalty provision during the preceding fiscal year. This report would include both the numbers and amounts of penalties assessed and the numbers and amounts of penalties collected.

Although S. 535 would not provide for any adjustment of the amounts of civil penalties, the information required of the administration by the bill would provide Congress with crucial baseline information on all civil monetary penalties. From this information, Congress would not only be able to assess the need for inflation adjustment, but also to consider restructuring or eliminating unused penalty provisions so as to create more effective enforcement of our regulatory programs.

Mr. Speaker, I reserve the balance of my time.

Mr. HORTON. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I rise in support of S. 535, the Federal Civil Penalties Inflation Adjustment Act of 1990.

S. 535 will for the first time allow the Congress to have a comprehensive overview of existing statutes which contain civil monetary penalties. We will now be able to make determinations concerning which of these statutes are viable and which need to have their penalties adjusted to effectively deter undesirable conduct.

Mr. Speaker, civil monetary penalties serve as an important deterrent to conduct and practices that are damaging to society. Far too many of these penalties have become ineffective over

the years. Inflation of the 1970's has significantly eroded the monetary value of the penalties enacted during that period and before. Many of the approximately 400 civil penalties now on the books have not been reviewed and adjusted for inflation.

S. 535 is necessary not only from a managerial perspective but also from a congressional oversight perspective. The bill requires an inflation adjustment report, which the President will submit to Congress every 5 years. This report will allow the Congress to keep track of civil penalties which must be adjusted to account for inflation and maintain their deterrent value.

The bill also requires the submission of an annual report which will track the amount assessed and collected for individual penalties. The annual report will enable us to assess the effectiveness of specific statutes which the penalties are intended to enforce.

Mr. Speaker, I urge passage of this important legislation.

□ 1310

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the Senate bill, S. 535.

The question was taken.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

MOTION TO SUSPEND THE RULES AND PASS H.R. 2006, INDIAN ARTS AND CRAFTS ACT OF 1990

Mr. CAMPBELL of Colorado. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2006) to expand the powers of the Indian Arts and Crafts Board, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Arts and Crafts Act of 1990."

SEC. 2. POWERS OF INDIAN ARTS AND CRAFTS BOARD.

Section 2 of the Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305a) is amended—

(1) in the first sentence—

(A) by striking "the Board" and inserting "the Secretary of the Interior through the Board"; and

(B) by striking "the Indian wards of the Government" and inserting "Indian individuals";

(2) by amending clause (g) to read as follows: "(g)(1) to create for the Board, or for an individual Indian or Indian tribe or tribal organization, trademarks of genuineness and quality for Indian products and the products of an individual Indian or particular Indian tribe or tribal organization; (2) to establish standards and regulations for the use of Government-owned trademarks by corporations, associations, or individuals, and to charge for such use under such licenses; (3) to register any such trademark owned by the Government in the United States Patent and Trademark Office without charge and assign it and the goodwill associated with it to an individual Indian or Indian tribe or group without charge; and (4) to pursue or defend in the courts any appeal or proceeding with respect to any final determination of that office;"; and

(3) by adding at the end the following new sentence; "For the purpose of this section, the term 'tribal organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes.".

SEC. 3. REFERRAL FOR CRIMINAL AND CIVIL VIOLATIONS.

The Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) is amended by adding at the end of the following:

"SEC. 5. (a) The Board may receive complaints of violations of section 1159 of title 18, United States Code, and refer complaints of such violations to the Federal Bureau of Investigation for appropriate investigation. After reviewing the investigation report, the Board may recommend to the Attorney General of the United States that criminal proceedings be instituted under that section.

"(b) The Board may recommend that the Secretary of the Interior refer the matter to the Attorney General for civil action under section 6.".

SEC. 4. CRIMINAL PENALTY FOR MISREPRESENTATION OF INDIAN PRODUCED GOODS AND PRODUCTS.

(a) IN GENERAL.—Section 1159 of title 18, United States Code, is amended to read as follows:

"§ 1159. Misrepresentation of Indian produced goods and products

"(a) It is unlawful to offer or display for sale or sell any goods, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or tribal organization, resident within the United States.

"(b) Whoever knowingly violates subsection (a) shall—

"(1) in the case of a first violation, if an individual, be fined not more than $250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than $1,000,000;

"(2) in the case of subsequent violations, if an individual, be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other than an individual, be fined not more than $5,000,000.

"(c) As used in this section—

"(1) the term 'Indian' means any individual who is a member of an Indian tribe, or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

"(2) the terms 'Indian product' and 'product of a particular Indian tribe or tribal organization' has the meaning given such term in regulations which may be promulgated by the Secretary of the Interior;

"(3) the term 'Indian tribe' means—

"(A) any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(B) any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority; and

"(4) the term 'tribal organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes.

"(d) In the event that any provision of this section is held invalid, it is the intent of Congress that the remaining provisions of this section shall continue in full force and effect.".

(b) CONFORMING AMENDMENT.—The item relating to section 1159 in the table of sections for chapter 53 of title 18, United States Code, is amended to read as follows:

"1159. Misrepresentation of Indian produced goods and products.".

SEC. 5. CAUSE OF ACTION FOR MISREPRESENTATION OF INDIAN PRODUCED GOODS AND PRODUCTS.

The Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) (as amended by section 3) is further amended by adding at the end of the following:

"SEC. 6. (a) A person specified in subsection (c) may, in a civil action in a court of competent jurisdiction, bring an action against a person who offers or displays for sale or sells any goods, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or tribal organization, resident within the United States, to—

"(1) obtain injunctive or other equitable relief; and

"(2) recover the greater of—

"(A) treble damages;

"(B) in the case of each aggrieved purchaser, liquidated damages of not less than $1,000 for each occurrence of any such offer, display, or sale; or

"(C) in the case of each aggrieved individual Indian, Indian tribe or tribal organization, or competing producer, supplier, or retailer, not less than $1,000 for each day on which the offer or display for sale or sale continues.

"(b) In addition to the relief specified in subsection (a), the court may award punitive damages and the costs of suit and a reasonable attorney's fee.

"(c)(1) A civil action under subsection (a) may be commenced—

"(A) by the Attorney General of the United States upon request of the Secretary of the Interior on behalf of an Indian who is a member of an Indian tribe or on behalf of an Indian tribe or tribal organization;

"(B) by an Indian tribe on behalf of itself, an Indian who is a member of the tribe, or on behalf of a tribal organization; and

"(C) by any person aggrieved by any such offer, display, or sale.

"(2) Any amount recovered pursuant to this section shall be paid to the individual Indian, Indian tribe or tribal organization, or person concerned, except that—

"(A) in the case of paragraph (1)(A), the Attorney General may deduct from the amount recovered the amount for the costs of suit and reasonable attorney's fees awarded pursuant to subsection (b) and deposit the amount of such costs and fees as a reimbursement credited to appropriations currently available to the Attorney General at the time of receipt of the amount recovered; and

"(B) in the case of paragraph (1)(B), the amount recovered for the costs of suit and reasonable attorney's fees pursuant to subsection (b) may be deducted from the total amount awarded under subsection (a)(2).

"(d) As used in this section—

"(1) the term 'Indian' means any individual who is a member of an Indian tribe; or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

"(2) the terms 'Indian product' and 'product of a particular Indian tribe or tribal organization' has the meaning given such term in regulations which may be promulgated by the Secretary of the Interior;

"(3) the term 'Indian tribe' means—

"(A) any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(B) any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority; and

"(4) the term 'tribal organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes.

"(e) In the event that any provision of this section is held invalid, it is the intent of Congress that the remaining provisions of this section shall continue in full force and effect.".

SEC. 6. PENALTY FOR COUNTERFEITING INDIAN ARTS AND CRAFTS BOARD TRADEMARK.

Section 1158 of title 18, United States Code, is amended by striking "be fined not more than $500 or imprisoned not more than six months, or both; and" and inserting "(1) in the case of a first violation, if an individual, be fined not more than $250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than $1,000,000; and (2) in the case of subsequent violations, if an individual, be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other than an individual, be fined not more than $5,000,000; and (3)".

SEC. 7. CERTIFICATION OF INDIAN ARTISANS.

For the purposes of section 1159 of title 18, United States Code, and section 6 of the Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) an Indian tribe may not impose a fee in certifying an individual as an Indian artisan. For the purposes of this section, the term "Indian tribe" has the same meaning given such term in section 1159(c)(3) of title 18, United States Code.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. SENSENBRENNER. Mr. Speaker, I object to the ordering of a second, and on that I demand tellers.

The SPEAKER pro tempore. The question is: Will a second be ordered?

Tellers were ordered, and the Speaker pro tempore appointed as tellers Mr. CAMPBELL of Colorado and Mr. RHODES.

Mr. CAMPBELL of Colorado. Mr. Speaker, I withdraw the motion to suspend the rules.

The SPEAKER pro tempore. The gentleman from Colorado [Mr. CAMPBELL] has withdrawn his motion.

INDIAN ENVIRONMENTAL REGULATORY ENHANCEMENT ACT OF 1990

Mr. FALEOMAVAEGA. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2075), to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality.

The Clerk read as follows:

S. 2075

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Indian Environmental Regulatory Enhancement Act of 1990".

GRANT PROGRAM

SEC. 2. Section 803 of the Native American Programs Act of 1974 (42 U.S.C. 2991b) is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall award grants to Indian tribes for the purpose of funding 80 percent of the costs of planning, developing, and implementing programs designed to improve the capability of the governing body of the Indian tribe to regulate environmental quality pursuant to Federal and tribal environmental laws.

"(2) The purposes for which funds provided under any grant awarded under paragraph (1) may be used include, but are not limited to—

"(A) the training and education of employees responsible for enforcing, or monitoring compliance with, environmental quality laws,

"(B) the development of tribal laws on environmental quality, and

"(C) the enforcement and monitoring of environmental quality laws.

"(3) The 20 percent of the costs of planning, developing, and implementing a program for which a grant is awarded under paragraph (1) that are not to be paid from such grant may be paid by the grant recipient in cash or through the provision of property or services, but only to the extent that such cash or property is from any source (including any Federal agency) other than a program, contract, or grant authorized under this title.

"(4) Grants shall be awarded under paragraph (1) on the basis of applications that are submitted by Indian tribes to the Secretary in such form as the Secretary shall prescribe.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. Section 816 of the Native American Program Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking out "section 803A" each place it appears and inserting in lieu thereof "sections 803(d) and 803A", and

(2) by adding at the end thereof the following new subsection:

"(d) There are authorized to be appropriated $8,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, 1995, and 1996, for the purpose of carrying out the provisions of section 803(d).".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from American Samoa [Mr. FALEOMAVAEGA] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from American Samoa [Mr. FALEOMAVAEGA].

GENERAL LEAVE

Mr. FALEOMAVAEGA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the Senate bill, S. 2075.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from American Samoa?

There was no objection.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2075 is a rather simple bill. It authorizes grants to Indian tribes to improve their capability to regulate environmental quality.

The Congress amended several environmental laws in the past 5 years which provide that, when a tribe chooses, it can be treated as a State by the Environmental Protection Agency. This allows tribes to assume jurisdictional primacy in environmental matters on tribal lands.

The major laws which include these provisions include: the Safe Drinking Water Act, which was amended to include tribes in 1986; the Superfund Act was also amended in 1986 to treat tribes as States; and the Clean Water Act was similarly amended in 1987. Also, both the Senate and the House have passed amendments to the Clean Air Act with tribal provisions.

Recently, the Federal courts have found that tribes and Federal agencies are required to comply with the prohibition against "open dumps" on Indian lands pursuant to the Resources Conservation and Recovery Act [RCRA]. In the case of Blue Legs versus EPA,

an Oglala Sioux brought a suit to compel the tribe and Federal agencies to clean up a reservation dump. The eighth circuit found that the responsibility for the operation of dumps on the reservation rested with the tribe, the Bureau of Indian Affairs and Indian Health Service. However, tribes are currently treated as municipalities, not States, under RCRA. Hence, they have the responsibility to clean the dumps, but no funding.

Both the Senate Select Committee on Indian Affairs and the House Interior Committee conducted hearings during the 101st Congress on various aspects of the status of environmental matters on Indian reservations. Both committees heard similar testimony and drew similar conclusions. Tribes identified the need for assistance to train professional staff to monitor and enforce tribal environmental programs. Tribes testified that in many cases, grant awards from the Environmental Protection Agency were not sufficient to hire even one professionally trained staff person.

In addition, many Indian tribes testified as to the lack of adequate data for tribes to begin to develop environmental statutes and establish environmental quality standards for their reservations. Indian tribes indicated a need for funds to conduct the necessary studies to identify sources of pollution on their reservations and to determine the impact on existing environmental quality. Many tribes indicated that the lack of adequate resources has delayed tribal efforts to develop and implement tribal environmental programs. The committee also received testimony from Federal and tribal officials regarding a wide variety of tribal environmental programs that have been established largely without Federal funds to combat problems of hazardous waste dumping on reservation lands, pesticides leaching into groundwater aquifers, illegal discharges into reservation water systems, and uranium mill tailings largely untreated on reservation lands.

In general, Indian tribes retain regulatory jurisdiction over their lands, but retaining the right for tribes to regulate the environment is especially important for tribes. Indian tribes have always been acknowledged as conservationists—an attribute which comes from their deep, abiding respect for the land, the water, the air, and all that the Earth provides. Indeed, we can learn much from the original caretakers of this continent.

Senator MCCAIN's bill provides the tribes with grants through the Department of Health and Human Services, Administration for Native Americans, which will: train tribal employees in modern environmental laws and procedures; assist tribes in developing their own environmental codes; and assist tribes in the enforcement and monitoring of environmental quality laws. This will allow modern law and technology to be introduced to tribal environmental philosophy. The results may serve as examples for a postindustrial society which forgot to respect the Earth.

The legislation calls for an appropriation of $8 million for each fiscal year from 1991 until 1996. This would allow for grants which would be awarded on a competitive basis. The grant program would require a 20-percent tribal match which would come from any other funding source, including Federal funds. Tribes could also match the funds awarded with services or in-kind property.

Mr. Speaker, enactment of S. 2075 is supported by both parties. I urge passage of the bill.

□ 1320

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2075, a bill to authorize grants to improve the capability of Indian tribal governments to monitor and regulate environmental quality. This bill is important for the following reasons.

Several existing Federal environmental laws include in their provisions authority for Indian tribes to participate in regulatory activites associated with monitoring and enforcing laws designed to protect safe drinking water, clean water, clean air, and solid waste. Under these laws, tribes are generally expected to have in place the governmental structure and regulatory system necessary to participate in environmental protection. Unfortunately, only a handful of tribes have had the resources necessary to develop such a capability.

One of the primary beneficial features of S. 2075 is that it authorizes and directs that the existing grant program operated by the Administration for Native Americans provide grants to tribes to enable them to develop and improve their regulatory capabilities with regard to environmental protection on Indian reservations. This objective is important in that the record before Congress is replete with anecdotes of serious environmental problems on Indian reservations.

For instance, hazardous waste dumping on reservation lands, pesticides leaching into ground-water aquifers, illegal discharges into reservation water systems, and uranium mill tailings represent some of the enormous and challenging problems facing reservation communities.

It is clear that Federal environmental agencies alone are not able to combat these problems, and it only seems logical that Indian tribes should be encouraged to become an active player with the Federal Government in addressing these environmental problems.

S. 2075 is a small, but helpful step in the right direction in that it would improve the ability of tribes to protect the health and welfare of all of the citizens living on Indian reservations.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, again, this bill is being considered under a process known as suspension of the rules. Suspension of the rules means that none of the rules of the House apply to the consideration of the legislation. It is supposed to be reserved for those things that are relatively noncontroversial in nature, and should not have any problems moving through the process, given the fact that we are proceeding without rules.

In this particular case there is some concern about the bill. The administration has said about S. 2075 that they oppose this bill because it would establish an unnecessary new grant program to achieve the goals put forward in the bill.

That is a little bit difficult to swallow in a week when we are coming up against a major budget wall, when there are real concerns about discretionary domestic spending, when we have tremendous concerns about the size of the Federal budget deficit—that we would come to the floor with a bill that establishes a new grant program that the administration says is unnecessary, and we would do so while suspending the rules of the Congress in order to achieve that end.

I would suggest that this is exactly the kind of bill and exactly the kind of process that has gotten us into trouble. It is the reason why we find ourselves with major budget deficits. It is the reason why the budget process has failed, and we ought to defeat this particular bill, not because it is not meritorious in its intent, but the direction in which it goes by establishing an unnecessary new grant program—does, in fact, carry us away from what we need to do in order to solve our budget deficit crisis, not toward a solution to that crisis.

So I would urge the Congress to vote no on this bill.

Mr. RHODES. Mr. Speaker, I yield myself such additional time as I may consume.

Mr. Speaker, I recognize full well what the gentleman from Pennsylvania is saying. I recall the remarks of the gentleman from Montana [Mr. MARLENEE] this morning during the 1-minute portion of our calendar here when he remarked upon the fact that the Committee on Interior and Insular Affairs is busily churning out new legislation and bringing it to the floor

under suspension of the rules that will, in fact, result in substantial increased authorizations for appropriations for various Interior Department agency programs. I share Mr. MARLENEE's concern and I share the concern of the gentleman from Pennsylvania [Mr. WALKER].

On this particular bill, however, I think it is fair to point out that the grant program currently exists. It is the purpose of this bill to seek appropriations and direct the administration to make outlays in the direction of enabling the various Indian tribes in this country to assist in identifying environmental hazards on their reservations, and to assist in identifying solutions to those environmental hazards. The program exists; it has not been utilized.

The purpose of the legislation is to direct that the Bureau of Indian Affairs does utilize it. The reason for the administration's objection, very frankly, is that this bill does direct them. It does the functional equivalent of earmarking funds, something which we on this side of the aisle at least generaly oppose.

In this particular case we are talking about outlays of $3 million in fiscal 1991 and $8 million for fiscal years thereafter. I think it is, in spite of the times in which we are dealing and in spite of the fiscal circumstances that we are trying to deal with, and in spite of the week of the year that this is, I think it is a worthwhile piece of legislation, and I think it should be adopted.

Mr. Speaker, I am happy to yield such time as he may consume to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman from Arizona for yielding time to me.

Mr. Speaker, irrespective of the merits of this legislation, what the gentleman from Arizona is saying is that this legislation directs the administration to spend funds which they are not currently spending, $3 million for fiscal year 1991 and $8 million for each fiscal year thereafter. That means that the budget deficit for these fiscal years will go up either $3 million or $8 million.

It was Everett McKinley Dirksen who once said we spend a million here and we spend a million there, and sooner or later it adds up to big money. That certainly shows that the point that was made by the gentleman from Pennsylvania [Mr. WALKER] is correct. This is a bill that is going to increase the deficit, and if we force the administration to spend these funds in fiscal year 1991 and do not reach a budget agreement before the sequestration date, that means that it is going to be $3 million out of other programs, and in the domestic discretionary spending area on a dollar-for-dollar basis. That is going to mean more furlough notices, more time off for Federal employees, more disruption of the funds that go to support our own constituents.

Even though this bill may very well have some merit to it, it seems to me that in the times that we are facing this is something that can be postponed until after a budget summit agreement is reached.

□ 1330

I would hope my friend, the gentleman from Arizona, and my friend, the gentleman from American Samoa, would recognize that and perhaps withdraw this motion to suspend the rules and go down and put some pressure on our summiteers to reach an agreement so we have got this money to spend.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I appreciate the gentleman yielding me this time.

Mr. Speaker, this is a good bill. It ought to be considered and passed.

One of the principal problems that we have today with regard to public lands and some of the responsibilities of the National Government and the trust relationship of the National Government and the Department of the Interior toward native Americans and native American lands are those with regard to residual liability concerning environmental hazards that have occurred to those lands.

This legislation tries to recognize that problem providing some EPA authority to assist in the making of determination as to the problems that exist in this trust relationship that we have. I feel that we owe it to the native American groups and to ourselves to, in fact, provide and obtain that type of information so that actions that occur do not accrue to the liability of the National Government so that, in a very real sense, this special allocation of dollars to the EPA will in the end save us from a larger liability concerning environmental programs.

Mr. Speaker, now earlier today and throughout this debate there have been discussions about the problems that we are not dealing with the overall budget and that the negotiations at Andrews have been slowed down or stymied, and that is regrettable, I think. We hope that there will be some change in terms of those negotiations and that we will have a resolution to the budget issue.

We all know what the issue is. The issue has been, of course, one in which there is a reluctance to accept reasonable increased revenues, the type of taxes that are needed to meet the programs and obligations of the National Government. As a matter of fact, the President's budget submission was deficient in terms of addressing the actual economic performance that was to occur. Of course that has not occurred, I should say, since it was first submitted. It was sorely lacking when it was submitted, and as events have unfolded in 1990, it has become obviously lacking, I think, to everyone including the administration and the Office of Management and Budget that that budget needed substantial modification—substantial revamping.

The fact of the matter is that last year when we passed the S&L legislation, FIRREA, the S&L bailout legislation, we recognized a $50 billion cost in terms of that legislation. Since then, that cost has tripled. It is regrettable, but I think it is the fact that today the actual cost of that and the amount of expenditure that is needed next year is up, with an additional $100 billion plus. The Congress must somehow in 1991 provide additional authority for that purpose. Everyone understands that. Very few are talking about it.

I can only submit to my colleagues the reason the S&L cost is not being discussed is because of the lack of enthusiasm and some of the political liabilities that are associated with the S&L problems. And as I stated previously, the economy has not performed, as hoped for.

An additional concern today is providing adequate funding in terms of the operation in the Middle East.

Now clearly, there are differences of opinion besides partisan differences. There are good, earnest discussions and differences that persist. What is unusual in this process, of course, is that we have not been able to compromise our differences so far, and when you have strong opinions held by the Senate and the House and by the President, clearly that means that we face deadlines. We are up against such a deadline right now.

The fact is that that is generally what precipitates decisionmaking, it is deadlines. We have a very significant problem—the sequester—if we do not meet the deadline. I think all of us recognize that.

Mr. Speaker, further comment was made concerning the Committee on Interior and Insular Affairs and other committees of this House that how all of a sudden our committee has legislation on the Suspension Calendar that should be considered. I have had, since I returned in September and throughout the summer, Members coming to me with new problems that need to be solved, problems that they want to solve by wrapping it into an appropriation bill or putting it someplace else and, naturally, our committee, because of the responsibility and authorities that have been granted to us by the

House and by the precedents and procedures, deal with many, many bills on the Suspension Calendar, as my friend, the gentleman from American Samoa, is dealing with one such measure today.

We take that responsibility quite seriously. We go through hearings, but as is the case in most legislative matters, these issues finally get resolved in generally the remaining weeks of a session. The legislative process, by its nature, provides more business at the conclusion. That does not mean such measures have been ill-considered or inadequately considered or that anyone is trying to pass anything in this House or on the calendar that has wholly adverse connotations. Our committee process is a very positive process, one which I think I can hold up as involving participation and adequate hearings for the consideration. We work very hard at that in the committee on both sides of the aisle.

So I would hope that in Members eagerness and in stating their concern for resolving the overall budget issue that Members do not expand the problems to take in and make a larger problem out of issues where problems need not exist. That is what I think is occurring today.

Many Members are unhappy, they are frustrated with the lack of progress or apparent lack of progress regarding the budget. Hopefully by the end of the day or by the end of the week, we will see the type of movement that can bring about support for a budget agreement in terms of avoiding the dreaded sequester, but the fact is I do not think that we help ourselves by assaulting several of the committees work and knocking it in essence off the agenda and postponing that for another week as being helpful.

What is going to happen, of course, is that we will not be able to accomplish the tasks and the expectations of the schedule for the House today. Congress has a difficult time, Mr. Speaker, accomplishing, achieving the expectations of the public in terms of the legislation before us.

This bill is a very important bill in terms of native Americans. There are other bills here that are more specific in terms of how they affect Members. I can literally suggest and tell the Members that over the course of the 100th Congress my subcommittee and the Committee on Interior and Insular Affairs handled hundreds of individual bills for Members.

There are probably one-third of the Members in this House, or half the Members of this House, who have bills that were individually affected by the actions of the Interior and Insular Affairs Committee. By the dilatory tactics of the minority to frustrate and remove these from the agenda, to pull someone else's bill off the agenda suggests to me that those Members that are doing that really want to have their legislation passed but they are objecting to others'.

I think we will have to look very carefully, Mr. Speaker, at that process and at the impact, but I think for the moment I would try and persuade my friends not to expand the nature of the budget problem to embrace unrelated matters. They are not going to solve the budget problem by expanding it with a lot of what I consider highly partisan rhetoric that I have heard today.

This Monday morning quarterbacking is not going to change the facts rendered on the talk shows this weekend or what has been reported in the past week.

We need the President to sit down and negotiate. We need him to back off the capital gains tax and make some other changes. I think we, too, have to recognize we are not going to have everything all our way.

Mr. Speaker, I wanted to comment about that, because I thought it was appropriate in light of the discussions and actions that this House apparently is not going to take today to deal with and to conclude this session. I think it is the partisan actions today that may very well result in Congress not being able to finish its business by election day and perhaps forcing a return, and I think that that would be very regrettable, Mr. Speaker.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the distinguished gentleman from Pennsylvania for his concerns, as is true with the concerns of 434 other Members in a time of budget deficit that we are undertaking in our National Government, the crisis in the Middle East, the problems that we are facing with the summit, both on this side of the town and in relation to the administration.

□ 1340

I do not think anyone here denies this problem that we are faced with, but I want to say, Mr. Speaker, that we did follow the process that is mandated by the Congress and by the Constitution to this House and to the other body, as well. We have fulfilled that legislative mandate by conducting full hearings to see the merits of the provisions of this bill.

I want to say that I certainly commend and thank the gentleman from Arizona for supporting this legislative effort on behalf of well over a million native Americans residing in this great United States. Yet, if we are really to make any firm assessments of the economic and the health needs of this group of people residing in the United States, I submit, Mr. Speaker, that we are sorely lacking in any sense of leadership initiative in trying to give assistance to the native Americans.

This bill simply gives an authorization. For that matter, it is up to the appropriations process to then consider the merits of the proposed legislation and whether or not it ought to be given the full funding. So what I am suggesting to the gentleman from Pennsylvania is that we are following the authorization process, but the appropriations process still has not been carried out. This is something that I think gives Members a further sense of consideration if there are any flaws or any problems affecting this legislation.

Mr. Speaker, I personally have visited some of these reservations throughout the United States. I submit, Mr. Speaker, that I would suggest that all the Members of this great body ought to have an opportunity to see for themselves that this is literally a need, that we must provide the funding. The policy is clearly stated.

Again, I cannot thank enough the gentlemen, both the Senator from Arizona and my good friend, the gentleman from Arizona [Mr. RHODES] for their help in seeing this legislation pass. I urge my friends to pass this legislation.

Mr. RHODES. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I listened attentively to the speech by the gentleman from Minnesota [Mr. VENTO]. He is attempting to place the blame for scheduling on the minority party. Shame on the gentleman from Minnesota. The gentleman from Minnesota [Mr. VENTO] knows full well that every bill that is placed on the calendar is placed there by the majority party, and every bill that is withdrawn from the calendar is withdrawn by the majority party, because the majority party correctly has the responsibility for scheduling in any legislative body in the world. That is their responsibility in deciding what we vote on.

Now, sometimes I get the whip notice on what has been scheduled, and it is kind of like going to a restaurant and seeing nothing but broccoli in the menu. But even when there is nothing but broccoli on the menu, we come and try to make it taste a little bit better with some condiments and amendments, and things like that. They can have the responsibility for scheduling as long as they have the majority, but they ought to accept the responsibility when the scheduling does not go right.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I did not want to imply that the minority had

the responsibility for scheduling. Indeed, we do, and we scheduled this work. Clearly, the minority is within their right to object.

With regard to the mention of broccoli, Mr. Speaker, I had not intended to bring the President into the question of scheduling of suspension measures, so I will pass on that temptation.

Mr. RHODES. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I would certainly respond to the gentleman from Minnesota [Mr. VENTO] that I think the point being made here is that by what they schedule, they say what is important. What they have said this week is that there are 34 bills today that are more important than the budget; that there are a bunch of bills scheduled for later on in the week that are more important than the budget; and that we ought to be doing a lot of other business other than dealing with the major crisis the country faces, and that is a budget crisis.

We are telling them that is wrong. It is high time to focus on the schedule that the Democrats bring to Members each week and say that we think that maybe some of the items on that schedule are not a part of solving the budget crisis.

I would also comment on the point made by the gentleman from American Samoa, and I appreciate his point. One of the ways we have gotten in trouble in this country is by divorcing our responsibility under the authorization process, from our responsibility under the appropriations process. I hear all the time from people on the floor who say, "Well, don't worry about the spending in the bill, that will be resolved in the appropriations process." We ought to be worried about the spending wherever it occurs. The administration is worried about this bill and the spending implications of it. OMB is worried about it. We in this Congress ought to be worried about it, too.

We do not have hundred billion deficits that came from nowhere. We created them. Every one of them. We created them because we appropriated too much money, or because we authorized too much money or we did a little of both. The fact is what we did is a little of both. The bottom line is this bill, by creating a new grant program does a little more of both.

I am very concerned that at a time when faced with a budget crisis in this country, all Congress knows how to do is spend more money. It is time to turn off the taps of this spending and get Members back to some kind of degree of fiscal sanity.

Mr. RHODES. Mr. Speaker, I yield such time as I may consume to conclude my debate.

I want to say, Mr. Speaker, in defense of this bill, if it were brought to the floor on any other day of any other week of the year, we would have been through with it 25 minutes ago. If there were a budget summit agreement, this bill would have been passed without any difficulty. The gentleman from Wisconsin [Mr. SENSENBRENNER] and the gentleman from Pennsylvania [Mr. WALKER] have, time and again, proven themselves great friends of the environment, and great friends of the Native Americans of this country. If this bill were brought before the House at any other time, they would be here, I strongly suspect, supporting passage of this legislation.

It is an accident of scheduling that it is brought before Members today. This bill does not deserve to be held hostage to the sentiments, with which I agree 100 percent as expressed by the gentleman from Wisconsin and the gentleman from Pennsylvania. The bill deserves positive consideration by the House. I urge its passage.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

I really am appreciative of the comments expressed thus far, but to the entent, Mr. Speaker, on the merits of this bill alone, I submit let Members not make the native Americans of this great country of ours the whipping boy of the problems faced by this Congress.

I strongly urge my colleagues to seek their conscience of whether or not the native Americans have a need. I submit they definitely have a need. I urge my colleagues that they should support the bill. I thank the gentleman from Arizona [Mr. RHODES] for his support and his untiring efforts in helping the needs of our native American citizens of this country.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from American Samoa [Mr. FALEOMAVAEGA] that the House suspend the rules and pass the Senate bill, S. 2075.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

MOTION TO SUSPEND THE RULES AND PASS H.R. 4559, RED ROCK CANYON NATIONAL CONSERVATION AREA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4559) to establish the Red Rock Canyon National Conservation Area, as amended.

The Clerk read as follows:

H.R. 4559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF CONSERVATION AREA.

(a) IN GENERAL.—(1) In order to conserve, protect, and enhance for the benefit and enjoyment of present and future generations, the area in southern Nevada containing and surrounding the Red Rock Canyon and the unique and nationally important geologic, archeological, ecological, cultural, scenic, scientific, wildlife, endangered species, riparian, wilderness, and recreation resources of the public lands therein contained, there is established the Red Rock Canyon National Conservation Area.

(2) The conservation area shall consist of approximately 83,100 acres of federally owned land, water, and interests as generally depicted on a map entitled "Red Rock Canyon National Conservation Area—Proposed", numbered NV-RRC-NCA-001, and dated June 1990.

(3) The map described in paragraph (2) shall be on file and available for inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

(b) MAP AND LEGAL DESCRIPTION.—(1) As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of the conservation area established in subsection (a) with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such map and legal description.

(2) The map and legal description described in paragraph (1) shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

SEC. 2. MANAGEMENT.

(a) IN GENERAL.—The Secretary, acting through the Director of the Bureau of Land Management, and subject to valid existing rights, shall manage the conservation area to conserve, protect, and enhance the resources specified in section 1 in accordance with this Act, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and other applicable laws, including those relating to management of wild free-roaming horses and burros on public lands. The Secretary shall only allow such uses of the conservation area as he finds will further the purposes for which the conservation area is established.

(b) HUNTING AND TRAPPING.—(1) Subject to paragraph (2), the Secretary shall permit hunting and trapping within the conservation area in accordance with the laws of the United States and the State of Nevada.

(2) The Secretary, after consultation with the Nevada Department of Wildlife, may issue regulations designating zones where, and establishing periods when, hunting or trapping shall not be permitted for reasons of public safety, administration, public use, and enjoyment.

(c) PREVENTIVE MEASURES.—Nothing in this Act shall preclude such reasonable

measures as the Secretary deems necessary to prevent devastating fire or infestation of insects or disease.

(d) MECHANIZED VEHICLES.—Except where needed for administrative or emergency purposes, or as otherwise designated by the Secretary, the use of mechanized vehicles in the conservation area shall be allowed only on roads and trails designated for such use as part of the management plan prepared pursuant to section 3.

(e) LIMITATION ON VISITATION AND USE.—The Secretary is authorized to implement such reasonable limits to visitation and use of the conservation area as the Secretary finds appropriate for the protection of the area's resources, including requiring permits for public use and closing portions of the conservation area to public use.

SEC. 3. MANAGEMENT PLANS.

(a) IN GENERAL.—(1) Within 3 full fiscal years following the fiscal year in which the date of enactment of this Act occurs, the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a general management plan for the conservation area which shall describe the appropriate uses and development of the conservation area consistent with the purposes of this Act.

(2) The management plan described in paragraph (1) shall be developed with full public participation and shall include—

(A) an implementation plan for a continuing program of interpretation and public education about the resources and values of the conservation area;

(B) a proposal for administrative and public facilities to be developed, expanded, or improved for the conservation area including the Red Rock Canyon visitors center, to facilitate management and accommodate visitors to the conservation area;

(C) a cultural resources management plan for the conservation area prepared in consultation with the Nevada State Historic Preservation Office, with emphasis on the preservation of those resources and the interpretative, educational, and long-term scientific uses of these resources, giving priority to the enforcement of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) within the conservation area;

(D) a wildlife resource management plan for the conservation area prepared in consultation with appropriate departments of the State of Nevada and using previous studies of the area;

(E) a recreation management plan for the conservation area in consultation with appropriate departments of the State of Nevada; and

(F) a wild horse and burro herd management plan for the conservation area prepared in consultation with appropriate departments of the State of Nevada.

(B) WILDERNESS.—Except as provided in section 5, nothing in this Act shall be construed as altering the requirement of section 603 of the Federal Land Policy and Management Act of 1976, or section 5(a) of the National Forest and Public Lands of Nevada Enhancement Act of 1988 (Public Law 100-550), as those requirements apply to the lands within, or adjacent to, the conservation area as of the date of enactment of this Act.

SEC. 4. ACQUISITIONS.

(a) IN GENERAL.—Within the conservation area and outside that area when required for the construction or improvement of access roads thereto, the Secretary may acquire lands, waters, and interests in lands and waters (including scenic easements), as the Secretary considers appropriate to carry out this Act by—

(1) donation;

(2) purchase with donated or appropriated funds;

(3) exchange under applicable law for lands outside the conservation area; or

(4) transfer from another Federal agency with the concurrence of the head thereof.

(b) TERMS OF ACQUISITION.—Any lands or interests therein owned by the State of Nevada or a political subdivision thereof, may be acquired only by donation or exchange.

(c) INCORPORATION OF ACQUIRED LANDS.—Any lands, waters, or interests therein within the boundaries of the conservation area which after the date of enactment of this Act may be acquired by the United States shall be incorporated into the conservation area and managed accordingly, and all provisions of this Act and other laws applicable to conservation areas shall apply to such incorporated lands.

SEC. 5. WITHDRAWAL.

Except as authorized in this Act, and subject to valid existing rights, all Federal lands within the conservation area and all lands and interests therein which are acquired by the United States after the date of enactment of this Act are withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws, and from operation under the mineral leasing and geothermal leasing laws.

SEC. 6. COOPERATIVE AGREEMENTS.

In order to encourage unified and cost-effective management and interpretation of natural and cultural resources in the conservation area, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State, and local agencies and nonprofit entities providing for the management and interpretation of natural and cultural resources in the conservation area.

SEC. 7. COORDINATED MANAGEMENT.

The Secretary shall coordinate management of the conservation area with surrounding State and Federal lands in such a manner as best to meet the present and future needs of the American people.

SEC. 8. WATER.

(a) Congress hereby reserves a quantity of water sufficient to fulfill the purposes, as specified in section 1(a), for which the conservation is established,. The priority date of this reserved right shall be the date of enactment of this Act.

(b) The Secretary and all other officers of the United States shall take all steps necessary to protect the right reserved by subsection (a), including the filing by the Secretary of a claim for the quantification of such right in any present or future appropriate stream adjudication in the courts of the State of Nevada in which the United Staes is or may be joined and which is conducted in accordance with section 208 of the Act of July 10, 1952 (Chapter 651; 66 Stat. 560; 43 U.S.C. 666; commonly referred to as the "McCarran Amendment").

(c) Nothing in this Act shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of Nevada on or before the date of enactment of this Act.

(d) The Federal rights reserved by this Act are specific to the conservation area. Nothing in this Act related to reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made pursuant thereto.

SEC. 9. DEFINITIONS.

For the purposes of this Act—

(1) the term "conservation area" means the Red Rock Canyon National Conservation Area established by section 1;

(2) the term "public lands" has the meaning stated in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)); and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mrs. VUCANOVICH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. SENSENBRENNER. Mr. Speaker, I object to the ordering of the second, and on that I demand tellers.

Mr. VENTO. Mr. Speaker, I withdraw my motion.

The SPEAKER pro tempore. The motion is withdrawn.

GREAT LAKES WATER QUALITY IMPROVEMENT ACT OF 1990

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4323) to amend the Federal Water Pollution Control Act relating to water quality in the Great Lakes, as amended.

The Clerk read as follows:

H.R. 4323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Great Lakes Water Quality Improvement Act of 1990".

SEC. 2. AMENDMENTS TO FEDERAL WATER POLLUTION CONTROL ACT.

(a) PURPOSES.—Subsection (a)(2) of section 118 of the Federal Water Pollution Control Act (33 U.S.C. 1268) is amended to read as follows:

"(2) PURPOSES.—The purposes of this section are as follows:

"(A) To achieve the goals of the Great Lakes Agreement and to accelerate implementation of such Agreement through improved organization and definition of mission on the part of the Agency, funding of State grants for pollution control in the Great Lakes area, and improved accountability for implementation of such Agreement.

"(B) To promote a better understanding of the effects of toxic pollutants on the Great Lakes ecosystem and the food chain in the Great Lakes and the implications of such effects on human health.

"(C) To accelerate development of Great Lakes specific water quality standards.

"(D) To accelerate contaminant sediments cleanup in the Great Lakes.".

(b) DEFINITIONS.—Subsection (a)(3) of such section is amended—

(1) by redesignating subparagraphs (C), (D), and (E), and any reference thereto, as subparagraphs (E), (F), and (G), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraphs:

"(C) 'Great Lakes Agreement' means the Great Lakes Water Quality Agreement of 1978 between the United States and Canada and any amendments thereto;

"(D) 'Great Lakes State' means the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin;".

(c) SURVEILLANCE AND MONITORING.—Subsection (c)(1)(B) of such section is amended by inserting "including monitoring necessary to implement the Great Lakes Agreement," after "quality of the Great Lakes,".

(d) DEMONSTRATION PROJECTS.—Subsection (c)(3) of such section is amended—

(1) by striking "5-YEAR" and inserting "7-YEAR";

(2) by striking "five-year" and inserting "7-year"; and

(3) by inserting "Duluth Superior Harbor, Minnesota and Wisconsin;" after "Sheboygan Harbor, Wisconsin;".

(e) SPECIFIC WATER QUALITY STANDARDS; REMEDIAL ACTION AND LAKEWIDE MANAGEMENT PLANS.—Subsection (c) of such section is amended by redesignating paragraphs (5) and (6), and any reference thereto, as paragraphs (8) and (9), respectively, and by inserting after paragraph (4) the following new paragraphs:

"(5) GREAT LAKES SPECIFIC WATER QUALITY STANDARDS.—

"(A) DEVELOPMENT AND PUBLICATION OF PROPOSED GUIDANCE.—Not later than 1 year after the date of the enactment of the Great Lakes Water Quality Improvement Act of 1990, the Administrator, in consultation with the Great Lakes States, shall develop in accordance with applicable provisions of section 304 of this Act and consistent with articles II and V and annex 1 of the Great Lakes Agreement and publish in the Federal Register—

"(i) proposed guidance for numerical limits on pollutant concentrations in the Great Lakes to protect human health and the biological integrity of the Great Lakes (including aquatic life and wildlife) for those pollutants (including pollutants listed in the 1986 Working List published in the 1987 Water Quality Board Report to the International Joint Commission) that the Administrator determines need such guidance and guidance described in clause (ii) because of their physical and chemical properties or because of physical and chemical properties of the Great Lakes; and

"(ii) proposed guidance for use by State and local governments with respect to implementing procedures (including control of point and nonpoint sources of pollution), antidegradation, and pollution prevention for pollutants for which the Administrator has developed guidance under clause (i).

"(B) FINAL GUIDANCE.—Not later than 30 months after the date of the enactment of the Great Lakes Water Quality Improvement Act of 1990, the Administrator shall publish in the Federal Register final guidance described in clauses (i) and (ii) of subparagraph (A).

"(C) MINIMUM NUMERICAL LIMITS.—The guidance for numerical limits on pollutant concentrations in the Great Lakes developed under this paragraph shall be no less stringent than criteria developed under section 304(a).

"(D) REVIEW AND REVISION.—At least triennially after publication of guidance under subparagraph (B), the Administrator shall review and revise in accordance with this paragraph the guidance published under subparagraph (B) based on the latest scientific knowledge and shall publish such revisions in the Federal Register. Such revisions may include establishment of new guidance.

"(E) ADOPTION BY STATES.—The Great Lakes States shall adopt water quality standards for the Great Lakes which, at a minimum, are consistent with the guidance published by the Administrator under subparagraphs (B) and (D) not later than 3 years following the date of such publication. Such water quality standards shall be developed in accordance with the requirements of section 303(c) and shall be consistent with articles II and V, annex 1, and other applicable provisions of the Great Lakes Agreement. The Great Lakes States shall incorporate such standards into all programs which such States would incorporate water quality standards adopted under section 303(c).

"(F) FAILURE OF STATES TO ADOPT.—If a Great Lakes State has not complied with subparagraph (E) by the last day of the 3-year period beginning on the date of publication of guidance by the Administrator under subparagraphs (B) and (D), the Administrator shall promulgate water quality standards for the Great Lakes for the State under applicable provisions of section 303. The water quality standards shall be consistent with such guidance. The State shall use the standards issued by the Administrator in implementing all programs for which water quality standards are used.

"(G) BIOLOGICAL CRITERIA.—Not later than 30 months after the date of the enactment of the Great Lakes Water Quality Improvement Act of 1990, and from time to time thereafter, the Administrator shall develop and publish biological criteria for assessing Great Lakes water quality. Such criteria shall complement guidance published by the Administrator under subparagraphs (B) and (D). A State is not required under this paragraph to adopt such criteria.

"(6) REMEDIAL ACTION PLANS.—

"(A) DEVELOPMENT.—For places designated by the United States as 'areas of concern' pursuant to the Great Lakes Agreement, the Great Lakes States shall develop remedial action plans in accordance with annex 2 of the Great Lakes Agreement.

"(B) TECHNICAL ASSISTANCE.—The Program Office shall provide technical assistance to the Great Lakes States for developing remedial action plans under this paragraph.

"(C) SUBMISSION TO IJC AND DIRECTOR OF PROGRAM OFFICE.—

"(i) IN GENERAL.—Each Great Lakes State shall submit remedial action plans developed by such State to the International Joint Commission and to the Director of the Program Office for review in accordance with the 3-staged schedule set forth in annex 2(4)(d) of the Great Lakes Agreement.

"(ii) DEADLINE FOR AREAS OF CONCERN DESIGNATED BEFORE DATE OF ENACTMENT.—Except as provided in subparagraph (D), for areas of concern designated by the United States before the date of the enactment of the Great Lakes Water Quality Improvement Act of 1990, a Great Lakes State shall complete stage 1 of the schedule set forth in annex 2(4)(d) of the Great Lakes Agreement by June 1, 1992, and stage 2 by June 1, 1994.

"(iii) DEADLINE FOR AREAS OF CONCERN DESIGNATED AFTER DATE OF ENACTMENT.—Except as provided in subparagraph (D), for areas of concern designated by the United States on or after the date of the enactment of the Great Lakes Water Quality Improvement Act of 1990, a Great Lakes State shall complete stage 1 of the schedule set forth in annex 2(4)(d) of the Great Lakes Agreement not later than the last day of the 3-year period beginning on the date of the designation and stage 2 not later than the last day of the 5-year period beginning on such date.

"(D) REQUESTS FOR DEADLINE EXTENSIONS.—

"(i) IN GENERAL.—The Governor of a Great Lakes State may submit to the Director of the Program Office a request for extension of a deadline established by subparagraph (C). Any such request shall be submitted to the Director at least 1 year before the date of such deadline.

"(ii) REQUIREMENTS.—A request for extension of a deadline shall contain an explanation of the need for the extension and an alternate schedule for completion of stage 1 and stage 2 of the schedule set forth in annex 2(4)(d) of the Great Lakes Agreement.

"(iii) CONSULTATION WITH LOCAL OFFICIALS AND CITIZENS.—A request for extension of a deadline shall be developed by the Governor of a Great Lakes State in consultation with local officials and citizens involved in the development of the remedial action plan.

"(iv) NOTICE AND PUBLIC COMMENT.—At least 60 days before the date of submission to the Director of the Program Office of a request for extension of a deadline, the Governor of a Great Lakes State shall provide notice to the public of such request and shall solicit public comments. Any comments received by the Governor pursuant to this clause shall be submitted to the Director together with such request.

"(v) FACTORS FOR REVIEW.—In reviewing a request for extension of a deadline, the Director of the Program Office shall consider the availability of funds for developing the remedial action plan, citizen comments, and whether compliance with the deadline established by subparagraph (C) is reasonable under the circumstances.

"(vi) APPROVAL OR DENIAL.—The Administrator, acting through the Director of the Program Office, shall approve or deny a request for extension of a deadline not later than the 60th day after the date of receipt of the request.

"(E) REVIEW AND REVISION.—Based on comments published by the International Joint Commission evaluating whether a plan submitted by a State under subparagraph (C) meets the requirements of annex 2(4)(a) of the Great Lakes Agreement, the Director of the Program Office shall notify the State of any deficiencies in the plan and the State shall promptly revise the plan accordingly. A stage of a plan shall not be considered complete for the purposes of subparagraph (C) until the Administrator, acting through the Director of the Program Office, has determined that such stage meets applicable requirements of annex 2(4)(a) of the Great Lakes Agreement.

"(F) INCLUSION IN WATER QUALITY PLAN.—Each Great Lakes State shall include in its water quality plan under section 303(e) remedial actions described in each remedial action plan developed by it under this paragraph.

"(7) LAKEWIDE MANAGEMENT PLANS.—

"(A) DEVELOPMENT.—The Administrator, in consultation with the Great Lakes States and after providing notice and opportunity for public hearings and comment, shall develop for each of the Great Lakes a

lakewide management plan for the purpose of implementing annex 2 of the Great Lakes Agreement.

"(B) CONSULTATION WITH CANADA.—The Administrator shall develop the management plan for each Great Lake (other than Lake Michigan) in conjunction with the Administrator's counterpart in the Government of Canada.

"(C) SUBMISSION TO IJC.—The Administrator shall submit the management plan developed under this paragraph for Lake Michigan to the International Joint Commission for review in accordance with the 4-staged schedule set forth in annex 2(6)(c) of the Great Lakes Agreement. The Administrator shall complete stage 1 of such schedule by June 1993, stage 2 by June 1994, and stage 3 by June 1995.

"(D) REVISION.—If the International Joint Commission finds that a plan submitted for review under subparagraph (C) does not meet the requirements of annex 2(6)(a) and (b) of the Great Lakes Agreement and notifies the Administrator of such deficiencies, the Administrator shall revise such plan and implementation of such plan accordingly or publish an explanation of why such revisions are not necessary.".

(f) COMPREHENSIVE REPORT.—Subsection (c)(9) of such section, as redesignated by subsection (e) of this section, is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D)(ii) and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(E) describes the progress made in such preceding fiscal year in developing and implementing guidance for numerical limits on pollutant concentrations in the Great Lakes under paragraph (5);

"(F) describes the progress made in such preceding fiscal year in developing and implementing remedial action plans under paragraph (6); and

"(G) describes the progress made in such preceding fiscal year in developing and implementing lakewide management plans under paragraph (7).".

(g) STATE GRANT PROGRAM; CONSISTENCY IN REPORTING.—Such section is further amended by redesignating subsections (g) and (h), and any reference thereto, as subsections (i) and (j), respectively, and by inserting after subsection (f) the following new subsections:

"(g) GRANT PROGRAM.—

"(1) ESTABLISHMENT.—The Administrator shall establish a program for making grants to Great Lakes States to implement the Great Lakes Agreement and to carry out the objectives of this section.

"(2) PLAN.—In order to receive a grant under this section, a State must submit to the Administrator a multiyear plan—

"(A) for utilizing Federal assistance provided under the grant; and

"(B) for implementing the Great Lakes Agreement and complying with this section.

The plan shall include a timetable for complying with subsection (c)(5), relating to Great Lakes specific water quality standards, a timetable for complying with subsection (c)(6), relating to remedial action plans, and an estimate of the cost the State will incur in implementing the Great Lakes Agreement and complying with this section.

"(3) FEDERAL SHARE.—The Federal share of the cost of activities carried out with a grant under this section shall be 50 percent.

"(h) CONSISTENCY IN REPORTING.—Not later than 2 years after the date of the enactment of the Great Lakes Water Quality Improvement Act of 1990, the Administrator, in cooperation with the Great Lakes States and the counterpart to the Administrator in the Government of Canada, shall develop consistent methods of reporting water quality data required to be submitted to the International Joint Commission under the Great Lakes Agreement.".

(h) AUTHORIZATION OF APPROPRIATIONS.—Subsection (j) of such section, as redesignated by subsection (g) of this section, is amended to read as follows:

"(j) AUTHORIZATIONS OF GREAT LAKES APPROPRIATIONS.—

"(1) FISCAL YEARS 1987-1991.—There are authorized to be appropriated to the Administrator to carry out this section not to exceed $11,000,000 per fiscal year for the fiscal years 1987, 1988, 1989, 1990, and 1991. Of the amounts appropriated each fiscal year—

"(A) 40 percent shall be used by the Program Office on demonstration projects on the feasibility of controlling and removing toxic pollutants;

"(B) 7 percent shall be used by the Program Office for the program of nutrient monitoring; and

"(C) 30 percent shall be transferred to the National Oceanic and Atmospheric Administration for use by the Great Lakes Research Office.

"(2) FISCAL YEARS 1992-1997.—There are authorized to be appropriated to the Administrator to carry out this section not to exceed $30,000,000 per fiscal year for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997. Of the amounts appropriated each fiscal year, $6,000,000 shall be used by the Program Office for establishment of a monitoring surveillance network under subsection (c)(1)(B). Of remaining amounts for such fiscal year—

"(A) 30 percent shall be used by the Program Office for carrying out studies and demonstration projects under subsection (c)(3);

"(B) 8 percent shall be used for development of water quality guidance under subsection (c)(5);

"(C) 10 percent shall be used by the Program Office for providing technical assistance to States in developing remedial action plans under subsection (c)(6) and for development of lakewide management plans under subsection (c)(7); and

"(D) 42 percent shall be used for grants to States under subsection (g).".

SEC. 3. NAMING OF LABORATORY AND RESEARCH FACILITY LOCATED AT DULUTH, MINNESOTA.

(a) DESIGNATION.—The laboratory and research facility located at Duluth, Minnesota, and established pursuant to section 104(e) of the Federal Water Pollution Control Act (33 U.S.C. 1254(e)) shall hereafter be known and designated as the "John A. Blatnik National Fresh Water Quality Research Laboratory".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the laboratory and research facility referred to in subsection (a) shall be deemed to be a reference to the "John A. Blatnik National Fresh Water Quality Research Laboratory".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. ANDERSON] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Great Lakes Water Quality Improvement Act of 1990 is designed to restore and preserve the water quality of the Great Lakes and fulfill our obligations under the Great Lakes Water Quality Agreement between the United States and Canada.

The bill accelerates the restoration of Great Lakes water quality by amending section 118 of the Clean Water Act to strengthen provisions intended to implement the agreement with Canada. This agreement provides a comprehensive framework for Great Lakes water quality restoration and protection efforts. Section 118 establishes the Great Lakes National Program Office to carry out monitoring, demonstration, and research programs needed to restore Great Lakes water quality.

H.R. 4323 provides guidance and deadlines for preparation of remedial action plans and lakewide management plans, and it requires States to develop water quality standards which are consistent with the agreement. EPA is directed to develop and issue guidance on numerical limits on pollution concentrations which will be utilized by the States in developing the standards. Finally, financial assistance in the form of matching grants is made available to the States to assist them in fulfilling their obligations under this legislation.

Mr. Speaker, this legislation is needed to strengthen our efforts to restore and protect the largest freshwater resource in the United States. I strongly urge its passage, and I reserve the balance of my time.

□ 1350

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4323, the Great Lakes Water Quality Improvement Act of 1990.

The Great Lakes are truly a national resource supplying millions of citizens with drinking water, allowing vast recreational opportunities, and providing navigation for vessels transporting products to and from the United States.

Mr. Speaker, I would like to thank Chairman ANDERSON, and, in particular, the chairman and ranking member of our Subcommittee on Water Resources, the gentleman from New York [Mr. NOWAK] and the gentleman from Minnesota [Mr. STANGELAND], for their tireless efforts on this issue.

Mr. ROTH. Mr. Speaker, I rise to express my strong support for H.R. 4323, the Great

Lakes Water Quality Improvement Act of 1990.

I have heard from thousands of individuals in my district who want Congress to do more to protect our environment. I agree with my constituents that there are few higher priorities for the Government than the protection of our precious natural resources.

In my district, which borders Lake Michigan, the protection of the Great Lakes is of particular concern. I am proud that the State of Wisconsin has been a leader in efforts to protect the environment. But Wisconsin and the other Great Lakes States need the assistance of the Federal Government to continue to defend these national resources.

That is why I think it is so important that we enact the Great Lakes Water Quality Improvement Act. This legislation will help us meet the goals of improving water quality in the Great Lakes region and protecting the Great Lakes shorelines from pollution.

Under this legislation, the EPA and the Great Lakes States would be required to set minimum uniform water quality standards. H.R. 4323 also establishes deadlines for the development of cleanup plans called for in the Great Lakes Water Quality Agreement, which was signed by the United States and Canada in 1972.

H.R. 4323 authorizes $180 million over 5 years to implement the Great Lakes Water Quality Agreement. Included in this funding is a few matching grant program to help States develop plans to clean up polluted lake areas.

H.R. 4323 will make a real difference in my State of Wisconsin. It will help us keep the Great Lakes a clean and pure resource for future generations. I urge my colleagues to join me in support of this important legislation.

Mr. NOWAK. Mr. Speaker, I rise in strong support of the bill. This bill addresses matters which have been of long-standing interest and concern to me. The intent of the bill is to accelerate restoration of the waters of the Great Lakes. It would incorporate several provisions of the United States-Canadian Great Lakes Water Quality Agreement into domestic law and increase financial resources available both to the Federal Government and the States. Recent scientific studies indicate that the toxics in the lakes impair both human and wildlife health—even at the current low concentrations at which they are found. As a result of these findings, a number of prominent organizations have published reports in the last year recommending dramatic reductions in the amount of pollutants entering the lakes and accelerated efforts at removing those that are already there. H.R. 4323 takes the necessary steps to ensure the restoration and preservation of our Nation's greatest freshwater resource.

H.R. 4323 includes provisions establishing deadlines for developing remedial action plans and lakewide management plans that are required under the Great Lakes Water Quality Agreement with Canada. It requires States to develop, with EPA guidance, water quality standards which are consistent with the requirements of the agreement. And it provides increased funding for surveillance and monitoring and for matching grants to States for carrying out responsibilities under the agreement and this legislation.

Mr. Speaker, this bill will provide a major impetus to our efforts to restore the water quality of the Great Lakes and to live up to our agreement with Canada. I urge its passage.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and pass the bill, H.R. 4323, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

DISTRICT OF COLUMBIA REVENUE BOND ACT OF 1990

Mr. McDERMOTT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5482) to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of District of Columbia revenue bonds.

The Clerk read as follows:

H.R. 5482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Revenue Bond Act of 1990".

SEC. 2. WAIVER OF CONGRESSIONAL REVIEW PERIOD FOR CERTAIN DISTRICT OF COLUMBIA ACTS AUTHORIZING THE ISSUANCE OF DISTRICT OF COLUMBIA REVENUE BONDS.

(a) WAIVER.—The District of Columbia acts described in subsection (b) shall, if enacted by the Council of the District of Columbia, take effect on the date of the enactment of this Act, notwithstanding section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act or any provision to the contrary in those acts.

(b) CERTAIN ACTS OF THE DISTRICT OF COLUMBIA AUTHORIZING ISSUANCE OF DISTRICT OF COLUMBIA REVENUE BONDS.—The District of Columbia acts authorizing the issuance, sale, and delivery of District of Columbia revenue bonds referred to in subsection (a) are as follows:

(1) The Army Distaff Foundation, Inc. Revenue Bond Act of 1989 (District of Columbia Bill 8-477, introduced in the Council of the District of Columbia on November 27, 1989) in such form as such Act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such Act may not exceed $10,000,000.

(2) The Washington Hospital Center Corporation Revenue Bond Act of 1990 (District of Columbia Bill 8-507, introduced in the Council of the District of Columbia on January 30, 1990) in such form as such Act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such Act may not exceed $120,000,000.

(3) The Howard University Revenue Bond Act of 1990 (District of Columbia Bill 8-606, introduced in the Council of the District of Columbia on June 13, 1990) in such form as such Act may be enacted by the Council of the District of Columbia, except that the authorization for the issuance of bonds under such Act may not exceed $27,000,000.

(4) The Georgetown University Revenue Bond Act of 1990 (District of Columbia Bill 8-607, introduced in the Council of the District of Columbia on June 13, 1990) in such form as such Act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such Act may not exceed $463,000,000.

(5) The Anthony Bowen Landmark Building Trust, Inc. Revenue Bond Act of 1990 (District of Columbia Bill 8-619, introduced in the Council of the District of Columbia on June 26, 1990) in such form as such Act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such Act may not exceed $5,000,000.

(6) The Association of Community College Trustees Revenue Bond Act of 1990 (District of Columbia Bill 8-620, introduced in the Council of the District of Columbia on June 26, 1990) in such form as such Act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such Act may not exceed $1,000,000.

(7) The Greater Washington Educational Telecommunication Association, Inc. Revenue Bond Act of 1990 (District of Columbia Bill 8-624, introduced in the Council of the District of Columbia on June 26, 1990) in such form as such Act may be enated by the Council of the District of Columbia, except that the authorization for issuance of bonds under such Act may not exceed $32,000,000.

(8) The Anacostia River Sports Facility Revenue Bond Act of 1990 (District of Columbia Bill 8-652) in such form as such Act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such Act may not exceed $25,000,000.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Washington [Mr. McDERMOTT] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. BLILEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. McDERMOTT].

Mr. McDERMOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 5482 is to permit eight revenue bond acts already adopted by the Council of the District of Columbia to become law without waiting for the 30-day congressional layover period.

The goal of this legislation is to remove special congressional hurdles from the District's revenue bond enactment path. It is for a limited purpose and is aimed at insuring that the

pending congressional adjournment does not place undue burdens and impediments on these revenue bond acts as a result of the 30-day congressional review period mandated by the District of Columbia Home Rule Act. The 30-day period relates to legislative days and typically converts to 90 calendar days.

In the absence of this legislation, the bond acts will not become law before Congress adjourns and the bond revenues provided for will not be available to the nonprofit institutions until sometime next year.

Let me stress that these acts incur no obligation or guarantee to the Federal Government whatsoever.

Congress is not being asked to vote on the merits of the bond issues or the construction projects that these nonprofit organizations will undertake. This bill would permit the issuance of these bonds to proceed as is the case with any other jurisdiction. We are only allowing the local laws to take effect.

Similar bills waiving the 30-day period for revenue bonds for hospitals and universities in the District of Columbia passed Congress in 1985, 1986, 1987, and 1989. Each bill passed the House and Senate overwhelmingly, and each was signed by the President.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this legislation which waives the 30 legislative day review period for eight revenue bond issues enacted by the District Council. This legislation is essential, because without it, the review period will extend well into the next session of Congress. This will impose unnecessary and severe burdens on the entities who will be issuing these bonds.

I would like to point out to my colleagues that this legislation entails no obligation on the part of the Federal Government and authorizes no new spending. We are simply allowing these eight revenue bond acts to become law without the normal congressional review period. This is something we have done in 4 of the last 5 years. Each time the legislation passed both House and Senate and was signed by the President. It is important to allow these worthy issues to go forward without unnecessary delays.

I urge my colleagues to support this legislation.

Mr. Speaker, at this time I would like to ask the gentleman from Washington [Mr. MCDERMOTT] if he would name the institutions and the amount of money as far as the bonds are concerned for those institutions.

Mr. MCDERMOTT. Mr. Speaker, will the gentleman yield?

Mr. BLILEY. I yield to the gentleman from Washington.

Mr. MCDERMOTT. Mr. Speaker, this act waives the congressional review period for the following D.C. Council acts for the issuance of bonds by the various nonprofit institutions in the District of Columbia:

First, the Army Distaff Foundation, Inc. Revenue Bond Act of 1989, D.C. bill 8-477, is for the issuance of bonds that may not exceed $10,000,000.

Second, the Washington Hospital Center Corporation Revenue Bond Act of 1990, D.C. bill 8-507, is for the issuance of bonds under such act may not exceed $120,000,000.

Third, the Howard University Revenue Bond Act of 1990, D.C. bill 8-606, is for the issuance of bonds under such act may not exceed $27,000,000.

Fourth, the Georgetown University Revenue Bond Act of 1990, D.C. bill 8-607, authorization is for issuance of bonds under such act may not exceed $463,000,000.

Fifth, the Anthony Bowen Landmark Building Trust, Inc. Revenue Bond Act of 1990, D.C. bill 8-619, is for issuance of bonds under such act may not exceed $5,000,000.

Sixth, the Association of Community College Trustees Revenue Bond Act of 1990, D.C. bill 8-620, if for the issuance of bonds under such act may not exceed $1,000,000.

Seventh, the Greater Washington Educational Telecommunication Association, Inc. Revenue Bond Act of 1990, D.C. bill 8-624, is for the issuance of bonds under such act may not exceed $32,000,000.

Eighth, the Anacostia River Sports Facility Revenue Bond Act of 1990, D.C. bill 8-652, is for the issuance of bonds under such act may not exceed $25,000,000.

Mr. BLILEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. SENSENBRENNER].

□ 1400

Mr. SENSENBRENNER. Mr. Speaker, I think that the bringing of this bill up under suspension of the rules really emphasizes the point that the gentleman from Pennsylvania [Mr. WALKER] and I have been attempting to make during today's proceedings of the House. We are spending time in the House of Representatives this afternoon dealing with solving the fiscal problems of the District of Columbia by waiving certain parts of the act that require a layover for congressional review of certain activities of the D.C. City Council.

Yet we do not have time to deal with the far greater fiscal crisis, and that is the fiscal crisis facing the U.S. Government as we are sitting here less than 1 week away from the ax falling on sequestration.

Now, whatever the merits of the eight revenue bond issues that the gentleman from Washington [Mr. MCDERMOTT] talked about, it seems to me we ought to wait in passing this legislation until we get our own fiscal house in order.

This is emphasized by the point that the District of Columbia has a lame-duck administration. A layover until January of next year will allow the new mayor of the District of Columbia, either Chief Turner or Ms. Dixon, to review these issues in light of the D.C. fiscal crisis and perhaps reach a different conclusion.

I would hope that for all these reasons that this bill would not be passed today, and I would hope that the House would see that it is more important to deal with the Federal fiscal crisis rather than the D.C. fiscal matters.

Mr. BLILEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MCDERMOTT. Mr. Speaker, I yield myself such time as I may consume.

I would just say to the gentleman from Wisconsin [Mr. SENSENBRENNER] that this act is simply to waive congressional review; it has nothing to do with the bond issues themselves. They have been thoroughly discussed in the District. They have made the evalution that it is important for the continued operation of the District. I think that we ought to do everything we can to keep the city running.

I think for us to hold things up is to further make the problems of the city worse, and I hope that we will pass this bill without further delay.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore, (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Washington [Mr. MCDERMOTT] that the House suspend the rule and pass the bill, H.R. 5482.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

REAUTHORIZATION OF THE FISH AND WILDLIFE CONSERVATION ACT OF 1990

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5254) to authorize appropriations to carry out the Fish and Wildlife Conservation Act of 1980 for fiscal years 1991 and 1992.

The Clerk read as follows:

H.R. 5254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 11 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2910) is amended

by striking "and 1990" and inserting "1990, 1991, and 1992".

The SPEAKER pro tempore (Mr. McDERMOTT). Pursuant to the rule, a second is not required on this motion.

The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Florida [Mr. Goss] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5254 is a bill to reauthorize the Fish and Wildlife Conservation Act of 1980 for 2 additional years. The purpose of this program is to provide financial and technical help to States to conserve species of fish and wildlife that are not covered adequately by other programs, that is, species that are not listed under the Endangered Species Act, and that aren't generally—or, at any rate, legally—hunted and fished. This is, by all accounts, a program that is well-conceived, well-designed, and badly needed. It has also never been funded.

H.R. 5254, being an authorization bill, wouldn't necessarily fund it either. But its passage will restate our national commitment to the conservation of all categories of fish and wildlife, and I understand that the very existence of the law does encourage States to carry out programs to help songbirds and similar species despite the lack of Federal assistance.

To my knowledge, everyone supports this bill. You would have to have either a very hard heart or a mockingbird outside your bedroom window every morning about 4 a.m. to oppose it. And it is with confidence that at least the first of these caveats does not apply to any Member of this House that I urge adoption of the bill.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5254 a bill that reauthorizes the Fish and Wildlife Conservation Act of 1980 through fiscal year 1992. The act provides financial and technical assistance to States for the development of conservation plans for so called nongame fish and wildlife species. All 50 States have nongame programs and this act has helped in the management of those resources.

Mr. Speaker this is a very worthwhile program and, I support the adoption of the legislation.

Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I appreciate very much my distinguished colleague from Florida yielding me some time because I think this is, once again, a classic example of exactly the whole issue at hand here today.

H.R. 5254 is good legislation. I do not know why anyone would oppose it. I certainly do not oppose it in theory, do not oppose it in practice, nor oppose the present operation. The program benefits my congressional district.

Mr. Speaker, I would hope this kind of thing can be reauthorized and continued. But my question is, as we are counting down the days to Armageddon, as we are 7 days before disaster, when literally thousands of Federal employees will be furloughed, when chaos will erupt across this country in the financial markets, when numerous people who are benefactors of Government programs will find those programs in jeopardy because we in the Congress have not been able to meet our deadlines and get our job done, is this what we ought to be doing on that 7th day before Armageddon?

This bill, in the right place, in the right time, is something we ought to support, and it probably even ought to be considered and supported on a suspension calendar.

What cannot be missed, however, is the fact that there is something much more important out there, and that is the whole issue of this country's economic future.

Everyone asks are we going to do what is necessary not to bankrupt this country? The question is, if not us, who, and if not now, when?

This is the time to do it. This bill after the budget summit is fine, but right now let us talk about what needs to be done; that is a good budget summit agreement, a bipartisan summit agreement for the future of this country.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I associate myself with the remarks of the gentleman, with the spirit of the remarks the gentleman has made about the urgency of the priority of the budget. However, much hard work has gone into this legislation. This is valuable legislation. It is something that I believe is noncontroversial.

Mr. Speaker, notwithstanding its lower priority, I nevertheless would like to see this bill passed. I urge my colleagues to do so.

Mr. Speaker, I have no futher requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 5254.

The question was taken.

Mr. GUNDERSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT AMENDMENTS OF 1990

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5255) to amend the National Fish and Wildlife Foundation Establishment Act to authorize appropriations for the National Fish and Wildlife Foundation for fiscal years 1991, 1992, and 1993, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5255

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT AMENDMENTS OF 1990

SEC. 101. SHORT TITLE.

This title may be cited as the "National Fish and Wildlife Foundation Establishment Act Amendments of 1990".

SEC. 102. ELIMINATION OF CAP ON SALARIES.

Section 3(g)(2)(A) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(g)(2)(A)) is amended by striking "rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.", and inserting "rates.".

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709) is amended to read as follows:

"SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION.—There are authorized to be appropriated to the Department of the Interior not to exceed $15,000,000 for fiscal year 1991, not to exceed $20,000,000 for fiscal year 1992, and not to exceed $25,000,000 for fiscal year 1993.

"(b) USE OF AMOUNTS APPROPRIATED.—(1) Subject to paragraphs (2) and (3), amounts appropriated under this section shall be made available to the Foundation for use for matching, in while or in part, contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local government agencies.

"(2)(A) The amount of matching funds provided by the Foundation from amounts appropriated under this section shall not exceed, in the aggregate—

"(i) 66⅔ percent of the total amount or value of contributions for which the matching funds are provided in fiscal years 1991 and 1992, and

"(ii) 50 percent of the total amount or value of contributions for which the matching funds are provided in fiscal year 1993 and in succeeding fiscal years.

"(B) Amounts of contributions used by the Foundation for administrative expenses (including salaries, travel and transportation expenses, and other overhead expenses) shall not be considered in determining the total amount of contributions for purposes of subparagraph (A). However, contribu-

tions received to offset administrative expenses which are applied directly to the Foundation's major initiatives and projects, may be applied to the total contributions used to achieve the annual match.

"(3) No Federal funds authorized under this section shall be used by the Foundation for administrative expenses of the Foundation, including for salaries, travel and transportation expenses, and other overhead expenses.".

TITLE II—NEW ENGLAND FISHERY RESOURCES RESTORATION ACT OF 1990

SEC. 201. SHORT TITLE.

This title may be cited as the "New England Fishery Resources Restoration Act of 1990".

SEC. 202. FINDINGS.

The Congress finds and declares that—

(1) centuries of human activities and development in New England States have severely depleted, and in some instances extirpated, the once magnificent freshwater fishery resources of the region;

(2) over the last three decades, cooperative Federal, State, and private efforts to restore Atlantic salmon and other fishery resources have demonstrated that restoration is a feasible and desirable goal. In addition, these efforts have resulted in the development of comprehensive, cooperative plans and programs for selected river systems in New England, implementation of which would result in restoration of nationally significant fishery resources;

(3) to emphasize the importance of restoring of freshwater fishery resources to New England and the Nation and to ensure timely implementation of cooperative plans, a statutory mandate requiring prompt completion of restoration efforts is now appropriate;

(4) hundreds of dams on streams and rivers in New England which are now subject to hydroelectric licensing by the Federal Energy Regulatory Commission, along with a number of other human-caused obstructions, have resulted in the decline of important fishery resources, including eels, smelt, herrings, alewife, shad, brook trout and brown trout, by impeding both upstream and downstream passage of fish;

(5) since they are not licensed by the Federal Energy Regulatory Commission, there is presently no mechanism for the Federal Government to address fish passage at these dams and other obstructions;

(6) the construction of fish passage around or removal of these dams and other obstructions would make substantial amounts of spawning; nursery and other fish habitat available that would become productive with limited additional management or expense;

(7) the river valley, aquatic (including wetlands) and riparian habitats in New England are essential for a large number of fish and wildlife species;

(8) the natural values of the river valleys of New England continue to be degraded and lost by urban, commercial and industrial development;

(9) public access to New England rivers and streams continue to decline as a result of development, and

(10) to provide essential information for the long term preservation of the natural values of lands and waters within the drainage basins of major river systems in New England, prompt identification valuable fish and wildlife habitat and other natural areas is necessary.

SEC. 203. PURPOSES.

The purposes of this Act are to—

(1) ensure timely and effective implementation of restoration plans and programs for Atlantic salmon and other fishery resources of selected river systems in New England;

(2) complete a study of fish passage impediments and requirements on small streams and rivers in New England; and

(3) develop an inventory of important fish and wildlife habitat and other natural areas of river basins in New England.

SEC. 204. IMPLEMENTATION OF FISHERY RESOURCE RESTORATION PLANS.

The Director of the United States Fish and Wildlife Service, hereinafter referred to as the Director, in consultation with the Assistant Administrator shall formulate, establish and implement programs to restore and maintain nationally significant, interjurisdicational fishery resources originating in New England river systems, including the Connecticut, Thames, Pawcatuck, Merrimack, Saco, Androscoggin, Kennebec, Sheepscot, Duck Trap, St. George, Penobscot, Union, Narraguagus, Pleasant, Machias, Dennys, St. Croix, Meduxnekeag and Aroostock and their tributaries. These programs shall be in accordance with the schedule and responsibilities established in comprehensive basis-wide restoration plans prepared by the Director in cooperation with State, local, and other entities involved and interested in the conservation and management of the affected fishery resources. Preparation and periodic revision of restoration plans, and their implemenation, shall be based on a Memorandum of Agreement for each restoration program which shall be entered into by the Director and cooperating entities. The Director shall prepare and submit to the House Committee on Merchant Marine and Fisheries and the Senate Committee on Environment and Public Works an annual report documenting activities undertaken and accomplishment achieved in fulfillment of this section, including an assessment of the prognosis for restoration of each of the stocks and species involved.

SEC. 205. FISH PASSAGE STUDY.

The Director shall conduct a study to identify impediments to upstream and downstream passage of fish in rivers and streams in the New England States due to dams that are not licensed by the Federal Energy Regulatory Commission or other human-caused obstructions. In addition, the study shall identify actions needed to alleviate those impediments where desirable and feasible. The study shall include, but not be limited to, identifying—

(a) all dams not licensed by the Federal Energy Regulatory Commission and other human-caused obstructions on New England rivers and streams where construction of upstream or downstream fish passage facilities or their removal would benefit fishery resources, including an estimate of the degree of benefits expected;

(b) the proposed nature and size and estimated cost of appropriate fish passage facilities or other actions determined to be necessary and feasible or each dam or other obstruction identified in response to subsection (a); and

(c) appropriate cost sharing arrangements for correcting fish passage problems for each dam or other obstruction identified in response to subsection (a).

Within three years of the date of enactment of this Act, the Director shall submit a report containing the findings, conclusions and recommendations of the study of the House Committee on Merchant Marine and Fisheries and the Senate Committee on Environment and Public Works.

SEC. 206. NEW ENGLAND RIVERS FISH AND WILDLIFE INVENTORY.

The Director shall inventory the natural values of river basins in New England, including the Connecticut, Pawcatuck, Achusnet, North and South (in Plymouth County, Massachusetts), Charles, Merrimack, Saco, Androscoggin, Kennebec, Penobscot, Union, St. Croix, and Aroostock Rivers and their tributaries, and identify fish and wildlife habitat in most need of protection or where public access to the rivers should be provided. In addition, the Director shall, after consultation with appropriate State agencies and after providing an opportunity for public comment, assess appropriate measures for providing the necessary protection or access for each area included in the inventory. Within two years of the date of enactment of this Act, the Director shall submit a report containing the findings, conclusions, and recommendations of the inventory and assessment of the House Committee on Merchant Marine and Fisheries and the Senate Committee on Environment and Public Works.

SEC. 207. AUTHORIZATIONS OF APPROPRIATIONS.

There are authorized to be appropriated to the Director—

(a) $5,000,000 per year for fiscal years 1991, 1992, 1993, 1994, and 1995 to implement fishery resource restoration plans and programs, except for activities related to the design and construction of fish passage facilities, as directed by section 4;

(b) $500,000 per year for fiscal years 1991, 1992, and 1993 to conduct the study required under section 5; and

(c) $500,000 to conduct the inventory and assessment required under section 6.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Florida [Mr. GOSS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

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Mr. Speaker, H.R. 5255 would amend the National Fish and Wildlife Foundation Establishment Act. The Fish and Wildlife Foundation was created in 1984 to raise money, and to administer grants, for deserving fish and wildlife conservation projects. It was, at the time, an experiment; and time has proven that experiment successful.

Over the past 5 years, the foundation has undertaken a broad array of projects, from waterfowl habitat preservation to the protection of endangered species; it has attracted substantial amounts of funds to the cause of conservation; and it has been operated with a rare degree of competence and professionalism.

H.R. 5255 reflects the fact that the foundation has moved out of the experimental stage. The bill would gradually raise the ceiling on Federal

funds available annually to the foundation from $5 to $25 million over the next 3 years. To assure a good return on those funds, the bill also changes the ratio of matching funds to require the foundation to raise a greater proportion of the money used for its projects than is required by current law.

During consideration by our committee, an amendment was offered to the bill that directs the Fish and Wildlife Service to move ahead more rapidly in restoring fisheries, including the Atlantic salmon fishery, to major river systems in New England. The amendment also requires the Fish and Wildlife Service to inventory the nature values of the major New England rivers—and adjacent lands—for the purpose of identifying valuable fish and wildlife habitat. Finally, it directs the Service to identify dams and other obstructions to the free passage of fish in smaller rivers and coastal streams throughout New England.

Mr. Speaker, this bill was approved unanimously by our committee. It will make a major contribution to the conservation of fish and wildlife throughout our country. And I urge its approval by the House today.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5255, which increases the authorization for the National Fish and Wildlife Foundation from its present level of $5 million a year to $25 million for fiscal year 1993. It also establishes that the non-Federal share of dollars be matched two-to-one for all appropriated dollars.

Mr. Speaker, the Fish and Wildlife Foundation has become an organization that provides vitally needed dollars to fish and wildlife research and management. It has been a pleasure to see the growth in funds donated to the foundation as well as the number of grants that it has made to its various partners. Mr. Speaker, I support both titles in the bill and would urge my colleagues to join me in the adoption of this legislation.

Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, this bill in front of us is one that I suspect all of us, at least in our hearts and mind, support or would like to support. But I have to say that it is probably a very good example of why we have the problems that we do today.

During the decade of the 1980's, revenue coming into this Government actually doubled. We take in on an annual basis today twice as much as we did 10 years ago. The problem is that that doubling of revenues has not kept pace with the increase in outlays or expenditures. As my colleagues know, this legislation is such a good example because the authorization level only goes from $5 million to $25 million over a period of years, and how can any of us be opposed to that?

However, Mr. Speaker, a fivefold increase in this bill, a fivefold increase in that authorization, and pretty soon they add up and we have a real deficit, and pretty soon we have the kind of economic situation facing this country today. That is unless we, on a bipartisan basis here in Congress, are willing to get our act together to meet our deadlines and reach a budget compromise. This country is going to go into recession, and the fault of that recession is going to lie right here at the seat of the Congress of the United States.

Mr. Speaker, these are the kinds of bills that the Congress ought to be considering once there is a budget agreement in front of us and we know exactly how much we have to spend, whether it be on Interior bills, or fish and wildlife, or education, or agriculture, or health care or anything else. This is why we need a budget agreement. It is why we need a budget agreement now, this week.

In the absence of a budget agreement this week, we do not have to worry about fish and wildlife foundations. We do not have to worry about the Fish and Wildlife Foundation because their employees will all be furloughed, and whose fault will it be? It will be the fault of the Congress.

That is why today, tomorrow and all this week we all ought to understand this is budget week. We have 7 days until Armageddon. Let us get down to meeting the deadlines that we have, and let us do the job we were elected to do.

Mr. GOSS. Mr. Speaker, I appreciate the comments of the gentleman from Wisconsin [Mr. GUNDERSON], and I share his concerns about the budget. I think our ways of prioritizing our agenda and prioritizing our dollars lacks a lot. In fact, I think we can come up with a better system, and I hope we do this week, and focus on it.

But meanwhile, Mr. Speaker, we have this legislation before us. I believe it deserves passage. Again, much hard work has gone into it, and it is ready. I think now is the time to move it.

Mr. Speaker, I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 5255, as amended.

The question was taken.

Mr. GUNDERSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 4793 SMALL BUSINESS REAUTHORIZATION AND AMENDMENTS ACT OF 1990

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 466, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 466

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4793) to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Small Business, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Small Business now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and substitute shall be considered by titles instead of by sections and each title shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 466 is an open rule providing for the consideration of H.R. 4793, the Small Business Reauthorization and Amendments Act of 1990. The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Small Business.

The rule also makes in order the Small Business Committee amendment in the nature of a substitute now printed in the bill as an original text for the purpose of amendment under the 5-minute rule. The committee amendment in the nature of a substitute is amendable by title instead of by section. Each title shall be considered as having been read.

Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, the Small Business Administration is the primary Federal agency providing assistance to the Nation's 18 million small businesses. These small businesses are vital to the economic health of our country. They provide jobs to our citizens and innovation in many industries. This bill reauthorizes programs which back up loans to qualified small businesses, and make direct loans to certain designated groups. This bill is helpful to small businesses owned by veterans, handicapped individuals, and minorities.

Mr. Speaker, H.R. 4793 is the result of hearings and careful consultations. I am pleased that we have an open rule, which was unanimously voted out of the Rules Committee. I urge my colleagues to adopt it.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with the gentlewoman from New York [Ms. SLAUGHTER] in asking the Members to support this open rule. There really is not anything which I can add to the gentlewoman's statements by way of an explanation. This is as simple an open rule as we will ever see on the floor, and I thank the Committee on Small Business and its chairman, the gentleman from New York [Mr. LAFALCE], for requesting such a rule.

I would note, however, that the administration does have some particular concerns with the bill itself. Indeed, the administration's objections to title II of H.R. 4793 are so serious as to raise the threat of a veto. It is my hope that this problem can be worked out by the amendment process here on the floor or in conference, because the country needs a good small business bill. Small businesses are the job-producing machines that keep our economy moving forward. Small businesses in America create 75 percent of all the new jobs in America every year.

So let us adopt this rule so the House can work its will toward enacting a small business bill that will meet the needs of the country.

I would just call to the attention of the membership, though, that even though this rule is open, the Rules Committee, is presently meeting, which is why I could not be on the floor when we first brought this bill up. The Rules Committee right now is considering three closed rules. I am going to tell the Members something. When I came here back in 1979, 25 percent of the rules that came on this floor were closed or modified. In the 97th Congress, in 1981 and 1982, they stayed about the same. But then in the 98th Congress, the percentage jumped up to 32 percent, closed or modified rules.

In the 99th Congress, beginning in 1985, it jumped up to 43 percent. In the 100th Congress, just before this one, starting in 1987, it jumped up to 46 percent. And in this Congress, Mr. Speaker, this 101st Congress, we are already over the 50-percent threshold in closed or modified rules.

I do not serve on all the committees, nor do you, but we were sent here to represent our constituents and, under the rules of this House, to debate the bills that are important to the people of the United States of America. We are not doing that, and something ought to be done about it. I am going to recommend to my colleagues that we bring this place to a screeching halt unless something is done about this kind of leadership which is forcing gag rules on Members on both sides of the aisle.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think it is interesting that all of a sudden we can have the entire schedule for the day pulled and this rule run out on the floor as something to do.

One of our questions is, Why can we not get a budget done here? The Democratic leadership seems able to pull 30-some bills off the calendar and do heaven knows what to them, maybe bring them back later on in the day. They seem capable of doing that. They seem capable of running the gentleman down here to do this particular rule, with absolutely no notification at all that the bill was coming to the floor. Yet when it comes to bringing a budget to this floor and solving the problems of the country, we cannot seem to get anything done.

We could not meet the deadlines earlier this year, and we cannot bring any document to the floor that the House Democratic caucus has approved of. Nothing happens. We have a handful of people who sit around in back rooms and talk about the budget and then every once in a while come forward with a press release or talk to the press about what is going on behind those closed doors. It is the most inane way of settling national issues that could be conceived by anyone.

Mr. Speaker, I think the gentleman makes an excellent point in his presentation. I just thank him for the time, and I point out once again that we can do anything with the schedule at all, yet it does not seem that we can do anything about getting the budget on the schedule.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for his comments.

The point is that I think every Member of this body on either side of the aisle is certainly entitled to consideration, and undergag rules they cannot get it. Just in recent weeks we have heard the gentleman from Texas [Mr. BRYANT], a Democrat from that side of the aisle, stand up here and bitterly complain about closed rules on this floor.

We have heard the gentleman from New York [Mr. WEISS], a Democrat on that side of the aisle, a Member from my State, stand up here and bitterly complain about closed rules. We have heard the gentleman from Massachusetts [Mr. FRANK], who comes from the same State as the chairman of the Rules Committee, stand up here and bitterly complain about closed rules on this floor.

It is about time the leadership on both sides of the aisle got together and straightened out this mess, because it is a mess and the people of the United States of America are not being treated fairly because of it.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I have no requests for time.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this question will be postponed until after debate on all resolutions called up by the Committee on Rules today and following three more motions to suspend the rules.

The point of no quorum is considered as withdrawn.

PROVIDING FOR CONSIDERATION OF H.R. 5314, WATER RESOURCES DEVELOPMENT ACT OF 1990

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 469 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 469

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5314) to provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and each section shall be considered as having been read. It shall be in order to consider en bloc the amendments printed in the report of the Committee on Rules accompanying this resolution, said amendments shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, and all points of order against the amendments en bloc for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After passage of H.R. 5314, it shall be in order to take from the Speaker's table the bill S. 2740 and to consider said bill in the House. It shall then be in order to move to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions contained in H.R. 5314 as passed by the House. It shall then be in order to move to insist on the House amendment to S. 2740 and to request a conference with the Senate thereof.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield the customary 30 minutes, for the purposes of debate only, to the gentleman from New York [Mr. SOLOMON], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution, 469 is the rule providing for the consideration of H.R. 5314, the Water Resources Development Act of 1990.

This is an open rule providing for one hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation.

The rule makes in order the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for he purposes of amendment under the 5-minute rule. Each section of the substitute shall be considered as read.

The rule also makes in order en bloc amendments printed in the report accompanying the resolution. The en bloc amendments are not subject to a division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the en bloc amendments for failure to comply with the provisions of clause 7 of rule XVI, which prohibits nongermane amendments.

Further, the rule provides for one motion to recommit, with or without instructions.

After passage of H.R. 5314, the rule makes it in order to consider in the House S. 2740, to move to strike all after the enacting clause and insert the text of H.R. 5314 as passed by the House, and to move to insist on the House amendment and request a conference.

Mr. Speaker, H.R. 5314, the bill for which the committee has recommended this rule, will provide for the conservation and development of our water resources. It authorizes U.S. Army Corps of Engineers civil works programs to improve our Nation's infrastructure and explicitly aims to make the corps more responsible for and responsive to environmental concerns.

Mr. Speaker, this is an open rule which will allow full and fair debate on the provisions of this important bill. I ask my colleagues to support the rule so that we may proceed with consideration to the merits of this legislation.

Mr. Speaker, I reserve the balance of my time.

□ 1430

Mr. SOLOMON. Mr. Speaker, I thank the gentlewoman from New York [Ms. SLAUGHTER] for yielding.

Mr. Speaker, I am again pleased to join the gentlewoman from New York in supporting an open rule. This is a fully open rule, and the minority's right to offer a motion to recommit with or without instructions is fully protected. So I support this rule.

The bill, H.R. 5314, is another story altogether. Mr. Speaker, this bill is pure pork. It would add $1.7 billion to the budget for 25 water projects, 18 of which are in such a preliminary phase of development that we do not have environmental impact statements and economic feasibility studies ready.

Mr. Speaker, we are being asked to authorize $1.7 billion, as if that were chicken feed, for a bunch of half-baked projects. Moreover, Mr. Speaker, this bill will cost $4.1 billion in the outyears. This is outrageous. This is a budget-buster. This is the kind of irresponsibility that has contributed to the Federal budget deficit which is killing this Nation today.

Mr. Speaker, we have had one appropriations bill after another which are over budget. Now here is yet another budget-busting authorization bill. If one wants to look back, one can almost pick any one of the appropriations bills that have come before this House. Energy and water, $2.5 billion over budget, over last year's spending; Commerce, Justice and State, $2.5 billion over last year.

I just cannot believe what we are seeing in this kind of irresponsibility on the floor of this House. It is no wonder that the people cannot sit down and come to a budget agreement, with what is happening around here. I think that voters in this Nation ought to wake up and throw some Members out from both sides of the aisle, unless we can sit down and do what we are supposed to do and take care of the deficit. We will never do it with the kind of legislation before us right now.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, the gentleman from New York [Mr. SOLOMON] hit the nail on the head about how bad this bill is. We have a budget deficit that will require a reduction in expenditures, a raising of taxes, or a combination of both, of over $100 billion.

The Democratic leadership has decided to present a pork barrel water projects bill on the floor of this House during the week we are telling Federal employees that they are going to have to be furloughed and telling Federal grantees that their money is going to get chopped by a third. What does the Democratic leadership of this House schedule on the floor? A water projects authorization bill that will add $1,700,000,000 to the budget deficit for fiscal year 1991, and $4,100,000,000 to outyear Federal budget deficits.

Mr. Speaker, I am sure we are going to be told that this is just an authorization bill and it will be up to the Committee on Appropriations to decide whether to fund these projects which are of questionable environmen-

tal and economic merit. The Committee on Appropriations would only have the power to do that if this House waives the rule against legislation in an appropriations bill and waives the rule against funding unauthorized projects. If we live up to the rules that we adopted on the opening day of the 101st Congress, without the authorization bill there would not be a dime appropriated for what is contained in here.

But we also waive the rules when the shoe starts to pinch. That is why we have a Federal budget deficit that is requiring an over $100 billion Gramm-Rudman cut.

This bill is not here because the President wants it. He is opposed to it. This bill is not here because the Republican minority wants it. This bill is here purely and simply because the Democratic majority that has run this House for the last 36 years has decided, forget about the budget crisis; forget about the fact we are furloughing Federal employees; forget about the fact that Federal grantees are going to see their money chopped by almost a third. We are going to go ahead and roll the pork barrel and pay off the people in the districts of the 25 water projects that are being authorized here.

Mr. Speaker, that is why this country is having such a crisis financially and such a crisis of confidence in its institutions.

Mr. Speaker, when you and I do not have enough money in our own personal budget, we defer spending money until we are able to balance it. That is the way we ought to run the Federal Government. Doggone it, we do not have enough money for these projects, so why even bring this rule up? Why even debate this bill? Why even pass the bill? All it does is add to the deficit, and in the day of Gramm-Rudman, for every dime we spend on a water project, it is a dime out of someone else's project.

Mr. Speaker, I think we ought to try to do well with what we are already doing, rather than going out and embarking on new expensive spending programs. This legislation that this rule will authorize bringing up certainly is an expensive new spending program.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the place where I am standing in the Congress is known as the well of the House. One has to wonder whether or not we would not be better off to replace the carpet with mud and begin calling it the pigpen when one sees the kind of legislation that comes to the floor at this point in the Congress.

We are talking about one of the bigger pork barrel bills that we will ever see. It directly impacts on our ability to get the budget summit agreement that all of America is looking for. Why do I say that? One of the major hangups in the budget summit is the fact that the Democrats proposed early on to spend an additional $70 billion in domestic discretionary spending. Let me repeat that, $70 billion in domestic discretionary spending. That was over a 5-year period.

This bill would spend $4 billion of that over the 5-year period. In other words, about 5 percent of the total money that they proposed is in this one bill.

Mr. Speaker, one of the major differences in the budget summit negotiations is between the Democrats, who want to go on that spending spree, and the Republicans, who are insisting on zero as the domestic discretionary increase over the next 5 years.

Mr. Speaker, the Democrats would have you believe that the whole issue in the budget summit is capital gains. Let me tell you, capital gains may be a partial issue, but that is not the whole issue.

One of the main issues is this kind of thing, where the Democrats just want to spend us blind over the next 5 years, and we are saying that the country cannot afford it.

So what does the Democratic leadership do in the midst of that kind of a negotiation? They bring out one of the biggest porkers that you can possibly find in the House of Representatives, and decide to give it a rule, and bring it to the floor, and say oink-oink for the next couple of days.

□ 1440

I would suggest it is time to play another game, and that is getting the budget passed. We ought to put aside pork barrel bills. We ought to put aside rules on pork barrel bills and do the budget. It is time. We have fooled around long enough. The American people are expecting something to be done.

My constituents are disgusted, and I cannot imagine that there is anybody in this body that does not have constituents who are disgusted by the incompetence shown by this Congress over the last several months. The majority of the bills that we have passed thus far, or at least a significant total of the bills we have passed so far have been commemorative resolutions. Between commemorative resolutions and pork barrel, we have done little else in this Congress.

One place to stop it would be right here. Let us defeat this rule and again I thank the gentleman for yielding.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I thank the distinguished gentlewoman from New York for yielding me this time.

Mr. Speaker, I have been listening in my office to the debates that have been going on this afternoon and finally decided that I really ought to come over here and put my two cents in. It has been a strange performance by Members on the other side of the aisle.

Here we have a situation where the President of the United States had asked that the Congress engage in a budget summit, and those meetings, at his request, have been going on literally for months at this point. With the best will and effort on the part of the President and on the part of the leadership and the Members on both sides of the aisle, from both Houses, they have not been able to come to an agreement. So my good friends and colleagues on the other side of the aisle in this body decide that because those folks have not been able to come to an agreement the House ought to come to a standstill and do nothing in the interim.

What a strange way of doing the public's business. The Members of this body have been called back today to deal with important business of the House, unfinished business, not business which comes out of left field. It comes out of the committees of this House.

It seems to me that if these folks who are on the other side of the aisle are really interested in giving the people their money's worth, they would be working with us to get this legislation done as expeditiously as possible.

The legislation before us I am certain has water resource projects for Members on both sides of the aisle because of the needs in the districts of Members on both sides of the aisle.

I remember some of the Members on the other side who once put in a bill to cut $17.90, I think to make a point that nobody on this side was interested in cutting things. Last week we had a $500 million item to complete an uncompleted homeport—"homepork" would be a better description—and yet probably to the last person those who have been engaged in the discussion on the other side of the aisle, certainly the overwhelming majority voted to continue that unnecessary project. A half a billion dollars was needed to complete that homeport on Staten Island, a project which was called the biggest boondoggle ever to come down the pike by no less a person than Barry Goldwater when he was a Member of the U.S. Senate. The chairman of the Seapower Subcommittee of the Armed Services Committee said it was totally unnecessary and unessential, and yet the overwhelming majority of Members on the other side of the

aisle found it in their hearts to waste, squander the authorization of half a billion dollars. So much for how concerned they are about squandering the public's money.

Again I thank the gentlewoman for yielding time to me, and I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I just yield myself a minute to point out to the gentleman from New York, he really is seeing what it is all about now. When it comes to cutting pork on this side of the aisle, no business.

When it comes to cutting domestic programs, no support on that side of the aisle.

I supported the gentleman on that side of the aisle to cut defense spending. But now do we see any support coming from that side to cut out this domestic pork? Absolutely not.

Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman from New York for yielding me this additional time. I hope my friend, the gentleman from New York [Mr. WEISS], will not leave the Chamber. The logic that the gentleman from New York gave in support of cutting the money for the homeport, which got my vote, seems to have left him since that debate and the beginning of this debate.

I remember sitting here 2 weeks less 1 day ago when the President of the United States gave an eloquent address from that rostrum, and he said he wanted a budget summit agreement passed by September 28 to avoid sequestration.

The only reason I am here today is that your majority leader or majority whip, when he got up last week to announce the program for this week, did not include a budget summit agreement to be voted on. Simple. It is not on the schedule. It is not being brought up. It does not look like we are going to make the deadline that we set for ourselves when we passed Gramm-Rudman, which President Bush so eloquently enunciated at the joint session of Congress, and all of our constituents are going to suffer because the sequestration ax falls.

Now whose fault is it? It is the fault of the people who set the schedule in the Congress of the United States, and they are not on this side of the aisle.

I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I have no more requests for time, and I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield such time as he might consume to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I think we must have heard from our good friend and colleague from New York the basic philosophical difference that exists here between the Congress of the United States and that of the American people. He comes to the floor of the House and says that what we are witnessing this afternoon on the floor of the House of Representaties is a strange performance by those on this side who want to focus this week on getting a budget agreement. That is the whole point.

If this is a strange performance, saying look, there are 7 days to Armageddon, and frankly there are 6½ days to Armageddon, which represents chaos, which represents Federal employees getting laid off, and American citizens will not get their payments from the Federal Government, and when the economy begins to tumble even further into recession, and we have been at this, we have missed every deadline that exists in coming up with a budget agreement, and yet here we say when we try this week to say it is time to meet our deadlines, then we are engaged in some kind of a strange performance. I think we have a philosophical problem and a gap in this Congress that is pretty wide between the Congress and the American people. On that one I hope the American people win.

Mr. SOLOMON. Mr. Speaker, I do not have any more requests for time on this side. Before yielding back I will yield myself a minute to say that before I came over here to the floor I met with a group of letter carriers in my office. These people are family men. They have children. They are concerned about what this Congress is going to do about the budget that is going to affect their lives.

Then I pulled out this bill from the folder and told them I was going over to the floor to debate it, and they could not believe what they were seeing: $1.7 billion in money that we do not have for these projects. If we ever do have to go to the sequestration, we can thank bills like this.

I hope we will defeat this bill when it comes on the floor a little later.

Mr. Speaker, I yield back the balance of my time.

□ 1450

Ms. SLAUGHTER of New York. Mr. Speaker, I have no further requests for time; I yield back the balance of my time; and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this question will be postponed until after debate on all resolutions called up by the Committee on Rules today and following three more motions on suspension of the rules.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

PROVIDING FOR CONSIDERATION OF H.R. 4450, COASTAL ZONE MANAGEMENT ACT AMENDMENTS OF 1990

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 468 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 468

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4450) to improve management of the coastal zone and enhance environmental protection of coastal zone resources, by reauthorizing and amendment the Coastal Zone Management Act of 1972, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 5665 as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered by titles instead of by sections and each title shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 468 is an open rule providing for the consideration of H.R. 4450, the Coastal Zone Management Act Amendments of 1990.

The rule provides for 1 hour of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Merchant Marine and Fisheries Committee. After general debate, the bill shall be considered for amendment under the 5-minute rule.

The rule makes in order an amendment in the nature of a substitute consisting of the text of the bill H.R. 5665 as an original bill for the purpose of amendment. This substitute will be considered by titles instead of by sections and each title shall be considered as having been read.

At the conclusion of the consideration of the bill for amendment, the Committee will rise and report the bill to the House with such amendments as may have been adopted. At that time any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question will be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. Speaker, the Coastal Zone Management Act is scheduled to expire during fiscal year 1990. H.R. 4450 would renew and reauthorize for 5 years the grants that are regulated by the National Oceanic and Atmospheric Administration. The bill modernizes programs of the Coastal Zone Management Act by making a number of minor changes to the act.

In addition, the bill creates a new National Interest Improvements Program under which each State will be encouraged to improve its Coastal Zone Management Program. The bill also establishes an Ocean Zone Management Service in the National Oceanic and Atmospheric Administration and authorizes NOAA to make annual achievement awards to individuals, scientists, and local governments for outstanding accomplishments in the field of coastal zone management.

H.R. 4450 is an important bill and would raise coastal zone management to a national goal. I urge all Members to support the rule.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, there is not much I can say to embellish the remarks of the gentleman from South Carolina [Mr. DERRICK]. This is a fully open rule. A motion to recommit with or without instructions is protected.

Mr. Speaker, I would note that the bill itself is another matter. The administration has submitted a very strong statement of opposition to the bill in its present form. The statement makes clear that if this bill is passed in its present form, the President will veto it.

I would point out that the administration would also oppose enactment of the bill unless it is amended consistent with the Budget Act and, of course, it is a budget-buster. So although the rule is open and I will be voting for the rule, I do call the bill to the Members' attention.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I just rise to point out that the administration is opposed to this coastal zone management bill largely because the authorizations for appropriated money within the bill exceed the 1991 appropriation level suggested by the President.

The reason why that is important goes back to the budget summit negotiations that have not succeeded. When we talk about a successful budget summit, it is entirely possible that you could have a very sharp limitation on the amount of discretionary domestic spending. Despite the efforts of the Democrats to raise the domestic discretionary spending by $50 billion to $70 billion in those negotiations, there is some chance that some degree of rationality will prevail, that we will really seek to reduce the deficit, and that we could end up with some kind of a cap on domestic discretionary.

If we are authorizing spending at levels far in excess of 1991 authorizations, if we are doing business like the last one that we just talked about that authorized $4 billion in new water projects over 5 years, if we are doing all of these things and we are talking about a budget summit that is going to put limits on domestic discretionary, the question is: Where is all of this money going to come from? Is the budget summit all a lie? Is this simply a prelude to once again spending the money despite the fact of the agreement?

Most of us remember 1982 where the President signed on against his better judgment to a tax increase, and he was promised that we would have $3 of spending cuts for every $1 of taxes that were raised. Actually what he got was he got the $1 of taxes raised, and then he got $1.5 more of spending. We never did get the spending cuts. The spending cuts were totally abandoned.

When we see bills like this coming to the floor that are saying that we are going to spend at levels in excess of what the President asked for in 1991, we have to guess that maybe we are going to have another charade that regardless of the budget summit agreements that the Democrats intend to spend the money anyway.

We know that the Democrats have been willing in past years to waive the Budget Act every time they wanted to spend money. Each time we have had a real desire to spend money, we have simply come to the floor with rules that waived the Budget Act. We have done it several times already this year, and we suspect when we see bills of this kind that the spending spree is not going to stop. It is going to go on.

That leads us to question whether or not there are really good-faith negotiations taking place at the budget summit, and it leads us to believe that maybe it is time to bring the process back to the floor and get something passed as we are supposed to do.

The Democrats have ducked the budget for too long now. It is time that the American people see what it is we are going to do and see whether or not we will avert the crisis that is about to hit us at the end of the week.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Speaker, it is a curious message the gentleman is giving the House and the American people.

Did the gentleman forget so quickly last week we cut the President's defense authorization bill by $23 billion? We in this House cut $23 billion from the President's proposed defense spending.

Mr. WALKER. I say to the gentleman that that is one place where you have been willing to cut.

Mr. DORGAN of North Dakota. Twenty-three billion dollars?

Mr. WALKER. That is the only place that the Democrats have seemed to be willing to cut. All the rest of these you want to raise money. In fact, in the budget summit negotiations, you are suggesting that the only place where there is revenue available is by raising taxes on the American people and cutting defense spending. I would suggest to the gentleman that we think that you can cut some defense spending, but you ought to also be cutting some domestic spending, and the bill that this rule would bring to us suggests that that is not possible, that we are simply going to go on spending in domestic discretionary programs as though there is no tomorrow. I am suggesting that tomorrow has arrived, that we have got $100 billion deficits and 23 billion dollars' worth of savings is only a quarter of the way.

□ 1500

I do not see any place else where they would be willing to cut.

Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I think the gentleman brings up a good point that we ought to discuss. I hope the American public also understands that last week, in the defense bill, at a time when we are calling up Guards and Reserves, all over this country right here in Washington, DC, and Wisconsin, and elsewhere, we have a defense bill that lays off and furloughs 130,000 defense employees. What kind of consistency bent does that send?

Second, bring the defense bill back to the budget summit. The fact is that the President has accepted the budget numbers for defense, advocated not by Republicans but by Senator SAM NUNN. Frankly, it is the Democrats in the summit that reject Senator NUNN's numbers and say, "We have to have $20 billion more in defense cuts than is advocated by our own Democratic chairman of the Senate Committee on Armed Services."

Mr. WALKER. Mr. Speaker, I yield to the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Mr. Speaker, I think I understand the point. The point is, they pointed to this side of the aisle and say we are the big spenders, but they do not support cutting $23 billion from the President's authorization bill. I think I understand that.

Mr. WALKER. Mr. Speaker, I think the gentleman is mistaken. A number of Members have been willing to vote for defense cuts. One thing we get disturbed about, the Democrats seem to want to retain defense pork and cut defense strength. That gives Members a little bit of pause, and some Members were disturbed by that aspect of the bill that we had before Members the other day.

There was an agreement to undermine our ability to cut back on base closures. Specifically, do Members pass an amendment that was designed to keep bases open despite the fact that they should be closed? We think that maybe that is the wrong way to go about cutting spending, that some of the pork barrel bases ought to be eliminated. Some Members have problems with some of the things that other Members call defense cuts.

But on the balance, we are willing to cut his defense. We are willing to cut in domestic discretionary. We are willing to do a number of things, but we cannot do any of it because other Members would not bring before Members a budget. Members have avoided the budget. The budget we are supposedly operating under was deemed. I do not know what the rules of the House say, but we deemed a budget here a little bit ago. We still have no budget that has been cleared by the whole Congress.

It is a disgusting show, a show of incompetence, and we ought not allow it to go forward by suggesting that more spending is the answer.

Mr. DERRICK. Mr. Speaker, for the purposes of debate, I yield 4 minutes to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would only say that I think it is kind of interesting to watch the wringing of hands and gnashing of teeth on the Republican side. By the way the Republicans offered no budget plan at all this year, so it is funny to hear them talk about the President's budget. They did not offer it on the House floor. So we all sit over here and wonder, I guess it is up to this side to offer all of the budget plans and do the processing of everything that needs to be done around here. So we do.

All they can do is take shots at everything we do. I think it is totally disingenuous of all the Republicans to stand up and want to debate the budget now, to do so in September when they could have done it earlier this spring.

I think it is also appropriate for all Members on the Democratic side to continue to point out where it is that the President's budget does differ with ours. They say we want more spending on the domestic side. You bet we do. Forget education. Forget health care. Forget programs of women, infants, and children. If that is the Republican side, we understand it. We read the President's budget. That is why we did not offer it. Why didn't the Republicans offer it?

Mr. Speaker, I yield to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I was listening to my friend before I came over to the Chamber, and listened to him again in this Chamber. I have great respect for people in the House on both sides of the aisle. Someone once said that when everyone thinks the same thing, nobody is thinking very much. That is true. Diversity of thought, hopefully brings Members the best of what everybody has to offer.

My friend from Pennsylvania used the word "disgusting" when he went back to his seat. Yes; I am as disgusted as the gentleman is. This is a disgusting and embarrassing display when the President and Congress cannot deal with the budget. It is disgusting.

Now, whose fault is it? Some Members keep saying, "Well, it is the big spenders. It is the Democrats. They are at fault." Look, there is a more important reason the budget summit is not working.

Mr. Speaker, the reason the budget summit has not reached an accord at this point, according to almost all Members that are participating in this summit, is because the President has insisted that capital gains cuts be included. The gentleman shakes his head and says, "No," and he is running away from that for a week. Every Member involved in the summit understands that is the holdup.

This budget summit is supposed to be trying to find a way to reduce the budget deficit, not give the rich another tax cut. Yet the President says, in exchange for a reduction in the Federal deficit, "I insist on the capital gains tax cut." That is disgusting.

Mr. DERRICK. Mr. Speaker, I yield 3 additional minutes to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Speaker, I continue to yield to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, let me continue by saying that when I hear the nonsense on the floor about why we have this impasse, and it is the Democrats' fault, then, I grant that the Democrats bear some responsibility for this. You bet we do. So does the President, and so do the Republicans. It is time for Members to stop pointing. It is time for Members to start doing something.

If the price for doing something to reduce the deficit is to give a tax cut for the rich, then that price is way out of line. Let Members do something finally that moves us in the right direction. For a decade we have been spending a dollar for government, raising 80 cents in revenues, and charging 20 cents to the kids. Somehow Members believe if we listen to their side of the aisle that Jimmy Carter is still in the White House. For God's sake, your party is in the White House. The President proposes a budget. The Congress then votes on the appropriations bills. The President then signs or vetoes the bills.

Now the law says the President must send Congress a budget. The gentleman from Texas has asked an interesting question: Why wasn't the President's budget offered on the floor as the Committee on Rules made it in order to be offered? Why was the President's budget not offered this year? Members know why and I know why. Because it was not an honest document. It just fudged all the numbers and all the assumptions. None of the Members wanted to offer it. I understand why. The Republicans would not have voted for it, and I would not have voted for it.

How can Members now growl about the budget process when they would not offer the President's budget because it was a nonstarter when it got here? We ought to stop growling on the floor about this, and figure how to join hands and put this back together, not with tax cuts for the rich, but with an honest effort to reduce spending.

Yes, reductions in spending. An honest effort to see if there are additional ways to find new revenue, and, yes, we should do that. And I would say to my friend from Pennsylvania, yes, I think some Members believe strongly that there are gold-plated weapons systems we should not build in the Defense Department, and yes, we cut the authorization bill in defense by $23 billion.

We talk about who the big spenders are. I did not see a lot of Members willing to cut spending in the defense authorization. I am willing to cut spending in a number of areas, and I am willing to swallow a pretty big dose of medicine to see if we can solve this deficit problem. Are others? I hope so.

All Members must stop debating about who is at fault and try to figure out how to fix the problem. If we start that, this country will be in a whole lot better shape. Let Members not be on every single bill carping about the Democrat spenders, or I will stand up all afternoon and talk about your capital gains proposal for the rich. Let Members talk about how we can solve this problem. It is our responsibility, your responsibility, and mine, and also the President's responsibility.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON]

Mr. GUNDERSON. Mr, Speaker, if we are to listen to the colleague who just preceded me, if everything he said is correct, that the only issue holding and preventing an agreement on a budget summit is capital gains, then I guess that means that the Democrats are going to assume and accept the President's numbers on defense. I guess that means that they are going to accept the President's numbers on entitlements. I guess that means they accept the President's numbers on discretionary spending. I guess that means they accept the President's numbers on revenue. I guess that means they accept the President's numbers on enforcement.

Now, if they agree on all of those things, and the only thing left in the whole budget summit is capital gains, then we can get an agreement in the next couple of days.

□ 1510

Part of the problem and the reason we are here is because of the dishonesty of those kinds of statements that suggest the only debate is capital gains. There is not an agreement on one element in that budget summit. The gentleman knows that. I know that, and it is time the whole country knows that.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I want to deal with what seems to me to be a grave inaccuracy, the suggestion that the difference between the parties here has to do with the level of spending. The question is not over the level of spending, but how we do it.

The gentleman from Wisconsin says do we accept the President's numbers on defense and the President's numbers on entitlements. I hope not.

George Bush's budget position—and many of us do think we can cut defense, not by weakening one iota of America's military strength where it needs it. We have a budget which is based on the assumption that there is still some likelihood that Poland might invade France, and to strengthen the ability of the French Army to throw back the hordes of the Warsaw Pact, we are being asked to cut medical care for all people.

Now, if it is a big spender to say that we should not cut Medicare, as the President wants in the President's budget, which my friends on the other side quite wisely declined to have anything to do with earlier this year, the President's budget said before and he said it again in the budget summit that we must maintain our strength in NATO to keep the Warsaw Pact from invading, and let us make up for that by cutting medical care. Let us make up for that by cutting education.

No, I certainly do not want to accept that. I think that is very poor public policy.

One of the central issues we have today is this: The President's budget and the defense numbers we are hearing on the other side assumes that 45 years after the end of World War II the American taxpayer should continue to subsidize Japan, Germany, England, Denmark, Norway, and the Netherlands, and all those other very needy nations. That is where we differ. Many of us have begun the process of saying that we are prepared to be equal allies. We are not prepared to be everybody else's money bags.

The President's budget says no, America should continue to subsidize the defense of all these lovely nations, and let us make up for it by cutting Medicare, et cetera.

There are not differences on just how much spending we should cut. The differences are where should it come from, and many of us are going to hold to the position that it ought to come from the subsidy of allies who no longer need it against a threat that has substantially diminished.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume, just to respond to a couple speakers.

I would just call attention to the gentleman from Massachusetts, the gentleman from North Dakota, and the gentleman from Texas that it was some of the hawks on this side of the aisle, who are notorious hawks like myself, who gave you the votes to pass that defense bill, which was inadequate. But we did so because we wanted to make a point that something has got to be done about these deficits. We were willing to gamble a little bit.

I hear rhetoric on that side of the aisle blaming all these increased deficits over the last 7 or 8 years on the "peace-through-strength" buildup. You know, if any of you bother to go and look at the facts, look at the details, you'll see something different.

Eight years ago the revenues coming into the Federal coffers were about $550 billion to $600 billion. Do you know what they are today, 7 years later? They are over $1 trillion. A third of that went to the defense buildup in this Nation and two-thirds of it went to domestic programs.

We are sitting here today and the gentleman from North Dakota says, "Let's get together and do something." Yet on the floor of this Congress, with 34 bills today, there were new programs proposing to spend hundreds of millions of dollars. There is a bill coming here this afternoon which creates 1.7 billion dollars' worth of new programs that we do not even have the economic impact statements on—we do not have the environmental impact statement on. What kind of cooperation is that?

Yes, let us all do get together.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman for yielding to me.

I was astounded listening to what the gentleman from Massachusetts [Mr. FRANK] had to say about the budget process as it is unfolding.

Please remember that the President's budget was sent to Congress on February 1, and it was put together between October 1 and that date for fiscal year 1991. It was looking in the crystal ball a year ahead of time and no one could have predicted the quick collapse of communism in Eastern Europe, the severe economic problems of the Soviet Union, and the dismantling of the Warsaw Pact at the time George Bush sent his budget estimate to the Congress.

So to criticize the budget that was put together a year ago after the passage of time, I think is a cheap shot that has been taken at the President of the United States.

The President has been able to demonstrate his willingness on this issue by accepting the defense budget figures of the Democratic Senator from Georgia, Senator NUNN, the chairman of the Armed Services Committee. He accepted a Democratic proposal on the defense strength. I think that shows his flexibility; but then let us look at the game that has been played as this thing has unfolded.

First of all, it was at the insistence of the Democratic congressional leadership that the President took the hit for going back on his pledge, "No new taxes. Read my lips." He was forced to do that because the Democratic congressional leadership threatened to walk out of the summit negotiations and to have them collapse at that time.

Then my colleagues on both sides of the Capitol on the Republican side of the aisle put together a deficit reduction/tax increase package that reduced the Federal budget deficit by $50 billion prior to the August recess.

What happened? The Democrats leaked it to the press, got each individual piece of that budget proposal that was put on the table hung out to dry and make fun of it.

The chairman of the Ways and Means Committee, the gentleman from Illinois [Mr. ROSTENKOWSKI] talked about what great political points his party was making on a serious budget proposal that my colleagues on my side of the aisle and my President of the United States put on the table to try to get the discussions rolling.

Now, there has not been a Democratic counterproposal that has been put down in a package until after we got back from the August recess, and you guys have had all kinds of fun playing political games with the President's statement on taxes. You have had fun playing political games with the Republican leadership package that was placed on the table in late July and early August, and now the shoe is beginning to pinch because we are facing a sequestration.

Well, unless the Constitution has been changed when I was not looking, the Congress has the power of the purse. No President since George Washington has spent a dime that was not appropriated by Congress, and the Budget Act that was passed in 1974 requires the President of the United States to spend every dime that is appropriated by Congress, unless he gets the Congress to approve a rescission or a deferral, which does not happen very often.

The fiscal mess in this country is caused in the Congress of the United States, and it is getting worse by our inactions.

Scheduling bills that bust the budget and spend money in this week when we are supposed to solve these problems to keep the money flowing to our constituents, I think shows how out of step and out of tune the majority party is with the feelings of the American people.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. If I have some time left, I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. I simply want to make this point, Mr. Speaker. When the gentleman says the President's budget was not offered because he had to put it together long before and events conspired in between, the fact is the Rules Committee made in order a rule that allowed the gentleman from Minnesota [Mr. FRENZEL] or his designee to offer a budget, not just the President's budget, a modified budget, or any budget. The fact is you chose not to offer a budget.

The SPEAKER pro tempore. The time of the gentleman from Wisconsin has expired.

Mr. SOLOMON. Mr. Speaker, I yield 1 additional minute to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Well, reclaiming my time, Mr. Speaker, the President's budget was sent to Congress on February 1. As I recall, the East German election occurred in the middle of March and it became apparent that East and West Germany would unify rather rapidly as a result of that election, so by the time we were given a vote on the budget because we missed another deadline in mid to late April, circumstances had changed and the President's budget was already out of date insofar as the military component was concerned. The Warsaw Pact was an issue of history; but you wanted us to vote on something that was as current as last year's calendar and we decided not to do so.

Now, the President has shown his flexibility by accepting the Nunn figures. You keep on beating us over the head on that. The Nunn figures are up-to-date figures. Now, you keep on beating us over the head by trying to get us to vote on a budget that would assume that the Warsaw Pact was alive and well, which it was at least on paper at the time the President had to put his budget together.

□ 1520

That was not the case when you wanted us to vote on it. That is why we did not vote on it.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the distinguished gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, let me respond if I can to a number of points that have been made here, and they have been made repeatedly for years. I think it is important, while often we just ignore them and let them lie, it is important for us to respond and to say that here is the other side of the issue.

First, Presidents cannot spend any money. My friend from Wisconsin says this fiscal policy mess is Congress' mess.

Well, let me be the first to say I think Congress bears some responsibility for this. No question about that. I am not suggesting Congress is all right and the President is all wrong. But I would say this: You say only the Congress spends money. There are three steps to this process, and the gentleman knows them well. I do not have to give the primer here.

The President, by law, sends a budget to Congress; second it then appropriates the funds. Third, then the President either signs or vetoes the appropriation bills.

You full well understand the process. The President is not a bit player in this process, he is a major player in that process.

The President, beginning in 1981 and now continuing in this administration, described a fiscal policy to us that led him to request in his own budgets $1.1 trillion in debt; not Millard Fillmore, not some President of the last century. In the 1980's conservative Presidents have sent budgets to this institution asking for $1.1 trillion in debt, and that is with the best possible face put on the budgets, manipulating all the numbers on interest rate estimates, unemployment, and all the rest. That is, with the best possible light shining on the budgets, two Republican Presidents have requested $1.1 trillion in debt.

Yes, Congress has made some giant mistakes. One of which was to follow the President's lead in a goofy fiscal policy. Well, so we made those mistakes. Now we are $3.2 trillion in debt, and, no, we do not have a $200 billion deficit or $165 billion as you read in the papers or $235 billion. If you actually use the Social Security moneys the way they should be used, $70 billion in surplus, and take that out of the operating budget as it should be, the operating budget deficit is $300 billion out of balance.

Now, the gentleman says, "Well, that is because Congress spends too much." Yet Congress has spent less than the Presidents have requested.

One of the reasons that is the case is because the Presidents request much, much more in defense than Congress is willing to appropriate and we do in fact appropriate more than they request on the domestic side.

Last week was a good example of that. The Congress cut $23 billion from the President's recommended level on defense authorization.

Well, we can debate hours and hours about all of those numbers. I just wanted to give the other perspective on it.

Let me say this: My friend from Wisconsin made this point: He said it is not the capital gains tax cut that is holding up the budget summit. If that is the case, then why do we not decide together then let us get rid of the capital gains tax proposal? Why don't you encourage the President to back away

from the tax cut proposals, the capital gains, and see if a budget deficit agreement comes together? I think it will.

Why don't we see? If we say that is what is holding up the summit, let us then get rid of it and see if we can come together in a budget deficit agreement, a budget deficit reduction agreement?

We cannot continue this way. The Congress looks awful. The President does not look like he is leading. The system has broken down.

So let us find a way to work together.

Now, you have described the situation as bleakly as you could from your standpoint; I have offered the rebuttal. We could do that all day. I suppose it is fun and interesting, but it does not get us any place.

The question is what about tomorrow? And next month and next year? What about the country? What can we do to put this back together?

Let us decide to do that today and tomorrow and work with the President and Congress, stop the tax giveaways, take the tough medicine to reduce these Federal deficits.

The only reason I made these observations while debating this legislation is because we have heard all of this afternoon from you folks and I think we need to tell the other side of the story.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Gee, Mr. Speaker, I cannot believe what I am hearing on this floor, when people are trying to blame these deficits on the President of the United States of America. Did anybody ever hear of the 1974 Impoundment Act? Do you remember, those of you who were here back then, that this Congress, using its infinite wisdom—if that is what you want to call it—took the President of the United States of America to the U.S. Supreme Court to force him to spend the money whether they needed it or whether we wanted to or not?

Do you want to do something on this floor? Let us repeal that Impoundment Act, and you will see cuts like you have never seen before.

Let us give him the line-item veto, and you will see cuts like you have never seen before. Let us face it, gentleman, you on that side, this side of the aisle, we are the responsible ones and we ought to do something about it.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I would just want to point out the real essence of what we have been saying today can deal with a lot of these issues basic to the budget, I guess, but our issue is we think something ought to be done about it soon, today; rather than taking up all these bills we think it is time to stop the delaying and deal with the budget.

Now, the budget summiteers were supposed to meet at 4 this afternoon. Guess what? It is now delayed until 7.

Every time they set a time, set a date to get something done, it gets delayed. We had a 4, now it is 7, and maybe it will go to 9 and maybe it will go until midnight, maybe it will go until 3 a.m. Who knows where it will end up now. There is never a time to sit down and work out a budget.

We are seeing it again today; where 4 has become 7, and who knows where it will go from there.

Mr. SOLOMON. Mr. Speaker, this place is in total disarray. Does the gentleman say they are not going to meet now until 7 tonight?

Mr. WALKER. That understanding was just given to me, that what was supposed to be a 4 meeting to deal with the budget is now 7, and who knows where it will go from here. There is no deadline.

You know, the proposal over the weekend of the Democratic leadership, at least as leaked to the press, was that we ought to put off this whole thing until October 20, that we ought to bring a bill out here and delay the whole decisionmaking until October 20. Then I suppose it will be October 27. Then it will be sometime after the election, which I think is the real plan.

I am fearful that the whole plan is to try to get this after the election so that we can deal with it in a lameduck session and then raise taxes a walloping, because we will not have any responsibility for it.

I think it is a disgusting performance.

I will tell you this: I hope the American people are as outraged about this as I am.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. Mr. Speaker, I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentleman for yielding.

Mr. Speaker, if you take a look at the back of today's Legislative Calendar, it is labeled "Status of Major Bills, 2nd Session;" it lists the appropriation bills. Not one appropriation bill has been sent to conference.

The energy and water appropriation bill passed the other body on August 2, the transportation appropriation bill passed the other body on August 4.

Now here we have had almost 2 months go by, and both of those appropriation bills could be sent to conference and were not. It simply would take a unanimous-consent request or a motion by the subcommittee chairman to send the bill to conference and to have the legislative process continue.

They have not been sent to conference. It appears that we will get past the end of the fiscal year without having a bill on the President's desk and thus requiring a continuing resolution.

That is nobody's fault but the Congress's.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. I thank the Speaker, and I thank the distinguished colleague for yielding to me.

Mr. Speaker, first I would like to say to all my Democratic colleagues I appreciate the fact that you came to the floor, and I think we have, hopefully, begun to elevate the level of this debate.

Mr. Speaker, I have listened for the last 2½ hours off the floor, and I might say to my colleagues this is great theater. But the tragedy is that we are all in it, and it is very real and ultimately it is life and death.

One of my colleagues a little while ago indicated that this debate was occurring because the majority whip, in laying out the schedule for this week, did not schedule a vote on the budget. The conclusion to be drawn was that in some way the whip, the majority whip, had the right, the prerogative and indeed the power to schedule a vote on a budget that had not been agreed to.

I think it is important for us to talk about this in its most complex terms. This is not a question of whether it is the President's fault or the Congress's fault or this side of the aisle or that side of the aisle. Let us look at the complexities.

□ 1530

On the Republican side of the aisle, those folks in the House of Representatives do not agree with each other, and Republicans in the House do not necessarily agree with all the Republicans in the Senate, and Republicans in the House who are divided from each other and Republicans who are divided from each other in the House and the Senate are divided with respect to the administration because some of them, when the President said, "Watch my lips," applauded, and, when he changed, they booed. So, not only is there disagreement among the Republicans on the floor of the House, on the floor of the Senate and between the two bodies, there is disagreement between the Republicans in the Congress and Republicans in the White House.

On this side of the aisle there is not unanimity. Senator NUNN was referred to as proposing the Democratic position on budget cuts when the House of Representatives very eloquently and

very articulately from the Committee on Armed Services to the floor of this body came with numbers substantially lower then Senator NUNN's. This is a democracy. Senator NUNN is one human being. Great respect, but I do not agree with him all the time, and on this I do not agree, and to assert that Senator NUNN in some way is putting forward the Democrats' proposal is to take a flight into fantasy. To say that Senator NUNN, who is a Democrat, is offering a position as a Democrat is an accurate perspective.

What I am saying in the few moments that I have is, "Let's not engage in theater calculated to oversimplify the issue," and am I coming close to 4 minutes?

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would advise the gentleman from California [Mr. DELLUMS] that the rules of the House suggest that Members not refer particularly or specifically to Members of the other body.

Mr. DELLUMS. I appreciate the admonishment of the Speaker.

Mr. Speaker, I am just getting warmed up, but the point I want to make is that I respect my colleagues on the minority side of the aisle, and I say to them, "You have to do what you have to do, but let's do it within the framework of integrity, and let's not attempt to oversimplify a very complex set of issues here."

Folks in the White House are not agreeing. Those folks are not agreeing. We are not agreeing. There is great antipathy. There is hostility, there are disagreements, ideological, philosophical perspectives.

Let me just make a last comment. A number of my colleagues said that we are negotiating against the backdrop of the gun that we have placed to our head, Gramm-Rudman, 7 days from now. I was one of the people, and I will leave this body proud of the fact, that I voted against Gramm-Rudman as an absurd idea that is extremely dangerous to our form of government. Gramm-Rudman is a mindless approach to budgeting. Gramm-Rudman is an approach to budgeting that lacks accountability, that lacks integrity, that lacks intellect and lacks compassion. I did not vote for that absurd idea, but a number of my colleagues said, "Let's put a gun to our heads, and against the backdrop of that gun to our head we will do something about the deficit."

However, Mr. Speaker, the deficit kept creeping up, and it is one thing to put a gun to our head. It is another one to pull the trigger. And we are about to pull the trigger here with no accountability, and I would say to the American people that, if they allow Congress to allow Gramm-Rudman to go into effect with sequestration and put this Government on automatic pilot, relieving Members of Congress from their accountability, then we have no right to return here because we have abdicated our responsibility.

In conclusion, as we discuss the nature of the budget, let us not oversimplify. Let us talk about the reality of what is involved in the budget.

"We're here to struggle," I would say to the gentleman from New York [Mr. SOLOMON], my colleague, and say to my colleague from the Midwest. That is what this body is all about, is coming here to engage in differences. I get up every day pleased that I have the right and prerogative to come to the floor of Congress and challenge for my ideas. That is what politics are all about. But we cannot keep beating each other over the head. We cannot keep engaging in self-flagellation. Let us start talking about what reality really is.

Finally, as I said before, Gramm-Rudman was an insane, absurd idea, and I agree with my colleagues that we should not let those 7 days go by, but I want to make this comment in conclusion, that I do not like the options that are being crammed down our throats and the throats of the American people against the backdrop of Gramm-Rudman. These are not acceptable alternatives. These are alternatives that lack wisdom, compassion, and intelligence, and we ought to reject them.

Now what we have to do: Put Gramm-Rudman aside. Agree with me that this is an absurd idea which was brought into existence, and let us go back to square one and negotiate a budget that makes sense for America.

Mr. SOLOMON. Mr. Speaker, I yield myself 1 minute just to respond to the gentleman from California [Mr. DELLUMS], my good friend.

Mr. Speaker, the gentleman from California mentioned a couple of words. One I think was "antipathy." Another was "hostility."

Let me say, yes, there is antipathy. There is no hostility. We on this side of the aisle greatly admire and respect this gentleman who just spoke, and I want to say to him that the way we got into this debate in the first place was over the issue of rules and the fact that we have been gagged on many pieces of legislation coming to this floor.

The gentleman from California [Mr. DELLUMS] has come to this floor and eloquently made his point. Every Member of this Congress ought to have that opportunity, and I respect the gentleman.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I would just like to say to my colleagues on the Democrat side of the aisle that I am glad they are coming out very clearly and saying that they want to destroy Gramm-Rudman. That is what we have been believing along.

Many of my colleagues and I had a press conference last week, and during that press conference, at which we presented a budget that will meet the targets, allow a 4-percent growth in spending, cut Social Security taxes 2.3 percent, cut capital gains tax down to 15 percent and come up with an $11 billion surplus by 1997; at that news conference we said that the Democrat Party wanted to destroy Gramm-Rudman, wait until after the election and then pass a huge tax increase and additional spending when the American people could not do anything about it. So, I am glad they are owning up to that today.

The gentleman from California [Mr. DELLUMS] talked about no accountability, no accountability. The reason Gramm-Rudman was passed, I say to the gentleman from California [Mr. DELLUMS], my good friend, is because Congress was not accountable. It is because we spent way beyond what the American people wanted us to do, and we had to do something to put teeth into the budget process so we did not go hell-bent for leather into spending oblivion, which is where we are heading.

Mr. Speaker, my friends who are talking about a tax increase, and all I have heard from the Democratic Party for the past 6 months, is we have got to have more taxes, and Dan Rather, and Tom Brokaw, and Peter Jennings, everybody else, has signed on saying, "Yeah, we've got to have more taxes, folks." The fact of the matter is we do not.

For the past 10 years we have increased the amount of revenue coming into the Treasury by double. We had $600 billion coming in 10 years ago, and now it is $1.2 trillion. In the last year we have increased the revenues coming into the Treasury by $80 to $90 billion, and it is going to be that way next year; $80 to $90 billion in new revenues coming in yearly.

But that is not enough. Those guys want more. They just keep on spending. Is there no end to it?

I say to my colleagues, "If you don't believe the American people don't want new taxes, look at your old buddy, Jim Florio, the Governor of New Jersey. Good old Jim went over there and said the American people wanted more taxes, and he's taxed that State into the ground, and they're calling for his impeachment. They had about 25,000 or 30,000 people in the streets of New Jersey this week calling him King Florio, and they don't want any more taxes."

Now I am telling my colleagues: The American people do not want any more taxes.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 min-

utes to the gentleman from North Carolina [Mr. HEFNER].

Mr. ROE. Mr. Speaker, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Speaker, I believe, as I was listening and paying close attention, words were raised about the new good Governor of the State of New Jersey who is a former colleague of ours, and implication was made that the Governor in his judgment and the legislature of the State of New Jersey, which I remind the gentleman from Indiana [Mr. BURTON] is New Jersey's business, not his State's to begin with; we are responsible to our own people, and, yes, he did have to raise the taxes, and, yes, it is creating a problem because there are those people disagreeing in the State of New Jersey, as is perfectly reasonable.

However there is one very important thought that ought to redound to the Members of this Congress. It is a very very salient point, and that is the fact that under the last 10 years, the last 12 years, because of the cutbacks by the Reagan administration in every field, in education and every other direction, that the State of New Jersey is short. We do not get the resources we apply to the Federal Government. We are now a donor State. We are paying the bills for other States.

Mr. Speaker, my function is not to defend Jim Florio here today, but we are going to have other matters on this floor, and the Governor is perfectly capable of defending himself.

I thank the gentleman from North Carolina [Mr. HEFNER] for yielding, but I will look for my time when we bring up couple of additional matters in order to express some views that I have.

However, Mr. Speaker, I suggest to the gentleman from Indiana [Mr. BURTON] that he look very carefully at his own State before he picks on another Governor from another State.

□ 1540

Mr. HEFNER. Mr. Speaker, I would like to make just a couple of points. I have a very simple solution to this budget problem. The only man in the United States who has access to all the network television can at his request bring a budget to this floor which the Speaker and this body would allow, and he has Mr. Brady and all the other folks who are negotiating this budget, and they are not all Members of this Congress, Members of the other body or of the House; there are other people involved. We passed our budget here. We passed it with Democratic votes. We are in the process of marking up our appropriation bill. At this minute we are marking up the defense bill downstairs, and we are trying to get what the President requested.

The day the budgets were considered on this floor, the President's budget was not even offered. It was pulled at the last minute. They did not want to bring the President's budget to this floor.

I have a suggestion to make. I say, "In all due respect, Mr. President, if you have a budget and you can get the $50 billion in cuts and you can get the $300 or $500 billion in cuts over 5 years, I would suggest you offer it and say, 'I am going to the American people and this is what I want to do. This is the budget I want to present to the American people.' "

If it has capital gains in it, OK, you can bring it to this floor and you can say, "Here is my answer to the budget of the United States." I say, "You can go over our heads, Mr. President, and bring it to this floor." But at this point in time, all we have heard from the administration has been leaks. We have nothing with the administration's footprints or fingerprints on it.

The distinguished gentleman from Indiana says they have presented a budget here and they had a press conference. If this budget gets to where he says it gets to, I ask, "Why don't you give it to the President, and why doesn't the President go to the American people?" He is the only person in the United States who ran for all the people. Everybody had a chance to vote for him. I say, bring that budget here to this floor and let us vote on it. To this point we have not had an alternative Republican budget. They have offered nothing, and you cannot beat something with nothing.

The SPEAKER pro tempore (Mr. BROWN of California). The Chair wishes to state that the gentleman from New York [Mr. SOLOMON] has 6 minutes remaining, and the gentleman from South Carolina [Mr. DERRICK] has 3 minutes remaining.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I thank my colleagues for yielding time to me.

I would like to point out that revenues to the Federal Government have increased 33 percent in the last 7 years. That it is more than the cost of living. Our revenues have increased 33 percent in the last 7 years, yet we continue to have deficit spending.

The President is not getting a fair shake on this budget conference. The President is asking for more than just a capital gains reduction, he is asking for budgetary reform. He is saying that we should solve this problem with an enhanced rescission capability for the President, which for the American people is basically a line-item veto. He is asking for balanced budget restraints, and he is asking that we do not send him continuing resolutions. He has talked about the 4-percent solution. Capital gains is not the whole hangup and many Members participating in the budget conference will agree. We need budget reform. We tried to do that on the House floor with a constitutional amendment to require a balanced budget. This side of the aisle voted overwhelmingly for that amendment, yet we did not get it.

So, Mr. Speaker, I say to my fellow colleagues that we had $80 billion in increased revenues last year. Was that not enough? Why do we need a continuing deficit?

Mr. DERRICK. Mr. Speaker, I have no further requests for time.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, like many Members both on the floor and in their offices, I have been listening to this debate quite closely. The fact is that this is a debate that is long overdue.

One fact that has come through to the American people quite loudly and clearly—and the Members are coming back to Washington this week to say it—is that the time is up. This is the week, this is the next 4 days in which Congress has the responsibility and the obligation to set a budget to avoid sequestration and to avoid the pending recession that will occur unless Congress finally adopts some leadership.

The fact is that this Congress has broken every single budget deadline that has been presented to us this year. We did not provide a budget resolution on time, a resolution that passed. We did not provide the second resolution. There was no conference report that came back to the floor on the budget. There have not been any appropriations that have been passed and sent to the President. There has not been a summit agreement announced or even discussed so far, in spite of 4 months of summitry. The fact is that, during the course of the next 4 days, we should not be debating the additional $25 billion of spending on small business. We should not be debating the additional $300 million on the coastal zones, and we should not be debating some 34 suspensions that were scheduled on this floor, including such items as the preservation of Acadia.

This Congress has the obligation and the responsibility to force and require that the congressional leadership bring to the House floor a deficit reduction agreement that avoids the sequestration and, more importantly, that avoids the pending recession that will otherwise happen unless Congress finally accepts its responsibility.

One thing we know for certain, according to the current law, unless this Congress acts in the next 4 days, sequestration will happen. The Members on this side of the aisle that have been saying this all afternoon have been

making one message clear, and that is that sequestration does not have to happen. Sequestration can be avoided if the congressional leadership will bring a budget to this floor to avoid it, and if we do that, then we also can and must avoid the recession that will otherwise happen.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would invite the press and the American people to watch what is going to happen during the remainder of this day and see how many times we bust the budget in the next few bills that are passed this afternoon.

Mr. Speaker, I yield the balance of our time to the distinguished gentleman from Minnesota [Mr. FRENZEL], whom we are going to miss daily around here. If we all voted like he did, we would not have any deficits.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. FRENZEL] is recognized for 2 minutes.

Mr. FRENZEL. Mr. Speaker, lest anyone forget why we are supposed to be here, I rise in opposition to the rule. But in addition, I would like to speak a little bit about the deficit and about what has been going on here.

Republicans are trying to make a very careful, important, and simple statement. That is that the Democrat leadership of this House has fiddled while Rome is burning, and there is not much of Rome left.

We were required by law to pass a budget. The House passed one. The Senate passed one. The twain never met.

Then the Congress thought it would be better served by going to summitry. It has been in summitry for 5 months, most of it in extensive, and intensive, discussions, in which, at least as one participant, I would say that the congressional majority has been adamant in its position of not wanting to change any of its wanton spending habits for the next 5 years.

What Republicans are saying is this: "Why are we going through a list of 35 bills?" Half a dozen are bad, or are budget-busters. Most of them are not Senate bills. Many will pass into oblivion. They will never be enacted. Some are reelection vehicles.

Some are even necessary or important bills, I do not deny that. But together they comprise a list of 35 ways to stop concentrating on the budget, to make us forget about the fact that the Democrat leadership of this country is taking us into sequester on Monday morning.

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We are just a few days from the train wreck, and it is about time to negotiate. We have got 24 hours to negotiate a complete budget agreement, and here we are fiddling with irrelevancies.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wanted to make sure the gentleman from Minnesota [Mr. FRENZEL] was still here, because I think it is rather interesting that the gentleman from Minnesota came before the Committee on Rules and asked us to make the President's budget in order so that he could offer it, and he did not offer it. The gentleman came back to the Committee on Rules, and I respect him greatly, and apologized to the Committee on Rules for not having done so after asking us to do so for that purpose. So the answer lies over there as to why the Republicans were not willing to offer the President's budget.

Mr. Speaker, let us not forget that it was the President of the United States who requested the summit, and not the Congress.

Mr. BRENNAN. Mr. Speaker, I rise today in strong support of the Coastal Zone Management Act, and in strong support of the right of States to share in decisions affecting their waters.

Since its enactment in 1972, the Coastal Zone Management Act has joined the States and the Federal Government together in a partnership, a partnership which has carefully and effectively managed our Nations coasts.

In 1960, 80 million Americans lived in coastal area—today, almost 127 million Americans live in these areas, and they have been well served by the CZMA.

This bill provides the tools to protect these 127 million people from the ecological disasters that we have seen in recent years: Medical waste on our beaches, oilspills in Alaska, Texas, and the east coast, and a national loss of vital wetlands.

The bill also overturns a 1984 Supreme Court decision which deprived States of the right to share in decisions regarding sale of Federal oil leases along their coastlines.

This decision did a grave misservice to the States; the bill before us today reaffirms the simple right of States to protect their coasts, beaches, wetlands, and citizens from the hazards of offshore oil drilling.

The Coastal Zone Management Act is a proven program. It has served this Nation well for 18 years. It has allowed my State of Maine to start attacking the problems of water pollution and overdevelopment.

I urge my colleagues to support this important bill, so that we may continue to manage, and protect, our Nation's coastlines.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, further proceedings on this question will be postponed until after debate on all resolutions called up by the Committee on Rules today and following three additional bills under suspension of the rules.

EARTHQUAKE HAZARDS REDUCTION ACT OF 1977 AMENDMENTS ACT

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3533) to amend the Earthquake Hazards Reduction Act of 1977 to improve the Federal effort to reduce earthquake hazards, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Earthquake Hazards Reduction Act of 1977 Amendments Act".

SEC. 2. FINDINGS.

Section 2 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701) is amended—

(1) by striking paragraphs (5) and (6) and inserting in lieu thereof the following new paragraphs:

"(5) The geological study of active faults and features can reveal how recently and how frequently major earthquakes have occurred on those faults and how much risk they pose. Such long-term seismic risk assessments are needed in virtually every aspect of earthquake hazards management, whether emergency planning, public regulation, detailed building design, insurance rating, or investment decision.

"(6) The vulnerability of buildings, lifelines, public works, and industrial and emergency facilities can be reduced through proper earthquake resistant design and construction practices. The economy and efficacy of such procedures can be substantially increased through research and development.";

(2) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11), respectively; and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) Programs and practices of departments and agencies of the United States are important to the communities they serve; some functions, such as emergency communications and national defense, and lifelines, such as dams, bridges, and public works, must remain in service during and after an earthquake. Federally owned, operated, and influenced structures and lifelines should serve as models for how to reduce and minimize hazards to the community.".

SEC. 3. PURPOSE.

Section 3 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7702) is amended by inserting at the end the following: "The objectives of such program shall include—

"(1) the development of technologically and economically feasible design and construction methods and procedures to make new and existing structures, in areas of seis-

mic risk, earthquake resistant, giving priority to the development of such methods and procedures for power generating plants, dams, hospitals, schools, public utilities and other lifelines, public safety structures, high occupancy buildings, and other structures which are especially needed in time of disaster;

"(2) the implementation, to the greatest extent practicable, in all areas of high or moderate seismic risk, of a system (including personnel, technology, and procedures) for predicting damaging earthquakes and for identifying, evaluating, and accuracy characterizing seismic hazards;

"(3) the development, publication, and promotion, in conjunction with State and local officials and professional organizations, of model codes and other means to coordinate information about seismic risk with land-use policy decisions and building activity;

"(4) the development, in areas of seismic risk, of improved understanding of, and capability with respect to, earthquake-related issues, including methods of mitigating the risks from earthquakes, planning to prevent such risks, disseminating warnings of earthquakes, organizing emergency services, and planning for reconstruction and redevelopment after an earthquake;

"(5) the education of the public, including State and local officials, as to earthquake phenomena, the identification of locations and structures which are especially susceptible to earthquake damage, ways to reduce the adverse consequences of an earthquake, and related matters; and

"(6) the development of research on—

"(A) ways to increase the use of existing scientific and engineering knowledge to mitigate earthquake hazards;

"(B) the social, economic, legal, and political consequences of earthquake prediction; and

"(C) ways to assure the availability of earthquake insurance.".

SEC. 4. DEFINITIONS.

Section 4 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7703) is amended—

(1) in paragraph (2), by striking "program" and inserting in lieu thereof "Program"; and

(2) by adding at the end the following new paragraphs:

"(6) The term 'lifelines' means public works and utilities, including transportation facilities and infrastructure, oil and gas popelines, electrical power and communication facilities, and water supply and sewage treatment facilities.

"(7) The term 'program agencies' means the Federal Emergency Management Agency, the United States Geological Survey, the National Science Foundation, and the national Institute of Standards and Technology.".

SEC. 5. NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM.

Section 5 of the National Earthquake Hazards Reduction Act in 1977 (42 U.S.C. 7704) is amended to read as follows:

"SEC. 5. NATIONAL EARTHQUKE HAZARDS REDUCTION PROGRAM.

"(a) ESTABLISHMENT.—There is established a National Earthquake Hazards Reduction Program.

"(b) RESPONSIBILITIES OF PROGRAM AGENCIES.—

"(1) LEAD AGENCY.—The Federal Emergency Management Agency (thereafter in this Act referred to as the 'Agency') shall have the primary responsibility for planning and coordinating the Program. In carrying out this paragraph, the Director of the Agency shall

"(A) prepare, in conjunction with the other program agencies, an annual budget for the Program to be submitted to the Office of Management and Budget;

"(B) ensure that the Program includes the necessary steps to promote the implementation of earthquake hazard reduction measures by Federal, State, and local governments, national standards and model building code organizations, architects and engineers, and others with a role in planning and constructing buildings and lifelines;

"(C) prepare, in conjunction with the other program agencies. a written plan for the Program which shall include specific tasks and milestones for each program agency, and which shall be submitted to the Congress and updated at such time as may be required by significant Program events, but in no event less frequently than every 3 years;

"(D) prepare, in conjunction with the other program agencies, a biennial report, to be submitted to the Congress within 90 days after the end of each even-numbered fiscal year, which shall describe the activities and achievements of the Program during the preceding two fiscal years; and

"(E) request the assistance of Federal agencies other than the program agencies, as necessary to assist in carrying out this Act.

The principal official carrying out the responsibilities described in this paragraph shall be at a level no lower than that of Associate Director.

"(2) FEDERAL EMERGENCY MANAGEMENT AGENCY.—

"(A) PROGRAM RESPONSIBILITIES.—In addition to the lead agency responsibilities described in paragraph (1), the Director of the Agency shall—

"(i) operate a program of grants and technical assistance which would enable States to develop preparedness and response plans, prepare inventories and conduct seismic safety inspections of critical structures and lifelines, update building and zoning codes and ordinances to enhance seismic safety, increase earthquake awareness and education, and encourage the development of multi-State groups for such purposes;

"(ii) prepare and execute, in conjunction with the program agencies, the Department of Education, other Federal agencies, and private sector groups, a comprehensive earthquake education and public awareness program, to include development of materials and their wide dissemination to schools and the general public;

"(iii) prepare and disseminate widely, with the assistance of the National Institute of Standards and Technology, other Federal agencies, and private sector groups, information on building codes and practices for structures and lifelines;

"(iv) develop, and coordinate the execution of, Federal interagency plans to respond to an earthquake, with specific plans for each high-risk area which ensure the availability of adequate emergency medical resources, search and rescue personnel and equipment, and emergency broadcast capability; and

"(v) provide response recommendations to communities after an earthquake prediction has been made under paragraph (3)(D).

In addition, the Director of the Agency may enter into cooperative agreements or contracts with States to establish demonstration projects on earthquake hazard mitigation or to prepare educational materials for national distribution.

"(B) STATE ASSISTANCE PROGRAM CRITERIA.—In order to qualify for assistance under subparagraph (A)(i), a State must—

"(i) demonstrate that the assistance will result in enhanced seismic safety in the State;

"(ii) provide a share of the costs of the activities for which assistance is being given, in accordance with subparagraph (C); and

"(iii) meet such other requirements as the Director of the Agency shall prescribe.

"(C) NON-FEDERAL COST SHARING.—

"(i) In the case of any State which has received, before October 1, 1990, a grant from the Agency for activities under this Act which included a requirement for cost sharing by matching such grant, any grant obtained from the Agency for activities under subparagraph (A)(i) after such date shall not include a requirement for cost sharing in an amount greater than 50 percent of the cost of the project for which the grant is made.

"(ii) In the case of any State which has not received, before October 1, 1990, a grant from the Agency for activities under this Act which included a requirement for cost sharing by matching such grant, any grant obtained from the Agency for activities under subparagraph (A)(i) after such date—

"(I) shall not include a requirement for cost sharing for the first fiscal year of such grant;

"(II) shall not include a requirement for cost sharing in an amount greater than 25 percent of the cost of the project for which the grant is made for the second fiscal year of such grant, and any cost sharing requirement may be satisfied through in-kind contributions;

"(III) shall not include a requirement for cost sharing in an amount greater than 35 percent of the cost of the project for which the grant is made for the third fiscal year of such grant, and any cost sharing requirement may be satisfied through in-kind contributions; and

"(IV) shall not include a requirement for cost sharing in an amount greater than 50 percent of the cost of the project for which the grant is made for the fourth and subsequent fiscal years of such grant.

"(3) UNITED STATES GEOLOGICAL SURVEY.—The United States Geological Survey shall conduct research necessary to characterize and identify earthquake hazards, assess earthquake risks, monitor seismic activity, and improve earthquakes predictions. In carrying out this paragraph, the Director of the United States Geological Survey shall—

"(A) conduct a systematic assessment of the seismic risks in each region of the Nation prone to earthquakes, including, where appropriate, the establishment and operation of intensive monitoring projects on hazardous faults, seismic microzonation studies in urban and other developed areas where earthquake risk is determined to be significant, and engineering seismology studies;

"(B) work with officials of State and local governments to ensure that they are knowledgeable about the specific seismic risks in their areas;

"(C) develop standard procedures, in consultation with the Agency, for issuing earthquake predictions, including aftershock advisories;

"(D) issue when necessary, and notify the Director of the Agency of, an earthquake prediction or other earthquake advisory, which may be evaluated by the National

Earthquake Prediction Evaluation Council, which shall be exempt from the requirements of section 10(a)(2) of the Federal Advisory Committee Act when meeting for such purposes;

"(E) establish, using existing facilities, a Center for the International Exchange of Earthquake Information which shall—

"(i) promote the exchange of information on earthquake research and earthquake preparedness between the United States and other nations;

"(ii) maintain a library containing selected reports, research papers, and data produced through the Program;

"(iii) answer requests from other nations for information on United States earthquake research and earthquake preparedness programs; and

"(iv) direct foreign requests to the agency involved in the Progam which is best able to respond to the request; and

"(F) support regional seismic networks, and operate a complementary National Seismic Network.

"(4) NATIONAL SCIENCE FOUNDATION.—The National Science Foundation shall be responsible for funding research on earth sciences to improve the understanding of the causes and behavior of earthquakes, on earthquake engineering, and on human response to earthquakes. In carrying out this paragraph, the Director of the National Science Foundation shall—

"(A) support university research consortia and centers for research in geosciences and in earthquake engineering;

"(B) work closely with the United States Geological Survey to identify geographic regions that should be the focus of targeted solicitations for earthquake-related research proposals;

"(C) emphasize, in earthquake engineering research, economically feasible methods to retrofit existing buildings and to protect lifelines to mitigate earthquake damage;

"(D) encourage prompt dissemination of significant findings, sharing of data, samples, physical collections, and other supporting materials, and development of intellectual property so research results can be used by appropriate organizations to mitigate earthquake damage; and

"(E) support research that studies the political, economic, and social factors that influence the implementation of hazard reduction measures.

"(5) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—The National Institute of Standards and Technology, through its Center for Building Technology, shall be responsible for carrying out research and development to improve building codes and standards and practices for structures and lifelines. In carrying out this paragraph, the Director of the National Institute of Standards and Technology shall—

"(A) work closely with national standards and model building code organizations, in conjunction with the Agency, to promote the implementation of research results;

"(B) promote better building practices among architects and engineers; and

"(C) work closely with national standards organizations to develop seismic safety standards and practices for new and existing lifelines.".

SEC. 6. OFFICE OF SCIENCE AND TECHNOLOGY POLICY REPORT.

Section 6 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7705) is amended to read as follows:

"SEC. 6. OFFICE OF SCIENCE AND TECHNOLOGY POLICY REPORT.

"The Director of the Office of Science and Technology Policy shall, within 3 months after the date of the enactment of the Earthquake Hazards Reduction Act of 1977 Amendments Act, report to the Committee on Science, Space, and Technology and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on how the Office of Science and Technology policy can play a role in interagency coordination, planning, and operation of the Program.".

SEC. 7. ADVISORY COMMITTEE.

The Earthquake Hazards Reduction Act of 1977 is amended—

(1) by redesignating section 7 as section 12; and

(2) by inserting after section 6 the following new section:

"SEC. 7. ADVISORY COMMITTEE.

"There is established a National Earthquake Hazards Reduction Program Advisory Committee (hereafter in this Act referred to as the 'Advisory Committee'), which shall advise the program agencies on planning and implementing the Program. The Director of the Agency shall, in consultation with the directors of the program agencies, determine the number of members on the Advisory Committee and the duration of their terms, and appoint the Chairman and Members of the Advisory Committee. The Advisory Committee shall have balanced representation of scientists and engineers, representatives of State and local governments, the design professions, business, and industry, and the general public. The Advisory Committee shall meet at the call of the Chairman, but in no event less often than every 6 months. The Advisory Committee shall submit a written report directly to the Congress, without review by the Office of Management and Budget or any other agency, by January 31 of each calendar year beginning after the date of enactment of the Earthquake Hazards Reduction Act of 1977 Amendments Act, which shall describe any recommendations the Advisory Committee has made to the program agencies during the preceding year. Members of the Advisory Committee shall serve without compensation but may receive reimbursement for expenses. All expenses of the Advisory Committee shall be borne by the Agency. The Advisory Committee shall expire September 30, 1993.".

SEC. 8. SEISMIC STANDARDS.

The Earthquake Hazards Reduction Act of 1977 is amended by adding after section 7 the following new section:

"SEC. 8. SEISMIC STANDARDS.

"(a) BUILDINGS.—

"(1) ADOPTION OF STANDARDS.—The President shall adopt, not later than June 1, 1995, standards for assessing and enhancing the seismic safety of existing buildings constructed for or leased by the Federal Government which were designed and constructed without adequate seismic design and construction standards. Such standards shall be developed by the Interagency Committee on Seismic Safety in Construction, whose chairman is the Director of the National Institute of Standards and Technology or his designee, and which shall work in consultation with appropriate private sector organizations.

"(2) REPORT TO CONGRESS.—The President shall report to Congress, not later than June 1, 1995, on how the standards adopted under paragraph (1) could be applied with respect to buildings—

"(A) for which Federal financial assistance has been obtained through grants, loans, financing guarantees, or loan or mortgage insurance programs; or

"(B) the structural safety of which is regulated by a Federal agency.

"(3) REGULATIONS.—The President shall ensure the issuance, before February 1, 1993, by all Federal agencies of final regulations required by section 4(b) of Executive Order numbered 12699, issued January 5, 1990.

"(b) LIFELINES.—The Director of the Agency, in consultation with the Director of the National Institute of Standards and Technology, shall submit to the Congress, not later than June 30, 1992, a plan, including precise timetables and budget estimates, for developing and adopting, in consultation with appropriate private sector organizations, design and construction standards for lifelines. The plan shall include recommendations of ways Federal regulatory authority could be used to expedite the implementation of such standards."

SEC. 9. ACCEPTANCE OF GIFTS.

The Earthquake Hazards Reduction Act of 1977 is amended in inserting after section 8 the following new section:

"SEC. 9. ACCEPTANCE OF GIFTS.

"(a) AUTHORITY.—In furtherance of the purposes of this Act, the Director of the Agency may accept and use bequests, gifts, or donations of services, money, or property, notwithstanding section 3679 of the Revised Statutes (31 U.S.C. 1342).

"(b) CRITERIA.—The Director of the Agency shall establish by regulation criteria for determining whether to accept bequests, gifts, or donations of services, money, or property. Such criteria shall take into consideration whether the acceptance of the bequest, gift, or donation would reflect unfavorably on the Director's ability to carry out his responsibilities in a fair and objective manner, or would compromise the integrity of, or the appearance of the integrity of, the Program or any official involved in administering the Program.".

SEC. 10. NON-FEDERAL COST SHARING FOR SUPPLEMENTAL FUNDS.

The Earthquake Hazards Reduction Act of 1977 is amended by inserting after section 9 the following new section:

"SEC. 10. NON-FEDERAL COST SHARING FOR SUPPLEMENTAL FUNDS.

"A grant under this Act to a State from the Agency that is made with funds appropriated under the fiscal year 1990 Dire Emergency Supplemental To Meet The Needs Of Natural Disasters Of National Significence (Public Law 101-130) shall not include a requirement for cost sharing in an amount greater than 25 percent of the cost of the project for which the grant is made, and any cost sharing requirement may be satisfied through in-kind contributions.".

SEC. 11. INVESTIGATIONS PROGRAM.

The Earthquake Hazards Reduction Act of 1977 is amended by inserting after section 10 the following new section:

"SEC. 11. INVESTIGATIONS PROGRAM.

"There is established within the United States Geological Survey an earthquake investigations program. After any significant earthquake, the United States Geological Survey in consultation with each program agency, shall organize investigations to study the implications of the earthquake in the areas of responsibility of each program

agency. The investigations shall begin as rapidly as possible and may be conducted by grantees and contractors. The program agencies shall ensure that the results of investigations are disseminated widely. At a minimum, investigations under this section shall include—

"(1) analysis by the National Science Foundation and the United States Geological Survey of the causes of the earthquake and the nature of the resulting ground motion;

"(2) analysis by the National Science Foundation and the National Institute of Standards and Technology of the behavior of structures and lifelines, both those that were damaged and those that were undamaged; and

"(3) analysis by each of the program agencies of the effectiveness of the earthquake hazards mitigation programs and actions relating to its area of responsibility under the Program, and how those programs and actions could be strengthened.".

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

Section 12 of the Earthquake Hazards Reduction Act of 1977, as redesignated by section 7(1) of this Act, is amended—

(1) in subsection (a)(7)—

"(A) by striking "the provisions of sections 5 and 6 of";

"(B) by striking "and $5,798,000" and inserting in lieu thereof "$8,798,000"; and

"(C) by inserting ", $17,000,000 for the fiscal year ending September 30, 1991, $19,000,000 for the fiscal year ending September 30, 1992, $22,000,000 for the fiscal year ending September 30, 1993, and $25,000,000 for the fiscal year ending September 30, 1994" before the period;

(2) in subsection (b)—

"(A) by striking "and $43,283,000" and inserting in lieu thereof $55,283,000"; and

"(B) by inserting ", of which $8,000,000 shall be for earthquake investigations under section 11, $50,000,000 for the fiscal year ending September 30, 1991, $59,000,000 for the fiscal year ending September 30, 1992, $70,000,000 for the fiscal year ending September 30, 1993, and $80,000,000 for the fiscal year ending September 30, 1994" before the period;

(3) in subsection (c)—

(A) by striking "and $35,454,000; and inserting in lieu thereof "$38,454,000" and

(B) by inserting at the end "Of the amounts authorized for Engineering under section 101(d)(1)(B) of the National Science Foundation Authorization Act of 1988, not less than $24,000,000 shall be obligated for carrying out this Act for the fiscal year ending September 30, 1991, and of the amounts authorized for Geosciences under section 101(d)(1)(D) of the National Science Foundation Authorization Act of 1988, not less than $13,000,000 shall be obligated for carrying out this Act for the fiscal year ending September 30, 1991. Of the amounts authorized for Research and Related Activities under section 101(e)(1) of the National Science Foundation Authorization Act of 1988, not less than $31,00,000 shall be obligated for engineering research under this Act, and not less than $15,250,000 shall be obligated for geosciences research under this Act, for the fiscal year ending September 30, 1992. Of the amounts authorized for Research and Related Activities under section 101(f)(1) of the National Sciences Foundation Authorization Act of 1988, not less than $36,000,000 shall be obligated for engineering research under this Act, and not less than $18,000,000 shall be obligated for geosciences research under this Act, for the fiscal year ending September 30, 1993. There are authorized to be appropriated for the fiscal year ending September 30, 1994, $40,000,000 for engineering research under this Act, and $20,000,000 for geoscience research under this Act.";

(4) in subsection (d)—

(A) by striking "NATIONAL BUREAU OF STANDARDS" and inserting in lieu thereof "NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY";

(B) by striking "Bureau" and inserting in lieu thereof "National Institute of Standards and Technology";

(C) by striking "and $525,000" and inserting in lieu thereof "$2,525,000"; and

(D) by inserting "; $1,000,000 for the fiscal year ending September 30, 1991; $1,250,000 for the fiscal year ending September 30, 1992; $1,500,000 for the fiscal year ending September 30, 1993; and $1,750,000 for the fiscal year ending September 30, 1994" before the period; and

(5) by adding at the end the following new subsection:

"(f) AVAILABILITY OF FUNDS.—Funds appropriated for fiscal years 1991, 1992, 1993, and 1994 pursuant to this section shall remain available until expended.".

SEC. 13. BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY ADMINISTRATOR.—If the Federal Emergency Management Agency, with the concurrence of the Secretary of Commerce and the United States Trade Representative, determines that the public interest so requires, the Agency is authorized to award to a domestic firm a contract made pursuant to the issuance of any grant made under this Act that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Agency shall take into account United States international obligations and trade relations.

(b) Limited Application.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) LIMITATION.—This section shall apply only to contracts made related to the issuance of any grant made under this Act for which—

(1) amounts are authorized by this Act (including the amendments made by this Act) to be made available; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Agency shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal years 1990 and 1991 and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party. The Agency shall also report to the Congress on the number of contracts covered under this Act (including the amendments made by this Act) and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "Administrator" means the Director of the Federal Emergency Management Agency;

(2) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(3) the term "foreign firm" means a business entity not described in paragraph (2).

SEC. 14. CATASTROPHIC EARTHQUAKE IMPACT STUDY.

(a) REQUIREMENTS.—Within 18 months after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall submit to the Committee on Science, Space, and Technology, the Committee on Interior and Insular Affairs, and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and to the Committee on Commerce, Science, and Transportation and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report on the results of a study on the impact and repercussions associated with catastrophic earthquakes, including the economic and social consequences, the impact on buildings and structures and local, regional, and national economies, and the adequacy of preparation and response capabilities. The Director of the Federal Emergency Management Agency shall appoint, in consultation with the United States Geological Survey, the National Institute of Standards and Technology, and the National Science Foundation, a panel of experts in relevant fields and activities to undertake such study.

(b) SUBJECTS OF STUDY.—The study required under subsection (a) shall—

(1) estimate the direct and indirect economic losses expected from high-probability and medium-probability earthquakes, including the impact on local, regional, and national economies and the ability of current disaster preparation and assistance and insurance coverage to allow recovery from those losses;

(2) identify impediments to the effective implementation of Federal, State, and local programs of earthquake hazard mitigation, including an analysis of the appropriate roles for Federal, State, and local governments and the private sector in preparing for and responding to the economic and social consequences of earthquakes; and

(3) consider the effectiveness and efficiencies of alternative ways for Federal, State, and local governments to reduce the impact of earthquakes, including earthquake hazard mitigation, disaster preparation and relief, earthquake insurance for homeowners and small businesses, and earthquake reinsurance for general commercial liabilities.

The SPEAKER pro tempore. Is a second demanded?

Mr. WALKER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. SENSENBRENNER. Mr. Speaker, I object to the ordering of the second, and on that I demand tellers.

The SPEAKER pro tempore. The question is: Will a second be ordered?

Tellers were ordered, and the Speaker pro tempore appointed as tellers Mr. ROE and Mr. WALKER.

The House divided, and the tellers reported that there were—yeas 18, nays 12.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 238, nays 151, not voting 43, as follows:

[Roll No. 353]

YEAS—238

Ackerman	Fascell	McCloskey
Alexander	Fawell	McCurdy
Anderson	Fazio	McDermott
Andrews	Feighan	McGrath
Annunzio	Flake	McHugh
Anthony	Flippo	McMillen (MD)
Applegate	Foglietta	McNulty
Aspin	Ford (TN)	Mfume
Atkins	Frank	Miller (CA)
AuCoin	Frost	Mineta
Bates	Gaydos	Moakley
Beilenson	Gejdenson	Montgomery
Bennett	Gephardt	Moody
Bentley	Geren	Mrazek
Bereuter	Gibbons	Murtha
Berman	Glickman	Nagle
Bevill	Gonzalez	Natcher
Bilbray	Gordon	Neal (MA)
Boggs	Guarini	Neal (NC)
Bonior	Hall (OH)	Nelson
Borski	Hall (TX)	Nowak
Bosco	Hamilton	Oakar
Boxer	Hammerschmidt	Oberstar
Brennan	Hancock	Olin
Brooks	Harris	Ortiz
Browder	Hatcher	Pallone
Brown (CA)	Hawkins	Panetta
Bruce	Hayes (IL)	Parker
Bryant	Hayes (LA)	Patterson
Buechner	Hefner	Payne (VA)
Bustamante	Hertel	Pease
Campbell (CA)	Hoagland	Pelosi
Campbell (CO)	Hochbrueckner	Penny
Cardin	Hoyer	Perkins
Carper	Hubbard	Pickett
Carr	Huckaby	Pickle
Chapman	Hughes	Poshard
Clarke	Hutto	Price
Clay	Jenkins	Rahall
Clement	Johnson (SD)	Rangel
Coleman (MO)	Jones (GA)	Ray
Coleman (TX)	Jones (NC)	Richardson
Collins	Jontz	Robinson
Condit	Kanjorski	Roe
Conyers	Kastenmeier	Rose
Cooper	Kennedy	Rostenkowski
Costello	Kennelly	Rowland (GA)
Coyne	Kildee	Roybal
Darden	Kleczka	Russo
de la Garza	Kolter	Sabo
Dellums	Kostmayer	Saiki
Derrick	LaFalce	Sangmeister
Dicks	Lancaster	Sarpalius
Dingell	Lantos	Savage
Dixon	Laughlin	Sawyer
Donnelly	Leath (TX)	Scheuer
Dorgan (ND)	Lehman (FL)	Schroeder
Downey	Levin (MI)	Schumer
Durbin	Levine (CA)	Serrano
Dwyer	Lewis (GA)	Sharp
Dyson	Lipinski	Sikorski
Early	Lloyd	Sisisky
Eckart	Long	Skaggs
Edwards (CA)	Luken, Thomas	Skelton
Emerson	Manton	Slattery
Engel	Markey	Slaughter (NY)
English	Matsui	Smith (IA)
Erdreich	Mavroules	Solarz
Evans	Mazzoli	Spratt
Staggers	Taylor	Waxman
Stark	Thomas (GA)	Weiss
Stenholm	Towns	Wheat
Stokes	Traficant	Whitten
Studds	Unsoeld	Williams
Sundquist	Valentine	Wilson
Swift	Vento	Wyden
Synar	Visclosky	Yates
Tallon	Volkmer	Yatron
Tanner	Walgren	
Tauzin	Watkins	

NAYS—151

Archer	Henry	Regula
Armey	Herger	Rhodes
Baker	Hiler	Rinaldo
Ballenger	Holloway	Ritter
Bartlett	Hopkins	Roberts
Barton	Horton	Rogers
Bateman	Houghton	Rohrabacher
Bilirakis	Hunter	Ros-Lehtinen
Bliley	Hyde	Roth
Boehlert	Inhofe	Saxton
Broomfield	Ireland	Schaefer
Brown (CO)	Johnson (CT)	Schiff
Bunning	Kasich	Schneider
Burton	Kolbe	Schuette
Callahan	Kyl	Schulze
Clinger	Lagomarsino	Sensenbrenner
Coble	Leach (IA)	Shaw
Combest	Lent	Shays
Conte	Lewis (CA)	Shumway
Coughlin	Lewis (FL)	Shuster
Courter	Lightfoot	Skeen
Craig	Livingston	Slaughter (VA)
Crane	Lowery (CA)	Smith (NE)
Davis	Lukens, Donald	Smith (NJ)
DeLay	Machtley	Smith (VT)
DeWine	Madigan	Smith, Robert (NH)
Dickinson	Marlenee	
Dornan (CA)	Martin (NY)	Smith, Robert (OR)
Douglas	McCandless	
Dreier	McCollum	Snowe
Duncan	McDade	Solomon
Edwards (OK)	McEwen	Spence
Fields	McMillan (NC)	Stangeland
Fish	Meyers	Stearns
Frenzel	Michel	Stump
Gallegly	Miller (OH)	Tauke
Gallo	Molinari	Thomas (CA)
Gekas	Moorhead	Thomas (WY)
Gillmor	Morella	Traxler
Gilman	Myers	Upton
Gingrich	Nielson	Vander Jagt
Goodling	Obey	Vucanovich
Goss	Oxley	Walker
Gradison	Packard	Walsh
Grandy	Parris	Weber
Grant	Paxon	Weldon
Green	Petri	Whittaker
Gunderson	Porter	Wolf
Hansen	Pursell	Wylie
Hastert	Quillen	Young (AK)
Hefley	Ravenel	Young (FL)

NOT VOTING—43

Barnard	Kaptur	Ridge
Boucher	Lehman (CA)	Roukema
Byron	Lowey (NY)	Rowland (CT)
Chandler	Martin (IL)	Smith (FL)
Cox	Martinez	Smith (TX)
Crockett	McCrery	Smith, Denny (OR)
Dannemeyer	Miller (WA)	
DeFazio	Mollohan	Stallings
Dymally	Morrison (CT)	Torres
Espy	Morrison (WA)	Torricelli
Ford (MI)	Murphy	Udall
Gray	Owens (NY)	Washington
Jacobs	Owens (UT)	Wise
James	Pashayan	Wolpe
Johnston	Payne (NJ)	

□ 1619

Mr. BARTLETT and Mr. OBEY changed their vote from "yea" to "nay."

Mr. BUECHNER changed his vote from "nay" to "yea."

So a second was ordered.

The result of the vote was announced as above recorded.

□ 1620

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the San Francisco Bay earthquake that occurred on October 17, 1989, killed 62 people and caused damage over $6 billion demonstrated that a penny's worth of prevention, such as mitigation measures is worth more than a pound's worth of disaster relief.

In other words, the small amounts of funds that have been appropriated to the National Earthquake Hazards Reduction Program over the years provided research that helped to prevent the San Francisco Bay earthquake from being a tragedy similar to the recent Soviet Armenia earthquake. Most modern highrise office and residential buildings in the bay area suffered no significant structural damages, reflecting improved design technologies and quality of construction developed through years of continuing research from the National Earthquake Hazards Reduction Program, and upgrading of codes and standards.

In contrast, the earthquake in Soviet Armenia on December 7, 1988, which was about the magnitude of the San Francisco earthquake graphically demonstrated the massive destruction that earthquakes can cause when they strike in areas where buildings are inadequately constructed. More than 25,000 people were killed in the Armenian earthquake which caused more than $16.4 billion in damage.

The San Francisco area earthquake and other earthquakes that have occurred abroad have been a wake-up call—time to support the National Earthquake Hazards Reduction Program.

The bill we are considering today moves the National Earthquake Program into the 21st century. H.R. 3533, the Earthquake Hazards Reduction Act of 1977 Amendments Act, will turn around the downward trend in funding for the National Earthquake Program and establishes new policy direction.

We must recognize that the earthquake threat in the United States is increasing with each passing day. Experts believe that in a closer or bigger earthquake in the future, the type of damage seen in the San Francisco Bay area would be much more widespread. Studies continue to forecast the real possibility of a destructive earthquake occurring in both northern and southern California in the next decade. Don't be deceived that earthquakes are just a California problem.

Experts believe that a major earthquake at least as severe as the San Francisco Bay earthquake is inevitable within the next century somewhere east of the Rocky Mountains. The most likely location is in the New Madrid seismic zone, where possibly the largest earthquakes occurred in the United States in 1811 and 1812. The New Madrid seismic zone includes Missouri, Kentucky, Tennessee, Arkansas, Illinois, Missouri, and Indiana. An earthquake as large as the ones that struck in 1811 and 1812 would effect States beyond those seven States in the New Madrid zone. Total daytime deaths could easily exceed 4,550 with over $50 billion worth of damage.

The fact is 39 States and about three quarters of the U.S. population are vulnerable to moderate to severe earthquakes. Earthquakes remain the United States' greatest single-event natural hazard threatening losses of life and injuries.

Yet, the funding for the National Earthquake Hazards Reduction Program has not reflected the increasing threat that earthquakes pose throughout this country. The dwindling funds of the program, have created a significant negative impact on the Nation's earthquake hazards reduction effort. A 1987 review of the program by the expert review committee for the National Earthquake Hazards Reduction Program, selected by FEMA, found that every part of the program is funded at a level well below that required to achieve the primary goal of the program: to reduce losses of life and property on a time scale acceptable of society.

The National Earthquake Hazards Reduction Program's funding, although appearing to remain constant, actually has steadily eroded in real dollars about 30 percent. This erosion has occurred despite our having experienced several devastating international earthquakes, here and abroad.

Although much valuable research has taken place despite the reduced funding, the reduction have taken a toll. Cutbacks have occurred in programs to prepare citizens for earthquakes. Regional seismic networks which provide important information on earthquakes in the central and eastern States have faced major reductions. Earthquake engineering programs to develop safer buildings and structures have been scaled back, and existing research facilities have been underutilized.

The collapse of the Interstate 880 Freeway and the San Francisco Bay Bridge span reminders that the greatest threat during an earthquake is posed by inadequately constructed structures. And the vast majority of structures that will fail in future earthquakes exist now—bridges, buildings, industrial facilities, and utilities.

The challenge before the Congress is to be farsighted enough to take the steps necessary to prevent the kinds of losses that were experienced in northern California and abroad. I understand that it is especially difficult at a time of highly constrained Federal budgets to act now to reduce the potential for future losses. Yet, we can not afford to ignore the lessons that the Loma Prieta earthquake presented.

Lesson one—we saw the extent of the damage that can be expected in future earthquakes.

Lesson two—we saw how investments in earthquake research and mitigation measures beforehand were less expensive than the costs of investing in recovery measures afterwards.

Lesson three—we saw how in those cases were buildings were strengthened, those buildings reacted to the earthquake forces as they were expected to react.

Lesson four—we saw that even though we know how to strengthen buildings, there needs to be more research to develop economic techniques for strengthening those buildings.

One of the National Earthquake Hazards Reduction Program's most promising project is the Earthquake Engineering Research Center. The center is comprised of a consortium headed by the State University of New York at Buffalo. The members of the consortium are the City College of New York, Columbia University, Cornell University, Lamont-Doherty Geological Observatory, Lehigh University, Princeton University, and Rensselaer Polytechnic Institute.

The center conducts research to improve basic knowledge about earthquakes, engineering practice, and implementation of seismic hazard mitigation procedures in order to minimize the loss of lives and property.

The Loma Prieta earthquake, recent earthquakes in the Philippines, Soviet Armenia and Iran should be considered clear and powerful warnings. Although progress has been made during the past two decades in reducing earthquake risks, much more aggressive efforts to mitigate the consequences of earthquakes are needed if their disastrous potential is to be minimized.

H.R. 3533 will provide for more aggressive efforts to reduce the risks, vulnerability and exposure we all share. The bill reflects an effort by the Committee on Science, Space, and Technology and the Committee on Interior and Insular Affairs, to address the challenges that must be faced to reduce the effects of earthquakes.

H.R 3533 increases funding for earthquake research and preparedness activities; directs agencies to explore better methods for addressing the problems posed by existing facilities and lifelines; and stresses technology transfer to improve building and design practices.

In addition, the bill sets authorization levels that are in between the authorization levels reported by Science Committee and Interior Committee. For fiscal years 1991-93 the authorization levels in the compromise are closer to the levels in the Science Committee's bill.

H.R. 3533 represents the proper role of Government—to provide for public safety. I urge my colleagues to support H.R. 3533.

□ 1630

Mr. WALKER. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, with the Martic Fault running right through my district, I appreciate the seriousness of earthquakes and the need for enhanced research. In fact, the Washington Post reported just today that there is a 40 to 60 percent chance that the Eastern United States will experience a major earthquake before the year 2020.

However, we also must appreciate the need for even the slightest hint of fiscal restraint. This bill is $231 million over budget and in my mind that is just plain irresponsible spending. How can we pass such an incredible budget buster when we face the Gramm-Rudman sequester right at the end of this week.

This bill even violates the Science Committee's own views and estimates for these programs that we sent to the Budget Committee earlier this year.

And even though the House funded all but $329,000 of the President's 1991 NSF earthquake request—$24.4 of $24.7 million—that is not enough for this bill. If it passes, it will set a funding floor that will cut other high-priority NSF programs such as those for competitiveness, technology transfer, and women and minorities another $7 million in addition to the $25 million already pared back by the Appropriations Committee.

We should all realize that for those reasons the administration is going to veto this bill.

And by bringing such a flawed bill before the House under suspension, Members are being denied the chance to save it through amendment—or even consider the various issues that are involved.

This is unfortunate since it could have all been avoided. An initial bipartisan, consensus staff agreement providing funding at the Science Committee's reported levels with a fourth year added, and with an understanding that the NSF funding floors would not remain in the final bill cleared for the President was scuttled along the way. This despite the fact that the Science Committee levels themselves are almost 40 percent over the President's 1991 request, while neither the House

Interior Committee on Senate Commerce Committee reported the bill with floors.

So today we have a bill with objectionable floors and another 50 percent, or over $180 million, more than we on the Science Committee recommended. We should oppose it on the substance of the spending.

But the bill should also be opposed on process since the minority has been cut out of the process by bringing a bill to the floor reported by neither committee but written in isolation by only a few.

And now the Members can not even get a vote on the items in disagreement. We are being gagged on legitimate budgetary considerations, cost-sharing requirements and policy.

This bill is veto-bait. It is a budget-buster. It was reported with dissenting views. And at half a billion dollars it violates rule 39 of the Democratic caucus which sets $100 million as the spending limit for any fiscal year under suspension.

Mr. Speaker, I urge my colleagues to vote no on this bill so that we can get a bill that the President can sign, so that we can avoid passing another major budget increase on this floor at a time when Gramm-Rudman sequester is just around the corner.

Mr. ROE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from West Virginia [Mr. RAHALL], who is the chairman of the Subcommittee on Mining and Natural Resources of the Committee on Interior and Insular Affairs.

Mr. RAHALL. Mr. Speaker, I thank the distinguished chairman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 3533, the Earthquake Hazards Reduction Act of 1977 Amendments Act, and thank the distinguished chairman of the Science, Space, and Technology Committee for sharing my determination in bringing this important bill to the floor before the end of the 101st Congress.

The Interior Committee, of course, shares jurisdiction with the Science Committee on this bill.

The compromise legislation we have before us today would result in unprecedented changes to the National Earthquake Hazards Reduction Program. In fact, it would represent one of the biggest steps Congress could take to reduce the threat to life and property from earthquakes in the United States.

I would like to point out that although the authorization levels in this compromise are lower than the levels reported by my subcommittee and the Interior Committee, there is no doubt in my mind that they will buttress the National Earthquake Hazards Reduction Program. In addition, the role of each of the principal agencys involved in the program will be greatly enhanced.

There is one agency, however, that is of particular interest to me because it is within the jurisdiction of my subcommittee. That agency is the Department of the Interior's U.S. Geological Survey. Not only would this legislation increase the authorization levels of the U.S. Geological Survey above the administration's request, but the responsibilities of the Survey's Earthquake Hazards Reduction Program would be expanded to improve its ability to protect life and property against an earthquake

In addition to the Survey's current earthquake responsibilities which include conducting earthquake research, assessing earthquake risk, monitoring seismic activity, and improving earthquake predictions, this legislation would establish a Center for the International Exchange of Earthquake Information and the Earthquake Investigations Program within the Survey. Both the Center and the Earthquake Investigations Program would go a long way in preparing our Nation as well as other Nation's for future earthquakes.

I submit to my colleagues that if we are to truly do all in our power to protect our Nation from the devastations of an earthquake, this legislation should be passed. If there is one thing I can promise you today, it is that an earthquake will strike again in the future. We cannot control mother nature, but we can prepare. This bill would enable our Nation to be more prepared and better protected against one of mother nature's most destructible forces.

I want to thank my colleagues on the Interior Committee for their work on this bill and I urge all my colleagues to support its passage.

Mr. WALKER. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, I rise in support of H.R. 3533, which would reauthorize, and clarify the agency responsibilities under the National Earthquake Hazards Reduction Program [NEHRP].

Let me begin by acknowledging that my committee vice chairman, Mr. WALKER, makes some very valid points. The authorization levels in this compromise bill are, frankly, a bit high. I hope that in conference with the Senate the numbers will come back down to the Science Committee levels.

Mr. WALKER is also right in pointing out some of the questionable procedures that have been used in bringing this bill before the House today—particularly the use of the suspension calendar for a bill with substantial authorizations, provoking significant disputes.

Yet I will still support this bill today—and urge my colleagues to do the same—to ensure that we can get an earthquake bill through this year. and there is much to recommend this piece of legislation.

First it rewrites the current Earthquake Act to clarify the responsibilities of each agency. For too long, NEHRP has been characterized by counter-productive turf battles among the four agencies. The vagueness of the current law, which sets no priorities and assigns no tasks, has fostered this kind of rivalry. This bill should foster cooperation.

Second, H.R. 3533 sends a strong message—one our entire committee agrees on—that the earthquake program is of the utmost importance and needs greater support—both in terms of money and in terms of greater implementation of its findings by Federal, State, and local governments. The President's 1990 budget proposal included the first glimmers of recognition of this; we must push further.

Third, a point related to the two I've just mentioned, this bill sets priorities—and those priorities concern implementation. Earthquake research is, obviously, a necessary but not sufficient condition for hazard mitigation. The results of the research need to be applied. The most practical aspects of NEHRP—engineering work and microzonation to cite two examples—have been relatively neglected. This bill would change that.

The floor for National Science Foundation funding, is part of that effort to establish priorities. The earthquake program—particularly, earthquake engineering—has not shared in NSF's overall growth. I am extremely reluctant to establish congressional floors for NSF, but this is a case in which NSF has clearly been ignoring a national priority. A floor is the only way to ensure that this situation is reversed.

Let me point out, by the way, that all floors in our NSF bills are reduced proportionally if appropriations do not reach the authorized level. This bill in no way interferes with the prerogatives of the Appropriations Committee.

So what we have before us is a bill that recognizes the severe earthquake threat the nation faces and takes specific, targeted steps to combat it. I think that makes H.R. 3533 a bill that merits support despite procedural concerns and disputes over final authorization levels that will be worked out later in any event.

□ 1640

I urge the support of Members, and in doing so I would like to pay particular commendation to a colleague not on the committee, the gentleman from Missouri [Mr. EMERSON] who was so helpful in fashioning this final bill.

Mr. VALENTINE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of H.R. 3533, the Earthquake Hazards Reduction Act of 1977 amendments act.

My State of North Carolina has six earthquake fault zones capable of producing earthquakes within its borders. Although North Carolina is expected to have very little disruption of life as a result of future earthquakes, emergency preparedness officials in North Carolina expect to be called upon to assist in response and recovery efforts. Even my State of North Carolina can not ignore the threats posed by earthquakes.

Recognizing the national threat posed by earthquakes, and the need to have a coordinated effort to address the earthquake threat, the Congress, in 1977, passed the Earthquake Hazards Reduction Act. The act provided additional funding for earthquake research and earthquake preparedness and provided the impetus for the scientific community to work toward the overall goal of earthquake hazards reduction.

Since passage of the Earthquake Act in 1977, significant advances have been made in the body of knowledge about earthquake processes, the frequency of historical earthquakes, ground motion, ground failure and the effects of these phenomena on facilities.

Research findings have been used to upgrade nuclear powerplants, and major gas and oil pipelines. New bridge design and construction provisions have been adopted by bridge design groups as a result of research support under the 1977 act. In addition, several areas along some major active faults have been identified as being especially vulnerable to major earthquakes in the future.

However, the hopes in the 1970's for even more research advances have disappeared with the budget cuts of the 1980's. Since the late 1970's, funding for the National Earthquake Program has dropped about 30 percent in real dollars.

In light of these budgetary constraints, many promising areas of research have not been pursued. Experimental facilities for earthquake engineering in the United States have become inferior to those of Japan. Research results have remained in the laboratory because funds were not available to transfer the results to the private sector.

H.R. 3533, as amended, redresses the eroding funding for the National Earthquake Hazards Reductions Program. In addition, the bill emphasizes: The transfer of knowledge from research results to practice; research on methods to retrofit existing buildings and to protect lifelines; and Federal efforts to promote better building practices among architects and engineers.

Future earthquakes in the United States are inevitable. They represent a real and continuing danger to our population and economy. We in the Congress must act now to reduce the risks associated with future earthquakes. I urge my colleagues to support H.R. 3533, as amended.

Mr. WALKER. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN of New York. Mr. Speaker, I rise regretfully to oppose this legislation, not the bill itself but taking it up on the suspension calendar. I do so because of the language on pages 54 and 55 in essence mandating appropriations.

Now, my friend from New York has tried to say, "Oh, this doesn't really infringe on the Appropriations Committee; the floor will drop if the total appropriation for the NSF accounts dropped." Of course, it is intended to infringe on the Appropriations Committee, or why would it be written into the bill? Why would any language be needed at all?

The fact of the matter is that this bill attempts to mandate over a 3-year period $137,250,000 of appropriations. That is what pages 54 and 55 are all about.

While that number could drop somewhat if the overall appropriation level for the National Science Foundation drops, nonetheless it is plain that this language mandates a preference for these programs over other NSF programs involved in the same accounts.

If that is not infringing on the prerogatives of the Appropriations Committee, I do not know what is.

Mr. ROE. Mr. Speaker, will the gentleman yield?

Mr. GREEN of New York. I only have 2 minutes.

Mr. ROE. I will yield the gentleman an additional minute.

The SPEAKER pro tempore. (Mr. MAZZOLI). The gentleman from New York [Mr. GREEN] will be recognized for 1 additional minute.

Mr. GREEN of New York. I yield to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, it is not the intention of the committee to override in any way the Committee on Appropriations. In fact, we feel the Appropriations Committee role is extremely important here. My understanding from the staff, our staff, is that we had discussed it with your staff sometime back on this issue.

What we are trying to achieve is that the National Science Foundation has not and will not appropriate the resources that are needed, in our judgment, in this field. We are trying to do something and look for help from the Committee on Appropriations.

Mr. GREEN of New York. If I may reclaim the balance of my time, let me simply say that the effect of this is to say that the Committee on Appropriations must give priority to this account over other accounts and that is an infringement on the job that the Appropriations Committee is assigned to do.

I happen to share the gentleman's concerns on the earthquake issue. I have been to our State university in Buffalo and seen the work they are doing on earthquakes. But this simply ties the hands of the Committee on Appropriations at a time when we are trying to get our budgets down, and we should not be doing this on suspension.

If we were here under a normal rule for this kind of a bill, we could probably work this out because I know the gentleman is full of goodwill toward us.

The fact is that we are locked into a straitjacket because we are here on a suspension.

I urge that we defeat the suspension of the rules, and let us bring this bill back here under an open rule and resolve this issue.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. BROWN].

Mr. BROWN of California. I thank the distinguished chairman.

Mr. Speaker, there is some merit in the position which the gentleman from Pennsylvania [Mr. WALKER] takes, as was explained by Mr. BOEHLERT.

I think, under different circumstances, we probably could have resolved this, and I think the final bill will come much closer to what Mr. WALKER wants.

But the real problem is amply illustrated by this chart.

Since 1977, when this legislation was adopted—and I was very deeply involved in the adoption—the program has gone steadily downhill. The figure here recommended by an expert review panel is essentially what was recommended back in the mid-1970's by the panel that originally recommended the passage of this legislation.

So the original intent confirmed by the most recent study is notable for the fact that it has not been achieved in any way, shape or form.

Real funding is down 30 percent, while it was originally intended that it would increase by 100 percent over the period of time represented on the chart before us.

Now the primary area in which this decline is the most disturbing is within the National Science Foundation.

At a time when the funding for the National Science Foundation engineering programs has increased by 41 percent, and funding for their geosciences programs has increased by 20 percent, the amount that the NSF devotes to

the earthquake program has increased by only 3 percent. And that is the reason why you have the spending floors set forth in this bill for the NSF.

It is an effort to tell the National Science Foundation that, "We love you very, very much, but you are not reflecting the priorities that the Congress established back in 1977 and has reiterated time after time."

I recognize the great value of the other programs in NSF funding. I am very fond of them, and NSF knows that. But they have missed the ball.

This earthquake program did not happen to fit into their particular priorities, and we want to bring them back to those priorities. We think it will pay off many times over and that this bill reflects those priorities that the Congress has said over and over again that it wants.

Mr. Speaker, the National Earthquake Harzards Reduction Program is rather modest by the standards of most Federal research and development initiatives, yet the potential benefits offered by this program are immense. These benefits are different from those we normally associate with research and development. We are not specifically concerned here with the invention of new technologies that can boost our economic competitiveness in global markets, although this may well arise from earthquake research. What we are talking about is saving the lives and property of our citizens, reducing economic and social disruption, and speeding the process of recovery after a disastrous earthquake.

Last October 17, the magnitude 7.1 Loma Prieta earthquake struck a sparsely populated section of the Santa Cruz Mountains of California. As we all know, the shaking was so strong that San Francisco's marina district—70 miles to the north—was severly damaged, and Oakland's Embarcadero Freeway collapsed. Dozens were killed, thousands were injured, and total damages from the earthquake may ultimately exceed $10 billion, making it the most costly natural disaster in the history of this Nation.

It could have been much, much worse. Many buildings in the bay area, designed with standards and technolgies developed under the National Earthquake Hazard Reduction Program, performed well during the earthquake, demonstrating that we have made significant progress. But what would have happened if an earthquake of this same size had been centered in downtown San Francisco, or downtown Oakland, instead of 70 miles away? For that matter, what will happen when a major earthquake strikes an urban area outside of California? There are active fault lines in almost every region of this Nation, and we need to understand that a magnitude 7.0 earthquake on the New Madrid Fault in Missouri, or the Cascadia Fault zone beneath Seattle, or a hundred other faults throughout the country, will have consequences that remind us not of California, but of Armenia, the Philippines, and Iran.

We do not know when it is going to happen. But we do know this: if we put off spending the millions required for research and preparedness today, then we will end up spending billions—tens of billions—rebuilding our cities tomorrow.

In the past 5 years, while the total budget for the U.S. Geological Survey rose by 16 percent, the budget for earthquake hazard reduction activities in the USGS actually declined by 6 percent. While the research budget for the National Science Foundation rose by 35 percent, the budget for earthquake activities at the NSF rose by a mere 3 percent. Since the inception of the earthquake program in 1978, the earthquake program has been virtually gutted, losing about 4 percent of its spending power due to the combined effects of inflation and level funding.

There are some who may say that the authorization increases in today's bill are inconsistent with budgetary constraints and priorities. I would remind these critics that what is really inconsistent with budgetary constraints is the cost of paying for earthquakes after they happen. The budget-busters in this Chamber are those who do not vote for H.R. 3533.

We're talking here about a 1991 authorization level that is a hundred times less than the cost of the Loma Prieta earthquake, and perhaps, a thousand times less than the cost of a single, major urban earthquake. We are also talking about a budget that will allow significant expansion of earthquake hazard reduction activities to areas such as the central Mississippi Valley and the Pacific Northwest, areas that have been neglected because of insufficient funding. We are talking about a budget that will allow for the inspection of critical structures and lifelines nationwide, to determine whether they are safe—facilities like schools, hospitals, police stations, bridges, energy and power facilities. We are talking about a budget that will allow us to develop new earthquake-resistant building technologies, and to encourage implementation of these technologies throughout the Nation. Mr. Speaker, the United States was once the leader in earthquake engineering, but erosion of Federal funding has caused us to lose this lead to another country, a country which has a serious earthquake risk, and a government which fully appreciates the extent of this risk. That country is Japan.

Why have we neglected the National Earthquake Hazards Reduction Program? For much of the last decade, we were complacent. We saw the results of earthquakes in Mexico City, in Soviet Armenia, and we said: "This will never happen to us." Well it did happen to us last October, and it will happen again, only next time it could be far more serious. H.R. 3533 is a foolproof investment in our future, with a return guaranteed not just in dollars, but in the lives of the more than 200 million Americans in 39 States who are at risk from earthquakes.

Mr. STARK. Mr. Speaker, I commend the committees for their improvements in the Nation's woefully inadequate earthquake preparedness programs.

We know, with certainty, that major earthquakes will strike the west coast and the East within the next generation. Yet like the ostrich, we avoid facing the magnitude of the coming disasters, hoping they will go away.

It is all well and good to educate and to devise stronger building codes, yet we fail as a society to ensure that the new and safer designs are actually used to build new and safer buildings. To save billions of dollars and thousands of lives in future major earthquakes, we should take the new building codes being developed through this legislation, and require that they be used in all future construction. Then and only then will we really be serious about mitigating future earthquake damage.

I have a bill, H.R. 4823, which uses the Tax Code to ensure that new and safer building codes are implemented in all construction. I hope that in the 102d Congress, this lifesaving bill will be considered by the Ways and Means Committee.

□ 1650

Mr. BOEHLERT. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, first of all I want to associate myself with the very eloquent rationale just presented by the gentleman from California [Mr. BROWN], who is a true expert in the field, and also to associate myself with the remarks of the distinguished chairman of the Committee on Science, Space, and Technology, the gentleman from New Jersey [Mr. ROE].

I rise in very strong support of this bill. Last year, I introduced this bill together with 12 of my colleagues, and many others in the meantime have joined us in support of this legislation.

I might say that the Loma Prieta earthquake gave substantial impetus to this legislation.

As many of my colleagues are probably aware, the subject of earthquakes is an issue that is critically important to me and to us in the Midwest and upper South because my congressional district in particular in southeast Missouri encompasses an area at substantial risk because the New Madrid fault lies right squarely down the Mississippi River. In fact, just this past Wednesday the Wall Street Journal ran a front page story about the New Madrid fault regarding possibilities and predictions about an eruption in the Midwest, and at the appropriate time I will seek permission to put this statement in the RECORD.

Last October we saw firsthand, from the Loma Prieta earthquake, the devastation that can occur to a region that has made substantial preparations for a major earthquake. Places of substantial risk like New Madrid, MO; Charleston, SC; and Seattle, WA, to name a few, are seriously ill-prepared and there are steps that we can and should take now to reduce the potentially devastating loss of human life and property that would occur from a quake of sizable magnitude.

This bill is a very positive step in that direction, and I urge my colleagues to join me in strong support of

this measure, laying aside the passions of the moment relating to other subjects.

The article referred to is as follows:

[From the Wall Street Journal, Sept. 18, 1990]

WILL THE EARTH MOVE ON DECEMBER 3? MIDWEST RATTLED BY PREDICTION

A SCIENTIST EXPECTS A QUAKE; SOME MAP PLANS TO FLEE, AND ENTREPRENEURS PROFIT

(By Michael J. McCarthy)

MEMPHIS, TN.—Friday nights used to be slow at The Fault Line, a nightclub here on busy Poplar Avenue. But after word spread that a major earthquake was forecast for Dec. 3 in the Midwest, The Fault Line began throwing earthquake parties.

On Friday nights now, hundreds of patrons pour into the club to swig "Earthquake shooters" and sign up to win Dec. 3 Earthquake Escape Packages to the Bahamas or Hot Springs, Ark.

But even as Memphians whoop it up, the prediction that the Big One may come in December is triggering tremors up and down the Mississippi Valley. Shaken, thousands of people are crowding into earthquake survival classes. In Arnold, Mo., 3,000 people showed up for one course.

In Missouri and Arkansas, some schools and businesses have announced plans to close in early December. Entrepreneurs are hawking quake insurance, survival kits and gas-line safety gadgets.

Some people are planning to flee. "You can't run from everything," says Tammy McCormick, a nurse in Blytheville, Ark., who will take her two youngsters and spend several days with relatives in North Carolina. "But it seems stupid to stay on a fault line with a prediction like this."

Everybody talks about the San Andreas fault in California. But the Midwest actually has had three of the most powerful earthquakes on this continent. In 1811 and 1812, along a 120-mile zig-zag formation called the New Madrid fault, a series of quakes ravaged the Midwest. Researchers estimate those earthquakes ranked stronger than 8 on the Richter Scale, which hadn't been invented yet. They were more than 10 times greater than the 7.1 quake that rocked California's Bay Area last October.

Church bells rang as far away as Boston. Chimneys crumbled in Cincinnati. And as tons of soil and rock bed pitched and rolled in a seismic frenzy, new waterfalls spiked up, causing part of the mighty Mississippi River to flow backward for several hours.

The New Madrid (pronounced MAD-rid) fault still has 150 small, mostly unfelt, earthquakes a year. In the next 10 years, experts warn, the area has a 33% chance of a quake measuring 7.1. That could produce billions of dollars in damage and thousands of casualties. "We're overdue for one in the 6s and low 7s," says David Stewart, an earthquake expert at Southeast Missouri State University.

Over the years, a few pinpoint-on-the map towns have tried to capitalize on the little-known fault. New Madrid, MO., the fault's namesake, draws tourists to a museum with exhibits on the 19th century devastation. And Paragould, Ark., has held earthquake festivals with events like the "Miss Faultless" beauty contest.

But as Monday, Dec. 3, approaches the whole matter is becoming more serious. That's because the predictor has gained credibility in some important circles for his work on the climate.

Iben Browning, a 72-year-old scientist, predicted October's Bay Area quake a week before it happened, say people who heard him speak to the Equipment Manufacturers Institute. And he predicted "geological danger" on Sept. 19, 1985, along a band of latitude that included Mexico City—where a massive quake struck on that day.

Mr. Browning, who has a Ph.D in physiology, genetics and bacteriology, writes a climate newsletter out of New Mexico. He has clients, such as PaineWebber Inc., who have long paid for his wisdom on how the weather will affect their agricultural investments.

Since 1971, Mr. Browning says, he has picked the correct dates of four large earthquakes, two volcanoes—and one day with both a volcano and an earthquake.

He bases his forecasts on tidal forces caused by the positions of the sun and the moon—an old theory, critics say, that doesn't wash. On Dec. 3, those forces are expected to be at a 27-year high. Mr. Browning says that will exert pressure that could trigger faults already ripe to fail.

The New Madrid area has a 50-50 chance of producing at least a 7 quake on Dec. 3, give or take a day or two on either side, Mr. Browning says. At that time, a similar quake has a lesser chance of occurring on California's San Andreas or Hayward faults, according to Mr. Browning, and an 8.2 quake in Tokyo has a greater chance.

Skepticism abounds. "No responsible scientist can predict an exact day for an earthquake," says Brian Mitchell, a quake expert at St. Louis University, echoing the majority opinion.

But Mr. Browning shouldn't be written off so quickly, says Southeast Missouri State's Mr. Stewart, who recently spent four days with Mr. Browning. "He has a methodology that can determine, plus or minus a window of a day or two, an enhanced probability of a volcano or an earthquake in certain latitudes," says Mr. Stewart. "No one else has been able to replicate it, but that doesn't mean it's wrong."

Mr. Browning says it's not easy being on record with predictions that few other scientist will support. "I feel like a lonely little petunia in a cabbage patch," he says. But asked if he enjoys being right, he says. "It's the only damn thing that matters. If one is a business consultant, they don't pay you for being wrong."

Plenty of other business people are cashing in on his prediction. Insurance salespeople are peddling earthquake coverage to homeowners and businesses. Salepeople from a Memphis company pop up at survival seminars with a device (for $259 and up) that turns off gas lines when a quake hits. And entrepreneurs are marketing two kinds of earthquake T-shirts in Memphis. One says, "I'm staying," the other, "I'm leaving."

All of this has changed life in places like Blytheville, Ark. (pop: 24,314), tucked amid vast flat farmland, right at the corner of the Arkansas, Tennessee and Missouri borders.

So many people plan to skip town on Dec. 3 that the Flexible Technologies tubing plant already plans to shut down for two days, at a cost of thousands of dollars. Says Jimmy Connell, plant superintendent, "It's going to be a ghost town around here."

Robert Edwards, a Blytheville fireman who teaches seminars in earthquake survival, has become a hot property. For five years, most of his classes were lightly attended. Now his phone-answering machine says he is almost completely booked through October.

For one recent class, he was in Osceola, Ark. It is 9 a.m. on a rainy Saturday, and 325 Osceolans, gripping legal pads and spiral notebooks, fill the high school auditorium for an all-day session on earthquake preparedness. With his booming voice, Mr. Edwards lays out a grim scenario: "One hundred and fifty thousand dead in Memphis instantly—instantly. And all the federal emergency help is going to go there and St. Louis. You have to be prepared to take complete care of yourself for 24 hours to two weeks. You may be five to six months without power."

After the seminar, two elderly sisters, both widows, split on what to do. Fearing their home will be looted, Bess Mann, 86 years old, wants to ride it out. But her sister, Hallie Peterson, 83, wants to stay with their nephew in Mississippi. Scared that the big Memphis-Arkansas bridge that spans the Mississippi River will collapse in a quake, she's charting an alternate route two hours out of her way.

School districts in Earle and Wilson, Ark., have announced closings around Dec. 3. Some schools practice earthquake drills, while others sponsor cake sales to buy survival kits for classrooms, with items like blankets, flashlights and radios.

Michael Prince, a child psychologist in Jonesboro, says he knows of 10 to 15 children, age four to nine, so unnerved that they've reverted to bed-wetting or extreme anxiety about being separated from their parents.

Trying to calm the fear, the National Earthquake Prediction Evaluation Council, a panel of academic and government seismic experts, will review the Browning claim at a meeting in a few weeks. In 11 years of studying prediction methods, the panel has found no bona fide approach. The group usually ignores claims that aren't scientifically documented (like the one by the California man who said his goldfish helped him predict quakes).

"But this one," says Randall Updike, the executive secretary, "has created such chaos in the mid-continent region that we felt we had to give our advice."

Mr. Browning says he is tentatively booked to give a talk in Minneapolis on Dec. 3 and he doesn't plan to go there via St. Louis. But he adds: "I highly recommended against panic. That will kill more people than earthquakes."

Mr. ROE. Mr. Speaker, I yield 1¼ minutes to the distinguished gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman from New Jersey [Mr. ROE] for yielding, and I rise in support of the bill which is presented today as a cosponsor of that bill. Mr. Speaker, my district joins the district of the gentleman from Missouri [Mr. EMERSON] inasmuch as my district lies in northeast Arkansas, down through which runs the New Madrid Fault, which is one of the highest earthquake regions in the Nation, and, in fact, we have lived in that region all our lives, and earthquakes are common to us. A problem exists in that last year the seismologists forecasted a major earthquake in the New Madrid Fault to occur almost at any time, and people are honestly frightened by it.

Last week I was walking through the mall in Jonesboro following two ladies of senior status, and both were expressing their fear and their concern, and they were both convinced that at any moment an earthquake would occur. Certainly we should be prepared by planning, and they should be reassured that the States are doing what they can to relieve their anxiety and their fears.

One further statement, Mr. Speaker. It has been stated today that we should reject this legislation because of the budget talks and because of the concerns about the budget deficit, and I am reminded about Nero fiddling while Rome burned with the President and the Congress squabbling even as the earthquake warnings have been sounded, and we cannot stop an earthquake, but we must pass this legislation.

Mr. Speaker, I rise in strong support of H.R. 3533, the Earthquake Hazards Reduction Act of 1989.

Last year's earthquake in San Francisco showed us how completely a natural disaster can devastate a community. It also taught us that we need to improve State disaster plans in regions with high earthquake risks.

Mr. Speaker, when most people think of earthquakes, they think of California. But experts predict that in the next decade, there is a 50-percent chance of a major earthquake on the New Madrid Fault which runs from southwest Illinois to northeast Arkansas.

A quake of this magnitude would have a tremendous impact on my district. The Department of the Interior reports that the total Arkansas population at risk in a maximum-intensity quake would be almost 650,000.

In the eastern most counties of Arkansas—Mississippi, Crittenden, Poinsett, Cross, St. Francis, and Lee—residents could expect the collapse of many houses, frame structures, and bridges; ground fissures and slides; and a rise in the water surface if such a quake occurs.

State and local agencies like the Arkansas Office of Disaster Assistance, the Salvation Army, and the Arkansas Red Cross are already set up to provide disaster relief.

But I believe they need more effective Federal assistance in their efforts. That is why I am an original cosponsor of the Earthquake Hazards Reduction Act.

This bill willl direct the Federal Emergency Management Agency [FEMA] to offer financial cost-sharing incentives to States with earthquake hazard reduction projects and to coordinate Government and private sector emergency disaster responses.

Mr. Speaker, we can't prevent an earthquake. But we can make certain that if it happens, our constituents' lives and property are as well protected as possible. To this end, I urge your support for H.R. 3533.

Mr. WALKER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, it is amazing to me that this legislation is going to stop earthquakes from happening, but I want to talk a little bit about earlier debate and the debate that has been going on all day today, and this bill is a perfect example of that.

Mr. Speaker, on this side of the aisle the Democrats, in answer to their inability to manage the affairs of this Congress and bring a budget to this floor, the only two reasons they could give was that we would not bring the President's budget to the floor when given the opportunity to do so, and that this deficit that we are having a problem with is the result of Republican administrations, because Congress has consistently passed spending below Presidential requests.

Mr. Speaker, I will not attempt to answer the first one, because we all know that the first answer is that we were not allowed to bring the President's budget to the floor. It was nothing more than a political maneuver by the majority, but I do want to use this bill to make a point about the second.

In the material that I put into the RECORD, Mr. Speaker, I went back to the start of the year 1982 and took all the President's requests and lined them up side by side with the amount of money that Congress has actually spent, and from 1982 to 1990 every year Congress has spent over what the President has requested. Do my colleagues know how much we have overspent what the President has requested? Two hundred eighty-five billion dollars more than the President's request.

Mr. Speaker, this bill is $31 million over what the President has requested. We consistently bring bills to this floor over what the President has asked for, pumped up, budget-busting. Yet we cannot do our job in bringing budgets to the floor for us to vote on and do the work of Congress.

PRESIDENTIAL BUDGET REQUESTS VERSUS CONGRESSIONAL SPENDING

[In billions of dollars]

Year	President's request	Congress spent	Congress overspent
1982	695.4	745.7	50.3
1983	757.6	808.3	50.7
1984	848.5	851.8	3.3
1985	925.5	946.3	20.8
1986	973.7	990.3	16.6
1987	994.0	1,003.8	9.8
1988	1,024.3	1,064.0	39.7
1989	1,094.2	1,142.6	48.4
1990	1,151.8	[1] 1,197.2	[1] 45.4
Total amount Congress overspent			285.0
1991	1,233.3	(?)	(?)

[1] Estimated.

Source: Council of Economic Advisors and OMB.

DEFENSE SPENDING

[Dollar amounts in billions]

Year	Outlays	Increase	Percentage
1981	$157.5	$23.5	17.5
1982	185.3	27.8	17.6
1983	209.9	24.6	13.3
1984	227.4	17.5	8.3
1985	252.7	25.3	11.1
1986	273.4	20.7	8.2

DEFENSE SPENDING—Continued

[Dollar amounts in billions]

Year	Outlays	Increase	Percentage
1987	282.0	8.6	3.1
1988	290.4	8.4	3.0
1989	303.6	13.2	4.5
1990 [1]	296.3	(7.3)	(2.4)
1991 [1]	303.3	7.0	2.4

[1] Estimated.

Source: Council of Economic Advisors.

REVENUE AND SPENDING INCREASES

[Dollar amounts in billions]

Year	Revenues	Increaset	Percentage	Spending	Increase	Percentage
1981	$599.3	$82.2	15.9	$678.2	$87.3	14.8
1982	617.8	18.5	3.1	745.7	67.5	10.0
1983	600.6	(17.2)	(2.8)	808.3	62.6	8.4
1984	666.5	65.9	11.0	851.8	43.5	5.4
1985	734.1	67.6	10.1	946.3	94.5	11.1
1986	769.1	35.0	4.8	990.3	44.0	4.6
1987	854.1	85.0	11.1	1,003.8	13.5	1.4
1988	909.0	54.9	6.4	1,064.0	60.2	6.0
1989	990.7	81.7	9.0	1,142.6	78.6	7.4
1990 [1]	1,073.5	82.8	8.4	1,197.2	54.6	4.8
1991 [1]	1,170.2	96.8	9.0	1,233.3	36.1	3.0

[1] Estimated.

Source: Council of Economic Advisors.

Mr. WALKER. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, as explained, H.R. 3533 rewrites portions of the 1977 Earthquake Hazards Reduction Act. It establishes additional goals for the NEHRP, stresses applied research and public education/awareness programs, and also reauthorizes the National Earthquake Hazards Reduction Program for 3 years.

Through the leadership of the distinguished gentleman from Alabama [Mr. ERDREICH], chairman of the Banking Subcommittee on Policy Research and Insurance, the subcommittee has conducted several hearings on the need for a Federal Earthquake Insurance Program.

During the hearings, the subcommittee has found that so far, the National Earthquake Hazard Reduction Program is the Federal Government's only program for preventing damage resulting from earthquakes. The Congress, in proper form, must reauthorize this program and then examine other methods for improving building standards and protecting lifelines, such as water and telecommunications, to ensure that if another earthquake occurs, damage to life and property can be kept to a minimum.

This member also understands that the legislation includes a directive to the Federal Emergency Management Agency—the lead agency coordinating the activities under the National Earthquake Hazards Reduction Program—to conduct a study on the impact and repercussions associated with earthquakes. This study would be submitted to the Banking Committee as well as the other committees that already have jurisdiction over the program.

It is the belief of the member that the study is important, since it will

provide the Banking Committee with further information of the appropriate roles for the Federal, State, and local governments, and the private sector, in preparing for and responding to the social and economic effects of earthquakes.

Hazard mitigation programs must be a key element of any Federal response to earthquakes. And if an expanded Federal role in dealing with the impact of earthquakes is appropriate, such as the creation of a Federal earthquake insurance program as some have suggested, then this Congress certainly needs, as a minimum, to apply the following four principles:

First, the rationale for any Federal earthquake insurance program must be to correct a market failure, not to provide new Federal insurance subsidies;

Second, there must be "actuarial fairness"—a Federal earthquake insurance program must ensure a rate structure that reflects, on a regional basis, the level of risk facing the insured policyholder;

Third, policyholders in lower risk earthquake areas should not be required to subsidize those in higher risk areas; and

Fourth, if a Federal insurance program for earthquakes is ever treated at some future time, then the Federal Government should have the final decisions on how funds are collected and spent to cover expenses related to earthquakes.

This Member understands that the total estimated cost of the Loma Prieta earthquake in California is approaching $10 billion. Therefore, this Member believes it is clear that any support for this legislation is a small step forward to reduce the costs of future natural disasters.

Mr. WALKER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Speaker, it is with some regrets that I both support the bill and oppose the bill, and the regret is it is a close call. Let me tell my colleagues why I support it, and it is for the reasons that the gentleman from New Jersey [Mr. ROE], the chairman, has outlined. It is for the reasons the gentleman from California [Mr. BROWN] outlined.

Clearly there is insufficient means going into the earthquake research area, and I am pleased that they brought that to our attention. On the other hand, I have deep regrets over provisions in the bill which put a floor under the earthquake research moneys, and that serves to skewer the moneys remaining for other very valuable activities. The bill that we passed, the HUD-independent agencies appropriation bill, probably went through here, was at its high point, and the final work product is going to be considerably lower as a consequence of the budget discussions that are going forward currently, and I would say to my colleagues that we could not correct the NSF as to the specific details of their expenditures. We give them in this account a considerable sum of money, and they allocate it usually on the basis of the President's budget. I must say the President's budget in this instance is not adequate.

Mr. Speaker, I will work wholeheartedly with my colleagues to see that this priority is put at its appropriate level. Now that may mean for the 1991 bill we would do no more than be able to keep it at the 1990 appropriation level because of the terrible budget constraints we are under.

□ 1700

I believe in comity. I am a regular order Member. I find it very painful to oppose Members who are on this authorizing committee who have done such fine work in other respects on this bill. But for this minor portion of it, I would be totally supportive of them. I would say to them, if they could find a way in conference to overcome my one regret, that I would be very supportive of this bill.

Mr. ROE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Alabama [Mr. ERDREICH].

Mr. ERDREICH. Mr. Speaker, I rise in support of H.R. 3533, the NEHRP reauthorization bill for fiscal years 1991 through 1993. I commend the chairmen of the Committee on Science, Space, and Technology and the Committee on Interior and Insular Affairs for their hard work.

The NEHRP is vitally important to our ongoing understanding of earthquake phenomena and effective hazard mitigation. Earthquakes are a national problem, posing risks throughout the country, and although we have come a long way in our efforts to understand and prepare for earthquakes, much remains to be done.

In addition to the NEHRP efforts, some have suggested that the Congress should create a Federal earthquake insurance program to provide coverage to homeowners and businesses for structural damage, and to provide reinsurance to insurers for general commercial liability resulting from earthquakes. Two bills to create a Federal earthquake insurance program, H.R. 4462 and H.R. 4480, have been introduced in this Congress and reported to the Committee on Banking, Finance and Urban Affairs.

The Subcommittee on Policy Research and Insurance has conducted four hearings this year on earthquake insurance and hazard mitigation, and plans to continue its inquiry next year. We have concluded that earthquake insurance represents one possible role, but not necessarily the best possible role, for the Federal Government in its effort to address earthquake risks. NEHRP itself represents a vehicle for increased applied technology for seismic safety and public education on earthquake risks, and I fully support and urge increased efforts in these areas.

In cooperation with the Committee on Science, Space, and Technology, I have requested the inclusion of a provision in the NEHRP reauthorization to direct a study of the potential economic and social impact of a catastrophic earthquake and an analysis of the various response alternatives, including disaster preparation and relief and earthquake insurance. I would prefer a short timeframe for this study. The findings of this study will assist the Subcommittee on Policy Research and Insurance in its continuing inquiry into the feasibility of earthquake insurance and the appropriate alternative mechanisms for protecting the built environment against earthquake risks.

The study authorized in this bill will estimate the direct and indirect economic losses expected from a large earthquake, and the ability of current disaster preparation, emergency assistance and insurance coverage to assist in the recovery from these losses. It will also identify the impediments to effective implementation of earthquake hazard mitigation and suggest appropriate roles for the Federal, State, and local governments, as well as the private sector, in preparing for and responding to the economic and social consequences of earthquakes. Finally, the study will consider the effectiveness and efficiencies of alternative initiatives and programs to reduce the impact of earthquakes, including earthquake mitigation, disaster relief and earthquake insurance.

Mr. Speaker, I support the reauthorization of NEHRP at the levels in this measure which are necessary to carry out its important mission, and in particular, I support this study of the economic and social impact of a catastrophic earthquake on the local, regional and national economies, and an increased effort by NEHRP to encourage implementation of hazard mitigation at the local level.

Mr. WALKER. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, like other Members who have been talking about this legislation, I have very mixed feelings. I, certainly as a Californian, representing an area which has been devastated on more than a few occasions by earthquakes, am sympathetic with the concerns that are raised here. I am a native of Missouri, right near the New Madrid Fault, so I am sympathetic with the concerns there.

Mr. Speaker, I also believe the gentleman from Pennsylvania [Mr. WALKER] raises some very good points about the budget constraints and the dollar considerations that we have. There is one other item which I would raise, and that is on page 25. I look at a proposed 18-month study calling for

a report on the results of a study on the impact and repercussions associated with catastrophic earthquakes.

Mr. Speaker, I think the idea of that study sounds great, but I happen to have coauthored with the gentleman from Washington [Mr. SWIFT] legislation which moves in the direction that was mentioned by the gentleman from Nebraska [Mr. BEREUTER] and the gentleman from Alabama [Mr. ERDREICH], and that is earthquake insurance. I am concerned that an 18-month study basically says that the 102d Congress would have no opportunity to put into place earthquake insurance in a package which is absolutely necessary.

Mr. Speaker, having said all those things, I hope, in conference, that we will be able to rectify a number of these concerns. I will be voting for this now, but I might be included, if there are not a number of changes, even though I am a Californian, to vote no when it comes back from conference.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Pennsylvania [Mr. WALKER] has 3 minutes remaining, and the gentleman from New Jersey [Mr. ROE] has 1 minute and 45 seconds remaining.

Mr. ROE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL of California. Mr. Speaker, I rise in support of H.R. 3533, and I appreciate being yielded time.

Mr. Speaker, I represent Loma Prita. Loma Prita was the epicenter of the most recent earthquake. The lesson I learned and the citizens of that area learned is that a little time, a little effort, and a little money spend in construction saves lives. Lives, not just dollars. Lives.

The second thing I learned, the people who were hurt most in this earthquake were poor people, people who lived up on the mountainside, whose homes were not properly constructed because they did not have the technology, because they did not know how cheaply it could have been done, or because they did not even have that amount of money.

What this bill does is provide enough money to study and then make available the technology for retrofitting and making homes safe. From that perspective we are saving lives as well as dollars.

Mr. Speaker, one last point, it has been raised as a point of opposition to this bill that the States' contribution will be capped as an initial matter in this bill. But bear in mind, this is not a California problem alone; other States must be made to realize that they also have earthquake risks. By drawing them into this program by capping what they have to pay we then will have them with us for a long haul.

Mr. Speaker, I strongly support H.R. 3533.

Mr. WALKER. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, this bill is a perfect example of the kind of thing we should not be considering late in the session when we are trying to focus all of our energies on reaching some kind of budget agreement.

Here we have a bill that would authorize over half a billion dollars. It is nearly twice as much as the President recommended in his budget.

If maintained at that level the bill is likely to fail because of a veto. As a matter of fact, this late in the year, the bill is even more likely to go over to the Senate and disappear into somebody's coat pocket.

Yet here we are, a week before sequester, trying to solve somebody's earthquake problem that occurred a few years ago. There is no problem so large or so small that we in Congress are unwilling to spend our children's and our grandchildren's money on it. What are we going to do, stuff the faults with dollar bills?

Mr. Speaker, we have heard a lot of complaints about this bill. The administration and several committees are nervous about the micromanagement. The Banking Committee is nervous about FEMA. The Appropriations Committee, as has been recently heard from on this floor, is nervous about micromanaging the National Science Foundation.

There is plenty to talk about in this bill. This is not an appropriate time nor an appropriate method, that of suspension, to talk about this sum of money. When I came to Congress we used to talk about suspension bills in terms of $1 million or $5 million. Here you have authorizing over half a billion dollars, and you are telling us we should vote on this bill without debate, without amendment, in the time of a fiscal budget crisis.

Mr. Speaker, this situation really boggles the mind to think that this kind of bill would be brought up under this procedure at this time. Why in Heaven's name will not the Congress get about its important business and make a budget agreement, instead of fiddling around with bills like these.

Mr. Speaker, I urge the defeat of the bill.

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just regret I do not have more time to express some of my personal views on the budget issue, but let me point something out to Members factually: The request of the President was for 1 year. The figures that we have been talking about today are for a 4-year bill to begin with. I do not consider this bill to be a bill we are futzing and putzing around with. We have been working on this bill for the last 2 years. Hundreds of people have been involved, people testifying from all over the Nation. I wonder what we will say to those people out there.

Is this not interesting, if Congress is truly diddling and fritting here, while we are waiting for some of a response, not from the Democrats, not from the Republicans, nor from the White House, but from all three of them put together. I think we ought to be about the business of the people.

Mr. Speaker, I happen to think this is a very important bill. We are simply saying to the National Science Foundation, you are not doing it right. You are not allocating the proper priorities for this purpose. Why should we be spending tens of millions of dollars to in effect create a proven after these devastating effects from these earthquakes have taken place.

Mr. Speaker, I would hope that Members would understand what we are trying to do here and give complete support for the passage of this bill.

Mr. BUECHNER. Mr. Speaker, I want to commend my colleagues, Chairman ROE and Subcommittee Chairman VALENTINE and my colleague from Missouri, BILL EMERSON for bringing this legislation to the floor today.

As you know, the 1-year anniversary of the Loma Prieta earthquake of San Francisco, CA will occur on October 17, 1990. Many areas are still rebuilding after this disastrous event. The lesson from this tragedy is clear: We must take steps immediately to better prepare for an earthquake in the future, particularly in the midwest region.

The people of the Midwest have fallen victim to a fallacy which holds that earthquakes happen in California, the Far East and other places far from home, and as such, there is little need to invest time or money since the Midwest would be remote to some sort of seismic activity. In fact, just last week the Wall Street Journal reported that in early December an earthquake is predicted to occur along the New Madrid Fault in Missouri. Our buildings and the geological structures upon which the Midwest sits leave us in a precarious position in terms of potential destruction.

My district is placed in seismic proximity to the New Madrid Fault and would suffer grave consequences if an earthquake were to occur today. In fact, Missouri was the scene of the strongest earthquake ever to occur on the North American Continent. This quake, which occurred in February 1812, registered 8.4 on the Richter Scale, and destroyed the original town of New Madrid, MO. By way of comparison, the shock was significantly stronger than the famous San Francisco earthquake of 1906.

The New Madrid Fault is considered the most active and dangerous seismic area east of the Rocky Mountains. It is some 200 miles long, 40 miles wide and 25 miles deep. It begins in Arkansas, stretches across Missouri's boot heel, and extends into portions of Tennessee, Kentucky, and southern Illinois. Further, and most importantly, scientists state there is up to a 63 percent probability of a 6.5 magnitude New Madrid earthquake by the year 2000.

We cannot control the forces of nature; instead, our only defense is to prepare for disasters. We must learn from the disaster of San Francisco so that the effects of future quakes might be ameliorated. That's why it is so important that we pass H.R. 3533, a comprehensive measure targeted at reviewing earthquake preparedness in the New Madrid area of the Central United States.

Accordingly, Mr. Speaker, I urge my colleagues to vote in favor of H.R. 3533.

Mr. POSHARD. Mr. Speaker, I rise in strong support of H.R. 3533 which was introduced by my friend and colleague, BILL EMERSON, whose district is just across the Mississippi from my own.

Our congressional districts enjoy the dubious distinction of being situated along the New Madrid Fault. That fault is very active and records more than 300 measurable seismic events per year. In fact, it is the highest risk earthquake area after the west coast. People living in our region live with the possibility of an earthquake catastrophe, but there is not enough attention paid to it.

H.R. 3533 is vital for the people of southern Illinois and the Nation. The events in California last fall demonstrated that even in high-risk areas, proper precautions are not being taken to protect lives and property. Passage of this bill would create programs to increase public awareness of earthquake hazards, review and update building standards, examine the cost to protecting structures against earthquake damage, and evaluate whether adequate responses are available to help victims of earthquakes.

Mr. Speaker, this bill is a very solid preventative step to lessen the effects of earthquakes. I believe it is a very cost-effective bill and as an original cosponsor I urge all of my colleagues to support this important piece of legislation.

Mr. MINETA. Mr. Speaker, I rise today to urge my colleagues to support H.R. 3533, a bill to reauthorize and revitalize the National Earthquake Hazards Reduction Program to reduce future losses due to earthquakes.

As a representative of a community that was severely shaken by the Loma Prieta earthquake last year, I have a special interest in this legislation.

The Loma Prieta caused billions of dollars in damage to the bay area, even though the epicenter was located in a relatively sparsely populated part of the Santa Cruz Mountains. The underlying message is that the next "big one" is likely to occur much closer to densely populated parts of the region.

H.R. 3533 will reinvigorate the efforts of the principal National Earthquake Hazards Reduction Program agencies by clarifying their mandates and significantly increasing their funding.

Mr. Speaker, I have little doubt that significantly higher losses would have occurred in the bay area if Congress had not created the earthquake program more than 10 years ago. On the other hand, I am concerned that funding levels for the program are essentially the same as they were 10 years ago—while both our population densities and the stresses on faults have increased.

It is important to point out that the bay area is twice as likely to have an earthquake the size of Loma Prieta in the next 30 years. Furthermore, two earthquake experts recently stated that the area east of the Rockies is nearly as likely to have a damaging earthquake in the next 30 years as California.

Earthquakes are a national problem and they will continue to occur, but we can do more to reduce the risks to our citizens. I urge my colleagues to vote for reauthorization of the earthquake program with funding levels that will allow the scientists, engineers, and emergency response workers to help us prepare for the next earthquake.

Mr. ESPY. Mr. Speaker, the National Earthquake Hazard Reduction Program is vital to the Nation's preparedness for the violent destruction that can occur as a result of a major earthquake. As witnessed last fall in California, a major earthquake can be devastating—causing the loss of lives and property. I believe that money spent to prevent such losses is well spent, especially considering the cost of repairing the damages that might have been prevented.

Today, as the House considers H.R. 3533 to reauthorize the National Earthquake Hazard Reduction Program, I, as a cosponsor of the bill, express my strong support for its passage.

It is expected that an earthquake even more destructive than the earthquake of last fall could occur along the New Madrid Fault, causing destruction over much of the central United States. The National Earthquake Hazard Reduction Program will be essential to preparing the region for the damage the region could suffer and it would be prudent of Congress to reauthorize the program.

Mr. CONTE. Mr. Speaker, I rise in strong opposition to this bill.

It contains a spending floor for the NSF's earthquake research program—a budget-busting, precedent-setting, turf-grabbing provision which neither I nor anybody in this House should support.

Let me say that I support the programs authorized in this bill; the earthquake sciences program is an important one; and if the Science and Technology Committee had simply brought a straightforward authorization to the House, I'd be up here praising them for it. But the spending floor has got to go for more reasons than I can count.

First of all, it's bad policy. Listen to Erich Bloch, the former director of the National Science Foundation: "* * * authorization floors within the bill would adversely impact other high-priority programs within the relevant directorates."

Mr. Bloch is a polite man, but what he's saying is that the spending floor provision bloats the earthquake science program and throws everybody else into the volcano. What about NSF's education programs? Its medical research? It competitiveness programs? Why are they being sacrificed?

Second, we've got enough problems with mandatory spending already without adding on this type of provision.

How can we control spending if authorizing committees can create de facto entitlements at the stroke of a pen?

Third, the provision is a sneaky, outrageous raid on appropriations. It is a preemptive appropriation, conducted by a committee without jurisdiction. Nobody consulted us. Nobody asked us; and it's up under suspension. We can't even raise a point of order. I'm not going to stand for it. Shame on the Science and Technology Committee, Mr. Speaker. Shame on them. Vote against this bill.

Mr. GEPHARDT. Mr. Speaker, I support H.R. 3533, the Earthquake Hazards Reduction Act amendments, urge my colleagues to do so as well.

This legislation can help us reduce the risks to life and property from future earthquakes through improved preparedness, damage prevention, and public education.

Last year's Loma Prieta earthquake in northern California killed scores of people and caused $10 billion in damage. The horrifying collapse of Interstate 880 and the widespread damage in San Francisco and communities like Santa Cruz obscured the fact that the toll could have been far higher. The damage and loss of life could have been much worse had it not been for that State's enforcement of strict construction codes, improved construction technologies, and other preventive steps.

What has received less attention is the vulnerability of other portions of the country to earthquakes. In the early 1800's, my own State of Missouri saw some of the worst recorded earthquakes in North America, enormous tremors that altered the flow of the Mississippi and rang church bells in New England.

Scientists estimate that a major earthquake is likely within the next century somewhere east of the Rocky Mountains. Yet the level of preparation in many areas is generally low. It is important that we take action to prepare now.

This legislation will strengthen the development and dissemination of earthquake-resistant design standards and construction codes. It will support additional research regarding the prediction and understanding of earthquakes and more public education. This bill which commands broad bipartisan support and is the product of much work with the affected agencies, represents an important investment in preventing loss of life and protecting our communities.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 3533, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

DEPARTMENT OF ENERGY METAL CASTING COMPETITIVENESS RESEARCH ACT OF 1990

Mr. ROE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 470) to take from the

Speaker's table the bill (H.R. 1243) to require the Secretary of Energy to establish three centers for metal casting competitiveness research, together with the Senate amendment thereto, and agree to the Senate amendment with amendments.

The Clerk read as follows:

H. RES. 470.

Resolved, That, upon the adoption of this resolution, the bill (H.R. 1243) to require the Secretary of Energy to establish three Centers for Metal Casting Competitiveness Research, hereby is, taken from the Speaker's table to the end that the Senate amendment to the bill be, and the same hereby is, agreed to, with amendments as follows:

Strike all after the enacting clause and insert in lieu thereof:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Energy Metal Casting Competitiveness Research Act of 1990".

SECTION 2. FINDINGS.

The Congress finds that—

(1) metal casting is an important process for manufacturing many items imported into or exported from the United States;

(2) the encouragement and maintenance of a technically advanced United States metal casting industry is essential to the competitiveness of many American industries;

(3) maintaining a viable metal casting industry is vital to the national security and economic well being of the United States;

(4) the promotion of technology competitiveness and energy efficiency in the United States metal casting industry by the Federal Government is necessary to maintain a viable metal casting industry;

(5) many metal casting companies lack the resources to conduct metal casting research alone, placing them at a serious competitive disadvantage;

(6) the support of university-based research in metal casting is important in promoting technology development and providing industry with qualified engineers; and

(7) by combining the resources of the Federal government, universities, industry, and private organizations, to conduct research and development activities, substantial technological benefits will result to the metal casting industry.

SECTION 3. DEFINITIONS.

As used in this Act, the term—

(1) "applicant" means:

(A) an educational institution;

(B) a consortium of educational institutions;

(C) a consortium of an educational institution or education-institutions with one or more of the following: government-owned laboratories, private research organizations, non-profit institutions, or private firms;

that is located in a region where the metal casting industry is concentrated;

(2) "census region" means one of the four census regions (Northeast, South, Midwest, and West) that are designated as census regions by the Bureau of the Census as of the date of enactment of this Act;

(3) "Department" means the Department of Energy;

(4) "educational institution" means a degree granting institution of at least a Baccaluareate level;

(5) "non-Federal source" means the United States metal casting industry, related industries, industry-related associations, individuals, organizations, universities, state-agencies, or other entities supporting the metal casting industry;

(6) "Metal casting industry" or "industry" means the industries identified by codes numbered 3321, and 3322, and 3324, and 3325, 3363, 3364, 3366, and 3369, in the Standard Industrial Classification manual published by the Office of Management and Budget in 1987;

(7) "Secretary" means the Secretary of Energy.

SECTION 4. ESTABLISHMENT OF PROGRAM.

The Secretary, acting in accordance with authority provided in the Federal Non-Nuclear Research and Development Act of 1974 (42 U.S.C. 5901 et. seq.), except as otherwise provided in this Act, shall establish a Metal Casting Competitiveness Research Program (hereafter in this Act referred to as the "Program") for the purpose of performing and promoting the performance of research and development on issues related to the technology competitiveness and energy efficiency of the United States metal casting industry.

SECTION 5. OPERATION OF PROGRAM.

(a) SOLICITATION OF PROPOSALS.—Within one year after the date of enactment of this Act, the Secretary shall solicit and, subject to available appropriations, select proposals on a competitive basis from applicants to carry out the program under section 4. In order for a proposal to be consider by the Secretary, the applicant shall have in existence at the time the proposal is submitted the following qualifications:

(1) the technical capability to enable it to make use of existing research support and facilities in carrying out its research objectives;

(2) a multidisciplinary research staff experienced in metal casting or other directly related technologies; and

(3) the facilities and equipment capable of conducting at least laboratory scale testing or demonstration of metal casting or related processes.

(b) PROPOSAL CRITERIA.—Each proposal shall—

(1) demonstrate the support of the metal casting industry by describing—

(A) how industry has participated in deciding what research activities will be undertaken;

(B) how industry will participate in the evaluation of the applicant's progress in research and development activities; and

(C) the extent to which industry funds are committed to the applicant's proposals.

(2) have a commitment for matching funds from non-Federal sources, which shall consist of:

(A) cash, or

(B) as determined by the Secretary, the fair market value of equipment, services, materials, appropriate technology transfer activities, and other assets directly related to the proposal's cost;

(3) include a single or multiyear management plan that outline how the research and development activities will be administered and carried out;

(4) state the annual cost of the proposal and a breakdown of those costs; and

(5) describe the technology transfer mechanisms the applicant will use to make available research results to industry and to other researchers.

(c) CONTENT OF MANAGEMENT PLAN.—The management plan set forth in subsection 5(b)(3) shall—

(1) outline the basic research and development activities expected to be performed;

(2) outline who will conduct those research activities;

(3) establish the time frame over which the research activities will take place; and

(4) define the overall program management and direction by—

(A) identifying managerial, organizational and administrative procedures and responsibilities;

(B) outlining how the coordination of research and development between the individuals and organizations involved will be achieved;

(C) demonstrating how implementation and monitoring of the progress of research projects after receipt of funding from the Secretary will be achieved;

(D) demonstrating how recommendations and implementations on modifications to the plan will be achieved; and

(E) providing sufficient rationale to support the plan's costs;

(d) SELECTION OF PROPOSALS.—From the proposals submitted, the Secretary shall select proposals for funding. The Secretary shall attempt to select at least four proposals. The Secretary shall select the proposals that—

(1) will best result in carrying out needed metal casting research and development in one or more of the following general areas—

(A) Solidification and Casting Technologies;

(B) Computational Modeling and Design;

(C) Processing Technologies and Design for energy efficiency, material conservation, environmental protection, or industrial productivity; and

(D) Other areas of research, which in the judgment of the Secretary, after consulting with the Board established in section 7, further the purposes of this act;

(2) represent research and development in specific areas identified in the "Metal Casting Research Priorities" developed annually by the Board pursuant to subsection 7(b)(1);

(3) to the greatest extent possible and subject to available appropriations, ensure that at least one applicant is selected from each of the four census regions of the country where the metal casting industry is concentrated;

(4) demonstrate strong industry support;

(5) ensure the timely transfer of technology to industry; and,

(6) otherwise best carry out the purposes of this Act.

(e) FUNDING OF PROGRAM.—From amounts made available in separate appropriation Acts, the Secretary shall provide to each applicant selected the financial and technical assistance and other incentives that are necessary and appropriate to carry out the purposes of this Act.

(f) NATIONAL METAL CASTING RESEARCH INSTITUTE.—Each recipient of financial assistance under subsection (d) shall be known as a "National Metal Casting Research Institute".

SECTION 6. REVIEW.

(a) EVALUATION OF RESEARCH ACTIVITIES.—The Secretary shall regularly monitor and evaluate the research activities of the applicants selected. After considering the reports of the Board provided for in subsection 7(b)(2), the Secretary shall determine whether each applicant selected has complied with the management plan submitted in the original proposal and any modifications made since.

(b) ANNUAL REPORT.—Each selected applicant in the program shall provide an annual report to the Secretary that explains the

progress made, compliance with the management plan, whether changes are needed and are being made to the management plan, and what new research is planned.

(c) DISCONTINUATION OF FUNDING.—In the event a selected applicant has substantially failed in the implementation of the management plan and research activities, the Secretary shall discontinue funding.

(d) SOLICITATION OF NEW PROPOSALS.—Upon completion or discontinuance of any research activity authorized in section 5, the Secretary shall, using available funds appropriated pursuant to this Act, solicit new research proposals as set forth under the terms of this Act.

SECTION 7. INDUSTRIAL ADVISORY BOARD.

(a) ESTABLISHMENT OF BOARD.—Within 120 days after the date of the enactment of this Act the Secretary after consulting with representatives of trade and technical associations of the metal casting industry shall establish an Industrial Advisory Board (hereafter in this Act referred to as the "Board") to provide guidance and oversight in implementing the selection criteria and operation of the program. The board shall be composed of nine members who are selected by the Secretary, a majority of whom shall be individuals from the metal casting industry or individuals affiliated with the industry. At least one member of the Board shall be chosen from each of the four census regions of the country. Each Board member shall serve for a term not to exceed five years, but may be reappointed for successive terms.

(b) REVIEW AND RECOMMENDATIONS.—(1) Within 180 days after the date of the enactment of this Act and annually thereafter, the Board shall develop from the general research areas identified in section 5(d) and submit to the Secretary a list of Metal Casting Research Priorities. Such list shall, to the greatest extent possible, identify specific areas of research that would be considered of a priority nature to the United States metal casting industry.

(2) On an annual basis the Board shall—

(A) review the Secretary's solicitation and selection of research proposals and make recommendations as to how each such activity can be altered so as to better achieve the purposes of this Act; and

(B) review the research activities of each selected applicant, and the selected applicant's management plan, and report its findings and recommendations to the Secretary.

SECTION 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for carrying out this Act $5,000,000 for each of the fiscal years 1991, 1992, and 1993.

SECTION 9. PROTECTION OF PROPRIETARY RIGHTS.

(a) PROPRIETARY RIGHTS.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a company as a result of activities under this Act shall be disclosed.

(b) COMMERCIAL INFORMATION.—The Secretary, for a period of up to 5 years after the development of information that—

results from research and development activities conducted under this Act; and

would be a trade secret or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, if the information had been obtained from company.

may provide appropriate protection against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code.

(c) PATENT RIGHTS.—With respect to patent rights, the institutes shall be treated in the same manner as are nonprofit organizations and small business firms under chapter 18 of title 35, United States Code, notwithstanding any provisions to the contrary contained in that chapter.

SECTION 10. REPORTING.

At the time the President's annual budget request for the Department is submitted, the Secretary shall provide to Congress a detailed review of the progress of the research and development activities authorized under this Act.

Amend the title to read as follows:

A bill to require Secretary of Energy to establish Centers for Metal Casting Competitiveness Research.

□ 1710

The SPEAKER pro tempore (Mr. MAZZOLI). Is a second demanded?

Mr. WALKER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. FRENZEL. Mr. Speaker, I object to the ordering of a second, and on that I demand tellers.

The SPEAKER pro tempore. The question is: Will a second be ordered?

Tellers were ordered, and the Speaker pro tempore appointed as tellers Mr. ROE and Mr. WALKER.

The House divided, and the tellers reported that there were—yeas 20, nays 20.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 249, nays 160, not voting 23, as follows:

[Roll No. 354]

YEAS—249

Ackerman	Bryant	Dwyer
Alexander	Bustamante	Dymally
Anderson	Callahan	Dyson
Andrews	Cardin	Early
Annunzio	Carper	Eckart
Anthony	Carr	Edwards (CA)
Applegate	Clarke	Emerson
Aspin	Clay	Engel
Atkins	Clement	English
AuCoin	Coleman (TX)	Erdreich
Bates	Collins	Evans
Beilenson	Condit	Fascell
Bennett	Conyers	Fazio
Bereuter	Cooper	Feighan
Berman	Costello	Flake
Bevill	Coyne	Flippo
Bilbray	Darden	Foglietta
Boggs	de la Garza	Ford (TN)
Bonior	DeFazio	Frank
Borski	Dellums	Frost
Bosco	Derrick	Gaydos
Boucher	Dicks	Gejdenson
Boxer	Dingell	Gephardt
Brennan	Dixon	Geren
Brooks	Donnelly	Gibbons
Browder	Dorgan (ND)	Gilman
Brown (CA)	Downey	Glickman
Bruce	Durbin	Gonzalez
Gordon	Matsui	Roybal
Gray	Mavroules	Russo
Guarini	Mazzoli	Sabo
Hall (OH)	McCloskey	Sangmeister
Hall (TX)	McCurdy	Sarpalius
Hamilton	McDermott	Savage
Harris	McHugh	Sawyer
Hastert	McMillan (NC)	Scheuer
Hatcher	McMillen (MD)	Schroeder
Hayes (IL)	McNulty	Schumer
Hayes (LA)	Mfume	Serrano
Hefner	Michel	Sharp
Henry	Miller (CA)	Sikorski
Hertel	Mineta	Sisisky
Hiler	Moakley	Skaggs
Hoagland	Montgomery	Skelton
Hochbrueckner	Moody	Slattery
Horton	Morella	Slaughter (NY)
Hoyer	Mrazek	Smith (IA)
Hubbard	Murphy	Solarz
Huckaby	Murtha	Spratt
Hughes	Nagle	Staggers
Hutto	Natcher	Stark
Jacobs	Neal (MA)	Stenholm
Jenkins	Neal (NC)	Stokes
Johnson (SD)	Nelson	Studds
Jones (GA)	Nowak	Swift
Jones (NC)	Oakar	Synar
Jontz	Oberstar	Tallon
Kanjorski	Obey	Tanner
Kastenmeier	Olin	Tauzin
Kennedy	Ortiz	Taylor
Kennelly	Owens (UT)	Thomas (GA)
Kildee	Pallone	Torres
Kleczka	Panetta	Torricelli
Kolter	Parker	Towns
Kostmayer	Patterson	Traficant
LaFalce	Payne (VA)	Traxler
Lancaster	Pease	Unsoeld
Lantos	Pelosi	Valentine
Laughlin	Penny	Vento
Leath (TX)	Perkins	Visclosky
Lehman (CA)	Pickett	Volkmer
Lehman (FL)	Pickle	Walgren
Levin (MI)	Poshard	Washington
Levine (CA)	Price	Watkins
Lewis (GA)	Rahall	Waxman
Lipinski	Rangel	Weiss
Lloyd	Ravenel	Wheat
Long	Ray	Whitten
Lowey (NY)	Richardson	Williams
Luken, Thomas	Roe	Wilson
Manton	Rose	Wyden
Markey	Rostenkowski	Yates
Martinez	Rowland (GA)	Yatron

NAYS—160

Archer	Edwards (OK)	Lewis (FL)
Armey	Fawell	Lightfoot
Baker	Fields	Livingston
Ballenger	Fish	Lowery (CA)
Bartlett	Frenzel	Lukens, Donald
Barton	Gallegly	Machtley
Bateman	Gallo	Madigan
Bentley	Gekas	Marlenee
Bilirakis	Gillmor	Martin (NY)
Bliley	Gingrich	McCandless
Boehlert	Goodling	McCollum
Broomfield	Goss	McDade
Brown (CO)	Gradison	McEwen
Buechner	Grandy	McGrath
Bunning	Grant	Meyers
Burton	Green	Miller (OH)
Campbell (CA)	Gunderson	Miller (WA)
Campbell (CO)	Hammerschmidt	Molinari
Chandler	Hancock	Moorhead
Clinger	Hansen	Myers
Coble	Hefley	Nielson
Coleman (MO)	Herger	Oxley
Combest	Holloway	Packard
Conte	Hopkins	Parris
Coughlin	Houghton	Pashayan
Courter	Hunter	Paxon
Cox	Hyde	Petri
Craig	Inhofe	Porter
Crane	Ireland	Pursell
Dannemeyer	James	Quillen
Davis	Johnson (CT)	Regula
DeLay	Kasich	Rhodes
DeWine	Kolbe	Ridge
Dickinson	Kyl	Rinaldo
Dornan (CA)	Lagomarsino	Ritter
Douglas	Leach (IA)	Roberts
Dreier	Lent	Robinson
Duncan	Lewis (CA)	Rogers

Rohrabacher	Skeen	Sundquist
Ros-Lehtinen	Slaughter (VA)	Tauke
Roth	Smith (NE)	Thomas (CA)
Roukema	Smith (NJ)	Thomas (WY)
Saiki	Smith (TX)	Upton
Saxton	Smith (VT)	Vander Jagt
Schaefer	Smith, Robert (NH)	Vucanovich
Schiff	Smith, Robert (OR)	Walker
Schneider	Snowe	Walsh
Schuette	Solomon	Weber
Schulze	Spence	Weldon
Sensenbrenner	Stangeland	Whittaker
Shaw	Stearns	Wolf
Shays	Stump	Wylie
Shumway		Young (AK)
Shuster		Young (FL)

NOT VOTING—23

Barnard	Kaptur	Rowland (CT)
Byron	Martin (IL)	Smith (FL)
Chapman	McCrery	Smith, Denny (OR)
Crockett	Mollohan	Stallings
Espy	Morrison (CT)	Udall
Ford (MI)	Morrison (WA)	Wise
Hawkins	Owens (NY)	Wolpe
Johnston	Payne (NJ)	

□ 1734

Mr. HILER changed his vote from "nay" to "yea."

So a second was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I am bringing to the floor the House and Senate agreement on H.R. 1243, a bill to establish metal casting institutes. The version of our bill directs the Secretary of Energy to establish four institutes for metal casting research and development in regions of the country where the metal casting industry is most prevalent.

This bill addresses two vital concerns of our Nation, namely, energy conservation and competitiveness of our manufacturing industry. In energy intensive industries such as metal castings these issues are closely linked.

The metal casting industry is composed of 3,700 foundries averaging less than 100 employees each. Because of the small size of these companies and the variety of their product lines, they are unable to carry out out significant research and development activities to improve their manufacturing processes. In today's world they are forced to compete with companies from abroad who have access to large, centralized research programs. This places the U.S. metal casting industry at a severe disadvantage. The results of this unequal competition have been devastating; since 1981 one-fifth of our foundries have closed and there are now only half of the jobs in metal casting that there were in 1981.

The industry now faces even tougher challenges. Rising energy costs combined with older less energy efficient production technologies will place our foundries at a even greater disadvantage. We need to provide the technical leverage to assist this segment of the manufacturing sector to help itself.

I want to stress what I believe is a very important provision in this package. The legislation provides the opportunity for the Federal Government and the private sector to work together toward a common goal—the infusion of technology into the metal casting industry. The cost-sharing partnership of government, universities, and industry developed here will focus scarce resources to develop innovative technologies for the metal casting industry. By authorizing up to $5 million per year for 3 years to fund the needed research and development activities, we are making a commitment to advance technology of United States industry, technology that will lead to lower cost products and to more efficient use of our energy resources.%

We all know we must do a better job of using energy more efficiently. Just 2 weeks ago in this very Chamber the President reiterated the call for increased energy conservation, we agree. Mr. Speaker, we are all concerned about the competitiveness of our industry and our dependence on imported energy. This bill provides a small but important step to reverse these trends. The modest investment called for by industry and government can provide greater future benefits to our domestic industry, our economy and our energy security.

□ 1740

Mr. WALKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, anytime someone tells you that the suspension of the rules process is used benignly, they ought to take a look at this particular bill, because in this particular case the House has before it a bill that never passed the House, never passed the Senate and never came out of the conference committee.

This is a bill that has been written by a few people, I guess a few staffers got together and came up with some kind of position which is partially what the Senate did, partially what we did, and brought it back to the House as though we are considering some kind of a conference report.

That is just in my mind a complete misstatement of the way in which the legislative process ought to work. The suspension of the rules is supposed to be reserved for those things that are relatively noncontroversial.

Now, let me point out, this topic is relatively noncontroversial. The metal castings industry is essential to the American economy, thousands of foundries across the country and small businesses. They employ over 250,000 people across the country. Many of those people work in my district, and H.R. 1243 will hopefully provide some help to improve the industry so that the industry remains competitive. There is no controversy about that aspect of it.

But how much longer are we going to allow the processes of the Congress and our own rules to be consistently violated in a manner that is being done here?

The House-passed version of this bill, as the chairman pointed out, passed overwhelmingly, called for authorizations of centers created in this bill to come from the industrial program under the Energy Conservation Act enacted just last year.

The President's request for that industrial program is $40 million. The enacted authorization we had in place was $53.5 million, which left plenty of room for this program to be carried out.

Now, the metal castings program is important, but it seems to me that some fiscal realities demand that the funds come from already authorized moneys, and that is what we did.

Now, the Senate being the Senate, decided that they also would pass a bill, but it would be all new money. Instead of coming out of the authorization presently in place, and so therefore was an appropriate place to find budgetary amounts, they decided that we would spend all new money.

Now, maybe somebody in this Chamber knows where we have all this new money available. Evidently somebody in the Senate does. They just decided, though, in this particular case we would add it on. I do not know where the money is, but in this particular bill that is before us tonight, the House now proposes to recede to the Senate position that we can spend all new money, in direct conflict with the previous position of the House.

In other words, if you voted for the bill previously, you voted to use already authorized money. If you vote for this bill, you are voting to create brand new spending on a brand new spending stream of money that we have not got.

I think that is a serious issue that ought to have been debated in a process that at least allowed some amendment, particularly since the bill did not come out of my committee, did not come out of any Senate committee, and did not come out of the conference committee.

Now, we had a disagreement on this in the conference. The staffs were negotiating this. I was asked to participate in a meeting of the conferees, which I gladly agreed to do so that we could work out some of these arrangements. Surprisingly enough, the meeting was never scheduled and now what we get is an end run around the whole process that suggests that the Senate

was fine in enacting new money and we ought to go ahead.

In other words, there was absolutely no attempt to protect the House position. We never had a conference. The one that was supposed to be scheduled never got scheduled. This bill was written behind doors somewhere and it was not because I was not brought into it as the ranking member of the committee.

This bill authorizes new money that we do not have. It irresponsibly reverses the previous position of the House, and it steamrolls the entire process.

I urge a no vote on the basis of process and hopefully we can get a bill that would serve this industry responsibly and not irresponsibly in the future.

Mr. ROE. Mr. Speaker, I yield myself 3 minutes to respond.

Balderdash, not true, I say to the gentleman from Pennsylvania [Mr. WALKER], not true.

This bill passed the subcommittee. It passed the full committee just about unanimously, except for the one issue involved. It passed the Senate. The Senate voted and sent it back here. The negotiations took place with my staff and the gentleman's staff agreeing to every issue, with the exception of one; so do not say that this was not discussed and was not reviewed or there is something going on behind back doors.

Enough is enough today. The people want to listen to the truth and the Members want to listen to the truth.

I am not going to stand here after 21 years of service in this Congress and have the gentleman from Pennsylvania impugn my integrity, or anybody else in this House.

Kindly respond in kind. I have been decent and fair to the gentleman and to every member on this committee, to 49 Members of this House. The last thing I would do would be to embarrass myself by doing something that would be inappropriate.

So the gentleman from Pennsylvania is wrong, wrong on the facts and wrong on the issues.

We are fighting in America for competitiveness for us to be able to have the resources to be able to do the job we need to do successfully and keep Iraq in place. How are we going to do it if we do not have the competitiveness, if we do not have the machinery and we do not have the equipment and we do not have the foundries?

Good God, if you ever listened to something once, you ought to listen to some of the facts.

What about nonsense? Do we play games like a bunch of children? What are the people in America saying to us? Yes, this particular situation today is a disgrace to every Member in this House and yes, you have to stand up. You have to stand up because you believe in something. You believe in something that is called the United States of America, and the nonsense that we have to deal with, I resent it. I resent it as a duly elected Member of this House.

No, those are the facts. The Senate wanted $20 million a year. They wanted 5 years. The only issue in disagreement, they went back to the House position of $5 million for 3 years instead of 5 years, and only asked for a new authorization. If the Appropriations Committee does not want to give them the $15 million or the House does not want to vote it, then do not do it; but the fact still remains that it is a need that is needed in this country.

Mr. WALKER. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I am sorry the gentleman from New Jersey took offense. At no point did I call the gentleman untruthful. I am sorry the gentleman chose in the debate to suggest that I did not tell the truth.

The situation is exactly as I described it. If we were bringing a conference report to the House that came out of the negotiations of which the gentleman spoke, that would be one thing, but this is not a conference report we bring to the House. We are bringing a brand new bill that did not pass the subcommitte, did not pass the committee and did not pass the Senate.

This is a creation that came out of those negotiations that took place surrounding the conference, but in fact the conference never agreed. In fact, the conference never met.

That is the problem, and it seems to me that the process ought to be allowed to work. The House passed a bill. The Senate passed a bill. We went to conference. The conferees could not agree, largely on the issue that the gentleman talks about.

□ 1750

The gentleman is right. The issue here is whether or not we are going to spend new money that we do not have or whether or not we ought to try to do this program within the authorizations.

We could not come to an agreement. So what happens? All of a sudden the gentleman finds out some new bill that was created is going to be put on the suspension calendar today. The gentleman from New Jersey cannot understand why I am upset about that. Well, I am upset, because in all honesty that is no way to run the House.

The gentleman has been fair to the minority, he has been fair to the members of the committee. But the gentleman should not do an end run around the process that we all depend upon.

Mr. ROE. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Sure I will be glad to yield to the gentleman from New Jersey.

Mr. ROE. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is not doing an end run around it. You know, there are no conferees, no conferees were appointed, period. Negotiation with the Senate will not go with conferees. The only way—I know that the gentleman can respond—the only way we can get this to the floor of the House is what we are doing today.

Mr. WALKER. The gentleman is wrong. The conferees have not been reported because the assumption was that it could be worked out without going to conference. When it came to the point where we could not work it out, then it was suggested that we are probably going to have to have a conference. I agreed to that. But we did not do that.

I would suggest to the gentleman the right way to proceed would have been to have the conferees meet, to appoint conferees and have them meet and work out our differences and bring a conference report back to the House. But we did not do that.

Can the gentleman tell me where this bill came from, who wrote this bill? This bill was not written with my participation. It was not written by Members.

Maybe some staff got together and wrote the bill. But it certainly did not come out of any committee of the Congress. It is now on the floor under the Suspension Calendar, which allows no amendments at all. All we can do is stand up and we can protest what is happening, but we are allowed no amendments at all.

That is no way to legislate, particularly when we are talking about spending millions of dollars that this economy cannot afford.

Mr. Speaker, I reserve the balance of my time.

The Speaker pro tempore (Mr. MAZZOLI). The Chair would advise that the gentleman from New Jersey [Mr. ROE] has 14½ minutes remaining and the gentleman from Pennsylvania [Mr. WALKER] has 14 minutes remaining.

Mr. ROE. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Tennessee [Mrs. LLOYD], chairman of our Subcommittee on Energy Research and Development.

Mrs. LLOYD. I thank the gentleman for yielding time to me.

Mr. Speaker. I join the distinguished chairman of our committee, Hon. ROBERT A. ROE, in supporting the House and Senate agreement on H.R. 1243, a bill to establish metal casting institutes. Certainly I want to add my enthusiastic support for the bill.

While the integrity and intent of the bill remain the same, the version before us today has incorporated sev-

eral changes which I believe make the proposed research program a stronger one. During testimony before the subcommittee I chair on energy research and development, our witnesses testified as to the regional nature of the metal casting industry, and the need to regionally locate the research institutes. We have included the possibility of four metal casting institutes instead of our original three, thereby allowing each regional institute to focus on the regional needs.

We have limited the program to 3 years—from the original 5—as was included in the Senate version of the legislation. After 3 years we can review the progress of the activities, and determine whether we need to reevaluate the program's needs, whether we should continue this effort, and whether the industry has been able to substantially cost-share the program. I believe the 3-year timeframe called for in the bill will be enough time to get a good cost-shared program.

Finally, the $5 million per year to fund the activities included in the bill really seems like a small investment in furthering the development of technology for our manufacturing industry.

Certainly I believe we need to look at this kind of situation as to what is an investment and what is an expenditure. And certainly I believe we are going to reap the benefits from our small investment many times over as we rebuild a healthy metal casting industry, and I do urge my colleagues to support the legislation.

Mr. WALKER. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker and Members, there is an adage I think we all know and we have all used, that says, "Well, I have some of my friends on this side of this issue and some of my friends on that side of the issue, and I am for my friends."

I sort of find myself in that predicament right now.

There is no question that Mr. WALKER and I work together in the Republican whip organization. Chairman ROE has been a distinguished leader not only in his present role but I have worked even closer with him in his previous role over in Public Works on behalf of some issues of mutual interest to the infrastructure, the inland waterways of this country.

Frankly, I am not going to get up here and choose sides. I do not want to do that. But I think that what we ought to focus on is the theme, the concern many of us have raised today as evidenced in this kind of a debate. That is, ladies and gentlemen, if we had a long-term budget agreement, if we had a 5-year bipartisan budget plan, then this whole issue of how it would be funded would have been resolved within the committee and we would not have this kind of emotional debate here this afternoon.

Part of our problem is—and I am not picking on this unique bill at all—part of our problem is that we are trying to operate business as usual when, frankly, the country cannot tolerate business as usual.

Look at the clock, ladies and gentleman. We now have 6 days and 6 hours to Armageddon, 6 days and 6 hours before we have missed every deadline of the fiscal year and sequestration goes into effect.

Now, the concern is that you cannot, in this kind of a crisis environment, continue business as usual. And I would suggest that if there is a criticism, it is a criticism of the leadership of the Congress who will schedule 34 suspensions and 3 major reauthorizations on a Monday afternoon when you are that close to Armageddon. that is wrong.

That is why the American public is cynical about the Congress. That is why the theme of throwing the rascals out is finding new flavor and new favor all over this country because Democrat, Republican, liberal, conservative, it does not matter, it is the public that is becoming the victims of our adhering to a process that has not worked, a business as usual, politics as usual—there is not crisis out there because we have said there is no crisis out there." Well, the public knows better.

You know and I know what is going to happen in every one of our districts; you know and I know what is going to happen to all the Federal employees; you know and I know what is going to happen to every individual in this country who is a recipient of a Government contract or a Government program and the blame is going to come right back here.

We can prevent all that. We can prevent a recession in the economy, and we can prevent these kinds of debates over whether a new authorization should or should not occur or whether it should be funded within the present authorization. That is an issue more complicated than me, and I leave up to those of you in the Committee on Science and Technology who follow this issue.

But I do think all of us can put our forcus this one week where it needs to be and say, "Can we in a bipartisan fashion met the deadlines at hand?"

I think we can. The public wants us to. I think it is time we do just that.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman fromn Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, first, I would like to thank the committee chairman for making it possible for us to be here again today. With his personal attention and the support of the members of his committee, I believe that we have crafted a bill which will create a strong partnership between the U.S. Government and one of our essential industries, the American foundries.

The U.S. foundry industry is a basic industry which produces cast products for virtually all manufactured items and machinery used in manufacturing. American metalcasters supply foundry products to the energy, transportation, aerospace, defense, and manufacturing industries. Until recent years, U.S. foundries dominated the international market, but increased foreign competition aided by centralized government research efforts and a strong dollar have contributed to the steady erosion of this traditional American stronghold.

I believe that the metalcasting research centers created by H.R. 1243 are a necessary step toward restoring the vitality to this essential U.S. industry. Most metal castings in this country are produced in small- and medium-sized businesses with sales under $100 million a year. These businesses alone cannot bear the cost of a strong centralized research and developed effort needed to help the industry regain its footing in this fiercely competitive international market. H.R. 1243 provides the link between industry, research facilities, and the Government. With some funding by the U.S. Government to be matched by industry moneys, new technology and information sharing will be available for application in American foundries.

This compromise is a result of a lot of hard work, Mr. Speaker, which has produced a fiscally responsible and procompetition bill. The high quality of the final product is a tribute to your leadership and the conscientious effort of the chairman's staff.

□ 1800

Mr. WALKER. Mr. Speaker, I reserve the balance of my time.

Mr. ROE. Mr. Speaker, I yield 2 minutes to the disinguished gentleman from Alabama [Mr. ERDREICH].

Mr. ERDREICH. Mr. Speaker, the latest U.S. trade deficit figures for July brought more bad news for our domestic companies, having shot up an astonishing 75 percent in July to $9.3 billion, up $4 billion from June's trade deficit figure.

Unless we take action now to reverse this trend, American industries will continue to decline, and with them, jobs in Alabama and across America.

The decline in our domestic metal casting industry has contributed to the dramatic rise in our trade deficit. Metal casting, historically, is one of the oldest and most profitable of American industries.

But foreign trade practices, coupled with our failure to maintain our technological advantage, have created a

situation whereby U.S. foundries are, too often, fighting a losing battle to regain their share of an increasingly competitive market.

The total amount of metal casting in the United States has declined by almost half, from almost 21 million tons in 1966 to about 11½ million tons today. Half of our U.S. foundries have closed since 1971, putting tens of thousands of Americans out of work.

Of the surviving 3,700 foundries in the United States today, over 21 billion dollars' worth of products is produced annually. Over 260,000 people are employed in our domestic metal casting industry. In my home State of Alabama, foundries employ some 18,000, with over 10,000 in Jefferson County, producing over $1 billion of casting annually.

The metal casting competitiveness bill, which my colleague, CLAUDE HARRIS and I sponsored jointly, provides research grants, matched by industry, to advance technology and research in the metal casting field and apply those advancements to basic industry functions.

This bill will help our domestic metal casters keep up with foreign competitors in technological advancements and regain their share of an increasingly competitive market. This will mean more jobs and economic expansion in Alabama and across America.

Our Nation's competitiveness is a key element in our economic future. I urge my colleagues to approve this bill, and help us get tough and get smart in international trade.

Mr. WALKER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I think that the issue here is fairly clear. The only real issue that exists between the majority and the minority on this matter is whether or not it ought to be money under present authorization or whether or not we ought to come up with new money, and I would say to the gentleman from Alabama [Mr. ERDREICH], "You know, new money means new debt for future generations, and I'm not sure we ought to bill future generations for a better class of manhole cover. But, you know, if we can find the money within the regular authorization process, as we thought we could do under the House bill, we would be fine, and there would be no argument out here, and the chairman wouldn't have to get emotional or I wouldn't have to get emotional, and we could get this bill passed."

However, Mr. Speaker, under the present circumstances I find it very difficult, given the situation we find ourselves in, to support legislation that does undermine our ability to deal with the budget summit.

Mr. Speaker, I reserve the balance of my time.

Mr. ROE. Mr. Speaker, I do not have any other Members who wish to speak, but I would like to suggest to the Members of the House that I realize today is rather a testy day for all of us, for whatever the reason may be, but this particular bill is one of those bills which is really extraordinarily important when we take into consideration that in the manufacturing process, without the facilities in this country to basically be able to do metal casting, that we would not have an independent manufacturing base. We would lose that.

So, Mr. Speaker, I would hope that the differences are not that far apart, and I would really truly hope that we would be able to get the full support of this House on this very important measure.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WALKER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and agree to the resolution, House Resolution 470.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

DEFENSE PRODUCTION ACT AMENDMENTS OF 1990

Ms. OAKAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 486) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Defense Production Act Amendments of 1990".

SEC. 2. RESTATEMENT OF DECLARATION OF POLICY.

Section 2 of the Defense Production Act of 1950 (50 U.S.C. App. 2062) is amended to read as follows:

"SEC. 2. DECLARATION OF POLICY.

"(a)(1) In view of continuing international problems, the Nation's demonstrated reliance on imports of materials and components, and the need for measures to reduce defense production lead times and bottlenecks, and in order to provide for the national defense and national security, our defense mobilization preparedness effort continues to require the development of preparedness programs, domestic defense industrial base improvement measures, as well as a graduated response to any international diplomatic or military threat, and the expansion of domestic productive capacity and supply beyond the levels needed to meet the civilian demand. Also required is some diversion of certain materials and facilities from civilian use to military and related purposes.

"(2) These activities are needed in order to improve domestic defense industrial base efficiency and responsiveness, to reduce the time required for industrial mobilization in the event of an attack on the United States or to respond to actions occurring outside the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which could adversely affect the national defense preparedness of the United States. In order to ensure the national defense preparedness which is essential to national security, it is also necessary and appropriate to assure the availability of domestic energy supplies for national defense needs.

"(b)(1) In order to ensure productive capacity in the event of an attack on the United States, it is the policy of the Congress to encourage the geographical dispersal of the industrial facilities of the United States in the interest of the national defense, and to discourage the concentration of such productive facilities within limited geographical areas which are vulnerable to attack by an enemy of the United States. To ensure that essential mobilization requirements are met, consideration should also be given to stockpiling strategic materials to the extent that such stockpiling is economical and feasible.

"(2) In the construction of any Government-owned industrial facility, in the rendition of any Government financial assistance for the construction, expansion, or improvement of any industrial facility, and in the production of goods and services, under this or any other Act, each department and agency of the executive branch shall apply, under the coordination of the Federal Emergency Management Agency, when practicable and consistent with existing law and the desirability for maintaining a sound economy, the principle of the geographical dispersal of such facilities in the interest of national defense. However, nothing in this paragraph shall preclude the use of existing industrial facilities.

"(3) To ensure the adequacy of productive capacity and supply, executive agencies and departments responsible for defense acquisition shall continuously assess the capability of the domestic defense industrial base to satisfy near-term requirements as well as increased mobilization production requirements. Such assessments shall specifically evaluate the availability of adequate production sources, including subcontractors and suppliers, materials, and skilled labor, and professional and technical personnel.

"(4) It is the policy of the Congress that plans and programs to carry out this declaration of policy shall be undertaken with due consideration for promoting efficiency and competition.

"(5) It is also necessary to recognize that—

"(A) the domestic defense industrial base (as defined in section 107(f)) is a component part of the core industrial capacity of the Nation; and

"(B) much of the industrial capacity which is relied upon by the Federal Government for military production and other defense-related purposes is deeply and directly influenced by—

"(i) the overall competitiveness of the United States industrial economy; and

"(ii) the ability of United States industry, in general, to produce world-class products and operate profitably while maintaining adequate research and development to preserve that competitive edge in the future, with respect to military and civilian production.".

SEC. 3. CONGRESSIONAL FINDINGS.

The Congress hereby finds the following:

(1) The domestic defense industrial base is developing a growing dependency on foreign sources for key parts and components and other materials used in manufacturing and assembling major weapons systems for our national defense.

(2) This dependence is threatening the capability of many critical industries to respond rapidly to defense production needs in the event of war or other hostilities or diplomatic confrontation.

(3) The inability of United States industry, especially small- and medium-sized subcontractors and suppliers, to provide vital parts and components and other materials would prevent sustaining our Armed Forces in combat for more than a few months.

(4) It is necessary to preserve and strengthen the industrial capability of the United States to conduct conventional warfare in the event our Armed Forces must face an adversary with numerically superior weapons systems.

SEC. 4. STRENGTHENING OF DOMESTIC CAPABILITY.

Title I of the Defense Production Act of 1950 (50 U.S.C. App. 2071 et seq.) is amended by adding at the end the following new section:

"SEC. 107. PRESERVATION AND REVITALIZATION OF THE DOMESTIC DEFENSE INDUSTRIAL BASE.

"(a) PURPOSE.—The purpose of this section is to preserve and strengthen the capability and capacity of the domestic defense industrial base to produce materials and related services which the President determines are critically needed for the national defense of the United States.

"(b) DOMESTIC PRODUCTION OF CRITICALLY NEEDED WEAPON SYSTEMS.—

"(1) IN GENERAL.—Before the end of the 5-year period beginning on the date of the enactment of this section, the President, exercising the authority contained in section 101, shall limit to domestic manufacturing and assembly sources those existing or new weapons, parts, or components which the President determines are critical—

"(A) to maintain a facility, producer, manufacturer, or other supplier available for furnishing property or services in case of a national emergency or to achieve national mobilization; or

"(B) to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution, a federally funded research and development center, or a for-profit business,

and, in establishing the criteria for determining which weapons, parts, or components are critical, shall first consider the report of the Joint Logistic Commanders of the Department of Defense of 1986 entitled 'A Study of the Effect of Foreign Dependency'.

"(2) CONSIDERATION OF INDUSTRIAL BASE IN DEFENSE PROCUREMENT.—For defense-related procurement as a whole, the President shall consider—

"(A) the extent to which domestic sources for the materials or services being procured can meet defense needs for 6 months following any declaration of war by the Congress, any hostilities sanctioned under the authorities of the War Powers Resolution, or any diplomatic confrontation;

"(B) the effect the procurement of any such materials and services from domestic sources or off-shore would have on United States industrial capability; and

"(C) a comparison of—

"(i) the actual direct and indirect costs and benefits of procuring any such materials and services off-shore, including any loss of any Federal, State, or local tax revenues, with

"(ii) the actual direct and indirect costs and benefits of acquiring the materials and services domestically, including the gain of any revenue and the estimated cost of complying with any Federal or State law, such as occupational health and safety, workmen's compensation, quality assurance and verification, and the environment.

"(3) REPORT TO CONGRESS.—Before January 31 of each odd-numbered calendar year, the President shall transmit a report to the Congress on—

"(A) any action taken under paragraph (1) during the 2 years preceding the year in which such report is transmitted and the effect of such action on the domestic defense industrial base; and

"(B) the extent to which the factors described in subparagraphs (A), (B), and (C) of paragraph (2) have been taken into account in all defense-related procurement actions during such 2 years, any action by reason of such consideration, and the effect of any such action on the domestic defense industrial base.

"(c) AUTHORIZATION TO USE EXISTING AUTHORITIES FOR PURPOSES OF THIS SECTION.—In order to implement the requirement established under subsection (b)(1) in the shortest period of time, the President is authorized to utilize any incentive provided under title III or any other applicable provision of law.

"(d) DESIGNATION OF CRITICAL WEAPONS AND INDUSTRIES.—

"(1) IN GENERAL.—The President shall designate any weapon and weapons system which the President determines are critically needed for the national defense of the United States, including all parts and components, and any industry which the President determines is critical under subsection (b)(1) to the domestic defense industrial base, and any weapon, weapon system, or industry so designated shall be given 1st priority for assistance under this Act for the modernization of manufacturing facilities and equipment and the production of materials (as defined in section 702).

"(2) DEVELOPMENT OF DOMESTIC CAPACITY FOR CERTAIN ESSENTIAL MATERIALS, SERVICES, AND SKILLS.—If any materials, services, or skills affecting any weapon, weapon system, or industry designated as critical under paragraph (1) by the President, are unavailable or in short supply from domestic sources, the President shall seek to develop the domestic capability to provide such materials, services, or skills, utilizing the authorities of this Act and any other applicable law.

"(e) ASSISTANCE FOR SMALL- AND MEDIUM-SIZED BUSINESSES.—

"(1) IN GENERAL.—In providing any assistance authorized for defense contractors and subcontractors pursuant to this section, the President shall provide a strong preference for contractors and subcontractors which are small- and medium-sized businesses, as defined by the Secretary of Commerce and the Administrator of the Small Business Administration, as the case may be.

"(2) MODERNIZATION OF EQUIPMENT.—

"(A) IN GENERAL.—Funds authorized under title III may be set aside to guarantee the purchase or lease of advance manufacturing equipment, and any related services with respect to any such equipment for purposes of this Act.

"(B) SMALL BUSINESS SUBCONTRACTORS.—In considering applications under subparagraph (A), the President shall provide a strong preference for smaller subcontractors that—

"(i) have obtained the recommendation—

"(I) of an agency of the Department of Defense; or

"(II) pursuant to the efforts of an agency described in subclause (I), of the Secretary of Commerce or the Administrator of the Small Business Administration; and

"(ii) have arranged to obtain management assistance services in connection with the installation of the advance manufacturing equipment.

"(f) DOMESTIC DEFENSE INDUSTRIAL BASE DEFINED.—For purposes of this Act, the term 'domestic defense industrial base' means—

"(1) the industries in the United States and Canada which at any time are providing national defense materials and services; and

"(2) the industries in the United States and Canada which reasonably would be expected to provide national defense materials and services in a time of emergency or war.

"(g) COORDINATION WITH MEMORANDUMS OF UNDERSTANDING.—The requirements established by this section shall constitute an exception or exclusion in the form of legally imposed restrictions to any existing or future memorandum of understanding, especially in regard to those provisions protecting the maintenance of a defense mobilization base on the part of the United States.

"(h) BUDGET ACT COMPLIANCE.—The use of loan guarantees, price guarantees, or direct loans under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.".

SEC. 5. INFORMATION SYSTEM ON DOMESTIC DEFENSE INDUSTRIAL BASE.

(a) System Required To Be Established.—The Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.) is amended by adding at the end the following new section:

"SEC. 722. DEFENSE INDUSTRIAL BASE INFORMATION SYSTEM.

"(a) ESTABLISHMENT REQUIRED.—

"(1) IN GENERAL.—The President, acting through the Secretary of Defense and the heads of such other Federal agencies as the President may determine to be appropriate, shall provide for the establishment of an information system on the domestic defense industrial base which meets the requirements of this section.

"(2) INCORPORATION OF DINET.—The defense information network as established and maintained by the Secretary of Defense on the date of the enactment of the Defense Production Act Amendments of 1990 shall be incorporated into and form the basis of the system established pursuant to paragraph (1).

"(b) PRODUCTION BASE ANALYSIS.—

"(1) TOP-TO-BOTTOM REVIEW.—The analysis of the production base for any major procurement project which is included in the information system maintained pursuant to subsection (a) shall, in addition to any information and analyses the President may require—

"(A) include a review of all levels of acquisition and production, beginning with any raw material, special alloy, or composite material involved in the production and ending with the completed product;

"(B) identify each contractor and subcontractor at each level of acquisition and production with respect to such project which represents a potential for delaying or preventing the production and acquisition, including the identity of each contractor or subcontractor whose contract qualifies as a foreign source or sole source contract and any supplier which is a foreign or sole source for any item required in the production; and

"(C) include the following information with respect to any contractor or subcontractor identified pursuant to subparagraph (B):

"(i) The size of any facility of such contractor or subcontractor involved in such acquisition and production.

"(ii) The number of days of each work week and the number of shifts and the number of hours of each work day during which any activity in connection with such acquisition or production is undertaken pursuant to the contract.

"(iii) The number of production and technical employees involved in such acquisition and production.

"(iv) The age of any machine tools involved in such acquisition and production.

"(v) The extent to which any machine tool required for the acquisition and production is produced and available within the United States.

"(2) INITIAL REQUIREMENT FOR STUDY OF PRODUCTION BASES FOR 12 MAJOR WEAPON SYSTEMS.—In establishing the information system under subsection (a), the President, acting through the Secretary of Defense, shall require the Secretary of each military department to incorporate in such system a complete analysis of the production base of no fewer than 4 weapons of such department which are major systems (as defined in section 2305(5) of title 10, United States Code).

"(3) STRATEGIC PLAN FOR INCORPORATING ALL NEW MAJOR SYSTEMS IN INFORMATION SYSTEM.—The President shall provide for the establishment of a strategic plan for maximizing the use and the usefulness of the information system established under subsection (a) by incorporating and maintaining in such system a complete analysis of the production base for each major system (as defined in section 2305(5) of title 10, United States Code) begun after the date of the enactment of the Defense Production Act Amendments of 1990.

"(c) INTERACTIVE CAPABILITY OF SYSTEM.—

"(1) IN GENERAL.—In connection with the establishment of the information system under subsection (a), the President shall direct the Secretary of Defense, the Secretary of Commerce, and the heads of such other Federal agencies as the President may determine to be appropriate to—

"(A) consult with each other and provide such information, assistance, and cooperation as may be necessary to establish and maintain the information system in a manner which allows the coordinated and efficient entry of information on the domestic defense industrial base into, and the withdrawal, subject to the protection of proprietary data, of information on the domestic defense industrial base from, the system by all such Federal agencies, including each military department; and

"(B) coordinate standards, definitions, and specifications for information on defense production which is collected by the Department of Defense and the military departments so that such information can be used by any Federal agency or department which the President determines to be appropriate.

"(2) TASK FORCE ON MILITARY-CIVILIAN PARTICIPATION.—Upon the establishment of the information system under subsection (a), the President shall convene a task force consisting of the Secretary of Defense, the Secretary of Commerce, the Secretary of each military department, and the heads of such other Federal agencies and departments as the President may determine to be appropriate to establish guidelines and procedures to ensure that all Federal agencies and departments which acquire information with respect to the domestic defense industrial base are fully participating in the system, unless the President determines that all appropriate Federal agencies and departments, including each military department, are voluntarily providing information which is necessary for the system to carry out the purposes of this Act and chapter 148 of title 10, United States Code.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President for purposes of this section, $7,000,000, to remain available until expended.".

SEC. 6. EXTENSION OF THE DEFENSE PRODUCTION ACT OF 1950.

(a) EXTENSION OF PROGRAM.—Section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended—

(1) in the 1st sentence—

(A) by striking "I (except section 104), title"; and

(B) by striking "September 30, 1990" and inserting "September 30, 1995"; and

(2) by inserting after the 1st sentence the following new sentence: "Title I (except section 104), and all authority under such title, shall terminate at the end of fiscal year 1992.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 711(a)(4) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)(4)) is amended to read as follows:

"(4)(A) There are authorized to be appropriated for each of fiscal years 1991, 1992, 1993, 1994, and 1995, not to exceed $130,000,000 to carry out the provisions of title III of this Act.

"(B) The aggregate amount of loans, guarantees, purchase agreements, and other actions under sections 301, 302, and 303 in any fiscal year shall not exceed $130,000,000.".

(c) EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY.—The last sentence of section 303(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)) is amended by striking "any such action or actions may be taken only if specifically authorized by law" and inserting "the President shall submit any annual report to the Congress on such action until the aggregate outstanding amount of all such actions for such shortfall ceases to exceed $25,000,000".

(d) LIMITATION ON THE USE OF TITLE I AUTHORITY.—The authority of title I of the Defense Production Act of 1950 shall not be used for the production of chemical or biological weapons except upon the written authorization of the President.

SEC. 7. TECHNICAL AMENDMENTS RESTORING ANTITRUST IMMUNITY FOR EMERGENCY ACTIONS INITIATED BY THE PRESIDENT.

Section 708 of the Defense Production Act of 1950 (50 U.S.C. App. 2158) is amended—

(1) in subsection (a), by striking "and subsection (j) of section 708A";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) DEFINITIONS.—For purposes of this Act—

"(1) ANTITRUST LAWS.—The term 'antitrust laws' has the meaning given to such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

"(2) PLAN OF ACTION.—The term 'plan of action' means any of 1 or more documented methods adopted by participants in an existing voluntary agreement to implement that agreement.";

(3) in subsection (c)(1)—

(A) by striking "Except as otherwise provided in section 708A(o), upon" and inserting "Upon"; and

(B) by inserting "and plans of action" after "voluntary agreements";

(4) in subsection (c)(2), by striking the last sentence;

(5) in subsection (d)(1)—

(A) by striking ", and the meetings of such committees shall be open to the public" where such term appears in the 2d sentence; and

(B) by inserting after the 2d sentence the following new sentence: "Each meeting of such committees shall be open to the public unless the individual to whom authority has been delegated by the President under subsection (c)(2) finds that any matter to be discussed at such meeting is described in paragraph (1), (3), or (4) of section 552(b) of title 5, United States Code.";

(6) in subsection (d)(2), by striking out "section 552(b)(1) and (b)(3)" and inserting "paragraphs (1), (3), and (4) of section 552(b)";

(7) in subsection (e)(1), by inserting "and plans of action" after "voluntary agreements";

(8) in subsection (e)(3)(D), by striking "subsection (b)(1) or (b)(3) of section 552" and inserting "paragraph (1), (3), or (4) of section 552(b)";

(9) in subsection (e)(3)(G), by striking "subsections (b)(1) and (b)(3) of section 552" and inserting "paragraphs (1), (3), and (4) of section 552(b)";

(10) in subsections (f) and (g)—

(A) by inserting "or plan of action" after "voluntary agreement" each place such term appears; and

(B) by inserting "or plan" after "the agreement" each place such term appears;

(11) in subsection (h)—

(A) by inserting "and plans of action" after "voluntary agreements"; and

(B) by inserting "or plan of action" after "voluntary agreement" each place such term appears;

(12) in subsection (h)(3), by striking "subsections (b)(1) and (b)(3) of section 552" and inserting "paragraphs (1), (3), and (4) of section 552(b)"; and

(13) in paragraphs (7) and (8) of subsection (h), by striking "subsection (b)(1) or (b)(3) of section 552" and inserting "paragraph (1), (3), or (4) of section 552(b)";

(14) by striking subsection (j) and inserting the following new subsection:

"(j) DEFENSES.—

"(1) IN GENERAL.—Subject to paragraph (4), there shall be available as a defense for any person to any civil or criminal action brought under the antitrust laws (or any similar law of any State) with respect to any action taken to develop or carry out any voluntary agreement or plan of action under this section that—

"(A) such action was taken--

"(i) in the course of developing a voluntary agreement initiated by the President or a plan of action adopted under any such agreement; or

"(ii) to carry out a voluntary agreement initiated by the President and approved in accordance with this section or a plan of action adopted under any such agreement, and

"(B) such person—

"(i) complied with the requirements of this section and any regulation prescribed under this section; and

"(ii) acted in accordance with the terms of the voluntary agreement or plan of action.

"(2) SCOPE OF DEFENSE.—The defense established in paragraph (1) shall be available only if and to the extent that the person asserting the defense demonstrates that the action was specified in a voluntary agreement initiated by the President and approved in accordance with this section or a plan of action adopted under any such agreement and approved in accordance with this section. The defense established in paragraph (1) shall not be available unless the President or the President's designee has actively supervised the actions on which a claim under the antitrust laws is based and to which a defense under paragraph (1) is asserted.

"(3) BURDEN OF PERSUASION.—Any person raising the defense established in paragraph (1) shall have the burden of proof upon the elements of the defense.

"(4) EXCEPTION FOR ACTIONS TAKEN TO VIOLATE THE ANTITRUST LAWS.—The defense established in paragraph (1) shall not be available if the person against whom the defense is asserted shows that the action was taken for the purpose of violating the antitrust laws.";

(15) in subsection (k), by inserting "and plans of action" after "voluntary agreements" each place such term appears;

(16) in subsection (l), by inserting "or plan of action" after "voluntary agreement";

(17) by adding at the end the following new subsections:

"(n) EXEMPTION FROM ADVISORY COMMITTEE PROVISIONS.—Notwithstanding any other provision of law, any activity conducted under a voluntary agreement or plan of action approved pursuant to this section, when conducted in compliance with the requirements of this section, any regulation prescribed under this subsection, and the provisions of the voluntary agreement or plan of action, shall be exempt from the Federal Advisory Committee Act and any other Federal law and any Federal regulation relating to advisory committees.

"(o) PREEMPTION OF CONTRACT LAW IN EMERGENCIES.—In any action in any Federal or State court for breach of contract, there shall be available as a defense that the alleged breach of contract was caused predominantly by action taken during an emergency to carry out a voluntary agreement or plan of action authorized and approved in accordance with this section.".

SEC. 8. EXECUTIVE RESERVES AND EMPLOYEES SERVING WITHOUT COMPENSATION.

(a) PRESIDENTIAL WAIVER AUTHORITY FOR EMPLOYEES SERVING WITHOUT COMPENSATION.—Section 710(b)(4) of the Defense Production Act of 1950 (50 U.S.C. App. 2160(b)(4)) is amended to read as follows:

"(4) PRESIDENTIAL WAIVER AUTHORITY.—

"(A) CONFLICT OF INTEREST.—The President, upon a finding that achievement of the purposes of this section requires such action, may exempt any individual who becomes employed pursuant to subsection (b)(1) from the operation of sections 203, 205, 207, 208, and 209 of title 18, United States Code, and sections 601 through 608 of the Department of Energy Organization Act except that any such exemption shall not extend to the following activities:

"(i) The negotiation or execution of a Government contract with the private employer of such appointee or with any person—

"(I) in which the appointee has a financial interest (within the meaning of section 208 of title 18, United States Code); or

"(II) with which the appointee has an official relationship.

"(ii) Any action taken or recommendation made with respect to an individual application to the Government for relief or assistance, on appeal or otherwise, made by the private employer of the appointee or by any person described in subclause (I) or (II) of clause (i).

"(iii) The prosecution of, or the participation in any fashion in the prosecution of, any claim against the Government involving any matter in which the appointee has any participation during the appointee's employment under this subsection, during the period of such employment or the 2-year period beginning after the termination of such employment.

"(iv) The receipt of salary by, or the payment of salary to the appointee from any source other than the private employer of the appointee (as of the date of such appointment) in connection with the appointee's Government service pursuant to such appointment.

"(B) ANTITRUST.—The President, upon a finding that the achievement of the purposes of this section requires such action, may exempt any individual who becomes employed pursuant to subsection (b)(1), and such individual's private employer, from the antitrust laws, and any similar State law, solely with respect to those activities specified by the President and which are within the scope of the employee's official governmental duties.".

(b) NOTICE OF APPOINTMENT AND FINANCIAL DISCLOSURE FOR EMPLOYEES SERVING WITHOUT COMPENSATION.—Section 710(b)(6) of the Defense Production Act of 1950 (50 U.S.C. App. 2160(b)(6)) is amended to read as follows:

"(6) NOTICE AND FINANCIAL DISCLOSURE REQUIREMENTS.—

"(A) PUBLIC NOTICE OF APPOINTMENT.—The head of any department or agency who appoints any individual under this subsection shall publish a notice of such appointment in the Federal Register, including the name of the appointee, the employing department or agency, the title of the appointee's position, and the name of the appointee's private employer.

"(B) FINANCIAL DISCLOSURE.—Any individual appointed under this subsection who is not required to file a financial disclosure report pursuant to section 101 of the Ethics in Government Act of 1978, shall file a confidential financial disclosure report pursuant to section 107 of such Act with the appointing department or agency.".

(c) PRESIDENTIAL WAIVER AUTHORITY FOR EXECUTIVE RESERVISTS.—Section 710(e) of the Defense Production Act of 1950 (50 U.S.C. App. 2160(e)) is amended—

(1) by striking "(e) The President" and inserting "(e) EXECUTIVE RESERVE.—

"(1) IN GENERAL.—The President";

(2) by striking the last sentence; and

(3) by adding at the end the following new paragraphs:

"(2) PRESIDENTIAL WAIVER AUTHORITY.—

"(A) CONFLICT OF INTEREST.—Notwithstanding any other provision of law, the President, upon finding that achievement of the purpose of this section requires such action, may exempt any individual who is a member of the executive reserve established under paragraph (1) and is employed by the Federal Government during a period of emergency from the operation of sections 203, 205, 207, 208, and 209 of title 18, United States Code, and sections 601 through 608 of the Department of Energy Organization Act except that any such exemption shall not extend to the following activities:

"(i) The negotiation or execution of a Government contract with the former private employer of such appointee or with any person—

"(I) in which the appointee has a financial interest (within the meaning of section 208 of title 18, United States Code); or

"(II) with which the appointee has an official relationship.

"(ii) Any action taken or recommendation made with respect to an individual application to the Government for relief or assistance, on appeal or otherwise, made by the former private employer of the appointee or by any person described in subclause (I) or (II) of clause (i).

"(iii) The prosecution of, or the participation in any fashion in the prosecution of, any claim against the Government involving any matter in which the appointee has any participation during the appointee's employment under this subsection, during the period of such employment or the 2-year period beginning after the termination of such employment.

"(iv) The receipt of salary by, or the payment of salary to, the appointee from any source in connection with the appointee's Government service pursuant to such appointment.

"(B) ANTITRUST.—Notwithstanding any other provision of law, the President, upon finding that achievement of the purpose of this section requires such action, may exempt any individual who is a member of the executive reserve established under paragraph (1) and is employed by the Federal Government during a period of emergency, or who is engaged in the executive reserve training program, and such individual's former private employer, from the antitrust laws, and any similar State law, with respect to activities specified by the President which are within the scope of the employee's official governmental duties and are taken in good faith by such employee.

"(3) NOTICE AND FINANCIAL DISCLOSURE REQUIREMENTS.—

"(A) PUBLIC NOTICE OF APPOINTMENT.—The head of any department or agency who employs any individual who is a member of the executive reserve under this subsection shall publish a notice of such employment in the Federal Register, including the name of the employee, the employing department or agency, the title of the employee's position, and the name of the employee's former private employer.

"(B) FINANCIAL DISCLOSURE.—Any individual appointed under this subsection who is not required to file a financial disclosure report pursuant to section 101 of the Ethics in Government Act of 1978, shall file a confidential financial disclosure report pursuant to section 107 of such Act with the appointing department or agency.".

(d) DEFINITIONS; REGULATIONS AND OTHER PROVISIONS.—Section 710 of the Defense Production Act of 1950 (50 U.S.C. App. 2160)

is amended by adding at the end the following new subsections:

"(h) ANTITRUST LAWS DEFINED.—For purposes of this section, the term 'antitrust laws' has the same meaning that it has under section 708.

"(i) EXEMPTION FROM ADVISORY COMMITTEE PROVISIONS.—Notwithstanding any other provision of law, any activity conducted under this section shall be exempt from the Federal Advisory Committee Act and any other Federal law and any Federal regulation relating to advisory committees.

"(j) REGULATIONS.—The President shall prescribe such regulations as the President determines necessary to implement the exemptions contained in subsections (b)(4) and (e) of this section.".

(e) TECHNICAL CORRECTION RELATING TO CIVIL SERVICE REORGANIZATION.—Section 710(b)(7) of the Defense Production Act of 1950 (50 U.S.C. App. 2160(b)(7)) is amended by striking "Chairman of the United States Civil Service Commission" and inserting "Director, Office of Personnel Management".

SEC. 9. EVALUATION OF DOMESTIC DEFENSE INDUSTRIAL BASE POLICY.

(a) CONGRESSIONAL COMMISSION ON THE EVALUATION OF DEFENSE INDUSTRIAL BASE POLICY ESTABLISHED.—There is hereby established a commission to be known as the Congressional Commission on the Evaluation of the Defense Industrial Base Policy (hereafter in this section referred to as the "Commission").

(b) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall develop criteria for evaluating the national policy for maintaining the strength of the domestic defense industrial base (as defined in section 107(f) of the Defense Production Act of 1950) for purposes of supporting the national security strategy of the President.

(2) CONSIDERATION OF AGENCY PROCEDURES AND ACTIVITIES.—In developing criteria under paragraph (1), the Commission shall consider, with respect to each Federal agency and department which has any responsibility for maintaining the strength of the domestic defense industrial base—

(A) the extent to which the statutory authority, policies, regulations, organizational arrangements, plans, programs, and budgets of such agency or department are adequate for the purpose of maintaining the strength of the domestic defense industrial base; and

(B) the degree to which such authority, policies, regulations, arrangements, plans, programs, and budgets are being effectively implemented and sufficiently coordinated (within the agency or department and with other Federal agencies and departments).

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members as follows:

(A) 3 members appointed by the Speaker of the House of Representatives (2 of whom shall be appointed upon the recommendation of the majority leader of the House of Representatives and 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives) from among individuals who are especially qualified to serve on the Commission by reason of their education, training, or experience.

(B) 3 members appointed by the President pro tempore of the Senate (2 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of whom shall be appointed upon the recommendation of the minority leader of the Senate) from among individuals who are especially qualified to serve on the Commission by reason of their education, training, or experience.

(C) 3 members appointed by a majority of the members appointed under subparagraphs (A) and (B) from among individuals who are especially qualified to serve on the Commission by reason of their education, training, or experience.

(2) TERMS.—

(A) IN GENERAL.—Each member shall be appointed for the life of the Commission.

(B) VACANCY.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(3) PROHIBITION ON COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), members of the Commission shall serve without pay.

(B) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(4) QUORUM.—A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(5) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members of the Commission from among the individuals appointed under paragraph (1)(C).

(6) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members.

(d) POWERS OF COMMISSION.—

(1) HEARINGS AND SESSIONS.—

(A) IN GENERAL.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(B) ADMINISTRATION OF OATHS.—The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take.

(3) OBTAINING OFFICIAL DATA.—

(A) AUTHORITY TO OBTAIN.—Notwithstanding any provision of section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out this Act.

(B) PROCEDURE.—Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish the information requested to the Commission.

(C) USE OF INFORMATION.—The Commission shall be subject to the same limitations with respect to the use or disclosure of any confidential or privileged information, trade secrets, or other proprietary or business-sensitive information which is obtained from any department or agency under this subsection as are applicable to the use or disclosure of such information or secrets by such department or agency.

(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(e) STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.—

(1) STAFF.—Subject to such regulations as the Commission may prescribe and with the approval of the Commission, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(2) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(3) EXPERTS AND CONSULTANTS.—Subject to such regulations as the Commission may prescribe, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS-18 of the General Schedule.

(4) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

(f) REPORT.—The Commission shall submit to the Congress and the President—

(1) an interim report at the end of the 1-year period beginning on the date the Commission first meets with a majority of members present; and

(2) a final report not later than September 1, 1992, on the findings of the Commission under this section with respect to the domestic defense industrial base, together with such recommendations for legislative, administrative, or policy action as the Commission may determine to be appropriate.

(g) TERMINATION.—The Commission shall cease to exist on September 30, 1992.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years 1991 and 1992 an amount not to exceed $500,000 to carry out the purposes of this section.

SEC. 10. EXTENSIONS, REPEALS, AND OTHER AMENDMENTS.

(a) ADDITIONAL DEFINITIONS.—Section 702 of the Defense Production Act of 1950 (50 U.S.C. App. 2152) is amended—

(1) by redesignating the paragraphs designated as (a), (b), (c), (d), (e), and (f) as paragraphs (1), (2), (3), (4), (5), and (6), respectively, and moving the left margins of such paragraphs 2 ems to the right;

(2) by striking paragraphs (2), (3), and (4) (as so redesignated by paragraph (1) of this subsection) and inserting in lieu thereof the following new paragraphs:

"(2) MATERIALS.—The term 'materials' includes raw materials, articles, commodities, components, processes, products, supplies, and technical information, and services with regard to any such item.

"(3) FACILITIES.—The term 'facilities' includes services with regard to any facility but does not include farms, churches or other places of worship, or private dwellings.

"(4) NATIONAL DEFENSE.—The term 'national defense' means programs for military and energy production or construction, military

assistance to any foreign nation, stockpiling, space, and directly related activity."; and

(3) by adding at the end the following new paragraphs:

"(7) SERVICES.—The term 'services' includes any effort that is needed in, or is incidental to, the development, production, construction, assemblage, processing, delivery, use or distribution of materials or facilities.

"(8) DOMESTIC AND FOREIGN SOURCES.—

"(A) DOMESTIC SOURCE.—The term 'domestic source' means any entity located in the domestic defense industrial base.

"(B) FOREIGN SOURCE.—The term 'foreign source' means any entity which is not a domestic source.".

(b) ENERGY SECURITY.—

(1) CONGRESSIONAL INTEREST MANIFEST IN OTHER LAWS.—The Congress hereby finds that congressional interest in energy security and the availability of energy for defense mobilization, industrial preparedness, and other purposes of the Defense Production Act of 1950 has also been expressed in various statutes enacted since the date of the enactment of such Act, including the provisions of Geothermal Energy Research, Development, and Demonstration Act of 1974, the Biomass Energy and Alcohol Fuels Act of 1980, and the Synthetic Fuels Corporation Act of 1985 which relate to geothermal energy, alcohol, and synthetic fuel projects.

(2) REPORTS REQUIRED.—To assist the Congress in discharging congressional responsibility for energy security and the availability of energy for defense mobilization, industrial preparedness, and other purposes of the Defense Production Act of 1950, the President shall prepare and transmit to the Congress, no less frequently than the end of each odd-numbered year, the projected capacity and potential prospects for the use of alternative and renewable sources of energy for such purposes.

(3) GEOTHERMAL ENERGY PROGRAM.—Section 203 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1143) (relating to period of guaranties and interest assistance) is amended by striking "1990" and inserting "1992".

(c) REPEALS.—

(1) Sections 703(b), 708A, and 720 of the Defense Production Act of 1950 (50 U.S.C. App. 2153(b), 2158a, and 2169) are hereby repealed.

(2) Section 705(e) of the Defense Production Act of 1950 (50 U.S.C. App. 2155(e)) is amended by striking the 2d paragraph.

(d) OTHER AMENDMENTS.—Section 711(a)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)(1)) is amended—

(1) by striking "and for payment of interest under subsection (b) of this section"; and

(2) by striking "Bureau of the Budget" and inserting "Office of Management and Budget".

The SPEAKER pro tempore. Is a second demanded?

Mr. WYLIE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. WALKER. Mr. Speaker, I object to the ordering of the second, and on that I demand tellers.

The SPEAKER pro tempore. The question is: Will a second be ordered?

Tellers were ordered, and the Speaker pro tempore appointed as tellers Ms. OAKAR and Mr. WYLIE.

The House divided, and the tellers reported that there were—yeas 35, nays 27.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 243, nays 159, not voting 30, as follows:

[Roll No. 355]

YEAS—243

Ackerman	Frost	Moakley
Alexander	Gaydos	Montgomery
Anderson	Gejdenson	Moody
Andrews	Geren	Morella
Annunzio	Gibbons	Mrazek
Anthony	Gillmor	Murphy
Applegate	Glickman	Murtha
Aspin	Gonzalez	Nagle
Atkins	Gordon	Natcher
AuCoin	Gray	Neal (MA)
Bates	Guarini	Neal (NC)
Beilenson	Hall (OH)	Nelson
Bennett	Hall (TX)	Nowak
Bentley	Hamilton	Oakar
Berman	Harris	Oberstar
Bevill	Hatcher	Obey
Bilbray	Hawkins	Olin
Boehlert	Hayes (IL)	Ortiz
Boggs	Hayes (LA)	Owens (UT)
Bonior	Hefner	Pallone
Borski	Hertel	Panetta
Bosco	Hoagland	Parker
Boucher	Hochbrueckner	Patterson
Boxer	Horton	Payne (VA)
Brennan	Hoyer	Pease
Brooks	Hubbard	Pelosi
Browder	Huckaby	Penny
Bruce	Hughes	Perkins
Bryant	Hutto	Pickett
Bustamante	Jacobs	Pickle
Campbell (CO)	Jenkins	Poshard
Cardin	Johnson (SD)	Price
Carper	Jones (GA)	Rahall
Carr	Jones (NC)	Rangel
Clarke	Jontz	Ray
Clay	Kanjorski	Richardson
Clement	Kastenmeier	Roe
Coleman (TX)	Kennedy	Rose
Collins	Kennelly	Rostenkowski
Condit	Kildee	Rowland (GA)
Conyers	Kleczka	Roybal
Cooper	Kolter	Russo
Costello	Kostmayer	Sabo
Coyne	LaFalce	Saiki
Darden	Lancaster	Sangmeister
de la Garza	Lantos	Sarpalius
DeFazio	Laughlin	Savage
Dellums	Leath (TX)	Sawyer
Derrick	Lehman (CA)	Scheuer
Dicks	Lehman (FL)	Schroeder
Dingell	Levin (MI)	Schumer
Dixon	Lewis (GA)	Serrano
Donnelly	Lipinski	Sharp
Dorgan (ND)	Lloyd	Sikorski
Downey	Long	Sisisky
Durbin	Lowey (NY)	Skaggs
Dwyer	Luken, Thomas	Skelton
Dymally	Manton	Slattery
Dyson	Markey	Slaughter (NY)
Early	Martinez	Smith (IA)
Eckart	Matsui	Solarz
Edwards (CA)	Mavroules	Spratt
Emerson	Mazzoli	Staggers
Engel	McCloskey	Stark
English	McCurdy	Stenholm
Erdreich	McDermott	Stokes
Evans	McHugh	Studds
Fascell	McMillen (MD)	Swift
Fazio	McNulty	Synar
Feighan	Mfume	Tallon
Flake	Michel	Tanner
Foglietta	Miller (CA)	Tauzin
Frank	Mineta	Taylor
Thomas (GA)	Vento	Wheat
Torres	Visclosky	Whitten
Torricelli	Volkmer	Williams
Towns	Walgren	Wilson
Traficant	Washington	Wise
Traxler	Watkins	Wyden
Unsoeld	Waxman	Yates
Valentine	Weiss	Yatron

NAYS—159

Archer	Hastert	Ridge
Armey	Hefley	Rinaldo
Baker	Henry	Ritter
Ballenger	Herger	Roberts
Bartlett	Hiler	Robinson
Barton	Holloway	Rogers
Bateman	Hopkins	Rohrabacher
Bereuter	Hunter	Ros-Lehtinen
Bilirakis	Hyde	Roth
Bliley	Inhofe	Roukema
Broomfield	Ireland	Saxton
Brown (CO)	James	Schaefer
Buechner	Johnson (CT)	Schiff
Bunning	Kasich	Schneider
Burton	Kolbe	Schuette
Callahan	Kyl	Schulze
Campbell (CA)	Lagomarsino	Sensenbrenner
Chandler	Leach (IA)	Shaw
Clinger	Lent	Shays
Coble	Lewis (CA)	Shumway
Coleman (MO)	Lewis (FL)	Shuster
Combest	Lightfoot	Skeen
Conte	Livingston	Slaughter (VA)
Coughlin	Lowery (CA)	Smith (NE)
Courter	Lukens, Donald	Smith (NJ)
Cox	Machtley	Smith (TX)
Craig	Madigan	Smith (VT)
Crane	Marlenee	Smith, Robert (NH)
Dannemeyer	Martin (NY)	
Davis	McCandless	Smith, Robert (OR)
DeLay	McCollum	
DeWine	McDade	Snowe
Dickinson	McEwen	Solomon
Dornan (CA)	McGrath	Spence
Dreier	McMillan (NC)	Stangeland
Duncan	Meyers	Stearns
Edwards (OK)	Miller (OH)	Stump
Fawell	Miller (WA)	Sundquist
Fields	Molinari	Tauke
Fish	Moorhead	Thomas (CA)
Gallegly	Myers	Thomas (WY)
Gallo	Nielson	Upton
Gekas	Oxley	Vander Jagt
Gilman	Packard	Vucanovich
Goodling	Parris	Walker
Goss	Pashayan	Walsh
Gradison	Paxon	Weber
Grandy	Petri	Weldon
Grant	Porter	Whittaker
Green	Pursell	Wolf
Gunderson	Quillen	Wylie
Hammerschmidt	Ravenel	Young (AK)
Hancock	Regula	Young (FL)
Hansen	Rhodes	

NOT VOTING—30

Barnard	Gephardt	Owens (NY)
Brown (CA)	Gingrich	Payne (NJ)
Byron	Houghton	Rowland (CT)
Chapman	Johnston	Smith (FL)
Crockett	Kaptur	Smith, Denny (OR)
Douglas	Levine (CA)	
Espy	Martin (IL)	Stallings
Flippo	McCrery	Udall
Ford (MI)	Mollohan	Wolpe
Ford (TN)	Morrison (CT)	
Frenzel	Morrison (WA)	

□ 1830

So a second was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MAZZOLI). The gentlewoman from Ohio [Ms. OAKAR] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ], who led the way. The committee reported out this bill 39 to 8.

Mr. GONZALEZ. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 486, the Defense Production Amendments of 1990.

This legislation will preserve and strengthen the capacity of U.S. companies to produce the materials and services needed for the national defense and, more particularly, under the present circumstances.

On September 11, the committee passed on a vote of 39 to 8 this bill to the full House. The bill was principally authored by the able chairperson of the subcommittee, the gentlewoman from Ohio [Ms. OAKAR], and I wanted to give her all the credit. She had been very generous in saying all I did, which was preside as full committee chairman in markup, and being that she did such an excellent job on the subcommittee level as well as the ranking minority member, we had no problem.

It was approved, as I said, 39 to 8, overwhelmingly.

Mr. Speaker, I rise in support of H.R. 486, the Defense Production Act Amendments of 1990. This legislation will preserve and strengthen the capacity of U.S. companies to produce the materials and services needed for our national defense.

On September 11, 1990, the Committee on Banking, Finance and Urban Affairs voted 39 to 8 to report this bill to the full House. The bill was principally authorized by the able chairperson of the Subcommittee on Economic Stabilization, Ms. MARY ROSE OAKAR of Ohio. Congresswoman OAKAR is to be commended for conducting the productive hearings and the numerous briefings and meetings needed to prepare this important legislation. Our appreciation should also be extended to the ranking minority member of the subcommittee, Congressman NORM SHUMWAY, for his work on this bill.

Since the initial passage of the Defense Production Act in 1950, the Banking Committee has worked to ensure that our domestic companies have the capacity to manufacture and supply our armed forces with the weapons and equipment they need to defend our Nation and its principles. H.R. 486 provides the President and the Pentagon with the necessary authorization to carry out our defense readiness programs. In addition, this legislation addresses concerns raised by a growing dependency on foreign manufacturers for component parts needed for U.S. weapons systems. The subcommittee received testimony which indicated that some 60 nations, including Chad and Upper Volga, are producing critical components of the equipment used by the U.S. military. Simple gears are important parts of most weapon systems but it is estimated that as much as 30 percent of all defense contracts for gears are awarded to foreign manufacturers—a situation we found repeated over and over again for many other critical parts and components.

Mr. Speaker, there are many good reasons to support this important legislation. This legislation provides the self reliance necessary for the defense of our Nation. I urge an aye vote.

Ms. OAKAR. Mr. Speaker, I reserve the balance of my time.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will vote for H.R. 486, the Defense Production Act.

The Defense Production Act is an important part of our national security strategy. The act continually has been reauthorized since 1950, and allows the President to use financial incentives to expand domestic capacity of critical defense materials and components. The act also allows the President to require priority performance of contracts which have been determined to be necessary for the national defense.

The Defense Production Act is now being used for United States operations in Saudi Arabia. I have received from the Department of Commerce a summation of four areas where the act is being used to procure items necessary for our troops in the Middle East.

Mr. Speaker, I am submitting that for the RECORD at this time.

USE OF TITLE I AUTHORITY UNDER THE DEFENSE PRODUCTION ACT IN SUPPORT OF OPERATION "DESERT SHIELD"

Missile shipping containers: The military services do not have enough containers to ship tactical missiles to U.S. forces in the Mid-East. The container manufacturer is experiencing a shortage of materials needed for their fabrication. Commerce is using its Title I priorities and allocations authority under the DPA to require five suppliers to expedite deliveries of these materials.

Radio and amplifier systems for satellite communications: Expedited deliveries of special satellite communications systems, including amplifiers to boost signal strength, are required by the Air Force. Commerce is using its Title I priorities and allocations authority under the DPA to direct the manufacturer to surge production and to divert deliveries to meet Air Force requirements.

Tempested lap top computers for battlefield use: Tempested lap top computers for communications that can withstand the harsh desert environment are urgently required. Commerce is using its Title I priorities and allocations authority under the DPA to surge production of these computers and to divert deliveries to meet the most urgent military requirements.

Defense electronic countermeasure pods for Navy and USAF Aircraft: Added countermeasure capability is required for both Navy and Air Force aircraft deployed to the Mid-East. There is a shortage of materials needed to make the modifications. Commerce is using its Title I priorities and allocations authority under the DPA to surge production of these materials by suppliers and to provide the pod manufacturer with additional production equipment needed to increase output.

Mr. Speaker, the Defense Production Act will expire September 30, 1990, unless this Congress acts. If Congress fails to act by September 30, then it will jeopardize some very important procurement operations. If we fail to reauthorize the Defense Production Act, civilian contractors will be subject to civil liability suits from other contractors because they did what their Government asked them to do by putting defense contractors first in their priority.

Moreover, if we fail to reauthorize the Defense Production Act, we raise the possibility of putting our troops at some risk, because they will not have the proper equipment they need. To not reauthorize this bill on time would be a disservice to our men and women in uniform over in Saudi Arabia.

The gentleman from California [Mr. SHUMWAY] objected to section 4 of the bill, and the gentleman from Ohio accepted an amendment, and during the course of negotiations on that amendment, it was my understanding that the procedure today would not be objected to, and the gentleman from California said it could be taken up on suspension. I implied from those discussions that I would support the bill when it came up on suspension. The gentleman from California did reserve the right, I will say, to vote no.

About 3 hours ago the administration sent up a paper indicating its position in opposition to the bill in its present form, but, as I say, I think I impliedly gave my word to support the bill, and I do so at this time. I do so also because it is my judgment that we must keep the process moving by passing H.R. 486.

If the Senate does not act, then I believe we must do a straight reauthorization as quickly as possible for a decent period of time, possibly 2 years as the administration has suggested. Meanwhile, I think there would be serious consequences if we do not authorize it by September 30, as I indicated, both for our troops and for our defense contractors who are cooperating with the President. They will be adversely affected by our failure to act. I do not want to see that.

In my judgment, we do not have a choice, and I think the gentlewoman from Ohio has been sincere and conscientious in her efforts to bring an agreeable bill to the floor today. I congratulate her for her efforts to work a compromise on this issue.

Mr. Speaker, I reserve the balance of my time.

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the chairman and the distinguished minority leader of the committee. I thank him for his gracious words, and I want to thank the gentleman from California [Mr. SHUMWAY] for his co-

operation in the 3 years of hearings that we have had on this critical issue.

Mr. Speaker, if we do not pass this bill today, as the gentleman from Ohio has mentioned, this act expires September 30, and we will not have enough time to meet with the Senate and work out the disagreements, and really and truly we will be jeopardizing, I honestly believe, the lives of the men and women who are serving our country in the Persian Gulf.

□ 1840

Mr. Speaker, since DPA has not been amended substantially since 1984, it is very necessary to strengthen the authorities of the President, the Department of Defense and the Department of Energy, to deal with the spectrum of new threats to our Nation's security that range from diplomatic confrontation to armed conflict. It does so by providing important enhancements to the defense industrial base of our country which support our foreign policy initiatives, if these do not support and sustain United States military forces in armed conflict. Right now, the DPA is directly supporting Operation Desert Shield by expediting the production of chemical protective clothing, patroit missiles, armored carriers, and battle-hardened computers under the circumstances of the current deployment of the United States in the Persian Gulf reauthorization of the Defense Production Act. Therefore, prior to expiration date of September 30th, is absolutely essential. Lives are at stake.

The authorities for the Defense Production Act of 1950 are used more than once every working day to expedite the production of everything from small components to major front line weapon systems. There are a number of titles to the bill. However, Mr. Speaker, let me just discuss the significance of the statute. DPA is the cornerstone of all United States industrial preparedness and mobilization programs. It directly supports American foreign military policy and capability in a spectrum of situations. There is no other legislative support for industrial mobilization, so prompt reauthorization of DPA is absolutely essential.

The administration has warned Members repeatedly that the Act should not be allowed to lapse. I ask, at the appropriate point to have a letter to this effect, from the Federal Emergency Management Ageny, dated June 29, 1990, be included in our RECORD.

Let me mention a few sections of the bill. Section 4 proposes to give the President authority to set aside, if he deems necessary for domestic procurement, those items which the White House finds are critical to the national security of our country. The committee does not believe this authority exists in current law. This section also encourages modernization of the facilities of defense contractors, particularly small and medium-sized businesses so critical items bought from domestic sources can be world competitive in terms of quality, cost, and delivery. Section 5 proposes that the Defense Department develop an information system truly capable of managing a defense mobilization. This is critical to our Nation and, indeed, those countries that want to protect security.

The Department of Defense, the General Accounting Office, the House Committee on Government Operations and all who have studied this area are unanimous that such a system is essential and does not now exist. We would provide the seed money for these and related purposes.

Mr. Speaker, also one of the things that we add, that everyone, including the administration wanted Members to do, was to strengthen energy security, something we have not done in many, many years. In section 7, 8, and 10 contain vital support for adequate supplies of energy which is designated by DPA as a strategic and critical material for the United States defense industrial base.

Mr. Speaker, our bill maintains the linkage between energy and defense preparedness in this current statute. The Senate bill does not, and I believe that the American people want Members to have a national energy policy, particularly in the area of energy security. Additionally, as a result of a series of 10, 10 subcommittee hearings since July 1988 on energy security, H.R. 486 contains a new provision calling for periodic assessments of the current and future capacities of a range of alternative and renewable energy sources to fuel our defense industrial base. At present, statistics on renewable energy are not even collected in the national energy statistics of this country.

Members may also recall that from 1939 to 1945 Germany used nearly as much synthetic oil made from coal as it did natural crude oil, and we need to certainly think of synthetic ways to have alternative forms of fuel. At the full committee, section 9 of the subcommittee bill on foreign acquisitions was stricken by our joint amendment, and we both agreed on that.

Mr. Speaker, the subcommittee has conducted 3 years of hearings, has heard from dozens of witnesses on how to strengthen the defense industrial base of our country. In addition, we have consulted extensively with the blue ribbon advisory committee in formulating this bill. We have tried to work, and I think we have worked closely with the minority every step of the way. I believe we have produced a bill which is crucial to current and future United States foreign policy objectives and military readiness, and we have tried to accommodate the distinguished minority leader, the gentleman from California [Mr. SHUMWAY], with the addition of his perfecting amendments.

As the subcommittee chair responsible for this legislation, I urge in the strongest possible terms that we expedite this bill, and that we defer to give Congress the best opportunity to legislate substantially on defense industry.

Mr. Speaker, I reserve the balance of my time.

Mr. WYLIE. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. SHUMWAY].

Mr. SHUMWAY. Mr. Speaker, I thank the gentleman from Ohio [Mr. WYLIE] for the generous time, and also I appreciate the remarks of the gentleman.

Mr. Speaker, I rise to voice my strong opposition to the enactment of H.R. 486, the Defense Production Act Amendments of 1990. While the reauthorization of the DPA is of critical importance due to Operation Desert Shield, I cannot, in good conscience, allow this needed reauthorization to be used to further the establishment of a variety of industrial policy initiatives which have no place in this legislation.

In brief, the DPA gives the President the authority to direct materials and facilities from civilian to national defense uses to ensure adequate industrial production and supply for national security purposes. However, H.R. 486 includes several provisions that will make it more difficult for the President to ensure that the men and women in our Armed Forces have the best equipment available in a time of conflict. H.R. 486 places unnecessary and duplicative hurdles to the administration of the Defense Production Act involving domestic sourcing requirements, small- to medium-size business preferences, and overriding of memorandun of understanding which have been previously negotiated with our allies.

This bill would require the President to use the DPA to domestically source all weapons, parts, and components which are determined to be critical to our national security. This domestic source requirement confuses the problem of foreign vulnerability with the "red herring" of foreign source. Just because a defense component is acquired offshore does not mean that it would be unavailable from a wide variety of sources. This distinction is lost in this bill.

This provision, Mr. Speaker, is protectionist. H.R. 486 has the chilling effect of closing our borders to international trade in a domestic economic sector which continues to be competitive internationally. If H.R. 486 is passed, our major trading partners will certainly retaliate against American businesses by further closing their

borders to future U.S. defense-related exports.

The administration has conveyed its strong opposition to H.R. 486 as presently drafted, indicating that if the administration's proposal, H.R. 4766, is not adopted, it would support an extension of the existing DPA rather than enactment of H.R. 486. Before voting on this bill, I urge all Members to read the statement of administration policy to familiarize themselves with the extensive objections that the administration has to H.R. 486.

The bill shows little fiscal responsibility by authorizing $80 million more than the administration has indicated is needed to carry out the DPA—$130 versus $50 million.

In conclusion, H.R. 486 requires the President to consider factors for all defense-related procurement which are arbitrary, onerous, and the unstated purpose. Therefore, I urge Members to oppose H.R. 486 and work for a more common sense approach: A clean extension of the DPA. This is particularly important in light of our continuing support of Operation Desert Shield. If we allow the authorities provided in the DPA to expire on September 30, 1990, without an extension, we run the risk of not providing our Armed Forces in the Persian Gulf with the weapons systems needed to defend themselves.

□ 1850

Ms. OAKAR. Mr. Speaker, I yield myself 1 minute to respond to my friend, the gentleman from California.

It is true, as my distinguished minority leader of the full committee, the gentleman from Ohio [Mr. WYLIE] has said, that about 3 hours ago the Office of Management and Budget, which historically does not know a whole lot about defense matters, brought over a letter, and I wish you would read it because they contradict themselves. For example, let me just tell you what they say. Its says:

> The Administration opposes the approach used to remedy the conflicts of interest problem contained in section 8.

That is the energy amendments. Those were the amendments which they say in the last paragraph, Keep section 8. We like that part. Those were the amendments that I accepted from the administration, so I think they either have not read the bill or want to contradict themselves in the same missive that they are sending around.

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. SHUMWAY].

Mr. SHUMWAY. Mr. Speaker, the statement of administration policy did come from the OMB. It was received last Friday, but I suppose of more recent importance, is the fact that I spoke just a couple of hours ago to Mr. Jed Babbin, who is the Deputy Under Secretary of Defense for Acquisition and Planning. He reiterated the fact that the Defense Department is very strongly opposed to this bill.

I think the gentlewoman has negotiated with the Department of Energy and obtained concessions from the Department of Energy, and they likewise obtained concessions from the gentlewoman, and for that reason, I believe she has surmised that the administration has come on board to support the bill, but that is not the case with the Defense Department. I affirmed that in a conversation just within the last couple of hours.

Ms. OAKAR. Mr. Speaker, I yield myself 30 seconds.

The gentleman from California indicated that this bill would mandate sources from our own industrial base. That is absolutely not true.

The bill gives the President flexibility. Let me read from the bill. It says:

> We shall limit to domestic manufacturing and assembly sources those existing or new weapons parts or components which the President determines are critical.

It is up to the President. We are not mandating that he use domestic sources. We hope he does, but we are not mandating that, and I would like to submit that section for the RECORD.

Mr. WYLIE. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I rise in the strongest possible opposition to this legislation, to this bill in this form. I want to say to the House that this is a bad bill. It is opposed by the Department of Defense as being bad for defense. It should be vetoed in its present form. It should not be considered under a suspension of the rules, as suspension of the rules permits the House to vote on no amendments, and as the gentleman from California said, finally this bill would back door the Congress unwillingly and I think unknowingly into a new run at industrial policy which has been rejected on this House floor before.

First, on a suspension of the rules, I want to note for the RECORD that one of the rules that we would be suspending if this bill passes on suspension, one of the rules we would be suspending would be the requirement for a majority of the committee to be present when a bill is passed out of committee. In fact, this bill could not even get a majority of the members of the Banking Committee to attend the markup in order to vote the bill out, so while the rules that we would be suspending would be the rule that requires a quorum to be present when a bill is reported and considered in committee.

In fact, that had a real impact on the outcome of this bill because amendment after amendment, reasonable amendment after reasonable amendment offered by the gentleman from California [Mr. SHUMWAY] to the Banking Committee and all were rejected out of hand. None were given the time of day, in part because a quorum was not even present at the committee.

Second, if we want to give serious consideration, as we ought, to an extension of this act, the Defense Production Act, by passing a bad bill on suspension that delays passage of legislation, that keeps us from passing legislation and having it signed into law because in fact this bill simply clutters up the prospect, and if we pass this bill on suspension it will delay any kind of an extension of the DPA, and third on substantive issues, we should defeat this because of the suspension of the rules and bad procedure.

Let me walk through some of the most egregious sections of this bill substantively.

First, section 4 tries to set in a back doorway industrial policy, back door industrial policy that is unrelated to the defense of the United States. That is, in fact, counterproductive and contrary to the security needs of the United States of America. Indeed, the gentlewoman's own comments, the sponsor of the bill, she alluded to the creation of synfuel plants. I am not sure what she means, but the last thing this country should do is go back to the days of the pork barrel synthetic fuel plants that ate up billions of dollars, tens of billions of dollars for fuel that was not used, could be used, and in fact was so expensive that it was not feasible.

Second, section 5. Section 5 merely adds more money than is necessary to carry out its purposes and more money than is requested from the Department of Defense.

Similarly, section 6 provides $130 million of spending authority when the Department of Defense says they can do the job and have been doing the job for $50 million.

Section 10, a new commission, a commission which is not needed. No one proposes that there is anything else we need to know. The subcommittee has studied the issue and had hearings for 3 years, and yet section 10 of the bill would create a new, newly reformed commission on the industrial base. There is no need. There is no evidence of a need. We have studied it to death. The subcommittee has studied it for 3 years. We have a proposal from the Department of Defense and we have a 3-year study by Congress. The last thing we need for substantive reasons is a new commission on the industrial base. In fact, the purpose of the commission is only to keep the commission somehow politically alive so that people on the commission can get on the 6 o'clock news presumably.

Last is section 8. Section 8 of this bill provides for no waiver for national security purposes. The Secretary of Defense has told us that in enforcing section 8 for the national security needs of this Nation, he needs to have the authority to provide for a national security waiver. Here we are talking about a defense bill in the context of our troops whose lives are in jeopardy in the Saudi Arabian Desert and we cannot even bring ourselves to allow an amendment on the floor to provide for a waiver based on the security needs of the United States of America.

Now, let us bring this bill up on regular order, allow the amendments to be debated, allow a national security bill to be debated and passed on this House floor and not try to suspend the rules so that the issues are never discussed.

Ms. OAKAR. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. NEAL].

□ 1900

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I rise to express my strong support for H.R. 486, the Defense Production Act Amendments.

I would also like to commend the congresswoman from Ohio [Ms. OAKAR] for her hard work on this bill.

The Subcommittee on Economic Stabilization heard from dozens of expert witnesses on this complex matter. I believe that today we presented a solid measure extending the Defense Production Act beyond the current expiration date of September 30.

My compliments also to the gentleman from California [Mr. SHUMWAY], our Republican Member.

Earlier this year the subcommittee considered defense contract policy, and we worked in what we hoped was a harmonious manner.

This is a new era for world peace. The threat to our security from the Soviet Union has receded and new emphasis was placed on looking for ways to be sure that our defense spending was based upon efficient defense systems that would address our needs in the post-cold war era.

Of course, Saddam Hussein changed that significantly on August 2, when his Iraqi Army invaded Kuwait.

It is still a dangerous and unpredictable world and America still has major defense needs.

This piece of legislation will assure that we will still have the industrial domestic capacity necessary to produce the goods needed for national defense.

Many of us in this House have long been concerned with the trend toward foreign sources of critical parts and materials. This bill makes adjustments in procurement schemes that strengthen our defense capacity.

The provisions of this measure will ensure that within 5 years this country will have the means to provide domestically all those weapons parts and components that are critical to the national security.

It is a cost-conscious, well-written defense procurement plan, and I urge my colleagues to support H.R. 486.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. I thank the gentleman from Ohio for yielding.

Mr. Speaker, I rise in strong support of H.R. 486. I want to commend the distinguished gentlewoman from Ohio [Ms. OAKAR] for her leadership on this very important measure which deals with the industrial base of this country.

For all too long, Mr. Speaker, we have been hearing report after report about the lack of having an adequate industrial base for our defense purposes and little information about the needs.

In the last 2 weeks we have been talking about the fact that our country is at a crossroads, that a budget crisis is threatening to bring the country down from within. Well, the budget crisis is not the only virus that is consuming the United States from within. The deteriorating defense industrial base is at an even more critical point.

After World War II, Mr. Speaker, the Soviets credited our industrial base with their ability to win that war. Today the United States cannot even produce adequate uniforms in this country. What does this mean to our soldiers? We do not even have the sufficient capacity to manufacture chemical weapons gear. We can only make 17 percent of what the soldiers need. This list goes on and on.

I want to particularly refer to section 6 of 486 which authorizes $130 million per year in appropriations for 5 years and guarantees loans and purchase guarantees for purposes of filling gaps in manufacturing capability for defense materials and products.

Mr. Speaker, I cannot tell you how many industries have come to my office and said, "We need help to keep our small company going because you really need it in this country for the industrial base."

Mr. Speaker, are we going to become totally dependent upon foreign sources? The time has arrived, Mr. Speaker, for us to think American—America first. What is wrong with requiring the President to seek an American source before going abroad for vital components and products? That is the way it should be all the time. I think it is in order that we support H.R. 486 and we pass it with, I hope, a great majority.

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to compliment the gentlewoman from Maryland, who, while she is not on the committee, has taken out special orders so often and has been zealous in insuring that we know as Americans that we have the industrial base to protect ourselves, and she has been critical in all of her insights to our debates within the committee and on the floor.

I want to compliment the Congresswoman for her excellent work in this area.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California [Mr. TORRES].

Mr. TORRES. I thank the gentlewoman for yielding this time to me.

Mr. Speaker, I want to commend the gentlewoman from Ohio for the tremendous amount of leadership she has provided in this legislation. I am a member of her subcommittee, and I know that we have spent extensive time deliberating this very important issue that is before us today.

We know that the purposes of H.R. 486 is to maintain and to enhance the Nation's defense industrial base and mobilization capability by assuring the prioritized domestic production of critical materials, parts, and components, including energy and to reduce the growing dependency, as the gentlewoman from Maryland [Mrs. BENTLEY] has just so well pointed out, the dependency of the United States on foreign sources of critical defense items and materials.

Now, H.R. 486 provides explicit presidential authority to restrict an item to domestic procurement in the event that the President finds it critical to the national security mobilization purposes.

Mr. Speaker, this legislation at this time is so critical for our country with the events in the Middle East. The United States has increasingly become dependent on foreign sources for its defense equipment.

This is the result of the erosion of our own industrial base. The erosion is taking place because of the underselling of U.S. production by foreign production and the shift of production to other countries in industry after industry.

Mr. Speaker, another industrial sector that is very hard hit in this country because of the foreign sourcing problem is the machine tool industry. Mr. Matthew B. Coffey, president of the National Tooling and Machining Association, noted that independent contract metalworking companies indirectly supply up to 70 percent of the parts and components of major weapons systems and that spare and replacement parts made by these firms would be needed continuously in the field of battle.

He goes on to say that,

If there is a national emergency, there may not be enough of small firms to support mobilization. In the private sector these small firms have already suffered along with their U.S. customers in the automotive, computer, electronics, appliance, and other import-impacted sectors.

Mr. Speaker, an obvious impact of the shrinking defense industrial base is the injury to and the loss of highly trained and skilled workers. These affected workers often lose their job or their specific defense production-oriented skills when a defense-oriented firm closes its doors or when it shifts its orientation from defense production to civilian production.

So this legislation is critical. As I stated, it is critical for specifically what is happening today in the Middle East and the advent of Desert Shield.

This legislation has to be supported by this House, Mr. Speaker.

Mr. Speaker, I commend the gentlewoman from Ohio for her leadership again in bringing this bill to us and for the work that has taken place in the subcommittee, and I urge its adoption.

Mr. WYLIE. Mr. Speaker, I yield 1 additional minute to the gentleman from California [Mr. SHUMWAY].

Mr. SHUMWAY. I thank the gentleman from Ohio for yielding this time to me, Mr. Speaker. This debate this afternoon has underscored, I think, very clearly, a reason for defeat of this bill. That is, it is controversial. Those bills that have as much controversey as this one really do not belong on the Suspension Calendar.

They should be debated in due course; they should be amended; they should be discussed at some length and not rushed through as this bill would be today.

If we had used the energy that we have expended during the last hour to debate and then passed a clean reauthorization, we would be home free at this point.

The act has been utilized very well up to this point and really all we need is a clean reauthorization of it. We do not need a number of new adornments.

The administration introduced a bill to do just that on May 9. It was a clean reauthorization, plus it had the energy authorities which the administration wants.

I recognize that the administration's position that we have came late, but nevertheless their position is clear and it really is not too late for us to act upon it.

This bill provides the President with some very important tools. Let us listen to what the President wants. He does not want this bill.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is an honest difference of opinion on our side as the impact of section 4.

Section 4 gives the President the flexibility to have critical weapons, parts and components sourced from within the United States. The erosion of our defense industrial base I think should be an issue of serious concern to this Congress.

□ 1910

Mr. Speaker, the Committee on Banking, Finance and Urban Affairs received testimony that two-thirds of DOD suppliers have left the defense business since 1982. The committee also heard that 80,000 defense firms have left this industry.

With respect to foreign dependence, the Department of Defense joint logistics commanders reviewed 13 major frontline weapons systems and have found foreign dependency in 8 of these and severe problems in the other 6.

Former Secretary of Defense Frank Carlucci said, "When we become dependent on foreign suppliers in this area, we run enormous risk of falling behind and becoming dependent in other areas as well."

Mr. Speaker, I feel this bill begins to address the problems of foreign dependence without mandating source or supply. I do not see too much wrong with that, and I urge adoption of the bill.

Ms. OAKAR. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I have heard comments, and I was delighted, that the majority of the other side of the aisle in full committee did vote for the bill, and that was heartening.

However, Mr. Speaker, some of the Members, the gentleman from Texas [Mr. BARTLETT] in particular, has indicated that we should be for the status quo related to our energy security.

I say to this House and to the American people, and we have heard witness after witness say, that the status quo related to energy security is not good enough, and what we are talking about is in a time of emergency, can we protect ourselves?

When this happened several weeks ago, when the Department of Defense put out bids to purchase 1.1 million barrels of oil for the protection to be used for our men and women who are serving in the Persian Gulf; when they put out that bid, they were only able to get 800,000 barrels of oil, and the authority is not for them to go further. We allow the flexibility for them to have an energy security policy which the Department of Energy and the administration wants.

In addition, we do not do away with the memorandums of understanding which the gentleman from Texas [Mr. BARTLETT] gave the impression of. He was very cute with language, but the fact is that what we say is, if, and it is a big if, if the President deems that certain equipment is critical for our own national security to be produced at home, then the memorandum of understanding is no longer in existence, and it can be suspended. But that is up to the President of the United States. We do not mandate anything.

Mr. Speaker, we do not even have any buy-American provisions in this particular bill, even though many of our colleagues feel that should be done.

So, we feel, as the National Tooling and Machinery Association, the International Electrical and Electronic Workers, the businesses throughout this country, the AFL-CIO, the United Auto Workers, all business and labor united feel that we should protect our own defense industrial base, and the time is now to do it, and, if we feel today we want to see the Defense Production Act passed so that we can go in conference with the Senate because it expires September 30, we will pass overwhelmingly this bill and work out our minor differences in conference.

Mr. Speaker, I want to thank the members of the committee who for 3 years have worked tirelessly on this issue, and I think the good work of our committee will send the right signal to the American people and to our men and women abroad that we care about them and we are going to make sure that they have the best equipment and are protected fully.

The SPEAKER pro tempore (Mr. MAZZOLI). All time for debate on this motion has expired.

The question is on the motion offered by the gentlewoman from Ohio [Ms. OAKAR] that the House suspend the rules and pass the bill, H.R. 486, as amended.

The question was taken.

Mr. SHUMWAY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

AUTHORIZING THE SPEAKER TO REDUCE TIME FOR RECORDED VOTES POSTPONED EARLIER TODAY

Mr. GRAY. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to reduce the time to not less than 2 minutes for all recorded votes after the first of those votes postponed earlier today on ordering the previous question on 3 resolutions reported from the Committee on Rules, on recorded votes if ordered on those resolutions and on 10 motions to suspend the rules.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. MICHEL. Mr. Speaker, reserving the right to object, first of all, I know we have had extended debate on

a number of suspensions here today and we would like to telescope some of the time, and a request has come from the other side that we have the votes confined to 2 minutes.

Mr. Speaker, I know there are some Members who would say they would be missing votes if we have them at 2-minute intervals. I do not know how they can miss votes at 2-minute intervals if they simply stay here, and vote and get it over with, and that is going to take 5 minutes. There are those who say we have got to have 5 minutes; 5 minutes means 8 minutes, and we are here for 2 hours, for what I do not know.

Mr. Speaker, I have got to get up for the summit at 8:30. Some of the other Members have got to do likewise, and I do not buy the argument that we cannot do this in an orderly way in 2 minutes.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I am happy to yield to the distinguished gentleman from Minnesota [Mr. FRENZEL] who just made some comment to the effect that maybe it is too speedy, and I would like to have a good explanation of why we cannot do that.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman from Illinois [Mr. MICHEL] for yielding and would tell him, "You've given us the first explanation that makes any sense all day for expediting the procedure. It is so you can do some negotiating. About time we all did it."

Mr. Speaker, I have no objection if the gentleman from Illinois [Mr. MICHEL] has none.

Mr. MICHEL. Mr. Speaker, I thank the distinguished gentleman from Minnesota [Mr. FRENZEL]. It would be my understanding, if the distinguished whip would respond, that that would complete our business for tonight after conclusion of our votes.

Mr. GRAY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Pennsylvania.

Mr. GRAY. Mr. Speaker, I say to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], that the proposal is asking unanimous consent for a first vote that would be 15 minutes.

Mr. MICHEL. I understand that.

Mr. GRAY. That would be followed by 5 more 2-minute votes on rules, then 10 suspension votes, 2 minutes each, and at the conclusion of all of those votes, that would be the end of all legislative business for today.

Mr. MICHEL. Now those first five 2-minute votes will be on what?

Mr. GRAY. On rules.

Mr. MICHEL. On rules for what?

Mr. GRAY. That previously have been debated and that we would adopt.

Mr. MICHEL. Have we got a printed poop sheet for everybody so everybody knows the game plan? I think that would be imperative, and we could pass those out at the door so we do not have any excuse. It would be my feeling, if we can make it work under those circumstances, it might be a good forerunner of things to come as we get closer and closer to adjournment and time is of the essence.

Mr. GRAY. Mr. Speaker, there is indication on our side that, one, we will announce through the intercom system that these votes will be held 2 minutes apart, and we will urge Members not to leave the floor.

Second, the whip organization on the majority side will be instructing Members, as they come in for the first vote, not to leave because there will be a total of 15 2-minute votes, which would, therefore, consume at least 30 minutes. Then we have to probably factor in at least 1 minute before each vote, so really we are talking about, if everything goes right, hopefully 1 hour within which we can finish all of these, and, if the minority side would announce on their intercom instructions to their Members and if their whip organization would at the door instruct Members not to leave because of 15 2-minute votes, I think we ought to be able to complete this process in 1 hour so that the minority leader, as well as others involved on our side, including the distinguished majority leader, could go back to the summit.

Mr. MICHEL. Mr. Speaker, I appreciate the response of the gentleman from Pennsylvania [Mr. GRAY], so let us get on with it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

□ 1920

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair wishes to announce that the first vote will be 15 minutes in length, and that subsequent votes will be 2 minutes in length. Each 2-minute vote will be preceded by the ringing of two bells. In order to expedite the proper recording of the votes, Members are encouraged to use their electronic voting cards.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

Pursuant to clause 5, rule I, the Chair will now put the question on the postponed votes on each of the privileged resolutions called up by the Committee on Rules earlier today.

Votes will be taken in the following order: De novo consideration of ordering the previous question on the House resolution, House Resolution 466, and the adoption of the resolution, if ordered; the yeas and nays on ordering the previous question on the House resolution, House Resolution 469, and the adoption of the resolution, if ordered; and the yeas and nays on ordering the previous question on the House resolution, House Resolution 468, and the adoption of that resolution, if ordered.

Votes will be taken on suspensions in the following order: H.R. 4279, by the yeas and nays; S. 535, by the yeas and nays; S. 2075, by the yeas and nays; H.R. 4323, by the yeas and nays; H.R. 5482, by the yeas and nays; H.R. 5254, by the yeas and nays; H.R. 5255, by the yeas and nays; H.R. 3533, by the yeas and nays; House Resolution 470, by the yeas and nays; and House Resolution 486, by the yeas and nays.

PROVIDING FOR CONSIDERATION OF H.R. 4793, SMALL BUSINESS REAUTHORIZATION AND AMENDMENTS ACT OF 1990

The SPEAKER pro tempore. The pending business is the question de novo of ordering the previous question on House Resolution 466.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The SPEAKER pro tempore. All subsequent votes in this series will be two minute votes.

The vote was taken by electronic device, and there were—yeas 400, nays 9, not voting 23, as follows:

[Roll No. 356]

YEAS—400

Ackerman	Bevill	Callahan
Alexander	Bilbray	Campbell (CA)
Anderson	Bilirakis	Campbell (CO)
Andrews	Bliley	Cardin
Annunzio	Boehlert	Carper
Anthony	Boggs	Carr
Applegate	Bonior	Chandler
Archer	Borski	Chapman
Armey	Bosco	Clarke
Aspin	Boucher	Clay
Atkins	Boxer	Clement
AuCoin	Brennan	Clinger
Baker	Brooks	Coble
Ballenger	Broomfield	Coleman (MO)
Bartlett	Browder	Coleman (TX)
Barton	Brown (CA)	Collins
Bateman	Brown (CO)	Combest
Bates	Bruce	Condit
Beilenson	Bryant	Conte
Bennett	Buechner	Conyers
Bentley	Bunning	Cooper
Bereuter	Burton	Costello
Berman	Bustamante	Coughlin

Courter
Cox
Coyne
Craig
Crane
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Moorhead
Morella
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wolf
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—9

Dannemeyer
Frenzel
Gekas
Lewis (CA)
Lukens, Donald
Marlenee
Sensenbrenner
Shumway
Stump

NOT VOTING—23

Barnard
Byron
Crockett
Espy
Flippo
Hawkins
Johnston
Kleczka
Martin (IL)
McCrery
Mollohan
Morrison (CT)
Morrison (WA)
Owens (NY)
Payne (NJ)
Payne (VA)
Rowland (CT)
Smith (FL)
Smith, Denny (OR)
Swift
Williams
Wise
Wolpe

□ 1940

Mr. BURTON of Indiana changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MAZZOLI). The pending business is on agreeing to the resolution.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 2-minute vote.

The Chair would request the Members to remain upon the floor. It is not fair to the other Members for Members to leave.

The vote was taken by electronic device, and there were—yeas 406, nays 7, not voting 19, as follows:

[Roll No. 357]

YEAS—406

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Moorhead
Morella
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm

Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—7

Armey
Frenzel
Grandy
Marlenee
Sensenbrenner
Shumway
Stump

NOT VOTING—19

Barnard
Byron
Crockett
Espy
Flippo
Hawkins
Johnston
Martin (IL)
McCrery
Mollohan
Morrison (CT)
Morrison (WA)
Owens (NY)
Payne (NJ)
Rowland (CT)
Smith (FL)
Smith, Denny (OR)
Williams
Wolpe

□ 1944

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 5314, WATER RESOURCES DEVELOPMENT ACT OF 1990

The SPEAKER pro tempore. The pending business is the vote on ordering the previous question on House Resolution 469, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

This is a 2-minute vote, and the Chair will not be very disposed to holding the vote open hereafter.

The vote was taken by electronic device, and there were—yeas 378, nays 33, not voting 21, as follows:

[Roll No. 358]

YEAS—378

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Ballenger
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bustamante
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Dannemeyer
Darden
Davis
de la Garza
DeFazio
Dellums
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (OK)
Emerson
Engel
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Grant
Gray
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Hertel
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Moorhead
Morella
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—33

Armey
Bartlett
Barton
Bliley
Bunning
Burton
Crane
DeLay
Douglas
Frenzel
Gradison
Grandy
Green
Hancock
Henry
Herger
Hiler
Kyl
Madigan
Marlenee
Michel
Rhodes
Robinson
Sensenbrenner
Shumway
Slaughter (VA)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Solomon
Stearns
Stump
Walker

NOT VOTING—21

Barnard
Byron
Crockett
Derrick
Edwards (CA)
Espy
Flippo
Hawkins
Johnston
Martin (IL)
McCrery
Mollohan
Morrison (CT)
Morrison (WA)
Owens (NY)
Payne (NJ)
Rowland (CT)
Smith (FL)
Smith, Denny (OR)
Williams
Wolpe

□ 1950

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The pending business is on agreeing to the resolution.

The Clerk read the title of the resolution.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the resolution.

The question was taken; the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The Chair will remind Members this is a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 376, nays 35, not voting 21, as follows:

[Roll No. 359]

YEAS—376

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Ballenger
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Bustamante
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Courter
Coyne
Craig
Dannemeyer
Darden
Davis
de la Garza
DeFazio
Dellums
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson

Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Grant
Gray
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Moorhead
Morella
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—35

Armey
Baker
Bartlett
Barton
Burton
Campbell (CA)
Coughlin
Cox
Crane
DeLay
Douglas
Frenzel
Gekas
Gradison
Grandy
Green
Hancock
Henry
Hiler
Kyl
Marlenee
Michel
Rhodes
Robinson
Rohrabacher
Sensenbrenner
Shumway
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stearns
Stump
Walker

NOT VOTING—21

Barnard
Byron
Crockett
Espy
Flippo
Hawkins
Hunter
Johnston
Madigan
Martin (IL)
McCrery
Mollohan
Morrison (CT)
Morrison (WA)
Owens (NY)
Payne (NJ)
Rowland (CT)
Smith (FL)
Smith, Denny (OR)
Williams
Wolpe

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 4450, COASTAL ZONE ACT REAUTHORIZATION AMENDMENTS OF 1990

The SPEAKER pro tempore. The pending business is the vote on ordering the previous question on House Resolution 468 on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

This is a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 371, nays 42, not voting 19 as follows:

[Roll No. 360]

YEAS—371

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Bustamante
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Darden
Davis
de la Garza
DeFazio
Dellums
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Douglas
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
James
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Moorhead
Morella
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NJ)
Smith (VT)
Smith, Robert (NH)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—42

Bartlett
Barton
Bentley
Burton
Combest
Craig
Crane
Dannemeyer
DeLay
Dornan (CA)
Duncan
Edwards (OK)

Frenzel	Kolbe	Shumway
Gekas	Kyl	Skeen
Grandy	Lightfoot	Smith (NE)
Hammerschmidt	Marlenee	Smith (TX)
Hancock	Packard	Smith, Robert (OR)
Hansen	Petri	Stump
Henry	Porter	Vucanovich
Herger	Rhodes	Walker
Hopkins	Robinson	
Inhofe	Schaefer	
Jacobs	Sensenbrenner	

NOT VOTING—19

Barnard	Johnston	Payne (NJ)
Byron	Martin (IL)	Rowland (CT)
Crockett	McCrery	Smith (FL)
Derrick	Mollohan	Smith, Denny (OR)
Espy	Morrison (CT)	Wolpe
Flippo	Morrison (WA)	
Hawkins	Owens (NY)	

□ 1957

Mr. McCOLLUM and Mr. STEARNS changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The pending business is on agreeing to the resolution.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

This is a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 370, nays 44, not voting 18 as follows:

[Roll No. 361]

YEAS—370

Ackerman	Buechner	Dixon
Alexander	Bunning	Donnelly
Anderson	Bustamante	Dorgan (ND)
Andrews	Callahan	Douglas
Annunzio	Campbell (CA)	Downey
Anthony	Campbell (CO)	Dreier
Applegate	Cardin	Durbin
Archer	Carper	Dwyer
Aspin	Carr	Dymally
Atkins	Chandler	Dyson
AuCoin	Chapman	Early
Baker	Clarke	Eckart
Ballenger	Clay	Edwards (CA)
Bateman	Clement	Emerson
Bates	Clinger	Engel
Beilenson	Coble	English
Bennett	Coleman (MO)	Erdreich
Bentley	Coleman (TX)	Evans
Bereuter	Collins	Fascell
Berman	Condit	Fawell
Bevill	Conte	Fazio
Bilbray	Conyers	Feighan
Bilirakis	Cooper	Fish
Bliley	Costello	Flake
Boehlert	Coughlin	Foglietta
Boggs	Courter	Ford (MI)
Bonior	Cox	Ford (TN)
Borski	Coyne	Frank
Bosco	Crane	Frost
Boucher	Darden	Gallegly
Boxer	Davis	Gallo
Brennan	de la Garza	Gaydos
Brooks	DeFazio	Gejdenson
Broomfield	Dellums	Gephardt
Browder	Derrick	Geren
Brown (CA)	DeWine	Gibbons
Brown (CO)	Dickinson	Gillmor
Bruce	Dicks	Gilman
Bryant	Dingell	Gingrich
Glickman	McCandless	Savage
Gonzalez	McCloskey	Sawyer
Goodling	McCollum	Saxton
Gordon	McCurdy	Scheuer
Goss	McDade	Schiff
Gradison	McDermott	Schneider
Grant	McEwen	Schroeder
Gray	McGrath	Schuette
Green	McHugh	Schulze
Guarini	McMillan (NC)	Schumer
Gunderson	McMillen (MD)	Serrano
Hall (OH)	McNulty	Sharp
Hall (TX)	Meyers	Shaw
Hamilton	Mfume	Shays
Harris	Michel	Sikorski
Hatcher	Miller (CA)	Sisisky
Hayes (IL)	Miller (OH)	Skaggs
Hayes (LA)	Miller (WA)	Skelton
Hefley	Mineta	Slattery
Hefner	Moakley	Slaughter (NY)
Hertel	Molinari	Slaughter (VA)
Hiler	Montgomery	Smith (IA)
Hoagland	Moody	Smith (NJ)
Hochbrueckner	Moorhead	Smith (VT)
Holloway	Morella	Smith, Robert (NH)
Horton	Mrazek	Smith, Robert (OR)
Houghton	Murphy	Snowe
Hoyer	Murtha	Solarz
Hubbard	Myers	Spence
Huckaby	Nagle	Spratt
Hughes	Natcher	Staggers
Hunter	Neal (MA)	Stallings
Hutto	Neal (NC)	Stangeland
Hyde	Nelson	Stark
Ireland	Nowak	Stearns
Jacobs	Oakar	Stenholm
James	Oberstar	Stokes
Jenkins	Obey	Studds
Johnson (CT)	Olin	Sundquist
Johnson (SD)	Ortiz	Swift
Jones (GA)	Owens (UT)	Synar
Jones (NC)	Oxley	Tallon
Jontz	Packard	Tanner
Kanjorski	Pallone	Tauke
Kaptur	Panetta	Tauzin
Kasich	Parker	Taylor
Kastenmeier	Parris	Thomas (CA)
Kennedy	Pashayan	Thomas (GA)
Kennelly	Patterson	Thomas (WY)
Kildee	Paxon	Torres
Kleczka	Payne (VA)	Torricelli
Kolter	Pease	Towns
Kostmayer	Pelosi	Traficant
LaFalce	Penny	Traxler
Lagomarsino	Perkins	Udall
Lancaster	Pickett	Unsoeld
Lantos	Pickle	Upton
Laughlin	Porter	Valentine
Leach (IA)	Poshard	Vander Jagt
Leath (TX)	Price	Vento
Lehman (CA)	Pursell	Visclosky
Lehman (FL)	Quillen	Volkmer
Lent	Rahall	Walgren
Levin (MI)	Rangel	Walsh
Levine (CA)	Ravenel	Washington
Lewis (CA)	Ray	Watkins
Lewis (FL)	Regula	Waxman
Lewis (GA)	Richardson	Weber
Lipinski	Ridge	Weiss
Livingston	Rinaldo	Weldon
Lloyd	Ritter	Wheat
Long	Roberts	Whittaker
Lowery (CA)	Roe	Whitten
Lowey (NY)	Ros-Lehtinen	Williams
Luken, Thomas	Rose	Wilson
Lukens, Donald	Rostenkowski	Wise
Machtley	Roth	Wolf
Madigan	Roukema	Wyden
Manton	Rowland (GA)	Wylie
Markey	Roybal	Yates
Martin (NY)	Russo	Yatron
Martinez	Sabo	Young (AK)
Matsui	Saiki	Young (FL)
Mavroules	Sangmeister	
Mazzoli	Sarpalius	

NAYS—44

Armey	Dornan (CA)	Hancock
Bartlett	Duncan	Hansen
Barton	Edwards (OK)	Hastert
Burton	Fields	Henry
Combest	Frenzel	Herger
Craig	Gekas	Hopkins
Dannemeyer	Grandy	Inhofe
DeLay	Hammerschmidt	Kolbe
Kyl	Rogers	Smith (NE)
Lightfoot	Rohrabacher	Smith (TX)
Marlenee	Schaefer	Solomon
Nielson	Sensenbrenner	Stump
Petri	Shumway	Vucanovich
Rhodes	Shuster	Walker
Robinson	Skeen	

NOT VOTING—18

Barnard	Martin (IL)	Rowland (CT)
Byron	McCrery	Smith (FL)
Crockett	Mollohan	Smith, Denny (OR)
Espy	Morrison (CT)	Wolpe
Flippo	Morrison (WA)	
Hawkins	Owens (NY)	
Johnston	Payne (NJ)	

□ 2000

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CASH MANAGEMENT IMPROVEMENT ACT OF 1990

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4279, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 4279, as amended, on which the yeas and nays are ordered.

This is again a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 410, nays 4, not voting 18, as follows:

[Roll No. 362]

YEAS—410

Ackerman	Buechner	Dicks
Alexander	Bunning	Dingell
Anderson	Burton	Dixon
Andrews	Bustamante	Donnelly
Annunzio	Callahan	Dorgan (ND)
Anthony	Campbell (CA)	Dornan (CA)
Applegate	Campbell (CO)	Douglas
Archer	Cardin	Downey
Armey	Carper	Dreier
Aspin	Carr	Duncan
Atkins	Chandler	Durbin
AuCoin	Chapman	Dwyer
Baker	Clarke	Dymally
Ballenger	Clay	Dyson
Bartlett	Clement	Early
Barton	Clinger	Eckart
Bateman	Coble	Edwards (CA)
Bates	Coleman (MO)	Edwards (OK)
Beilenson	Coleman (TX)	Emerson
Bennett	Collins	Engel
Bentley	Combest	English
Bereuter	Condit	Erdreich
Berman	Conte	Evans
Bevill	Conyers	Fascell
Bilbray	Cooper	Fawell
Bilirakis	Costello	Fazio
Bliley	Coughlin	Feighan
Boehlert	Courter	Fields
Boggs	Cox	Fish
Bonior	Coyne	Flake
Borski	Craig	Foglietta
Bosco	Crane	Ford (MI)
Boucher	Dannemeyer	Ford (TN)
Boxer	Darden	Frank
Brennan	Davis	Frenzel
Brooks	de la Garza	Frost
Broomfield	DeFazio	Gallegly
Browder	DeLay	Gallo
Brown (CA)	Dellums	Gaydos
Brown (CO)	Derrick	Gejdenson
Bruce	DeWine	Gekas
Bryant	Dickinson	Gephardt

Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Moorhead
Morella
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Paxon
Payne (VA)
Pease
Pelosi
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Staggers
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—4

Patterson
Penny
Spratt
Stallings

NOT VOTING—18

Barnard
Byron
Crockett
Espy
Flippo
Gray
Ireland
Johnston
Martin (IL)
McCrery
Mollohan
Morrison (CT)
Morrison (WA)
Owens (NY)
Payne (NJ)
Rowland (CT)
Smith, Denny (OR)
Wolpe

□ 2006

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FEDERAL CIVIL PENALTIES INFLATION ADJUSTMENT ACT OF 1990

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 535.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the Senate bill, S. 535, on which the yeas and nays are ordered.

This is again a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 407, nays 5, not voting 20, as follows:

[Roll No. 363]

YEAS—407

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Moorhead
Morella
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—5

Armey	DeLay	Hefley
Dannemeyer	Hancock	

NOT VOTING—20

Barnard	Kaptur	Owens (NY)
Byron	Kasich	Payne (NJ)
Crockett	Martin (IL)	Rowland (CT)
Espy	McCrery	Smith, Denny (OR)
Flippo	Mollohan	Williams
Gray	Morrison (CT)	Wolpe
Johnston	Morrison (WA)	

□ 2009

Mr. DANNEMEYER changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

INDIAN ENVIRONMENTAL REGULATORY ENHANCEMENT ACT OF 1990

The SPEAKER pro tempore (Mr. MAZZOLI). The pending business is the question of suspending the rules and passing the Senate bill, S. 2075.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from American Samoa [Mr. FALEOMAVAEGA] that the House suspend the rules and pass the Senate bill, S. 2075, on which the yeas and nays are ordered.

This will again be a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 316, nays 99, not voting 17, as follows:

[Roll No. 364]

YEAS—316

Ackerman	Carper	Early
Alexander	Chandler	Eckart
Anderson	Clarke	Edwards (CA)
Andrews	Clay	Edwards (OK)
Annunzio	Clement	Engel
Anthony	Coble	English
Applegate	Coleman (TX)	Erdreich
Aspin	Collins	Evans
Atkins	Condit	Fascell
AuCoin	Conte	Fawell
Bates	Conyers	Fazio
Beilenson	Cooper	Feighan
Bennett	Costello	Fish
Bereuter	Courter	Flake
Berman	Cox	Foglietta
Bevill	Coyne	Ford (MI)
Bilbray	Craig	Ford (TN)
Boehlert	Darden	Frank
Boggs	Davis	Frost
Bonior	de la Garza	Gallo
Borski	DeFazio	Gaydos
Bosco	Dellums	Gejdenson
Boucher	Derrick	Gephardt
Boxer	DeWine	Geren
Brennan	Dickinson	Gibbons
Brooks	Dicks	Gillmor
Broomfield	Dingell	Gilman
Browder	Dixon	Gonzalez
Brown (CA)	Donnelly	Goodling
Bruce	Dorgan (ND)	Gordon
Bryant	Douglas	Goss
Buechner	Downey	Hall (OH)
Bustamante	Dreier	Hall (TX)
Callahan	Durbin	Hamilton
Campbell (CA)	Dwyer	Harris
Campbell (CO)	Dymally	Hatcher
Cardin	Dyson	Hawkins
Hayes (IL)	Mfume	Schneider
Hayes (LA)	Miller (CA)	Schroeder
Hefner	Miller (WA)	Schuette
Hertel	Mineta	Schumer
Hoagland	Moakley	Serrano
Hochbrueckner	Montgomery	Sharp
Horton	Moody	Shays
Houghton	Moorhead	Sikorski
Hoyer	Morella	Skaggs
Hubbard	Mrazek	Skeen
Huckaby	Murphy	Slattery
Hughes	Murtha	Slaughter (NY)
Hunter	Nagle	Smith (FL)
Hutto	Natcher	Smith (IA)
Inhofe	Neal (MA)	Smith (NJ)
Jacobs	Neal (NC)	Smith (VT)
James	Nelson	Smith, Robert (OR)
Johnson (CT)	Nowak	Snowe
Johnson (SD)	Oakar	Solarz
Jones (NC)	Oberstar	Spratt
Jontz	Obey	Staggers
Kanjorski	Olin	Stallings
Kaptur	Ortiz	Stangeland
Kasich	Owens (UT)	Stark
Kastenmeier	Oxley	Stenholm
Kennedy	Pallone	Stokes
Kennelly	Panetta	Studds
Kildee	Parker	Swift
Kleczka	Pashayan	Synar
Kolbe	Patterson	Tallon
Kolter	Paxon	Tanner
Kostmayer	Pease	Tauzin
Kyl	Pelosi	Taylor
LaFalce	Perkins	Thomas (CA)
Lancaster	Pickle	Thomas (GA)
Lantos	Porter	Thomas (WY)
Laughlin	Poshard	Torres
Leach (IA)	Price	Torricelli
Leath (TX)	Pursell	Towns
Lehman (CA)	Quillen	Traficant
Lehman (FL)	Rahall	Traxler
Lent	Rangel	Udall
Levin (MI)	Ravenel	Unsoeld
Levine (CA)	Ray	Upton
Lewis (CA)	Regula	Valentine
Lewis (GA)	Rhodes	Vander Jagt
Lipinski	Richardson	Vento
Lloyd	Ridge	Visclosky
Long	Rinaldo	Volkmer
Lowery (CA)	Ritter	Walgren
Lowey (NY)	Roberts	Walsh
Luken, Thomas	Roe	Washington
Lukens, Donald	Ros-Lehtinen	Watkins
Machtley	Rose	Waxman
Madigan	Rostenkowski	Weber
Manton	Roth	Weiss
Markey	Rowland (GA)	Weldon
Martin (NY)	Roybal	Wheat
Martinez	Russo	Whitten
Matsui	Sabo	Williams
Mavroules	Saiki	Wilson
Mazzoli	Sangmeister	Wise
McCloskey	Sarpalius	Wyden
McCurdy	Savage	Wylie
McDade	Sawyer	Yates
McDermott	Saxton	Yatron
McHugh	Schaefer	Young (AK)
McMillen (MD)	Scheuer	
McNulty	Schiff	

NAYS—99

Archer	Emerson	Ireland
Armey	Fields	Jenkins
Baker	Frenzel	Jones (GA)
Ballenger	Gallegly	Lagomarsino
Bartlett	Gekas	Lewis (FL)
Barton	Gingrich	Lightfoot
Bateman	Glickman	Livingston
Bentley	Gradison	Marlenee
Bilirakis	Grandy	McCandless
Bliley	Grant	McCollum
Brown (CO)	Green	McEwen
Bunning	Guarini	McGrath
Burton	Gunderson	McMillan (NC)
Carr	Hammerschmidt	Meyers
Chapman	Hancock	Michel
Clinger	Hansen	Miller (OH)
Coleman (MO)	Hastert	Molinari
Combest	Hefley	Myers
Coughlin	Henry	Nielson
Crane	Herger	Packard
Dannemeyer	Hiler	Parris
DeLay	Holloway	Payne (VA)
Dornan (CA)	Hopkins	Penny
Duncan	Hyde	Petri
Pickett	Sisisky	Stump
Robinson	Skelton	Sundquist
Rogers	Slaughter (VA)	Tauke
Rohrabacher	Smith (NE)	Vucanovich
Roukema	Smith (TX)	Walker
Schulze	Smith, Robert (NH)	Whittaker
Sensenbrenner	Solomon	Wolf
Shaw	Spence	Young (FL)
Shumway	Stearns	
Shuster		

NOT VOTING—17

Barnard	Johnston	Owens (NY)
Byron	Martin (IL)	Payne (NJ)
Crockett	McCrery	Rowland (CT)
Espy	Mollohan	Smith, Denny (OR)
Flippo	Morrison (CT)	Wolpe
Gray	Morrison (WA)	

□ 2013

So (two-thirds having voted in favor thereof) the rules were suspended, and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GREAT LAKES WATER QUALITY IMPROVEMENT ACT OF 1990

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4323, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and pass the bill, H.R. 4323, as amended, on which the yeas and nays are ordered.

This will again be a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 376, nays 37, not voting 19, as follows:

[Roll No. 365]

YEAS—376

Ackerman	Buechner	Dingell
Alexander	Bunning	Dixon
Anderson	Bustamante	Donnelly
Andrews	Callahan	Dorgan (ND)
Annunzio	Campbell (CA)	Douglas
Anthony	Campbell (CO)	Downey
Applegate	Cardin	Dreier
Aspin	Carper	Duncan
Atkins	Carr	Durbin
AuCoin	Chandler	Dwyer
Baker	Chapman	Dymally
Bateman	Clarke	Dyson
Bates	Clay	Early
Beilenson	Clement	Eckart
Bennett	Clinger	Edwards (CA)
Bentley	Coble	Edwards (OK)
Bereuter	Coleman (MO)	Emerson
Berman	Coleman (TX)	Engel
Bevill	Collins	English
Bilbray	Condit	Erdreich
Bilirakis	Conte	Evans
Bliley	Conyers	Fascell
Boehlert	Cooper	Fawell
Boggs	Costello	Fazio
Bonior	Coughlin	Feighan
Borski	Courter	Fish
Bosco	Cox	Flake
Boucher	Coyne	Foglietta
Boxer	Darden	Ford (MI)
Brennan	Davis	Ford (TN)
Brooks	de la Garza	Frank
Broomfield	DeFazio	Frost
Browder	Dellums	Gallegly
Brown (CA)	Derrick	Gallo
Brown (CO)	DeWine	Gaydos
Bruce	Dickinson	Gejdenson
Bryant	Dicks	Gephardt

Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Grandy
Grant
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Moorhead
Morella
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—37

Archer
Armey
Ballenger
Bartlett
Barton
Burton
Combest
Craig
Crane
Dannemeyer
DeLay
Dornan (CA)
Fields
Frenzel
Gekas
Gingrich
Gradison
Hancock
Hansen
Herger
Kolbe
Kyl
Madigan
Marlenee
McMillan (NC)
Michel
Nielson
Rhodes
Shumway
Smith (NE)
Smith (TX)
Solomon
Stump
Sundquist
Thomas (WY)
Vucanovich
Walker

NOT VOTING—19

Barnard
Byron
Crockett
Espy
Flippo
Gray
Hawkins
Johnston
Martin (IL)
McCrery
Mollohan
Morrison (CT)
Morrison (WA)
Owens (NY)
Payne (NJ)
Rowland (CT)
Slaughter (VA)
Smith, Denny (OR)
Wolpe

□ 2017

So (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DISTRICT OF COLUMBIA REVENUE BOND ACT OF 1990

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5482.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington [Mr. McDERMOTT] that the House suspend the rules and pass the bill, H.R. 5482, on which the yeas and nays are ordered.

This will be a 2-minute vote.

The vote was taken by electronic device, and there were—yeas 371, nays 44, not voting 17, as follows:

[Roll No. 366]

YEAS—371

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Armey
Aspin
Atkins
AuCoin
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Browder
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lancaster
Lantos
Laughlin
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Moakley
Montgomery
Moody
Morella
Mrazek
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Perkins
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schumer
Serrano
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—44

Applegate
Archer
Baker
Broomfield
Brown (CO)
Callahan
DeLay
Dornan (CA)
Douglas
Duncan
Edwards (OK)
Frenzel
Gallegly
Gibbons
Gillmor
Gingrich
Hall (TX)
Hancock

Hastert
Hefley
Henry
Hopkins
Kanjorski
Lagomarsino
Leach (IA)
Marlenee
McCandless
McEwen
Miller (OH)
Molinari
Moorhead
Murphy
Murtha
Penny
Petri
Porter
Robinson
Roukema
Schulze
Sensenbrenner
Shuster
Skelton
Smith, Robert (NH)
Stump

NOT VOTING—17

Barnard
Byron
Crockett
Espy
Flippo
Gray
Johnston
Martin (IL)
McCrery
Mollohan
Morrison (CT)
Morrison (WA)
Owens (NY)
Payne (NJ)
Rowland (CT)
Smith, Denny (OR)
Wolpe

□ 2021

Mr. SLAUGHTER of Virginia and Mr. PAXON changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REAUTHORIZATION OF THE FISH AND WILDLIFE CONSERVATION ACT OF 1990

The SPEAKER pro tempore (Mr. MAZZOLI). The pending business is the question of suspending the rules and passing the bill, H.R. 5254.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 5254, on which the yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 408, nays 7, not voting 17, as follows:

[Roll No. 367]

YEAS—408

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Moorhead
Morella
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Perkins
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—7

Crane
Frenzel
Hancock
Penny
Petri
Sensenbrenner
Stump

NOT VOTING—17

Barnard
Byron
Crockett
Espy
Flippo
Gray
Johnston
Martin (IL)
McCrery
Mollohan
Morrison (CT)
Morrison (WA)
Owens (NY)
Payne (NJ)
Rowland (CT)
Smith, Denny (OR)
Wolpe

□ 2025

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT AMENDMENTS OF 1990

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5255.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill H.R. 5255, as amended, on which the yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 369, nays 46, not voting 17, as follows:

[Roll No. 368]

YEAS—369

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Ballenger
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bustamante
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Douglas
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank

Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Morella
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Skaggs
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—46

Archer
Armey
Bartlett
Bunning
Burton
Craig
Crane
Dannemeyer
DeLay
Dickinson
Dornan (CA)
Duncan
Fields
Frenzel
Gekas
Gingrich
Glickman
Grant
Hall (TX)
Hammerschmidt
Hancock
Hansen
Herger
Jenkins
Kyl
Lightfoot
Lukens, Donald
Marlenee
McCandless
Meyers
Moorhead
Nielson
Packard
Petri
Roberts
Schaefer
Sensenbrenner
Shumway
Shuster
Sisisky
Skeen
Slattery
Smith (TX)
Stump
Walker
Whittaker

NOT VOTING—17

Barnard
Byron
Crockett
Espy
Flippo
Gray
Johnston
Martin (IL)
McCrery
Mollohan
Morrison (CT)
Morrison (WA)
Owens (NY)
Payne (NJ)
Rowland (CT)
Smith, Denny (OR)
Wolpe

□ 2029

Mr. CONTE changed his vote from "nay" to "yea."

Mr. GLICKMAN changed his vote from "yea" to "nay".

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EARTHQUAKE HAZARDS REDUCTION ACT OF 1977 AMENDMENTS ACT

The SPEAKER pro tempore (Mr. MAZZOLI). The pending business is the question of suspending the rules and passing the bill, H.R. 3533, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 3533, as amended on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 283, nays 132, not voting 17, as follows:

[Roll No. 369]

YEAS—283

Ackerman
Alexander
Anderson
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Ballenger
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Browder
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Campbell (CA)
Campbell (CO)
Cardin
Carper
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Condit
Conyers
Cooper
Costello
Courter
Cox
Coyne
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gaydos
Gejdenson
Gephardt
Geren
Gilman
Glickman
Gonzalez
Goodling
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
James
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCurdy
McDermott
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moody
Morella
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nelson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (UT)
Packard
Pallone
Panetta
Parker
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Perkins
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Richardson
Robinson
Roe
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Serrano
Sharp
Shuster
Sikorski
Skaggs
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walgren
Walsh
Washington
Watkins
Waxman
Weiss
Wheat
Williams
Wise
Wyden
Yatron
Young (AK)

NAYS—132

Andrews
Archer
Armey
Baker
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Broomfield
Brown (CO)
Bunning
Burton
Callahan
Carr
Clarke
Combest
Conte
Coughlin
Craig
Crane
Dannemeyer
DeLay
DeWine
Douglas
Duncan
Fields
Frenzel
Gallo
Gekas
Gibbons
Gillmor
Gingrich
Goss
Gradison
Grandy
Grant
Green
Gunderson
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Johnson (CT)
Kasich
Kolbe
Kyl
Lent
Lewis (FL)
Lightfoot
Livingston
Lukens, Donald
Marlenee
McCollum
McDade
McEwen
McGrath
Meyers
Michel
Miller (OH)
Neal (NC)
Nielson
Olin
Oxley
Parris
Penny
Petri
Pickett
Porter
Pursell

Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Saxton
Schaefer
Schiff
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Sisisky
Skeen
Slattery
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stenholm
Stump
Tauke
Taylor
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Whitten
Wilson
Wolf
Wylie
Yates
Young (FL)

NOT VOTING—17

Barnard
Byron
Crockett
Espy
Flippo
Gray
Johnston
Martin (IL)
McCrery
Mollohan
Morrison (CT)
Morrison (WA)
Owens (NY)
Payne (NJ)
Rowland (CT)
Smith, Denny (OR)
Wolpe

□ 2033

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DEPARTMENT OF ENERGY METAL CASTING COMPETITIVENESS RESEARCH ACT OF 1990

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, House Resolution 470.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and agree to the resolution, House Resolution 470, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 331, nays 84, not voting 17, as follows:

[Roll No. 370]

YEAS—331

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Ballenger
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Callahan
Campbell (CO)
Cardin
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grant
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Machtley
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Moakley
Montgomery
Moody
Morella
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Payne (VA)
Pease
Pelosi
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Robinson
Roe
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Serrano
Sharp
Shaw
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (VT)
Smith, Robert (OR)
Solarz
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wyden
Wylie
Yates
Young (AK)

NAYS—84

Archer
Armey
Bartlett
Barton
Bilirakis
Bliley
Brown (CO)
Bunning
Burton
Campbell (CA)
Carper
Combest
Cox
Craig
Crane
Dannemeyer
DeLay
Dorgan (ND)
Dornan (CA)
Douglas
Dreier
Duncan
Fields
Fish
Frenzel
Gallegly
Gekas
Gibbons
Gingrich
Goss
Gradison
Grandy
Green
Gunderson
Hancock
Hansen
Hefley
Herger
Hopkins
Ireland
Kasich
Kolbe
Kyl
Lagomarsino
Lewis (FL)
Livingston
Lukens, Donald
Marlenee
McCandless
McCollum
Miller (WA)
Molinari
Moorhead
Nielson
Oxley
Packard
Paxon
Penny
Rhodes
Roberts
Rogers
Rohrabacher
Saiki
Schaefer
Sensenbrenner
Shays
Shumway
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Robert (NH)
Snowe
Solomon
Stearns
Stump
Tauke
Thomas (CA)
Thomas (WY)
Vander Jagt
Walker
Weldon
Whittaker
Yatron
Young (FL)

NOT VOTING—17

Barnard
Byron
Crockett
Espy
Flippo
Gray
Johnston
Martin (IL)
McCrery
Mollohan
Morrison (CT)
Morrison (WA)
Owens (NY)
Payne (NJ)
Rowland (CT)
Smith, Denny (OR)
Wolpe

□ 2037

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would exercise its prerogative to make a short statement, and that is to commend and salute the work done by the staff of the Office of the Parliamentarian for having done a really great job. Without their professionalism, we could not have gotten to this point.

DEFENSE PRODUCTION ACT AMENDMENTS OF 1990

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 486, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio [Ms. OAKAR] that the House suspend the rules and pass the bill, H.R. 486, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 295, nays 119, not voting 18, as follows:

[Roll No. 371]

YEAS—295

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Ballenger
Bates
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Browder
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Campbell (CO)
Cardin
Carper

Carr	Kaptur	Rinaldo
Chapman	Kasich	Ritter
Clarke	Kastenmeier	Robinson
Clay	Kennedy	Roe
Clement	Kennelly	Rose
Coble	Kildee	Rostenkowski
Coleman (MO)	Kleczka	Roth
Coleman (TX)	Kolter	Roukema
Collins	Kostmayer	Rowland (GA)
Condit	LaFalce	Roybal
Conte	Lancaster	Russo
Conyers	Lantos	Sabo
Cooper	Laughlin	Saiki
Costello	Leath (TX)	Sangmeister
Coyne	Lehman (CA)	Sarpalius
Darden	Lehman (FL)	Savage
Davis	Lent	Sawyer
de la Garza	Levin (MI)	Schaefer
DeFazio	Levine (CA)	Scheuer
Dellums	Lewis (CA)	Schiff
Derrick	Lewis (GA)	Schneider
Dicks	Lipinski	Schroeder
Dingell	Lloyd	Schuette
Dixon	Long	Schulze
Donnelly	Lowey (NY)	Schumer
Dorgan (ND)	Luken, Thomas	Serrano
Downey	Lukens, Donald	Sharp
Durbin	Madigan	Sikorski
Dwyer	Manton	Sisisky
Dymally	Markey	Skaggs
Dyson	Martinez	Skeen
Early	Matsui	Skelton
Eckart	Mavroules	Slattery
Edwards (CA)	Mazzoli	Slaughter (NY)
Emerson	McCloskey	Smith (FL)
Engel	McDade	Smith (IA)
Erdreich	McDermott	Smith (NE)
Evans	McEwen	Smith (NJ)
Fascell	McHugh	Smith (VT)
Fazio	McMillan (NC)	Snowe
Feighan	McMillen (MD)	Solarz
Flake	McNulty	Spence
Foglietta	Meyers	Spratt
Ford (MI)	Mfume	Staggers
Ford (TN)	Miller (CA)	Stallings
Frank	Miller (OH)	Stark
Frost	Mineta	Stenholm
Gaydos	Moakley	Stokes
Gejdenson	Montgomery	Studds
Gephardt	Moody	Swift
Geren	Morella	Synar
Gillmor	Mrazek	Tallon
Gilman	Murphy	Tanner
Glickman	Murtha	Tauzin
Gonzalez	Myers	Taylor
Gordon	Nagle	Thomas (GA)
Guarini	Natcher	Torres
Hall (OH)	Neal (MA)	Torricelli
Hall (TX)	Neal (NC)	Towns
Hamilton	Nelson	Traficant
Harris	Nowak	Traxler
Hatcher	Oakar	Udall
Hawkins	Oberstar	Unsoeld
Hayes (IL)	Obey	Valentine
Hayes (LA)	Olin	Vento
Hefner	Ortiz	Visclosky
Henry	Owens (UT)	Volkmer
Hertel	Oxley	Vucanovich
Hoagland	Pallone	Walgren
Hochbrueckner	Panetta	Walsh
Horton	Parker	Washington
Houghton	Parris	Waxman
Hoyer	Patterson	Weiss
Hubbard	Payne (VA)	Weldon
Huckaby	Pease	Wheat
Hughes	Pelosi	Whittaker
Hunter	Perkins	Whitten
Hutto	Pickett	Wilson
Jacobs	Pickle	Wise
James	Poshard	Wolf
Jenkins	Price	Wyden
Johnson (CT)	Rahall	Wylie
Johnson (SD)	Rangel	Yates
Jones (GA)	Ravenel	Yatron
Jones (NC)	Regula	Young (AK)
Jontz	Richardson	
Kanjorski	Ridge	

NAYS—119

Archer	Bereuter	Burton
Armey	Bilirakis	Callahan
Baker	Bliley	Campbell (CA)
Bartlett	Broomfield	Chandler
Barton	Brown (CO)	Clinger
Bateman	Bunning	Combest
Coughlin	Hefley	Quillen
Courter	Herger	Ray
Cox	Hiler	Rhodes
Craig	Holloway	Roberts
Crane	Hopkins	Rogers
Dannemeyer	Hyde	Rohrabacher
DeLay	Inhofe	Ros-Lehtinen
DeWine	Ireland	Saxton
Dickinson	Kolbe	Sensenbrenner
Dornan (CA)	Kyl	Shaw
Douglas	Lagomarsino	Shays
Dreier	Leach (IA)	Shumway
Duncan	Lewis (FL)	Shuster
Edwards (OK)	Lightfoot	Slaughter (VA)
English	Livingston	Smith (TX)
Fawell	Lowery (CA)	Smith, Robert (NH)
Fields	Machtley	Smith, Robert (OR)
Fish	Marlenee	Solomon
Frenzel	Martin (NY)	Stangeland
Gallegly	McCandless	Stearns
Gallo	McCollum	Stump
Gekas	McCurdy	Sundquist
Gibbons	McGrath	Tauke
Gingrich	Michel	Thomas (CA)
Goodling	Miller (WA)	Thomas (WY)
Goss	Molinari	Upton
Gradison	Moorhead	Vander Jagt
Grandy	Nielson	Walker
Grant	Packard	Watkins
Green	Pashayan	Weber
Gunderson	Paxon	Young (FL)
Hammerschmidt	Penny	
Hancock	Petri	
Hansen	Porter	
Hastert	Pursell	

NOT VOTING—18

Barnard	Martin (IL)	Rowland (CT)
Byron	McCrery	Smith, Denny (OR)
Crockett	Mollohan	
Espy	Morrison (CT)	Williams
Flippo	Morrison (WA)	Wolpe
Gray	Owens (NY)	
Johnston	Payne (NJ)	

□ 2042

Mr. SMITH of Vermont changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORRISON of Washington. Mr. Speaker, I rise to make a personal explanation: Due to a long-term commitment to visiting Federal officials in my congressional district, and no advance notice, I was unable to be present for rollcall votes 353 to 371. I would have voted "yes" on votes 357, 359, 361, 362, 363, 365, 366, 367, 368, 369, and 370, and "no" on votes 364 and 486. On all procedural rollcall votes, 353, 354, 355, 356, 358, and 360, I would have voted "no," as I oppose on principle the procedural terrorism which inspired them.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall votes. Had I been here, I would have voted "aye" for rollcall No. 353, ordering a second for H.R. 3533—earthquake hazards reduction; "aye" for rollcall No. 354, ordering a second for House Resolution 470—concurrence in Senate amendment to the metal casting competitiveness research; "aye" for rollcall No. 355, ordering a second for H.R. 486—Defense Production Act; "aye" for rollcall No. 356, previous question of House Resolution 466—resolution for consideration of the Small Business Act and the Small Business Investment Act; "aye" for rollcall No. 357, House Resolution 466; "aye" for rollcall No. 358, previous question of House Resolution 469—resolution for consideration of water resources development; "aye" for rollcall No. 359, House Resolution 469; "aye" for rollcall No. 360, previous question of House Resolution 468—resolution for consideration of coastal zone management reauthorization; "aye" for rollcall No. 361, House Resolution 468; "aye" for rollcall No. 362, H.R. 4279—Federal-State cash management; "aye" for rollcall No. 363, S. 535—Federal civil penalties; "aye" for rollcall No. 364, S. 2075—Indian Environmental Regulatory Enhancement Act; "aye" for rollcall No. 365, H.R. 4323—Great Lakes Water Quality Improvement Act; "aye" for rollcall No. 366, H.R. 5482—D.C. revenue bonds; "aye" for rollcall No. 367, H.R. 5254—fish and wildlife conservation authorization; "aye" for rollcall No. 368, H.R. 5255—Fish and Wildlife Foundation authorization; "aye" for rollcall No. 369, H.R. 3533—earthquake hazards reduction; "aye" for rollcall No. 370, House Resolution 470—resolution for the concurrence in the Senate amendment to metal casting competitiveness research with amendments; and "aye" for rollcall No. 371, H.R. 486—Defense Production Act.

ANNUAL REPORT OF ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. MCMILLEN of Maryland) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Public Works and Transportation.

(For message, see proceedings of the Senate of today, Monday, September 24, 1990.)

LACK OF SUMMIT AGREEMENT IS COSTLY

(Mr. PARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. PARRIS. Mr. Speaker, this morning's newspaper says in one column, "Furlough planning takes time, money; personnel managers, employee representatives find much confusion."

An Assistant Secretary of HHS says:

There is just no end to it. There are literally thousands of hours being utilized in this Department working on furloughs.

The Department of Transportation estimates its personnel staff spends about 15 percent of its time on the furlough issue. At the Department of Agriculture, two to six people have been staffing a special furlough hotline established in late August. It has received 1,850 calls from Federal employees.

This failure to negotiate a summit agreement in good faith is not without

cost, and this House has been controlled, as has been said just by my predecessor, by the Democrat Party since I was in college, 35 years, have been under the direct control of the Democrat Party. They control the process. They control the agenda. They control the business of this Congress.

The summit began 5 months ago. What has it accomplished? Nothing. It is simply irresponsible to continue not to do something in the next 24 hours.

[From the Washington Post, Sept. 24, 1990]

FURLOUGH PLANNING TAKES TIME, MONEY—PERSONNEL MANAGERS, EMPLOYEE REPRESENTATIVES FIND MUCH CONFUSION

(By Dana Priest)

The National Weather Service paid David Powell's airplane ticket to Washington three weeks ago so the president of the weather service's employee organization could spend two days hashing out the details of a furlough plan with headquarters.

Since Powell has returned to his job as a weather forecaster in Chattanooga, Tenn., he has received "a heck of a lot of telephone calls" from other forecasters confused over procedures involved in the event the federal government institutes furloughs to save money. He said he has spent "an excess amount of time" straightening out managers who have sent furlough notices with incorrect information.

Powell is one small cog in the 2.4 million civilian employee bureaucracy trying to plan for furloughs that will be ordered if Congress and the administration do not agree on a way to reduce the federal budget deficit by Oct. 1, as required by the Gramm-Rudman-Hollings law.

While agencies are unable to put a dollar figure on their efforts, many officials said planning for furloughs has become one of their most time consuming activities.

As Claire Austin, spokeswoman for the Federal Railroad Administration, said of Congress and the administration: "Little do they know how much this is costing them."

Most offices have sent out intent-to-furlough notices to tens of thousands of employees. They have written and sent out explanatory letters, answered technical questions from regional offices and have negotiated with unions over which days people will be on leave and who is subject to furlough.

The length of the furlough will vary from department to department, depending on how much of an agency's budget is subject to cuts under the deficit reduction law.

At the Department of Health and Human Services, three top personnel managers are spending half of their days planning the furlough. Personnel managers and their staffs in the department's 26 regional offices have been negotiating terms of the furlough with about 65 separate regional labor units.

"A lot of these people are going to the [bargaining] table every day or every other day," said HHS Deputy Assistant Secretary Eugene Kinlow. "There's just no end to it. There's literally thousands of hours being utilized in this department working on furloughs."

The Department of Transportation estimates its personnel staff spends about 15 percent of its time on the furlough issue, a department spokesman said. At the Department of Agriculture, two to six people have been staffing a special furlough hotline established in late August. It has received 1,850 calls.

Looking down the barrel of the deficit-driven furloughs, a number of federal agencies and departments last week tried an end run to keep their employees financially healthier.

They wanted to allow employees to work overtime the last week of fiscal 1990 to enable them to earn enough extra money to offset any they might lose were they furloughed in the first week of fiscal 1991, which begins Oct. 1.

Only agencies and departments with money in this year's budget to cover the overtime were considering it.

But the Office of Management and Budget nixed the idea, and in so doing wiped out the first moment of optimism employees had found since the threat of furloughs surfaced weeks ago.

"The response was very positive," said Charles L. Grizzle, the Environmental Protection Agency's top personnel manager. "Even though it would have been a long week, it would be a way for them not to lose pay."

Office of Personnel Management Director Constance B. Newman, whose office came up with the overtime idea, sent a survey to its employees last week to find out if they favored the scheme: About 75 percent said they did.

In an effort to accommodate employees, Newman said in the memo, agency offices would be open for business Saturday, Sept. 29, so that workers who could not rearrange car pools and baby-sitting to work overtime during the week could come in on that Saturday.

The Federal Railroad Administration, the Environmental Protection Agency and the Merit Systems Protection Board each worked up flexible schedules that included overtime at the end of September.

Under federal work rules, employees can work a flexible work schedule as long as they work 80 hours within a two-week period.

"It is at least gratifying that our employees knew we were scurrying around for them," said Grizzle.

HEALTHY PEOPLE 2000 CONFERENCE ALL TALK AND NO ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, the administration has just released a blueprint outlining the health goals for the Nation over the next 10 years. This report was generated with the input of health professionals, consumers, researchers, academics, the clergy, and policy makers from throughout the country. We owe these people a debt of gratitude for the work they have done.

I heartly endorse the three stated goals for the Nation:

First, increase the span of healthy life for Americans.

Second, reduce health disparities among Americans.

Third, achieve access to preventive services for all Americans.

However, I would definitely add another one, and the polls tell me that most Americans concur:

Fourth, achieve access to health care services for all Americans.

I also endorse the objectives such as "Reduce cigarette smoking prevalence and reduce initiation of smoking." However, I think it is extremely naive to expect education and surveillance—keeping track of the statistics—to accomplish these and other objectives without significant economic incentives. Because of this, I have proposed increased taxes on tobacco and on the corporate entities that promote tobacco use. Increasing the cost of cigarettes is the best way to prevent young people from initiating the habit of smoking.

Another admirable objective is to reduce homicides and assault injuries. Local and State ordinances are unable to meet the needs of this national problem. Nor is education, counseling and surveillance going to accomplish the stated decreases. The statements of the administration on this problem are more posturing than reality. When we allow the over-the-counter sale of 12 round shotguns known as Street Sweepers, we are accommodating those most likely to commit violent crime. The Reagan-Bush administration continues to cave in to the gun lobby. It is time we stand by the side of law enforcement and passed the national 7 day waiting period.

These are just two examples of what must happen beyond education and surveillance. The single most disturbing omission is the Secretary's failure to mention health insurance as an obvious solution to the goal of reducing health disparities among Americans and also to achieving access to preventive and health care services for all Americans. The Secretary minimized the importance of health insurance when at the Atlanta Business Roundtable in July he commented that fire insurance "will not prevent your house from burning down if you fall asleep smoking in bed." However, health insurance can change the health of our Nation.

The elderly are the only age group to show an overall improvement in health status since initiation of the Medicare Program. They are also the only age group within our society to have universal access to health care.

The American Academy of Pediatrics reports that only 11 percent of children without health insurance reported excellent health, while 78 percent of children with private coverage reported excellent health. If every person in the United States were sponsored—covered by some type of health insurance or payment plan—many of the 22 priority objectives would be met far before the year 2000.

Following is a portion of a column on "Healthy People 2000" which appeared in the September 15, 1990 issue of the National Journal written by Julie Kosterlitz, one of the best health reporters in Washington. As she notes, the administration's basic message is "Don't get sick!" And according to Sullivan, "We must assume more responsibility for our own health and for the health of others." Kosterlitz notes that "It's a theme that Sullivan has emphasized a lot lately, and it's not hard to see why. Upward of 31 million Americans lack health insurance, and millions more have scant coverage. There's a desperate shortage of doctors for poor and rural folks * * * Medicaid, designed to help low-

income people, reaches fewer than half of the poor, and it pays doctors and hospitals so much less than other insurers pay that many doctors and hospitals won't treat Medicaid enrollees. And the chronically ill, young and old, risk financial ruin for themselves and their families because of the high cost of health care."

Of course it is desirable for individuals to take responsibility for their life styles, for communities to become healthy places to live, and for States to create initiatives suitable to their own populations, However, there is much more of a Federal obligation than recognized by the Secretary. These have to do with the ability to find solutions which bring about equality for all of our citizens. There are States which have a poorer tax base than others. Are their citizens to receive only the health care which that State can afford? Or are we going to recognize our obligation as a nation to bring about universal and equal access to health care for all persons regardless of race, sex, age and place of origin and residence?

Once again the administration is pacifying the Nation with goals and objectives as desirable as apple pie and motherhood. Who could object and who would not support them? But let us hope that those who have worked so long and so hard in developing these goals will seek solutions beyond Bush's "all talk and no action policy." The report may be entitled "Healthy People 2000", but once again the administration shows it doesn't want to spend more than 2 cents of its energy on health care for the American people.

THE BUDGET SUMMIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. DURBIN] is recognized for 60 minutes.

Mr. DURBIN. Mr. Speaker, I have taken this special order this evening to join with a few of my colleagues in discussing the budget summit which all of Washington is watching with great anxiety, and I think all of the Nation. We are now very concerned about the possibility of facing sequestration, which for those who do not follow the arcane language of the Federal Government could be better characterized as an automatic spending cut which could have a dramatic impact on this Nation, certainly on the Federal employees who serve us.

It is understood that if sequestration goes into effect, if we are unable to reach an agreement to reduce our budget deficit, we could have an automatic furlough of many Federal employees. It could have a negative impact not only on services which are provided, but also on the benefits which most Americans take for granted.

A few examples.

If we should have a layoff of air traffic controllers, it would certainly mean that the air traffic in and out of American airports could be restrained.

If we should have a layoff of Federal correctional personnel, it could create serious problems in our Federal prison system. In addition, we have to ask whether or not our Veterans Administration with the important services being provided by the veterans' hospitals could continue to provide the valuable services with these types of layoffs.

So there is a general concern that the Congress and its leadership meeting with the President should come to an agreement as quickly as possible to deal with this terrible situation of our budget deficit, and to try to avoid sequestration.

I am a member of the Budget Committee, and for the past several years we have worked each year to try to reduce the deficit in accord with the guidelines of Gramm-Rudman-Hollings. It has not been an easy task. Someone has said that the American people have the level of Federal services which they like; they have a level of Federal taxation which they can tolerate, but unfortunately, the two do not match. And at this moment we are faced with the unwelcome task of finding some way to increase revenues or reduce services and meet the requirements to reduce our budget deficit.

□ 2050

This year the Committee on the Budget, a committee which is chaired by the gentleman from California [Mr. PANETTA] and has a majority of Democrats, produced a work product and brought it to the House for consideration. In fact, the House of Representatives passed a budget resolution early this year in full compliance with the Gramm-Rudman-Hollings deficit target at that time. We felt that we met our responsibility.

I might say, in contrast, President Bush's budget was brought to Capitol Hill. It was not greeted warmly. In fact, by the time the day came for the House to consider our own budget resolution, not a single member of the Republican minority would offer the President's budget and, in fact, the Republican minority offered no budget to be considered by the House of Representatives.

The only work product to be considered by the House was the Democratic work product of our House Committee on the Budget. It passed, and we find ourselves today in an unlikely circumstance of having to reconsider that budget resolution in the same year because of a change in circumstances.

We have been told that the economy is starting to cool down and, of course, that means fewer Federal revenues coming in. We have been told, as well, that the cost of the savings and loan bailout is much higher than many expected. We have been told that some of the original projections by the President's budgeteers as to what we could face this year were wrong, and so now we face the task, the unpleasant task, of revising that budget resolution.

I am happy to be joined this evening by my colleague, the gentleman from Connecticut [Mr. GEJDENSON], who has joined me in this special order. I yield to my colleague, the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, I thank my friend for yielding.

Mr. Speaker, I think it is important also to note that any budget solution is not what we need for this country. We have had a decade of regressive solutions that have put more and more burden on middle-class Americans, some of those very Federal employees who are now being held hostage by the administration, saying that if the President does not get his tax cut for the wealthiest Americans he is going to take it out on Federal employees who often are being paid 30 percent less than people in the private sector providing the same jobs.

I think that what we need to make sure is that when we have a budget resolution it has some progressivity into it that is equitable and that it does the right thing, because as my friend points out, we are in a budget which is facing an economy in cooldown, and if we take those cuts out of the wrong places, we may bring this economy to a screeching halt which it is rapidly approaching. We have worked on other issues together, and I know my friend is fully aware of this.

We have spent $4 trillion since the end of World War II defending Western Europe and Japan, and that is about $1 trillion, or a little less than $1 trillion, more than our Federal deficit. We have a $3.2 or $3.3 trillion Federal deficit. We have spent $4 trillion defending Europe and Japan.

When we used to defend West Germany from East Germany and the rest of the East bloc, it may have made sense. It certainly does not make sense for the United States to carry that burden today.

There are 300-some million Western Europeans. They can fully take care of their own defense, and we ought to cut the budget in those areas. Forty percent of our defense budget goes to defend Western Europe and Japan.

The Japanese 8 years ago promised to take over the first 1,000 miles of sea lanes outside of Japan, buying American AWACS and other equipment. They failed to complete that commitment, and we keep passing that back, that tax back, on American taxpayers, on American Federal workers, and then the administration wants to hold those very Federal workers hostage while he wants to give the richest people in the country just one more tax break.

I think it is time to stop catering to the special interests of the wealthiest 1 percent of America. A decade ago we had a situation where if we compare the status of middle-class people 10 years ago and today, their disposable income has gone down 7 percent. The top 1 percent has gone from an average income of $280,000 to $500-and-some thousand, almost a doubling, more than a doubling of their income.

So I think we have to make sure that the settlement is one that includes equity and fairness and that we stop caving in to the wealthiest Americans to the detriment of all others.

The average working American, I think would be far happier to carry his tax burden if he did not feel like Leona Helmsley's comment was right that taxes are just for the poor. Taxes ought to be for all patriotic Americans. It is just not enough to say the Pledge of Allegiance and wave the flag, but to take that burden on behalf of your country and pay your fair share of responsibility.

I commend the gentleman for taking up this special order tonight, because it is important for the American people to understand that this is not some political partisan game with a clock that runs out for some reason. The clock can be moved if necessary rather than come up with a bad solution.

But more than anything, we have to have a solution that is fair and equitable to the people of this country.

Mr. DURBIN. Mr. Speaker, I thank my colleague from Connecticut for joining me this evening.

Those who have been watching the proceedings of this Chamber probably noted earlier that the House of Representatives had a series of rollcalls—15 votes which were taken—and at one point we were taking votes every 2 minutes here on the floor of the House. That is an unusual procedure. In the 8 years I have been here, I think there has only been one instance where that was done.

The votes were called for by a Member on the other side who was, in his own way, protesting the lack of progress at the budget summit. I am not sure that 15 2-minute rollcalls is any type of protest, but it was his way of expressing his concern over the fact that they have not reached an agreement.

I, too, share that concern, and back in my district in central Illinois, I learn of it as I return each week. I have to tell you, though, that many people believe the only reason why an agreement has not been reached is that the politicians are up to their usual tricks. I would like to tell them that at least for this Member and most members of the Democratic caucus that is not the case at all.

As my colleague from Connecticut noted, one of the major concerns most of us have on the Democratic side of the aisle is that we restore some equity and fairness to the tax code.

If you look at the information which we received about the impact of the Reagan tax philosophy on the working families of America, there is some very distressing information.

Most will recall that when President Reagan came to office about 10 years ago, he brought with him a new school of economics that was guided by a theory known as the Laffer curve, not the usual spelling. This curve maintained that if enough taxes were cut, the American economy would grow, and in growing, create jobs and opportunity for everyone. It was vintage trickle-down theory that if enough tax cuts were given to the wealthiest people in this country, those in the lower income categories would certainly benefit.

Many people questioned this. They questioned the wisdom of it. They questioned whether it would work. Ten years have passed, and we can now look at the verdict that has been turned in as a result of our adherence to the Laffer curve and the Reagan philosophy, this trickle-down theory.

What do we find? Nine out of 10 Americans pay more taxes today. The typical middle-income family earning $31,000 pays 7 percent more in taxes than they would under the pre-1978 system adjusted for inflation. The poorest one-fifth of all families in America pay 21 percent more, and if you look at the average working family in America, you find equally distressing information.

The Federal tax bite on a typical two-parent middle-income family with a median income of $32,000, their income tax bite rose from 23.7 percent to 24.1 percent from 1980 to 1988.

The adherence to the Reagan tax philosophy has cost the average working family in America much more money.

During this same period, and this is the really sad commentary, Federal taxes on the wealthiest 5 percent of U.S. families—$182,000 a year, and those are some wealthy people—dropped in that same period of time, so working families, trying to make ends meet with mothers and fathers both working, saw their taxes go up, while the wealthiest people in America saw their taxes decline and, of course, the old saying is—and I do not know who started it—the rich get richer, and the poor get poorer.

Under the Laffer curve and the Reagan tax policy that unfortunately was true.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. DURBIN. I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, one of the entities that got poorer is this country. In 1979 we were the largest creditor nation in the world.

Now, what does that mean? That meant that we owned more property overseas. We were owed money by more countries overseas than any other country on the face of this Earth. Today, after 10 years of Laffer economics and Reagan economics and Bush economics, we are the largest debtor nation in the world.

What we find is, as the economy is cooling down, normally when Americans owned our factories and our real estate and our stock portfolios, even in bad times, they tended to hang on to an American product. We find in the last period of estimate that foreign investment in this country, they actually sold $5 billion more than they bought, so when we are in a slide, these sales push it.

As to the gentleman's point about where the tax benefit goes, if we look at the distribution of benefit under the capital-gains proposal, let me say I think that there would be broad support if there was a capital gains that benefited homeowners who live in their homes for 20 or 30 years and then sold it and take care of the inflation factor or some other things.

□ 2100

If there was a commensurate getting rid of the bubble or something else, but let Members look at where the benefit goes in the President's proposal. Eighty percent of the people in the country will get approximately 12 percent of the benefit. Guess what the other 20 percent get? They get the rest of it. We find that the top 1 percent end up getting almost 80, 87 percent of the benefit.

So here we are, after a decade of shifting the burden to the bottom, telling Members that there are miracle formulas. The President once said by 1982 or 1983 at the latest, we will balance the Federal budget. Every year of the last decade the deficit has been higher than the entire 4 years in the Carter administration.

Now we have more voodoo economics before Members.

There are ways to stimulate this economy back to life. Help defense workers get new jobs. Help families find new homes. We do not need to give the richest 1 percent 80 percent of the benefit once more.

Mr. DURBIN. Mr. Speaker, I say to the gentleman from Connecticut, as I travel across my congressional district and discuss the President's call for a reduced capital gains tax, it is not unusual for someone in business or even a farm family to come in and say, "That doesn't sound like a bad idea. We would like to see our capital gains tax reduced." There are several things that should be considered. The first is, that the farmer may sell his family

farm once in a lifetime. The person with a business may sell a couple of businesses in his or her lifetime. So a capital gains tax reduction might benefit that person once, but only once. If we take a look at those who will benefit from the capital gains reduction, sad to say, they are the brokers and the investors and the dealers on Wall Street, who might take advantage of a capital gains tax cut once every hour, or once every day.

The gentleman is so correct. When we take a look at the benefits received from President Bush's proposed capital gains tax cut, they go to the wealthiest of Americans. Ninety percent of the benefits go to the top 10 percent of the wage earners in America. This is a break which, unfortunately, we cannot afford.

To explain what would happen if President Bush has his way at the summit, and gives this tax break to the wealthiest people in the country, we will, in fact in the first year, have to sell off capital assets, and we will receive more money in the Federal Treasury. Perhaps $5 billion by some estimates. However, if we play out what happens in the outyears over 5 years, we stand to lose about $21 billion over a 5-year period.

If I could make one other point, our colleague from Wisconsin [Mr. OBEY] made a statement just the other day which I think bears repeating. The gentleman from Wisconsin [Mr. OBEY] is the former chairman of the Joint Economic Committee. He took the administration's estimates of the benefits to be gained by capital gains tax cut. They said if we cut the tax as the President proposed for the wealthiest people, some 25,000 new jobs will be created in America. Well, we would all like to see new jobs, but the obvious question is, How much would it cost? If the cost is $21 billion to the Treasury, the gentleman from Wisconsin [Mr. OBEY] notes we are paying $410,000 in lost Federal revenue under President Bush's capital gains tax cut for every new job. He said, and I am quoting the gentleman from Wisconsin [Mr. OBEY], "We could send 20 people a year to Yale for the cost of every job slot created by the administration's proposal." I might add, not to mention how many we could send to the University of Illionis or to the University of Wisconsin.

Mr. GEJDENSON. Or to the University of Connecticut.

Mr. DURBIN. Or to the University of Connecticut for that matter. In this situation we can see that the President's proposal that he will spark the economy and avoid a recession by creating jobs through a capital gains tax cut falls flat on its face. Over a 5-year period of time it is much too expensive.

Mr. GEJDENSON. I think it is particularly important to note, at a time when we are facing another energy crisis, when middle-income workers are once again being battered by ripoffs at the pump and from heating oil, and losing the money they would normally spend during that Thanksgiving to Christmas period, where 70 percent of our retail sales occur, that what the President's proposal does is give a tax break to the top 1 percent, and raise regressive taxes on everybody else. That is only part of the story here. That to pay for this capital gains tax cut for that top 1 percent, what the administration wants to do is tax the bulk of the middle class once more.

Aside from the blatant unfairness, what we have is a case where it will shut the economy down further because people who are already losing their disposable income to higher gasoline prices, and higher oil prices, are the ones that will get hit by these additional regressive taxes. Once again, looking at Federal workers, who are paying the higher taxes because they are in the lower end of the earnings scales, getting hit by the energy costs that have gone up, after a decade of hostility from this administration and its predecessor on energy conservation, they additionally threaten to take them as hostages and lay them off if he does not get the tax break for the wealthiest 1 percent of America.

Mr. DURBIN. I think the gentleman is aware of the fact that tomorrow the House Committee on Appropriations will be considering a continuing resolution which is a temporary funding measure to keep the Federal Government in business while the budget summit negotiations continue. I think it is the only sensible thing for Members to do at this moment. It certainly makes no sense for Members to penalize the Federal workers, and to lose the valuable service of air traffic controllers, and Federal prison guards, and those working in veterans' hospitals, during this time of budget negotiation.

Mr. GEJDENSON. And the tremendous cost, I forget whether it was 2 or 4 years ago that the Reagan administration, in creating one of these crises, sold off instruments that the Social Security Administration held, I believe, that were paying 14 percent, to have money for 2 days of Government operation over a weekend, and then when they refinanced, they were only being paid 9 percent. The Treasury lost tens of millions of dollars just because of this gamesmanship which is absolutely unnecessary.

I think the Congress ought to stay here until we finish this budget process. If it means we do not get to go back to campaign, that is irrelevant. Our first responsibility is here.

However, we ought not to victimize the people that provide the services to this country, to create high drama on a budget process that can work if everybody will sit down and negotiate in good faith.

Mr. DURBIN. The gentleman from Connecticut touches on the real purpose of this special order, because I think there is a suspicion abroad in this land that it is just another political squabble, that there is nothing really important at stake other than personal pride.

I think the reason for this special order, and I hope those listening will appreciate it, we believe there are serious issues of equity and fairness involved. There are many people involved across the United States making important decisions for their families involving scarce resources, and very little money that they have in the bank. We do not want a budget summit agreement coming out which will, in fact, penalize the working families again. They have had a very tough time in the last 10 years of the Reagan and Bush administrations, as we set out in the information which we presented on the tax burden in this country. We want to make certain that this budget summit agreement does not add appreciably to the burden which these working families carry.

Some people say there is little or no difference between Democrats and Republicans today. On this issue, there is a very clear and distinct difference. President Bush is calling for a tax cut for the wealthiest Americans, the capital gains tax cut, that goes to the wealthiest, as the gentleman from Connecticut has said. What we are holding out for on the Democratic side is some tax fairness and equity, so that we do not penalize the working families in America. The ones that are trying to make ends meet.

Mr. GEJDENSON. What is at stake here, beyond that, is what we are able to do as a nation. I go home to my district. People come to me and say, "Why don't you have education available, even to poor kids, to go to college?" Even the University of Connecticut is pretty expensive these days, and the other universities in my district, like Wesleyan and Conn College are in the range of $20,000 a year. For people from working families it is virtually impossible to conceive of spending $80,000 just for tuition, let alone the other expenses one has while a child is in college, and most people have more than one. That as a nation, the Reagan administration's belief that government had no role in regulation or in services to its people, their final victory was creating this deficit, because it prevents Members from doing the things we need to build this country up once again.

We used to depend on foreigners coming here and bringing their talent, going to our universities, and staying here. They are now going back to their home countries. We graduate fewer

physicists than South Korea. We need to make sure we have the brain power to engage the next decade in trade, and in exports, and if we are not able to deal with this budgetary crisis, we are not going to be able to address the environmental problems we face as a nation. The 37 million Americans who have no health care in this country, and I was with Senator SIMON from Mr. DURBIN's State the other day, and the Senator told a story of meeting a man who needed a lung transplant. He could not get it in this country because his insurance policy did not cover it. The gentleman moved to Canada. He lived there long enough to qualify for their system and got the lung transplant. He is now back in the United States, and I think the Senator said he was paying the Canadian health system something like $9 a month to get $250 a month worth of drugs he needed in the early stages of adopting to his new lungs.

□ 2110

If we are going to take care of those fundamental needs of health care and education and housing, we need to come to grips with these problems so that we can turn around and clean up the environment.

You know, I have young children, 8 and 10 years old. When they hear what is going on, they look to me and say, "Gee, the future looks bleak. The future, the opportunities are in the past."

But it does not have to be this way. It does not have to be that America's best days are behind it. If we can go back to some of our basic principles of equity and fairness, distribute the burden in a fair manner so that middle-class and poor people are not paying for savings and loan accounts of the billionaires, the $100,000 accounts that are being protected by the poorest of the poor.

We are going to spend $100 million cleaning up nuclear waste sites because the executive branch was asleep during the 1980's and let us send this pollution all around the country at various sites.

So we need to address these issues so we can go forward as a nation, so that we do not have to borrow the money from Germany and Japan to provide for the military that we need or for the domestic programs that we need.

If we want to be a leader in this free world again, we need to revitalize our economy and our people, and the only way to do it is by the progressive nature of the society we have build and have been building for decades.

Mr. DURBIN. Mr. Speaker, I would like to reclaim my time and say to the gentleman that I think his points are well taken. To invest in this country for its future, we have to invest in the people who live here. By increasing the tax burden on lower and middle-income families, we are in fact denying them opportunities for decent housing, for education, to provide the health care that their families need. That is not creating an opportunity for the future.

Giving a tax break for people who are already making over $180,000 a year just is unconscionable, if you really have the best interests of improving this Nation over a long period of time.

If I could shift to a related topic, which I know the gentleman shares an interest in, that is the question of military spending, because many times Democrats are criticized for wanting to cut too much from the military. I think over the years we have asked the Reagan and Bush administrations to take a much closer look at where we should be spending our money. I think we should say at the outset, and I am sure the gentleman from Connecticut agrees with me, that we are prepared to spend that money necessary to protect the men and woman who are now serving in the Persian Gulf and around the world in the defense of our country. We are not going to shortchange them in any respect whatsoever, and I think I speak for most, if not all, my colleagues in the House Democratic caucus, and certainly for the Republican Members as well, when we tell the American people that these men and women who are in harm's way standing up for our country, holding our flag high, will never be left wanting. They will have the money that is necessary; but yet we have to ask larger questions because much more money is being spent. It is estimated that we may spend some $24 billion this year on the operations in the Persian Gulf.

The defense budget overall comes to almost $300 billion, so that is quite a large section of that budget dedicated to other purposes, and that is what I would like to address at this moment.

Since 1945 and the end of World War II, the United States has had a unique interest in the future of Western Europe. We, or course, helped in the creation of the North Atlantic Treaty Organization, bringing together Western European allies to defend against the possibility of a Communist incursion. Since 1945, the United States and its allies have spent literally billions of dollars and sent many men and women overseas in the defense of NATO. We were preparing for the eventuality that someday, 1 day, I should say, a million Communists would come streaming across the border from East Berlin to West Berlin. A year ago that occurred. A million Communists came streaming across the border into West Berlin, but they brought their children, their strollers, and their shopping bags. That is not exactly the invasion we had anticipated, but thank God it was not. It was a peaceful invasion as the Wall in Berlin came tumbling down, and now we see the reunification of that country.

The point I am trying to make is that the defense against the Warsaw Pact has changed dramatically, and yet the amount of money which American taxpayers are being asked to still pay for the defense of Western Europe continues almost unabated.

I believe this burden should be shared. I think frankly that if you take a look at the Warsaw Pact nations which now by and large are very friendly and moving toward democracy, these are nations which we no longer fear as invaders of Western Europe. In fact, their leaders come and address joint sessions of Congress, asking us for our assistance as they install a democratic government and move toward a capitalist form of economy.

So now I have to ask why do we continue to invest $150, $160, or $170 billion a year in the defense of Western Europe at a time when we are talking about laying off air traffic controllers and Americans will not be able to fly back and forth in our own country. That, I think, is a legitimate inquiry and one that this budget summit should address.

Mr. GEJDENSON. Mr. Speaker, if the gentleman will yield further, I forget the exact number, but it seems to me if my recollection is correct that the West Germans are about to pay somewhere between $7 and $9 billion for the stationing of Soviet troops in East Germany and their movement back to the Soviet Union. So if the West Germans apparently do not see the continued Soviet operation as such a threat and if they are willing to pay the cost of keeping them there for awhile and shipping them back to the Soviet Union, they are willing to give Mikhail Gorbachev between $7 and $9 billion, it seems to me the height of lunacy for American taxpayers who are looking at base closings in this country, who are looking at shutting off the needs of American citizens to be subsidizing the West Germans from whom we borrow the money to pay for these programs, and the same can be said, of course, for our presence in Japan.

I think the gentleman will agree with me that when small countries, we have Costa Rica and other countries around the globe that are in need. We are happy to see America fulfill its international role, as hard as that is sometimes to explain to our constituents, but it is harder to explain to our constituents when they see us not only helping some country in need, but subsidizing West Germany, France, England, and Japan, our toughest competitors, in Europe forming the EC-92 to better compete with us and to block

some of our products out, what is the sense of spending 40 percent of our defense budget? Why close bases in America and leave people unemployed when we are operating bases in countries that do not want us in, and in which we have no need to be anymore.

Mr. DURBIN. I would say to the gentleman that I agree completely. We have to maintain our NATO alliance, I think the gentleman would agree.

Mr. GEJDENSON. Absolutely.

Mr. DURBIN. We have a unique interest by heritage in our country with Western Europe; but the gentleman realizes that the competition of the future is not going to be a battle of military armaments. As the gentleman noted with the creation of the European Community, in 1992 we are going to see a new competition arise, a competition which the American industrial giants and all the workers across our country will be faced with. It is a competition we must be ready to face off and frankly to do well with.

We are not going to be in that position if the United States is sending its precious resources abroad to protect Western Europe when we should be investing those resources in the United States for the legitimate creation of capital and for the needs the gentleman mentioned earlier, such as education.

Now, I believe and I think the gentleman agrees with me that we should say to our allies that because of the budget difficulties we are facing and because of the added responsibility we have taken on in the Persian Gulf that our allies in NATO must assume a greater share of the burden of their own defense.

I think if the United States makes that clear, if President Bush makes it part of our international negotiations, then it can take place.

The gentleman mentioned Japan. Japan is a special case in one respect. After the defeat of Japan in World War II, the United States presided over the creation of a new Japanese Constitution, and to protect against any militarism arising in that part of the world in the future, we prohibited the Japanese from the creation of any offensive forces, be they Army, Air Force, or Navy.

Well, I am not certain that we want to change that dramatically, but we certainly could ask the Japanese, a wealthy nation, a nation which sells so many goods in the United States, to pay more for the defense that the United States is providing. It is ludicrous to me to sit here and have to defend to my constituents why they as taxpayers have to spend so much money in the defense of a wealthy country like Japan. At this moment the American people are paying 6 percent of their gross national product on the military, on our national defense. The Japanese are spending 1 percent of their gross national product, one-sixth of what we spend in the United States. We should ask them to assume a greater burden. If they are unprepared to do so, then we should be prepared to remove our forces in defense.

Mr. GEJDENSON. Mr. Speaker, if the gentleman will yield further, as my friend said at the beginning of his comments, I think it is important to restate this. There is not a place where American security is threatened that we would not fund adequately. There is not an ally or friend or democratic government in the world that we are not ready to help where there is a need.

What baffles us is why the American Treasury has to subsidize the defense of our wealthiest competitors at a time that we find our economy in a serious faltering condition.

We ought to bring those dollars back here, and frankly the men and women back here who are now in Europe and have them building homes in this country for people, not just the poorest of the poor who desperately need homes. I mean here in the richest country in the world, that we are unable to provide for basic services for our citizens is a scandal.

□ 2120

If you brought me to the Soviet Union and said there are people without homes and without food, I frankly would not be surprised. My parents fled the Soviet Union in the mid-forties. It is a system that has failed. They cannot deliver those services.

But here, in the wealthiest country on the face of this Earth with resources beyond most nations' dreams, people do not have homes, children go to sleep hungry.

I had the head of our school system in Connecticut in my office today, who pointed out that in our major cities a significant portion of the school kids go to school hungry and stay hungry. That is a crime.

American taxpayers are saying send those dollars to defend West Germany from East Germany? To send those dollars to NATO when they have the wealth to pay for that? That makes absolutely no sense.

I am not an isolationist. I am somebody who believes America, because of her very history that the gentleman spoke of, has an international responsibility to lead the world toward democratic governments and free institutions.

We ought to do more of that.

We get in trouble when we compromise our values. This and its predecessor administrations, commending Saddam Hussein for the last decade, now find themselves that their old friend has caused them a little trouble. You cannot cozy up to dictators. I think we understand that.

But the threats have changed. We need the resources here to build a stronger economic America, to continue to lead for Americans in the free world.

Mr. DURBIN. Mr. Speaker, I would say to the gentleman that I think he makes a very valuable point. That if in fact we are going to be competitive in the years ahead, we have got to assign new priorities, we have got to really, I guess, assess America's strategic interests as we go into the 21st century.

I might call the gentleman's attention to something I am sure he has noted, that is the efforts of this administration to ask other countries around the world to share the expenses of our Persian Gulf commitment.

I think that makes a great deal of sense because in many instances countries like Japan that we are asking to contribute are much more reliant on the oil from the Mideast than the United States is. I think the gentleman would agree that we in the United States are too reliant, but those countries like Japan, without our natural resources, are even more reliant.

If they cannot send men and women in defense of our efforts in the Middle East, at the very minimum they should be sending the resources to make certain that we can continue that commitment without penalizing the American taxpayers.

I might add, too, and I think it has been said on this floor before, that as much as we would like to see our allies contribute the money that is necessary for us to continue this effort in the Middle East, we would also like to see them share the commitment by sending men and women there who will serve with our troops in the Middle East.

I am sensitive to the fact that some countries cannot. Japan, as I mentioned earlier, because of their constitution, may be constrained, as might Germany.

But in some other instances, I believe our allies should be dedicating more resources and dedicating the men and women to stand shoulder-to-shoulder with our troops who are bravely in the field today defending the interests of the United States.

If we are going to ask these countries to help us in the Middle East—and President Bush and Secretary Baker have the right phone numbers to call for that commitment—I suggest that they keep dialing for those deutsche marks and dialing for those Japanese yen to make certain that they share the responsibility of the defense of NATO as well as Japan in the future.

I hope that our budget summiteers, as they address the needs for the next fiscal year and the next 5 years, will

take a look at the need for burden-sharing. I think that burden-sharing responsibility, by reducing the dollars Americans send overseas, can bring dollars back to the United States and reduce the need to raise taxes on working families and reduce the need to cut valuable programs for the education and health of the American people.

Mr. Speaker, I yield to my colleague, the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, I commend my friend for his comments and say this one last thing: If the last 10 years of the Reagan and Bush administrations had not undone the energy legislation that was passed in the late seventies, we would have saved more oil per day every day than there is in Kuwait and Iraq combined. And we ought to learn that lesson as well here.

I thank the gentleman for sharing time with me.

Mr. DURBIN. Mr. Speaker, let me close with one brief remark. We imported last year 290 million barrels of oil from Iraq and Kuwait. If the United States had an energy policy such as President Carter suggested during his administration, if we had continued to increase the fuel efficiency of American automobiles to only 3 miles per gallon more than they are today, that would satisfy the need for 290 million barrels of oil.

I think at this point we realize an energy policy is necessary for this country. We will save that discussion for another time.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4225, RESTRICTED WEAPONS ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-750) on the resolution (H. Res. 471) providing for the consideration of the bill (H.R. 4225) to amend title 18, United States Code, to prohibit the possession, transfer, and certain exports of restricted weapons, the manufacture of firearms capable of accepting a silencer or bayonet without alteration, and the possession and transfer of large capacity ammunition feeding devices, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 849, DEFINING TYPE OF ADJOURNMENT OF CONGRESS THAT PREVENTS RETURN OF A BILL BY THE PRESIDENT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-751) on the resolution (H. Res. 472) providing for the consideration of the bill (H.R. 849) to amend title I of the United States Code to define the type of adjournment that prevents the return of a bill by the President, and to amend the rules of the House of Representatives to require the Clerk to make certain notifications to the Speaker, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5269, COMPREHENSIVE CRIME CONTROL ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-752) on the resolution (H. Res. 473) providing for the consideration of the bill (H.R. 5269) to control crime, which was referred to the House Calendar and ordered to be printed.

COMPREHENSIVE CRIME CONTROL ACT OF 1990: BIPARTISAN COOPERATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. I thank the Speaker.

Mr. Speaker, I want to take this time, frankly, to talk about the way in which the Democratic leadership is using the process of the rule in order to avoid some straightforward votes on the crime bill which will be coming up. It is very, very disappointing to those of us on the Republican side and to those who have worked with the President, President Bush, on this issue of drugs and crime, to see this kind of rule come to the floor of the House.

As I believe every Member knows, the liberal Democrats who dominate the Committee on the Judiciary wrote a crime bill which is more favorable to the criminal and more restrictive of police and of public prosecutors and is a major step backwards.

Most district attorneys around the country are actively opposed to the liberal Democratic version of crime control and regard it as a major weakening of public safety.

A number of Members, including Mr. HYDE of Illinois, had moved to have a series of amendments, I think there were 95 in all, that were introduced to try to improve this bill. We now learn that, working this evening, the Committee on Rules under the direction of the Democratic caucus has eliminated some amendments that are very, very important to restoring to the police and restoring to prosecutors an ability to deal with crime. I think it is important to make this case very clear.

New York City does not have a crime wave as an accident; Washington, DC, does not have a crime wave as an accident. For a 20-year period we weakened law enforcement, we weakened the process of capturing, convicting, and locking up criminals; we spent less on the police and more on caseworkers, and we followed essentially a liberal prescription which said indivduals were not responsible, that society was, and which said that, in fact, we are not faced with any kind of real problem in terms of people who are criminals, we are faced with a problem of poverty and a problem of lifestyle and a problem of society, and if only we would cure all these other things, then we would not have any crime.

□ 2130

In the last 10 years, increasingly the country has come to the conclusion that it wants personal safety. Increasingly the country believes that individuals should have a right to be safe. And I think that it is important to recognize that the Nation wants change.

One of the things which was most frustrating about the Congress today is the degree to which the liberal Democrats, who dominate it, are impervious to the Nation's mood. One of the reasons, I believe, that we saw the people of Oklahoma vote 68 percent in favor of a limitation of terms, one of the reasons that we see the citizens of Colorado by almost 75 percent in a recent poll favoring a limitation of terms, is the growing feeling around the country that the Congress is simply no longer responsive to the average person.

Certainly the way in which the Democrats in the Committee on Rules tonight rigged the game, blocked the amendments that ought to be coming to the floor to allow people like the gentleman from Illinois [Mr. HYDE] to have a fair chance, and the gentleman from Florida [Mr. MCCOLLUM], Members who have worked hard, who have developed real alternatives, who understand the provisions of law that need to be changed in order to lock up drug dealers and criminals; to have them blocked from even offering their amendments is outrageous and totally inappropriate.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, it was my understanding that the bill, as reported from the Committee on the Judiciary, eliminated some death penalty provisions that are included either in law presently or were in the President's package which came to Capitol Hill suggesting criminal law reforms, and among the items that the Committee on the Judiciary eliminated, out of one or the other of those bodies of information was the death penalty

for things like blowing up an airplane with 300 people on board.

In other words, under the Democrats' bill, someone could blow an airliner out of the sky, we could find out who they are, and under the Democrats' proposal we would not be able to have the jury decide that that person should be given the death penalty. That would not be an option open to the jury.

Is the gentleman from Georgia [Mr. GINGRICH] saying that the Democrats in their rule have indicated that we cannot bring measures to the floor to try to correct those extremely bad oversights by the Committee on the Judiciary?

Mr. GINGRICH. Mr. Speaker, as the gentleman from Pennsylvania [Mr. WALKER] knows, we have not yet seen the committee report. It was just filed on a rule which I believe they intend to bring to the floor tomorrow so that people around the country will literally never have an opportunity to read the report of the Committee on Rules before it is voted on, and no one will know in detail exactly what it blocks and does not block, although we are trying, even tonight, to analyze some of the provisions that they have put in there.

But it is my understanding that not only is the bill reported by the liberal Democrats a very antideath penalty bill, a bill which dramatically pulls back from using the death penalty, but in addition, it is my understanding that they block a number of amendments which were going to be offered which involves the death penalty.

So, I think again that at a time when in most of America people who are very, very worried about and very upset about the death penalty, very worried about drug dealing, very worried about crime, when we see, for example, Mayor Dinkins of New York virtually admitting that large parts of his city are now out of control, talking about hiring 5,000 additional policemen in New York alone, and at this time liberal Democrats have brought to the floor of the House both an extraordinarily liberal, if my colleagues will, bill which makes life easier for the criminals and the drug dealers and harder for the policemen and the prosecutors. And with it they brought a gag rule which will block Members like the gentleman from Illinois [Mr. HYDE] and the gentleman from Florida [Mr. MCCOLLUM] from offering the kind of amendments that would give the American people a chance to have more public safety and a better sense of personal security.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, this is the bill that a number of State attorneys general came to Capitol Hill about last week, as well as a number of local district attorneys, and literally termed this as a procrime bill. I mean there was no doubt when they met with me and when I talked to my attorney general of the State of Pennsylvania personally about it. He said that this bill, if passed, would do more to help the criminals than it would to help law enforcement, and he termed it a procrime bill. And I know a number of attorneys general came to town and said the same thing.

So, in other words, the Committee on Rules has voted to protect this procrime bill and not give us the opportunity of toughening it up; is that correct?

Mr. GINGRICH. Mr. Speaker, I think it is fair to say that the effect of this bill would be to make it relatively easier for criminals to get away with their crimes and to make it relatively more difficult for policemen and law enforcement officials to capture and lock up those criminals.

In addition, by eliminating some of the death penalty provisions, those of us who believe that the death penalty is a legitimate response to some crimes, and, as the gentleman from Pennsylvania [Mr. WALKER] mentioned, particularly to crimes of terrorism, to crimes that involve the killing of a large number of people and crimes particularly heinous involving the torture of people, we believe that by weakening the death penalty that this bill clearly weakens the sanctions against crime.

So, my understanding is that all the U.S. attorneys and a vast majority of the district attorneys in this country have come out against the liberal Democratic version and have indicated that in their judgment it makes their job harder and it makes the job of the criminal defense lawyer easier.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, meeting in late night session tonight the Committee on Rules decided to just shove all of that aside and refuse to take up some of the amendments that were presented before it. It is not that the Committee on Rules did not have an opportunity to have amendments before us that would deal with some of these situations. But the fact is that, having looked at those amendments, they specifically decided not to allow the House to work its will on this bill.

Mr. GINGRICH. Mr. Speaker, let me make a larger general point for a second because I think very often, if someone is watching the House in session, if they are an American citizen that simply wants to understand better how the Congress works they may underestimate the importance of political parties.

The fact is that the liberal Democrats who control the Democratic caucus and elect the Democratic officials in the House basically set the rules of the game, that a rule is a very important vote because a rule establishes the circumstances under which we are going to vote, that because the liberal Democrats are very antideath penalty and because as a general rule they are very representative of the American Civil Liberties Union viewpoint and of the trial lawyer viewpoint there is a very powerful bias in the Democratic caucus against having the kind of very strong anticriminal, antidrug dealer positions that we believe most Americans want. And very often Democratic Members will go home, and they will say, "Gee, I really would have voted for the Hyde amendment, but it wasn't offered," and I think the point we want to make tonight is that tomorrow there will be a vote on a rule, that that vote has substantive impact, that to pass this rule is to vote to gag the House and to vote to block the House so that the House will not have the ability to improve the very liberal crime bill which came out of the Committee on the Judiciary and which I think makes America less able to deal with drug dealers and less able to deal with violent criminals.

Mr. Speaker, it is very important for people around America to start studying the Committee on Rules and study the procedures of the House because one really cannot appreciate exactly how power is used in Washington until they watch the way in which the game is rigged.

Mr. Speaker, this rule rigs the game. It rigs the game in favor of the American Civil Liberties Union and against the average American citizen. It rigs the game in favor of the criminal defense lawyer and against the district attorney. It rigs the game in favor of the criminal or drug dealer being able to get off and against the policeman being able to arrest and to sustain that arrest.

So, rigging the game becomes a very important and powerful tool of liberal Democrats, and, frankly, all this becomes more important as their viewpoint becomes less defensible in the public arena. The more the country becomes anticrime and antidrug, the harder it is for a typical liberal Democrat to really get up and bluntly say, "I don't believe in locking up criminals," or, "I don't believe in locking up drug dealers," and so, rather than face a head-on vote on the Hyde amendment, for example, on the habeas corpus provisions, which would have been a very powerful anticrime reform amendment offered by the gentleman from Illinois [Mr. HYDE]; instead of facing that vote head on and seeing if they can beat it, they simply gag the vote so it will not occur. By writing

this very liberal kind of rule that prohibits the House from acting on the Hyde amendment, in effect the Committee on Rules protects the Democratic Members from having to deal with an issue which clearly would be unpopular for their Members to vote their ideology.

□ 2140

In that sense, I think it is very, very important for both the news media and for the American people to come to understand how power is wielded in a legislative body. Political party becomes very important in this kind of a setting, because, frankly, the liberal Democrats are going to stop the kind of amendments that those who favor much tougher anticriminal and antidrug dealer provisions would favor.

Those, for example, who would favor more use of the death penalty for certain kinds of crimes, are going to be gagged by the liberal Democratic control of the House and the liberal Democratic control of the Committee on Rules.

So I think it is very important that we look at this, and that we recognize that the Committee on Rules has in effect at the direction, and I do not in any sense blame individual members of the committee, this is at the direction of the Democratic caucus and at the direction of the Democratic leadership. They have decided to block the American people from having a fair vote, and I think that that is explicitly an inappropriate step, and I think we should do all we can in the next few days to indicate and to fight for the right of the American people to get a fair and straightforward vote.

Mr. Speaker, I certainly hope every Member of the House who is against the current epidemic of drug dealing and every Member of the House who wants to see violent criminals locked up and wants to see our citizens made safe again, that those Members of the House will in fact be willing to get actively involved, and they will in fact be willing to insist that the House defeat this liberal rule, that it defeat this gag provision, and that instead it make available for the American people an opportunity for Members to offer the amendments that would allow us to correct this very liberal, what I can only describe as a prodrug dealer, procriminal bill, and instead replace it with the kind of amendments that will make people safe once again.

Mr. Speaker, I yield back the balance of my time.

REQUEST FOR MOTION

The SPEAKER pro tempore. (Mr. MCMILLEN of Maryland). Does the gentleman from Pennsylvania have a motion?

Mr. WALKER. I do not think so.

Mr. GINGRICH. Just so the Chair will understand what we are currently doing, we would simply like to start this evening, and we will continue this exercise tomorrow, to communicate that bipartisanship is essential in running a legislative body, and that there are a number of minor ways in which it is helpful to have the two sides cooperate, and, frankly, given this kind of a rule, it is very hard for us to be cooperative.

We recognize that we have yielded back our time. We will be glad to stand around waiting for a Democrat to come out to make a motion since, as I understand the rules, the Chair cannot so move, and at that time we will see what may happen next.

We think it is important to send the signal to the Democratic leadership that you cannot continue to gag people like the gentleman from Illinois [Mr. HYDE] and the gentleman from Florida [Mr. MCCOLLUM]. You cannot continue to write rules that are extraordinarily one-sided in favor of the liberal wing of your caucus and expect us not to take some steps which are designed to communicate that the American people deserve a fair way of running this House and the American people deserve a fair chance to see up or down votes on things like the drug issue and the crime issue.

So we will be glad to continue chatting until you can find someone, and I think we may even have somebody here.

MOTION TO ADJOURN

Mr. PARKER. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. PARKER].

The question was taken; and on a division (demanded by Mr. GINGRICH) there were—ayes 1, noes 3.

So the motion was rejected.

CONTINUATION OF SPECIAL ORDERS

The SPEAKER pro tempore. Does any Member wish a special order?

Mr. GINGRICH. Until your side gets more votes, I will be glad to ask to be recognized again.

The SPEAKER pro tempore. Without objection the gentleman may reclaim time remaining on his special order.

There was no objection.

COMPREHENSIVE CONTROL ACT OF 1990: BIPARTISAN COOPERATION

Mr. GINGRICH. Mr. Speaker, let me try again, because I think people watching this; one of the great marvels of the modern era and a marvel that has changed much of the world, is the development of C-SPAN and the ability of people to watch and be involved in the parliamentary process.

This is something we are encouraging the Russians, Estonians, Latvians, Ukrainians, Poles, and Hungarians, to learn how to do, the democratic process. The point we are trying to make tonight is the democratic process, small "d," ought to in fact be democratic. It ought to be open. That all we are saying to the Democratic leadership of the House is take this rule back to the Committee on Rules tomorrow morning, write a fair rule, give us a chance to win up or down on some anticrime and antidrug amendments, and if we lose the vote straight, that is fine. That is the process of free self-government. But do not come in here and use your procedural majority to gag the Republicans and to gag the conservative Democrats, so that we are not in a position to be able to do anything.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I think one of the problems is, too, that if we play by the rules, and if we do everything that we can to try to win within the rules of the House, the other process that has been taking place here, and we saw it today in the Suspension Calendar, is that they simply suspend the rules and try to take it upon themselves to pass legislation over the body of rules that exist. So that they do not even allow you to play by the rules within the House. They use their majority in order to evade the rules on things that they want to skim through. That becomes increasingly disturbing.

The fact is that the House does demand the cooperation of the minority, and there is a need for comity in the body, where everybody cooperates a little bit.

This particular exercise is a perfect example. There is a need for the cooperation of the minority here late in the evening, and we are kind of expected to do that, and ignore all of the abuse that is heaped upon the minority in the course of a given legislative day, or in this case in the course of the deliberation of the Committee on Rules, which is stacked more than 2 to 1 against us, where they can report rules that are absolutely unconscionable from the viewpoint of the minority.

If we are going to have cooperative kinds of arrangements in the House of Representatives, then we need to have true cooperation.

Mr. GINGRICH. I think the Chair is about to have enough votes.

ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr. GEPHARDT].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GINGRICH. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. The Chair is counting.

□ 2150

Mr. GINGRICH. Mr. Speaker, if I could, just to protect my position for a moment, could I inquire of the Chair, without going any further at this point, I am not going to insist on my rights for the moment, but I just do want to note for the RECORD, I believe we have an adequate number, an adequate percentage on the floor.

The SPEAKER pro tempore (Mr. MCMILLEN of Maryland). The Chair has not finished counting the House.

Mr. GINGRICH. I understand. I just want to affirm, and I am not urging the Chair to move quickly.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Pennsylvania will state it.

Mr. WALKER. Mr. Speaker, are there not six people in the House?

The SPEAKER pro tempore. The Chair is still counting the House.

Mr. WALKER. The Chair is still counting. All right.

□ 2200

The SPEAKER pro tempore (Mr. MCMILLEN of Maryland). The Chair counts 20 Members present, an insufficient number.

The yeas and nays are not ordered.

Mr. GINGRICH. Could I ask the Chair to count again? I am a little confused here.

The SPEAKER pro tempore. The Chair counted 20 Members present. Three had asked for the yeas and nays, an insufficient number.

Mr. GINGRICH. We have five who asked for the yeas and nays.

Mr. WALKER. There are five who asked for the yeas and nays.

The SPEAKER pro tempore. When the Chair counted the Members standing, the Chair counted three.

Mr. GINGRICH. The Chair was not counting 20 Members here. So I think the Chair, in fairness, should recount on both sides.

The SPEAKER pro tempore. The Chair will continue to count the House.

The Chair counts 27 present, 5 who have asked for the yeas and nays, an insufficient number.

Accordingly, the motion is agreed to, and the House stands adjourned until 10 a.m. tomorrow.

The motion was agreed to; accordingly (at 10 o'clock and 10 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, September 25, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3924. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to authorize the Federal Deposit Insurance Corporation to increase deposit insurance premiums and to borrow working capital funds, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

3925. A letter from the Secretary of Energy, transmitting the 10th annual report of the Department of Energy, pursuant to 42 U.S.C. 5562, 5564, 5907(e), 5914, 5914 nt., 6371h(b), 6372h(b), 6806, 7007(c), 7135(b), 7267, 8235g(b); to the Committee on Energy and Commerce.

3926. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's quarterly report concerning human rights activities in Ethiopia, covering the period April 15 through July 14, 1990, pursuant to Public Law 100-456, section 1310(c) (102 Stat. 2065); to the Committee on Foreign Affairs.

3927. A letter from the Department of Justice, transmitting a copy of the Department's views on proposed amendment offered by Representative Hughes to title XVIII of H.R. 5269; to the Committee on the Judiciary.

3928. A letter from the Department of the Treasury, transmitting a copy of a determination signed by Secretary Brady on September 21, 1990; jointly to the Committees on Banking, Finance and Urban Affairs and Appropriations.

3929. A letter from the Comptroller General of the United States, transmitting the Commission's report, including unaudited financial statements, covering the operations of the Panama Canal during fiscal year 1989, pursuant to 22 U.S.C. 3722; jointly to the Committees on Government Operations and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DE LA GARZA: Committee on Agriculture. H.R. 4567. A bill to authorize an exchange of lands in South Dakota and Colorado; with an amendment (Rept. 101-728, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4019. A bill to designate certain rivers in the State of Michigan as components of the National Wild and Scenic Rivers System, and for other purposes; with an amendment (Rept. 101-738). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4559. A bill to establish the Red Rock Canyon National Conservation Area; with an amendment (Rept. 101-739). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5144. A bill to establish the Vancouver National Historical Reserve in the State of Washington, and for other purposes; with amendments (Rept. 101-740). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1738. An act to convey certain Oregon and California Railroad Grant Lands in Josephine County, Oregon, to the Rogue Community College District, and for other purposes (Report 101-741). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1756. An act to provide for the preservation and interpretation of sites associated with Acadian culture in the State of Maine; with an amendment (Rept. 101-742). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2075. An act to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality (Rept. 101-743). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2437. An act to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, and for other purposes; with amendments (Rept. 101-744). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4227. A bill to designate segments of the Sudbury, Assabet, and Concord Rivers as a study area for inclusion in the national wild and scenic rivers system; with an amendment (Rept. 101-745). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1128. An act for the relief of Richard Saunders (Rept. 101-746). Referred to the Committee of the Whole House.

Mr. HAWKINS: Committee on Education and Labor. H.R. 2039. A bill to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve adults and to youth, and for other purposes; with an amendment (Rept. 101-747). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4299. A bill to authorize a study of the fishery resources of the Great Lakes, and for other purposes; with an amendment (Rept. 101-748). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4491. A bill to amend the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203); with amendments (Rept. 101-749). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 471. Resolution providing for the consideration of H.R. 4225, a bill to amend title 18, United States Code, to pro-

hibit the possession, transfer, and certain exports of restricted weapons, the manufacture of firearms capable of accepting a silencer or bayonet without alteration, and the possession and transfer of large capacity ammunition feeding devices, and for other purposes (Rept. 101-750). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 472. Resolution providing for the consideration of H.R. 849, a bill to amend title 1, of the United States Code, to define the type of adjournment that prevents the return of a bill by the President, and to amend the Rules of the House of Representatives to require the Clerk to make certain notifications to the Speaker (Rept. 101-751). Referred to the House Calendar.

Ms. SLAUGHTER of New York: Committee on Rules. House Resolution 473. Resolution providing for the consideration of H.R. 5269, a bill to control crime (Rept. 101-752). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STAGGERS:

H.R. 5691. A bill to amend the Internal Revenue Code of 1986 to extend the period for issuing qualified small issue bonds through 1991; to the Committee on Ways and Means.

By Mr. MADIGAN (for himself and Mr. WAXMAN):

H.R. 5692. A bill to amend title XX of the Public Health Service Act to authorize appropriations for the Adolescent Family Life Program; to the Committee on Energy and Commerce.

By Mr. WAXMAN (for himself and Mr. MADIGAN):

H.R. 5693. A bill to amend the Public Health Service Act to extend the program of voluntary family planning established in title X of such act; to the Committee on Energy and Commerce.

By Mr. BATES (for himself and Mr. BILBRAY, and Mrs. COLLINS):

H.R. 5694. A bill to amend the Communications Act of 1934 to require the marketing of encrypted satellite transmissions of professional sporting events; to the Committee on Energy and Commerce.

By Mr. DELLUMS (for himself and Mr. MILLER of California):

H.R. 5695. A bill to establish the U.S.S. *Potomac* National Historical Site, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DYMALLY:

H.R. 5696. A bill to amend the Health Care Quality Improvement Act of 1986 to prohibit discrimination against international medical graduates, to provide for the establishment of a National Repository of Physician Records, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HUBBARD:

H.R. 5697. A bill to establish the National Workplace Safety Commission; to the Committee on Education and Labor.

By Mr. JOHNSON of South Dakota:

H.R. 5698. A bill to require a feasibility study of a proposed four-lane expressway between Scottsbluff, NE, and Rapid City, SD; to the Committee on Public Works and Transportation.

By Mr. SMITH of New Hampshire:

H.R. 5699. A bill to amend the Wild and Scenic Rivers Act by designating segments of the Lamprey River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STOKES (for himself, Mr. HOYER, and Mr. TOWNS): :

H.R. 5700. A bill to amend the Public Health Service Act to establish a program of providing undergraduate scholarships in order to provide for the availability of professional skills needed by the National Institutes of Health, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TAUKE:

H.R. 5701. A bill to amend the Engery Policy and Conservation Act and the Export Administration Act of 1979 to prohibit the exporation of refined petroleum products except under certain circumstances; jointly, to the Committees on Energy and Commerce and Foreign Affairs.

By Mr. WAXMAN (for himself, Mr. RICHARDSON, Mr. TOWNS, Mr. STOKES, and Mr. MINETA):

H.R. 5702. A bill to amend the Public Service Act to provide for an improvement in the health of members of minority groups, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CHANDLER :

H.J. Res. 652. Jointly resolution to designate March 25, 1991, as "National Medal of Honor Day"; to the Committee on Post Office and Civil Service.

By Mr. FASCELL (for himself and Mr. BROOMFIELD):

H.J. Res. 653. Joint resolution designating October 30, 1990, as "Refugee Day"; to the Committee on Post Office and Civil Service.

By Mr. GOODLING:

H.J. Res. 654. Joint resolution designating September 25, 1990, as "National Reporters Day"; to the Committee on Post Office and Civil Service.

By Mr. ROE:

H. Res. 470. Resolution to provide for the concurrence in the Senate amendment to H.R. 1243 with amendments

By Mr. VISCLOSKY:

H. Res. 474. Resolution calling for an international investigation of, and the prosecution of those responsible for, Iraqi war crimes against foreign nationals; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

502. The SPEAKER presented a memorial of the Legislature of the Virgin Islands, relative to the appointment of the Adjutant General of the Virgin Islands; to the Committee on Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CONTE:

H.R. 5703. A bill to authorize issuance of a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel *Flora Vee*; to the Committee on Merchant Marine and Fisheries.

By Mr. EDWARDS of Oklahoma:

H.R. 5704. A bill for the relief of Marguerite Kordahi, May Kordahi, Nouhad Kordahi, and Souad Natet Kordahi; to the Committee on the Judiciary.

By Mr. HOAGLAND:

H.R. 5705. A bill for the relief of Juana Escobar de Spitler and Moises Thomas Escobar; to the Committee on the Judiciary.

By Mr. SUNDQUIST:

H.R. 5706. A bill for the relief of Sina Amir Abdo hosseinzadeh; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 118: Mr. GILMAN.
H.R. 222: Mr. CARPER.
H.R. 690: Mr. OBERSTAR.
H.R. 733: Mr. HALL of Texas.
H.R. 780: Mr. PRICE and Mr. SMITH of New Jersey.
H.R. 917: Mr. STEARNS, Mr. SCHUETTE, Mr. WOLPE, and Mr. COSTELLO.
H.R. 1060: Mrs. MORELLA.
H.R. 1085: Mr. CHAPMAN.
H.R. 1400: Mr. MADIGAN.
H.R. 1406: Mr. COX, Mr. MRAZEK, and Mr. RITTER.
H.R. 2025: Ms. PELOSI.
H.R. 2168: Mr. DIXON.
H.R. 2418: Mr. JOHNSTON of Florida, Mr. GILLMOR, and Mr. VALENTINE.
H.R. 3520: Mr. FISH.
H.R. 3521: Mr. ASPIN.
H.R. 3732: Mr. MOODY and Mr. KOLBE.
H.R. 3818: Mr. RAVENEL and Mrs. COLLINS.
H.R. 3880: Mr. FISH.
H.R. 3936: Mr. SLATTERY, Mr. CAMPBELL of California, Mr. ALEXANDER, Mr. MOAKLEY, Mr. WELDON, Mr. NOWAK, Mr. DORGAN of North Dakota, and Mr. HAMILTON.
H.R. 4095: Mr. DIXON, Mrs. LOWEY of New York, Mr. JOHNSON of South Dakota, Mr. PASHAYAN, Mr. BATES, Mrs. SCHROEDER, Mr. FRENZEL, Mr. CONDIT, and Mr. WAXMAN.
H.R. 4147: Mrs. MORELLA.
H.R. 4149: Mr. ECKART and Mr. SCHIFF.
H.R. 4168: Mrs. COLLINS and Mr. RAVENEL.
H.R. 4224: Mr. BROWN of California and Mr. ENGEL.
H.R. 4258: Mr. SOLOMON, Mr. FISH, Mr. BROWN of California, Mr. BRUCE, and Mr. KENNEDY.
H.R. 4345: Mr. DE LUGO, Mr. COSTELLO, Mr. ROE, Mr. DOWNEY, Mr. MRAZEK, Mr. WOLPE, Mr. BROWN of California, Mr. KILDEE, Mrs. COLLINS, Ms. KAPTUR, Mr. HORTON, and Mr. GINGRICH.
H.R. 4369: Mr. HOCHBRUECKNER.
H.R. 4650: Mr. GEJDENSON.
H.R. 4750: Mr. BONIOR.
H.R. 4753: Mr. SUNDQUIST.
H.R. 5052: Mr. LAGOMARSINO and Mrs. BOXER.
H.R. 5053: Mr. LAFALCE, Ms. KAPTUR, Mr. SKAGGS, Mrs. BYRON, Mr. CARPER, Mr. CHANDLER, Mr. MINETA, Mr. FAWELL, Mr. BARTLETT, Mr. LIPINSKI, Mr. KILDEE, and Mr. MANTON.
H.R. 5094: Mr. BOSCO and Mr. HUCKABY.
H.R. 5156: Mr. GLICKMAN
H.R. 5191: . Mr. FALEOMAVAEGA.
H.R. 5208: Mr. FISH.
H.R. 5212: Mr. OWENS of New York, Mr. MCNULTY, Mr. WOLPE, Mr. JOHNSTON of Florida, Mr. LIPINSKI, Mr. BLILEY, Mr. GONZALEZ, and Mr. ATKINS.
H.R. 5231: Mr. MRAZEK, Mr. CAMPBELL of California, Mr. GILMAN, Mr. HOUGHTON,

Mrs. MORELLA, Mrs. ROUKEMA, Mr. YATES, Mr. BUSTAMANTE, Mr. CARDIN, Mr. ATKINS, Mr. RANGEL, and Mr. FORD of Tennessee.

H.R. 5244: Mr. UPTON.

H.R. 5247: Mr. ROWLAND of Georgia and Mr. JONTZ.

H.R. 5290: Mr. ROE and Mr. MOODY.

H.R. 5306: Mr. BRUCE, Mr. LAGOMARSINO, Mr. OBERSTAR, Mr. SHAYS, and Mr. WYDEN.

H.R. 5338: Mrs. MEYERS of Kansas.

H.R. 5351: Mr. THOMAS of Wyoming and Mr. MCEWEN.

H.R. 5367: Mr. WALSH, Mr. MCGRATH, Mr. CAMPBELL of California, Mr. FALEOMAVAEGA, Mr. LAGOMARSINO, Mr. TOWNS, and Mr. ENGEL.

H.R. 5373: Mr. ANDREWS, Mr. GUNDERSON, and Mr. HARRIS.

H.R. 5411: Mr. LAFALCE, Mr. SERRANO, and Mr. BOEHLERT.

H.R. 5416: Mr. INHOFE, Mr. HERGER, and Mr. SHARP.

H.R. 5452: Mr. TOWNS, Mrs. BOXER, Mrs. COLLINS, and Mr. FISH.

H.R. 5475: Mr. LIPINSKI, Mr. DYMALLY, Ms. SNOWE, Mr. CARDIN, Mr. HERTEL, and Mr. SAXTON.

H.R. 5536: Mr. HORTON, Mr. FISH, Mr. SCHEUER, Mrs. BOXER, Mr. HERTEL, Mr. WYDEN, Mr. MATSUI, Mrs. COLLINS, Mr. FROST, Mr. SERRANO, Mr. MCMILLEN of Maryland, Mr. AUCOIN, and Mr. FRANK.

H.R. 5544: Mr. KLECZKA, Mr. HERTEL, Mrs. COLLINS, Mr. DELLUMS, and Mr. OWENS of New York.

H.R. 5553: Mr. HOAGLAND.

H.R. 5587: Mr. BENNETT, Mr. DEWINE, Mr. HANSEN, Mr. HUTTO, Mr. INHOFE, Mr. JOHNSON of South Dakota, Mr. KOLBE, Mr. ROTH, and Mr. STALLINGS.

H.R. 5589: Mr. RANGEL, Mr. MORRISON of Connecticut, Mr. MARKEY, and Mr. EVANS.

H.R. 5590: Mr. HUGHES, Ms. KAPTUR, Mr. MRAZEK, and Mr. TRAFICANT.

H.R. 5596: Mr. UPTON, Mr. PAYNE of New Jersey, and Mr. SAWYER.

H.J. Res. 476: Mr. BOSCO, Mrs. BYRON, Mr. ESPY, and Mr. WOLPE.

H.J. Res. 509: Mr. FORD of Michigan, Mr. LAUGHLIN, Mr. LAGOMARSINO, Mr. PAYNE of New Jersey, Mr. WEISS, Mr. GRADISON, Mr. ANTHONY, Mr. ROBINSON, Mr. NATCHER, and Mr. RUSSO.

H.J. Res. 518: Mr. PURSELL, Mr. PETRI, Mr. MRAZEK, Ms. SNOWE, Mr. MCMILLEN of Maryland, and Mrs. MORELLA.

H.J. Res. 543: Mr. LEVINE of California and Mr. COX.

H.J. Res. 570: Mr. HOPKINS, Mr. MCMILLEN of Maryland, Mr. MOODY, Mr. SHAYS, Mr. VISCLOSKY, Mr. SAXTON, Mr. PAYNE of Virginia, Mr. RANGEL, Mr. GEKAS, Mr. ESPY, Mr. LIPINSKI, Mr. CLARKE, and Mr. GEREN.

H.J. Res. 579: Mr. BLAZ, Mr. YOUNG of Florida, Mr. ERDREICH, and Ms. KAPTUR.

H.J. Res. 583: Mr. NOWAK, Mr. HAMMERSCHMIDT, Mr. WEISS, Mr. MCEWEN, Mr. HOYER, Mr. YATRON, Mr. CLINGER, Mr. MURPHY, Mr. PERKINS, Mr. MINETA, Mr. COYNE, Mr. STANGELAND, Mr. HALL of Ohio, and Mr. DEFAZIO.

H.J. Res. 595: Mr. GRANT, Ms. KAPTUR, Mr. DAVIS, Mr. BOSCO, Mr. BARNARD, Mr. JONES of North Carolina, Ms. LONG, Mr. DIXON, Mr. BILIRAKIS, Mr. MARTIN of New York, Mr. MILLER of Ohio, Mr. MYERS of Indiana, Mr. NAGLE, and Mr. MOAKLEY.

H.J. Res. 602: Mr. BEILENSON and Mr. KENNEDY.

H.J. Res. 613: Mr. ARCHER, Mr. SLATTERY, Mr. ROYBAL, Mr. HASTERT, Mrs. MEYERS of Kansas, Mr. WAXMAN, Mr. ESPY, Mr. THOMAS of Wyoming, Mr. KASTENMEIER, Mr. HEFNER, Mr. LEHMAN of California, Mr. OWENS of Utah, Mr. HAYES of Louisiana, Mr. HOUGHTON, Mr. ROBERT F. SMITH, Mr. BOSCO, Mr. HOCHBRUECKNER, Mr. BARTLETT, Mr. KLECZKA, and Ms. LONG.

H.J. Res. 628: Mr. FISH, Mr. LEWIS of Georgia, Mr. PALLONE, and Mr. QUILLEN.

H.J. Res. 636: Mr. ANNUNZIO, Mr. APPLEGATE, Mr. BERMAN, Mr. BILIRAKIS, Mr. BLILEY, Mr. BOEHLERT, Mr. BROOMFIELD, Mr. BUECHNER, Mr. BUSTAMANTE, Mr. CARDIN, Mr. CLINGER, Mrs. COLLINS, Mr. COURTER, Mr. DOUGLAS, Mr. DOWNEY, Mr. DREIER of California, Mr. DURBIN, Mr. ENGEL, Mr. FAZIO, Mr. FRANK, Mr. GIBBONS, Mr. GOODLING, Mr. GREEN of New York, Mr. GUARINI, Mr. GUNDERSON, Mr. HAYES of Louisiana, Mr. HORTON, Mr. HUGHES, Mr. INHOFE, Mr. KASICH, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LEWIS of California, Mrs. LOWEY of New York, Mr. MCDERMOTT, Mr. MCEWEN, Mr. MCNULTY, Mr. MANTON, Mr. MARKEY, Mr. MAVROULES, Mr. MILLER of Washington, Mr. NEAL of Massachusetts, Ms. OAKAR, Mr. PACKARD, Mr. PALLONE, Mr. RANGEL, Mr. RITTER, Mr. ROE, Ms. ROS-LEHTINEN, Mr. ROWLAND of Connecticut, Mr. SAVAGE, Mr. SAWYER, Mr. SCHUMER, Mr. SMITH of Florida, Ms. SNOWE, Mr. SOLARZ, Mr. SOLOMON, Mr. TAUKE, Mr. TORRICELLI, Mr. TOWNS, Mr. VANDER JAGT, Mr. WEISS, Mr. WYLIE, Mr. YATES, Mrs. SAIKI, Mr. FAUNTROY, Ms. KAPTUR, Mr. POSHARD, and Mr. SAXTON.

H.J. Res. 637: Mr. BROWN of California, Mr. LAGOMARSINO, Mr. DYMALLY, Mr. SKELTON, Mr. CONDIT, Mr. BOSCO, Mr. MATSUI, Mrs. BOXER, Mr. LANTOS, Mr. MINETA, Mr. SHUMWAY, Mr. PANETTA, Mr. PASHAYAN, Mr. LEHMAN of California, Mr. THOMAS of California, Mr. GALLEGLY, Mr. BERMAN, Mr. LEVINE of California, Mr. ANDERSON, Mr. LEWIS of California, Mr. DORNAN of California, Mr. COX, Mr. ROHRABACHER, Mr. BATES, Mr. GRANT, Mr. MCCOLLUM, Mr. BILIRAKIS, Mr. IRELAND, Mr. NELSON of Florida, Mr. LIVINGSTON, Mrs. BOGGS, Mr. MCCRERY, Mr. MONTGOMERY, Mr. PARKER, Mr. BUECHNER, Mr. WEBER, Mr. FRENZEL, Mr. BARTLETT, Mr. HALL of Texas, Mr. FIELDS, Mr. LEATH of Texas, Mr. SARPALIUS, Mr. COLEMAN of Texas, Mr. STENHOLM, Mr. SMITH of Texas, Mr. BUSTAMANTE, Mr. FROST, Mr. DE LA GARZA, Mr. GEREN of Texas, Mr. JOHNSON of South Dakota, Mr. QUILLEN, Mr. RAVENEL, Mr. ROE, and Mr. WAXMAN.

H. Con. Res. 62: Mr. SCHIFF.

H. Con. Res. 151: Ms. SLAUGHTER of New York, Mr. THOMAS of Georgia, Mr. HOUGHTON, Mr BONIOR, Mr. HERTEL, and Mr. LAUGHLIN.

H. Con. Res. 331: Mr. BUSTAMANTE.

H. Con. Res. 356: Mr. FISH.

H. Con. Res. 371: Mr. DELLUMS, Mr. BEILENSON, and Mr. LIPINSKI.

H. Con. Res. 374: Mrs. MARTIN of Illinois, Mr. MACHTLEY, Mrs. MEYERS of Kansas, Mr. GEREN of Texas, Mr. MADIGAN, and Mr. HORTON.

PETITIONS, ETC.

Under clause 1 of rule XXII,

233. The SPEAKER presented a petition of Office of the Governor, Trenton, NJ, relative to the Coastal Zone Act Reauthorization Amendments of 1990; which was referred to the Committee on Merchant Marine and Fisheries.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5314

By Mr. ALEXANDER:

—After section 12 of the bill, insert the following new section:

SEC. 13. AGRICULTURAL WETLANDS EXEMPTION.

Section 404 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1344), is amended by adding at the end the following new subsection:

"(u) AGRICULTURAL WETLANDS EXEMPTION.—

"(1) GENERAL RULE.—This section shall not apply to the discharge of dredged or fill material into any wetland—

"(A) which was used for agricultural production on any calendar date in the 24 months prior to the date of the enactment of this subsection; and

"(B) which was used for agricultural production for at least 1 year in the period between January 1, 1972, and the date of the enactment of this subsection;

so long as such land is used for agricultural production.

"(2) AGRICULTURAL PRODUCTION DEFINED.—For purposes of this subsection, the term 'agricultural production' shall incude, but not be limited to, production of row crops; horticulture; vintniculture; silviculture; aquaculture; mariculture; grazing; haying; apiculture; hydroponics; production of tree fruits or nuts; raising of cattle, horses, poultry, swine, sheep, goats and other livestock; storage of surface water for agricultural production; distribution of water for agricultural production; conserving uses required as a condition of enrollment in an acreage reduction program administered by the Secretary of Agriculture under the Agricultural Act of 1949 or any amendments thereto; all other activities identified in subsection (f)(1) of this section as of July 31, 1989; and the construction, expansion, improvement, maintenance, and operation of farm residences and facilities.".

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

H.R. 5269

By Mr. HYDE:

—Amend title XIII to read as follows:

TITLE XIII—HABEAS CORPUS

SEC. 1301. DEATH PENALTY HABEAS CORPUS PROCEEDINGS.

Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

"2258. Filing of habeas corpus petition; time requirements; tolling rules.

"2259. Evidentiary hearings; scope of Federal review; district court adjudication.

"2260. Certificate of probable cause inapplicable.

"2261. Application to State unitary review procedures.

"Sec. 2256. PRISONERS IN STATE CUSTODY SUBJECT TO CAPITAL SENTENCE; APPOINTMENT OF COUNSEL; REQUIREMENT OF RULE OF COURT OR STATUTE; PROCEDURES FOR APPOINTMENT.

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel under subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254 or this chapter. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"SEC. 2257. MANDATORY STAY OF EXECUTION; DURATION; LIMITS ON STAYS OR EXECUTION; SUCCESSIVE PETITIONS.

"(a) Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court; or

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal post-conviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the dealth penalty was imposed.

"SEC. 2258. FILING OF HABEAS CORPUS PETITION; TIME REQUIREMENTS; TOLLING RULES.

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within 180 days after the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition, if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for post-conviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for post-conviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed 60 days, if—

"(A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and

"(B) a showing of good cause is made for the failure to file the habeas corpus petition within the time periods established by this section.

"SEC. 2259. EVIDENTIARY HEARINGS; SCOPE OF FEDERAL REVIEW; DISTRICT COURT ADJUDICATION.

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the evidentiary record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State post-conviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the merits of the claims properly before it.

"SEC. 2260. CERTIFICATE OF PROBABLE CAUSE INAPPLICABLE.

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

"SEC. 2261. APPLICATION TO STATE UNITARY REVIEW PROCEDURES.

"(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter applies, as provided in this section, to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) Sections 2257, 2258, 2259, and 2260 apply to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review'

and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order pursuant to section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the 180-day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or the prisoner's counsel.".

Page 237, strike line 22 and all that follows through line 13 on page 238.

EXTENSIONS OF REMARKS

MICHIGAN FAMILIES OF THE VICTIMS OF PAN AM 103 DETERMINED TO HAVE BETTER AVIATION SECURITY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. BROOMFIELD. Mr. Speaker, a number of Michigan families of the victims of Pan Am 103 recently visited Capitol Hill, including Mrs. Susan Bennett from Chelsa, and Mrs. Georgann Fuller and Mrs. Susan Kosmowski from Birmingham. I had the opportunity to talk at length with Susan Kosmowski and her son about that tragedy and the loss of Mr. Gregory Kosmowski who perished along with 269 other passengers and Scottish citizens on December 21, 1988. Thanks to the determination and good work of these Michigan families and others from across the United States, our Government has made great progress in enhancing aviation security. Much more, however, remains to be done. The Aviation Security Improvement Act of 1990 is a step in the right direction.

The families of the victims of Pan Am 103 visited Washington to express their strong support for H.R. 5200, the Aviation Security Improvement Act of 1990. This week, the Public Works and Transportation Committee may complete consideration of the legislation. The House Foreign Affairs Committee will mark up the bill on September 26. The House bill may be considered on the floor in October. Similar legislation, S. 2822, is also pending in the Senate.

The victims' families encouraged President Bush to establish the President's Commission on Aviation Security and Terrorism. That Commission began its work in November 1989 and it was chaired by the very capable Mrs. Ann McLaughlin. Its members included: Senators FRANK R. LAUTENBERG and ALFONSE M. D'AMATO; Representatives JAMES L. OBERSTAR and JOHN P. HAMMERSCHMIDT; Gen. Thomas C. Richards, USAF (Retired); and Mr. Edward Hidalgo.

In May, the Commission concluded its comprehensive evaluation of the existing aviation security system, the options for handling terrorist threats and the treatment of families of victims of terrorist acts. The Commission's excellent report contains a list of 64 recommendations designed to dramatically upgrade aviation security procedures. After the release of the report, the family groups worked closely with the Congress for the purpose of finding a legislative vehicle for those recommendations. The report's findings were included in the Aviation Security Improvement Act of 1990 which was introduced in June 1990.

The act creates the position of Assistant Secretary for Transportation Security and Intelligence in the Department of Transportation. This person will be responsible for intelligence information, security policy, and planning. In addition, the act establishes in the Federal Aviation Administration an Assistant Administrator for Civil Aviation Security who will be responsible for the daily management and oversight of field security resources and the enforcement of security-related requirements.

The bill also creates the positions of Federal Security Manager at domestic high-risk airports and the Foreign Security Liaison Officer at foreign high-threat airports. The legislation sets new standards and procedures for the hiring of airport and air carrier security personnel and requires that the FAA and the FBI conduct assessments of the security threats to domestic airports. The act also directs the FAA to start an intensive counterterrorism research and development program and sets new guidelines concerning the notification of the public about threats to civil aviation. It requires the Ambassador-At-Large for Counterterrorism in the Department of State to be responsible for coordinating international aviation security. The act also provides disaster training for State Department consular officers and increases funding levels for aviation security assistance.

Without the energetic efforts of the families of the victims of Pan Am 103, the President's Commission report and the Aviation Security Improvement Act of 1990 would not have become a reality. The families are united in their dedication to improving the overall level of aviation security and want to ensure that terrorist attacks against innocent travelers will never happen again.

My heart goes out to the families of all of the victims of Pan Am 103, especially to the Michgian residents who paid a high price for the failure of our aviation security program. The President's Commission report and the Aviation Security Improvement Act of 1990 are living testaments to the determination of the families to change a system that was defective and make flying safer for all of us. We must have excellence in aviation security. That is the most fitting tribute that we can pay to those who perished in the skies over Lockerbie.

HUMAN RIGHTS IGNORED

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. DREIER of California. Mr. Speaker, during the past decade, a number of us here in the Congress have expressed our concerns about vast human rights abuses committed by the Sandinista government in Nicaragua. More often than not, we were rebuffed by others in the House who felt that such accusations were manifestations of the CIA or the Contras, and most influential human rights groups ignored our evidence.

We now know that our concerns were justified. Mass graves of Nicaraguan peasants, churchworkers, and farmers are even now being uncovered throughout the country, and Nicaraguan citizens are lining up to tell similar stories of detention, torture, and execution at the hands of the Sandinista police. I would like to submit for the record an article that appeared recently in the Wall Street Journal which details the difficulty that one particular group, the Puebla Institute, had in uncovering these charges.

I offer this for my colleagues' attention in the hopes that in the future, this body will be more careful in dismissing allegations of human rights abuses by an existing government before appropriate attention has been paid to the charges.

Thank you.

[From the Wall Street Journal, Friday, Aug. 24, 1990]

UNCOVERING THE AWFUL TRUTH OF NICARAGUA'S KILLING FIELDS

(By Nina H. Shea)

In early 1987 in a remote UN refugee camp in rural Costa Rica, Jose Aguirre Sanchez, a 57-year-old bean farmer from southern Nicaragua, told me about Sandinista mass murders in his home village 18 months before that drove him into exile:

"The Sandinista army started killing civilians. My close friend was killed in it. He read a Catholic Bible and liked to tell people about it. He was kind of a preacher. One day the Sandinistas surrounded his house while he was eating dinner. The Sandinistas threw a grenade at the house and started shooting at it. They shot my friend in the arm and all the children in the house ran out. The Sandinistas said they would take my friend to the hospital to get treatment for the gunshot wound and led him away. Instead they killed him. His mutilated body was found later. His name was Rufino Laguna. He didn't tell the authorities because we were afraid. The Sandinista soldiers started killing other people in the town."

On the visit to two refugee camps for Nicaraguans in Costa Rica, historian Ronald Radosh and I interviewed 50 refugees who told of similar experiences of fleeing lethal Sandinista army attacks on remote villages where the Contras had passed through but were not present during the assaults. They said scores of women, children and other civilians were murdered in cold blood. We concluded that the Sandinistas has a counterinsurgency policy of "draining the sea," that is, killing or driving out the "sea" of rural peasants who could lend support to the guerrillas.

Other evidence of political massacres by the Sandinistas emerged as well. Shortly after our report was publicized, Gary Moore, an investigator with the Washington-based National Forum Foundation, went on muleback to remote areas inside Nicara-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

gua. There, he taped villagers attesting to political murders by Sandinista security officials (an effort that landed him in prison and resulted in the confiscation of some of his documentation).

What was the reaction of the international human rights community to these and other shocking reports? Most ignored the few who spoke up, following the lead of Americas Watch, the most prominent human rights group concentrating on Latin America. Americas Watch retraced our steps in the refugee camps, but cast doubts on the refugee reports by criticizing us for not collecting corroborating evidence of massacres inside Nicaragua—in war zones closed to foreign investigators but where, they claimed, they had free access.

Americas Watch went even further stating, in a report issued the same month as my organization's refugee report: "The government of Nicaragua does not engage in a pattern of violations of the law of war. Nor does it engage in systematic violations of the right to life or to physical integrity of detainees. . . . Nor does it engage in a deliberate pattern of forced disappearances of persons."

In 1989, when Americas Watch acknowledged that Nicaraguan armed forces "engaged in a pattern of killings" in northern Nicaragua, it stated that it believed the killings were "a new phenomenon." In other words, any prior killings by Sandinistas were acts of individuals and did not reflect official policy.

But now evidence of the awful truth has become irrefutable, thanks in large part to the courageous work of Marta Patricia Baltodano, a Nicaraguan human rights lawyer and director of the Nicaraguan Association Pro Human rights—established by the U.S. State Department to investigate and prosecute Contra human rights violations. Since the Sandinistas' electoral defeat, she has been able to uncover eight secret mass graves in remote northern Nicaragua that corroborate the earliest reports of systematic killings of civilians by Sandinista soldiers and militants.

Working with four lawyers, a forensic doctor and local witnesses no longer afraid to testify, Ms. Baltodano has already established that three of the graves contain the remains of civilians murdered by Sandinista military and State Security personnel (Nicaragua's secret police, who were trained and assisted until February by their East German counterparts, the dread Stasi). The five others still are under investigation. In the excavation of each gravesite, the new, freely elected mayors have been eager to help. Ms. Baltodano told me that local campesinos, who have been too afraid to speak openly about the murders before, have now enthusiastically volunteered to shovel out the sites and air the truth.

In the most recent discovery, on Aug. 15 in Mura, a town close to the Honduran border, Ms. Baltodano's group, with a large local crowd looking on, found 17 skeletons. Fourteen of the bodies have been identified as evangelicals who were rounded up by a Sandinista battalion, forced to dig their own grave and then shot or stabbed to death on April 10, 1982—when the Contra war was still in its infancy. Family members identified the victims through gold fillings in their teeth, remnants of clothes, and in one case an agrarian reform ID number linking him to a local farming cooperative.

In June, the Nicaraguan Association found another shallow grave in Mokoron, 220 yards from a Sandinista military battalion near Wiwili in northern Jinotega. This site yielded parts of 11 skeletons. One by one the relatives of eight of the victims have come forward to identity them. They were caught by the State Security while trying to escape being dragooned into the Sandinista army in October 1983. The remains of two adults and a seven-year-old child have not been identified. Cords used to bind the victims were found, and the forensic examiner concluded the victims' throats had been cut.

There is every indication that Ms. Baltodano's findings are only the tip of the iceberg. Every week campesinos cautiously come to her with new leads. Her office, already overwhelmed, has not yet investigated in Nueva Guinea, Punta Gorda and the villages of southern Zelaya, where the refugees I interviewed came from. Nor has she checked the area along the Atlantic coast, where many Nicaraguan Indians, targeted by Sandinista authorities as civilian dissidents, disappeared.

That the Sandinistas were able to get away with the summary execution of noncombatants is in no small part due to the failure of some of the main human rights groups that deal with Latin America. The Sandinistas even cited Americas Watch reports to deflect too-close scrutiny on rights abuse charges. At the same time, reports (such as ours) that documented Sandinista abuses were attacked and dismissed as having been trumped up by or linked to the CIA.

The Organization of American States' Human Rights Commission recently met with Ms. Baltodano to discuss her findings. But so far none of the private human rights groups that concentrate on Latin America have shown much interest in her work. As they did in Chile and Argentina, these groups should be insisting on a full accounting. Even though an amnesty law in Nicaragua may bar the prosecution of war criminals and rights violators, a full investigation should be supported out of humanitarian concern for the victim families and in the interest of justice.

TRIBUTE TO JUDGE JOE D. DUNCAN ON HIS RETIREMENT

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. DUNCAN. Mr. Speaker, on September 1, my uncle, Judge Joe D. Duncan, retired as a judge for the Tennessee Court of Criminal Appeals.

I have always felt especially close to my uncle. Next to my own father, he is the man I admire and respect the most.

My father and my uncle came from a very good family, but it was one that was very poor economically.

There were 10 children in the Duncan family, raised on a small 25-acre farm in Scott County, TN, in the Cumberland Mountains near the Kentucky line.

I have heard my father say that their father, Papa Duncan, who was a farmer and carpenter, never made as much as $100 cash money any 1 month in his life.

Although not having much money, the family was very close, and they believed in helping each other and working hard.

They did this as children, but also in later years. My uncle was the main person behind my father's election three times as mayor of Knoxville and in many of his campaigns for Congress.

My father was certainly instrumental in Uncle Joe's original contested election as criminal court judge for Knox County in 1966.

When I was in undergraduate school at the University of Tennessee, I watched many cases in Uncle Joe's court.

From my own years as a law student, lawyer in private practice—1973 to 1981—and as judge of the criminal court—1981 to 1988—I know that Uncle Joe was always considered to be a lawyer's lawyer and judge's judge.

He was and still is one of the most highly respected judges in the State of Tennessee.

When he was being considered for elevation to the court of appeals, one lawyer said he was the only judge he knew of who could send someone to prison and make them feel good about going.

As a trial judge, Uncle Joe was fair, but firm. He had great compassion and an abundance of simple human kindness. Yet he could also be as tough as any judge in the Nation when a case required it.

Most judges are regarded as pro-defense or pro-prosecution. Uncle Joe was the only judge I ever knew or heard of whom everyone wanted to try his case. The prosecution, the defense, the defendant, the victim, the witnesses—all hoped they would end up in his court because they knew they would be treated with such great fairness.

After going to the court of appeals, judges all over the State would call on Uncle Joe for advice and counsel.

He was named as chairman of the Criminal Pattern Jury Instructions Committee and was the main author of a book published by the West Publishing Co. on Tennessee criminal jury instructions.

This book is still the "Bible" on criminal law for both lawyers and judges in Tennessee today.

Throughout his outstanding legal career, Uncle Joe always conducted himself with great dignity and humility. He was a man who loved the law, and it was obvious in everything he said and did.

In addition to his professional career, he was active in many civic and charitable organizations.

He was always especially devoted to America's veterans and served as Tennessee State commander of the American Legion in 1963. In fact, I believe my father and Uncle Joe are the only brothers ever to both serve as State legion commanders in this Nation.

He has also been a longtime, active member of the Cedar Springs Presbyterian Church in Knoxville.

Uncle Joe was always a great family man, having married his childhood sweetheart, my Aunt Louetta. He has always been especially proud of his son, Phillip, who is the political editor of the Congressional Quarterly.

He also raised Ray Phillips, legally a nephew, but in reality a second son. He was also very proud of Ray, who is an accountant for the Carrier Corp. in Knoxville.

Uncle Joe has for several years published a Duncan newsletter, telling of all the big and little events in the Duncan family. This has helped keep our very large and very spread-out family a close one.

I should not close without mentioning Uncle Joe's great sense of humor. Always known as a very witty man, I suppose Uncle Joe has been such a happy and joyful man in large part because he has so many fine nieces and nephews.

It is with great pride in my family and especially in my Uncle Joe that I congratulate him on his tremendous career. Also, I would like to place in the RECORD a special resolution prepared by the Tennessee Court of Criminal Appeals on the occasion of his retirement.

RESOLUTION

Whereas, Joseph David Duncan was born the eighth of ten children to F.B. and Cassie L. Duncan on February 11, 1924, in the Helenwood Community of Scott County, Tennessee; and

Whereas, Joseph David Duncan, named for his second cousin, a Congressional Medal of Honor winner, Joseph Samuel Cecil, soon became known to his family and friends as "Joe D."; and

Whereas, Joe D. grew up in and around the hills, creeks and valleys of Scott County; matriculated in the Scott County school system; and graduated from Huntsville High School in the Spring of 1941; and

Whereas, Joe D., inspired by the advent of World War II, cast his lot with the United States Army in 1943 and earned the title of Private Duncan; and

Whereas, Private Duncan, a B-29 navigator in the U.S. Army Air Force during 1944 and 1945, reached the rank of lieutenant; and

Whereas, Lieutenant Duncan had by this time gained the wisdom, knowledge, foresight, and downright good judgement to marry Louetta Phillips (his sweetheart since age 6) on the 22nd day of June, 1946, a union which produced one son, Philip, born September 30, 1957; and

Whereas, Joe D. and Louetta later expanded their family by taking in and rearing to adulthood a nephew, Ray Phillips, who they have in all respect treated as a second son; and

Whereas, Joe D. began his formal education at the University of Tennessee in 1945, first receiving his L.L.B. (now called a Doctorate of Jurisprudence) in 1949 and shortly thereafter being awarded a B.A. from the College of Liberal Arts, and

Whereas, after his graduation, now Lawyer Duncan joined his older brother, John J. Duncan, in the private practice of law in Knox County Tennessee, during 1949 and 1950; and

Whereas, Lawyer Duncan (for health reasons—he needed to eat) elected to become Special Agent Duncan for the Federal Bureau of Investigation from 1950 through 1953, serving in Washington, D.C.; Newark, New Jersey; and New York City, New York; and

Whereas, upon his completion of three years in the FBI, Special Agent Duncan decided that the law practice wasn't all that bad and once again became Lawyer Duncan, now with the firm of Duncan, Duncan & McGee; and

Whereas, the law firm prospered in the practice, professionally and financially, and to the extent that each of the partners took an active interest in politics, an interest which ultimately opened doors not previously contemplated; and

Whereas, the law firm of Duncan, Duncan & McGee soon evolved into Duncan & Ford for the years 1957 through 1966; and

Whereas, Lawyer Duncan, ever mindful of career opportunities, ran a successful campaign for the Office of Criminal Court Judge of Knox County, Tennessee, in the year 1966, an office he held until January 15, 1975; and

Whereas, Judge Duncan, as a trial judge, had exercised patience, understanding, and occasional flashes of brilliance, distinguishing himself as a jurist and displaying courtesy and respect to the lawyers and the litigants; and

Whereas, On January 18, 1975, at the behest of Governor Winfield Dunn, Judge Duncan (still looking for a good job) accepted an appointment as Judge of the Tennessee Court of Criminal Appeals; and

Whereas, having grown from Joe D. to Mr. Duncan to Private Duncan to Lieutenant Duncan to student Duncan to Lawyer Duncan to Special Agent Duncan back to Lawyer Duncan and ultimately to Judge Duncan, his honor the appellate judge soon was restored by his friends and colleagues to the title, "Joe D."; and

Whereas, Joe D., as judge, graduated from the National Trial Judges College at the University of Pennsylvania in 1966; chaired the criminal section of the Tennessee Judicial Conference from 1968 to 1974; and served as chairman of the pattern jury instruction committee, criminal law, from 1971 to 1978; and

Whereas, during his many years of service to the legal profession, Joe D. was affiliated with a number of worthwhile organizations including, but not limited to, the Knoxville, Tennessee, and American Bar Associations; Sons of the Revolution, BPO Elks Lodge No. 160; Cherokee Lodge No. 728, F. and A.M.; the Society of Former Special Agents of the FBI; and, perhaps most importantly, the Cedar Springs Presbyterian Church; and

Whereas, of all his affiliations, associations, and organizations, Joe D. was perhaps most proud of his membership in the American Legion wherein he served as its state commander in 1962, and during which time he was known to the Legionnaires as Commander Duncan (Joe D. and John J. are believed to be the only brother combination who served as state commanders in Tennessee); and

Whereas, in the fall of 1987, tiring once again of the title "Joe D.," his honor was elected by his colleagues to the presiding judgeship on the Tennessee Court of Criminal Appeals, a high honor indeed for a country boy; and

Whereas, as P.J., Joe D. once again distinguished himself by his leadership, his diplomacy, and good old fashioned hard work, thereby earning the right and privilege to retire from office at a relatively young age on August 31, 1990; and, finally and forever,

Whereas, his colleagues love, admire, and respect Joe D. for both his human and professional qualities and will sorely miss him as a member of this court.

Now, Therefore, the undersigned Judges of the Tennessee Court of Criminal Appeals, to the extent they are permitted by their limited jurisdiction, do hereby resolve, order, adjudge and decree that September 7, 1990, be known as Judge Joe D. Duncan Day in the State of Tennessee in recognition of his distinguished service to the legal profession.

This the 7th day of September, 1990.

Robert K. Dwyer, John K. Byers, Jerry Scott, Joe B. Jones, A.A. Birch, Jr., Gary R. Wade, John H. Peay, Paul G. Summers, Joseph M. Tipton.

OCTOBER IS ESCROW MONTH

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. GALLEGLY. Mr. Speaker, I rise today to bring to my colleagues' attention the fact that "October is Escrow Month." As a former realtor, I am proud to point out the many contributions that escrow officers make to our economy and our society.

One of the key components of the American dream—and the major differences between the United States and other nations has been home ownership. Without professional escrow officers helping smooth the buying and selling of homes and property, the American dream would be a little less obtainable.

I would like to pay special attention to the Ventura County Escrow Association, a regional association of the California Escrow Association. The county association has been dedicated to the continuing education and elevation of the profession through adherence to its code of the ethics since 1958, and the statewide association has been similarly active since 1924.

Mr. Speaker, as the California Escrow Association prepares to hold its 35th annual Education Conference in October, I'm sure my colleagues join me in commending the officers, directors and members of the Ventura County Escrow Association for their outstanding contributions to the people of the Ventura County.

A TRIBUTE TO MAYOR ROBERT HENNING

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. DYMALLY. Mr. Speaker, I ask my colleagues to join me in honoring Mayor Robert Henning of Lynwood, CA, upon the occasion of his enshrinement in the "Promenade of Prominence" by the Sickle Cell Education and Counseling Center and the citizens of Lynwood.

Mayor Henning is the first African-American elected to serve the city of Lynwood. After first becoming a city councilman, he was elected by his peers to serve as mayor of Lynwood.

Born November 17, 1943, in Henning, TN, Mayor Henning began his life on the move as his mother, Cynthia, began her trek to California and settled in the Watts area of Los Angeles. Constantly moving from place to place, he ended up in Highland Park, enrolled in all-white Luther Burbank, Jr. High School, which

he credits with giving him the ability to understand other cultures and people.

Henning and his wife Rosemary moved to the beautiful city of Lynwood in 1976. Almost immediately, he became involved in politics when the then existing city council decided to make the residents of his block start putting their trash in their front yards for pickup. He founded the Carlin-Palm Neighborhood Association with his neighbor, Robert Downs, and the rest is history.

His administrative ability, as well as his demonstrated leadership, creativity, and sound judgment can be seen through the numerous organizations and programs of which he is a founding member and/or director.

Currently employed as a career employee with the State of California Employment Development Department, he has over 19 years of dedicated service in unemployment insurance, W.I.N., and employment service. He holds the position of employment program supervisor 11.

Mayor Henning presently sits on the board of directors of numerous organizations for the community, including: The Southeast Mosquito Abatement District, Hub Cities Joint Powers Authority, Lynwood Redevelopment Agency, Carlin-Palm Neighborhood Association, Little Miss Lynwood Scholarship Pageant, Lynwood Sheriff Youth Athletic League, Lynwood Information, Inc., Lions International Lynwood Chapter, Elected Officials Anti-Gang Summit, and Los Angeles Sanitation District.

He is cofounder of numerous organizations, including: Lions International-Lynwood Chapter, Hub Cities Joint Powers Authority, Black American Political Association of California-Lynwood Chapter, NAACP-Lynwood Branch, Lynwood Local Development Company, and the 31st Congressional Democratic Club.

He is a member or associate of numerous organizations including: United States Olympic Society, Joint Center for Political Studies, Business Persons Roundtable, League of California Cities, California Contract Cities Association, Central Basin Municipal Water District, Los Angeles County Sanitation District, Southern California Association of Governments, Independent Cities Association, Independent Cities Risk Management Association, Southeast Animal Control Authority, Southeast Distict Mayors and Councilmembers Association, National League of Cities, Black American Political Association of California, Black American Response to Apartheid, National Association for the Advancement of Colored People, National Rainbow Coalition, Solid Front for Unity In America, Lynwood Local Development Company, St. Francis Tree of Life Club, National Forum for Black Public Administrators, East Central Area Planning Council, and Elected Officials Gang Summit.

He has received numerous awards and accolades for dedicated community service, including: Senatorial Resolution from California Senator Diane Watson, Proclamation from the Los Angeles County Board of Supervisors, Proclamation from the City of Carson, and Legend Award presented by Congressman MERVYN M. DYMALLY, Annual Hiram Recvel Award presented by BAPAC, Black Achievement Award presented by the NAACP, Black History Award presented by the Lynwood Adult School, Role Model Award presented by the Peoples Choice, Inc., and Black Achievement Award presented by I-Bei Telesis, Inc.

He has received certificates of appreciation from: Congressman MERVYN M. DYMALLY, The Boy Scouts of America, United Negro College Fund, Sickle Cell and Detection Center, St. Francis Hospital, Lynwood High School Football Team Booster Club, Hudson Lynsley Group Home, National Association of University Women, California Chiropractic Association, Lugo Elementary School, The Nation of Islam, and Kalif-Alee Shrine Temple No. 5.

His contributions to the community of Lynwood include: Lynwood Trolley System, as seen in Austin, TX, Lynwood city flag, Lynwood lapel pin and watch, youth commission, womens commission, Lynwood shopping center, street and sidewalk repairs, street islands and beautification, Anti-Grafitti Program, strong support of law enforcement, and strong leadership ability.

Mr. Speaker, we look forward to many years of effective leadership from Mayor Henning, and we salute him for his years of positive, dynamic community service.

LOUIS ALFANO RETIRES

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Louis Alfano who has recently retired as commandant from the Rhode Island Veterans' Home.

For 27 years, Louis Alfano worked very diligently to help veterans maintain their independence while in the home. He saw to it that the home would offer conveniences such as a bank, library and a gift shop, and programs such as gardening and crafts. He followed a philosophy that still makes the home a place veterans would want to live in. That philosophy comes from the answer to the question, "If I had to spend my last few years here as a patient, what would I like to see?"

The Rhode Island Veterans' Home directly benefited under Louis Alfano's leadership. Mr. Alfano also maintained an excellent working relationship with the neighbors, listening to their thoughts and concerns.

Mr. Alfano is a wonderful role model for our Nation to follow. He has given extra time and effort, over and above that which his job calls for, and has made a difference in other people's lives. Taking the extra time to help and care for others is something we all need to do more of. It is the people like Mr. Alfano who remind everyone of this. Even though he is retiring, Mr. Alfano is still working in the behalf of veterans.

I am pleased to stand before my fellow Members of Congress in recognition of such a fine man. I wish him continued success even in his retirement.

A TRIBUTE TO WALTER W. PRASKI

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. SCHUETTE. Mr. Speaker, I rise today to honor Mr. Walt Praski on the occasion of the celebration by the Michigan Polka Music Hall of Fame for his 60 years of participation in polka music. A banquet and ceremony in celebration of his participation in polka music will be held in his honor on October 7, 1990.

Walt Praski was born in Welland, ON, on March 29, 1914, and moved from there to Detroit at the age of 5. As he grew older Walt took a great interest in learning to play the accordion as he observed his father play accordion music. He wanted to play the accordion so badly that he traded his BB-gun for a friend's accordion, which he had to play upside down because he is left-handed. Although he was permitted to take music lessons, it wasn't until 1929 that his father decided Walt had a great talent for the accordion and decided to buy Walt a piano accordion that Walt could play right side up.

Walt's first and only music teacher was Mr. Novrotski, who taught accordion and organ in Europe before coming to the United States. His strict technique helped Walt to develop the discipline to practice his accordion from 2 to 4 hours a day.

In 1930, when Walt was 15 he moved with his parents to Owosso, MI. It was about this time that Walt started playing professionally, and soon after formed his first band, Walt Praski and His Orchestra, the name all of Walt's bands have played under. The three piece band played in Detroit 3 or 4 nights a week. Walt would hitch a ride with the local milkman and stay with his sister in Detroit every weekend.

About 6 years later Walt began playing in the Owosso area. Since the Owosso area has a large Czech, Bohemian, and German population he began to play Bohemian style music. The more Bohemian music he played, the more he liked it and in 1938 he formed an eight piece Bohemian orchestra. WOAP radio station broadcast Walt and his band every Sunday for 2 years.

Throughout his career Walt has played with over 50 musicians. He has cut three records, one 78 and two LP's. He has memorized approximately 200 songs, and practices about an hour a day, though at one time he practiced 3 to 4 hours a day when he was performing nightly. Walt claims that practice and staying away from alcohol and drugs is the only way to make it in the music industry.

Walt and his wife Helen of more than 20 years, make their home in Corunna, MI where he operates a TV and radio repair business. Walt also teaches accordion and has no plans to retire his accordion in the foreseeable future.

Mr. Speaker, and my colleagues in the House, join me today in honoring Mr. Walter Praski, for his musicianship, his energy, and for providing Michigan with polka music for 60 years.

TRIBUTE OF VIRGINIA ALLEN

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. BUECHNER. Mr. Speaker, the close of a long career always has something of sadness about it, both for the retiree and their loved ones. However, in the case of Virginia Allen of St. Louis, MO, the sadness is greater still, for her career was spent in the service of the people of Missouri, and her dedication will indeed be missed.

Virginia Allen has worked as a social worker with the Missouri Division of Family Services since June 7, 1954; in the 36 years since, an untold number of Missourians have known the blessing of her expertise and dedication.

Mrs. Allen began her career as a caseworker, a position which, more than any other, brings a social worker into direct contact with people. Perhaps it is to this beginning that we can ascribe the sensitivity which marked the rest of her career. As she moved into more administrative and executive positions, her work never lost its human element.

In the years that followed, Virginia held several different positions, each more responsible, including welfare training specialist, assistant director, and child welfare field supervisor. With each new post, Virginia played a greater role, not only in helping the lives of children and families, but also in shaping the policies and procedures of the Missouri Division of Family Service.

Finally, Virginia was promoted to the post of director of the St. Louis County Family Services office, a post she has held for the last 14 years. Under her direction, her agency has begun to work with other State and county agencies in the interest of doing the best job possible. The Missouri Division of Family Services, and especially its St. Louis branch, is a far better institution because of Virginia's contributions, and I am confident that her influence will guide the division well long after her retirement.

Mr. Speaker, in an age where many Government service agencies are marked by insensitive bureaucracy and cold administration, Mrs. Virginia Allen has been an integral part making the Missouri Division of Family Services a sensitive, caring, and deeply human organization. Now, after so many years of dedicated service, she is trying the division of family services for a well-deserved respite. I ask my colleagues to join me in hoping that Virginia, in her retirement, may enjoy the satisfaction of having done much to build a better community.

TRIBUTE TO THE PARENT RESOURCE CENTER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, the Parent Resource Center of Dade County, a nonprofit, United Way agency, is dedicated to the prevention of child abuse and child neglect. They provide countless invaluable services to parents with children from birth to 10 years of age in Dade County, FL. A recent survey conducted by the Junior League of Miami and the Task Force on Child and Family Life of the Mental Health Association of Dade County revealed our community's top priority need to be the prevention of child abuse.

The center's mission of alleviating the epidemic proportions of child abuse and child neglect is accomplished by social work intervention with the family, trained parent aide volunteers working with parents, parent education classes lead by trained volunteers, crisis nursery, information, referral and public awareness. The outreach services provide help for families through home visits or parent education classes in neighborhood elementary schools, community centers, churches, and crisis nurseries in north and south Dade County.

With an estimated 1,200 to 1,500 child abuse/child neglect cases reported by telephone per month, the harsh reality that our community's children are being physically, emotionally and sexually abused is all the more evident. It further indicates the urgent need for such agencies as the Parent Resource Center, which attempts to reach parents who abuse their children before it is too late.

Since its incorporation on February 1, 1987, the Parent Resource Center has provided services to over 7,070 clients and their families. Those who have benefited most from these services are mothers who find themselves alone with a young baby, lacking the education and support systems needed to make child rearing a positive experience. Unemployment, lack of family or friends, lack of day care, and the complexities of motherhood/fatherhood plague many of the center's clients. When these pressures reach a crescendo, parents may become depressed and lonely, possibly allowing their emotions to get the best of them, which could lead to the abuse of their children.

The Parent Resource Center's Board of Directors consists of members of the community who have demonstrated the desire and ability to improve the quality of life for children. I would like to thank the following for their commitment and dedication: Honorary chairman, Bob Kuechenberg; officers; Evelyn Cohan, president; Carol Sonnett Rosen, first vice president; Carolyn Dubois, second vice president; Carol Von Arx, secretary; Eduardo A. Rivera, treasurer; board of directors, Esther Blynn; Laura Bruney; Paula S. Carter; Peter Caspari; Manny Crespo; James H. Earnest; Jorge Fernandez; Odessa Fiorini; Angeles Fleites; Dorothy W. Graham; David Harper; Felix A. Hernandez; Claude H. Hurst, Jr.; Hyacinth O. Johnson; Robert Kelly; George F. Knox; Deborah A. Marshall; Joan E. McCaughan; Maria A. Prio Odio; Zoe Prio Ribero; Linda Stadler; Leonard Joseph Succar; Kate Terry; Ellen Thompson; Nancy Traad; Steven L. Wilson; and, the countless volunteers.

NEWCOMER FINDS MEANING OF FOURTH OF JULY

HON. PETER HOAGLAND

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. HOAGLAND. Mr. Speaker, I would like to take this opportunity to draw attention to the persecution of a young Jewish family in the Soviet Union.

Their story is not all that different from so many other Soviet Jews who are persecuted and seek to emigrate to the United States. What has drawn my attention to their plight is a constituent of mine, Anna Metrik.

Anna and her mother, Esfir Levitan, recently arrived from the Soviet Union and have resettled in Omaha, NE, in my congressional district.

But as they begin their new lives in Omaha, they are still waiting to be reunited with Anna's sister, Inna Levitan, Inna's husband Lev Ayzner, and their 9-year-old son Alexandr Ayzner.

Lev is a mathematician by training and graduated from the faculty of the mathematics and cybernetics of Moscow State University in 1975. He was the only Jew in a graduating class of 200 students and was not placed in a job strictly because of his religion.

Following graduation Lev returned to Odessa in search of job relating to his educational background, but instead was forced to move to Nizhnevartovsk, in the far north, to find work to support his wife and son.

Alone in Odessa, Inna and her son Alexandr, are left defend themselves against antisemitic threats. They are frightened for their safety and want desperately to come to the United States where they can be safe with the rest of their family.

This year during a Fourth of July parade I attended in Ralston, NE this summer, I invited Anna and her children to walk with me and meet the people along the parade route. It was her first Fourth of July parade ever—a celebration of liberty and freedom unlike anything they had ever seen.

It was a small thing that registered: Anna commented on how nice it was for the children to dance and play down the parade route, instead of marching in columns like they did in the Soviet Union. She said in the Soviet Union they have no freedom. Her first Fourth of July celebration brought home the message of freedom like nothing else.

I am hopeful that next year I can invite Anna and her sister Inna to join me in another Fourth of July parade and celebrate in the wonderful freedoms we have here in the United States.

Mr. Speaker, I am attaching to this statement Anna's own report of her own experience. A column she wrote for the Omaha Jewish community in the Omaha Jewish Press. She is currently working for that publication and showing no hesitation of expressing her first amendment rights.

NEWCOMER FINDS MEANING TO FIRST FOURTH OF JULY

EDITOR'S NOTE:—Anna Metrik, a recent arrival from the Soviet Union, is being reset-

tled here by the Omaha Jewish Community and is currently working for the *Jewish Press*. In this column, she reports on her first Fourth of July America.

(By Anna Metrik)

Before I want to the parade on July 4, I opened a big dictionary to find out the meaning of the word "independence", as I wanted to know what does the word mean. After I found the meaning of it, I liked it, and it coincided with my personal understanding. You can easily understand the meaning, but it's hard to feel it deep in your heart. So my first 4th of July meant freedom for me and my family.

In the morning we were invited for breakfast by the Shukerts and the Kotoks to their house, it was very nice and the children met with their friends, with whom they go to the camp, and went to the Friedel Jewish Academy.

And after that we went to the parade, where they got many balloons and American flags, and my boys were very glad to wear Uncle Sam's hat.

The children were laughing and dancing and playing and they liked that more instead of marching at the parade in a column, one after another.

So, in my understanding, it is much better to make a holiday for children, than to proclaim different slogans, telling the children that everything in their country belongs to them, which is not true.

The second half of the day was also full of new events and impressions. We want to the parade with Congressman Hoagland, who is supporting the Jewish people at the Congress. The day was very hot but it was nice.

We were given T-shirts, and my boys put on these XL T-shirts, because they liked to wear them, full of stickers, and also distributing some of them to the children.

They felt involved in the life of their parents. They are beginning to understand the real freedom.

The day ended among wonderful people, my new American friends, who invited us to their house for an American holiday dinner party, with the first hamburger and barbecue.

It is true, that you Americans, take many things for granted and you can't value the life you have as we are trying to do that now. We see great differences in the styles of life between the two societies, and I think your is great, believe me and I enjoy freedom I am having now because it is real and not promising and existing and not in the nearest future!

CONSIDERING CONSEQUENCES OF THREATENED DESERT WAR

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. BENNETT. Mr. Speaker, I would like to draw my colleagues attention to an article published in the New York Times on Sunday, September 23, 1990 by former Secretary of the Navy James Webb.

I hope my colleagues will read these words of a decorated Vietnam veteran and consider them in mind and heart. While some speak glibly about surgical strikes and winning with air power, Jim Webb is warning us about probable consequences of going to war in the Persian Gulf and suggests that Congress should be asked for a declaration of war if offensive action is proposed. Webb says:

Those who believe we should use these forces offensively should realize that this would galvanize the Arab world, invite chemical retaliation and an expansion of the hostilities, produce great numbers of casualties and encourage worldwide terrorism—in short, open up a Pandora's box.

I hope my colleagues will cosponsor my House Concurrent Resolution 372. It reminds us that our Constitution gives Congress the responsibility of deciding on making war and the resolution calls for any offensive action against Iraq to be explicitly approved by Congress before such action is taken.

The resolution also calls for the United Nations to take command of military operations in the Persian Gulf. This is the best—perhaps the only—way to ensure that the defense against the Iraqi president's aggression becomes a truly international effort supporting world order. There is no reason for this effort to be primarily a U.S. operation.

I submit Jim Webb's article for the RECORD.

President Bush has not only embarked on his own voyage into the Persian Gulf, that Bermuda Triangle of Presidencies. Unlike his two immediate predecessors, he has dragged more than a hundred thousand of our troops with him. And as the President struggles at home, our troops have been learning to cope with a sun that can melt electrical wiring, sand so fine that few filters can keep it out of gear boxes and a growing ennui that seeps through even the most careful monitoring of our press corps.

The debate over our role in the Persian Gulf crisis has focused on national rather than specific military goals. The fundamental questions, upon which all others inevitably rest, have not been addressed. Why did we send such a huge contingent of ground troops in the first place? And under what conditions are we going to use them or bring them home?

Answers are not forthcoming. Military officials intimate that the question would expose tactical options. Administration officials talk in vague terms: Defense Secretary Cheney is telling us to prepare for a commitment that may take years. Others have been quoted as saying we may be there for a decade. At the same time we are being reassured, amidst many loud calls to initiate a war with Iraq, that the U.S. military commitment is wholly defensive.

As one who opposed the Reagan Administration's overt tilt toward Iraq which caused the Persian Gulf problems in 1987 and 1988, I have no desire to give consolation to Saddam Hussein now that he is getting the attention he deserves. But if our experience since World War II tells us anything, it is that justifiable national goals are too frequently lost through unfocused and ineffective military policy. And the strongest likelihood is that our ground buildup in Saudi Arabia is the product not of conscious strategy, but of an initial overreaction that compounds itself with the arrival of every C-5 transport.

The Kuwaiti dilemma is not new. This is the third time since 1961 that Iraq has asserted, militarily, its claim to Kuwaiti territory. As such, positioning U.S. aviation units into Saudi Arabia with ground forces to defend them was appropriate as a short-term guarantee of Saudi sovereignty. But the huge buildup of forces began after it became clear that Iraq had no military designs on Saudi Arabia. And coupled with escalating rhetoric, it has created an intractable siege, with the survival of President Bush, as well as Saddam Hussein, hanging in the balance.

The U.S., whose interests in the region are far less than Kuwait's, Saudi Arabia's, Israel's, Europe's and Japan's, is carrying the overwhelming burden. True, others are involved in small scale—the Egyptians, who stand to benefit to the tune of at least $7 billion in forgiven debts, the Syrians, traditional enemies of Iraq, who are sending a few thousand soldiers, other Arab nations whose royal families are also threatened. European and other allies who are throwing in a ship or two here, and a military unit there. We appear to have traded the promise of greater economic help to the Soviets for Mikhail Gorbachev's rather noncommittal statement of support.

And now we are out on the international hustings, asking for financial contributions for our effort. Mr. Bush hastens to assure us that this does not make our soldiers mercenaries, but anyone with a relative or loved one in Saudi Arabia will quickly argue that this is not a fair trade.

And what is the impact, strategically, of the introduction of all these ground forces? In grand sum, it can only be judged as negative.

Those who have called for massive, preemptive air strikes against Iraq must now contemplate the detriment of tens of thousands of American soldiers within range of Iraqi chemical weapons, as well as possible terrorist attacks from Iraq and now Iran.

Those who worry about the possibility of crisis in other parts of the world must recognize that a large percentage of American maneuver forces—including as much as half of the Marine Corps—are tied down in a waiting game in the desert.

Those who believe we should use these forces offensively should realize that this would galvanize the Arab world, invite chemical retaliation and an expansion of the hostilities, produce great numbers of casualties and encourage worldwide terrorism—in short open up a Pandora's box.

This is not to say that our soldiers and marines would not fight well. The Iraqi army is not a very good army; it is also warweary. But it demonstrated against Iran the time-honored maxim that the armies of totalitarian nations are capable of absorbing huge losses—recall the 3.7 million German soldiers who died in World War II, and the million Communist soldiers who died in the Vietnam war.

The President should be aware that, while most Americans are laboring very hard to support him, a mood of cynicism is just beneath their veneer of respect. Many are claiming that the buildup is little more than a "Pentagon budget drill," designed to preclude cutbacks of an Army searching for a mission as bases in NATO begin to disappear.

Others wonder about the predominance of Texans in the Administration, and the dual benefit that higher oil prices will bring to the Southwest a more robust economy and the concomitant salvation of many S. & L.'s. Others, myself included, worry greatly about a military commitment that has taken on a momentum of its own—or perhaps a hidden strategy.

General Colin Powell is said to have advised the President that the U.S. should take this sort of military action or it would no longer be a superpower. This calls to mind the Suez Crisis of 1956, after Egyptian

leader Nasser nationalized the Suez Canal. The British were reeling from a budget affected by the military costs of maintaining the Empire. The Suez Canal was vital for transporting oil. And Anthony Eden, the British Prime Minister who had great antipathy toward Nasser for his anti-British rhetoric, wanted him "destroyed."

Britain went forward, largely to preserve its place at the table of the great powers, drawing in the French and the Israelis. Their attack sputtered in the desert. The U.S., their banker, threatened to withhold support for the British pound if they did not cease their invasion. The Soviets moved into Hungary. And sure enough, when the dust settled, Britain was no longer a great power.

Too much is at risk, and too many questions remain for this buildup to continue without the Administration clarifying its direction. And if offensive action is in the cards, it should be taken only after the President receives a declaration of war from the Congress.

CONGRESSIONAL BORROWING AND SPENDING A CRISIS MAKER

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. DUNCAN. Mr. Speaker, sometimes I feel like a broken record. Since coming here to Washington, I've been calling for fiscal restraint. However, the liberal Congress continues to spend and borrow at an unprecedented rate. This irresponsible budgeting has helped destroy bonfidence in kur binancial &arkets and hurt every American taxpayer where it really counts, in their wallets.

Mr. Ashby Bladen points out in a recent Forbes article that our excessive spending and borrowing has created an illusion of good politics and has led to many of our economic ills, both here at home and abroad. I would like to share this straightforward article with my colleagues in the House of Representatives.

INTERCONNECTED CRISES

(By Ashby Bladen)

Suddenly all of the problems that we Americans have been sweeping under the rug for a quarter of a century are becoming crises simultaneously. Yet, we persist in regarding them as unconnected events. As long as we continue to regard the thrift crisis, the debt-propelled slump that was clearly developing this summer, and now the latest oil crisis as unrelated incidents—just a case of one damned thing going wrong after another—we will continue to be blindsided by additional unforeseen disasters.

Saddam Hussein is an outlaw of grotesque proportions. But there is no use blaming him for all that ails the economy. The fact is that our most serious troubles are all traceable to the national financial policies that inspired and supported the great American borrowing-and-spending spree of the last 30 years.

The original oil crisis 17 years ago was caused by the devaluation and floating of the dollar in 1971. The Arabs' losses on their dollar assets made them realize that continuing to sell a real asset—oil—for U.S. IOUs, whose real value was constantly declining, was a fool's game. We Americans are still in the grip of an illusion—that government policies encouraging excessive and inflationary borrowing and spending were as good economics as they were good politics. But our foreign creditors saw through that illusion two decades ago.

The borrowing-and-spending spree was originally touched off by the new economics of the Kennedy Administration, which promised to fine-tune away even mild recessions by a judicious combination of fiscal and monetary ease. That led Americans to believe that the risk of going bankrupt has been diminished, while the risk of inflation had obviously increased. Aided and abetted by the tax code, they abandoned the financial prudence of their parents and borrowed more and more heavily to buy real things, such as houses, as inflation hedges. And the resulting inflation led the Fed to impose the first credit crunch of 1966.

For the next 23 years business conditions were largely dicated by the Federal Reserve's stop-go policies. Each credit crunch caused a recession more severe than the one preceding it, but every time the Fed backed off, the inflationary borrowing and spending came back stronger than ever. After the Fed relaxed following the 1980-82 crunch, the rate of debt formation went through the roof.

Now something different and much more ominous is happening. This summer, even before Saddam's troops stole Kuwait, it was becoming obvious that the U.S. was sinking into a credit-contraction slump caused by the declining confidence of borrowers and lenders alike that outstanding debts can be repaid. The Fed cannot restore that confidence now any more than it could in the 1930s, when the financial writers invented the cliché that "you can't push on a string."

Of course, it is better to return to financial prudence late than never to return at all. But I am sorry to have to report that the damage has already been done. Far too many large employers have taken on more debt than they can carry, and will go bust unless the government bails them out.

Falling confidence resulting from excessive debts was the main cause of the Great Depression, too. The main difference between the early 1930s and the early 1990s is that the economists have finally convinced us that the government should bail out everybody whose failure would cause unemployment or financial losses for anybody else. Unless Saddam Hussein puts the debt-propelled slump on hold by starting a real shooting war, the Administration will find itself in a real bind. It will be able to prevent the slump from turning into another depression only by bailing everybody out for the account and risk of the taxpayers. The inflationary expectations that will arise from that will turn U.S. government obligations into the ultimate junk bonds. The Treasury will have to pay interest commensurate with the risk of degradation of principal.

And if it comes to a shooting war, the outlook is even worse. A country that persistently runs a big balance-of-payments deficit in peacetime, and whose government persistently runs a huge deficit in good times, is making essentially the same mistake as a corporation that hocks 95% of its boom-time cash flow for debt service. Neither has left any prudent margin for unexpected troubles.

The Fed relaxed its last credit crunch in 1982, and we have gone on trying to borrow and spend ourselves rich. Since then I have been warning that sooner or later our government's commitment to bailing everyone out of his financial troubles would cause a new peak of interest rates surpassing the 15¼% on long Treasury bonds in 1981. Now the dumping of an international military crisis on top of our domestic financial one suggests that the peak will come sooner rather than later.●

TRIBUTE TO JOHN DEGOES

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today in recognition of John DeGoes who has been chosen by the Prince Henry Club of Rhode Island as "Man of the Year." John was chosen by this organization because of his outstanding service to the community.

In July 1987, John assumed the position of superintendent of schools in East Providence. As superintendent, John has been instrumental in developing a number of new programs including an alternative education program at the secondary level, new reading and language arts programs at the elementary level, coordinated computer plans for the school system and the highly successful Parents As Teachers Program in East Providence. John is known to work extremely well with children. They respect him as a professional and as a friend. John emphasizes the need for student involvement at all levels. He saw to it that a volunteer student tutorial program was instituted and that the student government organizations were revitalized.

John has also been recently appointed by Governor DiPrete to the Advisory Committee to the Department of Children and Families and the Board of Directors of the Children's Crusade of Rhode Island. John played a key role in the creation of the New England Superintendents Leadership Council: A consortium for educating language minority students. He is Rhode Island's representative on the council's advisory board.

In addition, John has served on the Board of Directors of the Portuguese Ethnic Heritage Congress of Rhode Island. John has been actively involved in other Portuguese organizations such as the Portuguese Social Club of Pawtucket, Club Madeirense of Central Falls, and the Seven Castles Club of the Blackstone Valley.

It is my distinct pleasure to recognize John DeGoes as one of Rhode Island's outstanding citizens. He is a role model not only for Rhode Island but for the rest of the Nation as well. I wish him continued success in the future.

A TRIBUTE TO JAMES VACIK

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. SCHUETTE. Mr. Speaker, I rise today to congratulate Mr. Jim Vacik, a talented musician and upstanding citizen of Michigan on the occasion of his induction into the Michigan

Polka Music Hall of Fame. A banquet and induction ceremony will be held in his honor on October 7, 1990.

At the age of 16, Jim played at his first dance job with his band the Melody Boys. Their first major event was the New Year's Eve dance at the Bohemia Hall in Saginaw, MI. Within a short period of time the Melody Boys were playing for dance engagements every Saturday night. Jim and his band played for dances, wedding receptions, and anniversaries in Detriot, Lansing, Bannister, St. Louis, Owosso, Swartz Creek, Flint, and many other towns in Michigan. The Melody Boys even performed for the Governor of Michigan, at a 75th anniversary of the Czechoslovak Society of America Lodge No. 214, at the Bohemia Hall in 1956.

In the early fifties, Ed Chrenko, owner of the Swartz Creek Theater, showed Czech movies and hired Jim's band to play during intermission. Ed Chrenko also had the Melody Boys play for his Saturday Polka Program on WMRP Radio. WOAP Radio also broadcast the band live from Edgewood Gardens in Owosso, MI.

Jim and the Melody Boys played together for 25 years. The Original band members were: Allen Spousta, Hank Slachta, Don Slachta, Larry and Clarence Vacik. When Hank was called to serve for Uncle Sam, his sister, Nancy Slachta, took his place. They also added a new member, Dennis Princing.

Mr. Speaker, and my colleagues in the House, please join me today in congratulating Jim Vacik on his induction into the Michigan Polka Music Hall of Fame. He is to be commended for his musicianship and for the years of pleasure he has provided to others through his music.

THE GRIM TRUTH ABOUT GRAMM-RUDMAN

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. WALKER. Mr. Speaker, I want to call to the attention of my colleagues the following article written by Daniel J. Mitchell about the Gramm-Rudman-Hollings Balanced Budget Act. Mr. Mitchell offers a very insightful analysis of the law and its impact on the congressional budget process. I urge all of my colleagues to read it.

The article follows:

THE GRIM TRUTH ABOUT GRAMM-RUDMAN—THE DEFICIT LAW IS WORKING

(By Daniel J. Mitchell)

Most Washington budget "experts" make fun of the Gramm-Rudman-Hollings Balanced Budget Act. The chairman of the budget committees in the House and Senate, Representatives Leon Panetta (D-Cal.) and Senator James Sasser (D-Tenn.), have introduced legislation to repeal the law. Senator Ernest Hollings (D-S.C.) has openly dissassociated himself from the legislation he co-sponsored. Newspaper articles routinely assert that Gramm-Rudman has failed because the deficit at the end of each fiscal year has always exceeded the Gramm-Rudman target.

But Gramm-Rudman has been a spectacular success. Indeed, the Washington establishment wants to repeal Gramm-Rudman because it has worked. Federal spending (in inflation-adjusted dollars) grew by 3.6 percent annually in the 1970s, and by 4 percent a year between 1980 and 1985. Since Gramm-Rudman was enacted in 1985, the real growth of federal spending has fallen to 1.4 percent annually, well below the growth of the national economy.

Gramm-Rudman's automatic spending control mechanism, known as sequestration, has radically altered the dynamics of the budget process. If Congress fails to produce a budget that meets Gramm-Rudman deficit targets, sequestration automatically reduces spending to the legally required level. As a result, Congress's ability to increase spending has been sharply curtailed. Legislators must either raise taxes to pay for new programs, as happened in the case of catastrophic care, or find spending offsets, as with child-care and anti-drug funding. The eventual repeal of the catastrophic care program showed that beneficiaries of government spending are much less enthusiastic if they have to pay for the program, and the internecine warfare in the Democratic Party over child-care shows offsets are not that easy to agree upon either.

None of this would have happened without Gramm-Rudman. More generally, Gramm-Rudman has given President Bush the leverage he needs to fulfill his promise of deficit reduction without a tax increase. So long as the president is prepared to veto any tax increase, Congress has little choice but to enact an acceptable budget. Should they fail to do so, the president can simply allow sequestration to occur automatically.

LEVIATHAN'S GRAMM REAPER

President Reagan, for all his anti-government rhetoric, was unable to keep spending growth under control before Gramm-Rudman was enacted in 1985. The five years since Gramm-Rudman became law are a different story. The growth of federal spending has been significantly slowed compared with the first half of the 1980s.

As shown in Table 1, federal spending increased by an average of more than 9.9 percent annually between 1980 and 1985. Since Gramm-Rudman was adopted, however, annual spending increases have averaged about 4.8 percent.

TABLE 1.—ANNUAL SPENDING INCREASES DURING THE 1980'S

Year	Spending (billions)	Annual growth percent	
1980	$590.9		
1981	678.2	14.8	5-year
1982	745.7	10.0	average
1983	808.3	8.4	growth equals
1984	851.8	5.4	9.9 percent
1985	946.3	11.1	
1986	990.3	4.6	5-year
1987	1003.8	1.4	average
1988	1064.0	6.0	growth equals
1989	1142.6	7.4	4.8 percent
1990 [1]	1197.2	4.8	

[1] Estimate.

Source: Budget of the United States Government.

After adjusting for inflation, the impact of Gramm-Rudman is even more striking. Federal spending in real terms grew three times faster before Gramm-Rudman than it has since Gramm-Rudman. Table 2 repeats the exercise in Table 1 with the budget numbers in inflation-adjusted 1982 dollars.

TABLE 2.—ANNUAL SPENDING INCREASES DURING THE 1980's

[Constant 1982 dollars]

Year	Spending (billions)	Annual growth percent	
1980	$699.1		
1981	726.5	3.9	5-year
1982	745.7	2.6	average
1983	775.0	3.9	growth equals
1984	788.1	1.7	4.0 percent.
1985	849.6	7.8	
1986	867.5	2.1	5-year
1987	857.8	−1.1	average
1988	879.6	2.5	growth equals
1989	907.1	3.1	1.4 percent.
1990 [1]	912.2	0.6	

[1] Estimate.

Source: Budget of the United States Government.

What is more important, Gramm-Rudman has helped reduce the size of government relative to the size of the productive sector of the economy. In every year but one between 1980 and 1985, government spending as a percentage of GNP was higher than it was the year before, with political control over the economy increasing by an average of .36 percentage points annually. On the other hand, as Table 3 points out, government spending as a percentage of GNP has declined by an average of .42 percentage points each year since Gramm-Rudman was adopted.

TABLE 3.—FEDERAL GOVERNMENT SPENDING AS A PERCENTAGE OF GNP

Year	Spending (percent of GNP)	Change	
1980	22.1		
1981	22.7	+0.6	5-year
1982	23.8	+1.1	average
1983	24.3	+0.5	growth equals
1984	23.1	−1.2	+0.36 percent.
1985	23.9	+0.8	
1986	23.7	−0.2	5-year
1987	22.7	−1.0	average
1988	22.2	−0.5	growth equals
1989	22.2		0.42 percent.
1990 [1]	21.8	−0.4	

[1] Estimate.

Source: Budget of the United States Government.

DEFICIT SLASHED

Gramm-Rudman has also reduced the deficit. In four of the five years before the Gramm-Rudman, the deficit increased. Since Gramm-Rudman was enacted, however, the deficit has fallen three of the past five years (Table 4). Using a more economically relevant measure, the deficit as a percentage of GNP increased in three of the five years before Gramm-Rudman. Since the law was enacted, however, the deficit as a percentage of GNP has fallen every year. Depending on how the economy performs this year, the deficit could fall below 2.4 percent of GNP for only the second time since 1974.

TABLE 4.—DEFICITS DURING THE 1980's

Year	Deficit (billions)	Deficit (percent of GNP)
1980	$73.8	2.8
1981	78.9	2.6
1982	127.9	4.1
1983	207.8	6.3
1984	185.3	5.0
1985	212.3	5.4

TABLE 4.—DEFICITS DURING THE 1980's—Continued

Year	Deficit (billions)	Deficit (percent of GNP)
1986	221.2	5.3
1987	149.7	3.4
1988	155.1	3.2
1989	152.0	2.9
1990 [1]	123.8	2.3

[1] Estimate.

Source: Budget of the United States Government, Historical Tables.

A better way to illustrate how Gramm-Rudman has reduced the deficit is to compare actual performance in 1989 and 1990 with deficit projections by the Congressional Budget Office (CBO) before Gramm-Rudman was enacted. In 1985, CBO estimated that the deficit in 1989 would be $272 billion and consume 5.2 percent of GNP. Things were supposed to get even worse in 1990, with the deficit climbing to $296 billion and 5.3 percent of GNP. In reality, Gramm-Rudman became law and the 1989 deficit was $152 billion, $120 billion below the Congressional Budget Office estimate. The 1990 deficit is not known yet, but if the current estimate of $123.8 billion is even close, the deficit easily will be less than half the amount CBO had projected. The deficit as a percentage of GNP will also be well below the CBO estimate.

TWO LOOPHOLES

Actual deficits at the end of each fiscal year have consistently exceeded the Gramm-Rudman target. The deficit in 1989 was $152 billion, $16 billion above the $136 billion target. The administration projects that the 1990 budget deficit will be $123 billion, $23 billion over target.

This overshooting of the target results from two loopholes in the law, but it does not mean that Gramm-Rudman had failed. Loopholes number one is that Gramm-Rudman does not require that the actual deficit equal the deficit target. Instead, it mandates that the projected deficit as of October 15, two weeks into the new fiscal year, be not more than $10 billion over the target. If it turns out that the economic assumptions underlying the deficit projection are too optimistic, the actual deficit will be higher than the target. Congress understands this relationship, which is why, despite constant complaints about excessively optimistic economic assumptions from the White House, legislators adopt the administration's forecast. More optimistic economic assumptions mean less spending restaint is needed to bring the projected deficit within $10 billion of the target (primarily because a stronger economy generates more tax revenue.) If the economy's performance turns out to be less robust than projected, there is no way to force Congress to adjust spending totals after the October 15 sequester deadline.

The second loophole is that once October 15 has come and gone Congress can increase spending for that fiscal year without triggering a sequester. The only significant barrier that stands in the way of adding to the budget after October 15 is the 60-vote point of order in the Senate. Unfortunately, the big-spenders in Congress are quite adept at using clever combinations of pork-barrel projects and funding of "emergency" needs such as programs for homelessness and drugs, and often get the 60 votes they need. What is the result? Every dollar of added spending after October 15 causes the actual deficit to be that much higher than the deficit target.

STILL SOME GIMMICKS

Another weakness of Gramm-Rudman is that it has encouraged a certain amount of budgetary sleight of hand. Congress, often in cooperation with the administration, has shifted government paydays and Medicare and farm price support payment dates from one fiscal year to another. Last year, Congress took the postal service off budget so it could no longer be counted in the deficit calculation, allowing Congress to claim a "saving" of $1.7 billion, even though the Treasury Department must borrow just as much money. To add insult to injury, once the postal service was off budget and its spending no longer counted, Congress added a provision requiring the postal service to make a one-time $400 million of deficit reduction. The farm credit system was also taken off budget, a move that generated another $400 million of phony savings.

Obviously, Gramm-Rudman is not perfect. But government spending and deficits are lower than they would have been in the absence of the law.

NEW POLITICAL DYNAMICS

Before Gramm-Rudman, the proponents of higher spending had the upper hand. Since there was no objective limit on the deficit, they could enact new spending programs and increase funding for existing programs with little difficulty. Republicans were often put in the position of then raising taxes because of concern over the deficit. This pattern—Republicans raising taxes so Democrats could raise spending—did little to break the Democratic Party's lock on political power.

By breaking with traditional Republicans and advocating large tax cuts, Ronald Reagan was able to capture the presidency and give Republicans control of the Senate. Unfortunately, this did not lead to the reductions in government spending so many had hoped would occur. Indeed, Reagan and the Republicans passed three large tax increases in 1982, 1983, and 1984. As was the case in the past, however, these tax increases were not used for deficit reduction; they simply contributed to the expansion of existing government programs.

Gramm-Rudman changed all that in 1985. By putting a cap on each year's deficit. Gramm-Rudman also limited that year's spending because legislators can spend no more than the sum of projected revenues plus the deficit target (including the $10 billion margin of error). The only way Congress can increase spending beyond that level is either to increase revenues or the deficit target. The hidden spending cap, however, is only half of Gramm-Rudman's secret. The real key to making Gramm-Rudman work is no tax increases. If the prohibition of tax increases ends, the spending cap becomes meaningless. President Bush seems to understand this point, surprising many with the strength of his commitment to battle higher taxes. The administration's strong stand against taxes is probably one reason Democrats are so anxious to repeal Gramm-Rudman. Fortunately, President Bush would almost certainly veto any effort to undo Gramm-Rudman.

Understanding this one-to-one relationship between higher taxes and higher spending also exposes the big lie used by proponents of higher taxes. Almost every proposal to increase the tax burden on America is wrapped in pious claims that the additional tax revenue will be used to reduce the deficit. Yet, so long as Gramm-Rudman is the law of the land, every dollar of higher taxes will mean an additional dollar of higher spending. Simply stated, the deficit is already set by law; the only effect of higher taxes would be to allow Congress the freedom to meet that deficit target at a higher level of spending.

ADJUSTMENTS FOR SOCIAL SECURITY

The issue of deficit reduction has been confused by claims that the Social Security "surplus" is masking the true size of the deficit. It is true that Social Security tax revenues are exceeding Social Security outlays. The deficit, however, is supposed to measure how much money government will borrow from private credit markets. As such, all government spending and taxes, including Social Security, should be included. Any other measurement would deliberately misrepresent the true extent of government borrowing. The Social Security system belongs in the unified budget.

Some say that, Social Security is special because the 1977 and 1983 tax incerase were specifically enacted to build a reserve that could be used to pay for the baby boom's retirement, so we would not have to rely on a "pay-as-you-go" system. Perhaps that is how the tax increases were justified, but it is not how the Social Security system actually works. In years that Social Security tax revenues exceed outlays, the Social Security system exchanges its excess cash with the Treasury for U.S. government bonds (IOUs), which are deposited in the Trust Fund. When Social Security outlays begin to exceed revenues early next century, the Trust Fund will redeem those bonds to get the cash needed to pay retirement benefits. The relevant question, of course, is where does the Treasury get the cash with which to redeem the bonds? The government will have either to raise taxes, reduce benefits, or issue new debt, just as would be the case with a pay-as-you-go system.

Recent proposals to reduce the burden of payroll taxes have led to some concern that a large tax cut could undermine Gramm-Rudman. If the price of a payroll tax cut were repeal of Gramm-Rudman, the long-term fiscal policy impact would probably be negative. Fortunately, this need not be the case. If Congress is unwilling to come up with spending reductions to offset the revenue loss, the yearly deficit tagets could be adjusted to account for the lower levels of tax revenue, as Senator Kasten (R-Wisc.) has proposed in his bill to lower payroll taxes. If taxes are lowered and the deficit targets are changed, the economy would benefit from a permanently lower level of taxes and spending in exchange for a temporarily higher deficit.

BUSH'S OPPORTUNITY

In light of Gramm-Rudman's success, an interesting question is why politicians allowed it to become law. Public Choice theory tells us that politicians and bureaucrats will instinctively resist policies that limit the size and scope of their power. Yet Gramm-Rudman, which has succeeded in arresting the size of government where other efforts failed, only became law because it received support from a majority of both the House and the Senate and was signed into law by President Reagan. Many lawmakers probably supported Gramm-Rudman because they feared voters would hold them accountable for voting against a measure designed to reduce the deficit. Others probably figured the law wouldn't work and it would be immediately repealed. Still others may have felt genuinely concerned that the rising burden of deficit spending, left unchecked, would wreak

havoc with our economy. If so, this is an example of sound policy triumphing over political self-interest and the lust for power.

Whatever the source and reason, the passage of Gramm-Rudman marked a turning point in the battle of the budget. With the right strategy—refusal to capitulate on taxes and willingness to use the sequester if necessary—President Bush can accomplish more to bring spending under control than his predecessor ever did (though not for lack of trying). The rewards of this policy—higher economic growth, additional job creation, and a more competitive America—would come about as government's control over the nation's resources diminished.

Indeed, the only shortcoming is that Gramm-Rudman will end in 1993. While there is always a possibility that politicians will "slip" the targets again and extend the balanced budget goal back a year or two, at some point Gramm-Rudman will cease to accomplish its goal of balancing the budget. Then, conservatives need to be ready with tax-cut proposals, accompanied by new deficit-reduction requirements. Gramm-Rudman has succeeded in reducing the relative size of government, but only constant vigilance will keep Leviathan under control.

CONGRESSIONAL SALUTE TO THE ELK GROVE CHAPTER NO. 109, ORDER OF THE EASTERN STAR

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to an outstanding organization within my district that deserves our recognition. The Elk Grove Chapter No. 109, Order of the Eastern Star will celebrate its centennial on September 22, 1990.

Since its installation in 1890, the Order of the Eastern Star, Elk Grove Chapter No. 109 has served its community in an exemplary manner. Supporting such activities as a cancer dressing station for the American Cancer Society and the Masonic youth groups, they have contributed their time and efforts for the enrichment of an area that has experienced enormous growth.

The leadership and guidance provided by the Eastern Star, Elk Grove chapter over the years is immeasurable. I commend all those who have participated in the numerous projects throughout the years. I am certain that they have the appreciation and admiration of all those who have received their gracious assistance.

Mr. Speaker, the Order of the Eastern Star, Elk Grove Chapter No. 109 celebrates its centennial in the company of loving family and friends. I ask that my colleagues join me in extending congratulations and best wishes to him for continued success in the future.

TRIBUTE TO DR. ISSENBERG

HON. PETER HOAGLAND

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. HOAGLAND. Mr. Speaker, I rise today to recall the life of Dr. Phillip Issenberg of Omaha, NE. He was a man of enormous generosity, a man of great intellect tempered by compassion, and a man whose death leaves us all with that nagging sense of loss.

The Omaha World-Herald paid a very special tribute to this very special man when it wrote:

DR. ISSENBERG MADE HIS MARK

Dr. Phillip Issenberg, who died Monday at the age of 54, dedicated much of his life to researching and teaching others about cancer. It is ironic that the disease that he worked so hard to eradicate eventually killed him.

Dr. Issenberg, a professor and cancer researcher at Omaha's Eppley Institute for Research in Cancer and Allied Diseases, had a distinguished career as a scientist, as well as an educator and a volunteer worker. He joined the institute in 1972 as an associate professor and become a professor in 1974. He was associate director from 1974 to 1979.

His life was selflessly devoted to trying to make life better for others. "He was an unselfish man who cared deeply about his work," said Dr. Donald Nagle, associate director of the Eppley Institute. "He will be greatly missed by his colleagues."

Much of Dr. Issenberg's study of cancer focused on the detection and chemistry of environmental carcinogens. He was particularly interested in food-related carcinogens and the relationship of diet and cancer. He took an active role in the Omaha observances of the American Cancer Society's Great American Food Fight Against Cancer.

Dr. Issenberg was also concerned about high nitrate levels in water and other sources that might cause cancer. He was an advocate of legislation to better protect Nebraska's underground water.

Besides his work as a researcher and an educator, Dr. Issenberg was generous with his time as a volunteer for the American Cancer Society. He was chairman of the society's Nebraska division in 1986. He received the society's National Divisional Award for cancer-control efforts.

Researchers are often characterized as faceless scientists who stay secluded in their laboratories. But that image doesn't fit Dr. Issenberg. His fight against cancer was waged on many fronts, some of them outside the laboratory. Many people in the Midlands and across the nation will live longer because of Dr. Issenberg's work.

PHILLIP ISSENBERG DIES OF CANCER; RITES THURSDAY

Phillip Issenberg, 54, a professor and cancer researcher at the Eppley Institute for Research in Cancer and Allied Diseases, died Monday of cancer at University Hospital, said his daughter Karen Issenberg of Omaha.

Dr. Issenberg, of 13419 Miranda St., joined the institute in 1972 as an associate professor and became a professor in 1974. He was associate director from 1974 to 1979.

He was an active volunteer of the American Cancer Society and was chairman of the society's Nebraska division in 1986. He received the society's National Divisional Award for cancer-control efforts.

While at Eppley, Dr. Issenberg was one of three of the center's researchers to receive a grant of more than $100,000 from the National Cancer Institute in 1988.

In 1987, he was named to the national public education committee of the society.

Dr. Issenberg's research focused primarily on the detection and chemistry of environmental carcinogens. He was particularly interested in food-related carcinogens and the relationship of diet and cancer.

He often spoke of the relationship among diet, nutrition and cancer at community functions. In April, he took part in the Omaha observance of the American Cancer Society's Great American Food Fight Against Cancer.

Other survivors include his wife, Sandra; daughters, Joan Phillips and Susan Issenberg, both of Omaha, and Barbara Axelson of Valdervero, Spain; brother, Milton of Andover, Mass., and Harold of North Miami Beach, Fla.; and three grandchildren. Funeral services will be held Thursday at 11 a.m. at Temple Isreal, 7303 Cass St.

Phillip Issenberg, beyond any doubt, has left this world a better place. His work and his family are a special legacy he has left to us all. Our grief and sense of loss are tempered by the great gifts he left us.

JUDGES CHESTER R. MAHOOD AND JAMES M. HAYNES RETIRING

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. DUNCAN. Mr. Speaker, two judges in my district are retiring from the bench.

Circuit Court Judge James M. Haynes and Circuit Judge Chester R. Mahood are both well respected judges. They have always been kind and courteous to everyone with whom they came into contact in their courtrooms.

Judge Mahood served for 27 years on the Knox County Circuit Division One. He has been described as easygoing and hardworking. I have found him to be this way, also.

Judge Haynes served as Third Division Knox County Circuit Court Judge for 31 years. He has been the only judge to serve in that court since it was created in 1959.

Mr. Speaker, I have great respect for both these fine men. I wish them the best in their retirement and congratulate them on the closing of two outstanding judicial careers.

I would ask that the news stories which appeared recently in the Knoxville News-Sentinel appear at this point in the RECORD.

[From the Knoxville News-Sentinel, Aug. 31, 1990]

CIRCUIT COURT JUDGE ENDS 31-YEAR CAREER

(By Jim Balloch)

A long career ends quietly today with the retirement of Circuit Court Judge James M. Haynes.

Haynes, 65, has been on the bench for 31 years. Prior to his retirement, he was the only judge to have served in the Third Division of Knox County Circuit Court.

He was appointed to the post by Gov. Buford Ellington when it was created in 1959.

When he was appointed, he became the state's youngest circuit court judge. He has since become the state's senior trial court judge.

Though Knox County is heavily Republican and Haynes is a Democrat, he kept his post by handily winning elections on 1960, 1966, 1974 and 1982.

Political leaders of both parties in Knox County agree that had Haynes chosen to seek another term, his good record, reputation and his wide popularity would have kept anyone from running against him.

Following his decision in February not to seek re-election, he suffered a stress attack, and attempted suicide with a knife. In just five months, however, he had recovered and quietly returned to the bench to complete his term of office.

Though Circuit Court is a civil court, Haynes became involved in one of the state's most celebrated criminal cases shortly after he was sworn in.

Attorneys for William Tines, a man sentenced to death for rape, were desperately maneuvering to save his life and sought a writ of habeas corpus. Because Haynes was the only available judge that day, the case fell into his lap.

Haynes scheduled a hearing on the petition, thus temporarily saving Tines, who otherwise would have been executed that night.

Though Haynes denied the petition, the governor granted a temporary reprieve.

Tines eventually died in the electric chair—the last man executed in Tennessee. Haynes later said the case gave him nightmares.

Haynes is a native of Jackson, Tenn. During World War II, he was with the Air Force, serving in the China-India-Burma and European theaters.

In 1950, he graduated from the University of Tennessee College of Law and went into private practice with Joe Nigro, who later became a Criminal Court judge.

Haynes was active in Democratic politics and served as president of Young Democratic Clubs of Knox County and Tennessee.

He has also been active in civic affairs. He is a past president of the Great Smoky Mountain Council, Boy Scouts of America, and past commander of American Legion Post No. 2. He is a Mason, Shriner and Elk and has been active in the YMCA.

His wife, the former Betty Jean Jeffery, is a retired school teacher. They have three grown children, including Knoxville lawyer Mike Haynes, a former assistant U.S. attorney.

CIRCUIT COURT JUDGE MAHOOD TO RETIRE FRIDAY, JURIST, 71, HAS BEEN IN LAW FOR 4 DECADES

(By Bill Maples)

Circuit Judge Chester R. Mahood is retiring Friday after 27 years as judge of Knox County Circuit Court Division I, and his plans do not include much sitting around.

In 42 years of law practice he has built a reputation among legal circles in Knoxville as a genial man with an acute sense of right and an inborn affection for all humankind. Colleagues describe him as hardworking, easygoing, capable and a devoted family man.

He does not believe that the world is heading for the scrap heap. He says people inherently tell the truth. And he grows a mighty impressive vegetable garden.

Mahood was appointed by Gov. Buford Ellington Jan. 1, 1963, to succeed veteran Judge John M. Kelly, who retired before his term expired in 1967. Mahood was re-elected in 1964, 1966, 1974 and 1982.

"I was opposed in every election but 1974," he says, and adds with a grin, "I felt more secure without opposition."

About that garden. It is 100 feet by 75 feet and contains just about everything in the spectrum of home vegetables. Mahood has 50 tomato plants and right now says he has tomatoes "by the carload."

He uses structural steel reinforcing bars as stakes for tomatoes, and keeps them painted to prevent rusting. Recently he told his wife, Margaret Jane: "If anyone calls while I'm working outside for goodness sake don't tell them I'm painting tomato stakes. They'd think I was crazy."

He plans to continue gardening and is building a barn on the property in East Knoxville where he will keep his gardening equipment and have a shop.

Mahood is 71. He was born in the small town of Layland in West Virginia and grew up in Oak Hill near Charleston, W.Va. He graduated from the University of Tennessee College of Law and received his law degree in 1948. He began law practice in the office of Charles D. Lockett. During World War II he served in the Air Force and was discharged as a sergeant. He later was a commanding officer in the Judge Advocate General's office, retiring from that position as a lieutenant colonel.

He has held varied positions with community service groups and has long been active in Kirk Hills Presbyterian Church.

His wife has served as a Pink Lady at the University of Tennessee Medical Center. Their children are Kathy Morrow of Denmark, Ga.; Ramona Pennington of Cookeville; and Amie Hartsoe of Knoxville and Chester Jr., who lives at home.

Mahood had heart surgery in 1985 and underwent angioplasty last year. He walks two miles a day four days a week. He watches his diet, eating very little fat. He says he feels great and does not suffer from high blood pressure or high cholesterol.

Throughout his years on the bench he was noted for his kindness to jurors, lawyers and parties to lawsuits. He spent much time making jurors feel at ease, telling them where the restrooms were, what to do and not do in the jury rooms—no smoking because it bothers other jurors; no eating because it invites pests into the room.

He always pointed out to jurors that they could have a break any time they needed it, and he always told them if they had doctor's appointments they could be excused for them.

He once said of his courtroom manner: "I don't try to judge people by my own standards. They have different backgrounds and callings and religions. I try to relate to them according to their own backgrounds, and I never talk down to them. Sometimes firmly, but always respectfully."

For years Mahood was a regular member of the breakfast roundtable at the old S&W Cafeteria. He gathered there with businessmen, bankers, parking lot attendants and lawyers to munch sawmill gravy and sausage, toast and jelly, and discuss any subject pertinent to the day.

He once remarked jokingly that the group solved some "mighty big problems" in its discussions.

The Mahoods visit Pawleys Island, S.C., every summer, inviting all the children to join them. The Mahoods have visited Alaska and taken bus tours to New England when fall colors were at their height. They want to continue traveling.

Mahood wants to be named a senior judge in the state court system. It would involve making himself available 30 weeks a year if the state Supreme Court named him. He has told the other judges he would be willing to try a backlog of asbestos lawsuits now in the court system.

Mahood does not believe there is moral decay in the United States.

"I believe our officials behave themselves," he says. "I don't think witnesses tell lies in court. They may have differing views, but they don't deliberately lie.

"We see the worst. We don't see the best. Maybe it is because of better news coverage. But I'm an optimist. I believe the country sustains itself because there is more good than bad."

THREE-DEE ART EXHIBITION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, on August 17, the South Florida Art Center presented Three Dee, artists exploring the range of three dimensional appearance. The exhibit features 13 south Florida artists at the Sokolsky Center, an art display studio run by and for the South Florida Art Center studio artists. The show will run through October 7 and is open to the public.

The artists who are exhibiting are Carlos Alves, Corina Basterreachea, Eduardo Da Rosa, Carol Davidson, Gary Feinberg, David Floyd, Yvonne George, Guillermo Gonzalez, Loraine Kurland, Beth Meduho, Sally Poliquin, Roasario Pugliese, and Ellie Schneiderman.

I would also like to commend the South Florida Art Center board of trustees: Ellie Schneiderman, I. Stanley Levine, Alan H. Baseman, Doris Myers, Jan Carson Cheezem, and Jacqueline Simkin.

I would also like to commend the members of the executive committee: Michael Aller, Elias Benabib, Penny Daniels, Tina Gaber, Yvonne George, Woody Graber, Mitchell Kaplan, Neisen Kasdin, Chris Mangiaracina, George McClements, Phyllis Parker, Larry Samson, Erich Schenk, David Shubow, Douglas Stratton, Laurie Swedroe, Dennis Wilhelm, and Reyna Youngerman. Also to be acknowledged are ex-officio members Alina Antelo, Prof. Harold Kitner, Stuart Rogel, Commissioner Bruce Singer, and Arthur Unger as well as Marilyn Schlesser, advisor.

Through their dedication and hard work, the South Florida Art Center recognizes the talent of south Florida artists and cultivates art appreciation among our citizens. I thank them for their fine work and congratulate the Three Dee artists on a superb show.

TRIBUTE TO DONALD E. BEHREND, A LIFETIME OF COMMUNITY SERVICE

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. BUECHNER. Mr. Speaker, we are fortunate that there are in our society, a great number of people who want to change the world for the better. However, in surveying the intimidating problems we face today, one might be inclined to wonder what one individual can do. Fortunately many Americans discover that in a group of people concerned with community service there resides a strength far greater than the sum of the members. Lions International, to which I belong, is an excellent example of such a group. Accordingly, I rise today in tribute to Mr. Donald E. Behrend for this leadership in the area of community service, and especially his 29 years of service with the St. Charles County Lions' Club.

Don's chronology of service began when he served his country in World War II with the Army Air Corps, and it was indeed an auspicious beginning. Serving in the Pacific theater of the war he received the Victory Medal, the Asiatic-Pacific Theater Ribbon with 4 bronze battle stars, the Phillipine Liberation Ribbon, 4 overseas service bars, and the Good Conduct Ribbon. As one who served so illustriously in effort to protect the world from domination, Don is among those to whom our country owes an immeasurable debt.

After returning home Don retained his ties with those who fought beside him; his lifetime membership in the Veterans of Foreign Wars and the American Legion reflect his commitment to the cause for which he fought. Don also served in the U.S. Junior Chamber of Commerce—the Jaycees—holding such offices as secretary and president of his chapter. He has remained active in the Jaycees community long after reaching the age where he could no longer be a voting member of the organization.

We are all aware of the role of the Lions Club in our society; they are among the most dedicated and successful community service organizations in existence. The principles of brotherhood, civic-mindedness, and good, clean fun are brought together in an organization that is an ever-growing part of their communities. Don Behrend has been a part of this organization for almost three decades, and has given untold hours working for their causes. Indeed, his involvement in the organization was such that this fellow Lions felt that Don's example should be brought to the attention of this assembly, and it is with great pride that I do so.

Mr. Speaker, for a man to truly call himself successful, he must recognize that he is part of a larger community, and ultimately give something of himself to that community. By such a standard, Donald Behrend is a man of extraordinary success. Today, I ask my colleagues to join me in saluting Donald Behrend, a man who epitomizes the two words that define Lionism: "We serve." Indeed, he has served and he has served well.

JONELLE ALLEN

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. DYMALLY. Mr. Speaker, I ask my colleagues to join me in saluting Ms. Jonelle Allen, multiple award-winning actress on NBC's daytime drama, "Generations."

In speaking of the character she portrays, Allen says, "Doreen is a joy because she's such a full, well-rounded character. Yes, she's cunning, devious and carnal, but she's also sensitive and vulnerable."

The award-winning actress' theatrical performances include Broadway and Off-Broadway productions, and have ranged from rollicking musical performances to sensitive, dramatic roles. As Silvia in "Two Gentlemen from Verona" on Broadway, she was nominated for a Tony and received the Drama Critics' Award, the Drama Desk Award, Theater World Award and the Outer Circle Award. Other stage credits include performances in such diverse plays as "Hair," "George M," "Someone's Comin' Hungry," "For Colored Girls Who Have Considered Suicide When the Rainbow Is Enuf" and many others.

Her motion picture performance in "The River Niger" resulted in an NAACP Image Award as "Best Supporting Actress," and she also appeared in Orion Pictures' "The Hotel New Hampshire."

Allen's television credits include her highly-acclaimed portrayal of the sensitive "Bessie" in the Norman Lear/Alex Haley series "Palmerstown," as well as the lead opposite Peter Strauss in the CBS television movie "Penalty Phase." Judith Crist from the New York Times named "Penalty Phase" as one of the top television films of 1987 and Kay Gardella from the New York Daily News called Allen's performance in the film "electrifying." She has made appearances on "Cagney and Lacey," "American Woman—Profiles in Courage," "Hill Street Blues," "Police Woman," "Barney Miller," "Green Pastures," "All in the Family," "Love Boat," "Victims" and many others.

As a singer and dancer, Allen has displayed her versatility on "the Merv Griffin Show," the Golden Globe Awards, and the Showtime tribute to Frank Loesser, "Perfectly Frank."

Allen began acting at the age of 3 and had her Broadway debut at age 5 in "Wisteria Tree" with Helen Hayes, Walter Matthau, Ossie Davis, and Cliff Robertson. Ms. Hayes advised Allen's mother, "Keep this child in theater, she has a natural gift."

Offstage, Allen loves to go dancing and is interested in art and gourmet cooking—particularly Italian and soul food. She is an avid reader and a devoted exercise enthusiast.

Allen makes her home in Laguna Beach, CA, with her husband, John Sharpe. We look forward to Jonelle Allen's continued success, and trust that her career will span generations yet to come.

HOUSE OF REPRESENTATIVES POISED TO VOTE ON PUERTO RICO'S STATUS

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. FUSTER. Mr. Speaker, before this Congress adjourns my colleagues will hopefully be called upon to vote on a historic piece of legislation which was approved 37 to 1 on September 19 by the Interior and Insular Affairs Committee. H.R. 4765 will affect not only the people of Puerto Rico and their destiny but also the United States as a whole.

I hope that we can harmonize the differences between the legislation approved in the House with S. 712, the Senate Energy Committee approved bill, so that the people of Puerto Rico can look forward to exercising their self-determination in choosing between the three alternatives of statehood, independence, and the enhancement of the present formula of commonwealth which I favor.

Today I wish to share with my colleagues my opening remarks at the Interior Committee markup urging them to share in the historic moment when the legislation goes to the floor.

OPENING STATEMENT BY HON. JAIME B. FUSTER AT MARKUP OF THE PUERTO RICO SELF-DETERMINATION ACT HOUSE INTERIOR AND INSULAR AFFAIRS COMMITTEE, SEPTEMBER 19, 1990

Mr. Chairman and Fellow Committee Members, one of the greatest poets of the 20th Century, and one of the immortals of the Spanish language, Nobel prize winner Juan Ramón Jiménez once wrote a poem that comes to mind in trying to express what I feel and think today. he said, and I will quote only a few verses from it:

"i Inteligencia, dame
el nombre exacto de las cosas!
. . . Que mi palabra sea
la cosa misma, . . .
Que por mi vayan todos
los que no las conocen, a las cosas. . .

The poet pleads for the power to name things so exactly that they will not only be known but actually made real by his words.

Like the poet, I would like to have the ability precisely to convey the full meaning and import of what we are doing today in this Committee. Like the poet, I would like to have the power through words not only to insure that we all fully appreciate the historical, legal and political significance of this event but also by naming or describing it, to partake in making its reality certain.

We are about to approve a bill entitled "The Puerto Rican Self-Determination Act." It is not an ordinary bill. As Chairman Udall said when its original version was introduced in the House on May 9 of this year, the bill is

". . . an important step in the history of Puerto Rico and of the United States . . . There are few actions which the House may take this year which would more directly affect virtually every aspect of life of a group of people within the American political family than this legislation."

The goal or purpose of the bill is really awesome. It aims to be the vehicle for Puerto Ricans to exercise their most fundamental right as a people—their right to self-determination; their right to decide their collective future; their right to determine

how they want to organize themselves politically, and to decide what kind of relationship, if any, they want to have with the United States. We are talking, then, of the same right that Americans exercised on the 4th of July of 1776 when the Founding Fathers asserted their Declaration of Independence and shed blood to claim and protect it. We are talking of the right that has led recently to the extraordinary events in Eastern Europe and the Soviet Union, which this Congress has so vigorously supported, events that sprang from quests for self-determination that involved many sacrifices, including, again, the shedding of blood. And we are talking also of the right that has led thousands of black South Africans to sacrifice their lives, the legitimacy of which we have so clearly proclaimed in the sanctions legislated by Congress and in the honors rightfully bestowed to Nelson Mandela, for courageously embodying the forceful struggle of his people for self-determination.

The right to self-determination that H.R. 4765 purports to enable is no less important than the one Americans exercised over two centuries ago or than that which other people in the world have so bravely asserted recently. The fact that our quest is being played out in the halls of Congress, in this very room, rather than on a battlefield does not make it any less deserving. To the contrary, the Puerto Rican quest, asserted historically through the agony of long and patient civic rather than military struggle, makes it particularly poignant. We are dealing here with a people who fought politically for a hundred years with Spain to achieve self-determination, only to see their accomplishment vanish overnight as the United States armed forces landed in Puerto Rico and took the island as war booty. The civic quest had to begin anew and today, after almost a second hundred years of tears and toil, of strife and struggle, of persevering in a quest even in the face of great frustrations and humiliations, the United States imputed colonialistic rule of Puerto Rico approaches what we all hope is its indisputable end.

So you see, Mr. Chairman and my colleagues, to the people of Puerto Rico what we are about to do today is of the utmost importance and of an incomparable significance. H.R. 4765 convokes the people of Puerto Rico to come forth finally to settle their centuries-old status issue. My constituents are being summoned by Congress to put to rest the agonizing and debilitating political debate that has consumed so much of their peace of mind and creative energies for decades now.

Puerto Ricans have high hopes and expectations regarding this matter because they have been led to believe that the process which Congress is authorizing through H.R. 4765 is very different from the political status plebiscite which we held on our own in 1967 and which was to no avail. To the people of Puerto Rico the referendum to be held in 1991 will be a true and authentic act of self-determination, not a mere popularity contest, because it is Congress itself that is authorizing it. Their trust is wholeheartedly placed in this legislation because they believe that Congress would not enact a bill that purports to enable them finally and fully to exercise their sacred right to self-determination if it weren't because Congress means it. The good will and seriousness of purpose of Congress is taken for granted.

And, of course, Committee action today will also have a momentous impact in the nation at large as well as in the international community. The national press has extensively covered both the House and Senate bills during the last twenty months, and foreign nations, both foes and allies, particularly in Latin America, have been following very closely the unfolding of this matter, ever since President Bush announced to America and to the world on February 9, 1989 that he believed that the time had come for the people of Puerto Rico to determine their own political future, urging Congress to take the necessary steps to enable the Puerto Rican people to decide in a referendum. Both at home and abroad the expectation exists that a truly far-reaching process is being put in place by Congress, one that will settle once and for all the link between Puerto Rico and the United States, and that will definitely dispel the cloud of colonialism that for nearly one hundred years has hovered over this relationship.

So, Mr. Chairman and fellow members, the full import of what we are doing today cannot be gauged merely from the cold language of the bill itself that we are considering. During the mark-up of this bill in the Insular Affairs Subcommittee I pointed out that it had serious shortcomings. I mentioned that the bill before us is not drafted in the clear and compelling language that scholars or jurists might have used. Its terms certainly fall short of what it purports to be. It is an imperfect bill because it is the result of many compromises on difficult matters between many different parties that do not all share the sense of purpose and the high-mindedness that should have prevailed in dealing with a bill that intends to achieve the far reaching goals of H.R. 4765. But, imperfect as it is, the bill has the potential to open up a path, to muster a will that in time could bring about transcendental changes in Puerto Rico. We should not delude ourselves. In approving this bill we are setting in motion a process of self-determination that will generate far-reaching consequences. If a plebiscite is finally held in the island in 1991 under this bill, if the majority of the people freely choose one of the options that will appear in the ballots, if they respond to the summons imperfectly contained in this bill and in fact do exercise their right to self-determination, then the shortcomings of H.R. 4765 will be of no consequence. The winning option expressing the resolute will of the people of Puerto Rico shall eventually prevail over those who have been paternalistic in wielding their power in this matter. It is because I hold this truth, that I support this far from perfect bill.

To conclude, I would like to take issue with some of the remarks of Rep. Robert Lagomarsino in his written statement. Our colleague from California made only a very brief statement during the mark-up session but his full written statement for the record contains errors that would have led me to ask for rebuttal time, had he read his written statement in full at the mark-up.

Mr. Lagomarsino's brief and imprecise recount of the history of the insular areas deliberately leaves out the events in 1950-52 when Congress created Commonwealth status for Puerto Rico and presented it to the world as a new, autonomous political entity, whose creation terminated the United States 1898-1952 experience with colonialism. Commonwealth was then legally recognized as such by the United Nations in 1953 and by the highest courts in the United States several times since then.

Even more surprising was Lagomarsino's assertion that if a majority of the voters in Puerto Rico were to choose enhanced Commonwealth status in next year's plebiscite, the Territorial Clause "will continue to apply". This sly remark was obviously put in there as an attempt to influence a decision that belongs only to my constituents. It is Lagomarsino's way of conveying to the people of Puerto Rico his prejudiced view that Commonwealth status, in any shape or form, will always be a territorial, i.e.; colonial status.

This remark reflects a very short-sighted view. To begin with, if an enhanced Commonwealth status is still "colonial" as Lagomarsino suggests, why did he not object to its being included as one of the options in H.R. 4765, which purports to be a bill to allow Puerto Ricans to exercise their right to self-determination and to end the alleged United States colonial regime in Puerto Rico. Can H.R. 4765, which Lagomarsino coauthored, be a legitimate vehicle for self-determination if it includes a "colonial" status as one of the three options presented by Congress to the people of Puerto Rico?

Moreover, Mr. Lagomarsino introduces an issue that has not been part of the discussions leading to this bill. Whether the Territorial Clause applies or not has not been addressed at all by Committee members in any of the deliberations regarding this bill nor was it ever an issue in any of the lengthy and complex negotiations that led to the bill. More importantly, by introducing such a non-issue Lagomarsino appears to ignore the fact that under the Constitution the Congress has powers to create Commonwealth status which do not emanate from the Territorial Clause.

Finally, Lagomarsino's gratuitous comment will play in the press and the international arena the same way that avowed enemies of the United States, such as Fidel Castro, would like such remarks to play.

As such, it is interesting to note that President Bush, when he was the United States Ambassador to the United Nations in the 1970's, endorsed Puerto Rico's legitimacy under Commonwealth status. In a February 28, 1972 letter, responding to Cuban demands at the United Nations to review Puerto Rico's political situation, Ambassador George Bush responded vigorously by writing, in part:

"This is an insult to the people of Puerto Rico, who have chosen to live in a democracy, under a Constitution of their own choosing, in free association with the United States. This choice of their form of government has been restated periodically, in free and open elections, and through referenda, between 1952 and the present time."

Then Ambassador Bush laid it on the line as to the legitimacy of Commonwealth status, and I trust my colleagues will factor that in when the time comes to vote on the House floor on this far-reaching legislation that will enable the 3.6 million American citizens in Puerto Rico to decide their ultimate political status, Mr. Lagomarsino's mistaken views notwithstanding.

TRIBUTE TO SIERRA CANYON SCHOOL

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. GALLEGLY. Mr. Speaker, I rise today to honor one of the best schools in the entire Nation, the Sierra Canyon School of Chatsworth, CA.

Sierra Canyon School is a 400-student, college-preparatory elementary school located on 6 rustic acres in Chatsworth. Its solid reputation was recently enhanced when it became the first privately owned school to ever receive the coveted "Recognized School of Excellence" Award from the U.S. Department of Education.

As many of my colleagues know, the award is based on visionary leadership; a sense of shared purpose among faculty, students, parents and community; a creative and nurturing teaching environment; and impressive academic performance by students.

Sierra Canyon School boasts all of the above. I met with school leaders recently when they were in Washington to receive their plaque and a special flag from President Bush and Secretary of Education Lauro Cavazos, and I was impressed with their commitment, dedication, and vision for their school.

The school features programs to challenge gifted, average, and at-risk students to strive for academic achievement and responsible behavior, and can boast a significant degree of parental and community involvement in school affairs. Truly, the school's founders—former public school teachers Howard Wang, Mick Horwitz, and Ann Gillinger—have reached their goal of running a school the way they wanted to do.

On October 12, students, faculty members, parents, and community leaders will gather to raise the "School of Excellence" flag they received from the President. Mr. Speaker, I ask my colleagues to join me in saluting the school for a job well done.

A TRIBUTE TO FRANK ALICK

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. SCHUETTE. Mr. Speaker, I rise today to congratulate Mr. Frank Alick, an outstanding musician and citizen of Michigan, on the occasion of his induction into the Michigan Polka Music Hall of Fame. A banquet and induction ceremony will be held in his honor on October 7, 1990.

Frank was born on October 21, 1931, in Flint, MI, to Frank and Mary Alick who immigrated to the United States from Yugoslavia. Frank was the second-born of two children.

Frank's parents and friends are responsible for his exposure to various forms of ethnic music while he was growing up. At parties and other gatherings, Frank's parents would spontaneously break into song while Frank played the violin, and his sister Mary Olga played the accordion. The memories of those parties still hold a special place in Frank's heart.

In high school, Frank was a member of the Flint Northern Orchestra and Symphonic Band. Frank and other members formed the Ralph Sordyl Orchestra and enjoyed the opportunity to perform at Dom Polski, Tilden Hall, Croation Hall, as well as many other well-known places.

During the 41 years Frank has been playing polka style music, he has performed with many groups. When he completed his tour with the Marine Corps in 1954, he began playing bass with the Andy Nester Orchestra, with whom he is still actively performing. He has performed with the Tony Kaczmarek Orchestra for the past 25 years. In his spare time, Frank has been a member of the Auto City Banjo Band for 4 years, and a chord harmonica player with the "Electro Harmonicas" Trio for the past year and a half.

Frank was employed at General Motors for 38 years, in the Buick and AC Sparkplug divisions. In June of 1988, Frank retired from General Motors, but he says he will never retire from his music.

Throughout his music career, Frank could always count on the support of Mary Alice, his wife of 34 years. The Alicks have two daughters, Ann Marie Johns and Sue Brannon. They are blessed with two grandchildren, Laura and Danny Johns.

Mr. Speaker and my colleagues in the House, please join me today in congratulating Mr. Frank Alick on the occasion of his induction into the Michigan Polka Music Hall of Fame, and in commending him for his interest in keeping alive the rich musical heritage of his parents and grandparents.

TRIBUTE TO RHODE ISLAND DAUGHTERS OF AMERICAN REVOLUTION

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize the 100th anniversary of the Rhode Island State Society of the Daughters of the American Revolution.

The Rhode Island State Society of the Daughters of the American Revolution comprises 16 chapters and about 740 members. Bristol Chapter, chartered December 17, 1891, was the first DAR chapter in Rhode Island and New England and the 11th in the Nation. Women who can trace their family tree by lineage descent to a Revolutionary War patriot, are eligible for membership.

The objective of the Daughters of the American Revolution is historic preservation, and the promotion of education, and of patriotic endeavor. The society has been recognized nationally. In addition, Congress has designated October 11, 1990 as "National Society of the Daughters of the American Revolution Centennial Day."

I am pleased to lend my support and recognition with my fellow Members of Congress of such a fine institution as the Daughters of the American Revolution. Keeping our American heritage alive is important, as history plays such a crucial role in our decisions of today. I wish them continued success in the future.

ST. MARYS RIVER AND THE MARK AND MISHA SHOW

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. BENNETT. Mr. Speaker, I have the privilege of representing in Congress, most of the southern bank of the St. Marys River, which divides Georgia and Florida, and its mouth, shelters the Kings Bay Trident Base, and the Cumberland Island National Seashore, among other points of interest. Congress passed this year, legislation to look into the possibility of making it a national wild and scenic river or some variation thereof. There is wide support for this, both in Florida and Georgia.

One of the plantations on the Florida side of the river, is the White Oak Plantation, which was once a prosperous early 19th century plantation among the properties of Zephaniah Kingsley, the richest man in Florida in his day. Evidence of his tabby plantation houses still remain as well as the canals he used in his rice production. Today, the land there is exciting with its wide variety of animals from all over the world and the intrinsic beauty of the location of this wilderness type river location. Not too long ago, I had the pleasure of a lunch and a river trip with Mr. Howard Gilman, who owns this old plantation site, as well as many thousands of acres nearby in Georgia and Florida. I met, at lunch, Mikhail Baryshnikov and others in the performing arts and also persons interested in exotic animals and plantation life in this fascinating setting.

Time magazine, in its September 17, 1990 edition, ran the following story about events occurring there now at White Oak Plantation. As the Congressman from the area, I am greatly interested in the success of the venture described in the field of dance, and I am also deeply grateful to Mr. Gilman for his interest in protecting exotic endangered species and keeping alive this plantation dating back to early Florida history still protecting much of the natural beauty of the St. Marys River, one of the really exquisite rivers of America.

THE MARK AND MISHA SHOW

Sounds in the summer air:

"The songbird yearned to sing a love song . . ."

"Do you need a beverage or a minuet?"

"We are all sexless, like a line of alphabet letters in a classroom."

Welcome to White Oak Plantation, an outpost of paradise that slipped the Lord's notice when he expunged the rest of Eden. Gazelles and antelope play here. Tigers roam. In the streams black-necked swans bob through the absurdities of their mating ritual. Perhaps even Terpsichore darts about in the shadows, inspiring a menagerie of humans who have come to the plantation to prepare an innovative evening of dance.

White Oak is a 7,500-acre estate along the St. Marys River, which separates part of Georgia and Florida. Presided over by

Howard Gilman, who owns the Gilman Paper Co., this preserve—part breeding farm for endangered animals, part Thoroughbred stables—could be described as either utopian or feudal. Through the years Gilman has nurtured the wildlife program, which includes 26 species of mammals and 30 varieties of birds, like a latter-day Sun King. Gilman has also been an enthusiastic patron of dance, and when his friend Mikhail Baryshnikov was looking for a good spot to prepare a tour of new works by *his* friend, choreographer Mark Morris, Gilman decided to pitch in. Within three weeks he had an air-conditioned studio flung up, with a nice springy floor and sophisticated lighting—for dancers, Shangri-La.

The Baryshnikov-Morris tour, scheduled for 17 U.S. cities in October and November, would seem about as likely a partnerhip as the owl and the pussycat, Baryshnikov, 42, the pre-eminent male dancer of the 1970s and '80s, defined the great classical ballet roles. Morris, 34, is a brilliant and somewhat unruly postmodern choreographer. Baryshnikov dances "up," every graceful move a dismissal of gravity. Morris, a marvelous performer as well, is blunt and emphatic. Where the one leaps high, the other stamps down, like the folk dancer he was as a teenager.

After resigning as artistic director of American Ballet Theater a year ago, Baryshnikov thought of quitting dancing too. But despite chronic knee problems, he admits, "It's neither easy nor pleasant to leave the stage. I never thought I'd spend my last years as a modern dancer, but it's important now to work with someone I admire." He had danced Morris' work earlier and spotted him as someone who saw dance the way he did, musically. "Mark decodes a composer's thought," Baryshnikov says. "He uses dance like an extra instrument." As for Morris, he seized on "Misha's" special lyricism at once: "He's a fabulous phraser, and I really do think he is that strange poet in *Les Sylphides.*"

In the studio Morris is the galvanizing leader. Tossing his long black curls, he tears into ever move, often with a soda can in hand and a cigarette dangling from his lips. "Shall we start with the frustrating part of the even more frustrating part just ahead of it?" he asks his eight dancers, speaking of a passage in a rather classical-looking piece he is setting to a showy swatch of Saint-Saëns. When people start tiring, he is reluctant to lose momentum, but when he offers a choice of beverages or minuets in mock airline-ese, the choice is soft drinks. The ensemble work looks odd at first because Morris rarely distinguishes between men and women. Boy may lift girl, or another boy. The dancers love it.

Beside the effervescent Morris, Baryshnikov is rather severe, intently examining the image in the mirror when he is dancing, contemplating Morris with a fixed eye when he isn't. His gaze looks critical, but that's not the case. "I try to figure out the way he works and anticipate him," Baryshnikov says cheerfully. "But I never do."

One rehearsal session is devoted to a little nifty called *Going Away Party,* set to Bob Wills' country-and-western songs. As the dancers, who have never performed together before, try to get the dynamics of the piece into their bones, Merle Haggard's voice drawls out *Yearning* and its songbird over and over. The steps speed up; at one point a square dance veers scarily into a frantic game of musical chairs.

To anyone who observes the brio of these rehearsals, as well as the total lack of temperamental combustion, it seems clear that there is the embryo of a new troupe here. For dance fans the ntion is very attractive. Things are stale now in both ballet and modern dance. The prolific Morris—who says, "I can make up a thousand steps; my problem is deciding what to keep"—has shown an affinity for classical movement. It could be a dream linking. Baryshnikov, however, doesn't think a White Oak Company is in the cards. Speaking of dancers in the group, he says, "We're a group of company leavers. Kate Johnson left Paul Taylor, Rob Besserer left Lar Lubovitch, others left Boston Ballet." Nevertheless, if the fall outings are successful, the group will tour in the spring of 1991, perhaps including Europe.

Right now the program is set with the same four pieces each evening, Baryshnikov dancing all performances. Will it stay that way? Don't bet on it. Looking out over a dappled glade that leads down to the river, Morris says, "I like to see people do what they're not expected to do. I like to see how slow things relate to fast things, I like charged-up rhythm. One reason I make up dance concerts is that then I have something to watch that I like." A thousand steps onward.

JOSEPH E. ANDRY—NATIONAL COMMANDER OF THE DISABLED AMERICAN VETERANS

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. McEWEN. Mr. Speaker, each of us feels a special kind of satisfaction when we see good things happen to good people, especially when it is a close friend who is experiencing good fortune.

I rise today to take note of a significant development, one of many really, from the recent National Convention of the Disabled American Veterans [DAV] in Anaheim, CA. That 69th annual DAV meeting saw the election of my good friend, Westerville, OH's Joe Andry, to be DAV national commander. Joe's election strikes a special chord of approval for me, as one familiar with Joe's special brand of service to others over the past decade.

During stints with the Veterans' Administration and the Department of Labor, Joe compiled a record of Government service and accomplishment that any public servant might envy and emulate. This professional progress coincided with a growing interest and participation in DAV, which also recognized his unusual capacity for getting the job done.

It is important to note that Joe Andry is not merely active—he is effective. I look for Joe's term as DAV national commander to be a period of growth for the organization. Joe succeeds Vernon Cardosi, who established quite a record of achievement while he served as national commander. Vern's is a record that will be tough to match, but I am confident Joe Andry will give it his all.

I am enclosing for the record an article about Joe Andry which ran in the September post-convention issue of DAV magazine. It profiles the new DAV national commander, and describes Joe's career and qualifications in some detail. It's an interesting feature, but what it fails to describe, and what I myself cannot adequately describe, is my pride and satisfaction with his selection to lead the Disabled American Veterans. DAV is sure to discover more fully what we in Ohio already know quite well: Joe Andry is a winner. Good luck, Joe.

THE GREATEST HONOR OF MY LIFE

When he was a boy he dreamed of being an Olympic long-distance runner one day. A talented high-school athlete, he had the potential to achieve that goal. But service in the U.S. Army and a Viet Cong booby trap changed his hopes.

Although he had lost both a leg and an eye, he didn't give up. New hopes surfaced from within and because of the circumstances he found himself in. Following his heart and his instincts, he refocused his energies toward disabled veterans. A new dream emerged—leading an organization of men like himself, wartime-disabled veterans. That, in a nutshell, was the journey of Joseph E. Andry to the post of National Commander of the Disabled American Veterans. It was a journey chronicled by outgoing National Commander Vernon V. Cardosi and other DAV leaders at the 69th annual National Convention.

"This is a young man who will make the organization proud," said Cardosi, as he introduced the new National Commander to the convention delegation. "With Joe Andry at the helm, the DAV truly will reach new heights," he added.

Cardosi and Paul A. DeMichael of Cleveland, who seconded the nomination of Andry as National Commander, noted Andry's past accomplishments. The Westerville, Ohio, man earned degrees in business management and labor relations at Cleveland State University. For four years, he worked for the Veterans' Administration and helped serverely disabled veterans obtain employment and training opportunities. From 1978 to 1988, he worked for the U.S. Department of Labor, and was eventually promoted to State Director for Veterans' Employment in Ohio. He has also served as the Department Adjutant of Ohio, managing the day-to-day DAV functions in Ohio. Noting that he was named DAV's Outstanding Disabled Veteran of the Year in 1979, DeMichael said, "Joe Andry is an exceptional leader who has used his dynamic energy and insight. He has made a lifelong commitment to excellence."

Andry actually became a life member of the DAV's National Amputation Chapter while he was hospitalized for his combat wounds. His DAV involvement has grown ever since. In Ohio, he also served as Commander of Geauga County DAV Chapter 96 from 1980 to 1983, and served as DAV Department of Ohio Commander in 1984-85.

Andry's commitment to the rights of disabled veterans and all disabled persons is extensive, noted Cardosi and DeMichael. He was appointed by Ohio's governor to the Ohio War Orphans Scholarship Council and the Governor's Council on Disabled Persons. He has held leadership positions in several civic organizations in his home community.

When Andry took the stage, he noted that being elected DAV National Commander "is the greatest honor of my life." Then, recalling the day he "established eligibility" for DAV membership, he said "I didn't realize it as I lay broken and bleeding near Cu Chi, Vietnam, that I was fortunate in a very important way. Back in the United States

there was a group of veterans who had already gone through the ordeal that was now facing me. They were members of the DAV."

Andry noted that those veterans ensured that he and other wounded veterans would receive adequate health care and compensation. He added that they gave him the inspiration to devote his life to the cause of disabled veterans.

Andry acknowledged the DAV's "dynamic leadership" and membership in carrying the DAV torch.

"And now the torch has been passed," Andry closed. "You have elected me to lead the Disabled American Veterans, and I am ready to lead."

REEXAMINING THE LABOR DEPARTMENT'S ORDER FOR THE SALVATION ARMY TO PAY MINIMUM WAGE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. BEREUTER. Mr. Speaker, recently the Department of Labor issued an order requiring the Salvation Army to pay those persons whom it provides with help the minimum wage for any labor they perform for the Salvation Army. This ridiculous order is, in the opinion of this Member, clearly counterproductive.

The Salvation Army is itself a constellation in the "thousand points of light." Their goal is to help the destitute and the addicted find their way back into society. These people receive room and board and as much as $20 a week in pocket money. In return, they perform basic labor which benefits themselves as much as it benefits the Salvation Army. Any labor performed by these people is in the form of preparing food that they will eat or cleaning quarters so that they will have a clean, safe place to take shelter. Further, this labor helps prepare these people to become useful, viable members of society again. Requiring payment of minimum wage will eclipse the light the Salvation Army has shed on this dark underside of our society.

The lack of pragmatism demonstrated by this order is well described in the following editorial in the September 20, 1990, edition of the Omaha World Herald. This Member has sent a copy of this editorial along with a letter expressing his similar sentiments to the Honorable Elizabeth Dole, Secretary of Labor:

BUREAUCRACY RUNS AMOK IN SALVATION ARMY CASE

For 110 years, the men and women of the Salvation Army have been trying to help the destitute, the drunk and the hopeless. What thanks do they get? They get mugged by the U.S. Department of Labor.

Actually, it's only an attempted mugging so far, Salvation Army officials have indicated that they will appeal an order requiring that they pay the minimum wage to men and women whom the organization is trying to help.

The Labor Department contends that those people are employees. As part of their rehabilitation, they help in the Salvation Army kitchens or unload the furniture and clothes the organization collects. As employees, the government argues, they must receive the minimum wage.

The Salvation Army calls them beneficiaries, not employees. They now receive room, board and up to $20 a week in pocket money. They also receive concern, guidance and training in what it takes to handle a regular job and live a normal life. The Salvation Army's officers throw in a helping of Christianity, too.

Salvation Army social service centers depend on income from a network of thrift shops. The thrift shops have been facing other challenges in recent years, including a drop in usable donations as more families hold garage sales in lieu of taking discards to the red-and-white Salvation Army collection boxes.

If the government required the payment of minimum wages to the beneficiaries, Salvation Army officials say, the social service centers might be forced to close.

The Salvation Army has helped the down-and-out for many years, not only housing and feeding them but also leading them back to normal, productive lives. For the Salvation Army's centers to close would be a misfortune far surpassing any offense to the Fair Labor Standards Act.

The Salvation Army's beneficiaries aren't employees in any reasonable sense of the word. They are being helped. They are being led away from drink or crime or desolation and being shown the way back home. Whatever hours they put in chopping onions or lugging boxes are a vital part of that rehabilitation.

The Labor Department's challenge to the Salvation Army's long-standing rehabilitation effort is an example of bureaucracy run amok. It is an example of unfeeling government at its worst. If the agency can't find a way to let the Salvation Army keep doing what it does best, Congress should step in.

MICHAEL HARRIS' MESSAGE OF UNDERSTANDING

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. FIELDS. Mr. Speaker, at this time when race relations in a number of cities appear to have deteriorated seriously, good men and women throughout our country have an obligation to do everything possible to work for racial harmony and understanding.

Michael Harris, of Houston, TX, is doing just that.

Michael is taking the lead in fostering greater understanding between all Americans, whatever their race, whatever their religion and whatever their nationality. Michael is the long-time host of the "Person to Person" talk show heard daily on radio station KCOH in Houston. Over the past several months, Michael has challenged his listeners—and all Houstonians—to abandon the stereotypes and generalizations many of us have about people unlike ourselves. He has prodded all Houstonians to examine our views on race and religion, and he has asked us to become more accepting of people with whom we might not be familiar. Michael understands that that can be a slow and difficult process—but he has made the commitment to begin that journey, and I commend him for his efforts.

Michael has received many accolades during his years in broadcasting, and he received two more recently.

Michael was featured in an August 9, Washington Post article entitled, "Radio Talk Host Listens to His Conscience, Breaks His Silence," in which his efforts to improve racial an understanding in Houston were highlighted. Anyone who knows Michael knows him to be a man of compassion and goodwill—a man who embodies the Christian values of love and charity for all men and women.

Those characteristics have served him well during his broadcasting career, and those characteristics will serve him well today and tomorrow as he attends a Justice Department-sponsored seminar in Washington designed to address many of the issues associated with race relations and how they can be improved.

I know you join with me, Mr. Speaker, in applauding Michael Harris for his simple decency and for his willingness to take the time necessary to try to make our world a better place for all people.

Mr. Speaker, I would like to commend to your attention, and to that of my colleagues, the following article about Michael Harris which appeared in the August 9 Washington Post:

RADIO TALK HOST LISTENS TO HIS CONSCIENCE, BREAKS HIS SILENCE

(By David Maraniss)

HOUSTON.—Near the end of his daily talk show "Person to Person" on black-listener KCOH radio recently, host Michael Harris interrupted a caller blaming American Jews for Israel's handling of Palestinians and aid to South Africa.

"Do you feel a kinship to black South Africans?" Harris asked.

"Yes I do," the caller said.

"All right," Harris said. "If you can feel a kinship to black South Africans, some of whom are policemen and soldiers who are helping the regime that oppresses them, then why can't you feel some sort of kinship with an American Jewish person who has no control over what Israel does and may be as opposed to the South African regime as you are? When you start lumping people together, you are stereotyping, and that's dangerous."

For several years during the 1980s, exchanges of that sort did not take place on this city's only black-oriented radio talk show. In the old days, when a caller expressed hostile sentiment about non-blacks, Harris either agreed or kept silent. His mission, he said, was to prove to his audience that he was not an Uncle Tom or "a white man's kind of Negro," as he put it.

To satisfy his audience, Harris said, he felt compelled to go with the flow, the stream of conversation from black callers. It was decidedly hostile toward non-blacks: Koreans, Vietnamese, Hispanics and especially whites.

One caller constantly referred to whites as "those people with those dog-like noses." More often whites were referred to as "devils." It was a given in the "Person to Person" universe that all whites were alike. The life experiences of Harris, 38, who grew up in redneck East Texas, attended the multicultural University of Houston and worked as a newscaster at a country and western station in Pasadena, Tex., taught him that, while some whites were jerks, not all of them were evil. "But I felt bullied into si-

lence," he said, "by people who intimidate you into not being nice to persons who are not black."

But a counter-pressure was pushing Harris: his conscience. When he finished a morning show, he said, he would feel embarrassed that he had contributed to a few hours of hate-mongering. He said he was reluctant to tell friends when his show was on the air because he did not want them to think that the Michael Harris they heard on KCOH was the real Michael Harris.

A catharsis came one day when he heard that several white South African children were killed in a school bus accident. It happened only a short time after black South Africans had been gunned down by white authorities. Harris said he initially felt no remorse, only a sense of revenge, for the dead white children.

"I realized I was headed for trouble," he said. "I looked inside myself and found my real belief was that a life is a life. . . . When blacks commit crimes against whites, there is outrage in the white community. When whites commit crimes against blacks, there is outrage in the black community. When anyone commits a crime against anyone, there is outrage in Michael Harris. That is the real me."

Month by month for the last year, Harris has transformed his on-air personality. He became less dogmatic. Eight months ago, in an unprecedented gesture, he sought members of the American Jewish Committee and invited them to KCOH to discuss stereotypes. The black-Jewish discussion with committee leaders Suzanne Sachnowitz and David Mintzberg has become a regular feature on "Person to Person." With his Jewish guests and black listeners, Harris said he now feels freer to probe and provoke, rather than posture, turning his show into a daily seminar on race.

If Harris has changed, his callers remain pretty much the same. One recent morning, the first caller, who identified himself as "Chris," said integration was a failure "because Caucasians don't understand us, they don't know how to educate us."

Another caller, "C.C.," defended D.C. Mayor Marion Barry, whose drug trial is a frequent topic on the show. "No one is created perfect," C.C. said. "We're all going to make mistakes." Of 10 callers who brought up Barry, only one said he was to blame for his problems. Most of the others said he was a victim of selective enforcement of the laws, that he was entrapped.

One caller, "Chuck," said Barry should not be held to white standards. "We keep hearing this word morality," Chuck said. "We have to remember we did not come from a society of monogamists. That is the white man's society. We had African kings that had many wives."

For his morning talk show, which runs from 8 to 11, Harris operates in a ground floor studio with fish-bowl windows looking out at the passing scene near the corner of Almeda and Wichita in the black Neartown section. He stands up during the entire show, effortlessly switching from caller to caller, stacking tapes of commercials that he has to play, even looking out the window and, like the deejay in Spike Lee's movie, "Do the Right Thing," saying hello on-air to passersby he recognizes.

Doing the right thing, for Harris, is still an uncertain enterprise. "It feels good not to have a knot in your stomach and be afraid that somebody's going to think that you think like the hate-mongers," he said. "But being honest with yourself on radio is a hard price to pay. If you appear overly militant, you lose advertisers. If you appear too moderate, the militants attack your credibility. For a while, I felt like I had no support anywhere."

On the day the caller attacked American Jews for Israel's role in the Mideast and South Africa, Harris took off his earphones during a break and shook his head. "We as blacks have got to make sure we don't do what we claim is being done to us," he said softly. "We can't put whites and Jews all into one basket. Some are bad, all are bad. Some can't be trusted, all can't be trusted. You can't make blanket statements like that."

RECOGNIZING AN AMERICAN HERO

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. SUNDQUIST. Mr. Speaker, not long ago, I received a letter from a retired serviceman from my district, Edward Hollingsworth, asking my help in winning recognition for a true American hero, Mr. Hollingsworth's great friend Joe R. Hooper.

Joe Hooper is in that very select company of soldiers who have earned our Nation's highest commendation, the Congressional Medal of Honor. He also earned a Silver Star, a Bronze Star, and at least two Purple Hearts. A full listing of his awards and citations would fill the better part of a page.

In his letters to me, Edward Hollingsworth says that his friend never got the respect and recognition he deserved, because he fought in a war—Vietnam—about which the American people were divided. Mr. Hollingsworth, like me, believes this Nation still owes its Vietnam veterans.

Joe Hooper passed on some years ago, but the record of his service lives on in the documents preserved at Fort Campbell and in the hearts and memories of comrades in arms like Ed Hollingsworth.

I ask this House to join me in offering this posthumous tribute to Joe Hooper, and I request that the text of the Medal of Honor certificate be entered following my remarks in the CONGRESSIONAL RECORD:

AWARD OF THE MEDAL OF HONOR

By direction of the President, under the Joint Resolution of Congress approved 12 July 1862 (amended by act of 3 March 1863, act of 9 July 1918 and act of 25 July 1963), the Medal of Honor for conspicuous gallantry and intrepidity at the risk of life above and beyond the call of duty is awarded by the Department of the Army in the name of the Congress to:

Staff Sergeant Joe R. Hooper, RA 19670872 (then Sergeant), United States Army, who distinguished himself by conspicuous gallantry and intrepidity on 21 February 1968, while serving as squad leader with Company D, 2d Battalion (Airborne), 501st Infantry, 101st Airborne Division near Hue, Republic of Vietnam. Company D was assaulting a heavily defended enemy position along a river bank when it encountered a withering hail of fire from rockets, machineguns and automatic weapons. Staff Sergeant Hooper rallied several men and stormed across the river, overrunning several bunkers on the opposite shore. Thus inspired, the rest of the company moved to the attack. With utter disregard for his own safety, he moved out under the intense fire again and pulled back the wounded, moving them to safety. During this act Staff Sergeant Hooper was seriously wounded, but he refused medical aid and returned to his men. With the relentless enemy fire disrupting the attack, he singlehandedly stormed three enemy bunkers, destroying them with hand grenades and rifle fire, and shot two enemy soldiers who had attacked and wounded the chaplain. Leading his men forward in a sweep of the area, Staff Sergeant Hooper destroyed three buildings housing enemy riflemen. At this point he was attacked by a North Vietnamese officer whom he fatally wounded with his bayonet.

Finding his men under heavy fire from a house to the front, he proceeded alone to the building, killing its occupants with rifle fire and grenades. By now his initial body wound had been compounded by grenade fragments, yet, despite the multiple wounds and loss of blood, he continued to lead his men against the intense enemy fire. As the squad reached the final line of enemy resistance, it received devastating fire from four bunkers in line on its left flank. Staff Sergeant Hooper gathered several hand grenades and raced down a small trench which ran the length of the bunker line, tossing grenades into each bunker as he passed by, killing all but two of the occupants. With these positions destroyed, he concentrated on the last bunkers facing his men, destroying the first with an incendiary grenade and neutralizing two more by rifle fire. He then raced across an open field, still under enemy fire, to rescue a wounded man who was trapped in a trench. Upon reaching the man, he was faced by an armed enemy soldier whom he killed with a pistol. Moving his comrade to safety and returning to his men, he neutralized the final pocket of enemy resistance by fatally wounding three North Vietnamese officers with rifle fire.

Staff Sergeant Hooper then established a final line and reorganized his men, not accepting treatment until this was accomplished and not consenting to evacuation until the following morning. His supreme valor, inspiring leadership and heroic self-sacrifice were directly responsible for the company's success and provided a lasting example in personal courage for every man on the field. Staff Sergeant Hooper's actions were in keeping with the highest traditions of the military service and reflect great credit upon himself and the United States Army. (This award supersedes the Distinguished Service Cross awarded to Staff Sergeant Joe R. Hooper for extraordinary heroism on 21 February 1968 as announced in General Orders Number 2749, Headquarters, United States Army, Vietnam, dated 7 June 1968.)

IN SUPPORT OF CEDAW

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Ms. SCHNEIDER. Mr. Speaker, I rise in strong support of my colleague, Congressman YATRON'S resolution in support of ratification

of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

This critical document has been awaiting ratification in the Senate since 1980. Ratification of the convention will bolster the U.S. position as a leader in promoting women's rights abroad.

In recent months, Congresswoman LYNN MARTIN and I have been urging administration support for ratification of CEDAW with a coalition of other Republican women in the Congress. I am including two letters to President Bush and my testimony submitted to the Senate Foreign Relations Committee on August 2, 1990:

CONGRESS OF THE UNITED STATES,
Washington, DC, June 11, 1990.

Hon. GEORGE H.W. BUSH,
President of the United States, the White House, Washington, DC.

DEAR MR. PRESIDENT: We are writing to urge Administration support for United States ratification of the Convention on the Elimination of All Forms of Discrimination Against Women.

The Convention was previously submitted to the Senate in November 1980, nearly 10 years ago. In his letter of transmittal to the Senate, President Carter advised that there are no constitutional or other legal obstacles to United States ratification.

U.S. ratification of the Women's Convention has achieved broad-based support from legal, religious, civic, women's and human rights organizations. Two legal studies by the American Bar Association have concluded that there are no significant legal impediments to U.S. ratification.

We understand that the Department of State currently classifies the Women's Convention as "under study." We would like to request that this convention be given priority status by the Administration and that the Senate Foreign Relations Committee be urged to hold hearings on U.S. ratification.

Although the United States is a leader among nations in advancing the role of women, we feel that there is still much to be done in this county to eliminate discrimination against women. For example, the Washington Post recently reported a case in which a judge would not allow a married woman to assume her maiden name without her husband's written permission.

United States ratification of this Convention is equally important for the role of this country as a leading advocate for international human rights. Our diplomatic representatives well know the difficulty of representing the U.S. in international fora when we ourselves have not ratified the basic international human rights conventions.

We feel that it is important for this Administration to take the leadership in the area of equal rights for women both in the national and international arena as it has in the area of equal opportunity for minorities.

Sincerely,

Claudine Schneider, Member of Congress; Patricia F. Saiki, Member of Congress; Marge Roukema, Member of Congress; Helen Delich Bentley, Member of Congress; Constance A. Morella, Member of Congress; Susan Molinari, Member of Congress; Virginia Smith, Member of Congress; Lynn Martin, Member of Congress; Rudy Boschwitz, U.S. Senator; Nancy L. Johnson, Member of Congress; Barbara F. Vucanovich, Member of Congress; Jan Meyers, Member of Congress; Ileana Ros-Lehtinen, Member of Congress.

TESTIMONY OF U.S. REPRESENTATIVE CLAUDINE SCHNEIDER

U.N. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Mr. Chairman and Members of the Committee, I appreciate this opportunity to submit testimony in support of ratification of the U.N. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This is an important initiative and I commend the committee for holding this timely hearing.

Mr. Chairman, as you know, ten years ago on July 17, 1980, CEDAW was signed on behalf of the United States. The following November, CEDAW was sent to the United States Senate for ratification. Since then, ratification of CEDAW has gained broad based support from numerous religious, legal, civic, women's and human rights organizations. In addition, many Members of Congress from both political parties have pushed for expeditious ratification.

CEDAW's supporters recognize that the United States cannot effectively champion the cause of oppressed women without ratification. In short, ratification would put us in a far better position to foster meaningful improvements in the treatment of women worldwide.

The central tenet of CEDAW is that women are equal citizens before the law. CEDAW would establish rights for women in areas not previously subject to international standards. It calls for an end to discrimination against women in law, politics, education, health care, employment, commerce and all other areas of endeavor.

Comparatively speaking, women in this country are truly fortunate. In other countries, women are subject to systematic discrimination, abuse and violence. Domestic violence is painfully well documented in many countries. Women are often subject to torture and various forms of sexual assault during detention. Amnesty International and other groups have provided vivid and horrifying testimony to such abuse.

Mr. Chairman, ratification of CEDAW will not stop the abuse of women. It will, however, lend further credence to our leadership in promoting the cause of improving international human rights conditions.

Mr. Chairman, I am attaching a letter to the President I initiated with Senator Rudy Boschwitz and Congresswoman Lynn Martin. We were joined by the majority of the Republican women in the House of Representatives in urging Administration support for ratification. Clearly, ratification of CEDAW is not, nor should be, a partisan issue.

I commend you for responding so quickly to the renewed, bipartisan initiative for ratification. With your support and the endorsement of the Administration, CEDAW should quickly gain ratification. Thank you for allowing me to contribute to the record of today's hearing.

CONGRESS OF THE UNITED STATES,
Washington, DC, September 20, 1990.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: In our June 11 letter, we asked that the Administration support prompt United States ratification of the Convention on the Elimination of all Forms of Discrimination Against Women.

Subsequently, at an August 2 Senate Foreign Relations Committee hearing on the Women's Convention, the State Department representative indicated it was not yet ready to proceed with a recommendation for or against United States ratification of this Convention.

We are writing to ask you to ensure that State, Justice, and other concerned Executive Departments expeditiously complete their studies of the Women's Convention so that the Administration's position can be clarified.

The Women's Convention already has been under study by this Administration and its predecessors for over ten years. Several bar associations, including the American and Federal Bar Associations, have concluded that there are no significant legal obstacles to U.S. ratification that cannot be dealt with through appropriate reservations.

Accordingly, we urge the Administration to complete its deliberations on the Women's Convention promptly, so that its recommendations can be forwarded in the very near future to the Senate Foreign Relations Committee.

Thank you for your attention to this important matter.

Sincerely,

Claudine Schneider, Member of Congress; Jan Meyers, Member of Congress; Marge Roukema, Member of Congress; Constance Morella, Member of Congress; Lynn Martin, Member of Congress; Rudy Boschwitz, U.S. Senator; Patricia Saiki, Member of Congress; Nancy L. Johnson, Member of Congress.

THE NEED FOR IMMIGRANTS IN THE NATIONAL GUARD

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. GILMAN. Mr. Speaker, I rise today to call the attention of my colleagues to H.R. 5458, legislation I introduced on August 3, 1990, to authorize for a 3-year test period the enlistment of nonresident aliens in certain understrength National Guard units. The reasons for this bill are rooted deep in the history of the United States as well as in the current needs of the National Guard in several of our States. Our country needs our support today; to be prepared for tomorrow, we must pass H.R. 5458 this year.

H.R. 5458, a pilot program which would run for only 3 years before re-evaluation, would enable the National Guard in a few understrength States to make up this deficit through the recruitment of immigrants who are qualified in all other respects save permanent residence status. H.R. 5458 would fill the needs of the military, not only quantitatively, but qualitatively, with highly qualified natives of dozens of foreign nations which, prior to the change in immigration regulations in the 1960's, had provided a significant part of the National Guard and regular military manpower recruitment pool.

A competitive advantage would be gained in the world by understanding that not everyone operates by the same values, world view, or

methodology as Americans. An understanding of the leadership requirements for the United States in a world where America no longer enjoys dominance of the post-World War II era requires that we enfranchise and assimilate people who can provide our military, economy, and society with a native understanding of these differences. Historically, military service has been the most effective and efficient means of integrating an immigrant into full participation in American society.

Many did not even imagine in 1980 that in 1990 it would suddenly become important to have native speakers of Lithuanian, Lativian, Estonian, Polish, Magyar, Romanian, Armenian, or Arabic available in the Armed Forces of the United States, including the National Guard under the total force concept, to support our intelligence and psychological operations capabilities. Who can anticipate our needs in the year 2000? One thing is certain: As a maritime nation and a world power with global responsibilities, the United States cannot afford to neglect the development of these capabilities. We must reach out to natives of other countries to acquire an extra dimension to enable our Armed Forces to function effectively "in every clime and place. . . ".

In keeping with the recommendations of the Secretary of Labor's Workforce 2000 Report, H.R. 5458 would give a limited number of immigrants permanent residence status after completing 6 years of honorable military service. The need for this bill is attested to by the support of the adjutants general of a number of states, including New York State, by the Militia Association of New York and by many other military, veterans' and ethnic organizations.

H.R. 5458 would provide for present defense needs and anticipate future national security contingencies. Utilizing only the manpower already present in our States, H.R. 5458 seeks to reimplement the principle of enlistment of limited numbers of immigrants to augment the future effectiveness of the U.S. Armed Forces.

H.R. 5458 is a realistic reflection of the traditional relationship of the Armed Forces and society in American history. Mr. Speaker, I insert at this point in the RECORD the full text of a most pertinent paper, "Recruiting of Foreign Nationals for the U.S. Forces" by Rear Adm. Cathal L. Flynn, immediate past Deputy Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, U.S. Marine Col. Patrick Collins, former commanding officer of the 3d Reconnaissance Battalion in Vietnam and Comdr. William A. Murphy of the U.S. Naval Reserve.

RECRUITING OF FOREIGN NATIONALS FOR THE U.S. FORCES

By Rear Adm. Cathal Liam Flynn, USN (Ret.); Col. Patrick G. Collins, USMC (Ret.); and Comdr. William A. Murphy, USNR/NYNM)

A LOOK AT THE RECORD

The United States, historically, has been truly a nation of immigrants if not THE nation of immigrants. Nowhere has this been better reflected than in the armed forces of the United States and in the militias of the several States. A special exhibit in the museum in the base of the Statue of Liberty in New York harbor makes this point most explicitly in the case of the War for Independence. The Medal of Honor grove at the Freedoms Foundation in Valley Forge, Pennsylvania contains one obelisk per State bearing the names of recipients of the Medal of Honor attributable to that State plus an additional obelisk with the names of 150 of Medal of Honor heroes from at least 14 countries who could not be attributed to any State; in most cases there were immigrants who had enlisted in the regular US forces prior to having established a home of record in the United States. (The greatest number of foreign-born Medal of Honor recipients, 254, were born in Ireland, including 65 of the 150 mentioned above. Of nineteen men who hold two Medals of Honor, five were Irish-born and four Irish American, including Sergeant Major Dan Daly of the US Marines.) Two World Wars as well as conflicts in Korea, South East Asia, Grenada and Panama saw varying numbers of non-citizens welcome in the ranks of the US military.

By statute, the US Army and Air Force, and the National Guard, find their recruits among documented, permanent residents and citizens of the United States. By tradition, this has not been the norm, those lacking permanent residence status often being actively recruited into the American armed forces; at times even lawful entry as a prerequisite for military service has been waived.

Although generally conforming to Army practices, the naval service, which may be expected to be operating overseas or involved in foreign expeditions, has no statutory prohibition against replenishing the ranks of the US Navy and Marine Corps through on-site, overseas recruiting of non-US nationals. This was true when John Paul Jones and John Adams recruited men from the Irish Brigade of the French Army to serve as Marines in the fighting tops of the Bonhomme Richard. It has remained true in the twentieth century.

One by-product Ludendorf's 1918 offensive on the Western Front was to find large numbers of the elite of the German Army as prisoners of the United States Second Division, then commanded by Major General John Archer Lejeune of the United States Marine Corps. Anticipating the end of war, General Lejeune kept the cream of these POWs in the custody of the United States Marines; after the Armistice, they were offered the opportunity to continue their military careers in the United States Marine Corps. Enough of these volunteered and became Drill Instructors on Parris Island to have unique consequences for the Marine Corps basic training program, consequences which were to pay big dividends in the Second World War, and subsequently.

The Navy still benefits tremendously from the recruiting of a limited number of Philippine nationals.

CURRENT DEMOGRAPHIC PROBLEMS

Over the past twenty years there has developed a special demographic problem in the American military generally and acutely in the National Guard in the North East. This problem has manifested itself not only in quantitative terms, but also in the growing absence of personnel with certain foreign language and area knowledge skills. Fortunately, the solution to the problem is at hand. It lies in re-opening for our military establishment the opportunity to recruit personnel from what had been a traditional manpower pool for the American military, the immigrant population. H.R. 1306, the Special Military Enlistment Bill, (introduced 8 March 1989 by New York Congressmen Benjamin A. Gilman, Thomas J. Manton and Gerald G.H. Soloman at the request of the Adjutant General of the State of New York Major General Lawrence P. Flynn, and subsequently co-sponsored by, among others, Governor (then Congressman) James Florio of New Jersey) is intended to provide legislative relief for the recruiting of limited numbers of foreign nationals not already admitted to permanent residence status in the United States. H.R. 1306 was long over-due.

On 21 September 1989, H.R. 1306 was among the bills reviewed at hearings before the House Judiciary Subcommittee on Immigration, Refugees and International Law, chaired by Congressman Bruce Morrison of Connecticut. In response to comments from the Department of Defense, the Department of State and the Immigration and Naturalization Service, the original legislation was revised with its focus narrowed to the National Guard where the need is most immediate. This new legislation is designated House Resolution 3971.

On 7 February 1990, H.R. 3971 was introduced by Congressman Benjamin Gilman of New York and co-sponsored by a number of Representatives including Frank Horton, Tom Manton, Gerald Soloman, George Hochbruchner of New York, John Rowland of Connecticut and Robert K. Dornan of Caliofornia.

PILOT PROJECT/H.R. 5458

Since it seemed by the summer of 1990 that even H.R. 3971 might appear both too revolutionary (historical precedent notwithstanding) and too broadly constructed to gain the necessary support from sufficient quarters in the Department of Defense and the National Guard Bureau in an atmosphere of active duty force drawdown, it was determined to offer the basic concept contained in H.R. 1306 and H.R. 3971 as a pilot program to run for three years in no more than six States. The value of the program could then be assessed for possible future application. This legislation, H.R. 5458, was introduced, at the request of the Adjutant General of the State of New York, on 3 August 1990, by Congressman Benjamin Gilman and most of his original co-sponsors (with additional co-sponsors being added subsequently).

DEMOGRAPHIC PROJECTIONS

Demographic projections for the remainder of the twentieth century and beyond indicate a severe and growing shortage of available manpower for military recruiting in the United States (possibly some 20% below current levels). This phenomenon has already manifested itself in recruiting statistics for the National Guard in the states of the North-East and certain other areas. This shortage is due, in part, to a decline in the birthrate among American citizens and, in part, to the absence of an active draft. It is further aggravated by the effects of the Immigration and Nationality Act of 1965, which, since 1967, has virtually eliminated non-preference visas for prospective immigrants to the United States. Historically immigrants had provided a disproportionately high (for their population) number of recruits for the Armed Forces of the United States and for the militias of the several States (the 69th Regiment of New York being just one case in point).

In the years following the Second World War the Special Operations, Psychological Operations and Intelligence Communities of the Armed Forces of the United States had

plentiful assets from virtually every nation. This practice was formalized by the Lodge-Philbin Act of 1950 which eventually authorized the enlistment of up to 12,500 aliens (intended primarily for refugees from Eastern Europe). This enabled US Special Operations Forces to operate potentially almost any where with native knowledge of language, customs, etc. These assets have since retired, largely to be replaced by American-born personnel who, whatever their good qualities, lack the native abilities of those who preceeded them in the OSS, ONI, Special Forces, etc. Potential recruits are today walking the streets of New York, Munich, Dublin, Miami, Vienna, Boston or many another city or town. This problem was discussed at length at the Unvonventional Warfare/Psychological Operations Assistance in Fort Bragg, North Carolina during the fall of 1978. Among the unclassified proposals made at that time were legislative relief which would permit all the armed forces to enlist limited numbers of persons not already admitted for permanent residence, as well as interim administrative authorization for the naval service to resume such enlistments in accordance with the needs of the Navy/Marine Corps. The Commander Joint Unconventional Warfare Task Force Atlantic (COMJUWTFA), then located at Fort Bragg, North Carolina conducted a special Unconventional Warfare study ordered by the then Commander-in-Chief, Atlantic, Admiral Isaac Kidd, Jr. This study incorporated much of the work of the UW/PSYOP conference. (By the time the final proposal was delivered to COMJUWTFA, Admiral Kidd, who had been expected by many to become the next Chief of Naval Operations, had retired.)

While it is not suggested that we form a foreign legion, it is suggested that—as a world power—it is in the interest of the of the United States that there be a foreign leaven in our armed forces (including in the National Guard), consisting of those nascent Americans who wish to earn their citizenship through the most efficient Americanizing experience yet devised while contributing to our own capabilities to respond to a crisis anywhere around the globe.

The presence of such a foreign leaven in the Fleet Marine Force could only enhance our ability to operate "From the Halls of Montezumas, to the shores of Tripoli."

MULTIPLE PRECEDENTS

During the Americen Civil War the Union forces and even the Confederate Navy recruited abroad, and both the United States and the Confederacy had provisions for the naturalization of aliens in military service. (As a consequence of the Civil War and the Fourteenth Amendment to the Constitution, the concept of national citizenship became uniformly defined.) During the First World War, some 191,491 aliens, who had not previously declared an intention to become US citizens, were among the 9% non-citizens who served in the U.S. Armed Forces. In addition to volunteers, some 127,371 aliens were drafted during World War II; aliens were also drafted for the Korean conflict.

The 1971 Selective Service Act imposed a registration requirement on aliens admitted as permanent residents, undocumented aliens and aliens who entered lawfully on nonimmigrant visas and then overstayed. Military service historically has not been a special obligation of "citizens," but an obligation of persons who have chosen to live within the territory and jurisdiction of the United States.

Congress has provided for the naturalization of military personnel who serve honorably in the Armed Forces in different forms since the American Revolution. In World War I 123,355 aliens achieved U.S. citizenship through military service. During World War II lawful entry into the United States was not a requirement for eligibility for military service, and over 143,000 aliens were granted citizenship, including some 21,011 who were naturalized abroad.

PROSPECTIVE RECRUITS ALREADY HERE

A separate, but related problem is the tremendous number of "out of status" immigrants, usually those who have entered legally but then overstayed their visitors' visas after being offered employment in the growing U.S. economy. Many, if not most, of these could have entered with legal permanent residence status under regulations in effect prior to 30 June 1967. Many would have been already in the uniform of the United States armed forces, had their status permitted their enlistment.

NEEDS OF THE MILITARY

It must be stressed that the proposed legislation, H.R. 1306—the Special Military Enlistment Bill, H.R. 3971—The Special National Guard Enlistment Bill or H.R. 5458—The Special National Guard Enlistment Pilot Program Bill, would give to the U.S. military the ability to enlist limited numbers of persons in accordance with the military's perception of their own needs; it does not entitle any alien or class of alien, but rather is intended for the short-term and long-term interests of the United States. The most immediate beneficiary of such legislation would be the States of the North-East where the National Guard is perilously under strength (and derivatively the "Total Force" concept; e.g., the 27th Brigade, 10th Mountain Division), and those "out of status" immigrants who would qualify to earn the right to permanent residence status in the United States, bringing them out of the shadows to become more productive contributors to American society.

(The United States Secretary of Labor's Workforce 2000 report calls for an increased utilization of immigrant labor in the U.S. economy. On June 12, 1989, the New York State Assembly unanimously petitioned Congress to pass H.R. 1306 into law; the New York State Senate similarly enacted a Resolution in support of this proposal on June 30th.)

IN EVERY CLIME AND PLACE

A competitive advantage can be gained in the world by understanding that not everyone operates by the same values, world view or methodology as Americans. Understanding leadership requirements for the United States in a world where America no longer enjoys the dominance of the post-World War II era requires that we enfranchise and mainstream people who can provide our military and our society with a native understanding of these differences. Historically, military service has been the most effective and efficient means of integrating the immigrant into full participation in American society.

Who would have imagined in 1980, that in 1990 it might suddenly become important to have native speakers of Lithuanian, Latvian, Estonian, Polish, Magyar, Romanian or Armenian available in the Armed Forces of the United States (including in the National Guard under the Total Force concept) to support our intelligence and psychological operations capabilities? Who can anticipate our needs in the year 2000? One thing is certain, and that is as a maritime nation and a world power with global responsibilities, the United States cannot afford to neglect the development of these capabilities.

Ultimately, it is in the area of Special Operations/Special Warfare that the talents of certain immigrants might be of the highest value. Army Special Forces (including Army National Guard Special Forces) and Naval Special Warfare are definitely among the communities which would benefit from the re-opening of immigrant enlistment.

Although it is the Special Operations/Psychological Operations community which should be uniquely interested, this legislation is not intended to bear significant fruit in that area until after the first class of such recruits are re-enlisted and thoroughly screened. One of the lessons learned in the Strategy and Policy curriculum at the US Naval War College is that olive trees must grow and mature for forty years before they will bear fruit; the regeneration of the first fruits of the Special Operations assets with the special qualifications mentioned above may take at least six years from the effective date of the legislation in question.

Even if there were enough well-qualified US citizens volunteering for all available military billets (which there were not in 1989, for the National Guard in several states and perhaps soon not for the line of the US Army and Marine Corps), even if we were to bring back the draft (which is not presently a politically viable option), the United States, as a world power with global responsibilities, would still have to reach out to natives of other countries to acquire that extra dimension which would enable the Armed Forces of the United States to function that much more effectively "in every clime and place . . .".

Through the introduction of H.R. 1306, H.R. 3971 and H.R. 5458, Congressmen Gilman, Manton, Solomon and their cosponsors have performed a Valuable public service, providing for present defense needs and anticipating future national security contingencies. Whether H.R. 1306 passes in its present form or is split into a National Guard bill—H.R. 3971 or a National Guard Pilot Program H.R. 5458 (where the need is immediate) and a follow-on Armed Forces of the United States bill to be moved when the Department of Defense acquires enough of a sense of urgency concerning the skills and numbers in question, the principle of the military being able to enlist limited numbers of such immigrants or would-be immigrants is important to the future effectiveness of the United States military as well as being a realistic reflection of the traditional relationship of the armed forces and society in American history.

President George Washington stated that when we took on the soldier, we did not put aside the citizen. One of the duties of the citizen is to give to government the benefit of the citizen's knowledge, insight and experience. The citizen-soldier has a special duty to advise Congress and the administration concerning matters of national security. In the interest of national security, Congress must be persuaded to pass into law H.R. 1306, H.R. 3971, H.R. 5458, or otherwise provide relief to permit the recruiting of individuals without permanent residence status in accordance with the needs of the US military—including the National Guard.

Statistics on alien service and legal precedents drawn from Jacobs, James B. and Hayes, Leslie Anne. "Aliens in the U.S. Armed Forces, A Historico-Legal Analysis."

Armed Forces and Society. Vol. 7, No. 2, Winter 1981, 187-208.

NOTE

Rear Admiral Cathal L. Flynn, USN (Ret.)

Rear Admiral Cathal Liam Flynn of the US Navy, has most recently served as the Deputy Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. A native of Ireland and a US Naval Special Warfare officer with Viet Nam combat experience, RADM Flynn previously served as Director of Plans, Policy and Doctrine, J-5, for the US Special Operations Command at MacDill Air Force Base.

Admiral Flynn was educated in Ireland, France and Spain and is a graduate of the University of Dublin (Trinity College), Ireland, with a bachelor's degree in arts and engineering. He received a Master's Degree in International Relations, East Asian Affairs, from the American University, Washington, D.C., in 1974. He completed the Command and Staff Course, US Naval War College, in 1970, the National War College in 1977, and the Post Command Course, Naval War College, in 1984.

Admiral Flynn served continuously on active duty in the Navy for over thirty years, from his enlistment and subsequent commissioning in the US Naval Reserve (June 1960) to his retirement in August 1990. Following service as a platoon officer in Underwater Demolition Team (UDT) Eleven and SEAL Team One and a tour as SEAL Deattachment Commander with Naval Advisory Detachment, MACV (SOG), he was assigned to the Office of the Chief of Naval Operations. He then returned to SEAL Team One as Executive Officer and Officer in Charge of the team's detachment at Nha Be, Vietnam.

Admiral Flynn commanded UDT Twelve and had subsequent tours of duty on the Naval Sea Systems Command and on the staff the Commander-in-Chief, US Pacific Fleet. He was Chief of Staff Officer of Naval Special Warfare Group One, and was assigned to the Assistant Secretary of Defense for International Security Affairs for two years prior to commanding Naval Special Warfare Group One. He then served in the Joint Special Operations Command and then as Commander, Naval Security and Investigative Command.

Admiral Flynn's military decorations and awards include the Defense Superior Service Medal, Legion of Merit (two awards), Defense Meritorious Service Medal, Navy Commendation Medal, with Combat "V" (two awards), Navy Achievement Medal, Combat Action Ribbon, Presidential Unit Citation awarded SEAL Team One, Meritorious Unit Commendation awarded UDT Twelve and the Vietnam Service Medal with one silver star.

Colonel Patrick G. Collins, USMC (Ret.)

Raised in an Irish immigrant family on Grosse Isle, on the Canadian border, Patrick Collins enlisted in the United States Marine Corps in 1952 and served in "F" Battery, 2d Battalion/11th Marines in Korea. After attending Bowling Green University in Ohio on the G.I. Bill, he returned to active duty in the Marine Corps as a Sergeant and was commissioned in 1958. A Marine infantry officer specializing in reconaissance, Colonel Collins served several tours in South East Asia, including command of the 3rd Recon Battalion and of 2nd Battalion/9th Marines and as a Battalion Advisor to the 258th Brigade of the Vietnamese Marines.

Colonel Collins holds the Master of Arts in Administration from Chapman College in California and studied for two years, postgraduate, at the University of London. Among his personal decorations are the Silver Star, Navy and Marine Corps Medal, five Bronze Stars, with Combat "V", three Purple Hearts and two Vietnamese Crosses of Gallantry.

Colonel Collins' last active duty assignment was as Special Assistant to the Commandant of the Marine Corps; he continues to lecture occasionally at the Marine Corps Schools, Quantico, Virginia.

Colonel Patrick Collins retired in 1989 after thirty-eight years with the United States Marine Corps. He is the organizer of the 3rd Recon Battalion Association, and a member of the Ancient Order of Hibernians in America, the Gaelic League, the Gaelic Athletic Association, the Irish National Caucus and the Irish Immigration Reform Movement. He has a residence in Sloatsburg (Rockland County), New York.

Cmdr. William A. Murphy, USNR

Commander William A. Murphy is a drilling Reservist with Naval Reserve Military Sealift Command Office Northern UK 302; he previously served as Mobilization/Port Liaison Officer for NR Naval Control of Shipping Office Argentina 502. His last active duty assignment was as Executive Officer/Chief Instructor of the NROTC Unit at the State University of New York Maritime College at Fort Schuyler.

Commander Murphy saw active duty on the USS *Nicholas* (DD-449) and briefly on swift boats during the South East Asia conflict. He later served as the Assistant Deputy J-2 on the staff of the Commander, Joint Unconventional Warfare Task Force Atlantic where he was involved with unconventional warfare and psychological operations planning. Temporary Active Duty assignments have included curriculum development, academic research and wargaming at the US Naval War College, and duty with the staff of the Commander-in-Chief, Atlantic, J-583.

A former United States Marine Reserve rifleman and a 1965 graduate of the Virginia Military Institute, Commander Murphy holds a Master of Arts in History and has passed the Doctoral Comprehensive Exam in American History (with minors in the Geopolitics of the USSR and in British and Irish History) from Fordham University in New York.

Commander Murphy concurrently holds a commission in the New York Naval Militia. He is an active member of the Legislative Committee of the Militia Association of New York, and is Chairman of the Legislative Committee of the Surface Navy Association (Greater New York Chapter). Commander Murphy is also President of the Ensign James F. Burke, Jr. (Westchester County, New York) Chapter of the Naval Reserve Association, a Companion of the Naval Order of the United States (New York Commandery), a member of the U.S. Naval Institute, and a member of the Recruiting District Assistance Council for Navy Recruiting District New York.

Currently an adjunct lecturer in History at Westchester Community College, Commander Murphy has previously lectured at Rockland Community College and Saint Thomas Aquinas College, Sparkill, New York; he was also an adjunct lecturer in Humanities at the SUNY Maritime College at Fort Schuyler where he designed the Seapower course which was accepted by the State University of New York and by the Chief of Naval Education and Training as a full credit course. He is a member of the Irish American Cultural Institute, the Military History Society of Ireland and the Westchester Civil War Roundtable. He is also a former Editor of the National Hibernian Digest and currently serves on committees of the National and Westchester County Boards of the Ancient Order of Hibernians in America.

Commander Murphy is originally from Irvington, New York, and is presently the Emergency Preparedness Coordinator for Westchester County, New York and Coordinator of the Four County Nuclear Safety Committee (Orange, Putnam, Rockland and Westchester Counties in New York State, for the Indian Point Radiological Emergency Preparedness Plan).

RESULTS OF 1990 QUESTIONNAIRE

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. YATRON. Mr. Speaker, at this time I am pleased to have the opportunity to share with my colleagues the results of a questionnaire that I have conducted among the voters of Pennsylvania's Sixth Congressional District. This annual questionnaire provides important information on the aggregate views of my district and I am grateful for the overwhelming response I received. The voter's thoughts and opinions on a number of issues facing the 101st Congress and the Nation are as follows:

1. Eastern Europe: We have witnessed tremendous changes in the political structure and economic orientation of the governments of Eastern Europe. Given these changes, should the United States reduce its defense expenditures? 75% yes, 25% no.

1A. Follow up: If you answered yes to question 1, should the savings be used for: 16% tax cuts, 65% reducing the budget deficit, 17% domestic needs and infrastructure, 2% other.

2. Foreign Aid to Eastern Europe: Some favor giving trade credits and foreign aid to Eastern European countries to help them make the transition to democracy. Do you favor or oppose such efforts? 37% favor, 63% oppose.

3. Education: On comparative tests, U.S. students score lower than do students from other developed countries. Do you believe the federal government should spend more than, or about the same as it does on education? 43% more, 12% less, 45% about the same.

4. Capital Gains Tax: A capital gain is the profit one makes from the sale of an asset—a house, stock, land. Some believe that cutting the capital gains tax rate will stimulate the economy, while others feel that reducing tax rates at this time will only increase the budget deficit. Should the capital gains tax rate be reduced? 46%, yes 54% no.

5. Stealth Bomber: Do you favor spending more on the B-52, or Stealth Bomber, at a cost of $500 million per plane? 15% yes, 85% no.

6. Most Pressing Problem: What do you feel is the most pressing problem facing the nation? 31% drugs, 37% federal budget deficit, 9% education, 8% inadequate spending on domestic programs, 1% military threats to national security, 8% unfair trade practices by other nations, 6% other.

7. Health Care: U.S. citizens now pay more for health care than do citizens of any other nations. Should the federal government move towards nationalized health care? 59% yes, 41% no.

8. Alternative Fuels: Nitrous oxide and carbon dioxide emissions are the biggest contributors to urban smog and pollution. Some favor requiring cars to run on alternative, less polluting fuels, such as methanol, ethanol, and natural gas. Do you favor or oppose requiring car manufacturers to produce cars that run on alternative fuels? 79% favor, 21% oppose.

9. Taxes on Alcohol and Tobacco: Some support raising taxes on alcohol and tobacco, because it is an easy way for the government to raise revenue and it will discourage the consumption of alcohol and tobacco? 75% favor, 25% oppose.

10. Drugs: We have spent almost $9.5 billion over the past year on the war on drugs. Do you feel that we are winning or losing this "war"? 9% winning, 51% losing, 40% to early to tell.

11. Foreign Investments: Some are concerned about the growing amount of foreign investment in the United States, believing that it gives foreigners too much control over our economy. Do you favor or oppose efforts to attract foreign investment in the United States? 33% favor, 67% oppose.

12. Health Insurance: Today, some 37 million Americans do not have health insurance. Which statement best reflects your position on this subject? 20% businesses should be required to offer their employees health insurance at group rates, but should not be forced to pay the employees' premiums, 34% businesses should be required to offer their employees health insurance, and should be required to pay the employees' premiums, 46% the decision on employer-provided health insurance should not be made by the government, it should be decided by the employees and the employers.

THE NATIONAL INSTITUTES OF HEALTH MINORITY SCHOLARSHIP AND LOAN REPAYMENT PROGRAM ACT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. STOKES. Mr. Speaker, Congressman HOYER, Congressman TOWNS, and I, have joined together to introduce a bill which we believe will address the problem of recruitment and retention of senior scientists and administrators faced by the National Institutes of Health. The bill is entitled the National Institutes of Health Minority Scholarship and Loan Repayment Program Act. The measure is intended to not only address the crisis that NIH faces with regard to its senior scientists and administrators, but also to assist NIH in its effort to increase minority representation in is work force.

The difficulty that NIH is experiencing in recruiting and retaining qualified scientists and top-level science administrators has been widely reported. Our distinguished colleague, Congressman SILVIO CONTE has a measure pending, H.R. 3752, the Senior Biomedical Research Service Act, which would addresses this issue. It is less well known that NIH has an expecially difficult time recruiting minorities for these positions. For example, at the end of December 1989, NIH had a total of 2,922 full and part-time permanent employees in positions rated GS-GM 13 and above. Of these, only 331—or 11 percent—were minorities; 155 were black and 37 Hispanic.

The underrepresentation of minorities is particularly acute in the highest levels. Of the 191 senior executive service positions filled at the end of December 1989, only 5 positions were filled by blacks and none were filled by Hispanics. At the GS-GM 15 level, blacks held 22 of 521 positions; and Hispanics only held 11 of these positions. These dismal statistics have been virtually the same for the past 3 years, even though NIH has made efforts to attract more minorities into senior level positions.

The area of minority recruitment is an area that has been a major concern of the Labor/Health and Human Services/Education Appropriations Subcommittee, on which Mr. HOYER and I serve. As a result of our efforts, in its fiscal year 1991 appropriations report, the committee directed NIH to establish a program to recruit minorities into their various career fields. However, NIH's current statutory authorities would somewhat restrict them in carrying out this mandate.

Therefore, my colleagues and I are introducing this bill to enable NIH to take a more direct role in recruiting and retaining minorities into their work force. In essence, NIH would be able to select and train minorities for its future work force in much the same way that the military selects and trains its future officers through the ROTC Program. The NIH Scholarship Program is modeled after the highly regarded Undergraduate Scholar Program which I initiated at the Central Intelligence Agency and the National Security Agency.

The bill calls for a nationwide competition to be held to select qualified minority candidates to enter into an agreement to work at NIH in exchange for up to $10,000 in undergraduate scholarship aid per year. These students would also receive on-the-job training at NIH during their off-terms. This would allow the students to gain work experience, learn about the career fields, available at NIH, and establish mentor relationships with the agency's senior level administrators.

The bill would also enable NIH to meet its need for minority clincial researchers by forgiving up to $20,000 of their educational debt in exchange for a commitment of employment service to the agency.

This program does not require substantial new resources. NIH can accommodate 10 students per year at a cost of approximately $220,000. The loan forgiveness program will cost no more than $1 million in fiscal year 1992. The Government will recoup its investment through the contributions these individuals will make during their service to NIH. Given both the shortage of scientists and science administrators who will make a commitment to Federal service and the changing demographics of our Nation, this is an investment for the future that we cannot afford not to make.

TRIBUTE TO FORMER MEMBER LARRY McDONALD

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. DARDEN. Mr. Speaker, It has been more than 7 years now since the death of my predecessor, the late Congressman Larry McDonald, of Georgia. His staff member, Mr. Tommy Toles, is now the editor of the Summerville News in Summerville, GA.

I always admired Tommy's hard work and loyalty when he was working for Congressman McDonald. Since I have been in office, I have had the pleasure of getting to know Tommy and establishing a positive working relationship, even though we do not agree on every issue. Tommy's work in the newspaper business has been marked by great success and acclaim from his peers. He has been honored for his achievements as a journalist, but his service on Capitol Hill and his time in Congressman McDonald's office have had a lasting impact on him. Following is his editorial from the September 13, 1990 Summerville News, which I found particularly expressive:

GOING ON 8 YEARS

(By Tommy Toles)

It is now going on eight years since the Soviet Union destroyed Korean Air Lines flight 007 and murdered 269 innocent men, women and children. Including, of course, then-Seventh District Congressman Larry McDonald.

The atrocity occurred on Sept. 1 (Aug. 31 in Chattooga County), 1983 over the Sea of Japan. The Soviets still haven't apologized despite the alleged warming of relations between our two countries. Instead, the Soviet KGB continues to spread disinformation about KAL 007, including one recent report that it was shot down by the United States to make Moscow look bad.

Larry's death in particular, is still very fresh on my mind. It never leaves my consciousness. And I still have the conviction that the Soviets shot down KAL 007 to murder Larry, their most implacable foe. Their only regret is that Sens. Jesse Helms and Steve Symms weren't also on KAL 007 as had been scheduled originally.

I visited Japan in late 1984, slightly more than a year after the atrocity. I saw the Japanese and American radar stations that picked up the attack. I saw the few pathetic belongings recovered from the sea. And I looked out over the calm waters of the Sea of Japan and saw the mountains of Sakhalin Island, USSR. Just beyond, over the horizon, was where the remaining pieces of KAL 007 slammed into frigid waters that dark night.

Words can't express the unending sorrow that took hold of my heart that cold day. It has never released its grip.

Larry was a leader of men, a gem among the dull pebbles of Congress.

The principles by which he led and lived are eternal and immutable. He valued liberty, limits on government, honor and duty, and felt that the whims of our leaders should be restrained by the chains of the U.S. Constitution.

He was a student of history and realized that when government power isn't con-

trolled, it always leads to tyranny and a loss of freedom.

One day the Soviets will pay for what they did.

ECONOMIC ADJUSTMENT ASSISTANCE FOR WORKERS AT ROCKY FLATS AND OTHER DEPARTMENT OF ENERGY NUCLEAR WEAPONS FACILITIES

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. SKAGGS. Mr. Speaker, last week, the House passed an amendment by Representative NICHOLAS MAVROULES to the defense bill that would provide economic assistance to workers and communities affected by defense cutbacks. I supported the amendment enthusiastically. I am particularly glad that the legislation covers workers at Department of Energy [DOE] defense sites, such as the Rocky Flats plant in the district I represent.

The fundamental principles of the amendment are that local workers and communities should not just be left on their own in dealing with the economic consequences of changes in defense policy, and that the nation will be stronger if we help out affected communities and workers. I agree with these principles, and I believe Representative MAVROULES, along with Representatives RICHARD GEPHARDT, MARY ROSE OAKAR, TED WEISS, SAM GEJDENSON, and others did an excellent job in putting this proposal together. It is timely and effective, and it will help to ease the economic pain, some parts of the country will feel as we leave the cold war behind.

I do not expect layoffs at Rocky Flats. This year, in fact, the labor force at Rocky Flats has been increased substantially as the plant works to improve health and safety conditions and begins important cleanup tasks. New hiring continues. And while DOE has stated its intent to relocate Rocky Flats, no proposal has yet been made to do so, and it will take many years once an actual relocation decision is made.

Despite these facts, rumors of layoffs are common at Rocky Flats. The Mavroules amendment provides solid and needed reassurance for workers at Rocky Flats and elsewhere that they will not be abandoned—no matter what happens, or when it happens, in reducing any of our defense programs.

The amendment provides funds for retraining and education programs, and it beefs up job placement programs to help workers shift into other good paying work. In addition, the amendment would make funds available to local communties so that they can plan ahead and make adjustments. Put together, this is a solid package that will greatly assist workers and communities affected by defense cutbacks.

At the same time, I want to point out two concerns that I hope we will address in future legislation—concerns that are particularly important to DOE and other defense workers whose jobs involve radioactive materials and toxic chemicals. These concerns have been brought to my attention by workers at the Rocky Flats plant and their union representatives, but they are relevant to thousands of other workers nationwide.

First, some workers at Rocky Flats seeking new jobs have found that they are subject to discrimination because prospective employers say it's difficult to obtain reasonably priced medical insurance for former defense nuclear employees. These employers believe they will have to pay the costs of additional insurance liability.

Second, employees who leave jobs at Rocky Flats or other defense nuclear plants run a high risk of falling out of the recently upgraded medical surveillance programs that DOE is putting into place. Unlike most occupational diseases, medical problems caused by exposure to radioactive substances may not show up for years. These medical surveillance programs help workers monitor key body functions that might be affected, and, by discovering any health problems early on, greatly increase the probability that a worker will recover.

It's important that we figure out a workable and cost-effective way to resolve these two problems.

Again, I don't think Rocky Flats is anywhere near the point at which major employee adjustment assistance will be needed. But the principle should be established—and we should do so now, well in advance—that workers in DOE's defense nuclear plants, who have dedicated their working lives to an important national security mission, must receive fair and proper consideration as part of any DOE plan that affects the livelihood of its workers.

This legislation is important nationally, and it means a lot to the people in the district I represent. I look forward to working with the sponsors to cover the areas I've mentioned that still need to be addressed.

ALLERGY CENTER OPENING

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. SCHEUER. Mr. Speaker, I would like to announce the opening, tomorrow, of the world's first comprehensive allergy center in Little Neck, NY. The Food Allergy Center at 53-31 Marathon Parkway will be the premiere center to be interdisciplinary staffed, and have the ability of diagnosing and treating all the physical, nutritional, and psychological aspects of this complex illness.

Mr. Speaker, this is an auspicious occasion for the 20-30 million Americans who suffer with food allergies, people for whom mealtimes can be agonizing. This center represents a significant opportunity of hope for people afflicted with this disease.

The patients at the center will deal with many of the world's leading experts, including Dr. Daryl Altman—the center's medical director—and Dr. Lawrence Chiaramonte—the chief medical officer—who carry an international reputation of excellence. As part of the Food Allergy Center's commitment to total patient care, a 24-hour hotline has been established for anyone in need of assistance or information pertaining to adverse food allergy reactions. The number is 1-800-Yes-Relief.

Mr. Speaker, over the course of history, mankind has been faced with devastating medical crises which so devastate or damage the afflicted individuals, they cannot live their lives in a normal fashion. With the establishment of this center, the medical world is significantly closer to solving the puzzle surrounding food allergies.

In today's society, we still face staggering medical problems. We can however, take hope in the future because of people like Drs. Altman and Chiaramonte and their associates. Presently, the killers of the past are almost nonexistent. Due to the incredible efforts of modern medical professionals, and the numerable advances in medical research, we are well on our way to breakthroughs and cures for today's medical problems.

Mr. Speaker, with all the ills of the modern world, there is also hope and good news. The opening of the Food and Allergy Center is good news, and provides hope for thousands of people who will no longer suffer.

PAUL FELICE, OF PONTIAC, MI, NAMED ITALIAN-AMERICAN OF THE YEAR

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. CARR. Mr. Speaker, I rise today to call attention to one of the outstanding individuals in the Sixth Congressional District of Michigan. Paul Felice, president of Felice Family Food Center in Pontiac, MI, has made his mark on his community.

Paul learned the grocers' business at his father's knee, and as an adult it was only natural that he and his brother, Jim, would follow in their father's footsteps. The brothers founded their own successful supermarket which has prospered and grown from a small, 5,400 square foot market in 1954 to a 40,000-square foot supermarket, employing 170 people. As one of his community's most successful businessmen, Paul has been welcomed into the leadership of numerous organizations in his line of business. He is a past board member of the Associated Food Dealers and the Michigan Grocers Association, past chairman of the Oakland County Chamber of Commerce and a member of the board of directors of the First Federal Savings Bank & Trust.

Like many business leaders, Paul has also been active in civic organizations. In his case, the list of groups in which he has been a central member, is one of the most impressive I have seen: past vice chairman of the United Way Commercial Division, past member of the board of directors of Community Programs, Inc., and an active member of the Navy League of the United States, the Pontiac Police Athletic League, the Civitan Club of Pontiac, the Elks, Waterford Eagles, Fraternal Order of Pontiac, the Order of the Sons of Italy in America.

A pilar of his church, St. Benedict's, he has faithfully attended the Feast of St. Paul Ippolito every year since he was a child. This feast has been celebrated for 50 years, and was founded by immigrants from Italy. His own father came to this country in 1920, from the town of Cosenza, Italy.

An active breeder and racer of harness horses, Paul was co-owner of the United States Trotting Association's 1981 3-year-old trotter of the year, "Banker Barker," and was appointed by Gov. Jim Blanchard to serve on the Michigan Racing Commission Advisory Council.

Paul Felice is in every respect the perfect example of the great American story—the successful sons and daughters of immigrants who have built America into the great Nation it is today. I am certain his wife Beverly and his children Rose, Joe, Paulie and Susan are deservedly pround of their father and his recognition as "Italian American of the Year" by the Order of the Sons of Italy in America.

A CONGRESSIONAL SALUTE TO MSGR. JOHN SHERIDAN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. ANDERSON. Mr. Speaker, On Saturday, September 29, a solemn mass of thanksgiving will be offered in Malibu, CA, by Msgr. John V. Sheridan, pastor emeritus of Our Lady of Malibu parish. Monsignor Sheridan will be celebrating the mass on the occasion of his retirement from the active ministry after a long and distinguished career. I rise today to pay tribute to that ministry and that career.

To a legion of admirers the name John Sheridan is revered beyond measure. A native of Ireland, this gentle man of Malibu has served his church and his fellow man for almost 50 years having been ordained to the Catholic priesthood in April of 1943. He has plied his gentle personality practices in several greater Los Angeles parishes commencing his Malibu pastorate in 1965. For 25 years he has expended a labor of love amongst the people of his seaside community.

John Sheridan is Catholic to the core but his ecumenical outreach has touched people of all faiths. Long before it was considered proper by others, he was regularly appearing in pulpits of other religions. For 10 years he was a regular speaker on the national radio programs "Hour of Faith" and the "Catholic Hour." His message of peace and universal brotherhood literally reached millions and he coupled this mission with 14 years of direction of the Catholic Information Center in downtown Los Angeles. To several generations of mid-city office workers, shoppers and passers-by, the name of John Sheridan is synonymous with warmth and gentility and generosity and charm and great spirituality

The time and locations of monsignor's pastoral service are a matter of record. The problem is to adequately describe John Sheridan the man. He is a born conversationalist. No day nor hour is inconvenient for him to counsel, guide, console, beguile and occasionally bedevil his pastoral flock or even the casual acquaintance. An evening spent in the monsignor's chambers is a moment held always in one's memory. The talk can range from theology, to politics from Gaelic, to the Dodgers. He is the universal man. He is unique.

I could go on but the monsignor himself would be the first to say, halt. He has throughout his lifetime sought no greater reward than the satisfaction of being able to grasp the hand of a friend, longtime or new. Devoted to his loved ones, to those siblings and nieces and nephews he so enjoys, he is above all in love with his God, with his community, and with his world. He will retire in Malibu and be in residence at Our Lady's. Wherever he resides however John Sheridan will forever dwell in the hearts of all those who have ever met him and come to know him. He in turn I know, will continue to urge us, his friends, to "come live in my heart, and pay no rent."

My wife, Lee, joins me in wishing monsignor a happy and a blessed retirement.

CONTROLLING EXPORTS OF REFINED PETROLEUM PRODUCTS

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. TAUKE. Mr. Speaker, today I am introducing legislation to plug a gaping loophole the size of an oil tanker which now exists in the Export Administration Act. Earlier this week, the Wall Street Journal reported that at a time when our primary stocks of gasoline are barely above the minimum operating level, exports of gasoline from the United States have doubled or tripled in recent weeks.

Under section 7(e) of the Export Administration Act of 1979 as amended in 1985, the export of refined petroleum products such as gasoline and propane is no longer subject to an export license, as it was under the export law as enacted in 1979, unless the President first determines that export controls on such products are necessary to protect the U.S. economy from the excessive drain of scarce materials and to reduce the inflationary impact of foreign demand.

This loophole allows U.S. refiners and others to export refined petroleum products without first notifying the Government and obtaining Government approval, even though such products are critical to our economy. The problem is compounded by the fact that, according to the Wall Street Journal, the Government's mechanism to monitor exports of refined petroleum products is an antiquated, century-old tracking system.

My bill would make several important changes in existing law:

First, the bill provides that refined petroleum products may not be exported except pursuant to an export license specifically authorizing such export, as was the case before 1985. The fact that between 4.5 and 6.75 million barrels of gasoline have been exported in the past 45 days without a license, despite tight domestic supply, demonstrates it is waiting to close the barn door until after the horse is gone to not require an export license until the situation has gotten so bad that the President makes the generic finding required by current law before a license can be required.

Second, current law vests the authority to grant such an export license to the Secretary of Commerce, who must only consult with other affected agencies. In light of the fact that the Department of Energy, not the Department of Commerce, monitors energy supplies, and one of the purposes of requiring an export license is to make certain that domestic supplies are not adversely affected by the proposed export, the bill requires the Secretray of Energy as well as the Secretary of Commerce to approve any such export license.

Third, as in current law, notice of any application for a license to export refined petroleum products must be provided to the Congress. However, the bill requires that this notice be given to the House and Senate energy committees as well as to the committees with primary jurisdiction over the Export Administration Act, as is now the case.

Fourth, this bill also amends section 103 of the Energy Policy and Conservation Act, which currently grants the President the discretionary power to restrict exports of various forms of energy. The clarifying change made by this bill is to explicitly state that this authority extends to refined petroleum products.

Mr. Speaker, as noted earlier, supplies of many refined petroleum products are at dangerously low levels. As of the week ending August 31, 1990, gasoline stocks were only 211 million barrels nationwide, just 6 million barrels above the so-called minimum operating inventory of 205 million barrels. In 1988, the National Petroleum Council determined that this is the inventory level below which operating problems and shortages would begin to appear, at least in some regions of the country. While gasoline stocks are up in recent weeks, most forecasts have concluded that supplies will continue to be tight for months to come. Under these circumstances, gasoline exports should be carefully monitored, if not curtailed. This legislation will provide the executive branch with better tools to do so.

There is a similar problem with propane. Iowa and other States in the Midwest and Northwest were hit with a doubling and tripling of propane prices last winter in part because low inventories going into the winter left us vulnerable to unexpectedly cold weather and high demand for propane. The Energy Information Administration has advised the Congress that propane stocks this year are below the level this time last year. Some have suggested that this is because consumers and retailers have built up stocks earlier this year and that these stock increases are not reflected in Government statistics, which only show stocks held at refineries and other primary locations. The Wall Street Journal story on gasoline exports also pointed out that there were shipments of propane out of the country last winter at the very time when supplies of propane were hard to come by in my home State of Iowa.

Finally, I urge the President to protect consumers by using his existing authority under the Export Administration Act and the Energy

Policy and Conservation Act to restrict the export of refined petroleum products.

SALUTE TO LUCY CLARK, OF PATERSON, NJ, ON THE 25TH ANNIVERSARY OF ST. GERARD'S SCHOOL

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. ROE. Mr. Speaker, it is with the greatest pride and admiration that I rise today to salute a truly outstanding individual on her accomplishments in conjunction with a truly outstanding educational institution in my Eighth Congressional District of New Jersey, which has helped mold the lives of young people in the greater northern New Jersey area for a quarter of a century.

I am speaking of Mrs. Lucy Clark and St. Gerard's School of Paterson, NJ, which is observing the 25th anniversary of its founding. To celebrate this special occasion, the parish of St. Gerard's and the students and faculty of St. Gerard's School will celebrate mass together on Saturday, September 29, 1990, followed by a dinner-dance later that evening. I know that this event will bring great pride to Rev. Louis Bihr, pastor of St. Gerard's parish, Mrs. Lucy Clark and her family, as well as Bishop Rodimer of the Paterson Diocese and everyone connected with this great institution.

Mr. Speaker, as a means of providing you and our colleagues with the details of this fine school's rich background, I would like to insert for the RECORD the official history of St. Gerard's School:

On October 7, 1962, the Church of St. Gerard was dedicated in the presence of Bishop James McNulty and Msgr. Carlo Cianci, pastor of St. Michael's Church in Paterson. Monsignor Cianci was an important figure in the founding efforts of St. Gerard's. His efforts were strongly implemented by Father Eugene Romano. Father Romano celebrated mass at St. Gerard's and nurtured the faith of the people. Father Romano was primarily known for his great efforts in raising money for the St. Gerard's School.

Not long after the erection of the church, construction for the St. Gerard's School began in 1964. In 1965, St. Gerard Majella was canonically established as a parish, and Bishop Navagh appointed Father Thomas Trapasso as its first pastor. Under his capable pastoral direction and concern, the school was completed and the rectory and convent were purchased.

The school has grown tremendously since 1965, with the help of the Salesian Sisters, Sister Helen Mazurek, the first principal, up to Sister Mary Louise Aguirre, the present principal, who along with several others have administered the school so competently and lovingly during this quarter century of dedication.

When Father Mark J. Giordani was assigned as an associate to St. Gerard's parish in 1973, he brought with him the idea of teamwork: "To work towards building a better Christian community and to serve the needs of the people in the best possible way." Along with his motto, Father Mark brought with him the dream to build a center to provide a place for sports and social activities for the young people. He set up a fundraising committee with Joseph P. Cioffi as the chairman. This grew into a powerhouse of charity to meet these needs and many others as well.

Finally, in June 1981, the center was completed and dedicated to the parish and the members of the Paterson community. This center serves the needs of countless people, including the students of St. Gerard School as an auditorium/gymnasium, cafeteria, library and computer lab. The center serves the entire Paterson community as a place for social events, ethnic celebrations, sports tournaments, and cultural events.

It is this teamwork of many dedicated individuals, not just those I have mentioned, and one special lady in particular, Mrs. Lucy Clark, that has made St. Gerard's School what it is today. Mrs. Clark joined the parish in 1969, under Father Trapasso, who was pastor at that time. Throughout the years she has taken an active part in the numerous fundraising events and has served in almost every office of the Parent-Teacher Guild. She has also been a member of the School Board since its inception in 1973 until the present time.

"Mrs. Clark's love for her position is reflected in her kindness and generosity toward the children," one colleague of hers states. She has shared not only their happy times, but also their tears. Lucy firmly believes that * * * "where there is faith, there is love, where there is love, there is hope, where there is peace, there is God, where there is God, there is no need."

With the ongoing efforts of the education committee and Mrs. Lucy Clark, St. Gerard's School strives to recommend, promote, develop, and evaluate all parish-related educational programs for all members of the parish; that is, educational programs for youth, adults, and senior citizens.

With the changing needs of the community, St. Gerard's School has adapted to its surroundings. In the past few years, St. Gerard's School has added a full-day pre-kindergarten program, providing before- and after-school care and an outstanding hot lunch program for children of working parents.

In the words of the Most Reverend Frank Rodimer, Bishop of the Paterson Diocese, "The children are receiving an education that is demonstrably Catholic and academically excellent. This center of evangelization serves Catholics and non-Catholic children of many ethnic and racial backgrounds. What St. Gerard's does best is reflect the Divine Presence and a warm human touch. The children are made to feel very specially loved and cared for."

Mr. Speaker, I appreciate this opportunity to present this history of this distinguished parish and school, and especially Mrs. Lucy Clark who has dedicated her life to helping children and guiding them in their pathway of life. As St. Gerard's School celebrates the 25th anniversary of its founding, I know that you and all of our colleagues here in the Congress will want to join me in extending our warmest greetings and felicitations for the excellence of service St. Gerard's School has provided for its community, State, Nation and, indeed, all mankind.

MILITARY BANDS

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. SHAW. Mr. Speaker, I want to thank Congressman TAUZIN, Congressman HUTTO, and their subcommittee staffs for their help in getting my bill, H.R. 2800, included as a provision in the DOD authorization bill that passed last week. Section 329 of the committee's report provides for the commercial sale of recordings of Armed Forces bands and for the crediting of proceeds to appropriations used for expenses of these bands. The American people will finally have the opportunity to hear these most impressive bands, and feel the inevitable patriotism that is created by the sound of their music, in the comfort of their own homes.

I think it is worth mentioning how this whole idea came about. Nearly 3 years ago a constituent, Mr. Charles Harnden, wrote to me that he had been to a concert by one of the service bands. Following the performance he inquired on how to purchase a recording of the band, and was told he couldn't because it was against the law for the bands to sell their recordings. Naturally Mr. Harnden did not understand the reasoning behind this law and thought it should be changed. After investigating the matter I was surprised to learn that we were the only country in the world that didn't allow our service bands to sell recordings. There is now an opportunity for all of this to change, and it all began with a simple constituent letter. Mr. Speaker, this is a wonderful example of how the American public has the power to influence the laws created by Congress.

Military bands have an enthusiastic following not only across our great Nation, but also worldwide. I have received letters from England, West Germany, Holland, Japan, Canada, and Australia supporting my legislation on the United States bands. The U.S. Military bands are sought after and have performed around the world at a variety of celebrations. In fact, a U.S. Marine drum and bugle corps will be performing at the 1990 Edinburgh Tattoo, the most famous military band show in the world.

As a result of section 329, no one will have to attend a performance overseas in standing room only or fight the crowds that gather on the Capitol grounds. Any American citizen and enthusiasts abroad will have the brilliance of the U.S. Military bands available at will.

NATIONAL REPORTERS DAY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. GOODLING. Mr. Speaker, politicians and public servants often have a sort of love-hate relationship with reporters and the media.

I consider myself very lucky to have a good working relationship with reporters in my district. However, reporters do much more than report the happenings of Washington, DC, or the actions of their local politicians.

There are many reporters throughout this country who serve their Nation by championing the causes of the downtrodden or disenfranchised. They try to expose the plight of those less fortunate for all to witness and hopefully be moved to action. Often reporters champion the cause of individuals who, because of circumstances beyond their control, are mired in a battle to protect their own individual rights. While bringing this information to the public, these reporters often place themselves at professional and physical risk.

One such case in which the media acted in a humane and compassionate manner was brought to my attention by one of my constituents, Ms. Dawn Mercer Fee. Ms. Fee was especially grateful for the efforts of two reporters on behalf of her brother: Susan Shapiro of WGAL-TV, Lancaster, PA, and Bob Sios of KFMB in San Diego, CA.

To honor not only these two, but many, of our Nation's reporters, I have introduced a resolution to designate September 25, 1990, as National Reporters Day. While I recognize there is little time left this session to secure its passage, I also plan to introduce similar legislation for next year.

America has a long media history dating back to 1690. The first newspaper published in America, in Boston, MA, on September 25, 1690, was Public Occurances: Both Foreign and Domestics by Benjamin Harris. It seems fitting that we should honor all reporters on September 25, 1990, 300 years after the first newspaper was published in America.

Since that time, reporters have often influenced the path of American history. The muckrakers at the turn of the century exposed abuses in several aspects of American business from food processing to child labor. Others presented a realistic view of the living conditions of America's very poor. Journalists still report the woes of the homeless, the illiterate, and those without adequate health care.

Thomas Jefferson once said that "were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter. But I should mean that every man should receive those papers and be capable of reading them."

News reporting did not become a part of radio programming until the 1930's. However, since that time, news reporting has been the most important element in radio programming.

It was not until 1950 that Walter Cronkite became America's first full-time television news reporter. Walter Cronkite developed the character of the television anchorman and later became known as the most trusted man in America.

Most observers at the beginning did not believe that this news medium would last. By 1970, however, most Americans were getting most of their news from the three major television networks. Since the 1960's, television newsreporters have had a great influence on American thought and culture.

America owes much to past and present reporters who often show us something we would not normally see. For that reason, I urge my colleagues to join me in cosponsoring a resolution I introduced today designating September 25, 1990, as National Reporters Day.

NATIONAL MEDAL OF HONOR DAY

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. CHANDLER. Mr. Speaker, I am introducing legislation today to designate March 25, 1991, as National Medal of Honor Day.

The Medal of Honor is the highest distinction that can be awarded to a member of the Armed Forces. Of the millions of brave American soldiers who have served our country, only 3,412 have been awarded this medal. These individuals put God and country before themselves in performing actions above and beyond the call of duty. In short, the Medal of Honor is a symbol of strength, courage, and loyalty, as well as man's compassion and humanity toward one another.

In recent years, there have been alarming signs that our younger generations have little understanding of the Medal of Honor. Last May, the Wall Street Journal reported on a survey concerning the Medal of Honor. Out of 1,500 students surveyed, 50 percent believed the medal was an entertainment award, while only 5 percent knew what the medal really represented.

This resolution seeks to raise public awareness of the Medal of Honor and its recipients. These brave individuals have given much to our country. It is important they remain in the forefront of our thoughts. I hope that my distinguished colleagues will recognize the importance of honoring our war heros and demonstrate their support by cosponsoring this legislation.

OUR FEDERAL AND MILITARY EMPLOYEES ARE TOO VALUABLE TO BE TARGETED FOR BUDGET SAVINGS

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. FEIGHAN. Mr. Speaker, the word coming out of the budget summit is that Federal workers seem to be the favorite target to bear the major burden of deficit reduction. The Washington Post reports that agreements have been reached to slash cost-of living adjustments and eliminate the lump-sum option for Federal retirees. And all this on top of repeated warnings that Federal workers may be furloughed—to a loss of 22 days of pay.

Mr. Speaker, for too long, Federal workers have been under attack from Federal budget planners. They are continually denied pay increases comparable to those received for similar jobs in the private sector. The gap in pay between similar jobs in the public and private sector has now widened to over 20 percent. They see the retirement benefits that they have long been promised suddenly reduced. They are threatened annually with a furlough that would have dire consequences on the well-being of their families.

The truth is that our public servants form the backbone of the most efficient civil service in the world. And they deserve to be treated as such. However, it cannot be expected that they will continue to accept the shabby treatment heaped upon them by the executive branch throughout the 1980's. We cannot expect that there will not be some loss in efficiency due to declining morale. Nor can we expect to attract the same high-quality and talented workers to join the Federal work force as have joined in the past. Therefore, in order for our civil service to retain the efficiency, expertise, and dedication for which it is known, the budget planners ought to reach an agreement and preempt the furlough, but without cutting Federal workers' pay and benefits.

Have the budget summiteers stopped to think for 1 minute of the consequences of their plans on military morale? Our military men and women are called upon to make the ultimate sacrifice in defense of the Nation. What irony, that at the same time that they hold the line in the searing sun of the Arabian desert, their Government plans to slash their pensions. How cruel and ungrateful it would be if returning troops were to be greeted with the news that military pensions have been sacrificed to the Government's inability to make tough choices in the budget process.

In conclusion, I urge those engaged in the budget summit to think again about making the Federal and military employees the losers in the battle to balance the budget. I strongly urge our leaders to find those sources of wasteful spending that still remain, and to tap those sources of revenue that can afford to pay. I urge my colleagues in the House to join me in this effort.

TRIBUTE TO THE NATIVITY OF CHRIST ORTHODOX CATHOLIC CHURCH

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the Nativity of Christ Orthodox Catholic Church in my 17th Congressional District of Ohio.

Founded in the latter part of August 1915, the Nativity of Christ Parish has faithfully served the religious needs of Russian Orthodox Catholics throughout the Youngstown area for the past 75 years. Initially established by Father Jacob Korchinsky, under the graces of the Russian Orthodox Church in New Castle, PA, the church has grown from a handful of followers to serve the needs of many Russian Orthodox Catholics throughout the Mohoning Valley.

In the summer of 1915, the first Divine Liturgy was celebrated in a rented hall on Washington Street, located on the east side of the

city. During the summer of 1915, property was acquired on the near north side of town, and a temporary church was constructed. In the latter part of August 1915, the first Divine Services were celebrated in the new temple. In 1953 ground was purchased on the south side of the city for a new church and construction began in September 1954. On December 25, 1955, the first Divine Liturgy was celebrated in the new temple. The church has remained an integral part of the Youngstown community since it was established in its present location.

Again, it gives me great honor to rise today to pay tribute to the Nativity of Christ Orthodox Catholic Church for their dedicated service to the Russian Orthodox Catholics in my 17th Congressional District of Ohio.

TAIWAN CELEBRATES ITS 79TH BIRTHDAY

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. CLEMENT. Mr. Speaker, when one talks about up-and-coming nations in the world, one must mention the Republic of China on Taiwan.

Why? Because it is a country that has grown out of barrenness into an oasis of wealth—all within the last 25 years. Today, a visitor to Taiwan would notice Taipei's never-ending skyscrapers, shiny imported American automobiles on the streets, and fashionably dressed men and women. A visitor would quickly recognize that Taiwan is a country on the move.

Taiwan has a young and dynamic President, Dr. Lee Teng-hui, who is Cornell educated and equally well schooled in Chinese learning and scholarship. Dr. Lee, with the assistance of his Vice President, Dr. Ji Yuan-zu, is preparing Taiwan for the challenges of the 1990's and beyond. I am confident that the team that President Lee has assembled will be well equipped to guide the Chinese people toward whatever challenges that may lie ahead.

As the people of Taiwan prepare to celebrate their 79th birthday, I wish to join them in sharing their joy and festivities.

DAEMION HOUSE COMMUNITY COUNSELING AND CRISIS CENTER 20 YEARS OF VOLUNTARISM AND SERVICE TO AMERICAN YOUTHS

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. SCHULZE. Mr. Speaker, I am honored to call your attention to Daemion House Community Counseling and Crisis Center, a community-based, nonprofit youth support organization in Berwyn, PA. October 31, 1990, marks the 20th anniversary for Daemion House, a sanctuary for troubled children and youths. In a world scourged with drug abuse, physical abuse, sexual abuse, depression, and suicide wrought by the seemingly insurmountable pressures of modern times, Daemion House offers a listening ear and words of counsel and support.

Youths are greeted in person or on the 24-hour hotline by 1 of nearly 225 community volunteers, who have donated more than 9,500 hours of service over the past year. Financial and general support comes from numerous churches, corporate sponsors, service and community organizations, and foundations. Professional staff members work closely with the local school district and volunteers to provide counseling to young people and often their parents—24 hours a day, every day of the week.

If the Federal Government were to fund such an undertaking, the cost would be prohibitive. Daemion House has never collected one red cent from the Commonwealth of Pennsylvania nor the Federal Government, remaining autonomous for 20 years. Daemion House represents the kind of community effort needed if we are to succeed in helping today's youth, as they search for identity and purpose. Daemion House offers compassion and guidance as these young people make their way toward adulthood.

Mr. Speaker, I take distinct pleasure in recognizing Daemion House for outstanding service to troubled young people. Made possible by volunteers and an involved citizenry, Daemion House is the only facility in the county which offers this vital service free to those who cannot pay for it. Because of this service, the cycle of affliction is broken, and lives are mended.

TRIBUTE TO EDWARD A. PETTIT

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to extend my heartiest congratulations and warmest best wishes to Edward A. Pettit on the occasion of his 40th anniversary with the Rutherford Fire Department.

Mr. Pettit joined the Rutherford Fire Department in 1950. He has held many positions within this department over the years including lieutenant, secretary, vice president, president, and captain for truck company No. 1. He was secretary of the Officers Association in 1956, 1957, and 1958. In 1958, Mr. Pettit held the position of assistant fire prevention chief. He became the third assistant chief in 1974, the second assistant chief in 1975, and again in 1980. He was the first assistant chief in 1976 and 1981. In 1977 and again in 1982, Mr. Pettit served as deputy chief of the Rutherford Fire Department. He served as chief of the Rutherford Fire Department in 1978 and in 1983.

Mr. Pettit is a member of many community organizations including the Rutherford Exempt Fireman's Association, a life member of the New Jersey State Fireman's Association, the Crew Chief's Association, South Bergen Fire Chiefs, a life member of the Bergen-Passaic Exempt Fireman's Association, a life member of the New Jersey State Exempts, and a member of the Rutherford Relief Association.

Mr. Speaker, I am proud to join in paying tribute to this exceptional man. He is one of those outstanding few who truly make a difference in society. I extend my best wishes to him on this special occasion.

TRIBUTE TO DAVID O. MAXWELL, FANNIE MAE'S RETIRING CHAIRMAN

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. GREEN of New York. Mr. Speaker, I rise today to bid farewell to my good friend and esteemed colleague, David O. Maxwell, as he prepares to retire from his post as Chairman of the Board and Chief Executive Officer of Fannie Mae.

I have had the privilege of working with David on numerous occasions beginning at the Department of Housing and Urban Development, and then later, when I went to Congress, and he to Fannie Mae.

David Maxwell took over the reins at Fannie Mae in the early 1980's, when it was losing up to $1 million a day. Originally established as a financial institution to provide capital for housing, Fannie Mae ran into trouble when it was unable to keep up with rising interest rates to maintain its previously owned, low-interest mortgages. David Maxwell turned the institution around and put it on a sound course through the use of mortgage-backed securities. By 1990, Fannie Mae stock had risen from a low of $2 a share to $27.50 a share, with a high of $47 a share in the mid-1980's.

David's quiet perseverance, political savvy, and tremendous knowledge of the financial markets proved to be an effective managerial equation. I should like to wish David Maxwell all the best in the years to come.

TAIWAN CELEBRATES ITS 79TH NATIONAL DAY

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. ESPY. Mr. Speaker, on the 10th of October, our friends in the Republic of China on Taiwan will be celebrating their National Day. The eminent leaders that guide them include Cornell University-educated President Lee Teng-hui, German-educated Vice President Li Yuan-zu, and Yale-educated Foreign Minister Frederick Chien, all of whom are equally schooled in Chinese learning and scholarship. These prominent leaders recognize the importance of merging Western technology with traditional Chinese culture to make their country a viable, dynamic, and prosperous members of the community of nations. We are proud of their success.

My recent trip to Taipei, Taiwan, and visit to Sun Moon Lake gave me evidence of a coun-

try motivated by the promises of hard work and an open society. These are same commodities that gave America it foundation as a world power.

Young Taiwan is a country with a per capita income of over $7,500. Taiwan's literacy rate is over 90 percent and 34 percent of secondary school children go to college. Many of their students take advanced degrees in the United States. Moreover, Taiwan is now fully committed to becoming a full constitutional democracy within the coming decade.

The Republic of China on Taiwan has a wealth of attributes. We send our congratulations to President Lee Teng-hui, wishing him and his people good health and prosperity.

THE 27TH DIVISION: THE PRIDE OF NEW YORK CELEBRATES ITS 50TH ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. SOLOMON. Mr. Speaker, one of my proudest moments in this Congress was the day I was named ranking Republican on the Veterans' Affairs Committee. It's no secret that veterans have a special place in my heart. Here's one of the reasons why.

Fifty years ago, the war in Europe was already 1 year old. Pearl Harbor was still 1 year away.

On October 15, 1940, the 27th New York Division, one of the oldest National Guard units in the country, was called to active duty. The 50th anniversary of that callup will be celebrated in several locations.

Mr. Speaker, the headlines today are being dominated by our military buildup in the Mideast and the callup of Reserves and National Guard units. That's why I think it's appropriate to recognize the proud history of the 27th Division, since even the present callup is dwarfed by the mobilization of the entire country during World War II. The next 2 years are sure to see many 50-year anniversary celebrations. This is one of the first.

Among the regiments of the 27th Division were the 106th and 108th, drawn from the Capital District to New York City, and the 105th, drawn from upstate areas.

Personnel in the 105th were drawn from an area ranging from the Amsterdam-Johnstown area west of the Capital District all the way north to Plattsburgh. The 1st and Headquarters Battalions were primarily from the Capital District. The 2d Battalion was from the Schenectady-Amsterdam area. The 3d Battalion was primarily from the Johnstown-Gloversville area. In the 3d Battalion, for example, K Company was recruited from Glens Falls, my hometown, and the Whitehall area. L Company was largely drawn from Saratoga, where I have my largest district office.

In 1944, the 2d Battalion of the 105th suffered terrible casualties on Saipan in what may have been the most brutal Banzai assault by the Japanese in the entire war. The division also served with distinction in such battles as Makin Island, Eniwetok, and Okinawa, and later served with the occupation forces in Japan.

But as the 50th anniversary of the 27th Division's callup approached, little was being done in New York to honor either the dead or the surviving members. One 27th Division veteran, Orlando Pappa of Schenectady, thought it was strange that Anniston, AL, near the division's training camp at Fort McClellan, would be honoring this yankee division on it's anniversary while New York seemed to be doing nothing.

Only after Mr. Pappa wrote a number of letters to military and State officials did we see plans for several local celebrations emerge. Mont Pleasant High School in Schenectady, for example, announced it would grant honorary diplomas, in some cases posthumously, to those who left school to join the guard unit. The State of New York finally announced that it would be honoring the division at the State Plaza on October 15.

Mr. Pappa is chairman of an anniversary dinner scheduled for October 13, at Schenectady's VFW hall. As you might imagine, Mr. Pappa has taken on himself the considerable chore of locating division veterans scattered all over the country. We wish him success.

Mr. Speaker, surviving veterans of the 27th Division ask nothing for themselves. But they are right to seek recognition for their dead comrades, many of whom were not even out of their teens when they paid the supreme sacrifice.

Mr. Speaker, I ask you and the entire House to join me in saluting the 105th Regiment and the entire 27th Division on its 50th anniversary, and to assure them that we have not forgotten their sacrifices and their contribution to the freedoms and security we still enjoy today.

CELEBRATING A CENTENNIAL OF SERVICE: THE SALVATION ARMY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. DINGELL. Mr. Speaker, I rise today to acknowledge a joyous anniversary. It is the anniversary of an organization conceived, instituted, and dedicated to providing comfort and assistance to the members of our community in need. It is an organization that has served 17 communities in my district for 100 years, and personally touched the lives of hundreds of thousands of families and individuals. This year marks the centennial of the Salvation Army in the downriver area of Michigan.

Bringing light and hope to thousands of families and individuals, the Salvation Army is "motivated by love of God and a practical concern for the needs of humanity," as its mission states. Each year the Salvation Army provides youth and senior citizens services, special holiday offerings, programs for the sick and disabled, religious services, and numerous other social welfare and community services touching all areas of our community.

I can think of no other organization that serves as a better model for our efforts to bring forth a thousand points of light across our Nation. Mr. Speaker, please join me in saluting the exemplary efforts of the Salvation Army, and in wishing them the best of everything as they begin their second century in service to the downriver area.

TRIBUTE TO CAMP VOCA

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. AuCOIN. Mr. Speaker, I want to pay tribute to a very special camp in Clatsop County, OR. September 20 began the third annual Camp VOCA for girls aged 6 to 17 who have been victims of sexual abuse. VOCA stands for Victory Over Child Abuse.

For 3½ days, 30 girls gather at Camp Kiwanilong, a safe place where they can enjoy traditional camp activities of swimming, canoeing, and campfires, and temporarily escape the stigma of CSD child [child services division]. It's a place where the girls learn they are not alone in their angers and fears and experiences of sexual abuse. Each girl is matched with a volunteer adult buddy for the weekend, someone who has been trained to act as a confidante, and teach the girls that adults can be trusted not to hurt them.

In addition to the healing that occurs at Camp VOCA, what makes this camp so special is the volunteer support that staffs and finances it. Margaret Frimoth, the camp director, devotes her energy to helping victims of abuse. Her direction, along with the work of 60 volunteer buddies, cooks, nurses, doctors, and others, money donations, and tremendous community support, have made Camp VOCA a reality.

This camp can serve as a model of opportunity for other communities to direct energies to helping the disadvantaged youth. The need is tremendous: National statistics show one out of three girls and one out of six boys will experience sexual assault before age 18. Camp VOCA is also a fine example of how Federal grant moneys serve our communities' needs. The camp began with a $10,000 grant award under the Victims of Crime Act [VOCA], and has continued to operate solely on local support and a scaled-down budget of approximately $3,000.

We have a long way to go to fully serve the needs of disadvantaged youth. I want to thank Margaret Frimoth and her colleagues for recognizing and realizing a unique way to help sexually abused girls outside the traditional means of counseling, and I want to encourage my colleagues to bring this idea to their districts.

ON AUTHORIZING HURRICANE HUNTERS

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. LEWIS of Florida. Mr. Speaker, I rise today to express my appreciation to the members of the House Armed Services Committee

for including language in H.R. 4739 to authorize the WC-130 Weather Reconnaissance, or "Hurricane Hunter" Program.

Since I have badgered my colleagues enough on this issue over the last few years, I will not go into the details of the undeniable need for these planes. Suffice it to say that the National Hurricane Center and virtually every coastal elected official has expressed support in one form or another.

This program is absolutely vital to the safety of millions of coastal residents. I again congratulate the committee for doing their part in ensuring the continuance of the Hurricane Hunters.

CIVIL WAR STATEMENT

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. LEWIS of Georgia. Mr. Speaker, I want to alert my colleagues to the significance of today's date in American history. On September 24, 1862, President Abraham Lincoln made a public appearance to announce the Emancipation Proclamation. In time, the emancipation of the slaves changed the course of the Civil War and the destiny of our Nation.

On this day, 128 years ago, President Lincoln appeared before a crowd in Washington, DC, to explain the Emancipation Proclamation. President Lincoln had issued the proclamation just 2 days before on September 22, 1862.

On the same day of President Lincoln's speech, 14 northern Governors met in Altoona, PA, and approved the emancipation. With this historic proclamation, a new chapter was begun in the story of our country. Black Americans eventually became soldiers in the Union Army, adding a valuable source of military manpower to the Union forces. The emancipation transformed the Union Army into an army of liberation.

The documentary, "The Civil War," which appears this week on public television, dramatically brings to life the role played by black soldiers in the Civil War. Although blacks made up less than 1 percent of the northern population, they would eventually comprise 10 percent of the Union Army. In total, 180,000 black men—or 85 percent of those eligible to fight—enlisted in the northern army.

The "Civil War" documentary focuses on the prominent role of blacks and other ignored facts concerning black participation in the war. The series' producer, Ken Burns, has stated that his film tries "to remind people of the basis of the war as a fight against slavery and of the activity, not passivity, of blacks before, during and after the struggle."

Black Americans became active agents in their own deliverance, and the remarkable PBS documentary will awaken thousands of Americans to that important reality.

I congratulate everyone who had a role in the making and airing of this incredible series. I urge every American to sit down—with their families—in front of the television set to watch this gripping story of America's past.

TRIBUTE TO DR. WILLIAM R. PERL

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. ROYBAL. Mr. Speaker, I have the distinct privilege of extending congratulations to a man who has been a quiet leader in the plight for human rights. Dr. William R. Perl, World War II veteran and distinguished author, celebrated his 84th birthday on Friday, September 20.

Dr. William R. Perl, a native of Prague, spent most of his pre-WW II years in Austria. There he studied law and correctional psychology, and was awarded his degree at the University of Vienna. As the Germans marched into Austria in March 1938, Dr. Perl organized what would become the largest rescue action of the century. Some 40,000 Jews were saved from the Holocaust by this underground activity.

Dr. Perl moved his family to the United States in 1941. Less than 3 months later he volunteered for the U.S. military. Dr. Perl eventually became a lieutenant colonel and was awarded four battle stars for his participation in the battles of Normandy, northern France, and Belgium, the Battle of the Rhineland, and the battle of central Europe. At the end of the war Dr. Perl was transferred to Dachau to serve as the special assistant at the war crimes trails.

Dr. Perl's civilian positions include chief psychologist in the District of Columbia Department of Welfare; professional lecturer at George Washington University; and consultant for juvenile delinquency for the State of Nebraska. He has written numerous articles which have been published in leading psychological and military journals. Dr. Perl has also authored several books, including "The Four Front War" and "Operation Action" in which he documents his role in the German Underground. At age 83, Dr. Perl completed his last book, "The Holocaust Conspiracy," for which Senator CLAIBORNE PELL wrote a powerful forward. The book documents the degree to which the civilized world practiced an exclusive immigration policy that made the German annihilation planning so tragically effective.

Dr. Perl is the recipient of numerous awards and honors, among them a citation by the State of California for an "illustrious record of professional and civic achievements," the Distinguished Service Award from the Simon Wiesenthal Center, and the Jabotinsky Medal from the State of Israel. Recently, the city of Vienna, Austria, awarded him its highest decoration: The Golden Medal of Merit.

Dr. Perl certainly sets a shining example of how a man, notwithstanding advancing age, may keep active and productive. Dr. William R. Perl, our best wishes are with you.

RESOLUTION TO INVESTIGATE IRAQ'S ACTIONS BY U.N. WAR CRIMES COMMISSION

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 24, 1990

Mr. VISCLOSKY. Mr. Speaker, as the crisis in the Persian Gulf deepens, Americans and other Westerners in Kuwait and Iraq continue to be held hostage by Saddam Hussein. Trapped since the Iraqi invasion of Kuwait on August 2, these civilians have been used as pawns by Saddam Hussein in his ruthless attempt to seize control of Kuwait and a large portion of the region's vast oil reserves. Some of the hostages have been allowed to leave, but hundreds of Americans remain in capativity, their fate unknown. Further, as most of the world, backed by the United Nations, remains united in its condemnation of the Iraqi invasion of Kuwait, Saddam Hussein may likely be tempted to use the hostages to increase his leverage in the crisis.

Today, I am introducing a resolution that urges President Bush to seek the establishment of a United Nations War Crimes Commission and Tribunal to investigate Iraq's actions toward foreign nationals in its invasion of Kuwait and prosecute those who have committed war crimes.

Precedent for such a commission was established in 1943 when the World War II Allies created the United Nations War Crimes Commission to examine the treatment of Allied prisoners of war, including Holocaust victims, by the Axis powers. This commission completed its mission and was dismantled in March 1948. The recreation of a U.N. War Crimes Commission to examine the treatment of the hostages in Kuwait and Iraq sends a clear message to Saddam Hussein that the United States and its allies in the Persian Gulf crisis hold him and the Iraqi Army responsible for the safety and immediate release of the hostages.

International law imposes upon all countries certain obligations concerning the treatment of foreign nationals within their boundaries. Iraq has ratified the International Covenant on Civil and Political Rights that demands its signatories to respect the rights of foreign nationals. These rights include freedom of movement and the ability to leave the country. Further, Iraq is bound by this covenant not to subject foreign nationals to torture, cruel, inhuman, or degrading treatment. Saddam Hussein, however, continues to demonstrate a flagrant disregard for international law by holding Americans hostage in Iraq and threatening to use these hostages as human shields in the event of hostilities.

Under the most adverse of conditions, a stunning achievement in the Persian Gulf crisis has been the U.N. Security Council's resolve to ostracize Iraq from the rest of the world, even some of its traditional allies. After a unanimous condemnation of the Iraqi invasion of Kuwait and the implementation of trade sanctions against Iraq, the U.N. Security Council approved a resolution which gave the United States, European, and Australian

navies deployed in the Persian Gulf the right to use force to enforce the embargo against Iraq.

I urge my colleagues to cosponsor this resolution and let Saddam Hussein know that he will be held accountable for the safety and swift release of all hostages being held in Kuwait and Iraq. Further, if any of the hostages are harmed or mistreated, Saddam Hussein and soldiers in his army will be treated as a war criminals and prosecuted by the United Nations War Crimes Commission as such.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, September 25, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 26

9:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

Conferees
On S. 566, to authorize a new corporation to support State and local strategies for achieving more affordable housing and to increase home ownership.
2128 Rayburn Building

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings to examine abuses in Federal student assistance programs, focusing on lenders, guarantee agencies, loan services and secondary markets.
SD-342

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 3045, to authorize the Federal Deposit Insurance Corporation to increase deposit insurance premiums as necessary to protect the Bank Insurance Fund (BIF).
SD-538

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 2474, to authorize an exchange of lands in South Dakota and Colorado, S. 2543, the Admiralty Island National Monument Land Management Act, S. 2815, to establish the Kokapelli National Outdoor Theater in the State of Utah, S. 2816, to disclaim all Federal right, title, interest in specified base lands over which the U.S. hold record title, S. 2891, to authorize and direct an exchange of lands in Colorado, H.R. 2566, to disclaim any interests of the U.S. in certain lands on San Juan Island, Washington, and H.R. 3888, to allow a certain parcel of land in Rockingham County, Virginia to be used for a child care center.
SD-366

Foreign Relations
To hold hearings on the nominations of Richard C. Brown, of Maryland, to be Ambassador to the Oriental Republic of Uruguay, Eugene L. Scassa, of Virginia, to be Ambassador to Belize, and Michael Martin Skol, of Illinois, to be Ambassador to the Republic of Venezuela.
SD-419

Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings to review the United States position in GATT negotiations affecting American manufacturing jobs.
SD-342

4:00 p.m.
Foreign Relations
To hold hearings on the nominations of Edward P. Brynn, of Vermont, to be Ambassador to Burkina Faso, Herbert Donald Gelber, of Florida, to be Ambassador to the Republic of Mali, Arlene Render, of Virginia, to be Ambassador to the Republic of the Gambia, Stephen H. Rogers, of Virginia, to be Ambassador to the Kingdom of Swaziland, and Gordon L. Streeb, of Colorado, to be Ambassador to the Republic of Zambia.
SD-419

SEPTEMBER 27

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings to examine foreign influence in the United States.
SR-253

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 2657, to direct the Secretary of the Interior to undertake specified studies to investigate opportunities for wastewater reclamation and reuse and to conduct a study of groundwater resources, and Title XIII of H.R. 2567, the McGee Creek Contract Adjustment.
SD-366

Foreign Relations
To hold hearings on the proposed treaty on the final settlement with respect to Germany.
SD-419

Governmental Affairs
Business meeting, to consider pending calendar business.
SD-342

Judiciary
Business meeting, to consider pending calendar business.
SD-226

Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings to review child abuse and neglect issues.
SD-430

10:30 a.m.
Banking, Housing, and Urban Affairs
To resume oversight hearings on the condition of the thrift industry.
SD-538

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 2882 and H.R. 3209, to modify the boundaries of the Indiana Dunes National Lakeshore, and S. 3048, to revise the Illinois and Michigan Canal National Heritage Corridor Act of 1984 to extend the boundaries of the corridor.
SD-366

2:30 p.m.
Foreign Relations
To hold open and closed hearings on the nomination of Frederick Vreeland, of New York, to be Ambassador to the Union of Burma (Myanmar).
SD-419

SEPTEMBER 28

9:30 a.m.
Special on Aging
To hold hearings to examine methods for meeting the health care needs of the black elderly in the United States.
SH-216

10:00 a.m.
Finance
International Trade Subcommittee
To hold hearings to review progress made on important trade issues between the U.S. and Canada, focusing on subsidies, dispute settlement panels, and general implementation of the Free Trade Agreement and the 1986 Softwood Lumber Memorandum of Understanding.
SD-215

Foreign Relations
To hold hearings on S. 3064, to provide for the implementation of the Enterprise for the Americas Initiative.
SD-419

OCTOBER 1

10:00 a.m.
Foreign Relations
To hold hearings on the nomination of Ryan C. Crocker, of Washington, to be Ambassador to the Republic of Lebanon.
SD-419

OCTOBER 2

9:30 a.m.
Energy and Natural Resources
To hold hearings on the key elements of a national energy policy that can effectively address U.S. dependence on oil and the actions Congress must take to implement such a policy.
SD-366

Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings to examine the Federal program for the disposal of spent

nuclear fuel and high-level radioactive waste.

SD-406

OCTOBER 3

9:30 a.m.
Environment and Public Works
Toxic Substances, Environmental Oversight, Research and Development Subcommittee
To hold hearings to review the Office of Technology Assessment's report, "Neurotoxicity, Identifying and Controlling Poisons of the Nervous System," and to examine related research and regulatory issues.

SD-406

OCTOBER 4

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on whistleblower problems in the Federal Grain Inspection Service, Department of Agriculture.

SR-428A

FEBRUARY 26

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Disabled American Veterans.

345 Cannon Building

FEBRUARY 28

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, Blinded Veterans Association, Vietnam Veterans of America, Military Order of the Purple Heart, and Non-Commissioned Officers Association.

345 Cannon Building

APRIL 17

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of AMVETS, Ex-Prisoners of War, Jewish War Veterans, and World War I Veterans.

345 Cannon Building

POSTPONEMENTS

SEPTEMBER 25

2:00 p.m.
Foreign Relations
Western Hemisphere and Peace Corps Affairs Subcommittee
To hold hearings to review Peace Corps programs in Eastern Europe.

SD-419

SEPTEMBER 27

10:00 a.m.
Foreign Relations
To hold hearings on the International Convention on the Elimination of All Forms of Racial Discrimination (Ex. C, 95th Cong., 2nd Sess.), and the International Covenant on Civil and Political Rights (Ex. E, 95th Cong., 2nd Sess.).

SD-419

HOUSE OF REPRESENTATIVES—*Tuesday, September 25, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We admit, O gracious God, that Your love to us is greater than we can ever express in thought or word or deed. Yet, may we use the gifts You have freely given to reflect that love to those near and dear to us and to those about us who are in any special need. Teach us new avenues to express that love, new ways to brighten the lives of others, so we may share with people everywhere Your glorious gifts of peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. GUNDERSON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GUNDERSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 266, nays 125, not voting 41, as follows:

[Roll No. 372]

YEAS—266

Ackerman	Brennan	Costello
Alexander	Brooks	Coyne
Anderson	Broomfield	Darden
Andrews	Browder	de la Garza
Annunzio	Brown (CA)	DeFazio
Applegate	Bruce	Dellums
Archer	Bryant	Derrick
Atkins	Bustamante	Dicks
AuCoin	Campbell (CO)	Donnelly
Barnard	Cardin	Dorgan (ND)
Bartlett	Carper	Downey
Bateman	Carr	Durbin
Beilenson	Chapman	Dwyer
Bennett	Clarke	Dymally
Berman	Clement	Early
Bevill	Clinger	Eckart
Bilbray	Coleman (TX)	Edwards (CA)
Boggs	Collins	Emerson
Bonior	Combest	Engel
Borski	Condit	English
Bosco	Conte	Erdreich
Boucher	Conyers	Evans
Boxer	Cooper	Fascell
Fawell	Lloyd	Rowland (GA)
Fazio	Long	Roybal
Feighan	Lowey (NY)	Russo
Fish	Luken, Thomas	Sabo
Flake	Manton	Saiki
Foglietta	Markey	Sangmeister
Frost	Martinez	Savage
Gaydos	Matsui	Sawyer
Gejdenson	Mavroules	Schiff
Gephardt	Mazzoli	Schneider
Geren	McCloskey	Schulze
Gibbons	McCurdy	Schumer
Gillmor	McDade	Serrano
Gilman	McDermott	Sharp
Glickman	McEwen	Shaw
Gonzalez	McHugh	Shumway
Gordon	McMillen (MD)	Shuster
Gradison	McNulty	Sisisky
Grant	Mineta	Skaggs
Gray	Moakley	Skeen
Green	Montgomery	Skelton
Gunderson	Moody	Slattery
Hall (TX)	Moorhead	Slaughter (NY)
Hamilton	Morrison (WA)	Smith (FL)
Hammerschmidt	Mrazek	Smith (IA)
Harris	Murtha	Smith (NE)
Hatcher	Myers	Smith (NJ)
Hayes (IL)	Nagle	Smith (VT)
Hayes (LA)	Natcher	Solarz
Hefner	Neal (MA)	Spratt
Hertel	Nelson	Staggers
Hoagland	Nielson	Stallings
Hochbrueckner	Nowak	Stark
Horton	Oakar	Stenholm
Houghton	Oberstar	Stokes
Hoyer	Obey	Studds
Hubbard	Olin	Swift
Huckaby	Ortiz	Synar
Hughes	Owens (UT)	Tallon
Hutto	Packard	Tanner
Hyde	Pallone	Tauzin
Jenkins	Panetta	Taylor
Johnson (SD)	Parker	Thomas (GA)
Jones (GA)	Patterson	Torres
Jones (NC)	Payne (NJ)	Torricelli
Jontz	Payne (VA)	Towns
Kanjorski	Pease	Traficant
Kaptur	Penny	Traxler
Kasich	Perkins	Unsoeld
Kastenmeier	Petri	Vander Jagt
Kennelly	Pickett	Vento
Kildee	Pickle	Visclosky
Kleczka	Poshard	Volkmer
Kolter	Price	Walgren
Kostmayer	Rahall	Watkins
LaFalce	Rangel	Weiss
Lancaster	Ravenel	Wheat
Lantos	Ray	Whitten
Laughlin	Richardson	Williams
Lehman (CA)	Rinaldo	Wise
Lehman (FL)	Ritter	Wolpe
Lent	Robinson	Wyden
Levin (MI)	Roe	Wylie
Levine (CA)	Rose	Yates
Lewis (GA)	Rostenkowski	Yatron
Lipinski	Roth	

NAYS—125

Armey	Clay	Frenzel
Baker	Coble	Gallegly
Ballenger	Coleman (MO)	Gallo
Barton	Coughlin	Gekas
Bentley	Courter	Goss
Bereuter	Craig	Grandy
Bilirakis	Dannemeyer	Hancock
Bliley	Davis	Hansen
Boehlert	DeLay	Hastert
Brown (CO)	DeWine	Hefley
Buechner	Dickinson	Henry
Bunning	Dornan (CA)	Herger
Burton	Douglas	Hiler
Byron	Dreier	Holloway
Callahan	Duncan	Hopkins
Campbell (CA)	Edwards (OK)	Hunter
Chandler	Fields	Inhofe
Jacobs	Murphy	Smith, Denny (OR)
James	Oxley	Smith, Robert (NH)
Kolbe	Parris	Smith, Robert (OR)
Kyl	Pashayan	Snowe
Lagomarsino	Paxon	Solomon
Leach (IA)	Porter	Spence
Lewis (CA)	Pursell	Stangeland
Lewis (FL)	Quillen	Stearns
Lightfoot	Regula	Stump
Livingston	Rhodes	Sundquist
Lowery (CA)	Ridge	Tauke
Lukens, Donald	Roberts	Thomas (CA)
Machtley	Rogers	Thomas (WY)
Madigan	Rohrabacher	Upton
Marlenee	Ros-Lehtinen	Vucanovich
Martin (IL)	Roukema	Walker
Martin (NY)	Saxton	Walsh
McCandless	Schaefer	Weber
McCollum	Scheuer	Weldon
McGrath	Schroeder	Whittaker
McMillan (NC)	Schuette	Wolf
Meyers	Sensenbrenner	Young (FL)
Michel	Shays	
Miller (OH)	Sikorski	
Miller (WA)	Slaughter (VA)	
Molinari	Smith (TX)	

NOT VOTING—41

Anthony	Gingrich	Morella
Aspin	Goodling	Morrison (CT)
Bates	Guarini	Neal (NC)
Cox	Hall (OH)	Owens (NY)
Crane	Hawkins	Pelosi
Crockett	Ireland	Rowland (CT)
Dingell	Johnson (CT)	Sarpalius
Dixon	Johnston	Udall
Dyson	Kennedy	Valentine
Espy	Leath (TX)	Washington
Flippo	McCrery	Waxman
Ford (MI)	Mfume	Wilson
Ford (TN)	Miller (CA)	Young (AK)
Frank	Mollohan	

□ 1024

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. PEASE). The Chair will ask the gentleman from Tennessee [Mr. DUNCAN] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. DUNCAN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed a bill of the following title, in which the concurrence of the House is requested:

S. 1511. An act to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

U.S. AVIATION SYSTEM WILL BE PARKED AFTER SUNDOWN

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, if the across-the-board budget cuts take hold in 1 week, this may be the only airplane you see. The President says that everything gets grounded unless his capital gains tax cut for the wealthy takes off. On Air Bush, the motto is "Furlough now, fly later—maybe."

After 6 p.m., the National Weather Service says none of these airplanes will fly, because almost every weather station closes down. Six thousand commercial flights a day will be canceled because the FAA will be furloughing air traffic controllers. Who wants to fly an airplane where overworked FAA safety workers are being sent home several days a month?

Not only passenger flights will not fly. Airliners carrying mail to freight do not take off.

The President's tax cuts go to the wealthiest, but even their private jets stay in the hangar. Think of it, the U.S. aviation system parked after sundown.

Then there will be only one fly-by-night operation left: Convincing Americans that giving more tax cuts to the wealthy justifies shutting down our airways.

Mr. Speaker, like these planes next week, that just will not fly.

ARE WE SERIOUS ABOUT MEETING OUR DEADLINES?

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, there is a new chart today, not 7 days to Armageddon, 6 days to Armageddon.

Let us understand here in the Congress the gentleman from West Virginia is absolutely right. If we in the Congress do not do our job in the next 6 days, there is going to be chaos in America. We are going to shut down the airports at 6 p.m. We are going to see literally thousands of Federal employees furloughed. We are going to see payments cut to American citizens, innocent citizens, all over this country. Why? Because the Congress of the United States cannot meet any of its deadlines.

Eight months ago the President submitted a budget to this Congress. It was in May that he asked for a budget summit. In June he was willing to put even revenues on the table and accept some tax increases to get a bipartisan budget agreement.

Yesterday the summit was supposed to meet at 4 p.m. Then it was delayed until 7 p.m., then until 8 p.m., then until 8:30, and finally at 9 o'clock they meet only to adjourn around midnight.

Today they were supposed to meet at 10 a.m. Are they meeting right now? No. The summit has been postponed until later in the day.

Are we serious about meeting our deadlines or not? That is the question the American public is wondering.

CAPITAL GAINS TAX REDUCTION UNFAIR

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, it is outrageous that the Armageddon that was referred to a moment ago facing us in just 6 days is facing us because of the pigheadedness of the Bush administration in demanding, in demanding, a capital gains reduction.

New figures out just yesterday in a report issued by the Democratic Study Group show once again how unfair a reduction in capital gains taxes would be. A reduction would reduce taxes for those over $1 million of income by 4 percentage points, for those over $500,000 income a year, by 4 percentage points.

□ 1030

But not at all for those under $40,000 a year. Let members not kid ourselves, the capital gains reduction being pushed by President Bush is unfair, and it alone is holding up the whole progress of our budget summit.

A capital gains rate reduction should be a dead issue. Not only does it lose money but it does so with virtually no proven benefits. I refer my fellow members to a letter prepared by five well-known economists from the University of Pennsylvania, Princeton University, Harvard University, the Brookings Institution and our own Joint Economic Committee. In their letter, they conclude that "a capital gains tax cut will not foster economic growth * * *" Instead, they say it will "* * * reduce fairness * * * and mask the failure of the United States to develop an effective economic growth policy."

I urge my fellow members to flatly reject the inclusion of a capital gains tax cut as part of the deficit reduction package.

EITC REFORM URGED

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, 6 months ago this House passed a child care bill. The centerpiece of that bill was a bold reform of the earned income tax credit. There is broad agreement that EITC reform is the best and fairest way to help low-income workers with children. Yet today, with the end of this Congress in sight, we have so far failed to reach final agreement on this reform and enact it into law.

EITC reform helps keep parents off welfare and in the work force. It's fair to parents who care for their own children. And it's targeted to provide the most help to those who need it the most—those with larger families. In fact, a recent study has discovered that 60 percent of all poor children are in families with three or more children. EITC reform helps these larger families better than any other policy under consideration.

I urge the budget summiteers and the tax committee conferees for child care to agree on the House EITC reform provisions. Let's not drop the ball on this major initiative.

REDUCE AMERICA'S DEBT

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, a Republican negotiator at the summit yesterday was quoted in the paper as saying the stumbling block is the President's insistence on having capital gains as part of the package.

Mr. Speaker, the recipe for reducing America's Federal deficit does include a generous tax break for the rich. To the leadership question, "If not us, who? If not now, when?" President Bush seems to be saying, now at the 11th hour, "Not me, not now." He is off campaigning. He is off golfing. He is working for a debt forgiveness for Egypt. God knows what he is doing today, but he is not at the table negotiating. He is, instead, sending stone tablets down with Mr. Sununu saying, "What I really want is a tax cut for the rich."

For the sake of this country, Mr. President, please stop the nonsense about capital gains. Let's keep our eye on the ball. Our job is not to reduce taxes for the rich again. It is to reduce America's crippling Federal deficit.

BUSINESS AS USUAL FOR DEMOCRATS

(Mr. PAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAXON. Mr. Speaker, the Democrats in the budget summit and here in Congress should wake up. Americans are not interested in their buzz words and their artificial cries of class warfare. Americans want jobs creation and economic growth.

The folks in my community are beginning to ask themselves why the Democrats have become the party of "Read my lips, no new jobs." Republicans have been advancing realistic pro-

job proposals in the budget summit. Democrats continue to oppose every step of the way. Business as usual should be tattooed on each of their arms.

There are 2 good examples: Democrats continue to insist on increased spending of approximately $30 billion over the next 5 years. That is anti-growth. That is antijobs. Democrats continue to refuse to include real enforcement provisions to back up a budget agreement. Trust us, they say, like in 1982 when Democrats promised $3 in spending cuts for every dollar in new taxes. We know the result. $1.72 in higher spending for every dollar in new tax revenue. That is anti-growth. That is anti-jobs.

The people in my community have a message for House Democrats: Stop the budget games. Let Members get an agreement that creates jobs and economic growth.

THOUGHTS ON GEORGE BUSH

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, to the gentleman in the well that just preceded me, let me just say one thing. The use of a comment like "tattooing" something on someone's arm is base and disgusting and deplorable. If the gentleman wants to tattoo something, tattoo this on your forehead. Your President, your President, wants to cheat the poor ones again, and reward the rich as the only place where he feels comfortable.

This is a country today in class warfare. It is happening, and that is because Americans have decided George Bush should be the President. While I did not vote for him, Members better think long and hard about voting for any person in 1992 that would allow oil companies, because he has not said a word, to profit enormously over the problem of oil which is so plentiful, there is more now than before, and allow arm manufacturers to profit from the war between Iraq and Kuwait, that we have now committed 150,000 troops to. Our first answer is, sell more arms to the Arabs.

Now a proposal at the table to reward the rich for having made more money than they ever made in their lives between 1980 and 1990. Mr. President, you are not George Bush, you are our worst nightmare, Ronald Reagan.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, is it not true that the Members of the House are supposed to address the Chair, and not address their comments to the President of the United States?

The SPEAKER pro tempore (Mr. BONIOR). The gentleman is correct.

Mr. WALKER. I thank the Chair.

BUDGET PROBLEMS

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, the countdown is on. We have less than a week to go before the new fiscal year begins. We should have a budget ready to go, but do we? No, we do not, and there is no good excuse. Oh, there is a reason for the lack of a budget, and its called irresponsible spending practices by Congress. We need to change that now.

My friends, the world is undergoing tremendous change. In 9 days, Germany will be reunited. A huge military standoff exists in the Middle East. Democracy is coming to countries where it has never existed before. Change is everywhere, except in the part of the world inside the beltway. Here in the House, where the Democrats have been in control for decades, a lack of fiscal responsibility has become the norm. No matter how my Democratic colleagues try to pin the blame on the President, they cannot, because the Constitution of the United States states clearly that setting the spending priorities of this country is the responsibility of Congress.

Sadly, Congress has abrogated that responsibility. The consequences of that abrogation, massive cuts in critical services like veterans programs and Medicare, will be a disaster for our country. Mr. Speaker, it is time that the leadership of the House get serious and do what they are supposed to do, and stop playing Russian roulette with the people of this country.

BURDEN SHARING FOR RICH AMERICANS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, how can anyone stand on this floor and advocate burdensharing with our wealthy allies, when the President and the Republicans are refusing to ask for burden sharing with rich Americans? I really find this whole premise of playing chicken with this Government and watching the Government, the economy, and everything else crash, unless we can see, unless we give more capital gains tax reductions to the rich, outrageous, outrageous.

How can this happen? We learned how it happened last week in Denver, CO. The President came to Denver, and people paid a million dollars for cold chicken salad. They did not pay for cold chicken salad. Those 900 fat cats paid because they knew he was going to be here and keep them from getting taxed.

I think it is outrageous that we are seeing this Government operate more and more like a coin-operated legislative machine. I think we must stand firm and say this is not Government for the rich, by the rich and of the rich.

TRAGEDY AVERTED

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, amidst the gloom and doom of the class warfare which seems to be coming from the other side of the aisle, I would like to share with my colleagues a bit of good news.

Several hours ago in the Los Angeles suburb of La Verne, which is very close to where I live, a potential tragedy was averted. In 1984, many will remember at the McDonald's in San Ysidro, CA, a shootout took place. Many people were killed. Early this morning, thanks to the efforts of a number of people, assistant manager Ramiro Gironas, Police Chief Wes Stearns, Sherman Block and his Los Angeles County Sheriff's Department, there was a successful effort to avoid a similar tragedy at the LaVerne McDonalds. Nineteen people were held hostage for several hours. I congratulate all those involved who played a role in ensuring that lives were not lost.

□ 1040

CAPITAL GAINS FOR THE RICH, CAPITAL PUNISHMENT FOR THE POOR

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in the last 10 years the income of the rich doubled. The income of the poor dropped below $7,000, folks. In fact, today the richest 1 percent make more than the 40 percent of all Americans at the bottom of the ladder combined. The poor pay more taxes than they did 10 years ago. The rich pay less, and the President wants another big tax cut.

Mr. Speaker, this is unbelievable. Capital gains for the rich, capital punishment for the poor in America.

If there is any consolation for America, I never heard of anyone committing suicide jumping out of a basement window.

Think about it, Congress. Think about this capital gains tax cut for the wealthy. Democrats, stand up and be a Democrat Party once again.

ENOUGH ALREADY

(Mrs. BENTLEY asked and was given permission to address the House

for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, the people in my second District of Maryland are fed up with Washington. As they say down on the waterfront, "enough already!"

The spectacle of this body and the White House being unable to come to a working agreement on the budget is frightening many people and the fear fuels an anger at us that will not be easily dispelled.

The civil servants across the country feel that they are being used as a political football and they are outraged. The stock market is plummeting and were we a cabinet government, we would be facing a vote of confidence before November elections.

But, I predict the November elections will be a vote of confidence, possibly a vote of no confidence in this government. And like the rain, it will fall on the just and the unjust alike.

Let us act right now. Let us demand that the foreign-owned American companies pay up the $50 billion plus they owe our government. Let us require full burden sharing of our overseas military costs by our allies—and then if we must, let us freeze the budget at last year's levels—across the board. No one should be furloughed. We must stop pouring more debt on to the sinking ship of state.

The American people will accept a bold, fair plan to keep the country and its workers from "dangling in the wind." It is imperative that we act—decisively and with purpose—and overcome this crisis. There is still much business to be done. But, it all awaits action on the budget. Let's get on with it.

GEORGE BUSH PLAYS GOLF, BUDGET SUMMITEERS WORK

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, in some of the earlier remarks the question was raised, "Why aren't the negotiators meeting at this moment?"

I think the other important question is, what does the leader of the western world, George Bush, do as the engine of his government accelerates toward derailment? He leaves town. He goes to raise money at a political function in Colorado. He goes to California to raise money at a political function, and he has returned to town to raise money at a political function in the District of Columbia.

But what is most galling is that while the negotiators on the budget did meet on Sunday and while they remained deadlocked because of the President's adherence to capital gains cuts for the rich, he played golf at a country club.

Obviously, the only thing George Bush is really committed to is reducing his golf score, not the deficit.

Nero fiddled; George Bush diddles. It is a shame.

OPEN UP ARCTIC NATIONAL WILDLIFE REFUGE IN ALASKA TO OIL EXPLORATION AND DRILLING

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, this morning crude oil prices reached over $40 a barrel, twice the level of just a few weeks ago. Even the experts do not know how high these prices may be headed.

We need to open up the Arctic National Wildlife Refuge in Alaska to oil exploration and drilling. The people of Alaska want this, and it can be done in an environmentally safe manner.

We are sitting on billions of barrels of oil, locked up by environmental extremists.

Many people in East Tennessee have to drive long distances to go to work. Most working people will really be hurt if gas goes to $2 or $3 a gallon, or even higher. Maybe some rich elitist or uppercrust types would not care if gas doubles or triples in price, but if we really want to help lower- and middle-income people, we will open up the Artic National Wildlife Refuge. This would help hold down the price of oil. If we do not do this, then this Congress will show that it cares more about animals than it does about people.

FURLOUGHS

(Mr. McMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McMILLEN of Maryland. Mr. Speaker, I hope the President will read my lips. Stop playing Russian roulette with our Federal employees.

An earthquake named Gramm-Rudman is about to strike, but unlike other impending disasters we can avoid this crisis if we are willing to settle our differences for the sake of the Nation.

The President must stop playing politics with our Federal employees. Now is the time for leadership.

The financial impact of the impending furloughs will hurt more than career civil servants. The Washington Post today reported that many local communities across the country will have a cost of $2 billion, and in many agencies, small agencies, many of the staff will have to be completely eliminated for the rest of the calendar year.

Mr. Speaker, there are other questions to ask about safety and health, questions about what will happen when we have to release our air traffic controllers.

What about our food inspectors? What about the food our children will eat? What about the medicine that our families will take when the FDA will not have enough inspectors?

These are real questions, Mr. Speaker, we must ask.

Stop this sequestration silliness. Let us get a budget. Stop forgiving Egyptians loans, protecting oil companies, foreign-owned subsidiaries, and let us get the Saudis, the Japanese, and the Germans to pay some of the defense bill.

GET ON WITH THE BUDGET TODAY

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker the budget crunch and the impending across-the-board spending cuts have been compared to almost every disaster known to man, from train wreck to Armageddon, to the *Titanic*, to a brick wall at the end of a high-speed racetrack, to sailing off the edge of the flat Earth, or whatever. In every scenario, the result is the same, calamity.

Why? Why, people are asking, why is this happening? Why has Congress taken all of August off in a recess? Why is Congress still standing still in September?

The lost time has got us in a real bind. Even if the budget summiteers come up with an agreement in time to stave off the October 1 deadline, 95 percent of the Members of Congress asked to vote yes or no will have little or no idea what is in the package. There will not have been any time to study or read the bill, to analyze its impact on jobs, on benefits, on programs.

To many Americans, it seems that we have abdicated responsibility for the one job that we are charged with, and that is managing the Federal budget. It is not hard to understand why we are hearing more "throw the rascals out" talk. It is certainly no surprise that we are seeing the emergence of a grassroots movement to limit the tenure of Members of Congress.

Mr. Speaker, we have got to stop putting off until tomorrow what we need to do today. Let us get on with the budget today.

RACISM FROM JAPAN

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, once again the Japanese have viciously and

racistly attacked African-Americans. First it was Members of Congress. Then it was the Prime Minister and now it is the Minister of Finance. If this is not a national policy of Japan, it certainly seems like it is becoming a national sport of Japan.

Our great country has many problems, and racism certainly is one of them, but it is a problem that we are working on and a problem that I believe we can overcome in our lifetime, but for a country that is the beneficiary of African-Americans going to the Persian Gulf in order to protect their oil supply, it seems to me, Mr. Speaker, it is time for our President to speak out and let the Japanese know that black people moving into white communities is not like Japanese prostitutes moving into their affluent communities.

It seems to me that this is no longer and African-American policy. We can take care of our own selves in this country, but when any segment of Americans are attacked because of their religion, because of their creed, because of their color, it seems to me that the response should come from beyond just that particular group. It should come from the President of the United States so that our troops overseas will know that wherever they are being attacked, verbally or physically, the President will be heard.

□ 1050

CONGRESS IS NOT LIVING UP TO ITS RESPONSIBILITIES

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minutes and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, as a relatively new Member of this body, I am truly disappointed in the ability and the willingness of the Congress to do what it has the responsibility to do. We are responsible to make decisions, even tough ones. We are responsible to develop a budget resolution that will bring about a boost to the economy. We are responsible to balance the budget.

We are not living up to our responsibilities to the country by continually bickering and posturing and procrastination.

Last Sunday I attended a picnic on a ranch near Wheatland, WY. These are folks that are not Federal employees, they are not the ones that are affected most directly, they are not rich, they are nor poor. They are just taxpaying Americans who want the Congress to live up to its responsibilities.

They are interested in whether it is a Republican or a Democrat problem, they are not interested in lining up to bash the President or to put the blame on the Democrats. They want a resolution to the issue.

I suggest that we stop trying to gain political advantage, stop trying to bash the President or to stop the Democrats; let us step up and, instead, fulfill our responsibility to come with a budget resolution.

STOP THE BLAME GAME

(Mr. GLICKMAN asked was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, I wanted to share a couple of wise suggestions my constituents are making to me about the budget. No. 1, they say stop the blame game. The President blaming Congress, Congress blaming the President, Republicans blaming the Democrats, the Democrats blaming the Republicans.

They think we are wearing ourselves out, wasting our energy doing that, not focusing on the solution. They are sick of the blaming and they want the problem solved.

Second of all, they say focus the budget on the deficit questions. The budget has become a philosophical, ideological, political statement. Whether it be capital gains reduction for the rich—which, by the way, nobody at home is asking for and which the President is pushing—or whether it is new spending and tax initiatives.

The main thrust of the budget is not to get the deficit down, it is to make a point.

We are too much in trouble as a country to keep making that kind of point. My friends, this country is facing mighty serious problems.

The stock market is falling, the oil prices are going up, interest rates up, possible war in the Middle East, and declining consumer confidence is developing in the economy.

It sounds like a prescription for serious trouble. It is time to sensibly meet our highest priority; deficit reduction.

BUDGET REFORM—NOT NEW TAXES

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, when House Democrats defeated the balanced budget amendment last July, they argued that we should not look to the budget process to solve our budget problems. Instead, they argued, we need courage to set spending priorities and then stick with them. Good as far as it goes.

Mr. Speaker, that argument does not go far enough. The process does make a difference. Our budget deficit is not caused by just a lack of courage, but rather a budget process that is so convoluted and perverse that it routinely falls flat on its face.

Right now, the President and congressional leaders are negotiating a budget package for fiscal year 1991. For reasonable Americans, there is very little optimism that this negotiating process will be any more successful than last year's summit, when budget gimmicks and less than honest accounting turned a $100 billion deficit into a $150 billion deficit.

Unfortunately, last year's negotiating process was just one in a long line of budget summits. Six of the last nine years, Congress has resorted to negotiating the Federal budget for the upcoming fiscal year, and 6 of the last 9 years, these budget summits have failed.

What we are presented with today is the unsavory picture of Congress and the executive branch piling fiscal failure upon failure. Unable to work within the confines of the congressional budget process, the Federal Government has resorted to negotiating its operating budget with a promise and a handshake. Promises to institute budget reforms and spending reductions, and a handshake to say it will be done if only we can raise taxes just one more time.

Mr. Speaker, we don't need a tax increase. We need real budget reforms that address the failures of the present system. I call on the President and congressional leadership to address the real problem facing Congress and the American taxpayer. We need to reform the budget process and reduce Federal spending.

SADDAM HUSSEIN'S GROWING HOSTILITY MUST BE CURBED, PRESSURE OF INTERNATIONAL LAW MUST BE INTENSIFIED

(Mrs. LOWEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY of New York. Mr. Speaker, in recent days, Iraq's terrorist leader, Saddam Hussein, has escalated tensions in the Middle East by threatening attacks on oilfields and on our steadfast ally, Israel. Such actions would endanger the tens of thousands of American men and women serving in the Persian Gulf region. His outrageous threats risk setting the entire Middle East ablaze.

Today, the United Nations Security Council meets to consider an air blockade of Iraq. That action is not only appropriate, but essential. The Security Council must make absolutely clear to the madman of Iraq that the international community stands united in opposition to his acts of terror and threats of further aggression. An air blockade is one more peaceful means

to try to bring an end to Saddam Hussein's rampage of terror.

READ THEIR LIPS! SOVIET LEGISLATORS VOTE "NO" TO PROPOSAL FOR NEW SIN TAXES

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, I have a bit of encouraging news from the Soviet Union. It is an article from last November saying, "Read their lips! Soviet legislators vote 'no' to proposal for new sin taxes."

By a vote of 337 to 54, the Soviet legislature defeated an increase in beer taxes, luxury taxes, and cigarette taxes.

Now that is perestroika Russia. That does not mean the U.S. House is going to follow along in the wake of that leadership in holding taxes down. Instead, the workingman's beer is going to go up under the so-called budget summit agreement because we are not making any cuts in that budget.

We are going to increase his taxes.

The Soviet legislature got the message from their people. I just hope the folks that hire the House Democrats will send their legislators a similar message.

MAINTAIN THE COLA'S FOR OUR CIVIL SERVICE AND MILITARY RETIREES

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, the budgeteers have been meeting at the summit for weeks now. They have had ample time to come up with some resolution.

We all hope and pray they will do this before we have to have sequestration under Gramm-Rudman because we know this would be disastrous for all.

It would be ridiculous for our Federal employees to have to be furloughed. Not only that, I hope that the agreement will be an equitable one and will treat all groups fairly.

I want to talk for a second about our retirees, civil service retirees, our military retirees. They want to be treated fairly, but oftentimes in the past we have not treated them fairly.

We have allowed the cost-of-living adjustments for this group and that group but then eliminated it for our Federal retirees and our military retirees.

We hear proposals coming out of the summit that may do this again. I would ask those, and there are many in this House who have cosponsored H.R. 3914, to maintain the COLA's for our civil service and military retirees, and let us stick with our commitment to do that.

CONGRESS CANNOT CUT SPENDING, REPEAT, CONGRESS CANNOT CUT SPENDING

(Mr. FAWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAWELL. Mr. Speaker, Congress cannot cut spending. Let me repeat that: Congress cannot cut spending, not with the appropriations process and the budget process we have. And yet here we are talking about new taxes, presumably as the only way to start reducing the deficit.

We cannot cut spending.

It bears repeating: We cannot cut spending.

Twenty-two years in a row we have not balanced a budget. Can you imagine that? Twenty-two years in a row. Only four times in the last 39 years. A $3.2 trillion national debt. In 1990, $336 billion of brandnew debt. And in 1991, close to $400 billion of new debt.

Here is the supreme irony: $275 billion incurred on interest each year on that national debt. That has hoisted every profligate-spending liberal on his own petard.

Just think what we could do if we had an extra $275 billion each year to meet the challenges of this Nation. And the only thing, the only thing that people ask of us is just balance your budgets every year or maybe once out of every 4, you are going to have money to do the things that you want to do for the homeless or whatever your favorite project may be.

Let me repeat: Congress cannot cut spending, and that is our problem.

OUR PRESIDENT SHOULD STAND UP IN RIGHTEOUS INDIGNATION TO CHALLENGE JAPANESE BIGOTRY

(Mr. DELLUMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELLUMS. Mr. Speaker and Members of the House, the Japanese Minister of Justice's apology on last evening notwithstanding, I rise to join my distinguished colleague from New York in condemning in the strongest possible terms this most recent outrageous and bigoted set of remarks by a Japanese official.

I applaud my colleague from New York for his eloquence and his anger, and I applaud him further for his very direct suggestion that the President of the United States stand up on behalf of a major segment of American society and condemn this bigotry.

What better moment than now, when the President of South Africa is in our midst, to make a clear and unequivocal statement with respect to America's commitment to move beyond the insanity, the absurdity of racism.

We as a people must evolve beyond this level of bigotry. The day is over when black Americans and African-Americans have to fight racism and bigotry on their own. There is indeed one President. Whether he is a Republican or not makes no difference. He is the President of all the people. And at this moment he has a moral obligation to stand up in righteous indignation to challenge this most recent set of absurd ideas.

SOME THOUGHTS ON WHERE THE BLAME FOR THE BUDGET IMPASSE LIES

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, it is difficult to sit on the floor and listen to the President get cudgeled about the head and shoulders by people visiting on him the blame for the budget impasse and for imminent furloughs for Federal employees, and so forth.

I clearly recall the President giving away the defining issue between the Republicans and Democrats by saying he would consider increased revenues. I distinctly recall the Republican leader in the Senate talking about taking the capital gains tax legislation out of the mix and getting a separate vote on it.

□ 1100

Mr. Speaker, those are two monumental concessions made by Republicans. Do my colleagues know what the Democratic answer to that was? The chairman of the Budget Committee, a fine Democrat, the gentleman from California [Mr. PANETTA], said, "Because the President cuts his wrist, that's no reason we have to cut ours."

So, intransigence, immovability, unreality, posturing, politics is what is causing this impasse. The Republicans and the President have gone more than half way, but the response of the Democrats has been politics and posturing.

I say, "Go ahead. Cut your wrists. We've cut ours."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BONIOR). The Chair would ask persons in the gallery who are watching the proceedings to refrain from verbal or physical exuberance.

THE SENSIBLE CENTER SHOULD PREVAIL

(Mr. HUCKABY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUCKABY. Mr. Speaker, the budget negotiators have been meeting for months now. The clock is rapidly counting down. Six days remain. It is time for the sensible center to prevail.

To the Republicans I say, "Take capital gains off the table," and to the Democrats I say, "Take the new programs, take the increase in the negative income tax credit off the table." Mr. Speaker, only real deficit reduction items should be considered.

It is time to end the political posturing. There is a sensible center position that will be supported by Congress and by the American people.

BIG SPENDING DEMOCRATS ARE THE PROBLEM, NOT GEORGE BUSH

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. BURTON of Indiana. Mr. Speaker, in the 1980's Democrats complained about tax cuts. Well, President Ronald Reagan insisted in his tax cuts and created over 20 million new jobs, 20 million new jobs, and it doubled the amount of money coming into the Treasury each year from $599 to $1.2 trillion a year.

Now shortsighted Democrats complain about a capital gains tax cut. Well, a capital gains tax cut will create an additional 2½ million jobs over the next 5 years.

What is the Democrats' jobs creation program? They have none. All they want to do is increase taxes and put us into a recession that will cost Americans jobs and put them out of work.

Democrats' big spending and tax policies are the problem, not President George Bush.

BANKS ROLLING THE DICE ON WALL STREET

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLECZKA. Mr. Speaker, here we go again.

In the early 1980's, when the savings and loan system was under stress, Federal regulators allowed S&L's to engage in risky, speculative activities.

The logic was that the profits earned from those activities would make S&L's safer and sounder.

Big risks did mean big profits for a few. But such risks also meant big losses. And when the losses came, the taxpayer picked up the tab.

Now another regulator, the Federal Reserve Board, is leading us down the same road.

Last week, the Fed allowed J.P. Morgan & Co. to trade and sell corporate stocks.

This effectively smashes the barrier Congress wisely established 57 years ago to separate banks from the risky activities of Wall Street.

Make no mistake about it. This is the wrong action, at the wrong place, at the wrong time.

The GAO and the Congressional Budget Office have warned us that the deposit insurance fund for banks could be bankrupt—just like the FSLIC—in very short order.

That would mean another hit on the taxpayer.

Rather than increasing the risk for federally insured institutions, we should be seeking ways to limit the exposure of the taxpayer in the event of a bank failure.

Allowing banks to roll the dice on Wall Street goes in precisely the opposite direction.

The Federal Reserve Board should reconsider this very ill-advised decision.

If it does not, Congress should move to reverse this action.

CONGRESS OF 1990 COULD FOREVER BE KNOWN AS THE RECESSION CONGRESS

(Mr. BARTLETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT. Mr. Speaker, in 1948 President Truman tried to work with and negotiate with a Congress that became known as the Do Nothing Congress, a Congress intent on driving the country into bankruptcy through inaction. President Truman then went to the people with the issue of a Do Nothing Congress, and indeed he threw the rascals out.

In 1990, there may well be a new term for the Congress, the Congress of 1990, the term known as The Recession Congress, a Congress with which George Bush tried to cooperate, to negotiate, to work with, to achieve a deficit reduction package, but a congressional majority that was intent on driving the country into a recession.

In 1990, the country will realize that the budget crisis is caused by the Recession Congress, a Congress that has said no to spending cuts, no to line-item veto, no to capital gains, no to an enforceable deficit agreement.

If we do not act with an enforceable deficit agreement before Monday, before Monday's sequestration, the Congress of 1990 will be forever known as The Recession Congress.

I'M TO BLAME IF YOU'RE TO BLAME

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, yesterday and today I have been listening to a lot of whining and a lot of finger pointing by a lot of Members as to who was at fault and what ought to be done about the budget deficit. Most of it has been coming from the Republican side accusing the Democrats of being free big spenders.

Well, who is at fault? Mr. Speaker, I am ready to stand here and say that I must be one of the big spenders, if that means that we have been spending money to help people on Social Security, helping provide programs for the elderly, for Medicare, for Head Start, sewer and water, help for local communities, veterans' benefits. Sure, I will accept that, if the Republicans will accept their part; that is, giving away $1¼ trillion to the wealthy over the past 10 years, refusing to stop an inequitable trade policy, which the President could have done, costing thousands and millions of jobs, which has cut into the Federal coffers and spending $2½ trillion on defense over the past 10 years. And now, Mr. Speaker, they are going to be asking for a capital gains tax for more money for the wealthy in this country.

Mr. Speaker, they talk in trillions. We talk in billions.

Sure, I will accept my part, if they will accept theirs.

THE HISTORY OF A LAMEDUCK SESSION

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, I rise this morning to express my concern that this body is heading toward a massive tax increase resulting from a lameduck session. History tells us that much damage and little of the Nation's truly important business is done in a lameduck. Let me remind the Members of the following lameduck sessions.

In 1948, the session lasted until New Year's eve and enacted a 3-month extension of Federal rent control. A 1970 lameduck, lasted until January 2, failed to act on Presidential requests for trade legislation and welfare reform. The 1980 lameduck degenerated into Christmas tree decorating sessions lasting until the Government was funded by a mammoth continuing resolution on December 16, when all ornaments were dropped including a $10,000 pay raise for Members of Congress. But the final insult to the taxpayers came in 1982, when the lameduck session passed a 5-cent-a-

gallon-gas tax hike and a pay raise for Members.

Mr. Speaker, I urge the leaders of this body to allow us to finish the business of the Nation: To be courageous and vote for controversial legislation before the November elections. Our constituents deserve this honesty.

YEAR OF THE LIFETIME READER

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, in connection with all of the oratory about budget crisis, and gulf crisis and Armageddons, it is easy to overlook other pieces of legislation, worthy pieces of legislation, which are pending in the House, one of which was House Joint Resolution 571 designating 1991 as Year of the Lifetime Reader. This measure is being advanced by the gentlewoman from Ohio [Ms. OAKAR], our colleague.

Mr. Speaker, the purpose of House Joint Resolution 571 is to promote the beauty, and value and wonder of reading, not just when we are little, as children, but throughout our lives. This resolution ties in with many local programs, some of which are enacted in my hometown, which encourage reading. Some of the programs in Kentucky are being run by Ms. Harriet Henderson who is the director of the Louisville free public library system and being ably assisted by Ms. Madeline Abramson and Ms. Carol Armstrong, respectively the spouses of our mayor and county judge/executive.

Mr. Speaker, it is important to advance the worth and wisdom of reading among all people, and certainly House Joint Resolution 571 would assist those efforts. I hope that we would have time to pass that in this session of Congress.

□ 1110

DEMOCRATS MUST COOPERATE WITH WHITE HOUSE

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I have been listening to several 1-minute speeches for the last several days in which Democrats suggest that the only problem in the budget summit is capital gains. Having been in the budget summit for 4 months, let me suggest that the Democrats have run the House for 36 years, that they have clear responsibility for a lot of what goes on, that there are disagreements about enforcement provisions, there are disagreements about spending cuts, there are disagreements about the size of the defense budget, and that on a wide range of areas, there are disagreements.

I think that the Democrats, who have been running this House for a generation, ought to face up today to the reality that on Monday a sequester starts, that a sequester will be a disaster we should avoid, and that it is the responsibility of the party which sets the schedule, chairs the committees, and runs the House, to cooperate with the President of the United States in trying to reach a budget agreement. So far, that cooperation has not been forthcoming.

STATEMENT CONCERNING RACIST REMARKS OF JAPANESE CABINET MINISTER

(Mr. HAYES of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Illinois. Mr. Speakers, I rise today to express my grave concerns over the recent racist remarks of a Japanese Cabinet Minister concerning African-Americans. These racist attacks by the Government of Japan are not new. The fact that they are tolerated is what truly disgusts me.

I am appalled that our Government, the Government representing over 30 million African-Americans, does not have more to say about incidents such as these. Our Government seemingly embraces such thought, given the resounding silence that we hear on this issue.

According to our friends in the Japanese Government, African-Americans have been likened to prostitutes, are illiterate, financially irresponsible, and their mere existence ruins the sanctity of white neighborhoods. Mr. Speaker, the Japanese Government in an attempt to explain such comments stated that the minister's comments may have been misunderstood.

Mr. Speaker, there is one simple fact. Racism whether it be in this country or elsewhere in the world is never misunderstood, and we must at every turn speak out against such outrageous acts.

In closing, I think that it is extremely ironic that at a time when this country's military, disproportionately represented by African-Americans and other minorities, is defending the oil resources so precious to the entire world, that a country such as Japan is reluctant to participate in any significant way. I guess in the eyes of the Japanese, African-Americans are good for something.

CONGRESSIONAL CONSULTATION REQUIRED BEFORE OFFENSIVE ACTION IN GULF

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, last Sunday's New York Times had an excellent article by a former Secretary of the Navy, Jim Webb, about the difficulty we are having in the Persian Gulf. I encourage every Member of Congress to read it.

I have introduced a resolution which does two things. I introduced it before Jim Webb's article.

What my resolution says is that Congress should be consulted before any offensive action is taken by our country in that area, and also it does another thing: it encourages the administration to try to get the United Nations to take the responsibility of this activity over there, instead of having the United States of America, with very limited allies.

Mr. Speaker, I hope Members of Congress will see fit to read my resolution, and hopefully join in the introduction of it.

FAMILY UNIT AND EMPLOYMENT OPPORTUNITY IMMIGRATION ACT

(Mr. SERRANO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SERRANO. Mr. Speaker, I rise this morning in support of H.R. 4300, the Family Unity and Employment Opportunity Immigration Act of 1990.

Mr. Speaker, it shocks me that many legal residents of our country must wait 10 to 15 years to be reunited with their spouse or child, and in cases of Mexican immigrants, the wait is sometimes up to 30 years. I ask my colleagues this morning, is this policy consistent with our Nation's values, that we force family members to be separated?

Also, others fear that by increasing employer-based immigration, we would allow new immigrants to take jobs away from American workers. However, studies by the Department of Labor show that immigrants offer stability to our economy and are easily absorbed by our labor market.

Mr. Speaker, why, in this time of a decreasing work force, are well-qualified workers prevented from entering our labor market? And how, as a Nation whose cornerstone of immigration policy has been the family, can we deny legal residents of the United States the right to live with their spouse and children? We must eliminate the tremendous backlog of those waiting to be reunited with their family members, and encourage educated and skilled workers to enter our national labor market. I strongly urge my colleagues to give serious consideration to H.R. 4300, and reform our current immigration law.

AMERICA BETTER BECAUSE OF AFRICAN-AMERICANS

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, I rise this morning, as others of my colleagues have, to respond to the remarks made by the Justice Minister of Japan as they relate to African-Americans here in this land.

It is interesting to me that for all of these years that we have fought for rights and privileges for justice to be equal to all people who are part of our homeland, that the Justice Minister of Japan dares to speak about African-American citizens and compare them to prostitutes, suggesting that because African-American people move into communities, it causes a deterioration of those communities, as prostitutes have done in Japan.

Let me remind the Justice Minister that it is these African-American citizens that helped to contribute to the market share of those products which are in our market here in America. It is these African-American citizens who have been able to make a contribution to the stability and welfare of this Nation.

Mr. Speaker, if he would but come, I would be happy to take him through some communities where he can see that African-American citizens are not like prostitutes. There are many more communities in this Nation where people function not where the community deteriorated when they came, but that it is better for their being there.

ALL AMERICANS EQUAL AND MUST BE TREATED WITH RESPECT

(Mr. OWENS of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of New York. Mr. Speaker, Justice Minister Kajiyama of Japan has continued a pattern of high level insults toward the African-Americans of this country. There seems to be a portion of the Japanese elite ruling class that thinks it is quite respectful and acceptable to talk about an underclass or group of untouchables in America.

The Japanese have traditionally enjoyed certain benefits in Asia as the oppressors of other Asian people. They were the oppressors of Korea, they were the oppressors of the Chinese, they were the oppressors of the Indonesians. So there are elements there still yearning for the old days. They would like to label people and talk about African-Americans as untouchables.

They have done it three or four times at very high levels, ministers, the Prime Minister. It is about time that all Americans spoke out and let the Japanese know that we as Americans do not subscribe to the notion of untouchables. We do not subscribe to the notion of an underclass. All people are equal, and we expect people in high places, regardless of what their personal feelings are, what their fascist traditions may say, they must treat all groups with great respect.

GOVERNMENT MUST MAKE TOUGH DECISIONS FAST

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, the credibility of Government itself across the board, Democrats, Republicans, House, Senate, administration, Congress, is coming under severe attack. Our very credibility is at stake and the credibility of our institutions of Government. We are marginalizing ourselves by the embarrassing show of incompetence, inability to manage our affairs, to get our act together and produce a viable budget that makes a serious attack on our budget deficit-making to the $400 billion mark.

Mr. Speaker, the average American does not think in terms of Democrats-Republicans, House-Senate, executive branch-Congress. He thinks Government. By our total state of disarray we are showing in managing ourselves, we are bringing all of our institutions of Government under severe question.

At a time in our national life when our streets are not safe, our schools do not teach, our health system excludes 37 million Americans, while our infrastructure of roads, bridges, tunnels, water and sewer systems are falling apart, we here in Washington seem to be caught up in an argument over whether tax rates for individuals and corporations, already at a 50-year record low, should be lowered even more for the benefit of the wealthiest among us, while the average middle class American is struggling to keep house and home together, seeing prices of gas go up, seeing prices for all the commodities he uses go up, wondering about his economic future, wondering whether for the first time in our national life we are going to send on to our kids an American economy that promises less for them than it held for us.

What kind of America is this, what kind of people are we, what kind of Government institutions do we play a role in? We have to get our act together, Mr. Speaker, and make some of those tough decisions, and make them fast.

With a $5½ trillion GNP, we should be able to easily provide the health services, education, and enhanced productivity and competitiveness we need to maintain a superior standard of living for our 260 million citizens, and indeed, regain preeminence in the world as the most progressive of nations.

Without quick, decisive, brave action, we will continue to slide down, down a slippery spiral slope into an inferior economy and a declining standard of living for most Americans.

The time is now to bite the bullet, and it is about time we acted.

□ 1120

COMING TO AGREEMENT ON THE BUDGET

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, I have heard the minority whip say that the problem in the summit is not capital gains, but the Senate minority leader disagrees. That clearly is such.

Yesterday we saw Members in the Republican Party here in the House grandstanding about the lack of movement in the summit talks, and then soon after adopt once again an intransigent position on that key issue.

Why so? They are falling on the sword of a capital gains differential in the name of economic growth despite the fact, underscored in a recent CBO study, that there is no evidence that a capital gains differential would significantly enhance economic growth.

What we are seeing is a lot of political maneuvering. The Republicans are assuming the American people will blame congressional Democrats more than the President if a stalemate leads to sequestration. They are wrong. When all is said and done, it is the President who will be at the center.

While in some cases the President may receive too much credit for good or too much blame for the bad, in this instance the President will get what he deserves. It is time for leadership from the White House, not posturing on the floor of the House.

PROVIDING FOR CONSIDERATION OF H.R. 5269, COMPREHENSIVE CRIME CONTROL ACT OF 1990

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 473 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 473

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5269) to control crime, and for other pur-

poses, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed three hours, with two hours and forty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, and with twenty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill, as modified by the amendments printed in part 1 of the report of the Committee on Rules accompanying this resolution, as an original bill for the purpose of amendment under the five-minute rule, said substitute, as modified, shall be considered as having been read, and all points of order against said substitute, as modified, are hereby waived. No amendment to said substitute, as modified, shall be in order except those printed in part 2 of the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order and manner specified in the report, and may be offered only by the Member specified or his designee. Said amendments shall be considered as having been read, shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report, or be subject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are hereby waived. It shall be in order at any time for the chairman of the Committee on the Judiciary to offer amendments en bloc, consisting of amendments and modifications in the text of any amendment which are germane thereto, printed in part 2 of the report of the Committee on Rules. Such amendments en bloc shall be considered as having been read, shall be debatable for not to exceed twenty minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. Such amendments en bloc shall not be subject to amendment, or to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments en bloc are hereby waived. The original proponents of the amendments en bloc shall have permission to insert statements in the Congressional Record immediately before the disposition of the amendments en bloc. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. (Mr. LEVIN of Michigan). The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 473 is a modified open rule providing for the consideration of H.R. 5269, the Comprehensive Crime Control Act of 1990.

The rule waives all points of order against consideration of the bill.

It provides for 3 hours of general debate, with 2 hours and 40 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and 20 minutes to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Ways and Means.

The rule makes in order the Judiciary Committee amendment in the nature of a substitute now printed in the bill, as modified by the amendments printed in part one of the report of the Committee on Rules, as an original bill for the purposes of amendment. The substitute, as modified, shall be considered as read and all points of order against the substitute, as modified, are waived.

No amendments to the substitute are to be in order except those printed in part 2 of the report of the Committee on Rules and amendments en bloc as specified in the rule. The amendments are to be considered only in the order and the manner specified in the report and are considerd as read when offered.

All points of order against the amendments printed in part 2 of the report are waived. The amendments are not subject to amendment, except as specified in the report, and are not subject to a demand for a division of the question in either the House or the Committee of the Whole.

In addition, the rule makes in order amendments en bloc, if offered by Chairman BROOKS, consisting of amendments printed in part 2 of the report, including germane modifications. En bloc amendments are debatable for 20 minutes and are not subject to amendment nor a division of the question in the House or the Committee of the Whole. All points of order are waived against the en bloc amendments. The original proponents of amendments included in an en block amendment may insert statements in the CONGRESSIONAL RECORD to appear immediately before the vote on the en bloc amendments.

Finally, the rule provides one motion to recommit.

Mr. Speaker, the Comprehensive Crime Control Act, for which the Rules Committee has recommended this rule, attacks crime and its results from all angles: It provides the tools for police to stop crime; streamlines trial procedures; increases penalties for those found guilty; and futher protects the rights of victims.

Crime touches all of our lives. If we have not been a direct victim, we have been affected by increased insurance rates, fear in our neighborhoods, destruction of private property, and the additional tax burden to pay for fraud in our Nation's savings and loans.

The facts are staggering: Last year, over 14,300,900 persons were arrested; 1.4 million of these arrests were for drug violations, up an alarming 20 percent from the year before. Arrests for violent crime were up 9 percent in 1989. It's clear we need to take action.

The Comprehensive Crime Control Act will fight crime by increasing penalties for drug offenses and authorizing funds for new prison projects. The bill also contains strong provisions to increase our ability to prosecute and punish those responsible for the savings and loan crisis. Finally, it establishes new judicial procedures designed to streamline the court process and assure that defenders are adequately represented during trial.

Mr. Speaker, H.R. 5269 was referred to 10 committees of the House. Over 100 amendments were submitted to the Rules Committee and more than 55 Members testified before our committee in a daylong hearing on September 12. Since that time, extensive negotiations have taken place to fashion a rule and amendments giving House Members choices on every amendment, including seven amendments on the bill's death penalty provisions and a substitute habeas corpus title.

In all major areas of controversy, this rule will allow substantial debate and amendments embodying a variety of approaches to our Nation's criminal justice system. I ask my colleagues to support this rule so that we may proceed with consideration of the merits of this vital legislation.

□ 1130

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule fails to provide a fair procedure for the consideration of the crime bill.

The rule is not fair because it denies the House an opportunity to consider an amendment which is necessary to preserve the death penalty.

The Department of Justice and the administration say it would absolutely do away with the death penalty.

The fact is that over 20,000 Americans will be murdered in the United States this year. We are debating this bill in the District of Columbia, which has the dubious distinction of being the murder capital of the Nation.

And yet the bill before us has provisions which will severely limit the use of the death penalty. Most Americans favor the death penalty in appropriate circumstances. But this bill moves in the wrong direction. And this is not just my opinion. Let me quote to you from a letter written by retired Supreme Court Justice Lewis F. Powell, Jr. Justice Powell states,

In my view, enactment of title XIII of H.R. 5269 would make it extremely difficult for the States to enforce their death penalty laws.

The able gentleman from Illinois [Mr. HYDE], submitted an amendment to the Rules Committee which would correct some of the problems in title XIII of this bill. The Hyde amendment was a top priority of the administration. No Member is more respected than Mr. HYDE. But the majority of the Rules Committee left it out of their proposed rule. When I offered an amendment to at least give the House an opportunity to consider the Hyde amendment, it was voted down by a party line vote.

Mr. Speaker, the Attorney General of the United States has written of the importance of changing title XIII in this bill. He is supported by the National Association of Attorneys General. Let me quote Attorney General Dick Thornburgh.

Title XIII and section 2212 of H.R. 5269 reach out to overrule a number of recent Supreme Court decisions that have attempted to place reasonable limits on habeas corpus filings. As Justice Powell and the National Association of Attorneys General have indicated, enactment of such provisions would have the practical effect of abolishing the death penalty in the States.

We do not want that.

Mr. Speaker, this is not the time to be abolishing the death penalty in the States. We need tougher penalties to deter crime, not to weaken the penalties we already have.

This rule is also unfair because it denies the opportunity for a motion to recommit with instructions to amend the bill. When I asked about this in the Rules Committee, I was told that a motion to recommit with instructions to amend could not be allowed, because it might be used to give the House a chance to consider the Hyde amendment. Listen to that. How do you gang up on somebody like a respected Member of this House, the gentleman from Illinois [Mr. HYDE]?

We have come to the point where there is only one real chance left to consider the Hyde amendment and perserve the dealth penalty. When the motion for the previous question on this rule is made, I ask the House to vote "no." Defeat the previous question so that we will have an opportunity to offer a new rule including the Hyde amendment. The Hyde amendment would preserve the death penalty.

Those who would murder their fellow citizens must be made to understand in advance that they may pay with their own lives. Why, I ask the Members of this House, do we seek to do away with the death penalty? It will produce a better and safer society for all Americans, if we include the Hyde amendment.

A "no" vote on the previous question is a vote to save the death penalty.

Mr. Speaker, I urge the Members to vote "no" on the previous question.

Ms. SLAUGHTER of New York. Mr. Speaker, for the purposes of debate only, I yield 5 minutes to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I rise in support of House Resolution 473, which will make in order the consideration of H.R. 5269, the Comprehensive Crime Control Act of 1990. As the Members know, the bill, as reported out by the Committee on the Judiciary, is a wide-ranging piece of legislation. It is the product of over 30 days of hearings by judiciary subcommittees and was reported out after 4 days of markup by that committee.

The Rules Committee has done an excellent job in bringing to the floor a rule that will allow for consideration of a large number of amendments, touching on the major issues involved in H.R. 5269. Under this rule, the Members will have the opportunity, if they choose to do so, to expand the number of crimes for which the Federal death penalty may be imposed, to further restrict the bill's provisions tightening the process of habeas corpus petitioning, and to expand the good faith exception to the exclusionary rule. Numerous other provisions of this 22-title bill are made subject to amendment under the rule.

Naturally, not all of the Members who wished to offer amendments to H.R. 5269 could be accommodated in the rule that is before us today. The reason for that is very simple. Under the notice that the Rules Committee distributed to the Members in preparation for the rule that we are considering, over 100 amendments were submitted. If each of these had been made in order, it is highly unlikely that we could have had enough time to complete this important piece of legislation in these final days of the session. After the House finishes its deliberations on H.R. 5269, we still must go through what is certain to be a lengthy and contentious conference with the other body on their crime control package. The amendments that the Committee on Rules has made in order under this rule strike a careful balance between the constraints of time and the important effort to ensure that the bill will reflect the will of the House.

Mr. Speaker, the rule before us today will permit ample debate of the issues involved in H.R. 5269, ample opportunity for the Members to change its provisions, and ample time to move it through the legislative process before this session of Congress ends. I would urge my colleagues to support this rule.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to join with my good friend from Tennessee to denounce this rule in the strongest possible terms. This rule is criminal in and of itself. It ought to be defeated.

Let us make no mistake about it. It is a modified closed rule, with the emphasis on "closed," on one of the most important issues ever to come before this Congress.

The majority can try to dress it up any way they want to, but a rule which denies the minority the right to offer a motion to recommit with or without instructions is closed by any definition, and it is wrong, wrong, wrong.

It is one thing for the majority to rewrite the rules and precedents of this House. It is quite another thing for them to rewrite the dictionary as well.

Just ask Democrats on that side of the aisle, DORGAN, DYSON, JOHNSON, TORRES, and others; you are being gagged, gagged, gagged on this floor.

Mr. Speaker, there are many objectionable elements of this rule. But let me at least say a word about an issue which lies at the heart of this bill.

□ 1140

Title XIII, the habeas corpus provision of the crime bill, is opposed by virtually every law enforcement authority in the United States of America. Members ought to listen to that. Title XIII as presently written would dismantle the criminal justice system in America as we know it today. Our colleague, the gentleman from Illinois [Mr. HYDE], one of the most respected Members of this House, expended great time and effort to prepare a substitute for this title.

Mr. Speaker, why is the Hyde amendment not made in order by this rule? Does any Member have an answer on that side of the aisle? When that question was posed in the Committee on Rules to Members who were privy to the arbitrary and cavalier process by which this rule was written, all we got by way of a response were some blank looks and some fumbling attempts at pleading the fifth amendment. Is that not a shame?

Believe me, Mr. Speaker, if we ask any Member what their rationale is behind a rule like this, that is all we get, blank looks and the fifth amendment. We attend a meeting of the Committee on Rules and ask for an ex-

planation of anything, and all we get is a blank look and the fifth amendment.

Mr. Speaker, rulemaking such as this is a form of racketeering. This rule runs roughshod over the established rules and precedents of the House. Let Members face it, we do not know why the Hyde amendment was not made in order, and the Democrats could not caucus and even think what they were doing here. I just get so outraged at this situation.

Let me tell Members this. If this rule is defeated—and every law enforcement agency in America wants it defeated—we will add to the rule the Hyde amendment on habeas corpus, and perhaps the Wylie amendment which allows the confiscation of S&L thieves' personal property and homesteads worth up to $5 million.

The majority denied that amendment in this rule. They denied it, to put these thieves behind bars and take away the money they have stolen from the American people. We will then bring this rule back, including the Unsoeld amendment as self-executing language, that the gun control people are so opposed to. We will leave that in the rule. I suggest we defeat this rule. Members will be glad they did.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from New Jersey [Mr. HUGHES].

(Mr. HUGHES asked and was given permission to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, I rise in support of the rule for the consideration of H.R. 5269, the Comprehensive Crime Control Act of 1990.

The rule is a good rule, a fair rule, and a balanced rule. It makes in order some 45 amendments, which cover the full range of this important anticrime bill. It is fair to all sides and all points of view.

This is not to say that every Member will have the opportunity to offer every amendment he or she would like to have considered. For example, the rule does not give us the opportunity to vote on an amendment offered by Mr. FEIGHAN, consisting of the Brady bill, the 7-day waiting period for the purchase of handguns.

Such an amendment is clearly germane to the bill. In fact, my subcommittee, which developed the original bill, included other firearms provisions which we adopted from the President's crime bill.

I am disappointed that the rule does not allow us to amend or delete section 2212 of the bill, which relates to challenges to death sentences based on interventing Supreme Court decisions. I asked that such an amendment be made in order, but this was not the case.

Others are disappointed that their amendments have not been made in order. Habeas Corpus reform is a prime example.

The House will have a choice between two quite different versions of this important reform measure. Both versions are the product of extensive discussion and negotiation with prosecutors, judges, and lawyers who are involved on a day-to-day basis with this complex issue.

One is the Kastenmeier-Hughes compromise, which incorporates some 14 changes which we developed from the original committee bill, in order to address the specific concerns of State attorneys general and district attorneys.

The second is the substitute developed by the gentleman from South Carolina, [Mr. DERRICK]. It adopts many recommendations of the Powell Commission, which is supported by the Bush administration and many of our Republican colleagues. In addition to his own expertise in the area, which is considerable, our colleague from South Carolina was able to call upon the expertise of the retired chief justice of South Carolina's Supreme Court in fashioning this further compromise.

I believe this is a responsible approach to this highly complex issue. When we have tried to fashion a solution to such complicated issues, through unrestricted floor amendments, the result has been less than satisfactory. This is precisely what the other body has done with habeas corpus, and it appears that few who are familar with the issues are satisfied with that result.

The rule before us avoids that pitfall, but still gives the House the choice between two substantially different legislative responses to the unquestioned need to reform Federal habeas corpus.

Mr. Speaker, I have heard it said on the floor a number of times today that we decimate the capital punishment offense. The fact of the matter is I support capital punishment. One of the last cases I tried was a capital case when I was a prosecutor. I believe it is a deterrent. I support it as a strong deterrent for the most egregious offenses.

We have 15 various categories for capital offenses in our bill. How in the world can they argue we eliminate capital punishment? I am offering three additional substantive offenses. I am offering an amendment to deal with some of the problems I had in committee with the procedures. The gentleman from Ohio [Mr. TRAFICANT] is going to offer a capital punishment offense. The gentleman from Florida [Mr. MCCOLLUM] is going to offer a capital offense dealing with offenses where capital punishment will be imposed where reckless indifference is involved. We will have the full panoply of issues before Members. How can they argue that does not give Members a shot at all the issues?

Mr. Speaker, it is a good rule. I urge my colleagues to support the rule.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I have had the privilege and honor of serving under four Speakers. I must tell Members in all candor I have never seen a more brutal, raw, arrogant rule in my 16 years here than this one. Oh, there is procedural fairness for murderers in this bill, which is an ACLU wish list, but no procedural fairness to the President of the United States nor to the Attorney General, nor to the Powell Commission set up by the Chief Justice of the Supreme Court which produced my amendment.

No, we cannot offer it. Why not? Are they afraid it might pass? Of course they are. They are going to offer an amendment instead of mine that was filed last night at 9:30, although all other Members had to have their amendments filed by September 11, according to a letter from the distinguished chairman.

Fairness, that is a word Democrats love. Fairness, except when it comes to legislating on this floor and giving the Republicans a fair opportunity to offer a major amendment to a major bill. Crime is an important issue, and I say to Members when we vote on this bill, think, because you will have to explain your vote, because we will remind the people what this bill does.

The President says he will not accept a crime bill that is tougher on law enforcement than it is on criminals. The bottom line is this: "I will not sign a crime bill that handcuffs the police." Now, everyone within the sound of my voice, will be conned today. Either I am conning listeners or the other side is conning listeners. But do not believe what I say. Do not believe what they say. Read the bill. On the bill on page 94, lines which are not changed in any substitute that anyone will offer, please listen and read with me:

> In the case of an applicant under sentence of death, a claim presented in a second or successive application that was previously determined in a prior application under this chapter shall be dismissed unless the interests of justice would be served by reconsideration of this claim.

That means: reconsideration, stay of execution; reconsideration, stay of execution; reconsideration, stay of execution. And pray tell me just what "the interests of justice" means? What standard does it set?

Look, do not believe me. How about the National Association of Attorneys General? How about the National District Attorneys Association? In a letter

to the distinguished Speaker of this House dated September 21, they say:

On behalf of this country's law enforcement officers and prosecutors, we are writing to urge defeat of the rule reported out of the Rules Committee concerning H.R. 5269. The rule should be defeated because it does not permit consideration of an amendment to be offered by Representative HENRY HYDE which would substitute the Powell Committee report habeas corpus provisions for the habeas corpus provisions that are now in the bill.

Listen to this. This is not me talking, this is a unanimous National Association of Attorneys General and the National District Attorneys Association.

"Not a single State attorney general" Democrat or Republican I might extrapolate, not a single one, not a single prosecutor is in favor of the habeas corpus provisions now contained in H.R. 5269.

□ 1150

Instead, the State attorneys-general and prosecutors of this country overwhelmingly favor my amendment to substitute the Powell Committee habeas provisions for those that are now contained in H.R. 5269.

How can you retain credibility and say this is a fair rule? I thought this was a body where you debated and you deliberated the important issues of the day.

Tear up your civics books, any high school students who are listening to this, because the majority Democrats will not yield fairness and equity to Republicans and to the President of this country because they are afraid the ACLU might get a setback when my amendment passes.

If you really want to do away with the death penalty, do it. Do not do it indirectly by reforming habeas corpus to produce a never ending, never final procedure. It is not fair to the prisoners. It is not fair to society and it certainly is not fair to law enforcement.

So reject this rule and let us do this the honest way. Let us do this the right way and the fair way. But if you still have to go the ACLU way, OK, but do not get up here and say it is a fair rule.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I am going to support the rule, although I am going to take to heart what the gentleman from Illinois [Mr. HYDE] has stated, as a former sheriff, and I am going to read page 94; but I want to thank the chairman of the Rules Committee and the vice chairman for putting in order my two amendments.

Today Congress is involved in an issue that is the most important current domestic problem we face. While Congress today debates rights, no one in the House will stand up more for individual rights than myself; but let me say this. I think today Congress should also take a look at the limited rights of victims that are printed on tombstones in cemeteries in record numbers all over this land. Over 23,000 murders, children being killed by stray bullets in their own homes, women being mutilated, mass murder.

My God, Mr. Speaker, It is safer to play Russian roulette with an "uzi" than it is to walk the damn streets of America today.

It is about time that Congress puts its foot down.

I want to remind you today of two cases. The first one was Charles Gacey in Texas. He killed 33 juvenile boys. He buried 29 of them underneath the crawl space of his kitchen. He is still being fed by the taxpayers. Gacey is still appealing.

Mr. Speaker, this is insane.

The second case, Richard Speck. He killed eight nurses in Chicago. No remorse. A young Spanish-speaking nurse crawled underneath the daybed, and to quote from her, and that testimony should be emblazoned in the minds of every judge and every Member, she said, "God, don't let him hear the pounding of my heart!" Because if Richard Speck would have heard the pounding in her heart, he would have taken her up to the front of the room and executed her as well.

Mr. Speaker, Speck was convicted to life imprisonment, and 18 months later the Illinois Bureau of Vocational Rehabilitation recommended that he be paroled and sent to college as a model prisoner.

What the hell is wrong with us?

I do not want to get into a fight over this debate on the rule. The Rules Committee did take a look at the capital crimes of this country.

Today Members should stand up for all those victims whose hearts have been pounding, waiting for Congress to sense that fear and provide some meager forms of protection.

I am not going to debate this deterrent business, but I am going to say one thing to the Congress in closing my remarks. There is one thing about the death penalty. There is no damn recidivism.

It is time today that Congress puts its foot down.

I commend the chairman of the subcommittee, the gentleman from New Jersey [Mr. HUGHES] for his great effort, and the chairman of the committee, the gentleman from Texas [Mr. BROOKS], and all the ranking members.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I wish to associate myself with everything that the gentleman from Illinois [Mr. HYDE] has had to say about this rule.

It is a travesty when a major legislative proposal formulated by a Commission headed by a retired Justice of the U.S. Supreme Court, Louis Powell, and endorsed by the President and the Attorney General of the United States, is not even allowed to be offered, and yet there are a whole host of other amendments that are nowhere near as important that have been made in order by this rule.

I am here to say this rule is defective for another reason as well. The Rules Committee gave the gentleman from New Jersey [Mr. HUGHES] two kicks at the cat, a provision in the bill called the Racial Justice Act, which is just flat out a racial quota for capital cases, a racial quota. It does not take into account the feelings of the jury. It does not take into account the feelings of the presiding judge, and it does not take into account the victims of crimes that have been committed or which people are standing trial for capital offenses in the criminal courts around our country.

Even if the Hyde amendment were made in order and were adopted relative to habeas corpus and putting the public interest rather than the defendant's interest in the Federal law on habeas corpus, if the so-called Racial Justice Act is permitted to stay in this bill it will effectively gut the death penalty and make State death penalties illegal effectively in this country.

I am looking at the practical aspects of this bill, how it works in court, not what is printed in the four corners of the pages of the legislation that is in front of us.

Mr. Speaker, I would hope this rule would be rejected so that we could have a fair rule to bring these issues to the forefront.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Mr. Speaker, let us get one thing straight about this bill. It deals with the death penalty. The chairman of the committee, the chairman of the subcommittee, this speaker, I have supported the death penalty ever since I have been a member of a legislative body on every opportunity that I have had, because I believe that it does have punitive value to it.

Let us talk about this rule. I ask you to support this rule because it is a fair rule. Obviously, the rule could not accommodate the 100 amendments that the Rules Committee received, but it is a fair rule and it permits significant amendments to deal with every major issue in this bill.

Let me say that the gentleman from Illinois [Mr. HYDE] was talking about page 94 in the bill dealing with the provisions to reduce excessive petitions. I know that he will be happy to learn when he reads my amendment

that that has been taken out and it should be very much to his way of thinking.

In particular, I am pleased that my amendment to title 13, containing the habeas corpus provisions, has been made in order. The former chief justice of my State of South Carolina has spoken to me about this issue, and has convinced me of its importance to our criminal justice system. It has become clear to me that none of the other proposals before the House accomplish real habeas corpus reform. The essence of responsible legislating, I believe, is to listen to a variety of competing viewpoints and to try to accommodate them.

□ 1200

My amendment does just that. It accommodates the views of both the law enforcement and judiciary.

On the other hand, the provisions in title 23 go too far in the other direction. While they made a serious attempt to deal with the basic problem in habeas corpus matters—the lack of competent counsel at trial—they were justly criticized as too burdensome, complex, and costly. These provisions also did not sufficiently curtail the often repetitive and wasteful petitions that are permitted under current law, and they permitted defendants to delay too long in filing their petitions.

My amendment strikes a middle ground between these two proposals. It adopts a great deal from the Hyde amendment and the Powell committee, on which the Hyde amendment is based. It adopts still more from the Specter-Thurmond provision that is contained in the Senate crime bill. And it retains the appropriate provisions of the Hughes-Kastenmeier compromise.

In a perfect world, this body would have all the time in the world to debate every issue. Unfortunately, with the press of the budget debate, and the crisis in the Middle East, we have less time than we might have hoped for in the crime bill. For this reason, we cannot possibly make in order all amendments. However, this rule permits free and open debate on every important issue in the bill, and I urge my colleagues to support it.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Speaker, let me just thank the gentleman and congratulate him on his excellent work.

I think the gentleman's amendment addresses all five major areas that have surfaced in the law enforcement community. I would just like to reinforce the gentleman: The gentleman's amendment, I think he alluded to it, on page 94 is corrected. The gentleman takes that language out that the gentleman from Illinois [Mr. HYDE] complains about, is that not so?

Mr. DERRICK. That is correct.

Mr. HUGHES. The language dealing with "dismissing lest the interests of justice should be served for consideration," is deleted from the habeas corpus provision.

Mr. DERRICK. On page 94, the gentleman is correct.

Mr. HUGHES. I thank the gentleman and congratulate him on his work.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. McCOLLUM. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, there are a number of things about this rule that puzzle me, particularly amendments that were relatively noncontroversial that were not allowed.

For example, the one dealing with the extra penalties for firearms, for explosives, the one that would have made mandatory drug testing throughout the United States for anybody who is released from Federal prison.

But the one that has stuck in the craw of everybody on my side of the aisle and ought to be in the craw of everybody who is a thinking person on the other side of the aisle is the provision that did not get into the rule, the Henry Hyde amendment, the Powell Commission reform of habeas corpus.

What is in the bill now, and with all due respect to my colleague, the gentleman from South Carolina [Mr. DERRICK], his substitute amendment both of those provisions but what the Powell Commission said absolutely was essential to be done if we were going to restrict the opportunities for convicted felons who are given a death penalty from continuing to appeal and appeal and appeal and appeal their convictions for months and years and years and years and years and delay the carrying out of their sentences. We are not being given the opportunity to vote on that Powell Commission reform.

Instead, we are being given pablum; we are being given something that the Association of State Attorneys General and those that are involved in local law enforcement say will destroy State death penalty opportunities, totally wipe out the State laws in this area as a practical matter.

I urge my colleagues to note that law enforcement strongly opposes what is in the bill and the Derrick substitute and want the Hyde amendment made in order which only can be done if we vote down the previous question or defeat the rule.

These organizations that feel this way and are communicating it now to your offices—if they have not already done so—are the National Association of Attorneys General, the National District Attorneys Association, Fraternal Order of Police, National Sheriffs Association and the International Association of Chiefs of Police.

It would truly be unconscionable if we did not give these organizations the amendment, the Powell amendment, the Hyde amendment, an opportunity to be offered.

I urge my colleagues to vote down the previous question and, if that does not succeed, to vote down the rule.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I thank the gentleman for yielding, and before I get into my remarks, I would like to thank the members of the Committee on Rules for working with us on trying to address some of the problems that I had with the bill and have with the bill.

Mr. Speaker, before I was elected to this distinguished body I was privileged to serve as a State court trial judge for a period of 8½ years. Before I became a trial judge, I had served as a State prosecutor for a period of 10½ years. While a prosecutor, I represented the people of my State in a wide range of criminal prosecutions, including capital punishment cases. As a trial court judge, I presided over trials ranging from misdemeanors to capital murder. I have prosecuted capital murder cases and obtained a death sentence, and as a judge, I have had the duty of imposing the death sentence.

I have studied this bill and examined it in light of my 19 years of experience in the criminal justice system. I am adamantly opposed to some of the major provisions of this bill, because I know what enactment of those provisions would do.

The provisions in title XIII and in section 2212 of title XXII would amend the Federal habeus corpus statute in a way that would virtually destroy any hope of finality of State court judgments. They would cause needless retrial of criminal cases, and that would make it virtually impossible to carry out any death sentence.

Finality of judgment is not just a laudable goal of our judicial system, it is an essential component of justice itself. If we are to have justice, there must come a time when a judgment of conviction is final and not open to attack based upon some change in law or some new legal theory proposed by the latest in an endless series of lawyers. If we are to have justice, there must be finality of judgment so that the criminal knows his punishment will be served or carried out. If we are to have justice, there must be finality of judgment so that the victim or the victim's family knows that their ordeal is over. If we are to have justice, there

must be finality of judgment so that our society can say with certainty there was guilt, there was punishment, and it is over.

The habeas corpus provisions of this bill would destroy any hope of finality of State court judgments. The provisions that weaken the effect of the contemporaneous objection rule would make it easier for a defendant to raise for the first time, years after his trial was over, objections which should have been raised at trial, when something could have been done about it. That will encourage defendants to withhold any objections they have until it is too late for any court to correct the error without granting a new trial years after the fact. Our system of justice needs less sandbagging, not more.

The parts of these habeas provisions that would repeal the Supreme Court's nonretroactivity of new rules doctrine would not only make finality of judgment impossible, they would also cause needless retrials. I can tell you from my years on the State trial court bench nothing is more frustrating than to have a case reversed and have to retry it because the rules were changed after the trial. As a judge, you exercise all possible caution. You consider and carefully decide all legal issues in accordance with the latest Supreme Court decisions. What these provisions would mean is that no matter how cautious, how careful, how diligent, and how respectful of existing precedent a judge is, the rulings he enters will only be safe until the next batch of Supreme Court opinions is issued. Litigation should be decided based upon the rules in effect when it occurs, not ones announced years after the fact.

The provisions of title XIII governing the qualifications, compensation, and performance of attorneys in capital cases are poorly crafted. While I acknowledge the need for high professional standards of representation in capital cases, especially requirements for prior relevant trial experience and a familiarity with current law in this field, the language of the committee bill goes far beyond this. Most troubling to me are the powers delegated to the appointing authority. In essence, a private, nonofficial group will be given the authority to mandate additional standards beyond those prescribed by statutes, the courts, or the bar associations of the various States. The administration of justice should never be placed in private hands. It is a public function requiring public accountability.

Title XVIII of the bill is a blatant attempt to abolish the death penalty. This provision has the strong support of the coalition to abolish the death penalty. It is no wonder. I do not support it, because I do not believe that capital punishment should be abolished. I do not believe that justice should be done by quotas. I do not believe that if the sentence in one case is too lenient the remedy should be to make the sentence in another case too lenient, also. I do not believe that this Congress should attempt to do indirectly what it is unwilling to do directly. This Congress should not join any coalition to abolish the death penalty.

This bill is styled the Comprehensive Crime Control Act of 1990. That is a misnomer. This is not a true crime control act. A true crime control act would not be opposed by the National Association of District Attorneys, as this one is. A true crime control act would not be opposed by a resolution adopted by the National Association of Attorneys General, as this one is. A true crime control act would not be strongly condemned in joint letters signed by a total of 35 State attorney generals, as this one is. A true crime control act would not be without a single supporter among the entire prosecutorial population of this country, as this one is. A true crime control act would not be so flawed as to lead me, a former prosecutor and trial judge, to question its major provisions.

Unless and until the habeas corpus and racial quota provisions of this act are removed, I will follow the urgings of the district attorneys of my State and vote against this misnamed legislation. As it is now written this bill is not a crime control act.

I would point out that the District Attorneys Association in my State is very much opposed to this bill without the Powell committee report on habeas corpus.

I would point out that it is a group of Republicans and Democrats, and we do not see this as a partisan issue. This is something that affects all of us.

I urge rejection of the rule.

□ 1210

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I rise in support of this rule, and I recognize, having listened carefully to the debate today and having worked both on the subcommittee with the gentleman from New Jersey [Mr. HUGHES], our distinguished chairman, and at the full committee with our chairman, the gentleman from Texas [Mr. BROOKS], the difficulty of bridging the gaps between those that want any bill that deals with criminal justice to be sterner and those who might wish it to be less stern. Those are very difficult gaps to surmount and to leap, but I think that this bill does that, and I think, with the wisdom of the Committee on Rules and particularly with the fact that they have made in order some amendments that will be offered by the gentleman from South Carolina [Mr. DERRICK] that, I think, go to the heart of the issue that was dealt with in the Powell Commission, I think we have improved the opportunity of making this a good bill.

Mr. Speaker, I recognize that law enforcement officials will be relatively driven by some feeling they have on this habeas corpus question, but I would be willing to say, and I think my friend, the gentleman from New Jersey [Mr. HUGHES], would agree, that with this bill in their pocket, assuming that we can pass it from the House, it goes through the conference, the President would sign it; with this bill in their pocket law enforcement would be enhanced tremendously in the very difficult job that law enforcement faces in this day and age in which we now function so that while there may be some area, and I have supported some amendments of the subcommittee and of the full committee that did not make it, and I may support some amendments here, for example, that might change the bill somewhat, but the upshot is and the last word is that, if this bill becomes law, law enforcement will have additional arrows in its quiver which it very much needs to do the job that it has before them today.

So, Mr. Speaker, I recognize that nothing is perfect in this imperfect world, no rule is ever completely open enough to satisfy all of us. I hope that our colleagues will vote the rule up and vote the bill up.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, Members of the House, the American people by substantial majority want us to defeat this rule. By logic that makes a lot of sense. The American people by a tremendous majority support the death penalty. By another majority they support the notion, the idea, the fact, that the death penalty acts as a deterrent.

So, Mr. Speaker, when this rule does not permit the debate on the amendment of the gentleman from Illinois [Mr. HYDE], which could strengthen the hand of the American people in the enforcement of the death penalty, then by logic we must defeat the rule to give the American people the right to substantiate their opinion on the death penalty by allowing a habeas corpus procedure to be debated, which, if implemented, at the hands of the gentleman from Illinois, could make certain that the certainty of the death penalty will become a fact of law enforcement in this country. It is so important that we cannot but understand that the American people have a hand in the rule that we are about to vote on here, and the American people who want the death penalty want the debate and the opportuni-

ty to adopt the amendment of the gentleman from Illinois [Mr. HYDE].

Mr. Speaker, I ask for defeat of the rule.

Ms. SLAUGHTER of New York. Mr. Speaker, I have no further requests for time at this point.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I am disappointed in this rule. I think there were at least two amendments that I am aware of that should have been made in order that were not, and the Committee on Rules specifically decided to allow a bill to be brought to the floor under circumstances that would not allow major issues to be addressed.

The gentleman from Illinois [Mr. HYDE] sought to bring forth a habeas corpus amendment that had been cleared by the Powell Commission. This is an extremely important matter, one of major importance to all law enforcement officials across the country. When law enforcement officials are coming to Capitol Hill and telling us that to pass this bill without the Hyde reforms could well lead us to consider this bill to be a procrime bill, that is a pretty serious charge and one that we ought to take into account and one that the Committee on Rules ought to have taken into account in its deliberations. It did not. It permitted one amendment that is a partial amendment in this direction, but did not permit the gentleman from Illinois [Mr. HYDE] to offer his, and I think that is a shame.

But I am just as disturbed about another thing that the Committee on Rules left out, and that was the amendment of the gentleman from Ohio [Mr. WYLIE]. The Wylie amendment sought to go after the S&L looters. The Wylie amendment sought to say that people who have benefited from their S&L thievery to the extent that they have built big mansions on homesteads in some of these States, that they ought to have those homesteads as a part of the property that can be seized by the Government. That was a potential amendment that could have been offered. The Committee on Rules decided not to allow that amendment to be offered.

Now that is kind of curious given the fact that we have had several Members of the majority party coming to the floor in recent days telling us about the crusade that they want to wage against the wealthy in this country, and it now appears as though what they are talking about is, if someone is an honest, hard-working person who happens to have made some money and has become well-do-do, the Democrats do not like them, and they think we ought to tax them back to the stone age. However, if someone is a wealthy crook who looted an S&L, we ought not to allow the Federal Government to take their mansion away from them which they got from ill-gotten gains.

Mr. Speaker, that is a rather curious position saying, "We're against the hard-working American, and we're for the wealthy crooks," in what we are doing here. That just does not strike me as very rational.

We ought to have both the amendment of the gentleman from Ohio [Mr. WYLIE] and the amendment of the gentleman from Illinois [Mr. HYDE] in order. In order to do that, what we have got to do is defeat the previous question. I would suggest to the House that the appropriate action to take, if my colleagues want to get tough on criminals, is to join with us, defeat the previous question, get this rule amended and allow us to consider as part of the crime bill some things that get tough on S&L crooks and get tough on the criminals that are perpetrating crimes across the country.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I plan just to make a couple of comments. I do rise in support of the rule. I say that even though we did not ask for an additional amendment to be offered to title XIII. Certainly I did not. I know that there are amendments that were not made in order to this bill, two or three that have been mentioned. Certainly a gun control amendment was not made in order to this bill, and so obviously we are dealing with a bill that is not all inclusive of all possibilities.

With respect to habeas corpus, Mr. Speaker, there is already a Republican habeas corpus provision that was adopted in the other body offered by the Senator from South Carolina and the Senator from Pennsylvania much to the regret of many commentators, including those on both sides of the habeas corpus debate here.

Now I have highest regard for the gentleman from South Carolina [Mr. DERRICK] who is going to offer an amendment, and I respect him very much. I do have some misgivings about the amendment. I thought that we had made every attempt to negotiate out what were the most, I suppose, understandable reservations about the bill that was originally reported out by the subcommittee of the Committee on the Judiciary and perfected by the gentleman from New Jersey [Mr. HUGHES] and myself in the full committee.

□ 1220

However, the other option referred to—and the Members of this body should know this—the so-called Powell option makes it an optional bill. If States do not opt in—and they have to follow certain procedural guidelines to opt in at their own expense—if they do not opt in, we have the current law unamended and the habeas corpus situation that has been complained about for years will still be in effect. So let us not kid ourselves about that.

The Hughes-Kastenmeier provision and the provision that the gentleman from South Carolina presumes to amend is a general law applicable in all 50 States. There will be one habeas corpus reform measure, and we will have an opportunity to discuss that. We may even perhaps discuss my reservations about the amendment of the gentleman from South Carolina, but we will have an opportunity to debate that.

For example, his amendment does shorten the time that lawyers will have to pursue the case he takes. There are some Powell Commission provisions in his amendment, and I understand the reason for that. We can discuss that during the debate.

Also I say this because we should not get this impression from the debate that preceded, but he will offer an amendment which, as I understand it, will further reduce opportunities for successive petitions and will strike out the term we heard, and the interest of justice would be served by a reconsideration of the claim. That would be stricken under the amendment offered by the gentleman from South Carolina [Mr. DERRICK]. I do support eliminating the sandbagging possibility.

In conclusion, Mr. Speaker, there will be an option. It will be debated as far as habeas corpus is concerned, and I think the right choices can be made. I will only say that I do support the rule. We are going to have an opportunity long and hard to debate the subject of crime and capital punishment. I respect what the gentleman from South Carolina would do in his amendment to perfect what I think is a very good title in the bill.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. DEWINE].

Mr. DEWINE. Mr. Speaker, let us make sure we understand exactly what is at stake. Everyone understands we have a problem with habeas corpus in the clogging of our courts. The fact is that we really need reform.

This is not reform. This is going the wrong way. What this will do is as follows: It will make situation worse. It will make the courts more clogged. They will be more complicated, and there will be more chance for the defendant to delay. This will be true in all cases, not just in capital punishment cases.

In capital punishment cases it is very clear what it would do. Justice Powell made it very clear when he testified. This would mean support for increased delay, piecemeal litigation, and more last-minute appeals * * *. A

vote for this would in practical effect be a vote to eliminate capital punishment in the United States.

So no matter what our opinion is about capital punishment, should this matter not be debated? Should this matter not be up to the States? Let us not go about it the back way. That is what is at stake.

Mr. Speaker, we must defeat the previous question to allow the Hyde amendment so we would have an opportunity to vote up or down on the Powell recommendations which really represents true reform of habeas corpus, not the sham we have in front of us today.

Ms. SLAUGHTER of New York. Mr. Speaker, I have no further requests for time at this moment, and I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, if I might, I will just read to the Members a letter which was just delivered dated September 25, from the National District Attorneys Association:

> The National District Attorneys Association strongly opposes the Butler-Derrick substitute amendment * * *. This particular amendment does nothing to cure the major flaws in title XIII of H.R. 5269 to which the NDAA vigorously objected in a recent letter sent to you.
>
> The Derrick substitute amendment does not address the abuse of habeas corpus that has virtually nullified the death penalty laws of the states. Rather, it grossly increases the opportunities for prisoners under sentence of death and all other convicted offenders to abuse the judicial process and thwart justice.

Mr. Speaker, I think that speaks for itself. If we believe in law and order, if we believe in the death penalty, we will defeat this rule. Let us make the Hyde amendment in order.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, for all the reasons that have been noted, this is a sad day in Congress. This is a sad day in the war against drugs, and this is a sad day in the war against crime, for all the reasons that have been discussed, and for one more reason: The fact is, the most exciting and the most effective approach to the war against drugs in the country today is demand reduction and user accountability. I will enter into the record examples that are happening in Overland Park, KS, and Chicago, IL, in Omaha, NE, in Maricopa County, AZ, in New York City, Gompers High School in Williamson County, TX, and elsewhere of demand reduction and user accountability.

In the U.S. Congress, the gentleman from New York [Mr. TOWNS] and 20 cosponsors on both sides of the aisle asked for an amendment to make in order our user accountability section of this bill, and it was denied in this rule even though 10 other new sections in the new title were permitted.

The fact is that user accountability is an idea that works, and the Congress of the United States is ignoring it and not permitting the gentleman from New York [Mr. TOWNS] and 19 other cosponsors to offer it on the floor for an up or down vote by majority rule.

Mr. Speaker, we are wasting our time and we are going to lose the war on drugs.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I thank the gentlewoman from New York for yielding this time to me.

Mr. Speaker, I just want to respond to my colleague, the gentleman from New York, and his suggestion that the attorneys general are opposed to the legislation. I have a letter from the attorney general of the State of Nebraska, and I will read a portion of it. He says this:

> You may be told by others, including some of my fellow Attorneys General, that these two amendments—

Talking about the two Hughes-Kastenmeier amendments—

> Are simply backhanded efforts to implicitly repeal the death penalty. I disagree strongly. Whether or not the death penalty should be imposed for state crimes is a matter the states are and should be free to decide. However, if the death penalty is imposed, it should only be carried out in a fair, consistent, racially neutral manner. I think the Hughes-Kastenmeier and Racial Justice Act provisions accomplish that fundamental goal.

So he supports this. This is the attorney general of Nebraska, Robert M. Spire.

Others have gotten up and recited what Justice Powell said. Justice Powell was talking about an original bill that has been amended substantially since then, and with the Derrick provisions we are going to amend it five more times to address the concerns that the district attorneys and the Association of District Attorneys have been telling us about.

The bottom line is that what the Republicans want is the opt-in provisions of the Powell Commission. That would give the States the privilege of opting in if they wanted to for counsel. In that way we would have a split, bifurcated process in this country. Some States would opt in and use the new procedures to take advantage of basically the new language, and they would have to provide counsel in capital cases. Then we would have other States that in fact would not provide counsel but would use the present procedures.

How in the world can we develop a habeas corpus process in this country when we have two standards?

So I say, Mr. Speaker, that the rule is a good rule. It is fair, it is balanced, and I urge my colleagues to support the previous question and the rule.

□ 1230

Ms. SLAUGHTER of New York. Mr. Speaker, may I inquire how much time we have remaining?

The SPEAKER pro tempore (Mr. LEVIN of Michigan). The gentlewoman from New York [Ms. SLAUGHTER] has 2 minutes remaining, and the time of the gentleman from Tennessee [Mr. QUILLEN] has expired.

Mr. KANJORSKI. Mr. Speaker, I rise to oppose this rule, and to express serious concerns about a number of provisions in the underlying bill, the Comprehensive Crime Control Act of 1990. Both the bill and the procedure under which it is being considered are seriously flawed.

No one doubts that crime, drugs, and savings and loan fraud are serious problems which deserve the time and attention of the Congress. What we are doing today, however, is to once again railroad a major bill which is several hundred pages long through the House with little debate, and even less opportunity for amendment.

This legislation was reported out of committee on July 23, 1990 and has been bouncing on and off the House schedule like a yo-yo all month. It was never considered by most of the committees which shared jurisdiction over significant parts of it.

The difficulty which the Rules Committee had agreeing on a rule providing for its consideration is ample testament to its controversial nature. The initial Rules Committee hearing on the bill consumed an entire day while the committee heard testimony on more than 100 amendments, of which less than half are being permitted to be offered under the rule.

Despite the late date of the session, we should not be rushing such major bills through without an opportunity to amend and improve them. That is precisely how we make mistakes which later come back to haunt us.

This is a bad practice when we are considering a normal authorization or budget bill. It is an unforgivable practice when we consider legislation which can deprive a citizen of his or her constitutional rights, or which can enable the guilty to escape prosecution and punishment.

On July 31, 1990 when title XXI of this bill, the Banking Law Enforcement title, was similarly railroaded through the House with only 40 minutes of debate and no amendments in the rush to adjourn for the August district work period, Chairman GONZALEZ and I tried to point out just a few of the flaws in only one title of this legislation. Unfortunately, all of those problems remain and are not subject to amendment under this rule.

To cite just one example, the National Commission on Financial Institution Reform, Recovery and Enforcement, established under subtitle F of title XXI is nothing but an effort to whitewash and cover up what has happened

in the past, to bury our head in the sand, and to ignore threats which the General Accounting Office, the Congressional Budget Office, and other experts now acknowledge threaten other financial intermediaries and Government sponsored enterprises.

There is no requirement in this legislation to include duly elected policymakers on the Commission and thus little chance that its recommendations will ever be enacted into law. The charter of the Commission is woefully inadequate. It ignores the very real threat to other financial intermediaries and Government sponsored enterprises.

Worst of all, however, its funding level, $1 million is laughable. It cost the Federal Deposit Insurance Corporation 3½ times that amount just to review the December 1988 deals done by the Federal Home Loan Bank Board. Incidentally, that $3.5 million was money well spent by the FDIC as it set forth a blueprint which may enable us to save $4 to $5 billion dollars. That is a benefit-to-cost ratio of over 1400 to 1.

Yet the supporters of this provision tell us $1 million is adequate. Why should we kid ourselves into thinking that a problem which cost taxpayers a half a trillion dollars, and which may cost us many times more if other financial intermediaries or government sponsored enterprises get in trouble, can be fully investigated for only $1 million.

Another example of our shortsightedness is our inability to consider an amendment I proposed which would have allowed the recovery of millions of dollars in purloined assets, at no cost to U.S. taxpayers. My amendment, which is not permitted under this rule, would have authorized private bounty hunters to file civil suits to recover funds which were lost when Federal banking laws and regulations were violated. Similar suits have been authorized under the Federal False Claims Act since the Civil War.

Private qui tam bounty hunter suits, which Public Citizen tells us have been successful in combatting defense procurement fraud, could have saved taxpayers millions of dollars with no risk to the U.S. Government. They would have assisted the Justice Department in prosecuting cases it did not have the time or resources to pursue. They also would have had the salutary effect of holding the Justice Department's feet to the fire on other, larger, civil suits.

Mr. Speaker, these are just two examples of problems in one title in a 22 title bill. They are, however, illustrative of the kind of problems we create when we rush to judgment, and rush through legislation. The American people deserve better from their elected representatives, particularly on a bill as important as this one. Only by defeating this rule will we truly have the opportunity to meaningfully address the shortcomings and flaws in this legislation.

AMENDMENT OFFERED BY MS. SLAUGHTER OF NEW YORK

Ms. SLAUGHTER of New York. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. SLAUGHTER of New York: On page 3, line 20, after "bloc." insert the following: "Notwithstanding any provision of this resolution, the amendment by Representative Unsoeld of Washington printed in part 1 of the report of the Committee on Rules shall be considered as the final amendment printed in part 2 of the report. Said amendment shall be debatable for not to exceed twenty minutes, equally divided and controlled by the proponent and a member opposed thereto, and shall not be subject to amendment."

POINT OF ORDER

Mr. WALKER. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. WALKER. The precedents of the House require that the Committee on Rules have cleared this amendment before it is offered on the floor. Has this amendment been cleared by the Committee on Rules?

Mr. QUILLEN. No, it has not been, Mr. Speaker.

The SPEAKER pro tempore. Does the gentlewoman from New York [Ms. SLAUGHTER] wish to be heard on the point of order?

Ms. SLAUGHTER of New York. Mr. Speaker, may I check with the chairman.

The chairman has been checked with, Mr. Speaker.

Mr. WALKER. Mr. Speaker, further then on the point of order, the answer is that the chairman was checked with, and that the Committee on Rules has not been. These matters are supposed to be cleared by the Committee on Rules itself. The minority had no part to play. What do we have here, an obligarchy, where the chairman simply decides which amendments can be offered?

I would suggest that the precedents of the House require that such an amendment have been approved by the Committee on Rules. The gentlewoman from New York [Ms. SLAUGHTER] herself admits that has not been cleared by the Committee on Rules, only the chairman. Therefore, I would insist on my point of order.

Mr. QUILLEN. Mr. Speaker, if the gentlewoman from New York [Ms. SLAUGHTER] is going to open up this bill, I have several amendments to make in order, and the minority agrees with me. Based on that premise, I shall insist that I be able to offer some amendments likewise.

The SPEAKER pro tempore (Mr. LEVIN of Michigan). The Chair is prepared to rule. Under the precedents in the House, the majority Member controlling the rule has the right to present an amendment prior to the motion for the previous question. The gentlewoman from New York [Ms. SLAUGHTER] has offered an amendment.

Mr. WALKER. Mr. Speaker, I move to table the amendment, and I send a motion to the desk.

The SPEAKER pro tempore. The Chair rules that under rule XI, clause 4(b) of the rules of the House that motion is not in order at this time.

Ms. SLAUGHTER of New York. Mr. Speaker, I move the previous question on the resolution and on the amendment.

Mr. WALKER. Mr. Speaker, I move to divide the question.

The SPEAKER pro tempore. The question is not divisible under rule XVII.

Mr. WALKER. Mr. Speaker, a point of order. We have two separate questions before the House now, one on the amendment that the gentlewoman from New York [Ms. SLAUGHTER] has offered without the permission of the Committee on Rules, and one on the resolution itself. The Chair has just ruled that the membership must take both of those matters in one question.

I would suggest that those are two separate, distinct questions, and that the Chair is denying the Members of the House an opportunity to vote on two very important questions.

Mr. Speaker, in the case of the amendment of the gentlewoman from New York [Ms. SLAUGHTER], she is seeking to strip out of the bill a provision that was self-executing, and make it into a question later on in the bill. She is also moving at the same time the resolution itself.

I would suggest that the matters do need to be taken separately, and that the gentlewoman does not have the ability to divide or bring those two questions to the House. They are not germane to each other.

The SPEAKER pro tempore. The Chair understands the point of the gentleman from Pennsylvania [Mr. WALKER]. The Chair has checked into it. Under the rules of the House and the precedents, the gentlewoman from New York [Ms. SLAUGHTER] as manager of the resolution has the right to amend, and under the rules of the House the motion for the previous question is not divisible. After the vote on the previous question, there will be an opportunity for a separate vote on the amendment.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Why under the rules of the House, if the rules of the House are being so eloquently applied here, was the gentleman from Pennsylvania denied his right to table the amendment?

The SPEAKER pro tempore. The control of the rule is now under the gentlewoman from New York [Ms. SLAUGHTER] and under rule X clause 4(b) a dilatory motion which would result in the tabling of the resolution is not in order at this point. Those are the rules and precedents of the House.

After the vote on the previous question, there could be a vote on the

amendment prior to a vote on the resolution.

The gentlewoman from New York [Ms. SLAUGHTER] has moved the previous question on the amendment and on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 214, nays 209, not voting 9, as follows:

[Roll No. 373]

YEAS—214

Ackerman	Geren	Pallone
Alexander	Gibbons	Panetta
Anderson	Glickman	Payne (NJ)
Andrews	Gonzalez	Payne (VA)
Annunzio	Gordon	Pease
Anthony	Gray	Pelosi
Aspin	Hall (OH)	Penny
Atkins	Hamilton	Perkins
AuCoin	Hatcher	Pickett
Bates	Hawkins	Pickle
Beilenson	Hayes (IL)	Poshard
Berman	Hayes (LA)	Price
Bevill	Hefner	Rahall
Bilbray	Hertel	Rangel
Boggs	Hoagland	Richardson
Bonior	Hochbrueckner	Roe
Borski	Hoyer	Rose
Bosco	Hughes	Rostenkowski
Boucher	Johnston	Roybal
Boxer	Jones (NC)	Russo
Brennan	Jontz	Sabo
Brooks	Kaptur	Sangmeister
Brown (CA)	Kastenmeier	Sarpalius
Bruce	Kennedy	Savage
Bryant	Kennelly	Sawyer
Bustamante	Kildee	Scheuer
Byron	Kleczka	Schroeder
Campbell (CO)	Kolter	Schumer
Cardin	Kostmayer	Serrano
Carper	LaFalce	Sharp
Carr	Lantos	Sikorski
Chapman	Lehman (CA)	Sisisky
Clarke	Lehman (FL)	Skaggs
Clay	Levin (MI)	Skelton
Clement	Levine (CA)	Slattery
Coleman (TX)	Lewis (GA)	Slaughter (NY)
Collins	Lipinski	Smith (FL)
Conyers	Lloyd	Smith (IA)
Cooper	Long	Solarz
Costello	Lowey (NY)	Spratt
Coyne	Luken, Thomas	Staggers
Crockett	Manton	Stallings
DeFazio	Markey	Stark
Dellums	Martinez	Stenholm
Derrick	Matsui	Stokes
Dicks	Mavroules	Studds
Dingell	Mazzoli	Swift
Dixon	McCloskey	Synar
Donnelly	McDermott	Tanner
Dorgan (ND)	McHugh	Tauzin
Downey	McMillen (MD)	Torres
Durbin	McNulty	Torricelli
Dwyer	Mfume	Towns
Dymally	Miller (CA)	Traxler
Dyson	Mineta	Unsoeld
Eckart	Moakley	Vento
Edwards (CA)	Moody	Visclosky
Engel	Morrison (CT)	Volkmer
Espy	Mrazek	Walgren
Evans	Murtha	Walker
Fascell	Nagle	Waxman
Fazio	Natcher	Weiss
Feighan	Neal (MA)	Wheat
Flake	Neal (NC)	Whitten
Foglietta	Nelson	Williams
Ford (MI)	Nowak	Wilson
Ford (TN)	Oakar	Wise
Frank	Oberstar	Wolpe
Frost	Obey	Wyden
Gaydos	Ortiz	Yates
Gejdenson	Owens (NY)	
Gephardt	Owens (UT)	

NAYS—209

Applegate	Hastert	Porter
Archer	Hefley	Pursell
Armey	Henry	Quillen
Baker	Herger	Ravenel
Ballenger	Hiler	Ray
Barnard	Holloway	Regula
Bartlett	Hopkins	Rhodes
Barton	Horton	Ridge
Bateman	Houghton	Rinaldo
Bennett	Hubbard	Ritter
Bentley	Huckaby	Roberts
Bereuter	Hunter	Robinson
Bilirakis	Hutto	Rogers
Bliley	Hyde	Rohrabacher
Boehlert	Inhofe	Ros-Lehtinen
Broomfield	Ireland	Roth
Browder	Jacobs	Roukema
Brown (CO)	James	Rowland (GA)
Buechner	Jenkins	Saiki
Bunning	Johnson (CT)	Saxton
Burton	Johnson (SD)	Schaefer
Callahan	Jones (GA)	Schiff
Campbell (CA)	Kanjorski	Schneider
Chandler	Kasich	Schuette
Clinger	Kolbe	Schulze
Coble	Kyl	Sensenbrenner
Coleman (MO)	Lagomarsino	Shaw
Combest	Lancaster	Shays
Condit	Laughlin	Shumway
Conte	Leach (IA)	Shuster
Coughlin	Lent	Skeen
Courter	Lewis (CA)	Slaughter (VA)
Cox	Lewis (FL)	Smith (NE)
Craig	Lightfoot	Smith (NJ)
Crane	Livingston	Smith (TX)
Dannemeyer	Lowery (CA)	Smith (VT)
Darden	Lukens, Donald	Smith, Denny (OR)
Davis	Machtley	Smith, Robert (NH)
DeLay	Madigan	Smith, Robert (OR)
DeWine	Marlenee	Snowe
Dickinson	Martin (IL)	Solomon
Douglas	Martin (NY)	Spence
Dreier	McCandless	Stangeland
Duncan	McCollum	Stearns
Early	McCrery	Stump
Edwards (OK)	McCurdy	Sundquist
Emerson	McDade	Tallon
English	McEwen	Tauke
Erdreich	McGrath	Taylor
Fawell	McMillan (NC)	Thomas (CA)
Fields	Meyers	Thomas (GA)
Fish	Michel	Thomas (WY)
Frenzel	Miller (OH)	Traficant
Gallegly	Miller (WA)	Upton
Gallo	Molinari	Valentine
Gekas	Montgomery	Vander Jagt
Gillmor	Moorhead	Vucanovich
Gilman	Morella	Walsh
Gingrich	Morrison (WA)	Watkins
Goodling	Murphy	Weber
Goss	Myers	Weldon
Gradison	Nielson	Whittaker
Grandy	Olin	Wolf
Grant	Oxley	Wylie
Green	Packard	Yatron
Gunderson	Parker	Young (AK)
Hall (TX)	Parris	Young (FL)
Hammerschmidt	Pashayan	
Hancock	Patterson	
Hansen	Paxon	
Harris	Petri	

NOT VOTING—9

de la Garza	Guarini	Rowland (CT)
Dornan (CA)	Leath (TX)	Udall
Flippo	Mollohan	Washington

□ 1256

Mr. HALL of Texas and Mr. WATKINS changed their vote from "yea" to "nay."

Messrs. CONYERS, MARTINEZ, CHAPMAN, FEIGHAN, and WALKER changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. LEVIN of Michigan). Did the gentleman vote on the prevailing side?

Mr. WALKER. I did.

The SPEAKER pro tempore. The gentleman's motion is in order.

Mr. WALKER. Mr. Speaker, is the motion debatable?

The SPEAKER pro tempore. The motion is not debatable.

The Clerk will report the motion.

The Clerk read as follows:

Mr. WALKER moves to reconsider the vote by which the previous question was ordered on the amendment and House Resolution 473.

The SPEAKER pro tempore. The question if on the motion to reconsider.

MOTION TO TABLE OFFERED BY MR. GRAY

Mr. GRAY. Mr. Speaker, I offer a motion to lay on the table the motion to reconsider.

Mr. WALKER. Mr. Speaker, the motion is at the desk in writing?

Mr. GRAY. Mr. Speaker, I move to lay on the table the motion to reconsider.

The SPEAKER pro tempore. The Clerk will report the motion to lay on the table the motion to reconsider.

The Clerk read as follows:

Mr. GRAY moves to lay on the table the motion to reconsider.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, a moment ago, when I moved to table the amendment, I was told that the tabling motion was not in order, because it would be regarded as dilatory. This particular motion to table now is going to be accepted by the Chair despite the fact that it is in the same form that the gentleman from Pennsylvania sent a motion to the desk a few minutes ago?

The SPEAKER pro tempore. This motion is directed only at the motion to reconsider, and would not result in the tabling of the entire resolution.

Mr. WALKER. If I may make a further parliamentary inquiry, Mr. Speaker, was not my motion to table directed only at the amendment, not at the entire resolution and so, therefore, was in a form acceptable under what the Chair has just told us?

The SPEAKER pro tempore. The Chair ruled on that. Under the precedents it would have resulted in the tabling of the entire resolution. The motion offered by the gentleman from Pennsylvania [Mr. GRAY] is in order.

The question is on the motion to table offered by the gentleman from Pennsylvania [Mr. GRAY].

The question was taken; and the Speaker pro tempore announced that he was in doubt.

RECORDED VOTE

Mr. GRAY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 244, noes 180, not voting 8, as follows:

[Roll No. 374]

AYES—244

Ackerman	Gray	Pallone
Alexander	Hall (OH)	Panetta
Anderson	Hamilton	Parker
Andrews	Harris	Patterson
Annunzio	Hatcher	Payne (NJ)
Anthony	Hawkins	Payne (VA)
Aspin	Hayes (IL)	Pease
Atkins	Hayes (LA)	Pelosi
AuCoin	Hefner	Penny
Barnard	Hertel	Perkins
Bates	Hoagland	Pickett
Beilenson	Hochbrueckner	Pickle
Berman	Hoyer	Poshard
Bevill	Hubbard	Price
Bilbray	Huckaby	Rahall
Bonior	Hughes	Rangel
Borski	Hutto	Ray
Bosco	Jacobs	Richardson
Boucher	Jenkins	Roe
Boxer	Johnson (SD)	Rose
Brennan	Johnston	Rostenkowski
Brooks	Jones (GA)	Rowland (GA)
Browder	Jones (NC)	Roybal
Brown (CA)	Jontz	Russo
Bruce	Kanjorski	Sabo
Bryant	Kastenmeier	Sangmeister
Bustamante	Kennedy	Sarpalius
Byron	Kennelly	Savage
Campbell (CO)	Kildee	Sawyer
Cardin	Kleczka	Scheuer
Carper	Kolter	Schroeder
Carr	Kostmayer	Schumer
Chapman	LaFalce	Serrano
Clarke	Lancaster	Sharp
Clay	Lantos	Sikorski
Clement	Laughlin	Sisisky
Coleman (TX)	Lehman (CA)	Skaggs
Collins	Lehman (FL)	Skelton
Condit	Levin (MI)	Slattery
Conyers	Levine (CA)	Slaughter (NY)
Cooper	Lewis (GA)	Smith (FL)
Costello	Lipinski	Smith (IA)
Coyne	Lloyd	Solarz
Crockett	Long	Spratt
Darden	Lowey (NY)	Staggers
de la Garza	Luken, Thomas	Stallings
DeFazio	Manton	Stark
Dellums	Markey	Stenholm
Derrick	Martinez	Stokes
Dicks	Matsui	Studds
Dingell	Mavroules	Swift
Dixon	Mazzoli	Synar
Dorgan (ND)	McCloskey	Tallon
Downey	McCurdy	Tanner
Durbin	McDermott	Tauzin
Dwyer	McHugh	Taylor
Dymally	McMillen (MD)	Thomas (GA)
Dyson	McNulty	Torres
Early	Mfume	Torricelli
Eckart	Miller (CA)	Towns
Edwards (CA)	Mineta	Traficant
Engel	Moakley	Traxler
English	Mollohan	Udall
Espy	Montgomery	Unsoeld
Evans	Moody	Valentine
Fascell	Morrison (CT)	Vento
Fazio	Mrazek	Visclosky
Feighan	Murphy	Volkmer
Flake	Murtha	Walgren
Foglietta	Nagle	Watkins
Ford (MI)	Natcher	Waxman
Ford (TN)	Neal (MA)	Weiss
Frank	Neal (NC)	Wheat
Frost	Nelson	Whitten
Gaydos	Nowak	Williams
Gejdenson	Oakar	Wilson
Gephardt	Oberstar	Wise
Geren	Obey	Wolpe
Gibbons	Olin	Wyden
Glickman	Ortiz	Yates
Gonzalez	Owens (NY)	
Gordon	Owens (UT)	

NOES—180

Applegate	Hall (TX)	Quillen
Archer	Hammerschmidt	Ravenel
Armey	Hancock	Regula
Baker	Hansen	Rhodes
Ballenger	Hastert	Ridge
Bartlett	Hefley	Rinaldo
Barton	Henry	Ritter
Bateman	Herger	Roberts
Bennett	Hiler	Robinson
Bentley	Holloway	Rogers
Bereuter	Hopkins	Rohrabacher
Bilirakis	Horton	Ros-Lehtinen
Bliley	Houghton	Roth
Boehlert	Hunter	Roukema
Broomfield	Hyde	Saiki
Brown (CO)	Inhofe	Saxton
Buechner	Ireland	Schaefer
Bunning	James	Schiff
Burton	Johnson (CT)	Schneider
Callahan	Kasich	Schuette
Campbell (CA)	Kolbe	Schulze
Chandler	Kyl	Sensenbrenner
Clinger	Lagomarsino	Shaw
Coble	Leach (IA)	Shays
Coleman (MO)	Lent	Shumway
Combest	Lewis (CA)	Shuster
Conte	Lewis (FL)	Skeen
Coughlin	Lightfoot	Slaughter (VA)
Courter	Livingston	Smith (NE)
Cox	Lowery (CA)	Smith (NJ)
Craig	Lukens, Donald	Smith (TX)
Crane	Machtley	Smith (VT)
Dannemeyer	Madigan	Smith, Denny (OR)
Davis	Marlenee	Smith, Robert (NH)
DeLay	Martin (IL)	Smith, Robert (OR)
DeWine	Martin (NY)	Snowe
Dickinson	McCandless	Solomon
Dornan (CA)	McCollum	Spence
Douglas	McCrery	Stangeland
Dreier	McDade	Stearns
Duncan	McEwen	Stump
Edwards (OK)	McGrath	Sundquist
Emerson	McMillan (NC)	Tauke
Erdreich	Meyers	Thomas (CA)
Fawell	Michel	Thomas (WY)
Fields	Miller (OH)	Upton
Fish	Miller (WA)	Vander Jagt
Frenzel	Molinari	Vucanovich
Gallegly	Moorhead	Walker
Gallo	Morella	Walsh
Gekas	Morrison (WA)	Weber
Gillmor	Myers	Weldon
Gilman	Nielson	Whittaker
Gingrich	Oxley	Wolf
Goodling	Packard	Wylie
Goss	Parris	Yatron
Gradison	Pashayan	Young (AK)
Grandy	Paxon	Young (FL)
Grant	Petri	
Green	Porter	
Gunderson	Pursell	

NOT VOTING—8

Boggs	Guarini	Rowland (CT)
Donnelly	Kaptur	Washington
Flippo	Leath (TX)	

□ 1315

Mr. WATKINS changed his vote from "no" to "aye."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LEVIN of Michigan). The question is on the amendment offered by the gentlewoman from New York [Ms. SLAUGHTER].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Ms. SLAUGHTER of New York. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 222, noes 202, not voting 8, as follows:

[Roll No. 375]

AYES—222

Ackerman	Gibbons	Olin
Alexander	Gonzalez	Ortiz
Anderson	Gordon	Owens (NY)
Andrews	Gray	Owens (UT)
Annunzio	Green	Pallone
Anthony	Hall (OH)	Panetta
Aspin	Hall (TX)	Payne (NJ)
Atkins	Hamilton	Payne (VA)
AuCoin	Hatcher	Pease
Bateman	Hawkins	Pelosi
Bates	Hayes (IL)	Penny
Beilenson	Hefner	Pickett
Bennett	Henry	Pickle
Berman	Hertel	Porter
Bevill	Hoagland	Poshard
Bilbray	Hochbrueckner	Price
Boehlert	Hoyer	Pursell
Boggs	Hubbard	Rangel
Bonior	Hughes	Roe
Borski	Jacobs	Ros-Lehtinen
Bosco	Johnson (CT)	Rose
Boucher	Johnston	Roukema
Boxer	Jones (GA)	Rowland (GA)
Brennan	Jones (NC)	Roybal
Brooks	Jontz	Russo
Broomfield	Kaptur	Sabo
Browder	Kastenmeier	Saiki
Brown (CA)	Kennedy	Sangmeister
Bruce	Kennelly	Sarpalius
Bryant	Kildee	Savage
Bustamante	Kleczka	Sawyer
Campbell (CA)	Kostmayer	Saxton
Campbell (CO)	LaFalce	Scheuer
Cardin	Lantos	Schneider
Carper	Lehman (CA)	Schroeder
Clay	Lehman (FL)	Schumer
Clement	Lent	Serrano
Coleman (MO)	Levin (MI)	Shays
Coleman (TX)	Levine (CA)	Sikorski
Collins	Lewis (GA)	Sisisky
Conte	Lipinski	Skaggs
Conyers	Long	Slaughter (NY)
Cooper	Lowey (NY)	Smith (FL)
Costello	Luken, Thomas	Smith (VT)
Coughlin	Machtley	Spratt
Coyne	Manton	Stallings
Crockett	Markey	Stark
Darden	Martinez	Stokes
de la Garza	Matsui	Studds
DeFazio	Mavroules	Swift
Dellums	Mazzoli	Synar
Derrick	McCloskey	Tanner
Dicks	McDermott	Thomas (GA)
Dingell	McGrath	Torres
Dixon	McHugh	Torricelli
Downey	McNulty	Towns
Durbin	Meyers	Traficant
Dwyer	Mfume	Udall
Early	Miller (WA)	Upton
Edwards (CA)	Mineta	Valentine
Engel	Moakley	Vento
Espy	Molinari	Visclosky
Evans	Moody	Walgren
Fascell	Morella	Walsh
Fazio	Morrison (CT)	Watkins
Feighan	Mrazek	Waxman
Flake	Murtha	Weiss
Foglietta	Nagle	Wheat
Ford (MI)	Neal (MA)	Wilson
Ford (TN)	Neal (NC)	Wise
Frank	Nelson	Wolf
Frost	Nowak	Wolpe
Gejdenson	Oakar	Wyden
Gephardt	Oberstar	Yates

NOES—202

Applegate	Brown (CO)	Combest
Archer	Buechner	Condit
Armey	Bunning	Courter
Baker	Burton	Cox
Ballenger	Byron	Craig
Barnard	Callahan	Crane
Bartlett	Carr	Dannemeyer
Barton	Chandler	Davis
Bentley	Chapman	DeLay
Bereuter	Clarke	DeWine
Bilirakis	Clinger	Dickinson
Bliley	Coble	Dorgan (ND)

Dornan (CA)	Lancaster	Rostenkowski
Douglas	Laughlin	Roth
Dreier	Leach (IA)	Schaefer
Duncan	Lewis (CA)	Schiff
Dyson	Lewis (FL)	Schuette
Eckart	Lightfoot	Schulze
Edwards (OK)	Livingston	Sensenbrenner
Emerson	Lloyd	Sharp
English	Lowery (CA)	Shaw
Erdreich	Lukens, Donald	Shumway
Fawell	Madigan	Shuster
Fields	Marlenee	Skeen
Fish	Martin (IL)	Skelton
Frenzel	Martin (NY)	Slattery
Gallegly	McCandless	Slaughter (VA)
Gallo	McCollum	Smith (IA)
Gaydos	McCrery	Smith (NE)
Gekas	McCurdy	Smith (NJ)
Geren	McDade	Smith (TX)
Gillmor	McEwen	Smith, Denny (OR)
Gilman	McMillan (NC)	Smith, Robert (NH)
Gingrich	McMillen (MD)	Smith, Robert (OR)
Glickman	Michel	Snowe
Goodling	Miller (CA)	Solomon
Goss	Miller (OH)	Spence
Gradison	Mollohan	Staggers
Grandy	Montgomery	Stangeland
Grant	Moorhead	Stearns
Gunderson	Morrison (WA)	Stenholm
Hammerschmidt	Murphy	Stump
Hancock	Myers	Sundquist
Hansen	Natcher	Tallon
Harris	Nielson	Tauke
Hastert	Obey	Tauzin
Hayes (LA)	Oxley	Taylor
Hefley	Packard	Thomas (CA)
Herger	Parker	Thomas (WY)
Hiler	Parris	Traxler
Holloway	Pashayan	Unsoeld
Hopkins	Patterson	Vander Jagt
Horton	Paxon	Volkmer
Houghton	Perkins	Vucanovich
Huckaby	Petri	Walker
Hunter	Quillen	Weber
Hutto	Rahall	Weldon
Hyde	Ravenel	Whittaker
Inhofe	Ray	Whitten
Ireland	Regula	Williams
James	Rhodes	Wylie
Jenkins	Richardson	Yatron
Johnson (SD)	Ridge	Young (AK)
Kanjorski	Rinaldo	Young (FL)
Kasich	Ritter	
Kolbe	Roberts	
Kolter	Robinson	
Kyl	Rogers	
Lagomarsino	Rohrabacher	

NOT VOTING—8

Donnelly	Guarini	Solarz
Dymally	Leath (TX)	Washington
Flippo	Rowland (CT)	

□ 1334

Messrs. OBEY, TRAXLER, HARRIS, and WILLIAMS, Mrs. PATTERSON, and Messrs. RAY, TAYLOR, HUTTO, McMILLEN of Maryland, ERDREICH, RICHARDSON, STENHOLM, CARR, DORGAN of North Dakota, SKELTON, STAGGERS, SHARP, HAYES of Louisiana, and CLARKE changed their vote from "aye" to "no."

Messrs. MARKEY, GONZALEZ, HEFNER, LENT, and CAMPBELL of California changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LEVIN of Michigan). The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 166, nays 258, not voting 8, as follows:

[Roll No. 376]

YEAS—166

Ackerman	Geren	Obey
Alexander	Gibbons	Ortiz
Anderson	Glickman	Owens (NY)
Andrews	Gonzalez	Panetta
Anthony	Gordon	Payne (NJ)
Aspin	Gray	Pease
Atkins	Hall (OH)	Pelosi
AuCoin	Hayes (IL)	Perkins
Beilenson	Hertel	Price
Berman	Hoagland	Rahall
Boggs	Hochbrueckner	Rangel
Bonior	Hoyer	Roe
Boucher	Hubbard	Rose
Boxer	Hughes	Rostenkowski
Brennan	Johnston	Roybal
Brooks	Jones (NC)	Russo
Brown (CA)	Jontz	Sabo
Bryant	Kastenmeier	Savage
Bustamante	Kennedy	Sawyer
Cardin	Kennelly	Scheuer
Carper	Kildee	Schroeder
Clarke	Kleczka	Schumer
Clay	Kostmayer	Serrano
Clement	LaFalce	Sikorski
Coleman (TX)	Lehman (FL)	Skaggs
Collins	Levin (MI)	Slattery
Conyers	Levine (CA)	Slaughter (NY)
Cooper	Lewis (GA)	Smith (FL)
Coyne	Lipinski	Solarz
Crockett	Long	Staggers
de la Garza	Lowey (NY)	Stark
DeFazio	Luken, Thomas	Stenholm
Dellums	Markey	Stokes
Derrick	Martinez	Studds
Dicks	Matsui	Swift
Dingell	Mavroules	Synar
Dixon	Mazzoli	Torres
Dorgan (ND)	McCloskey	Torricelli
Downey	McDermott	Towns
Dwyer	McHugh	Traficant
Dymally	McMillen (MD)	Udall
Eckart	McNulty	Unsoeld
Edwards (CA)	Mfume	Vento
Engel	Miller (CA)	Visclosky
Espy	Mineta	Walgren
Evans	Moakley	Waxman
Fascell	Mollohan	Weiss
Fazio	Moody	Wheat
Flake	Morrison (CT)	Williams
Foglietta	Mrazek	Wilson
Ford (MI)	Nagle	Wise
Ford (TN)	Neal (MA)	Wolpe
Frank	Nelson	Wyden
Frost	Nowak	Yates
Gejdenson	Oakar	
Gephardt	Oberstar	

NAYS—258

Annunzio	Browder	Cox
Applegate	Brown (CO)	Craig
Archer	Bruce	Crane
Armey	Buechner	Dannemeyer
Baker	Bunning	Darden
Ballenger	Burton	Davis
Barnard	Byron	DeLay
Bartlett	Callahan	DeWine
Barton	Campbell (CA)	Dickinson
Bateman	Campbell (CO)	Dornan (CA)
Bates	Carr	Douglas
Bennett	Chandler	Dreier
Bentley	Chapman	Duncan
Bereuter	Clinger	Durbin
Bevill	Coble	Dyson
Bilbray	Coleman (MO)	Early
Bilirakis	Combest	Edwards (OK)
Bliley	Condit	Emerson
Boehlert	Conte	English
Borski	Costello	Erdreich
Bosco	Coughlin	Fawell
Broomfield	Courter	Feighan
Fields	Lowery (CA)	Saiki
Fish	Lukens, Donald	Sangmeister
Frenzel	Machtley	Sarpalius
Gallegly	Madigan	Saxton
Gallo	Manton	Schaefer
Gaydos	Marlenee	Schiff
Gekas	Martin (IL)	Schneider
Gillmor	Martin (NY)	Schuette
Gilman	McCandless	Schulze
Gingrich	McCollum	Sensenbrenner
Goodling	McCrery	Sharp
Goss	McCurdy	Shaw
Gradison	McDade	Shays
Grandy	McEwen	Shumway
Grant	McGrath	Shuster
Green	McMillan (NC)	Sisisky
Gunderson	Meyers	Skeen
Hall (TX)	Michel	Skelton
Hamilton	Miller (OH)	Slaughter (VA)
Hammerschmidt	Miller (WA)	Smith (IA)
Hancock	Molinari	Smith (NE)
Hansen	Montgomery	Smith (NJ)
Harris	Moorhead	Smith (TX)
Hastert	Morella	Smith (VT)
Hatcher	Morrison (WA)	Smith, Denny (OR)
Hayes (LA)	Murphy	Smith, Robert (NH)
Hefley	Murtha	Smith, Robert (OR)
Hefner	Myers	Snowe
Henry	Natcher	Solomon
Herger	Neal (NC)	Spence
Hiler	Nielson	Spratt
Holloway	Olin	Stallings
Hopkins	Owens (UT)	Stangeland
Horton	Oxley	Stearns
Houghton	Packard	Stump
Huckaby	Pallone	Sundquist
Hunter	Parker	Tallon
Hutto	Parris	Tanner
Hyde	Pashayan	Tauke
Inhofe	Patterson	Tauzin
Ireland	Paxon	Taylor
Jacobs	Payne (VA)	Thomas (CA)
James	Penny	Thomas (GA)
Jenkins	Petri	Thomas (WY)
Johnson (CT)	Pickett	Traxler
Johnson (SD)	Pickle	Upton
Jones (GA)	Porter	Valentine
Kanjorski	Poshard	Vander Jagt
Kaptur	Pursell	Volkmer
Kasich	Quillen	Vucanovich
Kolbe	Ravenel	Walker
Kolter	Ray	Walsh
Kyl	Regula	Watkins
Lagomarsino	Rhodes	Weber
Lancaster	Richardson	Weldon
Lantos	Ridge	Whittaker
Laughlin	Rinaldo	Whitten
Leach (IA)	Roberts	Wolf
Lehman (CA)	Robinson	Wylie
Lent	Rogers	Yatron
Lewis (CA)	Rohrabacher	Young (AK)
Lewis (FL)	Ros-Lehtinen	Young (FL)
Lightfoot	Roth	
Livingston	Roukema	
Lloyd	Rowland (GA)	

NOT VOTING—8

Donnelly	Hawkins	Rowland (CT)
Flippo	Leath (TX)	Washington
Guarini	Ritter	

□ 1353

Messrs. TANNER, TRAXLER, CAMPBELL of Colorado, OWENS of Utah, and RICHARDSON, and Mrs. PATTERSON changed their vote from "yea" to "nay."

Mr. MINETA and Mr. McMILLEN of Maryland changed their vote from "nay" to "yea."

So the resolution, as amended, was not agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT DURING 5-MINUTE RULE TODAY

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit today during the time that measures are being considered on the floor under the 5-minute rule. This unanimous-consent request has been cleared with the gentleman from New York [Mr. LENT], the ranking minority member of the committee.

The SPEAKER pro tempore (Mr. LEVIN of Michigan). Is there objection to the request of the gentleman from Michigan?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. McCOLLUM asked and was given permission to address the House for 1 minute.)

Mr. McCOLLUM. Mr. Speaker, I ask for this time for the purpose of inquiring of the majority leader what the business is for the remainder of the day. I wonder if I might inquire what the plans are of the leadership for the rest of the day, now that this rule has been defeated?

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

We will take up the Small Business Administration Act, then the Coastal Zone Management Act, and possibly the Water Resources Act. We should complete our business on or before 7 o'clock tonight.

Mr. McCOLLUM. Mr. Speaker, if the gentleman would continue to respond, I am curious as to whether there is an anticipated return by the Committee on Rules to consider the crime rule again, or will we see that back out here tomorrow?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will continue to yield, that judgment has not been made. We will give Members information on it as soon as we can.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. McCOLLUM. I am glad to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would like to say to the majority leader and the Members that there were 80 Democrats who supported the defeat of this rule. I have been talking to many of them, and many on this side of the aisle. We are prepared on this side to go back to the Committee on Rules and make the Hyde amendment in order, as well as the Wylie amendment, dealing with S&L thieves. We are ready, in case they want to go back this afternoon.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman.

Mr. McCOLLUM. Mr. Speaker, reclaiming my time, I believe the gentleman from Missouri [Mr. GEPHARDT] has explained what the order for the rest of the day is. We hope the Committee on Rules can return and that we can see this crime bill out. As the leadership of both sides knows, it is very important for us to dispense with this before the year is out, and time is very short. We certainly hope that is being taken into consideration over there.

SMALL BUSINESS REAUTHORIZATION AND AMENDMENTS ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 466 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4793.

□ 1355

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4793) to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes, with Mr. GLICKMAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New York [Mr. LAFALCE] will be recognized for 30 minutes and the gentleman from Florida [Mr. IRELAND] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, I yield myself such time as I may consume.

Mr. LAFALCE. Mr. Chairman, I rise in strong support of H.R. 4793, the Small Business Reauthorization and Amendments Act of 1990.

Title I specifies the program levels and provides authorizations for appropriations to support these programs for fiscal year 1991 and the three subsequent fiscal years, 1992, 1993, and 1994. It also makes changes in existing programs, implement pilot programs, and requires certain studies and reports.

Title II authorizes the prepayment of debentures or bonds issued by certified development companies, by regular small business investment companies, and by specialized small business investment companies.

Finally title III provides additional assistance to small businesses located in rural areas.

The Small Business Administration or SBA is the primary Federal agency providing assistance to the Nation's 18 million small businesses. It guarantees commercial loans made by banks and other financial institutions to qualified small concerns unable to obtain credit on their own; it makes a limited amount of direct business loans only to certain designated groups, including businesses located in area of high unemployment or owned by Vietnam-era or disabled veterans, handicapped individuals and organizations employing the handicapped, and to minority firms which are eligible for 8(a) or minority development contract assistance, and it provides direct loans to victims of natural and other disasters to help them repair or replace property which was damaged or destroyed in a disaster.

SBA also licenses and regulates small business investment companies, privately owned and operated companies which are a source of equity and venture capital assistance for small concerns; it guarantees surety bonds for small contractors, thereby permitting them to bid on Government contracts and many private contracts which require surety bonds or essentially insurance against nonperformance. In addition, SBA provides management and technical assistance to small concerns, provides procurement assistance to small concerns in buying from and selling to the Federal Government, and promotes the development of minority small business.

Mr. Chairman, title I sets out the loan and surety bond guarantee levels authorized for each of fiscal years 1991 through 1994 and authorizes the appropriation of such amounts as are necessary to support them. Basically, we have continued the 1990 levels in each of the next 4 years with increases of about 5 percent each year to cover inflation.

More specifically, these program levels include: Direct loans for handicapped of $19 million, $20 million, $21 million, and $22 million in each of these years, respectively; direct loans for economic opportunity of $24 million, $25 million, $26 million, and $27 million in each of these years, respectively; direct loans for Vietnam-era and disabled veterans of $19 million, $20 million, $21 million, and $22 million in each of these years, respectively; and direct loans for 8(a) contractors of $10 million in 1991 and 1992, $11 million in 1993, and $12 million in 1994.

Mr. Chairman, I want to point out that I am very supportive of these direct loan programs. The administration wants to do away with them but an overwhelming majority of the Small Business Committee, on a bipartisan basis, does not want to completely eliminate them. They are the only lifeline of financial aid to these companies. To even apply for a direct loan,

an applicant must not only be in one of the four specific categories, but he or she must document that no other loan money is available.

The primary financial program at SBA today is one under which the agency agrees to guarantee between 70 and 90 percent of losses sustained by a financial institution on a loan to a small business concern. This is the so-called 7(a) program, a reference to the appropriate section of the Small Business Act.

The bill authorizes $3.55 million in fiscal year 1991, $3.903 billion in 1992, $4.098 billion in 1993, and $4.303 billion in 1994 for this program.

I want to point out that this is one of the most successful programs administered by any Federal agency. It is financed initially by private sector financial institutions which, in turn, frequently sell the loan to private investors. This releases their capital and provides more money so that those lenders can loan additional funds to local small businesses.

Last year, however, the Securities and Exchange Commission or SEC took informal action to express to the accounting profession the SEC's desire to change the accounting treatment for the sales proceeds on these loans. This proposal has caused considerable concern among leaders, and unless any change is appropriately structured could severely erode lender participation in this loan program.

With active participation by lenders, the 7(a) guarantee program provides an important source of long-term financing for the small business community. It is in the best interest of small business and economic development that lenders should be encouraged to participate. We understand that SBA has been considering a number of possible solutions to this problem, however, a timely resolution is critical to many lenders and the small businesses they serve.

The Administrator of the SBA, in close consultation with the SEC and the Department of the Treasury, is strongly urged to move expeditiously to determine appropriate actions to resolve the problem raised by any change in accounting treatment, thereby encouraging lenders to continue their involvement in this important program.

Other program authorizations include:

Debenture guarantees to development companies—under a program I authored in 1980 to help urban revitalization—of $520 million, $546 million, $573 million, and $602 million in each of these 4 years, respectively;

Direct purchases of stock from specialized or minority enterprise small business investment companies of $19 million, $20 million, $21 million, and $22 million, respectively;

Debenture guarantees for small business investment companies and special small business investment companies of $200 million, $210 million, $221 million, and $232 million, respectively;

Surety bond guarantees of $1.8 billion, $1.89 billion, $1.985 billion, and $2.084 billion, respectively;

Disaster loans for victims of natural disasters as needed; this is the program which loaned slightly over $1 billion to homeowners and businesses to help them repair damage caused by Hurricane Hugo and the California earthquake; and

Salaries and expenses in such amounts as are needed to carry out the Small Business Act and the Small Business Investment Act. These are now running about $300 million per year.

Second, it would increase the national program level for the Small Business Development Center Program to $70 million—now $65 million—and repeal the 1991 sunset. The management assistance partnership program is very successful and exists in all but one State.

Third, it would authorize SBA to make grants for tree planting by small businesses. This is a program proposed by Representative NEAL SMITH and is compatible with an initiative of President Bush.

Fourth, it would extend until October 1, 1994,—now October 1, 1990—the authority of the Small Business Administration to provide jointly sponsored training for small firms in cooperation with profitmaking enterprises.

This has been a somewhat controversial program in the past as it frequently operated without the agency imposing adequate controls. Although the SBA has tightened controls, I still have concerns about it; but budget constraints almost dictate that we rely increasingly upon firms to shoulder part of the cost of providing training to small firms.

Fifth, it would make the position of Deputy Administrator of the Small Business Administration a Presidential appointee, subject to Senate confirmation. This would be applicable to future appointees and would not affect the current Deputy.

I believe that this provision is long overdue and I know of no other Federal agency of the size of SBA whose second tier or No. 2 official is not so appointed.

Sixth, it would require that if an agency groups together into a big procurement requirement smaller, individual contracts now being performed by small business, it must notify its procurements center representative—whose function is to promote small business contracting—of the change and its reasons therefor. This will give the procurement center respresentative or PCR an opportunity to propose an alternative to increase small business prime contracting opportunities rather than placing them in such large packages that small business is precluded from bidding.

Seventh, it would authorize development company financing of up to $1 million in lieu of the general limit of $750,000 for development company projects which carry out public policy goals such as business district revitalization, expansion of exports, expansion of minority small business, rural development, enhanced economic competition, or business restructuring arising from federally mandated standards or policies affecting the environment or the safety and health of employees. In addition, these categories would be exempt from the specific jobs creation or preservation tests, as long as the overall portfolio of the development company met the test.

I believe that this program is one of SBA's most successful financial assistance ones. It provides long-term, reasonable cost money for bricks and mortar, particularly in areas in need of revitalization. Inherently, it also creates jobs, and I am pleased to note, very successfully.

This program originated from legislation I sponsored in 1980. Today, it represents a major financial partnership program with financial institutions and private investors, with the latter being attracted by SBA's guarantee.

Since the program's inception in 1981, this program has provided over 11,000 loans for almost $2½ billion, and in addition, lenders have provided more than an equal amount of unguaranteed bank funds to complete the entire project.

Eighth, it would increase the maximum term of an export revolving line of credit to 3 years—now 18 months—and clarify that the loan proceeds may be used to finance exports on a temporary basis. This provision should have been enacted 2 years ago except that SBA then opposed it. Now, however, they advocate this change which will help exporters.

Ninth, it would make a concern or a subsidiary owned by an Indian tribe eligible to receive (8)(a) contracts. These are contracts from Federal departments and agencies which SBA essentially subcontracts to disadvantaged firms.

The bill also would prohibit SBA from determining that a business or subsidiary owned by an Indian tribe is not small solely because it has a working relationship with the tribe or one of its other businesses or subsidiaries unless SBA determines that the relationship gives the concern a substantial competitive advantage; and it would extend until September 30, 1995, SBA authority to award (8)(a) contracts to a joint venture involving

an Indian tribe providing the tribe meets other specified criteria.

Tenth, it would direct SBA to conduct two studies. One would be a study of the feasibility of establishing a business cooperation system similar to the business cooperation network developed by the European Economic Community, and the other would be a study of the impact of electronic data interchange technology on small business concerns.

Title II would authorize the prepayment of debentures owned by the Federal Financing Bank which were issued by certified development companies or small business investment companies and the prepayment of debentures issued by special small business investment companies which SBA holds.

This provision overrides requirements imposed by the Government which imposes outrageous prepayment penalties on small businesses which participate in these programs.

For example, a California small business participated in the CDC or development company program in 1982 and borrowed $500,000 for 25 years at an interest rate of 14.6 percent. In order to prepay that loan, the Federal Financing Bank required payment of a penalty of $202,000 or 43 percent of the balance outstanding at the time of prepayment.

Another small business participated in this program in 1982 and borrowed $415,000 for 20 years at 15 percent interest. The loan is now paid down to slightly more than $370,000 and yet SBA has computed the prepayment penalty at an additional $108,000. This amounts to a penalty of 29 percent.

I certainly am not advocating that these small businesses be permitted to walk away from their obligations; a reasonable prepayment penalty should be imposed.

The private sector today purchases the financings previously held by the Federal Financing Bank through the CDC Program. The program serves the same purposes, and the debentures are still guaranteed by SBA, but the difference is that these loans or debentures are sold to private investors rather than to the Federal Financing Bank. Each of these loans or debentures carries a provision to permit prepayment, upon the payment of a reasonable penalty. The penalty, if the loan is prepaid within 1 year from the date of issuance, is the equivalent of 1 year's interest. Should it be prepaid in later years, the amount of the penalty goes down and is completely eliminated if the remaining life of the loan is less than one-half.

Based on this concept, the bill would require the issuer to pay a penalty equal to a maximum of 1 year's interest under a formula which takes into account the number of years of the loan's term which have elapsed.

Proceeds of new guaranteed debentures could be used to prepay the existing debentures.

I want to point out that last week the administration told the Rules Committee that the Treasury Department would recommend a veto of the bill unless title II was removed. This occurred after we held hearings and considered the bill and subsequent to SBA testimony that the administration had no position on this provision.

I think that the existing Federal Financing Bank practice is an insult to the small business community. How can we justify telling small business borrowers that not only must they repay the principal but must also pay prepayment penalties which are the equivalent of 30 or 40 or 50 percent of the principal while at the same time the administration is requesting that we completely write-off or forgive even the principal—not just the interest but also the principal—in millions of dollars owed to the United States by foreign governments?

The major provisions of title III of the bill provide additional assistance to small businesses in rural areas.

It would establish in SBA an Office of Rural Affairs. This office would: First, strive to achieve for small business concerns located in rural areas an equitable distribution of SBA financial assistance; second, to the extent practicable, compile statistics on rural areas; third, provide information on the assistance available to rural small business concerns through SBA and other Federal departments and agencies; and fourth, provide information on programs administered by private organizations, educational institutions, and Federal, State, and local governments which improve the economic opportunities of rural citizens.

Second, it would establish a new program to provide guaranteed loans to rural economic development entities to be used to establish rural small business incubators. Ten million would be authorized for this program in each of fiscal years 1991 through 1993.

Third, it would establish a new program to provide grants to rural economic development entities and to rural certified development companies for projects and studies designed to assist small business concerns in rural areas in marketing their products and services. Grant applicants would be required to provide matching funds. The amount of the annual grants would be $3 million in fiscal year 1991, $2 million in fiscal year 1992, and $1 million in fiscal year 1993.

Fourth, it would authorize a new program to provide grants to rural economic development entities to assist in funding marketing studies and other projects to promote the growth of small business concerns in rural areas by increasing tourism in such areas. Grant applicants would be required to provide matching funds. The authorization for these grants would be $3 million in fiscal year 1991, $2 million in fiscal year 1992, and $1 million in fiscal year 1993.

Applicants for either marketing grants or tourism grants would be required to provide matching funds from non-Federal sources to be spent for the same purpose as the SBA grant. The amount of the matching funds required would be not less than 33 percent nor more than 100 percent and would be determined by a ratio comparing the average per capita income in the rural area to be served by the applicant to the average per capita income of the United States.

Fifth, it would require small business development centers to assist rural small businesses in exporting and in increasing domestic business.

Sixth, it would require the administration to compile and distribute a catalog of Federal programs which offer assistance to small businesses in rural areas and that the annual report on small business contain statistics as to urban, suburban, and rural areas, to the extent practicable.

Finally, it would authorize the formation of certified development companies in rural areas with jointly contracted staff and with fewer shareholders and a smaller board of directors than is required for development companies which are not operating in rural areas. This, I believe, will facilitate the formation of CDC's in rural areas by reflecting the impact of lower population.

Mr. Chairman, I believe that this is a good bill. It was approved by the committee on a bipartisan basis and deserves the support of all the Members of the House. I urge its passage and I reserve the balance of my time.

Mr. IRELAND. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this legislation is a fairly positive approach to the concerns of the small business community. In particular this afternoon I would like to address two sections of the bill that I worked on with three of my distinguished colleagues, the gentleman from Virginia [Mr. SISISKY], the gentleman from Missouri [Mr. SKELTON], and the gentleman from California [Mr. TORRES].

□ 1400

Section 119 of the legislation directs the Small Business Administration to conduct a study of the feasibility of establishing a business cooperation system similar to the business cooperation network developed by the European Economic Community. At the behest of the small business interests in the European Community, the community established a business cooperation network. This network in Europe

allows businessmen and women to find both joint venture partners and potential customers from all of the existing businesses in the 12 nations participating.

Our Nation has no similar system. As a result, our small businesses are unable to participate in the European Economic Community network because we do not offer a compatible system to European businesses.

This certainly does not bode well for 1992 when the European Community comes together and our small businesses are called upon to compete. The solution in this measure today will go a long way toward bringing a competitive position to our small businesses.

The second initiative I joined with my colleagues was on section 120. This section directs the SBA to conduct a study of the impact of electronic data interchange technology on small business concerns. At the present time, both the Federal Government and many large American corporations and multinationals have begun to switch to electronic data interchange technology. Within a few years, any small business which wishes to deal with the government or any of its businesses must be switched into this electronic data base or else they are not only out of luck, but out of business as well.

Information on this is severely limited and basically has not reached the Nation's small business community. Again, it is an area on which we must act.

Mr. Chairman, there are one or two troubling matters in this bill, some of which we discussed in our committee.

Principally, section 104 of the bill concerns natural resources development, and the authorization of $180 million for small businesses to plant trees. This is an initiative that I find hard to justify in light of our present budget condition and in light of the fact that it is an initiative that should be addressed more appropriately by the Department of Agriculture in our agricultural authorization. For that reason, when the time comes, I will be offering an amendment to make a change in that regard.

I would also point out, Mr. Chairman, that the administration has some difficulty with a couple of other sections of the bill, one on which I will offer an amendment, that being in specific terms title II of the bill which permits certain SBA borrowers to prepay their borrowings from the Federal finance bank at substantially reduced premiums, and then to finance up to $150 million per year of such prepayments with new loans fully guaranteed by the government. The effect of title II then, Mr. Chairman, is that existing borrowers, as rates go down, may ratchet their rates and terms down as economic conditions prevail, but the Federal Government is in no way able to address increases in interest rates when the economy goes the other way. It indeed turns Uncle Sam into Uncle Sucker. As I said, I will be offering an amendment later to remedy that position.

I must point out that the administration opposes the bill based upon the fact that it is considerably over the President's program levels, and for that reason deserves the consideration of my colleagues.

Mr. Chairman, I reserve the balance of my time.

Mr. LAFALCE. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. SKELTON], the distinguished chairman of the Subcommittee on Procurement, Tourism, and Rural Development.

Mr. SKELTON. Mr. Chairman, I thank the gentleman from New York for yielding time to me and commend him on this bill and the work that has gone into it. There were a great number of hearings not just this year but in previous years, and a lot of thought and effort on the gentleman's behalf and the committee's behalf has gone into it.

Mr. Chairman, I would like to address my remarks this afternoon to the third part of this small business reauthorization bill. It deals with rural marketing and rural tourism grants, and I think it is very important that we take a look at this.

As the gentleman knows, I am chairman of the subcommittee that deals with tourism and deals with rural development of small business. Over the years, including this year, we have had hearings dealing with how rural America has not kept pace because of various programs sponsored by the Federal Government, and I think this bill, particularly section 4, is a great step in the right direction because it does give us a better marketing situation and a better tourism situation regarding the rural and small business part of our country.

This measure establishes a new program. This new program provides marketing grants to rural economic development companies and certified development companies for projects and studies designed to aid small businesses in rural areas in marketing their products and services. It is a fact that whether we speak of banks, or we speak of other Federal institutions that look at and provide economic assistance, rural America has not fared well. I think this is a step that causes the Federal Government to take a look in the right direction regarding rural economic development.

I would like to also mention that this measure authorizes a new tourism grant program for rural economic development entities to aid in marketing studies and other projects to promote the growth of small business in rural areas by increasing tourism. Mr. Chairman, people from other countries or many here in our own country will go to New York City, go to Disneyland and to San Francisco and they think they have seen America when in truth, in fact, there is a great body of rich heritage, wonderful tourism, whether it be beautiful parks, lakes, mountains, or small towns that have played a great part in furthering of the westward movement that has made our country what it is today. All of these are being bypassed, and this third item in the small business reauthorization bill, authorizing this new tourism grant program for rural economic entities, makes a giant step toward putting us on a par and allowing us to tell the world, whether it be this country, a neighboring state or people in other countries about this and about the tourism possibilities that we have.

As Members may know, we started this session of Congress with the intent of helpiing rural America to get back on its feet. The rural small business development section of the farm bill was stripped, leaving very few programs aimed at helping small businesses. I think the program included in the bill for incubators, for planning and assistance, for an Office of Rural Affairs which would act as a touch point and a clearinghouse related to information regarding rural small business development is a positive step. But this title III provides for expanded duties for small business development centers to assist in the rural areas, for rural small businesses, incubators and for other programs targeted to provide assistance to small businesses.

I was also pleased to see that we have added some assistance aimed specifically at helping rural communities develop their tourism potential. I have spoken of that. It is not a small thing.

Mr. Chairman, I think that we should discuss and take a look at this, at these rural tourism grants, and I applaud the committee on including section 307 concerning rural tourism. This section enables the administrator to make grants to rural economic development entities to assist in the funding, marketing studies and other projects designed to promote the growth of small business concerns in rural areas by increased tourism.

Come with me to the Lake of the Ozarks. What type of businesses will you see? You will see small businesses.

Come with me to my hometown of Lexington, Missouri, one of the small towns that has added to the historical culture of our country, and you will see surrounding the square, small businesses. That is what this bill is all about, and that is what this section is all about concerning rural tourism.

I think it is a major step in the right direction. I endorse this bill and I urge its passage.

□ 1410

Mr. IRELAND. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I rise in strong support of the reauthorization of the Small Business Administration. In particular, let me draw your attention to the third section of the reauthorization, titled "The Rural Small Business Enhancement Act of 1990." I strongly believe that title III goes a long way toward recognizing the small business needs of rural America.

I represent a rural district in southwestern Michigan, and have been concerned about rural development for quite some time. I am pleased that Congress seems to be increasingly examining the problems that exist in rural America.

Statistics and indicators about rural America are clear: The economic health and viability of rural areas is falling farther and farther behind that of urban areas.

In light of these recent trends, our goal must be to maintain and improve the quality of rural life. The United States historically has had a vibrant heartland, and we must do all we can to preserve this heritage. Diversification of the rural agricultural economy—as well as diversification of rural businesses and industries in noncyclical or anticyclical fields—are key to revitalizing of rural areas.

I have advocated a comprehensive approach to addressing these programs. I have urged Members of Congress representing rural areas and committees of the Congress to examine the programs under their jurisdictions to determine whether discrimination against rural areas occurs in Federal funding. Indeed, there is much evidence to suggest that Federal funds just do not reach rural areas.

The inclusion of measures in this reauthorization bill to ensure that the Small Business Administration is attentive to the needs of rural America indicates a growing consensus in Congress that now is the time for action to help rural America prepare for the 1990's and the next century.

I fully support title III's efforts to assist rural development entities in promoting rural tourism, business marketing, and business incubators. I also support establishing an SBA Office of Rural Affairs; it is my hope that such an office will take an active advocacy role on behalf of rural businesses.

This bill complements the work, earlier in this Congress, of both the House Agriculture Committee and the full House membership, which approved sweeping rural development legislation affecting the Department of Agriculture's programs. It is my hope that the rest of the committees of the House will join the Agriculture and Small Business Committees to examine how the needs of rural America could be better addressed. With this comprehensive legislative effort, we can help rural America enter the 21st century on equal terms with urban America and the rest of the world.

Mr. POSHARD. Mr. Chairman, I rise in strong support of H.R. 4793, the bill to reauthorize the Small Business Administration. My colleagues and I on the Small Business Committee have worked diligently to evaluate the current functioning of the SBA and this bill makes a number of improvements in that agency.

The most important new initiatives in the bill for southern Illinois and rural America are the rural assistance programs. The bill establishes an Office of Rural Affairs within the SBA to coordinate Federal programs designed to enhance the development of small businesses in rural areas. The new office will oversee a small business incubator program which will provide space and access to equipment and professional, technical, and financial services.

New rural marketing and tourism grants would provide rural economic development companies funding to help rural small businesses market their goods and services. The reauthorization also requires the SBA to put together a catalog of services available in rural areas to small businesses.

Almost a year ago, my friend and colleague, Congressman IKE SKELTON of Missouri, chairman of the Subcommittee on Procurement, Tourism, and Rural Development, held a hearing on rural small business issues in my congressional district. Chairman SKELTON had a chance to hear from our small business owners and that hearing helped the subcommittee formulate some of the provisions of the rural assistance provisions of H.R. 3793.

Mr. Chairman, I congratulate Chairman LAFALCE on his leadership in bringing this bill to the floor, and I urge all of my colleagues to support its passage.

Mr. RAY. Mr. Chairman, I rise today in support of H.R. 4793, the Small Business Reauthorization Act.

The chairman of the Small Business Committee, Chairman JOHN LAFALCE, has done an outstanding job of drafting and moving this legislation through the committee. I am a cosponsor of H.R. 4793 as are many members of the Small Business Committee, both Democrats and Republicans. It is truly a bipartisan bill.

Two major programs which are reauthorized by this bill are the Small Business Development Center [SBDC] Program and the Service Corps of Retired Executives [SCORE]. These programs are very successful in assisting small businesses. Both the SCORE and SBDC Programs provide a real return on the dollars spent investing in their programs. They help small businesses during their most difficult years—the startup years. Once these new businesses can get on their feet, they continue to grow, thus generating jobs and oftentimes leading to the creation of new related businesses.

In my opinion, it is very important to keep small businesses motivated. Our Nation finds itself in a precarious situation. The budget deficit is increasing, corporate profits are down, and inflation is increasing. Those of us in Congress must be careful not to shackle businesses with legislative mandates. It is much better for us to pass bills which help small business. For this reason, I strongly support H.R. 4793.

Mr. Chairman, I encourage my colleagues to vote for this legislation.

Mr. BROOMFIELD. Mr. Chairman, I rise in support of the Small Business Reauthorization Act. I believe this bill reflects our Nation's commitment to the small businesses which contribute so significantly to a strong and healthy economy. H.R. 4793 received strong bipartisan endorsement in committee and is worthy of your support.

H.R. 4793 provides continued economic and technical assistance to small businesses through various loans and grants, as well as development centers. Continued assistance to small business is necessary to ensure the creation of new jobs and innovative products.

I am pleased about title III of the act which encourages assistance for small business interests in rural areas. Title III aims to promote small business growth and tourism by increasing the number of loan guarantees and development centers in rural communities. I think that efforts to enhance business opportunities in rural areas are long overdue and I am glad that this act takes a big step in that direction.

The Small Business Reauthorization Act establishes meaningful opportunities for small business growth and I urge my colleagues to support it.

Mr. SERRANO. Mr. Chairman, I rise today in support of the Small Business Reauthorization Act of 1990. At the root of most American success stories is the entrepreneur, the person who organizes, operates, and assumes the risk for a business venture. I am pleased to support this bill, which provides badly needed technical and financial assistance for entrepreneurs. This assistance is essential to the small businessowner, especially during this era of intense competition for financing and growing complexity of financial markets.

The 1980's was a decade marked by huge corporate mergers and wild financial speculation. In the 1990's, we will see the reemergence of the small businessowner at the forefront of American competitiveness.

I am especially pleased to note that as we considered this reauthorizing legislation in the Small Business Committee, it was clearly the consensus that the Small Business Development Center [SBDC] Program has been a huge success.

We have responded to the obvious effectiveness of the SBDC's by increasing funding for the program, and by repealing the 1991 sunset provision of the Small Business Development Center Act of 1980.

The Small Business Development Center at Manhattan College in the Bronx serves hundreds of my constituents. The counseling provided by the SBDC is invaluable to the small business person facing the challenge of making his or her idea into a concrete business plan, worthy of consideration by the Small Business Administration and the banking community.

We must continue to encourage the initiative of the American entrepreneur, the backbone of business growth and development in

the United States. I urge my colleagues to support passage of H.R. 4793, the Small Business Reauthorization Act of 1990.

Mr. CONTE. Mr. Chairman, I rise in support of H.R. 4793, the Small Business Reauthorization and Amendments Act. I want to thank our chairman, Mr. LAFALCE, for his leadership and initiative throughout our deliberations. He did an excellent and thorough job, as always, and he deserves credit for it.

I am proud that I have had the opportunity to work on this legislation, and I am pleased that two bills I introduced, H.R. 2274 and H.R. 4746, are the basis for two provisions of the act. They are respectively, sections 109 and 115.

These two sections provide valuable assistance to small businesses in the area of Federal procurement. Section 115, which I introduced as H.R. 4746, provides for the stationing of traditional procurement center representatives at the Department of Agriculture, the Navy Sea Systems Command, and the Environmental Protection Agency. These agencies have combined budgets totaling over $13 billion, yet the first two agencies have only liaison PCR coverage. And the EPA, with an annual budget of over $1.5 billion, hasn't had any coverage at all for several years.

The addition of these three TPCR's will finally give the Small Business Administration coverage of the seven Cabinet-level agencies with acquisition budgets over $600 million. This will enable the SBA to better monitor small business programs and significantly increase small business opportunities at those agencies.

The second section, section 109, I introduced as H.R. 2274, the Small Business Protection Act. This section will ensure that small businesses receive due consideration in the Federal procurement process. It requires that agencies and procurement center representatives work together to maximize small business contracting opportunities. This continues my efforts for more competition and small business participation in Federal procurement. Small business contracting is good for competition and for maximizing the shrinking Federal procurement dollar.

These sections are important for making sure that the most vital and innovative part of our economy gets the consideration it deserves in Federal procurement. Last year the combined total of small business participation, prime and subcontracting, in Government contract awards was 32 percent. That's impressive, but let's not forget that small business is the Nation's biggest job creator. Small businesses contribute 40 percent of the gross national product, employ 55 percent of the Nation's work force and come up with 50 percent of all major innovations. They deserve all the support and encouragement we can provide.

Mr. Chairman, the Committee on Small Business has done more than just continue funding for the SBA and its programs. We have crafted legislation that reaffirms our commitment to the growth and success of small businesses all across the country. I urge all my colleagues to join me and the other members of the Committee on Small Business in supporting this legislation and the hard-working small business men and women of America.

Mr. McDADE. Mr. Chairman, today I rise in strong support of the bill before this body. Before I go any further, I want to express my appreciation to the distinguished gentleman from New York, our colleague, JOHN LAFALCE, the chairman of the committee, for the leadership he has shown in bringing us to this point. And I also want to thank all the members of the committee who have contributed to this work product. H.R. 4793 would authorize programs and activities at the SBA during the next 3 fiscal years, and would specify program and activity levels for fiscal year 1991. This measure reflects broad bipartisan support for the programs of the U.S. Small Business Administration, the only Federal agency charged with assisting and promoting the development and growth of the Nation's small businesses. This is fully consistent with the President's own commitment to maintaining a strong, vigorous small business sector, and a Federal agency that can assist small concerns. More than 19 million men and women nationwide own and operate small businesses. I believe they not only need, but deserve, to have a strong voice in their Government. They need to be heard on the issues that concern them, and have a say in the formulation of policies and legislation that can affect their bottom line. We have seen to that in this bill.

During the hearing process, we undertook a tough review of SBA programs and activities. H.R. 4793 represents our best efforts to address weaknesses and strengthen existing programs. It is also an attempt to develop innovative, forward-looking initiatives that will assist America's small businesses in today's business environment, while helping them to cope with the new competitive demands and challenges confronting them.

Chairman LAFALCE has reviewed some of the program highlights. I would like to emphasize that all programs and activities authorized under the bill have been increased, either slightly to reflect and meet growing demand, or adjusted for inflation, to maintain them at current levels.

Title I would authorize various programs and activities at the agency. These include many popular initiatives with strong congressional support, such as the small business development center, and the small business institute program. Other programs included in title I to assist the Nation's small entrepreneurs include:

The guaranteeing of loans made by banks and other institutions to eligible small businesses. It offers direct loans to specific target groups, including businesses located in areas suffering from high unemployment, or owned by Vietnam-era or disabled veterans, handicapped individuals, and organizations employing the handicapped.

When disaster strikes at home, the SBA is there to make direct loans to help community businesses recover and rebuild.

SBA assists minority entrepreneurs by providing management and technical assistance, and administering a special procurement program for them.

The agency ensures that small businesses receive a fair proportion of Federal Government contracts for the purchase of needed goods and services.

Firms requiring specialized technical and management assistance can obtain it through the agency.

The SBA helps entrepreneurs develop and expand the market for their goods and services overseas.

Small contractors in need of surety bonds can utilize the SBA surety bond guarantee program.

This is but a sampling of the full spate of services and assistance the agency has to offer.

Title II would provide a measure of relief to small business investment companies, specialized small business investment companies, and certified development companies. Specifically, this title would allow these companies—many of which are holding debentures with interest rates of 14, 15, 16 percent, and higher—to prepay the outstanding balance and a penalty to the Government. In addition, it would allow them to refinance loans at the prevailing market rate—which is lower. It is expected that this would result in numerous prepayments to the Federal Government and a positive cash flow to the Government in fiscal year 1991.

Title III contains program initiatives included in the Rural Small Business Enhancement Act of 1990—H.R. 4816—which I introduced and has bipartisan support. This title recognizes that over the past 150 years, a strong agricultural base has been a source of economic vitality and employment for rural areas. However, the growth of other nations' agricultural capability and technological advances, have required fewer people to be employed in farming. Agriculture is no longer rural America's chief employer. Today, only 2 percent of the U.S. population is employed in farming and only one-fourth of our over 2,000 rural countries are considered farm-dependent. In fact, a recent survey by the USDA, found that over 60 percent of all farming families currently receive income from off-farm employment.

The Federal Government has been slow in responding to changes in the rural economy, and adapting its policies to accommodate these new realities. One major problem has been that many Federal programs, intended to spur the creation and growth of non-agricultural businesses, are targeted at large towns and cities.

Since 1981, the United States has produced almost 18 million new jobs, over 90 percent of which have been in urban areas. The converse is that less than 10 percent of these new jobs have been in rural areas. At the same time, while national employment hovers around 5 percent, half of the rural counties in the United States are experiencing unemployment of 10 percent or more.

This title, which is supported by Mr. SKELTON, Chairman LAFALCE, and the members of the committee, would address the problem of small businesses in rural areas.

It would provide $10 million in capital for the establishment of rural incubators, to provide fledgling small businesses with a nurturing, protective environment, in which to develop and grow.

The title would also authorize rural marketing moneys to provide grants to rural economic entities and rural certified development

companies on a matching basis for projects and studies designed to assist small businesses in marketing their products and services.

Funds are also authorized to provide matching grants to rural economic development entities to assist in funding marketing studies, and other projects to promote the growth of small business concerns by increasing tourism in rural areas.

It would require small business development centers to assist rural small businesses in exporting and in increasing domestic business.

It would require the SBA to compile and distribute a catalog of Federal programs which offer assistance to small businesses.

It would authorize the formation of certified development companies in rural areas with jointly contracted staff and with fewer shareholders and a smaller board of directors than is required for development companies which are not operating in rural areas.

Last, title III would provide for the establishment within the SBA of an office of rural affairs to assist small business concerns in rural areas and to ensure that their voice is heard in Washington and they receive a fair proportion of Federal resources.

Mr. Chairman, the bill before this body is a responsible and reasoned approach to maintaining an important Federal agency, that continues to provide valuable assistance and services to our Nation's small business men and women. I strongly urge my colleagues to support the bill.

Mr. FRENZEL. Mr. Chairman, I rise to oppose passage of H.R. 4793, the Small Business Reauthorization and Amendments Act of 1990. Title II of this bill, substantially lessens the existing penalties on prepayment of certain debentures previously issued by certified State and local development companies, regular small business investment companies, and specialized small business investment companies. In doing so, it worsens the Government's fiscal position, and sells taxpayer's assets to the previous borrowers, at prices below their market value.

Mr. Chairman, the Small Business Administration povides a valuable source of capital to small enterprises, which otherwise might not be able to raise financing. In doing so, it makes a deal with the borrower. Rates are fixed to provide the borrower with some certainty, so that it can properly plan its finances. If rates go up, the Government promises not to seek higher payments from the borrower. But if rates decline, the borrower similarly agrees that it will not seek to roll over the Government loan, and replace it with cheaper financing. Thus both parties achieve some certainty and assume some risk.

Too often however, the Governent has voluntarily excused the Government borrower from fulfilling its obligations. It may seem that this is the compassionate thing to do, that no one is harmed. But there is a cost to this action. By allowing borrowers to prepay loans at below their market cost, Government creates a number of problems.

First, partial forgiveness of loans increases the budget deficit at an extremely inappropriate time. It is true that the bill does not explicitly violate the letter of the Budget Act. The authors have carefully ensured that no outlays occur in this fiscal year. The Congressional Budget Office estimates that the bill will even produce a net increase in revenue of $276 million over the next year. This revenue comes at the expense of future loan repayments, however. CBO estimates that over the next 5 years, this loan of revenue will net out to over $55 million on a present value basis.

Second, the bill, by reducing the amount of repayments in the SBA program, effectively reduces the amount of funds available to future borrowers. This makes it more difficult for the small business of the future to create the jobs that are necessary if we are to resume the high growth rates of the past decades.

Finally, passage of this kind of provision, encourages other borrowers to seek restructuring of their Government loans. This ensures that whenever interest rates fall, Congress will be deluged with special interests seeking forgiveness of their debt. The result will be a dramatic rise in the real cost of credit programs and a reduction in the number of people they can assist.

Mr. Chairman, the American people provided these borrowers with low-interest rate loans at a time when the cost of capital was very high. It is neither unreasonable, nor unfair, for the taxpayer to expect these borrowers to repay these loans according to their original terms.

Mr. RAHALL. Mr. Chairman, I rise in strong support of the small business reauthorization bill.

While I wholeheartedly support the Small Business reauthorization bill, which contains programs that assist the country's 18 million small businesses, speaking from a purely parochial standpoint, I am particularly interested in the Rural Assistance Program.

My State is 63 percent rural, which includes the Fourth Congressional District in southern West Virginia, which I represent.

The bill establishes an Office of Rural Affairs in the SBA, and authorizes a number of grant and loan programs to enhance the development of small businesses in rural areas.

The bill authorizes $10 million in each of fiscal years 1991 through 1993 for a new program, the Rural Small Business Incubator Loan Program, which will provide guaranteed loans to rural economic development entities to establish such incubators, defined as a facility in a rural area which houses more than one small business concern and which is managed by an operator who provides such small business concerns with access to equipment and professional, technical, and financial services.

West Virginia will be well-served by this program, and it will particularly be of benefit to my district.

The bill also establishes a new program to provide marketing grants to rural economic development companies and certified development companies for projects and studies designed to aid small businesses in rural areas in marketing their products and services.

The measure further authorizes a new tourism grant program for rural economic development entities to aid in making marketing studies and other projects to promote the growth of small businesses in rural areas by increasing tourism.

Tourism in West Virginia is its second biggest industry, or at least that is our goal. With these provisions, we will be better able to build our State's tourism industry and help the local economy as well.

The matching requirement for both marketing and tourism grant programs would vary between 33 and 100 percent of the Federal share, depending on the average per capita income of the rural area served. While West Virginia often has problems matching Federal dollars, I believe that the dollars they do have available would be better used for this purpose, stretching them and the impact they can have on building on the existing tourism industry.

Mr. Chairman, the bill contains other rural assistance programs, including one that requires the SBA to compile and distribute a catalog of Federal programs that aid small businesses in rural areas. It permits certified development companies in rural areas to jointly employ or contract for staff, and to have fewer shareholders and smaller board of directors than development companies operating in nonrural areas.

I am most pleased to be able to strongly support the small business reauthorization bill, and recommend it to my colleagues.

Mr. LAFALCE. Mr. Chairman, I have no further requests for time, and I yield back the remainder of my time.

Mr. IRELAND. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill as an original bill for the purpose of amendment, shall be considered by titles, and each title shall be considered as having been read.

The Clerk will designate title I.

The text of title I is as follows:

H.R. 4793

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Reauthorization and Amendments Act of 1990".

TITLE I—AUTHORIZATIONS AND AMENDMENTS

Sec. 101. Authorizations.
Sec. 102. Disaster salaries and expenses.
Sec. 103. Small business development centers.
Sec. 104. Natural resource development.
Sec. 105. Interest rate on certified development company loans.
Sec. 106. Cooperative agreements.
Sec. 107. Amount of assistance to special small business investment companies.
Sec. 108. SBA Deputy Administrator.
Sec. 109. Bundling of contracts.
Sec. 110. Development company financings.
Sec. 111. National policy considerations in certified development assistance.
Sec. 112. SBICs under common control.
Sec. 113. Secondary market sales.
Sec. 114. Export revolving line of credit.
Sec. 115. Specific procurement center representatives.
Sec. 116. Indian Tribe participation in 8(a).

Sec. 117. Contracts with Indian tribe joint ventures.
Sec. 118. Non-manufacturer rule.
Sec. 119. Feasibility study of business cooperation network.
Sec. 120. Study on impact of electronic data interchange technology.

TITLE II—DEBENTURE PREPAYMENTS

Sec. 201. Prepaying development company debentures.
Sec. 202. Prepaying specialized small business investment company debentures.
Sec. 203. Prepaying regular small business investment company debentures.
Sec. 204. Miscellaneous provisions.

TITLE III—ASSISTANCE FOR RURAL SMALL BUSINESS CONCERNS

Sec. 301. Citation.
Sec. 302. Definitions.
Sec. 303. Establishment of Office of Rural Affairs.
Sec. 304. Rural small business incubator assistance loans.
Sec. 305. Conforming amendments.
Sec. 306. Marketing assistance grants.
Sec. 307. Rural tourism grants.
Sec. 308. Matching requirement for rural grant programs.
Sec. 309. SBDC rural activities.
Sec. 310. Catalog of Federal programs to assist rural small business concerns.
Sec. 311. Area statistics in Presidential report.
Sec. 312. Smaller development companies in rural areas.

TITLE I—AUTHORIZATION AND AMENDMENTS

AUTHORIZATIONS

SEC. 101. Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by striking all of such section after subsection (g) and by inserting the following new subsections:

"1991

"(h) The following program levels are authorized for fiscal year 1991:

"(1) For the programs authorized by this Act, the Administration is authorized to make $72,000,000 in direct and immediate participation loans; and of such sum the Administration is authorized to make $19,000,000 in loans as provided in paragraph 7(a)(10), $24,000,000 in loans as provided in paragraph 7(a)(11), $19,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of section 7(a) of this Act, and $10,000,000 in loans as provided in section 7(a)(20).

"(2) For the programs authorized by this Act, the Administration is authorized to make $4,070,000,000 in deferred participation loans and other financings; and of such sum, the Administration is authorized to make $3,500,000,000 in general business loans as provided in section 7(a), $50,000,000 in loans as provided in paragraph 7(a)(12)(B), and $520,000,000 in financings as provided in paragraph 7(a)(13) (and section 504 of the Small Business Investment Act of 1958).

"(3) For the programs authorized by the Small Business Investment Act of 1958, the Administration is authorized to make $19,000,000 in purchases of preferred stock as authorized by title III and $200,000,000 in guarantees of debentures pursuant to title III of such Act.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,800,000,000.

"(i) There are authorized to be appropriated to the Administration for fiscal year 1991 such sums as may be necessary to carry out the provisions of this Act, specifically including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration, which may include up to $3,000,000 for the operations of the Service Corps of Retired Executives, $3,000,000 for Small Business Institutes, $5,000,000 to carry out the provisions of section 21(a)(6), $5,000,000 to carry out the provisions of section 8(c)(1), $3,000,000 in grants under section 27 and $3,000,000 in grants under section 28.

"1992

"(j) The following program levels are authorized for fiscal year 1992:

"(1) For the programs authorized by this Act, the Administration is authorized to make $75,000,000 in direct and immediate participation loans; and of such sum the Administration is authorized to make $20,000,000 in loans as provided in paragraph 7(a)(10), $25,000,000 in loans as provided in paragraph 7(a)(11), $20,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of section 7(a) of this Act, and $10,000,000 in loans as provided in section 7(a)(20).

"(2) For the programs authorized by this Act, the Administration is authorized to make $4,449,000,000 in deferred participation loans and other financings; and of such sum, the Administration is authorized to make $3,850,000,000 in general business loans as provided in section 7(a), $53,000,000 in loans as provided in paragraph 7(a)(12)(B), and $546,000,000 in financings as provided in paragraph 7(a)(13) (and section 504 of the Small Business Investment Act of 1958).

"(3) For the programs authorized by the Small Business Investment Act of 1958, the Administration is authorized to make $20,000,000 in purchases of preferred stock as authorized by title III and $210,000,000 in guarantees of debentures pursuant to title III of such Act.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,890,000,000.

"(k) There are authorized to be appropriated to the Administration for fiscal year 1992 such sums as may be necessary to carry out the provisions of this Act, specifically including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration, which may include up to $3,150,000 for the operations of the Service Corps of Retired Executives, $3,150,000 for Small Business Institutes, $5,000,000 to carry out the provisions of section 21(a)(6), $5,000,000 to carry out the provisions of section 8(c)(1), $2,000,000 in grants under section 27, and $2,000,000 in grants under section 28.

"1993

"(l) The following program levels are authorized for fiscal year 1993:

"(1) For the programs authorized by this Act, the Administration is authorized to make $79,000,000 in direct and immediate participation loans; and of such sum the Administration is authorized to make $21,000,000 in loans as provided in paragraph 7(a)(10), $26,000,000 in loans as provided in paragraph 7(a)(11), $21,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of section 7(a) of this Act, and $11,000,000 in loans as provided in section 7(a)(20).

"(2) For the programs authorized by this Act, the Administration is authorized to make $4,671,000,000 in deferred participation loans and other financings; and of such sum, the Administration is authorized to make $4,043,000,000 in general business loans as provided in section 7(a), $55,000,000 in loans as provided in paragraph 7(a)(12)(B), and $573,000,000 in financings as provided in paragraph 7(a)(13) (and section 504 of the Small Business Investment Act of 1958).

"(3) For the programs authorized by the Small Business Investment Act of 1958, the Administration is authorized to make $21,000,000 in purchases of preferred stock as authorized by title III and $221,000,000 in guarantees of debentures pursuant to title III of such Act.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,985,000,000.

"(m) There are authorized to be appropriated to the Administration for fiscal year 1993 such sums as may be necessary to carry out the provisions of this Act, specifically including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration, which may include up to $3,300,000 for the operations of the Service Corps of Retired Executives, $3,300,000 for Small Business Institutes, $5,000,000 to carry out the provisions of section 21(a)(6), $5,000,000 to carry out the provisions of section 8(c)(1), $1,000,000 in grants under section 27, and $1,000,000 in grants under section 28.

"1994

"(n) The following program levels are authorized for fiscal year 1994:

"(1) For the programs authorized by this Act, the Administration is authorized to make $83,000,000 in direct and immediate participation loans; and of such sum the Administration is authorized to make $22,000,000 in loans as provided in paragraph 7(a)(10), $27,000,000 in loans as provided in paragraph 7(a)(11), $22,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of section 7(a) of this Act, and $12,000,000 in loans as provided in section 7(a)(20).

"(2) For the programs authorized by this Act, the Administration is authorized to make $4,905,000,000 in deferred participation loans and other financings; and of such sum, the Administration is authorized to make $4,245,000,000 in general business loans as provided in section 7(a), $58,000,000 in loans as provided in paragraph 7(a)(12)(B), and $602,000,000 in financings as provided in paragraph 7(a)(13) (and section 504 of the Small Business Investment Act of 1958).

"(3) For the programs authorized by the Small Business Investment Act of 1958, the Administration is authorized to make $22,000,000 in purchases of preferred stock as authorized by title III and $232,000,000 in guarantees of debentures pursuant to title III of such Act.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,084,000,000.

"(c) There are authorized to be appropriated to the Administration for fiscal year 1994 such sums as may be necessary to carry out the provisions of this Act, specifically including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration, which may include up to $3,450,000 for the operations of the Service Corps of Retired Executives, $5,000,000 to carry out the provisions of section 21(a)(6), $5,000,000 to carry out the provisions of section 8(c)(1), and $3,450,000 for Small Business Institutes.".

DISASTER SALARIES AND EXPENSES

SEC. 102. Section 20 of the Small Business Act is further amended by inserting at the end of subsection (a)(1): "There also are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for administrative expenses of the Administration.".

SMALL BUSINESS DEVELOPMENT CENTERS

SEC. 103. (a) Section 21 of the Small Business Act is amended as follows: by striking the second proviso in subsection (a)(4) and inserting in lieu thereof the following: "Provided further, That no recipient of funds under this section shall receive a grant which would exceed its pro rata share of a $70,000,000 program based upon the population to be served by the Small Business Development Center as compared to the total population of the United States, plus $100,000 for each State, but no State shall receive less than $200,000.".

(b) Section 204 of the Small Business Development Center Act of 1980 (Public Law 96-302), as amended, is hereby repealed.

(c) The amendments to the second proviso in subsection (a)(4) made by subsection (a) of this section shall apply to contracts, grants or cooperative agreements for performance commencing on or after October 1, 1991; contracts, grants or cooperative agreements for performance commencing prior thereto shall receive funding for the entire term of performance without regard to this amendment and according to the State's pro rata share of a $65,000,000 program as computed on the effective date of this Act under population estimates used for calendar year 1990 agreements, plus $50,000 for each State, but no State shall receive less than $200,000.

NATURAL RESOURCE DEVELOPMENT

SEC. 104. The Small Business Act is amended by adding the following new section:

"SEC. 24. (a) The Administrator is authorized to make grants to or to enter into contracts with any State for the purpose of contracting with small businesses to plant trees on land owned or controlled by such State or local government. The Administrator shall require as a condition of any grant (or amendment or modification thereof) under this section that the applicant also contribute to the project a sum equal to at least 25 per centum of a particular project cost from sources other than the Federal Government. Such non-Federal money may include inkind contributions, including the cost or value of providing care and maintenance for a period of three years after the planting of the trees, but shall not include any value attributable to the land on which the trees are to be planted, nor may any part of any grant be used to pay for land or land charges: Provided, That not less than one-half of the amounts appropriated under this section shall be allocated to each State, the District of Columbia, and the Commonwealth of Puerto Rico on the basis of the population in each area as compared to the total population in all areas as provided by the Census Bureau of the Department of Commerce in the annual population estimate or the decennial census, whichever is most current. The Administrator may give a priority in awarding the remaining one-half of appropriated amounts to applicants who agree to contribute more than the requisite 25 per centum.

"(b) In order to accomplish the objectives of this section, the Administrator, in consultation with appropriate Federal agencies, shall be responsible for formulating a national small business tree planting program. Based on this program, a State may submit a detailed proposal for tree planting by contract.

"(c) To encourage and develop the capacity of small business concerns, to utilize this important segment of our economy, and to permit rapid increases in employment opportunities in local communities, grantees are directed to utilize small business contractors or concerns in connection with the program established by this section, and shall, to the extent practicable, divide the project to allow more than one small business concern to perform the work under the project.

"(d) For purposes of this section, agencies of the Federal Government are hereby authorized to cooperate with all grantees and with State foresters or other appropriate officials by providing without charge, in furtherance of this program, technical services with respect to the planting and growing of such trees.

"(e) There are authorized to be appropriated to carry out the objectives of this section $30,000,000 for fiscal year 1991 and $50,000,000 for each fiscal year thereafter, and all of such sums may remain available until expended.

"(f) Notwithstanding any other law, rule, or regulation, the Administration shall publish in the Federal Register proposed rules and regulations implementing this section within sixty days after the date of enactment of this section and shall publish final rules and regulations within one hundred and twenty days of the date of enactment of this section.

"(g) As used in this section—

"(1) the term 'local government' includes political subdivisions of a State such as counties, parishes, cities, towns and municipalities;

"(2) the term 'planting' includes watering, application of fertilizer and herbicides, pruning and shaping, and other subsequent care and maintenance for a period of three years after the trees are planted; and

"(3) the term 'State' includes any agency thereof.

"(h) The Administrator shall submit annually to the President and the Congress a report on activities within the scope of this section.".

INTEREST RATE ON CERTIFIED DEVELOPMENT COMPANY LOANS

SEC. 105. Section 112 of the Small Business Administration Reauthorization and Amendment Act of 1988 (Public Law 100-590) is amended by striking from the end of subsection (c) "October 1, 1990" and by inserting in lieu thereof "October 1, 1994".

COOPERATIVE AGREEMENTS

SEC. 106. Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) as amended, is further amended by striking "October 1, 1990" and by inserting in lieu thereof "October 1, 1994".

AMOUNT OF ASSISTANCE TO SPECIAL SMALL BUSINESS INVESTMENT COMPANIES

SEC. 107. Section 303 of the Small Business Investment Act of 1958 is amended as follows—

(1) by inserting in paragraph (6) of subsection (c) after "debentures or securities" the following: "under the provisions of this title"; and

(2) by striking the third sentence of subsection (d).

SBA DEPUTY ADMINISTRATOR

SEC. 108. (a) Section 4 of the Small Business Act is amended by striking "The Administrator is authorized to appoint a Deputy Administrator and" from the fourth sentence of paragraph (1) of subsection (b) and in inserting in lieu thereof the following: "The President also may appoint a Deputy Administrator, by and with the advice and consent of the Senate. The Administrator is authorized to appoint".

(b) The provisions of subsection (a) of this section shall apply to any vacancy which occurs in the position of Deputy Administrator of the Small Business Administration after the effective date of this Act.

BUNDLING OF CONTRACTS

SEC. 109. Section 15(a) of the Small Business Act is amended by adding before the word "Whenever" the following new sentences: "If a proposed procurement includes in its statement of work goods or services currently being performed by a small business, and if the proposed procurement is in a quantity or estimated dollar value the magnitude of which renders small business prime contract participation unlikely, or if a proposed procurement for construction seeks to package or consolidate discrete construction projects, the Procurement Activity shall provide a copy of the proposed procurement to the Procurement Activity's Small Business Procurement Center Representative at least thirty days prior to the solicitation's issuance along with a statement explaining (1) why the proposed acquisition cannot be divided into reasonably small lots (not less than economic production runs) to permit offers on quantities less than the total requirement, (2) why delivery schedules cannot be established on a realistic basis that will encourage small business participation to the extent consistent with the actual requirements of the Government, (3) why the proposed acquisition cannot be offered so as to make small business participation likely, or (4) why construction cannot be procured as separate discrete projects. The thirty-day notification process shall occur concurrently with other processing steps required prior to issuance of the solicitation. Within fifteen days after receipt of the proposed procurement and accompanying statement, if the Procurement Center Representative believes that the procurement as proposed will render small business

prime contract participation unlikely, the Representative shall recommend to the Procurement Activity alternative procurement methods which would increase small business prime contracting opportunities.".

DEVELOPMENT COMPANY FINANCINGS

SEC. 110. Section 501(a) of the Small Business Investment Act of 1958 is amended to read as follows:

"(a) The Congress hereby finds and declares that the purpose of this title is to foster economic development and to create or preserve job opportunities in both urban and rural areas by providing long-term financing for small business concerns through the development company program authorized by this title.".

NATIONAL POLICY CONSIDERATIONS IN CERTIFIED DEVELOPMENT COMPANY ASSISTANCE

SEC. 111. (a) Section 501 of the Small Business Investment Act of 1958 is amended by adding the following new subsection:

"(d) In order to qualify for assistance under this title, the development company must demonstrate that the project to be funded is directed toward at least one of the following economic development objectives—

"(1) the creation of job opportunities within two years of the completion of the project or the preservation or retention of jobs attributable to the project;

"(2) improving the economy of the locality, such as stimulating other business development in the community, bringing new income into the area, or assisting the community in diversifying and stabilizing its economy; or

"(3) the achievement of one or more of the following public policy goals:

"(A) business district revitalization,

"(B) expansion of exports,

"(C) expansion of minority business development,

"(D) rural development,

"(E) enhanced economic competition, including the advancement of technology, plan retooling, conversion to robotics, or competition with imports,

"(F) changes necessitated by Federal budget cutbacks, including defense related industries, or

"(G) business restucturing arising from Federally mandated standards or policies affecting the environment or the safety and health of employees.

If eligibility is based upon the criteria set forth in paragraph (2) or (3), the project need not meet the job creation or job preservation criteria developed by the Administration if the overall portfolio of the development company meets or exceeds such job creation or retention criteria.".

(b) Section 502 of such Act is amended by striking the period at the end of paragraph (2) and by inserting the following: ", except loans meeting the criteria specified in section 501(d)(3) shall be limited to $1,000,000 for each such identifiable small business concern.".

SBIC'S UNDER COMMON CONTROL

SEC. 112. The last sentence of paragraph 303(b)(1) of the Small Business Investment Act of 1958 is amended to read as follows: "In no event shall the debentures guaranteed and outstanding under this title of any such company or companies which are commonly controlled as determined by the Administration exceed $35,000,000.".

SECONDARY MARKET SALES

SEC. 113. Section 7(a) of the Small Business Act is amended by striking the last sentence of subparagraph (A) of paragraph (16).

EXPORT REVOLVING LINE OF CREDIT

SEC. 114. Section 7(a) of the Small Business Act is amended as follows—

(1) by striking from subparagraph (A) of paragraph (14) "for pre-export"; and

(2) by striking from subparagraph (A) of paragraph (14) "18 months" and by inserting in lieu thereof "3 years".

SPECIFIC PROCUREMENT CENTER REPRESENTATIVES

SEC. 115. Not later than one hundred and eighty days after the date of enactment, the Administrator of the Small Business Administration shall station a traditional procurement center representative at the Department of Agriculture, the Navy Sea Systems Command, and the Environmental Protection Agency. Such representatives shall be in addition to the representatives stationed or designated to be stationed on the date of enactment of this Act.

INDIAN TRIBE PARTICIPATION IN 8(a)

SEC. 116. Section 8(a)(4) of the Small Business Act is amended as follows:

(1) by inserting in clause (A)(i)(II) after the word "tribe," the following: "or a subsidiary of an Indian tribe, regardless of tier,";

(2) inserting in clause (A)(ii)(II) the following: "or a subsidiary of an Indian tribe, regardless of tier,";

(3) by inserting after the comma in clause (B)(ii) the following: "or a subsidiary of an Indian tribe, regardless of tier,";

(4) by inserting the following new paragraph at the end thereof:

"(D) For purposes of any program under this section or section 7(j)(10) of this Act, a business owned by an Indian tribe shall not be considered to be affiliated with either the owning tribe or any other business entity owned by said tribe unless the Administrator finds that the business concern's relationship with the other business entity or entities owned by said tribe gives the concern a substantial competitive advantage.".

SUNSET ON 8(a) CONTRACTS WITH INDIAN TRIBE JOINT VENTURES

SEC. 117. Section 602 of the Business Opportunity Development Reform Act of 1988 (Public Law 100-656) is amended by striking from subsection (e) "1991" and by inserting in lieu thereof "1995".

NON-MANUFACTURER RULE

SEC. 118. Section 8(a)(17)(B)(iv) of the Small Business Act (15 U.S.C. 637(a)(17)(B)(iv)) is amended to read as follows:

"(iv) represent that it will supply the product of a domestic small business manufacturer or processor, except that the Administrator may waive the application of the clause, as it pertains to the furnishing of a product manufactured or processed by a small business—

"(I) for any class of products for which there are no small business manufacturers or processors in the Federal market; and

"(II) for any product for which such business concern has, after solicitation, not received a responsive bid from a small business manufacturer or processor.".

FEASIBILITY STUDY OF BUSINESS COOPERATION NETWORK

SEC. 119. (a) The Administrator of the Small Business Administration shall conduct a study of the feasibility of establishing a business cooperation system similar to the Business Cooperation Network developed by the European Economic Community.

(b) The purpose of the study shall be to identify—

(1) the total cost to implement such a system in this country;

(2) all existing business data systems at the Federal, state local government levels which would be of assistance in developing a program similar to either the Euro Info Centre and/or the European Business Cooperation Network;

(3) all existing business data systems in the private sector which would be of assistance in developing a program similar to either the Euro-Info-Centre and/or the European Business Cooperation Network;

(4) the amount of time it would take to fully implement this program in all fifty States; and

(5) the benefits to the international competitiveness of the United States.

(c) In conducting the study, the Administrator shall encourage participation of all appropriate Federal departments and agencies, appropriate State departments and agencies, appropriate small business representative groups, and any other public and/or private entities which would play a role in the development of such a system.

(d) Not later than one year after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the study together with recommendations for such legislative and administrative actions as the Administrator considers appropriate.

STUDY ON IMPACT OF ELECTRONIC DATA INTERCHANGE TECHNOLOGY

SEC. 120. (a) The Administrator of the Small Business Administration shall conduct a study of the impact of electronic data interchange technology on small business concerns.

(b) The purpose of the study shall be to identify—

(1) the benefits of electronic data interchange technology with respect to small business concerns;

(2) the adverse effects of electronic data interchange technology with respect to small business concerns;

(3) technical and financial assistance which the Small Business Administration can offer to small business concerns which seek to use electronic data interchange technology;

(4) measures which may be taken to implement a uniform technical standard for electronic data interchange technology;

(5) measures which may be taken to prevent electronic data interchange technology in the Federal procurement process from having an adverse effect on small business concerns; and

(6) other measures which may be taken to prevent electronic data interchange technology from becoming a competitive barrier to small business concerns.

(c) In conducting the study, the Administrator shall encourage participation by Federal departments and agencies, small business concerns, and other private and public entities.

(d) Not later than one hundred and eighty days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the study together with recommendations for such legislative and administrative actions as the Administrator considers appropriate.

The CHAIRMAN. Are there any amendments to title I?

AMENDMENT OFFERED BY MR. IRELAND

Mr. IRELAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. IRELAND: On page 12—strike line 1 and all that follows through page 14, line 20. Redesignate subsequent sections of the bill accordingly.

Mr. IRELAND. Mr. Chairman, I offer this amendment to strike section 104, the natural resource development section. I will not take much of the committee's time on the amendment. I can state my case in a very few words.

We all agree that the environment is very important. We also agree that it would help the environment if we were able at this time to step up the planting of trees across this country.

With that said, we also at this time, as my colleagues know, are faced with an enormous debt and a deficit. This section of the legislation is a very good example of what is causing our present dilemma.

In the legislation, it is proposed that we offer $30 million in grants in fiscal year 1991 to encourage planting of trees. Over the following 3 fiscal years, we would spend an additional $150 million for the same end.

We have already, due to budget constraints, severely limited some excellent Small Business Administration programs. I do not believe we have done that so that we could then propose to come up with $180 million more of new money to plant trees throughout the country. This is, indeed, an ill-timed amendment.

If any amendment of this type comes before the body again, it should be under the auspices of the Department of Agriculture, and I urge my colleagues to support my effort to delete this section.

This section has the opposition of the administration that has a tree-planting program that it does support. This is not the place for this kind of initiative.

I urge my colleagues to support my amendment.

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the President stood here behind me one evening in January or February and said, "I want to plant 1 billion trees, a billion trees. I am for the environment."

Therefore, I rise in support of H.R. 4793, and more particularly section 104 which incorporates the provisions of legislation I have introduced, H.R. 4123, the Small Business Natural Resource Development and Employment Opportunity Act.

For many years we have wasted both time and the space which could be used to plant seedlings to make our cities and our parks, streets and public lands more beautiful. At the same time these trees would counteract the increase in air pollution and make a lasting contribution toward a more livable space for future generations.

In 1983, I secured the adoption of an amendment to the emergency jobs bill which provided $50 million to State and local governments to be used for tree planting. This program was very successful, was easily and quickly implemented, and resulted in participation by every each State in the United States.

Few Federal programs can make these claims. It was probably the most successful of all the jobs programs in that jobs bill, producing the most jobs for employees per dollar and at the same time time providing public assets which will increase in value for years to come.

Except for those groups particularly organized to pursue the solving of environmental problems, I have seen little interest in tree planting legislation since 1983. Although I have reintroduced legislation to establish the basic framework for this type of program each Congress, this cause has not been considered of sufficient importance to compete for Federal dollars until the President specifically recognized it in his State of the Union Message this year.

The President has elevated the topic to one of national concern, and he stated that he supports investing $175 million to promote reforestation, and of this, $30 million is specifically recommended for grants to State and local governments to encourage tree planting on public land. My bill and section 104 of this omnibus bill would fulfill that goal relating to the $30 million portion in the most effective and efficient way in cooperation with local units of government.

In addition to providing us shade in the summer and a source of fuel and fiber, trees help to remove the carbon dioxide which our modern day lifestyle pours into our environment. A single tree can absorb 26 pounds of carbon dioxide per year. Some trees do even better, and well-placed trees can cut a home's air conditioning bill 10 to 50 percent.

Trees are an investment in both resources for the future and a better environment in a country with an increasing population and need.

I believe that is one way that we can leave our communities at least as attractive in one respect as the way we inherited them. Providing Federal seed money to encourage the involvement of local governments to plant and manage the growth of trees on currently unutilized sites is the best possible way to secure the most for the investment.

Small businesses are available all over the country to immediately respond. They showed that in 1983 with both the seedlings and the ability to contract the work without the necessity of building a bureaucracy. The cost of administration was virtually nil in 1983, and it was and again can be implemented in a matter of weeks.

We do not need to concentrate all our efforts on vast reforestation projects. Trees spread out on public land all over the United States would be very valuable in the aggregate, and passing and implementing this program in the same amount that the President requested for the first year is the least that we should do.

I urge support for the entire bill, and particularly this program.

Mr. LAFALCE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I also rise in opposition to the amendment.

The President has asked for $175 million for the purpose of planting trees. This bill would provide for $30 million in the first year, and then for $50 million in each of the successive three years.

There is a legitimate question as to whether this should be done under the auspices of the Small Business Administration as was done in 1983 with considerable success, with considerable learning experience, or whether it should be done elsewhere. That, of course, is something that can ultimately be resolved by the Committee on Appropriations, but we felt, given the success of the program in 1983, given the fact that the President himself has requested amounts of money almost identical to the amount contained in this bill, that this should not be a very controversial issue.

The chief controversy, it would seem to me, would come in the Committee on Appropriations in deciding which of the several possible Federal agencies would be responsible for the basic program that the President wants.

□ 1420

Mr. Speaker, I would urge defeat of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. IRELAND].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. IRELAND. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently, a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device, the following Members responded to their names:

[Roll No. 377]

ANSWERED "PRESENT"—410

Ackerman	Annunzio	Aspin
Alexander	Anthony	Atkins
Anderson	Applegate	AuCoin
Andrews	Armey	Baker

Ballenger
Barnard
Bartlett
Barton
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Darden
Davis
de la Garza
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (TN)
Frenzel
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Geren
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal (MA)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)

□ 1439

The CHAIRMAN. Four hundred ten Members have answered to their names, a quorum is present, and the Committee will resume its business.

□ 1440

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Florida [Mr. IRELAND] for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 150, noes 269, not voting 13, as follows:

[Roll No. 378]

AYES—150

Applegate
Archer
Armey
Aspin
Baker
Ballenger
Bartlett
Barton
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Broomfield
Bunning
Burton
Callahan
Cardin
Carr
Chapman
Clarke
Coble
Coleman (MO)
Combest
Conte
Cooper
Coughlin
Courter
Craig
Crane
DeLay
Derrick
DeWine
Dickinson
Dornan (CA)
Douglas
Duncan
Early
Edwards (OK)
Emerson
Fields
Frenzel
Gallegly
Gallo
Gekas
Geren
Gibbons
Gingrich
Glickman
Goodling
Goss
Gradison
Grandy
Grant
Gunderson
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Henry
Herger
Holloway
Hopkins
Houghton
Huckaby
Hunter
Hyde
Ireland
Jacobs
Johnson (CT)
Kasich
Kolbe
Kolter
Kyl
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Lukens, Donald
Madigan
Marlenee
Martin (NY)
McCandless
McCollum
McEwen
McMillan (NC)
Meyers
Mfume
Michel
Miller (OH)
Moorhead
Murphy
Myers
Nelson
Nielson
Oxley
Packard
Parris
Patterson
Paxon
Penny
Petri
Quillen
Ray
Regula
Rhodes
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Schaefer
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skaggs
Skeen
Slattery
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tanner
Tauke
Tauzin
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Weldon
Wolf
Wylie
Yatron
Young (FL)

NOES—269

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Atkins
AuCoin
Barnard
Bates
Beilenson
Berman
Bevill
Bilbray
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Carper
Chandler
Clay
Clement
Clinger
Coleman (TX)
Collins
Condit
Conyers
Costello
Cox
Coyne
Darden
Davis
de la Garza
DeFazio
Dellums
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Dreier
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (TN)
Frank
Gaydos
Gejdenson
Gephardt
Gillmor
Gilman
Gonzalez
Gordon
Gray
Green
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Hertel
Hiler
Hoagland
Hochbrueckner
Horton
Hoyer
Hubbard
Hughes
Hutto
Inhofe
James
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken, Thomas
Machtley
Manton
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pashayan
Payne (NJ)
Payne (VA)
Pelosi
Perkins
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Richardson
Rinaldo
Ritter
Robinson
Roe
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schumer
Serrano
Shays
Sikorski
Sisisky
Skelton

Slaughter (NY)	Taylor	Washington
Smith (FL)	Thomas (GA)	Watkins
Smith (IA)	Torres	Waxman
Smith (NJ)	Torricelli	Weber
Snowe	Towns	Weiss
Solarz	Traficant	Wheat
Spratt	Traxler	Whittaker
Staggers	Udall	Whitten
Stallings	Unsoeld	Williams
Stark	Valentine	Wilson
Stokes	Vento	Wise
Studds	Visclosky	Wolpe
Swift	Volkmer	Wyden
Synar	Walgren	Yates
Tallon	Walsh	

NOT VOTING—13

Bateman	Ford (MI)	Rowland (CT)
Crockett	Frost	Sharp
Dannemeyer	Guarini	Young (AK)
Dyson	Hawkins	
Flippo	Pease	

□ 1449

Messrs. McGRATH, ATKINS, KLECZKA, JAMES and DREIER of California changed their vote from "aye" to "no."

Messrs. THOMAS of Wyoming, STENHOLM, PAXON, GALLO, and GEREN of Texas changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1450

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. WYDEN

Mr. WYDEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WYDEN: Page 25, after line 1, insert the following new section:

SEC. 121. (a) ESTABLISHMENT.—The Small Business Administration, in consultation with the National Institute of Standards and Technology and the National Technical Information Service, shall establish a Technology Access Pilot Program (hereafter in this section referred to as the "Program"), for making grants under this section to a maximum of 5 States.

(b) CRITERIA FOR SELECTION OF STATES.—The Administrator of the Small Business Administration shall establish competitive, merit-based criteria for the selection of States to receive grants on the basis of—

(1) the ability of the State to carry out the purposes described in subsection (d) in a manner relevant to the needs of industries in that State;

(2) the ability of the State to integrate the implementation of the Program with existing Federal and State technical and business assistance resources, including Small Business Development Centers; and

(3) the ability of the State to continue the program established pursuant to this section after the termination of the Program.

(c) MATCHING REQUIREMENT.—To be eligible to receive a grant under this section, a State shall be required to provide at least an equal amount of funds as that received under such grant.

(d) PURPOSE OF GRANTS.—Grants made to States under this section shall be for the purpose of increasing access by small businesses to on-line data base services that provide technical and business information, and access to technical experts, in a wide range of technologies, through such activities as—

(1) defraying the cost of access by small businesses to the data base services;

(2) training small businesses in the use of the data base services; and

(3) establishing a public point of access to the data base services.

Activities described in paragraphs (1) through (3) may be carried out through contract with a private entity.

(e) EVALUATION.—After the completion of 3 years after the date on which the first grant is issued under this section, and within 6 months after the termination of the Program, the General Accounting Office shall evaluate the effectiveness of the Program in stimulating technological progress, and shall report the findings to the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives and to the Committee on Small Business and the Committee on Commerce, Science, and Transportation of the Senate.

(f) TERMINATION.—The Program shall terminate on September 30, 1995.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Small Business Administration for carrying out this section—

(1) $2,000,000 for fiscal year 1991; and

(2) $5,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

Mr. WYDEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. WYDEN. Mr. Chairman, I want to congratulate and commend my colleague, JOHN LAFALCE, for his hard work on this reauthorization measure. I also commend his tremendous leadership over the years in the fight to bring new technologies—and especially Federal laboratory technologies—to domestic small businesses.

I am convinced that these scientific breakthroughs can be the difference between winning and losing in an increasingly competitive global economy. They can help U.S. companies build bigger and faster computer chips, find cures for dread diseases like cancer and AIDS, and improve speed and efficiency on industrial production lines from Portland, OR to Portland, ME. We need all of that, and more, to gain and maintain jobs in the future.

Toward that end, I offer today an amendment creating a pilot program to help shepherd new technologies—priceless discoveries from our multibillion-dollar-per-year, Federal laboratory network—to the folks who need them the most, our Nation's small businesses.

During the last year we've found that the 700 Federal laboratories are a treasure trove of practical knowledge applicable to a wide range of commercial fields, from medicine to metallurgy. I call these technologies our keys to the competitive kingdom.

But it is also quite clear from our investigation that big gaps exist in our efforts to transfer and commercialize these scientific breakthroughs. These problems are attacked in this amendment in a sensible and cost-conscious fashion.

To do less would be to encourage further underutilization of a tremendous—and tremendously expensive—public resource. Fifty cents of every research dollar invested in this country is spent at a Federal or federally supported lab.

That's a total of more than $60 billion tax dollars per year in federally assisted research and development. Unfortunately, only drops of commercialization flow out of this potentially valuable research stream. Our latest estimates indicate that the Federal Government earns only about $4 million per year in the form of patent license revenues from Federal inventions, a return of 0.00005 percent on its research investment. That's an indication that commercialization is proceeding at a snail's pace.

One former, long-time Presidential science aide complained to my staff that less than 10 percent of the inventions created in government-owned and operated labs—funded at about $20 billion per year—are ultimately transferred to private industry. Even less is finally commercialized into products.

I'm convinced we can do better.

This amendment would create a pilot program to assist businesses by authorizing special grants for small business development centers and other programs currently providing technical and management support to small firms in five target States. These funds would train staff at these organizations, or provide special assistance under contract in the technical aspects of information identification and collection from existing scientific data bases—including those electronic libraries of information maintained by the Federal laboratories.

Breakthroughs in product applications, manufacturing processing, synthesized materials and many other technologies would be made available to small businesses. Their cost of acquiring this knowledge through the SBDC's or elsewhere would be subsidized.

Mr. Chairman, it is unfortunate that many Federal laboratory directors and their subordinates take little interest in encouraging the commercialization of their findings. The door to too many Federal research facilities is shut tight, if not locked.

This program helps us open the door, if only by a crack. It will encourage a freer flow of Federal technologies to American business. It will add to this Nation's competitive strength.

It will provide insurance for future job creation.

I urge my colleagues to support the amendment.

Mr. Chairman, this amendment proposes something which is unique in the field of technology transfer and economic development. It proposes a system which would give small businesses instant and easy access to the very best technical expertise in the country. It is hard to imagine a more user-friendly system. Under the Technology Access Pilot Program [TAPP] proposed by this amendment, a small business person in need of technical assistance does not have to call 14 people and wait 3 weeks in order to get help, does not have to know the 10 different protocols needed to access 10 different data bases, and does not need to hire a staff of information-retrieval experts. Technology transfer systems which operate that way—and many do—will never reach or help most of their potential customers. Under TAPP, by contrast, all a business needs is access to a personal computer and a telephone in order have the very best technical expertise in the country—indeed the world—at its fingertips.

TAPP is modeled directly on a Minnesota State program—Minnesota Project Outreach—which has demonstrated that this concept of user-friendly technology transfer can work in practice. In particular, TAPP, like the Minnesota program, would give small businesses access to both:

First, a network for peer-recommended technical experts, encompassing all aspects of technology, contractually committed to answering technical questions by telephone; and

Second, interactive and batch remote searching of local and national technical and business information, executed by a trained staff of information or library scientists with search proficiency in the complete range of major and minor online systems and files.

The Minnesota program has 10,000 peer-recommended technical experts under contract to answer technical questions by telephone. In addition, it offers an interactive literature search capability, which enables a business to search all relevant data bases—including all major Federal data bases—without having to know the various protocols and intricate search procedures. TAPP would offer this service in a pilot Federal program. Think what a difference that can make to a small business. If you are a young engineer just out of school working at a small company, this program will give you access, right at your desk, to all the technical literature that you need in your job, and to 10,000 experts to act as your personal assistants. It is my hope that, someday, this king of technical assistance will be available at the desk of every technical professional in the country.

This amendment directs the Small Business Administration to work with the National Institute of Standards and Technology [NIST] in creating this program, because NIST has experience carrying out the technology transfer programs authorized in the 1988 Trade Act, including the Rockefeller-Boehlert-Bumpers State Technology Extension Program. In addition, I understand that other legislation currently being considered by Congress may authorize NIST to create a data base covering all technical information that the Federal Government offers. If that data base is created, hopefully it can be used in this program to give small businesses access to Federal technologies and Federal experts.

The TAPP program would be administered as follows: The Small Business Administration would select five States, using merit-based criteria, to participate in the program. The participating States would be required to match Federal funds on at least a 1-to-1 basis. The States would then coordinate with Small Business Development Centers and other technical and business assistance programs, to use the grants to connect small businesses with data base services of the kind I have described—services providing single-point access to a comprehensive network of peer-recommended technical experts and to a comprehensive range of local and national business and technical information. Most small businesses should be able to access the data base services directly, from a personal computer with a modem. But the amendment also provides for the creation of public access points for small businesses that do not have the equipment or, perhaps, the expertise to access the services directly. The States, or the Small Business Development Centers and other programs that ultimately receive the funds, may hire a private contractor to carry out some or all aspects of the program, as the State of Minnesota has done.

Access by small businesses to the data base services would be subsidized. The purpose of the subsidy is to encourage small businesses to subscribe to the data base services. Each small business' subsidy would be phased out, however, as the business becomes more familiar with use of the data base services and comes to recognize the value of outside expertise. It is my expectation, based on what I have seen of the Minnesota program, that once small businesses recognize the full value of the data base services, they will pay the full cost of access.

I want to emphasize that this is a pilot program which contains a sunset provision. The program will be evaluated by the General Accounting Office after 3 years of operation and again at the end of the program. It is my hope and expectation that, in conducting these evaluations, the General Accounting Office will consult with private sector or academic economists who have experience conducting systematic empirical research in the area of technological innovation. GAO should be able to provide Congress with a cost-benefit analysis of this program.

Mr. Chairman, I believe that this amendment will be a landmark in the economic development of this country. If this pilot program proves successful, it is my hope that it will generate momentum for a national program to move technology from Federal laboratories and universities to industry, and to provide meaningful technical expertise to every business, large and small, that needs it. Such a national program could have a major impact on American economic competitiveness in world markets, and ultimately on the American standard of living.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, I commend the gentleman from Oregon [Mr. WYDEN] on this amendment. I think it is terribly important. It makes sense to do this because of all the great advancements that we are able to make in the governmental sector in research. It is a shame not to share it.

Mr. Chairman, I would like to mention to the gentleman from Oregon [Mr. WYDEN], my friend, that previously, when I was in Japan, I visited, with some of my colleagues, one of the major electronic companies of that country, and I asked them, of course, about their marketing and some other aspects, and I asked them about their research and development of that one company, one private company. They said they put $2 billion a year into electronic research, and it is a shame if we do not have this technology, whatever it may be, to transfer to our private sector. We would be short-changing America, and I think this is on the right track, and I compliment the gentleman from Oregon [Mr. WYDEN].

Mr. IRELAND. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I yield to the gentleman from Florida.

Mr. IRELAND. Mr. Chairman, I thank the gentleman from Oregon [Mr. WYDEN] for yielding, and I say once again that my colleague from Oregon is on the cutting edge of issues of this kind. I strongly support his initiative. It fits with the other things that we are doing, and I would urge my colleagues to support this measure.

Mr. WYDEN. Mr. Chairman, I thank my colleagues, and I particularly want to thank the chairman of the full committee who has done a great deal of important work in promoting technology transfer.

Mr. Chairman, I yield back the balance of my time.

Mr. LAFALCE. Mr. Chairman, I rise in support of the amendment of the gentleman from Oregon [Mr. WYDEN], and I particularly want to commend the gentleman for his outstanding work. He is chairman of the Subcommittee on Regulation, Business Opportunities, and Energy, chaired a number of hearings on the importance of technology transfer, particularly as it impacts the productivity and competitiveness of American industry, and there is no question in my mind that the amendment that he is offering will go very, very far to continue to enhance American productivity and competitiveness.

Mr. Chairman, I urge everyone to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. WYDEN].

The amendment was agreed to.

Mr. CONTE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 4793, the Small Business Reauthorization and Amendments Act.

I want to thank our chairman, Mr. LAFALCE, for his leadership and initiative throughout our deliberations. He did an excellent and thorough job, as always, and he deserves credit for it.

I am proud that I have had the opportunity to work on this legislation, and I am pleased that two bills I introduced, H.R. 2274 and H.R. 4746, are the basis for two provisions of the act. They are, respectively, sections 109 and 115.

These two sections provide valuable assistance to small businesses in the area of Federal procurement. Section 115, which I introduced as H.R. 4746, provides for the stationing of traditional procurement center representatives at the Department of Agriculture, the Navy Sea Systems Command, and the Environmental Protection Agency. These agencies have combined budgets totaling over $13 billion, yet the first two agencies have only liaison PCR coverge.

And the EPA, with an annual budget of over $1.5 billion, has not had any coverage at all for several years.

The addition of these three TPCR's will finally give the Small Business Administration coverage of the seven Cabinet-level agencies with acquisition budgets over $600 million.

This will enable the SBA to better monitor small business programs and significantly increase small business opportunities at those agencies.

The second section, section 109, I introduced as H.R. 2274, the Small Business Protection Act. This section will ensure that small businesses receive due consideration in the Federal procurement process.

It requires that agencies and procurement center representatives work together to maximize small business contracting opportunities. This continues my efforts for more competition and small business participation in Federal procurement.

Small business contracting is good for competition and for maximizing the shrinking Federal procurement dollar.

These sections are important for making sure that the most vital and innovative part of our economy gets the consideration it deserves in Federal procurement.

Last year the combined total of small business participation, prime and subcontracting, in Government contract awards was 32 percent. That's impressive, but let's not forget that small business is the Nation's biggest job creator.

Small businesses contribute 40 percent of the gross national product, employ 55 percent of the Nation's work force and come up with 50 percent of all major innovations. They deserve all the support and encouragement we can provide.

Mr. Chairman, the Committee on Small Business has done more than just continue funding for the SBA and its programs. We have crafted legislation that reaffirms our commitment to the growth and success of small businesses all across the country.

I urge all my colleagues to join me and the other members of the Committee on Small Business in supporting this legislation and the hard-working small businessmen and women of America.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—DEBENTURE PREPAYMENTS

PREPAYING DEVELOPMENT COMPANY DEBENTURES

SEC. 201. (a) Title V of the Small Business Investment Act of 1958 is amended by adding after section 506 the following new section:

"PREPAYING DEVELOPMENT COMPANY DEBENTURES

"SEC. 507. (a) For purposes of this section, the term 'issuer' means the issuer of a debenture which has been purchased by the Federal Financing Bank pursuant to section 503, and the term 'borrower' means the small business concern whose loan secures a debenture issued pursuant to such section.

"(b) The issuer of a debenture purchased by the Federal Financing Bank and guaranteed by the Small Business Administration under section 503 shall, at the election of the borrower, prepay such debenture by paying to the Federal Financing Bank prior to October 1, 1994, the unpaid principal balance and accrued interest due on the debenture at the coupon rate on the debenture: Provided, That—

"(1) the debenture is outstanding on the date of enactment, and neither the loan that secures the debenture nor the debenture is in default on the date the prepayment is made;

"(2) State or personal funds, which may include refinancing under the programs authorized by sections 504 and 505, are used to prepay the debenture;

"(3) the issuer certifies that the benefits, net of fees and expenses authorized herein, associated with prepayment of the debenture are entirely passed through to the borrower; and

"(4) the issuer pays to the Federal Financing Bank at the time of prepayment a penalty in an amount equal to the original principal amount of the debenture times the interest rate thereon times the number of years remaining to maturity divided by the number of years to maturity when originally issued, reduced by the amount of any fees paid pursuant to subsection (c): Provided, That the borrower shall pay the issuer the amount of the penalty plus the amount of any fees assessed pursuant to such subsection.

"(c) No fees or penalties other than those specified in this section may be imposed as a condition of such prepayment against the issuer, the borrower, or the Administration or any fund or account administered by the Administration. If a debenture is prepaid or refinanced other than through section 504, the issuer may require the borrower to pay a fee to the issuer in an amount equal to one percent of the unpaid principal balance of the debenture. If a debenture is refinanced with a guarantee pursuant to section 504, the issuer may require the borrower to pay a fee to the issuer in an amount equal to one-half of one percent of the unpaid principal balance of the debenture.

"(d) Debentures refinanced under section 504 shall be limited to $75,000,000 per year of the amounts otherwise authorized by the Small Business Act. Refinancing shall also be subject to all of the other provisions of sections 504 and 505 and the rules and regulations of the Administration promulgated thereunder, including, but not limited to, payment of authorized expenses and commissions, fees or discounts to brokers and dealers in trust certificates issued pursuant to section 505: Provided, however, That the issuer shall be deemed to have waived any origination fee on the new debenture to which it otherwise would have been entitled.".

(b) CLERICAL AMENDMENT.—The table of contents for title V of such Act is amended by adding at the end the following new item:

"Sec. 507. Prepaying existing obligations.".

PREPAYING SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY DEBENTURES

SEC. 202. (a) Title III of the Small Business Investment Act of 1958 is amended by adding after section 322 the following new section:

"PREPAYING SPECIALIZED SMALL BUSINESS INVESTMENT COMPANY DEBENTURES

"SEC. 323. (a) Any small business investment company which is the issuer of a debenture purchased by the Administration under section 303(c) may elect to prepay the debenture by paying to the Administration prior to October 1, 1994, the unpaid principal balance and accrued interest: Provided, That—

"(1) the debenture is outstanding on the date of enactment and is not in default on the date the prepayment is made;

"(2) personal funds, which may include refinancing with proceeds of guaranteed debentures under section 303(d) of this Act, are used to prepay the debenture, except that if new guaranteed debenture proceeds are utilized, the length of time of the interest rate reduction authorized by such subsection (d) shall be reduced by the length of time the issuer received an interest rate reduction on the debenture being prepaid; and

"(3) the issuer pays to the Administration at the time of prepayment a penalty in an amount equal to the original principal amount of the debenture times the interest rate thereon times the number of years remaining to maturity divided by the number of years to maturity when originally issued.

"(b) No fees or penalties other than those specified in this section may be imposed as a condition of such prepayment against the issuer, the Administration or any fund or account administered by the Administration.".

(b) The table of contents of title III of such Act is amended by adding after the item relating to section 322 the following new item:

"Sec. 323. Prepaying specialized small business investment company debentures.".

PREPAYING REGULAR SMALL BUSINESS INVESTMENT COMPANY DEBENTURES

SEC. 203. (a) Title III of the Small Business Investment Act of 1958 is amended by adding the following new section:

"PREPAYING REGULAR SMALL BUSINESS INVESTMENT COMPANY DEBENTURES

"SEC. 324. (a) Any small business investment company which is the issuer of a debenture guaranteed by the Administration under this title and purchased by the Federal Financing Bank may elect to prepay the debenture by paying to the Federal Financing Bank prior to October 1, 1994, the unpaid principal balance and accrued interest: Provided, That—

"(1) the debenture is outstanding on the date of enactment and is not in default on the date the prepayment is made;

"(2) personal funds, which may include refinancing with proceeds of guaranteed debentures under this title, are used to prepay the debenture; and

"(3) the issuer pays to the Federal Financing Bank at the time of prepayment a penalty in an amount equal to the original principal amount of the debenture times the interest rate thereon times the number of years remaining to maturity divided by the number of years to maturity when originally issued.

"(b) No fees or penalties other than those specified in this section may be imposed as a condition of such prepayment against the issuer, the Administration or any fund or account administered by the Administration.

"(c) Debentures refinanced under section 303(b) shall be limited to $75,000,000 per year of the amounts otherwise authorized by the Small Business Act. Refinancing shall also be subject to all of the other provisions of section 303 and 321 and the rules and regulations of the Administration promulgated thereunder, including, but not limited to, payment of authorized expenses and commissions, fees or discounts to brokers and dealers in trust certificates issued pursuant to section 321.".

(b) The table of contents of title III of such Act is amended by adding after the item relating to section 323 the following new item:

"Sec. 324. Prepaying regular small business investment company debentures.".

MISCELLANEOUS PROVISIONS

SEC. 204. (a) The provisions of this title are exercisable at the option of the borrower under section 201 or at the option of a small business investment company under sections 202 or 203 and are in addition to any prepayment options otherwise authorized by law.

(b) Within sixty days of the date of enactment of this title, the Small Business Administration shall issue regulations to implement this title. The Small Business Administration shall ensure that such regulations—

(1) facilitate such prepayments of debentures, and the underlying loans if the debentures are prepaid pursuant to section 201;

(2) provide for full processing of each request for scheduling of prepayment under sections 201 or 203 or prepayment under section 202 of this title within sixty days after its submission to the Administration, unless the requested prepayment involves a refinancing of a debenture under section 503 of the Small Business Investment Act of 1958 and the amount would exceed the annual limitation specified in section 507(d) of such Act or unless the requested prepayment involves a refinancing of a debenture under section 303(b) of such Act and the amount would exceed the annual limitation specified in section 324(c) of such Act;

(3) except as specifically and directly provided herein, impose no restriction that increases the cost to issuers or borrowers of obtaining financing for prepayment under this title, or delays the full processing of prepayment requests, or inhibits the ability of such issuers or borrowers to prepay under this title; and

(4) preserve any prepayment options which issuers and borrowers, as defined herein, or small business investment companies have under other provisions of law.

(c) Any new credit authority provided for in this title is subject to amounts provided for in advance in appropriations Acts.

The CHAIRMAN. Are there any amendments to title II?

AMENDMENT OFFERED BY MR. IRELAND

Mr. IRELAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. IRELAND: On page 25, strike line 3 and all that follows through page 32 line 16. Redesignate subsequent sections of the bill accordingly.

Mr. IRELAND. Mr. Chairman, I will not take the entire 5 minutes. I would call my colleagues' attention to the fact that my amendment strikes all of title II. Title II of this bill would permit certain Small Business Administration borrowers to prepay their borrowings that they have made from the Federal Finance Bank at substantially reduced premiums and to finance up to $150 million per year of such prepayments with new loans fully guaranteed by the Government. The effect of title II would be to allow a borrower to change the borrowing terms to which it had already agreed when it is favorable to the borrower and, therefore, unfavorable to the bank and the American taxpayer to do so.

Mr. Chairman, this title gives an unfair advantage to certain small business entities overseas and at the same time does not treat fairly the American taxpayer.

I urge my colleagues to support my amendment.

Mr. LAFALCE. Mr. Chairman, I would strongly oppose the amendment of the gentleman from Florida [Mr. IRELAND].

Mr. Chairman, let me explain briefly what title II is all about. Title II, which the gentleman from Florida [Mr. IRELAND] would delete, would authorize the prepayment of debentures owned by the Federal Financing Bank which were issued by certified development companies, or small business investment companies or minority enterprise small business investment companies. This provision within the bill overrides requirements imposed by the Government which impose outrageous prepayment penalties on small businesses which participate in those programs.

For example, a California small business participated in the CDC or development company program in 1982, and it borrowed $500,000 for 25 years at an interest rate of approximately 15 percent.

□ 1500

In order to prepay that loan, the Federal financing bank required the payment of a penalty of $202,000 or 43 percent of the balance outstanding at the time of prepayment. That is unconscionable.

Another small business participated in this program in 1982 and borrowed $415,000 for 20 years at 15 percent interest. The loan is now paid down to slightly more than $370,000, and yet the SBA has computed the prepayment balance at an additional $108,000 or approximately 30 percent.

The bill does not advocate that these small businesses be permitted to walk away from their obligations. It does not even advocate that there be no prepayment penalty. What it does advocate is that there should only be a reasonable prepayment penalty, and in looking at what is reasonable, it is important to observe that the financings previously held by the Federal financing bank through the CDC Program are now funded through the private sector. The debentures are still guaranteed by the SBA but the difference is that these loans or debentures are sold to private investors rather than to the bank, and each of these loans or debentures carries a provision to permit prepayment upon the payment of a reasonable penalty. What the provision within the bill does is to make the same prepayment penalty that is presently provided by the private sector.

I would also point out the following: That there have been countless other Federal programs where prepayment penalties have been eliminated altogether, not just made reasonable. For example, there was $600 million in prepayments of Rural Electrification Administration loans in fiscal year 1987 and another $2 billion in 1988 without the imposition of any penalty.

We are not asking for that. We are simply asking that the penalty be reasonable, what the private sector now calls for.

Here is another example: There was $2.5 billion in prepayments of Department of Defense foreign military sales loans in 1988, and there was another $3.4 billion in the first quarter of 1989, again without the imposition of any penalty. We want a penalty, but we want it to be a reasonable penalty, not an unconscionable penalty.

We are not asking for very much at all for our small business community. We are not asking for the forgiveness of any principal. We are simply asking that the prepayment penalty that is imposed be a reasonable one, especially when the interest rates were so high when they originally received the loans circa 1981 or 1982.

We are not asking what this administration is asking for with respect to Third World debt. We are not asking

for the forgiveness of interest or principal on loans that were made to Egypt, for example. No, for our small business community we still want them to pay a prepayment penalty, but let us make it reasonable, not unreasonable.

In order to accomplish this, Mr. Chairman, I ask the Members to stick with the committee amendment and reject the Ireland amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. IRELAND].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. IRELAND. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 21, noes 399, not voting 12, as follows:

[Roll No. 379]

AYES—21

Archer	Hancock	Livingston
Armey	Hansen	McCollum
Bartlett	Holloway	Rhodes
Barton	Hunter	Shumway
DeLay	Ireland	Smith (FL)
Frenzel	James	Stump
Gradison	Kyl	Walker

NOES—399

Ackerman	Clarke	Evans
Alexander	Clay	Fascell
Anderson	Clement	Fawell
Andrews	Clinger	Fazio
Annunzio	Coble	Feighan
Anthony	Coleman (MO)	Fields
Applegate	Coleman (TX)	Fish
Aspin	Collins	Flake
Atkins	Combest	Foglietta
AuCoin	Condit	Frank
Baker	Conte	Frost
Ballenger	Conyers	Gallegly
Barnard	Cooper	Gallo
Bateman	Costello	Gaydos
Bates	Coughlin	Gejdenson
Beilenson	Courter	Gekas
Bennett	Cox	Gephardt
Bentley	Coyne	Geren
Bereuter	Craig	Gibbons
Berman	Crane	Gillmor
Bevill	Crockett	Gilman
Bilbray	Dannemeyer	Gingrich
Bilirakis	Darden	Glickman
Bliley	Davis	Gonzalez
Boehlert	de la Garza	Goodling
Boggs	DeFazio	Gordon
Bonior	Dellums	Goss
Borski	Derrick	Grandy
Bosco	DeWine	Grant
Boucher	Dickinson	Green
Boxer	Dicks	Gunderson
Brennan	Dingell	Hall (OH)
Brooks	Dixon	Hall (TX)
Broomfield	Donnelly	Hamilton
Browder	Dorgan (ND)	Hammerschmidt
Brown (CA)	Dornan (CA)	Harris
Brown (CO)	Douglas	Hastert
Bruce	Downey	Hatcher
Bryant	Dreier	Hawkins
Buechner	Duncan	Hayes (IL)
Bunning	Durbin	Hayes (LA)
Burton	Dwyer	Hefley
Bustamante	Dymally	Hefner
Byron	Early	Henry
Callahan	Eckart	Herger
Campbell (CA)	Edwards (CA)	Hertel
Campbell (CO)	Edwards (OK)	Hiler
Cardin	Emerson	Hoagland
Carper	Engel	Hochbrueckner
Carr	English	Hopkins
Chandler	Erdreich	Horton
Chapman	Espy	Houghton
Hoyer	Montgomery	Schulze
Hubbard	Moody	Schumer
Huckaby	Moorhead	Sensenbrenner
Hughes	Morella	Serrano
Hutto	Morrison (CT)	Shaw
Hyde	Morrison (WA)	Shays
Inhofe	Mrazek	Shuster
Jacobs	Murphy	Sikorski
Jenkins	Murtha	Sisisky
Johnson (CT)	Myers	Skaggs
Johnson (SD)	Nagle	Skeen
Johnston	Natcher	Skelton
Jones (GA)	Neal (MA)	Slattery
Jones (NC)	Neal (NC)	Slaughter (NY)
Jontz	Nelson	Slaughter (VA)
Kanjorski	Nielson	Smith (IA)
Kaptur	Nowak	Smith (NE)
Kasich	Oakar	Smith (NJ)
Kastenmeier	Oberstar	Smith (TX)
Kennedy	Obey	Smith (VT)
Kennelly	Olin	Smith, Denny (OR)
Kildee	Ortiz	Smith, Robert (NH)
Kleczka	Owens (NY)	Smith, Robert (OR)
Kolbe	Owens (UT)	Snowe
Kolter	Oxley	Solarz
Kostmayer	Packard	Solomon
LaFalce	Pallone	Spence
Lagomarsino	Panetta	Staggers
Lancaster	Parker	Stallings
Lantos	Parris	Stangeland
Laughlin	Pashayan	Stark
Leach (IA)	Patterson	Stearns
Leath (TX)	Paxon	Stenholm
Lehman (CA)	Payne (NJ)	Stokes
Lehman (FL)	Payne (VA)	Studds
Lent	Pease	Sundquist
Levin (MI)	Pelosi	Synar
Levine (CA)	Penny	Tallon
Lewis (CA)	Perkins	Tanner
Lewis (FL)	Petri	Tauke
Lewis (GA)	Pickett	Tauzin
Lightfoot	Pickle	Taylor
Lipinski	Porter	Thomas (CA)
Lloyd	Poshard	Thomas (GA)
Long	Price	Thomas (WY)
Lowery (CA)	Pursell	Torres
Lowey (NY)	Quillen	Torricelli
Luken, Thomas	Rahall	Towns
Lukens, Donald	Rangel	Traficant
Machtley	Ravenel	Traxler
Madigan	Ray	Unsoeld
Manton	Regula	Upton
Markey	Richardson	Valentine
Marlenee	Ridge	Vander Jagt
Martin (IL)	Rinaldo	Vento
Martin (NY)	Ritter	Visclosky
Martinez	Roberts	Volkmer
Matsui	Robinson	Vucanovich
Mavroules	Roe	Walgren
Mazzoli	Rogers	Walsh
McCandless	Rohrabacher	Watkins
McCloskey	Ros-Lehtinen	Waxman
McCrery	Rose	Weber
McCurdy	Rostenkowski	Weiss
McDade	Roth	Weldon
McDermott	Roukema	Wheat
McEwen	Rowland (GA)	Whittaker
McGrath	Roybal	Whitten
McHugh	Russo	Williams
McMillan (NC)	Sabo	Wilson
McMillen (MD)	Saiki	Wise
McNulty	Sangmeister	Wolf
Meyers	Sarpalius	Wolpe
Mfume	Savage	Wyden
Michel	Sawyer	Wylie
Miller (CA)	Saxton	Yates
Miller (OH)	Schaefer	Yatron
Miller (WA)	Scheuer	Young (AK)
Mineta	Schiff	Young (FL)
Moakley	Schneider	
Molinari	Schroeder	
Mollohan	Schuette	

NOT VOTING—12

Dyson	Gray	Spratt
Flippo	Guarini	Swift
Ford (MI)	Rowland (CT)	Udall
Ford (TN)	Sharp	Washington

□ 1523

Messrs. SCHEUER, SENSENBRENNER, GUNDERSON, PAXON, COYNE, CLINGER, and Cox changed their vote from "aye" to "no."

Mr. RHODES changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—ASSISTANCE FOR RURAL SMALL BUSINESS CONCERNS

CITATION

SEC. 301. This title may be cited as the "Rural Small Business Enhancement Act of 1990".

DEFINITIONS

SEC. 302. Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end thereof the following new subsection:

"(m) For the purposes of sections 26, 27, and 28 of this Act—

"(1) the term 'rural area' means—

"(A) a county with a population of 100,000 or less; or

"(B) any area within a county with a population of 300,000 or less which the Administrator determines to be significantly rural; and

"(2) the term 'rural economic development entity' means an entity which has demonstrated experience in providing assistance to small business concerns in a rural area and which is located in, and operated by residents of, such area. Such entities may include non-profit community development corporations, economic development districts, local development districts (as defined by the Appalachian Regional Commission), councils of government, area loan organizations, industrial development authorities, industrial development corporations, chambers of commerce, and other similar entities as determined by the Administrator, but shall not include any entity which participates in programs under the Small Business Act or the Small Business Investment Act of 1958 except loan programs under section 7(a) of the Small Business Act.".

ESTABLISHMENT OF OFFICE OF RURAL AFFAIRS

SEC. 303. The Small Business Act (15 U.S.C. 631) is amended by inserting the following new section:

"SEC. 25. (a) There is hereby established in the Small Business Administration an Office of Rural Affairs (hereinafter in this section referred to as the 'Office').

"(b) The Office shall be headed by a director who shall be appointed by the Administrator not later than ninety days after the date of the enactment of this section.

"(c) The Office shall—

"(1) strive to achieve for small business concerns located in rural areas an equitable distribution of the financial assistance available from the Administration;

"(2) to the extent practicable, compile statistics on rural areas, including statistics concerning the population, poverty, job creation and retention, unemployment, bankruptcies, annual business failures, and annual business startups in such areas;

"(3) provide information to industries, organizations, and State and local governments concerning the assistance available to rural small business concerns through the Administration and through other Federal departments and agencies; and

"(4) provide information to industries, organizations, educational institutions, and

State and local governments concerning programs administered by private organizations, educational institutions, and Federal, State, and local governments which improve the economic opportunities of rural citizens.".

RURAL SMALL BUSINESS INCUBATOR ASSISTANCE LOANS

SEC. 304. (a) The Small Business Act is amended by inserting the following new section:

"SEC. 26. (a) The Administration, to the extent and in such amounts as are provided in advance in appropriations Acts, may make deferred participation or guaranteed loans to rural economic development entities to be used by such entities to establish rural small business incubators. If the Administrator determines that the annual program level is not sufficient to fund all eligible applications anticipated during each fiscal year, he may give priority to those applications for incubator assistance which would be located in areas where he determines the establishment of incubators would have the greatest economic impact.

"(b) For the purposes of this section, the term 'rural small business incubator' means a facility in a rural area which houses more than one small business concern and which is managed by an operator who provides each such small business concern access to equipment and professional, technical, and financial services.

"(c) The Administrator shall prescribe the form and procedures for rural economic development entities to apply for loans under this section.

"(d) A loan made to a rural economic development entity under this section shall bear interest at a rate to be determined by the Administrator.

"(e) A loan made to a rural economic development entity under this section shall be subject to such terms and conditions as may be prescribed by the Administrator.

"(f) The Administration shall provide to the operators of rural small business incubators information concerning the technical and management assistance resources available to small business concerns from the Administrator.".

(b) There are authorized to be appropriated to the Small Business Administration $10,000,000 in each of fiscal years 1991, 1992, and 1993 to carry out this section.

CONFORMING AMENDMENTS

SEC. 305. Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended as follows:

(1) by striking from paragraph (1) "and 8(a)" and by inserting in lieu thereof "8(a), and 26"; and

(2) by striking from paragraph (2) "and 8(a)" and by inserting in lieu thereof "8(a), and 26".

MARKETING ASSISTANCE GRANTS

SEC. 306. The Small Business Act is amended by adding at the end thereof the following new section:

"SEC. 27. (a) The Administrator, to the extent and in such amounts as are provided in advance in appropriations Acts, may make grants to rural economic development entities and to rural certified development companies for projects and studies designed to assist small business concerns in rural areas in marketing their products and services in the United States and foreign countries.

"(b) The Administrator shall prescribe the form and procedures for applications for such grants and shall require all applicants to meet the matching requirement contained in section 29.".

RURAL TOURISM GRANTS

SEC. 307. The Small Business Act is amended by adding the following new section at the end thereof:

"SEC. 28. (a) The Administrator, to the extent and in such amounts as are provided in advance in appropriations Acts, may make grants to rural economic development entities to assist in funding marketing studies and other projects designed to promote the growth of small business concerns in rural areas by increasing tourism in such areas.

"(b) The Administrator shall prescribe the form and procedures for applications for such grants and shall require all applicants to meet the matching requirement contained in section 29.".

MATCHING REQUIREMENT FOR RURAL GRANT PROGRAMS

SEC. 308. The Small Business Act is amended by adding the following new section at the end thereof:

"SEC. 29. (a) An applicant for a grant under section 27 or 28 shall certify to the Administrator for a fiscal year that the applicant will expend an amount to be determined in accordance with subsection (b) from non-Federal sources for the same purposes as are authorized for expenditure of the grant.

"(b)(1) If the applicant is located in a rural area which has an average per capita income of 100 percent or more of the average per capita income of the United States, the amount required to be expended from non-Federal sources for purposes described in subsection (a) is 100 percent of the grant.

"(2) If the applicant is located in a rural area which has an average per capita income of at least 90 percent but less than 100 percent of the average per capita income of the United States, the amount required to be expended from non-Federal sources for purposes described in subsection (a) is 67 percent of the grant.

"(3) If the applicant is located in a rural area which has an average per capita income of at least 80 percent but less than 90 percent of the average per capita income of the United States, the amount required to be expended from non-Federal sources for purposes described in subsection (a) is 50 percent of the grant.

"(4) If the applicant is located in a rural area which has an average per capita income of less than 80 percent of the average per capita income of the United States, the amount required to be expended from non-Federal sources for purposes described in subsection (a) is 33 percent of the grant.

"(c) In determining the average per capita income of the United States and the average per capita income of a rural area under subsection (b), the Administrator shall refer to the most recent decennial census information available from the Bureau of the Census.".

SBDC RURAL ACTIVITIES

SEC. 309. Section 21 of the Small Business Act is further amended as follows:

(1) by striking the word "and" at the end of subparagraph (L) of paragraph (3) of subsection (c);

(2) by redesignating paragraph (M) of paragraph (3) of subsection (c) as subparagraph (O); and

(3) by inserting the following new subparagraphs prior thereto:

"(M) in cooperation with the Department of Commerce, the Administration and other relevant Federal agencies, actively assisting rural small businesses in exporting by identifying and developing potential export markets for rural small businesses, facilitating export transactions for rural small businesses, developing linkages between United States rural small business firms and prescreened foreign buyers, assisting rural small businesses to participate in international trade shows, assisting rural small businesses in obtaining export financing and developing marketing and production strategies;

"(N) assisting rural small businesses—

"(i) in developing marketing and production strategies that will enable them to better compete in the domestic market;

"(ii) by providing technical assistance needed by rural small businesses;

"(iii) by making available managerial assistance to rural small business concerns; and

"(iv) by providing information on the availability of capital for business startup and expansion and assisting such concerns in obtaining financing;".

CATALOG OF FEDERAL PROGRAMS TO ASSIST RURAL SMALL BUSINESS CONCERNS

SEC. 310. (a) Not later than one hundred and eighty days after the date of enactment of this title, the Small Business Administration shall compile a catalog of programs administered by Frederal departments and agencies which offer assistance to small business concerns in rural areas. Such catalog shall include a description of each such program and instructions for contacting a Federal official responsible for administering the program.

(b) Copies of the catalog compiled under this section shall be transmitted to Congress upon its completion and additional copies shall be made available to small business concerns in rural areas, Federal departments and agencies, non-profit organizations, and the general public.

(c) The Small Business Administration shall update the catalog compiled under this section every two years.

AREA STATISTICS IN PRESIDENTIAL REPORT

SEC. 311. Section 303 of the Small Business Economic Policy Act of 1980 (Public Law 96-302) is amended by striking paragraph (2) of subsection (a) and inserting in lieu thereof the following:

"(2) present current and historical data on production, employment, investment, and other economic variables for small business in the economy as a whole and for small business in each sector of the economy, with, to the extent practicable, specific statistics divided as to urban, suburban and rural areas;".

SMALLER DEVELOPMENT COMPANIES IN RURAL AREAS

SEC. 312. Section 503 of the Small Business Investment Act of 1958 is amended as follows:

(1) by striking from paragraph (1) of subsection (e) the word "For" and inserting in lieu thereof the following: "Except as provided in subsection (f), for"; and

(2) by adding the following new subsection:

"(f)(1) A local development company licensed by the Administration to provide financial assistance primarily to small business concerns located in rural areas shall not be required to have:

"(A) more than fifteen members or stockholders nor may ownership or control of the corporation be limited to less than 15 percent in any person or concern; or

"(B) more than nine persons on its Board of Directors, of which five may be designated as constituting a quorum for the transaction of business.

"(2) Such company may satisfy the requirement of a full-time professional staff and management ability if it and one or more local development companies operating in adjacent rural areas jointly employ or contract with individuals to meet these criteria.".

The CHAIRMAN. Are there any amendments to title III?

Are there any amendments to the end of the bill?

AMENDMENT OFFERED BY MR. HILER

Mr. HILER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HILER: At the end of the bill, as reported, add the following new title:

TITLE IV—FAIR COMPETITION DEMONSTRATION PROGRAM

SEC. 401. (a) IN GENERAL.—In order to demonstrate the ability of private firms, especially small and small disadvantaged businesses, to provide quality services to Federal departments and agencies at fair and reasonable fees, the Administrator of the Small Business Administration shall conduct a surveying and mapping demonstration program.

(b) INVENTORY OF ACTIVITIES.—Not later than 180 days after the date of enactment of this Act, the Administrator, in consultation with the Office of Federal Procurement Policy, shall publish an inventory of surveying and mapping activities of Federal departments and agencies.

(c) ESTABLISHMENT.—Based on the inventory, not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the Office of Federal Procurement Policy, shall develop and implement a 4-year demonstration program that increases government contract opportunities for qualified private mapping and surveying firms, especially small and small disadvantaged businesses. The head of each Federal department or agency shall cooperate with the Administrator in carrying out this title.

(d) REPORTS.—The Administrator shall prepare and transmit to the Committees on Small Business of the Senate and House of Representatives an annual report on the demonstration program to include any recommendations for extending or expanding the scope of the program.

(e) SURVEYING AND MAPPING DEFINED.—For the purposes of this section, the term "surveying and mapping" means measuring, locating, and preparing maps, charts, surveys, aerial photographs, satellite images or other graphical or digital presentations depicting natural or man-made physical features, phenomena, and legal boundaries of the earth.

Mr. HILER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. HILER. Mr. Chairman, the amendment I offer today is fairly straightforward and noncontroversial. While I had planned to offer it at the committee level, the distinguished chairman of the committee raised some constructive questions about the proposal, and so I agreed to withdraw it pending further discussions with him. I take this opportunity to thank the chairman for working with me to perfect the amendment with the pleasant result of his accepting the proposal.

Mr. Chairman, when the last White House Conference on Small Business convened in 1986, out of the hundreds of issues considered and the 60 concerns that make the final list of recommendations, the third proposal addressed unfair competition with Government. Specifically, the White House conferees noted that our "laws, regulations, and policies should * * * prohibit direct, Government-created competition in which Government organizations perform commercial services."

Obviously, we cannot remedy the entire problem here today. But we can recognize that over the years, Federal agencies have built significant in-house capabilities that duplicate the services available in the private sector. And we can acknowledge that some agencies have spent valuable taxpayer dollars on expensive, capital equipment that private companies already own—equipment that could be used to meet the Government's needs without these expenditures.

My amendment takes a small, first step to helping the Small Business Committee and the House understand how Government competition with qualified small businesses costs the taxpayers money and to demonstrate, in a very limited fashion the ability of private enterprises to perform important services well.

My amendment directs the Small Business Administration, working in consultation with the Office of Federal Procurement Policy, to develop an inventory of mapping and surveying activities of Federal departments and agencies. In this way, we can quantify and indentify Government competition in this limited arena.

Based on that inventory, my amendment establishes a 4-year demonstration program by directing the Small Business Administration to develop and implement a plan for increasing contracing opportuntities for mapping and surveying services only.

Finally, the amendment directs the Small Business Administration to report annually on the demonstration program, to include any recommendations for extending or expanding the demonstration.

That is the length and breadth of the amendment.

Mr. Chairman, I should also note that mapping and surveying services were chosen for this demonstration program only after considering a number of factors: The capital costs for the Government to undertake these tasks; the availability of private firms to complete them; and the limited, although impressive, track record of the industry on Government contracts.

First, while it is difficult to dissect Federal agency budgets by activity, a conservative estimate puts the annual Federal spending on surveying, mapping, and geodesy at $1 billion.

This cost to the taxpayers can be attributed, in part, to the sophisticated, expensive, capital equipment that surveying, mapping, geodesy, and photogrammetry require. For example, the Bureau of Land Management recently purchased 16 global positioning satellite receivers at more than $150,000 each. Yet there are dozens of GPS receivers that have been purchased by private firms all across the country. This is very expensive duplication.

Finally, there are more than 6,400 healthy, dynamic, and qualified mapping and surveying firms in the United States that can meet the government's needs with precision. The U.S. Army Corps of Engineers, alone among the Federal agencies, annually contracts for 60 to 75 percent of its surveying and mapping requirements, and the corp has issued high praise for the quality of service it receives from the private sector.

Mr. Chairman, the Small Business Committee has taken great strides to protect taxpayers' dollars by demanding open, competitive bidding for procurement contracts, and we have worked vigorously to ensure that small businesses aren't cut out of the process. The Chairman and members of the committee should be commended for these efforts.

Now, we can take another, logical step for small business—and for the taxpayer—by demonstrating that the private sector can perform necessary services just as well as the Government for less money; by encouraging the Federal Government to eliminate wasteful duplication; and by establishing a limited demonstration program to ensure that these goals can be met in a sensible, orderly fashion.

Mr. Chairman, my amendment does not shut any program down, or encourage any agency to sell equipment to put Government employees on the street. Rather, it seeks to help this committee gather the information we need to find out how it can provide the best services and the least cost to the taxpayer.

I encourage my colleagues to support this amendment and thank, again, the distinguished chairman and ranking minority member of the Small Business Committee for their able assistance.

Mr. LAFALCE. Mr. Chairman, will the gentleman yield?

Mr. HILER. I yield to the gentleman from New York.

Mr. LAFALCE. Mr. Chairman, we think the gentleman has an excellent amendment. I have no opposition whatsoever.

Mr. IRELAND. Mr. Chairman, will the gentleman yield?

Mr. HILER. I yield to the gentleman from Florida.

Mr. IRELAND. Mr. Chairman, we have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. HILER].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. STUDDS] having assumed the chair, Mr. GLICKMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4793) to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes, pursuant to House Resolution 466, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LAFALCE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 398, nays 26, not voting 8, as follows:

[Roll No. 380]

YEAS—398

Ackerman	Bruce	Derrick
Alexander	Bryant	DeWine
Anderson	Buechner	Dickinson
Andrews	Bunning	Dicks
Annunzio	Bustamante	Dingell
Anthony	Byron	Dixon
Applegate	Callahan	Donnelly
Aspin	Campbell (CA)	Dorgan (ND)
Atkins	Campbell (CO)	Douglas
AuCoin	Cardin	Downey
Baker	Carper	Dreier
Ballenger	Carr	Duncan
Barnard	Chandler	Durbin
Barton	Chapman	Dwyer
Bateman	Clarke	Dymally
Bates	Clay	Early
Beilenson	Clement	Eckart
Bennett	Clinger	Edwards (CA)
Bentley	Coble	Edwards (OK)
Bereuter	Coleman (MO)	Emerson
Berman	Coleman (TX)	Engel
Bevill	Collins	English
Bilbray	Combest	Erdreich
Bilirakis	Condit	Espy
Billey	Conte	Evans
Boehlert	Conyers	Fascell
Boggs	Cooper	Fazio
Bonior	Costello	Feighan
Borski	Coughlin	Fields
Bosco	Courter	Fish
Boucher	Coyne	Flake
Boxer	Craig	Foglietta
Brennan	Crockett	Ford (TN)
Brooks	Darden	Frank
Broomfield	Davis	Frost
Browder	de la Garza	Gallegly
Brown (CA)	DeFazio	Gallo
Brown (CO)	Dellums	Gaydos
Gejdenson	Martin (IL)	Sangmeister
Gephardt	Martin (NY)	Sarpalius
Geren	Martinez	Savage
Gibbons	Matsui	Sawyer
Gillmor	Mavroules	Saxton
Gilman	Mazzoli	Schaefer
Gingrich	McCandless	Scheuer
Glickman	McCloskey	Schiff
Gonzalez	McCrery	Schneider
Goodling	McCurdy	Schroeder
Gordon	McDade	Schuette
Goss	McDermott	Schulze
Gradison	McEwen	Schumer
Grandy	McGrath	Serrano
Grant	McHugh	Sharp
Gray	McMillan (NC)	Shaw
Green	McMillen (MD)	Shays
Gunderson	McNulty	Shuster
Hall (OH)	Meyers	Sikorski
Hall (TX)	Mfume	Sisisky
Hamilton	Michel	Skaggs
Hammerschmidt	Miller (CA)	Skeen
Harris	Miller (OH)	Skelton
Hastert	Miller (WA)	Slattery
Hatcher	Mineta	Slaughter (NY)
Hawkins	Moakley	Slaughter (VA)
Hayes (IL)	Molinari	Smith (FL)
Hayes (LA)	Mollohan	Smith (IA)
Hefley	Montgomery	Smith (NE)
Hefner	Moody	Smith (NJ)
Henry	Moorhead	Smith (TX)
Herger	Morella	Smith (VT)
Hertel	Morrison (CT)	Smith, Denny (OR)
Hiler	Morrison (WA)	Smith, Robert (NH)
Hoagland	Mrazek	Smith, Robert (OR)
Hochbrueckner	Murphy	Snowe
Holloway	Murtha	Solarz
Hopkins	Myers	Solomon
Horton	Nagle	Spence
Houghton	Natcher	Staggers
Hoyer	Neal (MA)	Stallings
Hubbard	Neal (NC)	Stangeland
Huckaby	Nelson	Stark
Hughes	Nowak	Stearns
Hutto	Oakar	Stenholm
Hyde	Oberstar	Stokes
Inhofe	Obey	Studds
Ireland	Olin	Sundquist
Jacobs	Ortiz	Synar
James	Owens (NY)	Tallon
Jenkins	Owens (UT)	Tanner
Johnson (CT)	Oxley	Tauke
Johnson (SD)	Pallone	Tauzin
Johnston	Panetta	Taylor
Jones (GA)	Parker	Thomas (CA)
Jones (NC)	Parris	Thomas (GA)
Jontz	Pashayan	Thomas (WY)
Kanjorski	Patterson	Torres
Kaptur	Paxon	Torricelli
Kasich	Payne (NJ)	Towns
Kastenmeier	Payne (VA)	Traficant
Kennedy	Pease	Traxler
Kennelly	Pelosi	Unsoeld
Kildee	Penny	Upton
Kleczka	Perkins	Valentine
Kolbe	Pickett	Vander Jagt
Kolter	Pickle	Vento
Kostmayer	Porter	Visclosky
LaFalce	Poshard	Volkmer
Lagomarsino	Price	Vucanovich
Lancaster	Pursell	Walgren
Lantos	Quillen	Walsh
Laughlin	Rahall	Washington
Leach (IA)	Rangel	Watkins
Leath (TX)	Ravenel	Waxman
Lehman (CA)	Ray	Weber
Lehman (FL)	Regula	Weiss
Lent	Rhodes	Weldon
Levin (MI)	Richardson	Wheat
Levine (CA)	Ridge	Whittaker
Lewis (CA)	Rinaldo	Whitten
Lewis (FL)	Ritter	Williams
Lewis (GA)	Roberts	Wilson
Lightfoot	Robinson	Wise
Lipinski	Roe	Wolf
Livingston	Rogers	Wolpe
Lloyd	Ros-Lehtinen	Wyden
Long	Rose	Wylie
Lowery (CA)	Rostenkowski	Yates
Lowey (NY)	Roth	Yatron
Luken, Thomas	Roukema	Young (AK)
Machtley	Rowland (GA)	Young (FL)
Madigan	Roybal	
Manton	Russo	
Markey	Sabo	
Marlenee	Saiki	

NAYS—26

Archer	Fawell	Nielson
Armey	Frenzel	Packard
Bartlett	Gekas	Petri
Burton	Hancock	Rohrabacher
Cox	Hansen	Sensenbrenner
Crane	Hunter	Shumway
Dannemeyer	Kyl	Stump
DeLay	Lukens, Donald	Walker
Dornan (CA)	McCollum	

NOT VOTING—8

Dyson	Guarini	Swift
Flippo	Rowland (CT)	Udall
Ford (MI)	Spratt	

□ 1546

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1550

GENERAL LEAVE

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 4793, the bill passed.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from New York?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such roll call votes, if postponed, will be taken after debate is concluded on all motions to suspend the rules.

PARLIAMENTARY INQUIRIES

Mr. GUNDERSON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. GUNDERSON. Mr. Speaker, can the Chair give us some idea of how many suspensions and how many votes are going to be delayed?

The SPEAKER pro tempore. The Chair has been advised that debate will continue until about 6 o'clock, at which time voting will begin.

There are presently 11 suspensions. Others may be added, but there are presently 11 on the list.

Mr. GUNDERSON. Mr. Speaker, if I might continue my parliamentary inquiry for just a moment, we have had requests now actually from both sides of the aisle that there are apparently a number of dinners, including the Hispanic caucus dinner tonight. They

have asked us to try to be cooperative in regard to completing work by 6:30. Frankly, we need to know what kind of cooperation we will get on both sides, because on a number of these issues we are not going to eliminate the possibility of votes just to try to be cooperative, so if we could get some cooperation between both sides so that we can cooperate with the Hispanic caucus and others, I think it would be helpful.

The SPEAKER pro tempore. The Chair would like to be accommodating to all Members, as is the leadership, and will do everything possible to get the votes done in a timely manner.

Mr. GUNDERSON. I appreciate that, Mr. Speaker.

Mr. BARTLETT. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BARTLETT. Mr. Speaker, will the Speaker announce a list of the 11 suspensions to be considered this afternoon?

The SPEAKER pro tempore. The Chair would not presume to read the list. I think it can be circulated on the floor so that Members realize what is before us. The Chair cannot predict exactly in what order they will come up on the floor.

RED ROCK CANYON NATIONAL CONSERVATION AREA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4559), to establish the Red Rock Canyon National Conservation Area, as amended.

The Clerk read as follows:

H.R. 4559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF CONSERVATION AREA.

(a) IN GENERAL.—(1) In order to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the area in southern Nevada containing and surrounding the Red Rock Canyon and the unique and nationally important geologic, archeological, ecological, cultural, scenic, scentific, wildlife, endangered species, riparian, wilderness, and recreation resources of the public lands therein contained, there is established the Red Rock Canyon National Conservation Area.

(2) The conservation area shall consist of approximately 83,100 acres of federally owned land, water, and interests as generally depicted on a map entitled "Red Rock Canyon National Conservation Area—Proposed", numbered NV-RRC-NCA-001, and dated June 1990.

(3) The map described in paragraph (2) shall be on file and available for inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

(b) MAP AND LEGAL DESCRIPTION.—(1) As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of the conservation area established in subsection (a) with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographic errors in such map and legal description.

(2) The map and legal description described in paragraph (1) shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

SEC. 2. MANAGEMENT.

(a) IN GENERAL.—The Secretary, acting through the Director of the Bureau of Land Management, and subject to valid existing rights, shall manage the conservation area to conserve, protect, and enhance the resoures specified in section 1 in accordance with this Act, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and other applicable laws, including those relating to management of wild free-roaming horses and burros on public lands. The Secretary shall only allow such uses of the conservation area as he finds will further the purposes for which the conservation area is established.

(b) HUNTING AND TRAPPING.—(1) subject to paragraph (2), the Secretary shall permit hunting and trapping within the conservation area in accordance with the laws of the United States and the State of Nevada.

(2) The Secretary, after consultation with the Nevada Department of Wildlife, may issue regulations designating zones where, and establishing periods when, hunting or trapping shall not be permitted for reasons of public safety, administration, public use, and enjoyment.

(c) PREVENTIVE MEASURES.—Nothing in this Act shall preclude such reasonable measures as the Secretary deems necessary to prevent devastating fire or infestation of insects or disease.

(d) MECHANIZED VEHICLES.—Except where needed for administrative or emergency purposes, or as otherwise designated by the Secretary, the use of mechanized vehicles in the conservation area shall be allowed only on roads and trails designated for such use as part of the management plan prepared pursuant to section 3.

(e) LIMITATION ON VISITATION AND USE.—The Secretary is authorized to implement such reasonable limits to visitation and use of the conservation area as the Secretary finds appropriate for the protection of the area's resources, including requiring permits for public use and closing portions of the conservation area to public use.

SEC. 3. MANAGEMENT PLANS.

(a) IN GENERAL.—(1) Within 3 full fiscal years following the fiscal year in which the date of enactment of this Act occurs, the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a general management plan for the conservation area which shall describe the appropriate uses and development of the conservation area consistent with the purposes of this Act.

(2) The management plan described in paragraph (1) shall be developed with full public participation and shall include—

(A) an implementation plan for a continuing program of interpretation and public education about the resources and values of the conservation area;

(B) a proposal for administrative and public facilities to be developed, expanded, or improved for the conservation area including the Red Rock Canyon visitors center, to facilitate management and accommodate visitors to the conservation area;

(C) a cultural resources management plan for the conservation area prepared in consultation with the Nevada State Historic Preservation Office, with emphasis on the preservation of those resources and the interpretative, educational, and long-term scientific uses of these resources, giving priority to the enforcement of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) within the conservation area;

(D) a wildlife resource management plan for the conservation area prepared in consultation with appropriate departments of the State of Nevada and using previous studies of the area;

(E) a recreation management plan for the conservation area in consultation with appropriate departments of the State of Nevada; and

(F) a wild horse and burro herd management plan for the conservation area prepared in consultation with appropriate departments of the State of Nevada.

(b) WILDERNESS.—Except as provided in section 5, nothing in this Act shall be construed as altering the requirement of section 603 of the Federal Land Policy and Management Act of 1976, or section 5(a) of the National Forest and Public Lands of Nevada Enhancement Act of 1988 (Public Law 100-550), as those requirements apply to the lands within, or adjacent to, the conservation area as of the date of enactment of this Act.

SEC. 4. ACQUISITIONS.

(a) IN GENERAL.—Within the conservation area and outside that area when required for the construction or improvement of access roads thereto, the Secretary may acquire lands, waters, and interests in lands and waters (including scenic easements), as the Secretary considers appropriate to carry out this Act by—

(1) donation;

(2) purchase with donated or appropriated funds;

(3) exchange under applicable law for lands outside the conservation area; or

(4) transfer from another Federal agency with the concurrence of the head thereof.

(b) TERMS OF ACQUISITION.—Any lands or interests therein owned by the State of Nevada or a political subdivision thereof, may be acquired only by donation or exchange.

(c) INCORPORATION OF ACQUIRED LANDS.—Any lands, waters, or interests therein within the boundaries of the conservation area which after the date of enactment of this Act may be acquired by the United States shall be incorporated into the conservation area and managed accordingly, and all provisions of this Act and other laws applicable to conservation areas shall apply to such incorporated lands.

SEC. 5. WITHDRAWAL.

Except as authorized in this Act, and subject to valid existing rights, all Federal lands within the conservation area and all lands and interests therein which are acquired by the United States after the date of enactment of this Act are withdrawn from all forms of entry, appropriation, or

disposal under the public land laws, from location, entry, and patent under the mining laws, and from operation under the mineral leasing and geothermal leasing laws.

SEC. 6. COOPERATIVE AGREEMENTS.

In order to encourage unified and cost-effective management and interpretation of natural and cultural resources in the conservation area, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State, and local agencies and nonprofit entities providing for the management and interpretation of natural and cultural resources in the conservation area.

SEC. 7. COORDINATED MANAGEMENT.

The Secretary shall coordinate management of the conservation area with surrounding State and Federal lands in such a manner as best to meet the present and future needs of the American people.

SEC. 8. WATER.

(a) Congress hereby reserves a quantity of water sufficient to fulfill the purposes, as specified in section 1(a), for which the conservation is established. The priority date of this reserved right shall be the date of enactment of this Act.

(b) The Secretary and all other officers of the United States shall take all steps necessary to protect the right reserved by subsection (a), including the filing by the Secretary of a claim for the quantification of such right in any present or future appropriate stream adjudication in the courts of the State of Nevada in which the United States is or may be joined and which is conducted in accordance with section 208 of the Act of July 10, 1952 (Chapter 651; 66 Stat. 560; 43 U.S.C. 666; commonly referred to as the "McCarran Amendment").

(c) Nothing in this Act shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of Nevada on or before the date of enactment of this Act.

(d) The Federal rights reserved by this Act are specific to the conservation area. Nothing in this Act related to reserved Federal Water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made pursuant thereto.

SEC. 9. DEFINITIONS.

For the purposes of this Act—

(1) the term "conservation area" means the Red Rock Canyon National Conservation Area established by section 1;

(2) the term "public lands" has the meaning stated in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)); and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. VUCANOVICH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. WALKER. Mr. Speaker, I object to unanimously ordering the second.

The SPEAKER pro tempore. The question is, Will a second be ordered?

Mr. WALKER. Mr. Speaker, I did not ask for tellers. I just asked that the question be put.

The SPEAKER pro tempore. The question has to be put by tellers, unless they are ordered by unanimous consent.

Does the gentleman from Pennsylvania insist on his position?

Mr. WALKER. Yes, Mr. Speaker, I insist.

Tellers were ordered, and the Speaker appointed as tellers Mr. VENTO and Mrs. VUCANOVICH.

The House divided, and the tellers reported that there were—yeas 38, nays 13.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 407, nays 1, not voting 24, as follows:

[Roll No. 381]

YEAS—407

Ackerman	Clay	Fawell
Alexander	Clement	Fazio
Anderson	Clinger	Feighan
Andrews	Coble	Fields
Annunzio	Coleman (MO)	Fish
Anthony	Coleman (TX)	Flake
Applegate	Collins	Foglietta
Archer	Combest	Frank
Armey	Condit	Frenzel
Aspin	Conte	Frost
Atkins	Conyers	Gallegly
AuCoin	Cooper	Gallo
Baker	Costello	Gaydos
Ballenger	Coughlin	Gejdenson
Barnard	Courter	Gekas
Bartlett	Cox	Gephardt
Barton	Coyne	Geren
Bateman	Craig	Gibbons
Bates	Crane	Gillmor
Beilenson	Crockett	Gilman
Bennett	Dannemeyer	Gingrich
Bentley	Darden	Glickman
Bereuter	Davis	Gonzalez
Berman	de la Garza	Goodling
Bevill	DeFazio	Gordon
Bilbray	DeLay	Goss
Bilirakis	Dellums	Gradison
Bliley	Derrick	Grandy
Boehlert	DeWine	Grant
Boggs	Dickinson	Gray
Bonior	Dicks	Green
Borski	Dingell	Gunderson
Bosco	Dixon	Hall (OH)
Boucher	Donnelly	Hall (TX)
Boxer	Dorgan (ND)	Hamilton
Brennan	Dornan (CA)	Hammerschmidt
Brooks	Douglas	Hancock
Broomfield	Downey	Hansen
Browder	Dreier	Harris
Brown (CO)	Duncan	Hastert
Bruce	Durbin	Hatcher
Bryant	Dwyer	Hawkins
Buechner	Dymally	Hayes (IL)
Bunning	Dyson	Hayes (LA)
Burton	Early	Hefley
Bustamante	Eckart	Hefner
Byron	Edwards (CA)	Henry
Callahan	Edwards (OK)	Herger
Campbell (CA)	Emerson	Hertel
Campbell (CO)	Engel	Hiler
Carper	English	Hoagland
Carr	Erdreich	Hochbrueckner
Chandler	Espy	Holloway
Chapman	Evans	Hopkins
Clarke	Fascell	Horton
Houghton	Moakley	Sharp
Hoyer	Molinari	Shaw
Hubbard	Mollohan	Shays
Huckaby	Montgomery	Shumway
Hughes	Moorhead	Shuster
Hunter	Morella	Sikorski
Hutto	Morrison (WA)	Sisisky
Hyde	Murtha	Skaggs
Inhofe	Myers	Skeen
Ireland	Nagle	Skelton
Jacobs	Natcher	Slattery
James	Neal (MA)	Slaughter (NY)
Jenkins	Nelson	Slaughter (VA)
Johnson (CT)	Nielson	Smith (FL)
Johnson (SD)	Nowak	Smith (IA)
Johnston	Oakar	Smith (NE)
Jones (GA)	Oberstar	Smith (NJ)
Jones (NC)	Obey	Smith (TX)
Jontz	Olin	Smith (VT)
Kanjorski	Ortiz	Smith, Denny (OR)
Kaptur	Owens (NY)	Smith, Robert (NH)
Kasich	Owens (UT)	Smith, Robert (OR)
Kastenmeier	Packard	Snowe
Kennedy	Pallone	Solarz
Kennelly	Panetta	Solomon
Kildee	Parker	Spence
Kleczka	Parris	Staggers
Kolbe	Pashayan	Stallings
Kostmayer	Patterson	Stangeland
Kyl	Paxon	Stark
LaFalce	Payne (NJ)	Stearns
Lagomarsino	Payne (VA)	Stenholm
Lancaster	Pease	Stokes
Lantos	Pelosi	Studds
Laughlin	Penny	Stump
Leach (IA)	Perkins	Sundquist
Leath (TX)	Petri	Synar
Lehman (CA)	Pickett	Tallon
Lehman (FL)	Pickle	Tanner
Lent	Porter	Tauke
Levin (MI)	Poshard	Tauzin
Levine (CA)	Price	Taylor
Lewis (CA)	Quillen	Thomas (CA)
Lewis (FL)	Rahall	Thomas (GA)
Lewis (GA)	Ravenel	Thomas (WY)
Lightfoot	Ray	Torres
Lipinski	Regula	Torricelli
Livingston	Rhodes	Towns
Lloyd	Richardson	Traficant
Long	Ridge	Traxler
Lowery (CA)	Rinaldo	Unsoeld
Lowey (NY)	Ritter	Upton
Luken, Thomas	Roberts	Vander Jagt
Machtley	Robinson	Vento
Madigan	Roe	Visclosky
Manton	Rogers	Volkmer
Marlenee	Rohrabacher	Vucanovich
Martin (IL)	Ros-Lehtinen	Walgren
Martin (NY)	Rose	Walker
Martinez	Rostenkowski	Walsh
Matsui	Roth	Washington
Mazzoli	Roukema	Watkins
McCandless	Rowland (GA)	Waxman
McCloskey	Roybal	Weber
McCollum	Russo	Weiss
McCrery	Sabo	Weldon
McCurdy	Saiki	Wheat
McDade	Sangmeister	Whittaker
McDermott	Sarpalius	Whitten
McEwen	Savage	Williams
McGrath	Sawyer	Wilson
McHugh	Saxton	Wise
McMillan (NC)	Schaefer	Wolf
McMillen (MD)	Scheuer	Wolpe
McNulty	Schiff	Wyden
Meyers	Schneider	Wylie
Mfume	Schroeder	Yatron
Michel	Schuette	Young (AK)
Miller (CA)	Schulze	
Miller (OH)	Schumer	
Miller (WA)	Sensenbrenner	
Mineta	Serrano	

NAYS—1

Young (FL)

NOT VOTING—24

Brown (CA)	Markey	Pursell
Cardin	Mavroules	Rangel
Flippo	Moody	Rowland (CT)
Ford (MI)	Morrison (CT)	Spratt
Ford (TN)	Mrazek	Swift
Guarini	Murphy	Udall
Kolter	Neal (NC)	Valentine
Lukens, Donald	Oxley	Yates

□ 1615

Mr. SKAGGS changed his vote from "nay" to "yea."

So a second was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MCDERMOTT). The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4559.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4559 establishes the Red Rock Canyon National Conservation Area in the State of Nevada. The area to be designated in the bill is under the administration of the Bureau of Land Management and has been specially managed by the BLM since 1967. Red Rock is an exceptional area located within 30 minutes of the rapidly growing Las Vegas metropolitan area. Although initially recognized for its array of recreational opportunities its resource values are many, including spectacular scenery, wildlife, and historic and prehistoric cultural resources. Once designated as a national conservation area it will join a handful of other sites managed by the Bureau of Land Management that bear that title.

During consideration of the bill the committee adopted an amendment in the nature of a substitute. The most significant changes included in the substitute are:

The size of the area to be designated has been increased from approximately 62,000 acres to approximately 83,100 acres. The larger figure represents the area recommended by the administration for designation.

The substitute contains language regarding wilderness study that makes it clear that we are not amending the review process established in either the Federal Land Policy and Management Act of 1976 or the National Forest and Public Lands of Nevada Enhancement Act of 1988.

On the issue of water rights, the substitute contains the language adopted by the House in the recent Arizona wilderness bills.

Mr. Speaker, I want to thank and acknowledge the efforts of Representative BILBRAY who sponsored this measure and who has been of great help to us in moving this bill. Without his efforts we would not have reached this point.

Mr. Speaker, this is a good bill and one I am happy to support. I believe it is highly appropriate that we recognize the special and nationally significant areas managed by the Bureau of Land Management with this type of designation. I look forward to enactment of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 4559, and, before I make my statement, I yield to the gentleman from Georgia [Mr. GINGRICH].

(By unanimous consent, Mr. GINGRICH was allowed to speak out of order.)

EXPLANATION OF REPUBLICAN STRATEGIES

Mr. GINGRICH. Mr. Speaker, I just want to report to all my colleagues on both sides of the aisle so that they will understand what is going on.

Mr. Speaker, earlier today in a very fair and straightforward vote those people who want a tougher and more antidrug and anticrime bill won a rules fight. It was a fair vote. Clearly the people who want a tougher bill won that vote.

□ 1620

We could easily, without any kind of problem, bring that rule, as amended, back up, as the gentleman from Tennessee [Mr. QUILLEN] and the gentleman from New York [Mr. SOLOMON] outlined, allowing the Hyde amendment and the Wylie amendment to be in order. It would not be any difficulty at all. We are finding it very difficult to convince the Democratic leadership that when, on those rare occasions they actually lose, they ought to go ahead and gracefully accept the other side being allowed to do something.

We have no intention of being casually rolled by bringing up suspensions as filler, which is what happened because the schedule they had planned for the next 2 days is now not possible.

So our position is simple. If you want to work with us in a way that has comity, we are prepared to stop this and we are prepared to go ahead. If you are determined, no matter what happens on the floor of the House and no matter whether we win on a rules vote, not to allow us to have a fair chance, then frankly we have to reply with the only tools that we have, and that is to cause votes on seconds and do similar kinds of procedural things. It is not fun, we do not want to do it, we are not trying to be obstructive, but we think that to have comity it has to come from both sides.

So, Mr. Speaker, I wanted to explain to both sides of the aisle precisely what the rest of this week will be like unless we can have some kind of an agreement.

The SPEAKER pro tempore (Mr. MCDERMOTT). The Chair recognizes the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I rise in opposition to H.R. 4559, a bill to establish the Red Rocks National Conservation Area within my congressional district. My opposition stems primarily from section 8 because it would create a reserved Federal water right instead of recognizing the jurisdiction of the State of Nevada to allocate water resources within its borders. As with the debate last year on the bill that became the Nevada Wilderness Protection Act of 1989, Public Law 101-195, the issue in this instance may be largely theoretical, but water rights is a principle upon which I am particularly loath to compromise.

My understanding is that but a few springs emanate within Red Rock Canyon and that essentially no surface water leaves the boundaries of the national conservation area that would be established by passage of this measure. Therefore, as with the headwaters issue in the wilderness debate, I see no reason to override State sovereignty on this issue. The question as to whether or not the purposes for which the NCA is being established qualify for an appropriation under Nevada law would be made moot by of H.R. 4559. If and when the United States enters the State court to seek its appropriation, as directed in section 8(b), the deck will be stacked in its favor because this act of Congress will have already determined that the purposes for which the United States is seeking the water right prevail over Nevada's definition of beneficial uses, the cornerstone of water law for States that adhere to the doctrine of prior appropriation.

Furthermore, Mr. Speaker, as has been noted by several members of the minority in the Senate Energy and Natural Resources Committee this language is still much less precise than the Supreme Court cautioned it should be in U.S. versus New Mexico, Cappaert and other cases. Just how much water is sufficient to fulfill "geologic, archeological, ecological, cultural, scenic, scientific, wildlife, endangered species, riparian, wilderness, and recreation resources * * * " for which the area is to be set aside? As I have just noted, it is not the quantity of surface water in the area that concerns us, rather a potential issue here may be that such an unconfined Federal right could well frustrate future attempts to pump ground water outside the Red Rocks area. In Nevada, ground water is subject to appropriation in a similar manner as surface waters. The broad grant contained in this bill may preclude the Nevada

State engineer from approving future ground water applications in any area deemed to affect the recharge of springs in the Red Rocks NCA.

Mr. Speaker for these reasons especially, and also because generally speaking the area has been managed more than adequately by BLM since 1967 as recreation lands. I simply do not understand the need to change the management focus on these lands from one of recreation for the nearby Las Vegas metropolitan area to one of conservation? Recreation is listed last, after 10 other values for which the Red Rocks NCA would be established. I oppose the apparent downgrading of the recreational value of Red Rocks Canyon to one of subservience to geologic and other nebulous resources for which it would be set aside.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the sponsor of the measure, the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, I rise in support of H.R. 4559, as amended, and move its consideration by the House.

I would like to commend the distinguished chairman and the committee for their expeditious movement of the legislation. I would also like to acknowledge the strident efforts of my colleagues the distinguished Senators from Nevada, Senators REID, and BRYAN, with whom I have worked quite closely, in order to promote and secure the future of the Red Rock Canyon environment.

Mr. Speaker, for those who do not know where Red Rock is, for many of you who have visited Las Vegas in the area and who have come in by plane or have arrived by car or by train or by bus, to the west of Las Vegas is this beautiful escarpment running thousands of feet from the desert floor. These are red rocks, and it is appropriately named Red Rock Canyon. This is a beautiful area where as a boy I hiked and climbed the mountains, and thousands, if not hundreds of thousands, of Nevadans do so on a weekly basis.

Mr. Speaker, H.R. 4559, as amended, would authorize the Secretary of the Interior to officially designate Red Rock Canyon as a conservation area. The Secretary would act through the Director of the Bureau of Land Management to manage the conservation area. In the passage of this bill we would be codifying the master plan which the Bureau of Land Management has been promoting since 1976. The designation of these lands with the new status of a national conservation area, will not only mandate the protection of the cultural, biological, geological, riparian, and wilderness resources of Red Rock Canyon, but by providing the BLM with an increase in funding to better manage the area this new status will also assure their conservation.

This legislation affirms the Bureau of Land Management's administrative and management goals for these lands. H.R. 4559 reflects a new stage in the agency's efforts to develop a clear-cut, national directive for the management of lands within their national wilderness preservation system.

The development of management goals to protect the unique and fragile environment of Red Rock Canyon is in response to the rapid and expansive growth of the Metropolitan Las Vegas area. The protection of the cultural, biological, geological, riparian, and wilderness resources of Red Rock Canyon are goals shared by the Nevada public, the U.S. Department of the Interior, the Bureau of Land Management, and my distinguished colleagues from the Senate—Senators REID and BRYAN. H.R. 4559 designates 83,100 acres of BLM land as a national conservation area.

The popularity of the Red Rock Canyon area can be traced to a variety of factors: Easy access and close proximity to a major urban population center, national publicity exposing scenic, resource values, and recreational opportunities to be enjoyed at Red Rock Canyon for the greater region. Red Rock Canyon is a 30-minute drive from Las Vegas, NV. Clark County has been described as the fastest growing country in the Nation with approximately 6,000 people moving into the country each month. More than 60 percent of the State's population lives in Clark County and approximately 80 percent of the population in the First District reside in the Las Vegas Valley. This urban population relies on Red Rock Canyon for much of their recreational needs. Due to the continued growth in population, the recreation demands upon Red Rock Canyon have increased. The accelerated growth rate of southern Nevada as well as increased regional visitation from the southern California area, Red Rock Canyon recreational lands are a 5-to-6-hour drive from southern California, broadens the scope of Red Rock Canyon recreational lands use.

Red Rock Canyon Wilderness and Recreational Lands Area is revered for its extensive recreational opportunities and scenic splendor. Current annual visitation statistics show an increase of nearly 400 percent since the early 1980's. A further reflection of the intense use and the profound recreational value of Red Rock Canyon. Designating Red Rock Canyon as a national conservation area is important for long-term protection and conservation of these important wilderness, riparian, and wildlife resources for future generations of Americans.

The Red Rock Canyon area is an area endowed with natural beauty, prehistoric artifacts, rock formations, vegetation, and wildlife indicative of the complex ecology of this fragile, desert environment. Through the process by which the Bureau of Land Management has reviewed the suitability of these public lands to be classified as wilderness areas and in the establishment of new frontiers in its management of the public domain, the Bureau of Land Management has served the citizens of Nevada and the rest of the Nation. The establishment of the Red Rock Canyon Conservation Area is a fresh step in the agency's management approach. We in Nevada are proud that Red Rock Canyon serves as a model for the Bureau of Land Management in their development of a more comprehensive National Wilderness Preservation System.

□ 1630

When visitors come to visit Las Vegas, I would like them to take a little while and forget about the Strip and the downtown, and I hope the resorts forgive me for that, and come out to Red Rock Canyon to see another part of Nevada, a part that is close by and a part that we revere.

The gentlewoman from Nevada [Mrs. VUCANOVICH] has mentioned that she opposes the bill because one section provides for water language that provides for a Federal reserve water right. Again, Red Rock has no water that flows outside of Red Rock Canyon. In fact, the streams are very small. Most people could jump over all the streams that run out of the area.

Mr. Speaker, I believe the gentlewoman from Nevada [Mrs. VUCANOVICH] would have supported this bill without this language, because I think it is a good bill. It is something that people of southern Nevada overwhelmingly support, and people of Nevada overwhelmingly support, and it is certainly one I think the Nation could be proud of.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wanted to comment just to say that the administration testified in favor of this bill. They specifically testified in favor of provisions in the initial bill introduced by the gentleman from Nevada [Mr. BILBRAY] which said the Congress, in section 206 of that initial bill, would explicitly reserve for the United States the amount of water reasonably required to carry out the purposes for which the area is established.

Mr. Speaker, we had the debate on the floor on water. It was overwhelming in favor of the provisions in this measure. I want Members to realize what the state of the existing water disagreement is. We do not intend through this legislation to carry on that debate. I think that this measure should be judged on its merit.

Mr. Speaker, the water language in this bill is good language. It protects the State's rights. Obviously the gentlewoman from Nevada [Mrs. VUCANOVICH] disagrees with that. I would hope that we would not detract from this bill on the basis of that particular agrument. It simply should not be the basis for it. I urge Members to strongly support this measure, as does the gentleman from Nevada [Mr. BILBRAY].

Mrs. VUCANOVICH. Mr. Speaker, I would just like to say to the gentleman from Minnesota [Mr. VENTO] that the water language or the implication of the water language is still in dispute, and therefore I still am opposed to it for just that reason.

Mr. CRAIG. Mr. Speaker, I rise in opposition to H.R. 4559, a bill to establish the Red Rocks National Conservation Area in the State of Nevada.

This legislation creates a new Federal reserved water right. Mr. Speaker, the adjudication of water can lie in one place and that is with the States. Water is a scarce commodity in the West. We cannot afford to have the use or the ownership of that comodity controlled by the Federal Government. The creation of a Federal reserved water right on public lands in Nevada or in any arid Western State will only lead to confusion and litigation.

I must oppose H.R. 4559 that would create a new water right that will exacerbate the adjudication of surface and ground water water rights in Nevada.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4559, as amended.

The question was taken; and on a division (demanded by Mr. WALKER) there were—yeas 26, nays 20.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

MICHIGAN SCENIC RIVERS ACT OF 1990

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4019) to designate certain rivers in the State of Michigan as components of the National Wild and Scenic Rives System, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4019

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Michigan Scenic Rivers Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the State of Michigan possesses many outstanding free-flowing rivers which with their adjacent lands have resource values of national significance, such as outstanding wildlife and fisheries, ecological and recreational values, and historic and prehistoric sites;

(2) many of these rivers have been found to be eligible for inclusion in the national wild and scenic rivers system by the United States Forest Service while others possess outstanding values that make them eligible for wild and scenic river designation; and

(3) the conservation of these river areas and their outstanding natural, cultural, and recreational values is important to the heritage of Michigan and to its tourism and outdoor recreation industry and long-term economic development.

SEC. 3. WILD, SCENIC, AND RECREATIONAL RIVER DESIGNATION.

(a) Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraphs at the end thereof:

"( ) BIG BEAR CREEK, MICHIGAN.—The 6.5 mile segment from Coates Highway to the Main Manistee River, to be administered by the Secretary of Agriculture as a scenic river.

"( ) BLACK, MICHIGAN.—The 14-mile segment from the Ottawa National Forest boundary to Lake Superior, to be administered by the Secretary of Agriculture as a scenic river.

"( ) CARP, MICHIGAN.—The 35.4-mile segment from its origin at the confluence of outlets of Frenchman Lake and Carp Lake in section 26, township 44 north, range 6 west, to Lake Huron, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 9.9-mile segment from its origin at the confluence of outlets of Frenchman Lake and Carp Lake in section 26, township 44 north, range 6 west, to Forest Development Road 3458 in section 32, township, 43 north, range 5 west, as a scenic river.

"(B) The 6.5-mile segment from the Forest Development Road 3458 in section 32, township 43 north, range 5 west, to Michigan State Highway 123, as a scenic river.

"(C) The 7.5-mile segment from Michigan State Highway 123 to one quarter of a mile upstream from the Forest Development Road 3119, as a wild river.

"(D) The 0.5-mile segment from one quarter of a mile upstream of Forest Development Road 3119 to one quarter mile downstream of Forest Development Road 3119, as a scenic river.

"(E) The 4.9-mile segment from one quarter of a mile downstream of Forest Development Road 3119 to McDonald Rapids, as a wild river.

"(F) The 6.1-mile segment from McDonald Rapids to Lake Huron, as a scenic river.

"( ) INDIAN, MICHIGAN.—The 51-mile segment from Hovey Lake to Indian Lake to be administered by the Secretary of Agriculture in the following classes:

"(A) The 12-mile segment from Hovey Lake to Fish Lake, as a scenic river.

"(B) The 39-mile segment from Fish Lake to Indian Lake, as a recreational river.

"( ) MANISTEE, MICHIGAN.—The 26-mile segment from the Michigan DNR boat ramp below Tippy Dam to the Michigan State Highway 55 bridge, to be administered by the Secretary of Agriculture as a recreational river.

"(D) ONTONAGON, MICHIGAN.—Segments of certain tributaries, totaling 142.4 miles, to be administered by the Secretary of Agriculture as follows:

"(A) The 46-mile segment of the East Branch Ontonagon from its origin at Spring Lake to the Ottawa National Forest boundary in the following classes:

"(i) The 20.5-mile segment from its origin at Spring Lake to its confluence with an unnamed stream in section 30, township 48 north, range 37 west, as a recreational river.

"(ii) The 25.5-mile segment from its confluence with an unnamed stream in section 30, township 48 north, range 37 west, to the Ottawa National Forest boundary, as a wild river.

"(B) The 59.4-mile segment of the Middle Branch Ontonagon, from its origin at Crooked Lake to the northern boundary of the Ottawa National Forest in the following classes:

"(i) The 20-mile segment from its origin at Crooked Lake to Burned Dam, as a recreational river.

"(ii) The 8-mile segment from Burned Dam to Bond Falls Flowage, as a scenic river.

"(iii) The 8-mile segment from Bond Falls to Agate Falls, as a scenic river.

"(iv) The 6-mile segment from Agate Falls to Trout Creek, as a scenic river.

"(v) The 17.4 mile segment from Trout Creek to the northern boundary of the Ottawa National Forest, as a wild river.

"(C) The 37-mile segment of the Cisco Branch Ontonagon from its origin at Cisco Lake Dam to its confluence with Ten-Mile Creek south of Ewen in the following classes:

"(i) The 10-mile segment from the origin of Cisco Branch Ontonagon at Cisco Lake Dam to the County Road 527 crossing, as a recreational river.

"(ii) The 27-mile segment from the Forest Development Road 527 crossing to the confluence of the Cisco Branch and Tenmile Creek, as a scenic river.

"The Secretary is authorized to acquire fee title to lands which, as of August 1, 1990, were owned by Upper Peninsula Energy Corporation without regard to any acreage limitation set forth in subsection (b) of this section or subsection (a) or (b) of section 6 of this Act.

"( ) PAINT, MICHIGAN.—Segments of the maintenance and certain tributaries, totaling 51 miles, to be administered by the Secretary of Agriculture as follows:

"(A) The 6-mile segment of the main stem from the confluence of the North and South Branches Paint to the Ottawa National Forest boundary, as a recreational river.

"(B) The 17-mile segment of the North Branch Paint from its origin at Mallard Lake to its confluence with the South Branch Paint, as a recreational river.

"(C) The 28-mile segment of the South Branch Paint from its origin at Paint River Springs to its confluence with the North Branch Paint, as a recreational river.

"( ) PINE, MICHIGAN.—The 25-mile segment from Lincoln Bridge to the east 116th line of section 16, township 21 north, range 13 west, to be administered by the Secretary of Agriculture as a scenic river.

"( ) PRESQUE ISLE, MICHIGAN.—Segments of the mainstream and certain tributaries, totaling 57 miles, to be administered by the Secretary of Agriculture as follows:

"(A) The 23-mile segment of the mainstream, from the confluence of the East and West Branches of Presque Isle to Minnewawa Falls, to be classified as follows:

"(i) The 17-mile segment from the confluence of the East and West Branches Presque Isle to Michigan State Highway 28, as a recreational river.

"(ii) The 6-mile segment from Michigan State Highway 28 to Minnewawa Falls, as a scenic river.

"(B) The 14-mile segment of the East Branch Presque Isle within the Ottawa National Forest, as a recreational river.

"(C) The 7-mile segment of the South Branch Presque Isle within the Ottawa National Forest, as a recreational river.

"(D) The 13-mile segment of the West Branch Presque Isle within the Ottawa National Forest, as a scenic river.

"( ) STURGEON, HIAWATHA NATIONAL FOREST, MICHIGAN.—The 43.9-mile segment from the north line of section 26, township 43 north, range 19 west, to Lake Michigan, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 21.7-mile segment from the north line of section 26, township 43 north, range 19 west, to Forest Highway 13 as a scenic river.

"(B) The 22.2-mile segment from Forest Highway 13 to Lake Michigan as a recreational river.

"( ) STURGEON, OTTAWA NATIONAL FOREST, MICHIGAN.—The 25-mile segment from its entry into the Ottawa National Forest to the northern boundary of the Ottawa National Forest, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 16.5-mile segment from its entry into the Ottawa National Forest to Prickett Lake, as a wild river.

"(B) The 8.5-mile segment from the outlet of Prickett Lake Dam to the northern boundary of the Ottawa National Forest, as a scenic river.

"( ) EAST BRANCH OF THE TAHQUAMENON, MICHIGAN.—The 13.2-mile segment from its origin in section 8, township 45 north, range 5 west, to the Hiawatha National Forest boundary, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 10-mile segment from its origin in section 8, township 45 north, range 5 west, to the center of section 20, township 46 north, range 6 west, as a recreational river.

"(B) The 3.2-mile segment from the center of section 20, township 46 north, range 6 west, to the boundary of the Hiawatha National Forest, as a wild river.

"( ) WHITEFISH, MICHIGAN.—Segments of the mainstream and certain tributaries, totaling 35.6 miles, to be administered by the Secretary of Agriculture as follows:

"(A) The 11.1-mile segment of the mainstream from its confluence with the East and West Branches of the Whitefish to Lake Michigan in the following classes:

"(i) The 9-mile segment from its confluence with the East and West Branches of the Whitefish to the center of section 16, township 41 north, range 21 west, as a scenic river.

"(ii) The 2.1-mile segment from the center of section 16, township 41 north, range 21 west, to Lake Michigan, as a recreational river.

"(B) The 15-mile segment of the East Branch Whitefish from the crossing of County Road 003 in section 6, township 44 north, range 20 west, to its confluence with the West Branch Whitefish, as a scenic river.

"(C) The 9.5-mile segment of the West Branch Whitefish from the National Forest boundary in section 5, township 44 north, range 21 west, to its confluence with the East Branch Whitefish in the following classes:

"(i) The 2-mile segment from the National Forest boundary in section 5, township 44 north, range 21 west, to County Road 444, as a recreational river.

"(ii) The 7.5-mile segment from County Road 444 to its confluence with the East Branch Whitefish, as a scenic river.

"( ) YELLOW DOG, MICHIGAN.—The 4-mile segment from its origin at the outlet of Bulldog Lake Dam to the boundary of the Ottawa National Forest, to be administered by the Secretary of Agriculture as a wild river.

"( ) BRULE, MICHIGAN AND WISCONSIN.—The 33-mile segment from the Brule Lake in the northeast quarter of section 15, township 41 north, range 13 east, to the National Forest boundary at the southeast quarter of section 31, township 41 north, range 17 east, to be administered by the Secretary of Agriculture as a recreational river.

SEC. 4. WILD AND SCENIC RIVER STUDIES.

(a) STUDY RIVERS.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following new paragraphs at the end thereof:

"( ) LITTLE MANISTEE, MICHIGAN.—The 42-mile segment within the Huron-Manistee National Forest.

"( ) WHITE, MICHIGAN.—The 75.4-mile segment within the Huron-Manistee National Forest as follows:

"(A) The 30.8-mile segment of the main stem from U.S. 31 to the Huron-Manistee National Forest boundary at the north line of section 2, township 13 north, range 15 west, 1.5 miles southwest of Hesperia.

"(B) The 18.9-mile segment of the South Branch White from the Huron-Manistee National Forest boundary east of Hesperia at the west line of section 22, township 14 north, range 14 west, to Echo Drive, section 6, township 13 north, range 12 west.

"(C) The 25.7-mile segment of the North Branch White from its confluence with the South Branch White in section 25, township 13 north, range 16 west, to McLaren Lake in section 11, township 14 north, range 15 west.

"( ) ONTONAGON, MICHIGAN.—The 47-mile segment of the Ontonagon as follows:

"(A) The 27-mile segment of the West Branch from the Michigan State Highway 28 crossing to Victoria Reservoir.

"(B) The 20-mile segment of the South Branch from the confluence of the Cisco Branch and Tenmile Creek to the confluence with the West Branch Ontonagon.

"( ) PAINT, MICHIGAN.—The 70-mile segment as follows:

"(A) 34 miles of the mainstream beginning at the eastern boundary of the Ottawa National Forest in section 1, township 44 north, range 35 west, to the city of Crystal Falls.

"(B) 15 miles of the mainstream of the Net River from its confluence with the east and west branches to its confluence with the mainstream of the Paint River.

"(C) 15 miles of the east branch of the Net River from its source in section 8, township 47 north, range 32 west, to its confluence with the mainstream of the Net River in section 24, township 46 north, range 34 west.

"(D) 14 miles of the west branch of the Net River from its source in section 35, township 48 north, range 34 west, to its confluence with the mainstream of the Net River in section 24, township 46 north, range 34 west.

"( ) PRESQUE ISLE, MICHIGAN.—The 13-mile segment of the mainstream from Minnewawa Falls to Lake Superior.

"( ) STURGEON, OTTAWA NATIONAL FOREST, MICHIGAN.—The 36-mile segment of the mainstream from the source at Wagner Lake in section 13, township 49 north, range 31 west, to the eastern boundary of the Ottawa National Forest in section 12, township 48 north, range 35 west.

"( ) STURGEON, HIAWATHA NATIONAL FOREST, MICHIGAN.—The 18.1-mile segment from Sixteen Mile Lake to the north line of section 26, township 43 north, range 19 west.

"( ) TAHQUAMENON, MICHIGAN.—The 103.5-mile segment as follows—

"(A) the 90-mile segment of the mainstream beginning at the source in section 21, township 47 north, range 12 west, to the mouth at Whitefish Bay; and

"(B) the 13.5-mile segment of the east branch from the western boundary of the Hiawatha National Forest in section 19, township 46 north, range 6 west, to its confluence with the mainstream.

"( ) WHITEFISH, MICHIGAN.—The 24-mile segment of the West Branch Whitefish from its source in section 26, township 46 north, range 23 west, to the National Forest boundary in section 5, township 44 north, range 21 west.".

"(b) STUDY PROVISIONS.—Section 5(b) of such Act (16 U.S.C. 1276(b)) is amended by adding at the end thereof the following new paragraph:

"(8) The study of segments of the Little Manistee, White, Paint, Presque Isle, Ontonagon, Sturgeon (Hiawatha), Sturgeon (Ottawa), Whitefish, and Tahquamenon Rivers in Michigan under subsection (a) shall be completed by the Secretary of Agriculture and the report submitted thereon not later than at the end of the third fiscal year beginning after the date of enactment of this paragraph. For purposes of such river studies, the Secretary shall consult with each River Study Committee authorized under section 5 of the Michigan Scenic Rivers Act of 1990, and shall encourage public participation and involvement through hearings, workshops, and such other means as are necessary to be effective.".

SEC. 5. RIVER STUDY COMMITTEES.

(a) ESTABLISHMENT AND MEMBERSHIP.—At the earliest practicable date following the date of the enactment of this Act, the Secretary of Agriculture (hereinafter in this section referred to as the "Secretary"), in consultation with the Michigan Department of Natural Resources, shall establish for each river identified in section 4 a River Study Committee (hereinafter in this section referred to as "Committee"). Membership on each Committee shall consist of members appointed as follows:

(1) Two members appointed by the appropriate Secretary.

(2) Two members appointed by the Secretary from recommendations made by the Governor of the State of Michigan from the Department of Natural Resources.

(3) Two members appointed by the Secretary from among representatives of local or State conservation and environmental groups.

(4) One member appointed by the Secretary from among representatives of each of the towns included in the study area.

(5) Two members appointed by the Secretary from commercial timber interests in the State of Michigan.

(6) One nonvoting member who shall be an employee of the Forest Service.

(b) ADMINISTRATIVE PROVISIONS.—(1) A vacancy in a Committee shall be filled in the manner in which the original appointment was made.

(2) The Chair of a Committee shall be elected by the members of the Committee.

(3) The members of the Committee who are not full-time officers or employees of the United States shall serve without compensation.

(c) TECHNICAL ASSISTANCE FROM THE SECRETARY.—The Secretary shall provide such technical and financial assistance to each such committee as the Secretary deems necessary.

(d) STATE AND LOCAL SERVICES.—Each such committee may accept services and other assistance from State and local governments.

(e) STUDY PROCESS.—Each river study committee shall advise the Secretary in the preparation of the report to Congress required by section 4 of the Wild and Scenic Rivers Act (16 U.S.C. 1275(a)) for the rivers specified in section 4 of this Act.

(f) TERMINATION.—Each such committee shall terminate upon submission of the report to Congress referred to in subsection (e) for the river concerned.

SEC. 6. MISCELLANEOUS.

(a) HUNTING, FISHING, AND TRAPPING.—Consistent with section 13(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287), nothing in this Act shall be construed to enlarge, diminish, or modify the jurisdiction or responsibilities of the State of Michigan with respect to fish and wildlife, including hunting, fishing, and trapping on any lands administered by the Secretary of Agriculture pursuant to this Act.

(b) SEA LAMPREY CONTROL.—Notwithstanding any other provision of law, the installation and operation of facilities or other activities within or outside the boundaries of those river segments designated by this Act for the control of the lamprey eel shall be permitted subject to such restrictions and conditions as the Secretary of Agriculture may prescribe for the protection of water quality and other values of the river, including the wild and scenic characteristics of the river: *Provided*, That the Secretary shall determine in the river management plan for each such designated river that such facilities or activities are necessary for control of the lamprey eel.

(c) ACCESS.—The Secretary shall maintain traditional public access to the river segments designated by this Act, except that the Secretary, in consultation with the Director of the Michigan Department of Natural Resources, shall provide in the river management plan for each designated river segment for maintenance, closure, relocation, stabilization, improvements, or other appropriate adjustments as may be necessary for the management of such river segments.

(d) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed as enlarging, diminishing, or modifying the limitations on the acquisition of lands within a designated river segment contained in section 6(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1271(b)).

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. WALKER. Mr. Speaker, I object to the ordering of the second, and on that I demand tellers.

The SPEAKER pro tempore. The question is: Will a second be ordered?

Tellers were ordered, and the Speaker pro tempore appointed as tellers Mr. VENTO and Mr. LAGOMARSINO.

The House divided, and the tellers reported that there were—yeas 25, nays 11.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 342, nays 53, not voting 37, as follows:

[Roll No. 382]

YEAS—342

Ackerman	Campbell (CA)	Dyson
Alexander	Campbell (CO)	Early
Anderson	Cardin	Eckart
Andrews	Carper	Edwards (CA)
Annunzio	Carr	Emerson
Anthony	Chandler	Engel
Applegate	Clarke	English
Archer	Clay	Erdreich
Aspin	Clement	Espy
Atkins	Clinger	Evans
AuCoin	Coble	Fascell
Baker	Coleman (MO)	Fawell
Barnard	Coleman (TX)	Fazio
Bartlett	Collins	Feighan
Bateman	Combest	Fish
Beilenson	Condit	Flake
Bennett	Conte	Foglietta
Bentley	Conyers	Frank
Bereuter	Cooper	Frenzel
Bevill	Coughlin	Frost
Bilbray	Courter	Gallegly
Bilirakis	Cox	Gallo
Bliley	Coyne	Gaydos
Boehlert	Dannemeyer	Gejdenson
Boggs	Darden	Geren
Bonior	Davis	Gibbons
Borski	de la Garza	Gillmor
Bosco	Dellums	Gilman
Boucher	Derrick	Gingrich
Boxer	DeWine	Glickman
Brennan	Dickinson	Gonzalez
Brooks	Dicks	Gordon
Broomfield	Dingell	Gradison
Browder	Dixon	Grant
Brown (CA)	Donnelly	Gray
Bruce	Dorgan (ND)	Green
Bryant	Dreier	Gunderson
Bunning	Duncan	Hall (OH)
Bustamante	Durbin	Hall (TX)
Byron	Dwyer	Hamilton
Callahan	Dymally	Hammerschmidt
Harris	Michel	Schulze
Hatcher	Miller (CA)	Schumer
Hayes (IL)	Miller (OH)	Serrano
Hayes (LA)	Miller (WA)	Sharp
Hefley	Moakley	Shaw
Hefner	Mollohan	Shays
Henry	Montgomery	Shuster
Hertel	Moorhead	Sikorski
Hoagland	Morella	Sisisky
Hochbrueckner	Morrison (WA)	Skaggs
Hopkins	Murtha	Skeen
Horton	Myers	Skelton
Houghton	Nagle	Slattery
Hoyer	Natcher	Slaughter (NY)
Hubbard	Neal (MA)	Slaughter (VA)
Hughes	Neal (NC)	Smith (IA)
Hutto	Nelson	Smith (NJ)
Hyde	Nielson	Smith (TX)
Jacobs	Nowak	Smith (VT)
James	Oakar	Smith, Robert (NH)
Jenkins	Oberstar	Snowe
Johnson (CT)	Obey	Solarz
Johnson (SD)	Olin	Spence
Johnston	Ortiz	Spratt
Jones (GA)	Owens (NY)	Stallings
Jones (NC)	Owens (UT)	Stangeland
Jontz	Oxley	Stark
Kanjorski	Pallone	Stearns
Kaptur	Panetta	Stenholm
Kasich	Parker	Studds
Kastenmeier	Pashayan	Sundquist
Kennedy	Patterson	Synar
Kennelly	Paxon	Tallon
Kildee	Payne (NJ)	Tanner
Kleczka	Payne (VA)	Tauke
Kolbe	Pease	Tauzin
Kolter	Pelosi	Taylor
Kostmayer	Penny	Thomas (CA)
Kyl	Perkins	Thomas (GA)
LaFalce	Petri	Thomas (WY)
Lagomarsino	Pickett	Torres
Lancaster	Pickle	Traficant
Lantos	Porter	Traxler
Laughlin	Poshard	Udall
Leach (IA)	Price	Unsoeld
Leath (TX)	Pursell	Upton
Lehman (CA)	Quillen	Valentine
Lehman (FL)	Rahall	Vander Jagt
Levin (MI)	Ray	Vento
Levine (CA)	Regula	Visclosky
Lewis (GA)	Rhodes	Volkmer
Lightfoot	Ridge	Vucanovich
Lipinski	Rinaldo	Walgren
Long	Roberts	Walsh
Lowey (NY)	Roe	Washington
Luken, Thomas	Rogers	Watkins
Madigan	Ros-Lehtinen	Weiss
Manton	Rose	Weldon
Martin (IL)	Rostenkowski	Wheat
Martinez	Roukema	Whittaker
Matsui	Rowland (GA)	Whitten
Mavroules	Roybal	Williams
Mazzoli	Sabo	Wilson
McCloskey	Saiki	Wise
McCrery	Sangmeister	Wolf
McCurdy	Sarpalius	Wolpe
McDermott	Savage	Wyden
McEwen	Sawyer	Wylie
McGrath	Saxton	Yates
McMillan (NC)	Scheuer	Yatron
McMillen (MD)	Schiff	Young (AK)
McNulty	Schneider	
Meyers	Schroeder	
Mfume	Schuette	

NAYS—53

Armey	Herger	Ritter
Ballenger	Hiler	Robinson
Barton	Holloway	Rohrabacher
Brown (CO)	Hunter	Roth
Buechner	Inhofe	Schaefer
Burton	Ireland	Sensenbrenner
Craig	Lent	Shumway
Crane	Lewis (CA)	Smith (NE)
DeLay	Lewis (FL)	Smith, Denny (OR)
Dornan (CA)	Livingston	Smith, Robert (OR)
Douglas	Lowery (CA)	Solomon
Edwards (OK)	Marlenee	Stump
Fields	Martin (NY)	Walker
Gekas	McCandless	Weber
Goss	McDade	Young (FL)
Grandy	Molinari	
Hancock	Packard	
Hansen	Parris	
Hastert	Ravenel	

NOT VOTING—37

Bates	Hawkins	Rangel
Berman	Huckaby	Richardson
Chapman	Lloyd	Rowland (CT)
Costello	Lukens, Donald	Russo
Crockett	Machtley	Smith (FL)
DeFazio	Markey	Staggers
Downey	McCollum	Stokes
Flippo	McHugh	Swift
Ford (MI)	Mineta	Torricelli
Ford (TN)	Moody	Towns
Gephardt	Morrison (CT)	Waxman
Goodling	Mrazek	
Guarini	Murphy	

□ 1700

Mr. SENSENBRENNER changed his vote from "yea" to "nay."

Messrs. COX, SAXTON, SUNDQUIST, and CALLAHAN changed their votes from "nay" to "yea."

So a second was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MCDERMOTT). The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4019, the bill now under consideration.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4019 was introduced by our colleague Representative DALE KILDEE and cosponsored by a majority of the members of the Michigan delegation. The bill as amended designates 15 rivers in the State of Michigan as components of the National Wild and Scenic Rivers System and provides for studies of 9 other rivers as potential additions to the system.

The State of Michigan possesses a large and significant network of rivers and streams. Many of these rivers are located within national forests in the State. As part of the national forest planning process these rivers were reviewed over the past decade to determine their eligibility for wild and scenic river status. As a result of this review process a significant number of rivers were found to qualify for wild and scenic designation. It was on this basis that H.R. 4019 was developed and introduced.

The Committee on Interior and Insular Affairs expended considerable time and effort in providing for public input on this legislation. Hearings on H.R. 4019 were held in Washington, DC on April 19, 1990 and in Marquette, MI, on July 14, 1990. There is a long public record on these rivers. We received testimony from numerous groups, individuals and organizations interested in the preservation and use of the nationally significant resource values found in these rivers. As a result of this long and extensive process the bill before the House today is, I believe, responsive to the resource needs of these rivers and the legitimate interests of the Michigan upper peninsula region.

I would note that the Forest Service is currently managing these rivers for their wild and scenic values, so designation will not substantially change current management practices. It will, though, give legislative standing to those practices and thus enhance the preservation and use of these nationally significant rivers on a more lasting basis.

Mr. Speaker, I believe H.R. 4019, as amended will contribute to a sound public policy for rivers located within the national forests of upper Michigan. I support its adoption and recommend passage of the bill.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to express my H.R. 4019. After having participated in the Subcommittee on National Parks and Public Lands' Washington hearing on this bill over 5 months ago, I must say I was very impressed by the caliber of those testifying against the bill. Witnesses against included Congressman BOB DAVIS whose district contains nearly 90 percent of the river miles to be instantly designated by this bill. Furthermore, two democratic State legislators from the upper peninsula who have chaired the Michigan House Committee on Forestry and Minerals and the Michigan Senate Committee on Natural Resources also testified against H.R. 4019.

I note that only 2 of the 15 rivers slated for instant designation under this bill have gone through the customary detailed 5(a) study pursuant to the Wild and Scenic Rivers Act. Because of the large amount of private lands within these corridors and the significant local opposition to this legislation, designation without a study will only cause more problems for the administering agency and local communities. History shows that this sort of approach only results in bitter resentment of the Wild and Scenic Rivers Act—and that is in the interest of no one.

Some claim that because these rivers are being managed as wild and scenic under existing forest plans, that codifying these plans as proposed by this legislation should cause no real problems. However, at the Washington, DC hearing we learned some of these forest plans themselves were quite controversial. In fact, the portion of the Ottawa Forest plan recommending river designation was appealed by all four county governments bordering that national forest. Moreover, that appeal went all the way to the Chief of the Forest Service here in Washington.

Finally, I note that the gentleman from Wisconsin [Mr. ROTH] learned just recently that a segment of the Brule River would be designated as a recreational river under this bill. The south shore of this segment is located in his district. I agree with Mr. ROTH that this designation would make it very difficult—perhaps impossible—for the planned construction of a railroad bridge over that segment. Moreover, the recreational river status would clearly preclude other development that might occur along that river. Since it is not possible to amend today's bill under suspension of the rules, hopefully Senators KASTEN and KOHL can remedy this problem when this bill reaches the other body.

Mr. VENTO. Mr. Speaker, I wish to comment that the gentleman from Michigan [Mr. KILDEE] has worked very hard on this legislation. I learned just recently that he now has obtained the United Sportsman Club support, and even the paper companies are now supporting this. Meet Paper Corp., has withdrawn their opposition to the proposed Michigan River Scenic Act.

Mr. Speaker, I further point out that this is not instant designation. These rivers have been studied for a decade. So I think that some of my colleagues are mistaken in terms of the notion that this was not studied, and that while the forest plans are under appeal, they are not being appealed on the Wild and Scenic River System, but being appealed on another basis. Furthermore, I point out once again that the Forest Service and the administration strongly support the bill that is before Members, as they testify at our hearing and in Michigan.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I thank the gentleman for yielding. Mr. Speaker, I rise in strong support of the Michigan Scenic Rivers Act. As the author of this legislation, I believe this legislation will provide genuine protection for a portion of the remaining free-flowing rivers in the State of Michigan.

Mr. Speaker, I would like to take a moment to commend my good friend and colleague, the gentleman from Minnesota [Mr. VENTO] for his outstanding work on this bill. As chairman of the Subcommittee on National Parks and Public Lands, the gentleman from Minnesota [Mr. VENTO] continues to be a leader in protecting our Nation's natural resources.

This bill has the support of all national environmental groups. It is a very important environmental vote. I want to thank the gentleman from Minnesota [Mr. VENTO] for all his work on this bill.

During the consideration of this bill, Mr. VENTO took the time out of his very busy schedule to conduct a field hearing in Michigan. As a result of that hearing, Mr. Speaker, and an earlier hearing held in Washington, DC, we were able to draft a sound piece of legislation that addresses the concerns of private land owners and recreational users of the river, while providing real protection for the rivers.

Mr. Speaker, the Michigan Scenic Rivers Act will designate 15 rivers, covering 554 miles, as part of the National Wild and Scenic Rivers System. This bill will double the number of rivers in the National Wild and Scenic Rivers System east of the Mississippi River. The bill also calls for a study of nine rivers for possible later inclusion into the System.

All of the rivers in this bill, Mr. Speaker, are within the boundaries of Michigan's three national forests. The Forest Service has studied all of these rivers and found them all to be eligible for inclusion in the National Wild and Scenic Rivers System. That is why the Forest Service supports this bill.

Mr. Speaker, I have always believed that the Great Lakes are an economic asset to our entire Nation. With 95 percent of our Nation's fresh water located in these Great Lakes, it is vitally important that we protect the sources for that water. That is why my legislation is so important. These Great Lakes are of enormous value to this entire Nation, and those lakes are supported by these rivers.

This legislation will ensure that no dams or other water diverging projects will adversely impact the free-flowing nature of the rivers. This bill also ensures that water quality will be maintained, it ensures that a sound management plan will be developed to protect the river corridor, and most importantly, Mr. Speaker, this bill ensures these rivers will be around for the enjoyment of future generations.

That is why this bill enjoys the support of the majority of the Michigan congressional delegation, of Governor Blanchard, our former colleague in the House, and the Michigan Department of Natural Resources, as well as all national conservation and environmental groups.

We must be careful custodians of our natural resources, and with this Michigan Scenic Rivers Act, we provide a framework for Federal and local officials, working together to develop a management plan to maintain these waters. I urge my colleagues and the majority of the Michigan congressional delegation who have already joined me, to join in supporting this very important legislation. We have some rare opportunities to really do something for our environment. All the national environmental groups find this a top priority. I urge your support.

□ 1710

Mr. LAGOMARSINO. Mr. Speaker, I yield 3 minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Speaker, this is a piece of legislation that every Member of this House should oppose.

I would like to ask a few questions of my colleague, the gentleman from Michigan [Mr. DAVIS].

This is the reason that the Members of this House should oppose this legislation. Does all of the designation of wild and scenic rivers fall within the gentleman's district?

Mr. Speaker, I yield to the gentleman from Michigan [Mr. DAVIS] for an answer.

Mr. DAVIS. Mr. Speaker, there are 15 rivers; 12 of the rivers are in my district in Michigan's upper peninsula; 500 of the 560 some miles are in my district.

Mr. MARLENEE. Five hundred sixty-some miles?

Mr. DAVIS. Yes.

Mr. MARLENEE. Are any of those rivers within the district of the author of the legislation?

Mr. DAVIS. No.

Mr. MARLENEE. The sponsor of the legislation.

Mr. DAVIS. No.

Mr. MARLENEE. Any of those rivers and designations, are they within his district?

Mr. DAVIS. No.

Mr. MARLENEE. They are not. The author of the legislation has none of these rivers or designations within his district?

Mr. DAVIS. No.

Mr. MARLENEE. I would further like to ask my colleague, the gentleman from Michigan [Mr. DAVIS] if there was testimony in the committee at the hearings from local leaders who knew the issue very well.

Mr. DAVIS. I believe here in Washington, DC, one of the State senators who represents a good portion of the Upper Peninsula, attended a hearing, as well as the State representative who represents a portion of that area.

Mr. MARLENEE. And of the members of the State house of representatives, what committee was he ranking on or was the chairman?

Mr. DAVIS. He was the chairman of the committee on natural resources and agriculture in the State house of representatives.

Mr. MARLENEE. In other words, there was the State Democrat chairman who was chairman of the committee who opposed this legislation?

Mr. DAVIS. That is correct.

Mr. MARLENEE. The gentleman himself opposed the legislation?

Mr. DAVIS. Yes, I did.

Mr. MARLENEE. Most of it is in the gentleman's district?

Mr. DAVIS. Yes, it is.

Mr. MARLENEE. None of it is in the district of the sponsor and author of the bill?

Mr. DAVIS. That is correct.

Mr. MARLENEE. Was the State senator a ranking member or the chairman of a committee on natural resources at one time?

Mr. DAVIS. He was at one time chairman, I believe, of the comparable senate committee to the house committee. He was not at the time he testified a chairman.

Mr. MARLENEE. One further question on this piece of legislation, if my colleague would answer another question. Is there an imminent development threat to the rivers designated under this bill?

Mr. DAVIS. Not in my opinion.

Mr. MARLENEE. Not in the gentleman's opinion?

Mr. DAVIS. No.

Mr. MARLENEE. There did not seem to be any imminent danger expressed by the two State Democrat chairmen of the various committees that deal with natural resources. They did not express any great concern about a threat to these rivers. Everybody in that area, or practically everybody wants it left the same. There are 660 private land holdings within these designations, are there not?

Mr. DAVIS. That is very close to accurate.

Mr. MARLENEE. The controversial nature of this bill is well illustrated by the amount of time it has taken to go through the House legislative process. Over 5 months have lapsed since the Subcommittee on Natural Parks and Public Lands held its Washington hearings. Opposition, opposition, opposition from the local level to the people who represent the area, principally the gentleman from Michigan [Mr. DAVIS], and I would urge my colleagues to oppose the legislation.

Mr. VENTO. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY], the sponsor of the measure.

Mr. HENRY. Mr. Speaker, I thank the gentleman for yielding this time to me.

I had not been intending to participate in the debate because I know how strongly my colleague, the gentleman from Michigan [Mr. DAVIS] feels about this bill, but I do want to correct any inferences relative to whether or not there is support for the legislation within the State of Michigan. I want to make very clear that the department of natural resources, our State environmental agency, the conservation agency, is strongly in support of the legislation. The Michigan United Conservation Club, the largest sports-

men's group in the State of Michigan, is in strong support of the legislation. The major newspapers in the State of Michigan from the Detroit area on the east side to the Grand Rapids press on the west side are in strong support of the legislation.

I do understand the concerns of my colleague. Obviously he is concerned with the developmental potential of some of the more pristine areas in the State of Michigan. I would argue that that developmental potential is actually enhanced, rather than diminished, when we protect those areas which are of unique ecological and environmental value to all the people of the State of Michigan; indeed, to all the people of the United States. It is a very hard thing to do this, but I want to say this only because I thought the previous colleagues might have been somewhat misleading to the Members relative to the degree of support which does exist in the State of Michigan for this.

Obviously, and not without surprise, there is regional disagreement on this. Obviously, people in the more rural areas of the State are more inclined to say that the urban people are trying to use their region for recreation without regard to developmental concerns.

As has been pointed out, all the river territories, all the river coasts, and banks protecting this bill are in existing national forests. Some of the private property interests that have arisen have been litigated, and I would urge support for the bill.

Mr. LAGOMARSINO. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I ask unanimous consent to speak out of order for that time.

The SPEAKER pro tempore. (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Georgia?

Mr. VENTO. Reserving the right to object, Mr. Speaker, I would just aprise the gentleman that I have been approached by a number of Members who want to join in this particular discussion. I do not know that it is appropriate to do so at this time.

Mr. GINGRICH. Well, Mr. Speaker, if the gentleman will yield, I would say to my colleague that I am perfectly happy to not explain what I am doing, if that makes the gentleman feel more comfortable, but I have been asked by several Members to explain what we were doing in terms of the votes. I simply wanted to accommodate the Membership's desire to know what we were doing, but if the gentleman prefers that we not explain to the Members what we are doing, I will be happy to accommodate him.

Mr. VENTO. Well, further reserving the right to object, Mr. Speaker, the gentleman explained it earlier and I still did not understand the gentleman's explanation; so I withdraw my objection, Mr. Speaker. I hope that gentleman is more clear in this instance.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. GINGRICH] is recognized for 4 minutes to speak out of order.

DISCUSSION RELATIVE TO LEGISLATIVE SCHEDULING

Mr. GINGRICH. Mr. Speaker, I thank the gentleman from Minnesota for not objecting, because he could have.

Let me just say, I will try to say it more slowly and more clearly and more simply, a legislative body ought to be an institution in which everybody has a reasonable and fair chance to participate. It is appropriate in the House, and there is a long tradition that the majority dominates, the majority sets the schedule, the majority elects the chairman, the majority decides what will come up, and we understand that. It is a good tradition and it is bipartisan, but there is also a tradition when the House is being run with comity that when the minority on those rare occasions is able to work with Members of the majority in order to win a vote on a rule, when a rule has been written that is unacceptable to the House, that it is useful at that point for the spirit of the House to be engaged and for a rule to be rewritten so that the House can pass it.

Now, we had today a bill which we have been promised for months, the crime bill. This country is in the middle of a very serious problem with crimes and drugs. We have a very real desire on the part of most Members to pass a bill that will support President Bush's goals. We want to be tougher on criminals, not softer. We want to be tougher on drug dealers, not weaker.

We have a bill which came out of the Judiciary Committee which some district attorneys described as a procriminal bill, a bill which weakened the police and weakened the prosecutors; so when the rule was then written blocking off the offering of certain key amendments, one by the gentleman from Illinois [Mr. HYDE] on habeas corpus, and one by the gentleman from Ohio [Mr. WYLIE] on seizing mansions from millionaires who have looted S&L's and whose mansions are currently protected, the House rejected the rule.

Now, at that point we were very prepared to proceed in a normal manner to allow the House to have a rule which it would accept and to work on a bill that is very important involving crime and drugs.

The Democratic leadership for some reason instead wanted to go on suspensions, which is what we are now on. All we are doing is insisting on votes at each opportunity that we have in order to communicate to the country, in order to draw attention to the fact that there was a chance here to have some bipartisan comity to work something out together, and it is the Democratic leadership which in order to please the left wing of its caucus is refusing to sit down in a reasonable way and to work out a rule on the crime and drug bill.

□ 1720

And I hope we do not have to vote again, but if we cannot reach agreement at the very first opportunity we are going to vote again, and at that time I will again seek some opportunity to explain. And I hope this has been somewhat more useful to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. I thank my colleague for yielding on a little bit of an upbeat note—more of an upbeat note, I should say.

I want to commend my colleague, the gentleman from Michigan [Mr. KILDEE], for this bill. It is indeed one of the happier things we get to do around here, protecting something as scenic and as beautiful and as precious as these 14 rivers in Michigan, primarily the northern part of our State, the lower—the lower and upper part of our peninsula. They are places of incredible beauty as is our State generally.

The gentleman from Michigan has done one outstanding job in shepherding this through this legislative body. He knows them, he has canoed them, he has walked them, and he is one of the prime protectors of our natural resources in this Congress and particularly for our State.

So I just want to take a second to sing his praises because in fact they are well deserved.

I want to commend to my colleagues this bill, which will, for generations to come, preserve one of the more majestic places in this great country of ours.

I offer my support to the passage of the Michigan Scenic Rivers Act. This legislation is a tribute to the beauty of Michigan's rivers and to the commitment among the Michigan congressional delegation that we need to act now to preserve some of our most precious resources. This bill establishes a strong Federal role in the custodianship and protection of Michigan's rivers.

The Michigan Scenic Rivers Act is critical for Michigan. Many of Michigan's cherished national forests and scenic areas are feeling the strain from increased development. This bill will permanently set aside 14 Michigan rivers from environmentally unsound development and exploitation. These 14 rivers, covering 634 miles, are all within the boundaries of the Huron-Manistee, the Hiawatha, and the Ottawa National Forests.

In Michigan, our rivers play a vital role in our environment. Our great forests and our abundant fish and wildlife rely on Michigan's rivers for their survival. The people of Michigan and tourists from all over the country use these rivers for their recreation and their enjoyment. This legislation will ensure that these rivers remain to be used safely for many generations to come.

The Michigan Scenic Rivers Act is the right answer to dealing with the increased strain on our natural resources. Including these 14 rivers in the National Wild and Scenic Rivers System will require the Forest Service to develop long-term plans for the sound management of these rivers' watersheds. In accordance with these long-term plans, this legislation will also prevent the damming or diversion of these 14 rivers.

My colleague from Michigan, [Mr. KILDEE], deserves a great deal of credit for drafting this landmark legislation. In addition to having an exemplary record on protecting our environment and natural resources, Mr. KILDEE also knows these rivers well—he has canoed almost all of them and has long recognized their beauty and the need to preserve them in their current, unspoiled state.

I appreciate the opportunity to speak on behalf of the Michigan Scenic Rivers Act and I look forward to its swift passage by the House of Representatives. The passage of this legislation will make great strides toward setting aside and managing Michigan's most vital wilderness areas for the enjoyment of future generations.

Mr. LAGOMARSINO. Mr. Speaker, I yield 5½ minutes to the gentleman from Michigan [Mr. DAVIS].

Mr. DAVIS. I thank the gentleman for yielding.

Mr. Speaker, let me say to my colleagues, before I proceed, that I just wish that the rest of Michigan had done as good a job at preserving their rivers and their lakes as we have in Michigan's northern peninsula and Michigan's Upper Peninsula.

My constituents, obviously, have a direct interest in this bill as it affects nearly 160,000 acres of land in my district. I had hoped I could have been supportive of this bill, but I can not. For the record, I will outline my reasons for this opposition.

Before I explain my opposition, however, I would like to state that I realize passage of this legislation is probably inevitable. In this Congress alone, 15 wild and scenic rivers bills have been approved in the House or the Senate, and none of the votes were close.

I would also like to explain that I am not opposed to the concept of protecting stretches of rivers characterized by outstanding environmental qualities, however, in my opinion we could have crafted a wild and scenic river bill that would have only affected public property. Over 40 percent of the land in Michigan's Upper Peninsula is already publicly owned and I tried to eliminate most of the private property or at least change the most restrictive designation of such private property in this bill.

Northern Michigan is blessed with hundreds of miles of pristine rivers. Twelve of the fifteen river segments to be designated under this legislation are in northern Michigan's Upper Peninsula. Nearly 500 of the 565 miles of river slated for immediate designation in this bill are in my district—that's more than 80 percent of the bill's river miles.

More than 600 of my constituents own property along the banks of these rivers, and my opposition to this bill is a reflection of their concerns. The way this legislation is written, management plans for these designated areas will be completed after the bill becomes law. When property owners are confronted with a new set of Government regulations, they want to know how the changes will affect them. The problem is, we can't answer many of their questions because the management plans have not been fully formulated.

Some of my constituents have asked if they can build a cabin on their 5 acres of land in the area to be designated. Others want to know if they can paint a barn or cut timber. They are not satisfied with vague assurances that they will be taken care of after this bill becomes law. In short, they want their concerns addressed before legislation is enacted—not as an afterthought. I can tell you hundreds of my constituents feel they have been shoved aside by the Federal Government in this process—there is a lot of frustration and a general sense that they are powerless against the system.

I appreciate the efforts of Congressman DALE KILDEE to alleviate some of my constituents' concerns. However, while some people's concerns have been met, very few of them are satisfied.

We should not ignore the affect this bill will have on one of our area's largest industries—the forest products industry. Timber producers stand to lose access to valuable stumpage, and this industry plays a major role in the economy of northern Michigan.

The timber industry in my district supports the intent of this legislation as it applies to properly managing outstanding rivers that are part of national forests. However, these Upper Peninsula timber interests have been frustrated by the way this legislation has developed. They have followed this bill from the start and offered input every step along the way, yet many of their concerns have not been addressed, and as a result, they do not support the legislation in its current form. Simply put, the loggers and wood products firms don't want to support legislation when they don't know exactly how it's going to affect their vital economic interests.

Conservation is the wise use, not the non-use of our natural resources. Northern Michigan residents realize this. The fact is, Upper Peninsula residents have been good stewards of their environmental heritage—this legislation is evidence of that. This wild and scenic designation will mean more restrictive land management in areas where it is simply not needed, and definitely not welcome. In effect, my constituents are being rewarded for maintaining that delicate balance between development and environment by having the Federal Government move in with more land use regulations. It may be well intentioned, but the Michigan scenic rivers bill has not been well thought out.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

I would just conclude on our side by saying and reminding Members that the administration testimony from the National Forest Service testified strongly in favor of this bill. The State of Michigan and its DNR [department of natural resources], support this bill. A majority of the Members of this House, on a bipartisan basis, support the Kildee Michigan Wild and Scenic Rivers System. The major conservation organizations, all of them nationwide, support this bill. The local conservation organization in the State of Michigan, specifically in the Upper Peninsula, where of course admittedly many of these rivers are located in the gentleman from Michigan's district, Mr. DAVIS's district, support this bill.

These rivers are now being managed as if they are wild and scenic rivers under the law. So the changes that are envisioned, or the fears, I should say, are really reconciled.

These bills did go through a complete study process which, of course, some of the Members on the floor have told me is a very important aspect and the only basis on which they make their judgments.

I would like to extract from this some of what I see as the lack of foresight. These rivers are at risk. I hope we could follow the recommendations of the professionals in this area and deal with these and designate them.

I know it is a big bill, it is an important bill, and I would hope the Members would vote in favor of it.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield the remaining 4 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I rise to urge that the House not suspend the rules on the Michigan Scenic Rivers Act. I do so because this bill needs an amendment to straighten out one provision which has a negative effect in my northeast Wisconsin congressional district.

While most of this bill affects Michigan, one provision also directly affects Wisconsin. The bill designates 33 miles of the Brule River as a recreational river. This river forms part of the border between Wisconsin and Michigan.

The effect of this designation is to give the Federal Government control over the river itself and a one-quarter strip of land along both river banks. The statute provides that any change in land use will require Federal approval. Also, private property can be condemned and taken by the Federal Government.

This bill has generated strong opposition among local officials and citizens in Florence and Forest Counties. On August 21, the Florence County Board of Supervisors unanimously passed a resolution which says in part:

We oppose the passage of H.R. 4019 because of the negative impact its passage will have on our area's economic stability and future development.

The County Board's position is echoed by town officials of Tipler, Laona, and Alvin. In addition, town officials in Forest County, such as Caswell and Popple River, have stated their opposition.

Why are all these local officials opposed to this bill? There are three very good reasons.

First, designation of the Brule River as a recreational river means that development along the river must stop until a Federal land management plan is prepared. The very purpose of this designation is to stop any further development.

For Florence County, this would effectively kill a long-planned railroad bridge over the river. This bridge is essential to extending a rail line from Tipler, WI, to Iron River, MI. This rail line would allow development of a new wood products processing operation in Wisconsin, using Michigan raw materials. Both Wisconsin and Michigan State governments have been involved in planning this venture. The rail line—and therefore the bridge—are essential to this project.

Second, local officials and property owners are strongly opposed to Federal condemnation of private property. While much of the Wisconsin side of the river is in the Nicolet National Forest, there is private land along the Forest County river bank that would be threatened.

And third, local officials do not understand why no one involved in drafting this bill contacted them. The Florence County Economic Development Department has advised me that they cannot identify anyone in the area who was consulted. Moreover, apparently no one in the Wisconsin State government was consulted either, because Wisconsin State officials have joined the local governments in opposing designation of the Brule River.

It was only a few days ago that I learned of the committee's intention to run this bill through on a fast track.

I do not understand how the Interior Committee could allow this to happen. Since its inception, the Wild and Scenic Rivers Act has provided for extensive consultation with local governments and affected property owners, prior to designation. Why is this designation being made in contradiction of longstanding procedures?

Given these problems, the prudent course for the House is to allow perfecting amendments to this bill. However, this is not possible under suspension of the rules, because no amendments are allowed. I would like the opportunity to resolve these problems, but that is not possible if the bill is passed today.

For these reasons, I am asking the House to reject this bill. Jobs are at stake, along with private property.

□ 1730

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4019, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, as passed.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. That concludes the debate on all suspensions for today.

RED ROCK CANYON NATIONAL CONSERVATION AREA

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4559, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4559, as amended.

The question was taken.

Mr. VENTO. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 382, nays 38, not voting 12, as follows:

[Roll No. 383]

YEAS—382

Ackerman	Early	Lent
Alexander	Eckart	Levin (MI)
Anderson	Edwards (CA)	Levine (CA)
Andrews	Engel	Lewis (FL)
Annunzio	English	Lewis (GA)
Anthony	Erdreich	Lightfoot
Applegate	Espy	Lipinski
Archer	Evans	Livingston
Armey	Fascell	Lloyd
Aspin	Fawell	Long
Atkins	Fazio	Lowery (CA)
AuCoin	Feighan	Lowey (NY)
Baker	Fish	Luken, Thomas
Barnard	Flake	Lukens, Donald
Bartlett	Foglietta	Machtley
Bateman	Ford (TN)	Madigan
Bates	Frank	Manton
Beilenson	Frenzel	Markey
Bennett	Frost	Martin (IL)
Bentley	Gallegly	Martin (NY)
Bereuter	Gallo	Martinez
Berman	Gaydos	Matsui
Bevill	Gejdenson	Mavroules
Bilbray	Gekas	Mazzoli
Bilirakis	Gephardt	McCloskey
Bliley	Geren	McCollum
Boehlert	Gibbons	McCrery
Boggs	Gillmor	McCurdy
Bonior	Gilman	McDermott
Borski	Gingrich	McGrath
Bosco	Glickman	McHugh
Boucher	Gonzalez	McMillan (NC)
Boxer	Goodling	McMillen (MD)
Brennan	Gordon	McNulty
Brooks	Goss	Meyers
Broomfield	Gradison	Mfume
Browder	Grant	Michel
Brown (CA)	Gray	Miller (CA)
Brown (CO)	Green	Miller (OH)
Bruce	Gunderson	Miller (WA)
Bryant	Hamilton	Mineta
Buechner	Harris	Moakley
Bunning	Hastert	Molinari
Bustamante	Hatcher	Mollohan
Byron	Hawkins	Montgomery
Callahan	Hayes (IL)	Moody
Campbell (CA)	Hayes (LA)	Moorhead
Campbell (CO)	Hefley	Morella
Cardin	Hefner	Morrison (CT)
Carper	Henry	Morrison (WA)
Carr	Hertel	Mrazek
Chandler	Hiler	Murphy
Chapman	Hoagland	Murtha
Clarke	Hochbrueckner	Myers
Clay	Holloway	Nagle
Clement	Hopkins	Natcher
Clinger	Horton	Neal (MA)
Coble	Houghton	Neal (NC)
Coleman (MO)	Hoyer	Nelson
Coleman (TX)	Hubbard	Nowak
Collins	Huckaby	Oakar
Combest	Hughes	Oberstar
Condit	Hutto	Obey
Conte	Hyde	Olin
Conyers	Inhofe	Owens (NY)
Cooper	Ireland	Owens (UT)
Costello	Jacobs	Oxley
Coughlin	James	Pallone
Courter	Jenkins	Panetta
Cox	Johnson (CT)	Parker
Coyne	Johnson (SD)	Parris
Darden	Johnston	Pashayan
Davis	Jones (GA)	Patterson
de la Garza	Jones (NC)	Paxon
DeFazio	Jontz	Payne (NJ)
Dellums	Kanjorski	Payne (VA)
Derrick	Kaptur	Pease
DeWine	Kasich	Pelosi
Dickinson	Kastenmeier	Penny
Dicks	Kennedy	Perkins
Dingell	Kennelly	Petri
Dixon	Kildee	Pickett
Donnelly	Kleczka	Pickle
Dorgan (ND)	Kyl	Porter
Dornan (CA)	LaFalce	Poshard
Douglas	Lagomarsino	Price
Downey	Lancaster	Pursell
Dreier	Lantos	Quillen
Duncan	Laughlin	Rahall
Durbin	Leach (IA)	Rangel
Dwyer	Leath (TX)	Ravenel
Dymally	Lehman (CA)	Ray
Dyson	Lehman (FL)	Regula

Richardson	Shuster	Torres
Ridge	Sikorski	Torricelli
Rinaldo	Sisisky	Towns
Ritter	Skaggs	Traficant
Roberts	Skelton	Traxler
Roe	Slattery	Udall
Rogers	Slaughter (VA)	Unsoeld
Rohrabacher	Smith (FL)	Upton
Ros-Lehtinen	Smith (IA)	Valentine
Rose	Smith (NJ)	Vander Jagt
Roth	Smith (TX)	Vento
Roukema	Smith (VT)	Visclosky
Rowland (GA)	Smith, Robert (NH)	Volkmer
Roybal	Snowe	Walgren
Russo	Solarz	Walker
Sabo	Solomon	Walsh
Saiki	Spence	Watkins
Sangmeister	Spratt	Waxman
Sarpalius	Staggers	Weber
Savage	Stallings	Weiss
Sawyer	Stark	Weldon
Saxton	Stearns	Wheat
Schaefer	Stenholm	Whittaker
Scheuer	Stokes	Whitten
Schiff	Studds	Williams
Schneider	Sundquist	Wilson
Schroeder	Synar	Wise
Schuette	Tallon	Wolf
Schulze	Tanner	Wolpe
Schumer	Tauke	Wyden
Sensenbrenner	Tauzin	Wylie
Serrano	Taylor	Yates
Sharp	Thomas (GA)	Yatron
Shaw	Thomas (WY)	Young (FL)
Shays		

NAYS—38

Ballenger	Hansen	Skeen
Barton	Herger	Slaughter (NY)
Burton	Hunter	Smith (NE)
Craig	Kolbe	Smith, Denny (OR)
Crane	Lewis (CA)	Smith, Robert (OR)
Dannemeyer	Marlenee	Stangeland
DeLay	McCandless	Stump
Edwards (OK)	McDade	Thomas (CA)
Emerson	McEwen	Vucanovich
Fields	Nielson	Young (AK)
Grandy	Packard	
Hall (TX)	Rhodes	
Hammerschmidt	Robinson	
Hancock	Shumway	

NOT VOTING—12

Crockett	Hall (OH)	Rostenkowski
Flippo	Kolter	Rowland (CT)
Ford (MI)	Kostmayer	Swift
Guarini	Ortiz	Washington

□ 1754

Mr. STENHOLM and Mr. DEFAZIO changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON HOUSE JOINT RESOLUTION 655, CONTINUING APPROPRIATIONS, FISCAL YEAR 1991 AND SUPPLEMENTAL APPROPRIATIONS FOR OPERATION DESERT SHIELD

Mr. WHITTEN, from the Committee on Appropriations, submitted a privileged report (Rept. No. 101-754) on the joint resolution (H.J. Res. 655) making continuing appropriations for the fiscal year 1991, supplemental appropriations for "Operation Desert Shield" for the fiscal year 1990, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 655, CONTINUING APPROPRIATIONS, FISCAL YEAR 1991, AND SUPPLEMENTAL APPROPRIATIONS FOR OPERATION DESERT SHIELD

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-753) on the resolution (H. Res. 475) providing for the consideration of the joint resolution (H.J. Res. 655) making continuing appropriations for the fiscal year 1991, supplemental appropriations for "Operation Desert Shield" for the fiscal year 1990, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SENATE BILLS AND A JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1542. An act to amend chapter 55 of title 5, United States Code, to include certain employees of the Department of Commerce as forest firefighters; to the Committee on Post Office and Civil Service.

S. 1931. An act to prevent the discharge in a chapter 13 bankruptcy proceeding of certain debts arising out of the debtor's operation of a motor vehicle while legally intoxicated; to the Committee on the Judiciary.

S. 2758. An act to provide for additional membership on the Library of Congress Trust Fund Board, and for other purposes; to the Committee on House Administration.

S.J. Res. 346. Joint resolution to designate October 20 through 28, 1990, as "National Red Ribbon Week for a Drug-Free America"; to the Committee on Post Office and Civil Service.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4773. An act to authorize the President to call and conduct a National White House Conference on Small Business.

ADJOURNMENT

Mr. HOYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 58 minutes p.m.) the House adjourned until tomorrow, Wednesday, September 26, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3930. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use of the Walker River Paiute Tribe judgment funds in Docket 87-A (Railroad Claim) before the U.S. Claims Court, pursuant to 25 U.S.C. 1402(a), 1404; to the Committee on Interior and Insular Affairs.

3931. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3932. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3933. A letter from the Comptroller General of the United States, transmitting a report concerning the claim of Ms. Jane E. Denne, an employee of the Federal Government, pursuant to 31 U.S.C. 3702(d); to the Committee on the Judiciary.

3934. A letter from the Secretary of Health and Human Services, transmitting the final report, "Disenrollment Experience in the Medicare HMO and CMP Risk Program: 1985-1988"; to the Committee on Ways and Means.

3935. A letter from the U.S. Trade Representative, transmitting a letter in support of the President's bilateral commercial agreement between the United States and the Czech and Slovak Federal Republic; to the Committee on Ways and Means.

3936. A letter from the Chairman, National Transportation Safety Board, transmitting a copy of the Board's budget request for fiscal year 1992, pursuant to 49 U.S.C. app. 1903(b)(7); jointly, to the Committee on Energy and Commerce and Public Works and Transportation.

3937. A letter from the Chairman, Commission on Railroad Retirement Reform, transmitting the final report on the financial status of the railroad unemployment insurance system, pursuant to Public Law 100-647, section 7108 (102 Stat. 3774); jointly, to the Committee on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 4300. A bill to amend the Immigration and Nationality Act to revise the system of admission of aliens on the basis of family reunification and to meet identified labor shortages, and for other purposes; with amendments (Rept. 101-723, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 475. Resolution providing for the consideration of H.J. Res. 655, a joint resolution making continuing appropriations for the fiscal year 1991, supplemental appropriations for "Operation Desert Shield" for the fiscal year 1990, and for other purposes (Rept. 101-753). Referred to the House Calendar.

Mr. WHITTEN: Committee on Appropriations. House Joint Resolution 655. Joint resolution making continuing appropriations for the fiscal year 1991, supplemental appropriations for "Operation Desert Shield" for the fiscal year 1990, and for other purposes (Rept. 101-754). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. TAUZIN (for himself and Mr. ANDREWS):

H.R. 5707. A bill to limit the jurisdictions of the Federal Energy Regulatory Commission over local distribution company wholesalers of natural gas for ultimate consumption as a fuel in motor vehicles; to the Committee on Energy and Commerce.

By Mr. ANDERSON (for himself, Mr. BOSCO, and Mr. HAMMERSCHMIDT):

H.R. 5708. A bill to authorize acquisition of certain real property for the Library of Congress, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. BATES (for himself, Mr. BILBRAY, and Mrs. COLLINS):

H.R. 5709. A bill to amend the Communications Act of 1934 to require the marketing of encrypted satellite transmissions of professional sporting events; to the Committee on Energy and Commerce.

By Mr. FORD of Michigan (by request):

H.R. 5710. A bill to amend the Higher Education Act of 1965 in order to promote equal access to opportunities for study abroad; to the Committee on Education and Labor.

By Mr. FORD of Tennessee (for himself and Mr. SUNDQUIST):

H.R. 5711. A bill to extend the period during which certain property is required to be placed in service to qualify for transition relief under section 203 of the Tax Reform Act of 1986 and to extend the period during which certain bonds may be issued under section 1317 of the Tax Reform Act of 1986; to the Committee on Ways and Means.

By Mr. FORD of Tennessee (for himself and Mr. SUNDQUIST):

H.R. 5712. A bill to extend the period during which certain property is required to be placed in service to qualify for transition relief under section 203 of the Tax Reform Act of 1986 and to extend the period during which certain bonds may be issued under section 1317 of the Tax Reform Act of 1986; to the Committee on Ways and Means.

By Mr. MACHTLEY:

H.R. 5713. A bill to eliminate the pay of Members of Congress for any period while any sequestration order for fiscal year 1991 issued under the Balanced Budget and Emergency Deficit Control Act of 1985 is in effect; jointly, to the Committee on House Administration and Post office and Civil Service.

By Mr. STARK:

H.R. 5714. A bill to amend the Internal Revenue Code of 1986 to impose an annual $1,000 tax on each cigarette vending machine; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 5715. A bill to amend the Internal Revenue Code of 1986 to impose an annual $1,000 tax on each cigarette vending machine, and to provide that revenues from such tax be used by the Centers for Disease Control to fund reduced tobacco use programs; jointly, to the Committee on Ways and Means and Energy and Commerce.

By Mr. THOMAS of California:

H.R. 5716. A bill to authorize the continued operation of Jordon Hot Springs in the Golden Trout Wilderness, Inyo National Forest, California; to the Committee on Interior and Insular Affairs.

By Mr. DEFAZIO:

H.J. Res. 656. A joint resolution to require the President of the United States to comply with the reporting requirements of the War Powers Resolution as they apply to the introduction of the Armed Forces of the United States into Saudi Arabia and the Persian Gulf region; to the Committee on Foreign Affairs.

By Mr. YATRON (for himself, Mr. FASCELL, Ms. SNOWE, Mrs. SCHROEDER, Mr. OWENS of Utah, Mr. FEIGHAN, Mr. ACKERMAN, Mr. WEISS, and Ms. SCHNEIDER):

H. Res. 476. Resolution urging the President to submit the Convention on the Elimination of All Forms of Discrimination Against Women to the Senate for its advice and consent to ratification; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

503. The SPEAKER presented a memorial of the Legislature of the State of California, relative to McClellan Air Force Base; to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 60: Mr. MCMILLAN of North Carolina.

H.R. 1261: Mr. SLATTERY.

H.R. 1400: Mr. BROOMFIELD, Mr. MCNULTY, Mr. ROBERT F. SMITH, and Mr. HOUGHTON.

H.R. 1593: Mr. NEAL of Massachusetts.

H.R. 2531: Mr. LANCASTER, Mr. ROGERS, Mr. CRAIG, Mr. HOAGLAND, and Mr. SLATTERY.

H.R. 2091: Mr. OLIN.

H.R. 2947: Mr. HAMILTON.

H.R. 3496: Mr. YATES.

H.R. 3603: Mr. ARMEY, Mr. VALENTINE, Mr. STANGELAND, Mr. HAMILTON, Mr. TALLON, Mr. SHAYS, Mr. GOSS, Mr. TORRICELLI, Mr. GUNDERSON, Mrs. KENNELLY, Mr. WOLPE, Mr. LENT, Mr. BILBRAY, and Mr. COX.

H.R. 3643: Mrs. LOWEY of New York.

H.R. 3673: Mr. PALLONE.

H.R. 3836: Mr. CLINGER.

H.R. 4262: Mr. ENGLISH.

H.R. 4424: Mr. BATEMAN.

H.R. 4433: Mr. COURTER and Mr. ROE.

H.R. 4494: Mr. RAY and Mr. CAMPBELL of Colorado.

H.R. 4531: Mr. SOLOMON, Mr. BARNARD, and Mr. SMITH of New Jersey.

H.R. 4641: Mr. FISH, Mr. SAWYER, and Mr. FLAKE.

H.R. 4898: Mr. EVANS and Mr. FISH.

H.R. 4977: Mrs. BOXER.

H.R. 5007: Mr. EARLY and Mr. DE LA GARZA.

H.R. 5200: Mr. BEVILL and Mr. MCNULTY.

H.R. 5338: Mr. TOWNS.

H.R. 5352: Mr. TAUKE.

H.R. 5362: Mr. FRENZEL and Mr. TAUKE.

H.R. 5382: Mr. MOORHEAD, Mr. ROBINSON, Mr. JOHNSON of South Dakota, and Mr. MRAZEK.

H.R. 5388: Mr. MCMILLAN of North Carolina, Mr. ROSE, Mr. NEAL of North Carolina, Mr. PRICE, Mr. CLARKE, Mr. JONES of North Carolina, Mr. VALENTINE, and Mr. MCGRATH.

H.R. 5389: Mr. WAXMAN, Mr. ACKERMAN, and Mr. BRUCE.

H.R. 5467: Mr. FAUNTROY, Mr. WISE, Mr. JONTZ, and Mr. WAXMAN.

H.R. 5505: Mr. BONIOR, Mrs. BOXER, Mr. BOEHLERT, Mr. OWENS of Utah, Mr. STALLINGS, Mr. MFUME, Mr. MORRISON of Connecticut, Ms. SCHNEIDER, Mr. WISE, Mr. STOKES, Mr. FOGLIETTA, and Mr. LEWIS of Georgia.

H.R. 5568: Mr. ROE, Mr. COSTELLO, Mr. BRUCE, and Ms. KAPTUR.

H.R. 5593: Mr. THOMAS of Wyoming.

H.R. 5618: Mrs. JOHNSON of Connecticut, Mr. OLIN, and Mr. KENNEDY.

H.R. 5643: Mr. GILMAN.

H.J. Res. 110: Mr. HOUGHTON and Mr. GILLMOR.

H.J. Res. 551: Mr. ATKINS, Mr. RAVENEL, Mr. EMERSON, Mr. FISH, Mr. FRANK, and Mr. CLINGER.

H.J. Res. 580: Ms. KAPTUR.

H.J. Res. 610: Mr. MADIGAN, Mr. BRUCE, Mr. SAWYER, Mr. SHAW, and Mr. JONTZ.

H.J. Res. 636: Mr. HYDE, Mr. CALLAHAN, Mr. BARTLETT, Mrs. BENTLEY, Mr. ANDERSON, Mr. GONZALEZ, Mr. TORRES, Mr. BEILENSON, Mr. BURTON of Indiana, Mr. RIDGE, Mr. DORNAN of California, Mr. LOWERY of California, Mr. GALLEGLY, Mr. GRANDY, Mr. GALLO, Mr. HUNTER, Mr. REGULA, Mr. FISH, Ms. MOLINARI, Mr. DIXON, Mr. SHAYS, Mr. HOUGHTON, Mr. SCHEUER, Mrs. MORELLA, Mr. PETRI, Mr. PORTER, Mr. PAXON, Mr. HALL of Ohio, Mr. GRADISON, Mr. DELAY, Mr. SCHIFF, Mr. THOMAS of Wyoming, Mr. LEVIN of Michigan, Mr. SMITH of New Jersey, Mr. OXLEY, Mr. GILLMOR, and Mr. DEWINE.

H.J. Res. 644: Mr. WALGREN, Mr. PALLONE, Mr. ROE, Mr. HAYES of Louisiana, Ms. KAPTUR, Mr. ENGEL, and Mrs. BOXER.

H. Con. Res. 318: Mr. HAYES of Illinois, Ms. LONG, Mr. WYLIE, Mr. VALENTINE, Mr. POSHARD, Mr. CRANE, Mr. HYDE, Mr. STOKES, Mr. BRUCE, Mr. MCMILLAN of North Carolina, Mr. VANDER JAGT, and Mr. KOSTMAYER.

H. Con. Res. 369: Mr. ROSE, Mr. BLILEY, and Ms. SCHNEIDER.

H. Con. Res. 374: Mr. FAUNTROY and Mr. COX.

H. Res. 363: Mr. ACKERMAN.

PETITIONS, ETC.

Under clause 1 of rule XXII,

234. The SPEAKER presented a petition of the Board of Chosen Freeholders, New Brunswick, NJ, relative to veterans' benefits, which was referred to the Committee on Veterans' Affairs.

SENATE—*Tuesday, September 25, 1990*

(Legislative day of Monday, September 10, 1990)

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by the Honorable HERBERT KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Commit thy works unto the Lord, and thy thoughts shall be established.—Proverbs 16:3.

Almighty God, perfect in justice and truth, help the Senators to hear the wisdom of Proverbs this week. The budget resolution, standing alone, would be enough to preempt all their time and energy and effort in these closing days, so quickly approaching adjournment and election. Added to this, the rapidly changing and unpredictable Middle East situation imposes inordinate pressure.

Gracious Father, we ask Thee to remove from head and heart and circumstances every obstacle that thwarts legislation. Help the Senators, despite their deep and justifiable convictions, to become neutral enough to allow Thee to guide their discussion, debate, and decisions. If ever we needed divine intervention, Lord, we need it now. Awaken us to this transcendent reality.

We ask this in Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 25, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERBERT KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. In my capacity as a Senator from Wisconsin, I suggest the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FAMILY PLANNING AMENDMENTS OF 1989

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 110, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 110) to revise and extend the programs of assistance under title X of the Public Health Service Act.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Family Planning Amendments of 1989".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

SEC. 2. FINDINGS.

Congress finds that—

(1) comprehensive voluntary family planning services still are not readily available to all individuals in the United States desiring such services;

(2) new and improved contraceptive devices, drugs, and methods are needed in order to ensure optimum safety and choice for each individual desiring to use such devices, drugs, and methods;

(3) the high incidence of teenage pregnancies and sexually transmitted diseases has made it essential that the public receive information to prevent such pregnancies and diseases, as recommended by the Surgeon General of the United States; and

(4) sound medical practices require that all individuals be fully informed of their options in making decisions about their health care, and such practices should be promoted in the Nation's family planning program.

SEC. 3. PROJECT GRANTS AND CONTRACTS.

Section 1001 (42 U.S.C. 300) is amended—

(1) in subsection (a), by adding at the end thereof the following new sentence: "Such projects shall also offer adoption referral services, except that any adoption referral service provided under this subsection shall be nondiscriminatory as to race, color, religion, and national origin."; and

(2) by striking out subsections (c) and (d) and inserting in lieu thereof the following new subsection:

"(c) For the purpose of making grants and contracts under this section, there are authorized to be appropriated $163,000,000 for fiscal year 1990, $171,000,000 for fiscal year 1991, and $179,500,000 for fiscal year 1992.".

SEC. 4. REPEAL OF FORMULA GRANTS.

(a) REPEAL.—Section 1002 (42 U.S.C. 300a) is repealed.

(b) CONFORMING AMENDMENT.—Section 1006(c) (42 U.S.C. 300a-4(c)) is amended by striking out "or 1002".

SEC. 5. TRAINING AND TECHNICAL ASSISTANCE GRANTS AND CONTRACTS.

Section 1003 (24 U.S.C. 300a-1) is amended to read as follows:

"SEC. 1003. TRAINING GRANTS AND CONTRACTS.

"(a) AUTHORIZATION.—The Secretary may make grants to public or nonprofit private entities and may enter into contracts with public or private entities and individuals to provide technical assistance, clinical training for personnel (including obstetric-gynecologic nurse practitioners), training for educators and counselors, and training of other personnel, to carry out the family planning service programs described in section 1001 and the information and education programs described in section 1005.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants and contracts under this section, there are authorized to be appropriated $4,515,000 for fiscal year 1990, $4,741,000 for fiscal year 1991, and $4,978,000 for fiscal year 1992.".

SEC. 6. CONDUCT OF RESEARCH ACTIVITIES.

Section 1004 (42 U.S.C. 300a-2) is amended—

(1) by inserting "(a)" before "The";

(2) in paragraph (2)—

(A) by inserting "and evaluation" after "development"; and

(B) by inserting before the period the following: "and research to improve the clinical management and direct delivery of family planning services"; and

(3) by adding at the end thereof the following new subsections:

"(b) To enhance the ongoing work of the National Institutes of Health under section 301 and under subsection (a) in applied contraceptive research and evaluation, and specifically to promote the development, evaluation, and bringing to the marketplace, of new and improved contraceptive devices, drugs, and methods, the Secretary may conduct, and make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the conduct of—

"(1) applied research into the development of new or improved contraceptive devices, drugs, and methods; and

"(2) evaluations of the acceptance, convenience, safety, efficacy, and cost of contraceptive devices, drugs, and methods.

"(c) For the purpose of making grants and entering into contracts under subsection (b), there are authorized to be appropriated $10,000,000 for fiscal year 1990, and such sums as may be necessary for each of the fiscal years 1991 and 1992. Amounts appropriated under this subsection shall be in addition to amounts allocated under section

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

301(a) for the National Institute of Child Health and Human Development.".

SEC. 7. INFORMATION AND EDUCATION.

Section 1005 (42 U.S.C. 300a-3) is amended to read as follows:

"SEC. 1005. COMMUNITY-BASED INFORMATIONAL AND EDUCATIONAL PROGRAMS.

"(a) AUTHORIZATION.—The Secretary may make grants to or enter into contracts with public and nonprofit private entities to establish community-based information and education programs to assist individuals in making responsible choices concerning human sexuality, pregnancy, and parenthood, and to enable individuals to prevent unintended pregnancies and sexually transmitted disease. Programs supported under this section shall place special emphasis on the provision of information and education to parents and adolescents, and shall include information about the availability of a broad range of acceptable and effective family planning methods and services.

"(b) AWARDING OF GRANTS, CONTRACTS, ETC.—The Secretary shall—

"(1) conduct, or make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the conduct of, training and technical assistance activities to assist in carrying out subsection (a); and

"(2) make grants to public and nonprofit private entities and individuals for the development, evaluation, and dissemination of educational and informational materials that are consistent with the objectives specified in subsection (a) for information and education programs.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For grants and contracts under this section, there are authorized to be appropriated $10,000,000 for fiscal year 1990, and such sums as may be necessary for each of the fiscal years 1991 and 1992. Not more than 10 percent of the amounts appropriated under this preceding sentence for a fiscal year shall be available to carry out subsection (b).".

SEC. 8. DATA COLLECTION.

(a) IN GENERAL.—Title X (42 U.S.C. 300 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1010. DATA COLLECTION.

"(a) COLLECTION OF DATA.—The Secretary shall collect on an annual basis data concerning—

"(1) the number of low-income and marginal-income individuals, and the number of adolescents, at risk of unintended pregnancies;

"(2) the sources of funding available for family planning services in the United States;

"(3) the number of individuals who receive family planning services from entities that receive grants and contracts under section 1001 and the age, gender, race, and family income of such individuals; and

"(4) the types of family planning services chosen by individuals who receive services from entities which receive grants and contracts under section 1001.

"(b) GRANTS AND CONTRACTS.—The Secretary may make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the collection of data under this section. The Secretary shall make available to the public data and information collected under this section.".

(b) TECHNICAL AMENDMENT.—Section 1009 (42 U.S.C. 300a-6a) is amended by adding at the end thereof the following new subsection:

"(d) Each plan prepared under this section shall be based upon data collected under section 1010.".

SEC. 9. BREAST EXAMINATIONS.

Title X (as amended by section 8(a) of this Act) is further amended by adding at the end thereof the following new section:

"SEC. 1011. BREAST EXAMINATIONS.

"All grantees who receive assistance under this title shall provide education to patients concerning self breast examinations.".

SEC. 10. STUDY OF PARENTAL CONSENT FOR FAMILY PLANNING.

Section 301 (42 U.S.C. 241) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary shall make available $1,800,000 during the fiscal years 1990 through 1992 for the selection of a single State in which to establish a research project meeting the requirements of paragraph (2), to determine the impact of family planning services in a State that has in effect a law prohibiting the use of public funds for the provision of family planning services to an unmarried minor without the prior written consent of the parent or guardian of the minor.

"(2)(A) Notwithstanding any other provision of this Act, the Secretary may, for any fiscal year, make grants to or enter into contracts with public agencies in a State described in paragraph (1) for the provision of family planning services. Activities conducted by public agencies in the State under such grants and contracts shall be carried out in accordance with the State law described in paragraph (1).

"(B) A public agency in a State described in paragraph (4) that desires to receive a grant or contract under this subsection shall submit an application to the Secretary in accordance with such requirements as the Secretary may prescribe.

"(C) An application submitted under subparagraph (B) shall contain assurances satisfactory to the Secretary that—

"(i) prior to April 1, 1981, there was enacted in the State a law described in paragraph (1);

"(ii) for the fiscal year for which the application is submitted, such law will not be applied to family planning services provided by private agencies;

"(iii) if a public agency of the State makes a grant to, or enters into a contract with, a private agency for the provision of family planning services, and such grant or contract is funded in whole or in part from amounts received by that agency under this subsection, the State shall ensure that such private agency meets the same requirements for eligibility for assistance under title X as the Secretary may prescribe for all private agencies assisted under title X;

"(iv) Federal funds made available under this subsection to public agencies in the State will be used to supplement and increase the level of public funds expended for family planning services within the State, and will in no case be used to supplant such public funds; and

"(v) the State shall submit to the Secretary annual reports in such form as the Secretary shall require in order to assess the effectiveness of the financial assistance provided under this subsection within the State.

"(3) This subsection shall not be construed to authorize the Secretary to make grants to, or enter into contracts with, a private entity in which the research project under this subsection is conducted unless that private entity complies with the requirements established under title X for a private entity outside of the State that applies for grants and contracts under this subsection.

"(4)(A) Not later than 3 years after the date of enactment of this subsection, the Comptroller General of the United States shall prepare and submit to Congress a report that—

"(i) evaluates the effect of requiring the parent or guardian of an unmarried minor to give written consent prior to the provision of family planning service to such minor on the reduction of the rate of unintended adolescent pregnancies in the State in which the research project is conducted under this subsection; and

"(ii) compares the rate of unintended adolescent pregnancies in that State with rates of such pregnancies in other States.

"(B) The Secretary, in consultation with the Comptroller General of the United States shall provide for the collection of data to assist the Comptroller General in preparing the report required under this paragraph.".

SEC. 11. AUTHORIZATION OF APPROPRIATIONS FOR ADOLESCENT FAMILY LIFE PROGRAM.

Subsection (a) of section 2010 (42 U.S.C. 300z-9) is amended to read as follows:

"(a) For the purpose of carrying out this title, there are authorized to be appropriated $9,529,000 for each of the fiscal years 1990 through 1992.".

SEC. 12. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on the date of enactment of this Act.

Mr. KENNEDY. Mr. President, the title X Family Planning Program has a proud record of 20 years of service to the American people. Through programs funded over title X, millions of disadvantaged women and men have gained access to essential family planning and primary care health services.

Today, I am pleased to offer the committee a substitute for S. 110, the family planning amendments. This vitally important legislation was reported by the Committee on Labor and Human Resources, and it is cosponsored by 48 Members of the Senate.

Title X is the indispensable foundation of family planning efforts across the Nation. It provides high quality reproductive health care services to over 5 million low-income women and men each year.

In addition to comprehensive family planning services, title X funded clinics also provide essential primary and preventive care such as screening for breast cancer, cervical cancer, and sexually transmitted diseases.

Family planning programs also serve as the entry point into the health care system for many patients in need of other important services, ranging from prenatal care to AIDS counseling and testing.

Over the past 10 years however, our ability to provide these services to families in need has been unconscionably cut back. Funding has been slashed 42 percent in real terms. One thousand clinics have been forced to close. Outreach and followup services

have been squeezed out. Today more than 31 million women are at risk of unintended pregnancy in the United States. Yet title X is serving fewer people than it was serving in 1981—and I regard that as unacceptable.

In human terms, the result is a shameful and unfair burden on millions of American families who can least afford it. The ultimate consequence of decreased funding and support for title X, despite all the hypocrisy and ideological posturing of its opponents, is that more women are choosing to have abortions because they are faced with unintended pregnancies.

The purposes of title X is to provide services and information to reduce the incidence of unintended pregnancy, to improve maternal health, and to reduce the need for abortion. As a recent editorial in the American Journal of Public Health states:

> We hope that President Bush will move rapidly to promote a "Kinder and gentler" nation by ensuring that the family planning program is allowed to finally achieve it potenial. Both common humanity and an attractive cost-benefit ratio are forceful arguments for immediate responsive action.

In the absence of Government support for family planning services, an average of 1 million additional unintended pregnancies will occur each year among the 5 million women who could utilize family planning clinics. At least 4 in 10 of these pregnancies will end in abortion, assuming the continuation of current trends.

Every dollar used to provide family planning services saves an average of $4.40 in funds that otherwise would have to be spent to provide medical care, welfare, and other social services to women who, by law, will be eligible for such services if they became pregnant. In fact, teen pregnancy costs the United States an estimated $22 billion a year in welfare and associated costs alone.

Family planning and prevention of unintended pregnancy is also the most effective means of reducing the spread of the AIDS virus to newborn infants. It is an essential component of our overall strategy to reduce the incidence of low birth weight, and bring down the shocking rate of infant mortality that is a continuing indictment of our health care system.

Finally, title X is a key part of our effort to prevent adolescent pregnancy. Almost 1 million teenagers become pregnant every year, and their pregnancies pose significant health risks for these mothers and their infants. If we are serious about addressing this problem, then it is time for us to get serious about title X.

The legislation we will consider today reauthorizes the Family Planning Program, which has been unauthorized since 1985, so that we can begin to restore the resources necessary to address these key needs. While the legislation makes few substantive changes in this successful program, it does make two improvements. First, it establishes a separate line-item authorization for contraceptive research. Many couples are dissatisfied with the contraceptive alternatives available to them, and research has revealed that failures from current methods are higher than had been previously known. A modest increase in research spending represents a wise investment.

Second, the legislation establishes a new program of community-based information and education. Family planning clinics provide high quality service to those who come for help, but a program of outreach and education is needed for those who need but are not using clinic services.

In addition to reauthorizing title X, the Family Planning Program, the legislation extends title XX, the adolescent family life demonstrations. Teenage pregnancy is one of our most serious social problems. Almost one million teenagers become pregnant annually, and in 75 percent of the cases the pregnancy is unintended. Teenage pregnancy results in a higher risk of infant mortality than other pregnancies, and it can start an intergenerational cycle of welfare dependency.

The Adolescent Family Life Program is designed to deal with this pressing social problem. Two-thirds of the funds under the program are used to care for pregnant teens, to improve their likelihood of becoming successful parents, to maximize their chances of finishing school and avoiding welfare.

Interestingly, only about half of the teenage pregnant mothers ever finish high school. That particular information is based upon completing high school by the age of 20. It surprises me that even half of them are able to complete high school. But this program is designed to try to provide the support services so that they may be able to finish school and avoid welfare and increase their chances of delivering a healthy baby.

The remaining one-third of the funds are used for prevention of teenage pregnancy. Unlike pregnancy prevention programs under title X, programs are directed exclusively at teenagers, and the use of innovative methods outside clinic settings is encouraged.

I urge my colleagues to support title X. All Americans should have access to comprehensive and high quality family planning services. As with many other problems that confront us today, it is not a question of resources—it is a question of whether we will demonstrate the courage and leadership to deal effectively and responsibly with this worsening national problem.

Mr. President, in this legislation we encourage, to the maximum extent possible, the inclusion of family members, particularly the parents. During the course of the debate we will probably have some discussion about the role of the parents.

It is our desire, our commitment, our firm belief that to the extent possible parents should be involved. But since this program is primarily directed at low-income families, we have to note that in many instances in those particular areas many of the young people do not even know their father and, in too many instances, their mother may be tied up with substance abuse or other kinds of challenges. But we do emphasize and stress the involvement of the parents and family members, particularly in that part of the program that is directed toward the teens.

Second, we have provided in this program that there has to be information with regard to adoption. That has to be included in the program. We have other adoption programs that are in other parts of our legislative effort, but we have ensured that information referrals with regard to adoption will also be included. I know that is another aspect of general concern of the membership in the past debates, and we have tried to include those particular items.

I know that my colleague, the Senator from Utah, is on his way here. I know that he will want to have his statement included in the RECORD following my statement. But I would hope we could proceed with the discussion and debate.

Just before yielding the floor, Mr. President, am I correct in stating that presently pending is the committee reported substitute S. 110?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. KENNEDY. I send a modification of the committee substitute to the desk, and advise my colleagues I have been authorized by the majority of the members of the Labor Committee to present and make this modification.

The ACTING PRESIDENT pro tempore. The Senator has the right to make that modification.

Mr. KENNEDY. I send the modification to the desk and I ask unanimous consent that it be considered original text for the purpose of further amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Just for the benefit of the membership the modification just extends the authorization from 3 years to 5 years. That is the only alteration or change.

I yield the floor.

The committee amendment, as modified, is as follows:

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Family Planning Amendments of 1990".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

SEC. 2. FINDINGS.

Congress finds that—

(1) comprehensive voluntary family planning services still are not readily available to all individuals in the United States desiring such services;

(2) new and improved contraceptive devices, drugs, and methods are needed in order to ensure optimum safety and choice for each individual desiring to use such devices, drugs, and methods;

(3) the high incidence of teenage pregnancies and sexually transmitted diseases has made it essential that the public receive information to prevent such pregnancies and diseases, as recommended by the Surgeon General of the United States; and

(4) sound medical practices require that all individuals be fully informed of their options in making decisions about their health care, and such practices should be promoted in the Nation's family planning program.

SEC. 3. PROJECT GRANTS AND CONTRACTS.

Section 1001 (42 U.S.C. 300) is amended—

(1) in subsection (a), by adding at the end thereof the following new sentence: "Such projects shall also offer adoption referral services, except that any adoption referral service provided under this subsection shall be nondiscriminatory as to race, color, religion, and national origin."; and

(2) by striking out subsections (c) and (d) and inserting in lieu thereof the following new subsection:

"(c) For the purpose of making grants and contracts under this section, there are authorized to be appropriated $171,000,000 for fiscal year 1991, $180,000,000 for fiscal year 1992, $189,000,000 for fiscal year 1993, $198,500,000 for fiscal year 1994, and $208,500,000 for fiscal year 1995.".

SEC. 4. REPEAL OF FORMULA GRANTS.

(a) REPEAL.—Section 1002 (42 U.S.C. 300a) is repealed.

(b) CONFORMING AMENDMENT.—Section 1006(c) (42 U.S.C. 300a–4(c)) is amended by striking out "or 1002".

SEC. 5. TRAINING AND TECHNICAL ASSISTANCE GRANTS AND CONTRACTS.

Section 1003 (24 U.S.C. 300a–1) is amended to read as follows:

"SEC. 1003. TRAINING GRANTS AND CONTRACTS.

"(a) AUTHORIZATION.—The Secretary may make grants to public or nonprofit private entities and may enter into contracts with public or private entities and individuals to provide technical assistance, clinical training for personnel (including obstetric-gynecologic nurse practioners), training for educators and counselors, and training of other personnel, to carry out the family planning service programs described in section 1001 and the information and education programs described in section 1005.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants and contracts under this section, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1991 through 1995.".

SEC. 6. CONDUCT OF RESEARCH ACTIVITIES.

Section 1004 (42 U.S.C. 300a–2) is amended—

(1) by inserting "(a)" before "The";

(2) in paragraph (2)—

(A) by inserting "and evaluation" after "development"; and

(B) by inserting before the period the following: "and research to improve the clinical management and direct delivery of family planning services"; and

(3) by adding at the end thereof the following new subsections:

"(b) To enhance the ongoing work of the National Institute of Health under section 301 and under subsection (a) in applied contraceptive research and evaluation, and specifically to promote the development, evaluation, and bringing to the marketplace, of new and improved contraceptive devices, drugs, and methods, the Secretary may conduct, and make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the conduct of—

"(1) applied research into the development of new or improved contraceptive devices, drugs, and methods; and

"(2) evaluations of the acceptance, convenience, safety, efficacy, and cost of contraceptive devices, drugs, and methods.

"(c) For the purpose of making grants and entering into contracts under subsection (b), there are authorized to be appropriated $10,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995. Amounts appropriated under this subsection shall be in addition to amounts allocated under section 301(a) for the National Institute of Child Health and Human Development.".

SEC. 7. INFORMATION AND EDUCATION.

Section 1005 (42 U.S.C. 300a–3) is amended to read as follows:

"SEC. 1005. COMMUNITY-BASED INFORMATIONAL AND EDUCATIONAL PROGRAMS.

"(a) AUTHORIZATION.—The Secretary may make grants to or enter into contracts with public and nonprofit private entities to establish community-based information and education programs to assist individuals in making responsible choices concerning human sexuality, pregnancy, and parenthood, and to enable individuals to prevent unintended pregnancies and sexually transmitted diseases. Programs supported under this section shall place special emphasis on the provision of information and education to parents and adolescents, and shall include information about the availability of a broad range of acceptable and effective family planning methods and services.

"(b) AWARDING OF GRANTS, CONTRACTS, ETC.—The Secretary shall—

"(1) conduct, or make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the conduct of, training and technical assistance activities to assist in carrying out subsection (a); and

"(2) make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the development, evaluation, and dissemination of educational and informational materials that are consistent with the objectives specified in subsection (a) for information and education programs.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For grants and contracts under this section, there are authorized to be appropriated $10,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995. Not more than 10 percent of the amounts appropriated under this preceding sentence for a fiscal year shall be available to carry out subsection (b).".

SEC. 8. DATA COLLECTION.

(a) IN GENERAL.—Title X (42 U.S.C. 300 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1010. DATA COLLECTION.

"(a) COLLECTION OF DATA.—The Secretary shall collect on an annual basis data concerning—

"(1) the number of low-income and marginal-income individuals, and the number of adolescents, at risk of unintended pregnancies;

"(2) the sources of funding available for family planning services in the United States;

"(3) the number of individuals who receive family planning services from entities that receive grants and contracts under section 1001 and the age, gender, race, and family income of such individuals; and

"(4) the types of family planning services chosen by individuals who receive services from entities which receive grants and contracts under section 1001.

"(b) GRANTS AND CONTRACTS.—The Secretary may make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the collections of data under this section. The Secretary shall make available to the public data and information collected under this section.".

"(b) TECHNICAL AMENDMENT.—Section 1009 (42 U.S.C. 300a–6a) is amended by adding at the end thereof the following new subsection:

"(d) Each plan prepared under this section shall be based upon data collected under section 1010.".

SEC. 9. BREAST EXAMINATIONS.

Title X (as amended by section 8(a) of this Act) is further amended by adding at the end thereof the following new section:

"SEC. 1011. BREAST EXAMINATIONS.

"All grantees who receive assistance under this title shall provide education to patients concerning self breast examinations.".

SEC. 10. STUDY OF PARENTAL CONSENT FOR FAMILY PLANNING.

Section 301 (42 U.S.C. 241) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary shall make available $1,800,000 during the fiscal years 1991 through 1993 for the selection of a single State in which to establish a research project meeting the requirements of paragraph (2), to determine the impact of family planning services in a State that has in effect a law prohibiting the use of public funds for the provision of family planning services to an unmarried minor without the prior written consent of the parent or guardian of the minor.

"(2)(A) Notwithstanding any other provision of this Act, the Secretary may, for any fiscal year, make grants to or enter into contracts with public agencies in a State described in paragraph (1) for the provision of family planning services. Activities conducted by public agencies in the State under such grants and contracts shall be carried out in accordance with the State law described in paragraph (1).

"(B) A public agency in a State described in paragraph (4) that desires to receive a grant or contract under this subsection shall submit an application to the Secretary in accordance with such requirements as the Secretary may prescribe.

"(C) An application submitted under subparagraph (B) shall contain assurances satisfactory to the Secretary that—

"(i) prior to April 1, 1981, there was enacted in the State a law described in paragraph (1);

"(ii) for the fiscal year for which the application is submitted, such law will not be applied to family planning services provided by private agencies;

"(iii) if a public agency of the State makes a grant to, or enters into a contract with, a private agency for the provision of family planning services, and such grant or contract is funded in whole or in part from amounts received by that agency under this subsection, the State shall ensure that such private agency meets the same requirements for eligibility for assistance under title X as the Secretary may prescribe for all private agencies assisted under title X;

"(iv) Federal funds made available under this subsection to public agencies in the State will be used to supplement and increase the level of public funds expended for family planning services within the State, and will in no case be used to supplant such public funds; and

"(v) the State shall submit to the Secretary annual reports in such form as the Secretary shall require in order to assess the effectiveness of the financial assistance provided under this subsection within the State.

"(3) This subsection shall not be construed to authorize the Secretary to make grants to, or enter into contracts with, a private entity in which the research project under this subsection is conducted unless that private entity complies with the requirements established under title X for a private entity outside of the State that applies for grants and contracts under this subsection.

"(4)(A) Not later than 3 years after the date of enactment of this subsection, the Comptroller General of the United States shall prepare and submit to Congress a report that—

"(i) evaluates the effect of requiring the parent or guardian of an unmarried minor to give written consent prior to the provision of family planning service to such minor on the reduction of the rate of unintended adolescent pregnancies in the State in which the research project is conducted under this subsection; and

"(ii) compares the rate of unintended adolescent pregnancies in that State with rates of such pregnancies in other States.

"(B) The Secretary, in consultation with the Comptroller General of the United States, shall provide for the collection of data to assist the Comptroller General in preparing the report required under this paragraph.".

SEC. 11. AUTHORIZATION OF APPROPRIATIONS FOR ADOLESCENT FAMILY LIFE PROGRAM.

Subsection (a) of section 2010 (42 U.S.C. 300z–9) is amended to read as follows:

"(a) For the purpose of carrying out this title, there are authorized to be appropriated $9,529,000 for each of the fiscal years 1991 through 1995.".

SEC. 12. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on the date of enactment of this Act.

Mr. HATCH. Mr. President, it is with great reluctance that I rise in opposition to S. 110, the Family Planning Reauthorization Act. This legislation extends title X of the Public Health Services Act which authorizes funds for family planning services.

Today, I will instead support President Bush's substitute which will continue directing money to the States for important family planning efforts. Under this proposal, services are provided to those truly in need through the States. Acceptance of the President's bill will reduce the level of controversy surrounding this program's activities. Such controversy serves only to deflect attention from the true and legitimate purposes of the program. The President's proposal properly places resources as well as public attention on broadly accepted methods for delivering family planning services.

I support family planning, and I support the reauthorization of title X. Unfortunately, the Title X Program has been captured in the most controversial issue of today: abortion.

This bill, S. 110 provides no wall for separating abortion services from family planning services. I have asked repeatedly for abortion and family planning services to be separated.

If such a wall is constructed, Federal family planning programs can survive. Unfortunately, S. 110, which we are considering here today, only exacerbates the connection between family planning and abortion. And, I must oppose this bill.

While abortion will most likely be a centerpiece of our debate on this legislation, our society is currently confronted with a number of other serious social and ethical issues.

It is important that we frankly and fully consider these sensitive issues and their effects on the delivery of family planning services.

Even as we are faced with conflicts surrounding the separation of abortion services from family planning services, we are also faced with debate about the role of parents in federally assisted family planning services to teenagers; the ability of teenagers to make intelligent decisions about the risks and benefits of contraceptive alternatives; and, the increased incidence of sexually transmitted diseases in our society, especially AIDS.

There are no easy answers and no single solution to address all the differing views concerning the Title X Program.

Since 1974, we have spent over $1 billion supporting family planning programs for low-income women. But, we have not seen a drop in the rate of unintended pregnancies.

We need to find new and unique ways to reduce unintended pregnancies and to provide health services to low-income women.

States have begun to take interesting and innovative steps to address the problems of teenage pregnancy. For example, in my home State of Utah, a law was enacted in 1981 requiring parental consent if a teen was given a prescription for contraceptive drugs or devices paid for with Federal or State funds.

Unfortunately, the Tenth Circuit Court of Appeals invalidated this State statute and, as a result, family planning services sponsored through the Utah Department of Health were forced to forfeit all Federal funding. Today, because of this decision, nongovernmental clinics are the only legitimate grantees under the title X programs.

S. 110 does nothing to correct this problem for parents throughout this country. If we pass S. 110 in its current form, we will be making the determination that parents do not have a legitimate role in making decisions about their children and their children's medical needs as they relate to contraceptive drugs and devices.

Can you imagine the public outrage if this body were to overturn State laws requiring parental consent prior to other medical procedures?

I believe parents have a right and responsibility to know and to help minors make appropriate and good decisions about sexuality. We should not endorse a Federal law or any Federal law that permits Government to substitute itself for parents.

S. 110 further mires title X in the abortion controversy by expanding research and education efforts without providing assurances that no funds will be used for abortifacent research or proabortion education.

These two activities will further erode support for title X and will undermine women's opportunities to seek and receive important health care services. S. 110 also does little to ensure that low-income women in rural communities have access to family planning services.

We need to continue providing family planning services for low-income women which include cancer screening, contraceptive services, and infertility treatment.

We need to make sure that we are devoting resources under the Title X Program where they are needed—direct services.

That is, again, why I support President Bush's proposal to continue title X efforts by transferring authority to the States to provide services. There would be few administrative costs; and, resources would be targeted on necessary family planning and health care services.

I plan to offer amendments to S. 110 which will strengthen these services so that low-income women will have access to health care.

I hope my colleagues will favorably consider these amendments. Only a few issues cloud the Title X Program. They should be eliminated, repealed, or reexamined.

I ask my colleagues to consider the sensitive health and ethical issues involved and to help us enact a program that will enjoy broad support.

Mr. President, let me spend a few more minutes discussing children. I have a lot of difficulty in having governmental entities, governmentally sponsored, or paid entities telling children what they can or cannot do without any parental involvement whatsoever. In many schools in this country, children cannot get an aspirin without the consent of the parents. Yet, we are going to continue to allow, if the amendment of Senator CHAFEE is agreed to, advice to these kids on how to terminate pregnancies without any thought of informing the parents or bringing them into the equation.

I realize this is a difficult issue. However, that is no reason to ignore the rights of parents or ignore the obligation of parents to raise their children. Yes, some parents may never mean anything to their children, and they are never going to do what is right by them. But, the vast majority of parents are concerned about their children, and they should have the right to counsel their children.

With regard to terminating a pregnancy, choice has to be well-balanced on both sides. I have to tell my colleagues, all we hear is one side of that equation—the right to choose abortion. This bill has the Government emphasize that. The Chafee amendment says "Forget the parents, we are going to tell the kids what to do," and it will be advice to get an abortion.

The original bill and underlying language that already exists in law is quite clear on what can or cannot be done. There needed to be regulations, and the Reagan administration proposed regulations to clarify the abortion restrictions. Many of my colleagues disagreed with those regulations, and they may be able to repeal them here today. But this matter is before the court and should be decided by the court.

I am concerned about lack of parental involvement. I am concerned about this wholesale Government approach to interject itself between the parents and their children with regard to matters that are of great ethical and moral importance.

President Bush has offered a plan to reauthorize family planning. I think the President's program is a better program. It extends, accentuates, and implements family planning that will really benefit women in our society.

I am a strong believer in family planning. We have to do something to reduce the 2 million abortions a year that are occurring in this country. We can do that with effective family planning programs that are not connected with abortion services.

The President' bill will accentuate family planning. It will help family planning. It will work in a way that will benefit all of America and, in the process, help defuse the issues that divide us. In the end, President Bush's proposal will do more good for the children and families in our society than this particular bill is going to do.

Mr. President, there are legitimate arguments on both sides of all these issues. But, we must be more concerned about getting good family planning knowledge and information out to people. The President's program will do a better job than this bill we have here on the floor today.

Mr. President, I urge my colleagues to consider these issues with great care. This whole matter should not be decided just on the single issue of abortion. We must bring the parents back into the children's lives; we should allow parents to do the things that should be done; and we must give parents an opportunity to work with their children. In the end, society will benefit as problems are solved.

I am a strong supporter of the Adolescent Family Life Act. We put $9 million in Adolescent Family Life and $130 million into title X. This is an imbalance. The purpose of the Adolescent Family Life Act is to counsel teenagers that there are reasonable ways to resolving problems; that morality is better than immorality. And, it does this without preaching any particular church doctrine, but by talking in terms of values. And, the Adolescent Family Life Act has been upheld by the Supreme Court of the United States of America. It is a better alternative to reducing teenage pregnancy.

We should put more money into it. If we did, there would be less controversy, and we would have more success in reducing the rates of teenage pregnancy.

The Adolescent Family Life Act is a positive approach to solve these problems, while letting our young people know that there are values and good choices in society.

I want to support the reauthorization of title X. The President's bill, it seems to me, is the way to do it and the Adolescent Family Life Act adds to it if we enact it in the form upheld by the Supreme Court of the United States of America. I yield the floor.

Mr. PACKWOOD. Mr. President, as a cosponsor of this legislation, I rise today in strong and enthusiastic support of S. 110, which would at long last reauthorize the title X Family Planning Program.

When Congress created this program in 1970, we had no idea how enormously successful it would be. Title X has served approximately 5 million low-income women each year, providing them with family planning information and services. The cost benefit of these services has been tremendous. A study just completed by the Alan Guttmacher Institute estimates that if publicly funded family planning were not available, our additional short-term expenditures in mandated health and welfare costs alone would average $1.8 billion annually. This is an average savings of $4.40 for every dollar spent on title X.

Health and welfare savings is not the only benefit of title X. An unforeseen but substantial benefit is that its impact extends beyond family planning services. For many low-income women, the title X funded clinic they visit is their only point of contact with the health care system. These clinics provide not only contraceptives, but screening for high blood pressure, cancer, sexually transmitted diseases, and other serious health problems, and referrals for treatment.

Mr. President, title X has been such a success and fills such a unique and critical health care need that it is all the more unfortunate that this fine program has had to struggle for survival. From 1970, when title X was first enacted, until 1980, the annual appropriation increased gradually, reflecting the ever greater need for family planning services. Then in 1980, the title X appropriation began a downturn, dropping from an all-time high of $162 million in 1980 to $135 million in 1988, despite the fact that we had significant inflation in those 8 years. Since 1984, Congress has not even reauthorized title X, and it has received appropriations through a series of continuing resolutions. In my home State of Oregon, title X funding was cut 22 percent from 1980 to 1988. Yet during this period Oregon experienced a dramatic increase in demand for family planning services.

Why has such an undeniably successful program experienced such difficulty in maintaining support from Congress? The primary culprit is apparently an unfortunate spillover effect from the controversy about abortion. Misunderstanding and misinformation have caused some people to confuse title X funding with abortion. Mr. President and my distinguished colleagues, I cannot say this with enough emphasis: No title X money has ever been used to pay for abortion. This legislation would not change that situation. No abortions would be funded when this legislation passes. There is one connection, and one connection only between title X family planning services and abortion: Adequate funding for title X helps prevent abortion.

There is much concern in this country about the 3 million unintended pregnancies that occur among American women each year, many of which end in abortion. Title X keeps that number from going much higher. The Alan Guttmacher Institute estimates that in the absence of publicly funded family planning services, an additional

1.2 million unintended pregnancies would occur each year. For those Senators who are concerned about abortion, one of the most positive actions you can take, no matter which side of that debate you are on, is to cast your vote for immediate reauthorization of title X. Congress needs to pass this legislation to allow the title X program to continue and to surpass its very impressive track record of providing high quality family planning services to low-income people in this country.

I ask for my colleagues' support of this long-overdue legislation.

I thank the Chair.

Mr. JEFFORDS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Vermont is recognized.

AMENDMENT NO. 2761

(Purpose: To provide women with information and counseling regarding their pregnancies)

Mr. JEFFORDS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 2761.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . PREGNANCY INFORMATION AND COUNSELING.

In the projects authorized under this Act, or an amendment made by this Act, the Secretary of Health and Human Services shall ensure that pregnant women are offered information and counseling concerning all legal and medical options under such projects regarding their pregnancies.

Mr. CHAFEE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes Mr. CHAFEE.

AMENDMENT NO. 2762 TO AMENDMENT NO. 2761

(Purpose: To specify the types of information and counseling that women should be offered regarding their pregnancies)

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] proposes an amendment numbered 2762 to amendment numbered 2761.

On page 1 of the amendment, strike out line 3 and all that follows and insert in lieu thereof the following:

SEC. . PREGNANCY INFORMATION AND COUNSELING.

In the projects authorized under this Act, or an amendment made by this Act, the Secretary of Health and Human Services shall ensure that pregnant women are offered information and counseling concerning all legal and medical options under such projects regarding their pregnancies. Women requesting such information regarding the options for the management of an unintended pregnancy shall be provided with non-directive counseling, and referral on request, concerning alternative courses of action that shall include—

(1) prenatal care and delivery;

(2) infant care, foster care, or adoption services; and

(3) pregnancy termination.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, the subject before us, the underlying bill, is title X of the Public Health Service Act. I have an amendment to that. But, basically, let me just say a couple of words about title X. That was enacted in 1970, 20 years ago. The goal of title X is to provide quality family planning and health care services.

Mr. President, I hope that throughout the discussion of title X and of my amendment today, the focus would be attached to the fact that this is a health care measure, and it is a health care measure dealing with providing health care and family planning services to low-income women who, except for this measure, title X, would have no access to proper health care and proper advice in family planning for themselves and their futures.

Mr. President, for 20 years this bill has been in effect, and for 18 of those years, it was perfectly proper when the woman came into one of these clinics—a typical situation would be a community health clinic like one which exists in the northeastern part of my State—and she seeks not only prenatal care advice, but she is in the very early stages of her pregnancy, and frequently, of course, they are low income, or they would not be in the clinic.

Second, frequently they are very young, pregnant teenagers. Teenage pregnant women are one of the major users of this service.

For 18 years, throughout the Reagan administration, mind you, up to 1988, when that woman came in and sat down with the doctor and said, "What are my options?"—mind you, she asked the question; the doctor does not volunteer the information—she asked the question, "Doctor, what are my options?" And the doctor says to her, "These are your options: You can bear the baby. When the baby is born, you can keep it. You can put it out for adoption, or you can put it in a foster care, or you can what they call terminate the pregnancy, and that terminating the pregnancy is permitted in 50 States in the Nation."

So those were the options that the doctor gave to the woman when asked. The distinguished Senator from Oregon who previously spoke in his opening statement stressed that title X does nothing about providing funding for abortions. Nor does my amendment have anything to do with that. Not a nickel of the money that has been appropriated for title X over the past 20 years has been used for abortions.

The subject before us is solely whether the woman, when she asks, can be given the full range of options before her. What happened? Why are we here if this went on for 18 years? Because the Department of Health and Human Services in 1988 changed the regulations, and they said, when the woman asked—here is a woman who is rather desperate, poor, frequently a teenager, who comes in and says "What are my options?" The doctor under these regulations cannot say one of the options that is permitted in 50 States in the Nation is terminating the pregnancy. In other words, he does not give her the full range of information. To me, that is just plain wrong.

What is happening here is that a poor woman who uses one of these clinics is not being told the truth. She is not being told the full range of her options. If she was wealthy enough or well-off enough to go to any doctor and ask the doctor that same question, where she was paying for it, not a low-income woman, the doctor would be required to give her the options. He would be required to go through the list just as I have, including termination of pregnancy.

But for some reason that is beyond me, HHS changed those regulations. What does that mean? It means several things. It means, first of all, the woman, a low-income woman, and desperate, is not being told the truth. She asked for her options, and she is not given the list of her options. Mind you, this only applies to women who ask, who request it.

Second, what does it mean? It means that she is in an unfavored position, as I mentioned. If she is rich enough or well-off enough, she can get those options.

Third, it means that the very doctor who is operating under those rules can subsequently be subjected to a malpractice suit.

If there is one thing that most of the Senators agree on in this body, it

is that the whole malpractice situation has gotten out of hand. It is resulting in very, very unfortunate consequences in many sections of our country, all over the country. In many sections, obstetricians are being subjected to so many malpractice suits, and the cost of their malpractice insurance is so high that many of them are no longer practicing obstetrics. And we have many rural counties in our Nation where there are no obstetrical services whatsoever. They have to drive 50, 60, 70 miles to go to a doctor. You might say that does not sound right. The law says he cannot give this information when she asks for it, so he ought to be protected. Not at all.

There are cases in the supreme courts of various States, wherein the court has said, when a woman asks for the information, she has to be given the information, including the rights she has in all 50 States in the Nation: to terminate the pregnancy.

So, what we are doing, if these regulations should remain in force, is opening the door to a whole series of malpractice suits.

So, Mr. President, that, in brief, is what my amendment is all about. It provides that those regulations be changed. We are not saying that the doctor has to urge a woman to have an abortion or has to come forward and volunteer that information. We are saying, under this statute, when she asks in one of these clinics—I am going to touch on whether the clinic is supported, and the amount of money that comes through title X to these clinics is modest, but it is a marginal amount that helps.

We are saying that when a woman comes in and she asks—she has to request the information—she be given the information, and we are putting that in the statute. She is given the information on bearing the baby, then subsequently having the right to put it up for adoption, to keep the child, or to terminate the pregnancy, as I mentioned previously.

So this is a health care issue, because many women are in a situation where bearing the baby would produce very unfortunate health consequences for themselves. So just as a woman who can afford it is entitled to their information, so should be a low-income woman.

Again, I stress let us get the word "abortion" away from this debate. There is no encouragement of abortion; there is no paying for abortion. She requests what her options are. She can have the abortion in that clinic, because that clinic is assisted by title X funds. No clinic assisted with title X funds can do abortions. So she then says, "What are my options?" She is given her options. If she then says, "Where might I go," the doctor can then say, "You can go to such and such a doctor to receive the information," or he can direct her to someplace else. But it has nothing to do with the clinic that that doctor is functioning in.

I would just like to say another word, Mr. President, about this whole subject. A typical situation where title X funds go is a community health center. I think we all agree these are wonderful organizations. A typical situation is that the amount of funds that would go to a community health center would be maybe $17,000, or if these are title X funds, a very modest amount of money for the total health center.

But every nickel counts. As we know, those centers are operating on very modest budgets and need all the money they can get.

Of the women that come to those community health centers, not all of them qualify for the low-income status. In other words, a doctor might be talking to a woman who is not quite in the lowest circumstances that would qualify her to be included in the title X category. So when he talks to a patient, he is not sure whether this is a title X woman or a woman with a little more income. He does not ask. He does not say, "By the way, what is your income ?" He counsels these women.

So these restrictions mean, as they currently exist in the regulations, that the doctor in effect has to say under the current regulations, "Well, how poor are you? If you are poor enough, I will not tell you the whole options. But if you are well off enough and paying a little something for your services, I can tell you the truth. I can give you the full options when you ask for them."

I do not think there is a person who has looked at this who thinks that is fair. First, it is totally unfair. We rec ognize that. Second, it provides all kinds of problems for the physicians and for the community health centers.

So, Mr. President, this is a very modest amendment. It makes total sense. It returns to the situation that was perfectly all right for the Reagan years. President Reagan came in in 1981. In 1981, 1982, 1983, 1984, 1985, 1986, and up until 1987, those were the regulations. You informed. You asked. The poor income woman asked and she was told.

It was all right for President Reagan. No one will ever say he was soft on abortion.

All we are doing is going back to the status quo that this title X money functions under for 18- out of its 20-year history.

Therefore, Mr. President, I do hope that my colleagues will support this modest amendment. I will say this, that this amendment is supported by the American Medical Association, it is supported by the American Society of Obstetricians and Gynecologists, and I will submit those letters later in connection with my full statement when we debate this thoroughly, which presumably will be this afternoon.

I thank my colleagues for their attention. I do wish to leave them with this thought, the thought that the Senator from Oregon made earlier, that this bill or this amendment has nothing to do with abortion. Nobody is funneling money into these clinics for abortion. Anyone who raises that red herring is doing a disservice, I believe, to the debate. The debate on this amendment solely deals with when a woman asks for information, that she is given the information that any woman is well off enough to go to a doctor she was paying for would receive. It is a health issue, Mr. President.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from California.

Mr. CRANSTON. Mr. President, I am pleased to rise in support of S. 110, legislation which extends the authorization of appropriations for the Federal family planning program authorized under title X of the Public Health Service Act and strengthens important provisions of this law which support research in the area of contraceptives. I am an original cosponsor of this measure which was introduced by the chairman of the Labor and Human Resources Committee, the Senator from Massachusetts [Mr. KENNEDY] at the beginning of this Congress.

Before I begin to discuss this legislation and the importance of the title X family planning program, I thank Senator HATCH for his courtesy in letting me speak at this particular moment when he also has other demands upon his time. Also, I very strongly commend the distinguished chairman of the committee, Senator KENNEDY, for his tremendous work in developing and bringing this measure before the Senate.

I know that he has devoted many arduous hours on behalf of this measure, and he deserves the thanks of all those who recognize the importance of providing access to family planning services to the millions of Americans who utilize title X programs.

Mr. President, I am very proud to have been one of the original sponsors of the legislation enacted in 1970 which established title X of the Public Health Service Act.

I also had the privilege of serving as chairman of the subcommittee of the Labor and Human Resources Committee which had jurisdiction over the title X program for almost 10 years during the 1970's. During that period of time, we were successful, with strong bipartisan support, in expanding and strengthening this program.

Mr. President, the title X Program has been successful over its 20-year history in making family planning

services available to millions of low-income women who want and need these services to avoid unintended pregnancies.

In fiscal year 1989, more than 4,300,000 clients received family planning services through title X programs located at approximately 4,000 clinic sites throughout the country. Title X grantees include State and local health departments, hospitals, universities, and other nonprofit agencies. Over 90 percent of the low-income women who received subsidized family planning services use family planning clinics.

Participating clinics are required by the title X statute to provide a broad range of acceptable and effective family planning methods and services to individuals desiring these services. Studies have shown that hundreds of thousands of unintended pregnancies and abortions have been averted each year as a direct result of the Government's investment in this family planning program. It has been estimated that if title X programs were eliminated, there would be more than 1 million unintended pregnancies each year, with more than half ending in abortion.

Title X has thus been tremendously important in reducing the number of unintended pregnancies and the number of abortions.

The law, since its inception, has provided that none of the title X funds can be used to pay for abortions. Every investigation and study of the title X Program has found that this prohibition has been rigorously enforced.

Title X funds cannot be and are not used for abortion services. Title X, by reducing the number of unintended pregnancies, has directly reduced the number of abortions.

This legislation will extend and increase the authorization of appropriations for the basic title X family planning program. It is tragic that this program has not been reauthorized since fiscal year 1985. In fiscal year 1980, the program was funded at $162 million; last year, it was funded at only $138.3 million. We should be increasing, not decreasing, funding for this important program. S. 110 would increase the authorization to $163 million for fiscal year 1990; $171 million for fiscal year 1991, and $179.5 million for fiscal year 1992. These are modest increases in authorization levels which are fully justified.

CONTRACEPTIVE RESEARCH

Mr. President, since its inception, in addition to authorizing direct family planning services, title X has authorized biomedical and social research in the area of family planning and population.

S. 110 continues this basic research authority and would also establish a much needed new authority to support additional research in the areas of contraceptive development and evaluation to encourage the expansion of applied research leading to the development, evaluation and marketing of new contraceptive devises, drugs and methods that will be safe, effective, and acceptable to the American people.

Mr. President, this is an extremely important and very necessary step forward. A report released earlier this year by the National Research Council and the Institute of Medicine of the National Academy of Sciences highlighted the tremendous inadequacies in contraceptives currently available to the American public. The Federal Government's commitment to research and development of new approaches has been woefully inadequate. This report concluded that "unless steps are taken now to change public policy related to contraceptive development, contraceptive choice in the next century will not be appreciably different from what it is today.

CONCLUSION

Mr. President, those individuals who want to see the number of abortions reduced ought to be among the strongest supporters of this legislation because one of the most effective ways to achieve that goal is through the development and utilization of safe and effective family planning services.

I strongly support this measure and the right of women, regardless of their economic status, to have access to the family planning services that will allow them to prevent unintended pregnancies.

Mr. President, I yield the floor.

Mr. PACKWOOD. Mr. President, I have a statement in support of the amendment of the Senator from Rhode Island, but I would ask the Chair if he would respond to a question first.

Did the Senator from Rhode Island in any way indicate that, if a clinic received title X funds, it can still offer to paying patients, as opposed to those who do not pay, advice on abortions?

Mr. CHAFEE. No. The Senator's question is a very good one, and I might have misstated, in my brief opening statement, the situation.

If the patient goes to a clinic that is receiving title X funds, and that patient might be paying a modest amount on some sliding scale, that patient cannot receive the full information from the physician.

In other words, despite the fact that there are a variety of patients, some who are very low income, not paying anything; some who are paying a modest amount, as I say, on some sliding scale, the clinic itself is bound by the title X regulations, even though the amount that the clinic receives is very modest, and the same rules apply to the doctors advising all patients.

In other words, the doctor cannot give any of the patients the full information. The doctor is prohibited, even upon request from a patient, from saying to that patient she has option A, B, C, or D, and one of those is termination of pregnancy.

So I am glad the Senator asked that question, because I did not want to convey any confusion.

Mr. PACKWOOD. I thank the Senator from Rhode Island.

Mr. ADAMS. Mr. President, will the Senator yield so I might make a unanimous-consent request?

Mr. PACKWOOD. Absolutely.

Mr. ADAMS. Mr. President, I ask unanimous consent that the time between now and when the Senate resumes consideration of S. 1224, the CAFE standards bill, this morning be reserved from this point on for debate only.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I rise an a cosponsor of the amendment of the Senator from Rhode Island. With this amendment, we offer the Senate the opportunity to right a wrong which has been inflicted upon the low-income women of this country, and in many instances, upon non-low-income women who happen to receive health care through title X clinics. That wrong is the denial of the opportunity to receive full and uncensored information about all their available medical alternatives.

Title X was enacted by Congress in 1970, for the laudable purpose of providing family planning services, primarily, but not exclusively, to low-income people in this country. It has been successful beyond our wildest belief. It has provided millions of women not only with reproductive health services, but in many instances with basic care in areas where no other provider was available. I and my colleagues who strongly support title X will have ample opportunity to detail its impressive track record elsewhere in this debate.

For 18 years, until 1988, health care professionals in title X programs were able to provide the quality and type of counseling which is not only a patient's basic right, but which organizations such as the American Medical Association state in their guidelines that physicians should give. Prior to 1988, women diagnosed as pregnant in title X clinics were offered information and referrals on all their options, including carrying the pregnancy to term, keeping the child, adoption, or terminating the pregnancy. That policy was codified in the original Health and Human Services guidelines for title X.

Then in 1988, after Congress rejected numerous attempts to bring down

or significantly weaken title X, Health and Human Services, the very agency charged with stewardship of this program, enacted new regulations intended to hamstring the medical professionals providing title X services. Although title X funds have always been prohibited from being used to pay for abortions, and have never been so used, Health and Human Services' new rules explicitly forbid doctors, nurses, or any other employee at a title X clinic from even mentioning abortion to a woman. In fact, the new rules do not allow such communication even if the woman asks herself about that option. Furthermore, no written information about pregnancy termination can be presented, and no referrals given. This is true even if the pregnancy which has been diagnosed is life threatening to the woman. This is true even if the woman is a rape or incest victim. This is true even if the woman is a self-paying patient who just happens to obtain her health care from a provider who also receives title X.

As I reviewed the rules promulgated by the Department of Health and Human Services in preparation for today's debate, I found them no less shocking and deeply troubling today than when I first encountered them in 1988. Mr. President, these gag rules are a travesty. Imagine tying the hands of a doctor in this enlightened scientific age and in the most advanced nation on the planet, to keep him or her from giving basic health information to a patient. Where will we stop if we allow this policy to continue? Will we look over physicians' shoulders and decide that if we disagree with some other procedure, like a transplant or plastic surgery, that we will simply forbid them from telling a patient that such technology is available?

Courts have found that doctors who fail to share medical information with patients commit malpractice. The American Medical Association guidelines direct physicians to give complete information. The Department of Health and Human Services, the Federal agency whose business is the health and well being of America, should be sensitive to those concerns, not purposely obstruct them.

Notwithstanding the very serious effect these regulations have on patient rights and physicians' ethical duties, the first amendment implications alone are sufficient reason to override them. What other professional in what other situation is literally forbidden by the Federal Government from speaking? The chill these prohibitions place on communication between medical provider and patient is devastating. Mr. President, the American Medical Association and the American College of Obstetrics and Gynecology strongly oppose these rules, and with good reason.

The amendment which Senator CHAFEE and I offer would restore the situation to what it was for nearly 20 years prior to 1988. Medical professionals in title X clinics would be free to provide the same quality of service to women that other medical providers do: Information and referrals on abortion for those women who want such information. Our amendment would have no effect whatsoever on the prohibition against title X clinics providing abortions.

I want to emphasize that. Our amendment has no effect on the prohibition against title X clinics providing abortions. Government funding of abortion is a separate issue, and this amendment is not related to that issue.

Mr. President, Senators have every reason to support this amendment regardless of their position on abortion. What is at stake here is the integrity of the physician-patient relationship and the first amendment rights of medical professionals. I, therefore, ask my colleagues' support of this very important amendment.

PRIVILEGE OF THE FLOOR

Mr. ADAMS. Mr. President, I ask unanimous consent that privilege of the floor be granted to Ben Chu of Senator BRADLEY's staff during the pendency of S. 110 each day that the measure is pending.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

The Senator from Vermont.

Mr. JEFFORDS. Mr. President, first I would like to address the pending amendment and clear up any confusion as to whether I support the amendment. I do. I support the Chafee amendment to the Jeffords amendment. I do this because specifically this amendment reverses a portion of the regulations promulgated by the administration in 1988 prohibiting doctors and other health professionals in federally funded clinics from giving their patients objective information or referrals regarding their legal and medical options when facing unintended pregnancy.

In March 1988, the Department of Health and Human Services issued final regulations denying title X patients their right to receive any information—even nondirective, factual information—about pregnancy termination.

The regulations, which are pending court decisions, are not in effect for most providers. However, the consequences of these regulations, if allowed, would be significant. The prohibition against providing counseling regarding pregnancy termination or referral imposes a weighty ethical conflict for medical professionals whose guidelines for practice insist on a patient's right to full information. In addition, health care professionals would be at risk of medical malpractice.

Second, it has the effect of creating a two-tiered health care system whereby low-income women, relying heavily on federally funded clinics, receive more limited care and information than women who can afford a private health care services.

Further, I believe the 1988 regulations are inconsistent with congressional intent. Since its enactment in 1970, title X has included a prohibition on the use of family planning funds for abortion. However, in enacting title X, Congress intended that pregnant patients served by the title X program be provided with nondirective counseling and all information necessary to make an informed choice between parenting, adoption, and pregnancy termination.

This body must be perfectly clear on one fundamental issue—title X clinics have always been prohibited from using Federal money to fund abortions. Barring Federal funds for pregnancy termination is consistent with the intent of Congress and distinct from the issue at hand. The issue is the right of women to have full access to information, counseling and referral regarding their pregnancy.

In my mind it is a matter of equity—equity for all women regardless of their income level to receive full and adequate health care information. This amendment is supported by both the American Medical Association and the American College of Obstetricians and Gynecologists. I urge my colleagues for the millions of women currently being served by title X clinics to support this important amendment.

Mr. President, further, I rise in support of S. 110, the Family Planning Amendment of 1989, as reported by the Committee on Labor and Human Resources.

This bill provides essential family planning services and information to high risk populations prioritizing low-income individuals. S. 110, title X of the Public Health Service Act, provides funds for family planning clinics to provide health care services for adolescent and young women on a sliding fee scale, as well as research, training, information and education activities relevant to family planning.

There has been considerable debate and, in some instances, misinformation concerning these programs. Among the arguments voiced by opponents of title X is that it will in some way promote or encourage women to have abortions. Statements of this sort are simply untrue. Since the inception of the title X program in 1970, prohibitions against the use of Federal funds for abortion services have been clearly mandated in the statute. There is no question that Federal funds cannot be

used to fund abortions—such is the intent and mandate of Congress.

Opponents further state that these programs will encourage promiscuity among teenagers and young adults by promoting the use of contraception. Again, one of the goals of S. 110 is to educate individuals regarding human sexuality. Title X projects do provide contraceptive information and services, along with related preventive health services, in order to help lower the incidence of unintended pregnancy, curtail the transmittal of sexual disease and reduce the incidence of abortion.

There are those who question the need for such prevention, education, and health care services for adolescents and women. Perhaps I, too, might question the need if the statistics were not so unequivocally strong and the demand so clear. Knowing just a few of these statistics has confirmed my strong support of this program.

Quickly, let me give you an example. Approximately 1.1 million teens became pregnant in 1985, most of them the result of unintended pregnancies. Among them were 178,000 births to teens 17 and younger and 10,000 births to girls 14 and younger. Each day, 488 babies are born to women younger than 18, many of whom drop out of high school to care for their child.

These numbers are tangible evidence that more than half of all teens are sexually active today. The incidence of sexually transmitted diseases, including AIDS, among teenagers continues to rise, which points to the lack of knowledge regarding the transmittal of diseases.

Moreover, while teen pregnancy and parenthood are problems that afflict all Americans, regardless of economic background, it is clear that poverty greatly increases a teen's risk of becoming a parent too soon and greatly increases the risk of bearing a child with increased health risks. Too often health care is unattainable for low-income women. We know, however, that no woman should bear a child without having received early and comprehensive maternity care, including prenatal services and a planned delivery in a medically appropriate setting. Babies who are born to mothers who do not receive comprehensive maternity care are three times more likely to die than those born to mothers who receive such care and 50 percent more likely to be born at a low birthweight.

Unfortunately, there remain close to 1.5 million American families with no health insurance. Accessibility to health care for low-income families continues to be an increasing problem.

Yet even with such telling statistics, with the disgrace of the United States placing 19th in the world in its infant mortality rate, this body is struggling to reauthorize a program that attempts to abate the disgraceful lack of health care services and pregnancy prevention for pregnant women and adolescents.

My own State of Vermont illustrates the need and value of federally supported family planning programs. In 1985, there were 680 pregnancies involving young women 17 and under. In 1987, Vermont had 31,360 teenage and poor women at risk for unintended pregnancy. Yet, despite this need, Vermont's title X funds have been cut 12 percent over the course of the last decade.

I cannot give a more persuasive argument than the telling facts that I have outlined above. If this country is to begin to reverse the tragic trend of unintended pregnancies, poor health care for pregnant women, and sexually transmitted disease, then it must begin to commit resources to education, prevention, and health care services. The statistics are such that we can no longer turn a blind eye and deny the fact that babies are being born with high health risks to young women with little access to health care. America must begin to focus its attention on prevention of unintended pregnancies via proper education, family planning, and health care services. Such is the goal of the Title X Program.

I urge my colleagues to support this important program for the sake of our young people and our future generation.

Mr. President, I yield the floor.

Mr. ADAMS. Mr. President, I rise to speak on title X today, but prior to doing that I also want to indicate, while Senator JEFFORDS is still here, I am in support of the Chafee-Jeffords amendment. I think it is a good amendment. I think it is necessary that all of our people get full medical information.

I stress, as the others have, this has nothing to do with payment for abortions or the actual performing of abortions at all. That should stay out of this debate.

Mr. President, I rise today to speak in support of passing legislation to reauthorize title X of the Public Health Services Act. I was an original cosponsor of this bill as it came out of committee, and I would like to thank Senator KENNEDY and Senator HATCH for seeing that this bill has come to the floor. I particularly want to thank Senator KENNEDY for his tremendous leadership on this issue over many years. He has been a tireless advocate on behalf of family planning since its inception over 2 decades ago.

I was also part of this during that time while in the House of Representatives. But over the last 5 years, we have been involved in protracted debate over family planning, and Senator KENNEDY has committed himself to getting title X reauthorized. I am pleased to join the chairman today to make sure that we pass a bill that will ensure access to family services to those who seek them.

I also would like to recognize several individuals because often they are not recognized as these debates proceed forward.

These individuals have worked tirelessly with members of the committee over the years, and have helped to get title X to the floor. They are Jo Blum, Ellen Battistelli, and Bill Hamilton with Planned Parenthood, Lisa Kaeser with the Alan Guttmacher Institute, and Lisa Sugar and Sarah Szanton of National Family Planning and Reproductive Health Association. I thank each of them for their help and dedication to this issue.

Title X provides vital services and information to reduce the incidence of unintended pregnancy to almost 5 million women each year. These women are typically young and poor—80 percent have incomes below 150 percent of poverty. It should come as no surprise that for many of them family planning clinics are not only a critical resource for contraceptive information and services but are the entry point for very basic health care services.

Family planning is a vital link in the health care chain. The clinic is often the only access to health and medical care for millions of American women. Family planning clinics offer women preventive services for cervical and breast cancer, screening for sexually transmitted diseases that can lead to infertility, AIDS prevention, and prenatal care.

Title X is also the only Federal program specifically targeted to family planning. It provides contraceptive information and the provision of contraceptive services to all who want and need them—including 1.5 million teenagers annually who would otherwise not get help. Title X services, despite what opponents may say, reduce adolescent pregnancy. In fact, the National Academy of Sciences in a 1987 study found that the "major strategy for reducing early unintended pregnancy must be the encouragement of diligent contraceptive use by all sexually active teenagers."

The National Academy is not alone in their support of a Federal program to reduce adolescent pregnancy: The Southern Governor's Association issued a report last year, "Breaking the Cycle," that looked at adolescent pregnancy in the South, and concluded that the Federal Government should continue strong support of title X.

Unfortunately, major funding cuts have hurt the program over the last decade. Funding for title X is roughly

15 percent or $30 million less today than it was in 1981.

The consequences of this decline have been dramatic. Since 1982, as many as 1,000 clinics have closed. In my own State, clinics are stretched to the breaking point. Since 1980, an additional 11,000 women in Washington State sought title X services, but the State suffered a 10 percent cut in funding in constant dollars. At the same time, health care costs rose exponentially, particularly for OB/GYN services: tests for pap smears have doubled in cost and medical malpractice insurance and laboratory costs have skyrocketed. For rural areas—and I have money in my State—this situation is catastrophic.

Nationally, women are not any better off. We are only able to serve 2 out of every 3 low-income women who are eligible for the title X program. Yet almost 32 million women remain at risk of an unintended pregnancy.

The debate today is really about whether or not the Federal Government should support access to voluntary family planning services to women and adolescents as we have done over the last 20 years. It is not about abortion. Title X has never permitted funding for abortion and S. 110 does not change that. It is not about encouraging teenagers to become sexually active. Title X provides information and methods to avoid unintended pregnancy. It is not about sex selection, or school-based clinics, or RU-486. It is about access at the most local level to care that is supported by good research and training and outreach.

The question you must answer today must not be about whether you are for or against abortion. The question is whether you support providing women access to health care they otherwise would go without.

One out of four women in the United States who uses a contraceptive method obtains it through a publicly subsidized source. Over 90 percent of these women, about 4.1 million women rely on family planning clinics. We cannot afford to delay passage of this bill any longer. We have the technological and medical sophistication to provide help to those women who want to avoid an unintended pregnancy. What we need is the will.

We need to demonstrate real leadership by acting quickly and make family planning services understood and available to all who need and want them.

S. 110 makes some important improvements to the current title X law that I strongly support. I would like to point out just two that are especially important to me. First, S. 110 establishes a new authority to support applied research leading to the development, marketing, and evaluation of new contraceptive devices, drugs and methods under the auspices of the National Institute of Child Health and Human Development and, second, establishes a grant program to implement community-based education and information programs.

The new research program builds on current law, but recognizes that if we are to develop safe, effective and appropriate contraceptive choices for women we need to promote research. Tragically, existing contraceptive methods do not meet the needs of many women. Yet, there has not been a major breakthrough in contraceptive research in the last three decades. Medical researchers predict that without Federal support for contraceptive research, there will be no new contraceptive methods until well into the next century.

I also believe that contraceptive and health care information and education should be readily available to all young men and women who want them. The best place to provide this information is at the local level. S. 110 enables local community-based entities to seek grants to provide this information.

The decision is made at the local level as to how such programs will operate and what types of materials will be available. I have toured these in my area, and I find them to be scientifically based and excellent materials.

Reauthorization of title X is important public policy. We cannot let the impasse on the budget delay our action. I know many of you, as I, are genuinely concerned about passing a spending bill while we still have not settled on a deficit package. But I can assure you that the cost of the bill more than pays for itself, both in economic terms and in human terms. The Alan Guttmacher Institute recently found that, for every dollar spent for contraceptive services, we save $4.40 in funds that otherwise would have to be provided for medical care, welfare benefits, and social services to women who, by law, would be eligible for such services if they became pregnant.

In human terms, the National Academy of Sciences Institute of Medicine found that family planning plays a critical role in reducing low birth rate and infant mortality by helping women receive vital prenatal services they would not otherwise receive.

The position of the United States in prenatal care and in mortality of infants is really a national tragedy. Family planning can be part of correcting that. And that is what the institute found. Healthier babies are delivered to healthy moms who plan their pregnancy, not to adolescents who are two young to parent.

Family planning and contraceptive counseling also gives our adolescents the opportunity to make choices about their future to plan and to succeed as adults and parents. Last year, the Labor Committee heard from Dr. Daniel Federman from the Harvard Medical School about the cost of not providing family planning services.

In other words, if we do not pass this bill and get on with this, Dr. Federman found 1 million unintended pregnancies a year to young women under the age of 18, and what do they do? This has resulted in 400,000 abortions and more than 500,000 births to adolescents not mature enough to parent.

Dr. Federman describes this situation as "wasted opportunities, wasted personal potential, and wasted social contributions." I could not agree more.

Our responsibility is to give every young woman a chance to succeed, the chance to succeed. Providing the opportunity, the services, the information to make responsible plans, to have a family, that is the beginning of success. But these have to be responsible plans, and control over their lives.

I cannot urge you enough to support this bill and to vote against amendments which seek to weaken what we know is a successful program.

Mr. President, it is one of the great tragedies of this country that we allow unintended pregnancies, to force very young women, often very poor young women, to a point where they have to make choices that they would not otherwise have to make. I believe truly that everyone who does not wish to have young women have abortions should vote for this bill, and for family planning.

Let us save our adolescents. Let us save and help our young women. I hope that all of my colleagues will vote for this bill and vote against amendments which seek to weaken this very successful program.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WIRTH). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I rise in support of this legislation to reauthorize the Title X Family Planning Program and the title XX adolescent family life demonstration projects under the Public Health Service Act.

America's children are in trouble. As we look across the country, we see the mounting shame of an infant mortality rate that ranks twentieth in the world. In other words, 19 countries have lower infant mortality rates than the United States. More infants die of preventable diseases and malnutrition here than in any other industrialized nation, and in some inner cities, the infant mortality rate is comparable to Panama's or Chile's. Millions of other children are held back by handicaps

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I cannot urge you enough to support this bill and to vote against amendments which seek to weaken what we know is a successful program.

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Let us save our adolescents. Let us save and help our young women. I hope that all of my colleagues will vote for this bill and vote against amendments which seek to weaken this very successful program.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WIRTH). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I rise in support of this legislation to reauthorize the Title X Family Planning Program and the title XX adolescent family life demonstration projects under the Public Health Service Act.

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and disabilities that prevent them from reaching their full potential as human beings, and which are often the result of insufficient prenatal and neonatal care.

Mr. President, no one who has ever visited a neonatal unit and seen a baby no bigger than your hand can lack the understanding of how important prenatal services are.

Nearly half a million teenage girls in America every year interrupt their education to give birth to a child. Many do not see a doctor during pregnancy and their babies do not see a doctor after birth for checkups or vaccinations. These teens give birth to many more low birth weight babies than older women, and these babies are forty times more likely to die before the age of 1 than are other children. For many of these pregnant teenagers, two children become victims: the teenager and her child, both of whom face bleak futures.

Not all of this misery can be prevented, but we do have successful programs that bring vital services to help break the cycle of unhealthy pregnancies for low-income women. And yet year after year, these programs are blocked, hindered, diluted, or filibustered, not because they do not work or we cannot afford them. They do work and they are cost-effective, but because of an ideological faction that wrongly sees these programs as territory to be won in their ongoing war against a woman's right to choose a safe and legal abortion. It is as simple as that.

Mr. President, these systematic obstructions only add to the shame of the way we treat infants and pregnant women in this country. The title X family planning programs make a difference for 5 million low-income women, including 1 million adolescents. These funds give women access to comprehensive family planning, basic health screening, preventive health services, and information that helps them make wise choices for and about their families. While the program provides funding for infertility diagnosis and treatment, referral for cervical and breast cancer and for sexually transmitted diseases among others, it does not pay for abortions.

Indeed, the family planning information provided by these programs give women knowledge about alternatives and choices that, if allowed to function without interference, will ultimately reduce the number of abortions. They will also reduce the number of low birth weight babies, the number of babies born to mothers who are not emotionally or financially prepared to give them a good life, and the number of children who die before their first birthdays.

Mr. President, we may not be willing right now to devote the resources to a basic, cost-effective preventive health network to address our grave problems of maternal and child health. But to deny young women information about their choices and basic health screening out of a misguided ideological crusade is, in my view, not only unfortunate, but it is inexcusable. I urge my colleagues to join me in strongly supporting this reauthorization so that we can get on with the business of saving America's children.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GORE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, in an earlier incarnation I was a member of the board of Planned Parenthood in Denver, CO. We had a wonderful, broad, cross-section of the community on that board: Men and women, black, Hispanic, old, young. They were a very, very aggressive group of people concerned about ensuring that family planning services were made available to people from all segments of the community.

That program, as far as it has gone, with the funding available, has been wonderfully successful. It has been successful because it has such broad community support. In my State of Colorado I have difficulty imagining that there is not very broad majority support for family planning services, particularly for girls aged 17 and younger.

My experience on that board occurred in the late 1960's and early 1970's. Since then, Mr. President, we have seen, as you know, and as everybody knows, a dramatic escalation in the need for family planning services for kids, particularly young people in our inner cities. For example, in 1985 alone, in my State of Colorado, there were almost 6,000 pregnancies of girls age 17 and younger; 6,000 in a small State like Colorado.

In 1987, Colorado had 184,000 teenage and poor women at risk for unintended pregnancy. Again, these escalating numbers demonstrate the need for the Title X Program that we are debating here in the Senate today. Yet, given these needs in the State of Colorado—5,700 pregnancies in 1985 to Colorado women age 17 and younger, 184,000 teenage and poor women at risk for unintended pregnancy—from 1981 to 1988, title X family planning and contraceptive services funding for my State were cut by 5 percent. We see a dramatic increase in need in Colorado and elsewhere, but we see the funds going down apace.

That kind of gap will be social dynamite in the future. In addition to all the problems that have been discussed here, we are asking for very, very significant problems down the line. It is imperative that we, in the U.S. Senate and the U.S. Congress, in Washington, make the investments necessary as in title X, to ensure that family planning services are available to everybody.

In fiscal year 1988, the State of Colorado received $1.7 million in title X funds; $1.4 million to the Department of Health for family planning services, $130,000 to the Larimer County Health Department for services, and $200,000 for the JSI research and training program for training. Title X services were provided in my State of Colorado at approximately 51 clinic sites, and we were just beginning to meet the need that is out there.

Probably no single program is as important for us to address. I realize there are some hackles that get raised by this program, concerns that get raised about the program. But overall, the need for investment in this program is absolutely dramatic, and I hope we will have not only a majority, but a very strong majority of Members of the U.S. Senate voting for the Title X Program. It is such an extraordinarily important piece of legislation for the well-being, the very fabric of this society.

If we do not support family planning services, we are just asking for and getting more and more problems. We cannot bury our heads in the sand. We cannot continue to go ahead with the enormous cost to this society when women are having unintended children. The caseloads are increasing. We have seen what has happened to maternal and child care costs when health care services are inadequate, and they are for many of these women who are having children at a very early age.

It is absolutely imperative, Mr. President, that all of us band together in this country and understand the future of this society is very closely wrapped up with what we do on this Title X Program today.

Mr. President, I hope after we all go through the debate process and look at this, we will have the good judgment to continue to fund this program, and not only continue to fund it, but to sharply increase the amounts of money we are spending on it.

I am pleased that the Senate today is beginning debate on the reauthorization of title X programs. I think that these are the exact kind of preventative programs that the Federal Government should be supporting—by supporting these programs, we are making a conscious decision to try to prevent the detriments and expense derived from unwanted pregnancies and make basic health screening and

fairhanded treatment to recommending abortion as one form of birth control.

For these reasons, Mr. President, when the time comes I shall vote against the Chafee amendment.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. LIEBERMAN].

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business for no more than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME TO TAP THE STRATEGIC PETROLEUM RESERVE

Mr. LIEBERMAN. Mr. President, I rise today with a single message that it is time to tap the strategic petroleum reserve. The price of crude oil today on the futures market is nearing $40 a barrel. Gasoline prices at the pump continue to rise. In fact, they have hit an all-time historic high in this country. Heating oil prices are also rising, just as furnaces begin to click on in northern regions of our country. The American consumers and the American economy are being hit hard by panic and profiteering in the oil industry.

Mr. President, for the administration not to tap the strategic petroleum reserve at this time is a little bit like a man being hit in the stomach over and over again and just laying back and letting it happen and not responding. It is time to fight back against these incredibly exorbitant oil prices, and the first step in fighting back is to tap into the strategic petroleum reserve which all of us have created with our tax dollar investments.

Judicious tapping of that reserve may just possibly save our economy from the devastation of recession. Second quarter figures for our GNP were released just this morning and they show that the economy grew by only four-tenths of 1 percent in the second quarter as compared to 1.7 percent in the first quarter, and that does not even measure the profound impact of oil price increases that occurred during the third quarter of this year.

Mr. President, we simply cannot wait for third quarter reports of economic growth before we act. We know we are in the midst of a dramatic slowdown in our economy. Raising oil prices in an already sluggish economy is literally like throwing gasoline on a fire. If we do not tap this reserve, crude oil prices are likely to climb much higher before they begin to fall.

At this stage of the Persian Gulf crisis, there appear to be only three possible outcomes in the weeks ahead. One is that Saddam Hussein will buckle under the pressure of international sanctions and pull out of Kuwait. Such an action would have an immediate and positive impact on the oil markets and on our economy. But until that happens, should we not benefit from the lower prices that tapping into the strategic petroleum reserve would bring us?

The second possible outcome is continued stalemate, and that also means increased oil prices and growing pressure on consumers and on the economy. Diverting oil from the reserve could ease that pressure.

The third possible outcome is war. That clearly would send oil prices sharply upward, even if the Saudi oil fields are protected against attack, as most experts believe they would be. If war is coming, it only makes sense to begin tapping that reserve now before it happens.

Mr. President, this is only the first step that I believe the administration and Congress should take in dealing with this oil crisis. As I have said before, Congress should pass legislation that I have introduced that would prohibit price gouging during times of a national emergency. I am very proud to announce that now more than 20 of my colleagues in this Chamber have cosponsored this legislation and more than 40 Members of the other body have joined in support of a companion bill. It is time to give the President the power he needs to deal with oil price gougers.

We also have to do more to protect consumers from outrageous prices or actual shortages of heating oil as temperatures continue to drop, and that includes increasing the amount of money available for LIHEAP to ensure the poor and the elderly are not forced to choose between heating and eating this winter. I think we also have to take a closer look at the operations of the oil industry itself and examine such questions as should we tax the windfall profits we know that big oil is making at our expense?

Should a precious commodity like oil be traded on a volatile futures market which responds to rumor, innuendo, and threats? Because the prices rise today up to $40 per barrel, it does not reflect a shortage in supply, only a fear of what the future may be.

Are the big oil companies hiding their profits from public view by settling claims, buying their own stocks, and making large new investments? Does competition exist regionally in the oil industry, or is it time to take steps to break up oligopolies and make oil a freer market?

Finally, Mr. President, is there anything we can do to break the grip that OPEC has on the international market? If OPEC existed in the United States—and I speak as a former attorney general who had the responsibility to enforce antitrust laws—the heads of OPEC would be in jail today. We have accepted it as if there is nothing we can do about it. But when we think about the devastation that increasing oil prices are bringing to our economy, I think it is time to take a second look at that question.

The reality is that if oil were being sold on the world market at market prices, it would not be $40 a barrel but $10 a barrel. So just as the Persian Gulf crisis may lead to a new world order on the international scene, let us use this crisis to lead to a fairer market for our consumers and economy at home.

Mr. President, I thank the Chair and yield the floor.

Mr. FORD. Mr. President, I wish to take just a minute.

The PRESIDING OFFICER. Will the Senator suspend momentarily.

Does the Senator ask unanimous consent to postpone the pending order that we move to S. 1224 at the hour of 11:30?

Mr. FORD. I apologize to the Chair. I certainly do. I request that the pending measure be set aside and I might proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

INCREASED OIL COSTS

Mr. FORD. I might say to my good friend from Connecticut that this is exactly what happened back in the seventies. The American people became very concerned about oil prices, shortages, gasoline lines, and when the bell stopped ringing, they rolled over and went back to sleep. Now we are in the same position we were then. Lo and behold, we wondered where the national energy strategy went. It went the way of a free market and our energy strategy now is imported oil.

I noticed in the news this morning that Saudi Arabia has increased their production by some 25 percent since the Persian Gulf crisis.

If they have increased their production by some 25 percent, and oil is now near $40 and when the Persian Gulf problem started it was between $10 and $15, you can see they are making above $50 billion more per year than they were prior to August 2.

So I do not see how we can turn our back on what the Senator is trying to do and what we need to do as it relates to a national energy strategy. I compliment him on his effort.

Mr. LIEBERMAN. I thank the Senator.

Mr. FORD. I thank the Chair. I apologize again for not making the proper motion.

FAMILY PLANNING AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

Mr. HARKIN. Mr. President, I rise in strong support of S. 110, the reauthorization of title X of the Public Health Service Act.

Since 1970, title X has served as the mainstay of our national family planning effort. Each year 4,500 local clinics around the country provide medical and educational services to over 5 million low-income women and teenagers. While the primary focus of title X is contraceptive services, title X-supported clinics offer basic preventive health services, and are often the first place low-income women—and especially teenagers—receive formal medical care.

Title X is a program that works. It provides needed health care services, it prevents unintended pregnancies and reduces the need for abortion; it helps to reduce teen pregnancy—and it accomplishes these objectives in a cost-effective manner.

A recent study by the Alan Guttmacher Institute [AGI] found that every public dollar spent to provide contraceptive services saves an average of $4.40 in taxpayer funds that otherwise would have to be allocated toward medical care, welfare, and other mandated social services—an overall total of $1.8 billion in savings annually. Further, a study released yesterday by the Center for Population Options, a nonprofit educational organization, put the annual cost of assistance to families begun by teen-aged mothers at an astronomical $21.5 billion in 1989. These costs, which include AFDC, Medicaid, and food stamps, are paid for by the taxpayers of this Nation. Clearly, we must redouble our efforts to reduce teen pregnancy and the legislation before us today affords us the opportunity to take an affirmative step in that direction.

My State of Iowa illustrates the need and value of federally supported family planning programs. In 1987, Iowa had approximately 155,000 teenage and poor women at risk for unintended pregnancy. In a recent 4-year period, the number of births in Iowa to unmarried women grew from 1 out of every 8, to nearly 1 out of 6. A 1985 report by the University of Iowa's Center for Health Services found that, for the age group 14–19, every dollar spent on family planning saved the State $8.50 in unspent welfare support each year.

Yet, despite this need for family planning services and despite the accomplishments and proven cost savings of the title X program, title X funds for Iowa have been cut 17 percent over the course of the last decade. Nationally, the program funding has declined from $162 million in 1981 to $139 million in fiscal year 1990.

As chairman of the Health Appropriations Subcommittee with jurisdiction over the title X program, I intend to continue the fight for increased appropriations for family planning begun last year. In fact, the Labor-HHS-Education Subcommittee recently approved my recommendation of $148 million for title X for the coming fiscal year, an increase of $8 million. I hope to be able to maintain that increase, and those efforts will certainly be enhanced by our reaffirmation of the importance of the title X program through action on this long-awaited reauthorization.

I would also like to note that the critical complement to family planning services for preventing unintended pregnancies, and thus reducing the need for abortion, is improved contraception. The inadequacy of available contraceptive methods in this country is reflected in the fact that more than half of the nearly 6 million pregnancies that occur each year in the United States are unintended. S. 110 will provide an additional $10 million authorization to the National Institutes of Health for contraceptive research and development, to enhance the ongoing basic contraceptive research at NIH. The development of safer, more effective methods of contraception is critical to helping to bring down the number of abortions being performed in this country.

Frankly, I think it is important we keep focused on that goal, and not let antiabortion politics continue to mire progress on this legislation. The legislation before us today retains the long-standing prohibition on abortions under title X. No funds authorized or appropriated for title X are permitted to be used to pay for abortions, and there is no evidence to suggest that this prohibition is being violated. I hope that antiabortion amendments would not be offered since they are not relevant to the legislation, they are likely to protract the debate on the bill, and they will make it more difficult for us to achieve the goal of getting title X reauthorized this year.

In conclusion, I would like to thank Senator KENNEDY for his efforts to bring this legislation before us today, and I hope our colleagues will join with us to demonstrate Congress' support for revitalization of the program critical to the lives of millions of women in our Nation.

MOTOR VEHICLE FUEL EFFICIENCY ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1224, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1224) to amend the Motor Vehicle Information and Cost Savings Act to require new standards for corporate average fuel economy, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Under the order, there will now be 1 hour for debate only, equally divided and controlled by the Senator from Nevada [Mr. BRYAN] and the Senator from Michigan [Mr. RIEGLE].

Who yields time?

Mr. BRYAN. I yield, Mr. President, 5 minutes to the distinguished Senator from Connecticut [Mr. LIEBERMAN].

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the Senator from Nevada. I am privileged to rise in strong support of S. 1224, and again to commend and thank my colleague and classmate, Senator BRYAN, from Nevada, for his leadership on this critical issue.

Mr. President, I spoke just a few moments ago on the floor about the impact of rising oil prices on our economy. I think it is important to link that threat that every consumer, every business, and our economy in general, face from rising oil prices to this bill.

This is a good bill for energy conservation. It is a good bill for the environment. But it is also a good bill for the American economy because of what it does to help us break our dependence, or diminish our dependence, on a source of fuel that we do not control. So long as that is true, somebody far away, acting alone or in concert with a group of others, a group known as OPEC, is going to be literally able to pull our chain and affect the way we live in America.

I think economic reasons are part of why we have to support this CAFE bill. The numbers associated with this bill are dramatic. Let me just cite them again. The Department of Transportation estimates that if we pass this bill by the year 2000 we would save a total of more than 49 billion gallons of gasoline. By 2005, the bill would save more than 2.8 million barrels of oil every single day. Talk about energy conservation. Talk about cleaning our environment. Talk about protecting the independence of our economy, our ability as Americans to determine the quality of life, the standard of living; this is the bill that will do it.

Mr. President, there has been much comment by those who oppose this bill that, in a catch-22 logic, by bringing more fuel efficiency, this bill will actually harm the environment.

Earlier this year, at the end of last year, I sat through a lot of meetings, a lot of conferences, a lot of hearings as a member of the Environment and Public Works Committee on the Clean Air Act. We dealt specifically with this question.

I will include in this statement some very strong testimony from experts, particularly Michael Walsh, who is the former head of the Mobile Source Office at EPA. He is a widely respect

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In short, the evidence I have seen indicates that improving fuel economy and improving emissions of pollutants from automobiles are fully compatible. We don't need to choose between cleaner and higher fuel economy. As Mr. Walsh pointed out in his testimony, technologies which both cut emissions while improving fuel economy, such as advanced air fuel and spark management systems, are available and are, in fact, being utilized by the manufacturers today.

Second, opponents of this legislation contend that rather than pass this bill we should enact legislation requiring old cars which are less fuel efficient than newer cars to be taken off the road.

While it would be beneficial to the environment if some of the older cars were no longer on the road, if that's all that happened, in 5 years from now, many of the cars on the road actually would be less fuel efficient than the cars on the road today. As Senator BRYAN pointed out earlier in this debate, the Wall Street Journal recently reported that as model year 1990 begins "the automakers are wheeling out some of the biggest and brawniest cars in years." It goes on to describe General Motors' Buick Roadmaster wagon that gets 16 miles per gallon and also describes Ford and Chrysler offerings. This article is in line with the overall trend in 1989 and 1990; average fuel efficiency for new cars actually declined.

In short, if we encourage people to trade in old cars and do nothing to mandate that newer cars be more fuel efficient and carmakers continue to produce less fuel efficient cars, at best the fleet average fuel efficiency would improve during the next two decades to the 1989 level of new car efficiency of 28.3, but get no better.

In fact, Mr. President, if we take no steps to mandate increased fuel efficiency, oil consumption and carbon dioxide emissions will actually increase. One thing which I learned very clearly during the Clean Air Act, was that the number of cars on the road and the number of miles those cars travel, has increased dramatically in the last 20 years. If this historic rate of growth continues, overall energy consumption by automobiles in the year 2000 will be 8 percent higher than in 1990, and carbon dioxide emissions from cars will increase 35 percent from 1986 levels by 2005, according to studies by Public Citizen and World Resources Institute.

Mr. President, we must act now to adopt this bill, to put into place a program which we know must be part of any truly effective energy policy. In doing so, we will also be acting to help protect our economy and our global environment.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I know we started late on the 1 hour of debate. I am wondering if we will be provided a full hour or do I need to pose a request to the Chair to extend the time so that the full hour is preserved?

The PRESIDING OFFICER. The full hour is preserved. The Senator has 29½ minutes.

Mr. RIEGLE. Thank you.

Let me say at the outset that I think we had a good debate as far as it has been able to go. We are trying to cover a major subject in a limited period of time at the end of the session. Members are necessarily distracted by other important activities. We have Members, for example, participating in the budget summit. We have activities going on in a variety of Senate-House conference committees.

So when a major issue of this kind comes late in the session with a lot of technical complexity which is necessarily part of it, it is very difficult I think for the Senate to be able to give it the time and give it the attention that something of this enormous importance requires. Probably first and foremost is the fact that if this legislation were to pass—I hope it does not—but if it were to pass it will, according to the best estimates, impose on the auto industry over the next several years an additional capital cost of about $62.5 billion. It is a phenomenal amount of money.

It is not at all clear where that money is going to come from in terms of how it is going to come out of the capital markets in light of our high interest rates, low savings rate, and other pressing national needs which all place calls on our limited supply of capital.

We have huge budget deficits, and a huge trade deficit. We are borrowing money from Japan and other foreign lenders all the time. They are backing away now because they have their own needs. The German reunification is causing the Germans to want to spend more of their money at home. The fall in real estate prices and the stock market in Japan, and rising interest rates there are causing Japanese investors to want to keep more of their money at home.

So I do not know where this $62.5 billion of capital investment is going to come from. In addition someone is going to have to invent this technology. The best technical people in the field say it is not even out there. The technology has to be found for these new higher standards that are proposed.

Neither the money nor the technology is out there. I do not see where they are going to come from.

Now, I am all for government acting when there is an appropriate need for government to act. I think we need that now in the area of providing health insurance, and access to health insurance to every American. That is a different subject. But I think that is an area where the Government now needs to act affirmatively. I hope to help lead the effort to see that we will.

But this area, like so many others, falls into a different category where the Government is attempting to mandate something unrealistic, telling somebody else to do something—in this case the automobile industry. There are any number of other illustrations of mandates that we put out in legislation. We tell State and local governments they are supposed to do certain things. We tell private businesses they are supposed to do certain things. We do not provide the money. We just say "Look, you go and do it. We now it will be expensive, but we would like to see it done. So we are going to tell you to do it."

Quite apart from all the other issues, when you mandate things that cost this much money, there is a very practical issue as to whether it can be done and whether it is sound for the economy or whether it will begin to apply a kind of crushing pressure on an industry that is already in great distress.

Yesterday I went through the stock prices and the price-earnings ratios, the earnings performance of the automobile companies in the United States. They are under great stress. They have been losing market share. They are having a hard time raising capital, even the amounts they need to do other things coming out of Government mandates; for example, clean air requirements, safety requirements and things of that sort.

So we have to be practical in what we do. But this is not a practical amendment. Not only is it not practical with respect to the cost mandates that it shoves out there on the private sector economy, but it is not practical with respect to the advertised benefits.

We are talking, for example, about something that will, if it were to be achieved at this enormous cost, begin to produce some additional fuel savings after 1995, but this represents a very, very tiny percentage increase with respect to all of the different energy consumption that will be going on at any given time in 1995 or the year 2000.

And that is why we do not need just a piecemeal idea of this kind that comes in and addresses just one part of the energy equation. What we need is a comprehensive national energy strategy; this item ought to be looked at in the context of an overall national energy strategy. That is the exercise we need to be engaged in.

But we cannot do that right now, because we have a near war going on in

the Middle East; we have a budget summit that is trying to avoid a shutdown of major parts of the Government in just a few days; we have terrible problems in the banking system, which we are trying to deal with in legislative activity. We have any number of other problems. So right now we are not in a position to be able to craft a comprehensive national energy strategy.

The Energy Secretary is going to give us some recommendations later this year. Hopefully, the President will come forward, and in the early part of next year, we can sit down and craft and put into place a comprehensive national energy strategy. That is the time to take up this issue, the part that CAFE standards should be of an overall, encompassing national energy strategy.

We can consider it at that time and weigh it in terms of the tradeoffs and the costs and benefits of all other forms of conservation or alternative energy use, and so forth. We can then make an intelligent decision and connect all the parts so we can weigh everything together, and so we can come up with a sensible and balanced national energy strategy.

But that is not what this is. This is, by its very nature, an unbalanced, uncomprehensive, piecemeal approach to one part of the problem that, when you get down into the guts of the analysis, just does not make sense. It is horrendously expensive. We are pushing that cost out there into the private sector, and there is no prospect that amounts at those levels are going to be raised over the next 5 years. It is just crazy.

We cannot disconnect ourselves from that reality. We disconnect ourselves from too many realities. That is one of the reasons the Stock Market was down 60 points yesterday, the lowest point in 14 months, and why long bond yields were up yesterday to about 9.2 percent, because we have major problems out there in the credit markets.

The other day when Chase Manhattan had to finance a debt offering in their holding company, they had to pay nearly 14 percent interest. These danger signs and warning signs have to tell us something. It means we cannot keep spending money here, either ourselves, or mandating other people to spend tens of billions of dollars that we, frankly, do not have. It is not out there. It is not out there.

We start chasing these will-o'-the-wisp ideas, telling somebody else to raise and spend over $60 billion over the next 5 years, to do it. We are just not practical; we are just not sound.

Let me go to the technical side of the argument. People say, look, back in 1974, cars were big; they were heavy. We put on these CAFE standards to require higher mileage, and we put all of the best scientific and technical people to work, and we worked and worked and worked, and we took about 1,500 pounds out of the average car; completely redesigned every single aspect of the car from bumper to engine, tailpipe, you name it.

Everything was redone with the idea of accomplishing multiple objectives, but one was better fuel economy mileage per car. We made phenomenal success. We have taken 1,000 to 1,500 pounds out of the weight of the average car.

We cannot do that again. I mean, we cannot assume that we are back in 1974 and there is another 1,500 pounds to wring out of a car. It would be nice if there were. The only way you can wring another 1,500 pounds out of the car is to make the car much lighter, smaller, much less safe, as the insurance industry has told us.

We have cars like that. We have them today. You can go out and buy a car this afternoon that gets 40 to 50 miles to the gallon. We know what they are like: very small; not very safe. People do not like them. No Senator that I know of drives one. About 3 percent of the cars sold in the United States are those kinds of cars.

We cannot say to a family of six people: Say, look, we are going to require you, because of the high mileage requirements in this bill, to buy that kind of a car come 1995, because that is this kind of car you are going to have to have if you want to get these mileage requirements. You cannot necessarily squeeze six or seven people in one of those little tiny cars. So what does that family do? Are they going to buy two cars? Maybe they will. That is where this amendment takes us.

Yes, you can have smaller, more cramped, fuel-efficient cars of the kind that are available today that nobody is buying. A family of six or seven can buy two of them. They can load up to go to church or load up to go to the shopping center, and so forth. We are not going to save any gas that way. That is part of the goofiness of the concept here.

Government cannot just wave a wand and say, "do something," and impose that burden on somebody else. It has technical requirements and tradeoffs affecting safety and emissions and it has an absolutely horrendous capital cost. It is as if we are living in an unreal world. We have to get outside of this Chamber in our thinking.

Right outside this door is a ticker tape, and the news coming across that ticker tape on the financial and economic circumstances of this country ought to be printed in red, flashing red colors, because we are in serious economic trouble; serious economic trouble. The banking system is in trouble. In fact, I am introducing a comprehensive deposit insurance bill today to try to deal with part of that problem that has been building up for years. The stock market is in trouble. Our credit markets are less stable. Part of it is the fact that we are not being practical and sound in some of the decisions we are making.

This decision today cannot just be reaching for something that sounds good; it has to have a sound economic foundation. The bill does not have that; it has an unsound economic foundation. It is going to cost us tons of money, lots of jobs, and hurt our international competitiveness. We are going to fool ourselves if we think somehow or other we are going to be able to take and reach out and get these gains, without all of these enormous tradeoffs and costs on the other side. That is what is involved here.

I will finish by saying this: Who are the experts in the administrative branch of Government that might know something and what is their opinion, and what have they said to us? Energy Secretary Watkins says it is a lousy idea. He is against it. He is the Energy Secretary, the person who is supposed to figure out how to save energy. He says this proposal does not make sense. Maybe the people that support the amendment know more than the Energy Secretary, but I do not think that is likely on the issue of energy.

What does the Secretary of Transportation say? He looks after cars and trucks on our roads. The Secretary of Transportation says it is a bad idea; do not do it. I think his thoughts ought to be considered.

The National Highway Traffic Safety Administrator, what does he say? They are concerned about making sure people get to where they are going on the roads safely; and perchance, if they are in an accident, they have a chance to come out alive. He says it is a lousy idea. That is more polite than how he says it. He says it is going to hurt safety; it is going to cost lives. A bad idea.

Finally, we asked the Administrator of the Environmental Protection Agency. We have heard this talk about the great impact on global warming. That is nonsense. We put the data in the RECORD in previous debate.

We got a letter from Mr. William Reilly yesterday, head of the EPA, and he says it is a bad idea. How many experts do we have to hear from, who are actually qualified and in the top policy positions of this Government, to try to understand these issues? There are four of them; they have all looked at it, and they all say it is a bad idea. That does not mean they are necessarily right, but it does not mean that the sponsors of this amendment are necessarily right, in the face of that kind of expert opinion and the weight of that kind of evidence.

So let us not go out and harm this economy any more than it is harmed already, even if it is in the name of an issue that we all would like to see. I am willing to look at this issue next spring; I am willing to see this be part of a comprehensive national energy strategy. I am willing to weigh this, along with 100 other items of important consequence, where we can maybe conserve energy or find alternative energy sources.

Yes, we need to do that; it is an urgent piece of work that needs to be done. That is where this bill belongs, in that debate; not here as a one-shot item. That is how this country gets into such big trouble, because we never connect this one to the other. We get a scheme, a great idea, and rush off and do that. It costs up $62½ billion, but we are not going to worry because somebody else is going to have to pay that bill.

Well, let us not kid ourselves. That bill is going to have to be paid eventually by the citizens of this country. That is who pays it. There are no money trees out there. This is going to have to come right out of the pockets of the American consumer. They are the ones who are going to have to fork over that $62.5 billion unless all these companies are going to go down the drain.

So let us follow this thing all the way through. People today do not have the extra money. They do not have the money right now to buy private health insurance. They are having trouble sending their kids to college. They are having trouble trying to scrape up the money to make a down-payment on a house. About 80 percent of the families in this country are going backward in real economic terms. They are under great stress, and we do not seem to understand that here—I am very troubled about it—because this is exactly the kind of proposition that is going to make these problems worse.

But we sometimes disconnect ourselves from reality, and we see some wonderful gossamer concept out there that we want to reach for, and we say, "Let's go do it regardless of all these other things." I say "No." I hope today the Senate will vote against the cloture motion, because this is an issue where debate ought not to be shut off. The consequences are just too great.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BRYAN. Mr. President, if the distinguished senior Senator from Michigan has no objection, I suggest the absence of a quorum chargeable to each side until the next round of speakers arrive.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BRYAN. Mr. President, I yield to the distinguished Senator from Washington so much time as he may require.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, at 2:15 this afternoon, the Senate of the United States will vote on whether or not it is important to consider perhaps the most important piece of legislation dealing with energy policy which has come before this body in the course of this Congress. The dramatic increases in the price of petroleum products brought on by the crisis in the Middle East once again highlights the excessive dependence of the United States of America on sources like the Middle East for its most important fuel source.

This bill, which was written long before this crisis, was designed to build on the successes in the 1970's of the first set of standards imposed by Congress requiring increased automobile engine efficiency by adding modestly to that effort and causing an additional 20-percent increase in that efficiency by the middle of this decade and a 40-percent increase by the beginning of the next decade.

The goals set by the distinguished Senator from Nevada, working with this Senator on this legislation, are, I believe, modest goals. They are also highly necessary goals. Once the standards required by the 1975 legislation had been reached early in the 1980's, we have seen a flattening, we have seen an actual loss in the average efficiency of Japanese automobiles and an incipient loss, at least, on the part of those made here in the United States. We have seen that at a time of increased auto ownership and increased automobile and small truck usage. The net result has been a sharp increase over the last 2 or 3 years in our dependence on foreign sources for oil.

Mr. President, we are going to end up with more efficient automobiles one way or another. We can do it in the way which is suggested by the bill proposed by the distinguished Senator from Nevada and myself, or we can do it by allowing our dependence on uncertain sources to drive up prices to the point at which the American people will make absolute demands on their manufacturers for a greater degree of fuel efficiency.

We have seen, during the course of the last 2 months, an increase in gasoline prices, a sharp one, in some respects unjustified, certainly an unexpected one, which is already causing great dislocation among many American families and one which, paradoxically enough, now for the first time in the better part of a decade has many of our automobile manufacturers advertising fuel efficiency on the part of their automobiles. It is exactly those same manufacturers. Mr. President, who have so sharply opposed this bill, as they did the 1975 CAFE standards bill.

But, if the price of gasoline continues to go up as it will if our dependence increases, and if stability is not returned to the Middle East, we will pay far more to those foreign sources for petroleum products than the wildest estimates of the cost to the American manufacturers for meeting the requirements of a bill of this sort.

Had we passed this precise bill in this Congress 5 years ago, we would not have as severe a crisis as that with which we are faced today. And I warrant that we would not have had this rapid an increase in gasoline prices as we have had in the course of the last months.

If we wait 3 or 5 years before we pass this legislation, we will have spent all the money that this legislation will cost and more in increased dependence, in national weakness, and on overseas sources rather than on improving the quality of our own manufacturing process.

Mr. President, it is simply untrue that the requirements of this bill can be met only by downsizing of automobiles. Studies from half a dozen different organizations in and outside government show that these dramatic increases can be made by changes in the way we design our engines, by streamlining our automobiles, and by a wide range of other changes which do not require tiny three-wheel automobiles, or the carrying out of the threats, which were hollow threats in the 1970's and are hollow threats in the 1990's, on the part of automobile manufacturers.

No single proposal which has been before this Congress can do more to assure the independence of the United States of America, the economic benefits to its citizens, and our security in a world which is still not as peaceful and as orderly as we would like. No bill, with perhaps the exception of the Clean Air Act, can do more to cleanup our atmosphere. No bill, in other words, has more pluses and fewer minuses than one which will add to the quality of our air, decrease our dependence on foreign sources of gasoline, increase the economy of our principal mode of transportation, and protect the future of the United States and its allies.

I urge my colleagues, with all of the eloquence at my command, to vote in favor of cloture this afternoon and

thereby assure the passage of this bill. Whether it passes the House of Representatives this year is still something of an open question. But even if it does not, for the Senate of the United States to have spoken out for environmental quality, for engine efficiency, and for energy independence, will be a very important step forward when we return to this subject as we inevitably will, next year and perhaps the year after that, until this requirement is a part of the law of the United States.

I want to thank my colleague from Nevada, with whom it has been a great pleasure to work in this connection, as it has been in the past, even before either of us were Members of this body. His courage and his skill, his intelligence and his willingness to stick to his guns, has been an inspiration to all Senators.

The PRESIDING OFFICER (Mr. KERRY). Who yields time?

Mr. RIEGLE. I yield 5 minutes to Senator NICKLES.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. RIEGLE. I want the Senator to take whatever time he needs.

Mr. NICKLES. I thank my friend and colleague from Michigan. I also wish to compliment him for his debate. I heard many of the arguments and I hope not to repeat all of them. I also see my friend from Kentucky, and I compliment him on his position on this issue as well.

Mr. President, I urge my colleagues to vote against cloture this afternoon. I think if we vote for cloture basically we are going to be rushing in to pass a bad bill, a bad bill that we will regret, a bad bill that consumers will be upset about, a bill that will cost lives, probably thousands of lives. We will be passing a bill denying consumers choice. We will be passing a bill that will cost jobs. Thousands of people will lose their jobs in the United States if we pass this bill.

So we need to be aware of that. At least let us not say I did not think it would do that. I thought it was a goal. This bill is not a goal. I favor goals. I favor fuel efficiency. I think that is vitally important. What I object to is mandates. This bill mandates averages like 40 miles per gallon by the year 2000. That is 9 years from now, but actually it is only about 6 model years because the automobile manufacturers are already working on the 1992 and 1993 model years.

The result is it is going to mandate that Americans buy little, small, minisubcompacts. I have heard my colleagues say, no, they think technology will be able to achieve it.

I, frankly, just disagree, and most of the automobile manufacturers, most of the experts disagree. They do not think it can be done strictly with technology. I hope it can.

Frankly, if the price of gasoline is $5 a gallon, my guess is these changes are going to be made regardless. But if the price of gasoline is $1.50, they will not. But the result is a massive infusion of government interference in the marketplace, and I think that is a serious mistake. The result is that we are going to be mandating American consumers buy these little, small cars.

There are actually five or six cars that are made that meet these standards today, and they are the very small, light cars. They weigh about 2,000 pounds. They will not meet Americans' demands. Americans happen to like air conditioners; Americans happen to like family-sized automobiles, if they have a large family, as I do. I have a family of six. We do not fit in these cars.

There are some people by themselves who will not fit in these cars. Yet we are going to mandate that that is what America has to buy. I think that is a serious mistake.

These cars are not as safe as the bigger cars. That means, if we mandate that the future size of cars is going to have to be in this range because they have to average 40 miles per gallon, there are going to be thousands of lives lost. I do not think we want to do that. I think that would be a serious mistake.

Already, in today's newspapers, I read where auto plants are being shut down in Michigan and Illinois, where a lot of auto-related companies are in trouble. Not just the manufacturers but also the supply companies are shutting down. They are already in trouble. That is without even counting the added costs that we have in the clean air bill and some of the other legislation that is going through Congress right now. The auto industries are taking a big, heavy hit. I do not think they can afford this kind of hit.

Does this mean I am against fuel efficiency? No. I am very much in favor of fuel efficiency. I have a couple of teenagers who drive too much and it costs too much. I want fuel efficiency. I wish they would get 40 miles per gallon. But I do not want to pass a law that says that all the cars made by the year 2000 have to meet 40 miles per gallon, because I am afraid the cost of those cars is astronomical. I will not be able to afford them. Certainly my kids will not be able to afford them. If they cannot afford them they are not going to buy them.

If they are not going to buy them, that means they are going to continue to drive that older car, the heavier car that is less fuel efficient than the cars made today. The cars made today are averaging 27 or 28. Frankly, the cars my kids are driving are much older, so they are less fuel efficient than that. As a matter of fact they are far less efficient than that.

So I am afraid with this policy, instead of saving a lot of energy we are going to be keeping a lot of the gas guzzlers out on the road. Certainly that is not going to help us as far as conservation is concerned.

I think we have to be very careful. Let us encourage fuel efficiency, let us not mandate it. Let us not put thousands of people out of work. Let us not put thousands of lives at risk. And let us not dictate from the floor of the Senate or from Congress, the micromanagement in the design of automobiles. Sure, we want to encourage safety, and we have done that, but do we want to get involved so much by picking a figure out of the air? And that is exactly what we are doing—well, we will have 20 percent increase in 5 years, we will have a 40 percent increase by the year 2000 or 2001. If that is good, if that is the proper route, why do we not make it 50 percent? Why do we not make it 60 percent? Why do we not encourage all automobiles to make 60 miles per gallon and save a lot more energy, if this theory makes good economic sense? Why not make it 60 miles per gallon? Because it will not work. We could pass a law, Mr. President, and tell everybody to ride bicycles. We would save a lot of energy, but it would be an enormous consumer inconvenience.

I predict that passing this bill will be an enormous consumer inconvenience, and if it does pass—in the first place I do not think it will become law because the President has already stated he will veto it. I have letters, Mr. President, signed by William Reilly, the head of EPA, and also by Secretary of Energy James Watkins, and also Secretary Skinner, the Secretary of Transportation, urging opposition to this bill.

The President is going to veto it if it passes. Frankly, we're wasting our time. I think there is little chance, if any, that it will pass the House. Even if both Houses did pass it, and it went to conference, and sent it to the President, he would veto it. The Senate has a lot of better things to do like working on the budget resolution, working on our appropriations bills, trying to get our financial house in order than working on legislation that we all know is not going anywhere. I urge my colleagues to vote against cloture this afternoon.

The PRESIDING OFFICER. Who yields time? If no one yields time, time will be charged equally to both sides.

Mr. RIEGLE. Mr. President, I want to commend the Senator from Oklahoma for his outstanding leadership on this issue and for the important presentation he has just made and the logic of the position he sets forward. I just hope it will carry the weight it ought to carry in this debate.

I wonder if the Senator from Oklahoma asked unanimous consent to print the Statement of Administration Policy of the Executive Office of the President in the RECORD?

Mr. NICKLES. I did not include it in my latest enclosure. I have a copy of it and will be happy to include it, or if the Senator wishes to include it, that is fine.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF
MANAGEMENT AND BUDGET,
Washington, DC, September 10, 1990.

STATEMENT OF ADMINISTRATION POLICY

(S. 1224—Motor Vehicle Fuel Efficiency Act of 1990, Bryan of Nevada and 14 others)

The Administration strongly opposes enactment of S. 1224. If S. 1224 were presented to the President, his senior advisors would recommend a veto.

S. 1224 would require each motor vehicle manufacturer to increase the Corporate Average Fuel Economy (CAFE) level it achieved in 1988 by 20 percent in model year (MY) 1995 and by 40 percent in MY 2001 for cars and light trucks. This would:

Require major reductions in vehicle size and weight, which would increase the risks of deaths and injuries to drivers and passengers in automobile crashes. (Department of Transportation studies clearly demonstrate that significant weight and size reductions increase the risk of highway injuries and fatalities.);

Impose costs on automobile owners which are not likely to be offset by fuel savings;

Achieve fuel consumption reductions more slowly (since higher vehicle costs would cause some consumers to keep their older, less efficient vehicles) and less substantially (since purchasers of very fuel-efficient vehicles tend to drive them more than the vehicles they replace) than a simple projection of CAFE levels would suggest; and

Be unattainable without significant and costly restrictions on consumer choice.

Approaches grounded in market incentives, rather than the rigid requirements S. 1224 would impose, would be more effective in addressing energy, environmental, and other concerns related to the level of fuel use.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, September 24, 1990.

Hon. GEORGE J. MITCHELL,
The Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR MITCHELL: I am writing with regard to S. 1224 which is now before the U.S. Senate. I want to add my opposition to that of Energy Secretary Watkins and Transportation Secretary Skinner to S. 1224. I believe, as they stated in their letter of September 13, 1990, that the fuel economy levels required by S. 1224 are not achievable with available fuel technology without sacrificing performance and size.

In addition to the technical feasibility, there are other important factors which need to be considered before a decision can be made on fuel improvements. These include the effects of the proposed changes on the competitiveness of the domestic auto industry and the changes in vehicle design and product mix that would be required by overly stringent standards. These also include potential impacts on air quality because higher vehicle costs would likely cause some consumers to keep their older, less fuel efficient, more polluting automobiles longer.

I also want to reiterate the point Secretaries Watkins and Skinner made regarding the auto industry's engineering resources. The Clean Air Act and other new requirements will tax the ability of the industry without the additional need to make rapid changes in fuel economy technology.

I urge Congress not to rush ahead with ill-considered policies, such as S. 1224 that may unnecessarily jeopardize other equally important goals.

Sincerely yours,

WILLIAM K. REILLY.

SEPTEMBER 13, 1990.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR MITCHELL: We understand that the Senate is preparing to consider a bill sponsored by Senator Bryan and others (S. 1224) that would substantially increase the corporate average fuel economy (CAFE) requirements for cars and light trucks sold in the U.S. The bill would increase fuel economy levels for the new car fleet to almost 40 mpg by the year 2001.

We want to take this opportunity to express once again the Administration's strong opposition to this bill. If this bill were presented to the President for his signature, his senior advisors would recommend that he veto the bill. We have consistently expressed our concern about the bill's adverse effects on highway safety, American workers, and American consumers.

The fuel economy requirements of S. 1224 cannot, as claimed, be met without significantly changing the size and composition of cars that consumers would be able to purchase. Analyses prepared by DOE and DOT concur on this important finding. Therefore, our most immediate concern is that the proposed CAFE standards would cause significant weight and size reductions for both the passenger car and light truck fleets. Such downsizing would have a noticeable adverse impact on the safety of occupants. DOT's statistical analyses have demonstrated that the downsizing of the 1970's had adverse safety effects. In our view, it would be a tragic mistake to enact legislation that would undermine this country's progress in highway safety.

The CAFE increases would also curtail the choice of new vehicles available to American consumers. Manufacturers would be forced to dramatically scale back or eliminate the production of large- and mid-size cars and trucks, which would adversely affect those with large families, those in car pools, and those who desire the security of larger cars, among others.

We are also concerned that S. 1224 provides inadequate administrative flexibility. Under the terms of S. 1224, the Administration would be barred from undertaking a regulatory process to make adjustments to fuel efficiency requirements for MYs 1995–2000 and would have only very limited authority to modify the standards for and after MY 2001.

The motor vehicle industry is already facing substantial regulatory demands, including the emerging Clean Air Act amendments and upgraded side-impact protection. These air quality and safety requirements need to be carefully assessed before imposing yet another, potentially conflicting, set of requirements on the automobile industry.

Approaches grounded in market incentives, rather than the rigid requirements S. 1224 would impose, would be more effective in addressing energy, environmental, and other concerns related to the level of fuel use. As part of developing the National Energy Strategy, DOE and DOT are engaged in an interagency process to develop policies to improve automobile fuel economy, as well as other policies to reduce transportation energy consumption. We do not believe that recent events in Kuwait should cause us to rush ahead with ill-considered policies such as S. 1224. There are a number of conservation and energy efficiency measures which will produce greater near-term energy savings and do not impose significant safety and economic costs on the public. We urge the Congress to consider them.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report, and that enactment of S. 1224 would not be in accord with the program of the President.

Sincerely,

SAMUEL K. SKINNER,
Secretary of Transportation.
JAMES D. WATKINS,
Secretary of Energy.

Mr. RIEGLE. Mr. President, it obviously comes from the President's office. It says in the first paragraph: "The administration strongly opposes enactment of S. 1224. If it were presented to the President"—meaning if it were passed—"his senior advisers would recommend a veto." Then it goes on to explain the rationale.

It is obvious the President, in addition to his chief Cabinet officers, which the Senator has pointed out and I also pointed out earlier, have all come out against this proposal. I think it makes it very clear where the executive branch is on this matter. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BRYAN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be charged equally to both sides.

The PRESIDING OFFICER. Is there objection?

Mr. RIEGLE. Mr. President, if we can withhold on that just for a moment, could the Chair advise how much time is left on each side?

The PRESIDING OFFICER. The Senator from Michigan has 3 minutes and the Senator from Nevada has 15 minutes.

Mr. RIEGLE. Mr. President, I yield myself a minute and a half.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE Mr. President, I want to also indicate to colleagues, depending on how this cloture vote goes today, I certainly hope cloture will not be invoked. This is a major issue; it is complex. There are a lot of items to

debate. There are a lot of amendments later to consider and will be considered in a postclosure situation.

One of those that has been developed by Senator LOTT from Mississippi relates to exempting trucks from this requirement, trucks that would be used for business purposes, farming purposes, and the like. That will be one of the amendments Members can anticipate, I think it is fair to say, voting on in a postcloture situation because that amendment would be germane in that setting, and there are several others to be offered.

I would hope that cloture would not be invoked; that we would have time to debate those under the normal circumstances but, in either case, we will be dealing with those amendments. So Senators ought to be, I think, on notice of the fact that there will be amendments of that kind that will require votes at a later time should cloture be invoked.

The PRESIDING OFFICER. Who yields time?

Mr. BRYAN. Mr. President, I am informed that the Presiding Officer may desire to speak on this issue. If so, I will be happy to yield to him and temporarily occupy the position of the Chair.

The PRESIDING OFFICER. The Chair would suggest that perhaps the Senator suggest the absence of a quorum.

Mr. BRYAN. I suggest the absence of a quorum and I ask unanimous consent that the time be charged to each side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. RIEGLE). Without objection, it is so ordered.

Mr. BRYAN. Mr. President, parenthetically may I express my appreciation for the personal courtesy of the Chair to make it possible for our distinguished colleague from Massachusetts to speak. It is my privilege to yield to him 5 minutes, if that is agreeable, charged to my time.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KERRY. Mr. President, I thank the Chair, and I thank the distinguished President for permitting me the courtesy of taking a few moments to speak. I thank the distinguished Senator from Nevada and congratulate him on his efforts with respect to this legislation.

Mr. President, as I listened to the distinguished Senator from Oklahoma, I could not help but think back to the debates which occurred on this floor previously with respect to this issue. I would like to share with my colleagues some of the words of the automobile industry back in 1974.

In 1974, the Ford Motor Co. told us, and this was regarding the effort to try to take from 14 miles per gallon up to 28 miles per gallon the requirements on fuel efficiency. Here was their argument against it in 1974:

> This proposal would require a Ford product line consisting of either all sub-Pinto-sized vehicles or some mix of vehicles ranging from a sub-sub-compact to perhaps a Maverick.

Chrysler stated at that time that the provision "would outlaw a number of engine lines and car models, including most full-size sedans and station wagons."

In 1990, General Motors said:

> Absent any unforeseen technological developments, CAFE targets of the magnitude of those in S. 1224 would force us to consider drastic measures, such as cutting production of our larger, family sized cars.

Mr. President, every American knows how wrong they were in 1974. They toed the line and it was precisely the mandatory requirement that forced them to meet the standards that Americans demanded and requested. It would be nice if we could simply leave it to their good will, but Detroit, frankly, has had a history of missing the mark, not only with respect to those kinds of standards but, frankly, with respect to the standards that are expected by the people of this country about the automobiles that they drive. You can remember the Volkswagen came in and they said this is a niche market, we do not have to worry about it, do not bother with small automobiles. So the Germans, Japanese, and others took over that market.

It has been an extraordinary process, I think, of avoidance of responsibility. This bill is about fuel efficiency; it is about conservation; it is about cleaner air; it is about global warming; and it is, most important, also about our extraordinary dependency on oil, which has grown from about 20-some percent in the early 1980's or late 1970's up to about 50 percent now in foreign oil. As we have troops poised with the potential of war in another country, though not exclusively over oil—it obviously has a significant role to play in it—I think it is absolutely critical that we take this kind of measure.

Those who are knowledgeable about safety, like the Center for Auto Safety, the long-time watchdog of auto safety, has told us this legislation will not compromise automobile safety. This legislation is not about downsizing; it is about fuel efficiency.

Moreover, the fatality rate has declined since 1975, as we have had smaller cars and put in seatbelts and airbags and other kinds of measures.

So I hope that my colleagues will not be distracted by the arguments of Detroit again, and I hope that we will stand by the vote which we previously executed on this floor. This is a vital bill for health of Americans, not to mention for the strategic purposes of this country.

I thank the distinguished occupant of the chair, and I thank the manager of the bill for permitting me to take a few moments to express my thoughts on the bill.

I yield whatever time I have remaining back to the manager.

Mr. BRYAN. Mr. President, I thank my distinguished colleague from Massachusetts for his comments and for his support of the bill and for the arguments he has so eloquently advanced.

(Mr. KERRY assumed the chair.)

Mr. BRYAN. Mr. President, the debate about technology is more than just a numbers crunching, esoteric discussion. The committee very carefully considered a full range of testimony from a number of experts—experts engaged by the Environmental Protection Agency, experts engaged by the Office of Technology Assessment, experts engaged by the Department of Energy at a staff level—all of whom indicated that the goals we seek to achieve in this bill are in fact attainable.

My good friend and the very able chairman of the Senate Banking Committee says but there are administrators such as the Secretary of the Department of Energy, the Secretary of Transportation, and the Environmental Protection Agency who have expressed opposition.

Mr. President, if they have opposition to this bill, let them come forward with their own alternatives. Let them come forward with their own alternatives. All of the staffs represented by those agencies appeared before the subcommittee, which I am privileged to chair, more than a year ago, all of whom indicated that the technology was there and possible.

Finally, let me just say a word about the argument that, in effect, this legislation deprives us of choice, will cause more highway accidents, will cause loss of jobs, and, indeed, air-conditioning units will no longer be possible.

My colleague, the occupant of the chair, pointed out the industry's testimony in 1974 that, indeed, none of the technology required then was achievable. So I would respectfully submit that there is a credibility gap.

Let me get out a chart for a moment. The argument has been made that any changes or improvements will require downsizing. That is the myth, the slender reed, if you will, upon which their argument is posited.

One will note, Mr. President, from that chart, on my far left, 1975 and

the outyear 1989. The weight in 1975 was over 4,000 pounds.

Right after the first round of CAFE was mandated, weights did decline significantly. But if you will look at the fuel efficiency line, average fuel economy, the line is tending up there at 28.5 miles per gallon. Those improvements came not as a consequence of weight reduction—I urge my colleagues to look at that chart—not as a consequence of weight reduction but because of improved technology. As you will see, from the year roughly 1981 average weights of automobiles remained relatively constant. The downsizing had already occurred. The fuel economy improvement had skyrocketed.

The industry itself has argued it cannot do all of the things this legislation has asked to be done. Let me invite your attention to an ad that appeared in the Washington Post last week. It bears upon the industry's credibility. This was an ad from General Motors. "We want you to get the most mileage out of GM quality."

We agree, Mr. President. So do we. So do the American people. This is what that ad said. "We've made significant progress across our entire product line." And then the ad goes on to say, "The 1991 Olds Cutlass Supreme with an advanced quad-4 engine, is a mid-sized 6-passenger automobile, yet it gets 29 miles per gallon, EPA estimated highway mileage, better than the subcompact 1979 Chevette."

As the occupant of the chair pointed out just a moment ago in his debate, this was the industry that said it could not be done. So let us dismiss the argument that it requires downsizing. It does not. The committee bill which was put together after testimony was received from the auto industry and others is premised upon keeping the fleet size the same size it was in 1987.

The able chairman of the Senate Banking Committee has indicated we ought not to disconnect from reality, and he is right. He is absolutely right. Mr. President, this is reality; it greets us on the front page of the morning newspaper: "Price of Oil Surges Nearly $3 a Barrel." We are now looking at the spot crude price as of September 24, $39.05 a barrel. This is not just some academic price quotation.

What is happening? It is driving the price of gasoline at the pump up substantially, meteoric rises, and it is sending our financial markets reeling.

Yesterday, the Dow Jones went down some 60 points—all, Mr. President, because of our dependence on foreign oil and because we consume too much.

The reality is that every division of American troops that we send to the Middle East is because we import too much oil. Every ship that sails to that region of the world with our troops aboard is a reminder that we import too much. And every squadron of airplanes that we dispatch to that part of the world is also a constant reminder that we import too much.

Indeed, the President faces some very difficult choices. This Senator has been supportive of his policy. But the reality is our personnel would not be in the Middle East if we did not import 50 percent of all of the oil that we consume in this country.

Finally, when it comes to solutions what have the critics, the naysayers to offer? Nothing. There is no alternative. There is not a choice A, a choice B, a choice C. There is no other alternative they have offered to us. Here is the reality again in terms of the amount of petroleum consumed by the transportation sector in this country. Sixty-three percent. You can talk about nuclear power as a substitute for electric utilities. That is 5 percent. You can talk about residential, commercial improvements and, indeed, I think many of us would concede that there are some improvements that could be made as well as with American industry. But 63 percent, no major improvement is possible unless we concentrate on that. And the majority in the transportation sector is consumed by the American automobile.

So we have two choices, Mr. President: We can force greater economy by dramatically increasing gas taxes. That would be above and in addition to the prices that have already increased so enormously in the last few weeks, some 20 to 25 cents a gallon average, and at an enormous cost to the American public. That might work. Or we can do what this legislation proposes, and that is to require mandated fuel economy, 34 miles per gallon by 1995, 40 miles per gallon by the year 2001, and by so doing we do not embark upon a noble experiment. We do not chart a course into the unknown. We have the benefit of experience.

In 1975, this Congress passed the first round of CAFE legislation. As the occupant of the chair pointed out in his debate and discussion on the floor, we nearly doubled the fuel economy. This goal incorporated in this legislation is more modest than was incorporated in the legislation that was proposed and adopted in 1975. We can do it and we must do it.

What is at stake is an improvement in a rather sharp and dramatic fashion in terms of fuel savings. This legislation offers a 2.8 million barrels a day savings by the year 2005. It changes a policy in Detroit—more horsepower, more performance in the sense of how fast can you accelerate from zero to 60 miles an hour. A vote against this legislation is a vote against conservation and for continued dependence on foreign oil.

I thank the Chair.

Mr. FORD. Mr. President, I rise in opposition to the legislation, S. 1224, which will require strict new fuel economy standards for automobile manufacturers. I have been very impressed with the campaign waged by the sponsor of S. 1224, Senator BRYAN. He has done an excellent job in raising the level of information on fuel economy issues. His personal persuasion is indicated in the vote count on the motion to proceed. I compliment his dedication and regret that I have to oppose his legislation.

Kentucky is blessed to have three automobile manufacturing concerns. Ford has two plants in Louisville that produce trucks, General Motors is located in Bowling Green and manufactures the Corvette, and Toyota recently built a state-of-the-art plant in Georgetown. According to the Kentucky Department of Commerce, 10,030 employees work at the four Kentucky automobile plants. This does not include the Kentucky jobs in the supplier industry. For various reasons, all three companies oppose this bill.

Since I have served on the Commerce Committee and the Energy Committee for many years, the question of fuel economy has been addressed in many forms in both committees. I certainly am not opposed to increased fuel economy. The problem is that the goals in S. 1224 are impossible to meet. I believe a better approach would be to create a program where there are incentives to seek the technological advances needed to increase automobile fuel economy.

Toyota, one of the leaders in the fuel economy issue, produces the Toyota Camry in Georgetown, KY. Since 1988, the Camry has included all the fuel economy technologies recommended by S. 1224—and then some. The 1988 Camry has a fuel economy rating of 33 mpg and that is excellent, but far short of 45 miles per gallon envisioned in S. 1224. Toyota cannot reach the targets in S. 1224 without significantly downsizing.

Many Kentuckians have called my office perplexed that they may have to soon drive smaller vehicles if S. 1224 becomes law. Comfort is a consideration, but I believe the larger issue is automobile safety. The Insurance Institute for Highway Safety, certainly no friend of the automobile industry, has produced a pamphlet in the CAFE debate titled "Where Is Safety in the Fuel Economy Debate?" IIHS indicates that fuel economy standards create safety problems if they force automobile manufacturers to make cars smaller in order to increase the average miles-per-gallon of their fleets. IIHS comes to the conclusion that car size is perhaps the most important single factor when it comes to protecting occupants in crashes. All

things being equal, people in larger cars sustain fewer injuries in crashes than people in smaller cars. I would urge my colleagues to carefully review the work of IIHS on the CAFE issue.

It is interesting that the Senate is considering increasing CAFE when this Congress will probably produce a Clean Air Act which will have a CAFE penalty. Also, many in this chamber have been urging more stringent safety standards such as the side-impact regulation. That is also going to make the goals of S. 1224 more difficult to achieve. You cannot calculate increased fuel economy without taking changes in regulation and law into consideration.

I have also heard from many in the environmental movement indicating that they are willing to drive smaller cars in order to save fuel. This is admirable, but I am not certain that all American citizens share their views. One thing that I am sure, S. 1224 will downsize automobiles. There are many fuel efficient automobiles on the market now that are not selling. The situation in the Middle East has raised concern about fuel consumption, but the impact of S. 1224 will not kick in until 1995 and 2001. There will be no immediate lowering of fuel consumption if this bill passes. One measure that would have immediate effect is if Americans started buying the fuel efficient cars already being manufactured.

Mr. President, I will oppose S. 1224, but I will do all that I can to look for immediate answers to America's dependence on foreign oil.

Mr. LAUTENBERG. Mr. President, I rise today in support of cloture on S. 1224, the Motor Vehicle Fuel Efficiency Act of 1985 introduced by the Senator from Nevada. I am pleased to be a cosponsor of this bill, which builds on the success of the Corporate Average Fuel Economy or CAFE law enacted in 1975—one of the most effective energy efficiency measures ever passed by Congress. S. 1224 would increase fuel efficiency standards for new cars to levels that will average 34.4 miles per gallon in 1995 and 40.3 miles per gallon in 2001.

Since the CAFE measures was enacted there has been an approximate doubling in automobile fuel efficiency.

Despite the auto industry's claims that the standards would harm them, they managed to meet those standards. The increased efficiency of our automobile fleet now saves 2.5 million barrels of oil a day and consumers save $40 billion per year. At the same time, U.S. automakers have retained their ability to compete with foreign automakers. Sales of cars manufactured by the Big Three have increased dramatically since CAFE was enacted.

Unfortunately, the success of the 1975 CAFE standards began to level off in 1985. Between 1986 and 1989 the Secretary of Transportation reduced the CAFE standards below 1987 levels. The average new vehicle fuel efficiency in 1988 was actually lower than the standards set in 1985.

In recent years we have witnessed a decline in fuel efficiency of some manufacturers.

Mr. President, we need S. 1224 to reduce our over dependence on foreign oil. Today, we witness young American men and women risking their lives in the Persian Gulf to protect our energy interests there.

Our overreliance on foreign fuel forces the United States to remain vulnerable to a madman like Saddam Hussein and presents a threat to our national security.

We are now more dependent on foreign oil than ever before. Today we import twice as much oil from the Persian Gulf as we did during the Arab oil embargo of 1973. The current crisis in the Persian Gulf is forcing us to face this monkey on our back—this unnecessary overdependence on foreign oil. If the average fuel economy was just 5 miles per gallon higher today, we would be importing 2 million fewer barrels of oil each day.

Over 60 percent of all oil we use is consumed in transportation alone. By the year 2005, S. 1224 would save us an estimated 2.8 million barrels of oil a day—nearly one-third of the oil we use in the transportation sector today—and help move America toward greater energy independence and economic stability.

In addition to saving oil, enactment of S. 1224 will represent an important step in saving our planet. Carbon dioxide emitted from motor vehicles is a significant contributor to the threat of global warming or the greenhouse effect. The combustion of a single gallon of gas produces almost 20 pounds of carbon dioxide. And it is estimated that an average car emits about 58 tons of CO_2 over its lifetime.

The United States emits more CO_2 than any other nation—about 20 percent of the world's CO_2 emissions. And automobiles account for 25 percent of the U.S. contribution of CO_2 emissions.

Carbon dioxide is accountable for almost half of the gases that contribute to the greenhouse effect.

As greenhouse gases become trapped in the Earth's atmosphere temperatures will increase around the globe. The impacts are far reaching. Mass extinction will result as species are unable to adapt to rapidly changing environmental conditions. Reduced soil moisture and altered weather patterns will disrupt United States and world agricultural cycles.

Rising sea levels due to melting of the polar ice caps will inundate coastal areas around the world, resulting in loss of low lying coastal lands where millions of people reside.

Although there is some disagreement as to the rate and magnitude of change, there is a remarkable degree of scientific consensus that global change is upon us.

This change presents a serious threat to our national security and the continuation of life as we know it.

We have a choice today to deny our part in contributing to global warming or we can act responsibly. The single most important step Congress can take to reduce CO_2 emissions is to improve the fuel economy of our auto fleet.

The standards proposed in this bill would decrease carbon dioxide by about 500 million tons per year by the year 2005.

By setting these new CAFE standards, the United States can assume a leadership role for the development of efficient technologies that can help us to reduce greenhouse gas emissions and address the problem of global climate change.

Higher fuel efficiency will also help our Nation address our trade deficit. Over half of our trade deficit is due to oil imports alone.

Driving cars that consume less fuel will help reduce our trade deficit and wean the United States from our dependence on foreign oil.

Last year, the Senate Environment Committee recognized the success of the 1975 CAFE requirements and the critical need for continued improvements in automobile fuel efficiency in passing the Clean Air legislation. The committee bill contained a carbon dioxide standard which translated into increased fuel efficiencies.

It acknowledged the time needed for changes and supported the two-phase program of a 20-percent improvement beginning in 1995 and a 40-percent improvement beginning in 2001. The committee supported these provisions because these are achievable goals. Unfortunately, these provisions were deleted from the Senate-passed bill at the insistence of the administration.

Mr. President, S. 1224 addresses the same concern. It requires each auto manufacturer to improve its CAFE by 20 percent over the 1988 model year by 1995, and a 40-percent improvement over the 1988 model year by 2001. The Office of Technology Assessment and the Department of Energy have testified before Congress that that the technology exists now to make these improvements without sacrificing performance or interior size.

The percentage improvement required in S. 1224 is a progressive step that replaces the current numerical standard. The existing numerical standard allows small car manufacturers who easily meet the standard with their small car fleets offset the fuel efficiency savings by building less fuel efficient large cars. As a result of the

things being equal, people in larger cars sustain fewer injuries in crashes than people in smaller cars. I would urge my colleagues to carefully review the work of IIHS on the CAFE issue.

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able and must be enacted by joint resolution of Congress.

This requires the President and Congress to make hard, but important decisions. The act offers a balanced approach to reducing oil imports by requiring both energy conservation and increased domestic energy production.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The time of the Senator from Nevada has expired.

The Senator from Michigan has 2 minutes 43 seconds remaining.

Mr. RIEGLE. Is there any other time accruing to either side?

The PRESIDING OFFICER. The answer is no, there is no additional time.

Mr. RIEGLE. I want to reserve my time.

Does the Senator from South Dakota want to speak on this topic or a different topic?

Mr. PRESSLER. A different topic. I ask unanimous consent that I speak for a 3 minutes on a different topic.

The PRESIDING OFFICER. Is there objection?

Mr. EXON addressed the Chair

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I do not intend to object, although I would like 2 minutes likewise to be offered to the Senator from Nebraska on another subject after the Senator from South Dakota has had his chance.

The PRESIDING OFFICER. Is there objection?

Mr. BRYAN. Reserving the right to object, I shall not object, I do not object either to the request of the distinguished Senator from South Dakota or the distinguished senior Senator from Nebraska. I am wondering, however, since the distinguished Senator from Michigan and I have been on this floor for the last couple of days, if we can conclude our CAFE debate this morning. I believe he has a minute left, if he chooses to exercise that. My time is fully occupied. I am wondering, if the two Senators seek recognition, if it is agreeable to the Senator from Michigan that they allow us to do so.

Mr. RIEGLE. I will be accommodating if anybody has a time problem. We will just switch it around.

The PRESIDING OFFICER. If there is no objection, the Senator from Michigan is recognized for the duration of the time coming to him, after which time the Senator from South Dakota will be recognized for a period not to exceed 3 minutes, and the Senator from Nebraska will be recognized for a period not to exceed 2 minutes.

Is there objection? Hearing none, it is so ordered.

The Senator from Michigan.

Mr. RIEGLE. I thank the Chair.

Mr. President, we are trying to balance four items here when we design and build a car. We are trying to balance the fuel efficiency; controlling the emissions so we do not damage the environment; having the car structurally sound so we have a good safety factor; and finally the cost, because in the end we have to have a car that not only meets all of these other requirements but also is not so expensive people cannot afford it.

We know if we take one of these four items, namely the CAFE standards that are being imposed here, that will impose a cost of $62.5 billion extra cost on the industry over the next 5 years. They cannot afford it. It is an unsound decision if we force them to go that way.

We need a comprehensive energy strategy. We should develop it next spring. This issue should be one of many. It should be looked at in the context of an overall energy plan.

I ask my colleagues to vote against cloture. That vote is a very important vote. I hope that we can continue the debate after that. Perhaps the bill will be taken down if the cloture does not succeed. But, in any event, even if cloture were to be successfully invoked, there will be some voters post cloture on light trucks and other things. But I urge my colleague in the name of good practical policy making to vote against the cloture motion when it comes up around 2 o'clock.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. I thank the Chair.

(The remarks of Mr. PRESSLER, pertaining to the submission of an amendment, appears in today's RECORD under "Amendments Submitted.")

REGARDING THE FURLOUGH "NO WAY TO RUN A GOVERNMENT"

Mr. EXON. Mr. President, the American people are growing impatient with year after year of budget brinksmanship. I rise today to say that the American people are right. This is no way to run a Government.

I have the highest degree of respect for the individuals involved in the President's budget summit. I am hopeful that an agreement is forthcoming. The participants from both sides of the aisle and both sides of the Capitol, along with the President's top economic team, are among the most talented, knowledgeable and experienced in the Government. My disappointment is not with them, but with the process which has brought this Congress, this Government and the Nation to yet another countdown to chaos.

Mr. President, this Senator shares the anger of the American people. With 5 days remaining in the fiscal year, farmers do not know what their crop payments will be, travelers do not know whether air trafffic controllers or weather service employees will be able to provide for the safety of air transport, food processors do not know whether to close plants because of reduced Federal inspections and Federal workers do not know whether they will be able to feed their families and pay their mortgages when faced with a 22-day unpaid furlough. This is not right.

The state of play on this 25th day of September further proves the failure of the Gramm-Rudman law. When I opposed the Gramm-Rudman law and its subsequent rewrite, I predicted that it fakes action and does not force action on the deficit. Once again the prospect of further delay looms and the orientation of Congressional and administration efforts is not to reduce the deficit but to avoid a sequester. After 5 years of fakery and delay, the national debt well exceeds $3 trillion. Mr. President, this is one time that I do not relish being able to say "I told you so."

History will record the Gramm-Rudman law merely as little more than a political device in 1985 to garner enough votes to push the debt ceiling above the $2 trillion mark. After the Supreme Court ruled that Gramm-Rudman No. 1 violated the Constitution, Gramm-Rudman No. 2 provided the Congress another convenient engine to drive the debt ceiling through the $2.5 trillion mark. Simply put, the budget is no closer to being balanced today than it was when the Nation's fiscal policy took its first detour along the crooked Gramm-Rudman road. Rather than reach the promised land of a balanced budget by 1991, the Nation is on the edge of one of its most serious fiscal disasters.

As a result of the Gramm-Rudman law, the Congress turned away from traditional means of budget making which used the give and take of the committee system and vigorous floor debate to produce consensus, and instead institutionalized the budget summit.

The results of past budget summits have been less than successful. Rather than forge friendships of fiscal responsibility, historically, summits create conspiracies to craft slide-by budgets.

The last budget summit agreement resulted in a pre-Thanksgiving budget which was loudly heralded as meeting the $100 billion target for the 1990 fiscal year as required by the Gramm-Rudman law. Next week, when the books are closed on the fiscal year, the deficit will weigh in at a hefty $242 billion. If the trust fund surpluses are not counted, the true deficit will likely exceed $370 billion.

This year, the public anxiety is greater than ever because the irresponsibility of the present situation

and the manifest flaws of the present procedure are greater than ever. In the closing days of this fiscal year, there is no budget, no enacted appropriation bills, an imminent expiration of the statutory debt ceiling and a Gramm-Rudman sequestration poised to destroy the Federal Government as we know it.

It is important to review for one moment how we got to this point. When the President presented his optimistic and abbreviated budget, the Senate Budget Committee gave the President's recommendations careful consideration. While it was criticized for significantly underestimating the true size of the deficit and overstating the health of the economy, unlike previous budgets, the President's document was not dismissed as dead on arrival. After having the first Bush administration budget summit produce so little in terms of lasting savings, the Senate majority leader expressed his desire to pursue the budget the old fashioned way, with the Congress producing its own budget on a timely basis.

Early in the process, with a couple of notable exceptions, most of the Republican members of the Senate Budget Committee made it clear that they were going to be observers during the formulation of the budget and that a budget summit was their preferred method of dealing with the growing fiscal crisis. No Republican alternatives were offered, and with one brave exception, no Republican participation in crafting the budget was volunteered. The Democratic members of the Budget Committee, with the help of one Republican member, produced an impressive $54 billion budget package which held the line on most spending, reduced the Defense budget by a significant but manageable amount, granted full retirement COLA's and attempted to collect a portion of the 100 billion dollars' worth of taxes which are presently due and owing. On the revenue and fee side, the budget used the very same figures endorsed by the President, viewed as fully consistent with the President's no new tax pledge.

A week after the passage of that $54 billion package, the President requested a summit. Today, months later, the summit is attempting to craft a legislative bundle which contains a budget, a reconciliation bill, a debt ceiling extension, a continuing appropriations, a third rewrite of the ill-fated Gramm-Rudman law, and a package of budget reforms.

I expect that eventually agreement will be found among the summiteers and one or several rather big lumps of legislation will be force-fed to the Congress in a last minute, take-it-or-leave-it flurry of late night activity designed to beat the clock which tolls the end of the fiscal year and then the expiration of the debt ceiling.

The problem with this procedure is that it serves to mask responsibility by giving elected officials an excuse to hide behind a bill produced by a cabal rather than a Congress. As the clock ticks toward the end of the fiscal year, and the fiscal trains line up to crash into each other, the whole objective switches from reducing the deficit to avoiding a sequester. In a real sense, the brinkmanship politics of the Gramm-Rudman law deprive this Congress of doing the job that the American people expect of us, and that is to legislate. It creates a false hope of finally fixing the problem, and with each failure, the disappointment of the public breeds cynicism toward the process and the Congress.

In its purest form, the solution is simple. When a family or business faces a shortage of funds, they stop spending. For years, Senator HOLLINGS and I have put forward "freeze" budgets which would have held the line on spending. If our first proposal had been adopted, and followed, the budget would have been balanced by now.

With an economy so soft it squishes, this type of brinkmanship is not good for the country and it is not good for this institution. A recent article in the Washington Post which I will ask to be printed at the conclusion of my remarks highlights how much time and money is being spent simply to prepare, explain, and plan for a possible furlough in the event of a sequester. Even if disaster is averted, there will be an unnecessary cost attached.

Senator GRASSLEY and I recently released a comprehensive report on the Federal Budget which I recommend to all my colleagues. The report reveals that even if the President's budget summit meets its goal of reducing the deficit by $500 billion in 5 years, much work still remains to be done. There needs to be at least another $500 billion in savings produced over the next 6 to 7 years before the true budget deficit can be balanced. In going after that second $500 billion I implore the leadership and the President not to take the Nation down this path again. With respect for the separation of powers, let the President propose and the Congress dispose. The Congress, not a summit, should control the purse strings, and the President can use his veto pen to pursue his policies.

Unless the Congress and the President get control of the process and squeeze the annual deficits down, the Nation faces certain peril. The GAO report portrayed a bleak fiscal picture with the accumulated natonal debt reaching $5 trillion by 1995 and gross interest expense exceeding all other Federal spending programs within 2 years. Every dollar spend on interest and increasingly given to foreign lenders is money which could have been used to build bridges, schools, or best of all left in the pockets of working Americans. The budget is not in such a state that it is not a choice between borrowing or taxes. Debts are taxes. It is only a question of whether they are paid now or later, and without or with interest.

As the Congress braces for another round of budget brinkmanship, I encourage my colleagues to consider the comments of the GAO on the Gramm-Rudman-Hollings law which brought us to the edge of our present fiscal abyss. The GAO reports:

> The bottom line is that 5 years of technical compliance with the Gramm-Rudman-Hollings law have resulted not in meaningful deficit reduction, but rather in a whole new generation of off-budget and other misleading budget reporting practices that hide the true magnitude of the problem.
>
> Cooking the books has become a way of life in Washington * * *. Unwillingness to make the painful revenue and spending choices implied by the Gramm-Rudman-Hollings legislation has resulted in some sobering numbers: Whereas the general fund deficit stood at $226 when Gramm-Rudman-Hollings went into effect, we project * * * that it will reach almost $400 billion in 1997.

I will take a careful and close look at the recommendations of the President's budget summit. If it is a fair, balanced and meaningful package, I will support it. If however, it does not address the problem or creates more harm than good, I will not hesitate to opposed it. My concern, Mr. President, is that I smell some pots boiling and some books about to be cooked. In the coming years, let's not try to serve up the Nation's business in such an unappetizing manner.

Mr. President, I ask unanimous consent that the Washington Post article to which I earlier referred be printed in the RECORD, and I also ask unanimous consent that an excellent article by Mr. Art Hovey of the Lincoln Star be printed in the RECORD. It outlines in clear detail the devastating effect of the Gramm-Rudman law on agriculture.

Thank you, Mr. President.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Lincoln (NE) Star, Sept. 25, 1990]

HOWEVER AX FALLS, AG AID IS VULNERABLE—"DEFICIT REDUCTION" TRANSLATES TO LESS FARM SUPPORT—EVEN WITHOUT GRAMM-RUDMAN CUTS

(By Art Hovey)

The outlook for federal support of agriculture next year has gotten so grim that even the up side has a down side.

If Congress is able to agree on some sort of budget reduction package before the Gramm-Rudman-Hollings deficit reduction measure is automatically triggered Monday, Nebraska farmers can expect to see about a 10 percent reduction in government spending. If Gramm-Rudman kicks in, the reduction in price supports and other direct payments that add up to millions of dollars

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A week after the passage of that $54 billion package, the President requested a summit. Today, months later, the summit is attempting to craft a legislative bundle which contains a budget, a reconciliation bill, a debt ceiling extension, a continuing appropriations, a third rewrite of the ill-fated Gramm-Rudman law, and a package of budget reforms.

I expect that eventually agreement will be found among the summiteers and one or several rather big lumps of legislation will be force-fed to the Congress in a last minute, take-it-or-leave-it flurry of late night activity designed to beat the clock which tolls the end of the fiscal year and then the expiration of the debt ceiling.

The problem with this procedure is that it serves to mask responsibility by giving elected officials an excuse to hide behind a bill produced by a cabal rather than a Congress. As the clock ticks toward the end of the fiscal year, and the fiscal trains line up to crash into each other, the whole objective switches from reducing the deficit to avoiding a sequester. In a real sense, the brinkmanship politics of the Gramm-Rudman law deprive this Congress of doing the job that the American people expect of us, and that is to legislate. It creates a false hope of finally fixing the problem, and with each failure, the disappointment of the public breeds cynicism toward the process and the Congress.

In its purest form, the solution is simple. When a family or business faces a shortage of funds, they stop spending. For years, Senator HOLLINGS and I have put forward "freeze" budgets which would have held the line on spending. If our first proposal had been adopted, and followed, the budget would have been balanced by now.

With an economy so soft it squishes, this type of brinkmanship is not good for the country and it is not good for this institution. A recent article in the Washington Post which I will ask to be printed at the conclusion of my remarks highlights how much time and money is being spent simply to prepare, explain, and plan for a possible furlough in the event of a sequester. Even if disaster is averted, there will be an unnecessary cost attached.

Senator GRASSLEY and I recently released a comprehensive report on the Federal Budget which I recommend to all my colleagues. The report reveals that even if the President's budget summit meets its goal of reducing the deficit by $500 billion in 5 years, much work still remains to be done. There needs to be at least another $500 billion in savings produced over the next 6 to 7 years before the true budget deficit can be balanced. In going after that second $500 billion I implore the leadership and the President not to take the Nation down this path again. With respect for the separation of powers, let the President propose and the Congress dispose. The Congress, not a summit, should control the purse strings, and the President can use his veto pen to pursue his policies.

Unless the Congress and the President get control of the process and squeeze the annual deficits down, the Nation faces certain peril. The GAO report portrayed a bleak fiscal picture with the accumulated natonal debt reaching $5 trillion by 1995 and gross interest expense exceeding all other Federal spending programs within 2 years. Every dollar spend on interest and increasingly given to foreign lenders is money which could have been used to build bridges, schools, or best of all left in the pockets of working Americans. The budget is not in such a state that it is not a choice between borrowing or taxes. Debts are taxes. It is only a question of whether they are paid now or later, and without or with interest.

As the Congress braces for another round of budget brinkmanship, I encourage my colleagues to consider the comments of the GAO on the Gramm-Rudman-Hollings law which brought us to the edge of our present fiscal abyss. The GAO reports:

> The bottom line is that 5 years of technical compliance with the Gramm-Rudman-Hollings law have resulted not in meaningful deficit reduction, but rather in a whole new generation of off-budget and other misleading budget reporting practices that hide the true magnitude of the problem.
>
> Cooking the books has become a way of life in Washington * * *. Unwillingness to make the painful revenue and spending choices implied by the Gramm-Rudman-Hollings legislation has resulted in some sobering numbers: Whereas the general fund deficit stood at $226 when Gramm-Rudman-Hollings went into effect, we project * * * that it will reach almost $400 billion in 1997.

I will take a careful and close look at the recommendations of the President's budget summit. If it is a fair, balanced and meaningful package, I will support it. If however, it does not address the problem or creates more harm than good, I will not hesitate to opposed it. My concern, Mr. President, is that I smell some pots boiling and some books about to be cooked. In the coming years, let's not try to serve up the Nation's business in such an unappetizing manner.

Mr. President, I ask unanimous consent that the Washington Post article to which I earlier referred be printed in the RECORD, and I also ask unanimous consent that an excellent article by Mr. Art Hovey of the Lincoln Star be printed in the RECORD. It outlines in clear detail the devastating effect of the Gramm-Rudman law on agriculture.

Thank you, Mr. President.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Lincoln (NE) Star, Sept. 25, 1990]

HOWEVER AX FALLS, AG AID IS VULNERABLE—"DEFICIT REDUCTION" TRANSLATES TO LESS FARM SUPPORT—EVEN WITHOUT GRAMM-RUDMAN CUTS

(By Art Hovey)

The outlook for federal support of agriculture next year has gotten so grim that even the up side has a down side.

If Congress is able to agree on some sort of budget reduction package before the Gramm-Rudman-Hollings deficit reduction measure is automatically triggered Monday, Nebraska farmers can expect to see about a 10 percent reduction in government spending. If Gramm-Rudman kicks in, the reduction in price supports and other direct payments that add up to millions of dollars

The Senator from Michigan is recognized.

Mr. RIEGLE. I thank the Chair.

(The remarks of Mr. RIEGLE pertaining to the introduction of S. 3103 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:52 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

MOTOR VEHICLE FUEL EFFICIENCY ACT

The Senate continued with the consideration of the bill.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 2:15 p.m. having arrived, under the previous order, the quorum call has been waived. The question is, Is it the sense of the Senate that debate on the committee substitute, as amended, if amended, to S. 1224, the CAFE standards bill shall be brought to a close? The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The yeas and nays resulted—yeas 57, nays 42, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—57

Adams	Dodd	Lieberman
Akaka	Durenberger	McCain
Baucus	Exon	Metzenbaum
Bentsen	Fowler	Mikulski
Biden	Gore	Mitchell
Bingaman	Gorton	Moynihan
Boschwitz	Graham	Packwood
Bradley	Harkin	Pell
Bryan	Hatfield	Pressler
Bumpers	Heinz	Pryor
Burdick	Hollings	Reid
Chafee	Inouye	Robb
Cohen	Jeffords	Rockefeller
Conrad	Kennedy	Roth
Cranston	Kerrey	Rudman
D'Amato	Kerry	Sanford
Danforth	Kohl	Sarbanes
Daschle	Lautenberg	Simon
DeConcini	Leahy	Wirth

NAYS—42

Armstrong	Gramm	McConnell
Bond	Grassley	Murkowski
Boren	Hatch	Nickles
Breaux	Heflin	Nunn
Burns	Helms	Riegle
Byrd	Humphrey	Sasser
Coats	Johnston	Shelby
Cochran	Kassebaum	Simpson
Dixon	Kasten	Specter
Dole	Levin	Stevens
Domenici	Lott	Symms
Ford	Lugar	Thurmond
Garn	Mack	Wallop
Glenn	McClure	Warner

NOT VOTING—1

Wilson

The PRESIDING OFFICER. On this vote, the yeas are 57; nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

TREATY WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE LIMITATION OF UNDERGROUND NUCLEAR WEAPON TESTS

TREATY WITH THE UNION OF SOVIET SOCIALIST REPUBLICS ON UNDERGROUND NUCLEAR EXPLOSIONS FOR PEACEFUL PURPOSES

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider executive calendar Nos. 21 and 22, en bloc, which the clerk will report.

The assistant legislative clerk read as follows:

Treaty with the Union of Soviet Socialist Republics on the Limitation of Underground Nuclear Weapons Tests.

Treaty with the Union of Soviet Socialist Republics on Underground Nuclear Explosions for Peaceful Purposes.

Mr. HELMS. Mr. President, I suggest the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. The debate on the treaty is limited to 2 hours equally divided and controlled by the chairman and ranking minority member of the Foreign Relations Committee.

The Senator from Rhode Island.

Mr. PELL. Mr. President, I am pleased to present for Senate consideration the Threshold Test Ban Treaty negotiated in 1974 at President Nixon's direction and the companion 1976 Peaceful Nuclear Explosions Treaty completed in 1976 by President Ford's administration, together with two new verification protocols signed at the June summit by President Bush and Soviet President Gorbachev.

The TTBT is a logical tightening of the obligation undertaken by the United States, Soviet Union and Great Britain in 1963 in the Limited Test Ban Treaty, which prohibits nuclear explosions in the atmosphere. Outer space, and under water. These restrictions meant that the parties could only continue nuclear testing underground, so that risks of continued contamination of the atmosphere could be removed. The 1974 treaty served several purposes by lowering allowable yields to 150 kilotons or less. First, it removed the opportunity to test the sides' larger nuclear weapons at high yields. This serves to prevent the development and deployment of new weapons with very high yields while preserving the capability to do all the testing necessary for weapons currently in the arsenal or projected for future development. Second, the limit reduces the risk of a major, accidental release of radioactive debris. Third, it makes sure that the Soviet Union will not be able to test at higher yields than the United States, thus removing any theoretical testing advantages. Finally, it represents a modest but significant step, with minimal risk, toward the ultimate goal of a complete end to nuclear testing.

The companion Peaceful Nuclear Explosions Treaty was designed to ensure that neither side could conduct so-called peaceful nuclear explosions and gain some testing knowledge not available in the weapons testing program. Accordingly, the PNET provides for verification of the yields of explosions other than stated weapons tests at test ranges. This is an important treaty even to this day, although the United States has not had a peaceful nuclear explosion since 1973, and the Soviets have not set off a peaceful nuclear explosion since 1988.

The two new protocols supplant protocols originally negotiated in 1974 and 1976. Those original protocols provided precedent-setting verification. The new protocols go further to provide for extensive on-site and in-country verification measures designed to ensure effective verification of compliance with the TTBT and PNET.

Mr. President, it has now been 16 years since the TTBT was signed, and 14 years since the signing of the PNET. Although the parties have been obligated to comply since 1976, the failure to ratify meant that important provisions related to verification were not fully implemented. Our decision today will put all of this behind us and open the way to ratification of these two Treaties and pursuit of new accords.

Until 1986, the Reagan administration opposed ratification of the two treaties on the grounds that the verification provisions of the TTBT needed improvement.

In the fall of 1986, to break an impasse on the Defense bill, President Reagan informed Congress of his intent to:

Make ratification of these treaties a first order of business for the Congress, with an appropriate reservation to the treaties that would ensure they would not take effect until they are effectively verifiable. I will work with the Senate in drafting this reservation.

Second, I intend to inform the General Secretary in Reykjavik that, once our verification concerns have been satisfied and the treaties have been ratified, I will propose that the United States and the Soviet Union immediately engage in negotiations on ways to implement a step-by-step parallel program—in association with a program to reduce and eliminate all nuclear weapons—

of limiting and ultimately ending nuclear testing.

Accordingly, I chaired hearings on the treaties as a first order of business in 1987. At a committee markup on February 19, 1987, the committee, by voice vote, ordered the treaties reported with a reservation providing for a presidential certification on verification and a declaration supporting the President's commitment to immediate negotiations on further testing restraints following TTBT and PNET notification. Unfortunately, despite the President's pledge, the administration remained committed to a scheme under which the Senate would consider the treaties at that time and then go through the whole process again when new protocols were completed. That notion did not sit well with Senators, and the treaties were not taken up on the Senate floor.

The nuclear testing talks began in Geneva in November 1987, with the goal of achieving the new verification protocols. Before the Reagan administration left office, agreement in principle had been worked out on the PNET protocol. The negotiating effort in the Bush administration was centered on the TTBT protocol.

In September 1989 the sides announced ad referendum agreement on the TTBT protocol. Remaining details were worked out over the next several months.

The committee held open hearings on July 17, 31, and September 13, 1990. Administration witnesses were heard at the July 17 hearing. Representatives of the intelligence community testified on July 24 in closed session. Outside experts were heard on July 31. Finally, our distinguished colleagues, the Senators from Oklahoma and Maine, Mr. BOREN and Mr. COHEN, the chairman and vice chairman, respectively, of the Senate Select Committee on Intelligence, appeared before the committee on September 13. The Senators testified to the committee regarding the select committee's report to the Committee on Foreign Relations and the Senate on the ability of the United States to monitor compliance by the Soviet Union with the treaties.

Senators BOREN and COHEN will be addressing the monitoring issue directly. I will not duplicate the issue beyond noting that the select committee devoted considerable time and attention to its inquiry and concluded that the United States will be able to monitor compliance. The committee's excellent unclassified report is included in the Foreign Relations Committee report. The classified report is available at this time to interested Members in the Vice President's office off the Senate floor.

In its deliberation, the committee noted a significant issue raised by article XI of the TTBT protocol, which allows the treaty partners to amend the protocol through agreement in a new Bilateral Consultative Commission. Given the great detail of the protocol, the committee was sensitive to the possible need for technical, administrative, and procedural changes through agreement without the need for Senate approval. At the same time, it was important that the executive branch understand that any changes of a substantive nature would require the advice and consent of the Senate.

I raised this matter with ACDA Director Lehman on July 31, informing him of my concerns. At the same time, I cautioned Ambassador Lehman that my committee would only allow modifications not requiring advice and consent on a case-by-case basis. I wrote:

* * * I conclude that it is necessary to have the Administration's written clarification of the areas of permissible modification contemplated by paragraphs 3 and 4 of Section XI of the Protocol to the Threashold Test Ban Treaty. This would ensure that changes to the Treaty and Protocol requiring Senate advice and consent would be treated according to constitutional requirements. . . . The Committee would expect the Administration to inform it of any proposed modification under this procedure. This will enable the Committee to voice an objection in appropriate cases, before the issue becomes moot.

At the same time, I asked for assurances, regarding the authoritativeness of administration testimony. Mr. Lehman replied on September 11. He wrote:

I can affirm that the Senate should regard explanations of the meaning of the Treaties and the obligations they entail as authoritative, and that the Senate can expect the Administration to interpret and implement the Treaties in accord with such explanations.

He also wrote:

Second, with respect to the modifications or changes contemplated by paragraphs 3 and 4 of Section XI of the TTBT Protocol, I can confirm that the intention of these paragraphs is to enable the Parties, on the basis of their day-to-day experience in living with the Protocols, to make such changes, of a technical, administrative or procedural nature as do not affect substantive rights and obligations under the Treaty and Protocol, that will improve the effectiveness of the verification regime. Any change of substantive nature that would have an effect upon basic aims of the Treaty or rights and obligations of the Parties would have to be made by means of an amendment.

This response reassured me on the authoritativeness issue and on the issue of how distinctions would be made between those changes of a substantive matter, requiring Senate advice and consent, and those that could be handled through notification. Ambassador Lehman's letter did not resolve the question of how the Senate would be involved before the issue became moot. Discussions on the day of the markup led to a second letter from Ambassador Lehman, resolving the issue as follows:

The Administration will provide notice concerning any modifications and changes negotiated with the Soviets to the provisions of the TTBT Protocol prior to such modifications or changes becoming binding on the Parties. The objective of this further assurance is to provide notice before an issue becomes "moot".

Based on these assurances, I am satisfied that changes or modifications pursuant to section XI of the TTBT protocol will be handled satisfactorily.

Mr. President, I ask unanimous consent that my correspondence with Ambassador Lehman be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PELL. Mr. President, the committee marked up the treaties on September 14. Each treaty and its new protocol was approved by the committee in an 19-0 vote. The declarations were approved in connection with the TTBT.

The first declaration states that there should be specific safeguards to protect against unexpected political and technical events affecting the military balance. Safeguards were originally proposed by the Joint Chiefs of Staff in 1987 and modified in staff-level discussions. At my request, those discussions were resumed this year with representatives of the Joint Chiefs and other executive branch officials. My goal was the development of safeguards that would merit bipartisan support. I believe the safeguards approved by the committee with administration support meet that standard.

According to the committee report:

The Committee can appreciate the concerns of the Joint Chiefs with regard to safeguards. It is important to be prepared to cope with developments which may affect the military balance. It is also important to understand that unexpected political or technical events can have positive, as well as negative, effects. Accordingly, safeguards must be seen as guidelines to maintain the proper balance of nuclear testing programs, legitimate national security interests, and budgetary priorities.

The first safeguard, Safeguard "A," calls for effective and continuing underground nuclear testing programs within the constraints of treaties on nuclear testing.

It is clear that effective and continuing programs are possible within current spending levels and at other levels, depending on financial resources and priorities. This should not be seen as a mandate for any particular spending level. This safeguard applies to the situation under current treaty constraints, but it leaves the door completely open to further treaty constraints and should not been seen as a barrier to further steps.

Safeguard "B" is designed to show affirmative support for modern nuclear laboratories, again with the as-

sumption that such is the case now and that it is important the laboratories remain healthy enterprises while the United States has an active testing program.

Safeguard "C" is designed to provide a reasonable assurance that we would retain the basic capability to test at levels above 150 kilotons in the unlikely event that the United States were no longer bound by the TTBT. Of course, we would also have the theoretical technical capability to test in the atmosphere, but our awareness of dangers to the environment of any nuclear test or, even, accident could pose indicates to me that we would never be foolish enough to test anywhere but far underground. This safeguard was reworked from its original form to remove any intimation that the United States would do any less than meet its full obligations under testing treaties.

Safeguard "D" is designed to ensure that both seismic and hydrodynamic research are supported in order to improve our monitoring capabilities under existing treaties, as well as accords which may be reached in the future, including a comprehensive test ban.

Safeguard "E" was modified to clarify the need for intelligence gathering and analytical work regarding worldwide nuclear arsenals and nuclear weapons programs. Clearly, recent developments indicate that it would be ill-advised to focus our efforts to too great a degree on the Soviet Union, given the changes there, including the new openness, at the price of lesser effort in the area of worldwide proliferation.

Safeguard "F" which would have required a periodic review to determine whether testing treaties remain in the national interest was dropped as being unwarranted. Clearly, there will be such reviews if there is any reason to believe they are called for. Reviews done as necessary make much more sense.

The second declaration approved by the committee recalls the commitment of the United States, Soviet Union, and Great Britain in the 1963 Limited Test Ban Treaty and in the Nonproliferation Treaty to seek to achieve the discontinuance of nuclear weapons for all time and to continue negotiations to that end.

I would note for my fellow Members that these commitments are solemn ones. While we may not treat these commitments as seriously as we should, others do. Our failure to show a commitment to and progress toward a complete ban was the underlying reason for the heated disagreements and the failure to reach an agreed position at the recent Nonproliferation Treaty Review Conference. Frankly, by continued disregard for a complete ban, the United States will put the Nonproliferation Treaty at risk. We must remember that the parties must decide whether to renew that treaty in 1995. Otherwise, it will expire and, thus, wreak havoc on efforts to control the spread of nuclear weapons.

It is appropriate that our commitment to a complete ban is renewed in the TTBT. In the first article of the treaty, the parties, for the first time, have undertaken a legally binding commitment to "continue their negotiations with a view toward achieving a solution to the problem of the cessation of all underground nuclear weapon tests."

The President's National Security Adviser, Brent Scowcroft, wrote me in July to make the following commitment:

As we put into practice the new verification Protocols, the United States will be ready to propose neogtiations on possible further limitations that make sense from a national security standpoint, contribute to stability, and still guarantee a reliable, safe, and effective deterrent.

Mr. President, the Senate's vote today will demonstrate strong bipartisan support for the continuation envisaged by General Scowcroft. I would urge that the administration not be timid. Early agreement on further limitations poses no risks to our security and offers a chance that must not be ignored.

Thank you, Mr. President.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, July 31, 1990.

Hon. RONALD F. LEHMAN II,
Director, U.S. Arms Control, and Disarmament Agency, Washington, DC.

DEAR AMBASSADOR LEHMAN: I want to thank you for the very helpful presentation you and other executive branch witnesses made on July 17 before the Committee on Foreign Relations with regard to the two new verification protocols to the Threshold Test Ban and the Peaceful Nuclear Explosions Treaties.

As I have reviewed the record of that hearing and started planning for the Committee consideration of the Treaties and protocols in early September, two matters occur which require clarification.

First, I would appreciate your affiriming that your testimony in explanation of the meaning of the Treaties and the obligations they entail, along with that of other Executive branch witnesses and materials submitted for the record, can be regarded as authoritative, and that the Senate can expect the Executive branch to regard itself as bound to interrpret and implement the Treaties in accord with these representations without the need for the Senate to incorporate such interpretations in its resolution of ratification.

This affirmation would necessitate that the Administration identify any instance in which an Executive branch witness's testimony is not authoritative and any discrepancies that may exist between the testimony given by its representatives and the testimony of representatives of previous Administrations concerning the obligations of the United States under the two Treaties.

Second, I conclude that it is necessary to have the Administration's written clarification of the areas of permissible modification contemplated by paragraphs 3 and 4 of Section XI of the Protocol to the Threshold Test Ban Treaty. This would ensure that changes to the Treaty and Protocol requiring Senate advice and consent would be treated according to constitutional requirements.

I expect the Committee to recognize that there is a need for an expedited modification of purely technical matters in the cases of highly detailed agreements such as the Protocol. However, the Committee's report will make it clear that the Committee will allow modification only on a case-by-case basis. The Committee would expect the Administration to inform it of any proposed modification under this procedure. This will enable the Committee to voice an objection in appropriate cases, before the issue becomes moot.

Please let me have your response, including the necessary affirmation and clarification, at your earliest convenience.

Ever sincerely,

CLAIBORNE PELL,
Chairman.

ARMS CONTROL AND DISARMAMENT AGENCY,
Washington, September 1, 1990.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: I write in response to your letter of July 31, 1990 requesting clarification of two matters relating to the Committee's consideration of the Threshold Test Ban Treaty (TTBT) and the Peaceful Nuclear Explosions Treaty (PNET).

First, with respect to the testimony of Administration witnesses received by your Committee during consideration of these two Treaties, I can affirm that the Senate should regard explanations of the meaning of the Treaties and the obligations they entail as authoritative, and that the Senate can expect the Administration to interpret and implement the Treaties in accord with such explanations. With respect to testimony on these Treaties given by previous Administrations, we are unaware of any substantive differences that we would have with such testimony as it relates to interpretation of the Treaties, and we will be happy to comment on any specific statements that you may have in mind.

Second, with respect to the modifications or changes contemplated by paragraphs 3 and 4 of Section XI of the TTBT Protocol, I can confirm that the intention of these paragraphs is to enable the Parties, on the basis of their day-to-day experience in living with the Protocols, to make such changes, of a technical, administrative or procedural nature as do not affect substantive rights and obligations under the Treaty and Protocol, that will improve the effectiveness of the verification regime. Any change of a substantive nature that would have an effect upon basic aims of the Treaty or rights and obligations of the Parties would have to be made by means of an amendment.

It is the expectation of the Administration that implementation of the Treaties and their Protocols will include continuing consultations with the Senate. Briefings should be a matter of course. Any proposed amendment would be the subject of specific con-

sultations and, following negotiation, would be subject to advice and consent.

Sincerely,

RONALD F. LEHMAN II.

ARMS CONTROL AND DISARMAMENT AGENCY,
Washington, DC, September 14, 1990.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: I write in further response to your letter of July 31, 1990, concerning questions that have arisen prior to mark-up of the resolution of ratification to the nuclear testing treaties.

I would like to provide the following further assurances concerning paragraphs 3 and 4 of Section XI of the TTBT Protocol. The Administration will provide notice concerning any modifications and charges negotiated with the Soviets to the provisions of the TTBT Protocol prior to such modifications or changes becoming binding on the Parties. The objective of this further assurance is to provide notice before an issue becomes "moot."

The Administration offers this further assurance because of the unique technical nature of the TTBT Protocol. The Administration does not consider this further assurance to be a precedent for other arms control agreements with similar provisions that may be concluded in the future.

Sincerely,

RONALD F. LEHMAN II.

Mr. HELMS. Mr. President, in February 1987 the Committee on Foreign Relations reported out resolutions of approval for the Threshold Test Ban Treaty—the TTBT—and the Peaceful Nuclear Explosions Treaty—the PNET. Unfortunately, at that time, the two treaties could not be effectively verified. The President had reported to the Congress that it was likely that the Soviets had violated the TTBT many times, but there was great controversy over whether or not these Soviet violations had occurred. The new verification protocols for each treaty had not yet been negotiated with the Soviet Union. In effect, the Senate was being asked to vote for a pig in a poke.

It was at that time that our distinguished colleague, Senator KASSEBAUM, proposed a solution. The solution was this: to approve the two treaties at the same time as an executive resolution directing the President to negotiate a new protocol calling for "direct, accurate yield measurements taken at the site of all appropriate nuclear detonations, or equivalent enhance verification methods." This phrase was a reference to the so-called CORRTEX verification system.

As I recall, Senator KASSEBAUM worked with our former colleague, Senator Evans, and I was pleased to join as a principal cosponsor.

Thus the Kassebaum-Evans-Helms resolution was reported to the Senate Executive Calendar at the same time as the treaty resolutions of ratification. Subsequently, a group of 34 Republican Senators wrote to the President that they could not vote to give advice and consent to the TTBT and PNET unless and until the President negotiated new verification protocols with the Soviets that would assure direct, accurate yield measurements using the CORRTEX method.

As a result of this letter, the Senate did not act on the two treaties, since it was clear that a two-thirds majority would not be present without the new protocols. The President now has completed negotiation on the new protocols, assuring use of the CORRTEX method, and the resolutions of ratification for the TTBT and PNET, including their new verification protocols, are before the Senate today.

Mr. President, after 16 years, we have finally achieved a TTBT that is effectively verifiable. The administration followed the advice of many of us that we should propose to the Soviets explicit trigger levels for CORRTEX measurements and other onsite inspection procedures, and at least two such CORRTEX measurements per year.

Many experts believe that, over the past 14 years, the Soviets have exceeded the 150 kiloton threshold in their underground nuclear weapons tests at least 24 times in order to increase their nuclear weapons capabilities. Unfortunately, the benefits they have gained by these violations cannot be reversed. But that is now past history.

The Soviets accepted these new verification protocols, contrary to the dire predictions of many experts in the United States who contended that a reasonable verification methodology would "kill the treaties."

I am pleased, therefore, to support the new verification protocols and the treaties.

Mr. President, I would like to quote some summary remarks from three unclassified Presidential reports to Congress on Soviet noncompliance with arms control treaties related to nuclear testing.

First, President Reagan's unclassified Report to Congress on Soviet Noncompliance With Arms Control Agreements, dated December 1, 1987, stated the following in regard to Soviet nuclear testing:

The record of Soviet noncompliance with the treaties on nuclear testing is of legal and military concern. Since the Limited Test Ban Treaty (LTBT) came into force over 20 years ago, the Soviet Union has conducted its nuclear weapons test program in a manner incompatible with the aims of the Treaty. That conduct regularly resulted in the release of nuclear debris into the atmosphere beyond the borders of the U.S.S.R. When the Soviets ended their unilateral nuclear testing moratorium on February 26, 1987, they resumed their pattern of noncompliance with treaties on nuclear testing by conducting the tests in a way which resulted in the release of radioactive matter into the atmosphere beyond the borders of the U.S.S.R. Even though the material from these Soviet tests does not pose calculable health, safety or environmental risks, and these infractions have no apparent military significance, our repeated attempts to discuss these occurrences with Soviet authorities have been rebuffed. The United States presented demarches to the Soviets on two separate occasions of unambiguous venting in 1987 and received completely unacceptable explanations. Soviet refusal to discuss this matter calls into question their sincerity on the whole range of arms control agreements. During their 1985–86 moratorium, the Soviets undoubtedly maintained their test sites because they quickly resumed testing and have since conducted a series of tests. One of these tests raised sufficient concern about Soviet compliance with the 150 kt limit of the TTBT that the United States raised the issue with the Soviets. In the March 1987 Report we reaffirmed the December 1985 U.S. Government judgment that, "Soviet nuclear testing activities for a number of tests constitute a likely violation of legal obligations under the Threshold Test Ban Treaty." We also reported that the finding would stand until a number of studies, which had been initiated in an attempt to provide a somewhat improved basis for assessing Soviet compliance, could be completed. While significant progress has been made on those technically difficult issues, we do not expect to provide an update until next spring. * * *

President Reagan's unclassified report to Congress on Soviet Noncompliance With Arms Control Agreements dated December 1, 1988, stated the following on Soviet nuclear testing:

The record of Soviet noncompliance with the treaties on nuclear testing is of political, legal, and military concern. Since the Limited Test Ban Treaty (LTBT) came into force over 20 years ago, the Soviet Union has conducted its nuclear weapons test program in a manner incompatible with the terms of the Treaty. That conduct has regularly resulted in the release of nuclear debris into the atmosphere beyond the border of the U.S.S.R. When the Soviets ended their unilateral nuclear testing moratorium on February 26, 1987, they resumed their pattern of noncompliance by conducting tests in a way which resulted in the release of radioactive matter into the atmosphere beyond the borders of the U.S.S.R. Even though the material from these Soviet tests does not pose calculable health, safety or environmental risks, and the infractions have no apparent military significance, in response to our repeated attempts to discuss these occurrences with Soviet authorities, they have only denied that these events have occurred and rebuffed U.S. requests for technical discussions which might lead to prevention of further Soviet venting. . . . Prior to the preparation of the March 1988 Report, a number of studies had been undertaken in an attempt to provide a somewhat improved basis for assessing Soviet compliance with the TTBT. The March 1988 Report found that: "The recent studies produced no definitive evidence supporting a change which would diminish the previous finding of 'likely violation.' The totality of evidence strengthens the previous findings, and the U.S. continues to find that the Soviet Union has likely violated its legal obligations under the TTBT."

President Bush's unclassified report to Congress on Soviet Noncompliance With Arms Control Agreements dated February 23, 1990, stated the follow-

ing: "Past evidence suggested that the Soviet Union also violated the TTBT."

Mr. President, I ask unanimous consent that some unclassified documentation supporting the President's case for ratification of the TTBT and the PNET, be printed in the RECORD:

First, a letter to me dated September 18, 1990, from the Assistant to the Secretary of Defense for Atomic Energy, Dr. Robert B. Barker. This letter endorses the five safeguards for the U.S. Nuclear Weapons Program, as requested by the Joint Chief of Staff of the Armed Forces. I strongly agree with Dr. Barker's statement that "These safeguards are essential to permit the United States to conduct those activities, including a vigorous underground nuclear testing program, necessary to maintain a safe, effective, reliable, and survivable nuclear deterrent."

Second, a letter to me dated September 4, 1990, from the Counselor of the Arms Control and Disarmament Agency, Ambassador Richard N. Holwill. This letter answers a series of questions that I posed on the TTBT and the PNET.

Third, another letter to me dated September 4, 1990, from the Counselor of the Arms Control and Disarmament Agency, Ambassador Richard N. Holwill. This letter also answers a series of questions that I posed on the TTBT and PNET.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ASSISTANT TO THE
SECRETARY OF DEFENSE,
Washington, DC, September 18, 1990.

Hon. JESSE HELMS,
Ranking Republican Member, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: I write in further response to questions concerning the position of the Office of the Secretary of Defense [OSD] on the nuclear testing safeguards contained in the TTBT-PNET resolution of ratification passed by the Committee on Foreign Relations.

OSD believes the language on safeguards in the resolution is acceptable. Although there are minor changes in wording from the safeguards submitted to the Senate in 1987 and endorsed by President Bush in his June 28 letter to the Senate, OSD believes that the clear intent of the new language is not to change the meaning of, or to lessen the United States Government commitment to, the safeguards. These safeguards are essential to permit the United States to conduct those activities, including a vigorous underground nuclear testing program, necessary to maintain a safe, effective, reliable, and survivable nuclear deterrent.

Sincerely,

ROBERT B. BARKER.

ARMS CONTROL AND
DISARMAMENT AGENCY,
Washington, DC, September 4, 1990.

Hon. JESSE HELMS,
Ranking Member, Senate Foreign Relations Committee.

DEAR SENATOR HELMS: Ambassador Lehman thanks you for the opportunity to testify before the Senate Foreign Relations Committee on the two new verification protocols to the Threshhold Test Ban and the Peaceful Nuclear Explosions Treaties.

Enclosed are the unclassified responses to the written questions you submitted in connection with the testimony of Ambassador Lehman, Ambassador Robinson, Doug Graham, Vic Alessi and Lt. Gen. George L. Butler on July 17, 1990. I trust that you will find all the answers fully responsive. We are sending a classified response to you in separate package. I trust that you will find all the answers fully responsive.

If you have any questions or need additional information, please feel free to contact me at 647-3612.

Sincerely,

RICHARD N. HOLWILL,
Counselor.

Enclosure:

SFRC QUESTIONS AND ANSWERS

1. Results. Were all of the Administration's objectives met in the TTBT and PNET Protocol negotiations?

A: Yes. All Administration objectives were met in the negotiations. The principal objective of the Nuclear Testing Talks was to negotiate protocols that would provide for effective verification, which would allow ratification of the TTB and PNE Treaties. In pursuing this objective, we obtained Soviet agreement for the right to use on-site hydrodynamic yield measurements for any test that might by remote means appear to exceed the 150-kt threshhold. Additionally, the United States preserved U.S. nuclear testing options and protected the secrecy of U.S. nuclear weapons, defense, and intelligence programs. (U)

2. Benefit for Soviets. What do you see as the benefit of the Treaties for the Soviet Union?

A: We cannot say what benefits that the Soviet Union feels it has obtained from the Treaties. (U)

3. *Cheating.* During the last decade, the Soviet Union has been charged by Reagan Administration officials of being in likely violation of the TTBT and PNET. Critics have charged that the obligations [sic] of cheating were based more on political desire than scientific evidence. With ample opportunity to assess the new information, do you believe there is convincing evidence that the Soviets committed intentional breaches of the ceiling?

4. *Soviet Compliance.* Does the information available now indicate that the Soviets have, in all likelihood, endeavored to comply with and have in all probability been in compliance with the TTBT and PNET?

A: There is no information available today that would cause the President to change his findings on past likely Soviet violations of the Soviet Union's commitment not to exceed the 150-kt limit of the TTBT. These findings stand as submitted to the Congress. Unfortunately, the United States was unable to use CORRTEX on past Soviet events that raised compliance concerns and which resulted in a judgment of "likely violation." While CORRTEX data that the United States gathers on future Soviet tests may shed light on past concerns, there is no guarantee that past compliance concerns will be clarified by data collected under the provisions of the new Protocol. (U)

5. *Prospects.* Do you believe that the Soviets now intend to live up to their commitments under the Treaties and the new Protocols?

A: The U.S. hopes the Soviets now intend to live up to their commitments under the Treaties and the new Protocols. However, there is no guarantee that they will. The Protocol provisions are intended to deter and detect cheating in a timely manner. (U)

6. *Intrusive Techniques.* Given the intrusive nature of the hydrodynamic monitoring and the enhanced seismic measuring, would it be possible for the Soviets to engage in any significant deception in their testing program?

A: We are confident that the implementation of the new verification Protocols will enable us to detect with high confidence any plausible Soviet attempts at deception. (U)

7. *Detection.* Are you convinced that we would detect any cheating of any military significance?

A: Yes. (U)

8. *Follow-on Negotiations.* The Reagan Administration was committed to seeking immediate follow-on negotiations with the Soviets when the TTBT and PNET were completed.

What did the Reagan Administration tell the Soviets regarding this commitment?

What had this Administration told the Soviets in this regard?

A: From the point-of-view of U.S. national security objectives, the commitments of the Reagan Administration with regard to nuclear testing limitations were to a step-by-step process and to hold a comprehensive test ban as an ultimate goal, but only at a time when our national security no longer depended on nuclear deterrence. The Reagan Administration also stated that for the foreseeable future nuclear testing would be a vital national security requirement of the U.S.

The Bush Administration reaffirmed the commitment both to a step-by-step approach and to a CTB as a long-term goal, but pointed out that so long as the U.S. must rely on nuclear weapons for security we must continue to test. In addition, during the course of the NTT negotiations, as well as at various ministerial meetings, the Administration has emphasized to the Soviets that we believe that, due to the complex verification provisions of the TTBT and PNET, it would be necessary, as a practical matter, to gain experience with their implementation so that the U.S. might better assess the verification lessons learned before considering further nuclear testing limitations. (U)

9. *Scowcroft Letter.* In a July 9 letter to the Chairman, Brent Scowcroft said the President believes we must gain some experience with the Protocols "as a guide to the character of the most appropriate next steps. . . ."

Does that mean the Administration intends for there to be a long delay before anything further happens with regard to new constraints?

Is a long delay fine with the Soviets?

How will a long delay sit with other nations attending the Non-Proliferation Treaty Review Conference in a matter of weeks?

Do you believe we will pay a political price of any significance if we seem prepared now to stop any further progress on testing constraints?

A. In January, 1990, President Bush reaffirmed the Administration's commitment to a step-by-step approach to further limits on nuclear testing. Because of the unprecedented nature and complexity of the techniques required for effective verification of

underground nuclear tests, it is only prudent that we should learn how well the just-agreed verification regime works as a necessary foundation for making or accepting proposals which build on it. Therefore, we cannot say at this time how long a period of observation of implementation of the TTBT and PNET following the ratification will be required. However, as we put into practice the new verification protocols, the U.S. will be ready to propose negotiations on possible further limitations that make sense from a national security standpoint, contribute to stability, and still guarantee a reliable, safe, and effective deterrent.

Nuclear weapons will continue to play a critical role in U.S. national security strategy. So long as this is the case, the U.S. must be free to conduct nuclear tests to ensure the credibility of our forces. The U.S. has not identified any further limitations on nuclear testing beyond those now contained in the TTBT that would be in the U.S. national security interest.

The Soviets have stated that they do not require a period of observation of implementation. We do not know the views of other nations on this question.

The U.S. believes that effective implementation of—and Soviet compliance with—these Treaties and their Protocols would represent significant progress in the area of nuclear testing limitations. (U)

11. *Who's in Charge?* What executive agency will be in charge of the verification programs set forth in these Protocols?

A: The Arms Control Policy Coordinating Committee (PCC), composed of ACDA, OSD, JCS, DOE, DCI and State and chaired by the National Security Council, has overall responsibility for implementation of the TTBT and PNET. It will issue guidance for U.S. inspectors, consider questions of compliance, provide public affairs guidance on implementation and compliance, etc.

The On-Site Inspection Agency (OSIA) will manage the conduct of in-country nuclear test and peaceful nuclear explosion monitoring activities in the U.S. and USSR, including scheduling, transportation, linguistic, communications, escort, and housing associated with these activities.

A Team Leader (senior U.S. representative) appointed by OSIA will lead each team of U.S. inspectors sent to the Soviet Union and shall have final authority over the team and in all dealings with the Soviet counterparts. The Team Leader will also serve as the Representative of the Verifying Party to the Coordinating Group established by the Protocols. The Department of Energy (DOE), augmented by Department of Defense (DOD) as appropriate, will provide the technical/operations members of the team to conduct CORRTEX and the other on-site inspection activities permitted by the Treaties. The Department of Defense, augmented by DOE as appropriate, will provide the technical/operations members of the team for tests involving "hydro-plus" measurements and for in-country seismic measurements. Personnel from other agencies, as appropriate, may also be included as members of the teams.

DOE (for CORRTEX) and DOD (for hydro-plus and seismic) will designate a chief of technical operations for each event. The chiefs of technical operations will operate under the overall direction of the Team Leader, and will also participate in the U.S.-USSR Coordinating Group established by the Treaties.

For Soviet activities in the U.S., OSIA will be responsible for all U.S. activities related to Soviet monitoring of U.S. tests at Designated Seismic Stations and will designate the U.S. representative who will be responsible for the U.S. escorts and for all dealings with the Soviet inspection team.

OSIA will be responsible for all escort activities related to Soviet monitoring of tests at the Nevada Test Site (NTS) and will appoint a senior U.S. representative (Team Leader) who will have overall responsibility for dealing with the Soviet inspection team.

At the Nevada Test Site (NTS), DOE will oversee technical operations and advise the U.S. Team Leader at the U.S.-USSR Coordinating Group. DOE will retain responsibility for testing operations, matters of safety, safeguarding classified information, and public affairs at the Nevada Test Site.

For tests conducted by the Defense Nuclear Agency (DNA) that are subject to the TTBT Protocol, the division of responsibilities between DOE and DNA will parallel the responsibilities of the DOE Test Controller and the DNA Test Director for the nuclear device and the conduct of the experiments.

OSIA currently has deputy directors from ACDA (Principal), State, and the FBI. Given the extensive interaction between OSIA and DOE, a senior DOE representative has been assigned to OSIA to help maintain effective coordination between OSIA and DOE. (U)

12. *Requirements.* What are your best estimates as to the people and money needed by each of the involved agencies to carry out the verification program set forth in these Protocols? To what extent can costs be absorbed within the existing agency budgets?

A: The Administration is currently developing cost estimates for the various verification options. When this process is complete, the Administration will forward its cost estimate to the Senate. (U)

13. *Trigger Levels.* Why was the trigger level of 50 kt chosen for hydrodynamic measurement? Why was the 35 kt level chosen as the trigger level for on-site inspection (OSI)?

A: The trigger levels were established to preclude cheating through the conduct of tests in geologic conditions (e.g., cavities, porous rock) which would muffle or "decouple" the energy produced by the tests, thereby causing remote seismic means to underestimate the yields of the tests.

A trigger level of 50 kt for the use of the hydrodynamic yield measurement method ensures that even if we assume an error factor of up to three for the seismic method, we can be confident of monitoring compliance with the 150-kt limit. Given U.S. verification capabilities, it is highly unlikely that tests whose actual yields are below 50 kt could appear by teleseismic estimates to be above the 150-kt limit of the TTBT.

An identical trigger level was established for in-country seismic monitoring to ensure reciprocity.

For added measure of protection, OSI rights were established at 35 kt. For tests or explosions with yields greater than 150 kt, credible decoupling factors greater than 4 or 5 are unlikely; hence the 35-kt trigger for OSI ($4\times35=140$; $5\times35=175$). (U)

ARMS CONTROL
AND DISARMAMENT AGENCY,
Washington, DC.

Hon. JESSE HELMS,
Ranking Member, Senator Foreign Relations Committee.

DEAR SENATOR HELMS: Ambassador Lehman thanks you for the opportunity to testify before the Senate Foreign Relations Committee on the two new verification protocols to the Threshhold Test Ban and the Peaceful Nuclear Explosions Treaties.

Enclosed are the unclassified responses to the written questions you submitted in connection with Ambassador Lehman's testimony on July 17, 1990. I trust that you will find all the answers fully responsive. We are sending the classified responses to you in separate package. I trust that you will find all the answers fully responsive.

If you have any questions or need additional information, please feel free to contact me at 647-3612.

Sincerely,

RICHARD N. NOLWILL,
Counselor.

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* * * * *

2. Will the new TTBT Verification Protocol in effect "grandfather," pardon, or condone all the previous "likely" Soviet violations of the TTBT that the President has reported to Congress? (U)

A. Approval of the Treaties and their new Protocols does not constitute "grandfathering," pardoning or condoning of past likely Soviet violations of the Soviet commitment not to exceed the 150-kt limit of the TTBT. Findings on this subject stand as submitted to the Congress. Unfortunately, the United States was unable to use CORRTEX or carry out on-site inspection on past Soviet events which raised compliance concerns. While CORRTEX or OSI data that the United States gathers on future Soviet test may shed light on past concerns, there is no guarantee that past compliance concerns will be clarified by data collected under the provisions of the new Protocol. (U)

3. Would a vote for the TTBT, even with its better new Verification Protocol, mean that one was in effect forgiving the likely, previous Soviet violations of the TTBT reported to Congress by the President? (U)

A. Approval of the Treaties and their new Protocols does not constitute a "forgiving" of past likely Soviet violations of the Soviet commitment not to exceed the 150-kt limit of the TTBT. Findings on this subject stand as submitted to the Congress. Unfortunately, the United States was unable to use CORRTEX or carry out on-site inspection on past Soviet events which raised compliance concerns. While CORRTEX or OSI data that the United States gathers on future Soviet tests may shed light on past concerns, there is no guarantee that past compliance concerns will be clarified by data collected under the provisions of the new Protocol. (U)

4. Could the Soviets declare soon after ratifications of the TTBT that they were moving all their nuclear testing from the old range at Semipalatinsk in Central Asia, to a new range at Novaya Zemlya in the Arctic Ocean? (U)

A. Yes. The Novaya Zemlya test site, however, is not a new site. It has been in use for over 30 years. In addition, it has been declared as a test site in the TTBT Protocol. Thus, U.S. inspectors would have on-site inspection rights and the right to carry hydrodynamic measurements at Novaya Zemyla if the Soviets declared there were tests scheduled there with planned yields over 35 kt and 50 kt, respectively. (U)

5a. Would the U.S. have the right to CORRTEX twice a year at the new Novaya Zemlya range, regardless of yield, for only five years? (U)

A. The TTBT Protocol provides that the Verifying Party always has the right, for the life of the Treaty, to carry out hydrodynamic yield measurement on all tests with planned yields over 50 kt. For the first five years after entry into force, if the Testing Party does not conduct at least two tests per year over 50 kt, the Verifying Party has the right to carry out hydrodynamic yield measurements on two tests chosen by the Testing Party from among those having the highest planned yields. (U)

After the first five years, if the Testing Party does not conduct at least one test having a planned yield greater than 50 kt each year, the Verifying Party has the continuing right to conduct hydrodynamic yield measurements on one test per year from among those with the highest planned yield, unless the sides otherwise agree. (U)

If the Soviet Union does not conduct any tests with declared planned yields over 50 kt, the United States would have the right, during the first five years, to use CORRTEX on up to two tests per year chosen by the Soviet Union from among those having the highest planned yields. These tests could be at either Soviet test site or both. (U)

Similar provisions providing a minimum guarantee to conduct CORRTEX govern the case where a side opens a new test site. Novaya Zemlya, however, is not a "new" test site as that term is used in the Protocol. In fact, it is identified as one of two declared Soviet test sites in the TTBT Protocol. (U)

In addition, if the Soviet Union conducts a nuclear explosion with a planned yield over 35 kt somewhere other than at their declared test sites, the provisions of the PNET Protocol are applicable. Thus, the Soviet Union would not be able to cheat by moving a nuclear weapon test off a test site and claiming it is a non-weapon explosion not subject to the provisions of the TTBT Protocol. (U)

5b. After five years, could the Soviets test at almost any yield at the new Novaya Zemlya range? (U)

A. As long as the TTBT is in force, the Soviet Union has the right to conduct a test at any yield up to and including 150 kt at Novaya Zemlya (NZ). Following entry into force of the TTBT and its new Protocol, the United States has the right to conduct on-site inspection on any test having a planned yield exceeding 35 kt and on any test having a planned yield over 50 kt if CORRTEX is not used on that test. In addition, any test with a planned yield over 50 kt is subject to hydrodynamic yield measurement by the Verifying Party. These rights apply whether the test is at NZ or any other test site. (U)

5c. Are there any other realistic cheating scenarios for the Soviets under the new protocols? If so, how will we try to cope with them? (U)

A. The United States has not been able to identify any realistic cheating scenarios for either the TTBT or PNET. In addition, an independent Red Team review of both TTBT and PNET Protocols was unable to identify any realistic cheating scenarios. (U)

6. Because the TTBT preamble "reaffirms Soviet adherence to the Limited Test Ban Treaty," which the Soviets have been confirmed by the President to have clearly and unambiguously violated, does voting for the TTBT also condone multiple clear Soviet violations of the LTBT? (U)

A. Approval of the Treaties and their new Protocols does not constitute a condoning of past likely Soviet violations of the LTBT. Findings on this subject stand as submitted to the Congress. (U)

7. Why can data on the results of the observations or measurements of all tests only be released to the public with agreement of both Parties? Would not compliance enforcement leverage and confidence in compliance be enhanced by the required public release of these observations and measurements? (U)

A. It is of great importance to the United States that each Party must retain the right to make independent judgments of compliance with the Treaties and the right to make public its findings. Public release, however, of the raw data from on-site measurements and observations would only invite compliance judgments from many individuals or groups. None of these individuals or groups, of course, would have access to the full suite of information available to the U.S. Government upon which it will base compliance judgments. In addition, in the negotiations both sides were concerned that some data obtained during on-site measurements might be proprietary or otherwise sensitive. To protect both sides, the Protocol provides that the Parties must agree before either may release data collected on-site. (U)

8. Section XI of the TTBT Verification Protocol establishes the Bilateral Consultative Commission, and states that it may consider amendments to the TTBT or to the Verification Protocol. Will any and all such amendments be submitted to the Senate and be subject to advice and consent by the Senate? If not, why not? (U)

A. Yes. Under paragraph 1(a) of Section XI of the Bilateral Consultative Commission (BCC) may "consider any suggestions for amendments to the Treaty or this Protocol." Such amendments would require Senate advice and consent and presidential ratification. (U)

9. What are the specific estimated costs of the various TTBT/PNET verification options? How much do we estimate that the TTBT/PNET will cost to monitor and verify each year for the first five years? (U)

A. The Administration is currently developing cost estimates for the various verification options. When this process is complete, the Administration will forward its cost estimates to the Senate. (U)

10. What is the degree of confidence in the CORRTEX monitoring method, as compared to the "factor of two" uncertainty in using only the seismic method? (U)

A. The CORRTEX hydrodynamic yield measurement method is expected to be initially accurate to within 30% with 95% confidence at Soviet test sites. (U)

11. Why does the U.S. have only one test site, and the Soviets two? (U)

A. The United States believes all the objectives of the U.S. test program can be met consistent with its arms control commitments at one test site—the Nevada Test Site. (U)

The United States cannot confirm the reasons for two Soviet test sites. (U)

12. Why are the minimum of two tests per year that are subject to CORRTEX selected by the Testing Party and not by the Verifying Party? (U)

A. When the United States proposed inclusion of a provision for the right to CORRTEX a minimum of two tests per year if no tests were conducted with planned yields exceeding 50 kt, our primary motivation was to guarantee U.S. access to Soviet test sites. Otherwise the Soviet Union could deny the United States the opportunity to use hydrodynamic measurements by claiming that all their tests were below 50 kt. (U)

We tried to avoid unwarranted intrusion into each side's test program. The "two per year" minimum is to be from among the tests with the highest planned yields. For the Verifying Part to make that choice, the Testing Party would have to provide the planned yields of all its tests. From the standpoint of our own test program the United States regarded this as an undesirable and unnecessary intrusion. (U)

13. Why is the Testing Party allowed to "case" or "line" a satellite hole used for testing monitoring? (U)

A. Satellite holes may require casing to prevent them from caving in. When the Testing Party cases a hole, the TTBT Protocol requires that Parties must agree on the casing materials to be used. This provision is intended to prevent casing materials from interfering with hydrodynamic measurements of the Verifying Party. (U)

14. Why are tests in cavities allowed? (U)

A. When the sides began to draft the new Protocols to the TTBT and PNET, they agreed that they should not place additional limitations on the test program or peaceful nuclear explosions program that were not in the treaties themselves. As such, our concern was not with test or PNE configuration but with verification. Since both sides conduct tests in cavities, our only concern was that Soviet testing in cavities would not be used as part of an evasion scenario that would interfere with U.S. seismic national technical means. (U)

Mr. HELMS. Mr. President, I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, will the Senator from Rhode Island yield me approximately 3 minutes?

Mr. PELL. I yield such time as he may need to the Senator from Georgia.

Mr. NUNN. I thank my colleague.

Mr. President, I support the resolution of ratification reported by the Foreign Relations Committee on September 14 on the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, and recommend that the Senate give its advice and consent thereto. The United States has been observing the 150-kiloton ceiling on underground nuclear tests since the TTBT was signed in 1974. Thus the treaty will make no difference in terms of our compliance with this limitation. However, the protocol to the TTBT which was signed by President Bush and President Gorbachev on June 1 contains important advances in on-site monitoring of nuclear tests and should significantly increase the level of U.S. confidence in Soviet compliance with the 150-kiloton ceiling.

Mr. President, on September 17, the Senate Armed Services Committee conducted a hearing on the national security implications of these two treaties. The committee received testimony from two panels of executive

branch witnesses. Panel 1 was comprised of Ambassador Ron Lehman, the Director of the Arms Control and Disarmament Agency, the Ambassador C. Paul Robinson, the chief United States negotiator at the United States-Soviet nuclear testing talks. The second panel included Robert Barker, Assistant to the Secretary of Defense for Atomic Energy; Victor Alessi, Director of the Office of Arms Control in the Department of Energy; and Rear Admiral Thomas R. Fox, Deputy Director for International Negotiations on the Joint Chiefs of Staff.

During the hearings, the Senate Armed Services Committee developed an important legislative record on several substantive and procedural issues that I would like to bring to my colleagues' attention as we prepare to vote on the treaties.

Mr. President, the first issue concerns nuclear safeguards.

These safeguards were recommended by the Joint Chiefs of Staff in 1987 and considered an integral part of the TTBT/PNET ratification package by both the Reagan and Bush administrations. In his June 28 letter transmitting TTBT/PNET and their protocols to the Senate, President Bush stated that these safeguards "are essential to our national security and the maintenance of a credible nuclear deterrent." The safeguards are of particular interest to me and to the Armed Services Committee because they provide a form of insurance against unexpected political or technical developments that could affect the military balance in the future and ensure that the United States could respond to any significant military advantage the Soviets might achieve through any cheating scenarios.

The Foreign Relations Committee resolution ratification for the TTBT recommends ratification of the treaty subject to a condition in the form of a declaration concerning the safeguards. This declaration expresses the sense of the Senate that:

> To ensure the preservation of a viable deterrent there should be safeguards to protect against unexpected political or technical events affecting the military balance; that such safeguards, consistent with national interests and resources, should be an important ingredient in decisions on national security programs and allocation of available resources.

The committee' s resolution for ratification lists five specific safeguards. Since the text of the safeguards recommended by the Foreign Relations Committee differs in some respects from the safeguards text submitted by the executive branch in 1987, questions were raised during the Armed Services Committee hearing as to whether the administration supported the Foreign Relations Committee's modifications.

We asked each of the witnesses whether they agreed that the safeguards understanding that the President and the Joint Chiefs had reached was reflected in the Foreign Relations Committee report and in the Foreign Relations Committee deliberations. The answer each time we asked that question was that they did agree that the committee's resolution of ratification was consistent with the administration's safeguards.

So there has been a meeting of the minds between the Foreign Relations Committee and the executive branch on this important issue.

At the Armed Services Committee hearing, Ambassador Lehman stated:

> We have agreed to the five safeguards that are in fact contained in the Senate Foreign Relations Committee declaration.

Ambassador Robinson, testifying on behalf of Secretary of State Baker, said:

> The Administration does strongly support the language of the safeguards, the particular safeguards that appear in that resolution.

Admiral Fox, testifying on behalf of the JCS, stated:

> We have no objections to the Senate Foreign Relations safeguards. * * * Although the words are general and we think they are couched in general terms, less specific than before, we feel that their intent is still very clear.

Mr. Alessi, representing DOE, stated:

> I agree with the Admiral's remarks.

Finally, Mr. Barker, representing the Secretary of Defense, testified that:

> It is my understanding that that [i.e., the text of the Foreign Relations Committee's declaration] was intended to capture the full intent of the administration's original position.

Mr. Barker also affirmed that the Defense Department is ready to implement the safeguards in fiscal year 1991. The day following the hearing Mr. Barker wrote me a letter confirming that the Office of the Secretary of Defense believes the committee's declaration is acceptable.

Mr. President, I ask unanimous consent that Mr. Barker's letter be printed in the RECORD at the conclusion of my remarks.

Mr. President, the second concern that we went into in considerable detail in the Armed Services Committee relates to the overall executive branch and congressional position that has been held for a long time that, following the ratification of these two treaties, the United States and the Soviet Union would begin to engage in negotiations to work toward further limitations on testing, leading eventually to a Comprehensive Test Ban Treaty, or CTB. This has been a U.S. goal for a long time.

In October 1986, when President Reagan and Gorbachev were about to engage in the summit conference at Reykjavik, we had a big dispute in the conference between the House and the Senate relating to the provision in the House bill requiring an immediate move toward a CTB. We reached a compromise that with a letter from President Reagan and a very specific pledge that once the verification improvements for TTBT and PNET had been negotiated, the United States and the Soviet Union would—this is President Reagan's letter to the Senate and the House conference on the military authorization bill—"immediately engage in negotiations on ways to implement a step-by-step parallel program, in association with a program to reduce and ultimately eliminate all nuclear weapons, of limiting and ultimately ending nuclear testing."

In exchange for that very specific pledge, the House dropped the provision in its bill mandating a comprehensive test ban that would have gone into effect immediately, which the administration was adamantly opposed to.

I want to make it clear to our colleagues that the President's use of the word immediately, in that letter was not inadvertent. We spent hours negotiating that. In fact, I had a specific conversation with, I believe, Admiral Poindexter on that point. The NSC staff wanted to drop the word immediately, and we in the conference insisted that word remain in the letter. So that word did remain in the letter. So it was not inadvertent. The President himself focused on that, I am sure, based on the assurances I had from the National Security Council staff.

That was a very important pledge. It now comes into play, and we were very interested in the Bush administration's position on the next steps issue. We went into considerable detail with Ambassador Lehman on that point, and in the Armed Services Committee hearings he gave assurances that any pause—he did refer to a pause in the negotiations—will not be extremely lengthy.

In response to my question as to whether the delay would involve a matter of months, as opposed to years, Ambassador Lehman replied, "We are not talking about years." So the clear implication here was that he was talking about a matter of months. I do not know whether he meant 4, 6, 8, or 9 months. There is not an absolute understanding here, but there has been so much discussion—and so many confusing signals being sent from the executive branch over the years on this point—that it is important that the administration's authoritative spokesmen made it clear that they are talking about a brief pause that would not be a matter of years before moving toward a step-by-step process of further limitations, including possibly further reductions in the number and the overall kilotonnage of these tests.

I do not think we are talking about going in one step to a comprehensive test plan, but I think we do now have the Bush administration on record on this process.

Mr. President, we also went into considerable detail on the whole question of the Sofaer Doctrine that came into play, of course, with regard to the interpretation of the ABM Treaty. We also had a very big debate on that during the INF Treaty ratification. The Senate acted on two different votes on that and made it very clear, both in the approval of the Byrd-Biden amendment and on a second vote, exactly what the Senate expected and what it demanded. It was made a part of the ratification proceeding, with a specific understanding on that point by the Senate.

It was further clarified in the next amendment that came up, by Senator SPECTER, that would basically have moved back toward the Sofaer doctrine, and that was rejected by an overwhelming vote of 67 to 30. So the Senate, on the INF Treaty, repudiated the Sofaer Doctrine on treaty interpretations and made it clear that when we are given assurances by administration spokesmen as to what a treaty means, those assurances are binding, if they are authoritative and delivered to the Senate in the course of its overall consideration of the ratification of the treaty.

We wanted to make sure the Bush administration understood how strongly we felt on this point, and we wanted to get them on record as to how they interpreted the overall executive-legislative relationship with respect both to treaty interpretation and to political commitments made during the ratification proceedings.

On July 31, Chairman PELL wrote Ambassador Lehman asking him to affirm on behalf of the administration that:

> Your testimony in explanation of the meaning of the treaties and the obligations they entail, along with that of other Executive branch witnesses and materials submitted for the record, can be regarded as authoritative, and that the Senate can expect the Executive branch to regard itself as bound to interpret and implement the Treaties in accord with these representations without the need for the Senate to incorporate such interpretations in its resolution of ratification.

This language is consistent with the three points on the treaty interpretation issue which I and other Senators insisted upon during our discussions with the Reagan administration prior to the Senate's floor debate on the INF Treaty. At that time, we sought and attained assurances from Secretary Shultz that:

> One: the testimony of all Executive branch witnesses and any submissions for the hearing record by the Executive branch can be regarded by the Senate as authoritative.
>
> Two: the meaning of the treaty as presented to the Senate can be regarded by the Senate as authoritative without the necessity of the Senate's incorporating that testimony and material in its resolution of ratification through understandings, reservations, amendments or other conditions.
>
> Three: a meaning for the treaty different from that presented to the Senate by the administration cannot be adopted by the administration without the approval of the Senate.

On September 11, Ambassador Lehman submitted a reply that responded to two—but not all three—of the points raised in Chairman PELL's letter. In his letter to Chairman PELL, Ambassador Lehman stated:

> With respect to the testimony of Administration witnesses received by your Committee during consideration of these two Treaties, I can affirm that the Senate should regard explanations of the meaning of the Treaties and the obligations they entail as authoritative, and that the Senate can expect the Administration to interpret and implement the Treaties in accord with such explanations.

Left unaddressed in this reply was any comment as to whether the Bush administration thinks the Senate must incorporate its understandings of the treaty as conditions to the resolution of ratification if it expects to hold the executive branch to those understandings. As I shall explain, I am pleased Ambassador Lehman filled in this blank in a very satisfactory manner during the Armed Services Committee hearing last week.

The notion that shared understandings that the Senate chose not to incorporate in its resolution of ratification were not necessarily binding on the administration was a central element of former State Department Legal Advisor Abraham Sofaer's original doctrine on the division of powers between the Senate and the Executive in the area of treaty interpretation. Judge Sofaer's extraordinary assertion of March 26, 1987, that when the Senate "gives its advice and consent to a treaty, it is to the treaty that was made, irrespective of the explanations it is provided" became shorthand for what came to be known as the "Sofaer Doctrine."

At the heart of the dispute between the Senate and the Reagan administration on the treaty interpretation issue was the question of whether a specific "means test" proposed by senior executive branch legal officials had to be satisfied before executive branch testimony and other official communications to the Senate during ratification proceedings would be treated as binding on all future Presidents under domestic law.

In an April 9, 1987, opinion written by Assistant Attorney General Charles Cooper, the Justice Department acknowledged that in certain instances the President would be estopped from making an interpretation that conflicted with what the Senate was told at the time of ratification. Mr. Cooper's legal memorandum included the following statements:

> If * * * the ratification record unequivocally shows that the President presented the treaty to the Senate based on specific, official representations regarding the meaning of an ambiguous provision, that the Senate regarded that understanding as important to its consent, and that the Senate relied on the representations made by the executive branch in approving the treaty (and thus in refraining from attaching a formal reservation setting forth the understanding), we believe that the President would, in effect, be estopped from taking a contrary position in his subsequent interpretation of the treaty, just as he would be bound by a formal reservation or understanding passed by the Senate to the same effect.

The Justice Department's recognition that executive branch testimony during the ratification proceedings could—at least in certain circumstances—be binding on future Presidents repudiated Judge Sofaer's earlier assertion that the Senate could not rely on the representations it received as to a treaty's meaning. The Justice Department's opinion was endorsed 1 year later in a March 17, 1988, letter to Senator LUGAR from White House Counsel Arthur Culvahouse. In the Culvahouse letter, the White House contended that Presidents would be bound by executive branch representations to the Senate at the time of ratification—but only if those communications met a specific means test. According to Culvahouse, executive branch testimony should be treated as binding only if it was: First, authoritatively communicated; second, clearly intended; and third, generally understood and relied upon by the Senate in its advice and consent to ratification.

For advocates of the reinterpretation of the ABM Treaty, the attraction of the Culvahouse means test that it afforded the executive branch a virtually unlimited set of options for disavowing the binding effect of ratification testimony presented by previous administrations. As the New York Times noted in a May 5, 1988, editorial, "Since it is hard to know what this mumbo-jumbo means, Presidents would be free to do with treaties as they wish."

If a future President wanted to evade the obligations flowing from a particular treaty interpretation presented to the Senate at the time of ratification, he could declare that the Executive branch official who presented the testimony in question was not "authoritative." While the Senate agreed in principle that it could not expect to rely on representations which were not authoritative, efforts by the Reagan administration to discount on this basis testimony on the ABM Treaty in 1972 by certain senior officials, including the Secretary of Defense and the Director of Defense

Research and Engineering, revealed the potential for abuse concerning what would, at first blush, appear to be a commonsense rule.

If a future president prefered not to try to exploit the authoritative witness loophole, he could turn to either of the two other escape clauses incorporated in the Culvahouse/Sofaer criteria. For example, a future president could assert that particular testimony could be disregarded, because it was not generally understood by Senators who voted on the treaty. How would one determine what may or may not have been in the minds of Senators who heard the testimony or reviewed the hearing prints? Alternatively, he could claim—as was done in the ABM case—that the ratification record does not provide sufficient indication that all or most Senators "relied upon" a particular body of testimony in voting on the treaty. Again, how is one to determine what testimony was or was not on the minds of particular Senators at the time they cast their votes?

If the Senate had accepted all three components of the Culvahouse means test and carried it to its logical conclusion, Senators would have had no recourse during the INF ratification proceedings not only to have confirmed that each witness was authoritative (as we in fact did), but also to have paused after each bit of testimony and made it a matter of record that they regarded each statement as clearly intended, generally understood, and one on which they would rely. Such an approach would not only have placed an inordinate burden on the Senate, it also would have made a mockery of Senate ratification proceedings.

In lieu of the straightjacket which would have been imposed on the Senate by the Culvahouse criteria, the Senate adopted a treaty interpretation amendment to the resolution of ratification accompanying the INF Treaty, which incorporated a more comprehensive and common-sense definition, based on the treaty clauses of the Constitution, of what constituted binding testimony. The provision, known as the Byrd-Biden amendment provided, first, that the INF Treaty must be interpreted by future Presidents "in accordance with the common understanding of the treaty shared by the President and the Senate at the time the Senate gave its advice and consent to ratification." The amendment declared that this common understanding was based on:

(A) First, the text of the Treaty and the provisions of this resolution of ratification; and

(B) Second, the authoritative representations which were provided by the President and his representatives to the Senate and its Committees in seeking Senate consent to ratification, insofar as such representations were directed to the meaning and legal effect of the text of the Treaty.

During the Senate debate on the Byrd-Biden amendment, Senator SPECTER argued that it should be defeated because, inter alia, the amendment's definition of what constituted a "common understanding" of the treaty's meaning did not enumerate the three criteria of the Culvahouse means test. Rejecting this and other criticisms, the Senate on May 26, 1988, adopted the Biden-Byrd amendment by an overwhelming and bipartisan vote of 72-27.

Although supporters of the Byrd-Biden amendment thought that this vote had resolved the issue, Senator SPECTER pursued the debate further the following day. As I previously mentioned, the Senator demanded a roll-call vote on an amendment he offered which would have qualified the Byrd-Biden amendment by adding the following sentence:

Common understanding means a shared interpretation which is both authoritatively communicated by the Senate by the Executive and clearly intended, generally understood, and relied upon by the Senate in its advice and consent to ratification.

By offering his amendment, Senator SPECTER performed an important service in ensuring that the Culvahouse means test would be put to a clear-cut vote. Following an extensive debate in which the opposing sides forcefully and intelligently argued their respective cases, the Senate rejected the amendment—and with it what remained of the Sofaer Doctrine—on a bipartisan vote of 67 to 30.

Mr. President, until the ratification proceedings on TTBT/PNET, the Senate had no indication of where the Bush administration stood on these critical issues. I am very pleased, therefore, that in his correspondence with Chairman PELL and his testimony before the Armed Services Committee, Ambassador Lehman provided assurances that fully recognize the Senate's rights and prerogatives in this area.

At the Armed Services Committee's September 17 hearing, I pointed out to Ambassador Lehman that on September 11, he had provided the Foreign Relations Committee a letter containing various clarifications and assurances concerning the meaning of the TTBT protocol as it applies to changes that can be made in the TTBT protocol without requiring an amendment, and hence without Senate approval. The Foreign Relations Committee was satisfied with these representations and chose not to incorporate this shared understanding as to the meaning of the treaty as a condition in its resolution of ratification. I then asked him the following question: "Can the Senate rely on the Administration to adhere to this shared understanding if the Senate does not explicitly incorporate the understanding in its resolution of ratification?" Ambassador Lehman replied, "Yes, Mr. Chairman."

I then asked Ambassador Lehman the following: "Can we assume, then, that your assurance applies in all other instances in this treaty ratification proceedings wherein the Senate and the Executive Branch, as a result of authoritative testimony and other official communications, reached shared understandings as to the meaning of the treaties and their protocols?" Again, Ambassador Lehman replied, "Yes, Mr. Chairman."

After obtaining these assurances as to the meaning of the treaties, I pursued with Ambassador Lehman the manner in which the Executive branch would inform the Senate of proposed technical changes in the TTBT Protocol that would not require submission in the form of amendments. I pointed out that on September 14 he had provided the Foreign Relations Committee with a letter on this subject in which he gave an assurance that the administration would provide the Senate prior notice of such changes.

This issue, in distinction to the understandings we reached with the executive branch on the question of changes requiring submission of an amendment, does not involve the meaning of the treaty or any understanding reached with the Soviets during the negotiations. Rather, it relates solely to political commitments the executive branch has made to the Senate during the ratification proceedings. After confirming that giving the Senate prior notice of technical changes was not required by the TTBT Protocol, I asked whether the Senate could rely on the Administration to adhere to its commitment to provide such prior notice if the Senate did not explicitly incorporate this assurance in its resolution of ratification. Ambassador Lehman stated: "Yes, Mr. Chairman."

Finally, I addressed the question of another unilateral political commitment provided the Senate by the executive branch during the TTBT/PNET ratification proceedings. I pointed out that on September 13, General Scowcroft had written Senator COHEN a letter in which he provided an assurance that the Administration would expeditiously implement "effective counterintelligence and security measures to protect United States personnel and programs from improper collection of information by Soviet on-site inspectors or monitors." I asked Ambassador Lehman whether the Senate could rely on the Administration to adhere to this commitment if the Senate does not explicitly incorporate it in the form of a condition to its resolution of ratification? Ambassador Lehman replied: "Once again, the answer is yes."

Mr. President, I commend Ambassador Lehman for providing such straight-forward and unambiguous answers to the crucial questions I posed concerning the Senate's ability to rely on assurances provided by the executive branch during the ratification proceedings related either to the meaning of the treaty or to political comments made in conjunction with treaty ratification.

In sum, we got an answer from him affirming, in my view, the Senate position which we held so strongly during INF ratification and also on the ABM interpretation question.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ASSISTANT TO THE
SECRETARY OF DEFENSE,
Washington, DC, September 18, 1990.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I write in further response to questions concerning the position of the Office of the Secretary of Defense (OSD) on the nuclear testing safeguards contained in the TTBT-PNET resolution of ratification passed by the Committee on Foreign Relations.

OSD believes the language on safeguards in the resolution is acceptable. Although there are minor changes in wording from the safeguards submitted to the Senate in 1987 and endorsed by President Bush in his June 28 letter to the Senate, OSD believes that the clear intent of the new language is not to change the meaning of, or to lessen the United States Government commitment to, the safeguards. These safeguards are essential to permit the United States to conduct those activities, including a vigorous underground nuclear testing program, necessary to maintain a safe, effective, reliable, and survivable nuclear deterrent.

Sincerely,

ROBERT B. BARKER.

Mr. PELL. Mr. President, I yield such time as he may need to the majority leader.

Mr. MITCHELL. Mr. President, today the Senate will offer its advice and consent to the ratification of two treaties limiting nuclear testing. I am confident that the Senate will approve these treaties, and the associated protocols on verification. They merit the support of the Senate.

Ratification of the Threshold Test Ban Treaty [TTBT] and the Peaceful Nuclear Explosions Treaty [PNET] has been deferred for over a decade since they were first negotiated in the 1970's, as the United States and the Soviet Union discussed further limits on testing and improved methods of verifying these treaties. With the incorporation of the two protocols on verification that have been successfully negotiated, we can now have high confidence that these two treaties can be effectively monitored and treaty compliance effectively verified.

The TTBT and the PNET have been carefully examined by the Foreign Relations Committee, the Intelligence Committee, and the Armed Services Committee. The Committee on Foreign Relations, under the able leadership of Senator PELL, conducted extensive hearings and solicited the views of experts inside and outside the Government. The record produced is fair and balanced, and, most importantly, it is one of overwhelming support for the ratification of these two treaties with their associated protocols.

The Intelligence Committee also conducted an extensive evaluation of these treaties, with special attention to the issues of monitoring and compliance that fall within the purview of that committee. This detailed examination provided valuable insights for the use of the Foreign Relations Committee and for all other senators as well. The Armed Services Committee provided useful explorations of the military implications of the treaties.

The work of the Senate's committees has been thorough, careful, and comprehensive. The Senate can have high confidence that these treaties have received the necessary scrutiny required to enable the Senate to fulfill its Constitutional responsibilities in consenting to ratification.

The Senate arms control observer group also made a valuable contribution to this process. For the past 2 years, while the protocols on verification were under negotiation in Geneva, Senate observers met frequently with the United States and Soviet negotiators. Senators were familiar with the details of the protocols as they were developed. This understanding has contributed greatly to the facility with which the Senate has handled the process of consenting to ratification.

The cooperation between the two branches in the case of these two protocols provides a model that will prove even more valuable as the Senate considers further arms control agreements in the coming year, notably the START and CFE agreements soon to be completed.

I am pleased that the Senate Foreign Relations Committee added a declaration to the resolution of ratification of the TTBT endorsing the commitment to take further steps toward limiting nuclear testing. A complete ban on nuclear testing has long been a goal of the United States, and I believe the administration should move immediately to explore further steps toward that goal which could be taken.

While it will be necessary, of course, to evaluate the experience gained in implementing the two treaties we will vote upon today, we should nevertheless move forward promptly to explore further limits on nuclear testing. The declaration attached to the resolution of ratification calls for these steps to be taken, and I strongly support its adoption. I urge the administration to take seriously the call for further steps limiting nuclear tests.

Finally, I note the assurances which the Senate received concerning the authoritativeness of administration testimony and the provision of advance notice and prior consultations to the Senate if changes to the verification protocols are contemplated. These assurances remove the necessity of incorporating into the resolution of ratification the Senate's understanding, which it shares with the administration, of these matters. This sets a good precedent for future treaties. It is my hope that unproductive debates over treaty interpretation, such as that which accompanied consideration of the INF Treaty in the Senate, can be avoided in the future as well.

I thank my colleagues for their courtesy and I yield the floor.

Mr. WARNER. I see that the distinguished Senator from Indiana [Mr. LUGAR] is on the floor. I would like to ask my distinguished colleague several questions on the second declaration contained in the resolution of ratification approved by the Foreign Relations Committee upon which he serves. I am concerned that this declaration may be interpreted by some as inconsistent with this administration's policy, and that of the last several administration's, regarding future limitations on nuclear testing. I believe that Senators should have a clear understanding of the meaning and intent of that declaration before voting on the resolution.

My first question pertains to the declaration's reference to the 1963 Limited Test Ban Treaty [LTBT] and the 1968 Nonproliferation Treaty [NPT]. Do these threaties commit the United States "to seek the discontinuance of all tests explosions of nuclear weapons for all time", as stated in the resolution?

Mr. LUGAR. I heartily agree with the point made by my distinguished colleague from Virginia. Before approving this resolution, the Senate should have a clear understanding of the meaning and intent of the second declaration, which urges the administration to follow a certain policy with respect to nuclear testing limitations. Such limitations have important implications for the Nation's ability to maintain the safe and effective nuclear deterrent that is critical to our national security.

Responding to the question, the preamble to the LTBT states that the parties are "seeking to achieve the discontinuance of all test explosions of nuclear weapons for all time". However, the preamble to the LTBT clearly places the question of nuclear testing within the context of achievement of an agreement on general and complete disarmament under strict international control, which would put an end to

the armaments race and eliminate the incentive to the production and testing of all kinds of weapons, including nuclear weapons.

In short, the LTBT looks toward the goal of a world in which we would no longer need to rely on nuclear or nonnuclear weapons for our security. In such a world, we would no longer need to produce or test nuclear or non-nuclear weapons. But the LTBT clearly does not establish any commitment by the parties to pursue a comprehensive test ban [CTB] per se. In fact, the legislative record of the LTBT ratification, including formal communications to the Senate from President Kennedy, makes clear that it was the U.S. intention to continue a vigorous underground nuclear testing program.

Let me add that, with respect to the NPT, article VI of that treaty has been interpreted by some as committing the United States to negotiate a CTB. In fact, there is no mention of nuclear testing in article VI. Article VI simply states that the parties undertake to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control. The United States, as evidenced by INF Treaty, the recent bilateral CW destruction agreement, and significant progress toward START and CFE agreements, is clearly seeking to fulfill its commitments under article VI of the Nonproliferation Treaty.

Mr. WARNER. I thank the honorable Senator from Indiana for that very helpful clarification.

My second question concerns the declaration's references to the 1974 Threshold Test Ban Treaty [TTBT]. Will this treaty, when ratified, commit the United States to begin CTB negotiations?

Mr. LUGAR. No; it does not, and this language in the resolution of ratification should not be interpreted, in my view, to commit the United States to begin negotiations on a CTB. While article I, paragraph 3, of the TTBT states that the "Parties shall continue their negotiations with a view achieving a solution to the problem of the cessation of all underground nuclear weapon tests", the treaty's preamble—in a manner similar to the LTBT and NPT—puts this question within the broader context of effective measures toward reductions in strategic arms, nuclear disarmament, and general and complete disarmament under strict and effective international control. Thus, the TTBT does not commit the United States to begin immediate CTB negotiations. Moreover, I would again add that the process of elimination of an entire class of nuclear missiles is taking place under the INF Treaty, and negotiations are well along toward important and stablilizing reductions of strategic nuclear arms. These achievements represent real contributions to the long-term objectives embodied in the TTBT's preamble and article 1.

Mr. WARNER. Again, I thank my distinguished colleague from Indiana for this very helpful and informative elaboration.

The declaration also states that the United States shares a special responsibility with the Soviet Union to continue the bilateral nuclear testing talks to achieve further limitations on nuclear testing, including the achievement of a verifiable comprehensive test ban. The Bush administration, for its part, has stated that it has a step-by-step approach to further limits on nuclear testing. It also has stated that while a CTB remains—as it has been in previous Republican and Democratic administrations—a long-term objective, that a CTB must be viewed in the context of a time when we do not need to depend on nuclear deterrence to ensure international security and stability, and when we have achieved broad, deep, and verifiable arms reductions, substantially improved verification capabilities, expanded confidence-building measures, and greater balance in conventional forces.

My next question, then, is perhaps the most important for those of us, like yourself, who are concerned about the relationship between U.S. national security requirements and our nuclear testing policies: Is it the intent of the declaration to change fundamentally or undermine the administration's step-by-step approach to nuclear testing limitations?

Mr. LUGAR. This resolution would not have been voted out of committee by a vote of 19-0 if it had been intended to change or undermine existing U.S. policy.

As we know, the President, in his statement of January 9 of this year, affirmed that the United States has a step-by-step policy regarding further limits on nuclear testing. He made clear that once the TTBT and PNET are ratified, it will be necessary as a practical matter to observe their implementation, so that the United States will be better able to assess the verification lessons learned, and also to determine the additional moves that make sense from a national security standpoint.

The President also stated that nuclear weapons will continue to play a critical role in U.S. national security, and so long as this is the case, the United States must be free, consistent with treaty obligations, to conduct nuclear tests to ensure the credibility of our forces. Finally, the President, stated—and administration officials reiterated during recent Senate hearings—that the United States has not indentified any further limitations on nuclear testing beyond those now contained in the TTBT that would be in the U.S. national security interest.

As my distinguished colleague from Virginia may recall, the vital importance of nuclear testing was further emphasized by this administration in a July 1990 letter to Senators from Brent Scowcroft, Assistant to the President for National Security Affairs. In that letter, General Scowcroft wrote: "Recent revelations regarding safety of certain nuclear warheads underscore the importance of testing, both as a vehicle for detecting possible weaknesses in weapons safety and in devising approriate corrective measures for any such weaknesses. To do otherwise would create uncertainty as to the safety of the stockpile, and render us unable to make safety improvements and unable to react to new threats. This could tend to erode stability, not enhance it."

With respect to a CTB, the Senator from Virginia has correctly summarized the President's position. In other words, while a CTB remains a long-term objective, this is an objective that must be viewed in the context of having achieved significant changes in the world as we know it today—and most particularly, an end to dependence on nuclear deterrence to ensure international security and stability.

In conclusion, in my view and I believe that of many of my colleagues on the Committee of Foreign Relations, the declaration is not intended to criticize or change administration policy. I believe the administration's policy with respect to nuclear testing limitations is a sound one, and that it deserves the support of the Senate.

Mr. WARNER. This has been a very important and useful exchange. It is important for Senators who would like to support ratification of these treaties to know that, in voting for this resolution, we are not seeking to undermine the nuclear deterrent that have helped to keep the peace for more than 40 years, or to change a sound U.S. policy on nuclear testing limitations. They should also know that we are not somehow endorsing further limitations on nuclear testing, or even a total ban, as goals in and of themselves. Rather, we are endorsing sound arms control agreements that make sense from a national security standpoint, contribute to stability and still guarantee a reliable, safe and effective deterrent for as long as we need to depend on it.

That said, I have one additional question for the Senator from Indiana. Is it the intent of the resolution that the United States should, as the next step, begin CTB negotiations with the U.S.S.R. at the Nuclear Testing Talk?

Mr. LUGAR. I do not believe that the committee's language was intended, nor do I believe it should be inter-

preted to suggest this. Since the CTB is a long-term objective that must be viewed in the context of a number of other important factors, it should not be the objective of actual negotiations under present circumstances. The declaration should be seen as consistent with the idea that a CTB remains a long-term goal, as the administration has stated, and that the Senate expressed its support for a CTB in that context. For now, we must proceed with implementation of these important treaties once they are ratified and explore what additional steps make sense from the perspective of U.S. national security.

Mr. WARNER. I see that the distinguished ranking member of the Committee on Foreign Relations, Senator HELMS, is now on the floor and has been listening to our exchange. Does the distinguished Senator from North Carolina agree with our understanding of the committee's declaration on U.S. responsibilities with respect to further limitations on nuclear testing.

Mr. HELMS. I have listened to the exchange between the two distinguished Senators and agree fully with Senator LUGAR's understanding of this declaration on the context for negotiations to further limit, and ultimately ban, nuclear testing.

Mr. PELL. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on both resolutions to the ratification.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. PELL. Mr. President, I withdraw my request.

The PRESIDING OFFICER. The Senator has withdrawn his request.

Mr. PELL. I yield the floor.

Mr. WARNER. Mr. President, the two treaties before the Senate today—the Threshold Test Ban Treaty, or TTBT, and the Peaceful Nuclear Explosions Treaty, or PNET—have been delayed for final Senate advice and consent since their signing in 1974 and 1976, respectively, due to the lack of adequate monitoring and verification protocols. Thanks to Presidents Reagan and Bush, and the tireless efforts and negotiating skill of Ambassador Paul Robinson, the protocols which are an integral part of each treaty contain provisions necessary to ensure that the United States has sufficient monitoring rights for assessing Soviet compliance with the treaties. I now fully support these treaties and hope that the Senate will approve ratification of the agreements in an expeditious manner.

My distinguished colleagues on the Senate Foreign Relations Committee and the Senate Select Committee on Intelligence have conducted extensive reviews of the treaties and their related protocols, focusing particularly on the U.S. capability to monitor Soviet compliance with the provisions of the treaties and protocols. The comments and recommendations contained in the reports furnished by these two committees have been very helpful in my own review of the treaties.

The Senate Armed Services Committee held a hearing on September 17, 1990, to examine the military implications of further limitations on nuclear testing. Ambassador Ron Lehman, Director of the Arms Control and Disarmament Agency, and Ambassador Robinson testified at this hearing, as well as officials from the Office of the Secretary of Defense, the Joint Chiefs of Staff, and the Department of Energy. Several important issues were raised at our hearing, which I would like to discuss briefly.

Since World War II, nuclear deterrence has maintained peace between the major powers. As long as nuclear weapons are in the U.S. stockpile, underground testing will remain an important requirement in order to ensure the credibility of the U.S. nuclear deterrent. Specifically, there are five reasons why the U.S. needs to test nuclear devices:

To have confidence and ensure the reliability of our nuclear weapons,

To ensure the safety and security of our nuclear weapons,

To understand and enhance the survivability of U.S. systems, including the command, control, and communications network,

To modernize our forces and redesign weapons for changes in military requirements, and

To avoid technological surprise.

I express my support for the President's policy toward future nuclear test negotiations as articulated by Ambassador Lehman in his prepared testimony before the Senate Armed Services Committee:

> The President is firm in his commitment to the step-by-step process and to a Comprehensive Test Ban as a long-term objective of the United States. But we are not there yet. We are convinced that so long as the U.S. must rely upon nuclear weapons for deterrence, we must also have a sensible program.

In a further comment on the step-by-step approach toward negotiating a comprehensive test ban in the future, Robert Barker, Assistant to the Secretary of Defense for Atomic Energy, told the Committee that "the Departments of Defense, State and Energy are exploring alternatives * * *" for further limitations, but he went on to say, "To date, we [the Departments of Defense, State and Energy] have not succeeded in finding a next step which does not have adverse national security implications."

The second declaration to the TTBT resolution of ratification concerns future negotiations toward the ultimate goal of a comprehensive ban on all nuclear testing. I was concerned that this declaration may be construed by some as being at odds with the President's or, for that matter, long-standing U.S. policy. I sought further clarification from Ambassador Lehman on this issue, who assured me in a statement dated September 24, 1990, that:

> The language in the SFRC resolution of ratification is consistent with the Administration's stated long-term objective of a Comprehensive Test Ban (CTB), an objective for a time when we do not need to depend on nuclear deterrence to ensure international security and stability, and when we have achieved broad, deep, and effectively verifiable arms reductions, substantially improved verification capabilities, expanded confidence-building measures, and greater balance in conventional forces.

Ambassador Lehman further explained his understanding of the term "special responsibility" contained in the declaration as an acknowledgment of the position of the United States and the Soviet Union as the world's major nuclear powers and the bilateral approach to negotiations on nuclear testing that our two countries have undertaken in the interest of promoting peace and security in the world.

Mr. President, I ask unanimous consent to print Ambassador Lehman's statement in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARMS CONTROL AND DISARMAMENT AGENCY,
Washington, September 24, 1990.

Hon. John W. Warner,
Senate Committee on Armed Services, U.S. Senate

DEAR SENATOR WARNER: Ambassador Lehman thanks you for the opportunity to testify before the Senate Armed Services Committee and appreciates you giving him the forum to clarify the Administration's views on certain points with regard to the two new verification protocols to the Threshold Test Ban and the Peaceful Nuclear Explosions Treaties.

Pursuant to conversations with your staff after Ambassador Lehman's testimony on 17 September, we are providing you with clarification of certain points, for you to enter into the record. I trust that you will find all the comments fully responsive.

We also wish to thank you for your support of the new protocols which for the first time provide the opportunity to verify effectively compliance with the TTB and PNE treaties.

If you have any questions or need additional information, please feel free to contact me at 647-3612.

Sincerely,

RICHARD N. HOLWILL,
Counselor.

ADDITION TO THE STATEMENT OF AMBASSADOR RONALD F. LEHMAN II IN ANSWER TO QUESTIONS POSED BY SENATOR WARNER SENATE ARMED SERVICES COMMITTEE, SEPTEMBER 17, 1990

As far as safeguards are concerned, the SFRC resolution is acceptable. As a matter

of policy, as stated by the President in his letter to the Senate of June 28, the Administration will pursue all safeguards in an effective manner.

As I stated at the SASC hearing, the preambular language of the Limited Test Ban Treaty (LTBT) and the Nuclear Non-Proliferation Treaty (NPT) does not commit the U.S. to seek the discontinuance of all test explosions of nuclear weapons for all time. However, the language in the SFRC resolution of ratification is consistent with the Administration's stated long-term objective of a Comprehensive Test Ban (CTB), an objective for a time when we do not need to depend on nuclear deterrence to ensure international security and stability, and when we have achieved broad, deep, and effectively verifiable arms reductions, substantially improved verification capabilities, expanded confidence-building measures, and greater balance in conventional forces. In this sense, the Administration understands that it is the intent of the second declaration of the SFRC resolution of ratification to be consistent with the President's policy.

You also asked about Article I, paragraph 3 of the TTBT, which states that "the parties shall continue the negotiations with a view toward achieving a solution of the problem of the cessation of all underground nuclear tests." As I stated at the hearing and in my prepared statement, the Administration has a step-by-step approach to further limits on nuclear testing. The U.S. is guided by general objectives such as pursuing peace and security and seeking stabilizing arms control agreements which promote the national security of the U.S. and its allies. This is the context in which we have developed the step-by-step approach.

You also asked whether the U.S. shares a special responsibility with the Soviet Union to continue the bilateral nuclear testing talks to achieve further limitations on nuclear testing, including the achievement of a verifiable comprehensive test ban. As I stated at the hearing, since the U.S. and the Soviet Union are the world's major nuclear powers, obviously we have focused on a bilateral approach to negotiations on this subject. We take the term, "special responsibility" in the context of the national security of the United States and in a manner consistent with the conditions for progress that I cited above.

Mr. WARNER. Mr. President, with these assurances in mind, it is my understanding that the intent of the second declaration to the TTBT resolution of ratification is consistent with the long-standing policy of the United States and that U.S. participation in continued negotiations toward a comprehensive test ban will be conducted in accordance with the President's stated policy and in a way which assures no detriment to our future national security.

As part of the January 13, 1987 letter of transmittal to the Congress for the TTBT and PNET, there were six safeguards that were termed "essential" to protect United States technical capabilities necessary to mitigate any advantage that the Soviet Union might gain in the event they violate or abrogate the treaties and protocols.

Mr. President, I ask unanimous consent to print in the RECORD the text of the President's letter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PRESIDENTIAL LETTER, JANUARY 13, 1987

TO THE SENATE OF THE UNITED STATES: Two treaties between the United States of America and the Union of Soviet Socialist Republics on (1) the Limitation of Underground Nuclear Weapon Tests, and the Protocol thereto, known as the Threshold Test Ban Treaty (TTBT) signed in Moscow on July 3, 1974, and (2) Underground Nuclear Explosions for Peaceful Purposes, and the Protocol thereto, known as the Peaceful Nuclear Explosions Treaty (PNET) signed in Washington and Moscow on May 28, 1976, were transmitted to the Senate by President Ford on July 29, 1976, with a view to receiving advice and consent to ratification. (Senate Executive N, 94th Cong., 2d Sess.) Although hearings were held a year later, the Senate itself has not acted on the treaties. I ask the Senate to consider these important treaties anew in light of developments that have taken place over the last decade.

On August 14, 1986, I transmitted to the Congress a comprehensive study which stated U.S. national security concerns as well as our views on necessary verification improvements to the TTBT and the PNET, in response to the requirements of Section 1003 of the FY 1986 Department of Defense Authorization Act (P.L. 99-145). I am enclosing a copy of this study and commend it to your attention.

The security of the United States and the entire free world, today and for the foreseeable future, depends on the maintenance of an effective and credible nuclear deterrent by the U.S. This is a considerable challenge, in light of continuing efforts by the Soviet Union to undercut the effectiveness of our deterrent. With the support of Congress we have succeeded in meeting this challenge, and together we must continue to do so in the future.

Today, I am requesting per my October 10, 1986, letter that the Senate give advice and consent, subject to the condition set out below, to two pending treaties that have significant implications for Western security: the TTBT and PNET. These treaties have the common purpose of limiting individual nuclear explosions to no more than 150 kilotons. The TTBT, which prohibits nuclear weapon tests above 150 kilotons, places significant constraints on the efforts we may undertake in the U.S. nuclear test program to respond to Soviet nuclear and non-nuclear activities aimed at undercutting our deterrent. Hence, it is imperative that we have the necessary provisions that will make the TTBT effectively verifiable and thus assure ourselves that the Soviet Union is fulfilling its obligations and is thereby equally constrained.

Unfortunately, as I have frequently stated and the enclosed study makes clear, the TTBT and PNET are not effectively verifiable in their present form. Large uncertainties are present in the current method employed by the United States to estimate Soviet test yields. I have on several occasions reported to the Congress on the problems with Soviet compliance with the TTBT. Therefore, achieving Soviet agreements to improved verification measures that would provide for effective verification of these treaties has been my highest priority in the area of nuclear testing limitations.

As I stated in my March 14, 1986 letter to General Secretary Gorbachev, effective verification of the TTBT and PNET requires that we reduce the current unacceptable level of uncertainty in our estimates of the yields of nuclear tests. Indeed, leaders in previous Congresses have shared my view that the present large degree of uncertainty in such estimates is unacceptable, as well as my desire for sharp improvements. In this regard, we require—and have conveyed to the Soviets that we require—effective verification through direct, on-site hydrodynamic yield (CORRTEX) measurement of all approriate high-yield nuclear detonations. Further, I informed General Secretary Gorbachev that, if the Soviet Union would agree to essential verification procedures for the TTBT and the PNET, I would then be prepared to request the advice and consent of the Senate to ratification of the treaties. Ratification of the treaties without such provisions would be contrary to the national security interests of the United States.

As written, the TTBT relies solely on teleseismic detection and yield measurement systems and on inadequate and unverifiable data exchange. The Soviet Union has apparently had problems in correctly assessing the yields of U.S. nuclear tests. Despite our best efforts, the Soviet Union has so far not accepted our practical proposal for achieving the necessary verification improvement of the TTBT and the PNET. We have not yet found any alternative approach which equals the effectiveness of CORRTEX—we are striving to achieve a yield-estimation accuracy of about 30 percent by this method. We have, nonetheless, advised the Soviets, at three Geneva nuclear testing experts meetings in 1986, that the U.S. is willing to consider any other direct yield measurement method the Soviets might propose, provided it is at least as capable (in terms of accuracy and non-intrusiveness) as CORRTEX. To date, they have not been forthcoming in proposing or explaining alternative verification techniques that would meet our requirements.

Recognizing the role of the Senate in the ratification process, I am therefore requesting that the Senate give its advice and consent to ratification of the TTBT and the PNET, subject to a condition in the following form:

"The Senate's Resolution of advice and consent to ratification is subject to the condition that the President shall not proceed with ratification of the Treaty on Limitation of Underground Weapon Tests and the Treaty on Underground Nuclear Explosions for Peaceful Purposes until the President has certified to the Senate that the Union of Soviet Socialist Republics has concluded with the United States additional agreements expanding upon the obligations stated in Article II of the Treaty on Limitation of Underground Weapon Tests including provisions for direct, accurate yield measurements taken at the site of all appropriate nuclear detonations so that the limitations and obligations of these treaties, inter alia the 150 kiloton limit, are effectively verifiable, and until such agreements have been submitted to the Senate, and the Senate has advised and consented to their ratification."

I am hopeful we can reach an agreement with the Soviet Union which will allow me to certify that the treaties are effectively verifiable. I will be prepared to ratify the TTBT and the PNET at such time as the condition cited above has been fulfilled.

Further, I informed the General Secretary in Reykjavik that, once our verification concerns have been satisfied and the treaties have been ratified, and in association with a program to reduce and ultimately eliminate all nuclear weapons, I would propose that the United States and the Soviet Union immediately engage in negotiations on ways to implement a step-by-step parallel program of limiting and ultimately ending nuclear testing.

The steps in this program would take into account our long-standing position that a comprehensive test ban is a long-term objective which must be viewed in the context of a time when we not need to depend on nuclear deterrence to ensure international security and stability, and when we have achieved broad, deep, and verifiable arms reductions, substantially improved verification capabilities, expanded confidence-building measures, and greater balance in conventional forces.

Now and for the foreseeable future, our nuclear weapons stockpile pays a prominent role in our national security posture. As long as this is the case, we must safeguard the efficacy of that stockpile and our confidence in it. These safeguards are considered an essential element in ensuring the nation's ability to have the technical means and knowledge necessary to support the nuclear deterrent and existing and future national security policy.

Safeguard "A": The conduct, within the constraints of existing treaties on nuclear testing, of comprehensive, aggressive, and continuing underground nuclear test programs designed to add to our knowledge and improve our weapons in all areas of significance to our military posture for the future.

For the purpose of Safeguard "A," the underground nuclear test programs shall include, but not be limited to, tests sufficient to ensure that our nuclear forces and their supporting command, communications, and intelligence systems are safe, secure, effective, reliable, and survivable, and to advance our understanding of nuclear weapons effects.

Safeguard "B": The maintenance of modern nuclear laboratory facilities and progams in theoretical and exploratory nuclear technology which will attract, retain, and ensure the continued application of our human scientific resources to those programs on which continued progress in nuclear technology depends.

Safeguard "C": The maintenance of the basic capability to resume essential nuclear test programs in prohibited environments; and to conduct testing promptly in prohibited yield ranges, should such tests be deemed essential to our national security.

Safeguard "D": In conjunction with a vigorous verification program, the conduct of a comprehensive and continuing research and development program to improve our monitoring capabilities and operations with a goal of providing high-confidence monitoring of the actions from which noncompliance with existing nuclear testing treaties could be inferred.

Safeguard "E": The continuing development of a broad range of intelligience gathering and analytical capabilities and operations to improve our knowledge of the nuclear arsenals, nuclear weapons development programs, related nuclear programs, and the capabilities and achievements of the Soviet Union and other nations.

Safeguard "F": The conduct of a governmental review at periodic intervals to determine whether continued compliance with the provision of existing treaties on nuclear testing is in the U.S. national security interests.

Mr. WARNER. Mr. President, these safeguards were virtually identical to those formulated by the Joint Chiefs of Staff and submitted along with the 1963 Limited Test Ban Treaty [LTBT]. In his letter transmitting the TTBT and PNET protocols to the Senate on June 28, 1990, President Bush stated that he "remains committed to the nuclear testing treaty safeguards that were submitted to the Senate in 1987, which are essential to the national security and to the maintenance of a credible nuclear deterrent."

The Senate Foreign Relations Committee has recommended a declaration to the TTBT protocol which sets forth five safeguard provisions. While the administration participated in negotiating the revised safeguards and supports the declaration, the agreed-upon provisions may be considered by some to be less forceful than those contained in the 1987 transmittal letter. Moreover, the declaration altogether excludes a provision relating to periodic review of treaty compliance.

During our hearing last week, I raised this issue and asked whether the administration would shift to the minimum standard for safeguards as set out in the declaration recommended by the Foreign Relations Committee, or whether the administration would continue to pursue activities as set out in the originally proposed safeguards. Mr. Barker stated in a letter dated September 18, 1990, the position of the Department of Defense that the "clear intent of the new language is not to change the meaning of, or to lessen the U.S. Government commitment to, the safeguards." In addition, in his statement of September 24, 1990, Ambassador Lehman states that "the Administration will pursue all safeguards in an effective manner."

While I support the declaration on safeguards, I strongly urge the administration to continue to act in accordance with the full set of safeguards proposed in 1987 to protect United States technical capabilities and to ensure against a possible Soviet advantage in the event of a future violation or abrogation of the treaties.

In both the Foreign Relations and Intelligence Committees, several other issues were raised which required clarification or further assurances from the administration. These issues included questions regarding the authoritativeness of testimony from executive branch witnesses on matters of treaty interpretation, prior notice to the Senate on all proposed changes to the treaty protocols, release of information to the Senate on possible Soviet treaty violations, and implementation of effective counterintelligence and security measures to protect U.S. personnel and programs from improper collection of information during activities regulated by the protocols. These matters are discussed in the reports of these two committees to the Senate. As a member of the Intelligence Committee, I have reviewed the documents referenced in these reports, and I am satisfied there is now a clear understanding between the Senate and the executive branch on these matters.

Mr. President, the protocols to the TTBT and PNET represent several years of hard work in negotiating the comprehensive technical provisions contained in these documents. In the coming year, the Senate may be asked to give its advice and consent to ratification of agreements to reduce strategic arms, conventional forces in Europe, and chemical weapons, and I urge the administration to use these protocols as a model for negotiating tough verification provisions in future arms control agreements.

Mr. HELMS. Mr. President, I yield such time as the distinguished Senator from Maine may require.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Chair recognizes the Senator from Maine.

Mr. COHEN. Mr. President, I am pleased to participate in the Senate's floor consideration of the Threshold Test Ban Treaty and Peaceful Nuclear Explosions Treaty and the protocols to them that were signed at the Washington summit in June.

Since the early 1980's, I have advocated the United States move forward with the ratification of these treaties with appropriate verification arrangements. In fact, it was exactly 6 years ago tomorrow that I and the other conferees on the 1985 defense authorization act reached agreement on a bill that called for the ratification of the TTBT and PNET and the resumption of negotiations on a comprehensive test ban.

In the ensuring 6 years, the relationship between the United States and the Soviet Union has changed significantly, and this was instrumental in enabling the two sides to take the steps that were essential to achieving the protocols to these decade-old treaties.

In September 1987, Secretary Shultz and Foreign Minister Shevardnadze reached agreement on establishing a new forum to conduct step-by-step negotiations on nuclear testing issues. Under the Shultz-Shevardnadze agreement, these nuclear testing talks would, as the first step, seek effective verification measures for the TTBT and PNET to enable their ratification and "proceed to negotiating further intermediate limitations on nuclear testing leading to the ultimate objective of the complete cessation of nucle-

ar testing as part of an effective disarmament process."

The Shultz-Shevardnadze agreement also provided that in order to find effective verification arrangements for the TTBT and PNET, the two sides would design and carry out joint verification experiments in which they would conduct hydrodynamic and seismic monitoring of nuclear explosions at each other's nuclear testing sites. After months of complex negotiations, agreement was reached on how to conduct the so-called JVE and interpret its results, and the actual experiments were carried out in August and September of 1988.

The JVE was not only crucial to the achievement of the verification protocols signed at the Washington summit, but also served as a precedent for the two nations' subsequent agreement to conduct experiments related to the verification of strategic bombers and land- and sea-based ballistic missiles to promote progress in the START negotiations.

As a result of this great care taken by the two sides in elaborating improved verification arrangements for the two treaties, we now have before us protocols which I am confident will enable the effective verification of Soviet activities covered by the treaties.

Accordingly, Mr. President, I think that the administration and its negotiators should be justly proud of these verification protocols.

IMPLEMENTATION AND COUNTERINTELLIGENCE

At the same time, however, I believe that I need to put my colleagues on notice that, based on where we stand today, there are two important areas which will require constant congressional vigilance—implementation and future protocol changes. As vice chairman of the Intelligence Committee, I would like to note that our committee looked at these issues in some detail.

With regard to the first, implementation and counterintelligence, we reached the following conclusions:

The executive branch has made sensible decisions on organization and policy for implementing the verification protocols, analyzing the resulting data, producing monitoring estimates, and reaching verification judgments.

There is a threat of Soviet intelligence exploitation of the inspection process, including efforts to compromise the secrecy of United States nuclear weapons and defense programs and to target United States inspectors in the Soviet Union.

No comprehensive interagency risk assessment has yet been completed. The risks at the Nevada test site and at potential locations for housing Soviet inspectors have not been fully evaluated, partly because not all relevant executive branch elements have participated adequately in the assessments.

The executive branch has not yet resolved major issues of funding for implementation and counterintelligence. While the President could postpone exchanging instruments of ratification until funds for implementation are available, the mere availability of funds will not guarantee that the several agencies involved will have the needed counterintelligence resources in place before the first inspection occurs.

As a consequence of these findings, the committee made the following recommendations:

The executive branch should complete a comprehensive risk assessment immediately. In conjunction with that assessment, relevant agencies should inform the Intelligence Committee of their plans for effective counterintelligence and security countermeasures.

The committee recommends that a condition to the instrument of ratification be enacted requiring that the President not exchange instruments of ratification until he certifies to the Senate that sufficient resources and time are available to prepare for TTBT implementation, including counterintelligence and security countermeasures.

In a written response to the committee's recommendations, Lt. Gen. Brent Scowcroft, Special Assistant to the President for National Security Affairs, stated:

> I want you to know that we share the Senate Intelligence Committee's concern over the need to implement effective counterintelligence and security measures to protect U.S. personnel and programs from improper collection of information by Soviet on-site inspectors or monitors. This is a matter of high priority for the Administration.

General Scowcroft went on to provide the committee the following assurance:

> I want to assure you that the Administration will take no action under the Treaty that would endanger or compromise vulnerable U.S. programs.

While this response is a step in the right direction, I remain concerned that it does not go far enough. The Intelligence Committee's recommendation specifically called upon the President "not to exchange the instruments of ratification until he certifies to the Senate that sufficient resources and time are available to prepare for TTBT implementation, including counterintelligence and security countermeasures." However, I can find no commitment in General Scowcroft's letter to certify to the Senate that the necessary programs will be in place prior to the exchange of the instruments of ratification or, if the executive branch were to require more time, before the first inspectors arrive.

In my judgment, it would be preferable if the Senate were to propose a condition of ratification which required a Presidential certification before proceeding with the first inspection. However, this is not forthcoming. Thus, it will be incumbent on the Senate and its relevant committees to carefully monitor executive branch progress in fulfilling the commitment made by General Scowcroft.

In saying this, I do not mean to question the good faith of the administration or General Scowcroft. He is in an ideal position to orchestrate the activities of the various agencies involved, and I know that he is a man of his word. The executive branch is a large entity, however, with powerful competing interests among and within its various agencies. Resolving the funding as well as intra- and interagency battles is no easy feat, and it takes time. Thus, unless we in the Senate remain vigilant and keep the pressure on to resolve these issues in a timely and orderly fashion, we run the risk of the U.S. Government making important decisions at the last minute that are not properly thought through.

PROTOCOL CHANGES

On the second issue—protocol changes—the committee's report cites the vast array of rights and obligations included in the protocols and then indicates its concern over executive branch assurances. Specifically, we made the following findings:

The TTBT protocol contains not only the basic monitoring rights, but also other provisions regarding verification procedures that are essential for effective verification. They include those that specify data to be provided by the testing party; assure the reliability of CORRTEX monitoring; set the criteria for standard nuclear tests; and list the permitted activities and equipment of inspectors and monitors.

The TTBT protocol also contains provisions that are essential for effective counterintelligence. They include provisions requiring the use of anti-intrusiveness devices and giving the United States the right to escort Soviet personnel at all times; to control the travel and contacts of Soviet personnel; to examine any equipment brought to the United States; and to inspect the baggage, personal belongings, and packages brought or mailed by Soviet personnel.

These provisions are subject to change by the Bilateral Consultative Commission established pursuant to paragraphs 2-4 of section XI of the TTBT protocol. Executive branch statements thus far do not provide sufficient assurance that changes in such essential provisions will be subject to the advice and consent of the Senate.

The key point that should be kept in mind is that in any verification regime as complex as this one, or the INF regime, or the future CFE and START regimes, the devil is in the detail.

Technical changes to the protocols could have a substantive impact on our monitoring or counterintelligence capabilities. Since the protocols are considered an integral part of the treaties, advice and consent to ratification now means advice and consent to treaty changes without further Senate concurrence on potentially important issues. As a consequence, in its report, the Intelligence Committee recommended that:

The executive branch should provide firm assurances that any changes in the TTBT protocol regarding provisions that are essential for effective U.S. monitoring, counterintelligence, or security—such as those listed above—will be treated as amendments to the protocol that are subject to the advice and consent of the Senate. The committee recommends that a condition to the instrument of ratification be enacted to buttress those assurances.

The executive branch should also assure the Senate that it will provide the Senate Intelligence Committee prior notice of any other proposed change in the TTBT protocol that may have a negative impact on U.S. monitoring, counterintelligence, or security capabilities, to enable the committee to voice an objection in appropriate cases, before the issue becomes moot. The committee recommends that a condition to the instrument of ratification be enacted to protect the interests of all relevant committees of the Senate.

In response to the comittee's recommendation, and similar concerns raised by the Foreign Relations Committee, that significant changes should only be made by treaty amendment requiring the Senate's advice and consent, ACDA Director Ronald Lehman wrote that "any change of a substantive nature that would have an effect upon basic aims of the Treaty or rights and obligations of the Parties would have to be made by means of an amendment."

In testimony before the Foreign Relations Committee, the issue was raised as to whether the Lehman letter sufficed to address the committee's concerns. This presents a difficult issue, because the committee report recommended that certain key subjects should only be changed by the amendment process. Senator SARBANES, however, raised the important point that this is a complex treaty and that it is probably impossible to identify in advance all areas which should require a treaty amendment. I concur with Senator SARBANES. As a practical matter, a requirement for prior notice seems the best approach. With such notice, the Senate can object to a change if it believes such a change is substantive enough to require an amendment.

Concerning prior notice, Senators from both committees concurred that the Lehman letter was clearly deficient in that it failed to commit the administration to such notice. Thus Director Lehman sent a second letter, in which he stated:

I would like to provide the following further assurance concerning paragraphs 3 and 4 of Section XI of the TTBT protocol. The Administration will provide notice concerning any modifications and changes negotiated with the Soviets to the provisions of the TTBT protocol prior to such modifications or changes becoming binding on the Parties. The objective of this further assurance is to provide notice before an issue becomes "moot."

A similar letter was sent to the Intelligence Committee, stating that,

To the extent that any changes or modifications affect matters under the jurisdiction of the Senate Select Committee on Intelligence, we will ensure that they are brought to your attention as well.

These assurances of prior notice provide the Senate an opportunity to voice concerns and raise objections should any changes in the protocol appear to be of more than of a day-to-day technical and administrative nature with limited impact on substantive treaty rights and obligations. As such, I am pleased with the administration's commitment to unequivocal prior notice.

Having acknowledged the cooperative approach of the administration, I think it is important to remind my colleagues that it was not too long ago that an administration tried to render itself free from the interpretation of a treaty provided to the Senate by a preceding administration during the ratification process. Accordingly, it does not take much imagination to foresee that a future administration might seek to render itself free from this commitment to provide prior notice of all modifications and changes to the protocol. Thus, in my judgment, it would be better for the Senate to require as a condition of ratification prior notice of protocol changes before they become binding. However, since the Senate is choosing not to do so, we are assuming a continuing responsibility to remain vigilant and steadfast for monitoring executive branch behavior on this matter, as with the counterintelligence issue. The importance of this should not be diminished or underestimated, lest we abrogate our constitutional responsibilities and allow the Senate's treatymaking powers to be eroded.

DECLARATIONS

Mr. President, another important matter related to the TTBT are the declarations adopted by the Foreign Relations Committee.

Mr. President, I would like to discuss some recent history that has a bearing on the Foreign Relations Committee's second declaration, which addreses follow-on negotiations to achieve further limitations on nuclear testing.

In 1986, the defense authorization conference was dead-locked, with a key issue being the question of whether the United States should adopt a nonnegotiated, 1-year moratorium on nuclear tests above 1 kiloton as proposed by the House of Representatives. Critical to the resolution of this matter was a letter President Reagan, then in Reykjavik for his summit with General Secretary Gorbachev, sent to congressional leaders. In this letter, the President stated that he would inform Mr. Gorbachev that,

Once our verification concerns have been satisfied and the [TTB and PNE] treaties have been ratified, I will propose that the United States and the Soviet Union immediately engage in negotiations on ways to implement a step-by-step parallel program—in association with a program to reduce and ultimately elimate all nuclear weapons—of limiting and ultimately ending nuclear testing.

This commitment regarding follow-on negotiations was repeated on other occasions, such as in the President's report to the Congress entitled "Relationship Between Progress in Other Areas of Arms Control and More Stringent Limitations on Nuclear Testing," dated August 28, 1988.

Earlier this year, however, the Bush administration indicated that before proceeding with follow-on negotiations, it intended to permit a period of time to pass to allow the provisions of the TTBT protocol to be implemented so that the follow-on negotiation could benefit from the knowledge to be gained from implementation. This raised concerns that follow-on negotiations could be delayed indefinitely, perhaps years.

During the course of the Armed Services Committee's review of the TTBT and the PNET, administration officials testified that the time between ratification of the treaties and the resumption of negotiations would be a period of "months, not years." This assurance has helped to remove the concerns that there could be a lengthy period before the United States agreed to the resumption of the nuclear testing talks with the Soviet Union.

Mr. President, in my view, there is no compelling justification for an extended delay before we begin negotiations on further nuclear testing limitations. Indeed, I believe that the executive branch is bound by the October 1986 agreement to proceed with these follow-on negotiations as soon as is practicable following the ratification of the TTBT and PNET.

Accordingly, I am pleased that the Senate can proceed with the consideration of these treaties having received assurances that follow-on negotiations for further limitations will be initiated in the coming months.

Technical changes to the protocols could have a substantive impact on our monitoring or counterintelligence capabilities. Since the protocols are considered an integral part of the treaties, advice and consent to ratification now means advice and consent to treaty changes without further Senate concurrence on potentially important issues. As a consequence, in its report, the Intelligence Committee recommended that:

The executive branch should provide firm assurances that any changes in the TTBT protocol regarding provisions that are essential for effective U.S. monitoring, counterintelligence, or security—such as those listed above—will be treated as amendments to the protocol that are subject to the advice and consent of the Senate. The committee recommends that a condition to the instrument of ratification be enacted to buttress those assurances.

The executive branch should also assure the Senate that it will provide the Senate Intelligence Committee prior notice of any other proposed change in the TTBT protocol that may have a negative impact on U.S. monitoring, counterintelligence, or security capabilities, to enable the committee to voice an objection in appropriate cases, before the issue becomes moot. The committee recommends that a condition to the instrument of ratification be enacted to protect the interests of all relevant committees of the Senate.

In response to the comittee's recommendation, and similar concerns raised by the Foreign Relations Committee, that significant changes should only be made by treaty amendment requiring the Senate's advice and consent, ACDA Director Ronald Lehman wrote that "any change of a substantive nature that would have an effect upon basic aims of the Treaty or rights and obligations of the Parties would have to be made by means of an amendment."

In testimony before the Foreign Relations Committee, the issue was raised as to whether the Lehman letter sufficed to address the committee's concerns. This presents a difficult issue, because the committee report recommended that certain key subjects should only be changed by the amendment process. Senator SARBANES, however, raised the important point that this is a complex treaty and that it is probably impossible to identify in advance all areas which should require a treaty amendment. I concur with Senator SARBANES. As a practical matter, a requirement for prior notice seems the best approach. With such notice, the Senate can object to a change if it believes such a change is substantive enough to require an amendment.

Concerning prior notice, Senators from both committees concurred that the Lehman letter was clearly deficient in that it failed to commit the administration to such notice. Thus Director Lehman sent a second letter, in which he stated:

I would like to provide the following further assurance concerning paragraphs 3 and 4 of Section XI of the TTBT protocol. The Administration will provide notice concerning any modifications and changes negotiated with the Soviets to the provisions of the TTBT protocol prior to such modifications or changes becoming binding on the Parties. The objective of this further assurance is to provide notice before an issue becomes "moot."

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These assurances of prior notice provide the Senate an opportunity to voice concerns and raise objections should any changes in the protocol appear to be of more than of a day-to-day technical and administrative nature with limited impact on substantive treaty rights and obligations. As such, I am pleased with the administration's commitment to unequivocal prior notice.

Having acknowledged the cooperative approach of the administration, I think it is important to remind my colleagues that it was not too long ago that an administration tried to render itself free from the interpretation of a treaty provided to the Senate by a preceding administration during the ratification process. Accordingly, it does not take much imagination to foresee that a future administration might seek to render itself free from this commitment to provide prior notice of all modifications and changes to the protocol. Thus, in my judgment, it would be better for the Senate to require as a condition of ratification prior notice of protocol changes before they become binding. However, since the Senate is choosing not to do so, we are assuming a continuing responsibility to remain vigilant and steadfast for monitoring executive branch behavior on this matter, as with the counterintelligence issue. The importance of this should not be diminished or underestimated, lest we abrogate our constitutional responsibilities and allow the Senate's treatymaking powers to be eroded.

DECLARATIONS

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This commitment regarding follow-on negotiations was repeated on other occasions, such as in the President's report to the Congress entitled "Relationship Between Progress in Other Areas of Arms Control and More Stringent Limitations on Nuclear Testing," dated August 28, 1988.

Earlier this year, however, the Bush administration indicated that before proceeding with follow-on negotiations, it intended to permit a period of time to pass to allow the provisions of the TTBT protocol to be implemented so that the follow-on negotiation could benefit from the knowledge to be gained from implementation. This raised concerns that follow-on negotiations could be delayed indefinitely, perhaps years.

During the course of the Armed Services Committee's review of the TTBT and the PNET, administration officials testified that the time between ratification of the treaties and the resumption of negotiations would be a period of "months, not years." This assurance has helped to remove the concerns that there could be a lengthy period before the United States agreed to the resumption of the nuclear testing talks with the Soviet Union.

Mr. President, in my view, there is no compelling justification for an extended delay before we begin negotiations on further nuclear testing limitations. Indeed, I believe that the executive branch is bound by the October 1986 agreement to proceed with these follow-on negotiations as soon as is practicable following the ratification of the TTBT and PNET.

Accordingly, I am pleased that the Senate can proceed with the consideration of these treaties having received assurances that follow-on negotiations for further limitations will be initiated in the coming months.

to maintain the peace, and find new solutions to problems, based more on our wit and wisdom, than on our weapons of war.

I hope that an early marker in our search for a peaceful and prosperous new world will be a complete end to nuclear testing. We have a solemn obligation we must not ignore, and a promise we are bound to keep.

Mr. President, I yield the floor.

I suggest the absence of a quorum, the time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. I yield such time as he may desire to the Senator from Hawaii.

Mr. AKAKA. Mr. President, I wish to speak on the ratification of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, which I favor.

Mr. President, 1989 was a time when people and events moved swiftly, and the world watched in awe: the Berlin Wall fell, Germany took its first steps toward unification, the Nicaraguan people voted for peaceful change, and democratic renewal transformed the face of Eastern Europe. In 1990, we are witnessing a dawning of a new era. And landmark changes are once again taking place.

Today we are moving world peace forward. I will vote to ratify the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty. These important votes will become a historic legacy, as we close the 101st Congress.

The Threshold Test Ban Treaty carries the intent of the United States and the Soviet Union to end our nuclear arms race. Through verification and limits on underground nuclear explosions, the treaty reaffirms our commitment to stop all nuclear testing.

The Peaceful Nuclear Explosions Treaty promotes cooperation with the Soviet Union and other nations, to limit peaceful nuclear testing. It specifies and requires notification and information regarding nuclear tests, allows on-site inspection, and prohibits individual countries from conducting nuclear explosions with a yield of more than 150 kilotons.

Mr. President, I am honored to stand here on the Senate floor today and represent Hawaii in this milestone achievement. Ratification of these two nuclear test ban treaties will bring the superpowers closer toward a verifiable comprehensive test ban—closer toward a stable, more peaceful and secure world.

John F. Kennedy once said, "Peace is a daily, a weekly, a monthly process, gradually changing opinions, slowly eroding old barriers, quietly building new structures. And however, undramatic the pursuit of peace, the pursuit must go on." And with the passage of these treaties, we will continue to pursue that universal and age-old longing for world peace.

Mr. PELL. Mr. President, I suggest the absence of a quorum, the time to be equally divided.

The PRESIDING OFFICER. The Senator from Rhode Island has suggested the absence of a quorum, the time to be equally divided. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, with the submission by the Bush administration to the Senate of the new protocols providing for additional verification measures for the Threshold Test Ban Treaty [TTBT] of 1974 and the Peaceful Nuclear Explosions Treaty [PNET] of 1976, we can now take up our responsibility for advice and consent on these accords. The United States and the Soviet Union undertook unilaterally in 1976 to observe the threshold limitations provided for by the TTBT. This action has provided the United States with some useful experience related to the monitoring of Soviet compliance with the treaty's threshold limitation. Our concerns about possible Soviet noncompliance with the threshold limit in the past has made it all the more important to examine closely the contributions of the protocols to addressing concerns about Soviet compliance with the treaties in the future.

The Soviet Union, through these protocols, has formally acknowledged United States concerns and methods for adequate verification. By codifying our rights to employ more precise methods of verification in this manner, the protocols also make a contribution to stability, in that additional verification methods can be employed to insure that past concerns over possible Soviet noncompliance can now be dealt with in a forthright manner.

PROVISIONS

The verification protocols for both the TTBT and the PNET are important in ensuring that, while the United States and the Soviet Union both have the same opportunities to test, both will also be able to effectively verify compliance of the other with the treaties. In the negotiations leading to the achievement of the new verification protocols, the United States sought the right to carry out verification measures that would provide accurate and straight-forward measurement of the yield of a test or explosion, and permit us the means to obtain validated data and information on the conditions under which the underground nuclear explosions took place. The need to validate such data and information meant that all information used for verification had to be directly derived by United States personnel and United States instruments without the possibility of interference by the Soviets in the process of data collection. It was this requirement that led the U.S. negotiators to insist on the inclusion of on-site measurements and inspections as essential elements of the protocols.

The new protocols provide for unprecedented on-site and in-country verification measures. Each protocol provides the right to make on-site hydrodynamic yield measurements through a direct, close-in measurement of the velocity of the shock wave produced by the explosion. The U.S. hydrodynamic measurement technique is called CORRTEX and is the most accurate yield measurement currently available that does not compromise sensitive test information. CORRTEX leaves open little if any possibility to evade the 150 kiloton limit through exploiting any plausible evasion scenarios.

The protocols provide the right to make hydrodynamic yield measurements for any test or explosion whose planned yield exceeds 50 kilotons. The value of 50 kilotons was conservatively chosen to be sure that the United States would have the right to directly measure the yield of any test or explosion that might be, or appear by remote national technical means [NTM] to be, in excess of the 150-kiloton yield limit mandated by the treaties. For the United States, this fundamental right to undertake hydrodynamic measurements under specified conditions is the cornerstone of the verification provisions in the new protocols.

A separate and independent right, which is also provided by both protocols, is the right to carry out on-site inspection [OSI] for any test or explosion whose planned yield exceeds 35 kilotons. Such on-site inspection does not actually measure the yield of the explosion, but provides the opportunity to independent validate the conditions of emplacement of the explosive and to collect geological samples of the soil around each explosive. The data obtained through on-site inspection should allow the United States to better correlate seismic data to the actual yield of the explosion. Thus, the measurement of yield, when on-site inspection is selected, will be

through U.S. National Technical Means; that is, the primary U.S. network of seismic monitoring stations.

A third verification right is the right provided in the TTBT Protocol to make in-country seismic measurements, at three stations designated by each side, for every test or explosion whose planned yield exceeds 50 kilotons. These measurements may be exclusively selected or may be undertaken at the same time as hydrodynamic measurements or on-site inspections.

Thus, the primary verification package for the TTBT Protocol, which covers weapon tests, is really a menu of choices from which the verifying party is free to choose: hydrodynamic, on-site inspection, and in-country seismic. Since a party's national technical means will likely always be used as well, the new protocols provide a means by which each party can, over time, obtain the data essential to improve the use of any or all of the verification measures, including improvements to national technical means. Of particular value will be the correlation of the on-site hydrodynamic yield measurements with those obtained through NTM (seismic) stations. The on-site measurements will serve as calibration points for NTM and should allow the United States to better estimate the yields of subsequent tests, in particular those whose yields are below the so-called trigger levels, where hydrodynamic measurements are not made.

The United States was able to negotiate several provisions that ensure that each party will have the right to obtain at least a minimum number of on-site hydrodynamic yield measurements each year if any tests are conducted. Twice a year for the first 5 years and once a year thereafter, each party is guaranteed the right to make hydrodynamic measurements regardless of whether the other party declares any tests to be above the 50 kiloton trigger level. Moreover, if either party opens up new test sites—that is, other than those declared in the protocol—then the verifying party has the additional right to make hydrodynamic measurements on at least two tests per year at the new site, commencing in the first year that the new test site is used and continuing for 5 years.

The protocols contain many more useful provisions that, taken together with those previously mentioned, make these verification packages among the most comprehensive arms control verification agreements ever developed.

It is also worth noting that extensive procedures were also designed to limit a verifying party's ability to misuse the right to bring equipment into the other's territory, either in an attempt to measure sensitive data related to weapon design features or in an attempt to record any electronic intelligence information. Both protocols include a number of so-called antiintrusiveness features, requiring that a verifying party must deliver certain key pieces of equipment in two sets. The testing party will itself designate one of these as the set of equipment to be used and can immediately begin inspecting the other set for 30 days. Only if this inspection uncovers no prohibited equipment will the other set be delivered to verifying party personnel for use at the test site. Moreover, after the test, all of the equipment actually used may then be inspected for 30 days. Additionally, to insure that neither party can record electromagnetic pulse radiation associated with the detonation, special antiintrusiveness devices can be used to block the transmission of such signals to the recording facilities. These measures, taken together, provide a high degree of protection against misuse of the verification rights for other purposes, while carefully preserving the right for the verifying party to obtain the data it needs to ensure effective verification.

SUMMARY OF PROVISIONS

The TTBT was negotiated more than 15 years ago and its companion treaty soon thereafter. There has been controversy ever since, with the essential question relating to Soviet compliance with the pledge not to exceed the 150-kiloton limit. The inadequacy of the original verification measures was reason enough not to ratify the treaties. Today, with the new verification protocols that provide on-site verification measures, there are no longer reasons to oppose their ratification.

The two treaties limit the yield of underground nuclear weapon tests, or explosions for peaceful purposes, to no more than 150 kilotons. The arms control rationale for such a yield limitation was to prevent, or at least restrain the development of very high-yield weapons. Prior to their negotiation, the United States had conducted nuclear weapons tests at yields much higher than the 150-kt limit, and the Soviet Union had conducted test with even higher yields. Thus, the treaties represent a real constraint, but one which the two sides have agreed is acceptable. These treaties and protocols will improve overall U.S. security.

The new protocols provide a verification regime that is among the most comprehensive ever developed. These agreements protect United States testing interests while ensuring that the Soviet Union must abide by the same treaty limits. Much care has been taken in the effort to develop and evaluate the new verification measures, in the conduct of the unprecedented joint verification experiment, and throughout the 2½ years of the Geneva negotiations. The result is a solid agreement that deserves the support of the Senate.

"SAFEGUARDS" AND THE TREATIES/PROTOCOLS

In considering any agreements which place limits on the U.S. nuclear testing program, the Joint Chiefs of Staff and the Department of Defense are asked for their judgments on whether such limitations are consistent with U.S. national security interests. Their position has been that so long as nuclear weapons remain an essential element of our overall deterrent strategy, there should be safeguards to hedge against unexpected political or technical events affecting the military balance.

With respect to the language of the safeguards desired by the JCS and the Department of Defense in connection with the TTBT and PNET, the President submitted in his letter of transmittal the safeguards language suggested by DOD back in 1987. When General Butler, representing the JSC, appeared before the committee during its initial hearing in July 1990 on the TTBT and PNET and their associated protocols, he stated that any safeguards are designed to ensure the United States could respond to any significant military advantage the Soviets might achieve through any cheating scenarios.

However, mindful of the need to involve the Senate in the final drafting of the specific safeguards language so that the safeguards could reflect a common view of the administration and the Senate, General Butler avoided a specific list of safeguards but rather dealt with the general concepts that any safeguards must address. Those concepts included: continuation of the nuclear test program; maintenance of competent laboratories and programs to attract and retain scientific expertise; maintenance of a United States capability to overcome any Soviet advantage achieved by a breakout; improvements in compliance monitoring capabilities; improvement in knowledge of other countries' nuclear arsenals and weapons programs; and the conduct of periodic reviews of the advisability of continued United States compliance.

Subsequent to the committee hearings, negotiations were held between DOD and JCS representatives and committee staff for the purpose of drafting the final safeguards language. That language now before the committee reflects the compromises arrived at during those negotiations. It has been agreed to at the highest levels of the administration.

During Senate consideration of the Limited Test Ban Treaty [LTBT], the safeguards recommended by the administration-of-that-day were not formally incorporated into the ratification process but rather were read into the CONGRESSIONAL RECORD during the

Senate deliberations. With that experience in mind, it was determined by the committee that the safeguards language for the TTBT and PNET and their associated protocols should be the subject of negotiations between the two branches, should enjoy the explicit support of both branches, and be deserving of incorporation as a formal part of the ratification process.

While a clean resolution of ratification might have been preferable, that was not really an option. Moreover, given the good faith and hard work demonstrated by both branches in negotiating the safeguards language, I was strongly supportive of the committee's decision to incorporate the safeguards as a formal part of the ratification process.

Subsequent to the action of the Foreign Relations Committee, Rear Adm. Thomas Fox, Deputy Director for International Negotiations on the Joint Staff, testified on September 17, 1990, before the Armed Services Committee and reiterated the various general concepts that any safeguards must address. In describing the purpose that each concept and attendant safeguard is to meet, Admiral Fox noted that appropriate programs and capabilities are already in existence and being implemented. Indeed, Admiral Fox himself notes that the first four Safeguard concepts have been exercised in one form or another since ratification of the Limited Test Ban Treaty in 1963.

Admiral Fox concluded that the Joint Chiefs recommended ratification of the TTBT/PNET and their associated protocols. The only conditions of that support were: First, an assurance that the United States will maintain the national resolve to execute the verification methods permitted by the new protocols; and second, congressional support for the safeguards.

With respect to the first, the Foreign Relations Committee sought and received assurances from the executive branch with respect to full implementation of our rights under the protocols. With regard to the second condition, the committee undertook negotiations with the JCS on safeguards language precisely so that such safeguards represented the views of both branches of Government and could be incorporated as such into the formal ratification process.

TTBT/PNET AND THE "AMENDMENT PROCESS"

During the Foreign Relations Committee's consideration of the TTBT and PNET and their associated protocols, one of the issues of concern to me related to section 11 of the TTBT protocol that dealt with modifications or changes subsequent to ratification. More particularly, I was concerned whether amendments of substantive significance altering the treaty or protocol, as under section 11, would be submitted to the Senate for advice and consent. I was interested in what criteria would be utilized in deciding between purely technical changes and those of a substantive nature.

During the August recess, I was in touch with the administration regarding its intentions with respect to consultations with the Senate on any proposed modifications or amendments to the treaties or protocols. Various clarifications have been offered in writing that have assuaged any concerns I may have had in this regard. These clarifications should become an integral part of the committee's permanent record.

The questions I raised relate to the mandate of the Bilateral Consultative Commission [BCC] and the distinction between amendments and modifications to the TTBT protocol, the former being subject to the ratification process and the latter requiring only agreement of the parties to the Bilateral Consultative Commission.

At the outset it should be noted that the Treaty on Underground Nuclear Explosions for Peaceful Purposes—the so-called PNET—calls for the establishment of a Joint Consultative Commission whose purposes, among others, are "to promote the objectives and implementation of the provisions of this Treaty," within which the Parties will "* * * (d) consider changes in technology or other new circumstances which have a bearing on the provisions of this Treaty; and (e) consider possible amendments to provisions governing nuclear explosions for peaceful purposes."

No such consultative mechanism is provided for in the articles of the Threshold Test Ban Treaty [TTBT]. Thus, one of the priority items on the U.S. list of objectives in the TTBT protocol negotiations was establishment of a consultative mechanism for the TTBT like that provided for in the PNE Treaty. The result was paragraph 1 of section 11 of the TTBT protocol that established the Bilateral Consultative Commission, the mandate for which is largely based on the mandate of the Joint Consultative Commission set forth in the PNE Treaty.

The Joint Consultative Commission and the Bilateral Consultative Commission are each charged with considering any suggestions for amendment to their respective treaty and protocol. The protocols are integral parts of the treaties and an amendment to a protocol is subject to exactly the same procedures as an amendment to the articles of the treaty—that is, an amendment is subject to ratification in accordance with the constitutional procedures of each party and enters into force only upon the exchange of instruments of ratification. From the U.S. perspective, an amendment to the articles of the TTBT and PNET or their protocols would always be submitted to the Senate for its advice and consent to ratification.

During the course of the negotiations on the new protocols it became apparent to the negotiators that they were dealing with a multitude of technical and administrative details and procedures with which both countries have had little operating experience on a bilateral basis or in the kinds of environments in which verification activities will be carried out. The joint verification experiment carried out in 1988 provided extremely useful experience, but it still remains an open question whether each of the logistical arrangements and operating requirements set forth in the protocols is adequately described or optimally suited to the needs of the parties. It became apparent that adjustments might be called for, and that a means, like that provided for in the INF agreement, should be established for making such adjustments in an expeditious manner in order to facilitate implementation of the regime. These would not be changes to the treaty intent, but rather only changes in the modality of fulfilling that intent.

Allowing for changes or modifications to annexes or protocols to a treaty without going through the ratification process is not without precedent. For example, in the INF agreement it is provided, in the final clause of the inspection protocol, that "the parties may agree upon such measures as may be necessary to improve the viability and effectiveness of this protocol. Such measures shall not be deemed amendments to the treaty."

In addition, section II (10) of the elimination protocol to the INF treaty permits the parties to agree upon different—elimination—procedures to achieve the same result as the elimination procedures in the protocol itself. In the TTBT and PNET protocols the kinds of changes that might be made are described in greater detail than in INF, but the underlying principles are the same. The measures in INF or the changes/modifications in the TTBT would not alter substantive rights, but would deal with matters such as periods of time with respect to notification, the provision of services such as food and lodging, and refinements arising from technological advances that might permit improvements or simplifications in operating procedures.

In implementing the protocols, the administration has pledged to include continuing consultations with the Senate. Any proposed amendment would be the subject of specific consultations with the Senate, and following negotiation would be subject to advice and consent. By the same token, while any change or modification of the nature described in paragraphs 2, 3, or 4 of section 11 of the TTBT protocol

would be a matter of public record, the administration has pledged as well close consultation on modifications or improvements.

Indeed, in addition to his August 20, 1990, letter to me offering assurances with respect to the prior consultation issue, Ambassador Lehman responded further on September 11, 1990, to the committee with the following written elaboration on his assurances:

> • • • (With respect to the modifications contemplated) • • • I can confirm that the intention of these paragraphs (in Section 11) is to enable the Parties, on the basis of their day-to-day experience in living with the Protocol, to make such changes of a technical, administrative or procedural nature as do not affect substantive rights and obligations under the Treaty and Protocol, that will improve the effectiveness of the verification regime. Any change of a substantive nature that would have an effect upon the basic aims of the Treaty or rights and obligations of the Parties would have to be made by means of an amendment.

The Foreign Relations Committee concluded that the foregoing assurances adequately safeguarded the Senate's constitutional responsibilities in the treatymaking process and that the procedures outlined in section 11 of the TTBT protocol will not be implemented in a manner inconsistent with those responsibilities.

Nonetheless, this matter was further pursued in connection with the presentation to the Foreign Relations Committee of the findings and recommendations of the Select Committee on Intelligence. In addition to seeking assurance from the executive branch that any changes in the TTBT protocol regarding provisions essential for effective verification, counterintelligence, or security would be treated as amendments and thus subject to advice and consent of the Senate, the Intelligence Committee expressed concern as to whether sufficient resources and time were available to prepare for TTBT implementation, including counterintelligence and security measures, prior to any anticipated exchange of the instruments of ratifications.

Additional assurances were forthcoming from the executive branch which, the Foreign Relations Committee believes, should assuage such concerns. The executive branch has explicitly recognized the need to implement effective counterintelligence and security measures to protect United States personnel and programs from improper collection of information by Soviet on-site inspectors or monitors, and has pledged, in the form of a letter from the President's National Security Adviser, Brent Scowcroft, to the chairman and vice chairman of the Select Committee on Intelligence, that the executive branch will take no action under the treaty that would endanger or compromise vulnerable United States programs.

By the same token, further assurances have been forthcoming from the executive branch which will facilitate any review of any proposed section 11 changes or modifications in a manner that reinforces Senate responsibilities in the treatymaking process. In order to deal with any potential difficulties in distinguishing between changes of a technical or procedural nature and those of a substantive nature, the committee has been assured, in writing, that the executive branch will engage in continuing consultations with the Senate and that it will provide:

> • • • notice concerning any modifications and changes to the provisions of the TTBT Protocol negotiated with the Soviets prior to such modifications and changes becoming binding on the Parties. The objective of this further assurance is to provide notice before an issue becomes moot.

Based upon these assurances, the Foreign Relations Committee has satisfied itself that no changes or modifications pursuant to section 11 of the TTBT protocol that require Senate advice and consent will become binding on the parties unless and until the Senate has exercised its constitutional responsibilities.

Mr. President, the TTBT and PNET protocols are unprecedented in the extent of technical detail that has been included. Based on the lessons learned in implementing the INF agreements, the administration has told us that it was necessary to include sufficient detail to guarantee that U.S. rights will be protected. The administration has also requested that the possibility of some modifications or changes to those details be allowed. The administration has assured us through letters to the Foreign Relations Committee that there will be prior notice to the Senate before any proposed changes take effect. These assurances, in light of the unique technical nature of the TTBT protocol, are consistent with and will facilitate Senate oversight of the implementation of these treaties in the future.

Mr. GORTON. Mr. President, while for the past 14 years the United States has observed the 150-kiloton threshold limit of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, I am pleased that the United States and Soviet Union have agreed to effective verification procedures that now make formal ratification of these treaties possible. Although advances in verification technology make this possible, it has been the political changes in the Soviet Union and the commensurate improvement in United States-Soviet relations that, to my mind, has contributed most toward this achievement.

It is the responsibility of the Armed Services Committee to assess the national security implications of these nuclear testing agreements. During testimony before the committee, both the Chairman of the Joint Chiefs of Staff and the Secretary of Defense recommended ratification of the treaties. Their only caveat was an assurance that the United States maintain the national resolve to carry out the verification methods permitted by the protocols to the treaties and that there be congressional support for the safeguards enumerated in the resolution of ratification.

In addition to the safeguards, which I wholeheartedly support, the resolution of ratification, as prepared by the Senate Foreign Relations Committee, contains a declaration regarding follow-on negotiations that bears some discussion and clarification. I am referring to paragraph II.

> The United States shares a special responsibility with the Soviet Union to continue the bilateral Nuclear Testing Talks to achieve further limitations on nuclear testing, including the achievement of a verifiable comprehensive test ban.

While most of us would support an eventual ban on nuclear testing, I think it important to include a caveat that the administration makes plain: The United States should only enter into new negotiations on further limitations that, in the words of National Security Adviser, Brent Scowcroft:

> Make sense from a national security standpoint, contribute to stability, and still guarantee a reliable, safe, and effective deterrent.

It is clear that there exists a difference of opinion between the Foreign Relations Committee and the administration as to what the appropriate next step should be. The administration makes it clear in numerous statements that it would be prudent to evaluate the operation of the new treaties before deciding whether further limitations on testing would be tolerable. The Foreign Relations Committee, on the other hand, would like to see every effort made to achieve a verifiable comprehensive test ban as soon as possible.

The central difference between the two positions is that while both support an end to all nuclear testing, the administration views this in association with a program that would reduce and ultimately eliminate our dependence on nuclear weapons for national security. Supporters of immediate negotiations leading to a CTB, by contrast, have concluded that nuclear testing is no longer essential for our security and that a ban on testing will make the world a safer place.

There are many arguments in favor of continued testing; I would like to mention only three: First, we need to assure ourselves—and prospective opponents—that our nuclear deterrent is reliable and effective. Despite advances in supercomputing, there is no

substitute for actual testing to determine the reliability of the existing stockpile.

Second, as we continue to reduce our arsenal through arms control and normal attrition, we will need to modernize those residual forces. A smaller force needs to be a more survivable force. Nuclear testing will be required to develop new systems that do not necessarily add to the destructive capability of our forces, but improve its survivability.

Finally, and this reason is of immediate concern to the people of my State, testing is required to improve the safety and security features of existing nuclear weapons. I note the recent problems associated with the W-79 artillery shell and the SRAM-A missile. The latter was removed from alert B-52 bombers stationed at Fairchild AFB. According to the directors of our nuclear weapons labs, nuclear testing played an important role in discovering these problems associated with our nuclear forces.

Still, despite these reasons to continue testing many argue that a ban on nuclear testing would make an important contribution toward improved United States-Soviet relations and would set an example for other states that are on the verge of testing nuclear weapons.

I would argue, however, that these agreements now before us are a result of improved relations, not a factor contributing to them. In the same vein, a CTB can only be a result of a new strategic environment in which nuclear deterrence has become irrelevant, not the other way around. As for setting an example, Third World countries do not acquire nuclear weapons to face the United States, but to enhance their regional positions. Restraint on our part has little impact on such regional power balances and antagonisms.

To conclude, Mr. President, I would hope that the Congress not force the administration's hand with respect to follow-on negotiations on nuclear testing. Let us first see how well these two treaties now before us work before we take the final step toward a complete ban on nuclear testing. Most important, however, is that when we begin down that path, we make certain that we are joined by the entire international community. For it would be folly for the United States—and the Soviet Union—to halt nuclear testing while other nations continue to develop nascent nuclear capabilities.

Mr. DURENBERGER. Mr. President, I rise today to offer my strong support for the Nuclear Test Ban Treaty and the Peaceful Nuclear Explosions Treaty. I believe the U.S. Senate should act affirmatively in exercising its constitutionally mandated responsibility to offer its advice and consent to the ratification of these treaties.

For many years, I have supported these treaties. The lack of adequate verification, of course, has long been the principal stumbling block. Those issues have finally been resolved.

I express my appreciation and congratulations to President Bush for his persistence and commitment to negotiating the new verification protocols that make this vote possible.

And of course, the new era of cooperation between the United States and Soviet Union has contributed measurably to the completion of the new protocols.

I look forward to future cooperation with the Soviet Union that hopefully will yield a comprehensive test ban treaty. I urge all my colleagues to offer their affirmative advice and consent to these treaties.

Mr. President, I yield the floor.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I yield such time as the distinguished Senator from Mississippi may require.

The PRESIDING OFFICER. The Senator from Mississippi [Mr. LOTT] is recognized.

Mr. LOTT. Mr. President, I rise in support of ratification of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty and their new protocols.

Nuclear deterrence is the foundation for the defense of our homeland and many of our most vital interests around the globe. The nuclear stockpile is the essential component of the United States national policy on nuclear deterrence. This policy has succeeded in bringing the longest peace in the modern history of Europe. As such, it deserves major credit as one of the tools responsible for the ultimate disintegration of the Warsaw Pact and the resulting decline in the Soviet threat to Western Europe. The elimination of the Iron Curtain and the peaceful liberation of Eastern Europe can be counted among the long-term accomplishments of our steadfast policy of nuclear deterrence.

Nuclear testing is important in ensuring the viability of our nuclear deterrent and the safety and security of the weapons in the stockpile. Confidence in the stockpile is essential to maintaining stability by convincing friend and potential foe alike that we have a reliable nuclear deterrent force. Confidence in the U.S. nuclear deterrent among our friends and allies also contributes to nonproliferation of these devastating weapons because many of these countries draw comfort from the explicit or implied guarantees of the U.S. nuclear umbrella. Therefore, they do not feel a need to pursue their own nuclear capabilities.

I have had strong reservations about the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty as negotiated in their original form. The verification provisions of these treaties were clearly unsatisfactory and could not lead to increased suspicion of bad faith and charges of cheating. In my view, they fell into the category of bad treaties that were worse than no treaties at all. To describe them another way—arms control for arms control sake alone as opposed to arms control measures that contribute to increased stability between the objective of treaties like this.

The new verification protocols that have been recently negotiated correct the fatal flaws of the original treaties. The Director of the Arms Control and Disarmament Agency, Ambassador Lehman, and our chief negotiator in Geneva, Ambassador Robinson, and his delegation deserve credit for this major achievement. These negotiations have blazed a new trail when it comes to openness and to cooperative strict verification measures. The precedents established by the provisions in the protocols will influence all future arms control negotiations with the Soviet Union and should establish much higher levels of trust and confidence between our two nations.

Last but not least, these negotiations have confirmed a belief I have long held—we must be tough, consistent, and patient when it comes to arms control negotiations. Most of all, we must always stick to our long-term objectives, and these objectives must fit into the overall goal of adequate security for the United States. This administration and its predecessor have followed this policy, and our country has been well rewarded by their persistent approach.

I believe that the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty with the accompanying new protocols pass the crucial test of contributing to our national security. For this reason, I join in support of their ratification.

The PRESIDING OFFICER. Who yields time?

Mr. LOTT. Mr. President, I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Rhode Island, [Mr. PELL].

Mr. PELL. Mr. President, I suggest the absence of a quorum, the time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, it is important for the record that we briefly review the apparent record of Soviet compliance.

My fellow Senators will recall that the Reagan administration offered the view shortly after coming into office that the Soviets were in likely violation of the Threshold Test Ban Treaty. That administration held to its position during its first term of office despite mounting evidence that Soviet behavior was in fact consistent with compliance.

Following its first independent review of the issue, the Bush administration dropped the charge of its 1990 report on Soviet noncompliance. I think it fair to say the early charges reflected wishful thinking in some quarters more than solid evidence. At this point, it would seem that very few people still believe the Soviets are in "likely" violation, and for many of these people it reflects some sort of wistful, wishful thinking.

Frankly, I believe we would be well advised to put this kind of thinking behind us, since compliance is far too serious an issue to be the domain of polemicists. Mr. President, advances in seismic techniques, exchanges of data on previous tests, and information from joint verification experiments conducted in 1988 have, taken together, led to increasing doubt as to the validity of any charge of Soviet cheating. Unfortunately, uncertainty over certain scientific factors was exploited in the early 1980's in lieu of a serious effort to resolve questions.

A major factor in earlier disagreements was the so-called magnitude bias factor, a measure of the difference in seismic magnitudes caused by geological differences between the Soviet test site and our Nevada test site. In 1988, the parties to the treaties exchanged data on five earlier tests each and visited each others' test sites for one joint verification experiment each. This data has been used by Government scientists to examine the data on past Soviet explosions. The data is still classified, so I cannot say too much about it, but it is clear that the JVE data allowed the first direct measurement of the "magnitude bias effect" since we had U.S. CORRTEX measurements at the test site, while at the same time we measured the seismic data. Witnesses before the committee pointed out that the unclassified U.S. Geological Service data for the explosion at the Soviet test site was 6.1. If that explosion had been fired at NTS, such a magnitude would have corresponded to a yield of at least 350 kilotons. If the value of 350 kilotons was correct, then, of course, these treaties would not be considered today by the Senate. Fortunately, measurements at the site in the Soviet Union demonstrated conclusively that the explosion was under the threshold level.

Clearly, the verification provisions in the TTBT will guarantee the kind of reassurance regarding Soviet test yields that will present new dispute about Soviet compliance. Although I did not believe that the new Protocols were necessary to ensure compliance, it is clear that they will help reassure both skeptics and doubtors regarding Soviet compliance and will help in the long run to put the testing compliance issue behind us.

The committee has heard considerable testimony on the compliance issue. On February 23, 1987, Dr. Roger Batzel, Director of the Lawrence Livermore National Laboratory, told the committee:

> We have considered the non-seismic evidence as well as the seismic evidence. Our conclusion, like that of the DIA panel which also reviewed all of the data, is that the seismic evidence is currently the most reliable basis for estimating the yields of Soviet underground nuclear explosions. We continue to attempt to reconcile the available data. However, we believe that the interpretation of the past Soviet test program which is most consistent with the best available data is that: The Soviets appear to have obeyed a testing limit. The limit is consistent with compliance with the provisions of the TTBT. The uncertainties of the yield estimation process are such that we cannot rule out the possibility that a few of the tests could have exceeded the threshold. These uncertainties are, in part, the source of the differences in the assessments of the extent of Soviet compliance with the TTBT. On-site hydrodynamic yield measurements would help to reduce the uncertainties and improve confidence in the results of the compliance evaluation process.

The Directors of both the Los Alamos and Lawrence Livermore National Laboratories have confirmed this testimony at the July 31, 1990, hearing of the Committee.

Most recently, on September 13, 1990, Senator BOREN testified that the Senate Select Committee on Intelligence * * * went on to look at past Soviet compliance with the 150-kiloton limits which both we and they had promised to observe since 1976. Given the current U.S. Government estimates of yields of past nuclear tests, we can rule out any major Soviet violation since 1976. The pattern of past Soviet testing is consistent with either of two other hypotheses: Soviet compliance with the 150 kiloton limit; or a few slight violations of it. I would say very slight violations might have been possible, but I stress, given the improvements of our own seismic techniques and our own capabilities of looking at the data, that it is very possible that there have been no violations at all.

Although the possibility exists that a few Soviet tests in the past 14 years may have exceeded the limit, it is important to remember that the parties agreed that "one or two slight, unintended breaches a year," while cause for concern and discussion, would not be considered violations. Significantly, President Bush made it clear in his letter of transmittal his intent that such infrequent, slight and unintended breaches should not be considered violations.

TTBT AND PNET VERIFICATION

Because of the disagreement over Soviet compliance, we have negotiated enhanced measures for verifications. There are four approaches to monitoring Soviet nuclear tests to determine if they are in compliance with the terms of the TTB and PNE Treaties. The four are: First, seismic monitoring; second, hydrodynamic monitoring; third, on-site inspections; and fourth, national technical means. Each of the four will make particular contribution to the overall fabric of verification. The administration has ascribed particular importance to the achievement of agreement on hydrodynamic yield measurement and intends, according to administration witnesses, to use hydrodynamic yield measurement at every available opportunity. It is important to understand the value of other monitoring methods, since hydrodynamic yield measurement would have decreased value of lower yields, if agreed upon later, and not applicability to a complete ban.

Under the TTBT and PNET protocols, each side would have the right to conduct hydrodynamic yield measurements at the site of all nuclear detonations of the other side which had a declared yield of over 50 kilotons. The United States would use the CORRTEX technology for this purpose. Ambassador Robinson told the committee that CORRTEX can determine the yield of nuclear weapons with an error of about 30 percent for 95 percent of the explosions in the region of 150 kilotons. The 95-percent confidence level implies a very high confidence in measurement, twice the usual standard deviation for errors. The protocols specify that tests in nonstandard geometries would require further measurements: First, the use of CORRTEX in more satellite holes; second, the use of reference explosions; and third, the use of seismic monitoring.

The TTBT shall also be monitored by seismic methods. The nation carrying out the seismic monitoring of a nuclear explosion will be allowed the use of three seismic stations inside the testing country, as well as the already-existing seismic network outside the

nation. At the time of the original treaty negotiations in 1974, the accuracy of seismology was thought to be within a factor of 2—100 percent error—for 95 percent of the events. Since that time, there has been considerable improvement in the methods and equipment for seismology: First, the discovery of the unified-seismic method, using both body and surface waves; second, the use of new seismic arrays; third, the advent of in-country seismic stations in the Soviet Union, 3 from the TTBT regime and 12 from the IRIS Consortium; and fourth, the possibility of using CORRTEX to calibrate nuclear test sites by measuring the magnitude bias factor. Lawrence Livermore scientists, the Office of Technology Assessment, and many other scientists have stated that the improved, calibrated seismic techniques can be as accurate as CORRTEX.

The two monitoring technologies, CORRTEX and seismology, can complement each other following ratification. As was shown by the joint verification experiments, the use of CORRTEX will greatly reduce the systematic errors in the seismic measurements by reducing the error in the magnitude bias factor. Ultimately, this approach will make seismology and CORRTEX very competitive, but different technologies. The hydrodynamic methods are not affected by the large-scale geological properties, but the hydrodynamic methods are much more sensitive than seismology to the geometry of the nuclear test and region within 20 meters of the test. Since these two complementary methods measure different aspects of nuclear explosions, their combined use will allow the technologies to cross-check each other. Because these are two independent measuring technologies, they will reduce the total error in the measurements and, thus, strengthen the total capability to determine violations of the 150-kiloton threshold.

Mr. BOREN. Mr. President, I rise to speak as chairman of the Senate Select Committee on Intelligence. While I intend to vote in favor of ratifying these treaties and their new verification protocols, my foremost concern is to bring to my colleagues' attention the work, the findings, and the recommendations of the Intelligence Committee.

The Senate Foreign Relations Committee has formal responsibility for reviewing all treaties before they are acted upon by the full Senate. Our committee's role has been to support this process by providing both the Foreign Relations Committee and the Senate as a whole with our assessment of the monitoring and counterintelligence issues raised by these treaties.

THE WORK OF THE INTELLIGENCE COMMITTEE

The committee has undertaken more than 2 years of research and analysis regarding the monitoring and counterintelligence issues raised by the two nuclear testing treaties. In October 1988, we commissioned a series of formal, on-the-record briefings for our staff. Since then, the committee has had half a dozen such briefings and three hearings on the treaties and protocols.

The committee has also received numerous responses to questions for the record. In addition, our staff has had many informal briefings and has visited U.S. facilities involved with nuclear tests and nuclear test monitoring: The Lawrence Livermore, Los Alamos, and Sandia National Laboratories; the Nevada test site; and the Air Force Technical Applications Center.

Our committee also took steps to get the executive branch to conduct the best possible analyses of the ability of the United States Government to monitor Soviet compliance with the two treaties. On September 19, 1988, we requested that the Director of Central Intelligence produce a formal document on this subject, to be approved by the National Foreign Intelligence Board. This led first to an analysis published by the Director of Central Intelligence's Joint Atomic Energy Intelligence Committee in July 1989, and eventually to a national intelligence estimate published in July 1990.

To maximize the usefulness of the national intelligence estimate, we also asked the Chairman of the Joint Chiefs of Staff to submit to the Director of Central Intelligence his assessment of the levels of Soviet evasion that he would consider militarily significant. We asked the Secretary of Energy to provide an assessment of the Soviet technical, logistic, and programmatic requirements necessary to conduct such evasion. As a result, the national estimate is directly relevant to the policy maker and reflects the combined expertise of many agencies in the executive branch.

Finally, the committee solicited and obtained the written views of numerous outside experts in arms control, seismology, and nuclear testing fields.

The culmination of the committee's effort is a classified report of some 116 pages, which addresses in detail the verification protocols, United States collection and analytical capabilities, cooperative verification measures, the Soviet compliance record, evasion scenarios, monitoring judgments, counterintelligence issues, and implementation concerns. As I announced when filing this effort on September 14, it is available to all my colleagues, under the provisions of Senate Resolution 400. During this afternoon's debate, it has been available to any Member of this body in the Vice President's office, just off the floor.

The committee's public report, approved unanimously on September 12 and issued on September 14, discusses the logic of the verification protocols and lists the committee's key findings and recommendations. This is essentially the executive summary of the larger, classified report.

THE COMMITTEE'S KEY FINDINGS

Mr. President, the committee's key findings regarding these treaties and protocols merit careful consideration before the Senate gives its advice and consent to ratification. I would like to set forth those findings and some of the analysis that underlies them.

The committee's basic monitoring judgments are as follows:

1. As a result of the cooperative monitoring and inspection measures negotiated with the Soviets and recent improvements in U.S. analytical methodologies, the overall U.S. capability to monitor Soviet compliance with the 150-kiloton limits in the Threshold Test Ban Treaty (TTBT) and the Peaceful Nuclear Explosions Treaty (PNET) has been significantly improved.

2. The Committee concludes that unilateral U.S. capabilities and the cooperative measures provided for in the verification Protocols are sufficient to monitor Soviet compliance with the 150-kiloton limits.

United States Government experts have gained increasing knowledge of the geology of the Soviet test sites, developed new analytical methods, and calibrated their seismic efforts with onsite measurements. All of this has reduced their uncertainties and resulted in lower seismic estimates of the yields of current and past Soviet tests.

In addition, the new verification protocols to the treaties address the uncertainty problem associated with estimating nuclear yields. Onsite inspection will provide geological data that are crucial to the analysis of how well seismic signals will be generated and transmitted from an explosion site. In-country seismic monitoring will improve U.S. collection of regional seismic signals. On site hydrodynamic monitoring will provide an independent and, generally, a more accurate estimate of explosive yield, which will reduce the uncertainty in all-source estimates of yield and also contribute to the refinement of seismic equations, thus lowering the uncertainty attached to yield estimates that are based only on seismic data.

The protocols will also make evasion much more difficult. Onsite inspectors will be able to detect the use of large cavities or porous material to reduce the size of the seismic signals emitted by a nuclear explosion. This means that any evasion scheme using those methods would have to depress the apparent yield of an explosion to near 35 kilotons, rather than merely to near 150 kilotons—a much more daunting challenge. Onsite hydrodynamic monitoring will protect against evasion by forcing the evader to contend with more than just seismic monitoring. A scheme that might reduce a test's apparent yield in seismic monitoring will

be fruitless unless it can either depress the apparent yield to near 50 kilotons or also fool the hydrodynamic monitors that measure the shock wave as close as 35 feet from the explosion.

Several other protocol provisions are specifically designed to thwart evasion: A limit on the size of cavities for nuclear tests; limits on closely spaced nuclear tests; local seismic monitoring of group peaceful nuclear explosions [PNE's] with a declared aggregate yield over 150 kilotons, to detect any undeclared explosion; and the requirement that the verifying party agree to verification measures for any group PNE with that large of a declared aggregate yield.

Monitoring is never perfect, however, and the committee added two cautionary findings:

3. The Soviets could conduct tests slightly above the 150-kiloton limits without the U.S. Government being certain that they had done so. The Soviets could not evade the 150-kiloton limits by a significantly amount, however, without a lengthy, costly and risky covert evasion effort.

4. It will be more difficult to monitor Soviet compliance with the 35-kiloton and 50-kiloton "trigger levels" for on-site inspection and hydrodynamic or in-country seismic monitoring. These trigger levels will still serve their primary purpose, however, of making any major evasion of the 150-kiloton limits a much more daunting task for the Soviets.

These findings are prompted by the remaining uncertainty in U.S. monitoring and by the lack of collateral constraints to protect against protocol violations. Uncertainty is unavoidable in monitoring, and any uncertainty gives the other side some leeway to edge over the limit with little risk of being caught unambiguously in a violation. In the absence of a major evasion effort, however, edging over the limit does not buy you much.

The constraints in the protocols are designed to make it harder to violate the treaties' 150-kiloton limits without being caught. There are no such additional protections, however, for the protocol constraints themselves. Our fourth finding is thus not unexpected.

Even a 100-percent violation of those trigger levels would still leave the Soviets well below the 150-kiloton limit. The United States can live with an imperfect ability to monitor compliance with the 35-kiloton and 50-kiloton thresholds for inspection and monitoring, therefore, so long as violations of those thresholds would not be, in and of themselves, a threat to our national security.

We asked United States experts why the Soviets might want to evade—or comply with—the provisions of these treaties or the protocols. Our report summarizes their answers as follows:

5. The primary motivations for Soviet evasion would be to conduct full-yield tests to validate the performance, reliability or safety of old or new weapons, or to preclude U.S. knowledge of Soviet exotic weapons programs.

6. These motivations are offset by Soviet reliance on proven nuclear weapon designs; by the fact that most nuclear testing needs can be met by tests under 150 kilotons; by the high costs of covert evasion; by the uncertainty that any evasion scenarious would work as intended; and by the risk of detection by the United States or revelation by an increasingly open and anti-nuclear Soviet press and society. The cost, risk and uncertainty factors would all increase if more than one illegal test were attempted.

The reason for full-yield tests would be because the Soviets did not trust their scientists' ability to predict the performance of some high-yield weapon on the basis of extrapolations from low-yield tests. Small extrapolations are more readily accepted than large ones, so this possible motivation leads us to guard against large violations of the 150-kiloton limit, rather than small ones.

The goal of precluding U.S. knowledge of new weapons programs relates most directly to the 35-kiloton threshold for onsite inspection. Some Soviet nuclear tests above that level might be impossible to conduct in the presence of United States inspectors without betraying their basic purpose. The tests would be perfectly permissible, however, under the treaties and protocols, so the Soviets would have to ask themselves how much expense and risk they were willing to accept just for the sake of keeping our inspectors out.

The committee then turned to the question of specific evasion scenarios:

7. Although the motivations and risks described above did not lead any Executive branch witnesses to expect the Soviet Union to attempt any evasion of the Treaties, the following evasion scenarios were presented as examples of the most feasible approaches:

a. The Soviets could attempt an unannounced 300-kiloton explosion in a large cavity to reduce the seismic signal generated by the explosion, and thus the estimated yield, to near the 35-kiloton trigger level for on-site inspection. Covert construction of such a cavity would be a major activity costing hundreds of millions of dollars, requiring years to create and still running the risk of being detected.

b. Because the TTBT Protocol does not restrict the timing or separation of any tests below 35 kilotons, the Soviets could conduct multiple tests that would degrade seismic estimates of yield. Multiple-explosion evasion scenarios appear more feasible regarding the [35-kiloton and 50-kiloton] trigger levels than for any significant evasion of the 150-kiloton limit.

c. Testing in deep space, a violation primarily of the Limited Test Ban Treaty of 1963, is the only technically feasible method of completely concealing the occurrence of a large nuclear explosion. The Soviets would not only have to fly a nuclear payload and testing equipment deep into space and be willing to pay the cost, but would also have to develop an adequate cover story for the mission and for their retrieval of testing data at a time when they are increasingly open about their scientific space missions.

The committee went on to look at past Soviet compliance with the 150-kiloton limits, which both we and they have promised to observe since 1976:

8. Given current U.S. Government estimates of the yields of past nuclear tests, the Committee can rule out any major Soviet violation of the 150-kiloton limits of 1976. The pattern of past Soviet testing is consistent with either of two other hypotheses: Soviet compliance with the 150-kiloton limit; or a few slight violations of it. The military rationale for slight violations remains in doubt.

If the Soviets did violate the limit, and they claim they have not, none of our witnesses could come up with a particular advantage that they would have achieved. But our country has a strong interest in the rule of law and, thus, in holding others to their obligations even if we cannot find a logical motive for a violation. The committee therefore found as follows:

9. The inability of the U.S. Government to determine whether the Soviets had or had not violated the 150-kiloton limits was sufficient reason for the United States to negotiate more stringent verification protocols.

During its deliberations on the treaties, the committee solicited the views of a broad spectrum of individuals with expertise in nuclear weapons design, nuclear test monitoring, and arms control policy. The committee requested that they focus their views primarily on topics under the committee's jurisdiction: The treaties' monitoring and verification protocols; United States capabilities and procedures to monitor Soviet compliance; and the treaties' implications for United States counterintelligence and security. I want to thank those individuals who responded to the committee's invitation to contribute their perspectives, and I ask unanimous consent that their responses appear in the RECORD at the end of my statement.

COUNTERINTELLIGENCE AND SECURITY PREPAREDNESS

In addition to examining U.S. monitoring capabilities, the Intelligence Committee explored the question of how prepared the U.S. Government is to implement the verification protocols. An important element of implementation is to take the counterintelligence and security measures needed to protect United States personnel and programs from possible Soviet efforts at intelligence collection, as opposed to normal inspection, monitoring, or escort activities. The committee's findings in these areas were mixed:

10. The Executive branch has made sensible decisions on organization and policy for implementing the verification Protocols, analyzing the resulting data, producing monitoring estimates and reaching verification judgments.

11. There is a threat of Soviet intelligence exploitation of the inspection process, including efforts to compromise the secrecy of U.S. nuclear weapons and defense programs

and to target U.S. inspectors in the Soviet Union.

12. No comprehensive interagency risk assessment has yet been completed. The risks at the Nevada Test Site and at potential locations for housing Soviet inspectors have not been fully evaluated, partly because not all relevant Executive branch elements have participated adequately in the assessments.

13. The Executive branch has not yet resolved major issues of funding for implementation and counterintelligence. While the President could postpone exchanging instruments of ratification until funds for implementation are available, the mere availability of funds will not guarantee that the several agencies involved will have the needed counter-intelligence resources in place before the first inspection occurs.

The committee also noted a procedural and institutional issue that could affect both U.S. monitoring capabilities and U.S. counterintelligence and security. The issue concerned TTBT protocol provisions regarding changes in the protocol. The committee's findings on this matter were as follows:

14. The TTBT Protocol contains not only the basic monitoring rights, but also other provisions affecting monitoring capabilities that are essential for effective verification. They include those that specify data to be provided by the Testing Party; assure the reliability of CORRTEX monitoring; set the criteria for "standard" nuclear tests; and list the permitted activities and equipment of inspectors and monitors.

15. The TTBT Protocol also contains provisions that are essential for effective counterintelligence. They include provisions requiring the use of anti-intrusiveness devices and giving the United States the right to escort Soviet personnel at all times; to control the travel and contacts of Soviet personnel; to examine any equipment brought to the United States; and to inspect the baggage, personal belongings and packages brought or mailed by Soviet personnel.

16. These provisions are subject to change by the Bilateral Consultative Commission established pursuant to paragraphs 2-4 of Section XI of the TTBT Protocol. Executive branch statements thus far do not provide sufficient assurance that changes in such essential provisions will be subject to the advice and consent of the Senate.

THE INTELLIGENCE COMMITTEE'S RECOMMENDATIONS ON TTBT PROTOCOL CHANGES

The committee's findings on TTBT protocol changes led us to make two recommendations in our report of September 14:

1. The Executive branch should provide firm assurances that any changes in the TTBT Protocol regarding provisions that are essential for effective U.S. monitoring, counterintelligence or security—such as those listed above—will be treated as amendments to the Protocol that are subject to the advice and consent of the Senate. The Committee recommends that a condition to the instrument of ratification be enacted to buttress those assurances.

2. The Executive branch should also assure the Senate that it will provide the Senate Intelligence Committee prior notice of any other proposed change in the TTBT Protocol that may have a negative impact on U.S. monitoring, counter-intelligence or security capabilities, to enable the Committee to voice an objection in appropriate cases, before the issue becomes moot. The Committee recommends that a condition to the instrument of ratification be enacted to protect the interests of all relevant Committees of the Senate.

When the Intelligence Committee adopted these recommendations, nearly 2 weeks ago, I believe we all intended to identify potential problem areas and to create a vehicle for further debate. It was clear, at the time, that further dialog with the executive branch was needed to resolve these matters before the treaties came to the floor of the Senate.

Since we made those recommendations, and at least partly in response to them, the executive branch has indeed given assurances to the Senate. A letter of September 11 from ACDA Director Ronald Lehman to the chairman of the Foreign Relations Committee, who had raised similar concerns, addressed the first issue as follows:

I can confirm that the intention of these paragraphs is to enable the Parties, on the basis of their day-to-day experience in living with the Protocols, to make such changes, of a technical, administrative or procedural nature as do not affect substantive rights and obligations under the Treaty and Protocol, that will improve the effectiveness of the verification regime. Any change of a substantive nature that would have an effect upon basic aims of the Tre'ty or rights and obligations of the Parties would have to be made by means of an amendment.

In testimony before the Senate Armed Services Committee on September 17, Director Lehman stated that the Senate could rely upon the assurances in his September 11 letter without having to add a condition to the resolution of ratification.

The Intelligence Committee had recommended more specific assurances that would list some of the provisions that could not be changed without using the amendment process. Senator SARBANES, at the Senate Foreign Relations Committee hearing of September 13, raised a concern that it would never be possible to specify precisely what provisions should be subject to change only through amendments, since we could not anticipate what truly technical changes might later be needed. Senator SARBANES suggested that greater specificity regarding prior notice of all changes to the protocol would be a more reasonable and useful goal. In practice, this is what we have obtained.

Director Lehman's letter of September 11 addressed the issue of prior notice of TTBT protocol changes as follows:

It is the expectation of the Administration that implementation of the Treaties and their Protocols will include continuing consultations with the Senate. Briefings should be a matter of course. Any proposed amendment would be the subject of specific consultations and, following negotiation, would be subject to advice and consent.

Neither the Intelligence Committee nor the Foreign Relations Committee viewed this assurance as sufficient, and Senator LUGAR, at the September 13 hearing, joined in calling for further assurances. ACDA Director Lehman sent a second letter to Chairman PELL on September 14 that included the following statement:

I would like to provide the following further assurance concerning paragraphs 3 and 4 of Section XI of the TTBT Protocol. The Administration will provide notice concerning any modifications and changes negotiated with the Soviets to the provisions of the TTBT Protocol prior to such modifications or changes becoming binding on the Parties. The objective of this further assurance is to provide notice before an issue becomes "moot."

The Administration offers this further assurance because of the unique technical nature of the TTBT Protocol. The Administration does not consider this further assurance to be a precedent for other arms control agreements with similar provisions that may be concluded in the future.

The Intelligence Committee has a particular interest, of course, in TTBT protocol changes that might affect U.S. monitoring, counterintelligence or security capabilities. For that reason, ACDA Director Lehman also sent a letter to the vice chairman and me on September 20, with the following additional assurance.

To the extent that any changes or modifications affect matters under the jurisdiction of the Senate Select Committee on Intelligence, we will ensure that they are brought to your attention as well.

Mr. President, I ask unanimous consent that the full text of Director Lehman's letter be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BOREN. Mr. President, the Senate has thus received substantial assurances from the executive branch, just as our committee had hoped when it made its recommendations. While the assurances regarding the line between amendments and other TTBT protocol changes are not as detailed as those proposed by our committee, I believe that the Senate's interests have been well protected.

We might ask whether a future administration would be bound to observe the current administration's commitment to prior notice. In the Armed Services Committee hearing of September 17, Director Lehman stated that the assurances in his letter of September 14 were not required by the TTBT treaty of protocol; were rather an administration commitment to the Senate; and could be relied upon by the Senate without any need for a condition to the resolution of ratification.

There appears to be no way, however, for the Senate to bind a future administration to a political commit-

ment. This contrasts with the Senate's ability to bind future administrations to the explanations of treaty or protocol provisions that are provided when a treaty is submitted for the Senate's advice and consent.

A condition to the resolution of ratification would make the Senate's concern regarding this commitment clearly a matter of record. The Foreign Relations Committee has recommended against such a condition, however, on the grounds that we have already made the Senate's concern quite clear.

I agree, and I am confident that future administrations will honor the commitment that the current administration has made to us. If they ever should not do so, they would precipitate a major crisis between the legislative and executive branches on any future treaties that might contain similar modification provisions.

THE COMMITTEE'S RECOMMENDATION ON FUTURE VERIFICATION TECHNOLOGIES

The Intelligence Committee has always tried to ensure that U.S. monitoring capabilities would be as robust as possible, within the limits of fiscal responsibility. Last year, we used our influence to secure a modest increase in the funding for seismic monitoring of Soviet nuclear explosions. This year, we supported an increase in the Department of Energy's R&D funding for all sorts of new verification technologies.

Looking to the future of nuclear test monitoring, the committee adopted the following recommendation:

3. The Parties agree, in paragraph 3 of Article I of the TTBT, to "continue * * * negotiations with a view toward achieving a solution to the problems of the cessation of all underground nuclear tests." The Committee did not consider whether the United States should negotiate further constraints on nuclear tests, but supports further research into technologies that may contribute to verification of compliance with any new obligations the United States may undertake.

The committee's support for further verification R&D in the nuclear testing field does not require a specific executive branch response at this time.

THE COMMITTEE'S RECOMMENDATIONS ON IMPLEMENTATION, COUNTERINTELLIGENCE, AND SECURITY PREPAREDNESS

In light of the committee's disturbing findings regarding U.S. preparedness to host Soviet inspectors and monitors, the following recommendations were adopted in our report:

4. The Executive branch should complete a comprehensive risk assessment immediately. In conjunction with that assessment, relevant agencies should inform the Intelligence Committees of their plans for effective counterintelligence and security countermeasures.

5. The Committee recommends that a condition to the instrument of ratification be enacted requiring that the President not exchange instruments of ratification until he certifies to the Senate that sufficient resources and time are available to prepare for TTBT implementation, including counterintelligence and security countermeasures.

The executive branch has responded in part by devoting high-level attention to the concerns raised by the committee. Relevant officials have been brought together, funding needs have been addressed and the timetable for a comprehensive risk assessment has been accelerated. Although major decisions are still pending, we now are much more confident than we were last week that the need to make those decisions in a timely, as well as careful, manner is clearly understood.

The committee's fifth recommendation prompted quick assurances from the administration. The special assistant to the President for national security affairs, General Scowcroft, sent letters to the vice chairman and me on September 13 that discussed the decisions on counterintelligence and security that remained to be made. These letters included the following:

I want to assure you that the Administration will take no action under the Treaty that would endanger or compromise vulnerable U.S. programs.

I ask unanimous consent that the full text of General Scowcroft's letter be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BOREN. Mr. President, the assurance that I have quoted is important for two reasons. First, it comes from a ranking official who is in a position to bring together the several agencies that will be involved in implementing U.S. security measures. Second, it is based upon discussions between our committee and the executive branch on what actions might "endanger or compromise vulnerable U.S. programs" and how to avoid those actions.

The executive branch has asked us not to go into detail in public regarding the steps that they can take to avoid endangering U.S. programs. I want to assure my colleagues, however, of my confidence not only that they understand the importance of this problem, but also that they know of steps they can take in order not to endanger the national security.

I also want to note that the other steps the executive branch can take would be preferable to delaying the exchange of instruments of ratification. This is because a delay in the treaty's entry into force could deprive the United States of a chance to monitor a Soviet nuclear test that we would otherwise be entitled to monitor. For example, the delay could push back the 200th day after the treaty's entry into force until sometime in May of 1991, say, while a Soviet test might be scheduled for sometime in April. So my own view is that the alternative steps that the executive branch is prepared to take are not only reasonable, but an improvement over the step that we had recommended.

At the Senate Armed Services Committee hearing on September 17, ACDA Director Lehman stated that the Senate could rely upon the assurances in General Scowcroft's letter without adding a condition to the resolution of ratification. Since both recommendation #5 and that letter deal with the initial preparations for hosting Soviet inspectors and monitors, there is no issue of whether these assurances bind future administrations.

Given the assurances that we have received from General Scowcroft and Director Lehman, I am satisfied that we do not need the condition to the resolution of ratification recommended in our report. I pledge to my colleagues, however, that the Intelligence Committee will watch closely over the implementation of the TTBT to make sure that the executive branch lives up to those assurances.

SUMMARY

In summary, Mr. President, I can report to my colleagues that the Senate Intelligence Committee's findings and recommendations have prompted a series of important executive branch actions and assurances. In light of those developments, I do not believe that we need to pursue any of the three conditions to the resolution of ratification that the committee recommended in its report of September 14.

I want to take this opportunity to commend the Committees on Foreign Relations and Armed Services for the manner in which we all have worked together to protect the interests of the Senate. I seriously doubt that any single committee could have achieved as much on the Senate's behalf as we have by combining our efforts.

The assurances received by the Foreign Relations Committee have been placed into the RECORD by the chairman of that committee, and Director Lehman's assurances to the Armed Services Committee will appear in the published record of their hearing. The letters of assurance to the committee from General Scowcroft and ACDA Director Lehman will be printed in the RECORD after this statement.

As for our other findings, my colleagues must assess them for themselves. We have concluded that the United States can effectively monitor Soviet compliance with the 150-kiloton limits in the treaties. We have also found, however, that slight, undetected violations may be possible and that it will be more difficult to monitor Soviet compliance with the 35-kiloton and 50-kiloton thresholds for on-site inspection and monitoring in the new protocols.

Our role has been to secure and evaluate the best information possible

on United States monitoring capabilities and the risks of undetected Soviet evasion. The Senate's role is to decide the ratification issues before us, taking into account both the committee's findings and the wider national security concerns that also rightly influence our decisions.

Finally, Mr. President, I would like to acknowledge some people who have contributed greatly to the success of our work on these treaties. Ambassadors C. Paul Robinson, the chief U.S. negotiator for the new verification protocols, and Dick Holwill have been especially helpful in answering our questions and in working to reconcile the Senate's concerns with executive branch interests so that needed assurances could be provided to the Senate in a timely manner. Many other executive branch officials have been less visible, but no less important.

The intelligence community has also been extremely helpful on these treaties, throughout the negotiations as well as in recent months. I want especially to thank Dr. Lawrence K. Gershwin, National Intelligence Officer for Strategic Programs, and Dr. John T. Kriese, Chairman of the Joint Atomic Energy Intelligence Committee.

Within the Senate, I want to acknowledge the staff of the Foreign Relations and Armed Services Committees. We all pulled together on these treaties, and all three committees contributed to the resolution of Senate concerns. On the Intelligence Committee staff, I especially want to thank the four authors of our report—John Elliff, Edward Levine, Don Mitchell and Gary Sojka. Our thanks extend as well to all who contributed to the committee's efforts.

Mr. President, I ask unamimous consent to print in the RECORD the written responses of outside experts.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRINCETON UNIVERSITY, SCHOOL OF ENGINEERING/APPLIED SCIENCE, CENTER FOR ENERGY AND ENVIRONMENTAL STUDIES,
Princeton, NJ, July 11, 1990.

Senators DAVID BOREN and WILLIAM COHEN,
Select Committee on Intelligence,
Washington, DC.

DEAR SENATORS BOREN AND COHEN: This letter is in response to your request for my comments on the verification protocols of the Threshold Test Ban Treaty (TTBT) and Peaceful Nuclear Explosions Treaties (PNET).

I believe that the verification arrangements described in these protocols can do what they have been advertised as doing: verify with high confidence and with an accuracy of about 30 percent that U.S. and Soviet underground nuclear explosions have yields of less than 150 kilotons. I doubt whether there will be any significant controversy on this question in your proposed hearings.

However, I wonder whether it would be wise for the Select Committee on Intelligence to limit its planned enquiry to just the TTBT and PNET protocols. I raise this question for the following reasons:

(1) The preamble of the TTBT notes "the determination expressed by the Parties in the 1963 Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water in its preamble to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end."

(2) Although the TTBT was signed 16 years ago this month, there have been no negotiations for more than ten years on steps beyond to the TTBT.

(3) In large part because of this inaction on the part of the U.S., Soviet Union and U.K., in January 1991, most of the Parties to 1963 Partial Test Ban Treaty will meet at the U.N. to discuss amending that Treaty into a Comprehensive Test Ban.

Inevitably, in the debate over testing limitations that go beyond the TTBT and PTBT, arguments will arise as to the verifiability of such additional limitations. I would therefore recommend that the Select Committee use the opportunity provided by the forthcoming hearings to make a preliminary exploration of the U.S. government's preparations for discussing the verifiability of treaties with much lower thresholds all the way down to some practical definition of zero. (It has been suggested that such a definition might be an explosion, such as those envision for inertial-confinement fusion, that could be contained within a continuously occupied above-ground structure.)

If you do pick up on this suggestion, I would urge that you not limit your enquiry to seismic methods for detection and identification of underground explosions. It is well known that, in the region below about ten kilotons, explosions can be "decoupled" in large underground cavities so as to reduce their seismic magnitudes by a factor of one hundred or so. As a result, the seismic signal of, for example, a one-kiloton explosion, would appear similar to that of a 10 ton chemical explosion. This does not mean that such an explosion could not be detected by a high-quality in-country seismic monitoring system with tens of stations in the USSR. However, it would be necessary to discriminate the decoupled nuclear explosion from the many chemical explosions of this magnitude that are routinely used in surface-mining operations.

There are many approaches to this problem. Some are specific, such as exploiting the facts that: (i) Many large mining explosions are ripple fired, resulting in different high-frequency signals than would be emitted by a decoupled nuclear explosion, or (ii) A surface chemical explosion would produce a much more powerful acoustic wave in the atmosphere than a deeply buried and decoupled nuclear explosion with the same seismic magnitude. Some require cooperation—with each side having to declare large chemical explosions and providing opportunities for on-site inspections and local seismic monitoring. Other approaches are general, such as checking suspect locations with before and after multi-spectral satellite photographs. Most general would be to rely on overall intelligence capability to be able to detect a clandestine research, development and testing program of the size required to develop a new type of nuclear warhead.

My impression is that the U.S. currently has no coherent research program of significant size focused on developing the basis for a U.S. government position on these questions. I therefore urge you to use your forthcoming hearings as a device to get a commitment from the Executive Branch to establish such a program and task it to deliver initial results in time for the January 1991 Partial Test Ban Treaty Amendment Conference.

I hope that this is useful. If I can be of any further use on this matter, please feel free to contact me. My research office number is 609-258-4695.

Sincerely yours,

FRANK VON HIPPEL.

Hon. DAVID L. BOREN,
Hon. WILLIAM S. COHEN,
Select Committee on Intelligence,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN AND MR. VICE CHAIRMAN: Thank you for your courtesy in inviting me to submit my thoughts on the ratification of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, now before your Committee for recommendation of the Senate. I am honored to be invited to contribute.

I will not attempt a detailed analysis of the verification aspects of these two treaties, but rather would like to invite your attention to the basic approach I believe the Senate should take in considering these issues. President Reagan has said that verification cannot be absolute, and he is right. It must be considered possible for any verification regime to be evaded in some small respect.

But this is not the real question before you. That is whether the verification procedures will protect our nation against violations of the treaty by other signatories while we respect its limitations to the extent that our national security would be put in jeopardy. A rather simple set of propositions in my opinion clarifies the real issues:

1. Our intelligence services will "verify" any dangers to our national security whether there is a treaty or not. This is their continuing responsibility and function, and the impressive set of national technical means we have developed does an outstanding job of doing must this, as I am sure your own review of the product indicates to you.

2. The verification provisions of the treaties makes this process easier, due to their provisions for reporting, transparency, inspections, etc.

3. It is plain that any attempt to evade these two controls could only produce a marginal advantage, and for a short time at that. It may be possible to hide a weapon, but it is not possible to hide a force which would have strategic value. The famous Krasnoyarsk radar illustrates this, and is incidentally a triumph of verification (and only by national technical means, unassisted by treaty verification processes). Our intelligence identified this violation of the ABM Treaty within about a year of the beginning of its construction. Three years later, after we had called the Soviets on the matter many times and they had tried to turn us off with a cover story, three of our Congressmen visited the site with Soviet permission. They reported that the cement and other construction was still incomplete, and not even a beginning had been made on the electronics aspects of the project, which would probably require another three years or so. When one considers that the radar by itself would be of no strategic value without associated ABM bases which it would direct, it is clear that another three or four years would be necessary to construct them. In sum, our intelligence "verified" that viola-

tion within a bit over a year of its commencement, and some ten years before it could be a strategic threat to our nation. The final begrudging Soviet agreement to tear it down is a better test of the verification process than highly speculative scenarios as to how they might make a marginal violation of the treaties before you.

4. The opening established by these treaties for specific inspections has a parallel effect in opening closed societies more generally, and moves the world as a whole to greater transparency. Since we are already essentially open, this is of advantage to us.

Our security is better obtained by convincing our potential adversaries to lay down their arms than by building ones of our own. These treaties are an example of this process, and their ratification is very much in our interest. Their verification provisions make the process of monitoring Soviet behavior even easier than the process we follow through our own technical and other intelligence means, and certainly would identify at an early stage any violations which would have any effect on our national security.

Sincerely,

WILLIAM E. COLBY,
Director of Central Intelligence, 1973-76.

LAWRENCE LIVERMORE NATIONAL LABORATORY,
Livermore, CA, July 24, 1990.

Senator DAVID L. BOREN,
U.S. Senate, Select Committee on Intelligence, Washington, DC.

DEAR SENATOR BOREN: Thank you for your letter of July 2 inviting me to submit a written statement of my views concerning matters within the Select Committee's purview pertaining to the ratification of the Threshold Test Ban Treaty (TTBT) as outlined in your letter. I must plead "innocent", however, to your expectation that I am an expert in these matters. My expertise lies in the area of the design and characteristics of nuclear weapons themselves, rather than the area of the monitoring and verification of agreements limiting their testing.

Instead of myself, I highly recommend to your Committee Professor Lynn R. Sykes, professor of geological sciences, Lamont-Doherty Geological Observatory, Columbia University. He is a distinguished seismologist and an outside expert in the field of verifying and monitoring limits on nuclear testing. I am sure that his views would be most helpful to your deliberations concerning the TTBT.

Having disavowed any claim to being an expert, I will take advantage of this opportunity to express my views concerning the need for the "hydrodynamic yield measurement method" defined on page 3 of the Protocol to the TTBT.

I believe that this method is costly, awkward, potentially divisive to implement, and unnecessary. The "seismic yield measurement method", also defined on page 3 of the Protocol, is widely understood by both Soviet and U.S. experts in the field to be entirely adequate for the task of measuring nuclear explosive yields over a very wide range of yield levels including 150 kilotons.

I hope I may be forgiven for suspecting that the primary reason for U.S. insistence on the hydrodynamic method of yield measurement was a mistaken belief that its intrusiveness would result in its unacceptability by the Soviets.

Sincerely,

RAY E. KIDDER,
Theoretical Group Physics Department.

THE IRIS CONSORTIUM,
August 6, 1990.

Hon. DAVID L. BOREN,
Chairman,
Hon. WILLIAM S. COHEN,
Vice Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR CHAIRMAN BOREN AND VICE CHAIRMAN COHEN: Enclosed is my statement regarding the verification protocols of the 1974 Threshold Test Ban Treaty and the 1976 Peaceful Nuclear Explosions Treaty. Thank you for inviting me to submit a statement to the Select Committee.

If you have any questions or would like further explanation, please contact me at 524-6222.

Sincerely,

GREGORY E. VAN DER VINK.

VERIFICATION OF THE 1974 THRESHOLD TEST BAN TREATY AND THE 1976 PEACEFUL NUCLEAR EXPLOSIONS TREATY

(Statement of Dr. Gregory E. van der Vink to Select Committee on Intelligence, U.S. Senate, Aug. 10, 1990)

PREFACE

This statement is based both on my past experience as Project Director for two U.S. Congress Office of Technology Assessment (OTA) studies on seismic verification, and on my current work in the IRIS university research consortium that includes the coordination of the joint US/USSR seismic program being conducted by IRIS and the USSR Academy of Sciences.

In 1988, I directed the Congressional OTA study on seismic verification of nuclear testing treaties.[1] The study was requested by the Senate Select Committee on Intelligence, with additional requests from the House Committee on Foreign Affairs and the House Permanent Select Committee on Intelligence. Over 40 scientists contributed to the report and reviewed it's contents. The study accessed both the classified and unclassified research that pertained to seismic verification, and included an evaluation of hydrodynamic methods of yield estimation.

Following the seismic verification study, I directed a special OTA study on Soviet compliance with the 150 kiloton limit of the Threshold Test Ban Treaty.[2] This study was performed at the request of the Senate Foreign Relations Committee.

Currently, I am Director of Planning for the IRIS Consortium, a university research organization representing 71 universities. The IRIS program includes the installation of seismic stations in the United States and the Soviet Union under a cooperative agreement between the Soviet Academy of Sciences and the university research community in partnership with the U.S. Geological Survey. The program is now providing scientists with continuous seismic data directly from within the Soviet Union. The data from the Soviet Union have allowed us to better evaluate seismic monitoring techniques.

This testimony represents my views as an individual well acquainted with both the technical and political arguments surrounding the test ban issue. I am not testifying on behalf of the Office of Technology Assessment, or the IRIS Consortium.

Status of the two treaties for the past 16 years

The 1974 Threshold Test Ban Treaty (TTBT) limits the size of underground nuclear explosions by the United States and the Soviet Union to explosive yields no greater than 150 kilotons. This yield limit corresponds approximately to the explosive equivalent of 150 kilotons of TNT,[3] or ten times the explosive yield of the bomb that was dropped on Hiroshima.[4] The 1976 Peaceful Nuclear Explosion Treaty (PNET) is a complement to the TTBT. It restricts individual peaceful nuclear explosions by the United States and the Soviet Union to yields no greater than 150 kilotons, and groups explosions (consisting of a number of individual explosions detonated simultaneously) to aggregate yields no greater than 1,500 kilotons.

Since the signing of the TTBT and the PNET over a decade and a half ago, the treaties have been in force even though they have not been ratified. Neither country has indicated an intention not to ratify the treaties; consequently, both parties are obligated to refrain from any acts that would defeat the treaty's objective and purpose.[5] Provisions have existed, however, for one or two slight, unintentional breaches per year of the 150 kiloton limit due to the technical uncertainties associated with predicting the exact yield of nuclear weapon tests.[6]

For the past several years, efforts to negotiate further restrictions on nuclear testing have been forestalled pending ratification of the TTBT and PNET. Ratification of the two treaties, in turn, has taken several years due to the controversial insistence on the part of the Reagan administration to verify the treaties with the on-site hydrodynamic method called CORRTEX. The controversy over the verification of these two treaties has ostensibly been over technical issues, but in reality has been driven by political agendas. On the surface, the debate is over the ability of different technical methods to measure the size of an underground nuclear explosion. At the heart of the debate is the issue of whether we want further restrictions on nuclear testing.

To differentiate what is political from what is technical, we must first accept that no method of verification is exempt from uncertainty and therefore a subjective decision has to be made about what level of uncertainty is acceptable.

No method of verification is exempt from uncertainty

Measuring the size of a nuclear explosion, like measuring one's weight or the speed of one's car, is imperfect. No matter what method is used, there will always be some uncertainty. An illustration of this point occurred during the 1988 US/USSR Joint Verification Experiments (JVEs).

As part of the JVEs, the United States Government invited several dozen Soviet scientists to the Nevada Test Site to witness the use of the U.S. CORRTEX method for measuring the yield of a U.S. underground nuclear explosion. As reported in the Washington, Post,[7] the CORRTEX system measured the yield of the explosion as being around 155 to 163 kilotons, an apparent violation of the 150 kiloton limit of the Threshold Test Ban Treaty. The Post article went on to say that despite these measurements, a State Department press advisory declared the explosion was "in conformity" with the 150-kiloton limit; and U.S. Ambassador Paul Robinson stated that "the test yield was clearly below the [treaty] threshold, and neither we nor the Soviets have a problem with that." Soviet seismic methods, however, indicated that the yield was within the limit. The Soviet newspaper TASS recognized the irony and, in reporting

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[1] Footnotes at end of article.

the incident under the headline, "American Corrtex Registers American 'Violation'",[8] stated:

"Both Corrtex devices installed at the range, which are favoured by the U.S. as a monitoring technique, showed the yield of American nuclear explosion, witnessed by Soviet specialists, to be over 150 kilotons, i.e. over the limit which the two countries have pledged to observe. At the same time the Soviet teleseismic monitoring means, which were dismissed by the American specialists as unreliable, showed that the yield of the American explosion was 140 kilotons as planned and that the United States did not violate the threshold test ban treaty."

The apparent inaccuracy of the CORRTEX measurement above 150 kilotons for the U.S. test does not mean that the United States violated the treaty, nor does it mean that CORRTEX is an inadequate method of yield estimation. If the numbers in the Washington Post story are accurate, CORRTEX performed well within its advertised capability. It is simply the nature of this type of measurement that if testing occurs up to the yield limit, some measurements of those tests will give results slightly above the yield limit. As the United States demonstrated at the US/USSR JVEs, no method of yield estimation is exempt from uncertainty.

The arguments about the verification of the TTBT and the PNET are therefore not about eliminating uncertainty, but about deciding what level of uncertainty is acceptable. This decision is, in turn, fueled by the concern that the Soviets will be able to cheat on the treaty if there is uncertainty in the yield estimate. But uncertainty does not necessarily translate into opportunities for cheating.

Enforcing the treaty: When is enough enough?

Although there is uncertainty in every method of yield estimation, this does not mean that the treaty is unenforceable. As an analogy, consider the enforcement of automobile speed limits. The police use radar measurements to catch drivers exceeding the 55 mph speed limit. For comparison, a measured yield of 160 kt (as in the US's JVE test) under the 150 kt limit of the Threshold Test Ban Treaty is like a radar reading of 58.7 mph under the 55 mph speed limit. The police do not generally give tickets when their radar shows a speed of 58.7 mph because most speedometers are not that accurate and because curves and other factors can lead to small errors in the radar's measurement of speed. Similarly, a 160 kt measurement should not be regarded as a legal lack of compliance because such a number can well arise from uncertainties in the measurement technique, whether it be hydrodynamic, seismic, or radiochemical.

The police can enforce speeding limits by using radar measurements to monitor the speed limit even though there is uncertainty in the measurement. At radar measurements over 65 mph the police have confidence that the 55 mph limit has been exceeded, and the speeder is charged with a speeding violation. Similarly, if the measured yield of the US JVE test was 180 or 190 (rather than the reported 155 to 163) kilotons, we would have concluded that the 150 kiloton limit had probably been exceeded.

It is important to note that this argument does not necessarily mean that a country could take advantage of the uncertainty and test at 180 or 190 kilotons. A country attempting to cheat would have to worry that the uncertainty might work against them: in other words, their test at 180 or 190 could appear as 200 which would be a clear violation. The point is worth making, however, that the calculated yield for declaring a violation will always be higher than the limit imposed by the treaty. A country intent on cheating might try to take advantage of this by risking one or two tests slightly above the limit, just as a driver might risk driving past a police car slightly above the 55-mile per hour speed limit on the assumption that neither her speedometer nor the radar measurement will be high.

Are the verification provisions technical or political?

Given that some margin for error in yield estimation is unavoidable, the question becomes: how much is acceptable? Unfortunately, this issue has never been adequately addressed. No credible technical analysis has ever been presented to justify the national security requirement for a specific level of accuracy. In the absence of such analysis, debate over the relative capabilities of seismic methods, hydrodynamic methods, and radiochemical methods are meaningless. As a consequence, the verification requirements of the TTBT and PNET have been driven by the capabilities of available technology, rather than by national security requirements.

Seismic methods of yield estimation were declared inadequate by the Reagan Administration, and in their place on-site hydrodynamic methods were required. The requirement was based not on the need to achieve a certain level of accuracy in yield estimation, but rather on the desire to use a specific technology. In fact, it is not clear that an improved yield estimation capability will be obtained through the use of on-site hydrodynamic methods in place of a local seismic network. The 1988 OTA report on seismic verification concluded that "hydrodynamic [CORRTEX] yield estimation will not provide a significantly superior yield estimation capability over what could be obtained through well-calibrated seismic means." The OTA conclusion was based on the U.S. capability to measure yields within a 30 percent margin of uncertainty at our own test site using a local network, and because of the promising results that were being obtained in the mid-1980s using a regional seismic wave called Lg which travels along the Earth's surface is recorded within short distances (typically 2000 kilometers).

At a Congressional Hearing before the House Committee on Foreign Relations, witnesses on behalf of the administration charged that the OTA report was "flawed" and that "No one should use [the conclusions of the report] as the basis for challenging the established course of the negotiation of nuclear testing limitations." Because no supporting technical arguments were provided for the administration's charges, the Committee requested that such evidence be provided for the hearing record. The administration, however, failed to produce any technical evidence to support its charges against the OTA report prompting the Committee chairman to remark: [9]

"This instance of witnesses on behalf of the administration making unsupportable and unsubstantiated charges is an unfortunate matter which I hope is an anomaly. It is in the interest of both the Legislative and Executive Branches to avert such a development from becoming a dangerous precedent that could adversely influence the arms control and national security policy of this country".

[Graphs not reproducible in the Record:]

Additional data available since the publication of the OTA report, has only strengthened its conclusion. In 1989 an article was published in Soviet journal Atomnaya Energiyas,[10] listing the yields of many Soviet explosions. For four of the more recent explosions in the article for which yields were given, measurements of the seismic wave Lg were available from a seismic station in Norway. The following figure shows the reported yields of the Soviet explosions plotted against the measured Lg wave: The measurements of Lg were determined from weak signals at great distance. Although there are only four points on the graph, they lie remarkably close to a straight line. All of the seismic measurements fall within the 30 percent uncertainty described for hydrodynamic methods. In fact, all of the seismic measurements have an uncertainty of less than 20%. A conclusion from this figure is that seismic methods of yield estimation, based on Lg-waves, for Soviet explosions at the Shagan Test Site may be as accurate as hydrodynamic methods based on CORRTEX.

Unfortunately, the graph contains only four data points. By coincidence, however, the original proposal to use CORRTEX deployed in satellite holes, was also based on only four data points. Six additional data points could be included on this graph: the yield of the USSR JVE test, and the 5 historical yields that were provided by the Soviet Union to the United States as part of the JVE. Unfortunately, the United States has refused to release these yields, despite permission from the Soviet Union to do so.[11] Such a refusal creates the impression that the information is being withheld because it does not support the administration's position that seismic methods are incapable of providing adequate yield estimation. Efforts to obtain this information have resulted in a lawsuit that is currently pending.[12] We will be able to determine whether the additional points fall along the line, if and when this information is released.

The extensive verification provisions of the TTBT and the PNET do not appear to be motivated by technical arguments or national security concerns. Evidence for such suspicion is found in the 1988 statement by the Deputy Assistant Secretary of Defense (Nuclear Forces and Arms Control Policy) of the Reagan Administration:[13]

"The more time wasted on discussions and experimentation of monitoring techniques irrelevant to the verification of an environment in which there are no legal tests, the easier it will be to stave off demands for the more constraining comprehensive test ban."; and by statements of White House officials reporting to Scientific American in 1988:[14]

"Privately officials in the White House have acknowledged to Scientific American that they have another aim. By creating the appearance of progress toward a test ban, the officials said, they hope to divert attention from the achievements of genuine test ban proponents and so reduce their momentum."

This strategy has been successful. The extensive verification provisions of this treaty have effectively forestalled progress in the area of test ban agreements. Furthermore, if the provisions of the treaty become the standard for verification, it will effectively preclude the possibility of any low-yield or comprehensive test ban treaty. Hydrodynamic methods have no application to monitoring such treaties, because they can not detect unannounced tests. The verification provisions of these treaties appear to be

driven more by posturing over future limits of nuclear testing than about concerns of Soviet violations. Several of the technical requirements of the new protocols further contribute to this appearance.

Technical questions raised by the new protocols

Several of the technical requirements contained in the new protocols of the TTBT and PNET will have the effect of limiting progress in developing further restrictions on nuclear testing. In particular, the following questions are raised by the description of the seismic requirements contained in the TTBT protocol:

1. Why do the new protocols limit the operation of in-country seismic stations to only about two weeks per high-yield shot?

The continued operation of such stations would improve the basis upon which the U.S. could make decisions about the verification of a Comprehensive Test Ban Treaty or a Low-yield Threshold Test Ban Treaty.

2. Why are there no provisions to release the seismic data from in-country stations, or allow independent parties to review the analysis?

The current responsibility for assessing the verification provisons of nuclear testing treaties resides in agencies that build new nuclear weapons and manage the nuclear weapon stockpile. Such an inherent conflict of interest is not supportive to an aggressive problem-solving approach on issues concerned with limiting nuclear testing.

3. What is the basis for requiring an Lg-wave signal-to-noise ratio of not less that nine?

Although the protocol uses a non-standard definition of signal-to-noise, the ration appears to be twice that which is normally used. For example, in the NORSAR seismic array a signal-to-noise value of 1.5 is all that is needed for the L_g signal to be of sufficient quality for a reliable yield estimate. By the definition in the TTBT protocol, a signal-to-noise ratio of about 3 should be adequate. it is also curious that the number 9 was chosen rather than 10. The choice implies a level of precision that is difficult to justify.

4. Does the USSR claim that the three seismic stations they have selected (ARU, NVS, and OBN) have signal-to-noise ratios of at least nine for all underground 150 kt tests on its territory?

Given the public opposition to continued nuclear testing in the Republic of Kazakhstan, it is likely that future Soviet tests will be conducted on Novaya Zemlya. It is hard to believe that these three stations will have such high quality recording of Lg for Novaya Zemlya.

Where do we go from here?

The TTBT was signed by President Nixon and General Secretary Brezhnev on July 3, 1974. The PNET was signed by President Ford and General Secretary Brezhnev on May 28, 1976. Presidents Bush and Gorbachev signed the new verification protocols for the TTBT and the PNET on June 1, 1990. These two treaties have now been sent to the U.S. Senate for advice and consent to ratification three times. To date, the treaties continue to be held hostage to political agenda. I hope that the U.S. Senate will promptly recommend ratification.

Article I (3) of the TTBT states "The Parties shall continue their negotiations with a view toward achieving a solution to the problem of the cessation of all underground nuclear weapon tests." This article appears contradictory to the statements made by the Bush administration in early 1990 that 1) they have identified no type of further limitation that they regard as being in the national security interests of the U.S., and 2) that a period of implementing the new TTBT protocol is in order before considering any follow-on.[15] Advice for consent and ratification of the TTBT and PNET should therefore require an explanation from the administration on how the commitment of Article I (3) will be sent. Furthermore, an appropriate basis for continued negotiations on further limitations of nuclear testing must be clearly identified.

In negotiating the TTBT and PNET, the U.S. and Soviet governments respectively favored the hydrodynamic and seismic yield measurement methods. Consequently, the protocols give equal weight to both methods. Assuming that the hydrodynamic measurements will be released, the coincidental use of the two measurement systems will allow both a reduction in the uncertainty of yield estimation and an improvement in the confidence of seismic methods.

Reliance on seismic methods will increase if further restrictions on nuclear testing are pursued. Much of the past debate surrounding our ability to monitor further restrictions on nuclear testing has occurred because we have had to rely on theoretical predictions about the performance of hypothetical networks within the Soviet Union. Since 1986, however, a network of seismic stations within the Soviet Union has been evolving through the initiatives of independent organizations and university research groups.

Under a May 1986 agreement between the Natural Resources Defense Council (NRDC) and the Soviet Academy of Sciences, three temporary seismic stations were installed at the Soviet test site in Kazakhstan. Under a June 1987 agreement between NRDC and the Soviet academy, the three stations were relocated, and beginning in 1988, two additional stations were to be established. Recognizing that the Soviet Union would now allow seismic stations within their country, the U.S. university consortium IRIS negotiated an agreement with the Soviet Academy of Sciences to install seismic stations within the USSR as part of the IRIS Global Network. In April 1988, a US/USSR joint seismic program was established with the IRIS Consortium and the U.S. Geological Survey representing the United States, and the Soviet Academy of Sciences representing the Soviet Union.

As the following map indicates, four seismic stations are currently operational, and it is expected that a total of 13 stations will be sending continuous seismic data back to the United States within a year. A comparable number of stations within the U.S. are sending data to the Soviet Union under the reciprocal arrangements of the program. In addition, two arrays of approximately 10 seismic instruments are being installed. General plans call for the networks to include approximately 20 stations within each country.

SEISMIC STATIONS

Location	Code	Lat./Long.	Status
Garm	GAR	39.0N / 70.3E	Operational.
Kislovodsk	KIV	44.0N / 44.7E	Do.
Arti	ARU	56.4N / 58.6E	Do.
Obininsk	OBN	55.1N / 36.6E	Do.
Talaya	TLY	51.7N / 103.6E	Summer/Fall 1990.
Ala-Archa	AAK	42.6N / 74.5E	Do.
Garni	GNI	40N / 45E	December 1990.
Novosibirsk	NVS	54.5N / 83.7E	Winter 1990/91.
Apitity	APA	67.6N / 33.3E	Do.
Aktubinsk	AKB	50.5N / 58.0E	Do.

SEISMIC STATIONS—Continued

Location	Code	Lat./Long.	Status
Yakutsk	YAK	62.0N / 129.7E	Do.
Petropavlovsk-Kam	PET	53.0N / 158.6E	Do.
Ashkhabad	ASH	37.6N / 58.2E	Do.

SEISMIC ARRAYS

Location	Lat./Long.	Status
North Caucasus	40N /45E	Operational.
Kirghizia	43N / 75E	1991.

The cost of an IRIS seismic station within the Soviet Union is approximately $250,000 per station. The cost of building and installing a full network of 20 stations would be approximately $5M. The predicted cost of a single CORRTEX measurement is $5-10M; and the cost of the single measurement made of the Soviet JVE test was $30M. Consequently, a full network of seismic stations recording data continuously for all test explosions could be built and installed within the Soviet Union for approximately the cost of a single CORRTEX measurement. This comparison is somewhat unfair in that the IRIS network is simply a network of seismic stations collecting data; it is not an operational monitoring system. The point remains, however, that a network of seismic instruments can be used to monitor underground nuclear explosions at a relatively inexpensive cost. In addition, the seismic network being installed through the US/USSR Joint Seismic Program will establish the technical basis for a verification regime in support of a Comprehensive Test Ban Treaty or a Low-Yield Threshold Test ban Treaty.

In summary, it is my judgment that the TTBT and PNET should be promptly ratified. Along with the recommendation for ratification, the Senate should obtain assurances from the administration that:

(1) the requirements of Article I(6) of the TTBT will be met,

(2) an appropriate mechanism for further negotiations on nuclear testing will be established,

(3) technical data and analysis will be released whenever possible, and

(4) adequate funding will be provided for the continued operation and expansion of seismic networks and the US/USSR joint seismic program.

If the Senate recommends ratification of the TTBT and the PNET along with these assurances, it will indicate a commitment on the part of Congress to move away from paralyzing political agendas and honestly address the national policy issue of nuclear testing.

FOOTNOTES

[1] U.S. Congress, Office of Technology Assessment, Seismic Verification of Nuclear Testing Treaties, OTA-ISC-361 (Washington, DC: U.S. Government Printing Office, May 1988); also, Nuclear Testing: Arms Control Opportunities, Hearing before the Subcommittee on Arms Control, International Security and Science, Committee on Foreign Relations, House of Representatives, June 28, 1988, U.S. Government Printing Office.

[2] "Test Ban Issues", Hearing of the Committee on Foreign Relations, United States Senate, October 6, 1988, U.S. Government Printing Office.

[3] A kiloton (kt) was originally defined as the explosive equivalent of 1,000 tons of TNT. This definition, however, was found to be imprecise because a) there is variation in the experimental and theoretical values of the explosive energy released by TNT, and b) a kiloton could refer to a "short", "metric",

or "long" kiloton. It was agreed, therefore, during the Manhattan Project that the term "kiloton" would refer to the release of 10^{12} calories of explosive energy.

[4] "The Yields of the Hiroshima and Nagasaki Nuclear Explosions," Los Alamos National Laboratory report LA-8819, 1985.

[5] Article 18, 1969 Vienna Convention on the Law of Treaties.

[6] Statement of understanding included with the transmittal documents accompanying the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty when submitted to the Senate for advice and consent to ratification on July 29, 1979.

[7] "Data From Atom Blast Adds to Treaty Verification Questions" by R. Jeffrey Smith, Washington Post, September 8, 1988, p.A3.

[8] "American Corrtex Registers American "Violation" ", by Vladimir Bogachev, TASS, September 15, 1988.

[9] Nuclear Testing: Arms Control Opportunities, hearing before the Subcommittee on Arms Control International Security and Science of the Committee on Foreign Affairs, House of Representatives, June 28, 1988, p.iii.

[10] "The Characteristics of 96 underground Nuclear Detonations at the Semipalatinsk Test Range", by V.S. Bocharov, S.A. Zelentsov, and V.N. Mikhaylov, Atomnaya Energiya, vol. 67, no. 3, September, 1988, pp.210-214.

[11] "U.S. Opposes Release of Soviet Nuclear Test Data", by Michael R. Gordon, The New York Times, March 23, 1989, A7.

[12] Lawyers Alliance for Nuclear Arms Control / Philadelphia Chapter et al versus Department of Energy, U.S. District Court for the Eastern District of Pennsylvania, Civil Action #88-7363.

[13] "Test Ban Would be Real Tremor to U.S.", by Frank Gaffney, Defense News, September 5, 1988, pp. #36-37.

[14] "Test-Ban Countdown", by John Horgan, Scientific American, October 1988, P.16.

[15] "U.S. Policy Statement on Nuclear Testing", Memorandum from the Executive Secretary of the National Security Council, Jan. 9, 1990.

RICHARD L. GARWIN, IBM RESEARCH DIVISION, THOMAS J. WATSON RESEARCH CENTER,
Yorktown Heights, NY, August 8, 1990.

Hon. DAVID L. BOREN,
Chairman, Select Committee on Intelligence, Senate Hart Office Building, Washington, DC.

DEAR CHAIRMAN BOREN: This letter responds to the invitation you and Senator William S. Cohen provided in your letter of 07/02/90 (SSCI No. 90-2976) to submit a written statement that would assist the Select Committee in its deliberations on the monitoring and security aspects of the TTBT and the PNET, together with their verification protocols.

Following receipt of your letter, I have read once again the text of the treaties (1974 and 1976), and the verification protocols signed 06/01/90. I have reviewed the implications for U.S. counterintelligence and security, and I judge that U.S. interests are adequately protected in the circumscription of the rights and privileges of the Soviet "Designated Parties" as prescribed in the Protocols. In general, such potential vulnerability to the United States might stem logically from actions of Designated Personnel outside the test site, or, alternatively, within the test site. Practically, the Designated Personnel will be under substantially greater surveillance than are many known or unknown foreign agents, and will not add significantly to the foreign espionage hazard.

The test site itself, however, may not be entered by the vast majority of these other foreign agents, and the Protocol to the TTBT (Page 99—Section X.17) prohibits possession or use by Designated Personnel at the test site of various equipment that could be used to record or transmit information. Of course, this prohibition will have to be supplemented by observation of the activities of Designated Personnel to verify that the prohibition is respected.

Considering the value and nature of the information that might be gained, and the close surveillance of actions of Designated Personnel provided for in the Protocol, I see no difficulty here.

In general, the Protocols are very thorough, and it seems entirely feasible to carry out the procedures as prescribed. I am confident that the United States, with the means prescribed by the treaties and the Protocols, and, in addition, with NTM, will be able to detect a militarily significant violation of the TTBT or PNET. On the other hand, the cost of verification is high—particularly that aspect associated with the "hydrodynamic method," or CORRTEX. I believe that we will not desire to exercise our right to hydrodynamic yield monitoring of many Soviet nuclear explosions, even when that is our option. It has been indicated that the cost of such monitoring of a single shot might be as much as 50 percent of the cost of the nuclear test itself, and I do not believe that the additional confidence in measurement of yield to be obtained from the hydrodynamic method, in many cases, will be judged to be worth the price.

"What is worth doing is worth doing well" is a commonly quoted adage, but I believe the relevant maxim in this case is "What is not worth doing is not worth doing well." Time, money, and opportunity have been wasted in the preparation and negotiation of these Protocols, as evidenced by the candid comment of Former Assistant Secretary of Defense Frank Gaffney who wrote, "The more time wasted on discussions and experimentation of (yield) monitoring techniques irrelevant to the verification of an environment in which there are no legal tests, the easier it will be to stave off demand for the more constraining comprehensive test ban." [1]

Whatever the motivation for these agreements, I believe that the Senate Select Committee on Intelligence can in good conscience give its consent to ratification of the TTBT and the PNET, together with their Protocols.

Thank you for the opportunity to make this brief comment. I know that more detailed testimony will be given by Dr. W.K.H. Panofsky, dealing with the specific measurements to be made, and their significance.

Sincerely yours,

RICHARD L. GARWIN.

Also Adjunct Professor of Physics at Columbia University (views not necessarily those of IBM or Columbia).

LOS ALAMOS, NM,
August 24, 1990.

Senator DAVID L. BOREN,
Senator WILLIAM S. COHEN,
Select Committee on Intelligence, U.S. Senate, Washington, DC

DEAR SENATORS BOREN AND COHEN: I much appreciate your invitation to send comments to the Select Committee on Intelligence in connection with your review of the TTBT and the PNET. I regret having been unable to respond by the time suggested in your letter of July 2, 1990 but am sending comments nevertheless.

I have long felt that it would be in the national interest to ratify these treaties, and had once hoped that by this time we would be considering more significant limitations on nuclear testing than these treaties involve. We should still proceed further in this direction as that may be feasible.

You identify three questions of particular interest to your committee in its consideration of these treaties.

1. Provisions for monitoring and verification.

For announced shots—understandably the only ones addressed in the Protocol—these provisions are far more than sufficient. Indeed, the remote seismic monitoring, which has been in place for many years and on which we have relied since 1974, has provided the sort of information essential to our needs. For unannounced tests we must still rely on remote seismic methods, but the requirements on these will be much easier to meet under the proposed circumstances by which any unannounced test with a yield exceeding 35 kilotons would constitute a violation of the Treaty.

What is new since 1974 are the Protocols of June 1, 1990 with their important provisions that the test schedules are to be announced and that various options may be used for close-in confirmation of yields. The Protocol discusses the procedures to be observed in connection with the hydrodynamic yield measurement method in great detail, actually in inordinate detail—particularly in the case of TTBT. This may make it appear more messy to exercise this option than it may turn out to be in practice, but in any case it would seem unlikely that we would find it worthwhile or sufficiently interesting to want to exercise this option more than a rather few times, or to be happy to have an opponent exercise it very often. However, now that we have it available, we should exercise it on at least two or three occasions for the special purpose of obtaining a calibration for the remote seismic method of yield measurement. In addition to being directly useful, this could help us avoid any repetition of the unseemly spectacle of several years ago when the Administration, apparently bent on claiming that the Soviet's had violated the intent of the TTBT, used for the purpose correlations between seismic signal and yield which, in the studied opinion of reputable non-government seismologists, were of highly dubious quality (which under the circumstances they necessarily were) and which even may have been deliberately biased.

2. Your second question concerned our capability to monitor Soviet compliance.

For this it is useful to decide whether the TTBT is about the number 150 (an obviously arbitrary number of no intrinsic importance), or is about the "limitation of underground nuclear weapon tests" as spelled out in the Preamble. Obviously some quantification is necessary to indicate the class of weapons for which the agreed limitation was intended to apply, and the number 150 kilotons was used for that purpose. The latter reading is the more meaningful one, and the one more consistent with the intent of the Preamble and also with operational reality. It can accommodate with less strain the unavoidable margins of error involved in all methods of yield measurement.

As examples, even persons conducting a test explosion cannot determine the yield realized with a precision much better than $\pm 10\%$. I do not know just what is claimed at present for the accuracy of the hydrodynamic yield measurement method, but three or four years ago (and it is probably not much different today) it was said to be capable of determining the yield within 395 at

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[1] Gaffney, F. "Test Ban Would be Real Tremor to U.S. Security," Defense News, Sept. 5, 1988, pp. 35-36.

the 150 kiloton level, and with less accuracy at much lower levels. In that same time frame it was the position of Administration spokesmen that remote seismic yield determination was accurate only to within a factor of 2—though serious non-government seismologists held that 1.5 would be a more proper value for that factor.

In particular, suppose the Soviets conduct a test with an actual yield of 150 kilotons which we observe by a remote seismic system capable of determining yield within a factor of 1.5. The yield we might read could, then, lie somewhere between 100 and 225 kilotons. Had our reading been near the top of that range it would, on the surface, look like a significant violation; but we would have to allow for the fact that the reading was not inconsistent with having come from a legitimate test. To assess the significance of such a serious violation (if it should have been one) one may consider that the radius of blast damage at a given intensity—the damage criterion most frequently used in connection with hard targets—varies only as the cube root of the yield. Had the test actually been one of 225 kilotons the damage radius would, then, have been only about 15% larger than that of a weapons deemed permissible under the Treaty. Had we used the hydrodynamic yield measurement method for the same test, things would have been better, but not much different. Assuming that the 1.3 factor still applies for the precision of yield determination by that method, the largest possible ambiguous yield reading and the increase in damage radius, instead of being 225 and 15%, would have been 195 and 9%. For the purpose of assuring ourselves that an opponent was complying with an agreement to restrict the capabilities of new elements of his arsenal within some bounds, possible occasional discrepancies of the sort indicated above would scarcely seem to warrant much concern. At least for all practical purposes our ability to monitor for compliance is in hand, and we can tell if they appear to be complying with the intent of the Treaty, which is all our interest really requires.

3. Your third question had to do with the Treaties' implications for counterintelligence and security.

As to counterintelligence, there is nothing about the Treaty, or Soviet participation in on-site activities, which would put weapon design information in their hands beyond what they could learn from Congressional hearings on new U.S. weapons systems. It could be that we have some tricks, or elegant equipment in methods useful in site preparation or emplacement operations which are new to them—though this could just as well work the other way—but there is no reason we should be troubled should they learn something of that sort.

As to security, no doubt there may be proposals for possible new weapons with which we may be unable to proceed because of the yield limits opposed by the Treaty. The same could apply with respect to some imaginable proposals for effects tests. Similar considerations could complicate, or vitiate, possible modernization proposals or reliability tests for some of our older high-yield stockpile models. Similarly, also, with respect to tests to improve safety—though these are all with respect to devices which have not proved dangerous in the past, and which might (or might not) provide serious consequences in the event of some accident which, in itself, has only a small probability of occurrence. (Usually the safety improvement reduces the already small probability of experiencing the serious consequences, but does not remove it.)

Some such proposals might seem worth going ahead with if our possible opponents, as well as we, were continuing with testing on an unrestricted basis. But none are essential, and to forego all of them while our opponents are under similar constraints does not jeopardize our security. Our security, after all, depends very directly on not having to fire any of our weapons—old or new, large or small—in combat with a nuclear-armed opponent. To the extent that our adherence to this Treaty may further that objective, or the objectives spelled out in the Preamble of the Treaty, that will improve our security far more than any new weapon or weapon test precluded by the Treaty could possibly do.

4. Finally, a matter not called out by your questions.

There would seem to be something ludicrous about having a "Protocol" of 107 pages appended as "an integral part" of a two-page Treaty such as the TTBT. Particularly when the Protocol includes such a wealth of trivia as, in V7e, that the volume of core samples shall be no less than about three quarters of a pint and no more than four fifths of a gallon unless the Parties otherwise agree, or that certain holes shall be no smaller than 3½ inches or larger than 6 inches in diameter, and so one, and so on.

Would it not be better to propose a new Protocol made up of the few pieces of the present one which contain Treaty-like provisions—the sort of items, that is, which might reasonably be judged to be necessary as an integral part of the Treaty—and attach all the rest of the present volume as, for instance, an "Appendix of Agreed Procedures"? The new Protocol would include primarily the provisions of the present Section IV having to do with notification of projected tests during the coming year, the parts of Section III laying down the rights of the Verifying Party to carry out verification activities by one or another means, and the part of Section XI setting up the Bilateral Consultative Commission, along with a statement that this Commission would administer and amend as deemed necessary the agreed procedures laid out in the Appendix?

I am aware that it is probably much too late to take up item 4, and besides, that it is no part of the responsibility of the Select Committee on Intelligence. But perhaps we could watch out for this when we get around to ratification of TTBT—Two at—what would you say?—15 kilotons?

Yours sincerely,

J. CARSON MARK.

CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES,
Washington, DC, July 30, 1990.

Mr. DON MITCHELL,
Select Committee on Intelligence,
U.S. Senate, Washington, DC.

DEAR MR. MITCHELL: Enclosed is my statement on the TTBT/PNET in response to the chairman's letter of July 2, 1990.

Sincerely yours,

FRED C. IKLÉ.

STATEMENT FOR THE SELECT COMMITTEE ON INTELLIGENCE, U.S. SENATE

COMMENTS ON THE THRESHOLD TEST BAN TREATY

(by Fred C. Iklé)

As Director of the U.S. Arms Control and Disarmament Agency from 1973 through 1976, I have been directly involved in the negotiation of the Threshold Test Ban Treaty (TTBT) and the associated treaty on Peaceful Nuclear Explosions (PNET). In fact, the latter treaty was negotiated with the Soviets between 1974 and 1976 under my supervision.

A sense for the history of these treaties may help the Committee to place the verification question in the proper context. Proposals for a nuclear test ban, of course, date from 1950s, and in 1958-59 the Eisenhower Administration was seriously trying to reach agreement with the Soviet Union on a method for verifying a comprehensive test ban. Had Khrushev then agreed to the verification measures that Gorbachev has now accepted for the TTBT, it seems likely that President Eisenhower would have settled on a complete test ban (or a nearly complete ban). It is interesting to speculate how the Soviet and U.S. nuclear missile programs would have proceeded, had such a treaty entered into force 30 years ago.

Instead, the verification systems that was the subject of prolonged negotiations in 1958-59 was found deficient in two respects. First, the global network of seismic stations that was envisaged could not have overcome certain deception methods that seemed quite feasible (seen from Washington) in that pre-glasnost, pre-satellite era. Second, the negotiations were stuck on the mistaken approach of trying to create an "impartial" international verification organization. We have since learned that the right approach is the "adversary" method, whereby each side manages the agreed verification operations to monitor the other side. It is far too difficult, if not impossible, to create a reliable impartial management.

The Threshold Test Ban Treaty of 1974 represented, in a sense, an amendment of the Limited Test Ban Treaty of 1963. It was negotiated rather quickly, and the U.S. Administration concluded at the time that the verification procedures then agreed to would be adequate. This assessment proved too optimistic. During the late 1970s and the 1980s our intelligence community and seismic experts were frequently uncertain whether or not certain Soviet tests exceeded the 150 kiloton threshold, perhaps by significant amounts. Thus, while the Ford Administration (and for the first few months also the Carter Administration)[1] recommended to the Senate that the TTBT be ratified, the Reagan Administration concluded that the verification regime of the treaty required improvement. It is a testimony to the sweep of Glasnost that the Protocol that is now before the Senate could be negotiated during the last few years, providing extensive on-site monitoring and a substantial enhancement in verifiability.

It is my understanding that given the Protocol's verification arrangements, a substantially lower threshold yield (such as 75 kilotons) would also be verifiable. When the Nixon Administration first formulated its position on the TTBT, my recommendation as Director of ACDA was for a 75 kiloton threshold, but given the strenuous objection of ERDA (the precursor agency of DoE) President Nixon chose the 150 kt threshold.

Finally, a word on the PNE treaty. After we had reached agreement on the TTBT in 1974, the Soviets kept insisting they wanted

[1] The Carter Administration withdrew the TTBT from the Senate; not for verification reasons, but because it favored a comprehensive test ban instead.

the right to conduct PNEs. The United States had no interest in such an option. The submission of the TTBT treaty to the Senate therefore was held up until the PNE treaty had been negotiated. In that treaty the Soviets for the first time agreed to on-site inspections, albeit reluctantly and in the context where these inspection rights were unlikely ever to be invoked. Today, PNE's should be strongly discouraged because they can give other countries an excuse for starting a nuclear weapons program under the guise of peaceful applications. It would have been far better if we could now have agreed with the Soviets to ban PNE's entirely.

UNIVERSITY OF COLORADO
AT BOULDER,
Boulder, CO, August 10, 1990.

Hon. DAVID L. BOREN,
Chairman, Senate Select Committee on Intelligence, Washington, DC.

DEAR CHAIRMAN BOREN: Enclosed is a written statement regarding verification protocol for the Threshold Test Ban Treaty (TTBT) and the Peaceful Nuclear Explosion Treaty (PNET). I appreciate the opportunity to submit this assessment to the committee and hope that it will be of use during the committee hearings on the subject.

If I can be of any further aid to the committee, or if there are any questions regarding my statement, please feel free to contact me.

Sincerely yours,
CHARLES B. ARCHAMBEAU,
Cooperative Institute for Research in the Environmental Sciences (CIRES).

STATEMENT OF DR. CHARLES B. ARCHAMBEAU

GENERAL OVERVIEW

The restrictions on testing contained in the TTBT and PNET agreements are sufficiently different that it is necessary to consider them separately, even though the protocols are at least superficially similar. The essential differences between the two treaties lies in the fact that the PNET allows group explosions made up of individual explosions of no more than 150 kt each that can be closely spaced in time and location and can exceed in total yield the 150 kt limit; in particular they can have a total yield of 1,500 kt in aggregate. However, under the TTBT the total yield for one or more explosions, the latter detonated within a total time interval of 0.1 second and within an area of no more than 2 kilometers in radius, is 150 kt.

The essential questions to be raised regarding verification of these two treaties are therefore different, inasmuch as the limitations imposed are quite different when multiple explosions are involved. That is, when a single nuclear explosion is detonated under either treaty the yield limit is 150 kt. and the verification methods used can be the same for both and can be accomplished by seismic methods, by the hydrodynamic method, or both. However, when more than one nuclear device is detonated in a single test the situation is different, in that under the PNE agreement the aggregate yield of all devices can exceed the 150 kt limit while under the TTBT agreement they cannot.

This means that verifying compliance with the TTBT is simpler than verification of the PNET since we only have to make sure (with reasonable certainty) that the aggregate yield is at or below 150 kt for the TTBT tests which, under the restriction of the treaty, is not difficult using seismic methods as discussed later. On the other hand, for the PNET we have to verify that no one of the several explosions in a multiple explosion group is above the 150 kt limit when the total yield of the group can be as much as 1500 kt. As described later, determining accurate individual yields in at least some multiple explosion tests will be difficult to accomplish by the seismic methods available in the PNE agreement, or at least it would be an uncertain endeavor in many test circumstances.

In addition, while I am not an expert on the hydrodynamic method to be used, it appears to me that some test circumstances, described later, make it difficult to obtain good estimates of certain of the individual yields in a multiple explosion sequence by such methods. While these test circumstances are rather special and could be anticipated beforehand with accurate information regarding a multiple explosion PNE, it may nevertheless be a possible weakness in PNET verification. In particular, the verifying party would have to rely on the timing information supplied by the testor. (See in this regard section II-2, section V-3 and section VI-1 of the PNET protocol.) Here a concern might be that a weapons test could be conducted above the 150 kt yield limitation as part of a large PNE multiple explosion and that slightly delayed detonation of the weapons test could be used to thwart its accurate yield estimation because of interference from other (smaller yield) explosion signals.

My concerns with the protocols of these treaties are such that it is appropriate to consider each separately and to explain my reasoning more fully. The essential points I wish to establish are as follows: (1) It certainly does not appear to be necessary to include the hydrodynamic method for verification of the TTBT. While it can be of some utility for additional site calibration it is also intrusive, costly and complex. In the last analysis it is non-essential and its inclusion could set a poor precedent for future negotiation of a lower threshold or comprehensive treaty. It could also prove to be an irritant during the course of verification of the treaty if overused. (2) It may be useful to include both the local seismic array and the hydrodynamic measurement method for yield estimation in the PNE agreement in order to verify compliance with the 150 kt limitation on individual explosions in a multiple set of explosions exceeding the 150 kt limit in aggregate yield. However, it is not clear whether individual explosion yield estimates from either the CORRTEX method or the local seismic network will be nearly as accurate, or reliable, as that obtained for a single explosion test. Further, there exists a possibility for testing somewhat above the yield limitation on individual explosions.

These concerns are not, however, of the type or at a level that would lead me to conclude that verification of the treaties under the protocol is compromised. Clearly the first concern is only that the monitoring is excessive and redundant, not ineffective, so that there is no concern, with TTBT operational verification. The second concern, while directly related to operational verification, brings up a possible problem that is actually unlikely to be encountered. That is, the possibility of a violation only arises for a very large yield PNE experiment involving several large individual explosions near 150 kt. No such experiment has ever been conducted in the past and there is not too much likelihood that they would be done in the future. In any case such experiments would certainly be infrequent, perhaps one every 10 years, and one could hardly conduct a weapons testing program on such an infrequent testing basis. Finally, the largest yield device that might be evasively tested would be in the 300 to 400 kt range (otherwise the seismic methods would be likely to identify it) and not much, if anything, would be gained over the allowed tests at 150 kt. Thus the second concern, while it seems worth noting, does not lead me to believe that the PNET agreement leads to any serious verification problem. I therefore recommend ratification of both treaties as they stand.

TTBT VERIFICATION

The TTBT allows one or more explosions to be conducted below the total yield of 150 kt. Because the treaty contains multiple explosions to be detonated within an area of no more than a 2 km radius and within a total time interval of 0.1 second, the multiple explosions will produce signals with low frequency content (below 1 Hz) that will not distinguish between the individual events but instead will represent a sum of them. Consequently the standard seismic yield estimates which are made using seismic signals at and below 1 Hz will produce yield values that reflect the total yield of such a multiple explosion. Therefore the multiple explosions allowed in the treaty can be seismically verified for yield compliance in the same way as a single explosion test since they must meet the same yield limitation as single explosion test.

Use of in-country seismic stations, involving three fixed stations for the TTBT, combined with National Technical Means—which includes the use of many seismic stations surrounding each country and various kinds of satellite acquired data—would be fully adequate for verification of the treaty when combined with the agreed data exchanges and on-site inspections. This is particularly the case since test sites in each country have been studied in some detail by both sides. In this regard, under a joint US-USSR cooperative program,[1] the Semipalatinsk site in Kazakhstan and the NTS site in Nevada have been studied using three high performance seismic stations surrounding each site at distances of about 200 km (125 miles) from their boundaries. Further, a "Joint Verification Experiment" (JVE) has

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[1] In May of 1986 the Natural Resources Defense Council (NRDC) and the Soviet Academy signed an agreement to establish and operate three ultra broad-band seismic stations near the Semipalatinsk and NTS test sites. These stations operated from 1986 to 1988, at which time they were moved to more distant sites in both countries in order to conduct studies involving seismic wave propagation to larger distances. Also in 1988 the project sponsorship was changed to a consortium of U.S. Universities (Incorporated Research Institutions for Seismology, IRIS) and the U.S. Geological Survey on the U.S. side, with an agreement to this effect signed with the Soviet Academy of Sciences. Shortly after this change, agreement was reached for the establishment of a total of seven isolated seismic stations in each country, of which four are now operating with three more scheduled to become operational during the fall of this year in each country. In the spring of this year agreement was reached to establish six more widely separated stations at specific sites in USSR, with a matching number in the U.S. These are scheduled to be operational in 1991-92. The Soviets have also agreed to establish an additional six more seismic stations at, as yet, undesignated sites in the USSR, for a total of about 20 stations that cover the entire USSR. A similar number and distribution of isolated stations are planned for the U.S. Data exchanges from all these stations has been on-going since 1986 by exchanges of magnetic tapes, but in 1990-91 data exchanges will be by satellite from a site near Moscow to various receivers in the U.S.

Mr. ARMSTRONG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator will suspend while the Chair discusses the matter with the Parliamentarian to get an appropriate ruling.

The Senator from Massachusetts has the floor. He was recognized and therefore is entitled to finish whatever remarks he wishes to make. The Chair will further state that the recognition of the Senator is not for purposes of debate of the Lieberman motion, because the motion to table is pending, and it is not debatable.

Mr. LEAHY addressed the Chair.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. LEIBERMAN. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk continued the call of the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Is there objection?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk continued the call of the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. I object.

Mr. ARMSTRONG. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk continued the call of the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be 30 minutes of debate on the pending amendment equally divided and controlled in the usual form between Senator KENNEDY and Senator ARMSTRONG, and that upon the conclusion or yielding back of that time, there be a vote on the Lieberman motion to table.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Reserving the right to object, and I shall not object, but I would like to make an inquiry at this time, and I think it is an appropriate time to make an inquiry of the leader and the manager of the bill on this side.

The record will show that this Senator has held very faithfully to his views on this abortion matter up and down. The record will also show that this Senator has been a supporter of family planning, and I happen to also feel that notification of parents of minor children are a key point.

I would like to have a chance, if I could, before the cloture vote, to have a vote up or down on the amendment proposed for parental notification by the Senator from Colorado.

I would like to inquire of the managers of the bill as to whether or not we are going to have an up-or-down vote on the amendment being offered by the Senator from Colorado before the cloture vote, because that will have a great deal to do with how this one Senator votes on cloture if it comes up and when it comes up, as I understand it, at 5 o'clock.

Mr. KENNEDY. Mr. President, last night the Senator from Colorado proposed an amendment with regard to parent notification on the issue of abortion. I put in a second-degree amendment because there are no funds in this bill whatsoever that deal with abortion. The issues of parental notification, parental consent, the whole wide range of issues that relate to abortion should be debated, should be discussed at some particular time. There have been those who have tied that particular issue into this debate. But since there are no funds whatsoever that are involved in abortion, we thought we ought to clarify that very clearly. That is why the amendment in the second-degree spelled that out very clearly, because that is the fact with regards to this legislation.

If there is some other public policy dealing with the whole range of different abortion issues and the Senate desires to vote on that, so be it. But that really is not what this bill is about.

Mr. ARMSTRONG. Would the Senator——

Mr. EXON. Will the manager of the bill, my good friend, Senator KENNEDY, then please advise me what would be wrong with expressing—or seeing if the Senate would express an opinion that we should have parental notification?

Mr. KENNEDY. Parental notification for what?

Mr. EXON. Parental notification when a minor is contemplating having an abortion. Certainly I would have to agree, in my view at least, with the adoption of the Chafee amendment yesterday we went further down the road than we have ever gone before with regard to family planning and abortion.

Different people have differing views on that point and I am not criticizing anyone who does not agree with me on that. But I felt when we passed the Chafee amendment yesterday that we went quite a little further down the road than we had previously.

I am asking this question only because—and I want to say again, I support family planning—I do not think they should be involved in abortions. They say they are not involved in abortions. But the Chafee language of yesterday at least went further than we have ever gone previously.

It seems to me I should have a right to vote up or down on the amendment proposed by the Senator from Colorado and I do not see that would impair the bill in any way.

Mr. ARMSTRONG. Will the Senator yield for an answer to that question from me?

Mr. EXON. I am not sure I have the floor, since I was reserving the right to object. But I yield the floor.

Mr. ARMSTRONG. Mr. President, if I may respond to the Senator from Nebraska briefly, first to congratulate him on his understanding of the situation we found ourselves in and, second, to say the only way, so far as I can tell, we will be able to get to an up or down vote on the parent notification amendment is to defeat the motion which is or at some point will be pending to table the Lieberman amendment. Because, when I offered my amendment last night Senator KENNEDY did offer a second-degree amendment which expressed another thought on the subject but did not deal with parental notification, the effect of which was to simply wipe mine out. Under the circumstances I withdrew it.

Then today, when the Senator from Connecticut offered his amendment, I offered mine as a second-degree amendment. Therefore either the Senator from Connecticut or the Senator from Massachusetts has or will offer a motion to table.

To get to the vote the Senator from Nebraska desires and which I desire to have, and have quickly—I am not trying to delay in any way—we must first defeat the tabling motion.

I will have more to say, but that is a brief answer to the Senator's question. I thank him for his inquiry.

Mr. MITCHELL. Mr. President, I renew my request.

The PRESIDING OFFICER. There is an unanimous-consent request pending. Hearing no objection, the request is agreed to.

since such stations are not included in the protocol this is not an option.

It might be noted that the hydrodynamic method again plays a secondary role in that, whenever it applies, seismic methods also apply and when it does not apply, then special seismic methods are used—that is the local seismic network.

SOME ADDITIONAL COMMENTS AND RECOMMENDATIONS

In addition to the two areas of concern described in the preceding, there are a few other comments and recommendations that I feel might be appropriate. Specifically:

Assurances should be obtained that the administration will pursue negotiations on a comprehensive or low threshold treaty in a timely manner. That is, without a long delay, as implied by Article I-3 in the TTBT Treaty.

There should be assurances from the administration that the US-USSR cooperative seismic program will be supported in the long term at a reasonable level.

There should be assurances from the administration that technical data relating to test ban issues be released to public and private scientific groups in a timely manner and without unnecessary restrictions.

There should be assurances from the administration that there will be long term substantial support for basic research related to LTTB and CTB verification.

There should be assurances from the administration that there will be careful and independent evaluation of proposals to advance elaborate and intrusive verification procedures in treaty negotiations in order to avoid possible inclusion of non-essential monitoring issues.

HOOVER INSTITUTION ON WAR, REVOLUTION AND PEACE,
Stanford, CA, August 6, 1990.

Hon. DAVID L. BOREN,
Chairman,
Hon. WILLIAM S. COHEN,
Vice Chairman,
Senate Select Committee on Intelligence,
Washington, DC.

DEAR SENATOR BOREN AND SENATOR COHEN: Thank you for sending me the material on the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, and thank you even more for asking me to comment on them. I read the material as carefully as possible, and I am deeply impressed by the thoroughness given to the matters of verification. I should like to make two suggestions because I believe that the adoption of either could lead to a considerable strengthening of verification.

One difficulty is that the Threshold Test Ban Treaty could be violated without too much difficulty in space. However, major rocket launchings can be monitored for the presence of nuclear materials. One need not open the rocket and interfere with it; it suffices to irradiate it from a short distance and observe the response.

Regulation of rocket launchings, of course, would have great advantages in other respects. I realize that my proposal would complicate your procedures. I will understand completely if you do not consider the time right for this suggestion. But if you would like, I would be happy to submit a detailed proposal.

My second suggestion is connected with the circumstance that work on Brilliant Pebbles for defense purposes had made it possible to put highly sophisticated American satellites into orbit for an expenditure of about $1 million each. Peaceful applications of this possibility appear to me to be deserving of interest. I am enclosing copies of two memoranda I sent John Tuck in regard to this matter.

An observation system based on those satellites could be very effective in connection with corner reflectors or "cat's eyes" (an arrangement of three mutually perpendicular mirrors) placed on the ground at test sites or where nuclear explosives would be employed for civilian projects. These corner reflections could provide considerable information for little expense. This, of course, presupposes that a worldwide observation system is set up which might happen by the middle of the 1990s.

I would consider such a system particularly valuable in the case of peaceful nuclear explosions. On the one hand, I would not like to see any interference with this constructive program. But on the other hand, I am worried that the actual monitoring in a great number of places might turn out to be complicated and expensive. An additional way of checking might therefore be of value.

Let me repeat that I do not intend to complicate the process of positive cooperation with the Soviets. In particular, in the case of peaceful uses of nuclear explosives, we might learn something from them. As I said earlier, I will fully understand if you and your committee want to proceed and ratify these treaties, which after all have been in force for more than a decade, without amendment. However, in case you are interested in either of the two suggested possibilities, I would be delighted to help in any way I can.

With repeated thanks,

EDWARD TELLER.

MEMORANDUM

Subject: Satellites in Universal Service.
Date: May 3, 1990.

PURPOSES

Recent developments in Livermore guided by Lowell Wood and his associates have shown that highly sophisticated satellites weighing approximately 100 pounds can be placed into low earth orbit in great numbers at an approximate cost of one million dollars a copy. In this memorandum, I will describe some possible peacetime uses of systems of small and inexpensive satellites based on similar principles.

The novelty in these satellites is the use of the latest computers, miniaturization, minimal distances from earth, and the use of advanced lasers. A worldwide network could be established in which information pre-processed on the satellites would be transmitted to designated reception points on earth. A pre-planned range of instructions could be given from these points to the system of satellites. As an example, I have in mind a deployment of a thousand satellites in the next three or four years costing a billion dollars, to be renewed approximately every three years.

Five examples of applications are:

Global instantaneous weather reporting with a resolution of a few miles. The integration of the data obtained from the different satellites would occur, of course, on the ground.

Information on emission and distribution of pollutants.

Early warning of disasters. Forest fires and floods are examples that could be observed at an early stage at which time appropriate measures could be taken with greater ease.

Traffic control. Airplane traffic, particularly over the oceans, could be appropriately guided. One could see the airplanes more easily by mounting corner reflectors on the top of them.

Communications, not only from the observing system to the ground, but also from ground-to-ground, reaching into regions not supplied by telephone cables or microwave towers.

IMPLEMENTATION

From the tremendous volume of data that one can collect, maximum use of computer equipment will permit selection of the most useful information; therefore, the best of the rapidly developing computer equipment should be used. Since three-year-old equipment might be considered obsolete, one may want to replace the satellites at this rate. The most powerful means of observation depends on illumination by lasers or microwaves. In some of these applications, the power required is approximately proportional to the inverse distance to the fourth power, in other cases, to the inverse distance to the second power. Therefore, we want satellites in the lowest possible orbit that can survive for three years. This is 400–500 kilometers from the surface.

Assuming an array of 1,000 objects, the average distance between the orbiting satellites is 800 kilometers. Thus, the satellites can easily communicate and transmit information among each other. On the average, one would expect that there will be a satellite not farther than 700 kilometers from each point on the earth's surface at any time. The earth would be under continuous observation by satellites which will replace each other in less than two minutes.

The needed weight in microwave equipment may be more than 100 pounds, and the cost of the laser equipment could be very much higher than one million dollars. If, in both cases, emitters on the order of 100 watts are considered, the energy may be supplied through solar batteries. In the case of lasers, a rapid development of diode lasers is underway. This will transform electric current into crudely directed and roughly monochromatic laser light, which in turn can drive glass lasers or tunable dye lasers. In this way, sharply pulsed and sharply directed lasers may be produced in two to five years. A lowering of the cost from millions of dollars to tens of thousands of dollars for such a laser appears to be assured.

A total cost of two million dollars and a weight of 100 kilograms per satellite might be appropriate in two to five years.

The plans for NASA's Earth Observing System (EOS) include substantial expenditures on improving systems of observation. This is a forward-looking and essential measure which should be coupled at each point with the cost estimate of future systems.

WEATHER OBSERVATION

Small corner reflectors a few inches in size and a few milligrams in weight placed in the atmosphere have a time of settling measured in days or weeks. In connection with doppler lasers, these would be very useful in obtaining global wind patterns.

The proposed continuous global weather observation would be a significant improvement over existing capabilities. At the present time, in big areas of the world like the oceans; the best data have a resolution on the hundred kilometer scale with practically no information concerning the height distributions above the earth's surface. In the proposed system, the low altitude of the

satellites permits stereoscopic viewing and a reasonable estimate of elevations. In the end, laser or microwave ranging could accomplish the best figures. In the case of lasers, penetration through thick clouds will present a problem. On the other hand use of the doppler shift will give ample opportunity to gather significant information about wind velocities.

Precise and continuous data will greatly improve our ability to observe and predict weather. Nevertheless, weather prediction will remain limited by instabilities in the atmosphere. These same instabilities present an opportunity for weather modification. One must, of course, realize that such modification will lead to grave complications for which one cannot be responsible without the best knowledge of the status and the prediction of weather. It is obvious that all of this will have international significance.

Thus, we have an obvious motivation to carry out the program with international cooperation in mind. This point can obviously apply in various ways to every one of the subjects discussed below.

The use of lasers must, of course, be carefully considered in connection with the possibility of eye damage. It is of interest to note that a laser pulse of a milliwatt per cm^2 and the duration of a nanosecond would be harmless, though visible, and its reflection by a corner reflector observable in the satellite.

EMISSION AND DISTRIBUTION OF POLLUTANTS

In view of the great interest in pollutants, it would seem that the earliest possible reliable information one can obtain on their emission and distribution would be desirable. Furthermore, such information is best obtained on a global scale and should, of course be published including all details in order to assure credibility.

The rapidly developing art of lasers is of great importance here because specific pollutants have high cross sections and visibility for well defined frequencies.

Early deployment of satellites for the observation of pollution is important for two reasons.

Proposed alleviation of pollution may require large expenditures. Appropriate information may result in great savings. In the case of acid rain, more solid information is needed to justify action. In case expensive action is decided on and limitations on the sulphur content of fuels are imposed, then such limitations may have to be rigorously enforced when weather patterns indicate that the combustion products will be moving into sensitive areas. While at other times, the limitations may be relaxed or removed. All of this will, of course, require practice and experience, and an early start is clearly an advantage.

The second reason is that experience gathered by early observations will be of great value in planning later more refined and more expensive systems.

It is quite possible that the most significant environmental consequences of human activities will be those slowly established through gradual change of the atmosphere. The much discussed Greenhouse Effect is an obvious example. It is by no means clear whether and to what extent this effect will have a serious impact, but one series of observations is already documented.

The temperature reports of the last decade in the United States show only one systematic effect: in the Southwest of the United States containing our desert areas, in the periods between spring and fall equinox, minimum temperatures have systematically risen by a couple of degree centigrade. This is what should be expected in that carbon dioxide impedes escape of heat waves, which is particularly significant in that absence of water and clouds. The effect is accentuated because carbon dioxide is known to be more effective at high temperatures.

It would be interesting, at least as an example, to see whether similar and possibly stronger effects exist in the truly great deserts of our globe. Even observation for four years could give some indication.

A case of special interest is investigation of emissions due to volcanic eruptions. Release of particulate matter can influence the climate for several months. This has been discussed for some big eruptions. Emission of "pollutants" like sulphur has been measured, for instance, in the case of the recent eruption of Mount St. Helens. But for many eruptions at remote places, no data are available. The continuous survey which we are discussing would automatically furnish these data. The effect on phenomena like acid rain would be most interesting.

WARNING OF DISASTERS

Continuous global weather reporting is in itself an effective way of predicting some disasters. When Hurricane Hugo struck St. Croix Island, the first indication at FEMA was the interruption of all communications. Successful action of FEMA was carried out but required extraordinary effort. Pictures obtained from a satellite in synchronous orbit did not suffice as an effective warning.

Other disasters like forest fires, floods, as well as the traffic hazard of icebergs require individual human observation. These and many more could be accomplished on a global scale. Of course, much of the benefit, would accrue to regions where no warning system exists at the present time. In this sense, the proposed activity could be considered as foreign aid. Its success would, therefore, depend on the appropriate way to make the needed information available for the purpose of diminishing the effects of that which we can foresee.

A large scale crop failure is among the biggest possible disasters. In this case, the timeliness of the reporting appears less important, but the global availability of the information may nevertheless be highly useful and could be easily available.

It would be interesting to consider whether damage by locusts could be predicted and perhaps prevented.

TRAFFIC CONTROL

By mounting corner reflectors on airplanes, global control of airplane traffic could be achieved. This could be useful at an early date for the avoidance of collisions over the oceans. An incident like that of KAL #007 where the plane went off course could be prevented easily as a bi-product of this particular application. The simultaneous availability in the satellite system of airplane locations and weather information could be put to constructive use.

In case of any serious accidents in remote locations, rescue operations could benefit from the system of satellites. This holds in particular for accidents at sea.

COMMUNICATIONS

The interconnection between satellites and the ease by which information can be transmitted to and from a satellite at a distance of 700 kilometers makes worldwide communication more available. It is possible that this might develop into profitable private undertakings. Whether this application is practical will obviously depend on economic considerations. In a comparison with transmission of information by synchronous satellites, the advantage of our system (if an advantage exists) lies in the fact that the sender of information requires less than one-thousandth of the power due to the proximity of the nearest satellite. Indeed, this advantage may be farther enhanced if lasers are used on the small satellites and the sender reflects the light directed toward him by a vibrating corner reflector; modulation of the vibration would carry the information to be transmitted. Such a scheme has an advantage of low capital investment (if the satellites are already established for other purposes). The disadvantage is high cost of operation (since time is required on an expensive collection of satellites). This should result in easy introduction of the communication by small satellites, but severe limitations on extended usage.

CONCLUSION AND RECOMMENDATION

Some of the suggestions made above will probably prove impractical. On the other hand, there certainly are many others which are practical that have not been mentioned. The five headings discussed may be carried out by a common system of satellites. It is also possible that from the beginning, special purpose networks may have to be deployed.

It is, therefore, an immediate practical recommendation to initiate a modest study of three to six months which explores these peaceful applications together with the required improvements in instrumentation. It would be of great benefit to involve in such a study as many different viewpoints from different laboratories as ever possible.

DEVELOPMENT OF COMPACT SATELLITES FOR EARTH OBSERVATION

(By Edward Teller and Gregory Canavan)

Recent developments in small, capable passive and active sensors and their packaging could make it possible for constellations of a few hundred satellites to continuously observe all parts of our globe with the resolution needed for meteorological and climate studies, pollution monitoring, and other applications. This note enumerates, describes, and gives an initial evaluation of the sensors and platforms required.

Research on Brilliant Pebbles has multiplied the functions that can be performed with small satellites. Moreover, their development and testing make it appear possible that they could be deployed for a cost of about a million dollars apiece. The satellites for meteorological and ecological observations would be simpler and have no military requirements.

The constellation needed for continuous observation could be developed and deployed for a cost not much more than a billion dollars. Since the data they obtained on pollutants and climate change would influence decisions impacting policies with $100 billion or more, and there are no alternative means of obtaining such data on the time scale required, the compact satellites would obviously be highly cost effective.

Cost and Deployment. To meet a cost goal of less than a million dollars per satellite it will be necessary to use instruments with unit prices under $100,000. As indicated below, both passive and active sensors that operated from close range could apparently meet such costs.

We also consider the criteria for early deployment. The development of the appropriate compact sensors should be rapid, and their integration into satellites that only

carry a few of them could be similarly rapid. Brilliant Pebbles and existing, tested prototype satellites are useful models for the carriers onto which our instruments could be fitted.

The small satellites and their sensors deployed at low altitudes might only be useful for a few years. That is also the approximate timescale on which sensor and computer technology are doubling. That suggests a deployment in which the simplest sensors were deployed first, and then replaced at the end of their useful lifetimes, about 3 years, by ones with the next generation of sensors and computers. Deployment of great numbers of satellites also facilitates the correction of mistakes at limited expense.

Passive means of observation have been strongly emphasized in the past, but there are still significant opportunities for innovation. Wide angle, high resolution systems like fisheye lenses in combination with smart retinas are worth considering. Brilliant Eyes would use small, thick lenses to achieve the large fields of view needed for autonomous target acquisition and engagement. They would have resolutions of $\approx$ 100 m in the infrared, but that would improve to $\approx$ 10 m at visible wavelengths. That resolution could be useful for preliminary surveys and for queing sites for sensors with finer resolution but limited fields of view to examine in detail.

Meteorological structures have horizontal dimensions of tens to hundreds of kilometers, and clouds have gross vertical structures of several kilometers. Thus, Brilliant Eyes should have adequate resolution to measure both and address the interim energy budget required for climate change studies. Much of the spectral information required could be provided by existing flight-tested sensors, computers, and communications.

Such combinations achieve 30° fields of view, which from an altitude of 250 km would cover $(500\ km)^2 = 250{,}000\ km^2$. They would also give search rates of 500 km x 7 km/s = 3,500 km^2/s. To keep the whole earth surface under continuous observation would require 1,600 satellites.

The satellites' mosaic sensors could be fitted together on the ground, and the effective stereoscopic viewing due to the motion of the satellites could provide approximate cloud elevations. The sensors might have about 1,000 detectors in the transverse direction, or about half kilometer resolution. If a new $1{,}000^2 = 10^6$ pixel frame with 10 gray scales was generated every $\approx$ 500 km/7 km $s^{-1} \approx$ 70 s (the time of satellite passage over one frame), the data rate would be about $10^6 \times 10/70 = 1.4 \times 10^5$ bits per second, which is low enough to be telemetered back. The rate from the whole constellation would be 10^8 bits per second.

In many cases repetitions are unnecessary and the possibility exists of taking the differences between successive frames and only reporting the changes on clouds, pollutants, or temperatures. The reports from neighboring satellites could then be adjusted by computers on the ground.

For higher resolution it would only be necessary to add a larger aperture, presumably a lightweight Cassegrain reflector using the 30 cm lightweight primaries available. From overhead, that would give $\approx$ 3 m resolution in the infrared and $\approx$ 0.5 m in the visible. That would give adequate resolution for the identification and classification of formations and manmade objects and in disaster assessment. Larger mirrors would gather more return signals, greatly simplifying the development of spectrometers for the measurement of the spectra of pollutants. Large apertures would also reduce the power requirements on active sensors such as lasers.

Lasers could supplement passive measurements to give specific metric information, doppler-derived velocities and structures, and measurements of pollutant scattering, absorption, and fluorescence. They could also be useful for high band width data transmission. Diode lasers operating in the near infrared have the small masses and power consumption needed for application on small satellites. The costs of diode lasers with the appropriate energies and doppler capabilities is rapidly decreasing into the $100,000 range required. There are other lasers such as excimer lasers or frequency multiplied Yag lasers that could provide in combination with the diode lasers appropriate control of frequency and tuning for fluorescence sources.

Such combinations would be almost ideal for probing the evolution of clouds and pollution streams. A laser with 10 Watts transmitted could probe the motion of pollution streams a few kilometers across. It could also probe the spatial and velocity structure of the inside of clouds, with or without signature enhancement from corner reflectors. It would complete the instruments needed for a preliminary survey of atmospheric structure and transport.

An alternative to space basing the lasers would be to locate the lasers on the ground and equip the satellites with mirrors, possibly active, to direct the beam to the proper targets. That could make a greater variety of lasers available, but they would only be available to the satellites overhead, and the mirrors required could be of significant size. The laser intensities required should not be large enough to make accidental eye damage a major concern.

Reporting would proceed by information transfer between a satellite, all its neighbors, and eventually to the ground. The transmission could go through nearest-neighbor satellites, or from the compact satellites up to higher altitude communication satellites which would be required in much lower numbers. Lasers could provide high bandwidth data links for the latter. Onboard data processing could be used to reduce the amount of information transmitted to the instantaneous channel capacity of the transmission link used.

There should be a command-link from the ground to satellites to instruct the computers on the satellites on the relative priorities of different possible observations and how and in what detail to report on observations. Constellations of several hundred satellites or more could give warning of natural disasters or accidents anywhere on the globe.

Auxiliary means of reporting may be deployed to enhance continuous uninterruptable service. The auxiliary means could take the form of corner reflectors of low weight and low cost containing more simple computers and low power supplies. In these, important pieces of information could be stored in the form of vibrations. The satellite and the ground could transfer information to them, read out the information, and also cancel the stored information.

Other corner reflectors could easily enhance the laser light reflected to the satellite a million-fold. Simple, exceedingly low-weight corner reflectors could float in the atmosphere long enough to be used to increase the return from cloud-free areas. They could also be used to adjust the path length and signal strength for pollution absorption measurements. Corner reflectors on airplanes would be useful in traffic control.

Radar is a very flexible form of active observation. One of its obvious advantages is continuity of observation, independent of time-of-day or cloud cover. Doppler radars could provide information on the spatial and velocity structure inside clouds. It could also make weather measurements, survey ground damage, and perform disaster damage assessments in all weather and lighting conditions. Synthetic aperture radars (SARs) would be ideally suited to that application. Not only could it image affected areas through clouds, it could do so with high resolution. Even from small satellites its resolution would be roughly equal to the size of the antenna or satellite, which is more than enough for disaster reporting. SARs could also look for areas of crop damage, natural disasters, oil spills, and other phenomena that produce changes in radar cross sections.

The processing power needed to realize this resolution can be performed by computers that can now be mounted on those small satellites. Thus, it would no longer be necessary to transmit the very high volume of information back. They could be interpreted on board and only the partial or differential information needed transmitted back to the ground. The same sensors could provide images useful for disaster, peacetime weather, and conflict. By handing over information on important target areas from the fish-eye sensors and the higher resolution SARs their complementary advantages might be used to efficiently maintain observation on big scale to meter-sized objects.

Radars provide both the resolution and large area surveillance needed for damage assessment for military or natural disasters. Compact satellites exist that could perform needed measurements for either. They need to be at low altitudes for good resolution. They need to be small for affordability and proliferation.

Altitude. The powers required for active measurements with lasers or radars scale as the fourth power of altitude. Thus, operation at the minimum sustainable altitude is essential. Fortunately, several techniques now exist that permit long-term operation at the $\approx$ 250 km altitudes where active and passive sensors are most effective. First, the small satellites can be shaped and oriented to minimize drag. They can also use probes in front of them to shock the approaching air and turn it aside to reduce drag. They can also use eccentric orbits, which are lower over the northern hemisphere and higher over the southern. That reduces the drag per orbit. Finally, they could use thrust to compensate for drag. Three years of make-up gas is not a great amount for a small satellite, through it would be for a large one.

Two Year Program. To impact major environmental and climate decisions it is necessary to provide at least preliminary data on the energy budget, flow, structure, and correlation with pollutants in the next few years. Fortunately, the extensive development of small satellites and their sensors over the last few years should make that possible. Small satellites exist, so do prototype sensors. Both have already been tested in space. Thus, it should be possible to take advantage of existing hard and software to produce small satellites with limited lifetimes that could provide the preliminary

data base needed, starting in about two years in an orderly program.

UNIVERSITY OF ILLINOIS AT URBANA, CHAMPAIGN, DEPARTMENT OF PHYSICS,

Urbana, IL, July 26, 1990.

Hon. DAVID L. BOREN,
Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of July 2, inviting us to submit a written statement that would assist the Select Committee in its review of the monitoring and security aspects of the Threshold Test Ban Treaty (TTBT) and the Peaceful Nuclear Explosions Treaty (PNET) and their respective protocols. We are pleased to offer the following observations.

1. OVERALL ASSESSMENT

The new Protocols to the PNET and TTBT significantly strengthen the verification provisions of these treaties. In particular, the combined use of seismic and hydrodynamic verification methods that is allowed under some conditions by the TTBT Protocol is an improvement over the provisons of the previous TTBT Protocol.

The seismic and hydrodynamic verification methods complement each other in important ways. For example, hydrodynamic methods are not affected by the large scale geologic features of the test site or the geophysical properties of the earth beneath it. They are, however, affected by features within twenty meters of the center of the explosion, such as the sizes and shapes of any canisters, cavities, voids, and tunnels in this region. In contrast, seismic methods are much less affected by small features close to the explosion but are affected by the large scale geologic features of the test site and the geophysical properties of the earth beneath it. Thus, the simultaneous use of both verification methods is superior to the use of either method alone.

2. UNCERTAINTIES

In our judgment, it is likely that the uncertainties in some Soviet nuclear test yields derived from data collected under these agreements during their first few years will be greater than a factor of 1.3. As the United States gains experience in nuclear test monitoring at Soviet test sites under these agreements, we expect the uncertainties to diminish.

3. FURTHER ANALYSIS

We believe that further technical analysis is necessary in order to accurately assess the uncertainties that may be encountered in monitoring these agreements and the potential for Soviet circumvention of them. In particular, further studies of shock wave verification methods are needed to evaluate the reliability of these methods for monitoring the yields of (a) tests conducted in complex geometries involving several tunnels, shafts, or adits; (b) tests conducted in cavities with volumes approaching 20,000 cubic meters; (c) tests involving multiple explosions; (d) tests conducted in media that are unfamiliar to the United States, such as the carbonaceous rocks that could be encountered at the Soviet Kazakh Test Site near Semipalatinsk and the frozen carbonate and silicate rocks that are likely to be encountered at the Soviet test site on Novaya Zemlya Island; and (e) tests conducted near Karsts or other voids in carbonate rocks. We do not believe that the uncertainties are so large that ratification of these agreements should be delayed while these studies are completed.

4. UNRESOLVED ISSUES

We note that paragraphs 3, 4, and 6 of Section III of the TTBT Protocol leave unresolved the verification measures that would be employed to monitor certain types of tests. If tests of these types are unlikely to be conducted leaving these verification measures unresolved is appropriate. If instead tests of these types are probable, leaving these measures unresolved may create significant problems in the future.

5. NONDISCLOSURE PROVISIONS

Section XII, Paragraph 2 of both the PNET and TTBT Protocols provides that "Public release of the results of observation or measurements . . . may take place only with the agreement of both Parties." This provision is more restrictive than the related provision of the PNET Protocol negotiated in 1976. By enabling either party to veto the release of observation or measurements, this clause may prevent the United States government from obtaining information and analyses from outside the government that would materially improve its verification capabilities. Past experience has shown that restrictions of this kind seriously impede close scrutiny of measurements, correction of errors, and the development of improved analysis techniques. This clause may also prevent the United States government from making available to its citizens information that they need to properly assess Soviet compliance or noncompliance with the provisions of these treaties.

6. FUTURE AGREEMENTS

For nuclear explosions with yields of 10–20 kilotons or less, the disturbing effects on hydrodynamic yield estimates of canisters, tunnels, voids, shafts, and cavities is much greater than it is for explosions with yields greater than 50 kilotons. In addition, significant practical, operational, and engineering problems would be encountered in attempting to use hydrodynamic verification methods to monitor nuclear tests with yields of 10–20 kilotons or less. It may be possible to overcome some of these difficulties by developing new measurement techniques, more accurate models, and new analysis methods. Others could be alleviated by further restrictions on testing practices and additional cooperative arrangements. However, these and other possible approaches have not yet been carefully studied. Unless the difficulties are surmounted, shock wave methods could not be used with confidence to monitor a low threshold test ban in which the threshold is significantly less than several tens of kilotons.

Shock wave verification methods can only be used if extensive preparations are made in advance *at the test site,* if monitoring personnel are present during the test, and if data are taken within meters of the center of the explosion. Therefore, shock wave verification methods could not be used to monitor a comprehensive test ban. Teleseismic and regional seismic verification methods are highly developed and could play an important role in monitoring such a ban.

Sincerely yours,

FREDERICK K. LAMB,
Professor of Physics and Astronomy.
BRUCE W. CALLEN,
Postdoctoral Research Associate.

LAMONT-DOHERTY GEOLOGICAL OBSERVATORY OF COLUMBIA UNIVERSITY,

Palisades, NY, August 8, 1990.

Mr. DON MITCHELL,
U.S. Senate, Select Committee on Intelligence, Washington, DC.

DEAR DON: The enclosures are my response to the July 2 letter I received from Senators Boren and Cohen, inviting me to give a written statement on the new verification provisions of the TTBT and PNET.

It was a pleasure to hear from you again. (I had not known that you have moved from working in Senator Glenn's office, where we met a few years ago.) Although you sent out that letter several weeks ago, I did not in fact receive it until Monday August 6, because it went to Livermore (where I have been on sabbatical) and has only just been forwarded to my address at Columbia University, to which I have returned after an absence of 12 months. Hence my use of "attachments" to my statement.

I know that the TTBT is perceived as a mass of detail, and that it is not much of a treaty for those who advocate stringent test bans. (Senator John Glenn said at the original ratification hearings in 1977 that TTBT stood for "timid test ban treaty." He failed to get a substantive answer to his basic question of "why 150 kilotons?") I am therefore concerned that in its present consideration of advice and consent, the Senate may miss the wood for the trees, and not recognize that in an overall sense the Reagan/Bush handling of TTBT verification issues has set a disasterous precedent for what is needed in verifying genuinely restrictive nuclear test ban treaties in the future. I hope this opinion is clear in my statement.

Yours sincerely,

PAUL G. RICHARDS.

VERIFICATION OF THE 1974 THRESHOLD TEST BAN TREATY AND THE 1976 PEACEFUL NUCLEAR EXPLOSIONS TREATY

(August 1990 statement by Paul G. Richards, Mellon Professor of the Natural Sciences, Columbia University, for the Select Committee on Intelligence, U.S. Senate)

I am familiar with the protocols, signed June 1 this year by Presidents Bush and Gorbachev, describing new provisions for verifying the 1974 Threshold Test Ban Treaty (TTBT) and the 1976 Peaceful Nuclear Explosions Treaty (PNET).

The new verification provisions can be expected to improve U.S. capability to estimate the yields of Soviet underground nuclear explosions. In fact, improvement has already occurred, because technical information acquired in 1988 by the U.S. (as part of TTBT/PNET negotiations) can already be used to reduce significantly the uncertainty of U.S. estimates of the yield of Soviet explosions, for all such explosions at the Shagan River test site in East Kazakhstan (the only test site for explosions that have been of concern with respect to TTBT compliance).

On the question of whether the new (or old) verification provisions are "adequate," there is a fundamental difficulty in that no administration during the last 20 years has given a technically meaningful statement that translates into a requirement for the monitoring community. Absent such a statement, it does however appear to me, from various items of congressional testimony such as statements of U.S. weapons lab directors and from work done by the Office of Technology Assessment, that the U.S. needs to be able to estimate the yields of large underground Soviet nuclear explosions with a factor of uncertainty not greater than 1.5.

(For a definition of the "factor of uncertainty"—a term essential to the understanding of much of the technical debate on TTBT verification—see attachment 1.)

If the requirement of "a factor of uncertainty less than 1.5" is taken as the standard of adequacy, then I believe the TTBT is now verifiable for the Shagan River portion of the Soviet Kazakhstan test site, with no further need to acquire CORRTEX data. My reason for this position, is that: (1) national technical means (NTM) for Shagan River are highly developed (since this has been the site of the largest Soviet explosions since the TTBT went into effect in 1976); and (2) methods of interpreting NTM data, which are principally seismic, have already been significantly improved since 1987 (see attachment 2). However, although stating the CORRTEX deployment seems unnecessary to me on technical grounds for future large-yield Shagan River explosions (if there any), I recognize the importance here of a non-technical issue—namely, that CORRTEX data may act to ensure confidence in U.S. monitoring capability for this test site. In this sense, CORRTEX is an enabling technology: it enables people who are sitting on the fence (when statements are made about the capability of seismic methods) to have confidence that there is a process for independently evaluating NTM.

For Soviet explosions conducted at locations other than Shagan River (notably, at Degelen Mountain and at Novaya Zemlya), the U.S. currently lacks any verified calibration data, and I believe there is significant benefit in having secured, in the new verification provisions, the right to deploy CORRTEX for all shots planned to be above 50 kilotons. The principal benefit comes from the very first deployment of CORRTEX at a test site, since this alone gives the U.S. significant information that reduces the uncertainty in interpreting NTM data (seismic), for purposes of estimating yields of all previous and future explosions at that test site.

Two ironies concerning CORRTEX may be noted. First, that although the declared need for an alternative monitoring technology was driven by nuclear testing advocates who also declared a lack of confidence in seismic methods, a principal outcome of CORRTEX turns out to be restoration of confidence in seismic methods—which can in turn be applied to the verification of more stringent treaties [For example, note that seismic methods result in an estimate of 111 kilotons (with an uncertainty factor less than 1.2) for the Shagan River Joint Verification Explosion of September 14, 1988. This estimate is derived from an application of Figure 9 in attachment 2, using a magnitude value measured as 5.969 at NORSAR in Norway. It appears that seismic signal quality is adequate, if in-country stations are used within the territory of a country executing a nuclear test, to supply yield estimates for explosions down to 1 kiloton. Note, however, that for such small tests there would be a need to ensure access by the monitoring side to the site of the test, and rights to ensure that the test was conducted under conditions of normal coupling of explosion energy into seismic signal.] The second irony, is that negotiation of CORRTEX (and rights of the Soviets to deploy their equivalent hydrodynamic methods at the Nevada Test Site) itself places some restrictions upon U.S. nuclear testing practice. In fact, it may be that negotiation of CORRTEX for even smaller explosions (i.e. with planned yield less than 50 kilotons) is a path toward further restrictions on nuclear testing practice, regardless of the question of yield estimation. The reason, is that for smaller tests hydrodynamic methods must entail access by foreign observers down to a very few meters from the device canister, and the exchange of detailed information about the physical configuration of the device being tested, so that the testing side must operate under some difficulties associated with the need to avoid releasing sensitive information.

Two overall issues, related to the new TTBT/PNET verification protocols, concern me greatly. The first is that technical information supplied to the U.S. Congress and the general public by leading spokesmen for the Reagan and Bush administrations has often been grossly flawed, and slanted in ways that exaggerate difficulties with traditional methods of explosion monitoring. It is widely presumed in the technical community that the intent here is to use false presentation of verification issues, to deflect national and international pressures for new, more restrictive, bans on nuclear testing. I give an example of what I believe to be misrepresentation, in attachment 3. [Another example, is administration testimony presented to the Senate Foreign Relations Committee on July 17 this year, to the effect that cavity decoupling is a plausible scenario for spoofing seismic yield estimates of large Shagan River explosions. Such decoupling is a problem for CORRTEX, not seismology—though it is a problem for both technologies, at yield levels down at around ten kilotons.] The second overall issue, is that of how the U.S. has generated its offical estimates of the yield of Soviet underground nuclear explosions. I am very familiar with procedures for making these estimates, since I have served on pertinent government panels for several years. Broadly speaking, I believe I have witnessed institutional failure in agencies charged with addressing technical aspects of U.S. capability to monitor foreign nuclear explosions. The underlying problem is usually conflict of interest—an agency whose primary mission includes nuclear weapons development, and/or planning for nuclear weapons use, cannot be expected (without very strong oversight) to take a comprehensive problem-solving approach in providing technical support to test ban monitoring.

Because of the two issues raised in the preceding paragraph, I do not believe that key monitoring problems associated with a Comprehensive Test Ban Treaty or a Low-Yield Threshold Test Ban Treaty will be targeted for solution, unless a re-organization of federal agency responsibilities (both R and D, and operations) is undertaken. In fact, I believe that one of the principal indicators of a political commitment to seek more stringent test bans will be a re-organization in the way that U.S. capabilities for nuclear explosion monitoring are assessed. If such a re-organization is to withstand the pressures that surely will face any new framework that purports to supply technical advice on politically sensitive and military important issues, then a guiding principle must be to incorporate mechanisms that will ensure the highest professional standards in the technical work undertaken.

As attachments to my statement, I add:

(1) my Senate Armed Services Testimony (from Feb. 26, 1987) because it gives a common understanding of what the "factor of uncertainty" is;

(2) a preprint of a paper entitled "Seismic Methods for Verifying Test Ban Treaties: Progress since 1987," that I have just had accepted by the IEEE Technology and Society Magazine, because it is an up-to-date tutorial on many TTBT issues; and

(3) a retyped excerpt from the July/August 1990 issue of the journal "Arms Control Today," in which Ambassador C. Paul Robinson makes many statements on technical issues concerning seismic methods of TTBT verification. I have heard all these arguments presented on government panels on which I have served, and they are simply not deemed persuasive in the expert technical community.

TESTIMONY OF PAUL G. RICHARDS, PROFESSOR OF GEOLOGICAL SCIENCES, COLUMBIA UNIVERSITY, BEFORE THE SENATE COMMITTEE ON ARMED SERVICES, FEBRUARY 26, 1987

Mr. Chairman, members of the Committee, I was asked last Monday evening to testify to you on technical issues in seismology, with reference to monitoring explosions and specifically in connection with the Threshold Test Ban Treaty (TTBT). I have taught seismology at Columbia University for 15 years. For twenty years I have been familiar with research programs related to seismic monitoring of explosions. In 1984 I began a 12-month appointment as a Visiting Scholar (a William C. Foster Fellow) with the U.S. Arms Control and Disarmament Agency. I am currently a member of the Advisory Panel recently set up to oversee an Office of Technology Assessment study, entitled "Seismic Verification of Nuclear Test Limitation Treaties.

The first part of my testimony is a tutorial on what is meant by "uncertainty" in yield estimation. I then comment on how this issue has recently been presented to the Congress. I conclude with some remarks about the accuracy of seismic methods of yield estimation, and an acknowledgement that the assessment of Soviet compliance with the TTBT is not a purely technical issue.

TUTORIAL

Ideally, the technical community would like to assign yield (for a particular explosion) as a single unambiguous value. This would amount to picking a particular point as in the diagram below. Thus, we'd like to accumulate evidence that specifically points to one value of yield, for example 143 kt.

[Charts not reproducible in the RECORD.]

But this is never possible. Whatever technical method is used to measure yield, there is always some uncertainty. This is true for radiochemical, seismic, and CORRTEX methods.

The method used to characterize the uncertainty is to think of a yield estimate not as an arrow pointing to one particular value, but as a kind of histogram that indicates which yields are probable and which are improbable. The diagram for conveying this uncertainty looks as follows:

For yield values where the curve is high, one has a greater chance of finding the actual, correct yield. This idea is the basis for developing precise statements about the uncertainty of a particular yield estimate, because the curve as a whole has some very informative uses. Thus if we pick any range of yields, then there is a property of the curve that allows us to give the probability that the actual yield lies within that range. This probability turns out to be the area under the curve, over that yield range.

The shaded area, expressed as a percentage of the total area under the whole curve, is the probability that the actual yield truly

does lie within the range of yields we have chosen. This is the main idea, and once it is grasped one has a method of examining any yield range of interest, and then stating the probability that the actual yield lies within that range.

Clearly, the shape of the "histogram" is important in that it determines whether a yield estimate is accurate or not. (The desired standard of accuracy is set from requirements external to the particular method used for yield estimation.)

A good method of yield estimation will result in sharply peaked histograms, a poor one in broad and low histograms. Thus, in the first example (above) even a narrow range of yields can achieve high probability of capturing the actual yield, because most of the area under the curve is concentrated over a narrow range. In the second example, a relatively wide range of yield values must be taken in order to include the actual yield with high probability.

Fortunately, the overall shape of these curves is quite well understood, using ideas that go back to the 1800's. For various seismic methods, these curves are known as "gaussian" or "normal" or "bell shaped" if one chooses to plot them not against yield but against the logarithm of the yield.

It follows that they become slightly unsymmetrical if we plot them actually against yield, as shown in the earlier examples. Fortunately, however we choose to plot them, a particular curve can be specified by only two numbers. One, is the so-called "central value yield." This is the yield value where the curve is highest [more precisely, where it is highest when the curve is plotted, as just given above, against log (yield)]. The other important number is a measure of how wide the curve is, and thus of the uncertainty to be associated with the central value. There are several different though wholly equivalent ways to give this number, but fortunately there is now an accepted convention in the application to yield estimation. The second number is called the "factor of uncertainty," and by convention it gives the range of yields (about the "central value") that is covered by 95% of the area under the curve. This range extends from the central value yield divided by the "factor of uncertainty," up to the central value multiplied by the "factor of uncertainty." For example, if we say of a particular explosion that its central value yield is 120 kt with a factor of uncertainty equal to 2, we mean that there is a 95% chance that the actual yield lies somewhere in the range 60 kt to 240 kt. The presentation is as follows:

Of course, there is a greater chance that the actual yield lies nearer the middle of the range than nearer the ends. For example, it turns out that another way to present the above results is say that there is a 50% chance of the actual yield lying in the range from 96 kt to 150 kt. The graphical presentation looks like this:

In other words, there is a trade-off between whether we want to give a larger range of yields that has a high probability (95%) of capturing the right value (the actual value), or whether we want to give a smaller range and accept a lower probability (50%). The "histogram" can be used to give the answer in either case.

We can now give some master curves that underlie much of the current debate concerning verifiability of the Threshold Test Ban Treaty (TTBT):

These curves show the sense in which probability is more concentrated about the central value (150 kt), as the factor of uncertainty is reduced from 2.0 to 1.3.

From the above material, one can see the importance of working with a yield estimation method that has a lower "factor of uncertainty." For reference, note that the CORRTEX method, as proposed for application by the U.S. to nuclear explosions at Soviet test sites, is characterized by a factor of uncertainty equal to 1.3 (this may be inferred from statements in U.S. Department of State Special Publication 150, August 1986).

COMMENTS ON REPORTAGE TO THE CONGRESS

It is widely reported that the seismic method has a factor of uncertainty equal to 2 (often stated simply as a "factor of 2"). I wish to comment, first, on how this seismic capability has recently been reported to the Congress, and later on the question of whether a "factor of 2" is indeed an accurate summary of yield estimation uncertainty by seismic methods.

Thus, on January 13, 1987, Dr. Robert Barker (the Assistant Secretary of Defense for Atomic Energy, and leader of a U.S. delegation at bilateral talks on improving verification of the Threshold Test Ban Treaty) testified before the Senate Committee on Foreign Relations. Referring to the widely assumed "factor of 2" that is often said to characterize uncertainties of yield estimation in seismology, Dr. Barker gave the following description: ". . . this uncertainty factor means, for example, that a Soviet test for which we estimate [by the seismic method] a yield of 150 kt may have, with 95% probability, an actual yield as high as 300 kt—twice the legal limit—or as low as 75 kt."

The problem of such a characterization is the false impression it conveys, that seismic yields have a high chance of being badly wrong. Dr. Barker could have continued in the same vein with a conclusion that the same explosion may have, with 99% probability, an actual yield as high as 420 kt—or as low as 53 kt! Had the uncertainty factor been 1.3, his argument also would translate to saying that "a Soviet test for which we estimate [by, for example, the CORRTEX method] a yield of 150 kt may have, with *more than 99% probability*, an actual yield as high as 300 kt—or as low as 75 kt" and thus falsely leave the impression that the CORRTEX method is even more inaccurate than other methods, since it here appears even more likely (than, for example, seismology) to fail to identify a high actual yield.

The fallacy in these conclusions stems from taking a large yield range (so that indeed there is a good chance of bracketing the actual yield) and then wrongly inferring that the extremes of this range are representative of what the actual yield could be. It's like saying that "a 'man in the street' may be, with high probability, actually a billionaire, or he may be very poor".

In a sense this statement is strictly true, because of a meaning of the word "may." But it is not a useful statement, and it is certainly not the way to characterize such information about the 'man in the street' as we may have.

An interagency study titled "Possible avenues for cooperation with the Soviet Union in the development of capabilities for verifying compliance with nuclear testing limitations", in a report issued on July 14, 1986 (see House Document 99-258), had a description of seismic capabilties as follows:

"While we judge that, at present, there is approximately a factor of two uncertainty in the yield estimates derived by seismic methods, there are reasons to suggest the uncertainty would be actually smaller (or conceivably larger). A factor of two uncertainty means, for example, that a Soviet test for which we derive a "central yield" value of 150 kt may have, with a 95 percent probability, a yield as high as 300 kt or as low as 75 kt."

Dr. Barker's statement before the Committee is essentially a repeat of part of the interagency report, though he did not take the opportunity to indicate the expert technical community in general would characterize seismic yield estimates as having less than a factor of two uncertainty. I would suggest that the the report, generated by (presumably) the key agencies working on nuclear testing policy, indicates that there is a poor understanding of the central issue of what is meant by uncertainty in measurement of explosion yields. Thus, on the question of whether a yield estimate reported as 150 kt (central value) could actually be above 300 kt, the answer can be given graphically as follows (again, assuming a factor two uncertainty):

The probability is only two and a half percent (one chance in forty).

On January 15, 1987, Dr. Siegfried Hecker (the Director of Los Alamos National Laboratory) testified before the Committee on Foreign Relations. Referring to the accuracy of current methods of yield estimation he said statistical studies at his Laboratory have reached the conclusion that "the opportunity to test at 300 to 450 kt cannot be denied to the Soviets."

His written testimony noted: "A violation at the 300 to 450 kt level can no longer be dismissed as having little significance. . . . The ability to conduct such tests cannot be denied the Soviets under the present treaty provisions, even after the exchange of data that will follow ratification [of the Threshold Test Ban Treaty]. On the other hand, the U.S. has scrupulously complied with the 150 kt limit. Since both sides have strategic weapons requirements will in excess of this limit, violation of the limit by the Soviets could create an asymmetry that has significant military implications."

With his assertion that the Soviets could test at yields two or even three times above the allowed threshold without U.S. discovery, Dr. Hecker is apparently saying that seismic methods of yield estimation (and other National Technical Means) are fundamentally incapable. Of course, he has a perfect right to hold his opinion, and it is difficult for me as a seismologist to debate the issue since it does not appear to be a debate within my profession on technical matters. Rather, it appears to be a dismissal of my profession as a whole. But there is the question of accountability, and for someone in Dr. Hecker's position, it is surely necessary that he explain why at this time he holds an opinion so different from that of others who have studied these issues extensively. His statements in this area are clearly true, if they mean that current methods are not perfect. But we know that future methods will not be perfect either. Discussion of yield estimation has substance, at this stage of exploring what is meant by "effective verification" and "improved verification", only if it is developed in terms that reflect the reality that no method is perfect.

COMMENTS ON THE ACCURACY OF SEISMIC METHODS

Moving on to the question of what really is the accuracy of seismic methods, a natu-

ral place to begin is to inquire what is the accuracy in application to our nuclear explosions at the Nevada Test Site (NTS). There are open studies of this question, and from what appears to be one of the best methods (the use of the seismic wave known as "Lg") it appears that the factor of uncertainty can be pushed down to around 1.3. Some of my professional colleagues will argue with me here, and I am not offering this number (1.3) as one that represents a consensus within the technical community. However, I do believe there is clearly a consensus that the factor of uncertainty (for the best seismic methods, taken as a whole) is well below 2, for estimation of NTS yields above 10 kt (in hard rock, below the water table). I am prepared to give a technical defense of my claim that the factor is as low as 1.3.

Concerning yield estimation for the Soviet nuclear tests of concern with respect to the TTBT, I would again claim that a value of 2 for the factor of uncertainty is not a fair summary of current capabilities, because it refers only to one type of seismic method, and for large explosions there are typically three or more independent seismic waves upon which separate seismic yield estimates can be based. If the average of these estimates is taken as the central value yield, with a factor of uncertainty of 2 (at the 95% level) for each of three methods, it is easy to show that the resulting seismic yield estimate has only a factor of 1.5 uncertainty. There may be debate as to whether the available seismic methods are each equally good, and how they should be weighted in coming up with a best estimate using more than one seismic method. (For example, I do not believe the Lg method is yet as good, for Soviet explosions, as it is for events at NTS.) My point is simply that for large explosions, which generate a variety of different seismic waves, the factor of uncertainty achieved by combining various seismic methods is less than two. The debate on this question turns out not to be a purely technical one, because in order to build the technical case (for a particular value for the factor of uncertainty) there has to be a review of what information can be folded in to the process. For example, the question of whether any Soviet-supplied data can be used, cannot be decided purely by the technical community.

On the question of Soviet compliance with the Threshold Test Ban Treaty, I recognize that this has to be decided as a political judgement. The way that the technical community can contribute, is to give a best professional opinion on the relevant numbers. For example, we can come up with estimates for the yield of Soviet explosions, and we have to describe our uncertainty associated with these estimates.

The biggest Soviet explosions in recent years have been in Eastern Kazakh, near the town of Semipalatinsk. There have been many open-literature studies of these events, and typically these papers do show some with yield estimates above 150. But there's a couple of ways to see that this not the end of the story. For example, consider a program of testing at 149 kt every year. Then, because each seismic estimate is not going to be absolutely accurate, some seismic estimates will come in above 150. In fact, this would be expected to happen, if the Soviets were repeatedly testing right up to the allowed threshold. Another way to appreciate that a few events with seismic yields above 150 does not directly indicate non-compliance, is to consider what would happen if the seismic method were applied to our own test site in Nevada. [This basic idea is described in a Congressional Research Service document, No. 86-155 SPR "Monitoring Nuclear Test Bans" by David W. Cheney.] Because of the uncertainities, some of the U.S. weapons tests would be estimated, from seismic measurements, to be over 150 kilotons.

I conclude by commenting that the problem of assessing compliance with a yield threshold will always have difficulty because of technical uncertainties. The technical uncertainty is not unique to seismology, nor to 150 kilotons. If a method that had a 1.1 factor of uncertainty were used, and testing was routinely taken up to the threshold but not above, then there would still be a nearly 50-50 probability that the "central value" estimate would exceed that threshold for the largest events.

Seismic Methods for Verifying Test Ban Treaties: Progress Since 1987

(By Paul G. Richards)

ABSTRACT

Until 1987, the United States monitored Soviet nuclear explosions by the use of seismometers deployed outside the territory of the U.S.S.R., and without access to direct information on yields of any explosions at Soviet weapons test sites. This paper briefly describes the way in which indirect information has been used to calibrate seismic signals, for purposes of yield estimation, and the fact that seismic methods were deemed inadequate at the political level in the U.S., particularly in monitoring compliance with the 150-kiloton limit imposed by the 1974 Threshold Test Ban Treaty. At greater length, a description is given of three different technical initiatives, beginning in 1988, that have improved the accuracy and reduced the uncertainty of seismic methods for estimating nuclear explosion yield.

INTRODUCTION

There have been well over 1000 underground nuclear explosions worldwide, occurring on average roughly once a week since the first was set off by the U.S. in Nevada in 1957. Most of these have been weapons tests. The debate on nuclear test bans has continued too far over 30 years, and continues to develop and change as new information becomes available.

Such testing activity is widely recognized to lie at the heart of the qualitative nuclear arms race, and raises the central question of whether nuclear testing should be banned in whole or in part. The central debate is related to the present and future status of superpower plans to research, develop, build, deploy, and possibly use new nuclear weapons—and to the superpowers' concepts of deterrence and the prevention of nuclear war. For those who believe that qualitative improvement and modernization of nuclear weapons is a part of the solution in maintaining peace, continued nuclear testing seems essential. For those who believe the prospect of more sophisticated nuclear weapons is part of the problem in peacekeeping, some form of nuclear test ban—perhaps, the most stringent ban that can be verified and negotiated—is appropriate.

Whether for purposes of amrs control, or for seeking information in nuclear weapons development by a potential opponent, it is important to reach some understanding of how well nuclear testing may be monitored. For this reason, over the last 30 years a special branch of seismology has developed, to detect, locate, and identify the occurrence of nuclear explosions that take place underground—the only environment now permitted for countries that have signed the 1963 Limited Test Ban Test (LTBT), which banned testing in the atmosphere, the oceans, and outer space. Since 1974 when the Threshold Test Ban Treaty (TTBT) was signed, banning underground nuclear weapons-test explosions with a yield in excess of 150 kilotons, it has been important that monitoring capability be extended to provide yield estimates.

This monitoring requirement is likely to continue, even if a Comprehensive Test Ban Treaty CTBT) becomes universally accepted as a desirable goal—apparently obviating the need for yield estimation. The difficulty with a CTBT lies with current estimates of the yield level at which underground nuclear explosions could be conducted clandestinely (perhaps about 10 kilotons, see below). This level admits the possibility of a concealed test program that could have some military significance. Until this yield level can be significantly reduced, the main approach to more stringent limitations on nuclear testing is likely to be based on reductions in the threshold of allowed tests, and hence the need for accurate yield estimates will persist.

It appears that seismology will provide the principal techniques for monitoring nuclear test bans for the foreseeable future. This is the case because only a worldwide seismic network can assure a comprehensive detection capability for underground testing activities of nuclear-capable nations, thus discouraging cheating. Because of numerous inherent limitations, other methods of monitoring currently in use will remain supplementary and supportive in nature to a more comprehensive seismic monitoring regime.

In 1987, following a break of seven years, the U.S. and the U.S.S.R resumed negotiations on nuclear testing limitations after issuing a joint statement saying in part that: ". . . the sides at the first step will agree upon effective verification measures which will make it possible to ratify the US-USSR Threshold Test Ban Treaty of 1974 . . . and [will] proceed to negotiating further intermediate limitations on nuclear testing." Behind this simple statement lies a ten-year history of acrimonious debate in the U.S., over whether the U.S.S.R. has occasionally tested weapons at yields greater than the 150 kiloton threshold—and whether such cheating, if it occurred, could have been of such a degree as to confer a military advantage on the Soviet side. The Reagan Administration asserted on many occasions that there had been "likely violations," but no technical evidence in support of this position was openly offered, and broadly speaking the technical community can be said to have reached a different conclusion. This, sumarizing the opinion of many people who have examined, these technical issues, Dr. Roger Batzel (as Director of Lawrence Livermore National Laboratory) testified for the Senate Foreign Relations Committee in 1987 on the question of compliance, saying that:

"Based on our assessment of the relationship between yields and seismic magnitudes for the Soviet test sites and the pattern of Soviet testing, we have concluded that the Soviets appear to be observing some yield limit. Livermore's best estimate of this yield limit, based on a probabilistic assessment, is that it is consistent with TTBT compliance. However, because of the statistical uncertainty of teleseismic yield estimates and the uncertainty in extrapolating U.S. experi-

ence to Soviet test sites, we cannot rule out the possibility that a few Soviet tests may have exceeded the limit. . . . I believe that it is impossible to state with certainty that the Soviets have or have not violated the TTBT."

Informed discussion of these issues requires access to an understanding of much technical information, some of it quite sophisticated. Which policy options are technically possible (and at what cost?) Which are impossible? What is black and white, and what are the shades of grey?

Several documents addressing these questions have been published by the U.S. Congress since mid-1987. In addition to committee hearing records, these include the following four reports on nuclear testing, explosion monitoring, and their relationship to arms control:

Intelligence Support to Arms Control, a report (number 100-450) issued November 1987 by the House Permanent Select Committee on Intelligence, 67 pp.,

Seismic Verification of Nuclear Testing Treaties, a report (OTA-ISC-361) issued May 1988 by the Office of Technology Assessment, 139 pp.,

Nuclear Weapons and Security: The Effects of Alternative Test Ban Treaties, a report prepared by the Congressional Research Service, issued June 1989 as a Committee Print of the House Committee on Foreign Affairs, 306 pp., and

The Containment of Underground Nuclear Explosions, a report (OTA-ISC-414) issued November 1989 by the Office of Technology Assessment, 80 pp.

The technical content of these reports represents a great improvement over the quality of information previously made available to policymakers by U.S. federal agencies. However, several new developments in explosion monitoring in the past two or three years are not covered in these reports—developments in negotiations as well as several important new results at the technical level. The main purpose of this paper is to describe these recent technical results, giving particular emphasis to the monitoring issue seen as most important in the U.S., namely the discussion of how to improve or complement conventional methods of yield estimation.

Thus, as an aid in the evaluation of methods to verify the 1974 Threshold Test Ban Treaty, two "Joint Verification Experiments" (JVEs) were carried out in 1988. Centered on the execution of two special nuclear explosions, one in Nevada (August 17, 1988) and the other in East Kazakhstan (September 14, 1988), the JVEs constitute a remarkable milestone in the more than 40 years of nuclear weapons development by the superpowers. Associated data have been examined with more interest than perhaps for any explosion since underground nuclear testing began in Nevada in 1957. Potentially, these data can help resolve claims of non-compliance with current test ban treaties, and can give credibility to methods of monitoring that have relevance for verifying further restrictions on nuclear testing, for example, a low-yield threshold test ban.

The JVEs and associated programs of monitoring at weapons test sites were executed by technical teams acting for their respective governments. In addition, beginning in 1988, seismic data on underground nuclear explosions have become available from modern stations installed within the U.S.S.R. under the private initiatives of U.S. scientists. These data supply the first hard information on the quality of nuclear weapons-test signals that can be observed in the U.S.S.R. The data are pertinent both for estimating the yield of large explosions, and for detecting and identifying even very small nuclear explosions.

A third major source of new information is an openly available paper, published in September 1989 by Soviet scientists [1], giving technical details concerning 96 underground nuclear explosions carried out by the U.S.S.R. prior to 1973 at the main weapons test site near the city of Semipalatinsk, East Kazakhstan.

Following this introduction, I briefly give some historical background and a review of technical issues in explosion monitoring as understood from the perspective of the U.S. using National Technical Means (NTM), that is, by use of equipment available to the U.S. and operated around the world, but not on the territory of the country being monitored. I then describe the stated goals and accomplishments of the Joint Verification Experiments, which go beyond NTM. The concluding technical section gives preliminary results obtained from operation of seismic stations within the Soviet Union, and an interpretation of the associted data using yield information recently made available by the U.S.S.R.

NUCLEAR TEST MONITORING—THE VERIFICATION REGIME USING NTM

Ever since the LTBT of 1963 prohibited testing in the atmoshpere, the U.S. and the Soviet Union have conducted their nuclear weapons development tests underground. When the TTBT was signed in 1974, it established limits on underground testing by prohibiting tests after March 1976 having a yield exceeding 150 kilotons (often abbreviated as kt)[2]. This threshold was intended to prevent the development of new types of large nuclear warheads. Prior to the mid-1970s, both the U.S. and the U.S.S.R. had been testing underground at levels well above a megaton.

In negotiating the TTBT, the U.S. and the U.S.S.R. recognized the need to deal with underground nuclear explosions conducted for peaceful purposes, such as mining or dam-building. Such action was necessary because there is no clear distinction between the technology of a nuclear device which would be used as a weapon and one used for peaceful purposes. The Peaceful Nuclear Explosions Treaty (PNET), signed in 1976, covers all nuclear explosions carried out by the U.S. and the Soviet Union at locations outside their weapons test sites. The U.S.S.R. has carried out more than 100 such explosions; the U.S., relatively few. The PNET limits individual explosions to 150 kt, and group explosions (detonated in close proximity) to an aggregate yield of 1500 kt.

The TTBT and PNET, as monitored by NTM, were presented twice to the U.S. Senate for advice and consent to ratification—once in 1977 and again in 1987. However, the Senate did not give such advice and consent, for a variety of reasons stemming from the fact that these treaties have never had strong advocates. They do not represent significant progress to those who seek a CTBT, and they are not favored by those who wish nuclear testing to continue unhampered by future limitations, because formal ratification would likely lead to new pressure to negotiate further restrictions. However, the two threshold treaties (as monitored by NTM) have remained formally in effect under international law prior to ratification, because neither party has ever indicated that ratification would not occur. At this time of writing, the TTBT is undergoing a third review in the U.S. Senate, following an agreement on a new verification protocol signed on June 1, 1990, at the Washington Summit Meeting. This new protocol goes beyond NTM, in that some types of in-country monitoring are permitted, as described below.

Technical Aspects of Seismic Monitoring: General Issues

Monitoring underground nuclear explosions is done mainly by studying seismic waves, using instrumentation that originally was designed for recording the motion of the ground associated with naturally-occurring earthquakes. Note that observations made by satellite, which are the principal component of NTM for many arms control treaties including the LTBT, contribute relatively little to the verification of bans on underground nuclear testing.

Seismic monitoring can be broken down into three separate steps:

Detection (location can also be included under this heading): can we detect seismic signals from underground nuclear testing, and can we use them to locate the source of the signal?

Identification sometimes called discrimination): can nuclear explosions, once detected, be distinguished from earthquakes and chemical explosions?

Yield estimation: once signals have been detected and identified as coming from an underground nuclear explosion, how do we use them to estimate how big the explosion was, and what uncertainty characterizes the estimate? This is particularly important in the context of current treaties imposing a threshold on the size of allowed explosions.

Each of these three steps can be looked at in terms of current practice, given that nuclear explosions occur at recognized weapons test sites together with the current types of peaceful explosions, and using monitoring networks that now exist at installations around the world. Each step can also be evaluated in terms of hypothetical situations, in which a country might carry out a nuclear test designed to evade the restrictions of present or future, more strigent treaties. In considering such an attempt at evasion, one usually assumes the existence of a monitoring network on the territory of the country being monitored—a network that would be negotiated as part of any future agreement restricting testing. Such future treaties may also require improvements in current methods of monitoring for explosions in the oceans, the atmosphere, and outer space (i.e., improved verification of the LTBT).

In general, detection capability using NTM is very good for underground nuclear explosions. U.S. identification capability for nuclear explosions carried out by the U.S.S.R. is also very good for events above a certain size, including those that raise questions of compliance with the 150-kt limit of the present TTBT, and even for events 10 times and maybe 100 times smaller. However, there is lack of agreement on how well nuclear explosions can be identified at very low magnitude, and whether the U.S. could, with access to seismic data from the U.S.S.R., identify all underground nuclear explosions down to 1 kt. The question of yield estimation raises a series of debates, first on whether yield estimation can be done accurately for purposes of monitoring the treaty now in force (that is, the TTBT

Footnotes at end of article.

of 1974), and then separately on the question of monitoring prospective new treaties that would allow testing only at low yields, with a threshold set perhaps at around 10 kt or even at 1 kt. As part of the debate on how well one would be able to estimate the yield of small explosions, there is a need for discussion of what restraints on the allowed testing environment might be negotiated, to ensure that a new low-yield threshold was not being exceeded. Also needed is an assessment of the accuracy of yield estimates neded for military purposes, and an evaluation of the significance of evasion as a function of threshold. However, even without conclusive discussion of these issues, there appears to be basic agreement in the expert community that limitations on nuclear testing far more stringent that the current 150-kt threshold treaties could be monitored. The chief contribution that this community could make to an informed debate on options for new testing limitations would be the development of a consensus on how low a yield threshold it would be possible to monitor with high confidence.

Concerning evasion, or "spoofing," one asks how well the evidence of a nuclear explosion can be hidden in various manmade and natural environments. Again, this debate has to be developed in terms of thresholds: under realistic operational constraints, what size nuclear explosion might go undetected, what size unidentified, and at what size can methods of yield estimation be subverted? The most important evasion scenarios are those based on a limited ability to reduce the signal from a nuclear explosion by carrying out the test in an underground cavity. In this scenario, energy from the blast is "decoupled" from the surrounding rock, and the seismic signal can be much diminished.

At this point, we can introduce some pertinent aspects of seismology, noting that the simplest type of seismic wave to detect and measure is the *P*-wave, which is a type of sound wave that has propagated through the Earth's deep interior.

The *P*-wave is the simplest of seismic waves to monitor, because it is the first seismic wave to arrive. (Hence its name: the "*P*" derives from the Latin word *primus*.) At a particular location, the arrival of the *P*-wave caused by an explosion is expressed by a sudden motion of the ground, which may be recorded by a siesmometer. The *time* of the arrival can be accurately measured, commonly to the nearest tenth of a second, or even better with good equipment. The *amplitude* of this *P*-wave motion can also be easily measured, and then used to determine the *seismic magnitude* of the source.

Subsequent to the *P*-wave arrival, many other types of seismic waves may be detected and measured. Sometimes these other waves are harder to analyse than the *P*-wave, partly because, by definition, they arrive after the *P*-wave and at a time when two or more waves may be superimposed. However, although the analysis of later-arriving seismic waves may be harder, it can still be straightforward and may result in valuable information about the seismic source that is independent of what can be learned using *P*-waves. Some types of seismic waves are particularly useful in discriminating between earthquakes and explosions. Some are particularly useful (even better that the *P*-wave in many instances) for obtaining accurate estimates of the yield of an underground nuclear explosion.

For treaty verification and explosion monitoring that rely upon NTM, the seismic waves of greatest utility are those that propagate substantial distances—more than about 2000 km. Such waves are said to be *teleseismic*.

Different types of teleseismic waves are separated into two broad categories. There are those called *body waves*, which, like the *P*-wave, travel via paths through the Earth's deep interior. And there are those called *surface waves*, which are confined to paths close to the Earth's surface. A useful analogy for seismic surface waves is the set of ripples on the surface of a pond spreading away from a disturbance such as a stone thrown into the water. One of the strongest types of seismic surface wave is the *Rayleigh wave*, named for the British scientist who discovered its properties in 1887.

Figure 1 shows a schematic of the paths of these two main types of seismic waves. An explosion or earthquake source at A sends out seismic waves that are picked up at a seismic receiving station at B. The signal, recorded as a function of time by such a station, is called a *seismogram*. Examples are given in Figure 2.

[Figures not reproducible in the RECORD.]

At the stage of analysing signals to pick arrival times and processing them to obtain the location, a source of seismic signals is commonly referred to as an "event." Once the location has been obtained, often using stations deployed all around the globe, the next question is that of *identification*: was the event an earthquake, or an explosion?

Identification is easy for large seismic sources, but becomes progressively harder for smaller events. It becomes harder, not only because the quality of signals for small events is lower, but because the number of earthquakes occurring each year increases rapidly as one considers events of decreasing size. To appreciate this problem on a quantitative basis, and to understand seismic methods of yield estimation, we must begin to work with seismic magnitudes.

To describe the strength of signals sent out by an earthquake or explosion, scientists assign a numerical value using a seismic magnitude scale. There are many different magnitude scales, but the most common is that based on *P*-waves, and is denoted by the symbol m_b. It is determined by taking the logarithm of the observed *P*-wave amplitude, and making a correction that depends on the distance between the seismic source and the seismometer. A typical 1-kt underground nuclear explosion has seismic magnitude roughly about 4.0. Because the magnitude scale is logarithmic and seismic signal strength is roughly proportional to yield, it follows that m_b about 5.0 corresponds very roughly to a 10-kt explosion, and m_b about 3.0 corresponds to 0.1 kt. (Detailed studies have shown that a 1-kt underground explosion set off under typical conditions is associated with somewhat different m_b values at different test sites. The range goes from about m_b 3.8 to m_b 4.4. Also, studies of magnitude as a function of $\log_{10}$ yield find slopes typically a little smaller than 1, usually in the range 0.7 to 0.9.)

There are about 7,000 earthquakes each year with signals as strong or stronger than those of a typical 1-kt underground nuclear explosion.[4] Around 150 to 200 of them occur on Soviet continental territory. Most of them can be identified as earthquakes, simply on the basis of their *location* and *depth* below the surface of the Earth. If more analysis is needed, then one of the most effective techniques is to compare *P*-waves with surface waves, which are more efficiently excited by earthquakes than by explosions.

An example of the relative strength and different frequency content of *P*-waves and Rayleigh waves is shown in Figure 2, showing seismograms for an earthquake and an explosion near each other at the Nevada Test Site (NTS).

To the trained analyst, working with the amplitude ratio between *P*-wave and surface wave signals, explosions and earthquakes can be distinguished for signals at least down to around m_b 4.0, using data that has been available for about 20 years.[5]

It is much harder to identify the source of seismic signals (whether explosion or earthquake) if the signals get much below m_b 4.0. For this reason, if we want to identify explosions down to a really small size, we would have to use a network of seismometers installed at stations within the country being monitored. It is difficult to reach consensus on the capabilities of a hypothetical monitoring network, especially when hard data on signal levels and noise levels in the U.S.S.R. have only recently been available. However, a useful summary conclusion was reached as a result of workshops on seismic verification that were conducted in 1987 by the Office of Technology Assessment (OAT). The resulting OTA report, published in May 1988 and cited above in the Introduction section of this paper, includes the following statement:

"There appears to be general agreement that, given a capable internal network characterized by a detection threshold of [seismic magnitude] 2 to 2.5 throughout the Soviet Union and special provisions to monitor large chemical explosions associated with [magnitude] values greater than 3.5, identification can be accomplished down to about [magnitude] 3.5 with virtually no false alarms. That is, the identification threshold is currently set by the occurrence of routine chemical explosions, and essentially all earthquakes above this level would be positively identified as earthquakes."

What this careful consensus statement means, in conjunction with an understanding that m_b somewhere in the range 3.8–4.4 corresponds to a typical 1-kt underground nuclear explosion, is that nuclear explosions down to less than 1 kt in the Soviet Union could be routinely identified in a future verification regime if the explosions are set off under conditions typical of current nuclear testing practice. Possibly, with the experience in deploying a network of in-country stations, the identification threshold could be reduced still further. But one loses consensus within the technical community when claims are made that identification is possible for events below m_b 3.5. Hence, those who seek stringent limitations on nuclear testing must consider the policy question: how much to rely upon unproven technology—if it is deemed necessary to monitor down to levels much below seismic magnitude 3.5, in order to verify a Comprehensive or Low Yield Threshold Test Ban Treaty.

The OTA statement above does not address the question of how big an underground nuclear explosion could be and still generate seismic signals no greater than m_b 3.5, if the explosion were conducted not under conditions typical of current testing practice but rather with an intent to escape identification by a monitoring network. This raises the subject of evasion. The OTA report concluded (claiming this was conservative) that identification down to about 10 kt would be possible under a future verification regime, assuming that serious attempts at evasion might be made.

It might seem simpler, from the verification perspective, to monitor a CTBT rather than a low-yield TTBT, since yield estimation would not be a dominant issue. However, as long as identification capability can be assured only down to 10 kt, claims will be made that military significant tests can be carried out clandestinely—claims so strong, that a CTBT is unlikely to be politically acceptable in the U.S., regardless of international opinion. It follows that limitations on nuclear testing more stringent than the 150 kt TTBT are likely to be based upon reduction in allowed yield, and that yield estimation by various methods will continue to be a required component of explosion monitoring. For this situation to change, it would be necessary to demonstrate that identification capability can be reliably achieved, in all environments, well below 10 kt. To this end it is important to deploy high-quality seismic monitoring equipment at stations around the globe, to operate this equipment as an international network in the sense that data are communicated from all stations to one or more central facilities, and to continue to improve methods of data analysis.

On the general subject of capability to monitor explosions, note that the technical community can review technical issues and can (if pushed) strive for consensus, but the standard of what is or is not an acceptable capability requires ultimately a *policy* evaluation—just as the decision to carry out a nuclear test that was a serious attempt at evasion, accepting the risks of being caught, would be a matter of policy. Technical input is important, but a telling phrase is used by political scientists: "verification capability is set from the political agenda." This is particularly well exemplified in political/technical debates over compliance with the TTBT. To follow such debates, we need background in yield estimation, using NTM alone.

Technical Aspects of Seismic Monitoring: Yield Estimation via NTM

The basic method for estimating the size of a particular underground nuclear explosion, when one does not have access to information available to those who executed the test, is first to develop a relationship between m_b (the seismic magnitude as measured from *P*-waves) and test yield, using explosions other than the particular one of interest. This can be regarded as a process of calibrating the m_b scale in terms of yield. Once calibrated, yield estimates can easily be made for any explosion whose m_b can be measured. An example of a calibration curve is shown in Figure 3, which is for nuclear explosions at NTS.

As yield increases, so does the size of the seismic signal. Since the size of the *P*-wave is reported in terms of m_b, which is related to the logarithm of the amount of ground motion in the *P*-wave, it is expected and indeed found that m_b increases in proportion to increases in the logarithm of the yield. This relationship between m_b and explosion yield in Figure 3 is expressed by the fact that the data points lie close to a straight line. If a nuclear explosion at NTS occurs in hard rock below the water table, and its m_b were measured as 5.7, the yield estimated in this case (as inferred from the best-fitting line shown in Figure 3) would be 161 kilotons.

The question then becomes whether such a magnitude-yield relation, derived for NTS in this case, can be applied to other test sites for purposes of turning the seismic magnitudes at those other sites into accurate yield estimates. The jargon for this is to ask if the magnitude-yield curve is "portable," and in practice the answer is usually "No." If the curve is known at one test site, where seismic magnitudes and yields are both available, it usually must be modified for application of the seismic method to a new test site where explosions occur with unknown yield.

The framework within which the problems of different magnitude-yield relations for different test sites can be understood, and solutions can be found, is shown schematically in Figure 4. This figure illustrates what may happen if nuclear explosions are set off at different test sites A and B, and the signals are received and recorded at the same seismic station. The lower part of the Figure shows a region within the Earth, beneath the explosions at A but not beneath the explosions at B, where attenuation occurs. The net effect on magnitude-yield curves in this case in that m_b from the sources at B will be offset upward compared to the relation between magnitude and yield derived at site A. The amount of such offset is called the *bias*, often symbolized as $\Delta\ m_b$.

By every major type of geological and geophysical measurement that can indicate the presence of a region that attenuates seismic waves at depth within the Earth, an underground nuclear explosion at NTS exhibits the characteristics of "Source A" in Figure 4. The attenuating region extends down to depths of about 200 km and is associated with rocks that are unusually hot—possibly even partially molten. At the Earth's surface, such heat results in volcanism and active mountain-building. Evidence that these processes have occurred near NTS in the last few million years is very strong. In geological terms, a few million years is a short period of time, not long enough for cooling at depth to have occurred. In contrast, the major Soviet test sites are in places that geologically have been relatively inactive over the last several hundred million years. On this basis, as well as from a variety of geophysical measurements, the regions of the Earth's interior beneath Soviet test sites can be presumed to be quite cool and less attenuating in their effect upon seismic waves.

Lapsing again into jargon, we may say that the magnitude-yield relation is portable for *P*-waves if we can estimate the bias. This is equivalent to estimating the extra amount of attenuation occurring under test site A, assuming that explosions excite seismic signals equally efficiently in the vicinity of the shot points (the position in the ground at which the nuclear device is placed and detonated).

Since the mid-1970s, more than 1000 man-years of effort have gone into estimating test site bias, at a cost on the order of $100 million. This effort has been one of the largest projects in geophysics. Methods of estimating test site bias include: overall assessment of geological and geophysical observables; detailed properties of the *P*-wave signal (in particular, its frequency content); comparison of *P*-wave-based yield estimates, with yield estimates derived from other seismic waves; and comparisons of *P*-wave-based yield estimates with estimates available from non-seismic methods.[7]

The appreciate why the problem of bias must be addressed, note that the largest Soviet nuclear explosions since 1976 (when the Threshold Test Ban went into effect) have been about m_b 6.2, which is about 0.5 magnitude units greater than the largest U.S. explosions since 1976. Such seismic magnitudes, if interpreted only in terms of the magnitude-yield relation for NTS (Figure 3), would indicate the largest Soviet yields since 1976 were about 750 kt, that is, *five times larger* than the Threshold Test Ban Treaty allows.

The implications of incorrect yield estimation at this level are severe. They include not just the possibility of failure of an arms control treaty, but the consequences in terms of "first strike" capability and its ramifications when overestimated test yields are used to assess the capability of warheads in the Soviet strategic arsenal. Thus "estimation of bias," a specialized technical exercise in seismology, can (if handled incorrectly) have formidable, albeit false, implications for evaluating the Soviet nuclear threat.

U.S. methods of yield estimation, based upon the interpretation of teleseismic signals (i.e., NTM), have an uncertainty factor of about 1.5 for underground nuclear explosions below the water table at NTS. Usage of such a factor is conventionally a method of describing the width of a 95% confidence interval. Specifically, if the factor of uncertainty is 1.5, this means for example that for repeated tests at 150 kt, 95% of the estimates would lie within the range 100 to 225 kt. [The factor of uncertainty of the seismic method is somewhat lower (i.e., better) than 1.5 in practice at NTS, because it is possible to use other types of seismic waves, not teleseismic, that propagate out to distances of one or two thousand km in continental rock structures. Using such so-called *regional* seismic waves, as well as teleseismic signals, it appears that the factor of uncertainty of the seismic method for explosions in saturated hard rock at NTS is about 1.3-1.4.[8]] Note, however, that a value around 1.5 cannot immediately be taken as the uncertainty in yield estimation using conventional/teleseismic methods in application to nuclear explosions at the Soviet Union's weapons test sites. If the bias at these sites were accurately known, then teleseismic methods would be about as good as for NTS. (They might even be better, because of the better azimuthal coverage of seismic stations in the case of explosions at the main Soviet test site near the town of Semipalatinsk, in East Kazakhstan.) But, to the extent that there is uncertainty about the bias, this acts to increase the overall factor of uncertainty of the seismic method for estimating the yield of Soviet explosions.

For most of the 1970s and 1980s, technical progress in procedures for yield estimation consisted principally in refining estimates of the bias. However, although consensus on bias values, and their uncertainty, developed within the expert technical community, it is apparent from congressional testimony that key policymakers have been very negative about the capability of conventional methods of yield estimation. Here, for example, is a quote from a senior spokesman for the Department of Defense, Robert Barker, giving testimony for the Senate Armed Services Committee in February 1987:

"The Threshold Test Ban Treaty and Peaceful Nuclear Explosions Treaty, as ratified, assume that teleseismic techniques would be sufficient to estimate Soviet yield with an accuracy such that U.S. national security could be protected. We have had, since 1974, 13 years to gather data, and in the course of that time, we have discovered that we understood a lot less about seismology than we thought we understood in 1974. Fundamentally, we saw no way in which teleseismic techniques alone would ever

achieve accuracies substantially less than a factor of two. The President, for that reason, concluded in 1982 that he wanted something which was a lot better than that factor of two, and also something which could be empirically demonstrated. Teleseismic techniques are always based on theory, but the treaty provides no mechanism for calibrating, for trying to understand whether your guess, whether your theoretical estimate is right."

An increase in the estimated value of bias had been made in 1986, that resulted in a reducton of U.S. official estimates of Soviet yields.[9] In 1988, the OTA report on seismic verification of nuclear testing treaties concluded that "without calibration Soviet yields can be seismically measured with present resources to a factor of 1.6 to 1.5 uncertainty." But, again in congressional testimony, Barker asserted that "[the OTA Report] has homogenized fact with fiction."

There is little hope of resolving such disputes without new initatives, because arguments are not confined to arenas where technical issues are the sole subject of debate. The expert technical community may have a consensus on how well seismic methods can be used to estimate Soviet yields, but clearly this is not deemed persuasive to non-technical critics, some of who have taken a position containing strong ideological elements concerning Soviet compliance with the TTBT.

Fortunately, since 1987 there have been three major developments concerning technical issues, all providing consistent evidence about the accuracy of seismic methods. These have all increased confidence in seismic methods, as I next discuss.

IMPROVEMENTS OVER THE NTM VERIFICATION REGIME

Non-Seismic Methods

Of all the political/technical developments in nuclear explosion monitoring over the years, one of the most important to have occurred since the first underground nuclear explosion took place in 1957 has been the negotiation and execution of the pair of Joint Verification Experiments (JVEs), specified and carried out as a result of bilateral U.S.-U.S.S.R. negotiations, later known as the Nuclear Testing Talks, that began in 1987.

The JVEs were the result of an agreement announced at the May 1988 Summit Meeting in Moscow between President Reagan and General Secretary Gorbachev to carry out two special underground nuclear explosions. It was agreed that one would be carried out by the U.S. at NTS, with Soviet observers allowed to install and operate on-site equipment to measure yield; the other would be carried out at the Shagan River Test Site, near the town of Semipalatinsk in East Kazakhstan, with U.S. observers. Both sides could use their own on-site *hydrodynamic methods* to estimate yield, i.e., methods based on study of the shock wave sent out into the rock from the exploding nuclear device. One such method, known as CORRTEX and favored by the U.S., is a particular way of measuring the shock-wave speed. (CORRTEX is an abbreviation for Continuous Reflectometry for Radius versus Time Experiment.)

The physical principles upon which CORRTEX is based have been known since the 1950s. The underlying idea is that a nuclear explosion in the moments just after it is set off generates a small region of such high energy density that the strength of the material does not influence the expansion rate (the speed of the shock)—which is governed by very simple hydrodynamic rules. Initially the shock wave propagates at a speed faster than the usual speed of sound in solid rock. But this occurs only over a scale of a very few tens of meters from the shot point (for an explosion of yield high enough to be of concern with respect to TTBT compliance). After the shock wave has propagated such a distance it slows down and eventually propagates the rest of the way through the Earth at the sound speed (as a *P*-wave). The CORRTEX technique uses a coaxial cable that can be located in the device emplacement hole. For TTBT verification it would be placed in a nearby parallel "satellite" hole in order to be less intrusive. When the nuclear device is detonated, a shock wave propagates through the ground, crushing and shorting out the cable. The rate at which the unshorted cable length changes is recorded by measuring the changing transit times of low-energy electrical pulses sent down to and reflected (because of electrical shorting) from the cable end. Many measurements are made over a time period lasting about a hundredth of a second, to determine how quickly the shock wave spreads in space and time. These measurements of the cable length vs time are then interpreted, together with information about the equation of state of rock at the shot point, to give an estimate of the explosion yield.

CORRTEX has been shown to be accurate to within −15% (with 95% confidence) of the more direct, radiochemical yield measurements, for weapons test with yields greater than 50 kt conducted at NTS under routine conditions in rock with known properties. This is based on measurements in over 100 explosion with the sensing cable in the same hole as that used to place the nuclear device in the ground (the emplacement hole). According to a 1986 State Department report, the CORRTEX method had been used only four times in a satellite hole when it was proposed by the U.S. for use on Soviet test sites to improve the verification of the TTBT. In this type of application, the CORRTEX method is expected initially to be accurate to within ±30% (with 95% confidence), for tests above 50 kt. Using the terminology of the previous section, this would be called a factor of uncertainty of 1.3.

These statements about the CORRTEX method, which appear in several official U.S. government publications of the late 1980s, lack detailed technical reports giving evidence to support this level of accuracy. The avialable literature on the CORRTEX method suggests that the measurements can be interpreted in several ways to give yield (each with somewhat different results), and also suggests ways in which the explosion could be set off so that the measurements could be interpreted incorrectly, resulting in underestimation of the yield. In many respects, these aspects of the CORRTEX method are similar to those which have been criticized in the seismic method of yield estimation. However, rather than emphasize weaknesses of either technique (hydrodynamic vs seismic), it is more constructive to recognize that they are complementary. In particular, if the U.S. can make CORRTEX measurements for a few nuclear explosions on Soviet test sites, this will enable improve calibration of various magnitude/yield relations (for *P*-waves and Rayleigh waves, and for so-called *Lg*-waves, described below). In this sense, CORRTEX improves seismic methods. In turn, the seismic method improves upon CORRTEX, by adding the capability to monitor for unannounced events even at yields very substantially lower than 150 kt, whether on or off recognized test sites.

The U.S. and the U.S.S.R, as Parties of the 1998 JVEs, formally agreed upon several ground rules:

"The planned yield of the JVE explosion at each test site shall be not less that 100 kilotons and shall approach 150 kilotons."

"To assist in teleseismic measurement, the Parties shall exchange data on five nuclear explosions conducted [during 1978–1987]."

"Each Party shall report to the other Party the yield value of each of the JVE explosions that are derived by each Party on the basis of hydrodynamic measurements undertaken within the satellite hole and within the emplacement hole."

"The JVE . . . will provide sufficient information to resolve all concerns . . . for verification of the 1974 Treaty. . . ."

"As a result of the JVE the sides will discuss teleseismic methods . . . The U.S. side states that it will not propose any teleseismic methods for discussion."

What also was important was that for the first time many technicians from one superpower would visit the other side's proving grounds for research and development in the qualitative nuclear arms race, would make measurements with sophisticated equipment in what had hitherto been some of the most secretive communities in the world, and would for the first time see details of the other side's practices in nuclear testing. The U.S. Air Force flew seven C5 planes, loaded with CORRTEX equipment and a drilling rig, from Frankfurt across Soviet territory to East Kazakhstan.

The JVEs took place as planned in 1988: the first in Nevada on August 17 and the second in Kazakhstan on September 14. Information on hydrodynamically measured yields has not at this time of writing been openly released, but the U.S. has stated that both explosions did have yields in the stipulated range, 100–150 kt.[10] the *P*-waves were, as expected, large enough to be picked up and identified at hundreds of seismic observing stations around the world. To a seismologist, the JVEs represent the most direct experiment that could possibly be devised for checking out the concepts displayed in Figure 4, and indeed, the magnitudes of the two explosions were significantly different. The NTS explosion had m_b about 5.5, and the Kazakhstan explosion had m_b about 6.1. Given that they were both in the range of 100–150 kt, it is clear from these measured magnitudes that a substantial bias does exist.

The JVEs represent a breakthrough in several ways, not least in demonstrating to precisely the community that hitherto had been most skeptical of seismic methods—namely, that which promoted deployment of CORRTEX—that modern seismology in this instance did not result in misleading yield estimates.

According to congressional testimony, the JVEs cost the U.S. about $28 million to execute, and it is estimated that the cost of using CORRTEX equipment to monitor a future explosion in Kazakhstan would be about $410 million—a significant fraction of the cost of executing a nuclear test.

Another effect of the JVEs and the use of CORRTEX has been the exposure of the nuclear weapons designer community to a series of verification issues, including the problem of Soviet technicians operating at NTS and the prospect of future new limitations on nuclear testing.

However, as is usual with nuclear testing issues, the JVE agreement itself was controversial and some arms control advocates spoke strongly against it. For example, Spurgeon Keeny, Jr., Director of the Arms Control Association and an expert on nuclear testing issues ever since his work in the 1950s for President Eisenhower on the attempt to negotiate a Comprehensive Test Ban Treaty, has written:

"[the Kazakhstan JVe is] a monument to the incredible lengths to which the United States is prepared to go to achieve technical solutions to unimportant or even nonexistent problems."

Seismic Methods

On technical issues concerning explosion monitoring, the years 1988 and 1989 have seen two additional developments, as well the use of CORRTEX in the JVEs: namely, the deployment of in-country seismic stations, and further information on Soviet test yields.

In 1986, during a Soviet unilateral moratorium on nuclear testing, a pioneering agreement between the Natural Resources Defense Council (NRDC) and the Soviet Academy of Sciences led to U.S. scientists operating seismometers about 200 km from Shagan River. But when Soviet testing resumed in 1987, the NRDC-sponsored equipment, at the insistence of the Soviet military, was turned off prior to each Soviet nuclear test. In 1987 the NRDC negotiated a new agreement with the Academy that led to these in-country seismometers being moved back in 1988, to greater distances from Shagan River, and subsequently allowed to operate during Soviet nuclear testing. Early in 1988, the Soviet Academy of Sciences reached an agreement on seismometer deployments with another private U.S. organization, this time the Incorporated Research Institutions in Seismology (IRIS), which obtained funding (for its program to operate in the U.S.S.R.) from the U.S. Defense Advanced Research Projects Agency (DARPA).

IRIS is a consortium whose members are more than 70 U.S. colleges, institutes and universities offering graduate degrees in geophysics. IRIS was formed in 1984, having as one of its main objectives the development of a state-of-the-art global digital seismometer network to replace a global network designed around 1960 that had become outdated and unreliable. DARPA is an agency that has had responsibility since 1959 for a research and development program for improving U.S. capability in seismic monitoring of underground nuclear explosions.

The 1988 agreement allowed IRIS to install broadband seismic stations in the U.S.S.R., and the sites initially chosen were the same as those identified by the NRDC. Four of these IRIS stations were in place and operating, as was the NRDC equipment, in time for the Soviet JVE of September 14, 1988. This time, under the new agreements, the seismometers were allowed to remain on, thus recording for the first time the signals of a Soviet weapons test-site nuclear explosion at in-country stations whose data were made available for study in the U.S. Several other Soviet explosions since the JVE have been recorded by the four-station IRIS in-country network, which is located at the sites shown in Figure 5 as OBN (Obninsk), KIV (Kislovodsk), ARU (Arti), and GAR (Garm).

The principal advantages of working with in-country seismic data are that explosions can be monitored down to smaller size, and yield estimates can be made more accurately. These advantages stem from the fact that in-country stations permit the recording of types of seismic waves, known collectively as regional waves, that are not observed teleseismically. Analysis of regional waves, one of the main research areas of current efforts to improve seismic monitoring, shows that improved estimates can often be made of source depth for small events—thus improving identification capability, and the verification of a low-yield TTBT or CTBT. To appreciate the recent improvements in yield estimation, afforded by access to in-country data, it is necessary first to review the principal properties of the most important regional wave.

Thus, at distances less than a few thousand kilometers, the strongest regional wave is neither the body wave nor the surface wave of Figure 1, but rather is a type of guided wave known as *Lg*, shown schematically in Figure 6. The type of reflection shown at the Moho (a nickname for an interface discovered by Mohorovičić) is the total internal reflection found also for light propagating within an optical fiber. Energy is trapped in the low-velocity wave guide, and can therefore propagate to great distances. For a fixed source and receiver, there may be many reflection paths, all totally reflected and thus trapped within the crust. The *Lg*-wave is composed of the whole family of trapped waves. It does not propagate across oceans, because there the crust is much thinner than under continents. Its amplitude can be measured by taking a root mean square average over an appropriate time window, corresponding to the times of arrival of the family of trapped waves.

From observations of Soviet explosions made since 1988 at IRIS stations, *Lg*-waves have high signal-to-noise ratios. Their amplitudes are found to be stable, and thus *Lg*-waves are potentially useful for supplying accurate yield estimates.

By "stable," we mean that a set of seismic sources all in the same general location (e.g., the same nuclear weapons test site) produces signals that have relatively the same amplitudes at different stations. Thus, if explosion *X* appears to be twice as strong as explosion *Y* when we measure the seismic signal at station *P*, we say the signals are *stable* if the signal from *X* is found to be twice as big as the signal from *Y* on stations *Q,R,S*. . . . also. The basic reason why conventional (i.e., *P*-wave) seismic methods of yield estimation have greater uncertainty than those based on *Lg*, is that teleseismic *P*-wave signals are focussed and defocussed by inhomogeneities within the Earth. They do not display the key quality of stability to anything like the degree seen with *Lg*-waves originating from explosions at the Semipalatinsk test site. [If explosion *X* indeed has *P*-wave magnitude greater by 0.3 units than explosion *Y* (0.3 corresponds to a factor of two, since $\log_{10}2=0.301$), then this is apparent only after averaging magnitudes from a large network of seismic stations, because individual magnitudes determined for each station may, for the *P*-wave, indicate substantial scatter. For example, the standard deviation of a single-station *P*-wave magnitude for an explosion at the Shagan River Test Site is thought to be above 0.1 magnitude unit.]

Indications that *Lg*-waves might be much more stable than *P*-waves, at least for Shagan River explosions, were first discovered by workers in Norway from data recorded at an array of seismometers known as NORSAR (see Figure 5 for location), and another array in West Germany. At these distances from Shagan River (more than 4000 km), *Lg* signals are weak even from large explosions. Confirmation of *Lg*-wave stability was provided by the IRIS stations in the U.S.S.R., which by mid-1989 had recorded six nuclear explosions at Shagan River. Five of them had *Lg*waves large enough to be recorded also at NORSAR. A comparison is shown in Figure 7, indicating an unprecedented degree of stability in single station measurement of seismic magnitude. The standard deviation of a single-station *Lg*-wave magnitude appears to be about 0.03 magnitude unit.[12]

In order to turn such seismic measurements into yield estimates, it is necessary to know independently the yield of some Soviet explosions from the test site of interest. With such information, it is possible to calibrate the *Lg* signals, thus enabling yields to be estimated accurately for all explosions that generate measurable *Lg* waves.

Until 1988, the U.S.S.R. had released some information on the yields for a few underground nuclear explosions off weapons test sites (so-called peaceful nuclear explosions), but had released no information on yields of explosions of greatest interest to other countries, namely those occurring at weapons test sites. This situation changed in June 1988, when (as part of new negotiations on nuclear testing) the U.S. and the U.S.S.R. exchanged information on the yields of five explosions at NTS, and five explosions at the Shagan River Test Site. As of mid-summer 1990 these data had not been released on an unclassified basis, because they have been part of confidential negotiations on improving the verification of the TTBT. These data are "unverified," in that each country released the data without the other side participating in the necessary measurement procedures. The degree of reliance on such data, for calibration purposes, is therefore in part a matter of policy, recognizing the negotiating environment in which the data became available. Note, however, that if the data were misrepresentative, this would presumably be apparent from comparison with the JVE data.

In August and September 1988 the two JVE explosions were conducted, as described above, one at Nevada, one at Shagan River, with yield measured on-site by both sides.

In the September 1989 issue of the journal "Atomnaya Energiya," published in Moscow, scientists from the Soviet Ministry of Defense gave information on the yields of 96 underground explosions at the Semipalatinsk Test Site (including Shagan River), giving specific yields for 22 explosions, and a range (e.g., "less than 20 kt," or "100-150 kt") for each of 74 other explosions (see footnote 1). All 96 explosions occurred prior to 1973, making this Soviet information roughly comparable to the release of open information by the U.S. on yields of explosions at NTS. All of this information is unverified yet presumably not misrepresentative, in the sense noted above.

All of the newly available information on Soviet yields, if it is accepted as accurate, can be used to obtain magnitude-yield curves for *P*-waves, surface waves, and *Lg*-waves. Note that for all explosions conducted under routine conditions at the same test site, there may be no need to introduce a specific magnitude scale, since amplitude data may be calibrated in terms of yield separately at each instrument. For example, to those with access to yield information for the Soviet JVE, all the IRIS stations as well

as NORSAR and stations in the People's Republic of China have already had their *Lg* readings for Shagan River explosions calibrated in terms of yield with this single explosion. Other explosions of known yield at Shagan River would improve the calibration, giving increased confidence if the calibration is not much changed.

Parenthetically, in this section describing uses of *Lg* data, it is interesting for purposes of comparison of different seismic methods to look at an example of a conventional *P*-wave magnitude-yield plot using the newly-released data on Soviet yields. Such a plot is shown in Figure 8, and is typical of what can be achieved if NTM is combined with information on Soviet yields. The *P*-wave magnitudes here were obtained by Lynn Sykes at the Lamont-Doherty Geological Observatory of Columbia University, working in 1986 with a student, Steven Ruggi.[13] Note that the bias between the best-fitting lines of Figures 3 and 8 is about 0.5 magnitude units. Using *P*-wave magnitude 6.1 for the Shagan River JVE, the inferred yield from Figure 8 is 152 kt. The factor of uncertainty is 1.6, from the scatter of the 19 calibration points.

Returning to the subject of *Lg*-waves, we note that as yet only the Soviets yields prior to 1973 have been openly released, and capability to measure *Lg*-waves for Sovet nuclear explosions with high-quality stations such as NORSAR did not develop until about 1970. Consequently, only four Semipalatinsk explosions have both an openly announced yield, and an *Lg* magnitude. For these four, the plot of *Lg* magnitude versus yield is shown in Figure 9. These magnitudes were determined at NORSAR (see Figure 5) from weak signals at great distance. Although there are few points, they lie remarkably close to a straight line. Note too in Figure 9 that the scales for both magnitude and log yield are greatly expanded compared to other magnitude-yield plots in this paper (compare the lengths of a line in Figures 8 and 9, representing a factor of 1.3 on each log yield scale), in recognition of the precision with which *Lg* magnitudes can be determined, and of the potential for greater accuracy and lower uncertainty in the resulting yield estimates (compared to yield estimates based on *P*-waves).

Thus, a conclusion from Figure 9 is that seismic methods of yield estimation, based on *Lg*-waves, for Soviet explosions at the Shagan River Test Site, may be as accurate as hydrodynamic methods based on CORRTEX. (By coincidence, the original proposals to use CORRTEX, deployed in satellite holes, were based in 1986 on only four data points, just as Figure 9 has only four data points.)

On September 26, 1988, a sub-kiloton explosion at Shagan River was detected by NORSAR using teleseimic *P*-waves. The *Lg* signal at IRIS station ARU, in the Urals at a distance of about 1,600 km from Shagan River, was very weak, but of adequate quality to enable its use for yield estimation. This is significant in the context of debates on capability to monitor compliance with a low-yield threshold test ban treaty. What is important about results based on the IRIS stations, is that they are not predictions of the capability of a hypothetical network, but are measurements from actual data. The IRIS network in the U.S.S.R., now funded at around $4 million per year, is being built up to 13 stations by the end of 1991. It will supply key data needed for evaluating methods of identifying small nuclear explosions, using regional seismic waves.

RECENT DEVELOPMENTS

On June 1, 1990, at the Washington Summit Meeting, Presidents Bush and Gorbachev signed a lengthy new protocol for verification of the TTBT that improves upon NTM in several ways. For explosions expected to have yields above 50 kt, each side has rights to deploy on-site equipment (such as CORRTEX) to make yield estimates based on the hydrodynamic method, and rights to deploy seismometers at 3 in-country sites where good *Lg* signals may be expected. At this time of writing, the TTBT has for the third time been submitted to the U.S. Senate for advice and consent to ratification. Because the new verification protocol is so extensive, prompt approval is widely expected.

However, political debate on nuclear testing may become heated over the bilateral commitment made by the U.S. and the U.S.S.R. in 1987 to "proceed to negotiating further intermediate limitations on nuclear testing" once the TTBT is ratified. The Bush administration, early in 1990, state that it has identified no type of limitation that it regards as being in the national security interests of the U.S., and that a period of implementing the new TTBT protocol is in order before considering any follow-on.

Three major developments can be listed that will bring pressure on the U.S. to reconsider this position, and resume substantive negotiations:

A big change in Soviet testing practice was announced in Moscow in March 1990, to the effect that the Semipalatinsk test site is to be closed down because of the perceived environmental hazard, and Soviet testing will be conducted only at Novaya Zemlya (a pair of islands in the harsh climate of the Arctic Sea).

A great reduction in Soviet testing is already apparent, as shown for example in the seismic data recorded at NORSAR, with no tests carried out since October 1989, up to mid-summer 1990, except possibly a sub-kiloton explosion on April 23.

The Non-Proliferation Treaty of 1970 effectively comes to an end in 1995, unless renegotiated, which may be a lengthy, arduous and important process. This treaty is structured as an agreement between non-nuclear capable and nuclear capable states, requiring the latter to make progress on nuclear disarmament, in terms which the former understand as necessitating a CTBT.

In 1986, when the U.S. House of Representatives took issue with the Reagan administration on its refusal to negotiate on testing, all funds were cut from the 1987 U.S. nuclear weapons test program (about $700 million), and only restored when the President agreed to submit the TTBT for Senate advice and consent. There is resentment still in the U.S. Congress over the years of delay in ratifying the 150 kt TTBT, and the U.S. program may once again be held hostage to new negotiations.

DISCUSSION

One theme rarely raised in consideration of nuclear explosion monitoring is the question of how technical issues are handled with the U.S. federal government. At present, the Department of Defense has operational responsibility for test ban treaty monitoring, and shares, with the Department of Energy, responsibility for R&D in verification methods. Both agencies effectively exert control over reviews of current monitoring capability, and over reviews of future capability as improved techniques are considered for deployment. But these two agencies will naturally give priority to their other responsibilities, which include the design, manufacture, and deployment of new nuclear weapons and associated delivery systems, and plans for their use. Right from the beginning of the test ban debate in the mid-1950s, there appears to be no agency of the federal government that has accepted a mandate to adopt a comprehensive problem-solving approach to improve methods of nuclear explosion monitoring, in order to attain arms control objectives. Execution of such a mandate would require the developoment of new links between workers in diverse technical fields, an ongoing forum to promote consensus on technical issues, and channels to communicate results to policymakers.

Among various technologies that are called upon to support arms control treaty verification, seismology is unusual in that expertise principally resides outside official agencies of the U.S. government. Although the principal sources of explosion monitoring data may often be found in the Department of Defense and the Department of Energy (and even this is not always true), perhaps less than 1% of U.S. seismologists at the Ph. D. level work in these agencies. Although many more are supported by contracts with federal agencies, their progress in solving technical problems may go unreported to senior policymakers for many years after the solution is common knowledge in the technical community. This can create a problem for those who stake out a political position, such as assertions of Soviet non-compliance, not knowing how strong the technical arguments against this position may be.

Verification of nuclear test bans concerns a specialized issue in arms control and a specialized part of seismology. Yet the subject will continue to find its way into front-page headlines, and will occasionally demand attention from the highest levels of political leadership. It will do so simply because of the importance of the underlying issue, which is whether or not to promote the qualitative development of nuclear weapons indefinitely. "Indefinitely" is a very long time, and at some point in the future—whether because of some terrifying accident, or because of elections in which new policies emerge, or because the logical conclusion of stated conservative or liberal goals is reached—I believe there will be a serious desire by an American President and the leaders of other nuclear weapon states to place new limitations on R&D in nuclear weapons technology. When that time comes, constructive consideration of new policies will require a well-informed forum in which presentation and analysis of the technical issues is not dominated by agencies that build and manage nuclear weapons.

Paul G. Richards is the Mellon Professor of Natural Sciences at Columbia University, where he has taught seismology since 1971. He co-authored the textbook, "Quantitative Seismology—Theory and Methods" in 1980, and held a fellowship from the MacArthur Foundation from 1981 to 1986. He has worked in the U.S. Arms Control and Disarmament Agency and in the Lawrence Livermore National Laboratory, and since 1986 has testified several times for the US Congress on verification of nuclear test ban treaties. He is currently Vice-Chairman of the IRIS consortium of 71 US graduate schools in geophysics, which has operated seismometers in the USSR since 1988, and President-elect of the Seismology Section of the American Geophysical Union.

FOOTNOTES

[1] Bocharov, V.S., S.A. Zelentsoz, and V.N. Mikhailov, Characteristics of 96 underground nuclear explosions at the Semipalatinsk test site [in Russian], Soviet Atomic Energy [Atomnaya Energiya], 67, 210.14, September 1989. The technical information in this Soviet paper is also available in: Vergino, E.S., Soviet test yields, EOS, Transactions of the American Geophysical Union, 1511-25, November 28, 1989.

[2] A kiloton is a unit of energy used to quantify the yield of a nuclear explosion. Originally defined as the energy equivalent to exploding a thousand tons of TNT, it is now defined as 10^{12} calories. A fairly large World War II bomb was equivalent to about one ton of TNT, and so the first atomic bomb, dropped on Hiroshima with a yield of about 14 kt, represented more than a thousandfold increase in the delivered yield of a single weapon. Since World War II, with the development of hydrogen bombs, there has been a further thousandfold increase in the size of the largest weapons.

[3] Figure from Jarpe, S. P., Lawrence Livermore National Laboratory Nevada Site Regional Seismic Network, brochure LLL-TB-100, 1989.

[4] Ringdal, F., Study of magnitudes, seismicity, and earthquake detectability using a global network, in *The VELA Program: A Twenty-Five Year Review of Basic Research*, ed. A.U. Kerr, Washington, DC: Executive Graphic Services, 964 pp. 1985.

[5] Richards, P.G., and J. Zavales, Seismic Discrimination of Nuclear Explosions, Annual Reviews of Earth and Planetary Services, 18, 257-86, 1990.

[6] *P*-wave magnitudes and announced yield from Otto Nuttli, Yield estimates of Nevada Test Site explosions obtained from seismic Lg waves, Journal of Geophysical Research, 91, 2137-51, 1986.

[7] Richards, P.G., Seismic methods for verifying test ban treaties, chapter 4 of *Nuclear Arms Technologies in the 1990's*, edited by D. Schroeer and D. Hafemeister, AIP Conference Proceedings 178, pp 54-108, American Institute of Physics, New York, 1988.

[8] Work of Vergino, E.S., and R.W. Mensing, personally communicated by Vergino. Also footnote 7, and work sponsored by the Department of Defense, described in the 1988 OTA report.

[9] U.S. Congress, report 100-450 by the Permanent Select Committee on Intelligence, House of Representatives, *Intelligence Support to Arms Control*, p 22, November 1987.

[10] Robinson, C. Paul, The Joint Verification Experiment: A unique approach to developing verification agreements, DISARMAMENT, 12(2), 90-95, 1989.

[11] Soviet joint verification experiment of 1988, Proceedings of the National Academy of Sciences, USA, 86, 3456-60, May 1989.

[12] Hansen, R., F. Ringdal, and P.G. Richards, The stability of RMS Lg measurements, and their potential for accurate estimation of the yields of Soviet underground nuclear explosions, accepted for publication Bulletin of the Seismological Society of America, issue of November 1990.

[13] Sykes, L.R., and S. Ruggi, Soviet nuclear testing, in *Nuclear Weapons Databook, vol 4, Soviet Nuclear Weapons*, ed. T.B. Cochran, W.A. Arkin, R.S. Norris, J.I. Sands, pp 332-82, Cambridge, Mass.: Ballinger, 1989.

[Annotated excerpt from the July/August 1990 issue of Arms Control Today]

AN INTERVIEW OF AMBASSADOR C. PAUL ROBINSON, CONDUCTED ON JUNE 14 BY JACK MENDELSON AND DUNBAR LOCKWOOD

(Annotation consists of four footnotes added here by Richards, to convey his criticism of Robinson on technical issues]

Arms Control Today: What is the effort factor that we have now with seismic and teleseismic monitoring stations?

Robinson: There are two errors. There is the random error, and this is what is usually talked about. I am afraid far too much attention was given to it. People used to say a factor of two. I think over time, with some of the JVE data and measurements we have made of geological samples and so forth, they are coming down to ranges like factors of 1.7 or 1.75, instead of a factor of two.

But there are possibilities for systematic variations that range up to factors of five due to geological variations, such as tests conducted in extremely porous soil or tests conducted inside cavities. The United States has looked at such factors on tests and found factors of 100 in yield discrepancy at lower yields. When you go to higher yields, the tendency weakens, but still a factor of five or six may be possible for greater than 150 kiloton.[1]

ACT: There were connected with evasion scenarios. What if it takes place at test sites and we know it's a test?

Robinson: If it takes place at a test site and if we know it is completely coupled into the soil and if we know the nature of the soil that it's coupled into then you can apply only the random uncertainty. It would be very difficult for either side to ever try and exploit a random uncertainty because, as you know, random uncertainties can go either way. It might make a 200 kiloton shot look like a 350.

But the systematic uncertainties can unfortunately always go the other way and give the appearance at long distances—if you don't have any further information—that a test has a lower yield when in fact it has a high yield.

These trigger levels, the 35 and 50 kiloton, are really tied to the worst-case scenarios that we think people could try to get by with, with some allowances for what would be militarily significant if yields could be disguised to lower values. Going on site and making yield measurements or detailed inspections of the best conditions, you cut out most of those systematic possibilities for test yield evasions.

ACT: When you talk about these evasion scenarios, such as setting off a shot in a cavity, wouldn't that require a fairly massive excavation?

Robinson: Well, yes, but it turns out that at the size that it would take to give factors of five decoupling, the Soviet Union has published that there are more than a dozen such cavities in their territory.

There have also been studies done in this country, by the Defense Nuclear Agency after testing moved from atmospheric to below ground. These studies examined the digging of a big cavity for an underground test so it would provide some data appropriate to a test in the atmosphere. How much would it cost and how long would it take you?

We used those studies to think about what is the realistic possibility of somebody building cavities that could make a big difference. And they are a big part of where we set out limits as to what should be worried about.

Let me tell you about the resulting provisions that we negotiated and that are, I feel, among the strongest verification features in both protocols. A side cannot set off a test in a cavity greater than 20,000 cubic meters unless the other side makes an entirely new agreement on how to verify that test. This provision is really a prohibition that gives the verifying party veto power if they are not comfortable about being able to verify effectively a shot in such a cavity. We negotiated this because, if there were no such limit, it puts you into a range of not being able to make dependable measurements. And there are lots of cavities bigger than 20,000 cubic meters in the Soviet Union, and there are some in this country, too, but not near our test site. We don't know about what exists at their test site.[2]

ACT: If we put seismic monitoring stations inside the Soviet Union very close to the cavities that we are aware of, would the five to one error factor still apply?

Robinson: I don't know the answer to that for sure. I suspect it probably would still apply, because again, seismic waves have direct analogy to hydrodynamic waves. It's just that you are measuring a lot further away. The cavity dampens the energy such that the energy that goes into the soil to create the seismic wave is much reduced.

So, whether you measure it close up or at a long distance, I think you would still get the same decoupling effects.

ACT: What would be the error factor for CORRTEX?

Robinson: The U.S. experience with CORRTEX gives an average error of 12 percent. That is what our experience has been on our tests. Now in looking at unknown geologies, new things you haven't had experience with, we are qualifying it to 30 percent.[3]

ACT: Can we expect any improvement in the overall error factor as a result of putting into place these monitoring means?

Robinson: Combining this fabric of overlying verification options, I think we will expect to be in the 20 percent range or possibly lower, depending on the exact test conditions.

ACT: Are you saying that under the current arrangement, prior to the implementation of these protocols, we wouldn't have been certain if the Soviets had been testing at, say, 250 to 300 kilotons?

Robinson: Possibly over 400 to 500 kilotons. We couldn't be sure. We could make judgements but would lack data essential to narrow the range of possibilities.

ACT: We really weren't confident that they weren't testing at those levels?

Robinson: That is correct.[4]

[1] By seismic methods applied to explosions at the main Soviet test site, the factor of uncertainty (including both random and systematic effects) is surely less than "1.7 or 1.75." Claims of "a factor of five or six" error in yield estimation at higher yields, in the context of TTBT compliance, are unfounded. (Yes, the claims persist, as do claims that smoking does not contribute to lung cancer.) Detailed discussion requires a closed hearing.

[2] The restriction on cavities greater than 20,000 cubic meters is not pertinent to the question of whether seismic methods can be spoofed to hide a test above the 150 kiloton threshold. A cavity with more than ten times greater volume would be required, to reduce the seismic signal of a 300 kiloton test to that of a standard 150 kiloton explosion. It is not credible that such a cavity, with a diameter of about 80 meters, could be built at depth and used clandestinely on a Soviet test site.

Footnotes at end of article.

[3] Note that small cavites, which would not affect seismic signals for high yield tests, can spoof CORRTEX.

[4] This summary claim is not in my opinion a technical judgement, though it may appear so because Ambassador Robinson has long served in the nuclear weapons community as a highly trained scientist. It is not a technical judgement, because when this type of claim has been presented since 1985 in technical review panels with knowledge of seismic monitoring, it has been looked at with interest, and dismissed (in the context of TTBT compliance by the Soviet Union). When the claim has persisted, as it does in groups of people who do not avail themselves of good information, it is now ridiculed in the technical community. If the concern is that the Soviets might declare a new test site, in a region that might already contain some unknown (to the U.S.) gigantic deep cavities that would not be revealed when used to hide an explosion larger than 15 kilotons, then this concern could be allayed by on-site inspection far more primitive than the several million dollars required for each CORRTEC deployment. It is very disconcerting to find that someone who should be knowledgable makes such a summary claim. I believe the Ambassador should be pressed to give documentary support for his position on this technical issue, since it calls into question the whole technical framework under which the U.S. has developed its negotiating position.

LAMONT-DOHERTY GEOLOGICAL OBSERVATORY OF COLUMBIA UNIVERSITY,

Palisades, NY, August 1, 1990.

Select Committee on Intelligence,
U.S. Senate,
Washington, DC.

GENTLEMEN: I am responding to your letter of July 2, 1990 inviting me to submit a written statement that would assist the Select Committee in its deliberations on the Threshold Test Ban Treaty and the Peaceful Nuclear Explosion Treaty and their revised verification protocols.

Sincerely yours,

LYNN R. SYKES,
Higgins Professor of Geological Sciences.

VERIFICATION OF THE THRESHOLD TEST BAN AND PEACEFUL NUCLEAR EXPLOSIONS TREATIES AND THEIR VERIFICATION PROTOCOLS

(By Lynn R. Sykes)

INTRODUCTION AND MAJOR CONCLUSIONS

The following comments and conclusions are based on my more than twenty-five years experience working with the verification of nuclear testing. I was a member of the U.S. delegation that negotiated the Threshold Test Ban Treaty (TTBT) with the Soviet Union in 1974. I have been a member of a number of committees of the U.S. Government that have considered verification of various nuclear test bans, including the question of Soviet compliance with the TTBT and the determination of the yields of Soviet weapons tests. I have been the author or co-author of about 40 professional papers and statements presented in congressional testimony on the verification of nuclear testing. I was recently a member of the review panel for Congress' Office of Technology Assessment (OTA) for their study "Seismic Verification of Nuclear Testing Treaties." That year and a half long study by OTA was requested by the Select Committee on Intelligence of the United States Senate and two committees of the House of Representatives.

I conclude that the Threshold Treaty and Peaceful Nuclear Explosions Treaty (PNET) and their Verification Protocols are verifiable with very high confidence. I believe that treaties with similar language, if they were to be negotiated with the Soviet Union, would permit the threshold to be moved down to 5 to 10 kilotons and to be verifiable with high reliability. That was also a major finding of the OTA Report of 1988 on "Seismic Verification of Nuclear Testing Treaties."

I have also examined and analyzed the written statements of five witnesses of the Administration who testified on these matters before the Committee on Foreign Relations of the U.S. Senate on July 17, 1990. I think that they have given too much emphasis to the hydrodynamic (CORRTEX) method of yield estimation and have gone to considerable efforts to depreciate both the role and considerable accuracy of seismic methods for determination of the yields of Soviet explosions. Enough is known now through a combination of seismic data and the results of the Joint Verification Experiment (JVE) in the Soviet Union in 1988 so that yields of underground explosions at the Shagan River test site in Central Asia can now be determined with high accuracy. I see no need to wait five to ten years before negotiating further limits on underground nuclear testing with the Soviet Union.

I am very concerned that with the great emphasis placed on the (CORRTEX) technique that the Department of Energy has moved to make that verification technology one that is solely in their control. In addition to being a verification technology, the CORRTEX technique has become a major political vehicle for DOE, the nuclear weapons laboratories and other agencies with a major stake in continued nuclear testing to use verification as an excuse for halting progress on negotiations to further limit the testing of nuclear weapons. While I urge the Senate to give its advice and consent to these treaties and their protocols, I also recommend that some measures be taken to insure that the United States Government will move rapidly to negotiate further limitations on nuclear testing.

ACCURACY OF YIELD DETERMINATIONS AND WHAT CONSTITUTES SUFFICIENT ACCURACY

The field of seismology has long provided methodologies for detecting, identifying, locating and determining the yield of Soviet underground nuclear explosions. When I was a member of the TTBT negotiating team in 1974, sufficient accuracy in the determination of the yields of Soviet explosions near 150 kilotons was judged to be a factor of 2 at 90% confidence. That translates into an uncertainty factor of 2.3 for the more customarily used 95% confidence limits. Over the last 16 years the U.S. has probably spent more than $100 million on seismic determinations of yields of Soviet explosions. As a result, the accuracy of those methods has improved greatly.

More than ten years ago a number of colleagues and I argued that seismic determinations of yield for Soviet weapons tests could be improved considerably by combining estimates from two or more different types of seismic waves. The U.S. Government, however, has long used only one type of seismic wave for yield determination for Soviet explosions. For many years, however, spokespersons for the government have stated that seismic techniques are uncertain by a factor of 2. This has continued even in the face of several classified and unclassified studies and the findings of the OTA Report of 1988 that have indicated that seismic techniques are much more accurate than a factor 2.

A question that seems to have rarely been asked in the more than 16 years of debate about these treaties is what constitutes sufficient accuracy in yield determination. One of the most cogent statements about the sufficiency of yield determination came in testimony and questioning in 1985 of Dr. Donald Kerr, who was then the Director of the Los Alamos National Laboratory, before the House Foreign Relations Committee. He was asked if a 30% exceedence of the 150 kiloton limit of the TTBT would represent the test of a weapon of greater military significance than one of 150 kt. He stated that a 30% increase would not be of greater military significance but that a factor of 2 or more, i.e. tests at 300 kt or greater could be of greater military significance.

The U.S. hydrodynamic method of yield estimation called CORRTEX was developed in the mid-1970's by the Los Alamos laboratory. Scientists and officials from Los Alamos as well as various government officials have stated that the accuracy of the CORRTEX technique in the Soviet Union would be 1.3 at 95% confidence, and by inference is of sufficient accuracy for U.S. requirements whereas the factor of 2 they attributed to seismic techniques was not. To my knowledge however, they have neither stated a military requirement for a given level of accuracy nor indicated if they agree or disagree with the 1985 testimony of Dr. Kerr.

MAJOR IMPROVEMENTS IN THE ACCURACY OF SEISMIC DETERMINATIONS OF YIELD FOR SOVIET EXPLOSIONS

About three years ago a major advance in yield determination for U.S.S.R. explosions was made by Norwegian seismologists who operate a large seismic array in their country for nuclear monitoring and research. They used a different seismic wave, called Lg, for Soviet explosions in Central Asia. With their methodology, the precision of that technique for yield determination is very high. Determinations for only one or two seismic stations in either Asia or Europe have a precision comparable to that obtained by averaging about 50 measurements with the more conventional P-wave technique.

Two initiatives starting a few years ago have led to modern and sophisticated U.S. seismic stations being operated in the Soviet Union. The first was by the Natural Resources Defense Council (NRDC), which demonstrated that quiet and sensitive sites can be found for seismic recording in the Soviet Union. It also demonstrated that the U.S.S.R. was willing to accept U.S. seismic listening posts on its territory in conjunction with verification of nuclear testing. The second effort, by the university consortium for seismology in the United States (IRIS), led to four stations being operated in the U.S.S.R. Several more stations will be installed in the near future as part of the agreement between IRIS and the Soviet Academy of Sciences.

Both initiatives have seen modern, state-of-the-art equipment being operated for long periods of time in the U.S.S.R. Analysis of data from the four existing stations as well as from the NRDC stations indicates that the Lg seismic wave can be detected for Soviet explosions in Central Asia with yields as small as about 1 kiloton. Those stations, of course, give excellent recording for larger explosions, such as those near the 150 kiloton limit of the Threshold Treaty. Most importantly, the scatter in the observations at those stations for Soviet nuclear explosions using the Lg wave is very small. Seismic observations using the Lg wave at stations in the U.S.S.R., western Europe and China have become competitive with CORRTEX measurements for yield determination and

in some cases give a higher accuracy than the factor of 1.3 quoted for CORRTEX. In addition, seismic techniques have the advantage that they can be extended to very small yields, which is virtually impossible with the CORRTEX technique.

The most reasonable way to approach the verification problem for either the present 150 kiloton limit of the Threshold Treaty or a much lower threshold for a future treaty would be to use a few CORRTEX measurements to calibrate a test site and then to use much less expensive seismic methods for ongoing determinations of yields of future Soviet explosions. In addition, since CORRTEX measurements have only been made thus far for the Joint Verification Experiment of 1988, it is necessary to use seismic observations to estimate the yields of past Soviet weapons tests.

COMPARISON OF STATEMENTS BY ADMINISTRATION SPOKESPERSONS WITH OTA REPORT

I have read carefully the written statements by five Administration spokespersons that were distributed at the July 17, 1990 hearings on the TTBT and PNET of the Committee on Foreign Relations of the U.S. Senate. One is immediately struck by how different those statements are when they are compared with the OTA Report of 1988. The written statements of those five individuals (Lehman, ACDA; General Butler representing the JCS; Graham, DOD; Robinson, Department of State; and Alessi, DOE) go to great lengths to praise the CORRTEX technique and to denigrate seismic methods of yield estimation. One is almost given the impression that those five individuals did not read the OTA report. That is, of course, not the case since several of those agencies have gone to great lengths to criticize the OTA Report.

The OTA Report states (p. 19) that a number of studies concluded that the Soviets are observing a yield limit consistent with compliance with the 150 kiloton limit of the Threshold Treaty. Of the various issues examined in the OTA Report, this was one in which a clear consensus was found among experts and where the Report arrived at a definitive conclusion. Nonetheless, Graham repeats a statement of Administration policy of the past eight years that it is likely that the Soviets have violated the 150-kiloton limit of the TTBT. That finding is contrary to my own work on estimating yields of Soviet explosions, the OTA Report, several classified reports of panels of the Department of Defense, and the opinions of nearly all experts on this subject in the field of seismology.

Lehman states that seismic methodology involves uncertainties stemming from both systematic and random sources. He fails to point out that the same holds for the CORRTEX technique. In contrast to the OTA Report, he states that uncertainties have prevented the U.S. from reaching definitive conclusions regardhlg Soviet compliance.

Ambassador Robinson was the only one of those five witnesses who stated that recent research indicates that certain seismic surface waves may be particularly useful in estimating yields in addition to other seismic waves that travel deep below the earth's surface and which are normally measured only at large distances from the site of the explosion. It is clear from that statement that he is, in fact, aware of the results based on Lg waves for accurate determination of yield.

CHEATING ON THE THRESHOLD TREATY BY DETONATING EXPLOSIONS IN LARGE UNDERGROUND CAVITIES IS NOT POSSIBLE AT AND ABOVE 150 KILOTONS

In their written statements Lehman and Robinson both discuss possible Soviet cheating on the Threshold Treaty by testing in large underground cavities. On this item the written statements by those two individuals are very misleading. Testing in large underground cavities using the method known as decoupling is a possible method of evasion that becomes important for explosions below 10 kilotons (as described in the OTA Report). Those two written statements, however, imply that it is important and possible cheating method at 150 kilotons in conjunction with verification of the Threshold Treaty.

The important consideration here is could the Soviet Union use this technique to test a weapon with a yield large enough to be of greater military significance than one of 150 kilotons and have the seismic waves look like those from an explosion of 150 kilotons? To make the seismic waves from a 300 kiloton explosion be equivalent to those of a normal 150 kiloton explosion, it would be necessary to mine a spherical cavity about 265 feet in diameter. That is a huge cavity, larger than the 240 foot height of the Statue of Liberty and its pedestal. At its two main test sites in Central Asia and Novaya Zemlya (the two permitted under the TTBT), it would not be possible for the Soviet Union to make such a cavity in salt, the most common material for constructing very large underground cavities. Salt simply is not present in anything like those thicknesses at either of those testing areas. Mining such huge cavities in hard rock would be detected by the United States through the huge amounts of rock that must be carried to the surface and disposed of in some manner.

DISCUSSION AND CONCLUSIONS

As seismic determinations of yield have improved, it is clear that there is still no evidence for Soviet cheating on either the TTBT or PNET. The U.S. CORRTEX measurement for the Soviet Joint Verification Experiment of 1988 corroborates those determinations and gives an independent calibration for their testing area in Central Asia. Seismic determinations of yield, like those from CORRTEX, always have a certain amount of uncertainty associated with them. It is evident that both the United States and the Soviet Union have tested near the limits of the TTBT since it became effective in 1976. Nevertheless, it is not possible to determine whether one to a few Soviet weapons tests could have exceeded the 150-kiloton limit by a small amount, say 1 to 15%. The measurements are compatible, however, with the idea that all Soviet tests since 1976 have been in compliance with that limit. Kerr's testimony in 1985 indicates that small exceedences, if they in fact occurred, would not be of greater military significance than tests at the 150-kiloton limit.

The TTBT and PNET have served their main purpose to us for more than 14 years by preventing the Soviet Union from testing large, high-yield weapons at full size or at more than a small fraction of their full size. This has prevented the U.S.S.R. from replacing existing nuclear weapons on their ICBMs with weapons of greater yield for the same weight, i.e. making them more powerful.

The choice of the CORRTEX method by the United States for determining yields of Soviet explosions should be seen as part of a political agenda rather than merely as a scientific technique. CORRTEX is very intrusive since it must be used very close to the explosion in question. It is also very expensive compared to seismic method for determining yield. The "cart has been put before the horse" in this matter in that no assessment seems to have been made of the military necessity for determining yields with a particular accuracy, but yet Administration spokespersons have stated that the use of CORRTEX is somehow necessary.

Administration spokespersons have stated that it will take a number of years for the compliance question to settled since the CORRTEX technique is very complicated. In fact, the United States and U.S.S.R. negotiated a long, complicated document on the conduct of the two Joint Verification Experiments of 1988 and conducted those experiments at the other's test sites in a very short amount of time. Thus, claims that the United States must forgo further negotiations to limit nuclear testing is part of a strategy in a political agenda rather than a verification requirement as it may appear.

In his written statement Mr. Graham states that "the United States has not identified any further limitations on nuclear testing beyond those now contained in the TTBT that would be in the U.S. national security interests". That philosophical conception of what serves the national security interests of the United States is, in fact, what is at stake, not verification. The main purpose of nuclear testing is now, as it has been since 1945, the development of new nuclear weapons. While it is of fundamental importance that treaties be verifiable with high confidence, verification should not be used, as it is being here, as a proxy or subterfuge for what is, in fact, a political agenda and a political philosophy.

In 1988 the United States and the Soviet Union entered into an agreement for negotiations over nuclear testing. They agreed to a three-step negotiating process: 1) better verification for the TTBT and PNET (which the U.S. wanted), 2) further limitations on nuclear testing, and 3) an eventual comprehensive test ban. Now that part 1) has been completed to the satisfaction of the United States Government, Administration spokespersons are arguing for a long delay before commencing the negotiations for step 2). It was clear beforehand from numerous statements of the last 8 years that the United States Government did not want to see further limitations on nuclear testing. I think it is a mistake for the United States to renege on its committment to negotiate further limitations on nuclear testing.

I favor a two-step process to limit nuclear testing: a very-low yield TTBT followed about 5 years later by a comprehensive test ban treaty. A low-yield ban on underground testing and/or a comprehensive test ban should be seen as part of several measures to slow down or halt the qualitative arms race, i.e. the modernization of existing nuclear weapons and their delivery systems. As strategic delivery systems are destroyed under a START agreement, (and its possible follow-ons), it makes less and less sense for the U.S.S.R. and the U.S. to test and develop new nuclear weapons and their delivery systems. A threshold below 10 kilotons would also have symbolic value since the weapons that opened the nuclear age in 1945 were of somewhat larger yield.

One unfortunate aspect of the revised protocols for the TTBT and PNET is that they

place much of the responsibility for monitoring and ascertaining compliance on the U.S. Department of Energy and the nuclear weapons laboratories. CORRTEX has been built and operated by the Los Alamos laboratory. DOE and the weapons laboratories have a long, unfortunate track record of using secrecy to keep the public and Congress either uninformed or misinformed on the safety of the production complex for nuclear weapons and on atmospheric testing at the Nevada Test Site. From my more than 25 years experience with the verification of nuclear testing, it is clear to me that DOE and the weapons laboratories will do everything possible that will permit them to continue nuclear testing. They seem now to have succeeded in making CORRTEX an in-house technology that is difficult for others to question even if they have security clearances.

University scientists have played a vital role in providing scientific assessments of the verifiability of various existing and proposed nuclear testing limitations. There is great danger that that community will be shut out of the verification of the revised protocols for the TTBT and PNET. There are two developments that strengthen that suspicion. Geophysicists who received funding for work on the physical properties of rocks from the Joint Verification Experiment in the Soviet Union of 1988 have been denied access to those samples by Los Alamos. Also, the yields of the two Joint Verification Experiments remain classified as do the yields and other information on five past explosions that each of the parties turned over to the other as part of the negotiating process for the JVEs. While the agreements for the JVEs state that one country cannot divulge the information turned over to it without the permission of the other, the Soviet Union has stated that it has no objection to the release of the information that they turned over to the United States. Scientists working on better verification would benefit from publication of those results, all of which, of course, are known to the U.S.S.R. These are the mere tip of the iceberg of attempts to control and limit knowledge for the furtherance of a political agenda.

STANFORD LINEAR
ACCELERATOR CENTER,
Stanford, CA, August 6, 1990.

Hon. DAVID L. BOREN,
Chairman,
Hon. WILLIAM S. COHEN,
Vice Chairman,
Select Committee on Intelligence,
U.S. Senate, Washington, DC.

DEAR SENATORS BOREN AND COHEN: This is in response to your letter of June 29 inviting me to submit a written statement to the Select Committee in support of its deliberations on the TTBT and the PNET.

I have little to add to the testimony and answers that I gave before the Subcommittee on Arms Control, International Security, and Science of the House Committee on Foreign Affairs on June 12 (copy enclosed). In that testimony I endorsed these treaties as one of the important arms control issues that emerged from the Summit. During the question period I answered Congressman LEE HAMILTON as follows:

Chairman HAMILTON. "I know I am jumping around a little, but I want to finish up here quickly.

"We have had previous U.S. administrations who have committed the United States to further negotiations on lowering the testing threshold from 150 kilotons just as soon as these treaties of 74 and 76 were ratified.

"What is the next step in nuclear testing limitations?"

Mr. DRELL. "Let me start by saying I am delighted we could finally get on to serious talk on this question. I think the diversion on whether or not we could verify the TTBT and this whole CORRTEX business has been a sad example of U.S. obstruction in arms control which I am not proud of. Let's get on.

"It seems to me that there is no reason for this country not to be moving down to something in the range of ten kilotons to five kilotons where we can carry out the kinds of tests we need and certainly meet our concerns about safety and redesign there for the time being."

Chairman HAMILTON. "Should you have a quota of the number of tests a year?"

Mr. DRELL. "I would like to delay answering that question. As you know, Mr. Chairman, the Armed Services Committee has created a panel of three scientists to look into the safety of the U.S. weapons stockpile in view of recent stories and concern about the SRAM warhead and the artillery shell in Europe. And I am a member of that committee which is now beginning some serious review of all our weapons. Before I speak of the number or quota, I would like to have that review under my belt."

Mr. PERLE. "If I might say, Mr. Chairman, so long as we have nuclear weapons in the inventory, I can't think of a compelling reason for inhibiting the freedom with which we can refine, develop and in other ways, improve those weapons, including among other things, to make them safer to deal with unexpected developments. It just doesn't accomplish any useful purpose. It is meddling, and fundamentally misdirected in my view. Leave it alone."

Mr. DRELL. "In my statement when I speak of ten kilotons, that gives us the opportunity to do that."

In brief, my view is that the treaties are verifiable and in our interest. By adding the protocol on CORRTEX as an added means of verification, we have increased the cost of verification. This procedure will give us on-site access to Soviet testing, and the increased transparency thus provided about their activities has some real value by removing ambiguities and adding to the clarity of our understanding of what they are doing. On the other hand, it also gives the Soviets greater access to our testing activities.

It seems to me that the cost-benefit ratio of this is not a very crucial issue one way or the other, and I fully support ratification of the TTBT and the PNET as verifiable treaties in accord with our security requirements.

Sincerely,

SIDNEY D. DRELL,
Professor and Deputy Director.

STATEMENT BY SIDNEY D. DRELL

THE SUMMIT

I view the recent Washington Summit to be a major success both for its specific achievements in arms control and, of even greater significance, for its contributions to expanded political cooperation between the US and the USSR.

Watching the summit proceedings, it became clear that a very important and productive political dialogue, as well as a warm personal chemistry, developed between the leaders of the two governments, based on mutual respect and understanding, and a serious commitment to work toward achieving shared goals. The two countries differ in a variety of tactics and strategies enroute to accomplishing these shared goals, but in the new post-cold war environment, no major conflicts remain between our goals; not between our stated goals or the ones currently being pursued actively. I view this as a major achievement—a continuation on an epic voyage to a safer world on which President Reagan and Secretary Shultz embarked with President Gorbachev and Foreign Minister Schevardnadze more than three years ago.

Progress in our political and strategic relations greatly enhances the significance of the specific provisions agreed to in arms control. This progress provides a framework for moving ahead with dispatch and optimism to still more major accomplishments to which the two countries are committed.

Important progress on four important arms control initiatives emerged from the summit:

(1) The US and the USSR resolved major differences at START and instructed their negotiators to resolve the remaining specific issues toward a goal of signing a treaty by the end of 1990.

(2) The US and the USSR reached an agreement that calls for destruction of the vast bulk of our declared stockpiles of chemical weapons. They will be reduced by 80% or more.

(3) The US and the USSR completed verification protocols for the previously signed but unratified Threshold Test Ban Treaty (TTBT) of 1974 and the Peaceful Nuclear Explosives Treaty (PNET) of 1976.

(4) The US and the USSR agreed to speed negotiations toward completing a CFE treaty. The goal is to complete the treaty by the end of this year although it is clear that the German security issue will have to be settled first.

START

The principal provisions of START were negotiated 2½ years ago at the Washington Summit of December 1987. They include a decrease in the number of deployed Soviet ballistic missiles by about ⅓ and in the number of their deployed ballistic missile warheads by more than a factor of two, under equal ceilings for both countries. Furthermore the number of deployed heavy ICBMs, which only the Soviets possess currently in their force of 308 SS-18's with 3080 warheads, will be cut in half; so will their aggregate throw-weight of deployed ICBMs and SLBMs. This represents a considerable accomplishment, reducing by a factor of two the Soviet missile forces that are credited with presenting the most serious nuclear threat to US security and which in some quarters were viewed a decade ago as responsible for the so-called "window of vulnerability".

The significance of these reductions in missile forces can best be seen in the following numbers: After the START provisions are implemented, the number of threatening warheads on Soviet ballistic missiles will be reduced by approximately 5,000, from 10,000 today to a maximum of 4900. The corresponding US reduction will be about 3000. The number deployed on the land-based ICBMs that are viewed with greatest concern as a potential counterforce threat will be reduced by approximately 3000 by the USSR compared to 1000 by the US. This will leave Soviet planners with no more than about one-half as many warheads capable of threatening the hardened ICBM

silos that, under START, will comprise no more than 15 to 20 percent of the US retaliatory force.[1] A major fraction of the US deterrent will be deployed on the Trident submarines at sea and on the alert strategic bombers that are invulnerable to such a threat.

START also sets limits on numbers of heavy bombers and their "accountable" weapons. These limits are in the form of a complex set of provisions that substantially discount their numbers. This is as proposed by the United States in recognition of the reality that the aircraft-delivered bombs and the cruise missiles pose no threat of a preemptive first strike and therefore, in contrast to ballistic missiles, are not viewed as destabilizing.

The summit resolved a very contentious issue of how, or whether, to include limits on long range nuclear-armed sea launched cruise missiles (SLCMs). The US view prevailed and they will not be constrained within the START treaty itself. This recognizes the special and still unresolved verification difficulties presented by this weapon. At the same time both countries reaffirmed their 1987 Washington summit commitment "to continue to seek 'mutually acceptable and effective methods of verification'". During START the SLCM deployments will be in accord with mutually binding political declarations to be provided annually, and will not exceed 880 in number. This number is well above current US deployment plans for nuclear SLCMs.

The summit reached a compromise on some outstanding issues of numbers, and on verification and deployment procedures, for mobile ICBMs.

Modernization of strategic systems may be carried out under START except as specifically prohibited. Although START contains a number of important bans—par ex. no new types of heavy ICBMs, no long-range nuclear cruise missiles with MIRVd warheads, no new types of ballistic missiles with more than 10 warheads—it accedes to the Soviet insistence to continue modernizing its large SS-18 missiles.

Critics of START have attacked this provision on grounds that the SS-18 "concession opens the way to Soviet deployment of heavy missiles that are twice as capable as the ones they replace. This will largely vitiate the 50 percent reduction in the ceiling for heavy missiles agreed to at Reykjavik in 1986" (Richard Perle writing in the New York Times, June 6, 1990). The origin of the claim that the improved SS-18 Mod 5 is "twice as capable" lies in the possibility that, with its higher yield and greater accuracy, a single warhead will have the same kill probability against a US silo as two of the earlier Mod 4 warheads now deployed. However, I find it very hard to believe that a Soviet war planner would have sufficiently high confidence in both the reliability and accuracy of an SS-18 to allocate only one warhead per US silo; and this also goes for US planners with our superior MX missile versus Soviet silos. Therefore on the basis of realistic operational considerations the SS-18 Mod 5 should not be viewed as "twice as capable" against US silos.

[1] The US now deploys 950 Minuteman plus 50 MX missiles in hardened silos. Under START this number could well total between 600 and 700 depending on the mix of single-warhead and MIRVd missiles deployed. The potential Soviet threat to these silo-based missiles will thus be greatly reduced by START.

Nor should we underestimate the value of constraints on the SS-18 that are included in the START treaty:

The Soviet Union has already agreed to reduce the number of its SS-18s by 50 percent. Without a START treaty the Soviet Union would be free to modernize all 308 of its SS-18s rather than just 154. Obviously, the United States is better off confronted by 154 SS-18 Mod 5s than 308 SS-18 Mod 5s.

Without START, the Soviet Union could deploy 20-30 RVs on the SS-18, instead of 10, the maximum number permitted by the treaty on any existing or new type of strategic ballistic missile.

Without START, the Soviet Union would be permitted to test and deploy "new types" of heavy missiles.

Because a START treaty would place virtually no constraints on the modernization of US or Soviet strategic missiles other than the SS-18, it is likely that by the time START reductions are fully implemented (probably not until 1998), the Soviet Union will have improved the accuracy of its other ICBMs, such as the silo-based SS-24 and the SS-25, to the extent that they will also have a significant hard target kill capability. Therefore, even if the United States were to succeed in persuading the Soviet Union to let the SS-18 "wither away on the vine," such a provision would have little effect on the strategic balance in the long run.

A US proposal still under consideration at START would limit flight testing of SS-18's. Although this would allow some reliability testing it would slow modernization and also prevent the development of high confidence in the missile performance, particularly if only two or so flight tests per year are permitted. This proposal remains to be negotiated, along with two other issues: possible constraints on Soviet Backfire bombers; and the specifics of a "non-circumvention" clause that affects the special relationship between the US and the United Kingdom. These to me are not of major significance compared to what was negotiated and hardly seem to be show stoppers.

Beyond the sizable numerical reduction in the ballistic missiles and warheads I value most the verification provisions in START "the most thorough and innovative verification provisions ever negotiated" in the words of the joint statement issued on June 1 by Presidents Bush and Gorbachev. I speak on the basis of 27 years of direct involvement in technical issues of verification (I currently chair the Technology Review Panel of the Senate Select Committee on Intelligence) when I strongly endorse the joint presidential statement that these verification provisions "will not only provide for effective verification of the obligations of the treaty, but will also greatly increase the mutual confidence which is essential for a sound strategic relationship."

This verification regime will create a much greater transparency about military activities by supplementing "national technical means" with extensive, short-notice on-site inspection (OSI), cooperative measures to enhance effectiveness of OSI, a ban on denial of telemetric information, exchange of baseline information, and procedural restrictions on deployments of mobile ICBMs. This is not an appropriate forum to enter into a full analysis of this question but when this comprehensive verification regime is in force, one can be confortable with the knowledge that covert activities are not being carried out on a scale and of a nature to threaten US security.

Overall START is a good deal. Some have expressed disappointment that it did not accomplish more-for example, banning long range nuclear SLCMs under a comprehensive and intrusive verification regime. Others allege that the US should have bargained harder with a weakened Soviet government and, for example, banned any SS-18 testing or improvement. I support the START treaty as negotiated. The counting rules, the numerical reductions, and the comprehensive verification regime mandated by its provisions are in the security interests of both the United States and the Soviet Union.

The United States achieved a number of its goals in working out the compromises during negotiations at START and the summit, including:

(1) deep cuts in the deployed Soviet Union ballistic missile force, including reductions in aggregate throw-weight and in the number of large SS-18's by a factor of two;

(2) limits on the number of deployed and undeployed mobile ICBMs together with limitations on deployment procedures in order to enhance the effectiveness of a comprehensive verification regime;

(3) exemption of three ballistic missile submarines from the numerical limits to allow for time in drydock;

(4) favorable discounting of the number of deployed air-launched cruise missiles allowing the US to deploy up to approximately 4000 weapons on the B-52H and B-1B aircraft under a count of 1100; the total number can be larger with deployment of B-2 bombers;

(5) exclusion of SLCM limits within START, in order to avoid more intrusive on-site inspection than currently acceptable to the United States; verifiable treaty limits on SLCMs will be negotiated in future talks.

(6) establishment of a comprehensive, cooperative verification regime.

(7) permitting modernization of the strategic forces as deemed necessary.

(8) separating negotiations on defense and space issues from START and proceeding without a commitment not to withdraw from the ABM treaty.

BEYOND START

We should complete the START negotiation, ratify the treaty, and move ahead boldly and carefully to more major progress. Among the major issues that START II should address are:

(1) de-MIRVing mobile ICBMs, and eventually all ICBMs. (An addendum to my statement describes one proposal for moving ahead with de-MIRVing the mobile ICBM force that I described in a column that appeared in the Los Angeles Times on February 15, 1990.)

(2) developing a verification regime for long-range nuclear-armed SLCMs in order to further constrain their deployment. This opens up the important issue of naval arms control. I support the view that the removal of tactical naval nuclear weapons would be of advantage to the US Navy, and in particular the survivability of its aircraft carriers.

(3) deeper reductions in the number of warheads deployed on the strategic forces. Before approaching this issue the United States must first decide what if any changes in the targeting requirements for deterrence are appropriate, particularly in view of recent political developments. For example how does the demise of the Warsaw Pact and the balancing of East-West military forces at lower levels in Europe impact US

requirements for a nuclear umbrella to protect our allies against conventional attack; i.e., for extended deterrence?

The importance of such a review is underscored by remarks made by General Chain, Commander of the US Strategic Air Command, in a Pentagon briefing this past March. As reported in Aviation Week & Space Technology (March 12, 1990, page 22) General Chain said "Right now against the guidance we are given—the target set we have to hold at risk—132 [B-2] aircraft are necessary . . . If the guidance ever changes, then that number could change accordingly." What General Chain is pointing out is that there must be a reassessment of targeting and damage requirements before there can be serious consideration of substantial reductions in the size of the US strategic forces below the level of 6000 accountable, but between 11,000 and 12,000 actual, warheads allowed by START.

At present the "Defense Planning Guidance" for military commanders for the period 1992 to 1997, includes the requirement to "hold at risk those assets the Soviets leadership would need to prevail in a nuclear conflict and to dominate in a post-nuclear world." (Quoted in the Washington Post, Feb. 13, 1990). Does this formulation of the requirements remain valid and, if so, what is required to implement it? Do all components of a complex industrial system that is increasingly internetted and computerized have to be attacked by a nuclear warhead or will it break down much more rapidly? (For example, the 1979 study on the Effects of Nuclear War by the Congressional Office of Technology Assessment points out that 73% of the Soviet refining capability plus 15% of their petrol storage will be destroyed if only 10 aimpoints are attacked by 10 equivalent megatons.) What are the appropriate damage criteria? (For example, a one megaton nuclear explosion will generate a peak overpressure of 10 pounds per square inch (psi) over an area roughly two and one half times as large as that subject to at least 20 psi. A peak overpressure of 10 psi and accompanying winds of more than 250 miles per hour will lead to total destruction of most industrial structures.) Answers to questions like these have very large impact on the strategic targeting requirements and thereby on the level of weapons which can be set as goals for reductions at START II and beyond.

We are at a moment in history with a promising opportunity for the United States, the Soviet Union and our respective allies to close out the cold war and build a durable structure of peace and cooperation. As I see it President Bush and Gorbachev began "seizing the moment" at the summit. Based on their achievements we should push ahead now. There are still major issues to be addressed cooperatively by the United States and the Soviet Union as we jointly strive for safe passage in a world that is, and for many years in the future will remain, under threat of nuclear weapons. I hope that the history books of the 22nd century will record that before the end of this, the 20th century, we advanced beyond counting "angels on the head of a pin" in the form of relatively minor negotiating details at START and began to address the serious challenges before us of hunger, poverty, disease, conflicting ideologies, pollution, environmental damage, and the spread of nuclear know-how among the nations of the world.

NATURAL RESOURCES DEFENSE COUNCIL,
Washington, DC, July 25, 1990.

Hon. DAVID L. BOREN,
Chairman, Senate Select Committee on Intelligence, Hart Senate Office Building, Washington, DC.

DEAR CHAIRMAN BOREN: Enclosed please find my written statement regarding verification protocols for the Threshold Test Ban Treaty (TTBT) and the Peaceful Nuclear Explosions Treaty (PNET). I appreciate the opportunity to submit these comments, and hope they will be of use to the Committee in its deliberations.

Please feel free to contact me at 783-7800 if you have any questions.

Sincerely,

THOMAS B. COCHRAN, Ph.D.,
Senior Staff Scientist.

STATEMENT BY THOMAS B. COCHRAN

In 1974 when the Threshold Test Ban Treaty (TTBT) was negotiated and signed, there was an uncertainty factor of two in the estimated yields of high-yield (greater than 20 kt) Soviet tests, as measured by National Technical Means with seismic stations outside the Soviet Union.[1] At that time, this level of accuracy was deemed adequate for verifying compliance with the TTBT, partly because nuclear warheads need not be tested at full yield for certification. Uncertainty in high-yield measurements using either hydrodynamic or seismic yield measurement methods (both are permitted under the treaty protocol) is on the order of 30 percent, or better. This improvement in accuracy is nice, but completely unnecessary for national security. No credible technical analysis has ever been presented to justify a requirement, on national security grounds, for this greater accuracy. Consequently, no useful purpose can be served by extensive Senate debate over the question of whether the protocol will achieve—as I believe it will—the degree of accuracy touted by proponents of the hydrodynamic yield measurement method.

Following the signing of the TTBT in 1974, analysts in the U.S. intelligence community argued that the Soviets were violating the treaty by deliberately testing over the 150 kt limit. The Reagan Administration even issued a finding that:

"Soviet nuclear testing activities for a number of tests constitute a likely violation of the legal obligations under the Threshold Test Ban Treaty." [2]

Overwhelming evidence reveals this conclusion as false. Yield estimates of Soviet tests that formed the basis for this claim were too high, due to inaccurate estimates in the seismic amplitude bias between the Soviet and U.S. test sites in Kazakh and Nevada, respectively. The evidence as of May 1988 has been summarized by the Office of Technology Assessment, which concluded:

Extensive statistical studies have examined the distribution of estimated yields of explosions at Soviet test sites. These studies have concluded that the Soviets are observing a yield limit consistent with compliance with the 150 kt limit of the Threshold Test Ban Treaty.[3]

More recent evidence exists in classified analyses of (a) the 1988 nuclear test at Semipalatinsk that was part of the U.S./U.S.S.R. Joint Verification Experiment (JVE), whose yield was measured hydrodynamically and seismically; (b) five historical Soviet underground tests whose yields were revealed to the U.S. under the JVE protocol; and (c) the L_g wave amplitudes of several historical underground tests whose specific yields have been published by the Soviets.[4] In sum, past performance offers absolutely no evidence that the Soviets would violate the 150 kt yield limit under the TTBT, nor the TTBT and PNET verification protocols.

The Reagan Administration's insistence on TTBT and PNET verification protocols permitting on-site hydrodynamic yield measurements was a successful political tactic intended to short-circuit public and Congressional momentum favoring a moratorium on testing and a comprehensive, or low-yield threshold, test ban. Strong evidence for this is found in a 1988 statement by Frank Gaffney, Deputy Assistant Secretary of Defense (Nuclear Forces and Arms Control Policy) during the Reagan Administration:

The more time wasted on discussions and experimentation of [yield] monitoring techniques irrelevant to the verification of an environment in which there are no legal tests, the easier it will be to stave off demands for the more constraining comprehensive test ban.[5]

It will be a tragedy for America and the world if the Senate continues supporting this tactic by failing to promptly recommend ratification of these two treaties.

In negotiating the TTBT and PNET verification protocols, and conducting, the JVE, the U.S. and Soviet governments respectively favored the hydrodynamic and seismic yield measurement methods. The protocols allow for, and give equal weight to, both methods. In recent years several developments have strengthened the U.S. capability to measure yields of Soviet tests seismically. The most important development include installation of in-country seismic stations in the Soviet Union, and recognition that uncertainty in estimates of the yield of nuclear tests can be substantially improved by utilizing L_g wave data.

Since 1986 the United States has operated seismic stations within the Soviet Union. Under a 25 May 1986 agreement between the Natural Resources Defense Council (NRDC) and the Soviet Academy of Sciences, three seismic stations were established around the Semipalatinsk test site in July-August 1986. The stations were jointly manned; personnel from the Institute of Physics of the Earth represented the Soviet Academy, while scientists from the Scripps Institution of Oceanography (University of California-San Diego) and the University of Nevada at Reno, worked on behalf of NRDC. Under a 25 June 1987 agreement between NRDC and the Academy, these three stations were relocated, beginning in 1988, and two additional stations were to be established. Four of the five of new stations, at Obninsk (OBN), Arti (ARU), Kislovodsk (KIV), Garm (GAR), were operating at the time of the JVE at Semipalatinsk on 14 September 1988. The fifth station at Irkutsk (YAK) is not yet operational.

In April 1988 the Eurasian Seismic Studies Program (ESSP), a joint U.S.-Soviet research program in seismology, was established with Incorporated Research Institutes for Seismology (IRIS) and the U.S. Geological Survey (USGS) representing the United States, and IPE representing the Soviet Union. This arrangement permitted the U.S. consortium (with Scripps as its principal contractor) to continue the joint program with IPE, using funding from the U.S. Government rather than NRDC. The U.S. component of the program is currently funded by Congress through an addition to the budget of the nuclear monitoring pro-

gram of the Defense Advanced Research Projects Agency (DARPA). The program is carried out under Area IX of the Agreement on Cooperation in the Field of Environmental Protection.

Four ESSP stations (GAR, KIV, ARU, and OBN) are currently operational and data is being sent to the U.S. after processing at Obninsk. The stations will be upgraded with new high-frequency channels in August-September 1990. Additionally, two new stations, at Talaya (TAL) and Ala-Archa (AAK), will be installed, brigning the total number of in-country stations to six. A seventh station at Garni (GNI) is scheduled for late 1990, and six additional stations have been approved for 1991, including one at Novosibirsk (NVS). The ESSP scientists anticipate the six additional stations will be approved next year for the Soviet Union, bringing the total to 19 stations. In the region of two of the stations, Garni (GNI) in Armenia and Ala-Archa (AAK) in Kirghizia, about 10 additional surface stations will be installed to form two arrays covering about 10,000 square kilometers each. The Kirghizia network will also include a tight array similar to the Norwegian Regional Seismic Array (NORESS), established by the U.S. and Norway in 1984.

The TTBT verification protocol designates Arti (ARU), Obninsk (OBN), and Novosibirsk (NVS) have been designated as the seismic stations to be used by the U.S. to conduct seismic yield measurements. But in fact, under the ESSP program the U.S. will receive seismic data from many more stations in the Soviet Union. Furthermore, these stations will operate during all Soviet tests, not just the high yield tests designated under the protocol. The cost of establishing and operating this network for a year is a fraction of the cost of a single hydrodynamic measurement in the Soviet Union.

Another recent, significant breakthrough in yield estimation using the seismic method derives from studies begun in 1985 indicating that the accuracy of yield estimates can be improved through utilization of L_g wave data.[6] The L_g wave is a type of guided wave, composed of numerous seismic waves trapped between the earth's surface and the earth's crust/mantle boundary. At distances below a few thousand kilometers the L_g wave amplitude is larger than the body and surface wave amplitudes traditionally used for yield estimation. At greater distances, the signal is typically too weak to be of much use. Hence, for the purpose of estimating the yields of Soviet tests, the use of L_g waves data is limited to cases where the seismic stations are within or near the Soviet border.

To maximize the utility of L_g wave data for measuring Soviet test yields, the relationship between the amplitude of the L_g wave and the yield of Soviet tests must be established. This involves using recorded L_g signals from previous Soviet tests where specific yields have been disclosed. This has been done for at least ten tests at Semipalatinsk, namely (as mentioned above), the five whose yields were exchanged under the JVE protocol, the JVE test itself, and four tests whose specific yields were published by the Soviets.[7] These data demonstrate that when regional L_g data is included, uncertainty in the seismic yield estimate is on the order of 15 percent—comparable to, if not better than, the accuracy achievable using the hydrodynamic method. Furthermore, this seismic yield measurement capability was established independently of the TTBT protocol. It will be operational for all Soviet tests, and is dramatically less expensive than the hydrodynamic method. These in-country seismic stations, coupled with the hydrodynamic method, represent a U.S. capability to monitor Soviet test yields greatly exceeding our national security needs.

The strong public opposition to testing which has developed in the Kazakh Republic makes further testing at Semipalatinsk unlikely. Future Soviet nuclear tests will probably be restricted to the arctic site at Novaya Zemlya—a site for which the U.S. has limited seismic data from nuclear tests. The site is closer than the Semipalatinsk site to NORESS. Relative to the Semipalatinsk site, geology and seismic paths for P and S body waves from Novaya Zemlya are well understood. Thus, the seismic yield estimates (based on analyses of body wave data) for tests at Novaya Zemlya have smaller uncertainties than similar seismic (body wave) estimates for tests at Semipalatinsk. On the other hand, no L_g wave data exists yet from ESSP in-country stations for tests at Novaya Zemlya. It is not even known whether ARU, OBN, and NVS—the three stations designated in the Soviet TTBT protocol—will provide L_g wave data for Novaya Zemlya at a signal-to-noise ratio of nine as specified in the protocol. Some of the future ESSP stations will be located closer to Novaya Zemlya; and hopefully with a few hydrodynamic yield measurements for calibration, they could provide yield estimates with uncertainties comparable to the uncertainties currently being obtained for tests at Semipalatinsk.

The yields of the five historical U.S. and Soviet tests which were exchanged under the provisions of the JVE, and the results of the JVE itself, remain classified by the Administration despite the fact that JVE protocol permits release of these data if both parties agree, and despite the fact that the Soviets do not object to their release. The Administration's failure to negotiate with the Soviet government for release of this data hampers independent research on nuclear testing verification, and prevents full debate on the merits of the TTBT protocol and future test-limiting treaties, e.g., a low-threshold or comprehensive test ban treaty. Section XII of the TTBT and PNET protocols permits the Administration to withhold from public disclosure much of the information obtained in accordance with the TTBT and PNET protocols, either by classifying the U.S. data which is shared with the Soviets, or by failure to seek Soviet permission to release information that cannot be released without mutual agreement. In its deliberations the Senate should obtain assurances that the Administration will make every effort to maximize the amount of information released to the public regarding measurement of yields by seismic and hydrodynamic methods.

In sum, NRDC supports prompt ratification of the TTBT and PNET. In its deliberations the Senate should demand assurances from the Administration that it will release, seeking permission from the Soviets when necessary, all information collected in accordance with the TTBT and PNET protocols, and the JVE. Finally, in its normal budget cycle the Senate should insure that adequate funding is provided to the Eurasian Seismic Studies Program to permit continued operation and expansion of its seismic network in the Soviet Union.

FOOTNOTES

[1] An uncertainty factor of two implies, for example, that given a measured yield of 150 kt, one can be 95 percent certain that the actual yield was between 75 and 300 kt.

[2] "The President's Unclassified Report on Noncompliance with Arms Control Agreements," transmitted to the Congress Mar. 10, 1987.

[3] U.S. Congress, Office of Technical Assessment, "Seismic Verification of Nuclear Testing Treaties," OTA-ISC-361, (Washington, D.C.: U.S. Government Printing Office, May 1988), pp. 124-126.

[4] The date, time, location, and in 22 cases the exact yield, of 96 historical Soviet underground nuclear tests conducted between 1961 and 1972, were revealed in V.S. Bocharov, S.A. Zelentsov, and V.N. Mikhaylov, "The Characteristics of 96 Underground Nuclear Detonations at the Semipalatinsk Test Range," Atomic Energy, vol. 67, no. 3, September, 1989, pp. 210-214. (translated into English by the Library of Congress)

[5] Frank Gaffney, "Test Ban Would be Real Tremor to U.S. Security." Defense News, 5 September 1988, pp. 36-37.

[6] A more thorough review of the L_g wave and new information on Soviet yields can be found in publications by Paul G. Richards and Lynn R. Sykes of Columbia university. Much of the discussion here derives from early drafts of their book Verification of Limits on Nuclear Testing: A Review of Historical, Technical and Political Review, (in preparation).

[7] V.S. Bocharov, et al., op. cit.

EXHIBIT 1

ARMS CONTROL AND DISARMAMENT AGENCY,
Washington, DC, September 20, 1990.

Hon. David L. Boren,
Chairman, Senate Select Committee on Intelligence, U.S. Senate.

DEAR MR. CHAIRMAN: I am writing concerning a question posed to the Administration by the Senate Foreign Relations Committee prior to their mark-up of the resolution of ratification to the nuclear testing treaties.

With respect to paragraphs 3 and 4 of Section XI of the TTBT Protocol, the Administration will provide notice concerning any modifications and changes negotiated with the Soviets to the provisions of the TTBT Protocol prior to such modifications or changes becoming binding on the Parties. To the extent that any changes or modifications affect matters under the jurisdiction of the Senate Select Committee on Intelligence, we will ensure that they are brought to your attention as well.

The Administration offers this further assurance because of the unique technical nature of the TTBT Protocol. The Administration does not consider this further assurance to be a precedent for other arms control agreements with similar provisions that may be concluded in the future.

Sincerely,

RONALD F. LEHMAN II.

EXHIBIT 2

THE WHITE HOUSE
Washington, DC, September 13, 1990.

Hon. David L. Boren,
Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As the Threshold Test Ban Treaty and the Treaty on Peaceful Nuclear Explosions proceed toward the Senate's advice and consent on ratification, I want you to know that we share the Senate Intelligence Committee's concern over the need to implement effective counterintelligence and security measures to protect U.S. personnel and programs from improper collection of information by Soviet on-site inspectors or monitors. This is a matter of high priority for the Administration.

There are several elements to these measures, all of which need to be in place before Soviet inspectors and monitors may safely

be hosted. These include the selection of suitable locations for housing Soviet personnel for the Nevada Test Site and the Designated Seismic Stations. (It might prove necessary to select a temporary site, with the understanding that a permanent site will be completed promptly.)

Once these decisions are made, we can finalize the necessary security details to protect personnel or programs that might otherwise be vulnerable to compromise and also resolve any remaining funding matters. While these matters must be addressed expeditiously, we do not want to rush into decisions that could later prove harmful to the national security.

I want to assure you that the Administration will take no action under the Treaty that would endanger or compromise vulnerable U.S. programs.

I appreciate your concerned approach to these questions and look forward to our continued cooperative efforts to ensure that the interests of arms control verification and security are satisfied.

Sincerely,

BRENT SCOWCROFT.

Mr. PELL. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on both resolutions of ratification.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I would like to join my colleagues in recommending that the 1974 Threshold Test Ban Treaty [TTBT] and the 1976 Peaceful Nuclear Explosion Treaty [PNET] be ratified.

Over 15 years ago, the United States and the Soviet Union negotiated the Threshold Test Ban Treaty which was intended to be a first step toward a comprehensive test ban agreement by setting a limit of 150 kilotons on nuclear test explosions. Fourteen years ago, we negotiated the Peaceful Nuclear Explosion Treaty to ensure that tests for peaceful means were not used to circumvent the restrictions of the TTBT.

Although we have abided by these treaties over the years, we are finally here today recommending advice and consent. Verification concerns were one of the main reasons for the delay in ratification of these treaties. In 1987, as Senator HELMS has mentioned, I offered a resolution which was accepted by the Senate Foreign Relations Committee, expressing these concerns and urging their timely resolution. The detailed protocols negotiated by the Bush administration are a vast improvement over the original verification provisions of these treaties. They are a further sign of the growing accommodation between the United States and the Soviet Union and lend hope for more significant arms control measures between us.

Mr. President, I believe we all should use this opportunity to urge the negotiation of a comprehensive test ban agreement. As the events in the Middle East have so dramatically demonstrated, our arms control agenda for the 1990's must have as a top priority the curtailment of the spread of nuclear, and other weapons of mass destruction. Gaining control over the proliferation of nuclear and chemical weapons has proved difficult, if not impossible. I believe it has become imperative. The 1963 Limited Test Ban Treaty, which prohibits the explosion of all nuclear tests except underground, has the support of over 100 countries. A widely supported comprehensive nuclear test ban could be an important step in not only curtailing the nuclear weapons programs of the United States and the Soviet Union, but also in helping to stop the spread of nuclear weapons.

The challenges before us in the 1990's are vast. The ratification of these treaties is a step in the right direction. But, I would hope that we would face these challenges and pursue an arms control agenda with more urgency than we have shown over the past 15 years.

Mr. PELL. Mr. President, I ask unanimous consent that there be one vote for the two pending resolutions of ratification and that it count, however, as two separate votes.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. PELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I support these treaties. My only regret is that they were not ratified 14 years ago, when they were first submitted to the Senate for advice and consent, thereby removing them from the diplomatic agenda.

At this late date, when the international community is struggling to find new ways to restrain nuclear weapons proliferation, the submission of an elaborate Soviet-American agreement enshrining the legitimacy of conducting so-called Peaceful Nuclear Explosions can hardly be regarded as a significant diplomatic achievement.

The United States conducted its last PNE in 1973, and it has been the policy of the U.S. Government not to recognize any distinction between so-called peaceful nuclear explosions and nuclear weapons tests. The government of the Soviet Union last conducted a PNE in 1988, following a resumption of weapons testing after President Gorbachev's 18-month unilateral moratorium failed to convince the Reagan administration to enter negotiations on a comprehensive ban on all nuclear tests, including PNE's.

However, in the wake of the Chernobyl accident and revelations of radioactive contamination from the Soviet nuclear weapons program, large segments of the Soviet public are now opposed to the conduct of any more underground nuclear explosions, for any declared purpose, peaceful or military. In fact, the Soviet Government has not conducted an underground nuclear weapons test explosion since October 1989. The elaborate monitoring provisions of the PNE Treaty are unlikely to be used.

Agreement on the threshold test ban was reached at the 1974 Moscow summit, only a month before President Nixon resigned. While both President Nixon and General Secretary Brezhnev harbored hopes for a SALT II agreement, they recognized at the July summit that the necessary compromises by both sides would not be made in time, and both were ready to reach quick agreement on a high threshold ban to provide evidence of the summit's success.

The 150 kiloton threshold was chosen, not for reasons of verification, but for its minimal impact on nuclear weapons development programs, and for its removal of a possible asymmetry favoring the Soviets in the capability to conduct very high yield tests. This background is important for understanding the decade long-debate over the requirements for "effective" verification of this treaty.

In the mid-1970's, the now much criticized "factor of two" uncertainty for the range of United States yield estimates for Soviet nuclear tests near the 150 kiloton threshold seemed adequate for guaranteeing the very modest arms control benefits of this treaty. Today, it is instructive to compare Soviet evasion opportunities under the original factor-of-2 uncertainty with the 1.3 factor of uncertainty associated with the use of the CORRTEX monitoring device at Soviet test sites.

Under the situation prevailing in the 1970's, an actual Soviet test at 300 kilotons had only a 1-in-40 chance of registering on U.S. monitoring systems as though it were 150 kilotons or less, but a 50-50 chance that the yield would be measured as above 300 kilotons. Under these conditions the chances of two Soviet explosions at 300 kilotons both being recorded as 150 kilotons or less is about one in 1,600; and the chance of three 300 kiloton explosions being so recorded is one in 64,000. A very respectable argument can be made that these odds al-

ready constituted adequate deterrence of Soviet evasion.

The verification improvements contained in the new TTBT Protocol would reduce the Soviet test yield associated with these same marginal chances of evasion from 300 kilotons to 195 kilotons. After 8 years of debate, no one that I am aware of has yet come forward to explain why this reduction in yield for an already improbable cheating opportunity is of any strategic significance to anyone. On the contrary, in February 1987 the Director of the Livermore National Laboratory, Dr. Roger Batzel, testified that "the nuclear design advantages of increasing test yields from 150 kilotons to 300 kilotons would not have been very significant from my viewpoint of U.S. experience."

The leader of Livermore's Treaty Verification Program, Milo Nordyke, testified that, based on his assessment of opinions in the nuclear weapons community, "it does not appear to me that the yield range of possible Soviet violations would open up unique nuclear design opportunities."

One can also examine the impact of the new protocol on the detection of more modest violations of the 150 kiloton threshold. For example, under the old assumption of a factor of two uncertainty, a test at 190 kilotons had a 1-in-4 chance of being recorded on U.S. monitors as being at or below the threshold. Under the new protocol, that same risk of evasion is now associated with 165 kilotons rather than with 190 kilotons. Looked at another way, the new protocol arrangements reduce the chance that a single Soviet 190 kiloton test would be recorded as 150 kilotons or below from 25 to about 5 percent. Current seismic techniques have already reduced this risk to about 10 percent.

Thus it appears that improved deterrence of militarily meaningless violations is the chief contribution of this much heralded new protocol.

On the question of Soviet compliance, some officials tied themselves up in knots trying to explain how a Presidential finding of "likely Soviet violations" could be substantiated by seismic verification techniques which were simultaneously believe to be too uncertain to verify Soviet compliance with the treaty. On this point I refer my colleagues to the conclusions of the recent report of the Select Committee on Intelligence:

> Given current U.S. estimates of the yields of past nuclear tests, the Committee can rule out any major Soviet violation of the 150-kiloton limits of 1976. The pattern of past Soviet testing is consistent with either of two other hypotheses: Soviet compliance with the 150-kiloton limit; or a few slight violations of it. The military rationale for slight violations remains in doubt.

I would only add to the committee's conclusion that the scientific basis for the downward revision in estimates of Soviet test yields that ultimately occurred had been available in both the open scientific literature and in classified Government reports for at least a decade. Why these revisions took so long to implement has yet to be adequately explained.

Without doubt, the primary and overriding virtue of CORRTEX for the Reagan-Bush administrations has been that its use requires an ongoing legal nuclear test program. During the 8 year quest to implement CORRTEX, the United States Government conducted on the order of 126 nuclear tests, and the Soviet Union, about 140. Indeed, no testimony has ever been provided that relates the extensive use of CORRTEX contemplated in these protocols to the reduction of militarily significant uncertainties in the yield estimates afforded by either current or improved seismic methods.

In fact, the reduction of uncertainty has been presented as an iron-clad requirement in its own right, divorced from any meaningful analysis of the benefits and costs for national and international security.

Early in 1987 I expressed my concern that the Reagan administration was using the CORRTEX proposal to tie-up the test ban negotiations, with the intent of delaying indefinitely the resumption of negotiations on meaningful limitations. In fact, technical aspects of the treaty verification process were deliberately distorted in order to weaken the political pressures for a resumption of test ban negotiations, as several Reagan administration officials confirmed when they left the Government in the fall of 1988.

The conclusion is supported by the persistence of the "likely violations" charge until 1989, despite the recommendations of several scientific advisory panels that this charge could not be sustained by the seismic evidence. Further evidence can be found in the record of numerous material false statements to Congress on test ban issues by Government officials over the last decade.

Unfortunately, this cynical strategy for handling the test ban issue has succeeded to a considerable extent, ultimately entangling not only the Congress but also the Soviets in detailed monitoring improvements to a treaty that has little political or arms control value. Now we are told that these protocols will require an unspecified "period of implementation" before test ban negotiations are resumed.

The most hopeful aspects of the treaties are that some on the on-site inspection provisions and detailed data exchanges will set a useful precedent for future agreements, and that the sheer logistical burden of the complex monitoring provisions may actually result in some diminution of testing on both sides.

Unfortunately, the protocol itself artifically restricts the collection of in-country seismic data to just three stations for limited time periods. On the plus side, however, the three "in-country" stations to be used by the United States are part of a larger 20 station network being deployed by the IRIS Consortium of American university researchers in cooperation with the Soviet Academy of Sciences. I hope this important program, which is improving the technical foundation for verification of a comprehensive ban, will continue to enjoy the bipartisan support it has received to date from members of both the Senate and House Armed Services Committtees.

The goal of a global comprehensive test ban is more important than ever as part of a new world order which will begin to respond decisively to the challenges of eliminating weapons of mass destruction.

Unfortunately, the two treaties before us today have little to offer nations that claim to see litte merit in extending the Nonproliferation Treaty beyond 1995. As a basis for their position, these nations often cite the failure of the nuclear weapon powers to agree on a comprehensive test ban and other disarmament measures that would close the gap between the nuclear weapon and nonweapon states,

Mr. President, while my remarks have focused on their shortcomings, I nonetheless urge the Senate to approve these treaties, and I ask unanimous consent that copies of correspondence conducted with the White House on nuclear test ban policy printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATORS CALL FOR PHASE-OUT OF NUCLEAR WEAPONS TESTS BY 1995

MAY 11, 1989.

Senator Edward M Kennedy (D-MA) announced today that 23 Senators and 142 Representatives have signed a letter to President Bush urging him to adopt a step-by-step program for phasing out nuclear test explosions by 1995.

In a statement, Kennedy said:

"This letter begins a new effort to make progress toward a comprehensive nuclear test ban treaty between the United States and the Soviet Union that might be opened for signature by all nations.

"While supporting the Reagan Administration's successful effort to negotiate the INF Treaty, many of us in Congress regretted the decision to abandon efforts to end nuclear test explosions.

"I hope that President Bush will pick up where previous Presidents of both parties left off on this essential aspect of arms control. Our letter outlines a bipartisan, balanced approach to the issue. In fact, it represents a substantial compromise for many of us who have long urged immediate negotiation of a Comprehensive Test Ban."

The full text of the letter to the President is attached.

HOUSE OF REPRESENTATIVES,
Washington, DC, May 11, 1989.

President GEORGE BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We understand that you will soon be completing a review of existing U.S. arms control and national security policies. One of the important issues for your decision during this review will be setting objectives for the Geneva negotiations on nuclear testing. We are writing to urge you to adopt a policy which supports negotiation of significant new limits on underground nuclear tests.

As you know, every American President since Eisenhower has supported the ultimate objective of a comprehensive test ban, which would halt all undergound nuclear weapons test explosions. While officially subscribing to this view, the preceding admininstration took the position that it no longer considered a test ban to be a near-term objective and that "for the forseeable future, nuclear testing will continue to be indispensible to our security." We believe the time has come to reexamine this policy and begin practical steps towards negotiation of an end to all nuclear testing.

Limits on nuclear testing would help enhance strategic stability by complementing strategic arms reductions with "qualitative" limits on potentially destabilizing future developments in nuclear warhead technology. A test ban would prevent the Soviet Union from developing new types of nuclear warheads or bombs that might threaten our future security, such as so-called "third generation" nuclear weapons.

A nuclear test ban would significantly advance our nation's longstanding interest in preventing the proliferation of nuclear weapons of other countries. Conclusion of a multilateral test ban, beginning with an agreement between the U.S. and the Soviet Union, would help to establish a global norm of "non-testing" that would raise the political costs of acquiring nuclear weapons. This could tip the balance against proliferation in key nuclear threshold states. A test ban would also have a direct technical impact on the proliferation of thermonuclear weapons capabilities.

As you know, the Nuclear Non-Proliferation Treaty (NPT) comes up for renewal in 1995, and under Article VI of the Treaty the nuclear weapons states are committed to pursue "effective measures relating to the cessation of the nuclear arms race at an early date." Renewal of the NPT will depend on a majority of its parties concluding that the Treaty continues to promote their security interests. If the U.S. and the Soviet Union do not do more to distance themselves from the logic that a dynamic nuclear arms competition confers greater security than negotiated restraints, other nations can be expected to employ a similar logic to rationalize decisions to pursue their own nuclear weapons programs. This would not only compromise efforts to broaden nonproliferation controls, but could actually threaten the unraveling of the existing regime.

International interest in a comprehensive test ban has grown steadily in recent years. Forty nations which are parties to the Limited Test Ban Treaty (LTBT) have now formally requested a conference of LTBT parties to consider amending the atmospheric test can to halt underground nuclear testing. As a result, it now seems possible that such a conference will occur within the next year. Unless the U.S. has made significant progress on an alternative plan to end underground testing by that time, it would face a difficult decision on whether or not to accept or reject a CTB amendment sought by most of the world's nations and accepted by the Soviet Union. A decision to veto such an amendment could have serious consequences for our moral and diplomatic standing in the world, as well as for the survival of the non-proliferation regime.

We believe that your Administration should not wait for international pressures to reach a critical point before taking action, but should instead begin formulating its own initiatives to limit and ultimately ban nuclear testing. We strongly suggest that you do so by challenging the Soviet Union to a mutual, verified phase-out of nuclear weapons tests leading to conclusion of a comprehensive test ban treaty by the time the Non-Proliferation Treaty expires in 1995. Such a challenge could be framed to:

Allow both sides a limited period to conduct an agreed quota of tests to assure themselves that their existing arsenals could be maintained in a predictable and safe condition under a future test ban agreement;

Progressively lower both the permitted size and number of nuclear tests in order to constrain testing of new types of nuclear warheads or bombs, beginning with high-yield components of strategic weapons;

Install and operate a nationwide network of seismic monitoring stations in the U.S. and the Soviet Union to verify compliance with testing limits; and

Negotiate a formal U.S.-Soviet comprehensive test ban treaty of unlimited duration that could be opened for signature by all nations, to take effect in the period 1995–2000.

We believe that such an approach would represent a sensible and realistic way for your administration to address the question of further limits on nuclear testing. We hope you will give serious consideration to undertaking an initiative of the type we have outlined, and we look forward to working with you in a bipartisan fashion to make the long-standing U.S. objective of a comprehensive test ban a reality.

Yours sincerely,

Senators Claiborne Pell, Edward M. Kennedy, Alan Cranston, John Glenn, James M. Jeffords, and Timothy E. Wirth. Representatives Dante B. Fascell, Edward J. Markey, John M. Spratt, Jr., Norman D. Dicks, Bill Green, and Patricia Schroeder.

Senators Jeff Bingaman, Tom Harkin, Donald W. Riegle, Jr., Brock Adams, Quentin N. Burdick, Carl Levin, Paul S. Sarbanes, Howard M. Metzenbaum, Thomas A. Daschle, Patrick J. Leahy, Spark M. Matsunaga, John F. Kerry, Paul Simon, Dennis DeConcini, Terry Sanford, Barbara A. Mikulski, and Daniel Patrick Moynihan.

THE WHITE HOUSE,
Washington, February 20, 1990.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter to the President, cosigned by a number of your collegues, suggesting new limits on underground nuclear tests, leading to a comprehensive test ban. The President has reaffirmed the previous Administration's commitment with respect to the step-by-step process on nuclear testing and a comprehensive test ban.

In negotiations with the Soviet Union we are working to complete agreement on verification protocols to the TTBT and PNET to permit their ratification. That work is progressing well and we have every expectation of being able to sign the Protocols at the Summit in June 1990. Bringing these treaties into force—with effective verification provisions—remains our highest priority in nuclear testing arms control.

We are actively pursuing the numerous elements of arms control. In addition to the Nuclear Testing Talks, the Nuclear and Space Talks, including both START and Defense and Space, are being vigorously negotiated. The President has accelerated the work on START with the goal of resolving all the substantial issues by the time of the June Summit, and, if feasible, signing the treaty at the same time. The President's initiatives to reduce forces in Europe significantly have the potential to break through roadblocks in the CFE negotiations. The Soviets have said they are willing to negotiate toward conclusion of CFE this year. We continue to press for a global ban on chemical weapons—the President's UNGA initiative and his proposal at Malta to cease production when the global ban goes into effect have given new momentum to the solution of this particularly thorny problem. Improved confidence and security building measures are on our agenda as well. This broad spectrum of initiatives clearly demonstrates the Administration's commitment to arms control designed to improve national security.

The Administration shares your view that the Non-Proliferation Treaty serves the interests of the United States, and we are participating actively in the preparations for the upcoming Review Conference. The implementation of the INF Treaty eliminating the entire class of U.S. and Soviet INF missiles and our efforts to accelerate the START negotiations demonstrate a commitment to practical and effective measures to constrain nuclear arms. However, we believe that further restraints on U.S. or Soviet testing are not likely to affect the motivations of states seeking to acquire nuclear weapons and are unlikely to strengthen Soviet non-proliferation policies.

After careful review by this Administration, the fundamental position of the United States on nuclear testing remains unchanged: nuclear testing is indispensable to the maintenance of the credible nuclear deterrent which has kept the peace for over 40 years. As long as we depend on nuclear weapons for our security, some nuclear testing will be necessary. This policy was clearly stated by the previous Administration—changes in the international environment, while significant, have not altered our dependence on an effective nuclear deterrent. Today we test only as much as is required to ensure the reliability of our weapons; to improve the safety, security, reliability, and effectiveness of our deterrent forces; to ensure we understand the effect of a nuclear environment on military systems; and to avoid technological surprise and respond to an evolving threat.

As mentioned earlier, the negotiations now underway in Geneva are moving to complete the Protocols to the TTBT and PNET as part of the step-by-step process. As we consider next steps, it is prudent first to gain some experience with these new and complex verification methods. Certainly, further restraints on nuclear testing must

be viewed in the context of our overall control national security requirements and the details of the arms control agreements that may result from the current, unprecedented negotiations.

While a comprehensive test ban remains a long-term goal of the United States, the Administration cannot endorse a ban, as you suggest, as a 1995-2000 goal. A testing ban must be viewed in the context of a time when we do not need to depend on nuclear deterrence to ensure international security and stability, and when we have achieved broad, deep, and effecitvely verifiable arms reductions, substantially improved verification capabilities, expanded confidence-building measures, and greater balance in conventional forces.

The United States and the Soviet Union are engaged in a broad range of negotiations that will further the President's goal of improving stability and reducing the risk of war. We should remain on the track we have set to improve stability and recognize testing as an essential requirement for a secure and stable deterrent.

Sincerely,

BRENT SCOWCROFT.

SENATORS URGE PRESIDENT TO SEEK IMMEDIATE PROGRESS IN TEST BAN NEGOTIATIONS

APRIL 8, 1990.

Senator Edward M. Kennedy today released a letter to President Bush from twenty-two Senators asking the President to renew the U.S. government's commitment to reduce and ultimately end nuclear testing.

The letter was prompted by recent statements from officials in the State and Energy Departments indicating that the United States was not prepared to negotiate further limits on testing below 150 kilotons, the limit now set by the pending Threshold Test Ban Treaty, despite U.S. treaty obligations to pursue an end to all nuclear testing and Reagan-era political commitments to negotiate further interim limits on testing.

In releasing the letter, Senator Kennedy said:

"I am concerned by the lack of progress toward a global test ban that would help stem the tide of nuclear proliferation and prevent the emergence of new types of nuclear weapons. The Department of Energy's proposed ten-year timetable of stepping-up nuclear testing before accepting further limitations on testing is badly out of step with the policies of the vast majority of nations. Many of these countries will seek next year to attain the goal once sought by President Kennedy by supporting an amendment to convert the Limited Test Ban Treaty of 1963 into a Comprehensive Test Ban.

"Because of a lack of White House leadership, our treaty obligations and long-term international security interests are being undermined by the narrow concerns of weapon bureaucrats in the Pentagon and the Department of Energy. The current situation deserves hands-on attention from the President himself."

U.S. SENATE,
Washington, DC, April 6, 1990.

President GEORGE BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to commend you for your determination to complete the first stage of the Nuclear Testing Talks at the June summit, and we assume the negotiations will proceed without interruption into the next stage of reaching agreement on further interim limits. To do otherwise would contravene presidential assurances to the Congress in 1986 and subsequent assurances to the Soviet Union.

As you may recall, in order to break an impasse over the fiscal 1987 defense authorization bill, President Reagan provided certain specified assurances regarding the negotiation of future nuclear test limitations in an October 10, 1986 letter to the Chairman of the Senate Armed Services Committee. In that letter, President Reagan expressed his commitment to the "ultimate attainment of a total ban on nuclear testing," and indicated that he was "determined to take *practical steps in the near future toward this goal* (emphasis added)." We note that more than three years have expired since this commitment was made. Yet there is no sign that the promised "practical steps" toward a CTB are underway in the Executive Branch.

On the contrary, in a recent letter transmitting the Department of Energy's FY 1989 Report to Congress on implementation of the Test Ban Readiness Program, Secretary of Energy James Watkins argues for "restoration of a healthy nuclear test program" and complains that "progress in attempting to prepare for further limitation on nuclear testing is severely limited by fiscal constraints" on his Department's ability to increase nuclear testing above the current level.[1] According to this DOE Report, "The Department believes that at least 10 years will be required to have any significant success in evaluating the capability to maintain and modernize the U.S. deterrent under further testing constraints." [2]

Such an extended timetable for adoption of further test limitations would contravene the Executive Branch commitment made to the Congress in October 1986. President Reagan wrote:

"* * * Once our verification concerns have been satisfied and the treaties have been ratified, I will propose that the United States and the Soviet Union *immediately engage in negotiations* on ways to implement a step-by-step parallel program—in association with a program to reduce and ultimately eliminate all nuclear weapons—of limiting and ultimately ending nuclear testing. *These steps can be taken in the near future*—steps which will show the world that the United States is moving forward (emphasis added).

Moreover, President Reagan placed this commitment squarely in the context of a legislative compromise on the nuclear testing issue: "I believe that the approach outlined in this letter is consistent with the broad purposes and objectives of the Congress with respect to limiting nuclear testing . . . and will provide a foundation for a bipartisan consensus on this important policy issue."

We also draw your attention to the fact that upon ratification, Article I of the Threshold Test Ban Treaty itself obligates the Parties "to continue their negotiations with a view toward achieving a solution to the problem of the cessation of all underground nuclear weapon tests." Similar obligations are contained in the Limited Test Ban Treaty of 1963 and the Nuclear Nonproliferation Treaty of 1968. We note that the commitment to proceed to negotiation of further limits on nuclear testing, following ratification of the TTB/PNE treaties, has also been reiterated in a series of U.S./Soviet joint statements and Executive Branch documents.[3]

In a September 1988 Report to Congress, President Reagan stated. "The United States is prepared to consider a variety of approaches to see what types of further limitations might contribute to our national security based on the outcome of [arms reduction] negotiations." Yet after a year of momentous reductions in the Soviet threat to the Western alliance, the State Department's recent policy statement is even less forthcoming: "The United States has not identified any further limitations on nuclear testing beyond those now contained in the TTBT that would be in the U.S. national security interest." [4]

In September 1987, the United States government agreed to engage in "full-scale stage-by-stage negotiations . . . in a single forum" that would make it possible to ratify the existing treaties "and proceed to negotiating further intermediate limitations on nuclear testing leading to the ultimate objective of the complete cessation of nuclear testing as part of an effective disarmament process." How then is it possible to conclude at this late date that no such intermediate limitations can be identified? This negative assessment may be seen as further evidence that the United States entered into the process of stage-by-stage negotiations in bad faith. We are also aware of Soviet government's view that the January 9, 1990 U.S. Policy Statement on Nuclear Testing "contradicts the existing U.S.-U.S.S.R. agreements." [5]

We are concerned that a reversal of U.S policy on the test ban could be seen as an affront to the concerns of many nations that will convene later this year to begin consideration of a CTB amendment to the Limited Test Ban Treaty of 1963, and to review compliance with the Nuclear Nonproliferation Treaty. The heightened importance of the international context for U.S. test ban policy was set forth in some detail in a bipartisan letter to you dated May 11, 1989 from 165 members of Congress.

Nine months later a reply, dated February 20, 1990, was received from your national security adviser, Mr. Brent Scowcroft. While we appreciate the general reaffirmation of a U.S. commitment to "the step-by-step process on nuclear testing and a comprehensive test ban" contained in this belated response, it did not address several of the most important issues raised in the May 11, 1989 congressional letter:

A *multilateral test ban* would help establish a global norm of "non-testing" that

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[1] Letter from the James D. Watkins, Secretary of Energy, to the Honorable Sam Nunn, Chairman, Committee on Armed Services, February 22, 1990.

[2] Department of Energy, "Annual Report to Congress, Vol. I, Program Status of Preparations for Further Limitations on Nuclear Testing," (mandated by Section 1436 of the National Defense Authorization Act for FY 1989) December 1989, p. 17.

[3] E.g. the September 1987 ministerial joint statement, the December 1987 joint U.S.-Soviet summit statement, the March 1988 ministerial joint statement, and the May 1988 joint statement of the heads of state at the Moscow summit. The pledge to undertake these negotiations "immediately" upon ratification of the TTB/PNE Treaties is included in the State Department's July 1988 public information document, "Nuclear Testing Limitations: U.S. Policy and the Joint Verification Experiment," and in President's Reagan's September 1988 Report to Congress, "The Relationship Between Progress in Other Areas of Arms Control and More Stringent Limitations on Nuclear Testing."

[4] "U.S. Policy Statement on Nuclear Testing," January 9, 1990.

[5] Soviet Ministry of Foreign Affairs Press Center Briefing, Jan. 30, 1990.

would ultimately affect the *conduct* of key nuclear threshold states, thereby helping to tip the balance against further proliferation. In contrast, the White House response dismissed the restraining effect of partial *bilateral testing limits* on the *motivation* of states seeking to acquire nuclear weapons.

While implicitly acknowledging that a global test ban is not a cure-all, in the technical sense, for the problem of basic fission weapon proliferation, the congressional letter noted that such a multilateral test ban would have "a direct technical impact" inhibiting the proliferation of more powerful and sophisticated thermonuclear weapons. This distinction was not acknowledged in the February '90 White House response.

The May '89 congressional letter drew attention to the difficult political situation this country will face if the U.S. government vetoes a CTB amendment to the Limited Test Ban Treaty that is supported by most of the world's nations and accepted by the Soviet Union. This concern was not addressed in the February '90 White House response.

While rejecting the concept of a gradual phase-out of nuclear tests, culminating in the conclusion of a global CTB in the 1995–2000 period, the February '90 White House response declined to advance any specific policy with respect to further interim limits—limits which the United States is pledged to begin negotiating soon, possibly as early as the summer or fall of 1990.

Mr. President, in view of the ongoing international obligations, prior Executive Branch commitments, and international security concerns outlined above, we ask that you take urgent steps to revitalize the U.S. government's commitment to engage in good-faith negotiations, immediately following ratification of the Threshold Test Ban Treaty, to further limit underground nuclear explosions as part of a step-by-step process leading toward ratification of a multilateral Comprehensive Test Ban Treaty by all the world's nations before the year 2000.

Sincerely,

Edward M. Kennedy, Paul Simon, George J. Mitchell, Alan Cranston, Claiborne Pell, Timothy E. Wirth, Dennis DeConcini, Terry Sanford, Tom Harkin, Daniel Patrick Moynihan, Brock Adams, Spark M. Matsunaga, Jeff Bingaman, John F. Kerry, Howard Metzenbaum, Thomas A. Daschle, Quentin N. Burdick, Patrick J. Leahy, Carl M. Levin, Donald W. Riegle, Jr., Barbara A. Mikulski, and Paul S. Sarbanes.

THE WHITE HOUSE,
Washington, July 9, 1990.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: This is in reply to the recent letter to the President from you and a number of your colleagues concerning the Administration's policy on follow-on negotiations of further nuclear testing limits.

The just-signed verification protocols to the Threshold Test Ban and Peaceful Nuclear Explosions Treaties are an important step in the area of nuclear testing—a step which will permit us to seek ratification of the treaties that were negotiated so long ago.

As you know, these protocols establish extensive on-site presence at the test site by the verifying country. They involve complex yield-measurement techniques using electronic instruments in the immediate vicinity of the test. The President believes that the unprecedented nature and complexity of these verification provisions require that we gain some experience with them as a guide to the character of the most appropriate next steps toward further limitations on testing. This approach is based on the simply proposition that we should learn how well the just-agreed verification regime works as a necessary foundation for making or accepting proposals which build on it.

The President is firm in his commitment to the step-by-step process and to a Comprehensive Test Ban as a long-term objective of the United States. We are convinced, however, that so long as the United States must rely upon nuclear weapons safety and in devising appropriate corrective measures for deterrence, we must also have a sensible test program. Recent revelations regarding safety of certain nuclear warheads underscore the importance of testing, both as a vehicle for detecting possible weaknesses in weapons safety and in devising appropriate corrective measures for any such weaknesses. To do otherwise would create uncertainty as to the safety of the stockpile, and render us unable to make safety improvements and unable to react to new threats. This could tend to erode stability, not enhance it.

As we put into practice the new verification protocols, the United States will be ready to propose negotiations on possible further limitations that make sense from a national security standpoint, contribute to stability, and still guarantee a reliable, safe, and effective deterrent.

As you know, we have forwarded the new protocols to the Senate to begin the ratification process. Early action by the Senate will permit prompt implementation of these important treaties and enable us to begin the "step-by-step" process.

Sincerely,

BRENT SCOWCROFT.

Mr. SARBANES. Mr. President, I rise in strong support of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties, together with the new verification protocols, to which the Senate has been asked to provide its advice and consent. Ratification of these two treaties, signed in 1974 and 1976, respectively, will significantly improve our national security. It will not only put into legal force testing limitations to which the United States and the Soviet Union have informally adhered for well over a decade, but also will help set back on track the arms control process which is so critical to our future. At a time when unprecedented opportunities are arising for major reductions in the United States and Soviet arsenals, it is essential that we reaffirm and codify earlier commitments which form the foundation for new agreements.

Let me first commend Chairman PELL for his persistent and dedicated efforts to bring about ratification of these two treaties. Without his personal interest and support, the treaties could not have received such prompt consideration and in fact might never have been acted upon. I should note that this is the second time the chairman has steered the treaties through a careful and thorough process of committee hearings and review, both times resulting in their being favorably reported to the full Senate. It is my hope and expectation that his diligence finally will be rewarded by the affirmative vote of two-thirds of the Senate this afternoon.

The treaties now before us would provide several clear benefits for our country's security. First, by banning underground nuclear tests over 150 kilotons, the Threshold Test Ban and Peaceful Nuclear Explosions Treaties will prevent the development and stockpiling of nuclear warheads designed primarily for use against large population centers or against hardened targets, which are built to withstand a first strike. Thus the TTBT and PNET promote long-term stability.

Second, the new verification protocols will provide even greater confidence in our ability to accurately measure the size of explosions, and thus to ensure full compliance with the treaties. They will do this by requiring both parties to provide advance and detailed notification of all underground nuclear tests, and by guaranteeing each side the right to verify tests over 35 kilotons through either onsite inspection, seismic monitoring from a nearby station, and/or use of hydrodynamic yield measurement. The latter method, known as CORRTEX, involves placing a special cable in the ground adjacent to the nuclear explosive, and is a technology for which the administration had long sought Soviet approval. These methods will be used in addition to, and as a way of confirming the information we receive from, our satellites, our international seismic network, and other means of intelligence. Although it was the determination of Presidents Nixon, Ford, and Carter, as well as of numerous respected scientists, military analysts and intelligence experts that the treaties were adequately verifiable even prior to the negotiation of these protocols—which led the Foreign Relations Committee to recommend ratification twice before, in 1977 and 1978—the new protocols will strengthen our monitoring capabilities and build confidence in the agreements considerably.

Third, ratification of these treaties will continue the process of progressively restricting nuclear testing, which has long been considered key to halting the nuclear arms race. This process was begun in 1963 with the Limited Test Ban Treaty, which prohibits nuclear tests in the atmosphere, under water and in outer space, and was continued in the Non-Proliferation Treaty of 1968. Without testing, new generations of ever-more destructive weapons cannot be built, and the level of confidence necessary to carry out a first strike is lost. It is impera-

tive that we continue toward the goal of eliminating nuclear testing, not only by ratifying these treaties, but by resuming negotiations on a Comprehensive Test Ban Treaty. Such negotiatins had made substantial progress before they were halted in 1981, and I would urge the administration to seriously pursue such an agreement.

Finally, ratification of the treaties and protocols will set the stage for further progress in arms control by demonstrating America's good faith in undertaking and adhering to its treaty obligations. Allowing well-crafted treaties to languish after being signed raises questions about United States intentions in the minds of not only the Soviets, but of all our partners in other negotiations. In this regard, I would like once again to emphasize to the administration the importance of sustaining momentum in the arms control process by completing and submitting to the Senate at the earliest possible date the bilateral chemical weapons accord, as well as a START Treaty and a CFE agreement. As I have indicated on several occasions to Secretary of State Baker and other administration officials, it is my view that any unnecessary delay in finishing work on and ratifying these treaties would constitute a serious setback for U.S. interests.

Mr. President, today we have an historic opportunity to register our support for mutual, verifiable agreements which reduce the threat of nuclear war and contribute to international stability. Approval of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties is only an intermediate step toward ending the arms race, and one which perhaps should have been taken much sooner, but it is an important step, both symbolically and substantively. I want to thank the majority leader for making time in the Senate's extraordinarily full schedule for debate and a vote on the treaties, and I would urge my colleagues to join me in approving the resolutions of ratification which are now before us.

Mr. DOLE. Mr. President, the United States and the Soviet Union concluded negotiations on the Threshold Test Ban Treaty [TTBT] in 1974 and the Peaceful Nuclear Explosions Treaty [PNET] in 1976. Yet, the treaties did not come to the Senate floor for advice and consent until today. I would like to spend a few moments reviewing our experience with these two treaties and then look at what we should have learned.

The TTBT provides for a limitation of 150 kilotons on underground nuclear tests conducted by the United States and the Soviet Union and the PNET limits nuclear explosions for peaceful purposes to 150 kilotons, as well. Although the TTBT and PNET were concluded in 1974 and 1976, respectively, for various reasons, the Senate did not act on the treaties during the Ford and Carter administrations, and the Reagan administration was left with the judgment of how to proceed with ratification.

In June 1982, President Reagan decided that no ratification was possible unless the Soviets agreed to expanded verification provisions for TTBT and PNET.

The Reagan administration had determined that the verification provisions contained in the treaty protocols were inadequate. Moreover, concerns regarding Soviet compliance with the yield limitation of the Threshold Test Ban Treaty further corroborated this determination. In the administration's annual report to the Congress on Soviet noncompliance, the first of which was submitted to the Congress in 1984, the compliance finding with respect to the TTBT was that the Soviets have been in likely violation of the TTBT.

Although the Reagan administration did not find that the Soviets were in violation of the TTBT, the uncertainty of Soviet compliance was significant, since the Threshold Test Ban Treaty yield limit has a direct impact on our military capabilities and those of the Soviet Union.

The U.S. Nuclear Testing Program is at the heart of the maintenance of our nuclear deterrent. Nuclear test are conducted for reasons of nuclear weapons safety, reliability, modernization, and survivability. The 150-kiloton threshold established by the TTBT is militarily significant because it serves to limit the explosive force of nuclear warheads. Conducting tests above 150 kilotons could have military implications, depending on the yield and the type of test. Therefore, monitoring Soviet compliance with the 150-kiloton threshold limit is essential to avoid technological surprise.

From 1983 to 1987, the United States tried to engage the Soviets in negotiations on added verification provisions for the two testing treaties.

In late 1987, the Soviets finally agreed to negotiations on strengthening the TTBT and PNET verification provisions, as the first order of business in the newly established nuclear testing talks.

In addition to achieving effective verification provisions, the nuclear testing talks broke new ground in that verification procedures were tested in two joint verification experiments [JVE's] prior to the conclusion of the protocols. In 1988, as part of the joint verification experiments—which were conducted at the Nevada testsite and at the Soviet testsite—the United States demonstrated the technique and equipment associated with the corrtex system of yield measurement. Corrtex and onsite inspection are the foundation of our monitoring capabilities as established in the new protocols.

The TTBT and PNET testing protocols were signed this past June in Washington during the summit. After more than 15 years, these treaties will finally be ratified.

It seems to me that there are some lessons to be learned from our experience with these two testing treaties:

First, verification is essential to our confidence in the arms control process.

Second, verification should not be viewed as an afterthought to any arms control treaty—it should be considered an integral part of the treaty and negotiated as such. Verification is tough—especially with the Soviets who, in spite of glasnost, still have a rather closed society. And, I recognize that this means that negotiating solid verification takes time. But, we need to be patient.

Third, there is a relationship between Soviet political openness and arms control verification. Increasing Soviet political openness over the last few years clearly contributed to the achievement of effective verification provisions for these two treaties.

Mr. President, I believe that the United States needs to take these lessons to the negotiating table—whether we are negotiating START, CFE, or chemical weapons. I am confident that our negotiators in Geneva and Vienna recognize the importance of verification and its essential role in the arms control process.

Mr. BUMPERS. Mr. President, in considering the Threshold Test Ban Treaty [TTBT] and the Peaceful Nuclear Explosions Treaty [PNET], the Senate has the chance to make a small but useful contribution to a safer world. These treaties not only will place important legal restraints on the nuclear testing activities of the Soviet Union, but they will also be an important step on the longer and ultimately more important task of halting the proliferation of nuclear weapons to countries that currently do not have them.

The tragedy of these treaties is that it has taken us 15 years after their signing to get to this point. It saddens me to realize that the White House should have sent these treaties to the Senate for ratification just a year or two after I entered the Senate in 1975, rather than doing so this year. While we are late in getting around to this important task, this is clearly a case of better late than never.

These treaties have taken so long to be ratified because of attitudes towards arms control in the White House that were first too optimistic and then too pessimistic. President Carter did not press for their ratification because he thought they did not go far enough, and set them aside to

pursue a comprehensive test ban on all nuclear tests. In retrospect, we see that he should have submitted these treaties for ratification and pressed on from there. He likewise made the same mistake on SALT II—rather than wrap up what had been accomplished under Presidents Nixon and Ford, President Carter tried to do much more, and ended up with no ratified SALT agreements at all.

When President Reagan was sworn in, his administration did almost nothing about nuclear testing except accuse the Soviet Union of violating the 150-kiloton limit of the TTBT. Let the record show that these accusations were reluctantly abandoned late in Reagan's second term. Why? Because the CIA and other agencies found that the evidence was quite strong that the Reagan administration was consistently overestimating the yields of Soviet nuclear tests. I will ask unanimous consent that two articles from the New York Times entitled "CIA Changes Way That It Measures Soviet Atom Tests" and "Scientists Voice Doubts Soviet Breached Treaty" be inserted in the RECORD at the conclusion of my remarks.

In fact, Ronald Reagan threw obstacles in the path of these treaties even before he became President. One of the reasons President Ford did not press for ratification of these treaties was because in 1976 he faced political pressures from the right wing of his party, in the form of a primary challenge from Ronald Reagan. Pushing for the ratification of the TTBT and PNET could have hurt President Ford's prospects in the primary. It appeared politically prudent for him to delay the ratification of these treaties until his second term, which never came to pass.

Fortunately, both the United States and the Soviet Union agreed to abide by the limits of these nuclear testing treaties even though they had not been formally ratified. Because of these treaties, we have not had an expansion of high-yield nuclear warheads, we have not had our scientists working on brand new high-yield warhead designs.

In addition, under these treaties we have important verification provisions that will provide a major degree of intrusive verification, the likes of which would have been unthinkable just a few years ago. There are important precedents here for the START Treaty that I hope will be completed before the end of this year.

But this should not be the end. I believe that we should continue to increase the restrictions on nuclear testing. The ceiling of 150 kilotons can and should be reduced substantially. We could easily, without jeopardizing our national security go down to no more than 50 kilotons, and perhaps down to about 20 kilotons. The exact figure should depend upon factors such as the internal physics of thermonuclear devices, and verification considerations. Based on our experience with such a reduced threshold, we may then want to go further, down to a 1-kiloton ceiling, which would be a de facto comprehensive test ban. With the dramatically improved climate of United States-Soviet relations, we can contemplate, and seriously explore, such options with greater confidence than we ever could have had in the past, and do our environment a great favor in the process. We may also want to consider limits on the numbers of nuclear tests conducted by each side. The Soviets will be reducing the number of tests they conduct in any event, with the forthcoming closing of their nuclear test site at Semipalatinsk.

In this new, post-cold-war era that has just dawned, we have better reasons than ever to ratify these treaties and get on with negotiating even further limits, and that is the threat of proliferation of nuclear weapons to countries that do not have them. We all shudder to think of what Saddam Hussein might do if he had nuclear weapons. There can be no more urgent international task than to take whatever steps are possible to discourage nuclear proliferation.

Mr. President, let us now act. Though much delayed, the affirmative advice and consent of the Senate to the ratification of these two treaties will add another important building block to the structure of the more peaceful and more civilized world that we want to leave to our grandchildren.

I ask unanimous consent that the articles to which I referred be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follow:

[From the New York Times, Apr. 2, 1986]

C.I.A. CHANGES WAY THAT IT MEASURES SOVIET ATOM TESTS

(By Michael R. Gordon)

WASHINGTON, April 1.—The Central Intelligence Agency has changed its procedures for estimating the yield of large Soviet nuclear tests because it has decided its previous estimates were too high. Reagan Administration officials said today.

The officials said the decision to use the new method was made in January by William J. Casey, the Director of Central Intelligence, despite objections from some Defense Department officials.

REAGAN REQUESTS A REPORT

The C.I.A. decision has raised questions about past Administration assertions that the Soviet Union had probably violated the Threshold Test Ban Treaty of 1974, which limits underground tests to no more than 150 kilotons.

Before the C.I.A. decision was made, President Reagan ordered a report on how the change would affect Administration concerns about Soviet Union violations, the Administration officials said. That report has not yet been completed.

Mr. Casey formally approved the change on Jan. 21, officials said. Experts familiar with the change say it will lower estimates of the yield of Soviet tests by about 20 percent.

NO WHITE HOUSE COMMENT

Richard N. Perle, the Assistant Secretary of Defense for International Security Policy, reportedly opposed adopting the recommendations and argued that the issue needed more study. Mr. Perle declined to discuss the issue.

Edward P. Djerejian, a White House spokesman, said the White House had no comment at this time on the decision and its implications.

Administration experts, who asked not to be identified, were divided about whether the change should lead the Administration to drop its allegations against the Soviet Union.

The accusations of Soviet arms control violations has become a central issue in United States-Soviet relations. No significant progress has been made in this area since the November summit meeting President Reagan and Mikhail S. Gorbachev, the Soviet leader.

DELIBERATIONS OVER TREATY

The Reagan Administration is currently deliberating over what actions to take in response to reported arms control violations and in considering whether to modify its commitment not to undercut the 1979 Strategic Arms Limitations Treaty.

The Administration has said that many of the Soviet tests had "likely" violated the threshold treaty, which stipulates that the size of warheads being tested should not exceed 150 kilotons, equal to the explosive force of 150,000 tons of TNT. The Soviet Union has denied violating the treaty.

But Administration and nongovernmental experts have long questioned the accuracy of the intelligence estimates on which those charges were based.

The debate has centered on the seismological procedures for assessing the yield of nuclear tests. The main Soviet test site at Semipalatinsk in Central Asia is older and more geologically stable than the site in Nevada where the United States conducts its tests.

LARGER WAVE IS PRODUCED

Scientists say Soviet explosives produce a larger sound wave through the earth than American tests of the same size.

While Government intelligence estimates of Soviet tests have long been adjusted to take this into account, experts have questioned whether the adjustment factor was large enough.

Officials said the question of changing the United States estimating procedure has been under review and study for years.

NEW STUDIES COME TO LIGHT

The issue came to the fore again last year after several new studies.

Last Oct. 18, a panel of scientists selected by the Defense Advanced Research Projects Agency prepared a classified report that concluded that Government's method for estimating the yield of Soviet explosions was based on faulty assumptions.

The eight-member panel recommended a change in procedures that would lower the estimates.

The panel's report was submitted in late October to the Joint Atomic Energy Intelligence Committee, which issues reports on the size of foreign nuclear explosions. The

committee is made up of members from the military services and intelligence agencies.

SECOND STUDY ADDS SUPPORT

Adding support to the scientists' recommendation was a separate study, also completed in October, that was overseen by the Air Force Technical Applications Center, which operates a system of seismic stations to monitor Soviet tests. This study agreed with the finding of the military research agency report.

On Dec. 17, the Joint Atomic Energy Intelligence Committee recommended that the C.I.A. adopt the advice in the report commissioned by the research agency. Officials said the Defense Intelligence Agency disagreed, but was overruled.

The new C.I.A. procedure will be used to estimate the size of explosions in the Shagan River area of Semipalatinsk, where the Soviet Union conducts its largest nuclear tests. Officials said they expected the new estimating procedure to be applied to the next Soviet test in this area. The Soviet Union has not held a nuclear test since last summer, when it declared a unilateral moratorium on tests and asked the United States to join in a total test ban.

What the new procedure means about past Administration allegations about Soviet cheating is unclear.

REAGAN SIGNS DIRECTIVE

At the time the Administration prepared its report to Congress charging Soviet arms control violations, President Reagan signed a National Security Decision Directive, NSDD-202, that asked for a report on how the new method would reflect on past United States charges of violations by the Soviet Union.

This is the report that has not been completed, and officials are divided about whether the Russians have been violating the treaty.

Officials said applying the new methods retroactively would still leave about a dozen Soviet tests that appear to be above the limit, although one official said that three or four of these exceeded the limit enough to warrant special concern.

The new procedure also suggests that the largest Soviet blast since the signing of the threshold treaty in 1974 was no higher than 250 kilotons. The Administration has previously said that the Soviet Union has conducted a test that was greater than 300 kilotons.

VIOLATIONS STILL LIKELY

One Administration official said the new data still point "in the direction of a likely violation" and noted that the Administration qualified its charges against the Soviet Union.

But another official said the change in the estimating procedure would significantly undercut the charges.

He said that given the uncertainty involved in seismic measurements, it was usual to expect some Soviet tests to appear to exceed the 150-kiloton limit. He added that some American tests that are under that limit may also appear to the Soviets to exceed the limit.

A spokesman for the Arms Control and Disarmament Agency said the agency was "not in a position to put forward any official agency view on this matter at this time."

SOME LONGSTANDING QUESTIONS

While officials familiar with the C.I.A. decision declined to be quoted on the record, other experts have openly supported the view that some estimates of the yield of Soviet tests have been too high.

Roger Batzel, the director of the Lawrence Livermore National Laboratory in California, said in written testimony to Congress yet to be made public that the Soviet Union might be complying with the treaty.

"Based on our assessment of the magnitude for the Soviet test site and the pattern of Soviet testing," he said. "We have concluded that the Soviets appear to be observing a yield limit. Our best estimate of this yield limit is consistent," with the threshold test ban. "However," he added, "the seismic data are subject to considerable statistical uncertainty."

That view differs from officials at the Los Alamos National Laboratory, in New Mexico, who have told Congress that verification of the threshold treaty is highly uncertain.

But a retired admiral, Sylvester R. Foley Jr., the Assistant Secretary for Defense Programs at the Energy Department, which oversees nuclear testing said in an interview that he tended to agree with Mr. Batzel's assessment.

[From the New York Times, Jan. 16, 1987]

SCIENTISTS VOICE DOUBTS SOVIET BREACHED TREATY

(By Michael R. Gordon)

WASHINGTON, January 15.—Experts from the United States nuclear laboratories today questioned Administration charges that the Soviet Union has probably exceeded the limits of an unratified 1974 treaty that limits the size of underground nuclear tests.

The Administration charged in a report last year that it was "likely" that Moscow had stopped honoring the treaty, which limits tests to 150 kilotons.

But the Administration's view was disputed today in testimony to the Senate Foreign Relations Committee.

'CONSISTENT' WITH COMPLIANCES

Roger E. Batzel, the director of the Lawrence Livermore National Laboratory, told the Senate Foreign Relations Committee that studies carried out by the lab showed that the pattern of Soviet tests "is consistent" with compliance with the treaty.

Mr. Batzel noted that the laboratory could not rule out the possibility that "a few" Soviet tests may have exceeded the treaty limit.

But he also noted that even if the Soviet Union had conducted a few tests that were over the treaty limit that might not constitute a violation.

The treaty provides that one or two slight unintended breaches per year would not be a violation. This provision was included because there are some technical difficulties in anticipating how large a planned detonation will turn out to be.

ROLE OF NATIONAL LABORATORIES

Siegfried S. Hecker, the director of the Los Alamos National Laboratory, also told the Committee that there was not a firm basis to charge that the Soviet Union had exceeded the treaty's limits.

"The view of my colleagues who have worked hard on this problem," he said, is "guilt not proven." He added that the pattern of Soviet tests was consistent both with compliance with the treaties and militarily significant violations of the agreement.

The national laboratories design American nuclear weapons, help test the weapons and work on techniques for measuring the size of those tests.

Paul G. Richards, an expert on seismic measurement, told the committee that the detection of a few Soviet tests over the 150-kiloton limit "does not directly indicate noncompliance," Mr. Richards is a professor of geology at Columbia University who also serves as a consultant to the Government on seismic monitoring issues.

Mr. Richards said that seismic measurements involve some uncertainties, and as a result some American tests that are below the treaty limit of 150 kilotons appear to be over those limits, judging from seismic measurements.

The Reagan Administration is currently preparing an updated version of its annual report on Soviet adherence with arms control treaties.

Since the last report was released the Central Intelligence Agency has decided that previous estimates of Soviet tests have been too high and has lowered them.

A senior Administration official said today that he expected the Administration to stick to its judgment that it is "likely" that Moscow has violated the treaty, despite the C.I.A. revision.

The Administration official took exception to the testimony by the laboratory officials. "We have looked at the same evidence that they have looked at, and have concluded that the Soviet Union is likely violating the treaty."

The Senate Foreign Relations Committee is taking up President Reagan's proposal that the Senate approve the 1974 treaty. Mr. Reagan has proposed that the treaty be approved with the reservation that it not go into effect until Moscow agrees to new monitoring measures to improve verification.

Mr. CRANSTON. Mr. President, I rise today to support the ratification of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty and the new protocols which accompany them.

As a member of the Foreign Relations and Intelligence Committees, I had the opportunity to review these documents at length. I have long supported these treaties, which were signed in 1974 and 1976, to limit nuclear weapons testing and all other underground peaceful nuclear explosions. My only disappointment is that it has taken so long to move forward on the vital issue of nuclear testing. If not for the reluctance of the Reagan administration to endorse these treaties unequivocally, the full Senate would have ratified these treaties several years ago.

I want to commend the fine work of the Senate Foreign Relations Committee and Senator PELL. These treaties have been a priority for him since he became the chairman of the Foreign Relations Committee, and I commend him for ensuring that they have had ample consideration, and for drafting a resolution of ratification which makes a forceful and bipartisan statement on the commitment of the United States and the Soviet Union to seek the end of all nuclear weapons testing.

We must do our utmost to hold the administration to its commitment in

this regard. Although the modest limits on nuclear testing in these treaties should be applauded as an important step forward, we must not lose sight of the ultimate goal—a comprehensive test ban treaty.

I also want to commend the Intelligence Committee and Senator BOREN for its important work—slogging through the technical details of the protocols—to ensure that the protocols provide adequate mechanisms for the United States to monitor successfully Soviet compliance with the treaties.

The Intelligence Committee raised a number of key issues with the administration during its consideration of the protocols: The lack of a clear plan to fund the verification procedures laid out in the protocols, the intelligence risks involved in the actual inspection process—and the risk of the Soviets exploiting that process—and the very contentious issue of how to make changes to the protocols—an issue both committees have grappled with in the last few months.

The protocols have essentially frozen today's technology into a verification regime. By definition, such detailed protocols needed a provision to give the United States and the Soviet Union the right to modify aspects of these agreements relating to verification. Although this latitude is necessary, given the changes in technology which are bound to take place and the learning curve as future tests are monitored, I share the concern that if we give the administration carte blanche to renegotiate aspects of the protocols, we may be relinquishing the Senate's right to advise and consent.

The administration responded to this and other concerns in a letter to Sentor PELL from ACDA Director Ron Lehman on September 14, 1990, and a letter to Senator BOREN from National Security Advisor Brent Scowcroft on September 13, 1990. These letters contain administration assurances about its intent to resolve the issue of finalizing security details and the issue of funding, as well as the commitment that,

> The Administration will provide notice concerning any modifications and changes negotiated with the Soviets to the provisions of the TTBT Protocol prior to such modifications or changes becoming binding on the Parties. The objective of this further assurance is to provide notice before an issue becomes "moot."

These assurances adequately address my concerns.

During consideration of the protocols, we heard from a number of witnesses who stated that the detailed protocols were probably not necessary, and may have in fact served to delay the more important talks which need to take place on a comprehensive test ban. Nonetheless, we now have set forth one of the most detailed arms control verification regimes in order to satisfy even the most skeptical of critics.

I hope that our detailed analysis of the verification procedures has laid to rest allegations of Soviet cheating once and for all. We have learned much about the technology of measuring the magnitude of nuclear tests in the joint verification experiment. We have also learned that earlier measures of so-called Soviet violations may have in fact reflected differences in measuring that can occur at different testing sits. I asked Senator BOREN during his testimony before the Senate Foreign Relations to comment on the issue of Soviet violations, and I would like to read this exchange for the RECORD:

> Senator CRANSTON. Is it true that the U.S. Government has concluded that the Soviets may indeed never have violated the [testing] treaty since it was written, subject to ratification?
>
> Senator BOREN. That is correct. There is a high level of possibility that there have been no violations.
>
> Senator CRANSTON. If we are confident, as we are, that we would learn of any significant violation, or might not learn of a very minor one, is there any military rationale for attempting a minor one by the Soviets?
>
> Senator BOREN. Senator Cranston, the experts testified before us and before our committee, and our findings found that there was a very, very small likelihood that there would be sufficient military justification and motivation, given the risks and the down-side costs of attempting an evasion for the Soviet Union to try to undertake such an evasion, and that we would have a very high level of probability of being able to detect any level of violation that would be significant.
>
> In other words, that levels of violation that we might not be able to fully detect would be minor, would be not very much above the 150 kiloton limit, if there were such small violations, and then it would be very unlikely that they would be militarily significant.

Mr. President, let us hope that this administration will follow through on its past commitments—it is imperative that we proceed to the next stage of talks for a comprehensive test ban treaty.

A comprehensive ban on nuclear explosive testing is crucial as we enter the post-cold-war era. Nuclear testing is not a bilateral issue—as we can see in the Persian Gulf, the threats of the future are not from the Soviets.

Nuclear proliferation poses a serious threat to global security. The notion that the men and women of our Armed Forces could have been eyeball to eyeball with an Iraqi force backed up with nuclear weapons should give us all pause. By signing a United States-Soviet ban on nuclear testing—and urging other nations to join us in this effort—we are in a better position to inhibit the research and development of nuclear weapons in the rest of the world.

Mr. President, I urge my colleagues to consent to the ratification of these treaties and their respective protocols.

Mr. DOMENICI. Mr. President, I rise in support of the two treaties before the Senate today. the Threshold Test Ban Treaty [TTBT], limiting nuclear weapons tests to 150 kilotons was signed in 1974. The Peaceful Nuclear Explosions Treaty [PNET] was signed in 1976 to cover 150 kiloton explosions for peaceful purposes.

The treaties were not ratified due to questions about adequate verification. In 1987, nuclear testing talks commenced and led to the signing of verification protocols to the treaties on June 1, 1990. Subsequent to the signing of the protocols the Senate Foreign Relations Committee held hearings and endorsed both treaties and the protocals subject to two resolutions of ratification.

There are three general methods of verification permitted under the two treaties, the most accurate of which is a method known as continuous reflectometry in radius versus time experiments [CORRTEX]. This is an on-site method which measures how quickly the shock wave in the ground crushes a cable buried near the explosive device. I am very proud that this method was developed by the Los Alamos National Laboratory, which is located in my State of New Mexico. Los Alamos National Laboratory is truly on the cutting edge of technology, and we are very proud to know that they are contributing toward making this treaty a truly valuable one. President Reagan introduced Americans to the Russian phrase "Trust but verify," and we in New Mexico are proud that Los Alamos will be taking the lead for the United States in the vital area.

The first resolution contains five safeguards designed to ensure the U.S. ability to respond to unexpected political or technical events in the future. The second resolution concerns follow-on negotiations toward a comprehensive test ban.

While I support these resolutions and commend my fellow Senators for their diligent work on these important treaties I do have reservations about a comprehensive test ban. So long as U.S. national security is dependent on a nuclear deterrent capability, nuclear testing will be needed to ensure that capability. Should the United States redefine its national security policy and reduce its dependency on nuclear weapons, then it would be appropriate to focus on further limiting or even eliminating nuclear testing.

I believe that further reductions in nuclear testing yield limits would eliminate our ability to maintain an effective and modern nuclear deterrent. Major reductions in the yield level of nuclear tests would preclude

confidence testing of the vast majority of stockpile weapons.

Nuclear testing is the only way to ensure the safety, reliability, and survivability of nuclear weapons. No amount of calculation and/or simulation of nuclear effects has been able to replace actual nuclear testing either as a means to discovering serious problems with our nuclear weapons, or later as a means of confirming that they have been dealt with successfully. The best way to avoid complacency is to maintain testing programs which continually produce improvements in safety.

Before closing, Mr. President, I would like to note that implementation of these treaties will not be costless. At my request, the Congressional Budget Office has estimated the costs of verification and compliance of pending arms treaties. It will be released in the coming weeks.

CBO estimates that the one-time costs associated with the treaties will be between $85 and $200 million. The annual recurring costs will be between $50 and $100 million. These expenditures are necessary. The implementation of these treaties will build confidence and enhance arms control stability.

Finally, Mr. President, I would like to extend my personal congratulations to Paul Robinson, formerly of LANL, who led the team of negotiators that so successfully negotiated these two treaties. They have done a great service to the United States in furthering peace and security throughout the world.

Mr. PELL. I am prepared to cede back the remainder of my time.

Mrs. KASSEBAUM. Mr. President, I speak for the ranking member, Senator HELMS, of the Foreign Relations Committee, who is asking that all the time be yielded back on this side as well.

The PRESIDING OFFICER. All time having been yielded back on both sides, the question is on agreeing to the Resolution of Ratification, as amended by the committee reported declarations, to Executive Calendar No. 21, the treaty with the Soviet Union on the limitation of underground nuclear weapons tests, and the Resolution of Ratification to Executive Calendar No. 22, the treaty with the Soviet Union on underground nuclear explosions for peaceful purposes. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON], is necessarily absent.

I further announce that the Senator from New Hampshire [Mr. RUDMAN] is absent due to a death in the family.

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Vote No. 249 Ex. N(A), 94-Z; No. 250 Ex. N(B), 94-Z]

YEAS—98

Adams	Ford	McCain
Akaka	Fowler	McClure
Armstrong	Garn	McConnell
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mikulski
Biden	Gorton	Mitchell
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boren	Grassley	Nickles
Boschwitz	Harkin	Nunn
Bradley	Hatch	Packwood
Breaux	Hatfield	Pell
Bryan	Heflin	Pressler
Bumpers	Heinz	Pryor
Burdick	Helms	Reid
Burns	Hollings	Riegle
Byrd	Humphrey	Robb
Chafee	Inouye	Rockefeller
Coats	Jeffords	Roth
Cochran	Johnston	Sanford
Cohen	Kassebaum	Sarbanes
Conrad	Kasten	Sasser
Cranston	Kennedy	Shelby
D'Amato	Kerrey	Simon
Danforth	Kerry	Simpson
Daschle	Kohl	Specter
DeConcini	Lautenberg	Stevens
Dixon	Leahy	Symms
Dodd	Levin	Thurmond
Dole	Lieberman	Wallop
Domenici	Lott	Warner
Durenberger	Lugar	Wirth
Exon	Mack	

NAYS—0

NOT VOTING—2

Rudman
Wilson

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolutions of ratification are agreed to.

The resolutions of ratification agreed to are as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Underground Nuclear Weapon Tests, signed in Moscow on July 3, 1974, and the Protocol thereto, signed in Washington on June 1, 1990, subject to—

I. The declaration that to ensure the preservation of a viable deterrent there should be safeguards to protect against unexpected political or technical events affecting the military balance; that such safeguards, consistent with national interests and resources, should be an important ingredient in decisions on national security programs and allocation of available resources; and that such safeguards should be as follows:

SAFEGUARD "A"

The conduct, within the constraints of treaties on nuclear testing, of effective and continuing underground nuclear test programs designed to add to our knowledge and improve our weapons in all areas of significance to our military posture for the future.

SAFEGUARD "B"

The maintenance of modern nuclear laboratory facilities and programs in theoretical and exploratory nuclear technology which will attract, retain, and ensure the continued application of our human scientific resources to those programs on which continued progress in nuclear technology depends.

SAFEGUARD "C"

The maintenance of the basic capability to resume nuclear test activities prohibited by treaties should the United States cease to be bound to adhere to such treaties.

SAFEGUARD "D"

In conjunction with an effective verification program, the conduct of comprehensive and continuing research and development programs to improve our treaty monitoring capabilities and operations.

SAFEGUARD "E"

The continuing development of a broad range of intelligence gathering and analytical capabilities and operations to ensure accurate and comprehensive information on worldwide nuclear arsenals, nuclear weapons development programs, and related nuclear programs.

II. The declaration that, mindful of the commitment of the United States, the Soviet Union and Great Britain in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek the discontinuance of all test explosions of nuclear weapons for all time and of the commitment which shall be legally binding on the Parties upon ratification of the Treaty on the Limitation of Underground Nuclear Weapons Tests to "continue their negotiations with a view toward achieving a solution to the problem of the cessation of all underground nuclear weapon tests," the United States shares a special responsibility with the Soviet Union to continue the bilateral Nuclear Testing Talks to achieve further limitations on nuclear testing, including the achievement of a verifiable comprehensive test ban.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on Underground Nuclear Explosions for Peaceful Purposes, signed in Washington and Moscow on May 28, 1976, and the Protocol thereto, signed in Washington on June 1, 1990, and an Agreed Statement relating to paragraph 2(c) of Article III of the treaty, signed on May 13, 1976.

Mr. PELL. Mr. President, I move to reconsider the vote.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PELL. Mr. President, I ask unanimous consent that the President be immediately notified of the Senate action.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Without objection, the Senate will resume the consideration of legislative business.

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

The PRESIDING OFFICER. Under the previous order the clerk will

report H.R. 5268, the Agriculture Appropriations Act.

The bill will be stated by title.

The clerk read as follows:

A bill (H.R. 5268) making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1991, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. GORTON. Mr. President, the United States has the safest, most abundant food supply in the world. This situation exists in part due to the importance we place on research in agriculture. H.R. 5268, the agriculture and rural development appropriations bill for fiscal year 1991, proposes a research program in agriculture that will help ensure that U.S. agriculture remains productive and healthy. I support this bill and want to thank the chairman and ranking member of the Agriculture Subcommittee for their work and attention to projects that are important to Washington State.

The 1991 agriculture appropriations bill provides funding for construction of research facilities in Yakima, Pullman, and the Tri-Cities. In addition, the bill also includes funds for new and continuing research on numerous Washington State crops, food safety, agriculture and forest products trade, and animal health. In total, the 1991 agriculture appropriations bill provides over $9 million in direct funds to Washington State, and indirectly, over $17 million for the State of Washington.

I am pleased that the committee has included funding for construction of a replacement facility in Yakima devoted to tree fruit research. The Yakima ARS facility has a vital responsibility to the entire Nation's fruit and vegetable industry. The President recognized the importance of this research laboratory when, at my request, he included $10 million in his budget to complete construction of this lab. While the $5 million in the committee's bill will move the project forward, I am disappointed that only half the funds necessary to start and complete construction were provided. I am hopeful construction of this long-awaited project can begin and the remaining funds necessary for its completion are appropriated next year.

The bill also provides $1 million for agricultural and forestry trade. The financing provided to the University of Washington and Washington State University for the CINTRAFOR and IMPACT programs, respectively, will allow these trade centers to continue identifying and promoting export opportunities.

Among the oldest food cultivated are fresh and dry peas and lentils. The bill provides $500,000 to establish centers of excellence on a regional, national, and international basis to focus on multidisciplinary research on high priority issues affecting food legumes. Research on peas and lentils will benefit farmers, consumers, and the environment.

The agriculture appropriations bill also provides $1 million for the construction of an animal disease biotechnology facility Washington State University. This facility will serve to link the veterinary hospital with the Veterinary Sciences Building at Washington State University. The House has provided 41.4 million for this project and I encourage the agriculture appropriations conferees to support the House's funding level.

I am pleased that the committee has allocated funds for the Northwest Small Fruit Research Center. The importance of research on small fruits is recognized in the farm bill and a center for research on small fruits grown in the Northwest has been singled out by the Agriculture Committee as a USDA priority. The bill provides $200,000 for initial construction of this facility.

I concur with the committee's recommendation to provide funding for the establishment of a technology transfer site at Central Washington University in Ellensburg, WA. The $1 million provided by the committee will allow the technology transfer site to become a part of a nationwide effort to provide geographic information technology to local units of Government.

The reregistration of minor-use pesticides is essential for the continued production of almost all the fruits, vegetables and herbs grown in Washington State. I am pleased that the committee has provided partial funding for the construction of a pesticide research lab in Tri-Cities. This lab will assist agriculture throughout the Northwest by providing resources for residue testing research.

Among several other essential agriculture programs for which I requested funding, I am pleased that research for potatoes, Russian wheat aphid, and Steep II received appropriations.

Finally, the importance of agricultural trade has never been greater. I am pleased that the committee has funded the Targeted Export Assistance [TEA] Program at $200 million and removed the limits on the Export Assistance Program [EEP]. Both programs are paramount to overcoming unfair trading practices of our agriculture competitors.

Mr. President, this is an important bill, not just for farmers, but for all Americans. I again would like to thank the committee and the subcommittee for its consideration of my requests. I support this bill and urge its adoption.

INCREASED FUNDING FOR THE SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN [WIC]

Mr. CHAFEE. Mr. President, I would like to thank the members of the Appropriations Agriculture Subcommittee for the strong support they have shown in this bill for a very important program: the Special Supplemental Food Program for Women, Infants, and Children, or WIC Program.

As my colleagues know, WIC is one of the Federal Government's best, and most cost-effective, programs. The WIC Program provides food vouchers to low-income mothers and their children who are at risk of serious nutritional deficiencies. This special, nutritious food includes milk, infant formula, orange and other juices, cheese, fruit, and cereals.

This simple idea—making sure that mothers and children receive good, basic, nutritious foods and avoid nutritional deficiencies—is remarkably effective. Studies have shown that every $1 invested in WIC saves $3 in long-term health care costs and developmental problems.

Unfortunately, this program serves only about half of the eligible low-income, at-risk population. This gap in coverage represents a considerable missed opportunity, considering WIC's proven effectiveness for an especially vulnerable population.

That is bad news. There is much to be gained by expanding WIC to reach more of the eligible pouplation. Over the past years, I have joined by colleague Senator DECONCINI in spearheading an annual drive to make slight but steady increases in WIC Program funding. So far, these efforts have been successful. In 1989, 71 of our colleagues joined us in requesting an additional $150 million over current services for 1990 WIC funding. As a result; WIC was eventually funded at $2.13 billion.

While last year's funding for WIC went far, much of its benefit was inadvertently counteracted by a new problem; unexpected rises in food inflation. In June, the National Association of WIC Directors revealed that recent food package inflation will have a significant impact on their ability to serve eligible mothers and children. For the greater part of 1990, many States have reported food inflation of greater than 7 percent, much higher than the USDA-projected rate of 4.5 percent. That rise in inflation means a significant gap in WIC coverage—since dollars won't stretch as far; WIC caseloads must be reduced.

Let me tell you what has happened in my home State of Rhode Island. In this fiscal year; our WIC Program served 15,700 women, infants, and children. But because Rhode Island's food package inflation jumped to 12 percent, 500 WIC participants were taken

off the State's caseload. That is 500 women, infants, and children eligible for WIC who lost out because of inflation. So WIC funding is especially vital this year.

And this year, we were able to garner even more Senate support for WIC. In July, 80 Senators joined Senator DECONCINI and me once again to request $150 million over current services for WIC. And both the House and Senate committees have responded by allocating $2.35 billion for the WIC Program. The increase of $234 million is $10 million less than our request, but it is also the single largest addition to WIC we have seen in recent years.

I congratulate the members of the Appropriations Committee for moving to expand WIC in fiscal year 1991. Increasing funding for WIC is the right thing to do—not only from the humanitarian point of view, but also from the most hard-nosed, cost-versus-benefit point of view. WIC is one Federal program that saves more than it spends, and deserves every bit of support we can give it.

Mr. SIMPSON. I rise to thank the members of the Agriculture Appropriations Subcommittee for including a provision in this bill which provides for a feasibility study for an environmental simulation facility at the University of Wyoming. The proposed facility is very important to the State of Wyoming, to various Federal agencies, and to the private sector. I am pleased that the Senate has taken this important step toward making this facility a reality.

This computer controlled facility is designed to use biological and technical approaches and modeling to find the most appropriate and efficient methods for vital environmental cleanup operations. By identically duplicating any particular ecosystem at any given point in time, this one-of-a-kind prototype laboratory has the potential to save precious time and money by proving the merits of any one cleanup technology. Different technologies can be experimented with—all in a laboratory setting—and we can then determine the pros and cons at that moment. We will be able to make better decisions on ways to protect and enhance our environment and work toward resolving critical global environmental issues such as acid rain, contaminated surface and ground water, and the disposal of solid waste—thus this facility is especially important. I am very pleased to be a part of such a truly important project.

This feasibility study is but the first step in the eventual construction and establishment of the environmental simulation facility. I will continue to work diligently with my colleagues and the other members of the Wyoming delegation toward this goal.

My special thanks to my colleagues QUENTIN BURDICK, JIM MCCLURE, THAD COCHRAN, and CHUCK GRASSLEY who have so graciously assisted me in this matter. I also thank their staffs who took the time to listen and understand the importance of this project. I do look forward to working with the committee members in the future with the thrust toward obtaining the sufficient funding to make this fine facility a reality.

Mr. SIMON. Mr. President, I ask the Senator from North Dakota, Mr. BURDICK, if he would enter into a colloquy.

Mr. BURDICK. I would be pleased to enter into a colloquy with my good friend from Illinois.

Mr. SIMON. I would like to thank my distinguished colleague from North Dakota for his support and cooperation in including language in the Agriculture and Related Agencies Appropriations Report 101-468 for a new biotechnology center at Northwestern University. As you known, Northwestern University's outstanding record of research accomplishments and strength in biotechnology have placed it at the forefront of life sciences research. An understanding of basic biological mechanisms provides the foundation for future advances in agriculture, from improving crop yields to producing healthier and faster growing animals. Modern biotechnology developments have included the identification and structural characterization of critical components in complex biological systems, the transfer of genes between organisms, and the production of rare hormones and enzymes in unlimited quantities. These types of investigations represent the primary focus of research to be accomplished by the biotechnology center.

The proposed biotechnology center will be located in Evenston, IL, at a site surrounded by 39 biotechnology companies in the Chicago area and adjacent to the Northwestern University/Evanston Research Park. Establishment of the proposed center will promote corporate investment in life sciences research and accelerate the transfer of new technologies to the Nation's agricultural enterprise. The university has an excellent record of technology transfer in biotechnology, both through patents and licensing of research and through the placement of students trained at the undergraduate, graduate, and postdoctoral levels into agriculture-related industries. Commercialization of basic research discoveries in biotechnology will continue to contribute to the profitability of agricultural-related industries in the United States and to improvements in human life.

Mr. BURDICK. I agree with my colleague that the proposed biotechnology center at Northwestern University could make an invaluable contribution toward addressing the new challenges facing the agricultural industry in our country. It appears that the center's mission is consistent with current USDA research objectives in such areas as animal growth, plant productivity, and detoxification of our environment.

Mr. SIMON. The Senator is correct. This new center will also create a research environment that more effectively stimulates biotechnology development; that provides a major educational focus for the training of biotechnology scientists; and that encourages the transfer of technology to regional and national agriculture-related industries.

Mr. BURDICK. I can assure my colleague from Illinois that the committee will make every effort, at the appropriate time, to provide funding for such a vital center.

Mr. SIMON. I thank the Senator for his interest in this issue.

Mr. GRASSLEY. Mr. President, last Thursday, September 20, the Senate debated the bill which appropriates funds for Rural Development, Agriculture, and Related Agencies for the fiscal year 1991. A provision in the Senate committee report limiting the administrative expenses of the Farm Credit Administration [FCA] has since been brought to my attention.

I would like to take this opportunity to clarify the committee's intent in relation to the explanatory language and engage in a brief colloquy with the distinguished chairman and ranking member of the subcommittee.

Pages 130 and 131 of the Senate committee report set a limit of $38,834,000 for administrative expenses from the revolving fund of the Farm Credit Administration. I have no question or concern about that limitation. The accompanying language with respect to the level of assessment that FCA can levy against the Federal Agricultural Mortgage Corporation [Farmer Mac], however, might lend itself to misinterpretation. The report may be read that FCA could, perhaps even should, dramatically increase its current level of assessment against Farmer Mac for the costs of examination relating to safety and soundness.

Would the chairman of the subcommittee, Senator BURDICK, yield for a few questions on the subcommittee's intent with regard to this language in the committee report?

Mr. BURDICK. I would be pleased to respond to the question of the Senator from Iowa.

Mr. GRASSLEY. I thank the Senator. It is always a pleasure to address the senior Senator from North Dakota.

Is it the intent of the subcommittee to, in any way, change the legal basis, as established in the Agricultural Credit Act of 1987, Public Law 100-233, on which the Farm Credit Administration is permitted to levy assess-

ments against Farmer Mac for its examinations?

Mr. BURDICK. No, it was not the subcommittee's intent, nor was it the fill committee's intent, to change the legal authority of FCA for its assessments of Farmer Mac, as set forth in that act and its legislative history. As the Senator and I both know, the Agricultural Credit Act requires FCA to assess Farmer Mac for the costs of any regulatory activity conducted under that act.

Mr. GRASSLEY. I thank him for that clarification. If I may pursue this just a little further with the esteemed chairman, I would like to better understand the intent of the $908,000 cap placed on FCA's assessment of Farmer Mac. Considering the $37,926,000 cap on FCA's assessments to Farm Credit System institutions, might it not be possible that FCA will be motivated to maximize the funds it can assess Farmer Mac, in order to prevent a reduction in its available operating funds?

I am concerned about the possibility that Farmer Mac might be burdened with an excessive examination fee from FCA, perhaps coming close to the $900,000 cap specified in the report, when Farmer Mac is still in the early stages of implementation. It is my understanding that $900,000 represents nearly one-third of the firm's total operating budget and would quite probably cause insurmountable financial havoc. Like many other Members of this body, I am anxious for Farmer Mac to get up and running. It would be most disappointing, to put it mildly, if Farmer Mac were forced to liquidate, just after certifying its first pooler, in order to pay the examination assessment.

Mr. BURDICK. I understand the Senator's concern. The subcommittee, however, expects FCA to adhere strictly to the provisions of the 1987 Agricultural Credit Act in determining the level of assessment for examinations of Farmer Mac.

Mr. GRASSLEY. I would like to ask my colleague, the ranking member of the subcommittee, to comment on this matter, also.

Mr. COCHRAN. I would be glad to respond to the concerns of the Senator from Iowa.

To reiterate the comments of the good chairman, it is certainly not the subcommittee's intent to change FCA's method of assessment to Farmer Mac or to dramatically increase that assessment. I have a copy of the billing FCA gave to Farmer Mac for its most recent examinations. That bill is for $35,000. While it may be appropriate to expect an increase in the examination costs as Farmer Mac becomes more fully implemented, there is no reason to assume that the assessment should approximate the cap of $908,000.

In fact, the purpose of the committee report was so much to affect the specific amount of FCA's assessment to Farmer Mac as it is to assure that the costs incurred by FCA in connection with Farmer Mac are not passed on to the System banks. Simply, FCA cannot assess Farmer Mac more than $908,000. Obviously, FCA should assess Farmer Mac significantly less than $908,000, assuming the agency's costs associated with Farmer Mac will be much lower.

Mr. GRASSLEY. I thank both Senators COCHRAN and BURDICK. Their clarification of the committee report has been most helpful.

Mr. COCHRAN. Mr. President, a matter involving the Food and Drug Administration [FDA] was brought to my attention after the Agriculture appropriations bill was reported out of committee and after floor debate had been completed. However, I believe it is a matter that warrants some attention and clarification.

It is my understanding that the FDA recently took action allowing for the importation of a processed seaweed known as Philippine natural grade under the regulation that governs the manufacture of carrageenan, a food additive that has been used widely for many years. We have been advised that there were no toxicological studies done on what appears to be a new food additive. I am told that this product is manufactured in a manner other than as spelled out in the regulation defining carrageenan.

A number of Members of the House and Senate have expressed their concern to the FDA and have requested FDA to advise them of the criteria that was used in making this determination.

In view of this situation, I hope the FDA will reexamine the distinctions between carrageenan and Philippine natural grade in order to ensure that the latter product is safe and properly labeled for consumer use. I look forward to receiving the agency's response.

Mr. BURNS. Mr. President, I rise in support of the Senate appropriations package for agriculture for fiscal year 1991. This is an important bill for Montana.

Most importantly, the bill contains funding for the Federal Crop Insurance Program. The House had earlier zeroed this important program out. I urge conferees to go with the Senate on this.

The package also contains funding for a bioscience building at Montana State University in Bozeman, MT. Biological controls are the future of pest control in agriculture. We in the Northern Plains need a facility that can concentrate on the kinds of insects, fungus, and other diseases that plague our farmers and ranchers. The bioscience building at Bozeman will provide that cutting edge technology that will allow our producers to compete.

In addition, there is funding for drought research on range grasses at Fort Keogh Range Research Station in Miles City, MT. The Northern Plains have been the subject of continued drought. In fact, the drought of nearly a decade is continuing in parts of my State and neighboring States. Short grass has saved many a ranch family in my neck of the woods. We need to know more about just what that grass can support under the stress of drought.

I am also pleased to see funding for safflower research in Montana. This alternative crop could provide a new direction for Montana producers and needs to be fully examined and developed. In addition, the bill contains funding for barley research at Montana State University. This important program is modest in size but its impact can be enormous. There is also funding for soils and water research in the research facility in Sidney, MT.

All of us need to work to balance the budget. And I share that concern. These programs are important to my State and to agriculture. They will repay their cost manyfold. The taxpayer can be sure of that.

Mr. President, I yield the floor.

Mr. KERRY. Mr. President, I rise today in opposition to the Senate Agriculture appropriations bill. The $52 billion price tag is outrageous, especially at a time when we have a massive Federal budget deficit and essential programs are facing significant cuts due to the possibility of a sequester.

During the farm bill debates, I tried to scale back agricultural programs to reflect today's budgetary realities. I supported an amendment to limit subsidies to wealthy farmers. This amendment alone would have saved American taxpayers $1 billion. Another amendment I supported would have given smaller subsidies to larger agricultural producers as an attempt to address some of the inequities of the system.

I voted to reduce or eliminate specific commodity programs. I cosponsored an amendment to cut sugar loan rates from 18 to 16 cents, saving consumers $200 to $300 million a year and opening the United States to foreign markets. I voted to abolish an archaic peanut quota system that grants a chosen few who inherited quotas the right to farm at heavily supported prices. And I cosponsored an amendment to phase out the honey support system that gave 2,100 beekeepers $385 million in Federal funds over the past 5 years.

The Senate for the most part rejected these attempts to eliminate or reduce these well entrenched pro-

grams. Few changes were made to address the high costs and inequities of the agricultural system. Only the very small honey program was cut, at a modest savings to the taxpayer.

I would like to emphasize, Mr. President, that there are some programs in this bill that I support and am pleased to see funded at higher levels this year. This is especially true of the child nutrition programs and Women, Infants and Children [WIC]. Important environmental programs, such as the Conservation Reserve Program, are included. The bill funds programs to reduce water pollution from agricultural activities, although I think it is unfortunate that the $10.4 million funding level is less than the $15.5 million requested by the administration. The bill would also provide for Farms for the Future, a very important program to Massachusetts.

But overall, this bill does not make the tough choices that are needed to lower our deficit and reduce the budget. The Senate bill is $1.9 billion more costly than the House version and is an increase of $7 billion over the 1990 appropriation. The $52 billion price tag is more than I or the American public can support.

AGRICULTURAL APPROPRIATIONS GOOD, NEEDED BUT TOO COSTLY

Mr. PELL. Mr. President, I voted against H.R. 5268, the Agricultural appropriations bill despite my knowledge that there is much that is good and much that is needed in this measure.

Among these good and needed provisions, I count Federal funds for architectural and engineering work on buildings to house the Coastal Institute on Narragansett Bay at the University of Rhode Island.

I want to commend the Agricultural Appropriations Subcommittee and, particularly its chairman, the senior Senator from North Dakota [Mr. BURDICK], for their hard work and the many excellent provisions of this measure.

As I have in the past, however, I found that the total Agricultural appropriations bill was just too costly.

The PRESIDING OFFICER. The bill has been read the third time.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

I further announce that the Senator from New Hampshire [Mr. RUDMAN] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 79, nays 19, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—79

Adams	Exon	Lugar
Akaka	Ford	McCain
Baucus	Fowler	McClure
Bentsen	Garn	McConnell
Bingaman	Glenn	Mikulski
Bond	Gore	Mitchell
Boren	Gorton	Nickles
Boschwitz	Graham	Nunn
Breaux	Gramm	Packwood
Bumpers	Grassley	Pressler
Burdick	Harkin	Pryor
Burns	Hatch	Riegle
Byrd	Hatfield	Robb
Chafee	Heflin	Rockefeller
Coats	Heinz	Sanford
Cochran	Hollings	Sarbanes
Cohen	Inouye	Sasser
Conrad	Jeffords	Shelby
Cranston	Johnston	Simon
D'Amato	Kassebaum	Simpson
Danforth	Kasten	Specter
Daschle	Kennedy	Stevens
DeConcini	Kerrey	Symms
Dixon	Kohl	Thurmond
Dole	Leahy	Warner
Domenici	Levin	
Durenberger	Lott	

NAYS—19

Armstrong	Kerry	Pell
Biden	Lautenberg	Reid
Bradley	Lieberman	Roth
Bryan	Mack	Wallop
Dodd	Metzenbaum	Wirth
Helms	Moynihan	
Humphrey	Murkowski	

NOT VOTING—2

Rudman	Wilson

So the bill (H.R. 5268), as amended, was passed.

Mr. BURDICK. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BURDICK. Mr. President, I move that the Senate insist upon its amendments to H.R. 5268 and request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer [Mr. ROBB] appointed Mr. BURDICK, Mr. BUMPERS, Mr. HARKIN, Mr. ADAMS, Mr. FOWLER, Mr. KERREY, Mr. BYRD, Mr. COCHRAN, Mr. MCCLURE, Mr. KASTEN, Mr. SPECTER, Mr. GRASSLEY, and Mr. HATFIELD conferees on the part of the Senate.

FAMILY PLANNING AMENDMENTS OF 1989

The PRESIDING OFFICER. Under the previous order, the Senate will now return to consideration of S. 110, which the clerk will report.

The bill clerk read as follows:

A bill (S. 110) to revise and extend the programs of assistance under title X of the Public Health Service Act.

The Senate continued with the consideration of the bill.

SECURITIES MARKETS REFORM ACT

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 604, H.R. 3657, a bill to provide additional authorities to the SEC to prevent disruptions to the Nation's securities markets.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 3657) to amend the Securities Exchange Act of 1934 to provide additional authorities to the Securities and Exchange Commission to prevent disruptions to the Nation's securities markets.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2880

(Purpose: To provide a complete substitute)

Mr. DODD. Mr. President, I send a substitute amendment to the desk on behalf of myself, Senator HEINZ, Senator RIEGLE, and Senator GARN.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. HEINZ, Mr. RIEGLE, and Mr. GARN, proposes an amendment numbered 2880.

Mr. DODD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the amendment in the nature of a substitute.

The amendment (No. 2880) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment, in the nature of a substitute, and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 3657), as amended, was passed.

Resolved, That the bill from the House of Representatives (H.R. 3657) entitled "An Act to amend the Securities Exchange Act of 1934 to provide additional authorities to the Securities and Exchange Commission to prevent disruptions to the Nation's securities markets", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Market Reform Act of 1990".

SEC. 2. EMERGENCY AUTHORITY; TRADING HALTS.

Section 12(k) of the Securities Exchange Act of 1934 (15 U.S.C. 781(k)) is amended to read as follows:

"(k) TRADING SUSPENSIONS; EMERGENCY AUTHORITY.—

"(1) TRADING SUSPENSIONS.—If in its opinion the public interest and the protection of investors so require, the Commission is authorized by order—

"(A) summarily to suspend trading in any security (other than an exempted security) for a period not exceeding 10 business days, and

"(B) summarily to suspend all trading on any national securities exchange or otherwise, in securities other than exempted securities, for a period not exceeding 90 calendar days.

The action described in subparagraph (B) shall not take effect unless the Commission notifies the President of its decision and the President notifies the Commission that the President does not disapprove of such decision.

"(2) EMERGENCY ORDERS.—(A) The Commission, in an emergency, may by order summarily take such action to alter, supplement, suspend, or impose requirements or restrictions with respect to any matter or action subject to regulation by the Commission or a self-regulatory organization under this title, as the Commission determines is necessary in the public interest and for protection of investors—

"(i) to maintain or restore fair and orderly securities markets (other than markets in exempted securities); or

"(ii) to ensure prompt, accurate, and safe clearance and settlement of transactions in securities (other than exempted securities).

"(B) An order of the Commission under this paragraph 2 shall continue in effect for the period specified by the Commission, and may be extended, except that in no event shall the Commission's action continue in effect for more than 10 business days, including extensions. In exercising its authority under this paragraph, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code, or with the provisions of section 19(c) of this title.

"(3) TERMINATION OF EMERGENCY ACTIONS BY PRESIDENT.—The President may direct that action taken by the Commission under paragraph (1)(B) or paragraph (2) of this subsection shall not continue in effect.

"(4) COMPLIANCE WITH ORDERS.—No member of a national securities exchange, broker, or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any security in contravention of an order of the Commission under this subsection unless such order has been stayed, modified, or set aside as provided in paragraph (5) of this subsection or has ceased to be effective upon direction of the President as provided in paragraph (3).

"(5) LIMITATIONS ON REVIEW OR ORDERS.—An order of the Commission pursuant to this subsection shall be subject to review only as provided in section 25(a) of this title. Review shall be based on an examination of all the information before the Commission at the time such order was issued. The reviewing court shall not enter a stay, writ of mandamus, or similar relief unless the court finds, after notice and hearing before a panel of the court, that the Commission's action is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(6) DEFINITION OF EMERGENCY.—For purposes of this subsection, the term 'emergency' means a major market disturbance characterized by or constituting—

"(A) sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threaten fair and orderly markets, or

"(B) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of securities, or a substantial threat thereof.".

SEC. 3. LARGE TRADER REPORTING.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

"(h) LARGE TRADER REPORTING.—

"(1) IDENTIFICATION REQUIREMENTS FOR LARGE TRADERS.—For the purpose of monitoring the impact on the securities markets of securities transactions involving a substantial volume or a large fair market value or exercise value and for the purpose of otherwise assisting the Commission in the enforcement of this title, each large trader shall—

"(A) provide such information to the Commission as the Commission may by rule or regulation prescribe as necessary or appropriate, identifying such large trader and all accounts in or through which such large trader effects such transactions; and

"(B) identify, in accordance with such rules or regulations as the Commission may prescribe as necessary or appropriate, to any registered broker or dealer by or through whom such large trader directly or indirectly effects securities transactions, such large trader and all accounts directly or indirectly maintained with such broker or dealer by such large trader in or through which such transactions are effected.

"(2) RECORDKEEPING AND REPORTING REQUIREMENTS FOR BROKERS AND DEALERS.—Every registered broker or dealer shall make and keep for prescribed periods such records as the Commission by rule or regulation prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title, with respect to securities transactions that equal or exceed the reporting activity level effected directly or indirectly by or through such registered broker or dealer of or for any person that such broker or dealer knows is a large trader, or any person that such broker or dealer has reason to know is a large trader on the basis of transactions in securities effected by or through such broker or dealer, Such records shall be available for reporting to the Commission, or any self-regulatory organization that the Commission shall designate to receive such reports, on the morning of the day following the day the transactions were effected, and shall be reported to the Commission or a self-regulatory organization designated by the Commission immediately upon request by the Commission or such a self-regulatory organization. Such records and reports shall be in a format and transmitted in a manner prescribed by the Commission (including, but not limited to, machine readable form).

"(3) AGGREGATION RULES.—The Commission may prescribe rules or regulations governing the manner in which transactions and accounts shall be aggregated for the purpose of this subsection, including aggregation on the basis of common ownership or control.

"(4) EXAMINATION OF BROKER AND DEALER RECORDS.—All records required to be made and kept by registered brokers and dealers pursuant to this subsection with respect to transactions effected by large traders are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the Commission as the Commission deems necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.

"(5) FACTORS TO BE CONSIDERED IN COMMISSION ACTIONS.—In exercising its authority under this subsection, the Commission shall take into account—

"(A) existing reporting systems;

"(B) the costs associated with maintaining information with respect to transactions effected by large traders and reporting such information to the Commission or self-regulatory organizations; and

"(C) the relationship between the United States and international securities markets.

"(6) EXEMPTIONS.—The Commission, by rule, regulation, or order, consistent with the purposes of this title, may exempt any person or class of persons or any transaction or class of transactions, either conditionally or upon specified terms and conditions or for stated periods, from the operation of this subsection, and the rules and regulations thereunder.

"(7) AUTHORITY OF COMMISSION TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be kept or reported under this subsection. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'large trader' means every person who, for his own account or an account for which he exercises investment discretion, effects transactions for the purchase or sale of any publicly traded security or securities by use of any means or instrumentality of interstate commerce or of the mails, or of any facility of a national securities exchange, directly or indirectly by or through a registered broker or dealer in an aggregate amount equal to or in excess of the identifying activity level;

"(B) the term 'publicly traded security' means any equity security (including an option on individual equity securities, and an option on a group or index of such securities) listed, or admitted to unlisted trading privileges, on a national securities exchange, or quoted in an automated interdealer quotation system;

"(C) the term 'identifying activity level' means transactions in publicly traded securities at or above a level of volume, fair market value, or exercise value as shall be fixed from time to time by the Commission by ruile or regulation, specifying the time

interval during which such transactions shall be aggregated;

"(D) the term 'reporting activity level' means transactions in publicly traded securities at or above a level of volume, fair market value, or exercise value as shall be fixed from time to time by the Commission by rule, regulation, or order, specifying the time interval during which such transactions shall be aggregated; and

"(E) the term 'person' has the meaning given in section 3(a)(9) of this title and also includes two or more persons acting as a partnership, limited partnership, syndicate, or other group, but does not include a foreign central bank.".

SEC. 4. RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS.

(a) AMENDMENT.—Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended by adding at the end the following:

"(h) RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS.—

"(1) OBLIGATIONS TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—Every person who is (A) a registered broker or dealer, or (B) a registered municipal securities dealer for which the Commission is the appropriate regulatory agency, shall obtain such information and make and keep such records as the Commission by rule prescribes concerning the registered person's policies, procedures, or systems for monitoring and controlling financial and operational risks to it resulting from the activities of any of its associated persons, other than a natural person. Such records shall describe, in the aggregate, each of the financial and securities activities conducted by, and the customary sources of capital and funding of, those of its associated persons whose business activities are reasonably likely to have a material impact on the financial or operational condition of such registered person, including its net capital, its liquidity, or its ability to conduct or finance its operations. The Commission, by rule, may require summary reports of such information to be filed with the Commission no more frequently than quarterly.

"(2) AUTHORITY TO REQUIRE ADDITIONAL INFORMATION.—If, as a result of adverse market conditions or based on reports provided to the Commission pursuant to paragraph (1) of this subsection or other available information, the Commission reasonably concludes that it has concerns regarding the financial or operational condition of (A) any registered broker or dealer, or (B) any registered municipal securities dealer, government securities broker, or government securities dealer for which the Commission is the appropriate regulatory agency, the Commission may require the registered person to make reports concerning the financial and securities activities of any of such person's associated persons, other than a natural person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of such registered person. The Commission, in requiring reports pursuant to this paragraph, shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the Commission or to a self-regulatory organization with primary responsibility for examining the registered person's financial and operational condition.

"(3) SPECIAL PROVISIONS WITH RESPECT TO ASSOCIATED PERSONS SUBJECT TO FEDERAL BANKING AGENCY REGULATION.—

"(A) COOPERATION IN IMPLEMENTATION.—In developing and implementing reporting requirements pursuant to paragraph (1) of this subsection with respect to associated persons subject to examination by or reporting requirements of a Federal banking agency, the Commission shall consult with and consider the views of each such Federal banking agency. If a Federal banking agency comments in writing on a proposed rule of the Commission under this subsection that has been published for comment, the Commission shall respond in writing to such written comment before adopting the proposed rule. The Commission shall, at the request of the Federal banking agency, publish such comment and response in the Federal Register at the time of publishing the adopted rule.

"(B) USE OF BANKING AGENCY REPORTS.—A registered broker, dealer, or municipal securities dealer shall be in compliance with any recordkeeping or reporting requirement adopted pursuant to paragraph (1) of this subsection concerning an associated person that is subject to examination by or reporting requirements of a Federal banking agency if such broker, dealer, or municipal securities dealer utilizes for such recordkeeping or reporting requirement copies of reports filed by the associated person with the Federal banking agency pursuant to section 5211 of the Revised Statutes, section 9 of the Federal Reserve Act, section 7(a) of the Federal Deposit Insurance Act, section 10(b) of the Home Owners' Loan Act, or section 8 of the Bank Holding Company Act of 1956. The Commission may, however, by rule adopted pursuant to paragraph (1), require any broker, dealer, or municipal securities dealer filing such reports with the Commission to obtain, maintain, or report supplemental information if the Commission makes an explicit finding that such supplemental information is necessary to inform the Commission regarding potential risks to such broker, dealer, or municipal securities dealer. Prior to requiring any such supplemental information, the Commission shall first request the Federal banking agency to expand its reporting requirements to include such information.

"(C) PROCEDURE FOR REQUIRING ADDITIONAL INFORMATION.—Prior to making a request pursuant to paragraph (2) of this subsection for information with respect to an associated person that is subject to examination by or reporting requirements of a Federal banking agency, the Commission shall—

"(i) notify such agency of the information required with respect to such associated person; and

"(ii) consult with such agency to determine whether the information required is available from such agency and for other purposes, unless the Commission determines that any delay resulting from such consultation would be inconsistent with ensuring the financial and operational condition of the broker, dealer, municipal securities dealer, government securities broker, or government securities dealer of the stability or integrity of the securities markets.

"(D) EXCLUSION FOR EXAMINATION REPORTS.—Nothing in this subsection shall be construed to permit the Commission to require any registered broker or dealer, or any registered municipal securities dealer, government securities broker, or governmental securities dealer for which the Commission is the appropriate regulatory agency, to obtain, maintain, or furnish any examination report of any Federal banking agency or any supervisory recommendations or analysis contained therein.

"(E) CONFIDENTIALITY OF INFORMATION PROVIDED.—No information provided to or obtained by the Commission from any Federal banking agency pursuant to a request by the Commission under subparagraph (C) of this paragraph regarding any associated person which is subject to examination by or reporting requirements of a Federal banking agency may be disclosed to any other person (other than a self-regulatory organization), without the prior written approval of the Federal banking agency. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission.

"(F) NOTICE TO BANKING AGENCIES CONCERNING FINANCIAL AND OPERATIONAL CONDITION CONCERNS.—The Commission shall notify the Federal banking agency of any concerns of the Commission regarding significant financial or operational risks resulting from the activities of any registered broker or dealer, or any registered municipal securities dealer, government securities broker, or government securities dealer for which the Commission is the appropriate regulatory agency, to any associated person thereof which is subject to examination by or reporting requirements of the Federal banking agency.

"(G) DEFINITION.—For purposes of this paragraph, the term 'Federal banking agency' shall have the same meaning as the term 'appropriate Federal bank agency' in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

"(4) EXEMPTIONS.—The Commission by rule or order may exempt any person or class of persons, under such terms and conditions and for such periods as the Commission shall provide in such rule or order, from the provisions of this subsection, and the rules thereunder. In granting such exemptions, the Commission shall consider, among other factors—

"(A) whether information of the type required under this subsection is available from a supervisory agency (as defined in section 1101(6) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(6))), a State insurance commission or similar State agency, the Commodity Futures Trading Commission, or a similar foreign regulator;

"(B) the primary business of any associated person;

"(C) the nature and extent of domestic or foreign regulation of the associated person's activities;

"(D) the nature and extent of the registered person's securities activities; and

"(E) with respect to the registered person and its associated persons, on a consolidated basis, the amount and proportion of assets devoted to, and revenues derived from, activities in the United States securities markets.

"(5) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be reported under this subsection, or any information supplied to the Commission by any domestic or foreign regulatory

agency that relates to the financial or operational condition of any associated person of a registered broker, dealer, government securities broker, government securities dealer, or municipal securities dealer. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552. In prescribing regulations to carry out the requirements of this subsection, the Commission shall designate information described in or obtained pursuant to subparagraph (B) or (C) of paragraph (3) of this subsection as confidential information for purposes of section 24(b)(2) of this title.".

(b) CONFORMING AMENDMENT.—Section 15C(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(b)) is amended—

(1) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS.—

"(A) OBLIGATIONS TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—Every person who is registered as a government securities broker or government securities dealer under this section shall obtain such information and make and keep such records as the Secretary by rule prescribes concerning the registered person's policies, procedures, or systems for monitoring and controlling financial and operational risks to it resulting from the activities of any of its associated persons, other than a natural person. Such records shall describe, in the aggregate, each of the financial and securities activities conducted by, and customary sources of capital and funding of, those of its associated persons whose business activities are reasonably likely to have a material impact on the financial or operational condition of such registered person, including its capital, its liquidity, or its ability to conduct or finance its operations. The secretary, by rule, may require summary reports of such information to be filed with the registered person's appropriate regulatory agency no more frequently than quarterly.

"(B) AUTHORITY TO REQUIRE ADDITIONAL INFORMATION.—If, as a result of adverse market conditions or based on reports provided pursuant to subparagraph (A) of this paragraph or other available information, the appropriate regulatory agency reasonably concludes that it has concerns regarding the financial or operational condition of any government securities broker or government securities dealer registered under this section, such agency may require the registered person to make reports concerning the financial and securities activities of any of such person's associated persons, other than a natural person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of such registered person. The appropriate regulatory agency, in requiring reports pursuant to this subparagraph, shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the appropriate regulatory agency or to a self-regulatory organization with primary responsibility for examining the registered person's financial and operational condition.

"(C) SPECIAL PROVISIONS WITH RESPECT TO ASSOCIATED PERSONS SUBJECT TO FEDERAL BANKING AGENCY REGULATION.—

"(i) COOPERATION IN IMPLEMENTATION.—In developing and implementing reporting requirements pursuant to subparagraph (A) of this paragraph with respect to associated persons subject to examination by or reporting requirements of a Federal banking agency, the Secretary shall consult with and consider the views of each such Federal banking agency. If a Federal banking agency comments in writing on a proposed rule of the Secretary under this paragraph that has been published for comment, the Secretary shall respond in writing to such written comment before adopting the proposed rule. The Secretary shall, at the request of a Federal banking agency, publish such comment and response in the Federal Register at the time of publishing the adopted rule.

"(ii) USE OF BANKING AGENCY REPORTS.—A registered government securities broker or government securities dealer shall be in compliance with any recordkeeping or reporting requirement adopted pursuant to subparagraph (A) of this paragraph concerning an associated person that is subject to examination by or reporting requirements of a Federal banking agency if such government securities broker or government securities dealer utilizes for such recordkeeping or reporting requirement copies of reports filed by the associated person with the Federal banking agency pursuant to section 5211 of the Revised Statutes, section 9 of the Federal Reserve Act, section 7(a) of the Federal Deposit Insurance Act, section 10(b) of the Home Owners' Loan Act, or section 8 of the Bank Holding Company Act of 1956. The Secretary may, however, by rule adopted pursuant to subparagraph (A), require any registered government securities broker or government securities dealer filing such reports with the appropriate regulatory agency to obtain, maintain, or report supplemental information if the Secretary makes an explicit finding, based on information provided by the appropriate regulatory agency, that such supplemental information is necessary to inform the appropriate regulatory agency regarding potential risks to such government securities broker or government securities dealer. Prior to requiring any such supplemental information, the Secretary shall first request the Federal banking agency to expand its reporting requirement to include such information.

"(iii) PROCEDURE FOR REQUIRING ADDITIONAL INFORMATION.—Prior to making a request pursuant to subparagraph (B) of this paragraph for information with respect to an associated person that is subject to examination by or reporting requirements of a Federal banking agency, the appropriate regulatory agency shall—

'(I) notify such banking agency of the information required with respect to such associated person; and

"(II) consult with such agency to determine whether the information required is available from such agency and for other purposes, unless the appropriate regulatory agency determines that any delay resulting from such consultation would be inconsistent with ensuring the financial and operational condition of the government securities broker or government securities dealer or the stability or integrity of the securities markets.

"(iv) EXCLUSION FOR EXAMINATION REPORTS.—Nothing in this subparagraph shall be construed to permit the Secretary or an appropriate regulatory agency to require any registered government securities broker or government securities dealer to obtain, maintain, or furnish any examination report of any Federal banking agency or any supervisory recommendation or analysis contained therein.

"(v) CONFIDENTIALITY OF INFORMATION PROVIDED.—No information provided to or obtained by an appropriate regulatory agency from any Federal banking agency pursuant to a request under clause (iii) of this subparagraph regarding any associated person which is subject to examination by or reporting requirements of a Federal banking agency may be disclosed to any other person (other than a self-regulatory organization), without the prior written approval of the Federal banking agency. Nothing in this clause shall authorize the Secretary or any appropriate regulatory agency to withhold information from Congress, or prevent the Secretary or any appropriate regulatory agency from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission.

"(vi) NOTICE TO BANKING AGENCIES CONCERNING FINANCIAL AND OPERATIONAL CONDITION CONCERNS.—The Secretary or appropriate regulatory agency shall notify the Federal banking agency of any concerns of the Secretary or the appropriate regulatory agency regarding significant financial or operational risks resulting from the activities of any government securities broker or government securities dealer to any associated person thereof which is subject to examination by or reporting requirements of the Federal banking agency.

"(vii) DEFINITION.—For purposes of this subparagraph, the term 'Federal banking agency' shall have the same meaning as the term 'appropriate Federal banking agency' in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

"(D) EXEMPTIONS.—The Secretary by rule or order may exempt any person or class of persons, under such terms and conditions and for such periods as the Secretary shall provide in such rule or order, from the provisions of this paragraph, and the rules thereunder. In granting such exemptions, the Secretary shall consider, among other factors—

"(i) whether information of the type required under this paragraph is available from a supervisory agency (as defined in section 1101(6) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(6))), a State insurance commission or similar State agency, the Commodity Futures Trading Commission, or a similar foreign regulator;

"(ii) the primary business of any associated person;

"(iii) the nature and extent of domestic or foreign regulation of the associated person's activities;

"(iv) the nature and extent of the registered person's securities transactions; and

"(v) with respect to the registered person and its associated persons, on a consolidated basis, the amount and proportion of assets

devoted to, and revenues derived from, activities in the United States securities markets.

"(E) CONFORMITY WITH REQUIREMENTS UNDER SECTION 17 (h).—In exercising authority pursuant to subparagraph (A) of this paragraph concerning information with respect to associated persons of government securities brokers and government securities dealers who are also associated persons of registered brokers or dealers reporting to the Commission pursuant to section 17(h) of this title, the requirements relating to such associated persons shall conform, to the greatest extent practicable, to the requirements under section 17(h).

"(F) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Secretary and any appropriate regulatory agency shall not be compelled to disclose any information required to be reported under this paragraph, or any information supplied to the Secretary or any appropriate regulatory agency by any domestic or foreign regulatory agency that relates to the financial or operational condition of any associated person of a registered government securities broker or a government securities dealer. Nothing in this paragraph shall authorize the Secretary or any appropriate regulatory agency to withhold information from Congress, or prevent the Secretary or any appropriate regulatory agency from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brough by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.".

SEC. 5. COORDINATED CLEARING.

"(a) AUTHORITY TO FACILITATE COORDINATED CLEARING MECHANISMS.—Section 17A(a)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1) is amended to read as follows:

"(2)(A) The Commission is directed, therefore, having due regard for the public interest, the protection of investors, the safeguarding of securities and funds, and maintenance of fair competition among brokers and dealers, clearing agencies, and transfer agents, to use its authority under this title—

"(i) to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities (other than exempt securities); and

"(ii) to facilitate the establishment of linked or coordinated facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options;

in accordance with the findings and to carry out the objectives set forth in paragraph (1) of this subsection.

"(B) The Commission shall use its authority under this title to assure equal regulation under this title of registered clearing agencies and registered transfer agents. In carrying out its responsibilities set forth in subparagraph (A)(ii) of this paragraph, the Commission shall coordinate with the Commodity Futures Trading Commission and consult with the Board of Governors of the Federal Reserve System.".

(b) TRANSFER AND PLEDGE OF SECURITIES.—Section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1) is amended by adding at the end the following:

"(f)(1) Notwithstanding any provision of State law, except as provided in paragraph (3), if the Commission makes each of the findings described in paragraph (2)(A), the Commission may adopt rules concerning—

"(A) the transfer of certificated or uncertificated securities (other than government securities issued pursuant to chapter 31 of title 31, United States Code, or securities otherwise processed within a book-entry system operated by the Federal Reserve banks pursuant to a Federal book-entry regulation) or limited interests (including security interests) therein; and

"(B) rights and obligations of purchasers, sellers, owners, lenders, borrowers, and financial intermediaries (including brokers, dealers, banks, and clearing agencies) involved in or affected by such transfers, and the rights of third parties whose interests in such securities devolve from such transfers.

"(2)(A) The findings described in this paragraph are findings by the Commission that—

"(i) such rule is necessary or appropriate for the protection of investors or in the public interest and is reasonably designed to promote the prompt, accurate, and safe clearance and settlement of securities transactions;

"(ii) in the absence of a uniform rule, the safe and efficient operation of the national system for clearance and settlement of securities transactions will be, or is, substantially impeded; and

"(iii) to the extent such rule will impair or diminish, directly or indirectly, rights of persons specified in paragraph (1)(B) under State law concerning transfers of securities (or limited interests therein), the benefits of such rule outweigh such impairment or diminution of rights.

"(B) In making the findings described in subparagraph (a), the Commission shall give consideration to the recommendations of the Advisory Committee established under paragraph (4), and it shall consult with and consider the views of the Secretary of the Treasury and the Board of Governors of the Federal Reserve System. If the Secretary of the Treasury objects, in writing, to any proposed rule of the Commission on the basis of the Secretary's view on the issues described in clauses (i), (ii), and (iii) of subparagraph (A), the Commission shall consider all feasible alternatives to the proposed rule, and it shall not adopt any such rule unless the Commission makes an explicit finding that the rule is the most practicable method for achieving safe and efficient operation of the national clearance and settlement system.

"(3) Any State may, prior to the expiration of 2 years after the Commission adopts a rule under this subsection, enact a statute that specifically refers to this subsection and the specific rule thereunder and establishes, prospectively from the date of enactment of the State statute, a provision that differs from that applicable under the Commission's rule.

"(4)(A) Within 90 days after the date of enactment of this subsection, the Commission shall (and at such times thereafter as the Commission may determine, the Commission may), after consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System, establish an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.). The Advisory Committee shall be directed to consider and report to the Commission on such matters as the Commission, after consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System, determines, including the areas, if any, in which State commercial laws and related federal laws concerning the transfer of certificated or uncertificated securities, limited interests (including security interests) in such securities, or the creation or perfection of security interests in such securities do not provide the necessary certainty, uniformity, and clarity for purchasers, sellers, owners, lenders, borrowers, and financial intermediaries concerning their respective rights and obligations.

"(B) The Advisory Committee shall consist of 15 members, of which—

"(i) 11 shall be designated by the Commission in accordance with the Federal Advisory Committee act; and

"(ii) 2 each shall be designated by the Board of Governors of the Federal Reserve System and the Secretary of the Treasury.

"(C) The Advisory Committee shall conduct its activities in accordance with the Federal Advisory Committee Act. Within 6 months of its designation, or such longer time as the Commission may designate, the Advisory Committee shall issue a report to the Commission, and shall cause copies of that report to be delivered to the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System.".

SEC. 6. LIMITATION ON PRACTICES WHICH RESULT IN VOLATILITY.

(a) IN GENERAL.—Section 9 of the Securities Exchange Act of 1934 (15 U.S.C. 78i) is amended by adding at the end thereof the following new subsection:

"(h) LIMITATIONS ON PRACTICES THAT AFFECT MARKET VOLATILITY.—It shall be unlawful for any person, by the use of the mails or any means or instrumentality of interstate commerce or of any facility of any national securities exchange, to use or employ any act or practice in connection with the purchase or sale of any equity security in contravention of such rules or regulations as the Commission may adopt, consistent with the public interest, the protection of investors, and the maintenance of fair and orderly markets—

"(1) to prescribe means reasonably designed to prevent manipulation of price levels of the equity securities market or a substantial segment thereof; and

"(2) to prohibit or constrain, during periods of extraordinary market volatility, any trading practice in connection with the purchase or sale of equity securities that the Commission determines (A) has previously contributed significantly to extraordinary levels of volatility that have threatened the maintenance of fair and orderly markets; and (B) is reasonably certain to engender such levels of volatility if not prohibited or constrained.

In adopting rules under paragraph (2), the Commission shall, consistent with the purposes of this subsection, minimize the impact on the normal operations of the market and a natural person's freedom to buy or sell any equity security.".

(b) CONFORMING AMENDMENT.—Section 25(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78y(b)(1)) is amended by inserting "9(h)(2)," after "section 6,".

SEC. 7. NOTIFICATION OF SEC CONCERNING RISKS TO SECURITIES SUBSIDIARY.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 35. COORDINATION OF RISK ANALYSIS BETWEEN SEC AND FEDERAL BANKING AGENCIES.

"Any appropriate Federal banking agency shall notify the Securities and Exchange Commission of any concerns of the agency regarding significant financial or operational risks to any registered broker or dealer, or any registered municipal securities dealer, government securities broker, or government securities dealer for which the Commission is the appropriate regulatory agency (as defined in section 3 of the Securities Exchange Act of 1934), resulting from the activities of any insured depository institution, any depository institution holding company, or any affiliate of any such institution or company if such broker, dealer, municipal securities dealer, governmnt securities broker, or government securities dealer is an affiliate of any such institution, company, or affiliate.".

SEC. 8. REPORTS TO CONGRESS.

(a) INTERMARKET COORDINATION.—The Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Securities and Exchange Commission, and the Chairman of the Commodity Futures Trading Commission, shall report to the Congress not later than May 31, 1991, and annually thereafter until May 31, 1995, on the following:

(1) the efforts their respective agencies have made relating to the coordination of regulatory activities to ensure the integrity and competitiveness of United States financial markets.

(2) the efforts their respective agencies have made to formulate coordinated mechanisms across marketplaces to protect the payments and market systems during market emergencies;

(3) the views of their respective agencies with respect to the adequacy of margin levels and use of leverage by market participants; and

(4) such other issues and concerns relating to the soundness, stability, and integrity of domestic and international capital markets as may be appropriate.

The agencies shall cooperate in the development of their reports, and prior to submitting its report to Congress, each agency shall provide copies to the other agencies.

(b) CLEARANCE AND SETTLEMENT.—The Securities and Exchange Commission, in consultation with the Commodity Futures Trading Commission, the Board of Governors of the Federal Reserve System, and other relevant regulatory authorities, shall examine progress toward establishing linked or coordinated facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options, and shall submit to the Committees on Energy and Commerce and Agriculture of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Agriculture, Nutrition, and Forestry of the Senate, not later than 2 years from the date of enactment of this section, a report detailing and evaluating such progress.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the title.

The amendment was agreed to so as to read as follows:

Amend the title so as to read: "An Act to amend the Securities Exchange Act of 1934 to strengthen regulatory oversight of the United States securities markets, improve supervision of financial market participants, and improve the safety and efficiency of market mechanisms, and for other purposes.".

Mr. DODD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. DODD].

Mr. DODD. Mr. President, now that we have passed the legislation, I want to thank all those responsible. Senator HEINZ, my ranking minority member of the subcommittee, had hoped to be here, but, unfortunately, he is tied up with a group of constituents from Pennsylvania. I want to thank him for his tremendous work and thank my colleagues on the Banking Committee who made it possible for this legislation to be cleared and to accept the substitute. We now have a bill and will not need to go to conference. After House passage, we will be able to send it to the President for his signature.

Mr. President, this amendment, which we have now adopted on behalf of myself, and Senators HEINZ, RIEGLE, and GARN, represents a compromise between provisions of S. 648, the Market Reform Act, as passed by the Senate on August 4, and H.R. 3657, the Securities Markets Reform Act passed by the House on June 5 of this year.

Mr. President, I introduced S. 648 with Senator HEINZ on March 17, a year ago. The companion House and Senator measures were based on legislation that was proposed by the Securities and Exchange Commission to address regulatory gaps and weaknesses revealed in the market break of October 1987.

Numerous reports and studies of that event found that at the time of the crisis in our financial markets, regulators simply did not have the tools to monitor large traders in the market whose activities contributed to the swiftness and the severity of the market decline. They did not have the information to assess the soundness of certain large financial holding companies, whose potential failure posed risks to the system as a whole. And, further, Mr. President, they did not have the statutory authority to take the full range of emergency action that may have been needed. Weaknesses in the system for clearance and settlement for securities, options, and futures led to near gridlock threatening the financial payment system.

Mr. President, this legislation addresses those regulatory gaps and weaknesses. It will strengthen the SEC's oversight of our securities markets and the participants in those markets. It will safeguard the capital formation mechanisms in this country. And, furthermore, it will protect investors and enhance investor confidence. This may be the most important feature of the bill.

It is my hope that the House will act on the measure soon. I am confident that they will act soon after the Senate approves it, and that the President will sign it without delay. The American investing public deserves no less.

This compromise was developed over the past month by members of the Senate Banking Committee and the House Energy and Commerce Committee. The House and Senate bills contained similar provisions in four major sections, and this compromise adopts those provisions.

First, the provisions of both bills now contained in the compromise agreement will clarify and broaden the SEC's authority to take emergency action to ensure fair and orderly markets during periods of market stress.

Second, the amendment includes provisions that enhance the SEC's ability to obtain information about large traders in the securities markets. This will give the SEC far better tools to detect manipulative or other illegal trading activity.

Third, the compromise includes provisions designed to give the SEC greater ability to identify risks to the financial integrity of broker dealers within holding company systems.

Fourth, this compromise contains measures in S. 648 and H.R. 3656, a separate House bill on clearance and settlement, which will strengthen the coordination of clearance and settlement systems for stocks, options, and futures and thereby reduce the threats to the financial system as a whole. The compromise measure also includes a provision in the original Senate bill which will promote greater coordination among market regulators by requiring reports by financial regulators on a range of issues affecting the Nation's securities markets.

Finally, the compromise accepts, with certain modifications, provisions in the House bill relating to the SEC's authority to address market volatility. Mr. President, this compromise reflects a great deal of hard work on the part of a number of Senators and Members of the House of Representatives. I would just like to take a minute to recognize those efforts.

The ranking minority member of the Securities Subcommittee, Senator JOHN HEINZ, cosponsored the legislation with me in March of last year. He has been my partner in the development of the legislation in every respect. He has spent countless hours in

hearings and in meetings with the SEC, Treasury officials, and others as we worked through the compromises necessary to clarify and improve the legislation. I would like to recognize those efforts and thank Senator HEINZ for them.

Let me also thank Chairman RIEGLE who has supported us at every step of the way. He helped in bringing the SEC and Treasury together to resolve their differences on the bill, and he scheduled a markup at the earliest possible time. I should also note that the legislation itself is in large part a product of many hearings Senator RIEGLE held as the chairman of the Securities Subcommittee in the last Congress.

I also want to thank the ranking minority member of the full committee, Senator GARN, who was able to work with us in resolving a number of concerns and help to expedite passage of the legislation.

Let me also recognize the yeoman efforts to Chairman DINGELL of the House Energy and Commerce Committee and Chairman MARKEY of the Telecommunications and Finance Subcommittee. They not only led their House colleagues in moving the House measure to passage, but they were more than willing to meet us half way in areas of difference between the two bills.

Of course, the measures contained in this amendment were based on the legislation that was proposed by the SEC in June 1988, when the agency was chaired by David Ruder.

Throughout the hearings and further development of legislation, the efforts of Chairman Richard Breeden and his very fine, excellent staff have been invaluable, and I have no qualms in entrusting the SEC with the authority contained in this legislation and the enormous responsibility that entails.

It also does without saying that Secretary Brady's endorsement of the legislation and his efforts to secure its passage are deeply appreciated.

Mr. President, because the House and Senate bills were virtually identical in so many respects, we have agreed that the Senate Bank Committee's report on S. 648 and the House Energy and Commerce Committee's report on H.R. 3657 and 3656 will constitute the legislative history for the compromise amendment to H.R. 3657.

In addition, it may be useful to clarify the intent of certain provisions of the amendment, and I will submit further comments on those provisions for the RECORD.

However, I do want to express my sincere thanks to Senator PHIL GRAMM for his patience and willingness to work with us in clarifying provisions on the SEC's authority to address market volatility. Frankly, Mr. President, PHIL GRAMM was tremendously generous and helpful in making it possible for us to come to a compromise on those provisions and, without his help, we would not be in the position we are today in passing the bill.

Mr. President, let me say that this bill contains critical authority for the SEC to protect investors in our markets. It will enhance the investor confidence that we all know is essential for capital formation and long-term economic growth in this country. It has been enacted here and hopefully it will be adopted in the House without further delay.

Any finally, Mr. President, I should have added earlier, and let me include here, that as all of us know in this body, you do not get anywhere unless you have good people working with you, good staff, who understand these issues, who are willing to negotiate when there are differences, and come up with reasonable, intelligent compromises that retain the integrity of the legislation without compromising the value the legislation is intended to address.

I am very fortunate, indeed I think the Senate is, in that we have two very fine people on the majority side, Marti Cochran, who is the staff director of the Securities Subcommittee, and Michael Stein of the subcommittee staff. They have done an incredible job not only on this bill, Mr. President, but a whole package of Securities legislation that has come out of the Banking Committee virtually without controversy through the negotiating process.

We still have a bill or two to deal with yet before the close of the session, but we hope to have those before our colleagues in the next few days.

Brad Belt and Ira Paull have done an incredible job for the minority and for Senator HEINZ as well. Sharon Heaton, working for Senator RIEGLE on the Banking Committee, has done a splendid job as well. We want to thank them for their very fine work.

At this point, Mr. President, I would like to insert the remainder of my remarks for the RECORD.

With respect to the risk assessment provisions of the amendment, in the case of associated persons who are subject to examination or reporting requirements of a Federal banking agency, the legislation establishes an alternative procedure for broker-dealers to comply with the legislation's recordkeeping and reporting requirements. To utilize this alternative, a broker-dealer may obtain copies of reports of condition and similar reports filed by the associated person with the appropriate Federal banking agency. However, a broker-dealer is not required under any circumstances to obtain copies of examination reports. Moreover, it is not a condition of this procedure that a broker-dealer obtain copies of reports, such as the F.R. 2068 filed with the Board of Governors of the Federal Reserve System, that are subject to confidentiality procedures similar to or more stringent than those applicable to examination reports.

There was considerable discussion with respect to the provisions of the legislation relating to the transfer of securities. The legislation gives the SEC authority to adopt rules concerning the transfer of securities other than Government securities, where the SEC determines that the absence of Federal rules substantially impedes the safe and efficient operation of the national system for the clearance and settlement of securities transactions. This provision is explained in the respective Senate and House reports. Areas of special concern to the operation of the national system include: Choice of law rules for participants in the national system; when transfers on the books of a clearing corporation are effective; where clearing corporations may maintain securities certificates—or uncertificated securities positions—to facilitate settlement of transactions in non-U.S. securities; and when and how limited interests—such as security interests—in securities other than Government securities are created and perfected.

Before preempting State law, the SEC must make three specific findings: First, that the rule is necessary and appropriate for the protection of investors or in the public interest; second, that the safe and efficient clearance and settlement of securities will be impeded absent a rule; and third, that the benefits of the rule exceed the detriments. Further, before promulgating such a rule, the SEC must consult with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System. If the Secretary of the Treasury objects to the SEC's determination that promulgation of a rule is appropriate, the SEC must consider all feasible alternatives to the proposed rule. In addition, the statute requires the SEC to establish a 15-member advisory committee in order to benefit from the view of experts.

The compromise amendment contains a change to enhance State interests without sacrificing the goals of the legislation. It provides that any State may, within 2 years of the SEC's adoption of a rule under section 17A(f)(1) of the Exchange Act, enact a statute that specifically refers to the SEC rule and subsection 17A(f)(3) of the Exchange Act and Establish a provision that differs from that applicable under the SEC's rule. Any such State statute would be effective prospectively from the date of its adoption.

This change is designed to balance State interests against the need for efficient and safe operation of the na-

tional system for clearance and settlement of securities transactions. It is intended to preserve State law as the principal source of rules for commercial transactions, while providing the SEC the authority it needs related to the transfer of securities—including limited interests in securities, such as security interests in securities, and choice of law or related conflict of law provisions—that substantially impede the safe and efficient operation of the national system for the clearance and settlement of securities transactions. By providing the States with the ability to nullify and SEC rule, this provision permits the relevant State authorities to evaluate whether an SEC rule effectively represents that State's individual interests. Of course, in the event a State law is enacted which differs substantially from an SEC rule to the detriment of the efficient operation of the national system, congressional action to address those detriments would be possible.

There was considerable discussion with respect to the provisions of the amendment relating to the SEC's authority to address manipulative trading practices and market volatility. House Members worked hard to develop these provisions in the original House bill, in order to make it clear that the SEC has broad authority to address trading practices that contribute significantly to extraordinary levels of volatility. At the same time, some Senators expressed concerns that the language of the House bill could be read to limit legitimate trading activity by individual investors that does not affect extraordinary volatility. The compromise language is intended to dispel those concerns, without limiting the SEC's ability to take appropriate action to prohibit or constrain certain trading practices during periods of extraordinary market volatility.

The House report on H.R. 3657 explains at some length the legislative history and purposes of the amendment in subsection 9(h). We have modified the language of paragraph 9(h)(1) to make it clear that the SEC has authority to prescribe means reasonably designed to prevent manipulation of price levels of the equity securities market or a substantial segment thereof.

In paragraph 9(h)(2), the standards for SEC rulemaking are clarified. While the House bill would have authorized SEC rulemaking with respect to any act or practice, the compromise makes it clear that rulemaking should be directed to any trading practice in connection with the purchase or sale of securities. In addition, while the House bill would authorize SEC rulemaking to prohibit or constrain practices reasonably likely to engender extraordinary levels of volatility, the compromise uses the language reasonably "certain." It is important to note that, while the standards for SEC rulemaking are improved and clarified under the compromise amendment, both the House bill, and this amendment, make it clear that the SEC has the discretion to determine whether any trading practice meets the standards set forth. It is not expected that the Commission will have to make a factual finding, and deference will be given to the Commission's judgment.

In a provision developed by my colleague, Senator GRAMM, working with our House colleagues, the amendment states that the SEC, in adopting rules under the new section, shall, consistent with the purposes of section 9(h), minimize the impact on the normal operations of the market and a natural person's freedom to buy or sell any equity security. This makes it clear that the SEC's rules should not burden unduly normal market operations and routine purchase and sale transactions by investors.

Another provision developed by Senator GRAMM as part of the new amendment adds an amendment to section 25(b)(1) of the Exchange Act to ensure that persons adversely affected by the SEC's actions are given the ability to challenge the rules prospectively, without awaiting SEC enforcement action. This will allow for expeditious review of SEC action and provide increased certainty as to the enforceability of these rules.

Let me again thank Senator GRAMM for the willingness to work with us in clarifying and improving the language of this provision. I also want to commend our House colleagues, chairmen MARKEY and DINGELL, for their efforts in crafting language to satisfy the concerns raised by Senators, while maintaining the purpose and intent of this provision.

Mr. President, I ask unanimous consent that a comparison of key differences in the House language and the compromise amendment relating to market volatility be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

KEY DIFFERENCES BETWEEN ORIGINAL HOUSE LANGUAGE AND "COMPROMISE" AMENDMENT RELATING TO SEC AUTHORITY TO ADDRESS MANIPULATIVE PRACTICES AND EXTRAORDINARY MARKET VOLATILITY

1. Compromise deletes Civil Penalties provisions of House bill (striking language beginning on page 30, line 19 through page 33, line 20 of House bill). Thus, there will be no separate penalties provisions for violations of this section. Penalties and remedies applicable to other securities law violations will be applicable to this section.

2. While the House bill would permit SEC rulemaking to prevent "manipulation of equity securities prices that is reasonably likely to affect market volatility," the Compromise clarifies SEC rulemaking authority by granting authority to prevent "manipulation of price levels of the equity securities market or a substantial segment thereof.

3. While the House bill would give the SEC rulemaking authority "to prohibit or constrain, during periods of extraordinary market volatility, any act or practice that the Commission determines

(i) has previously contributed to extraordinary levels of volatility that have adversely affected the maintenance of fair and orderly markets; and

(ii) is reasonably likely to engender such levels of volatility if not prohibited or constrained,"

The Compromise would give the SEC rulemaking authority "to prohibit or constrain, during periods of extraordinary market volatility, any trading practice in connection with the purchase or sale of equity securities that the Commission determines

(A) has previously contributed significantly to extraordinary levels of volatility that have threatened the maintenance of fair and orderly markets; and

(B) is reasonably certain to engender such levels of volatility if not prohibited or constrained.

4. The Compromise adds new language setting forth further standards for SEC rulemaking, by requiring, "the Commission shall, consistent with the purposes of this subsection, minimize the impact on the normal operations of the market and a natural person's freedom to buy or sell any equity security."

5. Through a conforming amendment, the Compromise adds an additional section to provide that a person adversely affected by SEC rulemaking under this provision may obtain judicial review of the rule within 60 days after promulgation of the rule.

Mr. HEINZ. Mr. President, more than 2½ years ago, on a day now known as Black Monday, the Nation's stock markets plunged in their steepest single decline in American history. The Dow Jones industrial average dropped a record 508 points—a loss of 23 percent of its value. In just 4 trading days between October 14 and October 19, 1987, the stocks traded in this Nation's markets lost almost a third of their value—almost $1 trillion vanished from our markets virtually overnight.

The events of Black Monday dramatized the forces that have transformed our securities markets during the 1980's. The effect of institutionalization, internationalization, modernization of communications and technology, and innovation relating to the development of large derivative markets and program trading strategies that link markets for stocks, options, and stock index futures converged to place our market mechanisms under the greatest stress in modern times.

The market crash of 1987 revealed a number of critically important areas that required reinforcement to withstand the fast-moving and often turbulent environment to which our modern markets are now exposed.

Last month the Senate passed the Market Reform Act (S. 648), which Senator DODD and I had introduced at the start of this Congress. This legislation is designed to provide the SEC

with the tools needed to protect investors and preserve the integrity of the Nation's capital markets in light of these new realities. I am pleased that the House of Representatives passed a similar measure last summer (H.R. 3657).

Senator DODD and I in cooperation with the House Energy and Commerce Committee, and Telecommunications and Finance Subcommittee, have worked hard to combine the best provisions of the two market reform bills.

Briefly, the Market Reform Act:

Enhances the SEC's emergency authority to act during market disruptions, and clarifies the SEC's ability to halt trading;

Mandates large trader reporting to enable the SEC to monitor and reconstruct market activity;

Grants SEC access to financial information from the holding company and affiliates of registered broker-dealers to enable the SEC to assess risks posed to the broker-dealers;

Facilitates the coordination of our Nation's clearance and settlement systems; and

Provides the SEC with additional authority to combat market manipulation.

Mr. President, our securities markets are a vital national asset. They are the channels through which the savings of millions of Americans flow to meet the capital needs of thousands of American corporations for productive investment, development, growth, and job creation. The capital formation process is promoted by the operation of public trading markets that foster investment and the efficient allocation of capital.

Accordingly, the maintenance of fair, efficient, and dependable systems for the distribution and trading of securities is critical to the Nation's long-term economic growth and national prosperity.

The Market Reform Act will strengthen and protect the Nation's securities markets.

Senator RIEGLE, chairman of the Banking Committee, and Senator GARN, the ranking member, have been tremendously supportive and instrumental in moving this legislation through the committee. Most importantly, Senator DODD, chairman of the Securities Subcommittee, deserves great credit for his leadership in crafting and advancing this important legislation. As the ranking member of the Securities Subcommittee, I am pleased that I had the opportunity to work with him on this essential legislation.

Mr. RIEGLE. Mr. President, this year I set a number of specific priorities for the Banking Committee. Among the highest of these priorities was passage of essential securities legislation, including the Market Reform Act, which is before us now.

I want to commend Senator DODD, chairman of the Securities Subcommittee, and Senator HEINZ, ranking Republican of that subcommittee, for their excellent work on the Market Reform Act. Since Senate passage of the Market Reform Act little more than 6 weeks ago, Senators DODD and HEINZ have succeeded in resolving differences between the House and Senate versions of this legislation. I am pleased that we are able to move so quickly on this important reform legislation.

The Market Reform Act will improve regulatory oversight over the financial markets and its participants and promote coordination among the financial regulators. Since the House and the Senate passed similar versions of this legislation history of this bill is comprised of the material from both the House and the Senate.

To clarify one point regarding the risk assessment provisions of this legislation, I want to note that in the case of associated persons who are subject to examination or reporting requirements of a Federal banking agency, the legislation establishes an alternative procedure for broker-dealers to comply with the legislation's record-keeping and reporting requirements. To use this alternative, a broker-dealer may obtain copies of reports of condition and similar reports filed by the associated person with the appropriate Federal banking agency. However, a broker-dealer is not required under any circumstances to obtain copies of examination reports. Moreover, it is not a condition of this procedure that the broker-dealer obtain copies of reports, such as F.R. 2068 filed with the Board of Governors of the Federal Reserve System, that are subject to confidentiality procedures similar to or more stringent than those applicable to examination reports.

There are few differences between the bill passed by the Senate 6 weeks ago and the bill before us today. One such difference is that, as revised, the bill authorizes States to avoid preemption of State law regarding the transfer and pledge of securities.

The Market Reform Act authorizes the SEC to adopt rules concerning the transfer and pledge of securities other than Government securities, where the Market Reform Act determines that the absence of Federal rules substantially impedes the safe and efficient operation of the national system for the clearance and settlement of securities transactions.

This provision created some controversy because it would allow the SEC, after engaging in a lengthy procedure, to preempt State commercial law on technical issues related to the transfer of securities. As revised, any State may, prior to the expiration of 2 years after the SEC adopts preempting State law, enact a statute that differs from the rule adopted by the SEC if certain procedures are followed. This revision should alleviate any concerns related to the grant of preemption authority to the SEC on this technical issue.

Another material difference between the Senate bill previously passed and the bill before us today concerns program trading. The earlier Senate bill required the SEC to report to Congress regarding whether the SEC has sufficient authority to prohibit practices in the purchase and sale of securities to protect against market manipulation or fraud through program trading, including any practices or activities that are inconsistent with the statutory mission of the SEC to protect investors. Because of the importance of this issue, Senators DODD, GARN, HEINZ, D'AMATO, and I wrote the SEC in November asking the agency to begin this report immediately. Since the SEC is already working on this issue, the report requirement has been dropped.

In addition, the Market Reform Act, as revised, contains language similar to that contained in the House-passed version. The revised act provides that the SEC may adopt rules or regulations that, * * * prescribe means reasonably designed to prevent manipulation of price levels of the equity securities market or a substantial segment thereof, and prohibit or constrain, during periods of extraordinary market volatility, any trading practices in connection with the purchase or sale of equity securities that the SEC determines (A) has previously contributed significantly to extraordinary levels of volatility that have adversely affected the maintenance of fair and orderly markets; and (B) is reasonably likely to engender such levels of volatility if not prohibited or constrained.

The House has established an extensive legislative history on this provision that remains applicable.

In summary, enactment of the Market Reform Act is necessary to ensure that this Nation's capital markets—which are the best in the world—remain strong, fair, and liquid. The market crash of 1987 and the market instability in October 1989 revealed serious weaknesses in the market's structure and lapses in regulatory oversight. This legislation will correct a number of these deficiencies.

Once again, I want to complement Senator DODD, chairman of the Securities Subcommittee, and Senator HEINZ, ranking Republican on that subcommittee, for their fine work on the Market Reform Act. This is a sound piece of legislation and I strongly urge its passage.

Mr. GARN. Mr. President, as ranking member of the Banking Committee, I am pleased to join with Senators

DODD, HEINZ, and RIEGLE in supporting passage of amended versions of the Market Reform Act of 1990, the Securities Law Enforcement Remedies Act of 1990. And the Penny Stock Reform Act of 1990. Today, we will pass the Market Reform Act of 1990 (H.R. 3657), and in the next few days I expect us to act on the other bills. I would particulary commend Senators DODD and HEINZ, as the chairman and ranking member of the Securities Subcommittee, as well as the staff of the Banking Committee and Securities Subcommittee, for their leadership and effort in moving this important legislation.

The amendment being offered today reconciles differences between the House and Senate versions of the market reform bill. This amendment should significantly enhance the ability of the Securities and Exchange Commission to monitor the operation of the securities markets during periods of volatility and to take appropriate action when there is a threat to fair and orderly functioning of markets which would adversely affect the interests of investors.

The strength of our Nation's markets is in large part due to the fairness, and efficiency. Investors here and abroad have been willing, and able to commit their savings and investment dollars to U.S. Institutions and markets. However, recent periods of turmoil in the securities markets have served to undermine the public's confidence in the integrity and efficient functioning of our Nation's capital markets and institutions.

We can ill afford to have investors, especially small investors, abandon our markets because of a perception that the Federal Government is unwilling to look out for their interests. Fewer investors means a smaller supply of vital investment capital and those investors that remain in the market will demand a higher return to compensate for the perceived heightened risks. In either event, it raises the costs of doing business in U.S. markets and impairs our competitiveness in the global marketplace. This legislation should help to restore investor confidence and enhance the competitiveness of U.S. markets.

The Market Reform Act of 1990, as amended, has six substantive sections which would: First, clarify the SEC's authority to take emergency action during periods of market crisis; second, enable the SEC to monitor the activity of large traders in the securities markets; third, enable the SEC to assess the financial integrity of broker-dealers and major market participants; fourth, facilitate the strengthening of the system for clearance and settlement of securities, options, and futures; fifth, provide for greater interagency and intermarket coordination on an ongoing basis; and sixth, authorize the SEC to promulgate rules to proscribe manipulative practices related to market price levels and certain trading practices during periods of extraordinary market volatility.

These changes will not result in a market free from risk, nor ensure that there will never again be a sharp decline in market prices. We cannot, and should not, legislate against market declines. We should, however, strive to insure that market movements are not driven by manipulative activity and that, during periods of market volatility, our regulators have the basic information necessary to act in a prudent and responsible manner.

I would also note that the market reform bill strikes an important balance between State and Federal regulation in this area. The provision relating to clearance and settlement systems enables the SEC, a Government agency, to effectively preempt State law in certain limited respects. This authority, to be used judiciously, reflects a need for the Government agency responsible for oversight of the securities market, to provide additional uniformity in clearance and settlement systems. However, States also have a compelling interest in protecting the rights of their citizens. Therefore, the legislation provides that a State may subsequently, and specifically, override SEC action if it believes that the interests of the State warrant such action. I trust that appropriate weight and consideration will be given to the needs and concerns of all parties involved.

In closing, the legislation we are passing today will strengthen the Federal securities laws to ensure that the SEC has at its disposal the most flexible and effective means of monitoring the operation of the securities markets. I expect that the SEC will utilize these newly authorized powers judiciously and in keeping with their traditional mandate of protecting investors, while at the same time enhancing the efficient and competitive operation of the markets.

Mr. GORTON. Mr. President, I ask unanimous consent that I may be allowed to proceed for roughly 7 minutes as if in morning business.

The PRESIDING OFFICER (Mr. BUMPERS). Is there objection? The chair hears none, and it is so ordered.

CARING FOR THE WORKING FAMILIES OF THE PACIFIC NORTHWEST

Mr. GORTON. Yesterday, on the floor of this body, the distinguised majority leader of the Senate, who serves with my fellow Washingtonian, TOM FOLEY, as the leader of the Democratic Party, delivered a remarkable speech.

It was remarkable not primarily by reason of its form, though it was typically eloquent, and not primarily because of its insistence upon rigid adherence to the letter of laws the Democratic leader helped write, which is a common human failing.

No, what made this speech so remarkable was the phenomenal change it signaled in the primary concerns of our respective political parties.

During the past several weeks, the Democratic leader has orchestrated a drumbeat of complaints about the Republican Party, asserting it to be the party of the rich because it worries about things like keeping taxes down. But yesterday, the Democratic leader, perhaps unconsciously, came far closer to defining the true difference between our parties.

For yesterday, the Democratic leader berated the President for caring about the working families of the Pacific Northwest. Yesterday, the Democratic leader characterized a modest proposal by the President to save a few thousand of the tens of thousands of jobs in the Pacific Northwest's timber communities which will be lost to the Endangered Species Act as "a plan that seeks to void every major environmental law governing management of Federal forest lands." Yesterday, the Democratic leader devoted six pages of text to the threatened spotted owl, and not a signle sentence to dozens of threatened communities and to thousands of threatened people and families.

To ignore my constitutents who live near and work in the Federal forests, and who consider themselves real environmentalists, for the favor of urban preservationists who will pay no part of the awful human price imposed by their ever-increasing demands, is neither fair nor in the now dormant tradition of the Democratic Party. It is not a policy, thankfully, with which our President will agree.

The Democratic leader put his party on record for the proposition that owls are more important than people. We Democrats, he implied, are for unemployment. The fabled Democratic Party of the working man was pronounced dead. Today it stands nakedly captive to the wine and brie urban special interests, attacking the prospect of saving even some of the 35,000 jobs now imperiled in the Northwest.

Scoop Jackson, for too brief a time my seatmate in the Senate, would have found this moment a horror. I watched him campaign through the rural towns which dot my State. He understood, as I do, that the people of those towns are the very definition of what it is to be American.

They work at hard, dangerous jobs, supplying the renewable paper and wood products on which we are almost unconsciously dependent. They pay their taxes, they defend our country, their churches are still full, as are

their high school stadiums when their children play football.

And today they stand victimized by a party which has promised them so much over the years, has taken so many of their votes, and now ignores their desperate needs in favor of abstractions, which venerates harsh regulations over common sense.

The Democratic leader and his party ignore the fact that we already have permanently set aside 5.3 million acres of the Northwest, most of which is old growth forest. The leader and his party ignore the fact that the Thomas Commission report, which will reduce timber harvest levels by almost 50 percent and set aside a land base equal to the total acreage of the States of New Jersey, Rhode Island, and Connecticut combined, is not invaded by the President's 1991 recommendations.

In stating that the President's report asks for an exemption from the protections of the Endangered Species Act, the Democratic leader ignores the fact that under the President's plan no timber will be harvested off of those areas specifically protected under the report of the Thomas Commission.

The Democratic leader believes the current process for establishing the Endangered Species Committee should be followed without the slightest variation. Conversely, the President heard the pleas of working men and women and their families and recommended that the process be expedited and broadened. The President wisely and humanely offered a plan which, without mandating any specific decision, will bypass much of the initial regulatory process and inevitable legal delays. This proposal will enable the Endangered Species Committee to balance the need for preserving old growth forests against the needs of the people who derive a living from these same forests.

In the end, I recognize that in this contest people do not count for everything; but the Democratic leader and his party should try to remember that they do count for something.

When the other party is so irrational as to make a decade old law totally inflexible despite the suffering it will impose on tens of thousands of people, it has lost much more than its historical underpinnings, it has lost its head.

The President's plan is reasoned and balanced. Not one tree in an area the scientists recommended be set aside is to be touched. In asking Congress to get the ball rolling on looking for some other way to protect jobs, the President is in keeping with the spirit of the act, while confronting squarely the human misery its inflexible enforcement in my State will produce.

In the oration he delivered yesterday, the Democratic leader looked the timber families of the Pacific Northwest in the eye and announced a new Democratic agenda—one with no room for the average working men and women across this land.

As I said, I found it a remarkable admission.

FAMILY PLANNING AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is amendment No. 2762, which is the Senator's amendment in the second degree to the amendment of Senator JEFFORDS, No. 2761, which is a committee substitute; that is to the committee substitute as amended or modified.

Mr. CHAFEE. Mr. President, thus my amendment is up.

Mr. President, I would be glad to have a time agreement on my amendment if the managers were to agree to such a time agreement. I would suggest 90 minutes equally divided. There might be some time left over after that.

The PRESIDING OFFICER. Does the Senator make that request?

Mr. CHAFEE. Yes. If there is a problem, as some suggest, that 90 minutes is too much, if 60 would do the trick, I would be agreeable.

Mr. FORD. Mr. President, I would have to object until our side has an opportunity to check with the managers of the bill to see if 90 minutes would be adequate to them or acceptable.

Otherwise, Mr. President, I have to object to the unanimous-consent request.

The PRESIDING OFFICER. Objection is heard.

Mr. CHAFEE. Mr. President, what I suggest is that I proceed, and for whatever time I take, perhaps the Chair will be good enough to time my remarks. Then I will be glad when we enter into an agreement, if it is 60 minutes equally divided, to add onto that time whatever time I took off; add it to the other side.

Mr. President, my amendment is at the desk. Let me just briefly describe what it is about. First of all, I want to say that Senator WIRTH has joined us and wishes to be added as a cosponsor.

Mr. President, the subject before us is title X. Title X is to the Public Health Service Act. This act was passed, title X was passed, in 1970. It has been on the books for 20 years. The goal of this title X is as follows: It is to provide quality—I stress the word "quality"—family planning and health care services to low-income women who otherwise would have no access to these services.

Title X indeed has been effective in fulfilling this mandate. Thus Congress, over the 20 years, has continued to fund the program.

I think it is important to bear in mind that what we are discussing is a health program. I will be very distressed if this becomes involved with talk about abortion; not a nickel, not a penny of title X money goes to fund abortions.

Let us get that dismissed off the table right away—any talk of abortion funding. That does not exist under title X.

There is no question but what part of quality health care services is information, and indeed it provided—remember we are dealing with low-income women here. Under the experience of the operation of title X during its first 10 years, and actually by regulation during its second—or during the next 8 years—it specifically provided that the doctor, when requested, and I hope everybody listening will remember that the woman has to request it; she has to ask the doctor what are my options?

The doctor then under the guidelines that were published in 1981—mind you, this was under President Reagan. Let us remember whose administration it was. No one can every say President Reagan was easy in this field. He was pretty exacting.

This is what the regulations said, the guidelines. I quote.

Pregnant women should be offered information and counseling regarding their pregnancies.

Getting information:

Those requesting—

Note the word "requesting"—

information on options for the management of an unintended pregnancy are to be given nondirective—

Nondirective means you do not say "and we recommend you do this, this, or this." No. Nondirective. The woman says, "What are my options, Doctor?" The doctor says, and I go on quoting,

nondirective counseling on the following alternative courses of action and referral upon request.

This is what the doctors say under the guidelines of 1981. "Prenatal care and delivery." Bear the baby. Infant care; foster care; or adoption. Those are possibilities. Pregnancy termination; that is the other. That is what the doctor was to do under the guidelines that existed from 1981 to 1987.

Then they had these new regulations come out in March 1988. Nearly 8 years went by under the old regulations, practically the whole term of President Reagan. Under the new regulations, it says that the doctor can only do the first two of those options. He can talk about, upon request, prenatal care and delivery, infant care, foster care, or adoption. But no; he cannot say pregnancy termination.

It is important to bear in mind that in all 50 States in the Nation, pregnancy termination is a legal, legitimate possibility. It is also important to remember that we are dealing with poor women here, low-income women. They would not be in the clinic and indeed they could not be in the clinic if they could afford to go to a doctor. But they cannot. This is their source of information.

When we are dealing with people, I think we ought to have a lot of compassion, for not only are they poor but these women are pregnant. Frequently, they are unintended pregnancies. Many of them are teenagers. They are bewildered. They are going for counseling, for help. They are going for health care. That is why they are there. They would not be there. Thank goodness they are there. That is why we fund the program, because absent that, they would be wandering around with no adequate health care.

I do not think there is a single Senator in this Chamber of 100 Senators that does not agree that one of the things that we ought to provide to a greater extent in the United States of America is better prenatal care. Take care of these women.

So they come in they ask, they say to the doctor, "Well, what are my options?" The doctors for 18 years under this program have told them—listen—the options are the same options that they give to a woman who can pay. But now those regulations are being changed, and have been changed, so that the doctor leaves out the last one: pregnancy termination. So the woman indeed is shortchanged.

Somehow, I find this really a tragedy, and totally unfair. If this woman could go where she could afford it, to a doctor, the doctor would provide that information.

I would like to make another point.

There are serious problems that arise for these clinics over malpractice suits, because when a patient asks a doctor for information, the doctor is expected to give it. If you have a heart condition and you go to a doctor and say, "Doctor, what are my options?" "Well, there is a bypass, and you can do certain changes in diet," but if the doctor never mentions that a certain drug would be extremely helpful, no one doubts that you can sue that doctor for malpractice, if indeed as a result of not knowing about this particular information, you suffered severe health consequences.

So it is under this particular circumstance, if the doctor fails to give the information, which includes pregnancy termination, the patient can sue. And, indeed, there have been successful suits. I cite the one in New Jersey involving a Mrs. Berman. That was the New Jersey Supreme Court case, in which the New Jersey Supreme Court found for the plaintiff against the doctor, who failed to give her the information that he could have. In Berman versus Allan, 1975, the Supreme Court of New Jersey ruled that the cause of action was based squarely on a physician's depriving a woman of the right to decide to have an abortion. The court said Mr. and Mrs. Berman could not assert that the defendants increased the risk that Sharon would be afflicted with Down's syndrome. Mrs. Berman was deprived of the action of making a meaningful decision of whether to abort the fetus during the first trimester of pregnancy.

Let us get the sequence here. A poor woman goes to a clinic, asks for the information—she has to ask. The doctor does not sit there behind the desk and a woman comes before him and he says, "By the way, these are your options." No. She has to ask. And so she asked. And in 18 of the 20 years of the existence of this measure, the doctor told her what he would tell a patient, which he is required to tell, which would be subject in this situation to malpractice. How many poor women want to resort to malpractice suits? They want the information that any other patient could receive.

Mr. President, I want to stress something else. These title X funds are very modest. The amount of title X funds that go into a typical clinic is a very small portion of the total funds of the clinic. I can just cite a community health center in my State called Thundermist, a community health center. From title X they receive $20,000 a year. That is very modest, but it is a little bit that counts. They want that money. The total number of family planning patients served at Thundermist is 1,600. Of those who qualify, who are of low enough income, really practically no income, 216 qualify, 216 out of the 1,600. What are the others? The others cannot afford a doctor, but they can pay a little bit toward it, a little bit. They are on a sliding scale, based upon their incomes.

The title X regulations would force this community health center—I think there is no part of the health delivery system that is more popular with Senators on the floor of the Senate than the community health centers. We all know they are doing a good job—the title X regulations would force Thundermist to refrain from providing information regarding all medical options available. They could not do that. They have 1,600 patients. Because of these regulations that are imposed upon the center as a result of receiving this money, they cannot give that information to any of the patients, even those who are paying on the sliding scale. None of the 1,600 can receive the information that they require. Indeed, under these regulations they have to forgo giving them that third option of termination of pregnancy.

So this community health center is confronted with a difficult problem. Should they forgo these funds? They think maybe they should, because in fairness to the 1,400 patients who do not quite qualify to be low enough income women, they are having to forgo with them the advice they feel they are entitled to. Indeed, they feel all the patients are entitled to it.

So, Mr. President, what we are liable to see are certain clinics forgoing these funds and, thus, that service to low-income women will no longer exist. I do not think that is what we seek. Some might say, well, hurrah, we save a little money. This community health center does not take the money, and therefore we save $27,000. That is not the objective of the program. The objective of the program is to reach out and have these low-income women come in; bring them in so they can receive the advice and planning that the whole bill deals with.

If you want to scotch the whole program and get rid of it, that is a separate subject. That is not before us. I do not think there is a proposed amendment on the floor to get rid of the program. Therefore, we want it to serve low-income women and give them this health information that they are entitled to.

So, Mr. President, I just want to wind up this section of my remarks by saying that this amendment is supported by the American Medical Association. I will briefly read a paragraph of what they say:

> AMA [American Medical Association] policy, states that a physician should counsel his or her patient on the full range of medical treatment options appropriate for a given medical condition. We believe that each patient is entitled to full and fair disclosure of all relevant information and that such disclosure is essential for the patient to make an informed decision.

Also, the amendment is supported by the American College of Obstetricians and Gynecologists. This is what they say:

> Prohibiting physicians from counseling or referring their patients for abortion services does not ensure that women will not seek them. However, women may seek abortions later in pregnancy, thereby increasing their health risks. Clearly, the regulations (the HHS, Health and Human Services regulations) create a two-tiered health care system with low-income women receiving more limited care and information from federally funded services than women who can afford private health services.

Mr. President, I ask unanimous consent that these two letters be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, September 20, 1990.
Re Title X Amendment.

Hon. JOHN H. CHAFEE,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR CHAFEE: The American Medical Association supports the amendment Senator Jeffords and you will be offering to S. 110, the Family Planning Reauthorization Act. That amendment would allow physicians and other health care personnel to offer, upon request, nondirective counseling regarding management of unintended pregnancies.

AMA policy states that a physician should counsel his or her patient on the full range of medical treatment options appropriate for a given medical condition. We believe that each patient is entitled to full and fair disclosure of all relevant information, and that such disclosure is essential for the patient to make an informed decision.

Your proposed amendment to Title X is entirely consistent with this policy. The amendment would allow physicians to offer the comprehensive counseling they are professionally and ethically bound to provide, and enable women seeking information about unintended pregnancies to make informed health care choices.

We commend Senator Jeffords and you for your significant proposal.

Sincerely,

JAMES S. TODD, MD,
Executive Vice President.

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC, September 17, 1990.

Hon. JOHN H. CHAFEE,
Dirksen Building, Washington, DC.

DEAR SENATOR CHAFEE: On behalf of the American College of Obstetricians and Gynecologists (ACOG), an organization representing more than 29,000 physicians specializing in the delivery of health care to women, I would like to express our strong support for the amendment you plan to offer when the Senate considers S. 110, the Family Planning Amendments of 1989. This amendment will clarify Congressional intent that pregnant women be offered all legal information about options for dealing with an unwanted pregnancy, including abortion. We applaud you efforts to make the intent of Congress absolutely clear.

As you know, this amendment is necessary because regulations promulgated by the Department of Health and Human Services in 1988 that prohibit physicians and other family planning clinic personnel from providing abortion information and referrals to clients, even when such information is requested specifically. Consequently, these regulations deny those patients receiving care in Title X funded clinics their right to complete information about their health care, including nondirective, factual information for women facing an unwanted pregnancy. Furthermore, the regulations violate a patient's right to informed consent, and conflict with ACOG standards, which state that patients should be counseled about all options in the case of an unwanted pregnancy.

Prohibiting physicians from counseling or referring their patients for abortion services does not ensure that women will not seek them. However, women may seek abortions later in pregnancy, thereby increasing their health risks. Clearly, the regulations create a two-tiered health care system with low-income women receiving more limited care and information from federally funded services than women who can afford private health services.

Again, ACOG supports your amendment, which will simply clarify Congressional intent regarding guidelines for Title X. We support your efforts to ensure that women in Title X clinics continue to receive high quality medical services.

Sincerely,

HAROLD KAMINETZKY, MD,
Director, Practice Activities.

Mr. CHAFEE. So, Mr. President, there is the case. Again, I say that this has nothing to do with funding abortions. This is only in response to a question when the woman asks: "What are my options?" The doctor has to give information without urging one course or the other; that is very clear. So, Mr. President, I hope my colleagues will support this amendment.

Mr. KENNEDY. Will the Senator yield?

Mr. CHAFEE. Yes.

Mr. KENNEDY. The Senator, I think, has made a well-stated case in favor of his position and that of Senator JEFFORDS. I think it is also perhaps relevant to mention the various preventive and public health services that are provided in these centers that, if they deny the funding, would be denied to women, such as teaching how to test in terms of cervical cancer, the pap smears, the self-examination of breasts in terms of potential dangers of cancer of the breast, a whole range of other kinds of services, many of which have been particularly troublesome to low-income individuals.

I think the Senator has made an excellent case with regards to the particular point that he is making. But if those funds are not available to these centers, and the centers for some reason are diminished in their ability to serve low-income people, this whole range of public health services that can be so important in terms of reducing the number of low weight babies, the good prenatal care, the whole range of other kinds of services would also be denied.

Is the Senator also recognizing that that would be an attendant result if we were not able to provide funding for some of these centers under title X, that not only the case that the Senator makes with regard to the non-directive birth control provisions but also these other services would be denied to a very needy population?

Mr. CHAFEE. I certainly agree with what the distinguished Senator from Massachusetts said. I would just like to make one other point, that they also counsel in these centers about abstinence. They counsel the young women.

Mr. KENNEDY. And about adoption, too.

Mr. CHAFEE. And about adoption. I mean what we are really stressing here is a point of compassion, if I might say, treating low-income women with complete fairness, treating them the same as we would some woman who could afford the services.

Also there is a tremendous cost to this program in the fact that young women are not, to a great enough degree, receiving proper counseling on birth control measures, which of course, is part of the legislation.

Here is an AP story that came out yesterday that I saw in the local paper. "Welfare cost for families headed by teens surpassed $21.5 billion last year." For those who are unsympathetic to this program, but are worried about the national deficit, this $21.5 billion primarily is paid by the Federal Government through Medicaid, through AFDC, through a whole series of other programs.

It further goes on to say, "The Federal Government spent more than $21.5 billion last year on welfare programs for families started by teenagers. * * * The amount is $1.7 billion higher than," for the year before.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WELFARE COSTS FOR FAMILIES HEADED BY TEENS SURPASSED $21.5 BILLION LAST YEAR

WASHINGTON.—The federal government spent more than $21.5 billion last year on welfare programs for families started by teenagers, according to a report released yesterday.

The amount is $1.7 billion higher than for 1988—partly because of inflation and expansion of Medicaid benefits but also because of an increase in births to teenagers, said the Center for Population Options report.

The figures illustrate the need for greater efforts to prevent teenage pregnancies—including sex education, family planning counseling, support for delaying sexual activity, access to contraception, and medical services, including abortion, said the report by the privately funded organization, which concentrates on world population issues.

"We can no longer let our youth stumble into parenting, a course that should be embarked on only when one is ready, willing and able to become a parent," the report said.

The costs of teenage pregnancies go far beyond those of public support, the report said.

"Too-early childbearing often impoverishes . . . the lives of girls brought too soon into the rigors and responsibilities of motherhood, of boys bewildered and unable to parent and provide adequately, of babies not planned or welcomed," the report said.

"It places a heavy burden on families and communities and contributes to our country's unconscionably high rates of low birthweight and neonatal mortality," it said.

The most alarming increases in teenage pregnancies are occurring among 15- to 17-year-olds, the report noted.

After a downward trend in births among this age group from 1970 into the mid-1980s, the rate began increasing. It jumped from 30.6 per 1,000 teenagers in 1986 to 33.8 in

1988, according to the National Center for Health Statistics.

Teenage pregnancies too often result in the mother cutting short her education, which increases her chance of living in poverty and needing public assistance, the report said.

In estimating federal spending on families started by teenagers, the center included families currently headed by teenage mothers as well as those in which the mother is now 20 or older but had her first child when she was a teenager.

The center also calculated the public cost for five states and two cities for 1989, adding in the welfare expenditures of the states, cities and towns.

These were: Louisiana, $360 million; New Mexico, $80 million; Oregon, $174 million; Vermont, $39 million; Wisconsin, $437 million; Baltimore, $246 million; and St. Louis, $81 million.

Mr. CHAFEE. Mr. President, I wonder if we could arrive at a time agreement of some type on the bill, and what I said will count toward my time. I suggest we have several speakers, and I originally was thinking of 60 minutes evenly divided. I wonder if we could make it, say, 80 minutes equally divided; is that fair enough?

Mr. HUMPHREY. Mr. President, if the Senator will yield, I have no objection in principle to the notion, but I think our side is checking who else wishes to come forward.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. I object.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, the Senator from Massachusetts and the Senator from Rhode Island just a moment ago, tried to make a case that if this reauthorization bill does not pass all these other essential, important, and praiseworthy services which they cited, will somehow lapse. Of course, nothing could be further from the truth. Title X has not been reauthorized since 1985. Have the funds stopped? Have these centers and clinics been shut down as the Senator from Massachusetts seems to suggest might be the case if we do not reauthorize title X? Of course not. The money continued to flow and was used according to regulations.

Mr. President, this is title X; the short title is the Family Planning Amendments of 1989. I think there are very few of us who would oppose family planning. The stated purposes of this program are to provide prenatal care and delivery. That is fine. No one has any objection to that.

Let us bear in mind, while we are on that subject, that when we talk of prenatal care, we talk not only of care of the mother's health, but of the unborn child as well. The program provides also for infant care, foster care, and adoption, again all praiseworthy enterprises: There is no controversy there. But it is that next one that creates the problem—pregnancy termination, a rather awkward phrase, "pregnancy termination." On the one hand, they talk about prenatal care for mother and an unborn child. When you go down to item three, they talk about pregnancy termination. What happened to the unborn child, medical care, and compassion for the unborn child? Pregnancy termination is abortion; abortion is killing of a human being.

There is the problem with this bill as it might be amended by the Chafee language. And, in any event, even absent the Chafee language, there is language in the committee report that will be used to interpret legislation intent. Clearly the intent of the committee, as indicated by the committee report, is to provide Federal funding to counsel women with respect to abortion, and even to refer women to abortion clinics.

When a woman comes in to one of these federally funded clinics and says, where can I get an abortion, they would be bound under the Chafee language and indeed under the committee report language, as it reflects legislation intent, to look in their directory and to tell that client where she can obtain an abortion.

Mr. President, I need not point out that abortion is a highly controversial subject in our country, ever more so, rightfully so, rightfully ever more controversial because more and more people are beginning to realize that abortion involves the killing of a human being.

Under Roe versus Wade and its progeny, the court decisions which followed, abortion has been established at least for now, until there is some overturning of those precedents, as lawful. And nothing can be done unreasonable to obstruct that option. But it does not follow that the Federal Government has, in any way, any obligation to facilitate the performance of abortion. It does not follow in any way that we have to spend one penny, $1,000, $1 million, or any amount of money to facilitate the performance of abortion.

The difficulty with this bill, the committee report, and now the Chafee language, is that it would obligate the taxpayers to fund these clinics, which would then be empowered to refer women to abortion clinics. There is the problem.

So we are back once again, embraced into this controversy over abortion. We hear about the two-tier medical system. We have heard that argument before with respect to Federal funding of abortion. I do not suggest that is the case here before us today, but it is a similar situation in which the proponents of this committee language and the Chafee language argue that the taxpayers ought to be obligated to fund clinics which counsel women with respect to abortion and even refer them to abortion clinics.

So for the same reason that virtually every pro-life organization in the country opposes this bill, I oppose S. 110. This is not a bill about preventing pregnancy, as some might suggest. This is not a bill about family planning, exclusively, as some might suggest. This is a bill that would use Federal funds to counsel women with respect to the killing of their unborn children. It is not a bill about preventing pregnancy. It is a bill about counseling women who are already pregnant to have their children killed by means of abortion.

The committee report will be interpreted with respect to legislative intent as reversing the regulations issued in 1988 which bar title X clinics from counseling and referring for abortion. That alone is enough to justify defeat of this bill.

Additionally, the bill contains vague language that could open the door to Federal funding new abortion-inducing drugs, the development of such drugs, such as RU486, a drug used in Europe to induce abortion between 4 and 7 weeks into pregnancy.

Further, this bill could encourage federal funding of school-based clinics that promote abortion as a means of family planning.

The report language is damning enough, but to make matters worse, the Senator from Rhode Island and the Senator from Vermont have offered an amendment that would make it clear that federally funded clinics may counsel women about having their unborn children killed by abortion and that such Federally funded clinics may even refer their clients to those medical practitioners skilled in killing unborn babies.

Clearly this is not a bill just about family planning, unless you embrace the notion that killing unborn children is a legitimate method of family planning. I point out that is a notion that is soundly rejected by most people.

This is a bill about using abortion as a means of birth control and family planning. This is a bill about using Federal funds—taxpayer funds—to facilitate the use of abortion as a means of family planning. What next? Infanticide, as a method of family planning?

Those who support S. 110, groups like the Alan Guttmacher institute, the American Civil Liberties Union and the National Abortion Rights Action League, say that we should support S. 110 because it is a family planning bill. That is propaganda. S. 110 is not a family planning bill at all. True family planning programs should prevent unintended pregnancies, not provide funds for counseling the killing of unborn children as a family planning method. True family plan-

ning programs do not, as a family-planning method, refer pregnant women to doctors who practice the specialty of killing unborn children.

S. 110 would radically alter the title X, program. It was created in 1970. It is a grant program which provides funding for a broad range of family planning services, most of which are praiseworthy and not matters of controversy.

Administered by the HHS Office of Population Affairs in the Public Health Service, title X currently supports approximately 4,000 such clinics across the Nation.

Section 1008 of title X contains the following prohibition which has not been altered since 1970:

None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning.

One would think that would be clear enough with respect to congressional intent. The intent was to create a wall of separation between title X programs and abortion as a method of family planning.

I want to read from the conference report, No. 91-1667, 1970:

It is, and has been, the intent of both Houses that the funds authorized under this legislation be used only to support preventive family planning services, and other related medical, information and education activites. The conferees have adopted the language contained in section 1008, which prohibits the use of such funds for abortion in order to make clear this intent.

In addition, Mr. President, Congressman DINGELL, a chief sponsor of section 1008, made the following floor statement at the time of the debate in 1970:

During the course of House hearings on H.R. 19318 there was some confusion regarding the nature of the family planning programs envisioned, whether or not they extended to include abortion as a method of family planning. With the "prohibition of abortion"—title X, section 1008—the committee members clearly intended that abortion is not to be encouraged or promoted in any way through this legislation. Programs which include abortion as a method of family planning are not eligible for funds allocated through this act.

Several considerations prompt this action.

There is a fundamental difference between the prevention of conception and the destruction of developing human life. Responsible parenthood requires different attitudes toward human life once conceived than toward the employment of preventive contraceptive devices or methods. What is unplanned contraceptively does not necessarily become unwanted humanly. Whether a conceived child is loved or unloved is dependent on factors that, at best, can only be marginally related to family planning.

If there is any direct relationship between family planning and abortion, it would be this, that properly operated family planning programs should reduce the incidence of abortion—furthermore, there is evidence that the prevalence of abortion as a substitute or a back-up for contraceptive methods can reduce the effectiveness of family planning programs.

Well, Mr. President, that is in some length a recitation of legislative intent from 1970 at the start of this program. One would wonder how anyone could misinterpret or misunderstand what Congress meant in regard to abortion. However in 1981 pro-abortion forces, working with their allies in the bureaucracy at HHS, were successful in getting HHS to issue revised title X program guidelines.

By the way, they were not regulations in force all those years as mistakenly suggested by my friend from Rhode Island. They were not regulations. They were guidelines. Like previous editions of the guidelines, they did not incorporate prior HHS office of general counsel opinions providing guidance on abortion counseling, referral and program separation. However, unlike prior guidelines, the new guidelines actually reversed congressional intent and required title X projects to engage in abortion-related activities under certain circumstances.

HHS issued these pro-abortion guidelines with no direction from Congress or without any change in the law. I daresay if this had been any other issue we would have put people in jail for doing this. For example, let us pretend that Congress passed a law which prohibited the executive branch from funding or referring those with funds to help the Contras in Nicaragua. Then let us say that after a period of time, the executive branch went ahead and found ways to fund the Contras anyway. Sound familiar? It should. It would seem to me that we would be upset by that action and would demand the services of a special prosecutor to throw those responsible for breaking the law in jail.

Mr. President, after a longstanding concern about the need to return to the law, on September 1, 1987, HHS published a notice of proposed rulemaking clarifying the original intent of Congress. During the 60-day public comment period, HHS received approximately 75,000 comments with a majority supporting the proposed rules.

On September 2, 1988, as printed in the Federal Register, the final regulations were printed establishing clearer standards for compliance with section 1008. These were regulations, not guidelines, and properly promulgated as well. The regulations focus the emphasis of the Title X Program on its traditional mission and stated intent of Congress: The provision of preventive family planning services, and the specific prohibition of abortion as a method of family planning.

The regulations have been sustained by one court of appeals and struck down by two others. And now it looks as though the Supreme Court will resolve these inconsistencies between the courts of appeals.

Mr. President, let us be clear; S. 110 is an abortion bill. As stated in a statement of administration policy:

S. 110 is designed to erode the integrity of the Federal Family Planning Program by promoting its involvement in abortion. Title X is a preventive family planning program designed to reduce the incidence of abortion. It should not be involved in abortion-related activities in any way.

Therefore, Mr. President, I urge my colleagues to defeat the Chafee amendment and indeed to defeat the bill; or, if the alternative presents itself, to vote against cloture as a way of defeating the bill because the bill ought to be defeated. It would overturn existing policy, policy that is sound, policy that respects the division in our society about abortion, policy that respects and reflects the long-standing policy of Congress not to use Federal funds in any way to facilitate the performance of abortion.

The Chafee language and the committee report language clearly are intended—no question about it; the authors are quite forthright about it—clearly intended to use Federal funds to counsel women about abortion and even refer them to abortion clinics. That would be a terrible mistake, Mr. President.

I urge my colleagues to oppose the amendment and indeed to oppose the bill.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Oregon is recognized.

Mr. PACKWOOD. In some ways—only in some—the argument made by my good friend from New Hampshire is partially, to a minuscule degree, right, when he asks is this debate about abortion. But it is only about abortion if you can make this argument. Under the law, under the Constitution, in the United States today a woman is entitled to an abortion, with certain restrictions in the Supreme Court's decision of Roe vesus Wade. But as a matter of constitutional right the Federal Government and State governments cannot take the right away from her. And, if you are middle income—you do not have to be rich—if you are middle income, you go to a doctor and you say: "Doctor, I think I may be pregnant. Please examine me." The doctor examines you. "Sally, you are pregnant."

You are paying the doctor.

She says, "Doctor, give me my alternatives."

He says, "Well, you can carry the pregnancy to term. If you bear the child, you can keep it. You can put it up for adoption. Or, Sally, you have the option of abortion if you like." The doctor may say, "I do not do abortions, but if you like I can refer you to where they do them," and leaves the choice to Sally.

At this moment, family planning clinics that receive title X funds from

the Government cannot recommend, suggest the last option. They can say: "Sally, you can bear the child to term and keep the child. You can put the child up for adoption. You can give it up to foster care." But the doctor's lips are sealed even if Sally asks is there a possibility of abortion. The doctors in the clinic are not allowed to tell you that. They are not allowed to tell you what any other middle income woman or rich woman could find out from her doctor with no problem.

So when the Senator from New Hampshire says is this a bill about abortion—only by the farthest reach of your imagination. If you say that a doctor in the family planning clinic that gets a very small portion of its money from the title X funds and therefore has a slight Federal touching—only if you can say the doctor may not tell you about that option, is this a bill about abortion.

We have had debates, Mr. President, in this Chamber about abortion. I remember an extraordinary debate we had when my good friend, the Senator from Utah, presented a constitutional amendment to overturn the Supreme Court. I had to admire the correctness of his approach. He did not like Roe versus Wade. He offered a constitutional amendment on the floor of this Senate to overturn it.

That is what our founders intended. If you do not like the Constitution, get a two-thirds vote here and in the House, get three-quarters of the States to ratify it and overturn it. We have done it from time to time in our history. That is the way to go about it if you do not like the Roe versus Wade decision. That approach failed. But to the credit of the Senator from Utah, it was the straight-out approach.

As a matter of fact, by one vote he failed even of getting a majority, let alone two-thirds. But it was a fair debate.

Then we have had what I would call circuitous arguments where we have tried to achieve the same thing that the Senator from Utah tried to do forthrightly by what I think are devious or underhanded means. It is called court stripping.

They say, because the Constitution gives to the Congress the right to create all of the courts in this country but the Supreme Court—all the courts of appeals, all the Federal district courts are created by statute and their jurisdiction under the Constitution is determined by statute—it would be their effort to say no Federal district court and no court of appeals, and then the statutes would normally add, "nor the Supreme Court" may consider any case involving abortion.

If this body had the constitutional right, this Congress, to say that a court, including the Supreme Court, could not hear a case, could not even hear a case involving abortion, that would take only a majority vote in the House and the Senate. That is not a constitutional amendment.

But, if that was constitutional—I do not know if it is, that kind of case never has gone to the Supreme Court because, thank the Lord, we have never done that—but if that is constitutional, then we can stand the Constitution on its head. It will not take any longer a two-thirds vote to amend and three-quarters vote of ratification by the States.

By a majority vote we can pass a statute, the House and the Senate, and say the court may not consider any cases involving abortions and may not consider any cases involving school prayer or legislative apportionment or whether or not a congressional committee can compel somebody to be a witness against themselves; just overturn the Constitution by majority vote.

We have had those debates. Those are debates on abortion. And we have had debates on funding.

In the mid-1970's, Medicaid used to fund lots of abortions, about a quarter of a million a year in this country, for poor women. And then, gradually that was whittled away and whittled away and whittled away, until today we fund about 600 abortions a year, and those when the life of the woman is in jeopardy. When the choice is literally the life of the woman or the life of the fetus—600.

Do you know what the liberal position is today, the debate we have today? The liberal position is, well, the Federal Government, under Medicaid, should pay for abortions if in addition to the life of the woman being threatened she is pregnant because of rape or incest. And if we would fund those we would fund about another 600; we would fund about 1,200.

So the liberal debate versus the conservative debate today is 600 abortions done if it is to save the life of the woman versus 1,200 to save the life of the woman, or for rape and incest.

Twenty years ago we were funding about a quarter a million abortions a year for poor women under the Medicaid program.

The forces that are opposed to the funding of abortions have by and large won those votes. I am on the other side of it. I am sorry they won them, but they have won them, and that has been upheld in the courts.

While the Court has said you have a right, if you are a woman, to an abortion, there is no right to compel the Government to pay for your abortion. The analogy they would use is the first amendment and free speech. They say you have the right to publish a newspaper but the Government is not obligated to buy you a newspaper. So we have lost that battle.

Now our good friend from New Hampshire would say the Chafee amendment, in fact his whole authorization, is a debate about abortion. Mr. President, it is not a debate about abortion in the sense of funding under Medicaid. It is not a debate about abortion in the sense of should we overturn Roe versus Wade by constitutional amendment. It is not a debate about abortion, saying should we try to strip the Court of jurisdiction to hear cases involving abortion. This is not that kind of a debate.

It is simply this debate: The Federal Government, as a matter of policy, thinks that family planning is good, that planned pregnancies are good; and under what we call title X, we partially fund family planning clinics.

As a matter of fact, most of the money that we fund goes to local councils of government and they in turn pick different clinics to give the money to. And we encourage women and especially poor women to come into the clinics and get counseling about contraception, and we discover in many cases this is the only touch with any medical providers some of these poor women have. They come in and we discover that they have heart problems or breast cancer, or a variety of other medical problems totally unrelated to pregnancy. They may not even be pregnant.

But in many cases when they come in they are already pregnant and they want to know what to do when this pregnancy is over. They would like to, if possible, space their future pregnancies or perhaps eliminate their future pregnancies. But they want to know what to do about this pregnancy. And so if the woman was rich enough to go to her own doctor the doctor would say: "You can keep the child, put it up for adoption, send the child to foster care, you can do what you want; you can have an abortion."

The Senator from New Hampshire makes his argument because the Chafee amendment will simply go back to the practice that used to exist in this country a decade ago that allows the clinic to say to Sally, "In addition to your other options you have the option to choose abortion." The clinic does not pay for an abortion, does not do an abortion; but it can say to Sally, "We can tell you where to go if you want one." Is that a debate about the funding of abortions?

If it is, Mr. President, then we stretch the use of the normal English language. We are almost treading on the first amendment. It is not going to cost any more money in any clinic in this country that exists. It is not going to take one more doctor or one more nurse or one more computer if, when Sally comes in and is pregnant, the doctor says, "Sally, you have four options. One, two, three, four."

The doctor now says, "Sally, you now have 5; 1, 2, 3, 4, or 5. You can

have an abortion." Where does that cost any more money? What more doctors do you have to have to say, "Sally, you can have an abortion. It is your choice; weigh it along with all the other alternatives."

That is all this amendment does. Mr. President, if that is funding of abortion, then every word that is uttered, ever uttered by any Government bureaucrat or by any agency that has any Federal money, is a funding issue. You and I and our colleagues know that is not true.

So I hope that this Senate will belay this argument about is this an abortion issue or a funding issue. We are going to have those debates again in this Congress. I guess we are going to have them in the next Congress. I guess we are going to have them for the next decade. We have had them for the last two. But in this bill, in this amendment, is not that debate.

Vote for it or vote against it, as we choose. I hope we support it. For Heaven's sake, do not vote against it on the fallacious argument that this is an abortion, or an abortion funding, or an abortion-related issue.

I thank the Chair.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Maryland.

Mr. CHAFEE. Mr. President, I wonder if we could arrive possibly at a time agreement now.

Ms. MIKULSKI. Mr. President, I do wish to speak to the issues here, but I would like to enter into a conversation with the Senator from Rhode Island for the purposes of propounding a unanimous-consent request.

Mr. CHAFEE. Do you want me to proceed? My question was going to be, Mr. President, that we vote at 6:30, and that there would be reserved from the approximately 28 minutes; 5 minutes for the Senator from New Hampshire and 5 minutes for the Senator from Rhode Island.

Ms. MIKULSKI. If the Senator would withhold for a moment, I am advised by the majority leader staff of the need to clarify if that is acceptable to him. We thought it would be. Unless the majority leader has an objection, I do not see one.

But I will give my statement, and by the time I do that, I think we will be ready to move.

Mr. CHAFEE. I thank the Senator.

Ms. MIKULSKI. Mr. President, I rise to speak on behalf of this bill, and I rise both as a Senator and a social worker. Prior to becoming a U.S. Senator, or even entering into the field of politics, I was a social worker for Associated Catholic Charities. I worked as a foster care worker. I worked helping also to get older children adopted; also working at the Department of Social Services as a child abuse worker. And also I was one of the people who was engaged in the field related to really moving public assistance mothers off welfare rolls and into the employment rolls.

Mr. President, as a social worker and a Senator, I can tell my colleagues, this is one of the most important bills that we can pass. I can say that the Chafee amendment is an excellent amendment. What Senator CHAFEE offers in his amendment is that he codifies into law the opportunity of responsible counselors and professionals to provide to the people who seek their help and guidance the full range of options, and they get that information within a clinical setting with the most professional and medical and responsible advice.

They do not get it from a cheap magazine. They do not get it from a tabloid. They do not get it from an ill-informed girlfriend or boyfriend. And they do not get it from the gutter. They get it from a professionally trained physician, from a nurse practitioner, from a nurse midwife, from a social worker who, in many instances, is licensed and certified, and who wants to be sure when people make a decision, it is the most informed decision; within that context, to know about opportunities for becoming a mother; if for some reason the child is unwanted, what adoption would mean, and also what termination of pregnancy would mean, because there are various aspects of that.

Within that atmosphere, their own health would be evaluated, because we are not talking about going into some mill, some medical or Medicaid mill of some kind. We are talking about going into a professionally run clinic where people are getting Pap smears, are being tested for breast cancer and a whole variety of other things.

It is essential that the Chafee amendment be agreed to so that every bona fide, responsible professional can provide the full range of options available; not only what is available, but what are the negative sides to some of these, and what are the consequences to this decision.

I think the Chafee amendment offers a tremendous framework and opportunity for people who are giving counseling to our young people, and not so young, in some of these instances; the full range of information.

That is why I support the Chafee amendment, but I also vigorously support the title X refunding. I would like to remind my colleagues, title X was enacted 20 years ago. It was part of a Public Health Service Act. It was to ensure the public health of many of our women.

Title X was enacted to keep women, particularly poor women and young women, healthy; to give those women the knowledge and the medical access they needed to control their own lives and keep their children from having children. To keep their children from having children. We really fundamentally believe that this is absolutely essential.

Mr. President, unlike the B-1 bomber, the Resolution Trust Corporation, and others, title X actually works. Every year, 4,500 local clinics provide medical and educational services to over 5 million women and teenagers. Every dollar in family planning we spend through title X saves almost $4.50 in welfare payments, food payments and food stamps, and medical care.

Those medical clinics give to poor women critical access to health care services, services to blood pressure monitoring, as I said, screening for breast and cervical cancer, and also information about themselves and their bodies. For some, their own mother does not even know the information to tell them.

I happen to believe the best teacher in many of these cases is the parent. But in some instances, the parent is absent, ignorant, or poorly informed. Despite the critical services provided by title X, and despite the proven long-term savings, funding has fallen by almost $30 million. This is the kind of short term, shortsighted activity that causes $200 billion in budget deficits.

In my own home State alone, teenage mothers—teenage mothers—cost $300 million a year in a variety of social programs. Nationally, the price tag is $21 billion. But that does not factor in the cost of lost hopes, dashed dreams, high school diplomas that will never be earned, scholarships and opportunities lost, jobs forgone, promising futures foreclosed, by an unintended pregnancy.

A young girl in a poor neighborhood needs every opportunity if she is to succeed. Title X gives her the opportunity to pursue that. Every year it seems, though, we get bogged down by the same problem: the amendments and the arguments and all the emotional turmoil about abortion. This program is not about abortion. It is about options, and it is about preventing pregnancy. Not one single dollar goes toward abortion.

This fall, let us look beyond the short term. We can cast a vote to fund a better future, where every child is wanted and every mother is healthy. I think every Senator has to look into their own lives.

I think that every Senator who has thought about his or her own family has made choices, has looked at his or her own situation, has at various times used family planning. Why is it we would want to deny that same kind of thoughtful, responsible, planned behavior in our teenagers. We hope that they will delay their sexual gratifica-

tion. Abstinence would be the best tool for teenagers. Some might not even have been taught about that. Some might not even have been taught just to say no. In these clinics, that is one of the options that would be promulgated. So whether it is abstinence, adoption, or abortion, I believe young people have a right to know.

Mr. President, I have consumed my time. I note that the majority leader cannot be reached, so we cannot pursue the unanimous-consent request.

Mr. HATCH. Will the Senator yield to me.

Ms. MIKULSKI. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I am trying to work this out so that we can have a vote very soon on this amendment. Then what I would like to do is call up the President's substitute and have a vote on that, or at least set a time certain when we can vote tomorrow, or we could probably have a vote tonight. We could have a vote on that if the Senator from Massachusetts is in agreement. I have sent a message to him. He is in a special meeting at this time and cannot be here on the floor. If we can, then we would dispose of these two amendments and that should be it for this evening if the distinguished Senator from Massachusetts agrees.

In the meantime, I wish to say just a few things about the amendment of our distinguished colleague from Rhode Island.

Mr. President, I rise in opposition to the Chafee amendment which would overturn regulations ensuring that no funds under title X may be used for abortion. Those regulations are on the record. Those regulations build a wall which, in my opinion, is necessary to separate Federal family planning programs from abortion services and alleviate the considerable political attention that jeopardizes the important work of title X, which is a family planning bill. Section 1008 of the Public Health Services Act states: "No funds appropriated under this title shall be used in programs where abortion is a method of family planning."

Mr. President, until September 1, 1987, no regulations had been proposed to provide clear guidance on how to comply with this section. When these regulations were proposed, over 75,000 calls were received. Final regulations were issued on February 2, 1988. Today, my colleagues who support this amendment say that these regulations are unnecessary, because title X grantees are not using funds to perform abortions.

Let us be clear about the purpose of these regulations. These regulations merely limit the use of title X funds to family planning services that we all agree are necessary and effective. The regulations prohibit title X grantees from getting into the business of providing abortions. Providing or advocating abortions at all clearly violates the provision of family planning services.

Now, in 1982, GAO conducted an investigation to determine whether or not funds were being used for abortion services. What they found was that title X grantees needed clear guidance on how to comply with the law. The regulations were promulgated in response to this need. An accurate interpretation of section 1008 would conclude that advocacy of abortion services is inconsistent with the mission of the title X program, that is, to support preventive family planning services. Title X was designed to provide low-income women with family planning services as an alternative to abortion.

If, as the proponents of this amendment indicate, title X grantees are not in fact in the business of performing abortions, it seems to me that they should not be very concerned with the regulations. But they are concerned because there are 32 nonhospitals, title X grantees who provide abortion on site. In other words, they are planned parenthood clinics by and large that provide abortions right there, the same place that they give family planning services. These practices would have to end if they wanted to continue receiving Federal funds.

I ask unanimous consent that I may put into the RECORD a list of these cocited agencies where they claim they are giving family planning services and where they just ship them right into the next room, in most cases in exactly the same facility on exactly the same floor, except for one case in New York, and they go right in and perform the abortion, right there in planned parenthood clinics by and large. Not all of them are planned parenthood, but a vast majority of them are. I ask unanimous consent this be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

TITLE X COSITED AGENCIES

Cosite Name:
Region I: 0.
Region II:
Planned Parenthood of Monmouth County, NJ,
Hudson Health Service, NJ,
Planned Parenthood of New York City, NY (different floor).
Region III:
Jefferson Family Planning Services, Philadelphia, PA,
Women and Children Health Services, Inc., Philadelphia, PA,
Planned Parenthood Association of Pittsburgh, Pittsburgh, PA,
Planned Parenthood Association of Southeastern PA, Phil., PA,
Planned Parenthood Assoc. of MD, Baltimore, MD,
Dover League for Planned Parenthood, Wilmington, DE,
Women's Health Care Ctr., Charleston, WV.
Region IV:
Planned Parenthood, Memphis, TN,
Planned Parenthood, Nashville, TN.
Region V:
Planned Parenthood of Central Ohio, OH,
Planned Parenthood of Mid-Michigan, MI.
Region VI: None.
Region VII:
Planned Parenthood of Central Missouri, Inc., MO,
Planned Parenthood of Greater Kansas City, MO,
Planned Parenthood of Mid-Iowa, IA.
Region VIII: Boulder Valley, Clinic, CO.
Region IX:
Alameda/San Francisco Planned Parenthood, San Francisco, CA,
Alameda/San Francisco Planned Parenthood, Oakland, CA,
Planned Parenthood of Marin, San Rafael, CA,
Planned Parenthood of Monterey County, Monterey, CA,
Planned Parenthood of Sacramento Valley, Sacramento, CA,
Planned Parenthood of Santa Barbara/Ventura & San Luis Obispo, Santa Barbara, CA,
Planned Parenthood of Santa Cruz County, Santa Cruz, CA,
Planned Parenthood of Santa Clara County, San Jose/Mountain View, CA,
Planned Parenthood World Population/Los Angeles, Los Angeles/Sherman Oaks/Pomona, CA,
Six Rivers Planned Parenthood, Eureka, CA,
Claude Hudson Comprehensive Health Center, Los Angeles, CA.
Region X:
Takilma Peoples Clinic, Takilma, OR,
Planned Parenthood of Seattle/King Co., Seattle, WA,
Planned Parenthood of Snohomish Co., Everett, WA.

Mr. HATCH. The legislative history of title X makes clear that none of the funds are intended to promote or encourage the use of abortion as a method of family planning. Do my colleagues intend to change this policy as well? I hope not. We need to provide real choices for women who are pregnant. Many women have said that they are never presented with favorable or neutral information on any other option but abortion. In my opinion, that is not "pro-choice." They do not have a choice. They are just directed and pushed into having abortions. Instead, women should be offered better choices.

For example, Mary Cunningham Agee has come up with a unique program called Nurturing Network. This is a support network which helps women who are pregnant respond to additional responsibilities or to an unexpected pregnancy. This network began 5 years ago. The founders began by asking how many of last year's almost 2 million abortions were truly the result of the exercise of free choice. Their survey was informal, but it was informative. What they found was that 90 percent of those who had chosen abortion would have preferred

a more positive alternative to abortion—90 percent. If those positive alternatives had been presented or there had been any reasonable chance to have them, they would have chosen them. That is real choice. Today, the way this bill will operate once the Chafee amendment is passed, abortion is going to be the only choice.

Women often find that they have too much to lose by continuing their pregnancy. Women face a lot of pressure as they struggle to continue their education or to start a career. The Nurturing Network offers comprehensive services that cover every pregnant woman's needs from pregnancy testing to delivery of the baby and information on parenting and adoption. This program provides women with real choices. Before we rush to validate what some believe is pro-choice politics, let us step back and discuss real options for women who are pregnant.

I do believe preventive family planning services are a real alternative. I also believe supportive services for women who find themselves with unplanned pregnancies are a real alternative. Advocating abortion with title X funds is just plain not the answer.

I was interested in the comments of my good friend and colleague, Senator PACKWOOD, when he complimented me for approaching these problems in a correct way, doing it in a straight-up way by bringing a true constitutional amendment to the floor and having it debated. In 1973, we probably had 25 Senators who would have voted for that amendment. When we finally brought it to the floor there were 50 basically voting for that amendment. He complimented me for doing it the right way, doing it in a constitutionally sound way, allowing the Court decision to stay until we overturned it with a true constitutional amendment.

Now, if that is true, then it seems to me those who are advocating the Chafee amendment are somewhat inconsistent because, if that is true, there is a case before the Supreme Court right now called Russ versus Sullivan. Frankly, that case is going to decide this very issue. It is probably going to be decided in this next term of the court. The first Monday of October, Russ versus Sullivan is going to be heard. If you do not like a decision of the Supreme Court, we can overturn it. The case before the Supreme Court, as I have said, is entitled Russ versus Sullivan. It is going to be heard in this session of the Court, and that Court may very well rule that what Senator CHAFEE and others want, they should have, or the Court may very well strike down the regulations. I do not think it will. I hope it will not.

But the fact of the matter is it could. I suggest that it is inconsistent to say we can do it one way when you are arguing overrule Roe versus Wade and not another way when you are arguing to implement Roe versus Wade. In other words you cannot. It seems to me they are inconsistent arguments. If the distinguished Senator from Oregon believes that we should accord deference to the Court on these issues, then he ought to wait. If the distinguished Senator from Rhode Island thinks that, then he ought to wait. We should not have to vote on this amendment.

Why not let the Court make this decision because it is probably going to have to in the end anyway? In any event, be that as it may, I am prepared to go to a vote on this if it is all right with the distinguished Senator from Massachusetts, the distinguished Senator from Rhode Island, the distinguished Senator from New Hampshire, and anybody else in the Senate. I am prepared to go to a vote in the next few minutes.

Mr. CHAFEE. Mr. President, as I understand the problem on the vote is that the majority leader—I have not located him yet.

Mr. HATCH. I have chatted with the majority leader. He made it very clear that Senator KENNEDY and I can agree we can go ahead with these two votes. So we could have this vote in the next 7 or 8 minutes, if I can get Senator KENNEDY's agreement.

Mr. CHAFEE. I had not understood that from the majority side. In that case, we would be prepared to go to a vote with the prior understanding that both Senator HUMPHREY and I would each have 5 minutes. If no one else wishes to speak, we might as well, in other words, vote in 10 minutes with the time equally divided. I make that request.

Ms. MIKULSKI. Mr. President, reserving the right to object, we understand that what the majority leader wants to have in addition to a vote is a type of organized way of voting that would be stacked so that we would complete the debate on the Senator's amendment. Is someone talking about offering a substitute?

Mr. HATCH. Yes. I would like to offer the Administration substitute.

Ms. MIKULSKI. Would the Senator be agreeable to a time agreement on that?

Mr. HATCH. Sure. We can agree on a short-time agreement on that, and stack that vote as well. I went over and met personally with the majority leader. He said if Senator KENNEDY and I can agree on a procedure, we can proceed to vote on the amendment, call up the substitute pursuant to a short-time agreement, probably 10 minutes to the side—that is fine with me—then proceed to vote on that matter. I am prepared to offer it if the distinguished Senator from New Hampshire is agreeable.

The PRESIDING OFFICER. Is there objection?

Ms. MIKULSKI. Withholding the right to object, Senator KENNEDY has just returned to the floor. We want to be sure we all understand the same thing.

Mr. KENNEDY. If the Senator will yield, as I understand it, we would like to propound a unanimous-consent agreement and would circulate it to the other Members before propounding it. Then I will propound it. If it is agreeable, we will move forward if that is satisfactory.

Mr. HATCH. I am prepared to a 10-minute time agreement before a vote on the Chafee amendment, 5 minutes to each side, 5 minutes to Senator CHAFEE, and 5 minutes to Senator HUMPHREY. We could vote on that, or stack it, and then we could move to the substitute. I will call that up. I am willing to take 10 minutes a side.

Mr. KENNEDY. That is fine.

Mr. HATCH. Ten minutes to a side, then have those votes back to back. That should do it for this evening.

Mr. CHAFEE. Mr. President, I cannot speak for the distinguished Senator from New Hampshire. First of all, I am anxious to get this wound up. The proposal as I understand it, if I am incorrect, from the distinguished Senator from Massachusetts, is that Senator HUMPHREY and I would each speak for 5 minutes on this amendment. Then that would end the debate on this amendment. We would proceed and no vote, we proceed then—or was the suggestion having a vote?

Mr. KENNEDY. Yes.

Mr. CHAFEE. Have a vote? I do not think that is the suggestion. There is a little confusion here.

Mr. HATCH. We would be happy to stack the votes until after we debate the substitute or additional time equally divided, have the two votes back to back, and that would be the end of it.

Mr. HUMPHREY. Mr. President, I have no objection to the UC proposed here except the Senator from Utah was mistaken in suggesting that would be the end of it tonight because here is the problem. Under the UC from last week, we go immediately after morning business tomorrow to the cloture vote. Other Senators, including this one, Senator ARMSTRONG, a couple of others who have amendments to offer, have no choice but to offer them tonight unless we can get a further postponement of the cloture.

Mr. KENNEDY. If the Senator will yield, I would be glad to offer a consent agreement that we vote on the Chafee amendment and also the substitute, and as far as I am concerned, I will remain here for the evening to debate any of the amendments that the Senator from New Hampshire has. I have not inquired. I believe that the majority leader would like to continue to make progress to the extent that we

can. I have not had an opportunity to talk to him. But as far as I am concerned, I would be glad to stay here and debate or discuss with the Senator from New Hampshire and the Senator from Colorado on through the evening.

So I would expect that we would propound a consent request that will just bring us to the consideration of the Chafee amendment, and the substitute, and if it is agreeable to both of those sponsors of those amendments, with back-to-back votes. I would not presume to then speak for the majority leader on what he intended to request for the rest of the evening. I would think he would probably want to continue if we are making progress. I would be more than glad to do so. That would be the current situation.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Chair would request on the advice of the Parliamentarian that we have a formal UC request so we are quite certain of the sequence of the order.

Mr. KENNEDY. We were just going to suggest the absence of a quorum, or continue the debate until we work one out.

Mr. HATCH. May I make one point? Could I ask the distinguished Senator from New Hampshire and others who may have nongermane amendments that they would like to bring up tonight to get them to us so we can get UC's on all of them. That would give everybody some idea of what we are going to do here tonight. What we will do is ask for unanimous consent to proceed with these two, and then go from there. I am prepared to stay as well.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I just want to take care of my amendment. I am not trying to solve all problems. Therefore, I would ask unanimous consent that there be 10 minutes more on this amendment, equally divided, under the control of Senator HUMPHREY and myself, and that that terminates the debate, and then we go to a vote, or if they wish to stack the votes, that is fine by us. But I think we want to wind this up so we will know we are through with this. Is that satisfactory?

Mr. HUMPHREY. I am just dealing with my amendment, not handling the problems of the world. Senator HATCH and his amendment is on a separate subject. I am just dealing with my situation.

Does the distinguished Senator from Massachusetts understand? I am asking that on my amendment there only be 10 minutes more equally divided under the control of Senator HUMPHREY and myself, and that concludes it. If you want to stack the vote, whatever it is, that is fine by me.

Mr. KENNEDY. I will propound a unanimous-consent request, if I could have the attention of the Senator from New Hampshire.

I ask unanimous consent that there be 10 minutes for debate on the Chafee amendment, the time be divided as follows: 5 minutes under the control of Senator CHAFEE, 5 minutes under the control of Senator HUMPHREY; and when all time is used or yielded back the Senate lay aside the Chafee amendment; Senator HATCH be recognized to offer the Hatch administration substitute, 20 minutes for debate on the Hatch amendment; when all time is used or yielded back on the Hatch amendment that the Senate proceed to vote on the Chafee amendment, and then vote on the Jeffords amendment as amended if amended; that without intervening action or debate the Senate then proceed to vote on or in relationship to the Hatch amendment; that no amendments be in order to the listed amendments; no points of order be waived; that no motion to recommit be in order; and, that the time be controlled in the usual form.

Mr. HATCH. Will the Senator yield?

Mr. KENNEDY. Yes.

Mr. HATCH. It is my understanding that we had an objection on our side with regard to the 20 minutes equally divided on the committee substitute, and we may have to change a line or two of the substitute so that it can be amended in order to resolve this. We will try to do that.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I rise in support of the Chafee amendment.

Title X authorizes Federal funds for local family planning clinics.

Clinics provide basic, essential health information and services for many Americans, including many who could not otherwise afford to see a doctor or other health care professional.

Under current guidelines, federally funded family planning clinics can give pregnant women nondirective counseling regarding their options—continuing the pregnancy, placing the child in foster care or adoption, or terminating the pregnancy.

But during the Reagan administration, the Department of Health and Human Services issued regulations that prohibited health care professionals at these family planning clinics from even mentioning the option of abortion. That does not make sense; it is illogical.

Medical groups have resoundingly criticized these regulations as violating the principles of informed consent. It is their belief that by not even mentioning the option of abortion, the professionals at the clinics will be liable for medical malpractice.

The regulations are ludicrous. How can you believe that a woman is better off not knowing about a medical option that is available? The counselors do not encourage one form of treatment over another—they provide information on options. Ultimately the woman must decide for herself.

But people who oppose a woman's right to choose an abortion want to deny that the option even exists. And they want to impose that requirement on counselors at these family planning clinics.

We would not even consider this type of "gag rule" for any other medical condition. Can you imagine a rule that forbid the mention of chemotherapy to a patient with cancer? But antiabortion activists have made a public event out of every woman's pregnancy.

The Government should not be in the business of telling health care professionals what treatment options should be presented to patients.

I believe the Chafee amendment is a good proposal. I strongly support it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I rise today in support of the amendment proposed by the Senator from Rhode Island, Mr. CHAFEE. This amendment would overturn regulations promulgated by the Reagan administration in 1988 which prohibit counselors and health care professionals employed at title X funded clinics from discussing abortion as an option when providing nondirective counseling to their pregnant patients. Under these misguided regulations, these health care providers are also prohibited from referring patients who desire to terminate an unintended pregnancy to appropriate health care providers even though the patient has specifically requested such a referral.

Mr. President, the original guidelines established under the Public Health Service Act of 1970 provided that "Pregnant women should be offered information and counseling regarding their pregnancies. Those requesting information on options for the management of an unintended

pregnancy are to be given nondirective counseling on the following courses of action, and referral upon request: Prenatal care and delivery, infant care, foster care or adoption and pregnancy termination." For nearly two decades, title X clinics functioned appropriately under these guidelines. Several studies confirmed that these clinics strictly adhered to their mandate to provide only information and referral to their patients interested in terminating unintended pregnancies. Clinic counselors, doctors, and nurses were trusted to advise their patients in an appropriate manner. Under the new regulations, these professionals are prohibited from providing any information regarding the option for abortion to a patient who asks for such information.

Title X clinics are often the only source of family planning and pregnancy-related information for low-income women. These women need information on all of their options so they can make the best decision for themselves and their families when faced with an unintended pregnancy. The current regulations create a two-tier system of health care for the women in our Nation—those who can afford private health care and will be advised of all options available to them and those who must make important decisions based on only partial knowledge.

The Reagan-era "gag" rule denies health professionals the right to provide patients full and accurate information about all alternative courses of treatment and the risks and benefits of each option. They are inconsistent with good medical practices and deny women dependent upon title X programs the full information they need to make an informed choice. These regulations should be overturned.

Mr. CHAFEE. Mr. President, I have here a unanimous-consent request that has been cleared by the other side. It reads as follows: That there be 10 minutes for debate on the pending first- and second-degree amendments to the committee substitute; that when time is used or yielded back, the Senate proceed to vote on the Chafee amendment; upon disposition of the Chafee amendment, the Senate proceed to vote, without any intervening action or debate, on the Jeffords amendment, as amended, if amended; that no other amendments be in order until these amendments have been disposed of; that no motion to recommit be in order, or any other point of order waived by this agreement, and that the time be divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I will start on the 5 minutes that I have on my side.

First of all, I ask unanimous consent that Senator PELL be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, serving in the U.S. Senate is sometimes a humbling experience. I spoke fervently, perhaps not eloquently, on this measure, and made the points that I thought were pertinent, and then the distinguished Senator from Utah rose and, apparently, had not hung on every word I said. Indeed, far from it. He had not hung on any of the words I said. So he raised points that I thought we had explained very carefully to start with and, indeed, I spoke about them this morning.

So I want to briefly repeat, if I might, that contrary to what the Senator from Utah said, the very distinguished Senator, who is knowledgeable in this field, there is no money provided in title X for abortion. That is agreed to. We set that aside. There is no argument over that. Indeed, there is no encouragement for abortion under the language as it exists under title X now, or under the amendment that I have.

What we are saying, simply, is just as for 18 years of the 20-year life of this measure, that low-income women who are pregnant, who are seeking information, be given that information, and that it be nondirective.

I mean, the distinguished Senator from Utah, somehow has the impression that there is encouragement for abortion because the doctor is asked by this low-income woman—frequently teenagers—"Doctor, what are my options?" And the doctor gives the options. But the language is clear that they must be nondirective. In other words, he cannot say, well, you can carry the baby to term; you can, when the baby is born, have adoption or foster care, but I strongly suggest that you seek pregnancy termination. That is not permitted.

And so the points are, that there is no money provided for abortion under the Chafee amendment; that it is only in response to a request from the woman that the doctor gives her the options.

Finally, it must be nondirective. There can be no encouragement for A, B, C, or D. Indeed, we have had experience under this in the past. If the doctor does not want to do that, does not want to respond, he can say: "I am not going to give you the options. But you can go elsewhere where they will outline the options."

This is in response to a problem raised earlier by Senator ARMSTRONG about the religious hospitals, where they do not even want to mention any of these subjects.

Mr. HATCH. Will the Senator yield?

The reason I point that out is, there are a number of these clinics where they have the abortion clinic on the same floor, same office as the other, and there is a compulsion in and of itself, for the abortion to take place. That is the reason I pointed it out.

Mr. CHAFEE. If such a place exists, I cannot quarrel with the information the Senator might have. All I know is that the typical situation is a community health clinic where there are no abortions performed. They are operating under other Federal guidelines, and as we all know, no Federal money can go to provide abortions for low-income women, or any women.

So, Mr. President, this is strictly an argument that I am making, and this amendment is for better health care for women. We want them to come to these clinics. We want them to know they are offered the full options.

I think, in a true sense of compassion, I do not think we want to have these women refused information that they could obtain if they could afford to go to a regular doctor. By a regular doctor, I mean a doctor they could afford to go to, because obviously there are full medical certified M.D.'s in these clinics. If they could afford to go to the doctor, and they said, please give me my options, that doctor would be required to give them the full range of options. So we wish to provide it under this amendment.

I reserve the remainder of any time I might have.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, it seems to me that the threshold question that Senators might want to answer is, do they approve of abortion as a means of family planning.

Contraception is family planning, the various kinds of contraception from rhythm to various kinds of mechanical devices, clearly that is family planning. Do Senators want to subscribe to abortion as a matter of family planning? I hope not. Certainly most Americans do not.

Even more emphatically, most Americans do not want their tax dollars used in any way to facility abortion. Nobody is suggesting that under this bill the fund will be used to pay the abortionist to pay his bill; nobody suggested that. It is a red herring, a straw man.

The fact of the matter is, the Chafee amendment and the committee report language in the bill would change the existing situation. It would change the status quo. The status quo is that no title X funds may be awarded to a grantee who promotes abortion in any way, through counseling or referral, as a means of family planning. That is the status quo.

The Senator from Rhode Island forthrightly seeks to overturn the status quo and to provide that Federal funds may be used to counsel women

with respect to abortion, and even to refer them to abortion clinics.

So if Senators want to subscribe to the notion that abortion is a legitimate means of family planning, then certainly they will want to support the Chafee amendment. But most Americans reject that notion, and reject it soundly, and even more reject the notion that their money should be used in any way to facilitate the performance of an abortion.

Let us take a worst case scenario from the point of view of those who like this bill, or may be attracted to it for some reason, because, let us face it, it does have some very salutary and praiseworthy provisions. Were it not for this abortion business it would not be a problem. But that is the problem, and it is a very big one, a moral and ethical problem, may I point out.

But for the benefit of Senators who are worried about the continuance of legitimate family planning services, let me say this again: that we have not authorized title X in 5 years. We have not passed an authorization bill like this in 5 years. We have just refused to deal with it because we could not get by it.

So what has happened? Have the funds dried up? Have the clinics closed? Has counseling on legitimate family planning methods stopped? Have they quit giving pap smears and breast examinations and fertility counsel? No. That has not happened in the 5 years we refused to reauthorize title X.

If we refused to reauthorize it, the worst case scenario, as some might see it, what happened in the last 5 years? The Appropriation Committee will provide money to continue title X under the current arrangements, that is to say, all of these fine services provided in full measure, with the exception that these grantees may not, in any way, facilitate abortion as a means of family planning.

That is a reasonable restriction. It is one that accords with the deep-felt feelings of a great many American people. It is one that accords with the decision made many times over in the last 15 years, or more, by this body not to provide Federal funds in any program that facilitates abortion.

We should stick by that precedent. It is sound ethically, and it is sound morally, and respects the conscience of millions of Americans who find that abortion kills human beings, and that it is morally repugnant, and that the Government should not in any way, however indirectly or tangentially, be involved in facilitating or promoting it, especially not as a means of family planning.

I reserve whatever time I have remaining. However, I am prepared to yield it back if my colleague is likewise prepared.

Mr. CHAFEE. Mr. President, I have 18 seconds. I merely will say that for 18 years what I am proposing here, worked successfully. I hope we can return to that successful system. My amendment deals with fostering better health care to assure that low-income women have access to the best possible health care.

Mr. HUMPHREY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 34 seconds.

Mr. HUMPHREY. Mr. President, we have just heard the old argument about discriminating against low-income women. We have heard that argument before, and we have decided that notwithstanding that argument, the Government should not be involved, should not use taxpayer funds in any way, directly or tangentially, to promote abortion and facilitate abortion. That is the question before us, the question of whether abortion is a legitimate means of family planning.

Clearly, it is not. Clearly it does not belong in this bill, and clearly we ought to reject the Chafee amendment and the bill and allow the Appropriations Committee, as it has in the past, to fund the legitimate programs without funding programs that enhance abortion.

Mr. ADAMS. Mr. President, I would like to speak in strong support of this amendment to reverse the 1988 regulations promulgated by HHS prohibiting family planning clients from counseling clients about abortion options. The 1988 regulations now before the Supreme Court, are mean-spirited, unethical, and I think, unconstitutional.

We all know that title X funds cannot be used to provide abortions. This is as true today, as it was when title X was first enacted into law 20 years ago. The primary purpose of title X, is to provide family planning services, including information about all legal, medical options regarding an unintended pregnancy.

But the regulations prohibit title X clinics from providing any information—even nondirective, factual information—about abortion.

The HHS regulations are, in effect, a ban on the right to free speech. Not only do the regulations deny medical professionals their right to discuss certain subjects, they force medical professionals into the untenable, and unethical situation of withholding medical information.

The regulations conflict with the professional ethics and guidance of major medical organizations across the country, including the American Medical Association and the American College of Obstetricians and Gynecologists, which insist on a patient's right to full information and to be referred for any necessary medical and social services not provided by title X.

Totalitarian governments restrict a citizen's right to information. America is founded on different principles. Censoring medical advice or failing to give women complete information about their health and their legal options, is antithetical to American principles.

I believe Congress has an obligation to women and to the country to reverse these regulations. Our position must be clear: Censoring information will not be tolerated.

To this end, I support adding langauge to the law requiring nondirective counseling on all legal options for title X patients.

I urge my colleagues to join with me in supporting this amendment.

Mr. SPECTER. Mr. President, in voting for the Chafee amendment I am concerned about attaching the abortion counseling issue to the bill, because it provides the basis for controversy and the possible veto of this important bill. On balance, I am supporting this Chafee amendment because of the history of the inclusion of such services from 1981 until the 1988 regulations promulgated by the Department of Health and Human Services.

The 1981 guidelines developed by the Department of Health and Human Services allowed title X grantees to offer information and counseling regarding their pregnancies. Individuals requesting information on options for the management of unintended pregnancy were offered nondirective counseling and referral for prenatal care and delivery, infant care, foster care, adoption services, and pregnancy termination.

Regulations promulgated in 1988 reversed this position, however, and prohibited title X clinics from offering information and referral on abortion, even when pregnant women request this information. In addition, these regulations require family planning programs to maintain physical and financial separation from abortion services, and prohibited activities relating to abortion as a method of family planning. Several suits were filed against HHS, as a result of these regulations, and two Federal appeals courts have ruled against the Department. One case is expected to be heard by the Supreme Court during its October term.

The Chafee amendment codifies the 1981 regulations, and emphasizes the provision of prenatal care and delivery services, infant care, foster care, and adoption services. This amendment also allows objective and even-handed counseling. It does not promote abortion, but gives women information regarding the availability of a wide range of services. In my view, it is important the title X services be provided in a nonadvocacy context and that

even-handed, and fair information be provided regarding the options that are available.

The PRESIDING OFFICER. All time has expired.

Mr. CHAFEE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

I further announce that the Senator from New Hampshire [Mr. RUDMAN] is absent due to a death in the family.

The result was announced—yeas 62, nays 36, as follows:

Rollcall Vote No. 252 Leg.]

YEAS—62

Adams	Gorton	Murkowski
Akaka	Graham	Nunn
Baucus	Harkin	Packwood
Bentsen	Hatfield	Pell
Biden	Heinz	Pryor
Bingaman	Hollings	Riegle
Bond	Inouye	Robb
Bradley	Jeffords	Rockefeller
Bryan	Kassebaum	Roth
Bumpers	Kennedy	Sanford
Burdick	Kerrey	Sarbanes
Byrd	Kerry	Sasser
Chafee	Kohl	Shelby
Cohen	Lautenberg	Simon
Cranston	Leahy	Simpson
Daschle	Levin	Specter
Dixon	Lieberman	Stevens
Dodd	Metzenbaum	Thurmond
Fowler	Mikulski	Warner
Glenn	Mitchell	Wirth
Gore	Moynihan	

NAYS—36

Armstrong	Domenici	Kasten
Boren	Durenberger	Lott
Boschwitz	Exon	Lugar
Breaux	Ford	Mack
Burns	Garn	McCain
Coats	Gramm	McClure
Cochran	Grassley	McConnell
Conrad	Hatch	Nickles
D'Amato	Heflin	Pressler
Danforth	Helms	Reid
DeConcini	Humphrey	Symms
Dole	Johnston	Wallop

NOT VOTING—2

Rudman	Wilson

So the amendment (No. 2762) was agreed to.

Mr. CHAFEE. I move to reconsider the vote.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. BURDICK). The question is on agreeing to the Jeffords amendment, as amended.

The amendment (No. 2761), as amended, was agreed to.

Mr. JEFFORDS. I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, what we would like to do for the betterment of all Senators so that they can know what the schedule is, and what I suggest to the distinguished majority leader and majority floor manager, is call up the President's substitute, have 20 minutes equally divided, and I believe both Senator KENNEDY and I would try to limit that to probably 10 minutes at the most, then have a vote on that, and then work out the time agreements on the other amendments that will occur before the vote on cloture tomorrow.

Mr. MITCHELL. Mr. President, I have indicated to the managers that I believe that procedure would be acceptable and accommodating to the interests of most Senators. That requires an agreement identifying the substance and number of amendments which would be offered this evening and debated this evening. The votes on those amendments would occur tomorrow prior to the cloture vote now scheduled on the bill. That is what the managers have suggested. It appears to me to be the best way to accommodate the interests of all concerned. It will take some time to work out that agreement, in which event that would occur during the debate, the few minutes of debate now on the Hatch amendment.

Accordingly, Mr. President, to permit that to go forward, I now ask unanimous consent that the Senate now consider the Hatch amendment No. 2763; that no amendments to the amendment be in order; that if adopted the Hatch substitute amendment be considered as original text for the purpose of further amendments; that there be 20 minutes of time for debate on the amendment equally divided and controlled in the usual form, at the conclusion of which there be a vote on or in relation to the amendment without any intervening action or debate; that no points of order be deemed waived by this agreement and no motions to recommit be in order.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Mr. President, reserving the right to object, I would like to inquire of the distinguished Senator from Utah if he thought we could do it in less time. Is it possible to have an agreement that we do it in less time?

Mr. HATCH. I think we should keep it at 20 minutes. I think we can do it in less time. We will endeavor to do so.

The PRESIDING OFFICER (Mr. REID). Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation. I understand the managers and interested Senators will attempt to put together an agreement. That would, if adopted, permit the offering of amendments this evening and debate on them, but the votes would be deferred until tomorrow morning prior to the cloture vote. I thank my colleagues.

AMENDMENT NO. 2763

(Purpose: To provide for a substitute amendment)

The PRESIDING OFFICER. Under the previous order, the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] for himself and Mr. COATS, proposes an amendment numbered 2763.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Planning Amendments Act of 1989".

SEC. 2. STATE FAMILY PLANNING PROGRAMS.

Title X of the Public Health Service Act (42 U.S.C. 300 et seq.) is amended to read as follows:

"TITLE X—STATE FAMILY PLANNING PROGRAMS

"SEC. 1001. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of assisting States to carry out programs under which acceptable and effective family planning methods and services (including natural family planning methods, infertility services, services for adolescents, and adoption services) may be provided, and in connection with which family participation is encouraged, there are authorized to be appropriated $138,364,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992.

"SEC. 1002. ALLOTMENTS.

"(a) IN GENERAL.—From the amounts appropriated under section 1001 for any fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to such amounts appropriated as the amounts provided under this title (as such title existed before the date of enactment of the Family Planning Amendments Act of 1989) for fiscal year 1989 by the Secretary to the State and to entities in the State for family planning services bears to the amount provided for fiscal year 1989 to all States and to entities in all States for such services under such title.

"(b) REALLOTMENTS.—To the extent that all funds appropriated under section 1001 for a fiscal year are not otherwise allotted to States because—

"(1) one or more States have not submitted an application or description of activities in accordance with section 1007 for such fiscal year;

"(2) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) some State allotments are offset or repaid under section 1008(b)(2);

such excess amount shall be reallotted among each of the remaining States in proportion to the amount otherwise allotted to such States for such fiscal year without regard to this subsection.

"(c) RESERVATIONS FOR INDIANS.—

"(1) IN GENERAL.—If the Secretary—

"(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this title be provided directly by the Secretary to the tribe or organization; and

"(B) determines that the members of the tribe or organization would be better served by means of grants made directly by the Secretary under this title;

the Secretary shall reserve from amounts that would otherwise be allotted to the State under subsection (a) for such fiscal year the amount determined under paragraph (2).

"(2) DETERMINATION OF AMOUNT.—The Secretary shall reserve for the purpose of paragraph (1) from amounts that would otherwise be allotted to the State under subsection (a) an amount equal to the amount that bears the same ratio to the allotment of the State for the fiscal year involved as the total amount provided for fiscal year 1989 by the Secretary to such tribe or tribal organization to carry out this title bears to the total amount provided for such fiscal year by the Secretary to the State and entities (including Indian tribes and tribal organizations) in the State to carry out this title.

"(3) DISTRIBUTION.—The amount reserved by the Secretary on the basis of a determination under this subsection shall be made available to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(4) PLAN.—An Indian tribe or tribal organization shall be eligible for a grant for a fiscal year under this subsection, if it submits to the Secretary a plan for such fiscal year that meets such criteria as the Secretary shall prescribe.

"(5) DEFINITIONS.—As used in this section, the terms 'Indian tribe' and 'tribal organization' have the same meaning given those terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

"SEC. 1003. PAYMENT UNDER ALLOTMENTS TO STATES.

"(a) IN GENERAL.—For each fiscal year, the Secretary shall make payments, as provided by section 6503 of title 31, United States Code, to each State from its allotment under section 1002 (other than any amount reserved under section 1002(c)) from amounts appropriated for that fiscal year.

"(b) AVAILABILITY.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of that fiscal year shall remain available for the next fiscal year to the State for the purposes for which it was paid.

"SEC. 1004. USE OF ALLOTMENTS.

"(a) PERMISSIBLE USES.—

"(1) IN GENERAL.—A State may, consistent with the provisions of this title, use amounts paid to it under section 1003 as the State may find appropriate for—

"(A) acceptable and effective voluntary family planning methods or services;

"(B) training of family planning personnel;

"(C) developing and making available family planning and population growth information (including educational materials) for all individuals desiring such information (or materials); and

"(D) conducting or supporting research to improve the delivery of family planning services. Amounts provided for the activities referred to in this paragraph may also be used for related planning, administrative, and educational activities.

"(2) PRIORITY.—Priority shall be given, in any program in which funds provided under this title are used, to the furnishing of family planning services to individuals from low-income families (as defined by the State) to insure that economic status will not be a deterrent to participation in such program.

"(b) LIMITATIONS.—A State shall not use amounts paid to it under section 1003 to—

"(1) provide inpatient services;

"(2) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment; or

"(3) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(c) ADMINISTRATION.—Of the amounts paid to any State under section 1003 for any fiscal year, not to exceed 10 percent of such amounts shall be used for administering the funds made available under that section. The State will pay from non-Federal sources any remaining costs of administering those funds.

"SEC. 1005. PROHIBITION ON ABORTION.

"None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning.

"SEC. 1006. VOLUNTARY PARTICIPATION.

"In any program in which funds provided under this title are used, the acceptance by any individual of family planning services or family planning or population growth information shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other services or assistance from, or participation in, any other program of the entity or individual that provided such service or information.

"SEC. 1007. APPLICATION AND DESCRIPTION OF ACTIVITIES.

"(a) APPLICATION.—To be eligible to receive an allotment for a fiscal year under section 1002 a State shall submit an application to the Secretary by such date as the Secretary shall require.

"(b) PUBLIC COMMENT.—After the expiration of the first fiscal year for which a State receives an allotment under section 1002, no funds shall be allotted under such section to the State for any fiscal year unless the State affords an opportunity for public comment on the proposed use and distribution of funds to be provided under section 1003 for such fiscal year.

"(c) CONTENTS OF APPLICATION.—As part of the annual application required under subsection (a), the State shall certify that it—

"(1) agrees to use the funds allotted to it under section 1002 in accordance with the requirements of this title;

"(2) agrees to establish, after providing reasonable notice and opportunity for the submission of comments, reasonable criteria to evaluate the effective performance of entities that receive funds from the allotment of the State under this title;

"(3) agrees to permit and cooperate with Federal investigations undertaken in accordance with section 1008;

"(4) has in effect a system to protect from inappropriate disclosure of client records maintained by the State in connection with a program receiving assistance under this title or by an entity that is receiving payments from the allotment to the State under this title; and

"(5) has the administrative capability to carry out section 1004, to determine the need for family planning services, and to evaluate the performance of entities that receive assistance from the allotment of the State under this title.

The Secretary shall not prescribe for a State the manner of compliance with the requirements of this subsection.

"(d) DESCRIPTION OF USE.—

"(1) IN GENERAL.—The State shall, as part of the application submitted under subsection (a), prepare and furnish to the Secretary a description of the intended use of the payments that the State will receive under section 1003 for such fiscal year, including a statement of goals and objectives, information on the types of programs to be supported, geographic areas to be served, and the categories or characteristics of individuals to be serviced and the criteria and method to be used for the distribution of the payments.

"(2) PUBLICATION.—The description required by paragraph (1) shall be made public within the States in such manner as to facilitate comment from any person (including any Federal or other public agency) during the development of the description and after its transmittal. The description shall be revised throughout the year as may be necessary to reflect substantial changes in the programs assisted under this title, and any revision shall be subject to the requirements of this paragraph.

"(e) REQUIREMENTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary shall prescribe such requirements as the Secretary determines necessary to assure that payments made to a State under this title are not used in violation of the prohibition contained in section 1005. The State, as part of the application required under subsection (a), shall certify that it will comply with all requirements imposed by the Secretary pursuant to this title to carry out section 1005, and shall describe the procedures it will follow, as required by the Secretary, to assure such compliance on a continuing basis.

"(2) OTHER INFORMATION.—In addition to the provisions of subsection (c), the State shall also certify, as part of the application required by subsection (a), that it will furnish, in its annual report to the Secretary or in such other form or at such other times as the Secretary may require, all information that the Secretary determines necessary to ascertain whether funds were spent in accordance with section 1005, or to conduct an investigation, or respond to a compliant, under section 1009(a) (2) or (3), respectively, concerning compliance by the State with section 1005.

"SEC. 1008. REPORTS.

"(a) REQUIREMENT.—Each State shall prepare and submit to the Secretary annual reports concerning its activities under this title. Subject to section 1007(e), report prepared under this section shall be in such form and contain such information as the State determines to be necessary—

"(1) to determine whether funds were expended in accordance with the provisions of this title;

"(2) to secure a description of the activities under this title;

"(3) to secure a record of—

"(A) the purposes for which funds were spent under this title;

"(B) the recipients of such funds; and

"(C) the progress made toward achieving the purposes for which such funds were provided; and

"(4) to determine how the State has met the goals and objectives previously stated.

Copies of reports submitted under this section shall be provided, on request, to any interested person (including any public agency).

"(b) ADMINISTRATIVE REQUIREMENTS.—

"(1) ACCOUNTING PROCEDURES.—Each State shall establish fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under section 1003.

"(2) REPAYMENTS.—A State shall, after being provided by the Secretary with adequate notice and opportunity for a hearing within the State, repay to the United States amounts found not to have been expended in accordance with the provisions of this title or the certification provided under section 1007. If such amounts are not repaid, the Secretary shall, after providing the State with adequate notice and opportunity for hearing, offset the amounts against the amount of any allotment to which the State is or may become entitled to under section 1002.

"(3) RESPONSE BY SECRETARY.—The Secretary shall respond in an expeditious manner to complaints, of a substantial or serious nature, that a State has failed to use funds in accordance with the requirements of this title or the certification required under section 1007.

"(4) LIMITATION.—The Secretary shall not withhold funds under paragraph (1) from a State for a minor failure to comply with the requirements of this title or the certification provided under section 1007.

"(b) RECORDS.—Each State, and each entity that has received assistance under an allotment made to a State under this title, shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

"(c) UNREASONABLE REQUESTS FOR INFORMATION.—

"(1) IN GENERAL.—In conducting any investigation in a State, the Secretary shall not request any information not readily available to the State or to any entity that has received funds from an allotment made to the State under this title or make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the collection, compilation, or transmittal of data in the course of a judicial proceeding or an investigation to determine compliance with section 1005.

"SEC. 1010. NONDISCRIMINATION.

"(a) PROHIBITION.—

"(1) IN GENERAL.—For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities that receive Federal financial assistance under this title shall be considered to be programs and activities receiving Federal financial assistance.

"(2) ON THE BASIS OF GENDER.—No individual shall on the basis of gender be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance under this title. This paragraph shall not be construed to prohibit any conduct or activities permitted under paragraphs (1) through (9) of section 901(a) of the Education Amendments of 1972.

"(b) ENFORCEMENT.—When the Secretary determines that a State, or an entity with respect to a program or activity that has received a payment from an allotment to a State under section 1002, has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure such compliance, the Secretary may—

"(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

"(2) exercise the powers and functions provided by the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, or title VI of the Civil Rights Act of 1964, as the case may be; or

"(3) take such other action as may be provided by law.

"(c) CIVIL ACTION.—When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

"SEC. 1011. CRIMINAL PENALTY FOR FALSE STATEMENTS.

"Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payment may be made by a State from the funds allotted to the State under this title, or

"(2) having knowledge of the occurrence of any event affecting the initial or continued right of a person to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized;

shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both.".

SEC. 3. TECHNICAL AMENDMENT.

Section 2(f) of the Public Health Service Act is amended by striking out "1002(c),".

SEC. 4. EFFECTIVE DATE AND TRANSITIONAL PROVISIONS.

(a) EFFECTIVE DATE.—The amendments made by sections 2 and 3 shall become effective on the date of enactment of this Act, or October 1, 1989, whichever occurs later.

(b) TRANSITIONAL PROVISIONS.—

(1) IN GENERAL.—If any State (as defined in section 2(f) of the Public Health Service Act (42 U.S.C. 201(f))) has not, prior to 30 days before the beginning of any calendar quarter in fiscal year 1990, submitted an application under section 1007 of the Public Health Service Act (as amended by section 2) for an allotment for such fiscal year under such section, the Secretary of Health and Human Services may during that quarter, notwithstanding such section 1002(b), provide all or part of the funds allotted to such State to the State or to entities in the State in accordance with title X of the Public Health Service Act as in effect prior to the effective date of section 2.

(2) REDUCTION.—If the Secretary of Health and Human Services provides amounts to a State or to entities in a State under paragraph (1) and the State subsequently files an application under section 1007 of the Public Health Service Act (as amended by section 2) for an allotment for fiscal year 1990 under section 1002(a) of such Act (as amended by Section 1), the allotment shall be reduced by the amounts the Secretary has provided under paragraph (1).

Mr. HATCH. Mr. President, I rise to offer an amendment which would reauthorize title X of the Public Health Service Act into an authority for State family planing programs. This will provide significant improvements in service coordination, delivery, and administration. I offer this amendment on behalf of President Bush as his approach to continue Federal family planning efforts targeted to reach those truly in need.

This amendment consolidates the family planning authority and transfers its administration to the States. The authorization is $138,364,000. Each State would be ensured the same amount of funding it received in the previous year so there would be no reduction in services.

The innovative approach of this amendment will facilitate the development of the integrated, one-stop shopping approach of health services delivery. This approach is an improved strategy for the provision of health care for women, including family planning services, prenatal and primary health care, and drug abuse and sexually transmitted disease-related services. It is especially significant in meeting the needs of women at risk of giving birth to low birth weight babies. Our efforts in the reduction of infant mortality depend on our ability to reach out to women at risk and provide them accessible care.

Service delivery to low-income women is the basic activity of the family planning grant program. Currently, about 4 million women age 15 to 44 receive family planning services at 4,000 clinic sites nationwide. President Bush's proposal would result in an improved allocation of resources and improved services delivery by providing States and territories with resources and appropriate control of the resources for better program efficiency, responsiveness, and flexibility. This amendment would allow States to meet their local needs and priorities.

And it allows coordination with their other health services.

A State-administered program with all title X services better coordinated with maternal and child health programs will allow States and local communities to better reflect local standards, priorities, and needs. Family planning is critical; however, there are many sensitive issues that surround the provision of family planning services. State and local leaders are best able to work within their communities to assess the need and type of services.

The administration's bill wisely recognizes that the time has come to extend to family planning services the same successful model of local design and flexibility that has already been used in other health programs. At the present time 37 States have experience in administration of the maternal and child health block grant that provides family planning services. We have seen time and again the benefits of State-administered health services.

I would like to speak from the successful experience that the State of Utah has in the administration of its Maternal and Child Health Program. Utah has successfully developed programs aimed at reducing infant mortality through the Baby Your Baby Program and other approaches. Utah health leaders have used the opportunities present to better coordinate services and more effectively meet the health needs of our people.

President Bush, like myself, supports family planning programs. He is a strong supporter of it. Some critics may argue that this legislation will erode family planning, because the Federal Government will not act as a watchdog in monitoring services and setting standards. National standards for family planning services are unnecessary because we already have professional standards for medical care—the level of care is not an issue here. We should be building flexibility into this program by knitting it into our other health care programs. Instead, it stands alone and often isolated from other care provisions. This kind of isolation does not make sense when there are many other risks facing women today, such as syphilis, which is at a 40-year high. Other sexually transmitted diseases, such as pelvic imflammatory disease, can, without detection, lead to infertility, so that a young woman's years of fertility can be over before she thought they ever began. Sexually transmitted diseases, and I am not even including AIDS, can also lead to cancer and to death. Recasting this family planning program makes great sense. And, it continues family planning programs.

In addition, this amendment sets a prudent course that would allow states to set their own standards on issues such as parental notification on when prescription drugs and devices are distributed to minors. The determination of these matters by the States is recognized as well-founded and constitutional.

The recast Title X Grant Program would retain certain requirements from current law, including the priority for serving low-income women, the prohibition on funding programs where abortion is a method of family planning, and the requirement that acceptance of services be voluntary.

This is a time in our national history in which we are acutely aware that we have many pressing health needs in many and diverse persons. We are also keenly aware of our finite resources in meeting these needs. We should conclude today by committing ourselves to the more effective use of our resources. We all recognize that family planning services cannot stand on their own as if sexually transmitted diseases, drugs and alcohol, low birth weight babies, and sexual abuse did not exist. This is our opportunity to mold family planning services with the other health care services that are available. This is not the time for hiding from the issues behind political expediency. We have a unique opportunity for meeting people's needs.

I urge my colleagues to support the reauthorization of family planning programs as offered through this amendment. It preserves services to low-income women. It maintains Federal support for family planning. And, it addresses many of the sensitive issues in a prudent manner. President Bush deserves our support on proposing this important compromise.

I hope our colleagues will consider voting for it.

I reserve the remainder of my time.

Mr. CHAFEE. Mr. President, will the Senator yield for a very brief question?

Mr. HATCH. I am happy to yield.

I ask unanimous consent that Senator COATS be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. My question is this: If the substitute proposed by the Senator from Utah were adopted, would that nullify the previous amendment which was approved by 63 to 35?

Mr. HATCH. Yes. It would.

Mr. CHAFEE. It would wipe that out?

Mr. HATCH. It would wipe that out, but it would more than resolve the conflicts regarding family planning. It would be much more flexible, would give us a better bang for the dollar, and would consider a number of other programs that are not considered as well in the current bill.

Mr. CHAFEE. I thank the Senator.

Mr. HATCH. I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I understand the Senator from Hawaii desires 5 minutes of time. I yield him 5 minutes. Then I will speak for 3 or 4 minutes, and be prepared to go to a vote.

The PRESIDING OFFICER. The Senator from Hawaii is recognized for 5 minutes.

Mr. AKAKA. Mr. President, I rise today in strong support of the Family Planning Amendments of 1989, S. 110. As a cosponsor of this bill and its companion measure in the House, I urge my colleagues to vote for cloture and to reauthorize the Title X Family Planning Program.

Title X is the only source of Federal support specifically for family planning services. It provides millions of low-income women with access to comprehensive family planning, basic health screening, and referral information. Title X serves 5 million women annually. However, the current funding level leaves over one-third of eligible women unserved. Many of these are just children themselves—teenagers at risk of unintended pregnancy and of giving birth to low birthweight infants.

We need to reauthorize this vital program and expand and improve the provision of contraceptive services and related education and counseling. Title X had been unauthorized such fiscal year 1985. Congress has shown its support for this program by continuing to appropriate funds for it each year, but the funding level in constant dollars has been eroding over time.

Mr. President, there are over 66,000 teenage and low-income women at risk of unintended pregnancy in my State of Hawaii. We have the eighth highest teen pregnancy rate in the country, 15 points above the national rate. Yet from fiscal year 1980 to fiscal year 1988, title X funding for the State of Hawaii was cut by 60 percent.

The Hawaii State Department of Health provides subsidized family planning services at 20 separate clinic sites, either directly or through clinic contracts. Title X and State funds are the main supports for these services. In 1985, the State spent an average of $93 per family planning patient using title X and State moneys. In comparison, the standard cost of public assistance in Hawaii for each dependent mother and baby in that year was about $5,000 a year—and this figure does not include the cost of food stamps, Medicaid or other social welfare programs.

A 1989 study reported by the Alan Guttmacher Institute calculates that every public dollar spent to provide contraceptive services saves an average of $4.40 in funds that otherwise would have to be spent for medical care, welfare, and other social services to women who would be eligible by law for such services if they became pregnant.

Title X participating clinics are required to provide a wide range of effective family planning methods related services. These services include natural family planning methods, nondirective counseling services, physical examinations—including cancer detection and laboratory tests—infertility services, services for adolescents, followup exams and referral to and from other social and medical agencies. For many women and teenagers, this is their only affordable and accessible link to health and social services.

Unfortunately, title X has become entangled in the issue of abortion. Family planning clinics have always been prohibited from using title X funds for abortion. The General Accounting Office and the inspector general of the Department of Health and Human Services have both found that all title X clinics were in full compliance with this ban.

Title X helps prevent abortions. According to the study referred to earlier, for every 1,000 women who obtain contraceptives from publicly funded providers, 260 unintended pregnancies are prevented, including 114 abortions.

We should not let this issue or others concerning parental notification and consent, contraceptive research, or school-based health clinics derail or obscure the reauthorization of title X. The benefits are too great to place them in the balance. Title X reduces adolescent pregnancy, infant mortality, and sexually transmitted diseases—including AIDS.

Mr. President, I urge my colleagues to reaffirm our Federal commitment to reproductive health by passing S. 110 without weakening amendments.

I yield the floor.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. Six minutes.

Mr. KENNEDY. I yield myself 3 minutes. Mr. President, there is the old expression that "If it ain't broken, why fix it." We may have the debate and discussion about what takes place within these various health care centers, and we addressed a particular issue previously, and the Senate spoke in an overwhelming manner on that particular issue. The fact of the matter is, Mr. President, there are 28 States now that receive the funding directly and then develop programs within their particular States. But other States do not. As the head of the program demonstrated, that is because the States themselves did not apply, or they had inferior programs. That was the testimony before our committee.

So any State that wants to do it and has an effective program can already do it. But the other States have not sought to do so, and there has been a judgment by HHS over the period of the Reagan administration and the Bush administration in awarding competitive grants.

By and large, our committee has not found that there has been trouble in terms of the quality of those programs. And so it is my belief that, since it is not broken, we should not fix it.

Mr. President, there are absolutely no requirements in the block grant program. What are the requirements? The requirement that exists in the current title X is that in order to be targeted to the neediest population in our country, and second, that the neediest individuals will be able to receive those programs free of any cost. And there are additional kinds of requirements in terms of confidentiality, liability, and to ensure that there are going to be qualified medical personnel in those programs and in the kind of issues that Senator CHAFEE and Senator JEFFORDS mentioned earlier.

None of those exist. No requirements in the development of referral services, no requirements for the development of Pap smears or other kinds of maternal health issues, all of which have been developed and evolved over the period of title X.

So, Mr. President, it seems to me that this program has demonstrated and proven itself over a long period of time.

The most critical problem is the failure of adequate funding for the needy people in our society. Those kinds of protections for the neediest people in our society would not exist under the proposed block grant program.

I hope that we will follow what has been the general sense of the discussion and debate here during the course of the day, and that is, this program has worked, is working, and is targeted on a very critical need in our society, and that we should not tamper with it.

I reserve the remainder of my time.

Mr. HATCH. Mr. President, I do not intend to keep our colleagues any longer. I want to make a few comments about President Bush. George Bush is against abortion, but he is for family planning. George Bush has a long record of support for family planning.

As a Member of Congress in 1970 when Congress enacted title X, the Federal grant program for family planning, George Bush introduced his own bill providing $865 million over 5 years. Speaking on family planning issues, while a Member of Congress, he said, "Now is the time to erase the unjustified stigma associated with the phrase of 'population control' and 'family planning.' "

His support for family planning continues, as evidenced by this substitute. Writing to Representative HENRY HYDE to express support regarding population activity programs, the President said, "Let me reaffirm my strong support for family planning programs which do not condone or encourage abortion."

Later in 1989, in his veto message of the foreign operations appropriation bill, he said, "Let me restate my strong support for international family planning programs. My view is the United States should support such efforts." The President has strongly supported family planning.

This bill shows it is more flexible, and the moneys will go further, and more women will have the assistance of the Government; and in the end, we will all be better off. I encourage our colleagues to vote for this bill.

I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I am prepared to yield the remainder of my time. This will be an up-or-down vote. Those that favor the Hatch amendment will vote aye. Those who support the existing program, as amended by the Senator from Rhode Island, will vote nay.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. The Senators have yielded back their time.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. Is there any suggestion whether there will be further votes after this, Mr. President?

Mr. KENNEDY. If the Senator will yield, it is my understanding, if we get the agreement, from what the leader said there will not be. That is the way I believe it was left.

Mr. CHAFEE. The next question is: Do we have the agreement?

Mr. HATCH. No. We are working on it.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the role.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Georgia [Mr. FOWLER], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

I further announce that if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. SYMMS] and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that the Senator from New Hampshire [Mr. RUDMAN] is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Idaho [Mr. SYMMS] would vote "yea."

The PRESIDING OFFICER (Mr. BRYAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 34, nays 58, as follows:

[Rollcall Vote No. 253 Leg.]

YEAS—34

Armstrong	Garn	McClure
Bond	Gramm	McConnell
Boschwitz	Grassley	Murkowski
Breaux	Hatch	Nickles
Burns	Heflin	Pressler
Coats	Helms	Reid
Cochran	Humphrey	Roth
D'Amato	Kasten	Thurmond
Danforth	Lott	Wallop
Dole	Lugar	Warner
Domenici	Mack	
Exon	McCain	

NAYS—58

Adams	Glenn	Mikulski
Akaka	Gore	Mitchell
Baucus	Gorton	Moynihan
Biden	Graham	Nunn
Boren	Harkin	Packwood
Bradley	Hatfield	Pryor
Bryan	Heinz	Riegle
Bumpers	Hollings	Robb
Burdick	Inouye	Rockefeller
Byrd	Jeffords	Sanford
Chafee	Kassebaum	Sarbanes
Cohen	Kennedy	Sasser
Conrad	Kerrey	Shelby
Cranston	Kerry	Simon
Daschle	Kohl	Simpson
DeConcini	Lautenberg	Specter
Dixon	Leahy	Stevens
Dodd	Levin	Wirth
Durenberger	Lieberman	
Ford	Metzenbaum	

NOT VOTING—8

Bentsen	Johnston	Symms
Bingaman	Pell	Wilson
Fowler	Rudman	

So the amendment (No. 2763) was rejected.

Mr. HATCH. Mr. President, I call up amendment No. 2784 and ask for its immediate consideration.

CHANGE OF VOTE

Mr. DOLE. Will the Senator yield for a unanimous-consent request?

Mr. President, on vote No. 252, the Chafee amendment, I was recorded in the affirmative. I was misinformed on the issue, and I therefore ask unanimous consent to change my vote to be recorded in negative. This has been cleared by the majority leader, and I understand this will not change the outcome of the vote.

The PRESIDING OFFICER. Is there objection? Without objection the request of the Republican leader is agreed to.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senator from Utah [Mr. HATCH].

AMENDMENT NO. 2784

(Purpose: To expand data collection provisions to include evaluations of the effectiveness of contraceptive programs on reducing teenage pregnancies)

Mr. HATCH. Mr. President, I call up amendment No. 2784 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 2784.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 12, strike out the end quotation marks and the second period.

On page 8, between lines 12 and 13, insert the following new subsection:

"'(c) The Secretary may gather and evaluate data on the current methods of reducing teenage pregnancy, including contraceptive methods.'"

On page 8, line 16, strike out "(d)" and insert in lieu thereof "(e).".

Mr. HATCH. Mr. President, I further ask unanimous consent that no second-degree amendment be in order to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. This amendment will expand data collection provisions to include evaluations of the effectiveness of contraceptive programs on reducing teenage pregnancies.

It is my understanding it is acceptable to the other side.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. This is entirely in accord with section 20 provisions of the legislation. It is information gathering and I have no objection to it and hope it will be accepted.

The PRESIDING OFFICER. Is there further debate? There being no further debate, the question is on agreeing on the amendment of the Senator from Utah.

The amendment (No. 2784) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. KENNEDY. May we have order, Mr. President. We are trying to inform the membership on where we are and what we can expect for the remainder of the evening.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. HATCH. Mr. President, the floor managers are trying to work out an unanimous-consent agreement so that we might not have any further rollcall votes. This is what I believe we can work out.

There are four amendments that should be allowed to be brought up precloture. We will move the cloture vote back to accommodate them. They are the Nickles amendment, the Armstrong amendment, the Humphrey amendment, and the Pressler amendment, not necessarily in that order.

The Pressler amendment will take 10 minutes equally divided; the Nickles amendment, 30 minutes equally divided; the Armstrong amendment 30 minutes equally divided; and the Humphrey amendment, 1 hour equally divided.

Then, if cloture is invoked, then there will be a one-half hour, equally divided, for an amendment by the distinguished Senator form North Carolina [Mr. HELMS]. As far as I know—those are all the amendments I know. If we can do all of those and there are no further amendments and we have checked——

Mr. PRESSLER. Will the Senator yield for a moment? Senator MCCAIN informed us he wanted to speak on my amendment so may I have 15 minutes?

Mr. HATCH. Let us say 15 minutes equally divided. If there are no further amendments I suggest we vote at a time certain, at 6:30 tomorrow evening.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, this is the intention of the floor managers that we conveyed I think, to those who have been a part, or have at least informed us prior to the time of the introduction of the cloture motion, as well as during the debate today, to solicit their information.

I would have to, obviously, give the notification to the membership as to the contents of those particular amendments. There are two amendments here where the principal sponsors are not present and we have been unable to identify that.

So this is really a declaration of what we intend to do. If we are unable to work out this agreement, then we will be under the existing cloture provisions that have been announced by the majority leader. I hope we would be able to, and the Senator from Utah hopes we will.

Either we will get to that with sufficient notification or we will be back to where we are at the present times, with the announced cloture vote in the morning as announced by the majority leader. But we appreciate the efforts that have been made by the Senator from Utah to try to at least give notification to the membership. We will do that. And we will try to write this down and hotline it to the Members in the morning, and then if there is going to be objection to it, we are back to where we are at the current time in terms of the cloture motion.

We will make a good faith effort. I am grateful to the Senator from New Hampshire [Mr. HUMPHREY]; the Senator from North Carolina [Mr. HELMS]; and the Senator from Colorado. But we cannot make a definite request this evening because two of the prime sponsors are not here and there is not an adequate description and it is not fair to the membership to ask for a consent agreement without them knowing the particulars of that.

Mr. ARMSTRONG. Mr. President, I wonder if the Senator would yield for a moment?

Mr. HATCH. Could I just correct my earlier statement?

The PRESIDING OFFICER. The Senator from Utah [Mr. HATCH].

Mr. HATCH. If I could just correct my earlier statement, then I would be delighted to yield. The only postcloture amendment I know of is that of Senator HELMS, who has said he will bring an amendment up. But there are a number of other postcloture amendments filed and I suspect any of those can come up between the time of cloture and 6:30 p.m.

I think we have to leave that open. If they are germane, they can bring them up. But I do not know of any others that will be brought up. That is the point I am trying to make. But we would have to leave that gap of time open for anybody who has a postcloture amendment.

I had a number of postcloture amendments that are germane that I will not bring up because I got that last amendment resolved.

The PRESIDING OFFICER. Senator METZENBAUM——

Mr. HATCH. I yield to the distinguished Senator from Colorado first, who had a question.

Mr. ARMSTRONG. Yes, just for a question.

In following the conversation, I was not sure I understood correctly what the Senator from Massachusetts was saying, because if we do not hotline this until tomorrow, if there were then an objection there would be no opportunity to offer the amendments at all because of the cloture vote that has already been ordered.

Mr. HATCH. I was hopeful we could enter into an unanimous-consent agreement tonight. Our side is the only side that appears to have amendments. We have those narrowed down to four precloture amendments, then a cloture vote and then one for sure postcloture amendment by the distinguished Senator from North Carolina and any others that can be brought up during that gap of time between the disposal of the amendment of the Senator from North Carolina and the 6:30 vote.

Mr. METZENBAUM. Will the Senator from Utah tell us what the postcloture amendment is of the Senator from North Carolina?

Mr. HATCH. I have no idea.

Mr. METZENBAUM. I do not see how we can be asked to agree to a postcloture amendment.

Mr. ARMSTRONG. You are not being asked to agree with that.

Mr. METZENBAUM. We are being asked to agree to have it come to the floor.

Mr. HATCH. If it is germane, he would have a right to bring it up postcloture.

Mr. METZENBAUM. It is not germane.

Mr. ARMSTRONG. If the Senator will yield, that was not to be part of the UC, or was it?

Mr. HATCH. It was.

Mr. ARMSTRONG. I beg your pardon.

Mr. HATCH. The Senator from North Carolina will call up a germane amendment. That is what he told me.

Mr. KENNEDY. Has he filed that amendment?

Mr. HATCH. I have no idea. Yes, I think he has.

Mr. KENNEDY. He would be entitled——

Mr. HATCH. He would be entitled to do it anyway.

Mr. KENNEDY. I believe the amendment in the second degree would be in order. But then we would be limited postcloture to one amendment.

Mr. HATCH. The reason we are doing that is to protect his right to definitely bring up a postcloture germane amendment because everybody here knows if one side or the other wanted to prevent any amendment, we possibly could do that. That is the purpose of the UC.

Mr. METZENBAUM. Will my friend from Utah be willing to yield for a question?

Mr. HATCH. Sure.

Mr. METZENBAUM. Can the Senator tell me what the independent counsel amendment is that is to be offered by Senator HUMPHREY? Is that an independent savings and loan counsel?

Mr. HATCH. Yes; counsel in the savings and loans——

Mr. HUMPHREY. I am here if you want me to explain.

Mr. HATCH. Let us have Senator HUMPHREY explain.

Mr. HUMPHREY. If the Senator will yield. This amendment will facilitate appointment of special independent counsel in connection with federally insured deposit institutions wherever, in the judgment of the Attorney General, there is evidence indicating unlawful activity on the part of a Member of Congress.

Mr. METZENBAUM. Is there a copy of the amendment available?

Mr. HUMPHREY. Yes.

Mr. METZENBAUM. I thank the Senator.

Mr. KENNEDY. Mr. President, I want to indicate my deep appreciation and respect for my friend from Utah. The text has not been printed on two of the amendments, at least that we have been able to follow. We cannot be in a position where we can support a consent agreement. I appreciate all his efforts for doing it, but we just cannot do it. I am glad to stay here and consider whatever amendments.

Mr. PRESSLER. Will the Senator yield?

Mr. KENNEDY. I do not see how we can possibly have a consent agreement when we have not seen the text of it. I will not feel responsible in not objecting on behalf of our colleagues here. I have appreciated the effort. We do not have the text of these measures. We just cannot move forward at this time.

Mr. PRESSLER. Will the Senator yield?

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. FORD). The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I have an amendment that will take about 15 minutes. Perhaps I can offer it. I am willing to agree to a time limitation. A vote tomorrow sometime. While I am offering it, perhaps the parties can reach the rest of the agreement. That would save everyone time. I am ready to go.

Mr. LEAHY. Parliamentary inquiry.

Mr. FORD. Was the Senator from South Dakota proposing a question to the managers of the bill?

Mr. PRESSLER. Yes.

Mr. LEAHY. Mr. President, I have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. LEAHY. Mr. President, under the rules of the Senate, if we recess this evening to a time certain tomorrow, does the cloture vote come up at a specific time after the Senate comes back in?

The PRESIDING OFFICER. The Senator is correct, but we have a unanimous-consent agreement as it relates to cloture votes on tomorrow.

Mr. LEAHY. What is the agreement, if I might ask the Chair?

The PRESIDING OFFICER. "Ordered further, that on Wednesday morning, September 26, 1990, immediately following the conclusion of morning business, there be a cloture vote on the committee substitute, as modified, to S. 110, to be followed immediately, regardless of the outcome, by a cloture vote on the motion to proceed to the consideration of S. 874, the voter registration bill."

Mr. LEAHY. Mr. President, on either of those bills, if cloture is invoked, then am I correct that any amendments to be voted on after that would have had to be at the desk prior to the cloture vote and would have to be germane?

The PRESIDING OFFICER. They would have to be timely filed and germane.

Mr. LEAHY. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 2881

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 2881.

Mr. PRESSLER. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

As a courtesy to the managers of the bill, I will pause, or I will stop, or I will yield, but I am going to try to seek to get a rollcall vote on this amendment ordered for tomorrow.

Mr. LEAHY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. If I am correct, the amendment is extremely short. I always hate to object when somebody wants to do away with the reading of the amendment. This looks like it is only a paragraph long. I wonder if the Senator will let the clerk read it?

Mr. PRESSLER. Read the amendment.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

At the end of the bill add the following new section:

SEC. . REDUCTION OF PAY OF MEMBERS OF CONGRESS.

(a) REDUCTION IN PAY.—For each month during fiscal year 1991 in which, by reason of a furlough or other employment action necessitated by a sequestration order under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902), the total amount of the pay paid to any Federal employee is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law, the rate of pay payable to a Member of Congress shall be reduced to the rate of pay established for such Member pursuant to law.

(b) COMPUTATION OF REDUCED PAY.—The rate of pay payable to a Member of Congress for any month referred to in subsection (a) shall be equal to the amount determined by multiplying the rate of pay established for such Member pursuant to law by the percentage reported to Congress for such month under subsection (c)(1)(D).

(c) DETERMINATION OF PERCENTAGE FOR COMPUTATION OF REDUCED PAY.—(1) No later than the first day of each month in fiscal year 1991, the Director of the Office of Management and Budget shall—

(A) determine whether, for a reason described in subsection (a), the total amount of the pay paid to any Federal employee in that month is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law;

(B) estimate the average of the percentages that would result by dividing the monthly equivalent of the annual rate of pay established for each such Federal employee pursuant to law into the total amount projected to be paid such Federal employee for such month;

(C) aggregate the percentages determined under subparagraph (B) for Federal employees for each agency and determine the highest average percentage for any agency; and

(D) transmit to Congress a written report containing the average computed under subparagraph (C).

(2) The Office of Personnel Management may use a statistical sampling method to make the estimates and determinations under paragraph (1).

(3) For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code.

(d) APPLICATION TO OTHER FEDERAL LAWS.—For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposed any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this section and shall apply to the first applicable pay period of members of Congress occurring on or after October 1, 1990. If the date of enactment of this section is after October 1, 1990, and the provisions of this section become applicable in the reduction of pay of members of Congress, all reductions which would have occurred if this section has been enacted as provided in subsection (b) and the amount of such reduction shall be recovered for the remaining pay periods for fiscal year 1991.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. There is objection.

Mr. METZENBAUM. Mr. President, I withdraw my objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I shall be very careful to respect the wishes of the leadership on this matter; indeed, they are meeting at this moment.

Let me explain my amendment. This amendment merely puts Members of Congress under the same rules as civil servants.

Earlier this month, civil servants received letters of furlough and many of them in my State of South Dakota met with me and have been very confused by these letters.

If a sequester does occur next week—indeed, we are less than a week away from that—it is my feeling that Members of Congress should be in the same boat as everybody else. It has been my feeling that Congress has exempted itself too often from the rules that are applied to everybody else.

We should reach a budgetary agreement, but I think it would be awful for us to go into a situation where we have a sequester but Members of Congress are exempt. That is very inappropriate.

We will be seeing next week, in October, the laying off of hundreds of thousands of Federal workers who will go without their pay on the days they are on furlough. It is my strongest feeling that the Members of the Senate and the House should be under the same rules as everybody else.

Mr. President, I am concerned about the unwillingness of Congress to share in the burden of cuts mandated by Congress pursuant to the Gramm-Rudman-Hollings Deficit Reduction Act of 1985. These cuts are scheduled to begin next Monday, October 1, the start of fiscal year 1991.

Many constituents, both Federal workers and those who use Federal services, have contacted me. These cuts will have a tremendous impact on all Americans. Yet Congress has been unwilling to share its portion of this burden by taking a reduction in pay similar to that which would be imposed on almost all Federal workers by a budget sequester.

This double standard is outrageous at a time when our budget conferees have failed to present Congress with a budget reduction package prior to the October 1 deadline. How can Congress justify protecting its own interests over those of air traffic controllers, Forest Service, Weather Service employees, and many other hard working, honest, and deserving Federal employees? How do we justify providing few or no benefits to the needy and the poor, the elderly, or the veterans who defended our country in battle? Congress must show more backbone. It must take the initiative to pass a budget prior to the new fiscal year.

My amendment is a step in the right direction. It would prevent Congress from exempting itself from the massive budget cuts. I do not know whether the citizens of our country know that Members of the House and Senate exempted themselves from the Gramm-Rudman-Hollings law, but they will know after October 1 that Congress passed that law, but exempted Members of the Senate and the House.

Mr. President, I shall ask for a rollcall vote on this amendment because I think it is very important that we express ourselves again and again this week on this important issue.

On September 12, I introduced S. 3051 which would cut the pay of Senators and Congressmen by a percentage equal to the largest of either: First, an across-the-board, uniform percentage reduction under Gramm-Rudman-Hollings currently estimated at 32.4 percent or, second, the highest percent-

age pay cut of any civil servant or any Federal employee whose salary is affected by sequestration.

S. 3051 has seven cosponsors, and there would be many more except that we filed it just a few days ago and many Senators have not had time to respond.

So, Mr. President, we must act now. The eyes of the Nation are upon us now more than ever because the livelihood of so many Americans is at stake. Please join me in passing this amendment to send the correct message to Federal workers and the good people of this country that Congress places a priority on resolving the budget impasse and has America's best interests at heart.

In conclusion, Mr. President, I think Senators and Congressmen should be under the same rules for sequestration that apply to everyone else. May I add that I just received a note to add Senator HELMS as a cosponsor, in addition to Senator MCCAIN. I am sure many others who have not received this amendment would like to join as cosponsors. And there is another, Senator HUMPHREY.

The point is we want Senators and Congressmen treated the same as other Federal employees under any budget sequester. We do not want Congress to exempt itself from the sequestration which may begin next week.

Mr. President, I would, if I could, yield to the Senator from Arizona.

The PRESIDING OFFICER. The Senator has no time to yield the Senator from Arizona.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I intend in a few minutes to ask in behalf of my friend from South Dakota unanimous consent that the pending amendment be withdrawn due to procedural reasons, and the Senator from South Dakota and I intend to raise this amendment at the proper time since it conflicts with the germaneness, and in some ways with the unanimous-consent agreement that was made on a previous occasion.

So, Mr. President, I would like to speak for a few minutes before making that request to withdraw the pending amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 2881) was withdrawn.

Mr. MCCAIN. Mr. President, I still think we are talking about a very important issue here, one which some would interpret as trivial; many others, however, who are in close contact with the American people, believe it is very important.

We are obviously facing a crisis, both as an institution and as a Nation. We are on the verge of, in just a couple of days, if we are not successful in reaching a budget agreement, causing enormous dislocation and significant pain to be inflicted on certain segments of our society, mainly those who are employed by the Federal Government and their families.

All of them are innocent bystanders. All of us are frustrated at the failure of the so-called budget summiteers to reach an agreement, a group which seems to shrink in numbers on a weekly basis.

I have often felt that one solution to this problem was to dispatch the budget summiteers to Gila Bend, AZ, where they could convene at their leisure. I believe if this were the case we would probably have found some common ground by now. However, since Andrews Air Force Base did not seem to work, perhaps Gila Bend, Arizona, would not either.

I say that only partially in jest, Mr. President, because I am not sure that any of us in this body, and indeed in the legislative branch, are sufficiently aware of the draconain effects of this impending sequester.

Therefore, I am not sure that the proper motivation is present in order to motivate an agreement. But if on the unhappy circumstances that there is not an agreement, then I would suggest it is only fair and equitable for the legislative branch to absorb the same kinds of impending cuts which would be dealt to our Nation's civil servants.

Mr. President, could we have order? I ask the indulgence of my colleagues.

The PRESIDING OFFICER. The majority leader was conducting the conversation. I was reluctant to ask for order.

Mr. MCCAIN. I always enjoy the opportunity to listen with interest to the majority leader. And so I understand the President's reluctance to do so. But I would appreciate the indulgence of my colleagues. We are speaking of an issue which is indeed of significant importance.

Mr. President, last Sunday as I was leaving church I was approached by several members of the congregation, and they asked me in not so polite terms, particularly given the fact that it was at the conclusion of the church service, about what are you guys doing there in Washington? What are you guys doing? I hesitated to mention that we are not all of one gender. But the message was clear that the people in my State, and the people that approached me on that day, are extremely dissatisfied with the fact that we have failed to perform the duties to which they have entrusted us, that we are not running the Government in a sane and sound fashion.

I am still hopeful that a budget agreement will be reached, one which does not lay a disproportionate burden on any segment of our society. At the same time, if we do not, I am in total agreement with my friend from South Dakota that all of us should be prepared to bear an equal share of the burden.

As the President well knows, recently I have been involved in seeking burdensharing in the Persian Gulf on the part of our allies. It seems to me that we should also, as Members of the legislative branch, bear the same burden that so many of our dedicated civil servants are going to have no choice but to bear. Let me point out that they are relatively innocent bystanders, whereas we, Members of both bodies, are not only to blame, but are capable of doing something about it which, unfortunately, we have not done so far.

Mr. President, the men and women who serve our Nation are not only nervous, they are frightened. Many of them are at the lower end of the economic spectrum. They have bills to pay, hospital costs to bear, education costs to consider for their children, car payments, mortgage payments. And they have planned, understandably, on a certain set income coming into their families.

Now they are facing loss of income, furloughs, and frankly, the possibility over time of permanent dislocation from their jobs, which they would be separated from for some period of time, through no fault of their own, through no lack of performance, through no lack of dedication.

I think some may view the amendment of my friend from South Dakota as somewhat trivial or frivolous. But I think we should tell the American people that we are ready to share the pain, ready to share the burden, and we are more than willing to give them our understanding and compassion; that they are not guilty of any crime, of any malfeasance, but they are, unfortunately, the victims of circumstances which are a direct result of the failure of the budget process to function as it was designed.

I know that we could spend many hours describing the budget process and the various things we believe may be repaired. We are at the 11th hour now, the 11th hour and 59th minute, and there are men and women all over this Nation who are facing some very painful, and indeed dislocating, circumstances. I think it is only fair and appropriate that we share that pain with them.

I want to thank my friend from South Dakota for his diligence, for his commitment to working men and women in this country, and I am pleased to be supportive of his amendment. I hope, Mr. President, also, that he will be able to get his amendment up at an appropriate time, and we will get a recorded vote. I believe all of our colleagues will agree with him that this is a very important, albeit symbolic, message to send to the employees of our Government and citizens of our Nation.

So, Mr. President, I thank the Chair for his indulgence. I yield the floor.

Mr. PRESSLER. Mr. President, I want to join my friend from Arizona and commend him on his remarks. Our desire is to get a rollcall vote on this matter tomorrow on some piece of legislation. We have cooperated with the leadership on both sides in withdrawing this amendment tonight, in view of the majority leader's desire.

But we want the Members of Congress to operate on the same playing field with others. We want Members of Congress to participate in the sequester on the same basis as everybody else in our country. Under a sequester, farmers will have certain programs cut. Senior citizens will have certain programs cut. The air traffic controllers will have certain programs cut. All of our country will experience the sequester if the budget agreement is not reached, except Senators and Congressmen. Our amendment puts everybody on the same basis.

There will be public outrage in October when it is dicovered by the people that we have exempted ourselves from the very law we are imposing on the rest of the Nation's citizens. So this amendment will be offered again tomorrow. We respect the leadership request that it be withdrawn, which has been done; but it will be back tomorrow, and we will ask the cooperation of the leadership to get a rollcall vote early tomorrow on some appropriate bill.

We are not seeking a lot of time. As I said, we can do this in 15 minutes equally divided, or whatever. This basic principle needs to be applied in the sequester situation. Let us treat Members of Congress the same as we are asking citizens across our country to be treated at this very difficult hour.

Mr. HATCH. Mr. President, I agree with the distinguished Senator from South Dakota and the distinguished Senator from Arizona. I think it is outrageous. If we are going to put other people through furloughs on a sequester, we ought to treat ourselves the same way.

The only problem here is bringing it up on this bill. Everybody knows there is a cloture vote ordered for tomorrow, and it will foreclose perhaps the consideration of some other amendments.

I appreciate the willingness of the distinguished Senators from Arizona and South Dakota to withdraw the amendment from this particular bill, preserving their right to bring it up later, and I will support it.

I hope we can put together a unanimous-consent agreement. There is a lot of unhappiness on this side because of the withdrawal of that amendment, and I believe that there is unhappiness about the amendment of the distinguished Senator from New Hampshire. That amendment would consist of a vote on whether or not we should have an independent counsel with regard to this controversy. It is probably a good amendment.

He is willing to withdraw it, reluctantly, and he is very irritated by that, because he realizes that nobody can get an amendment up if either the amendment of the Senator from North Carolina is brought up and a rollcall vote demanded, or his amendment is brought up.

All the majority has to do is wait until tomorrow morning's vote on cloture, and if they invoke cloture, then these amendments are knocked out anyway. So will the amendment, which happens to relate on the bill of the distinguished Senator from Colorado, Senator ARMSTRONG, the amendment of the distinguished Senator from Oklahoma, Senator NICKLES. There were two of the original four amendments we felt we could put into a unanimous-consent agreement.

I was under the mistaken impression they would have up or down votes on their amendments, precloture. Then we would have the cloture vote. If cloture was invoked, then the distinguished Senator from North Carolina would be able to bring up his amendment postcloture, which is germane, and have a 30-minute time agreement and have a vote on that, and have final passage by 6:30 tomorrow evening. That would resolve it.

If we can do a unanimous-consent agreement on that basis, I am all for doing it. If we cannot, there is some indication if the distinguished Senator from Colorado brings up his amendment now, even now that I have gotten the Senator from South Dakota to withdraw his amendment, the Senator from New Hampshire——

Mr. HUMPHREY. Will the Senator yield? I have not spoken finally on this matter. I do not like the strong-arm tactics being used against this Senator. I do not like being frozen out. I do not like being threatened with reprisals against others who want an opportunity to offer an amendment, unless I withdraw mine. I do not like these kinds of tactics. I do not agree to anything at this point.

Mr. HATCH. This is my understanding. The Senator does not like those tactics but may be willing to withdraw his amendment if we have up or down votes on the Armstrong and Nickles amendments. I think that is what it comes down to. If we can have an up or down vote on Armstrong, an up or down vote on Nickles, and a vote on Helms, with the right to second degree Helms, which he expressly said to me he would permit, then we have a vote at a time certain at 6:30 tomorrow evening, and this bill would be resolved.

There is some question whether the majority is going to reserve its right to raise second-degree amendments to the Armstrong amendment and the Nickles amendment.

That is where we are. I think I have stated it about as well as it can be stated under the circumstances, and the question is we could have the unanimous-consent agreement, I believe, that would allow for the two amendments up and down, the Helms amendments, to which there could be attached a second-degree amendment, all the time agreements in, and final passage at 6:30. I do not know whether that could be done or not.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 2882

(Purpose: To protect the health and well-being of young people)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG] proposes an amendment numbered 2882.

Mr. ARMSTRONG. Mr. President, unless Senators wish the amendment to be read, I ask unanimous consent that we dispense with the reading of it. It has been filed and there are copies available.

Mr. KENNEDY. Mr. President, I will have to object. I do not have a copy of the amendment. I have to object.

The PRESIDING OFFICER. Objection is heard.

The clerk will report.

The assistant legislative clerk read as follows:

At the appropriate place, add the following new section:

SEC. . NOTIFICATION OF PARENT PRIOR TO ABORTION ON A MINOR.

Section 1001 of the Public Health Service Act (42 U.S.C. 300) is amended by adding at the appropriate place the following new subsection:

"( )(1) No entity which receives a grant or enters into a contract under this section shall provide an abortion for an unemancipated female under the age of 18 until at least 48 hours after written notice of the pending abortion has been delivered in the manner specified under paragraph (2), except when the attending physician certifies in the minor's medical record that the

abortion was performed due to a medical emergency requiring immediate action.

"(2) Such notice shall—

"(A) Be addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian and delivered personally to such parent or legal guardian by the physician performing the abortion or an agent of the entity; or

"(B) Be made by certified mail addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian with return receipt requested and restricted delivery to the addressee, which means postal employees may only deliver the mail to the authorized addressee. Time of delivery shall be deemed to occur at 12 o'clock noon on the next day on which regular mail delivery takes place, subsequent to mailing.

"(3) This subsection shall not apply to entities in states that have in effect laws requiring that a parent or legal guardian be notified of, or give consent to, an abortion to be performed on the minor child of such parent or legal guardian"

AMENDMENT NO. 2883 TO AMENDMENT NO. 2882

(Purpose: To limit the use of funds for the performance of abortions regardless of whether parental consent is obtained for abortions performed on minors)

Mr. KENNEDY. Mr. President, I send an amendment to the desk in the second degree.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], proposes an amendment numbered 2883 to amendment No. 2882.

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

SEC. . PARENTAL CONSENT.

No funds made available under title X of the Public Health Service Act shall be used for the performance of abortions, including the performance of abortions on minors regardless of whether the parents of such minors have been notified.

Mr. ARMSTRONG. Mr. President, I would like to begin by explaining what my amendment does, and then presently I would like to take a moment to discuss the second-degree amendment.

Mr. President, the amendment which I sent to the desk a few minutes ago simply provides that entities which receive title X funding under this bill would require their physicians to provide written notice to a parent of a minor 48 hours prior to her obtaining an abortion. Title X of the Public Health Service Act gives the authority to the Secretary to make grants and enter into contracts with entities to establish and operate family planning projects. Projects which use title X funds are barred by statute from providing abortions. However, the organizations which oversee these projects are not restricted with respect to abortion under the present law. As a matter of fact, they are not required to provide notification to a parent when their daughter is having an abortion.

S. 110, this legislation, would reauthorize title X and would not allow parental involvement in decisions of birth control or abortions. So that is why my amendment is needed.

My amendment is needed because for practically any kind of medical procedure you can imagine, in fact, I do not know one exception to this, although someone may be able to cite it, where you have a minor receiving a surgical procedure, the consent of one or both parents is required. Even giving blood ordinarily, if the person who is making a donation of blood is under 18, in most States you have to have parental consent. In fact, though I do not think it is a matter of law, I am told that it is the custom practically everywhere, I think in 50 States, although again I can be corrected on this, that it is standard practice when a minor child goes to have her ears pierced that it is routine to require the consent of a parent.

At the present time, when these entities which receive funds under title X advise an abortion, if they do, or if for some other reason an organization which is a recipient provides an abortion to a person who seeks such counseling, there is no requirement for parental consent.

Just to put that in perspective, let me restate the proposition because the hour is late and it may be that other Senators are not tracking any better than I am. I find about 9 o'clock at night my brain starts to go to sleep. So I want to say this carefully and accurately and invite the attention of every Senator because this is important.

You have to get parental consent to make a blood donation. You have to get parental consent in order to have your ears pierced. What this amendment says is you ought to at least have parental notification before an abortion is performed on a minor child.

I want to distinguish parental notification from parental consent. My instinct, probably like that of many, many Senators, is to think it would be a tragedy for a minor child to have an abortion without consent of a parent, but my amendment does not require that. It only provides that 48 hours prior to an abortion, if the abortion is to be performed by an entity which receives funding under title X, and only in that case, that you have to give notification to a parent.

It seems to me that this is a well-established principle. Thirty-five States have expressed this interest in protecting the welfare of minors and promoting family integrity by passing parental involvement legislation of one kind or another.

Mr. President, available statistics indicate that the teen pregnancy rate as well as the number of abortions for teens have declined after the enforcement of parental involvement statutes. In the State of Minnesota between 1980 and 1984 teen births declined by 23 percent, the number of abortions for teens under the age of 18 dropped by 40 percent, and the teen pregnancy rate declined 32 percent. In the 20-month period following the implementation of the Massachusetts parental consent law, teen births declined 5.5 percent, abortions decreased 28 percent and pregnancy among minor girls decreased by 18 percent.

Mr. President, the Supreme Court has recognized the status of minors under the law is unique in many respects. The Court has also recognized the role of family and society in that it requires the constitutional principles be applied with sensitivity and flexibility in a way that takes into account the special needs of parents and children.

There is—and it is well established by custom, practice, tradition, and in law—a recognition of the guiding role of parents in the upbringing of their children. The Supreme Court has held that the Government may validly limit the freedom of childen to choose for themselves in making important affirmative choices with potentially serious consequences.

Parents love their children, and the law presumes that they act in the best interest of their children. Of course, there are tragic exceptions to the contrary, but our laws are not and should not be based on such exceptions.

As former Chief Justice Burger put it: "The law's concept of the family rests upon the presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required in making life's difficult decisions, more importantly historically recognized that the natural bonds of affection leave parents to act in the best interest of their children."

Mr. President, the Chief Justice is right, and this amendment is a very narrow commonsense approach to the problem. It is not a sweeping solution at all. For example, this amendment does not say on a nationwide basis that no abortions may be performed without consent. In fact, it does not require anybody's consent.

Nor does it even say, as some might think wise, and I guess I would think so, that no abortions may be performed nationwide without parental notification. All it says, and then even with some exceptions which I will outline in a moment, is that where a title X recipient also performs the abortion, then in that narrowly defined case, in such an event, at least one parent may be notified with some exceptions. Let me mention what the exceptions are.

The exceptions are for those States which have already enacted parental involvement laws, including laws which provide for judicial bypass of

notification and consent requirements. That takes care of 35 States. There are 35 States where this would not apply at all.

The second exception is a waiver provision which provides that the 48-hour notice does not apply in case of medical emergency. So we have a rather carefully and rather narrowly drawn proposal which I would think would appeal to the common sense and to the family experience and the humanity of most, perhaps nearly all, Senators. That is why I am dismayed to note that my colleague from Massachusetts insists upon offering a second-degree amendment. And I say insist upon because he and I discussed it briefly prior to my offering this amendment. So it did not take me entirely by surprise, though when he indicated for the first time maybe 2 minutes before it happened that he was going to offer a second-degree amendment, it was a surprise to me.

I would like to appeal to him to take down the second-degree amendment. His second-degree amendment really does not add anything to the present law. All it does is defeats my amendment. It expresses a hope with which I agree, but it restates the present law. It does not change anything. It is literally a straw man. It is an amendment, the practical effect of which, if you vote for it, is the same as a tabling motion on my amendment.

I have no objection if he wishes to make a tabling motion, but I do object, and I think it is not a good service to the Senate to offer an amendment whose real effect—I do not say intent, because it is not up to me to judge the intent with which another Senator offers an amendment—but the effect of this amendment is simply to confuse the issue. I guess it might offer to some Senator who really would like to vote against my amendment, if there are some Senators who want to do so, a chance to be for something else which sounds good but which is, in fact, without meaning.

I hope the Senator will not persist in this tactic. First, because it basically is just confusing. Second, because in the long run it is not going to get him anywhere. Sooner or later, might not tonight, maybe not tomorrow, but sooner or later—and I would think in the relatively near future—we are going to get a vote on my amendment. Unless the Senator from Massachusetts is disposed to believe that there just will never be any second-degree amendment offer from this side of the aisle, he must recognize that a determined Senator, it might not be the Senator from Colorado, it might be any Senator from this side of the aisle, will sooner or later have a chance to offer a second-degree amendment.

Even now there are ways that we could get around this. We can offer different parliamentary approaches that would perhaps lead to getting an up or down vote on this. And, if he is unwilling to relent, then maybe we will have to explore some of these ideas.

Mr. President, I am loathe to do that. I would like to approach this in a low key way and I do not see any real reason to try to confuse the issue. So I am just wondering if the Senator from Massachusetts would be willing to withdraw this and if he wishes to offer a tabling motion or let me have an up or down vote or whatever it might be.

Mr. KENNEDY. Mr. President, I hear the Senator from Colorado on this particular issue. I am astounded that the Senator from Colorado would think that I, as the floor manager, was prepared to yield any kind of rights that are permitted by the Senate rules on a matter that is as important as this particular measure. I do not want the record to suggest that somehow the Senator from Colorado was in any way led to believe that if we were going to work out a time agreement that I was going to be denied the possibility of a second-degree amendment. Where that kind of notion came from must have been out of whole air, because it is a procedure that I have entered into on maybe 2 or 3 times that I have been in the U.S. Senate and that has been it.

So I do not want the record to reflect that I led the Senator from Colorado to the belief that we would not give the Senate the right to understand what was really at isssue. And, quite frankly, I think it is not the Senator from Massachusetts that is muddying the waters; I think it is the Senator from Colorado.

The Senator from Colorado is quite within his rights to develop an abortion debate here in the U.S. Senate. No one is questioning that he is quite within his right at any particular time that the rules so provide. But that is not what this bill is about. That is not what this bill is about.

Now the Senator from Colorado has very strong views on it. Other members have strong views on it. The Senate can work its will on it. But to think that as the floor manager, when we are dealing with a measure which is of importance and significance to low-income women in this country and where, under the explicit legislative mandate, no abortions, no funding can be used to perform abortions, and then to get on into these other kinds of ancillary issues which are important and on which people have strong views, that is not what this bill is about. That is not what this bill is about. The Senator knows that no title X funds—no money, none, not $1—can be used for abortions from this bill.

So why we are getting into these other kinds of issues that are related to a general abortion debate, which this is not, and to think that I would waive those particular rights is not something that I would involve myself in. So I am quite prepared to proceed in whatever way the Senator from Colorado wants to proceed. I would be prepared either to continue the discussion or the debate, or to continue it tomorrow when other members are here for a short period of time prior to the cloture.

I have attempted, after there was a discussion here with the leader, to try and work out a procedure with the Senator. As the Senator remembers, I went to him. I went to him to try and work out a procedure so that he could get consideration. But when you go to a Senator and offer consideration, it does not mean you are going to waive your rights.

So with all respect, I would not be so inclined to withdraw the second-degree amendment for the very clear reason that this bill is not about abortion. There are some in this body who would like to make the debate on abortion. That is not what it is about.

So I would insist that at the appropriate time we have an opportunity for the Senator to express itself in the measure in the second degree. Although, I am quite prepared, if the Senator wanted a reasonable time to debate this on both sides prior to the cloture vote, I would be glad to enter into a time limit and urge that the Senate give consideration to that, as I would have with the amendment of the Senator from Oklahoma, Senator NICKLES, as well.

Mr. ARMSTRONG. Mr. President, I take it the answer to my question is no; that the Senator from Massachusetts is not disposed to withdraw the second-degree amendment. As he put it, he is not disposed to waive his rights. And of course he is entirely within his rights to insist.

I was somewhat surprised to learn that only on 2 or 3 occasions during his long and distinguished career in the Senate had he entered into such agreements because, in fact, as we all know, the way the Senate conducts its business hour after hour, day after day, week after week, and year after year, is Senators voluntarily waive the rights which they possess under the rules. I would guess in the course of a typical week we probably enter into anywhere from 10 to 200 unanimous consent agreements, literally, where Senators by unanimous consent, with 100 Senators agreeing to yield some right that they may have—the right to debate, to offer amendment, the right to do this, that or the other thing—waive their rights so that the body may proceed in a way that seems expeditious.

The notion that somehow it is beyond the pale for the Senator from Massachusetts to waive his right,

when in fact the only way he is exercising this right is just to confuse the situation, did not seem to me to be unusual. Nor, may I say, does it seem a particularly useful exercise of his right. In my mind—it is up to him to decide—but it does not seem to me to be a particularly helpful thing to his cause or to the Senate itself.

To think that by raising an amendment, the purpose of which is up to him to know but the effect of which is obviously just to confuse the issue—that is the real effect of it—that might be a very useful kind of tactic if this was the only time this issue could come up. But this thing can come up every day. It does not even have to come up just once a day. Sooner or later a determined Senator from Colorado, or from New Hampshire, or from Utah, or from South Carolina or from someplace, and not even necessarily a Senator from this side of the aisle, may I point out, is going to offer this amendment or something very much like it as a second-degree amendment. So I am not uncomfortable in saying that sooner or later, probably sooner and later, this amendment will be the subject of a vote.

This is not an extreme measure. It is not a measure which charts a lot of new territory. It really just expresses a policy which, as I pointed out, has long been the policy with respect to blood transfusions and ear piercings and every surgical procedure you ever heard of. Only for abortions, so far as I am advised, is there an exception so that a young minor girl could have an abortion which might end her life, certainly will end the life of the unborn child, and might have many other tragic side effects—only in the case of an abortion does somebody have a desire to say that at least one parent should not be notified, for heaven's sake. We are not asking for consent, we are just asking for notification. But if the Senator from Massachusetts wishes to stand on his rights, of course that is his right. That is what they are, his rights.

But I want to again appeal to him to ask if he would not relent, if he would not be willing to let us have a vote on this matter now and not draw it out. We could have voted on this matter. I only intended to speak on it a few minutes. But some other issues of basic fairness have presented themselves, one of which is the question of whether or not we get a chance to vote on this in a second-degree amendment.

I was not the one who raised the question of whether or not we had been promised that. The Senator wanted to make it clear that he had not led me astray. I never said he did. As a matter of fact, it was the Senator from Utah who gave me that understanding and told the Senate that that is what he thought was likely to happen. But he did not lead me astray either.

I am a big boy. I have been around here a long time and I know these things do not always pan out, and just because somebody propounds a unanimous-consent agreement does not mean that all 100 Senators are going to agree to it. So I do not feel that I have been betrayed in any sense or that I have been misled.

But I do think this. There is, in this whole debate, an underlying theme of fairness that we need to ask ourselves about because it is becoming a pattern in the Senate. Let me direct the attention of the floor managers and of every Senator to what has exactly happened. First, they call up this bill. Then they lay down a cloture motion and then they lay down the Chafee amendment and nobody can get recognized to offer an amendment because they have the tree filled. They use up practically all the time that is available prior to cloture debating that amendment. So the practical effect is nobody gets to offer an amendment for anything.

Then the Senator from South Dakota gets up to offer his amendment and they talk him out of it on the very sensible grounds that they are not going to let that come to a vote. No beating around the bush about it, it is not a question of the merits of it, we are just not going to do it. You can stand here and talk about it until you are blue in the face, you can talk all night, but tomorrow morning there is going to be a cloture vote. When that cloture vote comes if cloture is invoked, they said to Senator PRESSLER, your amendment is going to fall. He was gracious enough to withdraw his amendment so amendments which are germane and relevant and which have to do with the bill itself, which are not extraneous however worthy they may be, can be considered.

Fine. So I seek recognition, and what is the next thing that happens? The Senator from Massachusetts stands up before I have the opportunity to offer as much as one syllable in support of my amendment other to ask unanimous consent that the reading of it be waived, which request I might note was denied. Before I even get a chance to explain the amendment he is up there with a second-degree amendment.

That is all very clever. That did not take me by surprise. I mentioned a moment ago, I have been here a long time. I have seen that done before. I could have done it. I could have offered a second-degree amendment to the amendment offered by the Senator from Utah [Mr. HATCH]. I could have offered prior to the adoption of the committee amendment an amendment to the text proposed to be stricken. I could have asked by friend from New Hampshire somewhere to offer an amendment to the text proposed to be stricken, and then offered a second-degree amendment to his amendment.

Even now I could offer a motion to recommit the bill with instructions or I could offer such an amendment and the Senator from New Hampshire could offer an amendment to amend my amendment recommitting the bill with instructions. There are a lot of ways to skin the cat.

I will tell my colleagues something else. I have absolutely no motive to be here now, let along for a prolonged period of time, but this is not going to end at 6:30 except if Senators want to let it. Because if every Senator is as insistent upon his or her rights as the Senator from Massachusetts wants to be tonight, then even if cloture is invoked tomorrow, there could be a long, long debate.

I am not threatening that because I do not have any motive to have such a long debate. I am not going to filibuster this bill because I am not worried about getting this amendment considered. I do not know whether it is going to get considered tonight. I still hope that the Senator from Massachusetts, who has left the floor, or the Senator from Ohio who is now managing on behalf of the Democrats, will relent and say: Sure, let Armstrong have his vote because he is just stubborn enough that one way or another, sooner or later he is going to get a vote on this issue and we look kind of silly simply stiff-arming him, because Senators are smarter than that. He is going to get a vote so let us let him have it and not drag this thing out.

Mr. President, I do not know that that is going to happen. I hope it is. But I hope the first thing in the morning there is going to be a Republican caucus around here. I am going to ask my Republican colleagues, even those who would otherwise be disposed to vote for cloture on this bill—I am going to ask them to vote for the fairness to the minority and in fairness of my rights—to vote against cloture. My hunch is that absent some of the high jinks that we have seen tonight and earlier in the day, and some of the understandings that somehow went off the rails, that this bill probably would receive a favorable vote on cloture. I am not going to vote to cloture it under any circumstances. I am not for the bill. I make no bones about it. I am not trying to mislead anybody or dissemble.

But I guess that someplace around here there might be a few Senators who would otherwise be disposed to vote for cloture, who will not like this pattern. And it is a pattern.

Mr. President, it is happening day after day: lay down a bill, lay down a motion for cloture, then turn to consideration of another matter while the

cloture motion ripens or come roaring through with a bunch of amendments and fill up the amendment tree and effectively preclude minority Senators from offering their amendments.

Those of us in the minority over here do not like that very much. I say that as a Senator who served both in the majority and minority, and I will remind my friends on the Democratic side of the aisle that during that period of time when my party was in the majority I often spoke up for, publicly and privately, the rights of the Democrats who were then in the minority. I did it a lot of times—many times. Senators will not have to think very hard to remember such occasions.

This is not fair. This stinks. This is rotten. It is a pattern. It is unfair. Not just because this is my amendment. I am going to get this amendment voted on. Do not worry about that. It may not be tonight. It may not be tomorrow. It may be more than once. But I am going to get it voted on. I am not asking for any sympathy on that score. I can find a place to offer this as an amendment or I can find somebody to help me. But I do say this, this pattern of trying to close down the normal processes of the Senate is not right.

Mr. HATCH. Will the Senator yield?

Mr. ARMSTRONG. I do not know whether or not the chairman of the Republican conference is here but, by gosh I am going to ask him for a conference first thing in the morning prior to the cloture vote and I am going to ask that my Republican colleagues consider carefully whether or not this is not a good reason for them to withhold votes in support of cloture.

Mr. HATCH. Will the Senator yield?

Mr. ARMSTRONG. I will be happy to.

Mr. HATCH. I have to say there is no one in the U.S. Senate who is more fair and decent than the distinguished Senator from Colorado and I have a great deal of empathy and sympathy for what he is saying here this evening. I feel this amendment is a perfectly good amendment, it is one that should be voted up or down. I thought that is what we were going to do but I misconstrued, apparently, what was said.

I agree with him——

The PRESIDING OFFICER. I might say to the Senator from Utah, under the procedures and rules of the Senate, he might yield for a question but he may lose his right to the floor if the Senator is going to make a statement.

Mr. ARMSTRONG. Mr. President, I yield my right to the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. ARMSTRONG. I thank the Chair.

Mr. HATCH. Mr. President I want to say I have been concerned about this procedure. In my whole time in the Senate, and I am in my third term, I have never seen a time when almost every bill has a cloture motion filed almost simultaneously with the filing of the bill.

I understand the importance of getting the Senate's work done, and I understand the importance of cloture, too. Basically, what that does is forecloses the minority from even having an opportunity to amend.

One of the great things about the Senate is that we have, it seems to me, greater freedoms in the minority than any other legislative body and, I have to say that those on the Democratic side of the floor, when we were in the majority, had those protections as we have them.

I have to say also that there were some cloture motions filed on some of the bills when we were in the majority, but never has there been such a consistent filing of cloture to cut off debate as we have seen during at least this year.

I guess I am in a position to say, because I know the distinguished Senator from Massachusetts and myself have been on the floor, it seems to me, day in and day out for all of this year, for an awful lot of the floor time this year, and on almost every one of those we have had this type of procedure.

I can see the frustrations and the irritations that are cropping up here, and I cannot blame the distinguished Senator from Colorado for feeling this way, nor can I blame anybody else because the distinguished Senator from South Dakota was willing to withdraw his amendment to accommodate the Senate so that we can get to these amendments that do relate to the bill.

As much as the distinguished Senator from Massachusetts says this is not an abortion bill, I might add that the amendment of the distinguished Senator from Colorado is not an abortion amendment either.

Mr. ARMSTRONG. Mr. President, will the Senator yield?

Mr. HATCH. I will be delighted.

Mr. ARMSTRONG. Will the Senator yield for a question?

Did the Senator hear the Senator from Massachusetts say that there were not any funds in this bill for abortion?

Mr. HATCH. That is what I understood him to say.

Mr. ARMSTRONG. Did you hear the Senator say this was not, therefore, an abortion bill?

Mr. HATCH. That is what I heard the Senator say.

Mr. ARMSTRONG. Bearing that in mind, is the Senator aware there are several, in fact, many recipients of title X funds which perform abortions?

Mr. HATCH. We put into the RECORD some 32, if I recall, different facilities that do abortion on the same premises as they do family planning.

Mr. ARMSTRONG. I was wondering if the Senator was aware that Planned Parenthood of Mammouth County, NJ, does that and Hudson Health Service of New Jersey and Planned Parenthood of New York City and Jefferson Family Planning Services of Philadelphia, and the Women and Children Health Services of Philadephia; were you aware of it?

Mr. HATCH. I am aware of them.

Mr. ARMSTRONG. Planned Parenthood Association of Pittsburgh; Planned Parenthood Association of Southeastern Pennsylvania; Planned Parenthood Association of Maryland; Dover League for Planned Parenthood, Wilmington, DE; the Women's Health Care Center, Charleston, WV; was the Senator aware that every one of these that I have mentioned receives title X fund and also performs abortions?

Mr. HATCH. I am aware of it.

Mr. ARMSTRONG. Did the Senator know that Planned Parenthood of Memphis, TN, and Nashville receives title X fund and performs abortions?

Mr. HATCH. Yes, sir.

Mr. ARMSTRONG. I wonder if the Senator from Utah was aware that Planned Parenthood of Central Ohio and Mid-Michigan, received funds under title X and also performs abortions.

Mr. HATCH. I am aware of all of those.

Mr. ARMSTRONG. Boulder Valley Clinic of Boulder, CO; Planned Parenthood of Mid-Iowa, Kansas City, and a lot more; was the Senator aware of all those?

Mr. HATCH. Yes.

Mr. ARMSTRONG. I am not surprised the Senator knew that because he is known to be one of the best informed Members of the Senate, but I wanted to be sure that all Senators were aware. And I thank him for yielding for those questions.

Mr. HATCH. I appreciate my colleague for his kind remarks. I do not see any reason to continue the Senate and keep people in this evening. It is apparent we are not going to go anywhere on this bill until the cloture vote tomorrow.

Mr. METZENBAUM. Will the Senator from Utah yield for a question?

Mr. HATCH. I will be happy to yield.

Mr. METZENBAUM. Does the Senator from Utah know that the Senator from Ohio has an extremely persuasive argument against the position of the Senator from Colorado stating all of the relevant facts that indicate clearly that you cannot use title X funds for the purpose of abortions? The Inspector General has indicated

on many occasions on special examinations that they are not being used; is the Senator from Utah aware of that fact?

Mr. HATCH. I have never seen when the Senator from Ohio did not have some sort of argument on an issue in this body that people should pay attention to, however spurious those arguments may have been.

Mr. METZENBAUM. Is the Senator aware of how persuasive they might be, spurious or not?

Mr. HATCH. I know the Senator from Ohio is persuasive, and I suggest he should be persuasive with me tonight and end this proceeding so we can begin again tomorrow.

Mr. METZENBAUM. That is not a spurious proposal. I join the Senator in that effort.

Mr. HATCH. If we can, I think we are just about ready to go out this evening.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator seek recognition?

Mr. HUMPHREY. Yes.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I commend the Senator from Utah for offering his amendment on parental consent. I join with him in regretting the circumstances that prevent him from getting a vote. But more than that, I regret the whole tenor of this last hour or two.

The Senator from Colorado mentioned a number of agreements that somehow have gone off the rails, as he put it, within the last hour, last 90 minutes. I do not know for sure precisely what derailed the understandings that all of us thought we had such that we would offer amendments and secure votes on them up or down or tabling, as the case may be.

But I did notice a coincidence that might bear on the map. Things were proceeding along just fine. The agreement was riding along smoothly on the rails until this Senator divulged the substance of the amendment which he had intended to offer; namely, an amendment which would facilitate the appointment of an independent counsel to investigate Members of Congress if the Attorney General, in his opinion, thought there was evidence to warrant the appointment of such special counsel to investigate Members of Congress in connection with the savings and loan or the depository facilities, depository institutions scandals. As soon as this Senator divulged the content, the substance of his amendment, the train went off the track.

What we were presented with next was an ultimatum: That either the Senator from New Hampshire forbore offering his amendment or his colleagues, who likewise had amendments to offer, would be blocked from offering theirs by means of objecting to a unanimous-consent agreement, or other means, no doubt.

That is what I referred to when I used the term earlier "strong arm tactics," and I resent it. It is unfair. But I will predict that it will work to the advantage of this side of the aisle. I think the vote on cloture has now been turned into a vote on fairness. We have not heard the last word on what developed here tonight.

I regret that I am not going to be able to offer the amendment. It is a good amendment. It is an amendment which is urgently needed. It is an amendment which would be broadly supported by the American people who are up in arms at the cost of the savings and loan fiasco and the perceived political shenanigans which was, in part, at least a cause of this fiasco and the expensive bailout which ensues.

I cannot imagine why anyone in this body would be afraid of amending the special counsel law, the independent counsel law, so that it might be applied, again, at the discretion of the Attorney General, but that its application might be just slightly facilitated. Why would any Member of Congress, one side or the other, oppose that amendment? I will leave that to the pundits to speculate about.

It is unfair, Mr. President. And this Senator does not intend just to take it lying down, so to speak. This is going just a little bit too far.

We all know how to play the game of hardball around here, but this goes beyond the bounds of fairness. Senators have not heard the last about this issue.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I just want to go back over some ground that we have plowed once, but I am not sure it took. We attempted to explain what this amendment was about, but there is kind of a persistent murmur in the Chamber that I find a little unsettling. So I just want to be sure every Senator knows what we have been talking about here.

We are not talking about parental consent. We are talking parental notification. One parent. We are not talking about in every case. We are only talking about those cases where the organization which receives title X funds also performs the abortion.

There are not any funds for abortion in this bill. So you may ask, What is the connection? The connection is very simple. If the person who is seeking abortion counseling shows up at the counseling location, which may well be funded by title X, and after having been counseled on what her options are decides that she wishes to have an abortion, then she is referred some place, often to another office of the same agency that did the counseling.

We are not asserting, I do not believe, that funds for title X are being used to perform abortions. Somebody could argue that it amounts to the same thing. But as a technical matter, as a matter of accounting, that is not what is happening. What is happening is that they are being referred.

Do you suppose somebody from Boulder, CO, is being referred to Pueblo? No. Do you think they are being referred across town? In a lot of cases, that is not what happens either. In a lot of cases, what it means is that they are referred from a desk here to an office down the hall, a few steps away.

Somebody might say, well, that is a distinction without a difference. That is the same as if they were providing abortions with title X funds.

Mr. President, technically it is not. But if there is not at least the safety valve in these tragic cases involving minors, young girls, if there is not at least the opportunity for the parents to be notified, not even to give their consent, what it really amounts to is that these impressionable girls, at a time when they are vulnerable, at a time when they are under great pressure, at a time when they are in a lot of cases scared to death, are railroaded into doing something which they may well regret the rest of their lives. And in a lot of cases the referral is just down the hall, not very far—right there in the same building, I am told.

We have already discussed how often this is happening and where it is happening. The list is in the RECORD for anybody who wants to see it.

All we are suggesting is parental notification by certified mail. We are not saying anything very complex. We are not saying anything that is burdensome or onerous. We are not even saying that this is an absolute requirement, but it is a requirement that can be waived in the case of medical necessity. It is a requirement which only applies where the title X recipient is also the abortion provider. It only applies in that handful of States where the State itself, the legislature, has not enacted parental involvement legislation.

Yet the Senator from Massachusetts is reluctant to permit this issue to be voted on. He prefers to have a second-degree amendment. He prefers not to let the Senate vote on the issue itself

but to kind of vote on a strawman that he has erected.

I regret that. It is not going to change the final outcome. In the end, Mr. President, we will get a vote on this sometime—maybe not tonight but sometime. In the end, this will be enacted into law, and maybe a more far-reaching measure will someday be enacted into law. But there is little doubt in my mind, almost none in fact, that parental notification will be enacted by the Chamber as it has been by the legislative bodies of 35 of the 50 States.

Mr. President, the only thing that is in doubt, at least in my mind, is what our parliamentary procedure is. I guess at this point the only option which is really available to me is either to talk about this or go to a vote, or there might be another option or two.

I do not want to foreclose the Senator from Ohio, who I understand has arguments he wants to advance. I would be glad to hear them. What is the desire of the Senator?

Mr. METZENBAUM. The Senator from Ohio has understood from both sides of the aisle it is about time to close it up. I am about to offer a unanimous-consent request to do just that unless the Senator objects.

Mr. ARMSTRONG. Would the UC be to simply recess for the night?

Mr. METZENBAUM. Yes. May I read it, Mr. President?

Mr. ARMSTRONG. Mr. President, before the Senator starts on it, does it involve a lot of other things than this bill?

Mr. METZENBAUM. No. No, I do not believe so. I do not think the Senator from Colorado would have any difficulty.

It does not involve anything in the bill except for the cloture vote tomorrow.

Mr. ARMSTRONG. I am just trying to think aloud. Perhaps the Chair or the Parliamentarian or the manager could assist me. But it appears to me that the practical effect if we do not act on this measure in some way is that it is simply preempted tomorrow. Am I mistaken about that?

Mr. President, while we confer, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I have already said that I do not think this is the final disposition of this issue. I did not think so when I stood up and offered the amendment. I was not taken by surprise when the Senator from Massachusetts offered his second-degree amendment. I am disappointed that he did so, and I am disappointed that he was unwilling to relent.

But it does not make any difference. In the final analysis, we will get our vote. In the final analysis, we will win this issue because this is not a close call. This is not a question about which people or country I would judge, even people of this Chamber are very closely divided. I would guess this is not going to be a cliffhanger when the vote finally comes. My guess is we are going to win this by a pretty good thumping because parent notification in the final analysis is not a very controversial issue. What I hope will be controversial is the process. It is the pattern of laying down a bill, filing a cloture motion, tieing up the floor so people cannot offer amendments, and then when somebody finally gets a chance to offer an amendment, offering a second-degree amendment.

Well, that is all very cute, but in the end it sort of poisons the well. I want to remind all Senators of a point that I made earlier. We do business around here mostly by unanimous consent, mostly by a process in which Senators in turn are yielded the rights to which they are entitled under the rules. That actually turns out to be a pretty good way to do business, because that way things run smoothly and everybody is not so prickly about insisting on their rights that they tie up the whole body.

In this case, Mr. President, we are not able to reach that kind of accommodation; an accommodation which would permit us to vote on this issue, which is an important though narrow issue. It is a very significant issue involving the lives not only of unborn children, but the lives of families and young women under tragic circumstances.

I am not prepared to let this matter go to a vote under the kind of rigid circumstances that are available to me tonight.

So, Mr. President, with the understanding that this is just the first discussion of the issue, not the last, I withdraw my amendment, which I believe under the rule is my right.

The PRESIDING OFFICER. The Senator has the right to withdraw his own amendment. The amendment is withdrawn.

The amendment (No. 2882) was withdrawn.

Mr. GLENN. Mr. President, I rise today to join my colleagues in support of the family planning amendments. I am a cosponsor of S. 110 which amends and reauthorizes for 3 years the family planning project grant authority under title X of the Public Health Service Act. Title X of the Public Health Service Act, family planning, expired on September 30, 1985, and has been extended temporarily. I would like to commend my colleague, Senator KENNEDY, for his efforts in getting this important bill before the full Senate.

I believe that this legislation is vital because family planning has been instrumental in preventing unwanted pregnancies, especially teenage pregnancies. Almost 800,000 unwanted pregnancies—nearly half involving teenagers—are prevented each year by the diligent efforts of the family planning program. If it were not for this program there would be an estimated 400,000 additional unwanted pregnancies ending in abortion and an estimated 275,000 additional births annually. These additional births would add to the already high welfare rolls and impose unnecessary hardships on countless families and individuals.

By reauthorizing this program, Congress can assist 5 million low-income women and teenagers who are often unable to afford the services of private practitioners. From a budgetary standpoint, family planning saves taxpayers dollars; for each $1 invested in the program, we save approximately $3 in welfare costs.

Some have opposed this legislation because they believe that title X funds are used to perform abortions. In fact, the legislation specifically prohibits title X funds to be used for this purpose.

Title X program authority has not been extended since 1985. Instead of relying on continuing resolutions and appropriations acts to extend funding for essential family planning programs, I urge my colleagues to join me in supporting this bill.

Mr. METZENBAUM. Mr. President, I rise in support of S. 110, the Family Planning Amendments of 1989. I wish to commend Senator KENNEDY for his outstanding leadership on this bill. He deserves great credit for his perseverance and dedication to the cause of providing quality health care to the poor and uninsured.

The Family Planning Amendments of 1989 reauthorize title X of the Public Health Service Act, one of the most important Federal programs in existence. This program saves lives by providing quality health care, and also by allowing young women to control their futures. There is no greater problem facing this country than trying to break the cycle of poverty and despair that traps unwed and teenage mothers and their children. Title X helps the almost 5 million women who receive services under its auspices to break this vicious cycle. It gives young women from poor backgrounds a chance to finish school and make a life for themselves.

I am pleased to be an original cosponsor of this 3-year authorization measure. The bill increases the au-

thorized funding levels for basic family planning services, improves the training of family planning clinic personnel, broadens education programs to include self breast examinations, and continues the authority for relevant research and studies. In addition, S. 110 authorizes a new initiative within the National Institute of Child Health and Human Development to promote the development, marketing, and evaluation of new contraceptive devices, drugs, and methods.

Yet, despite the enormous importance of the title X program and the vast benefits it brings for relatively modest cost, we all know that it will be difficult to have this reauthorization bill passed and signed into law. The reauthorization of this critical program has been held up for years because some of my colleagues insist on offering misguided antiabortion amendments even though S. 110 continues the longstanding statutory mandate that no title X funds may be used to pay for or provide abortions.

These misguided amendments, among other things, bar the use of family planning funds to pay for counseling on or referring for abortion. In other words a family planning counselor at a title X clinic would not be allowed to advise patients or fully discuss the complete range of medical options at the appropriate time. Such an amendment is unfair to poor women, who if able to afford private health care would certainly be advised of all their medical options. It is also fundamentally inconsistent with sound medical practice that requires full disclosure of the health risks associated with medical procedures.

Mr. President, I believe that the majority of Americans, no matter what their position on the abortion issue, support family planning and related health services for all women who require it and especially for those who also can't afford it. I, therefore, urge my colleagues to save the abortion issue for another day and bill and to vote in favor of S. 110.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. It takes amendment No. 2883 off the table, also.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. METZENBAUM. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

OLDER WORKERS BENEFIT PROTECTION ACT

WAIVER TIME LIMITS

Mr. HATCH. Mr. President, I wonder if I might ask my friend from Ohio to clarify my understanding of the time period provision of title 2 of the S. 1511 substitute, which deals with waivers. Under that title, individuals are given specified periods of time in which to consider whether to accept a waiver offer. Are those time periods, the periods before an individual accepts the offer, are they unalterable?

Mr. METZENBAUM. I would be glad to answer that question. Section 201 of the substitute provides that an individual employee entering into a waiver of rights or claims be given a period of at least 21 days—or 45 days if the waiver is requested in connection with a group termination program—within which to consider the agreement. Of course, an employee may determine that he or she does not wish to wait the full 21 or 45 days, and may desire to enter into the agreement prior to that time. A shorter period of time is permissible as long as the employee's decision to accept such shorter period of time is knowing and voluntary.

Mr. HATCH. I thank the Senator from Ohio for that clarification. That conforms with my understanding of the provision as well.

LONG-TERM DISABILITY

Would the distinguished Senator answer a question regarding the incorporation of the equal employment opportunity guidelines in this bill?

Mr. METZENBAUM. I would be happy to answer the Senator's question.

Mr. HATCH. As I understand the substitute bill before us, it incorporates the Equal Employment Opportunity Commission [EEOC] guidelines 1625.10 into the law so that, for example, compliance with the EEOC safe harbor or cost-justification guidelines for long-term disability plans would remain permissible. Thus, long-term disability benefits may be terminated in accordance with the cost-justification rule or the safe harbor rule set forth in the EEOC guideline. Similarly, coordination with government-provided benefits as specified by the EEOC guideline also would remain permissible. Is that the Senator's understanding of this bill?

Mr. METZENBAUM. The distinguished Senator is correct.

THE SAVINGS AND LOAN SCANDAL

Mr. KERREY. Mr. President, I rise to call the attention of my colleagues to an excellent opinion piece printed in today's Washington Post.

The author of the article is Warren Buffett, chairman of Berkshire Hathaway, a holding company headquartered in Omaha. Mr. Buffett has established himself as one of America's more refreshingly candid business leaders. In this morning's essay he advocates a proposal to improve our Nation's depositor insurance system. He also proposes that we improve our use of the English language by describing the savings loan crisis as an insurance problem instead of a bailout.

There are two insights in Mr. Buffett's article, which should be noted.

First, Mr. Buffett shows us how we can simultaneously improve the performance of the private and public sectors by allocating responsibilities intelligently. He calls for a new system of Federal depositor insurance in which the private sector would analyze and assess the financial risk of each lending institution, and the Federal Government would provide the lion's share of the insurance, with a small share of the risk being held by well-secured private insurers.

This proposal is based upon a correct and almost nondebatable point: government cannot assess financial risk although we are constantly asked to do so. Government employees are not—and never will be—prepared to either make this evaluation or to insulate those assessments from political pressure. As Buffett notes: "even if the regulators could write rules that would expertly guage the risk or loss (which I doubt they can do), political realities would prevent their implementation. What is needed is a system that combines the ability of private insurers to evaulate risk with the ability of government to bear it."

This insight is an important refinement on the meat-cleaver approach to privatization and deregulation that is often recommended as a prudent course. The record of the 1980's is fairly clear: The administration confused deregulation with desupervision. There are areas of our lives which should be deregulated. However it has been tragic that in a rush to deregulate, we have some times desupervised. This is not unique to the savings and loan industry; the scandal at HUD provides an equally compelling example.

The ruling philosophy has been that government can do nothing well, and that government and its functions should therefore be abandoned or sold off to private interests, often at bargain basement prices. As we have belatedly learned in the savings loan crisis—and many others besides—

drunken sprees of privatization, deregulation and desupervision lead to painful hangovers.

There is a responsible way to allocate financial governance between the private and public sectors, but it requires an admission that the public sector can do some things well—an admission we have not heard much lately. In particular, the public sector is especially well suited to pool society-wide risk and act as a watchdog competitor with the private sector, rather than a sole provider of services.

The other point worth noting relates to Mr. Buffett's closing observation: "Recently, taxpayers have learned the hard way that there are more banks than bankers," and that this mismatch is a fertile source of "financial folly." Mr. President, I submit that what holds for our financial institutions also holds for our public institutions. In the savings and loan scandal, and in other areas, we are paying the high price of political folly, because we have been left with more government than public servants. By this I mean that the zeal to slash government over the past decade has often eliminated regulators and public protectors without removing the dangers of fraud or physical harm which made those personnel necessary.

A good example can be found in the business section of today's Washington Post. The Post article discusses the Treasury Department's inquiry into why and how the shutdown of Denver's Silverado Banking, Savings and Loan was delayed 2 months—until just after the 1988 Presidential election. The article notes that, 3 months after it was disclosed that officials in Washington ordered the delay, none of the officials in question has yet to be contacted or questioned by the Treasury Department's investigators. The article doesn't speculate on the causes of this investigatory lapse, and Treasury isn't talking. But perhaps we can charitably chalk it up to the cuts in regulatory and investgatory staff during the 1980's. Maybe they've simply been too shorthanded to get to it.

Here are some examples: For 3 years, 1983-85, the Office of Management and Budget [OMB] resisted repeated attempts by the Federal Home Loan Bank Board to increase the number of examiners watching over the Nation's thrifts. In fact, the number of fulltime examining positions authorized by OMB fell from 891 in fiscal year 1983 to 860 in fiscal year 1985. Further, the Joint Economic Committee recently reported, October 19, 1989, that at the time of the record thrift failures, overall thrift examination staff fell from 1,385 to 1,337 between 1981 and 1985.

Mr. President, Mr. Buffett reminds us that we should have the public sector do what it does best, we should let the private sector do what it does best, and we should entrust neither to those who hold in low regard the institutions they seek to govern. I ask that both Washington Post articles be inserted into the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

DEPOSITORS' INSURANCE: A LITTLE HELP FOR THE FEDS

(By Warren E. Buffett)

You've heard a lot about the "savings and loan bailout"—but that is inaccurate language. It's not the thrifts who have been bailed out with taxpayer money. They have, in fact, failed by the hundreds. Rather it's their depositors who have been rescued, thanks to insurance the government wrote and is now paying.

Fuzzy language impedes sound analysis. It's true that weak laws, lax regulation and political mischief bear major responsibility for the thrift debacle. However, a seriously flawed insurance operation contributed as well. If massive bailouts of depositors are to be avoided in the future, we have to start thinking as private insurers might and indeed bring them into the picture.

In particular, the government's insurance program needs to be overhauled to incorporate the first law of insurance underwriting: rates must be based on risk. To date we've allowed the incompetent, the crook and the optimist to exploit federal insurance at rates identical to those paid by prudent and able managers. If we continue that practice, we're asking for more troubles.

Any remedy must deal with certain special characteristics of deposit insurance. First, it is essential to our financial system: the question is not whether we have it, but what form it takes. Second, the size of our bank and thrift deposits—a colossal $4 trillion—demands that government be the main supplier of insurance.

But we should also understand that government is not well-equipped to judge the risk of insuring one institution versus another. Even if the regulators could write rules that would expertly gauge the risk of loss (which I doubt they can do), political realities would prevent their implementation.

What is needed is a system that combines the ability of private insurers to evaluate risk with the ability of government to bear it. Co-insurance arrangements, varying by size of bank, would appear to be the direction to go.

For example, our largest banks and thrifts—say, those with $10 billion or more of deposits—might be required to purchase pro-rata insurance covering 3 percent of their deposits from private insurers, with the remaining 97 percent to come from the Federal Deposit Insurance Corp. The government would be paid the same rate per dollar of insurance as the rate charged by the private insurers. If losses occurred, they would be shared in that same proportion: 3 percent for the private insurer, 97 percent for the FDIC.

The arrangements for smaller banks would need to take into account the possible reluctance of private insurers to put time and energy into relatively small transactions. Therefore, banks with deposits of, say $500 million to $1 billion might be required to buy 10 percent of their coverage from private insurers, with the rest to come from the FDIC.

At our smallest banks and thrifts—say, those with less than $500 million of deposits—the FDIC would be the sole insurer, charging a fixed rate of perhaps 0.2 percent of deposits, which is approximately the rate the FDIC has proposed that all banks pay next year.

There would remain the problem of larger institutions that could not, because of their perceived weaknesses, obtain private insurance. They would be placed in an "assigned risk" plan and pay the FDIC a high rate—say, 0.4 percent initially, rising gradually to 0.6 percent within a few years. That rate would be burdensome but not confiscatory: well-run banks currently earn 1.5 percent to 2 percent pre-tax on deposits while paying 0.12 percent for FDIC insurance. In any case, a 0.6 percent rate would give its victims a powerful incentive to clean up their act so that they could meet the standards of private insurers and obtain lower rates.

A private insurer can quickly adjust rates to new circumstances—and bankers would be well aware of that. Indeed, insurers dealing with higher-risk institutions might write policies covering only six months. Renewal rates would act as a scorecard on performance.

Private insurers could, in general, attack problems with a flexibility and speed that elude government. For example, they could attach conditions to policies that would restrict brokered deposits or high-risk loans. In some cases they would detect moral risks that government could not see. The very fact that private insurers rejected a particular risk would be an early warning signal that could help the government avoid billions in losses.

For this system to work, private insurers themselves would have to meet some tough standards: a minimum of $500 million of net worth, say, and a limit on the liabilities they could pile on each dollar of their net worth. The secretary of the Treasury should also have the right to disqualify an insurer at his discretion. When losses occur, the FDIC should manage the salvage operation.

Weaker banks will howl over this proposal. Though they regard it as sound practice to require that weak borrowers pay higher interest rates than strong borrowers, they will protest that differentiated insurance rates will make their already tough economics even tougher. Precisely. If an insurance structure doesn't produce pain, it won't produce change.

Society should wish for deposits to flow from the weak to the strong and from the ill-managed to the well-managed. Under the proposed system, banks and thrifts that operate with inadequate capital, impaired judgment or dubious integrity will find their growth inhibited by the higher costs they must bear. Some will seek mergers with institutions that incur lower insurance costs because they are better managed. That's just fine: our goal should be the restoration and preservation of a sound banking system, not the preservation of specific banks.

Overall, I would expect slightly more revenue to be realized by the FDIC from this private-public partnership than from the present system operating at the proposed 1991 rates. Competition among insurers, however, will prevent a ballooning of revenues. In addition, bankers will change their behavior in ways that will cut their rates, which is exactly what we want them to do.

Recently, taxpayers have learned the hard way that there are more banks than bankers. Financial folly will always be with us, but a well-designed insurance system can

significantly reduce the costs it inflicts upon society.

"SLOW START" TO PROBE OF DELAY ON SILVERADO

(By Kathleen Day)

In June, federal officials launched an investigation into who ordered a delay in the closing of Silverado Banking, Savings and Loan, the failed Denver thrift where President Bush's son Neil was a director. They wanted to know why the government waited until after the 1988 presidential election to shut it down.

Three months later, key individuals involved in the decision to delay the closing say they have not yet been contacted by federal officials conducting the inquiry.

The investigation by the Treasury Department began June 29, two weeks after a former thrift field supervisor testified under oath that officials in Washington ordered him to wait two months—until after the November election—before shutting down Silverado. So far, the former supervisor said yesterday, except for reporters, no one has asked him a question about his testimony.

"I haven't been contacted," said Kermit Mowbray, former president of the Federal Home Loan Bank of Topeka, Kan., and the government's chief regional thrift supervisor for a four-state region that included Colorado.

Other key officials in the Topeka office also have not been questioned, according to government sources familiar with the investigation. As far as the Topeka office is concerned, the investigation "has gotten off to a slow start," said one person familiar with the inquiry.

A spokesman for the Treasury, which last year took over responsibility for supervising thrifts, would not comment yesterday on why Mowbray or others have not been contacted or questioned by the agency. She would only say the investigation is continuing.

In the meantime, officials involved in the decision who are still in the government have been ordered not to discuss the case publicly as long as the government considers the investigation to be alive.

Key people who in 1988 were in the Washington headquarters of the Office of Thrift Supervision, then called the Federal Home Loan Bank Board, have already said they don't recall how the decision was made to delay the closing of Silverado, whose failure is expected to cost taxpayers more than $1 billion. Among those who have said publicly that they don't recall are M. Danny Wall, the nation's chief regulator from mid-1987 until December 1989; Stuart Root, chief of the thrift deposit insurance fund under Wall; and Karl Hoyle and Mary Creedon, top officials at the agency at the time.

Mowbray said that in July 1988 he informally told Washington officials that Silverado's health had deteriorated to the point where the government soon would have to take it over.

In September, his office formally requested that the thrift be seized by the federal government. Officials in Washington didn't respond to the request until mid-October, when they accepted the recommendation but asked the Topeka office to delay the closing for two months.

Accordingly to government sources, a government memorandum and publicly available information, former government thrift official Jay Earle made the telephone call requesting the delay because the government did not have the manpower to act earlier. The call followed up on an Oct. 20, 1988, memo he had written to formally notify the Topeka regulators that Washington intended to close Silverado.

Earle could not be reached for comment.

Early made the call to Topeka regulator Lou Roy, who then passed the information along to other Topeka officials, who then passed it along to Mowbray. Treasury officials have refused to allow Roy to discuss the matter.

Mowbray said that there is no significance to the fact that it took until Nov. 9—20 days after Earle's memo was faxed to the Topeka bank and one day after the election—before he signed the letter that set in motion the plans needed for the government physically to walk through Silverado's doors and take control.

"As far as I am concerned, it was happenstance," Mowbray said.

Still unanswered, however, is how officials in Washington made the decision to delay the closing. Mowbray and others insist that no political pressure was ever put on them from Washington or anywhere else to delay the closing.

The thrift regulatory system, in general, tolerated political activities that would not be allowed elsewhere.

For example, Mowbray once solicited campaign contributions from his 11 other regional thrift regulators around the country for former senator David Karnes, a Republican from Nebraska. Mowbray defends the action as appropriate. Regulators of commercial banks would be reprimanded for such an action, according to government spokesmen.

THE ISLAND OF KAHOOLAWE

Mr. INOUYE. Mr. President, I applaud the proposal of the junior Senator from Hawaii regarding the return of the Island of Kahoolawe to the State of Hawaii.

As chairman of the Senate Appropriations Subcommittee on Defense, I received a letter from Senator AKAKA requesting the inclusion of his proposal in the fiscal year 1991 Department of Defense appropriations bill.

I believe that it is well thought out, and strikes the best possible balance between the obligation of the United States to return the Island in a habitable condition and, in light of budgetary constraints, to meet the need to carefully measure and reduce the costs associated with its return.

Some of my colleagues may not be aware that Kahoolawe is the smallest island of the Hawaiian Island chain. In 1953, Kahoolawe was placed under the U.S. Navy's jurisdiction by Executive Order 10436, which was issued by President Dwight Eisenhower.

Once the Island is no longer of use to the Navy, the Order requires the Navy to "render such area, or such portion thereof, reasonably safe for human habitation, without cost to the Territory."

As you will note by the use of the word "Territory," the Navy has maintained possession of Kahoolawe for 36 years—6 years longer than Hawaii has been the 50th State of the Union.

During these years, Kahoolawe has been an integral part of the Navy's military training. Nonetheless, since 1982, Australia, New Zealand, Japan, and Great Britain have declined to bomb the Island during joint military exercises.

Only Canada and the United States continue to participate in shelling exercises. Concurrently, efforts are underway to prevent further erosion of the Island caused by a lack of vegetation, which in turn is due to the foraging of a federal goat population and exacerbated by the continued shelling.

In 1981, Kahoolawe was placed on the National Register of Historical Places because it is the only island in Hawaii where the remains of the total prehistoric and historical system are known to be preserved.

Continued bombing of the island threatens the preservation of these historic artifacts and sites. In my judgment, we can and must find an alternative site for the U.S. Navy to continue its training exercises to ensure the military readiness of our Armed Forces.

Over the years, the people of Hawaii have united in their overwhelming support for the return of Kahoolawe. The spiritual and traditional heritage of this island go to the very essence of the Native Hawaiian people.

They have spoken on many occasions through their elected State and county representatives. Resolutions have been passed repeatedly by the Hawaii State Senate and House of Representatives, demanding that the President return the island to its people.

The County Council of Maui, which encompasses Kahoolawe, has also sent resolutions, in conjunction with letters from the mayor of Maui, urging the island's return.

In addition, I have spoken to Governor Waihee of the State of Hawaii who also places a very high priority on securing the return of the island.

As the senior Senator of the State of Hawaii, I intend to heed the steadfast call of the people of Hawaii. I am committed to the return of Kahoolawe.

We have provided the U.S. Navy with a target practice site for 36 years. We have paid our dues and done our part at a substantial cost.

Senator AKAKA's proposal provides the best possible compromise to a difficult situation.

It will establish a Commission comprised of appointees from both the Department of the Navy and the State of Hawaii, including a representative of the Native Hawaiian people.

It will be their responsibility to study the terms and conditions for the return of the island, including the cost of cleanup and a time frame for the return.

They will recommend to the Congress an interpretation and specific application of the portion of President Eisenhower's Executive order, requiring the return of the island in a "reasonably safe condition for human habitation."

The cost of cleanup for purposes of rendering the Island safe for the construction of homes or other types of buildings is estimated to exceed $4 billion, and would, I believe, prohibit the return.

However, a lesser degree of habitation which would reserve the Island for parks and recreation, historic landmark visits, and for education and research-related activities, for example, in certain parts of the Island, would be less costly.

The Commission will be required to balance the needs, sensitivities, and constraints of all of the parties. To ensure that the rights of all parties are preserved.

I support Senator AKAKA's proposal to prohibit any bombing or further degradation of Kahoolawe for the duration of the Commission's study.

As chairman of the Senate Appropriations Subcommittee on Defense, I support the Akaka proposal, and will incorporate it into the fiscal year 1991 Department of Defense appropriations bill.

Let there be no doubt, I intend to use every resource available to me to return the Island of Kahoolawe to the people of Hawaii. I shall also do my best to ensure that our Armed Forces have appropriate training facilities elsewhere to maintain our Nation's military readiness.

I commend the junior Senator for his innovative proposal which is sensitive to the call of Hawaii's people, and is in accord with our Nation's fiscal constraints and security interests.

In the great words of President Abraham Lincoln, "Let us have faith that right makes might, and in that faith, let us to the end, dare to do our duty as we understand it."

Senator AKAKA and I have a duty to the people of Hawaii—a duty we believe to be right and just. We will accomplish it.

U.S. FOREIGN SERVICE OUR "FORGOTTEN SENTINELS"—FLOOR STATEMENT BY CLAIBORNE PELL

Mr. PELL. Mr. President, an editorial in the New York Times reminds us that brave men and women are serving as American diplomats in Iraq and Kuwait, and that their service deserves recognition in the same spirit as that expressed by President Bush about our military men and women now serving in the Persian Gulf region.

More civilian officers of our Foreign Service have been killed in the line of duty than all the generals and admirals that have died in combat since World War II. In the past 35 years some 90 American career diplomats have been killed, most of them as victims of terrorism.

The Americans now serving in Iraq and Kuwait are as much in the front lines as our soldiers in the desert. As the New York Times put it, their courage also calls for a salute.

I ask that the editorial "Forgotten Sentinels" from the September 25, 1990, New York Times be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

FORGOTTEN SENTINELS

President Bush has inadvertently slighted the U.S. Foreign Service. In his Sept. 11 speech to Congress, Mr. Bush spoke generously and at length about "our brave service men and women" in the Persian Gulf. But he failed even to mention the brave men and women serving as diplomats in Baghdad and Kuwait, the hazardous cockpits of the conflict. It does not belittle the sacrifices of uniformed Americans to note that Foreign Service officers are in more immediate peril.

More of these civilian officers have been killed in the line of duty than all the generals and admirals who have died in combat since World War II. The names of these diplomats are honored on plaques in the State Department lobby. In 1955 there were 75 names. Since then, 90 more career diplomats have been killed, most victims of terrorism.

Americans treat the Foreign Service shabbily. Congress routinely slashes State Department budgets, since diplomacy has no domestic constituency. Salaries are kept low and training programs starved of funds by legislators. Presidents treat ambassadorial posts as choice booty for chums and contributors.

Perversely, career diplomats go unrecognized and unrewarded even as their skills are required for new problems, from narcotics and pollution to vanishing rain forests. Neglect of the Foreign Service is ignominious in normal times, but incomprehensible in crisis. American diplomats in Kuwait are captives in a combat zone; embassy defenders rely on a swimming pool for drinking water. Their courage calls for a salute; at the first opportunity, Mr. Bush should make full amends.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,019th day that Terry Anderson has been held captive in Beirut.

ON THE ANNIVERSARY OF HURRICANE HUGO, CHARLESTON SAYS THANKS TO AMERICA

Mr. HOLLINGS. Mr. President, during this past weekend, South Carolinians observed the first anniversary of Hurricane Hugo. The occasion was equal parts solemn remembrance and upbeat celebration. The fact is that South Carolina has bounced back stronger and faster than anyone dreamed possible this time last year. Then again, this time last year, perhaps we didn't anticipate the tremendous, sustained outpouring of assistance from Americans the length and breadth of this Nation—assistance in the form of cash, labor, food, clothing, building materials, you name it. We will never forget it, and I cannot begin to express South Carolinians' sense of wonder and gratitude at the generosity of their fellow Americans.

Mr. President, no one has played a more vital and indispensable role in this rebound than Mayor Joseph P. Riley of Charleston. His leadership has been magnificent. What's more, in recent days, Mayor Riley has done South Carolina yet one more service by publishing in USA Today a full-page thank-you message to the people of the United States. The message is eloquent and straight from the heart.

Mr. President, so that the mayor's "Thank You, America" message can gain a wider circulation, I ask unanimous consent that it be printed in the RECORD in its entirety.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Advertisement from USA Today, Sept. 21, 1990]

THANK YOU, AMERICA.

A year ago, Charleston was struck by Hurricane Hugo, the worst natural disaster in our state's history. It was, for this beautiful city, one of our darkest days.

Today we celebrate a remarkable recovery that many have called almost miraculous. We wish to thank you, the citizens of America, for your help and generosity.

Beginning just hours after the eye of this fierce hurricane passed over our church steeples, help started pouring in from all over America. You sent your hard-earned money, food, building supplies and clothes. Many of you came as volunteers to help us rebuild this city and our nearby communities.

Your help came from America's biggest cities and rural crossroads. You helped us get on our feet, you lifted our spirits and helped bring us together.

Today, thanks to you and to the extraordinary courage and diligence of the people of our community, Charleston is back. We're going strong, and visitors once again are enjoying our treasured historic sites, beautiful architecture and unspoiled beaches. Our restaurants and hotels are again bustling. And the outlook for business has never been more positive.

We are proud that not only did Charlestonians rebuild this year, but built for the future as well. In May, on schedule, we completed a magnificent ten-acre Waterfront Park along our harbor.

Our annual internationally known celebration of the arts, Spoleto Festival U.S.A., enjoyed its most successful season ever.

Over the past year we have experienced much. Some of it was painful. A lot of its has been wonderful. But nothing we have experienced has been more remarkable than the American people's outpouring of generosity. You have our deepest gratitude.

Come visit us. You will see a restored city that withstood Revolutionary War battles

200 years ago and withstood nature's most ravaging storm. And when you visit us, you will take pride in what is great about America, for your generosity helped bring us back. Thanks to you, Charleston has recovered and is going strong.

JOSEPH P. RILEY, Jr.,
Mayor, Charleston, South Carolina.

ASSOCIATION OF JUNIOR LEAGUES INTERNATIONAL, INC.'S RESOLUTION ON REAUTHORIZATION OF THE NATIONAL ENDOWMENT OF THE ARTS

Mr. BRYAN. Mr. President, Senator HARRY REID and I submit the following Association of Junior Leagues International, Inc. Resolution concerning the reauthorization of the National Endowment for the Arts. The Association's 267 member Junior Leagues in the United States have a longstanding commitment to advancing art education and cultural development for all people in this country. It is in this spirit that the delegates at the association's 68th annual conference passed the following resolution:

Whereas, the National Endowment for the Arts, a federal agency, has enabled the arts in America to flourish and thrive since its inception in 1965 by promoting creative expression through the arts and by providing financial support to over 85,000 grant recipients across the nation. And, furthermore, its existence has stimulated growth and additional financial support of the arts in all states and U.S. territories through legislative appropriations which match or exceed National Endowment allocations and through corporate and private matching funds, and,

Whereas, the National Endowment's impact has successfully broadened accessibility of arts to all citizens, has significantly influenced the standards of artistic quality, has greatly increased the production of the arts in America, . . . the foundation of that progress based on artistic merit and artistic freedom as guaranteed by the first amendment of the United States Constitution, and;

Whereas, reauthorization of this agency by the President and the United States Congress is mandated in its enabling legislation at five-year intervals, and that process shall be completed in 1990, and;

Whereas, the reauthorization process inherently commands that proponents voice their support and defend its continuation and perpetuation, and;

Whereas, member Junior Leagues of the Association have traditionally and continuously demonstrated their belief in the value and importance of the arts in society through commitments of time, energy, and funds towards thousands of Junior League cultural arts projects and advocacy efforts, and;

Whereas, the cultural legacy of many Junior League-initiated projects still thrives, in part, due to National Endowment support and funding, and;

Whereas, individual Junior Leagues continue to be instrumental in advancing arts education for youth and cultural development in their respective communities as evidenced by 334 current cultural arts projects representing a financial commitment of nearly 1.5 million dollars, and;

Whereas, the delegate body of the Association of Junior Leagues International has, from time to time, adopted public stands on specific and timely issues through the resolution process and has in turn directed its President to communicate the viewpoint of the delegate body to appropriate authorities; therefore, be it

Resolved, That the Association of Junior Leagues International direct its president to issue a statement to President George Bush and to both Houses of the Congress of the United States endorsing reauthorization of the National Endowment of the Arts.

THE DISTINGUISHED FLYING CROSS TRIBUTE TO 1ST LT. VERNON L. BINGHAM

Mr. GARN. Mr. President, in times of war, heroes emerge, and their deeds are praised, but proper recognition must sometimes yield to the demands of the battlefield. On April 23, 1944, Vernon L. Bingham received the Distinguished Flying Cross for his outstanding achievement during an aerial flight. Although he received a medal and a copy of the orders, it was not until August 7, 1990 that he was officially presented with his citation, 45 years after World War II drew to a close. The time has come to properly honor the courage and valor displayed 46 years ago.

Lieutenant Bingham served as first lieutenant in the Air Corps, 415th Bombardment Squadron, 98th Bombardment Group of the U.S. Army. He is honored for extraordinary achievement while participating in aerial flight in the Mediterranean Theatre of Operations as a navigator of a B-24 type aircraft. At this time, I believe it is appropriate to recognize his achievement and quote directly from the orders which recognized him as a Distinguished Flying Cross recipient:

On 12 February 1944, Lieutenant Bingham participated in an important bombing mission against a vital enemy rail junction in Italy. Despite severe weather conditions which forced other aircraft in his formation to turn back, Lieutenant Bingham, through superior navigation, continued on, located and bombed the objective, sharing in the great damage inflicted on the enemy by a highly successful bombardment. Just over the target, enemy antiaircraft fire destroyed two (2) engines, seriously damaging his plane. Unable to gain altitude, with the plane only able to turn in one (1) direction, Lieutenant Bingham assumed the responsibility of bringing his crippled plane through adverse weather and unfamiliar territory surrounded by towering mountain peaks back to home base, and, by his superior leadership and technical skill, brought both plane and crew through for a safe landing at a friendly base. By his courage, personal example, and devotion to duty, as shown throughout over fifty (50) successful combat missions against the enemy, Lieutenant Bingham has reflected great credit upon himself and the Armed Forces of the United States of America.

When I discovered the oversight of the Air Force in getting Mr. Bingham his Distinguished Flying Cross citation, I wanted to quickly remedy the situation. I must confess, he will be surprised by the citation because he never asked for assistance.

While it is always a privilege for me to recognize those who have served our country, it is a special honor to recognize the efforts to Vernon L. Bingham today for a couple of reasons. Though he now resides in Denver, CO, his residence at appointment was Salt Lake City, UT. Vernon is not only a former citizen of Utah, however, he also made the wise decision to marry my sister, Mildred. I extend warmest congratulations to a valued member of my family.

COMPREHENSIVE MEDICAL DEVICE IMPROVEMENT ACT OF 1990

Mr. DODD. Mr. President, on Wednesday, September 26, 1990, the Senate Committee on Labor and Human Resources will hold an executive session for the purpose of marking up S. 3006, the Comprehensive Medical Device Improvement Act of 1990.

At that time, I will be offering an amendment in the nature of a substitute to the bill which Senator KENNEDY and I introduced, along with Senators HATCH, COATS, and DURENBERGER, on Saturday, August 4, 1990.

For the past 7 weeks, I have worked with Senator KENNEDY and the other cosponsors of the legislation to strengthen, fine-tune, and perfect the introduced bill so that the Committee on Labor and Human Resources can report truly comprehensive legislative to the full Senate which will improve the regulatory scheme for medical devices and will ensure continued public access to safe, effective, high quality medical devices.

I wish to commend my good friend, the distinguished chairman of the Labor and Human Resources Committee, Senator KENNEDY, for his leadership on this issue. I would further commend the chairman and his staff for their outstanding work in assisting in the development of this substitute bill. I also wish to recognize the efforts of Senators HATCH, COATS, and DURENBERGER and their fine staffs who made a significant contribution toward improving the legislation.

I sincerely believe that the substitute bill represents consensus legislation that should receive wide, bipartisan support in the Senate. In light of the strong interest in the House of Representatives in passing medical device legislation this year, I am optimistic that a comprehensive medical device bill will be enacted before the 101st Congress adjourns.

I ask unanimous consent that the text of my amendment be printed in the RECORD.

There being no objection, the text of the amendment was ordered to be printed in the RECORD, as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Medical Device Improvement Act of 1990".

SEC. 2. REFERENCES TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

SEC. 3. REVIEW OF SAFETY AND EFFECTIVENESS INFORMATION.

(a) REVIEW.—Section 510(k) (21 U.S.C. 360(k)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after the subsection designation; and

(3) by adding at the end the following new paragraph:

"(2)(A) The requirements of subparagraph (B) shall apply to a person who submits a notification in accordance with paragraph (1) for a device that the person claims is substantially equivalent to a marketed device—

"(i) that was introduced or delivered for introduction into interstate commerce for commercial distribution before the date of enactment of this paragraph;

"(ii) that is classified as a class III device in accordance with subsections (b) through (d) of section 513; and

"(iii) for which no final regulation requiring premarket approval has been promulgated in accordance with section 515(b).

"(B) A person described in subparagraph (A) shall—

"(i) prior to the submission of a notification in accordance with paragraph (1), conduct a reasonable search for, and review of, published and unpublished data available to the person concerning the safety and effectiveness of the marketed device and the device for which the notification is submitted, including all adverse safety and effectiveness data concerning the devices, except for data that has been submitted to the Secretary in accordance with section 519 of this Act and section 803 of title 21, Code of Federal Regulations; and

"(ii) include in the notification a certification that the search and review was conducted and a citation to and summary of the data resulting from the search.

"(C) The Secretary may require the submission of any data described in the summary required by paragraph (B)(ii).".

SEC. 4. CLASSIFICATION OF DEVICES.

(a) CLASSIFICATION.—Section 513 (21 U.S.C. 360c) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)(ii), by striking "or to establish a performance standard" and inserting "or to establish an additional control or controls, as described in subparagraph (B)(ii),";

(B) by amending subparagraph (B) to read as follows:

"(B) CLASS II, ADDITIONAL CONTROLS.—A device—

"(i) that cannot be classified as a class I device because general controls are insufficient to provide reasonable assurance of the safety and effectiveness of the device;

"(ii) for which there is sufficient information to establish an additional control or controls to provide the assurance, including—

"(I) promulgating a performance standard;

"(II) developing and disseminating a guideline, including a guideline for the submission of clinical data in a premarket notification submission in accordance with section 510(k);

"(III) requiring the use of postmarket surveillance as appropriate in accordance with section 522; and

"(IV) making a recommendation or taking other appropriate action considered necessary by the Secretary to provide reasonable assurance of the safety and effectiveness of the device; and

"(iii) for which it is necessary to establish an additional control or controls to provide reasonable assurance of the safety and effectiveness of the device;

except that for a device that is purported or representated to be for a use in supporting or sustaining human life, sufficient information must exist for the Secretary to identify and describe the provision of a performance standard to provide such assurance." ; and

(C) in subparagraph (C)(i)(II), by striking "establishment of a performance standard" and inserting "establishment of an additional control, as described in subparagraph (B)(ii),"; and

(2) in subsection (f)—

(A) in paragraph (1), by inserting "the Secretary by order determines that" after "unless"; and

(B) in paragraph (2), by striking "The" and inserting "The Secretary may initiate the reclassification of a device classified in class III under paragraph (1), or a".

(b) CONFORMING AMENDMENT.—Section 513(h)(1) is amended by inserting after "510" the following: "(except for a guideline for the submission of clinical data in a premarket notification submission in accordance with section 510(k))".

SEC. 5. REVISION OF CLASSIFICATION FOR CERTAIN CLASS III DEVICES.

(a) REVISION OF CLASSIFICATION.—Section 513 (21 U.S.C. 360c) (as amended by section 4(b) of this Act) is further amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"Revision of Classification

"(h)(1) The requirements established by order in accordance with paragraph (2) shall apply with respect to a device—

"(A) that was introduced or delivered for introduction into interstate commerce for commercial distribution before the date of enactment of this subsection;

"(B) that is classified as a class III device; and

"(C) for which no final regulation requiring premarket approval has been promulgated in accordance with section 515(b).

"(2) Not later than 36 months after the date of enactment of this subsection, the Secretary—

"(A) shall by order require manufacturers of devices described in paragraph (1) to submit to the Secretary a citation to and summary of all published and unpublished data reasonably available to the manufacturer concerning the safety and effectiveness of the device, including any adverse safety and effectiveness data, except for information that has been submitted to the Secretary under section 519 of this Act and section 803 of title 21, Code of Federal Regulations; and

"(B) may require a manufacturer to submit any data described in the summary.

"(3) After the issuance of an order in accordance with paragraph (2)(A), but not later than 24 months after the issuance of the order, the Secretary shall publish in the Federal Register for each device covered by the order a notice of proposed rulemaking proposing to change the classification of the device to class II or to class I or to continue the classification of the device in class III.

"(4) In determining whether to revise the classification of a device or to continue the classification of the device in class III, the Secretary shall apply the criteria in section 513(a) to the information available when the device was initially classified and any new information made available since initial classification.

"(5) After considering any comments submitted in response to the notice of proposed rulemaking, the Secretary shall issue a regulation changing the classification of the device or continuing the classification in class III. The Secretary shall publish in the Federal Register findings on the matters referred to in paragraph (4), a discussion of the comments received in response to the notice of the proposed rulemaking, and the response of the Secretary to the comments. The Secretary shall not publish the regulation before the expiration of 90 days from the date of publication of the notice of proposed rulemaking relating to the regulation.

"(6) A regulation issued in accordance with paragraph (5) is subject to judicial review in accordance with section 517.".

"(7) Not later than 12 months after the effective date of any regulation issued in accordance with paragraph (5), the Secretary shall establish a schedule for the issuance of a regulation in accordance with section 515(b) requiring submission of a premarket approval application for each device that has been continued in class III.".

SEC. 6. ESTABLISHMENT OF PERFORMANCE STANDARDS.

(a) PROCEDURE.—Section 514 (21 U.S.C. 360d) is amended—

(1) in subsection (a), by striking "The Secretary may" and inserting "If the Secretary determines that a performance standard is necessary to provide reasonable assurance of the safety and effectiveness of a class II device, the Secretary shall";

(2) by striking subsections (b) through (f);

(3) by redesignating subsection (g) as subsection (b);

(4) in subsection (b) (as redesignated), by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1)(A) The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any performance standard for a device.

"(B) A notice of proposed rulemaking for the establishment or amendment of a performance standard for a device shall—

"(i) set forth a finding with supporting justification that the performance standard is appropriate and necessary to provide reasonable assurance of the safety and effectiveness of the device;

"(ii) set forth proposed findings with respect to the risk of illness or injury that the performance standard is intended to reduce or eliminate;

"(iii) invite interested persons to submit to the Secretary within 30 days of the publication of the notice, requests for changes in

the classification of the device based on new information relevant to the classification; and

"(iv) invite interested persons to submit an existing performance standard for the device, including a draft or proposed performance standard, for consideration by the Secretary.

"(C) A notice of proposed rulemaking for the revocation of a performance standard shall set forth a finding with supporting justification that the performance standard is no longer necessary to provide reasonable assurance of the safety and effectiveness of a device.

"(D) The Secretary shall provide for a comment period of no fewer than 60 days.

"(2) If, after publication of a notice in accordance with paragraph (1), the Secretary receives a request for a change in the classification of the device, the Secretary shall, within 60 days of the publication of the notice, consult with a classification panel described in the second sentence of section 513(e).".

(b) CONFORMING AMENDMENTS.—

(1) Section 514(b) (as redesignated by subsection (a)(3)) is amended—

(A) in paragraph (3)(A), by striking "paragraph (2)" and inserting "paragraph (1)"; and

(B) in paragraph (4)(A), by striking "paragraphs (2) and (3)(B)" and inserting "paragraphs (1), (2), and (3)(B)".

(2) Section 517(a)(3) (21 U.S.C. 360g(a)(3)) is amended by striking "514(b)(2) or".

(3) Section 520(i) (21 U.S.C. 360j(i)) is amended by striking "514(g)(5)(B)" and inserting "514(b)(5)(B)".

SEC. 7. SUSPENSION OF APPROVAL OF APPLICATION.

Section 515(e) (21 U.S.C. 360e(e)) is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary may by order temporarily suspend the approval of an application approved under this section if the Secretary determines that there is a reasonable probability that the continued distribution of a device under the application would cause serious, adverse health consequences or death.

"(B) No less than 10 days prior to the issuance of a suspension order under subparagraph (A), the Secretary shall issue a notice that the Secretary shall provide the holder of the application for the device with an opportunity for an informal hearing to determine whether to issue the order.

"(C) No less than 10 days after the hearing described in subparagraph (B), the Secretary shall issue a suspension order or determine that the order should not be issued.

"(D) No less than 20 days after the issuance of the suspension order, the Secretary shall issue a notice initiating the process of withdrawal of approval of the application, as described in paragraphs (1) and (2). If the Secretary does not issue the notice within the specified time frame, the suspension order shall be deemed to be vacated.".

SEC. 8. JUDICIAL REVIEW.

Section 517(a) (21 U.S.C. 360g(a)) is amended—

(1) by striking "or" at the end of paragraph (6); and

(2) by inserting after paragraph (7) the following new paragraphs:

"(8) the issuance of a regulation under section 513(h), or

"(9) the issuance of an order under section 513(f)(1) or an order effectuating the classification required under 520(l)(1)(D).".

SEC. 9. EMERGENCY RECALL AUTHORITY.

Section 518 (21 U.S.C. 360h) is amended by adding at the end the following new subsection:

"Emergency Recall Authority

"(e)(1) If the Secretary finds that there is a reasonable probability that a device intended for human use would cause serious, adverse health consequences or death, the Secretary shall issue a recall order. The order shall require the appropriate party or parties (including the manufacturers, importers, distributors, or retailers of the device) to immediately cease any distribution of the device and, thereafter, recall the device from commercial distribution.

"(2)(A) The order issued under paragraph (1) shall include recall of devices from hospitals and other health care institutions, unless the Secretary determines that the risk of recalling the device from the facilities presents a greater health risk than not recalling the device from use.

"(B) For devices subject to an order issued under paragraph (1), and in lieu of including individuals within the recall order, the Secretary shall order a notification under subsection (a) regarding the risks associated with the continued use of the device to individuals or, when appropriate, the health professionals who prescribed the device for the use of the individuals.

"(3) Not later than 10 days after the issuance of a recall order, the Secretary shall provide the party or parties to whom the order is directed with the opportunity for an informal hearing to determine whether the order shall be affirmed or vacated.

"(4) If, after providing an opportunity for an informal hearing, the Secretary determines that the recall order was properly issued, the order shall remain in effect. The order shall specify a timetable in which the device recall will occur, and shall require periodic reports to the Secretary describing the progress of the recall effort.

"(5) If, after providing an opportunity for an informal hearing, the Secretary determines that inadequate grounds exist to support the order issued under paragraph (1), the Secretary shall vacate the order.

"(6) A party to whom the recall order is issued shall—

"(i) remedy the causes that resulted in the issuance of the order;

"(ii) complete the recall in accordance with the order; and

"(iii) submit a report to the Secretary demonstrating compliance with the order.

"(7) After fulfilling the requirements of paragraph (6), a party to whom the recall order is issued may petition the Secretary to vacate the order. The petition shall state the basis for vacating the order.

"(8) The Secretary shall respond to the petition described in paragraph (7) not later than 30 days after the receipt of the petition. If the Secretary finds that the party to whom the recall order was issued has fulfilled the requirements of paragraph (6) and that the device may be distributed in interstate commerce, the Secretary shall vacate the order.

"(9) The remedy provided by this subsection shall be in addition to those provided by subsections (a), (b), and (c).".

SEC. 10. USER REPORTS.

(a) REQUIREMENT.—Section 519 (21 U.S.C. 360i) is amended—

(1) in subsection (a)(3), by inserting before the semicolon the following: "and shall require distributors who submit the reports to submit copies of the reports to the manufacturer of the device for which the report was made";

(2) by adding at the end the following new subsections:

"Inclusion of Distributors

"(c) Not later than 1 year after the date of the enactment of this subsection, the Secretary shall amend the regulations promulgated under this section to require distributors of medical devices to establish and maintain records and make reports under this section. In amending the regulations, the Secretary may exempt classes of distributors from whom reports are not necessary for the protection of the public health.

"Certification

"(d) Each manufacturer, importer, and distributor required to make reports under subsection (a) shall submit to the Secretary annually a statement certifying that the manufacturer, importer, or distributor—

"(1) did not file any report; or

"(2) did file a certain number of the reports.

"User Reports

"(e)(1) As used in this subsection:

"(A) The terms 'facility' and 'medical device user facility' mean a hospital, nursing home, or ambulatory surgical facility.

"(B) The terms 'serious illness' and 'serious injury' mean illness or injury, respectively, that is unanticipated and—

"(i) is life threatening;

"(ii) results in permanent impairment of a body function or permanent damage to a body structure; or

"(iii) necessitates immediate medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure.

"(2) If a medical device user facility becomes aware of information that reasonably suggests that a medical device has caused or contributed to the death of a patient of the facility, the facility shall, as soon as practicable but not later than 15 working days after becoming aware of the information, report the information to the Secretary and, if the identity of the manufacturer is known, to the manufacturer of the device.

"(3) If a medical device user facility becomes aware of information that reasonably suggests that a medical device has caused or contributed to a serious illness or serious injury to a patient of the facility, the facility shall, as soon as practicable, but not later than 15 working days after becoming aware of the information, report the information to the manufacturer of the device. If the facility is unable to determine the identity of the manufacturer of the device, the facility shall send a report of the information to the Secretary.

"(4) For purposes of paragraphs (2) and (3), a medical device user facility shall be treated as having received or otherwise become aware of information with respect to a medical device of the facility when appropriate medical personnel employed by or otherwise affiliated with the facility receive or otherwise become aware of information with respect to the device in the course of the duties of the individual.

"(5)(A) Except as provided in subparagraph (B), the Secretary may not disclose the identity of a facility that makes a report in accordance with paragraph (2) or (3)—

"(i) except in connection with an action brought to enforce section 301(q);

"(ii) except in connection with a communication to a manufacturer of a device that is

the subject of a report in accordance with paragraph (2) or (3); or

"(iii) unless required to be disclosed in accordance with subsection (a).

"(B) This paragraph shall not authorize the Secretary to withhold the identity of a facility making a report in accordance with paragraph (2), or any information in the report, from duly authorized committees and subcommittees of Congress.

"(6)(A) No report made in accordance with paragraph (2) or (3) by a person described in subparagraph (B) shall be admitted into evidence in any civil action involving private parties unless the person had knowledge of the falsity of the information contained in the report.

"(B) As used in subparagraph (A), the term 'person' means—

"(i) a medical device user facility;

"(ii) one of the appropriate medical personnel employed by or otherwise affiliated with the facility; or

"(iii) a physician who is not required to make a report in accordance with paragraph (2) or (3).

"(7) The obligation of a medical device user facility to make a report in accordance with paragraph (2) or (3) shall not affect the obligation of the manufacturer of the device who receives the information to file a report concerning the device as required under subsection (a).

"User Education

"(f)(1) During the 1-year period beginning on the date of enactment of this subsection, the Secretary may award grants to eligible entities to establish public education programs for hospitals, ambulatory surgical facilities, and nursing homes concerning the user reporting requirements set forth in subsection (e).

"(2) In awarding grants in accordance with paragraph (1), the Secretary shall give priority to entities to submit proposals that demonstrate—

"(A) a need for user education among hospitals, ambulatory surgical facilities, and nursing homes regarding a generic category of medical device; and

"(B) the ability to adequately perform the proposed educational program.

"(3) In order to receive a grant in accordance with paragraph (1), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require. At a minimum, the application shall contain—

"(A) a description of the proposed public education program;

"(B) the qualifications and experience of the entity to carry out the program; and

"(C) the need for user education among persons to be served by the entity regarding a generic category of medical device.

"(4) The Secretary shall by regulation specify the qualifications for an entity to receive a grant in accordance with paragraph (1).

"(5) There are authorized to be appropriated to carry out this subsection such sums as may be necessary for each of fiscal years 1991 through 1993.".

(b) REGULATIONS.—The Secretary of Health and Human Services shall promulgate regulations to implement section 519(e) of the Federal Food, Drug, and Cosmetic Act, as added by the amendment made by subsection (a), not later than 12 months after the date of enactment of this Act. In promulgating the regulations, the Secretary shall minimize the administrative burdens on medical device user facilities consistent with the need to assure adequate information.

(c) REPORT TO CONGRESS.—Not later than 36 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report that contains an evaluation of the requirements of section 519(e) of the Federal Food, Drug, and Cosmetic Act. In preparing the report, the Secretary shall consult with individuals and organizations with an interest in health care and consumer issues. At a minimum, the report shall contain—

(1) an evaluation of the safety benefits of the requirements;

(2) an evaluation of the burdens placed on the Food and Drug Administration and on medical device user facilities by the requirements;

(3) an evaluation of the cost-effectiveness of the requirements; and

(4) recommendations for legislative reform.

(d) EFFECTIVE DATE.—Section 519(e) of the Federal Food, Drug, and Cosmetic Act shall become effective on the earlier of—

(1) the effective date of regulations promulgated in accordance with subsection (b); or

(2) the date that is 12 months after the date of enactment of this Act.

SEC. 11. REPORTS OF REMOVALS AND CORRECTIVE ACTIONS.

Section 519 (21 U.S.C. 360i) (as amended by section 10 of this Act) is further amended by adding at the end the following new subsection:

"Reports of Removals and Corrective Actions

"(g)(1)(A) Except as provided in paragraph (2), the Secretary shall by regulation require a manufacturer, importer, or distributor of a device to report promptly to the Secretary any removal or corrective action of a device undertaken by the manufacturer, importer, or distributor of a device if the removal or corrective action was undertaken to—

"(i) eliminate a significant risk to health caused by the device; or

"(ii) remedy a violation of this Act caused by the device which may present a risk to health.

"(B) A manufacturer, importer, or distributor of a device who undertakes a corrective action or removal of a device that is not required to be reported under subparagraph (A) shall keep a record of the corrective action or removal.

"(2) No report of the corrective action or removal of a device may be required under paragraph (1) if a report of the corrective action or removal is required under this Act, or the corrective action or removal was initiated at the request of the Secretary, and a report has been submitted to the agency.

"(3) For purposes of paragraphs (1) and (2), the terms 'corrective action' and 'removal' do not include routine servicing.".

SEC. 12. USE OF PREMARKET APPROVAL DATA.

Section 520 (21 U.S.C. 360j) is amended—

(1) in subsection (c)—

(A) by striking "and may not be used"; and

(B) by inserting "or class I, except in accordance with subsection (h)," after "from class III to class II";

(2) in subsection (h)(3), by striking "Any" and inserting "Except as provided in paragraph (4), any"; and

(3) by adding at the end the following new paragraph:

"(4)(A) Any information contained in an application for premarket approval filed with the Secretary pursuant to section 515(c), including clinical and preclinical tests or studies, but excluding descriptions of methods of manufacture and product composition, that demonstrates the safety and effectiveness of a device shall be available one year after the original application for the fourth device of a kind has been approved by the Secretary, for use by the Secretary in approving devices, or determining whether a product development protocol has been completed, under section 515, establishing a performance standard under section 514, and reclassifying devices under subsections (e) and (f) of section 513, and subsection (l)(2). The Secretary shall deem devices that incorporate the same technologies, have the same principles of operation, and are intended for the same use or uses to be within a kind of device.

"(B) The Secretary, contemporaneously with the approval of the fourth device of a kind, shall publish a notice in the Federal Register identifying the four devices of a kind that have been approved under section 515 and the date on which the data contained in premarket approval applications for the devices will be available to the Secretary for use, as described in subparagraph (A). For each device described in subparagraph (D)(i)(I), the Secretary shall publish a notice in the Federal Register setting forth the date, which shall be not earlier than 1 year from the date of notice, that data identified in subparagraph (A) shall be available for the use of the Secretary.

"(C) The detailed summaries of information respecting the safety and effectiveness of devices required by paragraph (1)(A) shall be available for use by the Secretary in approving devices, or determining whether a product development protocol has been completed, under section 515, establishing a performance standard under section 514, and reclassifying devices under subsections (e) and (f) of section 513, and subsection (l)(2).

"(D)(i) This paragraph shall become effective—

"(I) upon the date of the enactment of the paragraph, for devices approved under section 515, where four devices of a kind were approved on or before December 31, 1987; and

"(II) 24 months after the date of the enactment of the paragraph, for devices not included within the scope of subclause (I) that are subject to a premarket approval requirement under section 515.

"(ii) For each device described in subparagraph (D)(i)(II) for which the original application for a fourth device of a kind is approved by the Secretary before the 24-month delayed effective date described in subparagraph (D)(i)(II), the 24-month delayed effective date shall be deemed to be the approval date for the fourth device of a kind.

"(E) The approval date of a device, for purposes of this paragraph, shall be the date of the letter of the Secretary to the applicant approving a device under section 515, and permitting the applicant to commercially distribute the device.".

SEC. 13. TRACEABILITY.

Section 520(j) (21 U.S.C. 360j(j)) is amended to read as follows:

"Traceability Requirements

"(j)(1) The Secretary shall, not later than 1 year after the date of enactment of this subsection, determine which devices should

be subject to a requirement of labeling, or coding, or identification by any other means, that is necessary to ensure that the device may be traced from the place of manufacture of the device or initial distribution to the ultimate user of the device, from among devices that—

"(A) are permanent implants;

"(B) are purported or represented to be for use in supporting or sustaining human life; or

"(C) present a potential unreasonable risk of illness or injury.

"(2) Not later than 2 years after the date of enactment of this subsection, the Secretary shall by regulation require the manufacturers, importers, and distributors of the devices that are described in paragraph (1) to establish the means by which the devices will be traced to the ultimate user.".

SEC. 14. REVISION OF CLASSIFICATION FOR DEVICES REGULATED AS NEW DRUGS OR ANTIBIOTIC DRUGS.

(a) IN GENERAL.—Section 520(l)(2) (21 U.S.C. 360j(l)(2)) is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) in subparagraph (A) (as designated by paragraph (1), by striking "The" and inserting "The Secretary may initiate the reclassification of a device classified in class III under paragraph (1), or a"; and

(3) by adding at the end the following new subparagraph:

"(B)(i) Not later than 90 days after the date of enactment of this subparagraph, the Secretary shall publish a notice in the Federal Register with respect to devices that are subject to regulation pursuant to this subsection. The notice shall state whether each device shall remain in class III or be reviewed for classification into class I or II. The notice shall also require the manufacturer of a device that the Secretary intends to classify into class I or II to submit to the Secretary a description of and citation to any adverse safety and effectiveness information not submitted under section 519(a) of this Act and section 803 of title 21, Code of Federal Regulations. The Secretary may require a manufacturer to submit the adverse safety and effectiveness information for which a description and citation were submitted to the Secretary.

"(ii) After the issuance of the notice under clause (i), and following consultation with appropriate advisory panels in accordance with subsections (b) through (d) of section 513, but before the expiration of the 1-year period beginning on the date of enactment of this subparagraph, the Secretary shall publish a proposed regulation in the Federal Register classifying each device into class I or II, or providing that each device shall remain in class III. The data furnished by manufacturers in accordance with clause (i), in combination with the advice and recommendation of appropriate advisory panels shall, for purposes of this Act, serve as a basis for satisfying the criteria set forth in subclause (I) or (II) of section 513(a)(1)(C)(ii), and shall serve as a basis for the proposed regulation required under this subparagraph.

"(iii) Following a review of comments received on the proposed regulation issued in accordance with clause (ii), and before the expiration of the 1-year period referred to in clause (ii), the Secretary shall promulgate a final regulation prescribing the classification of all devices regulated under this subsection on the date of enactment of this subparagraph. No regulation issued under this subparagraph requiring a device to remain in cl'qs III or classifying the device as class I or II may take effect before the expiration of 90 days from the date of the publication of the regulation in the Federal Register.

"(iv) The Secretary may by notice in the Federal Register extend the 1-year period prescribed by clauses (ii) and (iii) for a device for an additional period not to exceed 1 year.

"(v) Notwithstanding any other provision of this subsection, the Secretary shall not retain any daily wear nonhydrophilic plastic contact lens in class III unless the Secretary finds that it meets the criteria set forth in subclause (I) or (II) of section 513(a)(1)(C)(ii). The finding, and the grounds for the finding, shall be published in the Federal Register. If during the 1-year period beginning on the date of enactment of this subparagraph, the Secretary has not made the finding and issued the notice required by this clause, the Secretary shall issue an order placing the lens in class II.

"(vi) Actions taken under this subparagraph shall not interfere with any pending reclassification action. Any device for which a reclassification petition was pending on January 1, 1989, shall not be included in the list published under clause (i).".

(b) CONFORMING AMENDMENT.—Section 520(l)(1) is amended—

(1) by inserting "on the initiative of the Secretary or" after "Secretary"; and

(2) by striking "paragraph (2)" and inserting "paragraph (2)(A)".

SEC. 15. SUBSTANTIAL EQUIVALENCE.

Section 520 (21 U.S.C. 360j) is amended by adding at the end the following new subsection:

"Substantial Equivalence

"(m)(1) For purposes of determinations of substantial equivalence under this subchapter—

"(A) The term 'different technological characteristics' means, with respect to a device being compared to a predicate device, that there is a significant change in the materials, design, energy source, or other features of the device from those of the predicate device.

"(B) The term 'substantially equivalent' or 'substantial equivalence' means, with respect to a device being compared to a predicate device, that the device has the same intended use as the predicate device and—

"(i) has the same technological features as the predicate device; or

"(ii) has different technological features and the evidence submitted that the device is substantially equivalent to the predicate device contains information, including clinical data, if required, that demonstrates that the device is as safe and effective as a marketed device.

"(2) A device may not be found to be substantially equivalent to a predicate device that has been removed from the market at the initiative of the Secretary or that has been determined to be misbranded or adulterated by a judicial order.

"(3) The Secretary shall promulgate regulations under which a manufacturer seeking a determination of substantial equivalence may be required to prepare a summary of any clinical data required (including information respecting any adverse effects of the device on health) if the Secretary determines that clinical data must be submitted in accordance with paragraph (1)(B)(ii), and establishing a standard format for the summary. The Secretary shall make the summary available to the public within 30 days of the issuance of a determination of substantial equivalence.".

SEC. 16. HUMANITARIAN DEVICE EXEMPTION.

Section 520 (21 U.S.C. 360j) (as amended by section 15 of this Act) is further amended by adding at the end the following new subsection:

"Humanitarian Devices

"(n)(1) It is the purpose of this subsection to encourage the discovery of devices intended to benefit patients in the treatment or diagnosis of rare diseases or conditions, to the extent consistent with the protection of the public health and safety and with ethical standards.

"(2) As used in this subsection, the term 'rare disease or condition' means any disease or condition that affects fewer than 8,000 persons in the United States. Determinations under the previous sentence with respect to any device shall be made on the basis of the facts and circumstances as of the date of submission of an application under paragraph (3).

"(3) Not later than 8 months after the date of enactment of this subsection, the Secretary shall promulgate regulations prescribing procedures and conditions under which persons may on application be granted an exemption for devices from the effectiveness requirements of section 502, 514, 515, 516, 519, or 706, or subsection (e) or (f) of this section, to permit the use of the devices by physicians in the treatment of patients afflicted by a rare disease or condition.

"(4) In promulgating regulations under paragraph (3), the Secretary may prescribe procedures and conditions under which an exemption may be granted for a device if—

"(A) the device is likely to provide a significant benefit to a patient in the treatment or diagnosis of a disease or condition, or a significant benefit to the patient in quality of life;

"(B) the device is used—

"(i) in the treatment or diagnosis of a rare disease or condition and cannot reasonably be expected to be available; or

"(ii) the patient population affected by the disease or condition is not sufficient to conduct clinical trials of the effectiveness of the device; and

"(C) the Secretary determines that the probable benefit to health from the use of the device outweighs the risk of injury or illness from the use and the probable risks and benefits of currently available devices or alternative forms of treatment.

"(5) Devices granted an exemption under this subsection shall only be used—

"(A) in facilities that have established, in accordance with regulations of the Secretary, a local institutional review committee to supervise clinical testing of devices in the facilities; and

"(B) if, prior to the use of a device, an institutional review committee approves the use in the treatment or diagnosis of a specific rare disease or condition.".

SEC. 17. POSTMARKET SURVEILLANCE.

The Act is amended by inserting after section 521 (21 U.S.C. 360k) the following new section:

"SEC. 522. POSTMARKET SURVEILLANCE.

"(a) IN GENERAL.—

"(1) REQUIRED SURVEILLANCE.—The Secretary shall require a manufacturer to conduct postmarket surveillance for any device that—

"(A) is a permanent implant the failure of which may cause serious, adverse health consequences or death;

"(B) is intended for a use in supporting or sustaining human life; or

"(C) presents potential for serious risk to human health.

"(2) DISCRETIONARY SURVEILLANCE.—The Secretary may require a manufacturer to conduct postmarket surveillance for a device if the Secretary determines that postmarket surveillance of the device is necessary to protect the public health or to evaluate the safety or effectiveness of the device.

"(b) REGULATIONS.—The Secretary shall issue regulations implementing the requirements of this section within 1 year of the effective date of this section.

"(c) SURVEILLANCE PERIOD.—The Secretary may determine the period of surveillance required in order to complete the collection of useful data or other information necessary to protect the public health or to evaluate the safety or effectiveness of the device. In no event may a surveillance period be imposed in accordance with this section without a termination date.

"(d) CONTRACTS.—

"(1) IN GENERAL.—The manufacturer of a device for which postmarket surveillance is required in accordance with subsection (a) shall contract with a qualified academic medical center, or a representative number of qualified academic medical centers in representative locations, to provide for any monitoring of clinical experience that may be required in accordance with this section.

"(2) LACK OF QUALIFIED ACADEMIC MEDICAL CENTER.—If no academic medical center has the qualifications and experience to conduct adequate monitoring of clinical experience in accordance with this section, a manufacturer shall contract with a qualified medical center or with a representative number of qualified medical centers in representative locations to provide the monitoring.

"(3) NUMBER AND IDENTITY.—The manufacturer shall determine, and obtain the approval of the Secretary regarding, the number and identity of the center or centers that will perform surveillance in accordance with this section and the manner of surveillance.

"(e) APPLICATION.—This section shall apply only to devices that are first distributed in interstate commerce after the date of enactment of this section.".

SEC. 18. ESTABLISHMENT OF THE OFFICE OF INTERNATIONAL RELATIONS.

Section 801 (21 U.S.C. 381) is amended by adding at the end the following new subsection:

"(f)(1) The Secretary may enter into agreements with foreign governments, which agreements specify that devices of either country that are manufactured in accordance with rules and regulations for device manufacture under this Act are suitable for commercial distribution.

"(2) In entering into the agreements described in paragraph (1), the Secretary shall encourage the mutual recognition of—

"(A) good manufacturing practice regulations promulgated under section 520(f)(1)(A); and

"(B) other rules, regulations, and testing protocols as the Secretary determines to be appropriate.

"(3) The Secretary shall establish an Office of International Relations that shall plan and initiate programs for the recognition of devices in accordance with paragraph (1).

"(4) The Secretary may issue regulations to carry out this subsection.

"(5) Not later than 2 years after the date of enactment of this subsection, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the activities of the Office of International Relations.".

SEC. 19. DEFINITIONS.

Section 201 (21 U.S.C. 321) is amended—

(1) in subsection (g)(1)(D), by striking "; but does not include devices or their components, parts, or accessories"; and

(2) in the language following paragraph (3) of subsection (h), by striking "principal" and inserting "primary".

SEC. 20. REVIEW OF MARKET APPLICATIONS FOR ARTICLES COMPRISING COMBINATIONS OF DRUGS, DEVICES, AND BIOLOGICS.

Section 503 (21 U.S.C. 353) is amended—

(1) by striking the section heading and inserting the following:

"EXEMPTIONS AND CONSIDERATION FOR CERTAIN DRUGS, DEVICES, AND BIOLOGICAL PRODUCTS";

and

(2) by adding at the end the following new subsection:

"(f)(1) The Secretary shall designate a component of the Food and Drug Administration to regulate products that constitute a combination of a drug, device, or biological product. If the Secretary determines that the primary mode of action of the combination article is that of—

"(A) a drug (other than a biological product), the persons charged with premarket review of drugs shall have primary jurisdiction;

"(B) a device, the persons charged with premarket review of devices shall have primary jurisdiction; or

"(C) a biological product, the persons charged with premarket review of biological products shall have primary jurisdiction.

"(2) Nothing in this subsection shall prevent the Secretary from using any agency resources of the Food and Drug Administration necessary to ensure adequate review of the safety, effectiveness, or substantial equivalence of an article, if the Secretary employs a single market clearance mechanism.

"(3) The Secretary shall promulgate regulations to implement market approval procedures in accordance with paragraphs (1) and (2) not later than 1 year after the date of enactment of this subsection.

"(4) As used in this subsection:

"(A) The term 'biological product' has the meaning given the term in section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)).

"(B) The term 'market clearance' includes—

"(i) approval of an application under section 505, 507, 515, or 520(g);

"(ii) a finding of substantial equivalence under this subchapter; and

"(iii) approval of a product or establishment license under subsection (a) or (d) of section 351 of the Public Health Service Act (42 U.S.C. 262).".

THE CLOTURE VOTE ON S. 1224

Mr. WARNER. Mr. President, the Senate has been debating a bill sponsored by Senator BRYAN and others (S. 1224) that would substantially increase the corporate average fuel economy [CAFE] requirements for cars and light trucks sold in the United States. The bill would increase fuel economy levels for the new car fleet to almost 40 miles per gallon by the year 2001.

In the face of rising gasoline prices and the events occurring in the international arena, I believe a prudent and responsible course of action is to require moderate, achievable improvements in vehicle fuel economy. More fuel efficient vehicles are a priority and fuel economy standards should be increased periodically unless it can be demonstrated that safety would be jeopardized or that such increases would limit the variety of vehicles available to consumers for their particular needs.

I voted not to invoke cloture on S. 1224 because of the bill's impact on the issue of safety. The CAFE law was passed in 1975 in reponse to the oil price shocks of the 1970's. To meet those mileage requirements, automakers developed new engines and transmissions, new electronic control systerms, and other innovations. But the main thing they did was downsize, that is reduce the size and weight of the average car. Auto safety has not suffered during this process because of offsetting improvements like airbags, new brake systems and better body structures. The CAFE increases now being considered would seriously compromise safety. That is because the only way to achieve this standard would be to reduce the weight of the average car.

Most experts believe small cars are less safe than larger cars. Information from the insurance Institute for Highway Safety indicates that vehicle size has a major influence on safety. On September 14, 1990 the Secretary of Transportation, Mr. Skinner, released a report concerning the relationship of car size to fatalities and injuries in single vehicle crashes. The report, entitled "Effect on Car Size on Fatality and Injury Risk in Single-Vehicle Crashes," covers two technical studies conducted by the Department's National Highway Traffic Safety Administration. The studies examined single car rollover and single car nonrollover crashes from 1970 to 1982, when most of the downsizing occurred. This came at a time when, in response to market conditions and to comply with CAFE standards, manufacturers reduced the average weight by 1,000 pounds and the average size by 10 inches in wheelbase length, and 2 to 3 inches in track width.

The studies show that occupant fatalities were up 1,300 per year over the levels they would have been without downsizing, and moderate to serious injuries to occupants rose by 6,300 per year over the 12-year period. Single car rollovers increased by almost 50 percent, which accounted for most of the increase in fatalities. Single car

nonrollovers accounted for little change in occupant fatalities, but did show an increase in moderate to serious injuries.

Mr. President, these studies do not suggest that today's smaller cars are unsafe, but instead they help to illustrate that larger cars provide a greater safety margin to occupants. The CAFE increases would curtail the choice of new vehicles available to American consumers. Manufacturers would be forced to dramatically scale back or eliminate the production of large and midsize cars and trucks which would adversely effect those with large families, those in car pools, and those who desire the security of large cars.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

An in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, treaties, and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 535. An act to increase civil monetary penalties based on the effect of inflation; and

S. 2075. An act to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4739. An act to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committtee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2724. A bill to extend and improve arts and humanities programs, museum services, and arts and artifacts indemnification, and for other purposes (Rept. No. 101-472).

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. 2575. A bill to urge the Secretary of State to negotiate a ban on mineral resource activities in Antarctica, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works:

The following-named officer to be a member of the Mississippi River Commission, under the provisions of section 2 of an Act of Congress, approved 28 June 1879 (21 Stat. 37) (33 U.S.C. 642):

To be a member of the Mississippi River Commission Brig. Gen. Paul Y. Chinen, 575-34-7377, U.S. Army.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. NUNN, from the Committee on Armed Services:

George Tryon Harding IV, of Ohio, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring May 1, 1995;

Clarence S. Avery, of California, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 1995; and

Gopal Sivaraj Pal, of Virginia, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 1995.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. RIEGLE (for himself, Mr. DODD, Mr. SHELBY, Mr. D'AMATO, and Mr. WIRTH):

S. 3103. A bill to reform Federal deposit insurance, protect insurance funds, and improve supervision and regulation of and disclosure relating to federally insured depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ARMSTRONG:

S. 3104. A bill for the relief of Sonanong Poonpipat (Latch); to the Committee on the Judiciary.

By Mr. BUMPERS:

S. 3105. A bill to strengthen the protections afforded to units of the National Park System and certain other nationally significant historic and natural places, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COATS:

S. 3106. A bill to provide for improvements with respect to medicare spousal protection and impoverishment benefits; to the Committee on Finance.

By Mr. GRAHAM:

S. 3107. A bill to authorize the Secretary of Education to make a grant to Stetson University for the construction of library facilities; to the Committee on Labor and Human Resources.

By Mr. DIXON (for himself and Mr. SIMON):

S. 3108. A bill to designate the facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, Illinois, as the "Robert McClory Post Office"; placed on the calendar.

By Mr. PRESSLER (for himself and Mr. BURNS):

S. 3109. A bill entitled the "Corps of Engineers Mitigation Act; to the Committee on Environment and Public Works.

By Mr. PELL (for himself and Mr. CHAFEE):

S.J. Res. 370. A joint resolution to express the sense of the Congress with regard to eradicating world hunger in the 1990s; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MOYNIHAN (for himself, Mr. DOLE, and Mr. D'AMATO):

S. Res. 327. A resolution to recognize and commend the establishment of the Eisenhower Center for the Conservation of Human Resources at Columbia University; to the Committee on the J diciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIEGLE (for himself, Mr. DODD, Mr. SHELBY, Mr. D'AMATO, and Mr. WIRTH):

S. 3103. A bill to reform Federal deposit insurance, protect the deposit insurance funds, and improve supervision and regulation of and disclosure relating to federally insured depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1990

Mr. RIEGLE. Mr. President, I rise to introduce the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1990.

BACKGROUND

Since April of this year, the Senate Banking Committee has held more than a dozen hearings on reform of the Federal deposit insurance system. The committee has taken some 40 hours of testimony from 39 expert witnesses, including government officials, financial services industry representatives from both the United States and other countries, independent analysts, and academics. The message of those hearings is clear. Federal Reserve Board Chairman Alan Greenspan

summed it up for the committee in three words: "Reform is required."

The last 5 years have been disastrous for our Federal deposit insurance system. The old insurance fund for savings and loans—the FSLIC—failed and had to be rescued by the taxpayers at a cost of hundreds of billions of dollars. The insurance fund for banks now stands at roughly half of its required reserve level and falling. In testimony before the Banking Committee on September 11, 1990, Comptroller General Charles Bowsher delivered a clear warning.

> Not since its birth during the Great Depression has the federal system of deposit insurance for commercial banks faced such a period of danger and uncertainty as it does today. Issues arising from our audit of the Bank Insurance Fund's 1989 financial statements * * * cause us both apprehension and concern for the safety and soundness of the Fund in the 1990's.

The Director of the Congressional Budget Office, Robert Reischauer, echoed the same theme in testimony before the committee on September 12, and warned that deterioration of the bank insurance fund could accelerate if a recession occurs:

> The uncertain economic outlook, exacerbated by declines in real estate values and sharp increases in oil prices, raises concerns that spending from the fund could be greater during the next few years than we have estimated. * * * Generally, a weaker economy would increase the likelihood of bank failures by reducing the value of bank assets, increasing loan defaults, and placing additional pressure on bank earnings.

Serious, comprehensive reform of the Federal deposit insurance system is required to protect the taxpayers, the financial system, the economy, and our Nation's banks and thrifts.

The American people know reform is required. A recent Harris Poll found that 72 percent of the American people believe the most important step that can be taken to prevent another savings and loan crisis from occurring is to rewrite the laws to make it tougher for such a crisis to occur.

America's banks and thrifts also know reform is required. They cannot afford to pay ever-rising premiums for deposit insurance and remain competitive either at home or abroad. But they know those premiums will keep rising until Congress and the administration enact reforms that contain the risk to the Federal deposit insurance system.

The administration and Congress also know reform is required. Since August 1989, the administration has been working on proposals for financial modernization and reform of the deposit insurance system. Those proposals are due February 9, 1991. In the House of Representatives, Chairman GONZALEZ has recently stated his own principles for deposit insurance reform and scheduled hearings on the topic for the House Banking Committee this month. And here in the Senate, as noted, the Banking Committee has held thirteen hearings on deposit insurance reform since last April. Throughout that period, the staff of the Banking Committee, at my direction, has been at work on this bill.

I welcome the efforts of the administration. I welcome the efforts of Chairman GONZALEZ, Congressman ANNUNZIO, and other Members of the House. And I welcome the efforts of my colleagues in the Senate, Senators DIXON, DODD, GRAHAM, and ROTH, all of whom I know have introduced deposit insurance reform measures of their own. I know Senator WIRTH has been working on some related legislation, and I welcome his efforts as well. Deposit insurance reform is a complex issue and we will need a vigorous and creative debate to make sure the job gets done right.

ONLY A STARTING POINT

My proposal is only a starting point for debate, not an ending point. No part of it is cast on stone and I am not ruling out any alternative approach or additional reform. The reason I am putting this bill on the table now is to frame some important reform alternatives for further debate and indicate the high priority I assign to reform our deposit insurance system in the next Congress. This issue is important and complicated. It will not go away. It is time to put specific reform alternatives on the table for a hard look. That is what I am seeking to do today.

But this bill is very much a work in progress. I look forward to working with my colleagues in the Congress and with the administration, in a spirit of bipartisan cooperation, to make further progress in the months ahead.

URGENT NEED TO ADDRESS OTHER ISSUES

Let me also say at the outset that while the proposal I am presenting today focuses solely on deposit insurance reform, I hope and expect that whatever legislation ultimately results will not only reform our deposit insurance system but also help modernize our financial services industry and our system of bank and thrift regulation. No amount of deposit insurance reform can make banks and thrifts profitable if they cannot compete effectively with other financial service providers at home and abroad. We must also consider whether banks should be allowed to engage in increased interstate banking, along the lines of the bills introduced by Senator DODD and Congressman SCHUMER, and whether banks should be allowed increased product diversification.

And we need to consider seriously the idea of consolidating regulation of our banks and thrifts, possibly into a single—fully independent—regulator, separate and distinct from the deposit insurer. Somehow, we must rationalize and simplify our now Byzantine regulatory system and the burdens it imposes on the institutions it supervises. Just recently, on September 10, the Banking Committee witnessed the spectacle of the Comptroller of the Currency, representatives of the Federal Reserve Board, and the FDIC arguing and unable to reach agreement, after more than a year of deliberation, on a basic capital standard. Such interagency squabbling is clearly unacceptable.

PROBLEMS OF CURRENT SYSTEM

Before turning to the details of the bill, let me briefly outline some of the major problems it seeks to address.

Testimony before the Banking Committee showed clearly that our current system of deposit insurance is badly flawed. Stanford University Prof. Ken Scott told the committee that,

> [W]hat you can ask of a deposit insurance system is that, at the very minimum, it not magnify the problem because of the way in which it distorts incentives and the way in which it is administered.

The current system fails on both counts. Both in the way it distorts incentives and in the way it is administered, the system magnifies weaknesses in our banks and thrifts and increases the cost of deposit insurance to the insured institutions, the deposit insurance funds, and the taxpayers.

1. DISTORTED INCENTIVES

A sound system of deposit insurance should give all parties—depositors, insured institutions, and regulators—incentives to act in ways that minimize insurance costs. But the system we have now falls short of that objective in two key aspects.

First, our current deposit insurance system fails to give depositors correct incentives. Federally insured deposits are an investment product just like Government bonds and shares of stock. As SEC Chairman Richard Breeden put it:

> We have to look at the pricing of this product. Deposit insurance is a product that is produced by the American taxpayers at considerable cost, and we should not be giving it away at below cost to produce it.

Of course, up to a point we accept incorrect pricing of insured deposits because we want small depositors to have confidence their funds are safe and because we want and need stability in our financial system. Depositors with a few thousand dollars in the bank shouldn't have to be constantly on guard against the possibility the bank is going to fail. Indeed, protecting small depositors was one of the original purposes of our deposit insurance system. But if you give the same protection to depositors with hundreds of thousands or even tens of millions of dollars to deposit, what you get is a system in which deposits flow to whichever institutions offer the highest rates. And those are usually the weakest institutions—the institutions whose deposits become Governmental

liabilities when they fail. So when you charge large depositors too little for deposit insurance, the cost of deposit insurance for society as a whole goes up.

Second, the premiums our insured banks and thrifts must pay for deposit insurance take no account of whether the institution paying the premium represents a high risk or a low risk to the deposit insurance fund. If you are an individual at high risk of having an auto accident, you have to pay more for your auto insurance. If you are a business at high risk of industrial accidents, you have to pay more for your liability insurance. But if you are a bank or thrift at high risk of suffering major loan losses, you pay the same for deposit insurance as every other bank or thrift. As Bert Ely put it at the Banking Committee's May 12 hearing:

> The drunk drivers of the banking and thrift world pay no more for their deposit insurance than do their sober siblings.

2. ADMINISTRATION

Many witnesses before the committee noted that the Government is incurring excessive deposit insurance liabilities because of the way our system of deposit insurance is administered. Two problems deserve special mention.

First, regulators have too often delayed taking action against a weak institution in the false hope that it would recover. Lowell Bryan was only one of many witnesses to note that "the cost of forbearance is very, very high." Jim Barth, formerly Chief Economist to the Federal Home Loan Bank Board, now a professor at Auburn University, noted that once banks and thrifts become undercapitalized, the risk of loss begins to shift from the institution to the deposit insurance system. Professor Barth testified that:

> To contain this risk shifting behavior arising when capital is depleted, somebody must impose discipline by attempting to measure capital correctly and then, if it declines, by intervening in a timely and cost effective manner. This intervention will necessarily take the form of requiring that more capital be injected or control of the institution be taken away from the current owners.

If you want strong medicine to work, you have to administer it before the patient dies. But the current system has not always given regulators sufficient incentive to take prompt corrective action when an institution gets into trouble. Professor Scott's testimony addressed the reasons why this has occurred. He testified:

> [A] policy of delay and forbearance will always be more appealing than a policy of prompt closure upon economic insolvency. If the closure decision is a discretionary, subjective judgment by the regulators, they are vulnerable to pressure and they will often yield to it. So to the extent that any reform proposal relies on agency judgment and discretion, I think it is in trouble. The more objective the judgment and the more mandatory and automatic the prescribed action, the better off taxpayers will be.

Many witnesses also faulted administration of the current deposit insurance system for indiscriminate application of the so-called too-big-to-fail doctrine. "Failure," Barclay's Deputy Chairman Peter Leslie told the committee on June 13, "is a vital part of market discipline." Chase Manhattan Bank CEO Thomas Labreque agreed. On April 3, he told the committee that:

> We must eliminate the * * * "too big to fail" policy under which the very largest banks are given de facto 100 percent protection of all deposits. Such a policy is inconsistent with the original intent of deposit insurance and is unfair to smaller banks, but big bankers neither want it nor need it.

And on July 12, Federal Reserve Board Chairman Alan Greenspan warned in testimony before the committee that "no bank should assume that its scale insulates it from market discipine."

Notwithstanding widespread agreement that the too-big-to-fail policy effectively destroys market discipline, the FDIC has routinely ignored the $100,000 limit on deposit insurance and seen to it that virtually all depositors receive 100 cents on the dollar, regardless of how many hundreds of thousands or millions they may have on deposit. In testimony before the Senate Banking Committee on August 11, 1988, FDIC Chairman Seidman stated that "99 percent of all the deposits that we handle in failed banks are fully protected, not only up to $100,000, but fully protected."

GOALS

A successful deposit insurance reform package, whether it is the one I am introducing today, or any other package, will have to include many specific reforms, but it should also embrace a combination of approaches to reform.

Banks and thrifts, regulators, and depositors will all have to make adjustments when our deposit insurance system is reformed. No one of these groups should bear the brunt of reform.

I think deposit insurance reform should accomplish five things.

First, market discipline must be enhanced for banks and thrifts and large depositors. Owners of banks and thrifts should be encouraged to put more capital at risk so they will be less inclined to take excessive risks at taxpayers expense. Parent corporations and affiliates should be a source of strength to insured banks and thrifts. Regulators should be encouraged to develop and implement risk-based deposit insurance premiums. Large depositors should face enough risk to keep them from chasing high rates without regard to safety.

Second, regulators should take prompt corrective action when the capital of a bank or thrift begins to deteriorate unacceptably. If the institution cannot recapitalize, regulators should seek to arrest its deterioration and sell or close it at no cost to the deposit insurance fund. To facilitate effective regulatory monitoring and action, every insured bank and thrift should receive an onsite examination at least once a year. Accounting principles must be reformed to give regulators, investors, and the public more accurate and timely information on the economic condition of insured banks and thrifts.

Third, abuses of deposit insurance must end. State legislatures and regulators should not be able to leverage Federal deposit insurance for the benefit of their local tax bases. Depositors should not be able to use devices such as joint and trust accounts to evade the $100,000 limit. Deposit brokerage must be carefully restricted.

Fourth, too-big-to-fail must be curtailed. No institution should be beyond the discipline of the market. The FDIC's role should be carefully confined to resolving failures of insured banks and thrifts at least cost to the insurance funds. In the United States, as in other countries, the central banks, not the deposit insurer, should determine whether a particular failing institution is so large as to require special measures to protect the stability of the financial system.

Finally, we need better information from banks and thrifts and their regulators. The quality of available data on America's banks and thrifts is unacceptable. In order for regulatory reforms to work, in order for market reforms to work, in order for congressional oversight to work, we need better quality and more timely financial disclosures from banks and thrifts themselves, and more extensive and timely analyses of industry performance from their regulators.

HIGHLIGHTS

Let me now turn more specifically to the bill I am introducing today and begin by highlighting eight of the bill's most important features:

It requires regulators to examine banks and thrifts annually and take prompt corrective action to recapitalize, sell, or close weak institutions before they become liabilities to the deposit insurance fund.

It requires regulators to strengthen capital standards to provide an adequate margin of safety for the deposit insurance fund.

It sets goals for reform of the accounting principles that apply to insured banks and thrifts and establishes a process for working toward those goals.

It curtails the ability of State-chartered commercial banks to engage in risky activities at the expense of the Federal deposit insurance system.

It ends the policy of too-big-to-fail whereby the FDIC has been paying off uninsured depositors at failed institutions by requiring the FDIC to resolve failed institutions by whatever resolution strategy costs the deposit insurance funds least and prohibiting the FDIC from taking actions that have the effect of protecting uninsured depositors.

It authorizes the FDIC to implement a system of risk-based or capital-based deposit insurance premiums.

It limits the scope of deposit insurance by restricting deposit brokerage and other deposits by intermediaries, limiting passthrough deposit insurance, and limiting deposit insurance to $100,000 per individual per institution.

It makes the owners of banks and thrifts stand behind those institutions by clarifying the enforceability of capital maintenance agreements; strengthening existing requirements for affiliated banks and thrifts to be responsible for the losses any of them cause the deposit insurance funds; and establishing limited cross-guarantee liability for nondepository institution affiliates of banks and thrifts.

It gives the financial markets, the regulators, and the general public better information about the financial condition of financial institutions by imposing new reporting and disclosure obligations on financial institutions and their regulators.

The bill recognizes the need for appropriate transition periods for implementation of these reforms.

Let me now discuss these components in turn.

1. REQUIREMENT FOR PROMPT CORRECTIVE ACTION TO RECAPITALIZE OR RESOLVE WEAK INSTITUTIONS

A. IN GENERAL

The bill requires regulators to take prompt corrective action to recapitalize or resolve weak institutions. The goal of this prompt corrective action requirement—albeit a goal that probably cannot be realized in all cases—is to resolve trouble institutions at no cost to the deposit insurance funds. To make this goal realistic, the bill, when fully implemented, will require strengthened capital levels; annual onsite examinations of all insured banks and thrifts; and improvements in accounting principles that will yield more accurate financial statements and reports of condition.

B. ANNUAL EXAMINATION REQUIREMENT

The bill requires every federally insured bank and thrift to receive an onsite examination at least once annually. Currently, many commercial banks go years between examinations. That situation must change.

Federal Reserve Board Chairman Alan Greenspan endorsed a requirement for annual onsite examinations in his testimony before the Banking Committee on July 12:

Where it is not already the practice, full in-bank supervisory reviews—focusing on asset portfolios and off-balance sheet commitments—should occur at least annually, and the results of such examinations should be used to evaluate the adequacy of the bank's capital.

Clearly, not all of the banking regulatory agencies currently have adequate staff to conduct annual onsite examinations. But that should not be an insuperable obstacle to implementing such a requirement. This bill would authorize the banking regulatory agencies to contract with private-sector firms for examination service. Such private-sector firms would, of course, be bound by strong conflict-of-interest and privacy restrictions.

C. PROMPT CORRECTIVE ACTION REQUIREMENT

The bill would require regulators to impose increasingly stringent restrictions on the activities and operations of troubled banks and thrifts as the capital of those institutions falls below required levels. One set of restrictions will come into force when an institution's capital falls below the regular minimum capital standards. If the institution's capital level continues to deteriorate and falls below a lower, critical capital level—set by the regulators, as I will explain in a moment—the regulators will have to sell or close the institution or take an alternative measure equally protective of the deposit insurance fund.

To understand how this part of the bill will work in practice, it helps to imagine a bank or thrift—for purposes of illustration, let's say a bank—whose capital is initially adequate, but deteriorating.

(1) LEVEL ONE: MINIMUM CAPITAL REQUIREMENT

The first set of restrictions will come into force when the bank's capital falls below the minimum capital levels established by the regulators. These will not be the same minimum capital levels in force today, but new, stronger minimums—as I will discuss in a moment.

When the bank's capital falls below the minimum level, it will have to do the following three things:

Stop paying dividends. The institution would be prohibited from paying dividends. This restriction will protect the deposit insurance funds by ensuring that weak institutions do not deplete their capital for the benefit of their shareholders.

Limit its asset growth. The bank's asset growth will be restricted to an amount equal to net interest credited on deposits. And all growth will have to be fully capitalized.

File a capital restoration plan. The bank will have to file a capital restoration plan within 30 days after it falls out of compliance with capital standards. The plan will have to specify how the institution will attain compliance with capital standards, specify what activities the bank will engage in, and be acceptable to its regulator. If the bank is part of a holding company structure, its parent will have to guarantee compliance with the plan. This will press the parent to decide promptly whether to recapitalize the institution, sell it, or stand behind it until it recovers.

If the bank does not submit and implement a capital restoration plan, its regulator would have to require it to recapitalize through sale of stock unless such a sale is inconsistent with the goal of protecting the deposit insurance fund against loss. The regulator could restrict the bank's transactions with affiliates; restrict the bank's activities; limit the interest rates the bank pays for deposits; require election of a new board of directors; or dismiss any member of the institution's board of directors, its chief executive officer, or its chief financial officer. In addition, institutions that fail to submit or materially violate their capital restoration plans will be prohibited from paying bonuses or granting salary increases to their executive officers.

(2) LEVEL TWO: CRITICAL CAPITAL LEVEL

If the bank's capital level continues to deteriorate, it will eventually fall below the second key level, which I call the critical capital level. I will explain in a moment how that critical capital level will be set.

When the bank's capital position falls below the critical capital level, three sets of additional restrictions will come into play.

Restrictions on activities and operations. The bank will become subject to a broad range of stringent restrictions on its activities and operations. Large and potentially abusive transactions will be prohibited, except with specific regulatory approval. These restrictions will prevent the institution from engaging in activities that could lead to further deterioration in the institution's capital position.

Subordinated debt payments prohibited. The institution would be prohibited from making any payments of interest or principal on subordinated debt. By definition, subordinated debt holders have agreed to stand in line behind the deposit insurance funds. This provision will help protect the deposit insurance funds' place in line. Because existing subordinated debt holders may have different expectations, however, I would exempt holders of subordinated debt outstanding as of October 25, 1990, and not extended or otherwise renegotiated after that date.

Conservatorship or equally protective action. Within 30 days after the bank falls below the critical capital level, its primary regulator would have to appoint a conservator or receiver or take an alternate action more likely to

protect the deposit insurance fund from loss and document why that alternative is superior to appointment of a conservator or receiver. The regulator would have to periodically review the effectiveness of any such alternative action.

(3) SETTING THE MINIMUM AND CRITICAL CAPITAL LEVELS

My bill does not specify the minimum and critical capital levels numerically. Instead, it requires the Federal banking agencies to specify these levels and provides a mandate on how to set them. The nature of that mandate is this: capital levels—both the minimum capital level and the critical capital level—should be set so as to make the prompt corrective action mechanism I have just outlined a realistic way to prevent losses to the deposit insurance funds.

D. ACCOUNTING REFORM

The bill specifies two goals for the accounting principles applicable to insured banks and thrifts and establishes a process that will generate reformed principles that will satisfy those goals. First, accounting principles for insured banks and thrifts should result in financial statements and reports that accurately reflect—at market value, to the extent feasible—the economic condition of those institutions. Second, accounting principles should facilitate both effective supervision of banks and thrifts generally and prompt corrective action to resolve troubled institutions. Again, the idea is to make the prompt corrective action mechanism I have outlined a realistic way to prevent losses to the deposit insurance funds.

Several witnesses before the Banking Committee have endorsed the concept of mark-to-market, or market-value accounting. SEC Chairman Breeden testified on September 10 that:

As we enter the decade of the 1990s we should consider a fundamental shift in the goal we set for accounting standards for financial institutions.* * * Determining the value of an institution's assets and not recording their original cost should increasingly be the goal toward which we should work. The nation's experience with the crisis in the savings and loan industry as well as with many of the largest bank failures demonstrates the inherent and very substantial dangers of a reporting system for financial institutions that is premised on historic cost accounting principles.

The goals set forth in this bill are consistent with the spirit of Chairman Breeden's statement. But I want to emphasize that the bill would not require banks and thrifts to adopt mark-to-market accounting—it only requires movement in the direction of market-value accounting to the extent feasible. And I don't want to underestimate the extent of the feasibility problem: banks and thrifts hold large volumes of illiquid assets that do not lend themselves easily to market valuation. Nevertheless, I tend to agree with Chairman Breeden's assertion that "there are certainly, if we put our minds to it, ways in which we could develop techniques for valuing even illiquid assets for which there is no readily quoted market value available."

This bill would begin a concentrated search for such techniques. It would direct the SEC, in conjunction with the Federal banking agencies, to facilitate development of accounting principles that meet the goals I have described. These accounting principles would have to be at least as conservative as generally accepted accounting principles. The bill would also authorize the Federal banking agencies to adopt accounting principles that are more conservative than generally accepted accounting principles as appropriate to facilitate effective supervision of banks and thrifts generally and, specifically, to help meet the goal of the prompt corrective action mechanism: resolution of troubled institutions at no cost to the deposit insurance funds.

E. INTERNAL AUDIT REQUIREMENT

The bank regulatory agencies should have a strong incentive to minimize losses to the deposit insurance fund. Under the prompt corrective action requirement I have outlined, something will have gone wrong when a loss to the deposit insurance fund occurs. To help the regulators and Congress understand where breakdowns in the system occur, my bill would require—whenever the failure of a bank or thrift results in a loss to one of the deposit insurance funds—an internal investigation by the inspector general of the failed institution's primary regulator. Those reports would be available for review by Congress and the General Accounting Office. Recognizing that implementation of this requirement would be impractical given the currently large numbers of bank and thrift failures, the bill includes a generous transition rule for this requirement.

F. EXPANDED FDIC CONSERVATORSHIP AUTHORITY

In addition, the bill would give the FDIC independent authority to appoint conservators and receivers for banks and thrifts. This provision will enable the FDIC to protect the deposit insurance fund even when the failing institution's primary regulator will not.

This expansion of FDIC authority is a significant departure from existing law and practice—under which the FDIC must wait for an institution's primary regulator to institute conservatorship. But current practice in this area derives from the days before deposit insurance. With failed institutions generating losses to the deposit insurance funds of 30 cents on the dollar, the time to update our procedures is long past.

G. RELATED ISSUES

Let me touch briefly on some of the arguments surrounding these features of the bill, and especially the prompt corrective active requirement.

Is it too harsh? Some may say it is unreasonable to strengthen capital standards and expect weak institutions to be able to recapitalize, especially when the economy may well be headed into recession. I think the first answer to such statements is clear and it is this: when you try to avoid the pain in the short run, it only hurts worse later on. That is the undeniable and unforgettable lesson of the thrift crisis. But a couple of other points are also relevant here. First, note that raising new capita is not the only way to achieve higher capital levels. Institutions can also raise their capital levels by selling assets, or retaining earnings.

Second, the bill requires strengthened capital standards only to the extent needed to protect the deposit insurance funds. More aggressive supervision and prompter corrective action by regulators will also help protect the deposit insurance funds and so can offset the need for greater capital to some degree.

Is it unfair? Others may say it is unfair, even unconstitutional, for regulators to sell or close institutions that are not yet insolvent. Again, requiring regulators to take prompt corrective action will be painful to the owners of weak banks and thrifts. But that pain has to be weighed against the pain the taxpayers will feel if weak institutions are allowed to get weaker and become liabilities. Here is what SEC Chairman Richard Breeden had to say on the subject when he testified before the Banking Committee on September 10:

I am not a fan of forbearance, and I'm not a fan of using public credit to extend the time of institutions that can't raise capital anywhere in the world. If no investor anywhere in the world has confidence that a given set of management knows how to handle its problems, then I don't know the American public ought to be asked to put their credit at risk to support that institution.

Again, the thrift crisis has a lesson to offer: We gave the owners of weak thrifts a chance. Many weak and insolvent thrifts were allowed to remain in operation for years. We avoided pain in the short term. But in the end, the pain to the taxpayers has been immense. And the owners—except some high-fliers who benefited through fraud—have lost everything just the same.

Is it unconstitutional? The argument that a prompt corrective action requirement such as I have outlined is unconstitutional does not withstand close scrutiny. And I will put into the record an analysis by the law firm of Davis Polk & Wardwell that concludes as much.

Is it feasible? Still others may say that requiring regulators to take prompt corrective action will not work because history has shown that regulators will try to find ways to avoid short-term costs. Bert Ely, for example, told the Banking Committee on May 17 that "Congress will find it extremely difficult to enact closure rules that [it] can force regulators to follow, for regulators resist mightily any effort to constrain their actions and limit their powers."

I think this underestimates our regulators. They are as capable as anybody else of learning the lessons of history, and I am confident they will work in good faith to carry out whatever reforms Congress ultimately adopts. But I agree we should not put all of our eggs in one basket. That is why prompt corrective action is only one of the elements of the bill.

H. BROAD SUPPORT

Finally, let me note that the Banking Committee has learned through its hearings on deposit insurance reform that there is ample support for the general idea of requiring prompt corrective action to recapitalize, sell, or close weak institutions. Secretary Brady has endorsed the general concept. On July 25, he told the Banking Committee that "early closure—if you could nip an incipient disaster in the bud—makes good sense and we are trying to figure out how you might do that." Federal Reserve Board Chairman Alan Greenspan has endorsed the concept more specifically. He testified on July 12 that:

[F]orced mergers, divestitures, and, when necessary, conservatorships should occur while there is still positive, albeit low, capital in the bank to limit reorganization or liquidation costs. Existing stockholders should be given adequate time to correct deteriorating positions, including providing new capital. But Congress should specifically provide the bank regulators with the clear authority and, therefore, explicit support to act well before technical insolvency to minimize the ultimate resolution costs.

SEC Chairman Richard Breeden also indicated support for the general concept when he testified on July 19 that "the regulator of a bank * * * should have early intervention authority to step in instantaneously when * * * [the bank's] capital position is threatened, falling below a mandated level."

Robert Reischauer, Director of the Congressional Budget Office, also endorsed the concept in his testimony before the Banking Committee on September 12. Mr. Reischauer stated:

[B]oth the FDIC and Congress can affect significantly the losses that will have to be covered by the Bank Insurance Fund. The fund only incurs losses if institutions are closed after the real value of their assets is less than their liabilities. If systems are in place to monitor closely the financial conditions of banks, and to trigger closure or mandatory disciplinary actions before significant losses occur, the fund's liabilities will be minimized.

Robert Eisenbeis, Professor of Banking at the University of North Carolina at Chapel Hill, was even more emphatic in his testimony the same day:

Chairman Seidman suggested that it might be necessary to keep insolvent or weakly-capitalized thrift institutions open instead of reorganizing them due to the lack of sufficient funds in the FDIC or the insurance fund, to resolve these cases. I would urge you strongly to resist that temptation. Such forbearance—I know people are not pleased with the use of that word—is why we got into trouble with the S&L industry.* * * I think the point can't be emphasized enough that we don't lose a dime if we close institutions before their net worth goes to zero. The fact that you see these losses appearing in the FDIC funds means that they didn't close those institutions on time.

And George Kaufman, professor of economics and finance at Loyola University of Chicago, and a member of the Shadow Financial Regulatory Committee, told us on May 22 that such a requirement:

Deals directly with the two most costly features of the existing deposit insurance structure, too little private capital in banking and the potential for continued operation when banks are insolvent, and would impose the least cost on either the banking system or the taxpayers.

2. RISKY ACTIVITIES CURTAILED

One of the clearest lessons of the thrift crisis is that States should not be allowed to leverage Federal deposit insurance for the benefit of their local tax bases. SEC Chairman Richard Breeden made this point emphatically on July 19, when he told the committee that:

[T]he entity providing the insurance has not only the right but has the duty to limit the risks that anybody that is going to be insured may undertake. And while the states may choose to authorize a bank to run a casino, I think it should be the prerogative of the FDIC to decline to insure it.

Bert Ely made the same point when he testified on May 17:

He who takes the risk should regulate. And so I think that, since the Federal Treasury is bearing the risk of failure, the Federal Government has to be preeminent in the regulation.

Congress has already addressed this problem in the thrift industry. Last year, in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Congress severely curtailed the powers of State-chartered thrifts—effectively limiting State-chartered thrifts to activities permissible for federally chartered thrifts, with limited exceptions. Such action was desperately needed: losses from State-chartered thrifts account for a hugely disproportionate share of the cost of the Federal Government of resolving failed thrifts. Indeed, California and Texas thrift failures alone accounted for 54 percent of FSLIC losses in 1987 and 70 percent in 1988.

We cannot allow this problem to repeat itself in the commercial banking industry. Fortunately, as of yet, State-chartered banks have not presented the Federal deposit insurance system with the same kind of risk that State-chartered thrifts did. But the potential for problems is very real. Indeed, even as the committee was conducting its hearings on deposit insurance reform this spring, Delaware enacted legislation permitting Delaware-chartered banks to underwrite all types of insurance.

This bill would generally prohibit State banks and their subsidiaries from engaging as principal in any activity impermissible for national banks unless three conditions are satisfied. First, the State bank must fully comply with applicable capital standards. Second, the FDIC must not have found that the activity in question would pose a significant risk to the deposit insurance fund. Finally, the institution's primary Federal regulator must have previously ruled that the activity would pose no significant risk to the deposit insurance fund.

In addition, the bill would give the FDIC power to restrict national bank activities that pose a significant risk to the deposit insurance fund.

3. TOO-BIG-TO-FAIL POLICY CURTAILED

One of the most roundly criticized aspects of our current deposit insurance system is the so-called too-big-to-fail policy. Small banks, understandably, feel competitively disadvantaged by it because the policy tends to be applied primarily for the benefit of depositors at larger banks and thrifts, Large banks argue it is unnecessary and perceive it as an obstacle to financial modernization. Many members of the public view it as a policy that favors large investors while driving up costs to the taxpayer.

The term too-big-to-fail has at least two different meanings. Different elements of the bill are responsive to each sense of the term.

A. MAKING DEPOSITORS WHOLE

Most commonly, the term too-big-to-fail is used to describe a policy whereby all depositors are made whole when a financial institution fails. My bill will effectively eliminate this kind of too-big-to-fail policy.

The FDIC has several different strategies at its disposal for resolving failed banks and thrifts. The most basic resolution strategy is liquidation. The FDIC can simply mail out checks to all depositors and proceed to sell the assets of the failed institution. But the FDIC regularly uses resolution techniques other than liquidation. In effect, the FDIC pays acquiring institutions to assume all of the deposit liabilities of the failed banks or thrifts. So, for example, if a bank with $1 billion in deposit liabilities fails, the institution acquiring its deposits will re-

ceive approximately $1 billion in cash and the obligation to honor the failed institution's liabilities to its depositors—without regard to whether the failed institution's deposit liabilities consisted of lots of small deposits under $100,000 or a few multimillion dollar deposits. In effect, the FDIC protects all deposits, regardless of size.

The FDIC has argued that paying off all depositors, regardless of size, is often the cheapest resolution strategy at its disposal. In many cases, however, the FDIC may be inappropriately viewing its options as all or nothing—either transfer all the deposits to an acquirer or liquidate the institution. In reality, there are intermediate options: the FDIC could, for example, allow acquirers to assume only account balances under $100,000, forcing larger depositors to stand in line with other creditors.

The bill would require the FDIC to choose, in every case, the resolution strategy that costs the deposit insurance fund the least, and to document the analysis underlying that choice. And it would prohibit the FDIC from taking actions that have the effect of protecting uninsured depositors. Rigorously applied, these requirements should eliminate the practice of paying off uninsured depositors. Of course, in determining the least-cost approach to resolving a failed institution, the FDIC will have to consider the health and viability of the resulting institution.

B. DEALING WITH UNACCEPTABLY LARGE FAILURES

Sometimes, "too-big-to-fail" describes a policy of using Federal assistance to keep institutions open whose collapse might injure the payments system or the entire financial system. The classic illustration of this kind of too-big-to-fail policy is the Continental Illinois rescue.

Many commentators argue that too-big-to-fail in this sense can never be eliminated. The central banks of foreign countries, they say, would never permit the failure of major financial institutions in those countries. Accordingly, they reason, our own central bank would never permit the failure of a truly major financial institution in this country.

There are good reasons to be skeptical about that line of argument. For one thing, the large financial institutions in most foreign countries are far larger, relative to their markets, than the largest financial institutions in this country. Nevertheless, the argument clearly has at least a kernel of truth: Nobody wants to limit the Federal Government's ability to stave off a collapse of America's financial system. But why should the FDIC decide which institutions are too big to fail? In other countries, the central bank would make such a determination. And in our country, too, it is the Federal Reserve Board, not the FDIC, that has the greatest expertise in dealing with macroeconomic policy and systemic risk.

This bill attacks this sense of too-big-to-fail in two ways. First, its prompt corrective action provisions will require recapitalization or resolution of all troubled institutions—large and small—before they become drains on the deposit insurance fund. Prompt corrective action requirements will eliminate the opportunity for unfair treatment of large institutions.

Second, the bill would take away the FDIC's ability to pay off uninsured deposits for the sake of preserving stability in the financial system. The FDIC would focus more narrowly on the task of insuring deposits at America's banks and thrifts, subject to the terms and conditions specified by law. When a large institution fails, the FDIC could do no more than pay off the insured deposits.

The bill would leave the Federal Reserve Board with the ability to take whatever action is needed to protect the financial system and the payments system. But no institution should draw comfort from this fact. The Federal Reserve Board has never shown much inclination to provide 100 percent assurances. Again, I am mindful of Chairman Greenspan's words before the Banking Committee on July 12: "no bank should assume that its scale insulates it from market discipline."

4. CHANGES IN DEPOSIT INSURANCE PREMIUM PRICING

My bill would make several important changes in the laws that govern the premiums banks and thrifts pay for deposit insurance coverage.

A. RISK-BASED PREMIUMS AUTHORIZED

The bill would authorize the FDIC to assess risk-based deposit insurance premiums. Recognizing that considerable disagreement exists over how a risk-based system could be constructed and whether it would be effective, it would not require the FDIC to implement such a system. Nevertheless, it would expressly authorize the FDIC to differentiate among banks and thrifts on the basis of the risks they pose to the deposit insurance funds, and to charge different premiums to reflect those risks.

Here again, let me say that my mind is open to going further in this area. I know my colleague, Senator DIXON, has done considerable work in this area and I am interested in drawing on his expertise.

B. CAPITAL-BASED PREMIUMS AUTHORIZED

The bill also authorizes the FDIC to divide banks and thrifts into categories based upon their levels of capitalization and to impose lower deposit insurance premiums on institutions that exceed their capital requirements. This is a crude form of risk-based pricing, insofar as well-capitalized institutions have a low probability of failing. But the real purpose of authorizing such a pricing scheme is to give banks and thrifts an incentive to hold more capital.

The capital-based pricing and risk-based pricing schemes authorized by this bill are designed to be fully complementary with one another.

C. FDIC DISCRETION TO SET PREMIUMS

The provisions of current law that limit the deposit insurance premiums the FDIC can assess on insured depository institutions clearly require reform. Initially, I had planned to address this issue and related issues in the context of the broad-based deposit insurance reform proposal I am outlining today. Recent revelations concerning the condition of the Bank Insurance Fund, however, brought me to the conclusion that this particular reform should not wait until next year for legislative action.

Consequently, I have already introduced this reform as a separate, free-standing piece of legislation, now pending in the Senate as S. 3045. I am optimistic that S. 3045 will be enacted before Congress adjourns this year.

D. ASSESSMENT OF FOREIGN DEPOSITS

In any effort to reform our Federal deposit insurance system, one of the key issues will be the assessment base on which deposit insurance premiums are levied, and, specifically, the question whether to assess premiums on foreign deposits.

This bill does not address the assessment base issue directly. To a considerable extent, however, the bill does address the issue indirectly, through its reforms in the too-big-to-fail area. By requiring the FDIC to resolve institutions at least cost to the deposit insurance fund, and by prohibiting the FDIC from taking actions to protect uninsured depositors after 1994, this bill would effectively prohibit the FDIC from protecting foreign deposits.

5. RESTRICTIONS ON THE SCOPE OF DEPOSIT INSURANCE COVERAGE

One of the primary problems with our deposit insurance system is that it covers too much. Ostensibly, deposits are insured to $100,000, but in reality that limit is almost meaningless because existing laws, regulations, and regulatory policies allow abuses of the limit. As a result, we now have essentially unlimited coverage for virtually all depositors at virtually all institutions. Some of these abuses of the $100,000 limit are well known:

Brokered deposits;

The ability to keep multiple accounts up to $100,000, even at one institution;

Pass-through deposit insurance.

My bill will curtail these abuses through a variety of measures.

A. LICENSING AND REGISTRATION REQUIRED FOR DEPOSIT BROKERS AND AGENTS.

Deposit brokerage is a simple idea that can have dangerous consequences for the deposit insurance system. Generally speaking, what a deposit broker does is collect money from investors and invest it in insured certificates of deposit. Some investors prefer to make deposits through brokers because brokers can often locate a better rate than the investor could find on his or her own.

There are legitimate uses for brokered deposits. Federal Reserve Chairman Alan Greenspan noted this in his testimony before the Banking Committree on July 12:

[T]here are certain characteristics of brokered deposits which have advantages, namely, that they do improve the liquidity of the system. They do facilitate to a considerable extent the marshalling of depository funds. Nonetheless, they do potentially create significant risks. . . . [R]ather than abolish them, I think one should focus on those aspects of brokered deposits which are positive and try . . . to keep that aspect of the system in place without exposing ourselves to the abuses which have clearly existed in recent years.

Nevertheless, brokered deposits have been enormously abused, and are widely believed to have contributed significantly to the problems of the thrift industry. Former Justice Department prosecutor Bruce Maffeo gave the Committee a graphic description of the dangers of brokered deposits for weak banks and thrifts this past August 1. Mr. Maffeo said:

[B]rokered money was literally the financial equivalent of crack. You saw small savings and loan institutions and small banks all of a suden pumped up on steriods with a $10 million asset, which was nothing more than an accumulation of brokered money that they had to pay back the principal on * * * and in some cases they were hung out to dry for as long as 20 years with interest payments that were extortionate by any other measures. So they had that rock in their knapsack just going out of the gate.

And, in a similar vein, Gerald Corrigan, President of the New York Federal Reserve Bank, called abuse of deposit brokerage arrangements "the worst single abuse of the deposit insurance system" when he testified before the committee on April 3.

Recognizing the dangers of brokered deposits, Congress curtailed their use by undercapitalized institutions in last year's savings and loan legislation—the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA].

The bill would continue the restrictions on brokered deposits Congress enacted last year. But it would go farther. It would require the FDIC to license and register individuals and entities in the business of making deposits at insured institutions on behalf of third parties—including not only traditional deposit brokerages, but also entities we might call "deposit agents" such as mutual funds and pension funds. Subject to certain narrow restrictions, it would forbid banks and thrifts from accepting deposits on behalf of third parties from unlicensed individuals and entities. And it would authorize the FDIC to regulate all aspects of deposit brokerage and deposits by intermediaries that involve risk to the deposit insurance funds. Thus, the FDIC could: First, prohibit institutions or classes of institutions from accepting deposits on behalf of third parties; second, establish terms or conditions under which institutions may accept such deposits; third, establish terms and conditions under which brokers or agents may accept funds for deposit in insured institutions from third parties; and fourth, impose appropriate reporting requirements on deposit brokers or agents. The FDIC could revoke or suspend the license of any deposit broker or intermediary that fails to comply with its regulations.

Some may feel FDIC regulation of deposit brokerage activities is unnecessary because mutual funds are already heavily regulated and because pension funds face heavy legal obligations as fiduciaries of their beneficiaries. I am not unsympathetic to that viewpoint. But the interests of the FDIC diverge from the existing regulatory system for mutual funds, and the duty of a fiduciary to seek maximum advantage for beneficiaries may fly squarely in the face of the FDIC's need to protect insured banks and thrifts. Moreover, I do not envision this regulatory scheme as especially burdensome. On the contrary, I envision a system in which licenses would be given out expeditiously, even presumptively, with a minimum of paperwork and delay, and revoked or suspended only for cause.

B. PASS-THROUGH DEPOSIT LIMITED

One of the thorniest problems in deposit insurance today is the question of pass-through deposit insurance coverage. Currently, entities such as mutual funds and pension funds can make deposits of millions, or even tens or hundreds of millions of dollars, all of it fully insured on the theory that deposit insurance is "passed through" to individual investors, none of whom have more than a $100,000 interest in the deposit.

The mutual funds and pension funds that make such deposits are sophisticated investors, fully capable of determining from available information whether a bank or thrift is reasonably sound or a basket case. Moreover, the availability of pass-through coverage makes a mockery of any ostensible limit on deposit insurance coverage. A $100,000 limit on deposit insurance coverage cannot accomplish much if investors with millions to invest can evade the limit by the simple device of putting their millions in money market funds which, in turn, purchase insured certificates of deposit.

My bill would not ban pass-through deposit insurance altogether. In particular, it would perpetuate one form of pass-through deposit insurance that I know will be of concern to many citizens who now enjoy pass-through deposit insurance protection for their retirement savings. Many tax-deferred retirement plans invest in bank investment contracts and insured certificates of deposit, and many of the people who participate in such plans believe such investments are the safest way to save for retirement.

As a factual matter, that belief is not accurate. U.S. Government securities are just as safe as federally insured deposits. Both enjoy the full faith and credit of the U.S. Government. And any retirement fund that offers its participants the opportunity to invest in insured deposits could choose instead to offer its participants an equally safe investment in U.S. Government securities.

Nevertheless, an outright prohibition on pass-through deposit insurance could cause needless anxiety to millions of Americans who are not sophisticated investors. Therefore, although the bill would generally prohibit pass-through deposit insurance coverage, as currently drafted it would contain an exception for deposits made by certain tax-deferred retirement plans. I want to make clear, however, that I am concerned that this exception may be too broad to adequately protect the deposit insurance fund. My mind is open on this point and I want to consider the issue further in the months ahead.

C. MULTIPLE ACCOUNTS LIMITED

One widespread abuse of the current deposit insurance system that has attracted a lot of criticism is the practice of evading the $100,000 limit by having more than one account at a single institution. Theoretically, current law requires all of an individual's accounts at a given institution to be added together for purposes of calculating the insurance fund's liabilities. But a loophole in current law allows individuals to avoid this summing up by holding accounts in different capacities. Thus, for example, you can deposit $100,000 in your own name, then $100,000 in an account you hold jointly with your spouse, then another $100,000 in an account you hold jointly with your kids, and so forth.

The bill will eliminate this abuse completely by repealing the language in current law that gives rise to it. It will not forbid individuals from having multiple accounts at insured depository institutions, but it will ensure that no individual receives more than $100,000 in total insurance coverage on accounts at any one depository institution.

D. TWO ADDITIONAL IDEAS

Let me also take this occasion to raise two reform possibilities that I have not included in the bill at this time, but which I think have enough merit to warrant discussion.

Coinsurance: Compared to deposit insurance systems in other countries, the U.S. system is unusual in that it requires the deposit insurance fund to bear 100 percent of any loss that depositors would otherwise suffer when a bank or thrift fails. According to testimony before the Banking Committee earlier this year, depositors in the United Kingdom are insured to only 75 percent of their account balance, up to a ceiling of £20,000. Depositors in Japan are insured to Y10 million, and only as to principal. If an insured institution fails in Japan, its depositors bear all of the risk with respect to any interest that has accrued in their accounts.

But under the system of deposit insurance currently in place in the United States, however, depositors essentially bear no risk at all.

I have given a lot of thought to the question whether that situation makes sense. The version of the bill I am putting forward now would perpetuate the status quo in this area—no coinsurance.

But at the same time, let me suggest a possible reform in this area that I think has considerable merit and invite reactions to it. The gist of the idea would be to impose a small coinsurance requirement—basically, and amount of risk that would be significant only to the most aggressive ratechasers. It might work something like this: If you had an account at an insured bank or thrift, and that institution failed, your account—assuming the account balance is less than $100,000—would be insured up to the amount of the account balance, minus an amount equal to, say 90 days' worth of interest on the account.

To show how that might work, let me use a specific example. Suppose you put $80,000 in the bank a year or two ago, and, at 6-percent interest, you now have a balance of $87,000. If your bank were to fail, your account would be insured up to $87,000 minus $1,305—90 days' interest on $87,000 at 6 percent—or $85,695. In other words, in the worst case you might lose as much as 1,305 dollars' worth of interest. Your principal would not be touched.

Strong advocates of depositor discipline may wonder why even bother with such a small penalty. The same depositor in the British system could lose as much as $21,750. But the point of this requirement—unlike the coinsurance requirements of other countries—would not be to punish average depositors. The point would be to make those depositors who make bank deposits for investment purposes—as opposed to using bank accounts for transaction purposes or simply as safe places to store money—think twice before buying a large certificate of deposit at a weak financial institution. For example, to an investor with $100,000 who is choosing between buying a 1-year CD at 10 percent from a very weak bank or thrift or a 1-year CD at 8.5 percent from a strong one, that 90-day interest penalty would probably steer the deposit toward the stronger institution. A coinsurance feature like this could prove very helpful in channelling rate-sensitive, or "hot", money away from weak institutions and toward stronger institutions.

Again, however, this coinsurance feature is not part of the bill I am outlining. For the present, it is just a possible reform under consideration, and I invite reactions to it.

Strictly enforcing the $100,000 limit: My bill significantly tightens the $100,000 limit—notably, by imposing restrictions on multiple accounts at a single institution, restricting passthrough deposit insurance, and curtailing too-big-to-fail. But it does not entail strict enforcement of the $100,000 limit in the sense of limiting all depositors to a total of $100,000 in insured deposits. It will still be possible for an individual to make multiple deposits of up to $100,000, provided that each deposit is made at a different bank or thrift. In addition, the bill would not prevent individuals who wish to deposit more than $100,000 in any one federally-insured institutions from doing so. But such excess deposits would not be guaranteed by the U.S. Government. If the institution holding such excess deposits fails, the owners of those accounts will bear the same risk of loss as other creditors. I note, however, that if the prompt corrective action requirements of the bill are effective, that risk should be substantially less than it is today.

Why not strictly enforce the $100,000 limit? Why not say that you can only have $100,000 in insured deposits, no matter how many institutions you bank or save with?

Let me address those questions for a moment. There is much to say in favor of strictly enforcing the $100,000 limit. But I am not sure that such a strict enforcement policy can be implemented at a reasonable cost and without putting the Federal Government in the business of monitoring the bank balances of all Americans. It doesn't seem fair to the overwhelming majority of Americans, who have only a few thousand dollars in the bank, to subject them to extensive monitoring of their bank balances for the sole purpose of getting at the small number whose deposits do exceed $100,000.

Still, I want to indicate on this point, too, that my mind is still open. If a cost-effective and unintrusive way of implementing such a requirement can be devised, I may well support it. I have instructed the Banking Committee staff to continue to work on this question.

6. SOURCE OF STRENGTH

Several recent court decisions have called into question the ability of Federal bank regulators to enforce commitments by parent corporations to maintain the capital of their insured bank and thrift subsidiaries.

Testimony before the Banking Committee indicates that such capital maintenance agreements have been an important regulatory tool in the past. Larry Connell, former Chairman of the National Credit Union Administration and a member of the Shadow Financial Regulatory Committee, addressed the subject in his testimony on May 17:

> Should a company that controls a bank or thrift be free to let that institution fail without making an effort to assist it? * * * [T]he Federal Reserve Board has attempted to impose a source of strength doctrine from the very beginning of holding companies. * * * The Office of Thrift Supervision * * * had open-ended contractual net worth maintenance agreements for many years. More recently, these have been modified to prenuptial type agreements where the institutions could be sold if the net worth fell below a certain level. * * * I think they've been effective. And I believe it would be valuable as one of the * * * tools for the regulatory agencies to have in their quiver to require net worth maintenance agreements on a limited basis, prenuptial type.

The bill would clarify that such commitments are enforceable. In addition, it would extend cross-guarantee liability to the affiliates of insured banks and thrifts. The extent of the cross-guaranty liability would depend on whether the affiliate in question is itself an insured bank or thrift. My bill would make insured banks and thrifts fully liable for any loss incurred by the FDIC in connection with the failure of affiliated insured banks and thrifts. But it would limit the liability of non-depository institution affiliates to 5 percent of the assets of the insured bank or thrift that failed.

7. ENHANCED DISCLOSURE OBLIGATIONS FOR DEPOSITORY INSTITUTIONS AND THEIR REGULATORS

The last major cluster of reforms in this package addresses the need for more, better, and more timely information from our insured banks and thrifts and their regulators. Lack of solid information is not just a frustration to Congress. We cannot expect regulators to do thier jobs well if they do not have accurate information on the condition of institutions they supervise. We cannot expect depositors, shareholders, and creditors to invest prudently if they cannot distinguish strong institutions from weak institutions. And we cannot expect the American people to have confidence in their

financial system if they do not believe they are receiving accurate information on its condition.

A. DISCLOSURE BY DEPOSITORY INSTITUTIONS

The bill requires banks and thrifts to provide more specific information in their quarterly reports so that the financial condition of insured banks and thrifts can be better assessed and monitored. In particular, the bill would impose four new quarterly disclosure requirements: First, major shareholders; second, disaggregated reports of assets; third, nonbanking activities; and fourth, market value estimates of assets, liabilities, and net worth (in accordance with regulations prescribed by their regulators). The first three requirements would take effect 6 months after enactment; these simply require more regular and systematic disclosure of information already available to the regulators. The market value disclosure requirement would take effect by January 1, 1993.

The bill also requires uninsured banks and thrifts to disclose their uninsured status to depositors.

B. DISCLOSURE BY THE REGULATORY AGENCIES

The bill also requires each of the regulatory agencies to report annually on: First, the volume of anticipated bank and thrift failures over the next 3 years; second, the involvement of insured banks and thrifts in nontraditional activities; third, the capital levels of insured banks and thrifts; and fourth, enforcement actions and subsequent compliance. The bill clarifies the authority of the General Accounting Office and the Congressional Budget Office to obtain CAMEL ratings of banks and thrifts and lists of problem banks and thrifts.

C. DISCLOSURE BY THE INSURANCE FUNDS

The bill requires more accurate and detailed disclosure to the Congress and the public on the condition of the deposit insurance funds. It requires annual reports on bank and thrift failures during the previous 12 months and projections of problem institutions 3 years into the future.

CONCLUSION

The deposit insurance reform package I have outlined is, as I said at the outset, a work in progress. There will be more progress to come.

In some areas, this bill may go too far. In others, it may not go far enough. There may be conceptual difficulties with some aspects. There may be technical problems with some aspects. A number of provisions will need appropriate transition periods. But let me repeat: No part of this bill is cast in stone. And my mind is not closed to any additional or alternative reform. I have specifically noted three additional reform measures that I think warrant further discussion. I am completely open to others as well.

I welcome the views of my colleagues in both Houses and on both sides of the aisle. I welcome the views of the administration. And I welcome the views of America's banks and thrifts, their depositors, and the public. Working together, we can and will craft a comprehensive deposit insurance reform package that restores safety and soundness to America's deposit insurance system and protects America's taxpayers.

Mr. President, I ask unanimous consent that the full text of this bill be reprinted in the RECORD. I also ask unanimous consent to include some related explanatory and background materials in the RECORD—including, specifically, a summary of the bill, an outline of its key provisions, some questions and answers on important features of the bill, a selection of related excerpts from the Banking Committee's deposit insurance hearing record, and a legal opinion relating to one of the key features of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Strengthening capital standards and controlling interest-rate risk.
Sec. 3. Accounting reform.
Sec. 4. Prompt corrective action.
Sec. 5. Annual examinations.
Sec. 6. Capital-maintenance commitments.
Sec. 7. Restricting risky bank activities.
Sec. 8. Deposits by brokers and other intermediaries.
Sec. 9. Least-cost resolution.
Sec. 10. Cross-guarantee liability.
Sec. 11. Risk-based assessments; incentives to have greater capital.
Sec. 12. Multiple accounts; pass-through insurance coverage.
Sec. 13. Granting deposit insurance.
Sec. 14. Disclosure.

SEC. 2. STRENGTHENING CAPITAL STANDARDS AND CONTROLLING INTEREST-RATE RISK.

(a) IN GENERAL.—Each appropriate Federal banking agency shall do the following to strengthen its capital standards for insured depository institutions:

(1) STRENGTHENING CAPITAL STANDARDS GENERALLY.—Require enough capital to facilitate prompt corrective action to prevent loss to the Bank Insurance Fund and Savings Association Insurance Fund, consistent with section 35 of the Federal Deposit Insurance Act (as added by section 4 of this Act).

(2) IMPROVING RISK-BASED STANDARDS AND CONTROLLING INTEREST-RATE RISK.—Improve risk-based capital standards to ensure that such standards take adequate account of—

(A) the risks posed by—

(i) nontraditional activities, and

(ii) activities more risky than conventional commercial lending, including real-estate development lending with a high loan-to-value ratio, financing highly leveraged transactions, nonrecourse lending without adequate guarantees, interest-reserve lending, and equity investment; and

(B) interest-rate risk.

(b) DEADLINE FOR REGULATIONS OR GUIDELINES.—Each appropriate Federal banking agency shall publish in the Federal Register final regulations or guidelines to implement subsection (a) not later than 1 year after the date of enactment of this Act.

(c) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" have the meaning given to those terms in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

SEC. 3. ACCOUNTING REFORM.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(o) ACCOUNTING REFORM.—

"(1) OBJECTIVES.—The Congress declares that accounting principles applicable to insured depository institutions should—

"(A) result in financial statements and reports of condition that accurately reflect (at market value, to the extent feasible) the economic condition of those institutions; and

"(B) facilitate effective supervision of insured depository institutions, and prompt corrective action to resolve troubled institutions' problems at no cost to the Bank Insurance Fund or Savings Association Insurance Fund.

"(2) IMPROVING ACCOUNTING PRINCIPLES APPLICABLE TO INSURED DEPOSITORY INSTITUTIONS.—The Securities and Exchange Commission, in consultation with the appropriate Federal banking agencies, shall facilitate the development of accounting principles for insured depository institutions that meet the objectives set forth in paragraph (1).

"(3) STRINGENCY.—

"(A) GAAP AS MINIMUM.—Accounting principles applicable to insured depository institutions shall be no less conservative than generally accepted accounting principles.

"(B) GREATER CONSERVATISM AUTHORIZED.—The appropriate Federal banking agencies may prescribe accounting principles more conservative than generally accepted accounting principles as appropriate to facilitate effective supervision of insured depository institutions and prompt corrective action to resolve troubled institutions' problems at no cost to the Bank Insurance Fund or Savings Association Insurance Fund.".

SEC. 4. PROMPT CORRECTIVE ACTION.

(a) SYSTEM OF PROMPT CORRECTIVE ACTION.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 35. PROMPT CORRECTIVE ACTION.

"(a) PROBLEMS TO BE RESOLVED AT NO COST TO INSURANCE FUNDS.—

"(1) PURPOSE.—The purpose of this section is to ensure that the problems of insured depository institutions are, with only rare exceptions, resolved at no cost to the Bank Insurance Fund or Savings Association Insurance Fund.

"(2) PROMPT CORRECTIVE ACTION REQUIRED.—Each appropriate Federal banking agency shall carry out the purpose of this section by taking prompt corrective action to resolve the problems of insured depository institutions.

"(b) DEFINITIONS RELATING TO CAPITAL COMPLIANCE.—For purposes of this section:

"(1) UNDERCAPITALIZED.—An insured depository institution is undercapitalized if it is not in compliance with all currently applicable capital standards prescribed by the appropriate Federal banking agency.

"(2) SATISFYING CAPITAL STANDARDS.—An insured depository institution satisfies capital standards only if it is in compliance with all currently applicable capital standards prescribed by the appropriate Federal banking agency.

"(c) PROVISIONS APPLICABLE TO ALL UNDERCAPITALIZED INSTITUTIONS.—

"(1) CAPITAL DISTRIBUTIONS RESTRICTED.—

"(A) IN GENERAL.—An insured depository institution shall make no capital distribution if, after making the distribution, the institution would be undercapitalized.

"(B) CAPITAL DISTRIBUTION DEFINED.—For purposes of subparagraph (A), the term 'capital distribution' means any of the following:

"(i) A dividend paid or other distribution in cash or in kind made with respect to any shares of any insured depository institution, except a dividend consisting only of shares of the institution.

"(ii) A payment made by an insured depository institution to repurchase, redeem, retire, or otherwise acquire any of its shares, including any extension of credit made to finance an affiliated company's acquisition of such shares.

"(iii) A transaction that the appropriate Federal banking agency determines to be in substance the distribution of capital.

"(2) CAPITAL RESTORATION PLAN REQUIRED.—

"(A) IN GENERAL.—Any undercapitalized insured depository institution shall submit a capital restoration plan to the appropriate Federal banking agency within the time allowed by the agency under subparagraph (D).

"(B) CONTENTS OF PLAN.—The capital restoration plan shall—

"(i) specify how the insured depository institution will satisfy capital standards, without increasing the risk (including credit risk, interest-rate risk, and other types of risk) to which the institution is exposed;

"(ii) specify the types and levels of activities in which the institution will engage;

"(iii) specify how the institution will comply with paragraph (3);

"(iv) contain such other information as the appropriate Federal banking agency may require;

"(v) be based on realistic assumptions, and be feasible; and

"(vi) be acceptable to the appropriate Federal banking agency.

"(C) HOLDING COMPANY GUARANTEE.—The appropriate Federal banking agency shall not accept a capital restoration plan unless each company having control of the insured depository institution guarantees the institution's compliance with the plan until the institution has satisfied capital standards (based on a daily average of the institution's capital and assets) for each of 12 consecutive months, and provides appropriate assurances of performance.

"(D) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—The appropriate Federal banking agency shall by regulation establish deadlines that—

"(i) provide insured depository institutions with reasonable time to submit capital restoration plans, and generally require an institution to submit a plan not later than 30 days after the institution ceases to satisfy capital standards; and

"(ii) require the agency to act on capital restoration plans expeditiously and generally not later than 30 days after the plan is submitted.

"(3) GROWTH RESTRICTED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any undercapitalized insured depository institution shall not increase its total assets.

"(B) LIMITED GROWTH EXCEPTION.—If the appropriate Federal banking agency has accepted an insured depository institution's capital restoration plan, the agency may permit the institution to increase its total assets by an amount not exceeding the amount of net interest credited to the institution's deposit liabilities.

"(C) ANY GROWTH MUST BE FULLY CAPITALIZED.—An insured depository institution shall not increase its total assets under subparagraph (B) unless—

"(i) any increase in total assets is accompanied by an increase in tangible shareholders' equity in an amount not less than the increase in total assets multiplied by the percentage amount of the currently applicable capital standards; and

"(ii) the institution's ratio of capital to assets increases at a rate sufficient to enable the institution to satisfy capital standards within a reasonable time.

"(4) DISCRETIONARY SAFEGUARDS.—The appropriate Federal banking agency may, with respect to any undercapitalized insured depository institution, take 1 or more of the actions described in subsection (d)(2) if the agency determines that such actions are necessary to carry out the purpose of this section.

"(d) PROVISIONS APPLICABLE TO UNDERCAPITALIZED INSTITUTIONS THAT FAIL TO SUBMIT AND IMPLEMENT CAPITAL RESTORATION PLANS.—

"(1) IN GENERAL.—If any undercapitalized insured depository institution fails to submit an acceptable capital restoration plan within the time allowed by the appropriate Federal banking agency under subsection (c)(2)(D) or fails in any material respect to implement a plan accepted by the agency, the following provisions shall apply:

"(A) The agency shall carry out the purpose of this section by taking 1 or more of the actions described in paragraph (2) of this subsection.

"(B) In complying with subparagraph (A), the agency shall take the action described in paragraph (2)(A)(i) (relating to requiring the sale of shares or obligations) unless the agency determines that such action would not further the purpose of this section.

"(C) The agency may take one or more of the actions described in subsection (g)(2) to carry out the purpose of this section.

"(2) SPECIFIC ACTIONS AUTHORIZED.—The actions described in this paragraph are the following:

"(A) REQUIRING SALE OF SHARES OR OBLIGATIONS.—

"(i) Requiring the institution to sell enough shares or obligations of the institution so that the institution will satisfy capital standards after the sale.

"(ii) Further requiring that instruments sold under clause (i) be voting shares.

"(B) RESTRICTING TRANSACTIONS WITH AFFILIATES.—

"(i) Prohibiting the institution from using the exemption contained in section 23A(d)(1) of the Federal Reserve Act.

"(ii) Further restricting the institution's transactions with affiliates.

"(C) RESTRICTING ACTIVITIES.—Restricting the institution's activities.

"(D) RESTRICTING INTEREST RATES PAID.—Restricting the interest rates the institution pays on deposits.

"(E) REQUIRING NEW ELECTION OF DIRECTORS.—Ordering a new election for the institution's board of directors.

"(F) DISMISSING DIRECTORS AND CHIEF OFFICIALS.—Dismissing from office 1 or more of the following persons if that person had held office for more than 180 days when the institution ceased to satisfy capital standards:

"(i) Any member of the institution's board of directors.

"(ii) The chief executive officer.

"(iii) The chief financial officer.

Dismissal under this subparagraph shall not be construed as removal under section 8.

"(e) EXECUTIVE OFFICERS' COMPENSATION RESTRICTED IF UNDERCAPITALIZED INSTITUTION FAILS TO SUBMIT AND IMPLEMENT CAPITAL-RESTORATION PLAN.—

"(1) FAILING TO SUBMIT TIMELY PLAN.—If any undercapitalized insured depository institution fails to submit an acceptable capital-restoration plan within the time allowed by the appropriate Federal banking agency under subsection (c)(2)(D), the institution shall not, until the institution has submitted and the appropriate Federal banking agency has accepted a plan, do any of the following:

"(A) Pay any bonus to any executive officer.

"(B) Provide compensation to any executive officer at a rate exceeding that officer's average rate of compensation during the 12 calendar months preceding the calendar month in which the institution ceased to comply with capital standards.

"(2) MATERIALLY FAILING TO IMPLEMENT PLAN.—If any undercapitalized insured depository institution fails in any material respect to implement a capital-restoration plan accepted by the appropriate Federal banking agency, the institution shall not take any action described in subparagraph (A) or (B) of paragraph (1) of this subsection without the prior written approval of the appropriate Federal banking agency.

"(3) DEFINITIONS.—For purposes of this subsection:

"(A) EXECUTIVE OFFICER.—The term 'executive officer' has the same meaning as in section 22(h) of the Federal Reserve Act.

"(B) COMPENSATION.—The term 'compensation' means any payment of money or provision of any other thing of value in connection with employment.

"(f) PROVISIONS APPLICABLE TO INSTITUTIONS WITH CAPITAL BELOW CRITICAL LEVEL.—

"(1) AGENCY TO SPECIFY CRITICAL CAPITAL LEVEL.—

"(A) IN GENERAL.—Each appropriate Federal banking agency shall by regulation specify a capital level for purposes of this subsection, which may be referred to as the 'critical capital level'.

"(B) CRITERION FOR SPECIFYING CRITICAL CAPITAL LEVEL.—The critical capital level shall be high enough so that the problems of insured depository institutions can, with only rare exceptions, be resolved at no cost to the Bank Insurance Fund or Savings Association Insurance Fund by carrying out this subsection when the institution's capital falls below that level.

"(C) FDIC'S CONCURRENCE REQUIRED.—The appropriate Federal banking agency shall not, without the concurrence of the Corporation, specify a critical capital level that is less stringent than the critical capital level specified by the Corporation for State nonmember insured banks.

"(2) PAYMENTS ON SUBORDINATED DEBT PROHIBITED.—

"(A) IN GENERAL.—An insured depository institution shall make no payment of principal or interest on the institution's subordinated debt unless, after making the payment, the institution would have capital equaling or exceeding the critical level specified under paragraph (1).

"(B) LIMITED EXEMPTION FOR CERTAIN SUBORDINATED DEBT.—Until October 25, 1995, subparagraph (A) shall not apply with respect to any subordinated debt that is outstanding on October 25, 1990, and that is not extended or otherwise renegotiated after October 25, 1990.

"(C) SUBORDINATED DEBT DEFINED.—For purposes of this paragraph, the term 'subordinated debt' means debt subordinated to the claims of depositors or general creditors.

"(3) ACTIVITIES RESTRICTED.—If any insured depository institution's capital does not equal or exceed the critical capital level specified under paragraph (1), the institution shall comply with restrictions prescribed by the appropriate Federal banking agency under subsection (g).

"(4) CONSERVATORSHIP OR OTHER ACTION REQUIRED.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall, not later than 30 days after the institution's capital ceases to equal or exceed the critical capital level specified under paragraph (1)—

"(i) appoint a conservator or receiver for the institution; or

"(ii) take such other action as the agency determines would better achieve the purpose of this section, after documenting why such action is more likely than the appointment of a conservator or receiver to protect the interests of the Bank Insurance Fund or Savings Association Insurance Fund.

"(B) REVIEW OF OTHER ACTION.—If the appropriate Federal banking agency does not appoint a conservator or receiver for the institution, the agency shall review its action under subparagraph (A)(ii) not less often than every 90 days, determine whether that action should be modified to better achieve the purpose of this section, and make any appropriate modifications.

"(g) RESTRICTING ACTIVITIES OF INSTITUTIONS WITH CAPITAL BELOW CRITICAL LEVEL.—

"(1) IN GENERAL.—To carry out the purpose of this section, each appropriate Federal banking agency shall, by regulation or order, restrict the activities of any insured depository institution that does not have capital equaling or exceeding the critical capital level specified under subsection (f)(1).

"(2) SPECIFIC RESTRICTIONS.—Except to the extent that the agency determines that other restrictions will better achieve the purpose of this section, the restrictions prescribed under paragraph (1) shall prohibit an insured depository institution that does not have capital equaling or exceeding the critical capital level specified under subsection (f)(1) from doing any of the following without the agency's prior written approval:

"(A) Enter into any material transaction other than in the usual course of business.

"(B) Enter into any highly leveraged transaction.

"(C) Make or agree to make—

"(i) any nonrecourse loan other than a loan on which the principal and interest are fully guaranteed by the United States or an agency of the United States; or

"(ii) any interest-reserve loan.

"(D) Originate, fund, invest in, or buy (or commit itself to originate, fund, invest in, or buy) any investment, security, or other asset (or any group of such assets sold or pledged to, purchased from, or exchanged with the same person) in an amount exceeding the lesser of—

"(i) 10 percent of the institution's capital; or

"(ii) $500,000.

"(E) Sell, pledge, modify, or exchange any loan, participation, investment, or security (except for loans sold in the secondary market in the usual course of business) in an amount exceeding the lesser of—

"(i) 10 percent of the institution's capital; or

"(ii) $500,000.

"(F) Enter into any lease or contract for the purchase of real property or of any interest in real property.

"(G) Amend the institution's charter or bylaws.

"(H) Make any material change in accounting methods.

"(I) Pay interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds.

"(J) Accept or renew liabilities on terms that would increase the institution's exposure to interest-rate risk.

"(K) Make any disbursement to any 1 entity exceeding the lesser of—

"(i) 10 percent of the institution's capital; or

"(ii) $500,000.

"(L) Engage in any 'covered transaction', as defined in section 23A(b) of the Federal Reserve Act.

"(M) Pay or agree to pay any bonus to any employee or agent who receives annual compensation exceeding $60,000.

"(N) Increase the annual compensation of any employee or agent (including any compensation paid with respect to the termination of that person's employment) who receives annual compensation exceeding $60,000 by an amount that exceeds by more than 5 percentage points the percentage increase during the preceding 12 months in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.

"(O) Indemnify or agree to indemnify any officer, director, employee, or agent.

"(P) Settle any claim, judgment, or award exceeding the lesser of—

"(i) 10 percent of the institution's capital; or

"(ii) $500,000.

"(3) EXCEPTIONS.—

"(A) LIQUID ASSETS.—Subparagraphs (D), (E), and (K) of paragraph (2) shall not apply with respect to the purchase or sale of liquid assets.

"(B) BINDING COMMITMENTS.—Paragraph (2) shall not apply with respect to transactions pursuant to legally binding commitments that—

"(i) were entered into while the insured depository institution's capital equaled or exceeded the critical capital level specified under subsection (f)(1); and

"(ii) were not entered into to evade paragraph (2).

"(C) CONSERVATORS AND RECEIVERS.—This subsection shall not apply with respect to any insured depository institution for which a conservator or receiver has been appointed.

"(4) APPROVAL NEED NOT BE TRANSACTION-SPECIFIC.—For purposes of paragraph (2), the term 'prior written approval' includes approval granted by regulation or order under this subsection.

"(5) ADJUSTMENT FOR INFLATION.—The dollar amounts referred to in paragraph (2) shall be periodically adjusted to reflect increases after December 31, 1992, in the Consumer Price Index for Urban Wage Earners and Clerical Workers.

"(h) MONITORING UNDERCAPITALIZED INSTITUTIONS.—Each appropriate Federal banking agency shall—

"(1) closely monitor the condition of any undercapitalized insured depository institution;

"(2) closely monitor compliance with capital-restoration plans and restrictions imposed under this section; and

"(3) periodically review the plan and restrictions applicable to any undercapitalized insured depository institution to determine whether the plan and restrictions are carrying out the purpose of this section.

"(i) REVIEW REQUIRED WHEN INSURANCE FUND INCURS LOSS.—

"(1) IN GENERAL.—If the Bank Insurance Fund or Savings Association Insurance Fund incurs a loss with respect to an insured depository institution on or after July 1, 1992, the inspector general of the appropriate Federal banking agency shall—

"(A) make a written report to that agency reviewing the agency's supervision of the institution (including the agency's implementation of this section), which shall—

"(i) ascertain why the agency failed to resolve the institution's problems at no cost to the Bank Insurance Fund or Savings Association Insurance Fund, and

"(ii) set forth any recommendations for reform; and

"(B) provide a copy of the report to—

"(i) the Comptroller General of the United States, and

"(ii) the Corporation (if the agency is not the Corporation).

"(2) LOSS INCURRED.—For purposes of this subsection, the Bank Insurance Fund or Savings Association Insurance Fund incurs a loss with respect to an insured depository institution—

"(A) if the Corporation provides any assistance under section 13(c) with respect to that institution, and it is not substantially certain that the assistance will be fully repaid not later than 12 months after the date on which the Corporation initiated the assistance; or

"(B) if the Corporation is appointed receiver of the institution, and it is or becomes apparent that the outlays of the Bank Insurance Fund or Savings Association Insurance Fund with respect to that institution will exceed the present value of receivership dividends or other payments on the claims held by the Corporation.

"(3) DEADLINE FOR REPORT.—The inspector general of the appropriate Federal banking agency shall comply with paragraph (1) expeditiously, and in any event as follows:

"(A) If the institution is described in paragraph (2)(A), during the 12-month period beginning on the date on which the Corporation initiates assistance under section 13(c).

"(B) If the institution is described in paragraph (2)(B), during the 12-month period beginning on the date on which it becomes apparent that the outlays of the Bank Insurance Fund or Savings Association Insurance Fund with respect to that institution will exceed the present value of receivership dividends or other payments on the claims held by the Corporation.

"(4) PUBLIC DISCLOSURE REQUIRED.—The appropriate Federal banking agency shall disclose the report upon request under section 552 of title 5, United States Code, without excising—

"(A) any portion under section 552(b)(5); or

"(B) any information about the insured depository institution under paragraph (4) or (8) of section 552(b).

"(5) GAO REVIEW.—The General Accounting Office shall from time to time—

"(A) review reports made under paragraph (1) and recommend improvements in the supervision of insured depository institutions (including the implementation of this section); and

"(B) audit 1 or more of those reports.

"(6) TRANSITION RULE.—During the period beginning on July 1, 1992 and ending on June 30, 1995, paragraph (1) does not require action by the inspector general of the appropriate Federal banking agency unless the loss incurred by the Corporation with respect to an insured depository institution—

"(A) with respect to which the Corporation initiates assistance under section 13(c) during the period in question, or

"(B) for which the Corporation was appointed receiver during the period in question,

exceeds the applicable percentage of the institution's total assets at that time set forth in the following table:

For the following period:	The applicable percentage is:
July 1, 1992–June 30, 1993 .	5 percent
July 1, 1993–June 30, 1994 .	3 percent
July 1, 1994–June 30, 1995 .	1 percent

"(j) OTHER AUTHORITY NOT AFFECTED.—This section does not limit any authority of the appropriate Federal banking agency or a State to take action in addition to (but not in derogation of) that required under this section.

"(k) TRANSITION RULES FOR SAVINGS ASSOCIATIONS.—

"(1) RTC'S ROLE DOES NOT DIMINISH CARE REQUIRED OF OTS.—

"(A) IN GENERAL.—In implementing this section, the Director of the Office of Thrift Supervision shall exercise the same care as if the Savings Association Insurance Fund (rather than the Resolution Trust Corporation) bore the cost of resolving the problems of insured savings associations described in clauses (i) and (ii)(II) of section 21A(b)(3)(A) of the Federal Home Loan Bank Act.

"(B) REPORTS.—Subparagraph (A) does not require reports under subsection (i).

"(2) NEW CAPITAL PLAN NOT REQUIRED FOR CERTAIN SAVINGS ASSOCIATIONS.—Subsection (d) and paragraphs (2) and (3) of subsection (c) shall not apply before July 1, 1994, with respect to any insured savings association if—

"(A) before the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1990—

"(i) the savings association had submitted a plan meeting the requirements of section 5(t)(6)(A)(ii) of the Home Owners' Loan Act; and

"(ii) the Director of the Office of Thrift Supervision had accepted that plan;

"(B) the plan remains in effect; and

"(C) the savings association remains in compliance with the plan.".

(b) DEADLINE FOR REGULATIONS.—The Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Director of the Office of Thrift Supervision shall each, after notice and opportunity for comment, promulgate final regulations under section 35 of the Federal Deposit Insurance Act (as added by subsection (a) of this section) not later than 240 days after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1990, and those regulations shall take effect not later than 270 days after that date of enactment.

(c) CONSERVATORSHIP AND RECEIVERSHIP AUTHORITY.—

(1) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER FOR STATE BANKS.—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended by adding at the end the following new subparagraphs:

"(I) With respect to an insured depository institution not in compliance with all currently applicable capital standards prescribed by the appropriate Federal banking agency—

"(i) inability to achieve such compliance by selling shares or obligations of the institution, or failure to achieve such compliance when required to do so under subsection (c)(4) or (d)(2)(A) of section 35;

"(ii) failure to submit a capital-restoration plan acceptable to that agency within the time prescribed under section 35(c)(2)(D); or

"(iii) material failure to implement a capital-restoration plan submitted and accepted under section 35(c)(2).

"(J) Failure to have capital that equals or exceeds the critical capital level specified by the appropriate Federal banking agency under section 35(f)(1).".

(2) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR FOR NATIONAL BANKS.—Section 203(a) of the Bank Conservation Act (12 U.S.C. 203(a)) is amended—

(A) by striking "or" at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting a period; and

(C) by adding at the end the following new paragraphs:

"(9) in the case of a bank not in compliance with all currently applicable capital standards prescribed by the Comptroller—

"(i) the bank is unable to achieve such compliance by selling shares or obligations of the bank, or fails to achieve such compliance when required to do so under subsection (c)(4) or (d)(2)(A) of section 35 of the Federal Deposit Insurance Act,

"(ii) the bank fails to submit a capital-restoration plan acceptable to the Comptroller within the time prescribed under section 35(c)(2)(D), or

"(iii) the bank materially fails to implement a capital-restoration plan submitted and accepted under section 35(c)(2); or

"(10) the bank fails to have capital that equals or exceeds the critical capital level specified by the Comptroller under section 35(f)(1) of the Federal Deposit Insurance Act.".

(3) ADDITIONAL GROUNDS FOR APPOINTING RECEIVER FOR NATIONAL BANKS.—The Comptroller of the Currency may, after due examination of a national bank's affairs, appoint a receiver if—

(A) in the case of a national bank not in compliance with all currently applicable capital standards prescribed by the Comptroller—

(i) the bank is unable to achieve such compliance by selling shares or obligations of the bank, or fails to achieve such compliance when required to do so under subsection (c)(4) or (d)(2)(A) of section 35 of the Federal Deposit Insurance Act,

(ii) the bank fails to submit a capital-restoration plan acceptable to the Comptroller within the time prescribed under section 35(c)(2)(D), or

(iii) the bank materially fails to implement a capital-restoration plan submitted and accepted under section 35(c)(2); or

(B) the bank fails to have capital that equals or exceeds the critical capital level specified by the Comptroller under section 35(f)(1) of the Federal Deposit Insurance Act.

(4) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER FOR FEDERAL SAVINGS ASSOCIATIONS.—Section 5(d)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)(A)) is amended—

(A) by striking "or" at the end of clause (vii);

(B) by striking the period at the end of clause (viii) and inserting a semicolon; and

(C) by adding at the end the following new clauses:

"(ix) with respect to an association not in compliance with all currently applicable capital standards prescribed by the Director—

"(I) inability to achieve such compliance by selling shares or obligations of the association, or failure to achieve such compliance when required to do so under subsection (c)(4) or (d)(2)(A) of section 35 of the Federal Deposit Insurance Act,

"(II) failure to submit a capital-restoration plan acceptable to the Director within the time prescribed under section 35(c)(2)(D), or

"(III) material failure to implement a capital-restoration plan submitted and accepted under section 35(c)(2); or

"(10) failure to have capital that equals or exceeds the critical capital level specified by the Director under section 35(f)(1) of the Federal Deposit Insurance Act.".

(5) ADDITIONAL PROVISIONS RELATING TO APPOINTMENT OF CONSERVATOR OR RECEIVER.—Section 11(c) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)) is amended by adding at the end the following new paragraphs:

"(10) APPROPRIATE FEDERAL BANKING AGENCY MAY APPOINT CORPORATION AS CONSERVATOR OR RECEIVER FOR INSURED STATE DEPOSITORY INSTITUTION TO EFFECTUATE SECTION 35.—

"(A) IN GENERAL.—The appropriate Federal banking agency may appoint the Corporation as sole conservator or receiver of any insured State depository institution, after consultation with the appropriate State supervisor, if the appropriate Federal banking agency determines that—

"(i) 1 or more of the grounds specified in subparagraphs (I) and (J) of paragraph (5) exist with respect to that institution; and

"(ii) the appointment is necessary to carry out the purpose of section 35.

"(B) NONDELEGATION.—The appropriate Federal banking agency shall not delegate any action under this subsection.

"(11) CORPORATION MAY APPOINT ITSELF AS CONSERVATOR OR RECEIVER FOR INSURED DEPOSITORY INSTITUTION TO PREVENT LOSS TO DEPOSIT INSURANCE FUND.—

"(A) IN GENERAL.—The Board of Directors may appoint the Corporation as sole conservator or receiver of an insured depository institution, after consultation with the appropriate Federal banking agency (if that agency is not the Corporation) and the appropriate State supervisor (if any), if the Board of Directors determines that—

"(i) 1 or more of the grounds specified in any subparagraph of paragraph (5) exist with respect to the institution; and

"(ii) the appointment is necessary to reduce—

"(I) the risk that the affected deposit insurance fund would incur a loss with respect to the insured depository institution, or

"(II) any loss that the affected deposit insurance fund is expected to incur with respect to that institution.

"(B) NONDELEGATION.—The Board of Directors shall not delegate any action under this subsection.

"(12) DIRECTORS NOT LIABLE FOR CONSENTING TO APPOINTMENT OF CONSERVATOR OR RECEIVER.—The members of the board of directors of an insured depository institution shall not be liable to the institution's shareholders or creditors for consenting in good faith to the appointment of the Corporation or Resolution Trust Corporation as conservator or receiver for that institution.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect 270 days after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1990, except that paragraphs (11) and (12) of section 11(c) of the Federal Deposit Insurance Act (as added by subsection (c)(5) of this section) shall take effect on that date of enactment.

SEC. 5. ANNUAL EXAMINATIONS.

(a) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended —

(1) by redesignating subsection (e) as subsection (d); and

(2) by adding at the end the following new subsection:

"(e) EXAMINATION OF ALL INSURED DEPOSITORY INSTITUTIONS.—

"(1) ANNUAL EXAMINATIONS REQUIRED. — Each appropriate Federal banking agency shall, at least once during every 12-month period, conduct an on-site examination of each insured depository institution for which that agency is the appropriate Federal banking agency. The agency may conduct that examination directly or through a private contractor.

"(2) EXEMPTION FOR INSTITUTIONS IN CONSERVATORSHIP OR RECEIVERSHIP.—Paragraph (1) shall not apply with respect to any insured depository institution for which a conservator or receiver has been appointed.

"(3) USE OF PRIVATE CONTRACTORS.—

"(A) IN GENERAL.—The appropriate Federal banking agencies may retain private contractors as necessary to examine insured depository institutions.

"(B) RULES APPLICABLE TO PRIVATE CONTRACTORS.—

"(i) CONFLICTS OF INTEREST; CONFIDENTIALITY.—Each appropriate Federal banking agency shall prescribe regulations—

"(I) to prevent conflicts of interest involving private contractors or their officers or employees; and

"(II) to ensure that private contractors and their officers and employees refrain from any improper disclosure of confidential information obtained in performing functions under subparagraph (A).

"(ii) CRIMINAL PENALTIES FOR MISCONDUCT.—Sections 212, 213, 655, 1905, and 1906 of title 18, United States Code shall apply with respect to officers and employees of private contractors, insofar as those persons perform functions under subparagraph (A), in the same manner and to the same extent as if those persons were examiners employed by the United States to examine insured banks.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect immediately, except that section 10(e)(1) of the Federal Deposit Insurance Act (as added by subsection (a)) shall take effect 1 year after the date of enactment of this Act.

(c) TRANSITION RULE.—Notwithstanding section 10(e)(1) of the Federal Deposit Insurance Act, during the period beginning 1 year after the date of enactment of this Act and ending on December 31, 1993, the appropriate Federal banking agency is not required to conduct an on-site examination of an insured depository institution more often than once during every 18-month period unless—

(1) the institution, when most recently examined, received a composite CAMEL rating of 3, 4, or 5 under the Uniform Financial Institutions Rating System; or

(2) one or more persons acquired control of the institution during the preceding 12-month period.

SEC. 6. CAPITAL-MAINTENANCE COMMITMENTS.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(p) COMMITMENTS TO MAINTAIN THE CAPITAL OF INSURED DEPOSITORY INSTITUTIONS.—

"(1) IN GENERAL.—Any commitment to maintain the capital of an insured depository institution, made to the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Corporation, the Director of the Office of Thrift Supervision, or their predecessors, may be enforced under this Act.

"(2) OTHER AUTHORITY NOT AFFECTED.—The authority granted by paragraph (1) is in addition to any other authority of the agencies specified in that paragraph.".

SEC. 7. RESTRICTING RISKY BANK ACTIVITIES.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 23 the following new section:

"SEC. 24. BANK ACTIVITIES.

"(a) FDIC MAY RESTRICT RISKY ACTIVITIES OF BANKS.—The Corporation may, by regulation or order, restrict any activity of insured banks that poses a significant risk to the affected deposit insurance fund.

"(b) SAFEGUARDS ON EXERCISE OF STATE-AUTHORIZED POWERS EXCEEDING THE POWERS OF A NATIONAL BANK.—An insured State bank shall not engage as principal in any activity not permissible for a national bank unless—

"(1) the State bank is in compliance with the fully phased-in capital standards prescribed by the appropriate Federal banking agency;

"(2) the Corporation has not, by regulation or order, determined that engaging in that activity would pose a significant risk to the affected deposit insurance fund; or

"(3) the appropriate Federal banking agency has, by order, determined that the State bank's proposed conduct of the activity —

"(A) would pose no significant risk to the affected deposit insurance fund; and

"(B) would be consistent with the purposes of this Act.

"(c) SUBSIDIARIES OF INSURED STATE BANKS.—A subsidiary of an insured State bank shall not engage as principal in any activity not permissible for a subsidiary of a national bank unless—

"(1) the State bank is in compliance with all currently applicable capital standards prescribed by the appropriate Federal banking agency;

"(2) the Corporation has not, by regulation or order, determined that engaging in that activity in a subsidiary of an insured bank would pose a significant risk to the affected deposit insurance fund; or

"(3) the appropriate Federal banking agency has, by order, determined that the State bank's proposed conduct of the activity through the subsidiary —

"(A) would pose no significant risk to the affected deposit insurance fund; and

"(B) would be consistent with the purposes of this Act.

"(d) OTHER AUTHORITY NOT AFFECTED.—This section does not limit any authority of the Corporation, the appropriate Federal banking agency, or a State to impose more stringent restrictions.

"(e) EFFECTIVE DATE.—This section shall take effect upon the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1990, except that subsections (b) and (c) shall take effect one year after that date of enactment.".

SEC. 8. DEPOSITS BY BROKERS AND OTHER INTERMEDIARIES.

(a) IN GENERAL.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended to read as follows:

"SEC. 29. DEPOSITS BY INTERMEDIARIES.

"(a) DEPOSITS MAY NOT BE ACCEPTED FROM UNLICENSED INTERMEDIARIES.—An insured depository institution shall not accept deposits, directly or indirectly, from or through any intermediary (other than the intermediary's own funds) unless the intermediary is licensed under this section.

"(b) CERTAIN DEPOSITORY INSTITUTIONS INELIGIBLE TO ACCEPT DEPOSITS FROM ANY INTERMEDIARY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an insured depository institution shall not accept deposits, directly or indirectly, from or through any intermediary (other than the intermediary's own funds) unless the institution—

"(A) is in compliance with all currently applicable capital standards prescribed by the appropriate Federal banking agency; and

"(B) does not pay or offer to pay rates of interest for such deposits that significantly exceed rates paid or offered by the institution on deposits not made by or through intermediaries.

"(2) EXEMPTIONS.—The Corporation may, by order, exempt an insured depository institution from paragraph (1) if the Corporation determines that the institution's acceptance of deposits from or through intermediaries—

"(A) would be safe and sound; and

"(B) in the case of an institution for which the Corporation or the Resolution Trust Corporation is conservator, would be—

"(i) necessary so that the institution can meet its depositors' demands or pay its other obligations in the usual course of business; or

"(ii) consistent with the conservator's fiduciary duty to minimize the institution's losses.

"(c) LICENSING INTERMEDIARIES.—

"(1) REGULATIONS REQUIRED.—The Corporation shall prescribe regulations that do all of the following:

"(A) Establish a system for licensing intermediaries.

"(B) Require each applicant for a license to provide evidence satisfactory to the Corporation that the applicant can comply with this section and with regulations prescribed by the Corporation under this section.

"(C) Require a licensee to affirm in writing, under penalty of perjury, and as a condition of licensure, that the licensee—

"(i) will use the license only to make or facilitate the making of deposits on behalf of beneficial owners, and will ensure that no beneficial owner of deposits made by or through the licensee has a noncontingent, vested interest in such deposits that exceed $100,000; and

"(ii) will, upon request of the Corporation or any institution at which the licensee makes 1 or more deposits as intermediary, provide by the close of business on the following business day a list of—

"(I) the beneficial owners of the deposits made at that institution,

"(II) the beneficial owners' taxpayer identification or employer identification numbers, and

"(III) the beneficial owners' respective shares of the deposits.

"(D) Authorize the Corporation to revoke an intermediary's license—

"(i) if the intermediary fails to comply with this section or with regulations prescribed by the Corporation under this section; or

"(ii) for other good cause.

"(2) VERIFICATION SYSTEM REQUIRED.—The Corporation shall establish a system to enable insured depository institutions, current and prospective customers of an intermediary, and other persons to ascertain immediately, by telephone, whether the intermediary is licensed under this section.

"(d) REGULATION AUTHORIZED.—The Corporation may, by regulation or order, do any 1 or more of the following:

"(1) Prohibit any insured depository institution or any class of insured depository institutions from accepting deposits from or through any intermediary.

"(2) Establish the terms under which insured depository institutions, or any such institution or class of institutions, may accept deposits from or through intermediaries.

"(3) Establish the terms under which intermediaries may accept funds for deposit at insured depository institutions.

"(4) Require intermediaries to make such reports and other disclosures as may be appropriate to implement this section, protect the deposit insurance funds, and protect any insured depository institution from fraud or loss.

"(5) Require intermediaries to provide appropriate assurances that they will comply with this section and with regulations prescribed by the Corporation under this section.

"(6) Require intermediaries to pay such fees as will defray the costs of implementing this section.

"(e) INTERMEDIARY DEFINED.—

"(1) IN GENERAL.—For purposes of this section, and except as provided in paragraph (2), the term 'intermediary' means—

"(A) any person engaged in the business of making or facilitating the making of deposits at insured depository institutions on behalf of other persons;

"(B) any person engaged in the business of making deposits at insured depository institutions for the purpose of selling interests in those deposits;

"(C) any agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the account to fund a prearranged loan; or

"(D) any trustee or custodian of a pension or profit-sharing plan who makes or facilitates the making of deposits at insured depository institutions on behalf of plan participants.

"(2) EXCLUSIONS.—The term 'intermediary' excludes the following:

"(A) A trust department of an insured depository institution, if the trust in question places funds at insured depository institutions only as an incident to its other activities.

"(B) The trustee of a testamentary account.

"(C) The trustee of an irrevocable trust (other than a trust described in paragraph (1)(C)), as long as the trust in question places funds at insured depository institutions only as an incident to its other activities.

"(D) An agent or nominee—

"(i) who is not engaged in the business of placing funds with insured depository institutions;

"(ii) who receives no remuneration, directly or indirectly, from the insured depository institution for placing funds on behalf of other persons; and

"(iii) whose aggregate deposits as agent or nominee do not exceed such dollar amounts as the Corporation may by regulation prescribe.

"(E) An individual who makes deposits on behalf of members of his or her immediate family.

"(F) An employee of a licensed intermediary acting within the scope of his or her employment.

"(3) INCLUSION OF DEPOSITORY INSTITUTIONS ENGAGING IN CERTAIN ACTIVITIES.—Notwithstanding paragraph (2), the term 'intermediary' includes any insured depository institution, and any employee of any insured depository institution, which engages, directly or indirectly, in soliciting deposits by offering rates of interest on such deposits that are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions having the same type of charter in such depository institution's normal market area.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to all deposits accepted after the end of the 240-day period beginning on the date of enactment of this Act.

(c) DEADLINE FOR REGULATIONS.—The Corporation shall promulgate final regulations under section 29(c)(1) of the Federal Deposit Insurance Act (as added by subsection (a) of this section) not later than 180 days after the date of enactment of this Act, and those regulations shall take effect not later than 240 days after the date of enactment.

SEC. 9. LEAST-COST RESOLUTION.

Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended by adding at the end the following new subsection:

"(l) LEAST-COST RESOLUTION REQUIRED.—

"(1) IN GENERAL.—The Corporation shall not do or bind itself to do, directly or indirectly, any of the following with respect to any insured depository institution except to satisfy the Corporation's obligations to that institution's insured depositors at the least possible long-term cost to the affected deposit insurance fund (and then only insofar as necessary to satisfy those obligations):

"(A) Take any action under subsection (f)(1), (i)(3), (m), or (n) of section 11.

"(B) Take any action under subsection (c).

"(C) Expend any money from the Bank Insurance Fund or Savings Association Insurance Fund other than to pay for examination, supervision, and administration.

"(D) Assume or guarantee any liability.

"(2) DETERMINING LEAST COSTLY APPROACH.—In determining how to satisfy the Corporation's obligations to an institution's insured depositors at the least possible long-term cost to the affected deposit insurance fund, the Corporation shall comply with the following provisions:

"(A) PRESENT-VALUE ANALYSIS; DOCUMENTATION REQUIRED.—The Corporation shall—

"(i) evaluate alternatives on a present-value basis, using a realistic discount rate;

"(ii) document that evaluation; and

"(iii) retain the documentation for not less than 5 years.

"(B) FOREGONE TAX REVENUES.—Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, shall be treated as if they were revenues foregone by the affected deposit insurance fund.

"(C) ECONOMIC CONDITIONS AND FINANCIAL STABILITY.—The Corporation shall not consider how the transaction would affect economic conditions or financial stability except insofar as such effects would result in quantifiable costs to the affected deposit insurance fund.

"(3) CATEGORICAL RULE TO BE IMPLEMENTED.—

"(A) IN GENERAL.—Effective December 31, 1994, or at such earlier time as the Corporation determines to be appropriate, the Corporation shall not do or bind itself to do, directly or indirectly, anything described in any subparagraph of paragraph (1) with respect to any insured depository institution that would have the effect of preventing loss to—

"(i) depositors on the uninsured portion of deposits; or

"(ii) creditors other than depositors.

"(B) DEADLINE FOR REGULATIONS.—The Corporation shall promulgate regulations to implement subparagraph (A) not later than December 31, 1991, and such regulations shall take effect not later than December 31, 1993.

"(4) GAO AUDIT.—The General Accounting Office shall annually audit the Corporation's compliance with this subsection.

"(5) RULE OF CONSTRUCTION.—No provision of law shall be construed as permitting the Corporation to do anything prohibited by paragraph (1), (2), or (3) unless the provision expressly amends this subsection.".

SEC. 10. CROSS-GUARANTEE LIABILITY.

(a) IN GENERAL.—Section 5(e) of the Federal Deposit Insurance Act (12 U.S.C. 1815(e)) is amended—

(1) by amending the caption of the subsection to read as follows:

"(e) LIABILITY OF AFFILIATES FOR LOSSES TO CORPORATION.—";

(2) by amending paragraph (1)(A) to read as follows:

"(1) IN GENERAL.—

"(A) LIABILITY ESTABLISHED.—Any affiliate of an insured depository shall be liable for any loss incurred by the Corporation, or any loss which the Corporation reasonably anticipates incurring, after the date of enactment of the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1990 in connection with—

"(i) the default of that insured depository institution; or

"(ii) any assistance provided by the Corporation to that insured depository institution in danger of default.";

(3) by redesignating subparagraphs (B) and (C) of paragraph (1) as subparagraphs (C) and (D), respectively and inserting the following after subparagraph (A):

"(B) LIMIT ON LIABILITY.—The aggregate liability of all affiliates of an insured deposi-

tory institution, other than insured depository institutions and subsidiaries of insured depository institutions, shall not exceed 5 percent of the assets of the insured depository institution at the time of the default or assistance described in subparagraph (A).";

(4) in paragraph (2)(C)(ii)(III), by striking "other general or"; and

(5) in paragraph (2)(C)(ii), by striking subclause (IV).

(b) CONFORMING AMENDMENTS.—

(1) in subparagraph (C) of paragraph (1), as redesignated, by striking "insured depository institution" and inserting "affiliate";

(2) in subparagraph (D) of paragraph (1), as redesignated, by striking "insured depository institution" and inserting "affiliate", and by striking "institution" and inserting "affiliate";

(3) in paragraph (2)(A)(ii), by striking "commonly controlled insured depository institution" and inserting "affiliate" and by striking "commonly controlled depository institution's" and inserting "affiliate's";

(4) in paragraph (2)(A)(iii), by striking "commonly controlled depository institution" and inserting "affiliate";

(5) in paragraph (2)(B)(i), by striking "insured depository institution" and inserting "affiliate", and by striking "commonly controlled" and inserting "affiliated";

(6) in paragraph (2)(B)(ii), by striking "insured depository institution" and inserting "affiliate", by striking "institution's" and inserting "affiliate's", and by striking "commonly controlled" and inserting "affiliated";

(7) in paragraph (2)(C), by striking "insured depository institution" and inserting "affiliate";

(8) in paragraph (2)(C)(i), by striking "liabilities of the depository institution" and inserting "liabilities of the affiliate";

(9) in paragraph (2)(C)(i)(II), by striking "of the depository institution";

(10) in paragraph (2)(D)(i), by striking "such commonly controlled depository institutions" and inserting "affiliates", and by striking "such commonly controlled depository institution" and inserting "affiliate";

(11) in paragraph (2)(D)(ii), by striking "commonly controlled depository institutions" and inserting "affiliates", and by striking "commonly controlled depository institution" each place it appears and inserting "affiliate";

(12) in paragraph (3)(B), by striking "commonly controlled depository institutions" where it appears in clauses (ii) and (iii) and inserting "affiliates";

(13) in paragraph (4), by striking "insured depository institution" each place it appears and inserting "affiliate", by striking "institution's" and inserting "affiliate's", and by redesignating clauses (i) and (ii) as subparagraphs (A) and (B);

(14) in paragraph (5), by striking the catchline and inserting "(5) EXEMPTIONS.—";

(15) in paragraph (5)(A), by striking "insured depository institution" and inserting "affiliate";

(16) in paragraph (5)(B), by striking "all other insured depository institution affiliates of such depository institution" and inserting "all affiliates", and by striking "regard to" and inserting "using the exemption contained in";

(17) in paragraph (7), by striking "depository institution shall not be treated as commonly controlled" and inserting "affiliate shall have no liability";

(18) in paragraph (7)(A), by striking "1 depository institution controls another" and inserting "control was acquired";

(19) in paragraph (7)(B), by striking "the controlling bank and all other insured depository institution affiliates of such controlling bank" and inserting "all insured depository institution affiliates" and by striking "regard to" and inserting "using the exemption contained in";

(20) in paragraph (8), by striking "depository institution" and inserting "affiliate" and by striking "insured depository institution which is an affiliate of each such depository institution" and inserting "affiliated insured depository institution"; and

(21) by striking paragraph (9).

SEC. 11. RISK-BASED ASSESSMENTS; INCENTIVES TO HAVE GREATER CAPITAL.

Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating paragraph (9) as paragraph (11), and by inserting after paragraph (8) the following new paragraphs:

"(9) RISK-BASED ASSESSMENTS.—

"(A) IN GENERAL.—The Board of Directors may, by regulation, establish a risk-based assessment system for insured depository institutions.

"(B) RISK-BASED ASSESSMENT SYSTEM DEFINED.—For purposes of this paragraph, the term 'risk-based assessment system' means a system relating insured depository institutions' assessment rates to the risk those institutions pose to the affected deposit insurance fund.

"(C) PRIVATE REINSURANCE AUTHORIZED.—In carrying out this paragraph, the Corporation may obtain private reinsurance covering not more than 10 percent of any loss the Corporation incurs with respect to an insured depository institution, and base that institution's assessment rates (in whole or in part) on the cost of that reinsurance.

"(D) SYSTEM FOR EACH FUND MAY BE ESTABLISHED SEPARATELY.—The Board of Directors may establish separate risk-based assessment systems for Bank Insurance Fund members and Savings Association Insurance Fund members.

"(10) INCENTIVES TO HAVE GREATER CAPITAL.—

"(A) IN GENERAL.—The Board of Directors may, by regulation, establish a capital-based assessment system for insured depository institutions.

"(B) CAPITAL-BASED ASSESSMENT SYSTEM DEFINED.—For purposes of this paragraph, the term 'capital-based assessment system' means a system relating insured depository institutions' assessment rates to those institutions' capital.

"(C) SYSTEM FOR EACH FUND MAY BE ESTABLISHED SEPARATELY.—The Board of Directors may establish separate capital-based assessment systems for Bank Insurance Fund members and Savings Association Insurance Fund members.

"(D) RELATION TO RISK-BASED ASSESSMENT SYSTEM.—A capital-based assessment system may be part of, or in addition to, any risk-based assessment system established under paragraph (9).".

SEC. 12. MULTIPLE ACCOUNTS; PASS-THROUGH INSURANCE COVERAGE.

(a) DEFINITION OF INSURED DEPOSIT.—Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended—

(1) by amending paragraph (1) to read as follows:

"(m)(1) Subject to paragraph (2) of this subsection, the term 'insured deposit' means the net amount due to any depositor, as determined under section 11(a)(1). For the purpose of clarifying and defining the insurance coverage under this subsection and subsection (i) of section 7, the Corporation is authorized to define, with such classifications and exceptions as it may prescribe, terms used in those subsections, in subsection (p) of section 3, and in subsections (a) and (i) of section 11, and the extent of the insurance coverage resulting therefrom."; and

(2) by adding at the end the following new paragraph:

"(3) PASS-THROUGH INSURANCE RESTRICTED TO INTERESTS IN TAX-QUALIFIED RETIREMENT PLANS.—Deposits may not be insured on a pro-rata or pass-through basis, except for—

"(A) the interests of individual participants in a plan meeting the requirements of section 401(a) of the Internal Revenue Code of 1986 that includes a trust exempt from tax under section 501(a); and

"(B) individual retirement arrangements, as described in the Internal Revenue Code of 1986.".

(b) INSURED AMOUNT PAYABLE.—Section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)) is amended to read as follows:

"(a)(1)(A) The Corporation shall insure the deposits of all insured depository institutions as provided in this Act.

"(B) All deposits shall be registered under the taxpayer identification or employer identification numbers of 1 or more persons.

"(C) The maximum amount of any depositor's insured deposit at any insured depository institution shall be $100,000.

"(D) In determining the amount due to any depositor for deposits in an insured depository institution, the following provisions shall apply:

"(i) The Corporation shall—

"(I) aggregate the amounts of all deposits in the institution registered under the depositor's taxpayer identification or employer identification number and allocated to the depositor under clause (iii); and

"(II) deduct any offsets.

"(ii) The amount due to the depositor is the lesser of—

"(I) the amount calculated under clause (i); or

"(II) $100,000.

"(iii) For purposes of clause (i)—

"(I) deposits registered under the taxpayer identification or employer identification number of 1 person shall be allocated to that person; and

"(II) deposits registered under the taxpayer identification or employer identification numbers of more than 1 person shall be allocated equally among those persons, except to the extent that the Corporation has provided otherwise by regulation. In no case shall the Corporation allocate to those persons a total amount exceeding the amount of the deposits.".

(c) CONFORMING AMENDMENTS.—

(1) Section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) is amended by striking "Except with respect to trust funds which are owned by a depositor referred to in paragraph (2) of section 11(a) of this Act, trust" and inserting "Trust".

(2) Section 11(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)) is amended to read as follows:

"(2) [Repealed.]".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1992, except that such amendments shall not apply prior the stated maturity of any time deposit made prior to September 25, 1990.

SEC. 13. GRANTING DEPOSIT INSURANCE.

Section 4 of the Federal Deposit Insurance Act (12 U.S.C. 1814) is amended—

(1) by amending subsection (b) to read as follows:

"(b) CERTIFICATION BY OTHER BANKING AGENCIES.—Every national bank which is authorized to commence or resume the business of banking, and which is engaged in the business of receiving deposits other than trust funds as herein defined, and every noninsured national nonmember bank which becomes a member of the Federal Reserve System, and every noninsured State bank which is converted into a national member bank or which becomes a member of the Federal Reserve System, and which is engaged in the business of receiving deposits other than trust funds as herein defined, shall be an insured depository institution upon—

"(1) application to the Corporation; and

"(2) receipt by the Corporation of a certificate which is issued to the Corporation by the Comptroller of the Currency in the case of a national member bank which is authorized to commence or resume the business of banking or a State bank which is converted into a national member bank, or by the Board of Governors of the Federal Reserve System in the case of a national nonmember bank or a State bank which becomes a member of the Federal Reserve System, and which meets the requirements of subsection (d), unless insurance is denied by the Board of Directors.";

(2) by redesignating subsections (c) and (d) as subsections (i) and (j), respectively; and

(3) by inserting after subsection (b) the following new subsections:

"(c) INTERIM NATIONAL BANKING ASSOCIATIONS.—In the case of any interim national bank that is chartered by the Comptroller of the Currency and will not open for business, such bank shall be an insured depository institution upon the issuance of such bank's charter by the Comptroller.

"(d) CERTIFICATE REQUIREMENTS.—Any certificate issued to the Corporation under subsection (b) shall state that the bank is authorized to transact the business of banking in the case of a national member bank, or is a member of the Federal Reserve System in the case of a State bank which is converted into a national member bank, or a national nonmember bank or a State bank which becomes a member of the Federal Reserve System, and that consideration has been given to the factors enumerated in section 6 of this Act.

"(e) REVIEW REQUIREMENTS.—In reviewing any certificate and application referred to in subsection (b), the Board of Directors shall consider the factors described in paragraphs (1), (2), (3), (4), (5), and (7) of section 6 of this Act in determining whether to deny insurance.

"(f) NOTICE OF DENIAL OF APPLICATION.—If the Board of Directors, after giving due deference to the determination of the Comptroller of the Currency or the Board of Governors of the Federal Reserve System, as appropriate, with respect to such factors, does not concur in the determination of the Comptroller or the Board of Governors, as appropriate, the Board of Directors shall promptly notify the Comptroller or the Board of Governors, as appropriate, that insurance has been denied, giving specific reasons in writing for the Corporation's determination with reference to the factors described in paragraphs (1), (2), (3), (4), (5), and (7) of section 6, and no insurance shall be granted.

"(g) VOTING REQUIREMENTS.—The authority of the Board of Directors to make any determination to deny insurance under this subsection may not be delegated by the Board of Directors and any such determination may be made only upon a vote of not less than 3 members of the Board of Directors.

"(h) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—In the case of an insured bank which is admitted to membership in the Federal Reserve System or an insured State bank which is converted into a national member bank, such application and certificate shall not be required, and the bank shall continue as an insured bank.".

SEC. 14. DISCLOSURE.

(a) REPORTS OF FINANCIAL CONDITION BY INSURED DEPOSITORY INSTITUTIONS.—

(1) IN GENERAL.—Section 7(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended—

(A) by striking "(3)" and inserting the following:

"(3) QUARTERLY REPORTS.—

"(A) IN GENERAL.—"; and

(B) by inserting after subparagraph (A) the following:

"(B) ADDITIONAL INFORMATION.—In accordance with regulations prescribed by the appropriate Federal banking agency, the report of condition required by subparagraph (A) shall, in the case of banks with total assets of more than $1,000,000,000 also contain—

"(i) estimates of the aggregate market value of assets and liabilities and the resulting estimated net worth, and supporting data and assumptions used in preparing the estimates; and

"(ii) disaggregated reports of assets, including participation in highly-leveraged transactions, holdings of noninvestment grade securities, commercial and industrial loans by sector, and other assets as specified by the appropriate Federal banking agency.

"(C) REPORT ON SECURITIES HOLDERS AND NONBANKING ACTIVITIES.—At the same time as it submits the report required by subparagraph (A), each depository institution shall submit to the appropriate Federal banking agency a report containing—

"(i) the names of the holders of more than 5 percent of the insured institution's equity securities and the maximum amount of securities held by each such holder during the preceding quarter; and

"(ii) a description of activities conducted by the institution and its subsidiaries that are not permitted for national banks or for bank holding companies, with data on the magnitude of the activity.

"(D) PUBLIC ACCESS TO REPORTS.—Each appropriate Federal banking agency shall make reports required pursuant to this subsection available to the public upon request pursuant to section 552 of title 5, United States Code. The provisions of paragraphs (4) and (8) of section 552(b) of such title shall not apply to any such request. For the purpose of this subparagraph, beginning 75 days after the reporting date for such reports, section 552(b)(6)(A) of such title shall apply with respect to statistical information contained in those reports by substituting 'five' for 'ten' and section 552(b)(6)(B) shall not apply.".

(2) EFFECTIVE DATES.—

(A) QUARTERLY REPORTS.—Except as provided in subparagraph (B), the appropriate Federal banking agency shall promulgate final regulations requiring insured depository institutions to submit quarterly reports containing the information described in the amendments made by paragraph (1) beginning not later than January 1, 1993.

(B) MARKET VALUE ESTIMATE.—Reports containing the market value estimates required by section 7(a)(3)(B)(i) of the Federal Deposit Insurance Act, as amended by paragraph (1), shall be submitted beginning not later than January 1, 1993. If all of the appropriate Federal banking agencies determine that compliance by that date is not feasible, those reports shall be submitted beginning not later than January 1, 1994.

(b) REPORTS BY FEDERAL BANKING AGENCIES.—

(1) IN GENERAL.—Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by—

(A) redesignating subsections (b) through (g) as subsections (c) through (h); and

(B) inserting after subsection (a) the following new subsection:

"(b) REPORTS TO CONGRESS.—

"(1) IN GENERAL.—Each appropriate Federal banking agency shall submit an annual report to the Congress which shall contain—

"(A) estimates of the number and aggregate assets of insured depository institutions likely to fail during each of the 3 years following submission of the report and of the costs to the Bank Insurance Fund and Savings Association Insurance Fund as a result of such failures, and supporting data and assumptions used in preparing the estimates;

"(B) a report on the conduct by insured depository institutions and their subsidiaries of activities not permitted for national banks or for bank holding companies, by State or Federal charter status;

"(C) a report on the number and assets of insured depository institutions that, under uniform definitions established by the appropriate Federal banking agencies, are insolvent, approaching insolvency, weakly capitalized, adequately capitalized, and strongly capitalized; and

"(D) a list of all cease-and-desist orders, supervisory agreements, and capital restoration plans entered into in the previous 12 months, and the extent of compliance with outstanding orders, agreements, and plans.

"(2) METHOD OF FILING.—Reports required by this subsection shall be submitted to the Congress in accordance with the requirements of subsection (a)(2) and shall be made available to the public.".

(2) EFFECTIVE DATE.—The reports required pursuant to the amendments made by paragraph (1) shall be filed annually not later than March 1 of the following year.

(c) INSURANCE FUND REPORTS.—Section 17(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1827(a)(1)) is amended by—

(1) striking "and" at the end of subparagraph (E);

(2) striking the period at the end of subparagraph (F), and inserting a semicolon in lieu thereof; and

(3) inserting after subparagraph (F) the following:

"(G) information pertaining to failed depository institutions, including—

"(i) the name and total assets of each insured depository institution that failed during the 12-month period preceding submission of the report, including those that received assistance under section 13(c), and the actual or estimated cost of resolution or assistance to each such depository institution;

"(ii) for each failed institution, the location by State, the State or Federal charter

status, and Federal Reserve System membership status;

"(iii) a breakdown of the number and aggregate assets of all failed institutions by region, State or Federal charter status, and Federal Reserve System membership status;

"(iv) a report of concentrations of liabilities and assets of failed institutions, including a breakdown by State or Federal charter status;

"(H) the number and aggregate assets of depository institutions on the problem bank list or any other list which identifies institutions which may fail or require assistance or resolution within the foreseeable future, by State or Federal charter status and Federal Reserve System membership status, at the time of submission of the report;

"(I) an estimate of the number and aggregate assets of banks that are likely to be included on the problem bank list or other list described in subparagraph (H) in each of the 3 years following submission of the report, by State or Federal charter status and Federal Reserve System membership status, and supporting data and assumptions used in preparing the estimate; and

"(J) the estimated resolution and assistance costs which are likely to be expended in each of the 3 years following submission of the report, including an explanation of all data and assumptions used in developing estimates required by this paragraph.".

(d) CONFIDENTIAL ACCESS TO INFORMATION BY GAO AND CBO; GAO REVIEWS AND REPORTS.—

(1) IN GENERAL.—The Federal Deposit Insurance Act is amended by adding at the end the following:

"SEC. 36. CONFIDENTIAL ACCESS TO CERTAIN INFORMATION.

"Each Federal banking agency shall make available to the Comptroller General and the Congressional Budget Office, upon request from the Comptroller General or the Director of the Congressional Budget Office, the following information:

"(1) the agency's internal rating system and each institution's rating; and

"(2) a list, identifying individual insured institutions, of those institutions which the agency believes may fail within the foreseeable future or which the agency believes may require assistance or resolution.

Information provided to the Comptroller General or the Director pursuant to this subsection shall not be disclosed except in summary form or in other analytical reports in which the identity of a specific institution or other person is not revealed.".

(2) REVIEWS AND REPORTS.—Section 17(f) of the Federal Deposit Insurance Act (12 U.S.C. 1827(f)) is amended

(A) by inserting "(1)" after "(f)"; and

(B) by adding at the end the following:

"(2) The Comptroller General shall review the oversight by the Federal banking agencies to determine whether reports of condition under section 7(a) require information to reasonably reflect the condition of depository institutions. The Comptroller General shall include in each report under paragraph (1) the results of such review and any recommendations to improve the reports so that—

"(A) the information required reasonably reflects the condition of depository institutions; and

"(B) the information provided facilitates regulatory actions, including early intervention.

"(3) Each report under paragraph (1) shall also contain—

"(A) an audit of the failure estimates contained in the most recent reports under subparagraphs (I) and (J) of subsection (a)(1); and

"(B) an audit of the failure estimates contained in the most recent reports under subsection (b)(1).".

(e) DISCLOSURE BY UNINSURED DEPOSITORY INSTITUTIONS.—Section 28(h) of the Federal Deposit Insurance Act (12 U.S.C. 1831e(h)) is amended to read as follows:

"(h) DISCLOSURE BY UNINSURED DEPOSITORY INSTITUTION.—

"(1) IN GENERAL.—Any depository institution the deposits of which are not insured by the Corporation under this Act shall disclose clearly and conspicuously that the depository institution's deposits are 'not federally insured'—

"(A) on each signature card, passbook, and instrument evidencing a deposit;

"(B) in periodic statements of account; and

"(C) in all advertising.

"(2) EXCEPTION FOR INSTITUTIONS NOT ACCEPTING RETAIL DEPOSITS.—Paragraph (1) shall not apply with respect to advertising by any depository institution that, within the United States, does not accept initial deposits of less than $100,000 from individuals who are citizens or residents of the United States, other than money received in connection with any draft or similar instrument issued to transmit money.

"(3) MANNER AND CONTENT OF DISCLOSURE.—The Corporation may, by regulation or order, prescribe the manner and content of the disclosure under paragraph (1).

"(4) ENFORCEMENT.—Compliance with the requirements of this subsection, and any regulation prescribed or order issued under this subsection, shall be enforced under section 8 in the same manner and to the same extent as if the depository institution were an insured State nonmember bank.".

(f) ACCOUNTING GUIDANCE.—

(1) DISCLOSURE GUIDELINES.—The Securities and Exchange Commission, in consultation with the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Director of the Office of Thrift Supervision, shall facilitate the development of disclosure guidelines under generally accepted accounting principles applicable to insured depository institutions for the purposes of—

(A) accurately reflecting (at market value, to the extent feasible) the economic condition of those institutions in financial statements and reports of condition; and

(B) facilitating effective supervision of insured depository institutions, and prompt corrective action to resolve troubled institutions' problems at no cost to the Bank Insurance Fund or Savings Association Insurance Fund.

(2) INTERPRETIVE GUIDANCE.—The Securities and Exchange Commission, in consultation with the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Director of the Office of Thrift Supervision, shall facilitate the development of guidelines used in interpreting existing accounting standards under generally accepted accounting principles for depository institutions in a manner consistent with the purposes of—

(A) requiring earlier disclosure of problem loans; and

(B) preventing delay in recognizing losses and reporting inadequate loss reserves that may result in loss to the Bank Insurance Fund or the Savings Association Insurance Fund.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1990

SUMMARY

A. Preliminary Points

1. This is a work in progress: Constructive criticism is welcome. No part of the proposal is cast in stone. No alternative or additional reform has been ruled out.

2. Other reforms are also needed: Whatever legislation ultimately results should not only reform our deposit insurance system but also make signficiant strides toward modernizing our financial services industry and our system of bank and thrift regulation. No amount of deposit insurance reform can make banks and thrifts profitable if they cannot compete effectively with other financial service providers at home and abroad. We should also consider seriously the idea of consolidating regulation of our depository institutions, possibly into a single—fully independent—regulator, separate and distinct from the deposit insurer.

B. Highlights of the Proposal

Requires regulators to examine banks and thrifts annually and take prompt corrective action to recapitalize or resolve weak institutions before they become liabilities to the deposit insurance fund.

Requires stronger capital standards—the new standards must be strong enough to provide an adequate margin of safety to the deposit insurance fund.

Sets goals for reform of accounting principles that apply to insured depository institutions and establishes a process for working toward those goals.

Curtails risk-taking by State-chartered commercial banks at the expense of the Federal deposit insurance system.

Ends the FDIC policy of too-big-to-fail by requiring the FDIC to resolve failed institutions by means of whatever resolution strategy costs the deposit insurance funds least and prohibiting the FDIC from taking actions that have the effect of protecting uninsured depositors.

Authorizes the FDIC to implement a system of risk-based or capital-based deposit insurance premiums, and to use private reinsurance as a basis for setting risk-based premiums.

Limits the scope of the Federal Government's deposit insurance liabilitis by restricting deposit brokerage and other deposits by intermediaries, limiting pass-through deposit insurance, and limiting deposit insurance to $100,000 per individual per institution.

Makes the owners of depository institutions stand behind those institutions by clarifying the enforceability of capital maintenance agreements; requiring affiliated depository institutions to be responsible for losses they cause the FDIC; and establishing limited cross-guarantee liability for nondepository institution affiliates of banks and thrifts.

Gives the financial markets, the regulators, and the general public better information about the condition of financial institutions and the banking and thrift industries generally by imposing new reporting and disclosure obligations on financial institutions and their regulators.

The proposal provides appropriate transition rules for the implementation of these reforms.

C. Detailed Outline of Proposal

1. Prompt Corrective Action Requirement

a. In General: The proposal requires regulators to take prompt corrective action to recapitalize or resolve weak institutions. The goal of this prompt corrective action requirement—albeit a goal that probably cannot be realized in all cases—is to resolve troubled institutions at no cost to the deposit insurance funds. To make this goal realistic, the proposal requires strengthened capital levels; annual on-site examinations of all insured depository institutions; and improvements in accounting principles that will yield more accurate financial statements and reports of condition.

b. Annual Examination Requirement: The proposal requires every Federally insured depository institution to receive an on-site examination at least once annually. Such a requirement has been endorsed by Federal Reserve Chairman Alan Greenspan, among others, in his July 12 testimony before the Committee. Because not all of the banking regulatory agencies currently have adequate staff to conduct annual on-site examinations, the proposal authorizes the banking regulatory agencies to contract with private-sector firms for examination service. Such private-sectors firms would be bound by appropriate conflict-of-interest and confidentiality restrictions.

c. Prompt Corrective Action Requirement: The proposal would require regulators to impose increasingly stringent restrictions on the activities and operations of troubled depository institutions as the capital of those institutions falls below required levels. One set of restrictions will come into force when an institution's capital falls below the minimum capital standards established by regulation or regulatory guideline. These will not be currently applicable minimum standards, but strengthened standards, as further described below. If the institution's capital level continues to deteriorate and falls below a lower, "critical capital level," the regulators will have to sell or close the institution or take an alternative measure equally protective of the deposit insurance fund.

To understand how this part of the proposal will work in practice, it helps to imagine, say, a bank whose capital is initially adequate, but deteriorating.

(1) Level One: Minimum Capital Level: The first set of restrictions will come into force when the bank's capital falls below the minimum capital levels established by the regulators. These will not be the same minimum capital levels in force today, but new, stronger minimum levels, discussed further below.

When the bank's capital falls below the minimum level, it will have to do the following three things:

(a) Stop paying dividends: The bank will be prohibited from paying dividends. This restriction protects the deposit insurance funds by ensuring that weak institutions do not deplete their capital for the benefit of their shareholders.

(b) Limit its asset growth: Asset growth will be restricted to an amount equal to net interest credited on deposits. All growth will have to be fully capitalized.

(c) File a capital restoration plan: The bank will have to file a capital restoration plan with 30 days after it falls out of compliance with capital standards. The plan will have to (i) specify how the institution will attain compliance with capital standards, (ii) specify what activities the bank will engage in, and (iii) be acceptable to its regulator. If the bank is part of a holding company structure, its parent will have to guarantee compliance with the plan. This will press the parent company to decide promptly whether to recapitalize the bank, sell it, or stand behind it until it recovers.

If the bank does not submit and implement a capital restoration plan, its regulator would have to require it to recapitalize through sale of stock unless such a sale would not further the goal of protecting the deposit insurance fund against loss. In addition, the regulator could also restrict the bank's transactions with affiliates; restrict the bank's activities; limit the interest rates the bank pays for deposits; require election of a new board of directors, its chief executive officer, or its chief financial officer. In addition, institutions that fail to submit or materially violate their capital restoration plans will be prohibited from paying bonuses or granting salary increases to their executive officers.

(2) Level Two: Critical Capital Level: If the bank's capital level continues to deteriorate, it will eventually fall below a second key level—the "critical capital level." How that level will be set is discussed further below.

When the banks' capital position falls below the critical capital level, three sets of additional restrictions will come into play.

(a) Restrictions on activities and operations: The bank will become subject to a broad range of stringent restrictions on its activities and operations. These restrictions will require regulatory scrutiny of large or potentially abusive transactions.

(b) Subordinated debt payments prohibited: The institution will be prohibited from making any payments of interest or principal on subordinated debt. Subordinated debt holders should not stand in line ahead of the deposit insurance funds and the taxpayers when it comes to dealing with troubled institutions. Because existing subordinated debt holders may have different expectations, however, the proposal would exempt holders of subordinated debt outstanding as of October 25, 1990 and not extended or otherwise renegotiated after that date.

(c) Conservatorship or equally protective action: Within 30 days after the bank falls below the critical capital level, its primary regulator must either appoint a conservator or receiver or take an alternate action more likely to protect the deposit insurance fund from loss and document why that alternative is superior to appointment of a conservator or receiver.

(3) Setting the Minimum and Critical Capital Levels: The proposal does not specify the minimum and critical capital levels numerically. Instead, it requires the Federal banking agencies to specify these levels and provides a mandate on how to set them. The nature of that mandate is this: capital levels—both the minimum capital level and the critical capital level—should be set so as to make the prompt corrective action mechanism outlined above successful in preventing losses to the deposit insurance funds. This represents a different approach to capital requirements than Congress adopted in FIRREA—a functional standard of capital adequacy instead of a numerical standard.

d. Accounting Reform: The proposal specifies two goals for the accounting principles applicable to insured depository institutions and establishes a process to generate reformed principles that satisfy those goals. The first goal of accounting reform is that accounting principles for insured depository institutions should result in financial statements and reports that accurately reflect—at market value, to the extent feasible—the economic condition of those institutions. The second goal is that the accounting principles should facilitate both effective supervision of depository institutions generally and prompt corrective action to resolve troubled institutions. Again, the idea is to make the prompt corrective action mechanism a realistic way of preventing losses to the deposit insurance funds.

Several witnesses before the Banking Committee have endorsed the concept of mark-to-market, or market value accounting, notably SEC Chairman Breeden in his September 10 appearance. The goals set forth in this proposal are consistent with the spirit of Chairman Breeden's statement. But the proposal would not require depository institutions to adopt mark-to-market accounting—it only requires movement in the direction of market-value accounting to the extent feasible. The feasibility problem is significant: depository institutions hold large volumes of illiquid assets that are not readily susceptible to market-value accounting.

The proposal would kick off a concentrated effort to find ways to more accurately value the illiquid portions of depository institution portfolios. The proposal would direct the SEC, in conjunction with the Federal banking agencies, to facilitate the development of accounting principles to meet these goals. The reformed accounting principles would have to be at least as conservative as generally accepted accounting principles. The proposal would also authorize the Federal banking agencies to adopt accounting principles more conservative than generally accepted accounting principles as appropriate to facilitate effective supervision of depository institutions generally and, specifically, to help meet the goal of the prompt corrective action mechanism—resolution of troubled institutions at no cost to the deposit insurance funds.

e. Internal Audit Requirement: To help the regulators and Congress understand where breakdowns in the system occur, the proposal would require an internal investigation by the inspector general of the failed institution's primary regulator whenever a failure results in a loss to one of the deposit insurance funds. Those reports would be available for review by Congress and the General Accounting Office. To provide time for reforms such as the prompt corrective action requirement to take effect, the proposal includes a generous transition rule for this requirement. This requirement also would have the effect of giving primary regulators greater incentive to act in the interests of the deposit insurance fund.

f. Expanded FDIC Conservatorship Authority: The proposal would give the FDIC independent authority to appoint conservators for depository institutions when necessary to protect the deposit insurance funds. This provision will enable the FDIC to protect the deposit insurance funds even when the failing institution's primary regulator will not.

g. Broad Support: The general concept of requiring prompt corrective action to recapitalize or resolve failing institutions has been endorsed by numerous witnesses before the Banking Committee. These witnesses include Treasury Secretary Brady, Federal Reserve Chairman Greenspan, SEC Chairman Breeden, Comptroller General Bowsher, CBO Director Reischauer, and several academic experts.

2. Risky Activities Curtailed

The thrift crisis illustrates the danger of allowing States to leverage Federal deposit insurance for the benefit of their local tax bases. Congress has already addressed this problem in the thrift context. The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 generally limited State-chartered thrifts to activities permissible for federally chartered thrifts, with limited exceptions. As of yet, State-chartered banks have not presented the Federal deposit insurance system with the same kind of risk that State-chartered thrifts occasioned. But the potential for problems is real, as demonstrated by Delaware's recent enactment of legislation permitting Delaware-chartered banks to engage in general insurance underwriting activities.

This proposal would generally prohibit State banks and their subsidiaries from engaging in any activity impermissible for national banks unless three conditions are satisfied. First, the State bank must fully comply with applicable capital standards established by its primary regulator (currently, capital standards for State-chartered banks are set by the FDIC or the Federal Reserve Board, depending on whether the bank is a Federal Reserve member). Second, the appropriate Federal banking agency must have previously ruled that the activity would pose no significant risk to the deposit insurance fund. Finally, the FDIC must not have found that the activity in question would pose such a risk to the funds.

3. Too-big-to-fail Curtailed

The term "too-big-to-fail" has at least two different meanings. Different elements of the proposal respond to each sense of the term.

a. Making Depositors Whole: Most commonly, the term "too-big-to-fail" is used to describe a policy whereby all depositors are made whole when a financial institution fails. The proposal would eliminate too-big-to-fail in this sense by requiring the FDIC to choose, in all cases, the resolution strategy that imposes the least cost on the deposit insurance fund, and to document the analysis underlying that choice. In addition, the proposal would prohibit the FDIC from taking any action—after December 31, 1994—that would have the effect of protecting uninsured depositors of a depository institution. Rigorously applied, these provisions should eliminate the practice of making uninsured depositors whole.

Although the FDIC claims that least-cost resolution is its current practice, this proposal would force the FDIC to perform its least cost analysis on a present-value basis, and to document its analysis. The GAO, in turn, would audit these analyses.

b. Dealing With Unacceptably Large Failures: Sometimes, the term "too-big-to-fail" is used to describe a policy of using Federal assistance to keep institutions open whose collapse might harm the entire financial system. The Continental Illinois rescue is the classic illustration of this.

Although the Federal government's ability to stave off a collapse of the payments system or the financial system should not be constrained, there is no clear reason why the deposit insurer should be charged with the task of taking such protective action. In other countries, it would be the responsibility of the central bank.

This proposal would make the situation in the United States more nearly parallel to that in other countries. It would leave the Federal Reserve Board with the ability to take appropriate action is to prevent a collapse of the financial system. But it would take such discretion away from the FDIC. The FDIC's job would be refocused on the narrower task of insuring deposits at America's depository institutions, subject to the terms and conditions specified by law.

4. Changes in Deposit Insurance Premium Pricing

This proposal would make several changes in the provisions of current law that govern the prices depository institutions pay for deposit insurance coverage.

a. *Risk-based Premiums Authorized:* The proposal would authorize the FDIC to institute risk-based deposit insurance premiums. Recognizing that considerable disagreement exists over how a risk-based system could be constructed and whether it would be effective, it would not require the FDIC to implement such a system. Nevertheless, it would expressly authorize the FDIC to divide depository institutions into risk-based categories and to impose different premiums on members of the different categories. The proposal further authorizes the FDIC to use private reinsurance as a basis for setting risk-based premiums.

b. *Capital-based Premiums Authorized:* The proposal also authorizes the FDIC to divide depository institutions into categories based upon their levels of capitalization and to impose lower deposit insurance premiums on institutions that exceed their capital requirements. This is a crude form of risk-based pricing, insofar as well-capitalized institutions have a low probability of failing. But the real purpose of authorizing such a pricing scheme is to give depository institutions an incentive to hold more capital.

The capital-based pricing and risk-based pricing schemes authorized by this proposal are designed to be fully complementary with one another.

c. *Assessment of Foreign Deposits:* This bill does not address the assessment base issue directly. To a considerable extent, however, the bill does address the issue indirectly, through its reforms in the too-big-to-fail area. By requiring the FDIC to resolve institutions at least cost to the deposit insurance fund, and by barring the FDIC from taking actions to protect uninsured depositors after 1994, this bill would effectively prohibit the FDIC from protecting foreign deposits.

5. Restrictions on the Scope of Deposit Insurance Coverage

a. Licensing Deposit Brokers and Intermediaries: In FIRREA, Congress prohibited the use of brokered deposits by undercapitalized institutions. This proposal would go farther by requiring the FDIC to license and register individuals and entities in the business of making deposits at insured institutions on behalf of third parties—including not only traditional deposit brokers, but other deposit intermediaries such as mutual funds and pension funds. It would generally forbid depository institutions from accepting deposits on behalf of third parties from unlicensed deposit intermediaries.

The FDIC would be given authority to regulate all aspects of deposit brokerage that involve risk to the deposit insurance funds, including power to (1) prohibit institutions or classes of institutions from accepting deposits on behalf of third parties; (2) establish the rules under which deposit brokers and intermediaries and depository institutions may accept such deposits; and (3) impose appropriate reporting requirements on deposit brokers or agents. The FDIC could also revoke or suspend the license of any deposit broker or intermediary that fails to comply with its regulations.

b. Restrictions on Pass-through Deposit Insurance: Currently, entities such as mutual funds and pension funds can make deposits of millions, or even hundreds of millions of dollars, all of it fully insured on the theory that deposit insurance is "passed through" to individual investors, none of whom have more than a $100,000 interest in the deposit. This proposal would restrict pass-through deposit insurance to certain tax-advantaged retirement funds. While a complete ban on pass-through deposit insurance might be preferable from a theoretical standpoint, the exception for tax-advantaged retirement funds should avoid needless anxiety over the safety of retirement savings.

c. Multiple Accounts Limited: The proposal would eliminate the existing loophole in the deposit insurance scheme that allows individuals to have multiple fully insured $100,000 accounts at a single insured depository institution. For purposes of calculating compliance with the $100,000 limit, current law aggregates only accounts held "in the same right and capacity." That language permits an individual to hold $100,000 in his or her own name, another $100,000 jointly with his or her spouse, another $100,000 in trust for a child, and so forth. This proposal would eliminate that abuse by repealing the right and capacity language of current law. It will not forbid individuals from having multiple accounts at insured depository institutions, but it will ensure that no individual receives more than $100,000 in total insurance coverage on accounts at any one depository institution.

6. Source of Strength

The bill would remove any doubt about Federal regulators' authority to enforce commitments by parent corporations to maintain the capital of their insured depository institution subsidiaries. It would also extend cross-guarantee liability to the subsidiaries and affiliates of insured depository institutions. Insured depository institutions and their subsidiaries would be fully liable for any loss incurred by the FDIC in connection with the failure of affiliated insured depository institutions. The liability of nondepository institution affiliates would be limited to five percent of the assets of the failed insured depository institution.

7. Enhanced Disclosure Obligations

a. Disclosure by Depository Institutions: The proposal requires depository institutions to provide more specific information in their quarterly reports so that the financial condition of insured depository institutions can be better assessed and monitored. In particular, the proposal would impose four new quarterly disclosure requirements: (1) major shareholders; (2) disaggregated reports of assets; (3) non-banking activities; and (4) market value estimates of assets, liabilities and net worth (in accordance with regulations prescribed by their regulators). The first three requirements would take effect 6 months after enactment; these simply require more regular and systematic disclosure of information already available to the regulators. The market value disclosure requirement would take effect by January 1, 1993.

The proposal also requires uninsured depository institutions to disclose their uninsured status to depositors.

b. Disclosure by the Regulatory Agencies: The proposal also requires each of the regulatory agencies to make an annual report on

(1) likely failures of depository institutions over the next 3 years, (2) involvement of insured depository institutions in non-traditional activities; (3) capital levels of insured depository institutions; and (4) enforcement actions and subsequent compliance. The proposal clarifies the authority of the GAO and CBO to obtain CAMEL ratings of depository institutions and problem bank lists.

c. Disclosure by the Insurance Funds: The proposal requires more accurate and detailed disclosures to the Congress and the public on the condition of the deposit insurance funds. It requires annual reports on depository institution failures during the previous 12 months and projections of problem institutions three years into the future.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1990

KEY PROVISIONS IN OUTLINE

1. Prompt Corrective Action: The heart of the proposed bill is a requirement for regulators to resolve the problems of federally insured depository institutions promptly—so that they do not become liabilities to the deposit insurance funds and the taxpayers. The bill provides for a graduated series of restrictions that culminates in selling or closing the institution before it becomes insolvent.

The key components of the prompt corrective action requirement are as follows:

If an institution falls below required capital levels, the institution:

Cannot pay dividends.

Must file a capital-restoration plan.

Will have its asset growth limited. An institution cannot grow unless it has an acceptable capital-restoration plan. If it has such a plan, regulators can allow limited growth (up to net interest credited). All growth must be fully capitalized.

If the institution is part of a holding company structure, the parent company must guarantee the institution's compliance with the plan. This will press the parent to decide promptly whether to recapitalize the institution, sell it, or stand behind it until it recovers.

If the institution fails to submit and implement a plan, regulators must act to resolve the institution's problems by taking one or more of the following steps:

Require the institution to recapitalize by selling stock or other securities. Such a recapitalization requirement would be the norm, but regulators could dispense with it if it would serve no useful purpose.

Restrict the institution's transactions with affiliates.

Restrict its activities.

Limit the interest rates it pays for deposits.

Require a new election for the institution's board of directors.

Dismiss its CEO, CFO, or directors.

In addition, an institution failing to submit and implement a plan could not pay bonuses or grant pay raises to its top officials.

If the institution's capital deteriorates further, additional safeguards take effect:

Stringent activity restrictions apply to the institution—requiring regulatory scrutiny of large or potentially abusive transactions.

The institution cannot make payments on its subordinated debt (although interest could continue to accrue). This prevents capital needed to protect the FDIC from being given to creditors who, by definition, have agreed to stand in line behind the FDIC. Subordinated debt outstanding on October 25, 1990, would be exempt from this rule until October 25, 1995.

Within 30 days, regulators must either (1) appoint a conservator or receiver or (2) take alternative action that will better protect the deposit insurance fund. If regulators adopt the second approach, they must document why it is superior to conservatorship or receivership, and must frequently review its effectiveness. These provisions take effect when an institution's capital falls below a certain level set in the regulators' rule. That level must be set high enough so that resolutions can "in nearly all cases" be effected at no cost to the deposit insurance fund.

2. Strengthening Capital Standards: The proposed bill requires the regulators to:

Strengthen capital standards to make sure they provide an adequate margin of safety to the deposit insurance fund.

Improve the risk based standards: to make sure they deal adequately with the risks of risky or nontraditional activities (current bank standards generally do not deal with risks greater than those of an ordinary commercial loan); and to control interest-rate risk.

3. Restrictions on Risky Bank Activities:

a. State-Authorized Powers.

The proposed bill would curtail the States' ability to exploit Federal deposit insurance by permitting State banks to engage in risky activities. Risky State-authorized powers were a major cause of FSLIC's downfall. Although such powers are not the norm among commercial banks, the potential for them exists.

Specifically, the bill prohibits State banks and their subsidiaries from engaging as principal in any activity impermissible for national banks unless three conditions are met:

The State bank must fully comply with the capital standards set by its primary Federal regulator (the FDIC or Federal Reserve).

The bank's primary Federal regulator must have ruled that the activity would pose no significant risk to the deposit insurance fund.

The FDIC must not have found that the proposed activity would pose a significant risk to the deposit insurance fund.

b. Risky National Bank Activities.

The FDIC could also restrict national bank activities that pose a significant risk to the deposit insurance fund.

4. Brokered Deposits and Other Deposits Through Intermediaries: The proposed bill strengthens and expands FIRREA's restrictions on brokered deposits, which prohibited troubled institutions from accepting brokered deposits without FDIC approval:

While FIRREA covered only deposit brokers and money desks, the bill will also cover other entities that make large deposits in an agency capacity (e.g., mutual funds and pension funds) and receive $100,000 in deposit insurance coverage for each investor.

The bill also subjects deposit brokers and agents to FDIC licensing and regulation. The FDIC can suspend or revoke the licenses of those who abuse the system or otherwise violate the rules. But such penalties would not affect the insurance coverage of deposits the broker made while licensed.

5. Too Big to Fail: To curb the practice of treating banks as too-big-to-fail, the proposed bill would require the FDIC to resolve failed institutions using the resolution method least costly for the deposit insurance fund, and to document that the method chosen was cheaper than the alternatives. The bill reinforces that rule by prohibiting the FDIC—after December 31, 1994—from taking any action that would have the effect of protecting depository institutions' uninsured depositors and other creditors.

6. Deposit Insurance Premiums: The proposed bill contains two important provisions relating to premiums:

a. Assessment Rates: Current law specifies the premiums that the FDIC may impose, requiring the FDIC to make specific findings in order to increase the premiums and limiting how much premiums may increase in any given year. The proposed bill eliminates these restrictions, and requires the FDIC to set premiums so as to achieve the targeted reserve level ($1.25 in reserves for each $100 in insured deposits) within a reasonable time.

b. Risk-based Premiums: The bill would permit, but not require, the FDIC to implement a system of risk-based premiums. The proposal authorizes the FDIC to use private reinsurance as a basis for setting risk-based premiums.

The FDIC would be encouraged to charge lower premiums to well-capitalized institutions than to poorly capitalized institutions.

7. Source of Strength:

a. Capital-Maintenance Commitments: The parent companies of federally insured depository institutions sometimes make commitments to maintain those institutions' capital—and thus prevent the institutions from becoming a liability to the deposit insurance fund. The proposed bill would remove any doubt about whether those commitments are enforceable.

b. Cross-Guarantee: FIRREA generally made federally insured depository institutions liable to the FDIC for losses caused by affiliated depository institutions. But this liability can be avoided by transferring assets to subsidiaries or nondepository affiliates. The bill would extend cross-guarantee liability to subsidiaries and affiliates. Subsidiaries' liability would be unlimited, as is already the case with their parent banks. But affiliates' liability would be limited to 5% of the failed institution's assets at the time of failure.

8. Annual Examinations: The proposed bill requires every federally insured depository institution to receive an on-site examination at least once annually. Many commercial banks currently to 2-3 years between examinations. The bill authorizes Federal regulators to retain private contractors to perform such examinations, subject to appropriate confidentiality and conflict-of-interest restrictions.

9. Other Noteworthy Provisions:

The proposed bill would also:

Direct the SEC to facilitate the development of accounting principles that more accurately reflect the real condition of insured depository institutions (including market-value principles, to the extent feasible). Authorize the banking regulators to apply more conservative accounting principles to facilitate effective supervision and prompt corrective action.

Require better disclosure: by depository institutions about their financial condition; by regulators about the health of the institutions they regulate; and by the FDIC about the condition and prospects of the deposit insurance funds.

Require GAO auditing to ensure effective implementation of the prompt corrective action requirement and monitor the accuracy of regulatory disclosures.

Establish a uniform set of rules governing the extension of insurance coverage by the FDIC to the deposits of banks and thrifts. Currently, the FDIC has discretion over whether to insure thrifts, but no discretion over whether to insure national banks.

Obligate uninsured depository institutions to disclose their uninsured status to consumers.

COMPREHENSIVE DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1990

QUESTIONS AND ANSWERS

Why do we have a deposit insurance system in the first place?

The Federal deposit insurance system was created in the 1930s in response to a large number of bank runs in the late 1920s and 1930s. Bank runs are a real problem for depository institutions. Because depositors, especially small depositors, have very little way of knowing how healthy a bank or thrift may be, they have every incentive to take their money out at the first rumor of trouble—even if there is no truth to it. Moreover, they have every reason to take their money out fast, because they worry that, if they wait, there won't be any money left. A run can put even a healthy bank or thrift out of business.

The idea behind Federal deposit insurance is to take away the reason to run. If depositors know the Federal government will always redeem their deposits, they don't have to worry about the strength of their bank or thrift. By and large, the theory seems to work in practice. Before the system was created, bank panics were a recurring event in American history. Since the system was created, they have virtually disappeared.

Why do we need deposit insurance reform?

The last five years have been disastrous for the Federal deposit insurance system. The old insurance fund for savings and loans—the FSLIC—failed and had to be rescued by the taxpayers at a cost of hundreds of billions of dollars. The insurance fund for banks is now at roughly half of its required reserve level and falling.

Earlier this year, Professor Ken Scott of Stanford University suggested to the Banking Committee that "[w]hat you can ask of a deposit insurance system is that, at the very minimum, it not magnify the problem because of the way in which it distorts incentives and in the way in which it is administered."

Our system of Federal deposit insurance fails the Scott test. In the judgment of numerous experts who testified before the Committee, our current system magnifies the problem both because of the way it distorts incentives and because of the way in which it is administered.

We can't afford another bailout of the Federal deposit insurance system. But in the course of thirteen days of Banking Committee hearings on financial modernization and deposit insurance, numerous witnesses advised the Committee that further bailouts will be needed unless we reform the system now.

Specifically, what's wrong with the current system?

The witnesses who have appeared before the Banking Committee have cited numerous problems with the system. But a few particular aspects of the system came in for especially severe criticism. These aspects included:

Forbearance: Almost everybody now recognizes that we could have managed the thrift crisis at lower cost if we had stepped in and closed insolvent institutions when they failed, instead of giving them months and even years to try to "grow out" of their problems. Many experts testified that a primary cause of such forbearance is the fact that regulators lack adequate incentives to take prompt corrective action when an institution gets into trouble. Ken Scott stated this argument well when he said that "[a] policy of delay and forbearance will always be more appealing than a policy of prompt closure upon economic insolvency. If the closure decision is a discretionary, subjective judgment by the regulators, they are vulnerable to pressure and they will often yield to it."

Brokered deposits: Although many experts believe that there are appropriate uses of brokered deposits, there is a virtual consensus that brokered deposits were a primary cause of the savings and loan collapse. Gerald Corrigan, President of the Federal Reserve Bank of New York said that in his judgment "[t]he worst single abuse of the deposit insurance system has been the abuse of the brokered deposit system arrangements." Bruce Maffeo, a former Justice Department prosecutor, called brokered deposits "the financial equivalent of crack."

Too-big-to-fail: Although some experts believe that the Federal government will always need the discretion to step in and rescue very large financial institutions when their collapse might jeopardize the stability of the financial system as a whole, virtually every witness felt that the government has gone too far in implementing a too-big-to-fail policy. Thomas Labrecque, CEO of Chase Manhattan Bank, told the Committee that "[w]e must eliminate the . . . so-called "too big to fail" policy under which the very largest banks are given de facto 100 percent protection of all deposits. Such a policy is inconsistent with the original intent of deposit insurance and is unfair to smaller banks, but big bankers neither want it nor need it.

Multiple accounts: Many experts criticized the current system for allowing depositors to keep an unlimited number of fully insured accounts at different financial institutions and for allowing depositors to avoid the $100,000 limit at a given institution by using such devices as joint accounts. Thus, Jane Uebelhoer of the community group ACORN, said "[t]he important point is attempting to protect against people attempting to play the system to win big at taxpayers' expense."

Incorrect pricing of insurance premiums: Under the current system all banks pay a uniform price for their deposit insurance coverage. Thrifts pay a uniform price, too—although different from banks. Bert Ely diagnosed the problem well when he said that "[t]oday, the drunk drivers of the banking and thrift world pay no more for their deposit insurance than do their sober siblings." And Ulrich Cartellieri of Deutsche Bank was one of many experts who proposed that "a more market-oriented and, therefore, superior solution could be developed by introducing risk-related deposit insurance premiums."

State powers: Many witnesses testified that abuse of State investment powers contributed significantly to the problems of the savings and loan insurance fund. Losses in California and Texas alone—two of the states that most significantly deregulated thrift investment powers in the early 1980s—accounted for 70% of the cost to the savings and loan insurance fund in 1988. Although the evidence suggests the states are doing a significantly better job of regulating their commerical banks, there is still reason for concern. For example, even as the Banking Committee's hearings were in progress, the State of Delaware enacted legislation permitting its commerical banks to engage in insurance underwriting. Many witnesses suggested the need for tighter Federal controls on State powers. Larry Connell, former Chairman of the National Credit Union Administration, testified that "the Federal insurance coverage is a federal issue and certainly the Federal insurance agency should have veto power or some way to control the risk by State, by state-chartered institutions. They shouldn't have a free ride on the federal system." Bert Ely put it even more simply: "He who take the risks should regulate. And so I think that, since the Federal Treasury is bearing the risk of failure, the Federal government has to be preeminent in the regulation."

So what does this proposal do about the forbearance problem?

The proposal would sharply curtail the ability of regulators to let a weak institution slide. Under the proposed bill, regulators would have to take *prompt corrective action* to stabilize a troubled institution and get it either recapitalized, sold, or closed, before it becomes a liability to the taxpayers. The goal of the proposal would be to get the institution recapitalized, sold, or closed *before* it becomes a liability to its deposit insurance fund. Robert Eisenbeis, Professor of Banking at the University of North Carolina at Chapel Hill backed this proposal emphatically in his testimony before the Senate Banking Committee on the condition of the Bank Insurance Fund, September 12. Professor Eisenbeis said, "I think the point can't be emphasized enough that we don't lose a dime if we close institutions before their net worth goes to zero. The fact that you see these losses appearing in the FDIC fund means that they didn't close those institutions in time." Others who have endorsed this concept in testimony before the Committee include Alan Greenspan, Richard Breeden, Robert Reischauer, and George Kaufman.

How does this "prompt corrective action" requirement work?

Suppose you are a failing financial institution. You started out with a good capital position, but it's deteriorating. When your capital declines below the minimum required level, three things will happen to you. First, you will be prohibited from paying dividends. Second, your asset growth will be sharply restricted—to an amount equal to the interest you credit on your deposits. Third, you will have to file a capital restoration plan that explains how you plan to restore your capital to required levels. If you fail to file the plan, or if you materially violate the plan, a number of very tough additional restrictions will come into force.

Now suppose you have filed your plan, and it is acceptable to your regulator, but your capital continues to deteriorate. At some point, it will decline below the "critical capital level." This is a level of capital that the regulators will have to specify. The proposal requires them to specify a level such that they can resolve the problems of institutions whose capital falls below the level at no cost to the deposit insurance fund in virtually all cases.

When your capital falls below the critical capital level, you will be prohibited from making principal and interest payments on any subordinated debt you may have outstanding. You will also become subject to a

range of very tough restrictions on your activities and operations. And, finally and most importantly, within 30 days, your primary regulator will have to appoint a conservator or receiver for you, or take some other action that is more likely to protect the deposit insurance fund from loss.

Can a prompt corrective action requirement be effective without higher capital?

Probably not. The prompt corrective action system depends on regulators detecting deterioration at a depository institution and stepping in to fix the problem before the institution becomes insolvent. Current capital levels are low enough that, in a lot of cases, the institution is already insolvent or nearly insolvent before regulators even become aware that it is undercapitalized.

That's why the proposal would require the regulators to establish new, minimum capital levels that are high enough to make realistic the goal of preventing losses to the deposit insurance fund. This represents a new legislative approach to capital standards—a functional standard of capital adequacy, not a numerical standard.

How do you expect institutions to raise additional capital when the economy is weakening and capital is already in short supply? Aren't you changing the rules of the game at exactly the wrong time?

There are several answers to this. First, note that raising new capital is not the only way to achieve higher capital levels. Institutions can also raise their capital levels by selling assets, or retaining earnings. Second, the proposal requires strengthened capital standards only to the extent needed to protect the deposit insurance funds. More aggressive supervision and prompter corrective action by regulators will also help prctect the deposit insurance funds and so can offset the need for greater capital to some degree. Finally, while it is true that we would be better off today if we had raised capital levels several years ago, the risks to the deposit insurance funds of attempting to weather an economic downturn without raising capital would be very high.

What about mark-to-market accounting? Don't you need that too?

Regulators will need better and more timely information on the condition of the institutions they supervise if they are ever going to realize the goal of preventing troubled institutions from becoming liabilities to the deposit insurance system. But that doesn't necessarily mean we should move all the way to market-value accounting right away.

To help develop better and more timely information, the proposal establishes two goals for reform of accounting principles applicable to insured depository institutions. First, those principles should result in financial statements and reports that accurately reflect—at market value, to the extent feasible—the economic condition of those institutions. Second, they should facilitate both effective supervision of depository institutions generally and prompt corrective action to resolve troubled institutions in particular. The proposal charges the SEC, in consultation with the Federal banking agencies, with responsibility for developing the reformed account principles.

This is not, however, a requirement for depository institutions to immediately adopt mark-to-market accounting. The goal is to move in the direction of market value accounting over time, and only to the extent feasible. Because there is no current consensus as to how many of the illiquid assets that depository institutions hold should be valued, any effort to force immediate adoption of market-value accounting would probably encounter significant technical problems.

What does the proposal do about too-big-to-fail?

The proposal would effectively eliminate too-big-to-fail through a multi-faceted approach to the problem. First, note that the proposal's prompt corrective action requirements eliminate the problem of inequitable treatment for large and small institutions. All institutions will have to be either recapitalized, sold, or closed before they become costs to the deposit insurance funds. Second, the bill requires the FDIC, in closing failed institutions, to choose the resolution strategy that costs the deposit insurance fund least. Third, the bill prohibits the FDIC from taking any action to resolve a troubled institution that has the effect of protecting uninsured depositors. The bill would leave intact the ability of the Federal Reserve Board to intervene as a safety net of last resort to protect the stability of the financial system.

Does the proposal do anything about brokered deposits?

Absolutely. The proposal would eliminate abuse of the deposit insurance system by deposit brokerage. The proposal requires the FDIC to license and regulate deposit brokers and other deposit intermediaries such as mutual funds and pension funds. The FDIC will be empowered to revoke or suspend such licenses whenever abuses occur. The FDIC will also be able to prohibit any institution or class of institutions from accepting deposits through brokers or agents, and to regulate the terms on which brokers and other deposit intermediaries can accept funds for deposit in insured depository institutions.

Is more red tape really a good solution to the deposit brokerage problem?

It is true that mutual funds are already heavily regulated and that pension funds face heavy legal obligations as fiduciaries of their beneficiaries. But the interests of FDIC diverge from the existing regulatory system for mutual funds, and the duty of a fiduciary to stem maximum advantage for beneficiaries may fly squarely in the face of the FDIC's need to protect the deposit insurance fund. Moreover, the regulatory scheme proposed need not be especially burdensome. On the contrary, the proposal envisions a system in which license would be given out expeditiously, if not presumptively, with a minimum of paperwork and delay, and revoked or suspended only for cause.

What about risky activities by State-chartered institutions?

The proposal would restrict the ability of State legislatures and bank regulators to leverage Federal deposit insurance for the benefit of their local tax bases. It does that by generally prohibiting State banks from engaging as principal in any activity not permissible for national banks except where (1) the State bank is in full compliance with all applicable capital standards; (2) the FDIC has determined that the activity in question poses no significant risk to the deposit insurance fund. In addition, the institution's primary regulator would have to determine that the State bank's proposed activity would pose no significant risk to the deposit insurance fund. These restrictions are similar in significant respects to restrictions imposed on State-chartered thrift institutions as part of the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

What does this plan do about the $100,000 limit?

The proposal legislation leaves the basic $100,000 limit intact. Although the idea of lowering the $100,000 limit has received considerable attention from the press, most of the testimony before the Committee was quite negative on this proposal. Thus, Bert Ely testified on May 17 that "[r]educing deposit insurance coverage from the present $100,000 limit will have almost no disciplinary effect. Congress will spill political blood unnecessarily in a totally futile exercise if it lowers the $100,000 deposit insurance limit." And Jane Uebelhoer of ACORN said that "reducing the level from $100,000 to $50,000 is probably a matter of indifference."

Does the proposal limit deposit insurance to $100,000 per depositor?

No, it does not. Although Chairman Riegle remains interested in this idea, he is not convinced that a way has been found to impose and enforce such a requirement without converting the FDIC into an enormous data-processing agency like the IRS or the Social Security Administration and without requiring the FDIC to continuously monitor the bank balances of all depositors. Senator Riegle is continuing to explore this idea and welcomes specific proposals as to how it might be implemented.

The proposal does close several of the existing loopholes in the $100,000 limit. Under the proposal, for example, it would no longer be possible for wealthy depositors to keep hundreds of thousands or even millions of dollars at a single institution by using joint accounts or trust accounts. Every account would have to be registered to one and only one taxpayer identification or employer identification number. Also, the proposal includes new restrictions on pass-through deposit insurance that will make it much harder to get around the $100,000 limit by using intermediaries to make deposits.

The one loophole that would remain in the $100,000 limit is this: a depositor could still have essentially limitless amounts of insured deposits, provided that no more than $100,000 is deposited at any one institution. Effectively, the proposal would limit deposit insurance to $100,000 per depositor per insured institution.

Why does the proposal leave that loophole open?

It's not an easy loophole to close. When you start to look at what it would take to close the loophole from a technical perspective, it is hard to find a way to do it that would not be either enormously expensive or very intrusive on individual privacy. Given the very small number of individuals with more than $100,000 to deposit, it may well be that the benefits of making the $100,000 limit airtight simply are not worth the costs. But the idea is still under active consideration.

What does the proposal do about risk-based premiums?

The proposal would authorize the FDIC to implement a system of risk-based deposit insurance premiums. In deference to the fact that some disagreement exists over the appropriate means of pricing such premiums, the bill does not require implementation of risk-based premiums, but merely gives the FDIC discretion.

What does the proposal do about assessing foreign deposits?

The proposal would leave the existing deposit insurance assessment base unchanged. Through its limitations on too-big-to-fail,

however, the bill would effectively prevent the FDIC from extending deposit insurance coverage to most foreign deposits after 1994. The fact that the bill does not address the assessment base issue directly does not reflect any determination on Senator Riegle's part to the effect that the existing assessment base should be maintained. The question is still under consideration and will clearly have to be addressed and decided one way or the others in the course of legislative action on deposit insurance reform.

What else does the proposal do?

The proposal contains numerous individual reforms. Some other noteworthy reforms include:

Enhancing the ability of Federal regulators to enforce capital maintenance agreements against the parent corporations of banks and thrifts.

Requiring annual, on-site examinations of every insured depository institution.

Expanded reporting requirements for banks and thrifts and for the Federal bank regulatory agencies.

How does this bill differ from S. 3045—the BIF premium bill?

S. 3045 is a narrowly-focused bill intended to provide an interim solution to a very specific and immediate problem: the protential cash shortfall of the Bank Insurance Fund. S. 3045 does nothing, however, to address the underlying problems of the deposit insurance system that have caused so much difficulty for both the thrift and bank insurance funds in the past several years. This proposal, by contrast, is addressed to those underlying issues.

Is this the final word from Senator Riegle on deposit insurance reform?

Not at all. Senator Riegle recognizes that there are numerous potentially meritorious approaches to deposit insurance reform. His intention in advancing this proposal is merely to put something concrete on the table as a basis for discussion. He also recognizes that other deposit insurance reform proposals will be forthcoming from his colleagues and from the Administration. He welcomes those proposals and will review them with an entirely open mind. No provision of his own proposal is cast in stone. He looks forward to working with his colleagues in the Senate and the House and with the Administration to move comprehensive deposit insurance reform through to final enactment in the next Congress.

[Excerpts from the Senate Banking Committee Record]

DEPOSIT INSURANCE REFORM[1]

BROKERED DEPOSITS

Senator BRYAN. Do you have a concept such as brokered deposits where in effect vast funds are infused into the financial system and packaged in hundred thousand dollar increments in this country which, as you know, is our limit?

Mr. LESLIE. Not up to now.

Senator BRYAN. Mr. Cartellieri.

Mr. CARTELLIERI. Nor do we.

Mr. KUSUKAWA. In Japan, no we haven't got that sort of a brokered sort of deposit.

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[O]ne of the lessons from the thrift crisis is their ability to gather deposits through brokered deposits and increase the size of the institution and the funds they had available very rapidly without additional capital and quite frankly without additional management. Then to take those funds out and invest them in want turned out to be very risky matters is certainly a lesson America has to learn and look at. I concur there ought to be regulation. (Vallandingham; 4/24/90, p. 67)

* * * * *

[T]he worst single abuse of the deposit insurance system has been the abuse of the brokered deposit system arrangements, and I think if we could fix that by finding a workable way to limit the $100,000 formally insured deposit to each individual or each taxpaying entity, that that would be a step in the right direction. (Corrigan; 5/3/90, p. 24)

* * * * *

[T]here are certain characteristics of brokered deposits which have advantages, namely, that they do improve the liquidity of the system. They do facilitate to a considerable extent the marshalling of depository funds. Nonetheless, they do potentially create significant risks, and what I am saying is, rather than abolish them, I think one should focus on those aspects of brokered deposits which are positive and try to find the means legislatively to keep that aspect of the system in place without exposing ourselves to the abuses which have clearly existed in recent years. (Greenspan; 7/12/90, p. 53-54)

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[B]rokered money was literally the financial equivalent of crack. You saw small savings and loan institutions and small banks all of a sudden pumped up on steroids with a $10 million asset, which was nothing more than an accumulation of brokered money that they had to pay back the principal on * * * and in some cases they were hung out to dry for as long as 20 years with interest payments that were extortionate by any other measure. So they had that rock in their knapsack just going out of the gate. (Maffeo; 8/1/90, p. 97)

CAPITAL

Broader activities for banking organizations ought to be linked to strong capital requirements, preferably risk-based. We learned all too painfully from the thrift crisis that a crucial protection for the taxpayer is requiring firms to have a substantial amount of their own money at risk to absorb losses. (Brady; 7/25/90, p. 24)

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[T]he ideal that you can have broad powers and no capital by the owners and the executives of the business does not make any sense at all. (Brady; 7/25/90, p. 65)

* * * * *

First, higher capital would strengthen the incentives of bank owners and managers to evaluate more prudently the risks and benefits of portfolio choices because more of their money would be at risk. Second, higher capital levels would create a larger buffer between the mistakes of bank owners and managers and the need to draw on the deposit insurance fund. And, third, requiring capital imposes on bank managers and additional market test: they must convince investors that the expected returns justify the commitment of risk capital. (Greenspan; 7/12/90, p. 17)

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[T]he most promising approach to reform both bank capital and supervisory policies. Both would be designed to reduce the value of the insurance subsidy. Neither would rule out either concurrent or subsequent additions to deposit insurance reform. In fact, higher capital, by reducing the need for and thereby the value of deposit insurance, would make subsequent reform easier. (Greenspan; 7/12/90, p. 16)

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Adequate capital is a very important safeguard for insurance deposits. A key problem with the present system we think has been a failure to enforce meaningful capital standards and to deal promptly with problem institutions. (Whipple; 4/24/90, p. 10)

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[T]here is a consensus that . . . capital must be adequate to provide an incentive for an insured depository institution not to engage in excessively risky activities. This is the major lesson from the thrift crisis. As capital declines, the risk of loss is clearly shifted from the owners to the depositors, and if insured to the insurer, and if exclusively a federal insurer to the taxpayer. (Barth; 5/22/90, p. 14)

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The effectiveness of a regulatory system based on regulation of the operating companies—the banks, the broker dealers in the public markets—would depend on, among other things, the existence of adequate serious capital and accounting rules in each regulated entity. Capital provides a cushion in the event of financial difficulties of the subsidiary, but also a cushion as to the impact of financial problems in any parent holding company or other affiliate. This capital cushion is essential to enable regulators to take action before capital is completely depleted and before a deposit insurance or SIPC fund must step in to make up the difference. (Breeden; 7/19, p. 26-27)

COINSURANCE

Senator SHELBY. And in the UK, for example, if I had a saving account in your bank, in Barclays Bank, and I had $100,000, would it be totally insured, partially insured or insured to how much?

Mr. LESLIE. It would be insured to, I think it's to 20,000 pounds . . . Up to 75 percent with a maximum of 20,000. . . .

Senator SHELBY. And it would insure 75 percent of your deposit in case the bank failed?

Mr. LESLIE. Yes, indeed, and only for personal individuals. (6/13/90, p. 58-59)

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Senator SHELBY. What about Japan, how does it work?

Mr. KUSUKAWA. Well, the limitation of the insurance is 10 million yen. That is about $70,000, and it covers only the principal, not the interest accrued. . . .

Senator SHELBY. Let's give a case example. Let's say I had $100,000 or the equivalent of $100,000 in yen, however it translates today, in your bank.

Mr. KUSUKAWA. Yes.

Senator SHELBY. How much of that would be insured in case your bank went under?

Mr. KUSUKAWA. If we went bankrupt, you will get only $70,000 back. (6/13/90, p. 60-61)

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Attempting to discipline large depositors through some sort of coinsurance program also will have little disciplining effect. Coinsurance is premised on the idea that the too-big-to-fail policy should be abandoned. (Ely; 5/17/90, p. 14)

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[1]Excerpts selected for import, focus, and representativeness. These selections are not and are not intended to be exhaustive of relevant testimony before the Banking Committee.

EXAMINATIONS

Where it is not already the practice, full in-bank supervisory reviews—focusing on asset portfolios and off-balance sheet commitments—should occur at least annually, and the results of such examinations should be used to evaluate the adequacy of the bank's capital. (Greenspan; 7/12, p. 18)

INSURING ON A PER DEPOSITOR BASIS

[T]he worst single abuse of the deposit insurance system has been the abuse of the broker deposit system arrangements, and I think if we could fix that by finding a workable way to limit the $100,000 formally insured deposit to each individual or each taxpaying entity, that that would be a step in the right direction. (Corrigan; 5/3/90, p. 24)

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Chairman RIEGLE. Chairman Greenspan, in your presentation here, you indicate that perhaps we ought to go to a system where an individual citizen could have only one insured deposit of $100,000. Am I correct in thinking that might be one approach that you——

Chairman GREENSPAN. That is certainly one approach which we believe should be evaluated. It has a number of difficulties with it, but it does clearly require some evaluation because it would be, in my sense and the sense of my colleagues, a significant reform.

Chairman RIEGLE. But perhaps a useful reform.

Chairman GREENSPAN. I think it would be a useful reform, but let's remember that it's a technically difficult thing to implement. (7/12/90, p. 29)

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Senator DIXON. What do you think about one account? That is to say, limiting it? If we do not change the number, limiting it to one $100,000 account per person?

Secretary BRADY. If you were going to start any place, that would be the place to start. (7/25/90, p. 46-47)

INTERSTATE BRANCHING

It is our view that the removal of all barriers to interstate banking, which is directly related to the formation of a stable deposit base, would both enhance profit opportunities significantly as well as improve the safety and soundness of the system. (Chisolm; 6/20/90, p. 21-22)

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We share the concerns expressed by Chairman Greenspan that the interstate branching rules, for example, contained in the banking laws ought to be repealed. That they force activity across State lines to be conducted in a higher cost form of organization, and that institutions ought to have the flexibility to branch across State lines as well as to acquire separate banks across State lines. (Breeden; 7/19/90, p. 31)

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"I think [repeal of the McFadden Act] is important and it is time to move in that direction. (Breeden; 7/19/90, p. 66)

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The McFadden Act forces state member and national banks to deliver interstate services only through separately capitalized bank holding company subsidiaries, where permitted by state law, rather than through branches. Such a system reduces the ability of many small banks to diversify geographically and raises costs for all banking organizations that operate in more than one state, a curious requirement as we search for ways to make banks more competitive and more profitable. The McFadden Act ought to be amended to permit interstate branching by banks. (Greenspan; 7/12/90, p. 25)

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[I]nterstate branching permits banks to diversify and avoid being too closely tied to the vicissitudes of local economies. (Brady; 7/25/90, p. 25)0

MARKET DISCIPLINE

On the issue of deposit insurance, we think there is a need to instill greater market discipline. While there is certainly a need to protect small depositors who in the end really don't have the expertise or the resources to assess market risk factors, it may not be appropriate to fully extend such protection to sophisticated or large investors. (Whipple; 4/24/90, p. 9)

MARKET-VALUE ACCOUNTING

I believe that market value accounting is a very important management tool to manage a financial institution. The good institutions do it today. It's not difficult to market value a mortgage portfolio. We've made great progress in developing markets for consumer loans, commercial loans. (Connell; 5/17/90, p. 7)

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I think that, as a regulatory tool and a management tool, that market value accounting, as my statement indicates, is a very valuable tool and should be implemented. (Connell; 5/17/90, p. 8)

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[T]here is one reform which has been suggested from time to time that I suggest ought to go to the top of your agenda and that is simply the discipline that comes from marking to market. Regulatory accounting from my point of view has turned out to be phony accounting. There is nothing like marking to market which at least imports some discipline into the system and lets the air out of the balloon slowly. But to carry assets on the books for years and years and years at inflated value and then let the whole system collapse at once simply makes no sense at all. (Silver; 4/24/90, p. 50)

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We have a great concern that mark to market would dry up credit to small business because quite frankly we don't think there is much of a market for those loans. (Vallandingham; 4/24/90, p. 82)

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[W]hat concealed the disastrous problems in the thrift industries in the 1970s was not manipulation of GAAP per se, but rather was the unwillingness to recognize current economic value. (Breeden; 9/10/90, p. 99)

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As we enter the decade of the 1990s we should consider a fundamental shift in the goal we set for accounting standards for financial institutions. . . . Determining the value of an institution's assets and not recording their original cost should increasingly be the goal toward which we should work. The nation's experience with the crisis in the savings and loan industry as well as with many of the largest bank failures demonstrates the inherent and very substantial dangers of a reporting system for financial institutions that is premised on historic cost accounting principles. (Breeden; 9/10/90, p. 129-130)

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When a financial institution becomes insolvent the loss to the insurance fund and ultimately the taxpayers is measured based solely on the market value of its assets and liabilities, and historical costs are irrelevant in that process. (Breeden; 9/10/90, p. 130)

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[I]n some cases, market value cannot be precisely measured where you have illiquid instruments such as longer term commercial notes, for example, and it may be difficult to precisely value those instruments. On the other hand, it has been appropriately noted that the best possible estimate of a relevant concept is better than a precise measure of an irrelevant one. And there are certainly, if we put our minds to it, ways in which we could develop techniques for valuing even illiquid assets for which there is no readily quoted market value available. (Breeden; 9/10/90, p. 130-131)

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My own personal belief is that our accounting system should seek to reflect economic value and not psychology. (Breeden; 9/10/90, p. 132)

NARROW BANKING

Narrow banking will not eliminate financial risk to the economy. It will merely shift much of this risk to non-bank firms. (Ely; 5/17/90, p. 15)

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In order to reduce risks to the deposit insurance funds and to prevent banks from unfairly subsidizing their securities affiliates and other non-banking activities, it is necessary, we believe, to enhance previously proposed firewalls with the strongest safeguard that has been put forth—the "narrow" or "safe" bank. Under this proposal, banks affiliated with securities firms would be entitled to federal deposit insurance only if their portfolios were limited to safe, highly liquid investments. When combined with necessary firewalls, the narrow bank would provide a comprehensive approach to deposit insurance reform. (Silver; 4/24/90, p. 25)

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I guess my own view is that the narrow bank is really a case of the tail wagging the dog. In order to protect the deposit insurance system, we are really completely manhandling the structure of the banking industry, which I think is a mistake. It's extremely difficult for banks to earn enough money to cover their cost of capital. If you restrict their assets to Treasury securities and other kinds of very safe things, they are going to have to pay very low interest rates on consumer deposits, and its true they would be absolutely safe, but my guess is banks would lose substantial funds, for example, to money market funds or a money market fund with slightly longer maturity. I'm not sure what we would have accomplished except to provide deposit insurance for institutions that no longer need it. An institution that invests only in extremely safe assets really doesn't need deposit insurance. It's the equivalent of a money market fund. (Friedman; 4/26/90, p. 61-62)

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I find the narrow bank a concept [that is] intuitively appealing until you look at it in detail, and then it becomes less appealing. As it was originally conceived many years ago . . . it would be a core bank with only safe investments. Well, if that is the case, then this bank cannot earn enough to attract deposits against the other institutions that were holding what I guess you could call non-safe assets. You would have disintermediation and the core banks would be

very small, and then you run into the same problem of what do you do with the other institutions when they get into trouble. (Kaufman; 5/22/90, p 81-82)

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[T]he merits of the narrow bank approach are that it is a means by which we can eliminate loan losses. We have had aggregate loan losses in the banks—putting aside what has happened in the S&Ls—we have had aggregate loan losses in the commercial banks in the United States in the last five years of $81 billion. That is a lot of money. We could have capitalized $1 trillion in lending if we had had that much extra capital.

[Litan's] approach eliminates the risk of future loan losses. Unfortunately, the down side is . . . that is eliminates loan losses by eliminating loans. It says the only thing a bank can do is buy T bills. Well, that means that for the corner restaurant or the corner hardware store that in fact would like a $50,000 working-capital loan, they cannot get it from the bank anymore because they first have to go to Salomon Brothers and get securitized so the bank can buy the security. (Breeden; 7/19/90, p. 64-65)

PASS-THROUGH DEPOSIT INSURANCE

The effect of pass-through insurance is to extend deposit insurance to large institutional investors, institutional investors which aren't deemed to require the protection of large portions of the securities laws. No one believes that large investors should be protected by deposit insurance, but that's the effect of what's going on. (Friedman; 4/26/90, p. 21)

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I think [the BIC market is] a danger to the deposit insurance system because it represents in effect—potentially represents a wholesale version of brokered deposits * * *, [W]hat it allows a bank to do is gain market share by paying higher rates. It doesn't need a Merrill Lynch distribution system to distribute brokered deposits to individuals because these securities are issued in denominations of hundreds of millions of dollars and allow a bank to grow extremely quickly and put the risks on the deposit insurance system. (Friedman; 4/26/90, p. 30-31)

PRICING REFORMS

[W]e could follow a different approach, which I happen to think is worth at least some consideration. That is, to let individuals decide for themselves how much deposit insurance they want. Some people need $10,000 in deposit insurance. Some people might need $150,000 in insurance. If we priced deposit insurance at its real cost and at its real value rather than at a subsidized price, we could let people decide how much they wanted to buy the same way you and I decide whether we want to buy $100,000 in life insurance or $1 million in life insurance. So I think we have to look at the pricing of this product. The deposit insurance is a product that is produced by the American taxpayers at considerable cost, and we should not be giving it away at below cost to produce it. (Breeden; 7/19/90, p. 49-50)

PRIVATE DEPOSIT INSURANCE

In my opinion, there is only one way to reform Federal deposit insurance. And that is to replace * * * federal deposit insurance with 100 percent cross-guarantees. Very simply, the 100 percent cross-guarantee concept is a self-insurance mechanism for the banking system * * *. One hundred percent cross-guarantees will use the enormous earning power and equity capital base of the entire banking system, if necessary, to protect bank liabilities. (Ely; 5/17/90; p. 15-16)

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If one's objective is to protect the deposit insurance fund, then once there is no fund there's no need to regulate to protect the fund. But it seems to me there's even more reasons to regulate to protect depositors. And I really don't believe personally that the absence of deposit insurance is going to result in more conservative management of financial institutions. And if that is not the case, which I think plainly it is not, then the risks that we're trying to regulate to protect the deposit fund will be there except the risks will be transferred to depositors instead of the insurance fund. (Friedman; 4/26/90, p. 67)

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[O]ne important difference [between the U.S. and other countries] is that the deposit insurance fund itself [in other countries] is run and administered by the banks themselves or a kind of self-regulatory organization within the banking system. So again, in de jure terms, there is less of a linkage, if anything, between that insurance system and the full faith and credit of the government of the country in question. But yet, as I say, it seems to work pretty much the same way anyway. (Corrigan; 5/3/90, p. 36)

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So what I would like to do is rather than have the government in the background entirely trying to assess risk and determine which institutions are solvent or insolvent is have the private sector do more of that, impose market discipline on the government, and to me that could be done through a system of co-insurance whereby the private sector with some capital at risk would indeed assess the riskiness of institutions and price that risk. (Barth; 5/22/90, p. 60-61)

PROMPT CORRECTIVE ACTION

[R]egulator, community and the political process often delay the closure of insolvent institutions. This, of course, greatly increases the insolvency losses of these failures. (Ely; 5/17/90, p. 14)

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Early closure of failing banks and thrifts is another highly-touted reform proposal. However, Congress will find it extremely difficult to enact closure rules that they can force regulators to follow, for regulators resist mightily any effort to constrain their actions and limit their powers. (Ely; 5/17/90, p. 14-15)

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[A] policy of delay and forbearance will always be more appealing than a policy of prompt closure upon economic insolvency. If the closure decision is discretionary, subjective judgment by the regulators, they are vulnerable to pressure and they will often yield to it. So to the extent that any reform proposal relies on agency judgment and discretion, I think it is in trouble.

The more objective the judgment and the more mandatory and automatic the prescribed action, the better off taxpayers will be. (Scott; 5/17/90, p. 26-27)

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[I]n judging proposals or packages, I would urge the Committee to keep applying two criteria; One, how well does it eliminate the present distorting subsidy to risk-taking? And, two, how little does it depend on bureaucratic discretion in the administration of the scheme and of the closure of insolvent institutions? (Scott; 5/17/90, p. 30)

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What you can ask of a deposit insurance system is that, at the very minimum, it not magnify the problem because of the way in which it distorts incentives and in the way in which it is administered. (Scott; 5/17/90, p. 30)

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To contain this risk-shifting behavior [arising when capital is depleted], somebody must impose discipline by attempting to measure capital correctly and then, if it declines, by intervening in a timely and cost-effective manner. This intervention will necessarily take the form of requiring that more capital be injected or control of the institution be taken away from the current owners. (Barth; 5/22/90, p. 14)

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Early intervention in capital maintenance is my personal * * * preferred solution. It deals directly with the two most costly features of the existing deposit insurance structure, too little private capital in banking and the potential for continued operation when banks are insolvent, and would impose the least cost on either the banking system or the taxpayers. (Kaufman; 5/22/90, p. 44-45)

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If the institution were reorganized in time—before its economic net worth is depleted—no losses will be borne by uninsured depositors or the deposit insurance agency. Losses to these groups would occur only from fraud, exceptionally abrupt declines in the prices of many financial assets concurrently or inadequate monitoring.

This scheme has many important advantages: One, there would be minimum losses to uninsured depositors and the deposit insurance agency. Two, because losses would be minimized, deposit insurance premiums could be reduced substantially. Three, also because losses would be minimum, deposit insurance becomes effectively redundant and is maintained only to cover cases of fraud and inadequate monitoring. Four, because uninsured depositors are aware the losses will be minimized, the incentive to run is greatly reduced. Thus the good aspects of federal deposit insurance in preventing systemic runs is preserved. Fifth, unless the demand for banking services is insufficient, the near insolvent banking facility is likely to maintain its franchise value and remain in existence under new management. Sixth, a long and clear paper trail of regulatory warnings will be established as an institution declines through the tranches that will reduce the judicial uncertainty if the reorganization were challenged in the courts. (Kaufman; 5/22/90, p. 48-49)

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It is sometimes argued that an early intervention scheme involves confiscation or expropriation of private capital. This is untrue. If the shareholders prefer not to recapitalize their institution when it breaches the reorganization tranche, they will receive the net proceeds from the subsequent sale or liquidation. Moreover, the plan may be made voluntary in return for deposit insurance. (Kaufman; 5/22/90, p. 49-50)

* * * * *

[T]o make this approach effective, Congress must insist that any plan adopted explicitly include both performance tranches and mandatory recapitalization before a

bank's capital is fully depleted. (Kaufman; 5/22/90, p. 50)

* * * * *

[I]t is quite evident * * * that the cost of forbearance is very, very high and that is why I said in my statement that early intervention is not effective unless it is made mandatory. So we have to get agreement from the regulators and from Congress that we will not be swayed by pleas * * * and that if a bank's capital is used up, it is closed. (Bryan; 5/22/90, p. 65 66)

* * * * *

The power to set capital standards * * * is not enough. In addition, the regulator of a bank or broker/dealer's subsidiary of a holding company should have early intervention authority to step in instantaneously when a regulated entity's capital position is threatened, falling below a mandated level. At all times, the line regulator of such a company should have the subsidiaries. (Breeden; 7/19/90, p. 27)

* * * * *

If credible capital-raising commitments are not forthcoming, and if those commitments are not promptly met, the authorities should explore such responses as lowered dividends, slower asset growth or perhaps even asset contraction, restrictions on the use of insured brokered deposits, if any, and the divestiture of affiliates with the resources used to recapitalize the bank.

What is important is that the supervisory responses occur promptly and firmly and that they be anticipated by the bank. This progressive discipline or prompt corrective action of a bank with inadequate capital builds on our current bank supervisory procedures and is designed to simulate market pressures from risk-taking. (Greenspan; 7/12/90, p. 19)

* * * * *

[F]orced mergers, divestitures, and, when necessary, conservatorships should occur while there are still positive, albeit low, capital in the bank to limit reorganization or liquidation costs. Existing stockholders should be given adequate time to correct deteriorating positions, including providing new capital. But Congress should specifically provide the bank regulators with the clear authority and, therefore, explicit support to act well before technical insolvency to minimize the ultimate resolution costs. (Greenspan; 7/12/90, p. 20)

* * * * *

[E]arly closure, if you could nip an incipient disaster in the bud, that makes good sense and we are trying to figure out how you might do that. (Brady; 7/25/90, p. 67)

* * * * *

Chairman Seidman suggested that it might be necessary to keep insolvent or weakly-capitalized thrift institutions open instead of reorganizing them due to the lack of sufficient funds in the FDIC, or the insurance fund, to resolve these cases. I would urge you strongly to resist that temptation. Such forbearance—I know people are not pleased with the use of that word—is why we got into trouble with the S&L industry * * * I think the point can't be emphasized enough that we don't lose a dime if we close institutions before their net worth goes to zero. The fact that you see these losses appearing in the FDIC fund means that they didn't close those institutions on time. (Eisenbeis; 9/12/90, p. 95)

* * * * *

Senator HEINZ. At this point in time, do you know of any additional authority that we should confer upon the regulators? * * * My question was related to unsound practices and losses incurred by the fund, as opposed to problems of the fund.

Mr. BOWSHER. Well, I think it goes back to the ability to take action on the banks prior to what we would call GAAP insolvency * * * We're looking at that, so we might give you some recommendations in that area. In other words, allow the regulatory to act a little faster than they can today. (9/11/90, p. 61)

* * * * *

[B]oth the FDIC and Congress can affect significantly the losses that will have to be covered by the Bank Insurance Fund. The fund only incurs losses if institutions are closed after the real value of their assets is less than their liabilities. If systems are in place to monitor closely the financial condition of banks, and to trigger closure or mandatory disciplinary actions before significant losses occur, the fund's liabilities will be minimized. (Reischauer; 9/12/90, p. 27)

* * * * *

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* * * * *

I am not a fan of forbearance, and I'm not a fan of using public credit to extend the time of institutions that can't raise capital anywhere in the world. If no investor anywhere in the world has confidence that a given set of management knows how to handle its problems, then I don't know the American public ought to be asked to put their credit at risk to support that institution. (Breeden; 9/10/90, p. 141-42)

REDUCING THE $100,000 LIMIT

[R]educing deposit insurance coverage from the present $100,000 limit will have almost no disciplinary effect. Congress will spill political blood unnecessarily in a totally futile exercise if it lowers the $100,000 deposit insurance limit. (Ely; 5/17/90, p. 14).

* * * * *

I personally believe that it is important that the core deposits, the core savings of people be insured, that people ought not to be required to make investment judgments for their life savings. It's something that just can't be done efficiently. It would lead to I think radically restructuring the banking system because it would lead to a major flight to quality and it would be a terrible problem for smaller banks. So an adequate level—and I think personally $100,000 is not a bad level—is very important. (Friedman; 4/26/90, p. 31)

* * * * *

Senator DIXON. Well, first I would like to ask you * * * do think that has any redeeming feature—reducing it from $100,000 to $50,000? Or from $100,000 to $40,000? Is there any value in that?

Ms. MILLER. There is a little value in it in that it at least starts to grapple with the question * * * In addition to the reduction, you would have to somehow figure out a system to insure that. You would probably have to do it by household—not allow a broker-depositor to manipulate it. (Miller; 4/18/90, p. 43)

* * * * *

I think that reducing the level from $100,000 to $50,000 is probably a matter of indifference. The important point is attempting to protect against people attempting to play the system to win big at taxpayers' expense. (Uebelhoer; 4/18/90, p. 44)

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Chairman RIEGLE. You're convinced, are you, that the $100,000 figure is the right figure?

Mr. LABREQUE. I am convinced and I think that the institutions that I represent, that it is an appropriate figure. People can always debate whether some historical number is better. But we think it is an acceptable number, and it's an appropriate number. (4/3/90, p. 58)

* * * * *

Chairman RIEGLE. Do any of you think that the insurance limit ought to be lowered from the $100,000?

Mr. BARTH. For me I would not advocate that right now. It seems to me over time what will happen is that the limit will be eroded away by increases in prices. * * *

Mr. BRYAN. I am not in favor of it * * * I don't think the place to get market force is within what I call the core bank. I think that depositors are depositors and they are not investors and that you can't expect them to act as investors. * * *

Mr. KAUFMAN. From a purely economic grounds, I would favor it, but I think it would be very difficult to do, as you people know better than I do, and under our proposal, with early intervention since losses would be minimized, insurance effectively is redundant. (5/22/90; p. 52-53)

* * * * *

Senator DIXON. Do you think we ought to reduce the insured amount or do you think the insured amount is all right if we limit it to one account per customer?

Chairman GREENSPAN. Well, Senator, as I said in my prepared text, if we were starting from scratch on the deposit insurance system, I would choose a number less than that. I don't think we need that much. But I would certainly agree with Bill Seidman that what is accomplished by moving it from $100,000 down is not very much. In other words, I wouldn't make too much of a big deal of that because I don't think it matters as far as the systemic problems we have. (7/13/90, p. 40)

* * * * *

Frankly, I cannot see at this particular point in time a rush to lower that amount of insurance at a time when we have a question of confidence not only in our banks but obviously in our thrifts. (Brady; 7/25/90, p. 45-46)

RISK-BASED PREMIUMS

I should like to submit, Mr. Chairman, that a more market-oriented and, therefore, superior solution could be developed by introducing risk-related deposit insurance premiums based on regular audits and based on ratings of the asset and liability quality of a bank, combined with regular publicity like that exercised regularly by the rating agencies these days. (Cartillieri; 6/13/90, p. 28)

* * * * *

Should Congress adopt risk-based deposit insurance premiums? I'm very much in favor of risk-based deposit insurance premiums as a market discipline and as a regulatory tool. * * * [W]hen we first began at NCUA to reveal the ratings to the board of directors of examinations and then let them know what was going to happen as a consequence of those ratings, we found excellent response from the directors putting pressure on management to reduce risk. I think when you couple that with a cost, a dollar cost, that you get management and directors' attention. And it doesn't have to be perfect. I happen to think the Camel rating is a good start. And so I'm very much in favor of risk-based premiums. (Connell; 5/17/90, p. 10)

* * * * *

[T]here are three major specific flaws with Federal deposit insurance. First, banks and thrifts are charged flat rate insurance premiums no matter how soundly or unwisely they are managed. Today, the drunk drivers of the banking and thrift world pay no more for their deposit insurance than do their sober siblings. (Ely; 5/17/90, p. 13-14)

* * * * *

The deposit insurance premium is a flat rate across all institutions fixed by statute. That means that it ignores the riskiness of the loans and investments of each institution, the degree of imbalance in maturities between their assets and their liabilities, differences in the amount of capital or in the capability of management. The high-risk institution pays the same premium rate as the low-risk institution. What that does is create a constant bias throughout our financial system—both banks and S&Ls—to take greater risks than they otherwise would for the greater potential returns. (Scott; 5/17/90, p. 23)

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[T]he problem with either risk-based insurance premiums or risk-based capital is this: How do you assess the risk for the nontraded portion of the institution's asset portfolio? If you do not have secondary trading markets, there is no objective way to do that. (Scott; 5/17/90, p. 61)

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Mr. SILVER. [I]t is virtually impossible to put the deposit insurance system on a sound actuarial basis as a private insurance company. The cost, the premiums would be absolutely prohibitive. So that if one recognizes that——

Senator SHELBY. Why, though? Because on an actuarial basis you would assume the risk in the premium, would you not?

Mr. SILVER. Huge risks require huge premiums, making the whole thing not work. (4/24/90, p. 67-68)

* * * * *

I don't think I am a great fan of risk-based deposit insurance premiums. In principle, it sounds great, and I have thought about it a lot, and I . . . (Corrigan; 5/3/90, p. 36-)

* * * * *

I am a skeptic on risk-based deposit insurance for the following reasons. You have to underwrite credit at the source, and it's very difficult for an outsider, given the complexity of credit risk, to be able to do that before the fact. I don't know how you would set a mechanism in place that would actually work for setting the insurance premiums that would be effective. . . . I despair of finding the private capital available to underwrite the kind of risks that banks ordinarily take, even well capitalized banks, and I think you might find the cost of a true market system prohibitive and it might lead to a greater credit crunch then the ones we have been talking about today. (Bryan; 5/22/90, p. 62)

RISK-TAKING BEHAVIOR

What you can ask of a deposit insurance system is that, at the very minimum, it not magnify the problem because of the way in which it distorts incentives and in the way in which it is administered. (Scott; 5/17/90, p. 30)

* * * * *

The small depositor should have a secure place for his or her savings. The government support appropriately creates confidence for such depositors that they will get their money back at par when they need it. Similarly, the use by banks of federally-insured and therefore federally-subsidized deposits to make retail loans to consumers who might not otherwise have access to credit at favorable rates serves a worthy public purpose. But what about underwriting and dealing in securities, speculative foreign exchange transactions, commodities trading? These activities are being performed competently and efficiently in the private sector without government support or taxpayer liability. (Downey; 4/3/90/ p. 17)

SCOPE OF COVERAGE

It seems to me that if we're going to stay with a deposit insurance system, however, it may be changed, that we ought to define from A to Z what that deposit insurance covers. (Riegle; 5/17/90, p. 38)

SOURCE OF STRENGTH

In the U.K., the banks are expected to stand behind their subsidiaries, and bank controllers—by which the law means shareholders who are able to exercise influence on the management of the bank—are expected to stand behind their banks. (Leslie; 6/13/90, p. 16)

* * * * *

Should a company that controls a bank or thrift be free to let that institution fail without making an effort to assist it? From an historical standpoint, the Federal Reserve Board has attempted to impose a source of strength doctrine from the very beginning of holding companies. In the early days, by denying applications for the acquisition of a bank because the holding company itself was weak, later on by imposing an extensive examination process. And most recently, by administrative actions and court proceedings.

Just this week, they lost a case involving the source of strength doctrine. The Office of Thrift Supervision, on the other hand, had open-ended contractual net worth maintenance agreements for many years. More recently, these have been modified to prenuptial type agreements where the institutions could be sold if the net worth fell below a certain level.

I think they've been effective. And in fact, the institution I'm working with right now has been required to put several hundred millions of dollars the holding company has into the institution and is going through a court process, a bankruptcy process where it will be required to put additional monies.

And I believe it would be valuable as one of the extra tools, one of the additional tools, for the regulatory agencies to have in their quiver to require net worth maintenance agreements on a limited basis prenuptial type. And they should also be structured to withstand bankruptcy, either through a preference or some other specific provision. (Connell; 5/17/90, p. 8-9)

STATE POWERS

It seems to me that if we're going to stay with a deposit insurance system, however, it may be changed, that we ought to define from A to Z what that deposit insurance covers. And we ought not to allow other units of government to take a ride on that Federal deposit insurance in terms of deciding to do whatever they may want to do in add-on activities. (Riegle; 5/17/90, p. 38)

* * * * *

[L]et me say the Federal insurance coverage is a Federal issue and certainly the Federal insurance agency should have veto power or some way to control the risk by State-chartered institutions. They shouldn't have a free ride on the Federal system. (Connell; 5/17/90, pp. 38-39)

* * * * *

He who takes the risk should regulate. And so I think that, since the Federal Treasury is bearing the risk of failure, the Federal Government has to be preeminent in the regulation. (Ely; 5/17/90, pp. 40-41)

* * * * *

No one in their wildest dreams had any idea that States would authorize banks to underwrite life insurance at the time. And now the States, in what I think can only be described as a cynical drive to increase their local tax base, are considering authorizing a new kind of animal—banks-that-underwrite-and-sell-life-insurance—that's hyphenated. It is the Federal deposit umbrella that protects the citizens of those States from the consequences of that action, actions which are motivated not by bank regulatory reasons but by the desire to increase the local tax base. (Friedman; 4/26/90, pp. 20-21)

* * * * *

[T]he entity providing the insurance has not only the right but has the duty to limit the risks that any that is going to be insured may undertake. And while the States may choose to authorize a bank to run a casino, I think it should be the prerogative of the FDIC to decline to insure it; and that they should have the authority to say that activities that go beyond what are allowed for Federal institutions and which they believe are unduly risky have to, at a minimum, be conducted in a holding company subsidiary somewhere where it is not under the deposit insurance umbrella. (Breeden; 7/19/90, pp. 41-42)

TOO BIG TO FAIL

I don't believe in "too big to fail" and we certainly don't run our operations on the assumption that Barclays has any special protection. Indeed, we will go further and say that anyone who did manage their business on that basis is not fit and proper. Failing is a vital part of market discipline. (Leslie; 6/13/90, p. 15)

* * * * *

I personally don't believe that you have to go through the enormous cost of liquidating a large institution to achieve the discipline that's necessary. (Connell; 5/17/90, p. 11)

* * * * *

Attempting to discipline large depositors through some sort of coinsurance program also will have little disciplining effect. Coinsurance is premised on the idea that the too-big-to-fail policy should be abandoned.

However, attempting to get rid of too-big-to-fail will be destabilizing to the financial system. It actually will increase deposit insurance losses, and it will greatly harm the domestic and international competitiveness of American domiciled banks because other industrialized nations will not abandon their too big to fail policies. (Ely; 5/17/90, p. 14)

* * * * *

Community banks should be extended the same 100 percent protection enjoyed by major banks in the context of a broader assessment base, but only so long as depositors at our Nation's largest financial institutions are not at risk. IBAA supports a "sunset" provision terminating the 100 percent coverage when such coverage has been terminated for depositors at large financial institutions. (Vallandingham; 4/24/90; pp. 16-17)

* * * * *

As an American taxpayer and a banker, I would favor a world accord that said that we would allow our big banks to fail worldwide but I'm not sure that that's possible. Until that's possible, I think that America is faced with the possibility of a megabank failure at which time that bank will be made whole. As long as we have that situation in America and I think it will be here for some time to come, then we have to look at the whole scope, both domestically as well as foreign. (Vallandingham; 4/24/90, p. 74)

* * * * *

We must eliminate the notion of so-called "too big to fail" policy under which the very largest banks are given de facto 100 percent protection of all deposits. Such a policy in inconsistent with the original intent of deposit insurance and is unfair to smaller banks, but big bankers neither want it nor need it. (Labreque; 4/3/90, p. 26)

* * * * *

We should allow insurance only on deposits up to $100,000. The original law was designed to protect the core deposits of the average American, not multiple $100,000 deposits of huge institutions. This approach would return the system to its original purpose, to protect the average American. It would introduce an element of discipline to a system that has become unnecessarily costly and burdensome, and it would reduce insurance costs to U.S. banks making them more competitive with foreign and nonbank competitors. And most importantly, it would reduce the contingent liability that U.S. taxpayers would be forced to pay if the system went awry. (Labreque; 4/3/90, p. 26)

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Chairman RIEGLE. Now let me be sure I understand one thing because I don't want there to be confusion on this. You're saying that any individual could have one deposit of up to $100,000 insured, or they could have multiple deposits as long as they were different institutions?

Mr. LABREQUE. No, no. In the failed institutions, you can only insure up to $100,000 per person. But, that person, you, as an individual, can have a deposit in the 1st National Bank of Shelby, North Carolina and a deposit in Citibank and up to 100,000 both would be insured.

Chairman RIEGLE. Yes. And so your're envisioning that a person could have multiple units of $100,000 spread across any number of banks?—or insured depository institutions? Is that right?

Mr. LABREQUE. We're talking about——

Chairman RIEGLE. You're not talking about just one?

Mr. LABREQUE. Correct.

Chairman RIEGLE. Mr. Downey, do you have any thoughts on this at the moment that you want to share with us?

Mr. DOWNEY. Well, that's kind of scary. I think, because, that really calls for no change except a hoped-for theory that regulators will stop insuring deposits when they get to $100,000. (4/3/90, p. 53-54)

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[N]o bank should assume that its scale insulates it from market discipline. (Greenspan; 7/12/90, p. 21)

DAVIS POLK & WARDWELL,
Washington, DC, January 31, 1990.

MEMORANDUM: EARLY INTERVENTION

The thrift crisis with its multi-billion dollar taxpayer bailout has appropriately focused attention on raising bank and thrift capital standards. The Office of the Comptroller of the Currency ("OCC"), the Board of Governors of the Federal Reserve System (the "FRB") and the Federal Deposit Insurance Corporation (the "FDIC") are implementing revised capital standards for banks and bank holding companies, and the Financial Institutions, Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") requires the Director of the Office of Thrift Supervision ("OTS") to formulate capital standards for thrifts that are at least as strict as those for national banks. § 301, CR at 128-129.[1]

In order to enforce adequately these heightened capital standards we believe that it will be necessary for regulators to intervene in troubled institutions substantially earlier than has been the case in the past. For, as the literature on bank failures proves, capital levels consistently turn out to be one of the best indicators of future trouble. *See* Brumbaugh, Carron & Litan, *Cleaning Up the Depository Institutions' Mess*, Brookings Papers on Economic Activity 275 (1989). Such early intervention should include (but not be limited to) regulations defining the conditions under which regulators may place substantially undercapitalized, although still technically solvent, institutions into conservatorship or receivership. Both commentators and regulators have suggested the need for this form of early intervention. *Cleaning Up the Depository Institutions' Mess* at 275-276; FDIC, *Deposit Insurance in the 1990's* 235 (1989).

In January 1989 the Federal Home Loan Bank Board ("FHLBB"), in conjunction with its then-pending proposal to raise thrift capital standards, sought comment on "whether the final capital regulation should contain specific provisions defining a particular level of regulatory capital as an 'unsafe and unsound condition to transact business' for purposes of triggering the [FHLBB's] statutory authority to appoint a conservator or receiver for the institution." 54 Fed. Reg. 826 (January 10, 1989).[2] The FHLBB sought comment on its statutory authority to promulgate such a bright-line rule and on whether such a rule would violate either the Takings Clause or the Due Process Clause of the Fifth Amendment to the Constitution. Many of the savings associations commenting on the proposed rule questioned both the FHLBB's authority under the Home Owner's Loan Act of 1933 ("HOLA") to promulgate such a regulation and the constitutionality of the proposed regulation.

Statutory language adopted as part of FIRREA clearly contemplates early intervention when insured depository institutions are substantially undercapitalized. Thus, in our view, OCC, OTS, the FDIC and state regulators should give serious consideration to promulgating regulations which provide that failure to maintain capital at a certain minimum level would create, by definition, an unsafe and unsound condition to transact business and, consequently, trigger the appropriate regulator's authority to place the insured institution in a conservatorship or receivership.[3]

In our view, such a regulation would not violate either the Takings Clause or the Due Process Clause.

I. STATUTORY AUTHORITY FOR EARLY INTERVENTION

A. National Banks

In the case of national banks, OCC may not appoint a receiver unless the national bank is insolvent. 12 U.S.C. § 191 (1988). Insolvency, however, is not defined in the National Bank Act and OCC has considerable discretion in determining the standard for measuring insolvency. *Adams* v. *Nagle*, 303, U.S. 532 (1938); *In re Conservatorship of Wellsville National Bank*, 407 F.2d 233 (3d Cir.), *cert denied*, 396 U.S. 832 (1969). In fact, last November OCC promulgated a regulation that allows it to find a national bank insolvent at a significantly earlier stage than in the past. 54 Fed. Reg. 48,851 (November 28, 1989).[4]

Moreover, OCC may appoint a conservator even before a national bank reaches "insolvency". Section 802 of FIRREA, to be codified at 12 U.S.C. § 203(a), specifically defines an "unsafe and unsound condition" to include "substantially insufficient capital." CR at 274-275. In our view Section 802 provides clear statutory authority for OCC to issue a regulation stating that any time a national bank's capital falls below a pre-set floor, the bank may be placed in a conservatorship.[5] FIRREA limits OCC's choice of a

[1] Unless otherwise noted, citations to FIRREA indicate the relevant section of the act as adopted, including the page number on which the section may be found in the Conference Report dated August 4, 1989 ("CR"). Citations to the U.S. Code indicate where the FIRREA sections will be codified. Note, however, that not all sections of FIRREA indicate where they will be codified.

[2] The FHLBB proposed setting the capital floor at 1.5 percent of total assets, to be held in the form of core equity capital, defined substantially in accordance with generally accepted accounting principles.

[3] Discussion of what that level of capital should be is beyond the scope of this memorandum.

[4] OCC uses two standards to measure insolvency, a liquidity standard and a net worth standard. Under the liquidity standard a national bank is insolvent if it cannot meet its obligations as they become due. Under the net worth standard, a national bank is insolvent if its liabilities exceed its assets. OCC declares a national bank insolvent under the net worth standard when its primary capital is depleted. Under the new rule, the OCC will no longer include the bank's allowance for loan and lease losses in the calculation of primary capital. 54 Fed. Reg. at 48,852.

[5] Unlike OTS with respect to savings associations and the FDIC with respect to state-chartered banks, OCC apparently does not have the authority to place a substantially undercapitalized national bank into a receivership. *Compare* § 802, CR at 274-275 *with* § 301, CR at 115-116; § 212, CR at 44-45. The reason for this is not clear.

A conservator, as opposed to a receiver, may not liquidate a depository institution, § 212, CR at 47; 12 U.S.C. § 1821(d)(2)(E), but it may operate the institution, sell it, or merge it with another insured depository institution. § 212, CR at 48; 12 U.S.C. § 1821(d)(2)(G).

capital floor to one that amounts to "substantially insufficient capital." Any reasonable interpretation of the "substantially insufficient capital" language, however, would be reviewed under the very deferential *Chevron* standard if it were attacked in court. *Chevron* v. *NRDC*, 467 U.S. 837, 842-845 (1984).

B. Federal Savings Associations

With the passage of FIRREA, OTS acquired clear authority to appoint either a conservator or receiver when a federal savings association is operating with "substantially insufficient capital." § 301, CR at 115-116.

Indeed, even before FIRREA's enactment, the FHLBB occasionally put thrifts teetering on the brink of insolvency into receivership, based on the theory that such thrifts were in an unsafe and unsound condition to transact business. *See, e.g., Telegraph Savings and Loan Assn's* v. *Schilling*, 703 F.2d 1019 (7th cir. 1983); *Washington Federal Savings and Loan Ass'n* v. *FHLBB*, 526 F. Supp. 343 (N.D. Ohio 1981).

As discussed above with regard to OCC, any reasonable early intervention rule promulgated by OTS would be reviewable under the *Chevron* deference standard if it were attacked in court.

C. State-Chartered Banks and Savings Associations

There are three statutory paths pursuant to which the FDIC (or, if applicable, the Resolution Trust Corporation (the "RTC") can be appointed receiver or conservator of state-chartered banks and thrifts.[6]

Pursuant to the first path, the relevant state agency, acting under state law requirements for appointing a receiver or a conservator, appoints the FDIC. § 212, CR at 43-44; 12 U.S.C. § 1821(c)(3). Thus, in the case of state appointment under this alternative, the question of whether a receiver or a conservator can be appointed before the depository institution reaches insolvency will turn on applicable state law.

Pursuant to the second statutory path, the FDIC appoints itself receiver or conservator of the state bank or thrift. This second statutory path, however, is available only if the applicable state agency has appointed a receiver or conservator who has been in office for 15 consecutive days; if any insured depositor is unable to withdraw funds; *and*, if certain other conditions exist. § 212, CR at 44-45; 12 U.S.C. § 1821(c)(4) (A) & (B). Relevant for present purposes is that among these other conditions is one which states that operating with "substantially insufficient capital" amounts to an unsafe and unsound condition. § 212, CR at 45-46; 12 U.S.C. § 1821(c)(5). But, even pursuant to this second path, the FDIC must wait until the relevant state authority has intervened. Thus, once again, the permissibility of early intervention will turn on state law.

Pursuant to the third statutory path, federal—not state—law determines the permissibility of early intervention, but this third path is available only with respect to state-chartered thrifts. OTS has the power to appoint a receiver or conservator of any state-chartered thrift if that institution is operating with substantially insufficient capital. § 301, CR at 116. For an appointment pursuant to this third path, however, OTS must have written notice from the applicable state agency stating that it agrees that the institution is operating with substantially insufficient capital. § 301, CR at 116. After OTS requests such written notice, the state official has 30 days to respond. After the 30-day period, if OTS has determined that the thrift is operating with substantially insufficient capital and has responded in writing to the state's written reasons, if any, for withholding approval, then OTS may proceed without state approval. *Id.* Thus, with a 30-day time lag, OTS may intervene over the objection of the relevant state authority.

In our view, limiting the availability of this third statutory path to cases involving state-chartered thrifts creates an unnecessary gap in the power of the FDIC. Under certain circumstances the FDIC could be powerless, without the cooperation of state regulators, to interfere with the operations of a substantially undercapitalized state-chartered bank. In the absence of authority to override the state banking agency, the FDIC's only recourse is to terminate the bank's insurance under section 8(a) of the Federal Deposit Insurance Act, a process that may take months and that ultimately results in continued insurance of existing deposits for at least six months following termination. § 926, CR at 325-326; 12 U.S.C. § 1818(a). We believe that the Federal Deposit Insurance Act should be amended to include a provision allowing the FDIC to override state banking authorities when a state-chartered bank is substantially undercapitalized.

II. CONSTITUTIONALITY OF EARLY INTERVENTION

Notwithstanding the large number of comments to the contrary on the FHLBB's early intervention proposal, mostly from lawyers representing savings associations, we believe that the Takings Clause of the Fifth Amendment, which prohibits the federal government from taking private property from public use without just compensation, would not invalidate the FHLBB's, or any similar, proposal.[7]

In our view, a court reviewing an early intervention rule is likely to hold that the shareholders have waived any right to make a takings claim. In *Fahey* v. *Mallonee*, 332 U.S. 245 (1947), the Supreme Court held that a then-existing provision of HOLA, which authorized the FHLBB to prescribe by regulation the conditions under which a conservator could be appointed for a federal savings association, was not an unconstitutional delegation of legislative power. *Id.* at 248-254. Significantly, in *Fahey* the FHLBB appointed the conservator on the grounds that the association was being operated in an unsafe and unlawful manner, not because it was insolvent. *Id. at 247, 254.*[8] The *Fahey* Court relied on an "elementary rule of constitutional law that one may not 'retain the benefits of the Act while attacking the constitutionality of one of its important conditions.'" *Id.* at 255 (quoting *United States* v. *San Francisco*, 310 U.S. 16, 29 (1940)). The Court reasoned that the power to appoint a conservator or receiver was crucial to HOLA and inseparable from those provisions of HOLA that created the federal savings association. 332 U.S. at 255. Thus,

"[i]t would be intolerable that Congress should endow an association with the right to conduct a public banking business on certain limitations and that the Court at the behest of those who took advantage from the privilege should remove the limitations intended for public protection. It would be difficult to imagine a more appropriate situation in which to apply the doctrine that one who utilizes an Act to gain advantages of corporate existence is estopped from questioning the validity of its vital conditions." *Id.* at 256.

On grounds similar to those at the heart of *Fahey*, the Third Circuit Court of Appeals rejected a takings claim made by the shareholders of a national bank placed in conservatorship. *In re Conservatorship of Wellsville National Bank*, 407 F.2d 223, 225, 227 (3d Cir.), *cert. denied*, 396 U.S. 832 (1969). In *Wellsville* the Court of Appeals ruled that the shareholders, by failing to deny that the bank was involvent before the Distict Court, had waived any objection to the Comptroller's decision to close the bank. *Id.* at 228. The Court of Appeals went on to reject as "without substance" the shareholders' contention that the Comptroller's action amounted to a taking, *id.*, commenting that shareholders of a national bank hold their shares subject to the conditions and burdens imposed by the National Bank Act. *Id.*[9]

The waiver rationale of *Fahey* and *Wellsville* definitively resolves the constitutionality of any early intervention rule.[10] By taking advantage of federal deposit insurance, shareholders accept the regulatory conditions attached to the insurance and cannot be heard to complain when the insurer takes action to protect depositors, creditors and the integrity of the insurance fund. The protection offered by federal deposit insurance is substantial, especially for smaller, retail or less strongly capitalized banks. It effectively elminates the risk of depositor runs, allows such banks and thrifts to operate with significantly lower levels of capital, and reduces their cost of funds. Absent deposit insurance, undercapitalized banks and thrifts would be subject to depositor runs and likely failure, assuming they were able to do business at all. Thus, in our view, any remaining shareholder property interest in a substantially undercapita-

[6] Until August 9, 1992, the receiver appointed pursuant to the second and third paths must be the RTC; after that date it must be the FDIC. § 212, CR at 45; § 1821(c)(6)(b).

[7] Since 1942 the Securities and Exchange Commission (the "SEC") has required that brokers and dealers meet prescribed net capital requirements. Loss, *Fundamentals of Securities Regulation* 638 (1988); 17 C.F.R. § 240.15c3-1. Violation of the SEC's net capital rule, which has been described as "one of the most important weapons in the [SEC's] arsenal to protect investors," *Blaise D'Antoni & Associates, Inc.* v. *SEC*, 289 F. 2d 277 (5th Cir.), *cert. denied*, 368 U.S. 899 (1961), gives the SEC the authority to revoke a broker's license even if the broker is not insolvent. *In re Batkin & Co.*, 38 S.E.C. 436 (1958). To our knowledge, there has never been any claim that the SEC's net capital rule violates the Takings Clause, and we note that the arguments of the savings association lobby, if taken seriously, would also implicate the constitutionality of this longstanding SEC rule.

[8] The opinion of the three-judge district court explicitly found that the association was "entirely solvent." *Mallonee* v. *Fahey*, 68 F. Supp. 418, 419 (1946).

[9] One could argue that the waiver rationale set forth in *Fahey* and *Wellsville* applies only to federal savings associations and national banks since both courts relied, at least in part, on the fact that the relevant federal statute both created and conditioned the shareholders' property interest in the affected depository institution. Such an argument, however, fails because it does not adequately account for the extent to which state-chartered institutions consent to the conditions set by Congress and the FDIC when they accept (and benefit from) federal deposit insurance.

[10] We note that this dispositive argument was neither raised nor discussed in the FLHBB early intervention proposal or the comments thereon.

lized institution exists only by dint of the protection offered by that institution's silent partner—the FDIC. Any claim by shareholders that they have a constitutional right to continue to operate a substantially undercapitalized institution boils down to nothing more than a claim that they have a constitutionally protected right to an implicit government subsidy.

The waiver rationale of *Fahey* and *Wellsville* controls even if the early intervention power of federal regulators had been newly-created by FIRREA. As the Supreme Court has noted, "[t]hose who do business in the regulated field cannot object if the legislative scheme is buttressed by subsequent amendment to achieve the legislative end." *FHA* v. *The Darlington, Inc.*, 358 U.S. 84, 91 (1958) (rejecting the claim of a federally insured mortgagor that recent amendments to the federal housing statute violated the Contracts Clause); *Connolly* v. *Pension Benefit Guaranty Corp.*, 475 U.S. 211, 227 (1986) (rejecting the claims of employers that recent amendments to ERISA violated the Takings Clause). Banking is a heavily regulated industry and, in light of competitive changes and the multi-billion dollar taxpayer bailout, regulatory change—not preservation of the *status quo*—should be the reasonable expectation of shareholders. Any argument that shareholders could reasonably expect that the grounds for early intervention would remain unchanged should be, in light of recent developments, treated with the disbelief it deserves.

Given the strength of the waiver rationale, it is unlikely that a court would ever consider the takings claim on its merits. Even if a court did consider the takings claim, we believe that it would rule against the shareholders for substantially the same reasons that support the waiver rationale.

Since *Penn Central Transportation Co.* v. *New York City*, 438 U.S. 104 (1978), the Supreme Court has relied on "ad hoc, factual inquiries into the circumstances of each particular case." *Connolly*, 475 U.S. at 225; *see also Rucklehaus* v. *Monsanto Co.*, 467 U.S. 986, 1005 (1984); *Kaiser Aetna* v. *United States*, 444 U.S. 164, 175 (1979). To aid its ad hoc factual inquiry the Court places "particular significance" on three factors: (1) the economic impact of the regulation on the claimant; (2) the extent to which the regulation interferes with reasonable investment-backed expectations; and (3) the character of the government action. *Penn Central*, 438 U.S. at 124; *Connolly*, 475 U.S. at 225. These factors are not prongs of a doctrinal test, each one of which must be considered or satisfied. Instead, they are part of a balancing test and one of them may assume more importance than the others depending on the facts of the case. Indeed, the Court has noted that "in some circumstances one of these factors by itself may be dispositive." *Kaiser Aetna*, 444 U.S. at 178; *see also Loretto* v. *Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 433 (1982).

As an alternative to the *Penn Central* factors, the Court sometimes applies the bright-line rule that any physical occupation is taking "without regard to other factors that a court might ordinarily examine." *Loretto*, 458 U.S. at 433; *see also Andrus* v. *Allard*, 444 U.S. 51, 65-66 (1979). In our view, the shareholders' strongest argument is that early intervention is more akin to a physical occupation than it is to regulatory interference with the use of property generally evaluated under the *Penn Central* factors. The shareholders could buttress this argument by pointing out that early intervention may destroy the entire value of their investment and prevent them from making any economically viable use of it, *cf. Penn Central*, 438 U.S. at 136 (regulation did not inferfere with the investors' "primary expectation" concerning the property), and that assuming control of the institution in anticipation of merger or liquidation destroys one of the most fundamental attributes of ownership—the right to exclude others from using the property. *Nollan* v. *California Coastal Commission*, 483 U.S. 825, 831 (1987); *Loretto*, 458 U.S. 419 at 433; *Kaiser Aetna*, 444 U.S. 164 at 176.

The shareholder's physical occupation argument, however, is substantially weakened by several factors. Any takings claim by the shareholders rests on the assumption that the insured institution is not economically insolvent because it has a positive net worth under the regulatory rules of bank accounting. Given the uncertainties surrounding bank and thrift accounting rules, including the absence of any mark-to-market requirement (or conceivably any way to ensure the reliability of such a requirement), failure to satisfy a minimum capital level is probably the most reliable sign that an insured institution is economically insolvent (or very close to it). *See Cleaning Up the Depository Institutions' Mess* at 275-276. Any property interest the shareholders may turn out to have is protected by present law, which provides that the shareholders will receive any net proceeds resulting from a sale or liquidation. *See, e.g.*, 12 U.S.C. § 197(b) (1982) (national banks in receivership); 12 C.F.R. § 389c.11(a)(10) (formerly § 569c.11(a)(10) 54 Fed. Reg. 42799-802 (Oct. 18, 1989)) (federal savings associations in receivership). Thus, we believe that the Supreme Court (or any other court) is unlikely to apply the physical occupation rule to early intervention.[11]

To the extent a court reaches the takings claim, we believe that the court is more likely to apply some variant of the *Penn Central* factors.[12] In our view, even under the *Penn Central* factors, the shareholders will lose. Although the economic impact of early intervention could be severe, it is important to recognize (as noted above) that failure to satisfy a minimum capital requirement is probably the most reliable sign of impending instability or insolvency. Moreover, to the extent that the institution turns out to have been solvent, present law ensures that the shareholders will receive the net proceeds resulting from any sale or liquidation. Finally, the shareholders' constitutional claim is also substantially weakened by the fact that their property interest in an undercapitalized institution more than likely continues to exist only by dint of the protection offered by federal deposit insurance.

The second *Penn Central* factor—reasonable investment-backed expectations—weighs heavily against the shareholders. After FIRREA, shareholders have no reasonable expectation of retaining any property interest in a substantially undercapitalized bank.

The final *Penn Central* factor, the nature of the government action, also weighs heavily against the shareholders. When attempting to determine the nature of the government's action, the Court examines whether the government has permanently appropriated assets for its own use or whether the action is incident to a public program that adjusts the benefits and burdens of economic life for the protection of the public good. *See, e.g., Armstrong* v. *United States*, 364 U.S. 40, 49 (1960); *Keystone Bituminous Coal Ass'n.* v. *Debenedictis*, 480 U.S. 470, 485 (1987); *Agins* v. *Tiburon*, 447 U.S. 255, 260 (1980). For the past fifty years federal deposit insurance has played a crucial role in adjusting the benefits and burdens of economic life for the protection of the public good. Early intervention should be viewed as an incident to that program. Having reaped the benefits of federal deposit insurance, shareholders should be required to endure its accompanying burdens.

Finally, we believe there is no force to the argument that the Due Process Clause of the Fifth Amendment requires notice and a hearing *before* a regulator may close a troubled but still snlvent institution. It is well-established that procedural due process is satisfied by post-deprivation hearings. *See Fuentes* v. *Shevin*, 407 U.S. 67 (1972); *Fahey* v. *Mallonee*, 332 U.S. 245 (1974); *Haralson* v. *Ben Milam Savings & Loan Assn.* 837 F. 2d 1123 (1987); *Gregory* v. *Mitchell*, 459 F. Supp. 1162 (D. Ala. 1978) (dictum); *In re Franklin National Bank*, 381 F. Supp. 1390 (E.D.N.Y). In *Fahey*, the savings association was not insolvent, yet the Court upheld the FHLBB's regulation providing for a hearing *after* the appointment of the conservator. As the *Fahey* Court noted,

"[t]his is a drastic procedure. But the delicate nature of the institution and the impossibility of preserving credit during an investigation has made it an almost invariable custom to apply supervisory authority in this manner. It is a heavy responsibility to be exercised with disinterestedness and restraint, but in the light of the history and customs of banking, we cannot say it is unconstitutional." 332 U.S. at 253-254.

More recently, in *Federal Deposit Insurance Corporation* v. *Mallen*, 486 U.S. 230 (1988) the Court unanimously held that provisions for a hearing following the suspension of an indicted bank officer were justified by the FDIC's need to act promptly to protect the interest of depositors and to maintain public confidence in the banking system.

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[11] Moreover, all of the physical occupation cases involve traditional public servitudes or easements on real estate. *Loretto*, 458 U.S. at 419 (city claimed right to place a cable TV box in apartment building); *Kaiser Aetna*, 444 U.S. at 175 (imposition of a navigational servitude requiring public access to a pond); *Nollan*, 483 U.S. at 825 (city tried to impose an easement as a condition of gaining a building permit). None involves a heavily regulated modern industry such as banking. The Supreme Court has long implicitly recognized the constitutionally unique nature of the banking industry. For example, at the turn of the century, an economically conservative Supreme Court protected private property with a vengeance. Minimum wage laws, maximum hour laws, and child labor laws were all found to be unconstitutional restraints on private property rights. Yet the same Court upheld, against contitutional attack, two state laws requiring state-charterd banks to make payments into deposit insurance funds. *Noble State Bank* v. *Haskell*, 219 U.S. 104 (1911); *Assaria State Bank* v. *Dolley*, 219 U.S. 121 (1911). *See also Fuentes* v. *Shevin*, 407 U.S. 67, 91-92 (1972).

[12] We use the word "variant" deliberately. The results of the ad hoc *Penn Central* inquiry are inherently unpredictable and with recent changes in the Court's composition, it has become even more difficult to apply the *Penn Central* factors with confidence. *Penn Central* was a 5-4 decision and two members of the majority have since left the Court. By giving some factors more weight the new majority could significantly change takings doctrine without expressly changing the test. Cf. *Nollan* v. *California Coastal Commission*, 483 U.S. 825, 834 (1987). In our view, this uncertainty makes it even more likely that a lower court would rely on the waiver rationale.

In addition, the "substantially insufficient capital" language of FIRREA puts shareholders on notice that they may lose their investment if they do not maintain sufficient capital. If regulations are issued establishing a bright-line minimum capital rule, this provides further advance notice of the regulator's intent to intervene under a predetermined set of conditions. Significantly, FIRREA provides for prompt judicial review when a conservator or receiver is appointed on the grounds, of "substantially insufficient capital." In sum, we believe that under present law substantially undercapitalized institutions have adequate notice that they may be closed should their capital fall below a pre-determined minimum level.

EDWARD J. KELLY III.
MARGARET E. TAHYAR.

Mr. DODD. Mr. President, I am pleased to become an original cosponsor of the Deposit Insurance Reform and Taxpayer Protection Act of 1990. I commend Chairman RIEGLE and his staff for the prodigious amount of work and thought that have gone into the development of this legislation. It will provide the committee and the country with an excellent starting point for reforming Federal deposit insurance to assure that the system continues to guarantee depositors protection for their savings without creating incentives for the unscrupulous to gamble with the publics money, as happened in the savings and loan industry.

There continues to be a number of actions we need to take to resolve the S&L Mess—we must assure the FDIC an adequate supply of funds so that it can resolve failing and failed S & L's at the lowest cost to the taxpayer; we must make sure that the resolution trust corporation disposes of the assets it acquires from failed S & L's in the most cost-effective way; we must make sure that the Justice Department has the necessary tools and will to prosecute S & L crooks; and we must adopt the legislation Senator BOND and I have proposed to create a national commission on the savings and loan industry to give the public a full accounting of the combination of private actions and legislative and regulatory decisions that produced this fiasco.

At the same time, it is vital that we take the lessons we learn from the S & L disaster and use them to enact legislation that will assure a strong and competitive financial services system that meets the needs of depositors and businesses without placing the deposit insurance system in jeopardy. I believe the bill I am joining Senator RIEGLE and others in introducing today represents a very thoughtful starting point for consideration of deposit insurance reform.

While many scholars of deposit insurance, particularly economists, have pointed out that the $100,000 deposit insurance guarantee afforded depositors gives thrifts and banks an incentive to gamble with the public's money and have recommended radical changes in the nature and amount of this guarantee, I think such an analysis fails to appreciate the vital role deposit insurance played in stabilizing a banking system that had collapsed in the late 1920's and in avoiding depositor runs for almost 50 years since then. It also fails to appreciate the key role in the debacle played by other actions. While deposit insurance did enable unscrupulous and incompetent S&L operators to raise huge sums of money that they then gambled with, this disaster would not have occurred if thrifts had not been permitted to operate without capital, so none of their own money was at risk; and if there had not been fewer cops, regulators, on the beat at a time when thrifts had been given new powers by both the Federal and State governments that made the thrift charter a far more attractive one.

It was this combination of events, among others, that led to the fiasco, and corrective legislation must reflect an understanding of these events in order to devise a solution that does not err in the other direction. I believe this bill meets that test. Let me explain its benefits as I see them.

First, I believe it takes an appropriately cautious approach with respect to the $100,000 depositor insurance guarantee. It limits deposit insurance to $100,000 per individual per institution, which will reduce the insurance fund's exposure at any individual financial institution without limiting the ability of people to get insurance protection. It also would prohibit the regulators, in failure situations, from paying off uninsured depositors, those with over $100,000 in an account.

I think this is the proper area to tinker with deposit insurance. The proper place to bring private market incentives into the system is not with the mom and pop depositors but with sophisticated depositors and investors. This category would include people with deposits over $100,000, as well as those who own an institution's subordinated debt—the bill would prohibit institutions whose capital is deteriorating from making payments on its subordinated debt. In this way, I believe we will be able to benefit from some private market discipline without exposing the average depositor's funds.

There is one narrow, but important, deposit insurance issue that the bill touches on, but does not resolve fully. That is the issue of BICS, or bank investment contracts. These are multimillion dollar deposits that by their terms are far riskier than certificates of deposit but have been granted full $100,000 per investor pass-through deposit insurance by the regulators. One of the riskier aspects lies in the fact that investors may put very little money or a great deal of money into them during a window period, while the bank's commitment to pay a specific return remains fixed. Obviously in times of volatile interest rates, such contracts can be very dangerous. In fact, one insurer lost close to $1 billion on an analogous insurance product. I believe BICS poste a serious threat to the deposit insurance funds, one that requires our legislative attention.

Second, the bill focuses on the key issue of stronger capital requirements. It requires the Federal banking agencies to set capital levels to prevent losses to the deposit insurance funds. Strong capital is the first line of defense and Fed Chairman Alan Greenspan and others have testified before the Banking Committee on the need to add more capital to the system.

Third, the bill addresses the vital issue of strengthening the regulatory system for depository institutions that do not meet the capital standards. This bill contains a thoughtful series of steps for dealing with institutions that fail to meet the capital standards. When an institution first falls below the required capital level, it would not be permitted to pay dividends, would have limits placed on its asset growth, and would be required to file a capital restoration plan.

If the capital continues to deteriorate, restrictions would be placed on activities and operations, subordinated debt payments would be prohibited and the Government would intervene to protect the deposit insurance fund from loss. Had such a system been in place in the early 1980's, we would not be facing a $500 billion problem today. Such a system will help us avoid such a problem in the future.

Fourth, the bill contains restrictions on State-authorized activities for depository institutions. This is a prickly area because of our long tradition of a dual banking system, with some activities authorized by Federal authorities and some by States. Historically, the States have authorized a number of useful innovations in the banking system. However, we clearly must be far more careful in continuing a system that separates who authorizes bank activities, in this case the States, from who pays for the consequences of any failures, here the Federal Government through deposit insurance. Data from the S&L debacle show that a huge percentage of the losses were incurred by State-chartered thrifts that misused State-authorized powers that were broader than those permitted to Federal thrifts. Clearly we must never permit that to happen again. At the same time, it is important to seek to strike a balance here that will permit us to take advantage of the States as laboratories without exposing the deposit insurance funds to undue risk.

That this is not a problem restricted to thrifts alone is clear from the

recent controversy surrounding a Delaware law that would have authorized banks—either through a separate department or division of the bank itself, or through a subsidiary of the bank—to underwrite and sell insurance anywhere in the Nation. While the Fed has put a stop to this particular law, it represents the potential danger that continues to exist until the Congress and the President act to define the rules of the road in this important area.

The bill takes a cautious step toward restricting such activities. Clearly, this section of the bill will require careful consideration as we try to balance a large number of competing concerns.

The bill also touches on a similar problem with respect to risky national bank activities, which raises a question as to the wisdom, if not the legality, of a decision by the comptroller of the currency that permits national banks located in a place with a population not exceeding 5,000 to sell insurance anywhere in the country. The provision in the National Bank Act was designed to assure insurance availability in isolation areas, not to be used as a subterfuge to sell insurance nationwide. Such abuses must be ended, and I am hopeful that we will solve this problem in this legislation.

While the bill contains many other provisions, I would just like to mention a couple of them. First, the bill would direct the Securities and Exchange Commission to facilitate the development of accounting principles that better reflect the actual condition of depository institutions. Today, generally accepted accounting principles utilize an historical basis to value assets. Unfortunately, as we discovered in the S&L crisis, sometimes those assets deteriorate in value over time so that traditional GAAP accounting fails to reflect the true value of the assets. If we are to assure that the new capital standards are meaningful, we must move as far as we can to an accounting system that reflects the present value of assets.

Finally, the bill would authorize the FDIC to institute a system F risk-based premiums that would require depository institutions that engage in riskier activities to pay higher premiums. Such a system would apply traditional insurance principles to deposit insurance, a difficult but long overdue action to take.

Overall, I think Chairman RIEGLE's bill provides an excellent starting point for reforming and strengthening our system to make sure that deposit insurance continues to provide the invaluable function of discouraging bank runs without exposing the public's funds to achieve that goal.

However, deposit insurance reform cannot be our only legislative change if we are both, to protect deposit insurance, and enable our financial services providers to offer the products consumers want domestically and have the strength to compete internationally. One of the reasons our banks are in some trouble today, is because other financial services competitors have availed themselves of modern technology to take away some of what used to be the banks' best business. The commercial paper filed, whereby securities firms finance short term lending for corporations, is an example of how the banks competitors have taken away a lucrative and safe market from the banks. If banks are to continue to perform their important role as financial intermediaries, then we are going to have to permit them to diversify their activities. The question is, what set of rules can we establish to assure they do so without placing an undue risk on the taxpayers? Early in this Congress I introduced the safe bank approach, long championed by Bob Litan of the Brookings Institution, which I believe would permit the necessary diversification without increasing risk by requiring banks that wish to engage in new activities to put their depositors' funds into short term, highly liquid and safe investments and to fund the new activities out of independently raised, uninsured capital. I think this is one good way to modernize our laws. Many other thoughtful proposals are also on the table. I just want to reinforce the point that any successful reform of deposit insurance must also address modernization of our financial services industry.

Finally, I think it is also important for the Congress to address the issue of interstate banking. The regional interstate banking compacts have been a success and now it is time to permit full interstate banking. I have introduced legislation to permit it. It is good for banks, it is good for their customers, and it will be good for us competitively in the global economy. Given the likely controversial nature of financial modernization legislation, I hope the banking committee will consider, and move, this legislation separately early in the next Congress.

Mr. President, I am pleased that our Banking Committee Chairman, Senator RIEGLE, has put such a thoughtful proposal on the table and I am looking forward to working with him and other Members of the Senate—as well as with the administration—to perfect this proposal and to move it rapidly in the next Congress to assure the public a financial services industry for the 21st century that will be strong and internationally competitive with little or no risk to the taxpayers.

By Mr. ARMSTRONG:

S. 3104. A bill for the relief of Sonanoug Poonpipat (Latch); to the Committee on the Judiciary.

RELIEF OF SONANOUG POONPIPAT (LATCH)

● Mr. ARMSTRONG. Mr. President, I rise today to introduce a private relief bill that will correct a problem created by a loophole in our immigration law. This bill, companion legislation to a bill introduced in the House by Congressman HANK BROWN, would grant immediate relative status to the widow of a U.S. citizen killed abroad.

In 1986 Mr. William P. Latch, an NBC reporter from Durango, CO, was killed while on assignment in Thailand. He left behind a Thai wife, Sonanong Poonpipat Latch, and two minor children with dual citizenship. Unfortunately, Mr. Latch had not petitioned for citizenship for his wife before his death. Had he done so, it would have been a routine process to grant his wife U.S. citizenship. Now, however, she cannot be granted permanent resident status because she has no immediate relative to petition on her behalf. Mrs. Latch is caught in an immigration limbo called deferred action status. She is permitted to live in the United States but is prevented from working and her residency can be terminated at any time by the Immigration and Naturalization Service.

Mrs. Latch and her children have been living in the United States for 4 years. Both of her children are in school, doing well and have fully assimilated into American culture. Permanent residency status for Mrs. Latch would be the last step in an immigration odyssey that has spanned 4 years. Her only desire is to be a productive member of her community and have the peace of mind that comes from knowing she cannot be forced to be returned to Thailand. This legislation will, at long last, give Mrs. Latch and her family the full measure of protection and security our immigration laws afford, and I urge its compassionate and favorable consideration.●

By Mr. BUMPERS:

S. 3105. A bill to strengthen the protections afforded to units of the National Park System and certain other nationally significant historic and natural places, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL HERITAGE CONSERVATION ACT

● Mr. BUMPERS. Mr. President, I am today introducing a proposed National Heritage Conservation Act to strengthen the protection of natural and historic places of national significance.

Two years ago the Congress moved in a critical situation to save from commercial development historic portions of the Manassas National Battlefield. The 11th-hour rescue of Manassas was an extraordinary event but the plight of Manassas is not unique. The fact is that many Civil War battlefields and national parks, many na-

tional historic and national landmarks are under increasing pressure from development in many forms.

It is encouraging to see a growing awareness of the need to act aggressively to save these precious resources. Only this summer announcement was made of the magnificent gift to the Nation of more than 100,000 acres of wildlife refuges and historic areas by the Richard King Mellon Foundation. This gift includes critical Civil War sites like the Cornfield, a tract on the Antietam National Battlefield in Maryland, which was the scene of the bloodiest day of fighting of the War. It also includes an important ranch property in New Mexico with 100 Indian and Spanish archeological sites, as well as lands adjacent to Rocky Mountain National Park purchased to protect elk migration.

The Mellon Foundation gift dramatizes both the urgent need and the opportunities for private sector involvement in heritage protection. I hope other foundations—which rarely engage in this kind of preservation—will follow the lead of the Mellon Foundation.

Clearly, in today's fiscal climate, the Federal Government cannot afford to buy off developers and save every threatened national resource. We can, however, do a much better job of planning to protect these resources than we do now. We can work more closely with business interests, with the environmental community and with concerned citizens to achieve the goal of preserving our heritage.

The legislation I am introducing today would provide a national strategy for protecting natural and historic places. It would apply to nationally significant heritage resources defined as units of the National Park System, including affiliated areas, national historic landmarks, national natural landmarks and sites nominated by the Secretary of the Interior.

The legislation would direct the Secretary to prepare a biennial report documenting the condition of each unit of the National Park System. No such report is currently prepared. The report would include a listing of internal and external threats to the unit and a description of plans to protect the unit. It would also direct the Secretary to maintain a list of national historic landmarks and national natural landmarks that are endangered. Although the Secretary has prepared an annual report on endangered landmarks the bill would codify the procedures and criteria for such listings.

The legislation would create a new program administered by the National Park Service to encourage the protection of units of the National Park System through voluntary cooperative planning with State and local governments and the private sector.

The Service would be directed to draw up a list of units to participate in the planning process. The bill would authorize the Service to make planning grants to encourage public and private groups to participate in preparing strategies. The Service would review draft strategies and approve those that contain binding commitments for actions which, if implemented, would reduce or remove threats. For approved strategies, the proposal would authorize Federal grant funds for plan implementation.

For those landmarks identified as endangered, the bill would direct the National Park Service to seek to enter into voluntary agreements with landmark owners to provide for the long term protection of the site. It authorizes planning grants to private owners, local governments and State governments to enable them to help formulate an agreement. The National Park Service is authorized to make grants to implement an agreement which has been approved by affected parties. As with a heritage protection strategy, the legislation would require that all Federal agency actions by consistent with the conservation agreement.

The bill would establish a new standard for Federal agency activities that have the potential to harm a nationally significant heritage resource. Federal agencies would be prevented from approving activities that would use land from any protected site. In addition, agencies would be allowed to approve or assist activities that would adversely affect a site only if they find that there are no feasible and prudent alternatives to the action and that all possible planning to minimize the harm will be undertaken.

The legislation would also amend the National Historic Preservation Act to provide that, where Federal agencies, States and the Advisory Council on Historic Preservation cannot reach an agreement on plans to avoid or mitigate harm to a historic property listed on or eligible for listing on the National Register of Historic Places, the agency may not proceed unless it finds that it is not feasible and prudent to implement the recommendations of the Council.

The legislation would authorize $25 million each year for the preparation and funding of heritage protection strategies and landmark conservation agreements.

Mr. President, I am introducing the National Heritage Conservation Act at this stage in the 101st Congress to provide for the widest possible consideration of its provisions and its potential for achieving results. The Public Lands Subcommittee will actively solicit comments and suggestions on this proposal over the next few months with a view to legislative action next year, which marks not only the 25th anniversary of the National Historic Preservation Act of 1966 but also the 75th Anniversary of the National Park System.

In the meantime, I hope that Congress will complete action this year on legislation I have sponsored to create a Civil War Sites Advisory Commission. The Commission will assess threats to Civil War sites of historic significance and recommend strategies for preserving these sites. The National Heritage Conservation Act could provide a means for acting on the Commission's recommendations in the future.

Mr. President, I ask unanimous consent that the text of the proposed National Heritage Conservation Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3105

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Heritage Conservation Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) The Nation's heritage of natural and historic places embrace unique, superlative, and nationally significant resources, constitute a major source of pride, inspiration, and enjoyment for the people of the United States, and have gained international recognition and acclaim.

(2) The Congress has repeatedly expressed its intentions, in both generic and specific statutes and by other means, that units of the National Park System and other natural and historic places should be accorded the highest degree of protection.

(3) Many nationally significant heritage resources are being degraded or threatened with degradation leading to the loss of tangible links to the natural and cultural history of the Nation.

(4) Units of the National Park System, national historic and natural landmarks, and sites listed on the National Register of Historic Places, are an irreplaceable national heritage whose preservation is in the public interest and essential to provide future generations of Americans with the rich legacy of cultural and natural resources which are so much a part of the Nation's history and character.

(5) No comprehensive program exists for the gathering of data, the identification, analysis, and documentation of trends and the identification of problems regarding the condition of units of the National Park System and other nationally significant heritage resources, or for preventing the loss or degradation of these irreplaceable cultural and natural assets.

SEC. 3. PURPOSE AND POLICY.

(a) PURPOSE AND POLICY.—In furtherance of the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1,2-4), the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et. seq.), the National Historic Preservation Act (94 Stat. 2987; 16 U.S.C. 470 et. seq.), the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1 through 1a-7), and such other legislation establishing units of the National Park System, it is the purpose of this Act, and shall continue to be national policy, to provide for a highest degree of

protection and preservation of the Nation's heritage of natural and historic places for the benefit of present and future generations.

(b) SPECIFIC PURPOSE.—In furtherance of that purpose and policy, it is the specific purpose of this Act to provide for the development of comprehensive management programs, and planning and decisionmaking processes which will—

(1) identify damage, threats, and problems affecting, or which may adversely affect, nationally significant heritage sites, and

(2) provide for the implementation of actions which will maximize the protection and preservation of these resources for the benefit of present and future generations.

SEC. 4. STATE OF THE NATIONAL PARKS REPORTS.

(a) REPORT.—The furtherance of the provisions of section 3 of this Act, the Secretary shall undertake a continuing program of data collection, research, monitoring, analysis and documentation as to conditions, factors and forces which are adversely affecting, or threatening to adversely affect, units of the National Park System. The Secretary shall prepare a biennial "State of the National Parks" report. Such report shall fully document the condition of the national parks including appropriate baseline information and documentation of problems related to their degradation and solutions to such problems. The first report shall be issued no later than January 1, 1993 by the Secretary to the Speaker of the United States House of Representatives and to the President of the United States Senate for referral to and consideration by the appropriate legislative committees of the House and Senate. Successive reports shall update previous submissions. Each report shall be printed as a House document.

(b) CONTENTS.—The report shall include, but need not be limited to, a brief description, for each individual unit of the National Park System, of each of the following:

(1) The past, current, and projected condition of the unit.

(2) All factors and forces, ranked in order of priority, emanating from both inside and outside the unit, which adversely affect or threaten to adversely affect the unit. The report shall include an analysis of the nature and serverity of actual or threatened impacts from such factors or forces, including a description of the source of those factors or forces, the probability of their continuation or increase, and the resources of the unit which have been or may be adversely affected.

(3) Ongoing and planned protection and management actions, including specific reserach programs with regard to paragraphs (1) and (2) of this paragraph.

(4) The accomplishments and results of the actions undertaken in accordance with paragraph (3).

(c) PUBLIC INVOLVEMENT.—In the preparation of the "State of the Parks" report, the Secretary shall take appropriate steps to solicit public involvement.

SEC. 5. PREPARATION OF LIST OF ENDANGERED PLACES

(a) PREPARATION.—The Secretary is directed to maintain a complete and current list of all national landmarks which meet the criteria of subsection (b). The Secretary shall transmit a copy of such list to the Speaker of the United States House of Representatives and to the President of the United States Senate for referral to and consideration by the appropriate legislative committees of the House and Senate. Such report shall be transmitted by the Secretary at the beginning of each fiscal year beginning with fiscal year 1992.

(b) CRITERIA FOR LISTING.—Within 1 year of the effective date of this Act, the Secretary shall promulgate criteria for designating a national landmark as endangered. Such criteria shall provide for the designation of a national landmark that faces any known or reasonably foreseeable damage or threat that may cause the landmark to lose those qualities for which the site was designated. Such damage or threat includes, but is not limited to—

(1) actions or failures to act that may result in the deterioration, destruction or alteration of all or part of the site; and

(2) the introduction of visual or audible elements that are inconsistent with the interpretation or public enjoyment of the site. In developing these criteria, the Secretary shall consult with affected Federal agencies, businesses, organizations and individuals as as well as seek and consider public comments.

(c) PROCEDURES FOR LISTING.—The Secretary shall list those sites which meet the criteria established pursuant to subsection (b) following a review of such information as the Secretary deems necessary. No site shall be listed until the Secretary has—

(1) consulted with the Governor of the State (or States) and chief elected official of the local government (or governments) in which the site is located; and

(2) provided a reasonable opportunity for public comment.

Such consultation and opportunity to comment prior to designation may be waived by the Secretary in emergency situations where delay would frustrate the purposes of this Act. In such cases, consultation and opportunity to comment shall take place at the earliest possible opportunity following listing.

(d) PETITION FOR LISTING.—Upon the request of the owner of the national landmark or the appropriate local or State government, the Secretary shall undertake a review of a site to determine whether it meets the criteria of subsection (b). The Secretary shall make such determination no later than 30 days following the receipt of a petition. Upon determining that a site meets such criteria, the Secretary shall place it on the list of endangered places.

(e) REGULATIONS.—The Secretary shall promulgate regulations for the implementation of this section within 1 year of the date of enactment of this Act.

SEC. 6. HERITAGE PROTECTION STRATEGIES.

(a) DECRIPTION.—The Secretary shall initiate a program to prepare heritage protection strategies for units of the National Park System. The purpose of preparing a strategy shall be to develop specific programs of cooperation among the Service, other Federal agencies, State and local governments and the private sector that will address factors and forces which adversely affect or threaten to adversely affect units of the National Parks System as documented in the state of the parks report—

(1) that relate wholly or in part from conditions outside the boundaries of a unit, or

(2) whose resolution is dependent in whole or part on the actions or policies of governmental agencies or persons other than the National Park Service.

(b) PREPARATION.—A heritage protection strategy shall be prepared by the Secretary in consultation with such public and private parties as the Secretary deems necessary and appropriate for the strategy's preparation and implementation. Within 180 days of the publication of the initial state of the parks report, the Secretary shall publish a listing of not fewer than 20 units where the National Park Service shall initiate the preparation of a heritage protection strategy. Thereafter, the Secretary shall revise and republish such list in conjunction with the issuance of the state of the parks report.

(c) GRANTS.—The Secretary is authorized to make grants to local governments and State governments for the purposes of assisting in the preparation of a strategy described in subseciton (a). Such grants shall not exceed $50,000 in any fiscal year to any local government or $250,000 to any State government.

(d) CONTENTS.—A heritage protection strategy shall include each of the following:

(1) A description of the nature of known threats to the national park unit.

(2) A definition of an area in which grant assistance, cooperative plans and other techniques to avoid or substantially mitigate the effects of non-Federal activities on the park unit and any other natural or cultural resources within the area will be applied.

(3) A detailed description of such plans and techniques as may be necessary or appropriate to prevent any adverse effect to the unit.

(4) Specific programs of private, local, state and Federal actions, including but not limited to, zoning and property acquisition, including easement acquisition, that will implement such plans and techniques.

(e) APPROVAL.—The Secretary shall not approve any strategy unless the Secretary finds it is consistent with subsection (d) and makes each of the following findings:

(1) A finding that the strategy has been developed with adequate opportunity, including public hearings, for public involvement in the preparation and review of the strategy, and public comments were received and considered in the strategy or revision as presented to the Secretary.

(2) A finding that any State and local government (or governments) or Federal agencies identified in the strategy as necessary for implementing its provisions have the necessary authority to implement the strategy and has taken such actions, or upon approval of the strategy will take such actions, including the adoption of laws, ordinances resolutions or regulations, to demonstrate their intention to use such authority to implement the strategy.

(3) A finding that the strategy, if implemented, would remove some or all of those threats identified in the state of the national parks report.

(f) GRANTS TO STATE AND LOCAL GOVERNMENTS.—The Secretary is authorized to provide grants to such State and local governments to facilitate the implementation of the strategy including grants for the acquisition of full or partial interests in property, the construction of public facilities, and the preparation and construction of such services and facilities as will enhance the public's appreciation of the park unit and any other natural, historic, or recreational resources within the area in which the strategy will be implemented. Such grants shall be conditioned on the Secretary's receipt of specific commitments for State or local actions, including but not limited to zoning and property acquisition, including easement acquisition, that will assist in the implementation of an approved heritage protection strategy. The Secretary shall suspend the provision of grants where the Sec-

retary has withdrawn approval of the strategy pursuant to subsection (g).

(g) REVIEW.—The Secretary shall conduct a regular review of approved strategies for the purpose of ensuring that the strategy continues to meet the requirements of subsections (d) and (e). Where the Secretary finds that a strategy or its implementation no longer meets these requirements, the Secretary shall withdraw his or her approval of the strategy or portions thereof. Such a withdrawal shall occur only after consultation with the affected local and State governments.

(h) GRANT CONDITIONS.—Grants under this section shall be made only upon application of the recipient State or local government and shall come from funds specifically appropriated for this purpose as authorized by this Act. In addition, such funds shall be in addition to any other Federal financial assistance for any other program, and shall be subject to such terms and conditions as the Secretary deems necessary to carry out the purposes of this section. No grant shall be made after the date 5 years from the date of the Secretary's approval of the plan.

(i) CONSISTENCY OF FEDERAL ACTIVITIES WITH HERITAGE PROTECTION STRATEGIES.—Each Federal agency conducting or supporting undertakings that may affect units of the National Park System for which the Secretary has approved a strategy pursuant to this section shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with the strategy.

SEC. 7. NATIONAL LANDMARK CONSERVATION AGREEMENTS.

(a) AGREEMENTS.—For each national landmark identified as endangered pursuant to section 5, the Secretary shall seek to enter a binding written agreement with—

(1) the owner of the national landmark, or

(2) the local government (or in the case of a site located within multiple jurisdiction, such governments) within which the national landmark is located, or

(3) in the case of a landmark owned or controlled by an agency of the Federal government, such agency, or

(4) a combination of such owners, governments and agencies as the Secretary considers appropriate,

that provides for the long-term conservation of the site. Such an agreement shall specify a detailed plan of action to preserve those characteristics of the national landmark that qualified it for such designation.

(b) PLANNING GRANTS.—The Secretary is authorized to make grants for the purpose of assisting owners and local governments in the preparation of an Agreement described in subsection (a). Such grants shall not exceed $50,000 in any fiscal year to any individual or local government.

(c) CONSERVATION GRANTS.—Upon the execution of an agreement the Secretary may provide grants to owners and local governments to facilitate the implementation of the Agreement including grants for the acquisition of full or partial interests in property, the rehabilitation of properties and the preparation and construction of such services and facilities as will enhance the public's appreciation of the national landmark. Such grants shall be conditioned on the Secretary's receipt of specific commitments, including but not limited to zoning and property acquisition or donation, including easement acquisition and donation, including easement acquisition and donation, that will assist in the implementation of a Landmark Conservation agreement.

(d) GRANT CONDITIONS.—Grants under this section shall be made only upon application of the recipient local government or owner and shall come from funds specifically appropriated for this purpose as authorized by this Act. In addition, such funds shall be in addition to any other Federal financial assistance for any other program, and shall be subject to such terms and conditions as the Secretary deems necessary to carry out the purposes of this section.

(e) CONSISTENCY OF FEDERAL ACTIVITIES WITH LANDMARK CONSERVATION AGREEMENTS.—Each Federal agency conducting or supporting undertakings that may affect a national landmark for which the Secretary has executed a conservation agreement pursuant to this section shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with the agreement.

SEC. 8. PROTECTION FROM ADVERSE FEDERAL ACTIONS.

(a) POLICY.—The head of any Federal agency shall not approve any Federal or federally assisted undertaking unless the agency head makes each of the following determinations:

(1) A determination that the undertaking does not require the use of any land from a nationally significant heritage resource (as defined in subsection (b)).

(2) A determination that the undertaking does not adversely affect a nationally significant heritage resource or that the undertaking will be approved notwithstanding the effect because—

(a) there are no prudent and feasible alternatives to the undertaking, including not proceeding with the undertaking, and

(b) the undertaking includes all possible planning to minimize harm to the nationally significant heritage resource.

(b) NATIONALLY SIGNIFICANT HERITAGE RESOURCES.—For the purpose of this Act, nationally significant heritage resources are each of the following—

(A) the units of the National Park System,

(B) those places designated as National Historic Landmarks,

(C) those places designated as National Natural Landmarks, and

(D) any resource, upon application of the Governor of the State or the chief elected official of the local government concerned, found by the Secretary to be worthy of maximum Federal efforts to conserve and enhance for the education, appreciation, and inspiration of present and future generations.

The Secretary shall promulgate standards and procedures for considering applications pursuant to this paragraph. The Secretary shall publish a listing of nationally significant heritage resources not less often than January 1 of each year.

(c) PROCEDURES.—The head of any Federal agency having direct of indirect jurisdiction over a proposed Federal or federally assisted undertaking that may adversely affect a nationally significant heritage resource shall, prior to issuing a license, approving the expenditures of funds, or granting other such approval, sanction or assistance—

(1) promptly notify the appropriate State and local governmental officials, and interested members of the public of the action at the time it is planning the action, preparing an environmental assessment regarding the action, preparing an evaluation pursuant to the National Environmental Policy Act of 1969, and if required, preparing an environmental impact statement for the action, and

(2) provide the Secretary, the Advisory Council on Historic Preservation, and the Council on Environmental Quality a reasonable opportunity to comment on the undertaking and the finding made pursuant to subsection (a) of the section.

The requirements of this subsection shall be carried out in accordance with procedures established by regulation by the Federal agency responsible for undertaking or approving the Federal action. These procedures shall utilize the procedures developed by such agency pursuant to the National Environmental Policy Act, the National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, the Council on Environmental Quality, or any combination of these as the agency deems appropriate, and such other applicable laws as may serve to advance the purpose of this section.

(d) EXEMPTIONS FOR NATIONAL SECURITY AND DISASTERS.—The provisions of this section shall not apply to any undertaking or class of undertakings—

(1) that is carried out by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any state that are uniquely military in nature where the President determines that it is in the paramount interest of the United States to permit such undertaking, or

(2) that takes place in an area the President has declared to be a major disaster area under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and where the head of the agency determines that the undertaking—

(A) is necessary to prevent the recurrence of such a disaster and to reduce the potential loss of human life, or

(B) involves an emergency situation which does not allow compliance with this section.

(e) PREVENTION OF HARM IN ANTICIPATION OF AN APPLICATION FOR FEDERAL ASSISTANCE.—The head of any Federal agency shall not grant a loan, loan guarantee, permit, license, or other assistance in the improvement of property to an applicant who, at any time prior to the making of the application, engaged in activity on that property that affected adversely a nationally significant heritage resource or property subject to the provisions of section 106 of the National Historic Preservation Act, or, being in a position to prevent it, allowed such activity to occur, unless such agency head, in consultation with the Secretary and the Advisory Council on Historic Preservation, determines that circumstances justify extending the requested Federal assistance despite the adverse effect created or permitted by the applicant.

SEC. 9. FEDERAL ACTIONS THAT AFFECT NATIONAL REGISTER PROPERTIES.

Section 110(f) of the National Historic Preservation Act of 1966 is amended to read as follows: "(f) With respect to any undertaking subject to the provisions of section 106 which adversely affects any historic property for which the agency has not entered into an agreement with the Council and the appropriate State Historic Preservation Officer, the head of the responsible Federal agency may approve such undertaking only if the agency head determines that implementing the recommendations contained in the comments of the Council made pursuant to section 106 is not feasible and prudent.".

SEC. 10. DEFINITIONS.

As used in this title:

(1) The term "adverse effect" or "adversely affect" means for the purposes of this Act, any factor, force or action that may damage, diminish, degrade, impair, destroy or otherwise harm.

(2) The term "appropriate committees" means those committees of both the House and the Senate which have primary jurisdiction for the activities of the National Park Service or for the appropriation of funds for the National Park Service.

(3) The term "Federal or federally assisted undertaking" means any Federal, federally assisted or federally licensed project, activity, or program or the approval, sanction, assistance, or support of any non-Federal action, activity or program.

(4) The term "National Historic Landmark" means a property so designated by the Secretary of the Interior or determined eligible for such designation pursuant to the authority of the Act of August 21, 1935.

(5) The term "national landmark" means any National Historic Landmark or any National Natural Landmark.

(6) The term "National Natural Landmark" means a property so designated by the Secretary of the Interior pursuant to authority of the Act of August 21, 1935 and as further authorized by this Act.

(7) The term "National Park System" has the meaning provided by section 2 of the Act of August 8, 1953 (16

(8) The term "National Register of Historic Places" means places so designated pursuant to the National Historic Preservation Act.

(9) Ther term "nationally significant heritage resource" or "nationally significant heritage resources" means any place meeting the definition of section 8(b) of this Act including—

(A) any of those resources that comprise a national significant heritage resource, or

(B) any of those qualities and values for which a site is designated as a nationally significant heritage resource.

(10) The term "owner" means for the purposes of this Act, the single ownership entity or, in the case of multiple owners of a single property or the owners of multiple properties, any one of such owners.

(11) the terms "resource" and "resources" includes—

(A) in the case of natural resources, the geology, flora and fauna, and paleontological remains which are principally of indigenous origin, including their related ecosystems, watersheds, viewsheds, terrestrial and aquatic habitats of plant and animal species, and topographic or geologic features, and

(B) in the case of cultural resources, the historic and prehistoric districts, sites, buildings, structures, landscapes, objects, associated artifacts, records and remains, and related historical contexts, natural settings or geographic features which are historically associated with and significant to an understanding of the cultural resource.

(12) The term "Secretary" means the Secretary of the Interior acting through the Director of the National Park Service except where specific reference is made to the Secretary of the Interior.

(13) The term "use of land" means for the purposes of this Act,—

(A) any physical alteration of land (including improvements thereon) within the boundaries of a nationally significant heritage resource, or

(B) any substantial indirect impacts on such land,

such that the utility or enjoyment of the land in terms of its environmental, ecological, or historical significance is substantially impaired.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated not more than $25,000,000 in each of the five fiscal years following enactment of this Act for the purposes of this Act. Of this amount, $15,000,000 shall be available for the purposes of section 6 of this Act and $10,000,000 for purposes of section 7 of this Act. Such sums shall remain available until appropriated and such sums as may be appropriated shall remain available until expended.

SEC. 12. EFFECTIVE DATES.

The provisions of sections 8 and 9 of this Act shall be effective for any Federal or federally assisted undertaking for which Federal approval has not been granted prior to the date of enactment of this Act or for any new or revised element of such undertakings proposed following such date.●

By Mr. COATS:

S. 3106. A bill to provide for improvements with respect to Medicare spousal protection and impoverishment benefits; to the Committee on Finance.

SPOUSAL IMPOVERISHMENT IMPROVEMENT ACT

● Mr. COATS. Mr. President, I am pleased to introduce a bill that will make two important improvements in the Medicare Spousal Impoverishment Benefits Act.

Before I describe these changes I would like to take a moment to explain the background. It was my intention, and I trust my colleagues would agree with me, that the spousal impoverishment legislation would protect individuals who were institutionalized before September 30, 1989. It certainly was not my understanding that the law would require individuals who were in a nursing home before September 30, 1989, to be taken out of that home for 30 days in order to be eligible for spousal improverishment coverage. However, the language in the statute is ambiguous and our seniors are suffering from this ambiguity.

The devastating personal impact of this confusion was brought to my attention 7 months ago through letters that I received from my constituents. I contacted the Health Care Finance Administration immediately and was led to believe that the law would be interpreted correctly and individuals that were institutionalized before September 30, 1989, would be eligible for spousal impoverishment coverage. However, on September 5, 1990, Secretary Sullivan's official response contradicted what I was told earlier in the year. It stated that while the general effective date of the new law was September 30, 1989, the resource rules only became effective for persons who were admitted to an institution for a continuous period on or after that date. Consequently, the Health Care and Finance Administration could only require application of the new resource rules to all institutionalized persons if the law were changed.

My legislation will correct this misunderstanding by making it clear that the spousal impoverishment law covers those individuals that entered the nursing home before September 30, 1989.

In addition, this bill will extend spousal impoverishment protection to more States who have opted to participate in home health care, or waivered services programs, including the State of Indiana. Currently, the only States that have opted to protect their seniors from spousal impoverishment in home health care are Kansas, Louisiana, and Hawaii. These States have not experienced a dramatic increase in the use of home care waivered services. Consequently, there has not been a substantial increase in costs. My bill would make it mandatory for 209B States to cover individuals in waivered services under the Spousal Impoverishment Act, in the hope that their programs will serve as an example to every State, encouraging them to offer spousal impoverishment for all of the elderly.

Every State needs to do its part to bring an end to the bureaucratic abuse of our elderly. The elderly have worked hard all their lives to earn a secure retirement. But now they are being threatened, not only by the high cost of long-term care but, by the misinterpretation of the Spousal Impoverishment Act. Almost 3 million elderly Americans need home care or nursing home care. Of these elderly citizens, 1.3 million reside in nursing homes. Another 1.6 million are struggling to survive in their own homes, in their children's homes, or in other community settings.

We need to continue to keep our families together, not force them to be apart. Many elderly Hoosiers want the opportunity to keep their spouses in their own home but they cannot afford to do so. These struggling seniors need to be protected against the loss of their assets if they opt for nursing home care. It isn't fair to offer an ailing elderly man or woman the option of staying with their spouse in the home without protecting the assets of the healthy spouse. They deserve the same protection we give to a couple where the ailing spouse is in a nursing facility. It is wrong to encourage the break up of families because we are too busy counting costs.

Members of this Congress have demonstrated a strong commitment to protect our elderly. I encourage my colleagues to support this effort to expand the number of States that protect the elderly against impoverishment in their search for nursing and home health care—and to continue programs which encourage the protection of the families. I ask unanimous consent to have the text of the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3106

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Spousal Impoverishment Improvement Act".

SEC. 2. TO ENSURE THE PROVISION OF SPOUSAL PROTECTION BENEFITS FOR CERTAIN INDIVIDUALS.

(a) IN GENERAL.—Section 303(g)(1)(B) of the Medicare Catastrophic Coverage Act of 1988 is amended to read as follows:

"(B) Section 1924 of the Social Security Act (as inserted by subsection (a)) shall only apply to individuals institutionalized for continuous periods of institutionalization beginning before, on or after September 30, 1989, and ending on or after September 30, 1989, except that subsections (b) and (d) of such section (and so much of subsection (e) of such section as relates to such other subsections) shall apply as of such date to individuals institutionalized on or after such date.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective as if included in the provisions of the Medicare Catastrophic Coverage Act of 1988.

SEC. 3. MANDATORY APPLICATION OF SPOUSAL PROTECTION RULES IN 209(b) STATES TO INDIVIDUALS WHO ARE LIKELY TO RECEIVE HOME AND COMMUNITY-BASED WAIVERS.

(a) IN GENERAL.—Section 1924(h)(1)(A) of the Social Security Act (42 U.S.C. 1396r-5(h)(1)(A)) is amended by striking "(at the option of the State)" and inserting "(at the option of the State, except with respect to those States exercising the option to apply under section 1902(f) a more restrictive eligibility standard than that for benefits under title XVI which States shall have no such option)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to payments for calendar quarters beginning on or after January 1, 1991.●

By Mr. GRAHAM:

S. 3107. A bill to authorize the Secretary of Education to make a grant to Stetson University for the construction of library facilities; to the Committee on Labor and Human Resources.

CONSTRUCTION OF LIBRARY FACILITIES AT STETSON UNIVERSITY

● Mr. GRAHAM. Mr. President, today I am introducing legislation to help expand a Federal depository library at Stetson University, located in Deland, FL.

This bill authorizes $8 million in matching funds to construct a major addition to the main library at Stetson. Companion legislation in the House of Representatives, H.R. 5522, was introduced by Representative SHAW.

Having received a senatorial designation in November 1887, Stetson is the oldest depository in the State of Florida for publications of the U.S. Government.

The university, a private institution, has made a substantial commitment to serve the general public as a government documents resource. In addition, many of the other 36 Federal depositries in Florida rely on the extensive early collection housed at Stetson.

The bill I am introducing today will enhance the accessibility of these documents, which number over 200,000 and span more than a century of our Government's history.

Mr. President, in recognition of the important public information role Federal depositories play and the necessity that citizens be able to access the information contained in depositories, I urge my colleagues' full consideration and support of this legislation.●

By Mr. DIXON (for himself and Mr. SIMON):

S. 3108. A bill to designate the facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, Illinois, as the "Robert McClory Post Office"; placed on the calender.

ROBERT MCCLORY POST OFFICE

Mr. DIXON. Mr. President, I rise today to introduce a bill with my colleague, Senator SIMON, in honor of the late Congressman Robert McClory.

Bob McClory was a very dear friend of mine, and he proudly served the people of Illinois for over 30 years.

He began his career in 1950 when he was elected to the House of representatives in the Illinois General Assembly, where he served during the 67th Congress. In 1952, Bob began 8 years of distinguished service in the Illinois State senate.

In 1962, he was elected to the 88th Congress in the U.S. House of Representatives, and served for nine consecutive Congresses after that until his retirement in 1983.

Bob was an outstanding public servant and he always went out of his way to be kind to me. I will never forget that. I know that many current Members of Congress served with Bob, and his death in 1988 was truly a sad day for all of us.

To commemorate our former colleague, this bill would name the new post office in Carpentersville, IL the "Robert McClory Post Office." I ask my colleagues to join me in honoring our old friend.

Thank you, Mr. President.

By Mr. PRESSLER (for himself and Mr. BURNS):

S. 3109. A bill entitled the "Corps of Engineers Mitigation Act"; to the Committee on Environment and Public Works.

CORPS OF ENGINEERS MITIGATION ACT

Mr. PRESSLER. Mr. President, on behalf of myself and Senator BURNS, today I am introducing legislation which would allow an impacted State or tribe to make a written request to the Secretary of the Army for corrective Missouri River water management action.

This legislation requires the Secretary of the Army to make operation changes within 5 days of the written request if he determines that the environmental and economic impacts to the State or tribe outweigh any potential adverse impacts arising from the implementation of the preventive or mitigative action requested.

This legislation also authorizes a $100 million general appropriation to be used for mitigating impacts in the Missouri River Basin States when Corps of Engineers water management policy causes damage.

The Missouri River is depended on for a multitude of uses. These include: rural water system intakes for pipelines which carry water to thousands of city and rural residents; irrigation system intakes; recreation; and navigation.

The U.S. Army Corps of Engineers is responsible for managing Missouri River water flows for power generation and downstream navigation. Years of drought and questionable corps water management policy have caused the water levels in some Missouri River reservoirs to drop to all-time lows. This, in turn has deprived many of the water they need. Rural water systems, irrigators, recreationalists, and navigation interests have all suffered.

Mr. President, it seems that the Corps of Engineers is accountable to no one for its water management policy on the Missouri River. This situation desperately needs to be changed.

Missouri River water users must have assurances in the future that corps water management policy will be fair. The Corps of Engineers must be held accountable in the future for its water management actions.

By Mr. PELL (for himself and Mr. CHAFEE):

S.J. Res. 370. Joint resolution to express the sense of the Congress with regard to eradicating world hunger in the 1990's; to the Committee on Foreign Relations.

ERADICATING WORLD HUNGER

● Mr. PELL. Mr. President, today Senator CHAFEE and I are introducing legislation to lend focus to the United States' efforts to combat the problem of world hunger.

The depth and magnitude of the world hunger are well known, but for too long the world has dealt with this problem on a stop-gap, ad hoc basis. While millions of people suffer every day in silence, the international community rarely reacts unless there are unusually compelling circumstances such as drought, famine, or war. Our

intentions may indeed be correct, but the tragedy lies in the fact that we can and should be doing more on a daily basis.

The United States needs an overarching strategy to deal with the hunger problem. Many of our programs to combat world hunger are promising, but in my view we lack the foundation from which to coordinate the world's efforts.

That is why we are introducing the "Overcoming World Hunger in the 1990s Resolution." This legislation outlines a concrete set of goals and principles from which the United States and the international community can mount a serious drive to eradicate world hunger in the next decade.

The joint resolution draws upon the findings of three international declarations on the hunger problem that have been put forth during the last year and a half. The thrust of what the declarations proclaim is that we have the means to reduce hunger significantly if we focus on certain areas.

A major component of this legislation is the November 1989 Bellagio declaration. At that time, hunger experts from 14 countries met in Bellagio, Italy, to analyze the hunger problem and to offer achievable goals to meet it.

In my own State of Rhode Island, the Brown University Alan Shawn Feinstein World Hunger Program has been an active participant in the battle against hunger, and it played a key role in developing the Bellagio initiative. They, and the other thousands of groups and individuals dedicated to the eradication of hunger, deserve our full support. Indeed, we are in their debt, and we must act promptly and responsibly to see that their efforts have not been in vain.

Mr. President, enacting this legislation would send the world a message that we are serious about addressing the hunger problem during the next 10 years. I urge my colleagues to support the "Overcoming World Hunger in the 1990s Resolution," and I ask unanimous consent that the entire text of the joint resolution be printed in the RECORD at this point.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 370

Whereas during the last decade, progress in overcoming hunger has been grossly inadequate, with deteriorating conditions in Africa, Latin America, and South Asia;

Whereas nearly one billion people live in poverty with insufficient resources to obtain the food they need;

Whereas one child in six is born underweight and one child in three is underweight by age five;

Whereas millions of people suffer anemia, goiter, and impaired sight from diets deficient in iodine, iron, and vitamin A;

Whereas positive developments have occurred in understanding the nature of hunger, in providing emergency aid, in combatting childhood and nutritional diseases, leading many international development groups to conclude that it is possible to eradicate a significant measure of world hunger by the year 2000 using methods already proven to reduce hunger;

Whereas the World Food Council, of which the United States is a member, issued in its Cairo Declaration of May 1989 a call to achieve an elimination of starvation and death by famine; a substantial reduction of malnutrition and mortality among youth; a reduction in chronic hunger; and the elimination of major nutritional disease in the 1990's;

Whereas the Task Force on Child Survival issued a March 1990 call for reducing malnutrition among children under five; eliminating iodine deficiency disorders; and eliminating vitamin A deficiency and its consequences, including blindness;

Whereas representatives from 14 countries meeting in Bellagio, Italy in November 1989 concluded that it is possible to eliminate deaths from famine; end hunger in 50% of the poorest households worldwide; cut malnutrition by 50% for mothers and small children; eradicate iodine and vitamin A deficiencies; at the same time prevent additional hunger arising from environmental degradation, rapid population growth, and economic inequity; and

Whereas the United States has led the international community in responding to the tragedy of world hunger: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that the United States should—

(1) work with other nations, agencies, and private voluntary organizations to overcome hunger in the 1990's by supporting efforts to—

(A) eliminate deaths from famine through a strengthened commitment to humanitarian food aid, the expansion of famine prevention systems, and efforts to provide safe passage of food in areas of armed conflict;

(B) reduce by 50 percent chronic hunger among the world's poorest people through careful targeting of food aid and through other measures;

(C) decrease by 50 percent malnutrition among women and children through efforts to enhance child survival, including immunization, treating diarrheal diseases, and other methods, and through efforts to reduce nutritional anemia in women;

(D) eradicate major nutritional deficiency diseases by providing vitamin A to prevent blindness and death in the crucial ages between one and four years, and by providing iodine to prevent goiter and cretinism.●

ADDITIONAL COSPONSORS

S. 11

At the request of Mr. CRANSTON, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 11, a bill to provide for the protection of the public lands in the California desert.

S. 273

At the request of Mr. HEINZ, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 273, a bill to amend title 39, United States Code, to designate as nonmailable matter solicitations of donations which could reasonably be misconstrued as a bill, invoice, or statement of account due, solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes.

S. 370

At the request of Mr. CHAFEE, the name of the Senator from Hawaii [Mr. AKAKA] was added as cosponsor of S. 370, a bill to amend the Land and Water Conservation Fund Act and the National Historic Preservation Act, to establish the American Heritage Trust, for purposes of enhancing the protection of the Nation's natural, historical, cultural, and outdoor recreational heritage, and for other purposes.

S. 730

At the request of Mr. COATS, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Lousiana [Mr. BREAUX], the Senator from Mississippi [Mr. COCHRAN], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 730, a bill to request the President to award gold medals on behalf of Congress to Frank Capra, James M. Stewart, and Fred Zinnemann, and to provide for the production of bronze duplicates of such medals for sale to the public.

S. 731

At the request of Mr. COATS, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Rhode Island [Mr. PELL], the Senator from Washington [Mr. ADAMS], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 731, a bill to request the President to award a gold medal on behalf of Congress to Robert Wise and to provide for the production of bronze duplicates of such medal for sale to the public.

S. 1942

At the request of Mr. ROCKEFELLER, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 1942, a bill to provide for home and community care as optional statewide service, and for other purposes.

S. 1981

At the request of Mr. HOLLINGS, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1981, a bill to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment and for other purposes.

S. 2025

At the request of Mr. HEINZ, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2025, a bill to amend the

Internal Revenue Code of 1986 to make permanent certain expiring tax provisions.

S. 2111

At the request of Mr. SIMON, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2111, a bill designating the month of May as "Asian/Pacific American Heritage Month."

The names of the Senator from South Carolina [Mr. THURMOND] and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 2111, supra.

S. 2465

At the request of Mr. GRASSLEY, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 2465, a bill to provide a new civil cause of action in Federal law for acts of international terrorism that provides extraterritorial jurisdiction over terrorist acts abroad against U.S. nationals.

S. 2591

At the request of Mr. BAUCUS, the names of the Senator from Louisiana [Mr. BREAUX], the Senator from Florida [Mr. MACK], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 2591, a bill to amend title XVIII of the Social Security Act to provide relief from certain regulations relating to physicians' services.

S. 2598

At the request of Mr. GRAMM, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 2598, to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to make grants—in conjunction with the Secretary of Defense—for the establishment of research centers at qualifying medical schools to carry out medical research in areas of interest to the Department of Veterans Affairs.

S. 2602

At the request of Mr. METZENBAUM, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 2602, a bill to amend the Public Health Service Act to provide assistance for biomedical and health services research, treatment programs and for other purposes relating to Alzheimer's disease and related disorders.

S. 2713

At the request of Mr. GORTON, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 2713, a bill to preserve ancient forests, to assure a sustainable and predictable supply of timber harvest, and to enhance recreational opportunities in the national forests.

S. 2724

At the request of Mr. PELL, the names of Senator from Kansas [Mrs. KASSEBAUM], the Senator from Utah [Mr. HATCH], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 2724, a bill to extend and improve arts and humanities programs, museum services, and arts and artifacts indemnification, and for other purposes.

S. 2729

At the request of Mr. CHAFEE, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2729, a bill to amend the Coastal Barrier Resources Act, and for other purposes.

S. 2762

At the request of Mr. HATFIELD, the names of the Senator from Alabama [Mr. HEFLIN], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 2762, a bill to facilitate the implementation of national forest land and resource management plans and for other purposes.

S. 2801

At the request of Mr. DOLE, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 2801, a bill to direct the Secretary of Health and Human Services to phase in the update to the area wage index used to determine the amount of payment made to a hospital under part A of the Medicare program for the operating costs of inpatient hospital services for inpatient discharges occurring during fiscal year 1991, and for other purposes.

S. 2813

At the request of Mr. GRAHAM, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Delaware [Mr. ROTH], the Senator from North Carolina [Mr. HELMS], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 2813, a bill to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games.

S. 2925

At the request of Mr. DIXON, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Utah [Mr. HATCH], the Senator from Alabama [Mr. HEFLIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Maine [Mr. MITCHELL], the Senator from Nevada [Mr. REID], and the Senator from California [Mr. WILSON] were added as cosponsors of S. 2925, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the discovery of America and to authorize the payment of the proceeds of the sale of such coins to the Christopher Columbus Quincentenary Scholarship Foundation for the purpose of establishing a scholarship program, and for other purposes.

S. 2954

At the request of Mr. DODD, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Kentucky [Mr. FORD], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Massachusetts [Mr. KERRY], the Senator from Nebraska [Mr. EXON], the Senator from Michigan [Mr. RIEGLE], the Senator from Colorado [Mr. WIRTH], the Senator from Oregon [Mr. HATFIELD], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 2954, a bill to place restrictions on United States assistance to El Salvador.

S. 3021

At the request of Mr. DOLE, the names of the Senator from Wyoming [Mr. SIMPSON], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 3021, a bill to establish national voter registration procedures for Presidential and congressional elections, and for other purposes.

S. 3022

At the request of Mr. BRADLEY, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Wisconsin [Mr. KOHL], the Senator from Alaska [Mr. STEVENS], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 3022, a bill to provide for the establishment of a Children's Vaccine Initiative, and for other purposes.

S. 3051

At the request of Mr. PRESSLER, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Arizona [Mr. DECONCINI], and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 3051, a bill to reduce the pay of Members of Congress corresponding to the percentage reduction of the pay of Federal employees who are furloughed or otherwise have a reduction of pay resulting from a sequestration order.

S. 3059

At the request of Mr. DECONCINI, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 3059, a bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges.

S. 3068

At the request of Mr. SYMMS, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 3068, a bill to establish the Office of Take Pride in America, and for other purposes.

S. 3069

At the request of Mr. JEFFORDS, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 3069, a bill to provide a method of locating private and Government research on environmental issues by geographic location.

S. 3091

At the request of Mr. THURMOND, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 3091, a bill to amend the Act incorporating the American Legion as to redefine eligibility for membership therein.

SENATE JOINT RESOLUTION 18

At the request of Mr. THURMOND, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Joint Resolution 18, a joint resolution to authorize the National Committee of American Airmen Rescued by General Mihailovich to erect a monument to Gen. Draza Mihailovich in Washington, District of Columbia, or its environs, in recognition of the role he played in saving the lives of more than 500 United States airmen in Yugoslavia during World War II.

SENATE JOINT RESOLUTION 263

At the request of Mr. HELMS, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Joint Resolution 263, a joint resolution to designate October 11, 1990, as "National Society of the Daughters of the American Revolution Centennial Day."

SENATE JOINT RESOLUTION 291

At the request of Mr. HATCH, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of Senate Joint Resolution 291, a joint resolution designating the week of October 14, 1990, as "National Standards Week."

SENATE JOINT RESOLUTION 295

At the request of Mr. DANFORTH, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Joint Resolution 295, a joint resolution proposing an amendment to the Constitution of the United States to prohibit the Supreme Court or any inferior court of the United States from ordering the laying or increasing of taxes.

SENATE JOINT RESOLUTION 314

At the request of Mr. HEINZ, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Hawaii [Mr. AKAKA], the Senator from Wyoming [Mr. SIMPSON], the Senator from Indiana [Mr. COATS], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Kansas [Mr. DOLE], the Senator from California [Mr. WILSON], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Utah [Mr. HATCH], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Ohio [Mr. METZENBAUM], the Senator from North Dakota [Mr. BURDICK], the Senator from Michigan [Mr. RIEGLE], the Senator from Tennessee [Mr. GORE], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of Senate Joint Resolution 314, a joint resolution to commemorate the 50th anniversary of the National Federation of the Blind.

SENATE JOINT RESOLUTION 349

At the request of Mr. DECONCINI, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 349, a joint resolution designating October 1990, as "Italian-American Heritage and Culture Month."

SENATE JOINT RESOLUTION 352

At the request of Mr. SIMON, the names of the Senator from Nebraska [Mr. EXON], the Senator from Alabama [Mr. HEFLIN], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 352, a joint resolution designating the month of September 1991, as "National Growth Month."

SENATE JOINT RESOLUTION 364

At the request of Mr. REID, the names of the Senator from Indiana [Mr. LUGAR], the Senator from New Jersey [Mr. BRADLEY], the Senator from North Dakota [Mr. BURDICK], the Senator from Hawaii [Mr. AKAKA], the Senator from North Dakota [Mr. CONRAD], the Senator from South Dakota [Mr. DASCHLE], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Connecticut [Mr. DODD], the Senator from Arizona [Mr. DECONCINI], the Senator from Alabama [Mr. HEFLIN], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 364, a joint resolution to designate the third week of February 1991, as "National Parents and Teachers Association Week."

SENATE CONCURRENT RESOLUTION 146

At the request of Mr. MOYNIHAN, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of Senate Concurrent Resolution 146, a concurrent resolution expressing the sense of the Congress that the United States should pay its outstanding debt to the United Nations.

SENATE RESOLUTION 327—COMMENDING THE ESTABLISHMENT OF THE EISENHOWER CENTER FOR THE CONSERVATION OF HUMAN RESOURCES AT COLUMBIA UNIVERSITY

Mr. MOYNIHAN (for himself, Mr. DOLE, and Mr. D'AMATO) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 327

Whereas the Conservation of Human Resources Project at Columbia University is now in its fifth decade;

Whereas General Dwight David Eisenhower, as president of Columbia University from 1948 to 1953, invigorated the Conservation Project with energy and direction;

Whereas the Conservation Project was established to examine economic transformations from the viewpoint of human resources and to analyze responses by educational, training, and employer institutions to such transformations;

Whereas the Conservation Project has published some 250 books and reports on human resources; and

Whereas in recognition of Dwight David Eisenhower's service to his country and to Columbia University, the Conservation of Human Resources Project has been renamed the Eisenhower Center for the Conservation of Human Resources; Now, therefore, be it

Resolved, That, in this centennial year of Dwight David Eisenhower's birth, the newly rechristened Eisenhower Center for the Conservation of Human Resources at Columbia University has the full and enthusiastic support of the United States Senate.

● Mr. MOYNIHAN. Mr. President, I rise to introduce legislation to add the support of the Senate to the newly rechristened Eisenhower Center for the Conservation of Human Resources at New York University.

The center was first known as the Conservation of Human Resources Project. When Gen. Dwight Eisenhower became president of Columbia in 1948, he invigorated the conservation project, as it was known, and set it on the course that resulted in the publication of over 250 books and reports. The conservation project has studied the effect of economic transformations on human resources, particularly the responses of educational, training, and employer institutions to these transformations, and made valuable contributions.

In the centennial of President Eisenhower's birth, Columbia has renamed the conservation project in honor of his contributions to it. Known from now on as the Eisenhower Center for the Conservation of Human Resources, it will continue this strong record of working to improve the Nation's human resources, as President Eisenhower saw that it could and should do.

This resolution expresses the support of the Senate for the newly changed name and the good work the Eisenhower Center will continue to do as it enters this new phase in its development.●

AMENDMENTS SUBMITTED

FAMILY PLANNING AMENDMENTS

JEFFORDS AMENDMENT NO. 2761

Mr. JEFFORDS proposed an amendment to the bill (S. 110) to revise and extend the programs of assistance under title X of the Public Health Service Act; as follows:

At the appropriate place, insert the following new section:

SEC. . PREGNANCY INFORMATION AND COUNSELING.

In the projects authorized under this Act, or an amendment made by this Act, the Secretary of Health and Human Services shall ensure that pregnant women are offered information and counseling concerning all legal and medical options under such projects regarding their pregnancies.

CHAFEE (AND OTHERS) AMENDMENT NO. 2762

Mr. CHAFEE (for himself, Mr. PACKWOOD and Mr. WIRTH) proposed an amendment to amendment No. 2761 proposed by Mr. JEFFORDS to the bill S. 110, supra, as follows:

On page 1 of the amendment, strike out line 3 and all that follows and insert in lieu thereof the following:

SEC. . PREGNANCY INFORMATION AND COUNSELING.

In the projects authorized under this Act, or an amendment made by this Act, the Secretary of Health and Human Services shall ensure that pregnant women are offered information and counseling concerning all legal and medical options under such projects regarding their pregnancies. Women requesting such information regarding the options for the management of an unintended pregnancy shall be provided with non-directive counseling, and referral on request, concerning alternative courses of action that shall include—

(1) prenatal care and delivery;

(2) infant care, foster care, or adoption services; and

(3) pregnancy termination.

HATCH AMENDMENTS NOS. 2763 THROUGH 2767

(Ordered to lie on the table.)

Mr. HATCH submitted five amendments intended to be proposed by him to the bill S. 110, supra, as follows:

AMENDMENT NO. 2763

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Planning Amendments Act of 1989".

SEC. 2. STATE FAMILY PLANNING PROGRAMS.

Title X of the Public Helath Service Act (42 U.S.C. 300 et seq.) is amended to read as follows:

"TITLE X—STATE FAMILY PLANNING PROGRAMS

"SEC. 1001. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of assisting States to carry out programs under which acceptable and effective family planning methods and services (including natural family planning methods, infertility services, services for adolescents, and adoption services) may be provided, and in connection with which family participation is encouraged, there are authorized to be appropriated $138,364,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992.

"SEC. 1002. ALLOTMENTS.

"(a) IN GENERAL.—From the amounts appropriated under section 1001 for any fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to such amounts appropriated as the amounts provided under this title (as such title existed before the date of enactment of the Family Planning Amendments Act of 1989) for fiscal year 1989 by the Secretary to the State and to entities in the State for family planning services bears to the amount provided for fiscal year 1989 to all States and to entities in all States for such services under such title.

"(b) REALLOTMENTS.—To the extent that all funds appropriated under section 1001 for a fiscal year are not otherwise allotted to States because—

"(1) one or more States have not submitted an application or description of activities in accordance with section 1007 for such fiscal year;

"(2) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) some State allotments are offset or repaid under section 1008(b)(2);

such excess amount shall be reallotted among each of the remaining States in proportion to the amount otherwise allotted to such States for such fiscal year without regard to this subsection.

"(c) RESERVATIONS FOR INDIANS.—

"(1) IN GENERAL.—If the Secretary—

"(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this title be provided directly by the Secretary to the tribe or organization; and

"(B) determines that the members of the tribe or organization would be better served by means of grants made directly by the Secretary under this title;

the Secretary shall reserve from amounts that would otherwise be allotted to the State under subsection (a) for such fiscal year the amount determined under paragraph (2).

"(2) DETERMINATION OF AMOUNT.—The Secretary shall reserve for the purpose of paragraph (1) from amounts that would otherwise be allotted to the State under subsection (a) an amount equal to the amount that bears the same ratio to the allotment of the State for the fiscal year involved as the total amount provided for fiscal year 1989 by the Secretary to such tribe or tribal organization to carry out this title bears to the total amount provided for such fiscal year by the Secretary to the State and entities (including Indian tribes and tribal organizations) in the State to carry out this title.

"(3) DISTRIBUTION.—The amount reserved by the Secretary on the basis of a determination under this subsection shall be made available to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(4) PLAN.—An Indian tribe or tribal organization shall be eligible for a grant for a fiscal year under this subsection, if it submits to the Secretary a plan for such fiscal year that meets such criteria as the Secretary shall prescribe.

"(5) DEFINITIONS.—As used in this section, the terms 'Indian tribe' and 'tribal organization' have the same meaning given those terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

"SEC. 1003. PAYMENT UNDER ALLOTMENTS TO STATES.

"(a) IN GENERAL.—For each fiscal year, the Secretary shall make payments, as provided by section 6503 of title 31, United States Code, to each State from its allotment under section 1002 (other than any amount reserved under section 1002(c)) from amounts appropriated for that fiscal year.

"(b) AVAILABILITY.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of that fiscal year shall remain available for the next fiscal year to the State for the purposes for which it was paid

"SEC. 1004. USE OF ALLOTMENTS.

"(a) PERMISSIBLE USES.—

"(1) IN GENERAL.—A State may, consistent with the provisions of this title, use amounts paid to it under section 1003 as the State may find appropriate for—

"(A) acceptable and effective voluntary family planning methods or services;

"(B) training of family planning personnel;

"(C) developing and making available family planning and population growth information (including educational materials) for all individuals desiring such information (or materials); and

"(D) conducting or supporting research to improve the delivery of family planning services. Amounts provided for the activities referred to in this paragraph may also be used for related planning, administrative, and educational activities.

"(2) PRIORITY.—Priority shall be given, in any program in which funds provided under this title are used, to the furnishing of family planning services to individuals from low-income families (as defined by the State) to insure that economic status will not be a deterrent to participation in such program.

"(b) LIMITATIONS.—A State shall not use amounts paid to it under section 1003 to—

"(1) provide inpatient services;

"(2) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment; or

"(3) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(c) ADMINISTRATION.—Of the amounts paid to any State under section 1003 for any fiscal year, not to exceed 10 percent of such amounts shall be used for administering the funds made available under that section. The State will pay from non-Federal sources any remaining costs of administering those funds.

"SEC. 1005. PROHIBITION ON ABORTION.

"None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning.

"SEC. 1006. VOLUNTARY PARTICIPATION.

"In any program in which funds provided under this title are used, the acceptance by any individual of family planning services or family planning or population growth information shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other services or assistance from, or participation in, any other program of the entity or individual that provided such service or information.

"SEC. 1007. APPLICATION AND DESCRIPTION OF ACTIVITIES.

"(a) APPLICATION.—To be eligible to receive an allotment for a fiscal year under section 1002 a State shall submit an application to the Secretary by such date as the Secretary shall require.

"(b) PUBLIC COMMENT.—After the expiration of the first fiscal year for which a State receives an allotment under section 1002, no funds shall be allotted under such section to the State for any fiscal year unless the State affords an opportunity for public comment on the proposed use and distribution

of funds to be provided under section 1003 for such fiscal year.

"(c) CONTENTS OF APPLICATION.—As part of the annual application required under subsection (a), the State shall certify that it—

"(1) agrees to use the funds allotted to it under section 1002 in accordance with the requirements of this title;

"(2) agrees to establish, after providing reasonable notice and opportunity for the submission of comments, reasonable criteria to evaluate the effective performance of entities that receive funds from the allotment of the State under this title;

"(3) agrees to permit and cooperate with Federal investigations undertaken in accordance with section 1008;

"(4) has in effect a system to protect from inappropriate disclosure of client records maintained by the State in connection iwth a program receiving assistance under this title or by an entity that is receiving payments from the allotment to the State under this title; and

"(5) has the administrative capability to carry out section 1004, to determine the need for family planning services, and to evaluate the performance of entities that receive assistance from the allotment of the State under this title.

The Secretary shall not prescribe for a State the manner of compliance with the requirements of this subsection.

"(d) DESCRIPTION OF USE.—

"(1) IN GENERAL.—The State shall, as part of the application submitted under subsection (a), prepared and furnish to the Secretary a description of the intended use of the payments that the State will receive under section 1003 for such fiscal year, including a statement of goals and objectives, information on the types of programs to be supported, geographic areas to be served, and the categories or characteristics of individuals to be service and the criteria and method to be used for the distribution of the payments.

"(2) PUBLICATION.—The description required by paragraph (1) shall be made public within the States in such manner as to facilitate comment from any person (including any Federal or other public agency) during the development of the description and after its transmittal. The description shall be revised throughout the year as may be necessary to reflect substantial changes in the programs assisted under this title, and any revision shall be subject to the requirements of this paragraph.

"(e) REQUIREMENTS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the Secretary shall prescribe such requirements as the Secretary determines necessary to assure that payments made to a State under this title are not used in violation of the prohibition contained in section 1005. The State, as part of the application required under subsection (a), shall certify that it will comply with all requirements imposed by the Secretary pursuant to this title to carry out section 1005, and shall describe the procedures it will follow, as required by the Secretary, to assure such compliance on a continuing basis.

"(2) OTHER INFORMATION.—In addition to the provisions of subsection (c), the State shall also certify, as part of the application required by subsection (a), that it will furnish, in its annual report to the Secretary or in such other form or at such other times as the Secretary may require, all information that the Secretary determines necessary to ascertain whether funds were spent in accordance with section 1005, or to conduct an investigation, or respond to a compliant, under section 1009(a) (2) or (3), respectively, concerning compliance by the State with section 1005.

"SEC. 1008. REPORTS.

"(a) REQUIREMENT.—Each State shall prepare and submit to the Secretary annual reports concerning its activities under this title. Subject to section 1007(e), report prepared under this section shall be in such form and contain such information as the State determines to be necessary—

"(1) to determine whether funds were expended in accordance with the provisions of this title;

"(2) to secure a description of the activities under this title;

"(3) to secure a record of—

"(A) the purposes for which funds were spent under this title;

"(B) the recipients of such funds; and

"(C) the progress made toward achieving the purposes for which such funds were provided; and

"(4) to determine how the State has met the goals and objectives previously stated.

Copies of reports submitted under this section shall be provided, on request, to any interested person (including any public agency).

"(b) ADMINISTRATIVE REQUIREMENTS.—

"(1) ACCOUNTING PROCEDURES.—Each State shall establish fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under section 1003.

"(2) REPAYMENTS.—A State shall, after being provided by the Secretary with adequate notice and opportunity for a hearing within the State, repay to the United States amounts found not to have been expended in accordance with the provisions of this title or the certification provided under section 1007. If such amounts are not repaid, the Secretary shall, after providing the State with adequate notice and opportunity for hearing, offset the amounts against the amount of any allotment to which the State is or may become entitled to under section 1002.

"(3) RESPONSE BY SECRETARY.—The Secretary shall respond in an expeditious manner to complaints, of a substantial or serious nature, that a State has failed to use funds in accordance with the requirements of this title or the certification required under section 1007.

"(4) LIMITATION.—The Secretary shall not withhold funds under paragraph (1) from a State for a minor failure to comply with the requirements of this title or the certification provided under section 1007.

"(b) RECORDS.—Each State, and each entity that has received assistance under an allotment made to a State under this title, shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

"(c) UNREASONABLE REQUESTS FOR INFORMATION.—

"(1) IN GENERAL.—In conducting any investigation in a State, the Secretary shall not request any information not readily available to the State or to any entity that has received funds from an allotment made to the State under this title or make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the collection, compilation, or transmittal of data in the course of a judicial proceeding or an investigation to determine compliance with section 1005.

"SEC. 1010. NONDISCRIMINATION.

"(a) PROHIBITION.—

"(1) IN GENERAL.—For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities that receive Federal financial assistance under this title shall be considered to be programs and activities receiving Federal financial assistance.

"(2) ON THE BASIS OF GENDER.—No individual shall on the basis of gender be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance under this title. This paragraph shall not be construed to prohibit any conduct or activities permitted under paragraphs (1) through (9) of section 901(a) of the Education Amendments of 1972.

"(b) ENFORCEMENT.—When the Secretary determines that a State, or an entity with respect to a program or activity that has received a payment from an allotment to a State under section 1002, has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure such compliance, the Secretary may—

"(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

"(2) exercise the powers and functions provided by the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, or title VI of the Civil Rights Act of 1964, as the case may be; or

"(3) take such other action as may be provided by law.

"(C) CIVIL ACTION.—When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

"SEC. 1011. CRIMINAL PENALTY FOR FALSE STATEMENTS.

"Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payment may be made by a State from the funds allotted to the State under this title, or

"(2) having knowledge of the occurrence of any event affecting the initial or contin-

ued right of a person to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized;

shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both.".

SEC. 3. TECHNICAL AMENDMENT.

Section 2(f) of the Public Health Service Act is amended by striking out "1002(c),".

SEC. 4. EFFECTIVE DATE AND TRANSITIONAL PROVISIONS.

(a) EFFECTIVE DATE.—The amendments made by section 2 and 3 shall become effective on the date of enactment of this Act, or October 1, 1989, whichever occurs later.

(b) TRANSITIONAL PROVISIONS.—

(1) IN GENERAL.—If any State (as defined in section 2(f) of the Public Health Service Act (42 U.S.C. 201(f))) has not, prior to 30 days before the beginning of any calender quarter in fiscal year 1990, submitted an application under section 1007 of the Public Health Service Act (as amended by section 2) for an allotment for such fiscal year under such section, the Secretary of Health and Human Services may during that quarter, notwithstanding such section 1002(b), provide all or part of the funds allotted to such State to the State or to entities in the State in accordance with title X of the Public Health Service Act as in effect prior to the effective date of section 2.

(2) REDUCTION.—If the Secretary of Health and Human Services provides amounts to a State or to entities in a State under pararaph (1) and the State subsequently files an application under section 1007 of the Public Health Service Act (as amended by section 2) for an allotment for fiscal year 1990 under section 1002(a) of such Act (as amended by Section 1), the allotment shall be reduced by the amounts the Secretary has provided under paragraph (1).

AMENDMENT No. 2764

On page 10, line 8, strike out the end quotation marks and the second period.

On page 10, between lines 8 and 9, insert the following new subsection:

"(d) The Secretary shall require that all entities awarded grants or contracts for services under this section provide breast and other reproductive cancer screening services to all eligible individuals requiring such services.".

AMENDMENT No. 2765

On page 15, line 6, strike out the end quotation marks and the second period.

On page 15, between lines 6 and 7, insert the following new subsection:

" '(c) The Secretary may gather and evaluate data on the current methods of reducing teenage pregnancy, including contraceptive methods.' "

AMENDMENT No. 2766

On page 10, between lines 4 and 5, insert the following new subsection:

"(c) In awarding grants and contracts under this section, the Secretary shall give priority to those entities that provide prenatal care services.

On page 10, line 5, strike out "(c)" and insert in lieu thereof "(d)".

AMENDMENT No. 2767

On page 19, between lines 3 and 4, insert the following new section:

SEC. 12. MATCHING REQUIREMENT.

Title X (as amended by section 8(a) and 9) is further amended by adding at the end thereof the following new section:

"SEC. 1012. MATCHING REQUIREMENT.

Section 1006 (42 U.S.C. 300A-4(a)) is amended to read as follows:

"(a) Grants and contracts made under this title shall be made in accordance with such regulations as the Secretary may promulgate. The amount of any grant made under any section of this title shall be determined by the Secretary, except that no grant under any such section for any program or project shall be for more than 75 percent of the total cost of the grant or project beginning after September 30, 1989.".

On page 19, line 4, strike out "12" and insert in lieu thereof "13".

HELMS AMENDMENTS NOS. 2768 THROUGH 2778

(Ordered to lie on the table)

Mr. HELMS submitted eleven amendments intended to be proposed by him to the bill S. 110, supra, as follows:

AMENDMENT No. 2768

Insert the following new section:

"(a) Notwithstanding any other provision of this title or any other law, no State agency or other entity may be denied assistance under this title because the provisions of any State law governing the provision of family planning services and supplies to unemancipated minors within the State are more restrictive than the requirements established by this title for the provision of family planning services and supplies to unemancipated minors."

AMENDMENT No. 2769

Add the following new subsection:

"(a) No contraceptive methods or services may be offered or provided by an entity assisted under this title to an unemancipated minor unless the entity has in effect and complies with procedures under which the parents or guardian of the minor will receive written notice prior to the receipt by the minor of the methods or services that the minor received such methods or services; Provided that: The term "unemancipated minor" means an individual who is age 18 or under and who is not, with respect to factors other than age, fully emancipated under State law."

AMENDMENT No. 2770

Add the following new subsection:

"(a) Any entity receiving funds under this title, shall not refer for abortion any unemancipated minor in a program under this title, unless such entity has received the prior written consent to such referral of the parent or legal guardian of such minor; Provided that: The term "unemancipated minor" means an individual who is age 18 or under and who is not, with respect to factors other than age, fully emancipated under State law."

AMENDMENT No. 2771

Between line 9 and line 10 on page 13 insert the following:

None of the funds authorized under this Act, or an amendment made by this Act shall be obligated or expended if the Secretary of Health and Human Services, using existing power, has not promulgated regulations prohibiting funds from being used to provide the following on the premises of any elementary or secondary school: contraceptive drugs or devices, prescriptions for contraceptive drugs or devices, transportation for contraceptive drugs or devices, referrals for contraceptive drugs or devices, transportation to aid in obtaining an abortion, counseling to encourage an individual to obtain an abortion, or referrals for obtaining an abortion.

AMENDMENT No. 2772

At the appropriate place, add the following:

SEC. . No funds authorized under this Act or an amendment made by this Act shall be made available unless the Secretary has promulgated regulations requiring that the recipient of such funds considers the financial resources of the parents or guardians of an unemancipated minor and the discretionary income of such minor in determining whether such minor is a person from a low-income family for purposes of section 1006(c) of the Public Health Services Act.

AMENDMENT No. 2773

At the appropriate place, add the following:

SEC. . None of the funds authorized by this Act or an amendment made by this Act, shall be used to provide contraceptive drugs or devices, or prescriptions for such drugs or devices, to an unemancipated minor without the prior written consent of such minor's parent or guardian. The term "unemancipated minor" means an unmarried individual who is 17 years of age or under and is a dependent as defined in section 152(a) of the Internal Revenue Code of 1954.

AMENDMENT No. 2774

Insert the following new section:

(a) ADOPTION SERVICES.—Section 1001(a) (42 U.S.C. 300(a)) is amended by adding at the end thereof the following new sentence: "Such projects may also offer adoption services, except that any adoption services provided under this subsection shall be nondiscriminatory as to race, color, religion, or national origin.".

On page 9, line 21, insert "(b) Authorization of Appropriations.—" before "Section".

AMENDMENT No. 2775

Insert the following new section:

SEC. 12. NEEDLES AND SYRINGES.

Title X (as amended by section 8(a) and 9) is further amendment by adding the end thereof the following new section:

"SEC. 1012. NEEDLES AND SYRINGES.

"(a) IN GENERAL.—All grantees who receive funds under this title shall assure the Secretary that such grantees will only utilize single use syringes.

"(b) DEFINITION.—As used in this section the term "single-use syringe" means a syringe that is approved by the Food and Drug Administration and is incapable of being used more than one time.".

On page 19, line 4, strike out "12" and insert in lieu thereof "13".

AMENDMENT No. 2776

Insert the following new section:

. PROMOTION OF ABSTINENCE AND MONOGAMY.

Section 1006(c) (42 U.S.C. 300a-4(c)) is amended—

(1) in paragraph (1), by striking out "and" at the end thereof;

(2) in paragraph (2), by striking out the period; and

(3) by adding at the end thereof the following new paragraph:

"(3) services provided to minors under such program or project promote abstinence as the best reproductive health choice and mutually faithful monogamy as the best reproductive health strategy.".

On page 14, line 6, strike out "8" and insert in lieu thereof "9".

On page 15, line 12, strike out "9" and insert in lieu thereof "10".

On page 15, line 13, strike out "8(a)" and insert in lieu thereof "9(a)".

On page 15, line 20, strike out "10" and insert in lieu thereof "11".

On page 18, line 20, strike out "11" and insert in lieu thereof "12".

On page 19, line 4, strike out "12" and insert in lieu thereof "13".

AMENDMENT No. 2777

Insert the following new section:

. NOTIFICATION OF PARTNERS.

Title X (as amended by section 9(a)) is further amended by adding at the end thereof the following new section:

"SEC. 1012. NOTIFICATION OF PARTNERS.

"All grantees who receive assistance under this title shall assure the Secretary that such grantees will notify the sexual partners of any individuals served by such grantees who are infected with the etiologic agent for acquired immune deficiency syndrome.".

On page 19, line 4, strike out "12" and insert in lieu thereof "13".

AMENDMENT No. 2778

Insert the following new section:

. OBJECTIVE OF PROGRAMS.

Title X (as amended by section 8(a) and 9) is further amended by adding at the end thereof the following new section:

"SEC. 1012. OBJECTIVE OF PROGRAMS.

"The objective of the family planning programs funded under this title shall be the reduction of abortions.".

On page 19, line 4, strike out "12" and insert in lieu thereof "13".

JEFFORDS AMENDMENT NO. 2779

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 110, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . PREGNANCY INFORMATION AND COUNSELING.

In the projects authorized under this Act, or an amendment made by this Act, the Secretary of Health and Human Services shall ensure that pregnant women are offered information and counseling concerning all legal and medical options under such projects regarding their pregnancies.

ARMSTRONG AMENDMENTS NOS. 2780 AND 2781

(Ordered to lie on the table.)

Mr. ARMSTRONG submitted two amendments intended to be proposed by him to the bill S. 110, supra, as follows:

AMENDMENT No. 2780

At the appropriate place, insert the following new section:

SEC. . SENSE OF THE SENATE.

It is the Sense of the Senate of the United States that family planning services funded by the Federal government shall be provided in such a way as to respect the integrity of families.

AMENDMENT No. 2781

At the appropriate place, insert the following new section:

SEC. . NOTIFICATION OF PARENT PRIOR TO ABORTION ON A MINOR.

Section 1001 of the Public Health Service Act (42 USC 300) is amended by adding at the appropriate place the following new subsection:

"( )(1) No entity which receives a grant or enters into a contract under this section shall provide an abortion for an unemancipated female under the age of 18 until at least 48 hours after written notice of the pending abortion has been delivered in the manner specified under paragraph (2), except when the attending physician certifies in the minor's medical record that the abortion was performed due to a medical emergency requiring immediate action.

"(2) Such notice shall—

"(A) Be addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian and delivered personally to such parent or legal guardian by the physician performing the abortion or an agent of the entity; or

"(B) Be made by certified mail addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian with return receipt requested and restricted delivery to the addressee, which means postal employees may only deliver the mail to the authorized addressee. Time of delivery shall be deemed to occur at 12 o'clock noon on the next day on which regular mail delivery takes place, subsequent to mailing.

"(3) This subsection shall not apply to entities in states that have in effect laws requiring that a parent or legal guardian be notified of, or give consent to, an abortion to be performed on the minor child of such parent or legal guardian."

HATCH AMENDMENTS NOS. 2782 THROUGH 2785

(Ordered to lie on the table.)

Mr. HATCH submitted four amendments intended to be proposed by him to the bill S. 110, supra, as follows:

AMENDMENT No. 2782

On page 3, between lines 7 and 8, insert the following new subsection:

"(c) In awarding grants and contracts under this section, the Secretary shall give priority to those entities that provide prenatal care services.

On page 3, line 8, strike out "(c)" and insert in lieu thereof "(d)".

AMENDMENT No. 2783

On page 12, between lines 14 and 15, insert the following new section:

SEC. 12. MATCHING REQUIREMENT.

Title X (as amended by section 8(a) and 9) is further amended by adding at the end thereof the following new section:

"SEC. 1012. MATCHING REQUIREMENT.

Section 1006 (42 U.S.C. 300A-4(a)) is amended to read as follows:

"(a) Grants and contracts made under this title shall be made in accordance with such regulations as the Secretary may promulgate. The amount of any grant made under any section of this title shall be determined by the Secretary, except that no grant under any such section for any program or project shall be for more than 75 percent of the total cost of the grant or project beginning after September 30, 1990.".

On page 12, line 15, strike out "12" and insert in lieu thereof "13".

AMENDMENT No. 2784

On page 8, line 12, strike out the end quotation marks and the second period.

On page 8, between lines 12 and 13, insert the following new subsection:

" '(c) The Secretary may gather and evaluate data on the current methods of reducing teenage pregnancy, including contraceptive methods.' "

On page 8, line 16, strike out "(d)" and insert in lieu of "(e).".

AMENDMENT No. 2785

On page 8, after line 25, insert the following new subsection:

"The Secretary shall require that all entities awarded grants or contracts for services under this section provide breast and other reproductive cancer screening services to all eligible individuals requiring such services.".

KENNEDY AMENDMENTS NOS. 2786 THROUGH 2790

(Ordered to lie on the table.)

Mr. KENNEDY submitted five amendments intended to be proposed by him to the bill S. 110, supra, as follows:

AMENDMENT No. 2786

On page 2 of the Committee amendment, line 25, strike out "Such" and all that follows through line 4 on page 3, and insert in lieu thereof the following: "Such projects shall offer adoption referral services and shall inform all clients considering termination of pregnancy of the option of adoption, except that any adoption referral service provided under this section shall be nondiscriminatory as to race, color, religion, and national origin."; and

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AMENDMENT No. 2787

At the end of the amendment add that following new section:

SEC. . PROHIBITION AGAINST PURCHASE AND USE OF HUMAN FETAL TISSUE.

(a) IN GENERAL.—It shall be unlawful for any entity that receives assistance under title X of the Public Health Service Act to knowingly acquire, receive, or otherwise transfer any human fetal tissue for valuable consideration.

(b) INFORMED CONSENT OF DONOR.—

(1) IN GENERAL.—In research carried out under title X of the Public Health Service Act, human fetal tissue may be used only if the woman providing the tissue makes a statement, in writing and signed by the woman, declaring that—

(A) the woman donates the fetal tissue for use in such research;

(B) the donation is made without any restriction regarding the identity of individuals who may be the recipient of transplantations of the tissue;

(C) the woman has not been informed of the identity of any such individuals; and

(D) in the case of tissue provided pursuant to an induced abortion, the decision to make the donation is made separately and independently of the decision to undergo the

abortion and no funds made available under title X are used for such abortion.

(2) ADDITIONAL STATEMENT.—In research carried out under title X of the Public Health Service Act, human fetal tissue obtained pursuant to an induced abortion may be used only if—

(A) in addition to and separate from the statement made pursuant to paragraph (1), the woman involved makes a statement, in writing and signed by the woman, declaring that the decision of the woman to undergo an abortion is not made in order to provide fetal tissue for research purposes;

(B) the statement required in subparagraph (A) is made before the abortion is performed; and

(C) no funds made available under title X are used for the performance of such abortion.

(3) AVAILABILITY OF STATEMENTS FOR AUDIT.—In research carried out under title X of the Public Health Service Act, human fetal tissue may be used only if the individual with the principal responsibility for conducting the research involved provides assurances satisfactory to the Secretary that, with respect to any statement required in paragraph (1) or (2) to be made regarding the tissue to be used in the research, the statement is available for audit by the Secretary and other appropriate Federal and State officials.".

(c) DEFINITIONS.—For purposes of this section:

(1) HUMAN FETAL TISSUE.—The term "human fetal tissue" means tissue or cells obtained from a dead human embryo or fetus after a spontaneous or induced abortion, or after a stillbirth.

(2) VALUABLE CONSIDERATION.—The term "valuable consideration" does not include reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue.

AMENDMENT No. 2788

At the end of the amendment, add the following new section:

SEC. . LOCAL APPROVAL OF SCHOOL-BASED CLINICS.

Notwithstanding any other provision of this Act, or an amendment made by this Act, no project to be located in a public school may be approved under title X or title XX of the Public Health Services Act unless such project is endorsed by the local public school board after consultation with parents in the affected school.

AMENDMENT No. 2789

At the end of the amendment add the following new section:

SEC. . ENCOURAGEMENT OF PARENTAL INVOLVEMENT.

Notwithstanding any other provision of title X and title XX of the Public Health Service Act, unemancipated minors that receive family planning services from projects that receive assistance under such titles shall be encouraged to consult with their parents with respect to such servics. Nothing in this Act, or the Public Health Service Act, shall be interpreted to preclude adolescents from receiving confidential family planning services.

AMENDMENT No. 2790

At the end of the amendment add the following new section:

SEC. . PROHIBITION ON ABORTIFACIENT USES.

Notwithstanding any other provision of law, no assistance made available under title X of the Public Health Service Act may be used to conduct research concerning abortifacient uses of any drug or for the development of any drug to be used to induce an abortion. Nothing in the preceding sentence shall be construed to prohibit the use of such assistance for research concerning the contraceptive uses of any drug or for the development of any drug for purposes of contraception or for other medical purposes other than abortion.

BOSCHWITZ AMENDMENTS NOS. 2791 THROUGH 2795

(Ordered to lie on the table.)

Mr. BOSCHWITZ submitted five amendments intended to be proposed by him to the bill S. 110, supra, as follows:

AMENDMENT No. 2791

On page 3, between lines 13 and 14, insert the following: "(d) Of the amounts appropriated under subsection (c), the Secretary shall make available $10,000,000 in each of the fiscal year 1991 through 1995, for the making of grants and contracts to public or nonprofit private entities and individuals to promote education programs concerning the risk of sexually transmitted diseases and prevention and treatment services for such diseases.".

AMENDMENT No. 2792

On page 4, line 3, strike out all through line 11 and insert the following: "personnel (including obstetric-gynecologic nurse practitioners), training for educators and counselors (including language training to enhance educational and counseling services for non-English speaking individuals, training in the recognition of chemical dependency and treatment referral, and training in the recognition of sexual abuse), and training of other personnel, to carry out the family planning service programs described in section 1001 and the information and education programs described in section 1005.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose making grants and contracts under this section, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1991 through 1995."

"(c) The Secretary shall provide grants and contracts only to those public and private entities that provide the service listed in lines 4–8 of this amendment.".

AMENDMENT No. 2793

At the end of the bill, insert the following:

"The Secretary shall make grants and enter into contracts authorized by this bill only with those public and private nonprofit entities that provide—

"(1) health services related to pregnancy to women, including family planning services, prenatal care, perinatal care, postpartum care, immunizations, nutrition services, laboratory and pharmaceutical services, and treatment for health conditions that may complicate pregnancy; and

"(2) preventive health services for infants and children, including well-baby care, physical examinations, testing for various diseases or disorders, nutrition services, and referrals for medical treatments, including dental care and treatments with respect to vision and hearing.".

AMENDMENT No. 2794

In lieu of the language proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Family Planning Services Act of 1990".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

SEC. 2. FINDINGS.

Congress finds that—

(1) family planning services still are not utilized by all individuals in the United States desiring such services;

(2) new and improved contraceptive devices, drugs, and methods are needed in order to ensure optimum safety and choice for each individual desiring to use such devices, drugs, and methods;

(3) the high incidence of teenage pregnancies and sexually transmitted diseases has made it essential that the public receive information to prevent such pregnancies and diseases, as recommended by the Surgeon General of the United States; and

(4) the high rate of infant mortality in the United States has made it essential for family planning services to include comprehensive prenatal, perinatal, and post partum care to assist pregnant women who might not otherwise receive such care.

SEC. 3. PROJECT GRANTS AND CONTRACTS.

Section 1001 (42 U.S.C. 300) is amended—

(1) in subsection (a), by adding at the end thereof the following new sentence: "Such projects shall also offer adoption referral services, except that any adoption referral service provided under this subsection shall be nondiscriminatory as to race, color, religion, and national origin."; and

(2) by striking out subsections (c) and (d) and inserting in lieu thereof the following new subsections:

"(c) For the purpose of making grants and contracts under this section, there are authorized to be appropriated $171,000,000 for fiscal year 1991, $180,000,000 for fiscal year 1992, and $189,000,000 for fiscal year 1993, and $198,500,000 for fiscal year 1994, and $208,500,000 for fiscal year 1995."

"(d) Of the amounts appropriated under subsection (c), the Secretary shall make available $10,000,000 in each of the fiscal years 1991 through 1995 for the making of grants and contracts to public or nonprofit private entities and individuals to promote education programs concerning the risk of sexually transmitted diseases and prevention and treatment services for such diseases (including HIV disease).".

SEC. 4. REPEAL OF FORMULA GRANTS.

(a) REPEAL.—Section 1002 (42 U.S.C. 300a) is repealed.

(b) CONFORMING AMENDMENT.—Section 1006(c) (42 U.S.C. 300a–4(c)) is amended by striking out "or 1002".

SEC. 5. TRAINING AND TECHNICAL ASSISTANCE GRANTS AND CONTRACTS.

Section 1003 (24 U.S.C. 300a–1) is amended to read as follows:

"SEC. 1003. TRAINING GRANTS AND CONTRACTS.

"(a) AUTHORIZATION.—The Secretary may make grants to public or nonprofit private entities and may enter into contracts with public or private entities and individuals to provide technical assistance, clinical training for personnel (including obstetric-gyne-

cologic nurse practitioners), training for educators and counselors (including language training to enhance educational and counseling services for non-English speaking individuals, training in the recognition of chemical dependency and treatment referral, and training in the recognition of sexual abuse), and training of other personnel, to carry out the family planning service programs described in section 1001 and the information and education programs described in section 1005.

"(b) PRIORITY.—In making grants under this section the Secretary shall give priority to those public or nonprofit private entities that provide services of the type described in subsection (a).

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants and contracts under this section, there are authoriaed to be appropriated $5,000,000 for each of the fiscal years 1991 through 1995.".

SEC. 6. VOLUNTARY PARTICIPATION.

Section 1007 (24 U.S.C. 300a-5) is amended to read as follows:

"SEC. 1007. VOLUNTARY PARTICIPATION.

"In any program in which funds authorized under this bill are used, the acceptance by any individual of family planning services or family planning or population growth information shall be voluntary and shall not be prerequisite to eligibility for or receipt of any other services or assistance from, or participation in, any other program of the entity or individual that provided such service or information.".

SEC. 7. DATA COLLECTION.

(a) IN GENERAL.—Title X (42 U.S.C. 300 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1010. DATA COLLECTION.

"(a) COLLECTION OF DATA.—The Secretary shall collect on an annual basis data concerning—

"(1) the number of low-income and marginal-income individuals, and the number of adolescents, at risk of unintended pregnancies;

"(2) the sources of funding available for family planning services in the United States;

"(3) the number of individuals who receive family planning services from entities that receive grants and contracts under section 1001 and the age, gender, race, and family income of such individuals; and

"(4) the types of family planning services chosen by individuals who receive services from entities which receive grants and contracts under section 1001.

"(b) GRANTS AND CONTRACTS.—The Secretary may make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the collection of data under this section. The Secretary shall make available to the public data and information collected under this section.".

(b) TECHNICAL AMENDMENT.—Section 1009 (42 U.S.C. 300a-6a) is amended by adding at the end thereof the following new subsection:

"(d) Each plan prepared under this section shall be based upon data collected under section 1010.".

SEC. 8. BREAST EXAMINATIONS.

Title X (as amended by section 7(a) of this Act) is further amended by adding at the end thereof the following new section:

"SEC. 1011. BREAST EXAMINATIONS.

"All grantees who receive assistance under this title shall provide education to patients concerning self breast examinations.".

SEC. 9. STUDY OF PARENTAL CONSENT FOR FAMILY PLANNING.

Section 301 (42 U.S.C. 241) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary shall make available $1,800,000 during the fiscal years 1991 through 1993 for the selection of a single State in which to establish a research project meeting the requirements of paragraph (2), to determine the impact of family planning services in a State that has in effect a law prohibiting the use of public funds for the provision of family planning services to an unmarried minor without the prior written consent of the parent or guardian of the minor.

"(2)(A) Notwithstanding any other provision of this Act, the Secretary may, for any fiscal year, make grants to or enter into contracts with public agencies in a State described in paragraph (1) for the provision of family planning services. Activities conducted by public agencies in the State under such grants and contracts shall be carried out in accordance with the State law described in paragraph (1).

"(B) A public agency in a State described in paragraph (4) that desires to receive a grant or contract under this subsection shall submit an application to the Secretary in accordance with such requirements as the Secretary may prescribe.

"(C) An application submitted under subparagraph (B) shall contain assurances satisfactory to the Secretary that—

"(i) prior to April 1, 1981, there was enacted in the State a law described in paragraph (1);

"(ii) for the fiscal year for which the application is submitted, such law will not be applied to family planning services provided by private agencies;

"(iii) if a public agency of the State makes a grant to, or enters into a contract with, a private agency for the provision of family planning services, and such grant or contract is funded in whole or in part from amounts received by that agency under this subsection, the State shall ensure that such private agency meets the same requirements for eligibility for assistance under title X as the Secretary may prescribe for all private agencies assisted under title X;

"(iv) Federal funds made available under this subsection to public agencies in the State will be used to supplement and increase the level of public funds expended for family planning services within the State, and will in no case be used to supplant such public funds; and

"(v) the State shall submit to the Secretary annual reports in such form as the Secretary shall require in order to assess the effectiveness of the financial assistance provided under this subsection within the State.

"(3) This subsection shall not be construed to authorize the Secretary to make grants to, or enter into contracts with, a private entity in which the research project under this subsection is conducted unless that private entity complies with the requirements established under titde X for a private entity outside of the State that applies for grants and contracts under this subsection.

"(4)(A) Not later than 3 years after the date of enactment of this subsection, the Comptroller General of the United States shall prepare and submit to Congress a report that—

"(i) evaluates the effect of requiring the parent or guardian of an unmarried minor to give written consent prior to the provision of family planning service to such minor on the reduction of the rate of unintended adolescent pregnancies in the State in which the research project is conducted under this subsection; and

"(ii) compares the rate of unintended adolescent pregnancies in that State with the rates of such pregnancies in other States.

"(B) The Secretary, in consultation with the Comptroller General of the United States, shall provide for the collection of data to assist the Comptroller General in preparing the report required under this paragraph.".

SEC. 10. CONDUCT OF RESEARCH ACTIVITIES.

Section 1004 (42 U.S.C. 300a-2) is amended—

(1) by inserting "(a)" before "The";

(2) in paragraph (2)—

(A) by inserting "evaluation" after "development"; and

(B) by inserting before the period the following: "and research to improve the clinical management and direct delivery of family planning services"; and

(3) by adding at the end thereof the following new subsections:

"(b) To enhance the ongoing work of the National Institutes of Health under section 301 and under subsection (a) in applied contraceptive research and evaluation, and specifically to promote the development, evaluation, and bringing to the marketplace, of new and improved contraceptive devices, drugs, and methods, the Secretary may conduct, and make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the conduct of—

"(1) applied research into the development of new or improved contraceptive devices, drugs, and methods; and

"(2) evaluations of the acceptance, convenience, safety, efficacy, and cost of contraceptive devices, drugs, and methods.

"(c) For the purpose of making grants and entering into contracts under subsection (b), there are authorized to be appropriated $10,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995. Amounts appropriated under this subsection shall be in addition to amounts allocated under section 301(a) for the National Institute of Child Health and Human Development.

"(d) As used in this section, the term 'contraceptive' includes methods which act to prevent fertilization or to prevent the implantation of the fertilized human ovum, blastocyst or embryo in the uterus. Such term does not include any drug, device or method which has, as one of its known effects, the termination of pregnancy after implantation of the fertilized human ovum, blastocyst, or embryo in the uterus, and the Institute may not support research on any such drug, device or method.".

SEC. 11. PRENATAL CARE.

"In making grants and contracts authorized by this bill, the Secretary shall give priority to those public and private non-profit entities that provide—

"(1) health services related to pregnancy to women, including family planning services, prenatal care, prenatal care, postpartum care, immunizations, nutrition services, laboratory and pharmaceutical services, and treatment for health conditions that may complicate pregnancy; and

"(2) preventive health services for infants and children, including well-baby care, physical examinations, testing for various diseases or disorders, nutrition services, and

referrals for medical treatments, including dental care and treatments with respect to vision and hearing.".

SEC. 12. AUTHORIZATION OF APPROPRIATIONS FOR ADOLESCENT FAMILY LIFE PROGRAM.

Subsection (a) of section 2010 (42 U.S.C. 300z-9) is amended to read as follows:

"(a) For the purpose of carrying out this title, there are authorized to be appropriated $15,000,000 for each of the fiscal years 1991 through 1995.".

AMENDMENT NO. 2795

In lieu of the language proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Family Planning Amendments of 1990".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

SEC. 2. FINDINGS.

Congress finds that—

(1) family planning services still are not utilized by all individuals in the United States desiring such services;

(2) new and improved contraceptive devices, drugs, and methods are needed in order to ensure optimum safety and choice for each individual desiring to use such devices, drugs, and methods; and

(3) the high incidence of teenage pregnancies and sexually transmitted diseases has made it essential that the public receive information to prevent such pregnancies and diseases, as recommended by the Surgeon General of the United States.

SEC. 3. PROJECT GRANTS AND CONTRACTS.

Section 1001 (42 U.S.C. 300) is amended—

(1) in subsection (a), by adding at the end thereof the following new sentence: "Such projects shall also offer adoption referral services, except that any adoption referral service provided under this subsection shall be nondiscriminatory as to race, color, religion, and national origin."; and

(2) by striking out subsections (c) and (d) and inserting in lieu thereof the following new subsection:

"(c) For the purpose of making grants and contracts under this section, there are authorized to be appropriated $171,000,000 for fiscal year 1991, $180,000,000 for fiscal year 1992 and $189,000,000 for fiscal year 1993, and $198,500,000 for fiscal year 1994, and $208,500,000 for fiscal year 1995.".

SEC. 4. REPEAL OF FORMULA GRANTS.

(a) REPEAL.—Section 1002 (42 U.S.C. 300a) is repealed.

(b) CONFORMING AMENDMENT.—Section 1006(c) (42 U.S.C. 300a-4(c)) is amended by striking out "or 1002".

SEC. 5. TRAINING AND TECHNICAL ASSISTANCE GRANTS AND CONTRACTS.

Section 1003 (24 U.S.C. 300a-1) is amended to read as follows:

"SEC. 1003. TRAINING GRANTS AND CONTRACTS.

"(a) AUTHORIZATION.—The Secretary may make grants to public or nonprofit private entities and may enter into contracts with public or private entities and individuals to provide technical assistance, clinical training for personnel (including obstetric-gynecologic nurse practitioners), training for educators and counselors, and training of other personnel, to carry out the family planning service programs described in section 1001 and the information and education programs described in section 1005.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants and contracts under this section, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1991 through 1995.".

SEC. 6. CONDUCT OF RESEARCH ACTIVITIES.

Section 1004 (42 U.S.C. 300a-2) is amended—

(1) by inserting "(a)" before "The";

(2) in paragraph (2)—

(A) by inserting "and evaluation" after "development"; and

(B) by inserting before the period the following: "and research to improve the clinical management and direct delivery of family planning services"; and

(3) by adding at the end thereof the following new subsections:

"(b) To enhance the ongoing work of the National Institutes of Health under section 301 and under subsection (a) in applied contraceptive research and evaluation, and specifically to promote the development, evaluation, and bringing to the marketplace, of new and improved contraceptive devices, drugs, and methods, the Secretary may conduct, and make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the conduct of—

"(1) applied research into the development of new or improved contraceptive devices, drugs, and methods; and

"(2) evaluations of the acceptance, convenience, safety, efficacy, and cost of contraceptive devices, drugs, and methods.

"(c) For the purpose of making grants and entering into contracts under subsection (b), there are authorized to be appropriated $10,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995. Amounts appropriated under this subsection shall be in addition to amounts allocated under section 301(a) for the National Institute of Child Health and Human Development.

"(d) As used in this section, the term 'contraceptive' includes methods which act to prevent fertilization or to prevent the implantation of the fertilized human ovum, blastocyst or embryo in the uterus. Such term does not include any drug, device or method which has, as one of its known effects, the termination of pregnancy after implantation of the fertilized human ovum, blastocyst, or embryo in the uterus, and the Institute may not support research on any such drug, device or method.".

SEC. 7. DATA COLLECTION.

(a) IN GENERAL.—Title X (42 U.S.C. 300 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1010. DATA COLLECTION.

"(a) COLLECTION OF DATA.—The Secretary shall collect on an annual basis data concerning—

"(1) the number of low-income and marginal-income individuals, and the number of adolescents, at risk of unintended pregnancies;

"(2) the sources of funding available for family planning services in the United States;

"(3) the number of individuals who receive family planning services from entities that receive grants and contracts under section 1001 and the age, gender, race, and family income of such individuals; and

"(4) the types of family planning services chosen by individuals who receive services from entities which receive grants and contracts under section 1001.

"(b) GRANTS AND CONTRACTS.—The Secretary may make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the collection of data under this section. The Secretary shall make available to the public data and information collected under this section.".

(b) TECHNICAL AMENDMENT.—Section 1009 (42 U.S.C. 300a-6a) is amended by adding at the end thereof the following new subsection:

"(d) Each plan prepared under this section shall be based upon data collected under section 1010.".

SEC. 8. BREAST EXAMINATIONS.

Title X (as amended by section 7(a) of this Act) is further amended by adding at the end thereof the following new section:

"SEC. 1011. BREAST EXAMINATIONS.

"All grantees who receive assistance under this title shall provide education to patients concerning self breast examinations.".

SEC. 9. STUDY OF PARENTAL CONSENT FOR FAMILY PLANNING.

Section 301 (42 U.S.C. 241) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary shall make available $1,800,000 during the fiscal years 1991 through 1993 for the selection of a single State in which to establish a research project meeting the requirements of paragraph (2), to determine the impact of family planning services in a State that has in effect a law prohibiting the use of public funds for the provision of family planning services to an unmarried minor without the prior written consent of the parent or guardian of the minor.

"(2)(A) Notwithstanding any other provision of this Act, the Secretary may, for any fiscal year, make grants to or enter into contracts with public agencies in a State described in paragraph (1) for the provision of family planning services. Activities conducted by public agencies in the State under such grants and contracts shall be carried out in accordance with the State law described in paragraph (1).

"(B) A public agency in a State described in paragraph (4) that desires to receive a grant or contract under this subsection shall submit an application to the Secretary in accordance with such requirements as the Secretary may prescribe.

"(C) An application submitted under subparagraph (B) shall contain assurance satisfactory to the Secretary that—

"(i) prior to April 1, 1981, there was enacted in the State a law described in paragraph (1);

"(ii) for the fiscal year for which the application is submitted, such law will not be applied to family planning services provided by private agencies;

"(iii) if a public agency of the State makes a grant to, or enters into a contract with, a private agency for the provision of family planning services, and such grant or contract is funded in whole or in part from amounts received by that agency under this subsection, the State shall ensure that such private agency meets the same requirements for eligibility for assistance under title X as the Secretary may prescribe for all private agencies assisted under title X;

"(iv) Federal funds made available under this subsection to public agencies in the State will be used to supplement and increase the level of public funds expended for family planning services within the

State, and will in no case be used to supplant such public funds; and

"(v) the State shall submit to the Secretary annual reports in such form as the Secretary shall require in order to assess the effectiveness of the financial assistance provided under this subsection within the State.

"(3) This subsection shall not be construed to authorize the Secretary to make grants to, or enter into contracts with, a private entity in which the research project under this subsection is conducted unless that private entity complies with the requirements established under title X for a private entity outside of the State that applies for grants and contracts under this subsection.

"(4)(A) Not later than 3 years after the date of enactment of this subsection, the Comptroller General of the United States shall prepare and submit to Congress a report that—

"(i) evaluates the effect of requiring the parent or guardian of an unmarried minor to give written consent prior to the provision of family planning service to such minor on the reduction of the rate of unintended adolescent pregnancies in the State in which the research project is conducted under this subsection; and

"(ii) compares the rate of unintended adolescent pregnancies in that State with rates of such pregnancies on other States.

"(B) The Secretary, in consultation with the Comptroller General of the United States, shall provide for the collection of data to assist the Comptroller General in preparing the report required under this paragraph.".

SEC. 10. AUTHORIZATION OF APPROPRIATIONS FOR ADOLESCENT FAMILY LIFE PROGRAM.

Subsection (a) of section 2010 (42 U.S.C. 300z-9) is amended to read as follows:

"(a) For the purpose of carrying out this title, there are authorized to be appropriated $9,529,000 for each of the fiscal years 1991 through 1995.".

SEC. 11. EFFECTIVE DATE.

This Act and the amendments made by this Act shall become effective on the date of enactment of this Act.

ARMSTRONG AMENDMENT NO. 2796

(Ordered to lie on the table.)

Mr. ARMSTRONG submitted an amendment intended to be proposed by him to the bill S. 110, supra, as follows:

On page 3, line 13, of the committee substitute as modified, after "fiscal year 1995.", add the following:

"*Provided, however,* that no funds authorized to be appropriated by this Act may go to any entity receiving funding under this Act unless such entity certifies to the Secretary that it will not provide an abortion for an unemancipated female under the age of 18 until at least 48 hours after written notice of the pending abortion has been delivered in the manner specified by this subsection, except in instances where an attending physician certifies in such minor's medical record that the abortion was performed due to a medical emergency requiring immediate attention.

"*Provided further,* That such entity certifies to the Secretary, as a condition of receiving funds authorized to be appropriated by this Act, that such notice shall be addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian and delivered personally to such parent or legal guardian by the physician performing the abortion or an agent of the entity; or be made by certified mail addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian with return receipt requested and restricted delivery to the addressee, which means postal employees may only deliver the mail to the authorized addressee. Time of delivery shall be deemed to occcur at 12 o'clock noon on the next day on which regular mail delivery takes place, subsequent to mailing.".

NICKLES AMENDMENTS NOS. 2797 THROUGH 2801

(Ordered to lie on the table.)

Mr. NICKLES submitted five amendments intended to be proposed by him to the bill S. 110, supra, as follows:

AMENDMENT No. 2797

At the appropriate place in the bill add the following:

SEC. (a). Effective 90 days after the date of enactment, a public or nonprofit private entity shall be ineligible to receive a grant or enter into a contract under section 1001 (42 U.S.C. 300) for a period of three years if such entity makes a contribution or expenditure in connection with legislation affecting the availability of abortion as a method of family planning.

(b) For purposes of this section, the terms "contribution", "expenditure" and "legislation" shall have the same meaning as defined in 2 U.S.C. 261.

AMENDMENT No. 2798

On page 19, between lines 3 and 4, insert the following new section:

SEC. 12. NONDISCRIMINATION BY THE SECRETARY.

Title X (as amended by section 8(a) and 9) is further amended by adding at the end thereof the following new section:

SEC. 1012. NONDISCRIMINATION BY THE SECRETARY.

"No individual or entity shall, on the ground of sex, race, religion, age, national origin or handicap be excluded from receipt of or participation in any grant or contract entered into pursuant to this title.".

On page 19, line 4, strike out "12" and insert in lieu thereof "13".

AMENDMENT No. 2799

On page 19, between lines 3 and 4, insert the following new section:

SEC. 12. WHISTLEBLOWER PROTECTION.

Title X (as amended by section 8(a) and 9) is further amended by adding at the end thereof the following new section:

SEC. 1012. WHISTLEBLOWER PROTECTION.

"(a) IN GENERAL.—It shall be unlawful for any individual or entity that receives assistance under this title to discharge or in any other manner discriminate against an employee because such employee has filed a complaint or or made a formal allegation to the Secretary regarding the misuse of Federal funds by the employing grantee, or caused to be instituted any proceeding under or related to this title, or testified in such a proceeding.

"(b) PROCEEDINGS.—

"(1) TIME FOR MAKING OF ALLEGATIONS.—Any allegation that a grantee under this Act has violated subsection (a) shall be made to the Secretary not later than 60 days of the alleged retaliatory action.

"(2) EXAMINER.—The Secretary shall appoint an examiner to investigate the allegation, who shall provide the grantee an opportunity to present any evidence that the examiner considers relevant and submit a recommendation concerning such to the Secretary.

"(3) DECISION.—The Secretary shall either adopt, reject, or modify the recommendation submitted under paragraph (2). If the Secretary concludes that the grantee has violated subsection (a), the Secretary shall state its findings and take such affirmative action necessary to effectuate the purposes of this section including reinstatement of the aggrieved employee with or without backpay.".

On page 19, line 4, strike out "12" and insert in lieu thereof "13".

AMENDMENT No. 2800

On page 9, between lines 20 and 21, insert the following new subsection:

(a) ADOPTION SERVICES.—Section 1001(a) (42 U.S.C. 300(a)) is amended by adding at the end thereof the following new sentence: "Such projects may also offer adoption services, except that any adoption services provided under this subsection shall be nondiscriminatory as to race, color, religion, or national origin.".

On page 9, line 21, insert: "(b) AUTHORIZATION OF APPROPRIATIONS.—" before "Section".

AMENDMENT No. 2801

On page 19, between lines 3 and 4, insert the following new section:

SEC. 12. NONDISCRIMINATION BY GRANTEES.

Title X (as amended by section 8(a) and 9) is further amended by adding at the end thereof the following new section:

"SEC. 1012. NONDISCRIMINATION BY GRANTEES.

"(a) IN GENERAL.—

"(1) APPLICABLE ACTS.—For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendment of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds provided under this title shall be considered to be programs or activities receiving Federal assistance.

"(2) RELIGION.—No individual on the ground of sex or religion shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this title.

"(b) ACTION BY SECRETARY.—Whenever the Secretary finds that a grantee or an individual with whom the Secretary has entered into a contract under this title has failed to comply with a provision of law referred to in subsection (a) (1) or (2) or with an applicable regulation, the Secretary shall exercise the powers and functions provided for under title VI of the Civil Rights Act of 1964, or the Age Discrimination Act of 1973, as may be applicable, and to take such other action as may be provided by law.".

On page 19, line 4, strike out "12" and insert in lieu thereof "13".

MOTOR FUEL EFFICIENCY ACT

BRYAN AMENDMENTS NOS. 2802 THROUGH 2866

(Ordered to lie on the table.)

Mr. BRYAN submitted 65 amendments intended to be proposed by him to the bill (S. 1224) to amend the Motor Vehicle Information and Cost Savings Act to require new standards for corporate average fuel economy, and for other purposes; as follows:

AMENDMENT No. 2802

In lieu of the matter proposed to be inserted, insert the following:

Strike all on page 32, line 21, through page 34, line 16, of the bill.

AMENDMENT No. 2803

In lieu of the matter proposed to be inserted, insert the following:

SEC. . (a) Section 502(k)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(k)(1)) is amended by striking "the Secretary" each place it appears and inserting in lieu thereof "the National Academy of Sciences at the request of the Secretary".

(b) Section 502(k)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(k)(1)) is amended by striking "after model year 1981 and before model year 1986" and inserting in lieu thereof "after model year 1995 and before model year 2001".

(c) Section 502(k)(3) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(k)(3)) is amended by striking "after model year 1985" and inserting in lieu thereof "after model year 1995 and before year 2001".

AMENDMENT No. 2804

In lieu of the matter proposed to be inserted, insert the following:

SEC. . (a) Section 502(k)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(k)(1)) is amended by striking "the Secretary" each place it appears and inserting in lieu thereof "the National Academy of Sciences at the request of the Secretary".

(b) Section 502(k) (1) and (3) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(k) (1) and (3)) is amended by striking "after model year 1981 and before model year 1986" each place it appears and inserting in lieu thereof "after model year 1995 and before model year 2001".

AMENDMENT No. 2805

In lieu of the matter proposed to be inserted, insert the following:

SEC. . Any modifications by the Secretary of Transportation to any average fuel economy standard established for model years 1995 through 2000 shall not reduce such standard below a standard equal to a 10-percent increase over the average fuel economy achieved by the manufacturer involved for the applicable type (or class) of vehicles for model year 1988, and any modifications by the Secretary to any average fuel economy standard established for model years 2001 and thereafter shall not reduce such standard below a standard equal to a 30-percent increase over the average fuel economy achieved by the manufacturer involved for the applicable type (or class) of vehicles for model year 1988.

AMENDMENT No. 2806

In lieu of the matter proposed to be inserted, insert the following:

SEC. . Any modifications by the Secretary of Transportation to any average fuel economy standard established for model years 1995 through 2000 shall not reduce such standard below a standard equal to a 10-percent increase over the average fuel economy achieved by the manufacturer involved for the applicable type (or class) of vehicles for model year 1988, and any modifications by the Secretary to any average fuel economy standard established for model years 2001 and thereafter shall not reduce such standard below a standard equal to a 30-percent increase over the average fuel economy achieved by the manufacturer involved for the applicable type (or class) of vehicles for model year 1988.

AMENDMENT No. 2807

In lieu of the matter proposed to be inserted, insert the following:

SEC. . Any modifications by the Secretary of Transportation to any average fuel economy standard established for model years 1995 through 2000 shall not reduce such standard below a standard equal to a 10-percent increase over the average fuel economy achieved by the manufacturer involved for the applicable type (or class) of vehicles for model year 1988, and any modifications by the Secretary to any average fuel economy standard established for model years 2001 and thereafter shall not reduce such standard below a standard equal to a 30-percent increase over the average fuel economy achieved by the manufacturer involved for the applicable type (or class) of vehicles for model year 1988.

AMENDMENT No. 2808

In lieu of the matter proposed to be inserted, insert the following:

SEC. . Any modifications by the Secretary of Transportation to any average fuel economy standard established for model years 1995 through 2000 shall not reduce such standard below a standard equal to a 10-percent increase over the average fuel economy achieved by the manufacturer involved for the applicable type (or class) of vehicles for model year 1988, and any modifications by the Secretary to any average fuel economy standard established for model years 2001 and thereafter shall not reduce such standard below a standard equal to a 30-percent increase over the average fuel economy achieved by the manufacturer involved for the applicable type (or class) of vehicles for model year 1988.

AMENDMENT No. 2809

In lieu of the matter proposed to be inserted, insert the following:

SEC. . Any modifications by the Secretary of Transportation to any average fuel economy standard established for model years 1995 through 2000 shall not reduce such standard below a standard equal to a 10-percent increase over the average fuel economy achieved by the manufacturer involved for the applicable type (or class) of vehicles for model year 1988, and any modifications by the Secretary to any average fuel economy standard established for model years 2001 and thereafter shall not reduce such standard below a standard equal to a 30-percent increase over the average fuel economy achieved by the manufacturer involved for the applicable type (or class) of vehicles for model year 1988.

AMENDMENT No. 2810

In lieu of the matter proposed to be inserted, insert the following:

SEC. . Any modifications by the Secretary of Transportation to any average fuel economy standard established for model years 1995 through 2000 shall not reduce such standard below a standard equal to a 10-percent increase over the average fuel economy achieved by the manufacturer involved for the applicable type (or class) of vehicles for model year 1988, and any modifications by the Secretary to any average fuel economy standard established for model years 2001 and thereafter shall not reduce such standard below a standard equal to a 30-percent increase over the average fuel economy achieved by the manufacturer involved for the applicable type (or class) of vehicles for model year 1988.

AMENDMENT No. 2811

In lieu of the matter proposed to be inserted, insert the following:

SEC. . Any modifications by the Secretary of Transportation to any average fuel economy standard established for model years 1995 through 2000 shall not reduce such standard below a standard equal to a 10-percent increase over the average fuel economy achieved by the manufacturer involved for the applicable type (or class) of vehicles for model year 1988, and any modifications by the Secretary to any average fuel economy standard established for model years 2001 and thereafter shall not reduce such standard below a standard equal to a 30-percent increase over the average fuel economy achieved by the manufacturer involved for the applicable type (or class) of vehicles for model year 1988.

AMENDMENT No. 2812

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2813

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2814

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2815

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2816

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2817

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2818

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2819

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy

automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2820

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2821

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2822

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2823

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2824

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2825

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2826

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2827

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2828

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2829

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2830

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2831

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2832

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy

automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2833

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2834

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2835

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2836

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2837

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2838

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT NO. 2839

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT NO. 2840

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT NO. 2841

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT NO. 2842

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT NO. 2843

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT NO. 2844

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT NO. 2845

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy

automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2846

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2847

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2848

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2849

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2850

In lieu of the matter proposed to be inserted, insert the following:

MAXIMUM INCREASE IN AVERAGE FUEL ECONOMY ATTRIBUTABLE TO CERTAIN AUTOMOBILES

SEC. . Section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) by adding at the end the following new subsection:

"(i) MAXIMUM INCREASE.—

"(1) For each of the model years 1993 through 2008, for each category of automobiles the maximum increase attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.5 miles per gallon.

"(2) For purposes of applying paragraph (1), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 503(a)(1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in paragraph (1) is more than 1.5 miles per gallon, the limitation in paragraph (1) shall apply.".

AMENDMENT No. 2851

In lieu of the matter proposed to be inserted, insert the following:

SEC. . The National Academy of Sciences may, at the request of the Secretary, study the effect of corporate average fuel economy requirements on jobs, the automobile industry, safety, or emissions. Any such report shall be submitted to Congress for its consideration.

AMENDMENT No. 2852

In lieu of the matter proposed to be inserted, insert the following:

SEC. . The National Academy of Sciences may, at the request of the Secretary, study the effect of corporate average fuel economy requirements on jobs, the automobile industry, safety, or emissions. Any such report shall be submitted to Congress for its consideration.

AMENDMENT No. 2853

In lieu of the matter proposed to be inserted, insert the following:

SEC. . The National Academy of Sciences may, at the request of the Secretary, study the effect of corporate average fuel economy requirements on jobs, the automobile industry, safety, or emissions. Any such report shall be submitted to Congress for its consideration.

AMENDMENT No. 2854

In lieu of the matter proposed to be inserted, insert the following:

SEC. . The National Academy of Sciences may, at the request of the Secretary, study the effect of corporate average fuel economy requirements on jobs, the automobile in-

dustry, safety, or emissions. Any such report shall be submitted to Congress for its consideration.

AMENDMENT No. 2855

In lieu of the matter proposed to be inserted, insert the following:

SEC. . The National Academy of Sciences may, at the request of the Secretary, study the effect of corporate average fuel economy requirements on jobs, the automobile industry, safety, or emissions. Any such report shall be submitted to Congress for its consideration.

AMENDMENT No. 2856

In lieu of the matter proposed to be inserted, insert the following:

SEC. . The National Academy of Sciences may, at the request of the Secretary, study the effect of corporate average fuel economy requirements on jobs, the automobile industry, safety, or emissions. Any such report shall be submitted to Congress for its consideration.

AMENDMENT No. 2857

In lieu of the matter proposed to be inserted, insert the following:

SEC. . The National Academy of Sciences may, at the request of the Secretary, study the effect of corporate average fuel economy requirements on jobs, the automobile industry, safety, or emissions. Any such report shall be submitted to Congress for its consideration.

AMENDMENT No. 2858

In lieu of the matter proposed to be inserted, insert the following:

SEC. . The National Academy of Sciences may, at the request of the Secretary, study the effect of corporate average fuel economy requirements on jobs, the automobile industry, safety, or emissions. Any such report shall be submitted to Congress for its consideration.

AMENDMENT No. 2859

In lieu of the matter proposed to be inserted, insert the following:

SEC. . The National Academy of Sciences may, at the request of the Secretary, study the effect of corporate average fuel economy requirements on jobs, the automobile industry, safety, or emissions. Any such report shall be submitted to Congress for its consideration.

AMENDMENT No. 2860

In lieu of the matter proposed to be inserted, insert the following:

SEC. . The National Academy of Sciences may, at the request of the Secretary, study the effect of corporate average fuel economy requirements on jobs, the automobile industry, safety, or emissions. Any such report shall be submitted to Congress for its consideration.

AMENDMENT No. 2861

In lieu of the matter proposed to be inserted, insert the following:

SEC. . The National Academy of Sciences may, at the request of the Secretary, study the effect of corporate average fuel economy requirements on jobs, the automobile industry, safety, or emissions. Any such report shall be submitted to Congress for its consideration.

AMENDMENT No. 2862

In lieu of the matter proposed to be inserted, insert the following:

SEC. . The National Academy of Sciences may, at the request of the Secretary, study the effect of corporate average fuel economy requirements on jobs, the automobile industry, safety, or emissions. Any such report shall be submitted to Congress for its consideration.

AMENDMENT No. 2863

In lieu of the matter proposed to be inserted, insert the following:

SEC. . The National Academy of Sciences may, at the request of the Secretary, study the effect of corporate average fuel economy requirements on jobs, the automobile industry, safety, or emissions. Any such report shall be submitted to Congress for its consideration.

AMENDMENT No. 2864

In lieu of the matter proposed to be inserted, insert the following:

SEC. . The National Academy of Sciences may, at the request of the Secretary, study the effect of corporate average fuel economy requirements on jobs, the automobile industry, safety, or emissions. Any such report shall be submitted to Congress for its consideration.

AMENDMENT No. 2865

In lieu of the matter proposed to be inserted, insert the following:

SEC. . The National Academy of Sciences may, at the request of the Secretary, study the effect of corporate average fuel economy requirements on jobs, the automobile industry, safety, or emissions. Any such report shall be submitted to Congress for its consideration.

AMENDMENT No. 2866

In lieu of the matter proposed to be inserted, insert the following:

SEC. . The National Academy of Sciences may, at the request of the Secretary, study the effect of corporate average fuel economy requirements on jobs, the automobile industry, safety, or emissions. Any such report shall be submitted to Congress for its consideration.

RIEGLE AMENDMENTS NOS. 2867 THROUGH 2874

(Ordered to lie on the table.)

Mr. RIEGLE submitted eight amendments intended to be proposed by him to amendment No. 2734 intended to be proposed by him to the bill S. 1224, supra, as follows:

AMENDMENT No. 2867

At the end of the pending amendment, insert the following:

"SEC. .

"Notwithstanding any other provision of this Act, "(a) Section 513(f), (15 U.S.C. 2013(f)), is amended by—

(1) in paragraph (1), striking all and inserting in lieu thereof the following:

"(1) Subsections (a), (b), (c) and (d) shall apply only to automobiles manufactured after model year 1992;

(2) in paragraph (2)(A), striking the matter following the phrase "subsections (b) and (d)" through the end of that sentence; and

(3) striking the entirety of paragraph (2)(B).

"(b) Section 513(h)(1)(C)(iii), (15 U.S.C. 2013(h)(1)(C)(iii)), is amended by striking the material following the word "period" through the word "applies".

EXPLANATION.—Consistent with the Danforth amendment passed last night, this second degree amendment would encourage the development of alternative fueled automobiles by eliminating the restriction in current law that limits the availability of the incentive to the year 2008. The amendment would also eliminate, as unnecessary, the authority granted in current law to the Secretary of Transportation to decide whether to extend the availability of the incentive from the year 2004 to 2008.

AMENDMENT No. 2868

At the end of the pending amendment, insert the following:

"(c) Notwithstanding any other provision of this Act, in Title II, Section 241, insert the following new subsection:

"(c) On or before December 1, 1991, the Secretary shall prepare and submit to Congress and the President a comprehensive report quantifying in miles-per-gallon the effect on fuel economy of the final rules required by this section. Notwithstanding any other provision of law, the Secretary shall reduce each manufacturer's applicable fuel economy standard established pursuant to Sections 514 and 515 of Title V of the Motor Vehicle Information and Cost Savings Act in an amount equal to the amount determined by the Secretary to be the effect of the final rules required by this section. The reductions in fuel economy regulations required by this subsection shall be promulgated prior to the first model year in which the standards established pursuant to Section 514 and 515 would take effect.

EXPLANATION.—This amendment would ensure that the new fuel economy standards will be adjusted downward to take into account the new side impact standards required by Title II as added last night.

AMENDMENT No. 2869

At the end of the pending amendment, insert the following:

"(c) Notwithstanding any other provision of this Act, in Title II, Section 242, insert the following new subsection:

"(d) The study required by this section shall quantify in miles-per-gallon the effect on fuel economy of the all improvements in crashworthiness which are available to manufacturers. In the event that the Secretary promulgates the final rule under subsection (b), the Secretary shall also reduce each manufacturer's applicable fuel economy standard established pursuant to Sections 514 and 515 of Title V of the Motor Vehicle Information and Cost Savings Act in an amount equal to the amount determined by the Secretary to be the maximum effect of the crashworthiness improvements available to manufacturers. The reductions in fuel economy regulations required by this subsection shall be promulgated prior to the first model year in which the standards established pursuant to Sections 514 and 515 would take effect.

EXPLANATION.—This amendment would ensure that the new fuel economy standards will be adjusted downward to take into account the crashworthiness improvements identified by the study called for by Title II as added last night.

AMENDMENT No. 2870

At the end of the pending amendment, insert the following:

"(c) Notwithstanding any other provision of this Act, in Title II, Section 264, insert the following new subsection:

"(d) In promulgating the revised standards required by this section, the Secretary shall quantify in miles-per-gallon the effect on fuel economy of the final rules required by this section. Notwithstanding any other provision of law, the Secretary shall reduce each manufacturer's applicable fuel economy standard established pursuant to Sections 514, 515, or both, as appropriate, of Title V of the Motor Vehicle Information and Cost Savings Act in an amount equal to the amount determined by the Secretary to be the effect of the final rules required by this section. The reductions in fuel economy regulations required by this subsection shall be promulgated prior to the first model year in which the standards established pursuant to Sections 514 and 515 would take effect.

EXPLANATION.—This amendment would ensure that the new fuel economy standards will be adjusted downward to take into account the new multipurpose passenger vehicle safety standards required by Title II as added last night.

AMENDMENT No. 2871

At the end of the pending amendment, insert the following:

"(c) Notwithstanding any other provision of this Act, in Title II, Section 265, insert the following new subsection:

"(c) In promulgating the standard required by this Section, the Secretary shall quantify in miles-per-gallon the effect on fuel economy of the final rule required by this section. Notwithstanding any other provision of law, the Secretary shall reduce each manufacturer's applicable fuel economy standard established pursuant to Sections 514 and 515 of Title V of the Motor Vehicle Information and Cost Savings Act in an amount equal to the amount determined by the Secretary to be the effect of the final rule required by this section. The reductions in fuel economy regulations required by this subsection shall be promulgated prior to the first model year in which the standards established pursuant to Sections 514 and 515 would take effect.

EXPLANATION.—This amendment would ensure that the new fuel economy standards will be adjusted downward to take into account the new rear seat belt standards required by Title II as added last night.

AMENDMENT No. 2872

At the end of the pending amendment, insert the following:

"(c) Notwithstanding any other provision of this Act, in Title II, Section 274, insert the following new subsection:

"(c) In promulgating the revised bumper standard required by this section, the Secretary shall quantify in miles-per-gallon the effect on fuel economy of the final rule required by this section. Notwithstanding any other provision of law, the Secretary shall reduce each manufacturer's applicable fuel economy standard established pursuant to Sections 514 and 515 of Title V of the Motor Vehicle Information and Cost Savings Act in an amount equal to the amount determined by the Secretary to be the effect of the final rule required by this section. The reductions in fuel economy regulations required by this subsection shall be promulgated prior to the first model year in which the standards established pursuant to Sections 514 and 515 would take effect.

EXPLANATION.—This amendment would ensure that the new fuel economy standards will be adjusted downward to take into account the new bumper standards required by Title II as added last night.

AMENDMENT No. 2873

At the end of the pending amendment, insert the following:

"(c) Notwithstanding any other provision of this Act, in Title II, Section 276, insert the following new subsection:

"(c) In promulgating the head impact standard required by this section, the Secretary shall quantify in miles-per-gallon the effect on fuel economy of the final rule required by this section. Notwithstanding any other provision of law, the Secretary shall reduce each manufacturer's applicable fuel economy standard established pursuant to Sections 514 and 515 of Title V of the Motor Vehicle Information and Cost Savings Act in an amount equal to the amount determined by the Secretary to be the effect of the final rule required by this section. The reductions in fuel economy regulations required by this subsection shall be promulgated prior to the first model year in which the standards established pursuant to Sections 514 and 515 would take effect.

EXPLANATION.—This amendment would ensure that the new fuel economy standards will be adjusted downward to take into account the new head impact standards required by Title II as added last night.

AMENDMENT No. 2874

At the end of the pending amendment, insert the following:

"(c) Notwithstanding any other provision of this Act, in Title II, Section 277, insert the following new subsection:

"(b) In promulgating the standard required by this Section, the Secretary shall quantify in miles-per-gallon the effect on fuel economy of the final rule required by this section. Notwithstanding any other provision of law, the Secretary shall reduce each manufacturer's applicable fuel economy standard established pursuant to Sections 514 and 515 of Title V of the Motor Vehicle Information and Cost Savings Act in an amount equal to the amount determined by the Secretary to be the effect of the final rule required by this section. The reductions in fuel economy regulations required by this subsection shall be promulgated prior to the first model year in which the standards established pursuant to Sections 514 and 515 would take effect.

EXPLANATION.—This amendment would ensure that the new fuel economy standards will be adjusted downward to take into account the new pedestrian safety standards required by Title II as added last night.

RIEGLE AMENDMENT NO. 2875

(Ordered to lie on the table.)

Mr. RIEGLE submitted an amendment intended to be proposed by him to amendment No. 2672 intended to be proposed by Mr. LOTT to the bill S. 1224, supra, as follows:

On page 25, beginning with line 2, strike out all through the period on line 5 and insert in lieu thereof the following:

"SEC. 516. (a) The Secretary may modify any average fuel economy standard established under this Act for model years 1995 and thereafter in accordance with this section.".

On page 26, line 1, beginning with the comma, strike out all through "1988" on line 5.

On page 27, beginning with line 8, strike out all through line 9 and insert in lieu thereof the following: "carbon dioxide emissions, the economic impact of such reduction, and the availability and cost of reduction in carbon dioxide emissions from other sources; and".

On page 27, between lines 22 and 23, insert the following:

(c) Section 502(a)(4) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(a)(4)) is amended by deleting "any subsequent model year" and inserting in lieu thereof "any subsequent model year up to and including 1994".

(d) Section 502(e) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(e)) is amended—

(1) by deleting "and" after the comma in clause (3);

(2) be deleting the period at the end of clause (4) and inserting in lieu thereof a comma and the word "and"; and

(3) by inserting immediately after clause (4) the following new clause:

"(5) any negative effect on automobile safety that may be associated with any proposed level of the average fuel economy standards.".

JEFFORDS AMENDMENT NO. 2876

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to amendment No. 2752 intended to be proposed to the bill S. 1224, supra, as follows:

Paragraphs a, b, and c are rewritten as follows:

"(a) Notwithstanding any other law, in calculating the fuel economy of a duel energy vehicle, the calculation shall presume that the percentage of alcohol fuel used does not exceed an amount representing the percentage of alcohol used compared to total gasoline sold for motor vehicle use.

"(b) Alternative fuels shall be made available by fuel providers as specified by the Administrator in any area in which clean-fuel vehicles or clean-fuel fleet vehicles are available.".

JEFFORDS AMENDMENT NO. 2877

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to amendment No. 2753 intended to be proposed to the bill S. 1224, supra, as follows:

Paragraph c(2) is rewritten as follows:

"c(2)(a) Notwithstanding any other law, in calculating the fuel economy of a duel energy vehicle, the calculation shall presume that the percentage of alcohol fuel used does not exceed an amount representing the percentage of alcohol used compared to total gasoline sold for motor vehicle use.

"(b) Alternative fuels shall be made available by fuel providers as specified by the Administrator in any area in which clean-fuel vehicles or clean-fuel fleet vehicles are available.".

JEFFORDS AMENDMENT NO. 2878

(Ordered to lie on the table.)

Mr. JEFFORDS submitted an amendment intended to be proposed by him to an amendment intended to be proposed to the bill S. 1224, supra, as follows:

At the end of the amendment add the following:

"Notwithstanding any other law, in calculating the fuel economy of a duel energy vehicle, the calculation shall presume that the percentage of alcohol fuel used does not exceed an amount representing the percentage of alcohol used compared to total gasoline sold for motor vehicle use."

FEDERAL AVIATION ADMINISTRATION AUTHORIZATION ACT

PRESSLER AMENDMENT NO. 2879

(Ordered referred to the Committee on Commerce, Science, and Transportation.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to the bill (S. 3094) to authorize certain programs of the Federal Aviation Administration, to require the Secretary of Transportation to implement a National Noise Policy, to authorize airport passenger facility charges as an exception to the general prohibition of State taxation of air commerce, and to repeal certain regulations pertaining to airport operating slots, as follows:

At the appropriate place, please insert the following new section:

(a) DEFINITION OF ELIGIBLE POINT.—Section 419(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1389(a)) is amended to read as follows:

"(a) ELIGIBLE POINT DEFINED.—

"(1) GENERAL RULE.—For purposes of this section, the term 'eligible point' means any point in the United States—

"(A) Which was defined as an eligible point under this section as in effect before October 1, 1988;

"(B) which received scheduled air transportation at any time after January 1, 1990; and

"(C) which is not listed in the Department of Transportation Orders 89-9-37 and 89-12-52 as being a point no longer eligible for compensation under this section.

"(2) LIMITATION OF USE OF PER PASSENGER SUBSIDY.—The Secretary may not determine that a point described in paragraph (1) is not an eligible point on the basis of the per passenger subsidy at the point or on any other basis not specifically set forth in this section."

(b) FUNDING.—

(1) IN GENERAL.—Section 419 of such Act is amended by redesignating subsection (l), and any reference thereto, as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) FUNDING—

"(1) CONTRACT AUTHORITY.—The Secretary is authorized to enter into agreements and to incur obligations from the Airport and Airway Trust Fund for the payment of compensation under this section. Approval by the Secretary of such an agreement shall be deemed a contractual obligation of the United States for payment of the Federal share of such compensation.

"(2) AMOUNTS AVAILABLE.—There shall be available to the Secretary from the Airport and Airway Trust Fund to incur obligations under this section $38,600,000 per fiscal year for each of fiscal years 1992, 1993, 1994, 1995, 1996, 1997, and 1998. Such amounts shall remain available until expended.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 1991.

(c) CONFORMING AMENDMENTS.—Section 333 of Public Law 100-457 and section 325(a) of Public Law 101-164 are repealed.

Mr. PRESSLER. Mr. President, this morning I read with great interest the CONGRESSIONAL RECORD proceedings of Monday that a bill reauthorizing the Federal Aviation Administration had been introduced in the Senate. I was very disappointed to note that this reauthorization bill does not include the Essential Air Service Program. Therefore, today I am submitting an amendment to include reauthorization of the EAS Program in the Federal Aviation Administration reauthorization bill (S. 3094), and am urging my colleagues to jon me in cosponsoring this measure so important to rural America. This amendment would ensure the future of air service to smaller cities.

Similar EAS language passed the House of Representative in its FAA reauthorization bill. The purpose of my amendment is to ensure that the EAS Program is included in the final version of the Senate bill.

Just as its name implies, the Essential Air Service Program is essential to the growth and development of smaller cities. Dependable air service often is a smaller community's most important link to the outside world. It is a vital element in every State's economic development program and is necessary for industrial expansion.

In fact, in my State of South Dakota, the essential air service is one of the keys to economic development. Without it we cannot continue air service to many of our smaller cities. I was very disappointed that the bill introduced did not include this. It is Senator FORD's bill which I believe was introduced yesterday.

My amendment would restore this essential air program. It is essential to the growth of our smaller cities and towns in South Dakota. Dependable air service often is a smaller community's most important link to the outside world. It is a vital element in every State's economic development program. And it is necessary for industrial expansion.

The amendment I am introducing requires that essential air service subsidies be paid from the aviation trust fund. It sets an obligation ceiling of $38.6 million per year starting in fiscal year 1992. This would provide a reliable method for funding air service to small communities and rural areas through fiscal year 1998.

The Essential Air Service Program is the lifeblood of a number of airports in smaller States like my home State of South Dakota. Essential air service supports the South Dakota cities of Brookings, Mitchell, Huron, Watertown, Aberdeen, Yankton, and Pierre.

Yankton, in particular, is a good example of the importance of the Essential Air Service Program to a small community. In December 1989, Yankton's essential air service carrier declared bankruptcy and discontinued all services to and from Yankton. For 6 months, the entire city was without air service. We worked with the city of Yankton to successfully locate a new essential air service carrier, Great Lakes Aviation, which is now providing fine service to that community. Without it, their economic development program and basic transportation needs would have suffered greatly. None of this would have been possible without the EAS Program. Small cities around the country depend on it.

Essential air service is not limited to a few States. The EAS Program provides funding for small airports in 39 States across the Nation.

As we move forward with our transportation policy into the 21st century, we must not leave behind smaller cities and rural areas. These smaller cities and their airports play an integral role in our overall transportation policy. My amendment would provide smaller cities the opportunity to fulfill that role, and I urge its adoption.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for a period of 2 minutes.

Mr. EXON. Mr. President, I listened with great interest to the remarks by my friend and colleague from South Dakota on the Essential Air Service Program. As the author of the extension piece of legislation I am delighted to hear my colleague from the Commerce Committee stand up. Essantial air service is absolutely critical, and we appeal to the administration to follow the intent of the legislation and followthrough on the essential air service that the Senator from South Dakota has so rightfully suggested.

I thank him for his remarks.

MARKET REFORM ACT

DODD (AND OTHERS) AMENDMENT NO. 2880

Mr. DODD (for himself, Mr. HEINZ, Mr. RIEGLE, and Mr. GARN) proposed an amendment to the bill (H.R. 3657) to amend the Securities Exchange Act of 1934 to provide additional authorities to the Securities and Exchange Commission to prevent disruptions to the Nation's securities markets, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Market Reform Act of 1990".

SEC. 2. EMERGENCY AUTHORITY; TRADING HALTS.

Section 12(k) of the Securities Exchange Act of 1934 (15 U.S.C. 781(k)) is amended to read as follows:

"(k) TRADING SUSPENSIONS; EMERGENCY AUTHORITY.—

"(1) TRADING SUSPENSIONS.—If in its opinion the public interest and the protection of investors so require, the Commission is authorized by order—

"(A) summarily to suspend trading in any security (other than an exempted security) for a period not exceeding 10 business days, and

"(B) summarily to suspend all trading on any national securities exchange or otherwise, in securities other than exempted securities, for a period not exceeding 90 calendar days.

The action described in subparagraph (B) shall not take effect unless the Commission notifies the President of its decision and the President notifies the Commission that the President does not disapprove of such decision.

"(2) EMERGENCY ORDERS.—(A) The Commission, in an emergency, may by order summarily take such action to alter, supplement, suspend, or impose requirements or restrictions with respect to any matter or action subject to regulation by the Commission or a self-regulatory organization under this title, as the Commission determines is necessary in the public interest and for the protection of investors—

"(i) to maintain or restore fair and orderly securities markets (other than markets in exempted securities); or

"(ii) to ensure prompt, accurate, and safe clearance and settlement of transactions in securities (other than exempted securities).

"(B) An order of the Commission under this paragraph (2) shall continue in effect for the period specified by the Commission, and may be extended, except that in no event shall the Commission's action continue in effect for more than 10 business days, including extensions. In exercising its authority under this paragraph, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code, or with the provisions of section 19(c) of this title.

"(3) TERMINATION OF EMERGENCY ACTIONS BY PRESIDENT.—The President may direct that action taken by the Commission under paragraph (1)(B) or paragraph (2) of this subsection shall not continue in effect.

"(4) COMPLIANCE WITH ORDERS.—No member of a national securities exchange, broker, or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any security in contravention of an order of the Commission under this subsection unless such order has been stayed, modified, or set aside as provided in paragraph (5) of this subsection or has ceased to be effective upon direction of the President as provided in paragraph (3).

"(5) LIMITATIONS ON REVIEW OF ORDERS.—An order of the Commission pursuant to this subsection shall be subject to review only as provided in section 25(a) of this title. Review shall be based on an examination of all the information before the Commission at the time such order was issued. The reviewing court shall not enter a stay, writ of mandamus, or similar relief unless the court finds, after notice and hearing before a panel of the court, that the Commission's action is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(6) DEFINITION OF EMERGENCY.—For purposes of this subsection, the term 'emergency' means a major market disturbance characterized by or constituting—

"(A) sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threaten fair and orderly markets, or

"(B) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of securities, or a substantial threat thereof.".

SEC. 3. LARGE TRADER REPORTING.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

"(h) LARGE TRADER REPORTING.—

"(1) IDENTIFICATION REQUIREMENTS FOR LARGE TRADERS.—For the purpose of monitoring the impact on the securities markets of securities transactions involving a substantial volume or a large fair market value or exercise value and for the purpose of otherwise assisting the Commission in the enforcement of this title, each large trader shall—

"(A) provide such information to the Commission as the Commission may by rule or regulation prescribe as necessary or appropriate, identifying such large trader and all accounts in or through which such large trader effects such transactions; and

"(B) identify, in accordance with such rules or regulations as the Commission may prescribe as necessary or appropriate, to any registered broker or dealer by or through whom such large trader directly or indirectly effects securities transactions, such large trader and all accounts directly or indirectly maintained with such broker or dealer by such large trader in or through which such transactions are effected.

"(2) RECORDKEEPING AND REPORTING REQUIREMENTS FOR BROKERS AND DEALERS.—Every registered broker or dealer shall make and keep for prescribed periods such records as the Commission by rule or regulation prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title, with respect to securities transactions that equal or exceed the reporting activity level effected directly or indirectly by or through such registered broker or dealer of or for any person that such broker or dealer knows is a large trader, or any person that such broker or dealer has reason to know is a large trader on the basis of transactions in securities effected by or through such broker or dealer. Such records shall be available for reporting to the Commission, or any self-regulatory organization that the Commission shall designate to receive such reports, on the morning of the day following the day the transactions were effected, and shall be reported to the Commission or a self-regulatory organization designated by the Commission immediately upon request by the Commission or such a self-regulatory organization. Such records and reports shall be in a format and transmitted in a manner prescribed by the Commission (including, but not limited to, machine readable form).

"(3) AGGREGATION RULES.—The Commission may prescribe rules or regulations governing the manner in which transactions and accounts shall be aggregated for the purpose of this subsection, including aggregation on the basis of common ownership or control.

"(4) EXAMINATION OF BROKER AND DEALER RECORDS.—All records required to be made and kept by registered brokers and dealers pursuant to this subsection with respect to transactions effected by large traders are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the Commission as the Commission deems necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.

"(5) FACTORS TO BE CONSIDERED IN COMMISSION ACTIONS.—In exercising its authority under this subsection, the Commission shall take into account—

"(A) existing reporting systems;

"(B) the costs associated with maintaining information with respect to transactions effected by large traders and reporting such information to the Commission or self-regulatory organizations; and

"(C) the relationship between the United States and international securities markets.

"(6) EXEMPTIONS.—The Commission, by rule, regulation, or order, consistent with the purposes of this title, may exempt any person or class of persons or any transaction or class of transactions, either conditionally or upon specified terms and conditions or for stated periods, from the operation of this subsection, and the rules and regulations thereunder.

"(7) AUTHORITY OF COMMISSION TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be kept or reported under this subsection. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'large trader' means every person who, for his own account or an account for which he exercises investment discretion, effects transactions for the purchase or sale of any publicly traded security or securities by use of any means or instrumentality of interstate commerce or of the mails, or of any facility of a national securities exchange, directly or indirectly by or through a registered broker or dealer in an aggregate amount equal to or in excess of the identifying activity level;

"(B) the term 'publicly traded security' means any equity security (including an option on individual equity securities, and an option on a group or index of such securities) listed, or admitted to unlisted trading privileges, on a national securities exchange, or quoted in an automated interdealer quotation system;

"(C) the term 'identifying activity level' means transactions in publicly traded securities at or above a level of volume, fair market value, or exercise value as shall be fixed from time to time by the Commission by rule or regulation, specifying the time in-

terval during which such transactions shall be aggregated;

"(D) the term 'reporting activity level' means transactions in publicly traded securities at or above a level of volume, fair market value, or exercise value as shall be fixed from time to time by the Commission by rule, regulation, or order, specifying the time interval during which such transactions shall be aggregated; and

"(E) the term 'person' has the meaning given in section 3(a)(9) of this title and also includes two or more persons acting as a partnership, limited partnership, syndicate, or other group, but does not include a foreign central bank.".

SEC. 4. RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS.

(a) AMENDMENT.—Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended by adding at the end the following:

"(h) RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS.—

"(1) OBLIGATIONS TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—Every person who is (A) a registered broker or dealer, or (B) a registered municipal securities dealer for which the Commission is the appropriate regulatory agency, shall obtain such information and make and keep such records as the Commission by rule prescribes concerning the registered person's policies, procedures, or systems for monitoring and controlling financial and operational risks to it resulting from the activities of any of its associated persons, other than a natural person. Such records shall describe, in the aggregate, each of the financial and securities activities conducted by, and the customary sources of capital and funding of, those of its associated persons whose business activities are reasonably likely to have a material impact on the financial or operational condition of such registered person, including its net capital, its liquidity, or its ability to conduct or finance its operations. The Commission, by rule, may require summary reports of such information to be filed with the Commission no more frequently than quarterly.

"(2) AUTHORITY TO REQUIRE ADDITIONAL INFORMATION.—If, as a result of adverse market conditions or based on reports provided to the Commission pursuant to paragraph (1) of this subsection or other available information, the Commission reasonably concludes that it has concerns regarding the financial or operational condition of (A) any registered broker or dealer, or (B) any registered municipal securities dealer, government securities broker, or government securities dealer for which the Commission is the appropriate regulatory agency, the Commission may require the registered person to make reports concerning the financial and securities activities of any of such person's associated persons, other than a natural person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of such registered person. The Commission, in requiring reports pursuant to this paragraph, shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the Commission or to a self-regulatory organization with primary responsibility for examining the registered person's financial and operational condition.

"(3) SPECIAL PROVISIONS WITH RESPECT TO ASSOCIATED PERSONS SUBJECT TO FEDERAL BANKING AGENCY REGULATION.—

"(A) COOPERATION IN IMPLEMENTATION.—In developing and implementing reporting requirements pursuant to paragraph (1) of this subsection with respect to associated persons subject to examination by or reporting requirements of a Federal banking agency, the Commission shall consult with and consider the views of each such Federal banking agency. If a Federal banking agency comments in writing on a proposed rule of the Commission under this subsection that has been published for comment, the Commission shall respond in writing to such written comment before adopting the proposed rule. The Commission shall, at the request of the Federal banking agency, publish such comment and response in the Federal Register at the time of publishing the adopted rule.

"(B) USE OF BANKING AGENCY REPORTS.—A registered broker, dealer, or municipal securities dealer shall be in compliance with any recordkeeping or reporting requirement adopted pursuant to paragraph (1) of this subsection concerning an associated person that is subject to examination by or reporting requirements of a Federal banking agency if such broker, dealer, or municipal securities dealer utilizes for such recordkeeping or reporting requirement copies of reports filed by the associated person with the Federal banking agency pursuant to section 5211 of the Revised Statutes, section 9 of the Federal Reserve Act, section 7(a) of the Federal Deposit Insurance Act, section 10(b) of the Home Owners' Loan Act, or section 8 of the Bank Holding Company Act of 1956. The Commission may, however, by rule adopted pursuant to paragraph (1), require any broker, dealer, or municipal securities dealer filing such reports with the Commission to obtain, maintain, or report supplemental information if the Commission makes an explicit finding that such supplemental information is necessary to inform the Commission regarding potential risks to such broker, dealer, or municipal securities dealer. Prior to requiring any such supplemental information, the Commission shall first request the Federal banking agency to expand its reporting requirements to include such information.

"(C) PROCEDURE FOR REQUIRING ADDITIONAL INFORMATION.—Prior to making a request pursuant to paragraph (2) of this subsection for information with respect to an associated person that is subject to examination by or reporting requirements of a Federal banking agency, the Commission shall—

"(i) notify such agency of the information required with respect to such associated person; and

"(ii) consult with such agency to determine whether the information required is available from such agency and for other purposes, unless the Commission determines that any delay resulting from such consultation would be inconsistent with ensuring the financial and operational condition of the broker, dealer, municipal securities dealer, government securities broker, or government securities dealer or the stability or integrity of the securities markets.

"(D) EXCLUSION FOR EXAMINATION REPORTS.—Nothing in this subsection shall be construed to permit the Commission to require any registered broker or dealer, or any registered municipal securities dealer, government securities broker, or government securities dealer for which the Commission is the appropriate regulatory agency, to obtain, maintain, or furnish any examination report of any Federal banking agency or any supervisory recommendations or analysis contained therein.

"(E) CONFIDENTIALITY OF INFORMATION PROVIDED.—No information provided to or obtained by the Commission from any Federal banking agency pursuant to a request by the Commission under subparagraph (C) of this paragraph regarding any associated person which is subject to examination by or reporting requirements of a Federal banking agency may be disclosed to any other person (other than a self-regulatory organization), without the prior written approval of the Federal banking agency. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission.

"(F) NOTICE TO BANKING AGENCIES CONCERNING FINANCIAL AND OPERATIONAL CONDITION CONCERNS.—The Commission shall notify the Federal banking agency of any concerns of the Commission regarding significant financial or operational risks resulting from the activities of any registered broker or dealer, or any registered municipal securities dealer, government securities broker, or government securities dealer for which the Commission is the appropriate regulatory agency, to any associated person thereof which is subject to examination by or reporting requirements of the Federal banking agency.

"(G) DEFINITION.—For purposes of this paragraph, the term 'Federal banking agency' shall have the same meaning as the term 'appropriate Federal bank agency' in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

"(4) EXEMPTIONS.—The Commission by rule or order may exempt any person or class of persons, under such terms and conditions and for such periods as the Commission shall provide in such rule or order, from the provisions of this subsection, and the rules thereunder. In granting such exemptions, the Commission shall consider, among other factors—

"(A) whether information of the type required under this subsection is available from a supervisory agency (as defined in section 1101(6) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(6))), a State insurance commission or similar State agency, the Commodity Futures Trading Commission, or a similar foreign regulator;

"(B) the primary business of any associated person;

"(C) the nature and extent of domestic or foreign regulation of the associated person's activities;

"(D) the nature and extent of the registered person's securities activities; and

"(E) with respect to the registered person and its associated persons, on a consolidated basis, the amount and proportion of assets devoted to, and revenues derived from, activities in the United States securities markets.

"(5) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be reported under this subsection, or any information supplied to the Commission by any domestic or foreign regulatory

agency that relates to the financial or operational condition of any associated person of a registered broker, dealer, government securities broker, government securities dealer, or municipal securities dealer. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552. In prescribing regulations to carry out the requirements of this subsection, the Commission shall designate information described in or obtained pursuant to subparagraph (B) or (C) of paragraph (3) of this subsection as confidential information for purposes of section 24(b)(2) of this title.".

(b) CONFORMING AMENDMENT.—Section 15C(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(b)) is amended—

(1) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS.—

"(A) OBLIGATIONS TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—Every person who is registered as a government securities broker or government securities dealer under this section shall obtain such information and make and keep such records as the Secretary by rule prescribes concerning the registered person's policies, procedures, or systems for monitoring and controlling financial and operational risks to it resulting from the activities of any of its associated persons, other than a natural person. Such records shall describe, in the aggregate, each of the financial and securities activities conducted by, and customary sources of capital and funding of, those of its associated persons whose business activities are reasonably likely to have a material impact on the financial or operational condition of such registered person, including its capital, its liquidity, or its ability to conduct or finance its operations. The Secretary, by rule, may require summary reports of such information to be filed with the registered person's appropriate regulatory agency no more frequently than quarterly.

"(B) AUTHORITY TO REQUIRE ADDITIONAL INFORMATION.—If, as a result of adverse market conditions or based on reports provided pursuant to subparagraph (A) of this paragraph or other available information, the appropriate regulatory agency reasonably concludes that it has concerns regarding the financial or operational condition of any government securities broker or government securities dealer registered under this section, such agency may require the registered person to make reports concerning the financial and securities activities of any of such person's associated persons, other than a natural person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of such registered person. The appropriate regulatory agency, in requiring reports pursuant to this subparagraph, shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the appropriate regulatory agency or to a self-regulatory organization with primary responsibility for examining the registered person's financial and operational condition.

"(C) SPECIAL PROVISIONS WITH RESPECT TO ASSOCIATED PERSONS SUBJECT TO FEDERAL BANKING AGENCY REGULATION.—

"(i) COOPERATION IN IMPLEMENTATION.—In developing and implementing reporting requirements pursuant to subparagraph (A) of this paragraph with respect to associated persons subject to examination by or reporting requirements of a Federal banking agency, the Secretary shall consult with and consider the views of each such Federal banking agency. If a Federal banking agency comments in writing on a proposed rule of the Secretary under this paragraph that has been published for comment, the Secretary shall respond in writing to such written comment before adopting the proposed rule. The Secretary shall, at the request of a Federal banking agency, publish such comment and response in the Federal Register at the time of publishing the adopted rule.

"(ii) USE OF BANKING AGENCY REPORTS.—A registered government securities broker or government securities dealer shall be in compliance with any recordkeeping or reporting requirement adopted pursuant to subparagraph (A) of this paragraph concerning an associated person that is subject to examination by or reporting requirements of a Federal banking agency if such government securities broker or government securities dealer utilizes for such recordkeeping or reporting requirement copies of reports filed by the associated person with the Federal banking agency pursuant to section 5211 of the Revised Statutes, section 9 of the Federal Reserve Act, section 7(a) of the Federal Deposit Insurance Act, section 10(b) of the Home Owners' Loan Act, or section 8 of the Bank Holding Company Act of 1956. The Secretary may, however, by rule adopted pursuant to subparagraph (A), require any registered government securities broker or government securities dealer filing such reports with the appropriate regulatory agency to obtain, maintain, or report supplemental information if the Secretary makes an explicit finding, based on information provided by the appropriate regulatory agency, that such supplemental information is necessary to inform the appropriate regulatory agency regarding potential risks to such government securities broker or government securities dealer. Prior to requiring any such supplemental information, the Secretary shall first request the Federal banking agency to expand its reporting requirements to include such information.

"(iii) PROCEDURE FOR REQUIRING ADDITIONAL INFORMATION.—Prior to making a request pursuant to subparagraph (B) of this paragraph for information with respect to an associated person that is subject to examination by or reporting requirements of a Federal banking agency, the appropriate regulatory agency shall—

"(I) notify such banking agency of the information required with respect to such associated person; and

"(II) consult with such agency to determine whether the information required is available from such agency and for other purposes, unless the appropriate regulatory agency determines that any delay resulting from such consultation would be inconsistent with ensuring the financial and operational condition of the government securities broker or government securities dealer or the stability or integrity of the securities markets.

"(iv) EXCLUSION FOR EXAMINATION REPORTS.—Nothing in this subparagraph shall be construed to permit the Secretary or an appropriate regulatory agency to require any registered government securities broker or government securities dealer to obtain, maintain, or furnish any examination report of any Federal banking agency or any supervisory recommendations or analysis contained therein.

"(v) CONFIDENTIALITY OF INFORMATION PROVIDED.—No information provided to or obtained by an appropriate regulatory agency from any Federal banking agency pursuant to a request under clause (iii) of this subparagraph regarding any associated person which is subject to examination by or reporting requirements of a Federal banking agency may be disclosed to any other person (other than a self-regulatory organization), without the prior written approval of the Federal banking agency. Nothing in this clause shall authorize the Secretary or any appropriate regulatory agency to withhold information from Congress, or prevent the Secretary or any appropriate regulatory agency from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission.

"(vi) NOTICE TO BANKING AGENCIES CONCERNING FINANCIAL AND OPERATIONAL CONDITION CONCERNS.—The Secretary or appropriate regulatory agency shall notify the Federal banking agency of any concerns of the Secretary or the appropriate regulatory agency regarding significant financial or operational risks resulting from the activities of any government securities broker or government securities dealer to any associated person thereof which is subject to examination by or reporting requirements of the Federal banking agency.

"(vii) DEFINITION.—For purposes of this subparagraph, the term 'Federal banking agency' shall have the same meaning as the term 'appropriate Federal banking agency' in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

"(D) EXEMPTIONS.—The Secretary by rule or order may exempt any person or class of persons, under such terms and conditions and for such periods as the Secretary shall provide in such rule or order, from the provisions of this paragraph, and the rules thereunder. In granting such exemptions, the Secretary shall consider, among other factors—

"(i) whether information of the type required under this paragraph is available from a supervisory agency (as defined in section 1101(6) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(6))), a State insurance commission or similar State agency, the Commodity Futures Trading Commission, or a similar foreign regulator;

"(ii) the primary business of any associated person;

"(iii) the nature and extent of domestic or foreign regulation of the associated person's activities;

"(iv) the nature and extent of the registered person's securities transactions; and

"(v) with respect to the registered person and its associated persons, on a consolidated basis, the amount and proportion of assets

devoted to, and revenues derived from, activities in the United States securities markets.

"(E) CONFORMITY WITH REQUIREMENTS UNDER SECTION 17(h).—In exercising authority pursuant to subparagraph (A) of this paragraph concerning information with respect to associated persons of government securities brokers and government securities dealers who are also associated persons of registered brokers or dealers reporting to the Commission pursuant to section 17(h) of this title, the requirements relating to such associated persons shall conform, to the greatest extent practicable, to the requirements under section 17(h).

"(F) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Secretary and any appropriate regulatory agency shall not be compelled to disclose any information required to be reported under this paragraph, or any information supplied to the Secretary or any appropriate regulatory agency by any domestic or foreign regulatory agency that relates to the financial or operational condition of any associated person of a registered government securities broker or a government securities dealer. Nothing in this paragraph shall authorize the Secretary or any appropriate regulatory agency to withhold information from Congress, or prevent the Secretary or any appropriate regulatory agency from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.".

SEC. 5. COORDINATED CLEARING.

(a) AUTHORITY TO FACILITATE COORDINATED CLEARING MECHANISMS.—Section 17A(a)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1) is amended to read as follows:

"(2)(A) The Commission is directed, therefore, having due regard for the public interest, the protection of investors, the safeguarding of securities and funds, and maintenance of fair competition among brokers and dealers, clearing agencies, and transfer agents, to use its authority under this title—

"(i) to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities (other than exempt securities); and

"(ii) to facilitate the establishment of linked or coordinated facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options;

in accordance with the findings and to carry out the objectives set forth in paragraph (1) of this subsection.

"(B) The Commission shall use its authority under this title to assure equal regulation under this title of registered clearing agencies and registered transfer agents. In carrying out its responsibilities set forth in subparagraph (A)(ii) of this paragraph, the Commission shall coordinate with the Commodity Futures Trading Commission and consult with the Board of Governors of the Federal Reserve System.".

(b) TRANSFER AND PLEDGE OF SECURITIES.—Section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1) is amended by adding at the end the following:

"(f)(1) Notwithstanding any provision of State law, except as provided in paragraph (3), if the Commission makes each of the findings described in paragraph (2)(A), the Commission may adopt rules concerning—

"(A) the transfer of certificated or uncertificated securities (other than government securities issued pursuant to chapter 31 of title 31, United States Code, or securities otherwise processed within a book-entry system operated by the Federal Reserve banks pursuant to a Federal book-entry regulation) or limited interests (including security interests) therein; and

"(B) rights and obligations of purchasers, sellers, owners, lenders, borrowers, and financial intermediaries (including brokers, dealers, banks, and clearing agencies) involved in or affected by such transfers, and the rights of third parties whose interests in such securities devolve from such transfers.

"(2)(A) The findings described in this paragraph are findings by the Commission that—

"(i) such rule is necessary or appropriate for the protection of investors or in the public interest and is reasonably designed to promote the prompt, accurate, and safe clearance and settlement of securities transactions;

"(ii) in the absence of a uniform rule, the safe and efficient operation of the national system for clearance and settlement of securities transactions will be, or is, substantially impeded; and

"(iii) to the extent such rule will impair or diminish, directly or indirectly, rights of persons specified in paragraph (1)(B) under State law concerning transfers of securities (or limited interests therein), the benefits of such rule outweigh such impairment or diminution of rights.

"(B) In making the findings described in subparagraph (A), the Commission shall give consideration to the recommendations of the Advisory Committee established under paragraph (4), and it shall consult with and consider the views of the Secretary of the Treasury and the Board of Governors of the Federal Reserve System. If the Secretary of the Treasury objects, in writing, to any proposed rule of the Commission on the basis of the Secretary's view on the issues described in clauses (i), (ii), and (iii) of subparagraph (A), the Commission shall consider all feasible alternatives to the proposed rule, and it shall not adopt any such rule unless the Commission makes an explicit finding that the rule is the most practicable method for achieving safe and efficient operation of the national clearance and settlement system.

"(3) Any State may, prior to the expiration of 2 years after the Commission adopts a rule under this subsection, enact a statute that specifically refers to this subsection and the specific rule thereunder and establishes, prospectively from the date of enactment of the State statute, a provision that differs from that applicable under the Commission's rule.

"(4)(A) Within 90 days after the date of enactment of this subsection, the Commission shall (and at such times thereafter as the Commission may determine, the Commission may), after consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System, establish an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.). The Advisory Committee shall be directed to consider and report to the Commission on such matters as the Commission, after consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System, determines, including the areas, if any, in which State commercial laws and related Federal laws concerning the transfer of certificated or uncertificated securities, limited interests (including security interests) in such securities, or the creation or perfection of security interests in such securities do not provide the necessary certainty, uniformity, and clarity for purchasers, sellers, owners, lenders, borrowers, and financial intermediaries concerning their respective rights and obligations.

"(B) The Advisory Committee shall consist of 15 members, of which—

"(i) 11 shall be designated by the Commission in accordance with the Federal Advisory Committee Act; and

"(ii) 2 each shall be designated by the Board of Governors of the Federal Reserve System and the Secretary of the Treasury.

"(C) The Advisory Committee shall conduct its activities in accordance with the Federal Advisory Committee Act. Within 6 months of its designation, or such longer time as the Commission may designate, the Advisory Committee shall issue a report to the Commission, and shall cause copies of that report to be delivered to the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System.".

SEC. 6. LIMITATION ON PRACTICES WHICH RESULT IN VOLATILITY.

(a) IN GENERAL.—Section 9 of the Securities Exchange Act of 1934 (15 U.S.C. 78i) is amended by adding at the end thereof the following new subsection:

"(h) LIMITATIONS ON PRACTICES THAT AFFECT MARKET VOLATILITY.—It shall be unlawful for any person, by the use of the mails or any means or instrumentality of interstate commerce or of any facility of any national securities exchange, to use or employ any act or practice in connection with the purchase or sale of any equity security in contravention of such rules or regulations as the Commission may adopt, consistent with the public interest, the protection of investors, and the maintenance of fair and orderly markets—

"(1) to prescribe means reasonably designed to prevent manipulation of price levels of the equity securities market or a substantial segment thereof; and

"(2) to prohibit or constrain, during periods of extraordinary market volatility, any trading practice in connection with the purchase or sale of equity securities that the Commission determines (A) has previously contributed significantly to extraordinary levels of volatility that have threatened the maintenance of fair and orderly markets; and (B) is reasonably certain to engender such levels of volatility if not prohibited or constrained.

In adopting rules under paragraph (2), the Commission shall, consistent with the purposes of this subsection, minimize the impact on the normal operations of the market and a natural person's freedom to buy or sell any equity security.".

(b) CONFORMING AMENDMENT.—Section 25(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78y(b)(1)) is amended by inserting "9(h)(2)," after "section 6,".

SEC. 7. NOTIFICATION OF SEC CONCERNING RISKS TO SECURITIES SUBSIDIARY.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 35. COORDINATION OF RISK ANALYSIS BETWEEN SEC AND FEDERAL BANKING AGENCIES.

"Any appropriate Federal banking agency shall notify the Securities and Exchange Commission of any concerns of the agency regarding significant financial or operational risks to any registered broker or dealer, or any registered municipal securities dealer, government securities broker, or government securities dealer for which the Commission is the appropriate regulatory agency (as defined in section 3 of the Securities Exchange Act of 1934), resulting from the activities of any insured depository institution, any depository institution holding company, or any affiliate of any such institution or company if such broker, dealer, municipal securities dealer, government securities broker, or government securities dealer is an affiliate of any such institution, company, or affiliate.".

SEC. 8. REPORTS TO CONGRESS.

(a) INTERMARKET COORDINATION.—The Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Securities and Exchange Commission, and the Chairman of the Commodity Futures Trading Commission, shall report to the Congress not later than May 31, 1991, and annually thereafter until May 31, 1995, on the following:

(1) the efforts their respective agencies have made relating to the coordination of regulatory activities to ensure the integrity and competitiveness of United States financial markets;

(2) the efforts their respective agencies have made to formulate coordinated mechanisms across marketplaces to protect the payments and market systems during market emergencies;

(3) the views of their respective agencies with respect to the adequacy of margin levels and use of leverage by market participants; and

(4) such other issues and concerns relating to the soundness, stability, and integrity of domestic and international capital markets as may be appropriate.

The agencies shall cooperate in the development of their reports, and prior to submitting its report to Congress, each agency shall provide copies to the other agencies.

(b) CLEARANCE AND SETTLEMENT.—The Securities and Exchange Commission, in consultation with the Commodity Futures Trading Commission, the Board of Governors of the Federal Reserve System, and other relevant regulatory authorities, shall examine progress toward establishing linked or coordinated facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options, and shall submit to the Committees on Energy and Commerce and Agriculture of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Agriculture, Nutrition, and Forestry of the Senate, not later than 2 years from the date of enactment of this section, a report detailing and evaluating such progress.

FAMILY PLANNING AMENDMENTS

PRESSLER AMENDMENT NO. 2881

Mr. PRESSLER proposed an amendment to the bill S. 110, supra, as follows:

At the end of the bill add the following new section:

SEC. . REDUCTION OF PAY OF MEMBERS OF CONGRESS.

(a) REDUCTION IN PAY.—For each month during fiscal year 1991 in which, by reason of a furlough or other employment action necessitiated by a sequestration order under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902), the total amount of the pay paid to any Federal employee is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law, the rate of pay payable to a Member of Congress shall be reduced to the rate of pay established for such Member pursuant to law.

(b) COMPUTATION OF REDUCED PAY.—The rate of pay payable to a Member of Congress for any month referred to in subsection (a) shall be equal to the amount determined by multiplying the rate of pay established for such Member pursuant to law by the percentage reported to Congress for such month under subsection (c)(1)(D).

(c) DETERMINATION OF PERCENTAGE FOR COMPUTATION OF REDUCED PAY.—(1) No later than the first day of each month in fiscal year 1991, the Director of the Office of Management and Budget shall—

(A) determine whether, for a reason described in subsection (a), the total amount of the pay paid to any Federal employee in that month is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law;

(B) estimate the average of the percentages that would result by dividing the monthly equivalent of the annual rate of pay established for each such Federal employee pursuant to law into the total amount projected to be paid such Federal employee for such month;

(C) aggregate the percentages determined under subparagraph (B) for Federal employees for each agency and determine the highest average percentage for any agency; and

(D) transmit to Congress a written report containing the average computed under subparagraph (C).

(2) The Office of Personnel Management may use a statistical sampling method to make the estimates and determinations under paragraph (1).

(3) For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code.

(d) APPLICATION TO OTHER FEDERAL LAWS.—For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposed any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this section and shall apply to the first applicable pay period of members of Congress occurring on or after October 1, 1990. If the date of enactment of this section is after October 1, 1990, and the provisions of this section become applicable in the reduction of pay of members of Congress, all reductions which would have occurred if this section has been enacted as provided in subsection (b) and the amount of such reduction shall be recovered for the remaining pay periods for fiscal year 1991.

ARMSTRONG AMENDMENT NO. 2882

Mr. ARMSTRONG proposed an amendment to the bill S. 110, supra; as follows:

At the appropriate place, add the following new section:

SEC. . NOTIFICATION OF PARENT PRIOR TO ABORTION ON A MINOR.

Section 1001 of the Public Health Service Act (42 USC 300) is amended by adding at the appropriate place the following new subsection:

"( )(1) No entity which receives a grant or enters into a contract under this section shall provide an abortion for an unemancipated female under the age of 18 until at least 48 hours after written notice of the pending abortion has been delivered in the manner specified under paragraph (2), except when the attending physician certifies in the minor's medical record that the abortion was performed due to a medical emergency requiring immediate action.

"(2) Such notice shall—

"(A) Be addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian and delivered personally to such parent or legal guardian by the physician performing the abortion or an agent of the entity; or

"(B) Be made by certified mail addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian with return receipt requested and restricted delivery to the addressee, which means postal employees may only deliver the mail to the authorized addressee. Time of delivery shall be deemed to occur at 12 o'clock noon on the next day on which regular mail delivery takes place, subsequent to mailing.

"(3) This subsection shall not apply to entities in states that have in effect laws requiring that a parent or legal guardian be notified of, or give consent to, an abortion to be performed on the minor child of such parent or legal guardian."

KENNEDY AMENDMENT NO. 2883

Mr. KENNEDY proposed an amendment to amendment No. 2882 proposed by Mr. ARMSTRONG to the bill S. 110, supra, as follows:

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

SEC. . PARENTAL CONSENT.

No funds made available under title X of the Public Health Service Act shall be used for the performance of abortions, including the performance of abortions on minors regardless of whether the parents of such minors have been notified.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing will take place Friday, September 28, 1990, at 11 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony from Branko Terzic, nominee for Commissioner of the Federal Energy Regulatory Commission.

For further information, please contact Rebecca Murphy at (202) 224-7562.

AUTHORITY FOR COMMITTEES TO MEET

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. EXON. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, September 25, 1990, to hold hearings on Abuses In Federal Student Aid Programs—Part 3.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. EXON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, September 25, 1990, at 2 p.m. to hold an open confirmation hearing for the inspector general of the CIA.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in closed session during the session of the Senate on Tuesday, September 25, 1990, at 2 p.m. to mark up certain legislative measures related to Operation Desert Shield, including S. 3025, S. 3026, as well as original bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. EXON. Mr. President, I ask unanimous consent that the Subcommittee on Energy Regulation and Conservation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 9:30 a.m., Tuesday, September 25, 1990, for a hearing to receive testimony on S. 3085, legislation to limit the jurisdiction of the Federal Energy Regulatory Commission over local distribution company wholesalers of natural gas for ultimate consumption as a fuel in motor vehicles.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. EXON. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on September 25, 1990, beginning at 10 a.m., in 485 Russell Senate Office Building, to consider for report to the Senate H.R. 5063, the Ft. McDowell Indian Water Settlement; S. 3084, the Fallon Paiute-Shoshone Water Rights Settlement Act; S. 2870, the Ft. Hall Indian Water Rights Act of 1990; S. 2895, the Seneca Nation Settlement Act of 1990 and S. 381, a bill to provide Federal Recognition of the Mowa Band of Choctaw Indians to be followed immediately by an oversight hearing on a proposal to establish Wounded Knee Memorial and Historic Site.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Tuesday, September 25, 1990, at 10 a.m. to conduct an oversight hearing on the condition of the thrift industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE SAN LUIS STATIONS OF THE CROSS

● Mr. WIRTH. Mr. President, like many of my colleagues in the Senate I spent a portion of the August recess in my home State. One of the places I saw, and one of the places I like to visit when I am in Colorado is the historic San Luis Valley.

This valley, and the town of San Luis—one of our country's oldest communities—represent a very unique cultural and historic location. Most of the residents in this part of Colorado are Catholic and have long-established family histories that go back to a time before the founding of the United States.

In addition to its history, the San Luis Valley is also a very scenic areas. It is surrounded by snow-capped peaks and large tracts of ranch land and small farms.

Most compelling, however, is the spiritual environment of the San Luis Valley. The people who live in San Luis have weathered tough economic times in a rural and somewhat isolated part of the Rocky Mountain region—but they have never abandoned the community or their religion. And today, they are actually building on the strength of their history and religious traditions to attract visitors from around the world.

Earlier this year, a Stations of the Cross shrine was unveiled in the San Luis Valley. This shrine is a unique and inspiring example of the strength of community spirit, and I believe the people of San Luis should be commended for their work in bringing it about.

A good and dear friend of mine, Father Pat Valdez, the pastor of the Sangre de Cristo Catholic Church, has been instrumental in this community effort. He is a quiet and unassuming man, not given to boasting or bringing attention to himself. Nevertheless, his quiet leadership has been a gift to the San Luis Valley. The Stations of the Cross shrine will bring pilgrims from all over the world, and Father Valdez's effort to bring spiritual and material prosperity to his community should not go unnoticed.

I have visited this shrine, Mr. President, and hope that the Members of the Senate, their families and constituents will come to visit San Luis and enjoy this special place. I would also like to insert for the RECORD, a copy of an article which recently appeared in the Denver Post on this very subject.

The article follows:

"STATIONS OF THE CROSS" TO MARK INSPIRED REVIVAL OF TINY TOWN

(By Patrick O'Driscoll)

SAN LUIS.—On a wind-whipped hillside crawling with camera-toting pilgrims, the oldest town in Colorado yesterday dedicated an unusual religious shrine.

As singers chanted traditional spanish hymns, hundreds of worshipers trudged up a 1.4-mile path on a volcanic mesa above this southern Colorado village. Along the dirt-and-gravel trail, Roman Catholic clergy blessed powerful bronze sculptures that portray the suffering and death of Jesus Christ—the traditional Catholic "Stations of the Cross."

The shrine stands for both spiritual and economic revival in a tiny adobe town (pop. 800) known as one of Colorado's poorest. Although built principally to inspire San Luis residents, 85 percent of whom are Catholics, and most of them Hispanic, the outdoor display is expected to boost local tourism by attracting pilgrims and sightseers.

"The shire is first for us," said the Rev. Patrick Valdez, the tireless pastor of Sangre de Cristo Catholic Church and the driving force behind the project. "But it is definitely going to be a shire in the full sense of the word. There will be pilgrims . . . and the town is getting prepared for that."

The town's economic self-help ventures that now include an art center, art galleries, restaurants and a new bed-and-breakfast established in the old convent that once housed the church's nuns. On the horizon may be a pilgrims' hostel, a factory for handmade furniture, and organic farming in the surrounding fields.

"It is a dream come true, a wonderful d-eam," the Most Rev. Arthur Tafoya, bishop of the Diocese of Pueblo, told Valdez's jam-packed church just before leading the porcession up the hill. "As we walk up this path up the mesa, we will marvel at . . .

the beauty and magnificence of a people grounded in God."

With their gold-embroidered vestments flapping in the hard wind, Tafoya and retired Pueblo Bishop Charles Buswell stopped at each station to recall its religious meaning and to thank the families who paid for them.

Beyond the bishops, a half-mile line of more than 1,200 people—grandparents with canes, toddlers and teens, a tattooed biker, even a woman in a wheelchair—climbed the switchback trail.

Hiking with them was San Luis native-son artist Humberto Maestas, who is still at work on five more sculptures—each two-thirds life-size—to complete the 14-statue shrine, joined the hike to the top.

"I think people were real pessimistic at first. I think they thought this was going to be just another project that was going to slip through their fingers," Maestas said. "Now they see hopes for their own future."

On the church grounds, a fiesta went into the evening and continues today, with music, dancing, food and booths displaying some of the handiwork and crafts with which local artisans hope to carve a new economic niche for San Luis.

The relentless winds played their own part in the weekend's activities.

On Friday night, nearly 200 souls braved biting cold to march by candlelight up the way of the cross. Each began the walk with a lit candle, flickering orange inside paper sacks used as makeshift windbreakers. By the time they reached the hilltop, only a handful were still burning.

Bracing herself against the constant wind, church member Mary Jo Manzanares pronounced it "perfect weather for the Stations of the Cross—after what Christ went through." ●

GATT RUSH TO JUDGMENT

● Mr. HEINZ. Mr. President, Harry Lamar, president of Monticello Associates and a long time trade expert, had an exceptionally thoughtful letter printed in the Journal of Commerce that suggests an important but thus far heretical idea—that we ought to be more concerned with the substance of the Uruguay round than with its conclusion.

Mr. Lamar was addressing specifically a recent editorial, but his comments contain an important message for all of us. As the Uruguay round negotiations approach the self-imposed deadline of early December, we will be witnessing the increasingly shrill voices of economists and administration officials telling us the world trading system—and perhaps even life as we know it today—will collapse if the talks do not have a successful conclusion. In the private sector, such notable figures as former U.S. Trade Representatives Robert Strauss and Bill Brock have formed a coalition of dignitaries to lobby for the Uruguay round result—even though it does not yet exist, and it is impossible to predict what it might contain.

In other words, Mr. President, the conventional wisdom train is beginning to roll, and all "right-thinking" politicians are being told they better get on board. Mr. Lamar, whose long experience gives him the right to raise above the conventional wisdom, has done something the opinion makers in the media and the administration have not done—he has talked to real people out there in the real economy to find out what they are thinking.

And he has found the same thing I have found—that our manufacturing sector, as well are our farmers and a growing number of service sectors, are increasingly nervous about the Uruguay round because they see a growing likelihood that it cannot possibly produce results that will help them.

With respect to manufacturing in particular, which is the sector I have followed most closely, what we are seeing is increasingly vocal demands by countries that dump and subsidize for major weakening of our unfair trade practice laws so they can increase their illegal penetration of our markets. In return for these concessions, as well as surrendering our market to foreign textiles, we will obtain promises of better rules in areas like investment, intellectual property, and services, but not cultural services like movies and television, where we have an advantage. It is no wonder that with a prospective deal like that, United States industry is quickly losing its enthusiasm for the Uruguay round.

The national media, who are even greater cheerleaders for the Uruguay round, regardless of its results, than the administration, don't like to consider the possibility that Americans might oppose the round. They will be even less happy with the idea that someone might question whether it is really good for us. Mr. Lamar, while retaining his optimism about the trading system, points out quite logically that in considering a round, we ought not be surprised if Americans view it from the standpoint of whether it helps them, rather than from the standpoint of macroeconomic principles, and the sad fact is that a growing number of Americans are finding it very difficult to understand how this one is going to help them. To that, Mr. Lamar offers the rather radical suggestion that perhaps our negotiators should be more concerned with a satisfactory outcome than an arbitrary 1990 dealine.

I agree with that. The world will not come to an end if the Uruguay round is not completed in 1990, but our role in the global economy could well change significantly if we accept a bad deal. This is a case where more people should listen to Mr. Lamar. I ask that the letter in question be printed at this point in the RECORD.

The letter follows:

UNITED STATES SHOULDN'T RUSH TO CONCLUDE GATT

The editorial, "Selling GATT," (Sept. 16) sets up a dangerous scenario for GATT and for future international cooperation in trade. The editorial spoke well when it recognized that no GATT agreement is likely to be approved by the Congress "unless its connection with U.S. economic welfare is clear."

You bemoan the lack of interest in the trade negotiations in the Congress and within the business community. Giving a higher profile to issues doesn't solve the problem. Hyping a "successful conclusion" to the negotiations is not what's needed. What is needed is a more encouraging texture to talks with our trading partners. Certainly, there is a need for more substance in the text of agreements that will demonstrably benefit U.S. economic interests.

If you would check with U.S. manufacturers, you would find, not apathy about the negotiations but concerns that the agreement will not meet the economic, and yes, market-access (is anybody out there listening?) needs of U.S. producers.

For example, how many newly developing countries are actually going to sign these agreements on rules on the treatment of foreign investment, protection of intellectual property, etc., and obligate themselves to carry out their provisions? Have our negotiators once again gotten themselves into the role of "demandeur" on every major negotiating area?

If so, we face the likelihood that the European Community, Japan and the six European Free Trade Association nations will lie back and say, "Our current internal adjustment and/or domestic political problems don't permit us to agree with your proposal." Or developing countries will simply say that the obligations are too great a burden for them.

The most important ingredient in any effort to "sell the Uruguay Round results," as your editorial points out, is "offering tangible benefits to producers of tangible products." So far, both the substance of the proposed agreements and the willingness of enough of our trading partners to negotiate suggest little likelihood that the Uruguay Round ending in 1990 could offer enough tangible benefits to producers of tangible products in the United States.

For U.S. producing interests, successful negotiations mean increased foreign market access for U.S. industries able to compete. If the current negotiations cannot achieve that goal, maybe the negotiators should drop the end of 1990 deadline. The world won't come to an end if agreements are not in place to be initialed and implemented during 1991. This is particularly true if the agreements are "framework-type" arrangements, or if they involve few serious signatories and are conditionally non-discriminatory because so few countries are signatories.

A postponement of the target date won't end international trade cooperation either. With changes in Eastern Europe, perhaps it's time to make another attempt at a structural change in GATT, such as creating an international trade organization. That would include a revised general agreement on international trade rules containing a new set of obligations covering tariff and non-tariff measures and trade controls, rather than separate codes.

As we prepare to enter the 21st century, a renewed pledge of non-discrimination in trade relations would be more in keeping with broad international markets than our present countenance of exceptions and special arrangements.

There is a real danger that in hyping the need to reach agreement this year with

little regard to the substance and postulating a demise of international cooperation if we fail, the warning may become a self-fulfilling prophecy.

It has often been said that the more recent rounds of trade negotiations have been aimed at problems of the decades preceding them. Perhaps we need to pause and consider how the dynamic economic and political shifts of the past three years can be woven into our efforts at international trade cooperation in the years ahead.

HARRY LAMAR,
President, Monticello Associates.
WASHINGTON.●

BETHEL AFRICAN METHODIST EPISCOPAL CHURCH CELEBRATES ANNIVERSARY

● Mr. LAUTENBERG. Mr. President, I rise to pay tribute to the Bethel African Methodist Episcopal Church in Pennsauken, NJ, which will celebrate its 160th anniversary in November.

The congregation has undergone many changes since the 1800's. During the Civil War, Pennsauken, formerly Jordantown, cooperated with the underground railroad to bring slaves to freedom. Originally, services were held in a school. The present building was erected in 1926 and the Bethel is the oldest house of worship in the township.

Mr. President, I am pleased to honor the spiritual efforts of the Bethel African Methodist Church. I extend my warmest wishes to the Reverend James E. Jenerette, pastor; the Reverend John H. Johnson, presiding elder; and the Right Reverend Frank C. Cummings, Jr., bishop; and the Bethal congregation as they celebrate Bethel's 160th anniversary.●

FOREIGN LANGUAGE NEEDS

● Mr. SIMON. Mr. President, recently, Lt. Col. Peter W. Kozumplik spoke at the annual conference of the NATO Bureau of International Language Coordination in Ottawa.

A good portion of the discussion there was the need for greater language skills for the on-site verification provisions of the arms control agreements.

We tend to think of foreign language instruction as something that is necessary for cultural enrichment or that is necessary for foreign trade. Both of these things are true.

But greater skill in foreign languages is also necessary for military reasons. My guess is that right now, all the Armed Forces wish they had more people who were proficient in Arabic because of the sudden needs that the Iraq invasion has called up.

We cannot know what the needs may be in the future.

Lt. Col. Peter W. Kozumplik, U.S. Army, gave a talk to the NATO group assembled that I ask to insert in the RECORD at the end of my remarks.

Early in his remarks, he says:

Looking first at the civil sector, the lack of foreign language instruction in our secondary schools makes our job in the Defense Department that much harder. Our universities aren't much better. Indeed, the median speaking proficiency for fourth and fifth-year students reading Russian in our universities is only at the STANAG 1+ level.

That suggests that our civilian educational programs are tied directly to our military needs.

He points out that the needs from the military have expanded.

He comments:

Working closely with the OSIA, we have learned (or, in some cases, relearned) several important lessons that we would like to share with you. First and foremost among these lessons is the fact that a new requirement has emerged. In addition to our traditional products of listener/transcribers, interrogaters, teachers, and attaches, we now have a clear requirement to produce interpreter/translators with a greater degree of language capability. Furthermore, whereas all of our previous products normally used their language capability directly to convey their own thoughts, the new products will have the very different requirement of using their language capability to convey the thoughts of others. We also have the challenge of producing this higher order of language capability in times far shorter than we formerly thought possible.

We have also found that the ideal treaty support linguist would:

Have near-native fluency in such treaty language.

Be an accomplished consecutive translator.

Even though not a technician himself, have some detailed understanding concerning the procedures and equipment addressed by the treaty. He should also have some knowledge about the procedures and devices necessary to destroy or disarm the items covered by the treaty.

I commend Lieutenant Colonel Kozumplik for his leadership, and I urge my colleagues who are interested in both education and defense to take a good look at this.

The remarks of Lieutenant Colonel Kozumplik follow:

LANGUAGE INSTRUCTION FOR ARMS CONTROL INSPECTIONS: THE U.S. EXPERIENCE

(Presented by Lt. Col. Peter Kozumplik, Director, DLT Washington)

A major area of concern to all of us today is how to deal with the language instruction that will be required for arms control treaty inspections. Our experience with the bilateral U.S.-Soviet Treaty on the Elimination of Intermediate-Range Nuclear Forces has given us some experience that we would like to share with you. However, please bear in mind that our experience to date is a much smaller edition of what the United States will undertake with the START treaty and what we all will have to undertake when the CFR Treaty is signed.

I will focus today only on the problems of training the inspection team "interpreters" rather than on the language needs of the technical inspection personnel. But, to set things into context, I must sketch the capability of the U.S. foreign language community.

THE U.S. FOREIGN LANGUAGE COMMUNITY

Looking first at the civil sector, the lack of foreign language instruction in our secondary schools makes our job in the Defense Department that much harder. Our universities aren't much better. Indeed, the median speaking proficiency for fourth- and fifth-year students reading Russian in our universities is only at the STANAG 1+ level.

The lack of a basic foundation of foreign language instruction in the civil education system forms the basis for instruction done within the Defense Foreign Language Program. Here, our requirements for language personnel are concentrated within the intelligence community and are generally filled by enlisted personnel rather than officers. Within the Defense Department, we have about 14,000 linguist billets—about two-thirds of which are within the signals intelligence community where only the passive skills of listening and reading are required. Personnel trained for and filling these positions rarely have the opportunity to travel within the target country to hone the active speaking skills.

To support this community, the Defense Language Institute Foreign Language Center (DLIFLC) graduates about 4,000 students annually but very few personnel ever receive training beyond a basic acquisition course that graduates them with STANAG 1+/2 proficiency. Particularly in Russian, very few of our linguists have had either the requirement or the opportunity to use their speaking ability in face-to-face encounters.

Celebrating its 50th birthday next year, the DLIFLC supports the military language community with eight schools in Monterey staffed almost with native-speaking instructors that each in 24 discrete languages and dialects. The Institute also operates a contract program in Washington that covers the remaining 47 low-density languages and dialects in which the Defense Department has requirements. Two and a half schools in Monterey and part of the Washington program are devoted to Russian instruction but, as I've already noted, this is focused at basic language acquisition.

Our emphasis in teaching has traditionally refleced the emphasis wanted by the bulk of our client community. Therefore, our instruction has typically focused at the passive listening and reading skills and at using language capability independently rather than having to interpret for somebody else.

This, then, is the basis from which we had to work in supporting treaty inspections and, to provide the very high level of capability to meet the new requirements, we had to build virtually from scratch.

THE INITIAL EFFORTS

The U.S. arms control inspection effort began in December 1987 with the signature of the bilateral U.S.-Soviet Treaty on the Elimination of Intermediate-Range Nuclear Weapons (INF Treaty). The Joint Chiefs of Staff created an INF Task Force and this organization decided that each ten-man inspection team could require two capable enlisted interpreters. This generated a total requirement for 68 enlisted linguists for inspection duties.

Due to uncertainties concerning the length of time that it would take to ratify the INF Treaty (and because enough candidates were available who had graduated from the DLIFLC's 47-week Russian basic course), the JCS INF Task Force initially decided that the linguists would receive one week of intensive language instruction. This

would focus on treaty-specific terminologies and usages and would be taught in Washington, D.C during the first week of February 1988.

The military services identified candidates for assignment to inspection duties and the DLIFLC conducted telephonic oral proficiency assessments of some 114 of them during January 1988. Since the candidates were deployed worldwide, this effort involved installing special rotary telephone lines, each terminating with two headsets and a tape recorder. Candidates then called in from their duty stations during preset hours and each was assessed by two qualified testers. Although their listening and reading proficiencies undoubtedly were higher, the median speaking proficiency of the candidates tested was at the STANAG 1+ level.

At the same time, the DLIFLC quickly obtained copies of the treaty texts and inspection protocols in both Russian and English and used these during January 1988 to develop the special one-week course. Due to lack of other experience, this course focused on secenarios that we ourselves deemed most likely to be encountered in transiting the Soviet Union, in socializing with Russian escort personnel, and in conducting the inspections themselves. The course development effort included special texts and audio tapes, flash cards and reference texts, reprinted inspection protocols in both languages, and both written and oral tests. Of some interest, special English-Russian/Russian-English glossaries of treaty-specific terminology were also developed and published.

Since the INF Task Force had directed the course to be taught in Washington, D.C., the DLIFLC made the necessary arrangement—ranging from cyrillic typing elements through Russian maps of the Soviet Union to classrooms, lodging, and vehicles—to conduct the course during the first week of February 1988. Materials, one officer, one noncommissioned officer, and 25 very experienced Russian instructors were then shipped to Washington. These instructors were mostly department chairpersons or mentor instructors and their deployment required the DLIFLC to defer for a week the programmed commencement of a 90-student basic Russian course.

A total of 68 students enrolled for first course iteration in February 1988. They were stratified by speaking ability into ten classes, each with two instructors dedicated to each class. The remaining four instructors simultaneously worked to modify course materials as required by the widely-varied student capabilities. Of those initially enrolled, 48 students completed the week-long course.

SUSTAINMENT

With its formation in late January 1988, the On-Site Inspection Agency (OSIA) replaced the JCS INF Task Force. The new organization is headed by a very competent linguist, Brigadier General Roland Lajoie, a former Defense Attache to Paris, Commander of the Military Liaison Mission in Berlin, and Military Attache to Moscow. To assist him in refining lauguage requirements, the DLIFLC provided Major John Eschrich, associate dean of one of the Russian Schools in Monterey, to serve temporarily as the OSIA's first language training advisor.

Under this leadership, the OSIA took advantage of the six-month delay between signature and ratification of the INF Treaty to improve its language capabilities dramatically. Steps taken between February 1988 and June 1988 included:

Providing two additional weeks of language instruction at Monterey for some 26 of the weakest graduates of the special one-week course. This additional instruction focused on upgrading the students' general language proficiency.

Providing three additional weeks of instruction by the Foreign Language Training Center, Europe, for 18 graduates of the special one-week course who had returned to their units in Europe pending Treaty ratification. This instruction also focused on upgrading general language proficiency.

Enrolling some 44 additional students in a two-week variant of the special one-week course. Taught in Monterey, this course was identical to that taught in Washington but it was preceded by a week of refresher instruction that concentrated on general language proficiency.

Establishing a continuous language maintenance and enhancement program for the linguists assigned to the OSIA headquarters in Washington. This program was established by DLI Washington using its contract language training devices.

Establishing a position for a full-time language training coordinator in the OSIA headquarters and filling it by hiring Ms. Irene Nehonov, a former DLIFLC Russian department chair.

As a result of these initiatives as well as the original instruction, the OSIA has about 100 interpreters with STANAG 2/3 speaking proficiency when the INF Treaty's base-line inspections commenced in July 1988.

To develop a replacement "pipeline," the OSIA also provided funding and directed the DLIFLC to develop a 27-week intermediate Russian course specifically aimed at treaty inspection requirements. Developed between September 1988 and March 1989, this course aims to take candidates with solid STANAG level 2 proficiency in all three tested skills (the USA does not test writing proficiency) and bring them to STANAG level 2+/3 skills by graduation.

Four annual interations with ten students each were programmed for the new special intermediate course and instruction began in March 1989. However, although the course was integrated and complete when fielded, it has frequently been modified since as the OSIA has provided additional regular feedback as it gained experience in conducting actual inspections. Since inception, six iterations of the course have commenced, with a total initial enrollment of 43 enlisted students. A total of 37 of these students have graduated or are still in training.

NEW REQUIREMENTS

Although a solid language training program was developed to support the INF during the 13 years of its duration, we face much greater language requirements to be imposed by other treaties that likely will result from the ongoing talks about chemical weapons elimination, strategic arms reduction (START), nuclear testing (NTT), conventional forces in Europe (CFE), "open skies," etc. We anticipate that Treaties resulting from these talks will require capability in languages other than Russian and, indeed, in languages other than European in order to meet probable inspection protocols.

To begin meeting these additional requirements (particularly those that will be imposed by ratification of a START Treaty), we have been directed and funded to increase enrollment in the special intermediate Russian course by 30 more students in July 1990, by 40 more students in August 1990, and by 70 more students in August 1990. We have also obtained the Russian and English Joint Draft Texts of the START Treaty and the Russian and English Joint Working Papers of the START Inspection Protocols to assist us in modifying the special intermediate course yet again to accommodate the new procedures and terms that this treaty will require.

LESSONS LEARNED

Working closely with the OSIA, we have learned (or, in some cases, relearned) several important lessons that we would like to share with you. First and foremost among these lessons is the fact that a new requirement has emerged. In addition to our traditional products of listener/transcribers, interrogators, teachers, and attaches, we now have a clear requirement to produce interpreter/translators with a greater degree of language capability. Furthermore, whereas all of our previous products normally used their language capability directly to convey their own thoughts, the new products will have the very different requirement of using their language capability to convey the thoughts of others. We also have the challenge of producing this higher order of language capability in times far shorter than we formerly thought possible.

We have also found that the ideal treaty support linguist would:

Have near-native fluency in each treaty language.

Be an accomplished consecutive translator.

Even though not a technician himself, have some detailed understanding concerning the procedures and equipment addressed by the treaty. He should also have some knowledge about the procedures and devices necessary to destroy or disarm the items covered by the treaty.

Be mature and outgoing, able to interact comfortably and well with others. This implies essential understanding of cultural differences.

Be self-confident and able to function well under stress.

Be proficient in both the legal language of a treaty and the common language of the people involved.

Needless to say, these ideal individuals are rare—particularly in the quantities required. Indeed, the OSIA quickly learned that we needed to look beyond mere language capability. An individual's whole personality—his maturity, sense of responsibility, ability to deal with austere conditions, etc.—was even more important than his language capability. As a result, the OSIA now interviews and approves of each candidate nominated by his Service before he is enrolled in the special intermediate course.

Within the narrower field of language capability, we confirmed once again that competent listening and reading proficiency do not necessarily equate to competent speaking proficiency and that high speaking proficiency does not necessarily mean that the speaker can interact with others or accurately convey the thoughts behind what the other party actually said. Furthermore, as any translator knows, only when you have no idea at all regarding what is going on will you translate the actual words used.

We have additionally noted that, since all trained to date have been graduates of our 47-week Russian basic course, we needed to add more emphasis on speaking skills throughout that course without increasing its length or decreasing the results that we

have been achieving in the listening and speaking skills.

We also found that the instructors who teach the course need wide and varied experience. As a result, we are now using an admixture of experienced instructors, recent emigres from the Soviet Union, and people who have actually served on inspection missions with the OSIA. As an example, the officer in charge of the course and several of his key noncommissioned officers have been detailed to the OSIA for inspection tours to ensure comprehensive understanding of what is really required.

With regard to pedagogy, we have found structured out-of-class situational exercises—for example, having the students perform escort duties at the base exchange (general store) and local airport and to host both formal and informal lunches—to be very effective.

Finally—and perhaps most importantly, we originally developed the special intermediate course with a heavy emphasis on treaty-specific requirements. However, experience has taught us to decrease the treaty-specific quotient and increase the time and effort devoted to enhancing general language proficiency.

CONCLUSIONS

The new arms control era that is about to burst upon us—"turning swords into ploughshares" as my German colleague noted yesterday—offers radically new avenues to achieve national security. Indeed, I submit that we are on the threshhold of a change in the stratgegic environment even more fundamental than that which occurred in 1945. Instead of clobbering our enemies—a very traditional military mission—we now will be afforded the opportunity of inspecting him to ensure that he cannot clobber us.

This is a whole new way to employ military force. But it requires language capability beyond what we have ever required in the past unless we are to surrender the initiative completely to the other side. Acquiring this high language proficiency and the requisite interpreting skills (skills that must be based firmly on cultural awareness) takes time—lots of time.

Our experience with INF Treaty inspections has confirmed once again that last-minute fixes make very poor long-term solutions. The success of future treaties, the success of the whole new international relationships that will be built upon them, and, indeed, our very national and collective security, depend directly on the measures that we take now.●

THE JOINT TAX COMMITTEE AND THE FACILITY OF STATIC ANALYSIS

● Mr. KASTEN. Mr. President, a study issued by the Institute for Policy Innovation today exposes a serious bias against growth-oriented policies on the part of the Congressional Joint Committee on Taxation that could jeopardize the economic success of a budget summit agreement.

According to this report, "Prejudicing the Policymaking Process: The Importance of Economic and Budgetary Forecasts," any budget summit agreement is likely to fail because Government forecasts used to estimate the effects of spending reductions and tax increases are based on static, rather than dynamic, economic forecasts.

This study proves, beyond a shadow of a doubt, that the accountants at the Joint Committee on Taxation are living in a fantasy world of static analysis. These green-eyeshade, bean counters locked away in the bowels of the Longworth House Office Building have absolutely no clue about what goes on in the real economy.

Real people pay the taxes. Real people react to incentives and disincentives. For example, if you impose a 10-percent tax on the purchase of red cars, most people will stop buying red cars and start buying cars of another color. The Federal Government would not raise very much revenue from this new tax.

But under the Joint Tax Committee's static revenue methods, it is assumed that people will continue purchasing red cars, despite the tax, thus raising tax revenue for the Federal Treasury.

I think we can apply this simple example to other kinds of tax policies. For example, the Joint Tax Committee estimated that the 1978 capital gains tax cuts would lose $2 billion a year. Instead, capital gains revenue increased from $8.5 billion in 1978 to $10.6 billion in 1979—a $2.1 billion increase. Capital gains revenues continued to increase through 1986 because the tax cuts stimulated realizations and investment.

This study proves what people out in the country already know: tax cuts increase economic activity—and tax increases reduce economic activity. Taxes and growth incentives do matter.

A budget summit that includes a tax increase will not reduce the budget deficit. We have had five budget summit agreements in the past that have raised taxes, and budget deficits actually increased. The only 2 years in which the deficit declined—1984 and 1987—were not preceded by a budget summit.

Because Republican negotiators have accepted the Joint Tax Committee's flawed estimates showing capital gains to be a revenue loser, they have been forced to raise even more taxes to make up for the shortfall.

I think this study exposes a serious bias against growth-oriented tax policies on the part of the Joint Tax Committee. It is clear that they aren't the nonpartisan group that they claim to be. I think this study serious undermines the Joint Tax Committee's credibility.

I ask that a summary of the IPI study be included in the RECORD.

The summary follows:

EXECUTIVE SUMMARY

Forecasting receives little attention in the policymaking process. Increasingly, though, the laws that govern our lives and guide our economic destiny depend upon this esoteric discipline about which we know or care so little. Because of its increasing importance, government economic and budgetary forecasting merits closer scrutiny. While forecasting is not a precise science, reasonable estimates can be made of how a policy change will affect individuals and the economy and, consequently, the federal budget. However, these estimates are only as reliable as the methods used to produce them.

Government forecasting is flawed because it relies upon *static* analysis to produce revenue and spending estimates of proposed changes in policy. Static forecasts ignore the behavioral effects policy changes will have on individuals, businesses, and the economy. Static forecasts are risky guides for policymakers. Empirical evidence shows that estimates which ignore the impact of tax policy and government spending programs on people's behavior can:

Lead to the creation of spending programs that would be rejected (or structured differently) if more realistic cost estimates were available.

Lead to the adoption of tax proposals that produce less than expected revenues (or even lose revenue) when economic growth is taken into account.

Lead to rejection of policy alternatives that are predicted to increase the deficit when, in fact, they lower it because of positive behaviorial effects.

The government has not always relied on static forecasts. Dynamic forecasts—which incorporate anticipated behavioral responses to policy changes—were used in 1963 to evaluate the likely effects of President Kennedy's proposed reduction in personal income tax rates. Even though these forecasts were generally on the mark, dynamics forecasts since then have been largely ignored.

The budget summit agreements enacted in the 1980's illustrate the shortcomings of static analysis. These agreements contained tax increases and spending "cuts" that were forecast to reduce the deficit. Not only did these agreements fail to achieve their forecasted deficit reduction goals, but the level of the deficit actually increased. Empirical evidence reveals two general trends:

A static estimate of a tax increase will overestimate the actual tax revenue received and lead to a larger-than-expected budget deficit.

A static estimate of a spending "cut" (or of a new spending program) will overestimate the actual savings (or costs) and lead to a larger-than-expected budget deficit.

Case studies described in this report illustrate how tax and spending policy changes cause people to adjust their behavior which, in turn, affects the budget outcome. On the revenue side, static forecasts always overestimate the revenue gain from tax increases and the revenue loss from tax decreases. For example:

Capital gains tax cuts lower the cost of capital, increase economic growth, and reduce the deficit.

Eliminating the Social Security retirement earnings test (a tax on the earnings of elderly workers) would increase work effort. High payroll and income taxes would offset higher benefit payments and decrease the deficit.

Almost 70 percent of the long-run static revenue gain expected from arising the top tax rate from 28 to 33 percent would never materialize. Taking into account the effect of the resulting lower growth on payroll, corporate, and other federal taxes, the federal government would lose revenue within

four years and the deficit would increase above forecasted levels.

On the spending side of the budget, static analysis chronically underestimates the costs of federal spending programs. Costs often greatly exceed static projections in entitlement, government guarantee, and insurance programs. For example:

Medicare costs were double what the Congress had anticipated within the first eight years of the program. Most recently, cost overruns of between 50 and 80 percent appeared within the first eight months of the Medicare Catastrophic Coverage Act.

The cost of new spending programs—particularly entitlement programs that pay benefits to those with certain characteristics—will be higher than expected if behavioral considerations are ignored.

Artificially low premiums for government guarantee programs such as deposit, flood, and pension benefit insurance allow individuals and businesses to take actions they would not if they had to bear the full cost of their decisions. When claims must be honored, unanticipated expenditures often dramatically increase the predicted deficit.

If the Congress and the Administration base a deficit reduction agreement upon static forecasts, past evidence and dynamic analyses suggests that once again they will fail to achieve the deficit reduction they expect. Policymakers, who ultimately bear the burden of mistakes caused by faulty estimation methods, should insist that the forecasts provided them are free of known bias and errors. They would be well-served to demand periodic appraisals detailing the accuracy of past government forecasts and the adoption of a more realistic, systematic framework for future estimates.

THE IMPORTANCE OF FORECASTING

To the average person, forecasting is a mysterious activity best left in the classroom or to financial experts. It appears to have little relevancy to everyday life or to policy decisions made in Washington. Increasingly, though, the laws and regulations that govern our lives and guide our economic destiny are a product of this esoteric discipline about which we know or care so little.

One need not look far into the workings of government to see the importance of economic and budgetary forecasts. For example, before taxes can be cut or raised, Congress must know what will happen to revenues. Before a new program initiative can be put in place, policymakers must have some idea of what it will cost.

In the era of Gramm-Rudman-Hollings, forecasting plays an even larger role. For the last several years, any new tax or spending initiative has been subjected to one additional criteria besides need and merit—its effect on the budget deficit. Any policy proposal that increases the deficit will be severely scrutinized and, unless judged truly compelling, will have a difficult time becoming law.[1]

By now, most Americans are aware that the size of the deficit keeps growing. Under a bipartisan agreement reached in April 1989, the deficit for 1990 was forecasted to be $99 billion. The most recent projections, however, expect the 1990 shortfall to be on the order of $161 billion (excluding the cost of the savings and loan bailout). Furthermore, forecasts of deficits over the next five years are two to three times higher than they were eight months ago.[2] Part of the official explanation of why the deficit has mushroomed is because federal revenues are coming in slower than predicted while spending is higher than expected. To the extent that expectations were unrealistic to start with, government forecasts have contributed to higher than expected deficits.

Because of its increasing importance, government economic and budgetary forecasting merits closer scrutiny. While forecasting is not a precise science, reasonable estimates can be made of how a policy change will affect individuals and the economy and, consequently, federal spending and revenues. Like any theory put into practice, however, forecasting is only as good as the methods used. If the methods are flawed, the results will be flawed as well. Unfortunately, federal government forecasting methods are flawed, and policymakers are often victims of inaccurate and misleading information.

This study examines government forecasting. The first section offers an historical look at forecasting practices, explains how current forecasting models are constructed, and highlights the differences between two forecasting methods. The second and third sections examine the track record of government forecasts regarding specific policy changes. On the revenue side, the study looks at taxing capital gains, the Social Security retirement earnings test, the revenue mix resulting from the 1986 Tax Reform Act, and raising marginal income tax rates. On the spending side, it looks at entitlement programs and government guarantee programs. The final section discusses the implications of current forecasting practices and offers recommendations for improving the information upon which policy decisions are made. Two appendices explore the implications for distributional analysis and for the tax changes of the 1980's.●

STATE OF OUR BANKING INDUSTRIES

● Mr. McCAIN. Mr. President, last week, the Comptroller General, Mr. Bowsher, testified before the Banking Committee about the state of our banking industries. He did so at Congress' direction under the Financial Institutions Reform, Recovery, and Enforcement Act [FIRREA], and we would do well to take his words to heart, for his conclusions are chilling. They are, in fact, a clarion call to Congress and the administration to act now to avoid creating yet another costly financial bailout for the beleaguered taxpayers of this country.

Let me quote the first paragraph of Mr. Bowsher's statement which I believe embodies a warning which we quite literally cannot afford to ignore.

Not since its birth during the Great Depression has the federal system of deposit insurance for commercial banks faced such a period of danger and uncertainty as it does today. Issues arising from our audit of the Bank Insurance Fund's 1989 financial statements, the report on which is being issued today, cause us both apprehension and concern for the safety and soundness of the Fund in the 1990's.

"Apprehension and concern", Mr. President—an understatement, I am sure. In fact, if history is any indicator, this warning may be only the tip of the iceberg and may not fully reveal the behemoth that lies barely below the surface.

The fact that the fund's ratio to insured deposits is the lowest in its entire history and the fact that there are at least 35 large banks that are likely to fail in the next year are indicative that we have failed to rise to the two greatest issues that have faced Congress since the 1930's: The vulnerability of our insurance deposit system and our archaic banking laws—much as we failed to address the very real questions about the viability of the S&L industry before it collapsed.

Much has been written about the need to limit deposit insurance. I think we should limit it soon, or the taxpayers of this country are going to need insurance against deposit insurance. It seems ridiculous to me that we insure any and all of the deposits of wealthy people savvy enough to divide their millions into bundles of $100,000 or less. As I see it, deposit insurance is a good idea to ensure consumer confidence in our financial system. It has mutated into a Government guarantee for the rich, for canny money managers, and risk-taking, high-flying managers of financial institutions, however. Let's figure out how to go back to making sure that average savers are adequately protected, and letting the more sophisticated well-healed investors take their own chances without the taxpayer picking up the tab if the bank fails. Let us limit deposit insurance to $100,000 per saver, rather than $100,000 per account.

It is also important to preserve the depositors' confidence in banks. If we let the banks sink into the same tainted barrel as the thrifts, American consumers aren't going to trust any savings institutions.

The issue of updating antiquated banking laws is more difficult to resolve than reforming deposit insurance. Yet, modernization is essential to getting our banks back into profitable businesses. It is widely recognized that our commercial banks are the old fashioned wallflowers of the world fi-

[1] One recent example was the report of the bipartisan Pepper Commission on health care. The Pepper Commission recommended changes that would cost, by Commission estimates, $66 billion. The plan was immediately labeled a "non-starter," and the Commission was widely criticized, for not tackling the problem of how to raise the money to pay for the new spending. U.S. Bipartisan Commission on Comprehensive Health Care, "Recommendations to the Congress: Access to Health Care and Long-term Care for All Americans," Washington, DC, March 2, 1990, p. 21.

[2] Winters, Philip D., "The Budget for FY 1990: Action During 1989 and 1990," Congressional Research Service Issue Brief, Washington, DC, June 27, 1990, Table 1 and Executive Office of the President, Office of Management and Budget, "Mid-session Review of the Budget," Washington, DC, July 16, 1990, Table 7. About $35 billion of the $62 billion increase in the deficit is due to technical re-estimates, $25 billion on the revenue side and $10 billion on the spending side.

nancial community. It used to be that American banks were dominant forces in world economic markets. Today, American banks are not even among the leaders. Even at home foreign banks are growing nearly three times faster than our own banks. The Japanese banks have a quarter share of the California market, for example, and they could soon control a significant portion of the total United States commercial loan market. There is no reason why foreign banks should be more profitable, more trusted, more accessible, or more dynamic than U.S. banks.

And there is another good reason to help banks be profitable: Ensuring that borrowers and homebuyers have adequate access to capital. The credit crunch is bad enough now. It obviously would be much worse if the banks end up in the same shape the S&L's are in now. The impact on jobs and economic growth could be very, very negative.

Every lobbyist in the country and every vested interest gets palpitations just thinking about reviewing our banking laws or changing the laws that govern how our banks will conduct themselves in the 1990's. The turf battles start before the debate does. Turf battles at this late date are like fighting over a sandbar when the tide is coming in, however. We would be better off thinking about how to stay afloat.

While it may be too late to save the taxpayers the $150 billion it will cost to clean up after the S&L fiasco, is probably not too late to cut the cost of saving the banking industry. I wonder if we will.

It is easy for politicians, Mr. President, to blame the thrift crisis on crooks and bandits, or the other political party, or on other branches of government. I submit that the thrift crisis is only a small, costly part of the enormous, expensive problem. The reality is that Congress stalled for over 30 years while the thrift industry burned. We are very familiar now with the history of the crisis: The Kennedy Commission in 1962; dilly dallying by President Johnson and the House Banking Committee in 1966 and 1967; another administration report in 1972 and another House Banking Committee study in 1975; and a Carter task force in 1979 followed by a lack of attention in Congress in 1989 and 1982. We are also well aware of the large role played by State legislatures in the early 1980's as well, especially in California, Texas, and Florida.

We cannot afford to repeat a process of studies, task forces, recommendations, hearings, and commissions, while the bank insurance fund bleeds to death, the taxpayer gets handed another extraordinary bill, and we sit in indecision and cowardice on Capitol Hill.

Mr. President, the Banking Committees of Congress and the President must get together during the next several months, and, laying partisanship and special interests aside, develop a sweeping plan that will tackle both deposit insurance, the solvency of the banking insurance fund, and the reforms needed to make U.S. banks become competitive enough to once again assume their role in the world economy.

As Oscar Wilde once said: "Experience is the simple name we give our mistakes." The question is, how much more experience do we need before we can tackle the reforming of our banking laws?●

CONSULTANTS IN WEAPONS PROCUREMENT

● Mr. PRYOR. Mr. President, today I am releasing a General Accounting Office investigation that shows the widespread use of private defense consultants in three of the Pentagon's newest and largest procurement programs. The GAO looked specifically at the Army's new tank killer missile, called the FOG-M; the Navy and Marine's new tilt rotor aircraft; the V-22 Osprey; and the Air Force's rail-based MX missile.

It seems that behind every Government action, there is an army of expensive private consultants, many of whom have just left sensitive jobs in Government. This has led to volumes of consultant horror stories, far too many of which are at the Pentagon. The abuses range from excessive and improper use of consultants, to conflicts of interest and insider trading, and on to fraud and corruption, as has been found in the recent ill wind investigation.

Unfortunately, the GAO's latest look at the so-called shadow government of consultants found bad business as usual.

GAO not only looked at how the Government uses consultants but also at how huge prime contractors for Pentagon programs use consultants.

Mr. President, I would like to review some of the GAO's findings, beginning first with consultants used directly by the Pentagon.

First, the GAO found excessive use of consultants, leading to higher costs and duplication. Specifically, between 1983 and 1989, the Army's FOG-M missile program signed 5 large contracts worth $9 million with consultants, the Navy's V-22 Osprey Program spent $18 million on 31 consultant contracts, and during 1987 and 1988 alone, the MX missile program spent $100 million on contracts that involved extensive consultant work.

Second, the GAO found that sensitive Government functions were given to consultants. The V-22 Program was the most egregious in this area. According to GAO, consultants were "involved in virtually all aspects of logistics planning and analysis of the V-22 Program." They were also involved in preparing full scale development specifications and aircraft design criteria. Finally, V-22 consultants work directly for the Navy program director, doing a variety of sensitive activities, including monitoring other contractors.

The Army had outside consultants performing sensitive cost estimation work, as well a host of other work.

And in the Air Force MX missile office, consultants were feeding material to congressional witnesses, performing cost estimates, and evaluating other contractor's work.

Third, it was found that consultants were hired despite potential conflicts of interest. The Army, Navy and Air Force trusted the consultants to self-certify that they have no associations that represented a conflict of interest. That does not work because dishonest consultants will not volunteer their guilt.

The result in this case was that three consultants had possible conflicts. One FOG-M cost estimator consultant later worked for a contractor for similar services and two MX missile consultants worked for the Government and for MX contractors.

Oddly enough, in two cases the Pentagon knew about these problems and still let them proceed.

A fourth major finding by the GAO was that the military services are often hiding the use of consultants. GAO found that, whether intentional or not, many consultant contracts were not reported as required by law. This undercuts our efforts to control and monitor consultant use.

Mr. President, as I mentioned, the GAO also reviewed the use of consultants by prime contractors, including the Hughes Aircraft Co., Bell Helicopter Textron, the Boeing Co., and Rockwell International.

The contractor's use of consultants was widespread. These contractors hired 18 marketing consultants and 40 technical consultants. Of these consultants, those involved in marketing are of greatest concern. Marketing consultants are hired guns who often claim to be able to grease the wheels of Government for a contractor.

The GAO report stated that, "a large majority of these consultants are former military officers or Government officials."

For instance, Bell Helicopter Textron hired a former Navy admiral to, among other things, "confer with U.S. Government officials" on the V-22 Osprey; Boeing hired a former Marine Corps officer and a Navy officer to work on V-22 marketing efforts; and the Hughes Corp. gave a 3-year contract to a former congressional staff

person to help market the FOG-M missile.

GAO also found that one consultant was in violation of the so-called revolving door laws that require former military staff to report employment with defense contractors.

Mr. President, taken separately, each of the GAO findings in this report is cause for concern. Taken together, they paint a very grim picture indeed of the system by which the Pentagon procures hardware for the national defense.

Unfortunately, the GAO reports that the Army and the Air Force perceive no great problem with their current practice and do not intend to limit the use of consultants or to change their ways. The Navy has at least acknowledged some of the problems and have made an effort to cut back.

All of this tells us that Congress needs to continue to scrutinize the military's consultant use practices and to come up with new ways to hold their feet to the fire.

Mr. President, I ask that the executive summary of the GAO report be reprinted in the RECORD following my statement.

The summary follows:

EXECUTIVE SUMMARY

PURPOSE

As part of its ongoing efforts to assess the government's use of consulting services, GAO reviewed three Department of Defense (DOD) weapon systems to determine

how DOD used consulting services in acquiring these systems;

how the systems' contractors used consultants; and

whether consultants worked for both the government and defense contractors on these systems, and if so, whether any conflicts of interest existed.

GAO also examined how well DOD identified and reported its use of consulting services.

This report responds to questions raised by the Chairmen, House Committee on Armed Services, and the Subcommittee on Federal Services, Post Office and Civil Service, Senate Committee on Governmental Affairs.

BACKGROUND

DOD uses the term "contracted advisory and assistance services" to describe consulting services, which include individual experts and consultants, studies and analyses, management support services, and engineering and technical services. By law, DOD is required to establish an accounting mechanism to track these services and to provide, as part of the defense budget, data on proposed expenditures. DOD estimates that it spends about $1.6 billion annually on such services.

Rules governing organizational conflicts of interest are contained in the Federal Acquisition Regulation. It defines such a conflict as existing when, because of the nature of the work to be performed, a contractor could gain an unfair competitive advantage or might provide biased advice unless appropriate safeguards concerning future activities are included in its contract. In addition, in December 1989, in response to the requirements of the Department of Defense Appropriations Act of 1989, the Office of Federal Procurement Policy issued a policy letter providing further guidance on contractor conflicts of interest.

RESULTS IN BRIEF

Consulting services played an important role in the three weapon systems GAO studied—The Army's Fiber Optic Guided Missile, the Navy's V-22 tiltrotor aircraft, and the Air Force's Peacekeeper Rail Garrison missile basing system. DOD used such services in developing system specifications, preparing cost estimates, and reviewing requests for proposals.

Defense contractors for these systems used consultants to obtain a variety of services, ranging from advice on government business to technical assistance in preparing bids for defense contracts.

GAO did not find, based on its review of contract documentation, any basis to conclude that conflicts of interest existed in the three instances it identified where consultants worked for both the government and a defense contractor on matters related to the same weapon system. GAO's review, although limited to three specific systems, does highlight key principles to guide the government's approach to addressing conflict-of-interest concerns, among them (1) the need for government awareness of consultant employment relationships in order to make informed judgments about potential conflicts and (2) the use of appropriate contract clauses to avoid or mitigate identified conflicts.

GAO also found that DOD did not accurately identify or report its use of consulting services, due to difficulties in interpreting the definitions of these services or other internal control weaknesses. Without improvements in these areas, DOD and the Congress will continue to lack accurate information on how much DOD is relying on consulting services to develop its weapon systems.

PRINCIPAL FINDINGS

DOD's Use of Consulting Services

From 1984 to 1989, the Army obligated at least $9 million in consulting services for the Fiber Optic Guided Missile to support cost estimates, acquisition strategy development, and reviews of draft requests for proposals. For the V-22, the Navy obligated $18 million between 1983 and 1989 to define aircraft requirements, develop logistics support specifications, and track cost schedules. During fiscal years 1987 and 1988, the Air Force contracted for similar services to support the Peacekeeper Rail Garrison. GAO could not calculate the amounts obligated for consulting services under the Air Force contracts because in a number of cases, these services were combined with other services in the same contracts and not separately identified.

Contractor Use of Consultants

Information GAO obtained from 6 defense contractors showed that 3 retained a total of 18 consultants for the weapon systems GAO reviewed, generally to provide advice on dealing with DOD. Four of the 6 contractors also reported using an additional 40 companies or individuals to obtain more technical services, such as reviewing bids or system requirements.

Conflict-of-Interest Issues

Of the three instances where consulting firms worked both for DOD and a contractor, one firm that provided cost-estimating services to the Army Missile Command for the Fiber Optic Guided Missile system was later employed by a defense contractor for similar types of services. In the other two cases, the Air Force contracted with consulting firms to obtain services for the Peacekeeper Rail Garrison; these firms also worked for a defense contractor on matters related to the system.

GAO's review of the contracts and the products prepared by the consulting firms, such as briefing materials and summaries of hearings and public meetings, did not provide any basis to conclude that the firms acquired an unfair competitive advantage or were unable to provide impartial advice . However, in one case the contractor did not comply with the conflict-of-interest provisions contained in its contracts with the government. For example, the contractor did not submit required written certifications stipulating that it had no financial or other interests that could represent a conflict.

Moreover, in two of the cases, the government was aware of the consulting firms' proposed work and therefore was in a position to judge that no conflicts of interest existed.

Reporting Weaknesses

GAO identified one Fiber Optic Guided Missile contract and seven Rail Garrison contracts that should have been classified, in whole or in part, as advisory and assistance services but were not so designated by the respective Army and Air Force commands managing those systems. Individual commands also had differing interpretations of what constitutes advisory and assitance services. For example, the Naval Air Systems Command considered such services to include logistics support services, but the Air Force Ballistic Systems Division did not.

GAO found other errors in the military services' identification of these services and their budget submissions to the Congress, such as omissions of data and failure to record obligations for these services in the accounting systems as required.

Several factors contributed to DOD's failure to provide accurate data on its use of consulting services, including difficulties in interpreting consulting services definitions, inadequate procedures and controls to identify and report these services, and, more generally, a lack of oversight by DOD and the military services.

RECOMMENDATIONS

GAO makes a number of recommendations to the Secretary of Defense to improve DOD's identification and reporting of consulting services. (See pp. 47 and 48.)

AGENCY AND CONTRACTOR COMMENTS

In commenting on a draft of this report, DOD agreed with GAO's findings and recommendations, and advised that it has begun action to strengthen its management and reporting on contracted advisory and assistance services. DOD's planned efforts include providing clear guidance on management and use of these services and establishing a database capability to report and track them. DOD believes that its initiative, when fully implemented, will satisfy GAO's recommendations.

The prinicpal defense contractors and consulting firms that commented on the report agreed with the information presented on their respective firms.●

JOSEPH D. WILLIAMS, WINNER OF SCIENCE TECHNOLOGY MEDAL

● Mr. LAUTENBERG. Mr. President, I rise to honor a distinguished New Jerseyan, Joe Williams, the chairman and chief executive officer of Warner Lambert Co.

I am proud to inform my colleagues that this outstanding businessman has recently been awarded the Science Technology Medal by the Research and Development Council of New Jersey.

I want to congratulate and extend my very best wishes to Joe. He is a most worthy recipient of this honor.

Recently, the Sunday Star Ledger ran an article on Joe Williams as "Jerseyan of the Week." I ask that this article be printed in the RECORD.

The article follows:

[From the Sunday, Star-Ledger, Sept. 23, 1990]

AWARD WINNER LED WARNER-LAMBERT TO THE TOP

(By Charles Q. Finley)

Joseph D. Williams, 63, possesses a seemingly bottomless wellspring of energy.

"I find challenges exciting rather than stressful," said Williams, the chairman and chief executive officer of Warner-Lambert Co. in Morris Plains, who has been awarded the Science and Technology Medal by the Research and Development Council of New Jersey.

"When people come into a CEO's office, it's almost a sure bet they're bringing in problems. That's just fine with me.

"I'm in my office at 7 a.m. and don't head home until 6 p.m. However, when I do go home, I go *home*," Williams said.

"But I don't want to give the impression I think I can handle everything myself. I believe in hiring the finest talent available, then giving employees a lot of leeway with adequate supervision.

"You must be able to offer constructive criticism, while showing respect. And I never forget a "thank you" for a job well done."

The council's award selection committee stated Williams "elevated Warner-Lambert to the upper strata of premier discovery pharmaceutical companies, bringing forth remarkable new products that are of great benefit to the world."

Committee Chairman Dr. Stanley Bergen Jr., who is the president of the University of Medicine and Dentistry of New Jersey, said, "Joe Williams" leadership has been primarily responsible for Warner-Lambert's rise in the past five years to one of the pre-eminent pharmaceutical research organizations in the world."

Williams, a resident of Bernardsville, joined Parke-Davis as a salesman in 1950 shortly after graduating from the University of Nebraska with a bachelor's degree in pharmacy.

The firm merged with Warner-Lambert in 1970. He became president of Warner-Lambert in 1979, then board chairman and chief executive officer in 1985.

Under his leadership, the firm invested heavily in research. Its sales were in excess of $4 billion last year.

Williams has received honorary doctorates from four universities and four colleges. The Remington Honor Medal from the American Pharmaceutical Association, the profession's highest award, also has been bestowed upon him.

He is a director of American Telephone and Telegraph Co., Exxon Corp. and J.C. Penney. He is chairman of the United Negro College Fund (UNCF) and is development chairman for the Liberty Science Center, the state's science museum under construction in Jersey City.

He is a member of the boards of Columbia University and Project Hope. He is a former president of the International Federation of Pharmaceutical Manufacturers Association.

He also serves as a member of the Warner-Lambert Executive Committee, as well as the company's board of directors.

Williams is enthusiastic about today's well-educated young people.

"They're bright, very bright, and computer literate, but they must be kept motivated to achieve. However, those who have been unable to obtain a good education aren't in a position to compete.

"They need our help. That's why I've taken such an interest in the United Negro College Fund.

"Many black students are able to attend these schools because the tuitions are low. I consider support of these institutions of higher learning a top national priority.

"Poverty, drugs and family troubles have created a deteriorating environment for black youth. UNCF is attacking the deplorable situation at the higher education level, but reaching the grammar and high school students with a better education, and doing something about the social problems, is very complex and represents one of the most pressing crises in the nation today."

UNCF provides money to historically black colleges and universities.

Williams said America remains the land of opportunity.

"Of course, I'm concerned about the Middle East, and the crime and drugs in the streets, and can offer no solutions for any of them. But I visit foreign countries often, and I always return with a deeper sense of what a truly wonderful country this is.

"In our free enterprise system, anyone with an education, and the desire to work, can be successful."

Williams plays golf, but admittedly "not that well." He has a collection of antique cars, including a Rolls-Royce Silver Cloud.

"I like working on them. And I enjoy the attention I attract driving them around town."

He and his wife, Millie, an attorney, have two children—Daniel, a loan officer with a major corporation, and Terri, who is studying to be a registered nurse.

Williams' father, Huston, operated a pharmacy in Nebraska. But it was not until after he joined the Navy during World War II that he made his career decision.

"It is so long ago that I served aboard a submarine, it seems it was in another life. But that experience matured me, and it was then I decided definitely to enter the pharmaceutical profession."

Williams lives in a spacious home with fireplaces on a 10-acre wooded site.

"It's a great place to live, but it does have a drawback. The deer eat all our flowers."●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the latest budget scorekeeping report for fiscal year 1990, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $3.3 billion in budget authority, and over the budget resolution by $4.2 billion in outlays. Current level is under the revenue floor by $5.2 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311 (a) of the Budget Act is $114.8 billion, $14.8 billion above the maximum deficit amount for 1990 of $100 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 24, 1990.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN. The attached report shows the effects of Congressional action on the budget for fiscal year 1990 and is current through September 20, 1990. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1990 Concurrent Resolution on the Budget (H. Con. Res. 106). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated September 17, 1990, there has been no action that affects the current level of spending or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 101ST CONG. 2D SESS., AS OF SEPT. 20, 1990

[In billions of dollars]

	Current level [1]	Budget resolution H. Con. Res. 106	Current level +/− resolution
Budget authority	1,326.1	1,329.4	−3.3
Outlays	1,169.4	1,165.2	4.2
Revenues	1,060.3	1,065.5	−5.2
Debt subject to limit	3,142.6	[2] 3,122.7	−19.9
Direct loan obligations	19.1	19.3	−.2
Guaranteed loan commitments	115.1	107.3	7.8
Deficit	114.8	[3] 100.0	[4] 14.8

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and is consistent with the technical and economic assumptions of H. Con. Res. 106. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions. In accordance with Sec. 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act (101 Stat. 762) the current level deficit amount compared to the maximum deficit amount does not include asset sales.

[2] The public debt limit has been increased temporarily to $3,195 billion through Oct. 2, 1990 by Public Law 101–350.

[3] Maximum deficit amount [MDA] in accordance with section 3(7)(e) of the Congressional Budget Act, as amended.

[4] Current level plus/minus MDA.

THE CURRENT LEVEL REPORT, 101ST CONGR. 2D SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS SEPT. 20, 1990

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			1,068,600
Permanent appropriations and trust funds	954,969	791,109	
Other legislation	635,362	638,737	566
Offsetting receipts	−233,985	−233,985	
Total enacted in previous sessions	1,356,347	1,195,862	1,069,166
II. Enacted this session:			
Dire emergency supplemental appropriations (P.L. 101–302)	2,293	666	
An act making technical amendments to title 5, U.S. Code (P.L. 101–303)		−1	
Amtrak Reauthorization and Improvement Act (P.L. 101–322)	−10		−10
Oil Pollution Act (P.L. 101–380)			−1
Customs and Trade Act (P.L. 101–382)		7	−4
Total enacted this session	12,283	672	−15
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution:			
Salaries of judges	−8	1	
Payment to judicial officers' retirement fund	−4	−4	
Judicial survivors' annuities fund	−3	−3	
Fees and expenses of witnesses	−5		
Justice assistance	−4		
Fisherman's guaranty fund	1	1	
Administration of territories	−1		
Firefighting adjustments	−1,057	−192	
Federal unemployment benefits (FUBA)	5		
Advances to unemployment trust fund	(48)	(48)	
Special benefits	−24		
Black Lung disability trust fund	52	31	
Vaccine improvement program trust fund	7	7	
Federal payments to railroad retirement	1	1	
Retirement pay and medical benefits	−4		
Supplemental security income program	263	263	
Special benefits, disabled coal miners	21		
Grants to States for Medicaid	−907		
Payments to health care trust funds	(325)	(325)	
Family support payments to States	84	84	
Payments to States for AFDC work programs	15	15	
Payments to States for foster care	−83		
Health professions student loan insurance fund	−25	−7	
Guaranteed student loans	−175		
College housing and academic facilities loans	−3	−3	
Rehabilitation services	−79		
Payments to widows and heirs	(1)	(1)	
Reimbursement to the rural electrification fund	111	111	
Dairy indemity program	(1)	(1)	
Conservation reserve program	720		
Special milk program	−2		
Food stamp program	−2,000		
Child nutrition programs	−74		
Federal crop insurance corporation fund	(1)		
Agriculture credit insurance fund	342		
Rural housing insurance fund	(1)		
Rural communication development fund	(1)		
Payments to the farm credit system financial assistance corporation	−2		
Coast Guard retired pay	−17		
Payment to civil service retirement	(84)	(84)	
Government payments for annuitants	−3	−2	
Readjustment benefits	−62		
Compensation	258	208	
Pensions	−62		
Burial benefits	−4		
Loan guaranty revolving fund	−7		
Disaster relief	−1,100	−883	
Total entitlement authority	−3,834	−371	

THE CURRENT LEVEL REPORT, 101ST CONGR. 2D SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS SEPT. 20, 1990—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
VI. Adjustment for economic and technical assumptions	−28,685	−26,763	−8,900
Total current level as of September 20, 1990	1,326,110	1,169,400	1,060,251
1990 budget resolution H. Con. Res. 106	1,329,400	1,165,200	1,065,500
Amount remaining:			
Over budget resolution		4,200	
Under budget resolution	3,290		5,249

[1] Less than 500,000.

Notes.—Numbers may not add due to rounding. Amounts shown in parenthesis are interfund transactions that do not add to totals.●

TRIBUTE TO SENIOR CHIEF GEORGE FRANKLIN LAMBERT

● Mr. GARN. Mr. President, at this time, I would like to recognize the untiring efforts and service of Senior Chief George Franklin Lambert, a member of our local Naval Reserve.

Senior Chief Lambert has devoted the last 4½ years of his life to the efforts of making the Utah Vietnam Veterans' Memorial a reality. Since the memorial's inception in 1985, Chief Lambert has served as the chairman of the site selection and physical completion committee. This critical position required his close cooperation with the Utah State Office of Engineers, in order to designate the most appropriate location for the memorial on the Utah State Capitol grounds. I might mention, the Utah Vietnam Veterans' Memorial was the first memorial to be placed on the Utah State Capitol grounds in over 90 years.

Chief Lambert was responsible for developing and coordinating the memorial's architectural landscaping. He also oversaw the general construction and had to satisfy all of the State Officials and interested parties. Chief Lambert coordinated all of his efforts with the sculptor, Mr. Clyde Ross Morgan of Sedona, AZ. In other words, Senior Chief Lambert single-handedly carried out many exhausting tasks to bring about the fulfillment of many Utah Vietnam veterans' dreams, culminating with the memorial's dedication on October 15, 1989.

I wish to commend Senior Chief Lambert for his untiring efforts to see the Utah Vietnam Veterans' Memorial completed, from conception to dedication. On behalf of the citizens of Utah, our Utah Vietnam veterans, and especially those young Utahns whose ultimate sacrifice will now always be remembered, I salute Senior Chief George Franklin Lambert for his dedicated service to the State of Utah.●

DEFENSE AUTHORIZATION BILL—H.R. 4739

The PRESIDING OFFICER. Under the previous order, all after the enacting clause of H.R. 4739 is stricken, and the text of S. 2884, as amended, is substituted in lieu thereof. The bill is deemed read a third time, and passed, as amended, the motion to insist on the Senate amendment and to request a conference with the House are agreed to.

Under the previous order, the Chair also has authority to appoint conferees.

BILL RETURNED TO CALENDAR—S. 1224

Mr. METZENBAUM. Mr. President, I ask unanimous consent that S. 1224 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON CALENDAR—S. 3108

Mr. METZENBAUM. Mr. President, I ask unanimous consent that S. 3108, introduced earlier today by Senator DIXON, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY

Mr. METZENBAUM. As in executive session,

I ask unanimous consent that the injunction of secrecy be removed from the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, with Annex, and a Protocol, Treaty Document No. 101-21, transmitted to the Senate today by the President; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, with Annex, and the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping, with Annexes, done at Noumea, New Caledonia, on November 24, 1986. The report of the Department of State in respect of the Convention and Protocol is attached for the information of the Senate. I also transmit to the

Senate, for its information, the Protocol Concerning Cooperation in Combating Pollution Emergencies in the South Pacific Region.

The Convention for the Protection of the Natural Resources and Environment of the South Pacific Region will create general legal obligations designed to protect the marine environment of the region from a variety of sources of marine pollution. In so doing, the Convention provides new environmental protection for American Samoa, Guam and the Northern Mariana Islands, as well as for the Convention area generally.

The Convention and its Protocols on dumping and pollution emergencies entered into force on August 22, 1990. Ten countries have ratified or acceded to the Convention. These are: France, Australia, New Zealand, Papua New Guinea, Solomon Islands, Fiji, the Marshall Islands, the Federated States of Micronesia, Western Samoa, and the Cook Islands. Expeditious U.S. ratification of the Convention and Protocol would demonstrate not only our commitment to the protection of the marine environment of the South Pacific but our continuing political commitment to the region as well. It would also allow the United States to participate fully at the first meeting of Parties, which will likely establish the financial and institutional arrangements for implementing the Convention.

I recommend that the Senate give early and favorable consideration to the Convention and Protocol and give its advice and consent to ratification, subject to the two understandings described in the accompanying report of the Secretary of State.

GEORGE BUSH.

THE WHITE HOUSE, *September 25, 1990.*

Mr. METZENBAUM. All of the previous consents that the Senator has made had previously been cleared with the minority leader.

ORDERS FOR TOMORROW

Mr. METZENBAUM. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. Wednesday, September 26; that following the prayer, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10 a.m.; and that during morning business, Senators BRADLEY, LAUTENBERG, and MIKULSKI be recognized for up to 15 minutes each; and that there then be 5 minutes limitation for morning business; that at 10 a.m., the Senate resume consideration of S. 110.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE VOTES TO BEGIN AT 5:30 P.M.

Mr. METZENBAUM. Mr. President, I further ask unanimous consent that the cloture votes ordered to begin at the close of morning business tomorrow be delayed to begin at 5:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. METZENBAUM. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, under the previous order, until 9 a.m., Wednesday, September 26, 1990.

There being no objection, the Senate, at 10:40 p.m., recessed until tomorrow, Wednesday, September 26, 1990, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 25, 1990:

DEPARTMENT OF JUSTICE

MARVIN COLLINS, OF TEXAS, TO BE U.S. ATTORNEY FOR THE NORTHERN DISTRICT OF TEXAS FOR THE TERM OF 4 YEARS. (REAPPOINTMENT)

DEPARTMENT OF LABOR

ELSIE V. VARTANIAN, OF NEW HAMPSHIRE, TO BE DIRECTOR OF THE WOMEN'S BUREAU, DEPARTMENT OF LABOR, VICE JILL HOUGHTON EMERY, RESIGNED.

WITHDRAWAL

Executive message, transmitted by the President to the Senate on September 25, 1990, withdrawing from further Senate consideration the following nomination:

DEPARTMENT OF LABOR

KAREN L. GILLMOR OF OHIO, TO BE DIRECTOR OF THE WOMEN'S BUREAU, DEPARTMENT OF LABOR, VICE JILL HOUGHTON EMERY, RESIGNED, WHICH WAS SENT TO THE SENATE ON MARCH 20, 1990. CA H25SE0.REC

EXTENSIONS OF REMARKS

TRIBUTE TO GEN. COLIN LUTHER POWELL, CHAIRMAN OF THE JOINT CHIEFS OF STAFF ON THE OCCASION OF THE 20TH ANNIVERSARY OF THE CONGRESSIONAL BLACK CAUCUS LEGISLATIVE WEEKEND

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. RANGEL. Mr. Speaker, I rise to pay tribute to Gen. Colin Luther Powell, Chairman of the Joint Chiefs of Staff. I honor him today on behalf of my colleagues in the Congressional Black Caucus and the Congressional Black Caucus Foundation.

General Powell is the youngest man and the first African-American to serve as our Nation's highest ranking military officer. He is the son of Luther Powell and Maud Ariel McKoy Powell, immigrants from Jamaica. Born in Harlem on April 5, 1937, and raised in the South Bronx section of New York City, General Powell graduated from the City College of New York. He later earned an MBA degree from George Washington University. His military education includes completion of the Infantry School, the U.S. Army Command and General Staff College and the National War College.

General Powell's first military experience was with the ROTC Program at City College, where he graduated in 1958 at the top of his ROTC class with the rank of cadet colonel. He was then commissioned a second lieutenant in the U.S. Army. In 1962, as an Army captain, he was sent to Vietnam as an infantry adviser. In 1968, he received the Soldier's Medal—1 of the 6 combat and 15 major decorations he wears—for rescuing several comrades from a helicopter crash.

Rising through the ranks in the 1970's, he shuttled between Washington and the field. In 1983 he was made an Assistant to Secretary of Defense Caspar Weinberger, and in July 1986 he took command of the 5th Corps in West Germany. Six months later, President Reagan summoned him back to Washington as Senior Deputy National Security Adviser under Frank Carlucci, and in December 1987 he was promoted to national security adviser when Carlucci became Secretary of Defense.

General Powell received his fourth star when he moved to Atlanta and took over the U.S. Forces Command in April 1989. That fall, President Bush named him the 12th Chairman of the Joint Chiefs.

General Powell and his wife Alma have a son, Michael, and two daughters, Linda and Annemarie, and one grandson.

Mr. Speaker, I can think of no better way to convey a short story of General Powell's life and inspirations that have motivated him than to enter into this RECORD a few quotations from interviews General Powell conducted over the years

"It wasn't a matter of spending a great deal of time with my parents discussing things. We didn't sit down at night, like the Brady Bunch, and review the work of the day. It was just the way they lived their lives. That's what children get from their parents: What they see. Not lectures or speeches. Children watch the way their parents live their lives. If they like what they see, if it makes sense to them, they will live their lives that way too. If the parents' values seem correct and relevant, the children will follow those values."

"Hopefully I can be a role model for young blacks coming up, for all young Americans, one that says: 'Here's a guy that, even though he is black and his hair is kinky, has been rather successful. He's done a good job. And so next time I see a black man who I might be able to help, maybe he has that kind of ability and can do a good job.' "

"My parents often did not recognize their own strengths. Until the day they died, for example, I was never able to convince them that it would never be possible for me to do better than they did in providing their children with values and goals."

"There's no substitute for hard work and study. Nothing comes easy. People keep asking what is the secret to my success. There isn't any secret. I work hard. I spend long hours. I don't get distracted from the task before me. It's as simple as that."

"For over 300 years of this country's history, going back to the early colonies, blacks have willingly served in the military in times of foreign and domestic danger. During most of that history, they would only be allowed to serve when there was dying to be done. It was only after the Civil War that black units were allowed to remain on active duty in the absence of war. And only in the last 30 years, in my generation, did we achieve full integration and full opportunity.

"But blacks have never turned that fact into a condemnation of the society. They were mad to serve in World War II and return to see what they faced in the South. Couldn't help but be mad. But blacks as a class have never lost their love of country. The record is the opposite and I am part of that record."

"Abraham Lincoln freed the slaves, but it was Martin Luther King who freed the whites, who freed the American people. The real civil war was fought in the 1960s—as important as the battles fought in the 1860s—to free Americans from segregation 100 years after freeing the slaves."

"I worry a great deal about drugs. We're losing too many young Americans, particularly African-Americans, to drugs, I'm devastated over what's happening in the inner cities. There's nothing America has to do of a higher priority to its security—national security and all kinds of security—than to get a handle on this drug problem."

"I tell young blacks that even more is expected of you. Don't let your blackness, your minority status, be a problem to you. Let it be a problem to somebody else. Don't have a chip on your shoulder, and don't think everybody is staring at you because you're black. It may be true, but let that be their problem, not yours."

A TRIBUTE TO THE DIVINE ONE: MS. SARAH VAUGHAN JAZZ VOCALIST EXTRAORDINAIRE

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September, 25, 1990

Mr. CONYERS. Mr. Speaker, on Thursday, September 27, 1990, the Congressional Black Caucus Foundation, Inc., will pause to celebrate and reflect upon the outstanding accomplishments of a legendary performing artist and the struggles and the contributions of other female artists in the field of jazz that this gentle spirit paved the way for. Her name is Sarah Vaughan, and we share today with the people of this Nation our tribute, as the Congressional Black Caucus Foundation, Inc., convenes its Sixth Annual Jazz Issues Forum and Tribute to Sarah Vaughan on the occasion of the 20th anniversary Congressional Black Caucus Foundation, Inc., legislative weekend.

Ms. Sarah Vaughan, "the Divine One" to her friends and fans, holds many accolades: in 1989 she was presented with a coveted Lifetime Achievement Grammy from the National Academy of Recording Arts and Sciences. Four years earlier, she was also inducted into Downbeat magazine's Hall of Fame of having created "one of the monumental bodies of work in the annals of jazz vocal performance." Born in Newark, NJ, Sarah Louise Vaughan began her musical education inspired by her mother, Ada, who sang in the choir of the Mount Zion Baptist Church. At Home, her father, Asbury, played the piano and guitar. Never envisioning a career in show business, she signed up for amateur night at New York's Apollo Theatre in 1942. Singing her rendition of "Body and Soul" to an audience that included Ella Fitzgerald and Billy Eckstine, she won the top prize and Eckstine's recommendation to big band leader Earl "Fatha" Hines.

"Sassy," as she was affectionately known, possessed rare natural vocal and instrumental talents which she perfected through the experience of working with nearly all the greats of our time including Duke Ellington, Count Basie, Dizzy Gillespie and others. In her illustrious career she recorded some 1,000 songs.

In the constellation of jazz luminaries, "The Divine One's" star shines brilliantly. The Sixth Annual Jazz Issues Forum's special tribute to "Sassy" by all is a celestial celebration of this lady's music and memory.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

I am pleased to share with my colleagues the rich and extensive history that Sarah Vaughan has afforded this Nation and the global community.

Mr. Speaker, it is an honor to salute Sarah Vaughan on the occasion of the Congressional Black Caucus Foundation's 20th anniversary. Her special contributions to our society and her unwavering commitment to our American national treasure, jazz, is to be commended. She has been a valuable asset to our Nation.

FLORIDA TRUST FOR HISTORIC PRESERVATION AWARDS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. BENNETT. Mr. Speaker, I recently had the opportunity to be present at the 13th Annual Statewide Historic Preservation Conference in Jacksonville, FL, when the Florida Trust for Historic Preservation, Inc., made its awards for this year. I take this opportunity to list winners of the Florida Preservation Awards:

AWARDS BY CATEGORY AND JUDGE'S COMMENTS—1990 FLORIDA PRESERVATION AWARDS

CATEGORY ONE: RESIDENTIAL RESTORATION/REHABILITATION

Honor Award—Miami River Inn. "Excellent restoration and reuse of 90 years of accumulated architectural heritage into a compatible hotel use."

Merit Award—Chesley House. "Meticulous restoration; down to the last detail."

Merit Award—Quick House. ". . . from eyesore to model restoration project."

Merit Award—Tovar House. ". . . Beautiful restroation and adaptive use of one of St. Augustine's earliest structures."

CATEGORY TWO: NON RESIDENTIAL RESTORATION/REHABILITATION

Honor Award—Studebaker Building. "Vernacular architecture makes up the vast majority of historic buildings. An excellent example and model to guide future projects."

Honor Award—Dauer Hall. "Superb restoration and rebuilding of a severely damaged historic facade . . . excellent craftsmanship."

Merit Award—Epping Forest Yacht Club. "Creative adaptive use of one of Florida's first estate homes dating from the roaring 20's."

Merit Award—Lee County Court House. "Like old jewelry rediscovered, and polished to a high luster to reveal its long hidden beauty."

Merit Award—Old Dillard High School. "A simple building from the 1920's restored to perfection in the 1990's."

Merit Award—Delray Beach Elementary School. "The keystone restoration project of old Delray."

CATEGORY THREE: HISTORIC LANDSCAPE/ARCHAEOLOGY

Honor Award—Jungle Trail. "Preservation in the truest sense of the word."

Merit Award—Year of the Indian. "Outstanding cooperative project in archaeologic education for the entire community."

CATEGORY FOUR: PRESERVATION EDUCATION/MEDIA

Honor Award—Jacksonville's Architectural Heritage: "Landmarks for the Future." ". . . most informative book about Jacksonville's history and future of it's past."

Honor Award—Reflections of a Legacy: Bonnet House Story. "Stunningly beautiful work that weaves the lives of geniuses into their creation they called home."

Merit Award—Self Guided Tours of Miami. "Excellent series highlighting Miami's most important historical treasures within the context they were built."

Merit Award—Teach the Teachers—Tampa. "Outstanding example for Florida's educational system to follow and teach."

CATEGORY FIVE: ORGANIZATIONAL ACHIEVEMENT AWARD

Honor Award—MBDC & MDPL— Revitalization of Ocean Drive "Marvelously successful effort that revitalized Florida's most important 20th century historic district."

Merit Award—Florida Southern College. ". . . a determined program that sets a fine example for smaller institutions to follow."

Merit Award—Main Street Quincy, Inc. "Outstanding economic revitalization using historic preservation as it's theme."

Merit Award—Amelia Island Museum of History. "A lemon turned to sweet lemonade by a determined and dedicated community effort."

CATEGORY SIX: INDIVIDUAL DISTINGUISHED SERVICE AWARD

Award—David Ferro. "One of the most dedicated individuals in the field of preservation . . . an asset to the State of Florida."

Award—Nancy Dobson. "Mrs. Preservation Tallahassee . . . responsible for saving significant buildings and establishing a very effective organization."

WORLD SUMMIT FOR CHILDREN

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. STARK. Mr. Speaker, the United Nations Secretary General invited heads of governments to attend the first ever "World Summit for Children," which will be held in New York City on September 29–30, 1990. The summit's goal is to enhance political commitment for the benefit of children, both nationally and internationally. At this meeting, leaders from around the world will be asked to do something bold and courageous—divert more of their attention and resources from current priorities, such as military security, and adopt a policy of "first call for children."

Over 70 heads of government, including our own President, are planning to attend. We are seeing a two-act drama unfold. The same persons who 2 weeks ago were working for a military force in the Persian Gulf are coming together again to work against the great human tragedy of more than 40,000 children dying each day from malnutrition and disease. This is a conference where we'd better do some listening instead of talking, and show some reticence instead of bragging. The United States ranks 22 in the world in infant mortality. We are 17 in years of life expectancy at birth.

Each year nearly 40,000 babies die in the United States before their first birthday, two-thirds of these during the first month of life. Low birth weight is the greatest single hazard to infant health and in many cases is linked to preventable risks, such as lack of prenatal care, maternal smoking, parental use of alcohol and other drugs, and teenage pregnancy.

An increasing number of infants are born drug-exposed. In 1988, more than 50 percent of women admitted to Washington, DC's, General Hospital for prenatal care tested positive for drug use. At Highland Hospital in Oakland the proportion of newborns exposed to crack jumped from 5 to 20 percent between 1984 and 1988.

The leading cause of death in childhood is unintentional injuries, one of the most preventable problems. The list of preventable problems goes on and on: Homicide, suicide, child abuse and neglect, developmental problems, lead poisoning, and other environmental toxins.

We all know that relatively inexpensive immunizations of children pay huge dividends later in avoidance of communicable diseases. And yet, one-quarter of all preschoolers and one-third of all poor children are not immunized against the common childhood diseases.

I think I have made my point. We are not the leaders in the promotion of successful child health programs. We have over 11 million children in the United States without health insurance, and the problem is getting worse. While health insurance does not guarantee good health, it must have a very strong relationship with it. According to a report by the American Academy of Pediatrics, only 11 percent of children without health insurance reported excellent health, while 78 percent of children with private coverage reported excellent health.

What does the United States have to offer at the World Summit for Children? Let us hope that our President will participate as fully and with as much commitment as he has shown for our military stance in the Persian Gulf. Let us hope that the potential for change will not be lost by our being counted present but not determined. Let us not have to say, on closing day, "All words and no action."

These remarks were read on Sunday, September 23, 1990, at the Hayward Rally and Candlelight Vigil in observance of the World Summit for Children.

HUSSEIN'S REPRESSIVE REGIME POSES THREAT TO MILLIONS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. PORTER. Mr. Speaker, we are all aware of the threat to world economic stability posed by Iraq's illegal invasion of Kuwait. But Saddam Hussein's repressive regime poses an equally urgent threat to millions of human lives in the Persian Gulf.

Since Saddam Hussein came to power in 1979, the Kurds, Iraq's largest minority, have been brutally repressed for seeking recogni-

tion of their distinct ethnicity. Over the past 5 years, hundreds of children, whose parents were reportedly political activists, have been arrested and tortured; hundreds of thousands of Kurds have been relocated in efforts to diminish a collective Kurdish presence; and hundreds of villages were destroyed, killing thousands, by a chemical offensive aimed against Kurdish civilians. Any voice of dissent has been violently suppressed.

We must ignore Saddam's words, for the truth means nothing to him, and look instead at his deeds. In light of his dismal human rights record against his own citizens, it is our duty to ensure the safety of both foreign nationals held hostage in Kuwait, and the citizens of Kuwait and neighboring countries.

DOUGLAS CASHMAN RETIRES AFTER 25 YEARS SERVICE TO FIRE DEPARTMENT

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. HERTEL. Mr. Speaker, I rise today to mark the occasion of Mr. Douglas Cashman's retirement from the Sterling Heights Fire Department after 25 years of service. Mr. Cashman joined the then Sterling Township Fire Department on September 17, 1965. He was promoted to sergeant on July 1, 1974 and he obtained the position of fire inspector on January 13, 1975.

Douglas was involved in many aspects of the firefighters. He was the pension representative for firefighters, the president of the Firefighters Union Local No. 1557, and the vice president of the Michigan State Firefighters Sixth District. In addition, Douglas was granted seven meritorious awards in 1972 for the underground rescue of two workers and two police officers. He was also named Michigan Fire Inspector of the Year in 1988.

Mr. Cashman is married and is the father of four children. He is a well-rounded athlete and sports enthusiast. Furthermore, Douglas is a solid, loyal member of his community and is well deserving of our heartiest congratulations.

I ask my colleagues to join me in expressing gratitude and best wishes to Fire Inspector Douglas Cashman.

TRIBUTE FOR MONTE DUNCAN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Monte Duncan, a recent inductee to the Youngstown Baseball Oldtimers Association Hall of Fame in my 17th Congressional District of Ohio.

Monte began his baseball career in the Youngstown area in 1947 in the Class AA League with Century Auto and the Lansingville Sports Club. Five years later, Mr. Duncan launched his well respected fast-pitch softball career with the Peacock Gardens, and then played for Army & Navy 541 and St. Anthony's of Struthers. Monte also played for and managed slo-pitch teams under the names of the Youngstown Acme Club and the ACC Club to several local city titles during the 1960's.

Currently, Monte is the playing manager for the Youngstown Oldtimers and still enjoys playing with the great baseball players who were active in the game both before and after he began to play on the Youngstown area ball fields. Monte's baseball career has been lovingly followed by his wife, the former Mary Jane Fanto of Lowellville, and their son and four daughters.

Again, it gives me great pleasure to rise today to pay honor to Monte Duncan of my 17th Congressional District of Ohio for his dedication to the sport of baseball.

WHAT DOES DOMINION MEAN?

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. BENNETT. Mr. Speaker, it was my pleasure to attend the annual awards program of the Florida Wildlife Federation on September 14, 1990, in Ocala, FL, and there I heard an excellent speech by Jack Stanley, chairman of the federation. I include the speech for the RECORD because of the thoughtfulness and value to every wildlife enthusiast.

Before inserting the speech I would like to list award winners and their awards, each well earned:

Dr. E. Dwight Adams, Land Conservationist of the Year; Dr. Beulah M. Ayris, Conservation Educator of the Year; Water Conservationist of the Year, Dennis Bayer; Conservation Communicator of the Year, Al Burt; Wildlife Conservationist of the Year, Ms. Denver M. Raney; State Legislative Conservationist, Sid Martin; Outdoorsman of the Year, Karl Wickstrom; Youth Conservationist of the Year, Justin D. Page; Conservation Organization of the Year, African Safari Club of Florida, Inc.; Conservationist of the Year Frank Montalbano III; and Florida Conservation Hall of Fame first inductees, Johnny and Mariana Jones.

The speech by Manley K. Fuller III, president of the Florida Wildlife Federation, follows:

SPEECH BY MANLEY K. FULLER III

Dominion.

What does Dominion mean?

It means sovereignty or total power over something or someone.

Genesis tells that God gave to man dominion over the creatures of the Earth. Whether you are a Christian, a Hebrew, an evolutionist or a creationist, or none of the above, I think you will agree that regardless of how it came to be, humankind is indeed in a sovereign position over the creatures of this Earth. Like it or not, we have dominion over the Earth and its creatures.

Now, we have dominion—power. As with a right, with a power goes a responsibility. While we have the power, we have the responsibility for the Earth and its creatures. With dominion comes stewardship. The Earth and its residents were given over to our dominion to be controlled and utilized, but not to be wantonly destroyed nor sacrificed on altars of human greed.

Consider for a moment the difference between the attitude of the native Americans at the time of the European invasion of North America, and the attitude of the settlers. The Indian thought of himself as inextricably woven into the fabric of nature, a part of everything around him, a kindred being with the nonhuman creatures with whom he shared the Earth. The attitude among the settlers, however, was poles away from that of the Indians. Somewhere along our historical path, "civilized" man decided that dominion over nature conferred the right of conquest and tribute, without the corresponding responsibilities of stewardship and management. The native Americans had lived in this land for centuries without doing any serious damage to it, even learning some basic wildlife management techniques, such as the use of fire for habitat maintenance. Our ancestors' and our beliefs and attitudes, however, led them and us to destroy and lay waste in four hundred years the lands and waters which had sustained the Indian for thousands of years.

Perhaps nowhere on this continent is there a better, or perhaps worse, example of this than here in Florida, where we systematically slaughtered the Indians, cut down the timber, drained the surface waters, "reclaimed" the Everglades, expunged species, replaced them with uncontrollable exotics, and on and on. Until recent decades, however, the people who were doing these things had no real malice toward nature beyond that which they inherited. Probably a good dose of capitalistic greed was about the worst that could be attributed to them, and greed, after all, is why our system works and Marxism doesn't. In most cases, the people who were busy destroying Florida truly believed they were doing great and good things for mankind. Only in this century have we realized (and we still have a lot to learn) the folly of what has been and is being done in the name of progress and profit. Only in this century have we realized the magnitude of the disaster facing us if we do not change our ways, and soon.

We are entering the last decade of this century. Decisions made and actions taken will determine the quality of life for every person and every wild creature in Florida for the next century. Perhaps this century now drawing to a close will be remembered as the one in which we became environmentally aware. Perhaps this decade will be the time of our passage from environmental adolescence to environmental adulthood. Perhaps the next century will be known as the century of environmental responsibility. This may well be our last chance to reverse our course from one of greed and carelessness to one of enlightened concern and stewardship. If we do not avail ourselves of every opportunity. If we do not seek out opportunities, if we do not make opportunities to improve our stewardship, we may bequeath to the next generation a land devoid of clean air and water—a land devoid of wild things—a land unfit for living.

We must decide whether Florida will continue to grow, and if so, how much. We must decide whether to check the rapid decline of our potable ground water. We must decide whether to demand responsible farm and dairy practices. We must decide whether to stop the loss of our irreplaceable wetlands. We must decide whether to stop the destruction of our last wild rivers and forests. We cannot, as have others before us, pass the problem and the decision down to the next generation and hope that they have more willpower than we. Our enemies

say, "be reasonable, let's negotiate, let's compromise." We have reasonably negotiated and compromised away our birthright, our heritage, and those of our children already. The time for this is past. It is time to stand firm and say, "No more".

Will we find ourselves in the position of telling our children, as my grandfather told me, of clear steams and lakes, of abundant forest land, plentiful game and fish now lost to agriculture, development, and other economic goals? Will we try to explain to them how it got away from us? Will we, can we ever apologize to them if we allow it to be lost? Will they forgive us? Perhaps our ancestors did not know better. We do. What will we tell our children?

We are here tonight to honor 12 people and one group who have chosen to make a difference in Florida. Some of them sought out an opportunity, some had a challenge offered to them, and some simply had a problem dumped in their laps. But they all share this in common—they picked up the gauntlet, accepted the challenge, and fought the battle—and won! They can tell their children how they helped to make Florida a better place to live, for us and the other creatures with whom we share this State.

COMPREHENSIVE TEST BAN VITAL FOR NONPROLIFERATION

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. STARK. Mr. Speaker, I was pleased to hear the President speak of the dangers of nuclear proliferation in his recent address to Congress. He must agree that proliferation is certainly the greatest single threat to our national security today.

Confronting an Iraq with 5,000 tanks, 1 million men under arms, and chemical weapons is challenging enough. We do not need to face nuclear weapons and long-range missiles as well.

It is not just Iraq that we have to worry about. Iran and Libya have taken steps to acquire these weapons of mass destruction. India, Pakistan, Israel, and South Africa all have longstanding nuclear weapons programs. Before long all of these countries will have arsenals deployed, if they have not done so already.

The world is a dangerous enough place already without nuclear war breaking out in its most unstable region. With the bomb spreading this widely, how much longer before terrorist groups get ahold of it? In the future, entire cities might be held hostage, instead of just a few citizens.

If we wish to avoid these nightmare scenarios, we must take preventative steps today. It is almost already too late.

One of the best ways to slow nuclear proliferation is to enact tighter controls on international nuclear trade. I plan to introduce legislation soon on this subject and will speak more about it at that time.

A very important measure in helping slow nuclear proliferation is the Comprehensive Test Ban Treaty [CTBT]. India, Pakistan, Brazil, and Argentina have all reserved the right to build nuclear weapons. But they are also all supporters of a CTBT. Such a treaty would certainly slow the development of their nuclear weapons programs.

A CTBT would also help shore up international support for the Non-Proliferation Treaty [NPT], the most important component of the nonproliferation regime. The NPT is basically a bargain between the haves—the nuclear weapons states, and the have nots—everyone else. The former agreed to pursue disarmament talks in good faith—which was understood at the time to mean a CTBT—and the latter group agreed not to pursue nuclear weapons. The have nots feel they have kept their end of the deal. Indeed, no country which signed the treaty has developed nuclear weapons—though Iraq is coming close. But the "haves" have made little or no progress on a CTBT.

At the recent NPT 5-year review conference, the parties failed to agree on a consensus statement largely because of the United States' refusal to commit to negotiating a CTBT by 1995, the year the treaty is up for extension. As a result, the extension is now put into question.

A CTBT is verifiable—much more easily verifiable, in fact, than the NPT. It is good for the environment. And, it is critical to helping halt nuclear proliferation.

The House has already taken a stand in favor of a CTBT by voting for the gentleman from California's [Mr. BOSCO] amendment to the Defense bill. The President must hear from us loud and clear that we need an end to nuclear testing.

Mr. Speaker, we do not have to take these steps, but if we do not we better be ready to face a world with nuclear-armed Saddam Husseins, because those are the choices before us.

H.R. 5231, THE TITLE X PREGNANCY COUNSELING ACT

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. PORTER. Mr. Speaker, if you had cancer and your doctor did not inform you that chemotherapy was one possible course of action, he would be guilty of malpractice. But different rules apply for the Government. In fact, under title X family planning, selective dispensing of medical information is mandated. Under regulations created in 1988, a pregnant woman requesting information cannot even be told that abortion is an option.

I find these regulations offensive and RON WYDEN and I have introduced H.R. 5231, the Title X Pregnancy Counseling Act to reverse this Orwellian policy. Under our bill, title X counselors are required to provide a woman with information on all options for dealing with an unintended pregnancy when they request such information.

I think that Members can agree that Government information control is inappropriate in this country. I also want to make Members aware that these regulations are the subject of litigation before the Supreme Court. In this upcoming case Rust versus Sullivan, the Solicitor General intends to argue for an overturn of Roe versus Wade.

Mr. Speaker, this is not an issue for the courts, it's an issue for Congress. I urge all Members to cosponsor H.R. 5231, the Title X Pregnancy Counseling Act.

CONGRATULATIONS TO BATTALION CHIEF CHESTER BEASLEY

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. HERTEL. Mr. Speaker, I would like to take time today to honor Chester Beasley, an outstanding member of the Sterling Heights Fire Department for 21 years. Battalion Chief Beasley will celebrate his retirement on Friday, September 28.

Chester joined the Sterling Heights Fire Department, which was then called the Sterling Township Fire Department, on September 26, 1969. He was promoted to sergeant on February 20, 1978, became probationary training instructor on February 9, 1981, and lieutenant on March 21, 1986. Chester was granted his most recent promotion, acting battalion chief, last November.

Chief Beasley is married and has five children and four grandchildren. He spent 4 years in the U.S. Air Force prior to joining the fire department. Chester is also an avid sportsman; he specifically enjoys hunting and fishing. In addition, he is a former executive board member of the Fire Fighters Union Local No. 1557. As is obvious, Chester is a very active man. Yet, he always has time to assist his fellow people, as is evidenced by his lifetime career as a firefighter.

Mr. Speaker, please join me in congratulating Chester Beasley, who has dedicated his life to the safety and protection of his community and its people.

TRIBUTE FOR JOSEPH KRISS, JR.

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Joseph Kriss of my 17th Congressional District of Ohio for his 31 years of dedicated service to the Social Security Administration.

Mr. Kriss retired from the Social Security Administration on September 3, 1990, as the Assistant District Director of the Warren, OH, office. In this capacity he served as the Social Security Administration's congressional liaison to the 17th Congressional District and greatly assisted many citizens throughout Trumbull County in their dealings with the Social Security Administration.

A graduate of Vermilion High School in 1953, Joseph served his country in the U.S. Army from 1954 to 1956. Upon an honorable discharge from the service Joseph enrolled in Baldwin Wallace College and graduated in

1960. He began his career with the Social Security Administration in 1962 and has worked in various States with that organization until he came to the Warren area in 1977. Now that Joseph has retired, he and his wife have moved to Arizona where Joe will serve as an associate in his wife's counseling service agency.

It is with considerable honor that I rise today to pay tribute to Joseph Kriss of my 17th Congressional District of Ohio. His dedication to his work was exemplary; his service to the community outstanding.

A REMARKABLE LOOK AT THE CIVIL WAR

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. LENT. Mr. Speaker, the airing this week of "The Civil War" on public television offers us an unprecedented window on our past and a fresh opportunity to contemplate the legacy of the most decisive and tragic period in American history.

In researching what occurred on this day during the first year of the Civil War, September 25, 1861, I found that while there were no major battles fought there was a significant amount of military activity throughout the countryside. Union troops occupied Smithland, KY, at the mouth of the Cumberland River and skirmishing continued in parts of Virginia and as far west as the New Mexico Territory. Also on this day 129 years ago, troops of Generals Lee and Rosencrans traded shots in the Kanawha Valley of what is now West Virginia and two Union ships dueled with a Confederate battery at Freestone Point, VA.

Reflecting on these and other events of the Civil War is an inevitable outcome of the airing of PBS's epic documentary, "The Civil War." I salute local public television stations across the United States, including WLIW on Long Island and WNET in New York, for participating in this programming and bringing the Civil War alive for millions of Americans.

Landmark television achievements, like the 5-year effort to bring "The Civil War" into American livingrooms, clearly demonstrate the great potential of television and of publicly supported broadcasting. I commend the documentary's driving force, Mr. Ken Burns, and all the men and women whose labor has brought us this remarkable encounter with our past.

Syndicated columnist George Will wrote an interesting and enlightening article on "The Civil War" that appeared in the Washington Post on September 20. The text of this article follows:

A MASTERPIECE ON THE CIVIL WAR

(By George F. Will)

At the battle of Shiloh, a wounded Union soldier was told to leave his rifle and go to the rear. He soon returned, saying, "Give me another gun. This blame fight ain't got any rear." Neither did the war.

It was fought in 10,000 places, this monsoon of our history. And beginning Sunday, and for the next four nights, "The Civil War" is magnificently encompassed on public television. If better use has ever been made of television, I have not seen it and do not expect to see better until Ken Burns turns his prodigious talents to his next project.

He is the filmmaker five of whose 37 years went into the making of this masterpiece of national memory. Our Iliad has found its Homer: he has made accessible and vivid for everyone the pain and poetry and meaning of the event that is the hinge of our history.

The Civil War is the largest event in human history. A large claim, that, but defensible, on five grounds.

At issue, and not just for this country, were the two polarities of political possibility; self-government and slavery. The war catalyzed the world's noblest political career, Lincoln's. The war (in Walt Whitman's phrase) "condensed a nationality": it completed the American founding, settling questions unanswered in 1789. It transformed the foremost democracy into a nation of such philosophic clarity and political unity that, in the next century, it could save the world from several tyrannies akin to slavery.

For more than a century this argument has raged: What caused the war? Was it an "irrepressible conflict"? What, at its core, was it about? About 15 minutes into Burns's 11-hour series, you learn—you see—the answer.

You see a 19th century photograph, black-and-white, of course, of a black man's back. It is hideously covered with scars left by a lash. Burns's camera does not dwell; the narrative does not even mention what we have briefly seen. Burns knows how to blend passion and delicacy: reticence can be its own emphasis.

The Civil War was the prototype of the great engine change—social, cultural, scientific—in the modern world. It was the first modern war, waged, in the end (in Georgia and South Carolina, by Sherman) against civilians, and won by the side best at mobilizing an industrial base.

The First World War, from the wounds of which the Western world is only just now recovering, was prefigured in the trenches at Petersburg, Va. The firepower that killed 7,000 in 20 minutes at Cold Harbor, Va., was an anticipation of the Somme.

Two days fighting at Shiloh killed more Americans than all previous American wars. Sept. 17, 1862—Antietam—is still the bloodiest day in American history. Two percent of the American population died in that war. And then there were the survivors of the first great modern war and the last great war before modern medicine; in 1966, one-fifth of the state of Mississippi's revenues were spent on artificial limbs.

Was it worth it? Yes. When the war began, one in seven Americans was owned by another American.

Less than 1 percent of the North's population was black, but by the end of the war 10 percent of the Union forces were black. One of them was a handsome boy named Jackson, about 12. Burn's camera pans slowly up an old photograph, up past the bare feet, ragged trousers, shredded shirt of "Contraband Jackson," (Contrabands were slaves that escaped to Union lines.) Then the camera pans to another photograph, up over boots fine trousers, past a drum and snappy blouse, to the face of . . . Drummer Jackson.

Burns's film of the battlefields today, and the old photographs, are "framed" by ambient sounds—hoofbeats, cannon, musketry, steamboat whistles. The birds you hear are the kind that called at the times and places of battles. The camera moves, sometimes at a canter down roads and over ridges.

And the pictures are exquisitely married to words, astonishingly rich 19th century English usage, not only from leaders but from the letters and diaries of soldiers and citizens. Sunday's episode includes a love letter of unbearable beauty, written on the eve of the first battle of Bull Run by a soldier who was to die there.

The war was haunted by eerie occurrences.

Wesley Culp was born on Culp's Hill in Gettysburg. As a teenager, he took to wandering, wound up in Virginia. Came the war, he enlisted. He died a few yards from the house in which he was born, on Culp's Hill.

Because first Bull Run put soldiers in his kitchen, Wilmer McLean moved deep into Virginia to escape the war. He settled in Appomattox. The war ended in his living room.

That was the way of the war with "no rear." That is why it resonates so, and why Burns, by enriching our understanding, enriches our citizenship.

OPPOSITION TO THE OMNIBUS CRIME BILL

HON. LEWIS F. PAYNE, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. PAYNE of Virginia. Mr. Speaker, not being a lawyer, I rely heavily on the views of the Commonwealth attorneys in my district to guide me on issues of criminal justice. I feel privileged to represent such a distinguished group of attorneys in the Fifth District of Virginia and throughout the Commonwealth. I feel most confident in upholding their views in opposition to the omnibus crime bill because of its content in title XIII on the revision of Federal habeas corpus. At this time, I would like to acknowledge my reasons for opposition to title XIII, based on the following resolution passed by the Virginia Association of Commonwealth Attorneys.

RESOLUTION

Whereas the Virginia Association of Commonwealth's Attorneys is an organization composed of the Elected Commonwealth's Attorneys of all of the counties and cities of Virginia, who are meeting this 4th day of August, 1990 in Virginia Beach at their 51st Annual Session, and

Whereas the Virginia Association of Commonwealth's Attorneys strongly supports the concepts of the finality of State Court Judgments, expeditious decisions in Federal Habeas Corpus proceedings involving State Court Judgments, and reduction in the amount of relitigation of State Court Criminal Cases, and

Whereas the Congress of the United States is considering legislation, such as House Resolution 4737, House Resolution 5269, or their successors which would undermine the finality of State Court Judgments, delay decisions in Federal Habeas Corpus proceedings involving state cases, and would increase the amount of relitigation required of state court criminal cases;

Now therefore be it *Resolved* That the Virginia Association of Commonwealth Attorneys

1. Strongly opposes any legislation, such as House Resolution 4737, House Resolution 5269, or their successors which would;

(a) undermine or weaken the procedural default doctrine or broaden any exception to that doctrine;

(b) repeal, restrict or weaken the non-retroactivity doctrine of *Teague* v. *Lane* and it progeny;

(c) ease any of the rules which restrict the filing of 2nd or successive Federal Habeas Corpus petitions involving new claims or involving claims previously litigated, or;

(d) Create new requirements concerning the experience, competency, or performance of counsel beyond those required by the Constitution as interpreted in *Strickland* v. *Washington*, or;

(e) expand the grounds on which Federal habeas relief can be granted;

2. The Virginia Association of Commonwealth's Attorney's strongly supports legislation which ensures the finality of State Court Judgments and encourages the reduction of federal post-conviction litigation of state convictions; and

3. The Virginia Association of Commonwealth's Attorneys requests the President of the Association to transmit this Resolution to the President of the United States and to the Senators and Congressmen of Virginia.

BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE (PEPPER COMMISSION)

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. GRADISON. Mr. Speaker, the final report of the U.S. Bipartisan Commission on Health Care—the Pepper Commission—was released today. As I have stated before, while I support the Commission's goals, I am unable to support the major thrust of its final recommendations. I would like to share with my colleagues my views on the Commission report along with my own recommendations.

BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE (PEPPER COMMISSION)

(Dissenting views of Hon. Bill Gradison, vice chairman)

The legislation creating the U.S. Bipartisan Commission on Comprehensive Health Care required the Commission to ". . . make specific recommendations to Congress on federal programs, policies, and financing needed to assure the availability of comprehensive long-term care services for the elderly and disabled, comprehensive health care services for the elderly and disabled, and comprehensive health care services for all individuals in the United States."

The Pepper Commission, our able Chairman, and our energetic staff worked long and hard to attempt to meet this charge laid out by Congress. The Commission was free of partisan bickering, and took its work seriously from beginning to end. Nonetheless, I cannot support the thrust of the Commission's recommendations. I regret that unanimity eluded us. We share the same goals but differ on how to reach them.

Unfortunately, the Commission failed to meet the charge of making specific financing recommendations, and, as a result, the report is unlikely to move the Congress towards action. In fact, the huge price tag of at least $67 billion tells me that the Pepper Commission's recommendations lie beyond the outer boundary for serious discussion of health care plans in the future.

The lesson here is clear. To be taken seriously, those who wish to move policymakers will have to craft their proposals to fall somewhere between the status quo (with its unacceptable gaps in health insurance for tens of millions of Americans) and the Pepper Report (with its unrealistic price tag), and they must provide realistic financing.

Consider this: $67 billion in annual new spending is itself larger than all but six of the federal budget's 18 spending functions. Only the National Defense, Health, Medicare, Income Security, Social Security, and Net Interest budget functions are larger. It is more than 10 times the cost of the catastrophic health care program that was repealed primarily because of its financing. To put this in further perspective, $67 billion would require a surtax of over 10% on all individuals and corporations paying federal income tax. Not a likely prospect. Or, put another way, it would cost over $870 per year for every household that pays federal income taxes. My congressional district may be atypical, but I'm sure that my constituents are unwilling to fork over that much more of their incomes to Uncle Sam.

Financing aside, the Pepper Commission did reach broad consensus in several important areas: the priority which should be accorded to maternal and child health programs, the need for insurance reform, and the merit of building on our job-based health insurance system. Unfortunately, the Commission did not always follow the logic of its own ideas, most notably by failing to explore ways in which long-term care could be built on an employer-based model rather than on a government-based model.

While the Commission did not express priority between the uninsured and long-term care proposals, the difference in the votes within the Commission is significant. The issue is not so much one of cost alone, but popular support as well. The long-term care recommendations were approved by the Commission by a much wider margin than the recommendations for the uninsured. This significant difference in the vote is indicative to me of the politically popular nature of long-term care initiatives, despite the higher price tag. My concern is that these new initiatives will move forward at the expense of expanding access to primary and acute health care services and we will still have millions of uninsured. We will still have hospitals closing, further limiting access.

PROBLEMS WITH THE CURRENT HEALTH CARE SYSTEM

That there are problems with the health care system in this country is not in question: Far too many Americans lack health insurance; health care costs continue to increase at unacceptable rates, while at the same time there is a growing sense that we are not certain what we're buying; deteriorating financial conditions of essential health providers threaten to undermine their ability to serve the public.

Yet at the same time the country faces these issues, there does not appear to be a constituency for pumping very large amounts of new money into the present health care system. Certainly, there is no evidence that the public feels undertaxed. Nor is it even certain that such large new expenditures will in reality adequately address the problems of our current system.

The fact is that the federal government has failed to carry out the promises already made to provide health care for the poor and other special populations. For example, only about 42% of the poor are now covered under Medicaid, where limitations on eligibility, the scope of benefits, and the level of reimbursement undermine its value to those it was intended to serve. To a lesser extent, Medicare is not fully meeting its promise, especially with regard to covering the catastrophic costs of acute care. Moreover, the one-size-fits-all design of the Medicare benefit package fails to meet the varied needs of the elderly.

Why Medicaid and Medicare aren't doing their jobs well is an important question, and one not much explored by the Pepper Commission. But whatever the reasons, it is simply questionable public policy to make new health care promises to groups presently lacking health insurance entirely, or even lacking adequate insurance, when existing programs aren't meeting their responsibilities.

There is an unreal quality to the Pepper Commission's proposals for more than $67 billion of new spending by the Federal government alone, when the Congress was advised in the President's 1991 budget proposal that the present value of the deficit in the Hospital Insurance Trust Fund (Medicare Part A) could be $250 billion. I am reminded of Milton Friedman's observation:

"Although the purveyors of health care may initially get additional resources by tapping the government till, that is a transitory phenomenon. When the government is taking over any activity, there is more money available * * * once the government has taken it over, the situation changes. Politicians have to move on to new fields and take over new areas in order to get votes. The result is that those areas already taken over get starved. Instead of there being more funds available, there are less."

Like most economists, politicians should know we live in a world of scarce resources. While the Pepper Commission's charge was to recommend action, we cannot overlook the fact that if its proposals became law, fewer resources would be available for other worthy causes: education, housing, the homeless, child care, the environment, or raising future living standards by cutting the deficit (and raising national savings), to name just a few.

COVERAGE AND MANDATES

The Pepper Commission wisely emphasizes the employer's role in health care, and I support an employer-based approach. It is the distinctive feature of the U.S. system just as the provincial-based plans are in Canada, and the centralized, government-provider system is in Britain.

Nevertheless, to recommend mandatory employer payments for most employee health care costs—even if delayed by a "trigger"—merely assures that the Commission's recommendations won't be part of the serious debate in Congress. Small businesses—already adjusting to the new mandate of a higher minimum wage, and legitimately concerned about other cost-increasing mandates such as Social Security tax boosts, clean air legislation, and new laws covering the disabled—will object strongly to the plan, and they will be justified in doing so.

An employer mandate for health insurance is based on a false premise, namely, that small businesses are able but unwilling to meet their social responsibilities. This may be true of some, but the overwhelming

evidence is that employer-based health care plans are simply unavailable and/or unaffordable to many small businesses. Especially in a tight labor market, it is in the interest of small business to offer health benefits in order to be competitive in recruiting and retaining employees. But the fact is many cannot afford to do so. To make matters even worse for small businesses, the Commission's recommendations would result in a $10 billion shift of health care costs from larger to smaller businesses.

My own analysis is that the Commission's recommendations for insurance reforms—which I support—will increase the availability of health insurance for small business, but they will also increase the cost. The cost increases would arise in part from prohibiting medical underwriting (e.g., consideration of pre-existing conditions) and from an insurer having to guarantee acceptance of all groups wishing to purchase health insurance.

Philosophically, there are valid pros and cons to mandates. Over the year, mandates have been imposed for the minimum wage, workers compensation, Social Security, unemployment compensation, overtime pay, and so forth. But to pile mandate after mandate on employers without considering cost is to lower the general level of economic activity and employment thereby harming the very individuals meant to be helped.

In my view, the Pepper Commission has understated health insurance costs for its own benefit package. From my reading, the annual premium costs, even for a basic benefit package, are significantly higher than the Commission estimated. A health insurance mandate imposing new costs on the employer will, in some cases, result in job losses. Employers with many part-time workers will simply cut back rather than pay the extra tab. Those fortunate enough to keep their jobs will see the purchasing power of their pay checks reduced over time as the mandate phases in. In some cases, those individuals who already have access to public hospitals or community health centers, may be worse off with the coverage they are required to buy because they would be required to pay, at least in part, for care they now receive for free.

Like it or not, mandate-induced job and pay losses must be balanced against the socially desirable goal of assuring employees and their dependents access to quality health care. Employer mandates of this type should be opposed until health costs are brought under control—at least until the per employee costs for small businesses are brought in line with those of larger, generally self-insured, businesses. To do otherwise would, in effect, mandate higher costs for smaller employers than for large, hardly an enlightened public policy.

COVERAGE—THINKING REALISTICALLY

Universal access to quality health care is a worthy goal, but the costs—not alone financial—of reaching this goal suggest setting a more limited, more attainable objective. The problem with the present system is not the fact that some lack health insurance; it is that so many lack health insurance. Were the number lower, the health needs of the uninsured would be met through public hospitals, philanthropy, community health centers, even cost shifting.

Designing a system with a goal of say, 95% coverage, hard as that is, will be infinitely easier and less intrusive than as system meant to cover 100%. Even the Pepper Commission fails to assure 100%. What about uninsured employees of small businesses if the "trigger" is not pulled? Medical expenses not covered under the Commission's mandated health package? Premiums and deductibles which must be paid by beneficiaries? Prescription drugs and dental care? Better to acknowledge that 100% is unrealistic and act accordingly than to pretend otherwise.

The Commission's; "play or pay" plan has a basic political failing. Under its recommendations, about 70 million persons would be covered under the public plan, not counting 33 million Medicare beneficiaries. Over 100 million Americans would then look to the federal government for their health insurance. As a result, the political pressures to increase benefits would likely result in costs to taxpayers far above what even the Commission estimates.

LONG-TERM CARE

The Commission's assumptions about the problem of long-term care don't hold up very well in the face of the facts. Consider, for example, the widespread belief, reflected in the Commission's recommendations, that only a relatively small number of Americans will ever be able to afford the premiums for private long-term care insurance, even among the baby boom generation. Yet, as we heard in testimony before this Commission, the Brookings/ICF model estimates over 50 percent coverage if people were to begin paying during their working years or use some of their assets in their later years. Moreover, we simply don't know how many people with substantial assets could pay premiums for such insurance. Yet the Commission operates on the assumption that a new and very costly non-means tested entitlement program is the answer.

There are two basic issues today in the financing arrangements for long-term care: (1) the emphasis on institutional (nursing home) care rather than community (home) care and (2) the spend-down requirements of Medicaid. Happily, insurance is now becoming available permitting those who can afford it and qualify for it to protect themselves through the private sector. Unhappily, the non-means tested (social insurance) proposals of the Pepper Commission, rather than encouraging a private sector response, may actually retard it. And even more ominous, the losers, if a major new social insurance program is adopted, may very well be the poor. While more persons may be covered, the scope of benefits available could be drastically reduced.

As Isabel Sawhill of the Urban Institute has pointed out, since 1962 all of the growth in federal spending, as a percentage of GNP, is accounted for by two non-means tested social insurance programs—Social Security and Medicare. Even more telling, recent Congressional Budget Office projections indicate that if current spending continues at the same level, by 1995 these two programs will account for almost one third of the entire federal budget. That they have accomplished a great deal and are enormously popular is without question. But the real question is whether a large new non-means tested social insurance program can be adopted in the face of strong public opposition to higher taxes and major competing demands for existing revenues.

My thinking about long-term care has been influenced by the University of Pennsylvania's Mark Pauly, who comments:

"In a world of unlimited resources, one would surely not want to ask people to reveal their wealth levels before they get public benefits, or to sacrifice some of the bequest they intended to leave. But in the real world of constrained resources, there has to be a cheaper way to deal with the feeling of 'stigma' ".

Fortunately, there is a cheaper way. Long-term care is an insurable event. Obviously, few families can afford a $25,000-a-year nursing home bill, but the evidence is that a large and growing number of Americans can afford long-term care insurance. And the increasing affluence of many elderly, if not the elderly as a group, makes it possible to redesign the Medicare benefit package so that those who wish to have at least partial protection against long-term care costs can have it, without increasing the costs of the Medicare program.

MY RECOMMENDATIONS

Unlike those who list the new health care benefits they favor, and then explore how to pay, I start with the money, since that is the limiting factor. Before expensive new programs are considered, we should seek budget neutral means of paying for much needed improvement to existing programs.

What then do I favor, and how would I finance it?

HEALTH CARE ACCESS

The present tax treatment of health care expenses is perverse and should be changed. Full deductibility for the employer, coupled with complete exclusion for the employee, has four undesirable results: Tax subsidies for health insurance for those workers who have coverage, but not for those workers who do not; tax subsidies for workers covered by health insurance but not for nonworkers; larger tax subsidies for higher-income taxpayers than for those in lower brackets; and, higher tax subsidies for more expensive benefit packages, regardless of income.

Capping this tax benefit could help finance a refundable tax credit for the purchase of health care coverage for those not covered by employer-provided insurance, Medicare, or Medicaid. The credit could "slide" depending on income and family size. Initially, the credit might be limited to maternal and child health benefits.

Moreover, if employers were required to offer, but not to pay for, group health coverage, the availability of the credit may induce employers voluntarily to pick up all or a part of the costs in excess of the employee credit. Further encouragement to small business could come from extending to the self-employed the same full deductibility of health insurance premiums provided corporations.

LONG-TERM CARE

Changes in long-term care can be financed by offering actuarially equivalent and budget neutral packages to new Medicare beneficiaries and by bringing the Medicare eligibility age in line with the normal retirement age for Social Security benefits. This would also produce substantial savings to the general fund under Part B. Such a change would reflect the increase in life expectancy over what it was when Medicare went into effect nearly 25 years ago.

Under these approaches, at least two new options should be considered under Medicare in addition to current benefits: Current benefits with higher deductibles and/or premiums coupled with catastrophic acute care protection; or current benefits with higher deductibles and/or premiums coupled with long-term care protection. Raising the Part B deductible would provide funds that could be applied to a long-term care benefit.

The Part B savings to the general fund from the change in the age for Medicare eligibility could finance: Increasing the income and asset limits for sick spouses to the level set under the spousal impoverishment provisions of the Medicare Catastrophic Coverage Act; and broadening home health coverage under Medicaid.

In addition, at very little expense to the Treasury, taxpayers should be permitted to use part of their life insurance reserves, pensions, or IRA's to purchase long-term care protection without triggering a taxable event. The current tax treatment of employer-paid health insurance should be extended to employer-paid long-term care insurance. States should be granted waivers under Medicaid to experiment with stimulating the development of affordable private long-term health insurance.

CONCLUSION

I find the Commission's recommendations so costly that they are unrealistic. They rely too much on coercion and too little on state and local initiatives and private sector efforts. I believe that in tackling the nation's health care problems, the American people will respond better to incentives and fewer regulatory barriers than to a gun at their heads.

The track record of federal programs in dealing with all manner of human problems should give us pause in trying to lay out a strategy and a fixed time-table as the Commission has done. Best to take measured action now and evaluate our progress on a regular basis.

The Pepper Commission's report is but one of many on reforming our health care system that will be issued this year. Its recommendations will help initiate, not end, public discussion about health care.

Regreettably, after much hard work and unquestioned good intentions by all, the Pepper Commission's report will only raise false hopes. Instead of focusing on the possible, the recommendations make promises that simply cannot to be kept.

TRIBUTE TO BUD WEBSTER

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. HERTEL. Mr. Speaker, I rise today to honor the retirement of Mr. Bud Webster of the Sterling Heights Fire Department in Sterling Heights, MI. Upon his retirement, which will be celebrated on September 28, 1990, Mr. Webster will have been with this fire department for 25 years.

In 1971, 5 years after beginning his career as a firefighter, Mr. Webster was promoted to sergeant. He was promoted to acting lieutenant on March 1, 1986, and then to fire captain on June 18, 1989. Bud Webster was not only a productive employee of the city of Sterling Heights, he was also a strong leader of his colleagues. He was the chair of the Fire Fighter Union Local No. 1557 Elections Committee. Through this position, he was able to support and assist his fellow firefighters.

Captain Webster is the proud father of two children. He is also a known sports fan and athlete. Retirement will not slow him down. He leads an active life with his children, his athletics, and his involvement with the Elks.

I ask that my colleagues join me in commending and congratulating Mr. Bud Webster on the occasion of his retirement from the Sterling Heights Fire Department.

TRIBUTE TO NICK MAMRICH

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Nick Mamrich of my 17th Congressional District of Ohio, a recent inductee into the Youngstown Baseball Oldtimers Association Hall of Fame.

Born on December 2, 1919, in Youngstown, OH, Nick Mamrich is a founding member of the Connie Mack Tournament in Youngstown and has dedicated himself to this tournament for the past 27 years. The Connie Mack Tournament was designed as something to benefit the Class B baseball teams of Youngstown. This tournament has grown to enjoy considerable national prestige, and would not have done so without the dedication of such men as Nick Mamrich.

Following his distinguished service to the United States in World War II, Nick returned to his job at United States Steel and worked there until his retirement in 1972. Since his retirement, Mr. Mamrich has dedicated himself to the Connie Mack Tournament and to the Youngstown Umpires Association. He served as an umpire for 12 years.

It is because of his enduring commitment to the baseball community of the Youngstown area that Nick Mamrich was inducted into the Youngstown Baseball Oldtimers Association Hall of Fame, and it is a great honor to rise today to pay tribute to such a fine citizen of my 17th Congressional District of Ohio.

ANY RECOMMENDATIONS?

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. DORNAN of California. Mr. Speaker, as the editorial below states simply and accurately about the situation in South Africa, "Somehow the struggle isn't very romantic anymore." Amen.

In recent weeks we have seen horrible bloody fighting. And yet, the liberal-left in this country remains silent. Why? If it were whites killing blacks there would be no lack of outrage. Why not outrage now? And what of those who have simplistically said that the root of all the problems in South Africa is apartheid? These are many of the same people, by the way, who also said the Palestinian problem was the root of the turmoil in the Middle East. I think Hussein has demonstrated the folly of that position.

The problem with my liberal colleagues is that they are constantly looking for black hats and white hats. In Africa, that is a very dicey proposition. As Paul Johnson wrote of Africa in Commentary magazine back in September 1985, the "most important single characteristic of the African continent" is the lack of racial, cultural, and linguistic unity. No other continent is so fragmented." In this respect, South Africa is typical. There are, in order of size, Zulus, whites—Dutch, French, English, and German—Xhosa, mixed-race groups known as Coloureds, the North Sotho, South Sotho, and Tswana. Then there are the Shangaan, Asians, and Venda.

Johnson also made this cogent point, "There is no such thing as a genuinely multiracial society in the whole of Africa. There is no African country where tribal or racial origins, skin color or religious affiliation are not of prime importance in securing elementary rights." So the ongoing tribal-political violence in South Africa should surprise no one.

Below is an editorial from the Wall Street Journal that asks for recommendations, specifically from those simple-minded liberals who for years were convinced, in their limitless hubris, that they had all the answers to all the problems in South Africa. I commend it for your attention.

[From the Wall Street Journal, Aug. 22, 1990]

ANY RECOMMENDATIONS?

The streets outside the South African embassies are empty. The Western anti-apartheid groups are quiet. Meanwhile, blood flows by the bucketful in South Africa.

Somehow, the struggle isn't very romantic anymore. Over the weekend, Zulus with AK-47s raided a Xhosa hospital and killed at least 21 people. Many were shot while they slept. The Xhosa-dominated ANC gangs have been equally brutal. They've also continued their campaign of liquidating moderates.

On Sunday, Soweto town councilor T.A. Nkina was deemed insufficiently radical by some ANC soldiers, who surrounded his house. He called police but by the time they arrived, he was dead, his throat slit. More than 4,000 people have died in tribal warfare over the past few years, 363 alone last week.

We have suggested in the past that the anti-apartheid struggle isn't merely a U.S.-style civil-rights campaign on different shores. In a July 1985 editorial, we argued that Lebanon is a more accurate model for understanding South Africa: "South Africa is less a cohesive nation than a landscape of many rival factions living under an uneasy truce. Despite the evil of apartheid, the lines of division do not fall neatly between white and black. Rather, the divisions run like cuts in a huge jigsaw puzzle."

South Africa, we pointed out, has four major and 23 minor languages. The largest group, the Zulus, consists of about 200 tribes. There are 11 other black ethnic groups. The second largest is the Xhosa. Nelson Mandela and his wife, Winnie, come from aristocratic Xhosa families.

We kept repeating these facts because the sanctions and divestment groups refused to acknowledge them. Western anti-apartheid activism became fixated with the moral superiority of their stance. The activists were drawn to the most romantic and radical of the anti-apartheid groups, the ANC.

Meanwhile, the activists heaped scorn upon the Zulu-led Inkatha movement, with 1.7 million members. Inkatha is equally fervent in its opposition to apartheid, but it favors free markets and opposes sanctions. The ANC strategy is to isolate and discredit Chief Buthelezi, before he can turn Inkatha

into a nationwide political party. Last month, three ANC guerrillas were arrested and accused of plotting to assassinate senior Inkatha leaders.

Mr. Buthelezi is not the only black leader who worries that the ANC wants to completely dominate black politics. Major black nationalist groups, including the Pan-Africanist Congress, Azapo and the National Council of Trade Unions, recently opposed an ANC-called strike.

Last month, Sam Mabe, an editor of South Africa's largest black newspaper, the Sowetan, was gunned down. Nothing was stolen, and his friends say the murder was political. Mr. Mabe was a leader in the Nation Building Campaign, which wants blacks to build up their economic power and not focus solely on gaining political power. On a visit to the U.S. last year, Mr. Mabe, a former leader of the Black Media Workers Association, told us many ANC members opposed a black free press and had often tried to intimidate him.

So far, the ANC has successfully excluded Inkatha and other black groups from the negotiations with the white government. The ANC's friends in the West never encouraged the group to acknowledge Inkatha's legitimacy. Western supporters of the ANC thus became opponents of political pluralism. Instead, they loaded up the entire outcome of the complex South African equation on the fortunes of one group, the ANC.

Civil war was the predictable (and predicted) result. Now there are voices on the South African left calling for talks between Inkatha and the ANC. But far away, in the U.S. and in Europe, South Africa no longer fits into domestic political agendas. To those who had so many blunt solutions for South Africa, it seems fair to ask, what now? Any recommendations?

DANIELL MIDDLE SCHOOL STUDENTS WRITE SERVICE PERSONNEL

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. DARDEN. Mr. Speaker, the crisis in the Middle East has united us in support of the men and women of our Armed Forces who are serving our Nation in Saudi Arabia and the Persian Gulf. These individuals are far from home, and it is important that they know that the American people are with them.

I was particularly encouraged to discover that many students throughout the Nation were writing letters to our soldiers on duty in the Middle East. In Cobb County, GA students in Mrs. Carol Ayers class at Daniell Middle School have written to American soldiers, and some of their letters demonstrate the depth of understanding among our youth of the seriousness of this situation. Following is David Noel's article from the September 17 Marietta Daily Journal regarding these students and their letters.

DEAR SOLDIER: STUDENTS' LETTERS TO TROOPS REVEAL HOPES, FEARS

(By David Noel)

Dear soldier. Hey, how's it going in that sweltering hot desert of Saudi Arabia. My name is Dan Bloss and I'm 12 in the seventh grade. I know how it feels to be away from home because my dad is a computer specialist captain in the Army. He goes away a lot of times. I'm real thankful for people like you because you're the true Americans. In sports the Braves are 13 and seven in the last 20 games. The Falcons are on a roll, winning their first game against the Oilers. (It's got to be the uniforms. Well, so long from the states.

Letter to U.S. troops in Saudi Arabia from Daniell Middle School student.

To the U.S. soldier plopped out in the middle of classified desert sands in Saudi Arabia, those words might be more precious than bottled water.

This letter is only one of several letters and postcards being sent to troops in the Persian Gulf by Cobb County students. The aim of the letter-writing campaign is simple: encourage the troops and bolster patriotism—and at the same time get students to write who normally wouldn't.

But a sampling of letters from students at Daniell Middle School in northeast Cobb revealed a surprisingly sober view of what might await U.S. troops in the Middle East.

Six-grader Jarod Johnson wrote this poem:

It must be very boring with nothing to do
but who knows if the cry of battle awaits you
so go, with my gratitude.

Seventh grader Kristy Byrne wrote: "I'm praying for you and all the other men and women." And seventh-grader Mark Close wrote, "my only regret is that I and everybody else will not be able to really know what it's like for you until we experience the sorrow, the fright or the heavy emotions that the soldiers over there experience."

Several students in Carolyn Ayer's English class said they believe the standoff in the Gulf will result in war. Others expressed confusion over what they had seen on television news reports.

"I think how scared some of them are," said Jarod Johnson, 11. "I think it's Hitler all over again."

"I was thinking how lonely they would be," said Jennifer Webb, 11.

Students also seemed aware of the United States' economic predicament—that is, the fight over who controls the oil. One student's postcard had a U.S. soldier holding a rifle in one hand and a barrel of Exxon crude oil in the other.

One letter reads, "I hope the best for you and everyone else that's willing to fight for our great gasoline."

Mrs. Ayers said her students' realism about war probably came from their parents, most of whom grew up in the 1960s. "These are the children of Vietnam vets," she said.

If that's true, her students would not admit it. Most of them said they discussed the Persian Gulf crisis more at school than at home.

"Parents don't know anything," said Jessica Dixon, 11.

"People aren't sitting around the supper table talking about this," Mrs. Ayers said. "The kids are watching television because they seem very informed. They're children, and yet, they've got some very mature thoughts."

Mrs. Ayers said several girls in her class were especially worried about women being sent to the Gulf.

"Someone would say 'with our servicemen over there' and our girls would speak up and say, 'excuse me, that's serviceperson!"

RESERVISTS ROLL OUT

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. MICHEL. Mr. Speaker, on Monday, September 17, 1990, the U.S. Army Reserve's 724th Transportation Company, which consists of approximately 110 men and women from my district, was called up as part of the continuing military build-up in the mideast.

I'm proud of them. Their final destination is unknown—they could remain here in the States or they could be shipped out to Saudi Arabia. Regardless, their courage is great.

At this point, I wish to insert into the CONGRESSIONAL RECORD, an article from my local newspaper, the Peoria Journal Star, which expresses the courage of our soldiers and their families.

MOBILIZATION LEAVES PEORIA RESERVIST, FAMILY FIGHTING TEARS, FEARS

(By Sarah Okeson)

On Saturday about 4 a.m., Spec. 4 James English felt numb.

The night before—his last night at home before shipping out with the U.S. Army Reserve's 724th Transportation Company—his wife had given him a final haircut.

She shaved the back and sides of his head and left a small patch on top.

"There you go, Mr. Beauty," she said as she finished.

Just a few hours later, his alarm rang. It was 3:30 a.m. English, a 24-year-old cook at Hardee's in Bartonville, shut it off, but didn't get up until 20 minutes later. He dressed in his uniform and sat at the kitchen table, smoking a cigarette and waiting for his wife and daughter to get dressed. His stepson, Jeremy, was staying with family friends because he didn't want to get up that early.

Bleary-eyed, English said he was ready to go. His initial destination, and that of about 110 other Peoria-based reservists, was Fort Sheridan, north of Chicago.

English and his company were called up Monday as part of a U.S. military buildup in the wake of Iraq's invasion of Kuwait Aug. 2. The Peoria reservists' final destinations are unknown. They could remain stateside; they could be shipped to the Mideast.

It was about 8:15 a.m. Saturday when English kissed his wife and daughter goodbye and admitted that he was scared. He climbed into his tanker truck and drove off, ending a week filled with goodbyes.

It was also a week filled with love and frustration, yelling at the kids to be quiet while Mom and Dad made arrangements, running back and forth to get documents the Army needed and stopping in the middle of it all for long, lingering kisses.

It started Monday when English's wife received a call for him while he was at the Limestone Township Fire Department where he is a volunteer firefighter. The sergeant on the phone wouldn't tell Tina English what was going on.

When English returned the call, he was told to report Thursday to the reserve unit at 1429 W. Northmoor Road.

"I cursed," English said. About 110 other reservists in the Peoria area—the Army wouldn't release the exact number for security reasons—received similar calls.

The call came about a year after Tina English was injured in a car accident while taking her son from a previous marriage, 5-year-old Jeremy, to preschool. She was stopped at a traffic light in Peoria when another car plowed into her car, leaving her with big bills and neck and arm injuries that make it difficult to hold down a steady job, she said.

Under federal law, creditors can't collect while English is on duty, but Tina, 26, said she's worried about managing without her husband.

"It's the final blow," she said. "We were starting to get caught up."

But English said he never thought of not going, even though he doesn't know if his unit will stay stateside after completing about three weeks of training at Fort Sheridan or whether it will be transferred to Saudi Arabia to transport fuel and water in tanker trucks that carry more than 350,000 gallons.

The next few days were filled with finding English's dog tags, polishing his boots and putting name tags on his uniforms. He made his goodbyes to his grandparents Wednesday night because he thought he wouldn't be allowed to go home after Thursday.

He learned that day that the unit would be loading up those two days and that he could go home Thursday and Friday nights to spend a last few hours with his family and make his goodbyes all over again.

During the last few days, the couple's 2-year-old daughter, Jennifer, followed her father around more than usual, insisting that he bathe her and help here with her pajamas.

"She senses something's going on," Tina said. "She's latched onto him more than usual. She doesn't let go of him."

Following Friday night haircut, the English family went for a last dinner at Hardee's.

He returned home for the last time and went to bed early. He was supposed to report to the center at 5 a.m.

In the morning, the family drove through the dark to the reserve center, stopping once again at Hardee's for breakfast. Co-worker after co-worker leaned through the take-out window to say goodbye.

"I just almost bawl," assistant manager Peggy Richiger of Bartonville told me. "I can't stand this."

The Englishes arrived at the center on time, and Tina stood in the warmth of the building with other reservists' families before being shooed out into the chilly parking lot about 15 minutes later. They would be allowed to say their goodbyes, but the company had a bit of final packing to do.

Tina sat in her car, running the motor to keep warm, and waited for her husband's parents to arrive. They came after Tina walked to a parking lot to wait for her husband's truck.

"I can spot (his parents), but I can't pick my husband out of a bunch of green men," she said as she scanned the lot for English's truck, number 66.

He finally drove up, hopped down from the cab of the truck, hugged his wife and picked up his daughter. His parents and sister surrounded him, all wiping their eyes.

The family lined up for family photos in front of English's truck, but no one smiled for the camera.

"I'm scared," English said as he cried and stroked his wife's hair. "I don't know what's going to happen."

He hugged his sister, 23-year-old Peggy English, his shoulders shaking as he held her.

The first trucks of the 44-member convoy were already pulling out of the parking lot on their way to join about 40 reservists from Davenport, Iowa, for the trip to the Chicago area when the Englishes parted.

English climbed back in the cab, and eased his truck into line in the convoy.

He saluted Lt. Col. John Gannon just before his truck entered the road and then looked at his family.

"I love you," shouted his mother, Darlene English of Farmington.

"I love you," he mouthed, and drove off. He could be gone for up to 180 days.

"I know I'll cry when I go," he said before he left. "And I'll cry when I get back."

1990 HISPANIC ENTREPRENEUR AWARDS LUNCHEON

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, with 3 of the top 10 Hispanic companies in the United States based in the Miami area, it becomes unquestionably evident that Miamians are making valuable social and economic contributions to the Nation. NCNB will recognize the achievements and contributions of such individuals on the occasion of the 1990 Hispanic Entrepreneur Awards Luncheon, sponsored by NCNB National Bank of Florida in cooperation with the Hispanic Heritage Council.

This event will take place on Thursday, October 4, 1990, at the Freedom Tower in Miami, FL, when presentation of NCNB's Hispanic Entrepreneur Award will be made to a South Florida business leader who embodies the spirit of entrepreneurship. Proceeds from this event along with a contribution from NCNB National Bank will be presented to the Florida International University Hispanic Scholarship, awarded to students who have displayed academic excellence.

My special thanks go to Mr. Carlos de la Cruz, Jr., president of Eagle Brands, who chaired the 1990 candidate selection committee, and the distinguished judges who comprised the committee: Tony Argiz, William Cullom, Orlando Martinez, Gaston Pacheco, Richard Roffman, Jeff Watson, Maria Camilia Leva, Eduardo Montelegre, Ramon Rasco, Roberto Suarez, and Dwayne Wynn.

FEDERAL WORKERS HELD HOSTAGE

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September, 25, 1990

Mr. DORGAN of North Dakota. Mr. Speaker, we work here day after day, year after year, trying to create and fine tune laws and Federal programs to keep our economy working in some reasonable fashion, and assure that we maintain the essential Government services that our Nation requires.

Now the President and Congress are perilously close to failing to agree on a deficit reduction package. This failure would result in sequestration, or across the board deep budget cuts that would be very unfair to Federal workers. It is disgraceful that Federal workers are being held hostage by this threat of across-the-board cuts and the possibility of a Federal furlough.

We have thousands of Federal workers in agriculture, defense, education, health, and many other areas who deserve assurances that their salaries and jobs will not be cut because the President and Congress cannot effectively balance our budget. We cannot continue to take Federal workers for granted. We cannot play games with the services that are so essential to our way of life.

In addition, the sequester of farm program payments will financially shatter North Dakota family farms.

We must have an agreement on taxes and spending that avoids the disastrous effects of a budget sequester.

The Federal Government cannot proclaim itself the provider of essential services and then simply close the offices that provide those services. Nor can the Federal Government use civil servants as pawns in the budget debate.

Sequestration is a disaster. It is time to make some responsible decisions on taxes and spending here in Washington.

TRIBUTE FOR ROBERT P. EDEL

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September, 25, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Robert P. Edel, a recent retiree of the Department of Labor in my 17th Congressional District of Ohio.

Born and raised in Youngstown, OH, and now a resident of North Jackson, OH, Mr. Edel faithfully served the U.S. Department of Labor since 1966. Prior to that, Mr. Edel worked for the Department of Defense at the Vienna Air Base for 3 years and served as an active duty member in the U.S. Air Force from 1957 to 1961. In 1966, Mr. Edel transferred from the Department of Defense to the Department of Labor Wage-Hour Division in the Department's Youngstown field office.

As an employee of the Department of Labor, Mr. Edel has recovered millions of dollars in back wages for employees under the Fair Labor Standards Act, Davis-Bacon Act, and related acts which the Wage-Hour Division enforces. Bob has also been a member of the U.S. Air Force Reserve since his discharge from active duty in 1961, where he is now a lieutenant colonel and liaison officer for the U.S. Air Force Academy, a post which he will continue to fill for the next several years.

Robert P. Edel faithfully served the Federal Government for 31 years and has served my 17th Congressional District of Ohio throughout his entire adult life, and it is a great honor to rise today and pay tribute to him.

THE 25TH ANNIVERSARY TRIBUTE TO REV. V. SIMPSON TURNER

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. OWENS of New York. Mr. Speaker, despite the fact that Federal aid to our innercities has been drastically cut in the last 10 years, many of our neighborhoods are still being held together by institutions like the African-American church, which is not government funded. In addition to the achievements of Rev. V. Simpson Turner and Mt. Carmel Baptist Church in the religious sphere, this organization provided vital leadership in the areas of citizen participation and community action during the 1960's and the 1970's. As commissioner of the Community Development Agency, I observed first-hand the magnificent leadership of Reverend Turner and his wife, Laura B. Turner. It is for these reasons that I rise to pay tribute to Rev. V. Simpson Turner, who is celebrating his 25th anniversary as pastor of Mt. Carmel Baptist Church.

Mt. Carmel is an institution in Brooklyn. It was founded in 1926 in a storefront on Fulton Street by the late Rev. Joseph Nathaniel Carrington. It was later moved to a larger building on Grand Avenue and Lefferts Place in Brooklyn, where it earned the distinction of being the first African-American church in the area to broadcast its services on a local radio station, WLIB.

There were several more relocations for Mt. Carmel Baptist Church during the Depression and World War II years, before it was finally established in 1954 at its current location at 712–14 Quincy Street. Eleven years later, Dr. Turner, continuing the tradition of leadership and community service of Reverend Carrington, became its new pastor.

Prior to joining Mt. Carmel, Dr. Turner had been the first African-American executive secretary of the Brooklyn division of the Protestant Council of the city of New York. He earned his bachelors degree at Gordon College, Wenham, MA; a masters of religious education at Biblical Seminary of New York City; a masters of sacred theology at New York Theological Seminary; and a doctor of ministry degree from Drew University in Madison, NJ

Dr. Turner's achievements during his pastorate are many. They include the rebuilding of a new church complex following the destruction of the church's main sanctuary and lower level in a December 1986 fire, and the construction of new education facilities. The restoration of the main sanctuary and lower level, costing in excess of a half million dollars, is 99 percent completed, due largely to Dr. Turner's perseverance. His latest project is developing plans to build a shelter for homeless people in the area.

Mt. Carmel Baptist Church's creative activities for its surrounding community and its congregation, several of which were initiated under Dr. Turner's pastorate, include a homework center for youngster of all ages; a high school equivalency program and referral service to New York City Technical College; a bus ministry for disabled and senior citizens; a radio ministry on local station WTHE and special radio programs on another local station, WWRL; and a Sing, Spell, Read, and Write Ministry. Dr. Turner and his church are currently preparing to extend their local outreach ministry to local cable television.

Dr. Turner has been honored by many community groups, civic organizations, and local and State entities, including the city of New York, the bureau of child welfare, the United Builders Association, the Boy Scouts of America, and the YMCA. He was appointed by the Governor of the State of New York to the New York State Commission on Health Education and Illness Prevention.

Dr. Turner's community and civic concerns extend beyond his work at Mt. Carmel Baptist Church. He has been a member of the board of trustees of Gordon College, Wenham, MA.

He has also been the chairman of the department of communications of the Council of Churches in New York City; president of the board of trustees of the Baptist Medical Center; president of the North American Baptist Fellowship of the Baptist World Alliance; a member of the board of trustees of the Baptist Home for the elderly and of the Brooklyn Public Library; a member of the board of directors of Religion In American Life; the vice president of the Baptist Minister's Conference of Greater New York; and a member of the Brooklyn Borough president's Community Board No. 3. Additionally, Dr. Turner is an adjunct professor at Alliance Theological Seminary in New York on urban concerns.

Dr. Turner is the author of a book, "Compassion For The City," which is used throughout the Nation as a textbook for those planning to go into urban ministries. For 10 years, Dr. Turner was the editor of the Baptist Progress, the official journal of the Progressive National Baptist Convention.

Dr. Turner's wife, Laura B. Turner, is an outstanding educator and a New York State certified secondary school principal. They have two children.

I congratulate Dr. Turner on his 25th anniversary as the pastor of Mt. Carmel Baptist Church. Mr. Carmel, and the community around the church, are truly blessed by his vision, his creativity, and his contributions.

A TRIBUTE TO THE HONORABLE IKE THOMPSON

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. STOKES. Mr. Speaker, on Friday, September 28, 1990, friends, family and colleagues of Ike Thompson will gather to pay tribute to him for his outstanding record of public service. For the past 19 years, Ike Thompson has represented the 14th district in the Ohio State House of Representatives. He has served with distinction and earned the respect and admiration of his colleagues and the community.

Mr. Speaker, I consider it an honor to have been affiliated with Ike Thompson over the last 20 years. He is an outstanding legislator, a committed individual and a trustworthy friend.

I request that all of the Members of the House join me in a special tribute to Representative Ike Thompson on this occasion. I include herewith a copy of Representative Thompson's personal profile.

BIOGRAPHICAL INFORMATION—IKE THOMPSON

Birthdate: November 8, 1915.

Marital status: Married to Lodeamer Thompson.

Children: Daughter—Arwilda Storey.

Education: Graduate of Central High School in Cleveland, Ohio; attended Fenn College and Cleveland State University.

Occupation: Has been State Representative for the 14th House District since January 1971; Present chairman of the Transportation and Urban Affairs Committee; Present chairman of the Ohio Task Force on Bridges; Present member of the Ohio Retirement Study Commission; Present member of the Cuyahoga County delegation; Present vice-chairman of the Medicaid HMO Oversight Committee; member of Commerce and Labor; member of the health and retirement; member of Economic Development and Small Business; and member of Certificate of Need Study Committee.

Chairman of the Transportation and Urban Affairs Committee during the 111th, 112th, and 113th, 114th, 115th, 116th, 117th, and 118th General Assemblies.

Previous experience: Personnel assistant for the Weatherhead Company in Cleveland, Ohio, from August, 1970 to January, 1971; foreman of material control for the Weatherhead Company from July 1969 to August 1970; Committeeman, local 463, UAW; chief shop steward, local 463, UAW; executive board member, local 463, UAW; member, bargaining committee; and part-time organizer, UAW, region 2.

Accomplishments/associations: member of the Knights of Columbus, of the 4th degree; named man of the year by the 13th District Civic League in 1969; named outstanding legislator by Speaker A.G. Lancione in 1973, board chairman, 13th District Civic League; chosen as one of the 25 electors for President in 1976; permanent member of the National Conference of State Legislatures—Transportation Committee; vice-chairman, Cuyahoga Democratic Party; 8th, 9th, 10, 11th ward East Cleveland Democratic Club; Forest Hill Parkway Area Council, Inc.; P.T.A., NAACP; St. Aloysious Church; outstanding legislator of the year 110th General Assembly; outstanding Ohioan award—Civil Service Employees Association; and achievement award—American Lung Association.

TRIBUTE TO HILLSDALE COLLEGE

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. PURSELL. Mr. Speaker, on Friday, September 21, 1990, the Detroit News printed an editorial that commended Hillsdale College for

its commitment to excellence and independence.

Hillsdale College has been a pioneer in providing access to higher education for women and minorities. It was one of the first colleges in the country to admit women on an equal basis with men and it granted degrees to former slaves even before the Civil War.

For the last several years, Hillsdale College has been operating without Government assistance and it has begun a $151 million fundraising campaign in order to continue that tradition. Rather than subject itself to all of the strings attached to Federal and State money, the college will continue to go it alone.

I am proud to represent the city of Hillsdale and Hillsdale College here in Congress. I wish them well in their fund-raising campaign and I urge other colleges and universities around the Nation to follow their example:

THE LITTLE COLLEGE THAT COULD

Hillsdale College fought a protracted legal battle in the 1970s and early '80s to remain free of government hiring and educational policies. When the courts ruled that accepting students with federal scholarship aid meant that Hillsdale would have to knuckle under to Washington's red tape, the southern Michigan school simply replaced the government aid with scholarship money of its own.

Now Hillsdale has embarked on a $151-million fund-raising campaign of its own, and we wish it well. If successful, the campaign will ensure that the small liberal arts school will be able to continue going its own way. It's refreshing to see an institution that's willing to sink or swim on its merits, rather than run to Uncle Sam every time it feels a pinch.

The specific issue over which Hillsdale battled the government was its refusal to report on the numbers of women, blacks and other minorities enrolled. Hillsdale has never felt it had to explain anything to anybody about its hiring and admissions practices. The school was founded in 1844 by Free-Will Baptists dedicated to the abolition of slavery. It claims to be the second college in the nation to admit women on an equal basis with men, and it granted degrees to former slaves even before the Civil War.

With only 1,100 students and a faculty of 75, Hillsdale is often dismissed by its larger brethren as insignificant. We suspect their real beef is that Hillsdale's president, George Roche, makes no effort to mask his conservative values at a time when liberalism is the nearly universal dogma on the nation's campuses. Mr. Roche doesn't impose his own conservatism on faculty and students, but he does insist that students be offered a balanced curriculum. Not surprisingly, many Michigan parents find that an attractive notion.

It's interesting to note that the University of Michigan is considering a $650-800 million fund-raising campaign in the mid-1990s. Officials say their aim would be to reduce U-M's dependence on state funding. It's a wise decision: Government money tends to come with onerous strings attached that ultimately could threaten academic freedom and U-M's commitment to excellence. Hillsdale, the little college that could, has helped to keep alive the flame of true independence.

OPPOSITION TO H.R. 4739, DOD AUTHORIZATION FISCAL YEAR 1991

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. SPENCE. Mr. Speaker, I have expressed my strong opposition to the Department of Defense authorization bill for fiscal year 1991 several times during floor consideration. And I must do so again today.

As our confrontation with Saddam Hussein continues in the Middle East, some of the most fundamental observations we should make are first, that the troops and weapon systems which we are deployed there today, are the very best in the world, and second, that they did not magically appear overnight. They are the product of many years of planning and development, of past authorization and appropriations bills which recognized that we must prepare not only for the conflicts and crisis which we face today, but for those which our children and our childrens' children may face tomorrow.

Supporters of this bill would like you to believe that it is a good bill because of their last minute efforts to correct some military pay deficiencies and some shortcomings in our sealift and airlift capabilities. While these are very good and necessary measures and I, in fact, voted for the amendment which included them, they still do not make this a good bill.

Yes, we must do our best to compensate the brave and dedicated members of our Armed Forces who are risking their lives in the Middle East. And yes, we must improve our sealift and airlift. But these concerns would not be foremost in our minds today if our troops were not the best trained and most highly qualified and motivated in the world, or if they were not equipped with the best and most advanced weapon systems in the world. No amount of money authorized today, could have made that happen in time to face the current threat posed by Saddam Hussein, and no amount of compensation would have been enough if that was not the case.

This is why I am so strongly opposed to this authorization bill. It has neither the vision nor the foresight to ensure that our Armed Forces will be adequately prepared to face tomorrow's threats, not just today's. We cannot ensure our troops will have the weapon systems they will need by terminating or underfunding many of our strategic and conventional modernization programs. And we cannot ensure we will have enough highly trained, qualified, and motivated people to operate those systems and to defend America's vital interests worldwide by making demoralizing reductions in troop strength.

Yes, we must do our very best to take care of our troops today. We have a responsibility to do so, and they deserve no less. But we also have a responsibility to take care of them and those who will come after them tomorrow. We can only meet that responsibility if we begin today and this authorization bill just does not do it.

ACCESS TO INTERNATIONAL EDUCATION OPPORTUNITIES ABROAD AMENDMENTS OF 1990

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. FORD of Michigan. Mr. Speaker, I am pleased today to introduce the Access to International Education Opportunities Abroad Amendments of 1990.

There was a time when education abroad was thought of as a frill for coeds majoring in the humanities whose families could afford to send them to the Sorbonne or Heidelberg for their junior year. Study abroad was viewed as unnecessary and irrelevant to the education of the engineers, bankers, scientists, businessmen, and others who make the American economy work.

The world has changed and that time has passed. Our young people in all professional fields are increasingly challenged to work effectively in the global marketplace. The United States in the post-cold war world is facing a far more complex and subtle multipolar international environment. Our economy is more and more integrated into a worldwide economic system. Global environmental and other problems require unprecedented levels of cooperation with the people of other nations. As a result of these trends, educational opportunities abroad are an increasingly crucial element in the preparation of future leaders in virtually every field.

Unfortunately, fewer than 1 percent of American undergraduate students are currently able to study abroad. More than 75 percent of the small number of students who do study abroad continue to go to a traditional cluster of Western European locations, and the overwhelming majority of them are humanities and social science students. In 1989, fewer than 4,000 of our 12.2 million undergraduates studied abroad in Asia, a world region of incalculable future importance to our Nation. By contrast, in that year Japan alone sent more than 24,000 students to the United States.

All of our students do not currently enjoy equal access to these increasingly important educational opportunities. These inequalities are not simply based on some students having the personal funds for study abroad while others do not. They also result from defects and ambiguities in the Federal financial assistance programs. Furthermore, present study abroad options are frequently not appropriate for students in many disciplines and from many social backgrounds.

To face the challenges for international skills in the 1990's and the 21st century, we must both expand and diversify the number of students we are sending abroad. We must also ensure to the greatest extent possible that we provide equal access to these opportunities for all students, no matter what their economic background and no matter what higher educational institution they attend. Therefore, I am introducing the Access to International Education Opportunities Abroad Amendments of 1990. As its name suggests, the bill aims to make these important study

abroad opportunities accessible to more of our students.

The bill broadens opportunities for study abroad primarily through a series of technical changes in major Federal financial assistance programs designed to ensure that all students who are eligible to participate in approved study abroad programs can make use of their Federal financial assistance for this purpose. To complement these technical changes, the legislation also proposes a modest expansion in the authority of the Department of Education to enable it to assist in the development of new study abroad opportunities in nontraditional areas. Through this dual approach, we can achieve a tremendous expansion of educational opportunities overseas for our students at only a small additional cost.

I am not introducing this legislation with the expectation that it will be enacted in the final days of this Congress. Rather I am introducing this bill with the hope that it will be carefully reviewed by those involved in international exchange programs, international education, and student financial aid. I look forward to their comments and suggestions concerning this bill, and I plan to see a perfected version of the bill incorporated into the reauthorization of the Higher Education Act in the next Congress.

I am very pleased that I am not alone in the Congress in recognizing the importance of educational opportunities abroad. For example, Senator DAVID BOREN of Oklahoma, the chairman of the Senate Intelligence Committee, in calling for a comprehensive overhaul of our foreign policy to make us more economically competitive, has proposed a major expansion of study abroad. He argues:

> We can't compete if we can't speak the world's languages and don't understand the world's cultures. Our educational system is woefully insular * * *. For every thirty students to come from abroad to study in the United States, only one American student ventures into another nation for study and living experiences.

This problem is also a major priority for the Nation's Governors. In the 1989 report of the National Governors' Association Task Force on International Education, the Governors called for a major national initiative to prepare our students to work effectively in international markets. As Gov. Rudy Perpich of Minnesota explains:

> Just as students must have opportunities within their districts and within this state, we must offer them a chance to explore the world. Our economic survival depends on our knowing as much about our world neighbors as they know about us. We envision world languages beginning in the elementary grades, students and teacher exchange programs and study abroad programs that concentrate on language, culture, government, and trade.

The legislation I am introducing today results from the recommendations of a national task force on undergraduate education Abroad established by three leading national international education organizations, the Council on International Educational Exchange [CIEE], the Institute of International Education [IIE], and the National Association for Foreign Student Affairs [NAFSA]. This bill, whose details have been developed by a national team of campus study abroad experts working with financial aid officers, has the endorsement of these organizations, and it is at their request that I am introducing it. I look forward to the comments of my colleagues and all other interested parties on this important legislation.

CONGRATULATIONS TO O.J. NEIGHBOURS SCHOOL

HON. JIM JONTZ

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. JONTZ. Mr. Speaker, I would like to congratulate the fourth and fifth grade talented and gifted class of O.J. Neighbours School, Wabash, IN, for becoming national semifinalists in the "Take Pride in America Project" sponsored by the U.S. Department of the Interior. These students earned this recognition by undertaking a historical reenactment set in the 1840's, complete with a log schoolhouse from that time period now located adjacent to their school.

The students initiated their project by choosing and researching a pioneer occupation, and then creating a character to play during the reenactment. For a day, the students became quilters, blacksmiths, woodcutters, farmers, and corngrinders. The fourth and fifth grade students learned how to use old tools like a blacksmith's forge, anvil, schnitzellbaum, grindstone, beam auger, and draw shave. During the reenactment, Principal David Sodervick acted as the schoolmaster and greeted visitors as they entered the schoolhouse. The students danced the Virginia Reel, and answered questions from guests about their crafts and characters.

In conclusion Mr. Speaker, Sue Ann Baldwin, the class sponsor, best summed up the students experience when she stated in the award application, "We know we were able to kindle a flame in each student about preserving our past. We also know this flame has reached past our community and shown others the importance of teaching our young people about their heritage in order to preserve the future."

CONSTITUTION WEEK

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mrs. MEYERS of Kansas. Mr. Speaker, the Prairie Rose Chapter of the Kansas Society of the Daughters of the American Revolution was actively involved in events last week commemorating Constitution Week. I commend this fine organization for its efforts to remind all Americans of the importance of the U.S. Constitution.

September 17 through 23 was officially recognized as Constitution Week. It marked the 203d anniversary of the signing of the Constitution.

The guardian of our liberties, the Constitution established our Republic as a self-governing nation dedicated to rule by law. Constitution Week provided an opportunity for all Americans to recall the achievements of our Founders, the nature of limited government, and the rights, privileges, and responsibilities of citizenship.

Mr. Speaker, the Constitution is the cornerstone of our freedom. It was written to protect every American from the abuse of power by government. Without that restraint, our Founders believed the Republic would perish.

The ideals upon which the Constitution is based are reinforced each day by the success of our political system to which it gave birth. The success of our way of government requires an enlightened public. Constitution Week provided us with the opportunity to be better informed about our rights, freedoms, and duties as citizens.

Mr. Speaker, the Prairie Rose Chapter of the Kansas Society of the Daughters of the American Revolution committed a tremendous amount of time and effort in helping all Americans better to understand the Constitution, and I take this opportunity to thank them.

ILLEGAL "M" ACCOUNT TRANSACTIONS

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. IRELAND. Mr. Speaker, I rise to present another report on the "M" accounts of the Department of Defense [DOD].

On September 19, the General Accounting Office [GAO] provided me with evidence of illegal use of "M" account funds by DOD. GAO presented this information to the Government Operations Committee, as well, in testimony at a September 20 hearing on "M" and "merged surplus" accounts.

The latest revelations are the result of a lengthy investigation by the GAO, which grew of out abuses of the "M" account by the B–1B bomber program office.

In conducting the current investigation and audit, the GAO examined documentation from contract files associated with 18 specific "M" account transactions, six from each of the three military services. To date, the GAO has reported on 9 of the 18 cases. All 18 will be presented with findings and recommendations in a final report to be issued later this year.

In four of the nine cases reported on to date, the transactions were found to be questionable. In three others, the GAO has concluded that the expenditures were illegal. And two appeared to be consistent with existing laws and regulations. The other nine show similar results.

These examples point to a blatant, methodical pattern of abuse. They are not isolated examples. It is not a matter of just a few bad apples. Every time these accounts are put under the microscope and subjected to any kind of serious scrutiny, we find laws being broken. We find really questionable activity. We've seen it before, and we will see it over and over again, until we drain this $50 billion slush fund dry.

An indepth look at one case helps to bring the whole problem into sharper focus. This is

an excellent example. It's typical of what we have seen in the past.

GAO CASE STUDY: AIR FORCE SATELLITE DEFERRED TEST [DSP]

In 1983, the Air Force entered into a contract with TRW for the production of four DSP satellites. The original contract and statement of work excluded testing, even though Air Force officials knew full well the testing would have to be performed and paid for at a later date.

The testing of the four satellites was deliberately omitted because the Air Force was short of money at the time. The $113 million needed to pay for the tests had to be budgeted in future years, fiscal years 1987-90.

It appears that, when the outyears rolled around, the $113 million was reprogrammed to meet other, higher priority requirements, including the Space Launch Recovery Program, military personnel, and CHAMPUS. Thus, the entire appropriation originally intended for testing the four DSP satellites was reprogrammed, leaving no program authority for testing.

In February 1988, then-Secretary of the Air Force Aldridge authorized the use of $113 million from the "M" account to pay for the deferred testing of the four satellites. This money was then obligated under two contractual agreements known as miscellaneous obligation reimbursement documents.

To date, about $67 million has been obligated and mostly spent for testing. An additional $2.7 million was spent to cover cost overruns on another satellite contract, and $43 million remains undisbursed. Program officials plan to use this money "for additional requirements associated with the production of the satellites."

Here is a case where the Air Force tapped the "M" accounts to pay for a contract modification where the work called for in the modification was deliberately omitted from the original contract. Obligations were incurred after the authority to obligate had expired. And to the extent that "M" account money was obligated for testing, total obligations may have exceeded amounts available in the appropriation. In the opinion of the general counsel at GAO, this is illegal.

This particular transaction failed to meet several important legal requirements.

First, the law—section 1501 of title 31, United States Code—states that obligations, first, must be supported by documentary evidence, and second, may be incurred only during the period of obligational availability specified in annual appropriations bills.

Second, Air Force regulation 170-8 clearly states that a modification that changes the scope of the original contract is considered a new acquisition and is chargeable only to current appropriations.

Third, the Antideficiency Act, section 1341 of title 31, United States Code states:

An officer or employee of the United States Government may not (A) make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation; or (B) involve the government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law.

A violation of section 1341 carries a criminal penalty. An officer or employee who "knowingly and willfully" violates it, "shall" be fined up to $5,000 and/or imprisoned for 2 years.

A serious crime may have been committed. At this point, we do not know for sure. Further investigation is needed to make that determination. Someone needs to sift through all the documentary evidence.

Toward that end, I have asked the Inspector General for the Department of Defense to review all the documentary evidence assembled by the GAO that pertains to illegal "M" account transactions. I want to know what laws have been broken. I want to know who violated them, and what kinds of punitive action is planned and justified.

Mr. Speaker, I remain deeply concerned about the "M" accounts. They now hold $28.1 billion Governmentwide, including $18.7 billion at DOD. In the current fiscal year alone, DOD has drawn and spent about $6.9 billion, up from $3.9 billion last year. What will it be next year?

Mr. Speaker, there are now four pieces of legislation on the table that deal with ending the misuse and abuse of expired appropriations. Clearly, we need a law to solve this problem.

All four bills would deal a fatal blow to the huge pile of unobligated money in "Merged Surplus" accounts. They all would also end the practice of dumping obligated dollars into the "M" accounts in the future. Over the long term, any of these bills would do the job.

Unfortunately, the Conyers bill H.R. 5645, the Expired Funds Control Act of 1990, and the Glenn amendment to the defense authoriztion bill, section 1207, S.R. 2884 are deficient in the near term. They leave the $28.1 billion "M" balances intact for 3 more years with essentially no control or oversight.

Mr. Speaker, the "M" accounts are the problem that all the legislation attempts to control. They are the sole source of expenditures, the flow of money. This is where we need accountability most, especially in the near term. But the Conyers bill and the Glenn amendment would wait 3 long years before closing the spigot on these "M" accounts.

By leaving the "M" accounts in place for 3 more years—as proposed by Senator GLENN and Mr. CONYERS—we are giving the military and others carte blanche, a blank check, to rip into a $28 billion national money bag.

That is unacceptable to me.

We cannot have it both ways. Either the "M" accounts must be audited as required by law, or they must be greatly reduced or eliminated. Both the Dingell/Ireland bill, H.R. 5121, and the Ireland amendment to the defense authorization bill, sections 1302-1303, H.R. 4739, would do exactly that.

But some officials at GAO and various other agencies balk at the idea of auditing or zeroing the "M" accounts. They complain that the "M" accounts will be eliminated entirely in 3 years, so why waste a lot of time and money auditing a dead horse? They claim an audit could take 3 years or maybe even longer. It would also undermine the morale of our auditors.

Quite frankly, Mr. Speaker, I am much more concerned about the illegal use of the "M" account than I am about morale in the audit corps.

As a former banker, I have never heard of an account that could not be audited. I don't think such an account exists, nor do I think such an account should be allowed to exist. If DOD or GAO or anybody else says it can't audit those accounts, that is reason enough to abolish them outright.

It would be unconscionable for an elected representative to authorize a Government agency to spend tax dollars from an account that cannot be audited.

Mr. Speaker, we need some kind of control lever on the "M" accounts until they are eliminated.

The defense authorization bill looks like the best vehicle right now, but it could get derailed with a veto. In that event, I want to be sure that the Conyers bill includes more stringent controls over existing "M" account transactions.

SFC HOWARD McCOY, JR. AND SFC WILLIAM H. BOHMER TO RETIRE AFTER FOUR DECADES OF SERVICE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. SOLOMON. Speaker, throughout our history, the noncommissioned officer has been the backbone of our Armed Forces. Our sergeants and petty officers have been the true leaders at the level where orders are executed and strategy translated into action. Everyone who has worn the uniform of our Armed Forces, as I have, knows that it is the "non-com" who gets things done.

That is as true in the Guard and Reserve units as well as our active duty forces. That is why, Mr. Speaker, I rise today to commend two noncommissioned officers from the 247th Medical Company—ambulance—New York Army National Guard, who are retiring after 41 years of service.

The two retirees are SFC Howard McCoy Jr. and SFC William H. Bohmer.

Sergeant McCoy enlisted in the U.S. Naval Reserve on December 9, 1947, in Scotia, NY and served on active duty from January 9, 1952 to November 10, 1953. He left the Navy in 1979 and transferred to the 247th Medical Company in October of that year. He soon became a qualified medical NCO and was promoted to his present rank. His decorations include the Army Reserve Components Achievement Medal, National Defense Service Medal, Armed Forces Reserve Medal—fourth award—Army Service Medal, and Army Reserve Components Overseas Training Ribbon—second award. His New York State decorations include the Military Commendation Medal, Medal for Military Support to the 1980 Olympic Games, Exercise Support Ribbon, and Long and Faithful Service Medal.

Sergeant McCoy was born in Schenectady. He now resides in Saratoga Springs, NY, and he is employed by Knolls Atomic Lab in West Milton. He and his wife Adele have three children, Timothy, Karen, and Molly.

Sergeant Bohmer enlisted on January 1949 and was assigned to Company C, First Medium Tank Battalion, 210th Armor as a cook's helper in Hoosick Falls, NY. With the 210th, he served as a tank commander, food service specialist, and food service sergeant.

He joined the 247th in 1982 and also became a qualified medical NCO. His decorations include the Army Reserve Components Achievement Medal—fifth award—Armed Forces Reserve Medal—fourth award—Non-Commissioned Officer Professional Development Ribbon—with numeral 3—Army Service Ribbon, Army Reserve Components Overseas Training Ribbon, and an Expert's Award in rifle qualification. His New York State awards include the Military Exercise Support Ribbon, and the Long and Faithful Service Medal.

Sergeant Bohmer was born in Hoosick Falls. He recently retired after 39 years with the New York State Department of Transportation, where he was a heavy equipment operator and highway superviser. He and his wife Joan have five children, Katheleen, Scott, William, Julie, and Kris.

Mr. Speaker, noncommissioned officers do not ordinarily get salutes in our military. But let us today rise to salute these two exceptional men, who have spent so much of their adult lives in service to their country, and wish them all the best in their retirement years.

A TRIBUTE TO MILTON ROBERTS

HON. JOHN J. DUNCAN, JR.,

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. DUNCAN. Mr. Speaker, Milton Roberts, who served on the Knoxville City council for 40 years, passed away recently after a valiant battle against cancer.

Both my father and I considered Milton Roberts as a good friend. He served on the city council longer than any other person in the history of our city and was a dedicated public servant.

Our family and the Roberts family were friends, neighbors, and political supporters of each other. We worked closely together on many things.

I know Milton Roberts will be missed by many people in our area.

I would like to reprint in the RECORD the editorial from the Knoxville News-Sentinel about Milton Roberts and also a column by Harold Julian which also appeared in the News-Sentinel.

[From the Knoxville New-Sentinel, Sept. 18, 1990]

MILTON E. ROBERTS, SR.

Three months ago, the city honored Milton E. Roberts Sr. by renaming an East Knoxville recreation center for him. Now the government and the entire city are mourning the death of Roberts, the council's dean, who served on the city's governing body longer than anyone else.

The founder of Roberts Funeral Home and councilman from the city's 4th District, Roberts died Sunday at St. Mary's Medical Center.

Although Roberts, 85, was battling cancer, his death comes as a shock to the city he served so well for so long. He was a fighter who expected to beat his illness and had expressed the belief that he soon would return to the fray of city politics. He said he still had contributions to make to city government and wanted to end speculation on a possible successor.

Roberts' role in city government began in 1944 when he was first elected to a two-year term on City Council. Although his service as a council member was interrupted twice, he served a total of more than 40 years, eclipsing the 29 years of service by Knoxville grocer Cas Walker. Roberts served under more than a dozen mayors and was vice mayor under James W. Elmore and George Dempster.

Between council terms in the 1950s, he was on the Metropolitan Planning Commission and was involved in the development of the University of Tennessee Hospital. As a council member, he was known for his emphasis on education, crime prevention and services for the elderly, as well as on developing recreational facilities through the city.

Perhaps more than his watchdog role, Roberts will be remember for his attention to the many people who called on him and expressed their opinions to him during his long term on the council. He was so popular—not only in his district but throughout the city—that in recent years he rarely faced opposition for his council seat.

Roberts also did not hesitate to give his opinion, whether at council meetings or on the phone to newspaper editors and reporters on matters he considered important to the city. This was always done in the courteous, gentlemanly manner that was his trademark.

Roberts surely will be missed at council meetings, but in a larger sense he also will be missed in the day-to-day life of the city he loved and served.

"UNCLE MILTIE" ROBERTS: HIS TRICKS WERE A TREAT; HIS FRIENDSHIP WAS WORTH CHERISHING

(By Harold Julian)

I never voted for Milton Roberts.

That's because I didn't live in the city, but I'm proud to have lived in his circle of close friends for more than 20 years.

"Uncle Miltie," as some of us called him, phoned more after he was stricken with cancer. His voice was weak, but he was still upbeat.

"I know you'll write something about me," he said. "You have already told people about all of my pranks, about the funny things—and we have had some good times. Would you also mention some positive things I have done?"

"Gladly," I told him, "if I knew any."

That's the last time I heard him laugh. It was the response he expected. What else, from a man who kept his friends wary, guessing what tricks he would pull next? For example:

Carey Garrett, now juvenile judge, remembers some shenanigans involving "house for sale" signs that I should not mention, since transfer of such signs might be illegal. I think Tom Brown might have been involved in that mischief.

Charlie Rudder, the tooth doctor, and Milton tried hard to keep ahead of each other. Milton scored points when he called Charlie at home one night: "I'm here in your office, going through your papers, and . . . .

"You couldn't be!" protested Charlie. "The Medical Arts Building and my offices are locked up!"

"Whatever you say," said Milton, "but I'll put a wastebasket on top of the desk in your office so you'll know I was here."

The next day the dentist unlocked his office door to find a wastebasket atop his desk. No one, so far as I know, ever learned how Uncle Miltie pulled that one off.

The story on Milton's death included anecdotes from an article I wrote several years ago about "the other side of Milton," involving Rex McGee, one of his favorite targets. Rex, a top criminal lawyer and now an assistant attorney general, is hard to top. I've been trying to catch him off guard ever since he pushed me, fully clothed, into Mama Bear's swimming pool.

Since I'm doing the writing, I don't have to tell what tricks Milton pulled on me, especially the one involving purple panties. That's a writer's prerogative. Score one for Miltie. That's the way I want to remember him.

Milton's last phone call to me was, I thought, a goodbye. I called the above-mentioned friends, plus others. "Nah," said one friend. "Miltie's tough. He's a fighter."

Indeed, he was. He didn't want politicians fighting for his City Council seat while he was still living. He believed, I think that he would overcome his illness and run "one more time."

He never lost an election and served 40-plus years on City Council, but that doesn't mean that he pleased all of his constituents. Who can?

I never asked him for a political favor, although when my brother became a city fireman, I mentioned that the pay scale should be higher. He agreed, then produced budget figures and all of the demands for higher salaries, street paving, flood control measures, and the innumerable requests for more money that translate into higher taxes.

"What would you do?" he asked.

"I would give raises to firefighters and teachers," I said.

"That's because your brother is a firefighter and you have a daughter who's a city school teacher," he said.

"You've got me there, Miltie." I admitted.

Now, who will call my granddaughters on Christmas Eve? Milton was always willing. He called on special occasions, and fooled me with his voice changes. He could come up with a deep-voiced "Ho, ho, ho!" My granddaughters were delighted.

I have a gift from him that I have never opened. He teased me about an appropriate time. I don't want to open it, just yet. Maybe in a day or two. He was generous, but he wasn't wealthy, despite what some people might think.

Since he was never my councilman, I can only pass along comments, such as:

"I called him at his funeral home. We had flooding and street paving problems. Would you believe, he came, personally, to check out the problems? How many councilmen do you know who would do that?"

I wouldn't know. I've never voted for a councilman.

If there should be a call for a vote of friendship, I would quickly cast one for Milton E. Roberts Sr.

Knoxville has lost a respected city councilman, whose seat will eventualy be filled. I have lost a friend who cannot be replaced.

TRIBUTE TO C.E. (GENE) DEFRIES

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September, 25, 1990

Mr. DYSON. Mr. Speaker, it is with great pride that I rise today to pay tribute to C.E. (Gene) DeFries, president of the National Marine Engineers' Beneficial Association [MEBA]. Mr. DeFries was recently honored by the United Seamen's Service by being named the recipient of the 1990 Admiral of the Ocean Sea. Many of my colleagues know Mr. DeFries and are familiar with his lifetime of dedication and commitment to the U.S. merchant marine. I would like briefly to recall some of his many admirable achievements.

Mr. DeFries began his noteworthy career serving aboard various tankers and dry cargo ships, until he had garnered enough experience to qualify as a licensed engineer. After several more years of dedicated service on the gulf and east coasts, Mr. DeFries came ashore to earn a degree from the University of Houston. He subsequently joined the Marine Engineers' Beneficial Association as a patrolman.

Thus began an illustrious career in the union which now exclusively represents 50,000 licensed and unlicensed seamen. It is due to Mr. DeFries' tireless efforts that the numerous organizations representing America's mariners are now under one roof. As gulf coast vice president of MEBA, he was instrumental in the merger of the union's largest district, district No. 1, with the Pacific Coast District. He then succeeded in bringing the National Maritime Union into the fold, thereby ensuring the solidarity of American maritime labor.

In addition to overseeing this important merger, Mr. DeFries' talents and energy led to a number of remarkable achievements. In 1987, he led the reorganization of the Nation's air traffic controllers. After their union was decertified in 1981, and after 13,000 of its members were dismissed, Mr. DeFries forged a new union with no less than 70-percent support. He was also responsible for the enormous success of the union's pension fund. His management has made the fund self-sustaining, requiring no further input of funds from members' employers. But perhaps his proudest achievement is the victory he won in court on behalf of the merchant seamen who served in World War II. By convincing the court to recognize these seamen as veterans, Mr. DeFries ensured that their vital contribution to the war effort would be rewarded with the same benefits received by other World War II veterans.

Having secured the well-deserved recognition for past members of the merchant marine, Mr. DeFries is now actively preparing his fellow seamen for the challenges which lie ahead. The maritime industry has witnessed tremendous advancements in the past 30 years. As a result, many ships are in port less than 24 hours. To compensate for this hectic schedule, Gene has implemented new, more flexible vacation guidelines. He also takes a keen interest in the MEBA-operated training school in eastern Maryland, to keep crews abreast of the rapid technological changes.

His vision of unity and his commitment to meet the challenges posed by ever-changing technology are particularly valuable in the current crisis in the Persian Gulf. His persistence in working with the White House and with Congress has ensured that the Nation's military operation in the Middle East is supplied and sustained by an efficient and well-trained merchant marine.

Mr. Speaker, Gene DeFries and his fellow seamen have made vital contributions to the Nation's economic development, and have endured great risks and hardships to help defend the lives and liberties of others. Together they embody the highest values: duty, industry, patriotism. I commend them on their achievements, and extend once again my heartfelt congratulations to Gene DeFries, the 1990 Admiral of the Ocean Sea.

FRANK JOHNSON OF CONSUMERS POWER CO.

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. WOLPE. Mr. Speaker, I want to pay tribute to a constituent and a very special friend of mine, Mr. Frank Johnson, who was recently promoted to the position of southern region general manager for Consumers Power Co. of Michigan. On Tuesday, October 16, Frank will be honored by his friends and colleagues at the Battle Creek Area Chamber of Commerce for his selfless and dedicated service to the Battle Creek community.

Frank began his career with Consumers Power Co. in 1970. He has served the company in a number of capacities: beginning as a meter reader he worked his way up the ladder to become a customer accounts representative, a plant personnel adviser, a union relations field representative, a district superviser, a district manager, and then in January of this year the company's southern region general manager. His hard work and leadership however, have not been limited to the Consumers Power Co. itself, but have been felt throughout the Battle Creek community.

Frank Johnson feels a deep sense of commitment to community service. He simply cannot say no when there are people in need of problems to be solved. He has invested both time and seemingly endless energy in a vast array of community and professional organizations: chairman of the board for Battle Creek Unlimited, an economic development corporation; chairman of the board of the Battle Creek Urban League; chairman of the board of governors at the Battle Creek Cultural Arts Center; a member of Kellogg Community College's business education advisory committee, and the American Association of Blacks in Energy.

Franks leadership, drive, and selflessness have been repeatedly recognized by his friends and colleagues. In 1987, for example, he received the Battle Creek Community Service Award. More recently, he was chosen to receive the Distinguished Alumni Award from the University of Detroit.

Mr. Speaker, I know my colleagues will want to join with me in paying tribute to a person who personifies the very best in America's tradition of voluntarism and community service, and in thanking Frank Johnson for the sensitive and caring leadership he has given to the Battle Creek community these past several years. We are all in his debt and we wish him and his family continued success and happiness in the years ahead.

THE 1988 THRIFT SALES MUST BE RENEGOTIATED

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. RINALDO. Mr. Speaker, in the closing days of 1988, the Federal Savings and Loan Insurance Corporation decided to solve the savings and loan problem by selling almost 200 bankrupt thrifts. The agency rushed the deals through so that the buyers could take advantage of tax laws that were set to expire at the end of the year.

At the time, questions were raised about the agency's authority to make these deals and the amount of Government assistance that some of the buyers were getting. In effect, Congress was told to mind its own business, because the FSLIC knew what to do and had the authority to do it.

Now we have the results. A recent FDIC report says that the sale of about 200 thrifts will end up costing the taxpayers almost $95 billion. The sales were one of the worst examples of Federal incompetence in recent history. The FDIC must take whatever steps are necessary to renegotiate these deals and to reduce the cost to the taxpayers.

For every dollar that the purchasers put up, they will get $30 in Government assistance and $2 in tax benefits. In addition, they get to keep whatever profits they make. I call that a pretty good deal, except that the taxpayers have to pay for it.

In one transaction with the Government, the purchasers of First Gibraltar Savings Bank in Texas paid $315 million for $11.4 billion in assets. In addition to getting a bank that had net income of $130 million last year, the purchasers will also get an estimated $9.5 billion in FSLIC assistance and $1.8 billion in tax benefits.

At the time, the Federal Home Loan Bank Board said that the total cost of the First Gibraltar deal would be about $5 billion. It turns out that they were 100 percent wrong. The cost is closer to $10 billion—so far. Other deals were just as bad.

Mr. Speaker, I would almost be happier if there was a criminal conspiracy, but it appears that the Government officials involved were just plain incompetent.

These agreements were premised on guessing and miscalculations. No one bothered to find out the actual condition of the thrifts or the potential cost of the Government assistance. The plan was to slap as many of

these deals together in the shortest time possible.

There was no limit on the amount of Government assistance in the 1988 transactions. In effect, Government said to the buyers:

Here, take these thrifts and do what you can. If you have losses or hire incompetent managers, Uncle Sam will pick up the tab.

In one such transaction with Government, the purchasers of Southwest Savings put up only $24 million for $4 billion in assets. They also got $6 billion in Government aid. However, they reneged on an agreement to maintain capital at an adequate level, and the thrift failed again last year. Poor management by the buyers is blamed for Southwest Savings' second failure.

I am furious that a few Government officials spent $95 billion of taxpayers' money with no oversight. As I mentioned before, several Members of Congress strongly objected at the time, but were told by FSLIC that it had the authority to make these agreements.

The $95 billion spent here is in addition to the almost $500 billion savings and loan bailout. The people who were responsible for this outrage were the same people who were in charge of regulating the savings and loans. We must have much stronger oversight and outside auditors. Congress must never assume that a Federal agency is doing its job without proof.

TRIBUTE TO DR. JACK D. EARLY

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. STANGELAND. Mr. Speaker, I rise on the occasion of the September 30 retirement of Dr. Jack D. Early, one of American agriculture's most respected and articulate spokesmen.

Dr. Early began his long association with the agricultural community in 1958 as a research entomologist with Monsanto Co. He remained with Monsanto for 17 years, advancing to the position of manager-government relations, agricultural division and enviro-chem systems by the time of his departure.

In 1975, Dr. Early joined the National Agricultural Chemicals Association, a not-for-profit trade organization of the manufacturers, formulators, and distributors of agricultural crop protection and pest control products. Dr. Early's employment with NACA began a 15-year relationship that has provided the agricultural community with strong and sensitive leadership, and a straightforwardness often missing from Washington.

In 1976, Dr. Early was elected president of NACA. At a crucial time in our country's environmental history, Jack Early soon found himself on the cutting edge of the public debate between environmental groups, the agricultural chemicals industry, its traditional friends on the agriculture committees and, uniquely, a bevy of unfamiliar congressional subcommittees that suddenly entered the controversy.

One of Jack Early's greatest accomplishments, and perhaps his most courageous, was bringing industry's adversaries to the negotiating table for talks that lasted more than a year and ultimately contributed to significant improvements in the Nation's pesticide law.

In 1989, Jack Early became president ex officio of NACA and, in that position, has remained a valued contributor, supporter, and friend to agriculture.

Those of us in Congress, especially who serve on the House and Senate Agriculture Committees, will miss Jack, professionally and personally. He has distinguished himself as a man of integrity and has proven to be one of agriculture's most trusted and committed friends.

A native of South Carolina, Dr. Early earned his Ph.D. in entomology at North Carolina State University after receiving his masters and bachelors degrees from Clemson University. Dr. Early lives in Maryland with his wife, Ann. He has three children and two grandchildren.

UNITED STATES HAS STRONG ALLY IN TURKEY

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. HANSEN. Mr. Speaker, when Iraq invaded Kuwait, it was our NATO ally with the most to lose that came quickly and decisively to the forefront of the international effort to curb Saddam Hussein. Turkey shares a 200-mile border with Iraq. Yet while reprisals were, and still are, a real possibility, the Turkish leaders immediately cut off two pipelines which carried 60 percent of Iraq's oil export. Turkey lost not only 50 percent of their own domestic oil supply in this move, but also lost pipeline revenues as well as loading fees.

As soon as the United Nations embargo was announced, Turkey began to implement its provisions despite the severe blow to its economy. Turkey was a major trading partner with Iraq, especially in foodstuffs and domestic goods. Turkey was one of Iraq's main lifelines. Now several Turkish ports stand idle and over 100,000 people who work at the harbors and in the trucking industry have lost their jobs. Tourism, one of Turkey's main industries, has been adversely affected because of the proximity to the conflict.

Turkey stands to lose all of its outstanding credit from the Iraqis and has little hope of recovering this loss. Additionally, Turkey expects to lose over $4 billion this year, which is a significant disruption to any economy, but is comparable to a $300 billion loss to the United States economy.

This huge economic dislocation is putting great strains on the Turkish people. They are questioning whether the United States will support them in their courageous sacrifices or abandon them to Iraq economic adversity and the possibility of eventual Iraqi revenge.

We are here today to dispel those doubts. The United States can be counted on to stand besides our faithful ally, Turkey, as they stood beside us in Korea and so many times before. Our friendship has been tested and challenged recently, but our shared fundamental democratic principles and our free market economies set this relationship on a bedrock which cannot be shaken. The United States is with the Turks and will remain with them, not just in this crisis, but down the long road ahead.

UNITED MALE CHORUS OF GARY AND CALUMET REGION

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. VISCLOSKY. Mr. Speaker, I would like to bring to the attention of my colleagues the 40th anniversary of the United Male Chorus of Gary and Calumet Region. Since its inception in 1950, this fine organization has not only serenaded thousands with their songs, but it has been dedicated to serving the Calumet Region community.

In 1950, Mr. William H. Everett founded a group of six different male choruses to create a New Year's fellowship service. With the encouragement of his pastor, D.G. Lewis of Galilee, Mr. Everett contacted the ministers of the Van Buren, Trinity, and Friendship Baptist Churches. While these pastors gladly consented to the program, they could not have imagined that such a great organization was being created.

Many early pioneers, including Ollie Gaines, John Holloway, Eddie Young, Lela Oliver, Lesley Woods, Garnett Bradley and minister of music, Marilyn Harriston, worked diligently over the years in support of the efforts of the group.

These people guided the organization in its initial years and fostered the Christian outreach aspect of the chorus. The United Male Chorus has provided the mechanism and the tools to promote the Christian values of the Baptist Church. Their melodic voices have touched many individuals by sharing the word of God through song.

Over the past 39 years, a spiritual fellowship with other choral groups has developed and extended far beyond the boundaries of the State of Indiana. Furthermore, the United Male Chorus and their boosters, have not only distinguished themselves as great musicians, but have participated in community special programs of goodwill by helping the disabled and economically disadvantaged.

September 30, 1990, marks the 40th anniversary of the United Male Chorus of Gary and Calumet Region. My colleagues, I ask you to join me in congratulating Joffrey H. Cole, president, and the entire United Male Chorus their 40 years of dedicated service to the Calumet Region. Long may their voices and actions inspire us.

EQUITY IN THE BUDGET-CUTTING PROCESS

HON. LINDSAY THOMAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. THOMAS of Georgia. Mr. Speaker, I rise today to speak on behalf of our Federal and military retirees and our Federal employees who face the very real prospect of being furloughed starting next week.

What happened to equity in the budget-cutting process?

And how can we sit here and contemplate furloughing Federal employees without pay when congressional pay is not subject to sequestration?

Federal employees do not get any choice as to where their employers will take the cuts. The cuts come in the form of leave without pay.

Please join me in urging the summiteers to act quickly to avoid sequestration and to treat our Federal employees fairly.

If we can not approve anything else by October 1, let us approve a bill that says congressional and White House staff pay should be cut twice as much as any Federal pay cuts during a furlough.

Maybe that little payroll laxative will get the budget process moving.

And while we are talking about equity, do not forget about all the rumors circulating from the budget summit about cuts in COLA's and benefits for Federal and military retirees.

Rumor has it that the summiteers may approve actions which would eliminate COLA's for military and Federal retirees next year, reduce the formula for computing future COLA's, and reduce benefits under the Federal Employees Health Benefits Program.

All these actions are being considered while the COLA's for Social Security and VA disability and pension beneficiaries are fully protected.

Is that fair?

As a cosponsor of legislation to ensure equitable COLA treatment for all retirees, I strongly oppose any plan that would single out Federal and military retirees to shoulder the burden of needed budget cuts.

Please help me send a message to the summiteers that we must have fairness and equity in any budget agreement approved—furloughs and reductions in Federal and military benefits are unnacceptable.

TRIBUTE TO ENID G. SARGEANT

BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. MORRISON of Connecticut. Mr. Speaker, I am honored to bring to your attention one of my constituents, Ms. Enid G. Sargeant of Hamden, CT. Ms. Sargeant, a teacher for 29 years, was awarded the National Council of Negro Women's Excellence in Teaching Award on September 7.

This award is given to teachers with a large enrollment of African-American students and who have made outstanding contributions to their field, have represented excellence in the profession, have distinguished themselves among their colleagues and peers, and have inspired a high level of achievement among African-American students.

Ms. Sargeant teaches black history throughout the school year and in after-school programs. Her students are always respected and taught to listen and respect self first. Ms. Sargeant truly believes in the children she teaches. She believes that black history must be learned, understood, remembered, and protected with dignity. She shares this with all she comes in contact. All subject matters are integrated to show African-American involvement.

Her expectation level for her students is very high. She provides attainable goals and raises self-worth through assembly programs for the entire student body by her class. Community groups and organizations are invited to address her class on various subjects.

One of Ms. Sargeant's projects is the relationship of the Helen Grant School has established with the Dixwell senior citizens. The seniors were originally afraid to enter the public schools, but Ms. Sargeant now has them coming in to share local and State history with her students. The seniors tell stories and boost the students' morale. The students visit the seniors as well. During one recent visit, they all did the electric slide, a popular dance. Holidays are a special time for the children and the seniors. Through Ms. Sargeant, the children have a greater appreciation and respect for the elders.

Mr. Speaker, I know I speak for the entire Third District of Connecticut in congratulating Ms. Sargeant for her achievement. She is the kind of teacher that we hope all students have in their lives.

TRIBUTE TO MICHAEL W. REBER

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. YATRON. Mr. Speaker, today I rise to pay tribute to a bright and talented young man from Schuylkill Haven, PA. I am speaking of Michael W. Reber, a member of Boy Scout Troop 651.

On November 25, 1990, Michael will be honored at a ceremony in St. Paul's United Church of Christ for his fine achievement in passing his Eagle Scout Board of Review for the advancement to the rank of Eagle Scout. The rank of Eagle Scout is the highest honor that a Boy Scout can receive. Through his hard work and tenacious efforts, Michael has proven himself more than worthy of this honor. He is indeed a great asset to the future of our country.

Mr. Speaker, it is indeed a pleasure for me to present Michael's achievements before you and the other Members of the House of Representatives, as well as the rest of the Nation. Moreover, I am certain that Michael will be honored in many more ceremonies in the future. Let me take this moment before the House to commend Michael for his accomplishment and to wish him the best of luck and success in all of his future endeavors.

DOING BUSINESS IN ASIA

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. GREEN of New York. Mr. Speaker, I should like to call your attention to a recent four-part television series, "Doing Business in Asia," which was hosted and produced by one of my constituents, Yue-Sai Kan, and funded by Northwest Airlines. The series, a major study of business culture and practices in Hong Kong, Japan, Taiwan, and South Korea, aired on public television stations nationwide beginning in September.

The project is one of many initiated over the years by Yue-Sai Kan, who was described by the New York magazine as "the most popular television personality in the world." In addition to her most recent series, Yue-Sai Kan has hosted programs including, "One World" and "Looking East." "Looking East," a series of shows which highlight Asian lifestyles and culture for Americans, has aired on cable stations nationwide for the past 9 years. Her syndicated show, "One World," appears weekly on China Central Television, where it reaches 400 million Chinese viewers. The two shows have similar purposes. "Looking East" explains Chinese culture to American viewers, while "One World" aims to familiarize China with the West. Yue-Sai Kan was born in China and raised in Hong Kong before coming to the United States to attend college. She then started her own trans-Pacific import-export company, where she learned first-hand the difficulties and successes of doing business in Asia before embarking on her television career.

Yue-Sai Kan links the business communities of the Pacific rim and the United States. Her programs explore the social customs and conventions unique to each country, historical issues and the psychological makeup that affects business conduct. At a time when trade with Asia is crucial to the American economy, I should like to thank Yue-Sai Kan and Northwest Airlines for making the television series, "Doing Business in Asia" possible. That series provides practical information necessary for businesses to work together more effectively and therefore contributes greatly to a better understanding between Eastern and Western societies.

A TRIBUTE TO THE SPURWINK SCHOOL ON THE OCCASION OF ITS 30TH ANNIVERSARY

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 25, 1990

Mr. BRENNAN. Mr. Speaker, I rise today to pay special tribute to the Spurwink School which is located in my hometown of Portland, ME. This school, which is celebrating the 30th anniversary of its founding this month, specializes in helping our most seriously emotionally disturbed children.

Since its founding in 1960 by a social worker named Richard Smith, the Spurwink School has compiled a very impressive list of accomplishments. Among these were that it was the first private agency to provide education for severely disturbed adolescents and the first to provide community-based programs for multiply handicapped young adults formerly in institutions.

Today, the Spurwink School is a nonprofit organization that has expanded from a converted barn and farmhouse to operating 13 facilities in three States.

The Spurwink School is not a warehouse for these children and young adults. It is a national model for other facilities because of its goal to educate children, often returning them to regular classrooms.

Once again, I congratulate the Spurwink School on their 30th anniversary, and I ask my colleagues to join me in commending them on their commitment to our special needs children.

A TRIBUTE TO DR. WILLIAM J. SPENDLEY

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September, 25, 1990

Mr. MRAZEK. Mr. Speaker, I rise today to pay tribute to Dr. William J. Spendley, who is retiring as superintendent of the Harborfields Central School District. I am honored to take note of his distinguished career as an educator and administrator.

William Spendley received a BS degree in business administration in 1958 from St. Peter's College in Jersey City, NJ. He earned his master's in educational administration from Seton Hall University and a doctorate in education from the Teachers College of Columbia University.

Dr. Spendley began his career in education as a teacher of business education at Ridgefield Park (NJ) High school. He served as vice-principal of that school from 1964 to 1968. In 1968, Dr. Spendley became principal of Sidney (NY) High School and went on to serve as principal of Hyde Park (NY) High School. Dr. Spendley was superintendent of the Westhill Central School District in Syracuse, NY, until he was appointed superintendent of the Harborfields Central School District in 1981.

Dr. Spendley has served in numerous leadership positions as an administrator including president of the Onondaga-Madison Chief School Administrators Organization, chairman of the Legislative Committee of the Central New York Joint Management Team, and chairman of the National Superintendents Work Conference of Teachers College, Columbia University.

In addition, Dr. Spendley has published several professional articles, including "Increasing Your Accuracy in Teacher Appraisal," which appeared in the publication the Principal in November, 1973.

Mr. Speaker, Dr. Spendley has served as an innovative and productive educator and administrator. Under his leadership, the Harborfields Central School District has earned a reputation as one of the finest school districts in New York State. The great success that Harborfields students have enjoyed is a testimony to Dr. Spendley's effectiveness as an administrator.

Many community leaders have acknowledged Dr. Spendley's great contributions. Chrysanthe Koumas, president of the Harborfields Board of Education stated that "Dr. Spendley has been an outstanding educational leader. Replacing him will not be an easy task."

Mr. Speaker, at a time when many decry the decline in educational standards throughout the United States, I believe that Dr. Spendley's commitment to excellence deserves special recognition. On October 26, 1990, the faculty, parents, and students of the Harborfields Central School District will honor Dr. Spendley with a dinner at the Huntington Town House. I am pleased to join in this richly-deserved tribute and wish Bill well in all of his future endeavors.

SENATE—*Wednesday, September 26, 1990*

(Legislative day of Monday, September 10, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. KOHL].

The ACTING PRESIDENT pro tempore. Today's prayer will be offered by Father Godfrey Kloetzli, Terra Sancta College, Jerusalem.

PRAYER

The Reverend Father Godfrey Kloetzli, Terra Sancta College, Jerusalem, offered the following prayer:

Let us pray:

Almighty God we ask You to look upon us here. We realize, all too well, our human frailties and imperfections and ask You to help us overcome these.

We ask You to make us rise above all self-seeking and seek the good for our people.

As God who bestows all power on the human race, make us realize that we have been given power to decide issues which will either benefit our fellow citizens and, indeed, the peoples of the whole Earth, or harm them. Give us the insight to know what You want us to do and the courage and conviction to do so.

Let us take for ourselves the prayer of humble Francis of Assisi who achieved so much in his own day and throughout all the days in the nearly eight centuries since his time.

Let us repeat with him:

"Lord make me an instrument of Your peace. Where there is hatred, let me sow love; where there is injury, pardon; where there is discord, unity; where there is doubt, faith; where there is error, truth; where there is despair, hope; where there is sadness, joy; where there is darkness, light.

O divine Master, grant that I may not so much seek to be consoled as to console, to be understood as to understand, to be loved as to love; for it is in giving that we receive; it is in pardoning that we are pardoned; it is in dying that we are born to eternal life.

Amen.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from New Jersey [Mr. BRADLEY]; the Senator from New Jersey [Mr. LAUTENBERG]; and the Senator from Maryland [Ms. MIKULSKI], may be recognized for not to exceed 15 minutes each.

The Chair recognizes the Senator from Illinois.

Mr. DIXON. Mr. President, I ask unanimous consent to proceed in morning business for not more than 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOMINATION OF JUDGE DAVID SOUTER

Mr. DIXON. Mr. President, I rise today to announce my intention to vote in favor of the nomination of Judge David Souter to serve on the U.S. Supreme Court.

Before coming to a final determination, I took a number of steps, including an analysis of court decisions and published articles authored by Judge Souter; I reviewed materials presented to me by groups who either supported or opposed Judge Souter's nomination; and, finally, I thoroughly examined the testimony of Judge Souter and witnesses before the Judiciary Committee.

At every step, I found Judge Souter to be a fair, able, and conservative jurist.

The nominee has revealed himself to be open, not rigid, not tied to a death path, but fully aware the Constitution is a living document.

Further, Judge Souter has shown himself to be pragmatic, not doctrinaire, and with a respect for the rights and liberties of the individuals the Constitution protects.

While one never knows how any Justice will decide cases in the future, Judge Souter seems to be a man of character and integrity. His intellect and background are beyond reproach. He well deserves the American Bar Association's most qualified rating.

He evidences a real judicial temperament in the best sense of the word, and I am pleased to support his nomination.

I yield back the remainder of my time.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New Jersey is recognized for 15 minutes.

THE NOMINATION OF JUDGE SOUTER

Mr. LAUTENBERG. Mr. President, I rise to announce that I will vote against the confirmation of Judge David H. Souter, to be an Associate Justice of the Supreme Court.

The Supreme Court has a profound and lasting impact on the lives of every one of our citizens. It is bestowed with the responsibility to interpret our Constitution, and is vested with the duty to enforce its promises of liberty, and equality, and justice. As it shapes legal rights and liberties from its lofty perch in our scheme of government, the Court shapes the hopes and the futures of average people living everyday lives across our Nation.

Will a victim of discrimination have restored to her the opportunity to reach their greatest potential? Or, will he be forever burdened? Will Americans be protected from government intrusion in their most private, personal affairs? Or will a woman be forced to bear a child against her will—denied the right to make one of the most personal of decisions, guided by considerations of health, counseled by her family, her doctors, and her clergy.

These are not legalistic matters. They are fundamental questions about the kind of lives Americans will lead. These are questions the Supreme Court toils with every day. These are the questions David Souter would face, if confirmed to the Supreme Court.

It is my duty to consider how David Souter would approach those questions.

The Constitution says, in article II, section II, paragraph 2, The President "shall nominate, and by and with the advice and consent of the Senate, shall appoint * * * judges of the Supreme Court."

I consider the duty to review judicial nominations to be one of my most important responsibilities as a Senator.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

This is especially true when it comes to the review of nominations to the Supreme Court.

We are here to give our advice. To give or withhold our consent.

First, we must determine whether a candidate has the personal qualifications to sit on the highest court in the land. Is the person intelligent, honest and learned? Does he have the temperament to sit in judgment of his fellow citizens?

Does he have experience in the law? Does he apply the law with a sense of compassion for those it affects? Is his judging done in the abstract, or is it tied to real lives and real circumstances?

Judge Souter's career has been focused in the State court system of New Hampshire. He has not been called upon often to rule on matters of Federal constitutional rights. Yet, I have no doubt that he has the intellectual capacity and the integrity to sit as a Federal judge. I am confident that, if not seated on the Supreme Court, he would continue to be an asset to the Federal Court of Appeals for the First Circuit, to which he was recently confirmed.

Yet, we must go beyond the personal qualifications of the candidate and consider whether he will inject life into the rights and liberties of our people, enshrined in our Constitution and laws. We must be guided by our concept of what America and its laws should be, and what kind of Supreme Court we should have to interpret those laws, and to give life to the rights and liberties we hold so dear.

We have a great responsibility. Just as the President is empowered to make nominations, we are entrusted with the power to reject them. Our roles are equal. I do not accept the argument some would make, that there should be some presumption in favor of a nominee. Quite the opposite. I believe the burden is on the nominee.

We sit in review of someone who would sit as one of nine members of a separate branch of Government. This is not some post within the executive branch, some post in the President's own administration with a fixed term. For that, perhaps we can permit more flexibility and tolerate more doubt.

We sit in review not of some nominee to a district or circuit court. For that, we have accepted a wider diversity of personal views. Judge Souter was confirmed to the Court of Appeals. We can rely on his obedience to precedent and the word of the higher courts.

We sit in review of someone nominated at a very special time in the history of the Court, a time when the Court is sharply divided on basic questions of constitutional rights. The confirmation of a single justice could set the Court down a path that has the most profound consequences. Thusly, we are called upon, perhaps, to apply even greater scrutiny to this candidate than we have to others.

I have looked carefully at the candidate's views—as he has expressed them as a government lawyer and a judge, and as a witness before the Judiciary Committee in his confirmation hearings.

Based on that record, I am not satisfied that Judge David Souter would amply protect the rights and liberties of the individual that lie at the very core of our Constitution.

I start with his most general statements of how he approaches the task of interpreting and applying the Constitution. I am concerned that Judge Souter would not apply a broad, expansive interpretation of the Constitution, shaping and stretching it to meet today's understanding of liberty and today's expectations of our people.

Judge Souter has said that his task as a judge, who is bound to interpret the Constitution, is not one of discovering the original intent of the framers. Yet, he concedes little in recognizing that the framers, despite their brilliance, could never have imagined or intended the application of the Constitution to the specific cases presented by modern America.

Rather, Judge Souter says that his task is one of discovering original principles or original meaning, which in turn, can be applied to modern cases. Judge Souter would attempt to determine the principle that the framers had in mind, examining historical materials and traditions. I am concerned that when the search is completed, the principle of liberty that would be found would be the principle envisioned then; not the principle of liberty envisioned and expected today.

My doubts about what Judge Souter had to say generally about interpreting the Constitution are only heightened by what he had to say, and refused to say, specifically, about the right to privacy.

We live in a changing world. Human relations are quite different from what they were 200 years ago. The notion of privacy extends far beyond privacy within a marital relationship. It extends to control over basic questions of the right to choose to proceed with an unintended pregnancy.

Judge Souter spoke at some length about the decisions of the Court which established the right to use contraception. But, in recognizing a marital right of privacy, and a right to determine whether or not to conceive a child, he traced his conclusion to an historical respect for the marital relationship. The framers were sensitive to the notions of marital privacy.

What about the rights of a woman once there is conception? What confidence can we have that these rights will enjoy any recognition under the method of interpretation set out by Judge Souter?

Mr. President, Judge Souter chose to refuse to answer questions that he believed touched too closely on the right to chose to terminate a pregnancy, as outlined in Roe versus Wade. That was his choice.

But, in so doing, he left unsaid his position on a fundamental individual right—the right to privacy. He refused to concede that a right exists that gives a woman the ability to choose whether or not to bear a child.

Mr. President, we would be troubled if a nominee came before the Senate and refused to recognize the right of free speech; or the right to assemble; or the right to be free from unreasonable searches and seizures. We should be just as troubled by Judge Souter's refusal to recognize a broad right of privacy inherent not in the marital relationship, but inherent in the individual.

Judge Souter's record as an attorney general, as a judge, raise questions about other important issues as well. Questions can be raised about his appreciation of the depth of the problem of racial discrimination in our Nation, and the steps that need to be taken to prevent it and to remedy it.

In some cases, we are asked to excuse statements he made or positions he took, because he was acting as an advocate for his Governor and his State, as attorney general. Yet, questions remain.

As I review the totality of the record of Judge Souter, I regret that I cannot vote to confirm him. He is a talented, even brilliant individual who has dedicated himself to a life in the law. Nevertheless, his approach to constitutional interpretation is one that moors him too tightly to the past. His testimony before the committee left blank spaces where rights and liberties should be written large and clear.

This is not a conclusion I have reached lightly or easily. I respect Judge Souter's integrity and his intelligence. But, for the reasons that I have outlined, when the question is presented to the Senate, I will vote against his confirmation to the Supreme Court.

I yield the floor.

Mr. BRADLEY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey [Mr. BRADLEY].

NOMINATION OF JUDGE DAVID SOUTER

Mr. BRADLEY. Mr. President, there is very little that the Constitution asks this body to do that cannot be undone. But there is one responsibility by which each of us as a U.S. Senator leaves a nearly indelible mark on the fabric of this Nation, not just as a government, but as a people. That is our role of "advice and consent" in the

confirmation of the nine Justices of the U.S. Supreme Court.

Our role in determining which nine fallible human beings should hold these unmatched powers over the direction of our society is a power we share with the President. It is nonetheless one that we must take very seriously.

The history of this century shows that the Court can be a force of reaction. For decades, the Court denied such basic freedoms as the right to criticize war or to organize a union, and such basic measures of justice as the minimum wage. The Court can also light the path of progress toward an open, free, and fair society, as it did when it ruled that segregated schools were unconstitutional or that people cannot be forced to pay a tax in order to vote. Most of what we do in this body involves shaping a part of America through the instrument of legislation; the Court, on the other hand, defines possibilities for an entire Nation.

Mr. President, the nomination that is presently before us requires, I believe, even more thoughtful scrutiny than most. President Bush chose to nominate a man whose views on most of the fundamental principles of constitutional jurisprudence were unknown. Judge David Souter has spent most of his career in the courts resolving basic conflicts among individuals. While this experience is in some ways preferable to that of a nominee whose whole life has been spent on a law school faculty, it does require us to demand answers to some very relevant questions that, for another nominee, might be answered by his record.

There are no clear guidelines about what a nominee to the Supreme Court should or should not talk about. The distinguished chairman of the Judiciary Committee put it quite succinctly to Judge Souter in saying that the committee reserved the right to ask any question and granted Judge Souter the right to refuse to answer any question. Some Court nominees have answered every question on every topic in excruciating detail, while others have eschewed all but the most general discussions of principle. I understand that a nominee might conceivably refuse to answer almost every question other than the biographical, on the grounds that it might become relevant to a case before the Court. Of course, I would not hesitate to vote against such a nominee, and I'm sure that a majority of my colleagues would join me. Every Senator understands that different circumstances require different standards of candor from the nominee. In the current circumstance—a nominee with no record on constitutional issues—a high degree of candor is required, but more importantly, a nominee must be consistently candid. It is not appropriate to discuss some pending legal questions, such as separation of church and state, in great detail, and then to decline to answer when the questions move to other areas of the Constitution.

Judge Souter provided the Judiciary Committee with thoughtful, thorough answers about several major areas of the law. He described the principles by which he would adjudge cases of discrimination based on race or gender. He described his views on the separation of church and state, the first amendment, and capital punishment. He was even willing to discuss specific cases, such as Lemon versus Kurtzman, which established a standard for church-State cases, even though there is a motion for rehearing pending before the court in that very case.

Before the hearings, I was disturbed to learn that Judge Souter had asserted that there was no need to examine the racial composition of New Hampshire's State government work force because he knew without checking that there was no discrimination in any department. And his statement that the rights of less-educated citizens somehow harmfully diluted the votes of the better educated betrayed a serious confusion about democracy's virtues. But by speaking in detail about these statements and committing himself to sustaining the precedents that outlaw discrimination in hiring and literacy tests for voting, Judge Souter offered assurance that the complacency and the elitism implied by his earlier statements would not inform his judicial thinking. Had Judge Souter not made clear that he appreciated at least the legal precedents regarding civil rights, I would not hesitate to urge the Senate to reject his nomination. But the method of analysis that he committed himself to in the Judiciary Committee hearings I have no reason to doubt will be his method if he sits on the Court. The point is, Mr. President, where he was not silent, I am prepared to take Judge Souter at his word.

There was one area, however, about which Judge Souter refused to describe his method, principles, or even his basic instincts. And that area happens to be the one that is of deepest concern to millions of Americans and the one on which the Court will almost certainly set a permanent direction for the Nation in the next few years. It is the question of a right to privacy.

Judge Souter said only one thing about the right to privacy—that married couples possessed such a right as described in the Griswold decision. Does this right belong to individuals or does it somehow inhere in the institution of marriage? Judge Souter would not answer. Does this right apply only to the purchase of contraceptives, as in Griswold, or does it extend to other deeply personal choices about reproduction? Judge Souter would not answer.

All of us know that, given the balance on the Supreme Court, we are being asked to give Judge Souter virtually sole authority over whether the Court will continue to recognize a right to privacy from the State's presence in our personal lives. All of us also know that one of the inseparable aspects of a right to privacy is the right for a woman to choose whether or not to have an abortion. Indeed when the question of the right to privacy was raised in the Judiciary Committee, Judge Souter appeared to presume that it was nothing more than a euphemism for the right to a safe and legal abortion. We further know that Judge Souter is the nominee of a President who made a clear political commitment to his party and to the American electorate that he would seek to wipe out that right. Is Judge Souter the agent by which George Bush seeks to keep his campaign pledge to make abortion illegal, or is he the agent by which George Bush seeks to break that pledge? Mr. President, the answer remains unclear.

What is clear is that the most immediate consequence of the Court's rejecting the right to privacy would be to deny millions of women the right to choose and to return us to the day when illegal, back-alley abortions put the lives of thousands of women at risk. That is a chance I am not willing to take.

I would also remind my colleagues that the right to privacy is no more a euphemism for abortion than the right to free speech is a euphemism for a particular statement. The right to privacy is a basic promise of American life, one that we will all intuitively want to see protected, particularly as advances in technology give the State vast new powers to intrude into the most private recesses of our lives. Without some notion of the right to privacy, judges will have an inadequate method by which to decide these cases fairly and humanely. Because the right to privacy will be the fulcrum of the relationship between the individual and the State as we approach the 21st century, we cannot entrust it to a jurist who, while he says he believes it exists, cannot make clear where it is found, what it means, and to whom it applies.

Mr. President, these are the fundamental issues for our time and for the future. To confirm a nominee who refuses to discuss them is to surrender our obligation to offer thoughtful advice and knowledgeable consent on the nomination of Justices who will hold awesome power over our lives. I will not do that and I will vote against the nomination of Judge David Souter.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Maryland [Ms. MIKULSKI].

CONFIRMATION OF JUDGE DAVID SOUTER

Ms. MIKULSKI. Mr. President, among the most significant and far reaching votes a Senator casts is a vote on the confirmation of a Supreme Court nominee. Of the thousands of votes I will cast as a U.S. Senator, the vote on a Supreme Court nominee exercising the constitutional right of advice and consent is the only vote that I cast that is irrevocable and irretrievable.

A vote for confirmation of a Supreme Court nominee is a vote for a lifetime appointment to the highest court of our land. Once confirmed, a nominee bears no burden of accountability, unlike the President, unlike a Cabinet official in which we exercise other advice and consent functions.

And thus, it is incumbent upon this body, charged with the constitutional responsibility to advise and consent on such nominations, to ascertain beyond any reasonable doubt each nominee's fitness to serve and commitment to the law's most basic guarantees of individual rights and equality for all Americans.

As I see it, it is the paramount responsibility of the Supreme Court to protect and preserve the core constitutional values on which this great Nation stands: An independent judiciary speaking for freedom of speech, freedom of religion, the right to privacy, and equal protection of the law.

Ours is a government of limited power and a society wherein rights and freedoms reside in the individual. Through the Constitution, the guarantees of equality and liberty on which this Nation was founded are translated into the rule of law by which we live. And it is the Supreme Court that breathes life into the promise that is the Constitution.

In deciding how I will vote on this nomination, I used three criteria.

First, is the nominee competent?

Second, does the nominee possess the highest personal and professional integrity?

Third, will the nominee protect and preserve the core constitutional values and guarantees that are central to our system of Government, such as freedom of speech and religion, equal protection of the law, and the right of privacy?

I have considered the nomination of Judge David Souter as I have previously considered other Supreme Court nominations using exactly this same criteria. I have carefully reviewed and considered the hearing record, Judge Souter's testimony and the testimony of several of the other witnesses who appeared before the committee.

First, on the issue of competency, there is no doubt that Judge Souter is professionally competent.

Second, on the issue of personal integrity, there is no doubt that Judge Souter possesses personal integrity, living a quiet New England life of going to church and visiting his mother.

But missing from the record is a demonstrated commitment by Judge Souter to the Constitution's most basic guarantees of individual rights and equality under the law for all men and for all women. I must, therefore, oppose the confirmation of Judge Souter to the Supreme Court.

As I reviewed the hearing record, I took particular notice of two very striking patterns and I think contradictory patterns: First, Judge Souter was willing to discuss at great length many of the areas of the law that he, as a Supreme Court Justice, would likely to be called upon to consider.

He either had views or previous cases, like Brown versus Board of Education, or he would offer to the committee judicial principles that would guide his decisionmaking.

We now know, for example, that Judge Souter agrees that the death penalty is not prohibited by the Constitution's ban against cruel and unusual punishment. So we would at least know on that one point how he would rule on death penalty cases, or at least what would be the framework for his judicial reasoning.

We also know that Judge Souter is troubled by some of the Court's recent decisions on freedom of religion, something I know, Mr. President, you and I are deeply concerned about, and that he prefers the approach taken by Justice O'Connor over her colleagues. These are but two of the many areas of constitutional jurisprudence that Judge Souter felt it appropriate to discuss.

At the same time, there were certain areas of constitutional law that Judge Souter refused to discuss. To put it quite simply, Judge Souter refused to talk about whether, and how, the Constitution protects the women of the United States of America. He was either silent or he was vague, or he was evasive.

Mr. President, that is not good enough for us to be able to form an opinion on his nomination. When someone is evasive, when someone is vague, or he is deliberately silent, under those circumstances would you hope for the best? Absolutely not. So, therefore, we must fear the worst because why else would he be so uncharacteristically silent, evasive, or vague?

He refused to discuss how the Constitution's guarantee of equal protection under the law protects women against gender discrimination, either in the workplace, or in the school house.

He refused to discuss the fundamental right of privacy so central to our system of limited government that it protects a woman's right to decide whether and if to bear children, and on other areas of privacy, protecting family life.

The Senator from New Jersey [Mr. BRADLEY] outlined it in excellent reasoning, and I will not elaborate. I am going to associate myself with his remarks.

Let me just go on a few minutes more to say that Judge Souter's refusal to discuss the status of women under the Constitution stands in stark and disappointing contrast to the comprehensive discourse on the Constitution.

Mr. President, think of someone who can come before a committee and for 18 hours face tough, grueling questions from a variety of Senators, and he could dazzle the people either in the committee room or watching C-SPAN, that he could do this without a note. This is a man of intellect. This is a man of ability. So, therefore, you would think when Senators asked questions on this issue of privacy, on this issue of gender, there would have been an equally forthcoming separate commentary.

Well, it did not happen.

Mr. President, the Supreme Court is the court for all the people of America; not just for one race, not just for one gender, not just for one religious belief. It is for all the people.

My colleagues and I serve in this body as representatives for all the people. We are here because of the consent of the governed.

Mr. President, I respectfully submit that it is simply not acceptable for a nominee to the Supreme Court to refuse to disclose his views on equal protection against gender discrimination and not to elaborate in any detail the implicit right to privacy.

I truly believe we are all created equal and that each of us is endowed with inalienable rights to life, liberty, and the pursuit of happiness. And I humbly stand before this body, the first Democratic woman elected to the Senate in my own right, as testament to the struggle for equality for women and all Americans.

Mr. President, in 200 years of American history only 16 women have ever been U.S. Senators. I say that not as a statistic but to show how hard it is to gain equality. It is only within this century that women gained the right to vote. Certainly, as we go forward to the 21st century we, the women of America, should believe that the Supreme Court would at least believe and be willing to posit the Declaration of Independence and the Bill of Rights in our behalf.

We have come too far, sacrificed too much, and worked too hard in the

cause of freedom, liberty, and equality to turn a blind eye to this nominee's deliberate failure to tell the people of America whether the Constitution protects their privacy and guarantees to all men and all women equality under law. We, you, the American people, deserve better. We deserve the best.

TRIBUTE TO ASA T. SPAULDING, SR.

Mr. SANFORD. Mr. President, with the passing of Asa T. Spaulding, Sr., on the morning of September 5, 1990, the Nation and the State of North Carolina lost one of America's significant citizens of the 20th century. I lost a true friend of many years. Asa Spaulding was one of North Carolina's most distinguished and remarkable sons. He was an individual whose great achievements in life were great achievements for others, a truly unique trait.

A former president of North Carolina Mutual Life Insurance Co., the largest minority-owned financial institution in the world, Asa Spaulding gained an outstanding reputation for his financial skill and business acumen. Elected as Durham County's first African-American commissioner, he established a standard of public service for all races. By example and encouragement, he helped to calm and shepherd the community through the emergent times of improving but strained race relations in the 1960's.

Asa Spaulding's commitment to education, especially those neglected or excluded, led him to serve on numerous boards of colleges and universities. Most notably, he served as the chairman of the board of trustees at Howard University in Washington, DC. Many colleges and universities awarded him honorary degrees. In 1969 Duke University honored him as "one of the State's great citizens, a master in [his] own profession, and the constant servant of other men in their need."

Presidents Eisenhower, Ford, and Carter all took note of the accomplishments of Asa Spaulding and called on him for public contributions. President Eisenhower named him vice chairman of the UNESCO delegation to India. Presidents Ford and Carter called upon Asa to serve in special delegations to Africa and Central America. His influence extended greatly beyond his community of Durham, which he cared about so deeply. As a statesman, he continued to think deeply about the future of our society and to transmit the traditions of peace and justice that he advocated and practiced throughout his life.

To his wife Elna, his daughter Patricia, his sons Asa Jr., Aaron, Kenneth, and his other family members, I extend my condolences. I mourn the loss while rejoicing in the fulfillment of life of such a good and faithful servant of the Lord. I offer this statement as a testament to and celebration of his life.

Asa T. Spaulding, Sr., 1902-90.

THE NOMINATION OF JUDGE DAVID H. SOUTER

Mr. SANFORD. Mr. President, along with most of my colleagues, I have had to resolve in my own mind what the role of the Senate should be in exercising its constitutional responsibility to advise and consent to Presidential nominations to the Supreme Court. Whereas a candidate for a major elective office is expected to reflect the majority will, the Supreme Court Justice has a different function in the balance of our governmental system, that of protecting the dissident and minority views in our pluralistic society.

The office of Supreme Court Justice is a unique position in American Government. We provide our Justices lifetime tenure and entrust them with vast potential to rule our lives and ways. Consequently, the questions about Supreme Court Justices should not be related to what his or her decisions will be, but rather to how these decisions will be reached. Certainly those who vote on the confirmation of a Justice might well examine prior decisions and writings, and may quite justifiably vote pro or con based on this evidence. It is appropriate, in my judgment, to inquire about a candidate's impartiality of mind, but not to seek his or her commitment to vote a certain way on a specific issue, although such a commitment is legitimately sought from a congressional candidate.

As Senators, we have had to define for ourselves the criteria each would personally apply to these nominees. After much thinking, reading, and listening, I determined that for me the fundamental criterion was scholarship defined by integrity. I would like to find also the qualities of compassion, practicality, extraordinary intellect, broad education, and an optimistic faith in America. But true scholarship is the best guarantee we have of a Justice's future performance. All other attributes pale in comparison.

Scholarship is definable and recognizable. Intellectual integrity is its essence. Scholarship is not just the accumulation of knowledge, and certainly not the accumulation of academic degrees. True scholarship is the relentless, uncompromising search for truth. Like a laser beam reaching for the unknown in the fine structure of atoms, the scholar reaches sharply through the maze of facts, fiction, propositions, and prejudice, always probing for the ultimate truth, eschewing half-truths, and false conclusions.

The intellectual honesty of true scholarship and the concomitant intellectual capacity that will measure up to the challenge are the indispensable attributes that we should consistently demand, with no compromise, of a Supreme Court Justice. Three years ago, I based my decision on a candidate for the Supreme Court on the scholarly approach to decisions, not on the nominee's political ideology or on pressure from groups either pleased or displeased by his nomination. This test will be the one on which I also have based my decision on Judge Souter.

I have had the opportunity to meet personally with Judge Souter, to talk with him, to listen carefully to his confirmation hearings before the Judiciary Committee, to review his writings, and to consult with some of my trusted friends in his home State. I came away with one overriding impression that Judge Souter is a person of tremendous intellectual integrity. That he respects the Constitution, not only that which is explicit, but also the individual rights and freedoms which are implicit. I believe that he loves the law and that he will listen with an open mind, always cognizant of the fact that, to quote him, "at the end of our task some human is going to be affected, some human life is going to be changed." That he is, in the truest sense of the word, a scholar.

I apply no litmus test to Judge Souter's views. I have applied no litmus test in past confirmations. Unless fate intervenes, David Souter will serve for a generation. What litmus test will inform us as to how he might decide a crucial national issue in the year 2020? Rather, I believe he will faithfully examine the law, and I trust him to reach his conclusions by the path of scholarship illuminated by his intellectual capacity and personal integrity. I see in David Souter signs of the qualities of such former Justices as Oliver Wendell Holmes and Hugo Black. He just may be our next truly outstanding Justice. I will vote, with considerable confidence, to confirm him.

REMOVAL OF INJUNCTION OF SECRECY

Mr. SANFORD. Mr. President, as in executive session,

I ask unanimous consent that the injunction of secrecy be removed from the Treaty on the Final Settlement with Respect to Germany and a Related Agreed Minute, Treaty Document No. 101-20, transmitted to the Senate today by the President; and I ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to

be printed; and that the President's message be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I submit herewith, for Senate advice and consent to ratification, the Treaty on the Final Settlement with Respect to Germany and a Related Agreed Minute, signed by the United States, the Federal Republic of Germany, the German Democratic Republic, the French Republic, the Union of Soviet Socialist Republics, and the United Kingdom of Great Britain and Northern Ireland in Moscow on September 12, 1990. I transmit also, for the information of the Senate, a report of the Department of State with respect to this Treaty.

The Treaty that I am submitting today is the culmination of 6 months' negotiation among its six signatories in what has come to be called the "Two-plus-Four" forum, established for this purpose at Ottawa in February 1990. This agreement will end the artificial division of Germany and Berlin; it provides for the full withdrawal of all Soviet forces over the next 4 years; and it terminates all remaining Four-Power rights and responsibilities for Berlin and for Germany as a whole. It thus creates the basis for the emergence of a united, democratic, and sovereign Federal Republic of Germany, capable and ready to assume a full and active partnership in the North Atlantic Alliance, the European Community, and in the many other fora for international cooperation to which the Federal Republic of Germany has already contributed significantly.

The Treaty makes clear that the current borders of the Federal Republic of Germany and German Democratic Republic shall be the final and definitive borders of a united Germany. All the provisions relating to Germany's border with Poland were worked out with the participation and approval of the Government of Poland.

The Treaty specifies that the right of a united Germany to belong to alliances with all the rights and responsibilities arising therefrom shall not be affected by any of its provisions.

The Treaty provides for the withdrawal of all Soviet troops from the territory of a united Germany by the end of 1994. The Treaty also provides for the continued presence of British, French, and American troops in Berlin during the interim period at the request of the German government. During this period the German government shall have complete freedom regarding the stationing of territorial defense units of its own armed forces within the territory of the former German Democratic Republic, and these armed forces shall remain outside the integrated NATO military command structure. Following the departure of Soviet troops by 1994, there shall be no remaining limitations regarding the location of German armed forces throughout Germany and their integration with NATO structures. Non-German Allied forces and nuclear weapons systems shall not be stationed or deployed within the territory of the present German Democratic Republic. The Agreed Minute, for which I am also seeking your advice and consent, provides a special rule for application of the term "deployed."

The Treaty contains a number of assurances provided by the Federal Republic of Germany and the German Democratic Republic on behalf of a united Germany. Among these are a reaffirmation of their renunciation of nuclear, biological, and chemical weapons, and their stated undertaking to reduce the personnel strength of the German armed forces to 370,000 within 3 to 4 years.

Finally, the Treaty provides for the termination of all remaining Four-Power rights and responsibilities for Berlin and Germany as a whole.

I would also like to draw to the attention of the Senate the texts of three letters that were exchanged on issues arising in the context of the unification of Germany (enclosed as attachments to the report of the Department of State). The first is a letter from Secretary of State Baker to Foreign Minister Genscher of the Federal Republic of Germany dated September 11, 1990; the second is a letter from Foreign Minister Genscher and Prime Minister and Foreign Minister de Maiziere of the German Democratic Republic to their counterparts in the Two-plus-Four negotiations dated September 12, 1990; and the third is a letter dated September 18, 1990, from Foreign Minister Genscher to Secretary Baker.

In their letter of September 12 to their counterparts in the Two-plus-Four negotiations, Foreign Minister Genscher of the Federal Republic of Germany and Prime Minister and Foreign Minister de Maiziere of the German Democratic Republic formally convey several additional assurances. Among these are their declaration that the constitution of a united Germany will protect the free democratic order and provide the continuing basis for prohibiting parties and associations with National Socialist aims. In his letter of September 18 to Secretary Baker, Foreign Minister Genscher also makes clear that the Government of a united Germany accepts responsibility for the resolution of unresolved claims against the German Democratic Republic, both of American citizens, and of Jewish victims of the Nazi regime. In this letter he commits his government to seek, shortly after unification, to provide expeditious and satisfactory resolution of claims of Jewish victims of the Nazi regime against the German Democratic Republic. In this same letter he states that the Federal Republic of Germany will, shortly after unification, resolve through negotiations with the United States Government the claims of U.S. nationals that were previously under discussion with the German Democratic Republic. The commitments contained in these two letters are further evidence that the Government of the united Germany will sustain and build on the exemplary record of the Federal Republic of Germany in promoting democratic values.

The Treaty represents a major achievement for our German allies, who have not forgotten the past or the role Germany once played in the horrors of 1933–45, but who have demonstrated over 4 decades of steadfast support for democracy and the Western alliance what the world can expect from the united Germany.

The Treaty is also a tribute to the courage and the determination of the people of Germany to achieve unity in peace, freedom, and concord with their neighbors.

The emergence of a free, united, and democratic Germany, linked to the United States and to its European neighbors by indissoluble ties of friendship, common values, and mutual interests, and ready to act as a full partner within a broader community of democratic nations, has been an enduring goal of American foreign policy for over 40 years. Seldom has any President had the privilege of submitting for the Senate's advice and consent an agreement which so fully realizes our national purposes. This agreement is the result of decades of steadfast effort and resolve on the part of past Presidents and Congresses, and our Allies. It is an achievement of which we can all be proud.

It is wholly fitting that Germany formally and irrevocably achieve its unified status at the earliest possible moment, unfettered by Four-Power rights, shared by the Soviet Union, which are now outmoded and unnecessary. I therefore ask the Senate to act expeditiously in giving its advice and consent to ratification of the Treaty and the Related Agreed Minute.

GEORGE BUSH.

THE WHITE HOUSE, *September 25, 1990.*

THE DEFICIT

Mr. BOSCHWITZ. Mr. President, I rise to speak about the budget negotiations and the budget deficit, my hope that the negotiators will conclude, and my opposition to the idea of extending the deadline.

Mr. President, I want to urge on the negotiators. I urge them on to come to a conclusion. I want to state on the floor I object to the idea of an extension. We are kind of a 2-minute group. As they say in football and indeed in basketball—which I know, Mr. President, you are very familiar with—most of the action occurs in the final 2 minutes. Whether or not you win or lose is whether or not, as Vince Lombardi used to say, you are conditioned and really trained for that 2-minute drill and you can get it going. In the last 2 minutes, victory or defeat is normally decided.

If we extend until October 20, or October 13, or even a single day or a single 3- or 4-day period, the bewitching hour of when we are going to have to finally come to a conclusion on the budget, when the sequester occurs or when the lack of appropriated funds really bites—if we extend those periods, it is just going to be the final 2 minutes at the end of the period that we give as an extension, so it may as well be now. If we are to govern and if we are to show some capability in governing, we have to cross that Rubicon now. We simply cannot wait any longer.

I am willing to vote for any reasonable package. I recognize the package that is going to come down is not going to satisfy me, just as it will not satisfy any other Member of this body in its entirety. The package is going to contain some severe constraints on agriculture. That is the base of the economy in my State. There is no question that is going to bite, that it is going to hurt. It is going to have an impact on the elderly through medicare. It is going to hurt other programs.

But, in reality, the programs all are growing in expenditure, and over the years they will grow but somewhat less than we expected them to grow, and that is OK with me. That is the only way we are going to be able to bring about a balance in the budget.

It will not surprise me, Mr. President, if we go through this same exercise again a year from now. Look at the deficit figures. I have before me the deficit figures for this fiscal year. In the month of August the deficit was $52.754 billion—almost $53 billion. That is not a record, but it is awfully close to a record, and it is absolutely extraordinary that at this moment we find it so difficult to balance the budget when in a single month we have a deficit in excess of $50 billion.

Thus far this year, fiscal year 1990, which is closing in just a few days, the deficit stands at $241.716 billion, an absolute record. The deficit has gone up from last year by about two-thirds.

Why? The answer clearly is spending. This year, spending has risen at 12.7 percent over last year. Income, taxes, revenues have risen only 4 percent over last year. So the deficit, as I have mentioned, is just getting worse.

Those are terrible figures, Mr. President—$241.7 billion in deficit thus far this year. Our negotiators are having problems coming to a conclusion. Because the deficit is so much higher than anticipated, it certainly would be no surprise to me—I expect we will be going through this same drill next year. We will be putting together another package because the deficit will not be sufficiently reduced by the $500 billion over 5 years.

So, Mr. President, I urge on the negotiators. I say this simply cannot continue, these extraordinary deficits about which I have spoken so often here in the Senate, regretfully not to much avail.

When I came to the Senate 12 years ago, or shortly thereafter, I devised the so-called fair play budget. The fair play budget allows every program of the Federal Government to rise by a small percentage each year to let the revenues catch up. This year revenues are growing only by 4 percent. But if we look at the last 30 years, revenues have grown at an average of 8.6 percent. So, quite clearly if we hold spending down to 2 or 3 percent as a growth figure, we will be able to catch up over a period of a few years. That, in the end, is what has to be done.

Some people say it is a little bit mindless just to apply a formula to each function of the budget, to each program even. To some programs we simply cannot apply a total formula—I understand that. We have some opportunities in this budget round of not having to apply that kind of formula to some things because defense is going down. But there is no question that there does have to be somewhat of an arbitrary approach.

If we say we are going to discuss each one of the programs and we are going to apply logic and we are going to come to a conclusion and come to an aggreement what should be done in that program, then the kind of situation we have now, that I have experienced year after year after year in this body, occurs. We never come to an agreement. People are so far apart about what should be done in various programs that nothing happens.

So I appeal to the negotiators to go forward, and I say to them I will vote for any reasonable plan that they bring back, and I will give them a lot of latitude. I think solving the budget crisis is really the overriding domestic economic issue that faces the Senate of the United States.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from North Carolina [Mr. SANFORD].

CAPITAL GAINS

Mr. SANFORD. Mr. President, I count on you to close my remarks when a few minutes have elapsed.

I simply want to reflect on what my distinguished colleague has just said because, it seems to me, we have wasted a great deal of time worrying about the budget and fighting over a minor issue, when we think of the good of the Nation, the minor issue being the President's insistance that we have in this budget agreement a provision to reduce taxes for capital gains. Why he pursues this stubborn position in view of what could happen if we did not have, finally, a budget resolution, I do not know. But I think we will have a budget resolution. What worries me is that it will not be a budget resolution that goes to the heart of our need, which I think is to reduce the national debt, to quit piling up the national debt. The present budget tentative agreement, what seems to be coming into shape, would be a 5-year plan, according to the President, that reduces the deficits by a total of $500 billion during that 5-year period.

The trouble is, if we look at the accumulation of the deficit, the accumulation of the growth of the national debt during that same 5-year period, it will be $1.7 trillion. So if we take away the $500 billion, we still will have in that 5-year period, an accumulation of deficit, an increase of the debt, of $1.2 trillion as a minimum.

So we have a problem quite beyond this that I hope we can resolve before we leave, during this session. I thank the Chair and yield the floor.

APPOINTMENT OF CONFEREES TO H.R. 4487

The ACTING PRESIDENT pro tempore. Pursuant to the authority previously granted, the Chair appoints the following Senators as the conferees on H.R. 4487.

Under the previous order, the Acting President pro tempore [Mr. KOHL] appointed the following Senators conferees on the part of the Senate: Mr. KENNEDY, Mr. HARKIN, Mr. PELL, Mr. ADAMS, Mr. HATCH, Mr. DURENBERGER, and Mr. COCHRAN.

Mr. SANFORD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

Mr. PELL. Mr. President, I am deeply disappointed that the Senate failed to get enough votes to allow

consideration of S. 1224, the Motor Vehicle Fuel Efficiency Act of 1990. Sometimes it takes just a few votes to block serious action on a matter that should receive immediate attention, such as the Motor Vehicle Fuel Efficiency Act of 1990. That is what happened in the Senate today.

Events in the Middle East continue to drive the price of oil higher. It is up to Congress to reduce our Nation's thirst for foreign oil and protect our economy from the type of shock waves caused by the likes of people such as Saddam Hussein. Unfortunately, this effort has received a setback, but I believe it is only a temporary setback. The author of the Motor Vehicle Fuel Efficiency Act of 1990, Senator RICHARD BRYAN, has vowed that we will be back to fight this battle again and I join him in that promise and pledge my help in achieving the very worthy goal of energy independence.

JOHN D. HARDY

Mr. INOUYE. Mr. President, recently a very special staff member of the Senate Commerce, Science, and Transportation Committee retired. After 22 years of loyal and conscientious service, John D. Hardy joined the law firm of Wilkinson, Barker, Knauer & Quinn.

John came to the Senate Commerce Committee staff in 1968 after graduating from Columbia University Law School and 8 years at the Federal Communications Commission. Initially he was responsible for communications issues, but in 1970 John became staff counsel to the Subcommittee on Tourism. Prior to that time, there had never been a subcommittee that was specifically responsible for tourism.

After the energy crisis in 1973, the subcommittee initiated the first comprehensive review of Federal travel and tourism policies and activities. As the staff director for the national tourism policy study, John Hardy assisted the Policy Committee in completing that landmark study. As a result of the desire of the Senate Commerce Committee to be more fully informed on travel and tourism issues, the committee established the Travel and Tourism Industry Advisory Council. John Hardy served as general counsel to that industry council.

In addition to his travel and tourism responsibilities, John Hardy also served as merchant marine counsel from 1978–87. During that time, comprehensive changes were made in the laws governing international shipping.

While the committee members and I personally will miss John Hardy's professional assistance and advice, I am pleased that he is moving on to new and exciting challenges. We all look forward to his success in these endeavors.

INOUYE SPEECH

Mr. COHEN. Mr. President, it is a privilege for me to rise in this Chamber and recognize the work of our distinguished colleague Senator DANIEL INOUYE. Senator INOUYE has been one of Congress' most thoughtful and erudite voices in foreign affairs, and I stand today to recognize his particular commitment in that field to the State of Israel.

Several weeks ago, Senator INOUYE delivered a most eloquent commencement address before the parents and graduating class of Brandeis University. In his address, Senator INOUYE traced the history of the Jewish people and their struggle to create and maintain a Jewish state, all in the face of nearly insurmountable odds. Senator INOUYE also reviewed the current state of affairs in the Middle East, Israel's importance to the United States, and the need to limit the proliferation of weapons in this volatile but vital region.

Mr. President, Senator INOUYE's remarks were—as always—insightful and to the point. I believe that his remarks deserve the attention of my colleagues and others who are concerned about the situation in the Middle East and the security of our ally Israel. I therefore ask unanimous consent that Senator INOUYE's remarks be entered into the RECORD.

The test of the address follows:

COMMENCEMENT ADDRESS OF SENATOR DANIEL INOUYE, MAY 20, 1990

Class of '90, Godspeed to all of you. To the parents, guardians, this is your day because without your love and patience, your children would not be here. And to the faculty, for your willingness to share your wisdom, knowledge and talent, we have before us, in truth, the leaders of America. Congratulations to all of you!

My remarks this morning are rather difficult to make, but I believe they must be made. I wish to share with you my thoughts as Chairman of the Senate Committee on Defense Appropriations. It is my committee that has the responsibility of deciding how much we spend for the defense of the United States. As a result of the extraordinary events in Eastern Europe, coupled with the crumbling of The Wall, the assassination of some of the Communist leaders, the dismantling of the Warsaw Pact, and the extraordinary words of Gorbachev—his *glasnost* and *perestroika*—we find in America a great spirit of peace and euphoria—something that we have not seen for a long, long time in this land. And today in the Congress of the United States, among my colleagues, the favored words are "peace dividends." In fact, some of my colleagues have already spent these "dividends."

We are seriously considering reducing our spending for defense by 25 per cent. However, I should tell you that whatever cuts we make will be done with great caution because, notwithstanding the rhetoric of peace that we hear, these are the facts. The production of ICBMs, the production of nuclear submarines, the production of supersonic bombers in the Soviet Union are on schedule. They have not in any sense slowed down. In fact, the uncertainty of the economy, the uncertainty of the future of Mr. Gorbachev, coupled with the growth in their strategic forces, causes all of us on this committee to be very cautious. For example, while we in Congress are debating whether we should have mobile ICBMs, the Soviets have not only already developed, but have deployed approximately 300 mobile ICBMs throughout the Soviet Union. In the assessment of every member—not only of the United States, but of all NATO allies—of all of the intelligence agencies, the strategic capability of the Soviet Union today is much, much greater than it was before Mr. Gorbachev came on the scene.

Assuming that everything goes well, that Mr. Gorbachev's health keeps up and he is successful in bringing about an economic restoration, and that his promises are kept, there are many other areas of deep concern to us—areas in the Third World. We should not lose sight of the fact that there are dangerous areas such as the Korean peninsula, India and Pakistan, and the most dangerous of all—the Middle East. It is dangerous because we, the policy-makers of the United States, have failed—or are possibly reluctant—to look upon the Middle East with the cultural and historic sensitivity that I believe is necessary in dealing with the problems of the Middle East. All of us have heard the words "survival," "national paranoia," and "distrust of others" whenever we refer to Jews. And I believe that from the perspective of Jews and Israelis, these words have much validity. And that must be acknowledged and involved in our policy-making, but unfortunately, it has not been so.

I believe I should give you a brief explanation of my background, and I think it might help you understand why I am so concerned about the Middle East. I come from the Pacific, and in the neighborhood of my childhood days there were no Jews. I had never met one. The first time I had heard the word "Jew" was in Sunday school when my Sunday school teacher said, ". . . and the Jews killed Jesus Christ." That was the first time. The second time was in a hospital bed in 1945. The guns were silent, and a young man took the empty bed next to me. He, too, was an amputee. And he began telling me an extraordinary story of unbelievable evil. He was the contingent that liberated Dachau. He spoke of bodies that were piled up like cord wood. He spoke of the stench in his nostrils that would never leave him. He spoke of the sunken cheeks and sunken eyes. I couldn't believe that! It was not conceivable to me that any person or persons could conceive such evil and such horror, especially from a nation that brought forth great music, great art, great science. And so I began my study—and my study continues. And although my study of the Jewish people was not conducted with the professional help of rabbis and learned scholars, one thing became apparent early on—that this Hitler holocaust was just the latest in a historic chain of continuous Jewish holocaust and misery. It wasn't anything new.

Those of you who know the history of the Jews will tell you of the days of slavery in Egypt; they'll tell you of the Babylonian Diaspora and the Roman Diaspora when the temple was demolished, and of the three million Jews in the City of Jerusalem, over a million were slaughtered and over a half a million sold into slavery. Then they'll tell you of the first Crusade when Pope Urban II told the assembled knights, "Go ye out and sanctify yourselves before going into the Holy Land by killing the Jews in

Europe." And you should know that villages and towns were decimated. More people were killed in Europe on the first Crusade than in the Middle East itself. Then came Pope Gregory, who came out with that astounding encyclical—"Jews are children of Satan"—and the killings continued. Then the Inquisition—and the killings continued. And the Black Plaque—and the Jews were blamed, and the killings continued. And ghettos were formed all over Europe—and the killings continued.

So when Hitler came along, I think that should have been anticipated. He was just trying to finish the work that was started many centuries ago. And it is extraordinary that with a history like this, the Jews did not end up as footnotes like the Chaldeans or the Babylonians or the Assyrians. Somehow they survived. Some say it's cultural identity, religious and spiritual identity and integrity. Well, whatever it is, they survived. And throughout it all we would like to believe that the United States and our hands were clean. But I think it is time that we remind ourselves that in our relationship with the Jewish people of the world, very few hands have been clean.

In 1939 there was a ship called St. Louis—it was an American ship. And on board that ship were 930 men and women whose passports had the red stamp "Jew" on it—the red "J". They sailed to the United States and our Coast Guard cutters came out and stopped them. They were not permitted to land or to dock. We refused to assist them to land in Havana, and so they had to return to Europe. About 600 had to return to the Continent, and it is said that most of them ended their sad journey in the ovens. And now we are told that our leaders during the war were aware of these camps, and, if they wanted to, could have destroyed them. Though we destroyed many cities, we did not destroy these camps.

Then came the United Nations partition of Palestine in 1947. We, history says, supported this. But yet, within a week, we imposed an embargo on arms, and we approved the British selling arms to the Arabs, and so the Israelis—the new citizens of this new state—had to struggle through this conflict. But then they survived once again. And in May of 1948, when they declared themselves to be a state, I joined many others in applauding this fact. And in 1950 when they began selling Israeli Bonds, I became a salesman. My first purchase is still on my wall. I decided to just keep it there to remind myself.

Then the Camp David Accords of 1978—I think most Americans would hail this as one of the great events in the history of Israel. In some sense it is a great event, but it was a very, very expensive event—also historic. I am not an historian, and I've tried my best in studying books to learn whether any nation that has conquered lands adjacent to theirs has ever given up this land voluntarily—only Israel. We refused to give up New Mexico, Arizona, California and Texas to the Mexicans because it is part of our national security. But we got Israeli to agree to give up the Sinai, and when they did that, they gave up an oil field that was already providing close to one-half of the energy needs of Israel, but we said, "don't worry, we'll take care of you." There were two air bases on the Sinai and we said, "don't worry, we will rebuild them for you." So when the time came—yes, we did assist them in building the air bases—but at the 1978 rates. At the time they began building the air bases, inflation had gone up 300 percent. And the major reason for this inflation was the Saudi oil crisis. Remember, we promised the Israelis, but we had our problems at home, and so we told the Israelis, "you take care of yourselves." It is conservatively estimated that the return of the Sinai cost Israel at least $12.0 billion, and for a small country, that is a lot of money.

Well, with this history and this background the word "survival" becomes very real to the Israelis. The word "distrust" becomes very real to the Israelis. "Paranoia" is no imagination to them, because history has shown them that maybe it would be wise to be a little distrustful. And our national policy-makers have somehow either deliberately exploited this or have failed to recognize the importance of history in our dealings with other people.

For example, in 1980, we in the Congress pleaded with the President, "don't sell AWACs to the Saudis—they don't need it." And we suggested that if this sale had been carried out, with this history in the background, the Israelis might feel compelled to purchase expensive counter-weapons systems. And so, in my capacity as Chairman of the Foreign Operations Committee, I called the Secretary of State. He sent the Deputy over to testify. And I asked him a very simple question. "If we transferred the AWACs to the Saudis, how do you expect the Israelis to react or respond?" His answer was a very simple one, "The Israelis can buy more F-15s." And they did. The cost, nearly $2.0 billion. And we wonder why they are having economic problems.

Well, let's get back to the Middle East of today. If you add the following ingredients to this little history that I have related to you, little ingredients such as Yassir Arafat; the P.L.O.; Iraq, with its nuclear and chemical warfare development; the wealth and sophisticated weapons of the Saudis; I can understand why the Israelis are concerned. Ten years ago, military experts throughout this world would have told us that the Israelis could adequately defend themselves and survive in any war. At that time, the population of Israel was 3,820,000 and of that number, 90 per cent were Jews. And the Arab population, not including Egypt, was 119,134,000—a slight difference. Ten years ago the Israeli military consisted of 165,000 active and 460,000 in the reserves—a total of 625,000. And the Arab military, not including Egypt, consisted of active 1,227,000, and in the reserve, 782,000—a total of over 2,000,000. Two million vs. 625,000, and all analysts said, "the Israelis can handle themselves."

Today the picture is different. There are sophisticated weapons and the following numbers—the Arab population today, not counting Egypt, is 161,146,000. They have increased by nearly 50,000,000. The Israelis are now 4,542,000—of that number, 83 per cent are Jews. The military picture is as follows—keep in mind that 10 years ago the active forces of Israel numbered 165,000—today 141,000. On the other hand, the Arab active forces are 2,613,450 and the reserves are nearly 2,000,000—a total in excess of 3.5 million. And if you add Egypt, you add another million troops.

Add to this the following footnotes of national and international concern that somehow indirectly participate in this total picture. First, the Soviet Jews. For a long time it has been the policy of the United States to needle the Russians, to egg them on, and as one of our presidents said, "Let my people go." That was the policy of the United States. Huge rallies were held in the mall. Politician after politician stood there, pointing their fingers to the Soviet Union—"Let my people go." Well in 1986, the total number that left the Soviet Union was 914. And of that number, 22 per cent went to Israel; the rest came to the United States. And in 1987 the number grew to 8,155, and nearly 25 per cent went to Israel. The rest came to the United States. In 1988, 18,000 left the Soviet Union, and of that number, 11 per cent went to Israel—the rest to the United States. And suddenly Gorbachev came onto the scene and he says, "O.K., we'll let them out." In 1989, 71,000 decided to leave, and of that number, 12,000 went to Israel and the rest came to the United States. And the American government said, "Oh, oh, that's too many people." Bingo! We closed our doors. We used the Soviet Jews when it was handy politically.

And so what is happening today after we closed the doors? The first month of this year—January—nearly 5,000 left the Soviet Union and 97 per cent have to go to Israel because our doors were closed. Then in February, nearly 6,000 left the Soviet Union—99 per cent had to go to Israel because our doors were closed. And in March, 7,300 left the Soviet Union, and 99.9 per cent had to go to Israel because we closed our doors. This has caused the Israelis a problem of monumental proportions just to house these people. And we anticipate this year over 100,000 Soviet Jews, and within 10 years, 500,000. The housing costs alone will be close to $5.0 billion. Talk about being in debt! And notwithstanding our commitment and our promise that all we could afford was $400 million in guarantees—that's not spending; we are just guaranteeing a loan. We are not giving anything; Israel has to pick up the tab.

And the other footnote that is of special concern to Americans and to the world is the so-called West Bank and the Golan Heights. Many Americans, many of my colleagues are saying, "return the West Bank." Now those of you who know the configuration of the West Bank would know that there is a neck less than 11 miles between the West Bank and the Mediterranean, and this was part of the partition. But this portion, unlike Lithuania—which the Soviets themselves claim they got illegally—it was not a matter of conquest like the West Bank. They were not threatened by the Lithuanians like the Jews were threatened by the Arabs. We have one policy that says, "Mr. Gorbachev, we hope you can leave the place, even if we know you took it illegally." But on the West Bank we say, "Leave"—when no other country other than Israel has ever given up land. And I can tell you that if the West Bank is given away, that's the end!

Well, we Americans are extremely fortunate. We have really never experienced war in the real, horrible sense. With the exception of the British invading us during the days of the Revolution and the Japanese landing on the Aleutians in World War II, we have never really tasted occupation or invasion or the wholesale destruction of our lands. Our neighbors to the North and South are friendly—they don't pose any threat. To our East we have the Atlantic, to the West, the Pacific. And so the words "survival" and "paranoia" are not part of our lexicon. But may I suggest to you, my fellow Americans, that if we disregard the Middle East, we will do so at our peril, because our national interest—and that is our concern—our national interest would be best served by a stable and non-violent Middle

East. And I would suggest to you that this stability is best achieved by a strong and viable Israel, our most dependable ally, and the only democracy in that part of the world.

As the first Chairman of the Intelligence Committee, by necessity, I had to work with the intelligence agencies of this world, and part of my responsibility dealt with working with the Mossad. I can assure you, pound-for-pound, what we have received from Israel is much more than what we receive from the rest of NATO. As a taxpayer, I can tell you that we Americans have received not only our money's worth, but a bargain from Israel.

In a few days, the two most powerful Presidents will meet in the United States—President Gorbachev and President Bush—to discuss matters of grave importance, not only to America, but to the world. And I would hope that at that time the Middle East will be very high on their agenda. And I hope that steps can be taken whereby the super powers and all the arms manufacturing countries of this world can agree to militarily fence in the Middle East region, and place upon all those countries there an embargo on all transfers and all sales of chemical, biological and nuclear weapons, their components and their delivery systems. Because, if we fail to do this, it may help to escalate the present confrontation. The present confrontation, though it may be bitter, is primarily of minor skirmishes and the rhetoric of hate. But it could escalate, if our messages are mixed, into greater skirmishes and violence. And if it should ever become regional violence, then, whether we like it or not, I feel certain that the super powers will be involved. Then all that we have been working for, and all that we have been praying for, will have been for nought, because we failed to see the potential danger in the Middle East.

And I pray, like many of my colleagues, that God will grant our world leaders, especially Bush and Gorbachev, not only the wisdom, but the courage—yes, the courage—that will be necessary to bring about and maintain peace. Peace, though we want it very much—much more than anything else—is not easily achieved, and it takes great courage to hang on to it. I just hope we will have that courage. To all of you, Godspeed.

HONORING HAWAII'S MACADAMIA NUT INDUSTRY

Mr. AKAKA. Mr. President, I rise today to bring to my colleagues' attention a recent festival held on the big island of Hawaii which celebrated the State's No. 1 diversified agricultural crop, the macadamia nut.

For most tourists who visit the Aloha State, there is an overwhelming temptation to sample the many macadamia nut products—cookies, pies, candies, salted nuts, roasted nuts, coffees—all of which have helped to maintain Hawaii's dominance as the world's largest producer, processor, and seller of macadamia nuts.

I am proud to note that the State's 1989-90 macadamia nut growing season is recording a booming harvest of 50.5 million pounds even though some growing areas have been adversely affected by weather conditions. Last year, an additional 400 acres of macadamia trees were planted, about the same amount as in 1988, which has brought the total acreage to 22,300. In fact, the 1989 value of this crop was nearly $45 million, making macadamia nuts Hawaii's third largest crop after pineapple and sugar.

No wonder the city of Hilo, HI, the commercial center for macadamia nut production, hosted the 1990 Macadamia Nut Festival. A driving force behind reestablishing the festival was J.W.A. "Doc" Buyers, one of Hawaii's acknowledged business leaders.

"Doc" Buyers served as chairman of the board and chief executive officer of C. Brewer & Co., Ltd., the world's largest grower, processor and marketer of macadamia nuts from 1982 to 1986. He is now the chairman, president, and chief executive officer of Buyco, Inc., which bought out C. Brewer & Co. in 1986.

Mr. President, I am extremely proud of Hawaii's macadamia nut industry because its cultivation, processing and sales activities have created new economic opportunities for the State and for the Island of Hawaii. As one who has long championed the need to diversify Hawaii's agricultural crops, I see our macadamia nut industry as a true leader, both at home and abroad.

At a time when Hawaii's macadamia nut business is expanding, however, foreign producers are selling inferior products under the guise of Hawaiian-grown macadamia nuts. With the macadamia nut becoming an international commodity, it may be necessary to apply the same standards to macadamia nuts as we do to many other U.S. agricultural crops. To address this problem, I have asked representatives of Hawaii's macadamia nut industry to assist me in the review of this matter.

Mr. President, the macadamia nut is truly the world's most perfect nut. Although it is considered to be the Rolls-Royce of nuts, its sweet meat can be afforded by all.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time allocated for morning business has expired.

Does the Senator wish to proceed further in morning business?

Mr. PRESSLER. No. I wish to proceed on the bill, if it is agreeable with the manager. There has now been an agreement reached——

The PRESIDING OFFICER. Will the Senator withhold.

If there is no further morning business, under the previous order morning business is officially closed.

FAMILY PLANNING AMENDMENTS OF 1989

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senate will now resume consideration of S. 110 which the clerk will report.

The bill clerk read as follows:

A bill (S. 110) to revise and extend programs of assistance under title X of the Public Health Service Act.

AMENDMENT NO. 2884

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER], for himself, Mr. LEVIN, Ms. MIKULSKI, Mr. GRAHAM, Mr. MCCAIN, Mr. HELMS, Mr. HUMPHREY, Mr. COHEN, Mr. GRASSLEY, Mr. WARNER, Mr. PACKWOOD, Mr. KASTEN, Mr. SYMMS, and Mr. CONRAD, proposes an amendment numbered 2884:

At the end of the bill add the following new section:

SEC. . REDUCTION OF PAY OF MEMBERS OF CONGRESS.

(a) REDUCTION IN PAY.—For each month during fiscal year 1991 in which, by reason of a furlough or other employment action necessitiated by a sequestration order under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902), the total amount of the pay paid to any Federal employee is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law, the rate of pay payable to a Member of Congress shall be reduced to the rate of pay established for such Member pursuant to law.

(b) COMPUTATION OF REDUCED PAY.—The rate of pay payable to a Member of Congress for any month referred to in subsection (a) shall be equal to the amount determined by multiplying the rate of pay established for such Member pursuant to law by the percentage reported to Congress for such month under subsection (c)(1)(D).

(c) DETERMINATION OF PERCENTAGE FOR COMPUTATION OF REDUCED PAY.—(1) No later than the first day of each month in fiscal year 1991, the Director of the Office of Management and Budget shall—

(A) determine whether, for a reason described in subsection (a), the total amount of the pay paid to any Federal employee in that month is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law;

(B) estimate the average of the percentages that would result by dividing the monthly equivalent of the annual rate of pay established for each such Federal employee pursuant to law into the total amount projected to be paid such Federal employee for such month;

(C) aggregate the percentages determined under subparagraph (B) for Federal employees for each agency and determine the highest average percentage for any agency; and

(D) transmit to Congress a written report containing the average computed under subparagraph (C).

(2) The Office of Personnel Management may use a statistical sampling method to

make the estimates and determinations under paragraph (1).

(3) For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code.

(d) APPLICATION TO OTHER FEDERAL LAWS.—For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposed any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this section and shall apply to the first applicable pay period of members of Congress occurring on or after October 1, 1990. If the date of enactment of this section is after October 1, 1990, and the provisions of this section become applicable in the reduction of pay of members of Congress, all reductions which would have occurred if this section has been enacted as provided in subsection (b) and the amount of such reduction shall be recovered for the remaining pay periods for fiscal year 1991.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington [Mr. ADAMS].

Mr. ADAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, after consulting with the managers on the Democratic side, I ask unanimous consent that I might offer remarks on an amendment which I have not yet laid down, at the conclusion of which I will suggest the absence of a quorum so that no further business with respect to the Pressler amendment can be transacted.

The PRESIDING OFFICER. Is there objection?

Mr. ADAMS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. If the Senator will withhold, he does not, under these circumstances, need unanimous consent to proceed to speak.

Mr. HUMPHREY. Very well. I will just proceed, at the conclusion of which I will suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from New Hampshire has the floor.

Mr. HUMPHREY. Mr. President, during this interregnum during the consideration of the Pressler amendments, I thought I would put some time to better use than a quorum call by offering my remarks on an amendment which I shall offer this morning, which is not yet pending, but which I hope will be pending a little later this morning. I am going to be offering an amendment to this bill whose purpose is to facilitate the appointment of an independent counsel to investigate Members of Congress if, in the judgment of the Attorney General, evidence exists with respect to unlawful activity by Members of Congress in connection with the savings and loan fiasco.

That is the fundamental purpose of the amendment, Mr. President, which I shall offer later this morning.

The amendment would facilitate the appointment of an independent counsel under the Ethics in Government Act to investigate whether any criminal wrongdoing by an upper level Federal Government official was involved in the savings and loan debacle.

The S&L disaster is probably the biggest scandal in American history. The costs of this scandal will easily run to $500 billion and it may go as high as $1 trillion. Who can tell at this point. But we all know that is enormously expensive.

One trillion dollars represents $4,000 for every man, woman, and child in America. The American people are presently upset about this matter and they have the right to know the extent to which this $4,000 bill per citizen is the result of back-room deals and illicit influence, and they have the right to be assured that the culpable parties, if any, are brought to the bar of justice.

On June 22, the junior Senator from Colorado [Mr. WIRTH], spoke, I believe, for most of us when he said that—

> There are hundreds of thousands * * * of Americans who are deeply concerned about this, deeply concerned about the fact that they have lost an enormous amount of money * * * there is a sense of urgency.

The distinguished senior Senator from Illinois [Mr. DIXON] correctly noted that this is perhaps the largest scandal in our Nation's history—

> A scandal * * * that will cost the people twice what the Marshall plan cost; twice what we spent to rebuild the World.* * *

Writing in the Chicago Tribune, Senator DIXON went on to state that, "This country is being robbed blind and the thieves are getting away scot-free." In another editorial, on June 26, 1990, the same paper cast even further light on Congress' failure to extricate itself from this crisis: "Instead of working together to clean up the mess, the politicians in Washington are bickering over who's to blame." The editorial went on to quote economist Edward Hill of Cleveland State University, who figured that every man, woman, and child in Illinois would lose $700 per person; Wisconsin: $600 per person; Indiana: $657 per person; Michigan: $787 per person; Connecticut: more than $1,200 per person; and Massachusetts, New Hampshire, New Jersey, and New York about $1,000 per person each. It now appears that Mr. Hill may have underestimated the problem.

Michael Gartner, writing on August 9, 1990, for the Wall Street Journal, put it this way:

> If every charitable gift from every company, every foundation, every living human, and the will of everyone who died this year were earmarked to bail out the savings and loan industry, it wouldn't be enough to handle the costs even without worrying about the interest on those costs.

Mr. Gartner also stated that:

> The entire costs of World War II, in current dollars and including service-connected veterans' benefits, is about $460 billion, that's $40 billion less than the bailout.

A Congressman from Illinois, Congressman FRANK ANNUNZIO, went even further. "The American people," said Congressman ANNUNZIO, "want to see the S&L crooks in jail, no ifs, ands, or buts. The taxpayers have been sentenced by the crooks to 40 years of hard labor and forced to pay $500 billion as a result of the fraudulent operators.* * * It is time to put the S&L crooks in jail * * *."

From the charges and countercharges being thrown about by various Members of the Senate and the House, culpability goes far beyond the presidents and financial officers of the bankrupt savings and loans. Without discussing any of these charges—which I do not intend to do—let me say that I hope Members of both parties will be eager to clear that air once and for all with respect to criminal responsibility for this costly and unnecessary scandal.

In fact, Congress has responded to the biggest scandal in American history by pointing fingers at everyone else. Responding to a recent congressional proposal to establish a commission to dig out the full story of the S&L debacle, the New York Times in July rightly stated that such a commission would "only provide cover for sitting politicians who are embarrassed by their negligence, if not complicity."

Mr. President, an independent counsel, which my amendment will seek, could go, fairly and impartially, after criminally culpable parties in both the legislative and executive branch, without distinction on the basis of party, philosophy, or branch.

In an editorial in July, the Washington Post endorsed the notion of an independent counsel to investigate the savings and loans scandal, pointing out that a resolution in the House to this effect is cosponsored by over half of all Members.

While the crime bill—the fate of which is now very much in question—does contain a larger investigative mechanism, the importance of my

amendment is that it focuses on corruption in government. The American people have a right to know specifically whether elected or appointed officials have engaged in criminal conduct which has brought on this financial crisis, even if it were to pass, the earlier Senate proposal would barely touch this issue.

The Attorney General currently has the authority to ask for an independent counsel to investigate Members of Congress under 28 U.S.C. 591(c), if he determines that prosecution by the Justice Department would "result in a personal, financial, or political conflict of interest."

So the Attorney General already has this power and, therefore, I hope that no Member is going to argue about the constitutionality of what I propose.

Mr. President, under the independent counsel statute, as it now exists, the Attorney General may not seek the appointment of an independent counsel to investigate a Member of Congress unless there is a conflict of interest between the Department of Justice and that Member of Congress. Under the amendment which I shall offer, that limitation is removed. Under my amendment, if the Attorney General feels there is evidence sufficient to request the appointment of an independent counsel to investigate a Member of Congress, he may request the appointment. He need not first find that there is a conflict of interest between his office and that Member of Congress.

On the other hand, it is important to point out, nothing in the amendment compels the Attorney General to request the appointment of an independent counsel. The Attorney General still retains the discretion as he now exercises under existing law, that is, he need not invoke the independent counsel procedures unless he finds "Reasonable grounds to believe that" violations of law has occurred.

Mr. President, it is appropriate to extend the independent counsel's provisions to criminal violations by Members of Congress in certain cases because it will eliminate the perception of politically motivated prosecutions. No matter how fairly the Justice Department handles these cases, there will always be suspicion that prosecutions of Members of Congress have political overtones. Placing such cases in the hands of an independent counsel directly addresses that concern.

In short, Mr. President, it is time for us to put up or shut up. If Congress is serious about getting to the bottom of the savings and loan scandal and the extent, if any, to which Members of Congress were unlawfully involved, I hope that the Senate will adopt my amendment.

Mr. President, the amendment which I shall offer later at an opportune time consists of three sections. The first is a title; the second is a section on findings. I want to recite those findings because I do not think any of them will be contested.

Congress finds—

(1) that the savings and loan debacle is the largest financial crisis in our Nation's history, and that the cost to the American taxpayer of that debacle may be in excess of one trillion dollars;

(2) that fraud and other criminal activity—including criminal activity by federal officials and officeholders—may have contributed significantly to the saving and loan industry's losses and will cost taxpayers billions of dollars;

(3) that Attorney General Richard Thornburgh recently spoke of an "epidemic of fraud" in the savings and loan industry and indicated that at least 25 to 30 percent of savings and loan failures can be attributed to criminal activity by the institution's officers and management;

(4) that at least some of those fraudulent officers and managers attempted to perpetuate their fraudulent activities through the application of political influence on the appropriate regulatory authorities;

(5) that officials at the Resolution Trust Corporation indicate that an estimated 60 percent of the institutions the corporation has seized "have been victimized by serious criminal activity";

(6) that investigating and prosecuting criminal activity related to the savings and loan crisis—including unlawful efforts to exert political influence on regulatory authorities—will help send an important message of "never again" to those involved in the financial industry;

(7) that the passage of time makes investigation more difficult and expiring statutes of limitation could allow serious crimes to go unpunished if investigation and prosecution is delayed.

And the third section, Mr. President, amends the Ethics in Government Act in a number of ways to accomplish the purposes I have laid out here; namely, to remove, with respect to Members of the Congress, the requirement that there be a conflict of interest between the Justice Department and Members of Congress before the Attorney General may seek the appointment of an independent counsel in those cases where a preliminary investigation leads him to believe that unlawful activity on the part of Members of Congress exists or existed.

In other words, it removes the requirement that there be a conflict of interest between the Justice Department and Members of the Congress before the Attorney General may request the appointment of an independent counsel.

I think this is a worthwhile amendment. I think it is one long overdue. I think it is one urgently in need of adoption. However, I expect opposition to its adoption. It may well be that the leadership will offer a second-degree amendment to mine when mine is pending that will have the effect of neutralizing or gutting my amendment.

I hope that will not be the case. I hope that we can have a vote on the merits. I think Members ought to vote on the merits of the amendment and have an opportunity to do so without the issue being obscured or obfuscated by a second-degree amendment. I think the American people are entitled to a vote.

So when it is pending, Mr. President, I do hope the leadership will permit a vote on the amendment itself without a second-degree amendment. Naturally, the leadership or any Senator has a right to offer a second-degree amendment. But I think its intent will be clear in this case. This is a good, tough amendment. This is a tough-on-Congress amendment, a law-and-order amendment as it applies to Congress in connection with the savings and loan scandal. We ought to do it. If we do not, the rollcall vote would certainly make interesting reading for the press and for our constituents.

Mr. President, again my amendment is not now pending. I will offer it later. The Pressler amendment is pending. I now suggest the absence of a quorum.

Mr. DASCHLE. Will the Senator withhold for just a moment?

Mr. HUMPHREY. Yes, I withhold.

AMENDMENT NO. 2885 TO AMENDMENT NO. 2884

Mr. DASCHLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for himself, Mr. ADAMS, Ms. MIKULSKI, and Mr. DECONCINI, proposes an amendment numbered 2885 to amendment No. 2884.

At the end of the amendment add the following:

(f) APPLICATION TO EXECUTIVE OFFICERS.—The provisions of this section and the computations as they apply to the reduction under subsection (b) shall apply to the rate of pay for the President, the Vice President, and any excecutive officer at a position of level I of the Executive Schedule under section 5312 of title V United States Code, any executive officer or employee in the Executive Office of the President who on the date of the enactment of this section is paid at a pay rate equal to or above the pay rate for a position at level I of the Executive Schedule.

Mr. DASCHLE. Mr. President, let me first commend my distinguished colleagues, the Senator from Arizona and the senior Senator from South Dakota, for offering this amendment. It certainly makes the right statement about what we, as Members of Congress, must do if we face the prospect of telling many people in this country that they are going to have to accept the consequences of sequestration.

We have already indicated that as a result of sequestration our staffs are going to be cut dramatically. The original amendment, would provide that the salaries of Members of Congress and the Senate be cut. My

amendment simply says if it is good for Congress, it has to be good for the executive branch as well; that the Vice President, all executive officers at the position of level V or above of the executive schedule under 5316 of title V, and any executive officer or employee in the Executive Office of the President who, on the date of the enactment of this section, is paid at a rate equal to or above the pay rate for a position at level V in the executive schedule, would also be included.

It is just a question of equity and fairness. Members of Congress and high-level officials of the executive branch should be treated no differently than those who inspect our meat products, guide our airplanes, or provide service to Social Security recipients.

Amending the proposal offered by the Senators from Arizona and South Dakota places policymakers in the same category as all Federal employees who deliver essential Federal services. I hope we can move the amendment expeditiously.

I yield the floor.

Mr. PRESSLER. Mr. President, I commend my colleague. I think this is an excellent improvement on the amendment. It shows that our thinking has expanded to include the members of the Cabinet and the President.

The effort we are trying to make here is that if there is a sequestration we want Members of Congress to be treated the same as others in the Federal Government. I think the logic is very good to extend the provision to members of the Cabinet and the President. It is very ironic that the people making the decisions in the budget negotiations have exempted themselves from the penalties which a sequester would impose upon many of our fellow citizens.

Also, I might point out it is not just civil servants who would be hurt by a sequester. Many other sectors of our economy would be affected by sequestration. Indeed the State budget of the State of South Dakota is 47 percent Federal money. Farmers' CRP payments could be affected. Medicaid and Medicare and almost every other program in the United States, except the salaries of Members of Congress and Cabinet officers and the President, could be affected by a sequester.

So, Mr. President, I wholeheartedly welcome this amendment and I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. McCAIN. Mr. President, I ask for a voice vote on the Daschle amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. McCAIN. Mr. President, we urge a voice vote on the Daschle underlying amendment and then we would like to further debate the Pressler amendment and will be seeking a record vote.

The PRESIDING OFFICER. Is there further debate on the Daschle amendment?

Mr. DASCHLE. I ask unanimous consent Senator DECONCINI be added as consponsor.

Mr. KENNEDY. I would like to be added as cosponsor.

The PRESIDING OFFICER. Senator KENNEDY and Senator DECONCINI will be added as cosponsors.

Mr. ADAMS. I would like to be added as cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ADAMS. I thank the Chair.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2885) was agreed to.

AMENDMENT NO. 2884, AS AMENDED

The PRESIDING OFFICER. The Chair recognizes the Senator from South Dakota [Mr. PRESSLER].

Mr. PRESSLER. Mr. President, I shall be very brief because there are other Senators waiting to speak on this amendment. I spoke on it last night and covered the basic provisions.

This, as I said, would place Members of Congress on the same basis as others if a sequestration occurs. October 1 is fast approaching. That is the beginning of our new fiscal year. If we do not have a budget agreement by that date, the first stage of what is called a sequestration goes into effect. That means certain mandatory cuts will occur.

Also, our civil servants, our Federal employees, have received letters of furlough, or notification of furlough. This has been very demoralizing to many of our fine civil servants and in this situation we all should be in the same boat. I think this amendment, as amended, puts the decisionmakers in the same category as the civil servants and, indeed, the many private citizens whose work is affected by Federal programs and services, during sequestration.

That is the purpose of this amendment. Congress should be included in any sequestration. Congress is responsible for this budget. Members of Congress should be the ones held accountable for their own inaction.

Specifically, this amendment would cut the pay of Senators and Congressmen by a percentage equal to the largest or highest of either the across-the-board uniform percentage reduction in Gramm-Rudman-Hollings, currently estimated at 32.4 percent or, B, the percentage pay cut of any civil service or other Federal employee whose salary is affected by the sequestration.

The legislation will go into effect on October 1, 1990, the same day as the October 1, 1990, sequestration will begin if it is required. The minimum cut for a U.S. Senator would be at least $31,882 or more if any agency exceeds the current 32.4 percent.

We as elected officials should set an example, Mr. President.

The PRESIDING OFFICER. The Chair recognizes the floor manager, Senator KENNEDY.

Mr. KENNEDY. I know of two further speeches. Hopefully, we will be able to move along. I know that is the desire of the Senator.

I ask unanimous consent that no second-degree amendments be in order to the amendment of the Senator from South Dakota.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. I would also like to get the yeas and nays ordered. I do not care when we vote, later today or whenever the measure occurs.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Arizona [Mr. McCAIN].

Mr. McCAIN. I thank both my colleagues from South Dakota for their involvement in this amendment. I think Senator DASCHLE's second degree amendment that forces the sequestration to apply to both President and senior executive positions in the executive branch is entirely appropriate.

I congratulate the senior Senator, Senator PRESSLER, for his amendment which calls for the Congress to share in bearing the burden of sequestration if that eventuality should arise.

As we all know, within the next few days there is the possibility, or in the view of some, the probability, of the ax—and it is an ax—of sequestration falling on the American people.

Unfortunately, that draconian measure will not be equally divided. It will fall primarily on 1.1 million Federal employees. It will certainly cause extreme discomfort to the lifestyles of many tens of millions of Americans. But as far as an economic impact, it will directly affect those men and women who have served our country with dedication and skill, and frankly played no role in bringing about the situation that exists today. The dilemma in which we are now mired is a result of the gridlock over our inability to resolve the budget crisis.

I see no reason why we in the legislative branch should not share in the pain and the financial burden. Indeed, perhaps maybe some would argue if we were sent on furlough we might have seen more significant progress than we have yet witnessed. I personally subscribe to that theory, but I am not sure that that will take place.

In all seriousness, Mr. President, the men and women who serve our country are facing a very uncertain future. They face the prospect of reduced sal-

aries, furloughs, and family dislocation. Every one of these people have expenses, Mr. President. They have mortgages to meet, car payments to make, they have bills to pay. They had every right to anticipate a certain level of income in order to maintain their lifestyles as they had planned them. Right now, we are placing that lifestyle in jeopardy.

Perhaps this one Senator—and perhaps my friend from South Dakota—cannot prevent that. But what we can do is assure these men and women that we will be sharing an equal burden of pain if it is inflicted on them.

I do not intend to go into a long explanation of what caused this crisis we are in, nor do I have a recipe for its resolution. If I did, I probably would be over at 1600 Pennsylvania Avenue rather than here on the floor at this moment.

I do note, with some interest, the budget summit could now, perhaps, be called the incredible shrinking budget summit. I believe we are now down to only a few participants. Perhaps when we get down to one, we will come up with a viable solution.

I also note with some interest that the summiteers continue to meet under less than unpleasant circumstances. I suggest perhaps the summiteers could convene at some remote spot without the creature comforts they presently enjoy, and perhaps that will provide some motivation to reaching a solution more rapidly.

Mr. President, the fact is, the status quo is an unacceptable embarrassment. Last Sunday, as I left church, I was approached by several irate parishioners not endowed with the spirit of the service which we had just received, who basically asked: What is wrong with you guys?

I did not have the temerity to remind the questioners that we are not all of one gender. But the fact is, Americans all over this country, especially our Federal employees, are asking that quesiton: What is wrong with you guys? They have every right to ask that question, and unfortunately I have been so far unable to provide them with an answer. But at least I think we can provide them with some comfort and solace, that if the axe, the meat axe of sequestration, does fall on them, that we will also share in the pain and burden.

I thank my friend from South Dakota, Senator PRESSLER, for bringing this amendment up. I think it will receive a unanimous or near unanimous approval.

I ask unanimous consent that Senator DOMENICI be added as cosponsor. I ask Senator SYMMS also be added as a cosponsor, Mr. President.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER].

Mr. SPECTER. Mr. President, the pending amendment provides an opportunity for some discussion about the forthcoming potential sequestration and the problems that will bring to the United States. The amendment by the distinguished Senator from South Dakota [Mr. PRESSLER] is a step in the right direction, but I do not think it goes nearly far enough in underscoring the nature of responsibility by the Congress and by the executive branch.

When the distinguished Senator from Arizona talks about the Congress sharing in the pain, I suggest to him that we were sent to Washington to be leaders, not to be sharers and not to be followers, and that the ultimate outcome, if there is a sequestration, will make the Congress and the President and all elected officials the leaders in taking the pain, which would be just.

The consequences of a sequestration, Mr. President, would be absolutely disastrous and if, in fact, it does occur, I believe that the American people are going to throw 537 elected officials right out of Washington. It is not going to be a matter of a reduction in pay; it is not going to be a matter of embarrassment, which I share with Senator McCAIN's pronouncement; but it is going to be the last straw, the straw that breaks the camel's back of America when you add it to the savings and loan fiasco and the problems of ethics in Government and the problems of campaign finance reform and the waste in Government.

If we cannot reach a budget, which is our primary responsibility, the remedy, I suggest, is not going to be a cut in pay commensurate or equal to what others are having as a cut in pay, but it is going to be the fact that 537 of us are going to be tossed out of Washington, and with justification for the American people to do just that.

I heard talk yesterday of some polls as to who was responsible; that only x percent blamed the President; and y percent blamed the Congress and z percent blamed the Democrats and another percent blamed the Republicans. My polls say the same thing, Mr. President, and that is, 100 percent blame the incumbents. We were sent to Washington, DC, to solve the problem, and we have not done so.

I serve on the Appropriations Committee, and we have worked through the process of trying to have a fair budget. We cannot reach within our Appropriations Committee, as we could not reach within the budget resolution in the Congress, the solution for all these problems. So we had a summit, and we delegated to the summiteers the responsibility to try to work out this issue.

I talked with a number of people in August, Mr. President—one of them was the Presiding Officer—about the possibility of refusing to raise the debt limit in August to bring the problem to a head. I discussed it with the distinguished majority leader and Senator DOLE and a number of my colleagues.

My point at that time was unless there was tremendous, tremendous pressure, the budget problem would not be solved. My view on that was based upon what I have seen in 10 years as a Senator where it takes that kind of pressure to bring some sort of an accommodation and some sort of a compromise, because politics is the art of the possible. Everyone cannot have his or her way about every issue.

The characteristic quality of the Congress was typified recently when we adjourned on December 22 at 3 a.m. We finally worked out the budget and the details of the controversy because of the pendency of Christmas. If Congress could have postponed Christmas, we would not have reached an agreement at that time.

In August, the prospect was present that the summiteers were going to meet, were going to isolate themselves before Congress reconvened right after Labor Day, and this top group, with the attendance of the President himself, would resolve the issue.

In our characteristic fashion, we got to the matter of the debt extension at about 2:20 in the morning as we neared our session in April. Finally, on that argument, we allocated the enormous sum of 10 minutes, equally divided, 5 on each side, to make the decision about whether we were going to raise the debt limit.

The distinguished Senator from Texas, Senator BENTSEN, chairman of the Finance Committee, did not use all of his 5 minutes. I walked down to the well of the Senate and discussed with the Republican leader the issue about taking some time to talk about the matter, and there was no issue of any sort which would have been less well received at 2:25 a.m. than that one, or anything else.

Now it is September 26, and from what I understand, today is doom's day. We either arrange a compromise today or there will be no compromise. That date is not Monday because it will take some time to work out some of the very basic mechanics of having the Congress consent and having the President sign on, if there is an agreement. We have Yom Kippur on Saturday and part of Friday. So today is the day.

Up until the present time, there are relatively few people who understand what the sequestration label means. I am explaining it virtually on the hour

to my constituents and people who inquire about it. Those who know about the sequestration are Federal employees who have received notices that they are going to be terminated. That has brought a certain reaction in the Congress. Mr. President, I suggest not nearly enough.

When we passed Gramm-Rudman-Hollings in December 1985, it was a desperate legislative measure because of our struggle to deal with the deficit. In the 10 years that I have been here, I have heard no subject discussed at length, in extenso, ad nauseum, as we have about the deficit issue. We should have solved it a long time ago.

This body passed a constitutional amendment for a balanced budget 69 to 31 in the early 1980's. It came back later and was defeated by a single vote, 66 to 34, requiring a two-thirds majority vote.

We have taken up the issue of the line-item veto, which I favor. Many in this body do not. I understand their reasons because it is a traditional legislative responsibility. But when we send enormous continuing resolutions to the President or vast appropriations bills even when we legislate on all 13, there is just inordinate, excessive pork in those bills. If the President had the authority to strike on a line item, we would be able to cut down substantially all the waste in Government.

We talk about an increase in taxes and Americans do not want an increase in taxes. The 1984 election was decided on that issue alone. The distinguished Republican leader, after that election was over and President Reagan defeated former Vice President Mondale, Senator DOLE capsulated it in one line, as he is so apt to do. He said that President Reagan did not get a mandate; he got a "Mondate" because the American people did not want a tax increase.

The 1988 election was decided on the same basis. The American people read President Bush's lips, and President Bush was selected over Governor Dukakis. The American people do not want a tax increase. Any politician who suggests a tax increase can start to look for another job.

But, Mr. President, I have found in my travels, principally through Pennsylvania visiting my 67 counties, and beyond Pennsylvania, that many Americans, perhaps most Americans would be willing to have a tax increase if Americans were sure it would be dedicated to reducing the deficit. But they are not prepared to see a tax increase which adds to the general fund where Congress can spend the money on things other than reducing the deficit.

So we are coming really to what is the edge of a precipice. I sense that the American people are really furious with what is going on in Washington, those who know and those who have some inkling of what a sequestration means.

Mr. President, I suggest that even the 537 of us who were elected down here, 100 in this body and 436 in the House, and the President and the Vice President, have not really focused on the full impact of what a sequestration would be.

I had my staff pull together a smattering of the figures. This does not begin to tell the tale of a sequestration, but let me comment on it relatively briefly.

There has been some comment about what would happen in the Department of Transportation, but I do not think many people understand the full impact.

Under a sequestration, the hours of operation of virtually all airport control towers would be reduced. The number of flights between cities would be reduced. There would be an enormous reduction in scheduled airlines.

In the Department of Justice, the FBI agents would be scaled back enormously. The Drug Enforcement Administration would have to eliminate some 1990 additional programs which have been added. The fraud and crime section of Federal investigations would be cut back enormously. Prison construction, vitally necessary, would be stopped. The Immigration and Naturalization Service would have to cease hiring and lay off substantial numbers of the Border Patrol staff, urgently needed to take care of the borders in this country.

The Centers for Disease Control would have to reduce service, stopping service for some 1 million children who would not be vaccinated for polio, measles, mumps, and many other potential illnesses. Meat and poultry inspections by the U.S. Department of Agriculture would be reduced. Meat and packing plants cannot operate without Federal inspectors, so the meat and poultry slaughter and processing industry would be forced to severely limit or curtail production because of the absence of those inspections. The sequestration would result in the absence of inspection services for about 140 days.

In the Department of the Treasury, the IRS would not be able to continue their collection practices with an estimated loss of $8.3 billion.

Mr. President, these are but a few of the losses which would be incurred.

There is a real issue as to what would happen with the Defense Department. We have a military operation, Desert Shield, in process. I do not think that that would be impacted, but the effect of a sequestration would absolutely be cataclysmic, Mr. President.

I suggest that the real point of the Pressler amendment is not to wax eloquent or to have senatorial rhetoric on reducing congressional pay and executive pay, which is probably never going to occur anyway, given the legislative process as to what is to happen. But this ought to be a clarion call that at 11:23 a.m. on Wednesday, September 26, the Congress of the United States and the executive branch ought to get down to business and solve this issue. We ought not to have a sequestration.

Yesterday, I heard talk about the disadvantage of being the one who goes first with the deficit reduction plan. Earlier there had been talk that all of the negotiators ought to go into a room and suddenly a piece of paper ought to emerge with a solution, without anybody's fingerprints on it, unable to identify who articulated the solution.

Mr. President, we were sent to Washington, DC, to be leaders. That is what a U.S. Senator ought to do. It is a very frustrating prospect not to be able to answer your friends intelligently on what is happening in Washington, DC, as to why there is no budget.

Senator MCCAIN said that he was embarrassed at church. I have been embarrassed in meetings all over Pennsylvania for several months, and it has reached a very intense level. But as we talk, Mr. President, I think that relatively few Americans understand what sequestration means. The Federal employees do, those who have received notice of furloughs. They have adopted a plan—I do not know why it took them so long—to vote against all incumbents; never mind what the party is; never mind who the incumbent is; just throw the rascals out.

The great difficulty with that kind of approach is that they will be throwing in some other rascals. We have simply not organized the structure of this Government to come to terms to deal with this issue.

Mr. President, some say that we live in a very greedy country; that everybody wants all their propositions. I know everybody in this Chamber has had one interest group after another come and insist that the deficit be cut, insist that the services for their own group be maintained, object to any taxes which will reach their group. But in the U.S. Congress, in the U.S. Senate, and at the White House, we were sent here to make the tough decisions and to make the compromises.

Senator DOLE, the Republican leader, has spoken out about his willingness to make compromises on some of the toughest issues that there are. He has suggested having the capital gains issue on a separate line. This morning's media reports that ROBERT MICHEL, Republican leader of the House, has said he wants a capital gains tax, but it is too steep a price to pay if we are going to have a stalemate and sequestration. This Senator voted for a capital gains tax when it came up last year.

Mr. President, I think we are dealing with something which is even more cataclysmic than the issue of sequestration; we are dealing with the issue of the loss of faith of the American people in the ability of Washington, DC to govern, if we permit this sequestration to occur.

Mr. President, I believe sequestration is not the appropriate consequence. If we are to have gridlock and if we are to have stalemate, my view is that we ought not to raise the debt limit, which is due on or about October 1. There are some people who are willing to take a sequestration. They say it is medicine which the American people ought to swallow in order to put our economy on a better keel.

We all know that our economy is in desperate straits. There is no doubt about that. With the reports on the slowdown in economic growth, the problems with the rise of oil prices, and difficulties, continuing in the Persian Gulf, we have very severe economic difficulties. But there is no reputable branch of economists who will tell us that a sequestration is going to provide the answer. We have to provide the answer ourselves in a sensible budget which reduces the deficit and eliminates the deficit. That can only come from the Congress and the President acting together in the art of politics, which is compromise.

So, Mr. President, if we are going to have gridlock and if we are going to have the kind of pressure necessary to bring everybody to an accommodation, then this Senator would opt to have the debt ceiling not raised. If the Government cannot function—we have seen that a few times in the 10 years I have been here—that puts so much pressure on all parties that we will all come to our senses.

So that when Senator PRESSLER offers an amendment to reduce congressional and executive salaries, I think that is a step in the right direction. I just do not think it goes far enough.

But I do not think the American people are going to wait for congressional action on this subject. I think if we have a sequestration and the disastrous consequences it would bring for the United States of America, the American people will speak in a louder voice and there are 537 of us who will be looking for new jobs—and rightly so.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana [Mr. BAUCUS].

Mr. BAUCUS. Mr. President, I think the Senator from Pennsylvania has made a very good statement, and I hope that those of us on Capitol Hill listened to it and follow the Senator's advice. I, too, believe that sequestration would be not only an unfortunate event but an event which would cause havoc in many areas of this country.

Mr. President, I hope that cooler heads prevail. I often think that the best politics is no politics. I think that Republicans are too partisan, and I think Democrats are too partisan. I think, as we often know around here, those of us inside the beltway tend to not fully understand what the people outside the beltway are actually thinking and feeling.

As the Senator from Pennsylvania said, people in our country are very disgusted with what they see going on in Washington. I think they are correctly disgusted. They are disgusted because the President, on the one hand, and the Congress on the other, have not come together to reach an agreement to avoid sequestration.

Mr. President, this is a matter that requires the cooperation of both ends of Pennsylvania Avenue. The President must cooperate, the Congress must cooperate. I am reminded of a saying of Benjamin Franklin, 200 years ago, when he said either we hang together or most assuredly we are going to hang separately. That was true 200 years ago. I think it is true today. If we Americans, we in the Government at both ends of Pennsylvania Avenue, do not hang together to get a solution, there is a good chance that we are going to hang separately.

I fervently urge the negotiators, I urge the President, and I urge the Congress to put political differences aside to come up with a resolution because the American people are less concerned about who wins, Republicans or Democrats; they are much more concerned about getting the solution to the problem to avoid sequestration.

More importantly, Mr. President, people are concerned that we in Washington, DC, both the President and the Congress, are not addressing basic underlying economic problems; that is, the budget deficit, our national debt, and our trade deficit. The list could go on. Certainly, the resolution of the budget deficit negotiations will go part way toward resolving some of these economic problems.

So again, Mr. President, I very strongly hope that President Bush, the Congress, the Republicans, and Democrats come together to resolve this. It will take the mutual cooperation of both.

ORDER OF PROCEDURE

Mr. BAUCUS. Mr. President, I ask unanimous consent that I may speak as if in morning business for a period not to exceed 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana is recognized.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 3111 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

FAMILY PLANNING AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota [Mr. CONRAD].

Mr. CONRAD. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. At this point the Senate is considering amendment No. 2884 offered by the Senator from South Dakota to which no second-degree amendments are in order and on which the yeas and nays have been ordered.

Mr. CONRAD. I thank the Chair.

I wish to address myself to the pending amendment.

Mr. President, this amendment, I believe, sends a message and a very clear one that it is time to act.

We all know that we are on the brink of a breakdown in the functioning of the Federal Government, and this amendment puts all of us on the line, as we all should be on the line. If we did not have this amendment, others in the Federal Government, all those who get Government services, would face a breakdown, would face a disruption of their lives, but not at the White House, not in the Cabinet, not in the Congress. We would be held harmless while this country's basic functioning breaks down.

That cannot be. Mr. President, perhaps this will provide one additional prod to those who are negotiating, those from the White House and those who represent the Congress. A sequester would be a disaster.

Let us just review briefly what this sequester would mean. My State, the most agricultural State in the Nation, would face 40 percent cuts in agriculture; 40 percent, Mr. President. Every conservation reserve contract, cut 40 percent; every deficiency payment, cut 40 percent; every ASCS office, FMHA office, closed 2, perhaps 3 days a week.

Mr. President, the meat-packing industry in this country would be closed, because there would not be the meat inspectors. Veterans health care would be slashed; wards would be closed, service denied, and Federal employees furloughed. The list is very long. Prison guards, border patrol, air traffic controllers, all furloughed. For those who think that government is bad, this will be their opportunity to find out what it is like when there is no government, because make no mistake about it, these cuts would be dramatic and draconian, and people would suffer as a result.

I was just home this weekend. I had people come to me who said, "Senator, my family lives month to month, and, yes, we work for the Federal Government, and we are proud of it. We provide a service." Whether it is a U.S. marshal, a border patrol, an air traffic controller, they are providing essential and important services. They were saying to me, "Senator if you do not act, all of it comes to an end. What do I tell my family? What do I tell my family, who is counting on the paycheck that was promised me by the Federal Government when I went to work for all of us? What do I say to my wife, who wonders how we are going to make the mortgage payment? What do I say to the local grocery store that has my account?"

Mr. President, I had no answer, because there is no answer. If those of us who are charged with the responsibility of government fail in our most essential responsibility, what answer can there be? Clearly, Mr. President, we must act. Not only would sequester be a disaster, but a failure to confront the deficit crisis in this country would also be a disaster.

This country requires deficit reduction. For the 4 years that I have been in this body, nothing has consumed me more than the need to get our fiscal house in order. What could be more clear? In the last 9 years, we have tripled the national debt in this country, tripled. Tripled the trade deficit. We have gone from being the largest creditor nation in the world, with more countries owing us money than any other country in the world, to now being the largest debtor nation, owing more money than any other country in the world.

Mr. President, to continue in that direction is to continue on the path of decline. That is not acceptable. The American people deserve better. And all of us are responsible. We need a package of $500 billion of deficit reduction over the next 5 years. That is how big the problem is. Five hundred billion dollars of deficit reduction over the next 5 years would balance the budget and start saving the Social Security surplus.

Mr. President, I sometimes say to people at home, "You know what Jim Bakker, the evangelist is in jail for? He is in jail for raising money for one purpose and using it for another purpose. That is why he is in jail." Every one of us in Washington has the same obligation and the same responsibility because we have been taking money that we have raised, that we have said was for Social Security, and we have used it for other purposes.

Mr. President, that is wrong. That is why Jim Bakker is in jail; it is wrong. It is as wrong for us to do it, as it was for him to do it. We have heard much that these talks are held up because the President insists on a tax break for capital gains. A lot of people asked me when I went home this weekend, "What is capital gains? I hear a lot of talk about capital gains; I am not sure what it is. I do not have any capital gains."

Well, I think every Member of this body knows about capital gains, and we know who benefits from a cut in the capital gains tax. Every proposal that the President has advocated would reduce taxes for those who make more than $200,000 a year and increase taxes for everyone else.

Mr. President, I asked my staff to prepare this chart that puts in context what happened with tax changes over the last 13 years, from 1977 to 1990. This chart is broken down by income groups. The lowest one-fifth of our population has had a slight tax increase over this period. The next one-fifth of our population, in terms of income, have also experienced a tax increase. And so it is with the third one-fifth of our population and the fourth. All of them have experienced tax increases in the last 13 years. And so it is with the next 10 percent, and even the next 5 percent, and even the next 4 percent.

But look at what has happened to the very top 1 percent of our population. They have experienced a massive tax cut. Now we hear that the White House insists on still more tax forgiveness for the wealthy, those among us who have the greatest ability to pay. That is wrong. That cannot be sustained.

Already, we have seen Senator DOLE indicate that he is willing to put capital gains aside. We have seen Representative MICHEL, the Republican leader of the House, break with the White House on this question.

I urge today that President Bush think carefully about what is in the true national interest. The need for a substantial program of deficit reduction is so critical. The need to avoid the disastrous consequences of sequester is so critical that the President and his advisers should back off.

They should jettison any thoughts to tax breaks for the wealthy being part of this package and those from Congress ought to jettison any ideas of new spending programs as part of this package. Those are the lines of compromise. Forget about any tax breaks. Forget about any new spending programs. Let us have a package of deficit reduction that puts America on a path of fiscal responsibility, that avoids catastrophic effects of sequester, that sends a signal to the world that the United States is getting back on track, that this country has the will to make the hard decisions to move ahead.

We have an unparalleled opportunity. Oftentimes at a time of crisis, at a time of difficulty, there is an opportunity. That opportunity exists today. We could do something great for this country by putting in place a package that would restore America's fiscal integrity.

We are that close. If only those with the cooler heads and the wiser heads would prevail and we would forget about those elements of the package that do not reduce the deficit but would increase it, we could move ahead. Mr. President, it is not that hard to do.

I introduced before the Budget Committee a package that would reduce the deficit $559 billion over 5 years. It cuts spending absolutely. We told our allies in Europe and Japan it was time for them to start paying more of their own bills. We could not go on spending $100 billion a year to pay the bills for Europe and have to borrow the money from them to do it and $50 billion a year for Japan and have to borrow the money from them to do it.

It asks that those who are not paying their fair share of taxes now to start paying them. We have a $100 billion tax gap in this country, the difference between what is owed and what is being paid, and we ought to insist that those who are not now paying their fair share contribute before we ask the honest taxpayers to pay a penny more.

Today is the day. Today is the day that we need to insist that our leaders act.

So I come to the floor to implore my colleagues who are summit negotiators, and to implore the President of the United States, it is time to compromise. It is time to come to a conclusion. It is time to settle this problem once and for all.

Mr. President, I once again commend my colleagues from South Dakota, Senator DASCHLE and Senator PRESSLER, for offering this amendment because it sends a message that should be sent. I thank them for providing the vehicle.

Mr. President, I ask unanimous consent to print in the RECORD a newspaper article from the New York Times on the effect of the cuts.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 26, 1990]

WHITE HOUSE AND CONGRESS MAP STRATEGY FOR DEEP SPENDING CUTS

(By Susan F. Rasky)

WASHINGTON, September 25.—With time for a budget compromise running short, the White House and Congressional Democrats each prepared doomsday scenarios today to keep the Government running when the new fiscal year begins on Monday and to turn to their advantage automatic spending cuts that would take effect that day.

John H. Sununu, the White House chief of staff, told Senate Republicans in a meeting behind closed doors that President Bush was prepared to rely on an obscure legal opinion, issued in the final days of the Carter Administration, to continue "essen-

tial services" even though money to pay for them has not been approved by Congress. The strategy immediately drew criticism even from members of Mr. Bush's own party, who warned Mr. Sununu that it was an intrusion on Congress's constitutional spending power.

Mr. Sununu outlined this aggressive strategy as the White House found its bargaining demand for a cut in the capital gains tax rate weakened as the top Republican leader in the House, Representative Robert H. Michel of Illinois, said he would be willing to abandon the cut if that would mean a budget deal with Democrats.

Senator Bob Dole of Kansas, the Senate minority leader and the only other Republican lawmaker in the top-level negotiating group that has been meeting for the last week, has previously indicated that lowering the capital gains tax rate is not as high a priority for him as a budget deal.

For their part, the Democratic leadership prepared for the budget deadline by laying plans to ram an alternative budget through both houses after first allowing the automatic spending cuts to take effect for the first few days of the new fiscal year.

TIGHT TIMETABLE

Both strategies assume that in the absence of a budget deal within the next 48 hours, Democratic Congressional leaders will put forward a stopgap spending bill to finance the Government and delay the automatic spending cuts for at least a week and perhaps as much as three. A stopgap bill delaying the cuts until Oct. 20 that includes $2 billion Mr. Bush has requested for American military operations in the Persian Gulf cleared two crucial House committees today and is expected to reach the House floor on Thursday.

Although Congress has until midnight Sunday to work out a solution to the money crunch, the time for floor action is actually much tighter. Both the House and Senate plan to suspend formal sessions on Friday afternoon through Saturday evening to accommodate lawmakers observing the Jewish holiday, Yom Kippur.

Mr. Bush reiterated to reporters today that in the absence of a budget compromise, he would veto a stopgap spending bill that delays the automatic cuts. "So if there is no budget agreement with real spending reduction and real process reform by the end of the week, I will have to veto it," Mr. Bush told reporters. "I do not want to see further delays and kicking this problem on down the road."

Mr. Sununu's message came in response to questions from Republican senators who were concerned that the automatic spending cuts would be devastating to the economy and to their party.

According to Republicans, the White House would base its authority to continue some Government operations on a 1981 ruling by Benjamin R. Civiletti, the Attorney General under President Jimmy Carter. Those operations could theoretically include air traffic control, meat inspection, and military operations from cuts that would otherwise be required under the Gramm-Rudman-Hollings balanced-budget law.

ISSUE OF CAPITAL GAINS

Democrats say that the high-level budget talks have foundered on the issue of a cut in the capital gains tax. Senator Dole, who suggested last week, that a vote on capital gains and other revenue losing measures be separated from the deficit-reducing package in hopes of moving the stalled talks along.

Congressional Democrats are adamantly opposed to the cut in the capital gains tax unless it is accompanied by tax increases on the wealthy Americans who would be the primary beneficiaries of the lower capital gains rate. Democrats have said that once the capital gains issue was resolved, remaining disputes over spending cuts and budget enforcement procedures could be settled quickly.

In declaring his position today, Mr. Michel noted that he did not speak for all House Republicans, most of whom continue to insist that a gains cut must be part of the budget package. He also noted that Mr. Bush had campaigned on a pledge to lower the gains tax rate and that so far the Administration appeared to be standing pat. "I still take my lead from the Administration," he said.

House Democratic leaders said they plan to make a decision by late tonight or early Wednesday on how to proceed with the stopgap spending bill and its provisions for delaying automatic spending cuts. Some form of temporary spending measure will be necessary by Oct. 1 even if there is a budget agreement because Congress has not enacted any of the 13 regular spending bills that are supposed to finance the Government for the 1991 fiscal year that begins then.

PRESIDENTIAL THREAT OF VETO

Like the Republicans, Democrats assume the President would make good on his threat to veto a stopgap spending bill. Democrats also assume that at least initially they will not have the votes to override that veto and that about $85 billion of reductions in domestic and military spending will take effect.

While some Democrats believe that the automatic cuts should be delayed until Oct. 20 to give Congress more time to work out a budget solution, others, including Representative Leon E. Panetta, the California Democrat who is chairman of the House Budget Committee, have suggested a delay of just a few days.

Under this scenario, Democrats would use their majorities in the House and Senate to try to pass their own version of a budget quickly. While such a budget would undoubtedly meet Republican resistance, Democrats are wagering that lawmakers who are faced with the choice between a Democratic plan or continuation of the automatic spending cuts will approve the Democratic budget.

Senate Republicans, who fear precisely such an outcome but who also object to Mr. Sununu's plan, today began to prepare their own budget alternatives.

This effort by moderate Republicans is independent of the White House budget strategy and reflects mounting frustration among moderates who believe the Administration is raising financial chaos.

Mr. CONRAD. I yield the floor.

Mr. EXON. Mr. President, it should be obvious to all that if there is to be a sequester, it should apply to Members of Congress as well as other Federal employees. I will support such efforts.

There is widespread belief that the sequester would be governmentwide and therefore equal.

That is one of the great myths of Gramm-Rudman. That measure exempted about 60 percent of the budget from cuts and was one of its greatest failures.

We can begin to make Gramm-Rudman more honest by applying its cuts to ourselves. Let us get on with it.

AMENDMENT NO. 2885, AS MODIFIED, TO AMENDMENT NO. 2884

Mr. DASCHLE. Mr. President, I have an amendment at the desk which is a technical modification of an amendment already adopted by the Senate.

I ask unanimous consent that the amendment be adopted.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from South Dakota is so modified.

Mr. DASCHLE. I thank the Chair.

The amendment (No. 2885), as modified, is as follows:

At the end of the amendment add the following:

APPLICATION TO EXECUTIVE OFFICERS.—The provisions of this section and the computations as they apply to the reduction under subsection (b) shall apply to the rate of pay for the Vice President, and any executive officer at a position level V or above of the Executive Schedule under section 531 of title V, United States Code, any executive officer or employee in the Executive Office of the President who on the date of the enactment of this section is paid at a pay rate equal to or above the pay rate for a position at level V the Executive Schedule.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Dakota.

Mr. DASCHLE. Mr. President, I move to reconsider the last vote.

Mr. PRYOR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2886 TO AMENDMENT NO. 2884

Mr. PRESSLER. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 2886 to amendment No. 2884.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section (c)(D)(2):

Delete "Office of Personnel Management" and insert "Office of Management and Budget".

Mr. PRESSLER. Mr. President, I also have a technical amendment that does not change the meaning of the amendment. On page 3, line 8, delete "Office of Personnel Management" and insert "Office of Management and Budget." It is just a technical change. The Office of Legislative Counsel suggested this change.

I urge adoption of the technical amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 2886) was agreed to.

Mr. GRASSLEY. Mr. President, I rise in strong support of the amendment of the senior Senator from South Dakota and am proud to join him as a cosponsor. While many other Members have already said as much, it bears repeating—Congress should at the very least set an example for those Federal employees who may be forced to take unpaid furloughs as a result of the budget impasse.

I would add to that that Congress should take a dose of its own medicine.

I have come before this body many times over the last year with amendments that Congress should apply to itself the same laws and policies that we impose on the rest of the country. There are few issues, however, as poignant as the paycheck which pays our household bills.

Mr. President, I would like to remind my colleagues in this body that during the Great Depression Congress cut its pay by 10 percent to set an example for the rest of the Nation. That action was commendable and ought to provide a precedent for us now. While the Federal budget crisis certainly does not compare with the crisis of the Depression, I fully believe that Congress should not take this budget deficit, and its consequences, lightly.

I hope that this amendment will be passed with a nearly unanimous vote and that Members will cast their vote with every bit of sincerity.

Mr. SIMPSON. Mr. President, I strongly support the amendment offered by my distinguished colleague from South Dakota, LARRY PRESSLER. He is right on target on this, just as he is on so many other issues.

I will not speak in detail about his amendment—the justice of this measure has already been pointed out so very eloquently by my colleagues, Senator SPECTER, Senator CONRAD, and others. But I do wish to point out one or two facts for the Senate's consideration.

"Sequestration" is surely the dirty word in Washington these days. Up to $100 billion may have to be sliced out of the budget in a ruthless and arbitrary fashion if we do not all jump off the cliff together and forge a deficit reduction package that meets the Gramm-Rudman-Hollings targets. We have received estimates that 40 percent may disappear overnight from whole areas of the Government. Those are truly shocking figures.

I do wish to remind my colleagues of why such a scandalous level of cutting would be required in the absence of a budget agreement. The fact is, we don't have to cut 40 percent of the Government as a whole—just that sliver that is left over after you eliminate all of our "nonsequesterables." The problem is that we have nearly $1 trillion of annual spending that cannot be touched under the Gramm-Rudman-Hollings law.

With or without a sequestration, there is going to be a lot of pain to spread around as we attempt to conquer the deficit. Pain—a lot of it. So much so that there is no possible way you can leave $980 billion in annual spending off the table and expect to make any meaningful progress.

This amendment would take some of that pain and inflict it on the Members of Congress. I say that is just fine—before all of this started, I inflicted a sequester on myself regarding the pay increase we have been given during my current term of office. I have returned $20,800 of my annual salary to the Treasury as it is. This amendment is the right thing to do—start with us.

Yet, you can't stop this body, though, or stop with the sequesterable portions of the budget. That is simply not a big enough base to shoulder the burden. The sacrifice necessary to pay for this deficit that we have all rung up are so vast that they are going to have to be borne by every shoulder in our society. Soon we are going to get the chance to ask our citizens whether they are willing to be citizens first, and special interests second. And whether we want to represent our particular constituencies first, or the Nation. That is just what it is going to come down to. I do hope that the spirit that induces us to take this step is also going to be in evidence when it comes time to do the heavy lifting in October.

The PRESIDING OFFICER. Who seeks recognition?

AMENDMENT NO. 2884, AS AMENDED

Mr. PRESSLER. Mr. President, the yeas and nays have been ordered, and we are ready to vote.

The PRESIDING OFFICER. If there is no further debate, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question occurs on the amendment proposed by the Senator from South Dakota, amendment numbered 2884, as amended.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Kentucky [Mr. MCCONNELL] and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that the Senator from New Hampshire [Mr. RUDMAN] is absent due to a death in the family.

The PRESIDING OFFICER (Mr. SANFORD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 254 Leg.]

YEAS—96

Adams	Exon	Mack
Akaka	Ford	McCain
Armstrong	Fowler	McClure
Baucus	Garn	Metzenbaum
Bentsen	Glenn	Mikulski
Biden	Gore	Mitchell
Bingaman	Gorton	Moynihan
Bond	Graham	Murkowski
Boren	Gramm	Nickles
Boschwitz	Grassley	Nunn
Bradley	Harkin	Packwood
Breaux	Hatch	Pell
Bryan	Hatfield	Pressler
Bumpers	Heflin	Pryor
Burdick	Heinz	Reid
Burns	Helms	Riegle
Byrd	Hollings	Robb
Chafee	Humphrey	Rockefeller
Coats	Inouye	Roth
Cochran	Jeffords	Sanford
Cohen	Johnston	Sarbanes
Conrad	Kassebaum	Sasser
Cranston	Kasten	Shelby
D'Amato	Kennedy	Simon
Danforth	Kerrey	Simpson
Daschle	Kerry	Specter
DeConcini	Kohl	Stevens
Dixon	Lautenberg	Symms
Dodd	Leahy	Thurmond
Dole	Levin	Wallop
Domenici	Lieberman	Warner
Durenberger	Lott	Wirth

NAYS—1

Lugar

NOT VOTING—3

McConnell	Rudman	Wilson

So the amendment (No. 2884), as amended, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment, as amended was agreed to.

Mr. PRESSLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CLOTURE VOTES TO BEGIN AT 5 P.M.

Mr. KENNEDY. Mr. President, on behalf of the majority leader, I ask unanimous consent that the cloture vote on S. 110 occur at 5 p.m. today, and that the cloture vote on the motion to proceed to S. 874 occur immediately thereafter. I understand it has been cleared with the minority leader.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, may I just speak for 2 minutes to say that I am——

Mr. PRYOR. Mr. President, there is not order in the Senate. I cannot hear the Senator from South Dakota.

The PRESIDING OFFICER. The Senate will be in order. The Senator from South Dakota is recognized.

Mr. PRESSLER. Mr. President, I thank the Senate for its fine vote on my amendment. I realize that being attached to this bill, it probably will not be signed by the President in time to be effective. I intend to offer the same amendment, but not seek a rollcall vote, on appropriate vehicles to make sure we get it in by October 1 if the current scenario leads to sequestration. I just wanted to serve notice to all Members.

Mr. ARMSTRONG. Will the Senator yield?

Mr. PRESSLER. I am happy to yield.

Mr. ARMSTRONG. I congratulate the Senator from South Dakota on his amendment. It really is a wonderful idea. It is very symbolic. It is an idea which expresses the better impulses of the Senate. I thank him for taking the initiative and showing the leadership to bring this matter before the Senate and for pursuing it successfully to a conclusion.

Mr. FORD. Mr. President, I object because the Senator asking to yield must ask a question, not make a statement.

The PRESIDING OFFICER. The Senator is correct.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. Mr. President, I rise to address a matter of some urgency regarding the supply of fuel in the United States of America and the impact of that shortage on energy prices. But, I note my colleague, the Senator from Arkansas, and I yield to him at this time.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. ARMSTRONG addressed the Chair.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I believe I have the floor and without losing the floor I would yield to my colleague from Arkansas.

The PRESIDING OFFICER. Is there objection to that request?

Mr. ARMSTRONG. Mr. President, reserving the right to object, what was the unanimous-consent request?

The PRESIDING OFFICER. That he be able to retain the floor, while yielding to the Senator from Arkansas for a statement.

Mr. ARMSTRONG. Mr. President, do I recall that that is exactly the nature of the objection that was lodged against me a moment ago? I think that is correct. I am not going to object to this, but I would just like to remind all Senators, as I reminded the Senator from Massachusetts last night, the way we do business around here is on the basis of give and take and comity and getting along. I think it would be foolish for me to object to this or for other Senators to object. I do not object and I hope in the future other Senators will not object to similar reasonable requests.

Mr. LOTT. The Senator has a right to object.

Mr. HUMPHREY addressed the Chair

Mr. LIEBERMAN addressed the Chair.

Mr. KENNEDY. Regular order, Mr. President. The Senator from Connecticut had the floor. He asked unanimous consent. There was objection, but it seems to me that he still has the floor, does he not?

The PRESIDING OFFICER. We are taking objections now.

Mr. KENNEDY. Then I object and hope that the Senator will be recognized.

The PRESIDING OFFICER. Objection is heard. The Senator from Connecticut has the floor.

Mr. LIEBERMAN. I thank the Chair. I would then, with apologies to my colleagues from Arkansas, proceed to the statement that I intended to make.

ESCALATION OF OIL PRICES

Mr. LIEBERMAN. Mr. President, I think there is no more pressing issue facing each and every American consumer and American business and, in fact, the American economy than the extraordinary escalation in fuel oil prices that has occurred since the Iraqi invasion of Kuwait.

Mr. President, it is my strong opinion that at the same time that Iraq invaded Kuwait, the oil industry invaded the pocketbooks of American consumers and American businesses. As all of the Members of the Chamber know well, since August 2, when that invasion occurred, the price of crude oil has gone up to almost $40 a barrel. A very short time ago, it was as little as $15 or $16 a barrel.

What has been truly outrageous and infuriating is the fact that this enormous increase in the price of crude oil and in the price of gasoline, has all occurred while the supply of crude oil remains high. In fact, in early August it was at a historic high. The normal rules of the market economy—the normal rules of supply and demand—appear not to relate to the way energy prices are arrived at in our country today. When it comes to the price of fuel oil, gas, and now home heating oil, what goes up apparently always stays up and does not go down.

Mr. President, there are many things I think we can begin to do to try to fight back and return some fairness to the pricing of energy in our country. One is to consider and adopt a bill which I have introduced and which, I am pleased to say, has been cosponsored by more than 20 of my colleagues from both parties here in this Chamber. That bill would authorize the President of the United States to declare an energy emergency in circumstances such as the current one.

Under my bill, during such an emergency, those involved in the oil business would not be able to increase their prices more than the actual increase in cost to them, plus a reasonable profit margin. That would be a way of cutting through a situation, such as now, where speculators and profiteers have bid up the price of crude oil, of gasoline, and now—as winter begins to come in some of the northern sections of our country—of home heating oil, in spite of the fact that supplies remain ample. These price increases reflect a psychology that is having a disastrous effect on the American economy.

Mr. President, in the last week a number of economic indicators have come out and they all begin to show the effect of the dramatic increase in oil prices. The inflation rate went up during August at a rate which, if annualized, would approach 10 percent, double digits. Our trade deficit for July increased dramatically, so it stands to reason that the deficit for the month of August will skyrocket because of the increase in the price of fuel. Both of these will have the effect, the way economic rules seem to work, of sending interest rates up, not down.

That is exactly what large sections of the American economy simply do not need. In fact, many sections of our country are in a recession now. Certainly the Northeast, or substantial parts of the Northeast, are in recession, and what we need now are lower interest rates, not higher interest rates.

So what is on the line as we face this outrageous increase in the price of energy is not only dramatic unfairness to the average consumer, not only a heavy blow to business trying to make their way in an already unsteady economy, but a direct body blow to our economy. If we just sit back and do nothing about it, we are fools. We are literally going to be fiddling while Rome burns. We are literally going to be sitting back and doing nothing while the security of our country is seriously jeopardized.

FAMILY PLANNING AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

Mr. KENNEDY. Will the Senator yield for a unanimous-consent request from the Senator from Utah without losing is right to the floor?

Mr. LIEBERMAN. I would, indeed, under those circumstances.

Mr. HATCH. Mr. President, I ask unanimous consent that immediately upon the conclusion of the remarks of the distinguished Senator from Connecticut the distinguished Senator from Arkansas be given 4 minutes——

Mr. PRYOR. Mr. President, I think 4 minutes is sufficient.

Mr. HATCH. To make his comments. Then the right to the floor to call up an amendment, be given to the distinguished Senator from New Hampshire.

Mr. LOTT. Mr. President, reserving the right to object.

Mr. KENNEDY. Mr. President, reserving the right to object, as I understand, the Senator from Connecticut is going to introduce a resolution and have disposal of the resolution. I have no objection then to going to the Senator from Arkansas, and then going to the Senator from New Hampshire.

I would also include in that after the introduction of the amendment of the Senator from New Hampshire, the Senator from Connecticut be recognized to introduce a second-degree amendment.

Mr. ARMSTRONG. I object.

Mr. HUMPHREY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Yes, Mr. President, there is an objection to the final part of the unanimous-consent request.

Mr. HATCH. Mr. President, could I——

The PRESIDING OFFICER. Objection is heard.

Mr. HATCH. Mr. President, could I ask——

The PRESIDING OFFICER. The Senate will be in order.

Mr. HATCH. Mr. President, may I be recognized here? Could I ask the distinguished Senator from Connecticut—one of our problems on this bill, and there has become a lot, is that they only have until the cloture vote to bring up amendments.

I wonder if it is possible for you to have this resolution, unrelated as I understand it to this bill, brought up following the clotuure vote, or whenever we get unanimous consent for you? I do not want any more time taken up by nonrelated matters because we have a lot of people who have amendments. That was the whole reason for the fight last night.

Mr. KENNEDY. If the Senator will yield further.

As I understand, the Senator from Connecticut would like to get a vote. He was glad to do it within a 10-minute time frame. I understand what the Senator is requesting, but as I understand, he would do it within a 10-minute timeframe.

Mr. HATCH. Let me say this: We have a number of amendments on our side—people waiting for days. They know that once cloture is invoked, they will not be able to bring up their amendments. I am inclined to do this if he will limit the time to 10 minutes. And then we will go to the distinguished Senator from Arkansas who just has a 4-minute statement, with no amendments to make. And I would ask unanimous consent that we go next to him. Then at least the distinguished Senator from New Hampshire can call up his amendment. Then whatever happens, happens under the rules.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object.

First, I would like to inquire, do we have a copy of that resolution so that the Members would have a chance to review that resolution? I would be inclined to object until I have a chance to at least see what is in the resolution.

Mr. HATCH. Could I get this other unanimous-consent request through which is then related to your request?

I am asking unanimous consent to go to the distinguished Senator from Arkansas as soon as this matter is disposed of, one way or the other, and then to the distinguished Senator from New Hampshire, to call up an amendment, and then let the rules take over.

Mr. LOTT. Reserving the right to object, you are saying you are now agreeing to let the resolution——

Mr. HATCH. No. I am saying as soon as it is disposed of when it is disposed of. I would ask that he give you a copy of the resolution.

Mr. LOTT. I am sorry.

Mr. HATCH. I am not agreeing he can dispose of this resolution. I am just saying immediately upon disposal of that resolution, we go to the distinguished Senator from Arkansas, and then to the distinguished Senator from New Hampshire.

Mr. LOTT. Mr. President, I am trying to clarify exactly, is this motion going to lead to the immediate consideration of the resolution? That is why I am reserving at this point to object.

Mr. HATCH. Should I restate?

The PRESIDING OFFICER. Let the Senator from Utah restate his request.

Mr. HATCH. I ask unanimous consent that as soon as the distinguished Senator from Connecticut's resolution is disposed of, whenever it is disposed of——

Mr. LOTT. Mr. President.

Mr. HATCH. That we yield 4 minutes to the distinguished Senator from Arkansas to make a short statement.

In fact, if I could, would the Senator from Connecticut be willing to yield 4 minutes to the distinguished Senator from Arkansas right now with the understanding that we will come back to him, he will not lose the right to the floor, and then as soon as his matter is disposed of, we will go to the distinguished Senator from New Hampshire?

Mr. ARMSTRONG. As soon as the resolution is disposed of.

Mr. NICKLES. Would the Senator yield for a comment?

I just glanced at Senator LIEBERMAN's resolution. It basically urges—correct me if I am wrong—urges that we begin releasing oil from the strategic petroleum reserve?

I see Senator FORD and others on the Energy Committee. We have had one hearing on this. I think we would need to discuss it at length before we pass this resolution. I am not sure that is a good resolution.

Mr. HATCH. Nothing in my unanimous consent would prevent you from doing that.

Mr. HUMPHREY addressed the Chair.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Is there a unanimous consent pending?

The PRESIDING OFFICER. There is a unanimous-consent request pending. I think if it is not objected to, we are going to move on. Is there objection?

Mr. HUMPHREY. Mr. President, if the Chair will not entertain a reservation, I will be forced to object.

I would first like to defer to express a thought.

Mr. President, I want to be sure that this unanimous-consent request in no way negates the rule of the Senate; that the matters only are germane, that the remarks germane to the legislation be in order 3 hours after convening of the Senate. Let me be sure that rule is not in any way negated by this request.

The PRESIDING OFFICER. The unanimous-consent agreement does not in any way relate to that.

Mr. HUMPHREY. I withdraw my reservation.

The PRESIDING OFFICER. Is there objection?

No objection is heard. The unanimous-consent request is agreed to.

NOMINATION OF JUDGE DAVID SOUTER

Mr. PRYOR. Mr. President, I not only thank the Chair, I thank seven or eight of my colleagues who have made it possible for me to address the

Senate for not to exceed 4 minutes on the nomination of Judge David Souter.

First, over the past 2 months, we have come to learn more and more about Judge David Souter, the President's nominee for the Supreme Court. Judge Souter came to us as a mystery. As the confirmation process proceeded—and he was questioned by members of the Judiciary Committee—many looked for clues to unravel the mystery of this man. I am not certain there is a mystery to be solved: Judge Souter is an intelligent, highly qualified nominee who brings an open mind, an even temperament, and a respect for basic constitutional principle to the bench.

Second, Judge David Souter comes across as an extremely intelligent man who has a distinguished educational background. He is a magna cum laude graduate of Harvard University, a Rhodes scholar, and a Harvard Law School graduate. His professional career is no less extraordinary: He served in the New Hampshire attorney general's office for 10 years—including 2 years as the attorney general of that State, sat as a trial court judge for 5 years, served on the New Hampshire Supreme Court for 7 years, and was recently appointed to the 1st Circuit Court of Appeals.

Third, during his confirmation hearings, Judge David Souter appears to have shown a judicial philosophy grounded in the fundamental principles of our constitutional system, including separation of powers and protection of individual rights. He espouses a judicial philosophy that treats the Constitution as a living document which recognizes changing circumstances.

Fourth, it is not the Senate's duty to determine how the nominee would vote on specific cases. Rather, it is the Senate's duty to assess the nominee's general philosophy and his approach to resolving the critical issues which come before the Supreme Court of the United States.

Fifth, Judge David Souter has shown himself to be a thoughtful jurist, possessing a sharp legal mind, who does not bring a personal agenda to his work on the court. Rather, his appearances and statements indicate he would bring to the Court an open mind, an eagerness to listen, and a willingness to understand both sides of an issue.

Sixth, some people have raised questions about Judge Souter's New Hampshire parochialism. Mr. President, for this Senator I am comfortable with a Supreme Court justice who lives in the same unpainted farmhouse that he grew up in, who visits his mother regularly, and who serves on the board of directors of the Concord Hospital.

Mr. President, finally, as far as this Senator can state, I have faith in this nominee. If his confirmation hearings and his statements before the Judiciary Committee are any indication of his future service to the Highest Court of the land I think that that faith will have been misplaced.

I am very proud, Mr. President, this morning to endorse the nomination of Judge David Souter to the Supreme Court of the United States.

FAMILY PLANNING AMENDMENTS OF 1989

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the agreement, the Senator from Connecticut is recognized.

AMENDMENT NO. 2887

(Purpose: Calling upon the President to initiate a modest use of the strategic petroleum reserve to stabilize the crude oil market)

Mr. LIEBERMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN] proposes an amendment numbered 2887.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment add the following:

Since Americans are deeply concerned about the impact of the Iraqi invasion of Kuwait on the world supply and price of crude oil and on the price of refined products—like gasoline and heating oil—that the American consumer will have to pay and the American economy will have to absorb;

Since the Department of Energy now estimates that most of the crude oil production lost because of the Iraqi invasion of Kuwait will be offset by increased production around the world;

Since crude oil markets remain unstable and volatile, causing the price of crude this week to exceed forty dollars per barrel and leading some experts to conclude that it may reach sixty dollars per barrel;

Since the latest economic indicators show that even before Iraqi's invasion of Kuwait the American economy was slowing such that the recent increases in the price of oil and oil products now threaten seriously to disrupt our economy and begin a recession;

Since the substantial increase in oil and oil product prices will severely affect those who can least afford it, including rural and urban poor, home heating fuel users, and small communities relying on oil-fired electric power generation;

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Several Senators addressed Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senate will be in order. Under the previous order that will not be in order.

Several Senators addressed the Chair.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

Mr. ARMSTRONG. Mr. President, that is not in order until the clerk has stated the amendment. The amendment is at the desk.

Regular order, Mr. President.

The PRESIDING OFFICER. The question now is whether or not Mr. ARMSTRONG can be recognized. The Chair rules that he can be recognized for a second-degree amendment. So the Senator from Colorado will be recognized.

AMENDMENT NO. 2888 TO AMENDMENT NO. 2887

(Purpose: To protect the health and well-being of young people and the integrity of their families)

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG] proposes an amendment numbered 2888 to amendment No. 2887.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. KENNEDY. Objection.

The PRESIDING OFFICER. The Chair hears objection.

The bill clerk resumed reading the amendment as follows:

At the end of the pending question add the following:

At the appropriate place, add the following new section:

SEC. . NOTIFICATION OF PARENT PRIOR TO ABORTION ON A MINOR.

(a) NOTIFICATION REQUIREMENT.—Section 1001 of the Public Health Service Act (42 USC 300) is amended by adding at the appropriate place the following new subsection:

"( )(1) No entity which receives a grant or enters into a contract under this section shall provide an abortion for an unemancipated female under the age of 18 until at least 48 hours after written notice of the pending abortion has been delivered in the manner specified under paragraph (2), except when the attending physician certifies in the minor's medical record that the abortion was performed due to a medical emergency requiring immediate action.

"(2) Such notice shall—

"(A) Be addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian and delivered personally to such parent or legal guardian by the physician performing the abortion or an agent of the entity; or

"(B) Be made by certified mail addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian with return receipt requested and restricted delivery to the addressee, which means postal employees may only deliver the mail to the authorized addressee. Time of delivery shall be deemed to occur at 12 o'clock noon on the next day on which regular mail delivery takes place, subsequent to mailing.

"(3) This subsection shall not apply to entities in states that have in effect laws requiring that a parent or legal guardian be notified of, or give consent to, an abortion to be performed on the minor child of such parent or legal guardian."

(b) EFFECTIVE DATE.—This section shall take effect 30 days after enactment.

Mr. ARMSTRONG. I ask for the yeas and nays, Mr. President.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will resume the call of the roll.

The legislative clerk resumed the call of the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. LIEBERMAN. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The legislative clerk resumed the call of the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ADAMS). Without objection, it is so ordered.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the text of my amendment be modified by adding the text that I have already sent to the desk, which is the second page.

Mr. ARMSTRONG. Mr. President, reserving the right to object, I have no personal objection to this. In fact, I am in agreement with letting the Senator do so.

But on behalf of another Senator, I am at least temporarily constrained to object.

The PRESIDING OFFICER. Objection is heard.

Mr. LIEBERMAN. Mr. President, having heard the objection, I understand the spirit in which my colleague from Colorado has put it forward.

Mr. ARMSTRONG. We will try to clear that very, very quickly. I will do that right now.

Mr. LIEBERMAN. Mr. President, my own feeling is that this sense-of-the-Senate resolution is critically important to send a message to the President and the administration that this oil reserve ought to be tapped immediately to help lower the panic in the oil markets.

The resolution does not stand with one page. Therefore, I would ask that my resolution be withdrawn.

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Mr. President, reserving the right to object, I did not hear the Senator's unanimous-consent request. Will the Senator restate the request?

Mr. LIEBERMAN. Yes. My motion was to withdraw my amendment at this time.

Mr. ARMSTRONG. Mr. President, I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. LIEBERMAN. Mr. President, although again I do feel that this is matter of real importance, particularly with the meeting of the International Energy Agency coming up this Friday, and in light of a story in the Wall Street Journal today that the Secretary of Energy—and the Secretaries of State and Transportation—have asked the President to tap into the oil reserve—but unfortunately others in the administration are counseling otherwise, I feel I must table my amendment which now cannot be considered in its entirety. I had hoped the Senate could go on record to send a message to the President that we think it is critical for him to tap into this reserve now to stabilize oil prices in our country.

Being unable to correct my amendment, I would now move to table my own motion.

Mr. KENNEDY. I ask for the yeas and nays, Mr. President.

Mr. ARMSTRONG. I suggest the absence of a quorum.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ARMSTRONG. I suggest the absence of a quorum.

A quorum is not present, and there cannot possibly be a sufficient second on the floor at this time.

Mr. KENNEDY. I ask for the yeas and nays.

Mr. ARMSTRONG. I suggest the absence of a quorum.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. There is not a sufficient second.

The Senator from Massachusetts.

Mr. ARMSTRONG. I suggest the absence of a quorum.

Mr. KENNEDY. We are in a situation now where the Senator from Connecticut has tried to modify his amendment to make it in the way that he so desired. There has been objection to that.

Mr. ARMSTRONG. I suggest the absence of a quorum.

Mr. KENNEDY. Mr. President, I have the floor.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor. Recognition of the Senator cannot be rescinded when he has the floor by a request for a quorum.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, we are in a situation where the Senator from Connecticut had requested to be able to modify his amendment. That was objected to. Then the Senator indicated that he did not believe that this was the appropriate vehicle to be able to consider the amendment and that he was prepared to offer it on a suitable vehicle, and that was objected to. And we had been reminded earlier in the day about how there were Members who wanted to move ahead with amendments that would be nongermane; we were reminded about that situation.

We wanted to make every accommodation to the Members to be able to permit——

Mr. ARMSTRONG. Mr. President, point of order.

Mr. KENNEDY. I do not yield for such purpose, Mr. President.

Mr. ARMSTRONG. He does not have to yield. I raise a point of order.

Mr. KENNEDY. Mr. President, I want to continue my discussion.

Mr. ARMSTRONG. I want to make the point of order that debate on this motion is not in order.

Mr. KENNEDY. All those——

Mr. ARMSTRONG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator will suspend while the Chair discusses the matter with the Parliamentarian to get an appropriate ruling.

The Senator from Massachusetts has the floor. He was recognized and therefore is entitled to finish whatever remarks he wishes to make. The Chair will further state that the recognition of the Senator is not for purposes of debate of the Lieberman motion, because the motion to table is pending, and it is not debatable.

Mr. LEAHY addressed the Chair.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. LEIBERMAN. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk continued the call of the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Is there objection?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk continued the call of the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. I object.

Mr. ARMSTRONG. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk continued the call of the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be 30 minutes of debate on the pending amendment equally divided and controlled in the usual form between Senator KENNEDY and Senator ARMSTRONG, and that upon the conclusion or yielding back of that time, there be a vote on the Lieberman motion to table.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Reserving the right to object, and I shall not object, but I would like to make an inquiry at this time, and I think it is an appropriate time to make an inquiry of the leader and the manager of the bill on this side.

The record will show that this Senator has held very faithfully to his views on this abortion matter up and down. The record will also show that this Senator has been a supporter of family planning, and I happen to also feel that notification of parents of minor children are a key point.

I would like to have a chance, if I could, before the cloture vote, to have a vote up or down on the amendment proposed for parental notification by the Senator from Colorado.

I would like to inquire of the managers of the bill as to whether or not we are going to have an up-or-down vote on the amendment being offered by the Senator from Colorado before the cloture vote, because that will have a great deal to do with how this one Senator votes on cloture if it comes up and when it comes up, as I understand it, at 5 o'clock.

Mr. KENNEDY. Mr. President, last night the Senator from Colorado proposed an amendment with regard to parent notification on the issue of abortion. I put in a second-degree amendment because there are no funds in this bill whatsoever that deal with abortion. The issues of parental notification, parental consent, the whole wide range of issues that relate to abortion should be debated, should be discussed at some particular time. There have been those who have tied that particular issue into this debate. But since there are no funds whatsoever that are involved in abortion, we thought we ought to clarify that very clearly. That is why the amendment in the second-degree spelled that out very clearly, because that is the fact with regards to this legislation.

If there is some other public policy dealing with the whole range of different abortion issues and the Senate desires to vote on that, so be it. But that really is not what this bill is about.

Mr. ARMSTRONG. Would the Senator——

Mr. EXON. Will the manager of the bill, my good friend, Senator KENNEDY, then please advise me what would be wrong with expressing—or seeing if the Senate would express an opinion that we should have parental notification?

Mr. KENNEDY. Parental notification for what?

Mr. EXON. Parental notification when a minor is contemplating having an abortion. Certainly I would have to agree, in my view at least, with the adoption of the Chafee amendment yesterday we went further down the road than we have ever gone before with regard to family planning and abortion.

Different people have differing views on that point and I am not criticizing anyone who does not agree with me on that. But I felt when we passed the Chafee amendment yesterday that we went quite a little further down the road than we had previously.

I am asking this question only because—and I want to say again, I support family planning—I do not think they should be involved in abortions. They say they are not involved in abortions. But the Chafee language of yesterday at least went further than we have ever gone previously.

It seems to me I should have a right to vote up or down on the amendment proposed by the Senator from Colorado and I do not see that would impair the bill in any way.

Mr. ARMSTRONG. Will the Senator yield for an answer to that question from me?

Mr. EXON. I am not sure I have the floor, since I was reserving the right to object. But I yield the floor.

Mr. ARMSTRONG. Mr. President, if I may respond to the Senator from Nebraska briefly, first to congratulate him on his understanding of the situation we found ourselves in and, second, to say the only way, so far as I can tell, we will be able to get to an up or down vote on the parent notification amendment is to defeat the motion which is or at some point will be pending to table the Lieberman amendment. Because, when I offered my amendment last night Senator KENNEDY did offer a second-degree amendment which expressed another thought on the subject but did not deal with parental notification, the effect of which was to simply wipe mine out. Under the circumstances I withdrew it.

Then today, when the Senator from Connecticut offered his amendment, I offered mine as a second-degree amendment. Therefore either the Senator from Connecticut or the Senator from Massachusetts has or will offer a motion to table.

To get to the vote the Senator from Nebraska desires and which I desire to have, and have quickly—I am not trying to delay in any way—we must first defeat the tabling motion.

I will have more to say, but that is a brief answer to the Senator's question. I thank him for his inquiry.

Mr. MITCHELL. Mr. President, I renew my request.

The PRESIDING OFFICER. There is an unanimous-consent request pending. Hearing no objection, the request is agreed to.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I inform Senators through their offices that there will then be a vote in approximately 30 minutes under the agreement just entered.

Mr. ARMSTRONG. Mr. President, while the leader is here, I have two related matters. First I thank the leader for getting us unsnarled, because at least under this agreement we will have a chance to debate the issues and clarify them so Senators will be able to make up their minds how to vote.

Second, I wonder if the leader would help me to get the yeas and nays on my amendment so in the event the motion is not tabled. Perhaps that is not necessary.

I guess I will not make that request because really I think all Senators will understand that a vote on the Kennedy motion or the Lieberman motion to table the Lieberman amendment will be tantamount to a vote on my amendment. So perhaps a separate yea and nay vote is really not indicated under the circumstances. But we are grateful to the leader for arranging that.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, since the Senator from Colorado is the proponent of the amendment, if he would like to speak to it at the outset?

The PRESIDING OFFICER. The Senator from Colorado [Mr. ARMSTRONG], is recognized.

AMENDMENT NO. 2888

Mr. ARMSTRONG. Mr. President, I yield myself 5 minutes of the 15 minutes that I have been allocated.

I would like to start by putting in perspective the actual purpose and intent of this amendment, because when we get to the vote, and I think I have the parliamentary situation well in hand here, we are going to vote on a motion to table the Lieberman amendment. But I believe the sponsor of the amendment, Mr. LIEBERMAN, understands, and I understand, we are not really voting on his amendment. What we are really voting on is to take down my amendment.

That is important to understand because there may be some who will be for the amendment of Senator LIEBERMAN who might want to vote to table it. There may be many of us who may have a different opinion on the Senator's amendment who would not want to vote to table it.

What we are really voting on when the time comes is whether we are for or against parental notification when a minor woman seeks to have an abortion which is provided by an entity or an organization which receives funds under title X.

If a Senator believes in the principle of parental notification or at least would like to have the opportunity for the Senate to vote on this issue, then Senators have to vote no on the motion to table the Lieberman amendment.

Before I discuss the merits of the proposed amendment on parental notification, let me say to my friend from Connecticut I am sorry that my amendment finds itself attached to his. He said something of the same thing to me privately, and I want to say publicly to him, it just happened; it is just the fortunes of war. It worked out that way. At the right time I will be happy to be helpful to him in getting his amendment before the Senate in the proper form in whatever form he desires it to be and to get him an up-or-down vote.

Mr. President, that is what life in the Senate is all about, is voting, making decisions, putting forth as clearly and as succinctly as it is possible to do issues of public importance, and then voting on them. The voting on them is important not only to determine whether they pass or fail but also so our constituents at home may understand what the issues are. That is why I so strenuously object to the repeated, insistent efforts by the Senator from Massachusetts to confuse this issue, to make it impossible for Senator to know, let along people at home who may be watching this on television or reading about it in the newspaper to figure out what is going on.

Frankly, I am a little mystified. I did not think this was a terribly controversial issue. Perhaps the vote will prove that it is not. I hope it is the case. Certainly there is no reason for it to be controversial. But I cannot figure out why it is anathema to the Senator from Massachusetts that we have a plain, vanilla, straight up-or-down vote which we could have had in about 15 minutes last night with no controversy so far as I am aware, because the principle of parental notification has not been, previously, at least in this Chamber, an item of controversy. I may be surprised when the vote comes, but I do not see why it should be controversial.

Let me just explain the elements of this very simple proposition. It is well known that any kind of a medical or surgical procedure which is performed on a minor requires parental consent in almost every jurisdiction of America. That applies to appendectomies, tonsillectomies, to heart surgery, to anything like that. It even applies to routine procedures such as donating blood.

Do Senators know that? If you are a 16-year-old and you want to give blood, which is a worthy thing to do, in almost every jurisdiction you have to have the permission of your parent or guardian. It is not necessarily the law, but I am told it is the nearly universal custom if you are a minor child and you go down to the shopping center to have your ears pierced that you have to get parental consent. But there is a surgical procedure for which that is not required, and it is abortion.

About 35 States have enacted legislation relating to parental involvement in the consent or notice process for abortion; about 35 States. In some States that has been the subject of litigation, and I do not want to brief my colleagues too much on the state of the law, but I will just tell them that all over America our counterpart colleagues in the State legislative bodies have determined that parental notification is a good idea.

The reason for it is obvious. We are talking about vulnerable young women at a time when they are facing what is, for many of them, a completely unexpected pregnancy, sometimes under tragic circumstances, facing life or death decisions for the child and for themselves which they are really ill-prepared to make by experience, and at a time when inevitably they are under enormous emotional and perhaps other kinds of pressure.

So the suggestion of this amendment is simply that a parent be notified. We are not even asking for consent. We are just asking for notification so that at least one parent—we do not say you have to notify both—but at least one parent will have the opportunity to give loving advice and counsel to a young women who finds herself in this kind of a situation.

Mr. President, this is a very narrowly drafted, very, very narrowly drawn amendment. We do not say in this amendment that you have to have the consent of the parent. We only say notification. We do not say in this amendment that it supersedes States law; on the contrary, this amendment is inoperative in any State which has in effect parent-involvement legislation, even if the parent-involvement legislation——

The PRESIDING OFFICER. The Chair informs the Senator the 5 minutes he yielded to himself has expired.

Mr. ARMSTRONG. I thank the Chair. I yield myself 2 additional minutes.

We do not say this legislation applies in any State that has legislation on this subject and has laws in effect. Nor do we say in the remaining States that this affects all abortions. In fact, we are only talking about a relatively small number of the total, because we say it only applies to those abortions which are performed by an entity or organization which is also a recipient of funds under title X.

This does not go very far. It does not go as far as—frankly, as I think would be well justified—to ask consent. It only says in this limited number of cases where title X recipients are involved that there ought to be notification to at least one, but not both, of the parents.

If we agree that that is a good idea, I say to my colleauges, or if we would like to vote on this subject, then I urge my colleagues, when the moment comes, to vote against the motion to table the Lieberman amendment, so that we will have a chance to vote on the Armstrong amendment.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. Will the Senator from Colorado yield, or is there a time problem? I was just going to ask a question of clarification.

Mr. LIEBERMAN. On behalf of the Senator from Massachusetts, who controls the time, who yielded his time to me, I yield such time as is necessary to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator may proceed.

Mr. PRYOR. If the Senator from Colorado will illuminate me, I think that the Senator's amendment says that notification would be required for any of those entities or institutions, facilities, that were the receipient of title X funds.

I do not know what sort of institutions we are talking about. This is not just public health clinics; is that correct?

Mr. ARMSTRONG. Mr. President, if the Senator will yield, we are talking, in many cases, about Planned Parenthood. In fact, I entered in the RECORD yesterday—I do not know if I can turn to it quickly—a list of about 30 or 35 title X recipient organizations which perform abortions. I did so because when I raised this question last night, I was told by one Senator in a very loud voice that there are no funds for abortion in this bill; that title X does not fund abortions. Of course, that is true, but title X organizations do fund abortions.

What happens in a lot of cases, as a practical matter, is that you walk into a building and say, "I'm a young woman who has a problem. Could I talk to somebody?"

And you go to a desk that is the title X entity, recipient desk and you are counseled. One of the options you are told about is abortion. If you say, "That sounds like what I want to do," you are referred someplace else; not to a distant place, in a lot of mess, but to another office in the same building where the same organization provides abortion services. It is not even a case that they refer you across town. In a lot of cases, it is right there, a few steps away.

But the list of organizations, while others are speaking, I will be glad to look up. But it is in the RECORD from yesterday.

Mr. PRYOR. Mr. President, I thank the Senator from Colorado.

The PRESIDING OFFICER. Who yields time?

Mr. LIEBERMAN. Mr. President, at the urging and request of the Senator from Massachusetts, who controls 15 minutes, I yield myself so much of his time and I need to make my statement at this point.

AMENDMENT NO. 2887

Mr. LIEBERMAN. Mr. President, let me first explain why I proposed the amendment that is before the Chamber at this moment, and then explain my tabling motion.

Mr. President, whether we like it or not, oil is very much the lifeblood of the American economy. All of us know that since the Iraqi invasion of Kuwait, we have seen that lifeblood in danger. Certainly, we have seen its price rise so dramatically that it is hurting consumers, it is hurting American businesses, and it is seriously hurting our economy.

Mr. President, I have been so deeply troubled by these events because, to me, they make no economic sense whatsoever. The fact is that the supply of crude oil here in the United States, when this crisis began on August 2, was at an all-time high.

The reality is that even today there are no shortages in supply of gasoline or oil, and yet prices have gone through the roof. Gasoline prices, as every consumer and every businessman who has to buy gas to keep a car or truck going knows, are at an historic high. As the chill of winter begins to nip at people a little bit in the northern sections of our country and as they begin to buy home heating oil, they see that the price of home heating oil is 20 to 30 cents more per gallon than it was at this time last year—even though supplies are, in most sections of the country, greater than they were at this time last year.

So, in my opinion, the normal market factors, the laws of supply and demand that are usually fundamental to the market economy, are simply not working in the oil industry. There are many responses to that.

One, Mr. President, as you know because you and more than 20 of our colleagues have joined me as cosponsors, is to enact a national antioil price gouging law, which would give the President of the United States the authority to declare a national energy emergency in times such as this, and to impose an important series of standards on the oil companies. That bill would say through the law what is right, that in times of emergency you cannot increase the price of your product more than the actual increase in the cost that you face, plus a reasonable profit margin.

It is time, as one of our colleagues said, for the oil industry to take off the green eyeshades and take out the red, white, and blue American flag; to serve the interests of this Nation which are on the line in the current crisis.

Mr. President, I could talk at length about what I consider to be some of the unacceptable behavior of the American oil industry in the last month: The fact that they have been selling more gasoline abroad than they have at any other similar period—certainly much more than they did last year—just to make money, perhaps even to a point where they could cause a real supply shortage in this country; the fact that as they approach the end of this quarter, we read stories in the Wall Street Journal and New York Times that oil company executives are trying to figure out extraordinary ways to spend their money so that their profits are only enormous and not outrageously enormous in this quarter, which we all know they will be. That is why I think we need an oil price gouging law.

But what is at work here, as speculators and profiteers take advantage of this crisis, is psychology. It is the fact that prices continue to be bid up over and over again, as if this was some casual commodity and not oil, the lifeblood of our economy. I think what we have to try to do is to fight back and break through that psychology.

In my opinion, the President of the United States, this administration, has only one handy weapon to use to fight back, and that is the strategic petroleum oil reserve.

In the last decade or more, we have invested more than $15 billion of taxpayer money in putting almost 600 million barrels of crude oil into those salt domes along the gulf coast of the United States.

We put them there for a rainy day, and today, Mr. President, it is raining on our economy. What the President of the United States should do is use this weapon to fight back against profiteering and against speculation just as we are using the weapons at hand to fight back against Saddam Hussein in the deserts of the Persian Gulf region.

Mr. President, not to do this is like a man allowing himself to be punched in the stomach over and over again and not fighting back. That is exactly what the oil industry and OPEC are doing to the American economy. They are sending us day by day into a recession. Inflation in August went up eight-tenths of 1 percent, a dramatic increase over that month last year. Annualizing that number puts us at an almost 10 percent annual inflation, a terrible result for our economy.

Our trade deficit undoubtedly will go up as a result of these enormous increases in oil prices.

We have to do something, and the SPR is the way to do it.

I was motivated this morning to bring this resolution to this Chamber because I read an article in the Wall Street Journal that suggests there is a conflict among the advisers to President Bush. Secretary of Energy Watkins, the man who really knows most about energy, quite correctly has apparently advised the President that he should immediately tap into the oil reserve, perhaps to the tune of about one half million barrels a day. That would have a marvelous effect and send a signal to those markets that the United States is not going to allow speculation and profiteering to rule, that the President is willing to go into that reserve and move oil out into the market just the way the Federal Reserve moves money out into the economy as monetary policy dictates.

Unfortunately, the Secretary of Energy is not supported by all the Members of the Cabinet. He is supported, according to the Wall Street Journal today, by the Secretary of State and the Secretary of Transportation. But apparently the Secretary of Commerce and the Secretary of the Treasury do not yet believe we should tap the SPR, apparently relying on the argument that the SPR should only be used when there is an actual shortage of fuel.

Sure, when there is an actual shortage of fuel, we are going to need the reserve. But even if we tap the reserve now, there will be plenty that will remain to use at that time. Today what is killing our economy is speculation and psychology, and the surest way to undercut it is by dipping into the reserve. By putting that extra oil out on the market I believe you would see the price of crude oil go right down and also, I hope, the prices charged to consumers and businesses for gasoline and heating oil.

That is why I offer this sense-of-the-Senate resolution. The intent is very clear. It is to put the Senate on record expressing to the President of the United States our strong encouragement that he use the strategic petroleum reserve as a way to help lower gasoline, home heating oil, and propane prices in this country.

Why do I move to table my own amendment? I moved to table because the very essence of my original amendment was to send a clear message to the President that a majority of Members of the Senate believe that he should use the strategic petroleum reserve. In the exercise of the processes of this Chamber, Senator ARMSTRONG has now added his amendment on parental notification to my amendment on the reserve. That inevitably makes cloudy and unclear the vote on my amendment urging the President to dip into the reserve. It undercuts the very purpose for which I introduced my amendment. As it stands now, if it came to a straight up or down vote, some would vote for or against my amendment because they favor or oppose parental notification. At the same time, some would be voting for or against my amendment because they favor or oppose the immediate use of the strategic petroleum reserve. In any case, the message would not be clear.

That is why I have moved to table. That is why I hope my colleagues in the Chamber will support this motion. I hope that before too long I will have the opportunity to have a clear, straight, unamended, up or down vote in which the Senate can plead with the President to use the weapon he has at hand to do whatever he can to fight profiteering and speculation and gouging of American consumers and American businesses when they buy gasoline, home heating oil, or propane.

I ask unanimous consent that the text of my sense-of-the-Senate resolution be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Calling upon the President to initiate a modest use of the Strategic Petroleum Reserve to stabilize the crude oil market.

Since Americans are deeply concerned about the impact of the Iraqi invasion of Kuwait on the world supply and price of crude oil and on the price of refined products—like gasoline and heating oil—that the American consumer will have to pay and the American economy will have to absorb;

Since the Department of Energy now estimates that most of the crude oil production lost because of the Iraqi invasion of Kuwait will be offset by increased production around the world;

Since crude oil markets remain unstable and volatile, causing the price of crude this week to exceed forty dollars per barrel and leading some experts to conclude that it may reach sixty dollars per barrel;

Since the latest economic indicators show that even before Iraq's invasion of Kuwait the American economy was slowing such that the recent increases in the price of oil and oil products now threaten seriously to disrupt our economy and begin a recession;

Since the substantial increases in oil and oil product prices will severely affect those who can least afford it, including rural and urban poor, home heating fuel users, and small communities relying on oil-fired electric power generation;

Since the United States Strategic Petroleum Reserve now contains almost 600 million barrels of oil, and Japan's strategic reserves contain 200 million barrels: Now, therefore, be it

Determined, That the Senate requests the President to initiate a limited use of the United States Strategic Petroleum reserve, that at the next meeting of the International Energy Agency this weekend he urge other members of the International Energy Agency to do likewise, and further that he coordinate, and urge IEA to coordinate, such a multinational use of strategic reserves with the other members of IEA.

Mrs. KASSEBAUM. Mr. President, the administration is in the midst of a sharp debate as to whether we should tap the strategic petroleum reserve. I rise today to urge the President to take exactly that course and to do so quickly. The price of oil is shooting back up again today to $40 a barrel, a sharp increase from the price of oil prior to the Iraqi invasion of Kuwait.

The reserve was established in the mid 1970's in order to protect against the repetition of the economic dislocation caused by the 1973-74 Arab oil embargo. Its purpose, as we are all well aware, was to help calm markets and mitigate sharp price spikes. That is precisely the situation today in the wake of the Iraqi invasion.

Some are arguing that we should not tap the reserve unless there is a "severe energy supply interruption" as stipulated in the authority establishing the reserve. But, Mr. President, the fact of the matter is that we are going to see the same dislocation not because of a shortage of oil but because of the psychology affecting the markets. While the supply of oil is certainly sufficient, the psychology driven market jitters were evident once again today when a story in the Wall Street Journal suggesting that the President might tap the reserve resulted in an initial lowering of prices.

In my view, Mr. President, the reserve was set up to help prevent economic dislocation. The cause of that dislocation, whether supply or psychology, should not be the determining factor as to whether we tap the reserve.

Most economic analysts agree that the rise in oil prices as a result of the Iraqi invasion is the single most important factor that will drive our economy into recession. The one instrument we have to combat this sharp price rise and an impending recession is the strategic petroleum reserve. I believe it is an instrument we should clearly use. Many Americans and businesses are going to suffer greatly this winter if oil prices maintain or continue their sharp increase. If this is not the type of crisis that would warrant tapping the reserve, it is difficult to understand when we would use it.

I would also like to point out, Mr. President, that the administration's proposal to sell 500,000 barrels a day from the reserve would not deplete the SPR for 1,200 days or 4 years. Furthermore, if the reserve was tapped we would be selling that oil at a profit for the Government. And, once prices decline we could once again refill the reserve.

I would urge the President to back the proposal and to work with other oil consuming nations at Friday's

International Energy Agency meeting to take a similar course.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Senator KERRY be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ARMSTRONG. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Colorado has 8 minutes 46 seconds.

Mr. ARMSTRONG. Mr. President, I would like to reserve that time if I may. I have two Senators who indicated they wish to speak. I think they are on the way to the floor now. So if I may, I will reserve that time unless someone else seeks recognition. I suggest the absence of a quorum. My suggestion is that the quorum not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. I would like to yield 1 minute to the Senator from Idaho and then 4 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 1 minute.

Mr. McCLURE. Mr. President, I thank the Senator from Colorado for yielding this time. I will take a very brief moment to say that I am opposed to the Lieberman resolution. However, I will vote against the motion to table because I think the real issue is the Armstrong amendment, not the Lieberman resolution to which I am opposed because I think it is bad energy policy, and at an appropriate time I will address the Senate with respect to the policy questions on the Lieberman amendment.

Let me summarize very quickly and state it is my understanding that the Secretary of the Department of Energy is not in favor of this resolution, is opposed to such a drawdown, as is the Department of State. So I think it would be wrong to characterize this at this point as anything other than the fact is that the official position of the administration is in opposition to the drawdown of the SPR at this time for economic reasons.

Mr. President, on many occasions since the 1973 Arab oil embargo, I have spoken on the adequacy of the U.S. energy emergency preparedness. I have emphasized that the evolution of national policies in this critical area must be a dynamic, not static, process. However, for the last 10 years this has not been the case.

The cornerstone of our energy insurance policy is the strategic petroleum reserve. Fourteen years have passed since the Congress initially authorized the strategic petroleum reserve. Successful completion of the reserve was considered a monumental task by all the affected parties. Nevertheless, due to the support and dedication of many individuals by the end of this year, the SPR will contain almost 600 million of the currently authorized 750 million barrels.

Mr. President, what energy emergency preparedness we possess as a Nation, relies on the Energy Policy and Conservation Act, both domestically and internationally. Two weeks ago the Congress passed, and the President signed, S. 2088, which extended these critical authorities for an additional 4 years and strengthened the strategic petroleum reserve.

Under current law, drawdown of the SPR is controlled by the President, based on national energy security and economic concerns, and I believe that Presidential control has been retained in the conference agreement. Under current law, use of the strategic petroleum reserve is restricted to responding to shortages of international energy supplies. Existing statutory authority is quite clear on this point; the law does not permit SPR drawdown short of a severe interruption in international energy supplies, or in order for the United States to meet its international energy obligations. Unlike the pending resolution, the SPR was not, and should not be, used to manipulate world oil prices.

Consumer complaint about prices is insufficient reason for Government to intervene in the market place and manipulate or dampen energy prices in any manner. Any suggestion that the SPR be used for other than responding to actual shortage of energy supplies would not only be short-sighted but it would risk not having the SPR available should an actual shortage occur, later.

The prices being experienced are caused by international price fluctuations caused by speculators. No shortage currently exists. I want to repeat that no shortage currently exists. According to EIA, all but about 1 million barrels of the Iraqi-Kuwait production has been made up from other producers, and it is not expected that shortages will be experienced this winter.

For years, certain regions of the United States have benefited from low oil prices while the oil producing regions of the United States have experienced recession as our domestic oil and gas-production continues to decline. What infrastructure existed has been decimated by crude oil costs that do not support the development of replacement domestic supplies.

Mr. President, I continue to be disturbed by efforts by some Members to transform the Strategic Petroleum Reserve into a mechanism for responding to price fluctuations in the market, both now and last winter. The Reserve is a national resource that must be available for all American consumers during periods of shortage.

I recognize that certain regions of the United States are becoming increasingly dependent on petroleum product imports, but the problem is the inadequacy of our current domestic refining capabilities and this is a national problem. Even at today's prices, refined products are being exported because U.S. prices are less than those in Europe.

I must observe, however, that this situation, in large part, was created by our failure to achieve a balance between national energy and environmental policies. One of the manifestations of this failure is inadequate domestic refining capabilities to meet national needs.

Domestic refineries are now operating at full capacity. Drawdown of the SPR would flood the domestic market at a time when refinery capacity does not exist, because there is no actual shortage. Rather there is international price speculation.

In many instances, the very regions that are concerned about refined petroleum product prices, are the same regions that are closing refineries under current environmental policies, or have prohibited their construction over the years. By advocating use of the SPR at this time, these same regions are now asking the rest of the country to subsidize their failure to achieve a balance between the energy and environmental requirements of their region.

Once again this failure is being reflected in the agreements being discussed on the Clean Air Act Amendments of 1990. Rather than address this imbalance, we are once again, exporting our environmental pollution and importing more energy.

Mr. President, on the international front there is the International Energy Agency, which continues to credibly perform the information and other functions that we and our allies must rely upon to deal with potential international energy shortages. The IEA information system is critical to our understanding of international oil markets. The IEA continues to serve as an essential catalyst in this process.

The IEA governing board will meet again this Friday and should be allowed to function as provided for by the International Energy Agreement.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 4 minutes.

Mr. NICKLES. Mr. President, I wish to associate myself with the remarks of Senator MCCLURE because I also rise in opposition to the underlying resolution offered by our friend and colleague, Senator LIEBERMAN, primarily because of the language "It is determined that the Senate request the President to initiate limited use of the strategic petroleum reserve," and on and on. I do not know that right now we should be doing that. I think the primary purpose of that would be to try to use the SPR oil for price control purposes, not to ease shortages. The strategic petroleum reserve is for shortages, not for price control. So I am in opposition to the Lieberman resolution. But I, like Senator MCCLURE and others, will vote against the motion to table because it is quite obvious the motion to table was not really directed at the Lieberman resolution. It was directed at the Armstrong second-degree amendment, which basically deals with parental notification for minors, persons under the age of 18, if they are going to have an abortion. This says that the parents of that child need to be notified. I think they should be notified. I think it might save a lot of young women from making a mistake.

I think the parents should have a voice in that decision. That is still a minor. The girl is still a minor. She happens to be carrying a child. She has a difficult decision to make. Her parents should be notified. They should consult with her.

Granted, not every family has good relations. Not every young daughter would like to talk to her parents about a decision like that but it happens to be a decision of life and death. It happens to be a decision that she is making concerning abortion that will take the life of her unborn child.

So in a decision of that magnitude, while she is still a minor, her parents should be notified. That is exactly what the amendment of the Senator from Colorado does. I congratulate him for it.

I also will mention the subject of procedure. The Senator from Colorado has been trying to offer this amendment from the late hours last night to all day today. I, likewise, have an amendment I would like to have considered on this bill. It is quite obvious that we have been obstructed from doing so. I, personally, am getting somewhat irritated that on the day we file a bill we have cloture filed with it and, therefore, are prevented offering our amendments.

Some of these amendments will make these underlying bills better. The Senate is supposed to be a deliberative body. We are supposed to have input. Part of the input is through the amendment procedure. By filing cloture on every single bill—we will have two cloture votes today—I think the entire cloture procedure is certainly being abused. The rights of minorities are being abused. We are being denied the opportunity to offer amendments because all Senators know, once cloture is invoked, the subsequent amendments that would be determined germane are few and far between. It is very restrictive under post-cloture.

So here we are denied the opportunity to make constructive inputs, constructive inputs such as the Senator from Colorado has on this amendment. This is a good amendment. This is an amendment that I expect will pass overwhelmingly.

So I urge my colleagues to vote against the tabling motion so we can keep the Armstrong amendment alive, and maybe we can have an up and down vote on the Armstrong amendment. This is an important amendment. This amendment can save lives. This amendment can keep a lot of young women from making a bad mistake, a serious mistake.

So again, I congratulate my friend and colleague from Colorado for bringing his amendment. It is unfortunate it had to be brought in a second degree to a resolution that has nothing whatsoever to do with family planning. But he had no choice because, frankly, the leadership on the bill was not giving an opportunity to have up and down votes on the underlying legislation. So he had to revert to this procedure.

I compliment him for it. I urge my colleagues to vote against the motion to table.

Mr. WIRTH. Mr. President, every year, more than 1 million young women between the ages of 12 and 19 become pregnant. Estimates are that 4 in 10 young women will become pregnant at least once while still in their teens. The vast majority of these pregnancies are unplanned and unwanted. The question we are facing today is whether it should be mandatory for these young women to obtain parental consent or notification before seeking an abortion.

In many cases, thankfully, teenagers will turn to their parents for help with an unwanted pregnancy. One study indicates that 55 percent of teenagers under 18 who obtain abortions at clinics have already told at least one parent about their pregnancy and planned abortion. Most of these teenagers will benefit from parental guidance when faced with an unwanted pregnancy. However, this may not be true in all family situations.

There are those young women who come from abusive or otherwise dysfunctional families who may be exposed to emotional trauma and physical danger if required to tell their families about an unwanted pregnancy. About 25 percent of young women who become pregnant would avoid telling their parents about their plans to terminate an unwanted pregnancy. These typically are young women who want to keep their pregnancies a secret, and almost always have sound reasons. They know best how their family would react in this situation, and I do not believe the Federal Government should be making this kind of decision for young women.

This amendment could cause great pain for many unstable, troubled families. Passing this today cannot transform abusive families into supportive ones, nor will it reduce the alarmingly high rate of teenage pregnancy. Instead, this amendment will only add to the crushing problems faced by pregnant low-income teenagers.

Let me touch on this a moment—the amendment continues to distance the rights of the affluent versus the poor. People who need to go to title X clinics to obtain family planning services—and perhaps an abortion—are generally low income. We all know that title X funds, in fact no Federal funds can be used to perform abortion. Yet, low-income young women needing services would be required, under this amendment, to notify their parents—simply because they are going to a clinic that receives Federal funds. But these are not funds that will be used to pay for that service. So once again, we would be infringing on the rights of only those lower income women.

There is another important thing to look at when we consider the ramifications of this amendment. To prevent an unwanted pregnancy from becoming a health danger for teenagers, we must ensure that young women have access to confidential counseling, contraception, and abortion services, as well as prenatal care. We are putting their lives, safety, and their health at stake.

Mr. President, we all would like to see parents actively involved and supportive in their children's lives. Sad but true, that is not always the case in our country. I strongly support the efforts of title X clinics to recommend that its teenage clients talk to their parents—before they need contraceptive services or make any other health-related decision. However, we cannot force this to happen by infringing on their constitutional rights.

Mr. ARMSTRONG. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Colorado controls 3 minutes 21 seconds.

Mr. ARMSTRONG. I doubt if I will even use as much as 3 minutes because I think the issue has been well framed. I am very grateful to my friend from Oklahoma for his explanation of this issue, for his kind words and, most of all, for his day in and day out patient interest in this important human life issue. There are very few Senators

that have on every occasion stood up to be counted as he has. I thank him for it.

I am grateful, too, to my friend from Idaho for clarifying the question. This is not about energy policy. It is about parental notification when a minor child seeks abortion. I honestly wish it could have been framed in a different way, too. There are a lot of ways that I would have raised it that would have been much simpler. I tried to do that last night.

I guess it was obvious to anybody, who was here last night or who watched the proceeding on television, that my nose was a little out of joint, and it was because I felt the opportunity for the Senate to have a fair shot at this policy issue was being unfairly and unwisely undermined. That is not the first time this has happened.

This pattern of laying down a bill, immediately filing a cloture petition, tying up the amendment tree so Senators do not get a chance to present amendments really has gone much too far. I was angry about that. I am still angry about it. That is not the issue involved in this vote. This is not a question of how you felt about the amendment tree. It is not a question about how you feel about the procedure, about whether you think we ought to have cloture on bills. Those are all questions that need to be thought about.

The question here is whether you are for or against a requirement that those entities which receive funds under title X, and which also happen to perform abortions, should be required to give a 48-hour notice by certified mail to at least one parent of a minor woman who is contemplating an abortion in that group of States where the State legislatures have not already legislated and preempted the field.

It is a very modest requirement, a very simple requirement, a very logical requirement if you agree with that idea. If you agree with parental notification, then you vote no on the motion to table the Lieberman amendment.

Mr. President, I do not know if I have remaining time. If I do, I yield it all to my friend from Utah [Mr. HATCH].

The PRESIDING OFFICER. There are 55 seconds left. The Senator from Utah [Mr. HATCH].

Mr. HATCH. I thank my colleague, because I rise in support of Senator ARMSTRONG's amendment which would require grantees to ensure that they have mandatory parental notification rules. Specifically, it would require 48 hours notification of one parent or legal guardian of an unemancipated minor child undergoing abortion.

For every other medical procedure performed on a minor a doctor must get the consent of the parents, except for abortion which is permitted without the parents' consent, or even their knowledge. It is ridiculous. It is time we changed that.

If you want to change it, then you ought to vote no on this motion to table. It is the only way we will have a chance to vote on Senator ARMSTRONG's amendment. It is really an important issue. This is not something that is frivolous. This is something every one of us ought to be for if we are for families, children, and for parents, and for them getting along with each other.

The PRESIDING OFFICER. The Chair will inform the distinguished Senator that under the time agreement, the time has expired.

Mr. ARMSTRONG. Do I have any remaining time on the amendment?

The PRESIDING OFFICER. The Senator does not.

Mr. ARMSTRONG. On the amendment itself?

The PRESIDING OFFICER. The Chair would inform the Senator that the Senate agreement was the time was placed prior to a vote on the motion to table. A motion to table is not a debatable motion.

Mr. ARMSTRONG. Do I have time on the amendment itself?

The PRESIDING OFFFICER. Not at this time.

Mr. HATCH. Mr. President, I ask unanimous consent I be given another minute.

Mr. ARMSTRONG. I was not seeking time. I was trying to clarify the situation.

Mr. HATCH. I ask unanimous consent that I be given another minute and a half, if I can.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATCH. Mr. President, I thank the Chair because this is an important issue. This is not some nonessential issue. This is one of the most important issues to ever come before the Senate.

We should never support Federal policies which drive a wedge between the parents and their children. The Armstrong amendment corrects this. Parents would be notified 48 hours prior to the minor child's obtaining an abortion, and we have to be supportive of families and parental authority. States have adopted such laws. Utah is one of them. State leaders have recognized their strong interest in protecting the welfare of minors and promoting the family integrity. This amendment would require title X grantees to notify parents.

I provided evidence yesterday that 32 clinics receiving title X funds, 32 of them, have abortion right on the premises. They just moved from the counseling office right into the abortion clinic and have it done.

I really urge my colleagues to consider this. I urge them to vote no, to table the Lieberman amendment. It is a yes vote for parents, for children, and for their role in society. It is the right thing to do. And in the end we send a message out there that we are concerned about families, about parents, about children, and yes, about everything else that goes on. This is important. I hope that everybody will vote "no" on this motion to table. It is an important amendment.

I want to congratulate the distinguished Senator from Colorado for having the guts to bring it to the floor and to pursue it until we got here. Vote no on this amendment and you are voting for parents, family, and children.

Mr. LIEBERMAN. Mr. President, I yield myself such time as remains for our side.

Mr. President, I ask unanimous consent that Senator AKAKA be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I also ask unanimous consent that an article from today's Wall Street Journal entitled "Bush Administration Splits on Proposal To Sell Oil Reserves To Help Ease Prices be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUSH ADMINISTRATION SPLITS ON PROPOSAL TO SELL OIL RESERVES TO HELP EASE PRICES

(By Alan Murray)

WASHINGTON.—As oil prices soar, the Bush administration is split over a proposal from the Energy Department to sell a half million barrels a day from the nation's Strategic Petroleum Reserve.

Energy Secretary James Watkins offered the proposal at a meeting of the president's National Security Council last week, arguing it would help moderate increases in oil prices, according to people at the meeting. Although there is currently no shortage in the supply of oil, the Energy Department plan would put a million more barrels of oil a day onto the market as soon as possible, with half coming from U.S. reserves and the other half coming from Japanese and German reserves.

The proposal was supported by the State and Transportation Departments. But Treasury Secretary Nicholas Brady argued strongly against it, according to sources at the meeting. And Commerce Secretary Robert Mosbacher, who was represented at the meeting by his counselor, Wayne Berman, was also opposed.

President Bush, who presided over the meeting but gave no hint of his leanings, is expected to make a decision on the plan as early as this week. If the president decides to back the proposal, U.S negotiators at Friday's meeting of the International Energy Agency in Paris are likely to try to reach an agreement with Japan, Germany and other oil-consuming nations that hold reserves.

Mr. Brady, the strongest opponent of the plan at the security council meeting, argued that future markets suggest oil prices may be headed down, not up, the sources said. He compared intervention in oil markets to his own experience as Treasury secretary in-

tervening in foreign-exchange markets, saying that any such action must be well timed and well thought out.

The steep rise in oil prices this week has tended to undercut Mr. Brady's arguments and put even more pressure on the White House to back the Energy Department plan. There's no indication that Messrs. Brady or Mosbacher have dropped their opposition to the plan.

Mr. Mosbacher's role in opposing the Energy Department plan has raised some eyebrows both inside and outside the administration. Mr. Mosbacher built a fortune in Texas oil fields valued at an estimated $200 million, and still owns huge interests in the family businesses, which own oil-producing properties in Texas and Louisiana. Some critics say a decision not to tap the reserves would keep oil prices high and thus boost Mr. Mosbacher's personal wealth.

"It's highly inappropriate" for Mr. Mosbacher to be involved, said Edwin Rothschild, energy policy director at Citizen Action, a Washington lobbying group on consumer and labor issues. "The man stands to gain a lot of money from not using the Strategic Petroleum Reserve. There is certainly a vested interest on the part of anyone who has crude oil—and Mosbacher has a lot."

Before the Persian Gulf crisis began, Mr. Mosbacher recused himelf from any consideration of energy issues. But President Bush waived their recusal last month, saying he needed Mr. Mosbacher's advice in the current crisis.

Mr. Berman, counselor to the commerce secretary, said that Mr. Mosbacher is simply providing advice to the president, and not making decisions that affect the oil industry. Moreover, Mr. Berman said, Mr. Mosbacher has "taken no position on whether or not you draw down the strategic petroleum reserve." Rather, he said, the commerce secretary argued against the Energy Department proposal because the president needs more time and information before making a decision.

Mr. LIEBERMAN. Mr. President, the debate on my motion to table just confirms my decision to make the motion to table my own amendment, because the purpose of my amendment was to send a clear message to the President of the United States that he cannot sit by while our economy is being dragged into recession by enormously increased oil prices; he cannot sit by while every American consumer and every American business is being sent into tremendous economic difficulty by rising gas, oil, and propane prices. He must use the weapon he has at hand to break through the psychology of the speculators, the profiteers and the gougers; that is, as his own Secretary of Energy, according to this article in the Journal today, recommends: To use the strategic petroleum reserve. A sense-of-the-Senate resolution only makes sense if it sends a clear message to the President.

Here I have had two of my colleagues who oppose my amendment saying they are going to oppose my motion to table, because they support Senator ARMSTRONG's amendment on parental consent. The issue that I attempted to raise has clearly been confused. The message will be unclear. That is why I made my motion to table and why I hope it will be adopted.

Mr. LEVIN. Mr. President, I am a cosponsor of Senator LIEBERMAN's resolution calling on the President to release strategic petroleum reserve stocks. Unfortunately, the parliamentary situation is such that we will not be able to have a clear vote on this resolution and I will be joining the author of the resolution in voting to table it.

It is, nevertheless, important that we still make clear to the President that the administration must take direct action soon on the domestic front to prevent an oil-driven recession.

The price of crude oil is hovering near the $40 per barrel mark. The price of No. 2 heating oil has nearly doubled since the invasion. These huge price increases have brought the general inflation rate up to 5 percent and the inflation rate for energy almost 10 percent. Consumers and markets are fearful of worse things to come, especially as we head into a winter which the National Weather Service has projected will be colder than usual.

The administration assures us that there is sufficient supply to meet the demand of an energy-conserving American public. But, in fact, there is a shortage. Price reflects supply or projected supply. That is what the market is all about. The market is speaking and it is telling us there is a shortage. Let us listen.

Mr. President, that is where we are now. We must do whatever we can to calm markets and provide consumers with some relief. Above all, we must seek to prevent lasting economic damage. By releasing some SPR stocks, the President will be able to do that.

Until now, many sources within the administration had suggested that the President lacked the authority to drawdown the SPR, unless there was a "severe supply shortage." That is no longer the case. The President, himself signed into law not more than 2 weeks ago, legislation initiated by Congress to provide the President with more flexibility in defining a domestic energy supply shortage. With this resolution we call upon the President to exercise that flexibility.

We also believe that International Energy Agency member countries, especially countries like Japan and Germany which benefit greatly from the American-lead multinational force protecting further Iraqi aggression, should draw down their emergency reserves in a coordinated fashion immediately. They must share their part of the burden of defending the world's oil supply.

I urge my colleagues to table this resolution, and ask them to be prepared to consider this issue again sometime in the near future.

Finally, Mr. President, with respect to the Armstrong second-degree amendment, I believe that a minor who is pregnant needs and deserves the support and help of adults who care. I believe that a requirement for adult involvement is appropriate. It should allow minors who cannot turn to their own parents to go to a supportive family member or adult or judge, not to make or veto the decision, but for consultation. The Armstrong amendment does not even contain a judicial bypass provision by which a minor could consult with a judge in lieu of parental notification. In addition, the Armstrong amendment would require parental notification even in instances of incest, in which the family situation which gave rise to the pregnancy in the first place might make such notification inappropriate.

So, Mr. President, I believe that except in unusual circumstances parents should be notified and should be involved. But, the Armstrong amendment makes no provision for such unusual circumstances. I am, therefore, unable to support it.

VOTE ON MOTION TO TABLE AMENDMENT NO. 2887

The PRESIDING OFFICER. All time is yielded back.

The yeas and nays having been ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Kentucky [Mr. MCCONNELL] and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that the Senator from New Hampshire [Mr. RUDMAN] is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 54, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—43

Adams	Harkin	Mitchell
Akaka	Heinz	Moynihan
Baucus	Hollings	Packwood
Biden	Inouye	Pell
Bingaman	Jeffords	Riegle
Bradley	Kennedy	Robb
Burdick	Kerrey	Rockefeller
Cohen	Kerry	Sanford
Cranston	Kohl	Sarbanes
Daschle	Lautenberg	Sasser
Dixon	Leahy	Simon
Dodd	Levin	Specter
Fowler	Lieberman	Wirth
Glenn	Metzenbaum	
Gore	Mikulski	

NAYS—54

Armstrong	Byrd	Domenici
Bentsen	Chafee	Durenberger
Bond	Coats	Exon
Boren	Cochran	Ford
Boschwitz	Conrad	Garn
Breaux	D'Amato	Gorton
Bryan	Danforth	Graham
Bumpers	DeConcini	Gramm
Burns	Dole	Grassley

Hatch	Lugar	Reid
Hatfield	Mack	Roth
Heflin	McCain	Shelby
Helms	McClure	Simpson
Humphrey	Murkowski	Stevens
Johnston	Nickles	Symms
Kassebaum	Nunn	Thurmond
Kasten	Pressler	Wallop
Lott	Pryor	Warner

NOT VOTING—3

McConnell	Rudman	Wilson

So the motion to lay on the table the amendment (No. 2887) was rejected.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

Mr. ARMSTRONG. I ask the Senator from Massachusetts if he would withhold that request for a minute.

Mr. KENNEDY. Yes.

Mr. ARMSTRONG. I thank the Senator from Massachusetts.

If he would withhold for a minute, it would be helpful just to explain that during this quorum call, we are going to work out how to handle the underlying amendment. We are sort of part way through the process, and I have asked the Senator from Massachusetts how he chooses to proceed.

One way, and probably the most expeditious way, would be simply now to adopt my amendment by a voice vote, and then I think excise the Lieberman amendment from the remaining amendment, and then adopt the rest of it by voice vote.

Senators should know that I do not intend to ask for a rollcall if we can proceed in that way, but that will be up to other Senators.

I thank all Senators for their support.

Mr. KENNEDY. If the Senator wants to proceed in that particular way at this time and make such a request.

Mr. ARMSTRONG. I will be happy to.

Mr. McCLURE. Mr. President, was the motion to table the motion to reconsider agreed to?

The PRESIDING OFFICER. No; the motion to reconsider was made. There was not a subsequent motion to table the motion to reconsider.

Mr. McCLURE. I move to table the motion to reconsider.

The PRESIDING OFFICER. Without objection, it is so ordered. The motion to reconsider is tabled.

Mr. ARMSTRONG. Mr. President, at the suggestion of the Senator from Massachusetts, I would formally suggest and in fact ask unanimous consent that we proceed in the manner I just outlined; that is, as follows:

First, to adopt the second-degree amendment, my amendment, by a voice vote; and then to further amend the amendment by striking the Lieberman language that appears in the amendment, which I believe the Senator feels is defective and should be considered separately; and then to proceed to the adoption of the Lieberman amendment, as amended.

May I state it in that way, may I ask the Chair?

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, I would like to object temporarily, if I might, and explain my previous vote. I previously voted no because even though I was in favor of tabling the Lieberman amendment, I voted no because I felt that Senator ARMSTRONG was deserving of having his amendment voted upon. He has been patiently waiting for a chance to vote on his amendment. As I understood the situation around here, he was not allowed that opportunity.

I disagree with his amendment, but I think he should have a chance to have it voted upon. So I would not want any indication from that prior vote to be taken that I support Senator ARMSTRONG's amendment, which I do not. And if there is a voice vote, I certainly wish to have it noted in the RECORD that I am opposed to the Armstrong amendment.

But in the proceedings around here, Senator ARMSTRONG was prevented from getting an up-or-down vote on his amendment, and he is entitled to that. So in order to give him that, I voted no on the Lieberman amendment, knowing that next would be the Armstrong amendment.

Now, if the managers want to have a voice vote after looking at the situation, that is their prerogative. I certainly want to make it clear that I do not support the Armstrong amendment. But he is entitled to a vote up or down. If the managers want to do it by a voice vote, that is their prerogative.

Mr. WALLOP. Reserving the right to object.

Mr. President, I reserve the right to object, and I shall object, I think, to the the manner in which the request was phrased.

It sounded to the Senator from Wyoming as though the Senator from Colorado was making as part of his unanimous-consent request that, after having divided and separated the Lieberman amendment and the Armstrong amendment, we would adopt the Lieberman amendment. I am not prepared to have that done by unanimous consent.

If the Senator's request is that we would proceed to consider the amendment, then I have no objection. But I thought the phrasing was a bit narrow.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, first let me say I am not insistent on this procedure at all. I am glad to go to a recorded vote in any way. I thank my friend from Rhode Island. In fact, I pointed out to him during the rollcall, first, I was grateful for his support, but also I did not want there to be any confusion and that he should make the kind of statement he just has made.

But my recommendation and what I asked unanimous consent for is the adoption of my second-degree amendment and then that the amendment further be amended by removing the Lieberman language, excising it from the amendment, and then the amended amendment be adopted. So the effect would be to drop the Lieberman language out, which I believe is agreeable to the sponsor of the resolution, Mr. LIEBERMAN. It would not be to adopt but actually to delete.

Mr. WALLOP. I withdraw my objection, having had that explanation.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Colorado? Is there objection? Without objection, it is so ordered.

Mr. ARMSTRONG. I thank the Chair, and I thank all Senators.

The PRESIDING OFFICER. The Senator from Louisiana.

Will the Senator from Louisiana please withhold? The Senate is not in order. Those Senators who do not have business before the Senate please adjourn.

The Senator from Louisiana.

AMENDMENT NO. 2888

Mr. HATCH. Mr. President, a parliamentary inquiry. Have we adopted the Armstrong amendment pursuant to that unanimous consent?

The PRESIDING OFFICER. The unanimous consent, as stated by the Senator from Colorado, has been adopted.

The question is not on the amendment of the Senator from Colorado. The Senator from Louisiana has the floor.

Mr. ARMSTRONG. Mr. President, I appologize to the Chair. Could the Chair restate what is before the Senate?

The PRESIDING OFFICER. The matter before the Senate is the amendment by the Senator from Colorado.

Mr. NICKLES. Were the yeas and nays ordered?

Mr. ARMSTRONG. I beg the Chair's pardon. I thought by unanimous consent my amendment had been adopted.

The PRESIDING OFFICER. By unanimous consent, the Senate is now on the amendment of the Senator from Colorado, but a vote on that amendment must still be taken.

Mr. ARMSTRONG. This is the second-degree amendment?

The PRESIDING OFFICER. That is correct.

Mr. ARMSTRONG. Just to clarify——

The PRESIDING OFFICER. The Senator from Colorado will be advised the Senator from Lousiana has the floor.

Mr. ARMSTRONG. I beg the Senator's pardon. The pending business is my second-degree amendment?

The PRESIDING OFFICER. That is correct.

Mr. JOHNSTON. Did the Senator from Colorado wish to have a voice vote on his amendment at this time? I did not want to interfere with that. I wanted to discuss the Lieberman amendment for a few moments, but I did not want to interfere if we are to have a voice vote on that without further debate. Is that what the Senator wished?

Mr. ARMSTRONG. I apologize to the Senator, I did not hear what he said. I did not understand.

Mr. JOHNSTON. I say, did the Senator wish to have a voice vote at this time on his amendment without further debate? If that is so, I yield for that purpose. Otherwise, I will go ahead and discuss for a few minutes the Lieberman amendment.

Mr. ARMSTRONG. I thought by unanimous consent we had adopted my amendment in the second-degree, had dropped the Lieberman amendment, and then had adopted what was left. If that is not the case we ought to clarify it and start back through again.

Mr. HATCH. Will the Senator yield?

Mr. ARMSTRONG. May I ask the Chair, is that not what we agreed to?

The PRESIDING OFFICER. The business before the Senate is the Armstrong second-degree amendment.

Mr. ARMSTRONG. To the Lieberman amendment.

Mr. President, to avoid further confusion, I ask for the yeas and nays on the Armstrong amendment.

The PRESIDING OFFICER. Is there a sufficient second?

The Senator from Massachusetts.

Mr. KENNEDY. I understood that the unanimous-consent request included a voice vote. Am I not correct?

The PRESIDING OFFICER. That is correct. We have not taken the voice vote.

Mr. KENNEDY. As I understand it, there was no objection to taking that as a voice vote; is that correct?

Mr. ARMSTRONG. If we review the request I put before the Senate, though I referred at one point to a voice vote, in my request I just said I ask unanimous consent the amendment be considered adopted.

I was told you cannot actually preclude a rollcall vote by unanimous consent, so my request was not for a voice vote but for the adoption of the amendment, and I thought that was what was agreed to.

Mr. KENNEDY. Mr. President, I ask the reporter to read back.

Mr. ARMSTRONG. I am not trying to be cute about it, and I am sure the Senator from Massachusetts is not either. That is what I thought would be the most expeditious way to handle it, and I still think so if the Senator from Massachusetts agrees.

Mr. KENNEDY. Yes.

Mr. SARBANES. Let us have a voice vote.

Mr. HATCH. I urge adoption of the amendment.

The PRESIDING OFFICER. The matter before the Senate now is the Armstrong second-degree amendment.

Mr. JOHNSTON. Mr. President, I have the floor. I ask unanimous consent the Armstrong amendment be now adopted.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 2888) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. JOHNSTON. The question is now on the Lieberman amendment as amended?

The PRESIDING OFFICER. Under the unanimous consent previously agreed to, the language which was the original Lieberman amendment has been stricken, so the Lieberman amendment is not now pending before the Senate.

Mr. JOHNSTON. Mr. President, in that case it will not then be necessary for me to discuss this matter at this time. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, as I understand it, the previous unanimous-consent agreement said that once the Lieberman amendment was disposed of, then Senator HUMPHREY would be recognized. Is that still the rule?

The PRESIDING OFFICER. That is correct.

The Senator from New Hampshire.

AMENDMENT NO. 2889

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. HUMPHREY] proposes an amendment numbered 2889.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SAVINGS AND LOAN FRAUD

SECTION 1. SHORT TITLE.

This Act may be cited as the "Savings and Loan Corruption Act of 1990."

SEC. 2. FINDINGS.

(a) CONGRESS FINDS.—

(1) that the savings and loan debacle is the largest financial crisis in our Nation's history, and that the cost to the American taxpayer of that debacle may be in excess of one trillion dollars;

(2) that fraud and other criminal activity—including criminal activity by federal officials and officeholders—may have contributed significantly to the saving and loan industry's losses and will cost taxpayers billions of dollars;

(3) that Attorney General Richard Thornburgh recently spoke of an "epidemic of fraud" in the savings and loan industry and indicated that at least 25 to 30 percent of the savings and loan failures can be attributed to criminal activity by the institution's officers and management;

(4) that at least some of those fraudulent officers and managers attempted to perpetuate their fraudulent activities through the application of political influence on the appropriate regulatory authorities;

(5) that officials at the Resolution Trust Corporation indicate that an estimated 60 percent of the institutions the corporation has seized "have been victimized by serious criminal activity";

(6) that investigating and prosecuting criminal activity related to the savings and loan crisis—including unlawful efforts to exert political influence on regulatory authorities—will help send an important message of "never again" to those involved in the financial industry; and

(7) that the passage of time makes investigation more difficult and expiring statutes of limitation could allow serious crimes to go unpunished if investigation and prosecution is delayed.

(b) PURPOSE.—It is therefore the purpose of this Act to make increased resources available to the investigation and prosecution of persons who use their political offices to stymie the effective regulation of troubled financial institutions.

SEC. 3. ENFORCEMENT.

(a) Subsection (b) of section 591 of title 28, United States Code, is amended as follows:

(1) by striking the word "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by inserting at the end thereof the following new paragraph:

"(9) any member of the Senate or the House of Representatives or any former member of the Senate or House of Representatives.".

(b) Section 592 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) Not later than sixty days after the enactment of this Act, the Attorney General shall make an application pursuant to subsection (c) of this section for the appointment of an independent counsel to investigate any violation of Federal criminal law (other than a violation classified as a class B or C misdemeanor or an infraction) in connection with any federally insured financial institution to which Public Law 101-73 and amendments made by Public Law 101-73 apply by any person described in subsection (b) of section 591 of this title if the

Attorney General finds that there are reasonable grounds to believe that such violations have been committed by such persons.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 2890 TO AMENDMENT NO. 2889

Mr. BOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself, Mr. DODD, and Mr. GRAHAM, proposes an amendment numbered 2890 to amendment No. 2889.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Mr. Bond (for himself and Mr. Dodd) propose the following amendment to the amendment proposed by Mr. Humphrey:

TITLE I

SECTION 1. ESTABLISHMENT.

There is established the National Commission on the Savings and Loan Industry.

SEC. 2. DUTIES OF THE COMMISSION.

The Commission shall—

(1) examine and identify the origin and causes of the problems in the savings and loan industry that led to the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, including, among other things, consideration of the role of—

(A) State and Federal regulation of savings and loan associations, including capital and accounting standards;

(B) supervision of, and supervisory resources allocated to, savings and loan associations by, or under the authority of, State and Federal governments;

(C) State and Federal statutes concerning savings and loan associations, including asset powers legislation;

(D) macroeconomic changes and regional recessions;

(E) competitive fa"dors;

(F) unprecedented fraud and abuse by persons in or connected with savings and loan associations;

(G) deposit insurance, including changes in the amount insured and in technology; and

(2) recommend, on the basis of such examination, further legislative, regulatory, supervisory, and other administrative changes that will—

(A) prevent the recurrence of the problems identified in the savings and loan industry; and

(B) improve the safety and soundness of depository associations, the Federal deposit insurance funds, and other Federal insurance programs.

SEC. 3. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 8 members appointed as follows:

(1) 2 individuals appointed by the President.

(2) 3 individuals appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives.

(3) 3 individuals appointed by the President pro tempore of the Senate, 2 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of whom shall be appointed upon the recommendation of the minority leader of the Senate.

(b) ELIGIBILITY.—No member, officer, or employee of the executive, legislative, or judicial branch of the Federal Government or of any State or local government may be a member of the Commission.

(c) TERMS.—

(1) IN GENERAL.—Each member shall be appointed for the life of the Commission.

(2) VACANCY.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) PROHIBITION ON COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) QUORUM.—Five members of the Commission shall constitute a quorum but 3 members may hold hearings.

(f) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the Commission from among its members.

(g) MEETINGS.—The Commission shall meet at the call of the Chairperson or of 5 members of the Commission.

SEC. 4. POWERS OF COMMISSION; HEARINGS AND SESSIONS.

(a) IN GENERAL.—The Commission may, for the purposes of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(b) WITNESSES; ADMINISTRATION OF OATHS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Commission may call witnesses and administer oaths or affirmations to witnesses appearing before the Commission.

(2) COORDINATION OF CERTAIN TESTIMONY AND EVIDENCE.—(A) In any case where the Commission intends to receive evidence or call a witness to provide testimony concerning a specific savings and loan association or the role of any person in connection therewith, the Commission shall, in writing not less than 21 days prior to the taking of such testimony or receiving such evidence, provide the Attorney General, the Director of the Office of Thrift Supervision, and the head of the Resolution Trust Corporation with—

(i) the name of the savings and loan association involved;

(ii) the date and location of the testimony or the receipt of evidence; and

(iii) as appropriate, the name of the witness and a specific identification of the subject matter about which such witness is to testify or provide evidence, or the specific nature of the evidence to be received.

(B) The Commissioner shall not take any such testimony or receive any such evidence to the extent the Attorney General, the Director of the Office of Thrift Supervision, or the head of the Resolution Trust Corporation certifies to the Commission that taking such testimony or receiving such evidence would impair, impede, or compromise the investigation, prosecution, or adjudication of a criminal, civil, or administrative matter or proceeding.

(c) INTERIM REPORT.—Not later than 60 days after the date of enactment of this Act, the Commission may submit a report to the Congress concerning the ability of the Commission to obtain information and evidence necessary to carry out its duties under section 2 and including such recommendations concerning additional authority as the Commission deems appropriate.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

(f) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take pursuant to this section.

SEC. 5. STAFF OF COMMISSION: EXPERTS AND CONSULTANTS.

(a) STAFF.—Subject to such regulations as the Commission may prescribe, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—Subject to rules prescribe by the Commission, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS-18 of the General Schedule.

(d) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

SEC. 6. REPORT.

(a) REPORT REQUIRED.—The Commission shall submit a final report to the President and the Congress not later than 6 months after the appointment of the chairperson pursuant to section 3(f).

(b) CONTENTS.—The final report shall, consistent with the duties of the Commission set forth in section 2 of this Act, contain a detailed statement of the findings, conclusions, and recommendations of the Commission.

SEC. 7. TERMINATION.

The Commission shall terminate 30 days after submitting the report required by section 6(a) of this Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated not to exceed $1,000,000 to carry out the purposes of this Act.

TITLE II—RESTRUCTURING THE FEDERAL PROSECUTION OF BANK CRIMES

SEC. 201. ESTABLISHMENT OF FINANCIAL INSTITUTIONS CRIME UNIT AND OFFICE OF SPECIAL COUNSEL FOR FINANCIAL INSTITUTIONS CRIME UNIT.

(a) ESTABLISHMENT.—There is established within the Office of the Deputy Attorney General in the Department of Justice a Financial Institutions Fraud Unit to be headed by a special counsel for the Financial Institutions Fraud Unit (referred to as the "Special Counsel").

(b) RESPONSIBILITY.—The Financial Institutions Fraud Unit and the Special Counsel shall be responsible to and shall report directly to the Deputy Attorney General.

(c) SUNSET PROVISION.—The provisions of this section shall expire no later than 5 years after the date of enactment. The Attorney General may reassign the special counsel of the Financial Institutions Fraud Unit and the Financial Institutions Fraud Unit to the supervision of the Assistant Attorney General for the Criminal Division no earlier than October 1, 1992.

SEC. 202. APPOINTMENT RESPONSIBILITIES AND COMPENSATION OF THE SPECIAL COUNSEL.

(a) APPOINTMENT.—The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Special Counsel shall be responsible for—

(1) supervising and coordinating investigations and prosecutions within the Department of Justice of fraud and other criminal activity in and against the financial services industry;

(2) ensuring that Federal statutes relating to civil enforcement, asset seizure and forfeiture, money laundering, and racketeering are used to the fullest extent authorized by law to recover the proceeds of unlawful activities from persons who have committed crimes in and against the financial services industry; and

(3) ensuring that adequate resources are made available for the investigation and prosecution of fraud and other criminal activity in and against the financial services industry.

(c) COMPENSATION.—The Special Counsel shall be paid at the basic pay payable for level V of the Executive Schedule.

SEC. 203. ASSIGNMENT OF PERSONNEL.

There shall be assigned to the Financial Institutions Fraud Unit such number of personnel as the Attorney General deems appropriate to maintain or increase the level of enforcement activities in the area of fraud and other criminal activity in and against the financial services industry.

SEC. 204. FINANCIAL INSTITUTIONS FRAUD TASK FORCES.

(a) ESTABLISHMENT.—The Attorney General shall establish such financial institutions fraud task forces as the Attorney General deems appropriate to ensure that adequate resources are made available in connection with criminal investigations and prosecution of fraud and other criminal activity in the financial service industry and to recover the proceeds of unlawful activities from persons who have committed fraud or have engaged in other criminal activity in or against the financial services industry.

(b) SUPERVISION.—The Attorney General shall determine how each task force shall be supervised and may provide, if the Attorney General determines appropriate, for the supervision of any task force by the Special Counsel.

(c) SENIOR INTERAGENCY GROUP.—(1) The Attorney General shall establish a senior interagency group to assist in identifying the most significant savings and loan and bank fraud cases and in focusing investigative and prosecutorial resources where they are most needed.

(2) The senior interagency group shall be chaired by the Assistant Attorney General for the Criminal Division and shall include senior officials from—

(A) the Department of Justice;

(B) the Federal Bureau of Investigation;

(C) the Department of the Treasury;

(D) the Office of Thrift Supervision;

(E) the Resolution Trust Corporation;

(F) the Federal Deposit Insurance Corporation;

(G) the Comptroller of the Currency;

(H) the Board of Governors of the Federal Reserve System;

(I) the National Credit Union Administration; and

(J) the Attorney General's Advisory Committee of the United States Attorneys.

(3) This senior interagency group shall enhance interagency coordination and assist in accelerating the investigations and prosecution of financial institutions fraud.

SEC. 205. REPORTS.

(a) IN GENERAL.—(1) The Financial Institution Fraud Unit shall compile and collect data concerning—

(A) the nature and number of financial institutions investigations, prosecutions, and enforcement proceedings in progress;

(B) the nature and number of such matters closed, settled, or litigated to conclusion; and

(C) the results achieved, including fines and penalties levied, prison sentences imposed, and damages recovered, in such matters.

(2) Prior to the conclusion of an investigation or prosecution, data may be compiled in an aggregate statistical form.

(3) The Financial Institutions Fraud Unit shall analyze and report semiannually to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate and the Committee on Banking, Finance and Urban Affairs and the Committee on the Judiciary of the House of Representatives on the data described in paragraph (1) and its own coordination activities with the agencies named in section 204(c), and shall provide such data, as appropriate to such committees.

(b) SPECIFICS OF REPORT.—The report required by subsection (a) shall—

(1) be categorized as to various types of financial institutions;

(2) disclose data for each Federal judicial district; and

(3) identify, with respect to the activities of the Financial Institutions Fraud Unit—

(A) the number of institutions in which evidence of significant fraud or insider abuse has been detected;

(B) the Federal administrative enforcement actions brought against offenders;

(3) any settlements or judgments obtained against offenders;

(4) the indictments, guilty pleas, or verdicts obtained against offenders; and

(5) the resources allocated in pursuit of such settlements, indictments, or verdicts.

SEC. 206. STATISTICS ON FINANCIAL SERVICES CRIME ENFORCEMENT.

Section 522 of title 28, United States Code, is amended by—

(1) inserting "(a)" before "The Attorney General"; and

(2) adding at the end thereof the following new subsection:

"(b) The information provided pursuant to subsection (a)(2) shall include records of the number of pending criminal matters, investigations, cases, and defendants involving financial institutions which shall specify the number of such cases relating to insured depository institutions and shall be made available to the Congress not less than monthly during each year.".

Several Senators addressed the chair.

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. HUMPHREY. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New Hampshire will state it.

Mr. HUMPHREY. Under the rules, does not the Chair recognize the first Member seeking recognition?

The PRESIDING OFFICER. The Senator from Missouri sought recognition for purposes of offering a second-degree amendment.

Mr. HUMPHREY. Does the Senator not lose the right to the floor after seeking the unanimous-consent agreement?

The PRESIDING OFFICER. Would the Senator repeat?

Mr. HUMPHREY. Parliamentary inquiry. Does the Senator not lose the floor after seeking a unanimous-consent agreement?

The PRESIDING OFFICER. That is correct. It was under that basis that the Senator from Missouri was recognized.

Mr. HUMPHREY. Then the Chair ruled on the consent agreement, at which point any Senator might seek recognition?

The PRESIDING OFFICER. That is correct.

Mr. HUMPHREY. The Senator from New Hampshire was the first to seek recognition.

The PRESIDING OFFICER. The Chair recognized the Senator from Missouri.

Mr. HUMPHREY. Parliamentary inquiry. Is it the Chair's opinion the Senator from Missouri spoke first?

The PRESIDING OFFICER. The Chair first recognized the Senator from Missouri.

Mr. HUMPHREY. That was not quite my question, Mr. President. Is it not the rule to recognize the first Senator seeking recognition?

The PRESIDING OFFICER. The first Senator that the Chair observed and therefore recognized was the Senator from Missouri.

The Senator from Missouri.

Mr. BOND. Mr. President, the amendment I have sent to the desk on behalf of myself and the Senator from Connecticut [Mr. DODD] goes beyond the amendment which was offered by my good friend, the distinguished Senator from New Hampshire [Mr. HUM-

PHREY]. His amendment provided essentially for a special counsel for savings and loan investigation. The amendment that I have sent to the desk and which is now being considered as a second-degree amendment establishes a Financial Institutions Crime Unit and an Office of Special Counsel for Financial Institutions Crime in the Department of Justice. It then goes on to set forth the activities of the special counsel. It sets forth the need for a financial institution and fraud task force, provide for the assignment of personnel, senior interagency group, and provides additional reporting requirements for that unit in addition to the inforcement activities it includes.

In addition, Mr. President, the amendment establishes a savings and loan commission. This is a provision that follows a bill that was introduced by myself and Senator DODD with the sponsorship of Mr. ROBB, Mr. BRYAN, Mr. EXON, Mr. LOTT, Mr. LIEBERMAN, Mrs. KASSEBAUM, Mr. DANFORTH, Mr. STEVENS, Mr. KOHL, Mr. MCCONNELL, Mr. PRESSLER, Mr. RIEGLE, Mr. BIDEN, Mr. BURNS, Mr. MCCAIN, Mr. SHELBY, Mr. SIMON, Mr. D'AMATO, Mr. DURENBERGER, Mr. ADAMS, Mr. BRADLEY, Mr. DECONCINI, and Mr. KERRY.

This measure has been negotiated with the administration. They have given us a letter, both from the Department of Justice and the Department of Treasury, saying that they agree to the approach taken under this savings and loan commission.

While we are pleased that the Government is prosecuting guilty S&L executives and persons who were active with or connected with the savings and loan fiasco, we should not be blinded from seeing the full picture of just how this fiasco took place. Above all, we need to understand that mistaken policy decisions that have left us facing the largest financial scandal ever to beset the Nation must not be repeated again.

Many here in the Senate have expressed this belief in the past, that a special prosecutor should be assigned to delve into the criminal conduct of S&L executives, as well as the complicity of governmental officials, whether they be in the legislative or the executive branch, or whether they be in the professions, which are also culpable, perhaps in significant number.

We have noted in the past that many questions have been raised about the mistakes in policy, and I think it is imperative that we investigate those policies, those practices as well. If we were to rely solely on prosecutions to punish those at fault, we would fail to understand the more critical role of the interplay of events such as the increase in deposit insurance, the grant of new powers, the reduction in the amount of capital required to operate an S&L, and the failure to increase the number of regulators when there have been exponential increases in risk.

If we fail to understand the events that led to this crisis, I fear, Mr. President, we are destined to repeat it. In order to be serious about the pledge "never again," we must do more than prosecute lawbreakers. We must go beyond the Department of Justice prosecutions to a full investigation of the policy decisions that produced the scandal and which could threaten other financial insurance programs as well. To get such an accounting we believe we need to establish an independent commission to review all the facts and to report to the American people on the basis question: How did this happen?

For this commission to be effective, we believe it should be bipartisan with members recommended by both political parties and the Congress, as well as the executive branch. But, neither any current Member of Congress nor any current administration official should be a member. The commission should make a final report to Congress early next year.

Clearly, there is plenty of blame to go around and there are more than enough people prepared to assign the blame. Others argue that we should cease pointing fingers and instead focus on cleaning up the mess. We agree. That needs to be done. But we also believe the American people and the Congress need to have a full reckoning of the scandal.

The people need to have it because it is part of the governing contract we make with the people that we will not only take credit for things when they go properly, but we will let them know what happened when things go wrong.

For Congress, we need to know just what went wrong so we will not repeat the same mistakes when we consider legislation to reform deposit insurance and modernize our financial services industries.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, the Senator from Missouri has offered an amendment which utterly negates the amendment offered by the Senator from New Hampshire. This is a killer amendment, so to speak, in that it kills the effect of the Humphrey amendment.

The underlying Humphrey amendment is an amendment to the independent counsel law, the Ethics in Government Act, which would facilitate the appointment of a special counsel, that is to say, of an independent counsel, where the Attorney General feels there is evidence implicating a Member of Congress in connection with unlawful activity with respect to the savings and loan scandal.

There has been a lot of rhetoric in this body and in the other body about the need to get to the bottom of the S&L mess and to establish whether or not there is any criminal culpability on the part of Members.

The purpose of the Humphrey amendment was to facilitate the appointment of the Attorney General of an independent counsel to get to the bottom of that very question: Whether or not there is criminal culpability on the part of any Member of Congress. That is a good, strong law-and-order amendment, a good no-nonsense amendment to get directly to the bottom of the question whether or not Members of Congress were or are criminally culpable.

The Bond amendment utterly negates the Humphrey amendment. The Bond amendment is in lieu of the Humphrey amendment. It strikes all of the Humphrey language. And, what does the Bond amendment do? It is an interesting contrast, Mr. President.

The Humphrey amendment sought to facilitate the appointment of an independent counsel with respect to the conduct of Members of Congress. The Bond amendment sets up yet another Government commission. It makes no mention, it makes no effort, unlike the Humphrey amendment, to facilitate the appointment of an independent counsel. Instead, it wipes out the Humphrey language and calls for the appointment of yet another governmental commission, an eight-member governmental commission.

I cannot help myself, but when I look at the scope and the magnitude of the S&L scandal and hear someone call for the appointment of a commission in place of the Humphrey amendment, I cannot help but say, "big deal."

The Bond amendment, as well, calls for the establishment of another unit at the Department of Justice. I have no particular objection to that. I have not studied it in detail. No one has. This is a brand new matter for everyone on the floor, with the exception of those who worked it up in the last few hours. But it is preposterous, Mr. President, to propose substituting a commission which does not even have any directive, to look into the role of Members of Congress, just yet another amorphous commission out there amongst all those thousands of commissions that churn out paper and little else.

This clearly is a dodge, it is a subterfuge to extend further the efforts by Congress to keep the public from finding out whether or not there is any

criminal culpability here in connection with the savings and loan scandal.

It is a pale substitute. We cannot even call it pale. It is really a dodge. It is a subterfuge. I hope Senators will oppose it. Naturally, I had expected this very sort of thing. I did not think that the leadership on the Democratic side would be agreeable to letting the Humphrey amendment stand on the merits. I expected a second-degree amendment. It fits the pattern that has been adhered to in this body over the last 48 hours or longer. But certainly, the Senator is within his rights. There is no question about that.

I urge Senators to oppose the Bond amendment, to defeat the Bond amendment so that we might get to a vote on a matter, on a proposal that has the potential of getting to the bottom of that important question the American people want to know. This savings and loan bailout is going to cost upwards of $400 billion, probably much more, depending upon the course of the economy over the next year or 2 or 3, depending upon how much more real estate values decline in this recession through which we are going. It is costing a lot of money. It is probably going to cost a lot more. The American people are asking why? They are asking who?

Some have suggested that the Members of Congress might have some criminal culpability. The American people have a right to see to it, have a right to expect that we will see to it that there is an early, independent, objective investigation wherever the Attorney General, in his opinion, feels that there is evidence to warrant the appointment of an independent counsel.

The Humphrey amendment would have facilitated the appointment of an independent counsel or, I should say, would have facilitated the seeking of an independent counsel by the Attorney General. It would have facilitated his asking a special court to appoint an independent counsel.

But, if the Bond amendment is agreed to, and the Humphrey amendment is wiped out, we are left with what? Another commission. It is almost laughable. If the dollar amounts were not so great, it would be laughable.

I know constituents will take very little consolation from the substitution of an eight-member commission for the proposal to facilitate the appointment of an independent counsel.

I urge my colleagues to oppose the Bond amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, may I ask the Senator from New Hampshire a question about his amendment? I genuinely am confused as to what deficiency he sees in the Justice Department now which would require the appointment of a special or an independent counsel to prosecute anybody.

As I understand it, we have appropriated substantially increased amounts of money for prosecutions of this type, for the Attorney General and the Justice Department to proceed to carry out his duty under the law and prosecute if he feels there is a criminal case.

Mr. HUMPHREY. First of all, as Members know, the Attorney General may bring a case against any citizen, including Members of Congress, as for example the Attorney General's Office did against those implicated in the ABSCAM scandal. Or the Attorney General may, under the Ethics in Government Act, seek the appointment of an independent counsel if he prefers to do it that way. However, he may seek the appointment of an independent counsel only if there exists a conflict of interest between the Attorney General's Office, that is to say the Justice Department, and that Member of Congress.

The Humphrey amendment removes that requirement so that the Attorney General might request, if he thought there was a case to do so, the appointment of an independent counsel without there, first, having to be a conflict of interest between the Justice Department and that Member of Congress. It removes an impediment. It would facilitate, as I have said a number of times, the appointment of an independent counsel if the Attorney General, who would continue to have complete discretion, felt there was a case for seeking such an appointment.

Mr. BINGAMAN. Mr. President, let me ask the Senator from New Hampshire further, as I understand it, though, the whole idea of appointing an independent counsel is to eliminate any perception that the Attorney General might not be able, by virtue of conflict of interest or whatever, to adequately carry out his responsibilities under the law.

The point I am trying to make, is there a basis that the Senator is citing as to why he cannot carry out his responsibilities under the law and go ahead and prosecute people who he believes have violated the law? That is what I had expected the Attorney General to do in the savings and loan matter, to commence prosecutions and proceed to prosecute everybody against whom he could make a criminal case.

I just do not understand why we would be passing a law saying that instead of doing that, he is authorized to hire independent counsel to carry out those duties. I do not see where the conflict of interest lies that would prevent the Attorney General from going ahead and enforcing the law as he is sworn to do under the Constitution.

Mr. HUMPHREY. I am not sure I see the Senator's point.

Mr. BINGAMAN. My point is that the Attorney General has the job of prosecuting people who are engaged in criminal activity. As far as I can tell, he has not only that responsibility, he has full authority to do that under existing law, and presumably he has been given all the resources to carry out that responsibility.

I remember an amendment to add another $50 million to the appropriations so that he had plenty of resources with which to do it. I do not understand, in light of that situation, why we are now coming along and saying, instead of doing what we intended, which is to enforce the law as the statutes contemplate, he should appoint an independent counsel to do the job, which is what I understand the Senator's amendment would provide.

Mr. HUMPHREY. The amendment does not require the Attorney General to do anything. But if he felt there were a case for seeking the appointment of an independent counsel, he could do so, first, without establishing some sort of conflict of interest between his Department and a Member of Congress. That is the point of the amendment.

So the Senator now has, in addressing the S&L matter and the unresolved questions in the minds of the American people, a choice between the eight-man commission which the Senator from Missouri proposes in lieu of a proposal by the Senator from New Hampshire that would have made it a little easier for the Attorney General to secure the appointment of an independent counsel. That is the choice that faces Senators. It ought to be a pretty clear choice if they are serious about getting to the bottom of the questions raised by the American people.

Mr. BINGAMAN. Mr. President, let me just ask the Senator if he would not agree with me, though, there are really three choices before the Senate: One is to go forward and have the Attorney General use his existing authority and carry out his existing responsibility and prosecute any crimes that he investigates and discovers, which is the existing law. That is one option. A second option would be the proposal that the Senator from New Hampshire has put forward, which would be that instead of doing that he could appoint an independent counsel. And then a third option would be the commission that the Senator from Missouri has recommended. I assume the commission of the Senator from Missouri in no way takes the place of prosecution by the Attorney General.

So it is really not a question of who you want a commission to investigate or an independent counsel to prosecute. I think the question is, do you want the Attorney General to do the prosecuting, as he has been directed to do under the statutes now on the books and perhaps have a commission also investigate in addition to that, or do you want to have the Attorney General sidestep that and be in a position to appoint independent counsel to carry out that responsibility?

Mr. HUMPHREY. Will the Senator yield for a response.

Mr. BINGAMAN. Yes.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Clearly, as I have stated, the Attorney General and the Justice Department have power to investigate and to prosecute wherever the evidence would seem to warrant with respect to anyone, including Members of Congress. But the fact is such investigation and prosecution of Members of Congress can sometimes take on the appearance at least of a conflict of interest—political retaliation, if you will. That is why we gave the Attorney General the alternative of seeking the appointment of an independent counsel as an alternative to the Justice Department itself investigating and prosecuting a Member of Congress. We gave the Attorney General and the Justice Department that option. But in order to exercise that second option, the Justice Department first has to conclude that there is a conflict of interest between the Department and the Member of Congress. The Humphrey amendment would simply eliminate that last requirement, that there be a conflict of interest between the Justice Department and the Member of Congress before the Attorney General may access that other option; namely, the seeking of the appointment of an independent counsel.

I have absolutely no faith at all that Senator BOND'S eight-member commission is going to be able to help the Attorney General in any material way, within any reasonable timeframe accomplish what the American people want and the Humphrey amendment seeks, that is, to get to possible criminal culpability on the part of Members of Congress in connection with the savings and loan scandal.

The Bond proposal in another context might be OK; if you can stand one more commission and one more commission wasting time and money, it might be OK. But as a substitute for the Humphrey amendment, it is hardly worth discussing. It is clearly an effort to sidestep what the Humphrey amendment seeks to do. If Senators want to sidestep what the Humphrey amendment seeks to do, want to sidestep the proposal to make it a little bit easier for the Attorney General to seek the appointment of an independent counsel, then obviously they will want to vote for the Bond amendment.

I hope Senators are not going to buy that argument. It is not even worth calling a substitute. It is simply a dodge.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, first of all I want to commend my colleague from Missouri for offering this amendment. I am delighted to be a cosponsor with him of it. This is an amendment, for historical purposes, Mr. President, which actually was raised prior to the August break. It enjoys the support of the administration, I believe both the majority and minority, who have examined the question even then, but because of time constraints we were not able to move forward on it. In fact, I am told, and I have asked my colleague from Missouri, my understanding is that the Justice Department strongly supports the Bond-Dodd amendment, as I understand it. Is that correct?

Mr. BOND. Mr. President, that is correct. We have support from both the Departments of the Treasury and Justice.

Mr. DODD. I thank my colleague for that.

Let me make the case that this is serious business that we are dealing with here. I understand that in the midst of all of this there is always some attempt of one-upmanship here a bit. But I must say with all due respect to our colleague from New Hampshire that he may not find any necessity or merit for the Bond amendment, but if that is the case it is even more the case in the case of the Humphrey amendment. There it is purely a gratuitous effort because, as has been pointed out by the Senator from New Mexico and others, there is nothing whatsoever that restricts the Department of Justice from investigating any Member of Congress. That has happened in the past. It can happen today. It can happen tomorrow. It is not required that there be any legislative effort here.

The only reason that we had to initiate legislation some time ago to establish an independent counsel was in dealing with situations where there was an investigation or should be an investigation, of wrongdoing or alleged wrongdoing at the executive branch level and to have an executive branch agency investigated other than individuals within the executive branch raised conflict of interest questions. So the establishment of an independent counsel, laws that would allow for that investigation of an independent counsel to go forward, were necessary.

But that was never intended to apply where conflicts of interest did not exist. There are no conflicts of interest between the Justice Department and the Congress when it comes to the question of investigations.

So it is absolutely gratuitous to establish, if you will, an independent counsel to investigate Members of Congress. The Justice Department has that authority. It has that power. It has exercised it in the past. It does not need the permission of Congress to do it.

In fact, in dealing with this situation, the specific situation of the S&L issue, we adopted as part of the S&L kingpin legislation back in the Wirth-Heinz amendment, we established title II of that particular bill, titled "Restructuring Federal Prosecution of Bank Crimes."

We did feel in that particular case that we would like to see setting up of a unit within the Justice Department to proceed to investigate alleged crimes that occurred within the financial institutions, in the Department of Justice, a financial institutions fraud unit, to be headed by a special counsel of the financial institutions fraud unit, referred to a special counsel.

We have taken title II of that and made it title II of this amendment. Just to make it clear to our colleagues that we are not in any way trying to undermine the establishment of that unit for going after financial crimes, but the necessity to set up an independent counsel to examine or investigate Members of Congress does not add a single thing to what already exists under law, what exists by statute, what has been the case for years, Mr. President.

So the notion somehow that we have to have an independent counsel here is purely gratuitous.

What Senator BOND and I are offering is something that does not presently exist. While we want to go after the wrongdoers, incarcerate those responsible, see the maximum amount of penalties are leveled against those who have defrauded the American people and have caused this incredible drain of resources, we also felt it was necessary in the midst of all of that to take a good hard look at policy questions going back to the last part of the last decade through the 1980's, what policy decisions were made by the Congress, by the executive branch, by the respective agencies that allowed for some of these problems to exist, and to do that properly we felt rather than having 20 different committees in Congress, maybe an executive branch commission or someone else going off doing something, to establish a bipartisan commission that would allow for the minority or the majority leaders of both Chambers, the President to appoint an experienced panel of

people to examine the policy questions.

Certainly the American public has a right to know as we look at these issues what happened, why did it happen, and to minimize the possibility of it occurring again.

So our amendment really does do something new that does not exist.

There is a strong sense, I think, among all of us here, that we ought to include that as a part of this examination effort, to give an accounting, a good policy accounting rather than sort of depending upon an ad hoc basis as how things emerged. This ought to provide us with a clear, concise examination of those questions and then present that report, in a timely fashion by the way, within the next 6 months, so we do not have a 2-, 3-, or 4-year effort ongoing here before we know the final results.

Mr. President, our amendment really is designed to do nothing more than that. It is appropriate in my view that it be placed here because it gives us an opportunity to really address the questions that have not been thoroughly examined.

Certainly the public deserves to know those who have ripped off the Government are going to pay for their crimes. That is going to be done, we hope.

The Wirth-Heinz amendment, as I said a moment ago, to the omnibus crime bill, so-called S&L kingpin legislation, will assure that such people go to jail. However, Senator BOND and I and others feel we should do more than that. That is what this amendment is designed to do. It would assure the public that not only we will go after the crooks but that we will get a full story.

We cannot allow the hunt for crooks and political cover to blind us from seeing the full picture of just how this fiasco occurred. In order to get the full story, the amendment that Senator BOND and I are offering would establish an eight-member blue-ribbon commission to investigate and identify the causes of the savings and loan disaster.

Among other areas, the commission is directed to read the amendment, consider the role of one, State and Federal regulations, of savings and loan institutions, including capital and accounting standards, State and Federal supervision, including the number and quality of personnel, State and Federal statutes concerning savings and loan institutions including asset powers legislation, macroeconomic changes, regional recessions, competitive factors, unprecedented fraud and abuse in the savings and loan industry, and the amount of the deposit insurance protection and the technology that permits the bundling of huge sums of money in $100,000 chunks that were then broken around the country to the highest bidder.

We believe an investigation of these factors will assist us in getting to the bottom of how this disaster occurred in addition to going after the culprits. But if we only go after the culprits and do not examine the policy questions in a thoughtful way, we may enjoy some sort of satisfaction of watching a hanging, but we would not have learned any lessons that allow for those people to do what they did in the first place. This commission is designed to bring that together in a concise fashion and give us an opportunity to learn those lessons.

Senator BOND and I also have one substantial change in the bill before us today from S. 2903, the bill we introduced several weeks ago. The bill before us removes the subpoena authority from the original bill and replaces it with an interim report from the commission concerning its ability to obtain the information and the evidence it needs to carry out its duties.

We have done this in response to the Justice Department's concern that a congressional investigation of individuals—clearly you will have to look at individuals who might be targets of civil or criminal investigations—could reduce their ability to bring S&L crooks to justice. We want to be sensitive about that so we do not end up inadvertently complicating the role of the Justice Department as it goes after the culprits who have committed the crimes. We do not, as I said, want to do that.

Moreover, since the commission's focus is on the policy decisions that caused this problem, most of the information it needs is contained in public documents such as laws, regulations, debates, hearings and the like.

Should the commission find it needs other information, then it will let us know, and I am sure we will be able to craft a solution that permits the commission to get the information that it needs for its work without interfering with the Justice Department's job.

Mr. President, our commission has a forward looking element, as well. It would be required to recommend changes in regulations and supervision of depository institutions to prevent a recurrence of the problems that caused the S&L mess, and to recommend any other administrative or legislative action necessary to protect the safety and soundness of depository institutions in the Federal insurance funds.

Mr. President, while I believe that the FIRREA legislation passed by this Congress in 1989 addresses many of these problems, cleaning up the S&L mess is not the last job here. We are also concerned about the future of our banking industry. Banks have come under increasing pressures from other financial services providers, both domestically and internationally.

The Banking Committees in both the Senate and the House have been considering modernization legislation for the past decade, but have failed to develop a consensus on a solution, despite, I might add, the concerted efforts on the part of the chairman of the Banking Committee in the Senate, and I know Members of the House, both under Senator GARN, Senator Proxmire, and now Senator RIEGLE, who have tried to develop some sort of consensus or solution to that problem. They have not done it yet.

The lessons of the S&L fiasco could be highly instructive as we consider the best way to modernize our financial services industries. With the final commission report in hand by February 3, 1991—I would emphasize that that is about 16 or 18 weeks from now—we feel we will be far better equipped to approach this problem than we would be in the absence of that report.

Mr. President, this issue has been so politicized. You have national political parties taking out full-page ads trying to gain the high ground politically: Who is at fault; this Congressman; that Congressman; was it the Congress; was it the President; was it the agencies?

We can spend, if you want, the next 6 or 8 months seeing who wins the finger-pointing game. The problem is, the American public loses in that kind of contest. Some Members may lose; some may win election, reelection. But we will be no better off at end of that process than we are today in the absence of trying to get to the bottom of the policy questions.

So rather than have this thing be done in a political fashion solely, and to try to bring together the brightest people in the country, appointed by the leaders of this body, both the minority and the majority, as well as in the other body, along with the President of the United States, so that we can have the sharpest minds examine the policy questions, and try to at least give us some sense of how this occurred and where we ought to go from here, makes sense; it makes sense.

To set up an independent counsel within the Department of Justice is totally unnecessary, totally unnecessary. The Justice Department opposes, as I understand it from the reports I have, what the Senator from New Hampshire is proposing here. It is not only irrelevant, in my view, but does a disservice, does a disservice.

What Senator BOND proposed does a service. It is not going to be a fireworks display. It may not get the headlines every day, because they are examining reports and political debates, if you will, strategies, regulations, and other such matters.

But, nonetheless, I happen to believe, as a member of the Banking

Committee, as a Member of this body, it would be invaluable to us as an institution and to the American public for that kind of information, as we consider what must be done to guarantee that not only we catch those responsible, but maybe as important, that it does not happen again, and that we minimize the cost we are presently being asked to pay as a result of that fiasco.

I commend the Senator from Missouri for his amendment. I am delighted to be a sponsor of it. We believe it is worthwhile, and we hope our colleagues will adopt it so we can move on to the business of trying to deal with this problem in the manner in which it ought to be dealt with.

I yield the floor.

Mr. BOND. Mr. President, I thank my distinguished colleague from Connecticut. He has stated very well the purposes of this commission. He has labored long and hard on dealing with this S&L problem.

We have heard many hours, it seems, perhaps weeks and months of testimony in the Banking Committee. We realize that the people of America have a right to know, as my good friend from New Hampshire has said. He said, "They have a right to ask why; they have a right to ask who." The American people want to know. And I think this is precisely what our commission addresses.

In the hearings, we have gone through many of the problems that led to the failures of savings and loans, and there have been a wide range of estimates. The Attorney General, I think, said 30 percent of the institutions may have had significant fraud. One bank consultant, who has been very accurate in his predictions, said that perhaps only 5 percent have been the result of fraud.

Nevertheless, I was one of the first, and I was joined by my colleague from Connecticut and other members of the Banking Committee, who said if anybody violated the law, stole from institutions which were backed up by FSLIC, which is ultimately backed up by the taxpayers, they, No. 1, should be prosecuted to the fullest extent of the law; and, No. 2, every effort should be made to go back and recapture the profits of the ill-gotten gains they have taken away. The people of America demand absolutely no less.

That is why we put our money where our mouth is and put significant appropriations into the Department of Justice, to get after these people who have stolen from the system. We have had reports that they are pursuing these wrongdoers.

A year ago, I wrote to the Attorney General and said he ought to set up a special unit. This year, he has set it up, and as my colleague from Connecticut has pointed out, in title II of the measure, the financial crimes kingpins bill that we passed, originally drafted by Senator WIRTH and Senator HEINZ, there is established in law a financial institutions crime unit that will be responsible. We have that in place. We intend to give it every single dollar it needs.

The people deserve to know that there is an unfailing zeal in prosecuting the wrongdoers. Some of them have already been prosecuted, and some of them have received sentences up to 30 years. Others have been required to return $10 million. But unfortunately, those are a very small percentage of the losses.

Prosecutions are going to take several years. There is no reason that they should slow down. As has been pointed out by my colleague from New Mexico, the Attorney General has full power, if he finds there is culpability of any Member of Congress, to go after that Member of Congress, either criminally or civilly. And, as a matter of fact, this financial institutions crime unit, which will be headed by a special counsel, would be perfectly suited to do that.

It is for this reason that we have been advised, both by the Department of Justice and the Treasury, that they oppose the independent prosecutor which was contained in the original amendment, and they support the financial institutions crime unit.

I am advised that letters from the Treasury and the Department of Justice are on the way over. I do not know if they will arrive prior to the vote, but I can assure you that from personal conversations, the representatives of both Justice and Treasury say they favor this second-degree amendment, this approach outlined by my colleague from Connecticut.

Mr. HUMPHREY. Will the Senator yield to me?

Mr. BOND. Yes, without losing my right to the floor.

Mr. HUMPHREY. What official in the Justice Department officially endorsed this?

Mr. BOND. I have been advised by Larry Harlow from the Department of Treasury and Bruce Cavarro from the Department of Justice.

Mr. HUMPHREY. They oppose the Humphrey amendment?

Mr. BOND. Yes.

Mr. HUMPHREY. I thank the Senator.

Mr. BOND. Mr. President, as I was pointing out, we have a measure before us which has had substantial work in this body. We have learned that there are crimes that must be prosecuted, and we have given the Department of Justice the power and the resources to go after those who have committed criminal wrongdoing. But, unfortunately, that does not tell the whole story. As the story has emerged from testimony in the Banking Committee, there have been State and Federal regulatory shortcomings.

There have been inadequate examinations. There have been incentives, built in by the deposit insurance system, which have led to a moral hazard that we have recognized. There have been powers given to savings and loans by State legislatures as well as by the Congress that have contributed. There have been changes in the economy and the condition of savings and loans prior to the removal of the regulation that limited the amount of interest paid. They had a ready-made situation where they could make a profit by taking in deposits and lending out at reasonable amounts. Those lids were lifted and inflation hit. There were substantial economic changes that happened.

Most of all, as we look at the very important policy decisions facing us in reviewing and revising the deposit insurance system for banks and savings and loans, we must know how to avoid the moral hazard of setting up deposit insurance, which is vitally important to protect the savings of the small depositor, how we avoid the danger of letting those who run institutions with federally insured deposits from putting the risk on the back of the fund and ultimately the taxpayer.

This is a critically important question and, having studied it, having debated it in the committee, having worked with my colleagues who serve on the Banking Committee, we are vitally concerned that, first, the American people who have a right to know take place. The Senator from New Hampshire pointed out that we in Congress have objective evaluation of all the information we have gathered. We need to tell the American people, yes, there has been fraud, and we are going after it, but do not think that you can go back and erase all the problems of savings and loans or avoid a similar debacle in the future just by criminal laws. That is why this is a two-part provision, and that is why the amendment presented by Senator DODD and myself is so important.

Mr. President, I ask unanimous consent that Senators KERREY and CONRAD be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I wonder if I might address a question or two to the Senator from Missouri.

Mr. BOND. I will be happy to respond.

Mr. HUMPHREY. Putting aside the merits, or the demerits, if you will, of the Senator's proposal, I do not see why the two are mutually exclusive; that is, the Humphrey approach and the Bond approach. I do not see that

one must necessarily exclude the other.

Does the Senator have an objection to changing his amendment to include essentially the same provisions offered by the Senator from New Hampshire? Does the Senator from Missouri have a specific objection to facilitating the appointment by the Attorney General of an independent counsel to investigate Members of Congress where the evidence so implicates them?

Mr. BOND. Mr. President, to respond to my distinguished friend from New Hampshire, I think that we ought to limit independent counsel very dramatically because I believe the Department of Justice can do the job it is directed to do without setting up an independent counsel. And I believe that it is the presence of an independent counsel which has led to the objections that we have received from both the Treasury and the Department of Justice to the proposal of my good friend from New Hampshire.

Yes, I would be strongly opposed to amending it because setting up that next independent counsel is precisely that to which they object. We have seen independent counsels go haywire. I believe in the responsibility of the Attorney General. I think that the Attorney General can and will prosecute anyone whether it be a private individual, a current or former Member of the administration or of Congress, and the Attorney General does not need a special prosecutor to do so.

Mr. HUMPHREY. Mr. President, I wonder if the Senator will entertain one further question. He raised concerns about the Office of the Special Counsel. Would he then be in favor of abolishing the special counsel provision which now exists in the Ethics in Government Act?

Mr. BOND. Mr. President, if he gave me the opportunity in a separate measure to deal with those, I would have a great deal to say about that, and I have been concerned about the activities of many of the independent counsel. But that is not what is before us today.

Mr. HUMPHREY. Yes. The Senator made the argument that the Humphrey proposal to facilitate the appointment of an independent counsel is flawed because independent counsels are dangerous. That is essentially what the Senator said. If that is the Senator's argument, would he be in favor of eliminating from the Ethics in Government Act the independent counsel provisions that are now part of that act?

Mr. BOND. I would like to have an opportunity to discuss with my colleague from New Hampshire how more responsibility can be brought into that situation, because I think there are significant reforms that might well be made. I would be most interested to hear testimony of witnesses at hearings and investigate it further. I think that undoubtedly there are improvements we can make in the system, and I am bothered by the amount of funds spent by some special prosecutors with very little direction and apparently little result in activities.

Mr. HUMPHREY. I am unable to respond directly. I think the case has been well made for an independent counsel, because where the Attorney General hears that his actions might be perceived as politically motivated, his office needs the independent counsel provisions so that where the evidence indicates accountability on the part of a Member of Congress or anyone else, he can seek the appointment of an independent counsel who can investigate and prosecute someone without any appearance of a political vendetta.

The Senator from Connecticut helped to make my case. He pointed out that the whole S&L issue has been very highly politicized. There is no question about that. He mentioned the fact that the various organizations have printed full-page ads, further politicizing these issues. It is a highly politicized issue.

This is precisely the situation, a highly politicized situation, where the independent counsel provision is disparate. If the Attorney General just moved under his ordinary statutory authority to investigate and prosecute a Member of Congress who was implicated by evidence as involved in the S&L scandal, the Attorney General's office could be charged with politically motivated investigations. For example, if this Republican administration and this Republican Attorney General moved under the ordinary statutory provisions against a Democratic Member of Congress, you can see the problem right off the bat, and that is why we have created this alternative with the Ethics in Government Act. It is to give the Attorney General's office the authority to seek the appointment of an independent counsel so that any ensuing investigation or prosecution could not be associated with any political motivation. This is precisely the kind of situation for which the ethics in government and the independent counsel provisions were enacted.

To suggest we do not need an independent counsel in this S&L situation, it seems to me, argues against the self-evident facts of life in this highly politicized city.

Let me make this point, too, that any Attorney General does not want to make trouble for himself in Congress. The Senate has to confirm the Presidential appointments to the Office of Attorney General, not only the Attorney General but I mean his principal subordinates. An Attorney General does not want his subordinates, when they are up for confirmation, to be roughed up by the Senate.

And then a greater sensitivity on the part of an Attorney General is the matter of his budget, his appropriations. Any high-level member of the executive, including the Attorney General, knows that the Congress has the perfectly legal retaliation when Congress does not like something. When Congress does not like some investigation conducted by the Attorney General, the Congress has a myriad of subtle, legal, and powerful ways to retaliate. The purse strings can be loosened or tightened. Attorneys General want to avoid that kind of retaliation.

That is another reason, and that is the very kind of conflict of interest that was anticipated when the Ethics in Government Act was enacted. To suggest that in this kind of situation you do not need that alternative of a politically unimpeachable ethical alternative is to not take into account the ugly political realities of the city and retaliation that can so easily be engaged in by the Congress on any executive who makes trouble, to put him in his place, draw the purse strings so tight that he chokes.

We need an independent counsel. We need to give power to the Attorney General in the matter of the S&L scandal and the possible violation of the law by certain Members of Congress. We need to give the Attorney General the ability to seek the appointment of an independent counsel without first having to establish a case for conflict of interest.

I had a conversation with my friend from Missouri and he advised me that this proposal—which had just plopped out on the floor out of the blue, just as my proposal plopped out on the floor out of the blue, I will admit—that work on it has been underway for some time; it is not brand new even though it just sort of appeared as a bolt from the blue.

But the timing is very interesting and the choice of the vehicle is very interesting. There may be some merit. I mean we have not had really a chance to study the proposal made by the Senator from Missouri and the Senator from Connecticut. There may be some substantial merit; maybe it is complementary. But it sure is not exclusive and, in the view of this Senator, it should not be. It is clear that the tactic here is to try to blow the Humphrey amendment out of the water by cutting it, by ripping out of its guts every last word from A to Z and replacing it with an eight-man commission.

It does not impress this Senator and I do not think it would impress very many of our constitutents who are very genuinely concerned about the savings and loan scandal and the possibility, the very real possibility, that

certain Members of Congress, maybe a few, maybe many, exercised undue political influence, perhaps even broke the law in interfering with regulatory agencies and that that at least complicated—I do not suggest it was the fundamental cause—but at least complicated and vastly compounded the cost and ultimate cleanup of this S&L scandal.

So, it is unfortunate that we cannot deal with this in a forthright way. I really do not know why we cannot. These proposals are not mutually exclusive. They might even be complementary. It would not hurt to pass them together. But the clear intent on the part of the Senator from Missouri is to knock the Humphrey amendment out of the box, out of the room and off Capitol Hill.

Well, it may well succeed tonight, but it is going to come back because the S&L scandal is not going to go away tonight or tomorrow. The cost is going to grow. The anger of the American people is going to grow. Political heads will be turned and sooner or later we will find a way of getting to the bottom of this.

Mr. President, I am not going to have my language destroyed and gutted and rendered meaningless voluntarily. I am not going to do that voluntarily. Therefore, Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 2889) was withdrawn.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the quorum call be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk resumed the call of the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BOND. Mr. President, obviously there are many of us, the Senator from Connecticut and myself, who think that the second-degree amendment on the commission to examine the causes of the savings and loan debacle and to recommend to Congress steps to be taken to prevent future problems, as well as reporting to the American people on what went wrong, is very important.

I was not able to get the agreement to have a vote prior to the 5 o'clock cloture vote. That is why we will not pursue it at this time.

I do want to point out, however, that this matter is not going to go away. It is an extremely important measure, I believe, for the confidence of the people of America and particularly their confidence in financial institutions. Since we have had an opportunity to have an interesting discussion and different types of parliamentary maneuvers, perhaps we have called more attention to the proposition. We would welcome additional cosponsors. We look forward to an opportunity to bring this back to the Senate on an appropriate vehicle when it can be passed, sent to the House and, we hope, adopted into law.

I thank the Chair and I thank my colleagues for permitting us to discuss this very important measure.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I wish to thank my colleague from Missouri again, and associate my remarks with those he has just made.

I think it is regrettable that we were not able to get this amendment adopted. I agree this is not necessarily the appropriate vehicle. We were sort of placed in that position because of the danger of having a proposition adopted that one might construe as having done something meaningful in this regard which I think would have been a disservice. But, nonetheless, we were placed in that situation.

We hope, nevertheless, to proceed with this idea. We have done a great deal of work. As we noted earlier, the administration, despite earlier reluctance, now believes this is an appropriate way to go.

The House leadership, I am told, supports this proposition. The leadership here believes this is the proper way to go, at least in terms of dealing with these policy questions we have outlined earlier.

So, at the appropriate time, either on an appropriate vehicle or in a freestanding proposition, the Senator from Missouri and I hope to return to this matter, take a minimum amount of time, establish this commission so we could appoint the quality people that we think are more than willing to serve and give us their sound recommendations as to what occurred from a policy standpoint and how we can avoid those problems in dealing, as I mentioned in my remarks, with the commercial banking problems that plague this country today.

The Senator from Missouri has provided an invaluable service through his efforts here this afternoon. It is not a wasted amount of time to have raised this question, debated it, discussed what the commission would do, how long it would serve, what the parameters of its investigation would be, and the kind of support it enjoys.

I thank him for those efforts and express my pleasure in being able to associate myself with that particular proposal and urge, as well as he has, our colleagues to examine the proposal and join us, if they would like, as cosponsors of this effort and express the same hope that he did that in the next few days prior to adjournment here we will have the opportunity to vote on this, establish this commission before we recess this Congress.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, my concern, and what I speak to today, is what appears to be an obsessive desire on the part of the President of the United States to implement a reduction in the capital gains tax and my hope that he breaks with that obsession so we are able to get a budget agreement that is desperately needed. I know there are some arguing that a sequester would be in the best interests of the United States and it would not be so bad to have it.

The Republicans on the House Appropriations Committee voted yesterday not to extend by 20 days the time which we will have to reach this agreement. I must observe that if the sequester comes into effect, I think Americans will see the people who work in this Government are perhaps a bit more important than we here in the Congress, even. I know that is particularly true in Nebraska where the loss of those who are inspecting food in our meat packing plants will likely cause the closure of those plants and likely cause a massive and permanent disruption of the food supply in this country with the displacement of hundreds of millions of dollars of income and jobs in my State.

They are apt to say that these people working in Government are even a bit more important than you, Senator, and as a consequence, not apt to be very pleased with this sequester.

I urge the President to drop his obsessive desire that he has to get capital gains and let the Congress itself conclude this matter in reducing the deficit.

I know our leaders have worked hard. I applaud the leadership and what they have done in the summit. I believe it is time to bring this to the Senate, debate it, decide what reductions will occur and what revenue will

be needed, so we can set this Nation on course again. It is a disaster in the making, I think, Mr. President, largely as a consequence, momentarily at least, of the excessive desire on the part of the President to reduce the tax on capital gains. I hope he breaks that obsession, and then I hope we here in the Congress do what we need to do not only to prevent the sequester, but reduce the borrowing of this Government so we can get on with the business to restore economic health to all the people in this country.

Mr. President, in summary, I wish again to express my concern for the obsessive nature of the President's desire to reduce capital gains tax and the potential dangerous consequences of this obsession.

Webster's definition of obsession is to be preoccupied by the persistence of an idea, desire or emotion that cannot be gotten rid of by reasoning. All of us have faced friends who were thus possessed. We know that obsessions can produce good results as in the case of an inventor or athlete or artist whose discipline yields amazing performance.

We also know of people whose obsessions caused them to ignore other responsibilities and work. We have seen them distort their view of the world so much that everything seems to begin and end with the object of their desire. Nothing else seems to matter and they are willing to suffer great collateral failure in order to be successful in what appears to everyone else to be a very small accomplishment.

Mr. President, I believe President Bush is thus possessed with the desire to achieve a reduction in the tax on capital gains. The budget summit which he called for in May has produced no recommendation and we are now just a few days before the end of the fiscal year. The published accounts of their deliberations indicate the President's capital gains proposal as the chief stumbling block.

The President said today in Ohio: "The problem is not capital gains; it is Capitol Hill." His spokesman down at the White House says the President has not backed off capital gains and that he was flexible all along. However, this flexibility if it is there is as a consequence of public opinion and pressure from leadership on Capitol Hill who understand what is at stake.

The Republican leader in the Senate and the House have broken with the President. Fortunately, they understand the disaster which is about to befall us unless we act.

Some have discounted the danger of the sequester which will begin on October 1 if no agreement is reached. All but one of the Republicans on the House Appropriations Committee yesterday took the position that a sequester is preferable to pushing the date when the sequester would begin back to October 20 in the final hope that a summit agreement could be reached.

Mr. President, the sequester would bring America to its knees. The lives of every employee of Government would be needlessly shattered. Those who have tried to equalize this burden by the addition of congressional salaries to the list of expenditures to be reduced only add fuel to the fire of offense. We are responsible for the sequester, for God's sake. If equity is the objective, our salaries—as well as those of the President, Vice President, and all of the Cabinet—should be cut off entirely for every day the sequester is in effect.

In addition, we are going to discover in a hurry that the work of government which is most appreciated by Americans is done by the people affected by the sequester. We are going to learn that the relative value of their labor exceeds that of our own.

For example, those little known men and women who inspect meat in America's packing and processing industry are suddenly going to look very important. If the sequester goes into effect, these inspectors will not be laid off until October 9, in hopes that the budget crisis will have passed. But on that day the agency's meat inspectors will take 4 days off, and the whole meat slaughtering and packing industry will be virtually shut down.

Mr. President, there will be real business loss as a consequence of this action. We will not have to resort to theory or abstract predictions. The impact will be immediate: Packing houses will shut down and jobs will be lost; cattle feeders and ranchers will not be able to sell their products. The market and our food distribution system will be permanently damaged.

This damage will be the result of our inability to do what we were elected to do: Decide the form of our Government and then provide the funds to operate it. Amendments to reduce our and the executive branch salaries will not protect us from the consequences of our failure.

My own view of the summit is that we had to sit down with the President to try to work out an agreement. He asked, and we had an obligation to try. I have a great deal of respect and admiration for congressional leaders who have given much of their attention to this difficult task for the past 4 months.

Unfortunately, the President's obsession with the capital gains tax has made it impossible to reach agreement. His tough talk now about vetoing a bill extending the date on which the sequestration will begin is further evidence of the danger of being obsessed with a single, all excluding goal.

My own view of the summit is that we should declare it a failure. Throughout most of the discussion elected Members of Congress—who have the constitutional obligation to make appropriations—have been meeting with nonelected members of the executive branch who have no such obligation. This arrangement has also contributed to the difficulty of getting an agreement.

My own view is that we should bring the summit to the floor of the Senate. We know we cannot postpone these difficult decisions any longer. We know the day of reckoning has arrived. We know we will be voting for spending reductions and tax increases that most of us would prefer not to do. We also know that we must—for the good of our country—do it.

I thank the Chair, and I yield the floor.

FAMILY PLANNING AMENDMENTS OF 1989

Mr. DODD. Mr. President, I rise today, as chairman of the Subcommittee on Children, Families, Drugs, and Alcoholism, to express my support for the motion to invoke clouture on S. 110, the family planning amendments of 1989.

It is easy for me to support a program which has such an exemplary track record as title X. Since its original authorization 20 years ago as part of the Public Health Act of 1970, title X has been meeting the basic health care and contraceptive counseling needs of low-income women and teenage girls.

From the beginning, title X has enjoyed solid, bipartisan support. In fact, one of the most vocal of the original cosponsors was a Republican Congressman from Houston named George Bush. He supported this measure then for the same reasons I support it now, it is a responsible, sensible, and vitally important program.

In this era of budget deficits, it seems only rational to authorize those programs with proven records of effective cost/benefit ratios. In this regard, title X has distinguished itself as a highly cost-effective program—for every dollar spent in family planning, we save $2 in the following year in health and welfare costs associated with unintended births, and that ratio increases to nearly three dollars saved with every dollar spent when we extend these services to teenagers.

If we fail to ensure that this program survives for the next 5 years, we risk placing an even greater burden on our already beleaguered welfare system—to say nothing of phenomena such as homelessness, drug addiction, and skyrocketing high school dropout rates, which often comprise the devastating cycle of unwanted pregnancies. In my mind, this is an unnecessary and unacceptable risk.

Mr. President, we cannot hope to achieve our overall agenda of full liter-

acy, higher educational test scores, greater self-sufficiency for low-income individuals, and fewer drug-addicted babies if we fail to invest in family planning at the Federal level. The question is not whether or not to pay for family planning. The question is whether we will pay for title X now and for the next 5 years at a reasonable price tag, or, failing that, once again saddle ourselves in the future with the far greater costs—in both human and financial terms—or raising a generation of unwanted, often drug-addicted children.

For these reasons, I urge adoption of the cloture petition.

Mr. DURENBERGER. Mr. President, I rise to explain my reasons for voting against cloture on the committee substitute before us. This is a difficult choice for me, based on my public position and strong personal convictions on this matter.

I strongly support Federal funding of family planning programs. I feel very strongly that title X should be reauthorized in its own right, and not have to go from year to year on an appropriations bill. A program of this importance deserves to be authorized in the proper way.

However, I cannot support efforts to take this bill hostage to the broader issue of abortion. It is my opinion that both the Chafee amendment we considered last night and the report language which accompanies this bill will unnecessarily embroil this issue in the larger issue of the Supreme Court's consideration of a pending law suit and perhaps Roe versus Wade itself. As a supporter of the reauthorization of title X, I object to the use of this bill as a legal brief to state congressional intent.

Were it not for the efforts of the sponsors to put the Congress on record on one side of the pending litigation, I would have less problems with the bill before us and a limit on its debate. Its structure and funding level are more appropriate than those contained in the administration's bill. That is why I voted against the substitute offered by Senator HATCH last evening. My strong preference would be for a reauthorization such as my colleague from Minnesota has proposed: The committee bill without the language which brings in the broader abortion-related issues.

Mr. President, this bill is headed for the veto block and for no good reason. For the sake of passage of the first family planning bill in 5 years, I believe the Senate should remain silent on the issue in litigation until the court has had an opportunity to decide. Absent that, we have much more productive business to do in the last days of this Congress.

Mr. GORTON. Mr. President, I will vote against cloture this evening. While I am not opposed to family planning, I resent the tactics being used by the Democratic leader to shut off debate on a crucial piece of legislation.

A bill of this magnitude, which affects thousands of women's lives, needs to receive a full and fair debate by the Senate, allowing for consideration of all relevant amendments.

It became clear last evening, after four amendments were introduced by Republican Senators, that we were not going to have a fair hearing of this measure. To limit debate on such a potentially controversial bill as this is unacceptable.

Mr. President, this is no way to do business. I oppose such tactics on a proposal as crucial as this one. It demonstrates a strong-arm approach to which I will not acquiesce. So I will be voting against cloture.

Moreover, it is time we concentrated on this one overriding issue. The fiscal crisis facing the Nation. We should debate no other subject until we have surmounted that crisis. I intend to vote against cloture on any other bill unless and until the budget has been completed—well.

Mr. SPECTER. Mr. President, I am voting against cloture to close off debate on the family planning legislation because I believe that other Senators are entitled to more time to offer amendments and to debate all aspects of this important legislation.

Today, Senator ARMSTRONG had substantial problems, as disclosed by the RECORD, in bringing forward his amendment for debate and a vote. Even though I voted against Senator ARMSTRONG's amendment, I believe he had a right to offer it, have it debated, and voted upon.

Accordingly, I believe that more time is appropriate for offering amendments and deliberation on this legislation so I am opposing the cloture motion to cut off debate.

Mr. HELMS. Mr. President, I do hope cloture will be defeated on this latest piece of the antifamily agenda, the so-called Family Planning Amendments of 1990, S. 110.

This bill is not really about family planning, but whether the Government should pump another $150 million into clinics that funnel teen-age girls to abortionists without parents knowing about it.

Mr. President, the 20-year Planned Parenthood experiment has been an abysmal failure. There is absolutely no evidence that Federal family planning programs have reduced teenage pregnancy or abortion rates—which now exceed 400,000 per year for girls aged 15-19. Clearly, the Government has absolutely no business coming between children and their families in order to substitute the Government's value system for that of the American family.

The American family is fast disappearing. Fifteen million American children are growing up today without a father; one-fourth of all live births occur out of wedlock; the number of divorces now reaches 1.2 million per year. These numbers represent the greatest social emergency in our history.

The disintegration of the family is a prime cause of crime and drug abuse and is the best explanation for the crisis in education and the continuance of poverty despite the largess of the welfare state. Combine this with the widening acceptance of violence and pornography in our everyday lives, and you see why America is becoming a modern-day Rome.

Mr. President, it is no accident that the totalitarian tyrants of this century have tried to destroy the family unit. From Moscow to Havana, the prophets of government planning have deliberately crushed the family and replaced the authority of the family unit with the power of the tightly controlled party bureaucracy.

Where the family withers away, Government moves forward and finally dictates. Our families are withering away under the pressure of constant Government interference.

Mr. President, if there is a more destructive Federal family program than title X, I am hard-pressed to find it.

For 20 years, millions of dollars have been wasted on the premise that the surest way to prevent teen pregnancy was to provide children with free and ready access to contraceptives. However, after sex education and the unencumbered availability of drugs our children—often supplied through school based clinics, which I will more fully address at a later time—are getting pregnant and having abortions at a catastrophic rate.

Mr. President, Planned Parenthood claims that in 1987 there were 200,000 fewer births to teens than in 1970, as a direct result of its program. However, if you peel away the veneer you will find another picture. In 1987 there were 400,000 fewer adolescents than in 1970. In 1987 there was an increase of 53.5 percent in the number of births to unmarried teens. Even with 400,000 fewer teens there were 250,000 more abortions performed and an overall increase in the pregnancy rate among teenage girls in 1987 than in 1970.

Mr. President, in 1970 fully 70 percent of births to teenagers were to married teens. In 20 years that percentage has been completely reversed. As the chart shows, 64 percent of all teenage births in 1987 were nonmarital, that means 302,500 children were born to unwed mothers age 15-19, as compared to 190,000 in 1970.

By Planned Parenthood's own admission very few sexually active teenagers have not used contraceptives. However the universal availability of contraceptives has encouraged, not

quelled, the explosive rise in teen sexual activity. What we have seen is greater abortion and pregnancy rates. Even Planned Parenthood's allies, such as the National Research Council, could only credit increased contraceptive use with holding the pregnancy rate stable. That is a remarkable assertion. If contraceptive use were effective, one would expect the pregnancy rate to have gone down. That the proponents claim the rate has only remained stable after 20 years is a testament to the failure of title X programs, and an indictment of those who have such a devil-may-care attitude to the emotional and physical well-being of our Nation's youth.

There are hundreds of family planning clinics across the Nation. According to the National Research Council, patients under the age of 18 account for about 40 percent of the clinic clients. Planned Parenthood's own figures show that States with a high proportion of teenagers using the clinics, have lower birth rates, but higher abortion rates. They have higher, not lower pregnancy rates.

Mr. President, in testimony before the Labor Committee in July 1987, Stan Weed of Brigham Young University concluded that family planning involvement doesn't reduce overall pregnancy rates, rather it appears related to higher rates of teen pregnancy. Weed stated that we can ill afford to go another 15 years assuming that we have an adequate solution—meaning current Planned Parenthood programs—in hand. Planned Parenthood has been unable to refute that conclusion.

Many advocates of increased funding of title X argue that the increased incidences of pregnancy among teens is almost entirely attributable to ignorance about birth control. I think I have countered that line of thinking, but if I have not, I want to talk about a book I came across last week, which the family planning crowd would do well to read. The book is entitled "When Children Want Children" by Washington Post correspondent Leon Dash.

The Post assigned Dash to a yearlong investigation of the condition of teenage women in one of Washington DC's poorest neighborhoods. Dash admits he went into the assignment with a number of preconceived liberal notions about why the condition of the District's youngsters was so bad. As Dash said:

> I assumed that the high incidence of teenage pregnancy among poor, black urban youths nationwide grew out of youthful ignorance both about birth control methods and adolescent reproductive capabilities. I also thought the girls were falling victim to cynical manipulation by the boys * * * I was wrong on all counts.
>
> Among the adolescents in Washington D.C. whom I interviewed I found that teenage boys and girls as young as 11 knew more about sex, birth control, and their reproductive abilities than I had known at the same age. Others had had extensive school courses in sex education in the sixth or seventh grades. I did not find one adolescent couple where both partners were ignorant about the results of sexual activity without the use of contraception.

Child after child interviewed by Dash confessed that they had unfettered access to birth control in the city. In fact even those who told several commissions on teen pregnancy that they had become pregnant because they did not know about reproduction or birth control, later confessed that they had been lying. They became pregnant for reasons other than lack of information and birth control.

One study Dash quoted—a study by the Center for Population Research—found that 23 percent of adolescent mothers admitted to intentionally becoming pregnant. When that figure is added to the children who hide or lie about the choices they made the final figure on children wanting children is staggering. As Dash put it, "when even 23 percent of these children want children, for whatever collection of reasons, we have a serious crisis facing our Nation."

Mr. President, Leon Dash is right on the mark. As the chart shows, the birth rate among unmarried teenagers in our inner cities is staggering: from 96 percent in Washington to 80 percent in Seattle.

Family planning policy has assumed that American teenagers will not delay sexual activity but will readily use contraceptives. However the way American teens often conduct themselves has little to do with reason or calculation. As I have pointed out teens with access to contraceptives fail to use them or as Leon Dash found—choose to get pregnant. After 20 years we know that the Band-Aid, amoral solutions offered by title X will not work.

If we are to stop children from having children we must rid ourselves of the notion that pregnancy among our teenagers is the result of ignorance or the unavailability of contraceptives.

Mr. President, we already have the means to reverse the slide which title X has accelerated. In 1981, the junior Senator from Utah [Mr. HATCH], and our former colleague Mr. Denton, proposed the Adolescent Family Life Act of AFL. Unlike the contraceptive focused title X, AFL requires any federally funded project to obtain the permission of parents as a precondition for participation by teenagers. AFL also attempts to counsel teenagers on abstinence, rather than assuming children will have sex anyway, so why not fill them full of pills.

Unfortunately, Mr. President, the Planned Parenthood crowd has seen to it that the AFL program has been woefully underfunded. As Senators can see, in fiscal year 1990, we spent $9.4 million on AFL, compared to $140 million on title X.

One project which AFL sponsors in Georgia, is called Postponing Sexual Involvement. That program trains adults to work with families to encourage teens to resist the pressure to engage in early sexual activity. According to Nabers Cabaniss, Deputy Assistant Secretary for Population Affairs at HHS:

> The project has demonstrated declines in pregnancy, abortion and birth rates over the last 3 years, and evaluation of the pregnancy rates of eighth grade female program participants against a matched comparison group shows that 5 percent of program participants become sexually active by the end of the school year compared to 15 percent of the other group.

The program Secretary Cabaniss described, is now the preferred family education course in one-third of Georgia's schools.

In 1981, Senator HATCH argued that dealing with our children, in the context of their position in the great American family, is more beneficial than dealing with them as mere recipients of Government aid. It is the job of Congress to encourage the health of the family, not to supplant it with bureaucrats and social workers. Plain common sense tells us that is true.

Unfortunately, plans are afoot to turn the AFL program into a mere adjunct of the title X program. There is a crowd in this town, with allies in the Congress, who want to deny funds to those groups which promote abstinence. As I understand it, their plan is to destroy AFL by denying funds to groups who do not fill children full of contraceptives or refer them to abortionists—remember 400,000 teenagers had abortions last year.

Mr. President, advocates of family planning ought to stand on their record. That record by any standard is one of failure. In 20 years pregnancy rates have soared, and the number of abortions performed on our children, has become a profound national tragedy. Unless the Congress abandons this discredited policy, another generation—especially the Nation's children and poor—will be lost.

It is time to declare that traditional families are the source of our Naiton's strength. Families who choose to have children, are protecting our future. Families who choose adoption over abortion, are to be praised. Parents who choose to raise their families themselves, instead of leaving it to somebody else, should be encouraged, not penalized by unfair taxes. Public policy must support these and other fundamental family decisions.

We can no longer afford to be neutral. We become a part of what we condone. If we do not reverse our course, America will find itself on the ash heap of history precisely as the

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Marxist despotisms and the Roman Empire did before them.

I ask unanimous consent that an article by Nabers Cabaniss on the Adolescent Family Life Act, a study on the effects of family planning by Mr. Stan E. Weed, and an editorial from the February 13 edition of the Washington Times, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the World & I, September 1989]

A LOOK AT THE ADOLESCENT FAMILY LIFE ACT

(By Nabers Cabaniss)

In 1981, federal policy aiming to prevent out-of-wedlock teen pregnancy took a new turn. No longer would the government focus exclusively on providing teens with contraceptive services. Instead Congress took a step back to look at the underlying roots of the problem, focused on the family as the cornerstone of the solution, and endorsed strategies that affirm sexuality in the context of marriage while encouraging teens to postpone sexual activity.

This new federal approach, called the Adolescent Family Life Act (AFL) and enacted under the leadership of Senators Jeremiah Denton (former R-Alabama) and Orrin Hatch (R-Utah), provided an alternative to the pessimistic idea that only a massive infusion of funds for contraceptive distribution and sex education could stem the growing tide of out-of-wedlock teen pregnancies. Unlike previous policies, AFL did not adopt the defeatist stance that widespread teen sexual activity was inevitable and unavoidable. Nor did this legislation assume that mere prevention of teen pregnancy was sufficient. Addressing the corollary problems of sexually transmitted diseases and the emotional trauma that premature sexual involvement can cause, AFL affirmed the family as the primary force for guiding and educating teens by exemplifying the meaning of sexuality in the context of love, fidelity, and marriage; it supported family-centered, community-based efforts to promote sexual abstinence for unmarried adolescents.

As Congress stated in the words of the Adolescent Family Life Act,

"[P]revention of adolescent sexual activity and adolescent pregnancy depends primarily upon developing strong family values and close family ties, and since the family is the basic social unit in which the values and attitudes of adolescents concerning sexuality and pregnancy are formed, programs designed to deal with issues of sexuality and pregnancy will be successful to the extent that such programs encourage and sustain the role of the family in dealing with adolescent sexual activity and adolescent pregnancy." (Title XX of the Public Health Service Act, Section 2001(a)(1)(A).)

Eunice Kennedy Shriver, one of the original proponents of AFL, expressed a similar view:

"To do something helpful about teenager sex and pregnancy, we do not need more money for the mechanics of birth control or more value-free sex education. We need efforts that strengthen the family commitment and marriage and get at the problems that lead adolescents into early sexual activity."

(Quoted in Senate Report 97-161, Committee on Labor and Human Resources)

THE RISE OF THE TITLE X PROGRAM

Although enactment of AFL signaled a widespread, renewed recognition of traditional wisdom concerning sexuality, marriage, and the family, it clearly did not suggest anything approaching a wholesale retreat from the contraceptive approach that advocates distribution of more and more contraceptives to halt the runaway teen pregnancy rates. Appropriating $11 million for AFL in 1982, Congress simultaneously allocated to the Title X family planning program $124 million—eleven times more. (Although this amount was 25 percent less than the amount appropriated the previous year.) Today, the disparity in funding the two approaches has widened even further so that AFL, receiving only $10 million, gets one-fourteenth the budget accorded the contraceptive-focused Title X program.

The Title X program, which provides contraceptive services through four thousand clinics to over four million women annually (over one-third of whom are adolescents), requires clinics to "encourage family participation" but prohibits informing parents if their child receives contraceptive drugs or devices. Efforts by the Reagan administration to require such parental notification were overturned in court, necessitating action by Congress to alter the current policy.

AFL, on the other hand, not only requires that parents consent to their child's participation in the program, it further requires that projects actively involve the family and the local community (including charitable, voluntary, and religious organizations) in developing effective prevention strategies.

The difference between the strategies advocated by AFL and the Title X program clearly give rise to many questions: Is there evidence that a "values-based" approach helps prevent teen pregnancy? Is teen sex "OK as long as teens use contraception"? Can current rates of teen sexual activity be lowered, or will they inevitably escalate? The real question is this: Are all of us, particularly parents, teachers, and community leaders, committed to the belief that the healthiest way of life for adolescents involves postponement of sexual relationships, with all of their physical and emotional consequences—and are we willing and able to assert that view? Or do we simply accept the current rates of teen sexual activity as inevitable and pour more money into contraceptives?

FLAWS OF THE TITLE X PROGRAM

How we answer these questions and how we view the AFL and Title X programs depend on how we react to the facts. Among these, we should certainly consider the following:

Most teens are not sexually active. Fewer than half of all teenage girls fifteen to nineteen years old have ever engaged in sexual activity. As would be expected, the rates varies by age: an estimated 18 percent of all fifteen-year-old girls have engaged in sexual intercourse, compared to 41 percent of all those who are seventeen. Although the proportion of sexually active female adolescents increased rapidly during the 1970s, data from the 1980s suggest a leveling off.

No contraceptive method even approaches 100 percent effectiveness. The pill, the method most effective in preventing pregnancy—and the one most commonly used by teens—offers no protection against sexually transmitted diseases, which now rage at epidemic levels in some adolescent populations. Should a contraceptive strategy focus on preventing pregnancy and accept the inevitable increase in sexually transmitted diseases, some of which are incurable, others of which cause sterility, and others of which can cause death? Or should we emphasize use of barrier contraceptives to prevent disease, even though these tend not to be used as effectively, thus presenting an increased risk of pregnancy while retaining the additional risk of disease?

Teens who are sexually active, as well as people of other ages in nonmonogamous sexual relationships, are notoriously poor users of contraception. Even among sexually active teens who regularly use contraceptives (the small minority), one in ten are pregnant in two years. Why is it that we expect children, many of them too young to drive, to use oral contraceptives properly when we don't permit them to manage a bank account, contract for other medical care without parental permission, or, in most states, buy cigarettes or alcohol?

THE VALUE OF THE AFL PROGRAM

The Adolescent Family Life program funds projects designed to enhance teens' health and happiness by enabling them to develop unencumbered physically and emotionally by the burdens of premature sexual involvement. The program does not merely promote adolescent abstinence by using simplistic "Just Say No" campaigns but provides adolescents with a context in which to make healthy choices. The program gives positive reasons to delay sexual activity, affirming the dignity of teens and their ability to make choices that will help them to lead purposeful, productive, happy lives.

Adolescent Family Life prevention projects have shown that they can change the attitudes and values of participants in ways that decrease their likelihood of teens engaging in premature sexual activity. Programs are improving teen-parent communication about sexual matters and altering teen attitudes about engaging in sexual activity.

Evaluations of some of the most promising of the Adolescent Family Life prevention projects have yielded the following:

Postponing Sexual Involvement, a prevention curriculum developed at Atlanta's Emory Univeristy, shows results in substantially fewer participating teens becoming sexually active (than in the comparison group) and reduced pregnancy, abortion, and birth rates.

Sex Respect, a project that explicitly promotes abstinence as the healthiest choice for teens, which is being piloted at schools in Illinois, Kansas, Missouri, and Wisconsin, increases participants' support for the value of postponing sexual activity, enhances their belief that stopping already begun sexual involvement is possible and desirable, and heightens their awareness of the risks and consequences of engaging in early sexual activity.

Values and Choices, a curriculum developed by the Search Institute of Minneapolis that provides information on sexuality, self-esteem, values, decision making, and ways of dealing with peer pressure, has demonstrated short-term effects on teen attitudes regarding sex. This project also found that knowledge alone has little effect on sexual decision making and that teens' own values and strength of conviction about what is right far outweigh peer pressure or fear of consequences.

Me, My World, My Future, A junior-high-level curriculum developed by Teen Aid, Inc. of Spokane that emphasizes the meaning of sexuality in the context of self-respect, re-

spect for others, and respect and love for one's future spouse and children, increases participating teens' awareness of the advantages of abstinence.

Despite preliminary evidence of success, AFL has been embroiled in controversy from its very inception. Widely ridiculed as the "teenage chastity bill" and yet originally endorsed unanimously by Congress, AFL was the immediate target of an American Civil Liberties Union (ACLU) lawsuit aimed at excluding all but a contraceptive, abortion-involved approach as the answer to the teen pregnancy problem.

Filing in 1983 on behalf of taxpayers, three Methodist ministers, a Unitarian minister, and the American Jewish Congress, the ACLU contended that the AFL statute was unconstitutional (1) "on its face" because, among other things, its promotion of abstinence and prohibition on using funds for abortion-related activities amounted to an unconstitutional "establishment" of certain "religious" views; and (2) "as applied" because of the manner in which Health and Human Services (HHS) was administering the program and grantees were allocating funds. Four years later, the district court ruled. While declaring that the AFL program has a valid secular purpose, the district court asserted that it nonetheless impermissibly promotes religion because of the involvement of "religious organizations" in counseling and educating adolescents, thus creating a "crucial symbolic link" between church and state.

According to the district court's opinion, because abortion and premarital sex are contrary to the tenets of certain religious denominations and because organizations affiliated with these denominations are eligible to receive AFL funds, the AFL unconstitutionally subsidizes a "fundamental religious mission" of those organizations. (One wonders how, based on that argument, any religiously affiliated hospital or charitable organization could ever qualify for federal funds in any context, since charity is clearly endorsed by many denominations.) Furthermore, the court ruled, ". . . the statutory scheme is fraught with the possibility that religious believes might infuse instructions and never be detected by the impressionable and unlearned adolescent to whom the instruction is directed. *This possibility alone amounts to an impermissible advancement of religion.*" (*Kendrick* v. *Bowen*, 657 F. Supp. 1547 (D.C.C. 1987)

When the U.S. government appealed this case to the Supreme Court, the Court reversed the district court ruling in 1988 (*Bowen* v. *Kendrick*, 108 S. Ct. (1988) 2562). It upheld the constitutionality of the AFL statute on its face, holding that the statute did not have the primary effect of advancing religion and did not create an excessive entanglement between church and state. However, the Supreme Court did not address the constitutionality of the statute as applied—that is, whether the program has been administered by the Department of Health and Human Services or any grant recipient in an unconstitutional manner. Once the case was returned to district court, ACLU attorneys began to rummage through HHS files, calendars, computer disks, and phone logs for religious references and interrogated staff members about the management of the program. ACLU attorneys conducted similar forays into the workings of any grant recipients who might possibly be religiously affiliated or have a prolife mission. The case is still pending before the district court.

On the legislative front, AFL continues to be the target of advocacy groups who would prefer to advance a different set of values. Sen. Edward Kennedy (D-Massachusetts), for example, has introduced and reported out of the Senate Labor and Human Resources Committee a bill, S. 120, that would turn the policy focus of AFL upside down. S. 120 not only eliminates AFL's unique focus on promoting teen abstinence but also replaces it with promotion of education on family planning services and methods. Eliminating all requirements for parental consent or involvement as well as all restrictions on promoting, counseling, or referring teens for abortion, the bill also does away with AFL's special advocacy of adoption instead of abortion. Needless to say, the Bush administration strongly opposes such a perversion of the Adolescent Family Life Act.

What course will policymakers take in the 1990s? The answer is unclear. One can only hope, however, that their actions will be in accord with lessons taught by AFL and the research of the 1980s. While many would still prefer to view teen sexual activity and pregnancy as mere medical issues, treatable by "quick-fix" clinical solutions such as contraceptive distribution and education programs, common sense, research, and experience teach us that the only successful approach will be one, such as AFL's, that focuses on the whole child—physical, emotional, moral—and that supports the family in the rearing and nurturing of the child into mature adulthood, when he is capable of wise choices, self-restraint, and mature love.

(Nabers Cabaniss is the Deputy Assistant Secretary for Population Affairs in the U.S. Public Health Service, Department of Health and Human Services. Since 1985, Miss Cabaniss has served as director of the Office of Adolescent Pregnancy Programs with oversight and responsibility for the Adolescent Family Life program.)

Effects of Family Planning Programs on Teenage Pregnancy

(By Stan E. Weed, Institute for Research and Evaluation)

(Briefing on "The Impact of Family Planning Services on Teenage Pregnancy," Organized for Senator Edward M. Kennedy, Chairman, U.S. Committee on Labor and Human Resources, July 30, 1987)

My name is Stan E. Weed. I am the director of the Institute for Research and Evaluation, a non-profit research corporation which specializes in those social problems and policies related to adolescents: teen pregnancy, drug abuse, delinquency, and suicide. My Ph.D. is in Social Psychology from the University of Washington, with special emphasis in research methodology, quantitative methods, and data analysis related to applied research.

I am pleased to participate in today's hearings, and hope I contribute to your important deliberations. The position that I come from with regard to policies and programs is a very practical one, and hopefully similar to that of policy makers and administrators. This position has to do with some basic questions about policies and programs: "Does it work? Does it produce the intended results? How do we know? What is the evidence and how valid and reliable is it? If it doesn't work, why not? If it does work, is it cost-effective?"

These are not questions that are unique to any particular moral position or value system. Unless of course fiscal responsibility and governmental integrity are unique values. I am assuming they are not, and that all of us want to do not only that which is necessary and important, but also that which is effective—even cost effective.

With that context in mind, let me show you what we have learned about family planning programs, and their effectiveness over the past fifteen years, as it relates to adolescents.

EFFECTS OF FAMILY PLANNING PROGRAMS ON TEENAGE PREGNANCY

During the past decade and a half, a major federal attempt to address the problem of teenage pregnancy has consisted of the provision of family planning services to teenagers through some 5,000 family planning clinics throughout the country.

Currently, about a million and a half teenagers are involved in these clinic programs each year. During this period, there has been a decline in the adolescent birth rate, but a general increase in the abortion rate as well as the overall pregnancy rate.

(Chart not reproducible in Record).

With respect to teenage pregnancy, these national figures give us cause for concern and tell us somethng about the magnitude of the problem, but they do not tell us if the changes in the national teen pregnancy rate are systematically related to program and policy changes. Even though we see a change in the pregnancy rate that appears to correspond with a change in the number of clients served, this "eyeball" correlation does not necessarily mean that these two factors are directly related to each other. For example, some other factor (or factors) may cause these two things to rise or fall simultaneously.

It is essential that the other things which also affect teenage birth rates (race, poverty, urbanization, mobility, prior fertility, etc.) be taken into account in estimating program effects. Without attention to these other factors which affect the teenage pregnacy rate, one could not legitimately infer program failure as the pregnancy increases or program success if the rate were to fall. Our research was designed to deal with these and other issues, and to provide an accurate assessment of the effects of family planning programs on teenage pregnancy rates. The fundamental question was relatively simple and straightforward; and addresses a very pragmatic question that policy makers and administrators must ask: "How effective are family planning programs in reducing teenage pregnancy rates? Does increasing the availability and accessibility of contraceptive counseling and services to teens reduce their pregnancy rate as was expected?" This effectiveness question was targeted at the societal level. We approached family planning for teenagers as a social policy or public health issue, which required that we look broadly at data from throughout the country rather than relying on results from a few clinics or a small sample of clients. It was the net societal effect that the policy was aimed at.

Using data from all 50 states and the District of Columbia, we examined program impact throughout the 1970's and early 1980's. This time perspective is important because we needed to ensure that there had been enough time for adequate implementation and reach into the target population. It also permitted replication of the basic findings from year to year, and the use of longitudinal models which could examine changes over time in the pattern of results.

REVIEW OF FINDINGS

With this minimal background, let us review briefly the major findings of the re-

search. The details are available in the technical reports and our time is short, so we will simply try to highlight the main results.

Prior to our research, there didn't appear to be any studies which had directly examined the effects of family planning programs on teenage pregnancy rates. However, there were several which had estimated the impact of teenage participation in family planning programs on adolescent birth rates. One of the significant efforts looking at the impact on birth rates was done by Dr. Jacqueline Forrest (Alan Guttmacher Institute) and her colleagues and was published in 1981. This study was significant for several reasons:

1. It attempted a comprehensive national assessment of program impact using subunits (counties) in the society of direct interest.

2. It was the first to use age-specific family planning participation rates for teenagers.

3. It used longitudinal as well as cross-sectional analyses.

4. It has served as the basis for estimates of program impact that were widely cited in congressional testimony, as well as in the professional literature and the media.

The study directly estimated program effects on birth rates (for 1975 and 1976), and on the basis of these effects, projections were made concerning the potential effects on overall pregnancy rates. However, since the appropriate abortion figures were not available at the county level, an essential component of the overall teenage pregnancy rate was missing from the study, and therefore a direct estimation of program impact on pregnancy rates was not possible. Additional research was needed to determine the effects on pregnancy rates. Our research and a subsequent study by Susheela Singh (1986) of the Alan Guttmacher Institute have now examined program impact on total pregnancy rates and also on abortion rates.

Pregnancy rates constitute a more appropriate and direct measure of program success than do birth rates, and correspond with the stated intentions and goals of the program—the reduction of unintended pregnancies. "If we focus on freedom from unplanned births, then abortion is a means of achieving our goal. If we focus on freedom from unplanned pregnancy, then abortion is a measure of the problem we face . . . The objective of the service program is best measured in terms of preventing unplanned pregnancies, not just unplanned births." (Tyler, 1982:221-223)

Our studies and the 1986 AGI report provide important new information and significant corroboration concerning the effects of family planning programs for teenagers on adolescent pregnancy, abortion, and birth rates.

If we compare our results for 1980 birth rates with the projections for that year, we see substantial agreement. Data for other years and other statistical models confirm the same basic finding: where family planning program involvement is greater, one can expect to see lower teenage birth rates. The finding is robust and stable and is found in the 1981 and 1986 AGI studies, as well as our own. The size of that effect is about 80 fewer births for every 1000 teenage clients in organized family planning programs.

However, rather than the projected reduction of 282 total pregnancies for every 1000 clients, we observe an increase of some 42 pregnancies per thousand clients. The main explanation for the discrepancy between the projected reductions and the effects we observed involves the previously unanalyzed relationship between family planning participation and abortion rates. Instead of the projected reduction of some 170 abortions for every 1000 teenage family planning clients, we see about 120 more abortions per thousand clients. Just as we found with birth rates, these findings hold up for the various years, with abortion data from the Centers for Disease Control as well as for the AGI data, and with both longitudinal and cross sectional analyses.

In addition, we analyzed the data in terms of both the occurrence and the resolution of pregnancy. The observed reduction in birth rate was due not to a reduction in the initial occurrence of pregnancy but to a more frequent termination of pregnancy through abortion.

We have also been able to compare our results with those of the recent 1986 AGI study. This is a little difficult from the published reports since their study reports regression coefficients only in standardized form and the values of some coefficients are not reported. Still, where comparisons can be made, the results are very similar, and provide support for our conclusions.

EFFECTS OF TEENAGE FAMILY PLANNING PROGRAM PARTICIPATION ON ADOLESCENT PREGNANCY, BIRTH, AND ABORTION RATES

[Standardized regression coefficients]

	Pregnancy	Birth	Abortion
Basic model:			
Singh	.28	NR	.44
Weed and Olsen	.23	−.21	.49
Prior fertility controlled:			
Singh	NR	−.29	.43
Weed and Olsen	.24	−.22	.49

Note: NR = not reported.

The negative relationship of family planning involvement with birth rates shown in these studies has been known for some time. However, the positive relationship with abortion and pregnancy rates appears equally consistent across the studies. Although they are new, our own assessment is that these findings are here to stay and have important scientific and public policy implications.

ABORTION AVAILABILITY AND SEXUAL ACTIVITY

As a result of the publication and presentation of these studies, friends, colleagues, and critics have helped us test our thinking and our analyses. We think that the most fundamental question that could be raised about these results is called "model specification" by researchers. This has to do with the kinds of variables included in the analysis, and the relationship these variables have with the outcome of interest (teen pregnancy in this case) and with each other. The basic question is whether including some variable in the model which had previously been omitted might change the observed pattern.

For example, some have suggested that clinics are placed in the high need areas and therefore, one would initially expect to see a positive relationship between family planning and pregnancy until the programs were able to have a detectable impact. However, even after 10 or 12 years, we do not see pregnancy rate reductions. Even when we explicitly control for prior fertility, and use longitudinal models which implicitly control for *all* stable variables, whether measured or unmeasured, the same results are found.

Some have suggested that including a specific variable, such as abortion availability, non-program sources of family planning services, or sexual activity rates could change the observed positive relationship into the hoped-for negative one. The hypothesis concerning abortion availability was directly tested in the 1986 AGI study. Although abortion availability had an independent effect on the abortion and pregnancy rates, the family planning program effect did not change as a result of including this variable in the model.

With respect to sexual activity, we know that in society generally, teen sexual activity rates have gone up over the years. Some claim that if the analysis controlled for differences in levels of sexual activity, the projected reductions in teenage pregnancy rates would show up. It would help to have the necessary state-level data to test this hypothesis directly. Although we feel that data about sexual activity constitutes a necessary factor in understanding teen pregnancy, there are several basic reasons to believe that this variable would not alter the basic pattern of results found in the recent studies we and AGI have done.

First, neither a general increase in sexual activity nor stable differences among states in levels of sexual activity could account for the observed results. The design of our analysis can discount those possibilities. The changes over time in family planning program involvement would have to have a direct link with corresponding changes in sexual activity levels. The nature and causal direction of such a link remain to be established.

Second, much of the potential effect of sexual activity on family planning utilization is likely to already be controlled by the variables that have already been included in the models. Just as poverty, race, urbanization, mobility, prior fertility, etc., are strong predictors of teenage pregnancy rates, they also account for much of the variation in sexual activity. Where these and other variables have already been controlled, adding sexual activity is likely to have little effect on model parameters.

Third, the hypothesized effects of sexual activity would have to be extremely large (and inconsistent with other estimates) in order to drastically alter the pattern of our results and fit the prior claims of averted pregnancies. We have estimated what would be necessary to reconcile the previously projected reductions in pregnancy rates with the other information about the effects of sexual activity on family planning utilization and pregnancy among teenagers. This analysis (Weed and Olsen, forthcoming) demonstrates the mathematical and logical inconsistency of the projected teenage pregnancy reductions with the existing data and other information about the effects of sexual activity on clinic use and pregnancy. In summary, including sexual activity when estimating the effect of family planning programs on teenage pregnancy rates may be important and useful, but offers little hope for vindicating the previous projections of pregnancy reductions.

CONLUSIONS AND RECOMMENDATIONS

What do we conclude about the impact of family planning programs on teenage pregnancy? Our research and that done by others allows us to make four basic statements:

1. Family planning program involvement is related to lower teenage birth rates.

2. Family planning program involvement is associated with higher, not lower, abortion rates among teenagers.

3. Family planning program involvement does not appear to reduce overall teenage pregnancy rates.

4. The reduction in teenage birth rates which can be attributed to family planning program involvement is, in turn, due to its impact on the continuation and not on the occurrence of pregnancy.

What would we recommend in terms of a strategy for successfully dealing with the teenage pregnancy problem? First, we would recommend broadening the options when considering potential interventions. We would have to say that programs which rely on increased accessibility of contraceptive services as the major means of reducing teenage pregnancy are not likely to be effective. Teenage pregnancy is embedded in a complex set of social, psychological, and economic factors that must be taken into account if our efforts are to succeed.

We know more currently about what is not working than why it is not, or what will work. Why has the family planning approach not had the intended impact, and what kinds of interventions will be effective? Our current and future research efforts will focus on both of those latter aspects. We would also recommend more careful and systematic evaluation of program and policy interventions. "It is therefore imperative, regardless of which policies are adopted, to evaluate them continuously and carefully in order to be able to change them when and if needed. . . . The implemented policies should be evaluated to determine their impact on the incidence of premarital sexual intercourse, use of contraception, unwanted pregnancy, abortion, adoption, and parent-child communication. . . . We should not cast our policies and programs in concrete, and should consider changes based on a continuous flow of evaluative information. . . ." (Rodman, Lewis, and Griffith, 1984)

Given the drastic consequences of teen pregnancies, sexually transmitted diseases, etc., we can ill afford to go another 15 years assuming that we have an adequate solution in hand.

REFERENCES

Forrest, J. D., Hermalin, A. I., and Henshaw, S. 1981. The impact of family planning clinic programs on adolescent pregnancy. "Family Planning Perspectives" 13(3):109-116.

Forrest, J. D. 1984. The impact of U.S. family planning programs on births, abortions, and miscarriages, 1970-1979. "Social Science and Medicine" 18(6):461-465.

Olsen, J. A. and Weed, S. W. 1986. Effects of family planning programs for teenagers on adolescent birth and pregnancy rates. "Family Perspective 20(3):153-170.

Rodman, H., Lewis, S. I., and Griffith, S. B. 1984. "The Sexual Rights of Adolescents: Competence, Vulnerability, and Parental Control." New York: Columbia University Press.

Singh, S. 1986. Adolescent pregnancy in the United States: An interstate analysis. "Family Planning Perspective" 18(5):210-220.

Tyler, C. W. 1962. Planned parenthood: Ideas for the 1980s. "Family Planning Perspectives" 14(4):221-223.

Weed, S. W. and Olsen, J. A. 1986. Effects of family planning programs on teenage pregnancy—Replication and extension. "Family Perspective" 20(3):173-195.

Weed, S. W. and Olsen, forthcoming. Sexual activity and the effects of family planning programs on teenage pregnancy. Unpublished manuscript, Institute for Research and Evaluation, Salt Lake City, Utah.

MR. BUSH GETS SANDBAGGED

Last summer as Metro buses tooled around town bearing Planned Parenthood posters that depicted a bedraggled little girl under a caption that blamed Sen. Jesse Helms for killing her mother, Sen. Edward Kennedy was pushing a bill through the Senate Labor and Human Resources Committee that would ensure the continued flow of "Title X" subsidies to Planned Parenthood. If Mr. Kennedy can gather 60 votes to shut off a filibuster, the bill probably will pass Congress and land on the president's desk next October—just before the congressional elections.

Proponents of legalized abortion believe they have the president sandbagged. Mr. Kennedy's "Family Planning Amendments of 1990," as he calls them, are about "family planning," which the president claims to support, but about whether the federal government should funnel approximately $150 million a year into clinics that channel teenage girls to abortionists while preventing their parents from knowing about the ordeal.

Two years ago, the Reagan administration issued regulations that withheld family planning grants (Title X money) from agencies that referred women to abortionists. The law that created the grants program (which then-Rep. George Bush sponsored) explicitly states that "no funds appropriated under this Title shall be used in programs where abortion is a method of family planning." But that did not deter the Planned Parenthood Federation of America, other pro-abortion lobbies and the Massachusetts government of Michael Dukakis from seeking injunctions and filing suits claiming that abortion advocates have a First Amendment right to federal money. The U.S. Court of Appeals in New York has upheld the Reagan regulations in one suit; in two others, appeals are pending. Everyone agrees that if the issue goes to the Supreme Court, the administration wins and Planned Parenthood loses.

Mr. Kennedy does not want that to happen. If the president signs his bill, the regulations will be superceded, the court cases will be mooted and federal subsidies will continue flowing to Planned Parenthood and other organizations that help teenage girls gain abortions without their parents' knowledge or consent. This is where the sandbagging comes in: If President Bush vetoes the "Family Planning Amendments" on election eve, you can be sure that he will be accused of bedding down with the "anti-abortion" lobby while saying no to contraception too.

The president can avoid that setup by demanding discipline among Republican senators. If he doesn't, he will have to veto the bill in October and face the political heat. Either way, he ought to point out that there is no evidence that federal "family planning" programs reduce teen-age abortions (see chart). Besides, the federal government has no business standing between children and parents in order to substitute the state's values and moral guidance for the family's.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. BINGAMAN). Under the previous order, the quorum call has been waived.

The question, Is it the sense of the Senate that debate on the committee substitute, as modified, to S. 110, a bill to revise and extend the program of assistance under title X of the Public Health Service Act, be brought to a close?

The yeas and nays are required, and the clerk will call the role.

The bill clerk called the roll.

Mr. HUMPHREY (after having voted in the negative). On this vote, I have a pair with the distinguished Senator from Arizona [Mr. DECONCINI]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. SIMPSON. I announce that the Senator from Kentucky [Mr. MCCONNELL] and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 50, nays 46, as follows:

[Rollcall Vote No. 256 Leg.]

YEAS—50

Adams	Glenn	Mikulski
Akaka	Gore	Mitchell
Baucus	Graham	Moynihan
Bentsen	Harkin	Nunn
Biden	Hatfield	Packwood
Bingaman	Hollings	Pell
Bradley	Inouye	Pryor
Bryan	Jeffords	Riegle
Bumpers	Kennedy	Robb
Burdick	Kerrey	Rockefeller
Byrd	Kerry	Sanford
Cohen	Kohl	Sarbanes
Cranston	Lautenberg	Sasser
Daschle	Leahy	Shelby
Dixon	Levin	Simon
Dodd	Lieberman	Wirth
Fowler	Metzenbaum	

NAYS—46

Armstrong	Ford	McClure
Bond	Garn	Murkowski
Boren	Gorton	Nickles
Boschwitz	Gramm	Pressler
Breaux	Grassley	Reid
Burns	Hatch	Roth
Chafee	Heflin	Rudman
Coats	Heinz	Simpson
Cochran	Helms	Specter
Conrad	Johnston	Stevens
D'Amato	Kassebaum	Symms
Danforth	Kasten	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	
Exon	McCain	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mr. Humphrey, against

NOT VOTING—3

DeConcini	McConnell	Wilson

The PRESIDING OFFICER. On this vote, the yeas are 50, and the nays are 46. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, at 5:30 this afternoon the Senate will begin voting on two cloture motions. I rise to urge Members to support cloture on the second matter—the motion to proceed with consideration of S. 874, the Voter Registration Act of 1989.

This bill was reported by the Rules Committee June 14, 1990, after extensive hearings during the last two Congresses on voter registration requirements throughout the country.

Those hearings made it clear that national standards were required if we were to effectively encourage full registration of all eligible persons nationwide. This bill will accomplish this by requiring all States to provide for registration in connection with motor vehicle driver license applications, by mail, and at agencies throughout the Nation. This combination of registration methods is designed to assure that there will be State outreach to just about every citizen who is eligible to vote.

The committee was mindful that such procedures must be accompanied by adequate protections against vote fraud. This bill would assure that States would have sufficient means to prevent and deal with fraud.

After this bill was reported, I began work with the Senator from Oregon to devise an amendment to strengthen it and to provide financial assistance to the States in the form of reduced mail rates for registration mailings. This amendment has bipartisan support and addresses many legitimate concerns from both sides of the aisle. I will join with the Senator from Oregon in presenting that amendment.

Mr. President, voting is not a partisan issue. This bill, together with the amendment to be proposed, will greatly increase the number of registered voters and hopefully make increased turnout of voters on election day a reality. It is not a partisan measure and deserves the support of all Members who wish to put an end to the national disgrace of low voter turnout.

I urge my colleagues to vote for cloture so that we may proceed to consideration of this most important bill this Congress.

Mr. CRANSTON. Mr. President, the right to vote is the most fundamental and important right of citizens of a democracy. It is through the electoral process in a democracy that the people express their will. Democratic institutions cannot function effectively without an accurate understanding of that will.

Unfortunately, in the United States voter participation is alarmingly low. This is a serious threat to our democracy. Barely 50 percent of the eligible voting age population voted in the last Presidential election in 1988. The 1986 congressional election had an even more dismal turnout. Barely one-third of the eligible voters participated in that election. There has been a steady decline in voting participation for many years and many elections.

The reasons why many Americans fail to exercise their right to vot are diverse and complex. But one factor stands out: Restrictions on voter registration prevent many Americans from voting. A poll conducted after the 1988 election by the New York Times and CBS News revealed that nearly 40 percent of those surveyed who failed to vote could not because they were not registered. Two-thirds of those said they would have voted but for the fact that they were not registered. Since over 85 percent of those registered to vote do so during Presidential election years, attempts to increase dramatically voter turnout must focus on those people who are not registered.

Unless we act to remove the barriers to voter registration and hence to voter participation, we run the risk of destroying the legitimacy of our democratic institutions. For this reason, I am wholeheartedly in support of the measure now before us, the National Voter Registration Act, S. 874, and urge my colleagues to join me in voting for cloture.

In many States, limitations and restrictions on the registration process are obstacles a voter must overcome to get to the ballot box. The impact of these restrictions and limitations often falls most heavily upon minority, low-income, and disabled citizens. S. 874 will remove registration barriers by requiring States to provide motor voter, mail, and agency registration.

The motor voter requirements entail including voter registration forms with applications for driver's licenses. This proposal, which has already been adopted by several States, promises to result in significant increases in voter registration numbers. States will also be required to accept mail-in registration forms. This system will allow people to register at their convenience rather than having to be at a specific place during limited hours. Finally, the bill mandates agency-based registration. Supplying voter registration forms at locations such as public libraries, schools, and tax offices will make registering to vote easier.

In addition to removing some of the barriers to voter registration, S. 874 will help ensure that once registered people are not unfairly removed from voter registration rolls. States will no longer be able to remove names from rolls on the basis of nonvoting in previous elections.

The important changes required by this bill will result in an increased opportunity for citizens to register to vote and, therefore, to vote on election day. It is clear that States that have acted to remove barriers to voter registration by the means mandated in this bill have some of the highest rates of voter registration in the country. We can achieve these results nationwide by enacting S. 874 into law.

The reforms incorporated into this bill are ones that I and others have been working on for years. Today we have the chance to reinvigorate our democracy by opening it more fully to citizen participation. Let us make the most of this opportunity.

It's indeed ironic that at a time when we are hailing the progress toward democracy in Central Europe, the Soviet Union, and elsewhere in the world, we find participation in the processes of democracy declining in our own country.

Are those who oppose this bill afraid of the voice of the people?

Are they afraid to open up the doors of our democracy to the poor and the disenfranchised?

Mr. CHAFEE. Mr. President, I would like to take a few moments to discuss S. 874, the National Voter Registration Act of 1989 and the cloture vote that will occur.

S. 874 would require States to offer three means of voter registration—the so-called motor voter, mail registration, and agency registration programs. The purpose of this legislation is to increase registration of eligible voters and therefore improve participation in elections.

Voting is a fundamental right, and I agree that we should encourage people to exercise this right. I am unsure, however, that S. 874 is an appropriate way to achieve increased voter participation.

Currently, each State sets its own rules or guidelines for registering people to vote in Federal elections. Many States have taken the initiative and already have implemented voter registration programs that would be mandated by S. 874: 15 States have agency voter registration programs, 28 States have mail registration programs, and 13 States—including Rhode Island—have some form of motor voter registration.

I commend these State efforts to facilitate voter registration. Each of these States carefully developed programs to meet the needs of their populations within the availability of their financial resources. Some States found that motor voter registration and agency registration are effective for them. Other States have all three voter registration programs in place that S. 874 would require. I believe that States have a better understanding of their individual needs with

regard to voter registration programs; the proponents of S. 874 obviously do not.

In addition, S. 874 does not include any financial provisions to assist States in implementing the mandates of the bill, yet the Congressional Budget Office [CBO] estimates that compliance with S. 874 would cost States $20 to $25 million in each of the first 5 years of enactment.

So in essence, S. 874 would remove the flexibility States currently have in determining their voter registration needs, require them to offer three types of programs that could exceed their needs, and not offer them any financial assistance.

I also would like to discuss another difficulty I have with S. 874—fraud and its relation to mail registration. Some people claim that most fraud does not occur at the time of voter registration, that it happens at the time of the vote and usually results from the actions of corrupt election officials.

That is not entirely true. In California, mail registration led to fraudulent filings through a phenomenon called "creative writing." The State experienced fake and duplicate registrations because of paid registration drives in which registrations were filed, often without the knowledge of the applicant, simply to fill a quota.

States that utilize mail registration often have requirements such as notarization or authentication of potential voters' signatures. Alaska, for example, requires that all registration applications received through the mail must be authenticated by the signatures of two adults. S. 874 would end efforts in Alaska and other States, such as New York and Illinois, to reduce the incidence of fraud because it prohibits mail registration forms from having "any requirement for notarization or other formal authentication."

I am aware that an amendment may be offered to allow States to use their own mail registration form. This would do nothing to reduce fraud. Even though States may be able to use their own forms, the forms still would be subject to the prohibition on notarization or authentication. If Congress approves S. 847, with the prohibition, States would have few methods to detect fraudulent registrations. Increased fraud could result from this statute.

I want to illustrate this point by discussing Public Law 97-205, the Voting Rights Act Amendments of 1982. That law incorporated a new section—section 208—into the Voting Rights Act of 1965. Section 208 states:

> Any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter's choice other than the voter's employer or agent of that employer or officer or agent of the voter's union.

The purpose of section 208 is to ensure that those who need assistance to cast their vote receive it. Let me tell you what has happened in my State as a result of this loosely written provision.

A headline in the September 20, 1990, Providence Journal read, "Election Chief Assails Voting Assistance Law." The article begins by citing the chairman of the board of elections:

> Calling it "the most bizarre situation you'll ever see," Joseph R. DiStephano, chairman of the State Board of Election, said yesterday that the State can do nothing to stop candidates and their supporters from going into the voting booths with voters * * * the possibility of mischief is very great.

Rhode Island enacted a law that requires people who request assistance and those who help them to sign affidavits. The purpose of the affidavit is to keep track of who seeks assistance and, more important, who is helping them. Over 500 voters requested assistance in a recent primary in Providence. In Ward 6, 79 out of 109 people who requested help were assisted by a certain candidate's supporters. One voter said that the person who assisted her cast votes in several races she decided not to vote in. That is blatant election fraud.

Requests by States to change this statute have been unsuccessful. If Rhode Island and other States had not taken action to monitor who assists voters, the extent of abuse of this provision might not have been exposed.

My point is that the Federal Government enacted a statute that is being abused. States can take some precautions, but these precautions do not eliminate the "possibility of mischief" or the outcome—election fraud. S. 874, as I previously mentioned, would prevent States from requiring notarization or authentication of mail registration applications. States would be denied the ability to correct and reduce potentially fraudulent situations. This does not make any sense.

I believe we should encourage States to continue their efforts to facilitate voter registration, while allowing them to keep their systems of application verification intact. I cannot support legislation that could lead to increased election fraud and will therefore vote against cloture.

Mr. BAUCUS. Mr. President, for the past 30 years, we have witnessed a dramatic decline in voter participation in America. And like the rest of my colleagues, I support the goal of increasing participation in our democratic system and I applaud the inent of S. 874.

However, I voted against invoking cloutre on S. 874 because I believe that there are certain important provisions of the bill that need further review.

First, I believe that S. 874 fails to adequately address the issue of funding to State and local governments. As many of my colleagues are well aware, the Federal Government is not alone in its budget struggle. Budget dollars are a scarce resource in the statehouses and county courthouses throughout America.

In rural America, we take voting very seriously, and Montana consistently ranks among the top three or four States nationwide in voter turnout. And while the provisions of S. 874 will no doubt increase the numbers of registered voters in Montana, the cost to local government for this marginal improvement will be considerable and in some cases, prohibitive.

If it is the will of this body to mandate a specific method of voter registration to State and local governments, then I believe it is our responsibility to provide adequate funds to ensure proper implementation of the program. S. 874 simply does not provide enough support to State and local governments to do the job right.

Second, I believe that certain provisions of the bill are overly prescriptive and place an undue burden on local election officials. In particular, I believe that local election officials should have some significant latitude in the development of forms and methods to meet motor voter and agency-based registration requirements.

While there are common elements to all voter registration cards, many States and even counties will have different methods of compiling and handling this information. These different methods have been developed by the local jurisdictions because they best fit the needs of their community. We can legislate all we want here in Washington, but the people who will make this program work are the clerks and recorders, secretaries of state and election administrators back home. S. 874 will not successfully achieve its goal of increased voter participation unless we provide local officials with some discretion in the implementation of the program that they will be responsible for administering.

Third, I believe we need to rethink the provisions that prescribe the method for the purging of voter lists. In Montana, and I am sure this is the case in many States, local bond issues are decided by two factors. One factor, like in all elections, is the tally of yes and no votes. The second factor is voter participation. In Montana, bond issues can pass only if 40 percent of the registered voters actually vote on the bond issue.

Under the provisions of S. 874, election administrators would still have the ability to purge their voter lists.

However, the purge process allowed by S. 874 using forwardable mail and prepaid return cards would be time consuming and, in many cases, prohibitively expensive. It is therefore quite likely that many local election administrators might choose to forgo list maintenance in order to save precious resources.

In these instances, the real losers would likely be our school districts, sewer districts, and other public works projects that rely on successful bond elections as a means of funding. Because voter rolls could become artificially inflated over time, voter participation as a percentage of registration would decline, therefore making it significantly more difficult for local governments to attain the 40-percent threshold necessary for the passage of bond issues. For example, as a result of the purge that took place in 1988, the number of registered voters in Lewis and Clark County, Montana, was reduced from 31,248 to 27,443. Using the 40-percent threshold, a successful 1989 county bond issue needed only to be voted on by 10,977 residents. Had the file not been purged, the same bond issue would have needed to be voted on by 12,499 people. This 5-percent margin is often the difference between success and failure for local bond issues.

S. 874 is on the right track. We need to be aggressive in the development of a purge policy that ensures that voters are not removed from the rolls without cause. However, this bill does not provide adequate tools to ensure that voter notification and file purging are performed in a manner that serves the voter while at the same time recognizing the demands on local governments.

For these reasons, I was compelled to vote against invoking cloture on this bill.

Mr. DOLE. Mr. President, you do not need to be an election expert to realize that voter turnout is at an all-time low. In 1988, for example, barely 50 percent of all eligible voters went to the polls—the lowest percentage in more than 40 years. Participation in mid-term elections is even lower, down to about 36 percent in 1986.

Without a doubt, these are disturbing trends. But they are trends that S. 874, the so-called motor voter bill, will do absolutely nothing to reverse.

Unfortunately, low voter turnout has less to do with obstacles to voter registration and more to do with other factors—like the lack of competitive congressional races, the lackluster messages of our Nation's politicians, and the frustration of many citizens who feel that their votes simply do not make a difference on election day.

The motor voter bill will correct none of these problems. It will not make congressional races more competitive. It will not restore voter confidence in the electoral system. It will not guarantee high turnouts on election day.

But it will open the door for rampant fraud. And it will federalize an activity—voter registration—that the individual States have successfully performed for decades.

THE POTENTIAL FOR FRAUD

Mr. President, simply put, S. 874's mail registration procedures are a public invitation for corruption. Just fill out a form, mail it in, and you are registered to vote. It is that simple.

There's no notarization requirement. No attestation requirement. No verification of identity or citizenship.

But there will be lots of fraud. That is guaranteed.

FRAUD AND UNFUNDED MANDATES

S. 874 would also impose significant unfunded costs on the States.

According to estimates prepared by eight States: Alaska, California, Florida, Illinois, Kansas, New Jersey, Oklahoma, and Virginia, the total cost of complying with S. 874's requirements would exceed $80 million. The total cost for all 50 States would obviously be much higher.

Unfortunately, the bill says nothing about how the States should finance the costs of these new, burdensome requirements.

It is voter registration sticker shock: the Federal Government mandates. And the States pick up the tab.

AN ALTERNATIVE

Mr. President, earlier this month, I joined my distinguished colleague from Alaska, Senator TED STEVENS, in introducing an alternative to S. 874, called the Voter Registration Enhancement Act of 1990.

The alternative would authorize a total of $25 million over 3 years in matching block grants as an incentive for States to implement improved voter registration procedures. Like S. 874, these procedures would allow registration at State departments of motor vehicles, registration by mail, and registration at Federal and State government agencies.

But unlike S. 874, the implementation of these procedures would be completely voluntary. The procedures would also remain subject to tough, antifraud provisions already on the books in most States.

In addition, the alternative recognizes that any liberalization of voter registration procedures must be accompanied by tougher penalties for public corruption. As a result, the alternative beef-ups the penalties for such crimes as voter intimidation and ballot falsification.

CONCLUSION

Mr. President, many State governments have now conducted very successful programs to make voter registration easier. In my home State of Kansas, for example, mail registration, accompanied by tough verification requirements, has been in effect since 1976. Other States have since followed Kansas' lead.

With a track record on voter registration, the States now need a helping hand from Washington. They do not need another Federal mandate. And they do not need the iron fist of S. 874.

Mr. President, I have received letters from the National League of Cities, the National Association of Towns and Townships, and the National Association of Counties, all expressing their support for the alternative bill and their opposition to S. 874.

I ask unanimous consent that the full text of the letters be inserted in the RECORD immediately after my remarks.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL LEAGUE OF CITIES,
Washington, DC, September 25, 1990.

Hon ROBERT DOLE,
Senate Minority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: I am writing on behalf of the public elected officials of the nation's cities and towns in support of your proposed alternative, S. 3021, to establish national voter registration procedures for Presidential and Congressional elections.

While we support efforts to enhance efforts to register more Americans to vote, we oppose federal initiatives which mandate significant new costs for local governments—unless such proposed mandates include reimbursement funds. In our view, both the House-passed legislation and the version reported by the Senate Rules Committee, S. 874, would impose new and unfunded federal mandates on an activity traditionally reserved to elected state and local governments. Both would impose still more pressure on local property taxes to pay for federal goals and objectives.

In contrast, your proposal would offer each state an incentive and would impose substantial penalties to help combat fraud and corruption in federal elections. It would prohibit the federal government from prescribing how a state or municipality would be required to enhance voter registration. Consequently, it would avoid interference in state and municipal authority, but would offer a voluntary means to encourage greater state and local registration efforts.

We believe your efforts are a responsible alternative, consistent with an effort to work in partnership with state and local governments. We appreciate and support your leadership.

Sincerely,

BOB BOLEN,
President.

NATIONAL ASSOCIATION OF TOWNS AND TOWNSHIPS,
September 26, 1990.

Hon. ROBERT DOLE,
Minority Leader U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: On behalf of the 13,000 mostly small, mostly rural general purpose local governments represented by the National Association of Towns and Townships (NAT&T), I would like to express our strong support for S. 3021, the

"National Voter Registration Enhancement Act."

You and Senator Stevens are to be commended for recognizing the need for an alternative to S. 874, which would impose substantial uncompensated costs upon local governments, which are already struggling to meet existing service obligations. In the United States, 67 percent of general purpose local governments serve populations of less than 2,500. Average annual revenues for governments of this size are less than one million dollars. additional mandated expenditures are difficult for these communities to meet, even in the best of times. Given the economic deterioration of some parts of the country, revenues may not cover current expenses, let alone new programs. As a result, local government financial resources are stretched to the breaking point. S. 874, if adopted, would place a substantial burden upon local governments which may force them to reduce expenditures for other essential services, such as police and fire protection.

Moreover, S. 874 would mandate many voter registration activities which may not, according to a recent study by the Congressional Research Service, accomplish the desired objective of increasing voter turnout. Given the questionable prospects for increased voter participation, we question the wisdom of proceeding with the far reaching programs proposed by S. 874.

Town governments with their centuries-old tradition of town meetings have been the loudest, strongest advocates for full and active public participation in the American political process. We strongly support efforts to increase public participation in our electoral process, but those initiatives must be mindful of the financial and personnel resources of our governments and the legitimate concerns of state and local government officials for the integrity of their own electoral process.

S. 3021 addresses these concern by establishing voluntary program, with financial incentives for local government participation. We hope that all of your colleagues in the Senate will support this worthy alternative. Again, thank you for your leadership on this important local government issue.

Sincerely,

JEFFREY H. SCHIFF,
Executive Director.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, September 14, 1990.

Hon. BOB DOLE,
Senate Minority Leader, Washington, DC.

DEAR SENATOR DOLE: On behalf of the National Association of Counties (NACo) I want to take this opportunity to offer our support for your bill S. 3021, the National Voter Registration Enhancement Act.

This bill addresses the real problem of providing additional resources to state and local governments which want to make voter registration easier and more accessible to their citizens. Many counties and states have already done so by adopting various procedures, including mail-in, motor-voter, and agency registration, which meet the needs of their populations within the availability of their financial resources. By providing $25 billion over 3 years your bill would make it possible for those county and state governments that would like to do more in voter registration to do so.

As you know, NACo has been very concerned about the unfunded mandates imposed on counties by the federal government. The bill approved by the Rules Committee, S. 874, would require state, county, and other units of local government to absorb the costs of a federally mandated voter registration program. No consideration is given to whether state and local governments are doing a good job in registering people to vote or whether they have the resources to fund such requirements. The truth is that most county governments do an excellent job in voter registration and do not have the extra resources to fund federally mandated voter registration efforts. If S. 874 is adopted it will be another cost for county government to bear. Such federal mandates mean higher taxes and/or reduction of those services which county residents and their elected officials would like to have available.

Your bill also addresses the problem of those officials who would deny or interfere with a person's right to register by creating criminal penalties for such actions. Strict enforcement of this section of S. 3021 will quickly rid our nation of those individuals who would deny someone the right to register to vote.

Once again, thank you for introducing S. 3021 and for your support on this issue.

Sincerely,

JOHN P. THOMAS,
Executive Director.

Mr. SIMPSON. Mr. President, I rise to express my strong opposition to the motion to proceed to consider S. 874, the National Voter Registration Act. There are several real and significant problems with this bill.

This legislation, also called the motor voter bill, is based on a very shaky premise—that low voter turnout is the result of some perceived barriers to voter registration. I am fully convinced that when citizens feel that their vote will have an impact, they will then register and cast their ballots. I believe that the biggest monster roaming out there that causes low registration is called voter apathy. The folks outside the beltway hear about the PAC money and the sewer money pouring in, and in some States, they just simply stay away from polls—in droves.

Instead of targeting the root cause of voter apathy, this bill would create a Federal mandate calling for all sorts of things that sound just dandy in Washington, but would clearly be a real administrative nightmare at home.

As reported by the Senate rules committee, this bill calls for motor voter registration, mail registration, and registration in other Federal and State offices which provide services or benefits. This bill, which would create a bundle of opportunity for fraud, is part of this year's Democrat troika: a campaign finance bill to protect their incumbent advantage through taxpayer financing of elections, a so called Hatch Act reform bill which would allow Federal employees dramatic opportunities to solicit Democrat PAC contributions and twist the arms of their colleagues, and then this bill which would allow those same Government employees who belong to organizations which during the period 1985–1988 contributed 90.2 percent of their PAC money to Democrat candidates—now giving them the opportunity to provide the additional service of being voter registrars. Come on! American people can see through this stuff! It's the added brainchild of "inside the beltway" Democrat party planners.

Fortunately, it is opposed by Democrats and Republicans alike at the State and local level who will have to pick up the tab for this ill-conceived measure. Overlooked by the advocates of this bill are the costs of training all of the additional registrars. Under S. 874, not one Federal dime is authorized for these training costs. I anticipate significant additional costs will be incurred in order to maintain an ongoing training program for new hires, for additional State personnel to supervise compliance with the law, and to increase the salaries of those employees who didn't bargain for Uncle Sam tossing additional registration responsibilities in their lap. At a time when the Federal Government is already asking the States to dig deeper into their thinning wallets, this legislation is just simply not fair.

I received a letter from John P. Thomas, executive director of the National Association of Counties this week. He said: "The truth is that most county governments do an excellent job in voter registration and do not have the extra resources to fund federally mandated voter registration efforts. If S. 874 is adopted it will be another cost for county governments to bear. Such Federal mandates mean higher taxes and/or reduction of those services which county residents and their elected officials would like to have available."

S. 874 is a "bill" in the truest sense of the word. The State and local governments will be forced to pick up the tab for this one. This is another "embrace" of the long and intrusive arms of the Federal Government—one arm meddling in an issue best handled locally and the other arm picking their pockets. And for what purpose? To increase voter registration in a State like Wyoming that in the general election in 1988 had a turnout of over 80 percent? What a puzzling notion.

If there is anything wrong with our voter registration system, it is best left to our State to fix and "fine tune," using their own expertise to improve the system. Mr. President, I ask unanimous consent that a resolution unanimously adopted by Wyoming's secretary of state, Kathy Karpan, who also happens to be a Democrat, and all 23 county clerks in my State, be printed in the RECORD. This resolution makes quite clear the will of those able officials to "allow each State to keep its sovereignty over its voter registration methods and procedures unique to

each States population and geography."

There being no objection, the Wyoming resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, the Honorable Kathy Karpan, Secretary of State of the State of Wyoming is the Chief Elections Officer of the State; and

Whereas, each of the honorable twenty-three (23) County Clerks in the State of Wyoming serve as the Chief Elections Officer in each respective county; and

Whereas, the Secretary of State and the twenty-three (23) County Clerks believe the registration of voters is an issue best addressed by each individual state; and

Whereas, the Secretary of State and the County Clerks have pledged to further promote voter registration and participation in Wyoming; and

Whereas, the State of Wyoming has a history of high voter participation including eighty-two percent (82%) of the registered electors voting in the 1988 General Election; and

Whereas, the Secretary of State and the County Clerk's have serious reservations regarding H.R. 2190, particularly agency-based registration which would allow an employee deciding on public benefits with the power to register; and now, therefore, be it

Resolved, That Wyoming's Secretary of State and its twenty-three (23) County Clerks reject H.R. 2190 and urge the United States House of Representatives to allow each state to keep its sovereignty over its voter registration methods and procedures unique to each state's population and geography.

Mr. SIMPSON. Mr. President, in my opinion legislation authorized by our fine Republican leader, and which I was pleased to cosponsor, would have gone much further toward reducing voter apathy in this country than this ill-conceived bill. We offered an amendment to the campaign finance bill which received 44 votes. It would have banned PAC's, banned sewer money, and reduced the amount of money a candidate could accept from those individuals who do not live in that candidate's State. In short, it would have severely limited the financial clout of special interests in Federal elections—and it is their "heavyweight" pressure and participation which tends to make the average in-State voter feel insignificant, apathetic, and therefore, unregistered.

I do continually support State and local efforts to increase voter registration. Senator STEVENS, and Senator DOLE have introduced S. 3021, the Voter Registration Enhancement Act. I am pleased to be a cosponsor. This bill would provide grants to States to improve voter registration procedures. Unlike the motor voter bill, S. 3021, would be entirely voluntary. To receive these funds, States that want them would have to match "dollar for dollar" any Federal money received. Those States that want to participate may do so. Those States which believe voter registration is best reserved to State and local governments could decline to participate.

The motor voter bill is an unnecessary, obtrusive, intrusive mandate to State and local governments. It would impose significant costs on these governments, and it would greatly increase the potential for vote fraud. I oppose this motion to invoke cloture on the motion to proceed to S. 874.

VOTE

The PRESIDING OFFICER. The question is, is it the sense of the Senate that debate on the motion to proceed to the consideration of S. 874, the voter registration bill, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from California [Mr. WILSON], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 55, nays 42, as follows:

[Rollcall Vote No. 257 Leg.]

YEAS—55

Adams	Ford	Mikulski
Akaka	Fowler	Mitchell
Bentsen	Glenn	Moynihan
Biden	Gore	Nunn
Bingaman	Graham	Packwood
Boren	Harkin	Pell
Bradley	Hatfield	Pryor
Breaux	Hollings	Reid
Bryan	Inouye	Riegle
Bumpers	Johnston	Robb
Burdick	Kennedy	Rockefeller
Byrd	Kerrey	Sanford
Conrad	Kerry	Sarbanes
Cranston	Kohl	Sasser
Daschle	Lautenberg	Shelby
DeConcini	Leahy	Simon
Dixon	Levin	Wirth
Dodd	Lieberman	
Exon	Metzenbaum	

NAYS—42

Armstrong	Gorton	McCain
Baucus	Gramm	McClure
Bond	Grassley	Murkowski
Boschwitz	Hatch	Nickles
Burns	Heflin	Pressler
Chafee	Heinz	Roth
Coats	Helms	Rudman
Cochran	Humphrey	Simpson
Cohen	Jeffords	Specter
D'Amato	Kassebaum	Stevens
Danforth	Kasten	Symms
Dole	Lott	Thurmond
Domenici	Lugar	Wallop
Garn	Mack	Warner

NOT VOTING—3

Durenberger	McConnell	Wilson

The PRESIDING OFFICER. On this vote, the yeas are 55, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just a short while ago, the Senate rejected the cloture motion that would have permitted the Senate to address one of the really important family issues for low-income and needy families in this country, with the rejection of the cloture motion on title X, known as the family planning legislation. I am extremely disappointed with the outcome. There are millions of low-income women in our country who depend upon these services in order to avoid unintended pregnancies.

No one could visit any community in this country and not understand the extraordinary explosions of teenage pregnancies. In some of our major cities, half of all the babies who are born are born to single mothers. More than 40 percent of all unintended pregnancies end in abortion, and this legislation was focused to help avoid those unintended pregnancies.

We saw the story this past week where the Federal Government will be spending $22 billion on support for teenage pregnancies and welfare costs that are associated with that. I think with the action that has been taken, we certainly turn our backs upon millions of teenagers in this country.

So, I hope, Mr. President, that this body will act more responsibly in the future, when faced with this particular issue. There are too many families, too many needy women in our society, too many troubled young teenagers, for us to turn our backs on them. And we, unfortunately, did so this evening. I hope that the next time that we address this issue, we will have a more constructive and positive attitude.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like the attention, if I might, of the Senator from Massachusetts in connection with this legislation. As he knows, one the major amendments—I think one of the better parts of the bill—was the one we adopted that I proposed yesterday, and that is to overcome the so-called gag rule.

I did not vote for cloture. So the Senator or somebody could charge, well, he is not for the measure. That is not true. But I do believe, in fairness to the Members on this side, frequently have amendments I do not agree with. I certainly did not agree with the amendment of the Senator from Colorado, and I made that clear. But I took a vote so that he could have his amendment brought up.

It seems to me that it is wrong to be invoking cloture before these Senators, who waited for their amendments can have the Senate consider them.

They were the Senator from Oklahoma, and I would suggest probably I would not agree with his amendment—I am not sure what it is—and the Senator from New Hampshire. The Senator from New Hampshire was here patiently trying to get a resolution of his amendment. I just think that, even though frequently we end up in this particular case voting against our best interests, what I believe is the best interests, in the sense of fairness, I do believe that our individuals, our Members have to have a clear vote for their amendments.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have great respect for my friend from Rhode Island. I must say we were down here; we were down here in the morning for 2½ hours. We considered the amendment of the Senator from Rhode Island. The Senator from Rhode Island, with all respect, said he had to leave the body at 10 o'clock in the morning and could not debate it any further.

Mr. CHAFEE. Wait a minute.

Mr. KENNEDY. I have the floor.

Mr. CHAFEE. Do not get the Senator from Rhode Island in this.

Mr. KENNEDY. I am glad to yield.

But before we start talking about who was around here and what consideration we would give, we have the amendments of the Senator from Rhode Island and the Senator from Vermont. And when we were talking back here, they said we have to go to a markup at 10 o'clock in the morning. We cannot consider our particular amendment this morning because of a markup. We will take some more time this evening. We were prepared to deal with it right then and there with other Members who were prepared to deal with it right then.

So I do not think that the Senator from Rhode Island, with all respect, comes to this particular argument with clean hands.

Second, we had agreed with the majority leader to consider four amendments that the Senator from Utah talked to us about last night, to stay in here and vote for them this morning. Two of them were not even printed. How can we ask consent to be able to consider that when two amendments from that side were not even printed?

I have been around and the Senator has been around here. Any time we ask to do business, we normally have the amendments out in front of us before we as floor managers, ask any of our colleagues to go ahead and agree with it.

I had no objection in terms of the consideration. The Senator from New Hampshire arrived here at 11:25 to consider his amendment, when we were debating this matter the other day. We were adjourning at 11:30. I will take the hours we have had in terms of quorum calls. But the idea that, because you do not get a particular vote just at the time that you want, is a new idea in the Senate. It has not been that way in 28 years that I have been here. We have rules.

You offer an amendment; someone can perfect it. That is the way this place has been going for much longer than the Senator from Rhode Island or I have been here. That is the way that we have normally proceeded. I would like to have a dollar for every time I have offered an amendment, and someone has come in with a second-degree amendment. But suddenly, if we do not agree to just offer our particular amendments, and agree to hold out, then we are just not going to be able to do business.

So, Mr. President, with all respect, I have been listening to that argument for a good deal of time, and withheld my view about that in the vain hope, that perhaps by holding it, we might have been able to make further progress in terms of that cloture motion.

But I want to point out very clearly, since the Senator from Rhode Island is in some way, suggesting that we were not going to be accommodating, that on his amendment and the amendment of the Senator from New Hampshire that were offered on it, as the floor manager, I agreed to defer any kind of action and encouraged a unanimous-consent agreement that no further action would be considered, until we were going to it sometime in the evening.

Now, Mr. President, for him to get up here and claim that we are not dealing in a timely manner, I find that is not a fair characterization.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. I ask unanimous consent that I may yield to the distinguished Senator from Rhode Island without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, somehow the Senator from Massachusetts equates volume with rationality. The facts of the matter are, I am not complaining about my amendment. I brought it up. The Senator from Massachusetts and I negotiated and indicated there would be opening statements. He never complained one bit. At the appointed hour we were here, we debated it. We got our vote, and I agreed to a time limit. So I do not know how you get me in here——

Mr. KENNEDY. Will the Senator yield?

Mr. CHAFEE. Let me just finish, if I might.

What I am saying is, that the other Senators who were patiently here trying to get their amendments up, should be entitled to them, and the cloture motion is a way of cutting those off. There is no question about that. Because under the germaneness rules, which are incredibly complex, the Senator from Oklahoma, the Senator from New Hampshire, and others—there may not be others, but clearly those two—could not get their amendments up. I do not think that is fair. That is why, in my particular case, I voted against the invoking of cloture.

Mr. HATCH. Mr. President, let me put some oil on the fiery waters here. There were over 35 amendments, as I recall, on this bill. We had three or four of them come up. Last evening, I spent the whole time here, and Senators tried all evening to get their amendments up. Now, there was some sort of an accord at the end of the evening, where they could bring their amendments up.

But there was at one time—at least I thought so—an agreement to not second-degree. I was mistaken on that. I believed that was what we agreed to. That is what I said. But it was not thought to be that by the other side. So we backed off that claim.

The real criticism here, is that by filing the bill, and then simultaneously, with filing the bill, or a short time thereafter, filing a cloture motion, that, by necessity, cuts off the right of Senators to really proceed.

Now, that procedure is a very bad procedure in my opinion. It is becoming a great source of irritation on our side, because we know the minute that happens, unless we somehow or other agree, that debate really is going to be shortened by necessity, or it is going to be cut off.

There are a lot of reasons why Senators voted against cloture on this, some of whom were very strong supporters of the position of the distinguished Senator from Massachusetts. Some were concerned because they are sick and tried of dealing with these issues that we know are going to be taken care of anyway, when we cannot seem to get both sides together on the budget.

I know that President Bush is frustrated. He submitted his budget a long time ago, and he cannot get people to sit down and do something anything about it. One of our Senators the other day—I think it was Senator MCCAIN—said, well, it is interesting President Bush can negotiate with Gorbachev and get along very well, but he cannot get along with the Democrats. I do not think that is President Bush's fault.

The fact of the matter is, there is plenty of reason to be irritated on this side. There were plenty of misunderstandings. But the equally important fact of the matter is, that title X has been funded every year since 1983

without an authorization bill. And it is going to be funded, whether we have this bill or not, this next year. Nobody is going to be denied those funds.

I might add, that poor women are not going to suffer because of the cloture vote today. We are going to see the family planning funds are there. President Bush is for family planing, vociferously so. And, frankly, the problem here was the other side; they wanted this bill in this way, regardless.

Now I have to confess, this bill, facing the fate that it has, is a serious thing because there were things in that bill I wanted, and I would have been very happy with. And I thank my colleague from Massachusetts for putting them in there. It was in good faith that he did so, and I respect him for it. We have worked very well together through this last number of years and I think we have done some very important work in the Senate. When we fight each other, we fight hard and we respect each other. Certainly I respect him as much as anybody in this body, and he knows it.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. HATCH. I am glad to yield.

Mr. DOMENICI. I might say to my good friend from Utah, I was here because I was going to make a point of funding. But I must ask, just to make the point, if the Senator is aware in the Appropriations bill next year, the one that is in Labor-HEW, that title X is up 10 percent, $13 million added to it last year.

Mr. HATCH. That is right. And nobody is going to lose anything because this bill in its present form did not get cloture.

Now, the statement that poor women are going to be without and there is going to be this calamity that is going to occur is just not quite there.

There were things in this bill that I would liked to have had. There were things that I thought were terrible about it. I happen to know that the House just reauthorized a straight reauthorization of family planning over there and a straight reauthorization as far as I can understand it of the adolescent family life bill which I think is critical to go with family planning.

I just give my commitment here today that I am for family planning. We are going to see that those funds are there. I am very pleased that the distinguished ranking member on the Budget Committee has brought to our attention that those funds will be increased by 10 percent. They will be there regardless of whether we reauthorize the bill or not, as they have been since 1983, and not one person is going to be without.

Now, the issue of abortion, it is always a volatile issue. I am sorry that that is such a volatile issue. But it is the type of issue that really deserves to be volatile because there are sincerely dedicated, decent people on both sides of that issue who take very strong positions about it.

I happen to be on one side of that issue that is opposite of the side of the distinguished Senator from Massachusetts. I have to admit it always causes us a lot of problems.

The important thing is, do not present this as a loss of the funds, because it is not. And poor women are going to be helped and all those who deserve to be helped will be helped. The family funds will be there, and the President is going to see that those funds are there. We are going to see that those funds are there.

The distinction is that this is an authorization bill and it in some ways did not please enough people. It is up to us, as the chairman, in the case of my friend from Massachusetts, and myself, as ranking minority member, to create those bills so that the maximum number of people will support them and so that we will have less controversy and promote the programs in a better way than we have in the past.

I would like to see that we do that, and I want to personally compliment my friend from Massachusetts for the strong way that he has carried his side on this floor. There is nobody that has the total ability that he does in the legislative process, in my opinion. He is one of the all-time great Senators. There is no question about that either. We happen to differ on some of these things, and I think that is probably healthy in this country, that we can differ.

I want to compliment the Senator, because it has been a privilege to work with him, and regardless of how this turns out I look forward to working with him on a whole wide variety of provisions in the future.

We just passed a raft of bills out of the Labor Committee today. Here we are in the last days of the session, and the Senator is working so hard; he is putting on bills today. We have been on this floor virtually continuously since this Congress started with labor bills because of the tremendous ability of the distinguished Senator from Massachusetts.

I would like to end this thing, and just say I compliment Senator KENNEDY and feel very deeply about him; feel deeply about the issue itself. I will work with him to help resolve these issues, and I hope we can get some of these volatile parts out so we can proceed and do what is best for our country and best for the people, and especially the poor people out there who need this kind of help.

I think it is also important for us to work with the President on these matters. There is no question this bill would have been vetoed. In fact, some people were crass enough to suggest—and I know this is a terrible thing—that the purpose of bringing this up on this late date was just so he would have to veto it and look like he is not for family planning. I know this could not possibly be so. Nobody could be that crass in politics.

But the fact of the matter is that the President does not have to veto it now, and we have acted. The funds will be there. The President will see they are there. I am going to see they are there. I know, above all, the distinguished Senator from Massachusetts is going to see they are there, because he has always fought for them and he deserves credit for having them there to begin with.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just on the latter part, I point out we had in excess of 12 Republican cosponsors, so that is difficult for me to believe. I would like to believe that those Republicans who did cosponsor were doing it out of a matter of conviction. They were certainly not a part of trying to embarrass the President.

Let me end this, Mr. President. I want to point out the two Republican amendments—one dealt with savings and loan and the other pay for Members of Congress—took 3 hours. They were completely unrelated to this legislation—3 hours. And those were two Republican amendments. They had virtually nothing to do with this legislation.

I indicated support for the Pressler amendment. I would have supported the Bond-Dodd proposal on it. But they just were not relevant. Yet we spent 3 hours on them.

I would have hoped if there was this great concern among our Republican colleagues, there could have been enough opportunity, they could have used that particular time to try to address some of the other kinds of concerns that seem to be paramount.

Finally, Mr. President, there are those, and they certainly do not include my friend and colleague from Utah, Senator HATCH—but there are those who are strongly opposed to any family planning programs. They are not above trying to bring the whole abortion debate into the consideration of this measure.

As has been pointed out in the debate, written in the legislation there is not a nickel in this program that could be used for abortion. But there are those who would somehow want to bring that kind of issue into this particular legislation.

There may very well be appropriate times to be debating that issue here in the U.S. Senate, but it was not in this particular bill. President Bush was a cosponsor of this legislation years and years ago. So it would be completely inconsistent to think that he was a co-

sponsor at that time, if it did have the implications that have been suggested by those who offered a number of amendments dealing with abortion. "It just ain't so."

Finally, let me say with regard to the points raised by the Senator from Utah, this is going to continue to be funded. I do not want to redebate this legislation. But if we go through what has been actually appropriated, there has been a 42-percent reduction in real dollars since 1980—42 percent real reduction.

The Senator has been around here long enough to know that the appropriators look at the legislation. They are going to look at what was the response of the Senate this evening. They are going to have scarce resources, and I think they are going to act accordingly. So I am not nearly as sanguine about what is going to happen with this program as is my friend and colleague, the Senator from Utah.

Finally, there are important gaps in the existing program, as has been pointed out by the Senator from Rhode Island [Mr. CHAFEE]. There were important adoption referral services that were included in this and other strengthening programs in terms of reproductive research, and also in terms of outreach programs, which really resulted from a very careful evaluation. All of those measures have been lost.

Nonetheless, I have stated my position, Mr. President. I thank the Senator from Utah very much for his kind remarks. We did have a fruitful day in our Labor Committee earlier today, and we worked together on a number of extremely important pieces of legislation which hopefully will pass this body unanimously with our very strong support.

So, as always, I am grateful for his remarks and his friendship, and the opportunity to work on legislation with him.

Mr. COATS. Mr. President, while I support the underlying principles of title X, to provide comprehensive voluntary family planning and basic health services to low-income women, I have serious concerns about the legislation before us and rise today to express my opposition to S. 110, the Family Planning Amendments of 1989.

The title X program has been the subject of great discussion over its 19 year history. That controversy, if anything, has heightened over the years, as increasing scrutiny has been placed on the program, and on the activities of program grantees resulting in failure to secure a separate reauthorization of title X since 1985.

The history of title X suggests that this program has been administered in a manner not consistent with original congressional intent—and to support the 4-year reauthorization of title X before us would be to perpetuate our error. This bill does not adequately address problems which beg for redress before they are permanently incorporated into the law.

My concerns, relating to both the program and its reauthorization center around three areas—continued promotion of abortion and abortion-related activities, continued promotion of abortifacient research, and the promotion and financial support of school-based birth control clinics.

The original intent of Congress was clear—to fund the availability of preventative family planning services. Section 1008 of the title X statute states: "none of the funds appropriated under this title shall be used in programs where abortion is a method of family planning."

The statute is not merely neutral on the issue of abortion, as some would have us believe—it is in fact hostile to any involvement—be it with Federal funds or not—in the performance, counseling, or referral for abortion. Section 1008 was intended to establish a wall of separation between pregnancy prevention and pregnancy termination. The separation of abortion activities from pregnancy prevention activities could not be put any more simply: title X family planning programs may not in any way include abortion.

Despite the statutory restriction found in section 1008, the Chafee amendment adopted yesterday actually requires abortion referral and nondirective abortion counseling as part of options counseling. This requirement stands in striking contrast to section 1008, and it effectively prevents organizations intent on observing the wall of separation between abortion and family planning from receiving title X money. This taints legitimate family planning methods, and erodes public confidence in the Nation's Family Planning Program.

Mr. President, another concern related to this issue is the potential use of title X funds to research and promote the development of abortion inducing drugs. Section 6 of S. 110 authorizes an additional $10 million in grants to public and nonprofit private entities in order to "enhance the work of the National Institutes of Health * * * in applied contraceptive research and evaluation, and specifically to promote the development, marketing, and evaluation of new and improved contraceptive devices, drugs, and methods. * * *"

A careful reading of section 6 will reveal it may authorize funding for research which is technically prohibited by section 1008 of title X. As I have noted, section 1008 clearly prohibits activities which would promote abortion, including the early abortions that are the object of some reproductive research.

RU-486 is not simply a contraceptive, and research into its modes of operation is not simply the promotion of contraception. This drug does not discriminate between a womb with an unborn child and an empty uterus. It can and does induce abortion.

Finally, section 7 of S. 110 provides for the authorization of "community-based informational and educational programs," to provide information about "a broad range of acceptable and effective planning methods and services." Under this authorization, funding could be provided for school-based birth control clinics.

Currently, school-based birth control clinics remain under State and local control. State legislatures and local school boards can place specific constraints on activities conducted within these clinics—for example, by prohibiting the dispensation of prescription contraceptives without parental consent or involvement. Under S. 110, school-based clinics would be under Federal, not local control. Therefore the school boards and local communities would no longer have the flexibility or authority to address these legitimate local concerns—and I think that is a grave mistake, especially given the controversial aspects of school-based clinics.

Eunice Kennedy Shriver, executive vice-president of the Joseph P. Kennedy, Jr., Foundation, rejected contraception, as do I, as the "first, best, or only solution to the problem of teen pregnancy." To distribute contraceptives in school settings is to give a strong message that premarital sex in adolescence is acceptable and may further perpetuate the problem of teen pregnancy.

S. 110 does not attempt to remedy any of the concerns I have mentioned. In fact, it exacerbates those. As I stated at the outset, I am generally supportive of the original goal of title X—and for that reason introduced S. 1671, the administration's substitute to S. 110. This legislation is, in my estimation, our best attempt to continue funding for legitimate pregnancy prevention activities while giving States increased flexibility to design State and local programs that best reflect community needs and desires and make the most effective use of limited Federal funds.

I urge my colleagues to vote against cloture and against final passage of S. 110.

Mr. SIMPSON. Mr. President, I think it is so very important to clarify the point that nothing dire is going to happen to the disadvantaged or to children or to persons who are powerless as a result of this vote. That is not going to happen here. This is just one of those situations that comes in a legislative body. It is called "process."

Mr. President, some of my Republican colleagues have just cast some very tough, difficult, very courageous votes on these two cloture motions. And they will really get donged about the head and shoulders for it when they go home in a couple of weeks—make no mistake about it! That is if the lynch mobs are not lurking in their offices even now.

Some of our colleagues who cast these tough votes were themselves cosponsors of the bills in question, even architects.

Now, why would they do a thing like that—vote against cloture on a measure they had worked on, studied, and crafted with extreme care and insight?

I am here to tell you why they would do that, Mr. President.

It is called process, protecting the process, defending the integrity of the process and of this great Senate that we love so well.

You see, my colleagues and I, some of us, obviously a great majority of our group, tire of the tactics adopted of late to force votes on some very highly political issues, to embarrass the President, or to deny the opportunity for debate on meaningful substantive amendments by Members of the minority party, and to divert the attention of the Senate from the most pressing issue ever upon us, and that is the budget deficit.

We are diddling while Rome burns, and fiddling, all at the same time. That is the business at hand, the budget deficit. So what we saw here in these two votes was a reaction to tactics that we have believed to be irresponsible, unfair, and unbecoming.

We had an agreement last week concerning the manner in which amendments to the title X bill would be handled, but last night Senator PRESSLER was heavily pressured not to offer his amendment. The majority also worked over Senator NICKLES.

The Senator from New Hampshire was, after a full day of bright promises, ultimately denied the opportunity to offer his special counsel amendment last night, and the majority went ballistic over the amendment of the Senator from Colorado.

And all to what purpose? These amendments could have been considered and voted on—as is our duty and custom to do—in a matter of minutes. Why were they denied?

The majority has taken to a pattern now of making premature cloture calls to effectively shut off debate on a huge variety of issues for the express purpose of creating political discomfort for Republicans. That is not our business here. Yes, sure, elections are near. Tempers are hot and patience is short. That all makes for high drama. But not for good legislation, or good policy, or good government. I think it is time to put a stop to it, as we always must in the waning hours of a session. And we just did.

For the record, I found it very difficult to vote against cloture on title X. Nowhere is the need for that program better illustrated than in my own State of Wyoming. We have the third highest teenage pregnancy rate in the Nation. We have the seventh highest rate of live births to adolescents.

We have an extremely high rate of teenage and poor women at risk for unintended pregnancy. Sexually transmitted disease rates are soaring, yet we have just 14 family planning sites in the State and 3 of those are in danger of closing. It is a very valuable program out there, where oftentimes young and frightened or uninformed women have literally nowhere else to turn for services, for health care, or for help. I support the program fully. And I always have.

My position on abortion is one of the woman's right to choose. Certainly these issues, abortion issues, counseling issues, are very vital and important as options for anyone in that extremity.

So let me state very clearly for the record that family planning funding is not in jeopardy in any way and it will continue just as it has for the past 5 years through the regular appropriations process.

My colleagues know my position, as I have said, on these issues. So do the people back home. I would hope they will understand why this most difficult vote was necessary at this particular time. It was cast by many of us and by those of us in the leadership as an objection to a breach of process.

I think my friend and colleague, JIM MCCLURE, who will not be here next year—who has chosen to retire—put it best moments ago. He said, and I paraphrase, "I will not be here next year, and according to the rules, I can't lobby you next year. So I'll lobby you now. React. When cloture is invoked as soon as a bill is brought to the floor and you have had time to fully debate and perfect it to your satisfaction, you must react. That is your duty. That is the item of faith people have placed in you—to govern according to the principles of good government. To deny yourselves the opportunity and the capacity to debate and discuss the issues of the day as they come before you is to fundamentally change the nature of the U.S. Senate," something akin to that.

No one could have said it better.

And that, Mr. President, is why my colleagues cast those extraordinarily difficult and painful votes. Because good government demands a protest here and now, before this nonsense goes any further—before it takes us over the edge in this Chamber.

It is now time to get on with something—we all know what we have to do—and that is what the tough medicine on the budget of the United States, with the anguish of the appropriations process. There is not one of us in this Chamber now who does not know we are going to do some things with Social Security and cost-of-living allowances or taxation on benefits of people who do have substantial worth, et cetera. We will deal with those things, with the entitlement programs and with Medicare, which is all out of whack. That is what we are going to do. We do not like that, but that is where our present attention needs to be. It does not need to be on extraneous material at this critical time. And yet the Labor and Human Resources Committee cranked out 10 new bills today. That is astounding. And absurd. And we are not going to deal with them because it is the end of the session.

So here we are. We have much work to do. It is called bailing the United States out of a situation that we put them in. They helped, certainly, because they asked us for the funds and the programs and the exemptions here and there, It is a representative government and they ask us continually for more, more, more, more, more. We respond because we like to get reelected. We are very good at that. But in these times, there just really is an element of "throw the bums out because they know what they have to do yet they are not responding!"

I close with a remarkable little alliteration: What is a billion? It is this: A billion seconds ago Don Larsen, in October, was spinning a perfect game in the World Series. A billion minutes ago Hannibal and his elephants were crossing the Alps. And a billion hours ago, the Earth was a solid block of rock and ice in a blackened sky. And a billion bucks is what your country spent on health care since 9 a.m. this morning. That is what a billion is. We spend 600 billion bucks a year on health care. We spend billions and billions and billions of bucks on people who should not be in the system, but they are called constituents, too. That is our job. And that is how we got in this mess.

We are, finally, I think, making some movement toward the entitlements programs. You just cannot mess around with little things like excise tax, little things and this. You go to the root, and the root, I say to my colleagues, is the entitlements programs. It is going to be bitterroot, but we are going to get it done, and that is what we should be about, not trying to pretend we tried to take care of title X, something I believe in and all the measures of it. I supported the Chafee amendment yesterday. Here we are. Let us get on with it, Mr. President. We have work to do and an awful, awful lot of it.

I thank the Chair.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from California.

DISMAY WITH VOTE ON VOTER REGISTRATION

Mr. CRANSTON. Mr. President, I rise to express my disappointment and dismay at the vote taken a wee bit ago on a matter related to a bill designed to make it easier for people to register and, therefore, easier for people to vote in our country. The Republican minority voted unanimously against the Senate even considering that measure. I am deeply shocked by that. We live in a time when we are hailing the advances toward democracy and political participation in Central Europe, in the Soviet Union, and elsewhere. And yet here at home, we are denied the right to deal in this body, by the Republican minority, with a measure designed to make it easier for people to get into the electoral process. This has been a crusade that I have been deeply involved in for many, many years: The effort to get more people involved in registering and then voting in our society.

The historical background is quite interesting. In the first 100 years of the existence of our Republic, more and more people were voting steadily in election after election. It started right after our country was born with only about 3 percent of the people participating in the first election. Women were not allowed to vote. Individuals without substantial property holdings were not allowed to vote. So only about 3 percent voted in the very first elections for Congress and the President.

But voting increased each year and it went up steadily as the franchise was opened up, until 1876, oddly enough, the exact anniversary of the Declaration of Independence. Then a corner was turned and voting started going down. It has been going down very steadily in election after election from the high point of something like 83 percent of the people participating in the elections in 1876, down, in the most recent elections, to where less than half the people in Presidential years who could vote have voted and far less than that in the off years when only Senate and House Members are running, down, as we know, in some communities, small towns and large cities in our country where 5 and 10 percent of the people bother to vote in the elections.

The reason there was a downturn right after 1876 is very clear. The Civil War was over. Blacks had been given the right to vote. Women were clamoring for the right to vote. Those who were privileged at that time, and who had the vote, did not want these changes to occur. So they wrote three laws that made it very difficult for people to vote, poor people, those who had been disenfranchised.

One was the poll tax; the second was literacy tests; the third was registration laws, which we did not have until that time. These worked like magic. Down went participation steadily from that time forward.

We repealed the poll tax, we eliminated literacy tests in the civil rights struggles in the 1960's, but registration remains. Registration was created as a barrier against voter participation. It is a barrier against voter participation. In some communities in our country it has been deliberately made very hard for people to register. Places where many people go to register are far away. Hours are limited. People find it very hard to register, particularly working people who cannot get away during working hours. The consequence is less and less people voting.

There may be other reasons; I am sure there are; cynicism about the process of politics and Government, a feeling that "my vote does not count" on the part of some people, a feeling that things are out of control. But registration clearly is one of the reasons why people are not voting.

Poll after poll has revealed that people have stated, "I would have voted but I could not register," or "I forgot to register," or, "I moved and did not get reregistered in time," or, "I did not think about it until registration was closed," which happens in most of our States at least a month before elections are held.

After extensive hearings on all of this in the Rules Committee, led by Chairman WENDELL FORD, who has provided great and effective leadership on this issue, a bill, which reported out of committee and brought to the Senate floor, was designed to deal with this problem. It provided for what is called motor voting. When you go to get a driver's license, you would be given an opportunity to register.

Ninety percent of the potential voters in our country have a driver's license, so this would be a very easy way for them to get registered, if they chose.

For those who do not have a driver's license, the bill provided that at Government agencies, where people often go for one reason or another, they would be offered an opportunity to register. That would get the other 10 percent; a magnificent way to make it easier for people to participate in our democracy, and that would strengthen our democracy, when we now have a situation where so many people are not voting, particularly members of minorities, particularly poor people, and particularly young people.

In the last Presidential election, 84 percent of Americans 18 to 24 years of age who could have voted did not vote, and most of them were not registered. That bodes ill for the future of our democracy. There is a real danger in a democracy when people are not participating in the processes of that democracy, which means registering and voting. Most of all it means, of course, voting.

If people are not voting, and they do not like the way things are going and they want change, they may turn to means other than the electoral process to achieve that change, as we have seen in country after country.

So we have sought to expand the franchise by this measure. We have been denied the right to even debate it, to perfect it and improve it and consider amendments in the Senate. That I think is a body blow at the future of our democracy.

Why did the minority Members of this body, the Republicans, take this attitude? Are they afraid of the voice of the people? Are they afraid of the way the disenfranchised would vote if they were involved in the process? I think those are questions that Republicans in this body should be compelled to answer to the public and within this institution.

There will be further efforts in the future to get this measure before the Senate and enacted. Unfortunately, if the Republicans stand totally united unanimously against any such effort, we may have to wait until the day when we have 60 Democrats in this body.

I look forward to further efforts to move us toward a purer form, a greater form, a more opportunity-filled form of democracy in our country.

Mr. President, I want to correct one statement I just made. There were two Republicans who had the courage and the wisdom to vote for cloture on the registration bill. Unfortunately, that was canceled out by two Democrats who voted the other way. But otherwise, every single Democrat in this body voted for cloture so we could deal with the registration law, and every other Republican, including the leadership on that side of the aisle, voted against the effort to open up the franchise to more people of our country.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. CRANSTON. Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

A TRIBUTE—HUGH SCOTT

Mr. SPECTER. Mr. President, on November 11, 1990, Hugh Scott, a truly distinguished former Member of this body, will celebrate his 90th birthday. To mark this auspicious occasion, a reception will be held in S-120 of the Capitol, the room named in Senator Scott's honor, at 11 a.m. on October 2, 1990, at which current Members of the U.S. Senate will fete their former colleague from Pennsylvania.

Senator Scott's service to his Nation and his State include 34 years in the U.S. Congress, 16 years in the House and 18 in the Senate. From 1969 until his retirement in 1977, he served as Senate minority leader. A soft-spoken, courtly gentleman, Senator Scott was not only liked but revered by his fellow Senators for his gently persuasive but, nonetheless, effective manner of argument and speech.

Born and educated in Virginia, Senator Scott graduated from Randolph-Macon College and the University of Virginia Law School. He began the practice of law in Philadelphia, PA, and served as an assistant district attorney there from 1926-41. During World War II, he served on active duty with the U.S. Navy and attained the rank of commander.

Senator Scott was first elected to the U.S. House of Representatives in the 77th Congress. In 1958, he was elected to the U.S. Senate and again in 1964 and 1970. He retired from the Senate at the conclusion of his third term in January 1977.

Senator Scott, who possesses the manners of a southern gentleman and the astuteness of a Philadelphia lawyer, has been something of a renaissance man. Not only a successful lawmaker and politician, who has brought honor to both occupations, he is the author of many books on the law, on the art of politics and on Chinese art. Included among his published works are: "Scott on Bailments"; "How To Go Into Politics"; "The Golden Age of Chinese Art: The Lively T'ang Dynasty"; "Come To The Party"; "How To Run For Public Office And Win"; and "Politics, USA."

Senator Scott's service on national, international, cultural, and educational boards and commissions is to numerous to begin to try to mention. Suffice it to say that it is next to impossible to comprehend where he found the time to serve so many organizations so ably and so well.

In Senator Scott, then, we have a multifaceted man of many talents, abilities, and capacities. But his greatest ability, I believe, is in extending and bestowing friendship. As a young lawyer in Philadelphia and as a candidate for public office, I have on many occasions turned to him for counsel and friendship. Unfailingly, he has responded with warmth, humor, candor, and extremely good advice. Like many others in this regard, I am deeply in his debt. And, again, like many others, I hold him in the highest esteem.

As Senator Hugh D. Scott prepares to enter his 10th decade, I call on all Members of this body, and, indeed, all Americans, to thank him for a dedicated life of public service and to wish him well.

IMMIGRANTS INCREASE GROWTH AND EMPLOYMENT OPPORTUNITIES

Mr. SYMMS. Mr. President, some of the most famous words in American history are those of Emma Lazarus, engraved on the Statute of Liberty: "Give me your tired, your poor, your huddled masses yearning to breathe free."

As a matter of economic fact, however, America today does not receive immigrants who are tired and poor. They are certainly yearning to breathe free, but immigrants to the United States are among the most energetic workers, and are possibly the most entrepreneurial people from their native lands.

Immigrants to the United States, Mr. President, are a positive contribution to our economic growth. They stimulate our economic growth.

I will ask unanimous consent to have reprinted in the RECORD following my remarks a study done at my request for the use of Republican members of the Joint Economic Committee, on which I am proud to serve, by Profs. Richard Vedder and Lowell Gallaway of Ohio University, and Stephen Moore of the Alexis de Tocqueville Institution.

Two of the embedded fallacies about immigration is that foreign born workers come to our shores and take jobs away from native born Americans. This fear of umemployment is unfounded, Mr. President. This economic study proves that unemployment is not related in any way to increased immigration. Indeed the study shows the opposite effect.

The other economic fallacy about immigration is that the ratio of labor to capital is adversely affected, because immigrants add their labor to our economic system. It is clear, however, from this economic study that the capital/labor ratio is improved, not retarded by immigration. Partly this positive effect is due to the greater savings rate of immigrants, but more importantly the kind of person who comes to America is an "opportunity seeker," and that is the kind of person who creates economic growth. Opportunity seekers stimulate capital formation—they are able to see more opportunities and they are able to stimulate others also.

Mr. President, I am very pleased to have been able to work with the Republican staff of the Joint Economic Committee to make this economic study possible. I believe it will have a positive impact on the current debate about increasing our immigration quotas.

I ask unanimous consent that the material to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DO IMMIGRANTS INCREASE UNEMPLOYMENT OR REDUCE ECONOMIC GROWTH? EVIDENCE OVER TIME AND ACROSS STATES

(By Richard Vedder, Lowell Gallaway, and Stephen Moore)

SUMMARY

Almost from the beginning of the American immigrant experience, opponents of immigration have charged that the foreign born cause increased unemployment of U.S. workers. This fear of job competition from immigrants continues to strike a receptive chord with many Americans and is one of the primary justifications for maintaining strict restrictions on immgration.

A related economic objection to immigration is the charge that immigrants are harmful to the economy generally. Immigrants are said to depress real wages, reduce the capital-labor ratio, and ultimately contribute to slower per capita economic growth.

The purpose of this study is to present the findings of new research which assesses the validity of these economic arguments against increased immigration. The study examines the statistical relationship between rates of immigration and subsequent unemployment rates and subsequent per capita economic growth. If immigrants are economic burdens, then, all other things equal, we should be able to detect higher subsequent unemployment and slower growth in periods or areas with heavy immigration than in periods or areas with low immigration.

We employ two models to determine whether this is the case. The first model examines the impact that the presence of immigrants each year in the U.S. has had on the annual national unemployment rate and economic growth over a very long time period: 1890-1988. This model allows us to capture the effect of immigration in periods of high influx of immigrants, such as at the turn of the century, and periods of low immigration, such as in the 1930s.

The second model investigates whether states with high percentages of immigrants in their population in 1980 had higher or lower subsequent unemployment and economic growth rates between 1982 and 1985 than states with low percentages of immigrants in their population. This model allows us to examine exclusively the impact of the "new immigrants" on the job market and economic performance.

The principal findings of the study are:

(1) In both models we reject outright the hypothesis that increased immigration leads to higher unemployment. We find a consistent statistically significant negative effect of immigration on subsequent unemployment. That is, periods of heavy immigration tended to be followed by periods of lower than normal unemployment; states with heavy concentrations of immigration in 1980 had lower unemployment between 1982 and 1985 than low-immigration states. We estimate from our statistical analysis that an increase in immigration of 300,000 per

year for ten years, which is roughly an upper bound estimate of immigration increases now under consideration by the U.S. Congress, would lead to roughly a 0.10 percentage point reduction in the national unemployment rate by the end of the decade than otherwise.

(2) We reject the hypothesis that increased immigration reduces per capita economic growth. Immigration is found in most of our specifications to have a statistically significant positive effect on the subsequent capital-labor ratio (a primary engine of growth) and on the labor force participation rate. This relationship is demonstrated to hold both over long periods of time and across states.

THE IMMIGRATION-UNEMPLOYMENT RELATIONSHIP

The case that immigration causes increased unemployment is based on the premise that immigrants are substitutes for American workers in production and that the availability of jobs is relatively fixed, at least in the short term.

The contrary argument is that immigrants may contribute to the job creation process in several ways.[1] First, immigrants may expand the demand for goods and services through their consumption. Second, immigrants may contribute to output through the investment of savings they bring with them. Third, immigrants have high rates of entrepreneurship which may lead to the creation of new jobs for U.S. workers.[2] Fourth, immigrants may fill vital niches in the low and high skilled ends of the labor market, thus creating subsidiary job opportunities for Americans. Fifth, immigrants may contribute to economies of scale in production and the growth of markets. The combined effect is that immigration may actually lead to a decline in unemployment.

Pure economic theory would predict that in competitive labor markets with full information about job opportunities and negligible costs of job search, the wage level should adjust to accommodate any number of new arrivals, thus preventing a rise in unemployment. Yet labor economists point out that the U.S. labor market is far from perfectly competitive, wages do not respond instantly to changes in the labor force, job information is imperfect, and search costs are consequential. As such, the theoretical prediction that immigration should not adversely effect unemployment rates may be invalid.

Fortunately, the question can be put to empirical investigation.[3] We adopt several new approaches to test the hypothesis that "immigration causes unemployment."

We start with a model that attempts to explain the annual level of the national U.S. unemployment rate from 1890 to 1988 with three standard annual labor market variables (each of which explains deviations in unemployment) and an annual immigration variable. We measure immigration as the percentage of the American population that is foreign born in each year.[4] Our three labor market variables are (1) wages, (2) the Consumer Price Index, or prices, and (3) output per hour worked, or productivity. The model explains 75 percent of the variation in unemployment over this time period.

Our principal result (reported in the Appendix) shows a statistically significant negative relationship between unemployment and the presence of immigrants, holding constant the three labor market variables. Years of substantial immigrant presence, other factors held constant, do not correspond to years of high unemployment. The hypothesis that "immigrants cause unemployment" is rejected.

It could be argued that this finding is a statistical artifact of the data. For example, some studies[5] have found that immigration tends to be affected by the pull factor—i.e. rates of immigration are high when unemployment is low, and vice-versa. This would mean that our model could be partially picking up the effect of economic conditions causing the immigration and not the other way around.[6] Furthermore, the years of high immigrant presence in the early part of the century may also have been years when the "natural rate of unemployment" was lower than today for reasons other than unemployment. To cite just one example, the years of very high unemployment were also years in which there was no federal unemployment insurance program, a development that, on balance, has probably raised unemployment by reducing the cost of remaining unemployed.[7]

To control for the potential reverse causality problem, we next examined only the later periods 1925-88 and 1953-86. After 1924 the U.S. "open door" immigration policy was ended. Thereafter, the size of the annual immigration flows was less influenced by the "pull" of domestic economic conditions and more influenced by the ceilings set by Congress. Especially after 1953, when the McCarren-Walters Act was passed, immigration has always bumped up against the ceiling set by Congress and has not been permitted to fluctuate naturally with economic conditions and unemployment. In both of these additional statistical tests the relationship between foreign born as a percentage of population and unemployment was positive, not negative, confirming our earlier result.

When we added other variables to the analysis, such as a measurement of public assistance payments, the results were unchanged, suggesting that our results are fairly robust. In all, eight specifications of the model were tested; in none did we find any support for the hypothesis "immigration causes unemployment."[8]

We next developed a second unemployment model using an approach that examined immigration across states in a recent year, 1980, rather than immigration over time. Specifically, we tried to explain variations in the rate of unemployment in the 48 contiguous states for four years, 1982, 1983, 1984, and 1985.[9] We hypothesize that unemployment rates for these years in the states is a function of (1) unionization in the state, (2) the age composition of the populatin in the state, (3) the political temperament of the citizenry, (4) the percentage of the labor force employed, and most importantly (5) the percent of the state's population that was foreign born in 1980 as determined by the Census. The model is again a good predictor, explaining 83 percent of the variance in unemployment among the states in the 1982-85 period.

With this model we not only reject the hypothesis that immigration causes unemployment, but confirm at a 99 percent level of confidence the opposite conclusion: "immigration lowers unemployment." The model suggests that each one percent increase in the percentage of foreign born as a proportion of the state's total population is associated with a .08 percent reduction in the unemployment rate. This means, for example, that if the percentage of the foreign born population climbed from 8 to 10 percent, the model predicts that the state's unemployment rate would fall by 0.16 points (e.g., from 5.50 to 5.34).[10]

Relating this to the national unemployment picture, if the foreign born population were raised by 300,000 per year for the next decade, as is now under discussion in the U.S. Congress, our model predicts that unemployment at the end of the decade would be roughly 0.10 percentage points lower, assuming current labor force levels. This would suggest an obvious economic windfall from a more liberal immigration policy.

THE EFFECT OF IMMIGRATION ON PER CAPITA ECONOMIC GROWTH

The second part of our study investigates the impact of immigration on various levels of economic growth. In the simplest terms, economic growth is influenced by two factors: increases in the factors of production (such as capital and labor), and technological improvements that enhance the efficiency with which the inputs are used. We focus our analysis on the effect of immigration on the aggregate quantities of the inputs that are available.

What impact does immigration have on the amount of capital available to workers, or the capital/labor ratio? The capital-labor ratio is a critical determinant of per capita income growth, or increases in the standard of living. Theoretical arguments could be made both ways: that immigration reduces or increases the capital-labor ratio.[11]

We therefore once again test the linkage empirically. In this instance, we compare annual movements in the capital-labor ratio, defined as the ratio of fixed reproducible tangible wealth (less consumer durables) to employed members of the civilian labor force, with (1) the annual proportion of the population that is foreign born over the period 1926–87, and (2) a measure for the passage of time to capture the intertemporal tendency for the capital-labor ratio to rise because of capital formation. (See the Appendix for details.) We find that the capital-labor ratio is positively associated in a statistically significant sense, with the proportion of the population that is foreign born. The model explains 90 percent of the variation in the capital-labor ratio.

This result suggests that immigrants have a positive impact on labor productivity, real output per capita, and economic growth through the capital formation process. One explanation for this result might be that immigrants contribute to capital formation through their high rates of saving.[12] We caution, however, that additional analyses, using alternative economic models and/or time periods, produce weaker positive, and in one case, contradictory results. We do not claim, therefore, that immigration increases economic growth through the capital formation mechanism. Nonetheless, we do believe that the data indicate that there is no basis for the claim that immigration reduces capital output per worker. If anything, the data, are consistent with the reverse.

Finally, we examine the impact of immigration on economic growth as measured by deviations in the per capita supply of labor, conventionally defined by the labor force participation rate. Here we use data on labor force participation across 48 states from 1982–1985 as the dependent variable.[13] We find that the percentage of the State population that is foreign born in 1980 is a significant factor in accounting for interstate variations in the labor force participation rates (See Appendix). Specifically, the

Footnotes at end of article.

total effect in a given state of a one percent rise in the proportion of the State's population that is foreign born is uo raise the State's labor force participation rate by 0.19 percentage points. This means that over time, States with higher immigrant populations as a percentage of their total population will experience more rapid per capita growth than low immigration States.

CONCLUSION

We have tested the relationship between immigration and subsequent unemployment and per capita economic growth using a variety of economic models and specifications. Contrary to popular belief, virtually every way we examine the data we find that immigration does not increase unemployment. Indeed, increases in immigration correspond in our models to lower subsequent unemployment rates. Furthermore, immigration is shown to have a favorable, not a negative impact, on two principal measures of per capita economic growth, but we acknowledge that we are less comfortable with these results and more research needs to be done in this area.

These findings would suggest that the economic justification for strict immigration restrictions or for measures to closely regulate employer sponsored immigration, so as to "protect" American jobs, is highly suspect. Our models uniformly reject the notion that an increase in immigration quotas of the magnitude now under discussion in the U.S. Congress would harm the American economy or worker.

APPENDIX

The following is a description of the four models used in this study and the regression results obtained.

Immigration and Unemployment Over Time

Data were collected on the annual unemployment rate (U), labor productivity (Productivity), the hourly rate of employee compensation (Wage), and the consumer price index (Prices) for the 98 year period 1891–1988. We estimated the annual foreign born population by interpolating between decennial Census counts which measure the number of foreign born every ten years, with annual immigrant flow data as the basis for the interpolation. To standardize for the size of the population, we divide the foreign born stock by the annual population for the U.S. to obtain the major independent variable (Immigrant). The data come from the U.S. Department of Commerce. We used ordinary least squares regression procedures.

The results were:

U=68.548	(3.71)
−0.633 Productivity	(3.42)
+0.697 Wage	(2.54)
−0.910 Prices	(2.54)
−2.912 Immigrant	(2.78)
D−W=1.47	
R^2=.756	

NOTE.—Numbers in parentheses are t-statistics.

Immigration and Unemployment Across States

The second estimation was a pooled time series/cross section analysis using data for the years 1982, 1983, 1984, and 1985 for 48 contiguous states. The dependent variable is state unemployment rate (U) in each of these four various years. Hence, there are 192 observations (48×4). The independent variables are (measured for each state in 1980): (1) the percent of the population that was foreign born (Immigrant); (2) the percent of the population over the age of 65 (Aged); (3) the percentage of nonagricultural workers unionized (Union); (4) the proportion of the population age 16 and over working (Job); (5) the percentage of voters who voted for Reagan in 1984, a measure of the state's conservatism (GOP).

U=−0.080 Immigrant	(3.15)
−0.248 Aged	(4.99)
+0.042 Union	(2.70)
−0.341 Job	(16.16)
−0.020 GOP	(1.34)
R^2=.84	[1]

[1] Includes the effect of dummy variables.

NOTE.—The t-statistics are in parentheses.

Immigration and Capital Labor Ratio

The regression equation employed to explain variations in the capital labor ratio was as follows. The dependent variable is the annual capital-labor ratio (as previously defined) between 1926 and 1987 (Caplab). The two explanatory variables are (1) the annual percentage of the U.S. population foreign born (Immigrant), and (2) a measure of the passage of time, with 1 denoting 1926 and 62 denoting 1987. The actual regression equation is:

Caplab=41,354.2	(3.28)
+2,881.1 Immigrant	(2.41)
+1,297.3 Time	(9.31)
D−W=2.03	
R^2=.90	

NOTE.—The t-statistics are in parentheses.

Immigration and the Labor Force Participation Rate

The last set of regressions relate the foreign born stock by state in 1980 as a percentage of each state's population to the labor force participation rate in the states in 1982, 1983, 1984, and 1985. A two-stage regression analysis is used. In the first stage, the impact of immigration on four economic variables is measured. These are: (1) interstate variations in real wage rates, (2) the proportion of a state's population receiving public aid, (3) the proportion of a state's population receiving Social Security benefits, and the state unemployment rate. Ten independent variables, in addition to the immigration measure, are used to explain variations in these four dependent variables.

The predicted values for the dependent variables in the four first stage regression equations are then used as independent variables in a second stage regression that has as its dependent variable the labor force participation (Lab part.) rate by state. The results were as follows:

Lab part=0.282 real wage	(5.80)
−0.177 Public aid	(2.18)
−0.678 Social Security	(13.10)
−2.109 Unemployment	(22.41)
$4R^2$=.94	

NOTE.—The t-statistics are in parentheses.

FOOTNOTES

[1] The process by which immigrants may increase job creation is described more fully in: Greenwood and Hunt, 1984.

[2] See Light and Sanchez, 1987; and Borjas, 1990.

[3] On balance, the existing literature on this topic supports the contention that immigration does not cause unemployment. These include studies by Simon, Moore, and Sullivan (1990) which analyzed the effect of immigration across 83 U.S. cities from 1960 to 1977; Muller and Espenshade (1985), which examined immigration and unemployment among blacks and hispanics in 247 metropolitan areas in the U.S.; Card (1989) which examined the impact of the influx of the Mariel Cubans on the unemployment rates of blacks, whites and hispanics in the Miami labor market between 1980–86; and Greenwood and Hunt (1984) which examined new job creation attributable to net migration into 57 U.S. cities between 1958–1975. Each of these studies finds either no impact of immigration on unemployment or a very small positive effect. But none examine immigration over a very long time period as this study does.

[4] The foreign born population was estimated from U.S. Census Bureau benchmarks made at each decenial census with the pattern of change in the immigrant population in non-census years estimated from data on annual immigrant arrivals.

[5] Easterlin (1968) discovered that between 1834 and 1914 "swings in immigration were a response to corresponding swings in the demand for labor in the United States . . . During long swings in the U.S., a rising immigration rate was typically preceded by a rising rate of growth in hourly wages and, as far as the limited evidence goes, a rising unemployment rate."

[6] Since our dependent variable is the stock of foreign born as a percentage of population that have come prior to the year when we measure unemployment, reverse causality would not seem to be a large disturbance to our model. Only the very recent entrants would be effected by the current unemployment rate or even the unemployment rate in the recent years. Immigrants who arrived long before the time we measure national economic conditions could not be influenced in their decision to come by these conditions.

[7] See Chapin (1971); or Feldstein (1974).

[8] In a few cases, the negative relationship between unemployment and immigration was not statistically significant. In only one case did we find a positive relationship; this was a single loglinear estimation model. The relationship was very weak and the explanatory power of this model was far below the linear model, suggesting the inappropriateness of the loglinear function form.

[9] This pooled time series cross sectional approach uses ordinary least squares regression analysis to evaluate 192 unemployment observations. Unfortunately, unemployment rate measures are calculated differently by each state with some using procedures that bias their estimates consistently upward and others downward. The data is less than fully reliable, but is the best we have available. See: Simon, Moore, and Sullivan (1990) for an analysis of state/local unemployment data.

[10] Gallaway, Vedder, and Shukla (1974) have found that in their settlement patterns, immigrants have historically been drawn to economic stimuli, suggesting they tend to avoid areas where unemployment is high. This again, might raise the possibility of reverse causation in the model, although we believe that since we measure unemployment at least 2 to 5 years after the immigrants arrive, the problem is minimized.

[11] See, Simon (1989), especially pages 143–85.

[12] See, Simon (1989), pp. 86–7.

[13] The basic model to explain variations in labor force participation rates is described in: Gallaway, Vedder, and Dawson, forthcoming.

SOURCES

Borjas, George, *Friends or Strangers* (New York: Basic Books, 1990).

Card, David, "The Impact of the Mariel Boatlift on the Miami Labor Market," *Industrial and Labor Relations Review*, Jan., 1990.

Chapin, Eugene, "Unemployment Insurance, Job Search, and the Demand for Labor," *Western Economic Journal*, Vol. 9, 1971;

Easterlin, Richard A., *Population, Labor Force, and Long Swings in Economic Growth* (New York: NBER, 1968).

Feldstein, Martin, "Unemployment Compensation: Adverse Incentives and Distributional Anomalies," *National Tax Journal*, Vol. 24, 1974.

Gallaway, Lowell, Richard Vedder, and Vishwa Shukla, "The Distribution of Immigrant Population in the United States: An Economic Analysis," *Explorations in Economic History*, March, 1974.

Gallaway, Lowell, Vedder, Richard, and Robert Dawson, "Why People Work: An Examination of Interstate Variations in Labor Force Participation," *Journal of Labor Research*, forthcoming.

Greenwood, Michael J., and Gary Hunt, "Migration and Interregional Employment Redistribution in the United States," *American Economic Review*, Dec., 1984.

Light, Ivan, and Angel Sanchez, "Immigrant Entrepreneurs in 272 SMSAs," *Sociological Perspectives*, October, 1987.

Muller, Thomas and Tom Espenshade, *The Fourth Wave: California's Newest Immigrants* (Washington, DC: Urban Institute, 1985).

Simon, Julian L., *The Economic Consequences of Immigration*, Basil Blackwell, 1989.

Simon, Julian, Stephen Moore, and Richard Sullivan, "The Effect of Immigration Upon Aggregate Native Unemployment: An Across-City Estimation," mimeo, 1990.

DEDICATION OF INTERSTATE 635 IN HONOR OF SENATOR HARRY DARBY

Mr. DOLE. Mr. President, today a connecting portion of a major interstate which is key to the States of Kansas and Missouri, I-635, is being dedicated in honor of the late Senator Harry Darby—the Senator from Kansas who was appointed in 1949 to complete the unexpired term of Senator Clyde Reed. I would like to take this opportunity to recognize Senator Darby's lifetime of commitment to strong leadership and service to the Nation.

HIGHWAY NETWORK COMPLETED

This highway ties major business, industrial, and residential communities in greater Kansas City—linking Johnson County and Wyandotte County in Kansas with Platte and Clay Counties in Missouri—and is representative of Senator Darby's efforts toward endeavors mutually beneficial to both States.

It is fitting that an essential thoroughfare bear the name of Senator Darby. As the director of the Kansas State Highway System in 1933, he recognized the importance of an extensive highway system to the economic well-being of Kansas and aggressively developed a highway infrastructure throughout the State.

As a leading businessman and industrialist, Senator Darby not only transformed his family steel business into a major corporation, but also brought his talents to other enterprises including farming, banking, railroads, insurance, and retail sales. He demonstrated his commitment to a prosperous rural economy through his lifetime efforts dedicated to the American Royal, the annual livestock and cattle show in the heart of America which is today synonymous with Kansas City.

TRUSTED FRIEND OF IKE

Kansans also know Senator Darby through his service as a Republican national committeeman and for his untiring efforts dedicated to establishing the Eisenhower library and museum in Abilene, KS. His close friendship with Dwight Eisenhower is called to mind again as we approach the Celebration in Abilene on October 14 of the centennial of the birth of our 34th President and victorious World War II general.

Mr. President, with pride I join Governor Hayden of Kansas and officials from Missouri in celebrating the formal completion of this network between our two States and to salute a distinguished Kansan and colleague.

THE PASSING OF THE REVEREND JAMES A. HARDISON, JR.

Mr. GRAHAM. Mr. President, late Monday night, Florida and the Nation lost one of their finest crusaders.

The Reverend James A. Hardison, Jr., an Episcopalian minister from Tallahassee, devote his life to helping people. An extremely spiritual person, he preached to his congregation about the importance of serving the community and helping people who cannot help themselves.

And he served his calling not just from the pulpit, where he once urged worshipers to leave his midnight Christmas Eve service and go directly to comfort needy people in the community.

Jim Hardison volunteered his time serving meals to elderly, poor, and homeless people. He visited and corresponded with prisoners, earning himself the nickname "The Rev" at Florida State Prison. And he was an influential civil rights organizer.

He had an extraordinary interest in every person, from every walk or station in life, and he took it upon himself to enhance the life of each person he met.

But, although I greatly admired his volunteer work, it was not for his charity work but for his advocacy that I became acquainted with him.

I knew Jim Hardison because he made it his business for every elected official in Tallahassee to know about the causes he championed. He knocked on each door to talk with State legislators and executive officials about the homeless and the hungry, about disabled individuals and minorities, and about a host of social programs which help those members of society who most need government protection and assistance.

While I served as Governor of Florida, Reverend Hardison periodically visited me in an effort to further these goals. I was always impressed by his knowledge, his depth of understanding, and his overriding passion for these issues.

Jim's career of fighting for just causes ended September 24 with his 14-month battle with cancer. Last summer, doctors discovered in him a brain tumor, and he spent his remaining months defying doctors' predictions by keeping his health. Jim passed away painlessly, at home in the company of his family and closest friends.

Mr. President, Reverend Hardison inspired many to public service. His mark on the world will be measured not only by what he accomplished himself, which alone is astounding, but also by the people who continue to follow his example.

Jim's daughter Ann is one such person. Ann has worked in my office for nearly 2 years and has demonstrated in that time her commitment to serve the public both professionally and personally. I am proud to have Ann as a member of my legislative staff and as an example of the impact her father had on the world.

Mr. President, of profiles of courage of people who have faced these kinds of challenges, Jim Hardison will always be an example that death in itself is not an end. His memory continues to inspire people who knew him and have had the pleasure of his company.

Those who have known him have had their lives enriched by their acquaintance with him. Those who follow his example of public service and altruism will undoubtedly leave the world a better place for their efforts, as Jim Hardison has done.

Florida will miss Reverend Hardison for his devotion to others, his friendly words, and his kind face. Jim Hardison was a good parent, husband, minister, and neighbor. We thank him for his contributions, which will live on in the hearts of the many people he touched.

MOTOR VEHICLE FUEL EFFICIENCY ACT OF 1990

Mr. SPECTER. Mr. President, during Senate debate on the cloture vote on the Motor Vehicle Fuel Efficiency Act of 1990 yesterday, other Senate commitments precluded my making a floor statement on my reasons for voting against cloture.

I voted against cutting off debate because there are many complex issues involved in the bill which require extensive consideration including the following: The safety of the smaller cars which would be produced; the effectiveness of the use of alternative fuels for environmental protection; its impact on the steel and auto industries, and the overall feasibility of attaining higher corporate average fuel economy [CAFE] standards.

With regard to the feasibility of achieving the CAFE standards mandated in the bill, I am advised that there is considerable disagreement as to how much more weight reduction and fuel economy the auto companies can achieve without severely limiting product choice for the consumer.

Furthermore, what I believe has received scant attention in this debate is that new CAFE standards, which would be implemented simultaneously with new Clean Air provisions, may de-

crease the incentive for consumers to purchase clean fuel burning vehicles. In other words, such legislation may even increase our demand for oil as consumers put off making the transition to new modes of transportation. Until these questions can be addressed satisfactorily, I believe it is premature to impose new CAFE standards on the auto industry.

With respect to the assertion that higher CAFE standards will help curb global warming, I am advised that the impact by the year 2004 will be negligible, approximately a .03 percent reduction. Again, I believe alternative fuels and new modes of transportation are far more important over the long run in reducing the causes of global warming.

Given these considerations, at a time when many of our principal industries are struggling to remain competitive with foreign manufacturers, I am unwilling to rush to judgment on such important legislation.

If the price of oil stays high, the demand for small cars will rise and the auto companies will respond. If, as the Persian Gulf crisis unfolds, we find that this is not the case, then we can consider this information along with better cost, safety, and environmental data when we consider new energy conservation bills in the future.

Last week, I voted to cut off debate on the motion to proceed because I felt the Senate should consider the bill. When a bill is submitted for floor consideration very late in the Senate session as this one was, however, it is necessary to get adequate consideration for such legislation. There must be time for more debate. Frequently when a cloture vote is defeated, the bill stays on the floor for further consideration. It is not wise to rush to judgment on what may be bad legislation.

I am continuing to consider these important issues and I am sure that the Senate will revisit this legislative proposal at an appropriate time.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,020th day that Terry Anderson has been held captive in Beirut.

VISIT OF CYPRIOT PRESIDENT TO BOSTON

Mr. SARBANES. Mr. President, last week our distinguished colleague, the senior Senator from Massachusetts [Mr. KENNEDY] had the honor of welcoming George Vassiliou, President of the Republic of Cyprus, to the John F. Kennedy Library in Boston. The speeches delivered by Senator KENNEDY and President Vassiliou at that ceremony were a most eloquent testimony to the enduring relationship between the United States and Cyprus, as well as to the importance of bringing an end to the tragic occupation and division of the island. I ask unanimous consent that the two statements be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR EDWARD M. KENNEDY, VISIT OF PRESIDENT GEORGE VASSILIOU, JOHN F. KENNEDY LIBRARY, BOSTON, MA, SEPTEMBER 21, 1990

On behalf of all of us at the Library, I want to say how grateful we are for the leadership and dedication of John and Diddy Cullinane, who have made this Distinguished Foreign Visitors Program possible.

It is always a pleasure to gather with so many friends of Cyprus. It is a special honor for me to welcome a true champion of peace and justice on that island, President George Vassiliou.

This evening we are reminded again of the strong and continuing ties between Cyprus and the United States, and of the outstanding contributions that those of Hellenic heritage have made to America through their great civilization and their strong political and economic traditions.

In welcoming President Vassiliou, I am also mindful of President Kennedy's own strong ties to Cyprus. The relationship between Cyprus and the Kennedy family dates back even before the birth of the Republic of Cyprus. Archbishop Makarios once studied at Boston University School of Theology, and he often visited Massachusetts in the years before his inauguration as the first president of Cyprus in 1959.

In the oral history that President Makarios prepared for the Library, he described how, in December 1957, he was urged by friends to meet with a young Senator named John F. Kennedy. He had heard that my brother could help in the struggle to free Cyprus from colonial rule. President Makarios recalled that he left my brother's office with the feeling that he had found a friend and advocate for the freedom of Cyprus.

Four years later, President Makarios of the newly independent Republic of Cyprus was one of the first heads of state invited by President Kennedy to the White House. It was the beginning of a warm, strong, and enduring relationship between the United States and Cyprus.

Sadly, in spite of the independence they achieved, the courageous people of Cyprus have had to continue to struggle for peace and unity. We are all familiar with the unconscionable invasion by Turkish troops in 1974 and the Turkish occupation of the northern part of Cyprus which continues to this day.

The Bush Administration must give higher priority to Cyprus in America's foreign policy. Aggression is aggression is aggression. President Bush has made it clear that Iraq's invasion and occupation of Kuwait is unacceptable. And it is time he made clear to Turkey that their invasion and occupation of Cyprus is just as unacceptable.

Since George Vassiliou became President of Cyprus in 1988, we have admired his tireless commitment to a political settlement, based on the legitimate rights of both the Greek and the Turkish communities on Cyprus.

I recall our first meeting a year ago, when he spoke eloquently of unity and a permanent resolution of the conflict. He has also worked tirelessly with the Secretary General of the United Nations in the effort to achieve a just settlement, including reasonable territorial and constitutional guarantees for the Turkish community. Unfortunately, we have failed to see a constructive response by the Turkish Cypriots to President Vassiliou's initiatives.

We know the speed with which productive change can come, and we hope that it will come to Cyprus soon. In less than two weeks, East will meet West when Germany unites. It is also time for North to meet South on Cyprus. The Wall has disappeared in Berlin, and the Green Line must disappear in Cyprus.

All of us hope that under the leadership of President Vassiliou, Cyprus will soon prevail in this struggle for peace and unity.

I am honored to welcome him now to Massachusetts and to the Kennedy Library, a distinguished statesman of our time, President George Vassiliou.

RESPONSE BY THE PRESIDENT OF THE REPUBLIC OF CYPRUS, MR. GEORGE VASSILIOU, TO SENATOR KENNEDY, JOHN FITZGERALD KENNEDY PRESIDENTIAL LIBRARY, BOSTON, MA, SEPTEMBER 21, 1990

Senator Kennedy, Distinguished Guests, Dear friends, I am deeply moved and honoured to be here with you today within the hollowed walls of the John F. Kennedy Presidential Library and continue the special relationship between Cyprus, the American people and the Kennedy family.

President John Fitzgerald Kennedy is known and venerated as a great man and a great statesman with vision and ideals that, together with his great intellect and profound humanity, redefined the concept of leadership and motivated thousands of young men and women worldwide to aspire to public service as an ideal. He bequested on the world a legacy for justice and for freedom which, like the eternal flame at Arlington Memorial Cemetery, has become a guiding beacon for us all.

We in Cyprus, cherish most dearly the special relationship that exists between Cyprus and the Kennedy family. In the 1950's when Cyprus was struggling for its independence, it was John Kennedy, then a young Senator, who espoused the cause of the Cypriot people for freedom and identified himself fully with it. It is a fitting testament to a great man, that when the first President of the Republic of Cyprus, Archbishop Makarios, a former student of Boston University and priest to a nearby parish, paid an official visit to the United States in June 1962, he said to the American President: "In you we hail not only the great leader of the American people but also a great friend of Cyprus".

The bond of friendship that unites the people of Cyprus with the Kennedy family and the American people is as strong today as it was then.

Senator Edward Kennedy, in Cyprus we hold you in the highest esteem.

We will never forget that in the summer of 1974 when Cyprus was invaded by Turkey, a country whose army is larger than our total population, you were at the forefront of those who extended to us all possible help and moral support. It was you who organized the first Congressional Mission to go behind the Turkish lines in your

capacity as Chairman of the Senate Subcommittee on Refugees.

Today, I have the opportunity to express to you on behalf of the people of Cyprus, my government and myself, our thanks and appreciation for your continued staunch and unwavering support based on the ideals of freedom, justice and human rights for all Cypriots.

This is not the occasion to analyze the many dimensions of the Cyprus problem but it behooves us to remind ourselves of the continuing human tragedy of Cyprus that has been with us for nearly two decades. The occupation of nearly 40% of Cyprus by Turkey continues; a third of our population remain displaced, refugees in their own country; illegal Turkish settlers are altering the demographic character of Cyprus on a daily basis; our cultural heritage of 9,000 years is being obliterated.

It is not Cyprus that is losing its heritage but, the whole world is being deprived of its past, for it is the common heritage of mankind that is being destroyed. The most tragic dimension of the Turkish invasion however, remains the unknown fate of the missing Cypriots.

In spite of the difficulties of the situation and the continued frustration and undermining by Turkey of the United Nations efforts towards a just and viable solution, we will not be derailed from our determination and efforts to end the artificial division of our country and free it from foreign occupation and division.

The emerging European order and the new world order as a whole, demands the replacement of distrust and confrontation in the relations between states with that of cooperation and peace. Today more than ever, the settlement of disputes must be based on the norms of international law and the Charter of the United Nations and its resolutions.

The international community led by the United States in its united response following Iraq's invasion of Kuwait, expressed in no uncertain terms its determination to stand firm against international aggression. Its resolute stance, that the resolutions of the United Nations must be implemented, augers well for a new international order where the illegal use of force will not be tolerated.

That is why we, in Cyprus, approach the marking of our 30th anniversary since our independence, with confidence and renewed hope for our future and for the future of the world.

We believe that the international community will also turn its attention and apply the same principled stance to other problems, such as that of Cyprus.

The future of Cyprus lies in the restoration of its unity. Just as the dismantling of the Berlin Wall is uniting German with German, we too in Cyprus believe that the day will come when all Cypriots, Turks, and Greeks alike, will walk together hand in hand in a united Cyprus. We are firmly committed to this and to a settlement that would enable all Cypriots to live in freedom, peace, and security in their own country without outside interference.

Expressing his eternal optimism about the human condition, President Kennedy once said that:

"Our problems are man-made, therefore they can be solved . . . Man can be as big as he wants. No problem in human destiny is beyond the reach of human beings. Man's reason and spirit have often solved the seemingly unsolvable and . . . they can do it again".

Ladies and Gentlemen, the Cyprus problem is a man made problem. It therefore can be solved and we in Cyprus will not rest until it is solved.

We are at the crossroads of a new world that requires unity and peace amongst all. Now, more than ever, the eloquent words of President John Fitzgerald Kennedy must ring in the ears of all mankind:

Let the word go forth, from this time and place, to friend and foe alike, that the torch has been passed again, to a new generation of world leaders. We are strong, we are determined. We will not fail".

MESSAGES FROM THE HOUSE ENROLLED BILLS SIGNED

At 12:05 a message from the House of Representatives announced that the Speaker has signed the following enrolled bills:

S. 535. An act to increase civil monetary penalties based on the effect of inflation;

S. 2075. An act to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality;

H.R. 2761. An act to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United Services Organizations; and

H.R. 4962. An act to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games.

At 1:58 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House insists upon its amendments to the bill (S. 1824) to reauthorize the Education of the Handicapped Act, and for other purposes, disagreed to by the Senate; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. HAWKINS, Mr. FORD of Michigan, Mr. OWENS of New York, Mr. MARTINEZ, Mr. PAYNE of New Jersey, Mr. JONTZ, Mr. GOODLING, Mr. BARTLETT, Mr. BALLENGER, and Mr. SMITH of Vermont as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Education and Labor, for consideration of the House bill, and the Senate amendment, and modifications committees to conference: Mr. HAWKINS, Mr. FORD of Michigan, Mr. KILDEE, Mr. SAWYER, Mrs. UNSOELD, Mrs. LOWEY of New York, Mr. POSHARD, Mr. GOODLING, Mr. TAUKE, Mr. COLEMAN of Missouri, and Mr. GRANDY.

From the Committee on Energy and Commerce, for consideration of title II of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. SHARP, Mr. TAUZIN, Mr. BRUCE, Mr. TOWNS, Mr. WALGREN, Mr. SWIFT, Mr. LENT, Mr. MOORHEAD, Mr. DANNEMEYER, and Mr. FIELDS.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4279. An act to amend title 31, United States Code, to improve cash management of funds transferred between the Federal Government and the States, and for other purposes;

H.R. 5254. An act to authorize appropriations to carry out the Fish and Wildlife Conservation Act of 1980 for fiscal years 1991 and 1992; and

H.R. 5255. An act to amend the National Fish and Wildlife Foundation Establishment Act to authorize appropriations for the National Fish and Wildlife Foundation for fiscal years 1991, 1992, and 1993, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 5254. An act to authorize appropriations to carry out the Fish and Wildlife Conservation Act of 1980 for fiscal years 1991 and 1992; to the Committee on Environment and Public Works.

H.R. 5255. An act to amend the National Fish and Wildlife Foundation Establishment Act to authorize appropriations for the National Fish and Wildlife Foundation for fiscal years 1991, 1992, and 1993, and for other purposes; to the Committee on Environment and Public Works.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4279. An act to amend title 31, United States Code, to improve cash management of funds transfered between the Federal Government and the States, and for other purposes.

ENROLLED BILL SIGNED

The ACTING PRESIDENT pro tempore (Mr. KOHL) announced that on September 25, 1990, he had approved the following enrolled bill:

H.R. 4773. An act to authorize the President to call and conduct a National White House Conference on Small Business.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3629. A communication from the Director of the Defense Security Assistance

Agency, transmitting, pursuant to law, a report on the Defense Security Assistance Agency's proposed letter of offer to Israel for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-3630. A communication from the Under Secretary of Defense (Policy), transmitting, pursuant to law, the U.S. Government data base on NATO and Warsaw Pact Forces and Equipment; to the Committee on Armed Services.

EC-3631. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize the Department of Defense to use simplified small purchase procedures outside the United States for procurements of supplies and services with a value of $100,000 or less in support of Operation Desert Shield; to the Committee on Armed Services.

EC-3632. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Review: Panama Canal Commission's 1989 Financial Statements"; to the Committee on Armed Services.

EC-3633. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to provide professional liability protection for certain military members ordered to active duty during military operations; to the Committee on Armed Services.

EC-3634. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize urgent supplemental appropriations for fiscal year 1990 for the Department of Defense, and for other purposes; to the Committee on Armed Services.

EC-3635. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, an interim report on the Nehemiah Housing Opportunity Grant Program; to the Committee on Banking, Housing, and Urban Affairs.

EC-3636. A communication from the Secretary of Commerce, transmitting, pursuant to law, the status report of the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation; to the Committee on Commerce, Science, and Transportation.

EC-3637. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report of the Secretary of Energy for 1988-1989; to the Committee on Energy and Natural Resources.

EC-3638. A communication from the Secretary of Energy, transmitting, pursuant to law, the eleventh annual report on the use of alcohol in fuels; to the Committee on Energy and Natural Resources.

EC-3639. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Social Security Act to repeal the annual limit on the temporary assistance that may be provided to U.S. citizens returned from foreign countries and to authorize acceptance of gifts for the program; to the Committee on Finance.

EC-3640. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the quarterly report on human rights activities in Etheopia for the period April 15, 1990-July 14, 1990; to the Committee on Foreign Relations.

EC-3641. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of the reports issued by the General Accounting Office during August 1990; to the Committee on Governmental Affairs.

EC-3642. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, a proposed plan for the use and distribution of Walker River Paiute Tribe judgement funds; to the Select Committee on Indian Affairs.

EC-3643. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "The Health Benefits of Smoking Cessation"; to the Committee on Labor and Human Resources.

EC-3644. A communication from the Chairman of the Commission on Railroad Retirement Reform, transmitting, pursuant to law, the report of the Commission; to the Committee on Labor and Human Resources.

EC-3645. A communication from the Assistant Secretary of Health and Human Services (Human Development Services), transmitting, pursuant to law, a report on progress of four reports on specific topics related to child abuse; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1980. A bill to provide for the repatriation of Native American group or cultural patrimony (Rept. No. 101-473).

By Ms. MIKULSKI, from the Committee on Appropriations, with amendments:

H.R. 5158. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 101-474).

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

H.R. 435. A bill to amend the Appalachian Regional Development Act of 1965 to include Columbiana County, Ohio, as part of the Appalachian region.

H.R. 4758. A bill to provide for the construction, operation, and maintenance of an extension of the American Canal at El Paso, Texas.

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment and with a preamble:

S. Res. 312. A resolution to express the sense of the Senate regarding the need to develop a zebra mussel research and control program through the Great Lakes Fishery Commission.

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 427. A bill to designate the Federal Building located at 1801 Gulf Breeze Parkway, Gulf Breeze, Florida, as the "Bob Sikes Visitor Center."

S. 2806. A bill to redesignate the Interstate Highway System as the Dwight D. Eisenhower Interstate Highway System.

S. 2879. A bill to amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes.

S. 2965. A bill to designate the Federal building located at 51 Southwest 1st Avenue in Miami, Florida, as the "Claude Pepper Federal Building."

S. 3046. A bill to redesignate the Federal building located at 1 Bowling Green in New York, New York, as the "Alexander Hamilton United States Custom House."

S. 3062. A bill to transfer the responsibility for operation and maintenance of Highway 82 Bridge at Greenville, Mississippi, to the States of Mississippi and Arkansas.

S. 3068. A bill to establish the Office of Take Pride in America, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Billie Davis Gaines, of Georgia, to be a member of the National Council on the Humanities for a term expiring January 26, 1994;

Bruce D. Benson, of Colorado, to be a member of the National Council on the Humanities for a term expiring January 26, 1994;

Michael T. Bass, of Florida, to be a member of the National Council on the Humanities for a term expiring January 26, 1994;

Earl Roger Mandle, of the District of Columbia, to be a member of the National Council on the Arts for a term expiring September 3, 1994;

Helen Gray Crawford, of Louisiana, to be a member of the National Council on the Humanities for a term expiring January 26, 1996;

Margaret P. Duckett, of Pennsylvania, to be a member of the National Council on the Humanities for a term expiring January 26, 1996;

Henry H. Higuera, of Maryland, to be a member of the National Council on the Humanities for a term expiring January 26, 1996;

Peter Shaw, of New York, to be a member of the National Council on the Humanities for a term expiring January 26, 1996;

Joyce Elaine Tucker, of Illinois, to be a member of the Equal Employment Opportunity Commission for the remainder of the term expiring July 1, 1991;

Carol K. DiPrete, of Rhode Island, to be a member of the National Commission on Libraries and Information Science for the remainder of the term expiring July 19, 1991; and

Joan R. Challinor, of the District of Columbia, to be a member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term of six years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DASCHLE:

S. 3110. A bill to amend the Act of December 22, 1944 (known as the "Flood Control Act of 1944") to mitigate damages resulting from water management decisions, and for

other purposes; to the Committee on Environment and Public Works.

By Mr. BAUCUS:

S. 3111. A bill to urge and request the President to initiate negotiations with certain foreign nations relating to increasing the burden shared by such nations for the protection of the military and security interests of such nations; to the Committee on Foreign Relations.

By Mr. WIRTH:

S. 3112. A bill to amend the Federal Home Loan Bank Act, the Home Owners' Loan Act and other Acts to restructure the Resolution Trust Corporation and dissolve the Oversight Board, to merge the Office of Thrift Supervision into the Office of the Comptroller of the Currency, to dissolve the Federal Housing Finance Board, and to restructure the Federal prosecution of bank crimes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BENTSEN (for himself, Mr. BOREN and Mr. DASCHLE):

S. 3113. A bill to amend the Internal Revenue Code of 1986 to repeal section 2036(c), to provide special valuation rules in certain cases involving estate freezes, and for other purposes; to the Committee on Finance.

By Mr. MACK (for himself and Mr. BREAUX):

S. 3114. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit for qualified cancer screening tests; to the Committee on Finance.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 3115. A bill to authorize the Secretary of Transportation to prohibit, by regulation, certain aircraft overflights of areas which have been declared disaster areas; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS:

S. 3116. A bill to amend title XIX of the Social Security Act to provide that infants born to medicaid eligible women are continuously eligible for benefits under such title for 1 year; to the Committee on Finance.

By Mr. BRADLEY:

S. 3117. A bill to reauthorize the Commission on Interstate Child Support, and for other purposes; considered and passed.

By Mr. MOYNIHAN:

S. 3118. A bill entitled the Medicaid Drug Dependency Treatment Coverage Act of 1990"; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRANSTON (for himself, Mr. MITCHELL, Mr. BYRD, Mr. SIMPSON, Mr. MURKOWSKI, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. GRAHAM, Mr. AKAKA, Mr. THURMOND, Mr. SPECTER, and Mr. JEFFORDS):

S. Res. 328. A resolution commending Jonathan R. Steinberg for his faithful and outstanding service to the United States Senate and the Nation; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE:

S. 3110. A bill to amend the Act of December 22, 1944 (known as the "Flood Control Act of 1944") to mitigate damages resulting from water management decisions, and for other purposes; to the Committee on Environment and Public Works.

IMPROVED MANAGEMENT OF THE MISSOURI RIVER

● Mr. DASCHLE. Mr. President, I rise today to introduce a measure which will help lay the groundwork for future management of the Missouri River water flows by the United States Army Corps of Engineers.

Management of the Missouri River has been rendered particularly challenging by the multiyear drought conditions recently experienced by the northern plains States. When flows are adequate, few problems arise. When those flows are reduced by abnormally low precipitation, competition for the limited water volume becomes fierce.

The Army Corps of Engineers, with little direction within prevailing law for establishing priorities, must make operating decisions to allocate water flows for various water uses. In so doing, the potential for adverse impact is significant.

Earlier this year, Governors of the three upper basin States brought suit to temporarily halt Army Corps water releases from the Oahe reservoir, to protect the already severely impacted recreational and environmental interests. A U.S. circuit court of appeals panel overturned a lower court ruling in favor of the governors, yet stated its serious reservations that the corps' decision making is subject to judicial review.

Mr. President, I offer this bill which has been presented to me by Governor George Mickelson on behalf of our State of South Dakota. The purpose of this measure is to direct the Secretary of the Army to operate the Missouri River system so as to minimize adverse impact, both environmental and economic, to all authorized uses. This measure also provides for the mitigation of damages resulting from unfavorable Corps operating decisions and authorizes for appropriating $100 million to compensate those States and tribes unfairly impacted by such decisions.

In addition, this measure provides for appropriate judicial review by allowing for district court jurisdiction in the review of determinations made under this act.

I encourage all my colleagues, especially those from Missouri River Basin States, to join me in support of this measure, which will minimize the adverse effects of Missouri River management and, in so doing, will also improve current operations to the benefit of all.

Mr. President, I offer this bill in confidence that it will provide for improved management of water flows and, thus, will benefit all Missouri River Basin States. I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF MANAGEMENT REVIEW PROCEDURES.

To the extent consistent with section 1(b) of the Flood Control Act of 1944 (58 Stat. 889; 33 U.S.C. 701-1), the Secretary of the Army, in operating the Missouri River mainstem reservoirs, shall minimize adverse environmental and economic impacts to all authorized uses on the Missouri River and mainstem reservoir system. If an authorized use is threatened with adverse impact, or is adversely impacted by the operation of the system, the Secretary, within five days of a written request by a threatened or an impacted State or tribe, shall implement operational changes to prevent or mitigate the threatened or actual adverse impacts unless the Secretary determines that the potential adverse impacts of the preventive or mitigative action requested outweigh the environmental and economic impacts on the State or tribe. If the Secretary makes such a determination, the Secretary shall notify in writing the State or tribe requesting the operational changes. Such notification shall be provided not later than five days after the Secretary receives the request for operational changes and shall include a detailed explanation of the reasons the adverse impact to the use cannot be prevented, minimized or mitigated through such operational changes.

SEC. 2. GRANTS TO STATES AND TRIBES.

Not later than 30 days after damages have been reported to the Secretary of the Army, the Secretary shall make grants to the impacted States or tribes for the purpose of—

(1) mitigating impacts in the Missouri River Basin States incurred as a result of operational adjustments which were implemented or denied under section 1; and

(2) constructing facilities, including—

(A) public and private irrigation, domestic and industrial water supply intakes;

(B) boat ramp extensions, marinas and other recreational facilities;

(C) fisheries facilities;

(D) stream bank protection;

(E) navigation facilities; and

(F) other associated facilities.

SEC. 3. FINAL ACTION AND FEDERAL JURISDICTION.

The actions of the Secretary of the Army under sections 1 and 2 of this Act constitute a final agency action for purposes of section 704 of title 5, United States Code. The United States district courts shall have jurisdiction under section 706 of title 5, United States Code to review determinations made pursuant to sections 1 and 2 of this Act.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of the Army $100,000,000 for the purpose of implementing section 2 of this Act.●

By Mr. BAUCUS:

S. 3111. A bill to urge and request the President to initiate negotiations with certain foreign nations relating to increasing the burden shared by such nations for the protection of the

military and security interests of such nations; to the Committee on Foreign Relations.

BURDEN SHARING

Mr. BAUCUS. Mr. President, I rise today to introduce legislation aimed at more equitably distributing the security burden between the United States and its allies.

THE PERSIAN GULF CRISIS

The Persian Gulf crisis has brought the burden sharing problem into sharp focus.

Americans are shocked and dismayed by the attitude of some of our wealthiest allies toward helping the United States shoulder the burden in the Persian Gulf.

Nations, like West Germany, Japan, and South Korea, are quite happy to import oil from the Persian Gulf. In fact, each of these nations is at least twice as dependent on oil imports from the Gulf than the United States.

Fortunately they do join in U.N. efforts to condemn Iraq.

Unfortunately, when it comes to actually coming up with the military forces or the money to confront Iraqi aggression in the gulf these nations are not so eager to help.

Eventually, after intense pressure from the United States, Japan and Germany did make a contribution to our efforts to the gulf.

But most believe that Japan's $4 billion and Germany's $2 billion fall far short of the mark given their stake in the Persian Gulf.

Still other allies, such as South Korea, have still to make a meaningful commitment to the gulf.

In fact, it could be said that none of our allies, with the exception of some Middle Eastern nations, have yet made an equitable commitment to the gulf. On a proportional basis, none of our major allies has come close to our commitment of men and military machinery.

The President's efforts to win allied support for the Persian Gulf efforts deserve praise. But more needs to be done.

BURDEN SHARING

The Persian Gulf crisis is a microcosm of the burden sharing problem, not the whole problem.

Even if the burden of the Persian Gulf crisis were equitably shared, the United States would still be carrying far too large of a load around the world.

EUROPE

Let's take a quick look around the world:

The United States spends about $160 billion supporting NATO.

On a per capita basis, the United States spends more defending Western Europe than Germany.

Certainly, the United States does have an interest in European security.

But does it have a larger stake in Europe than Germany? Clearly, no.

Last year, Germany had the largest trade surplus in the world.

West Germany also recently committed up to $550 million per year to go toward maintaining Soviet troops stationed in East Germany.

If Germany can contribute $550 million to keeping Soviet troops in Germany, can't it also pay more to support the more than 336,000 United States troops in Europe?

JAPAN

We face a similar situation in Japan.

The United States now maintains 55,000 troops in Japan at an annual cost to the United States Treasury of approximately $4.6 billion per year.

Japan currently contributes about $2.5 billion to the cost of maintaining United States forces in Japan.

Admittedly, the United States forces in Japan also contribute to the security of the whole Asian region, not just Japan.

But Japan has at least an equal stake in the security of the region.

And Japan spends only about 1 percent of its GNP on defense while the United States spends 6 percent.

Further, Japan has one of the strongest—if not the strongest—economies in the world.

Japan has consistently run a $50 billion trade surplus with the United States and an $80 billion trade surplus with the world.

Isn't it time we asked Japan to pick up a larger share of the cost of its own defense, particularly in light of its dependence on imported oil?

OTHER NATIONS

And the list could go on and on.

We have 43,000 troops at a very high state of readiness stationed in South Korea.

The United States also maintains a naval fleet disbursed around the world and military facilities in a dozen other countries.

Clearly, the United States maintains those forces to promote its own security goals. But the troops also protect the United States allies.

In light of the shifting economic power in the world, it now makes sense for those allies to pick up a larger share of the cost of their own defense.

BAUCUS BURDEN SHARING LEGISLATION

I recognize that shifting some of the security burden from the United States to its allies is complex, its politically sensitive, and time-consuming.

It is work for a scalpel, not a meat ax.

But I believe we can create a legislative scalpel.

I am today introducing legislation that requires the President to undertake an overhaul of the current sharing of the security burden between the United States and its allies as a condition for obtaining funding for the basing of U.S. military forces overseas.

Specifically, the legislation requires the President to identify, by March 1 of next year, those nations that do not contribute adequately to their own defense and have the economic means to make a larger contribution.

Admittedly, this is a subjective task. But legislation does outline some criteria and I believe some of the nations just mentioned clearly meet those criteria.

Once the nations are identified, the President is directed to enter into negotiations with those nations—in full consultation with Congress—to increase their contribution to their own defense.

The President is allowed to seek increased contributions through several avenues, including direct increases in military spending or contributions to the United States to offset U.S. expenditures.

This flexibility should avoid a direct conflict with constitutional or social constraints of other nations.

Finally, if those negotiations are not successful within 18 months, the President is given the option of taking retaliatory measures, including but not limited to withdrawing U.S. military forces currently committed to defending the country in question.

CONCLUSION

Admittedly, this is nothing more than a first step.

The President is given wide latitude at all steps in the process.

The legislation is an attempt to focus attention on burden-sharing, without tying the President's hands.

It is intended to be only a gentle push to get the administration and our allies moving in the right direction.

But if a gentle push like this is not sufficient to spur movement, I expect that Congress may soon resort to a hard kick.

The United States can no longer afford to foot the entire bill for our allies' security.

As the President noted in his recent address to the Nation, it is time to seek a new world order.

And I applaud the steps he has taken toward this end. But we must do more.

The new order must include a radical restructuring of the world security burden. This bill attempts to start the process of restructuring.

I ask that the text of the bill appear immediately following my statement in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BURDEN-SHARING BY ALLIES OF THE UNITED STATES FOR EXPENDITURES RELATING TO MILITARY AND SECURITY INTERESTS

(a) IDENTIFICATION OF BURDEN-SHARING NATIONS.—Not later than March 1, 1991, the President shall identify for Congress each nation, in the judgment of the President, that—

(1) is an ally of the United States;

(2) has a sufficiently strong economy (based upon rate of economic growth, current account position, and other appropriate measures of economic activity) to support increased expenditures for defense and security purposes;

(3) has defense and security interests that are being protected by any component, unit, or force of the Armed Forces of the United States deployed outside of the United States; and

(4) in the calendar year preceding the date of the identification, has expended a percentage of such nation's gross national product for the protection of the defense and security interests of such nation that is disproportionately small in relation to existing threats to such interests.

(b) NEGOTIATIONS ON BURDEN-SHARING.—(1) The President is urged and requested to initiate negotiations with the government of each nation identified pursuant to subsection (a) with a view to obtaining the commitment of such government to increase its expenditures for the defense and security interests of such nation.

(2) For the purposes of the negotiations referred to in this subsection, a nation shall be considered to have increased expenditures for the protection of its defense and security interest if such nation—

(A) increases the percentage of such nation's gross national product attributable to expenditures by such nation for the protection of such interests (including expenditures related to the replacement or augmentation with armed forces of such nation of units, components, or forces of the Armed Forces of the United States now stationed within such nation to protect the defense and security interests of such nation);

(B) provides financial, logistic, medical, foreign aid, or other assistance to support United States or multilateral armed forces protecting such interests for such nation; or

(C) reimburses the United States for costs incurred by the Armed Forces of the United States to protect such interests.

(3) Not later than October 1, 1992, the President shall report to the Congress on the progress of the negotiations initiated pursuant to this subsection.

(c) LIMITATION ON OBLIGATIONS FOR ARMED FORCES ABROAD.—On or after October 1, 1991, funds appropriated to or for the Department of Defense may not be obligated for the support of any component, unit, or force of the Armed Forces of the United States serving in a foreign nation identified pursuant to subsection (a) unless the President has initiated negotiations with the government of such nation pursuant to subsection (b).

(d) SANCTIONS FOR UNSUCCESSFUL NEGOTIATIONS.—If, in the judgment of the President, negotiations with the government of a nation undertaken pursuant to this Act are unsuccessful, the President may impose upon such nation any sanctions the President considers appropriate, including the withdrawal of military support by the Armed Forces of the United States for the defense and security interests of such nation.

By Mr. WIRTH:

S. 3112. A bill to amend the Federal Home Loan Bank Act, the Home Owners' Loan Act, and other acts to restructure the Resolution Trust Corporation and dissolve the Oversight Board, to merge the Office of Thrift Supervision into the Office of the Comptroller of the Currency, to dissolve the Federal Housing Finance Board, and to restructure the Federal prosecution of bank crimes; to the Committee on Banking, Housing, and Urban Affairs.

SAVINGS AND LOAN SIMPLIFICATION ACT

Mr. WIRTH. Mr. President, I rise to introduce the Savings and Loan Simplification Act of 1990 [SALSA], legislation designed to streamline the structure of the Federal Government's efforts to address the troubles of the thrift industry. The S&L debacle is arguably the greatest financial crisis since the Great Depression. Losses are mounting at a rate of several million dollars a day and resolving the S&L crisis will be among the most expensive undertakings in U.S. history. The projected cost of this effort has been steadily increasing, with the most recent General Accounting Office estimate reaching at least $375 billion, well over $1,000 for each person in the United States.

There is no single culprit responsible for the widespread losses experienced by savings and loans. Instead, the causes of the crisis are complex and varied. Forbearance and inadequate supervision by regulators, major downturns in regional economies, imprudent industry responses to deregulation, and fraud and insider abuse by thrift owners and management all contributed significantly to the problem we now face. The debacle is a colossal mess, Mr. President—and I have found that the more you learn about it the more daunting it looks.

We must examine all the factors that contributed to thrift losses so we can avoid a recurrence of the problems that have plagued the industry and vigorously pursue criminal activity that led to taxpayer losses. Nevertheless, the main task has to be to clean up this problem, and to do so at the lowest possible cost to the American taxpayer.

Last year, the administration got off to a good start by proposing the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA]. President Bush recognized that we faced a very significant problem and proposed legislation, promptly acted upon and improved by the House and Senate, that offered a good first step at resolving the savings and loan industry's problems. I did not support every element of the President's legislation, disagreeing, for instance, with its off-budget financing scheme and the plan to allow the Chairman of the Federal Home Loan Bank Board to become Director of the Office of Thrift Supervision [OTS] without Senate confirmation. Nevertheless, I thought the President's plan, on balance, was worthy of support.

Unfortunately, in recent months, I have become concerned by the administration's implementation of FIRREA. The S&L crisis deserves to be a high priority. Yet it seems that the administration has not been giving the S&L crisis the urgent attention that it requires. A variety of factors have led to this conclusion. These include the sluggish pace of resolutions of failed institutions, the slow pace of asset sales and the circumstances surrounding the resignation of Daniel Kearney as chief executive of the Resolution Trust Corporation [RTC] Oversight Board. These events raise concerns about the level of coordination between the various agencies involved in the S&L rescue operation and the lack of overall guidance from the administration. Too often, it seemed like no one was in charge or, worse, that several people thought they were.

I also found the administration's protracted delay in filling many of the positions related to the S&L bailout particularly troubling. The President waited more than 6 months after FIRREA's enactment, to name the two public members of the RTC Oversight Board, which is supposed to determine the policies guiding the RTC in its efforts to close or merge insolvent S&L's and liquidate remaining assets. After a long delay, the administration chose to appoint part-time rather than full-time members to the Federal Housing Finance Board. The Banking Committee has not held hearings on the nominations because of the decision to offer part-time nominees. There was also a long delay in the appointment of the RTC's Regional Advisory Boards. Finally, the administration knew of M. Danny Wall's departure as Director of OTS for nearly 4 months before naming a replacement, 2 days after a judicial decision forced the issue.

I have also been deeply troubled by the administration's failure to request adequate funding to investigate and prosecute criminal activity related to thrift failures. Last year in FIRREA the Congress authorized $75 million annually for 3 years for this purpose. However, the administration requested only $50 million for the current fiscal year and did not specify its request for next year. Fraud and other criminal activity contributed to the S&L crisis and it is plain our law enforcment officials do not have adequate resources to investigate and prosecute criminal activity in this area. Both the House and Senate have moved to address this issue and, once Congress began to act,

the administration announced support for initiatives in this area.

All of these elements have contributed to my reservations about the progress of the plan to resolve the problems facing the thrift industry and the deposit insurance fund. I am concerned that the administration has simply not given this matter priority and attention commensurate with its cost and importance. I am also concerned that the overall structure of the President's S&L rescue operation is too cumbersome and has contributed to the slow progress thus far. The wide variety of individuals and agencies involved obscures responsibility and makes it difficult to reach swift decisions and act promptly. The legislation I introduce today, the Savings and Loan Simplification Act of 1990, is designed to streamline this structure.

The legislation would accomplish this by reducing the number of agencies involved in S&L-related issues. A number of entities would be abolished and their responsibilities transferred to other already-existing agencies. The RTC Oversight Board, the Federal Housing Finance Board [FHFB], and the OTS would all be abolished under the proposal.

The RTC Oversight Board would cease to exist. However, the separate RTC Board of Directors would remain in place and continue to direct the Corporation's operations. This Board would be expanded by adding two independent members to be appointed by the President. The members of the Federal Deposit Insurance Corporation [FDIC] Board would continue to serve on the RTC Board and the FDIC chair would chair the RTC Board as well.

The present structure has been described as providing two heads for the RTC. This arrangement makes it difficult for the RTC to act quickly with one voice and leads to confusion over who is actually in charge of the Corporation. The early months of the RTC saw conflicts between the two boards. The confusion and disarray were among the factors that led to Daniel Kearney's resignation as president of the Oversight Board earlier this year.

Elimination of the Oversight Board would remove one level of the bureaucracy directing the RTC's actions. Consolidating the Oversight Board's policy guidance and the RTC Board's responsibility for day-to-day operations is more efficient and would lead to swifter decisionmaking and implementation at the RTC.

The present Oversight Board includes the Secretary of the Treasury, the Secretary of Housing and Urban Development and the Chairman of the Federal Reserve Board. These three individuals have a wide variety of important responsibilities and resolving the S&L crisis is only one of a number of matters competing for their time and attention. The RTC should be directed by individuals without major responsibilities in other areas. The consolidated board this legislation would establish includes the members of the FDIC Board, who direct an agency that performs tasks similar to the RTC, and two public members appointed by the President who could hold no other Government position.

The legislation would also abolish the Office of Thrift Supervision and transfer supervisory authority over savings and loan associations to the Office of the Comptroller of the Currency. Authority over thrift holding companies would move to the Federal Reserve, which currently regulates bank holding companies. Supervising banks and thrifts requires similar expertise and regulations. In FIRREA, we moved to harmonize capital standards and other regulatory requirements for banks and thrifts. This is a welcome trend. We should take a further step in having the same regulator oversee both federally chartered banks and thrifts. This will ensure that both types of institutions receive similar regulatory treatment and compete on a level playing field.

Consolidating bank and thrift supervision would also be a step toward increased functional regulation of financial services and markets. Functional regulation is an important element of many proposals to modernize our regulatory structure to reflect developments in the rapidly changing financial services industry. For example, the Banking Committee recently heard testimony on this matter from Gerald Corrigan, president of the New York Federal Reserve Bank and a leading advocate of the functional approach to regulation.

Abolishing OTS would reduce the dulplication of resources within two regulatory bodies. It would promote efficiency and reduce some costs. However, I do not advocate eliminating the expertise that exists within the OTS. I expect that many OTS personnel would move to the Comptroller's office or the Federal Reserve as those agencies take over responsibility for thrift regulation. Abolishing OTS also does not mean there is no place for financial institutions that concentrate on home lending, the traditional role of S&L's. I believe there will continue to be a need and market niche for such institutions. Consolidating regulatory supervision does not necessarily mean we should abandon the Federal Home Loan Bank System and other efforts to encourage and support mortgage lending.

The legislation would also abolish the Federal Housing Finance Board [FHFB]. The President's delayed appointment of part-time members to this Board clearly indicates that the administration does not believe that the Board is an important component of the S&L rescue plan. The legislation would transfer responsibility for supervising the Federal Home Loan Banks to the Federal Reserve Board. FIRREA established an affordable housing program financed by contributions from the Federal Home Loan Banks and administered by the FHFB. Under SALSA, HUD would administer this program.

The legislation clarifies that any existing rights, duties, or obligations of the U.S. OTS, and the FHFB are not affected by the legislation, nor shall any lawsuits or other legal actions be abated by the legislation. Another provision provides that existing orders, resolutions, determinations, and regulations of the abolished agencies will remain in force unless and until changed by the successor agencies. These are important transition provisions to limit the disruption and confusion that might otherwise result from the legislation.

The legislation would also restructure the Board of Directors of the FDIC by removing the Director of OTS, abolished by the legislation, from the Board and making the Comptroller of the Currency a non-voting member. There would be three voting members appointed by the President, one of whom would serve as Chairman.

Another provision of the legislation relates to the disposition of environmentlly significant property acquired by the RTC. FIRREA contained a provision to help encourage the sale of environmentally valuable property to appropriate governmental agencies and conservation groups. I believe an important market exists for such properties. However, after several efforts to encourage the RTC, I have been disappointed with the Corporation's efforts to pursue such sales. For this reason, I am proposing new procedures to guide the disposition of environmentally significant property. The RTC would be authorized to transfer property with significant natural, cultural, recreational, or scientific value. In addition, the Secretary of the Interior can direct the Corporation to transfer property of significant natural value to Federal or state agencies. Finally, the RTC would be required to provide public agencies and nonprofit conservation groups with an opportunity to purchase the property before it can be offered to other purchasers.

An important provision of the legislation establishes a fraud and enforcement review division within the RTC. The division would help the RTC and other relevant agencies pursue criminal cases, civil claims, and administrative enforcement actions against parties affiliated with institutions taken over by the RTC. The division shall also issue semiannual reports on the

coordinated pursuit of claims by relevant Federal agencies.

The fraud and enforcement review division would assist investigators in pursuing thrift crimes. Currently, the RTC and regulators make criminal referals and provide relevant information to investigators. However, their main focus must be on their regulatory activities and resolving thrift insolvencies. A separate division would be able to focus on coordination with other agencies and perform the task more efficiently and effectively.

A variety of regulatory agencies can make criminal referals to the Department of Justice for FBI investigation and possible prosecution by U.S. attorneys. I have found that Department of Justice funds, activities, and records regarding S&L related crimes are often aggregated together with other bank fraud and white-collar crime cases. It is difficult to determine the full extent of criminal activity within the industry and the progress of efforts to pursue those who contributed to taxpayer losses. The fraud and enforcement division would be able to coordinate, and provide information about, the Government's activities in this area.

The division would also help the RTC police the many transactions involving its contractors and properties under the Corporation's control. The RTC's function carries with it the potential for fraud and abuse similar to what we saw in HUD during the 1980's. The fraud and enforcement division would help the RTC guard against such problems.

SALSA would also further restrict the RTC's ability to borrow so-called working capital. Currently, the RTC can borrow up to 85 percent of the value of the assets it holds, available cash, and any borrowing authority not yet used by the Resolution Funding Corporation, the shell corporation that raises funds for the RTC. The legislation would reduce this limit to 75 percent.

Rising estimates of the need for working capital and the impact of this borrowing on the Federal budget deficit and the Gramm-Rudman-Hollings process have focused attention on this topic. The RTC may not be able to repay working capital borrowing if the returns from asset sales are significantly lower than expected. The value of the assets held by the RTC is a moving target and current estimates may prove high. For this reason, allowing the RTC to borrow up to 85 percent of the value of its assets could prove risky. We may need to allow further borrowing by the RTC but I am concerned that the present process allows the RTC too much leeway to borrow without congressional approval.

The legislation also gives the FDIC authority to increase deposit insurance premiums. In recent weeks, both CBO and GAO have issued reports that raise serious concerns about the health of the Bank Insurance Fund. Both reports indicate that the fund is under stress and that a major bank failure or a signficant recession could wipe out the fund. Because of concerns about losses to the fund in recent years, the FDIC has proposed to increase the insurance premium from the current 12 cents for each $100 in deposits to 19.5 cents, the maximum permitted under current law. This legislation would authorize the FDIC to further increase premiums for both banks and thrifts if necessary. It does not require or mandate that the FDIC increase premiums. Senator RIEGLE has recently introduced separate legislation granting this authority. I believe we should act on this matter before the close of this Congress.

Finally, the legislation calls for a Financial Institutions Fraud Unit, headed by a special counsel to supervise and coordinate investigations and prosecutions within the Department of Justice of criminal activity related to the financial services industry. This section of the proposal also calls for task forces to ensure that adequate resources are available in this area and a senior interagency group to identify the most significant S&L and bank fraud cases and focus resources where they are most needed. This group would include officials from both the Department of Justice and financial institution regulatory agencies.

This, then, is what my proposal would do. Many of the problems that we have seen this year may be attributed to the growing pains that can be expected at the start of any project of this scope and magnitude. Nevertheless, I believe the problems can be attributed in part to the cumbersome structure of the President's plan. The administration may be moving more aggressively on the S&L rescue now but a cumbersome structure has not helped so far and may again lead to problems in the future.

I understand the concern of many that we should not reopen FIRREA at this time. In fact, it may be too late in this Congress to give the issue the close consideration it requires. However, the need for additional capital to rescue S&Ls and the Treasury Department's deposit insurance study are likely to prompt legislation early next year. The next Congress is also likely to see another effort to craft comprehensive financial restructuring legislation. Other factors may also encourage legislation related to FIRREA. Whether we act now or later, I believe the provisions of the Savings and Loan Simplification Act deserve our serious consideration.

Although I did not include it in this legislation, I believe we should seriously consider consolidating regulation of all insured depository institutions. Establishing one, independent regulator would help ensure that all institutions receive consistent treatment and compete on a level playing field. FIRREA was, in many ways, a step in this direction. Passage of SALSA would go a step further by folding OTS into the Comptroller's Office. If we keep moving toward more consistent and functional regulation, and I think we should, moving to a single, independent regulator for all depository institutions would be efficient. Rather than chartering and regulating different types of institutions to meet different needs in the financial marketplace, we could simply allow institutions to determine their own market niche. If we do so, however, we must take care to keep the regulator and the insurance fund separate.

I look forward to continuing to work with Chairman RIEGLE, Senator GARN and my other colleagues on the Banking Committee as we address issues related to the savings and loan industry and the financial services industry.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE SAVINGS AND LOAN SIMPLIFICATION ACT OF 1990

Section 1—This section would title the legislation "The Savings and Loan Simplification Act of 1990."

TITLE I

Section 101—This section would abolish the Resolution Trust Corporation (RTC) Oversight Board. The separate RTC Board of Directors would be expanded by adding two independent members appointed by the President and confirmed by the Senate. The Chairman of the Federal Deposit Insurance Corporation Board would continue to serve as Chairman of the RTC Board as well.

Section 102—This section transfers to the Secretary of the Treasury the authority that the RTC Oversight Board presently has over the Resolution Funding Corporation, the entity which issues the bonds that finance the RTC.

Section 103—This section would abolish the Federal Housing Finance Board (FHFB). The responsibilities of this Board would be shifted to the Federal Reserve Board with the exception of the Affordable Housing Program established by FIRREA. The program would be administered by the Department of Housing and Urban Development.

Section 104—This section would abolish the Office of Thrift Supervision (OTS) and transfer supervisory authority over savings and loan associations to the Office of the Comptroller of the Currency and the Federal Reserve.

Section 105—This section would restructure the Board of Directors of the Federal Deposit Insurance Corporation (FDIC). The Director of OTS would no longer serve on the Board and the Comptroller of the Currency would become a non-voting members. There would be three voting members ap-

pointed by the President, one of whom would serve as Chairman.

Section 106—This section includes a number of transitional provisions relating to the changes made by the legislation. Some of the provisions deal with the transfer and reassigning of assets and personnel of OTS and FHFB, as well as the rights of employees affected by the changes. Other provisions clarify that any existing rights, duties, or obligations of the United States, OTS, and the FHFB are not affected by the legislation, nor shall any lawsuits or other legal actions be abated by the legislation. Finally, the section provides that existing orders, resolutions, determinations, and regulations of OTS and FHFB will remain in force unless and until changed by the successor agencies.

Section 107—This section relates to the disposition of environmentally significant property acquired by the RTC. The RTC would be authorized to transfer property with significant natural, cultural, recreational or scientific value. In addition, the Secretary of the Interior can direct the Corporation to transfer property of significant natural value to federal or state agencies. Finally, the RTC would be required to provide public agencies and non-profit conservation groups with an opportunity to purchase the property before it can be offered to other purchasers.

Section 108—This section establishes a fraud and enforcement review division. The division would help the RTC and other relevant agencies to pursue criminal cases, civil claims and administrative enforcement actions against parties affiliated with institutions taken over by the RTC. The division shall also issue semi-annual reports on the coordinated pursuit of claims by relevant federal agencies.

Section 109—This section would further restrict the RTC's ability to borrow so-called "working capital." Currently, the RTC can borrow up to 85 percent of the value of the assets it holds, available cash, and any borrowing authority not yet used by the Resolution Funding Corporation. The legislation would reduce this limit to 75 percent.

Section 110—This section gives the FDIC authority to increase deposit insurance premiums for both banks and thrifts beyond the current limit if necessary. It does not require or mandate that the FDIC increase premiums.

TITLE II

Section 201—This section would establish a Financial Institutions Fraud Unit, to be headed by a Special Counsel.

Section 202—This section outlines the responsibilities of the Special Counsel. The Counsel would supervise and coordinate investigations and prosecutions within the Department of Justice of criminal activity related to the financial services industry, ensure that federal statutes are used to the fullest authorized extent to recover the proceeds of illegal activities against the financial services industry, and ensure that adequate resources are available for the investigation and prosecution of fraud and other criminal activity related to the industry.

Section 203—This section authorizes the Attorney General to assign such personnel to the Fraud Unit as deemed appropriate to maintain of increase enforcement activity.

Section 204—This section of the proposal calls for Financial Institutions Fraud Task Forces to ensure that adequate resources are available in this area and a senior interagency group to identify the most significant S&L and bank fraud cases and focus resources where they are most needed. This group would include officials from both the Department of Justice and financial institution regulatory agencies.

Section 205—This section requires the Financial Institutions Fraud Unit to compile and collect data regarding investigations, prosecutions and enforcement proceedings and report semiannually to Congress on this date and its coordination activities.

Section 206—This section directs the Attorney General to make statistics of pending criminal matters, investigations, cases and defendants involving financial institutions available to Congress on at least a monthly basis.

By Mr. BENTSEN (for himself, Mr. BOREN, and Mr. DASCHLE):

S. 3113. A bill to amend the Internal Revenue Code of 1986 to repeal section 2036(c), to provide special valuation rules in certain cases involving estate freezes, and for other purposes; to the Committee on Finance.

SPECIAL VALUATION RULES IN CASES INVOLVING ESTATE FREEZES

● Mr. BENTSEN. Mr. President, I am introducing legislation today that will repeal section 2036(c) of the Internal Revenue Code and provide new rules to limit evasion of Federal estate and gift taxes by means of estate freezes.

The Omnibus Reconciliation Act of 1987 contained section 2036(c). The existing laws were designed to prevent tax avoidance. Unfortunately, the cure 3 years ago turned out to be worse than the disease. The complexity, breadth and vagueness of the new rules have posed an unreasonable impediment to the transfer of family businesses. As a result, many taxpayers, uncertain about the scope of current law, have refrained from making legitimate intrafamily transactions that have no tax avoidance purpose.

Last year in response to these problems, the Senate Finance Committee voted to repeal these rules and announced that we would study various alternative ways to prevent valuation abuses. Last year's repeal provision, however, was not enacted after all revenue-losing provisions were stripped on the Senate floor from the budget reconciliation bill. In the interim we have continued to prepare a replacement proposal that all parties would be comfortable with.

Senators BOREN and DASCHLE, in particular, have labored long and hard on this issue. I commend them on their efforts, as this bill would not have been possible without their assistance. Earlier this year, they chaired a joint hearing of the Subcommittee on Taxation and Debt Management and the Subcommittee on Energy and Agricultural Taxation. At that hearing the subcommittee members reviewed proposals from the American Bar Association and American College of Probate, the Tax Section of the D.C. Bar, the U.S. Chamber of Commerce, and the American Institute of Certified Public Accountants. In addition, they heard from a wide range of estate planners, small business representatives and the Treasury Department. All witnesses agreed that the current rules should be repealed. Most witnesses testified that these rules should be replaced with a rule that is targeted to valuation abuses. That is exactly what this bill does.

We have worked hard to balance taxpayers' concerns with our concern about transfer tax abuses. I'm convinced that this proposal is a reasonable approach to the problem. It prevents valuation abuses without dramatically restructuring the transfer tax system. Moreover, these rules will not trap unwary taxpayers who undertake common business transactions.

Mr. President, I ask unanimous consent that the text and a description of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. REPEAL OF SECTION 2036(c).

(a) IN GENERAL.—Section 2036 (relating to transfers with retained life estate) is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(b) CONFORMING AMENDMENTS.—

(1) Section 2207B is amended—

(A) by striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(B) by striking "subsections (a) and (b)" in subsection (c) (as so redesignated) and inserting "subsection (a)", and

(C) by striking "subsections (a), (b), and (c)" in subsection (c) (as so redesignated) and inserting "subsections (a) and (b)".

(2) Section 2501(d) is amended by striking paragraph (3).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of property transferred after December 17, 1987.

SEC. 3. SPECIAL VALUATION RULES.

(a) IN GENERAL.—Subchapter B of chapter 12 (relating to transfers) is amended by inserting after section 2512 the following new section:

"SEC. 2512A. VALUATION OF CERTAIN RETAINED RIGHTS.

"(a) APPLICATION OF SECTION.—

"(1) IN GENERAL.—Solely for purposes of determining whether a transfer described in paragraph (2) is a gift (and the value of such transfer), the valuation rules provided in subsection (b) shall apply.

"(2) APPLICABLE TRANSFERS.—For purposes of paragraph (1), a transfer is described in this paragraph if—

"(A) it is a transfer of an interest in a corporation or partnership to (or for the bene-

fit of) a member of the transferor's family, and

"(B) the transferor or an applicable family member retains immediately after the transfer an applicable retained interest.

"(b) VALUATION OF CERTAIN RETAINED RIGHTS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the value of any right with respect to which an interest is treated as an applicable retained interest under subsection (c) shall be treated as being zero.

"(2) VALUATION OF CERTAIN RIGHTS.—Paragraph (1) shall not apply to any right conferred by an applicable retained interest if—

"(A) market quotations are readily available (on the date of the transfer) for such interest on an established securities market,

"(B) such interest is of the same class as the transferred interest, or

"(C) such interest would be of the same class as the transferred interest but for nonlapsing differences in voting power (or, in the case of an interest in a partnership, nonlapsing differences with respect to management and limitations on liability).

Subparagraph (C) shall not apply to any interest in a partnership if the transferor or an applicable family member has the right to alter the liability of the transferee of the transferred property.

"(3) CUMULATIVE DISTRIBUTION RIGHTS.—Paragraph (1) shall not apply to a distribution right with respect to which the distributions are cumulative and which has a preference upon liquidation, except that for purposes of determining the value of the transferred interest to which such right relates, the determination as to whether the cumulative distributions can reasonably be expected to be paid shall be made without regard to whether the person retaining the interest possesses control over the entity.

"(c) APPLICABLE RETAINED INTERESTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable retained interest' means any interest in an entity which confers—

"(A) a distribution right, but only if the interests in the entity held by the transferor and applicable family members immediately after the transfer described in subsection (a)(2) represent control of the entity, or

"(B) a liquidation, put, call, or conversion right.

"(2) CONTROL.—For purposes of paragraph (1)(A)—

"(A) CORPORATIONS.—In the case of a corporation, the term 'control' means the holding of interests representing at least 50 percent (by vote or value) of the stock of the corporation.

"(B) PARTNERSHIPS.—In the case of a partnership, the term 'control' means—

"(i) the holding of interests representing at least 50 percent of the capital or profits interests in the partnership, or

"(ii) in the case of a limited partnership, the holding of any interest as a general partner.

"(3) TREATMENT OF CERTAIN RIGHTS TO CONVERT PREFERRED INTO COMMON.—For purposes of this section—

"(A) IN GENERAL.—If an interest—

"(i) is a right to convert into a fixed number (or a fixed percentage) of the shares of the same class of stock as the stock described in subsection (a)(1) (or would be of the same class but for nonlapsing differences in voting power),

"(ii) is nonlapsing, and

"(iii) is subject to proportionate adjustments for splits, combinations, reclassifications, and similar changes in the capital stock,

then such interest shall not be treated as an applicable retained interest.

"(B) SIMILAR RULE TO APPLY IN CASE OF PARTNERSHIPS.—A rule similar to the rule of clause (i) shall apply in the case of partnerships.

"(d) DISTRIBUTION AND OTHER RIGHTS.—For purposes of this section—

"(1) DISTRIBUTION RIGHT.—The term 'distribution right' means—

"(A) in the case of a corporation, a right to distributions from the corporation with respect to its stock, and

"(B) in the case of a partnership, a right to distributions from the partnership with respect to the partner's interest in the partnership.

Such term does not include any right with respect to any interest in an entity which participates in the growth of the entity and which is not preferred as to distributions. Such term does not include any liquidation, put, call, or conversion right.

"(2) LIQUIDATION, ETC. RIGHTS.—

"(A) IN GENERAL.—The term 'liquidation, put, call, or conversion right' means any liquidation, put, call, or conversion right the exercise or nonexercise of which affects the value of the transferred interest.

"(B) EXCEPTION FOR FIXED RIGHTS.—The term 'liquidation, put, call, or conversion right' shall not include any liquidation, put, call, or conversion right which must be exercised at a specific time and at a specific amount.

"(e) OTHER DEFINITIONS AND RULES.—For purposes of this section—

"(1) MEMBER OF THE FAMILY.—The term 'member of the family' means, with respect to any transferor—

"(A) the transferor's spouse,

"(B) a lineal descendant of the transferor or the transferor's spouse, and

"(C) the spouse of any such descendant.

"(2) APPLICABLE FAMILY MEMBER.—The term 'applicable family member' means, with respect to any transferor—

"(A) the transferor's spouse,

"(B) the ancestor of the transferor or the transferor's spouse, and

"(C) the spouse of any such ancestor.

"(3) ATTRIBUTION RULES.—

"(A) INTEREST HOLDINGS.—An individual shall be treated as holding any interest to the extent such interest is held indirectly by such person through a corporation, partnership, trust, or other entity. If any individual is treated as holding any interest by reason of the preceding sentence, any transfer which results in such interest being treated as no longer held by such individual shall be treated as a transfer of such interest.

"(B) CONTROL.—For purposes of subsection (c)(2), an individual shall be treated as holding any interest held by a brother or a sister of such individual or by a child of such individual who has not attained the age of majority.

"(4) EFFECT OF ADOPTION.—A relationship by legal adoption shall be treated as a relationship by blood.

"(5) CERTAIN CHANGES TREATED AS TRANSFERS.—Except as provided in regulations, a redemption, recapitalization, contribution to capital, or other change in the capital structure of a corporation or partnership shall be treated as a transfer of an interest in such entity to which this section applies if the taxpayer or an applicable family member—

"(A) receives an applicable retained interest in such entity pursuant to such redemption, recapitalization, contribution to capital, or other change, or

"(B) under regulations, otherwise holds, immediately after the transfer, an applicable retained interest in such entity."

(b) VALUATION OF UNPAID CUMULATIVE DISTRIBUTIONS FOR ESTATE TAX PURPOSES.—Section 2031 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) VALUE OF CUMULATIVE BUT UNPAID DISTRIBUTIONS.—In the case of any interest in a corporation or a partnership which confers a distribution right (as defined in section 2512A(d)(1)) with respect to which the distributions are cumulative, the value of such interest for purposes of this chapter and chapter 12 shall include the lesser of—

"(1) the value of such distributions which have accumulated but remain unpaid as of the date of the death (determined without regard to any discount relating to time of payment), or

"(2) the portion of the liquidation value of the entity to which the decedent was entitled by reason of holding such interest."

(c) EXTENSION OF STATUTE OF LIMITATIONS.—Subsection (c) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new paragraph:

"(9) GIFT TAX ON CERTAIN GIFTS NOT SHOWN ON RETURN.—If, after application of section 2512A, any transfer of property is required to be treated as a gift and shown on a return of tax imposed by chapter 12 (without regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item not shown as a gift on such return if such item is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item."

(d) REVISED VALUATION TABLES FOR CERTAIN INTERESTS.—Section 7520 (relating to valuation tables) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULE FOR CERTAIN INTERESTS INVOLVING FAMILY MEMBERS.—If—

"(1) an individual acquires any interest for life or a term of years in property with respect to which another individual in a generation lower than such individual holds a remainder interest, or

"(2) an individual acquires a remainder interest in property with respect to which another individual in a generation higher than such individual holds any interest for life or a term of years,

then, in determining the value of any such interest, subsection (a)(2) shall be applied by substituting '80 percent' for '120 percent'. For purposes of this subsection, generation assignment shall be determined under section 2651 (without regard to subsection (d) thereof)."

(e) VALUATION OF CERTAIN AGREEMENTS.—Section 2031, as amended by subsection (b), is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) VALUE OF CERTAIN RIGHTS AND RESTRICTIONS.—In determining the value of any property for purposes of this chapter and chapter 12, there shall not be taken into account any option, agreement, or other right to acquire or use the property at

a price less than the fair market value of the property (without regard to such option, agreement, or right), or any restriction on the right to sell or use such property, unless such option, agreement, right, or restriction meets each of the following requirements:

"(1) It is a bona fide business arrangement.

"(2) It is not a device to transfer such property to members of the decedent's family for less than adequate and full consideration.

"(3) Its terms are comparable to similar arrangements entered into by persons in an arms' length transaction."

(f) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 12 is amended by adding after the item relating to section 2512 the following new item:

"Sec. 2512A. Valuation of certain retained rights."

(g) STUDIES.—The Secretary of the Treasury shall conduct a study of—

(1) the prevalence and type of options and agreements used to distort the valuation of property for purposes of subtitle B of the Internal Revenue Code of 1986, and

(2) other methods using discretionary rights to distort the value of property for such purposes.

The Secretary shall, not later than December 31, 1992, report the results of such study, together with such legislative recommendations as the Secretary considers necessary, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to transfers or acquisitions, and estates of decedents dying, after September 25, 1990.

(2) EXCEPTION.—For purposes of the amendments made by this section, with respect to property transferred before September 26, 1990—

(A) any failure to exercise a right of conversion,

(B) any failure to pay dividends, and

(C) any failure to exercise other rights specified in regulations,

shall not be treated as a subsequent transfer.

EXPLANATION OF S. 3113

PRESENT LAW

The estate and gift tax generally is imposed on the value of property passing by gift or bequest. This value is the price at which the property would change hands between a willing buyer and willing seller. The statute of limitations for the gift tax is three years from the filing of the gift tax return.

If a person holds a substantial interest in an enterprise and, in effect, transfers property having a disproportionately large share of the potential appreciation in such person's interest while retaining an interest in the income of, or rights in, the enterprise, then the transferred property is includible in such person's gross estate (sec. 2036(c)).

EXPLANATION OF PROVISIONS

In general

The bill repeals section 2036(c) retroactively and provides in its place rules generally intended to modify the gift tax valuation rules so as to value more accurately the initial transfer. These rules modify the valuation of specific retained rights in corporations and partnerships, the discount rate used in valuing split interests in property, the effect of restrictions upon the value of property, and the gift tax statute of limitations.

Preferred interests in corporations and partnerships

The bill provides rules for valuing certain rights retained immediately after the transfer by the transferor or applicable family members. The rules are premised on the assumption that the value of a residual interest in a corporation or partnership is determined by subtracting the value of retained preferred interests from the value of the whole. The rules apply to the transfer of a transfer of a residual interest to (or the benefit of) a family member.

In applying these rules, an individual is treated as holding amounts held through a corporation, partnership, trust or other entity. Except as provided in regulations, any redemption, recapitalization, contribution to capital, or other change in the capital structure of a corporation or partnership is treated as a transfer of an interest in such entity if an individual or applicable family member thereby receives a retained right affected by the bill.

Retained rights affected by the bill

A liquidation, put, call, or conversion right is valued at zero, unless such right must be exercised at a specific time and amount.

Any distribution right that is noncumulative or lacks a preference upon liquidation is valued at zero if the transferor and applicable family members retain control over the entity. For a corporation, control is defined as holding at least 50 percent (by vote or value) of the stock of the corporation. For a partnership, control generally is defined as holding at least 50 percent of the capital or profits interest in the partnership. In addition, for a limited partnership, any general partner in a limited partnership is deemed to have control. In determining control, an individual is treated as holding any interest held by a brother, sister, or minor child.

In valuing any cumulative distribution right having a preference upon liquidation, the determination of whether the cumulative dividends can reasonably be expected to be paid is made without regard to whether the person retaining the interest possesses control over the entity. For future transfers, however, the value of a right to cumulative distributions would include the lesser of (1) the value of the accumulated distributions as of the date of death valued without regard to any discount relating to time of payment or (2) the portion of the liquidation value of the entity to which the decedent was entitled. This rule assures that the amount of the accumulated dividends is subject to subsequent transfer tax notwithstanding assertions that such dividends will not be paid.

Exceptions

The bill does not apply to any right conferred by a retained interest if (1) market quotations are readily available for the interest on an established securities market, (2) such interest is of the same class as the transferred interest, or (3) such interest would be of the same class as the transferred interest but for nonlapsing differences in voting power (or, in the case of a partnership, nonlapping differences with respect to management and limitations on liability). The last exception applies only if the transferor or applicable family member does not have the right to alter the transferee's liability.

In addition, the bill does not apply to a right to convert into a fixed number (or a fixed percentage) of the shares of the same class as the transferred stock, which is nonlapsing, and subject to proportionate adjustments for splits, combinations, reclassifications and similar changes in the capital stock. This exception also applies to similar rights in partnerships.

Definitions

Liquidation, put, call or conversion right.—A liquidation, put, call or conversion right is any liquidation, put, call or conversion right the exercise or nonexercise of which affects the value of the transferred interest.

Distribution right.—A distribution right generally is a right to distributions with respect to stock or a partnership interest, as the case may be. It does not include a right that participates in the growth of the entity and is not preferred as to distributions or upon liquidation, because such right does not affect the value of the transferred interest. Nor does it include any liquidation, put, call, or conversion right.

Family.—A member of the family is, with respect to any transferor, the transferor's spouse, a lineal descendent of the transferor or the transferor's spouse, and the spouse of any such descendant. An applicable family member is, with respect to any transferor, the transferor's spouse, ancestors of the transferor and the spouse, and spouses of such ancestors.

Trusts and term interests in property

The bill provides that if an indivdiual acquires either (1) an interest for life or a term of years in property with respect to which another individual in a generation lower than the transferor holds a remainder interest, or (2) if an individual acquires a remainder interest in property with respect to which another individual in a generation higher than such individual holds any interest for life or a term of years, then the value of the life or a term of years is determined by using an interest rate equal to 80 percent of the Federal midterm rate for the month in which the valuation date falls. An individual who is a lineal descent of a grandparent of the transferor or transferor's spouse would be assigned a generation by comparing the number of generations between the grandparent and individual with the number of generations between the grandparent and transferor (or spouse).

Buy-sell agreements

The bill provides that the value of property for transfer tax purposes is determined without regard to any option, agreement or other right to acquire or use the property at less than fair market value or any restriction on the right to sell or use such property, unless the option, agreement, right or restriction is (1) a bona fide business arrangement, (2) not a device to transfer such property to members of the descedent's family for less than full and adequate consideration, and (3) its terms are comparable to similar arrangements entered into by persons in an arm's length transaction. The third requirement entails a showing that the agreement was such as one that would have been obtained in an arm's length bargain.

Statute of limitations

Under the bill, the gift tax statute of limitations does not close for a gift (determined after applying the special valuation rule) is such gift was not disclosed on a gift tax return.

Study

The bill requires that the Secretary of the Treasury conduct a study of the prevalence and types of options and agreements used to distort the transfer tax valuation of property and other methods using discretionary rights to distort the value of property for such purposes. The results of the study would be reported no later than December 31, 1992.

EFFECTIVE DATE

The bill generally is effective for transfers and acquisitions made, and decedents dying, after September 25, 1990. For property transferred prior to September 26, 1990, any failure to exercise an conversion right, pay dividends, or exercise other rights specified in regulations would not be treated as a transfer.●

● Mr. BOREN. Mr. President, I am pleased today to join with my colleagues Senator BENTSEN and Senator DASCHLE in introducing this legislation that will repeal section 203(c) of the Internal Revenue Code. At a time when we should be doing all that we can to help keep small family owned businesses afloat, section 2036(c), known as the estate freeze provision, poses a real threat to their survival.

This provision of the tax law makes it virtually impossible for families to keep their small businesses together from one generation to the next. It will force a trend under which bigger and bigger businesses gobble up smaller ones. In some cases, because of huge estate tax burdens, section 2036(c) forces small businesses to close their doors for good, throwing more and more people out to work.

Small family businesses provide the bulk of new jobs in our economy. The more people who have the experience of running their own businesses and having responsibility for them, the stronger our country will be. It is time to repeal this unfair portion of the Tax Code and help small family owned businesses for a change.

The legislation we are introducing today repeals section 2036(c) and instead provides for special valuation rules for estate freezes. The current law is overly broad and unintelligible to even the most sophisticated counsel, let alone counsel representing many small family owned business or farms throughout the United States. It is worth nothing that even supporters of 2036(c), few though they may be, concede that the 1987 law was clumsily fashioned. What they really mean is that virtually every knowledgeable observer has concluded that the new rules are simply unadministrable and not at all subject to a patch-up job of revision. While Treasury and other academics have suggested modifications, very few have come forward with hard and fast revisions. Given the tremendous burdens this rule places upon family owned small business, the only fair and meaningful course is to cleanly and clearly start over with repeal.

The current law affects many ordinary, day-to-day business transactions that almost everyone would agree should not be covered. This law clearly discourages the continuation of family businesses by almost requiring sales to outsiders. Bob Tutty, president of the Chouteau Telephone Co., Chouteau, OK, testified before my Finance Subcommittee at hearings I chaired on the repeal of section 2036(c) and said:

Often, the only reason an individual remains in a community is because they have inherited, or will inherit, a small family-owned business, such as a telephone company or a family farm. Passing on a business to the next generation is a common occurrence in a small town or rural community. The same kind of job opportunities that are available in an urban area don't exist in rural areas.

It is interesting to note that the legal permission of estate freezes is seen by opponents as a giant loophole simply because it permits the transmission of a family owned business from one generation to another without the imposition of confiscatory tax rates. The facts are that our entire Tax Code is designed to raise revenue and to fairly promote economic activity. With the exception of 2036(c), I think Congress has generally chosen to promote not discourage the growth and prosperity of some 20 million small, family owned businesses in this Nation.

I believe the most efficient way to solve this problem is to repeal section 2036(c) and start over. We should begin with a clean slate, only then can we begin to consider a much more narrow, focused and equitable alternative to the current section 2036(c). I believe the legislation we are introducing today is such an alternative. I urge my colleagues to join us in supporting this legislation.●

● Mr. DASCHLE. Mr. President, I am pleased to join my distinguished colleagues, Senator LLOYD BENTSEN, chairman of the Finance Committee, and Senator DAVID BOREN, in introducing legislation to repeal section 2036(c) of the Internal Revenue Code and replace it with a significantly more limited measure that is fairer to family businesses.

Last year, I introduced a bill, S. 849, that would repeal section 2036(c). At that time, I indicated that I would be open to consideration of a more limited substitute—one that was targeted strictly at the estate tax abuses that allegedly were occurring prior to enactment of section 2036(c). I also expressed an interest in working with Chairman BENTSEN in this endeavor.

After extensive review of alternative options, including meetings with small business groups and hearings on this issue in the Finance Committee, Senator BENTSEN and I have what we believe is a resonable alternative to current law section 2036(c).

Our bill addresses three major concerns I have about current law. First, current law takes an approach that throws the baby out with the bathwater. Consequently, a wide range of otherwise legitimate transactions are suspect under its provisions. The bill we are introducing today takes the opposite approach. It says, "These specifically identified abuses are impermissible." Period. In this way, family business owners who wish to pass the business on to their children gradually during their lifetimes can do so with a clear understanding of those means which are impermissible.

Second, under section 2036(c), the IRS can find a transaction unenforceable for estate tax purposes years, perhaps decades, after the transaction occurs. Like a number of other substitute proposals that have been advanced, our bill addresses potential abuses at the time the transaction occurs. This ensures that the appropriate amount of gift tax is paid at that time, leaving owners of businesses with confidence that the transaction will not be found invalid years later when they die and it is too late to do anything about it.

Finally, section 2036(c) is simply too ambiguous and confusing. Senator BENTSEN and I have sought to make our bill much simpler and straightforward. This should make IRS regulations pursuant to the measure much easier and faster to draft.

All of this is not to say that we are not open to further commentary on our proposal. We welcome the reactions of small business owners to our bill in the weeks ahead.

Meanwhile, I will be working closely with Senator BENTSEN to see that, at the very least section 2036(c) is repealed and that any measure that is put in its place, whether it is ours or some other similar measure, is narrowly targeted, fair and simple. Any substitute that does not fit these criteria is simply unacceptable.

I look forward to the comments and questions both of the small business community and my colleagues on the bill that Senator BENTSEN and I are introducing today.●

By Mr. MACK (for himself and Mr. BREAUX):

S. 3114. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit for qualified cancer screening tests; to the Committee on Finance.

CANCER SCREENING INCENTIVE ACT

● Mr. MACK. Mr. President, I rise today, along with my friend and colleague Senator BREAUX, to introduce legislation to assist all Americans in the fight to prevent the 510,000 deaths which will occur this year alone as a result of cancer. The American Cancer Society estimates that 42,500 cancer

deaths which occurred in 1989 could have been prevented through early detection of the disease and prompt treatment.

The Cancer Screening Incentive Act of 1990 provides a tax incentive for all Americans to take advantage of the early detection procedures available to detect cancer at an early stage, thereby saving lives and reducing the associated long-term private and Federal health care costs.

This bill will provide an annual refundable tax credit—not a deduction, but a tax credit—of up to $250 to assist in offsetting the cost of cancer screening procedures unless they are covered by the taxpayers' health insurance policy. Moreover, this credit will be available to all taxpayers whether or not they itemize tax deductions. A new line will appear on all Federal income tax forms, including form 1040-EZ, to offer a credit for cancer screening procedures. Seeing this credit on all Federal income tax forms will help motivate taxpayers to undergo cancer screening procedures. It will also serve as an annual reminder that the Federal Government encourages all Americans to take preventive measures to fight cancer.

As you know, Mr. President, cancer knows no socioeconomic boundaries. Because this tax credit would be available to all taxpayers whether or not they itemize, this legislation will be of particular benefit to low-income families and individuals as this group has a disproportionately high rate of cancer and is less likely to have health care insurance. Additionally, by detecting cancer early, long-term health care costs associated with cancer will be substantially reduced, thereby relieving the burden normally placed on Medicare and Medicaid.

Under the provisions of this legislation, the Secretary of Health and Human Services, in consultation with cancer research and prevention organizations, shall develop the criteria by which taxpayers may take advantage of this credit. These criteria will specify which cancer early detection procedures are necessary, and at what age and how often they should be administered.

The need for Americans to take advantage of the medical technology to detect cancer is irrefutable. For example, in the time it takes me to complete this statement, at least one American will die of complications associated with cancer. Cancer will strike three out of every four American families. And 1 of every 10 American women will develop breast cancer.

This year alone, approximately 1 million Americans will be diagnosed with cancer. Of these 68,000 will be from my home State of Florida. As a matter of fact, Florida has the third highest rate of cancer cases in the United States. It is also a grim fact that Florida has the third highest rate of death from cancer of all States and U.S. territories.

But, Mr. President, we are making significant progress. At the beginning of this century, few cancer patients had any hope of long-term survival. In the early 1930's, less than one in five was alive at least 5 years after treatment. Today, there are more than 6 million living Americans who have a history of cancer, 3 million of whom were diagnosed 5 or more years ago. Even more significantly, the American Cancer Society estimates that 42,500 cancer deaths last year could have been prevented through early detection and treatment.

That is the heart of this proposed legislation. By providing a tax incentive for Americans to take advantage of cancer screening procedures, tens of thousands of lives will be saved each year.

Congress has long advocated early detection and preventative medicine. It's time we do something about it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cancer Screening Incentive Act of 1990".

SEC. 2. FINDINGS.

The Congress finds:

(1) Studies have shown that early detection and screening for cancer can reduce cancer morbidity by as much as 50 percent for certain types of cancer.

(2) The American Cancer Society estimates that 42,500 cancer deaths that occurred in 1989 could have been avoided through early detection of the disease and prompt treatment.

(3) Physicians report that concern about the costs of early detection procedures is one of the main reasons for hesitating to order such procedures.

(4) Many low-income Americans lack comprehensive health insurance coverage and the majority of existing health insurance policies do not adequately cover the costs of cancer early detection and screening procedures.

(5) Studies indicate that the expense of cancer early detection and screening procedures are more than compensated for by long-term savings in health care expenditures.

(6) Demographic forcasts predict that the elderly population will double by the year 2020. Since cancer mortality and incidence rates rise dramatically with age, cancer prevention in the elderly population will become increasingly important.

SEC. 3. CANCER SCREENING CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. CANCER SCREENING TEST CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to any amount paid or incurred by the taxpayer for expenditures (not compensated by insurance or otherwise) for any cancer screening test, which is included in the list under subsection (d), of any eligible individual for the taxable year.

"(b) LIMITATION.—The amount of the credit allowable under subsection (a) with respect to any eligible individual shall not exceed—

"(1) $250, or

"(2) $200 in the case of a taxpayer with a taxable income for the taxable year in exess of the maximum rate of taxable income to which the 15-percent rate applies under the applicable table under section 1.

"(c) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means—

"(1) the taxpayer,

"(2) the taxpayer's spouse, or

"(3) any individual for whom the taxpayer is allowed an exemption under section 151.

"(d) QUALIFYING CANCER SCREENING TEST.—

"(1) IN GENERAL.—For purposes of this section, the Secretary, after consultation with the Secretary of Health and Human Services and cancer research and prevention organizations, shall publish, not later than December 31, 1990, and annually thereafter, a list of cancer screening tests which qualify for the credit allowable under subsection (a).

"(2) CANCER SCREENING TESTS.—The list of cancer screening tests which qualify under subsection (a) shall include at least the following tests:

"(A) Mammogram for female breast cancer.

"(B) Digital rectal examination and proctosigmoidoscopy for colon and rectum cancer.

"(C) Rectal examination and prostate ultrasound examination for prostate cancer.

"(D) Pap test for uterine cancer.

"(E) Pelvic examination for ovarian cancer.

"(e) MANNER AND TIME FOR TAKING CREDIT.—The Secretary shall provide a line for taking the credit allowed under subsection (a) on the page of the return of tax imposed by this subtitle bearing the taxpayer's signature."

(b) COORDINATION WITH DEDUCTIONS FOR MEDICAL EXPENSES.—Section 213(e) of such Code (relating to exclusion of amounts allowed for care of certain dependents) is amended by inserting "or section 35" after "section 21".

(c) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting:

"Sec. 35. Cancer screening test credit.
"Sec. 36. Overpayments of tax."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.●

● Mr. BREAUX. Mr. President, I am proud to join my friend and colleague, Senator MACK, in introducing the Cancer Screening Incentive Act of 1990.

This legislation is simple. We would give a tax credit of up to $250 to taxpayers and their dependents who undergo certain cancer screening and

early detection procedures. We hope to encourage many Americans who are at risk of certain kinds of preventable and treatable cancers to go to their doctors and have tests done.

The American Cancer Society estimates that about 40,000 of the cancer deaths occurred in 1989 could have been avoided through early detection and proper treatment. Currently, due to the high expense of certain routine screening procedures, and the lack of insurance that covers the costs of early detection procedures, many Americans do not follow the guidelines suggested by the American Cancer Society and the National Cancer Institute.

In addition to saving tens of thousands of lives, proper cancer screening and treatment procedures would generate long term saving to the Federal Government's health care programs and to private payors of the costs of health care.

In Louisiana this year an estimated 9,100 people will die from cancer and 18,600 new cases will be reported. Many of those who might otherwise die could be saved by undergoing some simple early detection tests as part of routine visits to their doctor's office. We hope to encourage people who do not have insurance coverage or otherwise could not afford to pay for screening to go in for testing.

Mr. President, I want to thank Senator MACK for his excellent work on this issue, as well as the American Cancer Society for their generous advice and assistance.●

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 3115. A bill to authorize the Secretary of Transportation to prohibit by regulation, certain aircraft overflights of areas which have been declared disaster areas; to the Committee on Commerce, Science, and Transportation.

PROHIBITING OVERFLIGHT OF DECLARED DISASTER AREAS

Mr. AKAKA. Mr. President, on behalf of myself and Senator INOUYE, I am introducing legislation today that would require the Secretary of Transportation, for safety and humanitarian reasons, to issue regulations to prohibit or otherwise restrict aircraft flights over declared national disaster areas. This measure is the first of several initiatives that I will be proposing to address some of the major problems that have arisen in connection with the ongoing volcanic disaster on the island of Hawaii.

Mr. President, the need for this legislation became evident to me after listening to testimony presented at a recent Senate Governmental Affairs Committee oversight hearing that I chaired in Pahoa, HI, on the conduct of Federal relief efforts in connection with the Kilauea Volcano eruption.

As my colleagues are aware, on May 18 the President declared the Kalapana area of the Big Island a national disaster area. The disaster declaration was made retroactive to January 1983, the date on which the current Kilauea Volcano eruption began, making residents of the affected area eligible for Federal disaster assistance. Because of the ongoing nature of the emergency, the declaration was kept open ended to accommodate those who may experience lava-related losses in the future. Thus far, in the course of nearly 8 long years, more than 170 homes have been destroyed, and tens of millions of dollars in personal property and public infrastructure lost.

The committee found that despite the unique problems presented by the Kalapana disaster, the Federal, State, and local disaster relief response to the emergency has been nothing short of outstanding. The Federal Emergency Management Agency, the U.S. Geological Survey, the Small Business Administration, the National Park Service, the State and county civil defense offices, and the Hawaii county government have worked closely together to achieve a remarkable level of coordination in coping with the emergency.

However, Mr. President, one problem that authorities have not addressed is the problem of tour aircraft overflights. At the August 22 hearing, the committee heard testimony about the serious aggravation caused by tour helicopter operators who, without regard to the sensibilities of families witnessing the inundation of their homes by lava, swoop low to obtain a closer view of events for their passengers.

Mr. President, this practice is unconscionable. It smacks of profiteering at the expense of other people's misery—people experiencing an ineffable sense of loss. Many former residents of Kalapana lived in the community for an unusually long period of time; indeed, some native Hawaiian families can trace their roots in the area back many generations before the founding of the Republic. Thus, the destruction of their houses and lands represents more than the simple loss of property—it represents the loss of an entire way of life as well as of a unique and irrecoverable facet of Hawaii's heritage. Thus, the intrusion of roaring helicopters into their state of mourning is almost a barbaric act.

Mr. President, several witnesses at the hearing compared the emotional trauma experienced by Kilauea's victims with that experienced by individuals coping with a lingering, fatal illness in a close friend or family member. Mr. Harry Kim, the Hawaii County civil defense administrator who has become a local hero for his coordination of the disaster relief effort, drew the following analogy:

If someone closest to you is dying in a hospital bed and someone comes in there and pushes you aside and makes a lot of noise as you are trying to prepare for a tragedy in regards to cameras or whatever, and literally pushes you aside physically and disregards everything you are going through * * * is * * * I think what some of the residents have gone through during times when the helicopter service has come.

Mr. President, the nuisance of low-flying aircraft is not confined to the Kalapana region—it is a growing problem throughout the State. In the last few years, I have received dozens of complaints about unwelcome aircraft intrusions in residential areas and national and State parks. A number of approaches have been suggested to solve this vexing problem, including voluntary restraints and airspace regulations. Unfortunately, none of these solutions has been practical: some tour pilots often ignore voluntary restraints, and the State lacks the authority to promulgate airspace rules. Meanwhile, the Federal Aviation Administration, which claims the sole right to regulate airspace, has been reluctant to issue restrictive airspace regulations, citing the agency's traditional position that it regulates airspace only for safety-related reasons.

Mr. President, of all the nuisances that low-flying helicopters and planes present, profiting at the expense of disaster victims is the least acceptable. It is an outrage that cannot be tolerated. While I recognize that some tour operators have at times provided valuable assistance in evacuating residents and in monitoring volcanic activity, and that a responsible air tour industry can be a healthy component of Hawaiia's tourist industry, I nevertheless believe that, at least with respect to disaster areas, air tour flights should and must be restricted.

Apart from simple humanitarianism, it is obvious that flights over disaster areas, particularly areas covered by active lava flows, pose significant hazards to aircraft that may not be present elsewhere. For example, intense heat produced by lava may create dangerous updrafts. In addition, toxic volcanic gases such as sulfuric acid-based "vog" and hydrochloric acid-based "laze" can incapacitate pilots and passengers alike. Finally, there is the difficulty of rescue from hot lava fields in the event of a crash.

Mr. President, for these humanitarian and safety reasons, I urge my colleagues to support reasonable aircraft restrictions in national disaster areas. I ask for their support for this important legislation.

By Mr. HOLLINGS:

S. 3116. A bill to amend title XIX of the Social Security Act to provide that infants born to Medicaid eligible women are continuously eligible for

benefits under such title for 1 year; to the Committee on Finance.

MEDICAID ELIGIBILITY FOR CERTAIN INFANTS

● Mr. HOLLINGS. Mr. President, I rise to introduce an amendment to title XIX of the Social Security Act which shall assure continuity of Medicaid coverage for eligible infants during the critical first year of life.

In 1986, this body approved legislation to permit States the option of providing Medicaid only—without regard to eligibility for AFDC—to women and infants up to 100 percent of the Federal poverty level. Though thinking of Medicaid as health insurance has become accepted, in 1985 it was viewed as "welfare," as there was no "Medicaid only" program and one could obtain Medicaid coverage only through other programs that were viewed as welfare—AFDC, SSI. It was the view of many of us in 1986 that this Nation's dismal infant mortality rate justified a break between Medicaid and AFDC. Establishment of 1-year's coverage for infants in 1986 was not arbitrary, but was based on sound medical advice from the American Academy of Pediatrics, the Institute of Medicine, the National Academy of Sciences, and others of the first year's criticality in child development. This proposal originated with and had the full support of the Nation's Governors. Indeed, the National Governors' Association worked hard for its passage. We calculated the cost of providing this critical coverage and made those funds available in subsequent budgets and reconciliation bills.

Since then we have expanded the benefit—coverage has been made mandatory, eligible income levels have been raised, and the age limit has been expanded. Indeed, there are numerous bills pending to further extend this benefit.

It was the intent of those of us who initiated the benefit and those who voted for it that low-income women would be covered for prenatal care and 60 days postpartum and that the infants born to these women would be covered by Medicaid for a full year. Mr. President, I was astounded to learn that many infants were not receiving this benefit to which they are entitled because a peculiarity in the authorizing language requires that a new Medicaid application be made and approved within 60 days after birth. The wording of section 1902(e) with respect to infant eligibility would lead one to the conclusion that it was also the intent of the framers that a full year would be covered. Let me review the language in title XIX, section 1902(e), of the Social Security Act:

(4) A child born to a woman eligible for and receiving medical assistance under a State plan on the date of the child's birth shall be deemed to have applied for medical assistance and to have been found eligible for such assistance under such a plan on the date of such birth and to remain eligible for such assistance for a period of 1 year, so long as the child is a member of the woman's household and the woman remains eligible for such assistance. During the period in which a child is deemed under the preceding sentence to be eligible for medical assistance, the medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number—unless the State issues a separate identification number for the child before such period expires.

So, how long is the infant eligible? For a year? No, because what we so generously bestow in (4), we take away in (5).

(5) A woman who, while pregnant, is eligible for, has applied for, and has received medical assistance under the State plan, shall continue to be eligible under the plan as though she were pregnant, for all pregnancy-related and postpartum medical assistance under the plan, through the end of the month in which the 60-day period—beginning on the last day of her pregnancy—ends.

Section (6) goes on to assure the woman's coverage for 60 days postpartum even if during that time her income increases beyond the maximum provided for in the plan. And (7) assures continuous coverage for inpatient services for children who exceed the maximum age provided for the plan—more than 1 year old.

I find it most difficult to believe that the framers of this law deliberately created such a large crack for infants to fall through at only 60 days of age—not when we so carefully covered the mother and the child over one. And further program expansions would tend to support this view. Why increase the age of coverage or raise the income limit when so many babies are falling out of the system at 2 months? Wouldn't it make a lot more sense to assure that infants survive the first critical year of life? Yes, and I have to believe that the authors of the expansions that have taken place since 1986 believed that the first year was covered.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTINUOUS ELIGIBILITY FOR MEDICAID BENEFIT PROVIDED FOR INFANTS BORN TO MEDICAID ELIGIBLE WOMEN FOR A PERIOD OF 1 YEAR.

(a) IN GENERAL.—Section 1902(e)(4) of the Social Security Act (42 U.S.C. 1396(e)(4)) is amended—

(1) in the first sentence, by striking "and the woman remains eligible for such assistance" and inserting "and without regard to whether or not the woman remains eligible for such assistance"; and

(2) in the second sentence—

(A) by striking "unless" and inserting "if"; and

(B) by striking "expires" and inserting "expires no new application for such child shall be required".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective with respect to eligibility determinations for calendar quarters beginning on or after January 1, 1991.●

By Mr. MOYNIHAN:

S. 3118. A bill entitled the "Medical Drug Dependency Treatment Coverage Act of 1990"; to the Committee on Finance.

MEDICAL DRUG DEPENDENCY TREATMENT COVERAGE ACT

● Mr. MOYNIHAN. Mr. President, today I rise to introduce a bill which would codify current administration policy with regard to the reimbursement by the Federal Medicaid Program of treatment services for crack cocaine addiction.

One year ago today, I took to the floor of this Chamber to introduce S. 1673, the Drug Abuse Treatment Act of 1989. That bill was, in large part, a response by this Senator to my inability to get a clear response to the question of whether Medicaid would reimburse for the treatment of crack cocaine addiction. We did know that Medicaid would cover methadone for heroin addiction. But since a pharmacological treatment for crack cocaine has not become generally available, we were in the position of being told that since crack addicts had no treatment, crack addicts had no disease.

The following day, I announced my intention to offer my bill as an amendment to the then pending bill S. 1711, the National Drug Control Strategy Act of 1989. In short order, on October 3, 1989, I offered a modified version of the original proposal, and with the cosponsorship of our distinguished minority leader Senator DOLE, the Senate unanimously passed amendment 919. The operative section of that amendment stated:

* * * Treatment on request may be provided to all individuals eligible for assistance under this title (A) who desire to rid themselves of substance abuse problems, and (B) whose income and resources are insufficient to meet the cost of such treatment.

The Senate unanimously endorsed the proposition that Medicaid should and would reimburse any eligible man or woman who sought treatment for addiction to crack cocaine. This no

small accomplishment, however, was all but lost on those whose responsibility it is to see to it that the principles of the Anti-Drug Abuse Act of 1988—Public Law 100-690—be implemented fully. To wit section 2012 of that act entitled "Purposes":

It is the purpose of this subtitle * * * to increase to the greatest extent possible, the availability and quality of treatment services so that treatment on request may be provided to all individuals desiring to rid themselves of their substance abuse problem.

I have taken to the Senate floor, time and again, to remind my colleagues of just what it was we sought to achieve in that 1988 law. Law, Mr. President. Statute. I will not again consume the time of the Senate recalling the principles of demand and supply reduction efforts in that act. The record is replete with such explanations. However, I will state that the administration wavered. Indeed, the Office of National Drug Control Policy, which we created in the 1988 law, and its director failed to answer a call I put to them before the Senate Judiciary Committee on December 12, 1989, to outline their position on my proposal—I should say the proposal of the distinguished Republican Leader and myself—that Medicaid reimburse the treatment of crack cocaine addiction.

On December 14, 1989, we had our answer. The Watertown Daily Times reported the response of Director Bennett: "He had not made up his mind" about Medicaid funding for drug treatment. Silence, Mr. President. Silence.

On May 23, 1990, I received the kind of reasoned and professional response we have come to expect from our most capable Administrator of the Health Care Financing Administration, Dr. Gail Wilensky, to the question we had put to the administration 6 months before. I would ask unanimous consent that this letter, the first of two, appear at the conclusion of my remarks.

Dr. Wilensky's letter clarifies—for the first time—for us and for the States, the extent to which the Federal Medicaid Program will pay for the treatment of crack cocaine addiction. Her statement that: "It is simply not true that Federal Medicaid policy will not permit payment to hospitals for treatment of crack cocaine addiction" was a most welcome pronouncement. Even more so her statement that:

The Medicaid program offers a wide range of benefits which may be of use to crack cocaine addicts. Beyond payment for inpatient and outpatient hospital treatment which are mandatory benefits, States also have the option to include clinic and rehabilitative services in their Medicaid benefit packages. These could range from short episodes to full day treatment programs.

Mr. President, the States did not know this. Perhaps now, with the passage of the bill I introduce today, they will.

At a hearing before the Senate Committee on Finance on June 28, which addressed the tragedy of crack babies, Secretary Sullivan agreed with the position described in Dr. Wilensky's letter. At the hearing, I asked the Secretary to ask Dr. Wilensky to call Dr. Bennett and explain the Health Care Financing Administration's position. Dr. Sullivan replied that he would call Dr. Bennett himself. The Secretary, however, left that hearing for a press conference at the White House at which Dr. Bennett once again, criticized the use of Medicaid moneys for drug treatment. Indeed, treatment period.

I would now take a moment to inform my colleagues that their patience has been rewarded. I have harangued a bit. But this has been a matter of simple yet great importance. Those in Government charged with the health policy of this Nation, and for administering its programs cannot, indeed, must not, be permitted to cloak in deception what Federal law states with regard to any issue, and in particular, this one. Drug addiction is a disease of the brain. It must be treated as such. What services exist must be readily available to eligible individuals who seek treatment.

On August 20, 1990, Dr. Wilensky again wrote to me. This time enclosing a letter she had directed to be sent to all State Medicaid directors, outlining the services that the Federal Medicaid Program would reimburse for the treatment of substance abuse, and specifically, crack cocaine addiction. This is a matter of some consequence. Problems remain. Limitations exist. Those we in Congress, can address. But the administration has now clearly delineated for the States the services available to them for the treatment of crack addiction.

The bill I introduce today, would codify in the statute the two letters from the Health Care Financing Administration, thereby making permanently and explicitly clear to the States, the scope of the Federal Medicaid Program with regard to the variety of services and reimbursement for substance abuse treatment.

Mr. President, I would ask unanimous consent that the bill in its entirety, two letters from Dr. Wilensky, and several press accounts, be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid Drug Dependency Treatment Coverage Act of 1990".

SEC. 2 MEDICAID COVERGE OF ALCOHOLISM AND DRUG DEPENDENCY TREATMENT SERVICES.

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (21);

(B) by redesignating paragraph (21) as paragraph (23); and

(C) by inserting after paragraph (21) the following new paragraph:

"(22) alcoholism and drug dependency treatment services (as defined in subsection (t)); and"; and

(2) by adding at the end the following new subsection:

"(t) The term 'alcoholism and drug dependency treatment services' means inpatient and outpatient alcoholism and drug dependency treatment services (including counseling) provided by a hospital or by any other entity authorized by the State to provide such treatment.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to alcoholism and drug dependency treatment services furnished on or after the date of the enactment of this Act.

DEPARTMENT OF HEALTH AND HUMAN SERVICES, HEALTH CARE FINANCING ADMINISTRATION,

Washington, DC, May 23, 1990.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I am writing to convey our concern that there may be some misunderstanding about Medicaid coverage for crack cocaine addiction. The intent of this letter is to clarify what coverage does exist under the Medicaid program. To the extent individuals are eligible for Medicaid and need inpatient hospital care, it is covered under the Medicaid program. For mandatory Medicaid benefits, such as inpatient hospital services, our regulations explicitly prohibit States from using a recipient's diagnosis, type of illness, or condition as the basis for arbitrary limiting or denying coverage.

A State may determine that the hospital setting is not appropriate for the treatment of certain conditions. However, it is simply not true that Federal Medicaid policy will not permit payment to hospitals for treatment of crack cocaine addiction.

In fact, the Medicaid program offers a wide range of benefits which may be of use to crack cocaine addicts. Beyond payment for inpatient and outpatient hospital treatment which are mandatory benefits, States also have the option to include clinic and rehabilitative services in their Medicaid benefit packages. These services provide outpatient care that could range from short episodes to full day treatment programs.

Although the above services are allowable for all States, they are optional. Each State designs its own program, building on the basic Federal requirements. States establish their own regulations and instructions and construct eligibility, coverage, and payment rules with which they operate their programs. Thus, general statements about Medicaid must be quite general to be applicable across the board.

Another difficulty in discussing an issue like treatment of crack cocaine addiction is

that Title XIX of the Social Security Act provides coverage for generic services rather than coverage for specific diagnoses or conditions. Thus, when a specific condition is discussed, it is necessary to determine the appropriate services the State Medicaid program offers that can be used to treat the symptoms of the condition. In raising the question of hospital care and crack cocaine addiction, the issue must be posed as follows—what, if any, type of inpatient hospital care is medically appropriate for the treatment of crack cocaine addiction? This is a question that must be answered by the individual State in developing its Medicaid coverage package.

Medicaid has one statutory restriction that is of particular relevance to the coverage of substance abuse services. Title XIX precludes the payment for services to individuals between the ages of 22 and 65 in institutions for mental diseases (IMDs). Under the International Classification of Diseases, Clinical Modification (ICD-9-CM), alcohol and drug abuse are classified as mental disorders. Consequently, facilities that exclusively treat psychiatric or substance abuse disorders are considered by Medicaid as IMDs. This restriction in Medicaid coverage relates to the long standing State role in supporting mental health and substance abuse treatment services and operating State mental institutions.

While recognizing the States' primary role in providing services in these areas, the Federal government does target substantial support to States for the prevention and treatment of substance abuse through many activities, most notably the Alcohol, Drug Abuse, the Mental Health Services Block Grant. This grant program provides funds to the States to enhance and expand alcohol, drug abuse, and mental health services according to individual State needs. In response to the National Drug Control strategy, the drug abuse portion of this block grant has been significantly increased this year. The Alcohol, Drug Abuse, and Mental Health Administration also has funds available through several categorical programs which target pregnant women and their infants as well as high-risk populations.

Like you, Dr. Sullivan and I remain strongly committed to fighting drug abuse and reducing the demand for drugs. Should you or your staff require further information on this matter please contact me or Thomas Gustafson, Acting Director, Office of Policy Analysis, of my staff. He may be reached at (202) 245-0500. We welcome your interest in this area, and look forward to working with you on matters of mutual concern.

Sincerely,

GAIL R. WILENSKY, Ph.D.
Administrator.

DEPARTMENT OF HEALTH AND HUMAN SERVICES, HEALTH CARE FINANCING ADMINISTRATION,
Washington, DC, August 20, 1990.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I am responding to your letter of July 16 regarding current Medicaid payment for drug abuse treatment. You indicated that my recent explanation of the Medicaid policy was "a most welcome pronouncement." I assure you that Secretary Sullivan agrees with the position described in my letter to you.

As you know, we share your concerns about drug addiction and related problems. We thought it would be helpful to remind States of the extent to which the Medicaid program could be used to help persons with these conditions. Therefore, we sent letters to each State Medicaid Director reminding them of services available under the program. A copy of that letter is enclosed. I hope you will find it informative.

We appreciate your continued interest in this important national issue. Please be assured that we support all efforts to resolve this problem.

Sincerely,

GAIL R. WILENSKY,
Administrator.

DEPARTMENT OF HEALTH AND HUMAN SERVICES, HEALTH CARE FINANCING ADMINISTRATION,
Baltimore, MD, August 2, 1990.

ALL STATE MEDICAID DIRECTORS: The Medicaid program is an excellent resource in the national effort to deal with drug addiction and related problems. Because Medicaid's benefits are described in terms of specific services rather than the conditions to be treated, there are often misunderstandings as to the extent that the Medicaid program's benefits can help persons with drug addiction and related problems. I am writing to review the ways that available Medicaid benefits relate to the treatment of these conditions in order to ensure that all States are aware of these possibilities.

A number of primary care services may be used, including physicians' services, clinic services, and pharmaceuticals (e.g., methadone). Additionally, services appropriate for treating addiction may be provided (1) by home health agencies, (2) under home and community-based services waivers, and (3) as part of the EPSDT benefit constellation. A number of States have also used freedom of choice waivers or exceptions to their State plans to implement managed care programs targeted to substance abuse. Case management may be used to coordinate the needed services, and special day treatment programs may be established that combine needed therapy, counseling and other services.

Inpatient hospital benefits may be used for acute treatment of symptoms, detoxification and drug-related medical complications. Rehabilitation services may be provided in a wide variety of settings. These include outpatient programs in hospitals and clinics, and inpatient programs located in nursing facilities, psychiatric hospitals, and special units in general hospitals. Rehabilitation services may also be provided in settings that are not Medicaid participating facilities.

Although payment restrictions relating to institutions for mental diseases (IMDs) can affect some inpatient programs for treating chemical dependency, it is important to remember that these restrictions do not apply to any facility that has less than 17 beds. For this reason, it may be advantageous to set up this type program in smaller facilities, even though room and board payment would not be made unless it is a participating facility. Optional IMD benefits are also available in psychiatric facilities for individuals under age 21 and for individuals age 65 and over regardless of the size of the facility.

There are many State and local programs funded by the Office of Substance Abuse Prevention, National Institute on Drug Abuse, and Health Resources and Services Administration. You may find it worthwhile to collaborate with these programs. If your State is interested in expanding Medicaid services in the area of substance abuse treatment, we can support this effort by responding to questions as they arise in developing new programs. Please contact your HCFA Regional Office.

Sincerely,

ROZANN ABATO,
Acting Director, Medicaid Bureau.

[From the New York Times June 22, 1990]

THE SENATOR'S RIGHT ON DRUG TREATMENT

The Senator accuses the drug czar of seeking the "political rewards to be had for tough-guy talk." The drug czar calls the Senator's attack "bilious, dyspeptic, orotund."

What's going on? It's the latest flare-up in a dispute over financing for drug treatment between Daniel Patrick Moynihan and William Bennett, the Director of National Drug Control Policy. Senator Moynihan makes the better case.

The New York Democrat believes that Washington should spend as much on drug treatment as on law enforcement. Treatment programs around the country are desperately underfinanced; more money would make a big dent in the demand for drugs. The 50-50 recommendation was written into the 1988 omnibus drug bill.

Yet last year the Bush Administration, which Mr. Bennett as drug czar, continued the old pattern of spending—73 percent for law enforcement and only 27 percent for treatment. The language of the 1988 law, drug policy officials say, wasn't binding.

Mr. Moynihan responded with an amendment providing more drug treatment money from Medicaid, the Federal health insurance for the poor. The extent to which the program now covers substance abuse treatment in hospitals and clinics remains unclear, and it won't cover treatment in residential programs of the sort considered most effective for crack addicts. The Moynihan amendment, passed by the Senate late last year, would ease those restrictions.

Yet Mr. Bennett continues to resist, suggesting that such funds might be better provided through the current setup of block grants to states. Others worry that the amendment's cost, estimated at $700 million a year, is prohibitive.

But block grants, requiring annual Congressional approvals and further red tape at the state level, are less reliable than a Medicaid change, which would guarantee ongoing Federal support. Such a guarantee could spur the rapid development of drug treatment programs.

Is $700 million too much? If that kind of spending looks unrealistic this year, why not at least begin by allowing Medicaid funds for drug treatment of poor women who are pregnant? That would be an affordable investment—focused where it would do the most good.●

ADDITIONAL COSPONSORS

S. 1815

At the request of Mr. BOSCHWITZ, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Hawaii [Mr. AKAKA], the Senator from Washington [Mr. GORTON], the Senator from Nebraska [Mr. EXON], the Senator from Indiana [Mr. COATS], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from South Carolina [Mr. THURMOND], were

added as cosponsors of S. 1815, a bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer social security taxes on cash tips.

S. 1890

At the request of Mr. THURMOND, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1890, a bill to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

S. 2159

At the request of Mr. BOSCHWITZ, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2159, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 2614

At the request of Mr. GRASSLEY, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 2614, a bill to establish and coordinate research programs for osteoporosis and related bone disorders, and for other purposes.

S. 2729

At the request of Mr. CHAFEE, the names of the Senator from New York [Mr. D'AMATO], and the Senator from Connecticut [Mr. DODD], were added as cosponsors of S. 2729, a bill to amend the Coastal Barrier Resources Act, and for other purposes.

S. 2822

At the request of Mr. LAUTENBERG, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Hawaii [Mr. AKAKA], and the Senator from Florida [Mr. GRAHAM], were added as cosponsors of S. 2822, a bill to promote and strengthen aviation security, and for other purposes.

S. 2983

At the request of Mr. ROTH, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2983, a bill to amend the Internal Revenue Code of 1986 to clarify the application of the passive foreign investment company rules, to repeal the export trade corporation rules, and for other purposes.

S. 2989

At the request of Mr. HEINZ, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 2989, a bill to amend title XIX of the Social Security Act to provide for an expansion of medicaid benefits to low-income pregnant women and children, and to raise the tax on cigarettes to fund such medicaid expansion.

S. 3021

At the request of Mr. DOLE, the name of the Senator from Colorado [Mr. ARMSTRONG] was added as a cosponsor of S. 3021, a bill to establish national voter registration procedures for Presidential and congressional elections, and for other purposes.

S. 3025

At the request of Mr. GLENN, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Florida [Mr. GRAHAM], and the Senator from South Carolina [Mr. HOLLINGS], were added as cosponsors of S. 3025, a bill to amend titles 10 and 37, United States Code, to make members of the Armed Forces involved in Operation Desert Shield or similar operations eligible for certain benefits and to make members of the reserve components of the Armed Forces and retired members of the Armed Forces eligible for certain benefits when ordered to active duty in connection with a mobilization; and for other purposes.

S. 3026

At the request of Mr. GLENN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 3026, a bill to amend titles 10 and 37, United States Code, to make members of the Armed Forces involved in Operation Desert Shield or similar operations eligible for certain benefits and to make members of the reserve components of the Armed Forces and retired members of the Armed Forces eligible for certain benefits when ordered to active duty in connection with a mobilization.

S. 3027

At the request of Mr. GLENN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 3027, a bill to amend the Internal Revenue Code of 1986 to exclude from income the compensation received for active service as a member of the Armed Forces of the United States in a dangerous foreign area.

S. 3028

At the request of Mr. GLENN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 3028, a bill to amend title 39, United States Code, to authorize members of the Armed Forces to post mail without charge while involved in Operation Desert Shield or similar operations.

S. 3051

At the request of Mr. PRESSLER, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 3051, a bill to reduce the pay of Members of Congress corresponding to the percentage reduction of the pay of Federal employees who are furloughed or otherwise have a reduction of pay resulting from a sequestration order.

SENATE JOINT RESOLUTION 329

At the request of Mr. KASTEN, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 329, a joint resolution to designate the week of June 17, 1990 through June 23, 1990 as "National Week to Commemorate the Victims of the Famine in Ukraine, 1932-33," and to commemorate the Ukrainian famine of 1932-33 and the policies of Russification to suppress Ukrainian identity.

SENATE JOINT RESOLUTION 350

At the request of Mr. BYRD, the name of the Senator from Texas [Mr. BENTSEN], the Senator from Hawaii [Mr. INOUYE], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 350, a joint resolution to designate October 18, 1990, as "National Hardwood Day."

SENATE JOINT RESOLUTION 351

At the request of Mr. BYRD, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of Senate Joint Resolution 351, a joint resolution to designate the month of May 1991, as "National Trauma Awareness Month."

SENATE JOINT RESOLUTION 362

At the request of Mr. HATCH, the names of the Senator from Indiana [Mr. COATS], the Senator from Indiana [Mr. LUGAR], the Senator from Montana [Mr. BURNS], the Senator from New York [Mr. D'AMATO], the Senator from Washington [Mr. GORTON], the Senator from Kansas [Mr. DOLE], the Senator from Utah [Mr. GARN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Idaho [Mr. MCCLURE], the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. WARNER], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from New Mexico [Mr. DOMENICI], the Senator from Delaware [Mr. ROTH], the Senator from Alaska [Mr. STEVENS], the Senator from Wyoming [Mr. SIMPSON], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from California [Mr. WILSON], the Senator from Maine [Mr. COHEN], the Senator from Vermont [Mr. JEFFORDS], the Senator from North Carolina [Mr. HELMS], the Senator from Missouri [Mr. BOND], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Florida [Mr. MACK], the Senator from Iowa [Mr. GRASSLEY], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Oklahoma [Mr. NICKLES], the Senator from Michigan [Mr. RIEGLE], the Senator from Michigan [Mr. LEVIN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. SASSER], the Senator from Ohio [Mr. METZENBAUM], the Senator from Texas [Mr. BENTSEN], the Senator from Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. BRAD-

LEY], the Senator from Hawaii [Mr. INOUYE], the Senator from New York [Mr. MOYNIHAN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from South Dakota [Mr. DASCHLE], the Senator from Hawaii [Mr. AKAKA], the Senator from Maine [Mr. MITCHELL], the Senator from California [Mr. CRANSTON], the Senator from Arizona [Mr. DECONCINI], the Senator from Alabama [Mr. HEFLIN], the Senator from Rhode Island [Mr. PELL], the Senator from Illinois [Mr. DIXON], the Senator from Maryland [Ms. MIKULSKI], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of Senate Joint Resolution 362, a joint resolution to designate the period commencing on November 18, 1990, and ending on November 24, 1990, as "National Adoption Week."

SENATE JOINT RESOLUTION 364

At the request of Mr. REID, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Montana [Mr. BURNS], the Senator from South Carolina [Mr. THURMOND], the Senator from Massachusetts [Mr. KERRY], the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. ROTH], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Joint Resolution 364, a joint resolution to designate the third week of February 1991, as "National Parents and Teachers Association Week."

SENATE JOINT RESOLUTION 366

At the request of Mr. COCHRAN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Joint Resolution 366, a joint resolution to designate March 30, 1991, as "National Doctors Day."

SENATE JOINT RESOLUTION 367

At the request of Mr. BOND, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 367, a joint resolution to designate the week of November 11 through 17, 1990, as "Gaucher's Disease Awareness Week."

SENATE CONCURRENT RESOLUTION 91

At the request of Mr. HATFIELD, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Concurrent Resolution 91, a concurrent resolution expressing the sense of the Congress with respect to achieving common security in the world by reducing reliance on the military and redirecting resources toward overcoming hunger and poverty and meeting basic human needs.

SENATE CONCURRENT RESOLUTION 141

At the request of Mr. KENNEDY, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of Senate Concurrent Resolution 141, a concurrent resolution expressing the sense of the Congress regarding the deteriorating human rights situation in Kenya.

SENATE RESOLUTION 296

At the request of Mr. ROTH, the names of the Senator from Colorado [Mr. WIRTH], the Senator from Missouri [Mr. DANFORTH], the Senator from North Carolina [Mr. HELMS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Florida [Mr. MACK], and the Senator from Indiana [Mr. COATS] were added as cosponsors of Senate Resolution 296, a resolution to express the sense of the Senate the support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE RESOLUTION 328—COMMENDING JONATHAN R. STEINBERG FOR HIS SERVICE TO THE SENATE

Mr. CRANSTON (for himself, Mr. MITCHELL, Mr. BYRD, Mr. SIMPSON, Mr. MURKOWSKI, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. GRAHAM, Mr. AKAKA, Mr. THURMOND, Mr. SPECTER, and Mr. JEFFORDS) submitted the following resolution; which was considered and agreed to:

S. RES. 328

Whereas Jonathan R. Steinberg has rendered faithful service to the United States Senate for twenty-one and one-half years, including service as Counsel to the Veterans' Affairs Subcommittee of the Committee on Labor and Public Welfare from 1969 to 1971, Counsel to the Subcommittee on Railroad Retirement of the Committee on Labor and Public Welfare from 1971 to 1973, Counsel to the Special Subcommittee on Human Resources of the Committee on Labor and Public Welfare from 1971 to 1977, Chief Counsel and Staff Director of the Committee on Veterans' Affairs from 1977 to 1981, Minority Chief Counsel and Staff Director of the Committee on Veterans' Affairs from 1981 to 1987, and Chief Counsel and Staff Director of the Committee on Veterans' Affairs from 1987 to 1990;

Whereas Jonathan R. Steinberg discharged the important duties and responsibilities of each of the foregoing positions with great distinction and diligence and with genuine concern for the individual Americans whose lives were affected by his efforts;

Whereas Jonathan R. Steinberg has consistently rendered valuable service to the Senate in the development of legislation to establish, preserve, and improve programs carrying out the Nation's responsibilities to its veterans and their families and has also made great contributions to the development of programs to benefit Americans in all walks of life, including especially persons with disabilities, a wide array of disadvantaged and needy individuals, and children;

Whereas Jonathan R. Steinberg helped guide the Committee on Veterans' Affairs through an extraordinarily active, challenging, and productive period of its history, during which it successfully proposed major advances in veterans' benefits and services;

Whereas the loyalty, judgment, creativity, perseverance, and continuing dedication of Jonathan R. Steinberg have earned for him great respect, gratitude, and affection: Now, therefore, be it

Resolved, That the Senate of the United States commends Jonathan R. Steinberg for his faithful and outstanding service to the Senate and the Nation.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Jonathan R. Steinberg.

AMENDMENTS SUBMITTED

FAMILY PLANNING AMENDMENTS

PRESSLER (AND OTHERS) AMENDMENT NO. 2884

Mr. PRESSLER (for himself, Mr. DOMENICI, Mr. SYMMS, Mr. GRAHAM, Mr. MCCAIN, Mr. HUMPHREY, Mr. COHEN, Mr. GRASSLEY, Mr. WARNER, Mr. PACKWOOD, Mr. KASTEN, and Mr. CONRAD), proposed an amendment to the bill (S. 110) to revise and extend the programs of assistance under title X of the Public Health Services Act, as follows:

At the end of the bill add the following new section:

SEC. . REDUCTION OF PAY OF MEMBERS OF CONGRESS.

(a) REDUCTION IN PAY.—For each month during fiscal year 1991 in which, by reason of a furlough or other employment action necessitiated by a sequestration order under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902), the total amount of the pay paid to any Federal employee is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law, the rate of pay payable to a Member of Congress shall be reduced to the rate of pay established for such Member pursuant to law.

(b) COMPUTATION OF REDUCED PAY.—The rate of pay payable to a Member of Congress for any month referred to in subsection (a) shall be equal to the amount determined by multiplying the rate of pay established for such Member pursuant to law by the percentage reported to Congress for such month under subsection (c)(1)(D).

(c) DETERMINATION OF PERCENTAGE FOR COMPUTATION OF REDUCED PAY.—(1) No later than the first day of each month in fiscal year 1991, the Director of the Office of Management and Budget shall—

(A) determine whether, for a reason described in subsection (a), the total amount of the pay paid to any Federal employee in that month is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law;

(B) estimate the average of the percentages that would result by dividing the monthly equivalent of the annual rate of pay established for each such Federal employee pursuant to law into the total amount projected to be paid such Federal employee for such month;

(C) aggregate the percentages determined under subparagraph (B) for Federal employees for each agency and determine the highest average percentage for any agency; and

(D) transmit to Congress a written report containing the average computed under subparagraph (C).

(2) The Office of Personnel Management may use a statistical sampling method to make the estimates and determinations under paragraph (1).

(3) For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code.

(d) APPLICATION TO OTHER FEDERAL LAWS.—For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposed any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this section and shall apply to the first applicable pay period of members of Congress occurring on or after October 1, 1990. If the date of enactment of this section is after October 1, 1990, and the provisions of this section become applicable in the reduction of pay of Members of Congress, all reductions which would have occurred if this section has been enacted as provided in subsection (b) and the amount of such reduction shall be recovered for the remaining pay periods for fiscal year 1991.

DASCHLE (AND OTHERS) AMENDMENT NO. 2885

Mr. DASCHLE (for himself, Mr. ADAMS, Mr. DECONCINI, Mr. KENNEDY, and Ms. MIKULSKI) proposed an amendment, which was subsequently modified, to amendment No. 2884 proposed by Mr. PRESSLER (and others) to the bill S. 110, supra, as follows:

At the end of the amendment add the following:

APPLICATION TO EXECUTIVE OFFICERS.—

The provisions of this section and the computations as they apply to the reduction under subsection (b) shall apply to the rate of pay for the Vice President, and any executive officer at a position of Level V or above of the Executive Schedule under section 5316 of title V, United States Code, any executive officer or employee in the Executive Office of the President who on the date of the enactment of this section is paid at a pay rate equal to or above the pay rate for a position at Level V of the Executive Schedule.

PRESSLER AMENDMENT NO. 2886

Mr. PRESSLER proposed an amendment to amendment No. 2884 proposed by Mr. PRESSLER (and others) to the bill S. 110, supra, as follows:

In section (c)(D)(2) delete "Office of Personal Management and insert "Office of Management and Budget".

LIEBERMAN (AND KERRY) AMENDMENT NO. 2887

Mr. LIEBERMAN (for himself, Mr. KERRY, Mr. AKAKA, and Mrs. KASSEBAUM) proposed an amendment to the bill S. 110, supra, as follows:

At the appropriate place in the amendment add the following:

Since Americans are deeply concerned about the impact of the Iraqi invasion of Kuwait on the world supply and price of crude oil and on the price of refined products—like gasoline and heating oil—that the American consumer will have to pay and the American economy will have to absorb;

Since the Department of Energy now estimates that most of the crude oil production lost because of the Iraqi invasion of Kuwait will be offset by increased production around the world;

Since crude oil markets remain unstable and volatile, causing the price of crude this week to exceed forty dollars per barrel and leading some experts to conclude that it may reach sixty dollars per barrel;

Since the latest economic indicators show that even before Iraq's invasion of Kuwait the American economy was slowing such that the recent increases in the price of oil and oil products now threaten seriously to disrupt our economy and begin a recession;

Since the substantial increases in oil and oil product prices will severely affect those who can least afford it, including rural and urban poor, home heating fuel users, and small communities relying on oil-fired electric power generation;

ARMSTRONG AMENDMENT NO. 2888

Mr. ARMSTRONG proposed an amendment to amendment No. 2887 proposed by Mr. LIEBERMAN to the bill S. 110, supra, as follows:

At the end of the pending question add the following:

At the appropriate place, add the following new section:

SEC. . NOTIFICATION OF PARENT PRIOR TO ABORTION ON A MINOR.

(a) NOTIFICATION REQUIREMENT.—Section 1001 of the Public Health Service Act (42 USC 300) is amended by adding at the appropriate place the following new subsection:

"( )(1) No entity which receives a grant or enters into a contract under this section shall provide an abortion for an unemancipated female under the age of 18 until at least 48 hours after written notice of the pending abortion has been delivered in the manner specified under paragraph (2), except when the attending physician certifies in the minor's medical record that the abortion was performed due to a medical emergency requiring immediate action.

"(2) Such notice shall—

"(A) Be addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian and delivered personally to such parent or legal guardian by the physician performing the abortion or an agent of the entity; or

"(B) Be made by certified mail addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian with return receipt requested and restricted delivery to the authorized addressee. Time of delivery shall be deemed to occur at 12 o'clock noon on the next day on which regular mail delivery takes place, subsequent to mailing.

"(3) This subsection shall not apply to entities in states that have in effect laws requiring that a parent or legal guardian be notified of, or give consent to, an abortion to be performed on the minor child of such parent or legal guardian."

(b) EFFECTIVE DATE.—This section shall take effect 30 days after enactment.

HUMPHREY AMENDMENT NO. 2889

Mr. HUMPHREY proposed an amendment to the bill S. 110, supra, as follows:

At the end of the pending question, add the following:

SAVINGS AND LOAN FRAUD

SECTION 1. SHORT TITLE

This Act may be cited as the "Savings and Loan Corruption Act of 1990."

SEC. 2 FINDINGS

(a) Congress finds—

(1) that the savings and loan debacle is the largest financial crisis in our Nation's history, and that the cost to the American taxpayer of that debacle may be in excess of one trillion dollars;

(2) that fraud and other criminal activity—including criminal activity by federal officials and officeholders—may have contributed significantly to the saving and loan industry's losses and will cost taxpayers billions of dollars;

(3) that Attorney General Richard Thornburgh recently spoke of an "epidemic of fraud" in the savings and loan industry and indicated that at least 25 to 30 percent of savings and loan failures can be attributed to criminal activity by the institution's officers and management;

(4) that at least some of those fraudulent officers and managers attempted to perpetuate their fraudulent activities through the application of political influence on the appropriate regulatory authorities;

(5) that officials at the Resolution Trust Corporation indicate that an estimated 60 percent of the institutions the corporation has seized "have been victimized by serious criminal activity";

(6) that investigating and prosecuting criminal activity related to the savings and loan crisis—including unlawful efforts to exert political influence on regulatory authorities—will help send an important message of "never again" to those involved in the financial industry; and

(7) that the passage of time makes investigation more difficult and expiring statutes of limitation could allow serious crimes to go unpunished if investigation and prosecution is delayed.

(b) PURPOSE.—It is therefore the purpose of this Act to make increased resources available to the investigation and prosecution of persons who used their political offices to stymie the effective regulation of troubled financial institutions.

SEC. 3. ENFORCEMENT.

(a) Subsection (b) of section 591 of title 28, United States Code, is amended as follows:

(1) by striking the word "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by inserting at the end thereof the following new paragraph:

"(9) any member of the Senate or the House of Representatives or any former member of the Senate or House of Representatives.".

(b) Section 592 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) Not later than sixty days after the enactment of this Act, the Attorney General shall make an application pursuant to subsection (c) of this section for the ap-

pointment of an independent counsel to investigate any violation of Federal criminal law (other than a violation classified as a class B or C misdemeanor or an infraction) in connection with any federally insured financial institution to which Public Law 101-73 and amendments made by Public Law 101-73 apply by any person described in subsection (b) of section 591 of this title if the Attorney General finds that there are reasonable grounds to believe that such violations have been committed by such persons.

BOND (AND OTHERS) AMENDMENT NO. 2890

Mr. BOND (for himself, Mr. DODD, Mr. GRAHAM, and Mr. KERREY) proposed an amendment to amendment No. 2889 proposed by Mr. HUMPHREY to the bill S. 110, supra, as follows:

TITLE I

SECTION 1. ESTABLISHMENT.

There is established the National Commission on the Savings and Loan Industry.

SEC. 2. DUTIES OF THE COMMISSION.

The Commission shall—

(1) examine and identify the origin and causes of the problems in the savings and loan industry that led to the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, including, among other things, consideration of the role of—

(A) State and Federal regulation of savings and loan associations, including capital and accounting standards;

(B) supervision of, and supervisory resources allocated to, savings and loan associations by, or under the authority of, State and Federal governments;

(C) State and Federal statutes concerning savings and loan associations, including asset powers legislation;

(D) macroeconomic changes and regional recessions;

(E) competitive factors;

(F) unprecedented fraud and abuse by persons in or connected with savings and loan associations;

(G) deposit insurance, including changes in the amount insured and in technology; and

(2) recommend, on the basis of such examination, further legislative, regulatory, supervisory, and other administrative changes that will—

(A) prevent the recurrence of the problems identified in the savings and loan industry; and

(B) improve the safety and soundness of depository associations, the Federal deposit insurance funds, and other Federal insurance programs.

SEC. 3. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 8 members appointed as follows:

(1) 2 individuals appointed by the President.

(2) 3 individuals appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives.

(3) 3 individuals appointed by the President pro tempore of the Senate, 2 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of whom shall be appointed upon the recommendation of the minority leader of the Senate.

(b) ELIGIBILITY.—No member, officer, or employee of the executive, legislative, or judicial branch of the Federal Government or of any State or local government may be a member of the Commission.

(c) TERMS.—

(1) IN GENERAL.—Each member shall be appointed for the life of the Commission.

(2) VACANCY.—A vacancy in the Commission shall be filled in the mannr in which the original appointment was made.

(d) PROHIBITION ON COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) QUORUM.—Five members of the Commission shall constitute a quorum but 3 members may hold hearings.

(f) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the Commission from among its members.

(g) MEETINGS.—The Commission shall meet at the call of the Chairperson or of 5 members of the Commission.

SEC. 4. POWERS OF COMMISSION; HEARINGS AND SESSIONS.

(a) IN GENERAL.—The Commission may, for the purposes of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(b) WITNESSES; ADMINISTRATION OF OATHS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Commission may call witnesses and administer oaths or affirmations to witnesses appearing before the Commission.

(2) COORDINATION OF CERTAIN TESTIMONY AND EVIDENCE.—(A) In any case where the Commission intends to receive evidence or call a witness to provide testimony concerning a specific savings and loan association or the role of any person in connection therewith, the Commission shall, in writing not less than 21 days prior to the taking of such testimony or receiving such evidence, provide the Attorney General, the Director of the Office of Thrift Supervision, and the head of the Resolution Trust Corporation with—

(i) the name of the savings and loan association involved;

(ii) the date and location of the testimony or the receipt of evidence; and

(iii) as appropriate, the name of the witness and a specific identification of the subject matter about which such witness is to testify or provide evidence, or the specific nature of the evidence to be received.

(B) The Commissioner shall not take any such testimony or receive any such evidence to the extent the Attorney General, the Director of the Office of Thrift Supervision, or the head of the Resolution Trust Corporation certifies to the Commission that taking such testimony or receiving such evidence would impair, impede, or compromise the investigation, prosecution, or adjudication of a criminal, civil, or administrative matter or proceeding.

(c) INTERIM REPORT.—Not later than 60 days after the date of enactment of this Act, the Commission may submit a report to the Congress concerning the ability of the Commission to obtain information and evidence necessary to carry out its duties under section 2 and including such recommendations concerning additional authority as the Commission deems appropriate.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

(f) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take pursuant to this section.

SEC. 5. STAFF OF COMMISSION: EXPERTS AND CONSULTANTS.

(a) STAFF.—Subject to such regulations as the Commission may prescribe, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—Subject to rules prescribe by the Commission, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS-18 of the General Schedule.

(d) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

SEC. 6. REPORT.

(a) REPORT REQUIRED.—The Commission shall submit a final report to the President and the Congress not later than 6 months after the appointment of the chairperson pursuant to section 3(f).

(b) CONTENTS.—The final report shall, consistent with the duties of the Commission set forth in section 2 of this Act, contain a detailed statement of the findings, conclusions, and recommendations of the Commission.

SEC. 7. TERMINATION.

The Commission shall terminate 30 days after submitting the report required by section 6(a) of this Act.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated not to exceed $1,000,000 to carry out the purposes of this Act.

TITLE II—RESTRUCTURING THE FEDERAL PROSECUTION OF BANK CRIMES

SEC. 201. ESTABLISHMENT OF FINANCIAL INSTITUTIONS CRIME UNIT AND OFFICE OF SPECIAL COUNSEL FOR FINANCIAL INSTITUTIONS CRIME UNIT.

(a) ESTABLISHMENT.—There is established within the Office of the Deputy Attorney General in the Department of Justice a Financial Institutions Fraud Unit to be

headed by a special counsel for the Financial Institutions Fraud Unit (referred to as the "Special Counsel").

(b) RESPONSIBILITY.—The Financial Institutions Fraud Unit and the Special Counsel shall be responsible to and shall report directly to the Deputy Attorney General.

(c) SUNSET PROVISION.—The provisions of this section shall expire no later than 5 years after the date of enactment. The Attorney General may reassign the special counsel of the Financial Institutions Fraud Unit and the Financial Institutions Fraud Unit to the supervision of the Assistant Attorney General for the Criminal Division no earlier than October 1, 1992.

SEC. 202. APPOINTMENT RESPONSIBILITIES AND COMPENSATION OF THE SPECIAL COUNSEL.

(a) APPOINTMENT.—The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Special Counsel shall be responsible for—

(1) supervising and coordinating investigations and prosecutions within the Department of Justice of fraud and other criminal activity in and against the financial services industry;

(2) ensuring that Federal statutes relating to civil enforcement, asset seizure and forfeiture, money laundering, and racketeering are used to the fullest extent authorized by law to recover the proceeds of unlawful activities from persons who have committed crimes in and against the financial services industry; and

(3) ensuring that adequate resources are made available for the investigation and prosecution of fraud and other criminal activity in and against the financial services industry.

(c) COMPENSATION.—The Special Counsel shall be paid at the basic pay payable for level V of the Executive Schedule.

SEC. 203. ASSIGNMENT OF PERSONNEL.

There shall be assigned to the Financial Institutions Fraud Unit such number of personnel as the Attorney General deems appropriate to maintain or increase the level of enforcement activities in the area of fraud and other criminal activity in and against the financial services industry.

SEC. 204. FINANCIAL INSTITUTIONS FRAUD TASK FORCES.

(a) ESTABLISHMENT.—The Attorney General shall establish such financial institutions fraud task forces as the Attorney General deems appropriate to ensure that adequate resources are made available in connection with criminal investigations and prosecution of fraud and other criminal activity in the financial service industry and to recover the proceeds of unlawful activities from persons who have committed fraud or have engaged in other criminal activity in or against the financial services industry.

(b) SUPERVISION.—The Attorney General shall determine how each task force shall be supervised and may provide, if the Attorney General determines appropriate, for the supervision of any task force by the Special Counsel.

(c) SENIOR INTERAGENCY GROUP.—(1) The Attorney General shall establish a senior interagency group to assist in identifying the most significant savings and loan and bank fraud cases and in focusing investigative and prosecutorional resources where they are most needed.

(2) The senior interagency group shall be chaired by the Assistant Attorney General for the Criminal Division and shall include senior officials from—

(A) the Department of Justice;

(B) the Federal Bureau of Investigation;

(C) the Department of the Treasury;

(D) the Office of Thrift Supervision;

(E) the Resolution Trust Corporation;

(F) the Federal Deposit Insurance Corporation;

(G) the Comptroller of the Currency;

(H) the Board of Governors of the Federal Reserve System;

(I) the National Credit Union Administration; and

(J) the Attorney General's Advisory Committee of the United States Attorneys.

(3) This senior interagency group shall enhance interagency coordination and assist in accelerating the investigations and prosecution of financial institutions fraud.

SEC. 205. REPORTS.

(a) IN GENERAL.—(1) The Financial Institution Fraud Unit shall compile and collect data concerning—

(A) the nature and number of financial institutions investigations, prosecutions, and enforcement proceedings in progress;

(B) the nature and number of such matters closed, settled, or litigated to conclusion; and

(C) the results achieved, including fines and penalties levied, prison sentences imposed, and damages recovered, in such matters.

(2) Prior to the conclusion of an investigation or prosecution, data may be compiled in an aggregate statistical form.

(3) The Financial Institutions Fraud Unit shall analyze and report semiannually to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate and the Committee on Banking, Finance and Urban Affairs and the Committee on the Judiciary of the House of Representatives on the data described in paragraph (1) and its own coordination activities with the agencies named in section 204(c), and shall provide such data, as appropriate to such committees.

(b) SPECIFICS OF REPORT.—The report required by subsection (a) shall—

(1) be categorized as to various types of financial institutions;

(2) disclose data for each Federal judicial district; and

(3) identify, with respect to the activities of the Financial Institutions Fraud Unit—

(A) the number of institutions in which evidence of significant fraud or insider abuse has been detected;

(B) the Federal administrative enforcement actions brought against offenders;

(3) any settlements or judgments obtained against offenders;

(4) the indictments, guilty pleas, or verdicts obtained against offenders; and

(5) the resources allocated in pursuit of such settlements, indictments, or verdicts.

SEC. 206. STATISTICS ON FINANCIAL SERVICES CRIME ENFORCEMENT.

Section 522 of title 28, United States Code, is amended by—

(1) inserting "(a)" before "The Attorney General"; and

(2) adding at the end thereof the following new subsection:

"(b) The information provided pursuant to subsection (a)(2) shall include records of the number of pending criminal matters, investigations, cases, and defendants involving financial institutions which shall specify the number of such cases relating to insured depository institutions and shall be made available to the Congress not less than monthly during each year.".

KENNEDY AMENDMENTS NOS. 2891 THROUGH 2911

(Ordered to lie on the table.)

Mr. KENNEDY submitted 21 amendments intended to be proposed by him to amendments intended to be proposed to the bill S. 110, supra, as follows:

AMENDMENT No. 2891

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

No funds made available under title X of the Public Health Service Act shall be used for the performance of an abortion under any circumstances.

AMENDMENT No. 2892

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

No funds made available under title X of the Public Health Service Act shall be used for the performance of an abortion under any circumstances regardless of whether the parent of a minor consents or does not consent to such abortion.

AMENDMENT No. 2893

Beginning on page 1 of the amendment, strike line 7 and all that follows through page 2, line 23, and insert the following new section:

"SEC. 1012. EMPLOYEE PROTECTION.

"The Secretary of Labor shall by regulation establish an employee protection program with a scope of protection, procedures, and remedies that are substantially identical to those found in section 405 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. 2305), except that the burden of proof relied on for determining whether to order corrective action or any other remedy shall be that set forth in section 1221(e) of title 5, United States Code.".

AMENDMENT No. 2894

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

No funds appropriated under title X shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in the Act shall be used to pay the salary or expenses of any grant or contract, recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before Congress.

AMENDMENT No. 2895

On page 1 of the amendment, line 10, insert "referrals for" before the dash.

AMENDMENT No. 2896

On page 2 of the amendment, line 1, insert before the end quotation marks the following: "Notwithstanding the previous sentence, the Secretary shall not make a grant to an organization under this title that is unable to provide services or perform other functions as required under this title or the regulations promulgated under this title.".

AMENDMENT No. 2897

On page 1 of the amendment, strike out line 1, and all that follows and insert in lieu thereof the following:

An objective of family planning programs that receive assistance under title X of the Public Health Service Act shall be the reduction in the number of unintended pregnancies.

AMENDMENT No. 2898

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

Services provided to minors under title X of the Public Health Service Act shall include information on the risks and benefits of all reproductive health choices, including information on the benefits of abstinence and mutually faithful monogamy as a proper reproductive health strategy.

AMENDMENT No. 2899

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

All grantees under title X of the Public Health Service Act shall use only medical supplies that are safe and effective.

AMENDMENT No. 2900

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

Organizations that receive assistance under title X of the Public Health Service Act shall offer adoption referral services and shall inform all clients considering termination of pregnancy of the option of adoption, except that any adoption referral service provided under this section shall be nondiscriminatory as to race, color, religion, and national origin.

AMENDMENT No. 2901

On page 1 of the amendment, strike out line 1 and that follows and insert in lieu thereof the following:

Notwithstanding any other provision of title X of the Public Health Service Act, agencies providing family planning services to minors under such title shall encourage parental involvement in the provision of such services. Nothing in the preceding sentence shall be construed to deny minors access to confidential family planning services.

AMENDMENT No. 2902

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

No funds shall be made available under title X of the Public Health Service Act unless the Secretary has promulgated regulations requiring that the recipient of such funds consider the financial resources of the patient in determining whether such patient is from a low-income family for purposes of such title.

AMENDMENT No. 2903

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

No family planning services shall be provided under title X of the Public Health Service Act in a public school unless such program has been approved by the appropriate local school board after consultation with parents of children in the affected school.

AMENDMENT No. 2904

Notwithstanding any other provision of title X of the Public Health Service Act, agencies providing family planning services to minors under such title shall encourage parental involvement in the provision of such services. Nothing in the preceding sentence shall be construed to deny minors access to confidential family planning services.

AMENDMENT No. 2905

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

Notwithstanding any other provision of title X of the Public Health Service Act, agencies providing family planning services to minors under such title shall encourage parental involvement in the provision of such services. Nothing in the preceding sentence shall be construed to deny minors access to confidential family planning services.

AMENDMENT No. 2906

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

Notwithstanding any other provision of title X of the Public Health Service Act, agencies providing family planning services to minors under such title shall encourage parental involvement in the provision of such services. Nothing in the preceding sentence shall be construed to deny minors access to confidential family planning services.

AMENDMENT No. 2907

On page 1 of the amendment, line 5, insert "referrals for" before "prenatal".

AMENDMENT No. 2908

On page 1 of the amendment, line 7, insert "referrals for" before "breast".

AMENDMENT No. 2909

On page 1 of the amendment. line 5, insert "referrals for" before "prenatal".

AMENDMENT No. 2910

In lieu of the matter proposed to be inserted, insert the following:

SEC. . PARTNER NOTIFICATION.

All grantees who receive assistance under title X of the Public Health Service Act, and who provide HIV testing and counseling services with such assistance, shall assure the Secretary of Health and Human Services that such grantees are in compliance with State and local requirements concerning the notification of the sexual partners of individuals identified as infected with HIV as a result of tests performed by the grantee with such assistance.

AMENDMENT No. 2911

On page 1 of the amendment, strike out line 1 and all that follows and insert in lieu thereof the following:

"Such projects shall offer adoption referral services and shall inform all clients considering termination of pregnancy of the option of adoption, except that any adoption referral service provided under this section shall be nondiscriminatory as to race, color, religion, and national origin."; and

STEWART B. McKINNEY HOMELESS HEALTH CARE, EDUCATION, TRAINING, AND COMMUNITY SERVICES ACT

KENNEDY AMENDMENT NO. 2912

Mr. CRANSTON (for Mr. KENNEDY) proposed an amendment to the bill (S. 2863) to amend the Stewart B. McKinney Homeless Assistance Act and the Public Health Service Act to reauthorize certain health, education, training, and community services programs, and for other purposes, as follows:

At the appropriate place, insert the following new title:

TITLE ____—HOMELESSNESS PREVENTION

SEC. ____01. SHORT TITLE.

This title may be cited as the "Homelessness Prevention and Community Revitalization Act of 1990".

SEC. ____02. PURPOSE.

It is the purpose of this title —

(1) help create safe, positive environments for families, children and individuals in low income housing and neighborhoods;

(2) reduce homelessness and institutionalization by making permanent housing accessible and hospitable to low income families, homeless veterans, frail elderly and individuals of special needs; and

(3) prevent additional homelessness by providing on-site social services and case management to families and individuals who are at risk of homelessness due to income level, illness, mental illness or lack of social and economic support networks.

Subtitle A—Family Support Centers

SEC. ____11. DEFINITIONS.

As used in this subtitle:

(1) ADVISORY COUNCIL.—The term "advisory council" means the advisory council established under section ____12(d)(2)(K).

(2) ELIGIBLE AGENCY.—The term "eligible agency" means State or local agencies, a Head Start agency, any community-based organization including an organization officially designated as a community action agency under section 210 of the Economic Opportunity Act of 1984 (42 U.S.C. 2790), public housing agencies as defined in section 3(b)(6) of the United States Housing Act of 1937, State Housing Finance Agencies, and in addition includes an institution of higher education, a public hospital, a community development corporation, a community health center, and any other public or private nonprofit agency or organization specializing in delivering social services.

(3) FAMILY CASE MANAGERS.—The term "family case managers" means advisers operating under the provisions of section ____16.

(4) GOVERNMENTALLY SUBSIDIZED HOUSING.—The term "governmentally subsidized housing" means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominately consists of very low income families or individuals.

(5) HOMELESS.—The term "homeless" has the same meaning given such term in the subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(a) and (c)).

(6) INTENSIVE AND COMPREHENSIVE SUPPORTIVE SERVICES.—The term "intensive and comprehensive supportive services" means—

(A) in the case of services provided to infants, children and youth, infant and child primary and health services designed to enhance the physical, social, emotional, educational and intellectual development of such infants and children and that shall include, where appropriate, screening and referral services, child care services, early childhood development programs, early intervention services for children with, or at-risk of developmental delays, drop-out prevention services, after-school activities, job readiness services, education and support services for youth (including basic skills and literacy services), and nutritional services;

(B) in the case of services provided to parents and other family members, services designed to better enable parents and other family members to contribute to their child's healthy development and that shall include, where appropriate, substance abuse education, counseling and treatment or referral for treatment, employment counseling and training as appropriate, life-skills training and personal financial counseling, education including basic skills and literacy services, parenting classes, health care and mental health services, peer counseling and crisis intervention services; and

(C) in the case of services provided by family case managers, needs assessment and support in accessing and maintaining appropriate public assistance and social services, referral for substance abuse counseling and treatment or referral for treatment, family violence counseling services, violence counseling and peer support services, family advocacy services, and housing assistance activities including emergency rental or mortgage assistance payments, housing counseling and eviction or foreclosure prevention assistance.

(7) LOW INCOME.—The term 'low income' when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low individual or family incomes.

(8) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(9) VERY LOW INCOME.—The term "very low income" when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary, except that the Secretary may establish income ceilings that are higher or lower than 50 percent of the median for the area on the basis of a finding by the Secretary that such variations are necessary because of unusually high or low individual or family incomes.

SEC. ____12. GENERAL GRANTS FOR THE PROVISION OF SERVICES.

(a) AUTHORITY.—The Secretary is authorized to make grants to eligible agencies in rural and urban areas to pay the Federal share of the cost of programs designed to encourage the provision of intensive and comprehensive supportive services that will enhance the physical, social, emotional, educational, and intellectual development of low-income families, especially those very low-income families who were previously homeless and who are currently residing in governmentally subsidized housing or who are at risk of becoming homeless.

(b) AGREEMENTS WITH ELIGIBLE AGENCIES.—The Secretary shall enter into contracts, agreements, or other arrangements with eligible agencies to carry out the provisions of this section.

(c) CONSIDERATIONS BY SECRETARY.—In carrying out the provisions of this section, the Secretary shall consider—

(1) the capacity of the eligible agency to administer the comprehensive program for which assistance is sought;

(2) the proximity of the agencies and facilities associated with the program to the low-income families to be served by the program or the ability of the agency to provide offsite services;

(3) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for education, employment and training, health and mental health services, substance abuse services, social services, child care, nutrition, income assistance, and other relevant services), with public or private non-profit agencies and organizations that provide assistance to homeless families, and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

(4) the management and accounting skills of the eligible agency;

(5) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the program; and

(6) the involvement of project participants and community representatives in the planning and operation of the program.

(d) REQUIREMENTS.—

(1) IN GENERAL.—Each eligible agency desiring to receive a grant under this section shall—

(A) if a planning grant application has been approved for such agency under section ____13(b), have such application on file with the Secretary;

(B) have experience in providing or arranging for the provision of services such as those required under this section; and

(C) submit an application at such time in such manner and containing or accompanied by such information, including the information required under paragraph (2), as the Secretary shall reasonably require.

(2) APPLICATION.—Each application submitted under paragraph (1)(C) shall—

(A) identify the population and geographic location to be served by the program;

(B) provide assurances that services are closely related to the identifiable needs of the target population;

(C) provide assurances that each program will provide directly or arrange for the provision of intensive and comprehensive supportive services;

(D) identify the referral providers, agencies, and organizations that the program will use;

(E) describe the method of furnishing services at offsite locations, if appropriate;

(F) describe the extent to which the eligible agency, through its program, will coordinate and expand existing services as well as provide services not available in the area to be served by the program;

(G) describe how the program will relate to the State and local agencies providing assistance to homeless families, or providing health, nutritional, job training, education, social, substance abuse, and income maintenance services;

(H) provide assurances that the eligible agency will pay the non-Federal share of the cost of the application for which assistance is sought from non-Federal sources;

(I) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and treated, and such other information as the Secretary requires;

(J) describe the manner in which the applicant will implement the requirement of section ____14;

(K) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible agency, that shall consist of not more than 15 members that shall include—

(i) prospective participants in the program;

(ii) representatives of local private industry;

(iii) individuals with expertise in the services the program intends to offer;

(iv) representatives of the community in which the program will be located;

(v) representatives of local government social service providers;

(vi) representatives of local law enforcement agencies; and

(vii) representatives of the local public housing agency, where appropriate;

(L) describe plans for evaluating the impact of the program;

(M) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

(N) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services; and

(O) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

(e) FAMILY SUPPORT CENTER.—Each program that receives assistance under this section shall establish at least one family support center that shall operate out, or in the immediate vicinity, of governmentally subsidized housing. Such centers shall be the primary location for the administration of the programs and the provision of services under this subtitle.

SEC. ____13 PLANNING GRANTS.

(a) IN GENERAL.—The Secretary is authorized to make planning grants to eligible agencies to enable such entities to develop and submit plans and applications for grants under section ____12.

(b) APPLICATION.—Each eligible agency desiring to receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary shall reasonably require. Each such application shall—

(1) describe the capacity of the eligible agency to provide or ensure the availability of the intensive and comprehensive supportive services pursuant to this subtitle;

(2) describe the low-income families to be served by the program including the number to be served and information on the population and geographic location to be served;

(3) describe how the needs of individuals identified under paragraph (2) will be met by the program;

(4) describe the intensive and comprehensive supportive services that program planners intend to address in the development of the plan;

(5) describe the manner in which the program will be operated together with the involvement of other community groups and public agencies;

(6) specify the agencies that are intended to be contacted and the activities to be coordinated during the planning phase;

(7) contain assurances that the applicant will establish a planning phase advisory council, that may become the council required under section ____12(d)(2)(K), that shall include—

(A) prospective participants in the program,

(B) individuals with expertise in the services the program intends to offer;

(C) representatives of the community in which the program will be located;

(D) representatives of local government social service providers;

(E) representatives of local law enforcement agencies; and

(F) representatives of local public housing agencies;

(8) describe the capacity of the eligible agency to raise the non-Federal share of the costs of the program and such other information as the Secretary may reasonably require;

(9) contain an assurance that the agency will use funds received under this section to prepare a plan as described in this subsection and submit such plan in an application for a grant under section ____12; and

(10) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

(c) ADMINISTRATIVE PROVISIONS.—

(1) TERM OF GRANT.—No planning grant may be for a period longer than 1 year.

(2) MAXIMUM NUMBER OF GRANTS.—Not more than 20 planning grants may be made under this subsection.

(3) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to those applications that demonstrate that the applicant would not have the financial resources available to prepare a plan and application for a grant under section ____12 unless such applicant receives a grant under this section.

(d) MAXIMUM AMOUNT OF GRANT.—No grant awarded under this section to a single eligible agency may exceed $50,000.

SEC. ____14. TRAINING AND RETENTION.

The Secretary shall require that agencies that receive a grant under section ____12 use not less than 5 percent of such grant to improve the retention and effectiveness of staff and volunteers through appropriate service delivery training programs.

SEC. ____15. AMOUNTS OF GRANTS.

(a) IN GENERAL.—The Secretary shall pay to an eligible agency having an application approved under section ____12 the Federal share of the cost of the activities described in the application.

(b) FEDERAL SHARE.—The Federal share shall be 80 percent for each fiscal year.

(c) NON-FEDERAL SHARE.—

(1) IN GENERAL.—The non-Federal share of payments under this section may be in cash or in kind fairly evaluated, including equipment or services.

(2) PRIVATE CONTRIBUTIONS.—Of the non-Federal share, 25 percent of such amount shall be provided through contributions from private entities.

(d) PAYMENTS.—Payments under this subtitle may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(e) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

SEC. ____16. FAMILY CASE MANAGERS.

(a) REQUIREMENT.—Each program that receives a grant under section ____12 shall employ, subject to subsection (e), an appropriate number of individuals with expertise in the provision of intensive and comprehensive supportive services to serve as family case managers for the program.

(b) NEEDS ASSESSMENT.—Each low-income family that desires to receive services from a program that receives assistance under this shall be assessed by a family case manager on such families initial visit to such program as to their need for services.

(c) CONTINUING FUNCTIONS.—Family case managers shall formulate a plan based on a needs assessment for each family. Such case manager shall carry out such plan, and remain available to provide such family with counseling and services, including school advocacy services, to enable such family to become self-sufficient. In carrying out such plan the case manager shall conduct monitoring, tracking, and follow-up activities.

(d) SPECIAL SERVICES.—Case managers shall provide comprehensive services as required under the application submitted under section ____12, that places special emphasis on services relating to substance abuse and domestic violence.

(e) LIMITATION.—No family crisis adviser shall carry a caseload of in excess of 20 families.

SEC. ____17. EVALUATIONS.

(a) IN GENERAL.—The Secretary shall require that programs that receive assistance under this subtitle be evaluated, by a third party with expertise in the types of services to be provided under this subtitle, on an annual basis.

(b) MATTER TO BE EVALUATED.—Evaluations conducted under subsection (a) shall examine the efficacy of programs receiving assistance under this subtitle in—

(1) enhancing the living conditions in low income housing and in neighborhoods;

(2) improving the physical, social, emotional, educational, and intellectual development of low income children and families served by the program;

(3) increasing the self-sufficiency of families served by the program; and

(4) such other factors that the Secretary may reasonably require.

(c) INFORMATION.—Each eligible agency receiving a grant under this subtitle shall furnish information requested by evaluators in order to carry out this section.

(d) RESULTS.—The results of such evaluations shall be provided to the eligible agencies conducting the programs to enable such agencies to improve such programs.

SEC. ____18. REPORT.

Not later than October 1, of each fiscal year, the Secretary shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a report—

(1) concerning the evaluations required under section ____17, together with such recommendations, as the Secretary considers appropriate; and

(2) describing any alternative sources of funding utilized or available for the provision of services of the type described in this subtitle.

SEC. ____19. CONSTRUCTION.

Nothing in this subtitle shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

SEC. ____20. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle, $90,000,000 for fiscal year 1991, $100,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.

Subtitle B—Provision of Services to Elderly Individuals and Individuals With Chronic and Debilitating Illnesses and Conditions

SEC. ____31. ESTABLISHMENT OF PROGRAM.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end thereof the following new part:

"PART L—PROVISION OF SERVICES TO FRAIL ELDERLY INDIVIDUALS AND INDIVIDUALS WITH CHRONIC AND DEBILITATING ILLNESSES AND CONDITIONS

"SEC. 399B. DEFINITIONS.

"As used in this part:

"(1) ADVISORY COUNCIL.—The term 'advisory council' means the advisory council established under section 399C(d)(2)(K).

"(2) ELIGIBLE AGENCY.—The term 'eligible agency' means any community-based organization, State or local agency, community health center, public or private non-profit agency or other institution that will provide or arrange for the provision of appropriate comprehensive services to frail elderly or seriously ill individuals.

"(3) FRAIL ELDERLY.—The term 'frail elderly' means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes part.

"(4) GOVERNMENTALLY SUBSIDIZED HOUSING.—The term 'governmentally subsidized housing' means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominately consists of low income families or individuals.

"(5) HOMELESS.—The term 'homeless' has the same meaning given such term in subsection (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302 (a) and (c)).

"(6) LOW INCOME.—The term 'low income' when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or un-

usually high or low individual or family incomes.

"(7) VERY LOW INCOME.—The term 'very low income' when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 50 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of unusually high or low individual or family incomes.

"SEC. 399C. GENERAL GRANTS FOR THE PROVISION OF SERVICES.

"(a) AUTHORITY.—The Secretary is authorized to make grants to eligible agencies to pay the Federal share of the cost of programs designed to encourage the provision of eligible services to low-income elderly or low-income seriously ill individuals, especially those very low income elderly or seriously ill individuals who were previously homeless or who are at risk of becoming homeless or at risk of institutionalization.

"(b) AGREEMENTS WITH ELIGIBLE AGENCIES.—The Secretary shall enter into contracts, agreements, or other arrangements with eligible agencies to carry out the provisions of this section.

"(c) CONSIDERATIONS BY SECRETARY.—In carrying out the provisions of this section, the Secretary shall consider—

"(1) the capacity of the eligible agency to administer the comprehensive program for which assistance is sought;

"(2) the proximity of the agencies and facilities associated with the program to the low-income individuals to be served by the program, or the ability of the agency to provide offsite services;

"(3) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for health and mental health services, social services, nutrition, and other relevant services), with public or private non-profit agencies providing assistance to homeless individuals and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

"(4) the management and accounting skills of the eligible agency;

"(5) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the program;

"(6) the involvement of program participants and community representatives in the planning and operation of the program; and

"(7) the demonstrated or potential effectiveness of the eligible agency in serving the populations or subpopulations intended to be served under this section.

"(d) REQUIREMENTS.—

"(1) IN GENERAL.—Each eligible agency desiring to receive a grant under this section shall submit an application at such time in such manner and containing or accompanied by such information, including the information required under paragraph (2), as the Secretary shall reasonably require.

"(2) APPLICATION.—Each application submitted under paragraph (1) shall—

"(A) identify the population and geographic location to be served by the program;

"(B) provide assurances that services are closely related to the identifiable needs of the target population;

"(C) provide assurances that each program will provide directly or arrange for the provision of eligible services of the type described in section 399D;

"(D) identify the referral providers, agencies, and organizations that the program will use;

"(E) describe the method of furnishing services at offsite locations, if appropriate;

"(F) describe the extent to which the eligible agency, through its program, will coordinate and expand existing services as well as provide services not available in the area to be served by the program;

"(G) describe how the program will relate to the State and local agencies providing health, nutritional, social, and income maintenance services;

"(H) provide assurances that the eligible agency will pay the non-Federal share of the cost of the application for which assistance is sought from non-Federal sources;

"(I) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and treated, and such other information as the Secretary requires;

"(J) describe the manner in which the applicant will implement the requirement of section 399F;

"(K) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible agency, that shall include—

"(i) prospective participants in the program;

"(ii) individuals with expertise in the services the program intends to offer;

"(iii) representatives of the community in which the program will be located;

"(iv) representatives of local government social service providers;

"(v) community based organizations with a history of providing service to participants;

"(vi) representatives of local public housing agencies, where appropriate; and

"(vii) representatives of local health care professions;

"(L) describe plans for evaluating the impact of the program;

"(M) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

"(N) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services; and

"(O) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

"(e) HOME HEALTH SERVICE PROGRAM.—Each recipient that receives assistance under this section shall establish at least one home health service program that shall operate out of, or in the immediate vicinity of, governmentally subsidized housing. Such programs shall be the primary location for the administration of the programs and the provision of services under this part. Such programs may operate out of existing family support centers.

"SEC. 399D. PLANNING GRANTS.

"(a) IN GENERAL.—The Secretary is authorized to make planning grants to eligible agencies to enable such entities to develop and submit plans and applications for grants under section 399C.

"(b) APPLICATION.—Each eligible agency desiring to receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary shall reasonably require, including—

"(1) a description of the capacity of the eligible agency to provide or ensure the availability of services pursuant to this part;

"(2) a description of the low-income frail elderly or low-income seriously ill individuals to be served by the program including the number to be served and information on the population and geographic location to be served;

"(3) a description of the needs of individuals identified under paragraph (2) that will be met by the program;

"(4) a description of the services that program planners intend to address in the development of the plan;

"(5) a description of the manner in which the program will be operated together with the involvement of other community groups and public agencies;

"(6) a specification of the agencies that are intended to be contacted and the activities to be coordinated during the planning phase;

"(7) assurances that the applicant will establish a planning phase advisory council, that may become the council required under section 399C(d)(2)(K), that shall include—

"(A) prospective participants in the program,

"(B) individuals with expertise in the services the program intends to offer;

"(C) representatives of the community in which the program will be located;

"(D) representatives of local government social service providers;

"(E) representatives of local public housing agencies, where appropriate;

"(8) a description of the capacity of the eligible agency to raise the non-Federal share of the costs of the program and such other information as the Secretary may reasonably require;

"(9) an assurance that the agency will use funds received under this section to prepare a plan as described in this subsection and submit such plan in an application for a grant under section 399C; and

"(10) an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant State and local funds currently utilized to provide services of the type described in this section.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) TERM OF GRANT.—No planning grant may be for a period longer than 1 year.

"(2) MAXIMUM NUMBER OF GRANTS.—Not more than 20 planning grants may be made under this section.

"(3) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to those applications that demonstrate that the applicant would not have the financial resources available to prepare a plan and application for a grant under section 399C unless such applicant receives a grant under this section.

"(d) MAXIMUM AMOUNT OF GRANT.—No grant awarded under this section to a single eligible agency may exceed $50,000.

"SEC. 399E. ELIGIBLE SERVICES.

"(a) IN GENERAL.—Grants awarded under this part shall be used to provide services of the type described in subsection (b) to low-income frail elderly or low income seriously ill individuals.

"(b) SERVICES.—Agencies receiving grants under this part shall use such grants to provide comprehensive services, in accordance with the service plan, that shall include, where appropriate—

"(1) 24-hours nursing supervision services;
"(2) case management services;
"(3) home health care services;
"(4) homemaker services;
"(5) meal provision services;
"(6) attendant services;
"(7) volunteer visiting services;
"(8) adult day care service;
"(9) treatment for substance abuse;
"(10) hospice services;
"(11) post hospitalization respite care services;
"(12) transportation services;
"(13) assistance in accessing and maintaining appropriate public assistance;
"(14) housing assistance activities, including emergency rental or mortgage assistance payments, housing counseling, and eviction or foreclosure prevention assistance;
"(15) mental health services; and
"(16) any other services determined appropriate by the Secretary.

"(c) COORDINATION.—Programs that receive assistance under this part shall be coordinated with a local hospital or community health center that regularly provides emergency medical care services.

"(d) SET-ASIDE FOR ELDERLY.—The Secretary shall require that at least 20 percent of the grants made under this part shall be setaside for the provision of subsidized housing-based services to elderly individuals, especially those very low income elderly individuals who were previously homeless or who are at risk of becoming homeless or at risk of institutionalization.

"SEC. 399F. TRAINING AND RETENTION.

"The Secretary shall require that agencies that receive a grant under section 399C use not less than 5 percent of such grant to improve the retention and effectiveness of staff and volunteers through appropriate service delivery training programs.

"SEC. 399G. AMOUNTS OF GRANTS.

"(a) IN GENERAL.—The Secretary shall pay to eligible agencies having applications approved under sections 399C the Federal share of the cost of the activities described in the application.

"(b) FEDERAL SHARE.—The Federal share shall be 80 percent for each fiscal year.

"(c) NON-FEDERAL SHARE.—

"(1) IN GENERAL.—The non-Federal share of payments under this section may be in cash or in kind fairly evaluated, including equipment or services.

"(2) CASH.—At least 25 percent of the non-Federal share under paragraph (1) shall be in the form of cash.

"(d) PAYMENTS.—Payments under this part may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"(e) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

"SEC. 399H. EVALUATIONS.

"(a) IN GENERAL.—The Secretary shall require that programs that receive assistance under this part are evaluated, by a third party with expertise in the types of services to be provided under this part, on an annual basis.

"(b) MATTER TO BE EVALUATED.—Evaluations conducted under subsection (a) shall examine the efficacy of programs receiving assistance under this part in—

"(1) enhancing the living conditions for low income frail elderly and seriously ill individuals;

"(2) improving the opportunity for individuals served by the program to live independently and to avoid institutionalization; and

"(3) such other factors that the Secretary may reasonably require.

"(c) INFORMATION.—Each eligible agency receiving a grant under this part shall furnish information requested by evaluators in order to carry out this section.

"(d) RESULTS.—The results of such evaluations shall be provided to the eligible agencies conducting the programs to enable such agencies to improve such programs.

"SEC. 399I. REPORT.

"Not later than October 1, of each fiscal year, the Secretary shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a report—

"(1) concerning the evaluations required under section 399H, together with such recommendations, including recommendations for legislation, as the Secretary considers appropriate; and

"(2) describing any alternative sources of funding utilized or available for the provision of services of the type described in this part.

"SEC. 399J. CONSTRUCTION.

"Nothing in this part shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

"SEC. 399K. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, $90,000,000 for fiscal year 1991, $100,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.".

Subtitle C—Projects to Aid the Transition from Homelessness

SEC. ____41. PROJECTS TO AID THE TRANSITION FROM HOMELESSNESS.

Part C of title V of the Public Health Service Act (42 U.S.C. 290cc et seq.) is amended to read as follows:

"PART C—PROJECTS TO AID THE TRANSITION FROM HOMELESSNESS

"SEC. 521. SHORT TITLE.

"This part may be cited as the 'Projects to Aid the Transition from Homelessness (PATH) Act of 1990'.

"SEC. 522. DEFINITIONS.

"As used in this part:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a State, a metropolitan city, or an urban county.

"(2) ELIGIBLE HOMELESS INDIVIDUAL.—The term 'eligible homeless individual' means an individual, including a veteran, who is—

"(A) afflicted with serious mental illness, alcoholism, substance abuse or a combination thereof; and

"(B) homeless or at imminent risk of becoming homeless.

"(3) METROPOLITAN CITY.—The term 'metropolitan city' has the same meaning given such term in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

"(4) SERVICE PROVIDER.—The term 'service provider' includes any general purpose unit of local government, a city, county, town, township, parish, village or combination thereof, a public or private non-profit agency including a veterans' community based service provider, or a community based organization.

"(5) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia and Palau.

"(6) URBAN COUNTY.—The term 'urban county' has the same meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 523. ALLOTMENT.

"(a) IN GENERAL.—The Secretary shall utilize amounts appropriated under section 532 in each fiscal year, to make an allotment to metropolitan cities, urban counties, and States (for distribution to service providers in the States) in the same manner as the Secretary of Housing and Urban Development makes allocations under section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306), except that the Secretary shall—

"(1) substitute 50 percent for 70 percent in subsection (a) of such section 106; and

"(2) substitute 50 percent for 30 percent in subsection (d) of such section 106.

"(b) SPECIAL RULES.—

"(1) IN GENERAL.—If, under the allotment provisions applicable under this part, any city or urban county would receive an allotment of less than 0.05 percent of the amounts appropriated to carry out this part for any fiscal year, such amount shall instead be reallotted to the State, except that any metropolitan city that is located in a State that does not have counties as local governments, that has a population greater than 40,000 but less than 50,000 as used in determining the fiscal year 1987 community development block grant program allocation, and that was allocated in excess of $1,000,000 in community development block grant funds in fiscal year 1987, shall receive directly the amount allotted to such city under subsection (a).

"(2) MINIMUM.—Notwithstanding any other provision of law, the total amount allotted to each State under this part, including amounts allotted to each eligible entity within the State, shall not be less than—

"(A) $500,000; or

"(B) the amount of the allotment such State received pursuant to this part in fiscal year 1990 plus 30 percent of such allotment.

"(3) RATABLE REDUCTION.—The Secretary shall ratably reduce the allotments made pursuant to subsection (a) in order to carry out the provisions of this subsection.

"(c) ALLOTMENTS TO TERRITORIES.—In addition to the other allotments required in this section, the Secretary shall (for amounts appropriated under section 532) make allotments under this subtitle to the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia and Palau, and any other territory or possession of the United States, in accordance with an allotment formula established by the Secretary, but in no case shall the total amount allotted to all of the territories and possessions exceed 2 percent of the total amount appropriated under section 532.

"(d) REMAINING AMOUNTS.—The Secretary may allocate any unclaimed or remaining

funds to eligible entities determined by the Secretary to be in need of additional assistance.

"(e) REQUIREMENT OF NON-FEDERAL CONTRIBUTIONS.—

"(1) IN GENERAL.—The Secretary shall not make an allotment under this part to an eligible entity unless such entity agrees to make available, directly or through donations from public or private entities, non-Federal contributions toward such costs in an amount equal to not less than $1 for each $3 of Federal funds provided under the allotment.

"(2) DETERMINATION OF AMOUNT.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Except as provided in paragraph (3), amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

"(3) SPECIAL RULE.—Funds received pursuant to section 106 of the Housing and Community Development Act of 1974, and the value of any property, buildings, or housing received and fairly evaluated may be included in determining the amount of such non-Federal contributions.

"(4) WAIVER.—The Secretary may waive the requirements of paragraph (1) for metropolitan cities and urban counties which are unable to provide such matching funds.

"(5) PARTICIPATING LOCALITIES.—Each State receiving an allotment under this part shall not require participating localities to provide non-Federal contributions in excess of the non-Federal contributions described in paragraph (1).

"SEC. 524. ALLOTMENT APPLICATION.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Each eligible entity desiring an allotment under section 523 shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) APPLICATION PERIOD.—The Secretary shall provide for a 90 day period during which applications may be submitted pursuant to paragraph (1).

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall—

"(1) describe the activities and services for which the allotment is sought;

"(2) identify existing programs providing services and housing to eligible homeless individuals and identify gaps in the delivery systems of such programs;

"(3) include a plan for providing services and housing to eligible homeless individuals that shall—

"(A) describe the coordinated and comprehensive means of providing services and housing to homeless individuals; and

"(B) include documentation that suitable housing for eligible homeless individuals will accompany the provision of services to such individuals;

"(4) describe the source of the non-Federal contributions described in section 523;

"(5) contain assurances that the non-Federal contributions described in section 523 will be available at the beginning of the grant period;

"(6) describe any voucher system that may be used to carry out this part; and

"(7) contain such other information or assurances as the Secretary may reasonably require.

"SEC. 525. REQUIREMENT OF SUBMISSION OF DESCRIPTION OF INTENDED USE OF GRANT FUNDS.

"(a) IN GENERAL.—The Secretary shall not make an allotment under section 523 to an eligible entity for any fiscal year unless—

"(1) the eligible entity submits to the Secretary a description of the intended use for the fiscal year of the amounts for which the eligible entity is applying pursuant to such section;

"(2) such description identifies the geographic areas within the eligible entity in which the greatest numbers of homeless individuals with a need for mental health, substance abuse, and housing services are located;

"(3) such description provides information relating to the programs and activities to be supported and services to be provided, including information relating to coordinating such programs and activities with any similar programs and activities of public and private entities; and

"(4) the eligible entity agrees that such description will be revised throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the eligible entity pursuant to section 523.

"(b) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary shall not make an allotment under section 523 to an eligible entity for a fiscal year unless the eligible entity agrees that, in developing and carrying out the description required in subsection (a), the eligible entity will provide public notice with respect to the description (including any revisions) and such opportunities as may be necessary to provide interested persons, such as family members, consumers, and mental health, substance abuse, and housing agencies, an opportunity to present comments and recommendations with respect to the description.

"(c) RELATIONSHIP TO STATE COMPREHENSIVE MENTAL HEALTH SERVICES PLAN.—

"(1) IN GENERAL.—The Secretary shall not make an allotment under section 523 to an eligible entity unless the services to be provided pursuant to the description required in subsection (a) are consistent with the State comprehensive mental health services plan required in subpart 2 of part B of title XIX.

"(2) SPECIAL RULE.—The Secretary shall not make an allotment under section 523 to an eligible entity unless the services to be provided pursuant to the description required in subsection (a) have been considered in the preparation of, have been included in, and are consistent with, the State comprehensive mental health services plan referred to in paragraph (1).

"SEC. 526. USE OF ALLOTMENT.

"(a) USE OF ALLOTMENT.—

"(1) IN GENERAL.—Each eligible entity receiving an allotment under to section 523 shall use such allotment to pay the Federal share of awarding grants to or entering into contracts with service providers to enable such service providers to provide comprehensive services and allowable housing assistance to homeless individuals in accordance with the provisions of this part.

"(2) SPECIAL CONSIDERATION.—Each eligible entity receiving an allotment under section 523 shall give special consideration to the provision of services to homeless veterans who are otherwise eligible for services under this subtitle. In providing such services to homeless veterans, such eligible entities shall give priority to service providers with a demonstrated effectiveness in serving homeless veterans.

"(3) FEDERAL SHARE.—The Federal share shall be 75 percent.

"(4) SPECIAL RULE.—Each eligible entity receiving an allotment under section 523 shall use at least two-thirds of such allotment to assist eligible homeless individuals who have—

"(A) a primary diagnosis of a serious mental illness; or

"(B) a diagnosis involving a serious mental illness and substance abuse.

"(5) COORDINATION.—Each eligible entity receiving an allotment under section 523 shall only make grants pursuant to paragraph (1) to service providers that have the capacity to meet or coordinate the comprehensive services and housing needs of eligible homless individuals, including referral services. Such capacity includes contractual arrangements and viable referral plans among service providers of mental health, substance abuse, or housing services so that the comprehensive needs of individuals who are both mentally ill and substance abusers are met.

"(6) ADMINISTRATIVE EXPENSES.—Notwithstanding the provisions of this subsection, each eligible entity receiving an allotment pursuant to section 523 may reserve not to exceed 4 percent of such allotment for administrative expenses.

"(b) SPECIAL RULES.—Each eligible entity receiving an allotment under section 523 shall not award a grant to a service provider that—

"(1) has a policy of excluding individuals from mental health services due to the existence or suspicion of substance abuse; and

"(2) has a policy of excluding individuals from substance abuse services due to the existence or suspicion of mental illness.

"(c) SUPPLEMENTATION.—Each eligible entity receiving an allotment under section 523 shall only use such funds to supplement and not supplant Federal, State and local government funds currently utilized to provide services of the type described in this part.

"SEC. 527. LOCAL APPLICATION.

"Each service provider desiring a grant pursuant to section 526(a) shall submit an application to the appropriate eligible entity at such time, in such manner and accompanied by such information as the eligible entity may reasonably require.

"SEC. 528. LOCAL USE OF GRANT FUNDS.

"(a) SERVICES.—Grants awarded pursuant to section 526(a) shall be used to provide either on-site or off-site services to eligible homeless individuals, including homeless veterans. Such services shall include—

"(1) outreach and engagement services;

"(2) screening and diagnostic treatment services;

"(3) habilitation and rehabilitation;

"(4) community mental health services;

"(5) alcohol or drug treatment services;

"(6) staff training, including the training of individuals who work in shelters, mental health clinics, substance abuse programs, and other sites where homeless individuals require services;

"(7) case management services, including—

"(A) preparing a plan for the provision of community mental health services to the eligible homeless individual involved, and reviewing such plan not less than once every 3 months;

"(B) providing assistance in obtaining and coordinating social and maintenance services for the eligible homeless individual, including services relating to daily living ac-

tivities, personal financial planning, transportation services, and habilitation and rehabilitation services, prevocational and vocational services, and housing services;

"(C) providing assistance to the eligible homeless individual in obtaining income support services, including housing assistance, food stamps, and supplemental security income benefits;

"(D) referring the eligible homeless individual for such other services as may be appropriate; and

"(E) providing representative payee services in accordance with section 1631(a)(2) of the Social Security Act if the eligible homeless individual is receiving aid under title XVI of such Act and if the applicant is designated by the Secretary to provide such services;

"(8) supportive and supervisory services in residential settings;

"(9) referral to primary health services;

"(10) referral to job training and education programs; and

"(11) referral to other relevant service or housing programs.

"(b) HOUSING.—Not to exceed 20 percent of amounts received under a grant awarded pursuant to section 526(a) may be used for—

"(1) minor renovation, expansion, and repair;

"(2) planning;

"(3) technical assistance in applying for housing assistance;

"(4) improving the coordination of housing services;

"(5) security deposits;

"(6) the costs associated with matching eligible homeless individuals with appropriate housing situations; and

"(7) one time rental payments to prevent eviction.

"(c) LIMITATIONS.—Grants awarded pursuant to section 526(a) shall not be used—

"(1) to support emergency shelters or construction of housing facilities;

"(2) for inpatient psychiatric treatment costs or inpatient substance abuse treatment costs; and

"(3) to make cash payments to intended recipients of mental health, substance abuse, or housing services.

"SEC. 529. COORDINATION.

"(a) IN GENERAL.—The Secretary shall provide for coordination among eligible entities of housing and service strategies used in carrying out the provisions of this part.

"(b) INFORMATION.—In carrying out the provisions of subsection (a) the Secretary shall make available to eligible entities—

"(1) the information contained in the application and plan submitted pursuant to section 524; and

"(2) the annual report described in section 531.

"SEC. 530. TECHNICAL ASSISTANCE.

"The Secretary, through the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, may provide technical assistance to eligible entities in developing, planning, and operating programs in accordance with the provisions of this part.

"SEC. 531. REQUIREMENT OF REPORTS BY STATES.

"(a) IN GENERAL.—The Secretary shall not make allotments under section 523 to an eligible entity unless such eligible entity agrees to prepare and submit to the Secretary an annual report in such form and containing such information as the Secretary determines (after consultation with the Comptroller General of the United States, the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse) to be necessary for—

"(1) securing a record and a description of the purposes for which amounts received under section 523 were expended and of the recipients of such amounts; and

"(2) determining whether such amounts were expended in accordance with the provisions of this part.

"(b) AVAILABILITY TO PUBLIC OF REPORTS.—The Secretary shall not make allotments under section 523 to an eligible entity unless such eligible entity agrees to make copies of the reports described in subsection (a) available for public inspection.

"(c) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United States in cooperation with the National Institute of Mental Health, shall evaluate at least once every 3 years the expenditures of grants under this part by eligible entities in order to ensure that expenditures are consistent with the provisions of this part, and shall include in such evaluation recommendations regarding changes needed in program design or operation.

"SEC. 532. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $120,000,000 for fiscal year 1991, and $150,000,000 for each of the fiscal years 1992 through 1995 to carry out this part.".

Subtitle D—Community Development Corporation Improvement Grants

SEC. ____51. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

Part 4 of subchapter A of the Community Economic Development Act of 1981 (42 U.S.C. 9814 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 634. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

"(a) PURPOSE.—It is the purpose of this section to provide assistance to community development corporations to upgrade the management and operating capacity of such corporations and to enhance the resources available to enable such corporations to increase their community economic development activities.

"(b) SKILL ENHANCEMENT GRANTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to community development corporations to enable such corporations to attain or enhance the business management and development skills of the individuals that manage such corporations to enable such corporations to seek the public and private resources necessary to develop low-income housing and to develop community economic development projects.

"(2) USE OF FUNDS.—Grantees may use funds obtained under this section—

"(A) to purchase training and technical assistance from agencies or institutions that have experience in the construction, development and management of low-income housing or experience in community economic development; or

"(B) to purchase such assistance from other highly successful community development corporations.

"(c) OPERATING GRANTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to community development corporations to enable such corporations to support an administrative capability for planning, developing, constructing and managing low-income housing, and for other community economic development projects.

"(2) USE OF FUNDS.—Of amounts made available in any fiscal year for operating grants under this subsection, the Secretary of Health and Human Services shall use—

"(A) 40 percent of such amounts to assist in starting up community development corporations; and

"(B) 60 percent of such amounts to assist established community development corporations.

"(3) TERMS AND CONDITIONS.—Assistance provided through operating grants under this subsection shall be of sufficient size and duration, including multiyear grants where appropriate, to enable a community development corporation receiving such assistance to have an appreciable impact on the area or areas to be served.

"(d) GRANTS FOR COMMUNITY DEVELOPMENT CORPORATION EQUITY ACCOUNTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to any nongovernmental, nonprofit entity that is principally involved with the development, construction or management of low-income housing, or to community development corporations, to enable such entities to establish and maintain equity accounts with which such corporations may plan, develop, construct and manage low-income housing.

"(2) TERMS AND CONDITIONS.—Assistance provided through equity account grants under this subsection shall be of sufficient size and duration, including multiyear grants where appropriate, to enable a community development corporation receiving such assistance to have an appreciable impact on the area or areas to be served.

"(e) APPLICATIONS.—Community development corporations that desire to receive assistance under this section shall prepare and submit, to the Secretary of Health and Human Services, an application at such time, in such form, and containing such information as the Secretary shall reasonably require. Such Secretary shall not require project-specific information for applications for assistance under subsections (b), (c) and (d).

"(f) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, $40,000,000 for fiscal year 1991, $50,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.

"(2) USE.—The Secretary of Health and Human Services shall use—

"(A) 20 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (b);

"(B) 30 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (c); and

"(C) 50 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (d).

"(3) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

"(h) DEFINITION.—As used in this section, the term 'community development corporation' means a nonprofit entity of the type described in this section and that meets the resident control and governing body requirements of 42 U.S.C. 9807(a)(1).".

Subtitle E—Public Housing Gateway

SEC. ____61. SHORT TITLE.

This subtitle may be cited as the "Public Housing Gateway Act of 1990".

SEC. ____62. STATEMENT OF PURPOSE.

The purpose of this subtitle is to establish programs, through public housing agencies, to increase the abilities and self-sufficiency of young residents of public housing, increase the prospects for employment of young residents of public housing, and end generational dependency on public assistance in public housing, through—

(1) the provision of literacy training, training in basic and employment skills, and support services through the public housing agencies; and

(2) the employment of residents of public housing and of professional staff to perform outreach services, including identification of and assistance to residents who could prosper from education and training programs.

SEC. ____63. GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Labor may make grants under this subtitle to public housing agencies for the utilization of public housing in the provision of training and services to economically disadvantaged residents of public housing through gateway programs.

(b) SELECTION OF GRANT RECIPIENTS.—The Secretary shall select public housing agencies to receive grants under subsection (a) and may select only public housing agencies that meet the following requirements:

(1) PROVISION OF FACILITIES.—The public housing agency shall agree to make available suitable facilities in the public housing projects administered by the public housing agency, or any facilities provided by a State or local governmental agency or any private organization or person, for the provision of training and services under this subtitle.

(2) NEED AND CAPABILITY TO PROVIDE SERVICES.—The public housing agency shall demonstrate to the Secretary the need and ability to provide the training and services described in section ____64(a) to individuals qualified to receive the training and services under section ____65.

(3) PROVISION OF SERVICES TO QUALIFIED INDIVIDUALS.—The public housing agency shall demonstrate to the Secretary that any training and services to be provided under this subtitle will be provided only to individuals qualified to receive the training and services under section ____65.

(4) PROVISION OF SERVICES TO YOUNG FAMILIES.—The public housing agency shall demonstrate to the Secretary that the training and services to be provided under this subtitle will be provided to residents of public housing projects where a significant number of young families receiving public assistance reside.

(5) COOPERATION WITH PRIVATE, NON-PROFIT ORGANIZATIONS, OR COMMUNITY BASED ORGANIZATIONS.—The public housing agency shall demonstrate to the Secretary the ability to create cooperative working relationships with private organizations, non-profit organizations, or community based organizations that are to provide training and services under this subtitle and are located in the same community as the public housing agency.

(c) APPLICATIONS FOR GRANTS.—

(1) IN GENERAL.—The Secretary shall prescribe the form and procedures for public housing agencies to make applications for grants under this section.

(2) PRIORITY.—The Secretary shall give priority to applications that demonstrate significant cooperation and coordination with existing private organizations, non-profit organizations, or community based organizations.

SEC. ____64. GATEWAY PROGRAM ESTABLISHED UNDER GRANT PROGRAM.

(a) MANDATORY TRAINING AND SERVICES.—Any public housing agency that receives a grant under section ____63 shall use the grant to establish a gateway program to make available to individuals eligible under section ____65 all of the following training and services, subject to the limitations of section ____65:

(1) INFORMATION.—The provision of information designed to make individuals aware of training, employment, education, counseling or the provision of services offered by the public housing agency, including the training and services available under this subtitle.

(2) LITERACY TRAINING.—Literacy training and bilingual training.

(3) BASIC SKILLS TRAINING.—Remedial education and training in basic skills.

(4) DEVELOPMENT OF WORK HABITS.—Development of good work habits and other personal management skills to enable individuals to obtain and retain employment.

(5) CHILD CARE.—Child care services provided free of charge to facilitate the participation of individuals in other training and services provided under this section. The child care services shall be designed, to the extent practicable, to employ and train economically disadvantaged residents of the public housing project involved, and shall include—

(A) services to provide daytime care for the child dependents who do not attend school and adult dependents of eligible individuals;

(B) services to provide care after school hours for the child dependents of eligible individuals; and

(C) irregular, periodic, and evening care for the child dependents of eligible individuals scheduled to allow the eligible individuals to participate in the training and services provided under this section.

(b) PERMISSIVE TRAINING AND SERVICES.—Public housing agencies that receive grants under section ____63 may make available as part of their gateway programs to individuals qualified under section ____65 literacy training, training in basic and employment skills, and support services, in addition to the training and services described in subsection (a) and subject to the limitations of section ____65, including the following:

(1) EMPLOYMENT ASSISTANCE.—Assistance in acquiring employment.

(2) EMPLOYMENT COUNSELING.—Employment counseling and vocational exploration services.

(3) DEVELOPMENT OF JOBS.—Development of employment positions.

(4) PRIVATE JOB TRAINING.—The provision of training in occupations for which demand is increasing and training in the course of employment, by private employers or organizations.

(5) OTHER FEDERAL EMPLOYMENT TRAINING OR SERVICES.—Training or services coordinated with other Federal employment-related activities.

(6) HIGH SCHOOL EDUCATION.—Assistance in the attainment of certificates of high school equivalency.

(7) COMPUTER SKILLS TRAINING.—Training in computer skills for use in education, skills training, and employment preparation.

(8) TRAINING IN APPLICATION OF SKILLS.—Services to help individuals receiving training and educational assistance to utilize their acquired skills in the competitive employment market.

(9) TRANSITIONAL ACTIVITIES.—Activities designed to provide transition from education to employment.

(10) DRUG PREVENTION SERVICES.—Services to assist individuals with drug prevention, drug counseling, and drug education programs.

(11) SUPPORT SERVICES.—Support services, including child care services in addition to the services described in subsection (a)(5) and transportation to training and services not held in public housing projects.

SEC. ____65. LIMITATIONS ON GATEWAY PROGRAMS.

(a) ELIGIBILITY IN GENERAL.—Public housing agencies receiving grants under this subtitle shall limit participation in training and services provided under gateway programs to individuals who meet the following requirements:

(1) RESIDENCY.—The individual shall be a resident of public housing.

(2) AGE.—The individual shall be not more than 25 years of age.

(3) ECONOMIC DISADVANTAGE.—The individual shall be economically disadvantaged.

(4) EDUCATIONAL DISADVANTAGE.—The individual shall—

(A) have encountered barriers to employment because of a deficiency in a basic skill; or

(B) if over 16 years of age or beyond the age of compulsory school attendance under State law, not have a certificate of graduation from a school providing secondary education and not have achieved an equivalent level of education.

(b) LIMITATIONS ON CHILD CARE SERVICES.—

(1) ELIGIBILITY.—Public housing agencies receiving grants under this subtitle shall limit the provision of child care services under section ____64(a)(5) to the following individuals:

(A) PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who are participating in training or services under a gateway program (not including the provision of support services), during the participation of the individual in the training or services;

(B) UNEMPLOYED FORMER PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who have successfully completed participation in training or services under a gateway program (not including the provision of support services) and who are not employed, during a period in which the individual searches for employment after the completion of the training or services, as follows:

(i) COMMENCEMENT.—The period shall begin on the completion of the training or services by the individual.

(ii) TERMINATION.—The period shall end on whichever of the following occurs first:

(I) The expiration of the 3-month period after the completion of the training or services by the individual.

(II) The commencement of the employment of the individual in a position not funded by grants made under this subtitle.

(C) EMPLOYED FORMER PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who have successfully completed training or services under a gateway program (not including the provision of support services) and who are employed in a position not funded by grants made under this subtitle, during the 12-month period that begins with commencement of the employment of the individual.

(2) COMPLIANCE WITH STATE AND LOCAL LAWS.—A public housing agency that provides child care services under this subtitle

shall ensure that the child care complies with applicable State and local laws.

(c) LIMITATIONS ON SUPPORT SERVICES.—An individual may receive support services under this subtitle after the individual terminates any participation in training or services under a gateway program (not including the provision of support services) only if the individual has completed the training or services. An individual may not receive support services later than 18 months after the completion of the training or services by the individual.

(d) LIMITATION ON NONRESIDENT PERSONNEL.—A public housing agency receiving a grant made under this subtitle shall attempt to employ in positions relating to the administration and delivery of training and services under gateway programs residents of the public housing project involved whenever qualified residents are available.

SEC. ____66. EFFECT OF GATEWAY PROGRAMS.

(a) NONCONSIDERATION AS INCOME FOR PARTICIPATING INDIVIDUALS.—The earnings of and benefits to any individual resulting from participation in training and services under a gateway program shall not be considered as income for the purposes of determining eligibility for or the amount of public assistance or determining a limitation on the amount of rent paid by the individual during the following periods:

(1) PERIOD OF PARTICIPATION UNDER GATEWAY PROGRAM.—The period during which the individual participates in training or services under a gateway program (not including the provision of support services).

(2) EMPLOYMENT PERIOD.—If the individual participating in training or services under a gateway program (not including the provision of support services) successfully completes the training or services, a single period, not to exceed 18 months, as follows:

(A) COMMENCEMENT.—The period shall begin on the commencement of employment of the individual in the first position acquired by the individual after completion of the training or services that is not funded by a grant under this subtitle.

(B) TERMINATION.—The period shall end on whichever of the following occurs first—

(i) the expiration of the 18-month period following the commencement of the period described in subparagraph (A); or

(ii) the individual ceases to continue employment without good cause, as the Secretary shall determine.

(b) PUBLIC HOUSING OPERATING ASSISTANCE.—The use of the facilities of a public housing agency receiving a grant under this subtitle in the provision of training or services under a gateway program shall have no effect on the amount of assistance provided to the public housing agency under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g).

SEC. ____67. REVIEW AND SANCTIONS.

(a) REVIEW.—The Secretary shall review at least annually the compliance of the public housing agencies receiving grants under this subtitle with the provisions of this subtitle.

(b) SANCTIONS FOR NONCOMPLIANCE.—Whenever the Secretary determines on the record after opportunity for a hearing that a public housing agency has failed to comply substantially with the provisions of this subtitle, the Secretary shall notify the public housing agency that no further grant payments will be made to the public housing agency under this subtitle until the public housing agency demonstrates, to the satisfaction of the Secretary, that the public housing agency will comply. Until the public housing agency demonstrates as required by this subsection, the Secretary shall not make further grant payments to the public housing agency under this subtitle.

SEC. ____68. REPORTS.

The Secretary shall transmit to the President and to the appropriate Committees of Congress a report containing a detailed statement of the activities of the public housing agencies receiving grants under this subtitle and the recommendations for any action the Secretary considers appropriate. Such reports shall include an evaluation of the effectiveness of such activities in enhancing the employability of residents of public housing.

SEC. ____69. DEFINITIONS.

As used in this subtitle:

(1) BASIC SKILLS.—The term "basic skills" means the rudimentary skills necessary for an individual to function in daily living, including literacy, arithmetic skills, and problem-solving.

(2) ECONOMICALLY DISADVANTAGED.—The term "economically disadvantaged" has the meaning given such term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

(3) GATEWAY PROGRAM.—The term "gateway program" means a program for the provision of training and services described in section ____64 established by a public housing agency under a grant made by the Secretary under this subtitle.

(4) LITERACY.—The term "literacy" means the knowledge and skills necessary to communicate, including reading, writing, speaking, and listening normally associated with the ability to function at a level greater than the 8th grade level.

(5) OFFICER.—The term "officer" has the meaning given the term in section 2104 of title 5, United States Code.

(6) PUBLIC ASSISTANCE.—The term "public assistance" means cash payments, credits, or other assistance or benefits provided to individuals or families under Federal law.

(7) PUBLIC HOUSING.—The term "public housing" has the meaning given such term in section 3(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1)).

(8) PUBLIC HOUSING AGENCY.—The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

(9) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(10) SUPPORT SERVICES.—The term "support services" means services to facilitate the participation of residents of public housing in training and services under gateway programs. The term includes child care services under section ____64(a)(5) and services under section ____64(b)(10).

SEC. ____70. REGULATIONS.

The Secretary shall promulgate regulations necessary to carry out this subtitle.

SEC. ____71. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $40,000,000 for fiscal year 1991, and $50,000,000 for each of the fiscal years 1992 through 1995. Any amount appropriated under this section shall remain available until expended.

Subtitle F—Homeless Youth Demonstration Projects

SEC. ____81. SHORT TITLE.

This subtitle may be cited as the "Homeless Youth Demonstration Project Act of 1990".

SEC. ____82. DEMONSTRATION PROJECTS.

Subtitle E of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11472 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 763. DEMONSTRATION PROJECTS.

"(a) DEFINITIONS.—As used in this section:

"(1) HOMELESS YOUTH.—The term 'homeless youth' means an individual who is 21 years of age or younger, is in need of services, and lacks a permanent place of shelter that provides appropriate supervision and care for such individual or who resides in a group home on a temporary basis.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(b) DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary shall establish not to exceed three demonstration projects that are designed to assist private and public agencies and organizations in working together to provide a network of comprehensive services, including medical, mental health, health, legal, social, outreach, and emergency services, to homeless youth.

"(2) GRANTS.—

"(A) IN GENERAL.—The Secretary shall award grants to not to exceed three private, nonprofit organizations with demonstrated success in providing direct services to homeless youth, in subcontracting for such services, and in coordinating the provision of such services with other agencies, as referred to in paragraph (1).

"(B) LOCATION.—In awarding grants under subparagraph (A), the Secretary shall select organizations that are located in urban areas with a high concentration of out-of-city, out-of-county, and out-of-State homeless youth.

"(C) ABILITY TO PROVIDE SERVICES.—To be eligible for a grant under subparagraph (A), an organization shall demonstrate to the Secretary the ability of such organization, or another competent organization with which such organization has a subcontract, to provide a comprehensive network of each of the services described in paragraph (1).

"(D) PREFERENCE.—In awarding grants under subparagraph (A), the Secretary shall give preference to organizations that would involve a network of public and private agencies in the delivery of services to homeless youth.

"(3) EVALUATION OF DEMONSTRATION PROJECTS.—

"(A) IN GENERAL.—The Secretary shall monitor each demonstration project established under paragraph (1) to determine whether such project is complying with the requirements of this section.

"(B) INDEPENDENT EVALUATOR.—

"(i) IN GENERAL.—The Secretary shall contract with an independent evaluator to evaluate the process and outcome of each demonstration project established under paragraph (1), and to make suggestions for the implementation of other similar demonstration projects in other areas of the country.

"(ii) STABILITY OF HOMELESS YOUTH.—The independent evaluator referred to in clause (i) shall assess the stability of homeless youth that are served by a demonstration project established under paragraph (1) after such youth are either reunited with family or settled in a stable environment.

"(4) ELIGIBLE YOUTH.—

"(A) IN GENERAL.—Except as provided for in subparagraph (B), an individual wishing

to receive services under this section shall be not more than 21 years of age.

"(B) EXCEPTION.—The Secretary may grant waivers to provide services under this section to individuals who are 22 through 24 years of age for not more than 10 percent of the funds awarded for grants under paragraph (2).

"(5) LENGTH OF DEMONSTRATION PROJECTS.—Each of the demonstration projects established under paragraph (1) shall not exceed a period of 3 years.

"(6) AUTHORIZATION OF APPROPRIATION.—

"(A) IN GENERAL.—There is authorized to be appropriated to carry out this section $2,500,000 for each of the fiscal years 1991, 1992, and 1993.

"(B) INDEPENDENT EVALUATOR.—Of the amounts authorized to be appropriated under subparagraph (A), not to exceed $500,000 shall be utilized for the contract referred to in paragraph (3)(B).".

Subtitle G—Plan for Cooperation

SEC. ____91. PLAN FOR COOPERATION.

(a) IN GENERAL.—Not later than the date on which regulations necessary to carry out subtitle A, part L of title III of the Public Health Service Act (as added by subtitle B), part C of title V of the Public Health Service Act (as added by subtitle C), section 634 of the Community Economic Development Act of 1981 (as added under subtitle D), or subtitle E are issued, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Veterans Affairs, and the Secretary of Housing and Urban Development shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a plan concerning the programs to be carried out under such subtitle, parts, and section.

(b) CONTENTS.—The plan prepared under subsection (a) shall—

(1) describe the method in which the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Veterans Affairs, and the Secretary of Housing and Urban Development shall consult with one another in implementing and administering the programs described in subsection (a) and coordinate the implementation of such programs with other relevant programs and Acts (including the programs established under the Stewart B. McKinney Homeless Assistance Act, or the amendments made by such Act, and under Federal housing Acts);

(2) contain an assurance that such Secretaries will consult with one another on an ongoing and continuous basis in such implementation; and

(3) contain procedures, developed by the Secretary of Housing and Urban Development, for granting priority in the provision of construction, rehabilitation or renovation assistance by such Secretary, to applicants that receive grants under the subtitle, parts, and section referred to in subsection (a).

INDOOR AIR QUALITY ACT

BURDICK AMENDMENT NO. 2913

Mr. CRANSTON (for Mr. BURDICK) proposed an amendment to the bill (S. 657) to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors, as follows:

On page 3, line 2/3, delete "environmental tobacco smoke".

On page 5, line 8, strike "establish at" and insert in lieu thereof "develop and coordinate through".

On page 7, line 26, strike "cooperation with" and insert in lieu thereof the following "coordination with other".

On page 8, line 9, insert after "authorized" the following ", subject to the availability of appropriations".

On page 9, line 16, insert at the end thereof the following "protocols,".

On page 9, line 19, insert after "sector" the following ", other governmental entities, and schools and universities".

On page 10, line 10, insert the following: "If the Administrator expects or intends that research pursuant to this subsection will primarily affect worker safety and health, he shall consult with the Assistant Secretary of Occupational Safety and Health and the Director.".

On page 10, line 11, insert after "Administrator" the following ", in coordination with other appropriate Federal agencies,".

On page 10, line 18, strike "both healthy individuals and sensitive populations" and insert in lieu thereof the following "populations both with and without heightened sensitivity".

On page 12, line 22, insert after "of" the following "protocols,".

On page 13, line 6, strike "or other measures" and insert the following ", building design criteria, and management practices".

On page 13, line 18, strike lines 18, 19, and 20.

On page 13, line 21, strike "(17)" and insert "(16)".

On page 13, line 23, strike "(18)" and insert "(17)" and strike "in conjunction with" and insert in lieu thereof the following "principally by".

On page 14, line 9, strike "(19)" and insert "(18)".

On page 14, line 20, strike "(20)" and insert "(19)".

On page 16, line 19, insert after "evaluation" the following "and publication".

On page 24, line 4, insert after "parties" the following ", including scientific and technical experts familiar with indoor air pollution exposures, effects, and controls,".

On page 24, line 19, strike "Panel" and insert in lieu thereof the following "Committee".

On page 24, line 21, strike "and such comments shall be transmitted to Congress in conjunction with the report.".

On page 26, line 13, insert at the end thereof the following "Where the technology or management practice is expected to have significant implications for worker safety or health, the Administrator shall consult with the Director prior to seeking review and comment.

On page 27, line 1, insert after "indoor" the following "air".

On page 28, line 23, insert after "Administrator" the following ", in coordination with other Federal agencies,".

On page 29, line 1, insert at the end thereof the following "and workers".

On page 30, line 5, strike "worker" and insert after "public" the following "and worker".

On page 30, line 17, strike "which are known to occur (or which may be expected to occur)" and insert in lieu thereof the following "that may occur or are known to occur".

On page 31, line 12, delete "environmental tobacco smoke".

On page 35, line 15, strike "Indoor Air Panel" and insert in lieu thereof the following "Indoor Air Quality and Total Human Exposure Committee".

On page 35, line 25, insert after "Research," the following "the National Institute for Occupational Safety and Health,".

On page 36, line 2, strike "Board" and insert in lieu thereof the following "Advisory Panel".

On page 36, line 6, strike "consultation with" and insert in lieu thereof the following "coordination with other".

On page 36, line 17, strike "consultation with" and insert in lieu thereof the following "coordination with other".

On page 37, line 6, insert after "Administration" the following "and the National Institute for Occupational Safety and Health".

On page 37, line 8, insert the following "In implementation of response actions pursuant to paragraph (6) of this subsection the Assistant Secretary of Occupational Safety and Health shall consult with representatives of State and local governments and their employees with respect to States where the Occupational Safety and Health Administration lacks jurisdiction over State and local employees.".

On page 37, line 9, insert after "Administrator" the following ", in coordination with other appropriate Federal agencies,".

On page 38, line 13, strike "and private and professional firms" and insert in lieu thereof "private and professional firms, and labor organizations".

On page 38, line 17, strike "and".

On page 38, line 20, insert after "contaminants" the following ";

"(6) identification of contaminants, or circumstances of contamination for which immediate action to protect public and worker health is necessary and appropriate and a description of the actions needed;

"(7) identification of contaminants, or circumstances of contamination, where regulatory or statutory authority is not adequate to address an identified contaminant or circumstance of contamination and recommendation of legislation to provide needed authority;

"(8) identification of contaminants, or circumstances of contamination, where continued reduction of contamination requires development of technology or technological mechanisms; and

"(9) identification of remedies to "sick building syndrome", including proper design and maintenance of ventilation systems, building construction and remodeling practices, and safe practices for the application of pesticides, herbicides, and disinfectants, and a standardized protocol for investigating and solving indoor air quality problems in sick buildings.".

On page 38, line 23, insert after "Administrator" the following: ", in coordination with other appropriate Federal agencies,".

On page 38, line 24, insert after "the" the following: "health effects, and any".

On page 38, line 24, insert after "contaminants" the following: "thought to cause health effects".

On page 39, strike lines 6, 7, 8 and 9.

On page 39, line 10, strike "(5)" and insert in lieu thereof the following: "(4)".

On page 39, line 11, insert at the end thereof the following: "and".

On page 39, line 12, strike "(6)" and insert in lieu thereof the following: "(5)".

On page 39, line 14, strike ";" and insert in lieu thereof the following: "."

On page 39, strike lines 15 through line 2 on page 40.

On page 40, line 16, strike "The Administrator shall include in the response plan a letter and any supporting materials providing the comments of the Council on Indoor Air Quality.".

On page 41, line 18, strike "Administrator of the" and insert in lieu thereof the following: "Assistant Secretary for".

On page 42, line 8, insert after "public" the following: "and worker".

On page 44, line 16, strike "and such comments and any supporting materials shall be included in the plan".

On page 46, line 18, strike "Administrator of the" and insert in lieu thereof the following: "Assistant Secretary for".

On page 46, line 20, insert after "filing" the following: "and responding to".

On page 46, line 23, insert the following: "The procedure for filing and responding to worker complaints shall supplement and not diminish or supplant existing practices or procedures established under the Occupational Safety and Health Act and executive orders pertaining to health and safety for Federal employees.".

On page 47, line 2, insert at the end thereof the following: "Such listing shall preserve the confidentiality of the individuals making filings under this section.".

On page 47, line 17, insert at the end thereof the following: "After thirty-six months from the date of enactment of this Act, each newly designated Indoor Air Quality Coordinator shall complete the indoor air training course within twelve months of designation.".

On page 54, line 10, strike "applicants" and insert in lieu thereof the following: "applications".

On page 55, line 10, insert after "groups" the following: ", labor organizations,".

On page 64, line 17, insert after "15." the following: "(a) GENERAL AUTHORITY.—".

On page 64, line 20, insert a new subsection as follows:

"(b) OCCUPATIONAL SAFETY AND HEALTH.—In exercising any authority under this Act, the Administrator shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health."

On page 65, line 2, strike "." and insert in lieu thereof the following: "and $1,000,000 shall be reserved for implementation of section 6(b) of this Act.".

On page 65, line 23, insert at the end thereof the following new section—

"RADON IN SCHOOLS

"SEC. 17. (a) TITLE.—This section may be cited as the "Radon Testing for Safe Schools Act".

"(b) FINDINGS.—The Congress finds that:

"(1) Exposure to radon gas causes about 20,000 lung cancer deaths each year.

"(2) Radon may be especially hazardous to small children who spend a substantial portion of a day in school buildings.

"(3) Testing for and remediation of elevated levels of radon is relatively simple and inexpensive.

"(4) Studies by the Environmental Protection Agency indicate that 54 per centum of schools tested above have at least one room with elevated levels of radon and that over 20 per centum of all school rooms tested had elevated levels of radon.

"(5) On April 20, 1989, the Administrator of the Environmental Protection Agency issued a national advisory recommending that all schools be tested for radon.

"(6) There is a need for improved information on proper methods and procedures for testing and remediation of radon in school buildings.

"(7) There is a need for the Federal Government to provide financial assistance to States and local educational agencies for implementation of measures to reduce elevated levels of radon.

"(c) REQUIREMENT FOR RADON TESTING.—Section 307 of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by adding at the end thereof the following new subsections:

"(c) GUIDELINES.—(1) Within one year of the date of enactment of this subsection, the Administrator shall publish guidelines on testing for and remediating radon in school buildings.

"(2) After the publication of guidelines pursuant to this subsection, testing and remediation carried out pursuant to this section shall be conducted in a manner consistent with such guidelines.

"(3) Any radon testing or remediation of school buildings conducted prior to the publication of guidelines pursuant to this subsection shall be considered to meet the requirements of this section if the testing or remediation is conducted consistent with any interim guidance published by the Administrator or a State where the Administrator determines that such guidelines are substantially consistent with the guidelines published under this subsection.

"(d) REQUIREMENT FOR RADON TESTING.—(1) Within two years after designation by the Administrator of an area as a priority radon area each local educational agency located in whole or in part in such designated area shall conduct tests for radon in each school building owned or operated by the local educational agency.

"(2) The Administrator may extend the schedule for testing for radon pursuant to this subsection to the date two years from the date of publication of testing guidelines pursuant to subsection (c) of this section.

"(3) The Administrator shall, as expeditiously as practicable, designate areas as priority radon areas based on—

"(A) surveys of residences for radon; or

"(B) the survy required by paragraph (4) of subsection (a) of this section; or

"(C) other data, including geological data. The Administrator shall designate areas pursuant to this paragraph no later than September 30, 1991.

"(4) The results of any tests conducted pursuant to this section by a local educational agency shall be available for public review in the administrative offices of the local educational agency during normal business hours. The local educational agency shall notify parent, teacher, and employee organizations of the availability of such results and shall send the results to the Administrator and the agency of the State implementing radon programs.

"(5) Any radon testing conducted pursuant to this section shall be supervised by a person who has received instruction pursuant to an EPA or equivalent State approved program, as determined by the Administrator and shall use radon measurement devices and methods approved by the radon proficiency program established pursuant to section 305(a)(2) of this title.".

"(d) RADON IN SCHOOLS REMEDIATION GRANT ASSISTANCE.—(1) Section 306(j)(1) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et eq.) is amended by inserting after "1991" the following—"and $15,000,000 for fiscal year 1992".

"(2) Section 306(j) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by adding at the end thereof the following new paragraphs—

"(6) Of funds appropriated pursuant to this subsection in fiscal year 1992, not more than one-third shall be used to implement radon remediation measures for local educational agencies pursuant to paragraphs (11) and (12) of subsection (c) of this section.

"(7) Of funds appropriated pursuant to this subsection in fiscal year 1992, the Administrator may reserve an amount up to 2 per centum or $200,000, whichever is the greater, for the purposes of making grants to local educational agencies for implementation of measures to reduce radon levels: *Provided*, That any local educational agency is prohibited by State law from receiving grant assistance from the State: *Provided further*, That the local educational agency provides not less than 50 per centum of the cost of implementing such measures from non-Federal sources.

"(8) There is authorized to be appropriated for grant assistance under paragraphs (11) and (12) of subsection (c) of this section an amount not to exceed $5,000,000 for each of fiscal years 1993, 1994, 1995, and 1996.

"(3) Section 306(c) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by adding at the end thereof the following new paragraphs—

"(11) Notwithstanding the limitation in subsection (i)(4), payment, in the form of grants or loans, of costs of implementing remediation measures necessary to prevent levels of radon in school buildings above the appropriate action level identified pursuant to section 303(h)(1) of this title: *Provided*, That such payments are made in consideration of the financial need of the applicant.

"(12) Payment of costs of conducting radon tests required pursuant to section 307(d) of this title: *Provided*, That such payments shall be made only in the case of a local educational agency which received assistance payment to paragraph (11) of this subsection.

"(4) Section 306(g) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by striking "and (6)" and inserting in lieu thereof "(6), (11), and (12)".

"(5) Section 306(g) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2661 et seq.) is amended by inserting after 'Governments—' the following '(1)' and inserting at the end thereof the following new paragraph—

"(2) Any remediation measures of reducing radon in school buildings implemented pursuant to this section shall be supervised by a person who has been approved pursuant to the proficiency program established pursuant to section 305(a)(2) of this title.".

"(e) DEFINITION.—Section 302 of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by adding at the end thereof the following new paragraph—

"(5) The term 'priority radon area' means an area or region of the United States in which, in the judgment of the Administrator, there is a reasonable likelihood of indoor radon levels above the appropriate action level identified pursuant to section 303(b)(1) of this title.".

"(f) PREEMPTION.—(1) Nothing in this section shall be construed, interpreted, or applied to preempt, displace, or supplant any other State or Federal law, whether statutory or common.

"(2) Nothing in this section shall be construed or interpreted to preclude any court from awarding costs and damages associated with the testing or mitigation of radon contamination, or a portion of such costs, at any time.

"(3) Nothing in this section shall be construed or interpreted as preempting a State from establishing any liability or more stringent requirements with respect to radon in school buildings within such State.

"(4) Nothing in this section creates a cause of action or in any other way increases or diminishes the liability of any person under any other law.

"(5) It is not the intent of Congress that this subsection or rules, regulations, or orders issued pursuant to this subsection be interpreted as influencing, in either the plaintiff's or defendant's favor, the disposition of any civil action for damages relating to radon. This subsection does not affect the authority of any court to make a determination in any adjudicatory proceedings under applicable State law with respect to the admission into evidence or any other use of this section or rules, regulations, or orders issued pursuant to this section.

On page 2; insert after "SEC. 16 Authorizations" the following new line;

"SEC. 17. Radon in Schools.

SOLAR AND GEOTHERMAL POWER PRODUCTION INCENTIVES ACT

DOMENICI AMENDMENT NO. 2914

Mr. CRANSTON (for Mr. DOMENICI) proposed an amendment to the bill (S. 2415) to encourage solar and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Policies Act of 1978, as follows:

Strike title III, and insert in lieu thereof the following:

"TITLE III—REMOVAL OF PURPA SIZE LIMITATIONS

"SEC. 301. This title may be cited as "The Solar, Wind, Waste and Geothermal Power Production Incentives Act of 1990.

"SEC. 302. PURPA AMENDMENT.—Section 210(e)(2) of the Public Utility Regulatory Policies Act of 1978 is amended by inserting "(other than a qualifying small power production facility which is an eligible solar, wind, waste or geothermal facility as defined in section 3(17)(E) of the Federal Power Act)" after "facility" where it first appears.

"SEC. 303. FEDERAL POWER ACT AMENDMENTS

"(a) Section 3(17)(A) of the Federal Power Act is amended by inserting "a facility which is an eligible solar, wind, waste or geothermal facility, or" after "'small power production facility' means".

"(b) Section 3(17) of such Act is further amended by inserting at the end thereof the following new subparagraph:

"'(E) "eligible solar, wind, waste or geothermal facility" means a facility which produces electric energy solely by the use, as a primary energy source, of solar energy, wind energy, waste resources or geothermal resources, and which would otherwise not qualify as a small power production facility because of the power production capacity limitation contained in subparagraph (A)(ii) of this section 3(17); but only if—

"'(i) either of the following is submitted to the commission not later than December 31, 1992:

"'(I) an application for certification of the facility as a qualifying small power production facility; or

"'(II) notice that the facility meets the requirements for qualification; and

"'(ii) construction of such facility commences not later than December 31, 1997 or, if not, reasonable diligence is exercised towards the completion of such facility taking into account all factors relevant to construction of the facility.'.

"SEC. 304. FERC REGULATIONS.

"Unless the Federal Energy Regulatory Commission otherwise specifies, by rule after the enactment of this Act, any eligible solar, wind, waste or geothermal facility (as defined in section 3(17)(E) of the Federal Power Act as amended by this Act), which is a qualifying small power production facility (as defined in subparagraph (C) of section 3(17) of the Federal Power Act as amended by this act)—

"(a) shall be considered a qualifying small power production facility for purposes of part 292 of title 18, Code of Federal Regulations, notwithstanding any size limitations contained in such part, and

"(2) shall not be subject to the size limitation contained in section 292.601(b) of such part.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources to receive testimony on S. 2657, the Reclamation Wastewater and Groundwater Study Act, and title XIII of H.R. 2567, McGee Creek contract adjustment.

The hearing will take place on Thursday, September 27, 1990, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the subcommittee, SD-364, Washington, DC 20510.

For further information, please contact Tom Jensen, counsel for the subcommittee at (202) 224-2366, or Anne Svoboda at (202) 224-6836.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings on abuses in Federal student aid programs.

These hearings will take place on Friday, October 5, 1990, at 9 a.m., and on Wednesday, October 10, 1990, at 9:30 a.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Eleanore Hill of the subcommittee staff at 224-3721.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, September 26, at 2 p.m., to hold a hearing on oversight of the U.S. position in GATT negotiations affecting American manufacturing jobs.

The PRESIDING OFFICER. Without objecton, it so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARK AND FORESTS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 2 p.m., Wednesday, September 26, 1990, for a hearing to receive testimony concerning S. 2474, to authorize an exchange of lands in South Dakota and Colorado; section 6 of S. 2543, the Admiralty Island National Monument Land Management Act of 1990; S. 2815, to establish the Kokapelli National Outdoor Theater in the State of Utah, and for other purposes; S. 2816, to disclaim all right, title, and interest of the United States in and to certain private lands conditionally relinquished to the United States under the act of June 4, 1897 (30 stat. 11, 36), and for other purposes; S. 2891, to authorize and direct an exchange of lands in Colorado; H.R. 2566, to disclaim any interests of the United States in certain lands on San Juan Island, Washington, and for other purposes; and H.R. 3888, to allow a certain parcel of land in Rockingham County, VA, to be used for a child care center.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Wednesday, September 26, 1990, at 10 a.m. to conduct a hearing on S. 3045, a bill to authorize the Federal Deposit Insurance Corporation to increase deposit insurance premiums to protect the Bank Insurance Fund.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 26, at 2 p.m. to hold ambassadorial nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 26, at 4 p.m to hold ambassadorial nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, September 26, 1990, to hold hearings on abuses in Federal student aid programs (part 3).

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

GRAMM-RUDMAN SEQUESTER

● Mr. BINGAMAN. Mr. President, as we all know, the budget negotiations are coming down to the wire. I am still hopeful that an agreement on the budget will be reached this week. But whatever happens the rest of this week, it makes no sense to allow the Gramm-Rudman cuts of over 40 percent in many defense and civilian programs to go into effect. Gramm-Rudman will require $105.7 billion in cuts in a limited number of programs constituting a small fraction of the Federal budget, but terribly important to the economy of my State and the Nation as a whole.

The budget summiteers have already rejected that approach, aiming instead for a package of $50 billion in spending cuts and tax increases in fiscal year 1991, and $500 billion in deficit reduction over 5 years. Many of the spending cuts would target entitlement programs, largely exempt from Gramm-Rudman cuts. If we let the sequester go into effect, we will not only disrupt Federal programs and break faith with Federal workers. We will also risk throwing our already fragile economy over the edge into recession as, for example, disruptions in air service caused by furloughing air traffic controllers take their toll on the private sector.

Mr. President, it is important to reduce the deficit, but we need to do it sensibly. Gramm-Rudman has failed for 5 years to reduce our deficit despite a growing economy.

It has now become senseless and dangerous. I will vote to prevent the mindless sequester from going into effect on October 1. We should not need chaos to force the President and the congressional leadership to reach a sensible compromise on long-term deficit reduction. Gramm-Rudman should be scrapped.●

THE CSCE SUMMIT

● Mr. DECONCINI. Mr. President, early next week, each of the States participating in the ongoing conference on Security and Cooperation in Europe [CSCE] will send their foreign ministers to New York City. There, they will review and evaluate the progress of the preparatory committee for the CSCE summit scheduled for mid-November in Paris.

This is a vital time in the CSCE, or "Helsinki" process. East and West Germany will be formally unified on October 3, and, in Paris, the 34 nations that remain full members of the conference will be working to determine its future. But just as the number of participating states decreases from 35 to 34, other states are petitioning to join in a process which has, over the 15 years it has been in place, worked effectively to uphold standards of security and human rights.

Both the New York and Paris meetings will have to address the issue of CSCE participation for Latvia, Lithuania, and Estonia, the three Baltic States illegally incorporated into the Soviet Union in 1940. The United States stance on Baltic participation in the Helsinki process must be principled and firm.

Full Baltic membership in the CSCE would reflect full Lithuanian, Latvian, and Estonian independence, and would be consistent with the United States policy of nonrecognition of the Soviet incorporation of those states. This is an outcome which I favor; I have, on numerous occasions, spoken in favor of United States recognition of Baltic independent statehood. To this end I have urged Soviet President Gorbachev to undertake good faith negotiations to restore de facto Baltic independence. While a renewed Baltic-Soviet relationship is being worked out, however, the Baltic States should, at the very least, be welcomed into the Helsinki process as observers.

I believe strongly in the CSCE process, and seek to uphold all of the principles enshrined in the 1975 Helsinki accords. In this spirit, I urge the United States Government, consistent with our long-standing policy of nonrecognition and in accordance with the expressed Baltic desire to join in the Helsinki process, to propose that action be taken upon this request at the earliest possible date.●

SELF-DETERMINATION IN NAGORNO-KARABAKH

● Mr. BIDEN. Mr. President, I have been watching with concern the worsening situation in Nagorno-Karabakh in recent weeks, and thinking about the United States' role in addressing it.

When a country as large and strategically important as the Soviet Union undergoes change as profound as it is today, it alters the basic equations on which American foreign policy is based. We must anticipate this and calculate what the new terms of the equation are likely to be, and try to influence them where we can.

One of the fundamental elements in any new equation we may derive to deal with the nationalities crisis in the Soviet Union must be the recognition of the right of self-determination. It has long been, and must continue to be, the international role of the United States to support, clearly and strongly, the right of self-determination.

That is why today I bring to the attention of the Senate the situation in Nagorno-Karabakh, a region within the Soviet Republic of Azerbaijan. Nagorno-Karabakh has not had the fortune of other regions in the Soviet Union and Eastern Europe to push off, at least a little, the oppressive hand of centralized Soviet control. Rather, the Armenian majority population of Nagorno-Karabakh has suffered under the Soviet fist, as the Kremlin has sought to suppress Armenian moves for self-determination through the use of forced evacuations, rail blockades, armed troops, and violence. The situation has only worsened since the republic of Armenia issued a declaration of independence in August.

Whatever policy the United States might develop toward a new Soviet Union, we must place the right of self-determination at its center. Nagorno-Karabakh only reminds us of the need, and the responsibility, of the United States to let it be known to the whole world that we condemn the suppression of free speech and expression everywhere, condemn the use of force to silence those who seek freedom, and recognize the right of all peoples to decide for themselves the form of government under which they choose to live. I urge the Soviet authorities to remember that despite whatever attempts they make to move toward the western community of nations, and however laudable some of those attempts may be, they cannot be accepted until they also recognize the basic rights of all people. They would be well-advised to start with the Armenians of Nagorno-Karabakh.●

CONGRATULATIONS TO MS. JOANNE S. GRAY—AN OUTSTANDING ILLINOIS TEACHER

● Mr. SIMON. Mr. President, as you know, I have been a strong advocate for education reform. We must improve our school system if we are to remain a top competitor in the world economy. If we do not address the problems in our schools, and provide the young with the tools necessary to compete in this increasingly technological society, then we will have failed as a great nation. Our best investment is in our people.

A fundamental problem in the education system is the conditions facing teachers. We have to value our teachers more highly. In Japan, teachers make approximately the same as a lawyer or a physician. In Japan teachers are in the top 10 percent of the population in income. In the United States, teachers make far less than most other professions, and the average teacher makes only marginally above the national average income. Money is not everything, nor is it the sole reason teachers enter or leave the profession. But it certainly is an important factor. Among other things its sends a message to those attending college about how much our society values their contribution. We are fortunate to have many fine, dedicated teachers, but the future for them is discouraging. As one teacher put it, "without teachers, there would be no other professions."

Mr. President, I possess a great deal of respect for the people that strive for excellence within the teaching profession. I would like to tell you about one outstanding teacher from Chicago, IL, Ms. JoAnne S. Gray. Ms. Gray represents one of those fine, dedicated teachers. Last month, she was awarded the Midwest Regional Excellence in Teaching Award presented by the National Council of Negro Women. Ms. Gray embodies the characteristics of the ideal teacher. Simply put, she loves to teach and she loves her students. As a science teacher, she motivates her students to view the sciences as an intriguing and integral part of the world around them. Engaging them and challenging them to be curious and inquisitive about science. She is a strong role model for her students, and many of her former students have gone on to successful careers in the sciences.

I commend Ms. JoAnne S. Gray, and offer my sincere congratulations to her on winning the Midwest Regional Excellence in Teaching Award. I ask that my statement appear in the CONGRESSIONAL RECORD.●

APPROPRIATIONS COMMITTEE REVIEW OF PROPOSED RULE TO END BORDER INSPECTIONS OF CANADIAN MEAT AND POULTRY PRODUCTS

● Mr. DASCHLE. Mr. President, the Department of Agriculture is proceeding with a proposed rule to end border inspections of meat and poultry products from Canada offered for importation into the United States. As I have stated on previous occasions, this proposal is not consistent with U.S. law. Its legality has been questioned by the General Accounting Office and the USDA Office of General Counsel.

The change in regulations means that U.S. inspectors will no longer conduct random inspections to check compliance with U.S. food safety and quality laws. The immediate proposal is for a 1-year experiment under the so-called open border agreement between the United States and Canada. At the end of the year, the experiment will be evaluated with the intention of making the agreement permanent.

The comment period on the proposed rule closed September 5. I have seen reports that USDA received more than 2,000 negative comments on the rule. Nevertheless, USDA plans to disregard these comments and go ahead with the rule.

Representatives DORGAN and WILLIAMS and I wrote to Secretary Yeutter on Monday to urge that he withdraw the proposed rule. Furthermore, we urged that USDA improve the current inspection procedures in three ways: First, determine why large amounts of meat from Canada are not meeting United States standards when they enter at the North Dakota and Montana inspection stations; second, evaluate the current Canadian meat inspection system, and document this evaluation, to provide a sound basis for possible future experiments in relaxed inspection procedures; and third, reinstate the system, which was abandoned in 1988, that made all shipments of Canadian meat into the United States subject to border inspections.

I urge the Appropriations Committee on Agriculture, Rural Development and Related Agencies to review this proposal in hearings on next year's appropriations, and to consider whether or not an "experiment" of this nature, that violates U.S. law and that ignores the intent of Congress, is an appropriate use of taxpayer funds.●

INNOVATION IN A SMALL TOWN AND THE GROWTH OF COMMUNITY SPIRIT

● Mr. WIRTH. Mr. President, the small town of Wray, CO, lies nearly at the Colorado-Nebraska border. With a population of 2,000 people, it rates only the smallest of little dots on a road map. But I think there is a town spirit in Wray that puts it on the map in a much bigger way.

The people of Wray have initiated a community program called the Search for Solutions. This is a broad-based effort to raise money from private sources to find community facilities. Currently, the people of Wray are renovating a 29,000 square-foot building that will eventually house a variety of community activities, including meeting rooms for the Boy Scouts and 4-H Club, school rooms for continuing education programs, and special rooms that will make it possible for local satellite broadcasts to take place.

The price of rehabbing this building is close to $4 million. The people of Wray have raised nearly half of that amount—$1.8 million—and have put another $90,000 into a new trust fund that will provide money in the future for similar renovation projects.

Much of the success of the Search for Solutions lies with a Wray community leader, Mike Wisdom. Mike has been the inspiration for renovating the old building and using it to enhance community life in Wray. Yet, while undertaking this serious project, Mike has kept his sense of humor.

One of the most successful fundraising techniques that Mike has employed has been to offer honorary Mayor for a Day certificates. For a small fee, any person can be mayor of Wray for a day. In fact, Mike has advertised this opportunity across the country, including in the local Washington area on WAVA-FM radio. It was on WAVA that Ms. Kathy Hill, a resident of Burke, VA, heard about becoming mayor for a day and applied. Ms. Hill has become so charmed with the idea, that she tells me it is one of her favorite gifts to give to friends. Ms. Hill wrote me to tell me of her pleasant experience with Mike Wisdom and the city of Wray which is where I first learned of Mike's ingenuity in fundraising. Mr. President, I ask that the text of Ms. Hill's letter be printed in the RECORD following my remarks.

Other fundraising efforts that Mike has initiated are just as much fun. For example, Wray occasionally hosts rubber duck races, moonlight golf tournaments, and—my favorite—radar baseball. Radar baseball is a competition where the event organizers borrow the police department's radar gun and clock the speed of balls pitched by the contestants.

But everything is not fun and games in Wray. The commitment of the residents to improving their city comes straight from the heart. All the work on the rehab project is being done by local people, some of whom have turned down better paying contracts in other parts of the State just to stay in town and do something for the good

of the city. I think there is a lesson here that many other cities and towns can learn, no matter their size. It is working together and caring together that makes where we live worthwhile.

Mr. President, I want to congratulate the people of Wray and Mike Wisdom for their dedication to their community and to thank them for setting a sterling example for others to follow.

The text of the letter follows:

Burke, VA, July 24, 1990.

Hon. TIMOTHY WIRTH,
U.S. Senate,
Washington, DC.

DEAR SENATOR WIRTH: I am writing this letter to bring to your attention one of the greatest natural resources Colorado has to offer. This natural resource has been very successfully hidden by the good people of Wray, Colorado. They know a good thing when they have one. The natural resource I am referring to is a gentleman by the name of Mike Wisdom. Mike is head of the WRAC office in Wray. This office is responsible for all those special fairs, parades, and money making activities that every little town across the nation enjoys. Mike is that special person that it takes to make these events successful.

I came across Mike Wisdom quite by accident. I heard on a local radio program, WAVA that for $20 a person could become Mayor of Wray, Colorado for a day; for a birthday, anniversary, or any other special day. For your contribution, you receive a certificate stating that you are Mayor for that day, and a proclamation stating so. What a wonderful idea. In the process of purchasing several days, I came to know, by long distance, what a jewel Wray has in Mike Wisdom. Mike is always thinking, looking, listening for new ideas to promote his town and also finance projects such as youth or senior citizen programs. I don't know all of the wonderful things that Mike has done for his community, but I would bet anyone from Wray would be happy to tell you.

People like Mike Wisdom don't come along often enough in life. The small town of Wray should be and probably are very proud of their citizen. Mikes devotion to Wray has gone unnoticed much to long. I ask that a short letter would be sent to Mike acknowledging his work and love for his community. I am not a tax payer or constituent of Colorado, but as a ex-Texan from a small town and now a resident of Virginia, I would appreciate your acknowledging Mike for a job so very well done!! He really deserves a pat on the back.

Thank you for your time.

Kind regards,

KATHY A. HILL.●

SELF-DETERMINATION FOR THE ARMENIAN COMMUNITY OF NAGORNO-KARABAGH

● Mr. WILSON. Mr. President, the democratically elected leader of Armenia, Levon Ter Petrossian, will visit the United States later this week. I urge all of my Senate colleagues to welcome this courageous stateman and support him in his efforts to secure the political, economic, and cultural rights of his people.

Thus far, President Ter Petrossian, a former political prisoner, has shown great resourcefulness in defending the prerogatives of the citizens of Armenia against the insensitivity of the Soviet Government and the brutality of the Azerbaijani police.

He has successfully negotiated a reversal of Mikhail Gorbachev's order for Soviet military occupation of Armenia.

He has ushered a strong Declaration of Independence to passage in the Armenian Parliament.

He has consolidated his government's control over Armenian irregular forces.

And most importantly, Mr. President, he has won the overwhelming support of this own people.

Despite these dramatic gains, however, the Armenian nation has not yet emerged from the wilderness of injustice and repression that surrounds it.

Following the country's August 24 Declaration of Independence, the Armenian community of the Nagorno-Karabagh Oblast faced a dramatically increased level of violence from both Soviet and Azerbaijani troops. This most recent tragedy only illustrates the larger 70-year tragedy of the refusal of Azerbaijan, which rules Nagorno-Karabagh, to permit the Armenians of this area to peacefully reunify with their homeland.

Furthermore, Mr. President, on September 10, a prominent Armenian member of the Supreme Soviet, Zori Balayan, began a hunger strike in Moscow to protest the actions taken by both the Moscow and Azerbaijani authorities against his brothers and sisters of Nagorno-Karabagh. Several other legislators have since joined Mr. Balayan in his strike.

Can the Soviets, Armenians, and Azerbaijanis find a way out of this cycle of misery and tyranny? Absolutely—if all parties to this conflict acknowledge the morally indisputable rights of the Armenian people to control their own land and elect their own leaders.

As a result, I sent a telegram to President Gorbachev 3 days ago notifying him of my solidarity with Mr. Balayan and his fellow hunger strikers. Their silent yet painful witness gives us a powerful reminder of the violence that the Armenian men and women of Nagorno-Karabagh have suffered under the occupation of the Azerbaijani government.

Although Armenians comprise more than 80 percent of the population of Nagorno-Karabagh, successive Azerbiajani rulers have implemented policies designed to drive the Armenian people out of the area. They have done little to encourage the economic development of the region and have only aggravated the tensions between the predominantly Christian Armenians and the Moslem Azerbaijanis.

Mr. President, the way out of this crisis points in the direction of self-determination for the Armenians of Nagorno-Karabagh.

It points in the direction of a withdrawl of all Soviet and Azerbaijani military forces from the region.

It points in the direction of an Armenian community living peacefully in Nagorno-Karabagh, free from threats of imprisonment, murder, or forced resettlement.

The United States must hold the Kremlin accountable for the policies of the Soviet Union's constituent republics if they violate basic human rights or discriminate against entire ethnic communities because of their ethnic and religious heritage.

In this context, President Gorbachev must recognize the direct relationship between permitting the reintegration of Nagorno-Karabagh with Armenia and the attainment of this stated goals of bringing more social stability, material prosperity, and political pluralism to his nation.

The solution to this problem exists, Mr. President. It only awaits implementation by a willing Armenian Government and a realistic Soviet state.●

WHITE HOUSE KNOCKS ETHANOL

● Mr. HARKIN. Mr. President, during the debate on amendments to the Clean Air Act, Senator TOM DASCHLE and I successfully attached reformulated gasoline provisions that require the use of oxygenated fuel additives such as ethanol. We also maintained a 3.1 percent oxygen content in gasoline sold in those areas with excessive carbon monoxide pollution. By replacing some of the poisonous ingredients of gasoline with ethanol, we can simultaneously improve air quality, increase markets for corn, and reduce our dependence on foreign oil. Indeed, by tripling our production of corn-based ethanol, we could replace all of the oil lost from Iraq and occupied Kuwait.

President Bush supported the use of corn-derived ethanol while he was running for office. But now the White House has come out against the reformulated gasoline and oxygenated fuel provisions in the Clean Air Act. Once again his actions speak louder than his campaign promises.

Last Friday, the White House sent a letter to the clean air conferees. The administration objected to oxygenated fuel provisions of both the Senate and the House bills, claiming that it would cost too much, that it need not apply to all cities with excessive carbon monoxide pollution, and that the oil companies need more time to implement these provisions.

I am greatly disturbed by this shift away from the sound environmental causes expounded by the President

when he was running for office. Listen to George Bush, the candidate, speaking in Des Moines on March 6, 1987:

If we raise the standard of American fuel to require that all our gasoline contained ethanol blends in areas of the country that violate carbon monoxide pollution limits, we would stimulate growth and opportunity in Iowa and throughout the Farm Belt and improve air quality in Chicago, Denver, Los Angeles, Albuquerque, Phoenix and other major cities.

Later, on November 12, 1987, he went further, stating in Kansas City that:

We should establish a clean fuel standard and require that fuel sold in areas that exceed federal standards for carbon monoxide contain at least three percent oxygen by weight.

Now President Bush, when he has a chance to implement these campaign pledges, tells Congress that we should limit ethanol blends to just the most serious carbon monoxide nonattainment areas.

Candidate Bush said that:

Greater use of ethanol blends will on balance produce net savings for the taxpayer by reducing grain storage costs and price supports.

Now President Bush says that adding oxygenated fuels will cost taxpayers and extra $3 billion per year.

Candidate Bush also said:

I share the goal of the National Corn Growers that by 1990, we can produce 2.5 billion gallons of ethanol from 1 billion bushels of corn. It will help our farmers and manufacturers, while contributing to cleaner air and energy independence. We should make full use of this great American resource.

Now President Bush says that oil companies need more time, even though the Daschle-Harkin amendment would require about 1.5 billion gallons of ethanol by 1994, 4 years after candidate Bush stated that we should be producing 2.5 billion gallons.

I am greatly disturbed that President Bush is blocking effective implementation of the clean fuels provisions in the Clean Air Act. He wants to be remembered as the environmental President, but he isn't willing to make the choices to protect the environment.

Ethanol is good for clean air, good for our farmers, good for our taxpayers, and good for energy independence. It is time that President Bush listens more to candidate Bush than to the big oil companies that would just as soon continue supplying gasoline loaded with benzene, a carcinogen; toluene, which forms benzene during combustion; and xylene, which forms smog), instead of clean-burning ethanol.

I urge our colleagues on the Clean Air Conference to maintain the reformulated gasoline and the 3.1 percent oxygenated fuel provisions in all carbon monoxide nonattainment areas of our Nation.●

MILTON, DE; HISTORY AND THE FUTURE

● Mr. BIDEN. Mr. President, "Governors Day" in Milton, DE, celebrates the history of that Sussex County town by remembering the achievements of the four men of 19th century Milton who served as Governors of Delaware. However, the history Milton celebrates on Governors Day is not a retreat into the past but a springboard into the future of a town that has long since proved its vitality.

It takes only a brief glance at the history of the town to realize that Milton has long been just what it is today, a solid, prosperous, four-square town whose homes and churches, commerce and industry are the concrete reflections of this community's long dedication to what we know as traditional American values—self-reliance, hard work, personal morality, civic responsibility, a decent respect for the past, and an ambitious welcome for the future.

It is unfortunately common these days, Mr. President, to hear those American values referred to as the relics of a bygone era in our history—the era when Milton flourished and produced the sons who became Delaware Governors—but I am not so sure these values are as dated, or should be, as some popular commentators would have us believe. They are still evident in Milton, DE, today, and I suspect they are not unknown in many American communities all across this broad land. Maybe what has become dated is the perspective with which our commentators, and even some of us in Congress, regard our country in this year of 1990. Maybe—and more than maybe, I believe—Milton's values flow nearer to the mainstream in this country than such commentary would lead us to believe.

At any rate, there is not doubt at all that those values have been central to life at the head of the Broadkill River, in what is today southern Delaware, since the first colonial farmers cleared the land and established their homesteads more than 300 years ago, in 1686. The settlement that took root here at the head of navigation on the Broadkill grew steadily, under a variety of names, for more than a century. Then in 1807 the name of the town was officially changed from "Head of Broadkill" to "Milton," in honor of the famous English poet, and the community embarked upon a prosperous 19th century.

Even then, with four stores and seven granaries within the town, Milton was already an important port for the shipping of the grain grown in Sussex County's fertile fields; and given the vigor of the community, it is not especially surprising that during the middle 50 years of the 19th century, four of Milton's most distinguished sons were elected Governor of Delaware—Samuel Paynter in 1824, David Hazzard in 1830, Dr. Joseph Maull in 1846, and James Ponder in 1875. At any time in our history, for one town to give birth to four Governors would be especially noteworthy—but Milton, in fact, produced still another Governor, although not of Delaware. He was James Carey; he was elected Governor of Wyoming, and he may very well be the only Delawarean ever honored with a place in the Cowboy Hall of Fame.

During the same half-century that Milton spawned such outstanding leadership, the town itself continued to grow in importance, and by the time it was incorporated in 1865, it was a thriving commercial and industrial center. Shipping and shipbuilding were the major enterprises, and firewood and ship timbers had joined grain as the major commodities forwarded on shipping lines that plied regular schedules to Wilmington, Philadelphia, and New York. Other important industries included tanning and brickmaking, and Milton ranked among the principal commercial ports along the Atlantic coast.

The advent of steel ships and railroads changed the character of Milton's commerce by the time the 19th century ended, but it did not sap the energies or the ambition of Milton's citizens. The town has continued to be a social and commercial center for Sussex County throughout the 20th century, and today Milton offers its people a solid foundation from which to step into the new century that lies just ahead.

Nothing is more important, I believe, to any community's sense of its own identity, and to its ability to shape its own destiny, than a sense of its own history. The destiny of this Nation began, in fact, with a dream—not in the utopian delusions of wild-eyed visionaries, but in disciplined dreams of a remarkable group of practical and experienced men of action who had studied the history of men, nations, and governments, who had consulted the spirit of freedom that reigned in their own hearts, and who were therefore capable of dreaming of a new kind of government that would impose the fewest necessary restraints on a people and endow them with the greatest possible degree of personal liberty, knowing full well, as the great Irish poet William Butler Yeats would later write, that "in dreams begins responsibility." Their dream, and our responsibility for preserving and extending it, is our heritage as Americans; it remains our dream and we can preserve and extend it only so long as we know and appreciate its history.

Americans generally have preserved a lively sense of their history, and there is a very good historical reason for that. The fact is that this country

was founded with a very clear appreciation of its role in history. When the Founding Fathers met in Philadelphia more than 200 years ago to draw up our Constitution, they were very much aware that they were preparing a document that was not only unique in the history of America but in fact unique in the history of the world.

Their immediate purpose was to create a Constitution that would both govern a viable new American Nation and shape a new kind of American society, but their deliberations at that Constitutional Convention were influenced from beginning to end by their certain belief that both that society and the great document that sustained it would become models, not only to new generations of Americans but, in fact, to freedom-loving peoples all over the world.

The history of the past two centuries—and the events of our own day, both at home and abroad—have amply justified that certainty. Just two contemporary examples tell us how right they were.

In just the past 2 years, it is that very model of our successful American experiment in democracy that has energized the peoples of Eastern Europe and even the Soviet Union to break the bonds of Communist domination and seek the political and economic opportunities we have enjoyed for 200 years as a free, self-governing people. We have seen only the barest beginning of that movement, but it has already carried the world across one of the most significant thresholds in human history. Both we and they will no doubt have to overcome many great challenges before that process achieves its fullest expression, but if both we and they meet our responsibilities to history, the issue should not be in doubt. Liberty is a flame that, once lit, is all but impossible to quench in the hearts of a people who find themselves free to pursue their own destiny.

We have all been surprised by the speed with which this democratic revolution has swept aside the barriers of totalitarianism, but there is good reason to believe the Founding Fathers would not have been surprised; they knew they were throwing down the gauntlet to tyranny everywhere and they were confident of the outcome of that contest.

I believe the Founding Fathers would be equally unsurprised by the character of the task that at this very moment lies in the hands of the Senate Judiciary Committee, which I chair in Washington—the confirmation of a nominee to serve as Associate Justice of the Supreme Court of the United States. The dialog the committee conducted with Judge David Souter of New Hampshire to determine his suitability to serve on the Supreme Court, and the debate which will follow in the Senate, answer precisely to the design so carefully laid down in the Constitution.

Until the closing days of the Constitutional Convention, in fact, the delegates refused to allow the President any role at all in the selection of Supreme Court Justices—it was to be the responsibility of the Senate alone. Then, in a last-minute compromise of lasting wisdom, that responsibility was divided equally between the President and the Senate—the nomination of a Supreme Court justice is the prerogative of the President alone, but the appointment can be confirmed, according to article 2, section 2, of the Constitution, only "by and with the consent of the Senate."

That is a heavy responsibility for both the Senate and its Committee on the Judiciary—and a responsibility of which I am especially aware as chairman of that committee—but it is also a responsibility that we welcome, even at times at the cost of controversy to share in fulfilling the obligations and the promises of the Constitution; to assure a Supreme Court determined to protect all of the rights of the people, both those enumerated in the Constitution and those left in the hands of the people themselves by that same great document; and to preserve, for the American people and for those elsewhere in the world who look to us as the model for their own aspirations, the free and democratic society our founders envisioned for us. It is hard work to manage a process on which so much history, and so much contemporary interest, come to so sharp a focus, but it is also a very great privilege to labor in that historic perspective.

It has been said that a nation which forgets the lessons of its history is condemned to repeat them, and the experience of nations has proved that to be true. But I believe that the contrary of that statement is equally true, especially for the United States of America, a nation that remembers the lessons of its history and can use them constructively to build its own future, and I believe that proposition applies with equal strength to a community like Milton, which has set aside one day each year, Governors Day, precisely to remember its history and build upon it.

That does not mean that either our country or this community can improve our control over our future by attempting to relive even the greatest days of our past. Attempting to substitute nostalgia for a clear-eyed sense of history and its implications for the future is bound to result not simply in failure, but ultimately in a departure from reality that no one can characterize as progress. That's an old lesson we've had to relearn from time to time, as we try to distinguish between the wasteful and intrusive excesses of government and the necessary and permanent responsibilities of government. If we want to sustain our personal liberties and our national prosperity, we cannot afford the excesses—but if we expect to remain the great Nation we have been and to become the even greater Nation we can and should become, neither can we afford a Government that does not meets its responsibilities.

Unfortunately, that is not always an easy distinction to make; it is often not as clearcut as it seems, and too often—as for example, with some recent Supreme Court nominations—we are urged to turn the clock back to some simpler and supposedly better day, rather than to undertake, as the Senate Judiciary Committee is attempting to do with the Souter nomination, the much harder and much more complicated task of resolving our problems in terms that move us forward and not backward. We can not move ahead by simply retreating into our history; progress lies, rather, in understanding our history and using it to construct new solutions, to find new pathways into the future. And that is exactly what I believe this great old town of Milton, DE, with its long and proud history, is doing with Governors Day, because Milton, obviously, has not merely clung to existence, but has survived and progressed with a strong sense of its past, a firm grip on its identity and an abiding belief in its future.

Governors Day in Milton, DE, is, therefore, a living expression of the spirit that made America great and will keep it great. It becomes Milton well, it fortifies the spirit of the State of Delaware, and I believe it exemplifies the pride and optimism with which Americans have always regarded and I believe always will regard the land of their birth, the land of the free, and the beacon of liberty to all mankind.●

STATUS OF OBLIGATION FOR FISCAL YEAR 1990 DEPARTMENT OF DEFENSE COUNTER-NARCOTICS FUNDS

● Mr. D'AMATO. Mr. President, I rise today to discuss the status of obligations for fiscal year 1990 Department of Defense counternarcotics funds.

On July 31, 1990, I received figures from the Department of Defense that showed the status of the counternarcotics account as of May 31, 1990. The obligation rate appeared quite slow and I was concerned that 1-year operations and maintenance and military personnel funds might lapse at the end of fiscal year 1990. On August 1, 1990, I wrote to Secretary Cheney to request his assurance that none of these funds would lapse.

On August 3, 1990, I spoke on the Senate floor during consideration of

the fiscal year 1991 Defense authorization bill to inform my colleagues of this situation. Finally, on August 10, 1990, I wrote to Comptroller General Charles Bowsher to request that the General Accounting Office prepare a fact sheet on the status of Defense Department counternarcotics obligation rates.

It was my intention to give the Department of Defense an opportunity to explain the circumstances surrounding the slow obligation rates. The figures alone, only a static indication, did not provide an adequate picture of the progress and/or problems associated with the account. If there were legitimate reasons why the funds were delayed then that needed to be brought to light and, similarly, if there were legitimate problems associated with the management of the account then that needed to be addressed as well.

I asked GAO to: First, look at the status of counternarcotics funds for fiscal year 1990; second, ascertain the reasons for any delays in obligating the funds, particularly operations and maintenance and military personnel funds; and third, compare the rate of obligation for counternarcotics funds to obligation rates for Defense programs of a similar nature. I wanted a review completed in time for the consideration of the Defense appropriations bill.

Given the short time that GAO was directed to respond in, it was unable to verify the Defense Department's financial information or the accuracy of the explanations for delays provided by program and budget officials.

For fiscal year 1991, the Defense Department's counternarcotics request is for $1.2 billion. There is no question that Defense officials have put much hard work into planning and executing counternarcotics programs and that there are growing pains associated with this relatively new program. Nevertheless, in a time of fiscal constraint and in a time when the drug crisis has reached epidemic proportions, we must ensure that: First, the funds appropriated for the Defense Department counternarcotics mission are spent in a timely fashion; and second, the funds appropriated are spent on worthy programs.

Mr. President, I ask that a copy of the September 1990 GAO report, my August 1, 1990, letter to Secretary Cheney, and September 4, 1990, response letter from Assistant Secretary Duncan, and my August 10, 1990, letter to Comptroller General Bowsher be printed in the RECORD immediately following the conclusion of my remarks.

The material follows:

U.S. SENATE,
Washington, DC, August 1, 1990.

Hon. RICHARD CHENEY,
Secretary of Defense, The Pentagon, Washington, DC.

DEAR MR. SECRETARY: The commitment of both you and President Bush to an enhanced and expanded role for the Department of Defense in the detection and montoring of drug trafficking and in assisting law enforcement is one which I strongly support.

I am, however, greatly concerned about the following information that I have just received. Yesterday, I received figures which reflect the status of the counternarcotics account (obligations only) as of May 31, 1990. Enclosed for your information are the figures which were forwarded to my office by the Office of the Coordinator for Drug Enforcement Policy and Support.

Of the $645,192,000 available in the counternarcotics account, $178,822,000 has been obligated.

With two-thirds of the fiscal year completed, only $51,169,000 of $181,400,000 available for Operations and Maintenance accounts has been obligated for the armed services to increase their operational tempo for, among other things, increased steaming days for ships and flying hours for surveillance aircraft.

With only one-third of the fiscal year remaining, $130,000,000 will have to be obligated or these funds will lapse.

As of May 31, no reimbursement had been made to law enforcement agencies from the $40 million account earmarked for assistance to law enforcement.

Only $261,000 out of $10,400,000 available for Research, Development, Testing and Evaluation has been obligated.

Only $5,232,000 out of $221,529,000 available for Procurement has been obligated.

At a time when the drug epidemic has reached crisis proportions and the American people look to the Federal government for desperately needed help, it is extremely unfortunate that the $466,370,000 available in FY 1990 funds had not been obligated as of May 31.

I would greatly appreciate it if you could, within two weeks, provide me with updated material that reflects obligations and expenditures as of July 31, 1990.

I am also requesting your assurance that none of these funds will lapse and that they will all be obligated by September 30.

I know that you share my deep concern and that you will expeditiously look into this matter. I look forward to hearing from you.

Sincerely,

ALFONSE M. D'AMATO,
U.S. Senator.

U.S. SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL,
Washington, DC, August 10, 1990.

Hon. CHARLES A. BOWSHER,
Comptroller General, General Accounting Office, Washington, DC.

DEAR MR. BOWSHER: As you know, the fiscal year 1989 National Defense Authorization Act gave the Department of Defense significant new counternarcotics responsibilities that include serving as the single lead agency of the Federal government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States. To permit the Department to carry out this mission, Congress appropriated $300 million in fiscal year 1989, and $450 million in fiscal year 1990. The Administration's request is for $1.2 billion for fiscal year 1991.

As Co-Chairman of the Senate Caucus on International Narcotics Control, I commend Secretary Cheney's decision on September 18, 1989, to declare that combatting illegal drugs is a high priority national security mission for the Department. However, I was distressed to learn that the Department of Defense has been very slow to obligate funds once appropriated.

In view of the above, I am asking the General Accounting Office to look at the status of counternarcotics funds for fiscal year 1990; ascertain the reasons for any delays in obligating the funds, especially Operations and Maintenance and Military Personnel funds; and compare the rate of obligation for counternarcotics funds to obligation rates for defense programs of a similar nature.

I would appreciative receiving the results of your review before the fiscal year 1991 Defense appropriation bill comes to the Senate floor for a vote.

Sincerely,

ALFONSE M. D'AMATO,
Co-Chairman.

DEPARTMENT OF DEFENSE, COORDINATOR FOR DRUG ENFORCEMENT POLICY AND SUPPORT,
Washington, DC, September 4, 1990.

Hon. ALFONSE M. D'AMATO,
U.S. Senate,
Washington, DC.

DEAR SENATOR D'AMATO: Thank you for your letter of August 1, 1990 to Secretary Cheney, in which you reaffirm your strong support for the Department's role in the implementation of the President's National Drug Control Strategy, and express concern for the status of counternarcotics funding obligations as of May 31, 1990.

I fully appreciate your concern and assure you that the Department's counternarcotics program is consistently afforded a very high priority. With respect to the May 31, 1990 obligation data provided in response to your staff inquiry, several comments are offered. First, as described in the Department's June 22, 1990 letter to the Chairmen of the cognizant Authorization, Appropriations, and Intelligence Committees, FY 1990 counternarcotics activities are funded either (1) within the $450 million Congressional authorization and appropriation; (2) as part of the military department's baseline (Operational Tempo (OPTEMPO) and Demand Reduction); or (3) through reprogramming requests submitted to the appropriate committees of Congress. The concurrence of the committees on the six reprogramming requests was not received until August 1, 1990. The appropriate funding transfers for those actions are now in progress. Accordingly, the obligation process for these funds will begin shortly.

We have diligently pursued providing support to law enforcement agencies under the authority contained in Section 1212 of the FY90 Authorization Act. This authority enables the Secretary of Defense to provide up to $40 million of support within five specific categories; (1) training of personnel; (2) loan of National Guard equipment; (3) maintenance of equipment on loan; (4) transportation of equipment and personnel; and (5) establishment of bases of operation. We have, from the outset, worked very closely with the many law enforcement agencies to define their requirements. As in any new program, there have been "growing pains." For example, a major difficulty has been

the inability of the law enforcement agencies to define their requests succinctly within the authorized categories to satisfy appropriate legal review.

As of August 14, 1990, $3,875,000 of support using Section 1212 authority has been provided. An additional $5M of support requests are under final review prior to execution. There are a significant number of other requests currently under review to determine if they are in compliance with the statute. Given the progress we have made in defining the process for this special support and the enactment of the clarified and expanded authority as proposed in the FY91 Senate bill, I suggest that obligation levels will be considerably higher next year.

Although the National Guard obligation data are comparatively low, the National Guard Bureau is very optimistic for full obligation of all National Guard funds. Specially, the majority of the eradication efforts occur during the summer months, the prime marijuana growing season.

Given the fact that the system for reporting obligations is normally 45 to 60 days behind the actual date of obligation, we cannot, at this time, give you complete figures as of July 31. I have enclosed, however, the most current figures that we have. If you believe additional information would be helpful, we can, if you desire, update this information around the middle of September.

I am sure you recognize that, with the exception of the operations and maintenance (O&M) category, the remaining appropriations are of a multi-year nature. Although I am concerned that these funds be obligated as soon as feasible, they will not lapse as of September 30, 1990. I am confident that we will fully obligate the O&M funds provided from the FY90 counternarcotics appropriations by the end of the fiscal year and the multi-year money within the legally permissible time.

Thank you for your continued interest and strong support for our expanded efforts in support of the counternarcotics program.

Sincerely,

STEPHEN M. DUNCAN.

COUNTERNARCOTICS OBLIGATIONS REPORT

[Reflects most current available obligations figures with date annotated, in millions of dollars]

Detection and monitoring	Fiscal year 1989 procurement		
Department/Agency	Available	Obligated	
a. Prior year funds:			
Air Force	70.802	53.100	As of June 30, 1990.
Army	2.950	2.950	No change since May 31, 1990.
Navy (ships)	17.674	1.000	No change since May 31, 1990.
Navy	35.896	11.166	No change since May 31, 1990.
Defense Agencies	62.503	30.812	As of July 31, 1990.
Total	189.825	99.028	
OPTEMPO fiscal year 1990 O&M			
b. Current year funds:			
Air Force	17.600	10.645	As of June 30, 1990.
Army	5.600	2.576	No change since May 31, 1990.
Army Guard	5.200	2.392	No change since May 31, 1990
Army Reserves	3.000	1.380	No change since May 31, 1990.
Navy	148.600	67.778	As of June 30, 1990
Navy Reserves	1.400	0.489	No change since May 31, 1990
Total	181.400	85.260	
Demand Reduction fiscal year 1990 O&M			
Air Force	6.200	4.650	As of June 30, 1990.

COUNTERNARCOTICS OBLIGATIONS REPORT—Continued

[Reflects most current available obligations figures with date annotated, in millions of dollars]

Detection and monitoring	Fiscal year 1989 procurement		
Department/Agency	Available	Obligated	
Army	42.700	40.461	As of June 30, 1990.
Army Guard	0.700	0.690	No change since May 31, 1990.
Army Reserves	0.800	0.536	No change since May 31, 1990.
Navy	30.200	24.700	As of June 30, 1990.
Navy Reserves	0.200	0.134	No change since May 31, 1990.
Marines	2.800	1.876	No change since May 31, 1990.
Defense Agencies	0.500	0.403	As of July 31, 1990
Total	84.100	73.450	
Detection and Monitoring Fiscal Year 1990 Procurement			
Air Force	111.387	0.000	No change since May 31, 1990.
Army	27.387	2.575	As of July 31, 1990.
National Guard	40.000	0.000	No change since May 31, 1990.
Navy	6.233	0.000	No change since May 31, 1990.
Defense Agencies	40.680	8.936	As of July 31, 1990.
Total	225.687	11.511	
Fiscal Year 1990 RDT&E			
Air Force	2.100	0.000	No change since May 31, 1990.
Army	1.500	0.000	No change since May 31, 1990.
Navy	2.000	0.000	No change since May 31, 1990.
Defense Agencies	4.800	0.779	As of July 31, 1990.
Total	10.400	0.779	
Fiscal Year 1990 O&M			
Air Force	17.901	9.415	As of June 30, 1990.
Air Guard	2.685	1.046	As of June 30, 1990.
Civil Air Patrol	1.000	0.723	As of July 31, 1990.
Army	24.622	20.229	As of July 31, 1990.
Army Guard	10.946	4.239	As of July 31, 1990
Navy	10.629	5.766	As of July 31, 1990.
Marines	0.932	0.932	No change since May 31, 1990.
Defense Agencies	19.229	13.829	As of July 31, 1990.
Total	87.944	56.179	
Fiscal year 1990 MILCON			
Air Force	3.000	3.000	As of June 30, 1990
Navy	0.700	0.700	No change since May 31, 1990.
Total	3.700	3.700	
Fiscal year 1990 NG MIL PERS			
Air Guard	6.383	3.182	As of June 30, 1990.
Army Guard	49.986	35.755	As of July 31, 1990.
Total	56.369	38.937	
c. Summary:			
Fiscal year detection/monitoring	189.825	99.028	52.17 percent.
Fiscal year 1990			
OPTEMPO	181.400	85.260	47.00 percent.
Demand reduction	84.100	73.450	87.34 percent
Detection/monitoring	384.100	111.106	28.93 percent.
Fiscal year 1990 total.	649.600	269.816	

Note.—These figures reflect the most current obligation status on August 10, 1990. The most current figures are as of June 30, 1990, except where noted. The variance in date of the figures stems from the individual Departments/Agencies ability to report actual obligations. The official DoD accounting system lags approximately 45 days behind the date the funds are obligated by field activities. OPTEMPO figures are only reported quarterly, therefore all OPTEMPO figures do not represent the end of the third quarter.

[U.S. General Accounting Office, Factsheet for Congressional Requesters, September 1990]

DRUG CONTROL: STATUS OF OBLIGATIONS FOR FISCAL YEAR 1990 DOD COUNTERNARCOTICS FUNDS

NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
September 25, 1990.

Hon. ALFONSE M. D'AMATO,
Co-Chairman, Caucus on International Narcotics Control, U.S. Senate

Hon. JOHN CONYER, Jr.,
Chairman, Legislation and National Security Subcommittee, Committee on Government Operations, House of Representatives

This fact sheet responds to your request for information on the status of obligations for the fiscal year 1990 Department of Defense (DOD) counternarcotics appropriation of $450 million. Specifically, we (1) compared the obligation rates for counternarcotics funds accounts to obligation rates for similar defense program accounts and (2) ascertained the reasons for any delays in obligating counternarcotics funds.

RESULTS IN BRIEF

DOD's most current financial obligation data indicates that, as of July 31, 1990, obligation rates for counternarcotics appropriation accounts were generally lower than those for defense programs as a whole. According to DOD officials, delays in obligating counternarcotics funds are attributable to the late receipt of obligation authority, extensive and time-consuming reprogramming actions, DOD policy decisions requiring congressional approval, changes in counternarcotics programs required by the final appropriations act, sequestration deliberations, and apportionment issues.

COUNTERNARCOTICS PROGRAM OBLIGATION RATES

In comparing obligation rates of funds in the counternarcotics program accounts with comparable DOD-wide accounts, we found that the obligation rates for counternarcotics programs were lower for Operations and Maintenance (24 percent less); National Guard Military Personnel (13 percent less); Procurement (50 percent less); and Research, Development, Test and Evaluation (RDT&E) (73 percent less). The counternarcotics program's Military Construction account had an obligation rate 71 percent higher than the comparable DOD-wide accounts. Appendix I provides additional details on the obligation rates for both counternarcotics and DOD-wide accounts.

REASONS FOR DELAYS IN OBLIGATING COUNTERNARCOTICS FUNDS

Defense program and budget officials noted that the counternarcotics accounts require significant interagency coordination not necessary in managing most other DOD accounts, making it difficult to draw comparisons. They indicated that this extensive coordination lengthens the time required to obligate counternarcotics funds. For example:

Congress directed that all state National Guard plans be reviewed in coordination with the Attorney General of the United States.

Obligation of funds supporting integration of command, control, communications and intelligence assets into an effective network is predicated on the Drug Enforcement Telecommunications Implementation Plan schedule, for which the Office of National Drug Control Policy is responsible.

The ability to provide training and logistical support to law enforcement agencies is predicated on specific requests from them.

A significant portion of aerostat radar surveillance systems funding is dependent on the U.S. Customs Service, which is the contracting activity for these systems.

DOD officials cited the following additional reasons for delays in obligating fiscal year 1990 counternarcotics funds in accounts involving operations and maintenance, National Guard military personnel, procurement, and RDT&E.

Operations and Maintenance

Operations and maintenance funds are available only for obligation during the fiscal year for which they are appropriated. Delays in obligating the fiscal year 1990 funds resulted from late receipt of obligation authority (the Department of Defense Appropriations Act 1990 was not enacted until November 21, 1989), and extensive reprogramming actions required primarily by a congressional decision to appropriate counternarcotics funds to a central transfer account. These reprogramming actions required counternarcotics program managers to obtain internal and external approvals before funds could be distributed to the services and defense agencies for their use. These actions required time-consuming intra- and inter-departmental coordination.

DOD officials were unable to predict if funds appropriated for operations and maintenance will be fully obligated by the end of fiscal year 1990.

National Guard Personnel

National Guard personnel funds are available for obligation only during the fiscal year for which they are appropriated. A large percentage of National Guard support is provided to domestic marijuana eradication. The marijuana growing season is from July through September. National Guard personnel are not involved in the eradication effort until late in the fiscal year, and obligation of their pay and allowances is timed to this effort.

DOD officials believe that they will be able to obligate most of the funds appropriated for this account for counternarcotics activities by the end of fiscal year 1990.

Procurement

Procurement funds are available for obligation for 3 fiscal years following appropriation; therefore, first year obligation rates do not necessarily predict final obligation performance. The obligation rates for counternarcotics procurement funds appropriated in fiscal year 1990 are low because of extensive reprogramming requirements. Moreover, requested reprogramming and transfer requests submitted in April 1990 were not approved by the pertinent congressional committees until August 1990. Thereafter, an estimated additional 30 to 45 days of normal processing time elapsed before the funding documents were made available to the service or defense agencies by the DOD Comptroller.

The contracting process—advertisement for bids, resolution of small business set-aside issues, and screening and selection of vendors—normally requires an additional 4 months or more to complete. Procurement funds are obligated when a contract is awarded.

DOD officials are confident that the funds appropriated for counternarcotics procurement will be obligated before the 3-year time limitation expires.

Research, Development, Test and Evaluation

RDT&E funds are available for obligation for 2 fiscal years following appropriation. The obligation rates for counternarcotics funds appropriated in fiscal year 1990 for this account are low for the same reasons cited for the procurement appropriation.

DOD officials are confident that the funds appropriated for counternarcotics in this account will be obligated before the 2-year time limitation expires.

SCOPE AND METHODOLOGY

In performing our work, we interviewed DOD officials of the Office of the Coordinator for Drug Enforcement Policy and reviewed financial data, reports, and other documents related to DOD counternarcotics financial management. We compared obligation data for DOD counternarcotics programs and other appropriations using the most current DOD data available (July 31, 1990).

We conducted our review between September 4 and September 11, 1990. Due to the brief time available to complete this assignment, we did not independently verify DOD's financial data or the accuracy of the explanations for delays in obligating counternarcotics funds provided by program and budget officials.

We did not obtain written agency comments. However, we discussed a draft of this fact sheet with DOD officials and incorporated their comments, as appropriate.

OBLIGATION DATA FOR DOD COUNTERNARCOTICS PROGRAM AND DOD-WIDE ACCOUNTS FOR FISCAL YEAR 1990

[In thousands of dollars]

Accounts	DOD Counternarcotics Program			DOD-Wide totals			Difference
	Appropriations			Appropriations			
	Available [1]	Obligated	Percent	Available [2]	Obligated	Percent	(Perecent)
National Guard	$56,369	$38,937	69.08	$4,372,127	$3,597,088	82.27	(13.19)
Operations and maintenance	96,385	56,217	58.33	101,183,059	83,768,259	82.78	(24.46)
Procurement	243,108	20,423	8.40	83,253,424	48,456,349	58.20	(49.80)
RDT&E	10,400	779	7.49	40,921,160	33,081,483	80.84	(73.35)
Construction	3,700	3,680	99.46	6,555,282	1,865,069	28.45	71.01

[1] According to DOD officials, appropriations available total 4409,962,000. Congress appropriated $450 million for DOD counternarcotics activities in fiscal year 1990. Of that amount $3,263,000 was sequestered, $2,500,000 is being withheld by the Department of the Treasury for a classified program, and $34,275,000 was pending reprogramming approvals.

[2] Total available budgetary resources, which include appropriations, reimbursements, other income, and unobligated balances carried forward from prior years.

Note.—Obligation data is as of July 31, 1990.

MAJOR CONTRIBUTIONS TO THIS REPORT

National Security and International Affairs Division, Washington, D.C.

Gary K. Weeter, Assistant Director.
Anton G. Blieberger, Evaluator-in-Charge.
Rahul Gupta, Evaluator.●

Mr. CRANSTON. Mr. President, all of the following unanimous-consent items have been cleared on the Republican side.

REMOVAL OF INJUNCTION OF SECRECY

Mr. CRANSTON. Mr. President, as in executive session,

I ask unanimous consent that the injunction of secrecy be removed from the agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, Treaty Document No. 101-22, transmitted to the Senate today by the President; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Agreement Between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, with Annex, signed at Washington, June 1, 1990. I also enclose for the information of the Senate the report of the Department of State with respect to this agreement and an illustrative chart of the maritime boundary.

In the agreement, the Parties agree that the line described in Article 1 of the Convention Ceding Alaska, signed March 30, 1867 (the 1867 Convention Line), is, as defined in the agreement, the maritime boundary between the United States and the Soviet Union. As such, it defines the limits within which each Party may exercise territorial sea jurisdiction or exclusive economic zone jurisdiction in those areas where their claimed 12 nautical mile territorial seas or 200 nautical mile exclusive economic zones would otherwise overlap or were otherwise in dispute. It also delimits, as between the Parties, such continental shelf juris-

diction beyond 200 nautical miles from their coasts as they may exercise in accordance with international law in the Arctic Ocean, Bering and Chukchi Seas, and a portion of the North Pacific Ocean.

I believe the agreement to be fully in the United States interest. It reflects the view of the United States that the maritime boundary should follow the 1867 Convention Line. The agreement resolves differences over where each Party has the right to manage fisheries and oil and gas exploration and development, as well as exercise other sovereign rights and jurisdiction, in these marine areas. Through its transfer of jurisdiction provisions, it also ensures that coastal state jurisdiction, in accordance with international law, is exercised by one or the other Party in all marine areas within 200 nautical miles of either or both coasts. Therefore, the agreement will permit more effective regulation of marine resource activities and other ocean uses and removes a significant potential source of dispute between the United States and the Soviet Union.

I recommend that the Senate give early and favorable consideration to this agreement and advise and consent to ratification.

GEORGE BUSH.

THE WHITE HOUSE, *September 26, 1990.*

MEASURE RETURNED TO CALENDAR—S. 110

Mr. CRANSTON. Mr. President, I ask unanimous consent that S. 110 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

STEWART B. McKINNEY HOMELESS, HEALTH CARE, EDUCATION, TRAINING, AND COMMUNITY SERVICES AMENDMENTS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 792, S. 2863, a bill to reauthorize certain programs under the McKinney Homeless Assistance Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2863) to amend the Stewart B. McKinney Homeless Assistance Act and the Public Health Service Act to reauthorize certain health, education, training, and community services programs, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stewart B. McKinney Homeless Health Care, Education, Training, and Community Services Amendments of 1990".

SEC. 2. DEFINITION OF HOMELESS.

Section 103(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(b)) is amended to read as follows:

"(b) INCOME ELIGIBILITY.—

"(1) IN GENERAL.—A homeless individual shall be eligible for assistance under any program provided by this Act, only if the individual complies with the income eligibility requirements otherwise applicable to such program.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a homeless individual shall be eligible for assistance under the Job Training Partnership Act.".

SEC. 3. REAUTHORIZATION OF CERTAIN PROGRAMS WITHIN THE PUBLIC HEALTH SERVICE ACT.

(a) PRIMARY HEALTH SERVICES FOR THE HOMELESS.—Section 340 of the Public Health Service Act (42 U.S.C. 256) is amended—

(1) in subsection (e)(1)(B)—

(A) by striking out "(i)"; and

(B) by striking out clause (ii);

(2) in subsection (g), by inserting before the period the following: ", including violence counseling services where appropriate"; and

(3) in subsection (q)(1), by striking out "and $66,200,000 for fiscal year 1991" and inserting in lieu thereof "$69,000,000 for fiscal year 1991, $90,000,000 for fiscal year 1992, and $95,000,000 for fiscal year 1993".

(b) ALCOHOL AND DRUG ABUSE DEMONSTRATION PROJECTS.—Section 513(b) of such Act (42 U.S.C. 290bb-2(b)) is amended by striking out "and such sums as may be necessary for fiscal year 1991" and inserting in lieu thereof ", $17,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993".

(c) COMMUNITY MENTAL HEALTH SERVICES DEMONSTRATION PROJECTS.—Section 612(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa-3 note) is amended by striking out "and such sums as may be necessary for fiscal year 1991" and inserting in lieu thereof ", $11,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993".

SEC. 4. REAUTHORIZATION OF CERTAIN PROGRAMS WITHIN THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.

(a) JOB TRAINING FOR THE HOMELESS.—

(1) APPLICATIONS.—Section 733 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11443) is amended—

(A) by inserting "(a) IN GENERAL.—" before "Each applicant";

(B) in subsection (a)(2), by inserting before the semicolon the following: "or other related programs providing services necessary to address the multiple needs of homeless individuals";

(C) in subsection (a)(3), by inserting "on the street or" before "in-shelter"; and

(D) by adding at the end thereof the following new subsection:

"(b) SPECIAL CONSIDERATION.—

"(1) IN GENERAL.—In awarding grants under this subtitle, the Secretary of Labor may give special consideration to applicants that will implement projects that will serve areas of greatest need, including urban and rural areas, as demonstrated by—

"(A) the large number or concentration of homeless individuals in the project area relative to other similar areas of jurisdiction;

"(B) the high rates of poverty in the project area as determined by the census; or

"(C) the lack of available low cost or affordable housing within the project area, as measured by such indicators as high average local rents or vacancy rates.

"(2) HOLISTIC SERVICE APPROACH.—In awarding grants under this subtitle, the Secretary of Labor may give special consideration to applicants that will implement programs that include formal reciprocal referral agreements with other programs such as substance abuse counseling, local shelters, and subsidized housing that provide a holistic service approach on an individual case management basis.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 739(a)(1) of such Act (42 U.S.C. 11449(a)(1)) is amended by inserting after "and 1990" the following: ", $15,000,000 for fiscal year 1991, of which $3,000,000 shall be used to carry out section 738, $16,500,000 for fiscal year 1992, of which $3,500,000 shall be used to carry out section 738, and $18,000,000 for fiscal year 1993, of which $4,500,000 shall be used to carry out section 738".

(3) TERMINATION.—Section 741 of such Act (42 U.S.C. 11450) is repealed.

(b) AMENDMENTS TO THE EMERGENCY COMMUNITY SERVICES HOMELESS GRANT PROGRAM.—

(1) USE OF FUNDS FOR ADMINISTRATIVE COSTS.—Section 753(b) of such Act (42 U.S.C. 11463(b)) is amended—

(A) in paragraph (1)—

(i) by striking out "all" in subparagraph (A), and inserting in lieu thereof "not less than 95 percent"; and

(ii) by striking out "90 percent" in subparagraph (B), and inserting in lieu thereof "85 percent"; and

(B) in paragraph (3), by striking out "no amount" and inserting in lieu thereof "not more than 5 percent of the amounts".

(2) ELIGIBLE USE OF FUNDS.—Section 753(c) of such Act (42 U.S.C. 11463(c)) is amended—

(A) in paragraph (1)—

(i) by inserting "(A)" after "(1)"; and

(ii) by adding at the end thereof the following new subparagraph:

"(B) Renovation or purchase of buildings to be used to provide such services."; and

(B) by adding at the end thereof the following new paragraph:

"(5) Provision of, or referral to, violence counseling for homeless children and individuals, and the provision of violence counseling training to individuals who work with homeless children and individuals.".

(3) COMMUNITY SERVICES GRANT PROGRAM.—Section 754 of such Act (42 U.S.C. 11464) is amended by inserting after "and 1990" the following: ", and $50,000,000 for each of the fiscal years 1991 through 1993".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

SEC. 5. AMENDMENTS TO STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT RELATING TO EDUCATION.

(a) STATEWIDE LITERACY INITIATIVES.—

(1) REAUTHORIZATION.—Section 702(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(c)(1)) is amended by inserting after "and 1990" the following: ", $15,000,000 for fiscal year 1991,

and such sums as may be necessary in each of the fiscal years 1992 and 1993,".

(2) GENERAL AUTHORITY.—Section 702 of such Act (42 U.S.C. 11421) is amended—

(A) in the section heading by striking out "STATE"; and

(B) in subsection (a)—

(i) by striking out "State educational agencies to enable each such agency to" and inserting in lieu thereof "entities described in paragraph (2) to";

(ii) by redesignating paragraphs (1) and (2) subparagraphs (A) and (B), respectively;

(iii) by inserting "(1)" before "The Secretary"; and

(iv) by adding at the end thereof the following new paragraphs:

"(2) To be eligible to receive a grant under this section, an entity shall be—

"(A)(i) a State education agency or consortia thereof; or

"(ii) a local educational agency or consortia thereof; or

"(B) a partnership between an entity described in subparagraph (A) and—

"(i) a private nonprofit organization;

"(ii) a private business;

"(iii) any other public agency; or

"(iv) any other appropriate entity;

if the entity of the type described in clauses (i) through (iv) has demonstrated effectiveness in carrying out literacy programs. Priority shall be given to applications submitted by entities under subparagraph (B).

"(3) In awarding grants under this section, the Secretary of Education shall give special consideration to applicants that will implement projects that will serve areas of greatest need, including urban and rural areas, as demonstrated by—

"(A) the large number or concentration of homeless individuals in the project area relative to other similar areas of jurisdiction;

"(B) the high rates of poverty in the project area as determined by the census;

"(C) the proportionally higher numbers or concentrations of homeless individuals or adults who do not have a secondary education or its equivalent; or

"(D) the lack of available low cost or affordable housing within the project area, as measured by such indicators as high average local rents or vacancy rates.".

(3) APPLICATION.—Section 702(b) of such Act (42 U.S.C. 11421(b)) is amended—

(A) by striking out "State educational agency desiring to receive its allocation" and inserting in lieu thereof "eligible entity as defined in section 702(a)(2)"; and

(B) by striking out "and the number" and all that follows through "States to be served".

(b) POLICY.—Section 721(2) of such Act (42 U.S.C. 11431(2)) is amended—

(1) by inserting "or other laws, regulations, policies, or practices that may act as barriers to the enrollment of homeless children and youth in its schools" after "attendance laws,"; and

(2) by inserting "regulations, policies, and practices" after "such laws".

(c) GRANTS FOR STATE AND LOCAL ACTIVITIES.—Section 722 of such Act (42 U.S.C. 11432) is amended—

(1) in the section heading by inserting "AND LOCAL" after "STATE";

(2) in subsection (b), by striking out "section 1005" and inserting in lieu thereof "part A of chapter 1 of title I";

(3) in subsection (c)—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(4) to develop and implement training programs for teachers and administrators; and

"(5) to provide grants to local educational agencies in accordance with section 723.";

(4) in subsection (d)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) biennially gather information concerning the nature and extent of barriers to access to, and placement of, homeless children and youth in elementary and secondary schools, including information on the manner in which such barriers have been addressed, what barriers continue to exist, and the difficulties in identifying the special needs of such children;";

(B) by striking out "and" at the end of paragraph (2);

(C) by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) prepare and submit to the Secretary a report concerning the information gathered pursuant to paragraph (1) not later than December 31 of each year in which such information is gathered; and

"(4) facilitate coordination between the State Education Agency, the State Social Services Agency, and other agencies providing services to homeless children and youth and their families."; and

(D) by striking out the last sentence;

(5) in subsection (e)(1)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new subparagraphs:

"(C) educate school personnel (including principals, attendance officers, teachers, and enrollment personnel), parents, shelter operators, and service providers concerning the rights and needs of homeless children and homeless youth in school; and

"(D) ensure that homeless children and homeless youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local school food programs and appropriate child nutrition programs.";

(6) in subsection (e)—

(A) by striking out "(6)" in paragraph (2) and inserting in lieu thereof "(10)";

(B) by striking out "homeless child or youth" in paragraph (3) and inserting in lieu thereof "child or youth who becomes homeless during the school year or during the summer prior thereto";

(C) by striking out "district" each place that such occurs in subparagraphs (A) and (B) of paragraph (3);

(D) by inserting at the end of paragraph (3) the following new sentences:

"In determining the best interests of the child or youth, for purposes of making a school assignment, consideration shall be given to a request made by a parent regarding school selection. For purposes of this paragraph, the term 'school of origin' shall mean the school that the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.";

(E) by redesignating paragraph (6) as paragraph (7);

(F) by inserting after paragraph (5), the following new paragraph:

"(6) The local educational agency of each homeless child or youth shall provide transportation to enable such homeless child or youth to attend the school selected under paragraph (3), to no lesser extent than other children and youth are provided transportation under State or local law or policy.";

(G) by striking out "The school records" in paragraph (7) (as so redesignated by subparagraph (E)) and inserting in lieu thereof "Any records normally kept by the school, which may include, but are not limited to, immunization records, birth certificates, guardianship records, academic records, evaluations for special services or programs,"; and

(H) by adding at the end thereof the following new paragraphs:

"(8) Each local educational agency serving homeless children or youth shall coordinate with local social services agencies, and other agencies or programs providing services to such children or youth and their families.

"(9) Each local educational agency shall designate a homelessness liaison to ensure that—

"(A) homeless children and youth enroll and succeed in the schools of that agency; and

"(B) homeless families, children and youth receive educational services for which they are eligible, and referrals to health care services, dental services, mental health services, and other appropriate services.

State coordinators and local educational agency liaisons shall inform school personnel, service providers and advocates working with homeless families of the duties of the liaisons.

"(10) Each State and local educational agency shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth in schools selected in accordance with section 722(e)(3). In reviewing and revising such policies, consideration shall be given to issues concerning transportation, requirements of immunization, residency, birth certificates, school records, or other documentation, and guardianship. Special attention shall be given to ensuring the enrollment and attendance of homeless children and youths who are not currently attending school."; and

(7) in subsection (g)—

(A) by striking out "$5,000,000" in paragraph (1) and all that follows through the end thereof and inserting in lieu thereof "$50,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993";

(B) by redesignating paragraph (2) as paragraph (4); and

(C) by inserting after paragraph (1) the following new paragraphs:

"(2) The State educational agency may reserve not to exceed 5 percent of the amount received by such agency under this section in each fiscal year, or an amount equal to the amount received by such State agency for State activities under this section in fiscal year 1990, whichever is greater, to conduct activities under paragraphs (1), (2), (3), and (4) of subsection (c).

"(3)(A) In any fiscal year in which the amount appropriated under paragraph (1) does not equal or exceed $100,000,000, the State educational agency shall use funds not otherwise reserved under paragraph (2) to award grants to local educational agencies in accordance with subsection (c)(4).

"(B) In any fiscal year in which the amount appropriated under paragraph (1) equals or exceeds $100,000,000, the State

educational agency shall use funds not otherwise reserved under paragraph (2) to allocate to each local educational agency an amount that bears the same ratio to amount not otherwise reserved as the aggregate amount received by such local educational agency under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 for such fiscal year bears to the aggregate amount received by all local educational agencies in the State for purposes of carrying out such part for such fiscal year.".

(d) GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.—Section 723 of such Act (42 U.S.C. 11433) is amended to read as follows:

"SEC. 723. LOCAL EDUCATIONAL AGENCY GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.

"(a) GENERAL AUTHORITY.—The State educational agency may make grants to local educational agencies to carry out the activities described in subsection (c).

"(b) AWARDS.—

"(1) BASIS.—Except as provided in section 722(g)(3), from amounts appropriated for each fiscal year under section 722(g), the State educational agency may award grants under this section to local educational agencies submitting an application under subsection (d) on the basis of the need of such agencies.

"(2) DETERMINATION.—In determining need under paragraph (1), the State educational agency may consider the number of homeless children and youth enrolled in preschool, elementary, and secondary schools within the area served by the agency, and shall consider the needs of such children and youth, and the ability of the agency to meet such needs. Such agency may also consider—

"(A) the extent to which the proposed use of funds would facilitate the enrollment, retention, and educational success of homeless children and youth;

"(B) the extent to which the application reflects coordination with other local and State agencies that serve homeless children and youth, as well as the State Plan required by section 722(e);

"(C) the extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youth in its jurisdiction; and

"(D) other criteria as the agency determines appropriate.

"(c) USE.—

"(1) IN GENERAL.—Grants awarded under this section shall be used to provide services intended to facilitate the enrollment, attendance, and success of homeless children and youth in school. Services provided under this section are not intended to replace the regular academic program.

"(2) PROVISION OF SERVICES.—Unless otherwise specified, services under paragraph (1) may be provided through programs on school grounds, or at other nonsectarian facilities. Such services shall be provided, to the maximum extent practicable, through existing programs and mechanisms that integrate homeless individuals with housed individuals.

"(3) TYPES OF SERVICES.—Services provided under this section may include—

"(A) expedited evaluations for special needs, programs, and services, including the areas of special education, limited English proficiency, remediation, and gifted and talented students;

"(B) before- and after-school and summer programs for tutoring, homework assistance, and the supervision of educational activities during nonschool hours, by a teacher or other qualified individual, in coordination with existing programs for children who are not homeless, where appropriate;

"(C) the adaptation of space and the purchase of supplies for nonschool facilities made available under paragraph (2) to provide services under subparagraph (B);

"(D) developmentally appropriate early childhood programs for pre-school age children;

"(E) counseling, social work and psychological services, including violence counseling, and referrals for such services;

"(F) referral to medical, dental, and other health services, and the provision of funds for such services where appropriate and practical, in coordination with services provided under title VI;

"(G) school supplies to be distributed at the shelter or temporary housing facilities;

"(H) parent education and training concerning the rights of, and resources available to, homeless children and youth;

"(I) the training of educators and other school personnel to develop awareness and sensitivity to the needs of homeless children and homeless youths and the rights of such children and youths under this Act;

"(J) the excess cost of transportation for students not provided under section 722(e)(6) and not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 722(e)(3);

"(K) where necessary, fees and other costs associated with tracking, obtaining and transferring records necessary to enroll students in school, including records of immunizations, birth certificates, academic records, guardianship records, and evaluations for special services or programs;

"(L) coordination between schools and agencies providing services to homeless children; and

"(M) such other extraordinary or emergency assistance determined by the Secretary as essential to enable homeless children and youth to attend school.

"(d) APPLICATION.—A local educational agency that desires to receive a grant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as such agency may reasonably require. Each such application shall include—

"(1) a description of the services and programs for which assistance is sought and the problems sought to be addressed through the provision of such services and programs;

"(2) assurances that the applicant complies with or will use requested funds to come into compliance with paragraphs (3) through (10) of section 722(e);

"(3) assurances that such funds will supplement and not supplant non-Federal funds currently used for such purposes; and

"(4) a description of policies and procedures that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and homeless youth.".

(e) NATIONAL RESPONSIBILITIES.—Section 724 of such Act (42 U.S.C. 11434) is amended—

(1) in subsection (a), to read as follows:

"(a) GENERAL ACCOUNTING OFFICE.—Not later than 2 years after the date of enactment of this subsection, the Comptroller General of the United States, in consultation with the Secretary, shall prepare and submit to the appropriate Committees of Congress a report containing the findings of a study conducted to determine the most effective method of distributing funds provided under this subtitle to State educational agencies and local educational agencies."; and

(2) in subsection (b)—

(A) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (4), and (5), respectively;

(B) by inserting after the subsection heading the following new paragraph:

"(1)(A) The Secretary, in consultation with persons and organizations that are knowledgeable about the needs of homeless children and youth, shall, through the awarding of a grant, or through entering into a contract or cooperative agreement, conduct a study to determine the best means of identifying, locating, and counting homeless children and youth for the purposes of this subtitle. Such persons and organizations to be consulted shall include representatives of State coordinators, local educational agencies with substantial numbers of homeless children and youth, local government agencies with responsibility for administering homeless shelters, and advocacy groups representing the interests of homeless children and youth. The Secretary shall also consult with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, as appropriate, in carrying out this paragraph.

"(B) The study conducted under subparagraph (A) shall consider—

"(i) the appropriate definition of the terms 'homeless child' and 'homeless youth';

"(ii) the experience of the 1990 Census in identifying, locating, and counting homeless children and youth; and

"(iii) appropriate methodologies for identifying, locating, and counting such children and youth, including using schools, shelters, and other social service agencies to collect data;

to determine the number of homeless children and youth in the United States to create as accurate an account as possible of the number, location, and living circumstances of such children and youth, including the number of such children and youth that are attending school regularly, part-time, or not at all, and reasons for the non-attendence of such children and youth.

"(C)(i) Not later than 240 days after the date of enactment of this paragraph, the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report containing the results of the study conducted under subparagraph (A) and the estimated costs of making the estimates required under clause (ii).

"(ii) Not later than 1 year after the completion of the study under clause (i), the Secretary, in consultation with the appropriate Committees of Congress, and through the use of appropriate statistical methodology, shall determine accurate estimates of the number of homeless children and youth throughout the Nation and the number of such children and youth attending school.

"(D) The Secretary may reserve not more than $250,000 from amounts appropriated under section 722(g) in 1991 to carry out the study required under subparagraph (A).

"(E) There are authorized to be appropriated such sums as may be necessary in 1992 to prepare the report and estimates required under subparagraph (C). Amounts necessary to complete such report and esti-

mates shall be included in the President's 1992 Budget Request to Congress.";

(C) in paragraph (2) (as so redesignated) by adding at the end thereof the following new sentences: "In reviewing the State plans submitted by the States educational agencies under section 722(e), the Secretary shall evaluate whether State laws, policies, and practices described in such plans adequately address the problems of homeless children and homeless youth relating to access to education and placement as described in such plans.";

(D) by inserting after paragraph (2) (as so redesignated), the following new paragraph:

"(3) The Secretary shall provide such support and technical assistance to the State educational agencies as is required by such agencies to carry out their responsibilities under this subtitle."; and

(E) by adding at the end thereof the following new paragraph:

"(6) The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students.".

SEC. 6. EVALUATION AND REPORT.

Subtitle D of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11461 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 755. EVALUATION.

"(a) PURPOSE.—It is the purpose of this section to develop as rapidly as practicable, information concerning the organization, impact and effectiveness of services provided to homeless individuals under programs administered by the Secretary of Health and Human Services under this or any other Act, and of the effectiveness of the coordination of such programs with other Federal or Federally assisted programs that provide services to homeless individuals, or to those at risk of becoming homeless.

"(b) REQUIREMENT FOR EVALUATION ACTIVITIES.—In carrying out the purpose described in subsection (a), the Secretary shall conduct evaluations that shall include—

"(1) the use of cost and utilization data collected under the Primary Health Care for the Homeless Program under section 340 of the Public Health Service Act to conduct an evaluation, in consultation with organizations receiving grants under this title and with the national representatives of such organizations, of the impact of health, case management and referral services provided by a representative sample of grantees concerning client outcome;

"(2) under part C of title V, an evaluation of the need for and availability of services for individuals who are homeless or at risk of becoming homeless that have a serious mental illness or substance abuse problem, with special attention paid to the service needs of the dually diagnosed;

"(3) an evaluation to identify and document replicable, community-wide programs that provide integrated, comprehensive services that result in service delivery models which prevent homelessness or lead to the successful relocation of the homeless into permanent housing; and

"(4) an identification through the evaluation conducted under this subsection of those areas where services are lacking.

"SEC. 756. REPORT BY THE SECRETARY.

"Not later than 12 months after the date of the enactment of this section, the Secretary of Health and Human Services shall—

"(1) complete, in consultation with appropriate members of the Interagency Council on the Homeless, a study of the extent to which Federal laws, regulations, or policies are inappropriately or inadvertently hindering Federal facilities (such as cafeterias in the facilities of the Department of Defense and Department of Veterans' Affairs) from making available to programs or entities serving the homeless prepared food that is not consumed; and

"(2) prepare and submit, to the appropriate Committees of Congress, a report containing the findings made as a result of the study conducted under paragraph (1), including any recommendations with respect to administrative and legislative initiatives that would permit Federal facilities to make available to entities serving the homeless such excess prepared food.".

SEC. 7. CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS.

(a) FINDINGS.—Congress finds that—

(1) homelessness is a growing national tragedy;

(2) as many as one-third of the homeless people in the United States are members of families with children;

(3) families represent the fastest growing segment of the homeless population;

(4) homelessness too often results in the placements of children into out-of-home care, or delays the reunification of such children with their parents; and

(5) strong coordination between child welfare agencies and housing authorities can protect homeless children or children at risk of becoming homeless from abuse and neglect and help prevent the unnecessary separation of children from their families.

(b) AMENDMENT.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) (as amended by Public Law 101-126) is amended by adding at the end thereof the following new title:

"TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

"SEC. 301. DEMONSTRATION GRANTS FOR PREVENTION OF INAPPROPRIATE SEPARATION FROM FAMILY AND FOR PREVENTION OF CHILD ABUSE AND NEGLECT.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary may make grants to entities described in subsection (b)(1) for the purpose of assisting such entities in demonstrating, with respect to children whose families are homeless or at risk of becoming homeless, the effectiveness of activities undertaken to prevent—

"(1) the inappropriate separation of such children from their families on the basis of homelessness or other problems regarding the availability and conditions of housing for such families; and

"(2) the abuse and neglect of such children.

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—

"(1) IN GENERAL.—The entities referred to in subsection (a) are State and local agencies that provide services in geographic areas described in paragraph (2), and that have authority—

"(A) for removing children, temporarily or permanently, from the custody of the parents (or other legal guardians) of such children and placing such children in foster care or other out-of-home care; or

"(B) in the case of youths not less than 16 years of age for whom such a placement has been made, for assisting such youths in preparing to be discharged from such care into circumstances of providing for their own support.

"(2) ELIGIBLE GEOGRAPHIC AREAS.—The geographic areas referred to in paragraph (1) are geographic areas in which homelessness and other housing problems are—

"(A) threatening the well-being of children; and

"(B)(i) contributing to the placement of children in out-of-home care;

"(ii) preventing the reunification of children with their families; or

"(iii) in the case of youths not less than 16 years of age who have been placed in out-of-home care, preventing such youths from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

"(3) COOPERATION WITH APPROPRIATE PUBLIC AND PRIVATE ENTITIES.—The Secretary shall not make a grant under subsection (a) unless the agency involved has entered into agreements with appropriate entities in the geographic area involved (including child welfare agencies, public housing agencies, and appropriate public and nonprofit private entities that provide services to homeless families) regarding the joint planning, coordination and delivery of services under the grant.

"(c) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary shall not make a grant under subsection (a) unless the agency involved agrees that, with respect to the costs to be incurred by such agency in carrying out the purpose described in such subsection, the agency will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than $1 for each $4 of Federal funds provided in such grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

"(d) DURATION OF ASSISTANCE.—The period during which payments are made to an agency from a grant under subsection (a) shall not exceed 3 fiscal years. The Secretary shall not make payments for the second or third fiscal year of the grant unless the Secretary determines that, for the preceding fiscal year, the agency has complied with each of the agreements on which the grant is conditioned.

"SEC. 302. PROVISIONS WITH RESPECT TO CARRYING OUT PURPOSE OF DEMONSTRATION GRANTS.

"(a) JOINT TRAINING OF APPROPRIATE SERVICE PERSONNEL.—

"(1) IN GENERAL.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees to establish, with respect to the subjects described in paragraph (2), a program for joint training concerning such subjects, for appropriate personnel of child welfare agencies, public housing agencies, and appropriate public and private entities that provide services to homeless families.

"(2) SPECIFICATION OF TRAINING SUBJECTS.—The subjects referred to in paragraph (1) are—

"(A) the relationship between homelessness, and other housing problems, and the initial and prolonged placement of children in out-of-home care;

"(B) the housing-related needs of families with children who are at risk of placement in out-of-home care; and

"(C) resources (including housing-related assistance) that are available to prevent the initial or prolonged placement in out-of-home care of children whose families are homeless or who have other housing problems.

"(b) ADDITIONAL AUTHORIZED ACTIVITIES.—In addition to activities authorized in subsection (a), a grantee under section 301(a) may expend grant funds for—

"(1) the hiring of additional personnel to provide assistance in obtaining appropriate housing—

"(A) to families whose children are at imminent risk of placement in out-of-home care or who are awaiting the return of children placed in such care; and

"(B) to youth who are preparing to be discharged from such care into circumstances of providing for their own support;

"(2) training and technical assistance for the personnel of shelters and other programs for homeless families (including domestic violence shelters) to assist such programs—

"(A) in the prevention and identification of child abuse and neglect among the families the programs served; and

"(B) in obtaining appropriate resources for families who need social services, including respite care, and support;

"(3) the provision of emergency housing-related assistance necessary to prevent the placement of children in out-of-home care, to facilitate the reunification of children with their families, and to enable the discharge of youths not less than 16 years of age from such care, including assistance in meeting the costs of—

"(A) rent or utility arrears to prevent an eviction or termination of utility services;

"(B) security and utility deposits, first month's rent, and basic furnishings; and

"(C) other housing-related assistance;

"(4) the provision to families, and to youths not less than 16 years of age who are preparing to be discharged from such care, of temporary rent subsidies necessary to prevent the initial or prolonged placement of children in out-of-home care, which subsidies are provided in an amount not exceeding 70 percent of the local fair market rental value and are provided for a period not to exceed 180 days;

"(5) the development and dissemination of informational materials to advise homeless families with children and others who are seeking housing of resources and programs available to assist them; and

"(6) other activities, if authorized by the Secretary, that are necessary to address housing problems that result in the inappropriate initial or prolonged placement of children in out-of-home care.

"SEC. 303. ADDITIONAL REQUIRED AGREEMENTS.

"(a) REPORTS TO SECRETARY.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees that such agency will—

"(1) annually prepare and submit to the Secretary a report describing the specific activities carried out by the agency under the grant; and

"(2) include in the report submitted under paragraph (1), the results of an evaluation of the extent to which such activities have been effective in carrying out the purpose described in such section, including the effect of such activities regarding—

"(A) the incidence of placements of children in out-of-home care;

"(B) the reunification of children with their families; and

"(C) in the case of youths not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

"(b) EVALUATION BY THE SECRETARY.—The Secretary shall conduct evaluations to determine the effectiveness of demonstration programs supported under section 301(a) in—

"(1) strengthening coordination between child welfare agencies, housing authorities, and programs for homeless families;

"(2) preventing placements of children into out-of-home care due to homelessness or other housing problems;

"(3) facilitating the reunification of children with their families; and

"(4) in the case of youths not less than 16 years old who have been placed in out-of-home care, preventing such youth from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

"(c) REPORT TO CONGRESS.—Not later than March 1, 1993, the Secretary shall prepare and submit to the appropriate committees of Congress a report that contains a description of the activities carried out under this title, and an assessment of the effectiveness of the programs established under this title in preventing initial and prolonged separation of children from their families due to homelessness and other housing problems. At a minimum the report shall contain—

"(1) information describing the localities in which activities are conducted;

"(2) information describing the specific activities undertaken with grant funds and, where relevant, the numbers of families and children assisted by such activities;

"(3) information concerning the nature of the joint training conducted with grant funds; and

"(4) information concerning the impact of programs supported with grant funds on—

"(A) the incidence of the placement of children into out-of-home care;

"(B) the reunification of children with their families; and

"(C) in the case of youths not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

"(d) RESTRICTION ON USE OF GRANT.—The Secretary may not make a grant under section 301(a) unless the agency involved agrees that the agency will not expend the grant to purchase or improve real property.

"SEC. 304. DESCRIPTION OF INTENDED USES OF GRANT.

"The Secretary shall not make a grant under section 301(a) unless—

"(1) the agency involved submits to the Secretary a description of the purposes for which the agency intends to expend the grant;

"(2) with respect to the entities with which the agency has made agreements pursuant to section 301(b)(1), such entities have assisted the agency in preparing the description required in paragraph (1); and

"(3) the description includes a statement of the methods that the agency will utilize in conducting the evaluations required in section 303(a)(2).

"SEC. 305. REQUIREMENT OF SUBMISSION OF APPLICATION.

"The Secretary shall not make a grant under section 301(a) unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in section 304, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

"SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1991 through 1993.

"(b) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated under subsection (a) shall remain available until expended.".

(c) TECHNICAL AND CONFORMING AMENDMENT.—The Child Abuse and Prevention Act (42 U.S.C. 5101 et seq.) is amended in the table of contents in section 101(b) by adding at the end thereof the following new items:

"TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

"Sec. 301. Demonstration grants for prevention of inappropriate separation from family and for prevention of child abuse and neglect.

"Sec. 302. Provisions with respect to carrying out purpose of demonstration grants.

"Sec. 303. Additional required agreements.

"Sec. 304. Description of intended uses of grant.

"Sec. 305. Requirement of submission of application.

"Sec. 306. Authorization of appropriations.".

AMENDMENT NO. 2912

(Purpose: To combat homelessness through the establishment of housing-based family support centers, through the provision of housing-based services to elderly individuals and individuals with chronic and debilitating illnesses and conditions, through the provision of residence-based outpatient mental health services, and through the use of grants for the improvement of community development corporations)

Mr. CRANSTON. Mr. President, I send an amendment to the desk in behalf of Senator KENNEDY, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], for Mr. KENNEDY, proposes an amendment numbered 2912.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KENNEDY. Mr. President, today we are considering S. 2863, the reauthorization of the McKinney Homeless Assistance Act.

Four years ago, Congress addressed the worsening tragedy of the homeless and enacted the McKinney Homeless Assistance Act to provide emergency food, shelter, health, and mental health care, job training and education for homeless children and adults.

The amendments proposed today will extend the McKinney Act and make it more effective in addressing the needs of the homeless.

The bill will extend all of the McKinney Act programs for 3 years, through 1993. In 1991, the bill will authorize $253 million for emergency services to homeless. Of this total amount, $69 million will be available to expand and improve the Health Care for the Homeless Program. The health needs of the homeless are substantial, and these programs are making a difference across the country—often between life and death.

The bill also reauthorizes job training, community service, and education programs. In addition, this measure expands the education provisions of McKinney to remove barriers that deny homeless children access to education. The Education Department reports that at least 28 percent of homeless school-aged children still do not attend school. This bill authorizes $50 million in assistance to cover the extra cost of expediting the evaluation of homeless children and youth for special services, facilitating the transfer of records, and providing transportation to get children into school. It also authorizes before- and after-school programs, tutoring and counseling to ensure that once in school, homeless students are more likely to remain and to learn.

At Senator HATCH's urging, we have also included a comprehensive evaluation component in this package. The various departments involved in administrating the McKinney Act are currently conducting a review of all Federal programs serving the homeless, in order to improve the act. I welcome these efforts, and our evaluation provisions signals the Senate's commitment to working closely with the administration.

Finally, a new $25 million demonstration program authorized by the bill will provide grants to prevent the wrongful separation of children from their families and to prevent abuse and neglect of these children.

McKinney Act programs work. In Massachusetts, McKinney funds provided 400 new shelter beds for individuals, and built 9 new family shelters with 178 beds. The Boston Health Care for the Homeless Project was able to provide over 1,400 homeless people with health care. Six hundred veterans have been placed in housing and jobs. The list of people helped by the McKinney Act goes on and on.

Yet the list of those who need help is much longer. McKinney services are needed now more than ever, and I urge the Senate to approve this essential and compassionate legislation.

In addition, Mr. President, we are including the Homelessness Prevention and Community Revitalization Act, which passed the Senate previously as an amendment to the Affordable Housing Act. This measure will provide $452.5 million to State and local public and private nonprofit agencies for essential social and health services for families and individuals in subsidized housing and low income neighborhoods.

This provision seeks to achieve this goal through five carefully targeted and coordinated grant programs. The first program, Family Support Centers, will provide on-site case managers and services to at-risk families. The program will provide the services that low-income families need before a crisis erupts.

The second program, title II of the amendment, will provide housing-based health services to individuals who are seriously ill—such as people with AIDS— and the frail elderly.

The third title consists of Senator DOMENICI's Projects to Aid the Transition from Homelessness or PATH. This excellent proposal, which was coauthored by Senator DURENBERGER, will provide services to homeless individuals who are seriously mentally ill or are substance abusers.

Title IV renews our commitment to Community Development Corporations by reinvigorating the Federal component of our current public private partnership.

The fifth title contains Senator MIKULSKI's Gateway Program. This establishes on-site literacy, basic skills, and job training programs for young people in public housing.

We have an obligation to help our fellow Americans help themselves. Homelessness is not inevitable in the United States. It is time we stopped acting like it is.

Mr. HATCH. Mr. President, I rise to join Senator KENNEDY in supporting the Stewart B. McKinney Homeless Health Care, Education, Training, and Community Services Amendments of 1990. This legislation we are considering today will extend funding for health, mental health, job training, and education programs for homeless people.

The face of homelessness has changed in the last decade. Images of skid row and middle-aged, male alcoholics have given way to some new realities. Many of the new homeless are younger, and they are ethnically more diverse. Roughly 30 percent of the homeless have some type of major mental illness. And, even more of those who are homeless have problems with substance abuse, including alcohol and drug abuse. Some suffer from multiple, overlapping problems such as alcoholism and substance abuse.

The homeless increasingly includes the working poor. Although they may be working, they may not earn enough to rent as home or an apartment. Others are homeless because of family conflict, dissolution, or illness.

Because the problems of homelessness are varied, the solutions must be varied as well. We must provide our States and communities with the flexibility to design and implement activities that address the specific needs of the homeless in their communities.

For example, there is an increasing number of families among the homeless. The children in these families need to be in school. This bill changes the education program from a discretionary grant program directed by the Department of Education to a State-directed program. It also requires a study by the Government Accounting Office and the Department of Education to determine an appropriate formula for distributing education funds to the homeless.

Mr. President, I also believe that the McKinney programs must continue to encourage and enhance the work of the States, private organizations, and individuals. This bill contains an excellent example of what individual effort can achieve. It requests the Secretary of Health and Human Services to report to the Congress on the policies, regulations, or laws that hinder Federal facilities, such as cafeterias at military bases or VA hospitals, from giving otherwise edible leftover food that is going to be thrown away to food programs for the homeless. It asks the Secretary to report on ways to change this situation.

This idea was contained in a letter I received from Shelley Wood of Salt Lake City, who had worked for several years as a physician's assistant in an indigent care clinic. I think it has merit. I am pleased that this provision is included in the bill before us today.

Mr. President, I think the legislation we reported from the Committee on Labor and Human Resources will assist States and local programs in meeting the special needs of the homeless in their communities. I urge my colleagues to join me in supporting this bill.

Mr. DOMENICI. Mr. President, on June 20, 1990, the Senate passed the Kennedy-Domenici amendment to the National Affordable Housing Act by a vote of 19 to 11. This amendment expands the McKinney Homeless Assistance Act to add more prevention measures and to add PATH grants for the homeless who are mentally and/or substance abusers.

Today, we are asking the Senate to pass this same amendment on another bill, S. 2863, the Labor Committee's re-

authorization amendments to the McKinney Homeless Assistance Act.

Senator KENNEDY and others will discuss the provisions of the prevention activities in our amendment. I would like to focus the Senate's attention on the PATH grants—Projects to Aid the Transition from Homelessness.

The treatment and outreach services for the homeless mentally ill and substance abusers in the PATH grant program are significantly expanded compared to those now in the McKinney block grant program.

The fiscal year 1990 authorization level for the mental health block grants, title VI-B of the McKinney Act is $35 million and "such sums as are necessary" for fiscal year 1991.

PATH grants would authorize $150 million each year for the next 5 years, Mr. President. We hope to see more mental health treatment, better housing coordination, and, for the first time in the McKinney Act, nationwide substance abuse treatment targeted to the homeless. Services included in PATH grants are:

Outreach and engagement services;

Screening and diagnostic treatment services;

Habilitation and rehabilitation;

Community mental health services;

Alcohol or drug treatment services;

Staff training; and

Case management services.

By making significantly more funding available to this target group, we hope to make large impacts on the severe problems faced by a mentally ill person on the streets.

The homeless mentally ill can be the most fragile and victimized people in our country. A few are volatile. We know that most who are mentally ill have schizophrenia in its many forms. Some are depressed. Yet others try to hide their mental illnesses by becoming alcoholic or addicted to drugs.

In Albuquerque, Santa Fe, and Las Cruces, NM, the homeless have become more visible and more numerous. The Albuquerque Emergency Care Alliance reports that 29 percent of the homeless individuals that are treated are mentally ill. A third or more are substance abusers.

PATH grants are intended to make a major difference in the lives of the homeless who are mentally ill and those who are substance abusers. We truly hope to create pathways from homelessness for these most needy Americans.

ADDING SUBSTANCE ABUSE SERVICES

The current McKinney Act does not provide a source of funds for substance abuse treatment except for the community demonstration projects for alcohol and drug abuse treatment of homeless individuals (section 512(c) of the Public Health Service Act). These demonstration projects are being run in nine cities with funds appropriated through fiscal year 1989.

A U.S. News & World Report story on January 15, 1990, reports that substance abuse among the homeless is increasing dramatically. The story cites the U.S. Conference of Mayors 27-city survey released in December 1989.

Local officials reporting to the Conference of Mayors are now saying that 44 percent of the homeless are substance abusers.

According to the article, the mayors are also reporting that "since 1986, the numbers of alcoholics and drug addicts have grown faster than othr segments of the homeless, with their ranks increasing by almost a third in the last year alone."

One of the most difficult assessments to make when dealing with a homeless person who is an alcoholic or a drug addict is the determination of whether or not there is also an underlying mental illness. In many cases both illnesses are present. These are homeless persons with a dual diagnosis.

Recent studies show that among the general population, drug abusers have the highest likelihood of also having a severe mental disorder—about one-half of drug addicts are thus afflicted.

Among alcoholics in the general population, about a third have a comorbid mental disorder.

Explained in another way, these findings say that an alcoholic is 2.7 times more likely than a nonalcoholic to have a severe mental disorder. A drug addict is 4.5 times as likely as a nonabuser to have an underlying mental disorder.

This type of research finding, while not specifically about the homeless, certainly lends credibility to creating a source of Federal funds to address these often related and difficult to treat ailments.

When we add these overlapping estimates together—44 percent substance abusers among the homeless according to the mayors' survey and 40 percent mentally ill from the National Institute of Mental Health—it is clear that a majority of homeless people have either substance abuse problems, mental illness, or both.

PROTECTING THE MENTALLY ILL

Since this new grant program replaces the community mental health services block grant of the Stewart B. McKinney Homeless Assistance Act, there is some valid concern among mental advocates. They do not want to see PATH grants become an adjunct to the antidrug abuse programs with the result that services to the homeless mentally ill are reduced from the current levels. I agree with their concern.

In agreeing to protect the homeless mentally ill in PATH grants, we have created a hold harmless provision that holds each State and its entitled communities to the total amount of funds received under title VI-B of the McKinney Act in fiscal year 1990 plus an additional 30 percent.

This 30-percent increase is an acknowledgment that serving substance abusers adds to the costs of providing eligible services in our bill.

In addition to the hold harmless plus 30 percent, we have required that at least two-thirds of the beneficiaries be seriously mentally or dually diagnosed with mental illness and substance abuse problems.

Unfortunately, the recent history of substance abuse treatment compared to mental health treatment shows a sharp relative decline in services to the mentally ill compared to substance abusers. This is due largely to the surge in funding for drug treatment programs in the two large antidrug abuse acts.

The two-thirds minimum for mentally ill or dually diagnosed persons will keep this grant program from becoming an extension of current substance abuse programs while allowing treatment funds to aid substance abusers who are homeless.

By requiring case managers to seek services for eligible clients, we are hoping to see more coordination with substance abuse treatment programs. In the event such programs cannot be located, this bill provides some of the necessary funds to add substance abuse treatment services for the homeless.

IMPROVING THE CHANCES OF GETTING SERVICES

Unfortunately, it is very often the case that a mental health center will not be able to treat a person with substance abuse problems. Nor will a drug or alcohol treatment program treat a person with signs of mental illness.

Our bill addresses this institutional failure by denying funds from PATH to programs with a stated or implied policy of turning away potential clients with either mental disorders substance abuse afflictions.

In other words, if a substance abuse treatment program denies services to those with mental illness or vice versa, these funds cannot be contracted to that agency or provider.

Our aim here is to assure a homeless person that any entrance point into the treatment system will lead to some positive assistance. We are not requiring each service provider to be a comprehensive alcohol, drug, and mental health provider. Rather, we are requiring that proper referrals be made without regard to the primary capability of the provider. Hopefully, this provision in our bill will lead to better integration of the treatment network for a homeless person who is very likely to have mental disorders or addictions to alcohol or drugs.

HOUSING AND PATH GRANTS

I am very pleased that the Senate Labor Committee agreed to expand

the services for the homeless mentally ill and substance abusers. In addition, some of the original PATH grant housing activities were agreed to in the Labor Committee.

While we could not authorize the major housing activities of PATH, like transitional housing and group homes, we were able to authorize some important housing activities in the Labor Committee.

The Labor Committee was able to authorize some vital housing assistance in PATH grants. Up to 20 percent of any PATH grant can be used for any or all of the following housing activities: Minor renovation, expansion, and repair; planning; security deposits; one time rental payments to prevent eviction; and technical assistance in applying for housing assistance.

A larger share of housing assistance for this target group—the homeless mentally ill and substance abusers—will be made available from the housing titles of the McKinney Act, reenacted in the National Affordable Housing Act, S. 566. As I stated in my colloquy with Senator CRANSTON in the debate on S. 566, the Senate fully intends that the U.S. Department of Health and Human Services and the U.S. Department of Housing and Urban Development make every effort to coordinate the service provisions of the McKinney Act with the housing provisions of the same act, especially for the homeless who are mentally ill.

The National Affordable Housing Act, as passed by the Senate, also makes a significant change in homeless housing policy. It consolidates four McKiney Act homeless housing programs into one grant. This will make it much easier for local homeless service programs receiving PATH grants to locate appropriate housing. Prior to this important change, a local shelter or homeless service program would have to compete on a national basis for transitional and permanent housing.

REQUIRED APPLICATIONS

The intended local uses of PATH grants must be written in an application submitted to the Department of Health and Human Services. This application will define the geographic areas where the greatest numbers of intended beneficiaries are located.

It will describe the programs and activities to be supported, including coordination with other agencies and nonprofit organizations. Public comments will be required.

Intended mental health activities must be consistent with the State comprehensive mental health services plan.

Assurances that improved housing conditions will be available to eligible participants will also be required.

FUND ALLOCATION

To allocate the $150 million, we have applied the current formula for distributing funds for the community development block grant [CDBG] with two important changes.

This formula was chosen because it is well known and well accepted across this country. This formula uses the factors of population, poverty, and housing conditions to distribute funds.

The first change we make in this formula is to require that the metropolitan cities and urban counties will receive one-half of appropriated funds. States will receive the other half. States can, of course, allocate their funds to smaller cities and towns around the State or to community based organizations as well.

Assuming a full appropriation of $150 million when the first 50-50 split is made, $75 million would go to State governments to distribute and $75 milion would go to the larger cities in American, designated as metropolitan cities and urban counties. The CDBG formula factors of population, poverty, and housing conditions are then applied to allocate these funds among States and large cities.

The current title VI-B, Community Mental Health Services, of the McKinney Act, allocates all block grants to States only based on population. Governors then solicit applications and distribute the money within their States to large and small cities.

The second change we make in the CDBG formula allocation is the requirement that no State, including its entitlement communities, will receive less than $500,000.

LOCAL MATCH REQUIREMENTS

Each eligible entity must contribute a local share of 25 percent to match the 75 percent Federal share.

The local match may be cash or in kind including plant, equipment, or services. We have also specifically allowed community development block grant funds to be used as local match to obtain PATH grants.

CONCLUSION

Our proposed PATH grants, Mr. President, will significantly expand the Stewart B. McKinney Homeless Assistance Act to add significant new housing authority and service funds for the homeless who are mentally ill and/or substance abusers.

We are replacing a fiscal year 1990 authorization level of $35 million with a new authorization of $150 million per year.

The significant increase in reported substance abuse and the seriousness of mental disorders among the homeless warrants such an increase. We are confident that the cities, towns, and States of America will welcome this very important assistance to create more innovative pathways out of homelessness for the homeless who are severely mentally ill or who have addictions to alcohol and/or drugs.

This bill is supported by the U.S. Conference of Mayors, the National Governors' Association, the National Alliance for the Mentally Ill, the National Mental Health Association, the American Psychiatric Association, the American Psychological Association, and the mental health law project.

I urge my colleagues to support the inclusion homeless prevention activities and PATH grants in this McKinney Act reauthorization bill.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (No. 2912) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. SHORT TITLE.

This title may be cited as the "Stewart B. McKinney Homeless Health Care, Education, Training, and Community Services Amendments of 1990".

SEC. 102. DEFINITION OF HOMELESS.

Section 103(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(b)) is amended to read as follows:

"(b) INCOME ELIGIBILITY.—

"(1) IN GENERAL.—A homeless individual shall be eligible for assistance under any program provided by this Act, only if the individual complies with the income eligibility requirements otherwise applicable to such program.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a homeless individual shall be eligible for assistance under the Job Training Partnership Act.".

SEC. 103. REAUTHORIZATION OF CERTAIN PROGRAMS WITHIN THE PUBLIC HEALTH SERVICE ACT.

(a) PRIMARY HEALTH SERVICES FOR THE HOMELESS.—Section 340 of the Public Health Service Act (42 U.S.C. 256) is amended—

(1) in subsection (e)(1)(B)—

(A) by striking out "(i)"; and

(B) by striking out clause (ii);

(2) in subsection (g), by inserting before the period the following: ", including violence counseling services where appropriate"; and

(3) in subsection (q)(1), by striking out "and $66,200,000 for fiscal year 1991" and inserting in lieu thereof "$69,000,000 for fiscal year 1991, $90,000,000 for fiscal year 1992, and $95,000,000 for fiscal year 1993".

(b) ALCOHOL AND DRUG ABUSE DEMONSTRATION PROJECTS.—Section 513(b) of such Act

(42 U.S.C. 290bb-2(b)) is amended by striking out "and such sums as may be necessary for fiscal year 1991" and inserting in lieu thereof ", $17,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993".

(c) COMMUNITY MENTAL HEALTH SERVICES DEMONSTRATION PROJECTS.—Section 612(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa-3 note) is amended by striking out "and such sums as may be necessary for fiscal year 1991" and inserting in lieu thereof ", $11,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993".

SEC. 104. REAUTHORIZATION OF CERTAIN PROGRAMS WITHIN THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.

(a) JOB TRAINING FOR THE HOMELESS.—

(1) APPLICATIONS.—Section 733 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11443) is amended—

(A) by inserting "(a) IN GENERAL.—" before "Each applicant";

(B) in subsection (a)(2), by inserting before the semicolon the following: "or other related programs providing services necessary to address the multiple needs of homeless individuals";

(C) in subsection (a)(3), by inserting "on the street or" before "in-shelter"; and

(D) by adding at the end thereof the following new subsection:

"(b) SPECIAL CONSIDERATION.—

"(1) IN GENERAL.—In awarding grants under this subtitle, the Secretary of Labor may give special consideration to applicants that will implement projects that will serve areas of greatest need, including urban and rural areas, as demonstrated by—

"(A) the large number or concentration of homeless individuals in the project area relative to other similar areas of jurisdiction;

"(B) the high rates of poverty in the project area as determined by the census; or

"(C) the lack of available low cost or affordable housing within the project area, as measured by such indicators as high average local rents or vacancy rates.

"(2) HOLISTIC SERVICE APPROACH.—In awarding grants under this subtitle, the Secretary of Labor may give special consideration to applicants that will implement programs that include formal reciprocal referral agreements with other programs such as substance abuse counseling, local shelters, and subsidized housing that provide a holistic service approach on an individual case management basis.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 739(a)(1) of such Act (42 U.S.C. 11449(a)(1)) is amended by inserting after "and 1990" the following: ", $15,000,000 for fiscal year 1991, of which $3,000,000 shall be used to carry out section 738, $16,500,000 for fiscal year 1992, of which $3,500,000 shall be used to carry out section 738, and $18,000,000 for fiscal year 1993, of which $4,500,000 shall be used to carry out section 738".

(3) TERMINATION.—Section 741 of such Act (42 U.S.C. 11450) is repealed.

(b) AMENDMENTS TO THE EMERGENCY COMMUNITY SERVICES HOMELESS GRANT PROGRAM.—

(1) USE OF FUNDS FOR ADMINISTRATIVE COSTS.—Section 753(b) of such Act (42 U.S.C. 11463(b)) is amended—

(A) in paragraph (1)—

(i) by striking out "all" in subparagraph (A), and inserting in lieu thereof "not less than 95 percent"; and

(ii) by striking out "90 percent" in subparagraph (B), and inserting in lieu thereof "85 percent"; and

(B) in paragraph (3), by striking out "no amount" and inserting in lieu thereof "not more than 5 percent of the amounts".

(2) ELIGIBLE USE OF FUNDS.—Section 753(c) of such Act (42 U.S.C. 11463(c)) is amended—

(A) in paragraph (1)—

(i) by inserting "(A)" after "(1)"; and

(ii) by adding at the end thereof the following new subparagraph:

"(B) Renovation or purchase of buildings to be used to provide such services."; and

(B) by adding at the end thereof the following new paragraph:

"(5) Provision of, or referral to, violence counseling for homeless children and individuals, and the provision of violence counseling training to individuals who work with homeless children and individuals.".

(3) COMMUNITY SERVICES GRANT PROGRAM.—Section 754 of such Act (42 U.S.C. 11464) is amended by inserting after "and 1990" the following: ", and $50,000,000 for each of the fiscal years 1991 through 1993".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

SEC. 105. AMENDMENTS TO STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT RELATING TO EDUCATION.

(a) STATEWIDE LITERACY INITIATIVES.—

(1) REAUTHORIZATION.—Section 702(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(c)(1)) is amended by inserting after "and 1990" the following: ", $15,000,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 and 1993,".

(2) GENERAL AUTHORITY.—Section 702 of such Act (42 U.S.C. 11421) is amended—

(A) in the section heading by striking out "STATE"; and

(B) in subsection (a)—

(i) by striking out "State educational agencies to enable each such agency to" and inserting in lieu thereof "entities described in paragraph (2) to";

(ii) by redesignating paragraphs (1) and (2) subparagraphs (A) and (B), respectively;

(iii) by inserting "(1)" before "The Secretary"; and

(iv) by adding at the end thereof the following new paragraphs:

"(2) To be eligible to receive a grant under this section, an entity shall be—

"(A)(i) a State education agency or consortia thereof; or

"(ii) a local educational agency or consortia thereof; or

"(B) a partnership between an entity described in subparagraph (A) and—

"(i) a private nonprofit organization;

"(ii) a private business;

"(iii) any other public agency; or

"(iv) any other appropriate entity;

if the entity of the type described in clauses (i) through (iv) has demonstrated effectiveness in carrying out literacy programs.

Priority shall be given to applications submitted by entities under subparagraph (B).

"(3) In awarding grants under this section, the Secretary of Education shall give special consideration to applicants that will implement projects that will serve areas of greatest need, including urban and rural areas, as demonstrated by—

"(A) the large number or concentration of homeless individuals in the project area relative to other similar areas of jurisdiction;

"(B) the high rates of poverty in the project area as determined by the census;

"(C) the proportionally higher numbers or concentrations of homeless individuals or adults who do not have a secondary education or its equivalent; or

"(D) the lack of available low cost or affordable housing within the project area, as measured by such indicators as high average local rents or vacancy rates.".

(3) APPLICATION.—Section 702(b) of such Act (42 U.S.C. 11421(b)) is amended—

(A) by striking out "State educational agency desiring to receive its allocation" and inserting in lieu thereof "eligible entity as defined in section 702(a)(2)"; and

(B) by striking out "and the number" and all that follows through "States to be served".

(b) POLICY.—Section 721(2) of such Act (42 U.S.C. 11431(2)) is amended—

(1) by inserting "or other laws, regulations, policies, or practices that may act as barriers to the enrollment of homeless children and youth in its schools" after "attendance laws,"; and

(2) by inserting "regulations, policies, and practices" after "such laws".

(c) GRANTS FOR STATE AND LOCAL ACTIVITIES.—Section 722 of such Act (42 U.S.C. 11432) is amended—

(1) in the section heading by inserting "AND LOCAL" after "STATE";

(2) in subsection (b), by striking out "section 1005" and inserting in lieu thereof "part A of chapter 1 of title I";

(3) in subsection (c)—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(4) to develop and implement training programs for teachers and administrators; and

"(5) to provide grants to local educational agencies in accordance with section 723.";

(4) in subsection (d)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) biennially gather information concerning the nature and extent of barriers to access to, and placement of, homeless children and youth in elementary and secondary schools, including information on the manner in which such barriers have been addressed, what barriers continue to exist, and the difficulties in identifying the special needs of such children;";

(B) by striking out "and" at the end of paragraph (2);

(C) by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) prepare and submit to the Secretary a report concerning the information gathered pursuant to paragraph (1) not later than December 31 of each year in which such information is gathered; and

"(4) facilitate coordination between the State Education Agency, the State Social Services Agency, and other agencies providing services to homeless children and youth and their families."; and

(D) by striking out the last sentence;

(5) in subsection (e)(1)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new subparagraphs:

"(C) educate school personnel (including principals, attendance officers, teachers, and enrollment personnel), parents, shelter operators, and service providers concerning the rights and needs of homeless children and homeless youth in school; and

"(D) ensure that homeless children and homeless youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local school food programs and appropriate child nutrition programs.";

(6) in subsection (e)—

(A) by striking out "(6)" in paragraph (2) and inserting in lieu thereof "(10)";

(B) by striking out "homeless child or youth" in paragraph (3) and inserting in lieu thereof "child or youth who becomes homeless during the school year or during the summer prior thereto";

(C) by striking out "district" each place that such occurs in subparagraphs (A) and (B) of paragraph (3);

(D) by inserting at the end of paragraph (3) the following new sentences:

"In determining the best interests of the child or youth, for purposes of making a school assignment, consideration shall be given to a request made by a parent regarding school selection. For purposes of this paragraph, the term 'school of origin' shall mean the school that the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.";

(E) by redesignating paragraph (6) as paragraph (7);

(F) by inserting after paragraph (5), the following new paragraph:

"(6) The local educational agency of each homeless child or youth shall provide transportation to enable such homeless child or youth to attend the school selected under paragraph (3), to no lesser extent than other children and youth are provided transportation under State or local law or policy.";

(G) by striking out "The school records" in paragraph (7) (as so redesignated by subparagraph (E)) and inserting in lieu thereof "Any records normally kept by the school, which may include, but are not limited to, immunization records, birth certificates, guardianship records, academic records, evaluations for special services or programs,"; and

(H) by adding at the end thereof the following new paragraphs:

"(8) Each local educational agency serving homeless children or youth shall coordinate with local social services agencies, and other agencies or programs providing services to such children or youth and their families.

"(9) Each local educational agency shall designate a homelessness liaison to ensure that—

"(A) homeless children and youth enroll and succeed in the schools of that agency; and

"(B) homeless families, children and youth receive educational services for which they are eligible, and referrals to health care services, dental services, mental health services, and other appropriate services.

State coordinators and local educational agency liaisons shall inform school personnel, service providers and advocates working with homeless families of the duties of the liaisons.

"(10) Each State and local educational agency shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth in schools selected in accordance with section 722(e)(3). In reviewing and revising such policies, consideration shall be given to issues concerning transportation, requirements of immunization, residency, birth certificates, school records, or other documentation, and guardianship. Special attention shall be given to ensuring the enrollment and attendance of homeless children and youths who are not currently attending school."; and

(7) in subsection (g)—

(A) by striking out "$5,000,000" in paragraph (1) and all that follows through the end thereof and inserting in lieu thereof "$50,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993";

(B) by redesignating paragraph (2) as paragraph (4); and

(C) by inserting after paragraph (1) the following new paragraphs:

"(2) The State educational agency may reserve not to exceed 5 percent of the amount received by such agency under this section in each fiscal year, or an amount equal to the amount received by such State agency for State activities under this section in fiscal year 1990, whichever is greater, to conduct activities under paragraphs (1), (2), (3), and (4) of subsection (c).

"(3)(A) In any fiscal year in which the amount appropriated under paragraph (1) does not equal or exceed $100,000,000, the State educational agency shall use funds not otherwise reserved under paragraph (2) to award grants to local educational agencies in accordance with subsection (c)(4).

"(B) In any fiscal year in which the amount appropriated under paragraph (1) equals or exceeds $100,000,000, the State educational agency shall use funds not otherwise reserved under paragraph (2) to allocate to each local educational agency an amount that bears the same ratio to amount not otherwise reserved as the aggregate amount received by such local educational agency under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 for such fiscal year bears to the aggregate amount received by all local educational agencies in the State for purposes of carrying out such part for such fiscal year.".

(d) GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.—Section 723 of such Act (42 U.S.C. 11433) is amended to read as follows:

"SEC. 723. LOCAL EDUCATIONAL AGENCY GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.

"(a) GENERAL AUTHORITY.—The State educational agency may make grants to local educational agencies to carry out the activities described in subsection (c).

"(b) AWARDS.—

"(1) BASIS.—Except as provided in section 722(g)(3), from amounts appropriated for each fiscal year under section 722(g), the State educational agency may award grants under this section to local educational agencies submitting an application under subsection (d) on the basis of the need of such agencies.

"(2) DETERMINATION.—In determining need under paragraph (1), the State educational agency may consider the number of homeless children and youth enrolled in preschool, elementary, and secondary schools within the area served by the agency, and shall consider the needs of such children and youth, and the ability of the agency to meet such needs. Such agency may also consider—

"(A) the extent to which the proposed use of funds would facilitate the enrollment, retention, and educational success of homeless children and youth;

"(B) the extent to which the application reflects coordination with other local and State agencies that serve homeless children and youth, as well as the State Plan required by section 722(e);

"(C) the extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youth in its jurisdiction; and

"(D) other criteria as the agency determines appropriate.

"(c) USE.—

"(1) IN GENERAL.—Grants awarded under this section shall be used to provide services intended to facilitate the enrollment, attendance, and success of homeless children and youth in school. Services provided under this section are not intended to replace the regular academic program.

"(2) PROVISION OF SERVICES.—Unless otherwise specified, services under paragraph (1) may be provided through programs on school grounds, or at other nonsectarian facilities. Such services shall be provided, to the maximum extent practicable, through existing programs and mechanisms that integrate homeless individuals with housed individuals.

"(3) TYPES OF SERVICES.—Services provided under this section may include—

"(A) expedited evaluations for special needs, programs, and services, including the areas of special education, limited English proficiency, remediation, and gifted and talented students;

"(B) before- and after-school and summer programs for tutoring, homework assistance, and the supervision of educational activities during nonschool hours, by a teacher or other qualified individual, in coordination with existing programs for children who are not homeless, where appropriate;

"(C) the adaptation of space and the purchase of supplies for nonschool facilities made available under paragraph (2) to provide services under subparagraph (B);

"(D) developmentally appropriate early childhood programs for pre-school age children;

"(E) counseling, social work and psychological services, including violence counseling, and referrals for such services;

"(F) referral to medical, dental, and other health services, and the provision of funds for such services where appropriate and practical, in coordination with services provided under title VI;

"(G) school supplies to be distributed at the shelter or temporary housing facilities;

"(H) parent education and training concerning the rights of, and resources available to, homeless children and youth;

"(I) the training of educators and other school personnel to develop awareness and sensitivity to the needs of homeless children and homeless youths and the rights of such children and youths under this Act;

"(J) the excess cost of transportation for students not provided under section 722(e)(6) and not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 722(e)(3);

"(K) where necessary, fees and other costs associated with tracking, obtaining and transferring records necessary to enroll students in school, including records of immunizations, birth certificates, academic

records, guardianship records, and evaluations for special services or programs;

"(L) coordination between schools and agencies providing services to homeless children; and

"(M) such other extraordinary or emergency assistance determined by the Secretary as essential to enable homeless children and youth to attend school.

"(d) APPLICATION.—A local educational agency that desires to receive a grant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as such agency may reasonably require. Each such application shall include—

"(1) a description of the services and programs for which assistance is sought and the problems sought to be addressed through the provision of such services and programs;

"(2) assurances that the applicant complies with or will use requested funds to come into compliance with paragraphs (3) through (10) of section 722(e);

"(3) assurances that such funds will supplement and not supplant non-Federal funds currently used for such purposes; and

"(4) a description of policies and procedures that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and homeless youth.".

(e) NATIONAL RESPONSIBILITIES.—Section 724 of such Act (42 U.S.C. 11434) is amended—

(1) in subsection (a), to read as follows:

"(a) GENERAL ACCOUNTING OFFICE.—Not later than 2 years after the date of enactment of this subsection, the Comptroller General of the United States, in consultation with the Secretary, shall prepare and submit to the appropriate Committees of Congress a report containing the findings of a study conducted to determine the most effective method of distributing funds provided under this subtitle to State educational agencies and local educational agencies."; and

(2) in subsection (b)—

(A) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (4), and (5), respectively;

(B) by inserting after the subsection heading the following new paragraph:

"(1)(A) The Secretary, in consultation with persons and organizations that are knowledgeable about the needs of homeless children and youth, shall, through the awarding of a grant, or through entering into a contract or cooperative agreement, conduct a study to determine the best means of identifying, locating, and counting homeless children and youth for the purposes of this subtitle. Such persons and organizations to be consulted shall include representatives of State coordinators, local educational agencies with substantial numbers of homeless children and youth, local government agencies with responsibility for administering homeless shelters, and advocacy groups representing the interests of homeless children and youth. The Secretary shall also consult with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, as appropriate, in carrying out this paragraph.

"(B) The study conducted under subparagraph (A) shall consider—

"(i) the appropriate definition of the terms 'homeless child' and 'homeless youth';

"(ii) the experience of the 1990 Census in identifying, locating, and counting homeless children and youth; and

"(iii) appropriate methodologies for identifying, locating, and counting such children and youth, including using schools, shelters, and other social service agencies to collect data;

to determine the number of homeless children and youth in the United States to create as accurate an account as possible of the number, location, and living circumstances of such children and youth, including the number of such children and youth that are attending school regularly, parttime, or not at all, and reasons for the nonattendence of such children and youth.

"(C)(i) Not later than 240 days after the date of enactment of this paragraph, the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report containing the results of the study conducted under subparagraph (A) and the estimated costs of making the estimates required under clause (ii).

"(ii) Not later than 1 year after the completion of the study under clause (i), the Secretary, in consultation with the appropriate Committees of Congress, and through the use of appropriate statistical methodology, shall determine accurate estimates of the number of homeless children and youth throughout the Nation and the number of such children and youth attending school.

"(D) The Secretary may reserve not more than $250,000 from amounts appropriated under section 722(g) in 1991 to carry out the study required under subparagraph (A).

"(E) There are authorized to be appropriated such sums as may be necessary in 1992 to prepare the report and estimates required under subparagraph (C). Amounts necessary to complete such report and estimates shall be included in the President's 1992 Budget Request to Congress.";

(C) in paragraph (2) (as so redesignated) by adding at the end thereof the following new sentences: "In reviewing the State plans submitted by the States educational agencies under section 722(e), the Secretary shall evaluate whether State laws, policies, and practices described in such plans adequately address the problems of homeless children and homeless youth relating to access to education and placement as described in such plans.";

(D) by inserting after paragraph (2) (as so redesignated), the following new paragraph:

"(3) The Secretary shall provide such support and technical assistance to the State educational agencies as is required by such agencies to carry out their responsibilities under this subtitle."; and

(E) by adding at the end thereof the following new paragraph:

"(6) The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students.".

SEC. 106. EVALUATION AND REPORT.

Subtitle D of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11461 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 755. EVALUATION.

"(a) PURPOSE.—It is the purpose of this section to develop as rapidly as practicable, information concerning the organization, impact and effectiveness of services provided to homeless individuals under programs administered by the Secretary of Health and Human Services under this or any other Act, and of the effectiveness of the coordination of such programs with other Federal or Federally assisted programs that provide services to homeless individuals, or to those at risk of becoming homeless.

"(b) REQUIREMENT FOR EVALUATION ACTIVITIES.—In carrying out the purpose described in subsection (a), the Secretary shall conduct evaluations that shall include—

"(1) the use of cost and utilization data collected under the Primary Health Care for the Homeless Program under section 340 of the Public Health Service Act to conduct an evaluation, in consultation with organizations receiving grants under this title and with the national representatives of such organizations, of the impact of health, case management and referral services provided by a representative sample of grantees concerning client outcome;

"(2) under part C of title V, an evaluation of the need for and availability of services for individuals who are homeless or at risk of becoming homeless that have a serious mental illness or substance abuse problem, with special attention paid to the service needs of the dually diagnosed;

"(3) an evaluation to identify and document replicable, community-wide programs that provide integrated, comprehensive services that result in service delivery models which prevent homelessness or lead to the successful relocation of the homeless into permanent housing; and

"(4) an identification through the evaluation conducted under this subsection of those areas where services are lacking.

"SEC. 756. REPORT BY THE SECRETARY.

"Not later than 12 months after the date of the enactment of this section, the Secretary of Health and Human Services shall—

"(1) complete, in consultation with appropriate members of the Interagency Council on the Homeless, a study of the extent to which Federal laws, regulations, or policies are inappropriately or inadvertently hindering Federal facilities (such as cafeterias in the facilities of the Department of Defense and Department of Veterans' Affairs) from making available to programs or entities serving the homeless prepared food that is not consumed; and

"(2) prepare and submit, to the appropriate Committees of Congress, a report containing the findings made as a result of the study conducted under paragraph (1), including any recommendations with respect to administrative and legislative initiatives that would permit Federal facilities to make available to entities serving the homeless such excess prepared food.".

SEC. 107. CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS.

(a) FINDINGS.—Congress finds that—

(1) homelessness is a growing national tragedy;

(2) as many as one-third of the homeless people in the United States are members of families with children;

(3) families represent the fastest growing segment of the homeless population;

(4) homelessness too often results in the placements of children into out-of-home care, or delays the reunification of such children with their parents; and

(5) strong coordination between child welfare agencies and housing authorities can protect homeless children or children at risk of becoming homeless from abuse and neglect and help prevent the unnecessary separation of children from their families.

(b) AMENDMENT.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) (as amended by Public Law 101-126) is

amended by adding at the end thereof the following new title:

"TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

"SEC. 301. DEMONSTRATION GRANTS FOR PREVENTION OF INAPPROPRIATE SEPARATION FROM FAMILY AND FOR PREVENTION OF CHILD ABUSE AND NEGLECT.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary may make grants to entities described in subsection (b)(1) for the purpose of assisting such entities in demonstrating, with respect to children whose families are homeless or at risk of becoming homeless, the effectiveness of activities undertaken to prevent—

"(1) the inappropriate separation of such children from their families on the basis of homelessness or other problems regarding the availability and conditions of housing for such families; and

"(2) the abuse and neglect of such children.

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—

"(1) IN GENERAL.—The entities referred to in subsection (a) are State and local agencies that provide services in geographic areas described in paragraph (2), and that have authority—

"(A) for removing children, temporarily or permanently, from the custody of the parents (or other legal guardians) of such children and placing such children in foster care or other out-of-home care; or

"(B) in the case of youths not less than 16 years of age for whom such a placement has been made, for assisting such youths in preparing to be discharged from such care into circumstances of providing for their own support.

"(2) ELIGIBLE GEOGRAPHIC AREAS.—The geographic areas referred to in paragraph (1) are geographic areas in which homelessness and other housing problems are—

"(A) threatening the well-being of children; and

"(B)(i) contributing to the placement of children in out-of-home care;

"(ii) preventing the reunification of children with their families; or

"(iii) in the case of youths not less than 16 years of age who have been placed in out-of-home care, preventing such youths from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

"(3) COOPERATION WITH APPROPRIATE PUBLIC AND PRIVATE ENTITIES.—The Secretary shall not make a grant under subsection (a) unless the agency involved has entered into agreements with appropriate entities in the geographic area involved (including child welfare agencies, public housing agencies, and appropriate public and nonprofit private entities that provide services to homeless families) regarding the joint planning, coordination and delivery of services under the grant.

"(c) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary shall not make a grant under subsection (a) unless the agency involved agrees that, with respect to the costs to be incurred by such agency in carrying out the purpose described in such subsection, the agency will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than $1 for each $4 of Federal funds provided in such grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

"(d) DURATION OF ASSISTANCE.—The period during which payments are made to an agency from a grant under subsection (a) shall not exceed 3 fiscal years. The Secretary shall not make payments for the second or third fiscal year of the grant unless the Secretary determines that, for the preceding fiscal year, the agency has complied with each of the agreements on which the grant is conditioned.

"SEC. 302. PROVISIONS WITH RESPECT TO CARRYING OUT PURPOSE OF DEMONSTRATION GRANTS.

"(a) JOINT TRAINING OF APPROPRIATE SERVICE PERSONNEL.—

"(1) IN GENERAL.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees to establish, with respect to the subjects described in paragraph (2), a program for joint training concerning such subjects, for appropriate personnel of child welfare agencies, public housing agencies, and appropriate public and private entities that provide services to homeless families.

"(2) SPECIFICATION OF TRAINING SUBJECTS.—The subjects referred to in paragraph (1) are—

"(A) the relationship between homelessness, and other housing problems, and the initial and prolonged placement of children in out-of-home care;

"(B) the housing-related needs of families with children who are at risk of placement in out-of-home care; and

"(C) resources (including housing-related assistance) that are available to prevent the initial or prolonged placement in out-of-home care of children whose families are homeless or who have other housing problems.

"(b) ADDITIONAL AUTHORIZED ACTIVITIES.—In addition to activities authorized in subsection (a), a grantee under section 301(a) may expend grant funds for—

"(1) the hiring of additional personnel to provide assistance in obtaining appropriate housing—

"(A) to families whose children are at imminent risk of placement in out-of-home care or who are awaiting the return of children placed in such care; and

"(B) to youth who are preparing to be discharged from such care into circumstances of providing for their own support;

"(2) training and technical assistance for the personnel of shelters and other programs for homeless families (including domestic violence shelters) to assist such programs—

"(A) in the prevention and identification of child abuse and neglect among the families the programs served; and

"(B) in obtaining appropriate resources for families who need social services, including respite care, and support;

"(3) the provision of emergency housing-related assistance necessary to prevent the placement of children in out-of-home care, to facilitate the reunification of children with their families, and to enable the discharge of youths not less than 16 years of age from such care, including assistance in meeting the costs of—

"(A) rent or utility arrears to prevent an eviction or termination of utility services;

"(B) security and utility deposits, first month's rent, and basic furnishings; and

"(C) other housing-related assistance;

"(4) the provision to families, and to youths not less than 16 years of age who are preparing to be discharged from such care, of temporary rent subsidies necessary to prevent the initial or prolonged placement of children in out-of-home care, which subsidies are provided in an amount not exceeding 70 percent of the local fair market rental value and are provided for a period not to exceed 180 days;

"(5) the development and dissemination of informational materials to advise homeless families with children and others who are seeking housing of resources and programs available to assist them; and

"(6) other activities, if authorized by the Secretary, that are necessary to address housing problems that result in the inappropriate initial or prolonged placement of children in out-of-home care.

"SEC. 303. ADDITIONAL REQUIRED AGREEMENTS.

"(a) REPORTS TO SECRETARY.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees that such agency will—

"(1) annually prepare and submit to the Secretary a report describing the specific activities carried out by the agency under the grant; and

"(2) include in the report submitted under paragraph (1), the results of an evaluation of the extent to which such activities have been effective in carrying out the purpose described in such section, including the effect of such activities regarding—

"(A) the incidence of placements of children in out-of-home care;

"(B) the reunification of children with their families; and

"(C) in the case of youths not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

"(b) EVALUATION BY THE SECRETARY.—The Secretary shall conduct evaluations to determine the effectiveness of demonstration programs supported under section 301(a) in—

"(1) strengthening coordination between child welfare agencies, housing authorities, and programs for homeless families;

"(2) preventing placements of children into out-of-home care due to homelessness or other housing problems;

"(3) facilitating the reunification of children with their families; and

"(4) in the case of youths not less than 16 years old who have been placed in out-of-home care, preventing such youth from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

"(c) REPORT TO CONGRESS.—Not later than March 1, 1993, the Secretary shall prepare and submit to the appropriate committees of Congress a report that contains a description of the activities carried out under this title, and an assessment of the effectiveness of the programs established under this title in preventing initial and prolonged separation of children from their families due to homelessness and other housing problems. At a minimum the report shall contain—

"(1) information describing the localities in which activities are conducted;

"(2) information describing the specific activities undertaken with grant funds and, where relevant, the numbers of families and children assisted by such activities;

"(3) information concerning the nature of the joint training conducted with grant funds; and

"(4) information concerning the impact of programs supported with grant funds on—

"(A) the incidence of the placement of children into out-of-home care;

"(B) the reunification of children with their families; and

"(C) in the case of youths not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

"(d) RESTRICTION ON USE OF GRANT.—The Secretary may not make a grant under section 301(a) unless the agency involved agrees that the agency will not expend the grant to purchase or improve real property.

"SEC. 304. DESCRIPTION OF INTENDED USES OF GRANT.

"The Secretary shall not make a grant under section 301(a) unless—

"(1) the agency involved submits to the Secretary a description of the purposes for which the agency intends to expend the grant;

"(2) with respect to the entities with which the agency has made agreements pursuant to section 301(b)(1), such entities have assisted the agency in preparing the description required in paragraph (1); and

"(3) the description includes a statement of the methods that the agency will utilize in conducting the evaluations required in section 303(a)(2).

"SEC. 305. REQUIREMENT OF SUBMISSION OF APPLICATION.

"The Secretary shall not make a grant under section 301(a) unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in section 304, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

"SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1991 through 1993.

"(b) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated under subsection (a) shall remain available until expended.".

(c) TECHNICAL AND CONFORMING AMENDMENT.—The Child Abuse and Prevention Act (42 U.S.C. 5101 et seq.) is amended in the table of contents in section 101(b) by adding at the end thereof the following new items:

"TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

"Sec. 301. Demonstration grants for prevention of inappropriate separation from family and for prevention of child abuse and neglect.

"Sec. 302. Provisions with respect to carrying out purpose of demonstration grants.

"Sec. 303. Additional required agreements.

"Sec. 304. Description of intended uses of grant.

"Sec. 305. Requirement of submission of application.

"Sec. 306. Authorization of appropriations.".

TITLE II—HOMELESSNESS PREVENTION

SEC. 201. SHORT TITLE.

This title may be cited as the "Homelessness Prevention and Community Revitalization Act of 1990".

SEC. 202. PURPOSE.

It is the purpose of this title—

(1) help create safe, positive environments for families, children and individuals in low income housing and neighborhoods;

(2) reduce homelessness and institutionalization by making permanent housing accessible and hospitable to low income families, homeless veterans, frail elderly and individuals of special needs; and

(3) prevent additional homelessness by providing on-site social services and case management to families and individuals who are at risk of homelessness due to income level, illness, mental illness or lack of social and economic support networks.

Subtitle A—Family Support Centers

SEC. 211. DEFINITIONS.

As used in this subtitle:

(1) ADVISORY COUNCIL.—The term "advisory council" means the advisory council established under section 212(d)(2)(K).

(2) ELIGIBLE AGENCY.—The term "eligible agency" means State or local agencies, a Head Start agency, any community-based organization including an organization officially designated as a community action agency under section 210 of the Economic Opportunity Act of 1984 (42 U.S.C. 2790), public housing agencies as defined in section 3(b)(6) of the United States Housing Act of 1937, State Housing Finance Agencies, and in addition includes an institution of higher education, a public hospital, a community development corporation, a community health center, and any other public or private nonprofit agency or organization specializing in delivering social services.

(3) FAMILY CASE MANAGERS.—The term "family case managers" means advisers operating under the provisions of section 216.

(4) GOVERNMENTALLY SUBSIDIZED HOUSING.—The term "governmentally subsidized housing" means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominately consists of very low income families or individuals.

(5) HOMELESS.—The term "homeless" has the same meaning given such term in the subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(a) and (c)).

(6) INTENSIVE AND COMPREHENSIVE SUPPORTIVE SERVICES.—The term "intensive and comprehensive supportive services" means—

(A) in the case of services provided to infants, children and youth, infant and child primary and health services designed to enhance the physical, social, emotional, educational and intellectual development of such infants and children and that shall include, where appropriate, screening and referral services, child care services, early childhood development programs, early intervention services for children with, or at-risk of developmental delays, drop-out prevention services, after-school activities, job readiness services, education and support services for youth (including basic skills and literacy services), and nutritional services;

(B) in the case of services provided to parents and other family members, services designed to better enable parents and other family members to contribute to their child's healthy development and that shall include, where appropriate, substance abuse education, counseling and treatment or referral for treatment, employment counseling and training as appropriate, life-skills training and personal financial counseling, education including basic skills and literacy services, parenting classes, health care and mental health services, peer counseling and crisis intervention services; and

(C) in the case of services provided by family case managers, needs assessment and support in accessing and maintaining appropriate public assistance and social services, referral for substance abuse counseling and treatment or referral for treatment, family violence counseling services, violence counseling and peer support services, family advocacy services, and housing assistance activities including emergency rental or mortgage assistance payments, housing counseling and eviction or foreclosure prevention assistance.

(7) LOW INCOME.—The term "low income" when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low individual or family incomes.

(8) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(9) VERY LOW INCOME.—The term "very low income" when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary, except that the Secretary may establish income ceilings that are higher or lower than 50 percent of the median for the area on the basis of a finding by the Secretary that such variations are necessary because of unusually high or low individual or family incomes.

SEC. 212. GENERAL GRANTS FOR THE PROVISION OF SERVICES.

(a) AUTHORITY.—The Secretary is authorized to make grants to eligible agencies in rural and urban areas to pay the Federal share of the cost of programs designed to encourage the provision of intensive and comprehensive supportive services that will enhance the physical, social, emotional, educational, and intellectual development of low-income families, especially those very low-income families who were previously homeless and who are currently residing in governmentally subsidized housing or who are at risk of becoming homeless.

(b) AGREEMENTS WITH ELIGIBLE AGENCIES.—The Secretary shall enter into contracts, agreements, or other arrangements with eligible agencies to carry out the provisions of this section.

(c) CONSIDERATIONS BY SECRETARY.—In carrying out the provisions of this section, the Secretary shall consider—

(1) the capacity of the eligible agency to administer the comprehensive program for which assistance is sought;

(2) the proximity of the agencies and facilities associated with the program to the low-income families to be served by the pro-

gram or the ability of the agency to provide offsite services;

(3) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for education, employment and training, health and mental health services, substance abuse services, social services, child care, nutrition, income assistance, and other relevant services), with public or private non-profit agencies and organizations that provide assistance to homeless families, and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

(4) the management and accounting skills of the eligible agency;

(5) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the program; and

(6) the involvement of project participants and community representatives in the planning and operation of the program.

(d) REQUIREMENTS.—

(1) IN GENERAL.—Each eligible agency desiring to receive a grant under this section shall—

(A) if a planning grant application has been approved for such agency under section 213(b), have such application on file with the Secretary;

(B) have experience in providing or arranging for the provision of services such as those required under this section; and

(C) submit an application at such time in such manner and containing or accompanied by such information, including the information required under paragraph (2), as the Secretary shall reasonably require.

(2) APPLICATION.—Each application submitted under paragraph (1)(C) shall—

(A) identify the population and geographic location to be served by the program;

(B) provide assurances that services are closely related to the identifiable needs of the target population;

(C) provide assurances that each program will provide directly or arrange for the provision of intensive and comprehensive supportive services;

(D) identify the referral providers, agencies, and organizations that the program will use;

(E) describe the method of furnishing services at offsite locations, if appropriate;

(F) describe the extent to which the eligible agency, through its program, will coordinate and expand existing services as well as provide services not available in the area to be served by the program;

(G) describe how the program will relate to the State and local agencies providing assistance to homeless families, or providing health, nutritional, job training, education, social, substance abuse, and income maintenance services;

(H) provide assurances that the eligible agency will pay the non-Federal share of the cost of the application for which assistance is sought from non-Federal sources;

(I) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and treated, and such other information as the Secretary requires;

(J) describe the manner in which the applicant will implement the requirement of section 214;

(K) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible agency, that shall consist of not more than 15 members that shall include—

(i) prospective participants in the program;

(ii) representatives of local private industry;

(iii) individuals with expertise in the services the program intends to offer;

(iv) representatives of the community in which the program will be located;

(v) representatives of local government social service providers;

(vi) representatives of local law enforcement agencies; and

(vii) representatives of the local public housing agency, where appropriate;

(L) describe plans for evaluating the impact of the program;

(M) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

(N) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services; and

(O) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

(e) FAMILY SUPPORT CENTER.—Each program that receives assistance under this section shall establish at least one family support center that shall operate out, or in the immediate vicinity, of governmentally subsidized housing. Such centers shall be the primary location for the administration of the programs and the provision of services under this subtitle.

SEC. 213 PLANNING GRANTS.

(a) IN GENERAL.—The Secretary is authorized to make planning grants to eligible agencies to enable such entities to develop and submit plans and applications for grants under section 212.

(b) APPLICATION.—Each eligible agency desiring to receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary shall reasonably require. Each such application shall—

(1) describe the capacity of the eligible agency to provide or ensure the availability of the intensive and comprehensive supportive services pursuant to this subtitle;

(2) describe the low-income families to be served by the program including the number to be served and information on the population and geographic location to be served;

(3) describe how the needs of individuals identified under paragraph (2) will be met by the program;

(4) describe the intensive and comprehensive supportive services that program planners intend to address in the development of the plan;

(5) describe the manner in which the program will be operated together with the involvement of other community groups and public agencies;

(6) specify the agencies that are intended to be contacted and the activities to be coordinated during the planning phase;

(7) contain assurances that the applicant will establish a planning phase advisory council, that may become the council required under section 212(d)(2)(K), that shall include—

(A) prospective participants in the program,

(B) individuals with expertise in the services the program intends to offer;

(C) representatives of the community in which the program will be located;

(D) representatives of local government social service providers;

(E) representatives of local law enforcement agencies; and

(F) representatives of local public housing agencies;

(8) describe the capacity of the eligible agency to raise the non-Federal share of the costs of the program and such other information as the Secretary may reasonably require;

(9) contain an assurance that the agency will use funds received under this section to prepare a plan as described in this subsection and submit such plan in an application for a grant under section 212; and

(10) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

(c) ADMINISTRATIVE PROVISIONS.—

(1) TERM OF GRANT.—No planning grant may be for a period longer than 1 year.

(2) MAXIMUM NUMBER OF GRANTS.—Not more than 20 planning grants may be made under this subsection.

(3) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to those applications that demonstrate that the applicant would not have the financial resources available to prepare a plan and application for a grant under section 212 unless such applicant receives a grant under this section.

(d) MAXIMUM AMOUNT OF GRANT.—No grant awarded under this section to a single eligible agency may exceed $50,000.

SEC. 214. TRAINING AND RETENTION.

The Secretary shall require that agencies that receive a grant under section 212 use not less than 5 percent of such grant to improve the retention and effectiveness of staff and volunteers through appropriate service delivery training programs.

SEC. 215. AMOUNTS OF GRANTS.

(a) IN GENERAL.—The Secretary shall pay to an eligible agency having an application approved under section 212 the Federal share of the cost of the activities described in the application.

(b) FEDERAL SHARE.—The Federal share shall be 80 percent for each fiscal year.

(c) NON-FEDERAL SHARE.—

(1) IN GENERAL.—The non-Federal share of payments under this section may be in cash or in kind fairly evaluated, including equipment or services.

(2) PRIVATE CONTRIBUTIONS.—Of the non-Federal share, 25 percent of such amount shall be provided through contributions from private entities.

(d) PAYMENTS.—Payments under this subtitle may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(e) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

SEC. 216. FAMILY CASE MANAGERS.

(a) REQUIREMENT.—Each program that receives a grant under section 212 shall employ, subject to subsection (e), an appro-

priate number of individuals with expertise in the provision of intensive and comprehensive supportive services to serve as family case managers for the program.

(b) NEEDS ASSESSMENT.—Each low-income family that desires to receive services from a program that receives assistance under this shall be assessed by a family case manager on such family's initial visit to such program as to their need for services.

(c) CONTINUING FUNTIONS.—Family case managers shall formulate a plan based on a needs assessment for each family. Such case manager shall carry out such plan, and remain available to provide such family with counseling and services, including school advocacy services, to enable such family to become self-sufficient. In carrying out such plan the case manager shall conduct monitoring, tracking, and follow-up activities.

(d) SPECIAL SERVICES.—Case managers shall provide comprehensive services as required under the application submitted under section 212, that places special emphasis on services relating to substance abuse and domestic violence.

(e) LIMITATION.—No family crisis adviser shall carry a caseload of in excess of 20 families.

SEC. 217. EVALUATIONS.

(a) IN GENERAL.—The Secretary shall require that programs that receive assistance under this subtitle be evaluated, by a third party with expertise in the types of services to be provided under this subtitle, on an annual basis.

(b) MATTER TO BE EVALUATED.—Evaluations conducted under subsection (a) shall examine the efficacy of programs receiving assistance under this subtitle in—

(1) enhancing the living conditions in low income housing and in neighborhoods;

(2) improving the physical, social, emotional, educational, and intellectual development of low income children and families served by the program;

(3) increasing the self-sufficiency of families served by the program; and

(4) such other factors that the Secretary may reasonably require.

(c) INFORMATION.—Each eligible agency receiving a grant under this subtitle shall furnish information requested by evaluators in order to carry out this section.

(d) RESULTS.—The results of such evaluations shall be provided to the eligible agencies conducting the programs to enable such agencies to improve such programs.

SEC. 218. REPORT.

Not later than October 1, of each fiscal year, the Secretary shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a report—

(1) concerning the evaluations required under section 217, together with such recommendations as the Secretary considers appropriate; and

(2) describing any alternative sources of funding utilized or available for the provision of services of the type described in this subtitle.

SEC. 219. CONSTRUCTION.

Nothing in this subtitle shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

SEC. 220. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle, $90,000,000 for fiscal year 1991, $100,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.

Subtitle B—Provision of Services to Elderly Individuals and Individuals With Chronic and Debilitating Illnesses and Conditions

SEC. 231. ESTABLISHMENT OF PROGRAM.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end thereof the following new part:

"PART L—PROVISION OF SERVICES TO FRAIL ELDERLY INDIVIDUALS AND INDIVIDUALS WITH CHRONIC AND DEBILITATING ILLNESSES AND CONDITIONS

"SEC. 399B. DEFINITIONS.

"As used in this part:

"(1) ADVISORY COUNCIL.—The term 'advisory council' means the advisory council established under section 399C(d)(2)(K).

"(2) ELIGIBLE AGENCY.—The term 'eligible agency' means any community-based organization, State or local agency, community health center, public or private non-profit agency or other institution that will provide or arrange for the provision of appropriate comprehensive services to frail elderly or seriously ill individuals.

"(3) FRAIL ELDERLY.—The term 'frail elderly' means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes part.

"(4) GOVERNMENTALLY SUBSIDIZED HOUSING.—The term 'governmentally subsidized housing' means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominately consists of low income families or individuals.

"(5) HOMELESS.—The term 'homeless' has the same meaning given such term in subsection (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302 (a) and (c)).

"(6) LOW INCOME.—The term 'low income' when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low individual or family incomes.

"(7) VERY LOW INCOME.—The term 'very low income' when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 50 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of unusually high or low individual or family incomes.

"SEC. 399C. GENERAL GRANTS FOR THE PROVISION OF SERVICES.

"(a) AUTHORITY.—The Secretary is authorized to make grants to eligible agencies to pay the Federal share of the cost of programs designed to encourage the provision of eligible services to low-income elderly or low-income seriously ill individuals, especially those very low income elderly or seriously ill individuals who were previously homeless or who are at risk of becoming homeless or at risk of institutionalization.

"(b) AGREEMENTS WITH ELIGIBLE AGENCIES.—The Secretary shall enter into contracts, agreements, or other arrangements with eligible agencies to carry out the provisions of this section.

"(c) CONSIDERATIONS BY SECRETARY.—In carrying out the provisions of this section, the Secretary shall consider—

"(1) the capacity of the eligible agency to administer the comprehensive program for which assistance is sought;

"(2) the proximity of the agencies and facilities associated with the program to the low-income individuals to be served by the program, or the ability of the agency to provide offsite services;

"(3) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for health and mental health services, social services, nutrition, and other relevant services), with public or private non-profit agencies providing assistance to homeless individuals and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

"(4) the management and accounting skills of the eligible agency;

"(5) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the program;

"(6) the involvement of program participants and community representatives in the planning and operation of the program; and

"(7) the demonstrated or potential effectiveness of the eligible agency in serving the populations or subpopulations intended to be served under this section.

"(d) REQUIREMENTS.—

"(1) IN GENERAL.—Each eligible agency desiring to receive a grant under this section shall submit an application at such time in such manner and containing or accompanied by such information, including the information required under paragraph (2), as the Secretary shall reasonably require.

"(2) APPLICATION.—Each application submitted under paragraph (1) shall—

"(A) identify the population and geographic location to be served by the program;

"(B) provide assurances that services are closely related to the identifiable needs of the target population;

"(C) provide assurances that each program will provide directly or arrange for the provision of eligible services of the type described in section 399D;

"(D) identify the referral providers, agencies, and organizations that the program will use;

"(E) describe the method of furnishing services at offsite locations, if appropriate;

"(F) describe the extent to which the eligible agency, through its program, will coordinate and expand existing services as well as provide services not available in the area to be served by the program;

"(G) describe how the program will relate to the State and local agencies providing health, nutritional, social, and income maintenance services;

"(H) provide assurances that the eligible agency will pay the non-Federal share of the cost of the application for which assistance is sought from non-Federal sources;

"(I) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and treated, and such other information as the Secretary requires;

"(J) describe the manner in which the applicant will implement the requirement of section 399F;

"(K) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible agency, that shall include—

"(i) prospective participants in the program;

"(ii) individuals with expertise in the services the program intends to offer;

"(iii) representatives of the community in which the program will be located;

"(iv) representatives of local government social service providers;

"(v) community based organizations with a history of providing service to participants;

"(vi) representatives of local public housing agencies, where appropriate; and

"(vii) representatives of local health care professions;

"(L) describe plans for evaluating the impact of the program;

"(M) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

"(N) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services; and

"(O) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

"(e) HOME HEALTH SERVICE PROGRAM.—Each recipient that receives assistance under this section shall establish at least one home health service program that shall operate out of, or in the immediate vicinity of, governmentally subsidized housing. Such programs shall be the primary location for the administration of the programs and the provision of services under this part. Such programs may operate out of existing family support centers.

"SEC. 399D. PLANNING GRANTS.

"(a) IN GENERAL.—The Secretary is authorized to make planning grants to eligible agencies to enable such entities to develop and submit plans and applications for grants under section 399C.

"(b) APPLICATION.—Each eligible agency desiring to receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary shall reasonably require, including—

"(1) a description of the capacity of the eligible agency to provide or ensure the availability of services pursuant to this part;

"(2) a description of the low-income frail elderly or low-income seriously ill individuals to be served by the program including the number to be served and information on the population and geographic location to be served;

"(3) a description of the needs of individuals identified under paragraph (2) that will be met by the program;

"(4) a description of the services that program planners intend to address in the development of the plan;

"(5) a description of the manner in which the program will be operated together with the involvement of other community groups and public agencies;

"(6) a specification of the agencies that are intended to be contacted and the activities to be coordinated during the planning phase;

"(7) assurances that the applicant will establish a planning phase advisory council, that may become the council required under section 399C(d)(2)(K), that shall include—

"(A) prospective participants in the program,

"(B) individuals with expertise in the services the program intends to offer;

"(C) representatives of the community in which the program will be located;

"(D) representatives of local government social service providers;

"(E) representatives of local public housing agencies, where appropriate;

"(8) a description of the capacity of the eligible agency to raise the non-Federal share of the costs of the program and such other information as the Secretary may reasonably require;

"(9) an assurance that the agency will use funds received under this section to prepare a plan as described in this subsection and submit such plan in an application for a grant under section 399C; and

"(10) an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant State and local funds currently utilized to provide services of the type described in this section.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) TERM OF GRANT.—No planning grant may be for a period longer than 1 year.

"(2) MAXIMUM NUMBER OF GRANTS.—Not more than 20 planning grants may be made under this section.

"(3) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to those applications that demonstrate that the applicant would not have the financial resources available to prepare a plan and application for a grant under section 399C unless such applicant receives a grant under this section.

"(d) MAXIMUM AMOUNT OF GRANT.—No grant awarded under this section to a single eligible agency may exceed $50,000.

"SEC. 399E. ELIGIBLE SERVICES.

"(a) IN GENERAL.—Grants awarded under this part shall be used to provide services of the type described in subsection (b) to low-income frail elderly or low income seriously ill individuals.

"(b) SERVICES.—Agencies receiving grants under this part shall use such grants to provide comprehensive services, in accordance with the service plan, that shall include, where appropriate—

"(1) 24-hours nursing supervision services;

"(2) case management services;

"(3) home health care services;

"(4) homemaker services;

"(5) meal provision services;

"(6) attendant services;

"(7) volunteer visiting services;

"(8) adult day care service;

"(9) treatment for substance abuse;

"(10) hospice services;

"(11) post hospitalization respite care services;

"(12) transportation services;

"(13) assistance in accessing and maintaining appropriate public assistance;

"(14) housing assistance activities, including emergency rental or mortgage assistance payments, housing counseling, and eviction or foreclosure prevention assistance;

"(15) mental health services; and

"(16) any other services determined appropriate by the Secretary.

"(c) COORDINATION.—Programs that receive assistance under this part shall be coordinated with a local hospital or community health center that regularly provides emergency medical care services.

"(d) SET-ASIDE FOR ELDERLY.—The Secretary shall require that at least 20 percent of the grants made under this part shall be set-aside for the provision of subsidized housing-based services to elderly individuals, especially those very low income elderly individuals who were previously homeless or who are at risk of becoming homeless or at risk of institutionalization.

"SEC. 399F. TRAINING AND RETENTION.

"The Secretary shall require that agencies that receive a grant under section 399C use not less than 5 percent of such grant to improve the retention and effectiveness of staff and volunteers through appropriate service delivery training programs.

"SEC. 399G. AMOUNTS OF GRANTS.

"(a) IN GENERAL.—The Secretary shall pay to eligible agencies having applications approved under sections 399C the Federal share of the cost of the activities described in the application.

"(b) FEDERAL SHARE.—The Federal share shall be 80 percent for each fiscal year.

"(c) NON-FEDERAL SHARE.—

"(1) IN GENERAL.—The non-Federal share of payments under this section may be in cash or in kind fairly evaluated, including equipment or services.

"(2) CASH.—At least 25 percent of the non-Federal share under paragraph (1) shall be in the form of cash.

"(d) PAYMENTS.—Payments under this part may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"(e) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

"SEC. 399H. EVALUATIONS.

"(a) IN GENERAL.—The Secretary shall require that programs that receive assistance under this part are evaluated, by a third party with expertise in the types of services to be provided under this part, on an annual basis.

"(b) MATTER TO BE EVALUATED.—Evaluations conducted under subsection (a) shall examine the efficacy of programs receiving assistance under this part in—

"(1) enhancing the living conditions for low income frail elderly and seriously ill individuals;

"(2) improving the opportunity for individuals served by the program to live independently and to avoid institutionalization; and

"(3) such other factors that the Secretary may reasonably require.

"(c) INFORMATION.—Each eligible agency receiving a grant under this part shall furnish information requested by evaluators in order to carry out this section.

"(d) RESULTS.—The results of such evaluations shall be provided to the eligible agencies conducting the programs to enable such agencies to improve such programs.

"SEC. 399I. REPORT.

"Not later than October 1, of each fiscal year, the Secretary shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a report—

"(1) concerning the evaluations required under section 399H, together with such recommendations, including recommendations for legislation, as the Secretary considers appropriate; and

"(2) describing any alternative sources of funding utilized or available for the provision of services of the type described in this part.

"SEC. 399J. CONSTRUCTION.

"Nothing in this part shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

"SEC. 399K. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, $90,000,000 for fiscal year 1991, $100,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.".

Subtitle C—Projects to Aid the Transition from Homelessness

SEC. 241. PROJECTS TO AID THE TRANSITION FROM HOMELESSNESS.

Part C of title V of the Public Health Service Act (42 U.S.C. 290cc et seq.) is amended to read as follows:

"PART C—PROJECTS TO AID THE TRANSITION FROM HOMELESSNESS.

"SEC. 521. SHORT TITLE.

"This part may be cited as the 'Projects to Aid the Transition from Homelessness (PATH) Act of 1990'.

"SEC. 522. DEFINITIONS.

"As used in this part:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a State, a metropolitan city, or an urban county.

"(2) ELIGIBLE HOMELESS INDIVIDUAL.—The term 'eligible homeless individual' means an individual, including a veteran, who is—

"(A) afflicted with serious mental illness, alcoholism, substance abuse or a combination thereof; and

"(B) homeless or at imminent risk of becoming homeless.

"(3) METROPOLITAN CITY.—The term 'metropolitan city' has the same meaning given such term in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

"(4) SERVICE PROVIDER.—The term 'service provider' includes any general purpose unit of local government, a city, county, town, township, parish, village or combination thereof, a public or private non-profit agency including a veterans' community based service provider, or a community based organization.

"(5) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia and Palau.

"(6) URBAN COUNTY.—The term 'urban county' has the same meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 523. ALLOTMENT.

"(a) IN GENERAL.—The Secretary shall utilize amounts appropriated under section 532 in each fiscal year, to make an allotment to metropolitan cities, urban counties, and States (for distribution to service providers in the States) in the same manner as the Secretary of Housing and Urban Development makes allocations under section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306), except that the Secretary shall—

"(1) substitute 50 percent for 70 percent in subsection (a) of such section 106; and

"(2) substitute 50 percent for 30 percent in subsection (d) of such section 106.

"(b) SPECIAL RULES.—

"(1) IN GENERAL.—If, under the allotment provisions applicable under this part, any city or urban county would receive an allotment of less than 0.05 percent of the amounts appropriated to carry out this part for any fiscal year, such amount shall instead be reallotted to the State, except that any metropolitan city that is located in a State that does not have counties as local governments, that has a population greater than 40,000 but less than 50,000 as used in determining the fiscal year 1987 community development block grant program allocation, and that was allocated in excess of $1,000,000 in community development block grant funds in fiscal year 1987, shall receive directly the amount allotted to such city under subsection (a).

"(2) MINIMUM.—Notwithstanding any other provision of law, the total amount allotted to each State under this part, including amounts allotted to each eligible entity within the State, shall not be less than—

"(A) $500,000; or

"(B) the amount of the allotment such State received pursuant to this part in fiscal year 1990 plus 30 percent of such allotment.

"(3) RATABLE REDUCTION.—The Secretary shall ratably reduce the allotments made pursuant to subsection (a) in order to carry out the provisions of this subsection.

"(c) ALLOTMENTS TO TERRITORIES.—In addition to the other allotments required in this section, the Secretary shall (for amounts appropriated under section 532) make allotments under this subtitle to the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia and Palau, and any other territory or possession of the United States, in accordance with an allotment formula established by the Secretary, but in no case shall the total amount allotted to all of the territories and possessions exceed 2 percent of the total amount appropriated under section 532.

"(d) REMAINING AMOUNTS.—The Secretary may allocate any unclaimed or remaining funds to eligible entities determined by the Secretary to be in need of additional assistance.

"(e) REQUIREMENT OF NON-FEDERAL CONTRIBUTIONS.—

"(1) IN GENERAL.—The Secretary shall not make an allotment under this part to an eligible entity unless such entity agrees to make available, directly or through donations from public or private entities, non-Federal contributions toward such costs in an amount equal to not less than $1 for each $3 of Federal funds provided under the allotment.

"(2) DETERMINATION OF AMOUNT.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Except as provided in paragraph (3), amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

"(3) SPECIAL RULE.—Funds received pursuant to section 106 of the Housing and Community Development Act of 1974, and the value of any property, buildings, or housing received and fairly evaluated may be included in determining the amount of such non-Federal contributions.

"(4) WAIVER.—The Secretary may waive the requirements of paragraph (1) for metropolitan cities and urban counties which are unable to provide such matching funds.

"(5) PARTICIPATING LOCALITIES.—Each State receiving an allotment under this part shall not require participating localities to provide non-Federal contributions in excess of the non-Federal contributions described in paragraph (1).

"SEC. 524. ALLOTMENT APPLICATION.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Each eligible entity desiring an allotment under section 523 shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) APPLICATION PERIOD.—The Secretary shall provide for a 90 day period during which applications may be submitted pursuant to paragraph (1).

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall—

"(1) describe the activities and services for which the allotment is sought;

"(2) identify existing programs providing services and housing to eligible homeless individuals and identify gaps in the delivery systems of such programs;

"(3) include a plan for providing services and housing to eligible homeless individuals that shall—

"(A) describe the coordinated and comprehensive means of providing services and housing to homeless individuals; and

"(B) include documentation that suitable housing for eligible homeless individuals will accompany the provision of services to such individuals;

"(4) describe the source of the non-Federal contributions described in section 523;

"(5) contain assurances that the non-Federal contributions described in section 523 will be available at the beginning of the grant period;

"(6) describe any voucher system that may be used to carry out this part; and

"(7) contain such other information or assurances as the Secretary may reasonably require.

"SEC. 525. REQUIREMENT OF SUBMISSION OF DESCRIPTION OF INTENDED USE OF GRANT FUNDS.

"(a) IN GENERAL.—The Secretary shall not make an allotment under section 523 to an eligible entity for any fiscal year unless—

"(1) the eligible entity submits to the Secretary a description of the intended use for the fiscal year of the amounts for which the eligible entity is applying pursuant to such section;

"(2) such description identifies the geographic areas within the eligible entity in which the greatest numbers of homeless individuals with a need for mental health, substance abuse, and housing services are located;

"(3) such description provides information relating to the programs and activities to be

supported and services to be provided, including information relating to coordinating such programs and activities with any similar programs and activities of public and private entities; and

"(4) the eligible entity agrees that such description will be revised throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the eligible entity pursuant to section 523.

"(b) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary shall not make an allotment under section 523 to an eligible entity for a fiscal year unless the eligible entity agrees that, in developing and carrying out the description required in subsection (a), the eligible entity will provide public notice with respect to the description (including any revisions) and such opportunities as may be necessary to provide interested persons, such as family members, consumers, and mental health, substance abuse, and housing agencies, an opportunity to present comments and recommendations with respect to the description.

"(c) RELATIONSHIP TO STATE COMPREHENSIVE MENTAL HEALTH SERVICES PLAN.—

"(1) IN GENERAL.—The Secretary shall not make an allotment under section 523 to an eligible entity unless the services to be provided pursuant to the description required in subsection (a) are consistent with the State comprehensive mental health services plan required in subpart 2 of part B of title XIX.

"(2) SPECIAL RULE.—The Secretary shall not make an allotment under section 523 to an eligible entity unless the services to be provided pursuant to the description required in subsection (a) have been considered in the preparation of, have been included in, and are consistent with, the State comprehensive mental health services plan referred to in paragraph (1).

"SEC. 526. USE OF ALLOTMENT.

"(a) USE OF ALLOTMENT.—

"(1) IN GENERAL.—Each eligible entity receiving an allotment under to section 523 shall use such allotment to pay the Federal share of awarding grants to or entering into contracts with service providers to enable such service providers to provide comprehensive services and allowable housing assistance to homeless individuals in accordance with the provisions of this part.

"(2) SPECIAL CONSIDERATION.—Each eligible entity receiving an allotment under section 523 shall give special consideration to the provision of services to homeless veterans who are otherwise eligible for services under this subtitle. In providing such services to homeless veterans, such eligible entities shall give priority to service providers with a demonstrated effectiveness in serving homeless veterans.

"(3) FEDERAL SHARE.—The Federal share shall be 75 percent.

"(4) SPECIAL RULE.—Each eligible entity receiving an allotment under section 523 shall use at least two-thirds of such allotment to assist eligible homeless individuals who have—

"(A) a primary diagnosis of a serious mental illness; or

"(B) a diagnosis involving a serious mental illness and substance abuse.

"(5) COORDINATION.—Each eligible entity receiving an allotment under section 523 shall only make grants pursuant to paragraph (1) to service providers that have the capacity to meet or coordinate the comprehensive services and housing needs of eligible homless individuals, including referral services. Such capacity includes contractual arrangements and viable referral plans among service providers of mental health, substance abuse, or housing services so that the comprehensive needs of individuals who are both mentally ill and substance abusers are met.

"(6) ADMINISTRATIVE EXPENSES.—Notwithstanding the provisions of this subsection, each eligible entity receiving an allotment pursuant to section 523 may reserve not to exceed 4 percent of such allotment for administrative expenses.

"(b) SPECIAL RULES.—Each eligible entity receiving an allotment under section 523 shall not award a grant to a service provider that—

"(1) has a policy of excluding individuals from mental health services due to the existence or suspicion of substance abuse; and

"(2) has a policy of excluding individuals from substance abuse services due to the existence or suspicion of mental illness.

"(c) SUPPLEMENTATION.—Each eligible entity receiving an allotment under section 523 shall only use such funds to supplement and not supplant Federal, State and local government funds currently utilized to provide services of the type described in this part.

"SEC. 527. LOCAL APPLICATION.

"Each service provider desiring a grant pursuant to section 526(a) shall submit an application to the appropriate eligible entity at such time, in such manner and accompanied by such information as the eligible entity may reasonably require.

"SEC. 528. LOCAL USE OF GRANT FUNDS.

"(a) SERVICES.—Grants awarded pursuant to section 526(a) shall be used to provide either on-site or off-site services to eligible homeless individuals, including homeless veterans. Such services shall include—

"(1) outreach and engagement services;

"(2) screening and diagnostic treatment services;

"(3) habilitation and rehabilitation;

"(4) community mental health services;

"(5) alcohol or drug treatment services;

"(6) staff training, including the training of individuals who work in shelters, mental health clinics, substance abuse programs, and other sites where homeless individuals require services;

"(7) case management services, including—

"(A) preparing a plan for the provision of community mental health services to the eligible homeless individual involved, and reviewing such plan not less than once every 3 months;

"(B) providing assistance in obtaining and coordinating social and maintenance services for the eligible homeless individual, including services relating to daily living activities, personal financial planning, transportation services, and habilitation and rehabilitation services, prevocational and vocational services, and housing services;

"(C) providing assistance to the eligible homeless individual in obtaining income support services, including housing assistance, food stamps, and supplemental security income benefits;

"(D) referring the eligible homeless individual for such other services as may be appropriate; and

"(E) providing representative payee services in accordance with section 1631(a)(2) of the Social Security Act if the eligible homeless individual is receiving aid under title XVI of such Act and if the applicant is designated by the Secretary to provide such services;

"(8) supportive and supervisory services in residential settings;

"(9) referral to primary health services;

"(10) referral to job training and education programs; and

"(11) referral to other relevant service or housing programs.

"(b) HOUSING.—Not to exceed 20 percent of amounts received under a grant awarded pursuant to section 526(a) may be used for—

"(1) minor renovation, expansion, and repair;

"(2) planning;

"(3) technical assistance in applying for housing assistance;

"(4) improving the coordination of housing services;

"(5) security deposits;

"(6) the costs associated with matching eligible homeless individuals with appropriate housing situations; and

"(7) one time rental payments to prevent eviction.

"(c) LIMITATIONS.—Grants awarded pursuant to section 526(a) shall not be used—

"(1) to support emergency shelters or construction of housing facilities;

"(2) for inpatient psychiatric treatment costs or inpatient substance abuse treatment costs; and

"(3) to make cash payments to intended recipients of mental health, substance abuse, or housing services.

"SEC. 529. COORDINATION.

"(a) IN GENERAL.—The Secretary shall provide for coordination among eligible entities of housing and service strategies used in carrying out the provisions of this part.

"(b) INFORMATION.—In carrying out the provisions of subsection (a) the Secretary shall make available to eligible entities—

"(1) the information contained in the application and plan submitted pursuant to section 524; and

"(2) the annual report described in section 531.

"SEC. 530. TECHNICAL ASSISTANCE.

"The Secretary, through the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, may provide technical assistance to eligible entities in developing planning and operating programs in accordance with the provisions of this part.

"SEC. 531. REQUIREMENT OF REPORTS BY STATES.

"(a) IN GENERAL.—The Secretary shall not make allotments under section 523 to an eligible entity unless such eligible entity agrees to prepare and submit to the Secretary an annual report in such form and containing such information as the Secretary determines (after consultation with the Comptroller General of the United States, the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse) to be necessary for—

"(1) securing a record and a description of the purposes for which amounts received under section 523 were expended and of the recipients of such amounts; and

"(2) determining whether such amounts were expended in accordance with the provisions of this part.

"(b) AVAILABILITY TO PUBLIC OF REPORTS.—The Secretary shall not make allotments under section 523 to an eligible entity unless such eligible entity agrees to make copies of the reports described in subsection (a) available for public inspection.

"(c) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United

States in cooperation with the National Institute of Mental Health, shall evaluate at least once every 3 years the expenditures of grants under this part by eligible entities in order to ensure that expenditures are consistent with the provisions of this part, and shall include in such evaluation recommendations regarding changes needed in program design or operation.

"SEC. 532. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $120,000,000 for fiscal year 1991, and $150,000,000 for each of the fiscal years 1992 through 1995 to carry out this part.".

Subtitle D—Community Development Corporation Improvement Grants

SEC. 251. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

Part 4 of subchapter A of the Community Economic Development Act of 1981 (42 U.S.C. 9814 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 634. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

"(a) PURPOSE.—It is the purpose of this section to provide assistance to community development corporations to upgrade the management and operating capacity of such corporations and to enhance the resources available to enable such corporations to increase their community economic development activities.

"(b) SKILL ENHANCEMENT GRANTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to community development corporations to enable such corporations to attain or enhance the business management and development skills of the individuals that manage such corporations to enable such corporations to seek the public and private resources necessary to develop low-income housing and to develop community economic development projects.

"(2) USE OF FUNDS.—Grantees may use funds obtained under this section—

"(A) to purchase training and technical assistance from agencies or institutions that have experience in the construction, development and management of low-income housing or experience in community economic development; or

"(B) to purchase such assistance from other highly successful community development corporations.

"(c) OPERATING GRANTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to community development corporations to enable such corporations to support an administrative capability for planning, developing, constructing and managing low-income housing, and for other community economic development projects.

"(2) USE OF FUNDS.—Of amounts made available in any fiscal year for operating grants under this subsection, the Secretary of Health and Human Services shall use—

"(A) 40 percent of such amounts to assist in starting up community development corporations; and

"(B) 60 percent of such amounts to assist established community development corporations.

"(3) TERMS AND CONDITIONS.—Assistance provided through operating grants under this subsection shall be of sufficient size and duration, including multiyear grants where appropriate, to enable a community development corporation receiving such assistance to have an appreciable impact on the area or areas to be served.

"(d) GRANTS FOR COMMUNITY DEVELOPMENT CORPORATION EQUITY ACCOUNTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to any nongovernmental, nonprofit entity that is principally involved with the development, construction or management of low-income housing, or to community development corporations, to enable such entities to establish and maintain equity accounts with which such corporations may plan, develop, construct and manage low-income housing.

"(2) TERMS AND CONDITIONS.—Assistance provided through equity account grants under this subsection shall be of sufficient size and duration, including multiyear grants where appropriate, to enable a community development corporation receiving such assistance to have an appreciable impact on the area or areas to be served.

"(e) APPLICATIONS.—Community development corporations that desire to receive assistance under this section shall prepare and submit, to the Secretary of Health and Human Services, an application at such time, in such form, and containing such information as the Secretary shall reasonably require. Such Secretary shall not require project-specific information for applications for assistance under subsections (b), (c) and (d).

"(f) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, $40,000,000 for fiscal year 1991, $50,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.

"(2) USE.—The Secretary of Health and Human Services shall use—

"(A) 20 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (b);

"(B) 30 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (c); and

"(C) 50 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (d).

"(3) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

"(h) DEFINITION.—As used in this section, the term 'community development corporation' means a nonprofit entity of the type described in this section and that meets the resident control and governing body requirements of 42 U.S.C. 9807(a)(1).".

Subtitle E—Public Housing Gateway

SEC. 261. SHORT TITLE.

This subtitle may be cited as the "Public Housing Gateway Act of 1990".

SEC. 262. STATEMENT OF PURPOSE.

The purpose of this subtitle is to establish programs, through public housing agencies, to increase the abilities and self-sufficiency of young residents of public housing, increase the prospects for employment of young residents of public housing, and end generational dependency on public assistance in public housing, through—

(1) the provision of literacy training, training in basic and employment skills, and support services through the public housing agencies; and

(2) the employment of residents of public housing and of professional staff to perform outreach services, including identification of and assistance to residents who could prosper from education and training programs.

SEC. 263. GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Labor may make grants under this subtitle to public housing agencies for the utilization of public housing in the provision of training and services to economically disadvantaged residents of public housing through gateway programs.

(b) SELECTION OF GRANT RECIPIENTS.—The Secretary shall select public housing agencies to receive grants under subsection (a) and may select only public housing agencies that meet the following requirements:

(1) PROVISION OF FACILITIES.—The public housing agency shall agree to make available suitable facilities in the public housing projects administered by the public housing agency, or any facilities provided by a State or local governmental agency or any private organization or person, for the provision of training and services under this subtitle.

(2) NEED AND CAPABILITY TO PROVIDE SERVICES.—The public housing agency shall demonstrate to the Secretary the need and ability to provide the training and services described in section 264(a) to individuals qualified to receive the training and services under section 265.

(3) PROVISION OF SERVICES TO QUALIFIED INDIVIDUALS.—The public housing agency shall demonstrate to the Secretary that any training and services to be provided under this subtitle will be provided only to individuals qualified to receive the training and services under section 265.

(4) PROVISION OF SERVICES TO YOUNG FAMILIES.—The public housing agency shall demonstrate to the Secretary that the training and services to be provided under this subtitle will be provided to residents of public housing projects where a significant number of young families receiving public assistance reside.

(5) COOPERATION WITH PRIVATE, NON-PROFIT ORGANIZATIONS, OR COMMUNITY BASED ORGANIZATIONS.—The public housing agency shall demonstrate to the Secretary the ability to create cooperative working relationships with private organizations, non-profit organizations, or community based organizations that are to provide training and services under this subtitle and are located in the same community as the public housing agency.

(c) APPLICATIONS FOR GRANTS.—

(1) IN GENERAL.—The Secretary shall prescribe the form and procedures for public housing agencies to make applications for grants under this section.

(2) PRIORITY.—The Secretary shall give priority to applications that demonstrate significant cooperation and coordination with existing private organizations, nonprofit organizations, or community based organizations.

SEC. 264. GATEWAY PROGRAM ESTABLISHED UNDER GRANT PROGRAM.

(a) MANDATORY TRAINING AND SERVICES.—Any public housing agency that receives a grant under section 263 shall use the grant to establish a gateway program to make available to individuals eligible under section 265 all of the following training and services, subject to the limitations of section 265:

(1) INFORMATION.—The provision of information designed to make individuals aware of training, employment, education, counseling or the provision of services offered by the public housing agency, including the training and services available under this subtitle.

(2) LITERACY TRAINING.—Literacy training and bilingual training.

(3) BASIC SKILLS TRAINING.—Remedial education and training in basic skills.

(4) DEVELOPMENT OF WORK HABITS.—Development of good work habits and other personal management skills to enable individuals to obtain and retain employment.

(5) CHILD CARE.—Child care services provided free of charge to facilitate the participation of individuals in other training and services provided under this section. The child care services shall be designed, to the extent practicable, to employ and train economically disadvantaged residents of the public housing project involved, and shall include—

(A) services to provide daytime care for the child dependents who do not attend school and adult dependents of eligible individuals;

(B) services to provide care after school hours for the child dependents of eligible individuals; and

(C) irregular, periodic, and evening care for the child dependents of eligible individuals scheduled to allow the eligible individuals to participate in the training and services provided under this section.

(b) PERMISSIVE TRAINING AND SERVICES.—Public housing agencies that receive grants under section 263 may make available as part of their gateway programs to individuals qualified under section 265 literacy training, training in basic and employment skills, and support services, in addition to the training and services described in subsection (a) and subject to the limitations of section 265, including the following:

(1) EMPLOYMENT ASSISTANCE.—Assistance in acquiring employment.

(2) EMPLOYMENT COUNSELING.—Employment counseling and vocational exploration services.

(3) DEVELOPMENT OF JOBS.—Development of employment positions.

(4) PRIVATE JOB TRAINING.—The provision of training in occupations for which demand is increasing and training in the course of employment, by private employers or organizations.

(5) OTHER FEDERAL EMPLOYMENT TRAINING OR SERVICES.—Training or services coordinated with other Federal employment-related activities.

(6) HIGH SCHOOL EDUCATION.—Assistance in the attainment of certificates of high school equivalency.

(7) COMPUTER SKILLS TRAINING.—Training in computer skills for use in education, skills training, and employment preparation.

(8) TRAINING IN APPLICATION OF SKILLS.—Services to help individuals receiving training and educational assistance to utilize their acquired skills in the competitive employment market.

(9) TRANSITIONAL ACTIVITIES.—Activities designed to provide transition from education to employment.

(10) DRUG PREVENTION SERVICES.—Services to assist individuals with drug prevention, drug counseling, and drug education programs.

(11) SUPPORT SERVICES.—Support services, including child care services in addition to the services described in subsection (a)(5) and transportation to training and services not held in public housing projects.

SEC. 265. LIMITATIONS ON GATEWAY PROGRAMS.

(a) ELIGIBILITY IN GENERAL.—Public housing agencies receiving grants under this subtitle shall limit participation in training and services provided under gateway programs to individuals who meet the following requirements:

(1) RESIDENCY.—The individual shall be a resident of public housing.

(2) AGE.—The individual shall be not more than 25 years of age.

(3) ECONOMIC DISADVANTAGE.—The individual shall be economically disadvantaged.

(4) EDUCATIONAL DISADVANTAGE.—The individual shall—

(A) have encountered barriers to employment because of a deficiency in a basic skill; or

(B) if over 16 years of age or beyond the age of compulsory school attendance under State law, not have a certificate of graduation from a school providing secondary education and not have achieved an equivalent level of education.

(b) LIMITATIONS ON CHILD CARE SERVICES.—

(1) ELIGIBILITY.—Public housing agencies receiving grants under this subtitle shall limit the provision of child care services under section 264(a)(5) to the following individuals:

(A) PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who are participating in training or services under a gateway program (not including the provision of support services), during the participation of the individual in the training or services;

(B) UNEMPLOYED FORMER PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who have successfully completed participation in training or services under a gateway program (not including the provision of support services) and who are not employed, during a period in which the individual searches for employment after the completion of the training or services, as follows:

(i) COMMENCEMENT.—The period shall begin on the completion of the training or services by the individual.

(ii) TERMINATION.—The period shall end on whichever of the following occurs first:

(I) The expiration of the 3-month period after the completion of the training or services by the individual.

(II) The commencement of the employment of the individual in a position not funded by grants made under this subtitle.

(C) EMPLOYED FORMER PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who have successfully completed training or services under a gateway program (not including the provision of support services) and who are employed in a position not funded by grants made under this subtitle, during the 12-month period that begins with commencement of the employment of the individual.

(2) COMPLIANCE WITH STATE AND LOCAL LAWS.—A public housing agency that provides child care services under this subtitle shall ensure that the child care complies with applicable State and local laws.

(c) LIMITATIONS ON SUPPORT SERVICES.—An individual may receive support services under this subtitle after the individual terminates any participation in training or services under a gateway program (not including the provision of support services) only if the individual has completed the training or services. An individual may not receive support services later than 18 months after the completion of the training or services by the individual.

(d) LIMITATION ON NONRESIDENT PERSONNEL.—A public housing agency receiving a grant made under this subtitle shall attempt to employ in positions relating to the administration and delivery of training and services under gateway programs residents of the public housing project involved whenever qualified residents are available.

SEC. 266. EFFECT OF GATEWAY PROGRAMS.

(a) NONCONSIDERATION AS INCOME FOR PARTICIPATING INDIVIDUALS.—The earnings of and benefits to any individual resulting from participation in training and services under a gateway program shall not be considered as income for the purposes of determining eligibility for or the amount of public assistance or determining a limitation on the amount of rent paid by the individual during the following periods:

(1) PERIOD OF PARTICIPATION UNDER GATEWAY PROGRAM.—The period during which the individual participates in training or services under a gateway program (not including the provision of support services).

(2) EMPLOYMENT PERIOD.—If the individual participating in training or services under a gateway program (not including the provision of support services) successfully completes the training or services, a single period, not to exceed 18 months, as follows:

(A) COMMENCEMENT.—The period shall begin on the commencement of employment of the individual in the first position acquired by the individual after completion of the training or services that is not funded by a grant under this subtitle.

(B) TERMINATION.—The period shall end on whichever of the following occurs first—

(i) the expiration of the 18-month period following the commencement of the period described in subparagraph (A); or

(ii) the individual ceases to continue employment without good cause, as the Secretary shall determine.

(b) PUBLIC HOUSING OPERATING ASSISTANCE.—The use of the facilities of a public housing agency receiving a grant under this subtitle in the provision of training or services under a gateway program shall have no effect on the amount of assistance provided to the public housing agency under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g).

SEC. 267. REVIEW AND SANCTIONS.

(a) REVIEW.—The Secretary shall review at least annually the compliance of the public housing agencies receiving grants under this subtitle with the provisions of this subtitle.

(b) SANCTIONS FOR NONCOMPLIANCE.—Whenever the Secretary determines on the record after opportunity for a hearing that a public housing agency has failed to comply substantially with the provisions of this subtitle, the Secretary shall notify the public housing agency that no further grant payments will be made to the public housing agency under this subtitle until the public housing agency demonstrates, to the satisfaction of the Secretary, that the public housing agency will comply. Until the public housing agency demonstrates as required by this subsection, the Secretary shall not make further grant payments to the public housing agency under this subtitle.

SEC. 268. REPORTS.

The Secretary shall transmit to the President and to the appropriate Committees of Congress a report containing a detailed statement of the activities of the public housing agencies receiving grants under this subtitle and the recommendations for any action the Secretary considers appropriate. Such reports shall include an evaluation of the effectiveness of such activities in enhancing the employability of residents of public housing.

SEC. 269. DEFINITIONS.

As used in this subtitle:

(1) BASIC SKILLS.—The term "basic skills" means the rudimentary skills necessary for an individual to function in daily living, including literacy, arithmetic skills, and problem-solving.

(2) ECONOMICALLY DISADVANTAGED.—The term "economically disadvantaged" has the meaning given such term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

(3) GATEWAY PROGRAM.—The term "gateway program" means a program for the provision of training and services described in section 264 established by a public housing agency under a grant made by the Secretary under this subtitle.

(4) LITERACY.—The term "literacy" means the knowledge and skills necessary to communicate, including reading, writing, speaking, and listening normally associated with the ability to function at a level greater than the 8th grade level.

(5) OFFICER.—The term "officer" has the meaning given the term in section 2104 of title 5, United States Code.

(6) PUBLIC ASSISTANCE.—The term "public assistance" means cash payments, credits, or other assistance or benefits provided to individuals or families under Federal law.

(7) PUBLIC HOUSING.—The term "public housing" has the meaning given such term in section 3(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1)).

(8) PUBLIC HOUSING AGENCY.—The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

(9) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(10) SUPPORT SERVICES.—The term "support services" means services to facilitate the participation of residents of public housing in training and services under gateway programs. The term includes child care services under section 264(a)(5) and services under section 264(b)(10).

SEC. 270. REGULATIONS.

The Secretary shall promulgate regulations necessary to carry out this subtitle.

SEC. 271. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $40,000,000 for fiscal year 1991, and $50,000,000 for each of the fiscal years 1992 through 1995. Any amount appropriated under this section shall remain available until expended.

Subtitle F—Homeless Youth Demonstration Projects

SEC. 281. SHORT TITLE.

This subtitle may be cited as the "Homeless Youth Demonstration Project Act of 1990".

SEC. 282. DEMONSTRATION PROJECTS.

Subtitle E of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11472 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 763. DEMONSTRATION PROJECTS.

"(a) DEFINITIONS.—As used in this section:

"(1) HOMELESS YOUTH.—The term 'homeless youth' means an individual who is 21 years of age or younger, is in need of services, and lacks a permanent place of shelter that provides appropriate supervision and care for such individual or who resides in a group home on a temporary basis.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(b) DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary shall establish not to exceed three demonstration projects that are designed to assist private and public agencies and organizations in working together to provide a network of comprehensive services, including medical, mental health, health, legal, social, outreach, and emergency services, to homeless youth.

"(2) GRANTS.—

"(A) IN GENERAL.—The Secretary shall award grants to not to exceed three private, nonprofit organizations with demonstrated success in providing direct services to homeless youth, in subcontracting for such services, and in coordinating the provision of such services with other agencies, as referred to in paragraph (1).

"(B) LOCATION.—In awarding grants under subparagraph (A), the Secretary shall select organizations that are located in urban areas with a high concentration of out-of-city, out-of-county, and out-of-State homeless youth.

"(C) ABILITY TO PROVIDE SERVICES.—To be eligible for a grant under subparagraph (A), an organization shall demonstrate to the Secretary the ability of such organization, or another competent organization with which such organization has a subcontract, to provide a comprehensive network of each of the services described in paragraph (1).

"(D) PREFERENCE.—In awarding grants under subparagraph (A), the Secretary shall give preference to organizations that would involve a network of public and private agencies in the delivery of services to homeless youth.

"(3) EVALUATION OF DEMONSTRATION PROJECTS.—

"(A) IN GENERAL.—The Secretary shall monitor each demonstration project established under paragraph (1) to determine whether such project is complying with the requirements of this section.

"(B) INDEPENDENT EVALUATOR.—

"(i) IN GENERAL.—The Secretary shall contract with an independent evaluator to evaluate the process and outcome of each demonstration project established under paragraph (1), and to make suggestions for the implementation of other similar demonstration projects in other areas of the country.

"(ii) STABILITY OF HOMELESS YOUTH.—The independent evaluator referred to in clause (i) shall assess the stability of homeless youth that are served by a demonstration project established under paragraph (1) after such youth are either reunited with family or settled in a stable environment.

"(4) ELIGIBLE YOUTH.—

"(A) IN GENERAL.—Except as provided for in subparagraph (B), an individual wishing to receive services under this section shall be not more than 21 years of age.

"(B) EXCEPTION.—The Secretary may grant waivers to provide services under this section to individuals who are 22 through 24 years of age for not more than 10 percent of the funds awarded for grants under paragraph (2).

"(5) LENGTH OF DEMONSTRATION PROJECTS.—Each of the demonstration projects established under paragraph (1) shall not exceed a period of 3 years.

"(6) AUTHORIZATION OF APPROPRIATION.—

"(A) IN GENERAL.—There is authorized to be appropriated to carry out this section $2,500,000 for each of the fiscal years 1991, 1992, and 1993.

"(B) INDEPENDENT EVALUATOR.—Of the amounts authorized to be appropriated under subparagraph (A), not to exceed $500,000 shall be utilized for the contract referred to in paragraph (3)(B).".

Subtitle G—Plan for Cooperation

SEC. 291. PLAN FOR COOPERATION.

(a) IN GENERAL.—Not later than the date on which regulations necessary to carry out subtitle A, part L of title III of the Public Health Service Act (as added by subtitle B), part C of title V of the Public Health Service Act (as added by subtitle C), section 634 of the Community Economic Development Act of 1981 (as added under subtitle D), or subtitle E are issued, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Veterans Affairs, and the Secretary of Housing and Urban Development shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a plan concerning the programs to be carried out under such subtitle, parts, and section.

(b) CONTENTS.—The plan prepared under subsection (a) shall—

(1) describe the method in which the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Veterans Affairs, and the Secretary of Housing and Urban Development shall consult with one another in implementing and administering the programs described in subsection (a) and coordinate the implementation of such programs with other relevant programs and Acts (including the programs established under the Stewart B. McKinney Homeless Assistance Act, or the amendments made by such Act, and under Federal housing Acts);

(2) contain an assurance that such Secretaries will consult with one another on an ongoing and continuous basis in such implementation; and

(3) contain procedures, developed by the Secretary of Housing and Urban Development, for granting priority in the provision of construction, rehabilitation or renovation assistance by such Secretary, to applicants that receive grants under the subtitle, parts, and section referred to in subsection (a).

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

I also move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE PLACED ON THE CALENDAR—H.R. 5558

Mr. CRANSTON. Mr. President, I ask unanimous consent that H.R. 5558 be placed on the calender.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL POLICY ON PERMANENT PAPERS

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Joint Resolution 57.

The PRESIDING OFFICER laid before the Senate the following mes-

sage from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 57) entitled "Joint resolution to establish a national policy on permanent papers," do pass with the following amendments:

Strike out all after the resolving clause, and insert:

Section 1. It is policy of the United States that Federal records, books, and publications of enduring value be produced on acid free permanent papers.

Sec. 2. The Congress of the United States urgently recommends that—

(1) Federal agencies require the use of acid free permanent papers for publications of enduring value produced by the Government Printing Office or produced by Federal grant or contract, using the specifications for such paper established by the Joint Committee on Printing;

(2) Federal agencies require the use of archival quality acid free papers for permanently valuable Federal records and confer with the National Archives and Records Administraton on the requirements for paper quality;

(3) American publishers and State and local governments use acid free permanent papers for publications of enduring value, in voluntary compliance with the American National Standard;

(4) all publishers, private and governmental, prominently note the use of acid free permanent paper in books, advertisements, catalogs, and standard bibliographic listings; and

(5) the Secretary of State, Librarian of Congress, Archivist of the United States, and other Federal officials make known the national policy regarding acid free permanent papers to foreign governments and appropriate international agencies since the acid paper problem is worldwide and essential foreign materials being imported by our libraries are printed on acid papers.

Sec. 3. The Librarian of Congress, the Archivist of the United States, and the Public Printer shall jointly monitor the Federal Government's progress in implementing the national policy declared in section 1 regarding acid free permanent papers and shall report to the Congress regarding such progress on December 31, 1991, December 31, 1993, and December 31, 1995. In carrying out the monitoring and reporting functions under this section, the Librarian of Congress, the Archivist of the United States, and the Public Printer may consult with the National Endowment for the Humanities, National Agricultural Library, National Library of Medicine, other Federal and State agencies, international organizations, private publishers, paper manufacturers, and other organizations with an interest in preservation of books and historical papers.

Amend the preamble so as to read:

Whereas it is now widely recognized and scientifically demonstrated that the acidic papers commonly used for more than a century in documents, books, and other publications are self-destructing and will continue to self destruct;

Whereas Americans are facing the prospect of continuing to lose national, historical, scientific, and scholarly records, including government records, faster than salvage efforts can be mounted despite the dedicated efforts of many libraries, archives, and agencies, such as the Library of Congress and the National Archives and Records Administration;

Whereas nationwide hundreds of millions of dollars will have to be spent by the Federal, State, and local governments and private institutions to salvage the most essential books and other materials in the libraries and archives of government, academic, and private institutions;

Whereas paper manufacturers can produce a sufficient supply of acid free permanent papers with a life of several hundred years, at prices competitive with acid papers, if publishers would specify the use of such papers, and some publishers and many university presses are already publishing on acid free permanent papers;

Whereas most Government agencies do not require the use of acid free permanent papers for appropriate Federal records and publications;

Whereas librarians, publishers, and other professional groups have urged the use of acid free permanent papers;

Whereas even when books are printed on acid free permanent paper this fact is often not made known to libraries by notations in the book or by notations in standard bibliographic listings; and

Whereas there is an urgent need to prevent the continuance of the acid paper problem in the future: Now, therefore, be it resolved that;

A NATIONAL POLICY ON PERMANENT PAPERS

Mr. PELL. Mr. President, I am very pleased indeed that the House of Representatives has passed and sent back to the Senate in slightly amended form Senate Joint Resolution 57, my joint resolution to establish a national policy on permanent papers. I urge the Senate to proceed to final passage.

I introduced this measure on February 8, 1989, and was joined by 48 Members of the Senate whose cosponsorship indicated the true depth of concern for this matter, and who thereby helped to achieve passage of the joint resolution by the Senate in July 1989.

Mr. President, this resolution reflects a growing concern about the impending loss of an enormous volume of our historical, cultural and scientific records because of the self-destruction of the acidic papers in which books and other publications have been printed since the mid-nineteenth century.

The resolution declares it to be a policy of the United States that all Federal records, books and publications of enduring value be produced on acid free permanent paper. In furtherance of that objective, the resolution urgently recommends that Federal agencies require the use of such paper for publications of enduring value, and the use of archival quality papers for permanently valuable Federal records.

The resolution urges similar action in the private sector. It urgently recommends that American publishers voluntarily adhere to the American National Standard for permanent paper in printing publications of enduring value, and that the use of such paper be noted in the publication itself, in advertisements and in standard bibliographic listings.

Last, the resolution would urge the compilation of reliable statistics on the production of acid free permanent paper and on the volume required to meet the objectives of the national policy established by the bill. And it would direct the Librarian of Congress and the Archivist of the United States, together with the directors of the national libraries of medicine and agriculture, to monitor progress in implementing the national policy and report annually to Congress.

I particularly wish to emphasize that this resolution mandates no Government program, and should impose no significant costs on the Federal Government. If anything, the resolution could result in a net reduction in costs to the Government because it will have the effect of reducing the long-range costs of deacidification. Every book produced on acid free paper today reduces the total number of volumes requiring deacidification, and frees up preservation resources which can be used to attack the crumbling backlog of publications dating back to 1850.

As vice chairman of the Joint Committee on the Library, I have had the opportunity to review the extensive efforts currently under way to deacidify and preserve existing collections, at a cost of over $100 million to the Federal Government. The Library of Congress, for example, is pioneering in the development of technology for the mass deacidification of its collections through the use of diethylzinc [DEZ]. The present goal is to begin treatment of all the Library's new acquisitions by 1991 and to start retrospective treatment at the same time of existing publications in American history.

The National Archives and Records Administration and the National Library of Medicine are also making vigorous efforts to deal with the problem, either through deacidification or through microfilming books and publications which are already too brittle to save.

Clearly, it makes little sense to continue these costly remedies without attempting to curb the basic problem. And that is what this resolution is designed to do. In a figurative sense, it locks the library door against prospective invasion by publications printed on acidic paper.

I extend thanks to all who have had a hand in promoting the passage of this resolution, and particularly to Robert M. Frase, former director of the Washington office of the Association of American Publishers.

And finally Mr. President, I want to express the hope that the the executive branch will promptly approve this joint resolution and join in this historic effort to preserve the wisdom of today for the readers of centuries to come.

Mr. CRANSTON. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on the motion.

The motion was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTERSTATE COMMISSION ON CHILD SUPPORT ENFORCEMENT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3117, a bill introduced today by Senator BRADLEY, making technical corrections to the Interstate Commission on Child Support Enforcement.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3117) to reauthorize the Commission on Interstate Child Support, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BRADLEY. Mr. President, I rise today to introduce a bill to make technical adjustments to the Interstate Child Support Commission to bring the Commission into conformance with other such governmental commissions.

This Commission was established as part of the 1988 Family Support Act and its mission is to look for ways to build a better nationwide system to ensure that every child in America receives the financial support that parents are obligated to provide. Better Federal laws and better communication among States, which this Commission can promote, are necessary first steps toward this goal.

This bill has two purposes. First, the bill would extend the authorization dates for the life of the Commission by 1 year to allow the Commission adequate time to accomplish its mission. The initiation of the Commission was delayed following passage of the Family Support Act to accommodate the time needed to make appointments to the Commission. This bill would simply extend the dates for the life of the Commission by 1 year to achieve this purpose. Appropriations and costs for the Commission would not be affected.

Second, in the original drafting of the legislation, authorization was mistakenly omitted to allow the Commission to hire appropriate staff to carry out its mission. This bill would correct this omission and allow the Commission to hire an executive director, as well as other necessary support. This provision is consistent with the original legislative intent regarding the creation of the Commission, as well as with other governmental commissions, such as the National Commission on Children. Again, these technical corrections have no effect on the funds authorized for the Commission to carry out its duties.

A more effective and efficient child support enforcement system will not end all poverty or welfare dependency among children of single-parent households. But it will improve life for those who are impoverished solely because one parent evades the obligations of parenthood and the law. Prompt passage of this bill will ensure that the Commission is fully empowered to accomplish these important goals.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 3117

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMMISSION ON INTERSTATE CHILD SUPPORT.

Section 126 of the Family Support Act of 1988 (Public Law 100-485) is amended—

(1) in subsection (d)—

(A) by striking "1990" in paragraph (1) and inserting "1991"; and

(B) by striking "May 1, 1991" in paragraph (2) and inserting "May 1, 1992";

(2) in subsection (e), by adding at the end thereof the following new paragraph:

"(5)(A) Individuals may be appointed to serve the Commission without regard to the provisions of title 5 that govern appointments in the Competitive Service, without regard to the Competitive Service, and without regard to the Classification System in chapter 53 of title 5, United States Code. The Chairman of the Commission may fix the compensation of the Executive Director at a rate that shall not exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

"(B) The Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the Competitive Service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(C) On the request of the Chairperson of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section without regard to section 3341 of title 5, United States Code."; and

(3) in subsection (f)(1), by striking "July 1, 1991" and inserting "July 1, 1992".

Mr. CRANSTON. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMENDING JONATHAN STEINBERG

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 328, a resolution commending Jonathan Steinberg, submitted earlier today by myself, Senator MURKOWSKI, and others.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 328) commending Jonathan R. Steinberg for his faithful and outstanding service to the U.S. Senate and the Nation.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. CRANSTON. Mr. President, the pending resolution commends Jonathan R. Steinberg for his 21½ years of faithful and outstanding service to the Senate and the Nation. The resolution, which I have authored as the chairman of the Committee on Veterans' Affairs, as well as the assistant majority leader, is cosponsored by the majority leader, Mr. MITCHELL, who is also a committee member; the President pro tempore and former majority leader, Mr. BYRD; the assistant minority leader, Mr. SIMPSON, who is also a committee member; and the ranking minority member, and other members of the Committee on Veterans' Affairs, Mr. MURKOWSKI, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. GRAHAM, Mr. AKAKA, Mr. THURMOND, Mr. SPECTER, and Mr. JEFFORDS.

I originally hired Jon Steinberg in March 1969 to serve as counsel to the Subcommittee on Veterans' Affairs of the then-Committee on Labor and Public Welfare. He has now served on the Senate staff for more than two decades and on September 12 left the Senate and became an associate judge on the U.S. Court of Veterans Appeals, a newly established tribunal consisting of up to seven members. Jon's appointment completes the original, full complement of seven judges.

As Jon leaves the Senate and ascends to his place in the Federal judiciary, I believe it is appropriate for the Senate to express its gratitude for his great work here and to wish him all the best in this new stage of his career.

Mr. President, in over two decades in the U.S. Senate, I have made countless personnel choices. The decision I made in 1969 to hire Jon ranks as one of the very wisest. In the true spirit of public service, he has dedicated his entire career to making this country a better place for all of us, and most especially for veterans and their families. I believe he has succeeded magnificently.

Jon served for 2 years, 1969 and 1970, as counsel to the Subcommittee on Veterans' Affairs. From 1971 to 1973, he was counsel to both the Subcommittee on Railroad Retirement and the Subcommittee on Human Resources, and he continued as counsel of the Subcommittee on Human Resources until 1977.

In 1977, when I had the honor of assuming the chairmanship of the Veterans' Affairs Committee, Jon became the committee's staff director and chief counsel. He remained in that position until 1981, when the Republican Party became the majority party in the Senate and Jon became minority chief counsel and staff director. In 1987, the Democrats once again became the majority party in the Senate and Jon resumed the position of the committee's staff director and chief counsel, a post he held until Tuesday of this week.

When Jon came to work for the Subcommittee on Veterans' Affairs in 1969, the Nation was going through most difficult times. American involvement in the Vietnam war had reached its height, and so had the divisiveness and bitter controversy here at home. Right from the start, Jon and I recognized our challenge. Our job was to make sure that, despite the turmoil over the conflict, the Nation met its obligations to those who had answered its call to arms.

However, we soon learned that the ravages of war were overwhelming the Veterans' Administration's ability to respond to veterans' needs. An overburdened, underfunded VA health care system was unable to provide consistently high-quality care to those who had borne the brunt of the battle. In some facilities, there were deplorable conditions. Subcommittee hearings that Jon put together and staffed and that I chaired portrayed these problems. Those hearings spurred a Life magazine expose of terrible conditions, including the infamous spinal cord injury unit at the Bronx VA hospital that shocked the Nation's conscience.

Mr. President, those disclosures helped to fuel an effort that we and others in the Congress led throughout the 1970's and into the 1980's to expand and improve VA medical services. By 1985, Congress had added over 60,000 full-time employee positions to the VA health care system. Jon deserves much credit for the success we had.

Another fact of life that was impressed on Jon and me early in our careers in this body was that war—and perhaps, for various reasons, the Vietnam war in particular—often has very serious, sometimes long-hidden, psychological consequences for many of those who experience the enormous stress of battle. Throughout the 1970's we worked for the enactment of legislation to establish a program of psychological readjustment counseling and followup mental health services for Vietnam-era veterans. That legislation was enacted in 1979 and the resulting Vet Center Program now operates through 196 community-based Vet Center across the Nation. It has served more than 700,000 veterans over the past decade.

Mr. President, these two major efforts—building up the VA health care system and innovative efforts to meet the mental health care needs of Vietnam veterans—reflect the kind of vision, persistence, and creativity of which Jon is capable. He has always had what it takes to tackle the big jobs. With his energy and talent available to me, I never had to be concerned that we might be taking on too much. The only consideration was whether the need was real and important and an appropriate responsibility of the Federal Government.

Other examples of major achievements to which Jon, in assisting me, contributed very substantially included:

The 1973 Emergency Medical Services Act, and 1976 and 1978 amendments, which created a grant program to develop a nationwide, coordinated system of emergency services—patterned on the battlefield medical evacuation system used in Vietnam—using trained paramedics, radio communications to link them to physicians, designated trauma facilities, and ambulances and helicopters equipped with lifesaving equipment and medications.

The Rehabilitation Act of 1973, which included the first major Federal civil rights protections for persons with disabilities.

The Domestic Volunteer Services Act of 1973, which provided a statutory basis for the ACTION Agency and its domestic volunteer agencies.

The 1974 legislation codifying and improving the veterans' readjustment appointment authority, which provided for noncompetitive Federal employment and training opportunities for educationally disadvantaged Vietnam-era veterans and those with service-connected disabilities.

The 1974 National Arthritis Act, which provided for a national plan for arthritis and otherwise promoted arthritis treatment and research, and the 1985 legislation that established the National Institute of Arthritis and Musculoskeletal and Skin Diseases at the National Institutes of Health.

The establishment of the Legal Services Corporation in 1974, the most significant Federal effort to help meet the legal services needs of low-income persons.

The 1978 legislation establishing the improved pension program for needy wartime veterans and survivors.

Various public laws in the 1970's and 1980's which provided specific eligibility for VA health care to, among others, World War I veterans, veterans who are housebound or in need of aid and attendance, ex-POW's, and veterans exposed to ionizing radiation or agent orange.

The 1980 modernization of VA's Vocational Rehabilitation Program for service-disabled veterans.

Veterans employment measures enacted in 1980 and 1988 which established stable statutory funding formulas for Disabled Veterans Outreach Program specialists and local veterans employment representatives.

The 1984 Baby Doe legislation to protect the rights of seriously disabled infants.

The 1984 legislation establishing the Montgomery GI Bill Program of educational assistance for our All-Volunteer Armed Forces, and the 1987 legislation making the program permanent.

The Department of Veterans Affairs Act of 1988, which elevated VA to Cabinet status.

The Radiation-Exposed Veterans Compensation Act of 1988, which provided compensation for veterans who were exposed to radiation from nuclear detonations and later developed certain cancers.

The 1988 Veterans Judicial Review Act, which established the U.S. Court of Veterans Appeals.

These, of course, are just examples and highlights. There was much, much more. And Jon was never content just to make major achievements. As a talented lawyer and totally dedicated public servant, he always saw to it that the job was done as close to perfect as humanly possible. He has always believed that if you are careless about technical details, you'll also be careless about the substance.

Finally, I want to emphasize the very special way that Jon combined his talent and energy with genuine concern for the individual. Countless individual veterans and other Americans who needed special attention received it because Jon believed they were entitled to his time and efforts. That is exactly the kind of individual I want, and I believe the American people want, to serve on congressional staffs, and we have been fortunate to have received the services of one such individual for 21½ years.

Mr. President, Jon Steinberg has played a major role in the development of every piece of veterans' legis-

lation enacted by the Congress in the last 21 years, as well as many significant measures in other areas on which he has assisted me during this time. But these laws tell only part of the story.

I believe much of Jon's legacy of dedicated service can be found in more personal, human matters as in the revived spirit and sense of well-being of a Vietnam veteran receiving counseling at a Vet Center; in the restored walk of a soldier who lost a leg in combat and has benefited from VA prosthetics research; in the college diploma, earned through the GI bill, proudly displayed on the wall of a veterans' new home, purchased with the help of a VA loan guaranty; in the monthly compensation check received by a soldier disabled in service; in the lifesaving surgery performed at a VA medical center; in the gratitude of a veteran who has had his benefit claim validated by an independent court of law; and in the countless other ways, large and small, he has helped this Nation repay the debt it owes to its veterans.

Mr. President, I feel honored to have had the opportunity to work with Jon Steinberg during the last 21½ years. He has served me, the Committee on Veterans' Affairs, the Senate, and the Nation far beyond the call of duty again and again. But more importantly, he has performed great service to this Nation's 27 million veterans and their families and to all Americans.

I ask that the Senate, through this resolution, express its gratitude to Jon and wish him all the best in his new role as associate judge of the Court of Veterans Appeals.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 328) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 328

Whereas Jonathan R. Steinberg has rendered faithful service to the United States Senate for twenty-one and one-half years, including service as Counsel to the Veterans' Affairs Subcommittee of the Committee on Labor and Public Welfare from 1969 to 1971, Counsel to the Subcommittee on Railroad Retirement of the Committee on Labor and Public Welfare from 1971 to 1973, Counsel to the Special Subcommittee on Human Resources of the Committee on Labor and Public Welfare from 1971 to 1977, Chief Counsel and Staff Director of the Committee on Veterans' Affairs from 1977 to 1981, Minority Chief Counsel and Staff Director of the Committee on Veterans' Affairs from 1981 to 1987, and Chief Counsel and Staff Director of the Committee on Veterans' Affairs from 1987 to 1990;

Whereas Jonathan R. Steinberg discharged the important duties and responsibilities of each of the foregoing positions with great distinction and diligence and with genuine concern for the individual Americans whose lives were affected by his efforts;

Whereas Jonathan R. Steinberg has consistently rendered valuable service to the Senate in the development of legislation to establish, preserve, and improve programs carrying out the Nation's responsibilities to its veterans and their families and has also made great contributions to the development of programs to benefit Americans in all walks of life, including especially persons with disabilities, a wide array of disadvantage and needy individuals, and children;

Whereas Jonathan R. Steinberg helped guide the Committee on Veterans' Affairs through an extraordinarily active, challenging, and productive period of its history, during which it successfully proposed major advances in veterans' benefits and services;

Whereas the loyalty, judgment, creativity, perseverance, and continuing dedication of Jonathan R. Steinberg have earned for him great respect, gratitude, and affection: Now, therefore, be it

Resolved, That the Senate of the United States commends Jonathan R. Steinberg for his faithful and outstanding service to the Senate and the Nation.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Jonathan R. Steinberg.

Mr. CRANSTON. I move to reconsider the vote and move that that motion be laid on the table.

The motion to lay on the table was agreed to.

DRUNK DRIVING CHILD PROTECTION ACT

Mr. CRANSTON. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 735, S. 2545, a bill to increase the term of imprisonment for offenses involving driving while intoxicated when a minor is in the vehicle.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2545) to amend title 18 of the United States Code, to increase the term of imprisonment for offenses involving driving while intoxicated when a minor is present in the vehicle.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BIDEN. Mr. President, today, the Senate will pass the Drunk Driving Child Protection Act of 1990. Simply put, this bill increases the penalties for driving while drunk or drugged when there are minors in the car.

Children are among the most vulnerable victims of the violent crime of drunk driving: According to one study, 56 percent—more than half—of the children killed by drunk drivers were passengers in their own vehicles.

All drunk drivers should have stiff and certain punishment. But when a drunk driver puts a child at risk—who, in most cases, has no chance to refuse to go with the drunk driver—such reckless acts should be punished even more severely.

That's why I introduced the Drunk Driving Child Protection Act of 1990 to increase the penalty for drunk driving whenever a child is in the car. If there is a minor present, this bill would allow a judge to impose an additional 1 year in prison and an extra fine of $1,000 on top of the current punishment for drunk driving.

This bill would attack the problem of drunk driving with children in the car on two fronts. First, it would boost the penalty for drunk driving on Federal lands. There are more than 200,000 miles of roads on Federal land. Second, it would increase the penalty for drunk drivers who are behind the wheels of buses, trains, and other common carriers that operate on our highways.

Drunk and drugged drivers are a danger to our entire society. They not only risk their own lives, but also the lives of countless others. That is why we have enacted tough drunk driving laws in the past several years.

But when they risk the lives of innocent children—who have no choice whether to get in the car with a drunk parent or other adult—the law should be even more severe. A stiffer penalty is a matter of simple justice.

I want to thank Senators STROM THURMOND and JACK DANFORTH—the original cosponsors of this bill—for their efforts. Both Senators have strong anti-drunk-driving records.

Finally, I want to give special recognition to Donette Sims and Norma Mathewson, the president and chief administrator, respectively, of the Delaware Chapter of Mothers Against Drunk Driving.

Donette and Norma have been tireless advocates of efforts to crack down on drunk drivers to protect drunk driving victims. The citizens of Delaware should be proud of their efforts.

Mr. THURMOND. Mr. President, I strongly support this measure. On May 1, 1990, I joined with Senator BIDEN in introducing this bill, the Drunk Driving Child Protection Act of 1990. This important legislation amends Federal law to increase the penalties for those who drive under the influence of drugs or alcohol when a minor is present in the vehicle.

Under current law, drunk driving is punishable under two provisions in the Federal Criminal Code. First, under the Assimilative Crimes Act, crimes that are committed on Federal lands that are not specifically punishable under the Federal Criminal Code, as is the case with drunk driving, are punishable under the State law in which the Federal land is located. In other words, when a Federal judge sentences a person for drunk driving on Federal land, he or she applies the State pen-

alties. The second provision, which was enacted in 1986 and which I introduced, makes it a Federal offense to operate a common carrier, such as a bus or train, while under the influence of alcohol or drugs. Violators may be punished by up to 15 years imprisonment. This bill amends both of these provisions by increasing the terms of imprisonment by 1 additional year, as well as increasing the fines, when a minor is a passenger.

Mr. President, it is clear that no individual should get into a vehicle with an intoxicated person behind the wheel. Fortunately, as adults, we can refuse a ride with a friend or relative who has been drinking. Instead, we can offer to drive the person ourselves or offer that individual a place to stay for the night. Yet, our Nation's children are not always in a position to choose for themselves. They are truly the innocent victims of drunk drivers.

Any person who would get behind the wheel of a car or common carrier while under the influence of drugs or alcohol should certainly be subjected to tough penalties. However, any person who would risk the life of a child passenger should face even tougher penalties.

In closing, the Biden-Thurmond Drunk Driving Child Protection Act of 1990 is strongly supported by Mothers Against Drunk Driving. It will send a signal to those who would would drink and drive with children in their vehicle that such conduct will not be tolerated. These enhanced penalties will deter individuals from recklessly putting the lives of their innocent passengers at risk. This legislation is needed to further limit the risk of harm to our Nation's children.

For these reasons, I urge my colleagues to vote in favor of this legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2545

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drunk Driving Child Protection Act of 1990."

SEC. 2. STATE LAWS APPLIED IN AREAS OF FEDERAL JURISDICTION.

Section 13(b) of title 18, United States Code, is amended by—

(1) striking "For purposes" and inserting "(1) Subject to the provisions of paragraph (2) and for purposes"; and

(2) adding at the end thereof the following:

"(2) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than one year and an additional fine of not more than $1,000, or both, if—

"(A) a non-driving minor was present in the motor vehicle when the offense was committed; and

"(B) the law of the State, territory, possession, or district applicable to the offense does not provide an additional term of imprisonment for an act described in subparagraph (A).".

SEC. 2. COMMON CARRIERS.

Section 324 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "Whoever"; and

(2) adding at the end thereof the following:

"(b) In addition to any term of imprisonment imposed for an offense under subsection (a), the punishment for such offense shall include an additional term of imprisonment of not more than one year and an additional fine of not more than $1,000, or both, if a non-driving minor was present in the common carrier when the offense was committed.".

Mr. CRANSTON. I move to reconsider the vote and that that motion be laid on the table.

The motion to lay on the table was agreed to.

INDOOR AIR QUALITY ACT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 566, S. 657, the indoor air quality bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 657) to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2913

Mr. CRANSTON. Mr. President, on behalf of Senator BURDICK, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON] for Mr. BURDICK, proposes an amendment numbered 2913.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 2/3, delete "environmental tobacco smoke".

On page 5, line 8, strike "establish at" and insert in lieu thereof "develop and coordinate through".

On page 7, line 26, strike "cooperation with" and insert in lieu thereof the following "coordination with other".

On page 8, line 9, insert after "authorized" the following ", subject to the availability of appropriations".

On page 9, line 16, insert at the end thereof the following "protocols,".

On page 9, line 19, insert after "sector" the following ", other governmental entities, and schools and universities".

On page 10, line 10, insert the following: "If the Administrator expects or intends that research pursuant to this subsection will primarily affect worker safety and health, he shall consult with the Assistant Secretary of Occupational Safety and Health and the Director.".

On page 10, line 11, insert after "Administrator" the following ", in coordination with other appropriate Federal agencies,".

On page 10, line 18, strike "both healthy individuals and sensitive populations" and insert in lieu thereof the following "populations both with and without heightened sensitivity".

On page 12, line 22, insert after "of" the following "protocols,".

On page 13, line 6, strike "or other measures" and insert the following ", building design criteria, and management practices".

On page 13, line 18, strike lines 18, 19, and 20.

On page 13, line 21, strike "(17)" and insert "(16)".

On page 13, line 23, strike "(18)" and insert "(17)" and strike "in conjunction with" and insert in lieu thereof the following "principally by".

On page 14, line 9, strike "(19)" and insert "(18)".

On page 14, line 20, strike "(20)" and insert "(19)".

On page 16, line 19, insert after "evaluation" the following "and publication".

On page 24, line 4, insert after "parties" the following ", including scientific and technical experts familiar with indoor air pollution exposures, effects, and controls,".

On page 24, line 19, strike "Panel" and insert in lieu thereof the following "Committee".

On page 24, line 21, strike "and such comments shall be transmitted to Congress in conjunction with the report.".

On page 26, line 13, insert at the end thereof the following "Where the technology or management practice is expected to have significant implications for worker safety or health, the Administrator shall consult with the Director prior to seeking review and comment.

On page 27, line 1, insert after "indoor" the following "air".

On page 28, line 23, insert after "Administrator" the following ", in coordination with other Federal agencies,".

On page 29, line 1, insert at the end thereof the following "and workers".

On page 30, line 5, strike "worker" and insert after "public" the following "and worker".

On page 30, line 17, strike "which are known to occur (or which may be expected to occur)" and insert in lieu thereof the following "that may occur or are known to occur".

On page 31, line 12, delete "environmental tobacco smoke".

On page 35, line 15, strike "Indoor Air Panel" and insert in lieu thereof the following "Indoor Air Quality and Total Human Exposure Committee".

On page 35, line 25, insert after "Research," the following "the National Institute for Occupational Safety and Health,".

On page 36, line 2, strike "Board" and insert in lieu thereof the following "Advisory Panel".

On page 36, line 6, strike "consultation with" and insert in lieu thereof the following "coordination with other".

On page 36, line 17, strike "consultation with" and insert in lieu thereof the following "coordination with other".

On page 37, line 6, insert after "Administration" the following "and the National Institute for Occupational Safety and Health".

On page 37, line 8, insert the following "In implementation of response actions pursuant to paragraph (6) of this subsection the Assistant Secretary of Occupational Safety and Health shall consult with representatives of State and local governments and their employees with respect to States where the Occupational Safety and Health Administration lacks jurisdiction over State and local employees.".

On page 37, line 9, insert after "Administrator" the following ", in coordination with other appropriate Federal agencies,".

On page 38, line 13, strike "and private and professional firms" and insert in lieu thereof "private and professional firms, and labor organizations".

On page 38, line 17, strike "and".

On page 38, line 20, insert after "contaminants" the following ";

"(6) identification of contaminants, or circumstances of contamination for which immediate action to protect public and worker health is necessary and appropriate and a description of the actions needed;

"(7) identification of contaminants, or circumstances of contamination, where regulatory or statutory authority is not adequate to address an identified contaminant or circumstance of contamination and recommendation of legislation to provide needed authority;

"(8) identification of contaminants, or circumstances of contamination, where continued reduction of contamination requires development of technology or technological mechanisms; and

"(9) identification of remedies to "sick building syndrome", including proper design and maintenance of ventilation systems, building construction and remodeling practices, and safe practices for the application of pesticides, herbicides, and disinfectants, and a standardized protocol for investigating and solving indoor air quality problems in sick buildings.".

On page 38, line 23, insert after "Administrator" the following: ", in coordination with other appropriate Federal agencies,".

On page 38, line 24, insert after "the" the following: "health effects, and any".

On page 38, line 24, insert after "contaminants" the following: "thought to cause health effects".

On page 39, strike lines 6, 7, 8 and 9.

On page 39, line 10, strike "(5)" and insert in lieu thereof the following: "(4)".

On page 39, line 11, insert at the end thereof the following: "and".

On page 39, line 12, strike "(6)" and insert in lieu thereof the following: "(5)".

On page 39, line 14, strike ";" and insert in lieu thereof the following: "."

On page 39, strike lines 15 through line 2 on page 40.

On page 40, line 16, strike "The Administrator shall include in the response plan a letter and any supporting materials providing the comments of the Council on Indoor Air Quality.".

On page 41, line 18, strike "Administrator of the" and insert in lieu thereof the following: "Assistant Secretary for".

On page 42, line 8, insert after "public" the following: "and worker".

On page 44, line 16, strike "and such comments and any supporting materials shall be included in the plan".

On page 46, line 18, strike "Administrator of the" and insert in lieu thereof the following: "Assistant Secretary for".

On page 46, line 20, insert after "filing" the following: "and responding to".

On page 46, line 23, insert the following: "The procedure for filing and responding to worker complaints shall supplement and not diminish or supplant existing practices or procedures established under the Occupational Safety and Health Act and executive orders pertaining to health and safety for Federal employees.".

On page 47, line 2, insert at the end thereof the following: "Such listing shall preserve the confidentiality of the individuals making filings under this section.".

On page 47, line 17, insert at the end thereof the following: "After thirty-six months from the date of enactment of this Act, each newly designated Indoor Air Quality Coordinator shall complete the indoor air training course within twelve months of designation.".

On page 54, line 10, strike "applicants" and insert in lieu thereof the following: "applications".

On page 55, line 10, insert after "groups" the following: ", labor organizations,".

On page 64, line 17, insert after "15." the following: "(a) GENERAL AUTHORITY.—".

On page 64, line 20, insert a new subsection as follows:

"(b) OCCUPATIONAL SAFETY AND HEALTH.—In exercising any authority under this Act, the Administrator shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health."

On page 65, line 2, strike "." and insert in lieu thereof the following: "and $1,000,000 shall be reserved for implementation of section 6(b) of this Act.".

On page 65, line 23, insert at the end thereof the following new section—

"RADON IN SCHOOLS

"SEC. 17. (a) TITLE.—This section may be cited as the "Radon Testing for Safe Schools Act".

"(b) FINDINGS.—The Congress finds that:

"(1) Exposure to radon gas causes about 20,000 lung cancer deaths each year.

"(2) Radon may be especially hazardous to small children who spend a substantial portion of a day in school buildings.

"(3) Testing for and remediation of elevated levels of radon is relatively simple and inexpensive.

"(4) Studies by the Environmental Protection Agency indicate that 54 per centum of schools tested above have at least one room with elevated levels of radon and that over 20 per centum of all school rooms tested had elevated levels of radon.

"(5) On April 20, 1989, the Administrator of the Environmental Protection Agency issued a national adlvisory recommending that all schools be tested for radon.

"(6) There is a need for improved information on proper methods and procedures for testing and remediation of radon in school buildings.

"(7) There is a need for the Federal Government to provide financial assistance to States and local educational agencies for implementation of measures to reduce elevated levels of radon.

"(c) REQUIREMENT FOR RADON TESTING.—Section 307 of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by adding at the end thereof the following new subsections:

"(c) GUIDELINES.—(1) Within one year of the date of enactment of this subsection, the Administrator shall publish guidelines on testing for and remediating radon in school buildings.

"(2) After the publication of guidelines pursuant to this subsection, testing and remediation carried out pursuant to this section shall be conducted in a manner consistent with such guidelines.

"(3) Any radon testing or remediation of school buildings conducted prior to the publication of guidelines pursuant to this subsection shall be considered to meet the requirements of this section if the testing or remediation is conducted consistent with any interim guidance published by the Administrator or a State where the Administrator determines that such guidelines are substantially consistent with the guidelines published under this subsection.

"(d) REQUIREMENT FOR RADON TESTING.—(1) Within two years after designation by the Administrator of an area as a priority radon area each local educational agency located in whole or in part in such designated area shall conduct tests for radon in each school building owned or operated by the local educational agency.

"(2) The Administrator may extend the schedule for testing for radon pursuant to this subsection to the date two years from the date of publication of testing guidelines pursuant to subsection (c) of this section.

"(3) The Administrator shall, as expeditiously as practicable, designate areas as priority radon areas based on—

"(A) surveys of residences for radon; or

"(B) the survey required by paragraph (4) of subsection (a) of this section; or

"(C) other data, including geological data. The Administrator shall designate areas pursuant to this paragraph no later than September 30, 1991.

"(4) The results of any tests conducted pursuant to this section by a local educational agency shall be available for public review in the administrative offices of the local educational agency during normal business hours. The local educational agency shall notify parent, teacher, and employee organizations of the availability of such results and shall send the results to the Administrator and the agency of the State implementing radon programs.

"(5) Any radon testing conducted pursuant to this section shall be supervised by a person who has received instruction pursuant to an EPA or equivalent State approved program, as determined by the Administrator and shall use radon measurement devices and methods approved by the radon proficiency program established pursuant to section 305(a)(2) of this title.".

"(d) RADON IN SCHOOLS REMEDIATION GRANT ASSISTANCE.—(1) Section 306(j)(1) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et eq.) is amended by inserting after "1991" the following—"and $15,000,000 for fiscal year 1992".

"(2) Section 306(j) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et

seq.) is amended by adding at the end thereof the following new paragraphs—

"(6) Of funds appropriated pursuant to this subsection in fiscal year 1992, not more than one-third shall be used to implement radon remediation measures for local educational agencies pursuant to paragraphs (11) and (12) of subsection (c) of this section.

"(7) Of funds appropriated pursuant to this subsection in fiscal year 1992, the Administrator may reserve an amount up to 2 per centum or $200,000, whichever is the greater, for the purposes of making grants to local educational agencies for implementation of measures to reduce radon levels: *Provided*, That any local educational agency is prohibited by State law from receiving grant assistance from the State: *Provided further*, That the local educational agency provides not less than 50 per centum of the cost of implementing such measures from non-Federal sources.

"(8) There is authorized to be appropriated for grant assistance under paragraphs (11) and (12) of subsection (c) of this section an amount not to exceed $5,000,000 for each of fiscal year 1993, 1994, 1995, and 1996.

"(3) Section 306(c) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by adding at the end thereof the following new paragraphs—

"(11) Notwithstanding the limitation in subsection (i)(4), payment, in the form of grants or loans, of costs of implementing remediation measures necessary to prevent levels of radon in school buildings above the appropriate action level identified pursuant to section 303(h)(1) of this title: *Provided*, That such payments are made in consideration of the financial need of the applicant.

"(12) Payment of costs of conducting radon tests required pursuant to section 307(d) of this title: *Provided*, That such payments shall be made only in the case of a local educational agency which received assistance payment to paragraph (11) of this subsection.

"(4) Section 306(g) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by striking "and (6)" and inserting in lieu thereof "(6), (11), and (12)".

"(5) Section 306(g) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2661 et seq.) is amended by inserting after 'Governments—' the following '(1)' and inserting at the end thereof the following new paragraph—

"(2) Any remediation measures of reducing radon in school buildings implemented pursuant to this section shall be supervised by a person who has been approved pursuant to the proficiency program established pursuant to section 305(a)(2) of this title.".

"(e) DEFINITION.—Section 302 of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by adding at the end thereof the following new paragraph—

"(5) The term 'priority radon area' means an area or region of the United States in which, in the judgment of the Administrator, there is a reasonable likelihood of indoor radon levels above the appropriate action level identified pursuant to section 303(b)(1) of this title.".

"(f) PREEMPTION.—(1) Nothing in this section shall be construed, interpreted, or applied to preempt, displace, or supplant any other State or Federal law, whether statutory or common.

"(2) Nothing in this section shall be construed or interpreted to preclude any court from awarding costs and damages associated with the testing or mitigation of radon contamination, or a portion of such costs, at any time.

"(3) Nothing in this section shall be construed or interpreted as preempting a State from establishing any liability or more stringent requirements with respect to radon in school buildings within such State.

"(4) Nothing in this section creates a cause of action or in any other way increases or diminishes the liability of any person under any other law.

"(5) It is not the intent of Congress that this subsection or rules, regulations, or orders issued pursuant to this subsection be interpreted as influencing, in either the plaintiff's or defendant's favor, the disposition of any civil action for damages relating to radon. This subsection does not affect the authority of any court to make a determination in any adjudicatory proceedings under applicable State law with respect to the admission into evidence or any other use of this section or rules, regulations, or orders issued pursuant to this section.

On page 2; insert after "SEC. 16 Authorizations" the following new line:

"SEC. 17. Radon in Schools.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2913) was agreed to.

Mr. CRANSTON. I move to reconsider the vote and that the motion be laid on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I rise in strong support of the Indoor Air Quality Act (S. 657).

I introduced this legislation last year, along with Senators CHAFEE, LAUTENBERG, DURENBERGER, BAUCUS, and others to address the significant threats to human health posed by exposure to contaminants in the air indoors.

Most Americans spend up to 90 percent of the day indoors and have a significant exposure to contaminants in the air in homes, schools, workplaces, and other buildings.

Indoor air contaminants include radon, asbestos, volatile organic chemicals, combustion byproducts, environmental tobacco smoke, biological contaminants, and respirable particles.

There is growing evidence that exposure to contaminants in the air indoors is a deadly serious problem.

The Environmental Protection Agency submitted a four-volume report to Congress in August 1989, describing the indoor air quality problem which concludes that, while additional research is needed:

. . . indoor air pollution represents a major portion of the public's exposure to air pollution and may pose serious acute and chronic health risks. This evidence warrants an expanded effort to characterize and mitigate this exposure.

The report further notes:

. . . the information available suggests that exposure to indoor air pollutants poses a significant health threat to the domestic population.

The foundation for these conclusions is a series of EPA research projects which, taken together, offer compelling documentation of the serious health threats posed by indoor air contaminants.

In June 1987, the EPA published results of a major, multiyear research effort addressing total exposure to air pollutants. The report states:

The major finding of this study is the observation that personal and indoor exposures to these toxic and carcinogenic chemicals are nearly always greater—often much greater—than outdoor concentrations. We are led to the conclusion that indoor air in the home and at work far outweighs outdoor air as a route of exposure to these chemicals.

In December of last year, the EPA published the results of studies of environmental priority setting in three regions of the country. The report concludes:

* * * Risk associated with most environmental problems does not differ much across the (geographic) areas studied. For example, indoor air pollution consistently causes greater health risks than hazardous waste sites whether one is concerned with New England, the Middle Atlantic region, or the Pacific Northwest. Such consistent findings should play an important role in setting national environmental priorities.

The EPA completed a major study of indoor air quality in public buildings in September 1988. The report from this study concluded:

VOCs (volatile organic chemicals) are ubiquitous indoors * * * About 500 different chemicals were identified in just four buildings. . . Almost every pollutant was at higher levels indoors than out * * *

Some of the health effects of exposure to indoor air contaminants include, lung cancer, reduced heart function, developmental effects, mutagenicity, respiratory illness, and skin and eye irritation.

A single indoor air contaminant, radon gas, is estimated by the EPA to cause about 20,000 lung cancer deaths each year. The EPA report to Congress cites studies estimating that between 1,000 to 5,000 lung cancer deaths each year are due to indoor exposure to six specific volatile organic chemicals. The report also cites studies estimating an additional 2,500 to 5,200 deaths each year from exposure to environmental tobacco smoke.

Illnesses caused by indoor air contaminants take a toll in death, suffering, and discomfort. These illnesses, however, also have a cost to society in the form of increased medical costs, increased sick leave, and declines in worker productivity.

The EPA report to Congress provides a detailed review of the health effects of indoor air contaminants. It places the direct medical costs associated with only a select group of contaminants, at over $1 billion a year.

When the costs of increased sick leave and reduced productivity associ-

ated with these illnesses are considered, costs to society of indoor air pollution climb even higher. The EPA report provides a conservative estimate of lost productivity costs of between $4.4 and $5.4 billion a year.

In summarizing the overall costs of indoor air pollution, the EPA report concludes:

> Many costs of indoor air pollution have not been calculated. Nevertheless, because of the large number of people and buildings potentially affected, as well as the wide range of effects for which there is a cost component, it is reasonable to conclude that the aggregate costs of indoor air pollution amount to tens of billion of dollars per year.

The seriousness of indoor air pollution problems is increasingly recognized by public interest groups, labor organizations, and the business community.

In March 1989, a coalition of major public interest groups and some of the Nation's largest insurance companies, issued a national consumer agenda, highlighting seven key public policy issues, including indoor air quality. The report reviews the health threats posed by indoor air pollution, and generally endorses the indoor air quality bill reported by the committee in 1988 (S. 1629). S. 657, introduced in the 100th Congress, which was very similar to S. 1629.

For the past 3 years, I have worked with Senator CHAFEE, Senator LAUTENBERG, and other members of the Environment Committee, to document the health effects and the costs of indoor air contamination, and to develop legislation to reduce exposure to these contaminants.

In April 1987, I chaired hearings of the Subcommittee on Environmental Protection, addressing the health effects of indoor air contaminants. I introduced indoor air quality legislation that summer, and held a hearing on the bill in November. The full Committee on Environment and Public Works reported the indoor air legislation in 1988, but the bill did not come to the Senate floor.

I reintroduced the indoor air quality legislation last year, and Senator LAUTENBERG held a hearing on the bill in his Superfund, Ocean and Water Protection Subcommittee in May of last year.

Witnesses at our hearings in this Congress, and the previous Congress, agreed that exposure to contaminants in the air in workplaces, schools, homes, and other buildings, poses a significant health threat, and that there is a need to develop a comprehensive response to this problem.

Based on hearing testimony and other comments, we revised and improved the bill, and the Committee on Environment and Public Works reported the bill in April of this year.

A key objective of the bill, is to expand and strengthen research of indoor air contaminants. The bill establishes a comprehensive research program for indoor air quality, describes basic research authorities, and creates a grant program for development of indoor air control technology.

The bill calls for programs to reduce indoor air contaminants in various types of buildings. It provides for the development of building technology and management practice bulletins identifying measures to reduce exposure to indoor air contaminants. It establishes training courses for building managers, and calls for a national study of ventilation standards.

The bill establishes health advisories to assess the health risks posed by specific indoor air contaminants at a range of concentrations. This information will help the Federal Government focus its efforts on the most serious contaminants, and avoid duplication of State research and assessment efforts. I want to stress that the bill does not provide for setting enforceable standards for indoor air contaminants.

A key provision of the bill directs the Environmental Protection Agency to develop a national response plan. The plan, which focuses and directs the relevant authorities which exist in current statutes, is intended to identify contaminants of concern and specify actions to reduce exposures. I want to point out that the bill provides no new authority to regulate indoor air contaminants beyond the authorities which already exist in current statutes and regulations.

Another key objective of the bill, is to demonstrate very basic indoor air quality management strategies and assessments at the State level. States have the option of applying for grant assistance to develop programs in this area. States also may apply for grant assistance to respond to specific indoor air contaminants in selected geographic areas of a State.

States have proven to be essential partners in implementing many of our environmental programs. I hope that this provision of the bill will foster an improved understanding of the role of State governments in responding to indoor air quality problems.

The bill also addresses the problem of coordination of indoor air quality activities among Federal agencies. The nature of indoor air pollution problems requires that a wide range of Federal agencies participate in assessment and control efforts. The bill establishes a Council on Indoor Air Quality to oversee the indoor air activities of various Federal agencies.

The bill also expands the authority of the National Institute for Occupational Safety and Health [NIOSH] to conduct assessments of sick buildings. The expanded effort will help develop the most effective measures to identify the causes of sick building syndrome, and the most effective measures to mitigate these problems.

Finally, Mr. President, I want to thank Senator LAUTENBERG and Senator CHAFEE for their excellent work on indoor air quality problems. Both Senators have made substantial and irreplaceable contributions to the development of this legislation.

I also want to thank Senator METZENBAUM for his constructive and timely review of the legislation. The Senator made a number of very useful suggestions concerning the best way to involve other Federal agencies, and to assure that this program is fully coordinated with related occupational safety programs.

I urge all my colleagues to join me in supporting this important legislation. With your support, we can assure that Americans have clean, safe air to breathe indoors as well as outdoors.

Thank you, Mr. President.

Mr. BURDICK. Mr. President, I rise in support of an amendment to the indoor air quality legislation making clarifying and technical changes.

Over the past several weeks, a number of minor changes or clarifications to the bill have been suggested. This amendment includes many of these suggested changes.

The amendment would expand the number of Federal agencies which would work with the Environmental Protection Agency to address indoor air quality problems. The opportunities for involvement and participation of agencies, such as the National Occupational Health and Safety Administration, are increased.

We have included language requested by the Budget Committee, clarifying authorizations.

And, we have made changes to reflect the technical comments of several noted scientists in the indoor air quality field.

The amendment would also address the important problem of exposure of school children to radon gas. The amendment would provide for testing of schools for radon in high risk radon areas. The amendment would also provide for limited financial assistance for radon testing and mitigation.

Mr. President, I urge all my colleagues to support this constructive amendment to the indoor air quality legislation.

Mr. MOYNIHAN. Mr. President, the passage of the Indoor Air Quality Act, S. 657, marks a new step in our efforts to learn how environmental pollutants affect human health. The bill establishes a coordinated Federal research program to determine the seriousness and extent of contamination in the air that we all breathe indoors—the environment in which most of us live and work. The research authorized in the bill, will help fill an important gap in our understanding of human exposure

to pollutants. And we will try to do something about it.

Most of us spend 90 percent of our time indoors. But, we actually know relatively little about the pollution in our indoor environment. Indeed, we have more data about the pollutants impacting the lakes in the Adirondacks, than we have about the contaminants in our homes or public buildings. But the data that we do have, tells us that indoor concentrations of pollutants can often be much higher than the concentrations outdoors. Clearly we need to understand better the concentrations of pollutants in the air that people actually breathe—indoor air.

Over the last two decades, environmental research has repeatedly shown us one fact: we cannot consider an environmental insult to a lake, or a biological species in isolation—we must consider it as part of a larger, interrelated community, the ecosystem, in which that lake or species exists. For humans, the ecosystem includes our homes and workplaces.

We recently debated revisions to the Clean Air Act on this floor. We voted to undertake a major effort to ensure clean and healthy air in the outdoor environment. And rightly so—the outdoor air provides the baseline for many human exposures. But now we must also begin to understand the additional contamination in indoor air, and to learn the impacts of that contamination on human health. We must begin to get the facts.

The bill also authorizes a coordinated Federal effort to develop strategies for reducing indoor contaminants. We must find cost-effective methods that balance our interests in conserving energy with our need for clean indoor air. The bill establishes a program to identify workable solutions, and to disseminate those methods to the public.

Mr. President, I wish to recognize the generous help of Dr. John C. Bailar III, in our work on this bill. During our committee deliberations, we discovered that certain aspects of the risks we were seeking to define were not drafted quite right. Senator SIMPSON felt this strongly, and I concurred. We offered to work with Senator LAUTENBERG, the prime sponsor of the bill, to resolve it, and have now done so. Dr. Bailar aided us with great advice, and his recommendations are included in the committee amendment being offered.

I thank the Chair, and I yield the floor.

Mr. LAUTENBERG. Mr. President, I rise in support of the amendment offered by Senator BURDICK to S. 657, the Indoor Air Quality Act. The amendment includes a new section which contains the version of S. 1697, the Radon Testing for Safe Schools Act, as it was approved by the Senate Subcommittee on Superfund, Ocean and Water Protection on June 28, 1990. It is based on the bill I introduced along with Senator CHAFEE to address the health threat that radon poses in our country's schools.

Mr. President, radon is one of the most serious environmental health risks facing the country today. EPA estimates that as many as 20,000 people die of lung cancer each year from exposure to radon. In September 1988 EPA and the Surgeon General's Office issued a national health advisory urging people to test their homes after survey results showed that one in four homes in 17 States surveyed has elevated radon levels. At the subcommittee's hearing on S. 1697, Assistant Surgeon General Vernon Houk said that the evidence of the health threat posed by radon is the strongest of any environmental contaminant.

In April 1989 EPA completed a pilot survey to measure radon levels in 130 schools across the country. This survey found that one in five classrooms has elevated radon levels and that over half of the schools tested have at least one classroom with elevated radon levels. And Assistant Surgeon General Houk testified at our hearing that radon poses a greater risk to children than to adults. Our Nation's children are needlessly exposed to dangerous radon levels, which may be especially hazardous to their developing lungs.

Fortunately, it is relatively simple and inexpensive to test for and mitigate elevated levels of radon. EPA estimates that the average cost to test a school is roughly $1,000 and that the average mitigation cost is only a few thousand dollars per school. Given these facts, it is inexcusable to simply ignore the threat posed by radon to school children.

The Congress has consistently expressed its concern about radon in schools. Legislation I wrote, which was included in the 1986 Superfund Amendments and Reauthorization Act, requires EPA to "identify the locations in the United States where radon is found in structures where people normally live or work, including educational institutions." And in 1988, the Congress passed legislation introduced by Senator CHAFEE, Senator MITCHELL, myself, and others requiring EPA to conduct a national survey of radon in schools. EPA has begun its national survey of residencies and will soon conduct a more extensive national assessment of radon in schools.

The amendment offered by Senator BURDICK which contains S. 1697, builds on this national effort to identify radon prone areas. It requires schools in priority radon areas designated by EPA to test for radon within 2 years of a designation. EPA would be required to develop guidelines for the testing and remediation of radon in school buildings. And EPA would provide $5 million per year for 5 years to States to assist schools in remediating elevated radon levels.

The amendment will expand our efforts to address the health threat that radon poses to our country's children. Testing and mitigating schools, where children spend hours every day, will significantly reduce their chances of contracting lung cancer. This legislation has been endorsed by the National Education Association, the National Parent-Teacher Association, the Consumer Federation of America, the American Lung Association, and the Coalition for Consumer Health and Safety, a coalition of 20 insurance companies and associations and 16 consumer and health organizations working to improve consumer health and safety.

I urge my colleagues to support the amendment.

Mr. CHAFEE. Mr. President, I am pleased that the Senate has given its approval to the Indoor Air Quality Act of 1990, S. 657. This bill provides for a substantial research and development initiative to uncover harmful pollutants in our indoor environment, and will focus the efforts of the Federal Government to address this problem.

Over the last decade we have made considerable progress in abating some of the most harmful pollutants of our outdoor environment. Emissions from cars are no longer as injurious to the air quality and, if we are successful in reauthorizing the Clean Air Act, auto emissions will be reduced even more. Leaded gasoline, known to cause health effects in children, is being phased out. Once unsightly rivers are now returning to a state where they are fishable and swimmable.

Yet for all this progress, we have not turned our attention to the environment where Americans spend an average of 90 percent of their time indoors. Much is known about the effects of some indoor contaminants, such as radon, asbestos, and tobacco smoke. However, there are several other contaminants prevalent in the indoor environment about which very little is known. These include formaldehyde, volatile organic chemicals, combustion byproducts, and respirable particles. There is a great likelihood that these pollutants pose a serious threat to public health.

The threat from these chemicals may be heightened by the fact that many of us live and work in virtually airtight buildings. Soaring energy costs over the past two decades spurred conservation efforts which led to the construction of office buildings in which you cannot open the windows. These well-insulated, energy efficient buildings often seal in potentially hazardous substances while reducing the amount of fresh air.

To date, relatively little attention has been given to the quality and potential health effects of the air inside our homes and offices. But there is mounting evidence that the air we breathe indoors may be at least as polluted with cigarette smoke, radioactive radon gas, and formaldehyde as the smog outside.

In a significant development, EPA now concludes that the risk to human health from indoor air contaminants may be at least as great as those from the outdoor environment. In a recent report, EPA notes that:

Sufficient evidence exists to conclude that indoor air pollution represents a major portion of the public's exposure to air pollution and may pose serious acute and chronic health risks. This evidence warrants an expanded effort to characterize and mitigate this exposure.

This statement represents a major step forward in the agency's thinking about what needs to be done to address indoor air pollution.

One of the most ubiquitous forms of indoor air pollution is environmental tobacco smoke. With over 54 million smokers in the United States, cigarette fumes will undoubtedly rank as one of the most significant sources of indoor air pollution. Passive smoking may be associated with a wide range of health problems, including increased risk for respiratory illnesses, lung cancer, and heart disease. It is estimated by the Surgeon General that up to 5,000 nonsmokers may die each year from lung cancer caused by inhaling other people's smoke.

At a hearing on the health effects of indoor air pollution before the Committee on Environment and Public Works, it became painfully clear that there is not an adequate effort by Federal agencies or States to conduct research on indoor air contaminants. The legislation being approved today, introduced by Senator MITCHELL, myself, and others, will direct the various agencies responsible for indoor air quality to coordinate their response plans to address these contaminants. The bill will place the Environmental Protection Agency squarely in the lead in developing the Federal response to indoor air contamination.

Let me describe the key elements of this legislation.

First, the bill establishes a research program for indoor air. This is undoubtedly an appropriate Federal role, to identify the risk posed by our indoor environment. Information learned from this research must be shared with the States and the private sector.

Second, the legislation will require EPA to establish health advisories. These advisories must be written in plain English, and must make it clear to the average citizen how he can best minimize exposure and adverse health effects from indoor contaminants.

Third, the measure also provides for limited grant assistance to States for development of management strategies and response programs.

Fourth, the bill will authorize the National Institute of Occupational Safety and Health [NIOSH] to conduct assessments of sick buildings. Estimates of lost worker productivity due to symptoms attributable to sick buildings is in the billions of dollars.

Also, I have added a provision to the legislation requiring EPA to conduct an assessment of the seriousness and extent of indoor air contamination in schools. As with radon, children may be at greater risk from harmful chemicals due to a higher respiratory rate, and the fact that their internal organs are still developing.

A related amendment will prevent the exposure of thousands of our schoolchildren to dangerous levels of radon gas. This provision requires schools located in radon high-risk areas to test for radon. These high risk areas are being identified by EPA pursuant to the radon bill which I and other members of this committee authored in the last Congress.

The legislation further provides a loan and/or grant program of $5 million for each of 5 years for schools which need to mitigate radon, and need financial assistance to do so. Although some mitigation work can be costly, most mitigation consists of adjustments to ventilation, installation of fans, and depressurizing and sealing a foundation. These techniques do not usually cost a great deal.

It is important that we take steps to protect our children from radon gas, which could be claiming as many as 20,000 lives per year. Radon has been identified by the Environmental Protection Agency as the largest single course of lung cancer other than smoking.

I would like to make it clear that this legislation does not place the Federal Government in the living rooms of Americans. The bill does not provide authority to regulate indoor air contaminants, but rather takes an informational approach. The health advisories, for example, will indicate the health risks at various concentration levels, and inform homeowners of ways to reduce and minimize the risk from various contaminants.

The best defense we have against an unhealthy indoor environment is an informed consumer. For example, homeowners need to be made aware of the health risks associated with using certain pesticides in the home. If this information can be communicated effectively, the marketplace will send a strong signal to pesticide manufacturers. Consumers demand safe pesticides for home use. The same can be true for cleaning solvents, furniture stripper, and a host of other chemicals which we bring into our home.

Americans need to know how to ensure that the quality of the air inside their home and office is healthy. We must begin to address the health threat posed by contaminants of the air indoors. Passage of this legislation is a major step in this direction.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

(The text of S. 657 as passed by the Senate will appear in a future edition of the RECORD.)

Mr. CRANSTON. I move to reconsider the vote and that that motion be laid on the table.

The motion to lay on the table was agreed to.

PHYSICIANS COMPARABILITY ALLOWANCES REAUTHORIZATION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of S. 2588, a bill to provide for an extension of the physicians' comparability allowance, that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2588) to amend section 5948 of title 5, United States Code, to reauthorize physicians comparability allowances.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, last May I introduced S. 2588, a bill which reauthorizes the Physicians Comparability Allowances Act for 3 more years, through September 30, 1993. Representative SILVIO CONTE of Massachusetts introduced a bill in the House of Representative that would also reauthorize this act for 3 more years.

The Federal Physicians Comparability Allowance Act of 1978 allowed the heads of executive agencies and departments to offer service agreements to certain categories of Government doctors and dentists in order to alleviate recruitment and retention problems. The act was reauthorized in 1979, 1981, 1983, and most recently, in 1987. Unless reauthorized, the author-

ity for the program will expire on September 30, 1990.

The physicians comparability allowance is used by agencies which are experiencing significant recruitment and retention problems. Currently, payments may not exceed $14,000 per year if the physician has served for 24 months or less as a Government physician at the time the agreement was made or $20,000 per year if the physician has more than 24 months of service.

Agencies employing physicians have reported to OPM that this program is instrumental in improving their ability to recruit much needed physicians. Agencies have also reported reduced physician turnover rates since the enactment of this program.

The continuation of the Physicians Comparability Allowance Act is necessary so that we may continue to attract and retain the best physicians to the Federal Government. The physician labor market is a segmented one—each Federal agency actually competes with a different sector of the physician labor market. For example, FDA recruits many of its doctors from primary care physicians, while NIH recruits more from academic specialties.

It should be noted that the act was not intended to provide 100 percent comparability with nongovernmental physician salaries. But, as we all know, there is a tremendous pay disparity between certain positions in the Federal sector and certain positions in the private sector. The average pay received by physicians in 1989, as reported by the American Association of Medical Colleges, was $136,900—while the average Federal physician receiving an allowance was paid $82,290 during fiscal year 1989.

We all know the benefit to the public from recruiting and retaining qualified and competent physicians. These physicians perform vital functions throughout the public health service, including the National Institutes of Health, the Alcohol, Drug Abuse, and Mental Health Administration, the Centers for Disease Control, and the Food and Drug Administration.

The best solution to attract and retain physicians to the Federal Government is to reform the Federal pay system to adequately compensate all Federal employees and to enable Federal departments and agencies to compete effectively for talented candidates. Senator JOHN GLENN, chairman of the Senate Government Affairs Committee, has been working hard to do just that.

Senator GLENN's comprehensive pay reform measure was recently adopted in the form of an amendment to the Treasury-Postal appropriations bill. This proposal would provide comprehensive reform of the Federal pay structure, including physicians salaries. However, until such reform is fully enacted, the need to retain quality medical personnel in the Federal Government persists.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2588

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5948(d) of title 5, United States Code, is amended by striking out the second sentence and inserting in lieu thereof "No agreement shall be entered into under this section later than September 30, 1993, nor shall any agreement cover a period of service extending beyond September 30, 1995.".

Mr. CRANSTON. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

URANIUM ENRICHMENT ACT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 837, S. 2415, a bill to encourage solar and geothermal power production.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2415) to encourage solar and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Policies Act of 1978.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

TITLE I

SEC. 110. SHORT TITLE.—This title may be cited as the "Uranium Enrichment Act of 1990".

SEC. 111. DELETION OF SECTION 161 v.—Subsection 161 v. of the Atomic Energy Act of 1954, as amended, is deleted and the remaining subsections are relettered accordingly.

SEC. 112. REDIRECTION OF THE URANIUM ENRICHMENT ENTERPRISE OF THE UNITED STATES.—The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011-2296) is further amended by—

a. inserting at the commencement thereof after the words "ATOMIC ENERGY ACT OF 1954":

"TITLE I—ATOMIC ENERGY";

and

b. adding at the end thereof the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 21. FINDINGS

"SEC. 1101. FINDINGS.—The Congress of the United States finds that:

"a. The enrichment of uranium is essential to the national security and energy security of the United States.

"b. A competitive, well-managed and efficient enrichment enterprise provides important economic benefits to the United States and contributes to a highly favorable foreign trade balance.

"c. A strong United States enrichment enterprise promotes United States nonproliferation policies by requiring accountability for United States enriched uranium.

"d. The operation of uranium enrichment facilities must meet high standards for environmental health and safety.

"e. The operation and management of a uranium enrichment enterprise requires a commercial business orientation in order to engender customer support and confidence, and customers, rather than the taxpayers at large, should bear the costs of commercial uranium enrichment services.

"f. The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

"g. Flexibility is essential to adapt business operations to a competitive marketplace.

"h. The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the Government's uranium enrichment enterprise.

"i. The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demand placed upon it by market forces, while continuing to meet the paramount objective of ensuring the Nation's common defense and security.

"CHAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION AND PURPOSES

"SEC. 1201. DEFINITIONS.—For the purpose of this title:

"a. The term 'Secretary' means the Secretary of Energy.

"b. The term 'Department' means the Department of Energy of the United States.

"c. The term 'Administrator' means the chief executive officer of the United States Enrichment Corporation.

"d. The term 'Corporation' means the United States Enrichment Corporation.

"e. The term 'Corporate Board' means the appointed members of the official advisory panel appointed by the President pursuant to section 1503 of this title.

"f. The term 'uranium enrichment' means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

"g. The term 'remedial action' has the same meaning as defined in section 120(24) of the Comprehensive Environmental Response, Compensation and Liability Act.

"h. The term 'decontamination and decommissioning' means those activities undertaken to decontaminate and decommission inactive facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination.

"SEC. 1202. ESTABLISHMENT OF THE CORPORATION:

"a. There is hereby created a body corporate to be known as the 'United States Enrichment Corporation'.

"b. The Corporation shall—

"(1) be established as a wholly owned Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. 9101-9109), except as otherwise provided herein; and

"(2) be an agency and instrumentality of the United States.

"SEC. 1203. PURPOSES.—The Corporation is created for the following purposes—

"(1) to acquire feed material for uranium enrichment, enriched uranium, the Department's uranium previously set aside for commercial purposes, and the Department's uranium enrichment and related facilities;

"(2) to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

"(3) to market and sell enriched uranium and uranium enrichment and related services to—

"(A) the Department for governmental purposes; and

"(B) qualified domestic and foreign persons;

"(4) to conduct research and development as required to meet corporate objectives for the purpose of identifying, evaluating, improving and testing processes for uranium enrichment;

"(5) to operate, as a commercial enterprise, on a profitable and efficient basis; in order to maximize the long term economic value of the Corporation to the United States Government including the payment of dividends to the Treasury as a return on the United States Government investment;

"(6) to conduct the business as a self-financing corporation and eliminate the need for appropriations or other sources of Government financing after enactment of this title;

"(7) to maintain a reliable and economical domestic source of enrichment services;

"(8) to conduct its activities in a manner consistent with the health and safety of the public;

"(9) to continue to meet the paramount objectives of ensuring the Nation's common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

"(10) to take all other lawful action in furtherance of the foregoing purposes.

"CHAPTER 23. CORPORATE OFFICES

"SEC. 1301. CORPORATE OFFICES.—The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"CHAPTER 24. POWER AND DUTIES OF THE CORPORATION

"SEC. 1401. SPECIFIC CORPORATE POWERS AND DUTIES.—The Corporation—

"a. shall perform uranium enrichment or provide for uranium to be enriched by others at facilities of the Corporation; contracts in existence as of the date of enactment of this title between the Department and persons under contract to perform uranium enrichment and related services at facilities of the Department shall continue in effect as if the Corporation, rather than the Department, had executed these contracts;

"b. shall conduct, or provide for the conduct of, research and development activities related to the isotopic separation of uranium as the Corporation deems necessary or advisable for purposes of maintaining the Corporation as a continuing, commercial enterprise operating on a profitable and efficient basis;

"c. may acquire or distribute enriched uranium, feed material for uranium enrichment or depleted uranium in transactions with—

"(1) persons licensed under sections 53, 63, 103, or 104 of title I in accordance with the licenses held by such persons;

"(2) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I; or

"(3) as otherwise authorized by law;

"d. may—

"(1) enter into contracts with persons licensed under section 53, 63, 103, or 104 of title I for such periods of time as the Corporation may deem necessary or desirable, to provide uranium or uranium enrichment and related services; and

"(2) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I or as otherwise authorized by law;

"e. shall sell to the Department as provided in this title, and without regard to section 57 e. of title I or the provisions of section 1535 of title 31, United States Code, such amounts of uranium or uranium enrichment and related services as the Department may determine from time to time are required: (1) for the Department to carry out Presidential direction and authorizations pursuant to section 91 of title I; and (2) for the conduct of other Department programs;

"f. may grant licenses, both exclusive and nonexclusive, for the use of patent and patent applications owned by the Corporation, and establish and collect charges, in the form of royalties or otherwise, for utilization of Corporation-owned facilities, equipment, patents, and technical information of a proprietary nature pertaining to the Corporation's activities.

"SEC. 1402. GENERAL POWERS OF THE CORPORATION.—In order to accomplish the purposes of this title, the Corporation—

"a. shall have perpetual succession unless dissolved by Act of Congress;

"b. may adopt, alter, and use a corporate seal, which shall be judicially noticed;

"c. may sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings;

"d. may indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses incurred in connection with their corporate activities;

"e. may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the power granted to it by law may be exercised and enjoyed;

"f. (1) may acquire, purchase, lease, and hold real and personal property including patents and proprietary data, as it deems necessary in the transaction of its business, and sell, lease, grant, and dispose of such real and personal property, as it deems necessary to effectuate the purposes of this title and without regard to the Federal Property and the Administrative Services Act of 1949, as amended;

"(2) Purchases, contracts for the construction, maintenance, or management and operation of facilities and contracts for supplies or services, except personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition: Provided, That advertising shall not be required when the Corporation determines that the making of any such purchase or contract without advertising is necessary in the interest of furthering the purposes of this title, or that advertising is not reasonably practicable;

"g. with the consent of the agency or government concerned, may utilize or employ the services or personnel of any Federal Government agency, or any State or local government, or voluntary or uncompensated personnel to perform such functions on its behalf as may appear desirable;

"h. may enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation;

"i. may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and other provisions of law specifically applicable to wholly owned Government corporations;

"j. notwithstanding any other provision of law, and without need for further appropriation, may use monies, unexpended appropriations, revenues and receipts from operations, amounts received from obligations issued and other assets of the Corporation in accordance with section 1505, without fiscal year limitation, for the payment of expenses and other obligations incurred by the Corporation in carrying out its functions under, and within the requirements of, this title; and shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code;

"k. may settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation;

"l. may exercise, in the name of the United States, the power of eminent domain for the furtherance of the official purposes of the Corporation;

"m. shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"n. may define appropriate information as 'Government Commercial Information' and exempt such information from mandatory release pursuant to section 552(b)(3) of title 5, United States Code, when it is determined by the Administrator that such information if publicly released would harm the Corporation's legitimate commercial interests or those of a third party;

"o. may request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States;

"p. may accept gifts or donations of services, or of property, real, personal, mixed,

tangible or intangible, in aid of any purposes herein authorized; and

"q. may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers.

"r. shall pay any settlement or judgment entered against it from the Corporation's own funds and not from the judgment fund (31 U.S.C. 1304). The provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b) and 2671 et seq.) shall not apply to any claims arising from the activities of the Corporation after the effective date of this statute: Provided, That this subsection shall not apply to liability or claims arising from a nuclear incident, if such incident occurs prior to the licensing of the Corporation's existing Gaseous Diffusion Facilities under section 1601 of this title.

"SEC. 1403. CONTINUATION OF CONTRACTS, ORDERS, PROCEEDINGS, AND REGULATIONS:

"a. Except as provided elsewhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that have been afforded to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts, power purchase contracts, and the December 18, 1987, settlement agreement with the Tennessee Valley Authority regarding payment of capacity charges under the Department's two power contracts with the Tennessee Valley Authority, shall continue in effect as if the Corporation had executed such contracts, agreements, or leases or had been afforded such licenses and privileges.

"b. As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations and privileges of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, set aside or revoked by the Corporation, by any court of competent jurisdiction, or by operation of law unless otherwise specifically provided in this title.

"c. Except as provided elsewhere in this title, the transfer of functions related to and vested in the Corporation by this title shall not affect proceedings judicial or otherwise, relating to such functions which are pending at the time this title takes effect, and such proceedings shall be continued with the Corporation, as appropriate.

"SEC. 1404. LIABILITIES.—Except as provided elsewhere in this title, all liabilities attributable to operation of the uranium enrichment enterprise prior to the date of the enactment of this title shall remain direct liabilities of the Government of the United States; with regard to any claim seeking to impose such liability, section 1403 shall not be applicable and the United States shall be represented by the Department of Justice.

"CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

"SEC. 1501. ADMINISTRATOR:

"a. The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation. The Administrator shall be a person who, by reason of professional background and experience is specially qualified to manage the Corporation: Provided, however, That upon enactment of this title, the President shall appoint in existing officer or employee of the United States to act as Administrator until the office is filled.

"b. The Administrator—

"(1) shall be the chief executive officer of the Corporation and shall be responsible for the management and direction of the Corporation. The Administrator shall establish the offices, appoint the officers and employees of the Corporation (including attorneys), and define their responsibilities and duties. The Administrator shall appoint other officers and employees as may be required to conduct the Corporation's business;

"(2) shall serve a term of six years but may be reappointed;

"(3) shall, before taking office, take an oath to faithfully discharge the duties thereof;

"(4) shall have compensation determined by the President based upon the recommendation of the Secretary and the Corporate Board as provided in section 1503(c), except that in the absence of such determination compensation shall be set at Executive Level I, as prescribed in section 5312 of title 5, United States Code;

"(5) shall be a citizen of the United States;

"(6) shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Administrator in the event of absence or incapacity; and

"(7) may be removed from office only by the President and only for neglect of duty or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress at least thirty days prior to the effective date of such removal.

"c. (1) The Secretary shall exercise general supervision over the Administrator only with respect to the activities of the Corporation involving—

"(A) the Nation's common defense and security; and

"(B) health, safety and the environment.

"(2) The Administrator shall be solely responsible for the exercise of all powers and responsibilities that are committed to the Administrator under this title and that are not reserved to the Secretary under paragraph (1), and, notwithstanding the provisions of section 9104(a)(4) of title 31, United States Code, including the setting of the appropriate amount of, and paying, any dividend under section 1506(c) and all other fiscal matters.

"SEC. 1502. DELEGATION.—The Administrator may delegate to other officers or employees powers and duties assigned to the Corporation in order to achieve the purposes of this title.

"SEC. 1503. CORPORATE BOARD.—There is hereby established a Corporate Board appointed by the President which shall consist of five members, one of whom shall be designated as chairman. Members of the Corporate Board shall be individuals possessing high integrity, demonstrated accomplishment and broad experience in management and shall have strong backgrounds in science, engineering, business or finance. At least one member of the Corporate Board shall be, or previously have been, employed on a full-time basis in managing an electric utility:

"a. (1) The specific responsibilities of the Corporate Board shall be to—

"(A) review the Corporation's policies and performance and advise the Administrator and the Secretary on these matters; and

"(B) advise the Administrator and the Secretary on any other such matters concerning the Corporation as may be referred to the Corporate Board.

"(2) The Board shall have the right to recommend removal of the Administrator. In the event such recommendation is made, it shall be transmitted to the President by the Secretary, together with the Secretary's own recommendation on removal of the Administrator.

"b. Members of the Board shall be provided access to all significant reports, memoranda, or other written communications generated or received by the Corporation. At the request of the Board, the Corporation shall make available to the Board all financial records, reports, files, papers, and memoranda of, or in use by, the Corporation.

"c. When appropriate, the Corporate Board may make recommendations to the Secretary concerning the compensation to be received by the Administrator and up to ten officers of the Corporation who may receive compensation in excess of Executive Level II as provided in section 1504(a). The Secretary shall transmit such recommendations to the President together with the Secretary's own recommendations concerning compensation. In the event that less than three members of the Corporate Board are in office, recommendations concerning compensation may be made by the Secretary alone. The President shall have the power to enter into binding agreements concerning compensation to be received by the Administrator during his term of office and by the ten officers described in section 1504(a) during their term of employment, regardless of any recommendations received or not received under this title.

"d. Except for initial appointments, members of the Corporate Board shall serve five-year terms. Each member of the Corporate Board shall be a citizen of the United States. No more than three members of the Board shall be members of any one political party. Of those first appointed, the chairman shall serve for the full five-year term; one member shall serve for a term of four years; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve for a term of one year.

"e. Upon expiration of the initial term, each Corporate Board member appointed thereafter shall serve a term of five years. Upon the occurance of a vacancy on the Board, the President shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon expiration of a term, a Board member may continue to serve up to a maximum of one year or until a successor shall have been appointed and assumed office, whichever occurs first.

"f. The members of the Corporate Board in executing their duties shall be governed by the laws and regulations regarding conflicts of interest, but exempted from other provisions and authority prescribed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2).

"g. The Corporate Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. The Administrator or his representative shall attend all meetings of the Corporate Board.

"h. The Corporation shall compensate members of the Corporate Board at a per diem rate equivalent to Executive Level III, as defined in section 5314 of title 5, United States Code, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Corporate Board. Any Corporate Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement for reasonable expenses incurred while attending official meetings of the Corporation.

"i. (1) The Corporate Board shall report at least annually to the Administrator on the

performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Administrator. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate and to the Speaker of the House of Representatives.

"(2) Within ninety days after the receipt of any report under this subsection the Administrator shall respond in writing to such report and provide an analysis of such recommendations of the Board contained in the report. Such response shall include plans for implementation of each recommendation or a justification for not implementing such recommendation. A copy of any response under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources and to the Speaker of the House of Representatives.

"SEC. 1504. EMPLOYEES OF THE CORPORATION.—Officers and employees of the Corporation shall be officers and employees of the United States:

"a. The Administrator shall appoint all officers, employees and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of section 5301 of title 5, United States Code, with compensation levels not to exceed Executive Level II, as defined in section 5313 of title 5, United States Code: Provided, That the Administrator may, upon recommendation by the Secretary and the Corporate Board as provided in section 1503(c) and approval by the President, appoint up to ten officers whose compensation shall not exceed an amount which is 20 per centum less than the compensation received by the Administrator, but not less than Executive Level II. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

"b. Any Federal employee hired before January 1, 1984, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (subchapter III of chapter 83 of title 5, United States Code) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service Retirement System, the Corporation shall withhold pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in chapter 83 of title 5, United States Code. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. Any employee of the Corporation who is not within the coverage of the Federal Civil Service Retirement System shall be subject to the Federal Employees' Retirement System (chapter 84 of title 5, United States Code). The Corporation shall withhold pay and make such payments as are required under that retirement system. Further:

"(1) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under section 5551 title 5, United States Code, but shall be credited by the Corporation with the unused annual leave at the time of transfer.

"(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by the employee for the Department.

"c. This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicap conditions.

"d. Officers and employees of the Corporation shall be covered by chapter 73 of title 5, United States Code, relating to suitability, security and conduct.

"e. Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation in accordance with the provisions of this title.

"f. The provisions of sections 3323(a) and 8344 of title 5, United States Code, or any other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retired pay or annuities, shall not apply to officers and employees of the Corporation who have retired from or ceased previous government service prior to April 28, 1987.

"SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION.—In order to enable the Corporation to exercise the powers and duties vested in it by this title:

"a. The Secretary, as requested by the Administrator, is authorized and directed to transfer without charge to the Corporation all of the Department's right, title, or interest in and to, real or personal properties owned by the Department, or by the United States but under control or custody of the Department, which are related to and materially useful in the performance of the functions transferred by this title, including but not limited to the following—

"(1) production facilities for uranium enrichment inclusive of real estate, buildings and other improvements at production sites and their related and supporting equipment: Provided, That facilities, real estate, improvements and equipment related to the Oak Ridge Gaseous Diffusion Plant in Oak Ridge, Tennessee, and to the gas centrifuge enrichment program shall not transfer under this paragraph except for diffusion cascades and related equipment needed by the Corporation for replacement parts: Provided further, That any enrichment facilities retained by the Department shall not be used to enrich uranium in competition with the Corporation. This paragraph shall not prejudice consideration of any site as a candidate site for future expansion or replacement of uranium enrichment capacity;

"(2) at such time subsequent to the year 2000 as the Secretary determines that the Oak Ridge Gaseous Diffusion Plant should be decommissioned or decontaminated, or both, the Secretary shall convey without charge equipment and facilities relating to the Oak Ridge Gaseous Diffusion Plant not transferred in paragraph (1) to the Corporation;

"(3) facilities, equipment, and materials for research and development activities related to the isotopic separation of uranium by the gaseous diffusion technology;

"(4) the Department's stocks of preproduced enriched uranium, but excluding stocks of highly enriched uranium: Provided, That approximately two metric tons of the Department's highly enriched uranium shall be loaned to the Corporation as required for working inventory;

"(5) the Department's stocks of feed materials for uranium enrichment except for the quantities allocated to the national defense activities of the Department as of the date of enactment;

"(A) the Department's stockpile of enrichment tails existing as of the date of enactment, shall remain with the Department; and

"(B) stocks of feed materials which remain the property of the Department under paragraph (5) shall remain in place at the enrichment plant sites. The Corporation shall have access to and use of these feed materials provided such quantities as are used are replaced, or credit given, if use by the Department is subsequently needed.

"(6) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporation's functions and activities, except those items required for programs and activities of the Department and those items specifically excluded by this subsection.

The transfer authorized by this section is not subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act.

"b. The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the Atomic Vapor Laser Isotope Separation, hereinafter referred to as 'AVLIS', technology and to provide on a reimbursable basis and at the request of the Corporation, the necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies in a manner consistent with the intent of this title.

"c. The Secretary is authorized and directed to grant the Corporation without charge, to the extent necessary or appropriate for the conduct of the Corporation's activities, licenses to practice or have practiced any inventions or discoveries (whether patented or unpatented) together with the right to use or have used any processes and technical in-

formation owned or controlled by the Department.

"d. The Secretary is directed, without need of further appropriation, to transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

"e. The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

"f. Title to depleted uranium resulting from the enrichment services provided to the Department by the Corporation shall remain with the Department.

"SEC. 1506. CAPITAL STRUCTURE OF THE CORPORATION:

"a. Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation.

"b. (1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1987, modified to reflect continued depreciation and other usual changes that occur up to date of transfer. The Secretary of the Treasury shall hold such stock for the United States: Provided, That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator as specified in section 1501.

"(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by Federal law enacted after enactment of this title.

"c. The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions including but not limited to research and development, capital investments and establishment of cash reserves.

"d. The Corporation shall repay within a twenty-year period the amount of $364,000,000 into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on twenty-year Government obligations as determined by the Secretary of the Treasury on the date of enactment of this title. The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

"e. Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States of uranium enrichment activities prior to enactment of this title.

"SEC. 1507. BORROWING:

"a. (1) The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as 'bonds') in an amount not exceeding $2,500,000,000 outstanding at any one time to assist in financing its activities and to refund such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.

"(2) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidential thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable.

"(3) Notwithstanding any other provision of law, the Corporation is authorized to enter into binding convenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

"(4) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

"b. Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claim on the Corporation's revenues with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: Provided, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent establishment of the United States for purposes of the provisions of section 78c(c) of title 15, United States Code.

"c. Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section: Provided, That the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1508. PRICING:

"a. For purposes of maximizing the long-term economic value of the Corporation to the United States Government, the Corporation shall establish prices for its products, materials and services provided to customers other than the Department on a basis that will, over the long term, allow it to recover its costs for providing the products, materials and services; repay the Initial Debt; recover costs of decontamination, decommissioning and remedial action; and attain the normal business objectives of a profitmaking Corporation.

"b. The Corporation shall establish prices for low assay enrichment services and other products, materials, and services provided the Department on a basis that will allow it to recover its costs on a yearly basis for providing such low assay enrichment services, products, materials, and services, including depreciation and the cost of decontamination, decommissioning and remedial action, but excluding repayment of the Initial Debt and profit. In establishing such prices, the base charge paid by the Department in any given year shall not exceed the average base charge paid by customers other than the Department: Provided, however, That if the imposition of such average base charges as a limitation on the base charge paid by the Department in a given year does not permit the Corporation to fully recover its costs for providing such products, materials and services to the Department then, in subsequent years, the Corporation shall include such unrecovered costs in its prices charged the Department. Base charge shall mean the amount paid by a customer per separative work unit for low assay enrichment services during a given year (exclusive of any credits received under a voluntary overfeeding program), less the portion of such amount which represents the cost of decontamination and decommissioning and remedial action. The average base charge paid by customers other than the Department shall be determined by dividing the estimated total dollar amount of low assay enrichment services sales to customers other than the Department during a given year by the estimated amount of separative work units sold to customers other than the Department during that year. Adjustments between estimated and actual amounts shall be made upon receipt of actual sales data.

"c. The Corporation shall establish prices to the Department for high assay enrichment services on a basis that will allow it to recover its costs, on a yearly basis, for providing the products, materials or services, including depreciation and the costs of decontamination, decommissioning, and remedial action concerning enrichment property, but excluding repayment of the Initial Debt and profit. If the Department does not request any enrichment services in a given year, the Department shall reimburse the Corporation for costs required to maintain the minimum level of operation of the high assay production facility.

"d. (1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation shall recover from its customers in the prices and charges established in accordance with subsection (a), amounts that will be sufficient to pay for the costs of decommissioning, decontamination and remedial action for the various property of the Corporation, including property transferred under section 1505(a) at any time. Such costs shall be based on the point in time that

such decommissioning, decontamination and remedial action are to be undertaken and accomplished: Provided, That by the year 2000 the Corporation shall have recovered and deposited in the Uranium Enrichment Decontamination and Decommissioning Fund 50 per centum of the estimated total costs of decontamination and decommissioning of all property transferred or to be transferred to the Corporation under section 1505, including the Oak Ridge Gaseous Diffusion Plant.

"(2) In order to meet the objective defined in paragraph (1), the Corporation shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

"(3) For purposes of enabling the Corporation to meet the objective defined in paragraph (1) with respect to the Oak Ridge Gaseous Diffusion Plant, the Secretary shall periodically estimate the anticipated costs of decontamination and decommissioning and the time at which such decontamination and decommissioning is to be accomplished. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including but not limited to, any changes in applicable environmental requirements. The Secretary shall review such estimates every two years and convey this information to the Corporation.

"(4) With respect to property that has been used in the production of low-assay separative work,

"(A) The costs of decommissioning, decontamination and remedial action that shall be recoverable from customers other than the Department in prices and charges shall be in the same ratio to the total costs of decommissioning, decontamination and remedial action for the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.

"(B) All other costs of decommissioning, decontamination and remedial action for such property shall be recovered in prices and charges to the Department.

"(5) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning, decontamination and remedial action shall be recovered in prices and charges to the Department.

"SEC. 1509. AUDITS.—In fiscal years during which an audit is not performed by the Comptroller General in accordance with the provisions of section 9105 of title 31, United States Code, the financial transactions of the Corporation shall be audited by an independent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards appropriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, reports, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons authorized to conduct audits in accordance with the provisions of this section.

"SEC. 1510. REPORTS:

"a. The Corporation shall prepare an annual report of its activities. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends; and

"(3) copies of audit reports prepared in conformance with section 1509 of this title and the provisions of the Government Corporation Control Act, as amended.

"b. A copy of the annual report shall be provided to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives. Such reports shall be completed not later than ninety days following the close of each fiscal year and shall accurately reflect the financial position of the Corporation at fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

"SEC. 1511. CONTROL OF INFORMATION:

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 141 and subsections a. and b. of section 142 of title I.

"b. No contracts or arrangements shall be made, nor any contract continued in effect, under section 1401, 1402, 1403, or 1404, unless the person with whom such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing not to permit any individual to have access to Restricted Data, as defined in section 11 y. of title I, until the Office of Personnel Management shall have made an investigation and report to the Corporation on the character, associations, and loyalty of such individual, and the Corporation shall have determined that permitting such person to have access to restricted data will not endanger the common defense and security.

"c. The restrictions detailed in subsections b., c., d., e., f., g., and h., of section 145 of title I shall be deemed to apply to the Corporation where they refer to the Commission or a majority of the members of the Commission, and to the Administrator where they refer to the General Manager.

"d. The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Corporation's activities. To the extent consistent with the other provisions of this section, the Corporation shall make available to any of such committees all books, financial records, reports, files, papers, memoranda, or other information possessed by the Corporation upon receiving a request for such information from the chairman of such committee.

"e. Whenever the Corporation submits to the President, or the Office of Management and Budget, any budget, legislative recommendation, testimony, or comments on legislation, prepared for submission to the Congress, the Corporation shall concurrently transmit a copy thereof to the appropriate committees of Congress.

"f. The Corporation shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

"SEC. 1512. PATENTS AND INVENTIONS:

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 152, 153b. (1), and 158 of title I. The Corporation shall pay such royalty fees for patents licensed to it under section 153 b. (1) of title I as are paid by the Department under that provision. Nothing in title I or this title shall affect the right of the Corporation to require that patents granted on inventions, that have been conceived or first reduced to practice during the course of research or operations of, or financed by the Corporation, be assigned to the Corporation.

"b. The Department shall notify the Corporation of all reports heretofore or hereafter filed with it under subsection 151 c. of title I and all applications for patents heretofore or hereafter filed with the Commissioner of Patents of which the Department has notice under subsection 151 d. of title I or otherwise, whenever such reports or applications involve matters pertaining to the functions or responsibilities of the Corporation in accordance with this title. The Department shall make all such reports available to the Corporation, and the Commissioner of Patents shall provide the Corporation access to all such applications. All reports and applications to which access is so provided shall be kept in confidence by the Corporation, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress.

"c. The Corporation, without regard for any of the conditions specified in paragraph 153 c. (1), (2), (3), or (4) of title I, may at any time make application to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when such patent has not been declared to be affected with the public interest under subsection 153 b. (1) of title I and when use of such patent is within the Corporation's authority. Any such application shall constitute an application under subsection 153 c. of title I subject, except as specified above, to all the provisions of subsections 153 c., d., e., f., g., and h., of title I.

"d. With respect to the Corporation's functions under this title, section 158 of title I shall be deemed to include the Corporation within the phrase, 'any other licensee' in the first sentence thereof and within the phrase 'such licensee' in the second sentence thereof.

"e. The Corporation shall not be liable directly or indirectly for any damages or financial responsibility with respect to secrecy orders imposed under section 181 of title 35, United States Code, through 187.

"f. The Corporation shall not be liable or responsible for any payments made or awards under subsection 157 b.(3) of title I, or any settlements or judgments involving claims for alleged patent infringement except to the extent that any such awards, settlements or judgments are attributable to activities of the Corporation after the effective date of this title.

"g. The Corporation shall keep currently informed as to matters affecting its rights and responsibilities under chapter 13 of title I as modified by this section and shall take all appropriate action to avail itself of such rights and satisfy such responsibilities. The Department in discharging its responsibilities under chapter 13 of title I shall exercise diligence in informing the Corporation of matters affecting the responsibilities and jurisdiction of the Corporation and seeking and following as appropriate the advice and

recommendation of the Corporation in such matters.

"CHAPTER 26. LICENSING, TAXATION, AND MISCELLANEOUS PROVISIONS

"SEC. 1601. LICENSING:

"a. Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the isotopic separation of uranium by the gaseous diffusion technology at facilities in existence as of the date of enactment of this title, the Corporation and its contractors are hereby exempted from the licensing requirements and prohibitions of sections 57, 62, 81 and other provisions of title I, to the same extent as the Department and its contractors are exempt in regard to the Department's own functions and activities. Such exemption shall remain in effect unless and until the Corporation and its contractors receive all necessary licenses for such facilities, equipment and materials as are required under title I.

"b. Within two years of the enactment of this title, the Commission shall promulgate regulations or issue other regulatory guidance under title I for the licensing of facilities described in subsection (a) that employ the gaseous diffusion technology.

"c. Within one year after the promulgation of regulations or the issuance of other regulatory guidance under subsection (b), the Corporation and its contractors shall make necessary applications for and otherwise seek to obtain such licenses as will remove the exemption provided under subsection (a). As part of its application, the Corporation shall submit an Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act. The Commission shall adopt this statement to the extent practicable under the National Environmental Policy Act. In preparing such statement, the Corporation, and in making any licensing decision, the Commission, shall not consider the need for such facilities, alternatives to such facilities, or the costs compared to the benefits of such facilities. The Commission shall act on licensing requests by the Corporation in a timely manner.

"d. The Corporation shall not transfer or deliver any source, special nuclear or byproduct materials or production or utilization facilities, as defined in title I, to any person who is not properly qualified or licensed under the provisions of title I.

"e. The Corporation shall be subject to the regulatory jurisdiction of the Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

"SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES:

"a. In order to render financial assistance to those States and localities in which the facilities of the Corporation are located, the Corporation is authorized and directed to make payments to State and local governments as provided in this section. Such payments shall be in lieu of any and all State and local taxes on the real and personal property, activities, and income of the Corporation. All property of the Corporation its activities and income are expressly exempted from taxation in any manner or form by any State, county, or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate, and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts and such income shall not be exempt from taxation.

"b. The Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the State and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

"(1) Amounts paid shall not exceed the tax payments that would be made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location: Provided, however, That there shall be excluded any amount that would be payable as a tax on net income.

"(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

"(4) In no event shall the payment made to any taxing authority for any period be less than the payments which would have been made to such taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1505 and which would have been attributable to the ownership, management operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately to the enactment of this title.

"c. Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable: Provided, That no payment shall be made to the extent that the tax would apply to a period prior to the enactment of this title.

"d. The determination by the Corporation of the amounts due hereunder shall be final and conclusive.

"SEC. 1603. MISCELLANEOUS APPLICABILITY OF TITLE I:

"a. Any references to the term 'Commission' or to the Department in sections 105 b., 110 a., 161 c., 161 k., 161 q., 165 a., 221 a., 229, 230, and ±232 of title I shall be deemed to include the Corporation.

"b. Section 188 of title I shall apply to licensed facilities of the Corporation. For purposes of applying such section to facilities of the Corporation:

"(1) The term 'Commission' shall be deemed to refer to the Secretary;

"(2) There shall be no requirement for payment of just compensation to the Corporation, and receipts from operation of the facility in question shall continue to accrue to the benefit of the Corporation; and

"(3) The Secretary shall have the discretion to determine how and by whom the facility in question will be operated.

"SEC. 1604. COOPERATION WITH OTHER AGENCIES.—The Corporation is empowered to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of State, territorial, municipal or other local agencies.

"SEC. 1605. APPLICABILITY OF ANTITRUST LAWS:

"a. The Corporation shall conduct its activities in a manner consistent with the policies expressed in the antitrust laws, except as required by the public interest.

"b. As used in this subsection, the term 'antitrust laws' means:

"(1) The Act entitled: 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890 (15 U.S.C. 1-7), as amended;

"(2) The Act entitled, 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (15 U.S.C. 12-27), as amended;

"(3) Sections 73 and 74 of the Act entitled, 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

"(4) The Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"SEC. 1606. NUCLEAR HAZARD INDEMNIFICATION.—The Administrator shall have the same authority to indemnify the contractors of the Corporation as the Secretary has to indemnify contractors under section 170 d. of title I. Except that with respect to any licenses issued to the Corporation by the Commission, the Commission shall treat the Corporation and its contractors as its licensees for the purposes of section 170 of this Act.

"SEC. 1607. INTENT.—It is hereby declared to be the intent of this title to aid the Corporation in discharging its responsibilities under this title by providing it with adequate authority and administrative flexibility to obtain necessary funds with which to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

"SEC. 1608. REPORT:

"a. Three years after enactment of this title or January, 1993, whichever is later, the Administrator shall submit to the President and to Congress an interim report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. Five years after enactment of this title, the Administrator shall submit to the President and the Congress a final report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. If the Administrator, in the final report, recommends such transfers, the report shall include a plan for implementation of the transfers.

"b. Within one hundred and eighty days after receipt of the final report under subsection (a), the President shall transmit to Congress his recommendations regarding the report, including a plan for implementation of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers.

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. ESTABLISHMENT:

"a. ESTABLISHMENT OF FUND.—(1) There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (hereinafter referred to in this chapter as the 'Fund'). In accordance with section 1402 (j), such account and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

"(2) The Fund shall consist of:

"(A) Amounts paid into it by the Corporation in accordance with section 1702; and

"(B) Any interest earned under subsection (b)(2).

"b. ADMINISTRATION OF FUND.—(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Corporation, annually report to the Congress or the financial condition and operations of the Fund during the preceding fiscal year.

"(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States:

"(A) Having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

"(B) Bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) At the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Fund.

"SEC. 1702. DEPOSITS.—Within sixty days of the end of each fiscal year, the Corporation shall make a payment into the Fund in an amount equal to the costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials, and services.

"SEC. 1703. PERFORMANCE AND DISBURSEMENTS:

"a. When the Corporation determines that particular property should be decommissioned or decontaminated, or both, or with respect to the Oak Ridge Gaseous Diffusion Plant at such time as the plant is conveyed to the Corporation, the Corporation shall enter into a contract for the performance of such decommissioning and decontamination.

"b. The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Fund.".

SEC. 113. TREATMENT OF THE CORPORATION AS BEING PRIVATELY-OWNED FOR PURPOSES OF THE APPLICABILITY OF ENVIRONMENTAL AND OCCUPATIONAL SAFETY LAWS.—The United States Enrichment Corporation shall be subject to Federal, State and local environmental laws and the Occupational Safety and Health Act (29 U.S.C. 651-678) to the same extent as is the Department of Energy as of the date of enactment. After four years from the date of enactment of this title, the United States Enrichment Corporation shall become subject to such laws to the same extent as a privately-owned corporation, unless the President determines that additional time is necessary to achieve the purposes of title II of the Atomic Energy Act of 1954, as amended.

SEC. 114. MISCELLANEOUS PROVISIONS.—(a) Section 9101(3) of title 31, United States Code (relating to the definition of "wholly-owned Government corporation") is amended by adding at the end of the following: "(N) United States Enrichment Corporation.".

(b) In subsection 41 a. of the Atomic Energy Act of 1954, as amended, the word "or" appearing before the numeral "(2)" is deleted, a semicolon is substituted for a period at the end of the subsection and the following new paragraph is added: "or (3) are owned by the United States Enrichment Corporation.".

(c) In subsection 53 c. (1) of the Atomic Energy Act of 1954, as amended, the word "or" is inserted before the word "grant" and the phrase "or through the provision of production or enrichment services" is deleted in both places where it appears in such subsection.

(d) The Atomic Energy Act of 1954, as amended, is further amended:

(1) By adding before the period at the end of the definition of the term "production facility" in section 11 v. a colon and the following: "Provided, however, That as the term is used in chapters 10 and 16 of this Act, other than with respect to export of a uranium enrichment production facility, it shall not include any equipment or device, or important component part especially designed therefor, capable of separating the isotopes of uranium or enriching uranium in the isotope 235";

(2) By striking the period at the end of section 161 b. and adding the following: "; in addition, the Commission shall prescribe such regulations or orders as may be necessary or desirable to promote the Nation's common defense and security with regard to control, ownership or possession of any equipment or device, or important component part especially designed therefor, capable of separating the isotopes of uranium or enriching uranium in the isotope 235;";

(3) By striking the phrase "section 103 or 104" in section 41 a. (2) and inserting in lieu thereof "this title"; and

(4) In section 236 by striking the word "or" following paragraph (2) and adding after paragraph (3) "or (4) any uranium enrichment facility licensed by the Commission;".

(5) In section 318(1) by striking the period after "activities" and by adding the following:

"(D) any facility owned by the United States Enrichment Corporation.".

(e) Subsection 905(g)(1) of title II, United States Code, is amended to include "United States Enrichment Corporation" at the end thereof.

(f) Section 306 of title III of the Energy and Water Development Appropriations Act, 1988, Public Law 100-202, is repealed.

SEC. 115. LIMITATION ON EXPENDITURES.—For fiscal year 1991, total expenditures of the United States Enrichment Corporation shall not exceed total receipts.

SEC. 116. SEVERABILITY.—In any provision of this title, or the application of any provisions to any entity, person or circumstance, shall for any reason be adjudged by a court of component jurisdiction to be invalid, the remainder of this act, or the application of the same shall not be thereby affected.

SEC. 117. EFFECTIVE DATE.—Except as otherwise provided, all provisions of this title shall take effect on the day following the end of the first full fiscal year quarter following the enactment of this act; Provided, however, That the Administrator or Acting Administrator of the United States Enrichment Corporation may immediately exercise the management responsibilities and powers of subsection 1501(a) of the Atomic Energy Act of 1954, as amended by this Act and previous Acts.

TITLE II—URANIUM

Subtitle A—Short Title, Findings and Purpose, Definitions

This title may be cited as the "Uranium Security and Tailings Reclamation Act of 1989".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds for purposes of this title that—

(1) the United States uranium industry has long been recognized as vital to United States energy independence and as essential to United States national security, but has suffered a drastic economic setback, including a 90 per centum reduction in employment, closure of almost all mines and mills, more than a 75 percent drop in production, and a permanent loss of uranium reserves;

(2) during the remainder of this century approximately 20 per centum of United States electricity is expected to be produced from uranium fueled powerplants owned by domestic electric utilities;

(3) the United States has been the leading uranium producing nation and holds extensive proven reserves of natural uranium that offer the potential for secure sources of future supply;

(4) a variety of economic factors, policies of foreign governments, foreign export practices, the discovery and development of low cost foreign reserves, new Federal regulatory requirements, and cancellation of nuclear powerplants have caused most United States producers to close or suspend operations over the past six years and have resulted in the domestic uranium industry being found "not viable" by the Secretary under provisions of the Atomic Energy Act of 1954, as amended;

(5) providing assistance to the domestic uranium industry is essential to—

(A) preclude an undue threat from foreign supply disruptions that could hinder the Nation's common defense and security,

(B) assure an adequate long-term supply of domestic uranium for the Nation's nuclear power program to preclude an undue threat from foreign supply disruptions or price controls, and

(C) aid in the Nation's balance-of-trade payments through foreign sales;

(6) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901-7942);

(A) was enacted to provide for the reclamation and regulation of uranium and thorium mill tailings; and

(B) did not provide for a Federal contribution for the reclamation of tailings at uranium and thorium processing sites which were generated pursuant to Federal defense contracts;

(7) the owners of licensees of active uranium and thorium sites and the Federal Government have each benefited from uranium and thorium produced at the active sites, and it is equitable that they share in the costs of reclamation, decommissioning and other remedial actions at the commingled sites; and

(8) the creation of an assured system of financing will greatly facilitate and expedite reclamation and remedial actions at active uranium and thorium processing sites.

(b) PURPOSE.—It is the purpose of subtitles B and C of this title to—

(1) ensure an adequate long-term supply of domestic uranium for the Nation's common defense and security and for the Nation's nuclear power program;

(2) provide assistance to the domestic uranium industry; and

(3) establish, facilitate, and expedite a comprehensive system for financing reclamation and other remedial action at active uranium and thorium processing sites.

SEC. 203. DEFINITIONS.

For purposes of this title—

(1) the term "active site" means—

(A) any uranium or thorium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Commission to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual by-product material;

(2) the term "byproduct material" has the meaning given such term in section 11 e. (2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2));

(3) the term "civilian nuclear power reactor" means any civilian nuclear powerplant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

(4) the term "Corporation" means the United States Enrichment Corporation established under section 1202 of title II of the Atomic Energy Act of 1954, as amended;

(5) the term "Department" means the Department of Energy;

(6) the term "domestic uranium" means any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States;

(7) the term "domestic uranium producer" means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment;

(8) the term "enrichment tails" means uranium in which the quantity of the U-235 isotope has been depleted in the enrichment process;

(9) the term "reclamation, decommissioning, and other remedial action" includes work, including but not limited to disposal work, accomplished in order to comply with all applicable requirements, including but not limited to those established pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, as amended, or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021). The term shall also include work at an active site prior to the date of enactment of this act accomplished in order to comply with the foregoing requirements;

(10) the term "Secretary" means the Secretary of Energy;

(11) the terms "source material" and "special nuclear material" have the meaning given such terms in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014); and

(12) the term "tailings" means the wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

Subtitle B—Uranium Revitalization

SEC. 210. VOLUNTARY OVERFEEL PROGRAM.

(a) The Corporation shall establish, for a period of not less than five years commencing at the beginning of fiscal year 1991, a voluntary overfeeding program which shall be made available to the Corporation's enrichment services customers. The term "overfeeding" means the use of uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(b) The Corporation shall encourage its enrichment services customers to participate in the voluntary overfeeding program as provided in this section. Uranium supplied by the enrichment customer shall be used by the Corporation for voluntary overfeeding in the enrichment process to reduce the amount of power required to produce the enriched uranium ordered by the enrichment services customer. The dollar savings resulting from the reduced power requirements shall be credited to the enrichment services customer.

(c) In the event an enrichment services customer does not elect to provide uranium for voluntary overfeeding to be used to process its enrichment order, the Corporation shall establish a method for such uranium to be voluntarily supplied by other enrichment services customer(s) which have expressed to the Corporation an interest in participating in such a program and the Corporation shall credit the resulting dollar savings realized from the reduced power requirements to the enrichment services customer(s) providing the uranium.

(d) An enrichment services customer providing uranium for voluntary overfeeding shall certify to the Corporation that such uranium is domestic uranium which has been actually produced by a domestic uranium producer after the enactment of this Act or domestic uranium actually produced by a domestic uranium producer before the enactment of this Act and held by it without sale, transfer or redesignation of the origin of such uranium on a DOE/NRC form 741.

(e) Within ninety days of the date of enactment of this Act, the Corporation shall establish procedures to implement this program. Such procedures shall include, but not be limited to, delivery reporting and certification requirements, and provisions for failure to comply with the requirements of the voluntary overfeeding program. The determination of the voluntary overfeeding credit and sufficient data to support such determination shall be available to the Corporation's enrichment services customers and to qualified domestic producers.

SEC. 211. NATIONAL STRATEGIC URANIUM RESERVE.

There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of 50,000,000 pounds of natural uranium contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on the date of enactment of this Act, use of the Reserve shall be retricted to military purposes and Government research. Use of the Department's stockpile of enrichment tails existing on the date of enactment of this Act shall be restricted to military purposes.

SEC. 212. RESPONSIBILITY FOR THE INDUSTRY.

(a) The Secretary shall have a continuing responsibility for the domestic uranium industry, and shall take any action, which he determines to be appropriate under existing law, to encourage the use of domestic uranium; Provided, however, That the Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to paragraph (b) of this section.

(b) ENCOURAGE EXPORT.—The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within one hundred and eighty days of the date of enactment of this Act the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

SEC. 213. GOVERNMENT URANIUM PURCHASES.

(a) After the date of enactment of this Act, the United States of America, its agencies and instrumentalities, shall only have the authority to enter into contracts or orders for the purchase of uranium which is (1) of domestic origin and (2) is purchased from domestic uranium producers: Provided, That this section shall not affect purchases under a contract for delivery of a fixed amount of uranium entered into before the date of enactment of this Act.

(b) Subsection (a) shall not apply to the Tennessee Valley Authority.

SEC. 214. SECRETARY'S AUTHORITY TO MAKE REGULATIONS.

The Secretary shall issue appropriate regulations to implement the purposes of this title.

Subtitle C—Remedial Action for Active Processing Sites

SEC. 220. REMEDIAL ACTION PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), the costs of decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the reclamation, decommissioning and other remedial action costs described in such subsection as are—

(A) determined by the Secretary to be attributable to tailings generated as an incident of sales to the United States; and

(B) incurred by such licensee not later than December 31, 2002.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 221 and shall not exceed an

amount equal to $4.50 multiplied by the dry short tons of tailings located at the site as of the effective date of this title and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $30,000,000.

(D) INFLATION ESCALATION INDEX.—The amounts in subsections (A), (B), and (C) of this section shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT.—Provided however, (i) the Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated in section 222, when considered with the $4.50 per dry short ton limit on reimbursement, exceeds the total cost reimbursable to the licensees of active sites for reclamation, decommissioning and other remedial action; and (ii) if the Secretary determines there is an excess, the Secretary may allow reimbursement in excess of $4.50 per dry short ton on a prorated basis at such sites that reclamation, decommissioning and other remedial action costs for tailings generated as an incident of sales to the United States exceed the $4.50 per dry short ton limitation.

SEC. 221. REGULATIONS.

The Secretary shall issue regulations governing reimbursement under section 220. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a statement for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such statement for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 220.

SEC. 222. AUTHORIZATION.

There is authorized to be appropriated for purposes of this subtitle not more than $300,000,000 increased annually as provided in section 220 based upon an inflation index as determined by the Secretary.

TITLE III—REMOVAL OF PURPA SIZE LIMITATIONS

SEC. 301. This title may be cited as 'The Solar Wind, Waste, and Geothermal Power Production Incentives Act of 1990'.

SEC. 302. PURPA AMENDMENTS.—Section 210 of the Public Utility Regulatory Policies Act of 1978 is amended as follows:

(a) In subsection (a), strike out ", and to encourage geothermal small power production facilities of not more than 80 megawatts capacity,".

(b) In subsection (e)(2), insert '(other than a qualifying small power production facility which is a solar, wind, waste or geothermal facility as defined in section 3(17)(E) of the Federal Power Act)' after 'facility' where it first appears, and by striking out ", or 80 megawatts for a qualifying small power production facility using geothermal energy as its primary energy source,".

SEC. 303. FEDERAL POWER ACT AMENDMENTS.—(a) Section 3(17)(A) of the Federal Power Act is amended by inserting 'a facility which is a solar, wind, waste or geothermal facility, or' after 'small power production facility' means.

(b) Section 3(17) of such Act is further amended by inserting at the end thereof the following new subparagraph:

"'(E) "eligible solar, wind, waste or geothermal facility" means a facility which produces electric energy solely by the use, as a primary energy source, of solar energy, wind energy, waste resources or geothermal resources;".

SEC. 304. FERC REGULATIONS.—(a) Within 30 days of the date of enactment of this Act, the Federal Energy Regulatory Commission shall issue such proposed modification to its regulations as may be necessary to implement the amendments made by this Act, and within 90 days of such date, the Commission shall issue final regulations.

(b) Until regulations described in subsection (a) are final and effective, any solar, wind, waste or geothermal facility (as defined in section 3(17)(E) of the Federal Power Act), which is a qualifying small power production facility as defined in subparagraph (C) of section 3(17) of the Federal Power Act (as such section 3(17) is amended by this Act), (1) shall be considered a qualifying small power production facility under part 292 of title 18 of the Code of Federal Regulations, notwithstanding any size limitations contained in such part, and (2) shall not be subject to the size limitations contained in section 292.601(b) of such part.

(c) The provisions of this Act shall apply to a solar, wind, waste or geothermal facility only if—

(1) either of the following is submitted to the Federal Energy Regulatory Commission during the two-year period beginning on the date of enactment of this Act:

(A) an application for certification of the facility as a qualifying small power production facility; or

(B) notice that the facility meets the requirements for qualification; and

(2) construction of such facility commences within five years of the date of such application or notice and reasonable diligence is exercised toward the completion of such facility taking into account all factors relevant to the construction of the facility.

AMENDMENT NO. 2914

(Purpose: To remove the regulatory barriers for solar, wind, waste and geothermal electric energy generation contained in the Public Utility Regulatory Policies Act of 1978)

Mr. CRANSTON. I send to the desk an amendment, on behalf of Senator DOMENICI, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], for Mr. DOMENICI, proposes an amendment numbered 2914.

Mr. CRANSTON. Mr. President, I asked unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike title III, and insert in lieu thereof the following:

"TITLE III—REMOVAL OF PURPA SIZE LIMITATIONS

"SEC. 301. This Title may be cited as "The Solar, Wind, Waste and Geothermal Power Production Incentives Act of 1990.

"SEC. 302 PURPA AMENDMENT.—Section 210(e)(2) of the Public Utility Regulatory Policies Act of 1978 is amended by inserting "(other than a qualifying small power production facility which is an eligible solar, wind, waste or geothermal facility as defined in section 3(17)(E) of the Federal Power Act)" after "facility" where it first appears.

"SEC. 303. FEDERAL POWER ACT AMENDMENTS.—(a) Section 3(17)(A) of the Federal Power Act is amended by inserting "a facility which is an eligible solar, wind, waste or geothermal facility, or" after "small power production facility' means".

"(b) Section 3(17) of such Act is further amended by inserting at the end thereof the following new subparagraph:

"(E) 'eligible solar, wind, waste or geothermal facility' means a facility which produces electric energy solely by the use, as a primary energy source, of solar energy, wind energy, waste resources or geothermal resources, and which would otherwise not qualify as a small power production facility because of the power production capacity limitation contained in subparagraph (A)(ii) of this section 3(17); but only if—

"(i) either of the following is submitted to the Commission not later than December 31, 1992:

"(I) an application for certification of the facility as a qualifying small power production facility; or

"(II) notice that the facility meets the requirements for qualification; and

"(ii) construction of such facility commences not later than December 31, 1997 or, if not, reasonable diligence is exercised towards the completion of such facility taking into account all factors relevant to construction of the facility.".

"SEC. 304. FERC REGULATIONS.—Unless the Federal Energy Regulatory Commission otherwise specifies, by rule after the enactment of this Act, any eligible solar, wind, waste or geothermal facility (as defined in section 3(17)(E) of the Federal Power Act as amended by this Act), which is a qualifying small power production facility (as defined in subparagraph (C) of section 3(17) of the Federal Power Act as amended by this Act)—

"(a) shall be considered a qualifying small power production facility for purposes of part 292 of title 18, Code of Federal Regulations, notwithstanding any size limitations contained in such part, and

"(2) shall not be subject to the size limitation contained in section 292.601(b) of such part.".

Mr. DOMENICI. Mr. President, the purpose of the amendment now pending before the Senate is to correct a technical drafting problem with the PURPA provisions of S. 2415, as reported by the committee; it is not intended to make any substantive policy changes to the bill. With the exception of uranium enrichment provisions, S. 2415, as reported, is identical to the PURPA provisions contained in the global warming legislation, S. 324.

S. 2415, as reported by the committee, now contains two elements: one, the removal of PURPA's size limitations on solar, wind, waste, and geothermal powerplants; and two, the uranium enrichment provisions of S. 83.

S. 83 was passed by the Senate on July 20, 1989, but it has not been acted on in the House of Representatives. It was added to S. 2415 in committee at the request of Senator FORD but, in my opinion, without any real expectation that it would be acted on by the House in the context of this legislation. Instead, it is intended to serve as a reminder notice to the House committees of jurisdication that the Senate remains very interested in proceeding with S. 83. Laying the uranium enrichment provisions aside, let me now turn to the pending amendment.

The amendment now ending before the Senate is similar to S. 2415, which I introduced and is presently cosponsored by Senators MCCLURE, WIRTH, REID, MCCAIN, BRYAN, CRANSTON, WILSON, HATFIELD, SYMMS, HARKIN, DECONCINI, PACKWOOD, ADAMS, MIKULSKI, SHELBY, HOLLINGS, HATCH, JEFFORDS, SANFORD, GARN, LIEBERMAN, MURKOWSKI, DASCHLE, ROBB, AKAKA, MITCHELL, and BOSCHWITZ.

The difference between the pending amendment and S. 2415, as introduced, is that the amendment encompasses wind power and waste energy and it contains both a 2-year sunset provision with a diligence provision, whereas S. 2415 does not contain those elements.

The wind provision was added at the request of Senator HATFIELD and other Senators, and I strongly support this addition. Both the waste provision and the 2-year sunset provision were added by Senator JOHNSTON, and I must note that I do not favor either. These provisions raise concerns by certain parties, and I fear that they may jeopardize enactment of this bill into law. The diligence provision was added by Senator MCCLURE only to insure that Senator JOHNSTON'S sunset provision actually worked. And as I noted before, the differences between the PURPA provisions in S. 2415, as reported, and the pending amendment are only technical in nature.

Mr. President, let me now discuss the merits of the PURPA amendments made by the pending amendment.

In a hearing before the Committee on Energy and Natural Resources, the administration testified in support of the changes in law that my amendment proposes to make. The lifting of the PURPA size limitations for solar, wind, and geothermal power is also supported by Public Citizen, by the National Association of State Energy Officials, and by the electricity committee of the National Association of Regulatory Utility Commissioners. I ask unanimous consent that letters and resolutions from these groups be included in the RECORD at the conclusion of my statement.

Mr. President, before I explain why it is in the public interest to eliminate PURPA's size restrictions on solar, wind, and geothermal powerplants, I will briefly summarize the underlying law my amendment proposes to change.

PURPA was enacted in 1978 as one of the five parts of President Carter's national energy plan to address our energy crisis. One key goal of PURPA was to expand our supply of electricity, which it did by encouraging the construction of nonconventional power generating facilities by companies other than traditional electric utilities.

In the vernacular of PURPA, these nonconventional electric powerplants are known as "qualified facilities" or "QF's." A QF can be a solar, geothermal, wind, or other renewable energy-based electrical generating facility. A QF can also be a fossil fuel-fired cogeneration facility, which is a type of powerplant that produces and sells steam heat as well as electricity. In its regulations FERC defined municipal solid waste as biomass, and not as waste.

PURPA encourages the construction of QF powerplants by giving them enhanced regulatory treatment: QF's are exempted from the Public Utility Holding Company Act, the Federal Power Act, and from regulation as a local electric utility; and QF's are given the right to connect into the local utility's power grid and the right to sell their power to the utility at avoided cost.

Without this regulatory treatment, these powerplants would be caught in a regulatory tangle and could not be built; and even if built, traditional electric utilities could refuse to purchase the electricity produced by a QF powerplant. In other words, without PURPA, nonconventional powerplants could not exist.

One provision of PURPA—which is the focus of the pending amendment—places a size limitation on renewable-based QF powerplants. Under this provision, solar, wind, and other renewable QF's cannot be built larger than 30 megawatts without losing their PURPA benefits, and geothermal facilities cannot be built larger than 80 megawatts.

Curiously, however, PURPA has no similar size limitation on fossil fuel-fired cogeneration facilities, which account for three-fourths of QF capacity; they can be built to any size without the loss of their PURPA benefits. And while cogeneration facilities are typically built in the 100- to 500-megawatt size range, earlier this year the largest cogeneration facility ever—a 1,240 megawatt powerplant—went into operation in Michigan. That is the size of a major baseload nuclear or coal-fired powerplant.

Now compare PURPA's 30-megawatt limitation for solar and wind facilities and its 80-megawatt limitation for geothermal facilities to the size of the Michigan cogeneration facility—some 15 to 40 times larger—and you will see one key reason for this amendment.

One question relevant to this debate is why did Congress originally impose a size limitation on solar, wind, and geothermal facilities but not on fossil fuel-fired cogeneration facilities?

I was on the Energy and Natural Resources Committee back then and, quite frankly, I cannot recall the reason; nor can anyone else. My guess is that when we were writing PURPA someone felt that it was a good idea, and so it was done. But who and why—your guess is as good as mine.

But laying that historical question aside, whatever public policy reasons Congress had back then, there is no valid reason today for these size limitations. On that there is no disagreement.

Mr. President, if we remove PURPA's size limitations for solar, wind, and geothermal facilities we can enhance our supply of electrical power, and that is clearly in the public interest.

Since 1978, nearly 5,000 megawatts of new solar, wind, and geothermal power have already obtained QF status. That is the equivalent of five traditional baseload nuclear or fossil fuel-fired powerplants. Now, while that may already seem like a lot, much more can be done—and will be done if we adopt this amendment.

Over the past decade, there has been a technological revolution which not only makes larger sized solar, wind, and geothermal projects possible, it also makes them far more efficient, which lowers the cost of power production.

Solar technology, for example, has evolved rapidly since the first utility-scale electric generating facility was placed in service back in 1984. Nearly 300 megawatts of solar thermal capacity have since been put into operation, and these plants have won high praise for both their design and reliability from the utility which purchases the power.

Geothermal technology has similarly demonstrated both cost effectiveness and reliability. Over 2,000 megawatts of geothermal generating capacity are currently in service in the United States.

And wind energy is likewise taking off. There are now about 14,000 wind turbines in operation, which now satisfy about 1 percent of California's electricity demand.

More can be done, but only if these renewable powerplants are allowed to remain price competitive through economies of scale, which the pending amendment would make possible.

There already have been dramatic improvements in efficiency which have significantly lowered the cost of production. For example, solar facilities built in 1984 generate electricity

at a lifecycle cost of 24 cents per kilowatt hour. In contrast, the most recently built solar powerplant, an 80-megawatt facility placed in service at the end of 1989, has a lifecycle cost of only 8 cents per kilowatt hour. And larger, more efficient, solar facilities could be put on line at a production cost of 6 cents per kilowatt hour.

But this cannot occur unless PURPA's size limitations are removed, and that brings me back to my amendment, which I will now explain.

Mr. President, the amendment before the Senate is really very simple: It removes PURPA's size limitations for solar, geothermal, and wind facilities. Nothing more.

Another way of looking at this amendment is that it gives solar, wind, and geothermal QF's the same PURPA treatment as PURPA now gives to fossil fuel-fired cogenerators. On its face that is only equitable.

As modest as this change may seem, without it, solar, wind, and geothermal powerplants will not have a place in the future wholesale power supply market where competition is increasingly intense. They need to be able to reduce the cost of production, for which economies of scale are critical; and that cannot occur unless this amendment is adopted.

Now some will assert that lifting these limitations will harm ratepayers because there is a requirement in PURPA that electric utilities purchase QF power at what is known as "full avoided cost." But it should be noted that neither PURPA, nor the Federal regulations implementing PURPA, require State public utility commissions to force their electric utilities to pay more for QF power than it is worth. PURPA's implementation, including the setting of the avoided cost purchase rate for QF power, is left to State commissions, which are given broad discretion.

In the first few years following PURPA's enactment, there is no question that a number of State commissions overshot the mark. But over the past decade, State commissions have become far more expert in projecting and planning to meet future power needs, and that translates into more realistic numbers for avoided cost. As a consequence, State commissions have modified their implementing regulations to keep their rates in line, including the use of competitive bidding.

Thus, while the avoided cost rate may have once been a controversial matter, it no longer is. Nothing here, nor anything in PURPA, requires or even endorses a State public utility commission's requiring electric utilities in its State to purchase power from QF's at rates that exceed the utility's full avoided cost. So, I find it hard to accept the argument made by some that if we remove the PURPA size limitations on solar, wind, and geothermal facilities, as this amendment proposes to do, ratepayers will be harmed.

Mr. President, let me take a moment to put this legislation into a broader context. There is little question that our Nation has an increasingly serious energy problem. Each day our foreign energy dependence increases, and no end is in sight. Back in 1973, the year of the Arab oil embargo, we were about 36 percent foreign oil dependent; last year we were 46 percent foreign dependent; and so far this year we have inched up to 50 percent dependency. By almost every estimate, in just a few more years we will be two-thirds foreign dependent. And hardly a week goes by without reading one report or another that says that we are stretching our existing power production resources to their limit, and that we are increasingly needing to build new powerplants.

That trend not only has significant implications for the future price and reliability of our energy supplies, it also has broader economic, military, and geopolitical implications. Let us not forget that not too long ago the United States had naval warships in the Persian Gulf escorting Kuwait oil tankers against the threat of attack—protection which was provided at a time when only a tiny fraction of the United States oil came directly from that region. Now, with the ongoing invasion of Kuwait by Iraq, we have the very real prospect of an international oil supply interruption of the size that sent prices soaring back in 1973 and 1979 and caused us to sit in long gasoline lines waiting to fill up our cars.

Mr. President, in terms of our national energy policy, it is important that we take reasonable steps to encourage a wide variety of options to help meet this Nation's future energy needs. We will never find a single or simple answer, but incremental steps to promote a domestic energy production are very important and must be taken.

This legislation will take one such step, and it will help. For example, over its life each 80 megawatts of solar, wind, or geothermal generating capacity backs out the equivalent of 14 million barrels of foreign oil.

Mr. President, this is not the first time the Congress has addressed the PURPA size issue. Since its enactment in 1978, twice it has been necessary to raise PURPA's size restrictions to reflect the increased capabilities of maturing technologies. PURPA was amended in 1980 to increase from 30 to 80 megawatts the size limitation for geothermal facilities. Three years ago there was legislation enacted to temporarily lift the size limitation on solar facilities to 80 megawatts. And our exchange with these changes have been only positive; new, more efficient facilities has been put on line at lower prices to consumers.

It is also worth noting that this amendment will complement the ongoing congressional efforts in the global warming bill and the Clean Air Act amendments to reduce emissions and clean up the environment. Solar facilities have minor emissions only when they burn natural gas as a backup source of energy; wind-driven generators have absolutely no emissions of any sort; and geothermal facilities have no combustion-related emissions.

In summary, it is clear that PURPA's size limitations on solar, wind, and geothermal powerplants are no longer necessary, appropriate or in the public interest. It is also clear that these limitations unduly burden technological development. It is evident that their removal will bring forth lower-cost and environmentally benign electrical generating capacity. And it is without question that encouraging this kind of new generation capacity will help our national energy security.

Simply put, enactment of this amendment is good public policy.

As a Senator from the sunny Southwest, I look forward to the day when my region will more fully utilize its abundant solar resources to generate electricity.

Let me now make a couple of comments about the appropriate interpretation of the amendment. First, nothing in this amendment may be interpreted as overriding or abrogating any existing contract between a QF and the utility who purchases power from it. Second, nothing shall limit FERC's authority to amend its existing regulations, in accordance with normal procedures, so as to reflect the statutory changes made by this amendment. Third, the amendment's diligence phrase "reasonable diligence is exercised toward the completion of such facility taking into account all factors relevant to construction of the facility" is intended to ensure that the sunset provision works in practice.

It does so by preventing the filing of "dummy" applications or certifications with FERC—new Federal Power Act section (3)(17)(E)(i). Thus, the phrase "reasonable diligence" is to be interpreted broadly. For example, any substantial expenditure of moneys or any irrevocable commitment for substantial expenditure of moneys, be it for the acquisition of required permits or other authorizations necessary to construct a facility or for the purchase of necessary equipment or engineering or construction costs, would also satisfy the requirement. As another example, because in the case of a geothermal facility subtantial capital expenditures must be made at the time a commitment is made to drill a geothermal well, both the commencement of construction requirement and the due dili-

gence requirement would be satisfied when the spudding of the well occurs.

Mr. President, in conclusion, it is for these reasons that I introduced this legislation; that is why I support it; and that is why I am urging the Senate to adopt this amendment.

Mr. President, I ask unanimous consent that letters dated May 10, 1990, and July 5, 1990, and a resolution adopted July 25, 1990, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PUBLIC CITIZEN,
Washington, DC, May 10, 1990.

Hon. PETE V. DOMENICI,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOMENICI: We are writing to support S. 2415 which you have introduced to remove the size limits imposed by the Public Utility Regulatory Policies Act (PURPA) for solar and geothermal power facilities. In addition, we urge you to expand your proposal to include wind energy power plants.

In a May 1989 Public Citizen report, "Power Surge: The Status and Near-Term Potential of Renewable Energy Technologies (copy enclosed), we made this same policy recommendation as one that would allow more rapid development of renewable energy. There is no public benefit gained by restricting the size of renewable energy projects that can qualify under PURPA, nor is there a need to restrict the regulatory exemptions afforded by PURPA to renewable energy facilities of certain sizes.

Renewable energy projects should be treated in the same manner as cogenerators are under PURPA, allowing them to be developed in sizes that relate to resource, market, and other relevant considerations rather than to artificial size restrictions now imposed by PURPA. This will allow renewable energy technologies to be developed in a more cost-effective manner.

We would not be opposed to lifting the size limits under PURPA for all renewable energy technologies. At a minimum, however, we believe that wind should be included in your proposal since the same rationale for removing the size restrictions on solar and geothermal facilities applies to wind projects as well. Optimal project sizes for all of these technologies are encumbered under current law.

We applaud you for sponsoring this much needed legislation, and urge you to expand it include wind energy.

Sincerely,

NANCY RADER,
Energy Policy Analyst,
Critical Mass Energy Project.

P.S.—As you may know, Public Citizen is a research and advocacy organization founded by Ralph Nader in 1971 to address a broad range of consumer and environmental issues. Critical Mass is Public Citizen's energy policy arm.

NATIONAL ASSOCIATION
OF STATE ENERGY OFFICIALS,
Washington, DC, July 5, 1990.

Re Solar and Geothermal Power Production Incentives Act (S. 2415).

Hon. PETE V. DOMENICI,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR DOMENICI: On behalf of the National Association of State Energy Officials (NASEO), I wanted to take this opportunity to express our strong support of S. 2415, which you introduced on April 4, 1990. This bill would increase the size of solar (above 30 MW) and geothermal (above 80 MW) power plants that qualify for Qualifying Facility benefits under PURPA.

Hopefully, the passage by the House Energy and Commerce Committee of H.R. 4808, introduced by Mr. Sharp, will encourage the Senate to act on your legislation. We also support the expansion of the bill to cover wind power.

NASEO is composed of energy officials from 49 states, territories and the District of Columbia and we are dedicated to promotion of a balanced national energy policy which enhances energy security, environmental stability and economic development within our states. The states have long supported promotion of renewable energy and we see it as a necessary part of our future national energy supply. This support has included state funding, tax credits and rebates, use of oil overcharge refunds and use of the federally-supported State Energy Conservation Program (SECP) and the Energy Extension Service (EES) to implement renewable energy programs. With oil imports again crossing the 50% mark, concerns over global climate change and the expected passage of Clean Air Act amendments this year, renewable energy and energy efficiency programs have become even more important.

NASEO strongly supports your legislation and we urge rapid consideration and passage.

Sincerely,

MITCH BEAVER,
Chairman.

RESOLUTION SUPPORTING LEGISLATION TO LIFT SIZE RESTRICTIONS ON SOLAR, GEOTHERMAL, AND WIND ENERGY PROJECTS

Whereas, Legislation has been introduced in the Congress that lifts the megawatt restrictions under the Public Utility Regulatory Policies Act (PURPA) for qualifying facilities; and

Whereas, This legislation applies to qualifying solar, geothermal and wind energy projects; and

Whereas, This legislation would make these renewable energy technologies more cost effective and would not alter existing State commission authority under PURPA to regulate facilities that use these technologies; now, therefore be it

Resolved, That the Executive Committee of the National Association of Regulatory Utility Commissioners (NARUC) assembled at its 1990 Summer Committee Meeting in Los Angeles, California, supports legislation amending the PURPA to lift the 30 megawatt restriction for qualifying solar and wind facilities and the 80 megawatt restriction on qualifying geothermal projects; and be it further

Resolved, That the Executive Committee of the NARUC supports only legislation that would lift the size restrictions for the above mentioned renewable technologies and opposes any legislation to expand the list beyond these technologies.

(Sponsored by the Committee on Electricity, Adopted July 25, 1990.)

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2914) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

(The text of S. 2415 as passed by the Senate will appear in a future edition of the RECORD.)

The PRESIDING OFFICER. Without objection, the amendment to the title is agreed to.

The title was amended so as to read:

Amend the title so as to read: "A bill to encourage solar, wind, waste, and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Policies Act of 1978, and for other purposes.".

Mr. CRANSTON. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

STUDY ON ESTABLISHING A UNIT OF THE NATIONAL PARK SYSTEM TO COMMEMORATE THE ORIGINS, DEVELOPMENT, AND PROGRESSION OF JAZZ IN THE UNITED STATES

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 836, S. 2846, a bill to authorize a study of the feasibility of establishing a unit of the National Park System to commemorate the development of jazz in the United States.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2846) to authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States, and for other purposes,

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SUITABILITY AND FEASIBILITY STUDY.

(a) IN GENERAL.—In order to determine an appropriate means of preserving and interpreting the origin, development and progression of the music known as jazz, a music that has gained worldwide influence and respect and represents this Nation's unique contribution to the musical arts, the Secretary of the Interior (hereinafter referred to as the "Secretary"), shall conduct a study of the suitability and feasibility of establishing a unit of the National Park System associated with the origins of jazz in New Orleans, the city in which the cultural strains that became jazz were fused to form this unique American music, and the birthplace of such major jazz artists as Jelly Roll Morton, Sidney Bechet, and Louis Armstrong.

(b) SITES OR STRUCTURES.—(1) The study shall include a determination as to which sites or structures in New Orleans associated with the origin and early history of jazz exhibit the necessary historical and physical integrity to make them suitable and feasible for administration, protection, and preservation as units of the National Park System for the use and benefit of the public. Prior to making any such determination, the Secretary shall consult with and carefully consider the views of affected local citizens and neighborhood groups.

(2) With respect to any such site or structure determined to be suitable and feasible, the study shall include an analysis of potential management alternatives that involve the participation of public and private entities in the preservation of jazz as an American art form, including interpretive performances pursuant to cooperative agreements with the Secretary.

(3) In the event appropriate sites or structures cannot be identified, the study shall also consider and make recommendations concerning sites which would serve as an appropriate location for the construction or reconstruction of a facility to commemorate the origins and early history of jazz in New Orleans.

(c) Additional Recommendations.—The study shall also include recommendations for—

(1) public outreach programs, including but not limited to programs designed to involve elementary and secondary school children in the understanding of jazz as an American art form, study internships, summer workshops, teacher training programs, and programs to support school visits and workshops by musicians;

(2) the establishment of a jazz education center and an early learning center in the structure or site described in subsection (b);

(3) an appropriate Federal role in supporting second line bands, and in preserving the unique contributions to the development of jazz made by neighborhood social and pleasure clubs, including recommendations for interpretive performances by such clubs, educational outreach programs, and the feasibility of establishing an oral history or other programs to assure that the contributions of such clubs are preserved; and

(4) an assessment of the need for the preservation and dissemination of information about existing public and private archival collections (with potential alternatives for an appropriate Federal role) and possible management alternatives including cooperative agreements with existing public and private facilities and institutions.

(d) JEAN LAFITTE NATIONAL HISTORICAL PARK.—The study shall also assess and include a recommendation concerning the desirability and feasibility of including any site or structure identified pursuant to subsection (b) within the boundaries of the Jean Lafitte National Historical Park.

SEC. 2. SUBMISSION OF STUDY.

The Secretary shall submit the study referred to in section 1 to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, no later than one year after the date funds are made available for such study, together with any recommendations for further legislation.

SEC. 3. PRESERVATION OF JAZZ ADVISORY COMMISSION.

(a) ESTABLISHMENT OF THE COMMISSION.—There is hereby established the Preservation of Jazz Advisory Commission (hereinafter referred to as the "Commission"). The Commission shall consist of fifteen members who shall be appointed within ninety days after enactment of this Act as follows:

(1) one member to be appointed jointly by the Speaker of the United States House of Representatives and the President Pro Tempore of the United States Senate;

(2) the Mayor of the City of New Orleans or the Mayor's designee;

(3) three members to be appointed by the Secretary from among recommendations submitted by the Mayor of New Orleans who shall have experience in elementary, secondary and post-secondary music education programs emphasizing jazz, respectively;

(4) one member to be appointed by the Secretary from among recommendations submitted by local business and economic development groups who are knowledgeable about tourism;

(5) one member to be appointed by the Secretary from among recommendations submitted by the producers of the New Orleans Jazz and Heritage Festival who shall have experience in the production of such Festival;

(6) one member to be appointed by the Secretary from among recommendations submitted by representatives of local historic preservation groups;

(7) three members to be appointed by the Chairman of the National Endowment of the Arts who are recognized musicians with knowledge and experience in the development of jazz in New Orleans, one of whom shall be selected from recommendations submitted by local social and pleasure clubs;

(8) one member who is a recognized local expert on the history and development of jazz in New Orleans and is familiar with existing local archival materials, to be appointed jointly by the Chairman of the National Endowment on the Humanities and the Librarian of Congress;

(9) one member with recognized expertise in cultural and folklife preservation and interpretation to be appointed by the Secretary of the Smithsonian Institution;

(10) one member to be appointed by the Secretary who shall be a resident of the Treme neighborhood of New Orleans;

(11) one member to be appointed by the Governor of Louisiana who shall be a member of the Louisiana State Music Commission; and

(12) the Chairman of the Delta Region Preservation Commission who shall serve as an ex officio, nonvoting, member of the Commission.

(b) DUTIES OF THE COMMISSION.—The Commission shall advise the Secretary in the preparation of the suitability and feasibility study required by section 1, and the views of the Commission members shall be included in the study transmitted to the Congress as provided in section 2.

(c) MEMBERSHIP.—No person who is an employee of the Federal Government shall be appointed to serve as a member of the Commission.

(d) COMPENSATION.—Members of the Commission shall serve without compensation. Members of the Commission shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(e) CHAIRMAN.—The Commission shall elect a Chairman from among its members.

(f) QUORUM.—A simple majority of the members of the Commission shall constitute a quorum.

(g) MEETINGS.—The Commission shall meet at least quarterly or upon the call of the Chairman or a majority of its members.

(h) PUBLIC HEARINGS.—The Commission shall hold no less than three public hearings in New Orleans to consider the views of the public concerning the establishment of a unit of the National Park System to commemorate jazz in the United States. At least one such hearing shall be held in the Treme neighborhood of New Orleans.

(i) The National Park Service shall provide such staff support and technical assistance as may be necessary to carry out the functions of the Commission.

(j) TERMINATION OF COMMISSION.—The Commission shall terminate one hundred and twenty days after the transmittal of the report to Congress as provided in section 2.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. JOHNSTON. Mr. President, I am very pleased that the Senate is considering S. 2846, legislation which I introduced to direct the Park Service to undertake a study of potential sites in New Orleans, LA, for the establishment of a new unit of the National Park System commemorating the origins, development and progression of jazz in the United States.

Today, America's musicians remain the undisputed and most important leaders in jazz. People from around the world come to this country to hear jazz and our many talented musicians travel to virtually every corner of the globe to perform for others. Given our dominant role in this field, a focal point for preserving, interpreting, and commemorating our great jazz traditions is long overdue.

Jazz music was first played in this country in the late 1800's and evolved as a blend of African and Western European classical music, primarily

French and Spanish. Religious music, particularly gospel music, and other folk music were also contributors to the emergence of jazz. All these elements fused in New Orleans which is the recognized birthplace of traditional jazz music in this country.

It was in New Orleans, in Milneburg and in the historic area known as Storyville, where renowned professors of music such as Ferdinand Joseph Lementhe, better known as "Jelly Roll Morton," who cultivated the stride-style keyboard, Louis "Big Eye" Nelson, who founded the Ninth Ward Band and later joined the historic Imperial Orchestra; and Louis Daniel "Satchmo" Armstrong, who for many outside New Orleans remains the most well-known New Orleams artist, all performed. In Storyville and in Milneburg the first organized Jazz music emerged.

It was also in New Orleans where the African beat was blended with developing syncopated rhythms particularly in the area known as Congo Square, and the rich tradition of black American music was developed in great bands led by such talented musicians as Buddy Bolden. And it was again in New Orleans during the first 20 years of this century that the traditional brass bands played and developed into the famous ragtime bands which played a combination of blues and ragtime.

This music was part of the establishment of the culture of traditional jazz in New Orleans, which migrated and evolved from there north to Memphis, St. Louis, Chicago, and to New York City. It is important to recognize that New Orleans is not only the fountainhead from which all traditional jazz has developed, but also that no other city in the United States has conscientiously preserved the culture of traditional jazz to the degree and in the manner that New Orleans has. The city has dedicated a park to Louis Armstrong who is a native son and one of the great jazz musicians of all time; it has a number of important archival and historical collections in various places throughout the city including the Armistad Research Center at Tulane University and the Louisiana State Museum's collection located at the mint; New Orleans has innovative outreach programs to educate potential future musicians and future audiences throughout the public school system; and at least two innovative new schools are in the process of being established—one for advanced studies at the University of New Orleans and one to reach younger children which has been proposed by the New Orleans Jazz and Heritage Foundation. All of these efforts indicate the local support for preserving and nurturing the unique cultural heritage of New Orleans and the key role which jazz has played.

All of the necessary ingredients are in New Orleans to develop a great cultural center for the preservation of jazz and, with the proper support and financial commitment, there is no doubt that this concept would be a success. Today there are still local musicians and others in New Orleans who are preserving this traditional music, but it is important to act now to preserve this important American contribution to the musical arts.

The study mandated by this legislation will begin the process to ensure that this musical art form will be properly recognized and accorded the institutional status commensurate with its value and importance.

Mr. President, this legislation was the subject of a field hearing in New Orleans on July 27. In response to the testimony received at that hearing, as well as several written statements submitted for the hearing record, the bill has been modified slightly to help ensure that the views of the citizens of New Orleans are carefully considered during the study process. The membership on the advisory commission established to provide guidance to the Park Service during the study has been expanded to maximize local involvement. In addition, a provision has been added requiring the Commission to conduct no less than three public hearings in New Orleans to solicit the views of those interested in this project.

Mr. President, this bill marks the beginning of this project, not the end. No park unit is going to be established until this study is completed and the Congress has had a chance to consider the study's findings and act on them.

I look forward to pursuing the idea of a jazz park in New Orleans and urge my colleagues to support this worthwhile legislation.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 2846) was passed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF CONFEREES—H.R. 4739

Mr. CRANSTON. Mr. President, I understand that the Chair has an announcement on conferees on Defense authorization.

The PRESIDING OFFICER. Under the previous order the Chair appoints the following conferees:

The Chair appointed Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. DIXON, Mr. GLENN, Mr. GORE, Mr. WIRTH, Mr. SHELBY, Mr. BYRD, Mr. WARNER, Mr. THURMOND, Mr. COHEN, Mr. WILSON, Mr. MCCAIN, Mr. WALLOP, Mr. GORTON, Mr. LOTT, AND Mr. COATS conferees on the part of the Senate.

ORDERS FOR THURSDAY, SEPTEMBER 27, 1990

Mr. CRANSTON. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today it stand in recess until 11 a.m. Thursday, September 27 and that, following the time for the two leaders, there be a period for morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11 A.M. TOMORROW

Mr. CRANSTON. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess under the previous order until 11 a.m. tomorrow, Thursday, September 27.

There being no objection, the Senate, at 6:39 p.m., recessed until Thursday, September 27, 1990, at 11 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, September 26, 1990*

The House met at 10 a.m.

The Chaplain, Rev. John O. Peterson, Alfred Street Baptist Church, Alexandria, VA, offered the following prayer:

Dear Lord and Father of all humankind, we beseech You on this day to give ear to our request in this place. Thou who knows our destinies before we move, the words of our mouths before we speak, the thoughts of our minds before we think, come into this place and give direction to our ways, compassion to our conversations and divine wisdom to our thinking.

Forgive us for the errors of our ways that have displeased You in the days and nights now recorded in eternal history. We have not shown Your love in all our service to the children of men. Forgive us for the wrongs of neglect as well as the wrongs of willful action.

You have given us another day to express our love for You and to be busy in service to Your kingdom. During this day, help us to rejoice and be glad in it.

We invoke Your blessings within the walls of this legislature. May each Congressperson receive the freshness of Your spirit in everything that is done today in these Chambers. The problems of our selfish world are many, and these elected "of the people and by the people," but chosen by You, must face and deal with those burdens. Unless You are in the mind of everyoe here, they labor in vain, those who deliberate here. Let every Member of this august assembly be filled with the consciousness of You and the power of Your spirit until peace like the calm waves of crystal clear rivers attend the way of every boy, every girl, every man, and every woman in this Nation.

Help them to recognize that the laws enacted here will affect the lives of thousands of Your people yet unborn.

Bless the conditions of the human race wherever they are found. Where there is strife, sow peace; where there is hatred, sow love; where there is hunger, sow food; where there is war, let them turn their warring instruments into plowshares.

When we have come to the end of life's tenure and old death prohibits our seeking another term, give us the satisfaction of knowing that we have served our generation well and are then ready to fall asleep.

This is today's prayer that we pray in the precious name of You, our Father.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. GUNDERSON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. GUNDERSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 275, nays 126, not voting 31, as follows:

[Roll No. 384]

YEAS—275

Ackerman	Cooper	Gray
Alexander	Costello	Green
Anderson	Coyne	Guarini
Andrews	Darden	Gunderson
Annunzio	de la Garza	Hall (TX)
Anthony	DeFazio	Hamilton
Applegate	Dellums	Hammerschmidt
Archer	Derrick	Harris
Aspin	Dicks	Hatcher
Atkins	Dingell	Hawkins
AuCoin	Donnelly	Hayes (IL)
Barnard	Dorgan (ND)	Hayes (LA)
Bartlett	Downey	Hefner
Bateman	Duncan	Hertel
Bates	Durbin	Hoagland
Beilenson	Dwyer	Hochbrueckner
Bennett	Dymally	Horton
Bevill	Dyson	Houghton
Bilbray	Early	Hoyer
Boggs	Eckart	Hubbard
Bonior	Edwards (CA)	Huckaby
Borski	Engel	Hughes
Bosco	English	Hutto
Boxer	Erdreich	Jenkins
Brennan	Espy	Johnson (CT)
Brooks	Evans	Johnson (SD)
Broomfield	Fascell	Johnston
Browder	Fazio	Jones (GA)
Brown (CA)	Feighan	Jones (NC)
Bruce	Flake	Jontz
Bryant	Flippo	Kanjorski
Bustamante	Foglietta	Kaptur
Byron	Frank	Kasich
Campbell (CO)	Frost	Kastenmeier
Cardin	Gaydos	Kennedy
Carper	Gejdenson	Kennelly
Carr	Gephardt	Kildee
Clarke	Geren	Kleczka
Clement	Gibbons	Kolter
Clinger	Gillmor	Kostmayer
Coleman (TX)	Gilman	LaFalce
Collins	Glickman	Lancaster
Combest	Gonzalez	Lantos
Condit	Gordon	Laughlin
Conte	Gradison	Lehman (CA)
Conyers	Grant	Lehman (FL)
Lent	Pallone	Slattery
Levin (MI)	Panetta	Slaughter (NY)
Levine (CA)	Parker	Smith (FL)
Lewis (GA)	Patterson	Smith (IA)
Lipinski	Payne (NJ)	Smith (NE)
Lloyd	Payne (VA)	Smith (NJ)
Long	Pease	Smith (VT)
Lowey (NY)	Pelosi	Spratt
Luken, Thomas	Penny	Staggers
Manton	Perkins	Stallings
Markey	Petri	Stark
Martinez	Pickett	Stenholm
Matsui	Pickle	Stokes
Mavroules	Poshard	Studds
Mazzoli	Price	Synar
McCloskey	Rahall	Tallon
McCollum	Ravenel	Tanner
McCurdy	Ray	Tauzin
McDade	Rinaldo	Taylor
McDermott	Robinson	Thomas (GA)
McHugh	Roe	Torres
McMillen (MD)	Rose	Torricelli
McNulty	Rostenkowski	Towns
Miller (CA)	Roth	Traficant
Mineta	Rowland (GA)	Traxler
Moakley	Roybal	Udall
Mollohan	Russo	Unsoeld
Montgomery	Sabo	Valentine
Moody	Sangmeister	Vander Jagt
Morrison (CT)	Sarpalius	Vento
Mrazek	Savage	Visclosky
Murtha	Sawyer	Volkmer
Myers	Scheuer	Walgren
Nagle	Schiff	Washington
Natcher	Schneider	Watkins
Neal (MA)	Schulze	Waxman
Nelson	Schumer	Weiss
Nowak	Serrano	Wheat
Oakar	Sharp	Whitten
Oberstar	Shaw	Wise
Obey	Shumway	Wolpe
Olin	Shuster	Wyden
Ortiz	Sisisky	Wylie
Owens (NY)	Skaggs	Yates
Owens (UT)	Skeen	Yatron
Packard	Skelton	

NAYS—126

Armey	Goss	Miller (WA)
Baker	Grandy	Moorhead
Ballenger	Hancock	Morella
Barton	Hansen	Murphy
Bereuter	Hastert	Nielson
Bilirakis	Hefley	Oxley
Bliley	Henry	Parris
Boehlert	Herger	Pashayan
Brown (CO)	Hiler	Paxon
Buechner	Holloway	Porter
Bunning	Hopkins	Pursell
Burton	Hyde	Quillen
Callahan	Inhofe	Regula
Campbell (CA)	Ireland	Rhodes
Chandler	Jacobs	Ridge
Coble	James	Roberts
Coleman (MO)	Kolbe	Rogers
Coughlin	Kyl	Rohrabacher
Courter	Lagomarsino	Ros-Lehtinen
Cox	Leach (IA)	Roukema
Craig	Lewis (CA)	Saiki
Davis	Lewis (FL)	Saxton
DeLay	Lightfoot	Schaefer
Dickinson	Livingston	Schroeder
Dornan (CA)	Lukens, Donald	Schuette
Douglas	Machtley	Sensenbrenner
Dreier	Madigan	Shays
Edwards (OK)	Marlenee	Sikorski
Emerson	Martin (NY)	Slaughter (VA)
Fawell	McCandless	Smith (TX)
Fields	McCrery	Smith, Denny (OR)
Frenzel	McEwen	
Gallegly	McGrath	Smith, Robert (NH)
Gallo	McMillan (NC)	
Gekas	Meyers	Smith, Robert (OR)
Gingrich	Michel	
Goodling	Miller (OH)	Snowe

Solomon	Tauke	Walsh
Spence	Thomas (CA)	Weber
Stangeland	Thomas (WY)	Weldon
Stearns	Upton	Whittaker
Stump	Vucanovich	Wolf
Sundquist	Walker	Young (FL)

NOT VOTING—31

Bentley	Ford (MI)	Rangel
Berman	Ford (TN)	Richardson
Boucher	Hall (OH)	Ritter
Chapman	Hunter	Rowland (CT)
Clay	Leath (TX)	Solarz
Crane	Lowery (CA)	Swift
Crockett	Martin (IL)	Williams
Dannemeyer	Mfume	Wilson
DeWine	Molinari	Young (AK)
Dixon	Morrison (WA)	
Fish	Neal (NC)	

□ 1026

Mr. CARR changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from California [Mr. MINETA] please lead the House in the Pledge of Allegiance?

Mr. MINETA led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3657. An act to amend the Securities Exchange Act of 1934 to provide additional authorities to the Securities and Exchange Commission to prevent disruptions to the Nation's securities markets.

The message also announced that the Senate has passed a bill of the following title, in which the concurrence of the House is requested:

S. 677. An act to amend the Arctic Research and Policy Act of 1984 to improve and clarify its provisions.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT TODAY DURING 5-MINUTE RULE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to meet today in executive session during the time that the House is meeting under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. WALKER. Mr. Speaker, reserving the right, and I shall not object, but I would like to take the time to find out exactly where we stand with regard to the schedule.

The rumor is rampant on the House floor that we are not going to take up the continuing resolution today. This Member has some concerns about that because it does delay the schedule. If we are not going to bring up the continuing resolution until tomorrow, then I think the membership needs to understand, from everything I calculate, that we will probably be here on Sunday, and begin to calculate accordingly.

Mr. Speaker, could the gentleman in the chair or someone, the Speaker, tell us what the schedule is, what the likelihood is that we would end up with a Sunday schedule?

The SPEAKER. Will the gentleman from Pennsylvania [Mr. WALKER] yield to the gentleman from Missouri [Mr. GEPHARDT], the majority leader?

Mr. WALKER. Mr. Speaker, I would be glad to yield to the majority leader.

Mr. GEPHARDT. Mr. Speaker, I would say to the gentleman and to the Members that our intent is to have the continuing appropriation on the floor tomorrow. The negotiation is continuing today in the budget summit. We are still hopeful that an agreement can be reached sometime today. If it can, that obviously will clear a lot of air on the proceedings that need to come after that. If we cannot, again, we will have the vote on the continuing tomorrow, and I would say to Members that in either event it could be that you will be required to be here on Sunday.

As all the Members know, there is a Jewish holiday which starts Friday evening at sundown and goes until Saturday evening. We will not be meeting during those times.

On Friday we will want to leave in time so that Members can travel to their home districts, but we could be back on Sunday. I hope we will not, but we could.

□ 1030

Mr. WALKER. Further reserving the right to object, Mr. Speaker, the only thing I am focusing on is, if we do not take it up until Thursday, the Senate is likely not to be able to act even on the same day that we take it up. That would leave them to probably take up the CR on Friday. They are not necessarily totally cooperative on continuing resolutions, and that would mean that the President, at the earliest, would get the bill on Friday, or perhaps Saturday, which means that, with the veto of the bill, which is a likelihood in its present form, that, if we have any hope at all of settling this matter before the Federal employees are laid off, we have to be here on Sunday.

Mr. Speaker, if that is really the scenario, then I think the Members ought to have more than an indication that this may be the case. It seems to me we ought to be able to start planning in that direction.

Mr. Speaker, what is the gentleman indicating?

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, there is no way to predict with certainty now whether or not there will be a session on Sunday. I am saying to Members there may be, and so our plans are going to have to be structured so we will be here if we need to be.

The Senate, the other body, I am told, is prepared to act expeditiously on this continuing resolution tomorrow, and I think it obviously can be done in the time that we have.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Missouri.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I make the point that we all honor the Jewish high holiday that is coming up, but there are a number of people who are active on Sundays with religious activities, and it just seems to me that we ought to consider that as well.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, we are certainly sensitive to that as well, and we obviously would not have a session that would start in the morning. Most people who have religious observances on that day will be finished by noon or 1 o'clock. I can assure the Members it will not be until after that.

Mr. BURTON of Indiana. Mr. Speaker, if I might continue, I do not know whether the gentleman from Missouri [Mr. GEPHARDT] is conversant with all religious activities, but they do not all end at 11 or 12 o'clock on Sunday. Some are in the afternoon, or in the evening as well.

Mr. PEASE. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. PEASE. Mr. Speaker, I would just ask for some clarification by the majority leader.

The schedules that we have seen this month have all shown no session on Friday. I am certainly prepared to be here on Friday, but something which the gentleman said a moment ago suggested that we might be here part of the day on Friday.

Mr. Speaker, could the gentleman from Missouri [Mr. GEPHARDT] clarify whether that is possible or not?

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I yield to the majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, we have this work, and obviously it has to be completed. We are going to use every available hour between now and Monday to get it done. If Friday morning is necessary to help us get it done, we will ask the Members to be here on Friday morning. We will try to get them out of here in time, again, for Members to get back to their home districts in time for the observance of the holiday.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONFERENCE REPORT ON S. 2104, CIVIL RIGHTS ACT OF 1990

Mr. HAWKINS submitted the following conference report and statement on the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-755)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in a series of recent decisions addressing employment discrimination claims under Federal law, the Supreme Court cut back dramatically on the scope and effectiveness of civil rights protections; and

(2) existing protections and remedies under Federal law are not adequate to deter unlawful discrimination or to compensate victims of such discrimination.

(b) PURPOSES.—The purposes of this Act are to—

(1) respond to the Supreme Court's recent decisions by restoring the civil rights protections that were dramatically limited by those decisions; and

(2) strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence and adequate compensation for victims of discrimination.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'group of employment practices' means a combination of employment practices that produces one or more decisions with respect to employment, employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.

"(o)(1) The term 'required by business necessity' means—

"(A) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization), the practice or group of practices must bear a significant relationship to successful performance of the job; or

"(B) in the case of employment practices that do not involve selection, the practice or group of practices must bear a significant relationship to a significant business objective of the employer.

"(2) In deciding whether the standards in paragraph (1) for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The defendant may offer as evidence statistical reports, validation studies, expert testimony, prior successful experience and other evidence as permitted by the Federal Rules of Evidence, and the court shall give such weight, if any, to such evidence as is appropriate.

"(3) The definition provided in this subsection is meant to codify the meaning of 'business necessity' as used in Griggs v. Duke Power Co. (401 U.S. 424 (1971)) and to overrule the treatment of business necessity as a defense in Wards Cove Packing Co., Inc. v. Atonio (109 S. Ct. 2115 (1989)).

"(p) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof).".

SEC. 4. RESTORING THE BURDEN OF PROOF IN DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—(1) An unlawful employment practice based on disparate impact is established under this section when—

"(A) a complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity; or

"(B) a complaining party demonstrates that a group of employment practices results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such group of employment practices is required by business necessity, except that—

"(i) except as provided in clause (iii), if a complaining party demonstrates that a group of employment practices results in a disparate impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact;

"(ii) if the respondent demonstrates that a specific employment practice within such group of employment practices does not contribute to the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity; and

"(iii) if the court finds that the complaining party can identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practice or practices contributed to the disparate impact—

"(I) the complaining party shall be required to demonstrate which specific practice or practices contributed to the disparate impact; and

"(II) the respondent shall be required to demonstrate business necessity only as to the specific practice or practices demonstrated by the complaining party to have contributed to the disparate impact;

except that an employment practice or group of employment practices demonstrated to be required by business necessity shall be unlawful where a complaining party demonstrates that a different employment practice or group of employment practices with less disparate impact would serve the respondent as well.

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this subsection.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in Schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of the race, color, religion, sex, or national origin.

"(4) The mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.".

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(l) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor for any employment practice, even though other factors also contributed to such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(l), if the respondent establishes that

it would have taken the same action in the absence of any discrimination. In any case in which a violation is established under section 703(l), damages may be awarded only for injury that is attributable to the unlawful employment practice".

SEC. 6. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 4 and 5) is further amended by adding at the end thereof the following new subsection:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—(1) Notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who, prior to the entry of such judgment or order, had—

"(i) actual notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or order might affect the interests of such person and that an opportunity was available to present objections to such judgment or order; and

"(ii) a reasonable opportunity to present objections to such judgment or order;

"(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order; or

"(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons.

A determination under subparagraph (C) shall be made prior to the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which they intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government;

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

"(D) authorize or permit the denial to any person of the due process of law required by the United States Constitution.

"(3) Any action, not precluded under this subsection, that challenges an employment practice that implements and is within the scope of a litigated or consent judgment or order of the type referred to in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 7. STATUTE OF LIMITATIONS; APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.

(a) STATUTE OF LIMITATIONS.—Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by striking out "one hundred and eighty days" and inserting in lieu thereof "2 years";

(2) by inserting after "occurred" the first time it appears "or has been applied to affect adversely the person aggrieved, whichever is later,";

(3) by striking out ", except that in" and inserting in lieu thereof ". In"; and

(4) by striking out "such charge shall be filed" and all that follows through "whichever is earlier, and".

(b) APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.—Section 703(h) of such Act (42 U.S.C. 2000e-2) is amended by inserting after the first sentence the following new sentence: "Where a seniority system or seniority practice is part of a collective bargaining agreement and such system or practice was included in such agreement with the intent to discriminate on the basis of race, color, religion, sex, or national origin, the application of such system or practice during the period that such collective bargaining agreement is in effect shall be an unlawful employment practice.".

SEC. 8. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

(a) DAMAGES.—Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "With respect to an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k)) or in the case of an unlawful employment practice under the Americans With Disabilities Act of 1990 (other than an unlawful employment practice established in accordance with paragraph (3)(A) or paragraph (6) of section 102 of that Act as it relates to standards and criteria that tend to screen out individuals with disabilities)—

"(A) compensatory damages may be awarded; and

"(B) if the respondent (other than a government, government agency, or a political subdivision) engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others, punitive damages may be awarded against such respondent;

in addition to the relief authorized by the preceding sentences of this subsection, except that compensatory damages shall not include backpay or any interest thereon. Compensatory and punitive damages and jury trials shall be available only for claims of intentional discrimination. If compensatory or punitive damages are sought with respect to a claim of intentional discrimination arising under this title, any party may demand a trial by jury.".

(b) LIMITATION ON PUNITIVE DAMAGES.—Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) The amount of punitive damages that may be awarded under paragraph (1)(B) to an individual against a respondent shall not exceed—

"(A) $150,000; or

"(B) an amount equal to the sum of compensatory damages awarded under paragraph (1)(A) and equitable monetary relief awarded under paragraph (1);

whichever is greater.".

SEC. 9. CLARIFYING ATTORNEY'S FEES PROVISION.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended—

(1) by inserting "(1)" after "(k)";

(2) by inserting "(including expert fees and other litigation expenses) and" after "attorney's fee,";

(3) by striking out "as part of the"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) No consent order or judgment settling a claim under this title shall be entered, and no stipulation of dismissal of a claim under this title shall be effective, unless the parties or their counsel attest to the court that a waiver of all or substantially all attorney's fees was not compelled as a condition of the settlement.

"(3) In any action or proceeding in which any judgment or order granting relief under this title is challenged, the court, in its discretion, may allow the prevailing party in the original action (other than the Commission or the United States) to recover from the party against whom relief was granted in the original action a reasonable attorney's fee (including expert fees and other litigation expenses) and costs reasonably incurred in defending (as a party, intervenor or otherwise) such judgment or order.".

SEC. 10. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving nonpublic parties, except that prejudgment interest may not be awarded on compensatory damages".

SEC. 11. CONSTRUCTION.

Title XI of the Civil Rights Act of 1964 (42 U.S.C. 2000h et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1107. RULES OF CONSTRUCTION FOR CIVIL RIGHTS LAWS.

"(a) EFFECTUATION OF PURPOSE.—All Federal laws protecting the civil rights of persons shall be interpreted consistent with the intent of such laws, and shall be broadly construed to effectuate the purpose of such laws to provide equal opportunity and provide effective remedies.

"(b) NONLIMITATION.—Except as expressly provided, no Federal law protecting the civil rights of persons shall be construed to repeal or amend by implication any other Federal law protecting such civil rights.

"(c) INTERPRETATION.—In interpreting Federal civil rights laws, including laws protecting against discrimination on the basis of race, color, religion, sex, national origin, age, and disability, courts and administrative agencies shall not rely on the amendments made by the Civil Rights Act of 1990 as a basis for limiting the theories of liability, rights, and remedies available under civil rights laws not expressly amended by such Act.".

SEC. 12. RESTORING PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of State law.".

SEC. 13. LAWFUL COURT-ORDERED REMEDIES, AFFIRMATIVE ACTION AND CONCILIATION AGREEMENTS NOT AFFECTED.

Nothing in the amendments made by this Act shall be construed to require an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin: Provided, however, That nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are otherwise in accordance with the law.

SEC. 14. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 15. APPLICATION OF AMENDMENTS AND TRANSITION RULES.

(a) APPLICATION OF AMENDMENTS.—The amendments made by—

(1) section 4 shall apply to all proceedings pending on or commenced after June 5, 1989;

(2) section 5 shall apply to all proceedings pending on or commenced after May 1, 1989;

(3) section 6 shall apply to all proceedings pending on or commenced after June 12, 1989;

(4) sections 7(a)(1), 7(a)(3) and 7(a)(4), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

(5) section 7(a)(2) shall apply to all proceedings pending on or commenced after June 12, 1989; and

(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

(b) TRANSITION RULES.—

(1) IN GENERAL.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by sections 4, 5, 7(a)(2), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.

(2) SECTION 6.—Any orders entered between June 12, 1989 and the date of enactment of this Act, that permit a challenge to an employment practice that implements a litigated or consent judgment or order and that is inconsistent with the amendment made by section 6, shall be vacated if, not later than 6 months after the date of enactment of this Act, a request for such relief is made. For the 1-year period beginning on the date of enactment of this Act, an individual whose challenge to an employment practice that implements a litigated or consent judgment or order is denied under the amendment made by section 6, or whose order or relief obtained under such challenge is vacated under such section, shall have the same right of intervention in the case in which the challenged litigated or consent judgment or order was entered as that individual had on June 12, 1989.

(3) FINAL JUDGMENTS.—Pursuant to paragraphs (1) and (2), any final judgment entered prior to the date of the enactment of this Act as to which the rights of any of the parties thereto have become fixed and vested, where the time for seeking further judicial review of such judgment has otherwise expired pursuant to title 28 of the United States Code, the Federal Rules of Civil Procedure, and the Federal Rules of Appellate Procedure, shall be vacated in whole or in part if justice requires pursuant to rule 60(b)(6) of the Federal Rules of Civil Procedure or other appropriate authority, and consistent with the constitutional requirements of due process of law.

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by sections 4, 5, 7(a)(2), or 12.

SEC. 16. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) COMMITMENT TO RULE XLII.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate which provides as follows:

"No member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment;

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

(2) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to this Act, the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(3) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in paragraph (2), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(4) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to in paragraph (2).

(5) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in paragraph (2), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by the Acts referred to in paragraph (2). Such remedies shall apply exclusively.

(6) MATTERS OTHER THAN EMPLOYMENT.—

(A) IN GENERAL.—The rights and protections under the Americans with Disabilities Act of 1990 shall, subject to subparagraph (B), apply with respect to the conduct of the Senate regarding matters other than employment.

(B) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to subparagraph (A). Such remedies and procedures shall apply exclusively, after approval in accordance with subparagraph (C).

(C) PROPOSED REMEDIES AND PROCEDURES.—For purposes of subparagraph (B), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration.

(7) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraphs (2) and (6)(A) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (1), (3), (4), (5), (6)(B), and (6)(C) are enacted by the Senate as an exercise of the rule-making power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any provision of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or of other law, the purposes of such title shall, subject to paragraphs (2) and (3), apply in their entirety to the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under this Act and title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to paragraph (2), apply

with respect to the conduct of each instrumentality of the Congress.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), subject to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the following: the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Office of Technology Assessment, and the United States Botanic Garden.

(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals protected under section 717 of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16).

SEC. 17. OTHER STATUTE OF LIMITATIONS; NOTICE OF LIMITATIONS PERIOD.

(a) CHARGE FILING LIMITATION PERIOD.—Section 7(d) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(d)) is amended—

(1) in paragraph (1)—

(A) by striking out "180 days" and inserting in lieu thereof "2 years"; and

(B) by inserting "or has been applied to affect adversely the person aggrieved, whichever is later" after "occurred"; and

(2) in paragraph (2), by striking out "within 300 days" and all that follows through "whichever is earlier" and inserting in lieu thereof "a copy of such charge shall be filed by the Commission with the State agency".

(b) NOTICE OF LIMITATIONS PERIOD FOR FILING SUIT.—Section 7(e) of such Act (29 U.S.C. 626(e)) is amended—

(1) by striking out paragraph (2);

(2) by striking out the paragraph designation in paragraph (1);

(3) by striking out "Sections 6 and" and inserting "Section"; and

(4) by adding at the end thereof the following: "If a charge filed with the Commission is dismissed or the Commission's proceedings are otherwise terminated by the Commission, the Commission shall so notify the individual referred to in subsection (d) and such individual may bring an action against the respondent named in the charge at any time after 60 days from the time the charge was timely filed until the expiration of 90 days after the receipt of the notice provided under this subsection.".

SEC. 18. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under the Acts amended by this Act.

And the House agree to the same.

From the Committee on Education and Labor:

AUGUSTUS F. HAWKINS,
M.G. MARTINEZ,
PAT WILLIAMS,
CRAIG A. WASHINGTON,
JAIME B. FUSTER,
KWEISI MFUME,

From the Committee on the Judiciary:

JACK BROOKS,
DON EDWARDS,
BOB KASTENMEIER,
JOHN CONYERS,
PAT SCHROEDER,
GEO. W. CROCKETT, Jr.,
HAMILTON FISH, Jr.

Managers on the Part of the House.

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
PAUL SIMON,
BARBARA A. MIKULSKI,
JAMES M. JEFFORDS,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. PURPOSES

The Senate bill and the House Amendment use different grammar in describing the purposes of the Act.

The Senate recedes.

2. BUSINESS NECESSITY

The House Amendment, but not the Senate Bill, specifies that this subsection is meant to overturn the treatment of business necessity as defined in *Wards Cove* v. *Atonio.*

The Senate recedes with an amendment. The Senate amendment clarifies that the definition of "required by business necessity" is meant to overturn *Wards Cove.*

3. GROUP OF EMPLOYMENT PRACTICES

The Senate Bill and the House Amendment use different grammar.

The Senate recedes.

4. LESS DISCRIMINATORY ALTERNATIVE

The House Amendment, but not the Senate Bill, specifies that an employment practice or group of employment practices demonstrated to be required by business necessity shall be unlawful where a complaining party demonstrates that a different employment practice or group of employment practices with less disparate impact would serve the respondent as well.

The Senate recedes. The final clause of Subsection 703(k)(1) codifies the law before *Wards Cove* v. *Atonio*, 109 S.Ct. 2115 (1989), with regard to the "less discriminatory alternative" doctrine and makes the bill's treatment of disparate impact claims complete. It clarifies that, if a defendant demonstrates that a practice or group of practices is required by business necessity, a plaintiff can still prevail by showing that other practices with less disparate impact would serve the respondent as well. By demonstrating that a less discriminatory alternative exists, the plaintiff has succeeded in rebutting the employer's contention that business necessity has required its reliance on the particular practice or group of practices which resulted in a disparate impact on the basis of race, color, religion, sex or national origin.

The Supreme Court announced this doctrine in *Albemarle Paper Co.* v. *Moody*, 422 U.S. 405, 425 (1975), where it held that:

If an employer does then meet the burden of proving that its tests are "job-related", it remains open to the complaining party to show that other tests or selection devices, without a similarly undesirable racial effect, would also serve the employer's legitimate interest in "efficient and trustworthy workmanship."

Since the Court's holding in *Albemarle*, the demonstration of a "less discriminatory alternative" has been consistently viewed as the final stage in determining whether an employment practice or group of practices has led to unlawful discrimination. This stage, however, is only reached after the respondent has succeeded in demonstrating business necessity.

Subsection 703(k)(1) thus makes clear that there are three stages of analysis in disparate impact cases. First, the plaintiff has the initial burden of demonstrating the discriminatory impact of the practice or group of practices being challenged. Second, if the plaintiff makes this showing, the defendant must demonstrate that the practice is required by business necessity to overcome a determination that the practice is unlawful. Finally, if the defendant meets this burden of demonstrating business necessity, the plaintiff may still prevail by showing that other practices with less disparate impact would serve the respondent as well. This test governed before the decision in *Wards Cove* and is restored by this legislation.

5. MERE EXISTENCE OF A STATISTICAL IMBALANCE

The House Amendment, but not the Senate Bill, specifies that the mere existence of a statistical inbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.

The Senate recedes. The Conferees note that this section is not intended to change the existing test of proving disparate impact. Subsection 703(k)(4) reaffirms that the mere existence of a statistical imbalance in an employer's workforce is not alone sufficient to establish a prima facie case of disparate impact violation.

A plaintiff cannot establish a prima facie case of disparate impact merely by showing that an employer had a smaller proportion of minority or women employees than existed in the population as a whole.[1]

[1] In fact Section 703(j) of Title VII, 42 U.S.C. 2000e-2(j), specifically prohibits an interpretation of Title VII which would require preferential treatment of an individual because of a statistical imbalance between the number or percentage of persons of any race, color, religion, sex or national origin employed in a particular position as compared to the number or percentage of persons in the community as a whole.

In order to establish a prima facie case, the plaintiff must show that a specific employment practice, or group or combination of practices, results in a disparate impact. This provision reaffirms the case law that has been in place since *Griggs*; what constitutes disparate impact remains unchanged.

The Court in *Wards Cove* adopted a consistent view of what a plaintiff must show to establish a prima facie case. Under the majority opinion, a low percentage of minorities or women in a particular job is not by itself, without more, sufficient to establish a prima facie case. The Court held that "the proper comparison [is] between the racial composition of [the at-issue jobs] and the racial composition of the qualified population in the relevant labor market." *Wards Cove*, 109 S.Ct. at 2121, quoting *Hazelwood School Dist.* v. *U.S.*, 433 U.S. 299, 307-08 (1977). In *Wards Cove*, the Court noted that for relatively unskilled jobs, general population figures may be appropriate, but the plaintiff would have to prove that the jobs at issue were in fact unskilled. Depending on the circumstances it may be more appropriate for the court to look to the proportion of applicants who were minorities or women.

Thus, statistics may still be used to make a prima facie case of disparate impact. Indeed, such cases usually rely on statistics. But statistics must meet the requirements of the law. A mere statistical imbalance, without more, will not suffice to establish a prima facie case. The relevant comparison is between the qualified labor pool and the group actually selected. Simple reference to the population at large will generally be insufficient.

6. FEDERAL GOVERNMENT REPRESENTATION

The Senate Bill and the House Amendment contain a typographical difference.

The Senate recedes.

7. DAMAGES SUBSECTION

The House Amendment, but not the Senate Bill, creates subsections within this section.

The Senate recedes.

8. DAMAGES UNDER THE AMERICANS WITH DISABILITIES ACT

The Senate Bill and the House Amendment use different grammar and different placement of parentheses.

The Senate recedes. The Conference Committee intends that the disparate impact provisions of the Americans with Disabilities Act (ADA) shall be interpreted consistently with Title VIII as amended by this Act. This was the intent of Congress in passing the ADA, as reflected in reports from Committees in both the Senate and the House of Representatives. *See, e.g.*, Report of the Senate Committee on Labor and Human Resources, 101st Cong., 1st Sess., S. Rpt. 101-116, at 38 ("Senate Report") (noting that the ADA should be construed consistently with case law prior to the Supreme Court decision in *Wards Cove* on June 4, 1989); Report of the House Committee on the Judiciary, 101st Cong., 2nd Sess., H. Rpt. 101-485, Part 3, at 42, n. 32 (citing *Prewitt* v. *U.S. Postal Service*, 662 F.2d 292, 306-308 (5th Cir. 1981) as defining burden of proof under the ADA). The legislative history on disparate impact under the ADA is thus consistent with the amendments to Title VII contained in this Act. Specifically, the terms "demonstrate" and "required by business necessity" in this Act should be applied consistently to the ADA.

The other sections of this Act should also be applied consistently to the ADA. Section 5 of this Act, providing that an unlawful employment practice is established when a plaintiff demonstrates that a protected class status was a motivating factor of an employment practice, is the standard already adopted under ADA. *See, e.g.*, Senate Report, at 45; Report of the House Committee on Education and Labor, 101st Cong., 2nd Sess., H. Rpt. 101-485, Part 2, at 85-86. Sections 7, 8 and 9 of this Act, which amend Section 706 of Title VII, are explicitly incorporated into the ADA through Section 107(a) of that Act. There was apprehension on the part of some Members that section 8, if applied literally, would authorize compensatory and punitive damages for all cases of discrimination under the ADA, including cases of disparate impact. To alleviate that concern, the Act was amended to state explicitly that damages would be available under the ADA for all cases *other* than for those of disparate impact. (Causes of action for disparate impact are explicitly referenced in section 102(b)(3)(A) and part of section 102(b)(6) of the ADA and therefore those sections are cited in the provision in this Act. Of course, to the extent a court reads a disparate impact cause of action into some other section of the ADA, damages would also not be available for that disparate impact claim). Because similar possible misunderstandings did not exist with regard to sections 7 and 9, no explicit reference to the ADA was necessary in those sections. The modifications to Title VII made in those sections would apply directly to the ADA as a result of the cross-reference in section 107(a).

9. CAP ON PUNITIVE DAMAGES

The House Amendment, but not the Senate Bill, specifies that for respondents employing fewer than 100 employees, punitive damages under the Act are limited to $150,000 or an amount equal to the sum of compensatory damages and equitable monetary relief, whichever is greater.

The Senate recedes with an amendment. The Senate amendment makes the limitation on punitive damages applicable to all respondents covered by Title VII of the Civil Rights Act of 1964. Under the Senate amendment, the amount of punitive damages awarded to an individual under the Act shall not exceed the greater of $150,000 or the amount awarded to such individual in compensatory damages and including backpay.

The Conferees note that as used in Section 8, the term "government, government agency, or a political subdivision" includes the Federal government. Thus, punitive damages are not available against the Federal government.

10. INTEREST PAYMENTS BY NONPUBLIC PARTIES

The Senate Bill and the House Amendment contain a typographical difference.

The Senate recedes.

11. FINAL JUDGMENTS

The House Amendment, but not the Senate Bill, specifies that any final judgment entered prior to the date of the enactment of this Act as to which the rights of any of the parties thereto have become fixed and vested, where the time for seeking further judicial review of such judgment has otherwise expired pursuant to title 28 of the United States Code, the Federal Rules of Civil Procedure, and the Federal Rules of Appellate Procedure, shall be vacated in whole or in part if justice requires pursuant to rule 60(b)(6) of the Federal Rules of Civil Procedure or other appropriate authority, and consistent with the constitutional requirements of due process of law.

The Senate recedes. The Senate Bill requires Federal courts, upon request, to vacate all orders and judgments which are inconsistent with certain provisions of the legislation. The Senate Bill mandates such action regardless of whether the case is pending or appealable on the date of enactment or has resulted in the entry of final judgment as to which the time for appeal has run. In contrast, the House Amendment is permissive rather than mandatory with regard to the reopening of final, unappealable judgments, and provides standards to guide Federal courts in deciding whether such judgments should be reopened. The House Amendment adopts the long-standing Federal procedure which allows courts to reopen final judgments only upon a finding that justice so requires.

The House Amendment specifically references the standard set forth in Rule 60(b) of the Federal Rules of Civil Procedure for reopening final orders and judgments. That rule allows Federal courts to reopen closed cases for a number of reasons, including "any . . . reason justifying relief from the operation of the judgment." Under Rule 60(b)(6), Federal courts have broad discretionary power "to vacate judgments whenever such action is appropriate to accomplish justice." *Klapprott* v. *United States*, 335 U.S. 601 614-15 (1949); *see also First American National Bank of Nashville* v. *Bonded Elevator, Inc.*, 111 F.R.D. 74, 75 (W.D. Ky. 1986) (rule requires "a judicial balancing of the need for finality and the need to do justice in the individual case"); *United States* v. *McDonald*, 86 F.R.D. 204, 208 (N.D. Ill. 1980) (rule allowing relief from judgment is to be liberally applied to accomplish justice). Consistent with that rule, the House Amendment permits Federal courts to reopen final judgments only "if justice requires," and only if such action would be "consistent with the constitutional requirements of due process of law."

Notably, existing case law suggests that final judgments may be reopened where strong public interests are present. *See Pension Benefit Guaranty Corporation* v. *R.A. Gray & Co.*, 467 U.S. 717, 729-30 (1984) (legislation that "readjust[s] rights and burdens is not unlawful solely because it upsets otherwise settled expectations. . . . This is true even though the effect of the legislation is to impose a new duty or liability based on past acts"); *New England Power Company* v. *United States*, 693 F.2d 239, 245 (1st Cir. 1982) (in resolving questions involving the retroactive application of legislation, "the disappointment of private expectations that results from the implementation of a new rule must be balanced against public interest in the enforcement of that rule"). The balancing of affected interests may weigh particularly strongly in favor of reopening such judgments where the legislation is restorative in purpose.

The Supreme Court decisions overturned by this bill repudiated well-settled case law which protected American workers against employment discrimination. In the past year, hundreds of discrimination victims have had their claims dismissed, or their rights and remedies otherwise impaired, as a direct result of the application of these decisions. Both the Senate Bill and the House Amendment provide for the application of this legislation to claims which are pending (or as to which the time for appeal has not yet run) on the date of enactment. Nevertheless, other claims may have been re-

solved by the entry of a final judgment as to which the time for appeal has run prior to the date of enactment. This latter group of claims may only be revived by a mechanism such as that provided by Rule 60(b)(6). Unlike the Senate Bill, the House Amendment permits courts to make use of such a mechanism with regard to these claims where justice so requires, without dictating the result in particular cases. *See United States* v. *Sioux Nation of Indians*, 448 U.S. 371, 406-07 (1980) (legislation which allows courts to reexamine fully litigated disputes, without dictating the outcome of particular cases, does not violate the separation of powers doctrine); *Tonya K.* v. *Board of Education of Chicago*, 847 F.2d 1243, 1247 (7th Cir. 1988) (Congress may alter or restore a rule of law provided that it leaves to the courts the application of the rule to the facts of particular cases).

12. CONGRESSIONAL COVERAGE

The Senate Bill and the House Amendment contain different provisions for Congressional coverage.

The Senate Bill amends Title VII to apply its provisions to Congress, and each House of Congress shall determine its enforcement mechanism.

The House Amendment applies the rights and protections of Title VII to employees of the House, and administers these rights and protections through the Fair Employment Practices Resolution.

The House recedes to the Senate on coverage of the Senate with an amendment. The Senate recedes to the House on coverage of the House. The Conferees note that the provision adopted by the Conference is very similar to the provision enacted as part of the Americans with Disabilities Act, 42 U.S.C. § 12209, and should be interpreted consistent with that Act.

13. AGE DISCRIMINATION IN EMPLOYMENT ACT

The House Amendment, but not the Senate Bill, amends the Age Discrimination in Employment Act to provide the same 2-year limitations period for filing charges as is provided for Title VII charges under the legislation.

The Senate recedes with an amendment. Section 17 adds a conforming amendment to the Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 *et seq.* to make a similar change in the statute of limitations in that Act.

Although the statute of limitations provisions under Title VII and the ADEA are not identical, their overall scheme, especially with regard to their charge-filing requirements, is very similar. Because of the similarities between the statutes, the courts have routinely looked to Title VII precedents in interpreting corresponding provisions of the ADEA. Thus, there is a danger that *Lorance* will be applied under the ADEA, if the statute of limitations is changed in Title VII but not in the ADEA.

Further, some of the differences between the Title VII and ADEA charge-filing and litigation limitations provisions have led to substantial confusion among persons alleging discrimination on the basis of age, or under the ADEA and Title VII together. Two differences in particular have caused serious problems.

First, unlike Title VII, which sets a limitations period only for filing charges, the ADEA imposes time limits both for filing charges and for initiating lawsuits. The limitations period for filing an administrative charge alleging discrimination is the same as in Title VII but, unlike Title VII, ADEA claimants must file their court case within two years of the discriminatory act, regardless of whether the administrative agency has acted.

Second, Title VII specifically directs the EEOC to provide complainants with affirmative notice of their "right to sue" upon the occurrence of certain events. The ADEA does not impose this notice requirement.

As a result of these differences, many age discrimination victims lost their rights to go to court, because they were unaware of the ADEA's time limitations for filing a lawsuit, and received no notice from the EEOC that they could—in fact, must—file suit by certain dates. These differences between Title VII and the ADEA have resulted in confusion, which may be exacerbated by the changes made in Section 7 of this Act.

To avoid future confusion, this section eliminates the ADEA's dual limitations scheme for filing charges and initiating litigation, replacing it with the single 2-year charge-filing requirement that Section 7 proposes for Title VII. ADEA claimants will retain their historical right to go directly into court after filing a charge. As in Section 7, the time period for filing an age discrimination charge will begin to run from when the violation actually "occurred," overturning *Lorance*.

This section also adds a new provision to the ADEA, which imposes an explicit obligation on the EEOC to notify complainants, after the EEOC has dismissed their charges, that the agency's action triggers a 90-day limitations period for filing suit. This section also deletes a tolling provision in the ADEA which becomes obsolete with the establishment of a single statute of limitations.

In addition, the ADEA presently provides to private sector and non-Federal age claimants the right to commence an action 60 days after the timely filing of an age charge with the EEOC. The new language to Section 17(b)(4) makes clear that the claimant may commence a civil action at any time after 60 days from the time the charge was filed up until the expiration of the 90 day period following receipt of notice from the Commission that it has dismissed the charge or otherwise completed its consideration of the charge, whichever is later.

For purposes of clarity and consistency, the headings have been modified and the term "individual," as used in section 7(d), is substituted for the term "person aggrieved."

14. ALTERNATIVE MEANS OF DISPUTE RESOLUTION

The House Amendment, but not the Senate Bill, specifies that where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under the Acts amended by this Act.

The Senate recedes. This section encourages the use of alternative means of dispute resolution, where appropriate and to the extent authorized by law. These methods include settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials and arbitration.

This amendment was adopted to encourge alternative means of dispute resolution that are already authorized by law. A virtually identical amendment was enacted as part of the Americans with Disabilities Act, 42 U.S.C. § 12212.

The Conferees emphasize, however, that the use of alternative dispute resolution mechanisms is intended to supplement not supplant, the remedies provided by Title VII. Thus, for example, the Conferees believe that any agreement to submit disputed issues to arbitration, whether in the context of a collective bargaining agreement or in an employment contract, does not preclude the affected person from seeking relief under the enforcement provisions of Title VII. This view is consistent with the Supreme Court's interpretation of Title VII in *Alexander* v. *Gardner-Denver Co.*, 415 U.S. 36 (1974). The Conferees do not intend this section to be used to preclude rights and remedies that would otherwise be available.

From the Committee on Education and Labor:

HAWKINS,
M.G. MARTINEZ,
PAT WILLIAMS,
CRAIG A. WASHINGTON,
JAIME B. FUSTER,
KWEISI MFUME,

From the Committee on the Judiciary:

JACK BROOKS,
DON EDWARDS,
BOB KASTENMEIER,
JOHN CONYERS,
PAT SCHROEDER,
GEO. W. CROCKETT, JR.,
HAMILTON FISH, JR.

Managers on the Part of the House.

EDWARD M. KENNEDY,
METZENBAUM,
PAUL SIMON,
BARBARA A. MIKULSKI,
JAMES M. JEFFORDS,

Managers on the Part of the Senate.

APPOINTMENT OF CONFEREES ON S. 1824, EDUCATION OF INDIVIDUALS WITH DISABILITIES ACT OF 1989

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 1824) to reauthorize the Education of the Handicapped Act, and for other purposes, with House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none and appoints the following conferees: Messrs. HAWKINS, FORD of Michigan, OWENS of New York, MARTINEZ, PAYNE of New Jersey, JONTZ, GOODLING, BARTLETT, BALLENGER, and SMITH of Vermont.

APPOINTMENT OF CONFEREES ON H.R. 4151, HUMAN SERVICES REAUTHORIZATION ACT OF 1990

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes, with Senate amendments thereto, disagree to the Senate

amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees:

From the Committee on Education and Labor, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Messrs. HAWKINS, FORD of Michigan, KILDEE, and SAWYER, Mrs. UNSOELD, Mrs. LOWEY of New York, and Messrs. POSHARD, GOODLING, TAUKE, COLEMAN of Missouri, and GRANDY.

From the Committee on Energy and Commerce, for consideration of title II of the Senate amendment, and modifications committed to conference: Messrs. DINGELL, SHARP, TAUZIN, BRUCE, TOWNS, WALGREN, SWIFT, LENT, MOORHEAD, DANNEMEYER, and FIELDS.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION AND SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS TO SIT TODAY DURING 5-MINUTE RULE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation and its Subcommittee on Public Buildings and Grounds be permitted to sit on today, Wednesday, September 26, 1990, while the House is meeting under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REV. JOHN PETERSON

(Mrs. COLLINS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS. Mr. Speaker, it is a real pleasure for me to say a few words about Rev. John O. Peterson, pastor of Alfred Street Baptist Church in Alexandria, VA, who just delivered the morning prayer to open this day's business of the House of Representatives.

I am a "watch" or associate member of Alfred Street. Just a few days from now, on October 4, Reverend Peterson will celebrate his 26th anniversary as pastor of this oldest documented black church in the United States. In addition to being a pastor, Reverend Peterson is involved in numerous civic, professional and charitable organizations. But I'll get to his stellar credentials a bit later. What I want to point out to you now are the qualities that make Reverend Peterson so special to me and the rest of his congregation.

When you first meet Reverend Peterson, the first thing you notice is his warmth and geniality. In fact, Reverend Peterson meets no strangers: as amazing as it may sound, if he meets you once and learns your name, he'll never forget you.

And this personal touch transcends life at Alfred Street. Even though this is a very large church, with a membership list of approximately 2,600, and a sanctuary capacity of about 600 persons, the church goes out of its way to make everyone feel wanted, needed and a part of the Alfred Street family. Believe me, this comes from the top; Reverend Peterson's gift for making even first time visitors feel at home has permeated the fiber of his church, right down to the membership groups, the small circles to which each member is assigned where they can interact with other members and the church on a more personal level.

This personal touch is never more present than in a time of need. As a spiritual adviser, Reverend Peterson is ready and available to assist his parishioners in sickness, death or if one just needs a friend to talk to.

The other thing it doesn't take long to discover about Reverend Peterson is that he is truly a man of God. We've all heard the old saying, "Many are called, but few are chosen," well, Reverend Peterson is clearly one of the chosen. He is very well educated in religion and theology, but most important, can relate it to those of us in the congregation in a way that helps us know what it means to be a Christian in 1990. Reverend Peterson does not preach to the choir; he goes beyond mere "fire and brimstone" rhetoric. He inspires us to social action, to civic awareness, to community involvement. These are all aspects of our duty as Christians that are too often forgotten or not re-enforced.

Rev. John O. Peterson, Sr., is an accomplished pastor, community leader, educator, and evangelist. He is a product of Northumberland County, VA, and a product of its public schools. As with many distinguished theologians, he is a graduate of Virginia Union University and its School of Theology, as well as, Howard University School of Divinity, Bucknell University, George Washington University, Wesleyan University, and the John Wesley Theological Seminary.

Reverend Peterson has served four churches in his 36 years of ministry. During the first 22½ years, he also taught mathematics, biology, chemistry, and physical science in the public schools of Warwick—now Newport News—and Arlington counties in Virginia. Since October 4, 1964, he has been the pastor of Alfred Street Baptist Church in Alexandria, VA. In the last 26 years, Alfred Street has grown from less than 200 members to more than 2,600; from two weekly services to at least four; from two choirs to seven; from one to many ministries; from 8 all male deacons to 25 men and women; and, from an operating budget of $12,000 in 1964 to over $1.8 million in 1990. In 1980, the church erected a $1.25 million edifice and because of the church's rapid and sustained growth, is now planning an expansion project to restore the old building and create additional sanctuary, chapel, classroom, executive and administrative office space, choir rehearsal rooms, and parking spaces.

Through Reverend Peterson's involvement in local, State, national, and international Christian organizations, his name and that of Alfred Street Baptist Church are known in many countries around the world. He has conducted revivals, participated in preaching tours and visited 16 countries, including the Soviet Union and many in Africa.

Among his many honors and awards, Dr. Peterson is listed in Who's Who in America. Honors have been bestowed upon him by the Washington Joint Board of Science Education, the Arlington County PTA Council, the Alexandria Gazette, the Washington Urban League's Northern Virginia branch, Alpha Phi Alpha Fraternity, the Baptist World Alliance, and many others.

He has served as president of the Baptist General Convention of Virginia, was a cofounder, secretary, treasurer and president of the Alexandria Baptist Ministers Conference, chairman of the Alexandria branch of the Washington Metro YMCA Committee of Management, president of the Virginia Union University School of Theology Alumni Association, chairman of the Alexandria Community Corrections Resources Board, chairman of the Northern Virginia Baptist Camp Board, and is currently assistant chairman of the finance and budget committee and vice president of the Baptist World Alliance. His many memberships include the board of governors of the Virginia Council of Churches, the Alexandria School Board, the Virginia Union University board of trustees, the Alexandria branch NAACP executive board, the Northern Virginia Urban League, the executive committee of the Baptist General Convention of Virginia, and, the executive board of the National Baptist Convention, USA, Inc. As if this weren't enough, he is also a volunteer chaplain with Alexandria Hospital and the Alexandria Police Department.

As is often the case, beside every great man there is an equally great lady. In this case, the woman is his wife, Dr. Joyce Keemer Peterson. Reverend Peterson and his wife are the very proud parents of two adult children: Jewelette G. Peterson and John O. Peterson, Jr. To the Peterson family, we thank you for so generously allowing Reverend Peterson to give so

much of himself to so many people and worthy projects. To my spiritual leader, teacher and friend, Reverend Peterson, I commend you to this body and thank you for your lifetime of dedication and service.

□ 1040

FOP HEAD TARGETS HOUSE SPEAKER

(Mr. MARLENEE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MARLENEE. Police attacking the Speaker of the House? Unbelievable?

Not really, when you consider the source. Dewey Stokes, who heads the Fraternal Order of Police, led the attack, and as far as I am concerned set back—way back—the image of that organization.

One has to ask the question, is the Fraternal Order of Police interested in good, solid support for law enforcement, or are they preoccupied with controlling the kind of firearms Americans can own? The former head of that organization is now acting as a consultant for Handguns Control, Inc.

Is Dewey Stokes more interested in pictures with Senator METZENBAUM, consulting and Sara Brady and attacking TOM FOLEY, or is he interested in those rank and file officers who, with great sacrifice, protect us?

TOM FOLEY is interested in law and order. RON MARLENEE is interested in law and order. Every Member of this body is interested in supporting police officers.

INTRODUCTION OF EMERGENCY OIL MARKET STABILITY ACT

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, Americans are paying more than $40 for a barrel of oil and a record $1.40 for a gallon of gasoline. All this without an oil shortage. Look at the results.

Inflation is in double digits. Tens of thousands of Americans may soon be thrown out of work.

And if you think the Federal deficit is in the stratosphere now, just wait until oil prices help boost it into deep space.

What happens if we go to war? What happens if there is a shortage?

Mr. Speaker, Congress needs to act and act now. We need a circuit breaker to prevent our economy from grinding to a halt in this emergency. And make no mistake: This is an emergency.

Two weeks ago, President Bush stood in this Chamber and asked Congress to come up with a national energy policy.

Mr. Speaker, America has had an energy policy under the Reagan and Bush administrations: Consume, consume, consume as if there is no tomorrow.

Well, tomorrow is here: The United States is at the mercy of speculators. That is just wrong.

Today, I am introducing the Emergency Oil Market Stability Act to act as the circuit breaker Americans need in this crisis.

Mr. Speaker, I ask you and my colleagues to send this legislation to the President as soon as possible. Then we will see how much the White House wants to prevent the crash of 1990.

TAPPING OF STRATEGIC PETROLEUM RESERVE WOULD RELIEVE PRESSURE ON OIL PRICES

(Mr. CONTE asked and was given permission to address the House for 1 minute.)

Mr. CONTE. Mr. Speaker, we cannot sit idle as oil prices keep growing. We've got a ruthless dictator holding us by the oil sacks, and we are not doing a thing about it.

Oil prices jump every time Saddam Hussein opens his mouth.

They have climbed above the $38 plateau—double what they were before the invasion of Kuwait. The price at the pump is currently $1.38 a gallon and climbing. Home heating oil is above $1 a gallon and rising. And this is exactly what Saddam Hussein wants to happen. He wants to hurt our economy, and we're letting him do it.

We have a weapon under our control to combat the shakiness of the world oil market, yet we have been adamant in refusing to use it. This weapon is the strategic petroleum reserve.

There are 590 million barrels of oil sitting in the strategic petroleum reserve doing nothing. Why, Mr. Speaker? It is like keeping the lid on a barrel of water when your house is burning down.

Tapping the strategic petroleum reserve will tell the energy and financial markets that we are going to cap this gusher of oil price increases, and reassure consumers that we'll avoid shortages.

Mr. Speaker, what are we waiting for? Let us tap the strategic reserves, and let us do it now.

REPUBLICANS PUSH TAX CUT FOR THE RICH WHILE THE ECONOMY STUMBLES

(Mr. HERTEL asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HERTEL. Mr. Speaker, how did this happen? How did the deficit become larger in this decade then in the previous 200 years of this country? How did this Government triple the national debt in 10 years? How and why did it happen?

The Reagan administration doubled the defense budget and cut taxes for the rich. What does the current administration want now? This Monday we are looking at the Government shutting down, we are looking at people being laid off, we are looking at people losing their jobs and government services being stopped, and what does the Republican administration want now?

They want another tax cut for the rich. That is what they want. That is what is most important to them, another tax cut for the rich.

The middle class, the lower income people, did not get a tax cut in the last decade. In fact, they are paying more. But the Bush administration today stands for a capital gains tax cut for the rich as their most important principle. One more tax cut for the rich, that is what they stand for.

FIVE DAYS TO ARMAGEDDON

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, it is time to change the calendar again. Yesterday it was 6 days, today it is only 5 days to Armageddon. The summitters are tired, and understandably so. They were up until 3 o'clock this morning, but we need them to go back in at noon because we are looking at chaos, we are looking at Armageddon if the Congress of the United States does not meet its deadlines.

It is only 5 days, actually 4 days and 13 hours if we want to be exact. We had a budget 8 months ago, and 6 months ago we missed our budget deadline. Five months ago the President offered to have a summit and offered to bring revenues on the table.

It is obvious there is no agreement on defense, no agreement on entitlements, no agreement on enforcement, and no agreement on revenues, and now we are looking at thousands of Federal employees being laid off. We are looking at chaos across this country. We are looking at innocent citizens being the victims of our inability here in the Congress to govern.

It is 5 days to Armageddon, Mr. President. It is time we in Congress got our job done.

"KING KONG" GOES TO JAPAN WHILE AMERICA'S PROBLEMS ESCALATE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, while American soldiers are putting

their lives on the line in the Persian Gulf and American taxpayers continue to spend billions to defend Japan, listen to what Japan is doing with their money. Their giant electronics firm, Matsushita, has paid $7.5 billion to buy MCA as the parent company of Universal Studios.

That is right, Japan is buying "E.T.", "Jaws," and "King Kong" now in one big swoop.

I would like to say this to the Congress: We must be crazy. We are in danger this Monday of closing our Government down, laying off our workers, and cutting back on our programs, and we are spending billions and billions of dollars defending Japan and Germany, and now they are buying "King Kong" over here. I think that explains it all.

Mr. Speaker, I think the first thing the summiteers should do is develop a big bill and send it to Japan and Germany and have them pay it before Monday.

□ 1050

AMERICAN SOLDIERS BEING HELD HOSTAGE BY DEMOCRATS IN CONGRESS

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, the newspaper reports, and we are all aware, that yesterday in the United Nations the world joined together against the Government in Iraq in its effort to hold hostage anyone who is not a citizen of that country.

Then on the inside of the Washington Post this morning we have one of the most despicable acts that I think we have ever been involved in. It says there was an effort in which to take the $2 billion necessary for our soldiers in the Middle East and hold it hostage to political games. In an effort to force the President to either shut down the Government or abandon our soldiers on the front lines in the Middle East, the Post says, "Democrats acknowledge that they stand little chance of overriding a Presidential veto unless the Desert Shield money is included in their program." On a party line vote yesterday Democrats added the funding for our soldiers in the Middle East to their effort to continue wasteful spending.

Mr. Speaker, it is no wonder that Americans are becoming increasingly cynical of the actions of the Congress. Unfortunately, all of us are smeared by the stench of this effort to hold the American soldiers hostage to their political gains. It is despicable and is digging a new low in the performance of politics in this Chamber.

ACTION URGED ON MAGNUSON ACT TO PROTECT MARINE RESOURCES FROM DRIFTNET FISHING

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, foreign driftnets, 30, 40, even 50 miles long, are moving through the oceans of this planet raping and pillaging. As abundant as are world's marine resources, they cannot be sustained under the onslaught of these curtains of death. In the North Pacific they are actually stealing our salmon, our steelhead under the guise of fishing for squid.

Eight months ago this House, as a part of the Magnuson Act, overwhelmingly adopted my legislation to direct the Secretary of State to enter into negotiations with the driftnetting nations to ban the use of these nets.

After 8 months those nets are still raping and pillaging and the Senate has barely moved on the Magnuson Act. The bill they are beginning to move is inadequate. It will result in studies and studies and studies until the oceans are bare.

If the Magnuson Act is allowed to die in the other body in the remaining days of this Congress, the next 8 months will see millions of our salmon and steelhead pirated by driftnet vessels from Taiwan, South Korea, and Japan as they continue to assault the North Pacific.

Mr. Speaker, the Senate must act now.

NATIONAL BREAST CANCER AWARENESS MONTH

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, I would like to take a moment today to remind all American women that October is National Breast Cancer Awareness Month. I would also like to commend my colleagues who have supported this effort each year.

Mr. Speaker, breast cancer is certainly an awareness issue. With tragic regularity, the number of American women who die of breast cancer increases each year; and the death toll is expected to rise to an alarming 44,000 in 1990. This epidemic cannot continue to destroy lives and to damage more families each year.

Scientists and researchers in the public and private sector grow closer to recognizing some of the causes for breast cancer, but still there is no cure. I was happy to see this body increase funding for breast cancer research, and we must continue to fund valuable research projects that may lead to a cure.

However, until there is a cure, there is only one way to avoid death by breast cancer, and that is early detection. I know this to be a fact, since I am a breast cancer survivor.

Unfortunately, I had never been asked to have a mammogram before I was elected to the House of Representatives in 1982. The Capitol physician suggested that all the freshman Members get a routine physical and that I have a screening mammogram. I was very lucky. My breast cancer was diagnosed and prompt surgery saved my life.

I don't believe a woman should have to be elected to Congress to make regular screening mammograms part of her medical routine. This is an important component to National Breast Cancer Awareness Month, particularly for women over the age of 35. Although we are making progress in raising awareness of the need for mammograms among women and their physicians, there is still a critical need to educate women on this life-saving procedure particularly poor women and minorities.

Mr. Speaker, I am dedicated to making screening mammography available and affordable to all women, and to helping to make women aware of the lifesaving value of mammograms. It's going to take a strong and bipartisan effort in the Congress to get this accomplished, and I am committed to see it succeed. We need to reinstate the screening mammography benefit within Medicare. We need to expand upon the legislation that we accomplished during this Congress and that is to begin a demonstration project adding screening mammography coverage for poor women eligible for Medicaid.

Until there is a cure, early detection is the best solution, and I am determined to do everything in my power to help women become aware of their need for regular screening mammograms, and to stop the tragic rise in deaths from breast cancer.

BUSH PROTECTING PROFITS OF OIL COMPANIES

(Mr. FRANK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANK. Mr. Speaker, the oil producers, the large domestic ones and the international ones, have a problem, but they also have a protector. Their problem is how they are going to hide their profits next week. They have driven profits way up using the current crisis as an excuse, when there is in fact no reality behind that. There is no real shortage. So their problem is how to hide their profits.

But they have a protector: George Bush. I join with my senior colleague

from Massachusetts, Mr. CONTE, who said we should be using the strategic petroleum reserve. As are the rules of the House, he addressed his comments to the Speaker. But in fact he has to address those to the President of the United States.

Americans have been taxed for years to build a strategic petroleum reserve. Oil prices now go up and up and up without real justification in terms of a shortage. One way to put a very severe limit on that would be a decision to begin to release oil from the strategic petroleum reserve until prices begin to come down. There is one reason and one reason only we are not going to do it: George Bush does not want to. George Bush is protecting the oil companies by refusing to allow the American people the benefit of the strategic petroleum reserve, for which they have paid, as they are confronted with oil prices which will fatten oil company profits, and are not—are not—physically caused by the events in the Middle East.

JUDGMENT DAY IS APPROACHING

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, Judgment Day is approaching. On Monday, October 1, the new fiscal year begins. Unless we have a budget agreement between now and then, Gramm-Rudman sequestration goes into effect.

I think a few facts are in order. First of all, Gramm-Rudman-Hollings has worked. The budget deficit is $480 billion less, almost half a trillion dollars less, than it would have been without Gramm-Rudman.

Second, Gramm-Rudman is forcing the difficult budget choices that are now being worked out between the President and Republicans and Democrats in the House and the Senate. I think we all agree that a budget agreement is preferable to sequestration.

Third, however, a sequester is preferable to some sort of a gimmicked-up continuing resolution that waives Gramm-Rudman and acts like we do not have a budget problem and we can just be ostriches and stick our heads in the sand.

Finally, I think President Bush is absolutely right to insist on some economic growth and job creation incentives like capital gains tax rate differential.

CONGRESS SHOULD PLAY MORE ACTIVE ROLE IN OPERATION DESERT SHIELD

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, I recently introduced a resolution that provides that the United States should make an effort to try to see if we can get the United Nations to take on the primary responsibility of confronting Saddam Hussein and of getting other countries besides just the United States involved in the situation in the Middle East.

This morning I received an anonymous letter from someone on Capitol Hill suggesting that the United States has sovereignty and can do all this itself if it wants to.

A concern about this matter is that I think other nations should give more to this effort than they are giving now, and furthermore, I do not want to see us slip into a war without the proper consideration being given in the House of Representatives.

Mr. Speaker, at this point in the RECORD I include the resolution which I have introduced.

H. CON. RES. 372

Resolved by House of Representatives (the Senate concurring),

SECTION 1. APPROVAL OF INITIAL RESPONSE TO THE INVASION OF KUWAIT.

The Congress finds that the United States of America acted properly and justly in response to the brutal and illegal invasion of the sovereign state of Kuwait by the nation of Iraq. The President of the United States deserves great credit for his able leadership in mobilizing widespread international diplomatic opposition to the unprovoked Iraqi aggressions. The Congress and the people of the United States support necessary actions to maintain the borders of Saudi Arabia against aggression and to protect the safety of United States armed forces stationed in that nation.

SEC. 2. URGENCY OF CONGRESSIONAL AUTHORITY FOR FURTHER OPERATIONS IN THE PERSIAN GULF.

The Congress finds further that the Constitution of the United States vests all power to declare war in the Congress of the United States. Any offensive action taken against Iraq must be explicitly approved by the Congress of the United States before such action may be initiated.

SEC. 3. ESTABLISHMENT OF A UNITED NATIONS COMMAND IN THE PERSIAN GULF.

The Congress finds further that the United States of America should exercise its leadership to transform the allied military activity in the Persian Gulf from a United States action with limited allied participation into a United Nations police action with United States participation. The liberation of the people of Kuwait and the security of the peoples and states of the region, and the full economic, diplomatic and military participation of the nations of the world in this liberation and in this maintenance of security can be best ensured through the establishment of a United Nations command in control of the allied defenses against further Iraqi aggression.

STRONG HAND—OR A BLUFF?

(Mr. THOMAS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of California. Mr. Speaker, the current budget battle has been characterized as either a game of chicken or a game of poker. Using the poker analogy, when someone ups the ante, it is an indication that they either have a strong hand, or they are bluffing.

In today's Washington Post, Chairman JAMIE WHITTEN is quoted as saying that letting the automatic budget cuts take effect without a budget agreement would, "bring this country to its knees."

He added that he was forced to, "question whether anybody who would let the country go to pot is patriotic or their judgment is sour."

What do you think? Strong hand—or a bluff?

And while I'm quoting. How about the one from Samuel Johnson, who once said, "Patriotism is the last refuge of scoundrels."

□ 1100

REPUBLICAN INTRANSIGENCE ON BUDGET

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, the President has promised to veto the continuing resolution which would keep Federal agencies at work until October 20. President Bush and the Republicans have said they would rather shut down the Government than give up on their plan to give more tax breaks to the rich. The Republicans would rather have sequestration on Monday than abandon their quest to cut the capital gains tax for the wealthy.

The President's party would rather see layoffs in veterans' hospitals than ask Donald Trump to give up a new tax break.

The Republican strategists would rather furlough air traffic controllers and cut domestic airline flights than ask the superrich to pay their fair share.

They would rather cut back Federal prison guards and drug prosecutors than require those with incomes over $180,000 to give up a tax break.

After more than 2 months of negotiation, the budget summit has broken down over one issue: A bigger capital gains tax break for the rich. It is time for Congress to return to the constitutional process of passing a budget resolution and send the President's summiteers back to the White House to fantasize about the lifestyles of the rich and famous on their own time.

THWARTING THE WILL OF THE MAJORITY ON A CRIME BILL

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, once again the liberal Democrat leadership has shown its contempt for fair play, contempt for even the wishes of the majority of this House, and contempt for the people of this country.

Yesterday, a majority of Members recognized the extreme unfairness of the rule for the Comprehensive Crime Control Act of 1990, a title which is a misnomer in anybody's book. A majority recognized that this Michael Dukakis approach to crime is not going to make it. We saw that the American people are not going to put up with a bill that guts capital punishment and which does not allow for major reforms in the criminal justice process even to be proposed.

The unfair rule for this bill was overwhelmingly defeated; yet, the Democrat leadership refuses to yield to the majority and bring the bill back to the House floor with a fair and open process. Given a chance, this House will pass a strong crime bill. Why is the Democrat leadership opposing anticrime legislation?

Mr. Speaker, it is bad enough that the leadership tramples on the rights of the minority in this House. Now they trample on the rights of the majority and thwart the will of the people. Give us the right to vote for real anticrime legislation. We do not want an election year sham bill that guts the death penalty and further ties the hands of the police.

Voters, take note who is thwarting the war on crime.

NO MORE TAX BREAKS FOR THE WEALTHY

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, this must be the craziest legislative body in the world. We are running $200 billion to $300 billion deficits, we have got a $3.75 trillion debt we are carrying, yet the summiteers are out here at Andrews Air Force Base trying to find out some way to tax the little guy.

We give trillions of dollars to the Nation's very wealthiest and to corporate America, and yet we blame the little guy in this country.

Let's find out where it really is. First of all, let us start out by eliminating the 5 percent discount on tax rates that we give to the wealthy of the country. Let us tax foreign companies at the same rate we tax domestic companies that get a break. Let us change our trade policy and instead of bringing in all of this cheap foreign stuff, let us bring back the jobs, the good paying jobs in this country. Let us start getting back some of the money that some of these wealthy taxpayers are cheating the Government out of today, and let us stop the Government waste, Government waste which amounts to some $100 billion, especially in defense.

Yes, it is crazy to give these big tax breaks to the very wealthy, and then to quadruple the senior citizens' Medicare premium and cut veterans' benefits.

CRIME BILL

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, last night four members of the Republican Study Committee walked for 2 hours with a neighborhood crime patrol in the Benning-Marshall Heights neighborhood of southeast Washington, DC. Those ordinary citizens, without any police support, march through that neighborhood for 2 hours a night, every night of the year because they want to do something about crime and drugs in their neighborhood. They have done more than the House liberals have done with their procrime bill that they got tripped up on yesterday on the floor of this House.

Those people are out on the front line of the war against crime while we are trying to pass a bill that will screw up habeas corpus, will make it easier to blow up an airliner, and easier to assassinate the President of the United States. I wish all of the House liberals would go out and march for 2 hours and see what it is like to be on the front lines in the war against crime and drugs. If they would do that we could vote for the Hyde amendment, and that will permit us a real crime bill, not a procrime bill.

CAPITAL GAINS TAX CUT IS NOT A TRADEOFF OF FAIRNESS FOR GROWTH

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, with the falling away of Republican congressional support for a capital gains tax cut, it is important to take another look at this one big stumbling block that—at White House insistence—continues to prevent a budget agreement at the summit that the entire Nation needs.

Everyone should read Robert Samuelson's column in today's Washington Post, entitled "The Capital Gains Obsession."

Samuelson's article shows that the issue is not—repeat, not—between fairness and growth, as the White House claims. For alleged growth is the White House's last refuge, since they admit it's both a big revenue loser—making the deficit worse—and predominately benefits incomes over $200,000.

Samuelson points out that even under optimistic calculations, a capital gains tax cut would add no more than six-tenths of 1 percent to GNP—less than the normal statistical error. So growth is not the tradeoff to capital gains ill effects on fairness.

WE NEED A REAL ANTICRIME BILL

(Mr. McCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCOLLUM. Mr. Speaker, yesterday we were to have on the House floor a crime bill that would have allowed us to vote on key proposals to restore the death penalty at the Federal level for a number of Federal crimes, to change the rules of evidence so that contraband from searches and seizures in drug cases would more easily be allowed into evidence to get convictions, and to enact a death penalty for drug kingpins who traffic in extremely large quantities of narcotics.

But the Rules Committee sent to the floor a rule that was very unfair, that would not have allowed the offering of an amendment that embodied the recommendation of the Powell Commission to come up, finally, with a change in the law to restrict the endless appeals that those convicted of heinous crimes, who are given the death penalty, have been using to avoid the carrying out of their sentences. Those appeal-after-appeal-after-appeal situations in Federal district court, under the habeas corpus laws of this Nation, have been something that the American public has wanted changed for ages. We were not allowed to offer that, and therefore the rule was defeated because the vast majority of the Members of this body understood how unfair and wrong it was.

Now the question is will the liberal leadership on the Democratic side of the aisle allow the majority the opportunity to vote. Will the Rules Committee be permitted, will it be ordered to come back with a rule, and let us consider the crime bill this session or not? I think the American people have every reason to question that leadership and the 36 years of Democrat control of this House if we do not get a chance to vote on a responsible crime bill this session of Congress.

SADDAM HUSSEIN'S STRATEGY

(Ms. KAPTUR asked and was given permission to address the House for 1

minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, before the United States gets drawn into a prolonged and expensive land war in the Middle East, it is worth examining the political context in which our troops have been placed. I would like to put in the RECORD this morning an article by Robin Wright, renowned U.S. war correspondent and foreign affairs editor for the Los Angeles Times, in which she states:

Under seige economically and diplomatically [Saddam Hussein] wants to make Iraq look like the victim rather than the aggressor.

Hussein is seeking to link three issues that have served to motivate all popular Arab movements in the post-colonial era: Islam, Pan-Arabism and, in a region where 6 percent of the population controls 50 percent of the wealth, social justice.

Although his success so far has been mixed, Hussein has tied all three issues to the emotional question of a foreign presence. He has managed to win the support of about 20 percent of the Arab world, while confusing the rest by turning the question of foreign troops into an issue that competes with the invasion of Kuwait.

Saddam will continue to exploit these differences in the Arab world in an effort to puncture holes in the embargo.

And we saw that already happening this morning with the air embargo and what has happened in Jordan.

As far as Kuwait goes, in another 6 months we will not be able to recognize it because a third of the population has fled, and Iraqi passports have been given to people who are currently citizens of Kuwait. And of course, the dinar has now been used as the currency in Kuwait, and Iraqi currency is going to be the official currency in that country. So even if Kuwait is regained, what do we have when it is regained?

While the United States must exercise restraint and power, our President and Congress must be redoubling efforts to keep up international pressure for a peaceful settlement in the region. We should use the billions of dollars now being spent on the military to improve the standards of living of the people in the region, to protect them for sure, but to operate with restraint and full recognition of the political context in which the United States is operating.

□ 1110

A BLATANT GRAB FOR YOUR WALLET

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, while the President of the United States pursues a pro-growth, pro-jobs policy of reducing tax rates on capital gains in order to raise revenues, the Democrats are talking about raising taxes on just about everything. Most of their tax-increase proposals are stealth tax-increase proposals. They are talking, for example, about bursting the bubble.

Supposedly the Democrats are concerned about a lack of symmetry in our rate structure. It goes from 28 percent to 33 percent marginal income tax rates. In fact, there is no such thing as this bubble. There is no 33-percent rate in our income Tax Code. What there is, instead, is a 5-percent surtax that applies to a fraction of your income.

Let me give you an example. If you make $80,000 a year, you will pay that 5-percent surtax on a fraction of your income. The total tax you pay will be 23½ percent. If you make $100,000, it will be 25½ percent, and so on, until you max out at 28 percent.

No one in America pays more than 28 percent. But the simple fact is this: The more money you make, the more tax you pay, and the more money you make, the higher your rate until you reach 28 percent.

What the Democrats want to do, plain and simple, is raise that top rate on everyone to 33 percent.

Next time you hear somebody talking about bursting the bubble, hear it for what it is, a blatant grab at your wallet.

CAPITAL GAINS TAX CUT WILL ADD $20 BILLION TO DEFICIT

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, it is mind-boggling that in the context of an effort to reduce the deficit, the President is insisting that we pass a capital-gains tax cut which will add to the deficit by over $20 billion.

The Republican response to our objection that 85 percent of the benefits under capital gains will go to the wealthiest 5 percent of the people in this country is to say, "Oh, do not forget this will cause job growth and economic growth."

To check that out, we asked the Joint Economic Committee executive director to analyze that claim using the Treasury Department's own study in 1985 of the 1978 capital-gains tax reduction. That analysis concluded, and this is incredible, that under the most optimistic scenario you might create up to 55,000 jobs over the next 5 years, but at a cost to the taxpayer of $410,000 per job slot created.

Can you imagine the cries of outrage from the Republican side of the aisle if the Democrats had such an incredibly economic inefficient package that tried to develop job training job slots or Job Corps job slots at a cost of $410,000 each. We would be laughed off this floor under those circumstances, as they most surely ought to be laughed off this floor for pushing that kind of a turkey proposal with that kind of incredible cost to taxpayers.

THE PEPPER COMMISSION REPORT ON HEALTH CARE

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, the long-awaited final report by the Pepper Commission on the status and future of health care in this country came out yesterday. It tells a sorry tale of the current system and outlines proposals for a new system that would address the current health-care problems that exist.

I want to commend the Pepper Commission for its work. Health care in this country has reached crisis proportions for many of the citizens.

The Commission makes a valid point that, while many Americans have access to the most advanced technology available, many Americans do not have access to even the most basic health-care services. Clearly that must be changed.

The Commission has made some very strong and positive suggestions such as encouraging business participation in providing health care to their employees and coming up with a basic package of health-care services that can be provided to all individuals.

However, there are some proposals that I have problems with such as the cost of the program and mandates as to who must participate. Clearly, a business mandate is a form of regressive tax that will be passed on to the middle- and low-income worker, and without other controls implemented, there will be problems created.

However, the report is a step in the right direction. It identifies serious problems and comes up with some specific solutions.

While it is not perfect, Congress must pick up the ball and move toward fixing the health-care mess in this Nation. The American people are waiting.

BASIS FOR UNDERSTANDING BETWEEN BLACK AMERICANS AND JAPANESE PEOPLE SOUGHT

(Mr. PAYNE of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE of New Jersey. Mr. Speaker, I rise to express my extreme disappointment in and disgust for the offhand comments made by Japan's Minister of Justice, in which he compared African-Americans to prosti-

tutes and suggested that African-Americans ruin white neighborhoods.

What disturbs me most, Mr. Speaker, is that the Japanese Justice Minister's racial remarks are not an isolated incident. They are just another example in a long line of racially discriminatory statements made by high ranking Japanese Government officials which belittle black Americans.

These derogatory remarks are especially damaging at a time when United States relations with Japan are already being strained by Japan's perceived lack of effort in the Persian Gulf and America's persistent trade deficit with Japan.

Now, more than ever, it is important for us to form links of understanding between black Americans and the Japanese people. While the Justice Minister's egregious comments are a setback, I still hold out hope that African-Americans and the Japanese can become working partners in a world which is increasingly characterized by interdependence.

STATISTICS ABOUT WHO PAYS THE MOST TAXES

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, during our district break, a glorious event happened in the Dornan clan. My wife, Sallie, and I welcomed our eighth grandchild, Robert Kenneth Owen Dornan III.

So when people talk about debt that we are leaving to future generations, I feel that in a flesh-and-blood way. But at the same time I sit over here and mumble to myself, "Lies, lies, lies," every time somebody gets up on the majority side and starts engaging in class warfare, bashing the rich, saying they are paying less in taxes because of the two Republican Presidents. They do so without ever telling us who these rich are or how much they make.

Here are the most recent IRS statistics on taxes paid by income class for Jimmy Carter's penultimate year, 1979, and 1988, Ronald Reagan's last year. Take the top 5 percent, and every single Member of this Chamber is in that top 5 percent of earning Americans.

The top 5 percent of income earners paid 37.6 percent of all taxes in 1979. It is now up to 45.9 percent. Take the top 10 percent, they paid 49.5 in 1979. That is now up to 56.9 percent. Take the top 25 percent. Their share has risen from 73.1 percent to 77.8 percent.

What is this, folks? Is the Laffer curve working? Does it mean that if we reinvest in our country and create jobs there is more income tax? Of course it does.

Now, let us look at what two Republican Presidents did for lower income Americans, the bottom 50 percent. Their share of taxes fell from 6.8 percent in 1979 to only 5.8 percent of our income tax in 1988.

I heard one of my class-warfare friends from New York wailing the other day about how we are not socking it to the rich enough and that the tax rates on the rich were lower than ever. But what is the point of having higher tax rates if they raise less revenue? Does that make sense? I do not think so. It seems to me that the class-warfare crowd on the other side of the aisle is more interested in showing how much they hate the rich than in increasing Government revenue. I just wish they would stop the lying that is going on in this Chamber.

WORKING PEOPLE WILL PAY AND PAY AND PAY

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, why is there a problem reaching a summit agreement?

It is very clear that Republicans want to help the winners of the war on poverty, the top, top, top millionaires and billionaires.

Who will pay? The working men and women of America will pay and pay and pay.

□ 1120

The Republicans talk about growth. They talk about investment. Those are good words. I want growth and investment. However, the truth of the matter is, when it comes from them, it is cover for the real agenda, for those whose lifestyles need no more help from this Government, whose lavish lives have been guaranteed by the tax policies of Ronald Reagan.

The bubble, it allows the millionaires and the billionaires to pay a lower tax rate than the middle class. Let Members not make the 1990's another decade of greed. Let Members fight this greedy agenda.

LEGISLATION FOR PRESIDENTIAL EMERGENCY POWER

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, we are hearing a lot today from Democrats who have a lot of rhetoric, but they have to face reality. Their party has controlled this House for 36 years. On Monday morning, Federal employees across this country face a furlough in large part because the Democratic leadership of Congress will not cooperate with the President of the United States, a President who can cooperate with 25 different countries in the Middle East, but for some reason cannot find Democrats reasonable enough to work with.

We will be introducing a bill today to give the President 7-day emergency power beginning Monday morning to allow him to shift funds within the sequester for public safety and public health to keep meat inspectors on, to keep air traffic controllers on, to keep drug enforcement agents on, to keep veterans' hospitals running.

I hope if the Democratic leadership failed when we come back into session on Sunday, that day will make in order an opportunity to keep America working, to save jobs, to save public safety, and to save public health by giving the President of the United State 7 days emergency power in the light of the Congress' failure.

REPUBLICANS ADMIT CAPITAL GAINS CUT IS OBSTACLE

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, I noticed a while ago there was a chart on the floor that was labeled "Armageddon." Well my friends, the road to Armageddon is paved with the President's demands that we give another tax cut to the rich. That is not me saying that. Senator DOLE said that in the paper. He said that the capital gains tax cut is the stumbling block at the summit the capital gains tax cut.

Now, I would like to suggest that if we bring charts out here, let Members bring one other chart. It would be a chart showing $25,000. A country that is choking on debt finds a President demanding that we give an average $25,000 tax cut to those Americans whose incomes are $200,000 or more. What kind of proposal is that? We are supposed to reduce the deficit, not increase the deficit.

This talk about growth economics is nonsense. No Member believes that nonsense. The people back home that play pinochle and go bowling and work for a living do not believe that economic baloney for a minute.

My friend from California took the gentleman from Georgia, Mr. GINGRICH'S words, from the Gingrich dictionary, and he used the word "lying" three times. While I will not claim credit for the use of the words from the Gingrich dictionary, the word just above it describes better the condition of the proposals that hang up this summit. NEWT'S word is "pathetic."

BUSINESS AS USUAL IS NOT WORKING

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, I just had a revelation. The Democrats on that side of the aisle all morning have been wanting Jimmy Carter to come back to our economic situation, and they want to do it by taxing the rich. Once again they want to lead Members down the path of economic recession. The revelation is, they get all their economics in the politically pompous Committee on Joint Economics that they hire, they control, and they tell to bring in the studies to prove their weak economics. Instead of progrowth and projob proposals that we have been enjoying over these years, they want to advance Jimmy Carter economics.

Instead, the Democrats are pushing for, what else? Spending increases in the negotiations. This time we only want $30 billion in increased spending over the next 5 years. Republicans want to freeze the total level of domestic discretionary spending and allow increases only for inflation. Democrats want to disguise user fees as entitlement cuts. Republicans want entitlement cuts of $120 to $130 billion over 5 years. Democrats want to scrap Gramm-Rudman. Republicans believe Gramm-Rudman is our only fiscal discipline and we have to keep it.

The bottom line, Mr. Speaker, is that the Democrats want business as usual. They want to bring back the economics of Jimmy Carter. The problem is that the American people want Members to do something about the deficit. Business as usual does not get Members there.

TAX REDUCTIONS TO RICH LED TO DEFICIT

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, how long, O Lord, will we blame Jimmy Carter for the problems of the 1980's and 1990's? We all thought that brinkmanship went out with the cold war, but our President, Mr. Bush, has revised the high art of brinkmanship in a catastrophic way.

Is it for a high principle? Is it for the defense or the freedom of the people of the United States and the freedom of the world? No, it is for one thing: A tax break for the richest people in America. The richest one-half of 1 percent have already had their taxes reduced by more than 50 percent in the last decade, leading to catastrophic deficits.

What would this President cut next Monday? Housing? Student financial assistance? Medicare? Air traffic control? Federal law enforcement? Maternal and child health? Energy conservation? Centers for disease control? Veterans health care? Unemployment programs? Is that kinder and gentler? Is that the way to reduce the wasteful spending of the Federal Government?

Now, Mr. President, you are standing up here for the rich, the one-half of the 1 percent, how about the other 99½ percent of the people in America? Let Members have a fair budget. Let Members have fair taxes. Let Members go forward together into the 1990's, but not with this vision. Not with no taxes for the rich.

AMERICANS DESERVE VICTIMS' RIGHTS

(Mr. HOLLOWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLLOWAY. Mr. Speaker, It goes without saying that not all crime bills are created equal. Some are real, some are not. Some fight crimes, and some do not.

I think the American people at this time demand more of Members. Capital punishment works, but it only works if we do it in a way that is prompt and sensible. We give a guy his rights, his appeals, and properly so, but we have to create a speedier process and then it will work.

We have so many attorneys in this House, so many attorneys in the State legislatures of this country that want to protect the special interests, to make sure we drag the process out for 10 years, that it cannot work. The American people of this country demand rights for victims. They should. They are tired of the emphasis given to the rights of criminals. They believe everyone should enjoy their civil rights. If, in the end, they have committed a very serious crime that bad, let the Government put them to death. Let the Government give them sentences that are unparolable, sentences that will take care of the people on the streets of this country, and then we will have a better street to walk on, and a better world to live in.

CAPITAL GAINS TAX CUT SHOULD INCLUDE INDEXATION

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, it is rather strange that the Republican rank and file comes here this morning to espouse a position that the leader, their leader here, has essentially abandoned, and that the Republican leader in the Senate has abandoned, this total fixation on a capital gains cut.

It was said in the paper this morning by a leading economist, Mr. Samuelson, that the staff of the President is saying what he wants to hear. They have exaggerated the economic benefits of a tax cut.

If we are going to consider any aspect of a capital gains tax, it should be indexation. I have proposed we look at that. But two points: first, it is distributionally still not equal, and we have to look at something else to balance it; second, if it is done fully, there is an immense revenue loss that must be offset.

The minority whip came here and said the Democrats have controlled the Congress over the last 20 years. But the President has controlled economic policy for the last decade.

□ 1130

And I just say to the Republicans who think the politics of sequestration is on their side, "You are likely to be hoisted on your own finger-pointing." Look at the interest of the Nation; with sequestration, you will lose politically.

CONGRESS SHOULD NOT ADJOURN UNTIL BUDGET AGREEMENT IS REACHED

(Mrs. SAIKI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SAIKI. Mr. Speaker, this Congress should not adjourn until a responsible budget agreement has been reached.

In the past few weeks, there has been much talk about the possibility of a lameduck session, or a long-term continuing resolution which would delay the need for a budget agreement until later this year or even next year. Either of these tactics would be grossly irresponsible and would demonstrate that the Congress is not serious about reducing the deficit.

The people sent us here to deal with the problems of our Nation including the budget deficit. Yet every day we go without a budget agreement, the deficit increases and the national debt accumulates. We cannot justify going home to campaign, or put off for the next Congress, the problems for which we and previous Congresses are responsible.

Therefore, Mr. Speaker, until we have passed a budget agreement that seriously and responsibly addresses the deficit, I will oppose any attempt to adjourn the 101st Congress.

COL. WENDELL WADE BLACK

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, today marks the last day of active service in the U.S. Army for Col. Wendell W. Black.

For more than 28 years, Colonel Black has served his country with distinction. His is a familiar name to many of my colleagues in this great Chamber due to the outstanding manner in which he has carried out his duties as chief, House liaison division, Department of the Army.

Colonel Black has had the unenviable responsibility of developing and carrying out numerous congressional delegation trips in the United States and abroad. I'm sure we would be the first to agree that it is not easy to coordinate the infinite details of a trip to the other side of the world for as many as 15 Members of Congress and staff, while remaining sensitive to their respective needs and concerns, as well as the political and protocol demands of the countries visited. But like no one else, Wendell Black has done just that. From personal experience and from accounts of my colleagues, I have long known that if Wendell Black is assigned a task, it will be done right.

An unassuming gentleman, he has captured the utmost respect and admiration of Members of Congress and his colleagues for his professionalism and unfailing courtesy. I'm sure that my colleagues who have traveled with Colonel Black would agree with me that his proficiency has been a key factor in the success of their congressional delegation trips here in the United States and abroad.

But before he came to Capitol Hill, this highly decorated serviceman and outstanding American had already made an indelible mark.

Col. Wendell Wade Black was born in Saluda, SC, on May 24, 1940. He was commissioned a second lieutenant in the infantry and awarded a degree in industrial management from Clemson University on August 25, 1962. He also holds a master of public administration degree from the University of Missouri, Kansas City.

Colonel Black's military education includes completion of the infantry officer basic and advance courses, the U.S. Army Command and General Staff College, and the U.S. Army National War College.

Colonel Black has held a variety of command and staff positions. They include: security platoon leader, 23d Ordnance Company, 101st Ordnance Battalion, Heilbron, Germany; scout platoon leader and tank company commander, 2d Battalion, 70th Armor, 2d Brigade, 24th Infantry Division—mechanized—Augsburg, Germany; rifle company commander and assistant brigade S3, 2d Battalion, 16th Infantry, 2d Brigade, 1st Infantry Division, Vietnam. His two key commands were the 1st Battalion, 17th Infantry mechanized, 2d Brigade, 2d Infantry Division, Korea, and later, commander of the 2d Brigade, 2d Infantry Division, Korea. His key staff assignments have included duties as staff officer, headquarters, military assistance command, Vietnam; management analyst in the office of the chief of staff, headquarters, Department of the Army; and two tours as chief, House liaison division, office, chief of legislative liaison, office, Secretary of the Army. He has served 2 years as the assistant professor of military science, Washington University, St. Louis, MO.

Colonel Black has been highly decorated for his service. His decorations include the Silver Star, Legion of Merit (One Oak Leaf Cluster), Bronze Star with Valor, and the Purple Heart. He has also received the Meritorious Service Medal (Three Oak Leaf Clusters), Air Medal, Joint Service Commendation Medal, Army Commendation Medal (One Oak Leaf Cluster), National Defense Service Medal, Vietnam Service Medal (Five Campaigns), Army Service Ribbon, Overseas Service Ribbon, Vietnam Campaign Medal, Vietnam Cross of Gallantry with Bronze Star, Vietnam Honor Medal, Vietnam Staff Service Medal, Combat Infantryman's Badge, Ranger Tab, Parachute Badge, and the Army General Staff Identification Badge.

I know that my colleagues will join me in commending Col. Wendell W. Black upon his retirement from the Army. Colonel Black, your country is truly indebted to you for your exceptional military career. We wish for you only the best.

PERU REJECTS OUR MILITARY ANTIDRUG ASSISTANCE

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, I find it disheartening to read in today's Washington Post that our negotiations with Peru over our proposed $37.5 million in military assistance to help that beleaguered nation combat drug trafficking have collapsed and that Peru has refused to accept our military assistance.

This announcement is bad news for the international community which has been intensifying its efforts to combat narcotics trafficking and drug abuse and obviously good news for the drug traffickers who are able to corrupt the political, economic, and social institutions of that great Andean nation.

This announcement also comes at a time when there are record harvests of coca leaves that are used to produce cocaine, harvests originating primarily in Peru's upper Huallaga Valley, which is controlled by the narcoterrorists and a region that urgently needs intensified law enforcement and military presence.

Peru is the lynchpin of our recently announced Andean antidrug strategy, a cooperative strategy that was supported by the Presidents of Bolivia, Colombia, Peru, and the United States at the Cartegena conference that was held last February in Colombia.

Peru's rejections of our military antidrug military assistance also jeopardizes the $67.5 million military aid program that has been proposed for fiscal year 1991, thereby further jeopardizing the implementation of the Andean strategy and international efforts to combat the drug traffickers.

Mr. Speaker, let us urge President Alberto Fujimori to reconsider his position, to reenter discussions with our negotiators, and to accept military antidrug assistance. If the war against drug traffickers is going to succeed, then the international community, including Peru, must pool their resources, personnel, equipment, and technology to develop and implement a comprehensive, coordinated drug strategy. That is what the Andean strategy is all about. Winning the war against the drug traffickers means law enforcement and military assistance linked with drug education, prevention, treatment, and rehabilitation programs. A break in any of these links destroys the chain for an effective antidrug strategy, permitting the drug traffickers to win the war.

BUDGET FIGHT IS OVER WHO IS GOING TO RUN AMERICA

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, make no mistake about it, this budget fight is over who is going to run America, the Democrat Party or the President of the United States, George Bush.

The fact of the matter is the last time the Democrats had control of this Congress and the White House, we had 21½ percent interest rates, we had 14 percent inflation, we had 12 percent unemployment, and the economy was going right down the tubes.

Remember those days?

Under Ronald Reagan we created 21 million new jobs. The capital gains tax cut would continue economic growth by creating 2½ million more new jobs. But not these guys. They want to raise taxes and raise spending. That is what it is all about, folks, raise taxes and raise spending, eliminate Gramm-Rudman, the only teeth that we have in the budget process, so they can spend this country into oblivion.

WHAT THE WYLIE AMENDMENT WOULD DO IN THE COMPREHENSIVE CRIME BILL IF MADE IN ORDER

(Mr. WYLIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, yesterday we defeated the rule on the comprehensive crime bill. Mr. GINGRICH and Mr. SOLOMON referred to the exclusion of the Hyde amendment and the Wylie amendment as reasons for not supporting the rule.

Member have asked me, "What does your amendment do?"

Mr. Speaker, the Wylie amendment or the S&L amendment would amend the bankruptcy code to preempt State laws which allow persons who have committed fraud or have been convicted of savings and loan crime from taking bankruptcy to keep palatial palaces at the expense of the taxpayer. Taxpayers do not understand how a person convicted of S&L crimes continues to use money taken from depositors to maintain their lavish life styles.

A picture is worth a thousand words. Well, here are two pictures explaining my amendment.

(Home of David L. Paul of CenTrust Savings—$1.5 to $2 billion taxpayer loss; Home of Simon Edward Heath of Guaranty Federal Savings & Loan, Galveston, TX, convicted August 16, 1990, on 10 counts of bank and wire fraud, FDIC seeking $10 million in restitution.)

I cannot understand why the Committee on Rules did not make my amendment in order.

THE RECESSION CONGRESS AND THE GRAMM-RUDMAN DEADLINE

(Mr. BARTLETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT. Mr. Speaker, time is running out. The deadline for the agreement, the deficit agreement, is this Sunday. It appears that the recession Congress is intent on missing that deadline also.

By missing that deadline, thus driving the country into a recession, as the recession Congress has been trying to do since the first of this year.

Let us review the issues that lead us to this deadline and to this recession: The recession Congress has refused to cut the spending, the recession Congress has continued indeed in 1989 and 1990 to adopt new spending programs; the recession Congress has refused to even consider a capital gains and thus put 2 million Americans back to work; the recession Congress has forced the President to agree that taxes would be on the table but spending cuts are still not on the table; the recession Congress has refused good-faith negotiations to agree on a deficit agreement and has refused any enforcement of spending cuts.

The recession Congress will seek tomorrow to give up the last hope to avoid the recession, and that is to have a short-term sequestration. I do not like sequestration either, but as for me, if forced to choose between sequestration or recession, I will choose sequestration and use that sequestration to force this Congress into a budget agreement that eliminates both a recession and sequestration.

WHY CAN'T CONGRESS SOLVE THE BUDGET DEFICIT PROBLEM

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, the American people are asking, "What is the matter with this Congress? Why can't it solve the deficit problem?"

Well, here are some answers: As budget negotiators talk, the Congress continues to spend. As a matter of fact, we have added over $40 billion in new expenditures already this year. The Democrat congressional negotiators will not even talk about cuts in domestic discretionary spending. The only question is how much new spending will be permitted under the agreement.

Another problem is enforcement. The Democrat budget negotiators will not even talk about the line-item veto and other effective enforcement of spending limitations.

Another problem is taxes, not exactly the way to help people in a soft economy, taking away more money out of their pockets. But that is the philosophy of the Democrats, the liberals in this Congress who want to tax and spend.

The Congress is the problem, not the solution.

The American people will know who to blame, not the Presdident, not the Members of Congress who oppose big spending, but the liberal leadership of this body which will not even meet the President half way.

SHOULD STRATEGIC PETROLEUM RESERVE BE USED TO INFLUENCE PRICES?

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, there are those in the administration who argue that the strategic petroleum reserve [SPR] should not be used to influence prices. They say it should only be used to relieve actual shortages of oil.

Now, Mr. Speaker, that argument is just plain nonsense. No matter what the initial shortage, economists know there is always some price at which the market will clear, and the shortage will disappear. At $40 a barrrel, we will not have any oil shortage. We may have a recession—we will surely have higher inflation—but one way and another we will use a lot less oil at $40 a barrel than we used at $20 a barrel, and there won't be any shortage of oil.

In short, if we are not going to use the SPR to influence prices, we are never going to use it, and we should get rid of it. Otherwise, let us discard that totally ridiculous argument and start pumping oil from our 590 million barrels of reserves. There is no need for us to suffer the consequences of $40 oil. It is time to wake up, dust off our brains, start pumping our huge oil reserves. amd get these unwarranted prices down before it is too late.

□ 1140

IT'S AN ALICE IN WONDERLAND WORLD

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, there has been lots of talk about the President's control of the White House and the Democrats' control of Congress and who is responsible for the budget stalemate. But the simple fact is that the President proposed a budget in January, and the Congress, controlled by the Democrats in both the House and Senate, have not proposed a budget in 10 months.

Mr. Speaker, for the first time in my experience in this House there was no budget resolution between the House and Senate through which we agreed even to the basic defense number. It is like an Alice in Wonderland world. We mark up on this House floor budget increases of 10 and 12 percent while the summiteers negotiate cuts and while my constituents at home vote down budgets that are increasing spending 2 and 3 percent.

Who is the Congress kidding with this duplications actions?

Mr. Speaker, I call on the summiteers to come to agreement. They can come to agreement today every bit as well as tomorrow, or next week, or the week after.

What is at stake? Not just the poor Federal employees, some of whom make $13,000 to $16,000 and do not deserve to be furloughed without pay. What is at stake is the jobs of millions of Americans throughout this country.

In my home State of Connecticut, where the economy is very soft, we must, we need, we desperately need, a summit agreement to send a signal to Wall Street that we can discipline our-

selves, that we can control our financial affairs and that we can firm up this economy and prevent a recession in America.

The leadership has got to do its job because Congress has not for 10 months.

THE LEADERSHIP OF INCOMPETENTS IS FRIGHTENING

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, today we have heard from the liberal Democrats whose economic policies failed a decade ago and now want to return to those good old days.

Mr. Speaker, the tax and spend Democrats are back, and at full voice, on the House floor. Meantime, those same liberals are showing daily how incompetent they are at running this House. This continuing resolution scheduled for today gets postponed while the country demands action. The crime bill is so bad that it cannot even get a rule. Behind closed doors the Democrats do everything they can to torpedo the budget summit and thus push the Nation closer to economic chaos.

Mr. Speaker, the leadership of incompetents in this Congress is frightening, and it is these same folks who now want to take control of economic policy. The tax and spend Democrats will then emerge as the recession Congress, or maybe they already have.

AMERICANS SHOULD HOLD DEMOCRATS RESPONSIBLE FOR RAISING TAXES

(Mr. PARRIS asked and was given permission to address the House for 1 minute.)

Mr. PARRIS. Mr. Speaker, I have been listening to Members' statements on the floor this morning, and one of my colleagues just a moment ago asked, "How long are we going to blame Jimmy Carter for the 1980's economic failures?"

Mr. Speaker, I would like to suggest to my colleagues that the Democrats have been blaming Herbert Hoover for 50 years, so I guess they have a little more time to go.

Another colleague has suggested that Presidents Reagan and Bush reduce taxes on one-half of 1 percent of the wealthy in America. That is ridiculous. Do my colleagues think anybody in America really believes that? The President does not make tax law; the Congress does.

Mr. Speaker, the Committee on Ways and Means, which writes the tax laws in this House, has 23 Democrats on it and 13 Republicans, almost 2 to 1. There is an 81-vote Democrat margin in the House, 257 Democrats and 176 Republicans, and that is who raised the taxes. Americans should hold them responsible on election day, and I think they will.

BUSH WANTS TO BE A STEALTH PRESIDENT TOO

(Mr. SWIFT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWIFT. Mr. Speaker, I have been listening with some care to a whole set of speeches that seem to derive from Alice's land today. It occurs to me that it is very strange, and I recall very clearly, that the deficits rolled up during the years that Franklin Roosevelt was President were the Roosevelt deficits, and those were followed by the Truman deficits, and, yes indeed, those were followed by the Eisenhower deficits, and those by the Kennedy deficits, and the Johnson deficits, and the Nixon deficits, and the Ford deficits, and the Carter deficits, and in 1980 it became Congress' deficits.

Mr. Speaker, Congress certainly has shared responsibility, because we passed the fiscal policy that was demanded by Ronald Reagan. Ronald Reagan was the stealth President. He could go absolutely invisible when the inconsistencies of his policies showed up. What we face today is the result of having let him get away with it then. What we are facing in the budget crisis today, is having let him get away with it.

Mr. Speaker, we cannot let another President get away with it now, simply because he wants to try and be a stealth President as well.

APPOINTMENT OF CONFEREES ON H.R. 5400, CAMPAIGN COST REDUCTION AND REFORM ACT OF 1990

Mr. SWIFT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5400) to amend the Federal Election Campaign Act of 1971 and certain related laws to clarify such provisions with respect to Federal elections, to reduce costs in House of Representatives elections, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. HUTTO). Is there objection to the request of the gentleman from Washington?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. THOMAS OF CALIFORNIA

Mr. THOMAS of California. Mr. Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. THOMAS of California moves that the managers on the part of the House at the Conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 5400 be instructed (A) to accept Senate provisions of Secs. 411, 412, and 414 relating to reporting and limitation of expenditures for franked mass mailings; and (B) to accept the Senate provisions banning Federal contributions by connected Political Action Committees and limiting Federal contributions by unconnected PACs to $1,000.

The SPEAKER pro tempore. The gentleman from California [Mr. THOMAS] will be recognized for 30 minutes, and the gentleman from Washington [Mr. SWIFT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, Prof. Larry Sabato, University of Virginia, well-known professor of government and an expert on campaign financing; as a matter of fact, one of the members of the six-member panel that the Senate asked to assist it in putting together campaign finance reform; has issued what he calls a mid-term report card on the campaign finance reform proposals. The Senate-passed package, S. 137, receives a grade from Professor Sabato of F, failure. H.R. 5400, the House-passed package, receives from Professor Sabato a grade of D-minus. The President's package, which he has proposed as his ground rules for campaign finance reform acceptance on his part, has received a C-minus from Prof. Larry Sabato.

Mr. Speaker, all of us know that the final exam will be issued by the President. That is, do the Democrats have the ability in conference to put together a campaign finance peckage composed of the Senate's product, which is currently an F, and the House product, which is currently a D-minus, to receive a passing grade? The President has said that the ground rules on campaign reform, as far as he is concerned, and I think his interests should be presented here because I do not think they are too outlandish as a matter of fact; he says, No. 1, there should be no taxpayer financing of campaigns. Especially in this deficit period it seems a little unseemly that Congress is rushing to provide taxpayer money to pay for candidates' bumper stickers and campaign buttons, and he says there ought to be another way.

□ 1150

Indeed there is. The Republicans offered here and in the Senate fundamental reforms of campaign finance that did not involve taxpayer financing. One of the proposals the Republicans offered was to require that a majority of the money that a candidate raises in running for office come from the individuals who reside in the district itself. That is, the people who

vote for the candidate determine how much money is going to be spend in a campaign. If one cannot get a dollar from the people who live in the district, one cannot take a dollar from the outside. That position was rejected here on the floor by a virtual straight party vote.

The President has also said that the campaign finance reform package that he signs has to reduce special interests in campaigns.

We have seen over the 1970's, and especially over the 1980's because individual contribution amounts have been limited and because the role of a political party, the institution in our society primarily charged with carrying out campaign activities, has been limited by law, that special interests have continued to grow in their influence in campaigns. That is the only margin of growth provided under the law today. On the other side of the coin is the President who has asked for incentives for individuals to play a greater role in campaigns, and for political parties to play a greater role in campaigns, thereof, reducing the influence of special interests.

Then, lastly, the President has said, "Let's get honest." What is in that House package, H.R. 5400, is not the only thing that affects campaign. Two areas that he said the Congress should look at are, first, the franking privilege of the House, the ability of an incumbent Member to sign his or her name in the upper right hand corner of a piece of mail and have it delivered at taxpayer expense. No candidate who challenges an incumbent has this capability. Incumbents have this capability.

Now, there is no question that a portion of the franked mail that is sent by incumbents is carrying out the constitutional duty of informing constitutents and responding to constitutent mail, but I think it is fairly difficult with a straight face for any incumbent to say that all of the franked mail that is sent not only meets that high standard of the constitutional requirement, but has no campaign content whatsoever and, therefore, should not be considered at all when we talk about campaign reform.

Then finally—and really this is the most fundamental concern the President has and that the American people have—the whole concept of our Government is that when we do not like the person who is in, we have a chance to remove that person. Unfortunately, more and more we have seen, because of the technological capability with computers to draw districts, that when a State legislature or a commission, or whatever the instrument is for drawing congressional districts in a particular State, draws a district for partisan reasons—the gerrymandering concept—it is virtually impossible to dynamite out an incumbent, and, therefore, the whole area of redistricting ought to be part of the campaign finance reform as well.

We are going to conference on these two bills, one an F and one a D-minus. What comes out of conference, as I said, will be the final test.

Our side is offering a motion to instruct conferees. I am not going to refight the campaign finance legislation battle that we had. The Democrats won, we lost. The proposal from the House that is going to conference contains taxpayer financing and a number of other items the President has said he would veto. So what I am asking, in the spirit of Prof. Larry Sabato, is that the motion to instruct simply be a quiz, not a final exam on the House of Representatives, but just a quiz, a quiz that contains two provisions, and if this House cannot accept those two provisions, then in my opinion, there is no question that the Congress will fail the final exam on offering the President campaign finance reform legislation that he can sign.

What does the motion to instruct contain? Although Professor Sabato gave S. 137 an F grade, and although the overall effort was graded a failure, within it there are areas that merit some examination or consideration. As a matter of fact, Professor Sabato in the Senate bill pointed out a positive aspect of the Senate package, and that was that the provision for limiting the special interests, the political action committees, was a good one in the Senate. What the Senate proposed to do, was to deny the ability of a connected PAC, a so-called connected PAC, one whose administrative costs are financed by the labor union or by the corporation, a kept PAC, to participate in the system. But an unconnected PAC, one that pays all of its costs out of the Federal money which it receives, would be able to contribute $1,000. That passed the Senate. All this motion to instruct asks is that the House agree with the Senate.

Let us take a look at some numbers. When we examine all of the contributions to all of the candidates, Democrats and Republicans, challengers and incumbents, what we see from 1974 to 1988, is a continual decline in the percentage of individual contributions and a continuous increase in PAC contributions. This is what has caused the concern and the alarm of the President and others, about the growing influence of special interests.

The House of Representatives campaign finance package did not include the kind of limitation on political action committees that this motion to instruct requests. As a matter of fact, to a very great degree, it was business as usual under the Democrats' proposal, and as a matter of fact, when it came to the union type of political action committees, it looked as though they were giving a bonus to those over others.

Why would we see the Democrats taking a different approach from the approach of the Senate? This might help a little bit. This is the same chart over the same period of time. The red line shows the individual contributions to Democratic candidates, a decline of personal contributions, individual contributions, and the blue line is the increase in political action contributions. As we might see, those two lines are very, very close to converging. One of the things I found that Democrats do, is that they do not tend to shoot themselves in the foot. They do tend to wrap themselves in the flag, but they do not tend to shoot themselves in the foot.

Because it is entirely likely that by 1990, those lines will have crossed, absent campaign reform which limits special interests, the Democrats will be receiving more money from those special interests than from individuals. Now we begin to understand why the Senate provision was not in the House language.

We are asking all Democrats in the House to stand up and say no to special interests, to say no to special interests in a way that the President would grade them not even just with a "C" but with an "A," and that portion of the campaign finance package would certainly pass scrutiny.

Second, in terms of franking, we are not going to ask that the House of Representatives ban franking. That is absurd. I think there are good and useful constitutional purposes in franking. All of us can recognize good and useful constitutional reasons for allowing us, as elected representatives, to communicate with our constituents. The concern is what has happened in terms of skewing the playing field of politics. Elections are not where one individual suits up on January 1 in an election year, and the other individual suits up on January 1, and they both take the field to play the game. No, incumbents are suited up a year ahead of time because they are using taxpayer money to send out their material, perhaps vaguely constructed name ID material which clearly could sometimes be interpreted as material to assist them in a campaign. What do I mean by that? Let us take a look at this chart.

□ 1200

This chart compares incumbent franked mail costs and total House challenger campaign spending, 1982-90. Understand what is going on in this particular graph. The blue bars represent what House challengers spend for their campaigns. During an entire election cycle, all the money that is spent by challengers is indicated by a blue bar.

The red bars are just the taxpayer-financed franking of the incumbents. Not the campaign costs for mailing of incumbents, but just the taxpayer-financed mailings of incumbents.

Take a look in 1988. The challengers pulled together $41.6 million for their entire campaign activities. The taxpayers ponied up $122.1 million for incumbents to send out mail.

Nowhere on this chart does it show you what incumbents paid out of their campaign coffers. We all know that incumbents have enormously more resources for mailing out of their campaign war chests than do challengers.

Now, as I said, there is no question that there are constitutional reasons for sending out franked mail. But if you will look at the next chart, you may begin to understand that perhaps at some point Members on the other side of the aisle will stand up, perhaps with their heads slightly bowed, and say, "You are right. There is some relationship between campaigning and franking."

Oh, they will not say it now. They will stand fast and say there is no relationship.

Would Members please examine this chart? This is the franked mail costs of the House of Representatives between 1972, carried out to 1991.

This is one of those classic charts, is it not? It almost looks like you have made it up. There are peaks and there are valleys, and there are peaks and there are valleys. The peaks and valleys are much higher in terms of costs, but there are peaks and there are valleys.

Do you notice that there is a peak and a valley following each mark on the chart? It corresponds to years. Are you ready? Let us try this test on you.

Are the peaks in the even-numbered years, or the odd-numbered years? Are the valleys in the even-numbered years, or the odd-numbered years? And when do incumbents run? Is it not an amazing coincidence that every time there is a peak, it corresponds to a campaign by an incumbent?

There is no question, the evidence is irrefutable: Incumbents utilize taxpayer dollars by franking to assist them in getting reelected. It should be part of any campaign finance reform package.

What this motion to reinstruct asks is not that we ban franking, not that we cut it back, but that we just disclose it.

The Senate provision that we are asking Members to endorse simply says that the House of Representatives tells the public who is spending what. That is all, disclosure.

This motion to instruct is a quiz. It determines whether or not we can prepare ourselves for the final exam. Frankly, I am not too concerned about how many Members are going to support the motion to instruct on my side. My concern is how many Democrats are going to guarantee that the conference fails by voting down a reasonable and rational position on PAC limitations, which the Senate has already approved, and simple disclosure in the area of franking, which the Senate, by the way, has also passed. The vote on the motion to instruct will pretty well determine the final grade.

Mr. SWIFT. Mr. Speaker, I yield myself 15 minutes.

Mr. Speaker, what we have here is a dead horse. It has always seemed strange to me that there are people who like to sit around and beat a dead horse, but apparently there are those who get their jollies doing that sort of thing.

You would not know if you had just listened to the presentations so far that the House had ever addressed the issue of franking. The fact is that the Ethics Task Force, which passed a bipartisan proposal several months ago, addressed the entire issue of franking. The House has addressed the issue of franking on several occasions since.

The horse is dead, and I suppose I am getting, at least as one Member, tired of trying to prevent people who like to beat dead horses from beating them. Go ahead. Go ahead. Beat this one again.

There have been a few abuses of franking in the past, there is no question of that. The House has addressed those over the years, going back 20, 25 years, when we established the Franking Commission and all the rest.

Content of the mailing pieces that we send out is even reviewed, and rather strictly regulated. The number of times you can say "I" on a page is regulated. The number of pictures you can put is regulated, and so forth and so on.

We have added in recent months additional restrictions on the number that can be sent out, and so on and so forth.

The horse is dead. If you want to continue to beat it, go ahead. I am tired of trying to deal reasonably with that issue.

But I will point out that in an American Enterprise publication, "Vital Statistics on Congress," it says on page 128:

> The explosive growth since 1981 in franking is a reflection of grass roots lobbying. In other words, the first wave of growth was stimulated by Members, the second by constituents.

It is also worth noting that postage rates have gone up, necessarily driving up the costs of Members of Congress sending out their mail.

We have addressed the legitimate concerns with franking in other forums and at other times. It is interesting to note, and this has been brought out in previous debates, that Republicans had even issued through their campaign committee suggestions to their Members on how to use the frank for campaign purposes. Now to find that side of the aisle continually beating this horse seems to me, and I will use a gentle word, inconsistent. The fact is that you can make a good case that there have been legitimate abuses of the frank and you can also make the case that Congress has responded repeatedly to those and has dealt with it.

This Congress, this very Congress, the 101st, has dealt with it a number of times. One suspects rather that what we have here is a continuation of the effort to try and destroy the confidence of the people in this institution.

I have been listening for 10 years now as some among us have begun a long campaign of Chinese water torture to erode public confidence in this institution at every conceivable opportunity. Their purpose is simply that they want to tear the institution down in the hope of being able to gain control of it. They do anything necessary to cause sufficient political instability, that they may be able to take political advantage. It is a sad thing. It is a dangerous thing. It is a very troubling thing.

It is marvelously reflective of some things that we were told during the 1960's by those young left wing radicals who said, "We must tear this society down, in the hope that something better might grow back in its place."

Mr. Speaker, I would suggest that there is an effort within this institution, by, interestingly enough, right wing rather than left wing people, that say, "We must tear this institution down, in the hope that something better; that is, 'we,' become the majority."

Thirty-two years, we heard the gentleman from Georgia [Mr. GINGRICH] say earlier during the 1-minutes, the Democrats have had control of the House. In that time the Republicans have not been able to get control of the House.

□ 1210

But they now claim that it is a variety of incumbent advantages that have locked that in place, incumbent advantages, one presumes, that were put in place 32 years ago. No, we hear that these are recent things. But the fact is Republicans do not do very well in open seats where incumbency is not even beginning to be an issue. The fact is the two parties have very unique and characteristic ways of responding to their inability to be successful at the polls. Democrats have not been very successful at the polls on the Presidency in recent years, and the kind of characteristic way Democrats deal with that is that they sit around and stir through their own entrails trying to find out what they did wrong. And as impatient as I get with that at times, at least it suggests that

one might look at themselves for an answer.

Republicans, when they fail constantly to be able to win at the polls tend to want to blame it on the institutional structure and want to go out and change that structure. In enormous frustration that they could not defeat Franklin Roosevelt and Harry Truman, the Republicans changed the Constitution and put a two-term limit on Presidents, and ironically it is only Republicans who since have elected Presidents who could have probably been reelected to a third term, probably Dwight Eisenhower and probably Ronald Reagan. They do that instead of looking to themselves.

I can understand the frustration in not being able to achieve your electoral goals. I am enormously frustrated that we do not have a Democratic President. I can understand the frustration. I cannot understand the willingness to destroy an institution in order to achieve that partisan end. And it is not that this specific proposal is going to destroy this institution. Clearly it is not. But it is the drum beat that has gone on now for a decade, a drum beat that has emanated largely from this well during 1 minutes and during debate, a constant drum beat from the other side of the aisle that suggests this institution is an evil institution, and the people in it are evil, and that is wrong.

This is a great institution. What this whole approach for the last 10 years has done is to obscure what the purpose of this institution is.

This institution was not ever designed to be efficient. The Founding Fathers put us here as a huge committee of 535 people, and the Founding Fathers knew you do not create such a thing as an efficient committee. That is an oxymoron. We were here to protect liberty. We were here as a check and balance on the President so he could not become a tyrant.

We are inherently inefficient. We are inconsistent. I have always said that if we took 100 of the finest minds who ever lived in the history of mankind and formed them into a committee, it would take them about 30 minutes to do something dumb. It is the nature of group decision making. It is inconsistent. It is difficult because it brings different ideas, different points of view, and that is not efficient.

To criticize Congress for most of what we hear Congress being criticized for over the last decade is the same thing as criticizing a Volkswagen because it does not fly very well. It was not designed to do that. And as a person who believes very strongly that the representativeness of our Government is housed primarily in Congress, and primarily in the House of Representatives, the people's House, I have become disillusioned, disturbed, depressed, and finally angry that for the narrowest and pettiest of partisan reasons we have undergone a decade of self-flagellation that has been enormously destructive of this institution, and therefore destructive of what this institution can achieve.

One more effort to beat the dead horse of franking is another example of that continued effort. At some point we have to understand what it is that this great institution is, and we have to stand up for it. At some point, if we do not rise in defense of this institution as the greatest single protector of the liberties of people, as it was intended to be by the Founding Fathers, then how can we expect the columnists or the citizens groups or the people of America to understand it?

So it is time we begin defending the House of Representatives, and it is time we begin calling a spade a spade in terms of some of the kinds of attacks that have been made on this institution.

Let me comment very briefly, and then I will yield to an eminent colleague of mine to deal with it in greater detail in a moment, but let me just briefly deal with the PAC portion of this proposal.

Much was made of this midterm report card by Larry Sabato in which the House got a D minus and the Senate, I am told, failed altogether. In it, Larry Sabato, the author of this report, says on page 12;

> As this author has explained more thoroughly elsewhere, the attack on PACs is one of the phoniest issues of modern time.

That is on page 12 of the report. Let me repeat:

> As this author explained more thoroughly elsewhere (See Larry J. Sabato, PAC Power: Inside the World of Political Action Committees) the attack on PACs is one of the phoniest issues of modern times. * * * before the PAC mechanism and disclosure rules were mandated in the 1970's, the money flowed in far less traceable and more unsavory ways.

Again, it is time to try and put reason and some facts into this debate, and to that end I will shortly yield to a colleague of mine who has been one of the greatest leaders on campaign reform over decades in this institution.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of California. Mr. Speaker, I yield 5 minutes to the always cogent and witty gentleman from Kansas [Mr. ROBERTS], a member of the Elections Subcommittee of the House of Representatives' Committee on House Administration, which was not able to participate in the drafting of campaign finance because of a task force creation.

Mr. ROBERTS. Mr. Speaker, I thank the gentleman for yielding time to me.

My colleagues, this really is the last chance to get on the campaign reform stage that leaves Dodge so we can achieve some kind of real reform. It is the last chance I think to really board a campaign reform train that will actually get to a reasonable destination, some conclusion, something we can all agree on instead of heading for a veto and derailment and more politics as usual.

I would say to my friend and colleague from the State of Washington, and my chairman who serves as the able chairman of the Subcommittee on Elections, this is not a dead horse. Old "Frank Privilege" is not a dead horse. He is alive and well and kicking in the stable. As a matter of fact, every election year, as the chart over here shows, he gets rode hard and put up wet, and then we get to the off election year and those numbers go down.

However, it is not my intent to abuse the franking privilege, or to abuse this institution, or to abuse the very real need for Members to communicate with their constituents. That is not the point.

□ 1220

Yes, we do have limits, thank goodness, on the frank. We even say how many pictures of a Member can be in a report back home, and the size of the pictures. We are even supposed to send a copy, should send a copy to the Franking Commission so we do not get too partisan. We are limited to three postal-patrons a year, and that was a reform and a step in the right direction, six per session, but what happens is when we go through those postal-patrons and the limit is reached, it does not take too much imagination or effort on the part of the Member of Congress to really communicate a little bit more during these election years by converting those kinds of lists to every virtual mailing list known to mankind, in this case the Dead Horse Society.

Mr. SWIFT. I do not know what Harry Truman, FDR, the institution of this fine House of Representatives or the Founding Fathers or the election process or Republicans or Democrats has anything to do with public disclosure. My goodness, I do not think that our Founding Father, Benjamin Franklin, the first Postmaster, issued a postal-patron. What has that to do with full public disclosure?

I remember the debate on campaign reform several weeks ago, and it ended unfortunately in a very partisan stalemate, and I will be the first to say that we have strong philosophical differences, strong political differences on what really represents reform of our campaign system. I guess at this time of the year that is about all we have around here in terms of differences. I think that is unfortunate.

This motion does not include anything in regard to taxpayer financing

or bundling or soft money or campaign limits. This is a motion to instruct the conferees on something everybody can support. It is simple. Everybody agrees, No. 1, we have to lessen the influence of PAC's. Some of us believe we ought to get rid of PAC's. This, at least, reduces the influence of PAC's.

I think publicly everybody would agree that we need full disclosure on franked mail. What is wrong with full disclosure?

I come to this mass mailing, franking privilege and disclosure a little differently from the rest of my colleagues. I serve on the Committee on House Administration, and every even-numbered year, every election year, I have to approve, along with my subcommittee chairman, a virtual army of part-time employees in this body for the Doorkeeper of the House just to move out all of the postal-patrons and the newsletters and the columns and the notices of public meetings. That became a real problem. We are talking about hundreds of thousands of dollars extra out of the House Administration Committee budget just to hire the part-time employees to move the mail out. Now, that is not right.

With what became a real problem last year, we adopted what we thought might mean at least a possible solution until we got to true franking reform, and we said to Members, "You have a 60-day deadline that you have to get this material down to the folding room." That did not work. And so we said, "We are going to have another 60-day deadline so that these people can get this material out." That means that this vital information that my colleagues across the aisle will talk about is 120 days late some of the time getting to our constituents. So much for timely information.

My colleagues, the very least we can do is to provide public disclosure on these mailings. The National Taxpayer Union is already doing that. They have already taken a look at the postal-patron number. They put it in our newspapers. What is wrong with that? If you believe in franked mail, if you believe in really communicating with your constituents, there is nothing wrong in simply having public disclosure.

I send a questionnaire out to my people. Over 20,000 people respond. It is an exercise in real democracy, and we do not abuse that. What is wrong with public disclosure?

As the gentleman from California [Mr. THOMAS] said, we are going to go to conference. It may be an exercise in futility. We do not need another exercise in futility, another so-called reform bill full of all sorts of unintended effects.

I say to the proponents of taxpayer financing, of banning PAC's, of defining PAC's, all those who want to reduce the cost and increase the availability of television if it could be done constitutionally, everybody interested in campaign reform, you can support this. You can support this. We can do this. We should do this. Vote for the motion to instruct our conferees to make sure that we lessen the influence of PAC's and have full disclosure of franked mail. That is all this is.

It is a winner for Democrats. It is a winner for Republicans, and most of all for our election process. It will revive that dead horse and we can harness him to the stage to achieve true campaign reform, yes, in a limited way, but at last some reform.

Mr. SWIFT. Mr. Speaker, I yield 7 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, let me simply say in response to the comments of the last speaker that this motion might be a winner for Democrats and a winner for Republicans, but it would be a loser for the average middle-class working family in this country. I would like to tell you why.

The last campaign finance reform bill that passed this House before the Swift bill earlier this year was mine. It was the Obey-Railsback bill back in the mid-1970's, and I have been deeply involved in virtually every campaign reform effort from that time.

I used to think that if you simply limited PAC's that you would really improve the condition of American politics, but the fact is that the political system has changed a lot in the last 10 years. People who contribute to political campaigns have learned a whole lot more in terms of sophisticated routes by which they can put their money in political campaigns, and that means that if you provide the kind of action which this motion to instruct calls for you will, in fact, disadvantage average working people, and you will make the only effective power centers in this country the very wealthiest people in this country, in terms of contributions to campaigns.

Here is why: The original purpose of a PAC was to enable average people to band together to take small contributions, put them together to counteract the contributions being made by the high flyers in this society. The original ideas was that you could take 100 paper workers or 100 farmers, they could contribute $10 or $20 apiece, they could pool their money and in that way balance off the fact that the boss in the front office was writing a $1,000 check to his favorite congressional candidate.

I still favor the principle of limiting the amount of money that can be contributed in total by PAC's to political candidates, because I think there needs to be a fair balance between organized giving and individual giving.

But if you pass this motion to instruct today, what you do is you simply enable 20 front-office executives in any major corporation in this country to each contribute a thousand smackeroos apiece, 20,000 bucks to the same candidate, same day. And what do the guys do who are working on the line? Well, they are out of business, because even if you have a thousand people working in that same company, they cannot get together in an organized way to try to influence the political process. So they are just put out of business.

If you really want a proposal that makes the American political system something defensible and something that we can be proud of, you have to do it all. This motion simply deals with one little piece of the problem in a way which builds in a huge advantage to high-income people, and it would also mask the money trail in the American political system.

□ 1230

Let me give Members some examples. Right now, the Drexel, Burnham PAC, contributed $122,000 to political candidates. But officers of Drexel, Burnham individually contributed $299,000 to congressional candidates. Salomon Brothers, $121,000 contributed by their PAC, but their corporate executives contributed $201,000 individually. Now, you think that was not an organized operation? Merrill Lynch contributed $207,000 through their PAC, but they contributed $218,000 from individual contributions from the high rollers at Merrill Lynch. Do you really think that was not an organized operation?

If you really want to influence or limit the influence of big money in politics, why don't you go further with the recommittal motion and also limit the amount that high-income people can contribute? Why not take down the individual $1,000 limit to $500, so that we cut in half the influence of high-income people in the political system? Why not also limit the ability of Members of the Senate to use campaign contributions to fund the operation of their own offices?

My point is simply that unless we do it all, what we really have is an operation which appears to be campaign reform but in reality is going to transfer political power to the very wealthiest and most organized people in this society. That is not what we ought to do.

Let me just ask one additional question in closing. Members have talked about the problem of the S&L scandal. They have talked about campaign finance reform because of the S&L scandal. I want to remind you that Charles Keating did not influence the political process by going through PAC's. I want to remind you that Charles Keating and his buddies managed to get together and contribute

200,000 bucks in individual contributions. There is nothing in this motion that deals with that, and so it seems to me that if we want to have real campaign reform, what we will do is allow the conferees to go into this conference, untrammeled, so that we can take all of the limitations that make sense, so that they can prevent all of the people or organizations from influencing the political process in a way which is detrimental to the average American.

This amendment appears to be campaign reform. It is really, in my judgment, phony campaign reform. It masquerades as something which, in fact, it really is not. Therefore, I would simply urge my colleagues to turn down the motion and send the bill to conference so that we can get movement all across the board rather than simply focusing on the one way that will simply drive campaign money underground, hide it from the public so that they can no longer track the way the big boys in this country actually influence the political process.

Mr. SWIFT. Mr. Speaker, I yield 7 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I rise in opposition to this motion to instruct for several reasons. First and foremost, I want to agree with the comments made by my colleague, the gentleman from Wisconsin [Mr. OBEY] that simply to eliminate contributions by political action committees is not really going to do anything about the problem of special interest money in political campaigns in this country. It is simply going to bring Members back to the point we were at a number of years ago, back in the 1960's and in the 1970's when money traveled underground, under the table, to the very people who are required to publicly disclose the sources of their campaign funds.

Certainly, limiting PAC's in what they can contribute, fine. Limiting the total amount that PAC's can contribute to any given Member in a campaign, fine. Democraticizing PAC's so more people have to contribute to PAC's so they can give, perhaps, a percentage more to campaigns, that is a step in the right direction. However, the meat ax approach simply falls right into the hands of people who have large sums of money at their personal disposal, who are interested in playing an inordinately large influence in political campaigns and that, of course, is best exemplified by the gentleman from Wisconsin, Mr. OBEY'S, reference to Mr. Keating and others of that ilk.

Let me go on to the other part of the proposal made by the gentleman from California [Mr. THOMAS], and that relates to the frank. We always have to battle with charts, and I thought perhaps we could bring some new information to this debate about what is actually occurring in terms of the frank here in the Congress of the United States, specifically in the House of Representatives. If we look at this chart, it points out that as we record the cost from year to year, an average trend shows that, in real dollars, we are not spending more but actually spending less than we were in 1982. Our costs are less by about one-half percent per year in real dollars. That is the actual result when we take out the increasing cost of postage, and it shows that we are not abusing this privilege that we have had since the Constitution was formed. We are simply using it at a slightly reduced trend line and almost all, in fact, I would argue all of the additional costs are really a reflection of the significant rate increases that all postal rate payers in this country have had to pay.

So we should take some of the overhype that we have heard in recent times out of this debate. We are not profligate users and abusers of the frank. In fact, last year, we enacted reforms that reduced our frank usage from six newsletters a year to three. I think most Members discovered that there was only a relatively small percentage, perhaps 100 Members out of the 435, who were really abusing newsletter privileges and using more than half of what we were allowed to use under the law.

Let me show Members another trend line that I think is very indicative of what we are up against, and that is the amount of incoming mail. Since 1975, when we received some 55 million pieces of incoming mail, we are now up to 228 million pieces of mail in a period of less than 15 years. This is an incredible rate of increase, 10.7 percent a year. It reflects the very calculated use by special interest groups of direct mail impact on Congress. We have been victimized by mass mailing campaigns that are really not speaking so much to the fundamental concerns of the people we represent. Instead, special interests show callous disregard for the public benefit or the commonwealth by distributing limited information and with a very easy approach to the voters they figure out a way to inundate Members with mail which we must respond to, or which we must attempt to respond to, hopefully in a way that will educate our constituents as to the weal issues we are debating.

Now, let me talk to Members briefly about what is in the offing, because this motion to instruct comes at a time, I am sure, when Members are interested in further changes in the way in which we use the frank. I had an amendment prepared to offer in the House Committee on Rules that will become an amendment to the legislative branch appropriations bill that would radically change the way in which we use the frank. It deals specifically with the question of disclosure. I propose, and I hope the House will join me, and we will be able to enact this year, language that will establish an account for each Member, so that each Member of Congress would be limited to just so much money per office to mail communications to their constituents. In fact, there would be really no issue of disclosure, although disclosure would be accommodated, because everyone would be getting a specific amount per address, per postal patron in each district.

□ 1240

Our goal obviously is to make sure that districts that change in size or that have more of one type of postal patron than another are not advantaged or disadvantaged. This would be fair to us all. It would be a system that would work very much like our clerk hire or our office account for expenses that we incur in running our Washington and district offices. Our allowance useage would be published several times a year. We discussed the possibility of a quarterly filing, or at least a filing each half year, with the Clerk of the House of Representatives, which would be published for all to see. The issue of disclosure would go away and we would all be dealing with the same allowance money. There would be no abusers, nobody who mails an excessive amount and then, of course, out in the light of day there would be the benefits from additional disclosure. There would be no need for the typical votes against funding the frank here on the floor, looking as if they are somehow immune from those abuses that we all do understand occasionally occur.

This proposal that I will offer is far stronger than the proposals that were included in the Senate legislation that this motion to instruct would ask us to adhere to.

By the way, my amendment would cover all mail. It is not just mass mailings, as the Senate provision in section 412 would. After funds are exhausted in each office, the Member would be simply out of luck. No more mail would flow.

In the Senate, of course, that will not be the case, for all sorts of mailing other than mass mailings are not covered in their bill.

We would not just register with the Clerk as the Senate provision in section 414 would have it. We still require Members to go to the House Franking Commission and get approval, not just registration, but approval so that abuses, overuse of a Member's name or hyping a Member's accomplishments would no longer be allowed.

Our proposal is less costly on record-keeping than the Senate provision in Section 411. It is far better in timely reform.

I ask you to reject this motion to instruct and accept the franking reforms that will be coming to the floor very shortly.

Mr. THOMAS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, the last two colleagues from the Democratic side are friends of mine. They are good legislators and they are good debators. Frankly, you have got to be a good debater to say what they have said about this motion. Nothing could be further from the truth.

What we are talking about here today is a motion to instruct the conferees to accept not something that the Republicans have advocated, but something that has passed as a part of the democratically controlled Senate campaign reform bill, and this is not even partisan. Yet here you come to the floor of the House and try to make a big partisan issue that we are for big money.

Well, I have got to tell you something. Your bill does not include one thing to deal with Charles Keating's donations. If that is so important, why did you not include it in your bill, and why do you not find a way to do this properly?

And second, you have to deal with the Constitution. The gentleman knows that better than I do. He has been involved in campaign reform longer than I do.

Then our colleague, the gentleman from California, gets up and says we have to do all this stuff in franking. Where in the House campaign reform bill is there anything on franking? What we are saying is yes, we agree with you, and that is what this motion is all about, and if the trend line in mail is such that we are getting more and more mail, then what is wrong with disclosure? The most recent disclosure that I saw on franking said that it was the Republicans doing too much franking, not Democrats. You ought to be for that.

We are saying it is time to put up and put into the public exactly what is going on.

What does this motion do? It simply says that we accept three specific provisions of the Democratic Senate controlled campaign bill on franking, and it says that we accept two of the provisions to reduce the influence of PAC's.

If the goal of campaign financing reform is to lower the role of special interests, to lower the role of big money, and to lower the advantages of incumbency so that we have a more level playing field, more clean positive campaigns where the public participates, then accept these provisions in this motion to instruct the conferees.

Mr. THOMAS of California. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. HILER], a member of the Subcommittee on Elections of the Committee on House Administration, a Member who would have had a chance to work on a campaign finance bill had that legislation followed the ordinary course of legislation in this House.

Mr. HILER. Mr. Speaker, I thank the gentleman for yielding this time to me.

I do wish it had gone through our subcommittee and through the full Committee on House Administration, but let me just say that I wholeheartedly subscribe to the motion of the gentleman from California to instruct. I think we need to break it down to very simple terms.

As the gentleman from Wisconsin said, what on earth is wrong with quarterly reporting of the amount of franked mail that each Member of the House sends out? How can that possibly be objectionable? What is wrong with there being a public accounting so that we can all know where the abuses take place and Members can be held accountable? What is wrong with saying that when the appropriation for the use of the frank has been expended that there is no more franking? How can we say in a time of over $150 billion budget deficits that we would be opposed to a provision which would say that the Congress itself cannot send out any more free mail after we have used up our budget?

What can be wrong with having an annual reporting of all the mass mailings sent out by each House Member, including a copy of the mailing and a description of the group to whom it was mailed?

It seems to me that sections 411, 412, and 414 that the gentleman from California is asking us to accept make eminent good sense and cannot have any objections in this House.

As it relates to PAC's, the fact is that the campaign finance system is badly out of balance. Today over half the winning candidates in this House of Representatives receive over half their money from political action committees. As the source of campaign finance more and more comes from inside the beltway, Members become more and more insulated from their voters back home, and as we see the balance of PAC contributions to incumbents versus PAC incumbents to challengers, we see an even greater imbalance in favor of the incumbent.

Let us restore some balance. Let us try to level out the playing field.

The instruction of the gentleman from California and the provision passed in the other body does not eliminate PAC's. It does not say that each individual PAC is bad. It does not say that contributions to a PAC are bad. What it does say is the need to restore the balance by limiting PAC contributions to what an individual can contribute and to making sure that in the management of that PAC that only clean dollars, only dollars that have been contributed to the PAC are actually used to manage the PAC, as opposed to union members' dues or corporate funds being used to manage that PAC. It seems to me these two provisions in this motion to instruct make a good deal of sense, ought to be noncontroversial, ought not to rankle anyone.

As the gentleman from Wisconsin said, both of these key provisions were adopted in the Democrat-controlled Senate, and to see the partisanship erupting here on the floor over these provisions that were accepted in the Senate by the democratically controlled Senate seems to me to be without substance.

So I would urge my colleagues to accept this motion to instruct.

Mr. SWIFT. Mr. Speaker, I yield 2 minutes to our final speaker, the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, my colleagues, my fellow Americans, my name is MIKE SYNAR. I do not take PAC money. I also do not intend to take my 2 minutes to defend PAC's, but I stand before you to tell you that I am strongly opposed to these instructions. They are not good. They are not good for a number of reasons.

First of all, they are not good because they do not really limit special interests as they are being portrayed, because limiting PAC's without touching big donors and improving disclosure rules is not reforming. You are not really dealing with the special interest problems that have strangled this place for too long.

For those who stand here today and ask us to join them in these instructions, I remind them, they had the opportunity to do that very thing almost a month ago when I offered an amendment, along with the gentleman from Wisconsin [Mr. OBEY] that would have reduced the PAC contributions to 50 percent and also would have reduced an individual's contributions.

I find it incredible that the same people who did not vote at that time are now standing before you asking you to eliminate PAC's.

□ 1250

That was reform, they rejected it at that time. This is not legislating, in fact, this is legislating in its worst form and the American people will see through it.

We ought to give our conferees the opportunity who have some understanding of this whole process, to do their job without instructions. I ask all my colleagues to join with us and to

reject these instructions and let our conferees begin the process of reforming this body and this institution.

Mr. THOMAS of California. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from California [Mr. THOMAS] is recognized for 5 minutes.

Mr. THOMAS of California. Mr. Speaker, I said earlier that Democrats do not often shoot themselves in the foot. They often wrap themselves in the flag, but they do not so often shoot themselves in the foot.

What we have seen is a marvelous example of Democrats wrapping themselves in the flag.

What we heard was that the Founding Fathers did not intend an efficient institution in the House of Representatives.

It is not interesting that just recently we got a very good example of how inefficient the Democrats want the House of Representatives to be.

On this floor, the Democratic leadership was repudiated on the rule that was presented on the crime bill.

They do not want to go back and let the rank and file determine the direction of this body. Rather, through the very artfully crafted rules by the majority, they run this place with a ruthless efficiency.

Now, I do not think the Founding Fathers necessarily thought that the House of Representatives was supposed to be efficient; I do think they thought it was going to be representative.

I think that is one of the reasons in the Constitution, in article I, they said that all of the Members of the House were to be up every 2 years and that somehow the House was to be responsive to the people; that when they wanted change they could get change out of the House; and if they did not get change out of the House they could change the House.

We have seen the recent incumbent returns, yes, both Democrats and Republicans, and it must be attributed to something.

"Oh, I am good." The gentleman from Washington is good, the gentleman from Wisconsin is good. I do not think we as a body are 98 percent good. I think there is something else going on.

Is it not interesting that the Democrats said franking is a dead horse but they go to the trouble of charting the dead horse? Is it not interesting that even on their own charts you get the peaks and the valleys of the odd years and the election years? Is it not also interesting that the bottom half of that chart showed the Senate franking costs trending down?

Maybe it is because the Senate requires disclosure. Maybe the reason the House does not have a descending franking cost line is because you have managed to make sure that there is no disclosure on the House side.

Let us talk more about franking. The gentleman from Washington said it was a dead horse. We have charts on the dead horse. The gentleman from California [Mr. FAZIO] is a pretty good hot walker for a dead horse. You did not hear from the Democrats that the ethics package requires disclosure. You did not hear from the Democrats that the ethics package puts a limit on the amount that Members can spend.

You heard them talk about potential reform. You did not hear them talk about current reform. And you know the PAC proposals statement of the gentleman from Washington, read from the midterm report by Professor Sabato? What he did not tell you was what Professor Sabato's actual report card showed for H.R. 5400, seven great goals. One of them was limitations on PAC contributions. And he graded it plus, minus or zero, determined by whether or not it was good or bad.

Out of all of the rankings of all of the measures that Professor Sabato looked at, the House provision on limiting PAC contributions gets a minus 7, the most negative rating of any proposal on any of the campaign reform packages, Senate, House, or President.

Wrap yourselves in the flag, pick out the language you want that makes you look good, but the numbers show that your figures on PAC limitations gets the highest negative by Professor Sabato of any provision listed of any campaign package.

That is on page 6, if you want to look at it.

So, Mr. Speaker, here we are with a simple motion to instruct, not redebating the entire campaign finance proposal. We had that debate a month ago.

Republicans offered a reasonable proposal to change fundamentally the way in which we finance campaigns. We said let the people in the district determine how much money is going to be spent in a campaign; require a majority of funds to come from those who can actually vote in the campaign. We offered a multitude of changes. They were all rejected by the Democrats.

So we came with an attempt not to refight the entire campaign finance battle but to instruct conferees in two simple areas: First, adopt the Senate provision on PAC's; not eliminate PAC's, but to say that if you want to contribute to a candidate, you have no more influence than an individual and that if you want to use that PAC money you have got to make it the money you raised rather than some corporate or union money. Then we said let us just take our franking costs that we had in the House and disclose the amounts, let people know what we are doing. And look at the firestorm these two modest proposals generated.

Mr. Speaker, my colleagues, not only should we vote "aye" on the motion to instruct, it deserves an "aye."

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California [Mr. THOMAS].

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

Mr. THOMAS of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 194, nays 225, not voting 13, as follows:

[Roll No. 385]

YEAS—194

Archer	Goodling	Meyers
Armey	Goss	Michel
Baker	Gradison	Miller (OH)
Ballenger	Grandy	Miller (WA)
Bartlett	Grant	Molinari
Barton	Green	Moorhead
Bateman	Gunderson	Morella
Bennett	Hall (TX)	Morrison (WA)
Bentley	Hammerschmidt	Myers
Bereuter	Hancock	Nelson
Bilirakis	Hansen	Nielson
Bliley	Hastert	Oxley
Boehlert	Hayes (LA)	Packard
Broomfield	Hefley	Pallone
Brown (CO)	Henry	Parker
Buechner	Herger	Parris
Bunning	Hiler	Pashayan
Burton	Holloway	Paxon
Byron	Hopkins	Petri
Callahan	Horton	Pickle
Campbell (CA)	Houghton	Porter
Chandler	Hubbard	Poshard
Clinger	Huckaby	Pursell
Coble	Hunter	Quillen
Coleman (MO)	Hutto	Ravenel
Combest	Hyde	Regula
Conte	Inhofe	Rhodes
Cooper	Ireland	Ridge
Coughlin	Jacobs	Rinaldo
Courter	James	Ritter
Cox	Johnson (CT)	Roberts
Craig	Johnson (SD)	Robinson
Crane	Kasich	Rogers
Davis	Kolbe	Rohrabacher
DeLay	Kyl	Ros-Lehtinen
Dickinson	Lagomarsino	Roth
Dornan (CA)	Leach (IA)	Roukema
Douglas	Lewis (CA)	Saiki
Dreier	Lewis (FL)	Sangmeister
Duncan	Lightfoot	Saxton
Dyson	Livingston	Schaefer
Eckart	Lowery (CA)	Schiff
Edwards (OK)	Lukens, Donald	Schneider
Emerson	Machtley	Schroeder
Fawell	Madigan	Schuette
Fields	Marlenee	Schulze
Frenzel	Martin (NY)	Sensenbrenner
Gallegly	McCandless	Sharp
Gallo	McCollum	Shaw
Gekas	McCrery	Shays
Gillmor	McDade	Shuster
Gilman	McEwen	Skeen
Gingrich	McGrath	Slattery
Glickman	McMillan (NC)	Slaughter (VA)

Smith (NE)	Spence	Vucanovich
Smith (NJ)	Stangeland	Walker
Smith (TX)	Stearns	Walsh
Smith (VT)	Stump	Watkins
Smith, Denny (OR)	Sundquist	Weber
	Tauke	Weldon
Smith, Robert (NH)	Tauzin	Whittaker
	Taylor	Wolf
Smith, Robert (OR)	Thomas (CA)	Wylie
	Thomas (WY)	Young (AK)
Snowe	Upton	Young (FL)
Solomon	Vander Jagt	

NAYS—225

Ackerman	Geren	Olin
Alexander	Gibbons	Ortiz
Anderson	Gonzalez	Owens (NY)
Andrews	Gordon	Owens (UT)
Annunzio	Gray	Panetta
Anthony	Guarini	Patterson
Applegate	Hall (OH)	Payne (NJ)
Aspin	Hamilton	Payne (VA)
Atkins	Harris	Pease
AuCoin	Hatcher	Pelosi
Barnard	Hawkins	Penny
Bates	Hayes (IL)	Perkins
Beilenson	Hefner	Pickett
Berman	Hertel	Price
Bevill	Hoagland	Rahall
Bilbray	Hochbrueckner	Rangel
Boggs	Hoyer	Ray
Bonior	Hughes	Richardson
Borski	Jenkins	Roe
Bosco	Johnston	Rose
Boucher	Jones (GA)	Rowland (GA)
Boxer	Jones (NC)	Roybal
Brennan	Jontz	Russo
Brooks	Kanjorski	Sabo
Browder	Kaptur	Sarpalius
Bruce	Kastenmeier	Savage
Bryant	Kennedy	Sawyer
Bustamante	Kennelly	Scheuer
Campbell (CO)	Kildee	Schumer
Cardin	Kleczka	Serrano
Carper	Kolter	Shumway
Carr	Kostmayer	Sikorski
Chapman	LaFalce	Sisisky
Clarke	Lancaster	Skaggs
Clay	Lantos	Skelton
Clement	Laughlin	Slaughter (NY)
Coleman (TX)	Leath (TX)	Smith (FL)
Collins	Lehman (CA)	Smith (IA)
Condit	Lehman (FL)	Solarz
Conyers	Levin (MI)	Spratt
Costello	Levine (CA)	Staggers
Coyne	Lewis (GA)	Stallings
Darden	Lipinski	Stark
de la Garza	Lloyd	Stenholm
DeFazio	Long	Stokes
Dellums	Lowey (NY)	Studds
Derrick	Luken, Thomas	Swift
Dicks	Manton	Synar
Dingell	Markey	Tallon
Dixon	Martinez	Tanner
Donnelly	Mavroules	Thomas (GA)
Dorgan (ND)	Mazzoli	Torres
Downey	McCloskey	Torricelli
Durbin	McCurdy	Towns
Dwyer	McDermott	Traficant
Early	McHugh	Traxler
Edwards (CA)	McMillen (MD)	Udall
Engel	McNulty	Unsoeld
English	Mfume	Valentine
Erdreich	Miller (CA)	Vento
Espy	Mineta	Visclosky
Evans	Moakley	Volkmer
Fascell	Mollohan	Walgren
Fazio	Montgomery	Washington
Feighan	Morrison (CT)	Waxman
Flake	Mrazek	Weiss
Flippo	Murphy	Wheat
Foglietta	Murtha	Whitten
Ford (MI)	Nagle	Williams
Ford (TN)	Natcher	Wilson
Frank	Neal (MA)	Wise
Frost	Neal (NC)	Wolpe
Gaydos	Nowak	Wyden
Gejdenson	Oberstar	Yates
Gephardt	Obey	Yatron

NOT VOTING—13

Brown (CA)	Fish	Oakar
Crockett	Lent	Rostenkowski
Dannemeyer	Martin (IL)	Rowland (CT)
DeWine	Matsui	
Dymally	Moody	

□ 1319

The Clerk announced the following pair:

On this vote:

Mrs. Martin of Illinois for, with Mr. Dymally against.

Messrs. HOYER, McCLOSKEY, and KOSTMAYER changed their vote from "yea" to "nay."

Messrs. HORTON, GLICKMAN, and HUCKABY changed their vote from "nay" to "yea."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The Chair appoints the following conferees, and, without objection, the Chair reserves the right to appoint additional conferees:

Messrs. SWIFT, ANTHONY, BROOKS, MCHUGH, ANNUNZIO, SABO, SYNAR, FROST, OBEY, GLICKMAN, FAZIO, BERMAN, MILLER of California, RUSSO, DINGELL, FORD of Michigan, ECKART, THOMAS of California, VANDER JAGT, ARCHER, BUECHNER, FRENZEL, GUNDERSON, HORTON, OXLEY, ROBERTS, SUNDQUIST, and RHODES.

There was no objection.

□ 1320

APPOINTMENT OF CONFEREES ON H.R. 4487, NATIONAL HEALTH SERVICE CORPS REVITALIZATION AMENDMENTS OF 1990

Mr. SWIFT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4487) to amend the Public Health Service Act to revise and extend the program for the National Health Service Corps, and to establish certain programs of grants to the States for improving health services in the States, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Washington? The Chair hears none and appoints the following conferees:

Messrs. DINGELL, SCHEUER, WAXMAN, TOWNS, RICHARDSON, ROWLAND of Georgia, SYNAR, SLATTERY, COOPER, LENT, MADIGAN, DANNEMEYER, TAUKE, BLILEY, and BILIRAKIS.

COASTAL ZONE ACT REAUTHORIZATION AMENDMENTS OF 1990

The SPEAKER. Pursuant to House Resolution 468 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4450.

□ 1322

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4450) to improve management of the coastal zone and enhance environmental protection of coastal zone resources, by reauthorizing and amending the Coastal Zone Management Act of 1972, and for other purposes, with Mr. KILDEE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from North Carolina [Mr. JONES] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today the Committee on Merchant Marine and Fisheries brings to the House floor one of the most important environmental bills of this Congress. H.R. 4450 amends and reauthorizes the Coastal Zone Management Act [CZMA].

This bill arms State coastal managers for the challenges of the 1990's. Increasingly, our Nation's population is concentrated along the coast. I don't need to remind my colleagues of the environmental problems which we are facing because of this growth. The CZMA is the only Federal law which provides assistance for comprehensive management of land uses and water uses in the coastal zone.

H.R. 4450 will encourage and assist the States in tackling tough problems, including coastal water pollution, wetlands protection, the potential for sea level rise. This bill is badly needed and it has very broad support from coastal States, Great Lakes States, and environmental organizations.

The administration is opposing this bill because of the so-called Federal consistency provisions. I want every Member to know, you can't support coastal zone management if you don't support the Federal consistency provisions. Back in 1972, we made a bargain with the States. If they developed CZM programs which met Federal standards and received Federal approval, we promised that Federal agencies would adhere to these programs. The problem is that Federal agencies have not lived up to this bargain.

The Federal consistency provisions of H.R. 4450 are key environmental provisions.

Our coastal zones are sick and they need strong medicine. H.R. 4450 is a good, strong bill. I ask my colleagues

to support this bill and oppose all weakening amendments.

Mr. Chairman, under the rule, an amendment in the nature of a substitute consisting of the text of H.R. 5665 will be considered the original bill.

Because I introduced the clean air bill only last week, there is no committee report or other appropriate documentation to provide the needed legislative history.

Our ranking minority Member, Mr. DAVIS, and I have prepared a joint, bipartisan statement which is to be construed as the relevant legislative history of the provisions of H.R. 4450, as amended by the text of H.R. 5665.

At this point in my statement, I am including this legislative history:

EXPLANATION OF THE AMENDMENT IN THE NATURE OF A SUBSTITUTE

SUMMARY OF THE BILL

H.R. 4450, the "Coastal Zone Act Reauthorization Amendments of 1990", as amended by the text of H.R. 5665, is largely a recodification and updating of the Coastal Zone Management Act of 1972 (CZMA) that includes the repeal of antiquated provisions, necessary technical and conforming modifications, the reorganization of certain sections, and a clarification of some provisions. However, the bill also proposes to add a number of new concepts to the CZMA. In summary, H.R. 4450 includes the following major features:

(1) maintaining the program in the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA) but specifying that the Under Secretary of Commerce for Oceans and Atmosphere (i.e., the NOAA Administrator) administer the CZMA;

(2) requiring that each state with a coastal zone management (CZM) program develop, in close consultation with state water quality authorities, a "Coastal Water Quality Protection Program" that will address nonpoint pollution of coastal waters;

(3) amending the "federal consistency" provisions to overturn the Supreme Court's 1984 decision in *Secretary of the Interior* v. *California*. This would clarify that all federal agency activities, whether in or outside of the coastal zone, are subject to the consistency requirements of section 307(c)(1) of the CZMA.

(4) repealing most of the Coastal Energy Impact Program (CEIP) which has not been funded for many years but retaining an important part of the CEIP—the Outer Continental Shelf State Participation Grants. This provision will help coastal states in fulfilling their responsibilities under the OCS Lands Act;

(5) establishing a "Coastal Zone Management Fund" consisting of CEIP loan repayments from which the Under Secretary shall pay for the federal administrative costs of the program and fund special projects, emergency state assistance, and other discretionary coastal zone management activities;

(6) reinstating Program Development Grants by authorizing the Under Secretary to provide assistance to a state for development of a CZM program and establishing a goal of 100 percent participation by all coastal states by 1995;

(7) encouraging each coastal state, under a "National Interest Improvements Program", to improve its CZM program in one or more of five identified national interest areas: coastal wetlands management and protection; natural hazards management (including potential sea and Great Lake level rise); public access improvements; assessment of cumulative and secondary impacts of coastal growth and development; and environmentally sound siting of coastal energy facilities;

(8) authorizing the Under Secretary to make annual "Walter B. Jones" achievement awards to appropriately recognize individuals, local governments, and graduate students for outstanding accomplishments in the field of coastal zone management; and

(9) authorizing appropriations for five years at increased levels. The current authorization for FY 1990 is $51.6 million. The proposed bill authorizes the following amounts: $63.67 million (1991); $76.125 million (1992); $88.675 million (1993); $96.323 million (1994); and $104.075 million (1995).

PURPOSES OF THE BILL

The purposes of H.R. 4450 are to:

(1) establish the improvement of coastal resource protection as a priority national goal under the Coastal Zone Management Act;

(2) establish improved incentives for state and local action to achieve better coastal resource protection;

(3) revitalize the federal coastal management program by establishing a mandate for federal leadership and technical and financial assistance in support of improved coastal zone management at regional, state, and local levels; and

(4) encourage voluntary participation by all eligible coastal states in the CZM program by setting a goal of 100 percent state participation by the end of 1995.

BACKGROUND AND NEED FOR LEGISLATION

The Coastal Zone Management Act: Brief History and Key Provisions

In 1969, the Commission on Marine Science, Engineering and Resources (known as the Stratton Commission) recommended that:

". . . a Coastal Zone Management Act be enacted which will provide policy objectives for the coastal zone and authorize federal grants-in-aid to facilitate the establishment of State Coastal Zone Authorities empowered to manage the coastal waters and adjacent land."

Largely as a result of the work of the Stratton Commission and the growing awareness of the substantial threats to the coastal environment caused by population and development pressures in coastal areas, including offshore development in both state waters and the Outer Continental Shelf, Congress enacted the Coastal Zone Management Act (CZMA) in 1972 (P.L. 92-583).

Congress envisioned a voluntary and cooperative federal-state program to protect coastal resources, uses and values from these pressures. The states were selected as the key to effective coastal management and protection, while the federal role was to encourage states to exercise their full authority over coastal areas by developing management programs meeting minimum federal standards.

Congress provided two major incentives to encourage coastal states to develop coastal management programs: (1) financial and technical assistance in program development and implementation; and (2) the requirement that federal activities and projects, as well as federally-permitted activities, must be consistent with approved state programs (the federal consistency provision). If a state does not choose to develop a coastal management program, the Federal Government is not authorized to develop one for the state.

The CZMA is administered by the Secretary of Commerce, with general authority delegated to the Under Secretary for Oceans and Atmosphere at the National Oceanic and Atmospheric Administration (NOAA). NOAA oversees all state grants and reviews state programs for compliance with the general federal requirements in the CZMA. Day-to-day responsibility has been assigned to the Office of Ocean and Coastal Resource Management (OCRM).

Procedurally, the CZMA established a two-stage, matching grant assistance program. The first stage provided grants (under section 305) to coastal states for development of coastal management programs meeting certain federal requirements. State programs which, in the judgment of the Secretary of Commerce, met the requirements of the federal Act, received federally-approved status and became eligible for the second stage of grants. These administrative grants (under section 306) involve ongoing federal assistance for states to implement their approved coastal programs.

Early state response to the CZMA was strong. By 1975, every coastal state had begun development of a management program under section 305. In fact, prior to passage of the CZMA, several states had already started independent efforts that could be loosely categorized as coastal management plans and they welcomed federal assistance and the national recognition of the need for such comprehensive management programs. Additionally, assurances of federal consistency provided incentives to coastal states seeking greater influence over federal agency actions affecting coastal resources.

During the development stage of CZMA implementation, the principal federal role was the provision of assistance to states, both financial and technical. During this period, the primary federal objective was to encourage state participation, and by using the incentives of financial aid and federal consistency, to weave national goals into state programs. From 1974-1979, NOAA provided roughly $67.5 million in program development grants to the 35 eligible coastal states and territories.

The program implementation stage began in 1976 when the State of Washington submitted the first program to be approved by the Secretary of Commerce. The State of Oregon followed in 1977. The majority of state programs were approved during the period 1978-1982. Therefore, while the CZMA was enacted 18 years ago, most state programs have been operating for only about half that long.

As of this date, 29 of 35 potentially eligible coastal states and U.S. territories have received federal approval for coastal management programs. The State of Virginia was the most recent entrant into the program, receiving program approval in 1986. Ohio is currently preparing a program and is expected to submit it for federal approval in 1991. Texas, Georgia, Illinois, Indiana, and Minnesota are not currently participating in the CZMA program. Considering the 29 state programs for which federal approval has been attained, the national CZM network covers 94 percent of the Nation's marine and Great Lakes coastline.

Federal CZMA funding, through fiscal year 1989, for assistance to eligible states

and territories has totaled $613,828,000. The actual amount of federal program implementation grants (section 306 grants), generally the largest portion of the state's federal grant, is determined by a formula that takes into account states' coastal area and population, with a weighting of 60 percent and 40 percent, respectively. Other large funding sources are grants and loans made under section 308, the Coastal Energy Impact Program.

The nature and structure of CZM programs vary widely from state to state. This diversity was intended by Congress. Some states, like North Carolina, passed comprehensive legislation as a framework for coastal management. Other states, like Oregon, used existing land use legislation as the foundation for their programs. Finally, states like Florida and Massachusetts linked existing, single-purpose laws into a comprehensive umbrella for coastal management. The national program, therefore, is founded on the authorities and powers of the coastal states and local governments. Through the CZMA, these collective authorities are structured to serve the national interest in effective management of the coastal zone.

In 1986, the CZMAS was reauthorized for five years, through Fiscal Year 1990 (P.L. 99-272). The 1986 amendments also added more specific policies and objectives to the statement of purpose, and provided for an increasing state match for federal program administration grants. Previous amendments, in 1980, directed the Secretary of Commerce to ensure that an increasing proportion of federal grant funds (up to 30 percent) was spent on "significant improvements" in meeting the statutory objectives.

The following is a synopsis of the major CZMA provisions.

Section 306: Program Approval and Administration Grants: The majority of state programs were approved in the late 1970's. To be eligible for federal approval, states had to demonstrate that they had the authority within the coastal zone to administer land and water use regulations, control development to ensure compliance with their management programs, and resolve conflicts among competing uses.

The coastal zone extends in the Great Lakes to the U.S.-Canada international boundary, and in other areas, extends seaward to the outer limit of the U.S. territorial sea. The zone extends inland only to the extent necessary to control the uses of adjacent lands which have a direct and significant impact on coastal waters.

How a state chooses to implement its CZM authority—whether through direct state control, or state standards with local implementation—is for the individual state to decide. Early in the program, the oil and gas industry challenged the Secretary's approval of the major state programs, including California and Massachusetts, on the grounds that they failed to meet federal approval standards and lacked specific policies to guide users of the coastal zone. These challenges were unsuccessful. *API* v. *Knecht*, 456 F. Supp. 889 (C.D. Cal. 1978), *aff'd*, 609 F. 2d 1306 (9th Cir. 1979).

Once its management program is approved, the state becomes eligible for section 306 program administration grants. The Reagan Administration had proposed, in eight consecutive budgets, that no money be appropriated for 306 grants, preferring to leave this function to the states. But, each year Congress restored funding for the CZM grants. The FY 1990 appropriation for section 306 grants is $34 million. These grants are allocated to the states based on the weighted formula described above.

The section 306 funds are used by the states to implement their approved management programs. A large percentage of the money is spent on personnel costs to implement state and local permitting authorities. States can pass federal funds to local governments provided the local land use plans are part of the approved state program.

A percentage of the section 306 funds, in NOAA's discretion, can be spent by the states on certain projects stipulated in section 306A. These are primarily low-cost construction or land acquisition projects for the purpose of increasing beach access and rehabilitating deteriorating waterfronts.

Section 307: Federal Consistency: After a state program receives federal approval, federal agencies generally must conduct their activities in or affecting the coastal zone consistent with the legally-enforceable policies contained in those programs. The consistency provisions of the CZMA can be a powerful management tool for the states to make certain that federal activities are coordinated with their coastal management programs.

The federal consistency provision is divided into four separate requirements: (1) federal activities and development projects in or directly affecting the coastal zone must be conducted consistent to the maximum extent practicable with state programs; (2) private activities affecting the land or water uses in the coastal zone for which federal licenses and permits are required must be consistent with state programs; (3) activities covered by exploration and production plans for oil and gas development from an area leased under the Outer Continental Shelf (OCS) Lands Act and affecting any land or water use in the coastal zone must be consistent with state programs; and (4) federal financial assistance for activities affecting the coastal zone must be consistent with state programs.

In the case of federal licenses and permits, including those for the OCS, and federal financial assistance, the Secretary of Commerce can allow the activity to proceed, notwithstanding its inconsistency with the state's program, if the Secretary finds that the activity is otherwise consistent with the objectives of the CZMA or is necessary in the interest of national security.

Section 312: Review of State Performance: The Secretary is required to conduct a continuing review of the performance of state programs following their approval. As part of the review or evaluation process, the Secretary must determine whether a state is continuing to adhere to its approved program and the terms of its grants. This evaluation generally takes place on a biennial basis.

If the Secretary finds that a state is not adhering to its federally-approved program or the terms nd its grants, and the deviation is unjustified, the Secretary has the authority to withdraw program approval and terminate federal financial assistance. Prior to program disapproval, the Secretary must provide the state notice and an opportunity for a public hearing, as well as a statement of actions it may take to remedy the deviation.

The Secretary has not withdrawn program approval from any state, although in 1988, the Secretary made preliminary findings to support "decertification" of California's program. California challenged the decision in court and was successful in obtaining a preliminary injunction. In *California v. Mack*, 693 F. Supp. 821 (N.D.Cal. 1988) the district court ruled that NOAA, under the section 312 evaluation process, does not have authority to revisit the approvability of a state CZM program. Subsequent to the injunction, the case was settled and the notice of intent to decertify was withdrawn.

In addition to withdrawing program approval, the Secretary is authorized to reduce the state's grant, but not below 70 percent, if the state is failing to make significant improvements in achieving the management objectives of the CZMA.

Section 315: National Estuarine Reserve Research System: Section 315 of the CZMA establishes a national estuarine reserve research system. The Secretary is authorized to designate as national estuarine reserves those estuaries which are suitable for long-term research and are biogeographically representative. Once designated, the coastal states within which the reserves are located are eligible to receive federal grants for acquisition of key lands within the reserves and for their long-term management. This section authorizes the Secretary to make grants, not to exceed 50 percent of the cost of the project, which enable coastal states to acquire, develop and operate estuarine research reserves. In 1985, Congress substantially revised section 315 to place more emphasis on the research objective of this program. The FY 1990 appropriation for section 315 is $3.49 million.

The first estuarine sanctuary, South Slough, was designated in Oregon in 1974. Currently, 18 sites compose the national system, with a complete system of 25-30 sites ultimately envisioned. Designation of a research reserve signifies that a state has agreed to advance estuarine science through long-term management, and provide information for use by coastal zone managers. In addition, the research reserves allow access by the general public to normally inaccessible natural areas, where, through interpretive programs, they can learn to appreciate coastal and estuarine ecology in an out-of-doors setting.

The Need for H.R. 4450: The Modernization of the CZMA for the 1990's

In very general terms, there are two reasons why H.R. 4450 needs to be enacted. First, the authorization for the Coastal Zone Management Act expires in Fiscal Year 1990. Therefore, if the program is to continue, it should be reauthorized this year.

Second, the Act needs to be modernized. It has not been thoroughly reviewed or updated since 1980. In the last decade, a number of existing provisions have become antiquated, a Supreme Court decision has created confusion and uncertainty about the applicability of the law's federal consistency section, and there has been a growing awareness that the Nation's stewardship of the coast has not kept pace with the myriad problems now constraining the "effective management, beneficial use, protection, and development of the coastal zone" [section 302(a), CZMA].

Ever since the original law was first reauthorized in 1974, all subsequent reauthorization bills have manifested the types of coastal issues of the time. H.R. 4450 is in keeping with this tradition of amending the CZMA. It builds upon existing law by updating it to account for the new and emerging coastal issues of the 1990s.

COASTAL ENVIRONMENTAL PROTECTION

During the decade of the 1980s, the continued decline of coastal environments has

become increasingly evident. Medical wastes, domestic sewage, and plastics have resulted in the closure of public beaches. Productive fishing and shellfishing areas continue to be closed. Pollution of coastal waters is increasing. The filling and alteration of coastal wetlands is further reducing the habitat for fish and wildlife populations. These obvious inadequacies in our current management of the coastal zone are compounded by the certainty that coastal populations will continue to grow at an ever increasing rate. In addition, coastal managers are confronted with new and complex issues like the potential for sea level rise in response to global warming.

The Administration recognizes the growing pressures on the coastal zone. As noted in NOAA's "Biennial Report to Congress on Coastal Zone Management" (April, 1990), increasing coastal populations are creating new pressures for coastal amenities and taxing the productive but fragile coastal environment. By the year 2010, coastal population will have grown from 80 million to more than 127 million, an increase of almost 60 percent nationwide. Excluding Alaska, this coastal area encompasses only 11 percent of the Nation's land area.

In view of continued growth in coastal population and the accompanying environmental problems, the Committee has, in H.R. 4450, proposed a number of amendments to provide a greater emphasis on environmental protection values in the administration of the CZMA. This is not to say that the Committee has abandoned the fundamental balancing character of the CZMA. The statute continues to recognize the need for economic growth in coastal areas. However, H.R. 4450 shifts the balance to emphasize more strongly a priority for maintaining the function of natural systems in the coastal zone.

The CZMA was last reauthorized in 1986, under the threat of a Presidential veto. However, with a new President in the White House—a President who stood on the coastal zone of Lake Erie (ironically a state without a coastal zone management program) and declared himself an environmentalist—the Administration has requested funding for state administration grants under the CZMA and has propsed its own bill to reauthorize the Act. Although the Committee has determined that the Administration's bill is lacking in a number of critical areas, including inadequate authorization levels, it does acknowledge that the very existence of an Administration reauthorization bill is in sharp contract to the Reagan White House which provided no funds in eight consecutive budgets for state CZMA grants. In this political climate, support to refocus the CZMA on coastal environmental issues has blossomed.

COASTAL POLLUTION

In 1987, the Office of Technology Assessment (OTA) issued a report entitled "Wastes in the Marine Environment". OTA found that, as a result of numerous pollution activities, the overall health of coastal waters is declining or threatened. The report concluded:

"In the absence of additional measures, new or continued degradation will occur in many estuaries and some coastal waters around the country during the next few decades (even in some areas that exhibited improvements in the past)."

Degradation of coastal water quality can result in loss of submerged aquatic plants, effects on fish and shellfish productivity, beach and shellfish bed closures, and sediment contamination.

The OTA report was a catalyst for some 13 hearings on the general issue of coastal pollution conducted by the Committee's Subcommittees on Fisheries and Wildlife Conservation and the Environment, and Oceanography and Great Lakes during the 100th and 101st Congresses. An oversight report on the hearings was published by the Committee last year (House Document 101-38). Entitled "Coastal Waters in Jeopardy: Reversing the Decline and Protecting America's Coastal Resources", the report concludes that many coastal areas are in poor condition and risk further decline unless current trends are reversed.

"Coastal Waters in Jeopardy" also analyzed the possible interrelationships between coastal zone management and coastal pollution, primarily focusing on nonpoint source pollution. This type of pollution is not discharged from pipes or other discrete sources, but insidiously runs into coastal waters as water drains from land areas; carrying various pollutants. Nonpoint pollution is estimated to contribute over half of the phosphorus, chromium, copper, lead, and zinc in our coastal waters and, in the Great Lakes alone, deposits more than 100 million tons of sediment. Because the source of nonpoint pollutants is often difficult to determine, involves large land areas, but can be remedied through construction techniques or the erection of barriers, it is particularly susceptible to control through land use measures.

In 1972, the Congress envisioned that a primary purpose of the CZMA was to control land use activities which have a direct and significant impact on the coastal waters. During Senate debate on S. 3507, which was enacted as the CZMA of 1972, the bill's sponsor (Senator Hollings) made the following statement:

"The bill I propose today is aimed at saving the *waters* of our coasts and the land whose use has a direct, significant, and adverse impact upon that *water*. We all know that the *coastal water* and our delicate estuaries are the breeding grounds of life in the sea. Yet we use the land of the coastal zone with little or no concern for how its use will affect the *water* . . . The *waters of this zone*, again, are our primary target of concern." (Emphasis added).

Through extensive oversight, the Committee has concluded that this basic underlying purpose of the CZMA has not been effectively implemented. H.R. 4450 rectifies this deficiency by requiring specific state action to more clearly focus state CZM programs on this primary target.

WETLANDS MANAGEMENT AND PROTECTION

In recent years, the broad values of wetland environments have been increasingly recognized. These values include flood control; barriers to waves and erosion; sedimentation control; habitat for fish, shellfish, and wildlife; recreation; filtration of water pollutants; and food and timber production. Concurrently, the rapid rate of loss and conversion of wetlands has also been documented.

Although there is disagreement over the exact figure, the U.S. is losing between 400,000 and 500,000 acres of wetlands per year. The U.S. Fish and Wildlife Service (USFWS) estimates that 482,000 acres of saltwater wetlands were lost during the period from the mid-1950's to the mid-1970's. Wetland loss, some occuring naturally, is attributed to several factors including erosion, flooding, draining, filling, excavation, diversion of water or sediment, clearing, and pollution. The USFWS has identified 6 million acres of coastal zone wetlands as facing significant threats from destruction, along with 10 million acres of the Florida Everglades, 7 million acres of the Mississippi Delta, and 2 million acres of marshes in coastal Louisiana. In fact, in coastal Louisiana, scientists have estimated 50 square miles of wetlands are lost each year due to a combination of natural and human factors.

The 1972 Congress foresaw the need to manage and protect coastal wetlands through effective coastal zone management. During debate in the House on H.R. 14146, the bill's sponsor (Congressman LENNON) implored the House:

"I rise at this time to urge the support of this committee for H.R. 14146, the coastal zone management bill, because I am convinced that it is imperative to implement such a program now before this Nation witnesses the tragic and wanton destruction of an irreplacable natural resource, our estuaries, *our wetlands*, and our shorelines." (Emphasis added).

Since enactment, the CZMA has been a harbinger of coastal wetlands protection at the state and local level. All federally-approved state CZM programs currently address the protection of wetlands by requiring state or local approval for direct and significant alteration of wetlands. Most states also require some form of mitigation for wetland loss. The State of New Jersey, for example, used a wetlands mitigation agreement with a major utility to obtain funds to acquire critical wetlands habitat along the Delaware Bay, which serves as a landing place for over 1,000,000 migrating shorebirds each spring.

The Conservation Foundation issued a seminal report on wetlands conservation in November, 1988, entitled "Protecting America's Wetlands: An Action Agenda". This report, the product of the National Wetlands Policy Forum, concluded that the United States needs a better mechanism for protecting and managing its wetlands, coastal and inland. The Forum recommended a national wetlands protection policy to achieve an interim goal of "no overall net loss of the nation's remaining wetlands base" with a long-term view to "increase the quantity and quality of the nation's wetlands resource base." President Bush has stated his support for a no net loss of wetlands goal, although the specific mechanism to implement this goal is yet to be developed. Reauthorization of the CZMA—the principal federal statute dealing with comprehensive coastal land use planning and management—provides an important opportunity to improve management and protection of coastal wetlands.

NATURAL HAZARDS MANAGEMENT

The widespread havoc wreaked by Hurricane Hugo provided a vivid demonstration of the fragility of coastal development. While a storm as virile as Hugo would threaten even the most well-planned coastal development, it is clear that the protection of natural buffers and the employment of sound construction techniques make excellent economic sense.

The CZMA has assisted state and local efforts to manage and deter development in hazard-prone areas. One such method is to prevent inappropriate shoreline development through the adoption of so-called "setback" requirements. Currently, 13 states have some form of setback requirement for coastal development. Many other states

have laws to protect natural protective features, such as sand dunes, which are the first line of defense against storm surges.

The State of North Carolina, through its coastal program, has adopted a strong program to protect lives and property from coastal hazards. The state has developed an approach which augments and extends the National Flood Insurance Program standards to protect coastal development. Setback lines have been established in designated ocean hazard areas to provide protection from coastal storms and insure at least 60 years of protection from coastal erosion. Infrastructure development that would serve ocean-hazard areas, such as roads, bridges, water and sewer lines, and erosion-control structures, is allowed only if it will be reasonably safe from coastal hazards and will not promote additional development in hazardous areas. Finally, the state provides hazard notices to all permit applicants, which gives the erosion rate in the area, notes that bulkheads and seawalls are not allowed, and notes that the area is hazardous and that the property owner is at risk.

Despite strong progress in the area of hazards management, the certainty of population growth in coastal areas requires stronger state and local policies to manage the increasing risk to life and property. States should be further encouraged to curtail development and redevelopment in coastal high hazard areas. Comprehensive hazard mitigation programs are needed in every coastal state, including evacuation planning, enhanced building code standards and enforcement, and protection of physical features which provide protection to coastal structures.

Effective management of hazardous coastal areas is complicated by the potential for sea level rise in response to global warming. Global climate change and its potential impacts on physical, biological and human environments have become major public policy issues. If surface temperatures increase, a number of changes could occur in the environment, one of the most catastrophic being accelerated sea level rise. Numerous studies have predicted that global sea levels could rise anywhere from 50 to 368 centimeters by the year 2100, and a rise of one meter over the next century is often used as the "median" of sea level rise scenarios for planning purposes. Obviously, a rise of sea levels within the predicted ranges would have substantial negative impacts on many coastal communities.

Predictions of rising sea levels are fraught with troubling uncertainties. However, the issue presents a management issue of such proportion and complexity that the Nation's coastal managers should take notice. Moreover, some coastal areas are already experiencing a relative rise in sea level due to subsidence, reduced sedimentation, and chronic erosion and are actively pursuing policies to ameliorate its effects. The issue of sea level rise, whether caused by global warming or by the less dramatic but more probable sinking of coastal lands, is an issue that bears directly on the management of natural hazards and is properly addressed through the reauthorization of the CZMA.

While the Great Lakes are generally insulated from sea level rise by the natural barrier provided by Niagara Falls, the lakes experience their own water level problems. Unpredictably, Great Lakes levels rise dramatically because of increased precipitation and decreased evaporation. Higher lake levels exacerabate erosion and flooding, particularly waves that are driven by severe winter storms characteristic of the Midwest.

Coastal zone programs can be equally effective in planning for and preventing damage caused by lake level rise. The State of Michigan has taken the lead in this area, using CZMA funds to help identify vulnerable shorelines and instituting setbacks and other shoreline building requirements.

In many states, the lack of technical baseline information and the resources to apply it, remains an impediment to policy development, planning, and enforcement. Many states face legal challenges from the owners of property where restrictions are applied or contemplated. State CZM programs are the one institution capable of addressing the issue of natural hazards management, including sea and lake level rise, in a comprehensive and systematic way.

PUBLIC ACCESS

Of the 21,724 shoreline miles of the 28 coastal states, only 1,790 are publicly owned. Coupled with growing coastal population and heightened interest in water-related recreation, demand for public access to the shores for recreation is increasing at the same time available acreage is decreasing. Land values along the coast have skyrocketed, pollution is closing many otherwise accessible areas, and land is slowly being lost to the sea and Great Lakes through erosion, flooding, and economic development.

Resolving conflicts among various uses of the coastal zone is the primary purpose of the CZMA. These conflicts include development and preservation of the coast; oddly, both courses of action can be seen as obstructing public access depending on the activity for which the access is desired. Passive recreational activities, such as swimming, fishing, and birdwatching go more in hand with conservation of a coastal area in its natural state. Conversely, marinas, dune buggy races, and large-scale recreational complexes require some development of the shore.

In general, housing, industry, and transportation all can pose impediments to recreational uses of the coastal zone. When housing is constructed along shorelines, it physically blocks access to the sea, and coastal wetlands are often dredged and filled. Housing also entails greater population stresses, leading to coastal pollution problems and saltwater intrusion as freshwater is siphoned for drinking. Transportation requirements—roads, parking space, airports, harbors, and shipping channels—ironically can increase access to the coasts, while robbing valuable land area for recreation and wildlife. When direct ingress and parking is not provided, vehicles can be driven onto fragile dunes or beaches, resulting in resource damage. Finally, industry dependent on close proximity to the sea and Great Lakes for large amounts of water, access to ocean resources, or for waste disposal can limit public opportunities for ocean and Great Lakes recreation.

The public is already guaranteed some limited access to the coast through a rule of common law known as the public trust doctrine. Under this principle, dating back to Roman times, the area between the high and low water tidal marks has traditionally been available to the public for certain specified uses, including navigation, mooring of boats, and fishing. Attempts to expand this doctrine to areas beyond the "wet-sand strip" or for recreational uses such as swimming have not been wholly successful. Moreover, getting to the wet sand can be a problem if the beaches are surrounded by private land. Even when entree is available, other types of barriers can be erected such as high beach access fees, limited parking facilities, and prohibition on food and beverages or children.

This last method was recently challenged in the Supreme Court. In *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987), the Court found that the Commission's public access condition for a coastal building permit amounted to an unconstitutional taking without just compensation under the Fifth Amendment to the Constitution. As a condition for a permit to substantially expand their beachfront home, the California Coastal Commission required the Nollans to allow citizens to traverse the dry beach in front of the seawall fronting their home to reach a public beach. The Supreme Court found the condition amounted to a "permanent physical invasion" of the Nollan property, and that it did not advance the legitimate public interest expressed in the development permit law—visual access to the coast.

The holding in the *Nollan* decision means that states must not only demonstrate that public easements over private coastal property have a legitimate public purpose, but that the easement must have a specific nexus to the public purpose. As California had relied on its building code permit conditions to require public access to beach areas for over 25 years, additional challenges to this authority can be expected. The decision may also have a chilling effect on other coastal states' use of permit conditions as a means of enhancing public access to the shore.

Purchasing private beachfront lands to allow public use is a popular but expensive way to guarantee increased recreational access to our shores. For example, 1.2 acres of waterfront property in Falmouth, Massachusetts, sold for $475,000 in mid-1986; its price jumped to $750,000 six months later. In Cape Code, Massachusetts, land prices are rising by 5 percent a month.

When first enacted, the CZMA had no statutory recognition of the need to provide increased public access to the coastal zone. This was changed in 1976, when the Act was amended to require "a planning process" for increasing public access to the shores as part of an approvable state coastal zone management program [section 305(b)(7)]. However, no goals for increased access were mandated nor were specific methods prescribed.

In 1980, the CZMA was again amended to authorize low-cost construction projects in the coastal zone through section 306A, based on a successful program begun in the State of Michigan. States have used the funds available under this section to construct boardwalks and other physical access means, post public easements, acquire coastal lands, and disseminate public information on access points. CZMA monies can also be used to develop a regulatory or permit process that can be used to acquire access rights for the public.

This program has been very successful. New Jersey has used 306A funds to initiate a shuttle bus service to one of its state oceanfront parks. The State also purchased movable platforms to place on shifting beach sands to allow handicapped citizens greater access to the beach. North Carolina has spent $149,000 in CZMA dollars to purchase oceanfront land to provide public access in Carteret County. Maine purchased a half-acre parcel in Blue Hill for parking space to expand the use of an existing access site.

Federal consistency under the CZMA can also be used to enhance public access. Disposal of surplus Federal coastal land by the General Services Administration (GSA) can trigger consistency review by state coastal zone agencies, which can encourage sale or donation of the property for public access needs or inform interested state or private groups of the availability of the property for acquisition for public access. The application of Federal consistency to GSA surplus property transfers has been clouded by a 1983 Federal district court decision in *Ono* v. *Harper*, 592 Fed. Supp. 698 (D. Ha. 1983). The court held that a GSA property transfer of two missile sites in the Hawaii state coastal zone was merely a "paper transaction" which had no direct effects on the land or water uses of the coastal zone.

On June 29, 1987, the Subcommittee on Oversight and Investigations held a hearing in Warwick, Rhode Island, on the public's right to the visual and physical aspect of the shorelines of lakes and oceans. The witnesses at the hearing reiterated a greater need for public access to the oceans and Great Lakes, and stated that greater Federal assistance is needed to accomplish this. Many witnesses pointed to the CZMA as an excellent tool for assisting states and local governments in increasing access to the shores.

In H.R. 4450, the trend toward greater recognition for increased public access to the oceans and Great Lakes is continued. First, the bill states a preference for water-dependent uses along the coasts, thereby discouraging developing with little nexus to the water. Funding for low-cost construction projects under section 306A is also increased, as are funds for section 315 (Estuarine Research Reserve System). More importantly, increased public access is now identified as an area of national interest under section 310.

CUMULATIVE AND SECONDARY IMPACTS

The Nation's coasts, and their estuaries and wetlands, are being lost in a piecemeal war of attrition: a road here; a condominium there; a putting green today; an 18-hole golf course tomorrow. A boat-ramp is followed by a marina, and a gas station, and a convenience store, and a bait and tackle shop, and a restaurant, and a motel, and on and on.

Cumulative effects are the changes attributable to the collective effect of numerous activities which may or may not be related to one another. Although the impact of a particular land or water use may constitute a minor change in itself, the combined effect of numerous such piecemeal changes can result in a major change in coastal ecosystems. This is the most insidious and intractable management issue facing today's coastal managers. It is an area where great improvements can be made in coastal zone management.

Secondary effects are effects that are associated with a land or water use activity, but do not result directly from the activity itself. Some examples of secondary effects might include fluctuating downstream water levels associated with the operation of a dam, or septic tank leaching and surface runoff from residential or commercial developments.

Effectively assessing, considering and controlling cumulative and secondary effects of coastal land and water use is priority area for improvement in coastal zone management. If better approaches are not forthcoming, then there is little hope of stemming the nationwide decline in coastal environmental quality.

COASTAL ENERGY DEVELOPMENT

The CZMA has always recognized the need to develop as well as protect coastal zone resources, including offshore minerals and fossil fuels. This is apparent in the findings of section 302 (c), (f), and especially (j), and section 303(2)(C) of the existing CZMA. The need to consider the national interest in the siting of coastal energy facilities is not diminished by H.R. 4450.

Today, crude oil imports are at a higher level than just before the 1973-74 Arab oil embargo, with imports during January, 1990, meeting 54% of U.S. oil needs, an all-time monthly high. The decline in domestic oil production is expected to continue. These trends are significant for coastal areas for two major reasons: first, oil is imported by tanker which means greater traffic through the coastal zone; and second, declining domestic production will eventually lead to pressure for increased development of offshore resources that will adversely affect coastal zone resources.

There is a national interest in the siting of necessary coastal energy facilities and this interest will continue and likely grow in the future. Therefore, state CZM programs must continue to consider these national interests and improve procedures for the siting of required facilities while providing full protection of coastal zone resources and uses.

FEDERAL CONSISTENCY WITH STATE CZM PROGRAMS

The requirement that federal agencies act in a manner which is consistent with federally approved state CZM programs is at the heart of the voluntary program envisioned by the CZMA. To induce state participation in the program and compliance with the substantive and procedural requirements of the law, the Federal Government promises that its actions will not be inconsistent with the enforceable provisions of a state management program. As CZM programs have matured, and competition for coastal resources has increased, the federal consistency requirements have grown in significant as a management tool.

In the majority of instances, the federal consistency provisions are exercised without controversy and result in improved coordination of state and federal management programs. For example, during 1983, the coastal states concurred with 93 percent of the approximately 400 federal agency activities reviewed, including numerous OCS lease sales; states concurred with about 82 percent of the approximately 5,500 federally licensed or permitted activities reviewed; states concurred with about 99 percent of the nearly 435 plans for OCS exploration, development and production; and states concurred with over 99.9 percent of the nearly 2,000 federal assistance proposals. There are, however, problem areas where the implementation of the federal consistency provisions must be improved.

A. Georgraphic Scope

In 1984, the U.S. Supreme Court, in *Secretary of the Interior* v. *California* (464 U.S. 312), ruled that oil and gas lease sales are not activities that directly affect the coastal zone and, therefore, are not subject to the consistency review under CZMA section 307(c)(1). Since the ruling, other federal agencies have broadly interpreted the case in a manner that would exclude their activities from undergoing a federal consistency review. For example, the Department of Justice has filed amicus briefs in several lawsuits arguing that federal consistency is restricted geographically to activities inside the coastal zone. In addition, the Corps of Engineers, in proposing amendments to regulations governing its operation and maintenance dredging activities, proposed to limit the scope of consistency review to activities within the coastal zone:

"Section 307 of the Coastal Zone Management Act (CZMA) requires that any activity that a Federal agency conducts or supports within a state's coastal zone or in a Federal enclave within the geographic area of a state's coastal zone be consistent with the Federal approved state management program to the maximum extent practicable." (Federal Register, April 26, 1988).

Further complicating this matter, the Corps has stated that despite its interpretation that the CZMA is geographically limited in scope, it will comply with the consistency requirements "as a matter of comity."

This interpretation by the Corps of Engineers is directly contradictory with the long-standing NOAA regulations implementing this provision (15 CFR 930.35). In a letter of December 15, 1989, NOAA expressed its strong disagreement with the Corps' position. In particular, NOAA argues that the Supreme Court decision in *Secretary of the Interior* v. *California* addressed the question of OCS lease sales only and that the broader issue of the CZMA's geographic scope was not an issue decided by this case.

Additionally, the Environmental Protection Agency (EPA) has suggested that the designation of ocean dumpsites outside the coastal zone may not be subject to consistency review by the states. However, EPA has determined that it will comply with the federal consistency provisions "as a matter of Policy" in designating ocean dumping sites, while asserting that the legal requirements of the Ocean Dumping Act and the CZMA are "subject to debate".

B. Preemption

Another federal consistency issue is also raised by the Corps' operation and maintenance regulations. Under the Ocean Dumping Act, the Corps designates sites for the disposal of dredged materials and issues permits for these activities. However, the Ocean Dumping Act contains language which prohibits states from adopting or enforcing "any rule or regulation relating to any activity regulated" by the Act. The Corps has interpreted this provision to also preempt states from exercising their consistency authority under the CZMA.

In response, the coastal states assert that they are granted authority, through the federal Coastal Zone Management Act, to implement coastal management requirements and that these requirements are binding on all federal agencies. NOAA has supported the position of the coastal states, arguing that the use of the federal consistency provisions is implementation of a federal statute and not state regulation. Therefore, unless another federal law supersedes the CZMA, compliance with section 307 is mandated. The Corps has indicated that it will "voluntarily apply" for a federal consistency determination, but that it reserves its legal rights in cases where states make a negative consistency determination.

C. Directly Affecting

In *Secretary of the Interior* v. *California*, the Supreme Court ruled that OCS lease sales had no "direct effect" in the coastal zone, and other courts and federal agencies

have expanded the categories of activities which have no direct affects. For example, a federal court in Hawaii held that transfer of General Services Administration surplus property is only a "paper transaction," without effects in the coastal zone. EPA has also attempted to use this argument with regard to designation of ocean dumping sites under the Ocean Dumping Act.

These problems with administration of the consistency provisions spring from the Supreme Court's 1984 decision and buttress claims that a legislative response to that decision is warranted. The federal consistency provisions are at the heart of the Nation's coastal zone management program and it has become increasingly clear that the combination of Supreme Court dicta and federal agency belligerence are a troublesome combination.

SECTION-BY-SECTION ANALYSIS

Title I: General Provisions

Section 101. Short title: "Coastal Zone Act Reauthorization Amendments of 1909."

Section 102. Findings and Purposes: Subsection (a) enumerates the findings which underlie H.R. 4450, which emphasize the ever increasing pressures on coastal zone resources.

Title II: Coastal Zone Management Act

Section 201. Reauthorization of Coastal Zone Management Act: This section consists of an amendment in the nature of a substitute for the Coastal Zone Management Act of 1972. Most of the existing law is retained but substantial reorganization, revisions and modifications are made. Thus, what follows is essentially an analysis of the CZMA, as amended by H.R. 4450.

Section 301. Short Title: "The Coastal Zone Management Act." This title drops reference to the original year of enactment.

Section 302. Findings: The existing findings are modified to place greater emphasis on environmental protection. For instance, the amended section 302(1) provides—

"It is in the national interest of the United States to manage, protect, and develop with proper environmental safeguards, the coastal zone."

This finding reflects the Committee's position that the CZMA should continue to be a balancing statute which recognizes alternative uses of coastal zone resources, but at the same time, clarifies that all uses should be sensitive to the priority for maintaining natural systems in the coastal zone as reflected in section 302(8).

The findings are also amended to emphasize the need to protect coastal water quality by controlling adjacent land uses. It is stated that coordination with state and local governments is necessary to achieve expeditious and environmentally sound energy development in offshore areas.

Section 303. Declaration of policy: The policy statements are modified to reflect increasing emphasis on environmental protection, maintaining coastal water quality, and mitigating the effects of potential sea-level rise.

Section 304. Definitions: Section 304(1) amends the definition of the term "coastal resource of national significance" to incorporate "esthetic" considerations.

Section 304(2) defines the existing term "coastal State."

Section 304(3) amends the existing definition of the term "coastal water" by including, within it, wetlands adjacent to coastal waters.

Section 304(4) defines the new term "coastal wetlands" to mean any wetlands within the coastal zone of any coastal State. The Under Secretary is required to promulgate a rule, by June 1, 1991, defining the term "wetlands" for purposes of this law. The Under Secretary is directed to hold at least 4 public hearings in promulgating this rule. The intent of the Committee in taking this approach to defining the term "coastal wetlands" was twofold: First, following intense controversy surrounding the wetlands Memorandum of Agreement (MOA) signed by the Environmental Protection Agency and the U.S. Army Corps of Engineers on November 15, 1989, President Bush ordered the Domestic Policy Council, through its Interagency Task Force on Wetlands, to review implementation of the MOA and the "no net loss" policy. The Committee chose not to adopt a statutory definition of the term "coastal wetlands" that might restrict the deliberations of the Domestic Policy Council, although the Committee recognizes that the definition of the term "wetlands" is not addressed in the MOA between the Corps and the EPA, and is not a specific charter to the Council in the *Federal Register* notice of February 15, 1990 (Vol. 55, No. 32). Second, the Committee wants to ensure public input into the definition of this critical term.

The Committee intends that the rulemaking process and definition developed pursuant to this section shall be applicable only for purposes of this law. However, to the extent possible, the Under Secretary should work with state and federal agencies to ensure that multiple, conflicting definitions are avoided.

Section 304(5) amends the definition of the term "coastal zone" to provide greater encouragement for states to expand their inland coastal zone boundaries (especially as needed to effectively control land uses which result in nonpoint pollution of coastal waters) and to expressly limit the seaward coastal zone boundary to the extent of state ownership and title (in most cases, three nautical miles). The latter portion of this amendment is necessary to clarify uncertainties raised by Presidential Proclamation 5928 (December 27, 1988).

Section 304(6) adds a definition of the new term "critical coastal area" for use in the section 306B Coastal Water Quality Protection Programs provision.

Section 304(7) adds a definition of the new term "enforceable policy". Under NOAA's existing regulations, this term is applied in several respects, but it is not defined under current law. This definition is intended to endorse existing NOAA and state practice. The Committee does not intend that this definition be construed to reverse, in whole or in part, the judicial decision in *American Petroleum Institute* v. *Knecht*, 456 F. Supp. 889 (C.D. Cal. 1978), aff'd, 609 F.2d 1306 (9th Cir. 1979).

Section 304(8) defines the new term "estuarine area". An estuarine area may be designated as a national estuarine research reserve under section 315, provided that it meets the requirements of that section. The existing definition of the term "estuarine sanctuary" has been deleted.

Sections 304 (9), (10, (11), (12), and (13) are definitions of the existing terms "estuary", "land use", "local government", "management program", and "person", respectively. These definitions have been modified only slightly, if at all.

Section 304(14) adds a definition of the new term "sea level rise". The definition defines sea level rise in a way that is most relevant to coastal management: an increase in the level of the sea relative to the level of adjacent land. It matters not whether the sea is rising or the land is subsiding or both, because similar management problems arise in each case.

Section 304(15) defines the existing term "special area management plan".

Section 304(16) defines the term "Under Secretary" to mean the Under Secretary of Commerce for Oceans and Atmosphere. The Under Secretary is the Administrator of NOAA, and as such, is the nation's premier coastal zone manager. Accordingly, the amended CZMA allocates all CZMA administration responsibilities to the Under Secretary.

Section 304(17) defines the new term "water-dependent use". This replaces the existing term "coastal-dependent use". The new term is more specific and more relevant from a coastal zone management perspective. The concept of "water dependency" is a concept that the federal and state agencies have been applying in a regulatory and management context for over a decade. For instance, a water dependency test has been applied in the context of federal wetlands permitting since 1975. The term which is replaced—"coastal-dependent use"—has proven difficult to define and apply in a management context. The Committee has defined the term "water-dependent use" in a manner which is intended to create a presumption that there are practicable alternatives to uses which are not water-dependent.

Section 304(18) defines the existing term "water use".

Section 305. Management Program Development Grants: Much of the existing law relating to "program development" is transferred to section 306 or repealed. Subsection (a) authorizes discretionary program development assistance for fiscal years 1991, 1992, and 1993. A state may receive up to $200,000 in federal assistance for two successive years. The Committee has endorsed a goal of 100 percent state participation in the coastal zone management program by fiscal year 1995 and this authorization for program development supports this goal.

Section 306. Administrative Grants: Subsection (a) authorizes the Under Secretary to make matching grants to any coastal state. The state must match a federal grant equally, except state programs which are approved after the enactment of this Act. Those states will be phased in, over 4 years, to the equal match requirement. The Committee hopes this will be a further encouragement to state participation.

Subsection (b) conditions the Under Secretary's authority to issue grants under this section. The state's coastal zone management program must have been approved under section 306(d), and the state must be in compliance with applicable requirements. This latter condition must be read in conjunction with the provisions of section 312. The Committee does not intend that state programs be subjected to annual reapproval to determine if they meet "all applicable requirements of this title" and any decision to deny funding under this subsection must be predicated on evaluations properly conducted under section 312.

Subsection (c) requires the Under Secretary to allocate grants based on a formula which considers both shoreline mileage and coastal population. The current NOAA regulations provide 60 percent weight to shoreline mileage and 40 percent to coastal population. This subsection also requires the Under Secretary to establish maximum and minimum grants.

Subsection (d) consolidates the existing "program approval" standards or requirements from various sections in the existing law: sections 305(b) and 306 (c), (d), and (e). Unless otherwise specified herein, any modifications in this subsection (or of section 303 which is incorporated as a program requirement by reference) should be considered technical changes and not new substantive requirements.

Subsection (d)(8) requires that each state program provide for ". . . adequate consideration of the national interest involved in planning for, and managing the coastal zone, including the siting of facilities such as energy facilities . . .". This provision has been broadened from existing law to reflect the Committee's view that the national interest in coastal zone management is multifaceted, including fisheries management, navigation, wetlands protection, reduction of natural hazards, mineral resource development, and pollution control. Existing law defines the national interest only in terms of facility siting, and while the Committee does not intend to diminish the importance of facility siting, it considers this construction too narrow.

Subsection (d)(13) adds a requirement that each management program must provide for inventory, designation, and protection of coastal resources of national significance. This provision (section 306(i) of existing law) was previously a condition of eligibility for state grants under section 306A and every state program has been determined to be in compliance. Therefore, the Committee action to add this to the list of program requirements is intended to have no effect on existing programs. Programs submitted for approval subsequent to enactment of this Act will be required to demonstrate compliance.

Subsection (d)(14) adds a new "public participation" requirement under which each state program must provide for involvement by the public in permitting processes, federal consistency determinations, and other decisions. Under section 202 of this title, each state must demonstrate compliance with this new requirement within two years of enactment.

Subsection (d)(15) adds a new requirement that each program include a mechanism to ensure that state agencies are complying with the management program. This provision is coupled with amendments to section 312(a) which require that program evaluations review state agency compliance.

Subsection (e) authorizes coastal states to amend, modify, or otherwise change their management programs. It outlines the procedures for submission, review, and approval of amendments, modifications, or changes. Subsection (e)(4) authorizes the Under Secretary to approve a program amendment, modification, or change on a preliminary basis. This preliminary approval may extend for no more than six months and may not be renewed. Preliminary approval of a program amendment, modification, or change, allows the state to begin implementation using federal funds but does not allow the state to use the new provisions for purposes of section 307.

H.R. 4450 amends section 306 substantially. Since this section governs approval and administration of state management programs, concern has been expressed that enactment of the bill may create the implication that existing programs must be reapproved pursuant to the amended section 306. The Committee unequivocally rejects this view. These amendments neither require nor authorize the reapproval of state management programs, and existing state programs shall remain eligible for grants after enactment of H.R. 4450. To the extent that new requirements have been added, the bill contains deadlines, sanctions, or incentives for compliance which are the exclusive mechanisms through which the Under Secretary is authorized to act.

Section 306A. Resource Management Improvement Grants: This section provides matching grant assistance for improvement of coastal zone resources. This section was added in 1980 and has supported a diverse array of improvement projects from wetlands restoration to waterfront revitalization. Existing law is changed only slightly.

Subsection (a) is amended to provide that a state may not expend funds for activities under this section unless it is making continual and satisfactory progress in improving its management program under section 310—the National Interest Improvements Program.

Subsection (b) is amended to specifically authorize grants under this section to implement a comprehensive coastal wetlands restoration program adopted under section 310(a)(1), and to restore and enhance shellfish production from publicly owned lands.

Section 306B. Managing Land Uses Which Affect Coastal Waters: Subsection (a) requires each state to develop a "Coastal Water Quality Protection Program" to implement coastal land use management measures for controlling nonpoint source pollution. A maximum of 3 years is provided for each coastal state to comply with this requirement.

Subsection (a)(2) details the manner in which the program shall be coordinated with other related programs, in particular, sections 208, 303, 319, and 320 of the Clean Water Act.

One of the more significant points raised by many witnesses during the hearings on the legislation was the manner in which this coastal zone effort would relate to other ongoing efforts under state water quality and agricultural programs. In essence, witnesses offered two suggestions. First, state coastal programs can—and should—play an important role in protecting and restoring coastal water quality with their state water pollution control counterparts. Second, any water quality work of a state coastal program must be well coordinated with the work of other state authorities, including state water pollution control authorities.

The intent of the Committee is to focus the type of coordination necessary to harness the coastal zone management capabilities of state and local governments to help address the coastal pollution problem. The Committee was disturbed to find, in a majority of coastal states, substantial institutional distance between coastal management authorities and water quality authorities. Likewise, at the federal level, the Committee found a similar schism between NOAA and EPA.

The Committee sought to address these issues in several ways. First and foremost, the provision reinforces existing requirements for effective land use control, and affirm that state coastal programs should play a major role in developing and implementating coastal land use management measures that will assist in controlling nonpoint pollution.

Second, the states are provided maximum flexiblity in establishing the state and local institutional arrangements to accomplish this formidable task. This flexibility has been a hallmark of the CZMA, and a key to its success.

Third, the provision requires that the program be coordinated with several of the other key programs pertaining to coastal water quality under the Clean Water Act. And finally, it requires that the state coastal agencies consult with state water quality authorities and other state officials at key points in the implementation process.

The Committee does not intend that the requirement of section 306B(a) be viewed as an attempt to construct a surrogate program for controlling pollution of coastal waters. First, state CZM programs are neither authorized nor capable of fulfilling that responsibility. Second, as provided in section 307(g), state coastal programs are required to incorporate and enforce the standards and requirements of the Clean Water Act. This latter requirement dates to the original enactment of the CZMA in 1972 and the Committee strongly endorses it. State coastal zone management programs should work with water quality management authorities to control land uses which affect the coastal waters. The requirements of this section should be viewed as a directive for better coordination and cooperation and does not supplant any existing authority, standard or requirement under the Clean Water Act.

The primary federal statute dealing with regulation of water quality is the Clean Water Act, and this title does not alter that law either explicitly or by implication. The principal obligation to develop and implement a water quality standards program is—and remains—with state water pollution control authorities. They establish water pollution control standards, and they must ensure that the designated uses of waters are achieved and maintained. Nothing in this program alters those basic responsibilities.

The Committee intends only to better enlist the land use capabilities and authorities of state coastal zone management programs to assist in this effort. This intent is fully consistent with the basic underlying purpose of the CZMA as defined by one of the original authors:

"The purpose of limiting the inland reach is to restrict the operation of this legislation to its *basic underlying purpose*, that is, the management and protection of the coastal waters. It would not be possible to accomplish that purpose without to some degree extending the coverage to the shorelines which have an impact on those waters." (H. Rpt. No. 92-1049, to accompany H.R. 14146) (Emphasis added).

Subsection (b) describes the required contents of a Coastal Water Quality Protection Program. There are eight separate but related elements.

First, the program must identify land uses which may, individually or cumulatively, contribute to degradation of coastal waters. Subsection (b)(1) is intended to refer to: those individual undertakings which will themselves affect coastal water quality and habitat, such as large housing or commercial developments in coastal areas; and those land uses which individually may not significantly affect coastal waters but which, taken together with other activities which may be separated by time or distance, would do so.

This section targets land uses that affect coastal water quality. The Committee has received extensive testimony on the causal relationship between land use and water quality in coastal areas which support two

broad conclusions. First, there is widespread agreement on the basic types of land uses that pose water quality problems. Second, establishing precise empirical links between a specific land use activity and a water quality impact is very difficult.

The Committee does not intend that subsection (b) be read as requiring establishment of precise causal relationships. This would entail a research and development effort which H.R. 4450 does not authorize or intend. Rather, the Committee believes that current capabilities to establish qualitative linkages are sufficient to intitiate this program. As management practice and expertise increase, more sophisticated approaches will be developed.

By referencing in subsection (b)(1)(A) both water quality standards and designated uses, the Committee recognizes the separate but complementary role of each. The fundamental objective of the water quality standards program is to protect the designated uses of surface waters. The program relies heavily on the use of water quality standards as the principal means to judge if those uses are protected. There may be instances, however, where compliance with standards does not mean that the uses are in fact protected, or instances where standards are being achieved but the fish are nevertheless contaminated because they absorb contaminants from the sediments. In these instances, the obligation to protect designated uses comes into play, notwithstanding compliance with the water quality standards themselves.

Subsection (b)(2) requires the program to provide for the identification of critical areas in the coastal zone within which new land use activities or the expansion of existing land use activities will be subject to land use management measures to reduce nonpoint pollution. This identification is intended to create the presumption that, in certain critical coastal areas, all land use activities will affect water quality.

Subsection (b)(3) requires identification of the broad range of coastal land use management measures that the program will apply to the land uses and critical areas identified under subsections (b)(1) and (2). In accordance with section 307(g), coastal land use management measures shall be consistent with and incorporate any applicable requirements adopted by the state pursuant to or in accordance with the Clean Water Act or any more stringent requirement established by a state water pollution control agency pursuant to corresponding state law. A land use management measure which will result in water quality that is better than compelled by the state water pollution control agency may, however, be adopted under this section.

Subsection (b)(4) requires each program to identify and designate outstanding resource waters within the coastal zone. This process of designation can occur in conjunction with, or independent of, designation of critical coastal areas under subsection (b)(2). Designation of outstanding resource waters is intended to serve as a signal to surrounding municipalities that land use activities must be particularly sensitive to nonpoint pollution problems.

Subsection (b)(5) directs the state program to provide technical assistance to local authorities on how to implement land use measures to protect coastal waters. This does not authorize establishment of a research and development program, but implores the state agency to fulfill a crucial clearinghouse function to assist in identification of effective management measures. Since the principal mechanism for implementation may, in may instances, be local authorities, the success of the overall program is very much tied to the effectiveness of the technical assistance provided to those authorities.

Subsection (b)(6) requires the program to provide adequate opportunites for public participation at all key points. The success of the efforts to identify land uses, critical areas, outstanding resource waters, and coastal land use management measures will depend ultimately on the level of public support for these undertakings. That support can best be assured by a meaningful public participation program. For the designation of outstanding resource waters, the Committee intends that the public participation measures shall include a public nomination process.

Subsection (b)(7) requires each progam to establish specific administrative mechanisms to ensure close operating relationships among the various state authorities that must be involved in a broad effort to manage and protect coastal water quality and habitat. These mechanisms are intended to provide the formal conduits through which the necessary cooperation will be achieved. The Committee expects the state programs to adhere closely to this requirement, and expects NOAA to oversee its implementation with equal diligence.

Subsection (b)(8) directs the state coastal management agency to modify the inland boundaries of the state's coastal zone, as the agency determines necessary and appropriate, for effective management of the land uses and areas identified in subsections (b)(1) and (2). The Committee has carefully considered this directive, and intends that it provide a necessary stimulus to assess the adequacy of the coastal zone boundary as it pertains to the control of land uses which affect coastal waters. The Committee is well aware of the sensitivity associated with boundary questions, but believes strongly that the need to address these boundary issues directly outweighs the uneasiness the exercise apparently entails for some state programs. If the boundaries are not adequate to do the job, the issue should be recognized and resolved, not avoided. In any respect, the ultimate decision with regard to inland boundaries continues to reside in the state.

Subsection (c) governs submission of Coastal Water Quality Protection Programs. If a state fails to submit an approvable program as required in subsection (a), the Under Secretary must withdraw a portion of the state's grant under section 306 until the state submits an approvable program: 10 percent after year three; 15 percent after year four; 20 percent after year five; and 30 percent in each year after year six. Funds withdrawn under this section are to be redistributed to coastal states for which Coastal Water Quality Protection Programs have been approved. The Committee intends that such redistributed funds be used only for those approved water quality programs.

Subsection (d) requires the Under Secretary and the EPA Administrator to administer a program of technical assistance. The Committee does not authorize or intend the establishment of a program of research and development. Rather, the Committee envisions that the Under Secretary will assist in transferring to the coastal states and local governments proven methods for the management of coastal land uses.

Subsection (e) requires that the Under Secretary, in consultation with the EPA Administrator, evaluate the inland boundary of each coastal state and make recommendations to the state for modifications necessary to effectively protect coastal waters. This requirement shall be read in conjunction with the requirement of subsection (b)(8). The Committee is directing the Under Secretary to review the coastal zone boundary and make recommendations to the coastal state for necessary changes. However, the decision to modify the inland boundary resides with the state.

Subsection (f) authorizes matching grants to implement this section. The grants are to be allocated based on regulations issued under section 306(c) that take into account extent of shoreline, coastal population, and other relevant factors. The Under Secretary may set aside up to 30 percent of the funds appropriated for this section to assist states which are making exemplary progress in complying with the requirements of the Coastal Water Quality Protection Program.

Section 307. Coordination and Cooperation: This section amends the "federal consistency" provisions of the CZMA. The Committee's principal objective in amending this section is to overturn the decision of the Supreme Court in *Secretary of the Interior* v. *California*, 464 U.S. 312 (1984) and to make clear that outer Continental Shelf oil and gas lease sales are subject to the requirements of section 307(c)(1).

This intent was confirmed clearly in a colloquy between Chairman Walter Jones and Subcommittee Chairman Gerry Studds during full Committee markup of H.R. 4030 (the text of H.R. 4030, as ordered reported by the Committee on Merchant Marine and Fisheries on April 18, 1990, is the predecessor of the substitute amendment being considered today). Chairman Jones stated that section 307(c)(1) of the bill establishes a simple rule of law that every federal agency activity, regardless of its location, must be consistent, to the maximum extent practicable, with approved state management programs if the activity will affect any natural resources, land uses, or water uses in the coastal zone. As a matter of law, there are no exceptions or exclusions from this requirement on federal agencies.

The Committee had two basic avenues to accomplish this purpose: first, specific federal agency activities (e.g., outer Continental Shelf oil and gas lease sales) could be enumerated in the statute; or second, the statutory construction of subsection (c) could be altered to reestablish a general rule of law that is equally applicable to all federal agency activities. The Committee chose the latter approach.

The Supreme Court's central holding in *Secretary of the Interior* v. *California* was that outer Continental Shelf (OCS) oil and gas lease sales are not activities which "directly affect" the coastal zone within the meaning of section 307(c)(1) of the CZMA, and thus, a consistency review is not required before such sales are held. This holding was supported by three central findings of the 5–4 majority opinion of the Court:

First, the legislative history of section 307(c)(1) discloses that Congress did not intend the section to reach OCS lease sales. The "directly affecting" language was aimed primarily at activities conducted or supported by federal agencies on federal lands physically situated in the coastal zone but excluded from the zone as formally defined by the CZMA (so-called "federal enclaves"). In supporting this finding, the

Court argued that the "geographical scope" of the CZMA is limited and that Congress believed that the statute's purposes could be adequately effectuated without reaching federal activities conducted outside the coastal zone.

Second, lease sales do not "directly affect" the coast, since they are mere paper transactions, only entitling lessees to conduct "preliminary activities." Thus, in and of themselves, they do not directly affect the coastal zone.

Third, the structure of section 307 suggests that an OCS lease sale is not an activity "conducted or supported" by a federal agency, and thus, is not intended to be covered by section 307(c)(1). Section 307(c)(3), which deals with the activities of non-federal parties authorized by a federal agency license or permit, is the provision that is more pertinent to OCS lease sales, and that provision does not require consistency review of lease sales.

As disturbing than the central holding itself is the so-called "shadow effect" of the Court's decision (i.e., its potentially erosive effect on the application of the federal consistency requirements to other federal agency activities). Despite testimony before this Committee from the U.S. Department of Justice in 1984, that the Court's decision is narrowly applicable to only OCS oil and gas lease sales, and the promulgation of a regulation by NOAA which excluded only OCS oil and gas lease sales from federal consistency review, federal agencies have construed the Court's decision broadly to exempt a variety of agency activities from this requirement. In amending section 307(c)(1), the Committee intends to overturn the Court's holding, and also to dispel any doubt as to the applicability of this requirement to all federal agency activities that meet the standard for review.

As amended by H.R. 4450, subsection (c)(1) provides that—

"Each Federal agency activity, in or outside of the coastal zone, affecting any natural resources, land uses, or water uses in the coastal zone, shall be carried out in a manner which is, to the maximum extent practicable, consistent with approved State management programs."

This amended provision establishes a generally applicable rule of law that any federal agency activity (regardless of its location) is subject to the CZMA requirement for consistency if it will affect any natural resources, land uses, or water uses in the coastal zone. No federal agency activities are categorically exempt from this requirement.

This new provision responds to each of the Supreme Court findings enumerated above. First, the "directly affecting" standard which was the central feature of the Court's decision has been struck and replaced with a new triggering standard: "affecting any natural resources, land uses, or water uses in the coastal zone." In addition, the Committee has used this standard as the single threshold applicable to all of the federal consistency provisions. The Committee expects this will lead to greater predictability and easier administration, as state and federal agencies and applicants become accustomed to working with a uniform threshold standard.

Second, the Committee dispels the misplaced notion that the CZMA's geographical scope is limited by inserting the phrase "in or outside of the coastal zone" to modify the term "federal agency activity". Although the NOAA regulations clearly provide that the consistency provisions apply to activities outside of the coastal zone, this phrase makes clear Congressional intent and puts to rest any question about a shadow effect of the Court's decision. Since an explicit statutory reference in this subsection might imply that other consistency review authorities (e.g., sections 307(d)(1) and (e)) do not have similar geographical scope, the Committee inserted the same phrase in those subsections. The Committee considers this a technical change since the NOAA regulations clearly provide, pursuant to existing law, that those sections apply beyond the coastal zone (see 15 CFR, 930.53(b), and 930.95(b)), and they have been applied, in numerous instances, to activities outside of the coastal zone.

Third, the interpretation that an OCS lease sale is not subject to subsection (c)(1) because it is not an activity "conducted or supported" by a federal agency is addressed by striking those words.

Whether a specific federal agency activity will be subject to the consistency requirement is a determination of fact based on an assessment of whether the activity affects natural resources, land uses, or water uses in the coastal zone of a state with an approved management program. This must be decided on a case-by-case basis by the federal agency conducting the activity. What the Committee has done is to make clear what it thought had been well-understood prior to the Supreme Court's decision; it has established a general rule of law that applies equally to all federal agency activities, whether those activities occur inside or outside of the coastal zone.

The question of whether a specific federal agency activity may affect any natural resource, land use, or water use in the coastal zone is determined by the federal agency. The Committee intends this determination to include effects in the coastal zone which the federal agency may reasonably anticipate as a result of its action, including cumulative and secondary effects. Therefore, the term "affecting" is to be construed broadly, including direct effects which are caused by the activity and occur at the same time and place, and indirect effects which may be caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

If a federal agency activity may affect the coastal zone, then the activity must be consistent, to the maximum extent practicable, with that state's federally approved coastal management program. NOAA has interpreted the term "maximum extent practicable" in a manner which requires strict adherence to the enforceable policies of state programs where a federal agency has discretion (15 CFR 930.32). The Committee supports this long-standing interpretation.

H.R. 4450 deletes a provision of existing law dealing with federal development projects in the coastal zone (former section 307(c)(2)). This provision was considered duplicative with the requirement of section 307(c)(1). A federal development project which is situated physically in the coastal zone is clearly a federal activity which will affect natural resources, land uses, or water uses of the zone.

H.R. 4450 adds a new section 307(c)(2) which authorizes the President to exempt a specific federal agency activity if the President determines that the activity is in the paramount interest of the United States. The provision is based on similar exemption provisions in other environmental statutes, including section 313(a) of the Clean Water Act, section 118(b) of the Clean Air Act, section 4(b) of the Noise Control Act, section 6001 of the Solid Waste Disposal Act, the Medical Waste Tracking Act of 1988, the Safe Drinking Water Act, and section 403 of the Powerplant and Industrial Fuel Use Act of 1978.

The exemption authorized in section (c)(2) is not applicable to a class of federal agency activities but only to a specific activity. In addition, the Committee has closely prescribed the circumstances under which an exemption can occur because the Committee intends that the exemption be used only in extraordinary circumstances.

First, a federal court of competent jurisdiction must conclude, in a final decision, that the federal agency activity is not in compliance with the substantive requirements of section 307(c)(1). In other words, the court must have determined that the agency activity is not consistent with enforceable policies of a state CZM program, but has complied with the procedural requirements by providing a consistency determination to the state. Second, the Under Secretary must certify that mediation under section 307(h) is unlikely to result in compliance. If each of these requirements is satisfied, then the Under Secretary may, in writing, request that the President exempt the activity from compliance. The President may exempt an activity only if the activity is in the paramount interest of the United States, and may only exempt those elements of the activity that the federal court found inconsistent with the state program. A Presidential exemption granted pursuant to section 307(c)(2) shall exempt the specific federal agency activity from compliance with section 307(c)(1) of the CZMA only, and shall not constitute an exemption from compliance with any other federal law.

This exemption provision reinforces the Committee's position that no federal agency activities are categorically excluded from the consistency provisions of section 307. Section 307(c)(2) is the only exemption authorized or intended for section 307(c)(1) activities.

Section 307(c)(3) clarifies the requirement that each federal agency carrying out an activity which affects the coastal zone must provide a consistency determination to the appropriate state agency. This determination must be provided at the earliest possible time but not later than 90 days prior to final approval of the activity. This new statutory provision codifies an existing CZMA regulation (15 CFR 930.34(b)).

Subsections (d) (1) and (2) repeat provisions of existing law (formerly sections 307(c)(3) (A) and (B)) with only minor, technical changes. These provisions govern the consistency of private activities for which federal licenses or permits are required. The Committee intends that H.R. 4450 not alter the statutory requirements as currently enforced under sections 307(c)(3) (A) and (B) of the CZMA. These requirements are outlined in the NOAA regulations (15 CFR 930.50–930.66) and the Committee endorses this status quo. The Committee wants to make it clear that the changes made to existing section 307(c)(3)(A) are technical modifications. Neither the modifications contained in section 307(d), nor any other amendments made by this bill, change the relationship between that section and the provisions found in section 307(f) of the bill. Specifically, the legal relationship between new sections 307 (d) and (f) is thus identical to the existing relationship between sections 307 (c)(3)(A) and (e). Taken together,

the provisions of the bill's section 307(d) and section 307(f) (section 307(e) of the existing CZMA) clarify that laws applicable to federal agencies are not altered.

This issue was the subject of debate and discussion during the Committee on Merchant Marine and Fisheries markup of H.R. 4030. Congressman Owen Pickett offered an amendment providing that nothing in H.R. 4450 affected any project or activity for which the Army Corps of Engineers had issued a permit under section 404 of the Clean Water Act prior to the date of enactment of the Coastal Zone Act Reauthorization Amendments. This amendment addressed a project to divert up to 60 million gallons of water per day from Lake Gaston, which straddles the North Carolina-Virginia border, to Virginia Beach, Virginia.

Although the State of North Carolina is opposed to the project and to issuance of a required permit under section 404, the state did not argue that a consistency certification was required under the CZMA, but contained its objections to procedural compliance under the National Environmental Policy Act. Notwithstanding those objections, the Corps issued a permit for construction of the pipeline and the permit issuance was upheld by a federal district court. An appeal is pending.

Because the Lake Gaston project may require additional federal approval in the future, Mr. Pickett expressed concern that H.R. 4450 may broaden the standard by which states could exercise their consistency review authority and that North Carolina could attempt to halt the project given a second chance. Mr. Pickett wanted reassurance that this pending project would not be affected by any change in consistency authority. Congressman Bateman joined Mr. Pickett in support of the amendment.

The Chairman voiced his opposition to the amendment. Mr. Jones stated that the requirement for consistency review of federal licenses and permits is not altered by H.R. 4450 nor by the substitute. In addition, he agreed that Congress should not interfere with a pending proposal. Committee counsel confirmed that the bill made no change in existing law in the way in which states could exercise their consistency review authority under section 307(c)(3)(A), the provisions for which are in section 307(d)(1) of H.R. 4450. Counsel noted further that nothing in the bill affects the validity of the section 404 permit that was issued to Virginia Beach. Chairman Jones noted his impression that the bill does not change existing law with respect to the Lake Gaston case and Counsel confirmed that impression. With this assurance, Mr. Pickett withdrew his amendment.

Subsections (e), (f), (g), and (h) restate requirements of existing law with only minor changes. In paragraph (2) of subsection (f), the word "any" has been substituted for the word "existing" to avoid the possible interpretation that the paragraph is applicable only to laws in existence on the day of enactment. The Committee intends that the phrase ". . . any laws applicable to the various Federal agencies; . . ." in paragraph (2) includes those laws that have been enacted since enactment of the original, 1972 CZMA. Such laws include, but are not limited to the following: Solid Waste Disposal Act (42 U.S.C. 6901); Toxic Substances Control Act (15 U.S.C. 2601); Noise Control Act of 1972 (42 U.S.C. 4901); Safe Drinking Water Act (41 U.S.C. 300f); and the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 9601).

In particular, the Committee intends that a federal agency not be shielded from compliance with the more stringent environmental requirements of other federal or state laws by a finding that it is consistent "to the maximum extent practicable" with the CZMA. Subsection 307(f) clarifies that the other statutory requirements applicable to federal agencies are unaltered. Therefore, if another statute holds a federal agency to a higher standard, the agency is not relieved of that duty by virtue of compliance with this law.

In subsection (h), the Under Secretary is explicitly authorized to mediate a disagreement between two or more states regarding the implementation of the CZMA. This includes the authority to mediate between a participating state and a non-participating state, including non-coastal states.

The Committee is aware of recent controversial cases involving interstate applications of the federal consistency provisions. Clearly, if a federal agency action within one state will affect any natural resource, land use, or water use within another state, the requirements of section 307 properly apply. This has been NOAA's long-standing interpretation, and is clearly reflected in agency regulations. However, the Committee is concerned that the consistency provisions are neither used nor perceived as a method for one state to squash or delay legitimate economic development within another state. The expanded mediation authority is evidence of the Committee's concern in this regard, and the Under Secretary is encouraged to explore specific mechanisms to resolve interstate conflicts promptly.

Subsections (i) and (j) authorize state and federal fees, respectively, to recover costs associated with administration of the consistency provisions for federally licensed or permitted private activities. These fees are limited explicitly to the reasonable costs of administering the consistency requirements of subsection 307(d).

Subsection (k) authorizes a permit applicant to waive the right to administratively appeal a state consistency objection. Thus, an applicant need not exhaust the administrative remedies available as a predicate to obtaining judicial review of the validity of a state objection. The Committee does not intend that this provision be used to circumvent administrative resolution of conflict, but has added the provision because, in judging appeals under this section, the Under Secretary assumes that the state has acted correctly. Therefore, exhaustion of administrative remedy can be a barrier to resolving conflicts which concern the propriety of the state objection. The Committee notes, however, that only the Under Secretary is authorized to override a state objection on the grounds that an activity is "consistent with the findings and policies of this title or is otherwise necessary in the interest of national security."

Subsection (l) clarifies that a state may not enforce the consistency requirements of subsection (c), (d) or (e) unless its CZM program is federally approved, or if federal approval has been withdrawn pursuant to section 312(d).

Subsection (m) provides that federal agencies and applicants are required to be consistent with the "enforceable policies" of a state CZM program. They shall give adequate consideration to program provisions which are in the nature of recommendations. This provision codifies the existing regulatory practice [15 CFR 930.39(c) and 930.58(a)(4)]. Federal agencies and applicants must be consistent with those policies which are enforceable under state law.

It is not the intent of the Committee that this subsection be construed to overturn, in whole or in part, the judicial decision in *American Petroleum Institute* v. *Knecht*, mentioned earlier. Federal agencies and applicants are assured that they will not be subjected to policies which are not enforceable under state law. However, this provision is not intended as a guarantee that the provisions of a coastal program will be so specific that users of the coastal zone must be able to rely on its provisions as predictive devices for determining the fate of projects without interaction with the relevant state agencies. Individual projects must be reviewed on a case specific basis and states may identify mitigation and other management measures which are not specifically detailed in the management program but which, if implemented, would allow the state to find projects consistent with the enforceable policies of the program.

Section 308. Coastal Energy Impact Program: The existing Coastal Energy Impact Program (CEIP) is effectively repealed. A more limited program is proposed.

Subsection (a) requires the Under Secretary to recommend to the Congress a new Coastal Energy Impact Program by January 1, 1993. In particular, the Committee directs the Under Secretary to recommend a program of financial and technical assistance to the coastal states related to impacts caused by coastal energy activities.

Subsection (b) retains the OCS State Participation grants from existing law (section 308(c)(2)). Under this provision, the Under Secretary may provide financial assistance to states in carrying out their responsibilities under the OCS Lands Act. The Committee notes that the coastal states are burdened substantially when the Federal Government holds an OCS lease sale. For many states this involves the hiring of technical and legal experts, the collection and review of complex scientific and environmental data, and the conduct of hearings and meetings to inform and involve the public. Subsequent to a lease sale, the coastal state is responsible for reviewing individual proposals for exploration and production. These responsibilities most often are delegated to the state coastal zone management program. The grants authorized by this subsection will assist the coastal programs in fulfilling this vital role.

Subsection (c) establishes that obligations to repay outstanding loans made under the CEIP are not affected by this legislation. From 1977 through 1983, nearly $130 million in loans were distributed to coastal states through the CEIP. Approximately $87.5 million in CEIP loans are still outstanding.

Subsection (d) requires that CEIP loan repayments be retained by the Under Secretary as offsetting collections and deposited into the Coastal Zone Management Fund established pursuant to section 309. In recent years, annual loan repayments have ranged from a low of $4 million to a high of $15 million, with an annual average of some $6-$8 million.

Section 309. Coastal Zone Management Fund: The existing section 309 (Interstate Grants) is repealed. The new section establishes a Coastal Zone Management (CZM) Fund which will be used to fund administration of this Act.

Subsection (a) directs the Under Secretary to establish and maintain a CZM fund,

which shall consist of loan repayments collected and retained under section 308(d). Therefore, the Committee anticipates an annual expenditure of between $6 million and $8 million through the CZM Fund.

Subsection (b) authorizes the Under Secretary to expend amounts in the Fund for administration of the coastal zone management program and for specified discretionary activities: regional and interstate projects (formerly section 309); demonstration projects; emergency assistance; awards pursuant to section 314; program development grants pursuant to section 305; state participation grants under section 308(d); and to assist states in applying the public trust doctrine in the implementation of their CZM programs. The first use of amounts in the Fund is program administration and the Committee expects a vigorous federal program to assist the states in coastal zone managment. The Under Secretary is then authorized to expend remaining amounts for the other specified activities.

The Committee encourages the Under Secretary to provide discretionary technical support to state management programs in establishing geographic information systems (GIS) for lands and waters within the coastal zone. Mapping of the coastal zone, at an appropriate scale, and integrating a diversity of information sets, can be of great benefit to coastal management at the state and local level. However, prior to authorizing any expenditure of federal funds for this purpose, the Under Secretary should consider establishing uniform guidelines for development and implementation of a GIS system.

Subsection (c) requires an annual report to Congress on the deposits to and disbursements from the CZM Fund.

Section 309 and the CZM Fund are integral to achieving the objectives of H.R. 4450. The CZMA establishes a national network of state coastal zone management programs. Federal leadership is vital to meld these disparate state programs into a national network and this section is intended to provide adequate resources and authority for the Under Secretary to fulfill a strong leadership position in coastal zone managment.

Section 310. National Interest Improvements. Subsection (a) establishes a program, beginning in fiscal year 1991, to encourage continual improvements in state management programs in five national interest areas.

A. Coastal wetlands management and protection: The coastal states are encouraged to improve management and protection of coastal wetlands, including development of new enforceable policies and a comprehensive wetlands restoration program. Improvements in management and protection must be consistent with a goal of achieving no overall net loss of the Nation's remaining wetlands base.

In November 1988, the National Wetlands Policy Forum issued a report entitled "Protecting America's Wetlands: An Action Agenda." Among many recommendations, the report recommended establishment of a clear national goal to guide government programs affecting wetlands. Specifically, the Forum recommended the following interim goal: "To achieve no overall net loss of the nation's remaining wetlands base".

The Committee has adopted this interim goal as the national goal guiding improvements in state coastal zone management programs. The Committee does not intend that any coastal state be required to demonstrate compliance with this goal. Rather, the Committee is directing the Under Secretary to encourage and assist the states in making improvements to their programs which are consistent with this national objective. Because the Domestic Policy Council's Interagency Task Force on Wetlands has been directed by the President to develop recommendations regarding attainment of the goal of no net loss of the Nation's wetlands, the Under Secretary should coordinate closely with the Council in administering this provision.

The National Wetlands Policy Forum recognized that the goal of no overall net loss of wetlands may be difficult to achieve in some areas:

"[T]he goal may have to be implemented at different rates in various regions of the country to reflect regional wetlands needs, conditions, and types. For example, continuous arctic or high latitude wetlands underlain by permafrost pose unique scientific challenges to successful restoration and creation. It may also be more difficult to achieve the goal along the Louisiana Coast, where loss rates are exceptionally high, than in other parts of the country."

The Committee expects the Under Secretary to implement this provision in recognition of these unique factors and difficulties.

Section 310(a) requires the Under Secretary to begin administration of the National Interest Improvements Program in fiscal year 1991. Section 304(4) requires a public rulemaking process to define the term "wetlands" and the Committee previously expressed its intent that NOAA coordinate closely with the Domestic Policy Council in implementing section 310(a)(1). The Committee does not intend these rulemaking and coordination requirements to preclude or impede administration of the program under this section. The wetlands definition is obviously crucial to implementation of state management program improvements, but the Committee believes that assessment of priorities and negotiation of state improvement programs shall begin immediately.

B. Natural hazards management: Development and redevelopment in hazardous areas is a chronic problem in coastal areas. These threats are compounded by the potential for sea level rise in response to global warming and land subsidence. The Great Lakes also experience unpredictable fluctuating water levels which exacerbate shoreline erosion and flooding. The coastal states are encouraged to improve their programs to manage development more effectively in such areas.

C. Public Access: Development of a program to meet the public needs for access to coastal areas.

D. Cumulative and Secondary Impacts: Development and adoption of procedures to assess, consider and control the cumulative and secondary impacts of coastal growth and development. The cumulative effects of development in the coastal zone is one of the most intractable management issues faced by states and local governments. Coastal wetlands are altered or destroyed by piecemeal development, and this provision requires special attention to this situation. In addition, coastal water quality is slowly eroded as land uses spread to the water's edge with the twofold effect of contributing to pollutants and eliminating the filtering effect of natural vegetation and wetlands.

Cumulative effects are the impacts on the coastal zone which result from the incremental effects of an activity when added to other past, present, and reasonably foreseeable future actions, regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

Secondary effects are impacts that are associated with, but do not result directly from, an activity. Secondary effects can include growth inducing effects and other effects related to induced changes in the pattern of land use.

E. Coastal Energy Development: The coastal zone is a crucial component in our nation's energy policy. Imported oil and refined products are transshipped through the coastal zone. Domestic offshore production of oil and gas is brought to shore by pipeline and tanker. Substantial proportions of imported and domestic hydrocarbons are refined by facilities within the coastal zone. Section 310(a)(5) acknowledges the pivotal role that coastal zone management programs play in the siting of coastal energy facilities.

State programs are encouraged to develop improved procedures and policies to help facilitate energy-related activities which may be of greater than local significance. The Committee does not intend that this provision be construed to force coastal states to accommodate any specific project or facility. Neither is this provision to be construed as a directive to the coastal states to be less rigorous in protecting the coastal environment with regard to development of coastal energy facilities. The Committee intends that the Under Secretary encourage states, where appropriate, to develop procedures that will result in improved consideration of national interests, clarification of environmental standards and guidelines, better coordination with federal energy policies, and streamlined regulatory procedures.

Subsection (b) outlines generally the manner in which the Under Secretary is to implement the National Interest Improvements Program. First, the Under Secretary is required, for each coastal state, to assess the priority needs for improvement in each of the special national interest areas. Second, based on the identified priorities, the Under Secretary must seek to negotiate with each state a National Interest Improvements Program covering no less than a three year period. The program is to include specific, measurable goals and milestones for improving the management program.

The Committee intends that state participation in the program established under this section be voluntary. No state is required to participate or to make improvements in any of the special national interest areas. However, if a state does not participate, it is ineligible for grant assistance under this section and under section 306A. The Committee anticipates that some states will chose not to participate.

If a state chooses to participate, then it must negotiate an improvements program based on the priority needs assessment performed by the Under Secretary. The Committee intends that both parties negotiate in good faith to design an aggressive but realistic schedule for improvement of the management program which takes into account the expected level of financial assistance that will be available under this section. However, because this is a program of national interest improvements, the Committee has authorized a lead role for the Under Secretary in establishing priorities.

Subsection (c) mandates consultation with interested private and public parties in developing a program under subsection (b).

Subsection (d) authorizes the Under Secretary to stagger the implementation of the program so that no less than one-third of the participating states are negotiating an improvements program in any single year.

Subsection (e) requires yearly evaluation of each state program negotiated under this section. The Under Secretary must find that the state is making continual and satisfactory progress in implementing each component of the negotiated improvements program. If the Under Secretary cannot make this finding, then the Under Secretary must notify the state and the public and identify steps which are required to ensure satisfactory progress. If the state does not take the actions required by the Under Secretary, further eligibility for funding under this section must be suspended for at least one year. The requirements of this section may be waived in certain circumstances, with prior notification to the Congress and the public.

Subsection (f) requires the Under Secretary to set aside at least 10 percent, but no more than 20 percent of funds appropriated under sections 306 and 306A, to be used to implement this section. The Committee intends that the Under Secretary set aside the full 20 percent, unless because of lower than anticipated federal appropriations, such a withholding would significantly impair administration of the state management programs as a whole. Funds to administer this section are to be set aside en bloc, prior to allocation of state awards pursuant to section 306(c).

Subsection (g) specifies that no state matching funds are required for national interest improvements.

Subsection (h) requires that 50 percent of funds under this section be distributed among states that have negotiated National Interest Improvements Programs, based on the formula allotment process established pursuant to subsection 306(c). The remaining 50 percent is to be awarded at the discretion of the Under Secretary based on individual state needs and taking into consideration the likelihood that the funding will result in substantial improvements.

Subsection (i) requires the Under Secretary to issue regulations governing the negotiation of National Interest Improvements Programs.

Section 311. Public Hearings and Meetings: Notice of at least 45 days is required for all public hearings and meetings under this title.

Section 312. Review of Performance: Subsection (a) requires "periodic" review of state CZM programs as required under current law.

Subsection (b) mandates public participation in the evaluation of state programs and requires written response to all written comments received. The Committee is aware that requiring written responses is a substantial new requirement, but considers it appropriate and necessary to build public involvement and confidence in the evaluations process. Moreover, the requirement is not unlike the existing requirement imposed on a federal agency in an administrative rulemaking to respond to all comments on a proposal.

Subsection (c) provides new authority for the Under Secretary to place a state program on "probation" for not more than two years and to withdraw up to 25 percent of the CZM funds available to that state. The Committee understands that disapproval of a management program under section 312(d) is an extraordinary step and has not been a useful tool for NOAA in correcting mild or moderate problems in state program administration.

If a coastal state is placed on probation under this subsection, the Under Secretary is required to withdraw a portion of that state's federal funding under the CZMA, but not more than 25 percent in any year. If the coastal state agrees to take the corrective actions specified by the Under Secretary, then the amounts withdrawn must be made available to the state for that purpose. If the coastal state does not agree to take the corrective actions, then the amounts withdrawn shall be added to amounts appropriated for sections 306 and 306A for other states.

Subsection (d) requires that the Under Secretary withdraw federal approval of a state program if the state is failing to appropriately implement its federally-approved program or a grant made under the CZMA, and refuses to rectify the deviation.

Subsection (e) require that notice be provided to a coastal state prior to taking any action under subsection (c) or (d).

Section 313. Records and Audit: This Section requires each recipient of financial assistance under this title to keep records and provide access to the Under Secretary and the Comptroller General.

Section 314. Walter B. Jones Excellence in Coastal Management Awards: This section requires the Under Secretary to use amounts in the CZMA Fund (section 309) to identify and appropriately acknowledge accomplishment in the field of coastal zone management by individuals (other than Federal employees), local governments, and graduate students. The Committee to provide leadership in coastal zone management. Individual and local efforts are the backbone of effective coastal zone management. Recognition of a job well done, including financial reward wherever appropriate, can be an effective way of recognizing and encouraging leadership and innovation. Through H.R. 4450, the Committee is attempting to reverse a nearly 10-year hiatus in federal leadership and expects the Under Secretary to take full advantage of this new authority.

Section 315. National Estuarine Research Reserve System: This section repeats existing law with only minor amendments. Greater authority is provided for monitoring, technical transfer and education activities. Authority is added for the Under Secretary to establish cooperative agreements with nonprofit organizations and to accept private donations to enhance management of estuarine reserves. In addition, private universities and institutions have been made eligible to receive research funding under this section.

Section 316. Coastal Zone Managment Report: The existing biennial reporting requirement is maintained. Requirements for the Under Secretary to include "a coordinated national strategy," "recommendations for additional legislation," and "a systematic review of Federal programs" are deleted. The Committee deleted these sections because they have apparently been the principal cause of delay in submitting past biennial reports. The Committee expects that these changes will promote prompt reporting. The Under Secretary is strongly encouraged to take every opportunity to make recommendations to the Congress regarding a national strategy for coast zone management, including necessary legislative changes. A new requirement is added that the report include summary views and recommendations from each state. This latter requirement will provide the coastal states an opportunity to critique the federal program and recommend necessary changes. State comments submitted pursuant to this section should be specifically identified in the report and shall not be subject to change by any federal agency or office.

Section 317. Rules and Regulations: The Under Secretary is empowered to issue regulations implementing this title. Existing regulations, except those superseded by this Act, remain valid.

Section 318. Authorization of Appropriations: Appropriations are authorized for fiscal years 1991-1995 for sections 306 and 306A, 306B, and 315.

Section 319. Interstate Agreement and Compacts: This section contains provisions for existing new [section 309(b)] which authorize interstate agreements. The separate authorization for funding of interstate programs has been repealed, but the Committee wants to encourage interstate cooperation and coordination in coastal zone management.

Section 202. Deadlines for Compliance: This section contains deadlines for compliance with several provisions of the CZMA amendments made in section 210 of this title. Each coastal state must demonstrate compliance with sections 306(d)(14) and (15) within 2 years of enactment. Within 180 days of enactment the Under Secretary must issue guidelines for the coastal states to follow in developing a Coastal Waters Protection Program under section 306B, and must promulgate regulations governing the receipt, review, and approval of such programs within 18 months of enactment.

Section 203. Pacific Island State Demonstration Project: This section authorizes not more than $100,000 for each of fiscal years 1991 through 1995 for a joint federal-state project to plan for ocean resource management outside the coastal zone, except fishery resources. Only one Pacific island coastal State, to be selected by the Under Secretary, is eligible to receive this grant. This provision recognizes that while the coastal zone is generally limited to three miles seaward of a state's coast, the Pacific Islands, given their long-standing and encompassing relationship with the ocean, may have a stronger interest in ocean resources beyond their coastal zone. This provision is intended to recognize this special relationship.

Mr. DAVIS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Chairman JONES and Chairman HERTEL should be commended for the excellent bill before us. I also thank the chairmen of the other committees involved in our bringing the bill to the floor for their consideration of our interests and their cooperation during these last few weeks.

Although most agree that the CZMA has been a success, even good laws can stand some improvement. Problems have arisen in the 18 years that the act has been administered, and the amendment that will be offered by Chairman JONES to H.R. 4450 accomplishes much to resolve them. I also welcome the bill's fresh focus on protecting our coastal areas and concentrating on other issues of national importance, such as coastal erosion, a

severe problem in the Great Lakes. This new emphasis will require some effort on the part of States, and I hope that we can balance this responsibility with adequate levels of funding.

Finally, I note that the administration has supported coastal zone management through its own reauthorization proposal and in its budget request to Congress this year. Given the President's support for the environment, I know that he will carefully consider the entire effect of this bill and its benefits to coastal States before signing it into law.

I urge support for the bill and careful consideration of the amendments that will be offered today.

Mr. Chairman, I yield such time as she may consume to the gentlewoman from Rhode Island [Ms. SCHNEIDER] for the purpose of a colloquy.

Ms. SCHNEIDER. Mr. Chairman, I had planned to offer an amendment today to this bill, which would have promoted technical assistance and training by the United States to developing nations specifically for coastal zone planning and management. This assistance would concentrate on problems related to global climate change, such as sea level rise, as well as more traditional coastal management problems, such as coastal development.

My amendment, however, would have been subject to a point of order, and involves issues that are within the jurisdiction of the Committee on Foreign Affairs. Because of that I will not be offering this amendment today, but I do want to thank Chairman FASCELL and Mr. OWENS for agreeing to consider the substance of my amendment in the Committee on Foreign Affairs.

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Mr. OWENS of Utah. Mr. Chairman, will the gentlewoman yield?

Ms. SCHNEIDER. I yield to the gentleman from Utah.

Mr. OWENS of Utah. Mr. Chairman, I appreciate the fact that the gentlewoman from the State of Rhode Island has agreed not to offer her amendment which would be subject to a point of order. The provisions of the Schneider amendment would not be germane to H.R. 4450, as amended, pursuant to the requirement of clause 7, section 794 of House rule XVI.

The text of H.R. 4450, as amended, deals solely with domestic coastal zone management issues.

The Schneider amendment, however, addresses foreign assistance activities, and international environmental policy. Specifically, it promotes technical assistance and training for developing nations, and also includes statements of policy involving the Secretary of State and/or AID regarding international negotiations or consultations on coastal zone management. These issues are clearly within the jurisdiction of the Committee on Foreign Affairs.

I appreciate the gentlewoman's interest in this issue. The Committee on Foreign Affairs will try to address the substantive concerns of her amendment, whether within existing law or programs, or in legislation working its way through Congress, whichever is appropriate.

Ms. SCHNEIDER. Mr. Chairman, I thank my colleague for his generous consideration.

Mr. JONES of North Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would like to engage the gentleman from North Carolina in a colloquy to clarify the intent of the committee on Merchant Marine and Fisheries amendments to section 307(c)(1), known as the Federal consistency requirement of the CZMA.

Let me ask the gentleman from North Carolina [Mr. JONES], am I correct in stating that it is the committee's intent that the amendments to section 307(c)(1) are meant to overturn the 1984 Supreme Court decision in the case Secretary of Interior versus California, and to make clear that Outer Continental Shelf oil and gas lease sales are subject to the requirements of section 307(c)(1)?

Mr. JONES of North Carolina. Mr. Chairman, If the gentleman will yield, yes, the gentleman is correct.

Mr. PANETTA. Mr. Chairman, I ask the gentleman from North Carolina if I am further correct in stating that in making these changes to section 307(c)(1), the committee intends to make clear that it is not the location of the Federal agency activity, but the effect of the activity on the coastal zone that is relevant when determining if a Federal agency is subject to the requirements of section 307(c)(1)?

Mr. JONES of North Carolina. Yes, the gentleman is correct.

Mr. PANETTA. Is it the committee's intention that the indirect effects of an activity which are reasonably foreseeable should be considered by a Federal agency in deciding if the activity will affect the coastal zone? For instance, should the effects of potential exploration, development, and shoreside facilities be considered in deciding whether an OCS lease sale will affect the coastal zone?

Mr. JONES of North Carolina. The committee intends that the effects test is to be construed broadly to include the direct and indirect effects of a Federal activity. For an OCS lease sale, this would certainly include the indirect effects mentioned by the gentleman from California.

Mr. PANETTA. Mr. Chairman, I want the committee chairman to know that I greatly appreciate his clarification of this important provision, and I commend the chairman for his hard work on the very important legislation.

Mr. Chairman, I rise in strong support of H.R. 4450, the reauthorization of the Coastal Zone Management Act [CZMA]. The CZMA is arguably our Nation's most successful coastal program and I commend Chairman JONES and the members of the committee for their hard work on the reauthorization of this important program.

Mr. Chairman, I believe the success of this program lies largely in the strong Federal-State partnership the act created to ensure the orderly and balanced development of our coastal resources. The Federal consistency provision—section 307 (c)(1)—of the CZMA has been the cornerstone of that partnership and as such, I am extremely pleased that the committee has included language in H.R. 4450 to restore the States' rights under the consistency provision. This provision permits States with federally approved and federally funded coastal management plans to review Federal agency activities that will impact a State's coastal zone for consistency with the State's coastal plan.

This right was significantly weakened by the narrowly decided Supreme Court case, Secretary of Interior versus California, which ruled that Outer Continental Shelf [OCS] oil and gas lease sales were exempt from the consistency requirements because they occur outside of a State's coastal zone and do not directly impact the coastal zone.

I maintain that in making this ruling, the Supreme Court misinterpreted the clear intent of the drafters of the CZMA that it is not the location of the Federal agency activity, but the effect of the activity that is relevant when determining if a Federal agency activity is subject to the requirements of the CZMA.

In response to the court's action, I, along with Representative ANDY IRELAND, have authored legislation in both the 100th and 101st Congresses to restore to States the right to review all Federal agency activities that affect the coastal zone, including OCS oil and gas lease sales, under the consistency provision. With 68 cosponsors, this legislation has strong bipartisan support and I am pleased that the committee has chosen to inlcude similar language in H.R. 4450 to effectively overturn the court's decision and subject all activities affecting the coastal zone to the consistency provision.

I think everyone in this Chamber would agree that we have a responsibility to practice good stewardship by seeking the balance between our need to develop resources and our responsibility to preserve our unique and sensitive coastal areas. Armed with a strong Federal-State partnership, the consistency provision provides us with a process by which we can obtain this long sought after balance.

As noted earlier, the consistency provision in this bill permits States with federally approved and federally funded coastal management plans to review Federal agency activities that will impact a State's coastal zone for con-

sistency with the State's coastal zone. That is all. It does not give the State a veto power; it does not permit a lock up of energy resources. It allows States to review Federal agency activities that affect the coastal zone. Period.

Let me again emphasize that these are federally approved and federally funded coastal management plans. Restriction of the consistency provision is sending the States a mixed and contrary message. On the one hand, the Federal Government gives States funds to develop and implement coastal management plans, but then does not pay the plans any heed. If the Federal Government is going to encourage States to develop coastal management plans, then the States should have the right to express whether or not Federal agency activities will negatively impact on a States coastal zone. The issue is that simple.

I would like to dispel some of the arguments I have heard in opposition to the consistency provisions contained in H.R. 4450.

First, this bill will not give States a veto power over Federal agency activities. Even if a State disagreed with a Federal agency activity, the activity would go forward unless the parties agreed to submit to mediation by the Secretary of Commerce or unless the State succeeded in persuading a court to overturn the Federal agency's action.

Furthermore, the bill contains a new national security exemption which allows the President to override a State's objection to a Federal agency activity if the President determines that the activity is in the paramount interest of the United States. There simply is no veto power for States.

Second, opponents argue that allowing States to review OCS lease sales will result in a lockup of our offshore energy resources. Again, this is simply not true. When the State of California had the right to review OCS oil and gas lease sales, prior to the 1984 Supreme Court ruling, the State of California concurred with nearly 90 percent—88 percent—of the tracts offered for leasing by the Department of the Interior.

Third, there has been some argument that OCS oil and gas lease sales, because they are merely paper transactions, do not affect a State's coastal zone. I have two points to make in response to that argument. First, critical decisions which can affect a State's coastal zone, such as whether oil will be transported by pipeline or tanker, the flow of vessel traffic, and the siting of onshore construction are decided at the lease sale stage. Clearly these are activities which affect a State's coastal zone.

Second, I believe that subjecting OCS lease sales to the consistency provision is a prudent step as it will help put an end to the confrontation that has plagued the OCS issue for the past 10 years. Quite frankly, subjecting oil and gas lease sales to the consistency provision makes sense for all parties involved as both the industry and the State will discover if there are any consistency problems with the lease sale at the beginning of the process rather than the end.

This legislation will provide a process that allows communities to express their concerns about an activity when it is still in the planning stages. It is important for the industry and the State to know what these concerns are prior to an industry investment of literally hundreds of millions of dollars in a lease sale. If there is going to be a problem with the exploration and development of a lease sale, then why not find out about it before the area is leased?

To his credit, President Bush has recognized the need to better involve coastal communities into the OCS decisionmaking process. In his OCS policy statement of June 26, the President noted the need for legislation to provide coastal communities directly affected by OCS development with a larger voice in decisionmaking.

I think that Justice Stevens, in his dissenting opinion for the case Secretary of the Interior versus California, best summarized the benefits of State consistency review of lease sales by explaining that

> If exploration and development cannot be squared with the requirements of the CZMA, it would be in everyone's interest to determine that as soon as possible . . . Advance planning can only minimize the risk of either loss or inconsistency that may ultimately confront all interested parties.

In the final analysis, Mr. Chairman, I would like to point out to my colleagues that as a body which claims to give a lot of deference to States' rights, we simply must allow the States a voice in making decisions on activities that can have a grave and serious impact on the State's coastal zone and the livelihood of coastal communities. That is all this legislation is asking: That the States be consulted; that their concerns be heard; and that their concerns be taken into consideration. It is responsible, good government and will work in the best interests of all involved. I urge my colleagues to offer their strong support to H.R. 4450 and oppose any weakening amendments to the consistency provision of this very important legislation.

Mr. JONES of North Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. Bosco].

Mr. BOSCO. Mr. Chairman, I want to thank the gentleman from North Carolina for yielding time to me.

No one has done more to protect our California coastline than the gentleman from California [Mr. PANETTA]. And no one has been more accommodating to those of us who are concerned about oil and gas leases in environmentally sensitive areas than the esteemed chairman of the Merchant Marine and Fisheries Committee, the gentleman from North Carolina.

On behalf of my constituents who live along California's north coast, I want to thank Mr. PANETTA and Chairman JONES for making it clear that Congress intends States to have some oversight responsibility when the Federal Government considers oil and gas leases on the Outer Continental Shelf whether the activity is inside or outside of a State's coastal zone. This is a vital tool for States committed to protecting their coastal resources, and I thank Mr. PANETTA and Chairman JONES for putting this issue to rest.

Mr. JONES of North Carolina. Mr. Chairman, I yield 4 munutes to the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Chairman, I rise today in strong support of H.R. 4450, the Coastal Zone Act Reauthorization Amendments of 1990. The bill which we are considering today is the result of several months of hearings by the Subcommittee on Oceanography and Great Lakes and has the strong support of the members of the Merchant Marine and Fisheries Committee. I would like to take this opportunity to commend my colleagues of the Merchant Marine and Fisheries Committee on their efforts to strengthen and improve this Coastal Management Act.

Originally passed in 1972, the CZMA marked the first serious and comprehensive effort by the States and the Federal Government to protect this Nation's coastal zone. Congress envisioned a voluntary and cooperative program to protect coastal resources from the pressures of development and population and to manage nearly 95,000 miles of U.S. coastline.

During the course of these reauthorization proceedings, it became exceedingly apparent to me and other members of the committee that the intent of Congress regarding OCS lease sales and other Federal activities subject to consistency review required clarification. I wish to emphasize that the bill before us today does just this—H.R. 4450 clarifies, as a general rule of law, that any Federal agency activity in the coastal zone is subject to consistency review, as long as that activity can conceivably have an affect on the coastal zone. This includes OCS lease sales and any other Federal activity that may have an affect on the coastal zone. Attempts to change or further clarify the consistency provisions contained in H.R. 4450 are therefore unnecessary and are contained in the committee amendment we are considering today.

In the last 25 years of implementation of the Coastal Zone Management Act, both the Federal Government and the States have forged a joint partnership designed to improve the management of our Nation's coastlines. The bill before us today improves upon these concepts in several ways by clarifying congressional intent regarding State review of Federal actions in coastal waters and by improving the linkages between coastal zone management and water quality. Favorable consideration of this act can only serve to strengthen and improve this Nation's longstanding commitment to the wise and proper use of our natural resources.

Mr. Chairman, let me talk just about a very few specifics that are in the bill regarding NOAA.

The bill authorizes NOAA, in the course of periodically reviewing State CZM programs, to place a State program on probation for up to 2 years if it finds substantial evidence that the State is failing to adequately implement or enforce important components of its approved programs. Under such probation, NOAA could withhold up to 25 percent of Federal CZMA funding until the State agrees to take corrective actions. Under current law, the only sanction available to NOAA is to totally withdraw Federal approval and support from a State program.

The bill specifies that the Under Secretary of Commerce for Oceans and Atmosphere, who is also the Administrator of NOAA, is directly responsible for administering the Coastal Zone Management Act; and it also authorizes NOAA to make annual "Walter B. Jones" achievement awards to recognize individuals, local governments, and graduate students for outstanding accomplishments in the field of coastal zone management because our chairman has done so much in this area.

Mr. Chairman, I want to congratulate the chairman of the full committee for his leadership and continuing work over the many years in this area, and also my good friend, the gentleman from Michigan [Mr. DAVIS], the ranking member.

□ 1340

They have been working very hard to work out the jurisdictional problems which have prevented earlier consideration of this bill, and I congratulate them for their ability to accomplish those agreements.

Mr. DAVIS. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. Goss], a member of the committee.

Mr. GOSS. Mr. Chairman, I thank my distinguished colleague for yielding me this time.

Mr. Chairman, few pieces of legislation are as little known as the Coastal Zone Management Act that have so positively affected our Nation's environment and quality of life. As someone who has worked on the frontlines of coastal zone management in local government, I do firmly attest to the important role CZMA plays in efforts to wisely manage resources along our Nation's beaches and shores and coastlines.

It is important during today's debate that we not lose sight of the working partnership that has made this program so successful. For the Coastal Zone Management Act to remain an effective tool of local and State government planning, a proper balance must be maintained between the program's carrots and sticks.

I am particularly concerned about amendments and provisions that would impose costly, unfunded, mandates on participating States or that would reduce States' abilities to prevent Federal activities inconsistent with their own State plans.

Not everybody realizes that 50 percent of our Nation's people already live within 50 miles of our coasts. By the year 2010 it is estimated that figure will jump to 75 percent of the population, putting even more pressure on our Nation's coastal environs.

The Coastal Zone Management Act remains the best tool we have to deal with these pressures responsibly and with foresight. CZMA is a model of cooperative governance, but it should not be forgotten that States face no obligation to remain in the program. As we debate today's amendments, we must remember that if CZMA's requirements become too onerous, or its benefits too small, the program and our Nation's coasts could be put in jeopardy.

The legislation the Merchant Marine Committee has reported promises to take coastal zone management down new paths to meet new needs and challenges. I am confident the committee's bill accomplishes the goal of encouraging wise use of our natural resources without disrupting the program's successful Federal/State balance. It is legislation I can support, and I urge my colleagues' support as well.

Mr. JONES of North Carolina. Mr. Chairman, I yield 5 minutes to the very able chairman of the Committee on Public Works and Transportation, the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Chairman, I rise in support of the bill. Improving the Coastal Zone Management Act to encourage State and local governments to better manage and protect coastal resources, and increasing Federal leadership and assistance in that regard, are important objectives.

The Coastal Zone Management Act of 1972 authorizes Federal grants to encourage States to develop and implement comprehensive plans to manage and protect coastal areas. The act also requires that Federal agencies, applicants for Federal permits, and State and local government applicants for Federal financial assistance conduct their projects and activities in a manner that is consistent with a State's federally approved Coastal Zone Management Program.

H.R. 4450 reauthorizes the Coastal Zone Management Program and makes several substantial improvements to it. It emphasizes the need to incorporate coastal water quality into comprehensive coastal zone management plans. This is especially important in protecting our critical coastal areas. It also establishes the development of a national interests improvements program for coastal States to address priority needs for coastal wetlands, coastal hazards management, public access to coastal waters, cumulative and secondary impacts of coastal development, and coastal energy development. Each of these is a critical issue affecting California's coast.

The bill also makes needed legislative clarifications regarding key statutory provisions, especially those related to the requirement for consistency with a State management plan. California's ability to ensure Federal compliance with its coastal program policies would be clarified and strengthened.

Mr. Chairman, I would like to comment briefly on one aspect of the bill which causes our Committee on Public Works and Transportation some concern. Under the rules of the House, the Committee on Public Works and Transportation has sole jurisdiction over water pollution. The Federal Water Pollution Control Program is carried out under the Clean Water Act, which was developed in the House by our committee, and is administered by the Environmental Protection Agency, which is the Federal agency charged with responsibility for the Federal Water Pollution Control Program. The Clean Water Act contains a provision which requires States to develop nonpoint source control programs, which must be approved by EPA, sets forth requirements which those programs must meet, and makes financial assistance available.

The legislation now being considered by the House, in new section 306(B), sets up another program for the control of nonpoint source pollution under another agency—the Department of Commerce. Language has been included, at our request, which makes it clear that the coastal water protection programs are to serve as an update and expansion of the nonpoint programs developed under the Clean Water Act. But this does not go far enough. What is needed is a clear statutory statement of EPA's authority to review and approve those parts of the programs dealing with water pollution. I appreciate very much the cooperation of the gentleman from North Carolina [Mr. JONES] in working with us on these matters, but I regret that we were not able to reach an agreement with regard to a statutory role for EPA. We wish to ensure that the clean water and coastal zone programs work in close harmony and in an effective manner. We are requesting that we be equal conferees on these issues when the legislation goes to conference, and will continue our efforts to see that the role of the Environmental Protection Agency is properly provided for in this legislation. I would also note that this issue will be before us in our consideration of H.R. 2647, the coastal defense initiative of 1990.

Mr. Chairman, H.R. 4450 makes needed and important changes in the Coastal Zone Management Program, and I am pleased to support its passage.

Mr. JONES of North Carolina. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. STUDDS].

Mrs. BOXER. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I am happy to yield to the gentlewoman from California.

Mrs. BOXER. Mr. Chairman, I thank the gentleman very much for yielding to me.

Mr. Chairman, I just want to say to my former chairman, and I very much enjoyed my work on that committee, how important this is to the people of all of the coastal States from North Carolina to Massachusetts, California, New York. It is also important because it shows that the Federal Government respects the States and understands we have to work together to protect this crucial natural resource, the coast, and all of the very important things that go on on the coastlines such as the fisheries business, the tourism, and preserving our environment.

I just want to thank the chairman very much. I want to thank the gentleman from Massachusetts [Mr. STUDDS] for his great leadership over the years on this issue.

Mr. STUDDS. Mr. Chairman, I thank the gentlewoman.

Mr. Chairman, I rise in strong support of H.R. 4450 and urge its prompt passage.

We have before us today a bill that proposes major changes to the Coastal Zone Management Act. These are changes that coastal America has struggled for for years. Our Governors, our mayors, our environmentalists, and our fishermen support this bill, want this bill and deserve this bill. It is good policy, and it is popular policy. I urge its support.

Why?

First, it sweeps aside a misguided attempt by this administration and the last to shackle the ability of States to protect their coastlines from Federal agencies that may—or may not—care about how their activities affect State coastal zones. Known within coastal zone management circles under the arcane label of "consistency," the issue boils down to a very simple proposition: That Federal agencies should be required to tailor their activities to mesh as much as possible with State efforts to protect the coast. No more, no less.

Second, this bill will help State coastal programs respond to the population boom that is rapidly bulldozing our habitat and suffocating our fish and shellfish. The bill requires State officials to include a new focus—a water quality focus—in their coastal programs. It requires them to do the technical work and make the decisions at a State and local level that must be made to protect the vitality of our coastal areas over the long term. And it links State water pollution control programs and State coastal programs in a common effort to restore and protect coastal water quality.

Finally, the bill authorizes a new, flexible, national improvements program within the CZMA that provide NOAA and the States with additional tools and dollars to address emerging national coastal problems, such as the continued loss of coastal wetlands, public access, and shoreline erosion.

This bill is the product of more than 3 years of effort by our committees. The entire bill, and especially the coastal water quality provisions, have garnered the strong support of State coastal programs, Governors, and environmentalists. If OMB would remove their muzzles, I'd expect that we might even hear whispers of support from EPA and the National Oceanic and Atmospheric Administration.

Mr. Chairman, I want to thank Chairman WALTER JONES of our full committee, and DENNIS HERTEL, chairman of the Subcommittee on Oceanography and Great Lakes, for their hard work on this bill. The water quality provisions included in this measure are a significant part of the legislative package, known collectively as the coastal defense initiative, which our committee—in cooperation with the Committee on Public Works and Transportation—hopes to enact this year.

This bill is, in short, a good bill, and I hope it will be approved.

□ 1350

Mr. DAVIS. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from California [Mr. SHUMWAY], who has shown a great deal of interest in this legislation.

Mr. SHUMWAY. Mr. Chairman, I thank the gentleman from Michigan for yielding time to me. I would like to raise my voice to join those who have expressed a great deal of satisfaction for the Coastal Zone Program. It has been a very successful program. It has brought about some very significant reforms, particularly environmental reforms in our coastal States.

I would just remind Members that this program was one that was originally proposed by a Republican administration in the early 1970's, and it has worked well. While I support this program generally, I have some very great concerns about this bill, and the concerns I will voice are the same concerns which are felt by the Bush administration and which have prompted that administration to even threaten a veto of this bill if it passes both bodies and is submitted to the President in its current form.

The Bush administration supports reauthorization of the Coastal Zone Program and, in fact, they have submitted legislation to the Congress to do just that. I have introduced that bill. It provides some modest reforms. It recognizes the need to attract national interest to what we are doing on our coasts, but basically it is a reauthorization that would be in keeping with the priorities of the Bush administration.

This bill, however, goes considerably beyond the Bush administration's request. First this bill increases the funding authorization by more than $20 million over current the appropriations level, and in the outyears even more than that. With all of the talk we have had here in the last couple of days and the budget summit going on, the concern we all feel about deficits and spending, I think that Members of Congress ought to look very, very carefully at a bill like this that purports to increase spending beyond current appropriation levels.

Second, the bill expands the so-called consistency provision so that a whole host of Federal activities will now be covered. That is true whether those activities are inside or outside the coastal zone.

I would suggest to Members that that goes considerably beyond the original intent of the coastal zone plan and skews, I think, the Federal-State balance that is so essential to the administration of the CZMS. In fact, that balance has been one of the reasons for the success that we have had to the present time. It does seem to me, however, that if the Federal Government should determine, even under these consistency provisions, that a lease sale has no effect, then consistency does not apply.

Third, the bill seeks to allow coastal States new authority to control OCS oil and gas leasing, although it does not do so explicitly. The result of this new authority, I believe, will be to spawn a great deal of costly, lengthy, and no doubt very bitter litigation. If States control OCS leasing, we will be subjecting our national energy priorities, our national energy policies, to the wishes and perhaps the whims of coastal States, and at a time when we are concerned about the availability of oil with what is happening in the Persian Gulf, I think that would be a bad mistake for this Congress to make. So I would hope that we would look very critically at this bill for those reasons, and realize even though the bill does a very needed thing, and that is it reauthorizes CZMS, at the same time it does much that we do not want, and would be, I think, in conflict with Federal-State relationships, and allow States to have a major voice in determining Federal policy. With good things there are bad things as well,

and I just ask Members to be very cautious and very wary of these things when we vote upon this bill.

Mr. Chairman, I yield to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, I concur in the view expressed by my colleague, the gentleman from California [Mr. SHUMWAY].

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SHUMWAY. I yield to the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Chairman, I want to pay my compliments to the gentleman from California [Mr. SHUMWAY], and thank him for his service to the committee through the years, and the spirit of cooperation that has existed. Godspeed in your next career.

Mr. SHUMWAY. Mr. Chairman, I thank the gentleman for those words.

Mr. JONES of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. DYSON].

Mr. DYSON. Mr. Chairman, I, too, at the outset would like to thank the chairman of our full committee, the gentleman from North Carolina [Mr. JONES], and the chairman of the Subcommittee on Oceanography and Great Lakes, the gentleman from Michigan [Mr. HERTEL] for their work in bringing this to the House, and obviously the gentleman from Michigan [Mr. DAVIS] and the gentleman from California [Mr. SHUMWAY] for their efforts in bringing this to the floor.

This legislation is noteworthy because it addresses the need to balance economic development with the preservation of coastal resources.

This is especially important to Maryland, which has more than 4,600 miles of shoreline. That is why I am a strong supporter of the Coastal Zone Management Act and why I urge my colleagues to vote for this legislation.

Population growth in coastal areas has been increasing in a dramatic and haphazard manner. This has caused the environmental degradation of thousands of miles of our Nation's coastline that may never be rehabilitated.

Because of the Coastal Zone Management Act passed in 1972, a program is in place so that we can counteract the effects of past and future population growth and development. Since 1972, 29 States and territories have developed and implemented coastal zone management plans.

Mr. Chairman, the 101st Congress now has the opportunity to reaffirm the Nation's commitment to this important program. And the proposed amendment in the nature of a substitute would make some significant improvements.

I am particularly pleased with the amendment's emphasis on nonpoint pollution, the major source of pollution in the Chesapeake Bay.

I also support the amendment's requirement that Federal activities taking place inside or outside the coastal zone be consistent with State management plans. This provision is necessary to protect sensitive coastal areas from the potentially harmful effects of oil and gas exploration and drilling on the Outer Continental Shelf.

In sum, Mr. Chairman, the bill before us today continues an excellent program and expands it to meet the needs of the nineties.

Mr. Chairman, once again I would like to thank the gentleman from Michigan [Mr. HERTEL] and the gentleman from North Carolina [Mr. JONES] for their work in bringing the coastal zone management reauthorization before Members today.

Mr. DAVIS. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. SAXTON], a distinguished member of our committee.

Mr. SAXTON. Mr. Chairman, I rise in strong support of H.R. 4450, and I want to commend the chairman of the full committee, the gentleman from North Carolina [Mr. JONES] and the two subcommittee chairmen, the gentleman from Michigan [Mr. HERTEL] and the gentleman from Massachusetts [Mr. STUDDS] for the fine work and cooperative spirit in which this bill has reached the floor. I say to the gentleman from Michigan that for the partnership he has played in this bill, that it has been a very valuable experience as well.

I would like to bring a slightly different perspective to this bill, and say that this bill is about protecting the coastal areas, to be sure, but also a bill about population growth. When one considers the way population has grown during the last years and the population trends that are involved in that growth, one begins to realize the import with which we address this subject today.

Today in the United States, about 65 percent of the people who live in our country live within 50 miles of the coast, and to look at the growth of the population, which will double, are projected to double by the year 2020, one begins to understand that since that growth will take place in those areas, that this bill becomes even more important. It is projected by the year 2000, for example, that the population growth in coastal areas will mean that 75 percent of the population of our country will be within 50 miles of the coastline. It is also projected that on a worldwide basis, 85 percent of the world's population will live within 50 miles of a coastline. So it is with these factors in mind that the Committee on Merchant Marine and Fisheries, and the two subcommittees have addressed the problems that are involved, and the issues that are involved, not just with population growth, but with the various resources that we are committed to protect.

For example, the amount of time that we have spent protecting the habitat for various fisheries has been a very important part of this process. The estuarian areas and the nurseries and the spawning areas in which our fish stock propagate have been a great deal of concern and have taken a great deal of our time. Water quality and sewage systems, and the way they relate to water quality has also been quite important, and an integral part of the bill in this planning process.

I think something else that is good to understand here is that we have not just made this a Federal program, but we have written this language that is intended to promote the activities involved in the various States in encouraging the States to protect their coastlines. So with those points in mind, Mr. Chairman, I urge all Members to support this bill today.

□ 1400

Mr. JONES of North Carolina. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise today to express my strong support for H.R. 4450. As one who has worked closely with the Coastal Zone Management Act at the State level, I can testify firsthand to the extraordinary contribution that this program has made in promoting better management of our Nation's coastal resources. CZMA has encouraged a balance between the preservation of our natural resources and appropriate development that will help revitalize our coastal areas and waterfronts.

More than half of the U.S. population lives within 50 miles of one of our coasts. Since the initial passage of the Coastal Zone Management Act, dramatic population growth and significant increases in development have made managing coastal resources more challenging than ever. In my own congressional district, coastal protection has become increasingly important, as the Long Island Sound and the Hudson River continue to be threatened by serious pollution problems. These coastal resources are essential to the very future of our region: from an economic standpoint, from a recreational standpoint, and from the standpoint of the quality of life.

Failure to ensure that our coastal resources are sensibly managed puts public health at risk and threatens the economic survival of our coastal areas. Nonpoint source pollution floods coastal waters with bacteria and nutrients that make coastal waters unsafe for swimming and fishing. Nonpoint

source pollution can have a devastating impact on the economies of coastal communities.

It is clear that we must strengthen the Coastal Zone Management Act in order to fully address the new challenges we face. The legislation under consideration today will significantly enhance the act, and I would like to commend the chairman of the full committee, Mr. JONES, and the chairman of the subcommittee, Mr. HERTEL, for their fine work in developing this legislation. I would also like to extend my personal thanks to Congressman STUDDS, with whom I worked closely on a number of critical aspects of this bill.

I am particularly pleased that the bill creates a new coastal waters protection program to address the problem of nonpoint source pollution, which is one of the most serious threats to Long Island Sound, and I am sure many other coastal waters. This is literally a life or death issue for Long Island Sound. Nearly half of the pollutants which are choking off the Sound's oxygen supply come from nonpoint sources, according to the Long Island Sound study. To resolve this problem, it is essential that a coordinated program be developed that fully takes into account the interrelationships between coastal waters and adjacent watersheds.

In addition, I am enthusiastic about the national interest improvements program, which will encourage improvements in the protection of wetlands, public access, and management of natural hazards, among other issues. This is a significant contribution to the act.

I also want to praise the work of the New York State Department of Environmental Conservation and the New York Department of State for their valuable contributions to the formulation of this legislation. In particular, their work on provisions in section 306B, which seek to increase cooperation between land management and water quality programs, stands as an excellent example of the kind of cooperation we seek to encourage in this bill, and which will be essential if we truly intend to ensure the long-term protection of coastal waters.

Mr. DAVIS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to take this time to say to my colleague, the gentleman from California [Mr. SHUMWAY] who is leaving the Congress this year, we came to Congress together 12 years ago. We have both been members of the Merchant Marine and Fisheries Committee all during that time. He has been a distinguished member of our committee, an extremely thoughtful member, always keeping us on line if he thinks we go too far on some issues. We are going to sorely miss him in the committee. Actually, he would have been next in line after myself to become the ranking member.

As the chairman, the gentleman from North Carolina [Mr. JONES], said earlier, we wish him well in the future and he will be missed because he was a very valuable member of our committee.

The CHAIRMAN. I know the gentleman expresses the sentiments of the entire House in those words also.

Mr. DAVIS. I thank the Chair.

Mr. Chairman, I yield such time as he may consume to my colleague, the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Chairman, it has been a very exciting experience to me to have my very first subcommittee chair on the Subcommittee on Oceanography and Great Lakes of the Committee on Merchant Marine and Fisheries. With all the challenges that we faced and all the new ground that we broke, like having the first NOAA authorization in the history of the Congress, my ranking member, the gentleman from California [Mr. SHUMWAY] was great to work with. We had many differences on policy issues, and yet we were able to proceed smoothly and inform all the members of the schedule and hear all sides of the issues, because the gentleman from California [Mr. SHUMWAY] was so well respected by the entire committee.

The people of northern California have been very fortunate these past 12 years in having him represent them here in Congress, and it is our loss and the committee's loss that he is now retiring.

Mr. JONES of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. NOWAK].

Mr. NOWAK. Mr. Chairman, H.R. 4450, the Coastal Zone Management Act Amendments of 1990, is designed to improve the protection of our coastal resources, encourage State and local action to achieve better coastal resource protection, and establish a mandate for Federal leadership and technical and financial assistance in support of improved coastal zone management at the State and local levels. I support these goals. The protection of our coastal resources, both land and water, is a matter of high priority.

I am concerned, however, about those aspects of the legislation which relate to water pollution—specifically the establishment of a program of control of nonpoint sources of pollution of coastal waters. My concern is not based on any disagreement with the goals of the legislation—I support those goals. Rather, it is based on the manner in which the legislation addresses the issue of control of nonpoint sources of pollution, setting up a program under NOAA and the Coastal Zone Management Act which is parallel to and duplicative of the nonpoint source program in section 319 of the Federal Water Pollution Control Act.

Our Committee on Public Works and Transportation has jurisdiction over water pollution, and has been responsible in the House for the development and oversight of the Federal Water Pollution Control Act and the program it establishes for the preservation and enhancement of the quality of all waters of the United States, including coastal waters. In the 1987 amendments to that act we added a program for the control of nonpoint sources of pollution, providing for the development of programs by States with the approval and assistance of the Environmental Protection Agency, and financial assistance through a grant program. Nonpoint source pollution is pollution which emanates from diffuse sources such as runoff from agricultural or urban lands. Probably half of the pollution now entering our waters comes from nonpoint sources.

The amendment in the nature of a substitute, which under the rule is being considered as the original bill, is based on the text of H.R. 4030, which was ordered reported by the Committee on Merchant Marine and Fisheries but on which the report was not filed. If the report had been filed, the reported bill would have been sequentially referred to the Committee on Public Works and Transportation because of its provisions relating to coastal water quality. Instead, it is being offered on the floor as an amendment. These provisions are primarily contained in new section 306(B) of the Coastal Zone Management Act added by the bill. Under this section, coastal States are required to prepare and submit to the Under Secretary of Commerce for Oceans and Atmosphere for approval a Coastal Water Quality Protection Program. The purpose of this program is to develop and implement coastal land use management measures for nonpoint sources of pollution.

Because of our concerns relating to setting up a new, separate nonpoint source pollution control program under another Federal agency, which would exist side by side with that already in existence under the Water Pollution Control Act, we sought to work out language with the Merchant Marine Committee which would give EPA a statutory role in this program, to ensure uniformity, and lessen the adverse effects associated with different programs under different agencies aimed at doing the same thing.

I regret that we were only partially successful. Language has been included in new section 306(b)(a)(2)(B) making it clear that the coastal water program of a State is to serve as an update and expansion of the State nonpoint source management program

developed under section 319, as that program relates to land and water uses affecting the coastal zone. This has the effect of making the nonpoint source control provisions of the coastal water quality programs an integral part of a State's section 319 program and making them subject to the requirements of section 319, after they have been approved by the Under Secretary of Commerce pursuant to new section 306(B).

However, a substantive statutory role for EPA with regard to the approval of the nonpoint source control portions of the coastal programs has not been included. It is our strong view that EPA should have the primary, if not the sole, role in approving these portions of the programs, as EPA is the Federal agency with responsibility for administering the Federal water pollution control program.

Mr. Chairman, I am not going to attempt to resolve this matter today on the floor of the House. I do wish, however, to inform my colleagues that our Committee on Public Works and Transportation will continue to work toward achieving a proper role for EPA in this new program, both in the conference on H.R. 4450, for which we will request an equal number of conferees, and in the development of and conference on H.R. 2647, the coastal defense initiative of 1990.

Mr. JONES of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Chairman, I rise in support of H.R. 4450 and commend Chairman JONES, the subcommittee chairman, the gentleman from Michigan [Mr. HERTEL], as well as the gentleman from California [Mr. SHUMWAY] for the fine work they have done on this measure.

In the State of Florida, as you know, we have many hundreds of miles of coastline. It is a peninsular State. We have millions and millions of people coming to our State to live, nearly a thousand a day, so one can imagine the extreme pressures that are put on our coastal areas, wetlands, beaches, water quality, and all these things, so we have to deal with it. I think this is a step forward to establish the protection as a priority national goal, not only for my State, but for all the coastal States. It also would provide some incentives for the States and local governments to become involved in a joint venture.

It is very, very important that we protect these fragile coastal areas of our Nation, and I am pleased to support H.R. 4450.

Mr. DAVIS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Minnesota [Mr. STANGELAND].

Mr. STANGELAND. Mr. Chairman, I rise to address H.R. 4450, the Coastal Zone Act Reauthorization Amendments of 1990. I support its basic goals and purposes and believe, in most respects, it takes a positive step forward in protecting our precious coastal resources. However, I continue to have concerns about the bill's relation to other laws and programs, particularly those relating to nonpoint source pollution, water quality, and wetlands.

First, let me acknowledge the efforts of those who have worked on this vital legislation. Certainly this includes the leadership of the Merchant Marine and Fisheries, Public Works and Transportation, Interior and Insular Affairs, and Science, Space, and Technology Committees. The Water Resources Subcommittee of the Public Works and Transportation Committee has focused on the bill's provisions impacting wetlands and water quality. Given the importance of H.R. 4450 and the time constraints at the end of the session, we are not going to continue to insist on a joint referral of the legislation, even though it clearly impacts our committee's jurisdiction.

Having said that, let me address some of the important principles and components in H.R. 4450. The bill attempts to strengthen coastal water quality and resource protection by improving the link between coastal land use and nonpoint source management, on the one hand, and coastal water quality on the other. Activities under the Coastal Zone Management Act and the Clean Water Act should be coordinated; together they can offer a strong combination to thwart coastal degradation.

The Public Works and Transportation Committee, with its broad jurisdiction over water pollution and wetlands protection, recognizes the need to do just that and commends the bill's sponsors for taking some specific measures along those lines. Our committee took similar, related steps to manage nonpoint source pollution and protect estuaries and other coastal waters when we wrote and passed sections 319 and 320 of the Clean Water Act back in 1987.

Today's legislation makes a good-faith effort to implement some of the goals and objectives of the Clean Water Act but may fall short in providing mechanisms to avoid agency duplication and inconsistency. EPA and State water quality agency officials share my concern about potential problems—such as confusion and lack of coordination—between existing Section 319 of the Clean Water Act and proposed 306b of the Coastal Zone Management Act. If this is not addressed on the floor today, then I would strongly urge that we make necessary revisions further on in the legislative process. Before we enact a whole new program with new mandates and bureaucracies, we need to take full advantage of existing authorities and resources under EPA's and the States' water quality programs.

A related concern, Mr. Chairman, involves H.R. 4450's definitions of "Coastal Zone" and "Coastal Waters." If, under the guise of coastal protection, the bill unreasonably expands NOAA's jurisdiction and the act's application to upland activities and inland waters, then we may be hurting rather than helping coastal protection efforts in the long run. To work, the coastal zone management act and its new 306b program must be realistic, reasonable, and based upon voluntary efforts by State and local agencies. In partial response to that concern, the merchant marine and fisheries committee included, at the request of the public works and transportation committee, a requirement that NOAA consult with EPA when reviewing inland boundaries. Only after appropriate consultation with EPA and State water quality agencies, should NOAA recommend modifications to the coastal zone's inland boundaries.

The bill also defines "coastal wetlands" and establishes within NOAA a goal of "no overall net loss" of coastal wetlands. The Public Works and Transportation Committee, which is currently considering comprehensive legislation on both coastal and inland wetlands, worked with the Merchant Marine and Fisheries Committee on this particular provision. This effort included making revisions to committee-passed language to ensure NOAA would consult with other Federal agencies and strive for consistency among Federal agency definitions.

Another area of the bill addresses a different type of consistency—specifically the consistency requirements of 307(c) of the Coastal Zone Management Act. I am a strong supporter of States' rights and believe States are generally the appropriate level of government to make decisions about environmental protection and natural resources management within their jurisdictions. In particular situations, however, overriding Federal interests, such as those involving national security and interstate commerce, argue for a balanced sharing of authority among jurisdictions. For example, if we give broad deference to State coastal agencies, we must be sure not to unduly restrict the Federal Government's dredging and dredged material disposal programs. Therefore, like the administration, I am very concerned about H.R. 4450's potentially far-reaching changes to existing law.

Mr. Chairman, some of H.R. 4450's provisions have serious problems, and we need to modify them at some point in the process. For now, though, the bill symbolizes an important step forward in reauthorizing and strengthening the Coastal Zone Management Act. For example, it recognizes the need to integrate land use and coastal water quality. Therefore, I urge my

colleagues to support the overall bill but to work improvements in the days ahead.

The CHAIRMAN. The gentleman from North Carolina [Mr. JONES] has 1½ minutes remaining.

Mr. DAVIS. Mr. Chairman, I yield 3 minutes of my time to the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Chairman, since I have acquired some more time, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

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Mr. CARPER. Mr. Chairman, I thank the chairman for yielding this time to me.

Mr. Chairman, I rise in strong support of the Coastal Zone Act reauthorization bill before us today. This bill reaffirms our commitment to coastal protection and beneficial cooperation with the States.

Eighteen years ago the Federal Government made a deal with coastal States. We said that if States came up with federally approved coastal management plans, Congress would provide funds to help them carry out those plans. More importantly, Congress and the President agreed not to allow Federal activities to interfere with the coastal management policies of States. This requirement for consistency between Federal activities and State plans to manage their coastal areas is fundamental to the Coastal Zone Management Act and has been relied on—in good faith—by States who believed that Congress meant what it said in 1972.

The States—including Delaware—have kept their end of the bargain. Unfortunately, recent administrations have moved away from the original agreement. In 1984, the Supreme Court held that Interior Department lease sales for oil and gas activities did not have to meet the consistency requirement. In 1985—with the strong urging of the U.S. Justice and Commerce Departments—the Norfolk Southern Corp. brought suit in U.S. district court in Delaware challenging the constitutionality of the consistency provision. That provision had been used by the State of Delaware to block potentially damaging coal transfer operations in the Delaware Bay. The U.S. district court upheld Delaware's right—promised under the Coastal Zone Management Act—to protect its environmental destiny.

This legislation before us today would simply restate what many of us thought was adequately stated the first time around: That States have the right to protect their shores from Federal activities which are inconsistent with the States' federally approved coastal zone management plans. The bill is a good one, it deserves our support, and it should be passed with its consistency provisions intact.

Mr. JONES of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I rise in strong support of a reauthorization of the Coastal Zone Management Act.

At a time when we predict that our coastal areas will experience tremendous growth in the years ahead and in fact in the year 2000 and beyond, some 40 percent of Americans will live within 40 miles of the coastal areas, it is important for us to do the kind of planning that we do in this initiative.

This bill, this reauthorization, strengthens the Coastal Zone Management Act. It develops new initiatives, it is directed at nonpoint sources of pollution that we experience up and down our coasts.

Mr. Chairman, it is a good bill. I urge my colleagues to support it.

Ms. PELOSI. Mr. Chairman, I rise in support of the committee substitute to H.R. 4450 to strengthen the prerogative and authority of States to control Federal offshore activities that might affect their shorelines.

The common term used to bring these activities into compliance with State laws is consistency. The term itself has a very positive connotation—to make Federal and State laws consistent, to bring them into harmony. This provision was included by Congress in its original authorization of the Coastal Zone Management Act in 1972 because, as a Federal body, it believed that there was a strong need for compatibility and coordination between Federal and States entities.

Because of Congress' actions in 1972, 94 percent of the Nation's coastal zones now have management plans. As coastal population density and shoreline development increase, it is incumbent upon Congress to stand behind its laws to protect our coasts and to strengthen them when necessary. Pressures on our Nation's coastal resources are certainly greater than they were in 1972. Congress must now respond accordingly and clarify its intent on consistency requirements.

Offshore activities cannot be considered in isolation of the total environment where they exist, whether or not they directly affect the coastal zone. Offshore ocean dumping not only affects the target area, but the surrounding areas as well. An issue of great importance to my district is the disposal of dredged material from San Francisco Bay. Because of wave action and dispersement of sediment, the disposal material can never be completely restricted to a specific target area, thereby affecting water quality, fisheries, and the marine environment in general.

Offshore energy exploration poses the same generalized threat to coastal resources from air emissions, increased tanker traffic, oil leakage and spills, and the increased probability of severe environmental degradation.

The committee substitute strengthens the original law by stating clearly that Federal activities inside or outside the coastal zone must be consistent with State coastal management plans.

We must reaffirm our 1972 commitment by clarifying "consistency" and by developing the strongest laws to protect the environment. Over 50 percent of the U.S. population, many major cities, and most heavy industry, including oil refineries and electric generating plants, are located in coastal areas. The Coastal Zone Management Act of 1972 was necessary because our coastal resources were under attack by competing uses and required better management.

This act is a crucial mechanism for protecting coastal resources and water quality. It is no less important today than it was almost 20 years ago. And, if you take a close look at the condition of some of the Nation's contaminated beaches and polluted oceans, you will agree that this legislation is more important than ever.

I urge my colleagues to support the committee substitute to H.R. 4450.

Mr. YOUNG of Alaska. Mr. Chairman, I want to comment briefly on those sections of the bill before us today that deal with wetlands.

We all agree that conservation of wetlands is important to protect fish and wildlife. As a result, section 310 of the Coastal Zone Management Act, as amended by this bill, encourages a policy of achieving no overall net loss of remaining wetlands. Unfortunately, that goal will not be easy to reach.

In Alaska, nearly 65 percent of our State can be classified as wetlands. This includes a great deal of the area where people live. If existing wetlands definitions are used, and if a no net loss policy were established, then the poorest resident of rural Alaska could not build a home for his family without violating the law.

Mr. Chairman, we need to protect wetlands, but we need to do it rationally. The President has assembled a task force to determine how best to identify and protect wetlands. The results of their work need to be reviewed before we take action that has the unintended result of harming our poorest citizens. Further, I want to remind you that my State of Alaska has protected its wetlands and should not be punished by adoption of an arbitrary goal of no net loss that may make sense in other States but cannot be logically applied to the last frontier.

Mr. DAVIS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of the bill, H.R. 5665 is considered as an original bill for the purpose of amendment, and each title is considered as having been read.

The Clerk will designate title I.

Mr. JONES of North Carolina. Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute made in order as an original text by the rule be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The text of the amendment in the nature of a substitute is as follows:

H.R. 5665

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GENERAL PROVISIONS

SEC. 101. SHORT TITLE.

This Act may be cited as the "Coastal Zone Act Reauthorization Amendments of 1990".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The Coastal Zone Management Act of 1972 has not been subject to comprehensive review and amendment since 1980.

(2) The pressures of population growth are steadily increasing in the coastal zone, as illustrated by the fact that—

(A) over one-half of the people of the United States live and work within coastal counties which encompass less than 10 percent of the United States land mass;

(B) the population density of coastal counties is 5 times greater than noncoastal counties nationwide; and

(C) growth around sensitive coastal ecosystems will continue;

(3) population growth in the coastal zone manifests itself in various ways, including—

(A) increased pollution of coastal waters, particularly from nonpoint sources such as parking lots, roads, and farms;

(B) loss of wetlands and other vital habitat;

(C) diminishing opportunities for public access to shorelines; and

(D) heightened vulnerability of coastal communities to natural hazards and sea level rise; and

(4) because global warming may cause a substantial rise in sea level with serious adverse affects on the coastal zone, coastal States should be encouraged and assisted in planning for such occurrences.

(b) PURPOSES.—The purposes of this Act are to—

(1) establish the improvement of coastal resource protection as a priority national goal under the Coastal Zone Management Act of 1972;

(2) establish improved incentives for State and local action to achieve better coastal resource protection;

(3) revitalize the Federal coastal management program by establishing a mandate for Federal leadership and technical and financial assistance in support of improved coastal zone management at the regional, State, and local levels; and

(4) encourage voluntary participation by all eligible coastal States in programs established under title II of this Act, by setting a goal of 100 percent State participation by the end of fiscal year 1995.

TITLE II—COASTAL ZONE MANAGEMENT ACT

SEC. 201. REAUTHORIZATION OF COASTAL ZONE MANAGEMENT ACT OF 1972.

The Coastal Zone Management Act of 1972 (16 U.S.C. 1451-1464) is amended to read as follows:

"TITLE III—MANAGEMENT OF THE COASTAL ZONE

"SEC. 301. SHORT TITLE.

"This title may be cited as the 'Coastal Zone Management Act'.

"SEC. 302. FINDINGS.

"The Congress finds the following:

"(1) It is in the national interest of the United States to manage, protect, and develop with proper environmental safeguards, the coastal zone.

"(2) The coastal zone is rich in a variety of natural, commercial, recreational, ecological, historical, cultural, industrial, and esthetic resources of importance to the United States.

"(3) The increasing and competing demands upon the lands and waters of the coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living coastal resources, have resulted in severe degradation of coastal water quality, the decline of living coastal resources and wildlife, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.

"(4) The coastal zone, and the fish, shellfish, other living coastal resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by human alteration.

"(5) Important ecological, cultural, historic, and esthetic values of the coastal zone which are essential to the well-being of all citizens of the United States must be protected.

"(6) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, Exclusive Economic Zone, and Outer Continental Shelf are damaging these areas and create the need for resolution of conflicts among competing uses and values in coastal and ocean waters.

"(7) Special natural and scenic characteristics of the coastal zone are being damaged by ill-planned development that threatens these values.

"(8) In view of competing demands and the urgent need to protect and give priority to maintaining natural systems in the coastal zone, present State and local capabilities to plan for and regulate land and water uses in these areas are inadequate.

"(9) The key to more effective protection of the land and water resources of the coastal zone is to encourage coastal States to exercise their full authority over the lands and waters in the coastal zone by assisting coastal States, in cooperation with the Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for managing land and water uses in the coastal zone, as well as uses which, although outside of the coastal zone, will affect natural resources, land uses, or water uses in the coastal zone.

"(10) Beneficial use of the land and water resources of the coastal zone requires consideration of activities which are of more than local significance.

"(11) Land use in the coastal zone, and the use of adjacent lands which drain into the coastal zone, may significantly affect the quality of coastal waters and habitat, and efforts to control coastal water pollution from land use activities must be improved.

"(12) Expeditious and environmentally sound development of offshore energy resources is best achieved through coordination of that development with State coastal zone management programs.

"(13) The attainment by the United States of a greater degree of energy self-sufficiency will be advanced by providing Federal financial assistance to meet State and local needs resulting from energy activity in or affecting the coastal zone.

"(14) Implementation of the public trust doctrine through federally-approved State coastal zone management plans will ensure that coastal States exercise their full authority over the lands, waters, and resources within their coastal zones fully and in accordance with that doctrine.

"SEC. 303. DECLARATION OF POLICY.

"The Congress declares that it is the policy of the United States—

"(1) to preserve, protect, develop with proper environmental safeguards, and where possible restore or enhance, the resources of the coastal zone for this and succeeding generations;

"(2) to encourage and assist coastal States to exercise effectively their responsibilities in the coastal zone through the development, implementation and continual improvement of management programs to achieve wise use of the air, land, water, mineral, and living resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values and to needs for economic development;

"(3) that the management programs approved under section 306 shall include provisions for—

"(A) protecting natural resources, including wetlands, floodplains, estuaries, beaches, dunes, maritime forests, barrier islands, coral reefs, and fish and wildlife and their habitat, within the coastal zone;

"(B) managing coastal development to minimize—

"(i) the loss of life and property caused by improper development in flood-prone, storm surge, geologically hazardous, and erosion-prone areas; and in areas likely to be affected by sea level rise, land subsidence, and saltwater intrusion; and

"(ii) the destruction of natural protective features, such as beaches, dunes, wetlands, maritime forests, and barrier islands;

"(C) managing coastal development to protect and restore the quality of coastal waters and to prevent the impairment of existing uses of those waters;

"(D) giving priority to water-dependent uses adjacent to coastal waters over other uses;

"(E) orderly processes for—

"(i) siting major facilities related to national defense, energy, fisheries development, recreation, ports, and transportation; and

"(ii) locating new commercial and industrial development, to the maximum extent practicable, in or adjacent to areas where such development already exists;

"(F) public access to the coasts for recreation purposes;

"(G) assisting in the redevelopment of deteriorating urban waterfronts and ports, and preservation and restoration of historic, cultural, and esthetic coastal features;

"(H) coordinating and simplifying of procedures to ensure expedited governmental decisionmaking for the management of coastal resources;

"(I) continued consultation and coordination with, and the giving of adequate consideration to, the views of affected Federal agencies;

"(J) timely and effective notification of, and opportunities for public and local government participation in, coastal management decisionmaking;

"(K) assistance to support comprehensive planning, conservation, and management for living coastal resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone, and improved coordination between State and Federal coastal zone management agencies, and State water quality and fish and wildlife agencies;

"(L) where the Under Secretary considers appropriate, the study, development and implementation of management plans to address the adverse impacts of sea level rise and Great Lakes level rise on the coastal zone, including coastal drinking water supplies, coastal infrastructure, ports and harbors, energy facilities, coastal wetlands and other critical coastal habitat, housing, and storm surge protection; and

"(M) an inventory and designation of areas that contain one or more coastal resources of national significance, including criteria and procedures for public nomination of such areas;

"(4) to encourage the preparation of special area management plans which provide for increased specificity in protecting—

"(A) significant natural resources;

"(B) reasonable water-dependent economic growth;

"(C) improved protection of life and property in hazardous areas, including specifically those areas likely to be affected by sea level rise; and

"(D) improved predictability in governmental decisionmaking; and

"(5) to encourage the participation and cooperation of the public, State and local governments, interstate and other regional agencies, and Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this title.

"SEC. 304. DEFINITIONS.

"For the purposes of this title—

"(1) COASTAL RESOURCE OF NATIONAL SIGNIFICANCE.—The term 'coastal resource of national significance' means any area in the coastal zone which is determined by a coastal State to provide ecological, esthetic, recreational, historical, or natural storm protective values which are of greater than local significance.

"(2) COASTAL STATE.—The term 'coastal State' means a State in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or any of the Great Lakes, and includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Trust Territory of the Pacific Islands.

"(3) COASTAL WATERS.—The term 'coastal waters' means—

"(A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes; and

"(B) in other areas, those waters adjacent to the shoreline of any coastal State, which contain a measurable quantity or percentage of sea water, including sounds, bays, lagoons, bayous, ponds, and estuaries.

The term includes wetlands adjacent to coastal waters.

"(4) COASTAL WETLANDS.—The term 'coastal wetlands' means wetlands within the coastal zone of any coastal State. The Under Secretary shall, not later than June 1, 1991, promulgate a rule in accordance with the procedures in section 553 of title 5, United States Code, defining the term 'wetlands'. In connection with the rulemaking required by this paragraph, the Under Secretary shall—

"(A) hold not less than 4 public hearings, including one in each of the Gulf of Mexico, Atlantic, Pacific, and Great Lakes coastal areas; and

"(B) consult with the heads of other Federal agencies to ensure that the definition of the term 'wetlands' established by the rule is, to the maximum extent possible, consistent with definitions of that term applied by other Federal agencies.

"(5) COASTAL ZONE.—The term 'coastal zone' means coastal waters (including lands therein and thereunder) and adjacent lands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The coastal zone extends, in Great Lakes waters, to the international boundary between the United States and Canada, and in other areas, seaward to the outer limit of State title and ownership under the Submerged Lands Act (43 U.S.C. 1301 et seq.), the Act of March 2, 1917 (48 U.S.C. 749), the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as approved by the Act of March 24, 1976 (48 U.S.C. 1681 note), or section 1 of the Act of November 20, 1963 (48 U.S.C. 1705), as applicable. The coastal zone extends inland from the shoreline to the extent necessary to control lands, the uses of which have a direct and significant impact on coastal waters. The coastal zone does not include lands the use of which is by law subject solely to the discretion of, or which is held in trust by, the Federal Government or its officers or agents.

"(6) CRITICAL COASTAL AREA.—The term 'critical coastal area' means an area identified on the basis of geological, hydrological, and ecological factors and proximity to sensitive coastal waters, wetlands and habitats, to be an area for which there is a significant likelihood that any new or expanded land use will have an adverse effect on coastal waters, either directly or through cumulative or secondary effects, unless appropriate land use management measures are employed.

"(7) ENFORCEABLE POLICY.—The term 'enforceable policy' means State policies which are legally binding through constitutional provisions, laws, regulations, land use plans, ordinances, or judicial or administrative decisions, by which a State exerts control over private and public land and water uses and natural resources in the coastal zone.

"(8) ESTUARINE AREA.—The term 'estuarine area' includes any part or all of an estuary, and any island, transitional area, or upland in, adjoining, or adjacent to that estuary.

"(9) ESTUARY.—The term 'estuary' means a semienclosed body of coastal water, connected to the ocean, where sea water is mixed with and measurably diluted by fresh water. The term includes estuary-type areas of the Great Lakes.

"(10) LAND USE.—The term 'land use' means a use, activity, or project conducted on lands within the coastal zone.

"(11) LOCAL GOVERNMENT.—The term 'local government' means any political subdivision of, or any special entity created by, any coastal State, which (in whole or part) is located in, or has authority over, such State's coastal zone and which—

"(A) has authority to levy taxes, or to establish and collect user fees; or

"(B) provides any public facility or public service which is financed in whole or part by taxes or user fees.

The term includes any school district, fire district, transportation authority, and any other special purpose district or authority.

"(12) MANAGEMENT PROGRAM.—The term 'management program' means a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by a coastal State in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of natural resources, lands, and waters in the coastal zone.

"(13) PERSON.—The term 'person' means any individual; any corporation, partnership, association, or other entity organized or existing under the laws of any State; the Federal Government; any State, regional, or local government; and any entity of any Federal, State, regional, or local government.

"(14) SEA LEVEL RISE.—The term 'sea level rise' means an increase in the level of the sea relative to the level of adjacent land.

"(15) SPECIAL AREA MANAGEMENT PLAN.—The term 'special area management plan' means a comprehensive plan providing for natural resource protection and reasonable water-dependent economic growth containing a detailed and comprehensive statement of policies; standards and criteria to guide public and private uses of natural resources, lands, and waters; and mechanisms for timely implementation in specific geographic areas within the coastal zone.

"(16) UNDER SECRETARY.—The term 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere.

"(17) WATER-DEPENDENT USE.—The term 'water-dependent use' means a use, activity, or project that requires direct physical siting on or proximity or access to, an adjacent body of coastal water. The term includes industrial or commercial activities related to port and harbor operation and commercial fishing, and activities related to water recreation. A use, activity, or project shall not be considered to be a water-dependent use solely because of economic advantages that may be gained from a coastal waterfront location.

"(18) WATER USE.—The term 'water use' means a use, activity, or project conducted in or on waters within the coastal zone.

"SEC. 305. MANAGEMENT PROGRAM DEVELOPMENT GRANTS.

"(a) DEVELOPMENT GRANTS.—In fiscal years 1991, 1992, and 1993, the Under Secretary may make a grant annually to any coastal State without an approved program from sums available to the Under Secretary under section 309, if the coastal State demonstrates to the satisfaction of the Under Secretary that the grant will be used to develop a management program consistent with the requirements set forth in section 306. The amount of any such grant shall not exceed $200,000 in any fiscal year, and shall require State matching funds according to a 4-to-one ratio of Federal-to-State contributions. After an initial grant is made to a coastal State pursuant to this subsection, no subsequent grant shall be made to that coastal State pursuant to this subsection unless the Under Secretary finds that the coastal State is satisfactorily developing its

management program. No coastal State is eligible to receive more than 2 grants pursuant to this subsection.

"(b) SUBMITTAL OF PROGRAM.—Any coastal State which has completed the development of its management program shall submit such program to the Under Secretary for review and approval pursuant to section 306.

"SEC. 306. ADMINISTRATIVE GRANTS.

"(a) GENERAL.—The Under Secretary may make grants to any coastal State for the purpose of administering that State's management program, if the State matches any such grant according to the following ratios of Federal-to-State contributions for the applicable fiscal year:

"(1) EXISTING PROGRAMS.—For those States for which programs were approved prior to enactment of the Coastal Zone Act Reauthorization Amendments of 1990, one to one for any fiscal year.

"(2) DEVELOPING PROGRAMS.—For States for which programs are approved after the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990, 4 to one for the first fiscal year, 2.3 to one for the second fiscal year, 1.5 to one for the third fiscal year, and one to one for each fiscal year thereafter.

"(b) GRANT CONDITIONS.—The Under Secretary may make a grant to a coastal State under subsection (a) only if the Under Secretary finds that the management program of the coastal State meets all applicable requirements of this title and has been approved in accordance with subsection (d).

"(c) GRANT ALLOCATION.—Grants under this section shall be allocated to coastal States with approved programs based on rules and regulations promulgated by the Under Secretary which shall take into account the extent and nature of the shoreline and area covered by the program, population of the area, and other relevant factors. The Under Secretary shall establish, after consulting with the coastal States, maximum and minimum grants for any fiscal year to promote equity between coastal States and effective coastal management.

"(d) PROGRAM APPROVAL REQUIREMENTS.—Before approving a management program submitted by a coastal State, the Under Secretary shall find the following:

"(1) IN GENERAL.—The State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Under Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties and individuals, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303.

"(2) REQUIRED PROGRAM ELEMENTS.—The management program includes each of the following:

"(A) An identification of the boundaries of the coastal zone subject to the management program.

"(B) A definition of permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.

"(C) An inventory and designation of areas of particular concern within the coastal zone.

"(D) An identification of the means by which the State proposes to exert control over the land uses and water uses referred to in subparagraph (B), including a list of relevant State constitutional provisions, laws, regulations, and judicial decisions.

"(E) Broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

"(F) A description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, State, regional, and interstate agencies in the management process.

"(G) A definition of the term 'beach' and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value.

"(H) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including a process for anticipating and managing the impacts from such facilities.

"(I) A planning process for assessing the effects of, and studying and evaluating ways to control, or lessen the impact of, shoreline erosion, and to restore areas adversely affected by such erosion.

"(3) REQUIRED PROCEDURES.—The State has—

"(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone—

"(i) existing on January 1 of the year in which the State's management program is submitted to the Under Secretary; and

"(ii) which have been developed by a local government, an areawide agency, a regional agency, or an interstate agency; and

"(B) established an effective mechanism for continuing consultation and coordination among the management agency designated pursuant to paragraph (6), local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of those local governments and agencies in carrying out the purposes of this title; except that the Under Secretary shall not find any mechanism to be effective for purposes of this subparagraph unless it requires that—

"(i) the management agency, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, shall send a notice of the management program decision to any local government whose zoning authority is affected;

"(ii) within the 30-day period commencing on the date of receipt of the notice, the local government may submit to the management agency written comments on the management program decision, and any recommendation for alternatives; and

"(iii) the management agency, if any comments are submitted to it within the 30-day period by any local government—

"(I) shall consider the comments;

"(II) may, in its discretion, hold a public hearing on the comments; and

"(III) may not take any action within the 30-day period to implement the management program decision.

"(4) PUBLIC HEARINGS.—The State has held public hearings in the development of the management program.

"(5) GUBERNATORIAL APPROVAL.—The management program and any amendment, modification, or other change thereto have been reviewed and approved by the Governor of the State.

"(6) DESIGNATION OF LEAD AGENCY.—The Governor of the State has designated a single State agency to receive and administer grants for implementing the management program.

"(7) ORGANIZATION.—The State is organized to implement the management program.

"(8) NATIONAL INTEREST.—The management program provides for adequate consideration of the national interest involved in planning for, and managing the coastal zone, including the siting of facilities such as energy facilities which are of greater than local significance. In the case of energy facilities, the Under Secretary shall find that the State has given consideration to any applicable national or interstate energy plan or program.

"(9) AREA DESIGNATIONS.—The management program includes procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, historical, or esthetic values.

"(10) AUTHORITY TO IMPLEMENT PROGRAM.—The State, acting through its chosen agency or agencies (including local governments, areawide agencies, regional agencies, or interstate agencies) has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

"(A) to administer land use and water use regulations to control development to ensure compliance with the management program, and to resolve conflicts among competing uses; and

"(B) to acquire fee simple and less than fee simple interests in land, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

"(11) CONTROL OF USES.—The management program provides for any one or a combination of the following general techniques for control of land uses and water uses within the coastal zone:

"(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement.

"(B) Direct State land and water use planning and regulation.

"(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

"(12) USES OF REGIONAL BENEFIT.—The management program contains a method of assuring that local land use and water use regulations within the coastal zone do not unreasonably restrict or exclude land uses and water uses of regional benefit.

"(13) PROTECTION OF NATIONALLY SIGNIFICANT RESOURCES.—The management program provides for—

"(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

"(B) specific and enforceable standards to protect such resources.

"(14) PUBLIC PARTICIPATION.—The management program provides for public participation in permitting processes, consistency determinations, and other similar decisions.

"(15) INTRASTATE COMPLIANCE.—The management program provides a mechanism to ensure that all State agencies will adhere to the program.

"(e) PROGRAM AMENDMENTS AND MODIFICATIONS.—

"(1) IN GENERAL.—A coastal State may amend, modify, or otherwise change its ap-

proved management program as provided in this subsection.

"(2) NOTIFICATION REQUIRED.—A coastal State shall promptly notify the Under Secretary of any proposed amendment, modification, or change in its management program and submit it to the Under Secretary for his or her approval. The Under Secretary may suspend all or part of any grant made to the State under this section pending submission of the proposed amendment, modification, or change by the State.

"(3) REVIEW AND APPROVAL BY UNDER SECRETARY.—(A) Within 30 days after the date the Under Secretary receives any amendment, modification, or other change proposed by a coastal State to its management program, the Under Secretary shall approve or disapprove the proposal, unless the Under Secretary finds it is necessary to extend the period for reviewing the proposal. Upon such a finding, the Under Secretary may extend the period for review to not later than 120 days after the date the Under Secretary received the proposal. The Under Secretary may further extend the period for review only as necessary to meet the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(B) If the Under Secretary does not approve or disapprove an amendment, modification, or other change proposed by a coastal State to its management program within 120 days after the date the proposal is received by the Under Secretary, the proposal is deemed to be approved by the Under Secretary unless the Under Secretary has extended the period for review for purposes of meeting the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(4) APPROVAL REQUIRED FOR IMPLEMENTATION.—(A) Except as provided in subparagraph (B), a coastal State may not implement any amendment, modification, or other change as part of its approved management program unless the amendment, modification, or other change is approved by the Under Secretary under this subsection.

"(B) The Under Secretary, after determining on a preliminary basis, that an amendment, modification, or other change which has been submitted for approval under this subsection is likely to meet the program approval standards in this section, may permit the State to expend funds awarded under this section to begin implementing the proposed amendment, modification, or change. This preliminary approval shall not extend for more than 6 months and may not be renewed. A proposed amendment, modification, or change which is subject to preliminary approval under this paragraph shall not be considered an enforceable policy for purposes of section 307(m).

"SEC. 306A. RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'eligible coastal State' means a coastal State that for any fiscal year for which a grant is applied for under this section—

"(A) has a management program approved under section 306; and

"(B) in the judgment of the Under Secretary, is making continual and satisfactory progress in improving its approved coastal zone management program in compliance with section 310; and

"(2) the term 'urban waterfront and port' means any developed area that is densely populated and is being used for, or has been used for, urban residential, recreational, commercial, shipping, or industrial purpose.

"(b) GRANTS AND RESOURCE IMPROVEMENTS.—The Under Secretary may make grants to any eligible coastal State to assist that State in meeting one or more of the following objectives:

"(1) PRESERVATION OR RESTORATION.—Preserving or restoring specific areas of the coastal zone—

"(A) that are designated under the management program procedures required by section 306(d)(9) because of their conservation, recreational, ecological, historic, or esthetic value;

"(B) under a comprehensive restoration program adopted under section 310(a)(1);

"(C) that contain one or more coastal resources of national significance; or

"(D) for the purpose of restoring and enhancing shellfish production by the purchase and distribution of clutch material on publicly owned reefs and bottom lands.

"(2) REDEVELOPMENT.—Redeveloping deteriorating and underutilized urban waterfronts and ports that are designated under section 306(d)(2)(C) in the State's management program as areas of particular concern.

"(3) PUBLIC ACCESS.—Providing access to public beaches and other public coastal areas and to coastal waters in accordance with the planning process required under section 306(d)(2)(G).

"(c) GRANT RESTRICTIONS.—

"(1) TERMS AND CONDITIONS.—Each grant under this section shall be subject to any terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section.

"(2) ELIGIBLE USES.—Grants under this section may be used for—

"(A) acquiring fee simple and other interests in land;

"(B) low-cost construction projects determined by the Under Secretary to be consistent with the purposes of this section, including construction of paths, walkways, fences, parks, and oyster beds and the rehabilitation of historic buildings and structures, except that not more than 50 percent of any grant under this section may be used for such construction projects;

"(C) in the case of grants for objectives described in subsection (b)(2)—

"(i) the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activity;

"(ii) the establishment of shoreline stabilization measures, including the installation or rehabilitation of bulkheads for the purpose of public safety or increasing public access and use;

"(iii) the removal or replacement of pilings where such action will provide increased recreational use of urban waterfront areas, except that activities provided for under this paragraph shall not be treated as construction projects subject to the limitations in subparagraph (B);

"(D) engineering designs, specifications, and other appropriate reports; and

"(E) educational, interpretive, and management costs and such other related costs as the Under Secretary determines to be consistent with the purposes of this section.

"(d) MATCHING REQUIREMENTS.—

"(1) IN GENERAL.—The Under Secretary shall require a coastal State to match a grant under this section in a ratio of at least one to one of Federal to State contribution.

"(2) USE FOR OTHER MATCHING REQUIREMENTS.—A coastal State may use a grant under this section to pay the State's share of costs required under any other Federal program that is consistent with the purposes of this section.

"SEC. 306B. MANAGING LAND USES THAT AFFECT COASTAL WATERS.

"(a) IN GENERAL.—

"(1) PROGRAM DEVELOPMENT.—Not later than 3 years after the effective date of this section, the management agency designated pursuant to section 306(d)(6) by each coastal State for which a management program has been approved pursuant to section 306 (hereinafter in this section referred to as the 'coastal management agency'), shall prepare and submit to the Under Secretary a Coastal Water Quality Protection Program (hereinafter in this section referred to as the 'program') for approval pursuant to this section. The purpose of the program shall be to develop and implement coastal land use management measures for land-based sources of nonpoint source pollution, working in close conjunction with other State and local authorities.

"(2) PROGRAM COORDINATION.—(A) In developing and carrying out the program, the coastal management agency shall coordinate closely with State and local water quality plans and programs developed pursuant to sections 208, 303, 319, and 320 of the Federal Water Pollution Control Act (33 U.S.C. 1288, 1313, 1329, and 1330).

"(B) The program shall serve as an update and expansion of the State nonpoint source management program developed under section 319 of the Federal Water Pollution Control Act, as the program under that section relates to land and water uses affecting the coastal zone. The program shall be prepared in close consultation with the State authority responsible for implementation of the program prepared under section 319 of that Act, in order to assure full coordination in each participating State.

"(b) PROGRAM CONTENTS.—The Under Secretary in consultation with the Administrator of the Environmental Protection Agency, shall approve a program under this section if it provides for the following:

"(1) IDENTIFYING LAND USES.—The identification of, and a continuing process for identifying, land uses which, individually or cumulatively, may cause or contribute significantly to a degradation of—

"(A) those coastal waters where there is a failure to attain or maintain applicable water quality standards or protect designated uses, as determined by the State pursuant to its water quality planning processes;

"(B) those coastal waters that are threatened by reasonably foreseeable increases in pollution loadings from new or expanding sources; or

"(C) outstanding resource waters designated pursuant to paragraph (4).

"(2) IDENTIFYING CRITICAL COASTAL AREAS.—The identification of, and a continuing process for identifying, critical coastal areas within which any new land uses or substantial expansion of existing land uses will be subject to land use management measures that are determined necessary by the coastal management agency, in cooperation with the State water quality authorities and other State or local authorities, as appropriate, to protect and restore coastal water quality and designated uses.

"(3) COASTAL LAND USE MANAGEMENT MEASURES.—(A) The implementation and continuing revision from time to time of land use management measures applicable to the land uses and areas identified pursuant to paragraphs (1) and (2) that the coastal man-

agement authority, working in conjunction with the State water pollution control agency and other State and local authorities, determines are necessary to achieve applicable water quality standards and protect designated uses.

"(B) Coastal land use management measures under this paragraph may include, among other measures, the use of—

"(i) buffer strips;

"(ii) setbacks;

"(iii) density restrictions;

"(iv) techniques for identifying and protecting critical coastal areas and habitats;

"(v) soil erosion and sedimentation control; and

"(vi) siting and design criteria for water uses, including marinas.

"(4) OUTSTANDING RESOURCE WATERS.—The continuing identification and designation (after periodic nominations, notice, and public comments) of coastal waters which, because of their special ecological, recreational, or esthetic characteristics, are determined by the State to constitute outstanding resource waters. Outstanding resource waters may include—

"(A) areas adjacent to national or State parks or wildlife refuges;

"(B) national estuarine research reserves and national marine sanctuaries;

"(C) waters adjacent to units of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.); or

"(D) shellfish harvesting areas or fish spawning areas of particular State or local importance.

"(5) TECHNICAL ASSISTANCE.—The provision of technical and financial assistance to local governments and the public for implementing the measures referred to in paragraph (3), including assistance in developing ordinances and regulations, technical guidance, and modeling to predict and assess the effectiveness of such measures, training, financial incentives, demonstration projects, and other innovations to protect coastal water quality and designated uses.

"(6) PUBLIC PARTICIPATION.—Opportunities for public participation in all aspects of the program, including the use of public notices and opportunities for comment, nomination procedures, public hearings, technical and financial assistance, public education, and other means.

"(7) ADMINISTRATIVE COORDINATION.—The establishment of mechanisms to improve coordination among State agencies and between State and local officials responsible for land use programs and permitting, water quality permitting and enforcement, habitat protection, and public health and safety, through the use of joint project review, interagency certifications, memoranda of agreement, and other mechanisms.

"(8) STATE COASTAL ZONE BOUNDARY MODIFICATION.—Modification of the boundaries of the State coastal zone as the coastal management agency determines is necessary to manage the land uses identified pursuant to paragraph (1) and to implement, as may be required, the recommendations made pursuant to subsection (e).

"(c) PROGRAM SUBMISSION AND APPROVAL.—

"(1) PROCEDURES.—The submission and approval of a proposed program shall be governed by the procedures established by section 306(e).

"(2) ELIGIBILITY FOR AND WITHDRAWING ASSISTANCE.—If the Under Secretary finds that a coastal State has failed to submit an approvable program as required by this section, the State shall not be eligible for any funds under this section or section 603 of the Coastal Defense Initiative of 1990, and the Under Secretary shall withdraw a portion of grants otherwise available to the State under section 306 of this Act as follows:

"(A) 10 percent after 3 years after the date of the enactment of this section.

"(B) 15 percent after 4 years after the date of the enactment of this section.

"(C) 20 percent after 5 years after the date of the enactment of this section.

"(D) 30 percent after 6 years after the date of the enactment of this section and thereafter.

The Under Secretary shall make amounts withdrawn under this paragraph available to coastal States having programs approved under this section.

"(d) TECHNICAL ASSISTANCE.—The Under Secretary and the Administrator of the Environmental Protection Agency shall provide technical assistance to coastal States and local governments in developing and implementing programs under this section. Such assistance shall include—

"(1) methods for assessing water quality impacts associated with coastal land uses;

"(2) methods for assessing the cumulative water quality effects of coastal development;

"(3) maintaining and from time to time revising an inventory of model ordinances, and providing other assistance to coastal States and local governments in identifying, developing, and implementing pollution control measures; and

"(4) methods to predict and assess the effects of coastal land use management measures on coastal water quality and designated uses.

"(e) INLAND BOUNDARIES.—

"(1) REVIEW.—The Under Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall, within 18 months after the date of enactment of this title, review the inland coastal zone boundary of each coastal State program which has been approved or is proposed for approval under section 306 and evaluate whether the State's coastal zone boundary extends inland to the extent necessary to control the land and water uses that have a significant impact on coastal waters of the State.

"(2) RECOMMENDATION.—If the Under Secretary finds that modifications to the inland boundaries of a State's coastal zone are necessary for that State to more effectively manage land and water uses to protect coastal waters, the Under Secretary shall recommend appropriate modifications in writing to the affected State.

"(f) FINANCIAL ASSISTANCE.—With sums appropriated pursuant to section 318(a)(2), the Under Secretary shall provide grants to each coastal State to assist in fulfilling the requirements of this section if the coastal State matches any such grant according to a 4 to 1 ratio of Federal to State contribution. Funds available for implementing this section shall be allocated according to the regulations issued under section 306(c), except that the Under Secretary may use not more than 30 percent of any such funds to provide grants to assist those States which the Under Secretary finds are making exemplary progress in complying with the requirements of this section.

"SEC. 307. COORDINATION AND COOPERATION.

"(a) IN GENERAL.—In carrying out the functions and responsibilities of this title, the Under Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate these activities with other interested Federal agencies.

"(b) FEDERAL AGENCY CONSULTATION.—The Under Secretary shall not approve the management program submitted by a State pursuant to section 306, or any amendment, modification, or other change to the management program, unless the views of Federal agencies principally affected by such program or amendments have been adequately considered.

"(c) FEDERAL AGENCY ACTIVITIES.—

"(1) IN GENERAL.—Each Federal agency activity, in or outside of the coastal zone, affecting any natural resources, land uses, or water uses in the coastal zone, shall be carried out in a manner which is, to the maximum extent practicable, consistent with approved State management programs.

"(2) PRESIDENTIAL EXEMPTION.—After any final judgment, decree, or order of any Federal court that is appealable under section 1291 or 1292 of title 28, United States Code, or under any other applicable provision of Federal law, that a specific Federal agency activity is not in compliance with subsection (c)(1), and certification by the Under Secretary that mediation under subsection (h) is not likely to result in such compliance, the President may, upon written request from the Under Secretary, exempt from compliance those elements of the Federal agency activity that are found by the Federal court to be inconsistent with an approved State program, if the President determines that the activity is in the paramount interest of the United States. No such exemption shall be granted due to a lack of appropriations unless the President has specifically requested such appropriations as part of the budgetary process, and the Congress has failed to make available the requested appropriations.

"(3) CONSISTENCY DETERMINATION REQUIRED.—Each Federal agency carrying out an activity subject to paragraph (1) shall provide a consistency determination to the relevant State agency designated under section 306(d)(6) at the earliest practicable time, but in no case later than 90 days before final approval of the Federal activity unless both the Federal agency and the State agency agree to a different schedule.

"(d) FEDERALLY LICENSED OR PERMITTED ACTIVITIES.—

"(1) IN GENERAL.—Any applicant for a required Federal license or permit to conduct an activity in or outside the coastal zone, affecting any natural resources, land uses, or water uses in the coastal zone of a State, shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the State's approved program and that the activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the State or its designated agency a copy of the certification, with all necessary information and data, and with any fee which may be required pursuant to subsection (i). Each coastal State shall establish procedures for public notice in the case of all certifications and, to the extent it deems appropriate, procedures for public hearings. At the earliest practicable time, the State or its designated agency shall notify the Federal agency concerned that the State concurs with or objects to the applicant's certification. If the State or its designated agency fails to furnish the required notification within 6 months after receipt of its copy of the applicant's certification, the State's concurrence with the certification shall be conclusively

presumed. No license or permit shall be granted by the Federal agency until the State or its designated agency has concurred with the applicant's certification or until, by the State's failure to act, the concurrence is conclusively presumed, unless the Under Secretary, on his or her own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the State, that the activity is consistent with the findings and policies of this title or is otherwise necessary in the interest of national security.

"(2) OUTER CONTINENTAL SHELF EXPLORATION, DEVELOPMENT, OR PRODUCTION.—Any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any natural resources, land uses, or water uses in the coastal zone of a State, attach to such plan a certification that each activity which is described in detail in such plan complies with such State's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such State or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and with any fee which may be required pursuant to subsection (i), and until—

"(A) the State or its designated agency, in accordance with the procedures required to be established by the State pursuant to paragraph (1), concurs with the certification and notifies the Under Secretary and the Secretary of the Interior of the concurrence;

"(B) concurrence by the State with such certification is conclusively presumed as provided for in paragraph (1). If the State fails to concur with or object to the certification within 3 months after receipt of its copy of the certification and supporting information, the State shall provide the Under Secretary, the appropriate Federal agency, and the person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if the statement is not so provided, concurrence by such State with the certification shall be conclusively presumed; or

"(C) the Under Secretary finds, pursuant to paragraph (1), that each activity which is described in detail in such plan is consistent with the findings and policies of this title or is otherwise necessary in the interest of national security.

If a State concurs or is conclusively presumed to concur, or if the Under Secretary makes such a finding, the provisions of paragraph (1) do not apply to the person, the State, and any Federal license or permit which is required to conduct any activity affecting natural resources, land uses, or water uses in the coastal zone of the State which is described in detail in the plan to which the concurrence or finding applies. If the State objects to the certification and if the Under Secretary fails to make a finding under subparagraph (C) or if the person fails substantially to comply with the plan as submitted, the person shall submit an amendment to the plan, or a new plan, to the Secretary of the Interior. With respect to any amendment or new plan submitted to the Secretary of the Interior pursuant to the preceding sentence, the applicable time period for purposes of concurrence by conclusive presumption under paragraph (1) is 3 months.

"(e) FEDERAL ASSISTANCE PROGRAMS.—State and local governments submitting applications for Federal assistance under other Federal programs, for activities in or outside the coastal zone affecting any natural resources, land uses, or water uses in the coastal zone, shall include the views of the agency designated pursuant to section 306(d)(6) as to the relationship of the activities to the approved management program. The applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not provide assistance for any activity that is inconsistent with a coastal State's management program, unless the Under Secretary, on his or her own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the State, that the activity is consistent with the findings and policies of this title or is otherwise necessary in the interest of national security.

"(f) RELATIONSHIP TO OTHER FEDERAL LAWS.—Nothing in this title shall be construed—

"(1) to diminish either Federal or State jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of 2 or more States or of 2 or more States and the Federal Government; nor to limit the authority of the Congress to authorize and fund projects;

"(2) as superseding, modifying, or repealing any laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada; the Permanent Engineering Board; the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961; or the International Boundary and Water Commission, United States and Mexico.

"(g) INCORPORATION OF AIR AND WATER STANDARDS.—Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Clean Air Act (42 U.S.C. 7401 et seq.), or (2) established by the Federal Government or by any State or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title and shall be the water pollution control and air pollution control requirements applicable to such program.

"(h) MEDIATION.—In case of serious disagreement between any Federal agency and a coastal State or between 2 or more States—

"(1) in the development or the initial implementation of a management program under section 305; or

"(2) in the administration of a management program approved under section 306;

the Under Secretary shall seek to mediate the disagreement.

"(i) STATE FEE.—Each coastal State may establish, collect, and expend, without regard to any other requirement of this title, a fee to recover the reasonable costs of administering subsection (d). Such fee may recover the full costs of administration, including the reasonable costs of required research, monitoring, and enforcement.

"(j) FEDERAL FEE.—The Under Secretary may establish, collect and expend, without regard to any other requirement of this title, a fee to recover the full costs of administering and processing appeals under subsection (d).

"(k) WAIVING RIGHT TO APPEAL.—An applicant may waive the right to an appeal pursuant to subsection (d) or (e) if written notification of the waiver is received by the coastal State and the Under Secretary within 60 days after the date on which the coastal State objected to the applicant's certification under that subsection.

"(l) RESTRICTION OF STATE AUTHORITY.—A coastal State may not exercise the requirements of subsection (c), (d), or (e)—

"(1) unless the coastal State's management program has been approved pursuant to section 306; or

"(2) if approval of the coastal State's management program has been withdrawn pursuant to section 312(d).

"(m) CONSISTENCY WITH ENFORCEABLE POLICIES REQUIRED.—In complying with the provisions of subsections (c), (d), and (e), activities of Federal agencies and applicants shall be carried out consistent with the enforceable policies of the State management program. Federal agencies shall give adequate consideration to program provisions which are in the nature of recommendations.

"SEC. 308. COASTAL ENERGY IMPACT PROGRAM.

"(a) IN GENERAL.—Not later than January 1, 1993, the Under Secretary shall recommend to the Congress a coastal energy impact program. These recommendations shall include provision of financial and technical assistance to meet the needs of coastal States and local governments resulting from energy facilities and related activities affecting natural resources, land uses, or water uses in the coastal zone. The program shall identify the major energy activities which are affecting natural resources, land uses, or water uses in the coastal zone and the major obstacles, if any, to effective management of such activities under this title.

"(b) OUTER CONTINENTAL SHELF STATE PARTICIPATION.—

"(1) IN GENERAL.—Beginning in fiscal year 1991, the Under Secretary shall implement a program to assist coastal States in fulfilling their responsibilities under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

"(2) PARTICIPATION GRANTS.—The Under Secretary shall make grants under this paragraph to any coastal State which the Under Secretary finds is likely to be affected by Outer Continental Shelf energy activities, if the State matches the grant according to a 4 to 1 ratio of Federal to State contribution. The grants shall be used to assist the State in carrying out its responsibilities under the Outer Continental Shelf Lands Act.

"(c) LOAN REPAYMENT OBLIGATIONS UNAFFECTED.—The obligations of any coastal State or unit of general purpose local government to repay loans made pursuant to section 308(d)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(d)(1)), as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990, and any repay-

ment schedule established pursuant to that Act, are not altered by any provision of this title. Such loans shall be repaid under authority of this subsection and the Under Secretary may issue regulations governing such repayment. If the Under Secretary finds that any coastal State or unit of local government is unable to meet its obligations pursuant to this subsection because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable such State or unit to meet such obligations in accordance with the appropriate repayment schedule, the Under Secretary shall, after review of the information submitted by such State or unit take any of the following actions:

"(1) Modify the terms and conditions of such loan.

"(2) Refinance the loan.

"(3) Recommend to the Congress that legislation be enacted to forgive the loan.

"(d) OFFSETTING COLLECTIONS.—Loan repayments made pursuant to subsection (c) shall be retained by the Under Secretary as offsetting collections, and shall be deposited into the Coastal Zone Management Fund established under section 309.

"SEC. 309. COASTAL ZONE MANAGEMENT FUND.

"(a) ESTABLISHMENT.—The Under Secretary shall establish and maintain a fund, to be known as the 'Coastal Zone Management Fund' (hereinafter in this section referred to as the 'Fund'), which shall consist of amounts retained and deposited into the Fund under section 308(d).

"(b) USE.—Subject to amounts provided in Appropriation Acts, amounts in the Fund shall be available to the Under Secretary for use for the following:

"(1) ADMINISTRATION.—Expenses incident to the administration of this title, in an amount not to exceed—

"(A) $5,000,000 for fiscal year 1991;

"(B) $5,225,000 for fiscal year 1992;

"(C) $5,460,125 for fiscal year 1993;

"(D) $5,705,830 for fiscal year 1994; and

"(E) $5,962,593 for fiscal year 1995.

"(2) OTHER USES.—After use under paragraph (1)—

"(A) projects to address management issues which are regional in scope, including interstate projects;

"(B) demonstration projects which have high potential for improving coastal zone management, especially at the local level;

"(C) emergency grants to State coastal zone management agencies to address unforeseen or disaster-related circumstances;

"(D) appropriate awards recognizing excellence in coastal zone management as provided in section 314;

"(E) program development grants as authorized by section 305;

"(F) State participation grants under section 308(b); and

"(G) to provide financial support to coastal States for use for investigating and applying the public trust doctrine to implement State management programs approved under section 306.

"(c) REPORT.—On December 1 of each year, the Under Secretary shall transmit to the Congress an annual report on the Fund, including the balance of the Fund and an itemization of all deposits into and disbursements from the Fund in the preceding fiscal year.

"SEC. 310. NATIONAL INTEREST IMPROVEMENTS.

"(a) IN GENERAL.—Beginning in fiscal year 1991, the Under Secretary shall implement an ongoing program to encourage each coastal State to make continual improvements in its management program in specified national interest areas. This program shall encourage and monitor improvements in one or more of the following special national interest areas:

"(1) COASTAL WETLANDS MANAGEMENT AND PROTECTION.—Coastal wetlands management and protection, consistent with the interim goal to achieve no overall net loss of the Nation's remaining wetlands base, including adoption of—

"(A) enforceable policies to manage and protect coastal wetlands; and

"(B) a comprehensive restoration program for coastal wetlands for the purpose of attaining increases in functioning wetlands communities.

"(2) NATURAL HAZARDS MANAGEMENT.—Management of development and redevelopment in hazardous areas, including enforceable policies and management strategies to—

"(A) reduce the threat to life and the destruction of property by discouraging development and redevelopment in high hazard areas;

"(B) properly manage development and redevelopment in other hazard areas including such mechanisms as setbacks, requirements that buildings be suitable for relocation and other special building code standards, and acquisition and relocation programs; and

"(C) anticipate and manage the effects of potential sea level or Great Lakes level rise and land subsidence by—

"(i) requiring consideration of sea level or Great Lakes level rise and land subsidence in the siting of new public infrastructure investments and new large-scale developments with long life expectancies, such as sewage treatment plants, industrial plants, and hazardous waste facilities;

"(ii) establishing and protecting buffer zones for wetlands which are likely to migrate landward in response to sea level or Great Lakes level rise;

"(iii) ensuring that protection of natural resources is a feature of both structural and nonstructural responses to sea level or Great Lakes level rise or land subsidence; and

"(iv) requiring building setbacks and standards that minimize the adverse effects of sea level or Great Lakes level rise or land subsidence.

"(3) PUBLIC ACCESS.—Providing public access to coastal areas, including development of a program to increase public access to coastal areas of recreational, historical, esthetic, ecological, or cultural value, based on assessments of long-term public access needs. This program shall include enforceable policies necessary to meet public needs for access, including appropriate regulatory means and programs to obtain access sites through donation, dedication, and acquisition, and shall include a process for public nomination of areas to be acquired for public access purposes.

"(4) CUMULATIVE AND SECONDARY IMPACTS.—Development and adoption of procedures to assess, consider, and control cumulative and secondary impacts of coastal growth and development, including the collective effect of various individual uses or activities on coastal resources, such as coastal wetlands, and the cumulative effect of nonpoint pollution from individual land uses or water uses.

"(5) COASTAL ENERGY DEVELOPMENT.—Adoption of procedures and enforceable policies to help facilitate the siting of energy facilities and accommodate energy-related activities which may be of greater than local significance, including—

"(A) mitigation policies and guidelines which will be applicable to energy development activities;

"(B) procedures to coordinate Federal energy policies and programs with State coastal zone management programs; and

"(C) consolidation of permitting and regulatory reviews.

"(b) NATIONAL INTEREST IMPROVEMENTS PROGRAMS.—To implement the program required under subsection (a), the Under Secretary shall assess, for each coastal State, the priority needs for improvement in each of the special national interest areas, and based on that assessment, shall seek to negotiate a National Interest Improvements Program (hereinafter in this section referred to as a 'program') for each coastal State with an approved management program. Each program shall cover a period of at least 3 years and shall include specific, measurable goals and milestones to facilitate effective oversight by the Under Secretary pursuant to subsection (e).

"(c) NOTIFICATION.—In negotiating each program, the coastal State shall notify and consult with appropriate Federal agencies, State agencies, local governments, regional organizations, port authorities, and the public, and where appropriate shall establish a citizens advisory group to assist in development and implementation of the program.

"(d) PHASED IMPLEMENTATION.—If necessary for effective administration, the Under Secretary may stagger implementation of programs required under subsection (a) such that no less than one-third of the participating coastal States are negotiating a program in any single year.

"(e) EVALUATION.—

"(1) ANNUAL REVIEW.—The Under Secretary shall continually monitor progress in implementing each program negotiated under this section and shall provide each State with an annual evaluation of progress. Unless the Under Secretary finds, for each one-year period, that the coastal State is making continual and satisfactory progress in implementing each component of the program, the Under Secretary shall notify the coastal State and the public and shall specify additional actions required to ensure satisfactory implementation.

"(2) REASSESSMENT AND SUSPENSION.—Six months after notifying a State under paragraph (1), the Under Secretary shall reassess the State's progress. Unless the Under Secretary finds that the State is making satisfactory progress in undertaking the actions required under paragraph (1), the Under Secretary shall suspend that State's eligibility for further funding under this section for at least one year.

"(3) WAIVER.—The Under Secretary may waive the requirements of this section only by finding that a lack of satisfactory progress by a State is due to factors which are beyond the control of the State and which were unforeseen at the time the plan was negotiated. The Under Secretary shall notify the Congress and the public before granting any waiver under this subsection.

"(f) FUNDING.—Beginning in fiscal year 1991, at least 10 percent, but not more than 20 percent, of the amounts appropriated under section 318(a)(1) to implement sections 306 and 306A shall be used by the Under Secretary to implement this section.

"(g) NO STATE MATCH REQUIRED.—No State match is required for activities funded under this section.

"(h) GRANT ALLOCATION.—Funds available to implement this section shall be distributed among eligible States as follows:

"(1) FORMULA GRANTS.—Fifty percent according to regulations promulgated pursuant to section 306(c).

"(2) DISCRETIONARY GRANTS.—Fifty percent for discretionary awards according to guidelines or regulations issued by the Under Secretary pursuant to section 317.

"(i) REGULATIONS.—The Under Secretary shall issue regulations under section 317 providing guidance for any program negotiated under this section.

"SEC. 311. PUBLIC HEARINGS AND MEETINGS.

"All public hearings and meetings required under this title shall be announced at least 45 days prior to the hearing or meeting date. At the time of the announcement, all materials of the agency conducting a hearing or meeting and pertinent to the hearing or meeting, including documents, studies, and other data, shall be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

"SEC. 312. REVIEW OF PERFORMANCE.

"(a) PERIODIC REVIEW OF STATE PROGRAMS.—The Under Secretary shall conduct a continuing review of the performance of coastal States with respect to coastal management. Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which each coastal State has implemented and enforced a program of the State approved by the Under Secretary under this Act (including regarding adherence by State agencies and units of local government to the program), furthered the coastal management program requirements identified in section 303(3), satisfactorily complied with any national interest improvement program under section 310, and adhered to the terms of any grant, loan, or cooperative agreement funded under this title.

"(b) PUBLIC PARTICIPATION.—For the purpose of evaluating pursuant to subsection (a) a coastal State's performance, the Under Secretary shall conduct public meetings and provide opportunity for oral and written comments by the public. Each such evaluation shall be prepared in report form, shall contain written response to all written comments received, and shall be available to the public.

"(c) PROBATIONARY PERIOD.—The Under Secretary may place a coastal State on probation for not more than 2 years if the Under Secretary, on the basis of an evaluation which has been completed pursuant to subsection (b), finds substantial evidence that the State is failing to adequately implement or enforce important components of its approved program but that such evidence or failure constitutes insufficient grounds for action pursuant to subsection (d). If the Under Secretary makes the finding authorized in this subsection—

"(1) the Under Secretary shall notify the coastal State of—

"(A) the effective date of the probation;

"(B) the portion or portions of the program to which the probation is effective; and

"(C) written recommendations for corrective actions; and

"(2) the Under Secretary shall withdraw up to 25 percent of the funds available to the State pursuant to this title for use in assisting the State in implementing the recommendations under paragraph (1)(C), and any funds withdrawn but not used to implement recommendations under paragraph (1)(C) shall be added to amounts appropriated under section 318(a)(1).

"(d) PROGRAM DISAPPROVAL.—The Under Secretary shall withdraw approval of the management program of any coastal State, and shall withdraw any financial assistance available to that State under this title as well as any unexpended portion of such assistance, if the Under Secretary determines that the State is failing to adhere to, and is not justified in deviating from—

"(1) the management program approved by the Under Secretary, or

"(2) the terms of any grant or cooperative agreement funded under this title, and refuses to remedy the deviation.

Upon the withdrawal of management program approval under this subsection, the Under Secretary shall provide the coastal State with written specifications of the actions that should be taken, or not engaged in, by the State in order that such withdrawal may be canceled by the Under Secretary.

"(e) ADVANCE NOTIFICATION REQUIRED.—Prior to taking any action required under subsection (c) or (d), the Under Secretary shall notify the coastal State and provide an opportunity for a public hearing on the proposed action.

"SEC. 313. RECORDS AND AUDIT.

"(a) RECORDS.—Each recipient of financial assistance under this title shall keep any records as the Under Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received and of the proceeds of the assistance, the portion of the total cost of any project or undertaking supplied by other sources, and other records as will facilitate an effective audit.

"(b) ACCESS TO RECORDS.—The Under Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall—

"(1) after any financial assistance is provided under this title; and

"(2) until the expiration of 3 years after—

"(A) completion of the project, program, or other undertaking for which financial assistance was made or used, or

"(B) repayment of the loan or guaranteed indebtedness for which financial assistance was provided;

have access to audit and examine any record, book, document, and paper which belongs to or is used or controlled by, any recipient of the financial assistance and which is pertinent for purposes of determining if the financial assistance is being, or was, used in accordance with this title.

"SEC. 314. WALTER B. JONES EXCELLENCE IN COASTAL MANAGEMENT AWARDS.

"(a) IN GENERAL.—The Under Secretary shall, using sums in the Coastal Zone Management Fund established under section 309, implement a program to promote excellence in coastal zone management by identifying and acknowledging outstanding accomplishments in the field.

"(b) AWARD CATEGORIES AND SELECTION.—The Under Secretary shall select annually—

"(1) one individual, other than an employee or officer of the Federal Government, whose contribution to the field of coastal zone management has been the most significant;

"(2) 5 local governments which have made the most progress in developing and implementing the coastal zone management principles embodied in this title; and

"(3) up to 10 graduate students whose academic study promises to contribute materially to development of new or improved approaches to coastal zone management.

"(c) LOCAL GOVERNMENT NOMINATIONS.—In making selections under subsection (b)(2) the Under Secretary shall solicit nominations from the coastal States, and shall consult with experts in local government planning and land use.

"(d) GRADUATE STUDENT NOMINATIONS.—In making selections under subsection (b)(3) the Under Secretary shall solicit nominations from coastal States and the National Sea Grant College Program.

"(e) WALTER B. JONES AWARDS.—Using sums in the Coastal Zone Management Fund established under section 309, the Under Secretary shall establish and execute appropriate awards, to be known as the 'Walter B. Jones Awards', including—

"(1) cash awards in an amount not to exceed $5,000 each;

"(2) research grants; and

"(3) public ceremonies to acknowledge such awards.

"SEC. 315. NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM.

"(a) ESTABLISHMENT OF SYSTEM.—There is established the National Estuarine Research Reserve System (hereinafter in this section referred to as the 'System'), consisting of—

"(1) each estuarine sanctuary designated under this section as in effect before the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985; and

"(2) each estuarine area designated as a national estuarine research reserve under subsection (b).

Each estuarine sanctuary referred to in paragraph (1) is hereby designated as a national estuarine research reserve.

"(b) DESIGNATION OF NATIONAL ESTUARINE RESEARCH RESERVES.—The Under Secretary may designate an estuarine area as a national estuarine research reserve if—

"(1) the area constitutes, to the extent feasible, a natural unit which can be set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationship within the area;

"(2) the Governor of the coastal State in which the area is located nominates the area for that designation; and

"(3) the Under Secretary finds that—

"(A) the area is a representative estuarine ecosystem that is suitable for long-term monitoring and research and contributes to the biogeographical and typological balance of the System;

"(B) the laws of the coastal State provide long-term protection for reserve resources to ensure a stable environment for research;

"(C) designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine areas, and provide suitable opportunities for public education and interpretation; and

"(D) the coastal State in which the area is located has complied with the requirements of any regulations issued by the Under Secretary to implement this section.

"(c) ESTUARINE RESEARCH GUIDELINES.—The Under Secretary shall develop guidelines for the conduct of research within the System that shall include the following:

"(1) IDENTIFYING PRIORITIES.—A mechanism for identifying and establishing priorities among the coastal management issues

that should be addressed through coordinated research within the System.

"(2) RESEARCH OBJECTIVES.—The establishment of common research principles and objectives to guide the development of research programs within the System.

"(3) COMMON METHODS.—The identification of uniform research methodologies which will ensure comparability of data, the broadest application of research results, and the maximum use of the System for research purposes.

"(4) MONITORING.—The conduct of monitoring activities within the System, including the monitoring of physical, chemical, and biological parameters and criteria associated with the estuarine ecosystem.

"(5) STANDARDS.—The establishment of performance standards by which the effectiveness of the research efforts and the value of reserves within the System may be measured in addressing and coastal management issues identified in paragraph (1).

"(6) OUTSIDE FUNDING SOURCES.—The consideration of sources of funds for estuarine research in addition to amounts authorized under this title, and strategies for encouraging the use of these funds within the System, with particular emphasis on mechanisms established under subsection (d).

In developing the guidelines under this subsection, the Under Secretary shall consult with prominent members of the estuarine research community.

"(d) PROMOTION AND COORDINATION OF ESTUARINE RESEARCH.—The Under Secretary shall take such action as is necessary to promote and coordinate the use of the System for research purposes, including the following:

"(1) DATA MANAGEMENT.—Developing a data base accessible to the public for information derived from monitoring and research activities within the System.

"(2) TECHNICAL TRANSFER.—Providing for the exchange of information and data among national estuarine research reserves and between the reserves and estuarine and coastal resource managers.

"(3) PRIORITY CONSIDERATION.—Requiring the Department of Commerce, in conducting or supporting estuarine research, to give priority consideration to research that uses the System.

"(4) PROMOTING RESEARCH.—Consulting with other Federal and State agencies to promote use by such agencies of one or more national estuarine research reserves within the System when conducting estuarine research.

"(e) EDUCATION.—The Under Secretary shall—

"(1) develop guidelines providing for education activities in national estuarine research reserves;

"(2) promote the use of national estuarine research reserves by educational institutions and by programs of the United States Department of Education; and

"(3) establish and implement a program to exchange educational information throughout the System.

"(f) FINANCIAL ASSISTANCE.—

"(1) IN GENERAL.—The Under Secretary may, in accordance with such rules and regulations as the Under Secretary shall promulgate, make grants—

"(A) to a coastal State entity—

"(i) to acquire lands and waters, and any property interests therein, necessary to ensure the appropriate long-term management of an area as a national estuarine research reserve,

"(ii) to operate or manage a national estuarine research reserve and to construct appropriate reserve facilities, or

"(iii) for educational or interpretive activities; and

"(B) to any coastal State entity or public or private institution or person to support research and monitoring within a national estuarine research reserve that are consistent with the research guidelines developed under subsection (c).

"(2) TERMS AND CONDITIONS.—Financial assistance provided under paragraph (1) shall be subject to any terms and conditions the Under Secretary considers necessary or appropriate to protect the interests of the United States, including requiring coastal States to execute suitable title documents setting forth the property interests of the United States in any lands and waters acquired in whole or in part with financial assistance under this section.

"(3) MATCHING FUNDS.—(A) The amount of financial assistance provided under paragraph (1)(A)(i) for any one national estuarine research reserve may not exceed an amount equal to 50 percent of the costs of the lands, waters, and interests therein, or $6,000,000, whichever amount is less.

"(B) The amount of the financial assistance provided under paragraphs (1)(A) (ii) and (iii) and paragraph (1)(B) may not exceed 50 percent of the costs incurred to achieve the purposes described in those paragraphs with respect to a national estuarine research reserve.

"(C) For purposes of this section, the term 'coastal State entity' means any legal entity established by legislative or executive act or order of a coastal State's government, including State universities, colleges, commissions, consortia, boards, or other institutions established for purposes, including research, education, or resource management.

"(g) EVALUATION OF SYSTEM PERFORMANCE.—

"(1) IN GENERAL.—The Under Secretary shall periodically evaluate the operation and management of each national estuarine research reserve, including educational and interpretive activities, and the research being conducted within the reserve.

"(2) SUSPENSION OF FUNDING.—If evaluation under paragraph (1) reveals that the operations and management of national estuarine research reserve is deficient, or that the research being conducted within the reserve is not consistent with the research guidelines developed under subsection (c), the Under Secretary may suspend the eligibility of that reserve for financial assistance under subsection (f) until the deficiency or inconsistency is remedied.

"(3) WITHDRAWAL OF DESIGNATION.—The Under Secretary may withdraw the designation of an estuarine area as a national estuarine research reserve if evaluation under paragraph (1) reveals that—

"(A) the basis for any of the findings made under subsection (b)(3) no longer exists; or

"(B) a substantial portion of the research conducted within the reserve, over a period of years, has not been consistent with the research guidelines developed under subsection (c).

"(h) REPORT.—The Under Secretary shall include in the report required under section 316 information regarding—

"(1) new designations of national estuarine research reserves;

"(2) any expansion of existing national estuarine research reserves;

"(3) the status of the research program being conducted within the System; and

"(4) a summary of the evaluations made under subsection (g).

"(i) COOPERATIVE AGREEMENTS AND DONATIONS.—

"(1) COOPERATIVE AGREEMENTS.—The Under Secretary may enter into cooperative agreements with any nonprofit organization or institution of higher learning—

"(A) to aid and promote interpretive, historical, scientific, and educational activities within any national estuarine research reserve; and

"(B) for the solicitation of private donations for the support of such activities.

"(2) DONATIONS.—The Under Secretary may accept donations of funds, property, and services for use in designating and administering national estuarine research reserves under this section. Such donations shall be considered to be a gift or bequest to, or for the use of, the United States.

"SEC. 316. COASTAL ZONE MANAGEMENT REPORT.

"(a) IN GENERAL.—The Under Secretary shall transmit to the Congress reports summarizing the administration of this title during each period of 2 consecutive fiscal years. Each report shall be transmitted to the Congress not later than April 1 of the year following the close of the biennial period to which it pertains, and shall include the following:

"(1) RECENTLY APPROVED PROGRAMS.—An identification of the State programs approved pursuant to this title during the preceding fiscal year and a description of those programs.

"(2) PARTICIPATING STATES.—A list of the coastal States participating under this title and a description of the status of each State's program and its accomplishments during the preceding fiscal year.

"(3) NONPARTICIPATING STATES.—A list of the coastal States not participating under this title, a description of efforts by the Under Secretary to encourage their participation, and additional action or incentives needed to secure participation.

"(4) FUNDING SUMMARY.—An itemization of the allocation of funds to the various coastal States and a breakdown of the major projects and areas in which these funds were expended.

"(5) PROGRAM PROBATIONS AND DISAPPROVALS.—An identification of any coastal State program which has been reviewed and placed on probation or disapproved, and a statement of the reasons for that action.

"(6) EVALUATION SUMMARY.—A summary of evaluation findings prepared in accordance with 312(a).

"(7) INCONSISTENT ACTIVITIES AND PROJECTS.—A list of all activities and projects which are not consistent with an applicable approved State management program.

"(8) REVISED REGULATIONS.—A summary of the regulations issued by the Under Secretary during the biennial period covered by the report.

"(9) PRIORITY PROBLEMS.—A summary of outstanding problems arising in the administration of this title, in order of priority.

"(10) MISCELLANEOUS.—Any other information as may foster effective oversight by the Congress.

"(11) STATE VIEWS.—Summary views and recommendations from each coastal State, including recommendations for additional legislation, necessary to achieve the objectives of this title and enhance its effective operation.

"(b) GUIDELINES.—For the purposes of paragraph (11), the Under Secretary shall

issue guidelines to the coastal States which outline the format for submitting summary views and recommendations.

"SEC. 317. RULES AND REGULATIONS.

"The Under Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after issuance of notice and opportunity for full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, any rules and regulations as may be necessary to carry out the provisions of this title.

"SEC. 318. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATIONS.—There are authorized to be appropriated to the Under Secretary—

"(1) for grants under sections 306 and 306A, not to exceed $46,670,000 for fiscal year 1991, $48,770,000 for fiscal year 1992, $50,965,000 for fiscal year 1993, $53,258,000 for fiscal year 1994, and $55,655,000 for fiscal year 1995, to remain available until expended;

"(2) for grants under section 306B, not to exceed $10,000,000 for fiscal year 1991, $20,000,000 for fiscal year 1992, $30,000,000 for fiscal year 1993, $35,000,000 for fiscal year 1994, and $40,000,000 for fiscal year 1995, to remain available until expended; and

"(3) for grants under section 315, not to exceed $7,000,000 for fiscal year 1991, $7,355,000 for fiscal year 1992, $7,710,000 for fiscal year 1993, $8,065,000 for fiscal year 1994, and $8,420,000 for fiscal year 1995, to remain available until expended.

"(b) LIMITATION ON MATCHING FUNDS.—Federal funds received from other sources shall not be used to pay a coastal State's share of costs under section 306.

"(c) UNOBLIGATED GRANTS.—The amount of any grant, or portion of a grant, made to a coastal State under any section of this Act which is not obligated by the State during the fiscal year, for which it was first authorized to be obligated by the State, or during the next fiscal year, shall revert to the Under Secretary. The Under Secretary shall add the reverted amount to those funds available for grants under the section for which the reverted amount was originally made available.

"(d) PASSTHROUGH OF GRANT FUNDS.—With the approval of the Under Secretary, a coastal State may allocate to a local government, an area-wide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of any grant made under this title. An allocation of grant funds shall not relieve a State of the responsibility for ensuring that any funds so allocated are used in conformance with applicable grant terms and conditions and to further the State's approved management program.

"SEC. 319. INTERSTATE AGREEMENTS AND COMPACTS.

"The consent of the Congress is hereby given to 2 or more coastal States to negotiate, and to enter into, agreements or compacts, which do not conflict with any law or treaty of the United States, for—

"(1) developing and administering coordinated coastal zone planning, policies, and programs pursuant to sections 305 and 306; and

"(2) establishing executive instrumentalities or agencies which such States deem desirable for the effective implementation of such agreements or compacts. Such agreements or compacts shall be binding and obligatory upon any State or party thereto without further approval by the Congress.".

SEC. 202. DEADLINES FOR COMPLIANCE.

(a) NEW REQUIREMENTS.—Each State which submits a management program for approval under section 306 of the Coastal Zone Management Act of 1972, as amended by this Act (including a State which submitted such a program before the date of the enactment of this Act), shall demonstrate to the Under Secretary of Commerce for Oceans and Atmosphere compliance with the requirements of section 306(d)(14) and (15) of that Act by not later than 2 years after the date of the enactment of this Act.

(b) LAND USE MANAGEMENT PROGRAM GUIDELINES AND REGULATIONS.—Within 180 days after the date of the enactment of this Act, the Under Secretary of Commerce for Oceans and Atmosphere shall issue guidelines for coastal States to follow in developing a program under section 306B of the Coastal Zone Management Act of 1972, as amended by this Act. Within 18 months after that date of enactment, the Under Secretary shall promulgate regulations governing the receipt, review, and approval of programs under that section.

SEC. 203. PACIFIC ISLAND STATE DEMONSTRATION PROJECT.

(a) AUTHORIZATION.—There is authorized to be appropriated not more than $100,000 for each of fiscal years 1991 through 1995 for use by one Pacific island coastal State to develop a draft joint Federal-State resource management plan for ocean resources lying 3 to 12 miles from the baseline from which its territorial sea is measured. Amounts appropriated under this section may not be used to develop a plan affecting fishery resources subject to management under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(b) REPORT.—At the end of fiscal year 1995, the Pacific island coastal State which develops a management plan pursuant to subsection (a) shall transmit the plan to the Congress.

SEC. 204. REFERENCE.

A reference in any law, regulation, record, map, or paper or other document to the Coastal Zone Management Act of 1972 may be construed to be a reference to such Act, as amended by this Act.

The CHAIRMAN. Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STUDDS: (a) On page 37, line 3, insert the following after the term "outstanding resource waters.": "Such designations may include, but not be limited to, waters identified by the state water pollution control agency as being of special biological significance pursuant to its water quality planning processes."

(b) a. Page 34, line 1, strike "land based sources of".

b. Page 34, line 3, add the following after the period: "For purposes of this section, the term "land use" shall include uses of adjacent water areas as well."

(c) On Page 38, line 19, add the following after the period: "If the coastal management agency does not have the authority to modify such boundaries, the program shall include recommendations for such modifications to the appropriate state authority."

Mr. STUDDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. STUDDS. Mr. Chairman, this is a three-part amendment that contains what are largely minor changes to section 306B of the bill—the new CZM Water Quality Program.

Subsection (a) of the amendment requires State coastal zone officials to take into account designations of high quality waters by State water pollution control officials when designating "outstanding resource waters" in coastal areas. This is designed to encourage cooperation between the relevant State agencies.

Subsection (b) clarifies that water uses, as well as land uses, that affect coastal water quality are to be covered by the new Coastal Water Quality Program.

Subsection (c) recognizes that several State CZM programs do not themselves have the statutory power to change the inland boundaries of their coastal zone. The bill as currently drafted suggests that those programs might not have their water quality initiatives approved unless they make the necessary changes—even though they lack the power to do so. My amendment recognizes this and requires State programs to recommend necessary changes in State authorities to facilitate the process of modifying CZM boundaries.

Mr. Chairman, I believe this is a noncontroversial amendment, it has bipartisan support, and I urge its adoption.

The CHAIRMAN. Is there further discussion on the amendment?

If not, the question is on the amendment offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STUDDS:

(a) On page 44, line 22, insert after "consistent with" the following:

"(A) the requirements of this title, and (B)".

(b) On page 46, line 18, insert at the beginning thereof the following:

"(i) the requirements of this title, and (ii)".

(c) On page 48, line 4, insert after "consistent with" the following:

"(1) the requirements of this title, and (2)".

(d) On page 50, line 8, strike "pursuant to subsection (d) or (e)" and insert in lieu thereof the following: "pursuant to subsection (d)(1)(B), (d)(2)(C)(i) or (e)(2)".

Mr. STUDDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be consid-

ered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. STUDDS. Mr. Chairman, this amendment is designed to make more efficient the process of settling disputes under section 307 of the Coastal Zone Management Act. That section authorizes State governments to determine whether a proposed activity is compatible with the State's CZM plan, and allows proponents of the activity to appeal negative determinations to the Secretary of Commerce and ultimately the courts.

My amendment would permit persons who wish to appeal a State decision to waive consideration of national interest arguments if they wish to do so in order to speed up the appeals process. The amendment does not take any authority away from the Secretary of Commerce, however, and I believe it is acceptable to the minority and utterly without controversy.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank the gentleman for yielding.

Mr. Chairman, I do so only to clarify that we are in fact speaking in this amendment of a case where the State decision is that the activity is inconsistent with its own State coastal zone management plan and that an appeal is flowing from that decision rather than the converse where the national security grounds in fact are the paramount reasons for granting the decision.

Mr. STUDDS. The gentleman is correct.

Mr. TAUZIN. I thank the gentleman.

The CHAIRMAN. Is there further discussion on the amendment?

If not, the question is on the amendment offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. LOWEY OF NEW YORK

Mrs. LOWEY of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. LOWEY of New York: Page 41, after line 15, at the end of the matter proposed to be amended to be section 306B of the Coastal Zone Management Act, add the following:

"(g) LONG ISLAND SOUND CONSERVANCY DEMONSTRATION.—Notwithstanding any other provision of law and within one year after the effective date of this subsection, the Under Secretary shall establish an office, to be known as the Long Island Sound Conservancy, in the immediate vicinity of Long Island Sound. The office shall provide assistance to the States of Connecticut and New York in developing and implementing the plan described in subsection (a) and in demonstrating the most effective means of coordinating the implementation of coastal zone management and water quality programs. The Conservancy shall be eligible for grants under subsection (f) without regard to the matching requirement of that subsection.

Mrs. LOWEY of New York (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mrs. LOWEY of New York. Mr. Chairman, the purpose of this amendment is simple and straightforward. It will establish a Long Island Sound program office within the National Oceanic and Atmospheric Administration [NOAA] to demonstrate the most effective ways of coordinating the implementation of coastal zone management and water quality programs, both on an inter- and intra-state basis.

The committee amendment contains provisions, which Mr. STUDDS and I introduced at the subcommittee level, to require State coastal zone management agencies and water quality agencies to work together to develop and implement a unified water quality plan. Those provisions—in section 306B—seek to overcome the bureaucratic barriers that have separated coastal land management and water quality programs and inhibited their ability to attack the problem of nonpoint source pollution.

This amendment sets up a Long Island Sound demonstration office designed to assist New York and Connecticut in developing and implementing coastal land use management measures that will restore and revitalize the sound. The office will provide technical assistance to help these states identify: Land uses that contribute to the degradation of coastal waters, critical coastal areas, and appropriate land use management measures to control nonpoint source pollution.

The office will provide assistance to local governments, facilitate public participation, administrative coordination among State agencies and between States, and, if necessary, assistance in modifying coastal zone boundaries.

Why do we need a special office for Long Island Sound? Because one of this country's great natural resources is dying before our very eyes. Large areas of the western sound have so little dissolved oxygen that fish can't survive in those waters. The fish that have survived there often suffer from deformities and contamination. Once productive fishing areas are now dead due to the enormous quantities of nutrient pollution inundating the sound. Recent articles in the New York Times and other local papers detail the tragedy that is unfolding in Long Island Sound.

Mr. Chairman, for millions of people Long Island Sound is a wellspring of commercial and recreational opportunity. But its enormous resources are the seeds of its destruction. We need an office working full time to save Long Island Sound. With over 150 municipalities and two States bordering this vital estuary, the sound urgently needs a single entity to coordinate efforts to protect it.

Much of the pollution that is destroying the sound comes from nonpoint sources. According to the Long Island Sound study, nearly half of all the nutrient pollution of the sound occurs as a result of nonpoint source pollution. Prudent land management is essential to any effective effort to protect essential waterways like Long Island Sound.

The Long Island Sound office will provide a valuable—and essential—demonstration of how States can improve coordination between land management and water quality agencies and strengthen cooperation between themselves where vital waterways have watersheds in more than one State.

A number of America's most precious estuaries, including Long Island Sound, the Chesapeake Bay, and the Great Lakes, border several States, each of which contributes to the nonpoint source and other pollution affecting those bodies. In Long Island Sound, agricultural runoff from Connecticut and nonpoint source pollution from densely populated areas in New York combine to account for almost one-half of the sound's nutrient loading problem.

It is essential, in addition to coordinating their own efforts to protect water quality, that these two States work closely together to implement programs that will complement each others' efforts. The Long Island Sound office will serve as a point of communication between the two States and a clearinghouse for information concerning coastal protection.

This demonstration office will provide other States valuable information on how best to coordinate efforts to combat nonpoint source pollution without abandoning their own authorities. If we are really going to restore and protect our precious waterways, land management decisions and water quality standards must be coordinated, the same is true of the activities of various States. A Long Island Sound office administered by NOAA would help ensure those necessarily close relationships. It will build on the provisions of the bill before us to ensure cooperation among State agencies by enhancing cooperation between States as well.

Mr. Chairman, I urge the adoption of the amendment.

Mr. SHUMWAY. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, what concerns me is not so much that the amendment requires that the under secretary shall establish an office to be known as the Long Island Sound Conservancy, but the amendment purports to be an end run around provisions of the bill that require, when there is an effort made on the part of the Federal Government to help States in implementing the provisions of this new bill, that the cost of it will be shared on a 4-to-1 ratio of Federal to State dollars.

The bottom line in the gentlewoman's amendment says that the conservancy shall be eligible for grants without regard to the matching requirement of that subsection.

I do not see why we should make an exception for Long Island when all other States, to gain the benefit of some Federal assistance in the implementation, shall be strapped with setting up their own offices and meeting the funding requirement that the bill requires. There is no justification in the amendment, and the gentlewoman has not suggested any.

For that reason I think it should be defeated.

Mrs. LOWEY of New York. Mr. Chairman, will the gentleman from California yield?

Mr. SHUMWAY. I yield to the gentlewoman from New York.

Mrs. LOWEY of New York. I thank the gentleman for yielding.

Mr. Chairman, the reason this office is so important is that it is a very unique situation. You have two States with over 150 municipalities trying to have an impact on a body of water, the Long Island Sound, that is really on the verge of dying. We are looking at this office as a demonstration program to see what we can do to create cooperation between the Department of State, the Department of Environmental Conservation, all the municipalities that are bordering on the Long Island Sound to really make a dent in this very serious problem.

□ 1420

Mr. SHUMWAY. Mr. Chairman, reclaiming my time, I do not doubt that fact that this is a very important center, and there is good reason for the amendment of the gentlewoman from New York [Mrs. LOWEY] to establish it. But if there are two States involved and over 150 municipalities, as the gentlewoman says, surely within that kind of public body there would be the willingness and the ability to provide the matching funds that the law requires.

I ask the gentlewoman from New York [Mrs. LOWEY]: "Why should you get a free ride when all the other States, to implement this act, are going to have to pay?"

Mrs. LOWEY of New York. Mr. Chairman, the reason we did not provide for matching funds is that within this office, which is really a very small office, there is no revenue, and the reason this was established and drafted in that way is to have this office that would create a focal point that would wake up in the morning and focus on Long Island Sound, and yet there is no source of revenue within this small office to create that match.

Mr. SHUMWAY. Mr. Chairman, I would just suggest to the gentlewoman from New York [Mrs. LOWEY], that in that regard this office is not different from every other office that is going to be established in California, Louisiana, Texas, and other States. We are faced with the same situation. The gentlewoman from New York [Mrs. LOWEY] is asking for a free ride. We are going to have to pay for it.

Mrs. LOWEY of New York. Mr. Chairman, let me also mention to the gentleman from California [Mr. SHUMWAY] that this has NOAA's backing. We discussed it with many of the people who have been involved in this issue, and there seems to be consensus that this is a unique situation. There are offices that have been established to deal with Chesapeake Bay, to deal with the Great Lakes. This is a unique situation where we have two States bordering an estuary, and that is the reason for putting this office in place.

Mr. SHUMWAY. Reclaiming my time, I just suggest, Mr. Chairman, that there are unique situations all around the country. There are many States. In fact, other States are going to have to pay their way. I see no reason why we should give New York and Connecticut a free ride in this case.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York [Mrs. LOWEY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SAXTON

Mr. SAXTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAXTON: At the end of title II, add the following—

"SEC. . FEDERAL AGENCY CONSISTENCY.

"The consistency requirements of section 307 of the Coastal Zone Management Act (16 U.S.C. 1456) shall apply to Federal agency activities or Federally permitted activities under title I of the Marine, Protection, Research, and Sanctuaries Act of 1972, if the Federal activity or permitted activity affects land uses, water uses, or natural resources of the coastal zone.".

Mr. SAXTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SAXTON. Mr. Chairman, I have an amendment which is simple in content, but one which is vital to the future of our coastlines. Briefly, this amendment will clarify the application of current law:

That all Federal agency activities under the "Ocean Dumping Act," including designation of an ocean dump site and maintenance dredging, are reviewable by States for consistency with their coastal management programs.

In 1972, Congress acknowledged the need to protect the Nation's coastal environment by passing the Coastal Zone Management Act [CZMA].

To encourage States to take an active role in the stewardship and long-term health of their coastal environment, the CZMA allows a State to review Federal activities which affect the land uses, water uses, or natural resources of a State's coastal zone.

Since that time, States have increasingly invested their human and economic resources toward proactive conservation of their coastal habitat. Much of their success is dependent on a cooperative relationship with Federal agencies.

Unfortunately, as was indicated in recent policy statements made by the Army Corps of Engineers and the Environmental Protection Agency, the right of a State to review ocean dumping activities may be threatened.

The Army Corps, in proposing amendments to regulations governing its operation and maintenance dredging activities, recently announced that it recognizes a State's consistency requirements only "as a matter of comity" and that it will "voluntarily apply" the Federal consistency provision.

In addition, the EPA, in designating ocean dump sites, has suggested that the legal requirements of the Ocean Dumping Act and the CZMA are still "subject to debate."

Such statements have been refuted by the National Oceanic and Atmospheric Administration, the Agency charged with overseeing implementation of the Coastal Zone Management Act.

More importantly, these statements by the corps and EPA attempt to undermine the original intent of Congress—which was to encourage stewardship of coastal resources by granting coastal and Great Lakes States the authority to review Federal activities affecting them.

I urge my colleagues to join me in supporting this amendment to require that States be directly involved in reviewing Federal activities that can impact their coastal economy as well as their coastal resources.

Mr. Chairman, at this time I would like to ask the gentleman from North Carolina [Mr. JONES] to join me in a colloquy.

Mr. Chairman, I would like to clarify a point about this amendment with you. First, does inclusion of the language I have proposed exclude other types of Federal agency activities not specified in H.R. 4450 from the Federal consistency requirement of section 307 of the Coastal Zone Management Act?

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. Mr. Chairman, the answer is no.

Mr. SAXTON. Chairman JONES, does this amendment reflect your original intent as the principal author of the Coastal Zone Management Act reauthorization amendments of 1990?

Mr. JONES of North Carolina. Mr. Chairman, I say to the gentleman from New Jersey [Mr. SAXTON] yes.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, basically what the amendment of the gentleman from New Jersey [Mr. SAXTON] would do, as I understand it, is just to insure that any major Federal activities are consistent with a coastal zone management plan adopted by a particular State.

Mr. SAXTON. Mr. Chairman, that is exactly the intent of this amendment.

Mr. HUGHES. If in fact that were not carried out, it would seem to me it would be at cross purposes with the whole purpose of legislation which is, in fact, to work with States and get States to develop comprehensive management plans to manage our coastal resources properly.

Mr. SAXTON. Mr. Chairman, the gentleman from New Jersey [Mr. HUGHES] is correct. One of the things that makes this act unique, one of the things that makes this act successful, one of the things that makes this act work is that we carry out these programs in cooperation with the States, and this amendment insures that in the areas designated this act continues to work in accordance with the original intent of the authors.

Mr. HUGHES. Mr. Chairman, if the gentleman from New Jersey [Mr. SAXTON] would yield further, I want to congratulate the gentleman. I am very happy to be a cosponsor of this particular amendment. Our State feels very strongly that this is needed to codify what I think is the intent of the bill, and I thank the gentleman for offering the amendment.

Mr. GOSS. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I would like to add my voice to that of my colleagues in support of this amendment, which clarifies something that seems self-evident: That the Ocean Dumping Act should not preempt the Coastal Zone Management Act.

In recent years, Federal agencies have exhibited confusion over Congress' intent when it drafted the consistency language. As the events from the summer of 1988 graphically exhibited, few Federal activities so directly affect a State's coastal zone as ocean dumping.

While the mid-Atlantic States have received the most attention on this issue, the problem is not confined to that region. Rather, federally sponsored ocean dumping has adversely affected almost every coastal State in the Nation including my own State of Florida.

Almost everyone who lives near or has visited a beach or coastal national wildlife refuge can imaging the threat oceanborne contaminants represent to tourist economies and estuarine ecosystems.

The consistency provision should protect States who seek to protect themselves from the effects of federally sponsored ocean dumping. If there are Federal agencies which harbor doubts on this issue, we should help them out by clearing the air, and the water.

Support States rights and protection of coastal resources. I urge my colleagues to vote aye on the amendment.

Mr. PALLONE. Mr. Chairman, I also rise in support of the amendment, and I am a cosponsor as well.

Mr. Chairman, this amendment is offered to spell out what is already implicit in Federal law: That States have the authority—indeed the obligation—under the Coastal Zone Management Act to review federally sanctioned ocean dumping activities to make sure they are consistent with their federally approved coastal management plans.

The amendment simply clarifies and reinforces the intent of Congress when it passed CZMA and the Ocean Dumping Act.

CZMA obligates the coastal States to carefully review Federal activities and federally permitted activities that directly affect their coastal resources to make sure that they comply with a federally approved coastal protection program.

Dredging, dredge spoil disposal and the designation of ocean dump sites—activities regulated under the Ocean Dumping Act—have a clear and profound impact on the coastal resources CZMA is designed to protect. However, the Environmental Protection Agency and the Army Corps of Engineers have maintained that the law, on the other hand, is not so clear. Because it is not spelled out in black and white, EPA and the corps have questioned whether Ocean Dumping Act activities are subject to CZMA consistency provisions.

The amendment simply makes the intent of the law as clear as the effects of the activities it regulates. It clearifies that the CZMA and the Ocean Dumping Act compliment, rather than eclipse, each other.

This amendment, which is supported by environmental organizations and coastal States from every region of the country, allows the States to carry out their responsibilities under CZMA, and it eliminates the ambiguity that EPA and the corps claim now exists.

□ 1430

Mr. Chairman, I also want to compliment my colleague, the gentleman from New Jersey [Mr. SAXTON] for introducing the amendment, and I urge its adoption.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a cosponsor of this amendment, I also rise in strong support of the amendment.

Those Members who know anything about coastal Lousiana know that we are indeed suffering a unique loss of coastal marshlands and coastal barrier islands. In fact, Louisiana has a loss that is measured at about 40 to 60 square miles per year of coastal wetlands. It is an incredible loss. In fact, as I testified to one of the subcommittees of the Committee on Merchant Marine and Fisheries just last week, unless we get some help rather soon, I will be representing fish and exposed pipelines very soon. My district is fast washing away.

A part of the reason it is washing away is the fact that we in Louisiana and throughout the Mississippi River delta have leveed off that great river system for purposes of drainage. That river system now drains some 38 States. The silts that have come down the Mississippi River all through geologic times were the building block material that built up the delta that is Louisiana's coastal marshes, the Third District of Louisiana that I represent.

As we have that loss occurring, we suddenly realize that the material that is dredged from this river and is now being deposited offshore in deeper gulf waters is not only a valuable asset to us but an incalculably valuable asset for the restoration and protection of our coastal marshes.

Currently each year the Corps of Engineers dredges some 60 million cubic yards of silt and sand that have been dumped offshore in deeper portions of the gulf. Some years ago that might have been the right thing to do. Today we realize how incredibly important it would be to keep that material as a building block for the coastal

marshes we are losing. In fact, it has been determined by State officials that if we use this material in our threatened coastal marshes, we could save or create some 6,000 acres of vegetated marshlands each year. At a time when we are losing, as I pointed out, nearly 50 square miles of coastal marshland each year, we cannot afford to allow the waste of such a valuable resource any longer.

Mr. Chairman, our State will be spending $26 million in marsh protection and restoration projects in coastal Louisiana. If we truly believe in protecting our wetlands for generations to come, we must begin now, and I urge all the Members to join me in the fight to save this precious national treasure by joining me in support of this amendment, giving the corps this obligation to follow our coastal zone management program, to use this material wisely in rebuilding the Louisiana marshes.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, as one who has long been concerned about the disappearance of the gentleman's district, I want to commend him and also the author of the amendment, the gentleman from New Jersey [Mr. SAXTON]. They seek to make clear something that seems to be clear to virtually everyone on the face of the Earth but the Corps of Engineers. I trust that perhaps this amendment is written in sufficiently explicit language that even they will now understand what was clearly intended by this Congress to be the law of the land.

I say to the gentleman that by current geologic estimates, Cape Cod is estimated to disappear from erosion in 20,000 years. We have called this to the attention of our legislature for redistricting, and I assume the gentleman has done the same.

Mr. TAUZIN. Of course, Mr. Chairman, the gentleman knows that the Cajuns that I represent were kicked out of Nova Scotia and were turned down by many of the east coast States. Eventually they settled in Louisiana. If we continue to lose our lands, we may just be asking for safe haven one day, perhaps even on Cape Cod.

Mr. Chairman, I thank the gentleman for his support.

Mr. LOWERY of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the coastal zones of the United States account for over 32 percent of our gross national product [GNP], or nearly $1.3 trillion. This translates into 28 million jobs and a one-half trillion dollars in payroll. Clearly, Congress' decision to encourage the development of coastal management programs, a decision finalized in 1972, was nothing short of visionary.

And for the most part, the CZMA has served this country well. But for one short-sighted decision in 1984, we would not be debating today.

Yet, we are here because the 1984 Supreme Court opinion in Watt versus California said that an OCS lease sale, in and of itself, is essentially a paper transaction, does not have a direct effect on the State's coastal zone, and therefore is not subject to a consistency review. Once again, we are faced with having to square courtroom logic with real world activity.

What is the sense in closing our eyes at the lease sale stage, thereby causing an oil company to expend millions of dollars in exploration costs, only to then, at the 11th hour, conduct a consistency review. Justice Stevens, in his eloquent dissent, said it best:

> The sale of OCS leases involves the expenditure of millions of dollars. If exploration and development cannot be squared with the requirements of the CZMA, it would be in everyone's interest to determine that as early as possible. On the other hand, if exploration and development of the tracts would be consistent with the State management plan, a pre-leasing consistency determination would provide assurance to prospective purchasers and hence enhance the value of tracts to the Federal government and, (simultaneously), the public. Advance planning can only minimize the risk, of either loss or inconsistency that may ultimately confront all interested parties.

Justice Stevens is describing the state of affairs that existed prior to the Watt decision. This bill would merely restore his logic and the original intent of the CZMA.

CZMA was not set up as some obstacle course for States to endure. As the report accompanying this bill says:

> Congress envisioned a voluntary and cooperative federal-state program to protect coastal resources, uses and values from (population and development) pressures.

The bill is in keeping with this spirit. I strongly urge my colleagues to support the CZMA as reported by the Merchant Marine Committee.

AMENDMENT OFFERED BY MR. STANGELAND TO THE AMENDMENT OFFERED BY MR. SAXTON

Mr. STANGELAND. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. STANGELAND to the amendment offered by Mr. SAXTON:
>
> Strike the period at the end of the amendment and insert the following: "; except that a State may not find the issuance of a permit for any activity under title I of such Act of 1972 to be inconsistent with the laws of that State, unless that State first agrees to pay 100 percent of any increased costs of such activity that would result from the finding of inconsistency.".

Mr. STANGELAND. Mr. Chairman, it is obvious that there is a tremendous amount of support for the Saxton amendment, and far be it from me to turn the railroad around. But this amendment, I think, has some equity.

If in the case of the Corps of Engineers they are doing dumping under the coastal zone law, a State—and let us just take, for example, dredging in New York Harbor—that State, the State of New Jersey, having laws more stringent and saying that that dumping is not consistent with the State laws, would have virtual veto power over the corps' action in New York Harbor, and if they do veto it, there is a good chance that the cost of that dredging is going to be increased substantially, and that increased cost would have to be borne by the sponsor of the dredging project.

This amendment only says that if there is that increased cost, the State that files the veto and requires the dumping at some further point or in some more expensive way would bear the burden of that increased cost.

Mr. Chairman, I urge my colleagues in equity and justice to accept the amendment.

Mr. SAXTON. Mr. Chairman, I rise in opposition to the amendment to my amendment.

Mr. Chairman, I would just say in a friendly way that this is an amendment which I believe does damage to the entire Coastal Zone Management Program. It is a mischievous amendment which I believe is intended, perhaps not intended by which has the effect of discouraging the very process that the Coastal Zone Management Act is set up to encourage. In so doing, it would discourage States from taking a part in the process.

Obviously the Federal act, as it is written, is written to encourage planning to take place on the State level. It is written to encourage States to develop coastal zone management plans and to keep the Federal activities that are associated with the State plans consistent with those plans. The gentleman's amendment would require States to pay some undetermined amount of money to someone for objecting or for showing that the intended Federal activity or the permitted Federal activity would not be consistent with the State plan and, therefore, the States would be discouraged from taking part as full partners in the process.

So, Mr. Chairman, for those reasons I oppose the gentleman's amendment.

□ 1440

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

I, too, rise in opposition to the amendment. The gentleman from Minnesota [Mr. STANGELAND] has asserted that the original amendment creates a veto authority. It does not. The current bill gives the President of the United States the authority to over-

ride any plan on the State level where that plan is inconsistent with the United State's paramount interest. It is found on page 41 of the bill. So in fact the President can override a State program where, indeed, the interests of the United States are paramount.

More importantly, this Congress and the President control the budget of this country. Hopefully they have more control than shown in the last several weeks. But we control the spending, and we control whether or not the Corps of Engineers will or will not spend money on dredging projects.

This amendment, however, gives to the dredger the right to impose whatever conditions he wants to the point the State cannot afford it, and therefore puts the State in an unconscionable position of not being able to enforce its own coastal zone management provisions that would in fact be consistent with the corps activities in that area.

Mr. Chairman, I urge Members to consider what the gentleman from New Jersey [Mr. SAXTON] pointed out. This is a mischievous amendment. I am sure that is not the intent of the author. It does great damage to the intent of keeping the Corps of Engineers consistent with the programs that are important in the State, and making sure in fact that no dredging occurs that is not consistent with those State programs.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Louisiana [Mr. TAUZIN] as well as those of the gentleman from New Jersey [Mr. SAXTON]. We had not seen this amendment before. As I read it, it would undermine not only the pending amendment, to which it is appended, but the entire consistency provision of the act. It would put States in an absolutely impossible position.

For example, if a company wanting to dispose of dredge spoils comes forth with an absolutely absurd proposal on the face of it, which everyone knows is inconsistent with any semblance of common sense in the State's plan, knowing full well that is the case, under this amendment, if it were the law, the State would have no choice but to either approve that plan or pay for what they wanted it to do in the first place.

It guts the entire thrust of this section, which in turn has been at the core of this act for almost two decades. I urge its defeat.

Mr. TAUZIN. Mr. Chairman, reclaiming my time, I thank the gentleman for his comments. I again urge that the author of the amendment consider the fact that Congress controls the purse strings here, and the States are not going to write the budget of this Federal Government. We are going to control that. But we ought not at the same time hold hostage a State's plans to a dredger who might want to insist upon conditions which are not consistent with the State's plans.

Mr. Chairman, I urge defeat of this amendment.

Mr. JONES of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose the amendment of the gentleman from Minnesota [Mr. STANGELAND] in the strongest terms. It breaks faith with the coastal States and weakens the Federal consensus requirement. Having said that, I urge opposition to the amendment.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also urge defeat of the amendment to the amendment of the gentleman from New Jersey [Mr. SAXTON]. It is clear that under the CZMA, the whole idea is to have cooperation between the States and the Federal Government. The only way the program will work is if that cooperation continues, which is why we want to make clear the consistency provision of what rights that gives to the coastal States.

Mr. Chairman, I have never heard any mention of the fact that that consistency determination should be exercised by reference to what the cost is going to be for the State or Federal Government. It is supposed to be linked to what the environmental implications are and what the effects are on the coastal zone area. So to suggest it should be linked and that the States should have to pay an increased cost, or 100 percent of the cost because they find that there is an environmental problem and a negative impact on the coastal environment, really goes against the very nature of the act and the whole purpose of the act.

Mr. Chairman, I urge the amendment be defeated.

Mr. HERTEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me commend the gentleman from New Jersey [Mr. SAXTON] for his amendment, because it goes toward flexibility and the kind of assistance we need. But I oppose the Stangeland amendment. Very simply, it weakens the 1972 act we are revising and improving in such broad ways.

Mr. Chairman, we have a letter from the League of Conservation Voters where they point out that consistency is so important in this that any attempt to weaken it would seriously harm the environment.

This does weaken it very greatly. If one is concerned about the ocean coast, if one is concerned about marshland, if one is concerned about our wetlands, if one is concerned about the Great Lakes coastline, if one is concerned about overdevelopment, if one is concerned about our fishery industry, and all of the other things we have talked about trying to protect through this bill, then one will vote against the Stangeland amendment and for the Saxton amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. STANGELAND] to the amendment offered by the gentleman from New Jersey [Mr. SAXTON].

The amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. SAXTON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STANGELAND

Mr. STANGELAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STANGELAND: On page 34, delete lines 11 through 24, and insert the following:

"(B) The program shall be developed and implemented under Section 319 of the Federal Water Pollution Control Act, as the program under that section relates to land and water uses affecting the coastal zone.

"(b) PROGRAM CONTENTS.—The Under Secretary and the Administrator of the Environmental Protection Agency, shall approve a program under this section if it provides for the following:".

Mr. STANGELAND (during the reading). Mr. Chairman I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. STANGELAND. Mr. Chairman, my amendment is a simple one. It requires that the new nonpoint source management plans which would be required pursuant to the Coastal Zone Management Act would be prepared as a component of the section 319 program of the Clean Water Act. As currently written, the bill puts all the authority relating to 306b water quality plans under NOAA's jurisdiction. I would like EPA and the Clean Water Act to play a greater role.

This amendment would avoid duplication and would ensure that the Federal agency with expertise on nonpoint source pollution, the EPA, would be required to approve the new nonpoint source pollution plans. It does not make any sense, in these times of budget problems at the Federal and State level, to be reinventing the wheel, to be setting up new overlapping requirements to address the same problem.

Section 319 of the Clean Water Act set up a requirement for States to de-

velop nonpoint source pollution plans. This requirement is just now beginning to be implemented. Why do we want to disregard what has been done under that program to set up another program in a different Federal agency to do the exact same thing. We will wind up with conflicting Federal requirements, squabbles between Federal and State regulators, and very little progress in addressing the problem.

My amendment corrects this situation by ensuring that the new plans are based on the section 319 program and that they are subject to review and approval by EPA. It does not weaken the substantive requirements one iota. I urge my colleagues to support the amendment.

Mr. HERTEL. Mr. Chairman, I rise in opposition to the amendment.

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, I thank the gentleman for yielding. I rise in opposition to the amendment. I have been hearing about this amendment for quite some time. It was my impression that the subject matter had been resolved and that the language that was written in the chairman's bill was the language that we had all agreed on.

In any event, this is an amendment which provides language which in my view very seriously weakens and changes the process that is intended by the act. By adding the provision that the EPA have additional powers, it means inherently that the States have less power. We have, I believe, been very, very careful to craft a bill, to craft a law, to carry out the intent of Congress which provides for a process through which the Federal Government and the State governments act in cooperation together. That balance, in my view, is very seriously affected by this amendment.

Mr. HERTEL. Mr. Chairman, reclaiming my time, we are trying to streamline government here. We are trying to give responsibility to one agency so we know where the blame and responsibility lies. The bill already requires that the EPA will be consulted. So any objections they want to raise, any problems they want to raise, they will automatically be in the process.

But to say that the EPA is going to have to have approval, using taxpayer money, to go through another hurdle to try to get these programs implemented quickly, is just going to cost more money and cause more problems.

Mr. STANGELAND. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from Minnesota.

Mr. STANGELAND. Mr. Chairman, would one not have to admit, however, the agency with expertise is EPA on nonpoint source pollution and that NOAA does not have that expertise? So you are going to require development of expertise on nonpoint source pollution in NOAA, and EPA will only consult.

□ 1450

Mr. HERTEL. I will take back my time. The fact is that there are so many problems with toxic waste and pollution that the EPA has its hands full. That is why we give this authority to NOAA. The EPA has enough to do without having to approve every one of these programs. We have 29 States involved with these plans, and they oppose this amendment because they do not want to face more government redtape.

The EPA has enough to do. They will be consulted, and they can naturally bring any objections or problems in the process to NOAA, and that is already in the bill.

Mr. STANGELAND. Let me say that the nonpoint source pollution problem has normally been under the jurisdiction of Public Works and the Clean Water Act.

Mr. HERTEL. I will take back my time. Is that what we are talking about, a jurisdictional question here, I ask the gentleman?

Mr. STANGELAND. Not only jurisdictional, but I think instead of streamlining what you are doing is complicating the process, with all due respect, by having NOAA be the lead agency in a matter in which they do not have expertise. I just believe we ought to leave this with the agency that has the expertise here, and I certainly hope that the committee will consider this amendment more favorably.

Mr. HERTEL. The EPA testified at the hearings that they agree with NOAA having the power and the authority and the responsibility in this area.

To say that NOAA is not capable of making the decision in this area goes against all past experiences that we have had. We heard at our hearings that the fact is that the administration has agreed that NOAA should have this responsibility, and more and more I think we should streamline government and give it to one agency. As I say, EPA has plenty to do. They can be involved in the process directly.

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, I would like to respond to the argument of the gentleman from Minnesota by saying that if one were to accept the argument that NOAA is not the proper agency to handle or be involved in this program and that the EPA is, which I do not accept, but if one were to accept that position, then one might want to argue that NOAA ought not to be the agency in charge and that EPA should be in charge, the gentleman's amendment does not do that either. The gentleman's amendment just adds another layer of bureaucracy and complicates the balance of power in a process that has been carefully set up through the legislation.

Therefore, I believe the argument is without merit.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I would only join the gentleman in his objection to this amendment. NOAA in fact does have great competence and expertise in land use management measures and in fact they so testified. The administration is not opposed to NOAA managing this program. To put EPA in charge of it would contradict some of the consistency provisions we have already worked out, that are working well between the State plans and the State agencies and NOAA, and I think it would be a very bad mistake to adopt this amendment and I urge its rejection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. STANGELAND].

The amendment was rejected.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. JENKINS) having assumed the chair, Mr. KILDEE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4450) to improve management of the coastal zone and enhance environmental protection of coastal zone resources, by reauthorizing and amending the Coastal Zone Management Act of 1972, and for other purposes, pursuant to House Resolution 468, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. JONES of North Carolina. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 391, nays 32, not voting 9, as follows:

[Roll No. 386]

YEAS—391

Ackerman	Cox	Hammerschmidt
Alexander	Coyne	Harris
Anderson	Darden	Hastert
Andrews	Davis	Hatcher
Annunzio	de la Garza	Hayes (IL)
Anthony	DeFazio	Hayes (LA)
Applegate	Dellums	Hefley
Aspin	Derrick	Hefner
Atkins	Dickinson	Henry
AuCoin	Dicks	Hertel
Baker	Dingell	Hiler
Ballenger	Dixon	Hoagland
Barnard	Donnelly	Hochbrueckner
Bateman	Dorgan (ND)	Holloway
Bates	Dornan (CA)	Hopkins
Beilenson	Douglas	Horton
Bennett	Downey	Houghton
Bentley	Dreier	Hoyer
Bereuter	Durbin	Hubbard
Berman	Dwyer	Huckaby
Bevill	Dymally	Hughes
Bilbray	Dyson	Hunter
Bilirakis	Early	Hutto
Bliley	Eckart	Hyde
Boehlert	Edwards (CA)	Inhofe
Boggs	Edwards (OK)	Ireland
Bonior	Emerson	Jacobs
Borski	Engel	James
Bosco	English	Jenkins
Boucher	Erdreich	Johnson (CT)
Boxer	Espy	Johnson (SD)
Brennan	Evans	Johnston
Brooks	Fascell	Jones (GA)
Broomfield	Fawell	Jones (NC)
Browder	Fazio	Jontz
Brown (CA)	Feighan	Kanjorski
Brown (CO)	Fish	Kaptur
Bruce	Flake	Kasich
Bryant	Flippo	Kastenmeier
Buechner	Foglietta	Kennedy
Bunning	Ford (MI)	Kennelly
Bustamante	Frank	Kildee
Byron	Frost	Kleczka
Callahan	Gallegly	Kolter
Campbell (CA)	Gallo	Kostmayer
Campbell (CO)	Gaydos	LaFalce
Cardin	Gejdenson	Lagomarsino
Carper	Gephardt	Lancaster
Carr	Geren	Lantos
Chandler	Gibbons	Laughlin
Chapman	Gillmor	Leach (IA)
Clarke	Gilman	Leath (TX)
Clay	Gingrich	Lehman (CA)
Clement	Glickman	Lehman (FL)
Clinger	Gonzalez	Lent
Coble	Goodling	Levin (MI)
Coleman (MO)	Gordon	Levine (CA)
Coleman (TX)	Goss	Lewis (CA)
Collins	Gradison	Lewis (FL)
Combest	Grant	Lewis (GA)
Condit	Gray	Lipinski
Conte	Green	Livingston
Conyers	Guarini	Lloyd
Cooper	Gunderson	Long
Costello	Hall (OH)	Lowery (CA)
Coughlin	Hall (TX)	Lowey (NY)
Courter	Hamilton	Luken, Thomas
Lukens, Donald	Payne (NJ)	Smith (TX)
Machtley	Payne (VA)	Smith (VT)
Madigan	Pease	Smith, Denny (OR)
Manton	Pelosi	
Markey	Penny	Smith, Robert (NH)
Martin (NY)	Perkins	
Martinez	Petri	Smith, Robert (OR)
Matsui	Pickle	
Mavroules	Porter	Snowe
Mazzoli	Poshard	Solarz
McCandless	Price	Spence
McCloskey	Pursell	Spratt
McCollum	Quillen	Staggers
McCrery	Rahall	Stallings
McCurdy	Rangel	Stangeland
McDade	Ravenel	Stark
McDermott	Regula	Stearns
McEwen	Richardson	Stenholm
McGrath	Ridge	Stokes
McHugh	Rinaldo	Studds
McMillan (NC)	Ritter	Synar
McMillen (MD)	Robinson	Tallon
McNulty	Roe	Tanner
Meyers	Rogers	Tauke
Mfume	Rohrabacher	Tauzin
Michel	Ros-Lehtinen	Taylor
Miller (CA)	Rose	Thomas (CA)
Miller (OH)	Rostenkowski	Thomas (GA)
Miller (WA)	Roth	Torres
Mineta	Roukema	Torricelli
Moakley	Rowland (GA)	Towns
Molinari	Roybal	Traficant
Mollohan	Russo	Traxler
Montgomery	Sabo	Udall
Moody	Saiki	Unsoeld
Moorhead	Sangmeister	Upton
Morella	Sarpalius	Valentine
Morrison (CT)	Savage	Vander Jagt
Morrison (WA)	Sawyer	Vento
Mrazek	Saxton	Visclosky
Murphy	Schaefer	Volkmer
Murtha	Scheuer	Walgren
Myers	Schiff	Walsh
Nagle	Schneider	Washington
Natcher	Schroeder	Watkins
Neal (MA)	Schuette	Waxman
Neal (NC)	Schulze	Weber
Nelson	Schumer	Weiss
Nowak	Sensenbrenner	Weldon
Oakar	Serrano	Wheat
Oberstar	Sharp	Whittaker
Obey	Shaw	Whitten
Olin	Shays	Williams
Ortiz	Shuster	Wilson
Owens (NY)	Sikorski	Wise
Owens (UT)	Sisisky	Wolf
Oxley	Skaggs	Wolpe
Packard	Skeen	Wyden
Pallone	Skelton	Wylie
Panetta	Slattery	Yates
Parker	Slaughter (NY)	Yatron
Parris	Slaughter (VA)	Young (AK)
Pashayan	Smith (FL)	Young (FL)
Patterson	Smith (IA)	
Paxon	Smith (NJ)	

NAYS—32

Archer	Gekas	Rhodes
Armey	Grandy	Roberts
Bartlett	Hancock	Shumway
Barton	Hansen	Smith (NE)
Burton	Herger	Solomon
Craig	Kolbe	Stump
Crane	Kyl	Sundquist
DeLay	Lightfoot	Thomas (WY)
Duncan	Marlenee	Vucanovich
Fields	Nielson	Walker
Frenzel	Pickett	

NOT VOTING—9

Crockett	Ford (TN)	Ray
Dannemeyer	Hawkins	Rowland (CT)
DeWine	Martin (IL)	Swift

□ 1515

Messrs. KYL, ROBERTS, and RHODES changed their vote from "yea" to "nay."

Mrs. JOHNSON of Connecticut and Mr. SMITH of Florida changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4450, the bill just passed.

The SPEAKER pro tempore (Mr. JENKINS). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

WATER RESOURCES DEVELOPMENT ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 469 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5314.

The Chair designates the gentlewoman from Colorado [Mrs. SCHROEDER] as Chairman of the Committee of the Whole, and requests the gentlewoman from South Carolina [Mrs. PATTERSON] to assume the chair temporarily.

□ 1516

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 5314) to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes, with Mrs. PATTERSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. ANDERSON] will be recognized for 30 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I am pleased to bring to the floor H.R. 5314, the Water Resources Development Act of 1990. The bill is the biennial authorization of the Water Resources Development Program of the Department of the Army. It continues the commitment of the Committee on Public

Works and Transportation to a regular authorization scheduled for the Corps of Engineers civil works programs.

Much effort and many long hours have gone into the development of this legislation. I wish to thank the efforts of my committee colleagues and many other Members of the House who have assisted the committee in the development of this bill. In particular, I thank the efforts of the chairman of the Subcommittee on Water Resources, HENRY NOWAK, the ranking Republican member of the committee, JOHN PAUL HAMMERSCHMIDT, and the ranking Republican member of the Subcommittee on Water Resources, ARLAN STANGELAND. Without the efforts of these leaders and other Members, a vital, healthy water resources development program for this country would not be possible.

This bill would authorize the construction of water resources development projects by the U.S. Army Corps of Engineers for flood control, navigation, beach erosion control, and related purposes. The bill also contains deauthorizations of previously authorized projects, authorizations for studies for water resources problems, modifications to previously authorized projects, and provisions related generally to the Water Resources Development Program of the Corps of Engineers. The project authorizations adhere to the cost sharing reforms contained in the Water Resources Development Act of 1986.

H.R. 5314 is more than just a water projects bill. It is a commitment to improving the quality of life for present and future generations. The Committee on Public Works and Transportation is deeply concerned both about the deteriorating state of our Nation's infrastructure and about the need to preserve and enhance our environmental resources.

The value of our water-based infrastructure is tremendous. The U.S. Army Corps of Engineers maintains 25,000 miles of navigable waterway, provides hydropower generating capacity of 20,464 megawatts, and prevents $12 billion in flood damages per year. Yet in many areas of the country the water resources infrastructure is inadequate. For example, the authorization in the bill to replace the existing McAlpine locks and dam on the Ohio River is to replace an existing structure well over 50 years old.

In addition to other lock and dam replacements, the bill authorizes three harbor deepening projects for improvements to navigation. The value of these types of improvements to our economy is tremendous. For example, in 1986, over 300 billion dollars' worth of goods destined for export or import traveled by vessel.

H.R. 5314 does not stop at merely advancing our water resources infrastructure. It also includes several provisions to improve the quality of our environment.

For example, the bill provides that the Secretary is to include environmental protection as one of the primary missions of the Corps of Engineers in planning, designing, constructing, operating, and maintaining water resources projects. The Secretary must make a biennial report on specific measures taken to carry out this new responsibility, obstacles encountered or anticipated in carrying out this responsibility, and recommendations for administrative and legislative measures to further this environmental mission.

The bill also authorizes the Secretary of the Army to perform dredging both inside and outside of navigation channels when necessary for environmental compliance, and requires the Secretary of the Army to identify specific opportunities for enhancing wetlands in connection with the construction and operation of water resources projects along with the President's budget submission for fiscal year 1992.

Madam Chairman, H.R. 5314 is an ambitious bill both in authorizing traditional water resources projects to be carried out by the Army Corps of Engineers, and in continuing the expansion of the role of the Army Corps of Engineers into the protection, preservation, and enhancement of our Nation's environmental resources.

I urge my colleagues to join me in supporting this legislation and ask for their strong support.

Madam Chairman, I reserve the balance of my time.

□ 1520

Mr. HAMMERSCHMIDT. Madam Chairman, I yield myself 4 minutes.

Madam Chairman, I rise in support of H.R. 5314, the Water Resources Development Act of 1990, although I do so with considerable reservation. I support the bill because I am committed to a 2-year reauthorization of the corps program. I have reservations, however, because I am concerned that the bill before us cannot lead to that 2-year reauthorization without substantial modification.

Then, from 1976 to 1986 no corps authorization bills were enacted into law. This deadlock on project authorizations resulted from disputes between the Congress and the executive branch over the appropriate sharing of costs between the Federal Government and project sponsors.

The biennial authorization process for the corps was reestablished with enactment of the 1986 and 1988 water resources development bills. The Water Resources Development Act of 1986—(Public Law 99-662)—was one of the largest and most comprehensive authorization bills in the corps' history.

I believe we were successful last year in enacting authorizing legislation by adhering to a policy of including projects that conform with cost-sharing principles and other policies established in the Water Resources Development Act of 1986.

Madam Chairman, I want to thank all of the Members who helped to develop this bill. In particular, I want to express my appreciation to Chairman ANDERSON, Mr. NOWAK and Mr. STANGELAND of the Committee on Public Works and Transportation for their hard work and dedication to this important piece of legislation.

Madam Chairman, this is far from a perfect bill. In many respects it is worse than the bill we brought to the floor 2 years ago to which the executive branch objected. Major changes and modifications will need to be made if we are going to get a bill that can be signed by the President. Two years ago, we were willing to scale back the scope and size of our bill. If we are going to succeed this time, we will have to do the same thing again.

We can begin today with at least a commitment to keep the overall size of the corps construction program within reasonable limits. Therefore, when the bill is open for amendment, I intend to offer an amendment to extend the existing obligations ceiling for the corps' program for 2 years.

I pledge to work in a cooperative way with the leadership of our committee and with the Senate to develop a conference agreement that reflects the wishes of the House as much as possible while ensuring that we stay on a 2-year authorization cycle. With that understanding, I urge support of the bill.

Mr. ANDERSON. Madam Chairman, I yield such time as he may consume to the gentleman from New York [Mr. NOWAK], the chairman of the Subcommittee on Water Resources of the Committee on Public Works and Transportation.

Mr. NOWAK. Madam Chairman, I thank the committee chairman for yielding this time to me.

Madam Chairman, I am pleased to rise in support of H.R. 5314, the Water Resources Development Act of 1990, and urge my colleagues to give their overwhelming support. In addition, I would urge my colleagues to support the en bloc amendment to be offered by the committee chairman.

The Water Resources Development Act of 1990 demonstrates the continuing commitment of the Committee on Public Works and Transportation to a regular biennial authorization schedule for the Water Resources Development Program of the Department of the Army. The bill was drafted after the Subcommittee on Water Resources conducted 4 full days of hearings, receiving testimony from the De-

partment of the Army, numerous Members of Congress, and public witnesses. H.R. 5314 represents a balance between the water resources needs of our Nation and need to make the program of the Corps of Engineers more responsible for and responsible to environmental concerns.

While H.R. 5314 includes many authorizations related to the traditional civil works program of the Corps of Engineers, such as flood control, navigation, shoreline protection, and other related projects, I am particularly proud of the bill's provisions related to environmental enhancement.

For the first time, the bill provides that the Secretary of the Army is to include environmental protection as one of the primary missions of the Corps of Engineers in planning, designing, constructing, operating, and maintaining water resources projects. In addition, preservation and enhancement of the environment are specified as factors to be addressed in planning of water resources projects to assure that the Corps of Engineers program enhances the quality of the total environment.

I am particularly pleased with the authority given to the Secretary in the area of environmental dredging. The bill authorizes the Secretary of the Army, in consultation with the Administrator of the Environmental Protection Agency, to remove as part of operation and maintenance of a navigation project, contaminated sediments outside the boundaries of and adjacent to the navigation channel whenever necessary to meet the requirements of the Federal Water Pollution Control Act. This sediment removal will be cost shared the same as other maintenance dredging. In other instances, where water is not meeting applicable water quality standards, the Secretary is authorized to remove contaminated sediments outside the boundaries of and adjacent to the navigation channel if the removal is necessary to enable the area to meet such standards or for the purpose of environmental enhancement and water quality improvement. In such instances a non-Federal sponsor must agree to pay 50 percent of the cost of such removal. As in any other dredging, a dredged material disposal site must be furnished by a non-Federal interest.

This environmental dredging authority is necessary to respond to the great need to clean up polluted sediments throughout our rivers, harbors, and bays. This pollution problem is particularly acute in the Great Lakes area where years of industrial and domestic waste discharges have resulted in a buildup of pollution in the sediments. I encourage the Corps of Engineers to use this new authority and to work with State and local governments in developing an effective plan for sediment cleanup. In addition, the Secretary is authorized to provide technical, planning, and engineering assistance to States and local governments in the development and implementation of remedial action plans for areas of concern in the Great Lakes which have been identified under the Great Lakes Water Quality Agreement. The Corps of Engineers special expertise in dredging should prove invaluable to these sediment cleanup efforts.

The bill also modifies section 1135 of the Water Resources Development Act of 1986, which authorized project modifications to existing corps projects for improvement of the environment by changing the program from a 5-year demonstration program to a permanent program. Enthusiasm for this program by non-Federal interests is the reason for this change. Often, even minor modifications to the operation of a Corps of Engineers project can have tremendous environmental benefits. Funds expended by the Federal Government to make such modifications are a sound investment and should be encouraged.

Sections 13 and 14 of the bill are designed to improve protection of our fragile flood plains and shorelines. Section 13 prohibits the Secretary from including in the benefit base for justifying a Federal flood damage reduction project any new or substantially reconstructed structure built in the 100-year flood plain after July 1, 1991. Section 14 requires the Secretary to prepare a report on the advisability of not participating in the planning, implementation, or maintenance of beach stabilization or renourishment projects unless the State has established or has committed to establish a beach front management program. The Congress can then determine whether Federal investment into environmentally sensitive areas should be reduced or curtailed.

Finally, I would like to speak about one of the provisions that will be offered in the committee en bloc amendment. That section will establish, as part of the Corps of Engineers Water Resources Development Program, an interim goal of no overall net loss of the Nation's remaining wetlands base, and a long-term goal to increase the quality and quantity of the Nation's wetlands. The Secretary of the Army is required to develop a wetlands action plan to achieve these goals and the plan would be developed in consultation with the Environmental Protection Agency, the Fish and Wildlife Service, and other appropriate Federal agencies. I believe very strongly that the Nation must preserve and enhance its invaluable wetlands resources. The Subcommittee on Water Resources conducted numerous hearings in the 101st Congress concerning wetlands issues, and the committee believes that the Corps of Engineers can play a major role in preserving, protecting, and enhancing our wetlands resources. We must act now if we are to stop the dramatic wetlands losses that our Nation is incurring. In the 1 hour alone which has been allotted to general debate on this bill, our Nation has lost 35 acres of wetlands. This must not be allowed to continue.

Madam Chairman, H.R. 5314 is a sound balance between the traditional water resources needs and the environmental needs of our Nation. I urge my colleagues to give it their overwhelming support so that legislation may be enacted in the 101st Congress.0

Mr. HAMMERSCHMIDT. Madam Chairman, I ask unanimous consent that the gentleman from Minnesota [Mr. STANGELAND], the ranking member of the Subcommittee on Water Resources be allowed to control the balance of the general debate time on our side.

The CHAIRMAN pro tempore (Mrs. PATTERSON). Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. STANGELAND. Madam Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Madam Chairman, I rise in support of H.R. 5314, the Water Resources Development Act. This piece of legislation is the product of many hours of work by the Public Works and Transportation Committee and I commend the committee and Chairman ANDERSON for their efforts, efforts which have resulted in a fair and valuable bill.

Included in this bill are two essential flood control projects that would protect areas of my district from devastating flood damage.

In Clifton, AZ, recurrent floods from the San Francisco River, the worst of which occurred in 1983, have decimated the town time and again. This project would provide protection to homes and businesses with a levee. It would also provide household evacuation and relocation from floodplain areas not protected by the levee and would floodproof buildings.

In addition, the Clifton flood control project would aid in economic development, development of public infrastructure and recreation opportunities, decrease transportation delays, and increase employment.

The local and State governments are eager to receive this critical assistance and they stand ready to provide all local cooperation requirements.

The second essential water project concerns the Nogales Wash and its tributaries. The recurrent flooding of the Nogales Wash has caused extensive flooding in the city of Nogales, AZ, and the neighboring communities of Santa Cruz County. This area has been included in three Presidential disaster areas due to flooding.

The plan would consist of collector channels that would gather overflow and breakout flood waters. A lateral channel would reduce flooding in Nogales and provide flood protection in the area for 33 years. In addition, a

flood warning system would be established, which would provide 6 hours advance notice of floods and would protect the entire Nogales community.

Some of the benefits are increased water use and control, the development of recreational opportunities, protections for the loss of riparian habitat and long-term positive effects on business and industrial activity.

The State of Arizona is in full support and the local flood control district is ready and able to do their part to cost share for construction.

Again, I want to thank the chairman, and members for their support for these crucial flood control projects in Arizona. Members who have seen first hand the destruction that floods can cause, know how important these projects are. I urge my colleagues to support H.R. 5314.

Mr. STANGELAND. Madam Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Madam Chairman, I rise in support of H.R. 5314. I rise today on behalf of small communities all across America. These communities are making good faith efforts to comply with Federal mandates to remove excess levels of radium from their groundwater. Unfortunately, many of these communities lack the ability to pay improvements, improvements that can cost as much as $150,000 to $15 million, but nonetheless, are necessary to provide safe drinking water.

Radium is a naturally occurring carcinogen for which the EPA has determined maximum contamination levels. If it is the obligation of the Federal Government to assure that every American has water to drink—and I believe it is—it must also make sure small communities have the tools necessary to clean up their water.

The bill before us today will assist small communities in radium abatement at very little cost to the Federal Government. The $20 million this bill authorizes over 3 years would not be outright grants. Instead, recipients would be able to use the money to provide insurance and prepay interest for local obligations. By reducing the overall financial burden on communities, each Federal dollar used maximizes what a local government can afford to pay. In a period of scarce budget dollars, this is a judicious allocation of our resources.

It is not often that Federal Government dollars can be stretched to effectively provide for a legitimate public need. I urge my colleagues to support this provision that helps small communities help themselves to obtain safe drinking water.

Mr. STANGELAND. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in support of H.R. 5314, the Water Resources Development Act of 1990. This omnibus water resources bill provides needed projects for flood control, navigation, environmental protection, and other purposes. It will also help keep us on track with a regular, 2-year authorization process for the Corps of Engineers Civil Works Program.

The Public Works and Transportation Committee reported H.R. 5314 on September 14, 1990. We could not have done this without the leadership and bipartisan cooperation of Chairman GLENN ANDERSON, ranking minority member JOHN PAUL HAMMERSCHMIDT, and subcommittee chairman HENRY NOWAK. The resulting legislation is very important to the Corps of Engineers' Water Resources Program. Therefore, it is important to get the bill to conference as soon as possible in the remaining days of the 101st Congress.

H.R. 5314 authorizes corps' projects for flood control, navigation, beach erosion, environmental protection, recreation, and related purposes. It also reaffirms reforms enacted in 1986 and 1988 involving cost sharing, price increases, and project study and authorization procedures.

The most important point is that it signals an effort to maintain a 2-year cycle for project authorizations. Up until the last decade or so, Congress enacted corps' bills on a regular cycle. A return to and continuation of this process benefits everyone.

Madam Chairman, allow me to highlight some of the bill's provisions. H.R. 5314 contains important provisions to address commercial, recreational, and environmental concerns in the Great Lakes and Upper Mississippi regions. I am pleased to have supported provisions, now in the bill, authorizing improvements to Great Lakes connecting channels and harbors and ensuring the removal and containment of contaminated material. In addition, it extends the Environmental Management Program for fish and wildlife enhancement in the Upper Mississippi River region. A floor amendment will also authorize a comprehensive water quality study for the Mississippi River. I commend Congressman STEVE GUNDERSON and others for their continued input and support for the Environmental Management Program and for Upper Mississippi River water quality. Our bill should help keep the ball rolling.

Various provisions address specific issues throughout Minnesota and the Red River of the north basin. Section 25 directs the Secretary to complete the Sauk Lake cleanup project authorized by Section 602 of the Water Resources Development Act of 1986. This includes not only acquisition of weed harvesting equipment using previously appropriated funds but also other measures to remove and prevent the accumulation of silt, aquatic growth, and other pollution problems. A provision in the committee en block amendment provides further clarification so that the corps and others continue to proceed with development of a comprehensive approach to pollution prevention throughout the watershed.

Section 48 directs the Secretary to carry out an important navigation dredging project at Warroad Harbor and to repair existing retaining walls in the project's vicinity. The Secretary is also encouraged to give funding priority to the project. A related provision, section 61, addresses concerns about shoreline erosion at Lake of the Woods, MN. Section 60(i) directs the corps to study Minnesota and North Dakota's water supply needs throughout the Red River Basin and to coordinate with the Bureau of Reclamation and its efforts under the Garrison diversion project.

Sections 12, 13, 14 and 15 are all based on provisions in my bill, H.R. 5370, the Corps of Engineers Environmental Protection Act of 1990. The corps has the expertise and opportunity to become the Federal Government's premier environmental engineers. This legislation will help to realize that goal by elevating environmental protection as one of the Agency's missions. Sections 13, 14 and 15 may be further revised to address concerns raised by a few members and committees.

Madam Chairman, I think it's important for every Member to know that the administration has severe, and I think justified, reservations about various aspects of this legislation. Therefore, we will need to make a number of adjustments to the bill in conference. Our goal in these final weeks of the 101st Congress is to produce legislation the President can sign and that keeps Congress and the administration committed to the traditional 2-year authorization process. This can happen only if we make some difficult decisions in conference in order to make H.R. 5314 more modest in its size and scope.

Thus, it bears repeating that the more amendments we adopt, the more difficult it will be to return to the 2-year cycle. Quite frankly, we may lose this bill if it grows larger in size or scope.

Nonetheless, Madam Chairman, in its current form, H.R. 5314 can get us into conference with the other body and back on track with the regular authorization process.

I urge each Member to support the bill. If given the chance, we can work to improve the legislation in conference. And in negotiating with the other body, I will certainly pledge to do my best to produce a bill that Members can be proud of, that the President can sign, and that will ensure the continued success of the Nation's very important water resources program.

Madam Chairman, I reserve the balance of my time.

Mr. ANDERSON. Madam Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Madam Chairman, I rise today in strong support of this very important legislation and I would like to take this opportunity to commend the members of the Public Works and Transportation Committee for their tireless efforts in fashioning this most comprehensive water resources legislation. In particular, I would like to note the strong leadership of our chairman GLENN ANDERSON and the ranking member of the full committee, JOHN PAUL HAMMERSCHMIDT. I would also like to recognize the chairman of the Subcommittee on Water Resources, HENRY NOWAK, and the ranking member of the subcommittee, ARLAN STANGELAND.

We are bringing to the floor today a comprehensive bill, H.R. 5314, which will improve not only our Nation's infrastructure and economic competitiveness, but will also protect thousands of lives from devastating floods, improve the quality of our water, and takes a major step toward directing our efforts to maintain, enhance and reclaim America's wetland habitats.

Great strides have been made during my 21 years here in Congress to balance necessary development and construction with sensitive and vital environmental concerns. Section 12 of the bill adds environmental protection as a primary mission of the Army Corps of Engineers and section 13 establishes as a part of the corps' water resources development program an interim goal of nonoverall net loss of the Nation's remaining wetlands and a long-term goal of increasing their quality and quantity. In addition, the bill makes permanent a demonstration program which will allow the corps to make minor adjustments as well as substantial alterations to existing corps projects for the purpose of environmental enhancement.

Madam Chairman, these advances in the Army Corps' programs and policy will have a profound impact on the future of the natural habitats of our Nation, not only protecting them from damage, but actually revitalizing and expanding them. These sections reflect a real commitment and concern for the environment and will augment our continuing efforts to insure man's work is in concert with rather than contrary to nature's needs.

While offering substantial environmental benefits this bill maintains its traditional mission of improving the Nation's infrastructure and protecting its citizens from disastrous natural occurrences such as flooding. A project in my own district, the Pompton Passaic River flood diversion tunnel, is a clear example of this in that it establishes the first of its kind regional wetlands landbank preserving thousands of acres of wetlands while ending what the Army Corps of Engineers has listed as the worst urban flooding problem in the Nation today.

Madam Chairman, I have lived through the devastation wrought by the untamed flood waters of the Pompton and Passaic Rivers since I was a child. Many have lost their lives and literally billions of dollars of damages to homes, businesses, and infrastructure have been inflicted up and down this heavily populated river valley since it was settled. This bill ends the flooding with an innovative solution which is the fruition of decades of debate and study. A tunnel will redirect the overflow of the river and deposit it miles downstream into Newark Bay thus sparing over $90 million in average annual damages.

Not only does this project address the severe flooding situation, it also provides for the creation of a wetlands landbank which will draw wetlands resources from across the region under a common management and provides incentive to expand and improve their quantity and quality. This is an excellent example of a very necessary project being adapted to provide the maximum benefits not only to the people being continually threatened by murderous floods but preserving and improving the surrounding natural habitats.

The benefits provided by the projects in this legislation also impact directly on a very serious problem now confronting our Nation. As is clearly illustrated by House Concurrent Resolution 362, which will be taken up on the floor of the House in the near future, the Nation is facing a crisis of tremendous proportions. This resolution calls on the President to formulate a national strategy for maintenance and improvement of America's infrastructure. The bill we are considering today, H.R. 5314, directly meets that challenge and is the sort of nuts and bolts legislation that must be passed to address the growing problem of America's lagging commitment to investing in itself rather than exporting its accomplishments abroad.

Capital investment in public works by the United States has been slashed from 2.3 percent of the gross national product in 1960 to less than 1.1 percent in 1985. The competitiveness of the Nation depends on the existence and maintenance of a safe and intricate system of transportation, municipal infrastructures and high quality water resources. H.R. 5314 moves toward reestablishing this as a true priority for the country. It creates new infrastructure where it is needed; it repairs it where necessary and it protects infrastructure from damage in areas where nature would destroy it.

Madam Chairman, this legislation is of vital necessity and I urge my colleagues to support the Public Works Committee in its passage. It is environmentally wise and economically indispensable to the needs of the Nation.

□ 1540

Mr. STANGELAND. Madam Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. Madam Chairman, as a member of the Committee on Appropriations which funds the Corps of Engineers, I want to thank the authorizing committee for looking at, not only the Great Lakes and improving the quality of our Great Lakes, but also for allowing the Army Corps of Engineers to take some new, advanced and visionary advocacy in helping local communities clean up the rivers and streams. The Corps traditionally has been, quote, concrete, brick and mortar, end quote. I think this bill goes a long way to allowing our Corps of Engineers to assist local community leaders in cleaning up the rivers and streams of this Nation as an active participant with various groups.

Madam Chairman, the gentleman from Michigan [Mr. DINGELL], the gentleman from Michigan [Mr. FORD], and I have in our districts, the Rouge River which has been quite dirty for many, many years. We now have the corps participating with many local community leaders working actively, and they need authorization and guidance from our policy committee here. As a member of the Committee on Appropriations, I felt it was my responsibility to come to the committee today and say, "We on the Appropriations Committee will assist in working and cleaning up our Great Lakes in addition to our rivers, streams and harbors."

Madam Chairman, we also have an association of community leaders and one township association who are looking at new development in terms of expansion of our sewer capacity. This committee has been supportive of our language, and I want to congratulate them for outstanding leadership on both sides of the aisle. It is time that the corps and our community leaders work together in a full partnership to help clean up our lakes and streams and make this Nation a great place to live by improving the quality of water and the quality of life.

Madam CHAIRMAN. I rise in support of the Rouge River environmental enhancement streamflow demonstration project. The seriously polluted Rouge River affects 48 communities in the State of Michigan and exposes 1.5 million Michigan residents—or 1 in every 5 residents—to daily doses of unsanitary water conditions. The Rouge River needlessly threatens the health, welfare, and safety of all who live near it, and further threatens the environmental integrity of Lake Erie into which the River ultimately flows.

The International Joint Commission, the major guardian of Great Lakes environmental quality under the Great Lakes Water Quality Agreement, has designated the Rouge River as an "Area of Concern" because of the seriousness of its pollution problems. Further-

more, the U.S. General Accounting Office [GAO] has found that the "current situation at the Rouge River is so severe that the water quality in each of its 11 subbasins does not meet Michigan's standards for water use in at least 3 of the designated use categories.

The Western Townships Utility Authority [WTUA] in southeast Michigan has conceived an innovative and ecologically sound streamflow project to clean and restore the Rouge River and adjacent Belleville Lake. This environmental enhancement streamflow demonstration project has strong support from both local and state government authorities and has been approved by the Michigan State Department of Natural Resources. Although the Army Corps of Engineers has never before undertaken an environmental engineering project of this scale in any U.S. river basin, corps engineers have reviewed the project at the district level, and have found it to be consistent with their own objectives for Rouge River basin water projects. The Water Resources Development Act of 1990 establishes, within the corps, an environmental protection mission which is at the very core of this project. The Rouge River streamflow enhancement project is a perfect model upon which the corps can fulfill its mission of becoming the nation's premier environmental engineers.

Wastewater now flowing into Belleville Lake can be diverted to the slow-flowing, seriously polluted Rouge river—resulting in a dramatic improvement to the environment and ecology of both waterways. Wastewater will be redirected to an underutilized and award-winning treatment plant in nearby Ypsilanti. After treatment, the effluent, or treated water, will be routed to the Rouge River. The introduction of 40 million gallons per day of treated water into the Rouge will leave the river cleansed of pollution, redefine the river's channel—previously lost due to inadequate, continuous flow—and restore the river to its designated uses.

The environmental benefits of this demonstration project include the immediate clean up of one of this country's most polluted rivers and improved natural hydraulics of surrounding river systems. The health and safety of millions of Michigan and surrounding community residents will no longer be at stake. The redirection of effluent into the Rouge will also reduce combined sewer overflow, or CSO's, in the broad geographic area. Improving the water quality and flow conditions of the Rouge will greatly enhance human, wildlife, and plant development in the river basin area. Cleaner rivers and lakes will result in expanded uses of limited freshwater supplies for fisheries, boating, swimming and general recreation use. Moreover, this project will have a positive effect on two major waterways that ultimately flow into the lower Great Lakes, benefiting the Great Lake States of Michigan, Ohio, Pennsylvania, New York, and the Province of Ontario, Canada.

Economically speaking, the increase in tourism and greater overall levels of recreational activity in the area will lead to increased land values, thereby generating additional tax dollars for numerous local communities. This is particularly important for our local communities who rely increasingly upon their tax dollars to fund necessary capital improvements and longer term infrastructure development. Increased usage of an existing high-quality wastewater treatment plant will allow a reduction of the per unit treatment cost for all Ypsilanti Communities Utility Authority customers. Operating and maintenance costs alone will be reduced by 25 to 30 percent. New temporary jobs will be created during the planning, engineering, construction, operation and maintenance phases of the project—with additional permanent jobs to follow as a result of ongoing plant operations. Demonstrable cost reductions will be replicated by other communities that are or will be engaged in similar environmental cleanup activities.

The Federal support for this project represents a small, but significant share of the total costs of this demonstration project. Local Michigan communities are committed to providing 78 percent of the initial study and demonstration project costs. On average, the Federal share for water projects of this nature would be as high as 50 percent of the total project cost.

In conclusion, this demonstration project, and the many that could follow, will represent an important opportunity to address some of the ecological concerns we now face and the concerns that future generations will also share. The Rouge River streamflow study and demonstration project sets forth a cost effective, environmentally enhancing alternative for the use of taxpayers dollars to address national clean water and environmental concerns.

Mr. ANDERSON. Madam Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Madam Chairman, I rise in support of this legislation and thank the gentleman from California [Mr. ANDERSON] for yielding.

Madam Chairman, almost 200 years ago a canal was dug through the State of Delaware connecting the Delaware Bay and the Chesapeake Bay, literally cutting my State in half.

That canal was built by a private canal company. Early in this century, in 1919, the U.S. Corps of Engineers took over the ownership and the operation of that canal. Today that same canal provides a shortcut for ships moving from the Delaware Bay to the Chesapeake Bay and on to Baltimore.

This canal provides no economic benefit for the State of Delaware. The canal is an enormous headache, a pain, for the people of the State of Delaware. We have to figure out how to get over the canal, how to move our goods and services over the canal, how to move people, cars, trucks, and vehicles over and across that canal. Not only does it affect us in Delaware, but people in Pennsylvania, New Jersey, Maryland, and Virginia are similarly inconvenienced.

In 1919, when the Corps of Engineers took over the ownership of that canal, a promise was made. Put simply, the promise was that the U.S. Government, through the Corps of Engineers, would continue to meet the obligations entered into almost 200 years ago by that private canal company; namely, that the movement of people, and goods, and vehicles across the canal would be on bridges constructed and maintained by the U.S. Army Corps of Engineers.

Today, U.S. Route 13 is the major north-south highway that goes through our State connecting the Delaware Valley to the Delmarva Peninsula. Today, U.S. Route 13 is becoming a parking lot. The one existing bridge that carries traffic across U.S. Route 13 is obsolete. It cannot be expanded, and, meanwhile, the State of Delaware has begun a $400 million construction project to build a new relief route alongside U.S. Route 13. Our major stumbling block is how to move the cars and trucks across the canal alongside U.S. Route 13.

Madam Chairman, the bill before us today provides the answer to our dilemma, and the answer is that the United States will continue to meet the obligations that it entered into 70 years ago. I thank the gentleman from New York [Mr. NOWAK] in particular, and the members of the subcommittee and committee in general for taking seriously the promise that was made those many years ago.

Mr. STANGELAND. Madam Chairman, I yield 2½ minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Madam Chairman, I would like to take this opportunity to express support for H.R. 5314, the Water Resources Development Act. This bill will lay to rest a project that has long been the subject of dispute and discussion—the Cross-Florida Barge Canal.

The question which has gone unanswered for the last 20 years is how to ensure that the lands once set aside for the Cross-Florida Barge Canal are preserved and protected in an environmental sound manner.

The answer is contained in this legislation today. Senator BOB GRAHAM, Congressman CHARLIE BENNETT, and I have come up with a bipartisan, bicameral solution which gives permanent assurance that 77,000 acres of Florida's untouched beauty are preserved for the benefit and enjoyment of present and future generations.

President Nixon halted construction of the canal almost two decades ago because of the risk it posed to Florida's fragile environment. However, the permanent environmental protection of these beautiful lands has hung in limbo ever since.

Now we have the opportunity to seal the fate of the canal lands—to take them out of limbo and put them on firm, environmentally sound footing.

The entire Florida delegation supports the Cross-Florida Barge Canal language contained in this bill. We all share the unwavering goal of safeguarding Florida's fragile ecology and

preserving the aquifer which provides water for the majority of the State.

This bill will create a combination of State park and conservation or recreation areas from the canal lands. These lands currently are held by the State and the Federal Government. The canal will be deauthorized immediately, and the lands transferred to State control. This land will be preserved and maintained by the State of Florida.

Similar language has already been approved by the Senate and the Florida Legislature has passed a law agreeing to the terms in this bill.

The Cross-Florida Barge Canal language before us today is the result of many different groups coming together with the common goal of protecting Florida's environment. I'm pleased that this bill has received the strong endorsement of Marjorie Carr, of the Florida defenders of the environment, who has spearheaded the effort to deauthorize the canal. Other environmental groups have also indicated their support.

In addition I'm pleased to announce that we have the strong support of Governor Martinez, the cabinet, and State and county legislatures.

The broad coalition of supporters that we have brought together makes me optimistic that we can put this issue to rest once and for all.

I urge my colleagues to support H.R. 5314, the Water Resources Development Act and preserve 77,000 acres of Florida's pristine environment.

Mr. ANDERSON. Madam Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Madam Chairman, I also rise in support of the Water Resource Development Act.

I should mention that the bill, obviously, has a number of needed projects for shore protection as well as flood control, but I would like to zero in on the fact that the bill does a lot to protect the environment. Specifically, there is a provision in the legislation that would expand a floatables removal project in the New York Harbor area. This is a project that has been ongoing for a number of years and has made it possible for us to eliminate a lot of the floatable debris that has washed up on New Jersey's beaches.

□ 1550

The bill provides for the expansion of this project year around, whereas in the past it was previously only in the summer months. There is also a provision for no net loss of wetlands in the wetland restoration part of the bill. So the bill does go far toward enhancing the environment.

I want to mention two other initiatives that were in the bill when it was reported out of committee and that are now separated out, in one case as an en bloc amendment and in another case as an amendment that I will offer.

The one that is in the en bloc amendment deals with the dumping of toxic dredging of materials off the Jersey shore. The second one would impose a deadline for halting offshore wood burning. I will get to the wood burning amendment later, but right now, Madam Chairman, I want to talk about the dredge spoil provision which is intended to phase out the dumping of contaminated dredged spoils at the so-called mud dump site, an area 6 miles off the coast of Sandy Hook in New Jersey, while preventing the opening of additional offshore dumping grounds for toxic dredge materials.

The mud dump site has been designated by the EPA for use by the Corps of Engineers to dispose of contaminated spoils. The 1986 Water Resources Act mandates that the EPA designate an additional ocean dumping site at least 20 miles offshore for this purpose.

The en bloc amendment repeals the section of the 1986 act mandating the additional site. Instead of allowing ocean dumping over an expanded area of the ocean, the amendment seeks to phase out ocean dumping through the development of an alternative management plan for dredge materials in the New York Harbor.

The amendment also contains an important provision that explicitly prohibits the granting of waivers to the port authority from the existing standards for ocean disposal of dredge spoils. The most contaminated dredge spoils are now permitted to be dumped in the ocean pursuant to such waivers. The EPA is in the process of adopting stricter criteria governing toxicity levels for ocean disposal.

The alternative management plan under the amendment includes measures to reduce the amount dumped in the ocean, development of source controls and decontamination technologies to decrease toxicity levels, and a monitoring program on the effects of dumping at the 6-mile site.

The en bloc amendment also directs the corps to implement a demonstration project to dispose on an annual basis of up to 10 percent of the dredged material from the harbor in an environmentally safe manner other than ocean dumping.

Madam Chairman, I believe this Water Resources Development Act does a lot to enhance the environment. I believe the en bloc amendment, as well as the amendment that would impose a deadline to halt offshore wood burning, would even do a lot more to preserve our coastal environment, not only off the coast of New Jersey and New York but around the Nation.

Mr. STANGELAND. Madam Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. HOPKINS].

Mr. HOPKINS. Madam Chairman, I am proud to rise in support of H.R. 5314, the Water Resources Development Act of 1990.

This legislation is a necessary and crucial step in reversing the rapid deterioration of America's water resources infrastructure. One particular provision of this bill of special importance to my State authorizes urgently needed repairs of Kentucky River locks and dams 5 to 14.

This provision will ensure that a 1986 agreement between the Corps of Engineers and the Commonwealth of Kentucky is honored before the State assumes full responsibility for these structures.

It represents the prudent stewardship of a valuable Federal installation. it will also give added credibility and accountability to future agreements in similar circumstances.

I want to thank the distinguished subcommittee chairman, Mr. NOWAK and the ranking minority member, Mr. STANGELAND. I also would like to commend committee Chairman ANDERSON and ranking minority member Mr. HAMMERSCHMIDT for their leadership in bringing this very important measure to the floor today.

Mr. STANGELAND. Madam Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Madam Chairman, I rise in strong support of the legislation before us, and I want to commend both the chairman of the full committee and the chairman of the subcommittee, as well as the ranking members of the full committee and the subcommittee, for continuing so many of the commitments that are included within this legislation to deal with America's infrastructure.

Particularly, I am excited about this legislation because it continues to maintain the commitment this committee and this Congress made in the Water Resources Act of 1985 when we authorized the most significant comprehensive, balanced program to preserve and use the Mississippi River in the history of this country. This legislation today extends that program, the Environmental Management Program, for 5 years. It is an internationally precedent setting program where the environment and public works can work together.

Frankly, Madam Chairman, we have had people from all over the world come to visit the Environmental Management Program of the Mississippi River, people from places no less than the Soviet Union and China, to recognize and understand what this program means as a precedent setting move in terms of that balanced development for the future.

In addition, the en bloc amendment which will be offered provides for a

water quality study. This also is significant as we continue the next step, which is to determine exactly whether there truly are toxins and other materials in the river that need to be dealt with and begin to determine what their sources are so we can follow that up in the future. This legislation will give that authority to the Army Corps of Engineers, and I think that is correct.

This only addresses the upper Mississippi River, and hopefully in conference with the Senate we might look at the issue of whether or not we can expand that to the entire Mississippi. We have found with the Environmental Management Program and we are now finding with the water quality study a new interest in river preservation and water quality by people from New Orleans, people from Louisiana and Mississippi in the South, and obviously people from Minnesota and Wisconsin in the North.

Madam Chairman, these are important measures. They are environmental as well as public works measures. They continue a good program, and I commend the members of the committee for their support.

Mr. ANDERSON. Madam Chairman, I yield such time as he may consume to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Madam Chairman, I thank the gentleman for yielding this time to me.

Madam Chairman, I rise in strong support of H.R. 5314. I want to commend Chairman ANDERSON and Chairman NOWAK as well as the ranking members, Mr. HAMMERSCHMIDT and Mr. STANGELAND. They have done an excellent job of crafting a comprehensive bill that effectively addresses many complex issues nationwide. Staff members Ken Kopocis and Errol Tyler have done a difficult and often thankless task in putting this bill together, and I believe they deserve credit and appreciation for their efforts.

The committee has continued to work for balanced management of competing uses at corps projects, and the committee has been responsive to my request for language to prevent that Corps of Engineers from unfairly forcing the removal of cabins at lake projects. This bill responds to many challenges confronting our Nation and places environmental protection at the forefront of corps activities. H.R. 5314 deserves the support of the House, and I encourage my colleagues to vote for this measure.

Mr. STANGELAND. Madam Chairman, I yield 2 minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Madam Chairman, I rise in strong support of the water projects authorization bill. The bill as it stands contains a number of important projects that will contribute to the improved quality of our environment as it pertains to water management. New projects will be authorized, and some old ones will be modified. One of those modifications, concerning the Cross Florida Barge Canal, is very important to the people of Florida, and especially to the people in my district.

The Cross Florida Barge Canal was started just after World War II, with the aim of building a navigable canal across the northern peninsula of Florida. Construction was sporadic until 1971, and in that year all work on the canal was stopped. Since that time, many efforts have been made to deauthorize the canal. Now, after much work, we have a workable proposal that is supported by the entire Florida delegation that will create a greenway corridor across the State. The new greenway will provide nature reserves, new recreational opportunities, and a host of other benefits to the residents of the State. In addition, the deauthorization will free up money that was originally invested by counties along the waterway. The money will be returned to those counties, adding much-needed revenues to their operating budgets. In short, everyone benefits from the deauthorization.

Madam Chairman, I urge all of my colleagues to carefully consider this bill, and to vote for its passage. It is a good bill that will help many people.

Mr. ANDERSON. Madam Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. JENKINS].

□ 1600

Mr. JENKINS. Madam Chairman, I want to express my appreciation to the chairman of the full committee and the chairman of the Subcommittee on Water Resources, the gentleman from New York [Mr. NOWAK], for the work that they have done on this bill, and in particular the language they have provided in section 16, which is much improved, to say the least, over the language from the other body.

Through the years as changes are made, either by this legislative body or by the demands upon a dam and its accompanying lake, there are always great controversies that develop. But when we have many demands, whether it be for water supply, for power, for recreation, or for all of the other uses, of corps projects, there has to be a mechanism wherein we can take a look at these various purposes and proposed changes that are developed, and reach equitable solutions.

In my own congressional district, I have five corps projects. I have two projects, Lanier and Hartwell, that are two of the most heavily used corps lakes in the United States, with over 18 million people visiting each of those annually. They are great economic factors in my district.

Madam Chairman, I have provided the gentleman from New York [Mr. NOWAK] with a copy of a letter from General Bunker in 1988, together with project purposes and other purposes that have been added, dated May 1, 1968, of the various corps projects in the State of Georgia. It is my understanding that section 16 of this bill will in no way impact adversely upon recreation uses in the projects listed which includes Lakes Lanier, Hartwell, Carters, Allatoona, and Russell in my congressional district.

Mr. NOWAK. Madam Chairman, will the gentleman yield?

Mr. JENKINS. I yield to the gentleman from New York, the distinguished chairman of the Subcommittee on Water Resources.

Mr. NOWAK. Madam Chairman, if I could respond to the gentleman's comments. Section 16, changes in reservoir operations, is not intended to preclude current authorized operation of reservoirs for recreation. As the gentleman knows, section 4 of the Flood Control Act of 1944 and the Federal Water Project Recreation Act each confer authority upon the Corps of Engineers to operate projects for recreation, even in the absence of specific authorization. Under these authorities, the corps may reallocate storage to provide more stable recreation levels, if it does not have a significant effect on other authorized purposes.

Section 16 requires the corps to review the operation of corps' reservoirs to determine if they are being operated in accordance with their authorized purposes. These authorized purposes could include operations pursuant to general authority as well as specific authority. The central element of the review will be whether the operation is authorized by law.

If a corps' project is currently being operated for recreation, and that operation is consistent with that authorized by law, that operation will be able to continue.

Mr. JENKINS. Madam Chairman, reclaiming my time, I thank the gentleman from New York [Mr. NOWAK], and thank the chairman for yielding me this time.

Mr. ANDERSON. Madam Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. PICKETT].

Mr. PICKETT. Madam Chairman, I want to commend the chairman and ranking minority member and the gentleman from New York [Mr. NOWAK] for the fine job they have done on this bill. I do agree with just about everything they have put in it.

However, there is a provision in the bill, section 43, with which I do not agree. At the appropriate time I will be offering an amendment to delete this section from the bill.

The amendment, which I will be offering on behalf of the city of Virginia Beach, would strike a provision of the bill whose sole purpose is to further delay a water project referred to as the Lake Gaston water project that is going to provide water in my district.

This provision of the bill was never debated in the Committee on Public Works. There was never any public hearing on this provision, and it was apparently adopted after the committee had completed its markup of the bill.

The Lake Gaston project has been studied for more than a decade, Madam Chairman. Back in 1984 the Corps of Engineers was commissioned by the Congress to conduct a study to determine the most appropriate source of water for southeastern Virginia. The corps conducted the study, conducted an environmental impact statement, also required as part of that study, and concluded that the most appropriate source was the Lake Gaston project.

The city of Virginia Beach has complied fully with every applicable statute and requirement with respect to this project, and has successfully withstood a court challenge in the Federal District Court for the Eastern District of North Carolina.

The Lake Gaston project is now fully permitted by the Army Corps of Engineers. To delay this project further at this late hour would make a mockery of the permitting process and cause a severe hardship on the people in my district.

Mr. ANDERSON. Madam Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. VALENTINE], a most valued member of the Committee on Public Works and Transportation.

Mr. VALENTINE. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, I do not rise at this time to make a response to the statements made by the distinguished gentleman from Virginia [Mr. PICKETT]. Suffice it to say we will oppose his efforts relative to this carefully crafted legislation when and if his amendment is offered.

Madam Chairman, I rise in connection with a matter that is both important and controversial—the management of Federal water resources projects by the U.S. Army Corps of Engineers.

During the past several years, the droughts that have afflicted a number of areas of the country have forced the corps to choose among competing users of Federal water projects.

Some of these users, such as hydropower customers and shippers, are groups that Congress specifically considered when authorizing these projects.

Over the years, however, other uses, although not considered by the Congress when authorizing the projects, have become important, and, in some cases, even critical. I would include water supply and recreation in this category.

The practical result of corps management decisions has been to force electric consumers in the Southeast to pay for recreational benefits enjoyed at several Federal projects.

This is occurring in violation of the congressional authorization of these projects and in spite of the corps' own regulations.

Madam Chairman, a number of concerned members, including me, considered offering an amendment to address these inequities. My amendment would have provided a modest, and I believe reasonable, remedy by requiring the corps to follow a public process in reaching management decisions.

Under this proposal, the corps would have to document its authority for making management changes, determine whether a specific proposed change would alter the level of benefits that Congress intended, and seek further congressional authority for such changes.

After consultation with the chairman of the Water Resources Subcommittee the gentleman from New York [Mr. NOWAK], however, we have decided not to offer such an amendment.

Nevertheless, I firmly believe that there is an urgent need to establish equitable regulations and procedures for Federal water resources management.

In my view, the Congress should consider a comprehensive solution to problems related to the management of Federal water projects.

Representative JIM SLATTERY and I met recently with Chairman NOWAK on this subject. In that meeting, Mr. NOWAK agreed that the subcommittee would undertake a serious examination of this question next year. It is essential that all interested parties participate in reaching a fair solution.

I hope that the subcommittee will take a comprehensive look at all the problems associated with water resources management and look forward to Chairman NOWAK's comments on this subject.

Mr. ANDERSON. Madam Chairman, I yield 1 minute to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Madam Chairman, I rise to address an issue that has become a major problem that persists in the farm sector. Unfortunately, this bill does not include language that would relieve the problem.

Like most Americans, I am concerned about protecting the environment. However, I believe the necessary protection can be provided without violating the constitutional protection against taking private property for a governmental purpose without properly compensating the owner.

Early this year I introduced H.R. 4133, the Agricultural Wetlands Exemption Act to redress this problem. My bill would exempt the inappropriate application to farmers of provisions of the Federal Water Pollution Control Act on established farm land.

I, and other Members of Congress and representatives from the private sector, testified before the Subcommittee on Water Resources of the Committee on Public Works and Transportation urging necessary modifications of the law. This bill under consideration does not include such provisions.

So, at the proper point during this debate on the bill, with Mr. LAUGHLIN, we intend to offer the language of my bill H.R. 4133, as an amendment to this water resources bill.

The manner in which provisions of the Federal Water Pollution Control Act, as amended, have been implemented in farming communities during the past 2 years has raised serious questions about the intent of the executive branch to implement environmental protection provisions in a fair, equitable and constitutional manner.

In some instances, under threat of fines rising to hundreds of thousands of dollars, farmers have been warned against carrying out normal farming practices on lands which have been used for agricultural purposes for decades.

In other cases, such fines have been imposed when farmers carried out work to protect their families, homes and land against flooding by streams which cut new ditches through their land.

Some farmers have been told they can use land which has been farmed for many years only if they, at their own cost and with no compensation from the Federal Government, set aside other acreage—sometimes in a ratio of more than two to one—to be turned into wetlands.

This appears clearly to violate the United States constitutional protection against taking private property for public purpose without proper compensation.

No net loss of wetlands may well be a national policy. But, implementing such a policy in such a way that forces U.S. farmers to give up traditional uses of their land which is not wetland and has not been a traditional wetland for decades is not the just way to achieve such a goal.

I urge Members of the committee to consider our amendment and to join us in addressing a fair and constitutional treatment of the Nation's farmers.

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Mr. ANDERSON. Madam Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, I rise today in strong support of the water resource

development bill and commend the gentleman from California [Mr. ANDERSON], the gentleman from New York [Mr. NOWAK], the gentleman from Minnesota [Mr. STANGELAND], and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for their help.

The McAlpine Lock and Dam project modernization and extension project—a $219 million project—is in the bill, and it affects my city of Louisville in which the McAlpine complex is located.

Currently there is one 600-foot lock which is generally inoperable and one 1,200-foot lock which from time to time is put out of order in order for maintenance. This program, which is in the bill, and I very strongly support, would extend the third lock, a 600-foot lock, to 1,200 feet and would modernize the entire complex.

Madam Chairman, the McAlpine lock and dam system is a vital component of the Ohio River transportation system. It sits between two major transportation centers—Pittsburgh, PA, upriver, and the mighty Mississippi downriver. A bottleneck at this major—at any of the major points, really—along the river will disrupt barge traffic from the steel mills of Pennsylvania to the coal mines, oilfields, and farms of Kentucky. These industires and more depend on the Ohio River for their commerce, so the importance of the McAlpine Lock System is evident.

Even with one arm tied behind us, McAlpine handles 55 million tons of barge traffic a year. The project in the bill will enable Louisville to become even a greater transportation center and handle more of the tonnage along the Ohio.

So I thank the gentleman from California for responding to my need and the gentleman from New York particularly, for his courtesy at the hearing, and I certainly support the bill and this project.

Mr. STANGELAND. Madam Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Madam Chairman, I thank the gentleman very much for yielding time to me. I also thank the gentleman in his capacity as the minority leader, and I thank as well the chairmen of the committee and of the subcommittee and all those who have been so kind as to bring this legislation out.

Madam Chairman, I rise in strong support of the Water Resources Act of 1990 and against weakening amendments. The Committee on Public Works and Transportation, particularly the Subcommittee on Water Resources, is to be commended for bringing this package together and to the floor of the House.

As the sponsor of the only comprehensive wetlands legislation in this Congress, the Wetlands No Net Loss Act of 1990, I am particularly supportive of the committee's effort to clarify the role of the Corps of Engineers in environmental protection. The bill reads:

> The Secretary shall include environmental protection as one of the primary missions of the Corps of Engineers in planning, designing, constructing, operating, and maintaining water resources projects. The bill also has a requirement that the Secretary transmit a list to Congress, a list which specifically identifies opportunities for enhancing wetlands in connection with construction and operation of water resource projects.

This bill contains numerous projects of importance throughout the country. As chairman of the Florida congressional delegation, I express my deepest appreciation to the House Committee on Public Works and Transportation for the inclusion of our delegation's consensus language to replace the Cross-Florida Barge Canal.

I spent much of my adult life working to build the canal; but that is simply not going to be; the local support just isn't there anymore. As the last remaining canal supporter in the Florida congressional delegation, I asked myself how we could most appropriately address this issue now. The answer was a national or State park area in the canal route. The State opted for a State park/conservation area; this legisaltion provides for that. Under this legislation, in order to get full project deauthorization, the Governor and Cabinet of Florida must pass a resolution specifically agreeing to maintain at least a 300-yard minimum width State conservation/recreation area in the former canal route. The State must also repay the several Florida counties that put up moneys for the canal project decades ago—some $32 million, rather than the Federal Government paying that, as was required in the 1986 Deauthorization Act, which this new legislation amends. My home county of Duval stands to receive some $20 million in reimbursement moneys.

This bill also contains two other matters important to my district: language to modify the navigation project for Fernandina Harbor, FL, to redesignate the location of the turning basin until the ongoing study of the harbor under section 107 of the River and Harbor Act of 1960 is completed and the resulting project is constructed. At present, ships are not using the existing basin because it is too small; they are turning around in a nondesignated area. That is worrisome to the ship captains because of negative legal ramifications.

Another matter of importance to my district is the modification of the project for beach erosion control, Nassau County, Amelia Island, FL, to direct the Secretary to renourish the southern beaches of Fernandina, South Amelia Island, Florida from Florida Department of Natural Resources Monument No. 62 to monument No. 74. This is an amendment to the 1988 Water Resources Act that authorized the Nassau County project. The northern half of the beaches have been renourished but the southern beaches—the most depleted—have not. Some have suggested that the southern beaches are not public; that's not so. There's widespread access to the beaches there. In fact, the most depleted area of all, the most southern reach of the beach, is a State park area with hundreds of yards of public access.

So, again, Madam Chairman, I express my appreciation to the committee for its work on this bill. It is a good bill; one that should be enacted.

Mr. RAHALL. Madam Chairman, I rise in strong support of H.R. 5314, the Water Resources Development Act of 1990.

H.R. 5314 authorizes the construction of water resources development projects by the U.S. Army Corps of Engineers for flood control, navigation, port development, and related purposes. It also modifies and deauthorizes certain previously authorized projects, alters certain cost sharing requirements mandated by the 1986 and 1988 water resources development acts, and includes provisions to protect the environment in connection with corps projects.

The bill authorizes the construction of 25 new water resources projects for which the Corps of Engineers has already completed favorable engineering reports. These include 14 projects for flood control, 4 for port development, 4 for storm damage reduction, 2 for inland navigation, and 1 miscellaneous project. The corps estimates the total cost of the 25 projects to be $2.5 billion, with a total Federal share of $1.7 billion.

The measure includes several provisions that modify existing cost-sharing requirements mandated and made permanent by the 1988 act. Under these requirements, non-Federal beneficiaries such as State and local governments must pay for part of the costs of most water projects, with specific cost-sharing percentages dependent upon the particular type of project.

Under existing law, the local share of water resource projects is determined not only by the type of project, but by the ability of the local governments to pay their fair share. Currently the minimum local share is 25 percent, with the local government's ability to pay largely determined by economic conditions statewide. This bill provides that determinations of ability to pay take into account more specific consideration, such as the condition of the local economy, and that there be no minimum local share, which would permit projects in which the local government would not be required to make any cash contributions.

The measure also permits ability to pay procedures to be used for determining the local share of municipal and industrial water supply projects; currently, these procedures are used only for flood control and agricultural water supply projects.

Mr. Chairman, the new flexibility provided under ability to pay is a welcome provision, in that my State's local economic conditions vary from city to town to hamlet, and often desperately needed projects go unfunded because of the inability of local governments to come up with their share when it is based, as it has been in the past, on statewide economic conditions rather than local economic conditions.

I am pleased to note that there are several projects of great benefit to my congressional district included in H.R. 5314. These projects are of extreme importance to the area that I represent, and particularly the flood control project at Matewan, WV.

In testimony early this year before the Public Works and Transportation Committee's Water Resources Subcommittee, I requested language in this bill to clarify that all of Matewan, WV, be floodproofed as originally intended by Congress.

In the past, as the result of a technical distinction, the implementation of cost sharing in accordance with the Water Resources Development Act of 1986, created significant problems for floodproofing in the town of Matewan. In 1986, the act directed the Army, acting through its Chief of Engineers, to design and construct at full Federal expense, flood control measures in a number of cities affected by the 1977 flood. This specifically included the town of Matewan.

On October 28, 1985, the Matewan project was defined, excluding a portion of the city called Hatfield Bottom. At that time, it was determined that Hatfield Bottom could be best flood proofed through a project called the Tug Fork Big Bend Cutoff. There was no objection to dividing the project at that time, because project funding was to remain at 100 percent Federal cost and it was expected that both projects would be completed within the same time frame.

Unfortunately, the Big Bend cutoff was delayed, and then abandoned. Consequently, the floodproofing of Hatfield Bottom did not begin prior to the implementation of the cost-sharing under water resources development legislation of 1986. Although the Matewan project was grandfathered, the floodproofing of Hatfield Bottom was not, since it was no longer included within the Matewan project definition.

Simply put, Madam Chairman, this divided the town of Matewan in half, floodproofing one-half of it and leaving the other, mostly populated by both residences and businesses, at risk, and town officials and residents bewildered to say the least.

For example, parents are bewildered because Hatfield Bottom is the location of the local high school, leaving them very concerned for the safety of their children. The majority of residents and business-owners are bewildered because that half of the town that would not be floodproofed, and should there be another disaster, would be wiped out, leaving the health and lives of those living and working there in shreds, not to mention the local economy which would be devastated.

The Hatfield Bottom floodproofing provision in H.R. 5314 is one of the most important projects in my district, and I am greatly indebted to the chairman and other members of the committee for their understanding, and certainly their compassion, in realizing its importance and for including it in this year's reauthorization bill.

H.R. 5314 contains other West Virginia water resources projects, including an authorization for flood control in Krouts Creek in the vicinity of Huntington, WV, which will include deepening and widening of the channel and culvert replacement there. This is an urgently needed project in my district. Krouts Creek flows through a densely developed residential area of west Huntington, where approximately 200 families live in the 100-year flood plain, and where five businesses and three public buildings including churches and schools are located.

This year's—fiscal year 1991—appropriations bill for water resources development projects contains $75,000 for use by the Corps of Engineers to negotiate a cost-share agreement with the city of Huntington, and to complete its report on this Krouts Creek project.

Another matter in the pending legislation of importance to southern West Virginia is a provision which would modify the authorized project purposes of the Bluestone Lake project.

One of the most pressing problems we face in southern West Virginia from the operation of an Army Corps of Engineers' project involves the massive amounts of debris that backs up behind the Bluestone Dam. This concern is heightened because the New River Gorge National River, a unit of the National Park System, lies below the dam.

It is of the utmost importance that we protect the unique values and resources of the New River Gorge National River. Simply put, we did not go to the trouble and expense of establishing the New River Gorge National River only to have park visitors and river users assaulted by large amounts of trash floating down the river, accumulating on the river banks and hanging from tree limbs.

Under H.R. 5314, the Secretary of the Army would be required to take such measures as are technologically feasible to minimize the release of drift and debris into waters downstream from the Bluestone Lake project. Moreover, the minimization of drift and debris release would be included as an authorized project purpose of the Bluestone Lake project.

Among the types of activities that could be undertaken by the corps are measures to prevent the accumulation of drift and debris at the project, including through the collection and removal of drift and debris on the segment of the New River upstream from the project, as well as the removal and disposal of accumulated drift and debris at Bluestone Dam, including through the employment of temporary or permanent systems for such removal.

Finally, I would note that H.R. 5314 contains one additional provision relating to certain corps projects in southern West Virginia.

In the last water resources bill, enacted in 1988, we provide a specific recreation authorization for 11 projects, 7 of which are located in West Virginia. In other words, we required the corps to manage the land and water resources at these projects in a manner as will improve opportunities for recreation so long as this is compatible with other authorized project purposes such as flood control and low flow augmentation.

As we all know, the environment and recreation is a hot item these days for Federal surface managing agencies. The Bureau of Reclamation, for example, wants to be an environmental agency and atone for its past sins. Recreation is stamped all over the Bureau of Land Management's budget and the same goes for the Forest Service.

The corps, however, stands alone among Federal surface managing agencies and continues to resist emphasizing recreation at its projects. I would submit it is time the corps get with the program, and that was one of the reasons for the 1988 legislation.

Nonetheless, incredible as it may seem, recently the corps announced that it wanted to emphasize timber management at the seven West Virginia projects listed in the 1988 bill's provision on recreation. The project lands, however, are under lease to the State of West Virginia and are managed as public hunting and fishing areas.

I would submit that the sounds of timber cutting are not exactly conducive to hunting and fishing, not to the wildlife habitat itself. I also believe that any attempt to deemphasize recreation at these seven corps' projects would be inconsistent with section 6 of the Water Resources Development Act of 1988.

The affect of this amendment would be to maintain the status quo at the seven West Virginia projects by prohibiting the implementation of any plan that would emphasize timber management over recreation. These projects are Summerville, R.D. Bailey, Beech Fork, Bluestone, East Lynn, Sutton, and Stonewall Jackson.

I commend our able Public Works and Transportation Chairman GLENN ANDERSON, and the committee ranking Republican, Mr. HAMMERSCHMIDT, for bringing this urgently needed reauthorization measures to the floor for passage today.

I strongly support the provisions in H.R. 5314, which will go far in providing the upgrading of our Nation's infrastructure needs.

I strongly commend the bill to my colleagues, and urge its immediate passage.

Mr. FIELDS. Madam Chairman, I rise in strong support of H.R. 5314, the Water Resources Development Act of 1990, and I compliment the leadership of the House Public Works and Transportation Committee for bringing this vial legislation to the floor today.

While there are a number of important projects authorized by this bill, I will confine my remarks to the Buffalo Bayou and tributaries flood control project which is located in Harris County, TX.

Madam Chairman, H.R. 5314 authorizes the Army Corps of Engineers to construct a comprehensive flood control project for the Buffalo Bayou watershed. This project, which is partially located in my congressional district, will provide benefits to nearly 2 million people who live in the Buffalo Bayou drainage basin.

A large segment of this population is adversely affected by severe flooding because of inadequate drainage facilities. In fact, nearly 96,000 acres and over 98,000 structures, valued at over $9 billion, are subject to stream flooding.

During the past few years, the Houston metropolitan area has been ravaged by persistent flooding. We must do everything we can to minimize the effects of future floods because it has been estimated that should a 100-year flood occur in the Buffalo Bayou watershed, which provides drainage to some 1,034 square miles, it could cause property damage in excess of $2.2 billion.

Madam Chairman, the Buffalo Bayou flood control project is a massive undertaking which will provide relief and protection to citizens who live along six separate tributaries. The proposed plan for these six tributaries is economically justified, it represents the most cost-effective solution, and it will produce no unresolveable adverse environmental impacts. In short, it is a project which deserves funding by both the Federal Government and its local sponsors.

While each of the six tributary flood control plans could be constructed separately, the Corps of Engineers believes there is considerable merit in combining them into one comprehensive project.

Briefly, the project proposed by the Corps of Engineers consists of the following elements:

Carpenters Bayou plan—provides for stream enlargement, recreational trails, and picnic facilities. The total cost of this flood protection is estimated at $11,066,000.

Greens Bayou plan—includes selective stream clearing, stream enlargement, flood detention basins, and assorted recreational facilities. The estimated cost of this plan is $195,725,000.

Halls Bayou plan—provides stream enlargement, hiking trails, picnic facilities, and a boat launching ramp. The estimated cost of these improvements is $88,685,000.

Hunting Bayou plan—consists of stream improvement, recreational trails, picnic facilities, and parking areas. The estimated cost of these modifications is $93,946,000.

Little White Oak Bayou plan—would include stream enlargement, hiking trails, and recreational facilities. The estimated cost of this plan is $34,578,000, and

Brays Bayou plan—provides for channel improvement, flood detention basins, diversion structures, and new interconnecting channels. In addition, recreational features such as trails, picnic facilities, sports fields, comfort stations, and parking lots will be constructed. The estimated cost of the Brays Bayou plan is $299,133,000.

Madam Chairman, the total cost of this project is $727,364,000. Under the existing cost-sharing formula, the Federal Government will contribute $403,360,000 toward the cost of this project and the local non-Federal share will be $324,000.

This comprehensive project will provide $3.10 in benefits for every dollar it cost to implement the badly needed flood control and recreational improvements. In addition, it will remove 30,600 acres from the 100-year flood plain, it will provide about $217 million each year in various economic benefits for those living in the Buffalo Bayou watershed. In short, this is an important project providing badly needed flood protection for many Eight District residents.

Madam Chairman, this flood control project is the result of careful study and evaluation by the Army Corps of Engineers. Since the completion of its draft report in September 1987, the corps has conducted 13 public meetings in the affected area. During these meetings, it became clear that the overwhelming majority of citizens strongly support efforts to reduce the threat of urban flooding. In fact, in November 1987, a local flood control bond referendum was adopted. In addition, the corps has now satisfied the concerns of a few environmental groups who raised minor objections over the removal of certain vegetation in the Little White Oak Bayou flood plain.

In summary, this project is clearly a sound and financially responsible investment in the future of these communities. It will save lives and money for the millions of Houstonians who live along the Buffalo Bayou watershed. It will also ensure that in the future the Federal Flood Insurance Program is not continually bombarded by insurance claims filed by those living in this area. It is a project worthy of our support.

Madam Chairman, as someone who has consistently supported water resources development projects, I am extremely pleased that we are today authorizing the Buffalo Bayou and tributaries flood control project. I would again compliment the leadership of the Public Works Committee, in particular, Congressmen GLENN ANDERSON, HENRY NOWAK, JOHN PAUL HAMMERSCHMIDT, and ARLAN STANGELAND, for their tireless efforts on behalf of the people of this Nation.

By working together, we can help to ensure that in the future fewer Americans will have to experience the ravages and destruction of flooding. H.R. 5314 is an important step in the direction of providing protection for our citizens and it is a worthy successor to the landmark Water Resources Development Acts of 1986 and 1988.

I urge my colleagues to join with me in voting aye on this most important legislation.

Mr. McCANDLESS. Madam Chairman, at this time, I rise in support of 5314, the Water Resources Development Act of 1990. Amidst all of the controversy surrounding the budget impasse and the authorization levels in H.R. 5314, one community in my district is literally hanging in the balance awaiting congressional action on their behalf. First, let me set the scene.

The hazardous situation that I speak of is located along the Santa Ana River, in Riverside County, CA. It is commonly known as the Norco Bluffs.

A series of natural events is disintegrating the sheer face of the Norco Bluffs. Since 1969, major storms have caused rampant flooding up and over the lower northern banks of the Santa Ana River.

Although the floodwaters do not overflow the very high southern banks of the river in the vicinity of the city of Norco, the effects there can be even more devastating.

Along approximately 1 mile of the Norco Bluffs, the high waters churn against the toe of the steep bank, causing unstable conditions and Bluff undercutting. As the banks fall into the river, private and public property is lost and endangered. After years of deterioration, some 50 homes are precariously close to a vertical drop of 80 to 90 feet in several places. One home has already been lost. Other houses close to the bluff have suffered foundation cracks and other problems caused by the continuing disintegration problem.

The Corps of Engineers has built revetments of rock and rubble to prevent further undercutting, but these measures are temporary at best.

The original 2,100-foot long revetment, built by the corps after the 1969 flood, lasted only 5 years before it was virtually useless against the river flows. In its present deteriorated state, this protective barrier would last only a few days against a major Santa Ana River flood. Additional storms in 1979 and 1980 further compounded the problem. Since then, long term bluff retreat has accelerated as the bluffs try to return to a stable grade. As the lower part of the bluff is washed away by flooding water, the higher parts of the bluff, supporting houses and structures, eventually fall into the river.

In addition to the loss of private homes, about three-fourths of a mile of River Drive is in danger. Utilities affected by continuing undermining include water, sewer, telephone, and gas lines. The Hamner Avenue Bridge—State Route 31—is in serious danger of being damaged should structures and vegetation continue to fall into the Santa Ana and plug the river downstream.

The need to protect the Norco Bluffs is urgent and severe. I am extremely pleased that the Committee on Public Works and Transportation has decided to authorize the construction for this economically viable project proposed by the Corps of Engineers. I also commend the chairman of that committee for his attention to this matter. Construction of the proposed 5,500-foot levee along the Santa Ana Bluffs at Norco would greatly stabilize these bluffs and save thousands of dollars of damage and property loss.

After all is said and done, because of technical language under section 205, small flood control project authority, the Corps of Engineers cannot aid the residents of the Norco Bluffs due to the strict definition of small flood control project criteria. Explicit congressional action authorized in H.R. 5314 is necessary. As important as the funding is for Norco, CA, the authority for the Corps of Engineers to take action is even more crucial.

Mr. RICHARDSON. Madam Chairman, I rise in strong support of H.R. 5314, the Water Resources Development Act. This bill authorizes water projects crucial to the Nation and to New Mexico.

H.R. 5314 authorizes $20 million for reconstruction of the Acequia irrigation system in New Mexico, raising the total authorized for this project to over $73 million. During consideration of the 1986 Water Resources Development Act, Congress found that these irrigation ditch systems, which date from the 18th century and were significant in the settlement and development of the West, continue to play a vital role in the local economy. Congress also declared that the restoration and preservation of the Acequias has cultural and historic values to the region. The renovation of the canals and small diversion dams making up the Acequias system is essential to

continue the delivery of water to the many small communities which depend on them for their economic livelihood.

According to the Army Corps of Engineers, the current funding level authorized for the Acequias irrigation system will permit construction of an estimated 270 projects. The design and construction phase is underway for several of these projects. There are, however, over 1,000 Acequia associations and many of these are also in need of repair. The Army Corps of Engineers estimates the additional $20 million authorized in this bill will allow for the reconstruction of an additional 100 Acequia projects.

Madam Chairman, your help in securing authorization of this funding is sincerely appreciated. I urge my colleagues to support this legislation.

Mr. SHAW. Madam Chairman, today I rise in support of H.R. 5314, the Water Resources Development Act of 1990. Although there are many fine provisions contained in this bill, I am especially pleased the Public Works Committee included a section in the bill which should finally put the Cross Florida Barge Canal to its well-deserved rest. The issue of the Cross Florida Barge Canal has been a contentious one in my home State of Florida for many years, and I am glad that a resolution to this problem is finally within sight.

The Cross Florida Barge Canal project was first formally authorized by Congress over 48 years ago, way back in 1942. The canal was to run from Jacksonville to Yankeetown, on Florida's gulf coast. Construction of the canal commenced in 1964, but this work was stopped, due to environmental concerns, by President Nixon in 1971. In 1986, my former Florida colleague, Buddy Mackay, and I moved to have the canal partially deauthorized, and this provision was included as part of that year's Water Resources Development Act. With the passage of H.R. 5314 today, and the State of Florida's acceptance, the dissolution of the Cross Florida Barge Canal will be complete.

Certainly this massive project will go down in history as one of the greatest public works boondoggles of all time. The Cross Florida Barge Canal was not only an environmental disaster, disrupting the fragile ecosystem of that area, but it was also a financial disaster, costing the Federal Government tens of millions of dollars.

And what did the Federal Government get for its investment? A canal that leads to nowhere. A canal which is utterly useless. I find it to be sweetly ironic that this behemothic project which embodied the dredge-and-fill mentality of previous generations, will be turned into a park for all to enjoy.

Madam Chairman, it is my hope that the mistake of the Cross Florida Barge Canal will never be repeated again. Passage of H.R. 5314 will give the citizens of Florida, the American taxpayer, and environmentalists everywhere something to cheer about, and I urge my colleagues to vote yes on this important bill.

As a supporter of H.R. 5314, the Water Resources Development Act of 1990, I would also like to bring to my colleagues' attention a project contained in the bill that is of great importance to the people of Broward County, FL.

The project to which I refer is the dredging of Hillsboro Inlet, located in my congressional district. This project was originally authorized as part of the Broward County Beach Erosion Control and Hillsboro Inlet Navigation Program, which was passed by Congress in 1965. The original project was extensive and costly. After examining all the options, local officials decided not to proceed with the program and instead the Hillsboro Inlet Improvement and Maintenance District purchased a dredge and has been keeping the inlet clear for the past 23 years. The Army Corps of Engineers therefore categorized the project as inactive and shelved further construction plans.

Unfortunately, the forces of nature and economic development have recently overtaken the abilities of the local community. A large sandbar has built up across the mouth of the inlet, beyond the range of the local dredge. This shoaling up of the inlet creates treacherous, often impossible, navigation hazards and prevents a proper flow of water through the inlet. Present conditions needlessly endanger recreational boaters who are not familiar with conditions around the mouth of the inlet, and discourages commercial use of the inlet by charter boats, long-line fishing vessels and other marine enterprises. Perhaps most importantly, the sandbar prevents the inlet from properly serving as a flush-out point and floodgate for the communities to the west of Hillsboro.

The flood control properties of the inlet were not considered in the originally authorized project. At the time the area west of Hillsboro was sparsely populated and the periodic flooding which occurred caused little concern. Since that time, there has been explosive population growth in Broward County. Flooding in this area would now cause severe economic damage as well as endanger the lives and safety of the people in the area, many of whom are senior citizens who would not be able to evacuate quickly.

The dredge, which the Hillsboro Authority owns and operates, is not certified for operation in the open ocean and would be prone to capsize if the attempt were made to utilize it outside the sheltered waters of the inlet. Clearly, the job cannot properly or safely be done without the active participation by the Army Corps of Engineers. This is why the authorization of this worthy project is crucial.

Madam Chairman, I would like to thank Chairmen NOWAK and ANDERSON, as well as Congressmen STANGELAND and HAMMERSCHMIDT for their efforts in putting together this comprehensive bill. These gentlemen were instrumental in including the Hillsboro Inlet project in H.R. 5314, and I commend them for their foresight and wisdom in helping to authorize this much needed project.

Mr. COLEMAN of Texas. Madam Chairman, I rise to offer H.R. 4758 as an amendment to the Water Resources Development Act of 1990. This amendment would authorize the construction, operation, and maintenance of an extension to the American Canal in El Paso, TX, by the Secretary of State acting through the Commissioner of the International Boundary and Water Commission. Many of you will recall that this bill passed the House of Representatives on June 12, 1990, by a voice vote. There is nothing new in this amendment, and it is being included in the Water Resources Development Act in order to make it conferenceable with the companion bill already passed by the Senate.

I want to especially thank the chairman of the Committee on Public Works and Transportation, Mr. GLENN ANDERSON, and the chairman and the ranking minority member of the Subcommittee on Water Resources, Mr. HENRY NOWAK and Mr. ARLAN STANGELAND, respectively, for agreeing to include this project as an amendment to H.R. 5314. In addition, Chairman DANTE B. FASCELL of the Foreign Affairs Committee and Chairman MORRIS UDALL of the Interior and Insular Affairs Committee, who had jurisdiction of H.R. 4758, deserve recognition for their work and for consenting to my offering this bill as an amendment to the Water Resources Development Act. And finally, I commend the staff at the Foreign Affairs and Interior and Insular Affairs Committees and at the Water Resources Subcommittee for all their help.

As a feature of the Rio Grande project, the American Canal extension would be located along the Rio Grande River within the city of El Paso, county of El Paso, in west Texas. The extension project would consist of widening about 1.4 miles of the existing American Canal, constructing a 13-mile extension of the canal, modifying traffic and drainage structures, and eliminating a portion of the existing Franklin Canal.

This project would bestow numerous benefits upon this area in southwest Texas and enjoys the support of local, State, and Federal agencies. During the last 7 years, I have worked closely with local officials interested in the extension of the American Canal and the two most directly involved Federal agencies, the Bureau of Reclamation and the International Boundary and Water Commisson, have both supported this project. The International Boundary and Water Commission has stated it would complete an environmental assessment on the project. Further, the legislation calls for cost sharing by the local Irrigation district, and contributions from Mexico and other non-Federal beneficiaries such as the city of El Paso. The irrigation district would contribute $5 million for construction costs plus $50,000 a year in maintenance costs.

The construction of an extension to the American Canal—which would lie in its entirety on the United States' side of the international border with Mexico—and its operations would result in a number of needed benefits to the communities on both sides of the border. Among these benefits are a more equitable distribution of waters between the United States and Mexico, the reduction of water losses, and the elimination of many hazards to public safety.

The possibility of international friction between Mexico and the United States would be reduced if the American Canal is extended. The present canal does not allow optimal control over the portion of water belonging to the United States and it is believed that illegal diversion of water is taking place by Mexican farmers. As such, potentially disruptive international issues might arise from the commin-

gling of the waters of the United States and the waters of Mexico in this reach of the Rio Grande, while such issues would not arise if a canal extension were constructed and operated wholly on the American side of the river. The proposed extension would eliminate that diversion and would eliminate the source of potential disputes and tension.

Another benefit to be achieved from the legislation would be the salvage of between 12,000 and 22,000 acre-feet of water lost annually because of seepage. Water transportation losses fluctuate greatly in the Franklin Canal as well as the Rio Grande due to the dirt lining and seepage losses. Salvaged water could increase annual allotments to each water right acre if a cement-lined canal were available. The value of this amount of conserved water is enormous to a community such as El Paso because of the water shortage in the area.

A third benefit that would result is the elimination of health and safety hazards to El Paso citizens. The current use of the Franklin Canal, located in the downtown area, has created a health and safety problem because refuse and garbage are illegally dumped in the canal, creating a breeding ground for bacteria. Disease-carrying mosquitos, spiders, scorpions, and snakes breed and live in the vegetation along the canal, and stagnant water during the months when irrigation is not carried through the Franklin Canal creates further health problems due to contamination. In addition, a number of drownings occur every year in the canal because of its proximity to residential areas. The 5.5 miles of the Franklin Canal I am proposing to eliminate have the heaviest density of population per square mile than any other area of El Paso. The average size of a family in this area is 5.6 persons, and the largest percentage of children in the families are less than 13 years of age and have no access to public or private swimming pools. The proposed extension would render the Franklin Canal obsolete and it could be filled in for some more beneficial public use in the area.

Finally, this project would have the added benefit of creating construction jobs as well as other employment opportunities in a border area that is beset with economic problems and high unemployment.

Again, I thank my colleagues for their continued support for this worthwhile project.

Mr. GALLO. Madam Chairman, I rise today in support of the Water Resources Development Act of 1990. This act includes many programs designed to end the devastation caused each year by flooding. Included in this year's authorization is the Passaic River tunnel project which is designed to alleviate the major flooding problems in northern New Jersey.

The Passaic River basin has been recognized as being one of the most serious flood problems on the east coast. The basin contains some of the most densely developed metropolitan area in the country. The development of its flood plain, due to heavy residential and industrial growth, and its location in the east coast storm belt has led to a history of severe hardship during flooding.

Since records have been kept, there have been 19 major floods in the Passaic River basin. The lower basin has been declared a Federal disaster area seven times in the last 20 years.

You only have to look at the flood of 1984 to understand the devastation that takes place in the basin. The 1984 flood damaged some 6,400 properties at a loss of $355 million. Homes were under 9 feet of water, more than 9,000 people were evacuated, 4 lives were lost and nearly 4,000 homes suffered a long-term loss of utility service.

Since that flood, we have redoubled our efforts to begin the construction of the tunnel project and to protect the public health and safety of the residents.

I am satisfied that the Army Corps has chosen the only viable solution to solve the flooding problems of the Passaic River basin. The comprehensive Passaic River tunnel project, including a terminus in Newark Bay, the preservation of 5,350 acres of wetlands and 5.9 miles of channel modifications, incorporates a state-of-the-art concept—the construction of a 13.5-mile underground water diversion tunnel and a 1.2-mile spur tunnel.

In addition, the flood control plan, including the tunnel construction, has the support of most of the residents of the Passaic River basin, who have seen what this river can do and want to prevent the devastation that is possible in the future.

The project is a good solution and I am pleased that it has the committee's and the administration's support. It is time to stand firm on the urgent need for flood control in the Passaic River basin and I am happy to lend my support for an integral part of the Water Resources Development Act of 1990.

Mr. DAVIS. Madam Chairman, I rise in strong support of H.R. 5314 as amended by the committee substitute.

Madam Chairman, this legislation authorizes or reauthorizes many worthwhile and important navigational and flood control projects around the country. Included in this legislation are several projects important to northern Michigan.

In particular, this legislation includes the reauthorization of the new, large Soo Lock at Sault Ste. Marie, MI. The language of this bill also makes a very important change along with this reauthorization. For the first time, the Secretary of the Army will be allowed to recognize the unique nature of this project and to identify all of the parties which benefit from this project. In the past, the local cost-share partner for this project was required to be the State of Michigan. While this is the standard arrangement for major projects, this project would modernize a lock system which benefits not just Michigan, but eight States as well as Canada.

The legislation also makes minor changes to current regulations to allow the State of Michigan to take control of the operations of a Federal water control and navigation facility which the Army Corps of Engineers can no longer afford to operate. Without this language, the project would probably be abandoned by the Federal Government.

Madam Chairman, this legislation is important and I urge my colleagues to support it as amended by the committee substitute.

Mr. CLEMENT. Madam Chairman, I rise in strong support of H.R. 5314, the Water Resources Development Act. I particularly want to commend our full committee chairman, GLENN ANDERSON, our water resources subcommittee chairman, HENRY NOWAK, and the respective ranking Republican members, JOHN PAUL HAMMERSCHMIDT and ARLAN STANGELAND, for their leadership on this important measure.

Madam Chairman, I am particularly pleased to bring to my colleagues' attention the provision authored by JOHN TANNER and myself authorizing a study by the Secretary of the Army of the steps necessary to restore the public works infrastructure should an earthquake strike the New Madrid Fault and the Central United States.

The language of the provision is modeled on a similar provision requiring a study of southern California's public works infrastucture requirements following an earthquake there.

As my colleagues know, the New Madrid Fault poses a tremendous hazard to the Nation. It a considered a seismically active fault affecting several States in the Central United States, including the States of Tennessee, Mississippi, Missouri, Arkansas, Kentucky, Illinois, and Indiana. Coincidentally, a small tremor struck the fault this morning.

Historical data show that one of the most severe earthquakes in the recorded history of our country occurred along the New Madrid Fault in 1811–12. In a period of approximately 7 weeks, 3 separate quakes occurred. Scientists tell us that each would have registered over 8 on the Richter scale if that measurement device had been available in those days.

Newspaper accounts of the period report that these earthquakes were felt as far away from the epicenter as Washington, New York, Chicago, and Boston. In the immediate area, the forces of the earthquakes produced a change in the course of the Mississippi River. Reelfoot Lake, encompassing some 50,000 acres in Obion and Lake Counties, TN, was formed overnight.

Since that time, the New Madrid Fault has been continuously active with numerous moderate earthquakes having occurred periodically and thousands of smaller tremors occurring regularly. Experts predict an 80-percent chance of a major quake of the magnitude of last year's Loma Prieta occurring along the fault within the next 20 years. More than 12 million people live in an area likely to be effected. More importantly, the disruption such a quake would bring on the Nation is staggering.

The failure of bridges that cross the Mississippi River would hamper east-west ground transportation and disrupt north-south river traffic for months. In addition, pipelines carrying natural gas supplies from Texas and Louisiana to the Northeast and Midwest cross the Mississippi in this region. Breaks in those lines would create enormous shortages in the Northeast, where our country is most densely populated. If an earthquake occurred in winter, one could readily imagine the consequences for all our citizens.

Unfortunately, a recent earthquake response exercise conducted by the Federal Emergency Management Agency demonstrated that communities along the fault are unprepared. They are not only poorly prepared to prevent damage, they are also poorly pre-

pared to restore services and public works infrastructure. This fact was underscored at a recent hearing before the Science, Space, and Technology Investigations and Oversight Subcommittee on the earthquake threat in the Central United States.

The need for this study is great and I thank the members of the Public Works Committee for approving its inclusion in this bill.

Ms. SCHNEIDER. Madam Chairman, the Water Resources Development Act is a vital bill of national importance, both economically and environmentally. By providing necessary funding to the Army Corps of Engineers, this bill will enable the corps to proceed with missions ranging from harbor dredging and flood control to technology demonstration and environment cleanup.

I am especially glad to note that the Public Works Committee, in response to my request, has included two provisions of special significance to the State of Rhode Island. The first of these is an authorization for a feasibility report and design demonstration for a project in Cranston, RI.

This project would connect several sources of pollution, including a landfill that is a superfund site, to a wastewater treatment facility with excess capacity.

Since the actual construction of the connector system would be paid for locally, corps support for the feasibility report and design demonstration would be an especially cost effective use of Federal resources.

The final result of this project will be an innovative solution to several environmental problems including ground water contamination, river pollution, and threats to drinking water from the Scituate Reservoir.

The second of these provisions is actually the deauthorization of a project, namely; the Big River Reservoir project.

Construction of the Big River Reservoir would have led to the destruction of 20 miles of cold water streams, 570 acres of wetlands, and 2,000 acres of upland forest, seriously threatening hundreds of wildlife species in the area.

As a result of this environmental threat, the EPA denied the corps a project permit. I strongly supported this EPA project veto, and now urge congressional action to remove this misconceived proposals from the list of authorized corps projects.

Overall, I would like to praise the corps for the capable way in which it carriers out the directives of Congress. Furthermore, I would like to commend my colleagues on the Public Works Committee for their fine work on this legislation, which I believe will provide proper guidance to the corps. I urge the House to adopt it.

Mr. STANGELAND. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered by sections as an original bill for the purpose of amendment, and each section shall be considered as having been read.

It shall be in order to consider en bloc the amendments printed in House Report 101-719. Said amendments en bloc shall not be subject to a demand for a division of the question.

The Clerk will designate section 1.

Mr. ANDERSON. Madam Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the committee amendment in the nature of a substitute is as folllows:

H.R. 5314

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Secretary defined.
Sec. 3. Project authorizations.
Sec. 4. Project modifications.
Sec. 5. Private sector development of infrastructure.
Sec. 6. Planning and engineering.
Sec. 7. Funding of costs assigned to commercial navigation.
Sec. 8. Emergency response.
Sec. 9. Construction of navigation projects by non-Federal interests.
Sec. 10. Project modifications for improvement of environment.
Sec. 11. Ability to pay.
Sec. 12. Environmental protection mission.
Sec. 13. Flood plain management.
Sec. 14. Shoreline protection.
Sec. 15. Reservoir management.
Sec. 16. Changes in reservoir project operations.
Sec. 17. Environmental dredging.
Sec. 18. Protection of recreational and commercial uses.
Sec. 19. Multipurpose water resources projects.
Sec. 20. Great Lakes remedial action plans.
Sec. 21. Matters to be addressed in planning.
Sec. 22. Cross Florida Barge Canal.
Sec. 23. Small navigation projects.
Sec. 24. Onondaga Lake, New York.
Sec. 25. Sauk Lake, Minnesota.
Sec. 26. Wappingers Lake, New York.
Sec. 27. Small flood control projects.
Sec. 28. Bay City, Michigan.
Sec. 29. Delaware River and tributaries, Pennsylvania.
Sec. 30. Continuation of authorization of certain projects.
Sec. 31. Erosion prevention projects, Louisiana.
Sec. 32. Hazard, Kentucky.
Sec. 33. Demonstration of construction of Federal project by non-Federal interests.
Sec. 34. Modification of reversionary interest.
Sec. 35. Upper Mississippi River plan.
Sec. 36. Section 221 agreements.
Sec. 37. Cabin site leases.
Sec. 38. San Luis Rey, California.
Sec. 39. Construction of Virgin Island projects by Secretary of the Army.
Sec. 40. Protection of recreation project purposes.
Sec. 41. Liberty, Ohio.
Sec. 42. Washingtonville, Ohio.
Sec. 43. Albermarle Sound-Roanoke River Basin, North Carolina.
Sec. 44. Cranston, Rhode Island.
Sec. 45. Santa Rosa, California.
Sec. 46. Generation facilities.
Sec. 47. Flat Rock, Michigan.
Sec. 48. Warroad Harbor, Minnesota.
Sec. 49. Rondout Creek and Wallkill River, New York and New Jersey.
Sec. 50. Struthers, Ohio.
Sec. 51. Virginia Beach, Virginia.
Sec. 52. Youngstown, Ohio.
Sec. 53. Southwest Region Flood Response Commission.
Sec. 54. Rehabilitation of Federal flood control levees.
Sec. 55. Flood warning system.
Sec. 56. Rend Lake water storage contract extension.
Sec. 57. Declaration of nonnavigability for portions of Lake Erie.
Sec. 58. Wetlands enhancelent opportunities.
Sec. 59. Radium removal demonstration program.
Sec. 60. Studies.
Sec. 61. Lake of the Woods, Minnesota.
Sec. 62. Project deauthorizations.
Sec. 63. Half Moon Bay Harbor.

SEC. 2. SECRETARY DEFINED.

For purposes of this Act, the term "Secretary" means the Secretary of the Army.

SEC. 3. PROJECT AUTHORIZATIONS.

(a) PROJECTS WITH REPORT OF THE CHIEF OF ENGINEERS.—Except as provided in this subsection, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, recommended in the respective reports designated in this subsection:

(1) BAYOU LA BATRE, ALABAMA.—The project for navigation for Bayou La Batre, Alabama: Report of the Chief of Engineers, dated August 3, 1989, at a total cost of $16,230,000, with an estimated first Federal cost of $4,490,000 and an estimated first non-Federal cost of $11,740,000.

(2) HOMER SPIT, ALASKA.—The project for storm damage prevention, Homer Spit, Alaska: Report of the Chief of Engineers, dated June 28, 1990, at a total cost of $4,700,000, with an estimated first Federal cost of $3,050,000 and an estimated first non-Federal cost of $1,650,000.

(3) CLIFTON, SAN FRANCISCO RIVER, ARIZONA.—The project for flood control on the San Francisco River at Clifton, Arizona, authorized by section 401(d) of the Water Resources Development Act of 1986 (100 Stat. 4130), is modified to authorize the Secretary to construct the project substantially in accordance with the report of the Chief of Engineers, dated September 6, 1988, at a total cost of $12,510,000, with an estimated first Federal cost of $9,150,000 and an estimated first non-Federal cost of $3,360,000.

(4) NOGALES WASH AND TRIBUTARIES, ARIZONA.—The project for flood control, Nogales Wash and tributaries, Arizona: Report of the Chief of Engineers, dated February 28, 1989, at a total cost of $7,260,000, with an estimated first Federal cost of $5,440,000 and an estimated first non-Federal cost of $1,820,000. The Secretary shall cooperate

with the Government of Mexico as necessary to provide for flood warning gauges in Mexico.

(5) COYOTE AND BERRYESSA CREEKS, CALIFORNIA.—The project for flood control, Coyote and Berryessa Creeks, California: Report of the Chief of Engineers, dated February 7, 1989, at a total cost of $56,300,000, with an estimated first Federal cost of $39,000,000 and an estimated first non-Federal cost of $17,300,000.

(6) OCEANSIDE HARBOR, CALIFORNIA.—The project for navigation and storm damage reduction, Oceanside Harbor, California: Report of the Chief of Engineers, dated May 21, 1990, at a total cost of $5,100,000, with an estimated first Federal cost of $3,350,000 and an estimated first non-Federal cost of $1,750,000.

(7) VENTURA HARBOR, CALIFORNIA.—The project for navigation, Ventura Harbor, California: Report of the Chief of Engineers, dated June 5, 1990, at a total cost of $6,460,000, with an estimated first Federal cost of $5,180,000 and an estimated first non-Federal cost of $1,280,000.

(8) MARTIN COUNTY, FLORIDA.—The project for storm damage reduction, Martin County, Florida: Report of the Chief of Engineers dated November 20, 1989, at a total first cost of $9,400,000, with an estimated first Federal cost of $3,850,000 and an estimated first non-Federal cost of $5,550,000.

(9) MIAMI HARBOR CHANNEL, FLORIDA.—The project for navigation, Miami Harbor Channel, Florida: Report of the Chief of Engineers dated September 25, 1989, at a total cost of $65,700,000, with an estimated first Federal cost of $41,920,000 and an estimated first non-Federal cost of $23,780,000.

(10) MCALPINE LOCK AND DAM, INDIANA AND KENTUCKY.—The project for navigation, McAlpine Lock and Dam, Indiana and Kentucky: Report of the Chief of Engineers, dated June 29, 1990, at a total cost of $219,600,000, with a first Federal cost of $219,600,000. The Federal share of costs of construction of the project is to be paid one-half from amounts appropriated from the general fund of the Treasury and one-half from amounts appropriated from the Inland Waterways Trust Fund.

(11) FORT WAYNE, ST. MARY'S AND MAUMEE RIVERS, INDIANA.—The project for flood control, Fort Wayne, St. Mary's and Maumee Rivers, Indiana: Report of the Chief of Engineers, dated May 1, 1989, at a total cost of $16,300,000, with an estimated first Federal cost of $12,100,000 and an estimated first non-Federal cost of $4,200,000.

(12) ALOHA-RIGOLETTE, LOUISIANA.—The project for flood control, Aloha-Rigolette Area, Louisiana: Report of the Chief of Engineers dated April 11, 1990, at a total cost of $8,283,000, with an estimated first Federal cost of $6,212,000 and an estimated first non-Federal cost of $2,071,000.

(13) BOSTON HARBOR, MASSACHUSETTS.—The project for navigation, Boston Harbor, Massachusetts: Report of the Chief of Engineers, dated May 11, 1989, at a total cost of $27,215,000, with an estimated first Federal cost of $16,854,000 and an estimated first non-Federal cost of $10,361,000.

(14) ECORSE CREEK, WAYNE COUNTY, MICHIGAN.—The project for flood control, Ecorse Creek, Wayne County, Michigan: Report of the Chief of Engineers, dated August 8, 1989, at a total cost of $7,280,000, with an estimated first Federal cost of $4,560,000 and an estimated first non-Federal cost of $2,720,000.

(15) GREAT LAKES CONNECTING CHANNELS AND HARBORS, MICHIGAN AND MINNESOTA.—The project for navigation, Great Lakes Connecting Channels and Harbors, Michigan and Minnesota: Report of the Chief of Engineers, dated January 30, 1990, at a total cost of $7,489,100 with an estimated first Federal cost of $5,037,500 and an estimated first non-Federal cost of $2,451,600.

(16) COLDWATER CREEK, MISSOURI.—The project for flood control, Coldwater Creek, Missouri: Report of the Chief of Engineers, dated August 9, 1988, at a total cost of $22,380,000, with an estimated first Federal cost of $15,500,000 and an estimated first non-Federal cost of $6,880,000.

(17) RIVER DES PERES, MISSOURI.—The project for flood control, River Des Peres, Missouri: Report of the Chief of Engineers, dated May 23, 1989, at a total cost of $20,550,000, with an estimated first Federal cost of $15,270,000 and an estimated first non-Federal cost of $5,280,000.

(18) PASSAIC RIVER MAIN STEM, NEW JERSEY AND NEW YORK.—

(A) FLOOD CONTROL ELEMENTS.—

(i) IN GENERAL.—The project for flood control, Passaic River Main Stem, New Jersey and New York: Report of the Chief of Engineers, dated February 3, 1989, except that the main diversion tunnel shall be extended to include the outlet to Newark Bay, New Jersey, at a total cost of $1,200,000,000, with an estimated first Federal cost of $890,000,000 and an estimated first non-Federal cost of $310,000,000.

(ii) DESIGN AND CONSTRUCTION.—The Secretary shall design and construct the project in accordance with the Newark Bay tunnel outlet alternative described in the Phase I General Design Memorandum of the District Engineer dated December 1987.

(iii) APPLICABILITY OF COST SHARING.—Except as otherwise provided in this paragraph, the total project, including the extension to Newark Bay, shall be subject to cost sharing in accordance with section 103 of the Water Resources Development Act of 1986.

(iv) OPERATION AND MAINTENANCE.—The non-Federal sponsor shall maintain and operate the project after its completion in accordance with the regulations prescribed by the Secretary; except that the Secretary shall operate and maintain the diversion tunnels element, including inlet and outlet works, at full Federal expense.

(v) CREDIT FOR NON-FEDERAL WORK.—In recognition of the State of New Jersey's commitment to the project on June 28, 1984, all work subsequently completed by the State or other non-Federal interests which is either compatible with or complementary to the project shall be considered as part of the project and shall be credited by the Secretary toward the non-Federal share of the cost of the project. Such work shall include, but not be limited to, those activities specified in the letter of the New Jersey Department of Environmental Protection, dated December 9, 1988, to the Office of the Chief of Engineers. However, only the portion of such work that meets the guidelines established under section 104 of the Water Resources Development Act of 1986 shall be considered as project costs for economic purposes. In applying such section 104 to the project, the Secretary shall likewise consider work carried out by non-Federal interests after June 28, 1984, and before the date of the enactment of this Act that otherwise meets the requirements of such section 104.

(B) STREAMBANK RESTORATION MEASURES.—The project shall include the construction of environmental and other streambank restoration measures (including bulkheads, recreation, greenbelt, and scenic overlook facilities) on the west bank of the Passaic River between Bridge and Jackson Streets in the city of Newark, New Jersey, at a total cost of $6,000,000. The non-Federal share of the project element authorized by this subparagraph shall be 25 percent. The value of the lands, easements, and rights-of-way provided by non-Federal interests shall be credited to the non-Federal share. Construction of the project element authorized by this subparagraph may be undertaken in advance of the other project features and shall not await implementation of the overall project.

(C) WETLANDS BANK.—

(i) ESTABLISHMENT.—The State of New Jersey shall establish a Passaic River Central Basin Wetlands Bank (hereinafter in this paragraph referred to as the "Wetlands Bank") to be comprised of lands which are acquired before, on, or after the date of the enactment of this Act by the State or any other non-Federal interest and which lie within the Passaic River Central Basin, New Jersey, natural storage area discussed in the report of the Chief Engineers and the Phase I General Design Memorandum.

(ii) USE.—The Wetlands Bank shall be available for mitigation purposes required under Federal or State law with respect to non-Federal activities carried out in the State.

(iii) COMPENSATION.—The State may receive compensation for making lands available under clause (ii).

(iv) STATE OWNERSHIP AND OPERATION.—The State shall continue to own and operate, consistent with the purposes of the project authorized by this paragraph, lands made available for mitigation purposes under clause (ii).

(v) ACQUISITION OF ADDITIONAL LANDS.—The State or other non-Federal interests may acquire for the Wetlands Bank additional lands which are in, adjacent to, or provide drainage for runoff and streamflows into the storage area described in clause (i) and may use funds provided by sources other than the State for such purpose. Such lands shall include transition and buffer areas adjacent to the Central Basin natural storage wetlands, and other Passaic River Basin areas, including the Rockaway, Pequannock, Ramapo, and Wanaque River watershed areas.

(vi) CREDIT.—The fair market value of lands acquired by the State or other non-Federal interests in the storage area described in clause (i) before, on, or after the date of the enactment of this Act, the fair market value of lands acquired for the Wetlands Bank under clause (v) before, on, or after such date of enactment, and the costs incurred by the State or other non-Federal interests in converting any of such lands to wetlands shall be credited to the non-Federal share of the project authorized by this paragraph.

(vii) TREATMENT OF ACQUIRED LANDS.—Lands acquired by the State for the Wetlands Bank shall not be treated as a project cost for purposes of economic evaluation of the project.

(19) RIO DE LA PLATA, PUERTO RICO.—The project for flood control, Rio De La Plata, Puerto Rico: Report of the Chief Engineers, dated January 3, 1989, at a total cost of $56,990,000, with an estimated first Federal cost of $34,780,000 and an estimated first non-Federal cost of $22,210,000.

(20) MYRTLE BEACH, SOUTH CAROLINA.—The project for storm damage reduction, Myrtle Beach, South Carolina: Report of the Chief of Engineers, dated March 2, 1989, at a total

cost of $59,730,000, with an estimated first Federal cost of $38,820,000 and an estimated first non-Federal cost of $20,910,000.

(21) BUFFALO BAYOU AND TRIBUTARIES, TEXAS.—The project for flood control, Buffalo Bayou and tributaries, Texas: Report of the Chief of Engineers dated February 12, 1990, at a total cost of $544,604,000, with an estimated first Federal cost of $309,313,000 and an estimated first non-Federal cost of $235,291,000.

(22) RAY ROBERTS LAKE GREENBELT, TEXAS.—The multiple purpose project, Ray Roberts Lake Greenbelt, Texas, authorized by section 301 of the Rivers and Harbors Act of 1965, is modified to authorize the Secretary to construct recreation features substantially in accordance with the Report of the Chief of Engineers, dated December 24, 1987, at a total cost of $4,620,000, with an estimated first Federal cost of $1,730,000 and an estimated first non-Federal cost of $2,890,000.

(23) UPPER JORDAN RIVER, UTAH.—The project for flood control, Upper Jordan River, Utah: Report of the Chief of Engineers, dated November 16, 1988, at a total cost of $7,900,000, with an estimated first Federal cost of $5,200,000 and an estimated first non-Federal cost of $2,700,000.

(24) BUENA VISTA, VIRGINIA.—The project for flood control, Buena Vista, Virginia: Report of the Chief of Engineers, dated June 27, 1990, at a total cost of $55,100,000, with an estimated first Federal cost of $41,300,000 and an estimated first non-Federal cost of $13,800,000.

(25) PETERSBURG, WEST VIRGINIA.—The project for flood control, Petersburg, West Virginia: Report of the Chief of Engineers, dated June 29, 1990, at a total cost of $17,904,000, with an estimated first Federal cost of $10,044,000 and an estimated first non-Federal cost of $7,860,000.

(b) PROJECTS SUBJECT TO FAVORABLE REPORT OF THE CHIEF OF ENGINEERS.—The following projects are authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports cited with such modifications as are recommended in a final report of the Chief of Engineers and approved by the Secretary and with such other modifications as are recommended by the Secretary (and if no report is cited for a project the project is authorized to be prosecuted by the Secretary in accordance with a final report of the Chief of Engineers and with such other modifications as are recommended by the Secretary) and no construction on such a project may be initiated until such a report of the Chief of Engineers is issued:

(1) LOS ANGELES COUNTY DRAINAGE AREA, CALIFORNIA.—The project for flood control, Los Angeles County drainage area, California, at a total cost of $327,000,000, with an estimated first Federal cost of $163,500,000 and an estimated first non-Federal cost of $163,500,000.

(2) MORRO BAY, CALIFORNIA.—The project for navigation, Morro Bay, California, to extend and deepen the entrance channel for Morro Bay Harbor to a depth of 40 feet and thereafter maintain such channel at such depth, at a total cost of $1,900,000.

(3) NORCO BLUFFS, CALIFORNIA.—The project for bank stabilization and erosion control, Norco Bluffs, California, at a total cost of $10,000,000.

(4) LOCKS AND DAMS 2 AND 3, MONONGAHELA RIVER, PENNSYLVANIA.—The project for navigation, Locks and Dams 2 and 3, Monongahela River, Pennsylvania, including replacement of locks and dams and related improvements as appropriate, at a total cost of $450,000,000, with a first Federal cost of $450,000,000. The Federal share of cost of construction of the project is to be paid one-half from amounts appropriated from the general fund of the Treasury and one-half from amounts appropriated from the Inland Waterways Trust Fund.

(5) MARMET LOCK AND DAM, KANAWHA RIVER, WEST VIRGINIA.—The project for navigation, Marmet Lock and Dam, Kanawha River, West Virginia, at a total cost of $300,000,000, with a first Federal cost of $300,000,000. The Federal share of cost of construction of the project is to be paid one-half from amounts appropriated from the general fund of the Treasury and one-half from amounts appropriated from the Inland Waterways Trust Fund.

SEC. 4. PROJECT MODIFICATIONS.

(a) VILLAGE CREEK, ALABAMA.—The project for flood control, Village Creek, Alabama, authorized by section 401 of the Water Resources Development Act of 1986 (100 Stat. 4111), is modified to authorize the Secretary to acquire private vacant lands within the definite project boundaries established in the Real Estate Design Memorandum, dated March 4, 1988, as a nonstructural element of the project.

(b) LOS ANGELES AND LONG BEACH HARBORS, SAN PEDRO BAY, CALIFORNIA.—Section 4(d) of the Water Resources Development Act of 1988 (102 Stat. 4015) is amended by inserting after "approved by the Secretary" in the first sentence the following: "or which, after the date of issuance of a report of the Chief of Engineers for such project, is included in such report".

(c) OAKLAND INNER HARBOR, CALIFORNIA.—The project for navigation, Oakland Inner Harbor, California, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4092), is modified—

(1) to provide that the maximum amount reimbursable to non-Federal interests by the Secretary under section 215 of the Flood Control Act of 1968 with respect to the project shall be $10,000,000; and

(2) to direct the Secretary to enforce the navigational servitude with respect to construction of the project on a reimbursable basis if requested by a non-Federal sponsor of the project.

(d) SACRAMENTO DEEP WATER SHIP CHANNEL, CALIFORNIA.—The project for navigation, Sacramento Deep Water Ship Channel, California, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4092), is modified to direct the Secretary, if requested by a non-Federal sponsor, to enforce, on a reimbursable basis, the terms of any permit issued by the Secretary under section 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), commonly known as the Rivers and Harbors Appropriations Act of 1899, to compel the relocation of any utility necessitated by the construction of an authorized navigation project.

(e) SANTA ANA MAINSTEM, CALIFORNIA.—The project for flood control, Santa Ana Mainstem, including Santiago Creek, California, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4113), is modified to authorize the Secretary to develop recreational trails and facilities on lands between Seven Oaks Dam and Prado Dam, including flood plain management areas.

(f) SANTA FE DAM, LOS ANGELES AND SAN GABRIEL RIVERS, CALIFORNIA.

(1) IN GENERAL.—The Santa Fe Dam project authorized as part of the flood control project for the Los Angeles and San Gabriel Rivers, California, by section 5 of the Flood Control Act of June 22, 1936 (49 Stat. 1589), is modified to authorize the Secretary to contract for the removal and sale of dredged material from the flood control basin for Santa Fe Dam, Los Angeles County, California, for the purposes of facilitating flood control, recreation, and water conservation. All funds received by the Secretary from the removal and sale of such dredged material shall be deposited in the general fund of the Treasury.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1990, an amount not to exceed the amount of funds received by the Secretary from the removal and sale of dredged material under subsection (a). Amounts appropriated under this subsection shall be available to the Secretary—

(A) to construct, operate, and maintain recreational facilities at the Santa Fe Dam project, at full Federal expense; and

(B) to the extent consistent with other authorized project purposes, to facilitate, in coordination with the county of Los Angeles, water conservation and ground water recharge measures at the Sante Fe Dam project, at full Federal expense.

(g) SANTA PAULA CREEK CHANNEL AND DEBRIS BASIN, SANTA CLARA RIVER BASIN, CALIFORNIA.—The project for flood control, Santa Paula Creek Channel and Debris Basin, Santa Clara River Basin, California, authorized by section 203 of the Flood Control Act of 1948 (62 Stat. 1178), is modified to direct the Secretary to construct the debris basin feature of the project at the Mupu site in accordance with General Design Memorandum Number 4, Supplemental Design for Santa Paula Creek Channel, March 1972, at a total cost of $41,000,000.

(h) DELAWARE RIVER TO CHESAPEAKE BAY, DELAWARE AND MARYLAND.—The project for navigation, inland waterway from the Delaware River to the Chesapeake Bay, Delaware and Maryland, authorized by the first section of the Act of August 30, 1935 (49 Stat. 1030), and modified by the Act entitled "An Act authorizing construction of a highway bridge across the Chesapeake and Delaware Canal at Saint Georges, Delaware", approved August 7, 1939 (53 Stat. 1240-1241), is modified to direct the Secretary to replace the highway bridge on United States Route 13 in the vicinity of St. Georges, Delaware, to meet current and projected traffic needs, at a Federal cost of $115,000,000. The State may carry out the bridge replacement. If the State carries out the bridge replacement, the Secretary may reimburse the State for costs incurred.

(i) ALAFIA CHANNEL, FLORIDA.—The project for navigation, Tampa Harbor, Florida, authorized by section 4 of the Rivers and Harbors Act of September 22, 1922 (42 Stat. 1042), is modified to authorize the Secretary to maintain the Alafia Channel at a depth of 34 feet.

(j) FERNANDINA HARBOR, FLORIDA.—The project for navigation, Fernandina Harbor, Florida, authorized by the River and Harbor Appropriation Act of June 14, 1880, is modified to redesignate the location of the turning basin between stations 0+00 of cut 8 and 5+45 of cut 10 to the area between stations 11+70 and 23+30 of cut 5. Such redesignation shall remain in effect until the ongoing study of Fernandina Harbor under section 107 of the River and Harbor Act of 1960 is completed and the resulting project is constructed.

(k) KISSIMMEE RIVER, CENTRAL AND SOUTHERN FLORIDA.—

(1) IN GENERAL.—The flood control project for Central and Southern Florida, authorized by section 203 of the Flood Control Act of 1948 (62 Stat. 1176), is modified to provide for restoration of the Kissimmee River for environmental purposes, at an estimated total cost of $270,000,000. Such restoration includes filling of Canal C-38, removal of spillway structures and locks, and increasing the storage in the upper Kissimmee basin and shall minimize to the fullest extent possible any effect on the project's flood control and navigation purposes.

(2) REPORT OF CHIEF OF ENGINEERS.—The Secretary may undertake restoration of the Kissimmee River under this subsection only in accordance with a final report of the Chief of Engineers, including such modifications as the Secretary may recommend, which is based on the Level II Backfilling plan recommended by the South Florida Water Management District in the report entitled "Kissimmee River Restoration, Alternative Plan Evaluation and Preliminary Design Report".

(3) NON-FEDERAL SHARE.—Non-Federal interests shall provide without cost to the United States all lands, easements, rights-of-way, relocations, and dredged material disposal areas necessary for the project authorized by this subsection, except that the aggregate non-Federal share for the project shall not exceed 50 percent of the total cost of the project. In the event that the value of lands, easements, rights-of-way, relocations, and disposal areas is less than 25 percent of the total first cost of the project, non-Federal interests shall pay, during the period of construction, such amounts as may be necessary to make the total non-Federal contribution equal 25 percent. The non-Federal interests shall provide 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of the project. In addition, the non-Federal interests shall hold and save the United States free from damages due to the construction, operation, and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors.

(l) MANATEE HARBOR, FLORIDA.—The project for navigation, Manatee Harbor, Florida, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4093), is modified to direct the Secretary to construct the project substantially in accordance with the post authorization change report, dated April 1990, at an estimated total cost of $27,589,000, with an estimated first Federal cost of $12,381,000 and an estimated first non-Federal cost of $15,208,000.

(m) NASSAU COUNTY, FLORIDA.—The project for beach erosion control, Nassau County (Amelia Island), Florida, authorized by section 3 of the Water Resources Development Act of 1988 (102 Stat. 4013), is modified to direct the Secretary, in cooperation with the State of Florida, to renourish the southern beaches of Fernandia (south Amelia Island), Florida, from Florida Department of Natural Resources Monument Number 60 to Monument Number 74. The non-Federal share of the cost of such renourishment shall be 50 percent.

(n) PORT SUTTON CHANNEL, FLORIDA.—Section 3(a)(4) of the Water Resources Development Act of 1988 (102 Stat. 4013) is amended by striking "; except" and all that follows through "beneficiary".

(o) DES MOINES RIVER AND GREENBELT, IOWA.—

(1) AREA DESCRIPTION.—The project for Des Moines Recreational River and Greenbelt, Iowa, authorized by the Supplemental Appropriations Act, 1985 (99 Stat. 313), is modified to include the area described in the Des Moines Recreational River and Greenbelt map, which description is printed in Committee Print 101-47 of the Committee on Public Works and Transportation of the House of Representatives, dated July 1990.

(2) FORMER AREA DESCRIPTION.—Section 604 of the Water Resources Development Act of 1986 (100 Stat. 4153) is repealed.

(p) KENTUCKY RIVER, KENTUCKY.—The project for the disposition of Kentucky River, Kentucky, Locks and Dams 5 through 14, authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4109), is modified to provide that the Secretary may not proceed with such disposition until the Secretary has performed major maintenance on the lock and dam structures. Such major maintenance is to include resurfacing of lock chamber walls, timber replacement, valve repair, and gate leaf replacement, at a total cost of $3,500,000. Until such time as the lock and dam facilities are transferred to non-Federal interests, the Secretary shall perform routine maintenance that is necessary to prevent permanent failure of project components and to maintain operational capability.

(q) LAKE PONTCHARTRAIN, LOUISIANA.—The project for flood protection on Lake Pontchartrain, Louisiana, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1077), is modified to make construction, operation, and maintenance of the project a Federal responsibility. The modification made by this subsection shall take effect January 1, 1966.

(r) BUFFUMVILLE LAKE, MASSACHUSETTS.—The flood control project for Buffumville Lake, Massachusetts, authorized by the Flood Control Act of August 18, 1941 (55 Stat. 639), is modified to authorize the Secretary to undertake low flow augmentation for improving water quality on the French River.

(s) LOCKS AND DAM 26, MISSISSIPPI RIVER, ALTON, ILLINOIS AND MISSOURI.—The navigation project for replacement of locks and dam 26, Mississippi River, Alton, Illinois and Missouri, authorized by section 102 of Public Law 95-502, is modified to authorize the Secretary to provide project-related recreation development in the State of Illinois, that requires no separable project lands, and includes site preparations and infrastructure for a marina and docking facilities, access roads and parking, a boat launching ramp, hiking trails, and picnicking facilities, at a Federal construction cost that will not increase the overall project cost estimate for recreation development. The recreation development shall be subject to cost-sharing with the State of Illinois and costs incurred by non-Federal public interests for items of work that may have been completed before the date of the enactment of this Act may be credited to the non-Federal share of the overall cost if, in the Secretary's opinion, such work is directly related to and necessary for project-related recreation development described in the preceding sentence.

(t) ROUGE RIVER, MICHIGAN.—The multipurpose project at Rouge River, Michigan, authorized by the Act of August 30, 1935 (49 Stat. 1036-1037), is modified to authorize and direct the Secretary, in consultation with appropriate State and local agencies, to conduct a 1-year comprehensive study of the Rouge River streamflow enhancement project at the Rouge River, Huron River, and Belleville Lake for the purpose of identifying measures which will optimize achievement of the project's purposes while preserving and enhancing the quality of the Rouge River, Huron River, and Belleville Lake for current and future users. Upon completion of the study, the Secretary shall undertake a demonstration project at the Rouge River to determine the effectiveness of measures identified in such study, at a total cost of $88,183,000, with an estimated Federal share of $19,612,000 and an estimated non-Federal share of $68,571,000.

(u) REDWOOD RIVER, MARSHALL, MINNESOTA.—The project for flood control, Redwood River at Marshall, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117) and modified by section 4(k) of the Water Resources Development Act of 1988, is modified to provide that the costs of the project are as follows: The total cost of the project is $9,632,000, with an estimated first Federal cost of $7,823,000 and an estimated first non-Federal cost of $1,809,000.

(v) MISSISSIPPI RIVER, ST. PAUL, MINNESOTA.—The project for flood control, Mississippi River at St. Paul, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118), is modified to authorize the Secretary to construct the project substantially in accordance with the Design Memorandum, dated March 1990, and the Recreational Supplement, dated April 1990, at a total cost of $18,021,000, with an estimated first cost of $10,226,000 and an estimated first non-Federal cost of $7,795,000.

(w) SOUTH FORK ZUMBRO RIVER WATERSHED, ROCHESTER, MINNESOTA.—The project for flood control, South Fork Zumbro River Watershed at Rochester, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum of the Chief of Engineers, dated September 1982, at a total cost of $112,000,000, with an estimated first Federal cost of $82,900,000 and an estimated first non-Federal cost of $29,700,000.

(x) PEARL RIVER BASIN, MISSISSIPPI.—Section 401(e)(3) of the Water Resources Development Act of 1986 (100 Stat. 4132) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B)(vi) and inserting "; and";

(3) by inserting after subparagraph (B)(vi) the following new subparagraph:

"(C) for measures to provide flood protection for the Jackson metropolitan area, Mississippi, and all areas affected by flooding of the Pearl River downstream of the areas covered by subparagraph (B) in the State of Mississippi, including the counties of Rankin, Hinds, Simpson, Lawrence, Marion, and Madison, Mississippi."; and

(4) by adding at the end the following new sentence:

"In carrying out the projects and measures described in subparagraphs (A), (B), and (C), the Secretary shall consult with local governmental entities affected by such projects.".

(y) ACEQUIAS SYSTEM, NEW MEXICO.—The irrigation system project, New Mexico, authorized by section 1113 of the Water Resources Development Act of 1986 (100 Stat. 4232), is modified to provide that the costs of the project are as follows: The total cost of

the project is $73,300,000, with an estimated first Federal cost of $55,000,000 and an estimated first non-Federal cost of $18,300,000.

(z) NEW YORK HARBOR DRIFT REMOVAL PROJECT, NEW YORK AND NEW JERSEY.—

(1) REMOVAL OF FLOATING MATERIAL.—The New York Harbor collection and removal of drift project, authorized by section 91 of the Water Resources Act of 1974 (88 Stat. 39), is modified to authorize the Secretary to collect and remove floating material whenever the Secretary is collecting and removing debris which is an obstruction to navigation.

(2) CONTINUATION.—The Secretary shall continue engineering, design, and construction on the New York Harbor collection and removal of drift project, including construction of the 2nd phase in the Jersey City North reach which shall include remaining piers and debris in the Harsimus Cove area, construction of the Brooklyn II reach, and engineering and design for the remaining unconstructed reaches.

(3) BARGE REMOVAL.—As part of the New York Harbor collection and removal of drift project, the Secretary shall expedite necessary engineering, design, and removal of 7 abandoned barges from the Passaic River in Kearny, Nutley, and Passaic, New Jersey.

(aa) IRONDEQUOIT BAY, NEW YORK.—The navigation project for Irondequoit Bay, New York, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 299), is modified to authorize the Secretary to construct a highway bridge across the new channel constructed as part of such project if non-Federal interests—

(1) agree to be responsible for operation and maintenance of such bridge,

(2) agree to pay 50 percent of the cost of such construction, and

(3) agree that title to such bridge will be held by non-Federal interests.

(bb) CLEVELAND HARBOR, OHIO.—The project for harbor modification, Cleveland Harbor, Ohio, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095), is modified to direct the Secretary to reimburse the non-Federal sponsor for the Federal share of amounts expended by the non-Federal sponsor for improvements to Pier 34 of such project.

(cc) WEST COLUMBUS, OHIO.—The project for flood control, Scioto River, West Columbus, Ohio, authorized by section 3(a) of the Water Resources Development Act of 1988 (102 Stat. 4014), is modified to increase the total cost of the project to $90,000,000.

(dd) CANTON LAKE, OKLAHOMA.—The second paragraph under the heading "ARKANSAS RIVER BASIN" in section 10 of the Flood Control Act of 1946 (60 Stat. 647), as amended by the first paragraph under the heading "ARKANSAS RIVER BASIN" in section 203 of the Flood Control Act of 1948 (62 Stat. 1176), is amended—

(1) by striking "Enid, Oklahoma" and inserting "Oklahoma City, Oklahoma"; and

(2) by adding at the end the following: "Not later than 180 days after the date of the enactment of the Water Resources Development Act of 1990, the Secretary of the Army is directed (subject to agreement between the city of Oklahoma City, Oklahoma, or the Oklahoma City Municipal Improvement Authority and the city of Enid, Oklahoma, providing for such reassignment) to reassign to the city of Oklahoma City all the municipal and industrial storage in the Canton Reservoir for the city of Enid and all irrigation storage to municipal and industrial water supply storage (under the terms of the Water Supply Act of 1958 (72 Stat. 319-320)); except that if the city of Oklahoma City contracts for permanent municipal and industrial water supply storage under this Act, the city of Oklahoma City shall receive credit for amounts previously paid by it, or on its behalf, toward the principal investment cost for storage under prior term contracts and other payments. The principal amount to be paid by the city of Oklahoma City shall be the proportional amount of original project construction cost for which the city of Oklahoma City contracts for storage and at the original project interest rate over a 50-year payback amortization schedule beginning in 1955.".

(ee) DELAWARE RIVER, PENNSYLVANIA, NEW JERSEY, AND DELAWARE.—The project for navigation, Delaware River, Pennsylvania, New Jersey, and Delaware, Philadelphia to the Sea, authorized by section 201 of the Flood Control Act of 1965 (79 Stat. 1073) and approved by committee resolution, is modified to authorize the Secretary to make improvements to the Tioga Marine Terminal, at a total cost of $2,700,000. Such improvements include piling replacement, a new pier fendering system, paving, deck replacement, lighting, and fencing.

(ff) LOCK AND DAM 7 REPLACEMENT, MONONGAHELA RIVER, PENNSYLVANIA.—The project for navigation, Lock and Dam 7 Replacement, Monongahela River, Pennsylvania, authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110), is modified to provide that the dam structure will be gated instead of fixed crest and to increase the total cost of the project to $133,000,000.

(gg) ROCHESTER, PENNSYLVANIA.—The project for navigation on the Ohio River at Rochester, Pennsylvania, authorized by section 13 of the River and Harbor Act of 1909 (35 Stat. 831), is modified to authorize the Secretary to construct safety facilities of a floating dock, a river access ramp, and roadway and parking areas at a total cost of $90,000.

(hh) MCNARY LOCK AND DAM, WASHINGTON AND OREGON.—The project for McNary Lock and Dam, Second Powerhouse, Columbia River, Washington and Oregon, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4146), is modified to direct the Secretary to construct the levee beautification portion of the project described in the Phase I General Design Memorandum: Report of the Chief of Engineers, dated June 24, 1981. In determining the new levee heights, the Secretary shall complete the feasibility studies underway for the Tri-Cities Levees, Washington, giving full consideration to the impact that present upstream reservoir storage has had in lowering water surface elevations during major floods.

(ii) BLUESTONE LAKE, OHIO RIVER BASIN, WEST VIRGINIA.—

(1) MINIMIZATION OF DRIFT AND DEBRIS RELEASE.—The project for flood control, Bluestone Lake, Ohio River Basin, West Virginia, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), is modified to direct the Secretary to take such measures as are technologically feasible to minimize the release of drift and debris into waters downstream of the project, including measures to prevent the accumulation of drift and debris at the project, the collection and removal of drift and debris on the segment of the New River upstream of the project, and the removal (through the use of temporary or permanent systems) and disposal of accumulated drift and debris at Bluestone Dam.

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report detailing the Secretary's progress in carrying out paragraph (1).

(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to affect the authority of the Secretary to carry out other authorized purposes of the project referred to in paragraph (1); except that no policy or priority established by the Secretary shall be used to defer or impede the implementation of the measures described in paragraph (1).

(jj) MATEWAN, WEST VIRGINIA.—The project for flood control, Matewan, West Virginia, authorized by section 202 of the Energy and Water Development Appropriation Act, 1981 (94 Stat. 1339), is modified to provide that the flood control project for Hatfield Bottom, West Virginia, shall be treated as being an inseparable element of the Matewan project for purposes of section 103 of the Water Resources Development Act of 1986.

SEC. 5. PRIVATE SECTOR DEVELOPMENT OF INFRASTRUCTURE.

(a) MARKET FEASIBILITY PROGRAM.—The Secretary, in cooperation with non-Federal interests, is authorized to carry out, during the 3-year period beginning on the date of the enactment of this Act, a market feasibility program for the purpose of determining what opportunities exist for private sector development of facilities for water, waste management, and energy generation and other critical support facilities.

(b) COOPERATIVE AGREEMENTS.—To carry out subsection (a), the Secretary may enter into cooperative agreements with non-Federal entities, including State and local governments, colleges and universities, corporations, partnerships, sole proprietorships, and trade associations which are incorporated or established under the laws of a State, the District of Columbia, or a territory or possession of the United States. The Secretary may not agree to provide more than 50 percent of the costs incurred under such an agreement.

(c) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall report to Congress on implementation of this section. Such report shall include any recommendations of the Secretary concerning modification and extension of the program carried out under this section.

(d) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $5,000,000 to carry out this section.

SEC. 6. PLANNING AND ENGINEERING.

Section 105(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(b)) is amended by adding at the end the following new sentence: "This subsection shall not apply to planning and engineering of projects for which non-Federal interests contributed 50 percent of the cost of the feasibility study.".

SEC. 7. FUNDING OF COSTS ASSIGNED TO COMMERCIAL NAVIGATION.

Section 210(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2238(a)) is amended by striking paragraph (2) and inserting the following:

"(2) not more than 100 percent of the eligible operation and maintenance costs assigned to commercial navigation of all harbors and inland harbors within the United States.".

SEC. 8. EMERGENCY RESPONSE.

The first sentence of section 5(a)(1) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (33 U.S.C. 701n(a)(1)), is amended—

(1) by striking "flood emergency preparation," and inserting "preparation for emergency response to any natural disaster,"; and

(2) by striking the period at the end and inserting the following: "; or for emergency dredging for restoration of authorized project depths for Federal navigable channels and waterways made necessary by flood, drought, earthquake, or other natural disaster.".

SEC. 9. CONSTRUCTION OF NAVIGATION PROJECTS BY NON-FEDERAL INTERESTS.

(a) TRANSMISSION OF HARBOR IMPROVEMENT STUDIES TO NON-FEDERAL INTERESTS.—Section 204(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2232(c)) is amended by inserting after the first sentence the following new sentence: "The Secretary is further authorized to complete and transmit to the appropriate non-Federal interest any study for improvement to harbors or inland harbors of the United States that is initiated pursuant to section 107 of the River and Harbor Act of 1960 or, upon request of such non-Federal interest, to terminate such study and transmit such partially completed study to the non-Federal interest.".

(b) REIMBURSEMENT.—Section 204 of such Act is amended—

(1) by redesignating the second subsection (e) and subsection (f) as subsections (f) and (g), respectively;

(2) in paragraph (1) of the first subsection (e) by inserting "including any small navigation project approved pursuant to section 107 of the River and Harbor Act of 1960," after "or separable element thereof,"; and

(3) in paragraph (1)(A) of the first subsection (e) by inserting "(or, in the case of a small navigation project, after completion of a favorable project report by the Corps of Engineers)" after "authorization of the project".

SEC. 10. PROJECT MODIFICATIONS FOR IMPROVEMENT OF ENVIRONMENT.

(a) REVIEW OF PROJECT OPERATIONS.—Section 1135(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2294 note), is amended by striking "before the date of enactment of this Act".

(b) MODIFICATION PROGRAM.—Section 1135(b) of such Act is amended—

(1) by striking "demonstration program in the 5-year period beginning on the date of enactment of this Act" and inserting "program"; and

(2) by striking "before the date of enactment of this Act".

(c) REPORT.—Section 1135(d) of such Act as amended to read as follows:

"(d) BIENNIAL REPORT.—Beginning in 1992 and every 2 years thereafter, the Secretary shall transmit to Congress a report on the results of reviews conducted under subsection (a) and on the program conducted under subsection (b).".

(d) FUNDING.—Section 1135(e) of such Act is amended by striking "$25,000,000 to carry out this section." and inserting "$15,000,000 annually to carry out this section.".

SEC. 11. ABILITY TO PAY.

Section 103(m) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m)) is amended to read as follows:

"(m) ABILITY TO PAY.—

"(1) GENERAL RULE.—Any cost-sharing agreement under this section for flood control or water supply shall be subject to the ability of a non-Federal interest to pay.

"(2) PROCEDURES.—

"(A) IN GENERAL.—The ability of any non-Federal interest to pay shall be determined by the Secretary in accordance with procedures established by the Secretary.

"(B) LIMITATIONS.—The procedures established pursuant to this subsection shall not prescribe a minimum non-Federal share and shall allow for situations in which no cash contribution is required from the non-Federal interest; except that nothing in this subsection shall affect the requirements of a non-Federal interest to provide all lands, easements, rights-of-way, dredged material disposal areas, and relocations pursuant to this section. In addition, such procedures shall provide for determination of the eligibility of the non-Federal interest for a reduction in the required cash contribution on the basis of local, not statewide, economic data and for consideration of reductions in non-Federal cash contributions without regard to project benefit-to-cost ratio.

"(C) REGULATIONS.—Not later than the 180th day following the date of the enactment of this subparagraph, the Secretary shall issue regulations establishing the procedures required by this paragraph.".

SEC. 12. ENVIRONMENTAL PROTECTION MISSION.

(a) GENERAL RULE.—The Secretary shall include environmental protection as one of the primary missions of the Corps of Engineers in planning, designing, constructing, operating, and maintaining water resources projects.

(b) LIMITATION.—Nothing in this section affects—

(1) existing Corps of Engineers' authorities, including its authorities with respect to navigation and flood control;

(2) pending Corps of Engineers permit applications or pending lawsuits involving permits or water resources projects; or

(3) the application of public interest review procedures for Corps of Engineers permits.

(c) REPORT.—The Secretary shall, not later than January 1, 1992, and on a biennial basis thereafter, transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the implementation of this section, including—

(1) specific measures taken and agency resources committed to carry out the purposes of this section;

(2) any legal, funding, or policy obstacles encountered or anticipated; and

(3) recommendations for administrative and legislative measures to further the purposes of this section.

SEC. 13. FLOOD PLAIN MANAGEMENT.

(a) BENEFIT-COST ANALYSIS.—The Secretary shall not include in the benefit base for justifying Federal flood damage reduction projects—

(1) any new or substantially reconstructed structure built in the 100-year flood plain after July 1, 1991; and

(2) any structure that becomes located in the 100-year flood plain by virtue of constrictions placed in the flood plain after July 1, 1991.

(b) COST SHARING.—Not later than January 1, 1992, the Secretary shall transmit to Congress a report on the feasibility and advisability of increasing the non-Federal share of costs for new projects in areas where new or substantially reconstructed structures and other constrictions are built or placed in the 100-year flood plain after the initial date of the affected governmental units entry into the regular program of the national flood insurance program of the National Flood Insurance Act of 1968.

(c) REGULATIONS.—The Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall issue regulations to implement subsection (a). Such regulations shall define key terms, such as new or substantially reconstructed structure, constriction, and 100-year flood plain.

(d) APPLICABILITY.—The provisions of this section shall apply to any project, or separable element thereof, for which a final report of the Chief of Engineers has not been forwarded to the Secretary on or before July 1, 1995.

SEC. 14. SHORELINE PROTECTION.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the advisability of not participating in the planning, implementation, or maintenance of any beach stabilization or renourishment project involving Federal funds unless the State in which the proposed project will be located has established or committed to establish a beach front management program that includes—

(1) restrictions on new development seaward of an erosion setback line (based on preproject beach size) of at least 50 times the annual erosion rate;

(2) restrictions on construction of new structural stabilization projects, such as seawalls and groins, and their reconstruction if damaged by 50 percent or more;

(3) provisions for the relocation of structures in erosion-prone areas;

(4) provisions to assure public access to beaches stabilized or renourished with Federal funds after January 1, 1991; and

(5) such other provisions as the Secretary may prescribe by regulation to prevent hazardous or environmentally damaging shoreline development.

SEC. 15. RESERVOIR MANAGEMENT.

(a) TECHNICAL ADVISORY COMMITTEES.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall establish for each major reservoir (including reservoirs of greater than 200,000 acre feet of gross storage) under the jurisdiction of the Corps of Engineers a technical advisory committee to provide to the Secretary and Corps of Engineers recommendations on reservoir monitoring and options for reservoir management. The Secretary shall determine the membership of each committee, except that for each committee the Secretary may not appoint more than 6 members and shall ensure a predominance of members with appropriate academic, technical, or scientific qualifications. Members shall serve without pay, and the Secretary shall provide any necessary facilities, staff, and other support services in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.).

(b) PUBLIC PARTICIPATION.—The Secretary shall ensure that, in developing or revising reservoir operating manuals of the Corps of Engineers, the Corps shall provide significant opportunities for public participation, including opportunities for public hearings. The Secretary shall issue regulations to implement this subsection, including a requirement that all appropriate informational materials relating to proposed management decisions of the Corps be made available to the public sufficiently in advance of public hearings. Not later than January 1, 1992, the

Secretary shall transmit to Congress a report on measures taken pursuant to this subsection.

(c) RECREATION, FISH, AND WILDLIFE PURPOSES.—The Secretary is authorized to manage any existing dam and reservoir project of the Corps of Engineers for recreation and fish and wildlife purposes to the extent such management does not impair any other authorized project purpose.

SEC. 16. CHANGES IN RESERVOIR PROJECT OPERATIONS.

(a) REVIEW.—The Secretary shall conduct a review of the operations of reservoir projects which are under the jurisdiction of the Secretary—

(1) to determine whether or not such projects are being operated in accordance with their authorized purposes;

(2) to identify deficiencies in the operations of such projects which prohibit the realization of project benefits; and

(3) to determine inconsistencies in the operations of those projects which have the same authorized project purposes.

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the review conducted under subsection (a), together with recommendations for correcting deficiencies and eliminating inconsistencies identified under subsection (a).

(c) WATER CONTROL MANUALS.—

(1) PRELIMINARY DRAFT.—Not later than 270 days after the date of the enactment of this Act, the Secretary shall develop a preliminary draft of a water control manual for each reservoir project which is under the jurisdiction of the Secretary.

(2) PUBLIC REVIEW.—The Secretary shall make each draft developed under paragraph (1) available for review by the public for a period of not less than 90 days.

(3) FINAL DRAFT.—Not later than 15 months after the date of the enactment of this Act, the Secretary shall develop and publish a final water control manual for each reservoir project which is under the jurisdiction of the Secretary.

(4) CONSISTENCY WITH PROJECT PURPOSES.—Each manual developed under this subsection shall be consistent with the authorized purposes of the project for which such manual is developed.

(d) OPERATION OF PROJECTS.—After the last day of the 15-month period beginning on the date of the enactment of this Act, each reservoir project which is under the jurisdiction of the Secretary shall be operated in accordance with the final water control manual developed for such project under this section.

(e) SIGNIFICANT CHANGES.—Before making any significant change in a water control manual developed under this section, the Secretary shall—

(1) make the proposed change available for review by the public for a period of not less than 60 days;

(2) prepare a comprehensive assessment of the need for the proposed change, the expected effects of the proposed change, comments received on the proposed change, the impact of the proposed change on authorized project purposes, the anticipated cost and benefits of the proposed change, alternatives which were considered before selection of the proposed change, and the authority for making the proposed change; and

(3) transmit to Congress a copy of the proposed change, together with such assessment, so that the proposed change and assessment will be available to Congress for a period of not less than 60 days before the proposed change becomes effective.

SEC. 17. ENVIRONMENTAL DREDGING.

(a) OPERATION AND MAINTENANCE OF NAVIGATION PROJECTS.—Whenever necessary to meet the requirements of the Federal Water Pollution Control Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, may remove, as part of operation and maintenance of a navigation project, contaminated sediments outside the boundaries of and adjacent to the navigation channel.

(b) NAVIGATION PROJECTS.—In carrying out a navigation project in an area which is not meeting applicable water quality standards, the Secretary may remove contaminated sediments outside the boundaries of and adjacent to the navigation channel if such removal is necessary to enable the area to meet such standards, such removal is requested by a non-Federal sponsor, and the sponsor agrees to pay 50 percent of the cost of such removal.

(c) NONPROJECT SPECIFIC.—The Secretary may remove contaminated sediments from the navigable waters of the United States for the purpose of environmental enhancement and water quality improvement if such removal is requested by a non-Federal sponsor and the sponsor agrees to pay 50 percent of the cost of such removal.

(d) JOINT PLAN REQUIREMENT.—The Secretary may only remove contaminated sediments under subsections (b) and (c) in accordance with a joint plan developed by the Secretary and interested Federal, State, and local government officials. Such plan must include an opportunity for public comment, a description of the work to be undertaken, the method to be used for dredged material disposal, the roles and responsibilities of the Secretary and non-Federal sponsors, and identification of sources of funding.

(e) DISPOSAL COSTS.—Costs of disposal of contaminated sediments removed under this section shall be a non-Federal responsibility.

SEC. 18. PROTECTION OF RECREATIONAL AND COMMERCIAL USES.

(a) GENERAL RULE.—In planning any water resources project, the Secretary shall consider the impact of the project on existing and future recreational and commercial uses in the area surrounding the project.

(b) MAINTENANCE.—Whenever the Secretary maintains, repairs, rehabilitates, or reconstructs a water resources project which will result in a change in the configuration of a structure which is a part of such project, the Secretary, to the maximum extent practicable, shall carry out such maintenance, repair, rehabilitation, or reconstruction in a manner which will not adversely affect any recreational use established with respect to such project before the date of such maintenance, repair, rehabilitation, or reconstruction.

(c) MITIGATION.—If maintenance, repair, rehabilitation, or reconstruction of a water resources project by the Secretary results in a change in the configuration of any structure which is a part of such project and has an adverse effect on a recreational use established with respect to such project before the date of such maintenance, repair, rehabilitation, or reconstruction, the Secretary, to the maximum extent practicable, shall take such actions as may be necessary to restore such recreational use or provide alternative opportunities for comparable recreational use.

(d) APPLICABILITY.—

(1) GENERAL RULE.—Subsections (b) and (c) shall apply to maintenance, repair, rehabilitation, or reconstruction for which physical construction is initiated after May 1, 1988.

(2) LIMITATION.—Subsections (b) and (c) shall not apply to any action of the Secretary which is necessary to discontinue the operation of a water resources project.

(e) COST SHARING.—Costs incurred by the Secretary to carry out the objectives of this section shall be allocated among authorized project purposes in accordance with applicable cost allocation procedures and shall be subject to cost sharing or reimbursement to the same extent as other project costs are shared or reimbursed.

SEC. 19. MULTIPURPOSE WATER RESOURCES PROJECTS.

Activities currently performed by personnel under the direction of the Secretary in connection with the operation and maintenance of hydroelectric power generating facilities at Corps of Engineers multipurpose water resources projects are to be considered as inherently governmental functions and not commercial activities. This section does not prohibit contracting out major maintenance or other functions which are currently contracted out or studying services not directly connected with project maintenance and operations.

SEC. 20. GREAT LAKES REMEDIAL ACTION PLANS.

The Secretary is authorized to provide technical, planning, and engineering assistance to States and local governments in the development and implementation of remedial action plans for areas of concern in the Great Lakes identified under the Great Lakes Water Quality Agreement of 1978. Non-Federal interests shall contribute 50 percent of the costs of such development and implementation.

SEC. 21. MATTERS TO BE ADDRESSED IN PLANNING.

Section 904 of the Water Resources Development Act of 1986 (33 U.S.C. 2281) is amended by inserting "(including preservation and enhancement of the environment)" after "environment".

SEC. 22. CROSS FLORIDA BARGE CANAL.

Section 1114 of the Water Resources Development Act of 1986 (16 U.S.C. 460tt; 100 Stat. 4232) is amended to read as follows:

"SEC. 1114. CROSS FLORIDA BARGE CANAL.

"(a) DEAUTHORIZATION.—The barge canal project located between the Gulf of Mexico and the Atlantic Ocean (hereinafter in this section referred to as the 'project'), as described in the Act of July 23, 1942 (56 Stat. 703), shall be deauthorized by operation of law immediately upon the Governor and Cabinet of the State of Florida adopting a resolution specifically agreeing on behalf of the State of Florida (hereinafter in this section referred to as the 'State') to all of the terms of the agreement prescribed in subsection (b).

"(b) TRANSFER OF PROJECT LANDS.—Notwithstanding any other provision of law, the Secretary is, subject to the provisions of subsections (d) and (e), directed to transfer to the State all lands and interests in lands acquired by the Secretary and facilities completed for the project in subsection (a), without consideration, if the State agrees to each of the following:

"(1) The State shall agree to hold the United States harmless from all claims arising from or through the operations of the lands and facilities conveyed by the United States.

"(2) The State shall agree to preserve and maintain a greenway corridor which shall be open to the public for compatible recreation and conservation activities and which

shall be continuous, except for areas referred to in subparagraphs (A) and (C) of this paragraph, along the project route over lands acquired by the Secretary or by the State or State Canal Authority, or lands acquired along the project route in the future by the State or State Canal Authority, to the maximum width possible, as determined in the management plan to be developed by the State for former project lands. Such greenway corridor shall not be less than 300 yards wide, except for the following areas:

"(A) Any area of the project corridor where, as of the date of the enactment of this subparagraph, no land is owned by the State or State Canal Authority.

"(B) Any area of the project corridor where, as of the date of the enactment of this subparagraph, the land owned by the State or State Canal Authority is less than 300 yards wide.

"(C) Any area of the project corridor where a road or bridge crosses the project corridor.

"(3) Consistent with paragraph (2) of this subsection, the State shall create a State park or conservation/recreation area in the lands and interests in lands acquired for the project lying between the Atlantic Ocean and the western boundaries of sections 20 and 29, township 15 south, range 23 east.

"(4) The State shall agree, consistent with paragraphs (2), (5) and (6) of this subsection, to preserve, enhance, interpret, and manage the water and related land resources of the area containing cultural, fish and wildlife, scenic, and recreational values in the remaining lands and interests in land acquired for the project, lying west of sections 20 and 29, township 15 south, range 23 east, as determined by the State, for the benefit and enjoyment of present and future generations of people and the development of outdoor recreation.

"(5) The State shall agree to pay, from the assets of the State Canal Authority and the Cross Florida Canal Navigation District, including revenues from the sale of former project lands declared surplus by the State management plan, to the counties of Citrus, Clay, Duval, Levy, Marion, and Putnam a minimum aggregate sum of $32,000,000 in cash or, at the option of the counties, payment to be made by conveyance of surplus former project lands selected by the State at current appraised values.

"(6) The State shall agree to provide that, after repayment of all sums due to the counties of Citrus, Clay, Duval, Levy, Marion, and Putnam, the State may use any remaining funds generated from the sale of former project lands declared surplus by the State to acquire the fee title to lands along the project route as to which less than fee title was obtained, or to purchase privately owned lands, or easements over such privately owned lands, lying within the proposed project route, consistent with paragraphs (2), (3), and (4) of this subsection, according to such priorities as are determined in the management plan to be developed by the State for former project lands. Any remaining funds generated from the sale of former project lands declared surplus by the State shall be used for the improvement and management of the greenway corridor consistent with paragraphs (2), (3), and (4) of this subsection.

"(c) ENFORCEMENT.—

"(1) REMEDIES AND JURISDICTION.—The United States is directed to vigorously enforce the agreement referred to in subsections (a) and (b) in the courts of the United States and shall be entitled to any remedies in equity or law, including, without limitation, injunctive relief. The court, in issuing any final order in any suit brought pursuant to this subsection, may, in its discretion, award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing party. The United States district courts shall have original and exclusive jurisdiction of any action under this subsection.

"(2) STATE REMEDIES.—The State shall be entitled to the same remedies listed in paragraph (1) of this subsection in the courts of the State or of the United States.

"(d) TIME OF TRANSFER.—Actual transfer of lands and management responsibilities under this section shall not occur on the constructed portions of the project lying between the Atlantic Ocean and the Eureka Lock and Dam, inclusive, and between the Gulf of Mexico and the Inglis Lock and Dam, inclusive, until the last day of the 24-month period beginning on the date of the enactment of the Water Resources Development Act of 1990.

"(e) MANAGEMENT PENDING TRANSFER.—In the 24-month period following the date of the enactment of the Water Resources Development Act of 1990, the Secretary shall carry out any and all programmed maintenance on the portions of the project outlined in subsection (d).

"(f) SURVEY.—The exact acreage and legal description of the real property to be transferred pursuant to this section shall be determined by a survey which is satisfactory to the Secretary and to the State. The cost of such survey shall be borne by the State.".

SEC. 23. SMALL NAVIGATION PROJECTS.

(a) BUFFALO, NEW YORK.—The Secretary shall carry out a navigation project south of the existing dike disposal area in Buffalo, New York, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) by construction of a breakwater, fishing pier, and floating docks.

(b) ROCHESTER, NEW YORK.—The Secretary shall carry out a navigation project for the mouth of the Genesee River in Rochester, New York, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) by development and implementation of wave surge control measures.

(c) BOLLES HARBOR, MICHIGAN.—The Secretary shall carry out a navigation project at the mouth of the LaPliasance Creek, Bolles Harbor, Michigan, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) by construction of an offshore barrier.

(d) FORT PECK RESERVOIR, MONTANA.—The Secretary shall carry out a navigation project at the Fort Peck Reservoir, Montana, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) by construction of a breakwater.

SEC. 24. ONONDAGA LAKE, NEW YORK.

(a) MANAGEMENT CONFERENCE.—The Secretary and the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the "Administrator"), and the Governor of the State of New York, acting jointly, shall convene a management conference for the restoration, conservation, and management of Onondaga Lake.

(b) PURPOSES OF CONFERENCE.—The purpose of the management conference under this section shall include but not be limited to—

(1) developing, within the 1-year period following the date of the enactment of this Act, a comprehensive restoration, conservation, and management plan that recommends priority corrective actions and compliance schedules for the cleanup of Onondaga Lake; and

(2) coordinating implementation of the plan by the State of New York, the United States Army Corps of Engineers, the Environmental Protection Agency and all local agencies, governments, and other groups participating in the conference.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The members of the management conference shall include, at a minimum—

(A) the Secretary,

(B) the Administrator,

(C) the Governor of the State of New York,

(D) a representative of the Attorney General of the State of New York,

(E) a representative of Onondaga County, New York, and

(F) a representative of the city of Syracuse, New York.

(2) PERMANENT REPRESENTATIVE.—The members of the management conference may designate a permanent representative to attend meetings of the management conference and otherwise represent and vote on their behalf on the management conference.

(3) EX OFFICIO MEMBERS.—The management conference shall include the following ex officio members:

(A) The United States Senators from the State of New York.

(B) The members of the United States House of Representatives within whose congressional districts Onondaga Lake lies.

(4) STANDING COMMITTEES.—There shall be two standing committees of the management conference as follows:

(A) The Citizens Advisory Committee.

(B) The Technical Review Committee.

(d) PLAN.—

(1) APPROVAL.—Not later than 120 days after the completion of a plan and after providing for public review and comment, the Secretary and the Administrator shall approve such plan if the plan meets the requirements of this section, and the Governor of the State of New York concurs in such approval.

(2) IMPLEMENTATION.—Upon approval of the plan under this section, such plan shall be implemented.

(e) GRANT PROGRAM.—

(1) IN GENERAL.—The management conference, with the approval of the Secretary, the Administrator, and the Governor of the State of New York, is authorized to make grants to the State of New York and public or nonprofit private agencies, institutions, organizations, and individuals.

(2) PURPOSES; NON-FEDERAL SHARE.—Grants under this subsection may be made for—

(A) research, surveys, and studies necessary for the development of the plan under this section, except that grants to any person under this subparagraph may not exceed 70 percent of the costs of such work and that the non-Federal share of such costs are provided from non-Federal sources;

(B) conducting activities identified in the plan developed pursuant to this section, except that grants to any person under this subparagraph may not exceed 70 percent of the costs of such work and that the non-Federal share of such costs are provided from non-Federal sources; and

(C) gathering data and retaining expert consultants in support of litigation undertaken by the State of New York to compel clean up or obtain clean up and damage cost from parties responsible for the pollution of Onondaga Lake.

(3) IN-KIND PAYMENTS.—In-kind payments shall qualify for the purpose of meeting the non-Federal matching requirements of this subsection.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary and the Administrator $15,000,000 per fiscal year for each of fiscal years 1992 through 1998 to carry out this section.

SEC. 25. SAUK LAKE, MINNESOTA.

The Secretary shall complete the project for removal of silt and aquatic weeds, Sauk Lake, Minnesota, authorized by section 602 of the Water Resources Development Act of 1986 (100 Stat. 4148), including acquisition of weed harvesting equipment using funds appropriated by Congress for such purpose.

SEC. 26. WAPPINGERS LAKE, NEW YORK.

Section 602(a) of the Water Resources Development Act of 1986 (100 Stat. 4148-49) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(10) Wappingers Lake, New York, for removal of silt and aquatic growth.".

SEC. 27. SMALL FLOOD CONTROL PROJECTS.

(a) DRY JORDAN AND CROOKED CREEKS, ARKANSAS.—The Secretary may carry out a project for flood control, Dry Jordan and Crooked Creeks, Harrison, Arkansas, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(b) BLUE RIVER AND BROCK CREEK, SALEM, INDIANA.—The Secretary may carry out a project for flood control, East Fork of the Blue River and Brock Creek, Salem, Indiana, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(c) OLD SULFUR CREEK, ORLEANS, INDIANA.—The Secretary may carry out a project for flood control, Old Sulfur Creek, Orleans, Indiana, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(d) WHITE RIVER, GIBSON COUNTY, INDIANA.—The Secretary may carry out a project for flood control, White River, Hazelton, Gibson County, Indiana, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(e) FARMERS BRANCH CREEK, WHITE SETTLEMENT, TEXAS.—The Secretary shall carry out, on an expedited basis, a nonstructural project for flood control, Farmers Branch Creek, White Settlement, Texas, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s). Such project shall consist of relocation and purchase of residential structures located within the flood plain.

(f) VALLEY VIEW BRANCH, HURST, TEXAS.—The Secretary may carry out a project for flood control, Valley View Branch, Hurst, Texas, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s). The maximum amount which may be allotted under such section for such project shall be $7,500,000 instead of $5,000,000.

(g) SAVAN GUT, VIRGIN ISLANDS.—The maximum amount which may be allotted under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) for the project for flood control, Savan Gut, Virgin Islands, shall be $10,000,000 instead of $5,000,000. Nothing in this section shall be construed as affecting any cost sharing requirements applicable to such project under the Water Resources Development Act of 1986.

(h) KROUTS CREEK, WEST VIRGINIA.—The Secretary may carry out a project for flood control, Krouts Creek in the vicinity of Huntington, West Virginia, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s). Such project shall include deepening and widening of the channel and culvert replacement.

SEC. 28. BAY CITY, MICHIGAN.

The Secretary may undertake a project for shoreline protection along the Saginaw River in Bay City, Michigan, at a total estimated cost of $6,105,000.

SEC. 29. DELAWARE RIVER AND TRIBUTARIES, PENNSYLVANIA.

The Secretary may carry out a project for shoreline protection for the Glen Foerd Historic Property in Philadelphia, Pennsylvania, along the Delaware River and tributaries, including restoration of seawalls.

SEC. 30. CONTINUATION OF AUTHORIZATION OF CERTAIN PROJECTS.

(a) GENERAL RULE.—Notwithstanding section 1001(b)(1) of the Water Resources Development Act of 1986, the following projects shall remain authorized to be carried out by the Secretary:

(1) SANTA CRUZ HARBOR, CALIFORNIA.—The modification for sealing the east jetty of the project for Santa Cruz Harbor, California, authorized by section 811 of the Water Resources Development Act of 1986 (100 Stat. 4168).

(2) PAJARO RIVER, SANTA CRUZ, CALIFORNIA.—The project for flood control, Pajaro River and tributaries, Santa Cruz, California, authorized by the Flood Control Act of 1966 (80 Stat. 1421).

(3) HILLSBORO INLET, FLORIDA.—Dredging of Hillsboro Inlet, Florida, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1090).

(4) LITTLE CALUMET RIVER BASIN, INDIANA.—The project for flood control, Little Calumet River basin (Cady Marsh Ditch), Indiana, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4115).

(5) ONTONAGON HARBOR, MICHIGAN.—The project for navigation, Ontonagon Harbor, Michigan, authorized by the Rivers and Harbors Appropriations Act of June 25, 1910 (36 Stat. 655).

(6) OTTAWA RIVER HARBOR, MICHIGAN AND OHIO.—The project for navigation, Ottawa River Harbor, Michigan and Ohio, authorized by section 201 of the Flood Control Act of 1965 (79 Stat. 1073) and approved by committee resolution, in accordance with the Phase I General Design Memorandum (dated November 1976) for such project, at a total cost of $13,200,000, with an estimated first Federal cost of $6,530,000 and an estimated non-Federal cost of $6,670,000.

(7) SAULT SAINTE MARIE, MICHIGAN.—The second lock for Sault Sainte Marie, Michigan, authorized by section 1149 of the Water Resources Development Act of 1986 (100 Stat. 4254-55); except that—

(A) the Secretary shall allocate, not later than 180 days after the date of the enactment of this Act and after providing an opportunity for notice and comment, the non-Federal share of the cost for such lock to Canada and the States of Minnesota, Wisconsin, Indiana, Illinois, Michigan, Ohio, Pennsylvania, and New York based on the Secretary's estimate, using current traffic statistics, of the projected total tonnage of commercial cargo which will be delivered to or from ports in Canada and each such State by vessels using such lock,

(B) the non-Federal share so allocated shall not include any cost allocated to Canada under subparagraph (A), and

(C) the amount of the non-Federal share of such cost shall be reduced by the amount of any contribution made by the Government of Canada toward construction of such lock.

(8) CONNEAUT, OHIO.—The small boat harbor project for Conneaut, Ohio, authorized by section 101 of the River and Harbor Act of 1966 (80 Stat. 1405).

(9) FAIRPORT, OHIO.—The small boat harbor project for Fairport, Ohio, and the dredging of the navigation project for Fairport, Ohio, authorized pursuant to section 201 of the Flood Control Act of 1965 (42 U.S.C. 1962d-f).

(10) MEMPHIS HARBOR, MEMPHIS, TENNESSEE.—The project for navigation, Memphis Harbor, Memphis, Tennessee, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4145).

(11) NORFOLK HARBOR, VIRGINIA.—The project for deepening of 3 navigation anchorages at Norfolk Harbor, Virginia, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1090).

(b) LIMITATION.—A project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during such period, funds have been obligated for the construction (including planning and design) of the project.

(c) FREEPORT, ILLINOIS.—The project for flood control, Freeport, Illinois, as authorized by section 5 of the Flood Control Act of June 22, 1936 (49 Stat. 1586), which was deauthorized by section 1002 of the Water Resources Development Act of 1986 (100 Stat. 4208) is authorized to be carried out by the Secretary.

SEC. 31. EROSION PREVENTION PROJECTS, LOUISIANA.

The Secretary shall carry out erosion prevention projects in Vermilion Parish and Calcasieu Parish, Louisiana, at a total cost of $200,000. Such projects shall include revetment work and reconstruction of spoiled banks with dredged material.

SEC. 32. HAZARD, KENTUCKY.

The Secretary is authorized and directed to design and construct such flood control measures at or in the vicinity of Hazard, Kentucky, on the North Fork of the Kentucky River as the Secretary determines necessary and appropriate to afford the city of Hazard, Kentucky, and its immediate environs a level of protection against flooding at least sufficient to prevent any future losses to such city from the likelihood of flooding such as occurred in January 1957, at a total cost of $30,000,000. With respect to such project, Congress finds that the benefits determined in accordance with section 209 of the Flood Control Act of 1970 and attributable to the flood measures authorized for such project exceed the cost of such measures.

SEC. 33. DEMONSTRATION OF CONSTRUCTION OF FEDERAL PROJECT BY NON-FEDERAL INTERESTS.

(a) IN GENERAL.—For purposes of demonstrating the safety benefits and economic efficiencies which would accrue as a consequence of non-Federal management of harbor improvement projects, the Secretary shall enter into agreements with 2 non-Federal interests pursuant to which the non-Federal interests will undertake part or all of a harbor project authorized by law, by utilizing their own personnel or by procuring outside services, if the cost of doing so will not exceed the cost of the Secretary undertaking the project. If proposals for such agreements meet the criteria of section 204 of the Water Resources Development Act of 1986, the agreements shall be entered into not later than 1 year after the date of the enactment of this Act.

(b) LIMITATION.—At least 1 project carried out pursuant to this section shall pertain to

improvements to a major ship channel which carries a substantial volume of both passenger and cargo traffic.

(c) REPORT.—The Secretary shall transmit to Congress a report regarding the safety benefits and economic efficiencies accrued from entering into agreements with non-Federal interests under this section.

SEC. 34. MODIFICATION OF REVERSIONARY INTEREST.

(a) IN GENERAL.—The Secretary shall modify the reversionary interest of the United States in approximately 50 acres of land reserved in the deed described in subsection (b) for the purpose of allowing the United Methodist Church to construct and operate a retirement village on such land.

(b) DEED DESCRIPTION.—The deed referred to in subsection (a) is the quitclaim deed dated October 22, 1963, by which the United States conveyed to Clay County, Georgia, the parcel of land lying in land lots 263 and 264, Seventh Land District, Clay County, Georgia.

(c) INSTRUMENT OF RELEASE.—The Secretary shall execute and file in the appropriate office an amended deed or other appropriate instrument effecting the modification of the reversionary interest under section 1.

SEC. 35. UPPER MISSISSIPPI RIVER PLAN.

(a) EXTENSION OF PROGRAMS.—Section 1103(e)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 652(e)(2)) is amended—

(1) by striking "ten years" and inserting "15 years"; and

(2) by striking "ten-year" and inserting "15-year".

(b) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 1103(e) of such Act is amended—

(1) in paragraph (3) by striking "eight" and inserting "13";

(2) in paragraph (4) by striking "nine" and inserting "14"; and

(3) in paragraph (5) by striking "seven" and inserting "12".

(c) RECREATIONAL PROJECTS.—Section 1103(f)(2)(A) of such Act is amended by striking "ten" and inserting "15".

SEC. 36. SECTION 221 AGREEMENTS.

Section 221(a) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(a)) is amended by striking "State legislative" in the last sentence.

SEC. 37. CABIN SITE LEASES.

Section 1134(d) of the Water Resources Development Act of 1986 (100 Stat. 4251) is amended by inserting "cabin and" after "lawfully installed dock or".

SEC. 38. SAN LUIS REY, CALIFORNIA.

Notwithstanding section 201 of the Flood Control Act of 1965 (42 U.S.C. 1962d-f), the authorized first Federal cost of construction of the project for flood control, San Luis Rey, California, being carried out under such section shall be $60,000,000.

SEC. 39. CONSTRUCTION OF VIRGIN ISLAND PROJECTS BY SECRETARY OF THE ARMY.

(a) GENERAL RULE.—Upon request of the Governor of the Virgin Islands with respect to a construction project in the Virgin Islands for which Federal financial assistance is available under any law of the United States, the Federal official administering such assistance may make such assistance available to the Secretary instead of the Virgin Islands. The Secretary shall use such assistance to carry out such project in accordance with the provisions of such law.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as relieving the Virgin Islands from complying with any requirements for non-Federal cooperation with respect to a construction project carried out with Federal financial assistance provided to the Secretary pursuant to this section; except that the Secretary shall be responsible for complying with administrative and fiscal requirements associated with utilization of such assistance.

(c) TERMINATION DATE.—Subsection (a) shall not be effective after the last day of the 3-year period beginning on the date of the enactment of this Act; except that the Secretary shall complete construction of any project commenced under subsection (a) before such day.

SEC. 40. PROTECTION OF RECREATION PROJECT PURPOSES.

Notwithstanding any other provision of law, section 1 of the Act of September 6, 1960 (16 U.S.C. 580m), shall not apply to the projects referred to in paragraphs (1), (2), (3), (6), (9), (10), and (11) of section 6(a) of the Water Resources Development Act of 1988 (102 Stat. 4022).

SEC. 41. LIBERTY, OHIO.

(a) STUDY.—The Secretary shall conduct a study of the water supply needs of Liberty, Ohio.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with recommendations for meeting the projected water supply needs of Liberty, Ohio.

(c) DEMONSTRATION PROGRAM.—After completion of the study under this section, the Secretary shall conduct a technology demonstration of methods to meet the water supply needs of Liberty, Ohio, recommended by the Secretary under subsection (b) to determine the capability of such methods to meet such needs.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 to carry out this section.

SEC. 42. WASHINGTONVILLE, OHIO.

(a) STUDY.—The Secretary shall conduct a study of the water supply needs of Washingtonville, Ohio.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with recommendations for meeting the projected water supply needs of Washingtonville, Ohio.

(c) DEMONSTRATION PROGRAM.—After completion of the study under this section, the Secretary shall conduct a technology demonstration of methods to meet the water supply needs of Washingtonville, Ohio, recommended by the Secretary under subsection (b) to determine the capability of such methods to meet such needs.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 to carry out this section.

SEC. 43. ALBERMARLE SOUND-ROANOKE RIVER BASIN, NORTH CAROLINA.

No construction may be carried out with respect to the permit granted by the Corps of Engineers for project application 83-0747-06 until—

(1) submission of the report mandated by section 5 of Public Law 100-589; and

(2) review of such report and determination by the Corps of Engineers of the impact of the project in light of such report.

SEC. 44. CRANSTON, RHODE ISLAND.

(a) STUDY.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a feasibility study of wastewater treatment options for transporting contamination from the Central Landfill site and other sources of pollution in Rhode Island to a wastewater treatment facility in Cranston, Rhode Island, through the use of a regional connector system.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section.

(c) DEMONSTRATION PROGRAM.—After completion of the feasibility study under this section, the Secretary shall conduct a technology demonstration of the connector system described in subsection (a) to determine the capability of the system design to operate properly.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 to carry out subsection (a) and $5,000,000 to carry out subsection (c).

SEC. 45. SANTA ROSA, CALIFORNIA.

The Secretary is authorized to assist the city of Santa Rosa, California, in the development and construction of storage facilities associated with wastewater reclamation, with an estimated Federal cost of $45,000,000.

SEC. 46. GENERATION FACILITIES.

The Secretary may not authorize, approve, or recommend any activity referred to in section 10 of the Rivers and Harbors Act of 1899 in connection with the construction (commencing after the enactment of this section) by any entity of generation facilities at the project on the Savage River referred to in section 6(a)(7) of the Water Resources Development Act of 1988 (102 Stat. 4022) or at any location on the Savage River downstream of such project and upstream of the confluence of the Savage River and the North Branch of the Potomac River. No permit under the Federal Water Pollution Control Act shall authorize any discharge in connection with the construction or operation of any such facilities and no certification shall be issued or waived under such Act for any discharge resulting from such construction or operation. The prohibitions contained in the first 2 sentences of this section shall also be applicable to the project referred to in section 6(a)(9) of the Water Resources Development Act of 1988 (102 Stat. 4022).

SEC. 47. FLAT ROCK, MICHIGAN.

The Secretary shall provide assistance to non-Federal interests in the design and construction of repairs to the dam at Flat Rock, Michigan.

SEC. 48. WARROAD HARBOR, MINNESOTA.

The Secretary shall carry out a navigation project to dredge the navigation channel and adjacent basin at Warroad Harbor, Minnesota. The project shall be undertaken to provide safe boating access and egress and to upgrade existing retaining walls.

SEC. 49. RONDOUT CREEK AND WALLKILL RIVER, NEW YORK AND NEW JERSEY.

The non-Federal share of correcting the design deficiency of the North Ellenville portion of the project for flood control, Rondout Creek and Wallkill River and their tributaries, New York and New Jersey, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1181), shall be the same as the non-Federal share of the project as originally authorized and constructed.

SEC. 50. STRUTHERS, OHIO.

The Secretary is authorized to carry out planning, engineering, and design for replacement of the Bridge Street bridge in Struthers, Ohio, at a total cost of $2,000,000.

SEC. 51. VIRGINIA BEACH, VIRGINIA.

The Secretary shall, pursuant to section 156 of the Water Resources Development Act of 1976 (42 U.S.C. 1962d-5f), enter into a local cooperation agreement with the city of Virginia Beach, Virginia, for nourishment of the project for beach erosion, Virginia Beach, Virginia, authorized by section 101 of the River and Harbor Act of 1954 (68 Stat. 1254). Such agreement shall be deemed to have taken effect on February 6, 1987.

SEC. 52. YOUNGSTOWN, OHIO.

The Secretary is authorized to carry out planning, engineering, and design of the Center Street bridge new alignment for Youngstown, Ohio, at a total cost of $2,000,000.

SEC. 53. SOUTHWEST REGION FLOOD RESPONSE COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the "Southwest Region Flood Response Evaluation Commission" (hereinafter in this section referred to as the "Commission").

(b) DUTIES OF COMMISSION.—The Commission shall evaluate—

(1) existing flood control measures in the Arkansas, Red, and Ouachita river basins, including the adequacy of flood control storage at existing reservoirs, operation of such reservoirs, and downstream flood control and local protection projects;

(2) the effectiveness of Federal emergency response capabilities to prevent or minimize loss of life and damage to property resulting from flooding; and

(3) the effectiveness of Federal disaster assistance programs in providing adequate and prompt compensation to flood victims.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 6 members appointed as follows:

(A) The Secretary (or the Secretary's delegate).

(B) The Secretary of Agriculture (or the Secretary's delegate).

(C) The Director of the Federal Emergency Management Agency (or the Director's delegate).

(D) The Governor of the State of Arkansas (or the Governor's delegate).

(E) The Governor of the State of Oklahoma (or the Governor's delegate).

(F) The Governor of the State of Texas (or the Governor's delegate).

(2) TERMS.—Each member shall be appointed for the life of the Commission.

(3) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(4) QUORUM.—Three members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(5) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members.

(6) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of its members.

(d) POWERS OF COMMISSION.—

(1) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish such information to the Commission.

(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(e) REPORT.—The Commission shall transmit a report to the President and Congress not later than 1 year after the date of the enactment of this Act. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with recommendations for such legislation and administrative actions as the Commission considers appropriate.

(f) TERMINATION.—The Commission shall terminate 30 days after submitting its final report pursuant to subsection (e).

SEC. 54. REHABILITATION OF FEDERAL FLOOD CONTROL LEVEES.

The Secretary shall undertake—

(1) projects for rehabilitation and reconstruction of Federal flood control levees on the Arkansas River, Arkansas and Oklahoma, substantially in accordance with the Little Rock District Engineer's Arkansas River Basin, Arkansas and Oklahoma, Draft Feasibility Report, dated March 1990, and the Tulsa District Engineer's Keystone to Tulsa Reconnaissance Report, dated September 1989; and

(2) projects for rehabilitation and reconstruction of Federal flood control levees on the Red River, Oklahoma and Arkansas, below Denison Dam.

The purpose of such projects shall be to make such levees comply with current Federal design standards. Such projects shall include repairs of design deficiencies and replacement of deteriorated drainage structures and other appurtenances.

SEC. 55. FLOOD WARNING SYSTEM.

(a) INSTALLATION.—The Secretary may develop and install a flood warning system for the Santa Clara River and its tributaries (including Santa Paula Creek), Ventura and Los Angeles Counties, California, at a total cost of $850,000. Such system shall provide, at a minimum, base stations in both Ventura and Santa Paula, California.

(b) OPERATION AND MAINTENANCE.—Before installation of the flood warning system under this section, non-Federal interests must agree to operate and maintain such system and to develop, maintain, and implement such emergency preparedness plans for flooding along the Santa Clara River and its tributaries in Ventura and Los Angeles Counties, California, as are satisfactory to the Secretary.

SEC. 56. REND LAKE WATER STORAGE CONTRACT EXTENSION.

Section 1137 of the Water Resources Development Act of 1986 (100 Stat. 4252) is amended by striking "5 years" and inserting "10 years".

SEC. 57. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF LAKE ERIE.

(a) AREA TO BE DECLARED NONNAVIGABLE; PUBLIC INTEREST.—Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries of Lake Erie described in Committee Print 101-4 the Committee on Public Works and Transportation of the House of Representatives, dated July 1990, are not in the public interest then, subject to subsections (b) and (c) of this section, those portions of Lake Erie, bounded and described in such Committee print, are declared to be nonnavigable waters of the United States.

(b) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply only to those parts of the areas described in the Committee print referred to in subsection (a) which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations including, but not limited to, sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Appropriations Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(c) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in the Committee print referred to in subsection (a) is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (b), or if work in connection with any activity permitting in subsection (b) is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

SEC. 58. WETLANDS ENHANCEMENT OPPORTUNITIES.

Not later than January 20, 1991, the Secretary shall transmit to Congress a list which specifically identifies opportunities of enhancing wetlands in connection with construction and operation of water resource projects.

SEC. 59. RADIUM REMOVAL DEMONSTRATION PROGRAM.

(a) GRANT PROGRAM.—The Secretary, in cooperation with State public authorities, may assist local governments in demonstrating methods of mitigating radium contamination in ground water. Upon application of a State public authority, the Secretary may make a grant to the authority for such purposes. Assistance provided pursuant to this section shall be used for financing the acquisition and installation of ground water treatment technologies needed to remove radium from ground water used as a source of public drinking water for residents of small communities under the jurisdiction of such local governments.

(b) PURPOSES OF GRANTS.—Funds made available through grants under this section may only be used by the grant recipient for one or both of the following purposes:

(1) Providing insurance or prepaying interest for local obligations issued by a local government to finance the acquisition and installation of treatment technologies described in subsection (a).

(2) Paying for the costs of administration for establishment and operation by such au-

thority of a program to provide financing for such acquisition and installation.

(c) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) SMALL COMMUNITY.—The term "small community" means a political subdivision of a State the population of which does not exceed 20,000 individuals.

(2) STATE PUBLIC AUTHORITY.—The term "State public authority" means an agency or instrumentality of a State which is established for the purposes of assisting local governments in financing capital improvements on a statewide or regional basis.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,000,000 for fiscal year 1991, $7,000,000 for fiscal year 1992, and $7,000,000 for fiscal year 1993.

SEC. 60. STUDIES.

(a) HOT SPRINGS, ARKANSAS.—The amount which non-Federal interests would be required to pay, but for this section, of the costs of the feasibility study which the Secretary is conducting for a flood control project for Hot Springs, Arkansas, shall be reduced by the same percentage as the percentage of the total benefits of such project which are attributable to protection of lands owned by the United States.

(b) LOWER CALLEGUAS CREEK, CALIFORNIA.—

(1) STUDY.—The Secretary shall conduct a feasibility study for a flood control project on the lower Calleguas Creek, California. A purpose of the study shall be to determine the full benefits of increased agricultural production which are likely to result from the project.

(2) REPORT.—Not later than December 31, 1991, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $600,000 for fiscal years beginning after September 30, 1990. Such sums shall remain available until expended.

(c) SOUTHERN CALIFORNIA INFRASTRUCTURE RESTORATION.—

(1) STUDY.—The Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall conduct a feasibility study in the Southern California region of the problems and alternative solutions, including governmental roles and responsibilities, of restoring such region's public works infrastructure (including roads and highways, fixed rails, bridges, airports, flood control channels, dams, aqueducts, and utility pipes and lines) to full service following earthquakes which cause substantial damage to such infrastructure.

(2) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000.

(d) SANTA MONICA BREAKWATER, CALIFORNIA.—The Secretary shall complete the reconnaissance investigation and feasibility study for the breakwater project, Santa Monica, California, not later than July 1, 1992, and shall ensure that reestablishment of past charter fishing vessel accommodation activities which existed in the area from the 1930's until prior to damage of the breakwater structure shall be counted the same as commercial benefits for purposes of section 119 of the 1970 River and Harbor Act.

(e) ATLANTA, GEORGIA.—

(1) STUDY REVIEW.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency and the Atlanta Regional Commission, shall review the completed study and supporting documentation for the Metropolitan Atlanta Area Water Resources Management Study for the purpose of providing plans for the improvement of water quality of major streams in the Metropolitan Atlanta Region. The scope of the review shall include review of the effectiveness of existing treatment facilities and the need for additional or improved treatment of municipal and industrial wastewater, combined sewer overflows, and other significant point or nonpoint pollution sources.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the review conducted under this subsection.

(f) THURMAN TO HAMBURG, IOWA.—The Secretary shall complete the feasibility phase of the study authorized by section 1152 of the Water Resources Development Act of 1986 (100 Stat. 4255), including completion of planning and specifications, not later than August 1, 1991, and commence construction of the project authorized by such section not later than October 1, 1991.

(g) ROCK CREEK, MARYLAND.—

(1) WATER QUALITY STUDY.—The Secretary shall conduct a study of methods of improving water quality of Rock Creek, Maryland.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(h) SAGINAW BAY, MICHIGAN.—

(1) EXTENSION OF DEADLINE FOR FEASIBILITY REPORT.—Section 711 of the Water Resources Development Act of 1986 (100 Stat. 4160) is amended by striking "1989" and inserting "1992".

(2) CONTINUATION OF FEASIBILITY STUDY AUTHORIZATION.—For purposes of section 710 of the Water Resources Development Act of 1986, the study authorized by section 711 of such Act shall be treated as being authorized on the date of the enactment of this Act.

(i) WATER SUPPLY STUDY, MINNESOTA AND NORTH DAKOTA.—The Secretary shall conduct a study, with the States of Minnesota and North Dakota, to determine and recommend alternative plans to augment flows in the Red River of the North, Minnesota and North Dakota. Such study shall include methods to supplement flows on such river for municipal, industrial, agricultural, and fish and wildlife purposes and recognize the need for continued flow into Canada. In conducting such study, the Secretary shall coordinate with the Bureau of Reclamation on actions being undertaken by the Bureau with respect to the Garrison Diversion Unit.

(j) HIGHFIELD WATER COMPANY, NEW JERSEY.—

(1) STUDY.—The Comptroller General shall conduct a study of the facts and circumstances concerning the claims of the Highfield Water Company, New Jersey, against the United States Army Corps of Engineers for the purpose of making recommendations for an appropriate settlement of such claims.

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the study conducted under this subsection.

(k) MANASQUAN RIVER, NEW JERSEY.—

(1) STUDY.—The Secretary shall conduct a study of the feasibility of implementing flood control measures on the Manasquan River to alleviate flooding in Freehold, Howell, and other effected townships in New Jersey.

(2) REPORT.—Not later than December 31, 1992, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(l) BUFFALO, NEW YORK.—

(1) REVIEW AND EVALUATION.—The Secretary shall conduct a review and evaluation of the plan prepared by the city of Buffalo, New York, on flooding and associated water quality problems (including those associated with combined sewer overflows, sewer backups, and riverside outfalls) in the Buffalo, New York, metropolitan area.

(2) PURPOSES.—The purposes of the review and evaluation to be conducted under this subsection are to develop recommendations for Federal and State participation in solving the problems described in paragraph (1) and to identify flood control benefits of implementing the plan.

(3) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall transmit to Congress and the mayor of Buffalo, New York, a report on the results of the review and evaluation conducted under this subsection.

(m) LAKE ERIE TO OHIO RIVER CANAL, OHIO.—The study for the inland navigation project, Lake Erie to the Ohio River Canal, Ohio, authorized by resolution of the Committee on Public Works and Transportation of the House of Representatives, dated October 1, 1986, shall be considered to be a water resources study primarily designed for the purposes of navigation improvements in the nature of dams, locks, and channels on the Nation's system of inland waterways.

(n) MILL CREEK, TENNESSEE.—

(1) FEASIBILITY STUDY.—The Secretary shall study the feasibility of nondam options to alleviate flooding along Mill Creek and Seven Mile Creek, Tennessee.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with a recommended plan for alleviating the flooding referred to in paragraph (1).

(o) NEW MADRID INFRASTRUCTURE RESTORATION.—

(1) STUDY.—The Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall conduct a feasibility study in the region surrounding the New Madrid Fault (including the States of Tennessee, Missouri, Arkansas, Kentucky, Mississippi, Indiana, and Illinois) of the problems and alternative solutions, including governmental roles and responsibilities, of restoring such region's public works infrastructure (including roads and highways, fixed rails, bridges, airports, flood control channels, dams, aqueducts, and utility pipes and lines) to full service following earthquakes which cause substantial damage to such infrastructure.

(2) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000.

SEC. 61. LAKE OF THE WOODS, MINNESOTA.

(a) INVESTIGATION.—The Secretary may undertake an investigation of the lands bordering on the Lake of the Woods, Minnesota, to determine if such lands and improvements thereto in the United States currently meet applicable requirements of international agreements concerning regulation of the levels of the Lake of the Woods.

(b) LAND ACQUISITION.—In addition, the Secretary may acquire lands and provide protective works and measures when necessary to satisfy the requirements referred to in subsection (a).

(c) REPORT.—The Secretary shall report to Congress within 1 year after the date of the enactment of this Act on the progress made in carrying out this section and the need for further legislation to resolve any outstanding claims for damages caused by the need for additional protective works and measures to satisfy the requirements referred to in subsection (a).

SEC. 62. PROJECT DEAUTHORIZATIONS.

(a) NOTIFICATION OF MEMBERS OF CONGRESS.—Section 1001(b)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(2)) is amended by inserting after the first sentence the following new sentence: "Before submission of such list to Congress, the Secretary shall notify each Senator in whose State, and each Member of the House of Representatives in whose district, a project (including any part thereof) on such list would be located.".

(b) REPEAL OF OUTDATED DEAUTHORIZATION PROVISION.—Section 12 of the Water Resources Development Act of 1974 (33 U.S.C. 579) is repealed.

(c) SPECIFIED PROJECTS.—The following projects are not authorized after the date of the enactment of this Act, except with respect to any portion of such a project which portion has been completed before such date or is under construction on such date:

(1) GREENWICH HARBOR, CONNECTICUT.—The following portion of the channel at Greenwich Harbor, Connecticut, authorized by the Rivers and Harbors Appropriations Act of March 2, 1919 (40 Stat. 1276):

Beginning at a point on the limit line of the Federal Anchorage Area in Greenwich Harbor, such point having coordinates of N66,309.76 E358,059.81 and running thence northwesterly along the limit line of the Federal Anchorage Area N50°0104W, a distance of 621.62 feet to an angle point on the existing Federal Anchorage Area Limit Line having coordinates N66,709.18 E357,583.50; thence continuing along the existing Federal Anchorage Area Limit Line N39°5855E a distance of 200.00 feet to an angle point on the existing Federal Anchorage Area Limit Line having coordinates N66,862.43 E357,712.01; thence continuing along the existing Federal Anchorage Area Limit Line S50°0104E a distance of 140.00 feet to a point on the existing Federal Anchorage Area Limit Line having coordinates N66,772.47 E357,819.28; thence running into the existing Federal Anchorage Area S39°5855W a distance of 187.66 feet to a point having coordinates N66,628.75 E357,698.76; thence running in the existing Federal Anchorage Area S59°1032"E a distance of 376.47 feet to a point having coordinates N66,435.85 E358,022.05; thence running in the existing Federal Anchorage Area S16°4026"E a distance of 131.62 feet to the point and place of the beginning for a total area of 47,737 square feet.

(2) CONNEAUT HARBOR, OHIO.—The feature of the navigation project for Conneaut Harbor, Ohio, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1176), which feature is a channel lying easterly of the access channel and adjacent to the municipal pier.

(3) BIG RIVER RESERVOIR, RHODE ISLAND.—The water supply project, Big River Reservoir, Providence, Rhode Island, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4144).

SEC. 63. HALF MOON BAY HARBOR.

(a) DESIGNATION.—The harbor commonly known as Half Moon Bay Harbor, located in El Granada, California, shall hereafter be known and designated as "Pillar Point Harbor".

(b) LEGAL REFERENCES.—A reference in any law, map, regulation, document, record, or other paper of the United States to the harbor referred to in subsection (a) shall be deemed to be a reference to "Pillar Point Harbor".

AMENDMENT OFFERED BY MR. HAMMERSCHMIDT

Mr. HAMMERSCHMIDT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAMMERSCHMIDT: At the end of the bill, add the following new section:

SEC. 64. ANNUAL OBLIGATION CEILINGS.

Section 901 of the Water Resources Development Act of 1986 (100 Stat. 4183) is amended by adding after paragraph (5) the following new paragraphs:

"(6) For the fiscal year ending September 30, 1992, the sum of $1,800,000,000.

"(7) For the fiscal year ending September 30, 1993, the sum of $1,800,000,000.".

Conform the table of contents of the bill accordingly.

Mr. HAMMERSCHMIDT (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. HAMMERSCHMIDT. Madam Chairman, my amendment is an attempt to address concerns that have been raised about the size of the bill. I certainly agree that the bill is too large. There is more here than will ever be funded through the appropriations process.

To ensure that this is the case, my amendment would extend the existing limitations on the corps authority to obligate funds for water project construction. These ceilings were established in the 1986 water resources bill and are set to expire at the end of fiscal year 1991. My amendment would extend the current limitation of $1.8 billion for an additional 2-year period.

While additional changes will be needed to the bill, this amendment will help allay fears about unreasonable cost increases during the current budgetary situation.

Mr. ANDERSON. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in strong support of the gentleman's amendment. By limiting annual obligations of the corps, this amendment ensures that the bill is fiscally responsible.

I might add that the overall levels for fiscal year 1992 and fiscal year 1993 represent a spending freeze of current law.

Within the context of this freeze the projects included in this bill would be funded.

I commend the gentleman and urge adoption of the amendment.

Mr. STANGELAND. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in strong support of the amendment offered by the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

The amendment interjects more fiscal responsibility into our bill. It does this by imposing obligation ceilings on the corps construction spending over the next 2 years. The proposed limit—$1.8 billion—would, in effect, freeze the current obligations ceiling set to expire at the end of fiscal year 1991 and extend it for 2 more years.

I commend the ranking minority member of the committee for his leadership on this amendment. It should help make the bill more manageable and acceptable in these times of severe fiscal constraints.

Therefore, I urge all my colleagues to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

The amendment was agreed to.

AMENDMENTS EN BLOC OFFERED BY MR. ANDERSON

Mr. ANDERSON. Madam Chairman, pursuant to the rule, I offer amendments en bloc.

The Clerk read as follows:

Amendments en bloc offered by Mr. ANDERSON: In section 4 of the bill, after subsection (n), insert the following new subsection:

(o) FALLS OF THE OHIO NATIONAL WILDLIFE CONSERVATION AREA, INDIANA.—The Falls of the Ohio National Wildlife Conservation Area, Indiana, authorized by title II of Public Law 97-137, is modified to authorize the Secretary to design and construct an interpretive center for such area, at a total cost of $1,500,000, with an estimated first Federal cost of $750,000 and an estimated first non-Federal cost of $750,000.

Redesignate subsequent subsections of section 4 of the bill accordingly.

In section 4 of the bill, after subsection (s), insert the following new subsection:

(t) CROOKED AND INDIAN RIVERS, MICHIGAN.—

(1) NON-FEDERAL OPERATION AND MAINTENANCE.—The navigation project for the Crooked and Indian Rivers, Michigan, authorized by the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes", approved September 3, 1954 (68 Stat. 1248), is modified to authorize the Secretary to enter into agreements with the State of Michigan and other non-Federal interests in such State to make

operation and maintenance of such project a non-Federal responsibility.

(2) TERMS AND CONDITIONS.—The agreements referred to in paragraph (1) may—

(A) contain such terms and conditions as the Secretary determines to be necessary to protect the interests of the United States; and

(B) require the Secretary to make payments to the State of Michigan to cover the costs of operation, maintenance, and repair of such project for lake level regulation and other flood control purposes, including payments made in advance of such costs being incurred by the State.

(3) NON-FEDERAL IMPOSITION OF TOLLS.—Notwithstanding section 4 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 5, 1884 (33 U.S.C. 5; Stat. 147), during any period in which a non-Federal interest is responsible for operation and maintenance of the project described in paragraph (1), the non-Federal interest may impose upon boats and other watercraft using the project such tolls, operating charges, and other fees as may be necessary to pay the costs incurred by the non-Federal interest in connection with such project which are not covered by payments made by the Secretary under this subsection.

Redesignate subsequent subsections of section 4 of the bill accordingly.

In section 4 of the bill, after subsection (jj), insert the following new subsection:

(kk) WISCONSIN AND FOX RIVERS, WISCONSIN.—

(1) NON-FEDERAL OPERATION AND MAINTENANCE.—The navigation project for the Wisconsin and Fox Rivers, Wisconsin, authorized to be acquired pursuant to the Act entitled "An Act for the Improvement of Water Communication between the Mississippi River and Lake Michigan, by the Wisconsin and Fox Rivers", approved July 7, 1870 (16 Stat. 189), is modified to authorize the Secretary to enter into agreements with the State of Wisconsin and other non-Federal interests in such State to make operation and maintenance of such project a non-Federal responsibility.

(2) NON-FEDERAL IMPOSITION OF TOLLS.—Notwithstanding section 4 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 5, 1884 (33 U.S.C. 5; 23 Stat. 147), during any period in which a non-Federal interest is responsible for operation, maintenance, and repair of the project described in paragraph (1), the non-Federal interest may impose upon boats and other watercraft using the project such tolls, operating charges, and other fees as may be necessary to pay the costs incurred by the non-Federal interest in connection with the project.

After section 12 of the bill, insert the following new section:

SEC. 13. WETLANDS.

(a) GOALS AND ACTION PLAN.—

(1) GOALS.—There is established, as part of the Corps of Engineers water resources development program, an interim goal of no overall net loss of the Nation's remaining wetlands base, as defined by acreage and function, and a long-term goal to increase the quality and quantity of the Nation's wetlands, as defined by acreage and function.

(2) USE OF AUTHORITIES.—The Secretary shall utilize all appropriate authorities, including those to restore and create wetlands, in meeting the interim and long-term goals.

(3) ACTION PLAN.—

(A) DEVELOPMENT.—The Secretary shall develop, in consultation with the Environmental Protection Agency, the Fish and Wildlife Service, and other appropriate Federal agencies, a wetlands action plan to achieve the goals established by this subsection as soon as possible.

(B) CONTENTS.—The plan shall include and identify actions to be taken by the Secretary in achieving the goals and any new authorities which may be necessary to accelerate attainment of the goals.

(C) COMPLETION DEADLINE.—The Secretary shall complete the plan not later than 1 year after the date of enactment of this Act.

(b) RESTORATION AND CREATION.—

(1) RESTORATION OF WETLANDS.—The Secretary is authorized and directed to carry out demonstration projects to restore and create wetlands that will contribute to attainment of the goals established by subsection (a). Projects undertaken pursuant to this section are not intended to satisfy mitigation of past, ongoing, or future wetlands alternations under section 404 of the Federal Water Pollution Control Act and section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899, but instead to develop technical information to provide greater assurances that wetlands restoration and creation projects succeed.

(2) PROJECT ELEMENTS.—Elements of projects conducted under this subsection shall include—

(A) defining wetland functions which are expected to be restored and maintained giving due consideration to site specific conditions;

(B) conducting research to establish the critical relationships between the land, water, and biotic factors responsible for the defined wetland functions;

(C) establishing and reporting design and construction procedures necessary to create the defined wetland functions throughout similar climatic areas and identify and report on these wetland functions;

(D) creating or restoring sustainable wetlands which will serve as examples of the benefits and aesthetics of wetland landscapes; and

(E) securing a long-term commitment from a non-Federal interest for the maintenance of the wetlands following the conclusion of the research work.

(3) COORDINATION.—The Secretary shall coordinate with the Environmental Protection Agency, the Tennessee Valley Authority, the Department of the Interior, the Department of Commerce, the Department of Agriculture, States, and others in conducting projects under this subsection.

(4) REPORT.—The Secretary shall report every 2 years to Congress on projects conducted under this subsection.

(c) CONSTRUCTED WETLANDS FOR WASTEWATER TREATMENT.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary is authorized and directed to establish and carry out a program to evaluate and demonstrate (A) the use of constructed wetlands for wastewater treatment, and (B) methods by which such projects contribute (i) to meeting the objective of the Federal Water Pollution Control Act to restore and maintain the physical, chemical, and biological integrity of the Nation's waters, and (ii) to attaining the goals established by subsection (a).

(2) PROJECTS.—

(A) IN GENERAL.—The Secretary shall conduct, in geographically diverse regions of the Nation, research and pilot projects utilizing constructed wetlands with a total treatment capacity of not to exceed 200,000,000 gallons per day to determine the technical and economic feasibility of using constructed wetlands systems to treat wastewater from point and nonpoint sources.

(B) RURAL COMMUNITY EMPHASIS.—Emphasis shall be given to siting projects in small and rural communities either lacking wastewater treatment facilities or with substandard facilities.

(C) MUD CREEK.—Notwithstanding any other provision of law, the Secretary shall conduct a project under this subsection to improve the quality of effluent discharged from publicly owned treatment works operated by the city of Fayetteville, Arkansas, into Mud Creek or its tributaries.

(3) INTERAGENCY WORKING GROUP.—

(A) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish in the Corps of Engineers an interagency working group on wetlands for wastewater treatment to coordinate, manage, and oversee all phases of the program under this subsection.

(B) MEMBERS.—The working group shall include members of the Corps of Engineers, the Environmental Protection Agency, the Tennessee Valley Authority, the Fish and Wildlife Service, and private individuals or organizations with a demonstrated interest in the use of constructed wetlands for wastewater treatment.

(C) REPORT.—Not later than 2 years after the date of the enactment of this Act, the working group shall transmit to Congress a report evaluating the use of constructed wetlands for treating various sources of wastewater, together with recommendations on methods by which constructed wetlands systems might be utilized to improve local and regional water quality and an analysis of the contributions such systems make to attainment of the goals established by subsection (a).

(d) NON-FEDERAL RESPONSIBILITIES.—For each project conducted under each of subsections (b) and (c), the non-Federal interest shall agree—

(1) to provide, without cost to the United States, all lands, easements, rights-of-way, relocations, and dredged material disposal areas necessary for construction and subsequent research and demonstration work;

(2) to hold and save the United States free from damages due to construction, operation, and maintenance of the project, except damages due to the fault or negligence of the United States or its contractors; and

(3) to operate and maintain the restored or constructed wetlands in accordance with good management practices, except that nothing in this paragraph shall be construed as precluding a Federal agency from agreeing to operate and maintain the restored or reconstructed wetlands.

The value of the non-Federal lands, easements, rights-of-way, relocations, and dredged material disposal areas provided by the non-Federal interest shall be credited toward the non-Federal share of project design and construction costs. The non-Federal share of project design and construction costs shall be 25 percent.

(e) MITIGATION BANK DEMONSTRATION PROGRAM.—

(1) ESTABLISHMENT AND IMPLEMENTATION.—The Secretary is authorized to establish and implement a demonstration program for the purpose of determining the feasibility of mitigation banks as a means of contributing to the goals established by subsection (a) and of evaluating the feasibility of utilizing mitigation banks for satisfying compensatory mitigation obligations under section 404 of the Federal Water Pollution Control Act or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899, or wetland mitigation requirements of other Federal laws.

(2) GOALS.—The goal of the program under this subsection shall be to establish a limited number of demonstration mitigation banks in districts of the Corps of Engineers for the purpose of evaluating the technical and scientific long-term feasibility of such banks as a means (A) of providing adequate compensation for wetlands alterations resulting from the Army Civil Works program or permitted under section 404 of the Federal Water Pollution Control Act or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899; and (B) of contributing to the attainment of the goals established by subsection (a). Federal and State land-owning agencies and private parties may contribute to such banks.

(3) PROGRAM COMPONENTS.—The program under this subsection shall include—

(A) mechanisms for making deposits into the mitigation bank;

(B) a means of accounting for deposited wetlands, including an assessment of the ecological value of such deposits;

(C) mechanisms for managing and maintaining the ecological values for credits assigned to the original deposit; and

(D) mechanisms for receipt of credit for deposits which can be applied to permit applications filed by the depositor under section 404 of the Federal Water Pollution Control Act or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899.

(4) FACTORS TO CONSIDER.—In establishing the program under this subsection, the Secretary shall consider—

(A) past experience with mitigation banks;

(B) the appropriate credit to be given for various types of wetlands, including existing wetlands, created wetlands, and restored wetlands;

(C) provisions for transfer of credits;

(D) the appropriate geographic scope of a mitigation bank;

(E) the technical feasibility of creating banks and the scientific likelihood that such banks will succeed;

(F) liability and long-term ownership;

(G) responsibilities for short- and long-term project monitoring; and

(H) whether or not the applicant has fully complied with the guidelines of section 404(b)(1) of the Federal Water Pollution Control Act.

(5) MITIGATION BANK DEFINED.—For purposes of this subsection, the term "mitigation bank" includes a system or process of accounting under which (before submitting an application for a permit under section 404 of the Federal Water Pollution Control Act or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899) an aplicant may deposit or withdraw units measuring wetlands restoration, enhancement, and creation efforts in order to satisfy mitigation or compensation requirements.

(6) REPORTING.—

(A) TO CHIEF OF ENGINEERS.—The district engineer for each district of the Corps of Engineers in which a mitigation bank is established under this subsection shall transmit annual reports to the Chief of Engineers describing credits made to, and withdrawn from, the bank and a summary of whether the bank is fulfilling the goals established in paragraph (2).

(B) TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report evaluating the use of mitigation banks in fulfilling the goals established by paragraph (2), together with recommendations on whether or not to continue use of mitigation banks as a means of meeting the goals established by subsection (a).

(f) TRAINING AND CERTIFICATION OF DELINEATORS.—

(1) IN GENERAL.—The Secretary is authorized to establish a program for the training and certification of individuals as wetlands delineators. As part of such program, the Secretary shall carry out demonstration projects in districts of the Corps of Engineers. The program shall include training and certification of delineators and procedures for expediting consideration and acceptance of delineations performed by certified delineators.

(2) REPORTS.—The Secretary shall transmit to Congress periodic reports concerning the status of the program and any recommendations on improving the content and implementation of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

(g) WETLANDS DEFINED.—For the purposes of this section and section 12, the term "wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

After section 38 of the bill, insert the following new section:

SEC. 39. LAND CONVEYANCES.

(a) RIVERSIDE, CALIFORNIA.—If the holder and owner of a leasehold mineral and royalty interest in the existing Prado Flood Control Basin in Riverside, California, requests the Administrator of General Services to exchange such interest for excess Federal property, the Administrator shall acquire such interest by exchange of excess Federal property. Such acquisition must be completed not later than 270 days after the date of such request. The Administrator shall undertake an evaluation and appraisal of an interest to be acquired under this section.

(b) SNEADS, FLORIDA.—

(1) IN GENERAL.—The Secretary shall convey to the trustees of the Salem Wesleyan Church all right, title, and interest of the United States in and to the parcel of land described in paragraph (2).

(2) PROPERTY DESCRIPTION.—The parcel of land referred to in paragraph (1) contains approximately 2.30 acres lying in section 12, township 4 north, range 8 west, Tallahassee meridan, Jackson County, Florida, and is more particularly described as follows:

Beginning at a point that is 294 feet west of the east line and 294 feet north of the south line of the northeast quarter of the northeast quarter of such section 12, and at a corner of a tract of land now or formerly owned by the Salem Wesleyan Church;

Thence south along a line parallel to the east line of such section a distance of approximately 269 feet to a point that is 25 feet north of the south line of the northeast quarter of the northeast quarter of such section;

Thence west along a line parallel to the south line of the northeast quarter of the northeast quarter of such section a distance of approximately 425 feet to the eastern right-of-way line of Florida State Road Numbered S-69A;

Thence northerly along the eastern right-of-way line of such State road a distance of approximately 200 feet to the boundary of such Salem Wesleyan Church tract; and

Thence northeasterly along the boundary of such Salem Wesleyan Church tract approximately 450 feet to the point of beginning.

(3) PAYMENT OF FAIR MARKET VALUE.—The conveyance authorized by this subsection shall be made upon payment to the United States of a sum equal to the fair market value of the land as determined by the Secretary.

(4) CONDITIONS AND RESTRICTIONS.—The conveyance under this subsection shall be subject to a reversionary interest in the United States if the lands conveyed are used for other than church purposes. The Secretary may require any additional terms, conditions, reservations, and restrictions in connection with the conveyance that the Secretary determines are necessary to protect the interests of the United States.

(5) SURVEY COSTS.—The cost of any surveys necessary as an incident to the conveyance authorized by this subsection shall be borne by the trustees of the Salem Wesleyan Church.

(6) DEADLINE.—Subject to compliance with this section, the Secretary shall convey the parcel of land described in paragraph (2) within 2 years after the date of the enactment of this Act.

(c) IRA D. MACLACHLAN AMERICAN LEGION POST, SAULT SAINTE MARIE, MICHIGAN.—

(1) IN GENERAL.—The Secretary shall convey to the Ira D. MacLachlan Post Numbered 3 of the American Legion the parcel of land described in the Act of June 5, 1936 (49 Stat. 1481), and the building located thereon for use as a clubhouse for the local American Legion Post of Sault Sainte Marie, Michigan.

(2) TERMS AND CONDITIONS.—The transfer under paragraph (1) shall be subject to a reversionary interest in the United States if the land and building transferred are used for a purpose other than as a clubhouse for the local American Legion Post of Sault Sainte Marie, Michigan. Such transfer shall also be subject to such other terms, conditions, regulations, and restrictions as the Secretary determines necessary to protect the interest of the United States.

(d) ABERDEEN, WASHINGTON.—

(1) IN GENERAL.—The Secretary may transfer to the city of Aberdeen, Washington, by quitclaim deed, all rights, interests, and title of the United States in the approximately 570.5 acres of land under the administrative jurisdiction of the Department of the Army acquired for the purpose of the project for Wynoochee Lake, Wynoochee River, Washington, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1193), together with any improvements thereon.

(2) CONDITIONS.—A transfer under this section shall be subject to the following conditions:

(A) The city shall operate, maintain, repair, replace, and rehabilitate the project in accordance with regulations prescribed by the Secretary which are consistent with the project's authorized purposes including fish and wildlife mitigation.

(B) The city shall hold and save the United States free from any claims or damages resulting from the operation, maintenance, repair, or rehabilitation of the project by the city or its contractors.

(C) If the city uses the land transferred under this subection for any purpose other than the project's authorized purposes or generation of hydropower or fails to comply with subparagraph (A) or (B), the Secretary shall notify the city of such use or failure. If the city does not correct such nonconforming use or failure during the 1-year period beginning on the date of such notification, the land transferred under this subsection shall revert to the United States.

(3) LIMITATION.—No transfer under this subsection may be made until the Secretary has determined that the city can operate, maintain, repair, replace, and rehabilitate the project.

(4) REPAYMENT OF CAPITAL COSTS.—Nothing in this subsection shall be construed to relieve the city of its obligations under the project contract to repay the capital costs of the project allocated to water supply. The Secretary may negotiate a cash settlement to allow the city to prepay the present value of the payments for capital costs due under the contract.

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

After section 38 of the bill, insert the following new section:

SEC. 39. ALTERNATIVES TO MUD DUMP SITE FOR DISPOSAL OF DREDGED MATERIAL.

(a) REPORT.—Within 90 days after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to the Congress a final report on the feasibility of designating an alternative site to the Mud Dump Site at a distance not less than 20 miles from the shoreline.

(b) PLAN.—Within 180 days after the date of the enactment of this Act, the Secretary and the Administrator of the Environmental Protection Agency shall submit to Congress a plan for the long-term management of dredged material from the New York/New Jersey Harbor region. The plan shall include—

(1) an identification of the source, quantities, and characteristics of material to be dredged;

(2) a discussion of potential alternative sites for disposal of dredged material, including the feasibility of altering the boundaries of the Mud Dump Site;

(3) measures to reduce the quantities of dredged material proposed for ocean disposal;

(4) measures to reduce the amount of contaminants in materials proposed to be dredged from the Harbor through source controls and decontamination technology;

(5) a program for monitoring the physical, chemical, and biological effects of dumping dredged material at the Mud Dump Site; and

(6) a study of the characteristics of the bottom sediments, including type and distribution.

(c) DEMONSTRATION PROJECT.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall implement a demonstration project for disposing on an annual basis up to 10 percent of the material dredged from the New York/New Jersey Harbor region in an environmentally sound manner other than by ocean disposal. Environmentally sound alternatives may include capping of borrow pits, construction of a containment island, application for landfill cover, habitat restoration, and use of decontamination technology.

(d) DREDGED MATERIAL WHICH MAY BE DUMPED AT MUD DUMP SITE.—Notwithstanding section 103(d) of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1413(d)), only dredged material that meets the criteria of section 102(a) of such Act (33 U.S.C. 1412(a)) may be dumped at the Mud Dump Site.

(e) MUD DUMP SITE DEFINED.—For purposes of this section, the term "Mud Dump Site" means the area located approximately 5¾ miles east of Sandy Hook, New Jersey, with boundary coordinates of 40 degrees, 23 minutes, 48 seconds North, 73 degrees, 51 minutes, 28 seconds West; 40 degrees, 21 minutes, 48 seconds North, 73 degrees, 50 minutes, 00 seconds West; 40 degrees, 21 minutes, 48 seconds North; 73 degrees, 51 minutes, 28 seconds West; and 40 degrees, 23 minutes, 48 seconds North; 73 degrees, 50 minutes, 00 seconds West.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal year 1991, $500,000 to implement subsection (b) and $1,000,000 to implement subsection (c), and such sums as may be necessary for fiscal year 1992.

(g) REPEAL.—Section 211 of the Water Resources Development Act of 1986 (33 U.S.C. 2239) is repealed.

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

In section 60 of the bill, after subsection (a), insert the following new subsection:

(b) SOUTH ATLANTIC CARGO TRAFFIC.—

(1) STUDY.—The Secretary, in conjunction with the Administrator of the Federal Maritime Administration of the Department of Transportation, shall conduct a study of the market for container ship traffic in the South Atlantic region of the United States from Port Everglades, Florida, to Norfolk, Virginia.

(2) PURPOSES.—The purposes of the study to be conducted under this subsection are as follows:

(A) Identifying major containerized cargo trade routes and commodity flows.

(B) Identifying inland transportation infrastructure needs.

(C) Projecting future traffic volumes.

(D) Forecasting future container vessel fleets.

(E) Developing origin-to-destination transportation costs.

(F) Developing differential trade route costs for origin-destination pairs.

(G) Forecasting future micro- and mini-bridging opportunities.

(H) Developing a computerized database of all traffic flows and costs.

(I) Forecasting future port infrastructure needs.

(3) REPORT.—Not later than 14 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,200,000.

Redesignate subsequent subsections of section 60 of the bill accordingly.

In section 60 of the bill, after subsection (d), insert the following new subsection:

(e) CALIFORNIA OIL SPILL RESTORATION.—

(1) STUDY.—The Secretary, in consultation with the Director of the Federal Emergency Management Agency and the Commandant of the Coast Guard, shall conduct a feasibility study in the California coastal region of the problems and alternative solutions, including Federal and non-Federal roles and responsibilities, of containment and restoration of coastal waters and lands (including natural wildlife, habitat restoration, commercial, and recreational activities) following a major oil spill.

(2) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000.

Redesignate subsequent subsections of section 60 of the bill accordingly.

After section 61 of the bill, insert the following new section:

SEC. 62. NEW YORK HARBOR, NEW YORK.

(a) REVIEW AND INVESTIGATION.—The Secretary, in conjunction with the Commandant of the United States Coast Guard and in consultation with appropriate Federal and State agencies and the Port Authority of New York and New Jersey, shall conduct a comprehensive review of existing reports on New York Harbor and a systems investigation of the system of channels and anchorages of the Port of New York and New Jersey (including areas and channels outside the Federal system). Such investigation shall include analysis of traffic design, shoaling, and hydraulics in order to determine the potential of streamlining the operation of such system and of reducing the potential for maritime accidents. The Secretary is further directed to construct feasible works within the Secretary's authority and to make recommendations to Congress with respect to works which are needed to improve the operation of such system and are outside the Secretary's authority.

(b) REPORTS.—

(1) INITIAL FINDINGS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress initial findings on the review and investigation conducted under subsection (a).

(2) FINAL REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a final report on such review and investigation.

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

Page 17, after line 3, insert the following new paragraph:

(4) JEFFERSON PARISH, LOUISIANA.—The project for hurricane protection, Jefferson Parish, Louisiana, at a total cost of $250,000,000, with an estimated first Federal cost of $166,500,000 and an estimated first non-Federal cost of $83,500,000.

Redesignate subsequent paragraphs of subsection (b) of section 3 of the bill accordingly.

Page 30, after line 14, insert the following new subsection:

(y) BRUSH CREEK AND TRIBUTARIES, MISSOURI AND KANSAS.—The project for flood

control, Brush Creek and tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4168), is modified to authorize the Secretary to construct the project substantially in accordance with the Post Authorization Change Report, dated April 1969, as revised in January 1990, at a total cost of $26,200,000, with an estimated first Federal cost of $16,090,000 and an estimated first non-Federal cost of $10,110,000.

Redesignate subsequent subsections of section 4 of the bill accordingly.

Page 32, after line 6 insert the following new subsection:

(bb) WILMINGTON HARBOR-NORTHEAST CAPE FEAR RIVER, NORTH CAROLINA.—The project for navigation, Wilmington Harbor-Northeast Cape Fear River, North Carolina, authorized by section 202 of the Water Resources Development Act of 1986 (100 Stat. 4095), is modified to authorize the Secretary to construct the project in accordance with the Post Authorization Change Notification Report, dated April 1990, at a total cost of $28,694,000, with an estimated first Federal cost of $12,338,910 and an estimated first non-Federal cost of $16,355,090.

Redesignate subsequent subsections of section 4 of the bill accordingly.

Page 32, after line 13, insert the following new subsection:

(cc) HARSHA LAKE, OHIO.—

(1) PROJECT MODIFICATION.—The project for flood control, water supply, and recreation, Harsha Lake, Ohio, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), is modified to provide that any water supply storage assigned to the State of Ohio which is not used by such State for water supply purposes before October 1, 1991, shall be reassigned to the Clermont County Board of Commissioners.

(2) MAXIMUM AMOUNT.—The maximum amount of water supply storage which may be reassigned under paragraph (1) is an amount of storage sufficient to yield 20,000,000 gallons of water a day.

(3) TERMS AND CONDITIONS.—Water supply storage provided to the Clermont County Board of Commissioners pursuant to a reassignment under paragraph (1) shall be subject to the same terms and conditions as water supply storage provided to the State of Ohio, including prepayment based on original project investment costs.

(4) REIMBURSEMENT.—Upon a reassignment of water supply storage under paragraph (1), the Clermont County Board of Commissioners shall reimburse the State of Ohio for amounts previously paid by the State to the Secretary for costs which are attributable to water supply storage which has been so reassigned.

Redesignate subsequent subsections of section 4 of the bill accordingly.

Page 64, line 2, before the period insert ", and shall carry out measures to protect and enhance water quality through implementation of best management practices in the upstream drainage basin".

Page 66, after line 17, insert the following new section:

SEC. 30. TENNESSEE RIVER, KNOXVILLE, TENNESSEE.

The Secretary may carry out a project for streambank protection along the Tennessee River in Knoxville, Tennessee.

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

Page 80, after line 10, insert the following new section:

SEC. 53. MAYSVILLE, KENTUCKY.

The Secretary is authorized to carry out planning, engineering, and design for construction of a bridge between Maysville, Kentucky, and the State of Ohio, at a total cost of $2,000,000.

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

Page 85, after line 6, insert the following new section:

SEC. 57. CAESAR'S CREEK LAKE, OHIO.

The Secretary shall amend the contract for use of storage space for water supply in Caesar's Creek Lake, Ohio, to relieve the non-Federal sponsor of the requirement to make annual payments for that portion of the maintenance and operation costs applicable to future water supply storage as is consistent with the Water Supply Act of 1958 (Public Law 85-500). The relief provided by the preceding sentence shall apply for 5 years after the date of the enactment of this Act or until the storage space is used, whichever first occurs, and shall apply in such proportion as the storage is used for water supply purposes.

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

Page 89, after line 11, insert the following new subsection:

(c) RANCHO PALOS VERDES, CALIFORNIA.—The Secretary shall—

(1) complete the study of the feasibility of constructing shoreline erosion mitigation measures along the Rancho Palos Verdes coastline and in the city of Rolling Hills, California, authorized by section 712 of the Water Resources Development Act of 1986 (100 Stat. 4160), and

(2) in connection with such study, investigate measures to conserve fish and wildlife (as specified in section 704 of the Water Resources Development Act of 1986), including measures to demonstrate the effectiveness of intertidal marine habitat.

Redesignate subsequent subsections of section 60 of the bill accordingly.

Page 92, after line 22, insert the following new subsection:

(j) UPPER MISSISSIPPI RIVER.—

(1) STUDY.—The Secretary shall conduct a study of the water quality of the Upper Mississippi River.

(2) CONSULTATION.—In conducting such study, the Secretary is authorized to consult with, and request the assistance of, the United States Geological Survey, the Fish and Wildlife Service, the Environmental Protection Agency, and affected States.

(3) REPORT.—The Secretary shall report the results of the study conducted under this subsection, together with findings and recommendations of the Secretary, to Congress on or before December 31, 1992.

(4) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $2,000,000 to carry out the study authorized by this subsection.

Redesignate the subsequent subsections of section 60 of the bill accordingly.

At the end of the bill, add the following new section:

SEC. 64. ADDITION OF COLUMBIANA COUNTY, OHIO, TO APPALACHIAN REGIONAL DEVELOPMENT PROGRAM.

Section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 403) is amended by inserting "Columbiana," after "Carroll, Clermont,".

Conform the table of contents of the bill accordingly.

At the end of the bill, add the following new section:

SEC. 64. EXCHANGE RATE DEMONSTRATION PROJECT, LOCKWOOD'S FOLLY INLET, NORTH CAROLINA.

(a) IN GENERAL.—The Secretary shall conduct an exchange rate demonstration project for the eastern channel of Lockwood's Folly River Inlet, North Carolina, to improve water quality, at a total cost of $1,300,000, with an estimated first Federal cost of $9,750,000 and an estimated first non-Federal cost of $3,250,000.

(b) CONSULTATION REQUIREMENT.—In conducting the demonstration project under this section, the Secretary shall consult with appropriate Federal and State departments and agencies.

Conform the table of contents of the bill accordingly.

At the end of the bill, add the following new section:

SEC. 64. RIO GRANDE AMERICAN CANAL EXTENSION.

(a) CONSTRUCTION OF EXTENSION.—Subject to subsection (e), the Secretary shall construct an extension of the American Canal, together with pumping plants, wasteways, measuring devices, and other facilities needed to connect such extension with existing irrigation systems. Such extension shall lie wholly in the United States and shall be approximately 13 miles in length, beginning at the downstream end of the current American Canal in El Paso, Texas, and extending to Riverside Heading.

(b) OPERATION OF CANAL.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall operate the extension of the American Canal provided for in subsection (a).

(2) DELIVERY OF WATERS.—The Secretary shall enter into an agreement with El Paso County Water Improvement District Number 1 pursuant to which the Water Improvement District would be responsible for the operation of the American Canal with respect to the delivery of all waters, with the exception of those waters belonging to Mexico which, consistent with paragraph (3), the Secretary shall be responsible for delivering.

(3) UNITED STATES OBLIGATIONS UNDER 1906 AND 1933 CONVENTIONS.—In authorizing the agreement described in paragraph (2), this Act—

(A) does not in any way affect the jurisdiction, powers, or prerogatives of the International Boundary and Water Commission, United States and Mexico, and

(B) does not in any way impede the ability of the United States Government to fulfill its obligations under the 1906 and 1933 Conventions.

(c) USE OF CANAL AS CONVEYANCE CHANNEL.—

(1) USE BY MEXICO.—The Secretary may enter into an agreement with Mexico which permits Mexico to use the American Canal as a conveyance channel. Any such agreement shall require Mexico to make payments to the United States for Mexico's use of the American Canal.

(2) USE BY NON-FEDERAL ENTITIES.—Upon obtaining the express approval of the Secretary, El Paso County Water Improvement District Number 1 may enter into agreements with other non-federal entities pursuant to which such entities may use the American Canal as a conveyance channel.

(d) MAINTENANCE OF EXTENSION.—The Secretary shall maintain the extension of the American Canal provided for in subsection (a).

(e) LOCAL CONTRIBUTIONS TO COSTS.—The extension of the American Canal provided for in subsection (a) may not be constructed unless the Secretary and El Paso County Water Improvement District Number 1 have entered into the following agreements:

(1) CONSTRUCTION COSTS.—An agreement pursuant to which El Paso County Water Improvement District Number 1 will pay $5,000,000 as its share of the construction costs for the construction of the extension of the American Canal provided for in subsection (a).

(2) MAINTENANCE COST.—An agreement pursuant to which El Pasco County Water Improvement District Number 1 will contribute a cumulative amount of $50,000 each year to the United States Commissioner as its share of the costs for maintenance of the extension of the American Canal provided for in subsection (a). After the 7-year anniversary of the completion of the construction of that extension (and after the end of each 7-year interval since the last such renegotiation), the Secretary and the El Paso County Water Improvement District Number 1 may renegotiate the amount of the contribution of El Paso County Water Improvement District Number 1 pursuant to the agreement required by this paragraph in order to reflect any increase in Bureau of Labor Statistics Consumer Price Index-Urban Wage Earners and Clerical Workers (CPI-W)-1982-84-100 Index. In the event the funds contributed by the El Paso County Water Improvement District Number 1 pursuant to this paragraph are not utilized during any given year, the funds shall be carried over to the succeeding years in a contingency fund to be performed by the United States Section, International Boundary and Water Commission.

(f) REPEAL OF PREVIOUS CONSTRUCTION AUTHORIZATION.—Title IV of the Act entitled "An Act to authorize various Federal reclamation projects and programs, and for other purposes", approved September 28, 1976 (Public Law 94-423; 90 Stat. 1327), is repealed.

(g) STUDY OF SUBSIDENCE DAMAGE.—The Secretary—

(1) shall conduct a study to determine the likelihood and extent of any damage to property adjacent to the American Canal which would be caused by subsidence related to the Canal extension provided for in subsection (a), and

(2) shall submit a report to the Congress detailing his findings not later than 1 year after the date of the enactment of this Act.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $42,000,000 to construct the extension of the American Canal provided for in subsection (a); and

(2) such sums as may be necessary to operate and maintain that extension and to conduct the study required by subsection (g).

(i) DEFINITIONS.—As used in this section—

(1) AMERICAN CANAL.—The term "American Canal" means the Rio Grande American Canal constructed pursuant to the Act of August 29, 1935 (49 Stat. 961).

(2) UNITED STATES COMMISSIONER.—The term "United States Commissioner" means the United States Commissioner, International Boundary and Water Commission, United States and Mexico.

(3) SECRETARY.—The term "Secretary" means the Secretary of State, acting through the United States Commissioner.

Conform the table of contents of the bill accordingly.

After section 38 of the bill, insert the following new section:

SEC. 39. BIG SOUTH FORK NATIONAL RIVER AND RECREATION AREA.

TRANSFER OF JURISDICTION.—Section 108(b) of the Water Resources Development Act of 1974 (88 Stat. 43) is amended by striking "After publication of notice, and after he has completed the construction of necessary access roads, day-use facilities, campground facilities, lodges, and administrative buildings" and inserting "Not later than 30 days after the date of the enabtment of the Water Resources Development Act of 1990".

Mr. ANDERSON (during the reading). Madam Chairman, I ask unanimous consent that the amendments en bloc be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ANDERSON. Madam Chairman, the amendment offered en bloc contains a number of provisions to improve or modify H.R. 5314 as reported. It includes the authorization or modification of several projects which came to the committee's attention after the committee had completed its action. In addition, it contains several provisions which were in the bill as considered by the committee, but, pursuant to a unanimous consent request, were removed from the bill prior to the filing of the report. These items were considered by the Committee on Public Works and Transportation and have the approval of the committee.

Among the items included in the amendment is the establishment of a no net loss of wetlands goal for the Water Resources Development Program of the Corps of Engineers. The corps would be authorized to restore wetlands and to engage in a demonstration program for using wetlands for wastewater treatment. It also includes other provisions such as a study of New York Harbor and a review of its systems of channels and anchorages, deepening of Wilmington Harbor, NC, extension of the Upper Mississippi River Management Act and the extension of the Rio Grande American Canal for approximately 13 miles.

Madam Chairman, the committee en bloc amendment has the full support of the Committee on Public Works and Transportation and I urge my colleagues to adopt it.

□ 1620

Mr. HAMMERSCHMIDT. Madam Chairman, I rise in support of the en bloc amendment offered by the gentleman from California [Mr. ANDERSON], the distinguished chairman of the Committee on Public Works and Transportation.

The en bloc amendment includes a number of provisions which were brought to the committee's attention after our full committee markup. It also includes a few provisions touching upon the jurisdiction of other committees which were withdrawn from the reported bill in order to assure expedited consideration of the bill.

Let me assure Members that this unusual procedure was not used as a way of avoiding the jurisdiction of other committees but was a necessary step to quick action on this important bill. Throughout the process we have worked openly with the other committees which may have jurisdictional concerns. I understand we have incorporated suggestions or have entirely removed provisions which were objected to by other committees.

As an example, the bill as originally ordered reported by the Committee on Public Works and Transportation included language I had proposed which was deleted as a result of jurisdictional concerns by the Committee on Agriculture. My proposal would have authorized the corps to undertake a program to demonstrate measures to assist in restoring farmland devastated as a result of this spring's floods in the Southwest. However, the Agriculture Committee claimed jurisdiction over the provision and objected to the inclusion of the provision in our bill. Accordingly, the provision was removed and is not being restored through the committee amendment.

An amendment that would be restored, however, is one originally developed by the ranking member of our Water Resources Subcommittee, ARLAN STANGELAND. The provision establishes a new environmental mission for the Corps of Engineers and calls for an interim goal of no overall net loss of wetlands and a long-range goal increasing wetlands in connection with the corps' civil works mission. In working toward these goals, the corps would be authorized to explore wetlands restoration and creation opportunities and to undertake a new program to demonstrate the use of constructed wetlands for addressing wastewater treatment needs, particularly in small communities.

In connection with this new demonstration program the corps would be directed to construct an artificial wetland treatment facility to improve the quality of effluent from the existing treatment facility operated by the city of Fayetteville, AR. This emerging technology could allow the city's state-of-the-art plant to continue to operate as intended and would help to resolve problems encountered with the plant's discharge into the Illinois River basin.

Overall, the amendments improve the bill. While I cannot say I unequivocally support every one of the amendments, I do urge support of the entire package.

AMENDMENT OFFERED BY MR. EMERSON TO THE AMENDMENTS EN BLOC OFFERED BY MR. ANDERSON

Mr. EMERSON. Madam Chairman, I offer and amendment to the amendments en bloc offered by the gentleman from California [Mr. ANDERSON], which I understand have been accepted by both the majority and the minority.

The Clerk read as follows:

Amendment offered by Mr. EMERSON to the amendments en bloc offered by Mr. ANDERSON: In the matter proposed to be inserted as a new section 13 to the bill, relating to wetlands, strike subsection (g).

Mr. EMERSON. Madam Chairman, I rise to offer an amendment which would strike the definition of "wetlands" contained in the en bloc amendment to the Water Resources Development Act.

Quite simply, I do not believe that this Congress has yet had a complete, exhaustive and thorough discussion of just exactly what a wetland is. Until this Congress determines through extensive discussion just what kind of land constitutes a wetland—whether it is a land of marshes, decaying logs, cattails, and other naturally occurring hydroponic plants, or whether it is also to include some of the most fertile farmland in this Nation which has been cultivated for many years—I do not believe that we should set this matter in law.

Madam Chairman, I have worked extensively with the Public Works Water Resources Subcommittee on this amendment, and I believe that we can all agree to postpone this matter for future discussion.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. EMERSON. I am happy to yield to the gentleman from Minnesota.

Mr. STANGELAND. Madam Chairman, I thank my colleague for yielding.

Madam Chairman, we have looked at the amendment. Certainly the points he makes are very valid, and I support the amendment.

I also at this point in time want to say that I support very strongly the en bloc amendments of the chairman of the committee.

Mr. HAMMERSCHMIDT. Madam Chairman, will the gentleman yield?

Mr. EMERSON. I am happy to yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Madam Chairman, I commend the gentleman on his amendment to the en bloc amendments, and I strongly support it.

Madam Chairman, I rise in support of the gentleman's amendment. The issue of what constitutes a wetlands has been the subject of heated controversy among farmers, developers, regulators and environmentalists. No less than four Federal agencies have struggled for years to try and develop a definition that they can all agree to. Last year, they came to agreement among themselves. Unfortunately, their definition has run into extremely strong opposition from virtually everyone affected.

The President has appointed a special task force to look into this issue and they have initiated a series of public hearings on how wetlands should be defined and how they should be regulated. Given that this issue is in a state of flux, it does not make sense to act legislatively. We should let the hearing process continue before we lock any particular interpretation into place.

Let me commend the gentleman for his attention to this issue while at the same time recognizing the important work of the ranking member of our Water Resources Subcommittee, Mr. STANGELAND, on this issue.

Mr. EMERSON. Madam Chairman, I thank the gentleman from Arkansas and the gentleman from Minnesota for their comments. I wish to thank them and the distinguished chairmen of the full committee and the subcommittee for their cooperation in this matter.

Mr. ANDERSON. Madam Chairman, will the gentleman yield?

Mr. EMERSON. I am happy to yield to the gentleman from California [Mr. ANDERSON], chairman of the full committee.

Mr. ANDERSON. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I am pleased to accept the gentleman's amendment.

Mr. ALEXANDER. Madam Chairman, will the gentleman yield?

Mr. EMERSON. I am happy to yield to the gentleman from Arkansas.

Mr. ALEXANDER. Madam Chairman, I rise in support of the gentleman's amendment.

Mr. EMERSON. Madam Chairman, I thank the gentleman for his cooperation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. EMERSON] to the amendments en bloc offered by the gentleman from California [Mr. ANDERSON].

The amendment to the amendments en bloc was agreed to.

Mr. LAGOMARSINO. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in support of H.R. 5314, the Water Resources Development Act of 1990, and to commend my good friend and colleague, Chairman ANDERSON, along with the ranking member of the committee, Mr. HAMMERSCHMIDT, and the subcommittee chairman, Mr. NOWAK, and ranking member, Mr. STANGELAND, for bringing forth a fine bill addressing the critical infrastructure needs of our Nation.

I do not buy the argument that this bill is too costly. In my mind, and at least from my experience, each of the projects in my district are bonafide, legitimate projects which will save far more money in the long run than they cost. The breakwater project at Ventura Harbor, for example, will reduce the number of days on which the harbor is closed by bad weather and shoaling, as well as saving lives and property. The harbor is the headquarters of the Channel Islands National Park, and also houses oil platform service boats and oilspill cleanup equipment. All these tenants, which also include commercial fishing fleets, need year-round access at the port, the breakwater will also reduce the cost of annual Federal dredging at the harbor, saving the Federal Government money in the long run.

A similar case can be made for two other projects in my district which are included in the bill. One is a flood warning system for the Santa Clara River system, which will cost less than $1 million and has the potential to save many lives. This is a river which killed hundreds of people 60 years ago when a dam collapsed, and caused millions of dollars in damage 20 years ago when it went on a rampage. I do not think that qualifies as pork barrel. The other project is for flood control on part of that same system.

In conclusion, Madam Chairman, I do not share the belief that this bill represents wasteful spending. It is a good bill, authorizing needed projects, and I urge my colleagues to support it.

Mr. LIVINGSTON. Madam Chairman, I rise in support of the committee amendment to H.R. 5314, the water projects authorization bill for 1990.

i want to thank Chairman ANDERSON, Chairman NOWAK, ranking Republicans, HAMMERSCHMIDT and STANGELAND, and, especially, my Louisiana colleague, and a member of the Public Works and Transportation Committee, JIMMIE HAYES. Your leadership and support has once again been most beneficial to the safety and well being of thousands of Louisianians.

Madam Chairman, the committee amendment contains language that modifies an existing authorized project in the greater New Orleans area. The currently authorized west bank hurricane protection levee project in Jefferson Parish—Westwego to Harvey Canal, is modified to provide standard project hurricane protection for the areas of West Jefferson, Orleans, and Plaquemines Parishes that are east of the Harvey Canal.

Including areas east of the Harvey Canal under this authorization is in keeping with actions previously taken by the House and Senate Energy and Water Appropriations Committees to accelerate funding for design and engineering studies for this area. Subject to a final report by the Chief of Engineers, this modified authorization will be providing protection for thousands of residents and businesses east of the Harvey Canal.

The CHAIRMAN. The question is on the amendments en bloc, as amended, offered by the gentleman from California [Mr. ANDERSON].

The amendments en bloc, as amended, were agreed to.

AMENDMENT OFFERED BY MR. SHUSTER

Mr. SHUSTER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHUSTER: At the end of the bill, add the following new section:

SEC. 64. RAYSTOWN LAKE, PENNSYLVANIA.

The Secretary is directed to submit to the Congress for approval any proposed changes in the allocation of storage for the Raystown Lake project, Pennsylvania, which result from the on-going Raystown Lake Reallocation Study undertaken by the Baltimore District. Pending submission to and approval by the Congress of the results of that study, the Secretary may not reallocate storage at the project.

Mr. SHUSTER (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. SHUSTER. Madam Chairman, I rise in strong support of my amendment to H.R. 5314, the Water Resources Development Act of 1990.

During the last several years, the Corps of Engineers' management of Federal multipurpose projects has become increasingly controversial. Under current authorization, the corps operates a number of water resources projects, including Raystown Lake, to achieve congressionally established purposes.

Now, in response to low water conditions and pressures from competing users of impounded water resources, the corps has upon occasion changed some project operations and as a result, altered the basic economic justification Congress relied in authorizing these projects. The corps has not sought congressional approval for these changes, but has utilized their discretion to reallocate water resources benefits administratively to respond to new public demand. This is exactly the situation that faces the Raystown Lake.

The corps has, in response to pressure from groups over 150 miles downstream, has begun a study to determine the feasibility of reallocating existing flood control storage and conservation storage at the lake to water supply capacity. This reallocation could result in a drop in the water level of the lake of 22 feet. Because of the possibility of such a change in the water level and the resultant loss of recreational capabilities, environmental damage and other factors, the local community is very opposed to this proposal.

Madam Chairman, my amendment will require the Corps of Engineers, at the conclusion of the Raystown Lake reallocations study, to seek the approval of Congress before they make any changes in the allocation of water storage at the Raystown Lake. This provision simply codifies what the corps has said will be the procedure they follow in this matter. The amendment would further prohibit the corps from engaging in any other changes in the allocation of water supply at the lake while the approval of the Raystown Lake reallocation study is pending before the Congress.

Madam Chairman, this amendment is necessary to insure that no changes in the allocation of water supply at the lake take place before the study is completed, and because of the very controversial nature of this project, that the corps seek Congress's approval before any changes.

Again, Madam Chairman, I rise in strong support of my amendment and ask for its favorable approval.

Mr. ANDERSON. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I am happy to yield to the gentleman from California, the chairman of the full committee.

Mr. ANDERSON. Madam Chairman, I accept the gentleman's amendment.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I am happy to yield to the gentleman from Minnesota.

Mr. STANGELAND. Madam Chairman, to my good friend and colleague, the gentleman from Pennsylvania [Mr. SHUSTER], a very, very senior member of the committee, absolutely, most definitely we support his amendment.

Mr. HAMMERSCHMIDT. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I am happy to yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Madam Chairman, I am very familiar with the gentleman's amendment and the lake he seeks to protect. I strongly support his amendment. I congratulate him.

Mr. SHUSTER. Madam Chairman, I thank my friends on both sides of the aisle.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. SHUSTER].

The amendment was agreed to.

Mr. JONES of Georgia. Madam Chairman, I move to strike the last word.

Madam Chairman, I first want to commend the hard work of the chairman of the Public Works and Transportation Committee, Mr. ANDERSON, for bringing this bill to the floor today, as well as the chairman of the Water Resources Subcommittee, Mr. NOWAK, and the ranking minority members, Mr. HAMMERSCHMIDT and Mr. STANGELAND.

Madam Chairman, I would like to engage the gentleman from California, the chairman of the Public Works Committee, in a brief colloquy.

As the gentleman knows, I had requested that some language be included in the report of H.R. 5314 concerning the U.S. Army Corps of Engineers comprehensive study for the Alabama-Coosa and Apalachicola-Chattahoochee-Flint River basins.

I am including a copy of the language in my remarks.

Madam Chairman, this language had been approved for inclusion in the committee report of H.R. 5314, but was inadvertently omitted. I would like the gentleman's assurances that he will work to include this language in the conference report on H.R. 5314 and that it is the intention of the Public Works Committee that the corps follow the language.

The committee urges that the U.S. Army Corps of Engineers, in its comprehensive studies for the Alabama-Coosa and Apalachicola-Chattahoochee-Flint River basins, include the Atlanta Regional Commission and the Southeastern Power Administration, along with the three affected States, in its development of the study design and management of the comprehensive study.

The committee also requests that the corps, as part of its yearly budget request, report on the status of the comprehensive study. This status report should include, but not be confined to: First, estimated costs and funds spent; second, estimated completion date; third, if the estimated completion statement differs from the corps' original estimate of 1994, the corps should provide an explanation for the delay in the study; fourth, the corps' coordination and cooperation with the three States, including the Atlanta Regional Commission, and its plans for future involvement and coordination.

Mr. ANDERSON. Madam Chairman, will the gentleman yield?

Mr. JONES of Georgia. I am happy to yield to the gentleman from California.

Mr. ANDERSON. Madam Chairman, it was the intention of the committee that the language of the gentleman would be included in the House report of H.R. 5314.

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As the gentleman stated, it was inadvertently omitted. I would like to state for the RECORD that it is the intention of the committee to include this language in the committee report for H.R. 5314, and that the corps will follow this language.

I assure the gentleman that I will work to include the language in the conference report.

Mr. JONES of Georgia. Madam Chairman, I thank the gentleman for his remarks.

AMENDMENT OFFERED BY MR. ALEXANDER

Mr. ALEXANDER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ALEXANDER: After section 12 of the bill, insert the following new section:

SEC. 13. AGRICULTURAL WETLANDS EXEMPTION.

Section 404 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1344), is amended by adding at the end the following new subsection:

"(u) AGRICULTURAL WETLANDS EXEMPTION.—

"(1) GENERAL RULE.—This section shall not apply to the discharge of dredged or fill material into any wetland—

"(A) which was used for agricultural production on any calendar date in the 24 months prior to the date of the enactment of this subsection; and

"(B) which was used for agricultural production for at least 1 year in the period between January 1, 1972, and the date of the enactment of this subsection;

so long as such land is used for agricultural production.

"(2) AGRICULTURAL PRODUCTION DEFINED.—For purposes of this subsection, the term 'agricultural production' shall include, but not be limited to, production of row crops; horticulture; vintniculture; silviculture; aquaculture; mariculture; grazing; haying; apiculture; hydroponics; production of tree fruits or nuts; raising of cattle, horses, poultry, swine, sheep, goats and other livestock of surface water for agricultural production; distribution of water for agricultural production; conserving uses required as a condition of enrollment in an acreage reduction program administered by the Secretary of Agriculture under the Agricultural Act of 1949 or any amendments thereto; all other activities identified in subsection (f)(1) of this section as of July 31, 1989; and the construction, expansion, improvement, maintenance, and operation of farm residences and facilities.".

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

Mr. NOWAK (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. NOWAK. Madam Chairman, I would like to raise a point of order against this amendment for violating clause 7 of rule XVI of the House.

The CHAIRMAN. The gentleman from New York [Mr. NOWAK] makes or reserves a point of order. Does the gentleman from Arkansas desire to be heard?

Mr. ALEXANDER. Madam Chairman, I take this time today to address a subject that is not addressed in this bill, realizing that the rule does not permit an offering of this amendment to the bill. However, I wish to draw attention to the fact that the Federal Water Pollution Control Act, enacted in 1972 and since amended, provides under section (f) of section 404 that normal farming practices are exempted from the need for section 404 permits issued by the Corps of Engineers.

Unfortunately, the manner in which Federal agencies are interpreting section 404 and in particular section 404(f) is confusing. It is inconsistent, and it is possibly in violation of the fifth amendment to the Constitution.

In order to remedy these problems and the negative impact on farmers of the Nation, I introduced a bill which is designated as H.R. 4133 and is pending before the Committee on Public Works and Transportation. It is the text of that bill which I have been joined today by the gentleman from Missouri [Mr. EMERSON], and the gentleman from Texas [Mr. LAUGHLIN], in proposing to offer as an amendment to H.R. 5314.

We do this to bring this serious matter to the attention of the Committee on Public Works and Transportation in hopes that we can get some resolution of the time in which the committee might consider the issues addressed by H.R. 4133 in the not-too-distant future.

Simple justice in the Nation's effort to protect wetlands requires fair play for farmers. The effort to preserve harmony between man and the environment is being ill-served by the unbalanced implementation of section 404 in connection with farmers.

Wetlands protection is important to us all. But, placing restrictions on use of land that has been farmed for generations does not mean "no net loss" of wetlands. It means a net gain of wetlands at the expense of unwilling, uncompensated landowners. I think that is wrong.

It is even more wrong if a farmer is prohibited from using that land in order to compensate for wetlands lost through private or public actions that have no direct bearing on or relationship to what the farmer is doing.

Wise wetlands management is of vital importance to the Nation and to the future of all Americans. So, the cost should be born by all Americans, not primarily by the Nation's farm families.

The amendment which we proposed to offer ensures that farmers are not forced to bear the majority of the cost of a national no net loss of wetlands policy.

Madam Chairman, I yield to the gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. Madam Chairman, I have supported the gentleman's bill. I represent a large agricultural area, and as I travel not only in the district I represent, but in the Arkansas agricultural areas and agricultural areas in other States, I have found in visiting with our agriculture people that the requirements have varied not only from State to State but from district to district, even within some States on the requirement that farmers seek 404 permits.

There has been not only confusion, but in several instances a feeling of intimidation and harassment. For farmers who have farmed this land for years, and I might point out that we are not trying to exempt all the land that a farmer or the agricultural community may want to farm, we are only asking for an exemption of that which is already in production. We feel that we need better definitions so that those people in the agricultural field will know what is exempt, what is available to use in farming, and we feel that this is also in accordance with a no net loss wetlands goal of the President.

Therefore, I thank the gentleman from Arkansas [Mr. ALEXANDER] for his participation and his support on this very important issue.

Mr. ALEXANDER. Madam Chairman, I yield to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Madam Chairman, I thank the gentleman from Arkansas for his statement, for his effort here, and for what he is trying to accomplish, and join him in that effort.

If a point of order is sustained here, I look forward to working with the gentleman in pursuing appropriate legislation to achieve the goal that we seek to achieve through the amendment that the gentleman seeks to offer here today.

We, particularly from the lower Mississippi Valley, have the most vexing sorts of problems with the issue that the gentleman is seeking to address here. I plead with our colleagues who come from other regions of the country to understand the unique set of circumstances with which we are faced, and to help Members try to achieve what I think the gentleman from Arkansas is working for, a very responsible solution to this problem that causes Members so much trouble, causes our agricultural producers so much trouble.

I thank the gentleman from Arkansas [Mr. ALEXANDER] for yielding.

The CHAIRMAN. The Chairman has been treating this as a reservation of the gentleman from New York's point of order so that the amendment may be debated.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from New York insist on this point of order?

Mr. NOWAK. Madam Chairman, I do insist on my point of order. I would like to state, as we go through this, that this amendment is really a direct amendment to the Federal Water Pollution Control Act.

As Members know, we have discussed this issue over the last year, and it has been a vexing problem for many who have come before this committee. As we look forward to next year, we will have a rewrite of the

Clean Water Act, and we are going to again move into extensive hearings on this and other matters.

Certainly, the interest that has been shown by the gentleman for many years, and along with the gentleman from Missouri [Mr. EMERSON] as well as the gentleman from Arkansas [Mr. ALEXANDER] and others will certainly be recognized as we move into that hearing process, and we will welcome this amendment. However, I insist upon my point of order.

Mr. ALEXANDER. If the gentleman will defer to me, I think we can dispose of this matter quickly.

Am I to understand the gentleman from New York that hearings will be held on the Federal Water Pollution Control Act early next year, and that the issue we are attempting to address which is the exemption of established farmland, will have an opportunity to be heard, and that persons affected by the current administration of section 404 can expect that issue to be resolved sometime during the first half of 1991?

Mr. NOWAK. Madam Chairman, we will certainly handle that.

Mr. HAMMERSCHMIDT. Madam Chairman, I want to commend the gentleman from Arkansas for bringing this issue before the House. It is certainly an issue that I am also concerned about.

The corps' regulatory program has created major problems in agricultural communities around the country and especially in my home State of Arkansas. Farmers do not understand why they can't make minor operational changes to their on-going farming activities without having to go through a costly and time-consuming Federal regulatory process. Frankly, Madam Chairman, I don't understand why they should have to either.

Therefore, I certainly support the thrust of the gentleman's amendment and intend to work with him and with the other Members from our region to address this problem at the earliest possible opportunity. If we cannot do it here at this time, and I understand we will not be able to, then certainly we must address it early next year when we take up reauthorization of the Clean Water Act.

Mr. ALEXANDER. Madam Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. HOPKINS

Mr. HOPKINS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOPKINS: Page 26, after line 12, insert the following new subsection:

(q) SOUTH FRANKFORT, KENTUCKY.—The project for flood protection for the Ohio River Basin, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), is modified to direct the Secretary to carry out a project for flood protection for South Frankfort, Kentucky, in accordance with plan R-1 of the Louisville District Commander's Re-evaluation Report, dated June 1990. The level of protection shall be no less than afforded North Frankfort, Kentucky. In addition, the Secretary shall execute a local cooperation agreement for the project for South Frankfort not later than October 1991.

Redesignate subsequent subsections of section 4 of the bill accordingly.

Mr. HOPKINS (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. HOPKINS. Madam Chairman, my amendment simply modifies existing congressional authorization of a flood protection project in the city of Frankfort, the State capital of Kentucky.

In the last 12 years, Frankfort has been devastated by three catastrophic floods costing American taxpayers $70 million in disaster relief. These enormous costs fail to calculate the emotional anguish and suffering of the hundreds of families displaced from their homes and the periodic and costly interruptions to State government, businesses, and schools.

City officials have agreed on a floodwall alignment which enjoys strong State and community support. This proposal is more expensive than the Corps' national economic development alignment. However, the city has offered to assume the difference in costs between the two proposals.

My amendment is necessary because it amends present authorization by enabling the corps to proceed with the locally preferred plan and ensures the continued progress of this essential project.

I appreciate the subcommittee's assistance in developing this necessary amendment and strongly urge its inclusion in H.R. 5314.

Chairman ANDERSON and ranking member HAMMERSCHMIDT may speak on my amendment.

Madam Chairman, I thank my colleagues, the distinguished chairman of the committee and the ranking minority member, for their support of this very important project.

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Mr. NOWAK. Madam Chairman, I rise in support of the amendment.

Madam Chairman, I have had the opportunity to review the gentleman's amendment. I think it is a workable amendment and we will certainly carry this process through into the conference. We are happy to accept it at this point in time.

Mr. ANDERSON. Madam Chairman, I move to strike the last word.

The gentleman's amendment would specify that the corps is to construct the flood protection project for Frankfort, KY in accordance with the locally preferred plan rather than the plan as recommended by the Corps of Engineers. This provision will not result in any increased Federal expenditures because the local governments will be responsible for paying any incremental cost increase. We are pleased to support the gentleman's amendment.

Mr. STANGELAND. Madam Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Madam Chairman, we accept the amendment. We think it has merit. It certainly shows a willingness on the part of the local people to accept their obligations and responsibilities.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. HOPKINS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PALLONE

Mr. PALLONE. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PALLONE: page 31, after line 18, insert the following new paragraph:

(4) PROHIBITION ON BURNING OF WOOD.—The New York Harbor collection and removal of drift project, authorized by section 91 of the Water Resources Act of 1974 (88 Stat. 39), including construction described in paragraph (2) of this subsection, is further modified to provide that, after December 31, 1991, no material collected by the Secretary under the project may be disposed of by burning on ocean waters.

Mr. PALLONE. Madam Chairman, in 1988 the Environmental Protection Agency stopped the incineration of hazardous wastes in enclosed ships 140 miles offshore because the danger to public health and the environment was too great.

The gentleman from New Jersey [Mr. SAXTON] and I have offered an amendment to ban an even more environmentally barbaric practice, the burning of thousands of tons of contaminated wood in open barges just 17 miles off the beaches of New Jersey.

In 1968, the Army Corps of Engineers burned the first load of creosote soaked wood from the New York harbor pier at a temporary site in the Atlantic Ocean 17 miles east of Point Pleasant Beach, NJ. The corps still operates this temporary dumping ground more than 20 years later and it will continue to do so at the peril of the coastal environment and the health and safety of boaters and bathers, unless the House adopts our amendment today.

In written response to questioning at a Merchant Marine and Fisheries Committee hearing last February, the EPA stated that practicable alternatives to wood burning at sea will be implementable by December 31, 1991,

the very date on which our amendment would end the practice. The EPA went so far as to propose its own rule ending wood burning at the end of 1991.

Why then the need for this amendment? Because the lack of a statutory deadline is what made a 20-year dumping ground out of a temporary site in the first place.

During more than 20 years of offshore wood burning, countless partially burned timbers have fallen off barges, creating a navigation hazard. After each burn heavy, metal-laden ash is hosed into the ocean.

Now that the EPA itself has said that environmentally sound alternatives to wood burning could be in place by the deadline our amendment imposes, there is no reasonable justification for continuing offshore wood burning, a practice which already would be outlawed by the Clean Air Act taking place just 6 miles closer to shore within the U.S. 12-mile territorial zone.

Madam Chairman, today I have brought with me some photos which are here on the easel which I want to show to my colleagues to show how this large plume of smoke which is clearly visible from the shore, I guess that is the first one there if we could show it, it is clearly visible from the shore. The smoke blows on the shore. You can smell it when you are on the beaches.

In February of this year, charred timbers from the burning operation were strewn over a 30-mile stretch of shorefront, and over the years there have been numerous documented cases of large timbers from the wood burning barges causing collisions with private boats and injuring bathers.

From the second photograph you can see how close it does get on occasion to some of the recreational as well as commercial fisheries.

I think the photos speak for themselves. They speak volumes really. I do not think there can be any more persuasive statement to conclude why wood burning at sea should end.

Madam Chairman, I urge adoption of the amendment.

Mr. SAXTON. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in strong support of the amendment. I am pleased to join with the gentleman from New Jersey [Mr. PALLONE]. I rise in strong support of the amendment to H.R. 5314, the water projects authorization.

This amendment will require the Army Corps of Engineers to turn to environmentally sound land-based alternatives for the disposition of creosote treated wood by December 31, 1991.

Currently the corps burns this waste wood, often treated with toxic preservatives, on open barges, just like the ones you saw in the pictures, about 17 miles off New Jersey with no air quality controls.

The argument is no longer valid that purports that there are no reasonable alternatives. The burn barges constantly go off shore, pollute the air, and as the Congressman pointed out quite correctly, oftentimes provide for floating half-burned pieces of wood that wash up on the shores.

Environmentally sound land-based alternatives like bioremediation, cogeneration, and gasification currently exist and can be developed and implemented by December 31, 1991.

Indeed, the Environmental Protection Agency has announced its intent to end wood burning by the same date based on their belief that land-based alternatives can be implemented by that time.

So Madam Chairman, I urge my colleagues to join us in supporting this amendment to end ocean wood burning. This will also send a clear congressional directive to the EPA and the Army Corps of Engineers that this is a priority issue, to stop using the ocean as a waste bucket and start developing and implementing environmentally sound waste disposal alternatives.

Mr. ANDERSON. Madam Chairman, I move to strike the last word.

The gentleman's amendment would prohibit burning on the oceans wood material collected from the water or along the shore from the New York harbor drift and debris removal project. While burning these materials at sea may have seen considered by some as an acceptable alternative in the past, our concerns for the environment and for the protection of the oceans preclude continuation of this practice. Therefore, I am pleased to support the gentleman's effort to assure a safe and clean environment and we are pleased to support the gentleman's amendment.

Ms. MOLINARI. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in support of the amendment offered by my colleagues from New Jersey, Congressmembers PALLONE and SAXTON. For far too long, our region has been devastated by environmental pollution—our air and our water lack any semblance of dignity and this has borne witness to beaches left empty during hot summer days and front page national stories detailing oil slicked birds and respiratory disease. How much more can our residents take? Messrs. PALLONE and SAXTON say—no more.

Open barge burning offshore of creosote soaked wood clearly is not the best technology available in this country and its effects on human and marine life cannot be tolerated. Nor is landfilling this toxic material the solution. Leachate compliance could never be achieved and in the New York-New Jersey area, our dump space is so precious. Landfilling would be a short short-term solution at best.

And we are not forcing an answer tomorrow. In fact, EPA sets this same date to end wood burning. The amendment before us only codifies their intent.

Let me conclude by stating that this issue does not affect one of my constituents. In fact, it may slow some cleanup of our harbor. We have for far too long stood divided by politics and region while our air, water, and health were betrayed. I urge my colleagues to support this amendment as we create a better future for everyone and every being.

□ 1650

Mr. STANGELAND. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I am not going to take sides, yes or no, on this amendment at this point in time. But I think the testimony you have just had is evidence of the fact that we do not have a good answer. Burning is not satisfactory.

As apparent from the pictures Congressman PALLONE showed to this body, the corps has not been sensitive to the problems of burning on the ocean with what happens with the air quality on the beaches.

On the other hand, the landfills, the dumps on the east coast are filling and filling rapidly. That is not a responsible solution either.

So then you say what are you going to do with this wood, where is it going to go? Well, I am not at all certain that we ought not have some kind of a study to require the corps and the EPA to come up with a better answer. You have got to get rid of the wood, we know that. You do not want that wood jamming up the harbors.

Mr. TORRICELLI. Madam Chairman, will the gentleman yield?

Mr. STANGELAND. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. I thank the gentleman for yielding.

Madam Chairman, I share the gentleman's concern because indeed removing these pilings and old barges from New York Harbor is critical in a different sense for environmental protection. They are causing us to have difficulty in using the harbor again for recreation. They have an important economic benefit, as well.

My support of this amendment comes because it is clear now there are alternatives. Companies now are requesting to take and to purchase this old wood to take it to their places where they will use it to generate power, where it is being chipped for other purposes.

Indeed several nations have requested the opportunity to use this wood for their own generation of power.

So as we eliminate the burning of this wood off our coast, we are finding the marketplace is generating real economic benefits.

That was important for my support of this amendment. The gentleman's point is very well taken. The marketplace is supplying the answers.

Mr. STANGELAND. I thank the gentleman for that contribution. It gives me some peace of mind as to this amendment, then. I certainly am not going to oppose it. I thought we might go to work in conference, but according to the gentleman from New Jersey [Mr. TORRICELLI], there is an alternative and that is what we are looking for. And I thank the gentleman.

Mr. PAYNE of New Jersey. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise to express my strong support for the Pallone-Saxton amendment to end offshore woodburning. This amendment would prohibit the at-sea burning of contaminated wood collected during the Army Corps of Engineers' collection and removal of drift project.

Under current law, our Government allows the needless burning of thousands of tons of contaminated wood in open barges just 17 miles off the beaches of New Jersey. This terrible practice has been going on for 20 years, and it is time we put a stop to it.

The environmental consequences of this burning are obvious. The Environmental Protection Agency has already discontinued the burning of hazardous waste in enclosed ships 140 miles offshore because of the great danger to public health and the environment. EPA has also confirmed that environmentally sound alternatives to woodburning are readily available.

Madam Chairman, our oceans should not be a dumping ground for our garbage. The fact that offshore woodburning occurs just far enough out in the ocean to circumvent the Clean Air Act should not be tolerated. I urge my colleagues to take a strong stand against offshore woodburning and support the Pallone-Saxton amendment.

Mr. MANTON. Madam Chairman, I move to strike the requisite number of words and rise to express my strong opposition to the amendment offered by the gentleman from New Jersey [Mr. PALLONE].

I do not believe the amendment is timely or necessary. I believe the Committee on Public Works and Transportation and the Committee on Merchant Marine and Fisheries, of which I am a member, should not have acquiesced in allowing this amendment to come to the floor at this time. It does a disservice to the regular legislative order and the careful review and formulation of sound environmental policy.

With the acceptance of the Pallone amendment, we are once again making an emotional and political quick fix for complex waste disposal problems with little, if any, regard for the overall environmental consequences of our actions. We have been down this road before, and I have expressed my concern previously about proceeding in such a shortsighted fashion when dealing with complicated and serious environmental concerns. I have personally sought to encourage the development of a comprehensive, long-range environmental solution for our Nation's coastal pollution problems, but my efforts have been ignored while politically seductive, though far less certain, proposals have been readily accepted.

Madam Chairman, over a number of years the Army Corps of Engineers, operating under a valid permit from the U.S. Environmental Protection Agency, has disposed of floatable wooden debris collected from the Port of New York/New Jersey and surrounding waterways by burning this material in barges located 17 nautical miles off the New Jersey coast. The material disposed of by ocean woodburning is collected as part of a joint Federal, State, and local program authorized by Congress to ensure navigational safety within the Port of New York/New Jersey and surrounding waters. Currently, ocean woodburning is considered to be the most environmentally safe and the most cost effective method of disposal of this debris.

While much confusion and many misstatements have surrounded the harbor collection and removal of drift project, I do not believe there has been established the environmental necessity to end ocean woodburning. The facts simply are not there. I believe Congress should wait to take any action on mandating the cessation of ocean woodburning and allow the EPA to make the scientific determination of whether and when this practice should be halted. The EPA has gone on record, after the completion of extensive testing, "that the environmental effects on the air and water associated with woodburning activities are negligible."

Also, the EPA has stated they will not designate a site for ocean woodburning after December 31, 1991, if practicable land-based alternatives have become available. Further, the Army Corps is proceeding with an ongoing study of alternative disposal options, which we should allow to be completed before mandating an end to this disposal practice. All too often, the Congress imposes its views with little regard to the facts on the very administrative agencies we have established to regulate a particular issue and which have the expertise to do so.

In brief, Madam Chairman, there is no basis that wooden debris is falling off of the barges used for ocean woodburning. The ash generated by the burn is not disposed of in the ocean. It is brought back to land for disposal in a secured landfill. While there well may be environmentally and economically sound alternatives to ocean woodburning, to date, none of these alternatives have been sufficiently demonstrated. To insist that ocean woodburning be brought to an end in little more than a year simply is unrealistic and may result in unforeseen environmental hardships if an unproven disposal method is used in its place.

Madam Chairman, I believe a 5-year period to phase out ocean woodburning, as envisioned by the EPA's own draft environmental impact statement, would be the best and most environmentally sound policy to pursue at this time. For the benefit of my colleagues, I am including a fact sheet on ocean woodburning prepared by the Port Authority of New York and New Jersey. I think it is important to set the record straight on the ocean woodburning issue.

Madam Chairman, I am opposed to Mr. PALLONE's amendment. I urge my colleagues not to support this amendment which is not based in fact but, rather, emotional appeal.

FACT SHEET—OCEAN WOODBURNING IN THE NEW YORK BIGHT

Authorization: Title I of the Marine Protection, Research and Sanctuaries Act of 1972 (P.L. 92-532) authorizes the US EPA to establish a permit program for this action.

Current permittee: New York District, Corps of Engineers.

What is burned? Floating wooden debris such as tree stumps, large timbers, pilings, pallets, planks and pieces of submerged, wrecked, and abandoned boats and ships. Waterfront sources of wooden debris such as decking, planking, siding, heavy timbers and pilings from bulkheads, abandoned ferry slips and piers.

What is the Waterfront Cleanup Project? The Waterfront Cleanup Project, formally known as the New York Harbor Collection and Removal of Drift Project, is a Federal project intended to rid the Port of New York/New Jersey waters of sources of floating hazardous driftwood. In 1988, the Congress, at the urging of New York-New Jersey members, reauthorized the Project so it could be brought to conclusion.

Where is the collected debris burned? The existing Interim Site is approximately 17 nautical miles east of Point Pleasant, New Jersey, the closest point to land. EPA proposes that a new site 20 nautical miles east of Seaside Park, New Jersey the shoreline be used in the next year.

How much wooden debris has been burned? Between 1973 and 1988, approximately 405,000 tons of wooden debris has been burned. This is roughly 25,000 tons per year with a minimum of 6,200 tons in 1975 and a maximum of 54,533 tons in 1984.

When and how does burning take place? Anytime within a one-year permit period except between Memorial Day and Labor Day and as further restricted by the conditions of the permit. Numerous safeguards,

e.g., spaced stanchions, chain-linked fencing, load height limitations, floating continuous boom, trailing vessel to retrieve any fallen wood from the barge, etc. eliminate wooden debris from inadvertently re-entering and remaining in the water. Post-incineration ash is disposed of in a certified landfill.

What does ocean burning cost? The Corps of Engineers estimates $50 per ton. The local sponsors pay one third of that cost. Thus far, the cost of alternatives as elicited in disposal bids have greatly exceeded the ocean burning cost.

Why has wooden debris been burned at sea? Since the beginning of the Drift Removal Program, ocean burning has been the most cost effective and least environmentally offensive disposal practice available for the amount of material collected.

How much wooden debris remains? The Corps of Engineers estimates that 350,000 tons of wooden debris could be removed and disposed of from the Port of New York/New Jersey during the next 10 to 12 years.

What are the primary public concerns? The primary public concerns are:

Floating and submerged driftwood largely sourced in deteriorating water structures is a hazard to navigation and must be removed from the waterways;

Floating driftwood can be a hazard to fishing activities;

Incineration at sea affects air quality;

A smoke plume 17 miles away at sea is said to be sometimes visible from the shoreline (off-season);

Landbased disposal methods raise issues regarding the proximity of disposal to populations; and

The large volumes of wooden debris would tax diminishing landfill space.

Were alternative disposal methods previously studied? Yes, by the New York District, Corps of Engineers in a 1975 Environmental Impact Statement for the New York Harbor Collection and Removal of Drift Project. This study recommended burning at sea as the preferred disposal alternative. Since that time, the EPA has required that the Corps of Engineers solicit bids for upland disposal of timber debris for each cleanup contract in addition to soliciting bids for burning at sea. The EPA then compares bid results before advising the Corps as to which disposal method will be the basis for award.

Has EPA performed an EIS? The EPA released in 1989 a Draft Environmental Impact Statement (DEIS) recommending that a permanent burn site approximately 20 nautical miles east of Seaside Park, New Jersey be designated for a period of 5 years after which time an alternative methodology would have to be implemented and all ocean burning would stop. The DEIS generally discussed alternatives, concluding that 5 years would be sufficient time for the permittee to develop and implement an alternative. However, EPA's proposed rulemaking issued months later supersedes the DEIS recommendations by designating a site with a life to end on December 31, 1991. No clear and detailed explanation accompanied the reduced period recommendation.

Are disposal alternatives currently being studied? Yes. What appears to be a simple question of disposing of wood debris is complicated by the factors that include creosote and salt content of some of the wood, and the considerable volume of materials requiring disposal. The New York District, Corps of Engineers in 1989 undertook a small (approximately 200 tons) alternative demonstration project involving wood shredding and incineration. A consultant to the Corps of Engineers is presently studying the potential of short and long term alternatives. The consultant's report is expected during 1991, after which promising alternatives would need to be demonstrated and evaluated.

Mr. SAXTON. Madam Chairman, will the gentleman yield?

Mr. MANTON. I yield to the gentleman from New Jersey.

Mr. SAXTON. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I would like to take a moment to address a couple of subjects that my colleague from New York has brought up.

First, this is not a subject that has been reached, as if brought out of the sky here today. This is something that has been discussed before the Committee on Merchant Marine and Fisheries in a formal hearing.

I might say that that was done subsequent to the establishment of the current date which is being used by the EPA, which is a date set by the EPA keeping in mind that the technology which currently does exist which will be put in place to handle this problem.

The CHAIRMAN. The time of the gentleman from New York [Mr. MANTON] has expired.

(Upon request of Mr. SAXTON and by unanimous consent, Mr. MANTON was allowed to proceed for 3 additional minutes.)

□ 1700

Mr. SAXTON. Second, the matter of being cost effective, I cannot think of anything that would be more cost effective than to find a way to dispose of this wood, this creosote-coated wood, at a profit. The country of Pakistan is in the process of putting in place a cogeneration plant, and one of the things Pakistan has to do is find a source of creosote coated wood, and they have expressed a direct interest in purchasing this very wood, and so by December 31, 1991, we can accomplish two things. Somebody can make a profit, and at the same time we can stop burning offshore.

Mr. MANTON. Madam Chairman, would the gentleman from New Jersey [Mr. SAXTON] respond to a question? Is it necessary for us to legislate here, now, today, if in fact the EPA has already indicated that in little over a year they will come up with a plan providing the alternative methods that the gentleman says are available are available, and if they are, then we do not need to legislate.

Mr. SAXTON. Madam Chairman, what we are trying to do is put in law what the EPA says are its intentions, but they say, if there are alternatives, and I know the gentleman from New York [Mr. MANTON] is assuming in his presentation here that there are such alternatives, the only one I have heard of is selling it to Pakistan or some other country which I do not think is realistic.

We know there are technological alternatives. The will of the EPA to put two alternatives in place is what we are trying to ensure here today in a cost-effective way that is environmentally sound, and we believe firmly that, if we put this date, December 31, 1991, into the statute, that in fact the EPA will be required to use the effort and go forward to meet that date and that deadline.

Mr. MANTON. Are there any other alternatives other than selling them on the free market?

Mr. SAXTON. As a matter of fact, there are. The alternatives are certainly not as desirable as selling it at a profit.

I just yesterday had a firm in my office indicating that they have the technology available to chip and incinerate this wood in a cogeneration plant which they would establish somewhere in the northern part of New Jersey or in New York, so that is there. I do not think that is as desirable as selling the material for fuel to another country.

Mr. TORRICELLI. Madam Chairman, would the gentleman yield?

The CHAIRMAN. The time of the gentleman from New York [Mr. MANTON] has once again expired.

(By unanimous consent, Mr. MANTON was allowed to proceed for 1 additional minute.)

Mr. TORRICELLI. Madam Chairman, will the gentleman yield?

Mr. MANTON. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. Madam Chairman, as I indicated previously, I share some of the concerns of the gentleman. This driftwood in the harbor of New York is an economic problem. It is a difficulty in restoring recreational use of the harbor. I came to support the Pallone and Saxton amendment because I am convinced that, not only is there a single alternative in exporting this wood, but there are a variety of them. People are now contacting the Army Corps seeking bids to purchase, to get this wood, from Maine, to New Jersey, to New York, for use of cogeneration, for use of export.

Mr. MANTON. Madam Chairman, will the gentleman yield?

Mr. TORRICELLI. I yield to the gentleman from New York.

Mr. MANTON. Where would we collect this wood?

Mr. TORRICELLI. As we speak, the wood is being collected on Howlin Hook on port authority's own land and is being stored. Companies are able to purchase it and use it for other purposes.

The point here is that having EPA render this judgment in another year

raises the specter of a year hence, another plan, another study.

The CHAIRMAN. The time of the gentleman from New York [Mr. MANTON] has expired.

(By unanimous consent, Mr. MANTON was allowed to proceed for 30 additional seconds.)

Mr. TORRICELLI. Madam Chairman, will the gentleman yield?

Mr. MANTON. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. Madam Chairman, we do not need another study. The real economic consequences for them of this on the shore of New Jersey are happening now. We cannot ask citizens to stand on beaches and watch burning barges, to walk along beaches, to wade into the water and see burnt debris.

The real consequences are now. There are alternatives, and this is ultimately not the EPA's responsibility. That responsibility should rest with us. We see alternatives, we should meet it, and we should stop it now.

Mr. MANTON. The fact is we have charged these agencies with supervising the environment, and they have testified that the environmental impact is neglible.

Mr. TORRICELLI. But it exists.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. PALLONE].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORGAN of North Dakota.

SEC. 64. MISSOURI RIVER MAIN STEM SYSTEM OF DAMS.

(a) MODIFICATION OF COMPREHENSIVE PLAN.—The general comprehensive plan for flood control and other purposes in the Missouri River Basin, approved by the Act of June 28, 1938 (53 Stat. 1218), is modified to require the Secretary after January 1, 1992, to operate the Missouri River main stem system of dams in accordance with a master manual and an annual operating plan which has been approved by the Missouri River Basin Governing Council established by this section.

(b) AVAILABILTY OF MASTER MANUALS AND OPERATING PLANS.—In order to provide for review by the Council of each master manual and annual operating plan referred to in subsection (a) and to provide an opportunity for interested persons to submit comment to the Council with respect to such manual or operating plan, the Secretary shall transmit on a timely basis such manual or operating plan to the Council and other interested persons.

(c) ESTABLISHMENT OF COUNCIL.—There is established in the Corps of Engineers the Missouri River Basin Governing Council (hereinafter in this section referred to as the "Council").

(d) DUTIES.—

(1) IN GENERAL.—The Council shall review each master manual and annual operating plan sumbitted to the Council by the Secretary under this section for operation of the Missouri River main stem system of dams in order to ensure that such manual or operating plan is consistent with the authorized purposes of such system of dams. Upon completion of each such review, the Council shall approve or require amendments to such manual or operating plan.

(2) PUBLIC COMMENT.—Before approving or requiring amendments to a master manual or annual operating plan under this subsection, the Council shall provide an opportunity for Federal and State departments and agencies, the Western Area Power Administration, environmental organizations, industry representatives, and other interested persons to submit comments to the Council with respect to such master manual or operating plan.

(e) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Council shall consist of 10 members as follows:

(A) The Secretary (or the Secretary's delegate).

(B) One member who is a Native American appointed by the Secretary to represent the interests of Native Americans.

(C) Eight members appointed by the Secretary in accordance with paragraph (2).

(2) MEMBERS TO BE APPOINTED FROM STATE NOMINATIONS.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Governor of each Missouri Basin State may submit to the Secretary the name of a nominee from such State to serve as a member of the Council, together with such information about the nominee as the Secretary may require.

(B) APPOINTMENT OF NOMINEES.—The Secretary shall appoint to the Council 1 member from each Missouri Basin State from nominations submitted under this paragraph, except that the Secretary may refuse to appoint a nominee for any reason.

(C) REFUSAL TO APPOINT NOMINEES.—If the Secretary refuses to appoint a nominee, the Secretary shall provide the Governor who submitted the name of such nominee notice of the refusal. The Secretary shall provide such notice not later than the 60th day after the date of receipt of the name of such nominee. The Governor may thereafter make successive nominations to the Council until the Secretary appoints a nominee from such State to the Council. Each such nomination shall be made by the Governor not later than the 45th day after the date of receipt of such notice.

(D) FAILURE TO MAKE NOMINATIONS.—In the event that the Governor of a Missouri Basin State fails to make a nomination under this paragraph within the time specified for such nomination, the Secretary shall select and appoint an individual from such State to serve as a member of the Council.

(3) QUALIFICATIONS.—Members of the Council shall be appointed from among individuals who are qualified to serve on the Council by virtue of their training and experience.

(4) TERMS.—Members shall be appointed to the Council for a term of 4 years.

(5) VACANCIES.—A vacancy on the Council shall be filled in the manner in which the original appointment was made.

(6) COMPENSATION.—Members of the Council shall receive no pay on account of their service on the Council, but while away from their homes or places of business in the performance of their duties on the Council, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(7) QUORUM.—Seven members of the Council shall constitute a quorum but a lesser number may hold hearings.

(8) VOTING.—Decisions of the Council shall be made according to the vote of 7 members of the Council.

(9) CHAIRPERSON.—The Chairperson of the Council shall be elected by the members. The term of office of the Chairperson shall be 4 years.

(10) MEETINGS.—The Council shall meet at least twice each year at the call of the Chairperson.

(f) POWERS.—

(1) HEARINGS.—The Council may, for the purposes of carrying out its duties under this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Council considers appropriate.

(2) OBTAINING INFORMATION.—Except as otherwise provided by law, the Council may secure directly from any Federal department or agency information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Council, the head of a department or agency shall furnish such information to the Council.

(3) MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(4) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide the Council on a reimbursable basis such administrative support services as the Council may request. In addition, upon the request of the Council, the Administrator shall provide the Council with such access and use of Federal facilities as is necessary to enable it to carry out its duties under this section.

(g) TERMINATION.—Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the Council.

(h) DEFINITION OF MISSOURI BASIN STATES.—For the purposes of this section, the term "Missouri Basin States" means the States of Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, and Wyoming.

Conform the table of contents of the bill accordingly.

Mr. DORGAN of North Dakota (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

Mr. DORGAN of North Dakota. Madam Chairman, I am offering this amendment today that would address the management of the Missouri River Basin and the mainstream dams around the Missouri River. We have had serious problems in recent years with the Corps of Engineers. I know the Corps of Engineers undoubtedly has some fans in this body and that Corps of Engineers has done some good work in this country.

However, Madam Chairman, I have got to tell my colleagues that dealing with the Corps of Engineers is a lot like dealing with the old Romainian Regime from time to time. They shake their head, they murmur, they nod, they express all kinds of expressons, but then nothing ever happens. One never gets a sense that they heard a thing that was said.

We have had a problem up in our part of the country. In the Missouri River Basin we have had a very serious drought in which there has been less reinfall, less runoff from the mountains, and the large lake behind Garrison Dam in North Dakota has been depleted by 40 percent and the water level is down 30 feet.

The Corps of Engineers has been releasing water through the upper basin dams even during a drought that exceeded what we consider to be appropriate releases during a drought. This has created a very serious problem for us. The corps is subsidizing according to their own plan, a downstream navigation interest, somewhere around a $14 million navigation interest, at the expense of $60 or $70 million of recreation industry upstream. This has created friction between the downstream and upstream States.

In fact, we have seen the States in court contesting each other. That does not make sense. Why should the downstream and upstream States be in Federal court suing each other over the management of the dams in the Missouri River Basin? It makes no sense.

In my amendment, I proposed that we establish a council in which the States in the Missouri River Basin give advice to the corps on how to operate the water flows in the Missouri River and approve the operating plans for all the dams on the river.

Madam Chairman, some say, "Well, we don't want any council giving anybody any advice." Well, the fact is in the most recent lawsuit, that was filed by the upstream States, the Corps of Engineers went to Federal court and said they are not covered by the courts. They are not subject to judicial review. Well, whose review are they subject to? Madam Chairman, it seems to me somebody ought to be able to review the Corps of Engineers. I say,

When you have a significant drought going on, the corps is releasing exceedingly more water than they should under their management plan, but they tell us they are not, and when we discover later that they are, somebody ought to be able to review that because it causes economic damage to someone's interests.

Madam Chairman, some of us are just sick and tired of dealing with the Corps of Engineers. If they are not going to deal with us honestly we should set up a mechanism to resolve these conflicts with the States involved. Let us give the States a voice in how the Missouri River Basin is managed. That is what my amendment proposes. There are models of how this works. There were frictions and difficulties in the Columbia River Basin, and an organization, the NPPC, was put together to resolve conflicts over water interests.

It seems to me that those in the downstream States and those in the upstream States of the Missouri River Basin ought to work together as well. We want to work together, but we cannot work together if the Corps of Engineers in some autocratic ways says, "Well, we have a manual someplace, and we're going to follow that manual." But nobody outside of the corps gets input in it. Then we discover later that the manual did not quite say what the corps said it did, and that the releases were really more than they told us earlier.

We are just tired of that, and we want this to change. The reason I bring this issue to the floor, and the reason I have talked to the chairman and others about it, is that we are not going to allow this to continue happening to us with the Corps of Engineers. We want to change the way the Missouri River Basin is managed by the Corps of Engineers.

Madam Chairman, how can we accomplish that? The development and establishment of the council, as I am proposing is one way to do that. I know there is some opposition to my amendment on the floor today. The gentleman from Iowa [Mr. LIGHTFOOT], my friend, and others, while they might feel that we need to work together, do not exactly feel this type of council is the right approach.

□ 1710

However, the 1944 Flood Control Act that established the series of dams on the Missouri River, assured that the upstream and the downstream State interests would be balanced. This is not the case under the current management. We find now afterward that the management of the river itself is being done in a detrimental way to the interests of the upstream States, and we are simply not going to sit back and allow that to continue to happen without coming to the floor of this House and without going to the courts, without taking some approach to try to change it.

Madam Chairman, that is what my amendment attempts to do.

AMENDMENT OFFERED BY MR. LIGHTFOOT AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. LIGHTFOOT. Madam Chairman, I offer an amendment as a substitute for the amendment.

The CLERK read as follows:

Amendment offered by Mr. LIGHTFOOT as a substitute for the amendment offered by Mr. DORGAN of North Dakota: At the end of the bill, add the following new section:

SEC. 64. MISSOURI RIVER MAIN STEM SYSTEM OF DAMS.

(a) MODIFICATION OF COMPREHENSIVE PLAN.—The general comprehensive plan for flood control and other purposes in the Missouri River Basin, approved by the Act of June 28, 1938 (53 Stat. 1218), is modified to require the Secretary, after January 1, 1992, to operate the Missouri River main stem system of dams in accordance with a master manual and an annual operating plan.

(b) AVAILABILITY OF MASTER MANUALS AND OPERATING PLANS.—In order to provide for review by the Council of each master manual and annual operating plan referred to in subsection (a) and to provide an opportunity for interested persons to submit comments to the Council with respect to such manual or operating plan, the Secretary shall transmit on a timely basis such manual or operating plan to the Council and other interested persons.

(c) ESTABLISHMENT OF COUNCIL.—There is established in the Corps of Engineers the Missouri River Basin Governing Council (hereinafter in this section referred to as the "Council").

(d) DUTIES.—

(1) IN GENERAL.—The Council shall review each master manual and annual operating plan submitted to the Council by the Secretary under this section for operation of the Missouri River main stem system of dams in order to ensure that such manual or operating plan is consistent with the authorized purposes of such system of dams. Upon completion of each such review, the Council may recommend to the Secretary amendments to such manual or operating plan.

(2) PUBLIC COMMENT.—Before making recommendations concerning amendments to a master manual or annual operating plan under this subsection, the Council shall provide an opportunity for Federal and State departments and agencies, the Western Area Power Association, environmental organizations, industry representatives, and other interested persons to submit comments to the Council with respect to such master manual or operating plan.

(e) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Council shall consist of 12 members as follows:

(A) The Secretary (or the Secretary's delegate).

(B) One member who is a Native American appointed by the Secretary to represent the interests of Native Americans.

(C) One member who is appointed by the Secretary to represent the interest of the transportation and utilities industries of the region.

(D) Nine members appointed by the Secretary in accordance with paragraph (2).

(2) MEMBERS TO BE APPOINTED FROM STATE NOMINATIONS.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Governor of each Missouri Basin State may submit to the Secretary the name of a nominee from such State to serve as a member of the Council, together with such information about the nominee as the Secretary may require.

(B) APPOINTMENT OF NOMINEES.—The Secretary shall appoint to the Council 1 member from each Missouri Basin State from nominations submitted under this paragraph, except that the Secretary may refuse to appoint a nominee for any reason.

(C) REFUSAL TO APPOINT NOMINEES.—If the Secretary refuses to appoint a nominee, the Secretary shall provide the Governor who submitted the name of such nominee notice

of the refusal. The Secretary shall provide such notice not later than the 60th day after the date of receipt of the name of such nominee. The Governor may thereafter make successive nominations to the Council until the Secretary appoints a nominee from such State to the Council. Each such nomination shall be made by the Governor not later than the 45th day after the date of receipt of such notice.

(D) FAILURE TO MAKE NOMINATIONS.—In the event that the Governor of a Missouri Basin State fails to make a nomination under this paragraph within the time specified for such nomination, the Secretary shall select and appoint an individual from such State to serve as a member of the Council.

(3) QUALIFICATIONS.—Members of the Council shall be appointed from among individuals who are qualified to serve on the Council by virtue of their training and experience.

(4) TERMS.—Members shall be appointed to the Council for a term of 4 years.

(5) VACANCIES.—A vacancy on the Council shall be filled in the manner in which the original appointment was made.

(6) COMPENSATION.—Members of the Council shall receive no pay on account of their service on the Council, but while away from their homes or places of business in the performance of their duties on the Council, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(7) QUORUM.—Seven members of the Council shall constitute a quorum but a lesser number may hold hearings.

(8) VOTING.—Decisions of the Council shall be made according to the vote of 7 members of the Council.

(9) CHAIRPERSON.—The Chairperson of the Council shall be elected by the members. The term of office of the Chairperson shall be 4 years.

(10) MEETINGS.—The Council shall meet at least twice each year at the call of the Chairperson.

(f) POWERS.—

(1) HEARINGS.—The Council may, for the purposes of carrying out its duties under this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Council considers appropriate.

(2) OBTAINING INFORMATION.—Except as otherwise provided by law, the Council may secure directly from any Federal department or agency information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Council, the head of a department or agency shall furnish such information to the Council.

(3) MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(4) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide the Council on a reimbursable basis such administrative support services as the Council may request. In addition, upon the request of the Council, the Administrator shall provide the Council with such access and use of Federal facilities as is necessary to enable it to carry out its duties under this section.

(g) TERMINATION.—Section 14(a)(2)(B) of the Federal Advisory Committee Act, relating to the termination of advisory committees, shall not apply to the Council.

(h) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to preempt or otherwise restrict the authority of any member of the Council to seek judicial review of a master manual or an annual operating plan for the Missouri River main stem system of dams.

(i) DEFINITION OF MISSOURI BASIN STATES.—For the purposes of this section, the term "Missouri Basin States" means the States of Iowa, Kansas, Missouri, Montana, Minnesota, Nebraska, North Dakota, South Dakota, and Wyoming.

Conform the table of contents of the bill accordingly.

Mr. LIGHTFOOT (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LIGHTFOOT. Madam Chairman, as you know, my colleague's amendment would establish a governing council for the Missouri River basin dams whose members would be appointed by the Secretary of the Army. The governing council would have the authority to approve the operating plans of the Missouri River projects.

My amendment would change the governing council's role to an advisory position. My colleague's amendment gives veto power over a governmental agency to a private nongovernmental entity. The Dorgan amendment is unique in that it applies only to the Missouri River basin reservoir system. The Army Corps of Engineers is empowered by the Federal Government to regulate all inland waterway systems. To deviate from this established policy would set a precedent creating a lack of confidence in the ability of the corps to manage our waterways.

Several advisory groups have been established in the past to make recommendations on water projects, and have been quite successful. An example of this is the inner waterways users board, organized in 1986. However, this body was merely advisory.

I further object to this amendment because it would pit upper Missouri River States against lower Missouri River States. Based on historical issues, the vote in the council as structured would be biased toward the upper basin. It would also seem likely the tribal representative would likely favor upper basin interests since the majority of the tribes are located in those areas.

To ensure all affected parties are well represented, my amendment adds the State of Minnesota to the council because of its interest in hydropower activities. In addition, one member would be appointed by the Secretary to represent the interest of the transportation and utilities industries of the region.

My amendment would also strike language giving the council the veto authority in reviewing each master manual and operating plan to ensure the plans are consistent with the authorized purposes and current benefits of the projects. The beneficiaries of the project operations will be considered in proportion to their current economic benefit. The addition of the consideration of "current economic benefit" is a way to leverage more service to reservoir recreation uses at the expense of downstream recreation and economic concerns. Current analysis shows lower basin recreation interests lose. Upper basin recreation use is much better documented.

The Dorgan amendment could also block the right of affected parties to seek judicial review to protect their concerns. My amendment would ensure the right of any member of the council to seek judicial review of a master manual or an annual operating plan for the Missouri River main stem system of dams.

I can appreciate the interest and concern expressed by our bordering northern States with respect to adequate reservoir levels for recreational and tourism usage. However, I have strong concerns with the lower basin States' drinking water supply and continued adequate water supply, particularly during drought periods, and their ability to provide cost efficient power for my constituents and transportation for agriculture purposes. Several powerplants located on the Missouri River rely on the availability of adequate water resources. Obviously a minimum flow is needed for power plant cooling.

The amendment by my colleague could lead to downstream wildlife damage, higher utility rates or shortages of power, and a possibility of a halt of grain transportation on the Missouri River.

Madam Chairman, I urge the support of my colleagues for my substitute.

Mr. SLATTERY. Madam Chairman, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Kansas.

Mr. SLATTERY. Madam Chairman, I thank my friend, the gentleman from Iowa, for yielding.

Madam Chairman, I would just observe that I can really associate myself with the remarks the gentleman made about the complexity of managing the Missouri River. The fact of the matter is that we have given the Corps of Engineers an almost impossible task. Let us face it, the recreational interests of the upstream folks are in direct conflict ofttimes with the transportation needs of the downstream folks. The same is true ofttimes with the ques-

tion of the hydroelectric concerns versus the flood control concerns. So we have really placed in the hands of the Army Corps of Engineers an almost impossible task.

So I would urge my friend, the gentleman from Iowa [Mr. LIGHTFOOT], and also my friend, the gentleman from North Dakota [Mr. DORGAN], to pull their amendments at this time. One of the concerns I have with the amendment offered by the gentleman from North Dakota is the fact that he is suggesting that we set up this council that would empower the governors basically, through this council, to control the Missouri River by a 7-to-3 vote, and if there is anything that might be worse than what we have now, it is a situation where, when decisions needed to be made, we would have to go to this council and have this council make a decision, with the realization that three votes on the council could shut everything down. I can see that really being worse than what we have now.

So I would urge my friend, the gentleman from North Dakota, to withdraw his amendment, and I would hope that in the event he did that, the gentleman from Iowa would withdraw his amendment, and hopefully we can send the message we need to send to the corps to be as responsive as possible. Then we can come back next year and do whatever needs to be done and make the law more explicit in the places where it needs to be explicit.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. LIGHTFOOT] has expired.

(On request of Mr. COLEMAN of Missouri, and by unanimous consent, Mr. LIGHTFOOT was allowed to proceed for 3 additional minutes.)

Mr. COLEMAN of Missouri. Madam Chairman, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Madam Chairman, over a century ago, Mark Twain is reported to have said "whiskey is only for drinkin' but water is for fightin' over." History bears out the truth of the second half of this observation since, frankly, the amendment proposed by the gentleman from North Dakota is a blatant grab for water belonging to every State in the Missouri River basin. And because there is nothing less than Missouri's economic survival at stake, we are ready to fight over it.

There is a long history of disagreement among the Missouri River basin States over the operation of the Missouri River basin dams and the release policies of the Army Corps of Engineers. Many of those disagreements trace back to the Flood Control Act of 1944, which set the groundwork for determining how to manage the Missouri River and placed flood control and navigation at the top of the list of water management goals.

The most recent conflict occurred when the governors of three basin States—North Dakota, South Dakota, and Montana—filed suit against the Corps of Engineers over the releases from one of the dams. Most simply put, those three States argued that, by releasing more water from the reservoir than they wanted, the corps was taking their water. That suit was resolved when the Eighth U.S. Circuit Court of Appeals ruled that the Corps of Engineers, in determining water release levels, was doing exactly what Congress ordered it to do with the 1944 act—ensuring flood control and commercial navigation to the region downstream.

Madam Chairman, the amendment offered by the gentleman from North Dakota serves to heighten this conflict through the establishment of a council to govern the operation of Missouri River dams by once again pitting upper Missouri River States against their downstream neighbors, and would take the conflict one step further by giving the council veto power over the corps' management plan. The Dorgan amendment would seriously threaten the dependability of navigation on the Missouri River by weighting recreation interests over grain transportation, ultility rates to consumers, and wildlife damage. And it proposes to preempt the current negotiating process, and seems to offer the upper tier of States a back-door approach to reversing the appellate court decision.

However, I rise in support of Mr. LIGHTFOOT's amendment, because it will correct the problems associated with the gentleman from North Dakota's language. It will retain the Council as a forum for discussion and advice on corps policies affecting the basin States, and provide for a master manual and an annual operating plan for the operation of the Missouri River main stem system of dams. It will preserve the right of affected parties to seek judicial review to protect their interests and concerns, and will ensure representation on the council by the basin States, native Americans, and the Federal Government, and will expand council membership to the utility and transportation industries, allowing waterway users and utility rate payers a voice in basin policy as well.

How important is Missouri River water? According to water experts, you can begin with the water that irrigates the corn that is fed to a steer, and find that a single Kansas City steak may account for as much as 3,500 gallons of water. The water that goes into producing a 1,000 pound steer would float a naval destroyer; to grow a bushel of wheat you need 14,935 gallons; to produce a ton of steel, you need 60,000 gallons of water; and it takes 120 gallons of water just to put an egg on the breakfast table.

Madam Chairman, the droughts that have ravaged our region over the past several years have only served to reinforce for us the importance of this precious resource. Some 70 percent of Missourians are dependent on the Missouri River for drinking water—Mark Twain's observation notwithstanding—and our farmers depend on it for irrigation and for shipping their grain. Water policy is a matter of vital concern in Missouri, and in every other State in the basin. Mr. LIGHTFOOT is offering us, through his language, the opportunity to reaffirm the goals of the 1944 Flood Control Act and, at the same time, ensure that the interests of the basin States, native Americans, river-dependent enterprises, and the Federal Government, are respresented. I urge my colleagues to vote for the substitute amendment.

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Mr. LIGHTFOOT. Madam Chairman, I yield to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Madam Chairman, I thank the gentleman for yielding.

I want to associate myself with the remarks of my neighbor, the gentleman from Iowa [Mr. LIGHTFOOT].

The CHAIRMAN. The time of the gentleman from Iowa [Mr. LIGHTFOOT] has expired.

(At the request of Mr. BEREUTER and by unanimous consent, Mr. LIGHTFOOT was allowed to proceed for 2 additional minutes.)

Mr. LIGHTFOOT. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Madam Chairman, this Member rises in support of the Lightfoot substitute to the Dorgan amendment.

Madam Chairman, I want to associate myself with the remarks of the gentleman from Iowa [Mr. LIGHTFOOT]. I support the substitute that he is offering. The gentleman had and I have had our own experience in trying to work with our constituents across the two sides of the Missouri River, between Iowa and Nebraska, and the difficulty in managing this water resource has been noted very accurately by the gentleman.

Madam Chairman, we have wanted some changes from the Corps of Engineers in the management of this great river, and we have only received part of them. I can understand, I think, to a substantial extent the frustrations of the gentleman from North Dakota [Mr. DORGAN] who offers this amendment. I believe that it would exacerbate the relationship between the Missouri River States at this point, and that the advisory nature of what the gentleman from Iowa [Mr. LIGHTFOOT] is offering is a better approach.

Madam Chairman, I ask Members to support the Lightfoot amendment, full well understanding the difficulties that the gentleman from North Dakota [Mr. DORGAN] has experienced in protecting his own constituents.

The Dorgan amendment would establish a governing council to oversee water resource allocation involving the Missouri River. I do understand some of the frustration of the distinguished gentleman from North Dakota. This amendment was not developed with the cooperation, or even input from the States affected by this amendment. Forcing such a governing council on the entities involved in very controversial and contentious issues involving water allocation will do little to resolve the conflict now experienced by the affected States.

This member supports the Lightfoot substitute because it would create an advisory council that would work in cooperation with Corps of Engineers to manage the water resources of the Missouri. In this way a cooperative spirit would be developed to help resolve many contentious issues that now pit upstream States against downstream States.

Another entity, such as that established by the Dorgan amendment, that will sustain and exacerbate conflict among the States of the Missouri, is I regret to say, not, despite good intentions, constructive. This Member urges his colleagues to support the Lightfoot amendment, an opportunity to establish a constructive framework for better managing the water resources of the Missouri River.

Madam Chairman, relatedly this Member is in strong opposition to the original amendment offered by the gentleman from North Dakota [Mr. DORGAN], that would have significant impact on water resource decisions involving the Missouri River. There is no question of the importance of this issue and this Member regrets that his opposition to this amendment must be so strong. It was not developed in any spirit of cooperation between the States with direct interest in the Missouri. The Governors of all affected States were not consulted to gain their cooperation in developing this amendment, an amendment that would establish a decisionmaking framework to manage one of the most important natural resources of these States and could serve to overturn recent court rulings that have supported action taken by the Corps of Engineers. The plan would appear to favor the rights of upstream States at the expense of downstream States. This Member would emphasize that a plan which was not even initiated in a spirit of cooperation between vitally interested parties is not sensible, is ill-timed and is doomed for failure.

The highly complex nature of allocating Missouri River water to a large number of oftentimes competing uses including irrigation, recreation, environment, power generation and navigation requires a rational, equitable and most importantly, workable process to complete this activity. The Missouri River States have seen many failed attempts to manage the river in recent history, including the Missouri River Basin Interagency Committee, the Missouri Basin Commission and we are now in the second or third reincarnation of the Missouri Basin States Association. None of these institutions has provided a satisfactory system to manage the river. This amendment would simply add another failed body to the heap while continuing to create conflict between the affected States. To provide a long term solution to this problem, this Member would suggest that the current Missouri Basin States Association, in cooperation with the Corps of Engineers, complete a three year institutional study of this problem. The purpose of this study would be to develop a new institutional arrangement to oversee water resource decisions on the Missouri River.

Nebraska is a unique State in this controversy as it views the Missouri in a number of ways a due to its variable and competing uses of the river. With the existence of Lewis and Clark Reservoir we have a strong interest in developing a balanced approach that would provide for the maximum utilization of this structure to provide for recreational opportunities, further environmental goals and provide for power generation. Further downstream, the river is utilized by domestic and municipal interests and to provide cooling for electric power generation. Maintaining the river below the Gavins Point Dam as a viable navigable waterway, as habitat for endangered species and as a recreation source is also of major concern.

Madam Chairman, the Gentleman from North Dakota is I regret to say, inappropriately attempting to address a very important concern. A clear solution to resolve the difficulties of managing the water resources of the Missouri is not yet evident. This Member would urge his colleagues to vote against this amendment and allow opportunity to support a long term planning effort to develop a workable process to manage the waters of the Missouri.

Mr. DORGAN of North Dakota. Madam Chairman, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Madam Chairman, let me respond momentarily to the gentleman from Missouri who spoke earlier. My intention is not to divide upstream versus downstream States. That already exists. It has been in court already. My intention is to try to bring together in a council an opportunity for the upstream and downstream States to work together, to give advice, and to approve the operating plan of the Corps of Engineers.

Madam Chairman, the point I have made is the corps is responsible to no one at this point. They have said to the courts, we are not even responsible to you. They are not even responsible to the judicial system. If not, then who on Earth do they answer to?

Madam Chairman, we are flat sick and tired of the way the corps has managed the Missouri River basin. We want it to change. How? In our interests solely? No, we understand it cannot be that way. We would like it to change in the interests of the States involved in the Missouri River basin, and that includes the upstream States and the downstream States. But it ought to be us, not them, the States, not the Corps of Engineers, that determine our economic future in the Missouri River basin.

Mr. EMERSON. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in opposition to the Dorgan amendment and in support of the Lightfoot substitute. Mr. DORGAN seeks to establish a council to govern the operation of the Mississippi River basin dams. I must oppose any measure which would hamper the navigation and impede the flows of the Mississippi River. My congressional district has more miles of Mississippi River shoreline than any other congressional district, so I have as much passion about our river as the gentleman from North Dakota has about his. The dependability of navigation as well as the reliability of critically necessary water flows from the Missouri to the Mississippi are absolutely vital to maintaining the Mississippi River as an economically valuable natural resource so critical to transportation for agriculture, energy and other essential products.

The Missouri River provides close to 60 percent of the water in the Mississippi River at St. Louis. There is a very serious and complex issue at stake here, and one that rightly deserves further discussion. However, I do not believe that we can adequately take into account all facets of this issue in the short time we have to discuss this amendment here today. I would certainly be willing to work with the gentleman and the committee on this issue at length in the committee process so that we can thoroughly take into account the views from all sides and the effects on down stream communities as well as upstream communities.

Mr. NOWAK. Madam Chairman, I move to strike the requisite number of words.

Mr. JENKINS. Madam Chairman, will the gentleman yield?

Mr. NOWAK. I yield to the gentleman from Georgia.

Mr. JENKINS. Madam Chairman, I thank the gentleman for yielding. I need to rise in support of the amendment of the gentleman from North Dakota [Mr. DORGAN] simply becasue it is very similar to a situation that we have. I think this will prove to be an amendment that may or may not survive the floor, but will stimulate some discussion and talk by the committee, so we can deal with this issue.

Madam Chairman, I simply want to say that I have three TVA lakes and five Corps of Engineer lakes, the most heavily used in the United States. Twenty million people visit one of my lakes, Lake Lanier, each year. Eighteen million people visit Lake Hartwell. The economic interest there is just as important from a recreational standpoint as transportation and navigation downstream.

Madam Chairman, I hope that as we look at this amendment of the gentleman from North Dakota [Mr. DORGAN], the committee would begin to look at other corridors that have similar problems.

Madam Chairman, I include a letter from General Bunker dated September 1988 and an appendix dated the same date.

DEPARTMENT OF THE ARMY,
Atlanta, GA, September 23, 1988.

Memorandum for: Commander, Mobile District; Commander, Savannah District.

Subject: Reservoir Project Purposes.

1. The enclosed chart, entitled "Project Purposes for Corps Projects in SEPA's Georgia-Alabama System", represents the position of the South Atlantic Division with respect to the authorized purposes of each of the 10 projects listed. This chart is appended to the Operating Procedure furnished by Major General Edgar to the Southeastern Power Administration on May 2, 1988.

2. All purposes listed on this chart are legally authorized project purposes. That certain purposes originated with project authorization does not give them inherently greater priority in our decision-making than purposes added by other authorities. The Corps of Engineers is vested with substantial discretion in the management of its reservoir projects; and with this authority comes a duty to promote the public benefits envisioned by Congress to the greatest extent feasible. Accordingly, we should manage our reservoirs for all purposes, prioritizing them as necessary in light of attendant needs and circumstances.

R.M. BUNKER,
Major General, USA, Commanding.

APPENDIX A—PROJECT PURPOSES FOR CORPS PROJECTS IN SEPA'S GEORGIA-ALABAMA SYSTEM

Project	Authorizing document	Purposes when authorized	Other purposes added and authority	Notes
Millers Ferry	HD 77-414 (RHA 1945)	NAV, POW, FC	REC (FCA 1944 & PL 89-72)	Not operated for FC.
Robert F. Henry (Jones Bluff)	HD 77-414 (RHA 1945)	NAV, POW, FC	REC (FCA 1944 & PL 89-72)	Not operated for FC.
Carters	HD 77-414 (RHA 1945)	NAV, POW, FC	REC (FCA 1944 & PL 89-72), F&WL (PL 85-624).	
Allatoona	HD 76-674 (FCA 1941)	NAV, POW, FC	REC (FCA 1944 & PL 89-72), F&WL (PL 85-624), WS (PL 85-500).	
Walter F. George	House Res. 5/19/53	NAV, POW	REC (FCA 1944 & PL 89-72), F&WL (PL 85-624).	
West Point	HD 87-570 (FCA 1962)	NAV, POW, FC F&WL, REC		WS contract under consideration.
Buford	HD 80-300 (RHA 1946)	NAV, POW, FC WQ, WS	REC (FCA 1944 & PL 89-72), F&WL (PL 85-624).	
J. Strom Thurmond	HD 78-657 (FCA 1944)	NAV, POW, FC	REC (PL 99-662), WS (PL 85-500), F&WL (PL 99-662).	
Hartwell	HD 78-657 (FCA 1950)	NAV, POW, FC	REC (FCA 1944 & PL 89-72), WS (PL 85-500), F&WL (PL 85-624).	
Richard B. Russell	SD 89-52 (FCA 1966)	POW, FC, REC, F&WL	F&WL Mitigation (PL 99-662)	Several W.S. contracts under consideration.

Mr. NOWAK. Madam Chairman, reclaiming my time, let me state a few things. We have allowed this debate to go on. I think it has been a healthy debate. There has been considerable time spent by the subcommittee on this particular area of our country and the problems in the Missouri Valley.

I want to mention to Members that there are several hundreds of these types of situations which could be embroiled in the same kind of controversy as we move forward. It is coming about because you have a situation where these dams and reservoirs were built 30, 40, 50, as long as 70 years ago. What has transpired in the meantime, the original purposes that were set, of course, was a series of land usage that has changed.

We have had droughts in some areas; we have had floods in other areas; we have had massive movement from urban population to suburbia. You have had a terrific change in that kind of climate, and it is affecting, of course, now the different uses that have come into existence.

Madam Chairman, what we have done in section 16 of the bill was try to accommodate the request of everybody. That has called for a review of the water control manuals all over the country. The corps will have to report back to us within a specified period of time, and will have to go through a very open public procedure, so that everybody and all interests, whether it is navigation, whether it is flood control, whether it is hydropower, will have an opportunity to present their case in the review of those manuals.

Madam Chairman, this will take some period of time, but you will have your review, and afterward we can reexamine all of the projects that are out there and hopefully give each Member that opportunity to participate as well. So the corps will be forced to go through a procedure which some have complained has not been open enough. But again, I think when you look at the different kinds of uses that land is now put to, you will see the reason for some of those changes.

We have taken care of it in section 16, at least as well as we can, without a very intensive review by the corps. I would like to ask both the gentleman from Iowa [Mr. LIGHTFOOT] and the gentleman from North Dakota [Mr. DORGAN] to withdraw their amendments, as they go in two different directions, and the others that have already discussed this matter with me have agreed to withdraw, so that we can bring this before us as we have hearings over this next year investigating the whole ramifications of these projects.

Mrs. SMITH of Nebraska. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise to support the gentleman from Iowa.

The gentleman's proposal is a good one—to provide that any State council established to oversee the operating plans for dams along the Missouri River be advisory only—not having the power to override U.S. Army Corps of Engineers operating plans for these dams.

While the gentleman from North Dakota [Mr. DORGAN] and I often see eye-to-eye on water issues, I urge him to accept our Iowa colleague's substitute amendment making such a council advisory only.

The Dorgan amendment would require the Corps of Engineers to win approval of at least 7 of 10 members of a new State-dominated governing council before the corps' master manual and annual operating plans could be implemented at the Missouri River dams.

While I fully embrace State water rights as the concept best for my State and district, Mr. DORGAN's amendment goes too far because it creates still another governmental layer for the corps' water managers to fight their

way through if they are to act in timely fashion to mitigate impacts of drought, flood, and other contingencies.

The Nebraska position is that the corps already consults fully with certain States on its operating plans for the Missouri River dams. Therefore, a statutory council with veto powers really is not needed.

Governor Orr indicates Nebraska would rather not codify and set in concrete the necessity for formal consultations between the corps and State representatives—let alone delegate veto power to the proposed new council.

Mr. DORGAN's amendment would provide for a representative from each State of the corps' Missouri River Division. I am talking about the States of Nebraska, Kansas, Iowa, Wyoming, Missouri, Montana, North Dakota, and South Dakota.

Additionally, he proposes the council include a representative of the native American tribes of the region and the Secretary of the Army or his designee.

The Lightfoot amendment accepts that basic structure, but makes the council's deliberations and conclusions advisory only.

The Lightfoot substitute amendment also provides another important safeguard. It also preserves existing rights of affected States to seek judicial review of any corps operating plan.

This is the best course in the name of States' water rights, maximum flexibility, operational efficiency, and maintenance of good Federal and State relations.

With all due repsect to the gentleman from North Dakota, I think it is best to avoid inventing new governmental bodies, conferring significant powers to it, and, in effect, creating another layer of bureaucracy.

As far as I know, we have no strong proof that the corps is failing to heed or be sensitive to the needs of the States affected by operations of the Missouri River dams.

It is true that the interests of upstream States sometimes conflict with those of downstream States. People back home get madder about water issues than they do about almost anything else.

Management of these dams has become an issue as a result of the continuing years of drought that have caused lower runoff, threatening water shortages in the mainstem reservoirs, and limited water flows in the region.

It is true that Montana, North Dakota, and South Dakota filed a lawsuit against the corps over releases of water in one of the Missouri River dams.

The court rules. Rains fell. More rain may fall.

I say the present system works. I say the Federal courts are an appropriate place to resolve conflicts.

If we must have a State-based council for the corps to consult with, and if consultations are to be required, then the council's conclusions and decisions should be advisory—not binding on the corps.

I say, "if it ain't broke, don't fix it!"

□ 1730

Mr. MARLENEE. Madam Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Montana.

Mr. MARLENEE. Madam Chairman, I would like to say to the gentlewoman from Nebraska that we in Montana have advised and advised and advised the corps until we are blue in the face, and we are getting sick and tired of advising them, the Corps of Engineers, that they are destroying our fisheries that we have spent thousands and thousands of dollars in State funds and sportsman funds establishing.

They have got the siphon pump stuck into that reservoir, and they are sucking it out and drawing it down until you cannot get close to the water, and that is what we are upset about. We have advised them. We have talked to them. We have pleaded with them and all to no avail.

Mrs. MEYERS of Kansas. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in support of the Lightfoot substitute, which would change the status of the council established by the Dorgan amendment from governing to consultative.

While the gentleman from North Dakota is to be commended for attempting to resolve the seemingly intractable differences between the States in the upper and lower basins of the Missouri River, I believe his solution would only lead to a stalemate, and so is not much of a solution at all.

The Dorgan amendment would turn the operations of the Missouri River basin from the Corps of Engineers to a governing council. This would not improve upon the current situation in which the courts are regularly called upon to resolve disputes between the upper and lower basin States. In fact, it would make the situation worse.

Why? Under the amendment, the 10-member governing council would be composed of representatives of each of the eight States in the Missouri River division, a representative of native American tribes, and a representative of the Secretary of the Interior.

It would take seven votes to approve the operating plans of the Missouri River projects—which means that any four members of the council could veto the plans.

Madam Chairman, there are four upper basin States and four lower basin States. Since the upper basin and lower basin States obviously differ geographically, their water needs also differ greatly.

Under the Dorgan amendment, then, we would have a stalemate in which the four representatives of the upper basin States—or the four representatives of the lower basin States—would be certain to veto the other's operating plans.

While it may not be an ideal situation having the courts resolve the differences between the upper and lower basin States, at least decisions are made. Under the Dorgan amendment, I don't see how anything ever would be accomplished.

That is why I support Mr. Lightfoot's substitute, which would make the council advisory. The substitute would ensure that the views of the States and native Americans—as well as utility and transportation interests—are heard by the corps. And it would guarantee that the courts, if needed, could continue to intervene in disputes.

Madam Chairman, I understand that many of my colleagues from States that are not in the Missouri Basin may not have a great deal of interest in this subject. I assure you, though, that for Kansans who depend on the Missouri River for navigation, drinking water, cooling water for powerplants, and any number of other important uses, this is a crucial issue.

Vote for the Lightfoot substitute, which is the only rational, workable solution before us.

Mr. GRANDY. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in support of the Lightfoot amendment and in opposition to the Dorgan amendment. I think it is probably clear to all Members that we are going to pull both amendments, and I think that probably having heard the distinguished subcommittee chairman make that recommendation, it is one we can all support.

My problem I think, Madam Chairman, is the difference in the two amendments basically goes to the fact that one is a governing council, and the Lightfoot amendment proposes only an advisory council. I think it is probably true, and I think we can all commend Mr. DORGAN for bringing this to our attention, that at some point there will be some kind of a body that will either advise or possibly do more than that in terms of determining the water flow of the upper and lower Missouri River. However, the problem at this time is that if this is to be a truly Democratic body, then all of the States should be consulted, and in the preparation of this amendment that was not the case unfortunately.

The office of the Governor of Iowa has notified members of the Iowa dele-

gation that they have not at this point participated in the creation of this council and are reluctant to support any amendment to the bill before us which would create a council in which they have not had at least a certain amount of lead time to discuss how that council should be composed. For example, I can tell Members that those of us in the downstate area would probably, if a council was to be created, prefer, if there is to be a representative from each State and a representative from the Native American tribes in the region, perhaps a representative from the transportation and utility industry which would be more representative of downstate interests, belong on the panel as well. These are items that will be discussed later if indeed we do as the subcommittee chairman suggests and have hearings, discuss this, and perhaps arrive at a compromise which all of the States can support. But at this point they do not.

Now it probably makes little difference to many Members that the corps opposes this and said so in a letter to the gentleman from North Dakota [Mr. DORGAN]. But they do say that they do support this idea in concept. I quote from the letter:

However, we indicated that the authority of such a group would be advisory in nature rather than binding on management decisions.

Those management decisions, Madam Chairman, will always be in dispute. There will always be a certain difference of opinion between recreational and environmental interests and transportation and utility interests between upstate and downstate.

So I am going to support my friend from Iowa who I think tries to do what the gentleman from North Dakota, Mr. DORGAN intended to do, which is find a middle ground that all of us can support. But obviously I think that option will not be left to any of us because both of these will be withdrawn.

So Madam Chairman, I rise in support of the Lightfoot amendment.

Mr. JOHNSON of South Dakota. Madam Chairman, will the gentleman yield?

Mr. GRANDY. I yield to the gentleman from South Dakota.

Mr. JOHNSON of South Dakota. Madam Chairman, I thank the gentleman from Iowa for yielding. I simply want to take a moment to express my strong support for the efforts of the gentleman from North Dakota.

I think the points of the gentleman from Iowa are well taken. Nonetheless, it seems to me that we need to put greater teeth into the accountability that is needed from the Corps of Engineers. We have gone for years and years with advice and yet, too often the priorities for the contemporary needs of the Missouri River have not been accommodated by the Corps of Engineers.

□ 1740

So I want to thank the gentleman from North Dakota for his leadership on this and raising the visibility of what I think is a critical concern for economic development purposes all up and down the Missouri River.

Mr. GRANDY. Madam Chairman, I do want to make this point. There is no dispute that this is a contribution to the debate in the upstate-downstate controversy. The problem is, in the creation of this amendment, the downstate regions were not consulted, and we would have preferred to have been consulted in an amendment that would put us supposedly in charge of the Missouri River.

I do not think that when we finally get to a decision on this that there will be support to let the Corps completely rule. As a matter of fact, when the corps won the court case this last spring there was obviously the need to create another avenue, and the gentleman from North Dakota [Mr. DORGAN] chose a legislative one.

We may find ourselves in agreement upstate and downstate ultimately. My point is only in saying that the timing is inappropriate at this point.

The Governor opposes this. The Governor of Iowa opposes this, the Governor of Nebraska, members of the delegations are forced to pit themselves against each other, and that is not productive.

What the gentleman from South Dakota says is true. There may be a tendency to advise and consent to death on this thing. There is already a Missouri State's association with some advisory ability. There may be a need to put some teeth into a governing council.

But I do not think at this time it is appropriate specifically when the Governors of the downstates are asking not to adopt this language.

I support the Lightfoot amendment.

Mr. DORGAN of North Dakota. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, let me say that this has been an interesting discussion and debate.

I was especially interested to hear my friend, the gentleman from Georgia [Mr. JENKINS] describe identical problems to the problems that I described in the Missouri River Basin and the management of the river, identical problems.

It does not surprise me that folks downstream do not want to change anything, but, what the heck, they are getting all the water and all the benefit. I understand that. If that were not the case, I would not be here today.

But one of my friends talked about downstream navigation. Do you know that the Corps of Engineers in its plan is supporting a $14 million navigation barge traffic downstream at the expense of a $70 million recreation industry upstream? Now, what kind of math is that? Destroy a $70 million industry upstream to support something worth $14 million downstream. That is their numbers, not mine. That is the corps numbers.

So we talked to the corps. Do they listen? I do not know. I do not even know if they hear. They do not respond. People say, "Let us give them advice." My friend, the gentleman from Iowa [Mr. LIGHTFOOT] wants a council that gives them advice. God knows they have had plenty of advice. They just do not take the advice. That is the problem. If they took some advice, we would not be here.

As for the Federal court, the district court upheld the suit brought by the upstream States. The circuit court overturned it, but it said that the issue was moot. The water was gone.

This issue will be before us again in the courts or in the legislative body, and I intend to work with my friend, the gentleman from Georgia [Mr. JENKINS], and others, Representatives from Montana, South Dakota, and others. We need to solve this problem.

It is clear to me that we probably cannot legislate this solution at the time on the floor given these circumstances. It is also clear to me that the substitute offered by the gentleman from Iowa [Mr. LIGHTFOOT] would probably prevail today. It seems to me that if the chairman is willing to tell us that we will take this to hearings, then if the gentleman from Iowa [Mr. LIGHTFOOT] would concur, I would withdraw the amendment, but only if we are going to do hearings on this, not because I am willing to avoid the question. We cannot avoid this question. We must address this issue.

If, in fact, we have the guarantee of hearings, then I would ask that we withdraw this which would take, as I understand it, my amendment and also the substitution offered by the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. Madam Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I am happy to yield to the gentleman from Iowa.

Mr. LIGHTFOOT. I thank the gentleman once again. He very eloquently has pointed out the problems.

The upstream recreation figures that the gentleman gave allow us downstream folks that come up to fish in the gentleman's country and spend the money. If we do not get the water for our electric plants and so on, it hurts our economy as well. I think it really underscores the whole problem that the gentleman and I are trying to resolve here.

If the gentleman is willing to pull his amendment, I would certainly pull mine based upon what our chairman, the gentleman from New York [Mr. NOWAK], had to say. He is a delightful man to work with. His word is as good as gold, and his reassurances that he will look into this and put some pressure on the corps and get their attention certainly would make me feel a lot better.

Mr. NOWAK. Madam Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I am happy to yield to the gentleman from New York.

Mr. NOWAK. Madam Chairman, I thank the gentleman for his confidence.

We will proceed, as we previously discussed, with hearings, and we can see how intense and extensive this debate became without notification. Once we have a full-blown hearing, we will have an awful lot of interest, and I would look upon at least initially to all of the Members who would be affected in this area, as we will probably throughout the rest of the country, and we will have mandated in the law, if we pass this bill, a review process to start, but that does negate the fact that we need hearings.

I would be happy to accommodate as our schedule permits.

Mr. MARLENEE. Madam Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. Madam Chairman, I am happy to yield to the gentleman from Montana.

Mr. MARLENEE. Madam Chairman, I appreciate the gentleman's yielding.

I am not certain that we should pull the Dorgan amendment, or that we should agree to a unanimous-consent request.

Without the Dorgan amendment, it appears that this legislation would reinforce the status quo, and the status quo is that the Corps of Engineers is operating the river on concepts and precepts that totally favor the downstream States for irrigation, for transportation, and for other water needs.

The CHAIRMAN. The time of the gentleman from North Dakota [Mr. DORGAN] has expired.

(At the request of Mr. MARLENEE, Mr. DORGAN of North Dakota was allowed to proceed for 2 additional minutes.)

Mr. MARLENEE. Madam Chairman, if the gentleman will yield further, on the other hand, would it not be a shame that if we got into a dogfight here on the floor of the House that those States and agriculture that are so dependent on those barge rates on that river, those downstream States that we hear from in here, that if we got into a dogfight and they lost those cheap rates, then all of agriculture would be the losers. Now, we benefit in Montana, too, from some of those cheap rates that they have, but what galls us and what gives us the problem, and that is what the Dorgan amendment addresses, is the fact that you are sucking out our water for your cheap rates on your grain that competes with our grain that costs us a lot more to transport in the northern tier.

We have some objection to that, but we are not going to be dogs in the manger about that. We want the Corps of Engineers to give us the consideration for our fisheries and our recreation on those original reservoirs on the upper end.

I would hope that the chairman, the subcommittee chairman, would have the hearings, would address this issue, and that some kind of a plan would be devised to take into account our concerns and our problems.

Mr. DORGAN of North Dakota. It is clear that today those of us upstream who are concerned about this do not have the votes to do what we want to do to mandate a reasonable will on the management of that river on the Corps of Engineers, but let me say that we will be back, and we will be back with friends from the South and other parts of the country. The corps has not heard the last from us.

I will, if the chairman preserves our right to a hearing, ask unanimous consent that we withdraw the amendment which will take the substitute with it and tell the Chamber that we will be back soon on this issue, because we insist it be resolved.

Madam Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

AMENDMENTS OFFERED BY MR. HAYES OF LOUISIANA

Mr. HAYES of Louisiana. Madam Chairman, I offer three amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. HAYES of Louisiana: After section 12 of the bill, insert the following new sections:

SEC. 13. PRIORITY LOUISIANA COASTAL WETLANDS RESTORATION PROJECTS.

(a) PRIORITY PROJECT LIST.—

(1) PREPARATION OF LIST.—Within 45 days after the date of the enactment of this Act, the Secretary shall convene the Task Force to initiate a process to identify and prepare a list of coastal wetlands restoration projects in Louisiana in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration.

(2) TASK FORCE PROCEDURES.—The Secretary shall convene meetings of the Task Force as appropriate to ensure that the list is produced and transmitted annually to Congress as required by this subsection. If necessary to ensure transmittal of the list on a timely basis, the Task Force shall produce the list by a majority vote of those Task Force members who are present and voting; except that no coastal wetlands restoration project shall be placed on the list without the concurrence of the lead Task Force member responsible for carrying out such project.

(3) TRANSMITTAL OF LIST.—No later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress the list of priority coastal wetlands restoration projects required by paragraph (1) of this subsection. Thereafter, the list shall be updated annually by the Task Force members and transmitted by the Secretary to Congress as part of the President's annual budget submission. Annual transmittals of the list to Congress shall include a status report on each project and a statement from the Secretary of the Treasury indicating the amounts available for expenditure from a wetlands fund established to carry out this Act.

(4) LIST CONTENTS.—

(A) AREA IDENTIFICATION; PROJECT DESCRIPTION.—The list of priority coastal wetlands restoration projects shall include, but not be limited to—

(i) identification, by map or other means, of the coastal area to be covered by the coastal wetlands restoration project; and

(ii) a detailed description of each proposed coastal wetlands restoration project, including a justification for including such project on the list, the proposed activities to be carried out pursuant to each coastal wetlands restoration project, the benefits to be realized by such project, the identification of a lead Task Force member to undertake each proposed coastal wetlands restoration project, an estimated timetable for the completion of each coastal wetlands restoration project, and the estimated cost of each project.

(B) PRE-PLAN.—Prior to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that can be substantially completed during a 5-year period commencing on the date the project is placed on the list.

(C) POST-PLAN.—Subsequent to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that have been identified in such plan.

(5) FUNDING.—The Secretary shall, with the funds made available in accordance with section 16 of this Act, allocate funds among the members of the Task Force based on the need for such funds and such other factors as the Task Force deems appropriate to carry out the purposes of this subsection.

(b) FEDERAL AND STATE PROJECT PLANNING.—

(1) PLAN PREPARATION.—The Task Force shall prepare a plan to identify coastal wetlands restoration projects, in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration. Such restoration plan shall be completed within 3 years from the date of the enactment of this Act.

(2) PURPOSE OF THE PLAN.—The purpose of the restoration plan is to develop a comprehensive approach to restore, and prevent the loss of, coastal wetlands in Louisiana. Such plan shall coordinate and integrate coastal wetlands restoration projects in a manner that will ensure the long-term conservation of the coastal wetlands of Louisiana.

(3) INTEGRATION OF EXISTING PLANS.—In developing the restoration plan, the Task Force shall seek to integrate the "Louisiana Comprehensive Coastal Wetlands Feasibility Study" conducted by the Secretary and the "Coastal Wetlands Conservation and Restoration Plan" prepared by the Task Force.

(4) ELEMENTS OF THE PLAN.—The restoration plan developed pursuant to this subsection shall include—

(A) identification of the entire area in the State that contains coastal wetlands;

(B) identification, by map or other means, of coastal areas in Louisiana in need of coastal wetlands restoration projects;

(C) identification of high priority coastal wetlands restoration projects in Louisiana needed to address the areas identified in subparagraph (B);

(D) a listing of such coastal wetlands restoration project, in order of priority, to be submitted annually, incorporating any project identified previously in lists produced and submitted under subsection (a) of this section;

(E) a detailed description of each proposed coastal wetlands restoration project, including a justification for including such project on the list;

(F) the proposed activities to be carried out pursuant to each coastal wetlands restoration project;

(G) the benefits to be realized by each such project;

(H) an estimated timetable for completion of each coastal wetlands restoration project;

(I) an estimate of the cost of each coastal wetlands restoration project;

(J) identification of a lead Task Force member to undertake each proposed coastal wetlands restoration project listed in the plan;

(K) consultation with the public and provision for public review during development of the plan; and

(L) evaluation of the effectiveness of each coastal wetlands restoration project in achieving long-term solutions to arresting coastal wetlands loss in Louisiana.

(5) PLAN MODIFICATION.—The Task Force may modify the restoration plan from time to time as necessary to carry out the purposes of this section.

(6) PLAN SUBMISSION.—Upon completion of the restoration plan, the Secretary shall submit the plan to Congress. The restoration plan shall become effective 90 days after the date of its submission to Congress.

(7) PLAN EVALUATION.—Not less than 3 years after the completion and submission of the restoration plan required by this subsection and at least every 3 years thereafter, the Task force shall provide a report to Congress containing a scientific evaluation of the effectiveness of the coastal wetlands restoration projects carried out under the plan in creating, restoring, protecting, and enhancing coastal wetlands in Louisiana.

(c) COASTAL WETLANDS RESTORATION PROJECT BENEFITS.—Where such a determination is required under applicable law, the net ecological, aesthetic, and cultural benefits, together with the economic benefits, shall be deemed to exceed the costs of any coastal wetlands restoration project within the State which the Task Force finds to contribute significantly to wetlands restoration.

(d) CONSISTENCY.—In implementing, maintaining, modifying, or rehabilitating navigation, flood control, or irrigation projects, other than emergency actions, under other authorities, the Secretary shall ensure that such actions are consistent with the purposes of the restoration plan submitted pursuant to this section.

(e) FUNDING OF WETLANDS RESTORATION PROJECTS.—The Secretary shall, with the funds made available in accordance with section 16 of this Act, allocate such funds among the members of the Task Force to carry out coastal wetlands restoration projects in accordance with the priorities set forth in the list transmitted in accordance with this section.

(f) COST-SHARING.—

(1) FEDERAL SHARE.—Amounts made available from the Wetlands Fund to carry out coastal wetlands restoration projects under this Act shall provide 75 percent of the cost of such projects.

(2) FEDERAL SHARE UPON CONSERVATION PLAN APPROVAL.—Notwithstanding the previous paragraph, if the State develops a coastal wetlands conservation plan pursuant to section 14 of this Act, and such conservation plan is approved pursuant to such section, amounts made available from the Wetlands Fund for any coastal wetlands restoration project under this section shall be 85 percent of the cost of the project. In the event that the Secretary and the Administrator jointly determine that the State is not taking reasonable steps to implement and administer a conservation plan developed and approved pursuant to section 14 of this Act, amounts made available from the Wetlends Fund for any coastal wetlands restoration project shall revert to 75 percent of the cost of the project; except that such reversion to the lower cost share level shall not occur until the Governor has been provided notice of, and opportunity for hearing on, any such determination by the Secretary and Administrator and the State has been given 90 days from such notice or hearing to take corrective action.

(3) FORM OF STATE SHARE.—The share of the cost required of the State shall be from a non-Federal source. Such State share shall consist of a cash contribution of not less than 5 percent of the cost of the project. The balance of such State share may take the form of lands, easements, or right-of-way or any other form of in-kind contribution determined to be appropriate by the lead Task Force member.

(4) EXISTING COST-SHARING AGREEMENTS.—Paragraphs (1), (2), and (3) of this subsection shall not affect the existing cost-sharing agreements for the following projects: Caernarvon Freshwater Diversion, Davis Pond Freshwater Diversion, and Bonnet Carre Freshwater Diversion.

SEC. 14. LOUISIANA COASTAL WETLANDS CONSERVATION PLANNING.

(a) DEVELOPMENT OF CONSERVATION PLAN.—

(1) IN GENERAL.—The Secretary and the Administrator are directed to enter into an agreement with the Governor, as set forth in paragraph (2) of this subsection, upon notification of the Governor's willingness to enter into such agreement.

(2) TERMS OF AGREEMENT.—

(A) IN GENERAL.—Upon receiving notification pursuant to paragraph (1) of this subsection, the Secretary and the Administrator shall promptly enter into an agreement (hereinafter in this section referred to as the "agreement") with the State under the terms set forth in subparagraph (B) of this paragraph.

(B) TERMS.—The agreement shall—

(i) set forth a process by which the State agrees to develop, in accordance with this section, a coastal wetlands conservation plan (hereinafter in this section referred to as the "conservation plan");

(ii) designate a single agency of the State to develop the conservation plan;

(iii) assure an opportunity for participation in the development of the conservation plan, during the planning period, by the public and by Federal and State agencies;

(iv) obligate the State, not later than 3 years after the date of signing the agreement, unless extended by the parties thereto, to submit the conservation plan to the Secretary and the Administrator for their approval; and

(v) upon approval of the conservation plan, obligate the State to implement the conservation plan.

(3) GRANTS AND ASSISTANCE.—Upon the date of signing the agreement—

(A) the Administrator shall, with the funds made available in accordance with section 16 of this Act, make grants during the development of the conservation plan to assist the designated State agency in developing such plan; and

(B) the Secretary and the Administrator shall provide technical assistance to the State to assist it in the development of the Plan.

(b) CONSERVATION PLAN GOAL.—If a conservation plan is developed pursuant to this section, it shall have a goal of achieving no net loss of wetlands in the coastal areas of Louisiana as a result of development activities initiated subsequent to approval of the plan, exclusive of any wetlands gains achieved through implementation of section 13 of this Act.

(c) ELEMENTS OF CONSERVATION PLAN.—The conservation plan authorized by this section shall include—

(1) identification of the entire coastal area in the State that contains coastal wetlands;

(2) designation of a single State agency with the responsibility for implementing and enforcing the Plan;

(3) identification of measures that the State shall take in addition to existing Federal authority to achieve a goal of no net loss of wetlands as a result of development activities, exclusive of any wetlands gains achieved through implementation of section 13 of this Act;

(4) a system that the State shall implement to account for gains and losses of coastal wetlands within coastal areas for purposes of evaluating the degree to which the goal of no net loss of wetlands as a result of development activities in such wetlands or other waters has been attained;

(5) satisfactory assurances that the State will have adequate personnel, funding, and authority to implement the Plan;

(6) a program to be carried out by the State for the purpose of educating the public concerning the necessity to conserve wetlands;

(7) a program to encourage the use of technology by persons engaged in development activities that will result in negligible impact on wetlands; and

(8) a program for the review, evaluation, and identification of regulatory and nonregulatory options that will be adopted by the State to encourage and assist private owners

of wetlands to continue to maintain those lands as wetlands.

(d) APPROVAL OF CONSERVATION PLAN.—

(1) IN GENERAL.—If the Governor submits a conservation plan to the Secretary and the Administrator for their approval, the Secretary and the Administrator shall, within 180 days following receipt of such plan, approve or disapprove it.

(2) APPROVAL CRITERIA.—The Secretary and the Administrator shall approve a conservation plan submitted by the Governor, if they determine that—

(A) the State has adequate authority to fully implement all provisions of such a plan;

(B) such a plan is adequate to attain the goal of no net loss of coastal wetlands as a result of development activities and complies with the other requirements of this section; and

(C) the Plan was developed in accordance with the terms of the agreement set forth in subsection (a) of this section.

(e) MODIFICATION OF CONSERVATION PLAN.—

(1) NONCOMPLIANCE.—If the Secretary and the Administrator determine that a conservation plan submitted by the Governor does not comply with the requirements of subsection (d) of this section, they shall submit to the Governor a statement explaining why the plan is not in compliance and how the plan should be changed to be in compliance.

(2) RECONSIDERATION.—If the Governor submits a modified conservation plan to the Secretary and the Administrator for their reconsideration, the Secretary and Administrator shall have 90 days to determine whether the modifications are sufficient to bring the plan into compliance with the requirements of subsection (d) of this section.

(3) APPROVAL OF MODIFIED PLAN.—If the Secretary and the Administrator fail to approve or disapprove the conservation plan, as modified, within the 90-day period following the date on which it was submitted to them by the Governor, such Plan, as modified, shall be deemed to be approved effective upon the expiration of such 90-day period.

(f) AMENDMENTS TO CONSERVATION PLAN.—If the Governor amends the conservation plan approved under this section, any such amended plan shall be considered a new plan and shall be subject to the requirements of this section; except that minor changes to such plan shall not be subject to the requirements of this section.

(g) IMPLEMENTATION OF CONSERVATION PLAN.—A conservation plan approved under this section shall be implemented as provided therein.

(h) FEDERAL OVERSIGHT.—

(1) INITIAL REPORT TO CONGRESS.—Within 180 days after entering into the agreement required under subsection (a) of this section, the Secretary and the Administrator shall report to Congress as to the status of a conservation plan approved under this section and the progress of the State in carrying out such a plan, including an accounting, as required under subsection (c) of this section, of the gains and losses of coastal wetlands as a result of development activities.

(2) REPORTS TO CONGRESS.—24 months after the initial 180-day period set forth in paragraph (1), and at the end of each 24-month period thereafter, the Secretary and the Administrator shall report to Congress on the status of the conservation plan and provide an evaluation of the effectiveness of the plan in meeting the goal of this section.

SEC. 15. NATIONAL COASTAL WETLANDS CONSERVATION GRANTS.

(a) MATCHING GRANTS.—The Secretary shall, with the funds made available in accordance with section 16 of this Act, make matching grants to any coastal State to carry out coastal wetlands conservation projects from funds made available for that purpose.

(b) PRIORITY.—Subject to the cost-sharing requirements of this section, the Secretary may grant or otherwise provide any matching moneys to any coastal State which submits a proposal substantial in character and design to carry out a coastal wetlands conservation project. In awarding such matching grants, the Secretary shall give priority to coastal wetlands conservation projects that are—

(1) consistent with the national wetlands priority conservation plan developed under section 301 of the Emergency Wetlands Resources Act (16 U.S.C. 3921); and

(2) in coastal States that have established dedicated funding for programs to acquire coastal wetlands, natural areas, and open spaces.

(c) CONDITIONS.—The Secretary may only grant or otherwise provide matching moneys to a coastal State for purposes of carrying out a coastal wetlands conservation project if the grant or provision is subject to terms and conditions that will ensure that any real property interest acquired in whole or in part, or enhanced, managed, or restored with such moneys will be administered for the long-term conservation of such lands and waters and the fish and wildlife dependent thereon.

(d) COST-SHARING.—

(1) FEDERAL SHARE.—Grants to coastal States of matching moneys by the Secretary for any fiscal year to carry out coastal wetlands conservation projects shall be used for the payment of not to exceed 50 percent of the total costs of such projects; except that such matching moneys may be used for payment of not to exceed 75 percent of the costs of such projects if a coastal State has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural area or open spaces.

(2) FORM OF STATE SHARE.—The matching moneys required of a costal State to carry out a coastal wetlands conservation project shall be derived from a non-Federal source.

(e) PARTIAL PAYMENTS.—

(1) IN GENERAL.—The Secretary may from time to time make matching payments to carry out coastal wetlands conservation projects as such projects progress, but such payments, including previous payments, if any, shall not be more than the Federal pro rata share of any such project in conformity with subsection (d) of this section.

(2) AGREEMENT.—The Secretary may enter into agreements to make matching payments on an initial portion of a coastal wetlands conservation project and to agree to make payments on the remaining Federal share of the costs of such project from subsequent moneys if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purpose of this section.

SEC. 16. AUTHORIZED USES OF A WETLANDS FUND.

(a) IN GENERAL.—The amounts appropriated or credited to a wetlands fund established to carry out this section and sections 13, 14, 15, and 17 of this Act shall be available, as provided in appropriation Acts, to carry out such sections through fiscal year 1999.

(b) COASTAL WETLANDS CONSERVATION GRANTS.—Of the total amount deposited during a fiscal year in a wetland fund established to carry out this section and sections 13, 14, 15, and 17 of this Act, 10 percent, not to exceed $10,000,000, shall be available, and shall remain available, to the Secretary, for purposes of making grants—

(1) to any coastal State to carry out coastal wetlands conservation projects in accordance with section 15; and

(2) in the amount of $2,500,000 in total for an assessment of the status, condition, and trends of wetlands in the State of Texas.

(c) NORTH AMERICAN WETLANDS CONSERVATION.—Of the total amount deposited during a fiscal year in a wetlands fund established to carry out this section and sections 13, 14, 15, and 17 of this Act, 15 percent, not to exceed $15,000,000, shall be available, and shall remain available, to the Secretary of the Interior for allocation under section 8 of the North American Wetlands Conservation Act (16 U.S.C. 4407).

SEC. 17. GENERAL PROVISIONS.

(a) ADDITIONAL AUTHORITY FOR THE CORPS OF ENGINEERS.—The Secretary is authorized to carry out projects for the protection, restoration, or enhancement of aquatic and associated ecosystems, including projects for the protection, restoration, or creation of wetlands and coastal ecosystems. In carrying out such projects, the Secretary shall give such projects equal consideration with projects relating to irrigation, navigation, or flood control.

(b) FEASIBILITY STUDY.—The Secretary is hereby authorized and directed to study the feasibility of modifying the operation of existing navigation and flood control projects to allow for an increase in the share of the Mississippi River flows and sediment sent down the Atchafalaya River for purposes of land building and wetlands nourishment.

(c) DEFINITIONS.—As used in this section and sections 13, 14, 15, and 16, the following definitions apply:

(1) ADMINISTRATOR.—"Administrator" means the Administrator of the Environmental Protection Agency.

(2) DEVELOPMENT ACTIVITIES.—"Development activities" means any activity, including the discharge of dredged or fill material, which results directly in a more than de minimus change in the hydrologic regime, bottom contour, or the type, distribution or diversity of hydrophytic vegetation, or which impairs the flow, reach, or circulation of surface water within wetlands or other waters.

(3) STATE.—"State" means the State of Louisiana.

(4) COASTAL STATE.—"Coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. The term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa.

(5) COASTAL WETLANDS RESTORATION PROJECT.—"Coastal wetlands restoration project" means any technically feasible activity to create, restore, protect, or enhance coastal wetlands through sediment and freshwater diversion, water management, or other measures that the Task Force finds will significantly contribute to the long-term restoration or protection of the physi-

cal, chemical and biological integrity of coastal wetlands in the State of Louisiana, and includes any such activity authorized under this section and sections 13 through 16 of this Act or under any other provision of law, including, but not limited to, new projects, completion or expansion of existing or on-going projects, individual phases, portions, or components of projects and operation, maintenance and rehabilitation of completed projects. The primary purpose of a "coastal wetlands restoration project" shall not be to provide navigation, irrigation or flood control benefits.

(6) COASTAL WETLANDS CONSERVATION PROJECT.—"Coastal wetlands conservation project" means—

(A) the obtaining of a real property interest in coastal lands or waters, if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the hydrology, water quality, and fish and wildlife dependent thereon; and

(B) the restoration, management, or enhancement of coastal wetlands ecosystems if such restoration, management, or enhancement is conducted on coastal lands and waters that are administered for the long-term conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon.

(7) GOVERNOR.—"Governor" means the Governor of Louisiana.

(8) TASK FORCE.—"Task Force" means the Louisiana Coastal Wetlands Conservation and Restoration Task Force which shall consist of the Secretary, who shall serve as chairman, the Administrator, the Governor, the Secretary of Agriculture, and the Secretary of Commerce.

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

Page 70, line 9, strike "Calcasieu" and insert "Cameron".

Page 67, after line 15, insert the following new paragraph:

(5) LOUISIANA STATE PENITENTIARY LEVEE, LOUISIANA.—The project for flood control, Louisiana State Penitentiary Levee, Mississippi River, Louisiana, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117).

Redesignate subsequent paragraphs of section 30(a) of the bill accordingly.

Mr. HAYES of Louisiana (during the reading). Madam Chairman, I ask unanimous consernt that the amendment be considered as read and printed in the RECORD.

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana [Mr. HAYES] that the amendments be considered en bloc?

There was no objection.

Mr. HAYES of Louisiana. Madam Chairman, I will not take the full length of time.

Two of these amendments are technical in nature, involving the use of the word "Cameron" rather than "Calcasieu" Parish. The second involves a levee project that is already authorized, but expiring next year. The third is in the area of wetlands, so vital to my State, and vital to the Nation.

I believe it is an amendment agreed upon by the Members across the aisle in recognition of the speech that was made at Lake Michigan by President Bush when he talked about an important wetlands statement and policy for our Nation.

□ 1750

That was part of the campaign. Now it is part of the legislation. It is an ongoing effort, and I appreciate the efforts of those Members across the aisle.

I do understand, however, the committee that would have jurisdiction had this been original legislation, has some amending language to offer. I want to thank the gentleman and his staff for working with other Members, and I believe we are in a position to accept that.

Madam Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. STUDDS TO THE AMENDMENTS OFFERED BY MR. HAYES OF LOUISIANA

Mr. STUDDS. Madam Chairman, I offer amendments to the amendments.

The Clerk read as follows:

Amendments offered by Mr. STUDDS to the amendments offered by Mr. HAYES of Louisiana:

The amendment offered by Mr. Hayes is amended at:

Page 1, line 8, by adding "to provide for the long-term conservation of such wetlands and dependent fish and wildlife populations," after "Louisiana";

Page 2, line 6, by striking "responsible for carrying out such project." and inserting "that the project is cost effective and sound from an engineering perspective. Those projects which potentially impact navigation or flood control on the lower Mississippi River System shall be constructed consistent with section 17 of this Act.";

Page 3, line 11, by inserting "and the responsibilities of each other participating Task Force member" after "project";

Page 4, line 13, by inserting "the long-term conservation of" after "enhancing";

Page 5, line 7, by inserting "State of Louisiana's Coastal Wetlands Conservation and Restoration" after "prepared by the";

Page 5, line 17, by inserting "and that would provide for the long-term conservation of restored wetlands and dependent fish and wildlife populations" after "subparagraph (B)";

Page 7, by striking lines 17 through 22 and inserting

"(d) CONSISTENCY.—(1) In implementing, maintaining, modifying, or rehabilitating navigation, flood control, or irrigation projects, other than emergency actions, under other authorities, the Secretary, in consultation with the Director and the Administrator, shall ensure that such actions are consistent with the purposes of the restoration plan submitted pursuant to this section.

"(2) At the request of the Governor of the State of Louisiana, the Secretary of Commerce shall approve the plan as an amendment to the State's coastal zone management program approved under section 306 of the Coastal Zone Management Act of 1972."

Page 8, line 4, by inserting "The Secretary shall not fund a coastal wetlands restoration project unless that project is subject to such terms and conditions as necessary to ensure that wetlands restored, enhanced, or managed through that project will be administered for the long-term conservation of such lands and waters and dependent fish and wildlife populations," after "section";

Page 8, line 18, by inserting ", the Director" after "Secretary";

Page 9, line 2, by inserting ", the Director" after "Secretary";

Section 14 by striking "the Secretary and the Administrator" and inserting "the Secretary, the Director, and the Administrator" each place that it appears;

Page 11, strike lines 6 through 10 and insert:

"(A) the Administrator shall, in consultation with the Director, make grants to assist the designated State agency in developing a conservation plan with the funds made available in accordance with section 16 of this Act. Such grants shall not exceed 75 per centum of the cost of developing the plan; and"; section 15 by striking "Secretary" and inserting "Director" each place that it appears;

Page 18, strike section 16 and insert in lieu thereof the following:

"SEC. 16. AUTHORIZATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated up to $115,400,000 for each fiscal year through 1999 to carry out sections 13, 14, and 15 of this Act.

"(b) PRIORITY PROJECT AND CONSERVATION PLANNING EXPENDITURES.—Of the total amount authorized under subsection (a) during a given fiscal year, 65 per centum, not to exceed $75,000,000, shall be available to carry out sections 13 and 14 and shall remain available until expended.

"(c) COASTAL WETLANDS CONSERVATION GRANTS.—Of the total amount authorized under subsection (a) during a given fiscal year, 35 per centum, not to exceed $40,400,000, shall be available to carry out section 15 and shall remain available until expended."; and

Page 19, by inserting "(3) Director.—'Director' means the Director of the United States Fish and Wildlife Service." after paragraph (2) and redesignating subsequent paragraphs accordingly.

Mr. STUDDS (during the reading). Madam Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

Ther was no objection.

Mr. STUDDS. Madam Chairman, I have an amendment to the gentleman's amendment that I am offering on behalf of myself, Congressman HERTEL of the Oceanography Subcommittee, and the Merchant Marine and Fisheries Committee.

The Hayes amendment builds upon several earlier bills on coastal wetlands that are now pending before the Merchant Marine Committee which—as its sponsor has described—would establish a major new program for coastal wetlands in Louisiana and nationwide.

The primary purpose of this amendment, is to make several incremental changes to the Hayes proposal, to clarify the traditional responsibilities of the U.S. Fish and Wildlife Service and the EPA, in our efforts to protect and restore wetlands, and the fish and wildlife that so greatly depend on them.

It is critical that these agencies participate fully when it comes to planning and carrying out the wetland restoration projects called for in the legislation. The reason is simple: they're the people who know wetlands, know fish and wildlife, and know how to do it right.

Further, my amendment makes it clear that the types of projects that should be given priority are those that will last over time—that is, those with conservation easements or other binding commitments to make sure that whatever good is accomplished, will be maintained over the long term. What we don't need are huge expenditures for restoration projects on private property without commitments that those improvements will not disapprear as soon as the job is done.

My amendment also proposes what, I must confess as a New Englander, seems to be a slightly more equitable funding allocation between Louisiana and the program nationwide. The Hayes amendment—no doubt understandable if you're from Louisiana—channels 75 percent of the total authorization to Louisiana only. Meanwhile, the rest of the country would get 10 percent.

This amendment would propose a 65-35 split, still recognizing the special problems confronting the bayous, but providing a somewhat better balance. In short, yes, Louisiana is special, but not 75 percent special.

Finally, the amendment replaces what is an open-ended authorization for the program—which, according to the experts, could cost over $2 billion—with a $115.4 million annual authorization. Not exactly a starvation budget, I might note.

Madam Chairman, my amendment is strongly supported by environmental and conservation groups, including the National Wildlife Federation. I believe that the changes contained in my amendment not only improve the proposal as a whole, but also make it eminently more conferenceable with the Senate, as it restores a number of provisions that are central to the Senate's legislation. I have worked on this amendment with its principal sponsors—Representatives HAYES and TAUZIN—and I believe it is also acceptable to them. I urge its support.

Mr. NOWAK. Madam Chairman, I rise in support of the amendments.

Madam Chairman, both amendments have been looked at, and we urge support of the House for both.

Mr. STANGELAND. Madam Chairman, if the gentleman will yield, we have looked at the amendments on this side of the aisle, and think the amendments contribute to the bill. I urge Members to accept the amendments.

Mr. LIVINGSTON. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I want to thank all the Members who had anything to do with this. It is a very important amendment that affects Louisiana very positively.

Madam Chairman, I rise in strong support of the amendment by my colleague from Louisiana which would actually begin coastal wetlands preservation and restoration projects.

This amendment would incorporate most of the provisions of S. 1731, already passed by our colleague JOHN BREAUX in the Senate.

It incorporates many of the same concepts and mechanisms of legislation I have introduced since 1987 to combat coastal wetlands loss in Louisiana.

This amendment requires the Secretary of Army (the corps) to submit within 1 year a priority list of coastal wetlands restoration and preservation projects in Louisiana to be funded by authorized amounts provided in this amendment.

The list must only include those projects that can be substantially completed within 5 years.

It also prioritizes listing and funding for coastal wetlands projects throughout the entire country, including the Great Lakes States.

This legislation is critical because 80 percent of our Nation's coastal wetlands losses are in Louisiana; 40 percent of all our Nation's coastal wetlands are in Louisiana.

These wetlands support over 30 percent of our Nation's fisheries, shell fisheries harvest and 40 percent of our Nation's fur harvest.

Our coastal wetlands provide wintering habitat for two-thirds of the 6 million ducks and geese in the Mississippi flyway.

But, we are losing almost 60 square miles per year of these coastal wetlands.

If we don't change anything, if we don't pass legislation like this amendment before us, Louisiana will lose 2.4 million acres of coastal wetlands by 2040—an area 1⅓ times greater in size then the State of Rhode Island.

Nationwide we will continue to lose 450,000 acres a year—an area 12 times the size of the District of Columbia.

Madam Chairman, the amendment by the gentleman from Louisiana must be passed.

Mr. TAUZIN. Madam Chairman, I move to stike the requisite number of words.

Madam Chairman, I rise today in support of an amendment which addresses an issue of immediate and imminent concern, not only to Louisiana, but to this country as a whole. The goal of this amendment is to stem the incredible and inexcusable loss of vast areas of wetlands along our coast. These wetlands, the vast majority of which lie along the Louisiana coastline, are a national treasure which will be lost to us if action is not taken within the very near future.

This is an issue which I have actively championed since I served in the Louisiana House of Representatives in the 1970's. During my tenure as the chairman of the Louisiana House Natural Resources Committee I held hearings to bring attention to the loss of our coastal marshlands due to the encroachment of the Gulf of Mexico. The situation since that time has grown worse. I urge you to take action on this bill as quickly as possible. The loss of these marshlands cannot be allowed to continue unabated.

I am sure that the value of these wetlands to our Nation is well known to all of you. Our wetlands yield some of the most productive fisheries resources in this country. They serve as a barrier to storm surges and hurricane protection for some three million people living in the coastal areas of Louisiana. These wetlands contribute to the cleansing and cleaning of our waters. They are a bountiful habitat for waterfowl and wildlife of every sort. Without these wetlands, we as a country will be much poorer.

The causes of Louisiana wetlands losses are complex and are deeply rooted in Louisiana's history. South Louisiana is relatively new land, placed there by the Mississippi River which for thousands of years regularly flooded leaving behind rich soils. During the early part of this century, Louisianians were the victims of several devastating floods which took the lives and property of many of our citizens. During the twenties and thirties, the Corps of Engineers began a vast system of levees and drainage projects without which life along the Mississippi River would not be as we know it today. These levees and drainage projects allow over three million people to live and work in south Louisiana without the fear of losing their lives and property to floods. However, one of the consequences of this activity is that the Mississippi River and its tributaries no longer rebuild and replenish our wetlands.

Compounding this loss of rebuilding and renourishment, has been the failure to properly manage the development and use of these resources. We have seen the construction of a vast network of canals without regard for the impact these canals have on our marshes. We as a State have begun to address that issue and there is a new and laudable effort by industry and in particular the oil and gas industry to cooperate with our State government to address this problem.

There are other causes of wetlands loss, including the damage caused by other natural forces such as hurricanes and wave action.

Whatever the cause, our State is now looking for solutions and we believe that the solutions are available. No other State in the Nation has made the effort Louisiana has made to study and to develop methods of addressing wetlands protection and wetlands replenishment. However, it has become increasingly apparent that the problem is not one which can or should be resolved by Louisiana alone. Our State has made an enormous contribution to the energy needs of this country as a whole. As we watch a middle eastern dictator attempt to turn off the world's oil supplies and as we watch other states obtain moratoriums on production of oil and gas off their shores, it is appropriate to reexamine the role that our state has played and will continue to play in supplying this country with natural gas and oil. However, there must be a recognition that the development of these resources has had an impact on our environment. That impact must be minimized, but our people want to continue to make their contribution to our national security and independence through the development of our resources. We believe, in return, the country as a whole must recognize that our environment, and in particular the loss of our wetlands is a national problem which must be addressed by the Federal Government through a commitment of both manpower and funding.

The people of Louisiana have demonstrated their commitment to wetlands protection. Over the last ten years our state has set up and funded a wetlands protection program within our Louisiana Department of Natural Resources. This program now aggressively regulates the uses of our coastal marshes. Our people have also established a wetlands conservation and restoration trust fund which is managed by a wetlands conservation and restoration authority. This state authority has established wetlands policies and has set priorites for wetlands protection projects to be funded by the state trust fund. All of these actions have clearly shown that we as State will commit our State resources to protecting our wetlands.

This legislation is a first step in the right direction for the Federal Government. It recognizes our responsibility as a country to stop the erosion of our coastal wetlands and hopefully to begin to recover what has already been lost. I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Massachusetts [Mr. STUDDS] to the amendments offered by the gentleman from Louisiana [Mr. HAYES].

The amendments to the amendments were agreed to.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Louisiana [Mr. HAYES], as amended.

The amendments, as amended, were agreed to.

AMENDMENT OFFERED BY MR. EMERSON

Mr. EMERSON. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EMERSON: Page 44, strike lines 2 through 10 and insert the following:

(a) BENEFIT-COST ANALYSIS.—The Secretary shall not include in the benefit base for justifying Federal flood damage reduction projects—

(1)(A) any new or substantially improved structure (other than a structure necessary for conducting a water-dependent activity) built in the 100-year flood plain after July 1, 1991; or

(B) in the case of a county substantially located within the 100-year flood plain, any new or substantially improved structure (other than a structure necessary for conducting a water-dependent activity) built in the 10-year flood plain after July 1, 1991; and

(2) any structure becomes located in the 100-year flood plain or the 10-year flood plain, as the case may be, by virtue of constrictions placed in the flood plain after July 1, 1991.

(b) COUNTIES SUBSTANTIALLY LOCATED WITHIN 100-YEAR FLOOD PLAIN.—For the purposes of subsection (a), a county is substantially located within the 100-year flood plain—

(1) if the county is comprised of lands of which 50 percent or more are located in the 100-year flood plain; and

(2) if the Secretary determines that application of the requirement contained in subsection (a)(1)(A) with respect to the county would unreasonably restrain continued economic development or unreasonably limit the availability of needed flood control measures.

Page 44, line 11, strike "(b)" and insert "(c)".

Page 44, line 15, strike "reconstructed" and insert "improved".

Page 44, line 16, after "flood plain" insert "or the 10-year flood plain, as the case may be,".

Page 44, line 20, strike "(c)" and insert "(d)".

Page 44, line 24, strike "reconstructed" and insert "improved".

Page 44, line 24, after "constriction," insert "10-year flood plain,".

Page 45, line 1, strike "(d)" and insert "(e)".

Mr. EMERSON (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. EMERSON. Madam Chairman, I yield to the gentleman from New York [Mr. WALSH].

Mr. WALSH. Madam Chairman, I rise in support of the authorization. I congratulate the distinguished chairman of the subcommitee and the distinguished ranking member. I urge all Members to support this authorization.

Mr. EMERSON. The amendment I offer provides clarifying language to section 13 of the water resources bill which deals with flood plain management. This amendment would clarify the Secretary of the Army would have authority to waive new requirements for the benefit cost justification used in consideration of new flood control projects in cases where a county is entirely located in a 100-year flood plain or where a structure is necessary for conducting a water dependent activity.

This amendment is vitally important to all of the communities in the Lower Mississippi Valley in that all of these counties, which number more than 200 counties, are located in a 100-year flood plain. If the Secretary is not given authority to waive the new requirements of the flood plain management section in extenuating circumstances, this Congress will ensure that no more new flood control projects are ever built along the Mississippi River.

I do not believe that it is the intent of this Congress to put a halt to the construction of new flood control projects, especially in areas of this country that suffer from severe flooding problems such as the Lower Mississippi Valley region. These counties are unable to control the ravages of the Mississippi River, which drains more than 40 percent of the water in the country, and the flooding which occurs year after year without control of this powerful natural resource has in turn stifled economic growth. The matter before us now is whether we will control our natural resources, or whether they will control us.

I would like to thank the public works water resources committee leadership, and expecially Mr. STANGELAND and his staff, who have worked very diligently with me on this matter to accommodate these concerns and I believe this amendment is agreeable to both sides.

Mr. STANGELAND. Madam Chairman, I rise in support of the amendment.

This is an amendment to section 13 of the bill that was an amendment that I placed on in committee. It is quite restrictive in flood plain development. We have a problem with people building in flood plains and attempting to protect against flood damage after having built in flood plains.

Realistically, there are some areas in this country that are all flood plains. It was not our intent to preclude any kind of construction or development in an area that was totally a flood plain such as the lower Mississippi, such as areas of Louisiana, and I think this

amendment goes a long way to correct that problem.

I caution my colleagues that we have to show some concern about any advanced development in some flood plains because of the cost incurred to prevent floods and to clean up afterward.

Mr. ANDERSON. Madam Chairman, I move to strike the last word. This amendment would modify the provision in the bill related to the restriction on Corps of Engineers' participation in flood control projects where construction is occurring within the 100-year flood plain. This amendment recognizes that certain areas of the country lie almost entirely within the 100-year flood plain. This is particularly true in areas of the northeastern and south-central United States. The amendment would offer some flexibility to the provision while retaining the overall goal of not actively encouraging additional development within flood plains. We would be happy to accept the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. EMERSON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill, add the following new section:

SEC. 46. BUY AMERICAN.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the Secretary shall not expend, after the date of the enactment of this Act, any funds appropriated to carry out this Act for any project, unless materials and products used in such project are produced in the United States.

(b) LIMITATIONS ON APPLICABILITY.—The provisions of subsection (a) shall not apply where the Secretary finds—

(1) that their application would be inconsistent with the public interest;

(2) that materials and products referred to in subsection (a) are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) that inclusion of material and products produced in the United States in a project will increase the cost of such project by more than 25 percent.

Mr. TRAFICANT (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Madam Chairman, I have a Buy American amendment that is current law in the highway bill and has been standard Buy American language in the public works programs in project legislation.

I am offering it here today to the water resources bill, and I would hope the committee will find favor with the amendment. I would just like to say that with the cost on the taxpayers' drain today, I think some of those taxpayers' dollars should be targeted for American business and industry, and the American workers. This is consistent with past practice.

Madam Chairman, I yield to the chairman, the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Madam Chairman, I am pleased to accept the gentleman's amendment.

Mr. TRAFICANT. Madam Chairman, I yield to the gentleman from New York [Mr. NOWAK].

Mr. NOWAK. Madam Chairman, we have looked at the amendment. It does conform to other Buy American amendments. I think we can work any problem at all that shows up as we go through this process. We will be happy to accept the amendment.

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Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I am pleased to yield to the gentleman from Minnesota.

Mr. STANGELAND. Madam Chairman, we have gone through the amendment. I have to compliment the gentleman from Ohio [Mr. TRAFICANT]. It is probably one of the most finely crafted Buy America amendments that he has presented. I give him my compliments and we are certainly happy to accept it.

Mr. TRAFICANT. Madam Chairman, I appreciate that.

Madam Chairman, I want to thank the committee, Chairman ANDERSON, Vice Chairman HAMMERSCHMIDT, Water Resources Subcommittee Chairman NOWAK, and Vice Chairman STANGELAND.

I appreciate it very much. I am glad you have accepted it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MRS. BOGGS

Mrs. BOGGS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. BOGGS: Page 26, strike line 13 and insert the following:

(q) LAKE PONCHARTRAIN, LOUISIANA.—

(1) FEDERAL RESPONSIBILITY.—The project

Realign lines 14 through 19 on page 26 accordingly.

Page 26, line 18, strike "subsection" and insert "paragraph".

Page 26, after line 19, insert the following new paragraph:

(2) RAISING OF LEVEES.—The project referred to in paragraph (1) is further modified to direct the Secretary to raise the levees along the entire lengths of the London Avenue Canal and the Orleans Avenue Canal in New Orleans, Louisiana, to grades sufficient to provide flood protection against a 300-year hurricane.

Mrs. BOGGS (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Louisiana?

There was no objection.

Mrs. BOGGS. Madam Chairman, the Corps of Engineers currently has under construction an important project to provide much needed hurricane protection to the people of the New Orleans area. The Lake Pontchartrain hurricane protection project was one of the responses developed by the city from the type of devastation we experienced from Hurricane Betsy in 1965.

As part of this project, the corps has recommended the construction of gated structures at the lake end of two of the canals that provide the main outfall drainage for the city of New Orleans. The structures are designed to automatically close if a hurricane-driven storm surge enters Lake Pontchartrain.

The local sponsors of the project are concerned that this approach would impair the city's ability to pump flood waters from a hurricane out of the city and into the lake through the outfall canals. The potential effect of such a situation could be further flooding in the city from rains that normally accompany hurricanes.

Local officials with responsibility for hurricane protection and flood control have recommended an alternative approach which involves raising the existing levees and floodwalls along the two outfall canals. This approach would provide adequate hurricane protection while permitting accumulated rainwater to be pumped out of the city.

Because of the manner in which the current plan was designed, the corps needs additional legislative direction from Congress in order to provide this alternative method of protection. Unfortunately, I only recently learned of this problem so I was unable to call it to the committee's attention earlier.

Madam Chairman, I appreciate the cooperation and indulgence of the majority and minority members of the committee, and especially the gentleman from California, the gentleman from Minnesota, the gentleman from New York, the gentleman from Arkansas, and the members of the committee staff, and I urge the adoption of the amendment.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mrs. BOGGS. I am happy to yield to the gentleman from Minnesota.

Mr. STANGELAND. Madam Chairman, we have looked at the gentlewoman's amendment. We think it makes eminent good sense and are more than happy to accept it on this side.

Mr. ANDERSON. Madam Chairman, will the gentleman yield?

Mrs. BOGGS. I yield to the gentleman from California.

Mr. ANDERSON. Madam Chairman, this amendment will authorize the corps to construct the locally preferred alternative for hurricane protection at Lake Pontchartrain at New Orleans, LA. The amendment will assure the ability of New Orleans to pump water out of low-lying areas of the city during hurricane events and provides the same protection alternative as afforded to other areas of New Orleans. We would be pleased to accept the Congresswoman's amendment.

Mr. LIVINGSTON. Madam Chairman, will the gentleman yield?

Mrs. BOGGS. I yield to my colleague, the gentleman from Louisiana.

Mr. LIVINGSTON. Madam Chairman, I rise in support of the amendment by the gentlewoman from Louisiana [Mrs. BOGGS], providing clarification of an existing authorized project in the greater New Orleans area.

This modification to an existing authorization would allow the Corps of Engineers to enlarge existing levees along the Orleans and London Avenue canals in New Orleans to provide protection from a standard project hurricane. This is critical because present corps plans only call for adequate protection around the mouths of these canals; plans which could result in backflooding along the banks running the lengths of both canals. Without this clarification to an existing authorization we would be threatening 56,000 residents with serious flooding.

Madam Chairman, I rise in strong support of this amendment and thank my former colleagues on the Public Works and Transportation Committee for their help and support.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Louisiana [Mrs. BOGGS].

The amendment was agreed to.

Mr. SHAW. Madam Chairman, I move to strike the last word.

Madam Chairman, I would like to compliment the ranking Republican member, the gentleman from Minnesota [Mr. STANGELAND]; the chairman of the subcommittee, the gentleman from New York [Mr. NOWAK]; the chairman of the full committee, the gentleman from California [Mr. ANDERSON]; and the ranking member of the full committee, the gentleman from Indiana [Mr. HAMMERSCHMIDT] for including in this bill a very important provision which does finally put to rest and drive the final nail into the coffin of the Cross Florida Barge Canal.

Back in 1986 in a very heated debate here on the floor we were successful in deauthorizing a portion of that environmental disaster. This bill puts the final nail in the coffin by deauthorizing the entire project and converts what was an environmental disaster into a project that will eventually become a park for all the people of the United States and the people in Florida to enjoy.

AMENDMENT OFFERED BY MR. DELLUMS

Mr. DELLUMS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DELLUMS: At the end of the bill, add the following new section:

SEC. 64. CONVEYANCE OF OAKLAND INNER HARBOR TIDAL CANAL PROPERTY TO CITIES OF OAKLAND AND ALAMEDA, CALIFORNIA.

The Secretary may convey, by quit claim deed, the title of the United States in all or portions of the approximately 86 acres of uplands, tidelands, and submerged lands, commonly referred to as the Oakland Inner Harbor Tidal Canal, California, as follows:

(1) To the city of Oakland, the United States title to all or portions of that part of the Oakland Inner Harbor Tidal Canal which are located within the boundaries of the city of Oakland.

(2) To the city of Alameda, the United States title to all or portions of that part of the Oakland Inner Habor Tidal Canal which are located within the boundaries of the city of Alameda.

The Secretary may reserve and retain from any such conveyance a right-of-way for the operation and maintenance of the authorized Federal channel in the Oakland Inner Harbor Tidal Canal.

Conform the table of contents of the bill accordingly.

Mr. DELLUMS (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Madam Chairman, the amendment that I offer is technical in nature. The language was worked out in cooperation with members of the staff.

The purpose of the amendment is to provide statutory authority for purposes of conveying certain properties of the Oakland Inner Harbor Tidal Channel to the cities of Oakland and Alameda, CA.

This amendment, Madam Chairman, accomplishes the minor land transfer for which authority is sought and supported by the Corps of Engineers. The purpose of the transfer is to allow for local maintenance of the affected tidal channel and to clear up overlapping claims by adjoining landowners.

I know of no objection to this amendment.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to my distinguished colleague, the gentleman from Minnesota.

Mr. STANGELAND. Madam Chairman, as I understand it, this land more than likely would be transferred at market value, is that correct?

Mr. DELLUMS. That would be on terms to be worked out between the Corps of Engineers and the port authority, that is correct.

Mr. STANGELAND. With that understanding, Madam Chairman, we certainly support the gentleman's amendment.

Mr. ANDERSON. Madam Chairman, will the gentleman yield?

Mr. DELLUMS. I am happy to yield to the gentleman from California.

Mr. ANDERSON. Madam Chairman, the gentleman's amendment would authorize the transfer of certain lands under the jurisdiction of the Corps of Engineers in the Oakland Harbor area from the Corps of Engineers to local interests to allow for development of that property beyond the scope of the Federal Water Resources Development Program. We are pleased to support the gentleman's amendment.

Mr. NOWAK. Madam Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from New York.

Mr. NOWAK. Madam Chairman, I also rise in support of the gentleman's work to modify the original request to a very acceptable form. With their concurrence, I am sure the corps will work out a satisfactory arrangement.

Mr. DELLUMS. Madam Chairman, I thank my distinguished colleague. I especially thank the members of the committee who helped us work out acceptable language.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DELLUMS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ARMEY

Mr. ARMEY. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ARMEY: At the end of the bill, add the following new section:

SEC. 64. CONVEYANCE OF LAND LOCATED NEAR LEWISVILLE DAM AND GARZA-LITTLE ELM RESERVOIR, DENTON COUNTY, TEXAS.

(a) AUTHORIZATION OF CONVEYANCE.—

(1) GENERAL RULE.—Subject to paragraphs (2) and (3), the Secretary shall convey all right, title, and interest of the United States in any property described in subsection (d) to the person named in subsection (c) (or his or her heirs and assigns) from whom the United States acquired such right, title, and interest in connection with the Lewisville Dam and Garza-Little Elm Reservoir projects in Denton County, Texas.

(2) TIME LIMIT.—Each conveyance under paragraph (1) shall be made within 90 days after the date of receipt of payment under subsection (b) is made within 60 days of the date of the enactment of this Act.

(3) APPLICABILITY.—The requirement of paragraph (1) shall apply with respect to a property for which payment under subsection (b) is made within 60 days of the date of the enactment of this Act.

(b) PRICE TO BE PAID BEFORE CONVEYANCE.—No conveyance shall be made under authority of this section until the person to whom such conveyance will be made pays to the United States the fair market value of the right, title, and interest to be conveyed, or $2,000 per acre of property conveyed, whichever is less.

(c) ELIGIBLE BUYERS.—The persons to whom conveyances may be made under authority of this section are the following: Stella Faye Anderson, Archer Lee Curtis, Arden Foil Curtis, William Rylie Curtis, Fred C. Emery, Max Hahn, Jr., Nolen Hasten, Rosella Higgins, Marguerite Higgins, Shirley Dean Johnson, Curtis N. McDaniel, Gilbert Newton MacDaniel, John Edward McWhorter, Noble Alfred Talley, and Zennia Marie Warnick.

(d) PROPERTY TO BE CONVEYED.—

(1) IN GENERAL.—The property that may be conveyed under authority of this section consists of those tracts of land located near the Lewisville Dam and the Garza-Little Elm Reservoir in Denton County, Texas, which are designated by the following tract numbers of Army Corps of Engineers Project M2-2-0003: B134, B136, B143, B144, B145, B146, B148, B149, B150, B151, B152, B153, B154, B155, B156, B157, B158, B159, B162, B163, B164, B165, B166, B167, B177, B178, B179, B193, B194.

(2) EXCLUDED PORTIONS.—The property referred to in paragraph (1) does not include portions of tracts listed in paragraph (1) to the extent that such portions are within 200 feet of the spillway of the Lewisville Dam.

Conform the table of contents of the bill accordingly.

Mr. ARMEY (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

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Mr. ARMEY. Madam Chairman, this amendment will provide for the conveyance of 1,578 acres of land in my district from the Army Corps of Engineers to the property's original owners. This land was acquired by the Army between 1949 and 1952 in connection with the construction of the Lewisville Dam in Denton County, TX. The land has remained unused, however, and the original owners asked me to help return it to them.

Madam Chairman, this is a relatively straightforward amendment. I urge my colleagues to accept it.

A PROPOSAL TO RECONVEY LAND AT THE LEWISVILLE DAM IN TEXAS

Between 1949 and 1952, in the process of acquiring land for the Lewisville Dam in Denton County, Texas, the Army Corps of Engineers bought some 1,578 acres just downstream from the spillway.

At the time, Corps policy was to acquire fee simple title to all land required for reservoir projects. In 1953 the policy was revised, and flowage easements, rather than title, were acquired wherever feasible. Following the change of policy, Congress authorized reconveyance of land at the project which was not required for public purpose. Former owners were given preference in reconveyance. The Corps at that time held that the 1,578 acres below the spillway were essential for project purposes and, therefore, would be reconveyed.

The land remained unused and in 1974 the original owners asked their Congressman for help. Legislation was introduced to reconvey these lands. The Secretary of the Army opposed the legislation and the reconveyance, stating that "the land have been allocated for ancillary use as a game refuge area, an off-road vehicle recreational area, and an aesthetic recreation area."

None of this development took place, and in 1985 the original owners again came to Congress seeking the return of their land. The Crops reviewed a draft bill at that time, and wrote that the land was not excess since it was required "in connection with hydrological safety features." No mention was made of the recreational development cited in the 1974 report. (Copies of both these letters are attached.) At the time the original owners held a series of discussions with the Corps in Forth Worth, offering a development plan which complied fully with Corps policy and met every stated objection, but to no avail.

Six more years have passed, and the land still is unused. It is overgrown and undeveloped. The original owners are still asking that their land be returned in exchange for a reasonable price. The price of undeveloped farmland in the area has been suggested as reasonable, since that is what this land was when it was taken.

The Corps is concerned about potential flooding, and the original owners share that concern, and have offered to work with the Corps of Engineers to limit the use of land which might flood to purposes, such as parkland, acceptable to the Corps. It is significant to note that this land did not flood during the disastrous flooding in North Texas last spring. Some of the land was isolated during that flooding, but the original owners stated in 1983 their willingness to build a $1,000,000 bridge to replace a low-water crossing and solve this problem.

I myself have shared with the corps some concern with respect to flooding on this land. However, this spring we observed the worst flood in the history of the dam, certainly the worst of my experience.

The land was undamaged by the flood. The property owners understand they need to be prepared for that possibility, as remote as it is.

I might say that I too, although I generally find myself very supportive of the Corps of Engineers, I do understand that they have in my district a rather tightfisted land man who does not like to give up land and still, nevertheless, I believe that this would be a better use of the land in the interest of the whole area.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Minnesota.

Mr. STANGELAND. I thank the gentleman for yielding.

Madam Chairman, we have looked at the gentleman's amendment here on this side. If there is a potential problem, with the understanding that we can take further review of this prior to our conference committee and work it out in conference, we certainly will accept the gentleman's amendment.

Mr. NOWAK. Madam Chairman, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from New York.

Mr. NOWAK. I thank the gentleman for yielding.

Madam Chairman, we have also looked at this amendment and would support the amendment at this point in time and look forward to any further negotiation with the gentleman as we move forward with a conference.

The CHAIRMAN. Is there further discussion on the amendment?

If not, the question is on the amendment offered by the gentleman from Texas [Mr. ARMEY].

The amendment was agreed to.

Mr. STANGELAND. Madam Chairman, I move to strike the last word.

Madam Chairman, I understand it is the intent and desire of the House to rise at 7 o'clock. We have a number of noncontroversial amendments that we want to dispose of as rapidly as we can because we have one issue that remains which is controversial.

I would urge Members to just present their amendments which we have looked at and try to expedite it so that we can complete this bill by 7 o'clock.

AMENDMENT OFFERED BY MR. SISISKY

Mr. SISISKY. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SISISKY: Page 35, after line 2, insert the following new subsection:

(hh) SOUTHERN BRANCH OF THE ELIZABETH RIVER, NORFOLK HARBOR, VIRGINIA.—The project for navigation, Southern Branch of the Elizabeth River, Norfolk Harbor, Virginia, authorized by the Water Resources Development Act of 1976 (90 Stat. 2917), is modified to provide that the City of Chesapeake shall not be required to make payments after the date of the enactment of this Act under the cost-sharing agreement which the City entered into with the United States with respect to such project.

Redesignate subsequent subsections of section (4) of the bill accordingly.

Mr. SISISKY (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. SISISKY. I yield to the gentleman from Minnesota.

Mr. STANGELAND. I thank the gentleman for yielding.

Madam Chairman, we have consulted with the gentleman from Virginia [Mr. SISISKY] and find the amendment acceptable, and we do accept it on this side of the aisle.

Mr. NOWAK. Madam Chairman, will the gentleman yield?

Mr. SISISKY. I yield to the gentleman from New York.

Mr. NOWAK. Madam Chairman, we have also looked at this amendment and feel at this point in time we can accept it. We know that we perhaps need some further refinements as we move forward, but we would be happy to accept the gentleman's amendment because of his patience with us.

Mr. SISISKY. Madam Chairman, I rise today to offer an amendment to correct a situation which concerns me deeply. I am referring to an outdated and unfair arrangement between the city of Chesapeake, VA, and the Federal Government which calls for the city to pay an inordinate amount for the dredging of the southern branch of the Elizabeth River. Madam Chairman, this arrangement is peculiar in nature, totally unfair to the the city of Chesapeake, and should be corrected.

Over a decade ago, the city of Chesapeake and the U.S. Army Corps of Engineers entered into this unusual agreement which unfairly burdens Chesapeake with a significant proportion of the costs for this dredging—about $160,000 a year in payments to the corps. And although the city has sought to modify this imperfect arrangement, the corps continues to require excessive annual payments from Chesapeake.

After discussing this matter in great detail with the city of Chesapeake and the Chesapeake Port Authority, I am concerned that corps officials extracted what seems to be a singular agreement from the city—an agreement which the corps has not imposed upon other localities.

Therefore, because of the unusual circumstances surrounding this situation, I offer this amendment to obtain fair treatment for the city of Chesapeake. Clearly, this is a matter of fairness and I hope all of my colleagues will join me in correcting this inequitable situation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. SISISKY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CHAPMAN

Mr. CHAPMAN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CHAPMAN: Section 4 is amended following subsection (gg) by adding a new subsection (hh) as follows:

(hh) COOPER LAKE AND CHANNELS, TEXAS.—The project for mitigation of fish and wildlife resource losses, Cooper Lake and Channels, Texas authorized by section 601 of the Water Resources Development Act of 1986 (100 Stat. 4145), is modified to authorize the Secretary to construct the project substantially in accordance with the Post Authorization Change Notification Report dated April 1990, at a total cost of $22,500,000 with an estimated first Federal cost of $12,400,000 and an estimated first non-Federal cost of $10,100,000.

Reletter remaining subsections accordingly.

Mr. CHAPMAN (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. CHAPMAN. Madam Chairman, this is a postauthorization change report amendment that is technical in nature. It brings into conformance with the request of the Corps of Engineers a mitigation of fish and wildlife resource law.

We have cleared it with both sides.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. CHAPMAN. I yield to the gentleman from Minnesota.

Mr. STANGELAND. I thank the gentleman for yielding.

Madam Chairman, we have looked at the gentleman's amendment. We find it acceptable to the legislation and commend the gentleman for his amendment.

Mr. ANDERSON. Madam Chairman, will the gentleman yield?

Mr. CHAPMAN. I yield to the gentleman from California.

Mr. ANDERSON. I thank the gentleman for yielding.

Madam Chairman, we have examined this amendment. We are pleased to support it and thank the gentleman for his efforts.

The CHAIRMAN. Is there further discussion on the amendment?

If not, the question is on the amendment offered by the gentleman from Texas [Mr. CHAPMAN].

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. STANGELAND

Mr. STANGELAND. Madam Chairman, I offer two amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. STANGELAND: Page 46, line 12, strike "management" and insert "research".

Page 44, line 20, strike "The" and insert "Not later than 6 months after the date on which a report is transmitted to Congress under subsection (b), the".

Page 45, line 2, strike "shall" and insert "shall not".

Page 45, line 3, strike "not".

Page 45, line 4, strike "on or before July 1, 1995" and insert "before the last day of the 6-month period beginning on the date on which regulations are issued pursuant to subsection (a) but not later than July 1, 1993".

Mr. STANGELAND (during the reading). Madam Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota for consideration of the amendments en bloc?

There was no objection.

Mr. STANGELAND. Madam Chairman, the first amendment is simple. It modifies a provision in the committee-reported bill relating to flood plain management and the corps' benefit cost ratio. It ensures that the provision's effective date is sooner than later. The bill has an outside date of July 1, 1995. My amendment moves that up 2 years to July 1, 1993. It also ties the provision's effective date to the issuance of regulations and imposes a 6-month time limit on when the Secretary is to issue the regulations.

This amendment makes good sense. It sends a strong signal that the Federal Government should not encourage or subsidize unwise flood plain development.

Environmental groups and the corps support the concepts and requirements in the provision.

I urge my colleagues to support the amendment.

Madam Chairman, the second amendment at the desk.

The amendment simply revises section 15, relating to reservoir technical advisory committees, to conform to the original intent in drafting the provision. It does this by substituting the term "management" with the term "research."

Persuasive testimony of the National Wildlife Federation prompted me to include a similar provision in my bill, H.R. 5370, and then include it in the corps bill during full committee markup. All along, the intent was to establish technical committees with research, academic oriented membership, to supplement the information available to the corps—not to dictate management decisions to the corps.

My amendment does this and nothing more. It is noncontroversial and worthy of my colleagues' support.

Mr. ANDERSON. Madam Chairman, will the gentleman yield?

Mr. STANGELAND. I yield to the chairman, the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. I thank the gentleman for yielding.

Madam Chairman, we have examined these amendments. We are pleased to support them, and we thank the gentleman for his amendments.

Mr. EMERSON. Madam Chairman, I move to strike the last word.

Madam Chairman, I have strong reservations on the amendment offered by the gentleman from Minnesota which would change the effective date of section 13(d) from 1995 to 1993.

Madam Chairman, I have strong reservations to the amendment offered by the gentleman from Minnesota which would change the effective date of section 13(d) from 1995 to 1993, and wish to explain my reservations. Understand, first, that the lower Mississippi Valley is unique. It contains some of the most valuable farmlands in the world and contributes greatly to the agricultural productivity of this country.

This section alone has very serious implications for my congressional district and for the entire lower Mississippi Valley as well as other parts of this Nation that suffer from serious and constant flooding. The changes in the cost benefit formula used by the Army Corps of Engineers in determining the worthiness of flood control projects as this section does, already has grave and critical implications for much of this Nation. To move that effective date forward is regrettable.

We will need what little time we have with the current effective date of July 1, 1995, to move quickly and get our flood control priorities together and we have no assurances that we will be able to obtain much needed additional flood control projects even when this section is fully implemented. Moving the effective date up by 2 years has no real function except to make it easier to shut down much needed flood control projects in this country much sooner.

Mr. YOUNG of Florida. Mr. Chairman, I rise in support of H.R. 5314, the water projects authorization bill, which sounds the long overdue death knell for the Cross-Florida Barge Canal.

This project was an environmental disaster and financial boondoggle from the day in 1942 when it was first authorized by Congress. In addition to leaving a scar across the entire width of our State, the barge-canal threatened to do irreparable damage to Florida's aquifer, jeopardizing our water supply. It also would have destroyed the Oklawaha River, one of Florida's last natural rivers.

After fighting this environmental nightmare for more than 30 years, I am pleased that we have come to this day when the Florida congressional delegation is united in its support of a provision of this bill to once and for all deauthorize the canal.

Twenty-nine years ago, I rose on the floor of the Florida State Senate to offer an amendment to strike funding for this project from the State budget. As a freshman legislator, the political forces of Florida came down upon me from both parties. Although my amendment that day failed, the issue was raised and throughout the next three decades, support for my efforts grew to the point where today all sectors of the State stand united behind this provision—a provision now regarded as noncontroversial.

Questioning funding for the Cross-Florida Barge Canal was far from noncontroversial in 1970 when I was first elected to the House. In fact, for many years, I was the lone member of our State's congressional delegation who opposed this project. Even before being sworn into office after my election to the House in 1970, I discussed my opposition to this project with President Nixon, and it was at my request that on January 19, 1971, the President suspended all further construction.

Following this directive by the President, I testified before the Appropriations Committee year after year to ensure that no funds were made available to allow for construction to resume. These efforts kept opposition alive throughout the State until it became politically popular for many others to publicly oppose this project. Former Florida Governor Haydon Burns, a longtime proponent of the project, fondly recalled those early days when I questioned the wisdom of the canal. In testimony 10 years ago before the Florida cabinet, opposing a pending resolution Federal funding of the project, Governor Burns could not understand the mounting opposition to the project saying, "When I was Governor, there was only one person in the whole State who opposed the barge canal. That was State Senator Bill Young."

After fighting alone and being in a small minority against this project for so many years, I am pleased that the day has arrived when the entire Florida delegation now supports this legislation to put to an end this chapter in our State's history. It has taken a long time, but today we move to legislatively deauthorize the Cross-Florida Barge Canal, put an end to any possible construction, and return to the State the lands previously purchased to provide a right of way for the canal. It is most appropriate that in taking this action we are turning what would have been an environmental tragedy into an environmental gain for our State as these lands will be restored as a greenway corridor for recreation and conservation purposes.

There were a great many lessons learned during the half century in which this project has been debated in the Congress and throughout our State of Florida. The most important of which may have been that in taking into consideration the economic costs and benefits of public works projects, we must also carefully evaluate their impact on our environment and natural resources. Fifty years ago, when the Congress first considered the project, this was not the case.

President Nixon, in his 1971 order suspending construction of the Cross-Florida Barge Canal, expressed his great concern that "the project could endanger the unique wildlife of the area and destroy this region of unusual and unique natural beauty." He also said that his action would "prevent a past mistake from causing permanent damage."

With this legislation, Mr. Chairman, the Congress comes full circle by turning an environmental disaster into a tremendous environmental gain for the people and State of Florida.

The CHAIRMAN. Is there further discussion of the amendments?

If not, the question is on the amendments offered by the gentleman from Minnesota [Mr. STANGELAND].

The amendments were agreed to.

AMENDMENTS OFFERED BY MR. HALL OF TEXAS

Mr. HALL of Texas. Madam Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. HALL of Texas: Page 35, after line 2, insert the following new subsection:

(hh) DENISON, TEXAS.—The Act entitled "An Act to authorize the utilization of a limited amount of storage space in Lake Texoma for the purpose of water supply for the city of Denison, Texas", approved August 14, 1953 (67 Stat. 583), is amended by striking "in an amount not to exceed 13,000 acre-feet annually".

Redesignate subsequent subsections of section 4 of the bill accordingly.

Page 69, after line 15, insert the following new paragraph:

(11) EAST FORK OF TRINITY RIVER, TEXAS.—The project for flood protection on the East Fork of the Trinity River, Texas, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1185).

Page 69, line 16, strike "(11)" and insert "(12)".

Mr. HALL of Texas (during the reading). Madam Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. HALL of Texas. Madam Chairman, briefly, the first amendment would simply continue the authorization for a flood control protection project in the East Fork of the Trinity River in Dallas and Rockwell Counties of Texas. This project is the final section of a larger project originally authorized in 1962. Before flooding in 1989, the project was dormant for lack of local sponsors. We now have some interest in it.

In addition, the second amendment would bring in the water storage contract allocation in line with the permitted yield. It would make no change in the current operations of our Dennison Dam. I understand that the amendment is agreeable.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. HALL of Texas. I yield to the gentleman from Minnesota.

Mr. STANGELAND. I thank the gentleman for yielding.

Madam Chairman, we have reviewed the amendment. We have no objection and support the amendments on this side of the aisle.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Texas [Mr. HALL].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. TORRICELLI

Mr. TORRICELLI. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TORRICELLI: At the end of section 3(a)(18)(A)(ii) of the bill, insert the following: "As such, the main diversion tunnel shall be extended approximately six and one-half miles to outlet in Newark Bay, the nine levee systems in Bergen, east Essex, and Passaic Counties which were associated with the eliminated Third River tunnel outlet shall be excluded from the project, and no dikes or levees shall be constructed or necessitated along the Passaic River in Bergen County in connection with the project. With the Newark Bay tunnel outlet project, all acquisition, use, condemnation, or requirement for parklands or properties in connection with the excluded nine levee systems and the eliminated Third River tunnel outlet works, and any other acquisition, use or condemnation, or requirement for parkland or properties in Bergen County in connection with the project, shall be prohibited. The Secretary shall certify to the House of Representatives Committee on Public Works that no detrimental flood impact, as a result of the project, shall accrue in Bergen County.".

Mr. TORRICELLI (during the reading). Madam Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. TORRICELLI. Madam Chairman, contained in this legislation is an important provision to construct a tunnel to relieve the flooding in the reaches of the northern Passaic River in New Jersey. It is an extensive, indeed a massive, project. It is necessitated by the fact that in the years following the last war, massive suburban growth took place in what was a natural flood plain, tens of thousands of homes and businesses. The inevitable happened in the years that followed: flooding. Indeed, in recent years, not only has millions of dollars' worth of property been lost but many lives have been lost as well.

□ 1820

Madam Chairman, contained in this legislation is a provision to relieve this terrible abuse of land, property, and loss of life. The difficulty has been that under the corps' original plan, the flooding problem would be transferred from the northern Passaic River to the southern Passaic River. Under the committee's leadership, subcommittee's leadership, with the help of the minority, the plan has been changed to transfer instead the tunnel from the northern Passaic River directly to Newark Bay. The importance of this is that without this change envisioned by my colleague, the gentleman from New Jersey [Mr. ROE] from an adjoining district of Passaic County we would have done no more than to transfer the flooding problem from Passaic County to Bergen County. That is being avoided.

The amendment that I have before us today, Madam Chairman, is simply this: That as the tunnel is extended to Newark Bay, the dikes and the levees that would have been necessitated in Bergen County along the Passaic River are not eliminated. They need not be built, and, indeed, under this amendment they cannot be built.

In addition, valuable park lands that would have been seized along the Passaic River, had we not changed the route of the tunnel, no longer will be seized and taken. In other words, the Army Corps of Engineers have been given a valuable choice: Build this tunnel if it is necessary to save lives and property, but they may not take park lands, build levees, or build dikes, and what is more, they will certify that the flood dangers in the lower Passaic River will not be changed or increased to any degree because of this construction.

In other words, to the Army Corps of Engineers this says, "Build this tunnel right, necessitate no taking and no construction of levees, or you will not build it at all." The tunnel that results will not be built on, under, around or in any way change the property, the lives or the flood dangers necessitated in Bergen County or any area in the lower Passaic River. I believe this amendment is necessary to make this clear to the residents so that the coalition which has been formed in support of this change can be held together.

In doing so, Madam Chairman, I am indebted to the chairman of the committee, the gentleman from California [Mr. ANDERSON], subcommittee chairmen, of course to the minority who have worked together to make this possible, and I appreciate it very, very much. It is extremely important to our residents. I also want to thank the gentleman from New Jersey [Mr. ROE], a member of the committee whose assistance has been invaluable in making this possible.

Mr. ROE. Madam Chairman, will the gentleman yield?

Mr. TORRICELLI. I yield to the gentleman from New Jersey.

Mr. ROE. Madam Chairman, I want to thank the gentleman from New Jersey [Mr. TORRICELLI] from the county of Bergen, which is contiguous to my county of Passaic, for his amendment. The amendment will add and, in fact, improve the overall programming. But I want to add a couple of codicils.

Madam Chairman, we have been working on this program for 35 years to finally come to this point as an enormous step forward in the State of New Jersey and to achieve what we want to achieve, and the corps and everybody in the country has classified the Passaic River Basin as the most hazardous, the most dangerous, situation in any river basin whatsoever. Dozens of people have lost their lives over the past 36 years, and we have had billions of dollars' worth of damage.

So, I want to thank the committee myself on behalf of the gentleman from New Jersey [Mr. TORRICELLI] and the others from New Jersey for the great cooperation we have received from the gentleman from California [Mr. ANDERSON], and the gentleman from Minnesota, and the gentleman from New York in bringing this project to this particular level, and this amendment really will enhance the program as we have planned it, and I certainly totally support the gentleman from New Jersey.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. TORRICELLI. I yield to the gentleman from Minnesota.

Mr. STANGELAND. Madam Chairman, we have looked at the amendment and certainly think it enhances the legislation. I understand the problem in Passaic County and the whole problem up in New Jersey. We have had extensive hearings on this matter, and we accept the amendment.

Mr. TORRICELLI. Madam Chairman, I thank the gentleman from Minnesota [Mr. STANGELAND] for his support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. TORRICELLI].

The amendment was agreed to.

Mr. EMERSON. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise to engage in a brief colloquy with the chairman of the committee, the gentleman from California [Mr. ANDERSON] and the ranking minority member, the gentleman from Minnesota [Mr. STANGELAND] concerning clarification of section 15 of the Water Resources Development Act.

Madam Chairman, it is my understanding that section 15(c) of H.R. 5314 authorizes the Secretary of the Army to manage existing dam and reservoir project of the Corps of Engineers for recreation and fish and wildlife purposes to the extent such management does not impair any other authorized project. Is it the understanding of both gentlemen that where

navigation is an authorized project purpose, such purpose would include low-flow augmentation for down stream navigation?

Mr. ANDERSON. Madam Chairman, will the gentleman yield?

Mr. EMERSON. I yield to the gentleman from California.

Mr. ANDERSON. Madam Chairman, I thank the gentleman from Missouri [Mr. EMERSON], and the answer is yes. The committee intends that low-flow augmentation for down stream navigation requirements would be part of any management plan where navigation was a project purpose.

Mr. EMERSON. Madam Chairman, I thank the gentleman from California [Mr. ANDERSON], the chairman.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. EMERSON. I yield to the gentleman from Minnesota.

Mr. STANGELAND. Madam Chairman, I thank the gentleman from Missouri [Mr. EMERSON] for yielding.

I concur. Mr. EMERSON is correct. Section 15(c) would definitely include low-flow augmentation for navigational purposes where navigation is an authorized project purpose.

Mr. EMERSON. Madam Chairman, I thank the gentleman from Minnesota [Mr. STANGELAND], and I yield back the balance of my time.

AMENDMENT OFFERED BY MR. PICKETT

Mr. PICKETT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PICKETT: Strike section 43 of the bill, relating to Albemarle Sound-Roanoke River Basin, North Carolina.

Redesignate subsequent sections of the bill accordingly.

Conform the table of contents of the bill accordingly.

Mr. PICKETT (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. PICKETT. Madam Chairman and Members, my amendment would strike section 43 of the Water Resources Development Act which provides that no construction may be carried out with respect to the permits granted by the Corps of Engineers for the construction of a pipeline from Virginia Beach to Lake Gaston in Virginia. The adoption of my amendment is critically important to the public health and economic future of some 1 million people in southeastern Virginia. The Lake Gaston pipeline is vital to the future of this area. The water system serves the cities of Norfolk and Virginia Beach and does not have a sufficient supply of water to meet present demands on the system during periods of drought. As early as 1977, it was necessary to curtail water usage due to an extended dry period.

Madam Chairman, the Lake Gaston water supply project is a long-range solution to the water shortages that have plagued the city of Virginia Beach for years. The project is designed to provide up to 60 million gallons of water per day. The essential components are two pumping stations and about 85 miles of pipes. The pipeline will be placed underground from the intake site on Lake Gaston in Virginia to the discharge point in Virginia, and I might tell the Members that there are no Federal dollars involved. The over $200 million required for this project are going to be paid from local funds of the city of Virginia Beach.

In December 1984, the Corps of Engineers released the results of a 9-year water supply study for Hampton Roads. That study evaluated 51 water supply alternatives and determined that Lake Gaston was the best source taking into account all relevant factors.

The issue of a water supply for Virginia Beach has been thoroughly studied at the Federal, at the State, at the regional and local government level, and all these studies have come to the same conclusion, that Lake Gaston is the best alternative of all considered to provide a public water supply for the city of Virginia Beach.

Because of mitigation action that will be taken, there will be no measurable impact on Lake Gaston resulting from this water withdrawal project which has been approved by the Corps of Engineers.

Permits for the project were issued in 1984, and the city of Virginia Beach has spent over $20 million in designing the project, acquiring the right of way and defending numerous lawsuits challenging various aspects of the project including the validity of the Corps of Engineers permit.

On February 2, 1990, Judge W. Earl Britt of the U.S. District Court for the Eastern District of North Carolina issued a 28-page opinion supporting his decision which affirmed in every respect the action taken by the Corps of Engineers in issuing a permit to the city of Virginia Beach for this construction.

□ 1830

I would like to refer to his opinion. He says on remand, the corps shall, as part of its National Environmental Policy Act review, make an independent assessment of the effects of the proposed project on striped bass to determine whether the preparation of an environmental impact statement is required or whether any mitigation measures are necessary.

The court got this answer: The supplemental environmental assessment filed by the corps analyzes all of the materials collected, and concludes that the withdrawal by Virginia Beach of this water from Lake Gaston will have no impact—no impact, let alone a significant impact—on the spawning of striped bass in the Roanoke River.

Madam Chairman, southeastern Virginia has the largest military complex in the world. The early 1980s water shortage threatened military preparedness in Hampton Roads, and this threat continues today. The construction of large municipal water supply projects has become very difficult because of the extensive regulatory and legal hurdles which they must overcome. This process, however, ensures that only the best and most environmentally sound projects will survive.

I cannot give too much emphasis to the fact that in the case of this Virginia Beach water project, all levels of government, Federal, State, regional, and local, have studied this problem for over 10 years, making a decision to move ahead with the pipeline from Lake Gaston to Virginia Beach.

For 7 long years the city has been trying to move forward to completion. Over $20 million has already been spent, and construction has commenced. I do not believe that Congress has any business meddling with a specific municipal water project that has met all regulatory requirements and survived a challenge in a U.S. district court.

Madam Chairman, in conclusion, I urge the Members to support this vitally needed amendment.

Mr. ANDERSON. Madam Chairman, I move to strike the last word.

Madam Chairman, I would like to ask the gentleman from Virginia [Mr. PICKETT], does your amendment strike out the language we voted in earlier for the gentleman from North Carolina [Mr. VALENTINE] and the gentleman from Virginia [Mr. PAYNE] earlier? They put these in earlier, and now you are striking it out?

Mr. PICKETT. Madam Chairman, will the gentleman yield?

Mr. ANDERSON. I yield to the gentleman from Virginia.

Mr. PICKETT. Madam Chairman, I am striking out the language that would stop this vitally needed water project. I stated earlier that I do not believe that there were any public committee hearings on this. I do not think there was any public debate on it. It was a provision put in the bill without any notice to my jurisdiction.

Mr. ANDERSON. Reclaiming my time, it does strike out the language that we put in earlier for the gentleman from North Carolina [Mr. VALENTINE] and the gentleman from Virginia [Mr. PAYNE]. Frankly, I was hoping

when we got through here, maybe we could get this back into committee and discuss it. It seems kind of odd it would strike out something we just voted in a while ago.

Mr. PICKETT. Madam Chairman, if the gentleman would yield further, I would answer and say this is a vitally needed project.

Mr. VALENTINE. Madam Chairman, I move to strike the requisite number of words, and I rise in strong opposition to the amendment offered by my colleague from Virginia [Mr. PICKETT] and in support of the bill as reported by the Public Works and Transportation Committee.

We can all understand the reasons behind the proposed amendment. It is not unusual for a city or region's growth to outstrip its local resources, including its water supply. So the area looks to someone else's water.

In this case, the city of Virginia Beach would like to undertake a massive, interbasin transfer of water to meet its own local water requirements. To accomplish this it proposes a pipeline to withdraw 60 million gallons of water per day from Lake Gaston.

The proposed pipeline, however, could be an environmental and ecological disaster. No one can be absolutely sure because the U.S. Army Corps of Engineers and local officials have resisted all efforts to assess the potential damage to the regional ecology that could result from the project.

Both the U.S. Fish and Wildlife Service and the National Marine Fisheries Service have recommended that construction of this pipeline await completion of an environmental impact statement. These recommendations have been ignored.

The Congress has also spoken on this subject. In 1988, we passed Public Law 100-589, which provided for a $1 million, 3-year study of the declining Roanoke River-Albermarle Sound striped bass population, including the impact of the proposed water diversion from Lake Gaston.

This study is due to be completed in November 1991. But the pipeline project has proceeded as if the U.S. Congress does not exist.

What will the study show? Preliminary findings suggest that the water diversion pipeline may inflict irreparable damage on the Atlantic striped bass population.

Whatever the study concludes, pipeline proponents appear to favor rendering it meaningless by moving ahead with construction before the results are available.

Section 43 of the bill as it presently exists would simply require that a study mandated by the Congress be completed, evaluated, and considered before we allow permanent damage to the environment.

Now is not the time to renege on our commitment to the environment. I urge rejection of the pending amendment.

Madam Chairman, let us not further undermine public perception of the Congress. Two years ago we mobilized the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the North Carolina Division of Marine Fisheries, the North Carolina Wildlife Resources Commission, and the Virginia Department of Natural Resources to spend $1 million of the taxpayers' money to conduct an environmental investigation.

What message do we send to the public if we now decide to allow construction of the very project these agencies are studying before the investigation is completed? We are being asked to permit the money to be spent at the same time we ensure that it will be wasted. Why not see the results before we embark on a course that cannot be undone?

We have nothing to gain by passing this amendment—and we may have much to lose. I hope you will join me in opposing this proposal.

Mr. BATEMAN. Madam Chairman, I rise in favor of the amendment.

Madam Chairman, I rise in support of the amendment of the gentleman from Virginia [Mr. PICKETT]. I do so with some awareness of this project from many years back, having served as a member of a commission by appointment of the Governor of the Commonwealth of Virginia to study the water supply needs and problems of southeastern Virginia.

□ 1840

That commission followed all of the studies that were conducted, and as the gentleman from Virginia Beach [Mr. PICKETT] has mentioned, there were 51 alternatives that were suggested. This project represents the alternative selected after years of study, very thoughtful, indepth study.

For the House to interpose its will at a point some 15 years later, and after all of the study, after all of the Federal agencies have granted permits authorizing this project to go forward, and after the city of Virginia Beach has expended over $20 million of its funds for a 100-percent locally funded project, and for a project which has withstood the test of those who oppose it in the Federal courts in an opinion by the Federal court which at great length details the nature of the study and its satisfaction with the conclusion of the Corps of Engineers that permits should have been granted, that the striped bass problem did not dictate a full environmental impact statement based upon an analysis of all of the available data that was analyzed and studied by the Corps of Engineers, and found not to be an impediment to going forward with the project, for us at this later date, with no hearings having been held on the merits of this project, and with all that is at stake for a million or more people in southeastern Virginia, it really represents a very poor precedent and great unfairness for the House to now include in its bill provisions which would bring this project to a halt.

Mr. JONES of North Carolina. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I oppose the amendment to strike section 43.

Public Law 100-589, as signed into law in 1988, requires a study of the effects of a water diversion pipeline at Lake Gaston in North Carolina and Virginia. This diversion could have a large negative effect on the striped bass populations of the Roanoke River and Albemarle Sound. This study is well under way but will not be completed for at least another year.

If construction of the project begins before the results of the study are available to the Congress, and before the full environmental impact of the project can be evaluated, it would thwart congressional intent for the study and potentially result in permanent damage to a natural resource of great value.

Section 43 simply provides that no construction may be carried out on the project until the study mandated by Public Law 100-589 is completed and reviewed.

Section 43 is very important to my district, and I ask your support to defeat this amendment to delete it.

Mr. PAYNE of Virginia. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in opposition to the amendment to strike the provisions regarding the Albemarle Sound-Roanoke River basin in North Carolina. I represent most of the Virginia side of what is known as Lake Gaston.

The Atlantic Striped Bass Conservation Act amendments were implemented in 1988. In this law, a 3-year, $1 million study was commissioned to determine the effects of the withdrawal of 60 million gallons of water a day would have on the striped bass population. The striped bass use the Roanoke River for their spawning.

This study is not expected to be completed until November 1991. However, Virginia Beach is proceeding with its plans to construct the pipeline to carry water from the Roanoke River Basin to Virginia Beach. The city has authorized the issuance of bonds, although none has been issued to date since this matter is presently in litigation, based upon the fact the Fish and Wildlife Service and National

Marine Fisheries Service both recommended waiting until completion of a study to make a determination about the appropriateness of this pipeline.

The purpose of the provision in the bill is to delay the construction of the pipeline pending the completion of the striped bass study. If we allow the pipeline to be constructed prior to learning the results of this study, we will have wasted $1 million and have a meaningless study that has wasted both time and money.

Another aspect that I must mention in this whole process is the negative impact that this pipeline will have on economically deprived areas. This pipeline project will be taking important natural resources from an area that has not experienced a wealth of economic development and transporting these resources to another region to further its economic growth.

I urge my colleagues to vote against this amendment.

Mr. BALLENGER. Madam Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

We are all talking about various and sundry studies. But there was a study that came out in the Charlotte Observer over this last weekend, and I would like to explain what it does to the people in eastern North Carolina.

As has been said, the Roanoke River feeds Lake Gaston down into the Albermarle Sound of North Carolina. A study just released by the natural resources department of North Carolina has advised people in eastern North Carolina not to eat the fish from this river, the Roanoke River, because of high dioxin levels caused by a paper mill on that river.

Stop and think a minute, if we pull 60 million gallons of water out of this lake going to Virginia Beach, what it does to the flow of the water in that river on the lower side. If the water is taken from the lake it will reduce the flow of the river and increase the concentration of dioxin and further threaten the lives of people living in eastern North Carolina.

Mr. SISISKY. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise today in support of the amendment offered by the gentleman from Virginia [Mr. PICKETT]. As you may know, section 43 of the water resorces development bill which we are debating this evening is a direct attack on an important water project in southeast Virginia.

This project, the Lake Gaston pipeline, is an extremely important project to the people of the city of Virginia Beach and the surrounding communities. The city, after extensive research into maintaining a ready supply of drinking water, determined that a pipeline from nearby Lake Gaston would be the best and most environmentally sound way to guarantee the people of southeast Virginia drinking water in the year 2000.

It is crucial for my colleagues to know that this is by no means a new issue. Virginia Beach has been trying for some time to construct this vital link to Lake Gaston. The city has acquired the necessary Army Corps of Engineers permits, conducted all the required surveys, and met environmental standards. As a matter of fact—and perhaps most importantly—the city has gone to court and won its right to transport water through a pipeline to the families of eastern tidewater.

Now, because of this unfortunate clause in the Water Resources Development Act, the city of Virginia Beach and neighboring communities face the possibility of an indefinite delay in this project—a delay that will be disastrous to the area. The Lake Gaston pipeline project is absolutely essential to the health, safety, and well-being of the entire southeast section of Virginia. If this harmful language is not struck from the water resources bill, it will have a devastating effect on an area so vital to the national security interests of our Nation.

Shortages have been commonplace. The city of Chesapeake in my congressional district has even had to resort on several occasions to using nonpotable saltwater forcing its citizens to stand in line at schools and fire stations to fill jugs with drinking water.

Madam Chairman, Virginia Beach has spent $20 million and almost a decade on this project. The city has passed every regulatory and legal hurdle. To delay this project further would be costly, unnecessary, and injurious to the people of southeast Virginia. I request that my colleagues recognize the importance of this project and vote—as Congress has done in the past—to allow the Lake Gaston pipeline to proceed as planned.

Madam Chairman, I ask the Members to please support the Pickett amendment.

□ 1850

Mr. BILBRAY. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I yield to the gentleman from Virginia [Mr. PICKETT].

Mr. PICKETT. Madam Chairman, I am not going to belabor this point, but I would want all of our Members to know that this issue has been the subject of litigation in a Federal district court.

The Federal district court has upheld the action of the Corps of Engineers in its entirety, and I want to read the Members just one part of this opinion.

The court says that,

> Plaintiffs contend that the Corps erred by not accepting the recommendations of the four expert agencies most directly concerned with striped bass, Fish and Wildlife Service, National Marine Fisheries, and so on, all of whom expressed the view that a full environmental impact study should be conducted. As noted in this court's prior opinion, Corps regulations require consultation with these agencies and accord great weight to their views. But with good reason, however, nothing in the regulations, the statutes, or the cases interpreting either requires the Corps to follow the views of such agencies. The final decision remains, as it must, with the Corps, and in this case the Corps has found in favor of the city of Virginia Beach.

I would go on and say that the court states:

> Dire consequences, particularly in the river flow, are forecast by North Carolina in the event of a severe drought. Whether that forecast or the Corps' forecast that the project will have no impact on the river flow,

The corps says no impact—

> remains an open question. The court is not an expert on that subject; neither is North Carolina. The corps is, and it is to the corps that the Congress has entrusted the final decision. The court's sole function is to review the corps' decision under the standards set out. Having done so, the court is convinced that the decision insofar as it deals with striped bass is not arbitrary and capricious.

Mr. ROE. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I yield to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Madam Chairman, I thank the gentleman for yielding.

I will not take all the time. I just want to make a couple of statements maybe in conclusion.

Let me say to my colleagues that the lawsuit which our good friend, the gentleman from Virginia [Mr. PICKETT], talks about is still pending in court. The lawsuit is not over. It is on appeal. So I do not think the lawsuit should be used, because at some intermediate stage a ruling has occurred against our position. That is the first thing.

The second thing is that I suggest to the Members that this is an issue that involves the protection of the environment, but if it is to be considered by anybody as just a fight between the State of North Carolina and the State of Virginia, let me tell the Members this, that the State, the county, the city of Virginia Beach elected not to solve its water problems, not to take what time and money was necessary to clean up the polluted James River. They saw a pristine supply of water 80 miles away in North Carolina in Gaston Lake, and they sought to get it, and that is what this is about.

We resisted, and we resisted by every means available to us. It will be, if they succeed, the first interbasin transfer of water east of the Mississippi, and look out, because the population centers will be able to run their snouts out into these rural pristine areas and suck up the water that the Lord put there.

I ask my colleagues to stand by this committee. This was not lightly done. Vote down this amendment.

Mr. PICKETT. Madam Chairman, will the gentleman yield?

Mr. ROE. I am happy to yield to the gentleman from Virginia.

Mr. PICKETT. Madam Chairman, the gentleman says that this was not lightly done. Would the gentleman tell this body whether any public hearing was held on this issue before it was put in this bill?

Mr. VALENTINE. Madam Chairman, will the gentleman yield?

Mr. ROE. I am happy to yield to the gentleman from North Carolina.

Mr. VALENTINE. Madam Chairman, on this question, I say to my friend, that public hearings have been held in North Carolina.

Mr. PICKETT. If the gentleman will yield further, have public hearings been held on this specific section of the bill?

Mr. VALENTINE. I do not recall that any public hearings were held, but all the Members were acquainted with it.

Mr. PICKETT. I would tell the gentleman that nobody in my jurisdiction was ever apprised of the fact that this language was being proposed or considered. Nobody conceived that a $200 million project already commenced would be meddled with by the Congress and told to stop.

Mr. VALENTINE. Well, let me say to the gentleman that I am amazed at the audacity of the State of Virginia to spend taxpayers' money before the litigation says you can build it.

Mr. PICKETT. The judge said we could built it. That is what he said.

Mr. VALENTINE. No; no. Before the Environmental Protection Agency says it will not desecrate the environment? I am amazed you would spend a dime before those decisions have been made.

Mr. PICKETT. Does the gentleman realize that the Environmental Protection Agency has concurred in this decision?

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. PICKETT].

The amendment was rejected.

AMENDMENTS OFFERED BY MR. STANGELAND

Mr. STANGELAND. Madam Chairman, I offer technical amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. STANGELAND: Page 14, line 20, "$544,604,000" and insert "$727,364,000".

Page 14 line 21, strike "$309,313,000" and insert "$403,359,500".

Page 14, line 22, strike "$235,291,000" and insert "$324,004,500".

Page 4, line 24, strike "$7,260,000" and insert "$11,100,000".

Page 4, line 25, strike "$5,440,000" and insert "$8,300,000".

Page 5, line 1, strike "$1,820,000" and insert "$2,800,000".

Page 6, line 8, strike "$65,700,000" and insert "$67,100,000".

Page 6, line 9, strike "$41,920,000" and insert "$42,810,000".

Page 6, line 10, strike "$23,780,000" and insert "$24,290,000".

Page 6, line 25, strike "$16,300,000" and insert "$35,618,400".

Page 7, line 1, strike "$12,100,000" and insert "$26,493,000".

Page 7, line 2, strike "$4,200,000" and insert "$9,125,400".

Page 7, line 19, strike "$7,280,000" and insert "$9,296,000".

Page 7, line 20, strike "$4,560,000" and insert "$6,754,000".

Page 7, line 21, strike "$2,720,000" and insert "$2,542,000".

Page 8, line 2, strike "$7,489,100" and insert "$13,148,400".

Page 8, line 3, strike "$5,037,500" and insert "$8,791,700".

Page 8, line 4, strike "$2,451,600" and insert "$4,356,700".

Page 14, line 6, strike "$56,990,000" and insert "$58,968,000".

Page 14, line 7, strike "$34,780,000" and insert "$35,900,000".

Page 14, line 8, strike "$22,210,000" and insert "$23,068,000".

Page 15, line 5, strike "$4,620,000" and insert "$8,503,000".

Page 15, line 6, strike "$1,730,000" and insert "$3,189,000".

Page 15, line 7, strike "$2,890,000" and insert "$5,314,000".

Page 7, line 12, strike "$27,215,000" and insert "$26,200,000".

Page 7, line 13, strike "$16,854,000" and insert "$16,230,000".

Page 7, line 14, strike "$10,361,000" and insert "$9,970,000".

Page 5, line 21, strike "$6,460,000" and insert "$6,455,000".

Page 5, line 22, strike "$5,180,000" and insert "$5,175,000".

Mr. STANGELAND (during the reading). Madam Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota that the amendments be considered en bloc?

There was no objection.

Mr. STANGELAND. Madam Chairman, very quickly this amendment merely adjusts the cost estimates for projects in the bill to reflect the corps' most current estimates. It is essential that these amendments be adopted so these can be conferenceable.

Mr. ANDERSON. Madam Chairman, will the gentleman yield?

Mr. STANGELAND. I am happy to yield to the gentleman from California.

Mr. ANDERSON. Madam Chairman, I would be happy to accept the gentleman's amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Minnesota [Mr. STANGELAND).

The amendments were agreed to.

The CHAIRMAN. Are there any further amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HALL of Ohio) having assumed the chair, Mrs. SCHROEDER, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 5314) to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes, pursuant to House Resolution 469, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ANDERSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present. The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 350, nays 55, not voting 27, as follows:

[Roll No. 387]

YEAS—350

Ackerman	Edwards (CA)	Lancaster
Alexander	Edwards (OK)	Lantos
Anderson	Emerson	Laughlin
Andrews	Engel	Lehman (CA)
Annunzio	English	Lehman (FL)
Anthony	Erdreich	Lent
Applegate	Espy	Levin (MI)
Archer	Evans	Levine (CA)
Aspin	Fascell	Lewis (CA)
Atkins	Fazio	Lewis (FL)
AuCoin	Feighan	Lewis (GA)
Baker	Fields	Lightfoot
Ballenger	Flake	Lipinski
Barnard	Flippo	Livingston
Bateman	Foglietta	Lloyd
Bates	Frank	Long
Beilenson	Frost	Lowery (CA)
Bennett	Gallegly	Lowey (NY)
Bentley	Gallo	Luken, Thomas
Bereuter	Gaydos	Machtley
Berman	Gejdenson	Madigan
Bevill	Gephardt	Manton
Bilbray	Geren	Markey
Bilirakis	Gibbons	Marlenee
Bliley	Gillmor	Martin (NY)
Boehlert	Gilman	Martinez
Boggs	Glickman	Matsui
Bonior	Gonzalez	Mavroules
Bosco	Gordon	Mazzoli
Boucher	Goss	McCandless
Boxer	Gradison	McCloskey
Brennan	Grandy	McCollum
Brooks	Grant	McCrery
Browder	Green	McCurdy
Brown (CA)	Guarini	McDade
Bruce	Gunderson	McDermott
Bryant	Hall (OH)	McEwen
Buechner	Hall (TX)	McGrath
Bunning	Hamilton	McHugh
Bustamante	Hammerschmidt	McMillan (NC)
Byron	Harris	McMillen (MD)
Callahan	Hastert	Meyers
Campbell (CO)	Hatcher	Mfume
Cardin	Hayes (IL)	Miller (CA)
Carper	Hayes (LA)	Miller (OH)
Carr	Hefner	Mineta
Chandler	Herger	Moakley
Chapman	Hertel	Molinari
Clarke	Hiler	Mollohan
Clement	Hoagland	Montgomery
Clinger	Hochbrueckner	Moody
Coble	Holloway	Moorhead
Coleman (MO)	Hopkins	Morella
Coleman (TX)	Houghton	Morrison (WA)
Collins	Hoyer	Mrazek
Condit	Hubbard	Murphy
Conte	Huckaby	Murtha
Cooper	Hughes	Myers
Costello	Hunter	Nagle
Courter	Hutto	Natcher
Cox	Hyde	Neal (MA)
Coyne	Inhofe	Neal (NC)
Darden	Ireland	Nelson
Davis	James	Nowak
de la Garza	Jenkins	Oakar
DeFazio	Johnson (SD)	Oberstar
Dellums	Johnston	Obey
Derrick	Jones (GA)	Olin
DeWine	Jones (NC)	Ortiz
Dicks	Jontz	Owens (NY)
Dingell	Kanjorski	Owens (UT)
Dixon	Kaptur	Packard
Donnelly	Kasich	Pallone
Dornan (CA)	Kastenmeier	Panetta
Downey	Kennedy	Parker
Dreier	Kennelly	Parris
Duncan	Kildee	Pashayan
Durbin	Kleczka	Patterson
Dwyer	Kolbe	Paxon
Dymally	Kolter	Payne (NJ)
Dyson	Kostmayer	Payne (VA)
Early	LaFalce	Pelosi
Eckart	Lagomarsino	Penny
Perkins	Schroeder	Tauke
Petri	Schulze	Tauzin
Pickle	Schumer	Taylor
Poshard	Serrano	Thomas (CA)
Price	Shaw	Thomas (GA)
Pursell	Shuster	Thomas (WY)
Rahall	Sikorski	Torres
Rangel	Sisisky	Torricelli
Ravenel	Skelton	Towns
Ray	Slattery	Traficant
Regula	Slaughter (NY)	Udall
Richardson	Slaughter (VA)	Unsoeld
Ridge	Smith (FL)	Upton
Rinaldo	Smith (IA)	Valentine
Roe	Smith (NE)	Vander Jagt
Rogers	Smith (NJ)	Vento
Rohrabacher	Smith (TX)	Visclosky
Ros-Lehtinen	Smith, Robert (OR)	Volkmer
Rose	Solarz	Walsh
Roth	Spence	Watkins
Roukema	Spratt	Waxman
Rowland (GA)	Staggers	Weber
Roybal	Stallings	Weiss
Russo	Stangeland	Wheat
Sabo	Stark	Whitten
Saiki	Stearns	Williams
Sangmeister	Stenholm	Wise
Sarpalius	Stokes	Wolf
Savage	Studds	Wolpe
Sawyer	Swift	Wyden
Saxton	Synar	Wylie
Scheuer	Tallon	Yates
Schiff	Tanner	Yatron
Schneider		Young (AK)

NAYS—55

Armey	Hancock	Roberts
Bartlett	Hansen	Schaefer
Barton	Hefley	Sensenbrenner
Broomfield	Henry	Shays
Brown (CO)	Jacobs	Shumway
Burton	Johnson (CT)	Skaggs
Campbell (CA)	Kyl	Skeen
Combest	Leach (IA)	Smith (VT)
Coughlin	Lukens, Donald	Smith, Denny (OR)
Craig	Michel	Smith, Robert (NH)
Crane	Miller (WA)	Snowe
DeLay	Nielson	Solomon
Dickinson	Oxley	Stump
Douglas	Pease	Sundquist
Fawell	Pickett	Vucanovich
Frenzel	Porter	Walker
Gekas	Quillen	Whittaker
Gingrich	Rhodes	
Goodling	Ritter	

NOT VOTING—27

Borski	Gray	Rowland (CT)
Clay	Hawkins	Schuette
Conyers	Horton	Sharp
Crockett	Leath (TX)	Traxler
Dannemeyer	Martin (IL)	Walgren
Dorgan (ND)	McNulty	Washington
Fish	Morrison (CT)	Weldon
Ford (MI)	Robinson	Wilson
Ford (TN)	Rostenkowski	Young (FL)

□ 1921

The Clerk announced the following pair:

On this vote:

Mr. Hawkins for, with Mr. Weldon against.

Mr. SMITH of Vermont and Mr. DENNY SMITH changed their vote from "yea" to "nay".

Messrs. THOMAS of Wyoming, HUTTO, and McCOLLUM changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ANDERSON. Mr. Speaker, pursuant to House Resolution 469, I call up from the Speaker's table the Senate bill (S. 2740) to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. ANDERSON

Mr. ANDERSON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ANDERSON moves to strike all after the enacting clause of the Senate bill, S. 2740, and to insert in lieu thereof the provisions of H.R. 5314 as passed, as follows:

S. 2740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Secretary defined.
Sec. 3. Project authorizations.
Sec. 4. Project modifications.
Sec. 5. Private sector development of infrastructure.
Sec. 6. Planning and engineering.
Sec. 7. Funding of costs assigned to commercial navigation.
Sec. 8. Emergency response.
Sec. 9. Construction of navigation projects by non-Federal interests.
Sec. 10. Project modifications for improvement of environment.
Sec. 11. Ability to pay.
Sec. 12. Environmental protection mission.
Sec. 13. Wetlands.
Sec. 14. Priority Louisiana coastal wetlands restoration projects.
Sec. 15. Louisiana coastal wetlands conservation planning.
Sec. 16. National coastal wetlands conservation grants.
Sec. 17. Authorizations.
Sec. 18. General provisions.
Sec. 19. Flood plain management.
Sec. 20. Shoreline protection.
Sec. 21. Reservoir management.
Sec. 22. Changes in reservoir project operations.
Sec. 23. Environmental dredging.
Sec. 24. Protection of recreational and commercial uses.
Sec. 25. Multipurpose water resources projects.
Sec. 26. Great Lakes remedial action plans.
Sec. 27. Matters to be addressed in planning.
Sec. 28. Cross Florida Barge Canal.
Sec. 29. Small navigation projects.
Sec. 30. Onondaga Lake, New York.
Sec. 31. Sauk Lake, Minnesota.
Sec. 32. Wappingers Lake, New York.
Sec. 33. Small flood control projects.
Sec. 34. Bay City, Michigan.
Sec. 35. Delaware River and tributaries, Pennsylvania.
Sec. 36. Tennessee River, Knoxville, Tennessee.
Sec. 37. Continuation of authorization of certain projects.

Sec. 38. Erosion prevention projects, Louisiana.
Sec. 39. Hazard, Kentucky.
Sec. 40. Demonstration of construction of Federal project by non-Federal interests.
Sec. 41. Modification of reversionary interest.
Sec. 42. Upper Mississippi River plan.
Sec. 43. Section 221 agreements.
Sec. 44. Cabin site leases.
Sec. 45. San Luis Rey, California.
Sec. 46. Land conveyances.
Sec. 47. Alternatives to mud dump site for disposal of dredged material.
Sec. 48. Big South Fork National River and Recreation Area.
Sec. 49. Construction of Virgin Islands projects by Secretary of the Army.
Sec. 50. Protection of recreation project purposes.
Sec. 51. Liberty, Ohio.
Sec. 52. Washingtonville, Ohio.
Sec. 53. Albermarle Sound-Roanoke River Basin, North Carolina.
Sec. 54. Cranston, Rhode Island.
Sec. 55. Santa Rosa, California.
Sec. 56. Generation facilities.
Sec. 57. Flat Rock, Michigan.
Sec. 58. Warroad Harbor, Minnesota.
Sec. 59. Rondout Creek and Wallkill River, New York and New Jersey.
Sec. 60. Struthers, Ohio.
Sec. 61. Virginia Beach, Virginia.
Sec. 62. Youngstown, Ohio.
Sec. 63. Maysville, Kentucky.
Sec. 64. Southwest Region Flood Response Commission.
Sec. 65. Rehabilitation of Federal flood control levees.
Sec. 66. Flood warning system.
Sec. 67. Rend Lake water storage contract extension.
Sec. 68. Caesar's Creek Lake, Ohio.
Sec. 69. Declaration of nonnavigability for portions of Lake Erie.
Sec. 70. Wetlands enhancement opportunities.
Sec. 71. Radium removal demonstration program.
Sec. 72. Studies.
Sec. 73. Lake of the Woods, Minnesota.
Sec. 74. New York Harbor, New York.
Sec. 75. Project deauthorizations.
Sec. 76. Half Moon Bay Harbor.
Sec. 77. Annual obligation ceilings.
Sec. 78. Raystown Lake, Pennsylvania.
Sec. 79. Addition of Columbiana County, Ohio to Appalachian Regional Development Program.
Sec. 80. Exchange Rate Demonstration Project, Lockwood's Folly Inlet, North Carolina.
Sec. 81. Rio Grande American Canal extension.
Sec. 82. Buy American.
Sec. 83. Conveyance of Oakland Inner Harbor Tidal Canal property to cities of Oakland and Alameda, California.
Sec. 84. Conveyance of lands located near Lewisville Dam and Garza-Little Elm Reservoir, Denton County, Texas.

SEC. 2. SECRETARY DEFINED.

For purposes of this Act, the term "Secretary" means the Secretary of the Army.

SEC. 3. PROJECT AUTHORIZATIONS.

(a) PROJECTS WITH REPORT OF THE CHIEF OF ENGINEERS.—Except as provided in this subsection, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, recommended in the respective reports designated in this subsection:

(1) BAYOU LA BATRE, ALABAMA.—The project for navigation for Bayou La Batre, Alabama: Report of the Chief of Engineers, dated August 3, 1989, at a total cost of $16,230,000, with an estimated first Federal cost of $4,490,000 and an estimated first non-Federal cost of $11,740,000.

(2) HOMER SPIT, ALASKA.—The project for storm damage prevention, Homer Spit, Alaska: Report of the Chief of Engineers, dated June 28, 1990, at a total cost of $4,700,000, with an estimated first Federal cost of $3,050,000 and an estimated first non-Federal cost of $1,650,000.

(3) CLIFTON, SAN FRANCISCO RIVER, ARIZONA.—The project for flood control on the San Francisco River at Clifton, Arizona, authorized by section 401(d) of the Water Resources Development Act of 1986 (100 Stat. 4130), is modified to authorize the Secretary to construct the project substantially in accordance with the report of the Chief of Engineers, dated September 6, 1988, at a total cost of $12,510,000, with an estimated first Federal cost of $9,150,000 and an estimated first non-Federal cost of $3,360,000.

(4) NOGALES WASH AND TRIBUTARIES, ARIZONA.—The project for flood control, Nogales Wash and tributaries, Arizona: Report of the Chief of Engineers, dated February 28, 1989, at a total cost of $11,100,000, with an estimated first Federal cost of $8,300,000 and an estimated first non-Federal cost of $2,800,000. The Secretary shall cooperate with the Government of Mexico as necessary to provide for flood warning gauges in Mexico.

(5) COYOTE AND BERRYESSA CREEKS, CALIFORNIA.—The project for flood control, Coyote and Berryessa Creeks, California: Report of the Chief of Engineers, dated February 7, 1989, at a total cost of $56,300,000, with an estimated first Federal cost of $39,000,000 and an estimated first non-Federal cost of $17,300,000.

(6) OCEANSIDE HARBOR, CALIFORNIA.—The project for navigation and storm damage reduction, Oceanside Harbor, California: Report of the Chief of Engineers, dated May 21, 1990, at a total cost of $5,100,000, with an estimated first Federal cost of $3,350,000 and an estimated first non-Federal cost of $1,750,000.

(7) VENTURA HARBOR, CALIFORNIA.—The project for navigation, Ventura Harbor, California: Report of the Chief of Engineers, dated June 5, 1990, at a total cost of $6,455,000, with an estimated first Federal cost of $5,175,000 and an estimated first non-Federal cost of $1,280,000.

(8) MARTIN COUNTY, FLORIDA.—The project for storm damage reduction, Martin County, Florida: Report of the Chief of Engineers dated November 20, 1989, at a total first cost of $9,400,000, with an estimated first Federal cost of $3,850,000 and an estimated first non-Federal cost of $5,550,000.

(9) MIAMI HARBOR CHANNEL, FLORIDA.—The project for navigation, Miami Harbor Channel, Florida: Report of the Chief of Engineers dated September 25, 1989, at a total cost of $67,100,000, with an estimated first Federal cost of $42,810,000 and an estimated first non-Federal cost of $24,290,000.

(10) MCALPINE LOCK AND DAM, INDIANA AND KENTUCKY.—The project for navigation, McAlpine Lock and Dam, Indiana and Kentucky: Report of the Chief of Engineers, dated June 29, 1990, at a total cost of $219,600,000, with a first Federal cost of $219,600,000. The Federal share of costs of construction of the project is to be paid one-half from amounts appropriated from the general fund of the Treasury and one-half from amounts appropriated from the Inland Waterways Trust Fund.

(11) FORT WAYNE, ST. MARY'S AND MAUMEE RIVERS, INDIANA.—The project for flood control, Fort Wayne, St. Mary's and Maumee Rivers, Indiana: Report of the Chief of Engineers, dated May 1, 1989, at a total cost of $35,618,400, with an estimated first Federal cost of $26,493,000 and an estimated first non-Federal cost of $9,125,400.

(12) ALOHA-RIGOLETTE, LOUISIANA.—The project for flood control, Aloha-Rigolette Area, Louisiana: Report of the Chief of Engineers dated April 11, 1990, at a total cost of $8,283,000, with an estimated first Federal cost of $6,212,000 and an estimated first non-Federal cost of $2,071,000.

(13) BOSTON HARBOR, MASSACHUSETTS.—The project for navigation, Boston Harbor, Massachusetts: Report of the Chief of Engineers, dated May 11, 1989, at a total cost of $26,200,000, with an estimated first Federal cost of $16,230,000 and an estimated first non-Federal cost of $9,970,000.

(14) ECORSE CREEK, WAYNE COUNTY, MICHIGAN.—The project for flood control, Ecorse Creek, Wayne County, Michigan: Report of the Chief of Engineers, dated August 8, 1989, at a total cost of $9,296,000, with an estimated first Federal cost of $6,754,000 and an estimated first non-Federal cost of $2,542,000.

(15) GREAT LAKES CONNECTING CHANNELS AND HARBORS, MICHIGAN AND MINNESOTA.—The project for navigation, Great Lakes Connecting Channels and Harbors, Michigan and Minnesota: Report of the Chief of Engineers, dated January 30, 1990, at a total cost of $13,148,400, with an estimated first Federal cost of $8,791,700 and an estimated first non-Federal cost of $4,356,700.

(16) COLDWATER CREEK, MISSOURI.—The project for flood control, Coldwater Creek, Missouri: Report of the Chief of Engineers, dated August 9, 1988, at a total cost of $22,829,000, with an estimated first Federal cost of $15,496,000 and an estimated first non-Federal cost of $7,333,000.

(17) RIVER DES PERES, MISSOURI.—The project for flood control, River Des Peres, Missouri: Report of the Chief of Engineers, dated May 23, 1989, at a total cost of $21,318,000, with an estimated first Federal cost of $15,846,000 and an estimated first non-Federal cost of $5,472,000.

(18) PASSAIC RIVER MAIN STEM, NEW JERSEY AND NEW YORK.—

(A) FLOOD CONTROL ELEMENTS.—

(i) IN GENERAL.—The project for flood control, Passaic River Main Stem, New Jersey and New York: Report of the Chief of Engineers, dated February 3, 1989, except that the main diversion tunnel shall be extended to include the outlet to Newark Bay, New Jersey, at a total cost of $1,200,000,000, with an estimated first Federal cost of $890,000,000 and an estimated first non-Federal cost of $310,000,000.

(ii) DESIGN AND CONSTRUCTION.—The Secretary shall design and construct the project in accordance with the Newark Bay tunnel outlet alternative described in the Phase I General Design Memorandum of the District Engineer dated December 1987. As such, the main diversion tunnel shall be extended approximately six and one-half miles to outlet in Newark Bay, the nine levee systems in Bergen, East Essex, and Passaic Counties which were associated with the eliminated Third River tunnel outlet shall be excluded

from the project, and no dikes or levees shall be constructed or necessitated along the Passaic River in Bergen County in connection with the project. With the Newark Bay tunnel outlet project, all acquisition, use, condemnation, or requirement for parklands or properties in connection with the excluded nine levee systems and the eliminated Third River tunnel outlet works, and any other acquisition, use or condemnation, or requirement for parkland or properties in Bergen County in connection with the project, shall be prohibited. The Secretary shall certify to the House of Representatives Committee on Public Works that no detrimental flood impact, as a result of the project, shall accrue in Bergen County.

(iii) APPLICABILITY OF COST SHARING.—Except as otherwise provided in this paragraph, the total project, including the extension to Newark Bay, shall be subject to cost sharing in accordance with section 103 of the Water Resources Development Act of 1986.

(iv) OPERATION AND MAINTENANCE.—The non-Federal sponsor shall maintain and operate the project after its completion in accordance with the regulations prescribed by the Secretary; except that the Secretary shall operate and maintain the diversion tunnels element, including inlet and outlet works, at full Federal expense.

(v) CREDIT FOR NON-FEDERAL WORK.—In recognition of the State of New Jersey's commitment to the project on June 28, 1984, all work subsequently completed by the State or other non-Federal interests which is either compatible with or complementary to the project shall be considered as part of the project and shall be credited by the Secretary toward the non-Federal share of the cost of the project. Such work shall include, but not be limited to, those activities specified in the letter of the New Jersey Department of Environmental Protection, dated December 9, 1988, to the Office of the Chief of Engineers. However, only the portion of such work that meets the guidelines established under section 104 of the Water Resources Development Act of 1986 shall be considered as project costs for economic purposes. In applying such section 104 to the project, the Secretary shall likewise consider work carried out by non-Federal interests after June 28, 1984, and before the date of the enactment of this Act that otherwise meets the requirements of such section 104.

(B) STREAMBANK RESTORATION MEASURES.—The project shall include the construction of environmental and other streambank restoration measures (including bulkheads, recreation, greenbelt, and scenic overlook facilities) on the west bank of the Passaic River between Bridge and Jackson Streets in the city of Newark, New Jersey, at a total cost of $6,000,000. The non-Federal share of the project element authorized by this subparagraph shall be 25 percent. The value of the lands, easements, and rights-of-way provided by non-Federal interests shall be credited to the non-Federal share. Construction of the project element authorized by this subparagraph may be undertaken in advance of the other project features and shall not await implementation of the overall project.

(C) WETLANDS BANK.—

(i) ESTABLISHMENT.—The State of New Jersey shall establish a Passaic River Central Basin Wetlands Bank (hereinafter in this paragraph referred to as the "Wetlands Bank") to be comprised of lands which are acquired before, on, or after the date of the enactment of this Act by the State or any other non-Federal interest and which lie within the Passaic River Central Basin, New Jersey, natural storage area discussed in the report of the Chief Engineers and the Phase I General Design Memorandum.

(ii) USE.—The Wetlands Bank shall be available for mitigation purposes required under Federal or State law with respect to non-Federal activities carried out in the State.

(iii) COMPENSATION.—The State may receive compensation for making lands available under clause (ii).

(iv) STATE OWNERSHIP AND OPERATION.—The State shall continue to own and operate, consistent with the purposes of the project authorized by this paragraph, lands made available for mitigation purposes under clause (ii).

(v) ACQUISITION OF ADDITIONAL LANDS.—The State or other non-Federal interests may acquire for the Wetlands Bank additional lands which are in, adjacent to, or provide drainage for runoff and streamflows into the storage area described in clause (i) and may use funds provided by sources other than the State for such purpose. Such lands shall include transition and buffer areas adjacent to the Central Basin natural storage wetlands, and other Passaic River Basin areas, including the Rockaway, Pequannock, Ramapo, and Wanaque River watershed areas.

(vi) CREDIT.—The fair market value of lands acquired by the State or other non-Federal interests in the storage area described in clause (i) before, on, or after the date of the enactment of this Act, the fair market value of lands acquired for the Wetlands Bank under clause (v) before, on, or after such date of enactment, and the costs incurred by the State or other non-Federal interests in converting any of such lands to wetlands shall be credited to the non-Federal share of the project authorized by this paragraph.

(vii) TREATMENT OF ACQUIRED LANDS.—Lands acquired by the State for the Wetlands Bank shall not be treated as a project cost for purposes of economic evaluation of the project.

(19) RIO DE LA PLATA, PUERTO RICO.—The project for flood control, Rio De La Plata, Puerto Rico: Report of the Chief of Engineers, dated January 3, 1989, at a total cost of $58,968,000, with an estimated first Federal cost of $35,900,000 and an estimated first non-Federal cost of $23,068,000.

(20) MYRTLE BEACH, SOUTH CAROLINA.—The project for storm damage reduction, Myrtle Beach, South Carolina: Report of the Chief of Engineers, dated March 2, 1989, at a total cost of $59,730,000, with an estimated first Federal cost of $38,820,000 and an estimated first non-Federal cost of $20,910,000.

(21) BUFFALO BAYOU AND TRIBUTARIES, TEXAS.—The project for flood control, Buffalo Bayou and tributaries, Texas: Report of the Chief of Engineers dated February 12, 1990, at a total cost of $727,364,000, with an estimated first Federal cost of $403,359,500 and an estimated first non-Federal cost of $324,004,500.

(22) RAY ROBERTS LAKE, GREENBELT, TEXAS.—The multiple purpose project, Ray Roberts Lake, Greenbelt, Texas, authorized by section 301 of the Rivers and Harbors Act of 1965, is modified to authorize the Secretary to construct recreation features substantially in accordance with the Report of the Chief of Engineers, dated December 24, 1987, at a total cost of $8,503,000, with an estimated first Federal cost of $3,189,000 and an estimated first non-Federal cost of $5,314,000.

(23) UPPER JORDAN RIVER, UTAH.—The project for flood control, Upper Jordan River, Utah: Report of the Chief of Engineers, dated November 16, 1988, at a total cost of $7,900,000, with an estimated first Federal cost of $5,200,000 and an estimated first non-Federal cost of $2,700,000.

(24) BUENA VISTA, VIRGINIA.—The project for flood control, Buena Vista, Virginia: Report of the Chief of Engineers, dated June 27, 1990, at a total cost of $55,100,000, with an estimated first Federal cost of $41,300,000 and an estimated first non-Federal cost of $13,800,000.

(25) PETERSBURG, WEST VIRGINIA.—The project for flood control, Petersburg, West Virginia: Report of the Chief of Engineers, dated June 29, 1990, at a total cost of $17,904,000, with an estimated first Federal cost of $10,044,000 and an estimated first non-Federal cost of $7,860,000.

(b) PROJECTS SUBJECT TO FAVORABLE REPORT OF THE CHIEF OF ENGINEERS.—The following projects are authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports cited with such modifications as are recommended in a final report of the Chief of Engineers and approved by the Secretary and with such other modifications as are recommended by the Secretary (and if no report is cited for a project the project is authorized to be prosecuted by the Secretary in accordance with a final report of the Chief of Engineers and with such other modifications as are recommended by the Secretary) and no construction on such a project may be initiated until such a report of the Chief of Engineers is issued:

(1) LOS ANGELES COUNTY DRAINAGE AREA, CALIFORNIA.—The project for flood control, Los Angeles County drainage area, California, at a total cost of $327,000,000, with an estimated first Federal cost of $163,500,000 and an estimated first non-Federal cost of $163,500,000.

(2) MORRO BAY, CALIFORNIA.—The project for navigation, Morro Bay, California, to extend and deepen the entrance channel for Morro Bay Harbor to a depth of 40 feet and thereafter maintain such channel at such depth, at a total cost of $1,900,000.

(3) NORCO BLUFFS, CALIFORNIA.—The project for bank stabilization and erosion control, Norco Bluffs, California, at a total cost of $10,000,000.

(4) JEFFERSON PARISH, LOUISIANA.—The project for hurricane protection, Jefferson Parish, Louisiana, at a total cost of $250,000,000, with an estimated first Federal cost of $166,500,000 and an estimated first non-Federal cost of $83,500,000.

(5) LOCKS AND DAMS 2 AND 3, MONONGAHELA RIVER, PENNSYLVANIA.—The project for navigation, Locks and Dams 2 and 3, Monongahela River, Pennsylvania, including replacement of locks and dams and related improvements as appropriate, at a total cost of $450,000,000, with a first Federal cost of $450,000,000. The Federal share of cost of construction of the project is to be paid one-half from amounts appropriated from the general fund of the Treasury and one-half from amounts appropriated from the Inland Waterways Trust Fund.

(6) MARMET LOCK AND DAM, KANAWHA RIVER, WEST VIRGINIA.—The project for navigation, Marmet Lock and Dam, Kanawha River, West Virginia, at a total cost of $300,000,000, with a first Federal cost of $300,000,000. The Federal share of cost of construction of the project is to be paid one-half from amounts appropriated from the

general fund of the Treasury and one-half from amounts appropriated from the Inland Waterways Trust Fund.

SEC. 4. PROJECT MODIFICATIONS.

(a) VILLAGE CREEK, ALABAMA.—The project for flood control, Village Creek, Alabama, authorized by section 401 of the Water Resources Development Act of 1986 (100 Stat. 4111), is modified to authorize the Secretary to acquire private vacant lands within the definite project boundaries established in the Real Estate Design Memorandum, dated March 4, 1988, as a nonstructural element of the project.

(b) LOS ANGELES AND LONG BEACH HARBORS, SAN PEDRO BAY, CALIFORNIA.—Section 4(d) of the Water Resources Development Act of 1988 (102 Stat. 4015) is amended by inserting after "approved by the Secretary" in the first sentence the following: "or which, after the date of issuance of a report of the Chief of Engineers for such project, is included in such report".

(c) OAKLAND INNER HARBOR, CALIFORNIA.—The project for navigation, Oakland Inner Harbor, California, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4092), is modified—

(1) to provide that the maximum amount reimbursable to non-Federal interests by the Secretary under section 215 of the Flood Control Act of 1968 with respect to the project shall be $10,000,000; and

(2) to direct the Secretary to enforce the navigational servitude with respect to construction of the project on a reimbursable basis if requested by a non-Federal sponsor of the project.

(d) SACRAMENTO DEEP WATER SHIP CHANNEL, CALIFORNIA.—The project for navigation, Sacramento Deep Water Ship Channel, California, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4092), is modified to direct the Secretary, if requested by a non-Federal sponsor, to enforce, on a reimbursable basis, the terms of any permit issued by the Secretary under section 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), commonly known as the Rivers and Harbors Appropriations Act of 1899, to compel the relocation of any utility necessitated by the construction of an authorized navigation project.

(e) SANTA ANA MAINSTEM, CALIFORNIA.—The project for flood control, Santa Ana Mainstem, including Santiago Creek, California, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4113), is modified to authorize the Secretary to develop recreational trails and facilities on lands between Seven Oaks Dam and Prado Dam, including flood plain management areas.

(f) SANTA FE DAM, LOS ANGELES AND SAN GABRIEL RIVERS, CALIFORNIA.—

(1) IN GENERAL.—The Santa Fe Dam project authorized as part of the flood control project for the Los Angeles and San Gabriel Rivers, California, by section 5 of the Flood Control Act of June 22, 1936 (49 Stat. 1589), is modified to authorize the Secretary to contract for the removal and sale of dredged material from the flood control basin for Santa Fe Dam, Los Angeles County, California, for the purposes of facilitating flood control, recreation, and water conservation. All funds received by the Secretary from the removal and sale of such dredged material shall be deposited in the general fund of the Treasury.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1990, an amount not to exceed the amount of funds received by the Secretary from the removal and sale of dredged material under subsection (a). Amounts appropriated under this subsection shall be available to the Secretary—

(A) to construct, operate, and maintain recreational facilities at the Santa Fe Dam project, at full Federal expense; and

(B) to the extent consistent with other authorized project purposes, to facilitate, in coordination with the county of Los Angeles, water conservation and ground water recharge measures at the Sante Fe Dam project, at full Federal expense.

(g) SANTA PAULA CREEK CHANNEL AND DEBRIS BASIN, SANTA CLARA RIVER BASIN, CALIFORNIA.—The project for flood control, Santa Paula Creek Channel and Debris Basin, Santa Clara River Basin, California, authorized by section 203 of the Flood Control Act of 1948 (62 Stat. 1178), is modified to direct the Secretary to construct the debris basin feature of the project at the Mupu site in accordance with General Design Memorandum Number 4, Supplemental Design for Santa Paula Creek Channel, March 1972, at a total cost of $41,000,000.

(h) DELAWARE RIVER TO CHESAPEAKE BAY, DELAWARE AND MARYLAND.—The project for navigation, inland waterway from the Delaware River to the Chesapeake Bay, Delaware and Maryland, authorized by the first section of the Act of August 30, 1935 (49 Stat. 1030), and modified by the Act entitled "An Act authorizing construction of a highway bridge across the Chesapeake and Delaware Canal at Saint Georges, Delaware", approved August 7, 1939 (53 Stat. 1240-1241), is modified to direct the Secretary to replace the highway bridge on United States Route 13 in the vicinity of St. Georges, Delaware, to meet current and projected traffic needs, at a Federal cost of $115,000,000. The State may carry out the bridge replacement. If the State carries out the bridge replacement, the Secretary may reimburse the State for costs incurred.

(i) ALAFIA CHANNEL, FLORIDA.—The project for navigation, Tampa Harbor, Florida, authorized by section 4 of the Rivers and Harbors Act of September 22, 1922 (42 Stat. 1042), is modified to authorize the Secretary to maintain the Alafia Channel at a depth of 34 feet.

(j) FERNANDINA HARBOR, FLORIDA.—The project for navigation, Fernandina Harbor, Florida, authorized by the River and Harbor Appropriation Act of June 14, 1880, is modified to redesignate the location of the turning basin between stations 0+00 of cut 8 and 5+45 of cut 10 to the area between stations 11+70 and 23+30 of cut 5. Such redesignation shall remain in effect until the ongoing study of Fernandina Harbor under section 107 of the River and Harbor Act of 1960 is completed and the resulting project is constructed.

(k) KISSIMMEE RIVER, CENTRAL AND SOUTHERN FLORIDA.—

(1) IN GENERAL.—The flood control project for Central and Southern Florida, authorized by section 203 of the Flood Control Act of 1948 (62 Stat. 1176), is modified to provide for restoration of the Kissimmee River for environmental purposes, at an estimated total cost of $270,000,000. Such restoration includes filling of Canal C-38, removal of spillway structures and locks, and increasing the storage in the upper Kissimmee basin and shall minimize to the fullest extent possible any effect on the project's flood control and navigation purposes.

(2) REPORT OF CHIEF OF ENGINEERS.—The Secretary may undertake restoration of the Kissimmee River under this subsection only in accordance with a final report of the Chief of Engineers, including such modifications as the Secretary may recommend, which is based on the Level II Backfilling plan recommended by the South Florida Water Management District in the report entitled "Kissimmee River Restoration, Alternative Plan Evaluation and Preliminary Design Report".

(3) NON-FEDERAL SHARE.—Non-Federal interests shall provide without cost to the United States all lands, easements, rights-of-way, relocations, and dredged material disposal areas necessary for the project authorized by this subsection, except that the aggregate non-Federal share for the project shall not exceed 50 percent of the total cost of the project. In the event that the value of lands, easements, rights-of-way, relocations, and disposal areas is less than 25 percent of the total first cost of the project, non-Federal interests shall pay, during the period of construction, such amounts as may be necessary to make the total non-Federal contribution equal 25 percent. The non-Federal interests shall provide 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of the project. In addition, the non-Federal interests shall hold and save the United States free from damages due to the construction, operation, and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors.

(l) MANATEE HARBOR, FLORIDA.—The project for navigation, Manatee Harbor, Florida, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4093), is modified to direct the Secretary to construct the project substantially in accordance with the post authorization change report, dated April 1990, at an estimated total cost of $27,589,000, with an estimated first Federal cost of $12,381,000 and an estimated first non-Federal cost of $15,208,000.

(m) NASSAU COUNTY, FLORIDA.—The project for beach erosion control, Nassau County (Amelia Island), Florida, authorized by section 3 of the Water Resources Development Act of 1988 (102 Stat. 4013), is modified to direct the Secretary, in cooperation with the State of Florida, to renourish the southern beaches of Fernandia (south Amelia Island), Florida, from Florida Department of Natural Resources Monument Number 60 to Monument Number 74. The non-Federal share of the cost of such renourishment shall be 50 percent.

(n) PORT SUTTON CHANNEL, FLORIDA.—Section 3(a)(4) of the Water Resources Development Act of 1988 (102 Stat. 4013) is amended by striking "; except" and all that follows through "beneficiary".

(o) FALLS OF THE OHIO NATIONAL WILDLIFE CONSERVATION AREA, INDIANA.—The Falls of the Ohio National Wildlife Conservation Area, Indiana, authorized by title II of Public Law 97-137, is modified to authorize the Secretary to design and construct an interpretive center for such area, at a total cost of $1,500,000, with an estimated first Federal cost of $750,000 and an estimated first non-Federal cost of $750,000.

(p) DES MOINES RIVER AND GREENBELT, IOWA.—

(1) AREA DESCRIPTION.—The project for Des Moines Recreational River and Greenbelt, Iowa, authorized by the Supplemental Appropriations Act, 1985 (99 Stat. 313), is modified to include the area described in the Des Moines Recreational River and Greenbelt map, which description is printed in

Committee Print 101-47 of the Committee on Public Works and Transportation of the House of Representatives, dated July 1990.

(2) FORMER AREA DESCRIPTION.—Section 604 of the Water Resources Development Act of 1986 (100 Stat. 4153) is repealed.

(q) KENTUCKY RIVER, KENTUCKY.—The project for the disposition of Kentucky River, Kentucky, Locks and Dams 5 through 14, authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4109), is modified to provide that the Secretary may not proceed with such disposition until the Secretary has performed major maintenance on the lock and dam structures. Such major maintenance is to include resurfacing of lock chamber walls, timber replacement, valve repair, and gate leaf replacement, at a total cost of $3,500,000. Until such time as the lock and dam facilities are transferred to non-Federal interests, the Secretary shall perform routine maintenance that is necessary to prevent permanent failure of project components and to maintain operational capability.

(r) SOUTH FRANKFORT, KENTUCKY.—The project for flood protection for the Ohio River Basin, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), is modified to direct the Secretary to carry out a project for flood protection for South Frankfort, Kentucky, in accordance with plan R-1 of the Louisville District Commander's Re-evaluation Report, dated June 1990. The level of protection shall be no less than afforded North Frankfort, Kentucky. In addition, the Secretary shall execute a local cooperation agreement for the project for South Frankfort not later than October 1991.

(s) LAKE PONTCHARTRAIN, LOUISIANA.—(1) Federal responsibility.—The project for flood protection on Lake Pontchartrain, Louisiana, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1077), is modified to make construction, operation, and maintenance of the project a Federal responsibility. The modification made by this paragraph shall take effect January 1, 1966.

(2) RAISING OF LEVEES.—The project referred to in paragraph (1) is further modified to direct the Secretary to raise the levees along the entire lengths of the London Avenue Canal and the Orleans Avenue Canal in New Orleans, Louisiana, to grades sufficient to provide flood protection against a 300-year hurricane.

(t) BUFFUMVILLE LAKE, MASSACHUSETTS.—The flood control project for Buffumville Lake, Massachusetts, authorized by the Flood Control Act of August 18, 1941 (55 Stat. 639), is modified to authorize the Secretary to undertake low flow augmentation for improving water quality on the French River.

(u) LOCKS AND DAM 26, MISSISSIPPI RIVER, ALTON, ILLINOIS AND MISSOURI.—The navigation project for replacement of locks and dam 26, Mississippi River, Alton, Illinois and Missouri, authorized by section 102 of Public Law 95-502, is modified to authorize the Secretary to provide project-related recreation development in the State of Illinois, that requires no separable project lands, and includes site preparations and infrastructure for a marina and docking facilities, access roads and parking, a boat launching ramp, hiking trails, and picnicking facilities, at a Federal construction cost that will not increase the overall project cost estimate for recreation development. The recreation development shall be subject to cost-sharing with the State of Illinois and costs incurred by non-Federal public interests for items of work that may have been completed before the date of the enactment of this Act may be credited to the non-Federal share of the overall cost if, in the Secretary's opinion, such work is directly related to and necessary for project-related recreation development described in the preceding sentence.

(v) CROOKED AND INDIAN RIVERS, MICHIGAN.—

(1) NON-FEDERAL OPERATION AND MAINTENANCE.—The navigation project for the Crooked and Indian Rivers, Michigan, authorized by the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes", approved September 3, 1954 (68 Stat. 1248), is modified to authorize the Secretary to enter into agreements with the State of Michigan and other non-Federal interests in such State to make operation and maintenance of such project a non-Federal responsibility.

(2) TERMS AND CONDITIONS.—The agreements referred to in paragraph (1) may—

(A) contain such terms and conditions as the Secretary determines to be necessary to protect the interests of the United States; and

(B) require the Secretary to make payments to the State of Michigan to cover the costs of operation, maintenance, and repair of such project for lake level regulation and other flood control purposes, including payments made in advance of such costs being incurred by the State.

(3) NON-FEDERAL IMPOSITION OF TOLLS.—Notwithstanding section 4 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 5, 1884 (33 U.S.C. 5; 23 Stat. 147), during any period in which a non-Federal interest is responsible for operation and maintenance of the project described in paragraph (1), the non-Federal interest may impose upon boats and other watercraft using the project such tolls, operating charges, and other fees as may be necessary to pay the costs incurred by the non-Federal interest in connection with such project which are not covered by payments made by the Secretary under this subsection.

(w) ROUGE RIVER, MICHIGAN.—The multipurpose project at Rouge River, Michigan, authorized by the Act of August 30, 1935 (49 Stat. 1036-1037), is modified to authorize and direct the Secretary, in consultation with appropriate State and local agencies, to conduct a 1-year comprehensive study of the Rouge River streamflow enhancement project at the Rouge River, Huron River, and Belleville Lake for the purpose of identifying measures which will optimize achievement of the project's purposes while preserving and enhancing the quality of the Rouge River, Huron River, and Belleville Lake for current and future users. Upon completion of the study, the Secretary shall undertake a demonstration project at the Rouge River to determine the effectiveness of measures identified in such study, at a total cost of $88,183,000, with an estimated Federal share of $19,612,000 and an estimated non-Federal share of $68,571,000.

(x) REDWOOD RIVER, MARSHALL, MINNESOTA.—The project for flood control, Redwood River at Marshall, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117) and modified by section 4(k) of the Water Resources Development Act of 1988, is modified to provide that the costs of the project are as follows: The total cost of the project is $9,632,000, with an estimated first Federal cost of $7,823,000 and an estimated first non-Federal cost of $1,809,000.

(y) MISSISSIPPI RIVER, ST. PAUL, MINNESOTA.—The project for flood control, Mississippi River at St. Paul, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118), is modified to authorize the Secretary to construct the project substantially in accordance with the Design Memorandum, dated March 1990, and the Recreational Supplement, dated April 1990, at a total cost of $18,021,000, with an estimated first cost of $10,226,000 and an estimated first non-Federal cost of $7,795,000.

(z) SOUTH FORK ZUMBRO RIVER WATERSHED, ROCHESTER, MINNESOTA.—The project for flood control, South Fork Zumbro River Watershed at Rochester, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum of the Chief of Engineers, dated September 1982, at a total cost of $112,000,000, with an estimated first Federal cost of $82,900,000 and an estimated first non-Federal cost of $29,700,000.

(aa) PEARL RIVER BASIN, MISSISSIPPI.—Section 401(e)(3) of the Water Resources Development Act of 1986 (100 Stat. 4132) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B)(vi) and inserting "; and";

(3) by inserting after subparagraph (B)(vi) the following new subparagraph:

"(C) for measures to provide flood protection for the Jackson metropolitan area, Mississippi, and all areas affected by flooding of the Pearl River downstream of the areas covered by subparagraph (B) in the State of Mississippi, including the counties of Rankin, Hinds, Simpson, Lawrence, Marion, and Madison, Mississippi."; and

(4) by adding at the end the following new sentence:

"In carrying out the projects and measures described in subparagraphs (A), (B), and (C), the Secretary shall consult with local governmental entities affected by such projects.".

(bb) BRUSH CREEK AND TRIBUTARIES, MISSOURI AND KANSAS.—The project for flood control, Brush Creek and tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4168), is modified to authorize the Secretary to construct the project substantially in accordance with the Post Authorization Change Report, dated April 1969, as revised in January 1990, at a total cost of $26,200,000, with an estimated first Federal cost of $16,090,000 and an estimated first non-Federal cost of $10,110,000.

(cc) ACEQUIAS SYSTEM, NEW MEXICO.—The irrigation system project, New Mexico, authorized by section 1113 of the Water Resources Development Act of 1986 (100 Stat. 4232), is modified to provide that the costs of the project are as follows: The total cost of the project is $73,300,000, with an estimated first Federal cost of $55,000,000 and an estimated first non-Federal cost of $18,300,000.

(dd) NEW YORK HARBOR DRIFT REMOVAL PROJECT, NEW YORK AND NEW JERSEY.—

(1) REMOVAL OF FLOATING MATERIAL.—The New York Harbor collection and removal of

drift project, authorized by section 91 of the Water Resources Act of 1974 (88 Stat. 39), is modified to authorize the Secretary to collect and remove floating material whenever the Secretary is collecting and removing debris which is an obstruction to navigation.

(2) CONTINUATION.—The Secretary shall continue engineering, design, and construction on the New York Harbor collection and removal of drift project, including construction of the 2nd phase in the Jersey City North reach which shall include remaining piers and debris in the Harsimus Cove area, construction of the Brooklyn II reach, and engineering and design for the remaining unconstructed reaches.

(3) BARGE REMOVAL.—As part of the New York Harbor collection and removal of drift project, the Secretary shall expedite necessary engineering, design, and removal of 7 abandoned barges from the Passaic River in Kearny, Nutley, and Passaic, New Jersey.

(4) PROHIBITION ON BURNING OF WOOD.—The New York Harbor collection and removal of drift project, authorized by section 91 of the Water Resources Act of 1974 (88 Stat. 39), including construction described in paragraph (2) of this subsection, is further modified to provide that, after December 31, 1991, no material collected by the Secretary under the project may be disposed of by burning on ocean waters.

(ee) IRONDEQUOIT BAY, NEW YORK.—The navigation project for Irondequoit Bay, New York, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 299), is modified to authorize the Secretary to construct a highway bridge across the new channel constructed as part of such project if non-Federal interests—

(1) agree to be responsible for operation and maintenance of such bridge,

(2) agree to pay 50 percent of the cost of such construction, and

(3) agree that title to such bridge will be held by non-Federal interests.

(ff) WILMINGTON HARBOR-NORTHEAST CAPE FEAR RIVER, NORTH CAROLINA.—The project for navigation, Wilmington Harbor-Northeast Cape Fear River, North Carolina, authorized by section 202 of the Water Resources Development Act of 1986 (100 Stat. 4095), is modified to authorize the Secretary to construct the project in accordance with the Post Authorization Change Notification Report, dated April 1990, at a total cost of $28,694,000, with an estimated first Federal cost of $12,338,910 and an estimated first non-Federal cost of $16,355,090.

(gg) CLEVELAND HARBOR, OHIO.—The project for harbor modification, Cleveland Harbor, Ohio, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095), is modified to direct the Secretary to reimburse the non-Federal sponsor for the Federal share of amounts expended by the non-Federal sponsor for improvements to Pier 34 of such project.

(hh) HARSHA LAKE, OHIO.—

(1) PROJECT MODIFICATION.—The project for flood control, water supply, and recreation, Harsha Lake, Ohio, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), is modified to provide that any water supply storage assigned to the State of Ohio which is not used by such State for water supply purposes before October 1, 1991, shall be reassigned to the Clermont County Board of Commissioners.

(2) MAXIMUM AMOUNT.—The maximum amount of water supply storage which may be reassigned under paragraph (1) is an amount of storage sufficient to yield 20,000,000 gallons of water a day.

(3) TERMS AND CONDITIONS.—Water supply storage provided to the Clermont County Board of Commissioners pursuant to a reassignment under paragraph (1) shall be subject to the same terms and conditions as water supply storage provided to the State of Ohio, including prepayment based on original project investment costs.

(4) REIMBURSEMENT.—Upon a reassignment of water supply storage under paragraph (1), the Clermont County Board of Commissioners shall reimburse the State of Ohio for amounts previously paid by the State to the Secretary for costs which are attributable to water supply storage which has been so reassigned.

(ii) WEST COLUMBUS, OHIO.—The project for flood control, Scioto River, West Columbus, Ohio, authorized by section 3(a) of the Water Resources Development Act of 1988 (102 Stat. 4014), is modified to increase the total cost of the project to $90,000,000.

(jj) CANTON LAKE, OKLAHOMA.—The second paragraph under the heading "ARKANSAS RIVER BASIN" in section 10 of the Flood Control Act of 1946 (60 Stat. 647), as amended by the first paragraph under the heading "ARKANSAS RIVER BASIN" in section 203 of the Flood Control Act of 1948 (62 Stat. 1176), is amended—

(1) by striking "Enid, Oklahoma" and inserting "Oklahoma City, Oklahoma"; and

(2) by adding at the end the following: "Not later than 180 days after the date of the enactment of the Water Resources Development Act of 1990, the Secretary of the Army is directed (subject to agreement between the city of Oklahoma City, Oklahoma, or the Oklahoma City Municipal Improvement Authority and the city of Enid, Oklahoma, providing for such reassignment) to reassign to the city of Oklahoma City all the municipal and industrial storage in the Canton Reservoir for the city of Enid and all irrigation storage to municipal and industrial water supply storage (under the terms of the Water Supply Act of 1958 (72 Stat. 319-320)); except that if the city of Oklahoma City contracts for permanent municipal and industrial water supply storage under this Act, the city of Oklahoma City shall receive credit for amounts previously paid by it, or on its behalf, toward the principal investment cost for storage under prior term contracts and other payments. The principal amount to be paid by the city of Oklahoma City shall be the proportional amount of original project construction cost for which the city of Oklahoma City contracts for storage and at the original project interest rate over a 50-year payback amortization schedule beginning in 1955.".

(kk) DELAWARE RIVER, PENNSYLVANIA, NEW JERSEY, AND DELAWARE.—The project for navigation, Delaware River, Pennsylvania, New Jersey, and Delaware, Philadelphia to the Sea, authorized by section 201 of the Flood Control Act of 1965 (79 Stat. 1073) and approved by committee resolution, is modified to authorize the Secretary to make improvements to the Tioga Marine Terminal, at a total cost of $2,700,000. Such improvements include piling replacement, a new pier fendering system, paving, deck replacement, lighting, and fencing.

(ll) LOCK AND DAM 7 REPLACEMENT, MONONGAHELA RIVER, PENNSYLVANIA.—The project for navigation, Lock and Dam 7 Replacement, Monongahela River, Pennsylvania, authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110), is modified to provide that the dam structure will be gated instead of fixed crest and to increase the total cost of the project to $133,000,000.

(mm) ROCHESTER, PENNSYLVANIA.—The project for navigation on the Ohio River at Rochester, Pennsylvania, authorized by section 13 of the River and Harbor Act of 1909 (35 Stat. 831), is modified to authorize the Secretary to construct safety facilities of a floating dock, a river access ramp, and roadway and parking areas at a total cost of $90,000.

(nn) SOUTHERN BRANCH OF THE ELIZABETH RIVER, NORFOLK HARBOR, VIRGINIA.—The project for navigation, Southern Branch of the Elizabeth River, Norfolk Harbor, Virginia, authorized by the Water Resources Development Act of 1976 (90 Stat. 2917), is modified to provide that the City of Chesapeake shall not be required to make payments after the date of the enactment of this Act under the cost-sharing agreement which the City entered into with the United States with respect to such project.

(oo) COOPER LAKE AND CHANNELS, TEXAS.—The project for mitigation of fish and wildlife resource losses, Cooper Lake and Channels, Texas, authorized by section 601 of the Water Resources Development Act of 1986 (100 Stat. 4145), is modified to authorize the Secretary to construct the project substantially in accordance with the Post Authorization Change Notification Report dated April 1990, at a total cost of $22,500,000, with an estimated first Federal cost of $12,400,000 and an estimated first non-Federal cost of $10,100,000.

(pp) DENISON, TEXAS.—The Act entitled "An Act to authorize the utilization of a limited amount of storage space in Lake Texoma for the purpose of water supply for the city of Denison, Texas", approved August 14, 1953 (67 Stat. 583), is amended by striking "in an amount not to exceed 13,000 acre-feet annually".

(qq) MCNARY LOCK AND DAM, WASHINGTON AND OREGON.—The project for McNary Lock and Dam, Second Powerhouse, Columbia River, Washington and Oregon, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4146), is modified to direct the Secretary to construct the levee beautification portion of the project described in the Phase I General Design Memorandum: Report of the Chief of Engineers, dated June 24, 1981. In determining the new levee heights, the Secretary shall complete the feasibility studies underway for the Tri-Cities Levees, Washington, giving full consideration to the impact that present upstream reservoir storage has had in lowering water surface elevations during major floods.

(rr) BLUESTONE LAKE, OHIO RIVER BASIN, WEST VIRGINIA.—

(1) MINIMIZATION OF DRIFT AND DEBRIS RELEASE.—The project for flood control, Bluestone Lake, Ohio River Basin, West Virginia, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), is modified to direct the Secretary to take such measures as are technologically feasible to minimize the release of drift and debris into waters downstream of the project, including measures to prevent the accumulation of drift and debris at the project, the collection and removal of drift and debris on the segment of the New River upstream of the project, and the removal (through the use of temporary or permanent systems) and disposal of accumulated drift and debris at Bluestone Dam.

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report detailing the Secretary's progress in carrying out paragraph (1).

(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to affect the authority of the Secretary to carry out other authorized purposes of the project referred to in paragraph (1); except that no policy or priority established by the Secretary shall be used to defer or impede the implementation of the measures described in paragraph (1).

(ss) MATEWAN, WEST VIRGINIA.—The project for flood control, Matewan, West Virginia, authorized by section 202 of the Energy and Water Development Appropriation Act, 1981 (94 Stat. 1339), is modified to provide that the flood control project for Hatfield Bottom, West Virginia, shall be treated as being an inseparable element of the Matewan project for purposes of section 103 of the Water Resources Development Act of 1986.

(tt) WISCONSIN AND FOX RIVERS, WISCONSIN.—

(1) NON-FEDERAL OPERATION AND MAINTENANCE.—The navigation project for the Wisconsin and Fox Rivers, Wisconsin, authorized to be acquired pursuant to the Act entitled "An Act for the Improvement of Water Communication between the Mississippi River and Lake Michigan, by the Wisconsin and Fox Rivers", approved July 7, 1870 (16 Stat. 189), is modified to authorize the Secretary to enter into agreements with the State of Wisconsin and other non-Federal interests in such State to make operation and maintenance of such project a non-Federal responsibility.

(2) NON-FEDERAL IMPOSITION OF TOLLS.—Notwithstanding section 4 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 5, 1884 (33 U.S.C. 5; 23 Stat. 147), during any period in which a non-Federal interest is responsible for operation, maintenance, and repair of the project described in paragraph (1), the non-Federal interest may impose upon boats and other watercraft using the project such tolls, operating charges, and other fees as may be necessary to pay the costs incurred by the non-Federal interest in connection with the project.

SEC. 5. PRIVATE SECTOR DEVELOPMENT OF INFRASTRUCTURE.

(a) MARKET FEASIBILITY PROGRAM.—The Secretary, in cooperation with non-Federal interests, is authorized to carry out, during the 3-year period beginning on the date of the enactment of this Act, a market feasibility program for the purpose of determining what opportunities exist for private sector development of facilities for water, waste management, and energy generation and other critical support facilities.

(b) COOPERATIVE AGREEMENTS.—To carry out subsection (a), the Secretary may enter into cooperative agreements with non-Federal entities, including State and local governments, colleges and universities, corporations, partnerships, sole proprietorships, and trade associations which are incorporated or established under the laws of a State, the District of Columbia, or a territory or possession of the United States. The Secretary may not agree to provide more than 50 percent of the costs incurred under such an agreement.

(c) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall report to Congress on implementation of this section. Such report shall include any recommendations of the Secretary concerning modification and extension of the program carried out under this section.

(d) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $5,000,000 to carry out this section.

SEC. 6. PLANNING AND ENGINEERING.

Section 105(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(b)) is amended by adding at the end the following new sentence: "This subsection shall not apply to planning and engineering of projects for which non-Federal interests contributed 50 percent of the cost of the feasibility study.".

SEC. 7. FUNDING OF COSTS ASSIGNED TO COMMERCIAL NAVIGATION.

Section 210(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2238(a)) is amended by striking paragraph (2) and inserting the following:

"(2) not more than 100 percent of the eligible operation and maintenance costs assigned to commercial navigation of all harbors and inland harbors within the United States.".

SEC. 8. EMERGENCY RESPONSE.

The first sentence of section 5(a)(1) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (33 U.S.C. 701n(a)(1)), is amended—

(1) by striking "flood emergency preparation," and inserting "preparation for emergency response to any natural disaster,"; and

(2) by striking the period at the end and inserting the following: "; or for emergency dredging for restoration of authorized project depths for Federal navigable channels and waterways made necessary by flood, drought, earthquake, or other natural disaster.".

SEC. 9. CONSTRUCTION OF NAVIGATION PROJECTS BY NON-FEDERAL INTERESTS.

(a) TRANSMISSION OF HARBOR IMPROVEMENT STUDIES TO NON-FEDERAL INTERESTS.—Section 204(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2232(c)) is amended by inserting after the first sentence the following new sentence: "The Secretary is further authorized to complete and transmit to the appropriate non-Federal interest any study for improvement to harbors or inland harbors of the United States that is initiated pursuant to section 107 of the River and Harbor Act of 1960 or, upon request of such non-Federal interest, to terminate such study and transmit such partially completed study to the non-Federal interest.".

(b) REIMBURSEMENT.—Section 204 of such Act is amended—

(1) by redesignating the second subsection (e) and subsection (f) as subsections (f) and (g), respectively;

(2) in paragraph (1) of the first subsection (e) by inserting "including any small navigation project approved pursuant to section 107 of the River and Harbor Act of 1960," after "or separable element thereof,"; and

(3) in paragraph (1)(A) of the first subsection (e) by inserting "(or, in the case of a small navigation project, after completion of a favorable project report by the Corps of Engineers)" after "authorization of the project".

SEC. 10. PROJECT MODIFICATIONS FOR IMPROVEMENT OF ENVIRONMENT.

(a) REVIEW OF PROJECT OPERATIONS.—Section 1135(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2294 note), is amended by striking "before the date of enactment of this Act".

(b) MODIFICATION PROGRAM.—Section 1135(b) of such Act is amended—

(1) by striking "demonstration program in the 5-year period beginning on the date of enactment of this Act" and inserting "program"; and

(2) by striking "before the date of enactment of this Act".

(c) REPORT.—Section 1135(d) of such Act as amended to read as follows:

"(d) BIENNIAL REPORT.—Beginning in 1992 and every 2 years thereafter, the Secretary shall transmit to Congress a report on the results of reviews conducted under subsection (a) and on the program conducted under subsection (b).".

(d) FUNDING.—Section 1135(e) of such Act is amended by striking "$25,000,000 to carry out this section." and inserting "$15,000,000 annually to carry out this section.".

SEC. 11. ABILITY TO PAY.

Section 103(m) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m)) is amended to read as follows:

"(m) ABILITY TO PAY.—

"(1) GENERAL RULE.—Any cost-sharing agreement under this section for flood control or water supply shall be subject to the ability of a non-Federal interest to pay.

"(2) PROCEDURES.—

"(A) IN GENERAL.—The ability of any non-Federal interest to pay shall be determined by the Secretary in accordance with procedures established by the Secretary.

"(B) LIMITATIONS.—The procedures established pursuant to this subsection shall not prescribe a minimum non-Federal share and shall allow for situations in which no cash contribution is required from the non-Federal interest; except that nothing in this subsection shall affect the requirements of a non-Federal interest to provide all lands, easements, rights-of-way, dredged material disposal areas, and relocations pursuant to this section. In addition, such procedures shall provide for determination of the eligibility of the non-Federal interest for a reduction in the required cash contribution on the basis of local, not statewide, economic data and for consideration of reductions in non-Federal cash contributions without regard to project benefit-to-cost ratio.

"(C) REGULATIONS.—Not later than the 180th day following the date of the enactment of this subparagraph, the Secretary shall issue regulations establishing the procedures required by this paragraph.".

SEC. 12. ENVIRONMENTAL PROTECTION MISSION.

(a) GENERAL RULE.—The Secretary shall include environmental protection as one of the primary missions of the Corps of Engineers in planning, designing, constructing, operating, and maintaining water resources projects.

(b) LIMITATION.—Nothing in this section affects—

(1) existing Corps of Engineers' authorities, including its authorities with respect to navigation and flood control;

(2) pending Corps of Engineers permit applications or pending lawsuits involving permits or water resources projects; or

(3) the application of public interest review procedures for Corps of Engineers permits.

(c) REPORT.—The Secretary shall, not later than January 1, 1992, and on a biennial basis thereafter, transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the implementation of this section, including—

(1) specific measures taken and agency resources committed to carry out the purposes of this section;

(2) any legal, funding, or policy obstacles encountered or anticipated; and

(3) recommendations for administrative and legislative measures to further the purposes of this section.

SEC. 13. WETLANDS.

(a) GOALS AND ACTION PLAN.—

(1) GOALS.—There is established, as part of the Corps of Engineers water resources development program, an interim goal of no overall net loss of the Nation's remaining wetlands base, as defined by acreage and function, and a long-term goal to increase the quality and quantity of the Nation's wetlands, as defined by acreage and function.

(2) USE OF AUTHORITIES.—The Secretary shall utilize all appropriate authorities, including those to restore and create wetlands, in meeting the interim and long-term goals.

(3) ACTION PLAN.—

(A) DEVELOPMENT.—The Secretary shall develop, in consultation with the Environmental Protection Agency, the Fish and Wildlife Service, and other appropriate Federal agencies, a wetlands action plan to achieve the goals established by this subsection as soon as possible.

(B) CONTENTS.—The plan shall include and identify actions to be taken by the Secretary in achieving the goals and any new authorities which may be necessary to accelerate attainment of the goals.

(C) COMPLETION DEADLINE.—The Secretary shall complete the plan not later than 1 year after the date of enactment of this Act.

(b) RESTORATION AND CREATION.—

(1) RESTORATION OF WETLANDS.—The Secretary is authorized and directed to carry out demonstration projects to restore and create wetlands that will contribute to attainment of the goals established by subsection (a). Projects undertaken pursuant to this section are not intended to satisfy mitigation of past, ongoing, or future wetlands alterations under section 404 of the Federal Water Pollution Control Act and section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899, but instead to develop technical information to provide greater assurances that wetlands restoration and creation projects succeed.

(2) PROJECT ELEMENTS.—Elements of projects conducted under this subsection shall include—

(A) defining wetland functions which are expected to be restored and maintained giving due consideration to site specific conditions;

(B) conducting research to establish the critical relationships between the land, water, and biotic factors responsible for the defined wetland functions;

(C) establishing and reporting design and construction procedures necessary to create the defined wetland functions throughout similar climatic areas and identify and report on these wetland functions;

(D) creating or restoring sustainable wetlands which will serve as examples of the benefits and aesthetics of wetland landscapes; and

(E) securing a long-term commitment from a non-Federal interest for the maintenance of the wetlands following the conclusion of the research work.

(3) COORDINATION.—The Secretary shall coordinate with the Environmental Protection Agency, the Tennessee Valley Authority, the Department of the Interior, the Department of Commerce, the Department of Agriculture, States, and others in conducting projects under this subsection.

(4) REPORT.—The Secretary shall report every 2 years to Congress on projects conducted under this subsection.

(c) CONSTRUCTED WETLANDS FOR WASTEWATER TREATMENT.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary is authorized and directed to establish and carry out a program to evaluate and demonstrate (A) the use of constructed wetlands for wastewater treatment, and (B) methods by which such projects contribute (i) to meeting the objective of the Federal Water Pollution Control Act to restore and maintain the physical, chemical, and biological integrity of the Nation's waters, and (ii) to attaining the goals established by subsection (a).

(2) PROJECTS.—

(A) IN GENERAL.—The Secretary shall conduct, in geographically diverse regions of the Nation, research and pilot projects utilizing constructed wetlands with a total treatment capacity of not to exceed 200,000,000 gallons per day to determine the technical and economic feasibility of using constructed wetlands systems to treat wastewater from point and nonpoint sources.

(B) RURAL COMMUNITY EMPHASIS.—Emphasis shall be given to siting projects in small and rural communities either lacking wastewater treatment facilities or with substandard facilities.

(C) MUD CREEK.—Notwithstanding any other provision of law, the Secretary shall conduct a project under this subsection to improve the quality of effluent discharged from publicly owned treatment works operated by the city of Fayetteville, Arkansas, into Mud Creek or its tributaries.

(3) INTERAGENCY WORKING GROUP.—

(A) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish in the Corps of Engineers an interagency working group on wetlands for wastewater treatment to coordinate, manage, and oversee all phases of the program under this subsection.

(B) MEMBERS.—The working group shall include members of the Corps of Engineers, the Environmental Protection Agency, the Tennessee Valley Authority, the Fish and Wildlife Service, and private individuals or organizations with a demonstrated interest in the use of constructed wetlands for wastewater treatment.

(C) REPORT.—Not later than 2 years after the date of the enactment of this Act, the working group shall transmit to Congress a report evaluating the use of constructed wetlands for treating various sources of wastewater, together with recommendations on methods by which constructed wetlands systems might be utilized to improve local and regional water quality and an analysis of the contributions such systems make to attainment of the goals established by subsection (a).

(d) NON-FEDERAL RESPONSIBILITIES.—For each project conducted under each of subsections (b) and (c), the non-Federal interest shall agree—

(1) to provide, without cost to the United States, all lands, easements, rights-of-way, relocations, and dredged material disposal areas necessary for construction and subsequent research and demonstration work;

(2) to hold and save the United States free from damages due to construction, operation, and maintenance of the project, except damages due to the fault or negligence of the United States or its contractors; and

(3) to operate and maintain the restored or constructed wetlands in accordance with good management practices; except that nothing in this paragraph shall be construed as precluding a Federal agency from agreeing to operate and maintain the restored or reconstructed wetlands.

The value of the non-Federal lands, easements, rights-of-way, relocations, and dredged material disposal areas provided by the non-Federal interest shall be credited toward the non-Federal share of project design and construction costs. The non-Federal share of project design and construction costs shall be 25 percent.

(e) MITIGATION BANK DEMONSTRATION PROGRAM.—

(1) ESTABLISHMENT AND IMPLEMENTATION.—The Secretary is authorized to establish and implement a demonstration program for the purpose of determining the feasibility of mitigation banks as a means of contributing to the goals established by subsection (a) and of evaluating the feasibility of utilizing mitigation banks for satisfying compensatory mitigation obligations under section 404 of the Federal Water Pollution Control Act or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899, or wetland mitigation requirements of other Federal laws.

(2) GOALS.—The goal of the program under this subsection shall be to establish a limited number of demonstration mitigation banks in districts of the Corps of Engineers for the purpose of evaluating the technical and scientific long-term feasibility of such banks as a means (A) of providing adequate compensation for wetlands alterations resulting from the Army Civil Works program or permitted under section 404 of the Federal Water Pollution Control Act or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899; and (B) of contributing to the attainment of the goals established by subsection (a). Federal and State landowning agencies and private parties may contribute to such banks.

(3) PROGRAM COMPONENTS.—The program under this subsection shall include—

(A) mechanisms for making deposits into the mitigation bank;

(B) a means of accounting for deposited wetlands, including an assessment of the ecological value of such deposits;

(C) mechanisms for managing and maintaining the ecological values for credits assigned to the original deposit; and

(D) mechanisms for receipt of credit for deposits which can be applied to permit applications filed by the depositor under section 404 of the Federal Water Pollution Control Act or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899.

(4) FACTORS TO CONSIDER.—In establishing the program under this subsection, the Secretary shall consider—

(A) past experience with mitigation banks;

(B) the appropriate credit to be given for various types of wetlands, including existing wetlands, created wetlands, and restored wetlands;

(C) provisions for transfer of credits;

(D) the appropriate geographic scope of a mitigation bank;

(E) the technical feasibility of creating banks and the scientific likelihood that such banks will succeed;

(F) liability and long-term ownership;

(G) responsibilities for short- and long-term project monitoring; and

(H) whether or not the applicant has fully complied with the guidelines of section 404(b)(1) of the Federal Water Pollution Control Act.

(5) MITIGATION BANK DEFINED.—For purposes of this subsection, the term "mitigation bank" includes a system or process of accounting under which (before submitting an application for a permit under section 404 of the Federal Water Pollution Control Act or section 10 of the Act of March 3, 1899 (33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Act of 1899) an applicant may deposit or withdraw units measuring wetlands restoration, enhancement, and creation efforts in order to satisfy mitigation or compensation requirements.

(6) REPORTING.—

(A) TO CHIEF OF ENGINEERS.—The district engineer for each district of the Corps of Engineers in which a mitigation bank is established under this subsection shall transmit annual reports to the Chief of Engineers describing credits made to, and withdrawn from, the bank and a summary of whether the bank is fulfilling the goals established in paragraph (2).

(B) TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report evaluating the use of mitigation banks in fulfilling the goals established by paragraph (2), together with recommendations on whether or not to continue use of mitigation banks as a means of meeting the goals established by subsection (a).

(f) TRAINING AND CERTIFICATION OF DELINEATORS.—

(1) IN GENERAL.—The Secretary is authorized to establish a program for the training and certification of individuals as wetlands delineators. As part of such program, the Secretary shall carry out demonstration projects in districts of the Corps of Engineers. The program shall include training and certification of delineators and procedures for expediting consideration and acceptance of delineations performed by certified delineators.

(2) REPORTS.—The Secretary shall transmit to Congress periodic reports concerning the status of the program and any recommendations on improving the content and implementation of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

SEC. 14. PRIORITY LOUISIANA COASTAL WETLANDS RESTORATION PROJECTS.

(a) PRIORITY PROJECT LIST.—

(1) PREPARATION OF LIST.—Within 45 days after the date of the enactment of this Act, the Secretary shall convene the Task Force to initiate a process to identify and prepare a list of coastal wetlands restoration projects in Louisiana to provide for the long-term conservation of such wetlands and dependent fish and wildlife populations, in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration.

(2) TASK FORCE PROCEDURES.—The Secretary shall convene meetings of the Task Force as appropriate to ensure that the list is produced and transmitted annually to Congress as required by this subsection. If necessary to ensure transmittal of the list on a timely basis, the Task Force shall produce the list by a majority vote of those Task Force members who are present and voting; except that no coastal wetlands restoration project shall be placed on the list without the concurrence of the lead Task Force member that the project is cost effective and sound from an engineering perspective. Those projects which potentially impact navigation or flood control on the lower Mississippi River System shall be constructed consistent with section 17 of this Act.

(3) TRANSMITTAL OF LIST.—No later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress the list of priority coastal wetlands restoration projects required by paragraph (1) of this subsection. Thereafter, the list shall be updated annually by the Task Force members and transmitted by the Secretary to Congress as part of the President's annual budget submission. Annual transmittals of the list to Congress shall include a status report on each project and a statement from the Secretary of the Treasury indicating the amounts available for expenditure from a wetlands fund established to carry out this Act.

(4) LIST CONTENTS.—

(A) AREA IDENTIFICATION; PROJECT DESCRIPTION.—The list of priority coastal wetlands restoration projects shall include, but not be limited to—

(i) identification, by map or other means, of the coastal area to be covered by the coastal wetlands restoration project; and

(ii) a detailed description of each proposed coastal wetlands restoration project, including a justification for including such project on the list, the proposed activities to be carried out pursuant to each coastal wetlands restoration project, the benefits to be realized by such project, the identification of a lead Task Force member to undertake each proposed coastal wetlands restoration project and the responsibilities of each other participating Task Force member, an estimated timetable for the completion of each coastal wetlands restoration project, and the estimated cost of each project.

(B) PRE-PLAN.—Prior to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that can be substantially completed during a 5-year period commencing on the date the project is placed on the list.

(C) POST-PLAN.—Subsequent to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that have been identified in such plan.

(5) FUNDING.—The Secretary shall, with the funds made available in accordance with section 16 of this Act, allocate funds among the members of the Task Force based on the need for such funds and such other factors as the Task Force deems appropriate to carry out the purposes of this subsection.

(b) FEDERAL AND STATE PROJECT PLANNING.—

(1) PLAN PREPARATION.—The Task Force shall prepare a plan to identify coastal wetlands restoration projects, in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing the long-term conservation of coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration. Such restoration plan shall be completed within 3 years from the date of the enactment of this Act.

(2) PURPOSE OF THE PLAN.—The purpose of the restoration plan is to develop a comprehensive approach to restore, and prevent the loss of, coastal wetlands in Louisiana. Such plan shall coordinate and integrate coastal wetlands restoration projects in a manner that will ensure the long-term conservation of the coastal wetlands of Louisiana.

(3) INTEGRATION OF EXISTING PLANS.—In developing the restoration plan, the Task Force shall seek to integrate the "Louisiana Comprehensive Coastal Wetlands Feasibility Study" conducted by the Secretary and the "Coastal Wetlands Conservation and Restoration Plan" prepared by the State of Louisiana's Coastal Wetlands Conservation and Restoration Task Force.

(4) ELEMENTS OF THE PLAN.—The restoration plan developed pursuant to this subsection shall include—

(A) identification of the entire area in the State that contains coastal wetlands;

(B) identification, by map or other means, of coastal areas in Louisiana in need of coastal wetlands restoration projects;

(C) identification of high priority coastal wetlands restoration projects in Louisiana needed to address the areas identified in subparagraph (B) and that would provide for the long-term conservation of restored wetlands and dependent fish and wildlife populations;

(D) a listing of such coastal wetlands restoration project, in order of priority, to be submitted annually, incorporating any project identified previously in lists produced and submitted under subsection (a) of this section;

(E) a detailed description of each proposed coastal wetlands restoration project, including a justification for including such project on the list;

(F) the proposed activities to be carried out pursuant to each coastal wetlands restoration project;

(G) the benefits to be realized by each such project;

(H) an estimated timetable for completion of each coastal wetlands restoration project;

(I) an estimate of the cost of each coastal wetlands restoration project;

(J) identification of a lead Task Force member to undertake each proposed coastal wetlands restoration project listed in the plan;

(K) consultation with the public and provision for public review during development of the plan; and

(L) evaluation of the effectiveness of each coastal wetlands restoration project in achieving long-term solutions to arresting coastal wetlands loss in Louisiana.

(5) PLAN MODIFICATION.—The Task Force may modify the restoration plan from time to time as necessary to carry out the purposes of this section.

(6) PLAN SUBMISSION.—Upon completion of the restoration plan, the Secretary shall submit the plan to Congress. The restoration plan shall become effective 90 days after the date of its submission to Congress.

(7) PLAN EVALUATION.—Not less than 3 years after the completion and submission of the restoration plan required by this subsection and at least every 3 years thereafter, the Task force shall provide a report to Congress containing a scientific evaluation of the effectiveness of the coastal wetlands restoration projects carried out under the plan in creating, restoring, protecting, and enhancing coastal wetlands in Louisiana.

(c) COASTAL WETLANDS RESTORATION PROJECT BENEFITS.—Where such a determination is required under applicable law, the

net ecological, aesthetic, and cultural benefits, together with the economic benefits, shall be deemed to exceed the costs of any coastal wetlands restoration project within the State which the Task Force finds to contribute significantly to wetlands restoration.

(d) CONSISTENCY.—(1) In implementing, maintaining, modifying, or rehabilitating navigation, flood control, or irrigation projects, other than emergency actions, under other authorities, the Secretary, in consultation with the Director and the Administrator, shall ensure that such actions are consistent with the purposes of the restoration plan submitted pursuant to this section.

(2) At the request of the Governor of the State of Louisiana, the Secretary of Commerce shall approve the plan as an amendment to the State's coastal zone management program approved under section 306 of the Coastal Zone Management Act of 1972.

(e) FUNDING OF WETLANDS RESTORATION PROJECTS.—The Secretary shall, with the funds made available in accordance with section 16 of this Act, allocate such funds among the members of the Task Force to carry out coastal wetlands restoration projects in accordance with the priorities set forth in the list transmitted in accordance with this section. The Secretary shall not fund a coastal wetlands restoration project unless that project is subject to such terms and conditions as necessary to ensure that wetlands restored, enhanced, or managed through that project will be administered for the long-term conservation of such lands and waters and dependent fish and wildlife populations.

(f) COST-SHARING.—

(1) FEDERAL SHARE.—Amounts made available from the Wetlands Fund to carry out coastal wetlands restoration projects under this Act shall provide 75 percent of the cost of such projects.

(2) FEDERAL SHARE UPON CONSERVATION PLAN APPROVAL.—Notwithstanding the previous paragraph, if the State develops a coastal wetlands conservation plan pursuant to section 15 of this Act, and such conservation plan is approved pursuant to such section, amounts made available from the Wetlands Fund for any coastal wetlands restoration project under this section shall be 85 percent of the cost of the project. In the event that the Secretary, the Director, and the Administrator jointly determine that the State is not taking reasonable steps to implement and administer a conservation plan developed and approved pursuant to section 15 of this Act, amounts made available from the Wetlands Fund for any coastal wetlands restoration project shall revert to 75 percent of the cost of the project; except that such reversion to the lower cost share level shall not occur until the Governor has been provided notice of, and opportunity for hearing on, any such determination by the Secretary, the Director, and the Administrator and the State has been given 90 days from such notice or hearing to take corrective action.

(3) FORM OF STATE SHARE.—The share of the cost required of the State shall be from a non-Federal source. Such State share shall consist of a cash contribution of not less than 5 percent of the cost of the project. The balance of such State share may take the form of lands, easements, or right-of-way or any other form of in-kind contribution determined to be appropriate by the lead Task Force member.

(4) EXISTING COST-SHARING AGREEMENTS.—Paragraphs (1), (2), and (3) of this subsection shall not affect the existing cost-sharing agreements for the following projects: Caernarvon Freshwater Diversion, Davis Pond Freshwater Diversion, and Bonnet Carre Freshwater Diversion.

SEC. 15. LOUISIANA COASTAL WETLANDS CONSERVATION PLANNING.

(a) DEVELOPMENT OF CONSERVATION PLAN.—

(1) IN GENERAL.—The Secretary, the Director, and the Administrator are directed to enter into an agreement with the Governor, as set forth in paragraph (2) of this subsection, upon notification of the Governor's willingness to enter into such agreement.

(2) TERMS OF AGREEMENT.—

(A) IN GENERAL.—Upon receiving notification pursuant to paragraph (1) of this subsection, the Secretary, the Director, and the Administrator shall promptly enter into an agreement (hereinafter in this section referred to as the "agreement") with the State under the terms set forth in subparagraph (B) of this paragraph.

(B) TERMS.—The agreement shall—

(i) set forth a process by which the State agrees to develop, in accordance with this section, a coastal wetlands conservation plan (hereinafter in this section referred to as the "conservation plan");

(ii) designate a single agency of the State to develop the conservation plan;

(iii) assure an opportunity for participation in the development of the conservation plan, during the planning period, by the public and by Federal and State agencies;

(iv) obligate the State, not later than 3 years after the date of signing the agreement, unless extended by the parties thereto, to submit the conservation plan to the Secretary, the Director, and the Administrator for their approval; and

(v) upon approval of the conservation plan, obligate the State to implement the conservation plan.

(3) GRANTS AND ASSISTANCE.—Upon the date of signing the agreement—

(A) the Administrator shall, in consultation with the Director, make grants to assist the designated State agency in developing a conservation plan with the funds made available in accordance with section 17 of this Act. Such grants shall not exceed 75 per centum of the cost of developing the plan; and

(B) the Secretary the Director and the Administrator shall provide technical assistance to the State to assist it in the development of the Plan.

(b) CONSERVATION PLAN GOAL.—If a conservation plan is developed pursuant to this section, it shall have a goal of achieving no net loss of wetlands in the coastal areas of Louisiana as a result of development activities initiated subsequent to approval of the plan, exclusive of any wetlands gains achieved through implementation of section 14 of this Act.

(c) ELEMENTS OF CONSERVATION PLAN.—The conservation plan authorized by this section shall include—

(1) identification of the entire coastal area in the State that contains coastal wetlands;

(2) designation of a single State agency with the responsibility for implementing and enforcing the Plan;

(3) identification of measures that the State shall take in addition to existing Federal authority to achieve a goal of no net loss of wetlands as a result of development activities, exclusive of any wetlands gains achieved through implementation of section 13 of this Act;

(4) a system that the State shall implement to account for gains and losses of coastal wetlands within coastal areas for purposes of evaluating the degree to which the goal of no net loss of wetlands as a result of development activities in such wetlands or other waters has been attained;

(5) satisfactory assurances that the State will have adequate personnel, funding, and authority to implement the Plan;

(6) a program to be carried out by the State for the purpose of educating the public concerning the necessity to conserve wetlands;

(7) a program to encourage the use of technology by persons engaged in development activities that will result in negligible impact on wetlands; and

(8) a program for the review, evaluation, and identification of regulatory and nonregulatory options that will be adopted by the State to encourage and assist private owners of wetlands to continue to maintain those lands as wetlands.

(d) APPROVAL OF CONSERVATION PLAN.—

(1) IN GENERAL.—If the Governor submits a conservation plan to the Secretary, the Director, and the Administrator for their approval, the Secretary, the Director, and the Administrator shall, within 180 days following receipt of such plan, approve or disapprove it.

(2) APPROVAL CRITERIA.—The Secretary, the Director, and the Administrator shall approve a conservation plan submitted by the Governor, if they determine that—

(A) the State has adequate authority to fully implement all provisions of such a plan;

(B) such a plan is adequate to attain the goal of no net loss of coastal wetlands as a result of development activities and complies with the other requirements of this section; and

(C) the Plan was developed in accordance with the terms of the agreement set forth in subsection (a) of this section.

(e) MODIFICATION OF CONSERVATION PLAN.—

(1) NONCOMPLIANCE.—If the Secretary, the Director, and the Administrator determine that a conservation plan submitted by the Governor does not comply with the requirements of subsection (d) of this section, they shall submit to the Governor a statement explaining why the plan is not in compliance and how the plan should be changed to be in compliance.

(2) RECONSIDERATION.—If the Governor submits a modified conservation plan to the Secretary, the Director, and the Administrator for their reconsideration, the Secretary, the Director, and the Administrator shall have 90 days to determine whether the modifications are sufficient to bring the plan into compliance with the requirements of subsection (d) of this section.

(3) APPROVAL OF MODIFIED PLAN.—If the Secretary, the Director, and the Administrator fail to approve or disapprove the conservation plan, as modified, within the 90-day period following the date on which it was submitted to them by the Governor, such Plan, as modified, shall be deemed to be approved effective upon the expiration of such 90-day period.

(f) AMENDMENTS TO CONSERVATION PLAN.—If the Governor amends the conservation plan approved under this section, any such amended plan shall be considered a new plan and shall be subject to the requirements of this section; except that minor changes to such plan shall not be subject to the requirements of this section.

(g) IMPLEMENTATION OF CONSERVATION PLAN.—A conservation plan approved under

this section shall be implemented as provided therein.

(h) FEDERAL OVERSIGHT.—

(1) INITIAL REPORT TO CONGRESS.—Within 180 days after entering into the agreement required under subsection (a) of this section, the Secretary, the Director, and the Administrator shall report to Congress as to the status of a conservation plan approved under this section and the progress of the State in carrying out such a plan, including an accounting, as required under subsection (c) of this section, of the gains and losses of coastal wetlands as a result of development activities.

(2) REPORTS TO CONGRESS.—24 months after the initial 180-day period set forth in paragraph (1), and at the end of each 24-month period thereafter, the Secretary, the Director and the Administrator shall report to Congress on the status of the conservation plan and provide an evaluation of the effectiveness of the plan in meeting the goal of this section.

SEC. 16. NATIONAL COASTAL WETLANDS CONSERVATION GRANTS.

(a) MATCHING GRANTS.—The Director shall, with the funds made available in accordance with section 17 of this Act, make matching grants to any coastal State to carry out coastal wetlands conservation projects from funds made available for that purpose.

(b) PRIORITY.—Subject to the cost-sharing requirements of this section, the Director may grant or otherwise provide any matching moneys to any coastal State which submits a proposal substantial in character and design to carry out a coastal wetlands conservation project. In awarding such matching grants, the Director shall give priority to coastal wetlands conservation projects that are—

(1) consistent with the national wetlands priority conservation plan developed under section 301 of the Emergency Wetlands Resources Act (16 U.S.C. 3921); and

(2) in coastal States that have established dedicated funding for programs to acquire coastal wetlands, natural areas, and open spaces.

(c) CONDITIONS.—The Director may only grant or otherwise provide matching moneys to a coastal State for purposes of carrying out a coastal wetlands conservation project if the grant or provision is subject to terms and conditions that will ensure that any real property interest acquired in whole or in part, or enhanced, managed, or restored with such moneys will be administered for the long-term conservation of such lands and waters and the fish and wildlife dependent thereon.

(d) COST-SHARING.—

(1) FEDERAL SHARE.—Grants to coastal States of matching moneys by the Director for any fiscal year to carry out coastal wetlands conservation projects shall be used for the payment of not to exceed 50 percent of the total costs of such projects; except that such matching moneys may be used for payment of not to exceed 75 percent of the costs of such projects if a coastal State has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural area or open spaces.

(2) FORM OF STATE SHARE.—The matching moneys required of a coastal State to carry out a coastal wetlands conservation project shall be derived from a non-Federal source.

(e) PARTIAL PAYMENTS.—

(1) IN GENERAL.—The Director may from time to time make matching payments to carry out coastal wetlands conservation projects as such projects progress, but such payments, including previous payments, if any, shall not be more than the Federal pro rata share of any such project in conformity with subsection (d) of this section.

(2) AGREEMENT.—The Director may enter into agreements to make matching payments on an initial portion of a coastal wetlands conservation project and to agree to make payments on the remaining Federal share of the costs of such project from subsequent moneys if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purpose of this section.

SEC. 17. AUTHORIZATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated up to $115,400,000 for each fiscal year through 1999 to carry out sections 14, 15, and 16 of this Act.

"(b) PRIORITY PROJECT AND CONSERVATION PLANNING EXPENDITURES.—Of the total amount authorized under subsection (a) during a given fiscal year, 65 per centum, not to exceed $75,000,000, shall be available to carry out sections 14 and 15 and shall remain available until expended.

"(c) COASTAL WETLANDS CONSERVATION GRANTS.—Of the total amount authorized under subsection (a) during a given fiscal year, 35 per centum, not to exceed $40,400,000, shall be available to carry out section 16 and shall remain available until expended. and

SEC. 18. GENERAL PROVISIONS.

(a) ADDITIONAL AUTHORITY FOR THE CORPS OF ENGINEERS.—The Secretary is authorized to carry out projects for the protection, restoration, or enhancement of aquatic and associated ecosystems, including projects for the protection, restoration, or creation of wetlands and coastal ecosystems. In carrying out such projects, the Secretary shall give such projects equal consideration with projects relating to irrigation, navigation, or flood control.

(b) FEASIBILITY STUDY.—The Secretary is hereby authorized and directed to study the feasibility of modifying the operation of existing navigation and flood control projects to allow for an increase in the share of the Mississippi River flows and sediment sent down the Atchafalaya River for purposes of land building and wetlands nourishment.

(c) DEFINITIONS.—As used in this section and sections 14, 15, 16, and 17, the following definitions apply:

(1) ADMINISTRATOR.—"Administrator" means the Administrator of the Environmental Protection Agency.

(2) DEVELOPMENT ACTIVITIES.—"Development activities" means any activity, including the discharge of dredged or fill material, which results directly in a more than de minimus change in the hydrologic regime, bottom contour, or the type, distribution or diversity of hydrophytic vegetation, or which impairs the flow, reach, or circulation of surface water within wetlands or other waters.

(3) DIRECTOR.—"Director" means the Director of the United States Fish and Wildlife Service.

(4) STATE.—"State" means the State of Louisiana.

(5) COASTAL STATE.—"Coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. The term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa.

(6) COASTAL WETLANDS RESTORATION PROJECT.—"Coastal wetlands restoration project" means any technically feasible activity to create, restore, protect, or enhance coastal wetlands through sediment and freshwater diversion, water management, or other measures that the Task Force finds will significantly contribute to the long-term restoration or protection of the physical, chemical and biological integrity of coastal wetlands in the State of Louisiana, and includes any such activity authorized under this section and sections 13 through 16 of this Act or under any other provision of law, including, but not limited to, new projects, completion or expansion of existing or on-going projects, individual phases, portions, or components of projects and operation, maintenance and rehabilitation of completed projects. The primary purpose of a "coastal wetlands restoration project" shall not be to provide navigation, irrigation or flood control benefits.

(7) COASTAL WETLANDS CONSERVATION PROJECT.—"Coastal wetlands conservation project" means—

(A) the obtaining of a real property interest in coastal lands or waters, if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the hydrology, water quality, and fish and wildlife dependent thereon; and

(B) the restoration, management, or enhancement of coastal wetlands ecosystems if such restoration, management, or enhancement is conducted on coastal lands and waters that are administered for the long-term conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon.

(8) GOVERNOR.—"Governor" means the Governor of Louisiana.

(9) TASK FORCE.—"Task Force" means the Louisiana Coastal Wetlands Conservation and Restoration Task Force which shall consist of the Secretary, who shall serve as chairman, the Administrator, the Governor, the Secretary of Agriculture, and the Secretary of Commerce.

SEC. 19. FLOOD PLAIN MANAGEMENT.

(a) BENEFIT-COST ANALYSIS.—The Secretary shall not include in the benefit base for justifying Federal flood damage reduction projects—

(1)(A) any new or substantially improved structure (other than a structure necessary for conducting a water-dependent activity) built in the 100-year flood plain after July 1, 1991; or

(B) in the case of a county substantially located within the 100-year flood plain, any new or substantially improved structure (other than a structure necessary for conducting a water-dependent activity) built in the 10-year flood plain after July 1, 1991; and

(2) any structure becomes located in the 100-year flood plain or the 10-year flood plain, as the case may be, by virtue of constrictions placed in the flood plain after July 1, 1991.

(b) COUNTIES SUBSTANTIALLY LOCATED WITHIN 100-YEAR FLOOD PLAIN.—For the purposes of subsection (a), a county is substantially located within the 100-year flood plain—

(1) if the county is comprised of lands of which 50 percent or more are located in the 100-year flood plain; and

(2) if the Secretary determines that application of the requirement contained in subsection (a)(1)(A) with respect to the county would unreasonably restrain continued economic development or unreasonably limit the availability of needed flood control measures.

(c) COST SHARING.—Not later than January 1, 1992, the Secretary shall transmit to Congress a report on the feasibility and advisability of increasing the non-Federal share of costs for new projects in areas where new or substantially improved structures and other constrictions are built or placed in the 100-year flood plain or the 10-year flood plain, as the case may be, after the initial date of the affected governmental units entry into the regular program of the national flood insurance program of the National Flood Insurance Act of 1968.

(d) REGULATIONS.—Not later than 6 months after the date on which a report is transmitted to Congress under subsection (b), the Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall issue regulations to implement subsection (a). Such regulations shall define key terms, such as new or substantially improved structure, constriction, 10-year flood plain, and 100-year flood plain.

(e) APPLICABILITY.—The provisions of this section shall not apply to any project, or separable element thereof, for which a final report of the Chief of Engineers has been forwarded to the Secretary before the last day of the 6-month period beginning on the date on which regulations are issued pursuant to subsection (a) but not later than July 1, 1993.

SEC. 20. SHORELINE PROTECTION.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the advisability of not participating in the planning, implementation, or maintenance of any beach stabilization or renourishment project involving Federal funds unless the State in which the proposed project will be located has established or committed to establish a beach front management program that includes—

(1) restrictions on new development seaward of an erosion setback line (based on preproject beach size) of at least 50 times the annual erosion rate;

(2) restrictions on construction of new structural stabilization projects, such as seawalls and groins, and their reconstruction if damaged by 50 percent or more;

(3) provisions for the relocation of structures in erosion-prone areas;

(4) provisions to assure public access to beaches stabilized or renourished with Federal funds after January 1, 1991; and

(5) such other provisions as the Secretary may prescribe by regulation to prevent hazardous or environmentally damaging shoreline development.

SEC. 21. RESERVOIR MANAGEMENT.

(a) TECHNICAL ADVISORY COMMITTEES.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall establish for each major reservoir (including reservoirs of greater than 200,000 acre feet of gross storage) under the jurisdiction of the Corps of Engineers a technical advisory committee to provide to the Secretary and Corps of Engineers recommendations on reservoir monitoring and options for reservoir research. The Secretary shall determine the membership of each committee, except that for each committee the Secretary may not appoint more than 6 members and shall ensure a predominance of members with appropriate academic, technical, or scientific qualifications. Members shall serve without pay, and the Secretary shall provide any necessary facilities, staff, and other support services in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.).

(b) PUBLIC PARTICIPATION.—The Secretary shall ensure that, in developing or revising reservoir operating manuals of the Corps of Engineers, the Corps shall provide significant opportunities for public participation, including opportunities for public hearings. The Secretary shall issue regulations to implement this subsection, including a requirement that all appropriate informational materials relating to proposed management decisions of the Corps be made available to the public sufficiently in advance of public hearings. Not later than January 1, 1992, the Secretary shall transmit to Congress a report on measures taken pursuant to this subsection.

(c) RECREATION, FISH, AND WILDLIFE PURPOSES.—The Secretary is authorized to manage any existing dam and reservoir project of the Corps of Engineers for recreation and fish and wildlife purposes to the extent such management does not impair any other authorized project purpose.

SEC. 22. CHANGES IN RESERVOIR PROJECT OPERATIONS.

(a) REVIEW.—The Secretary shall conduct a review of the operations of reservoir projects which are under the jurisdiction of the Secretary—

(1) to determine whether or not such projects are being operated in accordance with their authorized purposes;

(2) to identify deficiencies in the operations of such projects which prohibit the realization of project benefits; and

(3) to determine inconsistencies in the operations of those projects which have the same authorized project purposes.

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the review conducted under subsection (a), together with recommendations for correcting deficiencies and eliminating inconsistencies identified under subsection (a).

(c) WATER CONTROL MANUALS.—

(1) PRELIMINARY DRAFT.—Not later than 270 days after the date of the enactment of this Act, the Secretary shall develop a preliminary draft of a water control manual for each reservoir project which is under the jurisdiction of the Secretary.

(2) PUBLIC REVIEW.—The Secretary shall make each draft developed under paragraph (1) available for review by the public for a period of not less than 90 days.

(3) FINAL DRAFT.—Not later than 15 months after the date of the enactment of this Act, the Secretary shall develop and publish a final water control manual for each reservoir project which is under the jurisdiction of the Secretary.

(4) CONSISTENCY WITH PROJECT PURPOSES.—Each manual developed under this subsection shall be consistent with the authorized purposes of the project for which such manual is developed.

(d) OPERATION OF PROJECTS.—After the last day of the 15-month period beginning on the date of the enactment of this Act, each reservoir project which is under the jurisdiction of the Secretary shall be operated in accordance with the final water control manual developed for such project under this section.

(e) SIGNIFICANT CHANGES.—Before making any significant change in a water control manual developed under this section, the Secretary shall—

(1) make the proposed change available for review by the public for a period of not less than 60 days;

(2) prepare a comprehensive assessment of the need for the proposed change, the expected effects of the proposed change, comments received on the proposed change, the impact of the proposed change on authorized project purposes, the anticipated cost and benefits of the proposed change, alternatives which were considered before selection of the proposed change, and the authority for making the proposed change; and

(3) transmit to Congress a copy of the proposed change, together with such assessment, so that the proposed change and assessment will be available to Congress for a period of not less than 60 days before the proposed change becomes effective.

SEC. 23. ENVIRONMENTAL DREDGING.

(a) OPERATION AND MAINTENANCE OF NAVIGATION PROJECTS.—Whenever necessary to meet the requirements of the Federal Water Pollution Control Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, may remove, as part of operation and maintenance of a navigation project, contaminated sediments outside the boundaries of and adjacent to the navigation channel.

(b) NAVIGATION PROJECTS.—In carrying out a navigation project in an area which is not meeting applicable water quality standards, the Secretary may remove contaminated sediments outside the boundaries of and adjacent to the navigation channel if such removal is necessary to enable the area to meet such standards, such removal is requested by a non-Federal sponsor, and the sponsor agrees to pay 50 percent of the cost of such removal.

(c) NONPROJECT SPECIFIC.—The Secretary may remove contaminated sediments from the navigable waters of the United States for the purpose of environmental enhancement and water quality improvement if such removal is requested by a non-Federal sponsor and the sponsor agrees to pay 50 percent of the cost of such removal.

(d) JOINT PLAN REQUIREMENT.—The Secretary may only remove contaminated sediments under subsections (b) and (c) in accordance with a joint plan developed by the Secretary and interested Federal, State, and local government officials. Such plan must include an opportunity for public comment, a description of the work to be undertaken, the method to be used for dredged material disposal, the roles and responsibilities of the Secretary and non-Federal sponsors, and identification of sources of funding.

(e) DISPOSAL COSTS.—Costs of disposal of contaminated sediments removed under this section shall be a non-Federal responsibility.

SEC. 24. PROTECTION OF RECREATIONAL AND COMMERCIAL USES.

(a) GENERAL RULE.—In planning any water resources project, the Secretary shall consider the impact of the project on existing and future recreational and commercial uses in the area surrounding the project.

(b) MAINTENANCE.—Whenever the Secretary maintains, repairs, rehabilitates, or reconstructs a water resources project which will result in a change in the configuration of a structure which is a part of such project, the Secretary, to the maximum extent practica-

ble, shall carry out such maintenance, repair, rehabilitation, or reconstruction in a manner which will not adversely affect any recreational use established with respect to such project before the date of such maintenance, repair, rehabilitation, or reconstruction.

(c) MITIGATION.—If maintenance, repair, rehabilitation, or reconstruction of a water resources project by the Secretary results in a change in the configuration of any structure which is a part of such project and has an adverse effect on a recreational use established with respect to such project before the date of such maintenance, repair, rehabilitation, or reconstruction, the Secretary, to the maximum extent practicable, shall take such actions as may be necessary to restore such recreational use or provide alternative opportunities for comparable recreational use.

(d) APPLICABILITY.—

(1) GENERAL RULE.—Subsections (b) and (c) shall apply to maintenance, repair, rehabilitation, or reconstruction for which physical construction is initiated after May 1, 1988.

(2) LIMITATION.—Subsections (b) and (c) shall not apply to any action of the Secretary which is necessary to discontinue the operation of a water resources project.

(e) COST SHARING.—Costs incurred by the Secretary to carry out the objectives of this section shall be allocated among authorized project purposes in accordance with applicable cost allocation procedures and shall be subject to cost sharing or reimbursement to the same extent as other project costs are shared or reimbursed.

SEC. 25. MULTIPURPOSE WATER RESOURCES PROJECTS.

Activities currently performed by personnel under the direction of the Secretary in connection with the operation and maintenance of hydroelectric power generating facilities at Corps of Engineers multipurpose water resources projects are to be considered as inherently governmental functions and not commercial activities. This section does not prohibit contracting out major maintenance or other functions which are currently contracted out or studying services not directly connected with project maintenance and operations.

SEC. 26. GREAT LAKES REMEDIAL ACTION PLANS.

The Secretary is authorized to provide technical, planning, and engineering assistance to States and local governments in the development and implementation of remedial action plans for areas of concern in the Great Lakes identified under the Great Lakes Water Quality Agreement of 1978. Non-Federal interests shall contribute 50 percent of the costs of such development and implementation.

SEC. 27. MATTERS TO BE ADDRESSED IN PLANNING.

Section 904 of the Water Resources Development Act of 1986 (33 U.S.C. 2281) is amended by inserting "(including preservation and enhancement of the environment)" after "environment".

SEC. 28. CROSS FLORIDA BARGE CANAL.

Section 1114 of the Water Resources Development Act of 1986 (16 U.S.C. 460tt; 100 Stat. 4232) is amended to read as follows:

"SEC. 1114. CROSS FLORIDA BARGE CANAL.

"(a) DEAUTHORIZATION.—The barge canal project located between the Gulf of Mexico and the Atlantic Ocean (hereinafter in this section referred to as the 'project'), as described in the Act of July 23, 1942 (56 Stat. 703), shall be deauthorized by operation of law immediately upon the Governor and Cabinet of the State of Florida adopting a resolution specifically agreeing on behalf of the State of Florida (hereinafter in this section referred to as the 'State') to all of the terms of the agreement prescribed in subsection (b).

"(b) TRANSFER OF PROJECT LANDS.—Notwithstanding any other provision of law, the Secretary is, subject to the provisions of subsections (d) and (e), directed to transfer to the State all lands and interests in lands acquired by the Secretary and facilities completed for the project in subsection (a), without consideration, if the State agrees to each of the following:

"(1) The State shall agree to hold the United States harmless from all claims arising from or through the operations of the lands and facilities conveyed by the United States.

"(2) The State shall agree to preserve and maintain a greenway corridor which shall be open to the public for compatible recreation and conservation activities and which shall be continuous, except for areas referred to in subparagraphs (A) and (C) of this paragraph, along the project route over lands acquired by the Secretary or by the State or State Canal Authority, or lands acquired along the project route in the future by the State or State Canal Authority, to the maximum width possible, as determined in the management plan to be developed by the State for former project lands. Such greenway corridor shall not be less than 300 yards wide, except for the following areas:

"(A) Any area of the project corridor where, as of the date of the enactment of this subparagraph, no land is owned by the State or State Canal Authority.

"(B) Any area of the project corridor where, as of the date of the enactment of this subparagraph, the land owned by the State or State Canal Authority is less than 300 yards wide.

"(C) Any area of the project corridor where a road or bridge crosses the project corridor.

"(3) Consistent with paragraph (2) of this subsection, the State shall create a State park or conservation/recreation area in the lands and interests in lands acquired for the project lying between the Atlantic Ocean and the western boundaries of sections 20 and 29, township 15 south, range 23 east.

"(4) The State shall agree, consistent with paragraphs (2), (5) and (6) of this subsection, to preserve, enhance, interpret, and manage the water and related land resources of the area containing cultural, fish and wildlife, scenic, and recreational values in the remaining lands and interests in land acquired for the project, lying west of sections 20 and 29, township 15 south, range 23 east, as determined by the State, for the benefit and enjoyment of present and future generations of people and the development of outdoor recreation.

"(5) The State shall agree to pay, from the assets of the State Canal Authority and the Cross Florida Canal Navigation District, including revenues from the sale of former project lands declared surplus by the State management plan, to the counties of Citrus, Clay, Duval, Levy, Marion, and Putnam a minimum aggregate sum of $32,000,000 in cash or, at the option of the counties, payment to be made by conveyance of surplus former project lands selected by the State at current appraised values.

"(6) The State shall agree to provide that, after repayment of all sums due to the counties of Citrus, Clay, Duval, Levy, Marion, and Putnam, the State may use any remaining funds generated from the sale of former project lands declared surplus by the State to acquire the fee title to lands along the project route as to which less than fee title was obtained, or to purchase privately owned lands, or easements over such privately owned lands, lying within the proposed project route, consistent with paragraphs (2), (3), and (4) of this subsection, according to such priorities as are determined in the management plan to be developed by the State for former project lands. Any remaining funds generated from the sale of former project lands declared surplus by the State shall be used for the improvement and management of the greenway corridor consistent with paragraphs (2), (3), and (4) of this subsection.

"(c) ENFORCEMENT.—

"(1) REMEDIES AND JURISDICTION.—The United States is directed to vigorously enforce the agreement referred to in subsections (a) and (b) in the courts of the United States and shall be entitled to any remedies in equity or law, including, without limitation, injunctive relief. The court, in issuing any final order in any suit brought pursuant to this subsection, may, in its discretion, award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing party. The United States district courts shall have original and exclusive jurisdiction of any action under this subsection.

"(2) STATE REMEDIES.—The State shall be entitled to the same remedies listed in paragraph (1) of this subsection in the courts of the State or of the United States.

"(d) TIME OF TRANSFER.—Actual transfer of lands and management responsibilities under this section shall not occur on the constructed portions of the project lying between the Atlantic Ocean and the Eureka Lock and Dam, inclusive, and between the Gulf of Mexico and the Inglis Lock and Dam, inclusive, until the last day of the 24-month period beginning on the date of the enactment of the Water Resources Development Act of 1990.

"(e) MANAGEMENT PENDING TRANSFER.—In the 124-month period following the date of the enactment of the Water Resources Development Act of 1990, the Secretary shall carry out any and all programmed maintenance on the portions of the project outlined in subsection (d).

"(f) SURVEY.—The exact acreage and legal description of the real property to be transferred pursuant to this section shall be determined by a survey which is satisfactory to the Secretary and to the State. The cost of such survey shall be borne by the State.".

SEC. 29. SMALL NAVIGATION PROJECTS.

(a) BUFFALO, NEW YORK.—The Secretary shall carry out a navigation project south of the existing dike disposal area in Buffalo, New York, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) by construction of a breakwater, fishing pier, and floating docks.

(b) ROCHESTER, NEW YORK.—The Secretary shall carry out a navigation project for the mouth of the Genesee River in Rochester, New York, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) by development and implementation of wave surge control measures.

(c) BOLLES HARBOR, MICHIGAN.—The Secretary shall carry out a navigation project at the mouth of the LaPliasance Creek, Bolles Harbor, Michigan, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) by construction of an offshore barrier.

(d) FORT PECK RESERVOIR, MONTANA.—The Secretary shall carry out a navigation

project at the Fort Peck Reservoir, Montana, under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) by construction of a breakwater.

SEC. 30. ONONDAGA LAKE, NEW YORK.

(a) MANAGEMENT CONFERENCE.—The Secretary and the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the "Administrator"), and the Governor of the State of New York, acting jointly, shall convene a management conference for the restoration, conservation, and management of Onondaga Lake.

(b) PURPOSES OF CONFERENCE.—The purpose of the management conference under this section shall include but not be limited to—

(1) developing, within the 1-year period following the date of the enactment of this Act, a comprehensive restoration, conservation, and management plan that recommends priority corrective actions and compliance schedules for the cleanup of Onondaga Lake; and

(2) coordinating implementation of the plan by the State of New York, the United States Army Corps of Engineers, the Environmental Protection Agency and all local agencies, governments, and other groups participating in the conference.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The members of the management conference shall include, at a minimum—

(A) the Secretary,

(B) the Administrator,

(C) the Governor of the State of New York,

(D) a representative of the Attorney General of the State of New York,

(E) a representative of Onondaga County, New York, and

(F) a representative of the city of Syracuse, New York.

(2) PERMANENT REPRESENTATIVE.—The members of the management conference may designate a permanent representative to attend meetings of the management conference and otherwise represent and vote on their behalf on the management conference.

(3) EX OFFICIO MEMBERS.—The management conference shall include the following ex officio members:

(A) The United States Senators from the State of New York.

(B) The members of the United States House of Representatives within whose congressional districts Onondaga Lake lies.

(4) STANDING COMMITTEES.—There shall be two standing committees of the management conference as follows:

(A) The Citizens Advisory Committee.

(B) The Technical Review Committee.

(d) PLAN.—

(1) APPROVAL.—Not later than 120 days after the completion of a plan and after providing for public review and comment, the Secretary and the Administrator shall approve such plan if the plan meets the requirements of this section, and the Governor of the State of New York concurs in such approval.

(2) IMPLEMENTATION.—Upon approval of the plan under this section, such plan shall be implemented.

(e) GRANT PROGRAM.—

(1) IN GENERAL.—The management conference, with the approval of the Secretary, the Administrator, and the Governor of the State of New York, is authorized to make grants to the State of New York and public or nonprofit private agencies, institutions, organizations, and individuals.

(2) PURPOSES; NON-FEDERAL SHARE.—Grants under this subsection may be made for—

(A) research, surveys, and studies necessary for the development of the plan under this section, except that grants to any person under this subparagraph may not exceed 70 percent of the costs of such work and that the non-Federal share of such costs are provided from non-Federal sources;

(B) conducting activities identified in the plan developed pursuant to this section, except that grants to any person under this subparagraph may not exceed 70 percent of the costs of such work and that the non-Federal share of such costs are provided from non-Federal sources; and

(C) gathering data and retaining expert consultants in support of litigation undertaken by the State of New York to compel clean up or obtain clean up and damage cost from parties responsible for the pollution of Onondaga Lake.

(3) IN-KIND PAYMENTS.—In-kind payments shall qualify for the purpose of meeting the non-Federal matching requirements of this subsection.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary and the Administrator $15,000,000 per fiscal year for each of fiscal years 1992 through 1998 to carry out this section.

SEC. 31. SAUK LAKE, MINNESOTA.

The Secretary shall complete the project for removal of silt and aquatic weeds, Sauk Lake, Minnesota, authorized by section 602 of the Water Resources Development Act of 1986 (100 Stat. 4148), including acquisition of weed harvesting equipment using funds appropriated by Congress for such purpose, and shall carry out measures to protect and enhance water quality through implementation of best management practices in the upstream drainage basin.

SEC. 32. WAPPINGERS LAKE, NEW YORK.

Section 602(a) of the Water Resources Development Act of 1986 (100 Stat. 4148-49) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(10) Wappingers Lake, New York, for removal of silt and aquatic growth.".

SEC. 33. SMALL FLOOD CONTROL PROJECTS.

(a) DRY JORDAN AND CROOKED CREEKS, ARKANSAS.—The Secretary may carry out a project for flood control, Dry Jordan and Crooked Creeks, Harrison, Arkansas, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(b) BLUE RIVER AND BROCK CREEK, SALEM, INDIANA.—The Secretary may carry out a project for flood control, East Fork of the Blue River and Brock Creek, Salem, Indiana, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(c) OLD SULFUR CREEK, ORLEANS, INDIANA.—The Secretary may carry out a project for flood control, Old Sulfur Creek, Orleans, Indiana, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(d) WHITE RIVER, GIBSON COUNTY, INDIANA.—The Secretary may carry out a project for flood control, White River, Hazelton, Gibson County, Indiana, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).

(e) FARMERS BRANCH CREEK, WHITE SETTLEMENT, TEXAS.—The Secretary shall carry out, on an expedited basis, a nonstructural project for flood control, Farmers Branch Creek, White Settlement, Texas, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s). Such project shall consist of relocation and purchase of residential structures located within the flood plain.

(f) VALLEY VIEW BRANCH, HURST, TEXAS.—The Secretary may carry out a project for flood control, Valley View Branch, Hurst, Texas, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s). The maximum amount which may be allotted under such section for such project shall be $7,500,000 instead of $5,000,000.

(g) SAVAN GUT, VIRGIN ISLANDS.—The maximum amount which may be allotted under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) for the project for flood control, Savan Gut, Virgin Islands, shall be $10,000,000 instead of $5,000,000. Nothing in this section shall be construed as affecting any cost sharing requirements applicable to such project under the Water Resources Development Act of 1986.

(h) KROUTS CREEK, WEST VIRGINIA.—The Secretary may carry out a project for flood control, Krouts Creek in the vicinity of Huntington, West Virginia, under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s). Such project shall include deepening and widening of the channel and culvert replacement.

SEC. 34. BAY CITY, MICHIGAN.

The Secretary may undertake a project for shoreline protection along the Saginaw River in Bay City, Michigan, at a total estimated cost of $6,105,000.

SEC. 35. DELAWARE RIVER AND TRIBUTARIES, PENNSYLVANIA.

The Secretary may carry out a project for shoreline protection for the Glen Foerd Historic Property in Philadelphia, Pennsylvania, along the Delaware River and tributaries, including restoration of seawalls.

SEC. 36. TENNESSEE RIVER, KNOXVILLE, TENNESSEE.

The Secretary may carry out a project for streambank protection along the Tennessee River in Knoxville, Tennessee.

SEC. 37. CONTINUATION OF AUTHORIZATION OF CERTAIN PROJECTS.

(a) GENERAL RULE.—Notwithstanding section 1001(b)(1) of the Water Resources Development Act of 1986, the following projects shall remain authorized to be carried out by the Secretary:

(1) SANTA CRUZ HARBOR, CALIFORNIA.—The modification for sealing the east jetty of the project for Santa Cruz Harbor, California, authorized by section 811 of the Water Resources Development Act of 1986 (100 Stat. 4168).

(2) PAJARO RIVER, SANTA CRUZ, CALIFORNIA.—The project for flood control, Pajaro River and tributaries, Santa Cruz, California, authorized by the Flood Control Act of 1966 (80 Stat. 1421).

(3) HILLSBORO INLET, FLORIDA.—Dredging of Hillsboro Inlet, Florida, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1090).

(4) LITTLE CALUMET RIVER BASIN, INDIANA.—The project for flood control, Little Calumet River basin (Cady Marsh Ditch), Indiana, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4115).

(5) LOUISIANA STATE PENITENTIARY LEVEE, LOUISIANA.—The project for flood control, Louisiana State Penitentiary Levee, Mississippi River, Louisiana, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117).

(6) ONTONAGON HARBOR, MICHIGAN.—The project for navigation, Ontonagon Harbor, Michigan, authorized by the Rivers and

Harbors Appropriations Act of June 25, 1910 (36 Stat. 655).

(7) OTTAWA RIVER HARBOR, MICHIGAN AND OHIO.—The project for navigation, Ottawa River Harbor, Michigan and Ohio, authorized by section 201 of the Flood Control Act of 1965 (79 Stat. 1073) and approved by committee resolution, in accordance with the Phase I General Design Memorandum (dated November 1976) for such project, at a total cost of $13,200,000, with an estimated first Federal cost of $6,530,000 and an estimated non-Federal cost of $6,670,000.

(8) SAULT SAINTE MARIE, MICHIGAN.—The second lock for Sault Sainte Marie, Michigan, authorized by section 1149 of the Water Resources Development Act of 1986 (100 Stat. 4254-55); except that—

(A) the Secretary shall allocate, not later than 180 days after the date of the enactment of this Act and after providing an opportunity for notice and comment, the non-Federal share of the cost for such lock to Canada and the States of Minnesota, Wisconsin, Indiana, Illinois, Michigan, Ohio, Pennsylvania, and New York based on the Secretary's estimate, using current traffic statistics, of the projected total tonnage of commercial cargo which will be delivered to or from ports in Canada and each such State by vessels using such lock,

(B) the non-Federal share so allocated shall not include any cost allocated to Canada under subparagraph (A), and

(C) the amount of the non-Federal share of such cost shall be reduced by the amount of any contribution made by the Government of Canada toward construction of such lock.

(9) CONNEAUT, OHIO.—The small boat harbor project for Conneaut, Ohio, authorized by section 101 of the River and Harbor Act of 1966 (80 Stat. 1405).

(10) FAIRPORT, OHIO.—The small boat harbor project for Fairport, Ohio, and the dredging of the navigation project for Fairport, Ohio, authorized pursuant to section 201 of the Flood Control Act of 1965 (42 U.S.C. 1962d-f).

(11) MEMPHIS HARBOR, MEMPHIS, TENNESSEE.—The project for navigation, Memphis Harbor, Memphis, Tennessee, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4145).

(12) EAST FORK OF TRINITY RIVER, TEXAS.—The project for flood protection on the East Fork of the Trinity River, Texas, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1185).

(13) NORFOLK HARBOR, VIRGINIA.—The project for deepening of 3 navigation anchorages at Norfolk Harbor, Virginia, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1090).

(b) LIMITATION.—A project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during such period, funds have been obligated for the construction (including planning and design) of the project.

(c) FREEPORT, ILLINOIS.—The project for flood control, Freeport, Illinois, as authorized by section 5 of the Flood Control Act of June 22, 1936 (49 Stat. 1586), which was deauthorized by section 1002 of the Water Resources Development Act of 1986 (100 Stat. 4208) is authorized to be carried out by the Secretary.

SEC. 38. EROSION PREVENTION PROJECTS, LOUISIANA.

The Secretary shall carry out erosion prevention projects in Vermilion Parish and Cameron Parish, Louisiana, at a total cost of $200,000. Such projects shall include revetment work and reconstruction of spoiled banks with dredged material.

SEC. 39. HAZARD, KENTUCKY.

The Secretary is authorized and directed to design and construct such flood control measures at or in the vicinity of Hazard, Kentucky, on the North Fork of the Kentucky River as the Secretary determines necessary and appropriate to afford the city of Hazard, Kentucky, and its immediate environs a level of protection against flooding at least sufficient to prevent any future losses to such city from the likelihood of flooding such as occurred in January 1957, at a total cost of $30,000,000. With respect to such project, Congress finds that the benefits determined in accordance with section 209 of the Flood Control Act of 1970 and attributable to the flood measures authorized for such project exceed the cost of such measures.

SEC. 40. DEMONSTRATION OF CONSTRUCTION OF FEDERAL PROJECT BY NON-FEDERAL INTERESTS.

(a) IN GENERAL.—For purposes of demonstrating the safety benefits and economic efficiencies which would accrue as a consequence of non-Federal management of harbor improvement projects, the Secretary shall enter into agreements with 2 non-Federal interests pursuant to which the non-Federal interests will undertake part or all of a harbor project authorized by law, by utilizing their own personnel or by procuring outside services, if the cost of doing so will not exceed the cost of the Secretary undertaking the project. If proposals for such agreements meet the criteria of section 204 of the Water Resources Development Act of 1986, the agreements shall be entered into not later than 1 year after the date of the enactment of this Act.

(b) LIMITATION.—At least 1 project carried out pursuant to this section shall pertain to improvements to a major ship channel which carries a substantial volume of both passenger and cargo traffic.

(c) REPORT.—The Secretary shall transmit to Congress a report regarding the safety benefits and economic efficiencies accrued from entering into agreements with non-Federal interests under this section.

SEC. 41. MODIFICATION OF REVERSIONARY INTEREST.

(a) IN GENERAL.—The Secretary shall modify the reversionary interest of the United States in approximately 50 acres of land reserved in the deed described in subsection (b) for the purpose of allowing the United Methodist Church to construct and operate a retirement village on such land.

(b) DEED DESCRIPTION.—The deed referred to in subsection (a) is the quitclaim deed dated October 22, 1963, by which the United States conveyed to Clay County, Georgia, the parcel of land lying in land lots 263 and 264, Seventh Land District, Clay County, Georgia.

(c) INSTRUMENT OF RELEASE.—The Secretary shall execute and file in the appropriate office an amended deed or other appropriate instrument effecting the modification of the reversionary interest under section 1.

SEC. 42. UPPER MISSISSIPPI RIVER PLAN.

(a) EXTENSION OF PROGRAMS.—Section 1103(e)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 652(e)(2)) is amended—

(1) by striking "ten years" and inserting "15 years"; and

(2) by striking "ten-year" and inserting "15-year".

(b) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 1103(e) of such Act is amended—

(1) in paragraph (3) by striking "eight" and inserting "13";

(2) in paragraph (4) by striking "nine" and inserting "14"; and

(3) in paragraph (5) by striking "seven" and inserting "12".

(c) RECREATIONAL PROJECTS.—Section 1103(f)(2)(A) of such Act is amended by striking "ten" and inserting "15".

SEC. 43. SECTION 221 AGREEMENTS.

Section 221(a) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(a)) is amended by striking "State legislative" in the last sentence.

SEC. 44. CABIN SITE LEASES.

Section 1134(d) of the Water Resources Development Act of 1986 (100 Stat. 4251) is amended by inserting "cabin and" after "lawfully installed dock or".

SEC. 45. SAN LUIS REY, CALIFORNIA.

Notwithstanding section 201 of the Flood Control Act of 1965 (42 U.S.C. 1962d-f), the authorized first Federal cost of construction of the project for flood control, San Luis Rey, California, being carried out under such section shall be $60,000,000.

SEC. 46. LAND CONVEYANCES.

(a) RIVERSIDE, CALIFORNIA.—If the holder and owner of a leasehold mineral and royalty interest in the existing Prado Flood Control Basin in Riverside, California, requests the Administrator of General Services to exchange such interest for excess Federal property, the Administrator shall acquire such interest by exchange of excess Federal property. Such acquisition must be completed not later than 270 days after the date of such request. The Administrator shall undertake an evaluation and appraisal of an interest to be acquired under this section.

(b) SNEADS, FLORIDA.—

(1) IN GENERAL.—The Secretary shall convey to the trustees of the Salem Wesleyan Church all right, title, and interest of the United States in and to the parcel of land described in paragraph (2).

(2) PROPERTY DESCRIPTION.—The parcel of land referred to in paragraph (1) contains approximately 2.30 acres lying in section 12, township 4 north, range 8 west, Tallahassee meridian, Jackson County, Florida, and is more particularly described as follows:

Beginning at a point that is 294 feet west of the east line and 294 feet north of the south line of the northeast quarter of the northeast quarter of such section 12, and at a corner of a tract of land now or formerly owned by the Salem Wesleyan Church;

Thence south along a line parallel to the east line of such section a distance of approximately 269 feet to a point that is 25 feet north of the south line of the northeast quarter of the northeast quarter of such section;

Thence west along a line parallel to the south line of the northeast quarter of the northeast quarter of such section a distance of approximately 425 feet to the eastern right-of-way line of Florida State Road Numbered S-69A;

Thence northerly along the eastern right-of-way line of such State road a distance of approximately 200 feet to the boundary of such Salem Wesleyan Church tract; and

Thence northeasterly along the boundary of such Salem Wesleyan Church tract approximately 450 feet to the point of beginning.

(3) PAYMENT OF FAIR MARKET VALUE.—The conveyance authorized by this subsection

shall be made upon payment to the United States of a sum equal to the fair market value of the land as determined by the Secretary.

(4) CONDITIONS AND RESTRICTIONS.—The conveyance under this subsection shall be subject to a reversionary interest in the United States if the lands conveyed are used for other than church purposes. The Secretary may require any additional terms, conditions, reservations, and restrictions in connection with the conveyance that the Secretary determines are necessary to protect the interests of the United States.

(5) SURVEY COSTS.—The cost of any surveys necessary as an incident to the conveyance authorized by this subsection shall be borne by the trustees of the Salem Wesleyan Church.

(6) DEADLINE.—Subject to compliance with this section, the Secretary shall convey the parcel of land described in paragraph (2) within 2 years after the date of the enactment of this Act.

(c) IRA D. MACLACHLAN AMERICAN LEGION POST, SAULT SAINTE MARIE, MICHIGAN.—

(1) IN GENERAL.—The Secretary shall convey to the Ira D. MacLachlan Post Numbered 3 of the American Legion the parcel of land described in the Act of June 5, 1936 (49 Stat. 1481), and the building located thereon for use as a clubhouse for the local American Legion Post of Sault Sainte Marie, Michigan.

(2) TERMS AND CONDITIONS.—The transfer under paragraph (1) shall be subject to a reversionary interest in the United States if the land and building transferred are used for a purpose other than as a clubhouse for the local American Legion Post of Sault Sainte Marie, Michigan. Such transfer shall also be subject to such other terms, conditions, regulations, and restrictions as the Secretary determines necessary to protect the interest of the United States.

(d) ABERDEEN, WASHINGTON.—

(1) IN GENERAL.—The Secretary may transfer to the city of Aberdeen, Washington, by quitclaim deed, all rights, interests, and title of the United States in the approximately 570.5 acres of land under the administrative jurisdiction of the Department of the Army acquired for the purposes of the project for Wynoochee Lake, Wynoochee River, Washington, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1193), together with any improvements thereon.

(2) CONDITIONS.—A transfer under this section shall be subject to the following conditions:

(A) The city shall operate, maintain, repair, replace, and rehabilitate the project in accordance with regulations prescribed by the Secretary which are consistent with the project's authorized purposes including fish and wildlife mitigation.

(B) The city shall hold and save the United States free from any claims or damages resulting from the operation, maintenance, repair, or rehabilitation of the project by the city or its contractors.

(C) If the city uses the land transferred under this subsection for any purpose other than the project's authorized purposes or generation of hydropower or fails to comply with subparagraph (A) or (B), the Secretary shall notify the city of such use or failure. If the city does not correct such nonconforming use or failure during the 1-year period beginning on the date of such notification, the land transferred under this subsection shall revert to the United States.

(3) LIMITATION.—No transfer under this subsection may be made until the Secretary has determined that the city can operate, maintain, repair, replace, and rehabilitate the project.

(4) REPAYMENT OF CAPITAL COSTS.—Nothing in this subsection shall be construed to relieve the city of its obligations under the project contract to repay the capital costs of the project allocated to water supply. The Secretary may negotiate a cash settlement to allow the city to prepay the present value of the payments for capital costs due under the contract.

SEC. 47. ALTERNATIVES TO MUD DUMP SITE FOR DISPOSAL OF DREDGED MATERIAL.

(a) REPORT.—Within 90 days after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to the Congress a final report on the feasibility of designating an alternative site to the Mud Dump Site at a distance not less than 20 miles from the shoreline.

(b) PLAN.—Within 180 days after the date of the enactment of this Act, the Secretary and the Administrator of the Environmental Protection Agency shall submit to Congress a plan for the long-term management of dredged material from the New York/New Jersey Harbor region. The plan shall include—

(1) an identification of the source, quantities, and characteristics of material to be dredged;

(2) a discussion of potential alternative sites for disposal of dredged material, including the feasibility of altering the boundaries of the Mud Dump Site;

(3) measures to reduce the quantities of dredged material proposed for ocean disposal;

(4) measures to reduce the amount of contaminants in materials proposed to be dredged from the Harbor through source controls and decontamination technology;

(5) a program for monitoring the physical, chemical, and biological effects of dumping dredged material at the Mud Dump Site; and

(6) a study of the characteristics of the bottom sediments, including type and distribution.

(c) DEMONSTRATION PROJECT.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall implement a demonstration project for disposing on an annual basis up to 10 percent of the material dredged from the New York/New Jersey Harbor region in an environmentally sound manner other than by ocean disposal. Environmentally sound alternatives may include capping of borrow pits, construction of a containment island, application for landfill cover, habitat restoration, and use of decontamination technology.

(d) DREDGED MATERIAL WHICH MAY BE DUMPED AT MUD DUMP SITE.—Notwithstanding section 103(d) of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1413(d)), only dredged material that meets the criteria of section 102(a) of such Act (33 U.S.C. 1412(a)) may be dumped at the Mud Dump Site.

(e) MUD DUMP SITE DEFINED.—For purposes of this section, the term "Mud Dump Site" means the area located approximately 5¾ miles east of Sandy Hook, New Jersey, with boundary coordinates of 40 degrees, 23 minutes, 48 seconds North, 73 degrees, 51 minutes, 28 seconds West; 40 degrees, 21 minutes, 48 seconds North, 73 degrees, 50 minutes, 00 seconds West; 40 degrees, 21 minutes, 48 seconds North; 73 degrees, 51 minutes, 28 seconds West; and 40 degrees, 23 minutes, 48 seconds North; 73 degrees, 50 minutes, 00 seconds West.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal year 1991, $500,000 to implement subsection (b) and $1,000,000 to implement subsection (c), and such sums as may be necessary for fiscal year 1992.

(g) REPEAL.—Section 211 of the Water Resources Development Act of 1986 (33 U.S.C. 2239) is repealed.

SEC. 48. BIG SOUTH FORK NATIONAL RIVER AND RECREATION AREA.

TRANSFER OF JURISDICTION.—Section 108(b) of the Water Resources Development Act of 1974 (88 Stat. 43) is amended by striking "After publication of notice, and after he has completed the construction of necessary access roads, day-use facilities, campground facilities, lodges, and administrative buildings" and inserting "Not later than 30 days after the date of the enactment of the Water Resources Development Act of 1990".

SEC. 49. CONSTRUCTION OF VIRGIN ISLAND PROJECTS BY SECRETARY OF THE ARMY.

(a) GENERAL RULE.—Upon request of the Governor of the Virgin Islands with respect to a construction project in the Virgin Islands for which Federal financial assistance is available under any law of the United States, the Federal official administering such assistance may make such assistance available to the Secretary instead of the Virgin Islands. The Secretary shall use such assistance to carry out such project in accordance with the provisions of such law.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as relieving the Virgin Islands from complying with any requirements for non-Federal cooperation with respect to a construction project carried out with Federal financial assistance provided to the Secretary pursuant to this section; except that the Secretary shall be responsible for complying with administrative and fiscal requirements associated with utilization of such assistance.

(c) TERMINATION DATE.—Subsection (a) shall not be effective after the last day of the 3-year period beginning on the date of the enactment of this Act; except that the Secretary shall complete construction of any project commenced under subsection (a) before such day.

SEC. 50. PROTECTION OF RECREATION PROJECT PURPOSES.

Notwithstanding any other provision of law, section 1 of the Act of September 6, 1960 (16 U.S.C. 580m), shall not apply to the projects referred to in paragraphs (1), (2), (3), (6), (9), (10), and (11) of section 6(a) of the Water Resources Development Act of 1988 (102 Stat. 4022).

SEC. 51. LIBERTY, OHIO.

(a) STUDY.—The Secretary shall conduct a study of the water supply needs of Liberty, Ohio.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with recommendations for meeting the projected water supply needs of Liberty, Ohio.

(c) DEMONSTRATION PROGRAM.—After completion of the study under this section, the Secretary shall conduct a technology demonstration of methods to meet the water supply needs of Liberty, Ohio, recommended by the Secretary under subsection (b) to determine the capability of such methods to meet such needs.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 to carry out this section.

SEC. 52. WASHINGTONVILLE, OHIO.

(a) STUDY.—The Secretary shall conduct a study of the water supply needs of Washingtonville, Ohio.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with recommendations for meeting the projected water supply needs of Washingtonville, Ohio.

(c) DEMONSTRATION PROGRAM.—After completion of the study under this section, the Secretary shall conduct a technology demonstration of methods to meet the water supply needs of Washingtonville, Ohio, recommended by the Secretary under subsection (b) to determine the capability of such methods to meet such needs.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 to carry out this section.

SEC. 53. ALBERMARLE SOUND-ROANOKE RIVER BASIN, NORTH CAROLINA.

No construction may be carried out with respect to the permit granted by the Corps of Engineers for project application 83-0747-06 until—

(1) submission of the report mandated by section 5 of Public Law 100-589; and

(2) review of such report and determination by the Corps of Engineers of the impact of the project in light of such report.

SEC. 54. CRANSTON, RHODE ISLAND.

(a) STUDY.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a feasibility study of wastewater treatment options for transporting contamination from the Central Landfill site and other sources of pollution in Rhode Island to a wastewater treatment facility in Cranston, Rhode Island, through the use of a regional connector system.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section.

(c) DEMONSTRATION PROGRAM.—After completion of the feasibility study under this section, the Secretary shall conduct a technology demonstration of the connector system described in subsection (a) to determine the capability of the system design to operate properly.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 to carry out subsection (a) and $5,000,000 to carry out subsection (c).

SEC. 55. SANTA ROSA, CALIFORNIA.

The Secretary is authorized to assist the city of Santa Rosa, California, in the development and construction of storage facilities associated with wastewater reclamation, with an estimated Federal cost of $45,000,000.

SEC. 56. GENERATION FACILITIES.

The Secretary may not authorize, approve, or recommend any activity referred to in section 10 of the Rivers and Harbors Act of 1899 in connection with the construction (commencing after the enactment of this section) by any entity of generation facilities at the project on the Savage River referred to in section 6(a)(7) of the Water Resources Development Act of 1988 (102 Stat. 4022) or at any location on the Savage River downstream of such project and upstream of the confluence of the Savage River and the North Branch of the Potomac River. No permit under the Federal Water Pollution Control Act shall authorize any discharge in connection with the construction or operation of any such facilities and no certification shall be issued or waived under such Act for any discharge resulting from such construction or operation. The prohibitions contained in the first 2 sentences of this section shall also be applicable to the project referred to in section 6(a)(9) of the Water Resources Development Act of 1988 (102 Stat. 4022).

SEC. 57. FLAT ROCK, MICHIGAN.

The Secretary shall provide assistance to non-Federal interests in the design and construction of repairs to the dam at Flat Rock, Michigan.

SEC. 58. WARROAD HARBOR, MINNESOTA.

The Secretary shall carry out a navigation project to dredge the navigation channel and adjacent basin at Warroad Harbor, Minnesota. The project shall be undertaken to provide safe boating access and egress and to upgrade existing retaining walls.

SEC. 59. RONDOUT CREEK AND WALLKILL RIVER, NEW YORK AND NEW JERSEY.

The non-Federal undertaken to provide safe boating access and egress and to upgrade existing retaining walls.

SEC. 59. RONDOUT CREEK AND WALLKILL RIVER, NEW YORK AND NEW JERSEY.

The non-Federal share of correcting the design deficiency of the North Ellenville portion of the project for flood control, Rondout Creek and Wallkill River and their tributaries, New York and New Jersey, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1181), shall be the same as the non-Federal share of the project as originally authorized and constructed.

SEC. 60. STRUTHERS, OHIO.

The Secretary is authorized to carry out planning, engineering, and design for replacement of the Bridge Street bridge in Struthers, Ohio, at a total cost of $2,000,000.

SEC. 61. VIRGINIA BEACH, VIRGINIA.

The Secretary shall, pursuant to section 156 of the Water Resources Development Act of 1976 (42 U.S.C. 1962d-5f), enter into a local cooperation agreement with the city of Virginia Beach, Virginia, for nourishment of the project for beach erosion, Virginia Beach, Virginia, authorized by section 101 of the River and Harbor Act of 1954 (68 Stat. 1254). Such agreement shall be deemed to have taken effect on February 6, 1987.

SEC. 62. YOUNGSTOWN, OHIO.

The Secretary is authorized to carry out planning, engineering, and design of the Center Street bridge new alignment for Youngstown, Ohio, at a total cost of $2,000,000.

SEC. 63. MAYSVILLE, KENTUCKY.

The Secretary is authorized to carry out planning, engineering, and design for construction of a bridge between Maysville, Kentucky, and the State of Ohio, at a total cost of $2,000,000.

SEC. 64. SOUTHWEST REGION FLOOD RESPONSE COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the "Southwest Region Flood Response Evaluation Commission" (hereinafter in this section referred to as the "Commission").

(b) DUTIES OF COMMISSION.—The Commission shall evaluate—

(1) existing flood control measures in the Arkansas, Red, and Ouachita river basins, including the adequacy of flood control storage at existing reservoirs, operation of such reservoirs, and downstream flood control and local protection projects;

(2) the effectiveness of Federal emergency response capabilities to prevent or minimize loss of life and damage to property resulting from flooding; and

(3) the effectiveness of Federal disaster assistance programs in providing adequate and prompt compensation to flood victims.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 6 members appointed as follows:

(A) The Secretary (or the Secretary's delegate).

(B) The Secretary of Agriculture (or the Secretary's delegate).

(C) The Director of the Federal Emergency Management Agency (or the Director's delegate).

(D) The Governor of the State of Arkansas (or the Governor's delegate).

(E) The Governor of the State of Oklahoma (or the Governor's delegate).

(F) The Governor of the State of Texas (or the Governor's delegate).

(2) TERMS.—Each member shall be appointed for the life of the Commission.

(3) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(4) QUORUM.—Three members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(5) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members.

(6) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of its members.

(d) POWERS OF COMMISSION.—

(1) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish such information to the Commission.

(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(e) REPORT.—The Commission shall transmit a report to the President and Congress not later than 1 year after the date of the enactment of this Act. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with recommendations for such legislation and administrative actions as the Commission considers appropriate.

(f) TERMINATION.—The Commission shall terminate 30 days after submitting its final report pursuant to subsection (e).

SEC. 65. REHABILITATION OF FEDERAL FLOOD CONTROL LEVEES.

The Secretary shall undertake—

(1) projects for rehabilitation and reconstruction of Federal flood control levees on the Arkansas River, Arkansas and Oklahoma, substantially in accordance with the Little Rock District Engineer's Arkansas River Basin, Arkansas and Oklahoma, Draft Feasibility Report, dated March 1990, and the Tulsa District Engineer's Keystone to Tulsa Reconnaissance Report, dated September 1989; and

(2) projects for rehabilitation and reconstruction of Federal flood control levees on the Red River, Oklahoma and Arkansas, below Denison Dam.

The purpose of such projects shall be to make such levees comply with current Federal design standards. Such projects shall include repairs of design deficiencies and replacement of deteriorated drainage structures and other appurtenances.

SEC. 66. FLOOD WARNING SYSTEM.

(a) INSTALLATION.—The Secretary may develop and install a flood warning system for the Santa Clara River and its tributaries (including Santa Paula Creek), Ventura and Los Angeles Counties, California, at a total cost of $850,000. Such system shall provide, at a minimum, base stations in both Ventura and Santa Paula, California.

(b) OPERATION AND MAINTENANCE.—Before installation of the flood warning system under this section, non-Federal interests must agree to operate and maintain such system and to develop, maintain, and implement such emergency preparedness plans for flooding along the Santa Clara River and its tributaries in Ventura and Los Angeles Counties, California, as are satisfactory to the Secretary.

SEC. 67. REND LAKE WATER STORAGE CONTRACT EXTENSION.

Section 1137 of the Water Resources Development Act of 1986 (100 Stat. 4252) is amended by striking "5 years" and inserting "10 years".

SEC. 68. CAESAR'S CREEK LAKE, OHIO.

The Secretary shall amend the contract for use of storage space for water supply in Caesar's Creek Lake, Ohio, to relieve the non-Federal sponsor of the requirement to make annual payments for that portion of the maintenance and operation costs applicable to future water supply storage as is consistent with the Water Supply Act of 1958 (Public Law 85-500). The relief provided by the preceding sentence shall apply for 5 years after the date of the enactment of this Act or until the storage space is used, whichever first occurs, and shall apply in such proportion as the storage is used for water supply purposes.

SEC. 69. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF LAKE ERIE.

(a) AREA TO BE DECLARED NONNAVIGABLE; PUBLIC INTEREST.—Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries of Lake Erie described in Committee Print 101-48 of the Committee on Public Works and Transportation of the House of Representatives, dated July 1990, are not in the public interest then, subject to subsections (b) and (c) of this section, those portions of Lake Erie, bounded and described in such Committee print, are declared to be nonnavigable waters of the United States.

(b) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply only to those parts of the areas described in the Committee print referred to in subsection (a) which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations including, but not limited to, sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Appropriations Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(c) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in the Committee print referred to in subsection (a) is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (b), or if work in connection with any activity permitting in subsection (b) is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

SEC. 70. WETLANDS ENHANCEMENT OPPORTUNITIES.

Not later than January 20, 1991, the Secretary shall transmit to Congress a list which specifically identifies opportunities of enhancing wetlands in connection with construction and operation of water resource projects.

SEC. 71. RADIUM REMOVAL DEMONSTRATION PROGRAM.

(a) GRANT PROGRAM.—The Secretary, in cooperation with State public authorities, may assist local governments in demonstrating methods of mitigating radium contamination in ground water. Upon application of a State public authority, the Secretary may make a grant to the authority for such purposes. Assistance provided pursuant to this section shall be used for financing the acquisition and installation of ground water treatment technologies needed to remove radium from ground water used as a source of public drinking water for residents of small communities under the jurisdiction of such local governments.

(b) PURPOSES OF GRANTS.—Funds made available through grants under this section may only be used by the grant recipient for one or both of the following purposes:

(1) Providing insurance or prepaying interest for local obligations issued by a local government to finance the acquisition and installation of treatment technologies described in subsection (a).

(2) Paying for the costs of administration for establishment and operation by such authority of a program to provide financing for such acquisition and installation.

(c) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) SMALL COMMUNITY.—The term "small community" means a political subdivision of a State the population of which does not exceed 20,000 individuals.

(2) STATE PUBLIC AUTHORITY.—The term "State public authority" means an agency or instrumentality of a State which is established for the purposes of assisting local governments in financing capital improvements on a statewide or regional basis.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,000,000 for fiscal year 1991, $7,000,000 for fiscal year 1992, and $7,000,000 for fiscal year 1993.

SEC. 72. STUDIES.

(a) HOT SPRINGS, ARKANSAS.—The amount which non-Federal interests would be required to pay, but for this section, of the costs of the feasibility study which the Secretary is conducting for a flood control project for Hot Springs, Arkansas, shall be reduced by the same percentage as the percentage of the total benefits of such project which are attributable to protection of lands owned by the United States.

(b) SOUTH ATLANTIC CARGO TRAFFIC.—

(1) STUDY.—The Secretary, in conjunction with the Administrator of the Federal Maritime Administration of the Department of Transportation, shall conduct a study of the market for container ship traffic in the South Atlantic region of the United States from Port Everglades, Florida, to Norfolk, Virginia.

(2) PURPOSES.—The purposes of the study to be conducted under this subsection are as follows:

(A) Identifying major containerized cargo trade routes and commodity flows.

(B) Identifying inland transportation infrastructure needs.

(C) Projecting future traffic volumes.

(D) Forecasting future container vessel fleets.

(E) Developing origin-to-destination transportation costs.

(F) Developing differential trade route costs for origin-destination pairs.

(G) Forecasting future micro- and mini-bridging opportunities.

(H) Developing a computerized database of all traffic flows and costs.

(I) Forecasting future port infrastructure needs.

(3) REPORT.—Not later than 14 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,200,000.

(c) LOWER CALLEGUAS CREEK, CALIFORNIA.—

(1) STUDY.—The Secretary shall conduct a feasibility study for a flood control project on the lower Calleguas Creek, California. A purpose of the study shall be to determine the full benefits of increased agricultural production which are likely to result from the project.

(2) REPORT.—Not later than December 31, 1991, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $600,000 for fiscal years beginning after September 30, 1990. Such sums shall remain available until expended.

(d) RANCHO PALOS VERDES, CALIFORNIA.—The Secretary shall—

(1) complete the study of the feasibility of constructing shoreline erosion mitigation measures along the Rancho Palos Verdes coastline and in the city of Rolling Hills, California, authorized by section 712 of the Water Resources Development Act of 1986 (100 Stat. 4160), and

(2) in connection with such study, investigate measures to conserve fish and wildlife (as specified in section 704 of the Water Resources Development Act of 1986), including measures to demonstrate the effectiveness of intertidal marine habitat.

(e) SOUTHERN CALIFORNIA INFRASTRUCTURE RESTORATION.—

(1) STUDY.—The Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall conduct a feasibility study in the Southern California region of the problems and alternative solutions, including governmental roles and responsibilities, of restoring such region's public works infrastructure (including roads and highways, fixed rails, bridges, airports, flood control channels, dams, aqueducts, and utility pipes and lines) to full service following earthquakes which cause substantial damage to such infrastructure.

(2) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000.

(f) SANTA MONICA BREAKWATER, CALIFORNIA.—The Secretary shall complete the reconnaissance investigation and feasibility study for the breakwater project, Santa Monica, California, not later than July 1, 1992, and shall ensure that reestablishment of past charter fishing vessel accommodation activities which existed in the area from the 1930's until prior to damage of the breakwater structure shall be counted the same as commercial benefits for purposes of section 119 of the 1970 River and Harbor Act.

(g) CALIFORNIA OIL SPILL RESTORATION.—

(1) STUDY.—The Secretary, in consultation with the Director of the Federal Emergency Management Agency and the Commandant of the Coast Guard, shall conduct a feasibility study in the California coastal region of the problems and alternative solutions, including Federal and non-Federal roles and responsibilities, of containment and restoration of coastal waters and lands (including natural wildlife, habitat restoration, commercial, and recreational activities) following a major oil spill.

(2) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000.

(h) ATLANTA, GEORGIA.—

(1) STUDY REVIEW.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency and the Atlanta Regional Commission, shall review the completed study and supporting documentation for the Metropolitan Atlanta Area Water Resources Management Study for the purpose of providing plans for the improvement of water quality of major streams in the Metropolitan Atlanta Region. The scope of the review shall include review of the effectiveness of existing treatment facilities and the need for additional or improved treatment of municipal and industrial wastewater, combined sewer overflows, and other significant point or nonpoint pollution sources.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the review conducted under this subsection.

(i) THURMAN TO HAMBURG, IOWA.—The Secretary shall complete the feasibility phase of the study authorized by section 1152 of the Water Resources Development Act of 1986 (100 Stat. 4255), including completion of planning and specifications, not later than August 1, 1991, and commence construction of the project authorized by such section not later than October 1, 1991.

(j) ROCK CREEK, MARYLAND.—

(1) WATER QUALITY STUDY.—The Secretary shall conduct a study of methods of improving water quality of Rock Creek, Maryland.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(k) SAGINAW BAY, MICHIGAN.—

(1) EXTENSION OF DEADLINE FOR FEASIBILITY REPORT.—Section 711 of the Water Resources Development Act of 1986 (100 Stat. 4160) is amended by striking "1989" and inserting "1992".

(2) CONTINUATION OF FEASIBILITY STUDY AUTHORIZATION.—For purposes of section 710 of the Water Resources Development Act of 1986, the study authorized by section 711 of such Act shall be treated as being authorized on the date of the enactment of this Act.

(l) WATER SUPPLY STUDY, MINNESOTA AND NORTH DAKOTA.—The Secretary shall conduct a study, with the States of Minnesota and North Dakota, to determine and recommend alternative plans to augment flows in the Red River of the North, Minnesota and North Dakota. Such study shall include methods to supplement flows on such river for municipal, industrial, agricultural, and fish and wildlife purposes and recognize the need for continued flow into Canada. In conducting such study, the Secretary shall coordinate with the Bureau of Reclamation on actions being undertaken by the Bureau with respect to the Garrison Diversion Unit.

(m) UPPER MISSISSIPPI RIVER.—

(1) STUDY.—The Secretary shall conduct a study of the water quality of the Upper Mississippi River.

(2) CONSULTATION.—In conducting such study, the Secretary is authorized to consult with, and request the assistance of, the United States Geological Survey, the Fish and Wildlife Service, the Environmental Protection Agency, and affected States.

(3) REPORT.—The Secretary shall report the results of the study conducted under this subsection, together with findings and recommendations of the Secretary, to Congress on or before December 31, 1992.

(4) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $2,000,000 to carry out the study authorized by this subsection.

(n) HIGHFIELD WATER COMPANY, NEW JERSEY.—

(1) STUDY.—The Comptroller General shall conduct a study of the facts and circumstances concerning the claims of the Highfield Water Company, New Jersey, against the United States Army Corps of Engineers for the purpose of making recommendations for an appropriate settlement of such claims.

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the study conducted under this subsection.

(o) MANASQUAN RIVER, NEW JERSEY.—

(1) STUDY.—The Secretary shall conduct a study of the feasibility of implementing flood control measures on the Manasquan River to alleviate flooding in Freehold, Howell, and other effected townships in New Jersey.

(2) REPORT.—Not later than December 31, 1992, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(p) BUFFALO, NEW YORK.—

(1) REVIEW AND EVALUATION.—The Secretary shall conduct a review and evaluation of the plan prepared by the city of Buffalo, New York, on flooding and associated water quality problems (including those associated with combined sewer overflows, sewer backups, and riverside outfalls) in the Buffalo, New York, metropolitan area.

(2) PURPOSES.—The purposes of the review and evaluation to be conducted under this subsection are to develop recommendations for Federal and State participation in solving the problems described in paragraph (1) and to identify flood control benefits of implementing the plan.

(3) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall transmit to Congress and the mayor of Buffalo, New York, a report on the results of the review and evaluation conducted under this subsection.

(q) LAKE ERIE TO OHIO RIVER CANAL, OHIO.—The study for the inland navigation project, Lake Erie to the Ohio River Canal, Ohio, authorized by resolution of the Committee on Public Works and Transportation of the House of Representatives, dated October 1, 1986, shall be considered to be a water resources study primarily designed for the purposes of navigation improvements in the nature of dams, locks, and channels on the Nation's system of inland waterways.

(r) MILL CREEK, TENNESSEE.—

(1) FEASIBILITY STUDY.—The Secretary shall study the feasibility of nondam options to alleviate flooding along Mill Creek and Seven Mile Creek, Tennessee.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with a recommended plan for alleviating the flooding referred to in paragraph (1).

(s) NEW MADRID INFRASTRUCTURE RESTORATION.—

(1) STUDY.—The Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall conduct a feasibility study in the region surrounding the New Madrid Fault (including the States of Tennessee, Missouri, Arkansas, Kentucky, Mississippi, Indiana, and Illinois) of the problems and alternative solutions, including governmental roles and responsibilities, of restoring such region's public works infrastructure (including roads and highways, fixed rails, bridges, airports, flood control channels, dams, aqueducts, and utility pipes and lines) to full service following earthquakes which cause substantial damage to such infrastructure.

(2) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000.

SEC. 73. LAKE OF THE WOODS, MINNESOTA.

(a) INVESTIGATION.—The Secretary may undertake an investigation of the lands bordering on the Lake of the Woods, Minnesota, to determine if such lands and improvements thereto in the United States currently meet applicable requirements of international agreements concerning regulation of the levels of the Lake of the Woods.

(b) LAND ACQUISITION.—In addition, the Secretary may acquire lands and provide protective works and measures when neces-

sary to satisfy the requirements referred to in subsection (a).

(c) REPORT.—The Secretary shall report to Congress within 1 year after the date of the enactment of this Act on the progress made in carrying out this section and the need for further legislation to resolve any outstanding claims for damages caused by the need for additional protective works and measures to satisfy the requirements referred to in subsection (a).

SEC. 74. NEW YORK HARBOR, NEW YORK.

(a) REVIEW AND INVESTIGATION.—The Secretary, in conjunction with the Commandant of the United States Coast Guard and in consultation with appropriate Federal and State agencies and the Port Authority of New York and New Jersey, shall conduct a comprehensive review of existing reports on New York Harbor and a systems investigation of the system of channels and anchorages of the Port of New York and New Jersey (including areas and channels outside the Federal system). Such investigation shall include analysis of traffic design, shoaling, and hydraulics in order to determine the potential of streamlining the operation of such system and of reducing the potential for maritime accidents. The Secretary is further directed to construct feasible works within the Secretary's authority and to make recommendations to Congress with respect to works which are needed to improve the operation of such system and are outside the Secretary's authority.

(b) REPORTS.—

(1) INITIAL FINDINGS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress initial findings on the review and investigation conducted under subsection (a).

(2) FINAL REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a final report on such review and investigation.

SEC. 75. PROJECT DEAUTHORIZATIONS.

(a) NOTIFICATION OF MEMBERS OF CONGRESS.—Section 1001(b)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(2)) is amended by inserting after the first sentence the following new sentence: "Before submission of such list to Congress, the Secretary shall notify each Senator in whose State, and each Member of the House of Representatives in whose district, a project (including any part thereof) on such list would be located.".

(b) REPEAL OF OUTDATED DEAUTHORIZATION PROVISION.—Section 12 of the Water Resources Development Act of 1974 (33 U.S.C. 579) is repealed.

(c) SPECIFIED PROJECTS.—The following projects are not authorized after the date of the enactment of this Act, except with respect to any portion of such a project which portion has been completed before such date or is under construction on such date:

(1) GREENWICH HARBOR, CONNECTICUT.—The following portion of the channel at Greenwich Harbor, Connecticut, authorized by the Rivers and Harbors Appropriations Act of March 2, 1919 (40 Stat. 1276):

Beginning at a point on the limit line of the Federal Anchorage Area in Greenwich Harbor, such point having coordinates of N66,309.76 E358,059.81 and running thence northwesterly along the limit line of the Federal Anchorage Area N50°0104W, a distance of 621.62 feet to an angle point on the existing Federal Anchorage Area Limit Line having coordinates N66,709.18 E357,583.50; thence continuing along the existing Federal Anchorage Area Limit Line N39°5855E a distance of 200.00 feet to an angle point on the existing Federal Anchorage Area Limit Line having coordinates N66,862.43 E357,712.01; thence continuing along the existing Federal Anchorage Area Limit Line S50°0104E a distance of 140.00 feet to a point on the existing Federal Anchorage Area Limit Line having coordinates N66,772.47 E357,819.28; thence running into the existing Federal Anchorage Area S39°5855W a distance of 187.66 feet to a point having coordinates N66,628.75 E357,698.76; thence running in the existing Federal Anchorage Area S59°1032°E a distance of 376.47 feet to a point having coordinates N66,435.85 E358,022.05; thence running in the existing Federal Anchorage Area S16°4026°E a distance of 131.62 feet to the point and place of the beginning for a total area of 47,737 square feet.

(2) CONNEAUT HARBOR, OHIO.—The feature of the navigation project for Conneaut Harbor, Ohio, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1176), which feature is a channel lying easterly of the access channel and adjacent to the municipal pier.

(3) BIG RIVER RESERVOIR, RHODE ISLAND.—The water supply project, Big River Reservoir, Providence, Rhode Island, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4144).

SEC. 76. HALF MOON BAY HARBOR.

(a) DESIGNATION.—The harbor commonly known as Half Moon Bay Harbor, located in El Granada, California, shall hereafter be known and designated as "Pillar Point Harbor".

(b) LEGAL REFERENCES.—A reference in any law, map, regulation, document, record, or other paper of the United States to the harbor referred to in subsection (a) shall be deemed to be a reference to "Pillar Point Harbor".

SEC. 77. ANNUAL OBLIGATION CEILINGS.

Section 901 of the Water Resources Development Act of 1986 (100 Stat. 4183) is amended by adding after paragraph (5) the following new paragraphs:

"(6) For the fiscal year ending September 30, 1992, the sum of $1,800,000,000.

"(7) For the fiscal year ending September 30, 1993, the sum of $1,800,000,000.".

SEC. 78. RAYSTOWN LAKE, PENNSYLVANIA.

The Secretary is directed to submit to the Congress for approval any proposed changes in the allocation of storage for the Raystown Lake project, Pennsylvania, which result from the on-going Raystown Lake Reallocation Study undertaken by the Baltimore District. Pending submission to and approval by the Congress of the results of that study, the Secretary may not reallocate storage at the project.

SEC. 79. ADDITION OF COLUMBIANA COUNTY, OHIO, TO APPALACHIAN REGIONAL DEVELOPMENT PROGRAM.

Section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 403) is amended by inserting "Columbiana," after "Carroll, Clermont,".

SEC. 80. EXCHANGE RATE DEMONSTRATION PROJECT, LOCKWOOD'S FOLLY INLET, NORTH CAROLINA.

(a) IN GENERAL.—The Secretary shall conduct an exchange rate demonstration project for the eastern channel of Lockwood's Folly River Inlet, North Carolina, to improve water quality, at a total cost of $1,300,000, with an estimated first Federal cost of $9,750,000 and an estimated first non-Federal cost of $3,250,000.

(b) CONSULTATION REQUIREMENT.—In conducting the demonstration project under this section, the Secretary shall consult with appropriate Federal and State departments and agencies.

SEC. 81. RIO GRANDE AMERICAN CANAL EXTENSION.

(a) CONSTRUCTION OF EXTENSION.—Subject to subsection (e), the Secretary shall construct an extension of the American Canal, together with pumping plants, wasteways, measuring devices, and other facilities needed to connect such extension with existing irrigation systems. Such extension shall lie wholly in the United States and shall be approximately 13 miles in length, beginning at the downstream end of the current American Canal in El Paso, Texas, and extending to Riverside Heading.

(b) OPERATION OF CANAL.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall operate the extension of the American Canal provided for in subsection (a).

(2) DELIVERY OF WATERS.—The Secretary shall enter into an agreement with El Paso County Water Improvement District Number 1 pursuant to which the Water Improvement District would be responsible for the operation of the American Canal with respect to the delivery of all waters, with the exception of those waters belonging to Mexico which, consistent with paragraph (3), the Secretary shall be responsible for delivering.

(3) UNITED STATES OBLIGATIONS UNDER 1906 AND 1933 CONVENTIONS.—In authorizing the agreement described in paragraph (2), this Act—

(A) does not in any way affect the jurisdiction, powers, or prerogatives of the International Boundary and Water Commission, United States and Mexico, and

(B) does not in any way impede the ability of the United States Government to fulfill its obligations under the 1906 and 1933 Conventions.

(c) USE OF CANAL AS CONVEYANCE CHANNEL.—

(1) USE BY MEXICO.—The Secretary may enter into an agreement with Mexico which permits Mexico to use the American Canal as a conveyance channel. Any such agreement shall require Mexico to make payments to the United States for Mexico's use of the American Canal.

(2) USE BY NON-FEDERAL ENTITIES.—Upon obtaining the express approval of the Secretary, El Paso County Water Improvement District Number 1 may enter into agreements with other non-federal entities pursuant to which such entities may use the American Canal as a conveyance channel.

(d) MAINTENANCE OF EXTENSION.—The Secretary shall maintain the extension of the American Canal provided for in subsection (a).

(e) LOCAL CONTRIBUTIONS TO COSTS.—The extension of the American Canal provided for in subsection (a) may not be constructed unless the Secretary and El Paso County Water Improvement District Number 1 have entered into the following agreements:

(1) CONSTRUCTION COSTS.—An agreement pursuant to which El Paso County Water Improvement District Number 1 will pay $5,000,000 as its share of the construction costs for the construction of the extension of the American Canal provided for in subsection (a).

(2) MAINTENANCE COSTS.—An agreement pursuant to which El Paso County Water Improvement District Number 1 will contribute a cumulative amount of $50,000 each year to the United States Commissioner as its share of the costs for maintenance of the

extension of the American Canal provided for in subsection (a). After the 7-year anniversary of the completion of the construction of that extension (and after the end of each 7-year interval since the last such renegotiation), the Secretary and the El Paso County Water Improvement District Number 1 may renegotiate the amount of the contribution of El Paso County Water Improvement District Number 1 pursuant to the agreement required by this paragraph in order to reflect any increase in Bureau of Labor Statistics Consumer Price Index-Urban Wage Earners and Clerical Workers (CPI-W)-1982-84-100 Index. In the event the funds contributed by the El Paso County Water Improvement District Number 1 pursuant to this paragraph are not utilized during any given year, the funds shall be carried over to the succeeding years in a contingency fund for necessary preventative and routine maintenance work to be performed by the United States Section, International Boundary and Water Commission.

(f) REPEAL OF PREVIOUS CONSTRUCTION AUTHORIZATION.—Title IV of the Act entitled "An Act to authorize various Federal reclamation projects and programs, and for other purposes", approved September 28, 1976 (Public Law 94-423; 90 Stat. 1327), is repealed.

(g) STUDY OF SUBSIDENCE DAMAGE.—The Secretary—

(1) shall conduct a study to determine the likelihood and extent of any damage to property adjacent to the American Canal which would be caused by subsidence related to the Canal extension provided for in subsection (a), and

(2) shall submit a report to the Congress detailing his findings not later than 1 year after the date of the enactment of this Act.

(h) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated—

(1) $42,000,000 to construct the extension of the American Canal provided for in subsection (a); and

(2) such sums as may be necessary to operate and maintain that extension and to conduct the study required by subsection (g).

(i) DEFINITIONS.—As used in this section—

(1) AMERICAN CANAL.—The term "American Canal" means the Rio Grande American Canal constructed pursuant to the Act of August 29, 1935 (49 Stat. 961).

(2) UNITED STATES COMMISSIONER.—The term "United States Commissioner" means the United States Commissioner, International Boundary and Water Commission, United States and Mexico.

(3) SECRETARY.—The term "Secretary" means the Secretary of State, acting through the United States Commissioner.

SEC. 82. BUY AMERICAN.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the Secretary shall not expend, after the date of the enactment of this Act, any funds appropriated to carry out this Act for any project, unless materials and products used in such project are produced in the United States.

(b) LIMITATIONS ON APPLICABILITY.—The provisions of subsection (a) shall not apply where the Secretary finds—

(1) that their application would be inconsistent with the public interest;

(2) that materials and products referred to in subsection (a) are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) that inclusion of material and products produced in the United States in a project will increase the cost of such project by more than 25 percent.

SEC. 83. CONVEYANCE OF OAKLAND INNER HARBOR TIDAL CANAL PROPERTY TO CITIES OF OAKLAND AND ALAMEDA, CALIFORNIA.

The Secretary may convey, by quitclaim deed, the title of the United States in all or portions of the approximately 86 acres of uplands, tidelands, and submerged lands, commonly referred to as the Oakland Inner Harbor Tidal Canal, California, as follows:

(1) To the city of Oakland, the United States title to all or portions of that part of the Oakland Inner Harbor Tidal Canal which are located within the boundaries of the city of Oakland.

(2) To the city of Alameda, the United States title to all or portions of that part of the Oakland Inner Harbor Tidal Canal which are located within the boundaries of the city of Alameda.

The Secretary may reserve and retain from any such conveyance a right-of-way for the operation and maintenance of the authorized Federal channel in the Oakland Inner Harbor Tidal Canal.

SEC. 84. CONVEYANCE OF LANDS LOCATED NEAR LEWISVILLE DAM AND GARZA-LITTLE ELM RESERVOIR, DENTON COUNTY, TEXAS.

(a) AUTHORIZATION OF CONVEYANCE.—

(1) GENERAL RULE.—Subject to paragraphs (2) and (3), the Secretary shall convey all right, title, and interest of the United States in any property described in subsection (d) to the person named in subsection (c) (or his or her heirs and assigns) from whom the United States acquired such right, title, and interest in connection with the Lewisville Dam and Garza-Little Elm Reservoir projects in Denton County, Texas.

(2) TIME LIMIT.—Each conveyance under paragraph (1) shall be made within 90 days after the date of receipt of payment under subsection (b) from such person.

(3) APPLICABILITY.—The requirement of paragraph (1) shall apply with respect to a property for which payment under subsection (b) is made within 60 days of the date of the enactment of this Act.

(b) PRICE TO BE PAYED BEFORE CONVEYANCE.—No conveyance shall be made under authority of this section until the person to whom such conveyance will be made pays to the United States the fair market value of the right, title, and interest to be conveyed, or $2,000 per acre of property conveyed, whichever is less.

(c) ELIGIBLE BUYERS.—The persons to whom conveyances may be made under authority of this section are the following: Stella Faye Anderson, Archer Lee Curtis, Arden Foil Curtis, William Rylie Curtis, Fred C. Emery, Max Hahn, Jr., Nolen Hasten, Rosella Higgins, Marguerite Higgins, Shirley Dean Johnson, Curtis N. McDaniel, Gilbert Newton MacDaniel, John Edward McWhorter, Noble Alfred Talley, and Zennia Marie Warnick.

(d) PROPERTY TO BE CONVEYED.—

(1) IN GENERAL.—The property that may be conveyed under authority of this section consists of those tracts of land located near the Lewisville Dam and the Garza-Little Elm Reservoir in Denton County, Texas, which are designated by the following tract numbers in Army Corps of Engineers Project M2-2-0003:

B134	*B152*	*B164*
B136	*B153*	*B165*
B143	*B154*	*B166*
B144	*B155*	*B167*
B145	*B156*	*B177*
B146	*B157*	*B178*
B148	*B158*	*B179*
B149	*B159*	*B193*
B150	*B162*	*B194*
B151	*B163*	

(2) EXCLUDED PORTIONS.—The property referred to in paragraph (1) does not include portions of tracts listed in paragraph (1) to the extent that such portions are within 200 feet of the spillway of the Lewisville Dam.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 5314) was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 5314

Mr. ANDERSON. Mr. Speaker, pursuant to House Resolution 469, I offer a motion.

The SPEAKER pro tempore (Mr. STENHOLM). The Clerk will report the motion.

The Clerk read as follows:

Mr. ANDERSON moves to insist on the House amendment to the Senate bill, S. 2740, and to request a conference with the Senate thereon.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ANDERSON].

The motion was agreed to

The SPEAKER pro tempore. The Speaker will appoint conferees upon his return to the chair.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5314

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that, in the engrossment of H.R. 5314, the Clerk be authorized to correct section numbers, punctuation, and cross references and make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 5314.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5314, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. DORGAN of North Dakota. Mr. Speaker, due to an illness in my family, I was unavoidably absent during the vote on final passage of H.R. 5314, the Water Resources Develop-

ment Act of 1990. Had I been present, I would have voted "yes" on rollcall No. 387.

The bill left unresolved some crucial problems relating to management of the Missouri River flows by the Army Corps of Engineers. However, I am satisfied that this issue will be addressed in hearings which the chairman of the Water Resources Subcommittee has promised to conduct early next year. Meanwhile, I intend to introduce legislation to make the corps more responsive to the needs of the all Missouri Basin States and, in particular, to those of the upper basin.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONSIDERATION OF CONFERENCE REPORT ON S. 2104, CIVIL RIGHTS ACT OF 1990, AND AGAINST ITS CONSIDERATION

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-760) on the resolution (H. Res. 477) waiving all points of order against consideration of the conference report on the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, and against its consideration, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2039, JOB TRAINING PARTNERSHIP ACT AMENDMENTS OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-761) on the resolution (H. Res. 478) providing for the consideration of the bill (H.R. 2039) to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve adults and to youth, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES ON SEPTEMBER 27, 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-762) on the resolution (H. Res. 479) providing for consideration of motions to suspend the rules on September 27, 1990, which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I believe that the business of the day is now concluded and there will be no other legislative business. Members can feel free that there will be no additional votes this evening.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Georgia.

Mr. GINGRICH. I thank the gentleman for yielding.

Mr. Speaker, certainly on our side of the aisle we do not expect any additional business and we would oppose any effort to get a vote to adjourn this evening.

Mr. Speaker, we appreciate the act of comity in going forward with special orders.

Mr. HOYER. Mr. Speaker, based upon that, I believe the legislative business is at a conclusion and that we will convene tomorrow at 10 a.m.

□ 1930

MEDICARE FRAUD MUST BE STOPPED

The SPEAKER pro tempore (Mr. STENHOLM). Under a previous order of the House, the gentleman from Texas [Mr. PICKLE] is recognized for 5 minutes.

Mr. PICKLE. Mr. Speaker, yesterday the Subcommittee on Oversight of the Committee on Ways and Means held a hearing on the subject of Medicare fraud. This hearing was part of the subcommittee's ongoing efforts to examine fraud and abuse in programs under the Ways and Means Committee's jurisdiction.

Earlier this year the subcommittee held a hearing in Fort Lauderdale, FL, that focused on a fraud scheme uncovered there. Under this scheme, an organization called Healthy Heart contacted senior citizens groups and offered to provide free cholesterol testing. When the day came for the tests, most of the people who took the cholesterol test were told that they should immediately take followup tests. These followup tests measured blood flow and were designed to detect arterial blockages. Curiously, it seems that if you weren't covered by Medicare, you didn't need the followup tests. In other words, what was really screened out by the initial cholesterol screening were the people not covered by Medicare.

Patients were told that the followup tests were free. Medicare, they were told, would pick up the tab. Although many were at first skeptical about the tests, they felt reassured when they were told that Medicare would cover the costs. Under the law, Medicare only pays 80 percent of the costs of medical procedures. Beneficiaries are responsible for the 20 percent not paid by Medicare. In Florida the labs involved didn't send bills to the beneficiaries. However, bills were sent to the Medicare carrier—a lot of bills. And Medicare paid them. In fact, within a period of about 6 months, Medicare paid out between $3 to $4 million for followup tests in Florida. Meanwhile, most patients got no test results. Those that did get results were all told the same thing: That everything was fine and there was nothing to worry about. One woman had been told she had no vascular problems; sadly, she had a heart attack several weeks later.

There are two important lessons that I learned from this hearing. The first is a lesson for Medicare beneficiaries: Beware of someone who tries to talk you into having a medical procedure on the grounds that it's free. Remember, the patient—or his insurance company—is responsible for 20 percent of the bill. It's against the law to waive that 20 percent copayment. Involving patients in the Medicare process by making them responsible for part of the bill is a safeguard against fraud. And anyone who tries to take the patient out of the picture, by waiving the patient's portion of the bill, may be trying to eliminate the first line of defense against Medicare fraud.

The second lesson I've learned from these hearings on Medicare fraud is how frighteningly easy it can be to cheat the Medicare system. Consider these facts: First, the Federal Government will spend more than $100 billion on Medicare this year. A pot of money that size is mighty tempting to someone who'd like to get his hands on some quick cash. Second, Medicare carriers are under pressure to pay Medicare claims quickly. We here in Congress have applied that pressure, and one of the unfortunate results is that Medicare carriers have to assume that the claims are valid and to pay them without much scrutiny. Third, funds for payment safeguard activities—money intended to assure that Medicare funds are spent for appropriate, allowable medical services—have been reduced for the past couple of years. As a result, the carriers have been able to check up on fewer claims. Meanwhile, the number of claims has been growing at more than 10 percent per year. Fourth, it's awfully easy for labs to get a Medicare provider number, which allows them to participate in the program. In fact, we learned that in some places you can get one on the phone. And even where a lab has to fill out a form, virtually no background information is requested about the people who own or manage the lab.

These facts could spell trouble for Medicare. The Government Accounting Office has put the Medicare Program on its list of high-risk programs vulnerable to fraud and abuse. At the subcommittee's Florida hearing, the regional inspector general for the Department of Health and Human Serv-

ices admitted that his office is able to just skim the surface when it comes to fraud and abuse.

Given our budget crisis, we've got to make sure that every dollar of Medicare funds is well spent. We can't afford to let the program become an easy target for people who are good at figuring out how to cheat the system. So, I call on those of you in the Medicare Program to be careful about free services like the scam we investigated in Florida. Check the charges on the explanation of medical benefits, the statement you get when Medicare pays a claim on your behalf. If something is wrong with those charges, don't hesitate to voice your suspicions by calling the number shown on the form.

And we in the Federal Government have to be diligent as well. We've got to be sure that there is sufficient funding to allow for screening out fraudulent or invalid claims. We've got to make sure that allegations of Medicare fraud are pursued vigorously. And we've got to make an example of some of the people who would steal from the program intended to serve the health needs of the elderly.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut, Mr. Speaker, I was unavoidably absent today for rollcall 387, which occurred on final passage of H.R. 5314, the Water Resource Development Act of 1990. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. McNULTY. Mr. Speaker, I was unavoidably detained, and missed roll-call vote 387 on final passage of H.R. 5314, the Water Resources Development Act of 1990.

I would like the record to show that had I been present, I would have voted in the affirmative.

JOHN WEBER—RECIPIENT OF PATRIOTISM AWARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. HUTTO] is recognized for 5 minutes.

Mr. HUTTO. Mr. Speaker, today I rise to recognize a loyal and patriotic Air Force master sergeant from my congressional district. While John Weber was attending the U.S. Air Force Tactical Air Command Noncommissioned Officers' Academy at Tyndall AFB, his essay was the winner of the Paul W. Airey Patriotism Award, VFW Jonathan Wainwright Chapter Post 2185. Furthermore, at a time when thousands of U.S. troops are responding to the call of duty in the Persian Gulf, I find that his essay eloquently describes the unspoken bond between our military forces overseas and their family, friends, and loved ones back home. The text of John's Essay, "Patriotism," follows:

Sir Walter Scott once wrote:

"Breathes there a man with soul so dead, who never to himself hath said, this is my native land? Whose heart hath ne'er with him burn'd as home his footsteps he hath turn'd from wandering on a foreign strand?"

Great men of battle are forever longing to return to their loved ones back home. Those loved ones, the most patriotic of people, are they that await for their loved ones to return home from war. To come home from under the sea, from in the sky, and from on the soil.

When a soldier, sailor, airman or marine goes forth to defend to the death this great land of ours, he or she leaves behind a mother and father, wife or husband, girl friend or boy friend. The soldier lives with the knowledge death may be coming with that next bullet; the sailor knows death may arrive by way of that submarine hidden below; the marine knows that death may await as he hits that foreign beach, and the airman knows that silver dot far off in the sky may send a missile of death straight for his jet.

However, that lonely, frightened loved one back home knows not what may be awaiting with the coming dawn. Every day, when the soldier's wife gets up to send the kids off to school she wonders if this will be the day that the messengers of death will knock at her door. In the evening when the sailor's wife is tucking her children into their snug, warm beds she wonders. "When, oh Lord, will he come home; please, please bring him back safe to me and our children." The airman's wife cries herself to sleep when she hears of another downed fighter; thanking the Lord that it wasn't him, yet cursing the terrible fate she must endure. The marine's lady paces the floor from the kitchen, to the living room, to the bedroom: Thinking, remembering, and hoping. Thinking of the horrors her loved one must bear, remembering the feelings of love and security she holds dear to her heart, and hoping against hope that he will soon walk through that door laughing that special laugh she knows so well.

The soldiers, sailors, airmen, and marines would most surely lose, without those family, friends, and loved ones to come home to, the courage and will they must possess to win in battle. The special hope and caring held by those left at home, their complete faith in the righteousness of their loved ones' cause, and their eternal vigilance for and preservation of the homeland, those together are true measures of patriotism. Please for our sake keep those home fires burning.

□ 1940

CIGARETTE VENDING MACHINE OCCUPATIONAL TAX

The SPEAKER pro tempore (Mr. STENHOLM). Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, our Nation is preparing to participate in a World Summit for Children on September 28–29, 1990. At this meeting, leaders from around the world will be asked to do something bold and courageous—divert more of their attention and resources from current priorities, such as military security, and adopt a policy of first call for children.

Today I want to introduce a bill that will go far in protecting the health of our children and youth, the cigarette vending machine occupational tax.

More than 3 million children and adolescents under the age of 18 years regularly smoke cigarettes or use smokeless tobacco. Almost as many are occasional users, experimenting and trying it out, well on their way to becoming regular users.

For some of these children, tobacco will be their first experience with using, and becoming dependent upon, a chemical substance to modulate their feelings, and will facilitate their progression to other illicit drug use. It is thus recognized that tobacco is a gateway drug. Former Secretary of Health and Human Services Otis Bowen reported that the earlier a person begins smoking, the more unlikely it is that they will be able to quit later as adults, and the more likely it is that they will suffer and die from a disease caused by smoking.

One of the factors contributing to childhood and early adolescent smoking is the accessibility of cigarettes through vending machines. Thirteen-year-olds are 11 times as likely as 17-year-olds to buy cigarettes from vending machines—22 percent versus 2 percent. Most teens who use vending machines say they do so "because no one will stop me from buying cigarettes this way."

A number of studies have shown 100 percent success when minors aged 14 to 16 years attempted to purchase cigarettes from vending machines. This was confirmed in a series of 240 attempts in a major study covering the three State area surrounding Washington, DC. Therefore, in order to discourage vending machines as a source of cigarette sales to minors, I am introducing a bill to impose an occupational tax on the cigarette vending machine business. The proceeds of the tax will be used to support public health programs which combat tobacco addiction, particularly for our youth.

The administration oppose a ban on cigarette vending machines, and it is encouraging States to develop their own programs for controlling cigarette sales. However, in government, resources, not words, are an index of value. Funding gives legitimacy to working on a fundamentally important problem. Therefore, I am proposing a bill which demonstrates the commitment necessary to do this.

Mr. Speaker, the cigarette vending machine tax will discourage children and young people from becoming addicted to smoking in several important ways. The first of these is accessibility. Half a million children regularly purchase their cigarettes from vending machines. If the business of operating cigarette vending machines becomes more marginal in profitability there will be fewer machines, fewer locations, and less access. Another discouragement for beginning smokers is price. Increasing the price of cigarettes has been shown to be by far the most effective means of discouraging young people from becoming smokers. In my home State of California, raising tax on cigarettes reduced smoking among children and youth by 15 percent in just 1 year.

The administration recently introduced a set of goals and objectives for national health promotion and disease prevention entitled "Healthy People 2000." It proposes reducing the number of smokers in the United States and it also proposes improving the health of our children and youth.

Mr. Speaker, this bill will help address both of these objectives. I am proposing that the money collected from the tax on cigarette vending machines be directed to the Center for Disease Control [CDC] for the accomplishment of the tobacco objectives stated in the "Healthy People 2000" report. There are two of these: First, reduce initiation of smoking to no more than 15 percent by age 20—a 50 percent decrease—and, second, reduce cigarette smoking prevalence to no more than 15 percent of adults—a 48 percent decrease. The CDC has the capability of distributing this money to the States and to local health departments where it can be put to maximum benefit.

Moneys passed on to the States will result in a wide array of methods felt to be effective locally in preventing children and youth from using tobacco products. The idea is to allow States to incorporate some smoking education funding into programs they already conduct, thus decreasing the costs which would be needed for new program startups. Examples of this would be: Maternal and child health: Healthstart, occupational and environmental programs such as asbestos, radon and lead, alcohol and drug abuse programs, recognizing that smoking addiction is often present in youth with one of these other addictions.

In addition, States may want to develop legislation for the control of tobacco sales to children and strengthen local enforcement capabilities. They may wish to conduct counteradvertising campaigns.

This legislation is not intended to tell States and local health departments how to accomplish their task, but rather to give them the funding support necessary to be able to produce good results. This will vary from State to State depending upon their needs.

The purpose of an occupational tax on cigarette vending machines is to decrease the number of sales to children and youth. The tobacco industry claims it doesn't want to sell cigarettes to children. Therefore it is the recipient of $221 million each year in unwanted profit. I would invite them to match the moneys available through the occupational tax in a campaign directed strictly toward the prevention of children and youth purchasing and smoking cigarettes. Let the tobacco industry participate in action for the good of children at this year of the World Summit for Children.

The cigarette industry is spending over $3 billion annually on advertising. Ten percent of that budget would go a long way toward accomplishing their stated goal of not realizing profits from the sale of tobacco to children and youth.

I am proposing that each of the cigarette vending machines in the United States, which currently number about 374,000, be taxed $1,000 per machine. This would be a small total amount compared to the expenditure of the industry on advertising. However, it would be highly effective if oriented directly toward the Objectives 2000.

Mr. Speaker, this is an important commitment that we can make as a Congress and as a nation. Let's make the antismoking objectives for Healthy People 2000 the first success story of that program.

CONDITIONS FOR USE OF THE U.S. BOTANIC GARDEN CONSERVATORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the Joint Committee on the Library is announcing a revision of its procedures for congressional use of the Botanic Garden Conservatory.

Under the previous procedure the chairman and vice chairman of the Joint Committee were usually requested to grant exceptions to the one event per week limitation on the use of the facility. Such requests over the past year have been made with ever increasing frequency, causing unavoidable delay in responding to requests and generating excessive demands on the time of all concerned. In addition, the lead time for arranging events has grown with the popularity of use of the facility.

Accordingly, the joint committee, in consultation with the Architect of the Capitol, has revised the "Conditions for Use of the U.S. Botanic Garden Conservatory" to make two primary changes.

Henceforth the use of the conservatory is limited to a firm maximum of four events per week. The joint committee does not desire to entertain requests for exceptions to this new limitation because four events per week is the reasonable limit on the staff resources of the botanic garden. In addition, the new conditions now permit the reservation of the facility as long as 1 year in advance of the event instead of the former limitation of 6 months. A telephone reservation will be honored only for 2 weeks pending the required letter requesting the reservation directed to the Architect of the Capitol. Reservations will be honored in the order of receipt if the reservation complies with all conditions and has been timely requested in writing.

The joint committee believes this new procedure will expedite the confirmation of reservations. The revised conditions are printed below for the convenience of Members, Senators, and their staff. Attention is particularly called to the longstanding rule that the facility is intended for use directly related to official congressional business and is not available for functions that are personal celebrations, such as birthdays, weddings, wedding receptions, retirements or anniversaries, and so forth.

CONDITIONS FOR USE OF THE U.S. BOTANIC GARDEN CONSERVATORY

It is a prerequisite that any and all functions held in the U.S. Botanic Garden Conservatory must be Congressionally related.

1. The Conservatory may then be made available:

A. For meetings or other functions originated and sponsored by Senators, Representatives, Congressional Committees, Officers of the Congress, and Congressional employee associations.

B. To other federal government agencies when requested by a Senator or Representative.

C. To private, non-profit organizations qualifying under Internal Revenue Code 501(c)(3) provisions when requested by a Senator or Representative. Evidence of 501(c)(3) status may be required.

2. The Conservatory is not available for functions that are:

A. Personal celebrations such as birthdays, weddings, wedding receptions, retirements or anniversaries, etc.

B. Originated, sponsored or primarily attended by members of commercial or profit-making organizations, trade associations, professional societies, social clubs, and similar entities.

C. Originated or sponsored by any organization practicing discrimination based on age, sex, race, creed, color, handicap or national origin.

D. Originated or sponsored by organizations planning to charge admission fees, make collections, seek contributions, give door prizes, have auctions or raffles or sell articles while in the building.

E. Held for political or lobbying purposes.

F. Held during June, July or August, when the Conservatory remains open to the public until 9:00 PM.

G. Proposed to begin prior to 6:00 PM or continue beyond 11:00 PM.

H. At a frequency exceeding four evenings per week for all functions.

I. During formal flower shows and exhibitions.

J. Designed to include exhibits or other structures without prior USBG approval.

3. Procedures for reserving the Conservatory:

A. Reservations may be made no more than one year in advance of the proposed function.

B. An official contact for the sponsoring Member or Officer should telephone the U.S. Botanic Garden Office (x58333) to determine if the proposed date is open. If so, only a two-week tentative hold will be placed pending receipt of the sponsor's written request for use of the Conservatory. Reservations are honored in the order of receipt of the reservation provided that a telephone request of this nature is followed promptly by the sponsor's written request to avoid tentative reservations that may serve to deny access to the facilities by other Members or Officers.

C. All requests for use of the Conservatory should be addressed in writing to the Architect of the Capitol by the sponsoring Member or Officer. Such request should certify the proposed function complies in all respects with the Conditions contained herein, providing full details about the function, including the purpose of the meeting, particulars about any involved agency or organization, the date and time that use of the Conservatory is desired, the approximate number of people to be in attendance, whether anyone attending will require additional security or be accompanied by his/her own security, whether a reception or dinner is planned, and the name and telephone number of the appropriate staff contact. For reservations made six months or more in advance of the event the Architect is authorized to require reconfirmation of the reservation.

4. All sponsors of approved functions must:

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A. Follow the rules outlined in the USBG Rules for Functions.

B. Advise the Architect promptly in writing of any changes that may occur concerning a reserved function, such as cancellation, number of people expected to attend or the need for additional security.

RULES FOR FUNCTIONS

The following rules must be observed for all events. Questions regarding the set-up or coordination within the Conservatory should be directed to the Conservatory Manager, Wayne Amos, at 225-6646.

1. Set-up of public areas cannot begin until after the building closes to the public at 5:00 PM.

2. Sponsor must arrange for all tables, chairs, coat racks, hangers, etc., and for pick-up of same prior to the 9:00 AM opening of the building the following morning.

3. Conservatory plants, containers or funiture may not be moved by the sponsor or caterer.

4. Adequate trash cans and liners must be arranged for by the sponsor to avoid trash being placed in planting beds or containerized plants. Trash must be deposited in the dumpster at the conclusion of the function.

5. Sponsor is responsible for clean-up and assurance that the Conservatory is left in its original condition at the conclusion of the function. It is not the responsibility of the U.S. Botanic Garden to clean the facility following the function.

6. Candles may not be placed in planting beds or containers.

7. Items may not be fastened to doors, walls, floors, glass or any other part of the building.

8. Plants may not be removed, or flowers cut or removed, by any attendee. Sponsor is liable for any damage incurred.

9. Food set-up and bars are restricted to the East and West Display Galleries. Guests are, however, allowed access to the entire Conservatory.

10. Caterer must coordinate set-up with the Conservatory staff since access to all areas must be maintained at all times. Food must be prepared in advance elsewhere; only warming of food is permitted.

11. Caterer may not make delivery of supplies or equipment before 3:00 PM on the day of the function.

12. USBG reserves the right to disallow future access to the building by any caterer that has violated these rules.

TURKEY: A PROUD ALLY AND HONEST FRIEND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. MOODY] is recognized for 5 minutes.

Mr. MOODY. Mr. Speaker, I would like to begin by acknowledging the visit to the United States this week of the President of the Turkish Republic, Turgut Ozal. President Ozal has become much more familiar to many Americans during the past 2 months because of the critical and pivotal role played by Turkey in the gulf crisis. And I am sure they, like many of us in this House, have been impressed by the wit, articulation, and determination he has shown during the many interviews he has given on American television.

We welcome him to our country, and salute him and the Turkish people for the immediate and unqualified support they have offered to the United States and the United Nations in the gulf crisis.

TURKISH LOYALTY NO SURPRISE

Of course, Mr. Speaker, it should also come as no surprise to anyone familiar with the history of modern Turco-American relations. Turkey, or Turkiye as it is more properly called, has been an ally of steadfastness and integrity throughout the postwar era.

Other speakers here today will discuss the military relationship between our two countries, from the valiant and brave Turkish involvement in Korea to their latest role on the frontline of the Iraq-Kuwait crisis. These are indeed important issues and I commend the attention of the House to them, but I would like to focus on several other issues which I believe are of equal importance to a fuller understanding of the richness of the Turco-American relationship.

These issues are: trade, culture, democracy and Turkey's unique geo-political position straddling Europe and the Middle East. I would also like to mention the enormous and positive contribution to the American mosaic made by the Turkish-American community in this country.

NEGATIVE STEREOTYPES

Mr. Speaker, no discussion of Turkey would be complete without acknowledging one unsettling aspect of the relationship—the persistent negative stereotype of Turks and Turkey portrayed in many Western countries' media and history texts. One marvels at the loyalty and perseverance of the Turkish people in the fact of the insulting and blatantly false images that are so prevalent in the West.

Much of this anti-Turkish attitude can be traced to cultural and religious differences that emerged during the early part of this century. Judeo-Christian Europe and America were suspicious of the Muslim Ottoman Empire and the later Turkish Republic. From the Crusades to World War I, Turks were always depicted as cruel, militaristic barbarians and rapacious conquerors. During and immediately after World War I, this negative stereotyping was exacerbated by certain Christian missionary groups and the overtly racist and nationalistic yellow press of the era. Much as Europeans—who enslaved, destroyed, and finally assimilated the cultures and nations of the indigenous Indians of the Americas—found it convenient to label them "wild Indians," so too was it convenient to label the Ottomans and Turks as the "terrible Turks."

The role of the American and British Christian missionary organizations in the early part of this century bears special mention. These church-based groups helped foment the "us"—Christian, Western, innocent—"them"—Muslin, Eastern, barbaric—mentality that infected journalism's depiction of Turks in the pre- and post-World War I age.

The sad fact is that many of these missionary groups were engaged in highly competitive fundraising efforts and many tried outdoing others by whipping up public hysteria against Turks, each topping the other with lurid and factless tales of "anti-Christian atrocities." The fact that millions of innocent Muslim Turks died alongside hundreds of thousands of Christian Armenians was of little consequence to those who fanned the flames of religious and racial hatred.

The legacy of that era is sadly still with us today; there are still those who try to portray the tragic conflicts during the disintegration of the old Ottoman Empire during and after World War I as genocide against a Christian minority in eastern Anatolia. Wisely, both the House and the Senate have decided not to take up this question. And, equally wisely, most Americans realize that the drumbeat of anti-Turkish propaganda in this country is politically motivated and orchestrated, and unrelated to the real national interests of the United States.

As we reflect here today on Turkey's selfless and immediate response to our call for support on the gulf crisis, it might do well to think back to the rancorous and diversive debates we have had on the Armenian resolution. Can there be any doubt that had we passed such an unfair and gratuitously insulting resolution that it might have been impossible for President Özal and the Turkish Government to have stood by us on Kuwait?

A HISTORY OF RELIGIOUS TOLERANCE

The task of establishing an accurate image in this country is complicated by the fact that most Americans know so little about Turkey and Turks. Many Americans only know the Turkey of the racist and inaccurate film, "Midnight Express"—but they know nothing of Turkey as a cosmopolitan, economically booming nation that sees itself as the eastern anchor of the West.

And they know little of the Turkish people—long and rightly known for their warmth and hospitality and tolerance.

They do not know that when the Jews were prosecuted and expelled from Spain during the Inquisition at the end of the 16th century, they were welcomed to Turkey, where their descendants still live in Istanbul.

They do not know that when the Jewish community's main synagogue, Neve Shalom, was bombed by PLO terrorists a few years ago, the entire

Turkish nation reacted with outrage and horror or that the city of Istanbul came to a virtual halt as tens of thousands of Turks marched in the streets to show solidarity with and share in the grief of the Turkish Jewish community.

They simply do not know that thousands of Jews escaped the Holocaust during World War II because they were given false Turkish passports and protected by the Turkish Government.

THE TURKISH-AMERICAN COMMUNITY

And, Mr. Speaker, most Americans do not know that the Turkish-American community has made tremendous contributions to our society. It is a small community, scattered across our country. But despite its small size, the Turkish-American community is a rich stripe in our Nation's flag. Like many immigrant communities, Turkish-Americans brought a dowry from their motherland—for Turks it was centuries of Ottoman art, culture, science, and music.

In the Midwest and West, Turkish Americans settled in Chicago, California, and Texas; in the East, they settled around New York City, in Rochester, around Washington, and in New England. Turkish-Americans are disproportionately represented among the professions: doctors, engineers, scientists, and business people.

I could literally spend hours on this floor recognizing members of the Turkish-American community who have significantly enriched American life, but I would like to mention a few. They range from Ahmet Ertegun of New York, founder of Atlantic Records and former owner of the New York Cosmos Soccer Team; to Arif Mardin, the composer who won the 1990 Grammy Award for producing "Wind Beneath My Wings," Bette Midler's Record-of-the-Year; to Prof. Kemal Karpat of the University of Wisconsin in my home State who is a recognized authority on Near and Middle East history; to Tunch Ilkin of the Pittsburgh Steelers; to Erol Onaran, founder and president of Erol's Video; to the highly successful industrialist Ayhan Hakimoglu of Philadelphia; to Ahmet Kafadar of Denver who invented a new type of ejection seat widely used in the aerospace industry; to Dr. Esin Atil of the Smithsonian Museum in Washington who was the curator for the stunning "Suleyman, The Magnificent" exhibition that toured America in 1987, reminding us all that Suleyman is one of the great lawgivers of history whose likeness looks over us from the walls of this very Chamber.

And the Turkish-American community has developed strong organizations that speak out on matters affecting American and Turkish-American interests. The Assembly of Turkish American Associations, headquartered in Washington, is comprised of more than 52 component groups across the country, and has been a leader in uniting Turkish-Americans and giving voice to the concerns of the community. The assembly has become an often consulted and respected factor in the deliberations of Congress.

In New York, the Federation of Turkish American Societies, with 22 component groups, has also contributed to a strong sense of cultural pride among Turkish-Americans. Their annual Turkish-American Day parade brings tens of thousands of Turkish-Americans together in a celebration of heritage and history.

Mr. Speaker, I regret that time will not allow me to name even more people, and there are hundreds from communities large and small all over the country. But I want to give the House a sense of the fact that Turkish-Americans are hard-working, valuable members of our Nation—from business, to sports, to education, to science, to the arts. They care deeply about values that are fundamental to their new home, and to their old home: family, a strong work ethic and above all integrity in personal and public life.

TURKISH INTEGRITY

In fact, Mr. Speaker, it is the issue of integrity that dominates Turco-American relations. The Turkish people ask only that the United States return the integrity and consistency as an ally that they have given us. "Trade, not aid" is more than a catchy phrase coined by President Ozal, it is a fundamental tenet of the Turkish nation.

Turkey does not ask for a handout, it just offers its hand in friendship. As one of the few countries with whom we have a positive balance of trade, Turkey does not ask for debt forgiveness, just for fair consideration on trade matters.

Mr. Speaker, I find it ironic that in the 1970's—when America first began to suffer from the ravages of drugs on our society—it was Turkey, more than any other country, that stood with us and successfully eradicated its domestic poppy crop that ultimately made its way to American cities via the "French Connection" as heroin. It was Turkey that cracked down on domestic production and transshipment of drugs. And what, with American encouragement, did the Turks substitute as a crop for the poppy? Cotton. The very same textiles that we now restrict with trade barriers.

Let me repeat this: We asked Turkey to wipe out the poppy, and she did. The repayment? Trade barriers, favoritism toward Asian textile producers and a popular American movie that reflected America's 1970's benign attitude toward recreational drug use by demonizing the Turkish people with slanted and grossly distorted stereotypes.

DEMOCRACY IN TURKEY

Mr. Speaker and fellow colleagues, as we welcome the Turkish President, Turgut Ozal, I think it would also be helpful to realize that he is not only the democratic leader of his country, but also a symbol of the restoration and deepening of Turkey's democratic institutions.

Following a period of instability and near-lawlessness in the late 1970's and early 1980's, the Turkish military stepped in and assumed control of the government in 1980. It was a period of harsh medicine and great domestic controversy. Ultimately, however, the Turkish military honored its word and withdrew from government control and full democracy was gradually restored. Turgut Ozal—interestingly without support from the military—became Prime Minister in 1983, was reelected in 1987 and was elected President in 1989. Turkey today is a thriving parliamentary democracy, with active opposition parties and a lively free press.

DANGEROUS NEIGHBORS

All of these developments, Mr. Speaker, occurred in a neighborhood that can only be described as one of the world's most dangerous. Turkey's neighbors—Bulgaria, the Soviet Union, Iraq, Iran, and Syria were all openly hostile. Armed Kurdish terrorists still operate in the far southeast and from across the border sanctuaries in Iraq and Iran. Relations with its other neighbor, Greece, have always been complicated—even before the disputes over Cyprus. To its credit, Turkey has persevered and maintained both stability and democracy at home, and avoided being drawn into open, military conflicts with its neighbors.

As we look to the future, Mr. Speaker, we need to keep in mind the significance of Turkey's past as a strong ally and the unique role it has in the changing world. There are those who, somewhat gleefully, predicted that the fall of communism in Europe would diminish the importance of Turkey as an ally. Just a few weeks before the Iraqi invasion of Kuwait, material circulated to congressional offices, denigrating Turkey and implying that it was no longer an important ally. What a difference a few weeks makes.

AN ALLY FOR THE FUTURE

Far from making Turkey less important as an ally, the fall of communism in Europe and the unraveling of the Soviet Union makes Turkey even more important—just in different ways.

First, as we have seen so dramatically, Turkey occupies a strategically vital position as a bridge and buffer to the volatile Middle East. We've seen the role as buffer and ally already; the role as mediator and bridge lays

ahead. As a secular Muslim country with a Near Eastern tradition and a European outlook, Turkey is uniquely qualified to translate and mediate in this dangerous region. It is absolutely crucial that the United States begin to value Turkey as a political ally as well as a military one. Peace in the Middle East is vital to peace in the world.

Second, with regard to Eastern Europe and the Soviet Union itself, Turkey will remain of vital strategic importance. From Bulgaria all the way across the southern Soviet Union into the heart of central Asian China, large Turkic speaking minorities and nations exist in the midst of rising political and nationalist ferment. Few Americans realize the extent of the reach of Turkic speaking people. Naim Suleymanoglu, the Bulgarian Olympic Gold Medal weightlifter who defected to Turkey, was a member of Bulgaria's long oppressed Turkish minority and Wu'er Kaixi, the leader of the Chinese student movement at Tiananmen Square is from the Turkic speaking Uigur region of China and is known by his family as Umare Karaci.

Turkic speaking republics in the Soviet Union will all be pushing toward independence in the next decade. The Azerbaijan, Turkistan, Tadzhik, Turmenian, Kazakh, Kirghiz, and Uzbeki republics and autonomous regions of people like the Tatars are all Turkic speaking. As these republics and regions push for independence, Turkey will increasingly be seen as a stabilizing and mediating force.

COURAGE IS NOTHING NEW

Mr. Speaker, I could go on at great length here, but I would like to close my comments by noting that Turkey's recent actions regarding the gulf crisis are really nothing unusual and nothing new. What is unusual, and what is new, is that so many Americans have seen so clearly the courage and fortitude that is Turkey. And I think it is highly appropriate, and perhaps long overdue, that we take the floor of the House to underscore the value and esteem we attach to our friendship with Turkish people.

Mr. Speaker, we will never be in absolute total agreement with all of the actions and policies of another country. There are always going to be occasions when our interests and their's will diverge. But there clearly are countries with whom we are in fundamental harmony—in our values, in our respect for law and human dignity and in the direction of our strategic interests. The Republic of Turkey is one of those countries.

The friendship and relationship between our peoples and our countries has been of enormous benefit to Turkey and to the United States. In the years ahead, it can only get better.

Mr. BERMAN. Mr. Speaker, there is much discussion these days of begging and prodding our friends and allies to do their fair share in protecting the vital interests at stake in the gulf. It's important that we take the time to commend a NATO ally which has contributed, with absolutely no hesitation, more than its fair share.

Turkey shares a border with Iraq. But, when Iraq sought Turkey's help in keeping oil and supply lines open, Turkey refused. Instead, Turkey closed the twin pipeline which handles nearly 50 percent of Iraq's oil.

Turkey was one of the first countries to implement the U.N. sanctions against Iraq. Turkey's participation is key to the embargo's success—without its swift and decisive action, it is doubtful that the international sanctions against Iraq would have been effective.

President Ozal acted quickly and firmly in this crisis, without looking over his shoulder to see what his neighbors were doing. Instead, he courageously put Turkey's security and economy on the line—because it was the right thing to do.

It is clearly time for us to stop questioning Turkey's credentials as a friend and ally and to give it full credit for being a staunch ally and a responsible member of the international community.

BUDGET AGREEMENT REQUIRES SACRIFICE ON THE PART OF ALL AMERICANS

The SPEAKER pro tempore (Mr. McCURDY). Under a previous order of the House, the gentleman from Alabama [Mr. HARRIS] is recognized for 5 minutes.

Mr. HARRIS. Mr. Speaker, if those participating in the budget summit came to my district in west Alabama they would clearly understand the frustration and impatience which most of our constitutents feel as they read and hear news reports of the failure to reach agreement on the measures necessary to fund and operate our Government.

When the choices before us are so stark, and the consequences of inaction so horrendous, it is difficult to understand the President's insistence on including new unrelated programs such as capital gains tax reductions in a budget agreement. I say that as one who supports a capital gains tax reduction, but Mr. Speaker, now is not the time, and a deficit reduction package is not the proper vehicle for such a controversial measure which would have no immediate impact on the deficit. If we speak of legislation as a vehicle, right now we don't have a motor, we don't have a transmission, we are running out of fuel, and all the President can think of is wire hubcaps and a power moonroof.

Where is the President's budget? Why did our Republican colleagues refuse to even offer his plan and let the House vote on it? Right now the only comprehensive budget proposal on the table is the one put forward by our Budget Committee. If the President and his aides have a program, and if our friends on the other side of the aisle can find it within themselves to be publicly identified with such a proposal, bring it forward for debate. Submit it for a vote. This is what the citizens of our country have a right to expect from their Government—something more than government by press release.

In conclusion, Mr. Speaker, I call on all participants in the budget summit to set aside personal ambition and forego the temptation to use this dreadful situation as leverage to achieve policy goals not otherwise obtainable. Forget new programs, forget rewriting the 1986 Tax Code. Concentrate on a realistic plan to bring spending in line with our revenues. We must squarely face the issue of whether we as a nation are willing to pay, today and not tomorrow, the full cost of the many services we expect and demand from Government. We must have a plan which efficiently meets the basic humans needs of our people. If new revenues are determined to be needed, they must be asked for openly and must be fairly applied. They must ask equal sacrifice from all our citizens. None should be singled out for special treatment—not for preferences and not for punishment. Fairness and equity must be our goals. The measure of our success will be the acceptance of our work by those whom we represent.

□ 1950

GENERAL LEAVE

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my special order this evening.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

EXPRESSING APPRECIATION TO REPUBLIC OF TURKEY AND ITS LEADERS FOR THEIR STAND AGAINST IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I had an opportunity last week to visit some of my Turkish friends in California, and one thing I promised them I would do is tell my colleagues and anyone else who was listening that the correct pronunciation of Turkey is Tur-kay-ah. That is the way the country's name is supposed to be pronounced. I henceforth

will do my best when talking casually about Turkey to pronounce the country's name properly. But tonight in my special order I may say Turkey a few times, so please forgive me, my friends.

Mr. Speaker, I have reserved this special order today to show my appreciation to the Republic of Turkey, and its leaders, for the stand that this country has taken against Iraq's invasion of Kuwait. Turkey's support for the United States's action in the gulf deserves even more credit when one considers the illtreatment that Turkey continually receives from this Congress. Given that the President of Turkey, Turgut Ozal is now in Washington to meet with President Bush, I believe it is extremely important to let both President Ozal and the people of Turkey know that some Members of the United States Congress do support the Republic of Turkey.

Since being elected to the United States Congress in 1982, I have stressed the importance of maintaining and promoting both the political and military relationship between the United States and Turkey. During my 8 years in Congress nothing has happened to diminish the importance of this goal. In fact, recent events in the gulf demonstrate that the Turkish-American relationship is, and must remain, a top priority of the United States into the 1990's and beyond.

Mr. Speaker, Turkey is located on a great cultural divide between Europe, the Middle East, and Asia. It is our only Moslem ally in NATO. Except for pre-revolutionary Iran, Turkey was the first Moslem country to recognize Israel. Turkey is also the only Moslem country with a completely secular political orientation and a longstanding commitment to Western democracy. This commitment, as evidenced by Turkey's willingness to shut down Iraq's oil pipeline through Turkey, remains a fundamental part of Turkey's world view today.

The spirit of democracy is inspiring people around the world. Yet despite these changes, it is important to understand that the future is nearly impossible to predict. As welcome as events in the Soviet Union and Eastern Europe may be, the reduction in United States-Soviet tensions have not diminished the security concerns of Turkey. Turkey still shares a 1,300-mile border with the Soviet Union, the longest of any NATO nation. Although Soviet forces are leaving Eastern Europe, Soviet forces on Turkey's border will not be withdrawn. In fact, many Soviet troops leaving Eastern Europe are being sent to the Turkish border, as are tanks and other equipment. Furthermore, Soviet forces on Turkey's border are continuing to be modernized.

Mr. Speaker, as Iraq's invasion of Kuwait demonstrates, the kind of conflict that could engulf Turkey may not necessarily come from an invasion by the Soviet Union. Turkey faces an array of dangerous, non-Warsaw Pact neighbors armed with sophisticated weapons. The armies of Iraq, Iran, and Syria are now equipped with long-range ballistic missiles and chemical weapons for which the Turks have no defense. Kurdish terrorists, who commit hit-and-run attacks in Turkey's southeast provinces, are now operating from bases in Syria. And Iran is actively supporting the Islamic fundamentalist movement in Turkey. These alone are enough to justify continuing the modernization of Turkey's military that has been underway, though underfunded, for a good many years.

Unfortunately, many of my colleagues, motivated by political considerations relating to Cyprus, have failed to supply Turkey with the support necessary to meet its external threats. Turkey is now struggling just to come close to meeting current NATO equipment standards. For example, Turkey lags behind both Syria and Iraq in both numbers and quality of tanks and aircraft. Our Government has estimated that it will take $1.2 billion per year for 10 years just to permit Turkey to meet its minimum defense requirements. This is not what it would take to fully modernize Turkish Armed Forces, but simply to permit Turkey to enter the post-Korean war age.

Mr. Speaker, I believe that it is a sad and persistent shortcoming in our relations that we have not funded more than half of Turkey's real defense requirements. It is even more troubling when one takes a close look at the issue which so many of my colleagues use to justify their denial of Turkish aid. That issue is Cyprus.

Seemingly every few months, Members of the "hate-the-Turk-club" in Congress take to the House floor to demagog Turkey on the Cyprus issue. Regrettably, this group puts forth the same tired-old myths, which unfortunately have been absorbed by many in Congress and the American public as fact. For this reason, Mr. Speaker, I believe it is important to dispel these myths.

Few Members of Congress seem to have a thorough understanding of the origin of this conflict, specifically the period of 1960-74. Without a thorough comprehension of the events which took place during this time, it is impossible to understand the security concerns of the Turkish Cypriot people. When Britain relinquished control of the island in 1960, a bicommunal government, with shared leadership by Turkish Cypriot and Greek Cypriot communities, was created by treaty. This compromise recognized the Turkish Cypriot and Greek Cypriot peoples of the island as political equals, with shared responsibilities and authority.

The Treaty of Guarantee, signed by the Turkish Cypriots, Turkey, Britain, Greece, and the Greek Cypriots, clearly stated that any of its guarantors had the right to intervene should the sovereignty of the island be threatened.

Mr. Speaker, it was Archbishop Makarios, the first President of Cyprus, who immediately began to carry out his plan for enosis, union with Greece. By 1963, the Greek Cypriots had completely destroyed the bicommunal character of the republic by ousting Turkish Cypriot leaders from their elected positions and destroying over 100 Turkish Cypriot villages. For the next 11 years, Turkish Cypriots suffered great losses, both human and material, in clashes initiated by Greek Cypriots. These clashes were fully supported by the Greek Army. Almost 1 out of every 120 Turkish Cypriots, including women and children, and the elderly, was killed during this period even with United Nations peacekeeping troops present on the island.

Given this tragic repression, I believe that Turkey was completely within its right, as early as 1963 when the Greek Cypriot Constitution was destroyed by the Greek Cypriots, to intervene on Cyprus in order to prevent the annexation of Cyprus to Greece. Most importantly, Turkey was completely within its right to prevent the annihilation of the Turkish Cypriot population. Solutions for Cyprus which ignore the history between the Turkish and Greek Cypriots or legislative measures which attempt to portray Turkey as the party responsible for the division of the island, are impractical, insulting, and counterproductive to achieving a just and lasting solution.

Unfortunately, misperceptions about the Cyprus issue, have allowed my colleagues in Congress to continually impose a 7 to 10 ratio on military aid to Greece and Turkey. Turkey has rightly objected to this formula as breaching our commitments in United States-Turkish defense agreements. I support this view, and for this reason, I attempted to eliminate this ratio earlier this year. I also attempted to remove a cap of $430 million on military assistance to Turkey. Unfortunately, the House Rules Committee rejected my amendment. And as a result, this year's foreign aid appropriations once again contain this absurd formula.

Mr. Speaker, I did not come here today to dwell on the repression experienced by Turkish Cypriots on Cyprus, nor did I come here to enumerate all things the United States Congress has done to damage Turkish-

Americans relations. But if one looks at the ill-treatment that Turkey has received from the United States, one of its allies, Turkey's most recent stand against Iraq in the gulf crisis becomes even more admirable.

Of all America's allies, none deserves more credit for their stand against Iraq's invasion of Kuwait than the Republic of Turkey. If the current gulf crisis teaches Members of Congress anything, it should be that the United States needs allies with the inclination, resolution, and wherewithal to share in the responsibilities, and to meet the challenges necessary to promote peace and stability.

Mr. Speaker, I know who America's friends are, and it does not take a genius to know Turkey is one of them. Who was it that denounced Iraq's invasion of Kuwait within hours? Turkey, who immediately endorsed the United States led initiative in the United Nations security council to condemn Iraq's aggression? Turkey, who shutdown Iraq's pipelines even though it would cut the country off from its major source of domestic oil, and cost them over $300 million a year? Turkey. And now, who is losing over $2 billion a year in trade with Iraq? Turkey.

Yet, despite the economic devastation these actions have caused, despite the slaps in the face that Turkey continually receives from the United States Congress, and despite the criticisms the Government of Turkey has received from its own people, Ankara accepted the United Nations-ordered economic sanctions immediately. What more does Turkey need to do to prove it is one of our most loyal allies. Absolutely, nothing. Turkey has always been our ally, even before the gulf crisis.

Mr. Speaker, one of the United States' most important foreign policy objectives must to keep the Turks, who have committed themselves to western democracy, the United States, and the European community, as our friends. I am committed to this goal. But this means that Turkey must be able to defend themselves against any and all threats. It also means that we as a country will have to hold up our end of the relationship. The Republic of Turkey must know that we are ready to stand beside them, just as they stood by us in Korea, in NATO, and now in the gulf crisis.

Before I conclude my remarks Mr. Speaker, I would like to touch on one last issue of great importance to Turks everwhere, the Armenian issue. Mr. Speaker, the U.S. Congress must be extremely cautious not to politicize the events that took place in the Ottoman empire over 75 years ago. I regret the suffering experienced by Armenians during this period. However, resolutions which make the charge that Armenians were victims of a genocide place the U.S. Congress at odds with the great preponderance of American scholars who are experts on the region's history.

Mr. Speaker, few members of Congress seem to know or remember that during World War I, the eastern provinces of the Ottoman empire were invaded by Russia. Incited by the Russians, Armenians in the region launched an armed uprising to establish an exclusively Armenian State in an area that was predominately non-Armenian. War, famine, and epidemics took heavy tolls on all sides. Armenians suffered, but some 2 million Turks and others also perished during the period. There was certainly no government-planned scheme to execute the Armenian population. Mr. Speaker, I hope all my colleagues realize that it is extremely dangerous to stoke the fires of ancient grievances.

To sum up, I would like to thank both President Ozal and the Republic of Turkey for their longstanding friendship to the United States. I know that Turkey is currently experiencing many economic hardships. And while I cannot speak for my colleagues, I want them to know that there is at least one Member of Congress, who will do everything in his power to help Turkey through these tough times.

The Greek Cypriot Leadership Wages a New Disinformation Campaign

The Greek Cypriot leadership is currently waging a new disinformation campaign by attempting to draw a parallel between the Gulf crisis and the Cyprus question. The two situations are totally different in terms of their nature and origin, as well as their consequences. The Greek Cypriot aim in trying to force this untenable parallel is to mislead public opinion about the Cyprus problem and to have it considered as an issue created by Turkey.

The Cyprus problem stems from the destruction of the partnership state by the Greek Cypriots in 1963 through their use of armed force against the Turkish Cypriots, and the attempt by Greece to annex the island in 1974. Turkey acted in accordance with its rights and obligations under the Treaty of Guarantee, but only as a last resort. In other words, the 1974 intervention is not the cause of the Cyprus question but the consequence of Greek and Greek Cypriot behavior and acts during the period 1963-1974. Iraq invaded Kuwait and ended its independence. Turkey stopped Greece's annexation of Cyprus. In the aftermath of the Greek junta's coup in Cyprus on July 15, 1974, Archbishop Makarios stated to the UN Security Council on July 19, 1974 that "it was an invasion, which violated the independence and sovereignty of the Republic. And the invasion will continue so long as there are Greek officers in Cyprus."

Turkish intervention was, therefore, a legitimate response to the institution of de facto ENOSIS (union with Greece) in Cyprus, as well as a legal measure by which to defend the Turkish Cypriots from annihilation. Turkish intervention brought to an end the internecine warfare between the Greeks and Greek Cypriots, led to the downfall of ex-terrorist Nicos Sampson who was installed by the Greek junta as "president", and resulted in the restoration of democracy in Greece. The territorial regrouping of the two peoples of the island in 1974-75 brought peace and stability to the island and laid the foundation for a mutually acceptable solution to the Cyprus question as defined in the Denktas-Makarios and Denktas-Kyprianou high-level agreements of 1977 and 1979, and reaffirmed in UN Security Council Resolution 649 (1990).

Iraq's military action against Kuwait was neither based on any international agreement, nor aimed at providing security to the people of that country. On the contrary, it was designed to terminate the independence of Kuwait and has endangered the lives of both Kuwaitis and foreigners. Iraq invaded and annexed a neighboring Arab country in utter defiance of international principles and law. This is why the Security Council has adopted resolutions under Chapter VII of the UN Charter relating to breaches of peace and acts of aggression.

Turkey intervened in Cyprus in compliance with the Treaty of Guarantee, under which it exercised its rights and obligations to remedy an unlawful situation. Turkey's intervention in Cyprus was based on Article 4 of the 1960 Treaty of Guarantee too which not only Turkey, Greece and the United Kingdom, but also Cyprus, are a party. Under this article each guarantor power has the right, in case of the treaty's violation, to take action with the aim of re-establishing the state of affairs; that is, the restoration of the political partnership between the two peoples of the island based on their political equality.

The search for a comprehensive settlement on this basis became possible only after 1974. Since then, there has been no armed confrontation between the two sides of the island, and the Turkish Cypriot people have enjoyed peace, freedom, security, and economic development.

Unlike Iraq's historical claim to Kuwait, Turkey has no territorial claim over Cyprus. Turkey's paramount interest is in the welfare and security of the Turkish Cypriot people and the preservation of their status of equality. If any parallel is to be drawn between the Gulf crisis and the Cypriot question, it must certainly be the parallel between Iraq's illegitimate claim to Kuwait and that of the Greeks to the entirety of Cyprus. In fact, the Greek and Greek Cypriot obsession to "hellenize" Cyprus is at the root of all the problems in the island.

Iraq has attempted to use innocent civilians as human shields against possible attacks on its installations in an effort to escape the consequences of its aggression against Kuwait. On this account, the actions of the Iraqi leadership are strikingly similar to the threats issued by Archbishop Makarios in the 1960s. Just as the Iraqi leadership is rounding up foreign nationals and placing them at strategic sites, Makarios had threatened Turkey to the effect that "if it dared to intervene militarily in order to save Turkish Cypriots, by the time it arrived in Cyprus it would find no Turkish Cypriots to save." Indeed, large massacres of Turkish Cypriot women and children took place both before and in 1974. And the Turkish Cypriots in South Cyprus who were all desperately trying to reach safe haven in the north during 1971 and 1975 who were treated as virtual hostages by the Greek Cypriots and their EOKA-B terrorist organization.

Therefore, if there is a comparison to be drawn, it can only be between Greek Cypriot policy and actions in Cyprus vis-a-vis the Turkish Cypriots and the role played by Iraq in the Gulf crisis.

TURKISH REPUBLIC OF NORTHERN CYPRUS—PRESIDENT'S OFFICE ON THE 30TH YEAR OF THE SO-CALLED REPUBLIC OF CYPRUS

The Republic of Cyprus which was established 30 years ago was a bi-communal Republic having a functional federative system . . . and its reason of existence was firmly established in the partnership status of the State and its Government. None of the National Communities was entitled to administer the island on its own. Neither community had the right to rule the other . . . the sovereignty of Cyprus was vested in the two communities on the basis of political equality.

That Republic was destroyed in the 1963-64 onslaught of the Greek Cypriots in the name of Enosis. See the Akritas plan!

The Republic which seeks to celebrate its 30th birthday has nothing to do with the bi-communal Republic of Cyprus and cannot replace that Republic. Those who profess to be the heirs of the 1960 Republic and thus see themselves entitled to celebrate its 30th birthday are merely the representatives of the Greek Cypriot wing of the 1960 Republic. They are not entitled, legally or morally to claim the title of the Government of Cyprus . . . the fact that they have used this title and have been able to pass it off as such for 27 years does not in law or in fact make them the heirs of the 1960 bi-communal Republic! A Greek Cypriot Republic in the South can argue that it has its 30th year, but it cannot in law or in fact be deemed to be the continuation of the bi-communal Republic of Cyprus which ceased to exist at the end of 1963 . . .

Those who claim to be the legitimate successors of the bi-communal Republic established in 1960 do so deliberately because they had never digested the 1960 partnership state and want, through the illegitimate use of the title of the Government of Cyprus, to take over the whole assets of the Turkish Cypriot partners, in other words, they want to become our Colonizers although the international agreements which created the 1960 Republic recognize our political equality and equal partner status! . . .

Those who attend the so-called 30th year celebrations of the Republic of Cyprus will in fact be attending a show of international misrepresentation aimed at camouflaging the fact that Greek Cypriots have not succeeded in destroying the Turkish Cypriot wing of the 1960 Republic and all that Turkish Cypriots are entitled to, in Cyprus!

We had been assured on the basis of the Zurich and London Agreements that all that has happened in Cyprus since December, 1963 would never be allowed to happen; that we were guaranteed against such developments. But for that guarantee and triple assurance by three guarantor powers 1960 accord could never be reached and Cyprus would have been truly divided. Greek Cypriot side accepted the accord on the basis that once the British left the island, Greek Cypriots could easily become the masters of Cyprus and 1960 Agreements could be nullified. . . .

From the outset we saw which way the joint Republic was going! . . . Makarios charted the way to Enosis. Denial of all partnership rights ceded to the Turkish Cypriots were to be eroded! . . . Greek Cypriots were to be the master of Cyprus. Turkish Cypriots were projected to the world as an insignificant minority! . . . The Minister of Interior declared publicly that his duty was to help his EOKA colleagues to fulfill their objective: Enosis!

The argument that Turkish Cypriots rebelled in order to divide the island cannot stand. Had there been such a plan, Cyprus could have been divided on the day we were attacked by Greek Cypriots. That there was a Greek Cypriot plan for destroying the partnership state and take it over as a Greek Cypriot State needs no additional proof. The events prior to the 1963 onslaught, Makarios's public statements on Enosis, and the events which followed prove that the Republic of Cyprus as established in 1960 was the target of Greek Cypriot onslaught because of its bi-communal partnership nature, because it was this partnership status of the state which gave legitimacy to the guaranties for its permanence!

After the 1963 coup by Makarios against the legitimacy of the state, everyday gave us a new chance for re-establishing a new partnership state but there was no such intention on the Greek Cypriot side because the new state would, again, have to be gurauranteed against Enosis and that was anathema to Makarios who had agreed with the Greek Government never to sign an agreement which could bar Enosis! In Cyprus the Greek Cypriot members of the House had already passed a resolution for union with Greece! Again, if such a partnership state was to be set up Turkish Cypriots would have to be treated as co-founder partners, and not as a minority within a non-existent nation! Makarios could not accept any of these conditions, and why should he? He had hoodwinked the world to believe that his administration, composed 100% of Greek Cypriots was a legal and moral replacement for a 70/30 bi-communal Government . . . All that he could be was to offer minority rights to Turkish Cypriots. He refused to accept back Turkish Civil servants. "Not until a political settlement" he said. And now the world is asked to celebrate the birth of a 70/30 Greek-Turk Republic when, for the lack of a political settlement (meaning refusal of Turkish Cypriots to bow to the political dictat of Makarios and his successors) the title of that "Republic" has been monopolized by Greek Cypriots for 27 years!. . .

From whatever angle one looks, factual—political, legal or moral—, to allow Greek Cypriots to get away with the 1963 Conspiracy to destroy the bi-communal Republic and render a co-founder partner Community to the status of a minority, will be tantamount to giving in to terrorism!

1955-58 Eoka terrorism headed by Markarios was nor Enosis; our attempt to counter it by our National Reistance Movement in order to avoid being colonized by Greeks, led us into the 1959-60 Agreements. We all hoped that everyone had learned his lesson and the past was not be be repeated. But alas, it was repeated with ten-fold suffering. I had hoped that 1967 Kophinou tragedy and the near-landing of Turkish Troops in Cyrpus, the fear it arose, would let Greek Cypriot side see that Turkey would not allow Cyprus to become a Greek Colony nor would Turkey allow Turkish Cypriots to be colonized by Greek Cypriots! . . .

In this belief I began my talks with Mr. Cleridis, only to find out that on all points on which our security and the future status of Cyprus as a bi-national state stood was rejected by Makariosl Makarios would not sign a new agreement which barred Enosis nor would be accept Turkey's guarantee; he would not agree that Turkish Cypriots were a cofounder partner, enjoying equal political rights. He believed, as Mr. Cleridis now concedes, that he could render us into the status of a minority in Cyprus, Alas, Mr. Vassilou has no different vision on these cardinal issues than Makarios or Kyprianou.

Again I believe that Turkey's intervention in 1974 would be a lesson to all of us and and the idea of converting a bi-national state into a Greek State would be abandoned! Again I was proved wrong. On the contrary, as envisaged in the Akritas plan, presentation of an administration composed of 100% Greek Cypriots as "the Government of Cyprus" was treated as a "permanent fait accompi" and under this false title Greek Cypriots invited the world to treat Turkey's intervention as an invasion (in the words of the Akritas plan "a temporary fait accompli") . . . and, the designers of this illegal, "permanent fait accompli", under the false pretence of being the legitimate Government of Cyprus now invite world leaders to come and celebrate with them 30th Anniversary of the birth of "the Republic of Cyprus", when the celebrations are in fact for the 27th Year of the destruction of a bi-national state! This farce is the continuation of the unceasing Greek and Greek Cypriot effort to conceal the glaring fact that Turkish Cypriots' vested rights in the independence and sovereignty of Cyprus have not been destroyed and that having denied the Turkish Cypriot partners their fundamental rights while treating them, from 1963 to 1974, as outlaws, the right of Turkish Cypriot partners to establish their own state arose as a consequential legitimate event!

Today we stand for a political-partnership based on the political equality of the two parties with full security, justice and fair deal. That is the way political developments are proceeding in Europe and USSR. Being good, trusting neighbours as politically equal entities is the road to unity. The fake claim to be the government of the other is not!

Mr. Vassiliou rejects the idea of equality and partnership and wants to impose on us his conditions as "the Government of Cyprus"—a title which he knows lack legal and moral validity. We want security and we see this in the continuation of the Treaty of Guarantee with the right of Turkey to come and save us if 1963 events are repeated. Mr. Vassiliou turns his back on this in his assumed capacity of "the Government of Cyprus". He fails to understand that, as in 1959-60, for the island of Cyprus to have one legitimate government it is unavoidable that, that Government will have to be a partnership Government and it will need, for its permanence, guarantees—and what better guarantees can one devise except the one and only guarantee which saved us from being wiped off the map of Cyprus?

Partnership? Good, secure, neighbourliness and a process for establishing friendship and trust cannot begin without mutual need for them! "Government of Cyprus" destroyed all these elements 27 years ago inorder to make Cyprus Greek! This futile attempt to mislead the world that the Republic of Cyprus is entering its 30th year is further proof that Greek Cypriot leaders' aim is to capitalize on their crime of destroying a partnership Republic 27 years ago! To them, Turkish Cypriot resistance from 1963 to 1974, was "rebellion", to us it was an honourable national resistance in defence of our

vested rights in the Republic. But for our resistence, from 1963 to 1974, Cyprus would have been colonized by Greece years ago . . . but for the intervention of Turkey in 1974 Cyprus would have become part of Greece.

Our resistance to Mr. Vassilou's regime is a resistance fully justified by the events of the last 27 years! Any man of honour would have resisted any armed gang who claimed to be his Government without his consent and especially while international Treaties provide that, legitimacy of government and validity of state rest on inter-communal partnership.

Now, we are told 30th year of the Republic of Cyprus is being celebrated . . . Ask any Turkish Cypriot and his answer will be "Don't be funny! . . ."

RAUF R. DENKTAS,
President.

Mr. Speaker, on August 2, Iraq, despite its public statements and private promises, deployed its military machinery across its southern border with Kuwait, and invaded that small and virtually defenseless country. The world community quickly moved to isolate Iraq, and reverse this blatant violation of international law, through U.N. resolutions calling for the immediate and unconditional withdrawal of Iraqi troops from Kuwait.

The Republic of Turkey, despite a common border with Iraq, and critical trade relations with that country, took courageous and decisive actions, as one of the key players in the Persian Gulf crisis. Despite the overwhelming economic cost, Turkey was the first regional state to support U.N. sanctions imposed against the aggressor, halting exports and imports to and from Iraq. Again, acting in accordance with the consensus in the international community, Turkey shut off the two pipelines used by Iraq to export up to 60 percent of its oil.

These actions weren't cost-free. According to preliminary estimates, Turkey's response to the Gulf crisis could cost the country more than $4 billion annually. This includes a 50-percent reduction in shipping business, loss of construction contracts, loss of oil pipeline fees, loss of remittances from 6,000 Turkish workers in Iraq and Kuwait, and loss of outstanding credit from the Iraqis.

To understand the difficulty of the Turkish Government's decision, and to appreciate the sacrifices made by the Turkish people, we should keep in mind, that as a proportion of GDP, an equivalent burden for the United States economy would total over $300 billion.

These events refute the views of those who had argued that Turkey's strategic importance had evaporated at the end of the cold war. Anyone who had studied a map, should have realized that as the only NATO member bordering the volatile Middle East, Turkey's importance had in no way diminished.

Mr. Speaker, it would serve United States security interests best to take note of the positive actions taken by Turkey, to maintain a strong and mutually beneficial United States-Turkish relationship, and to provide the highest possible levels of aid to Turkey this year, and in the future.

If need be, and other solutions are not readily available to obtain full funding to meet the administration's request for Turkey, I would welcome and support an initiative to eliminate the 7:10 ratio. This arbitrary figure harms United States interests by simply making it more expensive to assist Turkey, a strong friend in the Middle East.

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Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentlewoman from California.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding.

The gentleman knows that I have a great deal of respect for his concern for human rights throughout the world, and I have enjoyed working with him on this issue.

However, I do not want the record to stand that those of us who have been friends of Greece in the Congress of the United States are members of the hate-Turkey club. Certainly, Turkey is deserving of commendation for its role in the Persian Gulf crisis. That does not mean that those of us who differ with the gentleman do not have the United States of America's interest at heart. It does not mean that the Armenian genocide did not take place. It does not mean that the human rights of the Greek Cypriots have not been violated.

Clearly we have a disagreement on policy. It is the gentleman's time, and he has been gracious to yield, so I will not go into every difference of opinion. I can call my own special order for that.

But I would not like it to go in the RECORD unnoticed that there is in the Congress a definite difference of opinion historically about the Cyprus situation and about the Armenian genocide, and that is not in any way to undermine Turkey's friendship with the United States and Turkey's role in the Persian Gulf.

Mr. BURTON of Indiana. I would just say one thing briefly, and that is tonight we are honoring President Ozal's visit to the United States. I will not engage in a prolonged debate with the young lady on this, but I hope at some future time, in order to maybe illuminate my colleagues who are not maybe as well informed as maybe the gentlewoman and I are on this issue, maybe we could take a special order and come down and go through the historical events that happened during the so-called Armenian genocide and also the Cyprus issue so that our colleagues will really be as informed as possible when we debate the 7-to-10 ratio in the future.

Ms. PELOSI. I appreciate that. As I said to the gentleman. I did not rise to debate the policy with you except to say that a characterization of those of us who disagree would not actually be a hate-Turkey club.

Mrs. BENTLEY. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Speaker, just for a second, I thank the gentleman from Indiana for yielding.

I want to join in with the gentlewoman from California in her remarks on that, particularly at this time. I, too, agree with the gentleman from Indiana [Mr. BURTON] that we should be grateful to Turkey for what they have done in their role with Iraq. We do still have some problems concerning Cyprus, and I think we should just make a note of that. I just wanted to join in with her remarks. I thank the gentleman very much for yielding.

□ 2010

Mr. BURTON of Indiana. Mr. Speaker, I know the Turkish-Americans around the country appreciate the hard work of Members on the Turkish people's behalf on behalf of the great relationship we have had with Turkey over all the years.

Mr. Speaker, I yield to the gentleman from the great State of Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding to allow me time to change the subject a little bit, but I want to commend the gentleman from Indiana [Mr. BURTON] not only for his stalwartness in protecting freedom around the world and giving the devil its due, and honoring those that, especially those countries like Turkey that are great friends of the United States and have exhibited their friendship to the United States, but the gentleman from Indiana has also been a fiscal stalwart who has stood up for the rightness for the taxpayers in trying to protect the taxpayers of America, especially in this year and this budget crisis. The gentleman from Indiana is second to no one in the amount of time that he has spent working on the budget issue, and working on the issue to protect the American people from being assaulted with higher taxes and more spending by this Congress. I appreciate the gentleman, and if he will just bear with me just for a few minutes.

□ 2020

I would like to say, because we are headed for a train wreck on this coming Monday on October 1, and that train wreck being a sequester where $100 billion in cuts will automatically start happening on certain programs, especially discretionary spending and defense starting Monday, not all of the $100 billion on Monday, but those cuts initiated as a result of Gramm-Rudman-Hollings.

I thought it was important, and I talked to the gentleman from indiana that we needed to come down to the floor and discuss what has gone on and what our solutions are to the budget crisis. I have to take us back a whole year when we were in a crisis again last year faced with a Gramm-Rudman sequester and indeed we did experience small sequesters because of the Gramm-Rudman-Hollings process, but at that time the rhetoric started, and I especially wanted to go through a little bit of the history of what has brought us here because this Chamber, especially in recent days, has been called the House of Misrepresentation because of all the rhetoric that has been going on and the misrepresentation of what has happened.

First off, they started calling last year about this time that there was no way to fashion a budget for fiscal year 1991 without raising taxes. It was a systematic concerted effort to talk about raising taxes to continue the spending habits of Congress. They laid that out and continued to pound that home, that the President was wrong, that you had to raise taxes to continue spending and that spending was not out of control, that it was the result of the Reagan years, that it was Ronald Reagan and pumping up his defense spending over the years that he was in office that brought us to the deficit.

If the gentleman will just bear with me, it will take me about 2 minutes to read what I think is the most poignantly written piece on that history. It was written by Scott Hodge, a Grover M. Herman fellow in February budgetary affairs with the Thomas Averill Institute of Economic Policy Studies under the Heritage Foundation, and it is the most succinct straightforward presentation on what has happened over the Reagan years, why we have arrived at this juncture, why we have run out of smoke and mirrors and created financing, so we cannot play games anymore and we have to do something real to lower the deficit.

Mr. MOODY. Mr. Speaker, will the gentleman yield before he reads his statement, briefly?

Mr. DELAY. It is not my time.

Mr. MOODY. Will the gentleman from Indiana yield?

Mr. BURTON of Indiana. I yield to our colleague, the gentleman from Wisconsin.

Mr. MOODY. I am looking forward, Mr. Speaker, to hearing the statement. I am sure it is going to be very articulate.

It is not that Congress went on a spending binge. The fact is that in the 1981 sessions, which neither of us were here, as the gentleman knows, there were massive tax cuts. It is a question of restoring the tax base.

Spending did not go down in the Reagan years. Spending went up both as a percentage and in real terms, so it is not that Congress went on a wild spending binge. Congress spent less than the President asked the Congress to spend.

The fact is, and the record will clearly show that, the revenue base was cut and so the deficits mounted and mounted rapidly. The military spending went up more rapidly than social spending went down, and there is no question what side of the aisle promoted that.

Mr. BURTON of Indiana. Mr. Speaker, I do not want to be impolite, but I want to interrupt just a little bit because we have a little difference of opinion.

In 1981, the U.S. Treasury received $599 billion in tax revenues. In this fiscal year we are going to receive $1.2 trillion in tax revenues.

Mr. MOODY. Percentage terms are the only meaningful terms.

Mr. BURTON of Indiana. If I may keep my time, Mr. Speaker, that has doubled the revenue coming into the Treasury has doubled over the past 10 years. We are getting $80 billion to $90 billion a year in new tax revenues every year right now, so it is not a lack of revenues, and when you start blaming the Reagan tax cuts for the problems that we are confronting today, that in my view is incorrect. We have created because of those tax cuts 20 million new jobs.

Mr. MOODY. Those are blank checks.

Mr. BURTON of Indiana. And those 20 million new jobs have created additional tax revenues, that is, the $600 billion per year in new revenues we are getting over and above what we got 10 years ago; so with all due respect to my colleague the gentleman from Wisconsin with whom I share a great affinity and support for Turkey, I take issue because it is not the tax revenues coming into the Treasury that is the problem. It is the expenditures which have been made at the direction of the party that has controlled both the House and the Senate for all my lifetime, except 4 years, so I disagree, but I appreciate the gentleman's contribution.

Mr. DELAY. Mr. Speaker, if the gentleman will yield further, I just want to point out, and I know the gentleman would want to discuss this because I have talked to him before, to point out the gentleman's statement. You know, we can speculate about everything and we can guess at everything, but the figures speak for themselves, and you can speculate what kind of revenues we are going to have in the future and what kind of spending we are going to have in the future, but we can look back and see what kind of revenues we did receive and what kind of expenditures we did make. When you compare those to the President's request, that is another thing the Democrats continually harp on, that we always spend under the President's request. Time and time again, and it is in the CONGRESSIONAL RECORD, I have put in the real figures of how much we spent and how much the President has requested. From the year 1982 to 1990, we have overspent what the President has requested by $285 billion. Now, that is not TOM DELAY speaking. Those are figures put out by OMB, the Office of Management and Budget, along with the Council of Economic Advisors. Those are real numbers that anyone can check. We have overspent.

Now, what does happen, I serve on the Appropriations Committee and I know exactly what happens, usually what happens is that we pass our appropriation bills and specifically design these bills to spend money under the President's request. We never fund all the programs fully that we want to fund. What we do, we always come back later on in the year with supplementals and start pumping that money back in. I can demonstrate that with any Member who cares to discuss it with me. That is how the process works here, and that is why we are in the trouble that we are in.

If I may, and it will answer a lot of comments made by the gentleman from Wisconsin, this is the best piece I have seen on the history of defense spending, the kinds of spending we have made. These are real hard figures. These are not speculations or innuendo.

Advocates of higher taxes maintain that only new revenues can reduce the budget deficit. Experience teaches, however, that new revenues do not reduce deficits. From fiscal 1982 to fiscal 1991, for example, aggregate Federal tax revenues grew annually by roughly 3.3 percent—as the gentleman from Indiana pointed out—above the rate of inflation. Over this period, this brought in an extra $254 billion in revenues, after adjusting for inflation. What happened to this quarter-trillion dollars? Congress did not use it to reduce the deficit; Congress spent it dollar-for-dollar. During fiscal years 1982 to 1991, aggregate Federal spending grew annually by roughly 2.7 percent over the inflation rate, or an inflation-adjusted total of $255 billion.

Some critics charge that the budget deficit is the result of Ronald Reagan's rebuilding of the American arsenal, a policy now vindicated by the speed with which the United States is deploying massive forces to the Persian Gulf. Yet, defense spending accounts for only 18 percent, or $45 billion, of the 10-year, $255 billion real increase in spending. Since 1988, moreover, defense spending actually has gone down in real terms by 7.7 percent, a reduction of $23 billion. These savings were more than offset by real increases in nondefense spending. Excluding interest payments of the national debt, nondefense spending has risen in inflation-adjusted terms by $106 billion since 1988, an increase of nearly 17 percent.

The budget deficit thus has not been due to lack of revenue nor to high defense spending. New revenues have been rolling in for a decade. The problem has been that the Democrat controlled Congress spends every new dollar. And most of this is on wasteful pork barrel programs.

□ 2030

With the economy in deep recession, the Federal deficit jumped to $127 billion in fiscal 1982. This was 4.1 percent of gross national product, the greatest post-World War II share except for the 4.8 percent in 1948 and the 4.3 percent in 1976. Where is she at? The total spending in fiscal 1982 was at 23.8 percent of GNP, the highest level since 1944, and Federal taxes were at 19.7 percent of GNP, the third highest level since 1945.

As bad as that was, the United States could have lived with the 1982 level of spending. If Congress had controlled its spending habits that year and kept annual growth of Federal spending to the rate of inflation, the subsequent growth in tax revenues would have eliminated the deficit by fiscal 1988 and created a $92 billion surplus by fiscal 1991.

Obviously, the deficit was not erased by 1988. Instead, the deficit was $161 billion, the same inflation-adjusted deficit level it was in 1982.

By the way, parenthetically, I have left out the savings-and-loan expenditures that we have incurred.

Congress had a chance. Now, though Congress missed the opportunity in 1982 to cap spending at the rate of inflation, it had a second chance in fiscal 1988. Increased tax revenues since then would have reduced the deficit to $75 billion by fiscal 1991, only $1 billion above the Gramm-Rudman-Hollings deficit reduction target. This would have created a $13 billion surplus by fiscal 1994.

Instead, the inflation-adjusted fiscal 1991 deficit is expected to be about $162 billion, again roughly the same as the 1982 deficit and the 1988 deficit.

The hundreds of hours that budget negotiators have been spending in their summit deliberations this year could have been avoided had Congress not spent every dollar of new tax revenues generated by an economic expansion resulting from the Reagan tax cuts of 1981 through 1984. The only check on this 10-year spending spree has been the Gramm-Rudman-Hollings budget law which sets deficit targets each year and mandates automatic cuts if the targets are not met.

According to Heritage Foundation economist Daniel J. Mitchell, Federal spending today would be $300 billion greater than it is had Gramm-Rudman-Hollings not slowed the nominal 9.9 percent increase of congressional spending from 1980 to 1985. The annual pace of spending increases slowed to 4.8 percent after Gramm-Rudman-Hollings went into effect.

So where are we? Where we are is we have come this year to a point of a train wreck. How did we get here? We got here because the President saw that spending was going to continue, that the deficits were going to remain large and he had to get control of this budget.

So the President decided the only way to do this is to call for a summit and get the parties together and talk it through and try to reach some agreement. That was in May of this year, almost 5 months ago.

They came together, and they started meeting, and then the Democratic leadership of Congress told the President—went to the President on Monday or Tuesday morning and told him that if he did not put raising taxes on the table, they would walk. The President did that, to the great jeopardy of his political career.

He did it, and yet he was criticized for it. We saw the speeches in this well that the President had flip-flopped, the President now was for taxes, and many Members were yelling and screaming that t(ey were against taxes.

Then we went along for a while, and the President was negotiating with himself and continued to negotiate with himself because the negotiations were leaked out to the press when any sort of proposal was made. Then we came to the point right before the August recess. There was an agreement. By the way, during this whole time there were deadlines set but never met by the budgeteers.

So we continued along right before the August recess. There was an agreement between both sides that they would exchange proposals, sort of like exchanging prisoners of war. They would sit at the table and one would hold one proposal out like this and grab the other proposal and they would switch them.

The President made his proposal, and the Democrats did not come up with their proposal, yet criticized the President's proposal in the press.

That led us into the August recess. And after the August recess, we come in and we still are missing deadlines.

What I see coming, what I see coming in the agreement—I might also say that in this House of misrepresentation, a lot of rhetoric started before the August recess about capital gains being a tax cut for the rich. We can talk about that some more also.

But what we see coming is that we are going to get new taxes and we are going to get very little spending, just like the summits of old, and we are going to end up with continued deficits and there will be no serious deficit reduction.

The gentleman from Indiana [Mr. BURTON] and the rest of us, including Democrats, have been looking at alternatives. The gentleman from Indiana may want to point out his alternatives.

But what we were leading up to in this article by the Heritage Foundation is that if we would have put a cap on spending, to not increase spending to any more than the rate of inflation, we would then have a balanced budget today. Many of us are proposing that same approach, and I know the gentleman from Indiana does.

Mr. MOODY. Mr. Speaker, will the gentleman yield for a moment or two?

Mr. BURTON of Indiana. I yield to the gentleman from Wisconsin.

Mr. MOODY. I have examined these numbers. The gentleman from Texas and I had this conversation before.

I sent those numbers to the Budget Committee for their analysis, and now I remember what they told me.

What they told me is you use what you call congressional spending, which includes three components: appropriations, entitlements, and interest payments. That is right.

Now, I need to correct my statement.

What we did is not spend less than the President wanted, we appropriated less than the President wanted each year.

Mr. DELAY. That is not true.

Mr. MOODY. That is true.

The Budget Committee has given me those numbers.

What went up so fast is interest payments, they soared through the ceiling.

You can call that congressional spending, you can call it appetite; I call it meeting your obligations. If you borrow $3 trillion, you have to pay the interest on it. You can call that wild spending binge, but you have got to pay the interest if you borrow the money.

That is not congressional spending, that is a national obligation. To call

that that this House "is dying to spend" is a total mischaracterization of what happened.

On appropriations, we have appropriated less than what the President asked for on entitlements and on interest——

Mr. BURTON of Indiana. I want to reclaim my time. I do not want to be impolite, but the fact of the matter is, to go back to the basic premise that I used earlier, we were getting $599 billion per year in tax revenues in 1981, fiscal year 1981. This year we are going to get $1.2 trillion.

Mr. MOODY. We ran a $220 billion deficit in 1981.

Mr. BURTON of Indiana. $1.2 trillion annually now. It is increasing at $80 to $90 billion per year.

Now, that increase in revenues ought to satisfy even the most insatiable of appetites.

Mr. MOODY. The case load in social security.

Mr. BURTON of Indiana. I have to reclaim my time, Mr. Speaker.

The fact of the matter is that it is the spending appetite of the U.S. Congress that is the problem. It is not the American taxpayers' paying taxes into the Treasury. Those revenues, because of the stimulus of the 1982 tax cuts, have created 20 million new jobs, 20 million new taxpayers. Those new taxpayers are creating additional revenues for the Treasury. Those additional revenues for the Treasury ought to be more than enough to take care of the needs of this country.

Mr. MOODY. May I respond?

Mr. BURTON of Indiana. The problem is that the appetite for spending goes on unabated.

Mr. Speaker, I yield to my collegue from California.

Mr. COX. I thank the gentleman for yielding.

Just a couple of points. The gentleman mentioned what happened since 1981. If you look at the decade, the 10 years from 1979 through 1989, Federal revenues have more than doubled. I do not think any business in America would count itself as having done poorly if it could double its revenues over a decade.

As a matter of fact, the entire economy did not grow anything like that. We were growing Federal revenues at a rate much faster than the economy itself.

The trouble was spending increased faster still. It far more than doubled. That is where we are, where we find ourselves right now.

We have got to get a handle on spending, or we will not get anywhere.

This year, as all of us here know but the American people do not, the majority in this Congress have increased spending far beyond last year; domestic discretionary was up 14 percent when we adjourned just a little bit ago, and now it is probably up more.

Two other points: Capital gains, some people are saying capital gains is the sticking point in these budget negotiations. The fact is capital gains is not a sticking point between Democrats and Republicans. Capital gains is a sticking point between the Democratic leadership and the rank-and-file Democrats here in the Congress.

We already passed capital gains reduction in this House.

If our leadership would simply permit a majority vote of the Congress, we would have capital gains reductions. And if there were an up-or-down vote on capital gains by itself, we could take it out of the budget mix altogether.

□ 2040

Finally, with respect to this so-called bubble, there is no such thing as a bubble. It is disingenuous in the extreme to call it that.

There are some people around here allegedly concerned about a lack of symmetry in our marginal rates. They go from 28 to 33 percent and then back down again to 28 percent.

But look what happens. There is no 33-percent rate in the code. Literally there is no 33-percent rate in the code. What there is instead is a 5-percent surtax. That surtax applies to a fraction of a taxpayer's income for the sole purpose of more rapidly introducing that 28-percent rate.

Mr. Speaker, I will give my colleagues an example by saying, "If your income is $80,000 a year, you'd pay that 5-percent surtax on a fraction of your income. The consequence would be that your tax on the $80,000 would be 23½ percent. If you make enough money to reach $100,000, then that 5-percent surtax applies to a fraction of your income, and you'd pay 25½ percent, and on and on until you max out at 28 percent."

In simple terms the truth is this: No one in America pays more than 28 percent. The more money one makes, the higher tax they pay, and up to 28 percent, the more money they make, the higher rate they pay. Anyone who suggests otherwise is engaging in sheer demagoguery.

When people are talking about bursting the bubble, we ought to hear them for what they are saying. They are talking about raising taxes on everyone.

Mr. BURTON of Indiana. About 5 percent.

I would just like to make one observation, and that is that the summiteers and the Democratic leadership has been advocating approximately $130 billion in new taxes of one sort or another. Beer taxes; we have seen those Anheuser Busch commercials on television, cigarette taxes, gas taxes, luxury taxes, energy taxes, just on, and on, and on, but the total is $130 billion.

And this observation, my observation from this one Member of Congress, is that, if we take $130 billion in taxes out of the pockets of Americans buying power, that means they are not going to purchase $130 billion of products. And that means, when we do not purchase $130 billion of product, they are not going to produce those $130 billion of cars, refrigerators, and what else.

Mr. MOODY. Mr. Speaker, will the gentleman yield 1 second?

Mr. BURTON. of Indiana. I will be happy to in a minute. Let me make my point, and that what Ronald Reagan faced when he took office. The taxes were so high that people could not buy, and when we take that buying power away from American people, the production goes down, and they start laying people off, and it exacerbates the situation because for each 1 percent of unemployment, it takes $40 billion out of our Treasury.

So, Mr. Speaker, when we add taxes on the back of the American people, and we take away that buying power and the productivity that follows, then what we are doing is creating additional unemployment, and we are going to have $40 billion added for each 1 percent of unemployment. So, if we had an increase in unemployment we would have an additional tax burden or additional burden on our taxes of a $120 billion.

Conversely, conversely, if we passed a capital gains tax cut, which most of my colleagues keep talking about and depicting as a tax break for the rich, it would create an estimated 2½ million jobs over the next 5 years, and those 2½ million people would be getting a salary, and paying taxes and having purchasing power, and so what happens is we have more products purchased, the economic recovery continues or grows, and we do not face the recession we are talking about.

Mr. MOODY. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. That is why many of my colleagues, myself included, make the very salient point, I think, that a tax increase right now, with us on the precipice of a recession, will push us over the edge into a recession because a tax increase takes that buying power away from the American public.

I yield to the gentleman from Texas [Mr. DELAY], my colleague.

Mr. DELAY. Mr. Speaker, I had one other note that the gentleman said——

Mr. MOODY. The gentleman from Indiana [Mr. BURTON] said he would yield to me.

Mr. BURTON of Indiana. I will.

Mr. DELAY. Did not point out on capital gains, and he is dead right about the increase in jobs, but it would also reduce the deficit by $30 to $40 billion. But also, if we had a 15-percent capital gains tax, what it would do, it would increase property values, thereby lowering our exposure in the S&L crisis. So, we would also save on the S&L side. It just goes across the board in our economy where a capital gains cut is not for the rich. It is for everyone. It is a job creation program.

Mr. BURTON of Indiana. Mr. Speaker, I just want to yield to the gentleman from Wisconsin [Mr. MOODY], my colleague. I promised him I would.

Mr. MOODY. Mr. Speaker, I want to get back to what was said that tax increases take money out of people's pockets, and indeed they do. One of the purposes of taxes is to dampen consumption to avoid inflation. That has been a historic purpose of taxation, not to finance government only because government can print money or do other things.

The way the Government finances itself, if not through taxation is, of course, borrowing. So, I say to my colleagues, "You can take $30 billion out of people's pockets through taxation, or you can take it out through borrowing, and, if you advocate taxation off the roof, then you're advocating borrowing. Once you fix the level of spending, it is either borrowing or taxation——"

Mr. BURTON of Indiana. There is——

Mr. MOODY. Let me finish my sentence.

Mr. BURTON of Indiana. There is one other way to do it, and that is to cut spending.

Mr. MOODY. No, no. Of course. But once that level of spending is cut, the question is, "Do you cover it by taxes or borrowing," and the gentleman is saying a tax cut is better, or not covering by taxes is better. The gentleman is saying covering it by borrowing. He is entitled to his opinion——

Mr. BURTON of Indiana. I did not say that at all.

Mr. MOODY. But once we fix the level of spending, then we have only got two ways to finance it. Either way takes $30 billion out of people's pocket——

Mr. BURTON of Indiana. Well——

Mr. MOODY. And I say, "When you borrow $30 billion, you also take it out of their pockets."

Mr. BURTON of Indiana. Mr. Speaker, if I can reclaim my time——

Mr. MOODY. And we raise interest rates on top of it.

Mr. BURTON of Indiana. The point is we have raised each year over 1981 $600 billion in new revenues over the $599 billion that we are getting, and that ought to satisfy the most insatiable of appetites. The problem is not that we do not have enough revenues. The problem is we are spending too much, and now they want to load another $130 billion on the backs of the American people.

No.

Mr. Speaker, I yield to the gentleman from California.

Mr. COX. Mr. Speaker, I thank the gentleman for yielding.

I think that is precisely the point. We are not talking about a tax revenue cut. We are talking about a tax rate cut. We have got a lot of empirical experience with this.

People can theorize all they want in their economic laboratories with that econometric model, but we cut the rate of tax on capital gains in 1978. Revenues from capital gains taxes went up in 1979 and 1980, and we cut the rate further in 1981. Revenues went up in that year, and 1982, 1983, 1984, 1985, all the way until 1986, when we then raised the rate of tax on capital gains. We are now trying to reduce that rate of capital gains to increase, not reduce, revenues to the Federal Treasury, and empirical evidence shows that is precisely what will happen.

Mr. BURTON of Indiana. And create jobs. That is the only jobs creation program that we have talked about in this Congress.

Mr. COX. Well, there is no question, and, furthermore, there is no question that a majority of this Congress understands that.

Our colleague, who is now sitting in the chair, happens to be a Democrat, was a leader in the fight to get capital gains rate reduction passed by the House of Representatives. There is no question that a majority of the House of Representatives supports capital gains rate reduction. There is no question that a majority of the U.S. Senate supports it.

What is going on right now is that the leadership of Congress is preventing a majority from having its way. That is why we do not have a budget agreement, not because President Bush is doing anything. Everyone knows that the President cannot appropriate a penny. He can stand on the sidelines and cajole and so on, but the fact of the matter is that only the Congress can act, and our leadership is preventing us from getting this to the floor. They are literally standing in the way of fulfilling our legal obligation.

Most of us here know that the law requires that we have this budget to the floor for a vote by the end of June. The 1974 Congressional Budget Act requires that we complete our 13 annual appropriations bills by the end of June. Reconciliation must be completed by the end of June. That is a statutory requirement, and the fact is that the leadership of the Congress is breaking the law. When we break the law and violate the process, then we have financial chaos, and that falls squarely on the shoulders of——

Mr. MOODY. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I would be happy to yield, but we only have about a minute——

Mr. MOODY. This will take 10 seconds.

Mr. BURTON of Indiana. That is what the gentleman said last time.

Mr. MOODY. Yes, it will take 10 seconds.

Mr. BURTON of Indiana. All right; I will give the gentleman from Wisconsin [Mr. MOODY] 10 seconds.

Mr. MOODY. First of all, the Treasury, the President's Treasury officials, agree that a tax cut, and the Republicans and the summiteers agree that a capital gains tax cut would cost, not gain, revenue. That is what they have all agreed.

No. 2, the gentleman from California I hope—why did he not bring the President's budget to a vote? Their side of the aisle refused to even give the President's budget a vote.

Mr. BURTON of Indiana. The 10 seconds of the gentleman from Wisconsin [Mr. MOODY] is up, but I appreciate his comments.

Let me just end up by saying that we all want to reach an agreement. We do not want to see the disaster that a sequester would cause the American people. But at the same time I hope my colleagues will not saddle the American people with $130 billion in additional taxes that will put us into a major recession, one from which we may not recover for some time.

Mr. HORTON. Mr. Speaker, I would like to begin by thanking the gentleman from Indiana [Mr. BURTON] for calling this special order today. As Turkish President Turgut Ozal visits the United States, it is fitting that we take this time to praise the nation of Turkey for its significant role in trying to resolve the Persian Gulf crisis.

It is all too common these days to find people and countries who are looking out for their own self interest. This is certainly not the case with Turkey. Turkey is a country which has requested tremendous sacrifice from its citizens for the good of the world community.

Turkey, as a frontline border state of Iraq, could have been reluctant to implement the United Nations sanctions against Saddam Hussein that threatened to cut into its lifeblood. The easy thing for Turkey to do would have been to continue its substantial trade with Iraq. Continuing trade with Iraq would have saved over 100,000 Turkish jobs and spared many others from economic hardship. A recent Wall Street Journal article estimated that Turkey will suffer $3 billion of economic damage as a result of the embargo on Iraq. The world community must also appreciate

the fact, of course, that joining the United Nations sanctions against Saddam Hussein placed all Turkish citizens at risk of military reprisal.

Turkey did not choose the easy way out. It stands as a model for the rest of the world. At first word of the United Nations embargo, Turkey terminated trade with Baghdad and shut off the twin pipelines carrying over 50 percent of Iraq's oil to world markets. Turkey has not shied away from the difficult decisions that had to be made.

Turkey, I might point out, has traditionally surmounted all of the challenges it has faced in contributing to a free and peaceful global community. Turkey maintains the second-largest armed force in the North Atlantic Treaty Organization [NATO] after the United States. Turkish servicemen served with distinction as part of the United Nations forces in the Korean war. Also, they have played an important role in protecting the southern flank of the NATO alliance.

Despite their defense commitments, Turkish officials knew that they had critical vulnerabilities. In the early 1980's, United States and NATO military planners had stipulated that the Turks needed $1.2 billion a year for 10 years from the United States to modernize and fully meet their assigned NATO role. Funding never came close to this amount, however, and the Turks continued to make costly repairs and upgrades on less capable World War II and Koren war vintage equipment.

The Turkish Armed Forces are currently facing an Iraqi Army equipped with state-of-the-art weaponry. Saddam Hussein has built up his army with a formidable array of conventional and special weapons. Both quantitatively and qualitatively, Iraqi ground and air forces possess superior equipment to most Turkish systems.

I suggest to my colleagues in the House that recent events in the Middle East require us to review our relationship to Turkey. Instead of cutting back on assistance to the Turks, we should be strengthening our commitment to these important allies. Let's provide the Turks with the capability to both defend themselves and to assist us in this volatile region.

Mr. CLEMENT. Mr. Speaker, I am pleased to join my colleagues in commemorating the visit to the United States of Turkish President Turgut Ozal.

President Ozal visits at a most auspicious and promising time in the relationship of our two countries. Faced with the challenges of an unstable and ever-changing geopolitical region, Turkey unhesitatingly joined with the United States in countering Iraq's invasion of Kuwait and the threat it posed to Saudi Arabia. True to its commitment as a NATO ally, Turkey acted decisively and in spite of the 200-mile border it shares with Iraq.

In showing such wherewithal, Turkey put at potential risk its economic well-being and its safety. More than anything, Turkey demonstrated by its actions its interest in the stability of the Middle East and the role it must and is willing to play in resolving the issues affecting that region of the world.

Of course, Turkey has never been shy in meeting its obligations as it sees them. And, having visited with Turkish Government officials and Turkish citizens, I know that there are times when its obligations and interests diverge from those of the United States. That is to be expected, just as when United States interests occasionally diverge from those of Turkey.

But today we commemorate not divergence, but cooperation and the fact that is it more than coincidence that United States-Turkish relations are strong and vibrant. President Ozal has worked hard to strengthen that relationship, just as have officials of our State Department and Commerce Department. All are to be commended.

On the occasion of President Ozal's visit, it is important that we celebrate the strong commercial and political ties that bind our two countries. Our relationship has matured, as it should. And, it will grow further, even as we realize that events and those who wish us ill may occasionally divide us. But, as in any mature relationship, if differences in perspectives or policy occur we will be able to talk, to iron out differences, and to use friendly persuasion. We may even agree to disagree. But at the core, the people of the United States and Turkey will always be friends who, as dynamic democracies, share similar values and dreams.

That is how it should be.

Mr. HERGER. Mr. Speaker, when the world was confronted with the blatant aggression of North Korean forces in Korea, not unlike Saddam Hussein's foray into Kuwait, one country came out ahead of the pack to join in the international effort to repulse the invaders.

That country which stood shoulder to shoulder with our men in Korea was Turkey. Without regard to what they would get out of it, the Turks sent several brigades which sustained heavy casualties and gained international acclaim for their fierce fighting ability.

Again, Turkey has stepped up to bat early in the current crisis with significant measures which have been pivotal to the effectiveness of the world response to Iraq's outrageous aggression. Through the strong leadership of the Turkish Government, twin pipelines carrying 60 percent of Iraqi oil output were turned off, despite threats of reprisals and a severe blow to the Turkish economy. Million of dollars in transit fees were lost by the Turks from this one action alone, along with up to 60 percent of the oil for their domestic needs which they had imported from Iraq.

With the formidable Iraqi Army arrayed opposite its 200-mile border with Iraq, a more reticent response could have been understandable on the part of the Turks. In fact, Turkish public opinion has questioned whether the Turks are being put on the firing line just for American and European oil interests.

As in Korea and as the staunch NATO ally they are, the Turks could not take a back seat as did some far more affluent and less heavily impacted countries. They responded with their traditional steadfast valor and stalwart defense of international principals. As a country with a predominately Muslim population, they were able to help defuse Saddam's attempts to portray his aggression as a holy war. As a bridge to the Middle East, they were able to rally key countries in the region around the sanctions.

Some who cannot see the forest for the trees would claim the irritants in our bilateral relations bespeak a faltering commitment to our security ties with Turkey. Any friendship has its minor disagreements and misunderstandings. Yet those built on a solid, common foundation endure and become stronger in the face of adversity. This is the kind of relationship we have with the Republic of Turkey.

The Turks have sent clear signals that despite irritants, such as the Armenians resolution in Congress, they put our common interests first. With a deep sense of the need for stability and continuity in the present crisis, they extended the current United States and Turkish defense and economic cooperation agreement without changes and fanfare last week, when it would have been easy to press for concessions.

For our part, we also need to demonstrate the qualities of friendship and steadfastness to the Turks. I stand here today to send a message to the people of Turkey and their leaders. Your tremendous sacrifices are recognized and admired, not only here in the united States, but around the world. Be assured that the United States stands behind its commitments to our friends in Turkey.

I would urge my colleagues to look at the issues which affect our bilateral relationship with Turkey, such as trade relations and security assistance, with a view toward sending a clear signal to the Turkish people and their leaders. Now more than ever, our friendship with Turkey is to be cherished, as they have so ardently demonstrated.

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay special tribute to a close American friend and ally, the Republic of Turkey. Many of us had the opportunity to meet with President Ozal during his visit yesterday. From this meeting and from examining the Persian Gulf crisis, Turkey's strategic importance has certainly been highlighted and its status as a dependable ally of the United States reconfirmed.

Turkey's friendship and support for the West go back many years. The Republic of Turkey has been a member of NATO since 1952. During the tense years of the cold war, Turkey countered the military threat of 45 Warsaw Pact divisions, hosting joint intelligence facilities, NATO headquarters, air bases, early warning sites, and communications facilities. Turkey was also one of the first nations to send troops to fight under the U.N. command in the Korean war. With great justification, General MacArthur, the U.N. commander, hailed the Turks as the "bravest of the brave."

Just a few months ago, lulled perhaps by the waning of the Soviet threat, Congress thought that it could safely cut security assistance to Turkey. Although the administration initially requested $545 million in FMS credits, the House Appropriations Foreign Operations Subcommittee recommended reductions in that amount providing only $400 million. When the administration protested, the sum was increased to $430 million by the full committee. Cold war justifications for military aid were no

longer considered convincing, especially in light of the incredible changes in Eastern Europe, and to a lesser extent in the Soviet Union.

However, in looking at the map, it is evident that the easing of superpower tension—while lessening the threat in some areas such as the Turkish-Bulgarian border—do not directly affect stability in other regions like Iran, Iraq, and Syria. Ethnic unrest across the border in the Soviet Union is also troubling.

The brutal Iraqi invasion of Kuwait on August 2, underscores the instability of the region and dramatically altered perceptions of Turkey's strategic value. The international embargo against Iraq had no chance of succeeding without Turkey, which shares a long border with Iraq and controls major oil pipelines coming out of that country. Although Turkey stood to lose billions of dollars by taking sides against Iraqi dictator Saddam Hussein, it did not hesitate to do so. The Turkish economy, which is not strong, will now have to absorb a drastic reduction in its shipping and trucking industries, loss of construction contracts, loss of oil pipelines fees, loss of remittances from the 6,000 workers in Iraq and Kuwait, and forfeiture of substantial Iraq debt. Preliminary estimates put the cost of Turkey's response to the crisis at $4 billion annually. As a proportion of GNP, an equivalent burden for the U.S. economy would be over $300 billion.

Turkey has also adopted measures to facilitate the multinational military effort in the gulf. The Government of Turkey agreed, for example, to extend their 5-year defense and economic cooperation agreement with the United States. Normally, the terms of such an agreement are subject to prolonged negotiation. Turkey, unwilling to disrupt the allied effort against Saddam Hussein, agreed simply to extend the existing agreement. Turkey has also facilitated the basing of United States Air Force F-111's along the Turkish-Iraqi border and Turkey has deployed military forces to that same region.

When the current crisis has been resolved, I hope we do not forget the contributions and support from Turkey. Turning our backs on the Turks would be ungrateful and unwise. Turkey, we must not forget, is the only predominately Moslem country in the Middle East with secular political institutions and a commitment to Western-style democracy. It is a dependable ally located in an uncertain but vitally important part of the world. History has shown that we can count on Turkey. Let history also show that Turkey can count on us. Real friendship is mutual.

Mrs. MEYERS of Kansas. Mr. Speaker, it gives me great pleasure to speak about the courageous actions taken by President Ozal and the people of Turkey in the face of Saddam Hussein's brutal aggression.

In the first days after the invasion of Kuwait, the Iraqi dictator sent his Deputy Prime Minister to Turkey hoping to keep his oil pipeline open. Despite the threat of Iraqi missiles with more than enough range to hit Turkey and the prospect of severe economic loss, Turkey sent the emissary back to Baghdad empty-handed with a message for Saddam to get out of Kuwait.

It was not easy to tell the neighborhood bully where to get off but, the Turks, with a lot more to lose than most of their neighbors, did just that and more. They were among the first to implement the U.N. sanctions fully, and they did it almost overnight. The international embargo had no chance of succeeding without Turkey's participation. Turkey's courageous early measures inspired others less severely impacted to come forward, and led the way to the most successful and united action in the history of the United Nations.

Of course, this is not the first time Turkey has participated in needed U.N. action against an aggressor. The Republic of Turkey was among the first Western nations to offer to send troops to fight under the U.N. command in Korea. The actions of the Turkish battalions and of the individual Turkish soldiers reflected an unusually high degree of courage and discipline. General MacArthur called the Turks under his command "the bravest of the brave." Turkish combat troops twice received the highest unit award that could be given by the United States, the Presidential Unit Citation, while fighting alongside American forces.

Turkey has remained a strong and steadfast friend of the United States. Since joining NATO in 1952, Turkey has had the important responsibility of defending NATO's southern flank from over 45 Warsaw Pact divisions. Turkey has maintained the largest military in NATO, second only to America; and has an outstanding record concerning burden-sharing with the United States.

Just a few months ago, with the Soviet threat receding, Turkey's friendship seemed less important. The House Appropriations Committee cut the administration's aid request for Turkey by over 20 percent. Saddam Hussein has demonstrated for even the most myopic the vital geopolitical importance of Turkey.

Mr. Speaker, the United States needs friends like Turkey in the Middle East. As one of the world's few secular, democratic Moslem States, it is an island of stability in that region. It shares our values and serves as an important role model for other countries wishing to move to democracy. We are fortunate to have an ally like Turkey. Here in Congress, we should do everything in our power to convince Turkey of our appreciation for that support.

Mr. LAUGHLIN. Mr. Speaker, I rise today to pay tribute to Turkey which, by its words and deeds, since the beginning of the gulf crisis, has proven itself to be a staunch friend and ally of the United States.

Only hours after the Iraqi invasion of Kuwait on August 2, the Turkish Government issued a statement, condemning the Iraqi invasion, and asking for unconditional withdrawal of Iraqi troops and restoration of the legitimate Kuwaiti Government.

Turkey, a secular democracy with a predominantly Moslem population, was the first regional state to support the August 6 U.N. trade sanctions on Iraq. A few hours after the U.N. resolution was announced, Turkey banned the loading of Iraqi oil at its Mediterranean jetties, effectively choking off more than one half of all potential Iraqi oil exports.

Turkey was also prompt in freezing Iraqi and Kuwaiti assets and in stopping all exports and imports to and from Iraq, although cutting off trade with Iraq will cost Turkey about $4 billion a year.

While a number of countries are now beginning to show signs of weakening in their resolve to enforce the embargo, Turkey continues to stand firm. On August 15, Turkey halted thousands of tons of food and other goods from entering Iraq. On August 29, it unequivocally denied a request by Iraq to allow shipments of medicine and food.

Turkey announced its support for the United States military operations in the gulf region without hesitation. The United States obtained permission from Turkey on August 7 to conduct training missions from Incirlik air base near the Iraqi-Syrian border. United States aircraft began arriving and flying training missions from Incirlik in Turkey only 5 days after Iraq invaded Kuwait.

Turkey has demonstrated its determination to stand firm against Iraqi aggression in many ways. On August 9, the Turkish Army increased its state of readiness, canceling all leaves and transferring F-16 and F-104 fighter aircraft to bases in southeastern Turkey. On August 12, the Turkish National Assembly granted the Government permission to declare war or send troops abroad in case of an attack from Iraq. On September 5, the National Assembly voted to give the Government the authority to allow the deployment of foreign troops in Turkey. Numerous statements from Turkish President Özal and the Turkish Government have made it abundantly clear that Turkey stands by its allies and the U.N. Charter, to which it was an original signatory.

Given Turkey's geographic and economic vulnerability to Iraq, and given its tradition of regional neutrality, one would have expected Turkey to be extremely cautious and slow in responding to the U.N. resolution and American appeals for support. Yet despite the enormous and adverse economic consequences of its actions, which some estimates show to be as high as $6 billion a year, and despite the fact that Turkey has to live with its neighbor Iraq long after other forces leave the region, Turkey, following its national commitments and sense of loyalty to its friends, has reacted courageously and swiftly in close cooperation with its allies.

Mr. Speaker, we should ask ourselves what we have done to deserve such loyalty? Last year, the Senate became involved in a long and bitter fight about the Armenian genocide resolution, a proposal extremely offensive to the Turks, and the passage of which is opposed by most responsible historians. Last April, President Bush, fulfilling a campaign promise, condemned the Turks for the massacre of the Armenians. Last June, the House Foreign Affairs Subcommittee cut about $115 million from the administration's request of $545 million security assistance for Turkey.

Mr. Speaker, I can only hope that the Turks continue to remain more loyal to the United States than we have been to them. We can start by continuing to persuade our friends and allies to provide economic assistance to Turkey to offset the tremendous burden imposed by adhering to the U.N. embargo.

Closer to home, we must ensure that security assistance is provided by Congress to meet the administration's request for Turkey for fiscal year 1991. This is no easy task at this tie of budget constraints, but Turkish needs in the gulf crisis mandate the breaking of the 7:10 ratio, an arbitrary balance, with absolutely no relevance to today's situation.

□ 2050

MAINSTREAM ISSUES

The SPEAKER pro tempore (Mr. STENHOLM). Under a previous order of the House, the gentleman from Oklahoma [Mr. MCCURDY] is recognized for 60 minutes.

Mr. MCCURDY. Mr. Speaker, at this point I would like to recognize the gentlewoman from Connecticut [Mrs. KENNELLY], a member of the Mainstream Forum that meets on a regular basis to discuss mainstream issues and to bring those to light within the Congress and to the American people.

Mrs. KENNELLY. Mr. Speaker, I thank the gentleman from Oklahoma [Mr. MCCURDY] for recognizing me. I do not often come to Special Orders because I am aware that it is keeping other people here later in the day than is usually necessary, and it costs the taxpayers some money. But I have never felt as serious or seldom felt as serious as I felt tonight about exactly what is happening in the Congress of the United States. I just want to talk about it for a few moments, because I want to make sure that my constituents understand that I know what they are thinking about.

Mr. Speaker, in exactly 5 days the very, very, very serious situation of the Gramm-Rudman automatic cuts are due to go into effect. I do not feel that this is acceptable. I do not feel that sequestration, and that is the word we call it, is a substitute for governing. That is why I want to speak tonight.

I want to say to the negotiators, whom I feel have acted in definite good faith, both sides, Republican and Democrat, people that we have chosen as our leaders, I want to say to them tonight it is time now to stop negotiating. You have tried very hard. You have done your best, but it is time now to stop that negotiation and allow us, the Members of Congress, to do the job that we were sent here to do. You have tried, but it is just almost impossible to agree on revenue increases and budget cuts. That is what we are about.

But the fact of the matter is, if you do not stop negotiating and present a package to the Members of Congress, the rank and file Members like myself, we are going to have something happen here Monday that none of us want to happen. In fact, a constituent of mine said at lunch today that sequestration is like a nuclear weapon. It is the kind of weapon that you want in your arsenal, but you do not want to use it, because the results are so terrible.

Mr. Speaker, I have to say tonight that my constituents sent me to Washington to make decisions—not to sit idly by, as I have been sitting, because I had full faith that our negotiators would come forth with a package.

Mr. Speaker, what I am saying tonight is, I have faith in them. But the days are running out, and they have to act tonight, or at least by tomorrow morning. It is time to bring a package to this floor, and it is time to give us, the Members, both sides, Republicans and Democrats, time to let us vote.

If it is a deal, and that is the word I suppose I have to use, if a deal cannot be reached with the White House, then I think it is time for both sides to bring forth alternative packages and allow us to vote them up or down, until we can find something that we can agree on. Because none of us want to have happen what will be mandated by sequestration. Those cuts will be draconian.

Mr. Speaker, who really wants to cut the Coast Guard, air traffic controllers, meat inspectors, student loans? Who wants to make somebody's life very, very unhappy? Really to put our hand in and to hurt somebody. That is what we are doing with Federal workers. We do not want to do that.

So there is only one way to avert sequestration, and it is for our summiteers tonight or early tomorrow morning to put a package together so we can vote on it. If it is going to take a few more days to enact that package, then we will have to vote on a continuing resolution, because we cannot accept sequestration.

I heard the President tonight. I heard him on television, and he was blaming us, the Democrats, because there could not be a deal. I understand that. We are all politicians. He was at a political event. That is what happens when you go to political events, you become political. But I do not think our constituents age going to be understanding much longer.

Mr. Speaker, I just want to take a few minutes and read part of a letter from one of my constituents this very day, a woman named Jean Cahill, from Glastonbury, CT.

She said, "Dear Barbara, I haven't written for a long time. But I think the time has come to get down to business. Let's stop playing politics with the budget. Never mind worrying about the election. You all have a job to do. That's why we vote, so you all will do what's best for the country."

Mr. Speaker, I have been reading the press, like all of us read the press, we who are in the job that we are in. By the way, I asked for this job. I consider it a great honor to be the Congresswoman from the First Congressional District, from Hartford, CT, and the surrounding towns. I have asked for this job, and I think the people that sent me here believe I can do it. I believe when they do not think I can do it better than anyone else, they will stop sending me here.

But the press has been telling me there is an anti-incumbency mood out there, that anybody who is in, who has learned, worked, tried to get this job so it is understandable, that they should not be here.

Mr. Speaker, I have fought that. All the press says, "Oh, look at Massachusetts."

Well, that is a particular case. Massachusetts had a situation where they were terribly, terribly disappointed in the Governor, Governor Dukakis, and they felt that he had gone off and campaigned for President of the United States and their economy had gone down. They felt very strongly about that. They did throw out anybody connected with Governor Dukakis, though I think they blamed him almost too much. There was always enough blame to go around.

Then the press tells us, "Oh, look at Washington, DC." Well, unfortunately, the Mayor of Washington, DC smoked crack cocaine on television. Of course, they are going to throw him out. That is why he did not run again.

But that is not the whole country. Most of us in this body work very hard to do our job, so I have been arguing that should not be the feeling.

But let me tell Members something: If we sit here and allow the next 5 days to go by and do nothing, and let sequestration come in, then maybe the press is right. Maybe we should not have these jobs.

Jean Cahill said it is the way it is. Let us get down to business and do what we have to do.

Mr. Speaker, I stand here tonight and just urge the summiteers, who I think are in session once again, to do what you have to do. But the time has run out. By tomorrow morning, send us a package. We are the rank and file. We are the body of the people. We are the ones, that only us can go back and report to our constituents. Send us a package.

By the way, I remind the Federal workers who do not want sequestration, do not forget to stick up for some of us who are willing maybe to make that decision. We are going to have a package, and it is going to be tough and rough because we have spent too much. There can be no new spending. There is going to have to be a freeze on spending. There are going to have to be some cuts in very popular programs, but I think some of us are ready to make those tough decisions, rather than have sequestration. I

think many of us are standing here, and we have said it today and say it to each other and talk about it, we take our jobs very, very seriously. We know that everybody cannot be a leader. Everyone cannot be. That is why we have leaders.

Mr. Speaker, we have waited upon our leaders. We have waited for a proposal, but now we have no more time to wait. So I am saying, let us get about our job. Let us get a proposal, vote it up or down, but please do not let sequestration happen because it is not a viable alternative to governing. If we cannot resolve this, then I guess the press is right, we should go.

Mr. McCURDY. Mr. Speaker, I thank the gentlewoman from Connecticut [Mrs. KENNELLY] for her comments. I think she has eloquently stated the position for many of us. I have to concur with her totally.

Mr. Speaker, I think the key to what she says is that it is time to act. It is time to stop posturing. It is time to stop pointing the finger at one side or another.

Those of us who are involved in the Mainstream Forum, moderate and conservative Democrats, argue that there is ample blame, whether it is on the left or on the right. We saw earlier tonight a demonstration of why it is so difficult to reach an agreement.

We have a massive and great division in philosophy between not only the parties, but the people who are engaged in the debate here in the House of Representatives. But I agree with the gentlewoman from Connecticut [Mrs. KENNELLY], the time for negotiation is over. The time to act is now. We cannot allow a sequestration to go into effect.

Mr. Speaker, some people call it the impending train wreck. Some people refer to it like playing chicken back in the sixties, where two cars get on the same highway in opposite directions and come at each other, and at the last minute, they see who swerves or who blinks or who ducks.

□ 2100

Federal employees of this great Nation provide a valuable service. They are valuable employees, they are loyal, whether it is in the Department of Defense, the Social Security Administration providing social services, in the Agriculture Department, the Federal Aviation Administration, Health and Safety Environmental Protection. They entered into a contract with the Federal Government and we are not honoring that contract if we allow sequestration to occur.

One of the things that bothers me the most, and I am going to then yield to my colleague and friend from Alabama, is that earlier in the debate this evening my colleagues from Indiana, Texas, and California kept saying that the problem is not revenues, that the problem is overspending. They kept referring to the discretionary spending and how it has increased.

My colleagues and friends, I think it is important to again set the record straight. How is the budget constructed? As 45 to 46 percent of the Federal budget is made up of entitlements, whether that is Social Security payments, whether that is Medicare, whether that is other social services, Federal retirement, military retirement, those are mandatory, and I underscore the word "mandatory" outlays, unless the basic law that provided those is changed. Agriculture, Medicare, railroad pensions, Social Security payments, FHA assignments, those are areas that are required spending, and we do not know exactly how much those are. We project those into the year based on a certain class, a category of benefits and the people receiving those benefits, and it grows throughout the year. Those have increased, and yet I do not hear anyone on that side of the aisle saying that it is time we make those cuts in entitlements. No one over there is saying that we need to cut Social Security, and yet they say spending has increased. Forty-six percent of the budget is there.

Thirteen percent of the budget is interest on the debt. That again is one of those mandatory obligations that we as a Congress have to respond to. We do not determine the level. That is determined by the amount of debt that is accumulated over the past decade, and over the past 200 years of government. Again, we do not control that, but it is there. We have to pay the interest on the debt, either that or we violate the full faith and credit of the U.S. Government. See what happens and what kind of economic disaster results from that action.

Third, the Department of Defense. As a member of the Armed Services Committee, I am intimately aware of the amount of spending within the Department of Defense. It consumes about 24 percent of the Federal budget. That has increased in the mid-1980's, peaked in 1985 and since 1985 has been declining. There has not been the real increases or the growth that occurred between 1981 and 1985.

Lastly, the discretionary programs that affect so many people in this country. In reality, it is going to take a combination of cuts. It is going to take a combination of savings within entitlements. It is going to take a combination of cuts in defense and in discretionary programs.

There should be a freeze on spending. In 1984 or 1985 the gentleman in the chair and myself, and I guess we are the only two that had that opportunity to vote on that particular bill, and there were only I think 56 of us who voted, there were not any of our Republican colleagues who voted for that, and there were not many on the left of us who voted for that, but the center of our party said we were willing to freeze entitlements, we were willing to freeze defense, we were willing to freeze discretionary spending and even to raise some revenue in order to avoid the days of reckoning which are coming, which are here.

Monday that train wreck will occur. Monday we will tell Federal employees in this country that we no longer will live up to the obligation that we made and the contract that we initiated with them. That is crazy. That is bad policy. It is bad for the country, and I, like my colleagues, have said it is time to stop the negotiations. We ought to have a package out here to vote on which puts on record. And it is not going to be pleasant, but it is time to do it.

I voted for a constitutional amendment to balance the budget. I have voted in the past for a reduction in the capital gains tax, back in 1981, but we dropped it from 50 to 28 percent, and it did spur and add some stimulus at the time, but since then we have seen an accumulation of more and more debt.

I am appalled and outraged to think that a cut in the capital gains tax stands between an agreement on reductions and avoidance of this $100 billion mindless automatic cut in the Federal Government.

Those cuts are not just numbers. They are people, the people in my district who work for the Federal Government, whether it is at Tinker Air Force Base, or Fort Sill, or the Postal Technical Training Center. They balance their budgets on the paychecks they get, because they work for those benefits and those checks, and when we force them to take a 25-percent cut, then their livelihood is affected, their ability to feed their families, to make those car payments, to make those house payments are affected. There is no one else to blame other than this institution, the administration and the lack of leadership, and the inability to overcome partisan differences, the desire to gain partisan points at the expense of innocent men and women in this country.

The time to act is now. Mr. Speaker, I think we need to have a budget package this week. If we do not reach an agreement, if there is not an agreement reached by the negotiators, then I will tell you, I think it is going to be very difficult. I think it is going to be very difficult to reach an agreement when the President is making campaign swings throughout the country and taking the opportunity at political events to take shots at the Congress and at the negotiators.

I recall in the caucus in this very Chamber weeks ago, because some of us had come to this floor and spoken out against the imbalance and the unfairness that is implicit in this Tax Code, and that we believe that the rich should pay a higher percentage, and that they too should pay a fair share of the obligation of this Government because they enjoy the privileges and benefits of this great country, they too have rights and responsibilities, and the majority leader of the House, Mr. GEPHARDT, came to us and said: "During these negotiations we ask some restraint. We would appreciate if for the next few months that you not speak out because the Republicans are sensitive to that and they want us not to be out there talking about progressivity of the Tax Code or making changes."

We honored that request and we said yes, we will tone it down, we are not going to talk about that. We will wait and see what happens.

Well, my colleagues, that is over, that is gone. We are too close to the deadline to remain silent and allow the potshots to occur in the media but not have the truth said here on the floor of the House.

Mr. Speaker, it is an outrage. We have to act. We must stop it, and I hope that my colleagues will join in continuing to exert pressure not only on the leadership of this body but the administration as well.

I am willing to work. I think many in this body are willing to stay here as long as it takes to avoid this deadline. I have canceled my district trip. I would hope the President might consider canceling his campaign swing and come back to Washington and sit down and get a resolution on this issue. It is that important. If this is a crisis, and it appears all we are able to do these days is manage crises as opposed to looking long term and avoiding these situations, then we need to have him at that table. We need to act right now.

□ 2110

Mr. Speaker, with that, I yield to the gentleman from Alabama [Mr. BROWDER], who has, although relatively new to this body, considerable experience in management, in administration of government, and I think is very fiscally responsible and also understands the impacts that these potential cuts would have on Federal workers.

Mr. BROWDER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I also want to commend our colleague, the gentlewoman from Connecticut, who spoke with such moving common sense a few minutes earlier. I commend my colleague, the gentleman from Oklahoma, for his leadership in setting up and leading the Mainstream Forum.

Those conversations that we have had, those meetings with our leadership and sessions out here on the floor, I think, have increased the amount of common sense that the American people are hearing, and I guarantee that we will be having more common sense of this sort coming from our Mainstream Forum.

The gentleman has done a good job with that, and I appreciate it, and I know the people of America appreciate it.

We are here tonight to talk about the budget crisis. I do not have a solution, but I know somebody who can singlehandedly lead us to that solution.

The problem, though, is that we have real disagreement in Congress. We have about 260 Democrats and about 175 Republicans here, so it is hard for one side to just point the finger at the other one. Most things that pass in here have to have support from both sides of the aisle. But we have real disagreement in Congress.

Whatever solution to this crisis we do reach it is going to have to have bipartisan support. It is going to have to have support from both Democrats and Republicans, and it is going to have to have support from both Congress and the White House.

I am confident that a budget can be passed which the people will accept. It will be a burden, but we can pass a budget with budget cuts and with that burden shared fairly across the American public.

The hangup, a I see it, is that congressional leadership has been working hard. They have been responsible, and we on this side of the aisle have pretty much stuck with them. We have given them our support, not our proxy, but our support in these negotiations. The hangup, as I see it, is that nobody is in charge on the other side.

I understand that our side has made offers from A to Z, budget cuts, maybe modified capital gains tax cut with compensating adjustments among the very wealthy who are going to benefit from that.

In my opinion, the President should have been sitting at that table. The President should have been participating personally in those budget negotiations. I felt that way from the start, and I think that it has hurt the process with the President not being there full-time at those negotiations.

Where does the buck stop? Well, you know, we can grandstand, we can finger-point, but the buck stops with both Congress and the White House, yes, the President.

Those who read and read the newspapers and watch television, listen to radio, study constitutional and statutory politics, keep up with the elections, know that this burden is shared by the Congress and the White House. Some people will point out that it is Congress, Congress' responsibility. Yes, it is. But, in reality, you know that that is shared. The President, the executive branch, advises us, presents a budget, and we respond to it.

I recall a couple of years ago in elections there was only one person in this country who said, "I want to represent all of the people of the United States." Other people in this Chamber and the other Chamber represent segments of the people of the United States. One person said, "I want to be the President of the United States, and I have a plan for balancing the budget, yes, with no new taxes." Some of us still subscribe to that.

But there is a definite responsibility for the President to participate in this process.

Where is the President? I would like to revisit him back on January 31, 1990, in his State of the Union Message in this Chamber, "And tonight, let me say again to all of the Members of Congress, the American people did not send us here to bicker. There is work to do. And they sent us here to get it done."

I would like to revisit the President again in this Chamber on September 11 of this year in a joint session when he said, "Most Americans are sick and tired of endless battles in the Congress and between the branches over budget matters. It is high time we pulled together and get the job done right. It is up to us to straighten this out."

Where is the President's budget plan? Nobody knows. It is a part of the public record that that was never presented here in Congress.

As the appropriate time, the President's party did not offer the President's own budget. As a matter of fact, and I will then ask my colleague from Oklahoma to correct me on this if I am wrong, at one point in the discussion one of the members of the party on this side of the aisle tried to bring up the President's budget for discussion so the American people could see what was in that budget, and I believe that the President's party objected.

Where is the President? Is he at the budget table tonight? Is he in Washington during these days, these dwindling days before we face that train wreck? No. In these days, the President is in Akron, Chicago, St. Paul, Cleveland, Detroit, all very nice places.

I have checked the schedule, the White House bulletin that comes out. I think tonight, or today, the President spoke at a Republican fundraising luncheon in a gubernatorial campaign in Ohio. Tonight he is speaking at a Republican dinner in a Senate campaign in Chicago; tomorrow, speaking at a Republican fundraiser

breakfast in a gubernatorial campaign in St. Paul; tomorrow at lunch speaking at a Republican fundraising luncheon in a gubernatorial campaign in Cleveland; tomorrow night, speaking at a Republican fundraising dinner for a Senate campaign in Detroit, MI.

□ 2120

I am not a rabid partisan. I am not a Presidential basher. I am not a congressisonal coddler. However, the fact is our Government has not done its job. Our Government has not spoken straight to the American people in identifying this problem, in helping the American public structure its priorities, our priorities, and in asking the American public to come in and help set those priorities.

Mr. Speaker, I am frustrated. The people of Alabama are frustrated. America is frustrated, and the words of the President are still ringing in our ears. Let me repeat his words. "It is high time we pull together and get the job done right." If there is one single message I could send to the President, it would be his own words: It is high time.

America tonight is calling out to the President, wherever he may be, with another message: Come home, come home. Sit down at the budget table in good faith, with Democrats and Republicans in good faith now, and let Members get the job done right.

Mr. McCURDY. Mr. Speaker, I thank the gentleman for his statement. The gentleman obviously has hit the nail on the head and raised a very serious challenge to Americans.

I think that the point he makes is pretty clear. There are those who, on both sides of the aisle, we have seen it in this Chamber, who have said, obviously people in the country have not appreciated the benefits and the services that are rendered by the Federal Government, and perhaps in order to get their attention, to let them know that there is a crisis, well, let sequestration occur. There ought to be a little pain in America. I do not think those people who make that statement seriously mean or understand the impact of those words. If they are talking about a Federal employee at Tinker Air Force Base in Oklahoma, they are talking about people who are providing logistical support to our men and women in uniform in Saudi Arabia and in the Persian Gulf. They are talking about men and women who work at the FAA who are training air traffic controllers, or the air traffic controllers themselves, or they are talking about the people who, at the National Weather Service, provide the weather information so those airlines may fly. If they are called off the job or receive a furlough, those services are shut down. They are altered. They are impaired. The safety and security of the country, I think, is impaired.

Some people who make those casual comments oftentimes just look at the numbers. They look at the economic statistics, and I studied economics in graduate school and I understand that sometimes there is a temptation in a certain distance that occurs, but we are not econometrics, we are talking about the lives of people, their ability to send their children to school, to provide greater opportunities for them to feed their families, to make their house payments and car payments, and just depend on the one thing that we as the Federal Government offer to them.

Federal employees make less than their counterparts of equal education and ability in the private sector. They hired on, knowing full well that the pay would probably not be equivalent. However, the one thing we asked and thought that the Federal Government would secure to them is a certain amount of stability and security, that the Federal Government in that contract would say, "We are going to be true to you, we are not going to violate your contract. We are going to not allow these kinds of events to affect your lives." That security has been violated.

The threat of this, year after year, because of the borrow-and-spend policy over the past decade, we have come to these artificial deadlines and have come to the brink. Most every year we have avoided it at the last minute, but those were years when we had a $10 billion deficit to rectify, or a $30 billion deficit, or a $60 billion difference. This year, the President's own budget submission and projection fell short when submitted by $100 billion. Now, that estimate is off by some $200 plus billion, and that is not counting the S&L debacle and the payoff on that. Just on the estimates.

The recession that I believe is impending, and the actions in the Persian Gulf have set into effect or set into motion events which clearly devastate the economy as we know it today. It is not time for further posturing. It is not time to try to save a little faith so that when the recession occurs that the President can go back and say, "Well, I tried, but they won't let me."

It is time for Members of Congress to say, "Well, it's all the President's fault." It is time that everyone here claims their share of the responsibility. There is not a single program of this Government that will be unaffected if a real and serious budget package is not agreed upon. Every single program, every person in this country will have to contribute something to the resolution of this crisis.

We in the Congress, we in the Congress are going to have to pay our share. Men and women, regardless of income and where they live, or their station in life, will have to. My constituents at home tell me all the time, "Congressman, we are willing to pay it, but we want to make sure that Donald Trump is paying his taxes, or that someone is not defrauding the Government, and that someone who is receiving welfare benefits, that they are truly needy." That the Department of Defense is not ripping off Americans because of duplicated weapons systems or weapons systems that do not work, or those that contractors are not performing their job. We can look at any program. I believe this truly and firmly, as long as the agreement that is reached is real, does not have the phony numbers of the first budget that came through this House a few months ago, phony economic assumptions, if it is real, if it is genuine, and is going to make a difference over 5 years and we are going to enforce it, and it is fair, then I believe the American public will support it. If it does not occur, and we allow sequestration to occur, let me tell Members that States across this country are going to have the same kind of ax that occurred in Oklahoma a few weeks ago when they saw limitations on terms, which I think is one of the most irresponsible ways to deal with Government and the frustration of dealing with Government because what it does, it turns over the Government to the bureaucrats, and the staff who really do become the real power in this country. They are not accountable to the American people. I am accountable to the constituents in my district. All Members are. We all are. Every 2 years we go back and have our contracts renewed. However, if we turn it over to the staff and the bureaucrats in the administration, there is no checks and balances.

I believe that violates the very sense of the Founding Fathers, when they created this form of Government. The Government, the budget process has not worked. It is time to review it, to change it, but more importantly, it is too late to do that between now and Monday. What we have to do now is, as we say in Oklahoma, "Suck it up, tighten up the belt." Go down there, get an agreement that makes sense. The President is going to have to give. He is going to have to give up on a tax cut, capital gains. I believe we on our side are going to have to take more spending cuts than perhaps some had thought. We are going to have to have a pay as you go system I believe in the future that we do not have new spending programs without a commensurate offset.

□ 2130

If we adopt those principles, I believe the American public will support it; but more importantly, we cannot forget who we represent and those

people who have worked for us, for the Federal Government, for all Americans who are loyal, honest, hard-working citizens, that we should not allow this sequestration to occur.

Mr. Speaker, as always, I appreciate the indulgence of the Chair. I believe that it is important that we continue to speak out on issues such as the budget and the importance of this.

The main stream forum is kind of an informal group of Members who believe that too often the center of the political spectrum has kind of sat back and allowed the extremists to articulate their positions and perhaps even scream their positions, and while because that personality or political views have not stood up and said, "Well, wait a minute. There is a little merit probably on both sides. No one has the absolute right position."

This system is based on compromise, whether we like it or not. Some people say strong compromise.

Let me tell you, if we did not have compromise, this system of government would not have survived as long as it has, and it is the best system. You can look around the world today at Eastern Europe, Central America, Latin America, Africa, people are crying for the freedoms that we enjoy, but with those freedoms we have a responsibility and the responsibility is to act.

I just want to close with one quote. Walter Lippman said it in 1940 when he was addressing the 30-year class reunion of the 1910 graduating class at Harvard. He said to that group:

> You took the good things for granted. You must earn the rest. It is written that for every right you cherish there is a duty that must be performed. For every hope you entertain, there is a task that must be fulfilled. For every good thing you wish would happen, you must sacrifice your comfort and ease, for there is nothing for nothing any longer.

Mr. Speaker, my colleagues, and my constituents and friends in this country, there is nothing for nothing any longer. He said that in 1940. In 1990 it is even more true. If we want services and benefits from the Federal Government, we have to pay for them. If we do not want those, then we cannot cry out, if we are not willing to pay for them we cannot cry out for more.

There are too many who have said, "I want the benefits, but I don't want to have the obligation."

That time is over. You cannot do that. I believe it is time for us to do what is right, to bring a package on to this floor, to vote on it, to take the tough choices, to make the cuts, to raise the revenue, do whatever is necessary in order to provide for the future security and stability and growth of this country. The time is now.

HUMAN RIGHTS IN CHINA

The SPEAKER pro tempore (Mr. STENHOLM). Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 60 minutes.

Ms. PELOSI. Mr. Speaker, I have called this special order today to coincide with several events that relate to China. But before I go into that, I want to commend our colleagues from the Main Stream Forum for their very thoughtful presentation this evening on the budget. While I am not a member of Main Stream Forum, I do agree that this effort requires our fullest concentration and that of the President of the United States, and that we must come to an agreement. We owe it to the people of this country. As one speaking from the left of the Main Stream Forum, I would hope that the agreement will reflect a budget that will reflect our national values, one that says that the strength of our country should be measured in the health, education, and well-being of our children and our people, as well as our ability to defend ourselves internationally and to keep the peace internationally.

I had intended really for this special order to take place while we were still deep in discussion about the budget, but as we know, Mr. Speaker, that has been going on for months now. I thought at the end of the evening now, with the indulgence of the Chair, I would like to take a few minutes to refresh the memory of the Congress on a subject that is timely, I think, for this reason.

I called this special order to coincide with several events. Today, Mr. Speaker, marks day four of the Asian games taking place in Beijing. These games are by all account a major effort to restore the legitimacy of the Beijing regime in the eyes of the world which continues to decry the continuing systematic pervasive denial of basic human rights to the citizens of China.

In Washington today, Mr. Speaker, the World Bank and the International Monetary Fund are holding their annual meeting. This opportunity will most certainly be an occasion for a reexamination of World Bank policy toward China.

Yesterday the Ways and Means Committee reported a resolution to disapprove most-favored-nation status for China. They also reported out a resolution for conditional renewal of most-favored-nation status for China. The full House will consider this issue probably as early as next week. In light of these developments, it is essential that the Congress of the United States voice its continuing concern about violations of human rights and on the economic side the centralization of the economy in China.

The reason I believe that it is necessary to refresh the memory of others in our Government is because yesterday I saw a most startling letter sent by the State Department regarding dissidents in the United States, Chinese dissidents in the United States. The State Department has sent letters to several students seeking asylum in the United States. The letter from the State Department stated that based on current conditions in China, they have demonstrated no well-founded fear of persecution upon their return to China. The letter stated that there was no persecution in China on the basis of political opinion.

Hard to believe, but stated by the State Department.

My subsequent remarks will demonstrate the fallacy of this statement, and in light of this development I call upon my colleagues to cosign a letter to the Secretary of State asking him to disassociate himself, to disavow this letter, that it was probably a mistake, that it could not possibly be true, because in the letter, the letter based its finding on the United States country report on China. This country report which was released earlier this year stated that virtually all internationally recognized human rights are restricted in China, many of them severely.

This country report, as I say, little has changed since this country report was issued. It is hard to understand why our State Department would be saying that there is no well-founded fear of persecution on the basis of political opinion to a dissident who has spoken out for democracy in China while in the United States.

In fact, preparation for the Asian games has provided a backup for an intensified effort to crush dissent. Reporting on the Asian games, the New York Times of September 22, remarked that determining that nothing should go wrong, authorities arranged an enormous show of force and sent workers home this afternoon with the stern advice that they should stay off the street and watch the ceremonies on television. This is particularly ironic, given the fact that the workers have been forced to pay for shortfalls caused by the lack of corporate sponsors for the game. Workers who earn only $330 a year are being assessed 20 percent of their paychecks as voluntary donations to the games. Although the Asian games officials say that all donations are supposed to be voluntary, the Wall Street Journal reported that the same officials are saying they have no control over fundraising techniques.

Most alarming, perhaps is the number of executions that have taken place in recent months in order to rid the country of undesirable elements before the Asian games. In its report

issued September 13, Amnesty International stated:

Firing squads in China have executed more than 500 people so far this year in China's most severe crackdown on crime since 1983. Courts have been ordered to impose "severe and swift" sentences and the scope of the death penalty has been broadened. Those executed include people convicted during the pro-democracy rotest of June 1989. Almost all of the people sentenced to death have been tried under emergency regulations which give them virtually no change to prepare their defense. Under this "fast track" system, some people have been executed within two weeks of their arrest.

The report goes on to say that "Torture and ill-treatment continue to occur, particularly against detainees awaiting trial or held in administrative detention."

□ 2140

Given this documentation on torture in detention, I am very concerned about the hundreds of prodemocracy activists who continue to be detained in Chinese prisons or camps. Despite assurances to Congress by a group of Chinese mayors this summer, that most dissidents had been released, an Asian watch report to be released later this week lists hundreds of prisoners of conscience who are still being held today.

Mr. Speaker, although this is embargoed until Friday, the Asia watch report entitled "Repression in China Since June 4, 1989," lists over 1,000 detainees; in fact, some of those detainees who have since been executed. This is a report that our State Department has knowledge of and for them to say there is no persecution on the basis of political opinion sounds very, very foolish.

Despite such arrests, democracy demonstrations have continued to erupt throughout the country. In Xinjiang Province this April, 200,000 troops were called in to quell large-scale demonstrations. Airports in the Province were closed and reporters were ordered out. Over 100 people are reported to have died. Clearly, the Beijing regime is embattled.

Because this special order is taking place so late, some of my colleagues who had originally planned to participate are submitting their statements for the RECORD. I would like to refer to one of those statements, that of our colleague TED WEISS of New York. He has a program with Congressman JOHN MILLER of the State of Washington addressing the political prisoners in China.

He refers to the human rights organization, Asia Watch's report estimating that over 1,000 people remain in prison in China for political and religious activities.

The vast majority of those prisoners are being held without proper charges or trials and have been detained for nothing more than peaceful political expression.

The fate of these prisoners remains shrouded in secrecy. Although the Chinese Government claims that 881 people have been released since January of this year, the names of all but a few of these prisoners have not been released. What happens is they release some, they rearrest twice as many.

Representative JOHN MILLER and Congressman TED WEISS, as I mentioned, have initiated a congressional project in conjunction with Asia Watch to support these prisoners of conscience in China. The Chinese political prisoner adoption program is designed to ensure that the courageous men and women who remain imprisoned for their outspoken defense of freedom are not forgotten here in the United States.

The project is very simple: Using the model of the extremely effective congressional campaign on behalf of Soviet Jewry, we, our colleagues, have been invited to adopt an individual Chinese political prisoner. Members of Congress who are participating in the program have written letters to the Chinese Embassy, made statements on the House floor and raised the case with the Chinese officials.

So far we have had an impressive response. Over 70 Members of the House, both Democrats and Republicans, are already participating in the program. But with so many still imprisoned in China, there is much work to be done. For those of our colleagues who are not yet involved in the project, we invite you to join in.

One thing is very important for prisoners of conscience and those especially who are being tortured, is for them to know that word reaches them that they are not forgotten and that torturers cannot tell them that no oneknows what is happening. So this part of the program is very important.

I would like to turn now, Mr. Speaker, to concerns about the Chinese economy.

There is no question that China has moved away from the economic reforms of the 1980's.

As you know, Mr. Speaker, much of our policy regarding World Bank loans to China, most-favored-nation status to China, depends on the fact that countries that we have these relationships with are supposed to be countries with a free economy, not a centralized economy. Such is not the case in China.

After June 1989, Beijing reversed its policy of free-market pricing. It had been moving more in that direction. Centralized price controls were quickly reinstituted over large segments of the Chinese economy.

In 1989, plans to diversify corporate ownership by selling stock in state enterprises to employees was scuttled as a betrayal of socialism.

Over 2.5 million small businesses have gone bankrupt in China since the beginning of 1989 as the Beijing government adopted increasingly restrictive economic regulations.

Despite this trend toward economic centralization, the World Bank hopes to lend another $275 million to China in October. This comes at a time of increasing demand for World Bank capital from Eastern European market economies and from countries who are suffering economic hardship because of their support of the U.N. and United States policies in the Persian Gulf.

In addition, the President has extended the most-favored-nation status to China for another year. This comes in spite of the fact that the United States trade deficit with China has doubled in the last year and could exceed $10 billion this year, $10 billion from China alone.

So if we are going to have most-favored-nation trade status with China and if it is going to benefit China to the detriment of our businesses in the United States—in some cases trade with China is good for businesses in the United States—but a trade deficit of $10 billion is not good for our economy.

And then it is important that we stand by what we have said in the past about most favored nation and it should not be extended to countries which do not have a free economy and which do not respect the freedom of residents and the right to emigrate of its people.

Human rights are important in our political life, in our international life; if they are important with some countries, they should be important with China as well.

The facts lead up to only one conclusion, that despite administration assertions to the contrary, be it in the World Bank, in the trade policy or in the State Department letters denying political repression in China, little in China has changed economically or socially since the brutal repression of 1989. Yet the administration seems bent on restoring full commercial ties with the Beijing regime.

I fear, Mr. Speaker, that this may happen after Congress adjourns next month. So many of the administration's initiatives on China have taken place over the Fourth of July, when the first Scowcroft visit took place, when we were in recess after Thanksgiving last year; and the second Scowcroft visit, the second that we know of, that has been admitted to.

I fear when we go out of session that there will be other initiatives as well. The administration may make arguments that China has reemerged as a

responsible world player. It voted with the Security Council against Iraq and cooperated on a Cambodian peace plan. This is clearly what Beijing would like the world to think

While I welcome Beijing's cooperation on these issues, I want to stress that it is self-interest that propels this cooperation and a desire to end China's isolation without making internal changes toward democracy and a free economy. This is unacceptable.

Mr. Speaker, we must let the Chinese Government know that we have not forgotten and will not forget the courageous people who continue to suffer because of their commitment to democratic reform in China.

So in the next weeks, as we take up the issue of most favored nation or we have to vote on our IDA replenishment, of funding for the International Development Association, of which the World Bank funding is part, we must remember the basis for our relationship and not make exception for China.

Mr. Speaker, only one more point. I was dismayed to learn that while, as I mentioned to you, people earning $330 a month in China were assessed 20 percent of their income in order to help pay for the games because of the disappointing participation of other kinds of sponsorship, I was disappointed to learn that M&M's, the official sponsor of the Asian games, one of the official sponsors—and I am second to none in this body as a fan of chocolate—but I would hope that those who love freedom and who love chocolate will forsake M&M's at least as long as they continue to support a repressive regime in Beijing.

Thank you very much for your tolerance in staying so late here tonight.

On behalf of my colleagues who join with me in submitting statements for the record on China, both tonight and on an ongoing basis, until we have these votes, I am grateful for the opportunity you have given us to put some of these statements on the record. Again, every chance we get I want to speak out for freedom and democracy in China, for the protection of human rights throughout the world, to protect the rights of dissidents in the United States who have spoken out for freedom and democracy and again to identify the lone man before the tank. He will not be forgotten in the Congress of the United States.

□ 2150

Mr. Speaker, I wish to insert a letter from Mary von Briesen, Director of the Office of Asylum Affairs, Bureau of Human Rights and Humanitarian Affairs.

The letter follows:

U.S. DEPARTMENT OF STATE,
Washington, DC, June 25, 1990.

MR. DAVID N. ILCHERT,
District Director, Immigration and Naturalization Service, San Francisco, CA.

DEAR MR. ILCHERT: This is in response to your letter asking for an advisory opinion on the above applicant's request for asylum in the United States.

We have carefully reviewed the application. In our view, the applicant fails to demonstrate a well-founded fear of persecution upon return to People's Republic of China on the basis of race, religion, nationality, membership in a particular social group, or political opinion.

Our opinion is based on information about country conditions and other relevant factors available to the Department of State through its conduct of foreign affairs, together with the information specific to the applicant provided in the application. We do not have independent information about this applicant.

The strength of the application may be affected by your interview or hearing, or additional information subsequently presented by the applicant. Should you believe that any such additional information warrants further consideration, we will be happy to review the file again.

I trust that this advisory opinion will be helpful to you in reaching a decision in this case.

Sincerely,

MARY VON BRIESEN,
Director, Office of Asylum Affairs, Bureau of Human Rights and Humanitarian Affairs.

Mr. WEISS. Mr. Speaker, before I address the issue of our policy toward China, I would like to say a special word of thanks to Congresswoman NANCY PELOSI, the sponsor of this special order. Her leadership—especially on behalf of Chinese citizens here in the United States—provides yet another example of her commitment to human rights and social justice around the world. I commend her efforts to remind the Congress and the American people of this important issue.

Mr. Speaker, the leaders of China are now attempting to spruce up their nation's tarnished image. Even though only 15 months have passed since they ordered the massacre of hundreds of demonstrators in Beijing, they are actively courting international approval. They are cooperating with the United States in the Persian Gulf and Cambodia and, this week, they are playing host to the Asian games in Beijing.

But even though we may commend these steps toward reconciliation with the international community, we must not allow ourselves to forget the genuine human rights tragedy that continues to unfold in China.

Beneath the thin veneer of calm at the Asian games, a dark and systematic pattern of abuses persists. The Chinese leaders have launched a nationwide anticrime campaign to stem political unrest during the games. Chinese prisoners are being executed by the hundreds without adequate judicial procedures. And the police are evicting peasant migrant workers and barring those who lack special permission from entering the capitol city.

The human rights organization Asia Watch estimates that as many as 1,000 people remain in prison in China for political and religious activities. The vast majority of these prisoners are being held without proper charges or trials and have been detained for nothing more than peaceful political expression.

The fate of these prisoners remains shrouded in secrecy. Although the Chinese Government claims that 881 people have been released since January of this year, the names of all but a few of these prisoners have not been released.

Representative JOHN MILLER and I have initiated a congressional project in conjunction with Asia Watch to support these prisoners of conscience in China. The Chinese Political Prisoner Adoption Program is designed to ensure that the courageous men and women who remain imprisoned for their outspoken defense of freedom are not forgotten here in the United States.

Our project is very simple. Using the model of the extremely effective congressional campaign on behalf of Soviet Jewry, we have invited our colleagues to adopt an individual Chinese political prisoner. Members of Congress who are participating in the program have written letters to the Chinese Embassy, made statements on the House floor, and raised the case with Chinese officials.

So far, we have had an impressive response. Over 70 Members of the House—both Democrats and Republicans—are already participating in the program. But with so many still imprisoned in China, there is much work to be done. For those of our colleagues who are not yet involved in the project, we invite you to join us.

We must let the Chinese Government know that we have not forgotten—and will not forget—the courageous people who continue to suffer because of their commitment to democratic reform in China.

Again, I commend Ms. PELOSI for her leadership on this important issue and thank her for yielding me this time.

Mr. SCHEUER. Mr. Speaker, the Asian games kicked off this week in Beijing. Not in the Beijing of a year and a half ago. Not the vibrant Beijing that was alive with the hopes and dreams of peaceful democratic reform. Rather, in a sterile, oppressive Beijing. A Beijing purged of individual expression and heavily tainted by the memory of brutal repression.

Were we so intoxicated with the triumph of democracy in Eastern and Central Europe and in the Soviet Union that we allowed the ruthless leaders in Beijing to succeed? That we turned our back on a vast nation yearing to be included in the global movement toward democracy reflects shame on the American people.

Were we so enamored by business as usual that the bloody scenes of Tiananman Square caused but a modest stumble in our business relations from which we quickly gained our equilibrium?

Yes, Mr. Speaker, it appears we were.

The Chinese Government has perpetrated a campaign to impose a ruthless conformity throughout Chinese society. This government of aging despotic mandarins is trying to preserve a dictatorial Communist apparatus and ideology that has been relegated to the scrap heap of history by Foland, by Czechoslovakia,

by Hungary, by Bulgaria, by the Soviet Union—the list goes on.

And what has this administration done to oppose China's step backward? What has this administration done to show the Chinese people our resolve to continue the fight against despotism?

Next to nothing. Indeed, the Bush administration extended most-favored-nation status to China, sent his National Security Adviser and his Deputy Secretary of State to Beijing before the smoke had settled over Tiananmen Square, and quietly allowed business and even military cooperation to resume.

Only 2 months after Tiananman Square and in the midst of the roundup of tens of thousands of political prisoners, Chinese workers, officers, and engineers were back to work building fighter aircraft for China—not in China, but here in America.

Not only is U.S. policy contrary to everything this Nation stands for, but it is myopic and self-defeating.

The Chinese Government belongs in a museum. They are a despotic but enfeebled gerontocracy. They enjoy no popular support. The future leaders of China, the students, the intellectuals, the workers, and the peasants all oppose this Government. And they will achieve freedom—with or without our support.

When the inevitable comes, when the forces for democratic reform succeed as they are succeeding the world over, what kind of relations should we expect with the Chinese? What will they say of us? That we stood by disinterested, and apathetic in their time of need? That we passively supported an oppressive, murderous, Communist regime? A regime that deluges the genocidal Khmer Rouge with weapons, that destabilizes the Middle East with missiles, that massacres its own citizens, the best and brightest of China?

We have temporized with the Beijing tyrants in a pitiful betrayal of our heritage and our political beginnings. Our country deserves better, and the people of China deserve better of us.

Mr. MILLER of Washington. Mr. Speaker, I want to commend Representative PELOSI for holding this special order at this important time. As the Asian games begin, and with the Persian Gulf dominating the news, it is doubly important that we do not forget that human rights abuses continue to occur every day in China. A short attention span on human rights in China ensures a long prison term for the prodemocracy movement in China. That is why it is especially important that this special order is taking place, and we are refocusing attention on China.

Even as we commend China for participating in the worldwide trade embargo against Iraq, we cannot forget the thousands of political prisoners languishing in jails. We cannot forget the hundreds who have been executed in the last year. Mr. Speaker, we cannot forget the cause of freedom and democracy in China.

Amnesty International has reported the execution of over 500 people during the current "anticrime" campaign. This includes dissidents who were arrested for "counterrevolutionary activity. These defendants have had no opportunity to prepare a defense. In fact, some were executed only 2 weeks after their arrest.

I hope that even as the House considers all the other important legislation before it in the last months of this session, that we also act on legislation to encourage human rights in China. The Ways and Means Committee has reported out legislation to add human rights conditions to the immigration conditions already in law for MFN status for China. I have introduced legislation which establishes nine guiding principles for American businesses to follow while conducting business in China. I know other Members have introduced other pieces of legislation to address the human rights problem in China. The time to act is now.

The United States has the power to influence positively events in China. My bill, for example, uses the powerful tool of United States businesses in China to further the cause of freedom and democracy in China. It is in the long-term interest of United States companies to ensure trade with China which does not deny fundamental freedoms to the people of the People's Republic of China and Tibet. Companies, by conducting themselves in a manner which encourages reform in China, will be securing a stable and profitable market in the future. My bill does not punish China, it does not punish United States business. But it does ask U.S. companies to play their part in promoting human rights.

Though the prodemocracy movement in China has been replaced on the front pages, the hearts, minds and soul of the Chinese prodemocracy movement are irreplaceable. We should not wait until another massacre occurs to act. Rather we should act now to ensure that another massacre does not occur.

The United States must speak with a voice which is loud and clear against the continued oppression of the Chinese people, and for freedom and democracy.

GENERAL LEAVE

Ms. PELOSI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this special order.

The SPEAKER pro tempore (Mr. STENHOLM). Is there objection to the request of the gentlewomen from California?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SWIFT (at his own request) for September 25 and 26, on account of illness in the immediate family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. PASHAYAN, for 60 minutes, on October 2.

Mr. DOUGLAS, for 5 minutes, today.

Mr. HORTON, for 60 minutes, today.

(The following Members (at the request of Mr. TORRES) to revise and extend their remarks and include extraneous material;)

Mr. SKAGGS, for 5 minutes, today.

Mr. HUTTO, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MOODY, for 5 minutes, today.

Mr. MFUME, for 60 minutes, today.

Mr. MCNULTY, for 60 minutes, on October 9 and 10.

Mr. OBEY, for 60 minutes, today, September 27, 28, 30; 60 minutes on October 1, 2, 3, 4, 5, 9, 10, 11, 12, 15, 16, 17, 18, and 19.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HARRIS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LOWERY of California, in general debate on H.R. 4450, in the Committee of the Whole today.

Mr. LIVINGSTON, prior to passage of Anderson en bloc amendment on H.R. 5314.

Mr. ROE, to include correspondence on H.R. 5314 in the Committee of the Whole, today.

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous matter:)

Mr. SCHULZE.

Mr. DAVIS.

Mr. GEKAS.

Mr. SPENCE.

Mr. MCDADE.

Mr. DREIER of California.

Mr. GOODLING.

Mr. EMERSON.

Mr. PORTER.

(The following Members (at the request of Mr. TORRES) and to include extraneous matter:)

Mr. WAXMAN.

Mr. HAMILTON.

Mr. KANJORSKI.

Mr. FRANK.

Mr. EDWARDS of California.

Mr. JACOBS.

Mr. COLEMAN of Texas.

Mr. SOLARZ.

Mr. KILDEE in four instances.

Mr. MAZZOLI.

Mr. MORRISON of Connecticut in two instances.

Mr. WOLPE.

Mr. BOSCO.

Mr. DYSON.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2761. An act to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United Services Organizations, and

H.R. 4962. An act to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 535. An act to increase civil monetary penalties based on the effect of inflation.

S. 2075. An act to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality.

ADJOURNMENT

Ms. PELOSI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 50 minutes p.m.), the House adjourned until tomorrow, Thursday, September 27, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3938. A letter from the Secretary of Agriculture, transmitting the animal welfare enforcement report covering fiscal year 1989, pursuant to 7 U.S.C. 2155; to the Committee on Agriculture.

3939. A letter from the Secretary of Health and Human Services, transmitting the 15th annual report on the status of handicapped children in Head Start Programs, pursuant to 42 U.S.C. 9835(d); to the Committee on Education and Labor.

3940. A letter from the Department of Health and Human Services, transmitting a letter informing the Congress of the progress on four reports pertaining to specific topics related to child abuse which were mandated by Public Law 100-294; to the Committee on Education and Labor.

3941. A letter from the Secretary of Health and Human Services, transmitting a copy of a report entitled, "The Health Benefits of Smoking Cessation"; to the Committee on Energy and Commerce.

3942. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3943. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a brief statement, covering the 12-month period ended June 30, 1990, on the activities of the Federal courts under the Equal Access to Justice Act of 1980, which will be included in the annual report of the Director, pursuant to 28 U.S.C. 2412(d)(5); to the Committee on the Judiciary.

3944. A letter from the U.S. International Trade Commission, transmitting the 41st report on the operation of the U.S. trade agreements program during 1989, pursuant to 19 U.S.C. 2213(b); to the Committee on Ways and Means.

3945. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Social Security Act to repeal the annual limit on the temporary assistance that may be provided to U.S. citizens returned from foreign countries and to authorize acceptance of gifts for that program; jointly, to the Committee on Energy and Commerce and Ways and Means.

3946. A letter from the Secretary of Health and Human Services, transmitting the annual report on Medicare for fiscal year 1987, pursuant to 42 U.S.C. 139511(b); jointly, to the Committees on Ways and Means and Energy and Commerce.

3947. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to provide professional liability protection for certain military members ordered to active duty during military opeations; jointly, to the Committees on Judiciary, Energy and Commerce, and Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAWKINS: Committee of conference. Conference report on S. 2104 (Rept. 101-755). Ordered to be printed.

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 5007. A bill to designate the facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, Illinois, as the "Robert McClory Post Office"; with amendments (Rept. 101-756). Referred to the House Calendar.

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 5409. A bill to designate the post office building at 222 West Center Street, in Orem, Utah, as the "Arthur V. Watkins Post Office"; with amendments (Rept. 101-757). Referred to the House Calendar.

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 5209. A bill to amend title 39, United States Code, to make nonmailable any unsolicited sample of a drug or other hazardous household substance which does not meet child-resistant packaging requirements; with amendments (Rept. 101-758). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON: Committee on Public Works and Transportation. House Concurrent Resolution 362. Concurrent resolution expressing the sense of Congress concerning the need for a national policy to rebuild the infrastructure of the United States; with an amendment (Rept. 101-759). Referred to the House Calendar.

Mr. WHEAT: Commitee on Rules. House Resolution 477. Resolution waiving all points of order against consideration of the conference report on S. 2104 and against its consideration (Rept. 101-760). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. House Resolution 478. Resolution providing for the consideration of H.R. 2039, a bill to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve adults and to youth, and for other purposes, (Rept. 101-761). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 479. Resolution providing for consideration of motions to suspend the rules of September 27, 1990 (Rept. 101-762). Referred to the House Calendar.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 5649. A bill, National Aeronautics and Space Administration Multiyear Authorization Act of 1990; with amendments (Rept. 101-763). Referred to the Committee on the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STUDDS:

H.R. 5717. A bill to reauthorize the Coastal Barrier Resources Act, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Banking, Finance and Urban Affairs.

By Mr. WELDON:

H.R. 5718. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to exempt law enforcement programs from reduction under sequestration orders issued under that act; jointly, to the Committees on Government Operations, the Judiciary, and Ways and Means.

By Mr. KOLTER:

H.R. 5719. A bill to require generators of hazardous waste to treat or dispose of their waste at the site on which the waste was generated; to the Committee on Energy and Commerce.

By Mr. ESPY (for himself and Mr. ANTHONY):

H.R. 5720. A bill to transfer the responsibility for operation and maintenance of the Highway 82 Bridge in Greenville, MS, to the States of Mississippi and Arkansas; to the Committee on Public Works and Transportation.

By Mr. MICHEL:

H.R. 5721. A bill to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes; jointly, to the Committees on Education and Labor and the Judiciary.

By Mr. MICHEL (for himself, Mr. GINGRICH, Mr. LEWIS of California, Mr. MCCOLLUM, Mr. WEBER, Mr. EDWARDS of Oklahoma, Mr. HUNTER, Mr. VANDER JAGT, Mr. WALKER, Mr. GUNDERSON, Mr. BARTON of Texas, Mr. UPTON, Mr. KYL, Mr. IRELAND, Mr. GRANDY, Mr. GOSS, Mrs. VUCANO-

VICH, Mr. LEWIS of Florida, Mr. SOLOMON, Mr. GALLO, Mr. HOLLOWAY, Mr. BATEMAN, Mr. ROBINSON, Mr. COMBEST, Mr. MCCANDLESS, Mr. FAWELL, Mr. PACKARD, Mr. ARMEY, Mr. BALLENGER, Mr. KASICH, Mr. MADIGAN, Mr. ROBERT F. SMITH, Mr. SMITH of New Hampshire, Mr. DOUGLAS, Mr. SMITH of Texas, Mr. ROHRABACHER, Mr. SMITH of Vermont, Mr. BUECHNER, Mr. STEARNS, Mr. ARCHER, Mrs. JOHNSON of Connecticut, Mr. INHOFE, Mr. FRENZEL, Mr. SCHULZE, Mr. BLILEY, Mr. ROBERTS, Mr. GILLMOR, Mr. PAXON, Mr. MILLER of Washington, Ms. MOLINARI, Ms. ROS-LEHTINEN, Mr. DELAY, Mr. HILER, Mr. JAMES, and Mr. HAMMERSCHMIDT):

H.R. 5722. A bill to provide for the temporary continuance of essential Government services for Americans; to the Committee on Government Operations.

By Mr. MINETA:

H.R. 5723. A bill to authorize the President to allocate supplies of crude oil, residual fuel oil, and refined petroleum products, and to limit the prices thereof, during a severe petroleum supply shortage or a threat thereof, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MRAZEK:

H.R. 5724. A bill to provide relief for U.S. taxpayers by providing for the establishment of a private firm consisting of highly qualified individuals to assist the U.S. Government, on a contingent fee basis and subject to regulations prescribed by the Attorney General of the United States, the Federal Deposit Insurance Corporation, the Oversight Board, and the Resolution Trust Corporation, in recovering assets from looted savings associations to help pay for the savings and loan resolution; jointly, to the Committees on Banking, Finance and Urban Affairs and the Judiciary.

By Ms. OAKAR (for herself, Mr. SHUMWAY, Mr. GONZALEZ, and Mr. WYLIE):

H.R. 5725. A bill to extend the expiration date of the Defense Production Act of 1950; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SHULZE:

H.R. 5726. A bill to amend the Internal Revenue Code of 1986 to exclude from the gross estate the value of land subject to a qualified conservation easement if certain conditions are satisfied and to defer the reduction in estate tax rates; to the Committee on Ways and Means.

By Mr. HUGHES:

H.J. Res. 657. Joint resolution granting the consent of the Congress to amendments to the Delaware-New Jersey Compact, and for other purposes; to the Committee on the Judiciary.

By Mr. WAXMAN (for himself, Mr. STARK, Mr. PANETTA, Mr. DIXON, Mr. DURBIN, Mr. ROE, Mr. LAFALCE, Mr. MCDERMOTT, Mr. BATES, Mr. LEHMAN of Florida, Mr. MILLER of California, Mr. MOODY, Mr. ROYBAL, Mr. BORSKI, Mr. KASTENMEIER, Ms. PELOSI, Mr. GEJDENSON, Mr. CROCKETT, Mr. STOKES, Mr. BRENNAN, Mr. DONNELLY, Mr. FRANK, Mr. KLECZKA, Mr. PEASE, Mr. TOWNS, Mr. LEWIS of Georgia, Mr. TORRES, Mr. PAYNE of New Jersey, Mr. MARKEY, Mr. BLAZ, Mr. FAUNTROY, Mr. WEISS, Mr. MINETA, Mr. DWYER of New Jersey, Mr. MOAKLEY, Mr. MAVROULES, Ms. OAKAR, Mr. OBERSTAR, Mr. STUDDS, Mr. SOLARZ, Mr. WYDEN, Mr. VENTO, Mrs. COLLINS, Mr. ANDERSON, Mr. BERMAN, Mr. MATSUI, Mr. RICHARDSON, Mr. MARTINEZ, Mrs. SCHROEDER, Mr. SCHEUER, Mr. LEHMAN of California, Mr. BEILENSON, Mr. DYMALLY, Mr. CARDIN, Mrs. BOXER, Mr. RAHALL, Mr. COYNE, Mr. ANNUNZIO, Mr. MRAZEK, Mrs. UNSOELD, Mr. SYNAR, Mr. DOWNEY, Mr. CONYERS, Mr. EVANS, Mr. FAZIO, Mr. FORD of Tennessee, Mr. FOGLIETTA, Mr. HAYES of Illinois, Mr. GONZALEZ, Mr. TORRICELLI, Mr. MURTHA, Mr. SWIFT, Mr. BROWN of California, Mrs. PATTERSON, Mr. KENNEDY, Mr. SIKORSKI, Mr. WOLPE, Mr. KILDEE, Mr. MCNULTY, Mr. WASHINGTON, Mr. LIPINSKI, Mr. OWENS of New York, Mr. EDWARDS of California, Mr. FLAKE, Mr. SCHUMER, Mr. LEVINE of California, Mr. DEFAZIO, Mr. AUCOIN, Mr. WILLIAMS, Mr. CLAY, Mr. SAWYER, Mr. ATKINS, Mr. MFUME, Mr. SKAGGS, and Mr. STAGGERS):

H. Con. Res. 375. Concurrent resolution expressing the sense of the Congress that the Congress should enact a national health program which will remove economic and other major barriers to the receipt of health care while encouraging the efficient delivery of effective, high quality services; to the Committee on Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ASPIN:

H.R. 5727. A bill to authorize issuance of a certificate of documentation with appropriate endorsement for employment in the coastwise trade, Great Lakes trade, and fisheries of the United States for the vessel *Oh Baby At Last*; to the Committee on Merchant Marine and Fisheries.

By Mr. LEVIN of Michigan:

H.R. 5728. A bill for the relief of Janice and Leslie Sedore and Ruth Hillman; to the Committee on the Judiciary.

By Mr. MILLER of Washington:

H.R. 5729. A bill to authorize a certificate of documentation for the vessel *Syringa*; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 201: Mr. CHAPMAN, Mrs. COLLINS, Mr. FOGLIETTA, and Mr. SMITH of Florida.

H.R. 222: Mr. SAXTON.

H.R. 1292: Mr. HOCHBRUECKNER.

H.R. 1317: Mr. STENHOLM, Mr. HENRY, Mr. ESPY, Mr. PETRI, Mr. SMITH of New Jersey, Mr. IRELAND, Mr. GOSS, and Mr. HALL of Texas.

H.R. 1476: Mr. OLIN.

H.R. 2121: Mr. AUCOIN.

H.R. 2353: Mr. FEIGHAN.

H.R. 2531: Mr. GRANDY, Mr. TAUKE, Mr. MCCLOSKEY, Mr. STENHOLM, and Mr. ROWLAND of Georgia.

H.R. 2545: Mr. KOSTMAYER.

H.R. 2816: Mr. HARRIS.

H.R. 2911: Mr. TAYLOR.

H.R. 3252: Mr. WASHINGTON.

H.R. 3267: Mr. NEAL of Massachusetts.

H.R. 3546: Ms. SLAUGHTER of New York.

H.R. 3734: Mr. RITTER.

H.R. 3914: Mr. GUARINI.

H.R. 3929: Mr. NAGLE.

H.R. 4209: Mr. KANJORSKI and Mr. CONDIT.

H.R. 4231: Mr. CLINGER.

H.R. 4269: Mr. ROTH, Mr. LAGOMARSINO, Mr. STUDDS, and Mr. HOCHBRUECKNER.

H.R. 4319: Mr. BUECHNER, Mr. EMERSON, and Mr. FRANK.

H.R. 4344: Mr. MACHTLEY.

H.R. 4424: Mr. HERGER.

H.R. 4690: Mrs. COLLINS, Mr. TAUKE Mr. BRUCE, Mr. UPTON, and Mr. COLEMAN of Texas.

H.R. 4761: Mr. QUILLEN.

H.R. 5008: Mrs. LOWEY of New York.

H.R. 5054: Mr. ATKINS.

H.R. 5224: Mr. KOLTER, Mr. MOLLOHAN, Mr. SLATTERY, Mr. CLINGER, Mr. BRUCE, Mr. YATRON, Mr. COYNE, Mr. BORSKI, Mr. GOODLING, Mr. MANTON, and Mr. MURTHA.

H.R. 5244: Mr. TALLON.

H.R. 5356: Ms. SLAUGHTER of New York.

H.R. 5361: Mr. DAVIS, Mr. HERTEL, Mr. SAXTON, and Mr. JONES of North Carolina.

H.R. 5367: Mr. LENT, Mr. MURPHY, Mr. GILMAN, Mr. SCHUMER, Mrs. VUCANOVICH, Mr. FLAKE, Mr. MILLER of California, and Mr. MARKEY.

H.R. 5377: Mr. KOLTER, Mr. JONTZ, Mr. RICHARDSON, Mr. BORSKI, Mr. SABO, Mr. FROST, Ms. SLAUGHTER of New York, Mr. WOLF, Mr. UPTON, Mr. DOUGLAS, Mr. SIKORSKI, Mr. BROOMFIELD, Mr. GOODLING, Mr. HYDE, Mr. MOORHEAD, Mr. INHOFE, Mr. HILER, Mr. ENGEL, Mr. SCHUMER, and Mr. SYNAR.

H.R. 5416: Mr. LAGOMARSINO, Mr. MILLER of Washington, Mr. HANCOCK.

H.R. 5423: Mr. MCCURDY, Mr. WILLIAMS, Mr. BATES, Mrs. LLOYD, Mr. MATSUI, and Mr. COYNE.

H.R. 5426: Mr. UPTON.

H.R. 5428: Mr. OWENS of Utah, Mr. CRANE, and Mr. MADIGAN.

H.R. 5443: Mr. SHAYS, Mr. ROWLAND of Connecticut, Mr. BRENNAN, and Mr. MARKEY.

H.R. 5528: Mr. WISE and Mrs. COLLINS.

H.R. 5544: Mr. LIPINSKI, and Mrs. BOXER.

H.R. 5579: Mr. YOUNG of Alaska and Mr. MARLENEE.

H.R. 5583: Mr. SLATTERY.

H.R. 5584: Mr. COLEMAN of Texas, Mr. BATES, Mr. BONIOR, Mr. FUSTER, Mr. MADIGAN, Mr. DEFAZIO, Mr. ENGEL, Mr. LIPINSKI, and Mr. SPENCE.

H.R. 5587: Mr. HOLLOWAY, Mr. SLAUGHTER of Virginia, and Mr. SMITH of Texas.

H.R. 5601: Mr. MADIGAN.

H.R. 5622: Mr. DOWNEY.

H.R. 5625: Mr. CHAPMAN, Mr. BRUCE, Mr. VENTO, Mr. THOMAS A. LUKEN, Mr. WALGREN, Mr. BRENNAN, Mr. SIKORSKI, Mr. SANGMEISTER, Mr. KLECZKA, Mr. MCCLOSKEY, and Mr. MOODY.

H.R. 5671: Mr. STARK, Mr. MRAZEK, and Mr. OLIN.

H.R. 5677: Mrs. JOHNSON of Connecticut.

H.J. Res. 48: Mr. INHOFE.

H.J. Res. 214: Mrs. MORELLA and Mr. CARDIN.

H.J. Res. 248: Mr. FAWELL, Mr. GUARINI, Mr. MACHTLEY, Mr. NAGLE, and Mr. PALLONE.

H.J. Res. 579: Mr. SAXTON and Mr. SMITH of New Jersey.

H.J. Res. 602: Mr. GONZALEZ.

H.J. Res. 613: Mr. PARKER, Mr. FIELDS, Mrs. VUCANOVICH, Mr. HAMMERSCHMIDT, Mr. MILLER of California, Mrs. UNSOELD, Mr. DEWINE, Mr. TRAXLER, Mr. FAWELL, Mr. LANTOS, Mr. NIELSON of Utah, Mr. GAL-

LEGLY, Mr. PORTER, Mr. MADIGAN, Mr. MOORHEAD, and Mr. DAVIS.

H. Con. Res. 249: Mr. FROST and Mr. FISH.

H. Con. Res. 288: Mr. ESPY.

H. Con. Res. 329: Mr. FISH and Mr. TALLON.

H. Con. Res. 371: Mr. CHAPMAN and Mr. CONYERS.

H. Res. 380: Mr. DONALD E. LUKENS and Mr. COSTELLO.

PETITIONS, ETC.

Under clause 1 of rule XXII,

235. The SPEAKER presented a petition of the City Council of Chicago, IL, relative to African-Americans; which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2039

By Mr. CONDIT:

—Page 6, line 3, strike out "and", and after line 5 insert the following:

(D) by striking "or" at the end of subparagraph (E); and

(E) by inserting before the period at the end of subparagraph (F) the following: "; or (G) is a migrant or seasonal farmworker who either meets the requirements of clause (B) or whose total family income for the 12-month period prior to application for the program involved meets the requirements of clause (B)";

H.R. 5314

By Mr. TORRICELLI:

—At the end of section 3(a)(18)(A)(ii) of the bill, insert the following: "As such, the main diversion tunnel shall be extended approximately six and one-half miles to outlet in Newark Bay, the nine levee systems in Bergen, East Essex, and Passaic Counties which were associated with the eliminated Third River tunnel outlet shall be excluded from the project, and no dikes or levees shall be constructed or necessitated along the Passaic River in Bergen County in connectin with the project. With the Newark Bay tunnel outlet project, all acquisition, use, condemnation, or requirement for parklands or properties in connection with the excluded nine levee systems and the eliminated Third River tunnel outlet works, and any other acquisition, use or condemnation, or requirement for parkland or properties in Bergen County in connection with the project, shall be prohibited. The Secretary shall certify to the House of Representatives Committee on Public Works that no detrimental flood impact, as a result of the project, shall accrue in Bergen County.".

EXTENSIONS OF REMARKS

EMBRACE OUR ARMED FORCES WEEK

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. SPENCE. Mr. Speaker, on behalf of the citizens of the great State of South Carolina, I ask my colleagues and their constituents across the United States to join us this week as we salute the brave and dedicated members of our Armed Forces and their families. By proclamation of Gov. Carroll A. Campbell, Jr., the week of September 23, 1990, is designated as "Embrace Our Armed Forces Week," a special time for South Carolinians to display the love, support, and de-appreciation we have for our active duty service members, reservists and national guardsmen.

Since our State is the proud home of military installations for all branches of our Armed Forces, we feel a special bond with those who have voluntarily dedicated themselves to the defense of our great Nation. Many of them, along with their families, are our relatives, friends, neighbors and coworkers. And every day, we share in their hopes and fears, their joys and sorrows. Now, as a result of the outrageous acts of aggression by Saddam Hussein, thousands of these brave men and women have been called upon to risk their lives and endure great sacrifices to defend those who are less able to defend themselves and to protect the vital interests of our country. Now, more than ever, we must let them know beyond a shadow of a doubt that we have every confidence in their abilities, that we recognize and appreciate the hardships they are experiencing, and, most of all, that we will not waiver one bit in our support of their efforts.

Like many other very good and well deserving ideas, "Embrace Our Armed Forces Week" would not be a reality today without the hard work of some remarkably dedicated and talented people. In this regard, I would like to recognize and express my deep appreciation to the South Carolina cultural council and their director, Mrs. Dorothy Ryall. Their outstanding efforts have given us this opportunity to show our strong support and gratitude to those who could not be more deserving at a time when they need it most. This is the right event at the right time and South Carolina is very fortunate to have had the right people to make it happen.

We know many other communities across America share our deep feelings of love and appreciation for the members of our Armed Forces and their families. We hope they will join us in designating this week as a time to display those feelings in a very special way, a time to embrace those who defend our country, our freedom and our way of life.

SMALL BUSINESSES SAY CREDIT CRUNCH IS REAL AND HARMFUL

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. FRANK. Mr. Speaker, there are a variety of causes for the economic slowdown which now confronts the Nation as a whole and which has had a particular impact in the Northeast. The conversations I have had with a wide variety of business people in Massachusetts convince me that one of the factors is the difficulty which many business people are encountering in getting loans for projects which make economic sense, and which would be profitable and add to our economic well-being if the loans that they require were forthcoming.

Part of the reason for the decreased availability of loans for banks has to do of course with the economic slowdown, and with the fact that many banks are facing some problems in dealing with loans that have failed to work out as the lenders had anticipated, in substantial part because of an economic turndown that had not been foreseen. But I am also convinced from conversations with both potential borrowers and potential lenders that part of the problem is an overreaction on the part of some Federal regulators, particularly in the office of the Comptroller of the Currency.

Good physics is not necessarily good government. An equal and opposite reaction is a law of nature—or was when I was learning them. It should not be a law of government. The Federal Government's severe underregulation of the savings and loan industry in the Southwest in the 1980's cannot be undone by a rigid overregulation of other financial institutions in the Northeast in the 1990's. But I am afraid that some of that is happening. A recent study of small businesses in New England conducted by the Smaller Business Association of New England concluded that "the credit crunch for small businesses right now in New England is probably the most severe it's been in 20 years". And in assessing the causes of this credit crunch, Frank Romano who supervised this survey, and SBANE President Lewis Shattuck according to the Boston Globe "blamed the region's economic downturn and what they portrayed as overly zealous regulation of banking by Federal examiners."

As a member of the Banking Committee, I recently supported legislation to increase the amount of deposit insurance that banks have to pay into the FDIC. Under the leadership of our chairman, the gentleman from Texas [Mr. GONZALEZ] we will be further addressing the need for increased security and safety in the banking system next year, dealing with such matters as capital requirements, deposit insurance, and other factors. It is precisely because we are eager to move further in these directions in cooperation with those who regulate the industry that it seems to me unwise for them to rely as heavily as they have on an excessive degree of regulatory rigidity. I do not mean by this to suggest that the banks should be allowed to take unnecessary risks—some risks of course being the nature of the banking system. What I oppose is what I have been told is happening by bankers and others: That regulators in many instances are insisting on the unvarying application of rigid formulae which prevent bank lending officers from using their judgment about the specifics of situations and that in consequence, loans that could be productive are being denied.

It is important for the regulators to discourage bad loans from being made. But it is also extremely damaging for the economy when good loans are not made, and I fear that the incentive structure of the regulatory agencies does not provide adequately for this.

Finally, Mr. Speaker, this survey argues strongly in my judgment for action for the Federal Reserve Board to lower interest rates. The combination of a slow economy, bank problems with past loans, exessive rigidity by regulators and unnecessarily high interest rates could work to turn a slowdown into a far more serious economic downturn. There is no real reason for such a downturn to occur, and I believe that we will be taking action here in Congress that will help prepare the way for the Federal Reserve Board to do the interest rate reduction that should help turn our economy in a more positive direction. But one essential part of our breaking out of the current situation is a more sensible approach by regulators who do not simply see their job as undoing what cannot be undone from the 1980's, but recognize that the Federal Government's role should be equally to prevent bad loans and to allow good ones.

Mr. Speaker, I insert the article from the September 21 Boston Globe reporting the survey from the Smaller Business Association of New England.

SMALL BUSINESSES SAY CREDIT CRUNCH IS REAL AND HARMFUL

(By Richard Kindleberger)

In new evidence of a credit crunch gripping New England, more than one-third of 168 small businesses responding to a survey last month said their bank had tightened their credit recently.

The survey by the Smaller Business Association of New England Inc. provided hard data to support anecdotal evidence of a widespread problem, according to Frank C. Romano, a Rowley businessman who supervised the survey for SBANE.

"I would call the credit crunch for small businesses right now in New England probably the most severe it's been in 20 years," Romano said yesterday in a telephone interview.

He cited his own business as an example. Because of difficulty obtaining US bank

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

loans to finance the growth of Elder Care Services Inc., which develops and manages retirement communities, Romano said the company is trying to tap European sources of credit with the help of a British investment bank.

Romano, who is president of the 900-employee Elder Care Services, said he has given up hope of obtaining bank loans not only in Massachusetts but from New York banks. "Given the latest round of problems, the capital is not in those banks to do the deals in New England," he said.

He and SBANE president Lewis A. Shattuck blamed the region's economic down turn and what they portrayed as overly zealous regulation of banking by federal examiners for the credit problems.

Their 10-point questionnaire was mailed to the association's 2,400 members throughout New England, with 168 responding. Among the results:

37 percent said that in the past six months their bank had renegotiated, capped or suspended their lines of credit.

38 percent said their loans had been monitored more closely.

24 percent said their lenders had reappraised the value of collateral on one or more of their loans.

Romano and Shattuck said they believe there has been some easing of the credit crunch since mid-summer, partly as a result of political and media attention to the problem. But Ramano said he thought any improvement has been small and the problem remains serious.

"When I talk to friends in business, I bump into this problem every day," agreed Roger D. Hewson, a boat builder in South Casco, Maine.

Although he was fortunate recently in getting Casco Northern Bank to extend his lines of credit, Hewson said, the credit crunch is affecting Sabre Yachts, boats are finding their credit squeezed, cutting into his orders at a time when the company is coming out with new boat models.

"I'd say if it weren't for the credit crunch we'd be expanding dramatically," Hewson said. "But with all of the new models and marketing we're just managing to stay even."

Both Romano and Hewson are members of a small-business advisory board to the Federal Reserve Bank of Boston that in July urged the Fed to avoid drying up bank credit by requiring unnecessarily high reserves for nonperforming loans.

In an informal straw poll at a monthly breakfast meeting last April, SBANE found that 80 percent of its members felt there had been a definite tightening of credit. Shattuck said the new survey is less subjective and addresses instances where SBANE members have directly been affected by the credit crunch.

KILDEE SALUTES 57TH WEDDING ANNIVERSARY OF DR. ALVIN AND MARY LOVING

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. KILDEE. Mr. Speaker, I want to urge my colleagues in the House of Representatives to join me today in celebrating the 57th wedding anniversary of Dr. Alvin Loving and his lovely wife, Mary. Friends and family of the Lovings will gather this Sunday, September 30 in Flint, MI, to commemorate this very special occasion.

United in wedlock on September 30, 1933, the Lovings can take great pride in 57 years of marriage that has been filled with outstanding service and achievement. Through their travels that have taken them around the world twice, the Lovings have spread their wisdom and love to benefit all corners of the globe. From the city of Detroit to the State of Michigan to the nations of India and Nigeria, the Lovings have distinguished themselves as international educators and community leaders.

Dr. Alvin V. Loving was born in Chattanooga, TN, and educated in the Michigan public schools. He has received both a masters and doctorate degree from Wayne State University and has been a pioneer for the African-American community in the field of education. He was the first African-American teacher in the Detroit Public Schools and the first African-American to become a full tenured professor at the University of Michigan in Ann Arbor. In addition, Dr. Loving was instrumental in establishing the University of District of Columbia and the University of Michigan-Flint, in my hometown.

It was at the University of Michigan where I first met Dr. Loving when I was a graduate student. Throughout my undergraduate and graduate years of education, I shall always remember him as by far the best professor I ever had. With his enduring touch, Dr. Loving has played an important and integral part of my personal, moral, and social formation.

Dr. Loving's caring hand reached far beyond myself to touch students around the world. As a Fulbright professor in 1955 and 1956, he worked with an American team to assist Indian high school principals and Indian Ministry of Education. Later, from 1960 to 1962, Dr. Loving was the dean of students at the University of Nigeria, where he also was acting vice chancellor and registrar when these posts were vacant.

And with this great man is a great woman—Mary Helen Loving. As a wife, mother, and grandmother, Mrs. Loving has also had a very distinguished career. She served as an unofficial ambassador to all the countries visited by the Lovings during their many travels. At the University of Nigeria, she worked with the wives of the faculty members to care for local orphans.

Closer to home, she has played an important role in organizing the Flint chapter of the Top Ladies of Distinction as well as the Flint Negro Business and Professional Women's Clubs.

Mr. Speaker, again I urge all of my colleagues to join me in congratulating the Lovings on the occasion of their 57th wedding anniversary and I wish them many more happy years together.

TRIBUTE TO THOMAS BIRCKHEAD

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. PALLONE. Mr. Speaker, the Manasquan (NJ) Civic Association has invited me to present its Lifetime Achievement Award to Mr. Thomas Birckhead, the recently retired editor of the Coast Star newspaper, a fine weekly paper serving residents of southeastern Monmouth County.

Mr. Birckhead is a lifetime resident of the Jersey Shore area, and he and his wife still reside at this childhood home. He served his country during World War II as a combat infantryman with the 14th Armored Division in Europe and later graduated from Rutgers University. He worked as a print and broadcast newsman for several papers and radio stations. He served as owner, publisher, and editor of the Coast Star from July 1961 until September 1989.

His dedication both to his community and to the principle of freedom of expression resulted in timely and accurate coverage of municipal government, the schools system, local sports and church and community events during his long tenure with the Star. He was particularly concerned with giving a voice to all the members of his community: Thus, his paper offered a forum for a wide range of opinions on community, but his years of serivce have left an indelible mark of good will and a standard of journalistic excellence that will be difficult to surpass.

THE BUDGET DEFICIT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, September 26, 1990, into the CONGRESSIONAL RECORD:

THE BUDGET DEFICIT

As the Congress continues consideration of the deficit reduction package, a new study by the General Accounting Office, a nonpartisan congressional watchdog agency, makes an important contribution to the debate.

How Large Is The Deficit? The federal budget deficit is out of control. The latest estimates put the 1991 deficit at around $260 billion, including costs from the savings-and-loan cleanup. Even this figure understates the size of the deficit in the general fund because it includes large surpluses in Social Security and other retirement trust funds. If they were not counted, the shortfall would exceed $400 billion. A recession would push it even higher. This is a staggering figure. It would mean that, excluding government funds set aside for retirement needs, incoming revenue in 1991 would cover only three-fifths of government spending.

What Is The Trend? By any measure, the annual budget deficits are getting worse. The average deficit as a percent of gross na-

tional product has doubled every 10 years for the past 40 years. Even the Gramm-Rudman deficit reduction law, enacted in 1985 to get the deficits under control, has not worked. The law requires steadily decreasing projected deficits, declining to $64 billion in 1991. Instead, the deficit is now projected to exceed that target by some $200 billion. The projected 1991 deficit is far greater than any deficit we have experienced in our nation's history.

How Large Is The National Debt? Each year's budget deficit adds to the cumulative national debt. More than $1.6 trillion has been added to the debt since 1980, pushing the total to more than $3 trillion today. To put that into perspective, the U.S. gross national product—our total annual output of goods and services—now stands at $5.5 trillion. This year the federal government will pay some $175 billion in interest just to service the national debt. Interest on the debt is the fastest growing item in the budget, and will likely become the largest item by 1992, surpassing even defense spending.

What Effect Does The Deficit Have On The Economy? The huge deficits are draining the pool of national savings used to finance productivity-enhancing investment in plant and equipment, education and training, and research and development. With domestic savings low and with the budget deficits absorbing a majority of the savings, the United States has come to rely heavily on foreign capital. Foreign investment is better than no investment at all; it does allow corporations to modernize and jobseekers to find work. However, it also means large payments of interest and dividends going overseas, which could seriously erode the nation's future standard of living.

What Should Be Done? The General Accounting Office (GAO) believes that a new fiscal policy is essential to the economic well-being and competitiveness of the United States. It recommends that the Congress and the President reach an agreement on a multiyear plan to move the general fund budget to approximate balance by 1997. That would not only end the government "dissaving" through its budget deficits, it will make the surpluses in the Social Security and other retirement trust funds net additions to the nation's overall pool of savings.

Bringing the general fund into balance by 1997 will require major changes in both spending and revenue policies. GAO would go beyond the goal of the current budget negotiations—a cumulative five-year deficit reduction, from 1991 through 1995, of $500 billion—to have $500 billion in savings over the four-year period from 1992-1995, $750 billion by 1996, and $1.050 trillion by 1997. GAO advocates the additional future budget savings to expand the nation's savings pool, allowing greater investment and incomes in the years ahead.

Deficit reductions of this magnitude could yield a significant interest rate "bonus". As policy changes cut the deficit, the amount of debt on which the government must pay interest goes down. In addition, the Chairman of the Federal Reserve Board has announced that a serious deficit reduction package would allow the Fed to reduce interest rates, which could further reduce government interest costs. GAO estimates that the $1.050-trillion deficit reduction package will yield a cumulative six-year interest rate bonus of $230 billion.

Are Such Savings Achievable? The magnitude of the deficit reduction urged by GAO, though very large, still only means cutting back the projected growth in government spending. A balanced package of spending reductions and revenue increases would leave federal spending in 1997 higher than current spending.

Of course, the deficit reductions must cut into the fat of government and not the muscle. Everyone agrees that we need to cut wasteful programs. But there is also broad agreement that we must maintain and in some cases expand programs for highways and airports, law enforcement, health care, research and development, education, and environmental protection. We will need to look critically at existing programs and judge new initiatives carefully to give the private sector the infrastructure support it needs, while at the same time reducing the government's drain on the pool of savings available for private investment.

What Are The Risks Of The Package? While a major deficit reduction package involves some short-term sacrifice, the benefits are long-term and substantial—provided the package is credible and not like the "smoke and mirrors" deficit reductions of the past. GAO believes that the fundamental change in fiscal policy it is calling for is not likely to seriously impair short-term economic growth. The current softness in the economy is not a reason for delay, because much of the short-term drag on the economy from such a package would likely be offset by the stimulus to the economy from the lower interest rates it would bring about. And for the long term, the results would be stronger investment, higher exports, and a significantly higher rate of economic growth by the end of the century.

REAGAN HAILED IN POLAND AS FATHER OF DEMOCRATIC REVOLUTIONS

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. EMERSON. Mr. Speaker, I would like to submit for the RECORD an article titled "Reagan Hailed in Poland as Father of Democratic Revolutions" which recently appeared in the St. Louis Post-Dispatch.

Mr. Speaker, throughout his two terms, former President Ronald Reagan stood for peace, against communism, and against oppression. During that time, his strong defense policies often met with sharp criticism and opposition here in Congress.

In the past year, some of the most significant changes in modern times have taken place. And, today—as the walls come tumbling down all over the world—it would be very difficult for Mr. Reagan's former detractors to deny that his foreign affairs and defense policies had a great deal to do with the peace and freedom that is breaking out in countries all over the world.

We owe a great deal to President Ronald Reagan. And, yes, the people of Poland—who hailed President Reagan as the "Father of Democratic Revolutions"—and the people of East Germany, the Soviet Union, Hungary, and even the people of Panama and Nicaragua, owe a great deal to President Ronald Reagan. With the exception of the recent crisis in the Middle East, peace and freedom are prevailing all over the world. Oppression and tyranny are failing. I truly believe that Ronald Reagan deserves much more credit for this marvelous trend than many folks are willing to give him.

I commend this article to my colleagues:

REAGAN HAILED IN POLAND AS FATHER OF DEMOCRATIC REVOLUTIONS

GDANSK, POLAND.—Lech Walesa and thousands of other Poles shouted, cheered and sang "May he live 100 years" Saturday to thank former President Ronald Reagan for the support he gave Solidarity in his 10-year struggle against communism.

Reagan, sporting a Solidarity badge in his lapel, was visibly moved and blinked back tears during his effusive reception at the Gdansk shipyard, where the Solidarity trade union was born in 1980.

Reagan, 79, has been greeted on his two-day visit to Poland as the father of the democratic revolutions that have swept away Eastern European communism since last year.

Outside the Gdansk shipyard, Solidarity banners declared: "Thank you, our president." About 5,000 people applauded loudly as Reagan laid a wreath at a monument to workers shot by troops during riots in 1970.

"Thank you, Mr. President, for participating in the struggle together with us," Walesa, Solidarity's founder, said in a speech. "Your decisiveness and resolve were for us a hope and help in the most difficult moments."

Reagan fought back tears as applause rolled across the square to shouts of "Long live Reagan," and "Thank you." Onlookers sang, "May he live 100 years."

Reagan was an outspoken adversary of communism during his eight-year presidency. He slapped sanctions on Poland when the communists imposed martial law in a bid to crush Solidarity in 1981 and eased them only when repression was relaxed near the end of the decade.

"During martial law in Poland you were, Mr. President, the most popular politician of the free world," said Walesa. "We stood on the two sides of the artificially-erected wall. Solidarity broke down this wall from the eastern side, and on the western side, it was you."

A PICTURE IS WORTH 1,000 WORDS

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. KANJORSKI. Mr. Speaker, I am pleased to report that Postmaster General Frank has responded promptly and affirmatively to my request that free mailing privileges for America's service men and women serving in the Persian Gulf will be extended to include videotaped letters home from the troops.

Last week, the U.S. Congress, with my strong support, passed emergency legislation to grant free mailing privileges to members of the Armed Forces while engaged in temporary military operations under arduous circumstances. Prior to the enactment of this bill, free mailing privileges were only authorized in the event of actual armed hostilities.

The original statute we amended in Public Law 101-384 was last updated during the Vietnam war, prior to the development of home videotape technology. Thus while the statute authorized service men and women to send audiotape letters home to their families, it was not clear whether the statute's use of the phrase "sound recorded communications having the character of personal correspondence" included videotape.

In order to ensure that our personnel in the Middle East can take advantage of modern technology to keep in touch with their families back home, I wrote to the Postmaster General on September 20, 1990, to ask him to issue a directive clarifying that the phrase "sound recorded communications having the character of personal correspondence" includes videotaped letters sent home from the troops.

Mr. Speaker, the brave men and women who are serving in the Persian Gulf are expected to have terms of duty which keep them away from their family and friends for at least 6 months. With the advent of light, low-cost video recording technology, many families have been sending video letters to their husbands, wives, sons, daughters, and parents overseas.

Many of our personnel have wanted to respond by video so they can reassure their relatives, particularly their children, that they are OK. The Postmaster General's quick and compassionate action will make it easier for them to reach out and touch someone. It will be a big boost for Armed Forces' morale.

Updating Postal rules and regulations to reflect the new technologies of our electronic era has helped us to better meet our obligations to the courageous men and women who are risking their lives to defend our freedoms.

For the benefit of my colleagues who would like to notify their constituents of this new option, I enclose the full text of my correspondence with the Postmaster General:

COMMITTEE ON POST OFFICE AND CIVIL SERVICE, SUBCOMMITTEE ON HUMAN RESOURCES,
Washington, DC, September 20, 1990.

Hon. ANTHONY M. FRANK,
Postmaster General, U.S. Postal Service, Washington, DC.

DEAR MR. FRANK: I am writing you concerning free mailing privileges for military personnel. As you are aware, Senate bill S. 3033 has passed the Senate and House and is now on its way to the White House for final signature into law. This bill amends title 39 of the U.S. Code to include free mailing privileges for members of the Armed Forces while "engaged in temporary military operations under arduous circumstances." Your original initiative to provide free mailing privileges for our troops in Saudi Arabia has accelerated this bill through Congress. You are to be applauded.

One issue in this matter requires clarification. Section 3401(a) of title 39, United States Code states "Letter mail or *sound-recorded communications having the character of personal correspondence* shall be carried at no cost to the sender, in the manner provided by this section, . . ." With the advent of low cost video recorders and other video recording systems, many servicemen may wish to send video taped letters to their families back home. Since such video taped recordings are a form of "sound-recorded communications having the character of personal correspondence", I hope you will take appropriate action to confirm to our brave servicemen and women in the Middle East that such communications are eligible for no cost delivery. A video tape from a soldier can be a tremendous morale booster to family and friends in the states.

Over the years the Postal Services has viewed as an important part of its historic mission bringing our service personnel and their families closer together. Updating Postal rules and regulations to reflect the new technologies of our electronic era will help us better meet our obligations to the courageous men and women who are risking their lives to defend our freedoms.

I look forward to your reply.

Sincerely,

PAUL E. KANJORSKI,
Member of Congress.

THE POSTMASTER GENERAL,
Washington, DC, September 25, 1990.

Hon. PAUL E. KANJORSKI,
Subcommittee on Human Resources, Committee on Post Office and Civil Service, House of Representatives, Washington, DC.

DEAR CONGRESSMAN KANJORSKI: This is in response to your letter of September 20 referencing S. 3033 which would authorize free mailing privileges to members of the Armed Forces under certain specified conditions. On September 20, the President signed S. 3033 into law (Public Law 101-384).

This legislation adds to provisions in current law providing free mailing privileges for sound recorded communications having the character of personal correspondence. You asked for clarification as to whether those provisions found in section 3401(a) of title 39, United States Code, as amended by S. 3033, would also cover video taped recordings sent home by troops participating overseas in Operation Desert Shield.

Please be assured that for purposes of the free mailing privilege, the Postal Service will consider properly endorsed recorded video communications bearing a personal message to be sound-recorded communications, and will carry them free of postage.

If you need any further information, please contact my office or William T. Johnstone, Assistant Postmaster General, Government Relations Department, on 268-3731.

Sincerely,

ANTHONY M. FRANK.

CONGRESSMAN KILDEE HONORS THE INSIGHT RECOVERY CENTER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. KILDEE. Mr. Speaker, as this month of October is Substance Abuse Awareness Month, I urge my colleagues in the U.S. House of Representatives to join me in honoring the 25th anniversary of the Insight Recovery Center, a community-based substance abuse treatment organization in my hometown of Flint, MI.

The Insight Recovery Center was established in 1965 in a small storefront with funds to assist General Motors employees in identifyng fellow workers with alcohol problems. Shortly thereafter, Insight began offering outpatient services, so that those most in need would be able to more easily receive needed services. From the first detoxification programs came the need to develop therapy for its clients to further its ability to offer complete treatment.

Insight, Inc., recognized that a cross section of the community was in need of treatment as a result of alcohol and substance abuse. As a result of this recognition, it began treatment groups for couples, teenagers, and preteens. It established the first short-term nonhospital residential care substance abuse facility in Michigan.

Over the last 10 years, Insight expanded its mission of assisting people in need by offering services to people addicted and dependent on drugs as well as a full range of mental health services. These services offered hope for people to gain a better understanding of the causes of these insidious diseases. As a further commitment to assisting those in need, Insight began the first substance abuse day treatment program in Flint through its residential treatment facility. Insight has also offered services to the indigent. In 1989, the organization offered over 1 million dollars' worth of services to those who could not otherwise afford them.

There is no question that Insight Recovery Center has made a difference in the quality of life in Flint, MI. This fine organization has dedicated itself to the care and treatment of individuals afflicted with alcohol and other substance abuse problems so that they may become whole again. While the fight continues to remove drugs from our streets and educate people on the effects of alcohol abuse, it is essential for organizations such as Insight, Inc., continue to provide educational and treatment services so that one day we can finally win the war on substance abuse.

Mr. Speaker, it is indeed an honor and a pleasure for me to pay tribute to Insight, Inc., for its pivotal role in combating drug and alcohol abuse over the past 25 years. During Substance Abuse Awareness Month, it is fitting that we recognize those organizations in the forefront of the campaign to educate and treat people afflicted by substance abuse. Insight, Inc., is an organization that the residents of Flint have looked upon with pride and I know my colleagues in the U.S. House of Representatives will join me in honoring them in their celebration of 25 years of caring and commitment.

A SPECIAL TRIBUTE TO HARRISON "POPS" HARNEY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. STOKES. Mr. Speaker, it is with deep regret that I advise the House of the passing of Harrison H. "Pops" Harney. This revered gentleman was 94 years of age at the time he succumbed.

At the time I was a young man growing up in Cleveland, the names "Pops" Harney, Horace Jenkins, and John "Police" Jones were legendary in the black community. These three men were the first black detectives in

Cleveland and they were the forerunners of black policemen who today have followed in the footsteps of these outstanding policemen.

"Pops" Harney and Horace Jenkins were partners and they investigated more than 1,000 homicides. When I practiced law in Cleveland prior to coming to Congress, on several occasions I represented defendants in cases where "Pops" Harney had apprehended them. He was always a tough cop, but he was always fair. His integrity as a police official was impeccable.

Mr. Speaker, "Pops" Harney thought of my brother, Judge Carl B. Stokes and I as his sons. The last time I saw him was 2 years ago when he came out at the 21st District Caucus Annual Labor Day picnic. Someone told me that he was in the park and wanted to see me. I found him parked in an automobile and we had a long chat. That was the last time I saw "Pops" but I shall remember this and other occasions with him forever. He was a very special man who epitomized everything good about being a policeman. His deeds are legion and he was a role model for policemen everywhere.

Mr. Speaker, I take this opportunity to include in my remarks the obituary article which appeared in the Plain Dealer of Wednesday, September 26, 1990, regarding my friend, Harrison H. Harney:

[From the Plain Dealer, Sept. 26, 1990]

HARRISON H. HARNEY, 94, WAS HOMICIDE DETECTIVE

Harrison H. (Pops) Harney was the last member of the original homicide unit of the Cleveland Police Department. He was a detective for 34 of his 36 years on the force.

Mr. Harney and his partner for most of those years, the late Horace C. Jenkins, investigated more than 1,000 homicides, including the assassination of Councilman William Potter in 1931 and the infamous Kingsbury Run murders in the 1930s. They received commendations from the late Safety Director Eliot Ness and other officials.

Mr. Harney, 94, died Sunday at Willow Park nursing home.

He was born in Pulaski, Tenn., and was reared by a brother in Birmingham, Ala. He attended Talladega College in Talladega, Ala.

Mr. Harney and his wife, Mary, were married in 1917 in Youngstown. They moved to Cleveland a year later.

In 1922, Mr. Harney became a policeman. He was named a detective two years later, after a wild shootout with four robbers while he was a customer in a drugstore at E 36th St and Carnegie Ave. Mr. Harney fatally shot one of the men, wounded another in the leg and wrestled a third into submission while the fourth man fled.

He said after he retired. "I've been shot at many times, but thank the Lord, they never hit me."

On off days. Mr. Harney worked with youths who called him "Pops." A nickname of less certain origin was "Hooks," given him either because of his tenacity in pursuing suspects or because of his slightly bowed legs.

He sponsored athletic teams for young people. One of his softball players was Jean Murrell Capers, who became a councilwoman and later a Municipal judge but is now retired.

Mr. Harney deplored the changes in the police force after his retirement. He said police were too quick to use their guns instead of their wits and stopped building rapport with people on their beats.

"The boys on the corner would say, 'There goes Pops. You best not be here when he gets back, or it's downtown you go,'" he recalled.

He was an Elks Club member and ruler of the Spirit of Ohio Lodge.

The Harneys lived for almost 42 years on E. 82nd St. near Cedar Ave. Mr. Harney worked as a bail bondsman after he retired from the police force in 1958.

His wife died last year. Three of their children—Kenneth, Nathaniel and Alice Williams—also are dead.

Mr. Harney is survived by a son, Leonard of Bedford Heights; a daughter, Barbara Johnson of Warrensville Heights; eight grandchildren, and six great-grandchildren.

Services will be at 10 a.m. Saturday at St. John African Methodist Episcopal Church, 2261 E. 40th St.

TRIBUTE TO WILLIAM J. ROWAN

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. PALLONE. Mr. Speaker, on Friday, September 28, I will have the distinct honor and pleasure of presenting the Manasquan (NJ) Civic Association's Outstanding Citizen Award to Manasquan Police Chief William J. Rowan.

Chief Rowan has exhibited tremendous leadership in rebuilding his community's police force and coordinating its efforts with the special police and the code enforcement officers, which has resulted in a significant improvement in the quality of life for many, many Manasquan residents this past summer. The chief, who joined the police force in 1965, has led the department since 1988, when he was promoted from the rank of captain. A lifelong resident of Manasquan and a graduate of the borough's high school, the chief and his family continue to make their home in Manasquan.

The Manasquan Civic Association, founded in 1966 as the Manasquan Civic Committee, is commencing its 25 years of service to the community. I am honored to be their special guest this week to present this special award to this distinguished constituent.

COMMERCIALISM VERSUS CULTURE

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. JACOBS. Mr. Speaker, the following article published by the Christian Science Monitor and written by Ronald Collins and Michael Jacobson raises some serious questions about life style in the United States. It is food for thought for every thoughtful citizen.

Thoreau says:

A person is rich in proportion to the number of things which he can afford to let alone.

Good for Thoreau.

President Bush said in his inaugural address:

My friends, we are not the sum of our possessions. They are not the measure of our lives. In our hearts we know what matters. We cannot hope only to leave our children a bigger car, a bigger bank account. We must hope to give them a sense of what it means to be a loyal friend, a loving parent, a citizen who leaves his home, his neighborhood and town better than he found it. What do we want the men and women who work with us to say when we are no longer there? That we were more driven to succeed than anyone around us? Or that we stopped to ask if a sick child had gotten better, and stayed a moment there to trade a word of friendship?

Good for President Bush.

The article follows:

[From the Christian Science Monitor, Sept. 19, 1990]

COMMERCIALISM VERSUS CULTURE

(By Ronald K.L. Collins and Michael F. Jacobson)

The glasnost era is Western democracy's celebrated moment in history. But before we globalize America's commercial culture, we need to re-examine that culture and what it is doing for us.

Put simply: Omnipresent commercialism is wrecking America. Our cultural resources are dwindling. Value alternatives beyond those of the marketplace are disappearing. The very idea of citizen has become synonymous with consumer. Yet we forget how our dictionaries describe "consumers": They are the ones who destroy or expend by use, the ones who devour all. Is this to be the model for world citizenship?

The foreboding signs of commercialism's stamp are so numerous that we are in danger of becoming oblivious to the obvious. The captains of commercialism see, better than we, the cause and character of America's largely pent-up frustrations with the commercial way. Here is what they are saying:

"Consumers [are] fed up with being bombarded by up to 3,000 marketing messages a day." They've had it with the countless "blandishments of Madison Avenue." Not surprisingly, "a consumer revolt against advertising seems to be taking shape."

These are the words of the industry's editorial confederates at Business Week. The alarm was echoed in a recent editorial in another trade publication, Advertising Age: "What used to be a somewhat even battle between the exaggerations and lure of advertising and the prudence of authority figures at home has become dangerously one-sided.

Something is awfully wrong when even the keepers of advertising itself feel compelled to speak so, when Advertising Age calls on "advertisers [to] accept a greater responsibility to soften their hedonistic appeals, especially to younger audiences. * * *"

Indeed, mass commercialism has run amok. Recent advances by the commercial brigades include:

"Channel One," an unholy alliance between school boards and entrepreneurs. The entrepreneur "donates" video equipment to the school. The school then feeds its children "educational" programs punctuated by candy commercials and other ads.

Placement ads punctuate movies, making a mockery of artistic integrity while commercializing entertainment.

"Video news releases" produced by corporations are aired by local TV stations as genuine news, even though this insidious form of advertising corrupts broadcast journalism; and

Computers delivering ads by telephones invading the privacy of millions of American homes daily.

And ads are tucked in books, shown in movie theaters, displayed on giant screens at sport events, projected from subway monitors, pumped into doctors' reception rooms, posted in public restrooms, inscribed on clothes, embedded in arcade games, zapped through fax machines, and emblazoned (thanks to food dyes) or hot dogs.

The tentacles of commercialism wrap themselves around our cultural institutions ranging from minority civic groups to art museums. Exploiting the exploited, alcohol and tobaco marketers use "philanthropic" donations to capture the minority world. They pour misery money into minority media, and dominate the billboards in the inner cities. Fortunately, numerous black ministers have defied advertisers by painting over scores of booze and cigarette billboards.

Meanwhile, college and high school coaches serve secretly as high-paid "consultants" for shoe companies. The payoff to companies is having top teams wearing their brand of costly sneakers.

These assaults by commercialism reflect a power imbalance that we ignore at our peril. One measure of the imbalance is the (untaxed) $130 billion dumped annually into advertising. That's more money than the gross national product of our oil-rich ally, Saudi Arabia.

Today's marketers promote artificial and obsessional wants, urge ceaseless spending, foster a disposable society, and inject commercialism into every facet of our lives. All of this treads on our moral and civic tradition like a bulldozer in a flower garden.

It's not that the commercial life is new or inherently evil. Rather, to borrow from Ralph Waldo Emerson, the problem is the "imbalance that [has] developed between materialism and idealism in [the] pursuit of the good life."

All but forgotten in this "buy till you die" era are certain key American principles. There is the longstanding American ideal of simple and honest living, of moderation in the marketplace. Frugality was a key word in the founders' civic vocabulary. It also became an essential component of the lifestyle of those who experienced and learned from the lessons of the Great Depression.

Yet ever since World War II we have allowed businesspeople to exalt one value—consumption—to the near exclusion of all others. In this one-value universe, the consumptive ideal too often devastates social and environmental values.

Such a commercial culture is one "predicated on premeditated waste," says sociologist Stuart Ewen. It is a society premised on unplanned spending and planned obsolescence. Consider, for example, the end product of excessive consumption—the more than 300 billion pounds (over 1,000 pounds per person) of solid waste dumped into our landfills annually.

Rampant commercialism undermines much more than our health and environment:

Psychological well-being: Our system of advertising purposefully promotes envy, creates anxiety, and fosters insecurity. The tragic end-product of this is kids killing kids in Baltimore and elsewhere in order to walk in their playmates' $100 namebrand sneakers.

Communal values: The soul of a community cannot thrive in a commercialism-run-wild environment. Civic-mindedness is an alien concept to a people mesmerized by consumer goods. This is the "me only" world, the world where politicians feed the great political beast with disingenuous promises of "no new taxes."

In this world, public institutions that depends on government are forced to turn to business dollars to survive. The resulting cost, of course, is the commercialization of schools, art museums, and non-profit organizations.

Egalitarian values: The materialism promoted by Madison Avenue is bound to accentuate class differences. This is because differences between the commercial haves and have-nots become synonymous with one's rank in society. The point is not that material wealth be the same for all segments of the population. Rather, the concern is that at some point championing excessive consumption exacerbates social disparities of the kind linked to class conflicts, especially along racial lines.

The value of thought: Much advertising substitutes imagery, sloganeering, and a brand-name mentality for rational, fact-based decisionmaking. A fantasized "truth appeals to our impulsive side. That kind of advertising accustoms us to be more accepting or irrational sales schemes and encourages mindless and wasteful shopping binges. Too often, this leads to spending habits that place designer clothes above rent payments and thus cause personal economic hardship, even bankruptcy.

The value of political discourse: When the distorted "logic" of advertising becomes the currency of political, social, economic, and other forms of once-serious discussion, democratic government suffers. The difference between commercial advertising and political campaigning is blurred when, as in the 1988 elections, sound-bite, symbol-laden campaigns engineered by political consulting firms mimic Madison Avenue ads. This development, says broadcast journalist Bill Moyers, "is wrecking the polity of America, destroying our ability as a cooperative society to face reality and solve our problems."

Unchecked commercialism has the potential to turn America into an anti-utopia. We need not, however, allow this potential to be realized. We can stem the tide, individually and collectively, by reconsidering our priorities and then acting.

The best in American moderation can be enlisted to rescue our environment, improve our health, educate our young, and help our poor. Against this backdrop, calls to "save more" echo the founders' wisdom. For example, MIT economist Lester Thurow has argued that "extra saving from less consumption would allow us to correct our balance of payments problems." To do this, he adds, we must "organize our society so that consumption [grows] more slowly than income for a substantial period of time." Unless we begin to change our consumptive ways, we may soon be forced to trade American lives for Arab oil.

To brace America's ethical, cultural, and economic backbone, we must also demand, by public protest or legislative fiat, that certain areas of life be declared commercial-free. At a minimum this would include our children, homes, schools, books, and museums. Additionally, practices such as movie product placements and commercials in theaters should be challenged, as should each new transgression of the advertising frontier.

Next, at the state and local levels the billboarding of America must be curbed in ways that say "no" to the extremes of ad pollution, be it in Harlem or Aspen. Zoning laws and commercial taxs could go a long way to beautify our cities and countrysides. And with state and local governments in economic peril, lawmakers should extend sales taxes to advertising.

Finally, Congress should begin a full-scale review of the place of advertising in our society. For starters, it should pull the plug on ads targeting kids. Likewise, with a $240 billion deficit looming, national legislators should eliminate the tax-deductibility of advertising costs for tobacco, alcohol, and most other forms of advertising.

Coping with commercialism requires tough choices. But if Gorbachev could conquer Stalinism, then America can certainly tame commercialism.

(Ronald K.L. Collins, visiting associate professor of law at Catholic University, and Michael F. Jacobson, executive director of the Center for Science in the Public Interest, are on the board of directors of the Center for the Study of Commercialism, in Washington, DC.)

TURKEY'S ROLE IN THE IRAQ CRISIS

HON. DOUGLAS H. BOSCO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. BOSCO. Mr. Speaker, I would like to say a few words about friendship. Friendship exists on many levels, but whether we are talking about men or nations, loyalty is its essential ingredient. A true friend will come to your aid regardless of the consequences for himself. The United States has such a friend in the Republic of Turkey, which has undertaken great economic sacrifice and military risk by participating in the international embargo against Iraq. The President of Turkey, Turgut Ozal, is currently visiting the United States. On behalf of the Congress, I would like to welcome him and call attention to his country's courageous role in the gulf crisis.

By closing off oil pipelines from Iraq, Turkey loses 60 percent of its oil for domestic use and fails to collect fees of hundreds of millions of dollars a year. Additionally, Turkey loses any realistic chance of recovering hefty Iraqi debts, which were supposed to be paid largely through oil exports. As a consequence of joining the embargo, Tukey has also lost income earned by Turkish nationals working in Kuwait and Iraq.

Prior to joining the embargo, Turkey was a major Iraqi trading partner, with 10 percent of Turkish exports going to Iraq. Losing the Iraqi export market will cost Turkey billions annually. Turkish construction firms with contracts in Iraq are also in financial peril. The total cost of Turkey's decision to join the embargo may be as high as $4 billion annually, according to preliminary estimates.

Turkey also placed itself at great military risk by taking sides against Saddam Hussein. The two countries share a common border and Iraq, unlike Turkey, has ballistic missiles,

chemical weapons, and, reportedly the beginnings of a nuclear weapons program. Iraq's conventional forces are numerically and qualitatively superior to those of the Turkish Army. The Iraqis have better and more modern equipment in almost every category, including armored fighting vehicles, armed helicopters, and rocket launchers. None of these considerations prevented the Turks from acting decisively against Iraq.

In spite of Turkey's loyalty, Congress has repeatedly sought to cut security assistance to our steadfast NATO ally. While I appreciate the economic necessities driving these cuts, I would simply point out that foreign aid like that we provide to Turkey is infinitely more cost-conscious than the massive deployments of troops we have maintained in Europe for the last 45 years. Turkey is a reliable and valuable ally to have in the Middle East, a part of the world, unlike Europe, where peace is not breaking out. So as we bring home the troops from Europe, let's not forget the importance of our NATO ally in the South. Let's not throw the baby out with the bathwater.

Mr. Speaker, I urge my colleagues to remember Turkey's unstinting sacrifice and ready offer of help in the ongoing crisis. Where other allies have hestiated and stalled, Turkey has once again proved itself to be a true friend.

CONGRESSMAN KILDEE HONORS REV. GERALD SPRING

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. KILDEE. Mr. Speaker, it gives me great pleasure to congratulate Rev. Gerald Spring on his installation as pastor of the New Life Wesleyan Church in my hometown of Flint, MI. The installation ceremony and fellowship hour for Pastor Spring on September 30 is a proud occasion for me and the people of our community.

The New Life Wesleyan Church has always taken seriously its role as a spiritual citizen of our community. I am certain that Pastor Spring will continue to build on the many significant contributions the New Life Wesleyan Church has already made to our Flint community.

In fact, Pastor Spring brings with him an outstanding community résumé. Pastor Spring, an ordained elder in the Wesleyan denomination, has served 11 years as a senior pastor and a total of 4 years as an assistant pastor with responsibilities ranging from youth ministries to Christian counseling and music. He is a member of the National Association of Christian Counselors, former president of the Montgomery County, VA, Multidiscipline Team on Child Abuse and Neglect, as well as former president of the Monroe County, FL, Concerned Citizens for Abused Children.

Reverend Spring has continually made an effort to improve conditions for people all over the world. Through his sponsorship of such events as the prayer for peace in the Middle East, he has proven his commitment to those less fortunate than himself. Reverend Spring has always shown all that he comes in contact with great love and respect. I am confident that Reverend Spring will help make Flint a better place to live by continuing his selfless assistance to others.

Mr. Speaker, I urge my colleagues in the House of Representatives to join me in welcoming Pastor Spring and his family to Flint and to their new spiritual home at the New Life Wesleyan Church. We in Flint are fortunate to have a man as gifted and caring as Reverend Spring working in our community. I hope that we can all follow the example of Reverend Spring as he strives toward the goal of world peace and friendship.

DEDICATION OF MEMORIAL TO CARDINAL GIBBONS INSTITUTE

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. DYSON. Mr. Speaker, recently I had the honor to attend the dedication of the Cardinal Gibbons Institute Memorial located in St. Inigoes in St. Marys County, MD. The Cardinal Gibbons Institute and later the Cardinal Gibbons High School was the first institution of higher learning that African Americans could attend in St. Marys County, MD. The Memorial is a brick tower containing the building's original Cupola and a written history of the school. The institute opened in 1924 and closed in 1967.

The idea of a memorial came as a proposal from Sister Mary Paul Lee, OSP during her visit on the 50th anniversary of St. Peter Claver Church located in St. Inigoes, MD. Sister Paul taught at Cardinal Gibbons Institute for 5 years. As the guest speaker for the ceremonies on September 1, Sister Paul challenged the audience to "dedicate ourselves to the improvement of education for our children."

Mr. Speaker, Sister Paul's inspiring speech urged everyone to never forget the Cardinal Gibbons Institute and what happened on this historic site many years ago. The school operated for a period of over 40 years and closed 23 years ago. I have the great honor to present Sister Paul's speech on the occasion of the dedication of the memorial to the Cardinal Gibbons Institute.

DEDICATION OF MEMORIAL TO CARDINAL GIBBONS INSTITUTE

(Speech by Sister M. Paul Lee, O.S.P.)

As we stand here today, close to the site where the Cardinal Gibbons Institute and later the Cardinal Gibbons High School stood, our minds necessarily are filled with many memories, some of which are happy and others which are sad. In fact the purpose of these ceremonies today is to remember most especially why the Cardinal Gibbons Institute and High School are so important for us never to forget.

Those of us who are African American recognize the extreme importance of this place. This was the first institution of higher learning that we African Americans could attend in Saint Mary's County. Because this was a slave state, even though some of our forefathers and foremothers were able to earn their freedom or were given their freedom prior to emancipation they were in many cases worse off than the slaves.

One of the ways that we were kept in bondage was not giving us any education except what was necessary for us to do the work assigned to us. You see, if you do not know who you are or where you have come from you have no real identity and you cannot be free. Part of education teaches you who you are and where you came from. Education sets you free.

Certain names come to mind: Father Gaffney who was vitally interested in the education of African Americans here in St. Mary's County, Father John LaFarge, Father Matthews, Father Emerick, Father Horace McKenna, Father Delawder, Father Paul J. Rock, Mr. and Mrs. Victor Daniels, Mr. Pitts, Ms. Jenny Beale, Ms. Cecilia, and Ms. Sadie Biscoe, the Oblate Sisters of Providence, ad infinitum. But I must say that these people were not only interested * * * they did something about it.

The dream, the vision of the very first institution of higher education for our people in this county was born and nurtured right here. St. Peter Claver Parish is the only African American parish in the county. Eventually all of the African American parochial school students in the lower part of the county came to Saint Peter Claver to school. This became possible when a bus was first purchased. In contrast, students came from all over to the institute even from other parts of this country because it had facilities for boarding students. The high school had students from the far reaches of the county and even some from Charles County. Sister Gilbert sent students from Saint Mary's, Bryantown even though there was a high school on the property. Though this was the sixties, it was still separate but unequal. Many of you must remember the long ride with Mr. Merlin Butler from up in Morganza!

The vision of the institute was modeled on Booker T. Washington's Tuskegee Institute. The Cardinal Gibbons Institute was to be the Catholic version.

You have already heard a history of the institute and the high school and I do not wish to repeat it. Instead I ask you to focus on a few things that should concern you in today's setting. The institute and the high school prepared young people for the challenges of the world of their time. It was difficult at first for some parents to see that the loss of a pair of hands in the field to earn a living was more than compensated for by a well-educated child who could then better earn a living. I can remember hearing the sisters say that planting time and harvesting time wrought havoc with attendance.

In the time of the institute classes for farming, shop, home economics, and other skills for rural living were vital to the success of young people. They also needed boosts in self-esteem and the academics to really be able to function to the best of their ability. Because of the racial climate they were not always able to use the skills that they were able to master and as a result some chose to leave the county. Some went on to college and came back, others went to college and did not return. Still others went into the world of work wherever they could find gainful employment and generally this meant that they had to leave the county. Family life, however, was always important and nurtured. Even when the institute was closed adult education took place and the extension programs continued.

In the time of the high school there was a shift away from agriculture possibly because most of the students did not come from families who were still farming. The stress was on academics, participation in drum and bugle corps, competitive drama, team sports, leadership, college prep. The students had to go out into a world that was much more competitive and demanding. They were given a much more intensive dose of self-image and being second to none. On holidays and some weekends there were trips to New York for Broadway plays and a stay in a hotel so that the students would have the same experiences that their counterparts would have in schools like Georgetown University, Chestnut Hill College, etc. These trips were in addition to the regular field trips to Washington, DC and other important places.

Today Cardinal Gibbons Institute is no longer housed in that imposing building that many of us still miss dominating the scene as we come around the curve to St. Peter's Church. This memorial is really a testamonial to what it stood for. Our young people of today are in a sense rootless because we have not told them our story. They need to know what happened on this property over the years. They need to know the sacrifices that many of you made so that our young people could have a fine education right here in St. Mary's County. They need to know of and emulate the many fine people who have gone forth from this magnificent institution to make a difference not only in this area but all over these United States. They need to know of the young people who have gone forth from this institution to answer the call to religious life. They need to know that they are a part of the oldest and most concentrated community of African American Catholics in the United States. They need to know that they have a very proud heritage and that they should be proud of it. They need to know that it was not done for them, it was done through a cooperative effort of many, including their foremothers, and forefathers.

We must certainly dedicate ourselves to the improvement of education for our children. Their miseducation is a contributing cause to the many difficulties in our communities today. We need to be in every facet of the planning for our children's education. That means boards of education down or up to the councils who decide how much money will be provided and what part of the curriculum will be funded. Parent groups are important and being present to your children is much more essential than things that you give them.

As you know from the introduction, I have not been a passive bystander. I had the great privilege of teaching on the faculty of Cardinal Gibbons High School. I consider myself blessed and enriched because of that experience. One of the greatest thrills for a teacher is to see her students achieve. I have seen this over the years and most especially when the committee for this day undertook an almost impossible task—to build a memorial so that we never forget the importance of Cardinal Gibbons Institute. They recognize the importance of knowing who we are; where we have come from; and have a very good sense of where we are going. They understand that we must decide and then follow through. So, let me congratulate each and every one of you. You are really what Father Rock said of you: "Second to none."

A TRIBUTE TO OFFICER KENYON TUTHILL

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to pay tribute to a distinguished constituent of mine, Police Officer Kenyon Tuthill. Officer Tuthill presents for the Nation a shining example of bravery and selflessness. He is deserving of the thoughtful attention of the Congress and the American people.

I am grateful to another constituent, Francis Murphy, for providing me with details concerning Officer Tuthill's experiences. Mr. Murphy is to be commended for his efforts to honor his friend and fellow Long Islander.

On the 13th day of September 1946, Greenport, Long Island, welcomed Kenyon Tuthill as a native son. Young Kenny attended local schools and graduated from Riverhead High School in 1965. Unbeknownst to him, when he tripped into his fifth grade class, the beautiful Katherine Harned had cast her spell on Kenny. Throughout high school they were sweethearts. After graduation, Kenny joined the Navy in 1966. He served honorably on board the U.S.S. *C.F. Adams* and the U.S.S. *N. Hampton*. Kate was waiting, and in 1968 the high school sweethearts were married.

Kenny was honorably discharged from the Navy in 1970. He attended New York Tech where he received a bachelor of science degree in political science, and joined the Suffolk County Police Department in 1975.

The Tuthills have two sons, Jeffrey, born August 10, 1969, and Christopher, born April 5, 1972. Both boys are attending college. Jeff is at Yale and Chris is at Dean in Massachusetts.

Kenyon Tuthill established a reputation as a diligent and concerned police officer. His tours of duty were mostly routine and uneventful, but as all police officers know and as all police officers fear, that unexpected horror can take place. On May 27, 1986, a short time after a routine traffic stop, Officer Tuthill was unexpectedly and brutally attacked. A disgruntled motorist fired a shotgun point blank at Kenny, leaving him for dead.

But Kenny survived. Even as he lay severely injured and unable to speak, Officer Tuthill kept his wits about him and provided detailed information identifying his attacker.

The attacker left Kenny with multiple injuries, the most serious being blindness. But Officer Tuthill was determined to overcome these disabilities and return to his family and career. Kenny battled not only his physical limitations but the despair and discouragement he experienced throughout his rehabilitation. He has overcome these trials. He has learned to type and he even writes for local papers in his hometown. He has a constant companion, Shotgun, his guide dog. Kenny lectures before many groups, inspiring them to never give up. He has taken the police department's sergeant examination and passed with high marks.

Detective Tuthill is not only a man of courage, but also a man of humility. He says, "The real truth is that anything I've been able to do or achieve has had many helping hands * * * the phrase, 'of myself I am nothing' automatically comes to mind."

Mr. Speaker, today the Congress recognizes a true American hero, Police Officer Kenyon Tuthill.

INFANTILE CONGRESS

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. DREIER of California. Mr. Speaker, in the following editorial, the Kansas City Star makes an excellent case for a Presidential veto of the Textile, Apparel and Footwear Trade Act. Just when the United States is beginning to make great progress in breaking down trade barriers around the world, Congress is sending a message to our trading partners that we are unwilling to practice what we preach.

This debate has nothing to do with jobs. It is an attempt to bestow monopoly profits on a politically entrenched industry that shows no indication that it faces a competitive disadvantage versus its foreign counterparts. Congress should not be a party to this attempt to unjustly reward our domestic textile industry at the expense of American consumers and the credibility of our trade negotiators.

[From the Kansas City Star, Sept. 23, 1990]

INFANTILE CONGRESS

As expected, the House has passed a protectionist textile bill by an overwhelming margin, although that margin was short of the vote needed to override President Bush's expected veto. This is the third attempt by the textile industry to squeeze off foreign competition and sock it to American consumers, but this time the exercise has ominous implications.

Twice in the 1980s, Congress enacted bills similar to the measure now on the president's desk. Each time they were vetoed. It was a form of political theater that created a good deal of noise and passion, but since Congress was unable to override the vetoes the outcome was fairly benign.

That may not be the case in this round, even if a Bush veto is upheld. Four years ago, the member countries of the General Agreement on Tariffs and Trade began an effort to expand world commerce. In talks that are entering their final stages, GATT members are attempting to reach agreement on new rules covering commerce in such complex sectors as services, agriculture, investment and intellectual property. If successful, this attempt to broaden markets by further standardizing the rules of world trade will mean hundreds of billions of dollars in increased U.S. exports.

Third World countries, however, never will open their markets to U.S. services such as insurance or finance, or agree to cease counterfeiting American inventions, if their textile exports are further restricted.

The recently-passed bill would limit the growth of textile and clothing imports to no more than 1 percent a year. Shoe imports would be frozen at 1989 levels. Never mind that further protection is unneeded for a prosperous industry, already benefiting from more than 1,000 quotas covering products from 38 countries.

This latest performance of the Washington textile melodrama has unsettled the GATT

talks by revealing Congress' reflexive hostility toward open commerce. But the implications are even broader: As U.S. Trade Representative Carla Hills has pointed out, the bill threatens the anti-Iraq coalition, because under its terms textile agreements with Turkey and Egypt would be junked.

By supporting a measure which would raise prices for ordinary clothing purchases, our elected representatives have voted to take money from the pockets of all Americans.

The outcome is preordained. Bush's veto will be sustained. What remains is a picture of a Congress wholly unable to discern the national interest among the petty concerns that form its stock in trade.

CONGRESSMAN KILDEE HONORS SUPERINTENDENT A.C. LEE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. KILDEE. Mr. Speaker, I am proud to share with you the significant accomplishments of Superintendent A.C. Lee, Sr., on the occasion of the 20th anniversary of his ministry with the Greater Bible Way Church of God in Christ in my hometown of Flint. MI.

In 1970, Superintendent Lee became founder and pastor of the Greater Bible Way Church of God in Christ, located on the east side of Flint. Superintendent Lee's faithfulness and leadership qualities enable him to spread the message of the gospel at the Macedonia Church of God in Christ and the Jackson Memorial Church of God in Christ before starting the flourishing ministry at his present church. The Greater Joy Church of Christ in Lansing also benefited from Superintendent Lee's many talents when he served as pastor there in 1983.

A recipient of numerous awards, Superintendent Lee has been honored by his colleagues and community leaders. His awards include plaques of recognition from the mayor's office of the city of Flint, and Rev. Avery Aldridge, president of the Concerned Superintendents for Social Action.

Superintendent Lee was inspired and motivated by the deep commitment to religion of his mother, Mimmie Marks. A woman of great spiritual strength, she helped to found the Mt. Calvary Baptist Church, and she was the first black woman in Flint to establish a nursing home for the elderly. He admired her inner strength and ability to help all those with whom she came in contact. Superintendent Lee and his wife, Dorothy, have five children.

As a result of Superintendent Lee's presence and leadership in the Greater Bible Way Church of God in Christ, he has succeeded in making this community a better place in which to live. It gives me great pleasure to stand before you today and honor such a fine individual and give him the credit he so richly deserves.

NATIONAL HEALTH PROGRAM

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. WAXMAN. Mr. Speaker, the health care system in this country is broken, and it needs to be fixed. We as a nation spend over $600 billion, or 11 percent of our GNP on health care, yet millions of our citizens cannot afford needed services. There are almost 32 million Americans, including 9 million children, who have no public or private coverage; three-quarters of the uninsured are workers, or dependents of workers. The U.S. ranks 22d among industrial nations in its infant mortality rate. As Secretary Sullivan has pointed out on several occasions, the health status of minorities is worse than that of the white population.

Yesterday, the Pepper Commission released its report, "A Call to Action," setting forth a blueprint for extending basic health care coverage to 32 million uninsured Americans. As a member of the Commission, I was proud to join in its recommendations, which build on our current employer-based system of providing health care coverage, and which would phase in a new Federal program to offer basic coverage to individuals not covered through the workplace.

Today, I am joining 94 of my colleagues in introducing House Concurrent Resolution 375, calling upon Congress to enact a national health program with the following characteristics: First, universal access; second, comprehensive benefits; third, financing based on ability to pay; fourth, cost containment; fifth, a mix of public and private administration; sixth, quality and efficiency incentives; seventh, fair payment to providers; eighth, planning and evaluation; ninth, disease prevention and health promotion, and tenth, information on quality and costs. I believe these general principles can guide us as we in the Congress examine and evaluate proposals to improve our Nation's health care system.

This resolution has the support of the American Public Health Association, the American Academy of Pediatrics, the American Medical Students Association, the American Nurses Association, the Association of Schools of Public Health, Children's Defense Fund, Citizen Action, Gray Panthers, the National Association of Social Workers, the U.S. Conference of Local Health Officers, and the U.S. Conference of Mayors.

Some will argue that it is simply unrealistic to talk about health care reform in a time of massive Federal budget deficits. I believe it is unrealistic to think that the health care crisis will go away if we ignore it. The fact is, unless changes are made, health care costs will continue to escalate, and the number of uninsured Americans will grow. Now is precisely the time to start the discussion about comprehensive health care reform.

I urge my colleagues to support this resolution.

PRESERVATION OF FARMLAND AND OTHER OPEN SPACE

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. SCHULZE. Mr. Speaker, today I am introducing legislation to protect and preserve environmentally sensitive open spaces in America. My bill to protect family farms, wetlands and undeveloped land from being consumed by development, has gained broad bipartisan support. It has been endorsed by the American Forestry Association, Ducks Unlimited, Defenders of Wildlife, the Izaak Walton League, the Land Trust Alliance, the Natural Lands Trusts, the National Wildlife Federation, the Piedmont Environmental Council, and the Wildlife Management Institute.

We must change Federal estate tax policy to ensure our open spaces are safe from the ravages of estate taxes of as much as 55 percent levied on the development value of undeveloped land. Imagine yourself as a fourth generation family farmer with a 100-acre farm. When you leave the farm to your children, an estate tax may be levied on them not based on $2,500 per acre for farmland, but valued for development or upscale homes at as much as $50,000 per acre. This being the case, your children will be forced to sell most if not all of the property to pay estate taxes, and in the process, end four generations of traditional family farming. The sad thing is, this is becoming commonplace in every metropolitan statistical area in America.

Mr. Speaker, I am inserting a detailed explanation of my proposal in the CONGRESSIONAL RECORD and urge my colleagues to cosponsor this measure to protect the environment and American way of life:

PRESERVATION OF FARMLAND AND OTHER OPEN SPACE

Open space farmland, fish, plant and wildlife preserves, forest land and historically important land areas are rapidly being lost to development. Landowners are finding it hard to resist the lucrative development offers made for their land—especially property located near urban areas.

The current income and estate tax laws do not sufficiently encourage the preservation of this property. While an income tax deduction is available for conservation easements granted in perpetuity, this benefit is more than offset by the high-priced development offers. If a landowner does hold on to his valuable and environmentally important land, his heirs may nevertheless be forced to subdivide the land, or sell it in its entirety, in order to pay estate taxes on the value of the land in the estate. Since these sales are more often made to developers than to conservationists, the environmental benefits of the land are often lost forever.

Given the substantial economic pressure landowners face to develop their property and the rapid loss of environmentally important land to development, a change to the estate tax law is needed. Donations of perpetual conservation easements should be encouraged by excluding from the value of the estate the residual value of land subject to a conservation easement. This enhanced benefit not only should be a sufficient incentive for landowners to resist development offers

and preserve land in perpetuity for the environment, it will avoid the loss of open space that increasingly results from estate tax forced sales. This approach would provide a significant, much-needed benefit for lower-income, "land poor" families.

This exclusion should apply only to land subject to a conservation easement—that is, land with respect to which a qualified conservation contribution of a qualified real property interest has been made. Thus, the exclusion would apply only to land that has been preserved in perpetuity for conservation purposes, and only where a charity or governmental unit has agreed to ensure that the conservation purposes of the easement will be met in perpetuity.

The exclusion should apply only to geographic areas where the economic tension between the financial benefits of development and the environmental benefits of a perpetual easement makes the choice between preservation and development a tough, but most important, one. It should only be available for the most threatened properties—land located within 50 miles of a metropolitan statistical area, as determined by the U.S. Census.

Any effect that this proposal may have on federal estate tax receipts would be offset by a deferral in the planned reduction of federal estate tax rates.

The proposal would encourage the preservation of open space, farmland, forest land, historically important land areas, and fish, plant and wildlife preserves by encouraging grants of perpetual conservation easements to protect property most actutely impacted by the financial pressures created by urban/suburban growth.

The proposal would limit the exclusion relief to those most seriously impacted urban and near urban areas where the problem is most acute and the economic tension inherent in the choice between the financial benefits of development and the environmental benefits of perpetual easement are both most important and most difficult.

The proposal would guarantee that land is preserved in perpetuity, rather than for a limited number of years. A perpetual conservation easement generally is extinguished only by a court of law.

The proposal would apply to all types of environmentally endangered lands, not just the family farm.

The proposal would not require that the land remain in the family, only that the donor grant a conservation easement in perpetuity to a charity or governmental unit.

The proposal would enable the easement holder, a charity or governmental unit, to ensure that the land is used in perpetuity for the conservation purposes stated in the easement. The easement holder, rather than the IRS, could effectively ensure that the terms of the easement are being complied with.

The proposal would not restrict the transferability of land. Any taxpayer that holds the land subject to the easement would get the benefits of the proposal, regardless of whether the taxpayer granted the conservation easement.

The proposal would not impose the administrative burden on the IRS of "recapture-type" proposals, or create the definitional issues that arise in "family specific" estate tax rules.

The proposal includes a revenue-raising amendment that should offset the negative revenue effect of the proposal.

TRIBUTE TO ARCHBISHOP BEVILACQUA

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. WELDON. Mr. Speaker, it is with great respect that I rise today to pay tribute to the Archbishop of Philadelphia, Anthony J. Bevilacqua. Archbishop Bevilacqua was selected 1990 Italo-American of the Year by the Central Delco Lodge No. 2438 of the Order Sons of Italy.

Archbishop Bevilacqua's background exemplifies true dedication to education and spiritual commitment. Born in Brooklyn, NY, he attended the Seminary of the Immaculate Conception. He was first ordained by the Diocese of Brooklyn at Saint James Cathedral in 1949 at the age of 26. One year later he began teaching at Cathedral College in Brooklyn as a professor of history. In 1956 he received his J.C.D. (doctorate in canon law) from Gregorian University in Rome, Italy. Shortly after receiving his J.C.D. (summa cum laude) he returned to the United States. Continuing to further his education, he received his M.A. in political science from Columbia University in 1962.

In 1968 he continued his teaching career, this time as a professor of canon law at the Seminary of the Immaculate Conception in New York. During this time he also served as the director of the Catholic Migration and Refugee Office and the chaplain for the Motherhouse of the Sisters of Mercy. On June 29, 1988 he received Pallium from Pope John Paul II. In 1989 he was appointed member of the board of trustees at Catholic University of America. Also in June 1989 he was admitted to the bar of the Supreme Court of the United States. In addition, he has received degrees from Holy Family College and LaSalle University.

Most notably, in 1983 he was appointed Archbishop of Pittsburgh, and installed February 11, 1988 as the Archbishop of Philadelphia.

He will be officially honored October 12, 1990 at a private mass and reception at St. Mary Magdalen's Church in Upper Providence, PA.

Mr. Speaker, I am most proud of representing such an outstanding citizen, who has dedicated his life to the people he serves.

SUPPORT THE WORLD SUMMIT FOR CHILDREN

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. MAZZOLI. Mr. Speaker, recently, people from every corner of the globe held candlelight vigils in support of the first World Summit for Children to be held on the weekend of September 29–30 at the United Nations.

I am proud to be a cosponsor of House Resolution 312, which calls on President Bush to submit the U.N. Convention on the Rights of the Child to the Senate for ratification. I hope final action can be taken on this resolution before Congress adjourns.

Mr. Speaker, world leaders will convene at the United Nations to address the many problems faced by children, no matter where on this planet they live. For, Mr. Speaker, children of all nations—rich or impoverished—encounter difficulties for the resolution of which they need help from family, friends, and governmental agencies.

I salute the thousands of Americans who held candlelight vigils to mark the upcoming World Summit and wish to note that one such vigil was in my hometown and district—Louisville and Jefferson County—at the Belvedere and overlooking the Ohio River.

Mr. Speaker, the Nation's meeting at the World Summit on Children must take collaborative and long-term actions to protect and enhance the world's most precious resource, its children.

CIVIL WAR

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. GOODLING. Mr. Speaker, I rise to remind my colleagues of another September 26 in our Nation's history, a day 129 years ago in 1861. In Lincoln's view, it was a "day of humiliation, prayer, and fastings of all people of the Nation," a day when citizens of the North, realizing the severity of the situation, attended services to pray for their fellow Americans and the repair of their Nation.

That same day, President Lincoln received a report from Governor Yates of Illinois reporting that the war effort had cost $3,533,511.02 to date.

Yet, while the Civil War was costly in monetary terms, we remember poignantly far more significant cost in human life.

This week, public television is airing the epic documentary, "The Civil War", which brings into millions of 20th century American homes the struggle and impact of 19th century conflict.

However, it will not end there. This series will enjoy a long "after-life" as it plays in classrooms across America. It is important that the children learn and remember the history of the United States as we struggled to the position that we enjoy today. Already hailed as the definitive video history of the war, it promises to be an invaluable teaching tool for years to come. Eighty thousand study guides are being distributed to high school teachers nationwide.

This series is not only for children but for all Americans. Perhaps in this exceptional documentary, we can begin to appreciate the potential of the television medium as a learning device which will transmit the legacy of our Nation from generation to generation rather than an entertainment source.

BRIGHTWATER TOWERS: CELEBRATING 25 YEARS OF COMMUNITY SPIRIT

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. SOLARZ. Mr. Speaker, I rise today to honor several hundred friends and neighbors of mine who live in West Brighton along the shorefront of Brooklyn.

These men and women all have one thing in common: They have lived together in two buildings called Brightwater Towers for 25 years.

In paying tribute to Brightwater we are honoring more than a quarter century of neighborliness and togetherness. Brightwater Towers is a Mitchell-Lama development, one of several in my congressional district.

Mitchell-Lama came about in the late 1950's and 1960's as a New York State program of subsidized housing directed toward hard-working middle class families. New York City, and other urban centers, was experiencing a "flight to the suburbs" during that period, and this program was created to stem that tide.

In large measure, this program was a success. Thirty years ago, much of West Brighton was a large congregation of rundown housing and summer cottages. There are three large Mitchell-Lama developments there now. The community is thriving. And, there is no better example of the program's success than Brightwater Towers.

I salute Brightwater Towers because of the good people who live there and who have made its name synonymous with community activism and unity. They are a true example of the spirit of all for one and one for all.

My friends in Brightwater Towers have revitalized a neighborhood by anchoring it during a period of transition. Scores of Brightwater Towers residents can always be counted on to pitch in when help is needed.

It is uplifting to note that a good neighbor policy is alive and well in Brightwater Towers, and I celebrate 25 years of people from all walks of life living together, helping each other out, supporting good causes, and improving the neighborhood.

Happy anniversary.

TRIBUTE TO AIR PRODUCTS AND CHEMICALS

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. RITTER. Mr. Speaker, I rise today to pay tribute to Air Products and Chemicals, Inc., which will celebrate its 50th anniversary October 1.

Air Products was founded in Detroit, MI, in 1940 by the late Leonard Parker Pool on the strength of a simple but revolutionary idea: the "on-site" concept of producing and selling industrial gases, primarily oxygen.

In 1946, the company moved to Emmaus, PA, to be closer to the industrial markets of the Northeast and to benefit from the Lehigh Valley's high-quality work force and pleasant living environment. The company settled at its present site in Trexlertown in 1958.

In the 1950's, the company developed the first tonnage liquid hydrogen plants for America's emerging missile and space programs. Today, Air Products supplies all of the liquid hydrogen for NASA's Space Shuttle Program, and has developed a large commercial market for hydrogen. The 1950's also marked the first of several expansions overseas that would continue into the 1990's to extend the company's geographic and market reach.

During the sixties, seventies, and eighties, Air Products branched out into new businesses, including chemicals, wastewater treatment, waste-to-energy technology, and flue gas desulfurization. During this same time, Air Products developed and commercialized noncryogenic technologies for producing industrial gases.

As we enter the last decade of the 20th century, Air Products is well-positioned to build on its historic record of growth. Its core businesses, industrial gases and chemicals, are expected to benefit from new markets worldwide.

The key issue facing American companies in the nineties is competitiveness, and Air Products recognizes that its ability to compete hinges on customer satisfaction. To that end, Air Products has been a leader in the Lehigh Valley in quality—training and educating its entire work force to meet those needs. Air Products has also been one of the prime motivators behind Quality Valley, USA, the Lehigh Valley's community of excellence dedicated to promoting the quality revolution in our region.

In addition to being a technological leader, Air Products has been a leading corporate citizen in the Lehigh Valley and has become an integral part of the community. The company contributes over $160 million annually to the local economy and Air Products' presence in the community extends to philanthropic endeavors as well. Air Products employees devote more than 100,000 hours to community activities in the valley, ranging from a developmental cycling program at the Lehigh County Velodrome to encouraging excellence in education through partnerships with area schools. The company distributes over $800,000 annually to a variety of community-based organizations in Lehigh Valley.

Mr. Speaker, it has been a real personal pleasure to work with the Air Products team on many exciting issues and projects over the years. Air Products employees have done what it takes to bring their company to the top of the heap and deserve tremendous credit for their company's performance.

Mr. Speaker, my colleagues, please join me in congratulating Dexter Baker, chairman and CEO; Edward Donley, chairman of the executive committee and recent past chairman and CEO; and the employees and families of Air Products and Chemicals on its 50th anniversary.

FORDHAM UNIVERSITY'S SESQUICENTENNIAL CELEBRATION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. ENGEL. Mr. Speaker, I rise today to bring to the attention of my colleagues that September 30 marks the inauguration of the sesquicentennial celebration of Fordham University. This school is one of New York City's leading educational institutions and is located in my district.

As the third oldest university in New York City, Fordham University has grown to meet the city's educational and communal needs. Founded in 1841 by Archbishop John Hughes, Fordham is an independent university based on the Jesuit tradition of teaching and research, which challenges young men and women to explore the world's knowledge, to examine its ideas, to question its truths, to engage the force of their minds, and to value others.

Fordham University seeks not only to instill knowledge but also encourages its students to use their knowledge in service to the community. For example, more than 800 students volunteer their services through Fordham's Community Service Program—including 300 who act as tutoring mentors in Bronx schools.

Mr. Speaker, this auspicious occasion should be celebrated and I commend Fordham University for the great contributions it has made to the city of New York over the past 150 years.

SALUTE TO THE REPUBLIC OF CHINA ON TAIWAN

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. COLEMAN of Texas. Mr. Speaker, during these difficult times, when our attention in foreign policy is focused on the activities of the Iraqi Government and on the Persian Gulf, we should remember who our friends and allies are. One of them is the Republic of China on Taiwan.

During its 79 years of existence, the Republic of China, whether under the leadership of Generalissimo Chiang Kai-shek, or President Chiang Ching-kuo, or under the present President Lee Teng-hui, has maintained its commitments to this country as a friend and ally. Within the past year, Taiwan has taken sure steps to reduce its bilateral trade surplus with the United States, specifically by relaxing or eliminating a variety of tariff and nontariff barriers and by seeking more accommodative exchange rates for its currency.

As we approach the commemoration of Taiwan's 79th birthday, on October 10, let us express our appreciation to President Lee Teng-hui, and to the Taiwanese people for their continuing friendship with us, and for the strength of our economic, political, and social ties.

AWARD WINNING ESSAY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. SCHEUER. Mr. Speaker, the Pelham Parkway Post No. 769, Jewish War Veterans of America recently sponsored an essay contest on "What the Holocaust Means to Me" with numerous local graduating classes. At this time I would like to submit the winning essay by Matthew Davis from Evander Childs High School, Bronx New York.

WHAT THE HOLOCAUST MEANS TO ME

(By Matthew Davis)

After coming to power in Germany in 1933, Hitler announced a personal war against the Jewish people. Thereafter, began a series of atrocities towards this small minority race of Germany and Europe. Beginning with deprivation of economic rights, the Jews watched as laws were passed specifically discriminating against them. The Jews were segregated in every area of life. The worst was yet to come. Nazi gangs went on the rampage, destroying and looting Jewish homes, businesses and synagogues, culminating in Krystalnacht. Hundreds committed suicide, more than a thousand were murdered, and twenty six thousand were thrown into concentration camps.

In 1939, the Nazis proceeded toward a "final solution to the Jewish Question". The plan was to exterminate all of the Jews of Europe, beginning with the two million in German occupied Poland. What began, then, came to be called the "Holocaust". By the time World War II ended, six million Jews were slaughtered in six major death camps throughout Europe; the most complete act of genocide in mankind's history. No other incident reveals such a gripping account of man's wrath against man. What led its chief architect to such madness? Hitler claimed the Aryan race to be superior to all races, He used the Jews as a scapegoat, blaming them for all Germany's problems. The Jews were a defenseless minority, who had been victimized in Europe for close to two thousand years. Europe was fertile ground for the seeds of Hitler's madness.

Over the ages, people found themselves to be a minority due to the their class, race, color, religion or any other convenient difference. They were traditionally dominated by the majority group. Leaders discriminated against the minority and the common people took pleasure in feeling superior. I was born in India, of Indian parents, and raised in it's culture. However, I was considered a member of a minority group because my religion was Christianity. Although the government professed to be secular, in the public eye, I was different. They looked at me with resentment, and as if I was a threat to them. Some thought I was a Western country's spy. I had neighbors who seemed to be friendly but one could feel the prejudices in them. If I spoke in defense or praise of another country, they would accuse me of being unpatriotic. My community lived in constant fear of a radical government takeover that might destroy our basic rights. Our community was a meager three million among a population of over 800,000,000 people.

Now I live in the United States. I find myself in the minority due to nationality. We are protected by this nation's laws, but with each passing day, I understand certain realities that cause fear within me. When I hear racially motivated crimes and see the hate acted out on television, I am fearful. I may not have been hurt on the outside, but deep within there is the terror that it could be me next.

The Holocaust is a constant reminder of man's inhumanity to man. What if a Hitler-like maniac decided to wipe out every Christian in India? What if an enraged mob wrought violence against Indians in an indifferent America? Like the Jews of Europe, most would succumb. The Holocaust is the foremost example of genocidal crime. It cries out warning to all peoples of the world, who find themselves in the minority. The Holocaust may not seem possible in this age, but many didn't think it possible a half century ago, either. The Holocaust and its burst of poisonous lave seems to have cooled, and many want to forget its horrors as a bad dream. However, we must always be vigilant for acts against race, religion against religion, and nationality wherever and whenever it occurs.

The universal response to the Holocaust must be "never again".

PERSONAL EXPLANATION

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent today for roll call 387, which occurred on final passage of H.R. 5314, the Water Resources Development Act of 1990. Had I been present, I would have voted "yea."

COMMUNITY ACCESS CENTER OF KALAMAZOO

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. WOLPE. Mr. Speaker, I rise to pay tribute to the Community Access Center of Greater Kalamazoo which has recently been named the best local cable programming company in the country by the National Federation of Local Cable Programers [NFLCP].

The Community Access Center is a community communications network which provides viewership to approximately 42,500 subscribing households through Cablevision of Michigan. Community access is cooperatively operated by five local governments and since 1985 has been a separate legal entity directed by an independent board.

The Community Access Center was singled out by the NFLCP for its diverse programming, broad-based community support, and consistent growth. The cable center's programming in the Greater Kalamazoo area provides avenues for citizens to voice diverse ideas and concerns on a range of topics. The center has demonstrated a unique outreach capacity, providing training for individuals and organizations throughout the community in the use of telecast equipment and assisting them in the production of their own programs.

Mr. Speaker, I am certain my colleagues will want to join me in recognizing the Community Access Center for the outstanding service it provides for the Greater Kalamazoo community. I feel privileged to represent this extraordinary model of community-oriented public television, and want to congratulate community access staff and volunteers on their selection by the NFLCP as the best local cable programming company in the country.

STEVEN A. MARTINDALE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. EDWARDS of California. Mr. Speaker, on June 13, here in Washington, DC, Steven A. Martindale passed on. For his many friends and admirers, here and abroad, the news of Steve's death was received with deep sorrow.

I met Steve Martindale about 20 years ago. He had come to Washington from his home in Pocatello, ID, and almost immediately, he had a host of good friends, and a successful career in business and later, as an accomplished lawyer.

Steve could count as friends and admirers, many influential people in the Nation's capital. For a time, he was on the staff of the distinguished Republican Senator from New York, Charles Goodell. Others who valued Steve's friendship were Senator Charles Percy, Republican of Illinois, Senator ALAN CRANSTON, Democrat of California, and Liz Carpenter, secretary to the former first lady Lady Bird Johnson.

On July 10, here in Washington, a memorial service was held in memory of Steve. More than 200 friends gathered at All Souls Episcopal Church to pay tribute to him. Among the mourners were Liz Carpenter, former Presidential aide Michael Deaver, socialite Buffy Cafritz, Ford's Theater director Frankie Hewitt, Senator CLAIBORNE PELL, Democrat of Rhode Island, and former Senator Gaylord Nelson, Democrat of Wisconsin.

Actress Lily Tomlin sent her regrets for not being there, saying she preferred "not to mourn Steve's death but to celebrate his life."

Mr. Speaker, I know that I speak for many of my colleagues in Congress who knew Steve Martindale, who admired him for his goodness and many accomplishments, and who will miss him sorely.

WARREN LELAND SELECTED AS REGIONAL FINALIST IN 1990 LITTLE LEAGUE VOLUNTEER OF THE YEAR AWARD

HON. OWEN B. PICKETT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. PICKETT. Mr. Speaker, I am pleased today to call attention to Warren Leland, who has been selected as the southern regional finalist and candidate for the 1990 Little League Volunteer of the Year Award. This award is sponsored by Phoenix Mutual Life Insurance Co. Mr. Leland, a resident of Norfolk, VA, is

one of four regional winners who have a chance to receive the Little League Volunteer of the Year Award. The southern region encompasses Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

Mr. Leland, who is the facilities superviser for the Azalea Little League, has dedicated himself to making sure the children of his league play under the safest and most favorable playing conditions. He spends his weekends maintaining both the softball and baseball fields. He is one of 75,000 volunteers from across the country who generously give of their time and personal resources to America's youth through Little League baseball.

Mr. Speaker, we are all indebted to people like Warren Leland for their steadfast support of our young people, and I know this body joins me in commending him for being honored as the southern regional finalist in the 1990 Little League Volunteer Award.

ROBERT BEBERG NAMED 1990 LITTLE LEAGUE VOLUNTEER OF THE YEAR

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. MILLER of California. Mr. Speaker, I wanted to take this opportunity to honor my constituent, Mr. Robert Beberg, who has been named winner of the 1990 Little League Volunteer of the Year Award. Beberg, a resident of Concord, CA, was one of four regional winners selected as finalists for this award, sponsored by Phoenix Mutual Life Insurance Co. He was chosen from the western region, which encompasses the States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Utah, Washington, and Wyoming.

Beberg, a charter member of the Concord American Little League and a team manager since its inception in 1955, has devoted countless hours to the youngsters of Concord. In addition to serving as a team manager for 34 years, Beberg has served as president, four terms as vice president, 4 years as treasurer, and 15 years as both park director and the league's fundraiser. Beberg has also served as an umpire, and is considered one of the most respected in the western region. As a result, he was selected to umpire the 1981 Little League World Series. In addition, he has acted as the district 4 umpire-in-chief and assistant district administrator.

Phoenix Mutual Life Insurance Co. established this award in 1989 to celebrate the 50th anniversary of Little League Baseball. This award seeks to honor the 750,000 volunteers from across the country who generously give of their time, support, and companionship to America's youth through Little League Baseball.

It is with great pleasure that I salute the dedication of Robert Beberg, and his recognition as a regional and national winner in the 1990 Little League Volunteers of America Award.

RECOGNITION OF VETERANS MEMORIAL PARK

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. GEKAS. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing a special place in my district, Veterans Park in Hughesville, PA. This park is dedicated to the men and women who have served our country during times of war; in particular, World Wars I and II, the Korean war, and most recently, the Vietnam war. These men and women fought for what America represents: freedom, human dignity, and justice. They are heroes. They honored their country and we should show them gratitude, and this park is the first step in doing just that.

Veterans Park allows us the opportunity to remember the selfless Americans who fought for our country and its freedom. We now claim this liberty because these brave Americans believed strongly enough in that freedom to fight and die for it. Their supreme sacrifices remind us of the consequences of war. These brave men and women knew that no great nation can survive unless its citizens display extraordinary courage in their willingness to defend it.

This park honors the memory of not only those who have fallen on freedom's front lines, but those who suffered and survived through those times. In our busy day-to-day lives, it is sometimes easy to forget long ago battles on foreign shores, but we must not forget. For if we do, we forget all that America is. Brave people sacrificed much to attain this country's greatness. We have a responsibility to leave a legacy of real peace to those who follow us. We owe it to the men and women this park honors.

I am proud of the Pennsylvanians responsible for establishing this park and dedicating it to all who served in our foreign wars. Their time and devotion are fine examples of a community working together to achieve an important goal. They understand the real meaning of the words spoken by Gen. Ulysses S. Grant in 1868:

> We do not know one promise these men made, one pledge they gave, one word they spoke; but we do know they summed up and perfected, by one Supreme act, the highest virtues of men and citizens. For love of country they accepted death, and thus resolved all doubt, and made immortal their patriotism and virtue.

The Veterans Park in Hughesville is a monument which embodies that tribute.

JOHN CHYLEK SELECTED AS REGIONAL FINALIST IN 1990 LITTLE LEAGUE VOLUNTEER OF THE YEAR AWARD

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. DAVIS. Mr. Speaker, I would like to bring to your attention today the work of John Chylek as he has been named the central region finalist in the 1990 Little League Volunteer of the Year Award by the Phoenix Mutual Life Insurance Co. Chylek, a resident of Escanaba, MI, was chosen from the central region, which encompasses the States of Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, and Wisconsin.

Chylek, a manager and Escanaba Little League official since 1954, helped organize the Gladstone Little League. In 1957, Chylek managed the Escanaba Little League team that qualified for the Little League World Series in Williamsport, PA. In 1985, he was presented the Upper Michigan Sportswriters' Jim Threthaway Award for his contributions to youth. He has been a member of the board of directors for the Escanaba Little League since 1986.

Phoenix Mutual Life Insurance Co. established this award in 1989 to celebrate the 50th anniversary of Little League baseball. This award seeks to honor the 750,000 volunteers from across the country who generously give of their time, support, and companionship to America's youth through Little League baseball.

Mr. Speaker, I ask you and other Members of this House to join me today in paying our own tribute to the outstanding contributions of John Chylek as he is honored as a regional winner in the Little League Volunteer Award of 1990.

JENSEN-ALVARADO RANCH

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. BROWN of California. Mr. Speaker, this weekend there will be a grand celebration in my district to mark the opening of the Jensen-Alvarado Ranch Historic Park. The Jensen-Alvarado Ranch Associates and the County of Riverside have worked for over 10 years to preserve the ranch and to develop it as a living history museum.

The Jensen-Alvarado Ranch represents a very important time in California history. It was built in the late 1860's by Cornelius Jensen, a Dane from the island of Sylt, and his wife, Mercedes Alvarado, the daughter of a Californian. They were storekeepers in the local area and very active in both the social and political life of the community. The ranch became a thriving agricultural center of the area, with orchards, vineyards, and cattle. California was established by cultures from around the world, and the Jensen-Alvarado Ranch is a clear representation of this history.

At the celebration, visitors will have the opportunity to see the original family house built by Cornelius and Mercedes Jensen, along with several other original buildings. In time, other buildings will be reconstructed using techniques from the 1800's. More important, however, is that the ranch will show life as the Jensens lived it. The ranch will be an operating, living museum, where fruit from the orchards will be harvested and grapes from the vineyards will be pressed. I invite everyone to

visit the ranch to see California as it once was, with great agricultural resources, strong family life, and broad cultural diversity.

CAPITAL GAINS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 26, 1990

Mr. PORTER. Mr. Speaker, I agree philosophically with President Bush that capital gains should be taxed at a substantially lower rate. But the Democrats, with their tax success and subsidize failure philosophy have stonewalled this issue and prevented any progess on deficit reduction.

Our leader, BOB MICHEL, was right when he said Tuesday the price for capital gains reduction is "just too doggone high." Whether he meant the price in terms of higher tax rates on upper income Americans or whether he meant the price in terms of achieving any real deficit reduction is not clear. But either way, as Robert J. Samuelson observes in the article printed below, which appeared in Wednesday's Washington Post, BOB MICHEL is right. Let's get on with a meaningful deficit reduction package. Nothing, Mr. Speaker, nothing is of greater importance to the future of our economy and our place of influence in the world. The Democrats demanded that we put revenues on the table and we did. Now they demand that we take capital gains off. I think we should, and then we'll see whether they care about the deficit or whether they are content to run this Nation's economy into the ground.

The article follows:

[From the Washington Post, Sept. 26, 1990]

THE CAPITAL GAINS OBSESSION

(By Robert J. Samuelson)

The most pragmatic men develop irrational obsessions, and George Bush—whose pragmatism runs deep—has become obsessed with a cut in the capital-gains tax. There's no other explanation for how such a trivial matter could have become such a major obstacle to a budget agreement. Bush's enthusiasm simply hasn't made ordinary sense. If enacted, the tax cut wouldn't much help the economy or win Republicans many new votes.

Even lobbyists who favor the tax cut concede that, without Bush's stubbornness, the proposal would have died. "The reason it's on the [negotiating] table is 70 percent because George Bush wants it on the table," said Mark Bloomfield of the American Council for Capital Formation. Senate Minority Leader Bob Dole, Republican of Kansas, even suggested separating the capital-gains proposal from the main budget package. Privately, many other Republicans are groaning. Well they should.

Bush's position cast Republicans—misleadingly—as the main obstructionists in the budget talks. But capital gains aside, the Republicans have done the most to reach a sensible agreement. Bush has acceded to higher taxes and lower defense spending (helped, of course, by Mikhail Gorbachev). The White House has also insisted on tough enforcement provisions to control future spending. Meanwhile, the Democrats have dragged their feet on domestic spending cuts and effective enforcement mechanisms.

Capital gains are profits from the sale of stocks, real estate and other assets held more than a year. These profits are now taxed like other income (wages, for example) at a top statutory rate of 28 percent. In January, the White House urged a top rate of 19.6 percent for assets held for more than three years. The most recent proposal is to cut the top rate to 15 percent. Capital gains are rare for most people. In 1988, Americans filed 109.8 million tax returns. Only 7.8 million returns accounted for all $159 billion of capital gains. Taxpayers with incomes exceeding $200,000 reported $99 billion; those with incomes between $100,000 and $200,000 had $21 billion.

Bush has been practicing the politics of denial for so long that he's now convinced these, facts aren't facts. "This is not a tax break for the rich," he said routinely last week. Huh? It's true that over any long period, many middle-income Americans have one-time capital gains. Between 1979 and 1983, for example, 45 percent of the taxpayers reporting gains had incomes of less than $50,000. But the value of these gains was only 20 percent of the total; taxpayers with incomes exceeding $100,000 still had 60 percent of the profits.

The politics of this are mystifying. Sure, farmers and small-business owners who are selling their properties would benefit immediately. But most farmers and small proprietors have more pressing worries. A lower tax rate would also probably stimulate stock trading, helping stockbrokers. But they're not exactly a huge constituency. In 1989, the entire securities industry employed 228,000. As for the rich and upper-middle class, they already vote heavily Republican, and if they didn't, a capital-gains cut wouldn't convert them.

The reason is that they would pay for it. In the budget talks, Republicans have accepted estimates that a capital-gains cut would lower tax revenues. To offset the loss, the Republicans have agreed to raise taxes on high-income people. The most likely possibility is some limitation on itemized deductions. That would probably hit taxpayers with more than $125,000 or $150,000 of income. So the merely well-to-do would end up subsidizing a tax break used most extensively by the truly wealthy.

The real mystery is how Bush became so attached to this albatross. The Tax Reform Act of 1986 abolished the preferential rate for capital gains (the top rate had been 20 percent), and Bush proposed a new 15 percent rate in 1987 when he was seeking the Republican nomination. As an ex-independent oilman, Bush probably believes his own rhetoric. But he also has been ill served by his staff, who have told the boss what he wants to hear. They have exaggerated the economic benefits of a tax cut.

The theory is that if people are allowed to keep more of their investment profits, there will be more inducement to save. Higher savings and investment will then increase economic growth. Michael Boskin, chairman of the Council of Economic Advisers, estimates that the Bush proposal would raise gross national product by 0.6 percent after a decade—about $32 billion in today's dollars. Many economists consider Boskin's estimate wildly optimistic, but even it implies an increase in the economy's annual growth rate of less than 0.06 percentage points.

In truth, economists can't predict changes this tiny. Forecasts like Boskin's are mainly fiction. Recall that the administration massively underpredicted the cost of the savings and loan debacle a year ago. Real life also offers a cautionary tale. In the 1980s, all tax rates were cut, the capital-gains rate was cut (compared with the 1970s), savings incentives (individual retirement accounts) were liberalized. Interest rates—adjusted for inflation—rose, and the stock market boomed. In theory, people should have been induced to save more of their income. They weren't. The lesson: tax policies can't easily alter savings behavior.

Aside from being oversold, a capital-gains cut has big drawbacks. It would needlessly complicate the tax code and spur a lot of unproductive activity—by lawyers, accountants, investment bankers and tax advisers—to allow wealthy taxpayers to profit from the lower capital-gains rate. Tax avoidance is precisely the sort of parasitic work that undermines a vital economy. The only worthy reform of capital gains would be to index them for inflation.

The capital gains crusade has mostly been a symbolic test of will between the President and the congressional Democratic leadership. If a tax cut were ultimately passed, it would clutter the tax code and provide little if any economic benefit. At best, the struggle has been a time-consuming distraction from the vital business of reducing the budget deficit. Bush allowed his ego to get the best of his judgment.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, September 27, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 28

9:30 a.m.
Special on Aging
To hold hearings to examine methods for meeting the health care needs of the black elderly in the United States.
SH-216

10:00 a.m.
Armed Services
Business meeting, to consider the nomination of Richard A. Claytor, of California, to be an Assistant Secretary of Energy for Defense Programs.
SR-222

Finance
International Trade Subcommittee
To hold hearings to review progress made on important trade issues between the U.S. and Canada, focusing on subsidies, dispute settlement panels, and general implementation of the Free Trade Agreement and the 1986 Softwood Lumber Memorandum of Understanding.
SD-215

Foreign Relations
To hold hearings on the proposed treaty with respect to the final settlement with respect to Germany.
SD-419

11:00 a.m.
Energy and Natural Resources
To hold hearings on the nomination of Branko Terzic, of Wisconsin, to be a Member of the Federal Energy Regulatory Commission, Department of Energy.
SD-366

OCTOBER 1

10:00 a.m.
Foreign Relations
To hold hearings on the nomination of Ryan C. Crocker, of Washington, to be Ambassador to the Republic of Lebanon.
SD-419

OCTOBER 2

9:00 a.m.
Conferees
On S. 566, to authorize a new corporation to support State and local strategies for achieving more affordable housing, and to increase homeownership.
2128 Rayburn Building

9:30 a.m.
Energy and Natural Resources
To hold hearings on the key elements of a national energy policy that can effectively address U.S. dependence on oil and the actions Congress must take to implement such a policy.
SD-366

Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings to examine the Federal program for the disposal of spent nuclear fuel and high-level radioactive waste.
SD-406

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Christopher L. Koch, of Virginia, to be a Federal Maritime Commissioner.
SR-253

Foreign Relations
To hold hearings to examine tied credit practices of foreign countries by which loans or grants are tied to procurement of goods or services from donor countries.
SD-419

2:00 p.m.
Conferees
On H.R. 4739, to authorize appropriations for fiscal year 1991 for military functions of the Department of Defense and to prescribe military personnel levels for fiscal year 1991.
S-407, Capitol

OCTOBER 3

9:30 a.m.
Environment and Public Works
Toxic Substances, Environmental Oversight, Research and Development Subcommittee
To hold hearings to review the Office of Technology Assessment's report, "Neurotoxicity, Identifying and Controlling Poisons of the Nervous System," and to examine related research and regulatory issues.
SD-406

Governmental Affairs
To hold hearings on the Office of Management and Budget's response to the Federal government's management failures.
SD-342

OCTOBER 4

9:30 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on whistleblower problems in the Federal Grain Inspection Service, Department of Agriculture.
SR-428A

Governmental Affairs
To continue hearings on the Office of Management and Budget's response to the Federal government's management failures.
SD-342

10:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 2822, to promote and strengthen aviation security.
SR-253

OCTOBER 5

9:00 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine alleged fraud, waste and abuse in Federal student loan programs, focusing on activities of the Culinary School of Washington.
SD-342

OCTOBER 9

9:30 a.m.
Governmental Affairs
To hold hearings to examine proliferation in the 1990's.
SD-342

OCTOBER 10

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine alleged fraud, waste and abuse in Federal student loan programs.
SD-342

FEBRUARY 26

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Disabled American Veterans.
345 Cannon Building

FEBRUARY 28

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, Blinded Veterans Association, Vietnam Veterans of America, Military Order of the Purple Heart, and Non-Commissioned Officers Association.
345 Cannon Building

APRIL 17

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of AMVETS, Ex-Prisoners of War, Jewish War Veterans, and World War I Veterans.
345 Cannon Building

CANCELLATIONS

SEPTEMBER 27

10:00 a.m.
Governmental Affairs
Business meeting, to consider pending calendar business.
SD-342

HOUSE OF REPRESENTATIVES—*Thursday, September 27, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Our hearts are grateful, O God, for all those who labor for peace and security in our world. We remember in our prayer the members of the Armed Forces who leave home and family to do their duty in far places. We remember too the diplomats who seek to discover avenues of restraint and mutual agreement. May Your blessing be with all who work for peace that their efforts will bring a world of justice and people will know the good graces of Your good world. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. HOLLOWAY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HOLLOWAY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 269, nays 115, not voting 48, as follows:

[Roll No. 388]

YEAS—269

Ackerman	Bonior	Clinger
Alexander	Bosco	Coleman (TX)
Anderson	Boucher	Combest
Andrews	Boxer	Condit
Annunzio	Brennan	Conte
Anthony	Brooks	Cooper
Applegate	Broomfield	Costello
Archer	Browder	Coyne
Aspin	Brown (CA)	Darden
Atkins	Bruce	Davis
AuCoin	Bryant	de la Garza
Bartlett	Bustamante	DeFazio
Bateman	Byron	Dellums
Bates	Callahan	Derrick
Bellenson	Campbell (CO)	DeWine
Bennett	Cardin	Dicks
Berman	Carper	Dingell
Bevill	Carr	Donnelly
Bilbray	Clarke	Dorgan (ND)
Boggs	Clement	Downey
Durbin	Kolter	Rangel
Dwyer	Kostmayer	Ravenel
Dymally	Lancaster	Richardson
Dyson	Lantos	Ritter
Early	Laughlin	Roe
Eckart	Lehman (CA)	Rowland (GA)
Edwards (CA)	Lehman (FL)	Roybal
Emerson	Lent	Russo
English	Levin (MI)	Sabo
Erdreich	Levine (CA)	Sangmeister
Espy	Lewis (GA)	Sawyer
Evans	Lipinski	Scheuer
Fascell	Livingston	Schiff
Fazio	Lloyd	Schneider
Feighan	Long	Schulze
Fish	Lowey (NY)	Schumer
Flippo	Luken, Thomas	Serrano
Foglietta	Manton	Sharp
Frank	Markey	Shaw
Frost	Martinez	Shumway
Gallo	Matsui	Shuster
Gejdenson	Mazzoli	Sisisky
Gephardt	McCloskey	Skaggs
Geren	McCurdy	Skeen
Gibbons	McDade	Skelton
Gillmor	McDermott	Slattery
Gilman	McEwen	Slaughter (NY)
Glickman	McHugh	Slaughter (VA)
Gonzalez	McMillen (MD)	Smith (FL)
Gordon	McNulty	Smith (IA)
Gradison	Miller (CA)	Smith (NE)
Grant	Mineta	Smith (NJ)
Gray	Moakley	Solarz
Green	Mollohan	Spratt
Guarini	Montgomery	Staggers
Gunderson	Moody	Stallings
Hall (OH)	Morrison (CT)	Stark
Hall (TX)	Morrison (WA)	Stenholm
Hamilton	Murtha	Stokes
Hammerschmidt	Myers	Studds
Harris	Nagle	Swift
Hatcher	Natcher	Synar
Hawkins	Neal (MA)	Tallon
Hayes (IL)	Nelson	Tanner
Hayes (LA)	Nielson	Tauzin
Hefner	Nowak	Taylor
Hertel	Oakar	Thomas (GA)
Hoagland	Oberstar	Torres
Hochbrueckner	Obey	Torricelli
Horton	Olin	Traficant
Houghton	Ortiz	Traxler
Hoyer	Owens (NY)	Unsoeld
Huckaby	Owens (UT)	Valentine
Hughes	Packard	Vento
Hutto	Pallone	Visclosky
Jenkins	Panetta	Volkmer
Johnson (CT)	Parker	Walgren
Johnson (SD)	Patterson	Watkins
Johnston	Payne (NJ)	Waxman
Jones (GA)	Payne (VA)	Weiss
Jones (NC)	Pease	Wheat
Jontz	Pelosi	Whitten
Kanjorski	Penny	Wilson
Kaptur	Perkins	Wise
Kasich	Petri	Wolpe
Kastenmeier	Pickett	Wyden
Kennedy	Pickle	Wylie
Kennelly	Poshard	Yates
Kildee	Price	Yatron
Kleczka	Rahall	

NAYS—115

Armey	Coleman (MO)	Fields
Ballenger	Coughlin	Gallegly
Bereuter	Courter	Gekas
Bilirakis	Cox	Goss
Bliley	Craig	Grandy
Boehlert	Crane	Hancock
Brown (CO)	Dannemeyer	Hansen
Buechner	Dickinson	Hastert
Bunning	Dornan (CA)	Hefley
Burton	Douglas	Henry
Campbell (CA)	Dreier	Herger
Chandler	Duncan	Hiler
Coble	Fawell	Holloway
Hopkins	Moorhead	Smith, Denny (OR)
Hunter	Murphy	Smith, Robert (NH)
Hyde	Oxley	Smith, Robert (OR)
Inhofe	Parris	Snowe
Jacobs	Pashayan	Solomon
James	Paxon	Spence
Kolbe	Porter	Stangeland
Kyl	Pursell	Stearns
Lagomarsino	Quillen	Stump
Leach (IA)	Regula	Sundquist
Lewis (CA)	Rhodes	Tauke
Lewis (FL)	Ridge	Thomas (CA)
Lightfoot	Roberts	Thomas (WY)
Lukens, Donald	Rogers	Upton
Machtley	Rohrabacher	Vucanovich
Madigan	Ros-Lehtinen	Walker
Marlenee	Roth	Walsh
Martin (IL)	Roukema	Weber
Martin (NY)	Saiki	Weldon
McCandless	Saxton	Whittaker
McCollum	Schaefer	Wolf
McMillan (NC)	Schroeder	Young (FL)
Meyers	Sensenbrenner	
Michel	Shays	
Miller (OH)	Sikorski	
Miller (WA)	Smith (TX)	
Molinari	Smith (VT)	

NOT VOTING—48

Baker	Ford (TN)	Neal (NC)
Barnard	Frenzel	Ray
Barton	Gaydos	Rinaldo
Bentley	Gingrich	Robinson
Borski	Goodling	Rose
Chapman	Hubbard	Rostenkowski
Clay	Ireland	Rowland (CT)
Collins	LaFalce	Sarpalius
Conyers	Leath (TX)	Savage
Crockett	Lowery (CA)	Schuette
DeLay	Mavroules	Towns
Dixon	McCrery	Udall
Edwards (OK)	McGrath	Vander Jagt
Engel	Mfume	Washington
Flake	Morella	Williams
Ford (MI)	Mrazek	Young (AK)

□ 1023

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. McNULTY). The Chair will ask the gentleman from Louisiana [Mr. HOLLOWAY] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. HOLLOWAY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PERMISSION FOR SUBCOMMITTEE ON SURFACE TRANSPORTATION OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY DURING 5-MINUTE RULE

Mr. CLEMENT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Surface Transportation of

the Committee on Public Works and Transportation be permitted to sit today, September 27, 1990, while the House is under the 5-minute rule.

This request has been cleared by the minority leadership of both the House and the Committee on Public Works and Transportation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

WHERE IS THE PRESIDENT?

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, with the budget talks stalemated, with the economy headed further down the skids, this is no time for people who can make a difference to be missing, but there is a face that is soon going to be appearing on the grocery shelves if he does not get back to Washington pretty soon.

Have you seen this person, Mr. Speaker? It is George Bush. He should be at the budget summit today.

This economy on Monday heads into precipitous times. Federal employees get furloughed. Our Republican and Democratic congressional leaders have been deadlocked in marathon negotiations, but they are deadlocked over a key issue, capital gains.

At a time when the President is proposing capital gains tax cuts, he is not even in the Capital to defend them. Where is he today? He is in Michigan. He is in Minnesota. He is in Ohio.

Where did he attack the Democrats from yesterday? Was it Washington? It was Ohio.

Mr. Speaker, bring him home. Come home, President Bush. Call a toll-free number. We will pick you up. Get to the summit where you belong.

FOUR DAYS TO ARMAGEDDON

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, yesterday it was 5 days. Today it is 4 days to Armageddon.

Mr. Speaker, we complain about the President. The President submitted a budget to the Congress in January. We were supposed to have had an agreement between the House and the Senate by June. It is now September, 4 days left to Armageddon. Mr. Speaker, 4 days and 967,000 Federal employees will be furloughed because this Congress cannot meet its deadline.

What are we going to do today? We are going to bring up 19 suspensions—19 suspensions—when the country is on the border of chaos because the Congress cannot meet its deadline.

Mr. Speaker, ladies and gentlemen, we have got 4 days, 4 days to meet the agreement, or the American public will understand once again the Congress did not do its job.

PRESIDENT MUST PARTICIPATE IN PROCESS

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, everybody is entitled to a vacation, and so when the President was boating in Maine while a crisis was unfolding in the Middle East, no one complained or, indeed, even mentioned it. But the summer is over, and 2 weeks ago while this institution was struggling with a budget crisis, the President was campaigning in California.

□ 1030

A few day ago, at a critical juncture, the President was playing golf. Yesterday, with the vital services of the Federal Government threatened by sequestration, the President was campaigning in Ohio. We all know the President likes to campaign. We all know his affinity for golf, but he was elected to govern.

This Congress can do most of the negotiating. We can bring most of the plans forward, but this President must still come to Washington and participate in this process. It is not as if he is not without responsibility. While Vice President, the last administration slashed revenues, doubled military spending, and sent this budget into default. Now, while he was also the director of deregulation, S&L's were sent into default.

Mr. President, get back to this town, govern, and get on with the business of being President.

INTRODUCTION OF PETROLEUM PRODUCERS BURDEN SHARING ACT OF 1990

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, I want to express my thanks to President Bush for stepping forward and tapping the strategic petroleum reserve. In response, the price of oil on the British market has already fallen almost $2 per barrel.

But we are not out of the thick of things yet. Prices have increased quickly every time Saddam Hussein opens his mouth, and we have asked the American consumer to pay. We have also asked Middle East potentates to pay. And we have asked our NATO allies to pay.

It is time to ask the oil companies to belly up to the bar and pay their fair share. On behalf of those who have sacrificed during this crisis, I have introduced the Petroleum Producers Burden Sharing Act of 1990.

Profits in the regular course of business are expected and encouraged. But, Mr. Speaker, windfall profits generated by an international crisis and price gouging at the expense of consumers are nothing more than gravy on the plate of big oil and should be taxed.

It has worked before Mr. Speaker. Between 1980 and 1988, about $80 billion was raised in gross Federal revenues from a windfall tax. Let us levy a windfall profits tax, and let us stop the price gougers from making a killing at the expense of consumers.

Join me and cosponsor the Petroleum Producers Burden Sharing Act of 1990.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). The Chair would remind Members to address the Speaker and not the President directly.

BE RESPONSIBLE, MR. PRESIDENT

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute.)

Mr. SMITH of Florida. Mr. Speaker, yesterday the President of the United States said that it was not the problem of capital gains, it was Capitol Hill. But where did he say that from? He said it from a fundraiser in Ohio. A fundraiser.

He is not here in Washington trying to raise money to cure the deficit. He is in Ohio, and today in Michigan, and in Minnesota, trying to raise money for Republicans. Mr. President, who is he raising it from, at $1,000 a plate? It is fat cats and the special interests and the corporations.

Guess who, Mr. Speaker, is the beneficiaries of the capital gains cut that the President wants? It is the corporations and the fat cats and the special interests.

If the President of the United States, Mr. Speaker, spent as much time in Washington raising money for the country as he did for Republicans, there would be no deficit at all. Right, Mr. NAGLE? Is that right?

Mr. Speaker, the President ought to come home, sit at the table and discuss how to save the country from what the Republicans claim is the "Armageddon" with only 4 days to go. It is time to be responsible, Mr. President.

THE ENERGY ARMAGEDDON

(Mr. JAMES asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, yesterday the President announced his decision to begin selling off the reserves, the oil reserves. The effect on the markets this morning has so far been positive. All prices are dropping and should continue to drop. All companies, take note: Prices are going lower. The American people and Congress are expecting positive action.

However, we need an energy policy. Talk about an Armageddon, indeed we have one when it comes to the cost of the price of oil. Indeed we have an Armageddon, an energy Armageddon.

Remember in 1973 with the gas lines? Remember the prices? There were the equivalency, if we apply inflation, to well over $2.50 a gallon. Did that produce more oil, or less dependency on foreign oil? No, it did not. The oil companies did not try, it did not produce more energy.

We have an Armageddon. We had it 17 years ago, and we will have it again unless we develop an energy policy to control the situation now.

COME HOME TO WASHINGTON

(Mr. SABO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SABO. Mr. Speaker, I am sure the President was welcomed with open arms in Minneapolis today. I know he was welcomed with open wallets at his $25,000 a head breakfast early this morning. I am sure the people there like his tax proposals.

However, it strikes me rather strange that while the Congress struggles and works, while we face imminent fiscal collapse of our Federal system, a person who was elected President is out acting as chairman of the GOP rather than as President.

Mr. President, I think it is time to come back to Washington. There is plenty of time after you have finished your work that the President can go back. It sure would be nice to have the Executive back in Washington doing the job he was elected to do.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members not to address the President directly but to address the Speaker.

DIVIDED COMMUNITIES UNITE

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, in the midst of the Jewish holidays, someone spray painted a swastika on a small southwest Miami temple in my district which has been vandalized four other times in the last year and a half.

Members of the Anshe Emes Temple discovered the desecration last Thursday night as they arrived for a Rosh Hashanah service.

The Anti-Defamation League of B'nai B'rith is offering a $1,000 reward for information leading to the arrest and conviction of those who committed the crime.

Mr. Speaker, you have to wonder why someone would commit such a repulsive act. I hope that the culprits are caught soon.

It is sad and distressing to note that such anti-Semitic actions could still be taking place and that someone would commit such an atrocious act during the time of a sacred holiday.

It proves to us that more needs to be done to unite our divided communities.

PHONE HOME

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKART. Mr. Speaker, George Bush, phone home.

CUT WILD SPENDING

(Mr. SUNDQUIST asked and was given permission to address the House for 1 minutes and to revise and extend his remarks.)

Mr. SUNDQUIST. Mr. Speaker, it looks like the line of the day is to beat up on the President, but I would observe that some of the biggest spenders in this House are the ones that are trying to blame the budget impasse on the President and capital gains, when they ought to blame themselves for all their big spending.

Capital gains are not for the rich, and Members know that. It is for farmers, unless they are rich, and small businessmen, unless they are rich.

The other part of the problem is that it is the only part of the budget problem we are going to solve that will discuss the creation of jobs. This impasse is not the President's fault. It is the fault of this side of the aisle, some on this side of the aisle who refuse to stop spending and refuse to stop taxes. I am not going to argue to more taxes to fund your wild spending, and my constituents are not either. I think the constituents of this country will say the same thing. Let Members cut spending and get on with balancing the budget.

WHERE IS THE PRESIDENT?

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, I have been looking for the President. He called a budget summit a few months ago, and then he left the room. He is not even at the table, and the negotiators cannot find him. Yet he was the one that extended the invitation. Even his own party pulled his budget from this floor not so many weeks ago, I think with some fear of even offering it.

Now, I was looking for the President when we sent over 100,000 troops to the Middle East, and I could not find him then, either. He was out on the golf course; then I saw him in a boat. Well, I found him. He is in my home town in northern Ohio and he is campaigning and raising big money.

I say to the President if he is listening, the Constitution states the Executive power shall be vested in a President of the United States and he shall give to the Congress information on the State of the Union and recommend for their consideration such measures as he shall deem necessary and expedient.

I say to the President, come home. It is expedient. The Government closes down Monday. You ought to come back and do your job.

THE PRESIDENT'S WILLINGNESS TO COMPROMISE

(Mr. SMITH of Vermont asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Vermont. Mr. Speaker, listening to the speeches this morning from some of the people in this House, I think we ought to ask them to rewind their tapes. The speeches might have been valid a week ago or 3 days ago even, but in fact again yesterday the President of the United States indicated his willingness to compromise in order to reach an agreement on the budget crisis in the budget summit.

Again, what that compromise did was put the pressure right where it ought to be, which is on the leadership of the U.S. Congress.

Many people say that the choice we now face is between recession and sequester. They both have one thing in common. That is that the people of the United States pay for the inability of the congressional leadership to provide leadership in this budget summit crisis. The real choice is between leadership or decline.

I would tell you it is time for the people of the United States to be put ahead of partisan politics, to be put ahead of the agendas of the leadership of this body, so that they do not have to pay for the leadership's failure to lead.

CUT THE PENTAGON WITH A CHAIN SAW

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, I do not know why everybody is so surprised at the President. It is very simple. The military industrial complex has turned the Oval Office into the cockpit of a B-2 bomber. You cannot see it. You cannot hear it. You cannot even detect it on radar.

But what really should wilt the cabbages here today is the new Pentagon "Soviet Military Power" handbook. They have all these pictures of these new Soviet Mig's. Guess what? They are really old SU-27's. The Pentagon said it "was an honest mistake." Baloney!

Now, let me tell you what they are. SU-27's are so old, they are propelled by rubber bands that are hand cranked by Communist transvestites.

Mr. Speaker, what the hell is wrong with us? Let us cut the Pentagon with a chain saw. Let us stop this madness. Let us all do our jobs.

The Pentagon's got so much money over there they do not know what to do with it, and we are going bankrupt and maybe laying off Federal workers.

Shame on Congress. Shame.

BRING BACK THE CRIME BILL

(Mr. McCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCOLLUM. Mr. Speaker, 2 days ago 85 Democrats joined every single Republican in voting down a very unfair rule on the crime bill so that we could bring up the Hyde amendment that incorporates the Powell Commission's recommendations on the restrictions on the appeals that a person who has been convicted and sentenced to the death penalty has to keep delaying the carrying out of that sentence interminably. That vote was an overwhelming rejection of the unfairness of that rule. It was on that one issue only.

The Members of this body and the American public demand the opportunity to vote on a tough crime bill this time, one that if brought to this floor would allow us to restore the death penalty for numerous Federal crimes, would allow us to vote and have a death penalty for drug kingpins who traffic in very large quantities of narcotics, that would change the rules of evidence to allow more contraband to be produced in courtrooms to get more convictions in drug cases, and yes, that would end these appeals that keep going on in death penalty cases; but instead of going back to the Rules Committee and getting a new rule that simply adds that one amendment that the majority wanted, we are seeing 19 suspensions out here, a lot of pabulum on the floor, instead of real legislation.

We have a chance to have a crime bill on the floor if the liberal Democratic leadership will give us that chance. We ought to demand that chance. We deserve that chance and the American people deserve it.

WHITE HOUSE INTRANSIGENCE

(Mr. JOHNSON of South Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of South Dakota. Mr. Speaker, I am not one who believes that my political party has a lock on all good ideas. We urgently need a bipartisan agreement on the budget that takes the best ideas from both parties. Nevertheless, Mr. Speaker, I share your frustration over White House intransigence in demanding still more massive tax breaks for the wealthy, while proposing to "stick it" to middle class working and retired Americans.

According to the nonpartisan Congressional Budget Office, the President's proposal would cut taxes for Americans earning more than $50,000 per year by about $11 billion, but increases taxes on Americans earning less than $50,000 by $4 billion.

The fact that this impasse has now led to a serious look at Federal employee furloughs, huge cuts in Medicare and other disastrous options is outrageous.

Mr. Speaker, pursue a course which involves compromise and brings this budget negotiation to a responsible end, but do so without joining the White House in selling middle class and working Americans down the river.

PRESIDENT BUSH AND THE BUDGET

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, it is regrettable that my colleagues can think of nothing better to do than lambaste the President. It is regrettable and ludicrous.

Months ago this President had the courage to lay aside his own personal political interests for the sake of the public interest.

George Bush took the hit for stepping back on his commitment to no new taxes, which he still feels very strongly, but to open up the negotiations so that the public interest in deficit reduction and a budget could be addressed, George Bush put aside his political interests.

What have we seen from the other party that controls the House and the Senate? Have they put aside their political interests for the public interest? No.

Instead, they have claimed capital gains was the issue. They claimed it, though the majority leader in the other body himself espoused capital gains, tried to get it back into tax reform and has fought for it. He, too, like many of us who voted for capital gains, knows it is important.

Is it critical? Absolutely not.

Let us join together to put the public interest above partisan political interest.

Mr. Speaker, I know I have gone slightly over 1 minute, but the Chair allowed a number of my colleagues from the other side to go a minute and a half and two minutes.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNULTY). The Chair has been equally fair to both sides of the aisle, scrupulously fair to both sides of the aisle.

A WISE DECISION ON RELEASING OIL

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, believe it or not, oil rig active accounts declined in Louisiana by five rigs last week. Nobody, not the domestic oil industry nor the American consumer believes the phony oil prices being generated by the oil traders in New York, and I am not sure how you spell that word "trader."

I want to commend the President for releasing 5 million barrels from the strategic petroleum reserves, but we have suggested a more permanent plan for release on a daily basis for the duration of this crisis to make sure those oil traders do not continue these phony oil prices for America. We have suggested a plan to refill that strategic petroleum reserve, financed by patriotic strategic petroleum bonds that the American public would buy and filled with oil wells that are dedicated and produce domestically for the strategic petroleum reserve.

But there is something else we could do today, I say to the President and Members of this House. We could ask FERC to release the 300 applications for natural gas pipelines that are sitting right now at the Federal Energy Regulatory Commission. We could produce natural gas in great quantity to supplement the supply of energy for America.

Mr. Speaker, it is time for us to demand the FERC to do its job, and I commend the President for trying on his part.

IN SUPPORT OF THE PRESIDENT'S RELEASE OF OIL

(Mr. HOLLOWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLLOWAY. Mr. Speaker, it is very unusual that us Louisianians would follow each other, but I rise in support of the President's move also today.

I would like to renew our knowledge of the fact that this strategic petroleum reserve is not there for a controlling process. It is there to be there when we need it, if we ever need it.

Today the price of oil is not the price it is because of a shortage of oil. It is there because of speculators out in the market driving the price up.

I compliment the President on the move to try this system, try the reserves to see that it works. It is a very important part of our country, a very important part that we have done here in the Congress to see that we do not get caught with our pants down in a situation that could happen today in the Middle East, but we do not want to use this oil strictly to control prices. It is there to be there when we need it.

□ 1050

I compliment the President and hope that we will continue to pump oil into this reserve and build it to a point where we can go 6 months without oil.

THE PRESIDENT SHOULD ATTEND THE BUDGET SUMMIT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, the President is now playing politics as this Government prepares to crumble. You know, I for one love this institution; but it is not just me, people all over the world love this institution. It has caused people to put their lives on the line and get goose bumps as they have tried to create an institution like this.

This is representative Government, people elected by the people. And yet we have been unable for the last 10 years to get a President who wants to deal with this representative Government.

I think it is very, very important in these critical summit times that we have the President be there for his half of the bargain. He called the summit. I think it is only appropriate he attend the summit.

He insists on sending shields such as Sununu. It is like kissing through a picket fence.

Mr. President, come home, save this institution that the world is trying to emulate. Show how it can work.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). The Chair would remind Members not to address the President directly but to address the Speaker.

NO MORE BUCKS TO PASS

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, the 11th hour—plus 59 minutes—has arrived. If Gramm-Rudman kicks in Sunday, the economy of the United States and the rest of the world will be disrupted.

The time for rhetoric and posturing has passed—the time for action has come.

I find it deplorable that an agreement has not been reached, and I find it equally objectionable that our inability to reach an agreement may force some of our colleagues into an untenable position—will they stay here or miss a Jewish high holiday, Yom Kippur, the most sacred day in their religious calendar.

But here we are still trying to pass the buck—pass it to Federal workers who must be furloughed, to contractors who need progress payments, or to beneficiaries in need of services? The problem is there are no more bucks to pass.

We are broke. I suggest that we should look beyond esoteric solutions such as exotic taxes. There is a relatively simple answer. It has been projected that the Treasury will take in an extra $80 billion in taxes next year. Freeze next year's expenditures at this year's levels. If we couple this with an effort to collect the first $20 billion of the $50 billion owed by foreign corporations, we would meet our budget reduction—and the Government could go on.

Simple. Yes. But it is criminal to ask the American people and Federal workers to ante up when foreign corporations do not pay their taxes.

TWO RELATED CRISES: PERSIAN GULF AND OUR BUDGET PROBLEMS

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, our Nation is faced today with two very critical crises and emergencies, one in the Persian Gulf and one here at home with regard to our budget problems.

They are related in two very important respects. They are related in terms of potential fiscal policy and they are related in terms of energy policy.

Mr. Speaker, the gulf states whom we are appropriately defending right now in the Persian Gulf will be receiving some $70 billion in additional revenues this year alone from the increase in oil prices to them and the domestic American oil industry this year alone will also be increasing their profits to the tune of some $70 billion. That is an additional $100 billion to $150 billion of oil revenues coming in in the next year either because of this crisis or as an excuse for the crisis.

Mr. Speaker, let us use that revenue, the funds from the gulf, to pay for the defense of the gulf and let us use the domestic oil revenues to avoid the necessity to cut Medicare, to cut housing, to cut children's programs, and to cut education. That oil revenue, that $100 billion to $150 billion, can be put to very good use here at home in dealing with the budget crisis we face.

DEMOCRATS WANT PRESIDENT TRAPPED IN WASHINGTON AS A PRISONER

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I have been listening with fascination to some of my Democratic colleagues who want the President to stay trapped in Washington as a prisoner.

Let me say first of all I participated in the budget summit. We spent 11 days out at Andrews Air Force Base, 4 months talking in rooms here. I think the problem the Democrats have to confront is that until they are prepared to reach an agreement, it would be silly for the President of the United States to agree to hang around in rooms waiting for endless hours while the Congress fights over what it is going to do.

He has fine representatives meeting in these summits. They are doing the job fine. But the real problem is not how many people can you get in a room; the real problem is that for 36 years the Democracts have controlled the House, for 36 years they have controlled every committee, for 36 years they have helped pass the tax bills, the spending bills, and now that we are down to the crunch they wish George Bush would solve it all.

The fact is in the next few days we had better get to the solution or there is going to be a sequester. I think it is the job of this Congress to stay in session and do what is necessary to avoid having to go to sequester.

THE AIDS CRISIS IN AFRICA

(Mr. MCDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, I recently returned from 2 weeks in Africa, where I had a chance to examine the extent of the AIDS epidemic there.

I was astounded by the staggering death toll facing Africa. AIDS is devastating this continent. In some countries, it threatens to wipe out an entire generation of future workers and future leaders. In Zimbabwe, some 40 percent of newborns in urban hospitals are HV positive. Half of that country's children may die from AIDS, and the other half may well be orphaned by it.

The United States has been responsive to the epidemic in Africa, providing the world's largest share of resources to AIDS programs. As a result of my visit, I believe we need to strengthen and refocus our efforts. We need to emphasize community-based approaches to education and prevention, focus our attention on the youth who are being disportionately hit by this disease, and work harder for the empowerment of women.

Africa is a continent in peril. All of our development assistance will be rendered virtually irrelevant if we do not offer the best help we can now. I urge my colleagues to support efforts to help Africa combat this devastating epidemic.

POLITICS JUSTIFIES A MORATORIUM ON DECENCY AND COMMON SENSE

(Mr. PARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARRIS. Mr. Speaker, I have been around this House now for 18 years off and on.

I came here first in 1972, and I have seen a lot of changes in this Congress in that period of time.

One of the changes I regret most of all is that there are not any real good Democrats, demagogues, or hypocrites left around here any more. That is really too bad.

The only thing we seem to be able to agree on is that politics justifies a moratorium on decency and common sense.

The Democrats have controlled this place since I was in college. If I were the President of the United States, I would get as far away from this House as I could, as well he has, because the performance of this Congress has been nothing short of dismal.

We all understand why he does not want any part of it, and you should too.

THE BUDGET SUMMIT NEARS THE ZERO HOUR

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of Utah. Mr. Speaker, Sunday is the end of the fiscal year, as everybody knows. The budget summiteers are nearing the zero hour. Some say you have to create a crisis to get anything done in this country. Well, this crisis is real.

Sequestration will cripple essential Government services, like air traffic control, drug interdiction, and will furlough more than 2.4 million Federal workers.

Make no mistake about it, when you close down the Government you close down the economy.

Already teetering on the brink of recession, the American economy will fall into major economic turmoil if Gramm-Rudman hits, let there be no doubt about that.

The administration took a step in the right direction yesterday by signalling a willlingness to accept indexation of capital gains for inflation. Indexation combined with other growth measures, like a research and development tax credit, might help us overcome the hurdle of a budget agreement and set us on a course for economic recovery.

We are close; let us stay in session this week and until we make a budget decision.

THOUGHTS ON POSTURING WITH RESPECT TO OUR BUDGET AGREEMENT

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, many of the Members, my friends on the Democratic side, have had great fun this morning addressing the President, even to the extent of having to be called down and admonished by the Speaker on several occasions.

I would say to those who have been getting up and doing all this posturing that: Where is our budget agreement? Where is the fulfillment of the congressional responsibility?

We have to remember we are here in this summit right now because we have been unable to pass any appropriation bills which should have been passed and on the President's desk by now.

□ 1100

The Congress has failed to agree on a budget with the Senate. The Congress has failed to come up with a plan that is going to fulfill our obligations under the Gramm-Rudman plan.

So, while we are busy pointing fingers at the President, I can understand politics, and I can understand this is a political year, but let us be fair, and criticize ourselves, and look at ourselves and say, "We have not fulfilled our responsibility," and I, as my colleagues are, am going to have to look to the President for leadership and responsibility because it does not exist in this House.

Let us get together. Let us bring forth some leadership. Let us bring forth a budget and a plan that is going to work and come within the confines that we have set down. Let us be responsible. Let us tell the American people that we can govern.

CUT FOREIGN AID, NOT MEDICARE

(Mr. FRANK asked and was given permission to address the House for 1 minute.)

Mr. FRANK. Mr. Speaker, I will accept my colleague's invitation to be self-critical. We in this Congress have not addressed the budget as quickly as we can, although my colleagues on the other side have an understandable historical blank when they talk about this long Democratic control of Congress. For them the good news was that their party controlled the U.S. Senate for 6 years. They appear also, understandably, to think that was the bad news, so they neglect it.

Mr. Speaker, for most of this decade we had divided party control of Congress, but we have been laggard, but we have been laggard largely because of my Republican friends' opposition to recognizing a central change in the world, and that is the fact that our allies no longer need the more than $100 billion per year of military subsidy they receive, and in the budget negotiations they are for cutting Medicare, and we are for saying that we should stop subsidizing the defense budgets of Western Europe and Asia, those wealthy nations over there. They are for cutting student loans, and we are for cutting an unnecessary NATO. We are wrong not to have moved more quickly in that direction.

THE ONLY INSANE ASYLUM RUN BY ITS OWN INMATES

(Mr. LIGHTFOOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIGHTFOOT. Mr. Speaker, it is not very often that I speak on the House floor, and, when I do, I try to do it with the dignity that this body deserves.

However, my colleagues, ladies and gentlemen, men and women, boys and girls of all ages, are witnessing the most expensive circus on the face of the Earth. If my colleagues listen to the President bashing, the horse manure that has been spread here this morning, I would say we could put the entire fertilizer business in this country out of business. Is it any wonder

that the people of this Nation view us as the only insane asylum that is operated by its own inmates?

I would suggest to my colleagues that many Republicans and good conservative Democrats are sick and tired of being cast and forced into the role of playing the clown. It is time that this circus closed and left town.

PARTY PEOPLE

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, let me ask my colleagues this: Why not criticize the President of the United States? He is elected by the people, just like we are. He is no different, no higher, no lower.

The fact of the matter is that the President is in Ohio, at a very expensive party over there at $25,000 a ticket, very expensive, taking very cheap political shots. Mr. Speaker, at 25 grand a ticket, he sure is not representing mainstream America. He is partying with those people who are going to gain the most from capital gains, but he is forgetting those who are suffering the most from capital loss.

That is right, folks. The President wants to zap the poor, the elderly, the sick, the young, the veterans, the working people in America, and then he wants to turn around and give it to the Trumps and the Icahns. He wants to give it to the Rockefellers, and the Pickens, and all those other people.

I say to my colleagues, "You know, don't blame mainstream America. Blame yourself and assume the responsibilities that you're supposed to be assuming."

SUMMITEERS ABOUT TO HELP PLUNGE OUR COUNTRY INTO RECESSION

(Mr. SHUSTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUSTER. My colleagues, the summiteers are about to help plunge this country into a recession. They are talking now about an 8-cent fuel tax, not to improve American's transportation system, but rather to go 75 percent, at least, toward deficit reduction, and, yes, to keep the other 25 percent bottled up in a trust fund that already has a bloated $16 billion surplus. They are talking about imposing an 8-cent fuel tax at a time when the world oil prices are going through the ceiling, and an 8-cent fuel tax at the time when we are on the edge of a recession, an increased fuel tax at a time when the cost of moving goods, and services and people in this country are at an all-time high, and, yes, an 8-cent fuel tax that would be grossly unfair to rural America because rural Americans do not have the mass transit systems, and they must drive about twice as many miles a year as urban America.

Mr. Speaker, last week the Committee on Public Works and Transportation unanimously passed a resolution opposing such a gas tax as a supposed deficit reduction measure, and I urge all my colleagues to join us by saying this is one tax that is totally unacceptable to this Congress.

DEFICIT REDUCTION NOW—TAX CUTS LATER

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, despite the smokescreen and partisan rhetoric thrown up at various fat-cat fund raisers by the President in Cleveland, Minneapolis and elsewhere surrounded by Secret Service and thousands of dollars of taxpayer expense as he takes cheap partisan shots, the fact is that the summit is still hung up on the issue of capital gains, or how to pay for it, and who gets it? The Democrats are insisting that the capital gains, if there be one, be paid for by the very people who would benefit. The GOP proposal still would not do it. It would sock it once again to the middle class who have been hurt already through the whole decade of the 1980's. Under the GOP proposal, as it still stands 60 percent of the benefit would go to 1 percent of the people who make over $200,000 apiece. Sixty percent of the benefit would go to 1 percent of the people. That is still the proposal on the table. Eighty percent would go to those 2 percent who make over $100,000.

To use the deficit crisis and brinksmanship with the budget to provide a new tax cut to the most wealthy among us is simply wrong. First things first. Deficit reduction now. More tax cuts for the wealthy later, much later.

REVENUE LUSTING LIBERAL DEMOCRATS NEVER GET ENOUGH

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, the revenue lusting liberal Democrats on the majority side of the aisle remind me of the character, Johnny Rocco, in the classic film "Key Largo." Remember the incomparable Eddie G. Robinson's portrayal?

Particularly appropriate, Mr. Speaker, was this exchange with Humphrey Bogart. Listen to this.

Humphrey Bogart asked Edward G. Robinson: "Awright; what do you want, Rocco?"

Eddie G.: "I want more. See. More."

Bogie: "Will you ever have enough, Rocco?"

E.G.R.: "No, never. Never have. Guess I never will either."

Now I submit, Mr. Speaker, that Johnny Rocco would fit in beautifully on the majority side of this aisle.

Mr. Speaker, the Johnny Rocco's, like MARTY "ROCCO" RUSSO, or GEORGE "THE HAMMER" MILLER, those people on the other side of the aisle, all they want is more. They insist that if the President wants a capital gains tax, which will spur investment, increase tax revenue, and produce jobs, then they are going to insist on another tax increase for the rich. But who are the rich, Mr. Speaker?

If repealing the so-called bubble is a tax-the-rich plan, as its supporters claim, then we know that those Johnny Rocco Democrats believe that the rich are those individuals who make over $47,000 or joint income families who earn over $78,000.

I say to me colleagues, since we make 90-plus thousand dollars, that must make us superrich. And if that is so, why do we need a pay raise next year? If we're superrich, we can get by without a pay raise. We can handle it. Can't we?

I have news for all the, my class-warfare colleagues, $47,000 is not the income of a rich person, especially in my Orange County, CA, where the average price of a home is over $230,000.

I think it is disgraceful, Mr. Speaker, that the liberals are mocking the American people with their class-warfare rhetoric when their real target is the middle class. You know as well as I do, Mr. Speaker, that the only way to raise the type of revenue the Johnny Rocco Democrats are talking about is to tax the middle class.

George Bush has gone the extra mile to get an agreement with the liberals in this Chamber and has nothing—nada, zip—to show for his trouble. Why he thought he could deal with the Johnny Rocco Democrats around here I'll never know.

Well, I have a solution. If you liberals in this Chamber think you have all the answers, then you should pull out of the summit and complete the budget process on your own. Pass your appropriations bills and your tax-increase bill and send them on to the President and let him make the decision to veto or not to veto. I think we all know why you won't do that. It's because you class-warfare libs want it all, like Johnny Rocco. You want to continue spending like drunken sailors, with apologies to modern day sailors for the unflattering comparison, and get President George Bush to do the dirty work of raising taxes for you.

On reflection, Johnny Rocco was a piker compared to the crowd on the majority side of the aisle.

A CHOICE IN THE CLEAN AIR ACT: CLEAN AIR FUELS OR MOTORS TO CLEAN DIRTY FUELS

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, I am concerned about a letter from the White House of the chairman of the Committee on Energy and Commerce dated September 21, 1990.

I am concerned because that letter vacillates on the President's commitment to expand the use of cleaner burning oxygenated fuels, such as ethanol, methanol, and compressed natural gas, to help reduce pollution and make American less dependent on foreign oil.

The choice facing us is clear: We can produce clean air fuels or manufacture motor vehicles which will clean up dirty fuels.

I believe the least costly course is to clean up our fuel supply—using farm grown ethanol and other alternative fuels such as methanol and compressed natural gas.

Of course, the oil companies don't want this. They don't want to share their $100 billion market with alternate fuels suppliers. But, we cannot allow those companies to continue to dictate the country's energy policy.

It is a policy which had lead us to a dangerous dependence on foreign oil and foreign credit; made our economy hostage to the likes of Saddam Hussein; forced us to spend billions to protect our foreign oil supplies with U.S. military forces and has many of our people gasping for breath because of dirty auto emissions.

□ 1110

Mr. Speaker, the letter from the White House expressed concern that switching to alternate fuels might be too expensive.

On the contrary, it is much more expensive to spend more than 1 billion a month to protect the oil supply in the Middle East. A recent study showed, for example, that when you factor in only the cost of foreign aid and military operations, foreign oil is already costing us $80 a barrel.

I believe the figure is much higher.

Alternate fuels will make our country more reliant on our own natural resources for the energy to power our economy, help clean our air, put more money in America's alternative energy economy and eliminate the necessity of military spending to keep foreign oil flowing.

For less money than we are now spending to protect a foreign oil supply we can have a national energy policy based on clean air fuels which will not only reduce pollution but allow us to bring our troops home from Saudi Arabia.

Mr. Speaker, for all these reasons, I urge conferees on the Clean Air Act to hold the line on expanded use of alternate fuels.

There is simply too much at stake to retreat.

SPENDERS IN CONGRESS HAVE NOT REFORMED

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. No budget agreement; spenders whine for more taxes; penalize those who invest and create jobs. That seems to be the credo here. Federal employee checks about to be confiscated.

Is there concern? Apparently not. They want to confiscate those paychecks to pay for irresponsible spending. New programs to cater to special interest groups. Foreign aid, family planning for Romania. Twenty-one suspensions today, 10 suspensions last Monday, 18 suspensions the week before. Brand new authorizations. Those authorizations mean brand new spending.

Suspensions, what a clever way to get Christmas tree spending without accountability. It is time that the people of the United States of America start looking at that voting record. It is time that we call a vote on every single suspension. We have had darn near 50 of them here, amounting to hundreds of millions of dollars in new authorizations. Read the RECORD. See how they voted, Democrat and Republican alike. If you look at last week and this week, where we had spending records, you will see that they have not reformed, not in the least.

CONGRESS AND PRESIDENT MUST SHOW RESPONSIBILITY ON BUDGET PLAN

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLEMENT. Mr. Speaker, I brought my pillow, I brought my blanket, and I am prepared to stay here Thursday, Friday, Saturday, and Sunday, in order for us to make a decision on this critical budget agreement that we have before us.

Mr. Speaker, all of us know that unemployment is rising and the inflationary rate is spiraling. Our economy is very soft. We need some stability, some confidence. We need a budget agreement.

I would like to see that there is some hope, some opportunity for us to vote on some plan, whether it be a Republican plan, a Democrat plan, a bipartisan plan, prior to October 1, when the hammer is to be dropped. But what we need also is Presidential leadership, for him to present a plan, and for us to consider it. That ingredient, that dimension, is still lacking.

Mr. Speaker, we need to do what is necessary now. Let us move forward with voting on a budget plan, a budget agreement, now, before October 1, to show responsibility on behalf of the President and the U.S. Congress.

JAPAN MUST LIVE UP TO 1981 COMMITMENTS

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, today, Prime Minister Kaifu of Japan visits our country with a pocket full of commitments for helping share the burden of defending the Persian Gulf. But it is hard to depend on these promises, however, when the fact remains that Japan has failed to live up to its commitment in the past.

Back in 1981, Japan agreed to purchase the necessary military equipment to assume responsibility for defense of the air space and sea lanes around Japan out to 1,000 miles.

Nine years later, none of the approximately 35 AWACS aircraft and support tankers essential to this mission have been purchased—not one.

And this week, we learned that Japan's latest 5-year defense plan will push the acquisition of the necessary number of aircraft well in to the next century.

The strategic ramifications of this failure are immense. In order to enforce an air embargo in the Persian Gulf, we have had to drain early warning aircraft from the Pacific, leaving this region naked to potential aggression.

This morning, I and 70 colleagues from both parties wrote to Secretary of State Baker demanding that Japan live up to its 1981 commitment. When the President meets with Prime Minister Kaifu in New York tomorrow, he must make it clear that 9 years of delays and unfulfilled promises are simply unacceptable to the American people.

BUDGET MUST ADDRESS HUMAN CONCERNS

(Mr. DELLUMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELLUMS. Mr. Speaker, one of the Members earlier today suggested that there are no good Democrats in the House of Representatives. I would

suggest that 24 Members who comprise the Congressional Black Caucus are the true Democrats and may be the true Democrats of the Congress of the United States.

Five years ago, on October 11, this House of Representatives passed a bill known as Gramm-Rudman. On October 11, this gentleman, now in the House for 20 years, made the following statement:

The House vote today is one of the most serious setbacks for democracy in my 15 years in the Congress. It is a triumph of process over substance, but one in which the process itself has been subverted.

Mr. Speaker, we now stand on the threshold of a Hobson's choice. Either we will be locked into a 5-year plan that further savages America's capacity to save its children and address the human misery of its people, or we face sequestration.

Mr. Speaker, Members on both sides of the aisle, and American people, I ask you to reject both alternatives. Let us set aside this madness. Let us move away from Gramm-Rudman and get back to the drawing board and truly write a budget that addressed the human misery and the human concerns that are real in America. Gramm-Rudman is a mindless approach to budgeting that lacks compassion and accountability.

POLITICIANS IN GLASS HOUSES SHOULD NOT THROW STONES

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, we have heard criticism of the President this morning for not being at the budget summit table and out playing politics. I found that very fascinating. I wonder how many times in the last year we have not done legislative business in order to accommodate celebrity golf tournaments. In the last year we have not done business in the House in order to accommodate Democratic fundraising dinners. In the last year we have not done business in the House of Representatives in order to accommodate receptions that Democratic leaders were having in order to raise money.

Mr. Speaker, those are the kinds of issues that have not been brought up by any of these people at the time that those were being done.

As for raising money, it is interesting that the President is out raising money in an open setting. What about all those S&L dollars that paid for the DCCC's of campaigning on behalf of nearly all of the Members on the other side of the aisle? Is all of that S&L money being looked at as we legislate? Well, this week we had a crime bill that did not make it to the floor because it did not get a rule, but it had a provision in it to allow the S&L crooks to keep their mansions.

It seems to me that maybe they still are getting their chance to participate in the great American dream as defined by the Democrats. I think when we talk about playing politics, we had better be pretty careful. There are a lot of glass houses.

PROVE WHO IS SINCERE

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I have listened to all of the 1-minutes here, and if this was not such a serious time, I guess we could all kind of laugh and enjoy it. But this is not a laughing matter.

Mr. Speaker, I mentioned the other day that since I came to Congress, as a matter of fact only about 8 years ago, the Federal revenues coming into the coffers annually were about $500 billion. Now, 8 years later, the annual revenues are over $1 trillion, and we have not raised taxes at all during that period of time.

The Federal revenues have doubled from economic growth that has created 20 million jobs in this country for your constituents and mine.

Then I hear all this talk about the capital gains tax and whether that is good or bad. But I will tell you what I really believe: I think the Democratic Party is trying to push this country into a recession. I think that you think political power is so important that you are willing to put people out of work in this country, because that is what you are trying to jam down the throats of the American people, by taking more money out of their pockets to feed your desire for more programs here. I just think we really ought to sit down and try to do something about it. Let us see who really is sincere.

□ 1120

LET US GET AMERICA BACK ON TRACK

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, this smoke screen is not going to obscure the truth about the budget summit. Senator DOLE was quoted in the paper 2 days ago as saying the hangup on the budget summit is the President's insistence on the capital gains tax cut.

There has been proposed from the Democratic side of the aisle deep, deep spending cuts, across the board. But the hangup is that the President insists on capital gains tax cuts for the rich as a precondition for a deficit reduction agreement.

Let me describe what kind of cuts he is talking about. He is saying, "I want an average of $25,000 a year tax cut for those Americans with over $200,000 in income," in a package that is supposed to reduce the deficit. Obviously we have not agreed to that. It is foolish. It does not make any sense at all. We are supposed to reduce the deficit, not reduce taxes for the rich.

Yes, let us put aside the partisanship. Let us finally start to get a deal, not with capital gains tax cuts for the rich, but with some additional revenue, with some spending cuts, and let us then put the country back on track. Let us do it soon. The 11th hour is approaching, in fact, the twelfth hour is approaching.

We need leadership, now from the President and also from the Members of Congress to put America back on track.

PROVIDING FOR CONSIDERATION OF H.R. 2039, JOB TRAINING PARTNERSHIP ACT AMENDMENTS OF 1990

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 478 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 478

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2039) to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve adults and to youth, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with the provisions of clause 2(l)(6) of rule XI are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. MCNULTY). The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 478 is an open rule which provides for the consideration of H.R. 2039, the Job Training Partnership Act Amendments of 1990.

The rule provides for 1 hour of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor.

All points of order against consideration of the bill for failure to comply with the provisions of clause 2(l)(6), rule XI, are waived. This rule requires that committee reports be made available for Members for 3 days prior to floor consideration. Mr. Speaker, it is late in the session and this is an important piece of legislation which needs to be considered by the full House. The waiver of clause 2(l)(6), rule XI is necessary and prudent.

The rule also makes it in order to consider an amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for purpose of amendment under the 5-minute rule, and each section shall be considered as having been read.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, the Job Training Partnership Act, commonly known as the JTPA, was established in 1982. Since its inception, the JTPA has put into force an effective job training system through a partnership between the Federal Government and the private sector.

H.R. 2039 seeks to improve the JTPA partnership infrastructure by increasing the quality of services and targeting benefits to those most in need of job training.

Mr. Speaker, H.R. 2039 addresses concerns raised by a 1989 GAO study which concludes that high school dropouts are not well served under the current law. In 1987, nearly two-thirds of those individuals trained and successfully placed under the JTPA Program were high school graduates.

H.R. 2039 preserves the public-private partnership which has worked well over the past 8 years. This legislation improves upon the partnership in five major areas:

First, the bill requires that each participant's skill level and service needs be assessed. The Committee on Education and Labor correctly concludes that to effectively address an individual's needs, the program must first determine what type of training would be most effective for the individual participant.

Second, the bill requires an individual service strategy be developed for each participant to assess employment goals and achievement objectives.

Third, each service delivery area under the JTPA must provide core services to adults and youth.

Fourth, the committee bill calls for job search techniques training and work experience activities to be coupled with programs designed to increase the participant's educational and occupational skills.

And finally, the bill provides for counseling and support services to participants for up to 1 year after completion of the program.

Mr. Speaker, now more than ever we need a work force which is educated and skilled. A productive work force can be achieved through education, vocational training, and a healthy economy. H.R. 2039 is a giant step toward the goal of having an educated, trained, and productive American work force.

I urge my colleagues to join me in adopting House Resolution 478 so that we may proceed with the consideration of H.R. 2039.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the gentlewoman from New York has ably explained the provision of the rule.

Mr. Speaker, I would like to commend the chairman and the ranking Republican member of the Committee on Education and Labor, the gentleman from California [Mr. HAWKINS] and the gentleman from Pennsylvania [Mr. GOODLING] for their leadership in moving this legislation to the House floor.

Training people for jobs so they can get off the welfare rolls and onto the work rolls is an important undertaking. The Job Training Partnership Act has been a successful program in preparing Americans to support themselves by their own efforts.

I should mention that the administration supports legislation to make this successful program even better. However, the administration has pointed out a number of areas in this particular bill they would like to see improved. One problem is excessive funding. Authorizations for adult and youth employment and training programs exceed the President's fiscal year 1991 budget request by more than $300 million.

The rule reported by the Rules Committee is an open rule, so it will provide an opportunity for necessary improvements to be made in the legislation.

I will support this rule so that the House can get down to business and act on the Job Training Partnership Act Amendments of 1990.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1130

INTRODUCTION OF THE EDDIE RICKENBACKER GOLD MEDAL BILL

(Mr. WYLIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, today I am introducing a bill to strike a Congressional Gold Medal in recognition of the 100th anniversary of the birth of Capt. Eddie Rickenbacker.

Eddie Rickenbacker was an outstanding American from my hometown of Columbus, OH. His lifetime achievements are worthy of remembering through a Congressional Gold Medal awarded to his heirs.

In his early years he became internationally known as a famous race car driver. In fact, Eddie raced and finished in the first Indianapolis 500 in 1911.

Later, Eddie left Columbus to become a world hero during the First World War. Captain Rickenbacker was the commander of the 94th Aero Pursuit Squadron during that war, and for his valor in the air, he was known as the ace of aces. He is credited with downing 26 enemy aircraft during his service, far more than his closest competitor. For these achievements, he was recognized as a national hero.

The achievements of Captain Rickenbacker did not end, however, with the World War. He went on to become a leader of the commercial airline industry. He was president and director of Eastern Airlines during the infancy of commercial aviation.

Eddie further demonstrated his heroism during World War II. During a trip to the Pacific Theater as the Secretary of War's special representative, Eddie's B-17 was shot down. He drifted in the ocean for 23 days in enemy waters before being saved.

There will be a "Captain Eddie Premier Gala" on October 8 at the Ohio Theater—in connection with Columbus-USA weekend activities.

The gala will celebrate the 100th anniversary of Rickenbacker's birth as well as the 45th anniversary of the movie "Captain Eddie"—starring Fred MacMurray—which premiered at the Ohio Theater on August 1, 1945.

I am introducing this bill today, prior to the 100th anniversary of Eddie Rickenbacker's birth on October 8. My hope, is to work with the leadership of the Banking Committee's Consumer Affairs and Coinage Subcommittee, to comply with the subcommittee rules and pass this legislation early next year. I urge my colleagues in joining me in cosponsoring this bill, and recognizing the achievements of this great American from Columbus.

JOB TRAINING PARTNERSHIP ACT AMENDMENTS OF 1990

The SPEAKER pro tempore (Mr. MCNULTY). Pursuant to House Resolution 478 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2039.

□ 1131

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2039) to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve adults and to youth, and for other purposes, with Ms. SLAUGHTER of New York in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. MARTINEZ] will be recognized for 30 minutes and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, today we bring a comprehensive bill to the floor to amend the Job Training Partnership Act to improve its overall delivery.

Madam Chairman, for the past 7 years, our Nation has faced tremendous pressures from foreign trade competition, from massive structural unemployment, and economic market shifts, and from the ravages of a failed social and educational system that has left us with an enormous labor market skills need challenge. Yet during that time, the Job Training Partnership Act has ably met the challenges confronting our private sector.

To remind the House, this job training program is a unique marriage of public and sector partnerships formed to meet our Nation's employment needs. JTPA pioneered a necessary coordination between sectors of our economy including Federal, State, and local governments; between the educational and vocational systems; and between the vendors and purchasers of labor market services.

This partnership has worked. However, we must not stop there without making essential perfecting changes in this evolving program. The need for modification and clarification in this program has been recognized uniformly by the administration, the Senate, as well as this body.

I must commend the stellar efforts of the esteemed chairman of the Education and Labor Committee, GUS HAWKINS, for his dedication to the JTPA program, and for introducing this timely bill improving the delivery of job training services. I must also commend other Members who have made valuable contributions to this comprehensive bill including: Congressmen GOODLING, FORD, MILLER, WILLIAMS, OWENS, WASHINGTON, FUSTER, GUNDERSON, and BARTLETT.

Madam Chairman, I would like to briefly explain what the bill does. First it targets hard-to-serve workers; it improves targeting services and intervention for at-risk youth; we improve assessment for program eligibility; clarify and stress program and financial accountability; we specify allowable use of funds and activities; we improve performance standard measures; we retain education linkage setasides; we establish a national training institute to improve service delivery and professionalism in the program; we enhance the native American JTPA program; and finally, we improve the program data collection functions.

Madam Chairman, these essential changes are critical to getting the best we can out of this unique training system, while eliminating waste, fraud, and abuse. Some of you may have heard criticisms from portions of the JTPA community who feel they may be losing flexibility over financial and training aspects of the program. I urge you to keep in mind that this is a taxpayers program, not a giveaway program to line the pockets of groups and companies who do not feel they need to be accountable for moneys spent under this program.

I urge my colleagues to support this bill amending the Job Training Partnership Act and avoid amendments which would weaken the program delivery improvements.

Madam Chairman, I reserve the balance of my time.

Mr. GOODLING. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, as a whole, I support the bill before us today.

Despite the overall support, I do have some concerns about the bill that I hope we can resolve either through amendments today or in conference.

Before I talk about these concerns, I would like to discuss how we got to this point.

The Job Training Partnership Act was enacted in 1982 as a permanent authorization. It authorizes the major Federal legislation regarding employment and training programs for this Nation's disadvantaged and dislocated workers. For the most part, this program has worked to bring together State and local governmental entities with the private sector in order to provide supportive services and job training so that those most at risk in our labor market can obtain and retain employment.

For example, in my State of Pennsylvania, almost 570,000 residents, half of whom were on welfare before joining the program, have been served through JTPA since it began.

These amendments do not affect the basic structure of JTPA. Instead, they represent an effort to fine-tune the program and strengthen the basic program based upon recommendations from the employment and training community and the DOL, JTPA advisory and two reports, one from GAO and the other from the Office of the Inspector General. These amendments attempt to better target our Federal resources. I might also add that when the Secretary of Labor came back from a tour of many of these, she was so enthused but also recognized that we needed some changes, some of which are included today.

How is this targeting accomplished? First, the bill attempts to target services on the most at-risk by requiring at least 50 percent of the adult and youth served meet an additional barrier beyond being economically disadvantaged.

The bill also targets youth by separating the youth programs from the adult programs under the current law. In addition, with respect to youth, a change was made in the formula allocation which targets funding to those States and areas with high proportions of economically disadvantaged youth.

Further, the bill targets resources in a more effective manner overall by assuring that participants are assessed and programs designed to meet those specific needs.

A program to specifically target comprehensive coordinated services to disadvantaged youth in areas of high poverty, the Youth Opportunities Unlimited Program, is included in the bill. Originally included in the administration's bill, this proposal is an attempt to reach out to our youth who so often fall through the cracks and never have the opportunity to succeed.

I was pleased to introduce, along with several of my colleagues, the administration's bill over a year ago.

These amendments contain much of what was in that proposal.

However, there are elements of the bill that I do not believe support our efforts to improve the program but, rather, add to the paperwork burden and decreases local flexibility and decisionmaking.

□ 1140

It is my hope that before we send a bill to the President that we will be able to change or remove those provisions and make this legislation a stronger bill. All Members are interested in maintaining our competitive edge. As part of this effort, we need to strengthen the education and occupational skills of our most disadvantaged. We must enable every American, through our education and training programs, to meet the challenges of the workplace, so that we can continue to be a productive Nation. Without programs such as JTPA, we will have failed to meet this need, and we will have failed those disadvantaged individuals who are looking for a way to become part of the mainstream.

It is my intent to continue to work toward a bill that will achieve the overall goal of the improved training system that is sensitive to the complex and comprehensive education and training needs of our disadvantaged youth and adults. I will encourage my colleagues to join with me and support these amendments as part of that effort.

I want to commend those who worked, including the staff and the chairman of the subcommittee, and above all, the chairman of the full committee. This will be his last JTPA bill because he is running out on Members. He has earned his retirement, and we are going to miss him greatly. Certainly this program is one that he has fostered for a long, long time. In spite of what Members may have heard during the campaign, he and the gentleman from Michigan [Mr. FORD], the gentleman from California [Mr. MARTINEZ], and staff, including Beth Buehlmann as well as Senator JEFFORDS were those who were driving hard for this program.

Again, hopefully we can make a few changes, and that it will be a perfect bill that goes to the President's desk.

Madam Chairman, I reserve the balance of my time.

Mr. MARTINEZ. Madam Chairman, I yield such time as he may consume to the gentleman from California [Mr. HAWKINS], chairman of the full Education and Labor Committee.

Mr. HAWKINS. Madam Chairman, I rise in strong support of H.R. 2039, the Job Training Partnership Act Amendments of 1990.

For millions of Americans who are untrained, unemployed, or underemployed, job training offers an opportunity to catapult from poverty, low productivity, or dependency.

Eight years ago, I stood before this body, along with Members from both sides of the aisle, deliberating the conference agreement to the original Job Training Partnership Act [JTPA]. After extensive negotiations and tireless efforts to reach a bipartisan agreement, we developed what we envisioned as a workable and effective job training program. The legislation before us today builds upon that solid foundation and the lessons learned from almost a decade of JTPA experience.

The JTPA program has a permanent authorization and garners bipartisan support. Labor Secretary Dole reiterates that JTPA is a good program but can be improved to respond to the labor market of the 1990's. I believe that this bill makes significant strides in that direction.

Enactment of this bill is imperative. Each year, over half a million of our young people drop out of high school, and estimates are that an equal number graduate as functional illiterates. Millions of our citizens are without jobs, and the unemployment rate is higher than our full employment goal. Two-thirds of our present workforce will remain on the job at the turn of the century, and many are discovering that their skills are obsolete due to increased technology. Without adequate education, employment, and training interventions, the disadvantaged have no hope to improve their prospects for a lifetime of productive work.

H.R. 2039 offers a second chance to those individuals who have serious difficulties in the labor market. It ensures that job training services are focused directly on those least likely to succeed on their own.

This bill makes significant improvements to the JTPA program. Targeting will be tightened so that the harder-to-serve eligibles left behind by JTPA will queue closer to the front of the line. Not less than half of the participants must not only be poor, but have an additional barrier to employment. Incentive grants will be awarded to programs serving the neediest. More intensive, quality training will be required and performance outcomes will reflect this objective. Job search activities must be accompanied by additional services to increase the participant's basic educational and employability skills. Separate, but enriched, programs for adults and for youth will be established to address their particular labor market needs.

One of the fundamental goals of this legislation is to restore and revitalize the Federal role in employment and training programs. The public/private partnership, created under the original act, means that all partners must become actively involved in improving the quality of services and assuring the accountability and integrity of the JTPA system. Therefore, this bill strengthens the Federal role in program evaluation, technical assistance, performance standards, and fiscal accountability.

This bill also retains the 8-percent education set-aside which helps to foster coordination and collaboration between the job training and the education communities. These strong linkages are essential in light of the renewed forcus on basic skills and occupational training.

Recognizing the importance of youth interventions, H.R. 2039 retains the summer youth employment program under current law. Summer is a critical period for keeping young people on a productive path. By offering remediation, work-study programs, and valuable work experience, large numbers of disadvantaged youth are kept on a constructive track.

H.R. 2039 attempts to refocus JTPA's limited resources more effectively to deliver the best training to the disadvantaged. A consensus has emerged on the need to make the essential reforms called for in this bill.

I urge the Members of this body to pass this bill, so we can demonstrate to the American public and to the administration that we are committed to helping those less fortunate among us.

Mr. GOODLING. Madam Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Madam Chairman, I rise in strong support of H.R. 2039, and I am delighted that this legislation has finally come to the floor of this House. Before I speak on the specifics of the bill, I want to join my ranking member and leader, the gentleman from Pennsylvania [Mr. GOODLING] in paying a special commendation to our chairman, the gentleman from California [Mr. HAWKINS]. Mr. HAWKINS is really the father, or at least the brains behind the creation of the Job Training Partnership Act.

Back in the early 1980's, when we all recognized problems with CETA, he was willing to take on the difficult task of developing the infrastructure and the foundation for this program that has worked so well. That is why, when we come here today to deal with the disadvantaged section of the Job Training Partnership Act, we come here not with a major rewrite, because this is legislation that has worked quite well. It has been an important key element in our overall work force preparation as we try to prepare America's work force for the 21st century, and particularly those who are disadvantaged for reasons beyond their control, economic, educationally, socially, or whatever the case might be.

The Job Training Partnership Act is a success story. Over 10 million individuals have been served since 1982.

Over 3 million of those have been permanently placed in good, well-paying jobs, with the opportunity to improve their life and their livelihood, and the quality of that life. What we are trying to do here today is to fine-tune that legislation, to make a good piece of legislation, a good program even better. How are we trying to do that? We are trying to better target it to the services to those most in need. Second, what we are trying to do is deal with both the youth and the adult programs, recognizing the difficult constituencies and the different needs of these programs. I am glad personally we were able to maintain the separate Summer Youth Program, despite efforts by others, including some in the administration, to change that. I think this was important to maintain a separate youth title.

Third, we do have a new program design, including enhanced assessment and followup, to further ensure a careful match between the participants' needs and skills, and services that the Job Training Act can provide.

It is a bill that does have some problems. We are not going to deal with all those problems today. We will have to deal with some, when and if the Senate completes action on this, and we can get to conference before the session. We run the risk here of damaging the major hallmark and foundation of the Job Training Partnership Act, which is local flexibility, the ability to adapt and develop those training programs to the unique needs of that local service delivery area. The OMB circulars, and other programs like that included within this legislation need to be modified, because if we do not, we will run the risk of having created the job paperwork program, not the Job Training Program.

Mr. MARTINEZ. Madam Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. FORD], a senior member of the committee.

Mr. FORD of Michigan. Madam Chairman, this program arose out of a concern that grew over a period of years for programs that were central and grew out of the old CETA Program.

In 1982, this legislation was the result of somewhat different versions of legislation passed by the House and Senate, and was then negotiated in a long conference and became the legislation that we have basically had, without change, since that time. We have heard more about it probably than many Members want to during the last election when the gentleman from Indiana claimed credit for singlehandedly rewriting it. I do remember seeing him at one meeting, so I cannot say he did not. There is a lot more that went on at that meeting than I apparently noticed.

Unfortunately, one of the States where we found the kind of problems that are being cleaned up now, was the gentleman's State, and one of the inherent weaknesses of this program has been that in our zeal to give maximum local control to people designing the programs and operating the programs, we overlooked the fact that there seems to be, inherent in that approach, a strong temptation to cheat. We found businessmen very badly abusing the program, the Job Training Program. The Labor Department inspector general named and told Members that the average on-the-job training program, where we pay 50 percent of the wages to train a dishwasher, was 20 weeks.

□ 1150

I submit there is not a whole lot of training in the third day of washing dishes, but nevertheless, they averaged 20 weeks, with 50 percent of the pay being paid.

Then we found when we looked into that that not all of them even bothered to hire any of the people they had trained for 20 weeks. They hired somebody else and trained them for 20 weeks.

Some of us started out with the idea that we were going to have to write very severe restrictions into this legislation, but in the meantime Secretary Dole, and I say this as a compliment to the Secretary and Assistant Secretary Jones, undertook a very aggressive program to root out these abuses around the country and through regulation in many cases they have reached the problem.

I looked into this for several years and found that the problem came to the attention of people as a result of local political activity. In Indiana, for example, it was an issue in the Governor's race, and the Governor who was Governor when the problem existed is no longer Governor. Somebody else now is the Governor, but he cannot have a program because he has to pay the money back that the Department of Labor said they got improperly in prior times.

Generally when the light of day is focused on these abuses, they are cleaned up rather quickly, and Secretary Dole is to be commended for what has happened since she has been Secretary of the Department of Labor and the kind of people that she has put in charge of this program.

I am satisfied that we do not need the kind of restrictive legislation that people like me were tempted to put into this package earlier on, and I am satisfied that the modest changes we make here, while needed, are consistent with what Secretary Dole has been trying to do to improve the administration of the program and that it will accomplish the purposes for which it was enacted.

Madam Chairman, I rise in support of H.R. 2039 and in praise of its principal author, the gentleman from California [Mr. HAWKINS].

It is no exaggeration to say that if it were not for Mr. HAWKINS there would be no Federal job training program at all. His deep belief in the value of skills training and his fierce determination that the Federal Government not abandon the disadvantaged in our society were chiefly responsible for raising this program out of the ashes of the discredited CETA Program. Few remember it today because Vice President QUAYLE and Secretary Dole have worked so hard to give job training a Republican stamp, but President Reagan and his advisers did want to abandon the disadvantaged. The Reagan position on job training was no job training. It took all of Mr. HAWKINS' considerable skill and energy to save this program, which has done so much for so many.

I also want to praise and thank the Secretary of Labor, Elizabeth Dole, who has been an ardent supporter of JTPA since her first weeks in office and who has become the most powerful voice in Government for upgrading the skills of the American work force. In a time of real budgetary crisis, when the pressure is on to cut every program and to eliminate whatever may be eliminated, Mrs. Dole has fought not just to protect job training, but to expand the Government's efforts to encourage and deliver it. She knows that no investment is more important for international competitiveness, for the self-worth of our citizens, and for the prosperity of our families than an investment in the skills and knowledge that will enable our people—all of our people—to do high quality work.

Mrs. Dole deserves special praise for her handling of these amendments. JTPA has been plagued with problems that have festered and grown over the last 7 years. Someone less committed to the goals and beneficiaries of this program might have been tempted to hide these problems or to settle for token solutions. Secretary Dole has not been tempted.

Instead, she and her Assistant Secretary, Bob Jones, have worked with the committee to come up with real solutions that will ensure that every dollar Congress appropriates for JTPA is well-spent. It goes without saying that the well-organized people who benefited from the abuses in this program have kicked and screamed, but Mrs. Dole has not wavered.

H.R. 2039 will target these scarce funds more efficiently, limit their use to the most productive services, eliminate the most egregious administrative abuses, and focus the efforts of the entire system not just on getting people into jobs but on helping them

acquire valuable skills that will enable them to find and keep rewarding jobs for years to come.

I trust that with the enactment of these reforms we will have heard the last about job training funds spent on trips to Japan and Sweden, on 6-month wage subsidies for dishwashers and parking lot attendants, or on startup costs for foreign factories.

But if we have not, I give my personal commitment to the House that with the help of the Department, its inspector general, and the GAO, I will do my utmost to make JTPA the extraordinarily productive investment in our future competitiveness and economic well-being it has the potential to be.

Mr. GOODLING. Madam Chairman, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Madam Chairman, I would certainly like to begin my remarks by congratulating the chairman of our committee for his leadership and foresight in bringing this to the floor, and of course we all recognize that this is one of his final acts as the chairman and we are going to miss him desperately in the next Congress.

I am also happy to stand here today as one of those who worked with our ranking Republican member, the gentleman from Pennsylvania [Mr. GOODLING] back in 1982 to develop the original bill, which I think everyone has recognized today has been a successful bill with a successful record.

I am encouraged to see that the majority of the JTPA funds will be expended through training programs administered by businesses employing trainees that are referred by JTPA. This is part of the act which I refer to as on-the-job training and for which I fought so hard back in 1982 that it be included in the originally passed bill.

On-the-job-training programs encourage employers to take a chance in hiring the economically disadvantaged, and open doors that otherwise would be closed. The success of this on-the-job-training program is evident in the fact that 83 percent of participants are placed in employment after their training period ends.

Experience like this and success like this has shown that on-the-job-training programs can and should continue to be the most valuable aspect of JTPA. With increased oversight and assurances that training assistance and employer participation does not become merely a form of welfare wage subsidy payments, on-the-job and apprenticeship training can be one of the best ways to get the economically disadvantaged back in the job market as productive and taxpaying citizens.

Because many businesses in the country are experiencing labor shortages, especially in some of the categories of jobs demanding higher skills, it is more important than ever that these amendments begin to shift the focus of JTPA toward training and educating in some of the most intensive remedial education and job skills training.

One example of how these amendments will emphasize education and job skills is the establishment of the Youth Opportunities Unlimited Program, otherwise known as the YOU Program. Secretary Dole should be commended at this point in the discussion, Madam Chairman, because she was the prime advocate for this program and it promises to deliver comprehensive services to youth in high provery communities, not only by providing job training, but by requiring basic education for those without a high school diploma. The YOU initiative will build upon demonstration programs, which successfully have turned around the lives of youth most at risk of failure and of becoming a welfare dependent.

These matching grants provided by this YOU initiative will act as seed money to local communities to increase access to training for those most in need of services. Mrs. Dole again should be congratulated for her leadership and her acknowledgment of the economic and social well-being of this Nation is dependent upon developing every youth to their fullest potential.

Mr. MARTINEZ. Madam Chairman, I yield 1 minute to the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Madam Chairman, I would like first of all to compliment the gentleman from California [Mr. HAWKINS] and the gentleman from California [Mr. MARTINEZ] for bringing this most important piece of legislation to the floor.

As chairman of the Committee on Aging, I am particularly interested in the set-aside for the training of economically disabled senior citizens. I believe that this provision is critical, that it is important, and it is important not only to the senior citizens, but to the Nation. Senior citizens, as well all know, are living longer. They are healthier and have a tremendous contribution to make to the economy of this Nation. This piece of legislation makes that possible.

As we review the characteristics of the current older workers set-aside program, it reveals that assistance is being provided to truly disadvantaged older workers who are very much in need of job training. For example, almost 60 percent of the participants are long-term unemployed and almost 40 percent have less than a high school education.

I would like to conclude, Madam Chairman, by saying that older Americans are an essential resource to this Nation. It is imperative, therefore, that this Nation clearly examine the needs of senior citizens, particularly when it comes to employment. There are many who feel that once you hit the age of 40 that you are no longer in a position to provide the needs of the employer. That is not so.

We had here in the House of Representatives a man who was 88 years of age, Claude Pepper. Claude was as young as any Member of this House at 88 years of age, and there are other Claude Peppers throughout this Nation.

I believe that an opportunity must be given to senior citizens to at least get the training that is needed and then do the job that is necessary to build up this Nation's economy.

Mr. GOODLING. Madam Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Madam Chairman, I rise in strong support of H.R. 2039.

When the JTPA Act was first adopted in 1982, the situation in the United States was very different. We were in the midst of a very, very serious recession with high unemployment, great numbers of displaced workers. The focus of the act was not only to develop partnerships between the private sector and government, but it was also to get the greatest good to the greatest number.

Now, that led to the temptation to skim, that is to say obviously you placed back in employment or into employment as many people as you possibly could with the available dollars, which tempted many program administrators, and from what we have charged them to do, to take the easy ones.

□ 1200

The situation in America is very different today. The economy, although it has soft spots, is relatively strong and healthy. But also we know that the demographics of the work force are changing dramatically.

What this bill does is not to destroy or interfere with the delivery system and the public/private partnership which was worked so ably, but rather to change and target more carefully those to whom the services will be directed. That is a substantial improvement and one which has enjoyed very strong bipartisan support.

However, I wish to address one particular aspect of the bill: The changes made in the bill relative to protections available for older workers under JTPA.

Under the original bill, in 1982 there was a 3-percent set-aside for funds to go to serving the needs of older workers, to direct grants to local service providers.

The problem was that not all States used these funds well or sufficiently. As a matter of fact, in many States the funds were undrawn.

I have to point out, however, that in my own State of Michigan, there the

funds were used very, very well and very effectively.

What this bill does is it takes away the 3 percent set-aside and instead it provides a guarantee that 6 percent of the funds will be designated for serving the needs of older American workers. However, some degree of ambiguity yet exists as to whether or not those unique service providers which are particularly appropriate to the needs of a very unique and specific population will in fact have their continued existence.

The bill does provide that the SBA should give priority to those organizations and entities that have a record of demonstrated effectiveness in providing training and employment services to such older individuals. But it is my hope as we go through conference with the Senate, if indeed we do, that we will be able to strengthen protections in this area so that existing mechanisms of delivering services to seniors will be protected every bit as they have been for the balance of the program.

Mr. MARTINEZ. Madam Chairman, I yield 3 minutes to the gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. Madam Chairman, I thank the chairman for allowing me this opportunity to address an issue important to all people. I would like to thank my colleagues on both sides of the asile for the strong support we have been given in the committee on behalf of this very important bill. We have estimated that the cost of failing to educate and train young men and women for employment in our country costs Americans $225 billion a year. These costs are reflected in lost production, welfare payments, and expenses related to the criminal justice system. This bill will authorize a new year-round youth training program, assure that States and service delivery areas make efforts to increase service and positive outcomes for those hard-to-serve individuals, allows training programs for single parents with dependent children, makes more young adults eligible for the Job Corps Program, increases the age limit from 22 to 25, starts Civilian Conservation centers, improves the management of JTPA programs and allows for the efficient service of residents by allowing country and city service delivery areas to help one another.

It is time to close the skills gap and open the gates of opportunity to all Americans. Without new initiatives and sweeping changes, there can be no soloutions. In the words of Hillel, "If I don't do it, who will? If I don't do it now, when will I? If I do it only for myself, who am I?"

The future of the United States depends on our united ability to discover and develop our human capital in an emerging exploding global economy. The time is now to make JTPA's programs and services work better. The time is now for the passage of H.R. 2039, the Jobs Partnership Training Act of 1990.

Mr. GOODLING. Madam Chairman, I yield 4 minutes to a very distinguished member of our committee who has been very helpful and very effective, the gentleman from Vermont [Mr. SMITH].

Mr. SMITH of Vermont. I thank the gentleman for yielding.

Madam Chairman, I would like to thank the ranking member, Mr. GOODLING, and I too would like to add my thanks and best wishes to Chairman HAWKINS. Much of his attitude about legislating and about people is reflected in the core of the JTPA legislation as it is in the amendments and the changes that we have made this year in the Committee on Education and Labor.

When you get right down to it, as so many other Members have said this morning, the job is different today than it was in 1982, when this first became law in the United States of America.

We are now getting to the hard work. The hard work is the chronically unemployed, the hard work is people who have for whatever reason have been forced out or opted out of productive work, who have been given no chance to ever participate in productive life.

The flexibility of JTPA and the reason that this works so well, its keystone is flexibility. Flexibility in this bill understands that we have to learn continually, with appropriate strings and oversight to be sure, but how we can allow Federal resources to be wrapped around the needs of individuals in communities, because jobs and people and economic progress and educational progress will only be made when it is made in the neighborhoods and on the streets of this country.

The main thrust of this bill is to give people training for jobs, that is the purpose and we know that it succeeds. But I say it also succeeds as an innovation. In my own State of Vermont, for instance, we had Secretary Dole in Vermont to see this program, and JTPA along with other funds trains women for jobs in construction all the way across the spectrum and does it successfully.

So the fact of the matter is that the JTPA in my State, and I suspect in many other States where it is administered appropriately and sensitively, is a force for change in two ways. First, it changes people's lives because it gives people the skills to do jobs that they have not been able to do before because they have not been in the workplace.

Second, it breaks down barriers, whether they be barriers of age, barriers having to do with gender, whatever they may be; and it has been that way in Vermont.

Specifically I am pleased that this bill continues to recognize and really to upgrade the protection given small States—and mine is a small State—for administration. By tying the administrative money in this bill to the functions that are going to be performed as opposed to simply making it a percentage of the funds received.

For those States which receive large amounts of money the percentage is no problem. But with the important and numerous new functions, demands which have been placed on the States, the participant assessment, program design related to that participation absolutely ought to happen. That would have put a very difficult burden on many of the smaller jurisdictions in this country. But thanks to the committee's work and a willingness to listen and to be flexible, the needs of the small States to continue to do the job, the job that they have been doing as well as the job that other States have been doing in JTPA, have been protected, and I thank you for that and I support the bill.

Mr. MARTINEZ. Madam Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Madam Chairman, I rise in support of the bill.

In the closing days of Chairman HAWKINS' career, and he is not on the floor but I think we all owe the gentleman from California a real pat on the back.

I would like to say this, this particular program has been effective in my district and has helped many other districts.

People do not want handouts; people want a job. Let me say this to Chairman MARTINEZ, Chairman HAWKINS, Vice-Chairman GOODLING, Mr. GUNDERSON have home, and maybe they do not realize what they have done: By helping people to get a job, they may not have ended up in prison, because a young person has no opportunity to gain some self-respect or an opportunity to become a part of our participatory society; they end up taking the only jobs available to them, and that is a job on the street.

So I want to comend this committee. I am for this particular bill.

The Warren-Trumbull County employment services agency in Trumbull County in my district, the Youngstown Employment Training Program Corp. in my district, they have done a good job. I commend every administrator and every worker out there, on this particular program.

I am glad to see that we have leadership like that of the gentleman from California, Mr. MARTINEZ, which ensures and guarantees that these programs will continue to be funded and expanded this year which will encour-

age even more participation of the seniors.

This is an excellent bill. I am proud to support it, and I would hope that the Congress recognizes the tremendous contribution of Chairman HAWKINS in his closing days.

Mr. GOODLING. Madam Chairman, I yield 5 minutes to the gentleman from Texas [Mr. BARTLETT].

□ 1210

Mr. BARTLETT. Madam Chairman, I rise in support of this legislation, H.R. 2039. In my view the legislation in its present form does make some improvements to streamline the Job Training Partnership Act from current law. I would also note that the bill is far from perfect in its present form.

There is no underlying requirement that we pass a Job Training Partnership Act bill this year since JTPA is permanently authorized and, therefore, does not expire, and so I will note that there are also some problems in this legislation, some problems that create additional barriers to the use of JTPA money by those who are most in need of job training, and it seems to me that, when we get to the coference committee, those problems with the legislation and those barriers must be removed if, indeed, we are going to have legislation this year.

One of the most significant barriers, it seems to me, is the near prohibition against fixed-price contracts, which needs to be completely redone in the conference.

I rise to take note of one failed opportunity that this bill has, and it will be corrected in an amendment which I plan to offer along with the gentleman from Texas [Mr. WASHINGTON] of Houston. We plan to offer an amendment that would expand the window of eligibility to 25 percent of high school students who are dropouts if those students have an additional barrier in addition to being a dropout. There is currently a 10-percent window of high school dropouts who do not have to prove income eligibility. Successful high school dropout recovery programs all over the country tells us that because the window is only 10 percent, they are basically unable to use that for those number of students who are eligible otherwise for JTPA, but who are unable to prove their income eligibility because of a lack of communication with their parents. Let me tell the House floor what we are doing precisely with this amendment.

Madam Chairman, the amendment is watered down somewhat from the way it was offered in committee. The amendment would say as follows: If a young person under the age of 22 is a high school dropout and wishes job training, including academics and GED type of training, and wishes JTPA money for high school dropout recovery programs to participate in that program, and if that student has at least one additional barrier to employment, barriers such as the lack of English proficiency or basic skills deficiency, illiteracy, a history of substance abuse, homelessness, disability, pregnancy, or parenthood, if that student is both a high school droput and has one additional barrier to employment such as pregnancy or disability, then that student can qualify for JTPA funding up to 25 percent of the total money.

We know in this country that those high school recovery programs that worked to help high school dropouts are those who identify high school dropouts as unemployed and going to be chronically unemployed for a long time to come because they are high school dropouts, and yet we also note with a great deal of dismay in Congress that JTPA funding is largely unavailable to successful high school dropout recovery programs, and the reason is those programs require that student, that young person, to go through an additional step and to prove his or her parents' income. A high school dropout by definition is not getting along very well with his or her family. The family is not in every case, but is oftentimes, dysfunctional and is oftentimes not speaking between the parents and students, and so to require in every single case that the student verify their mother's and father's income is in many cases a test too far, a bridge too far, and is a barrier that leaves the most needy of the high school dropouts ineligible for JTPA funding. This barrier has been identified by, among others, the Texas Association of Private Industries council who passed a resolution, by the National Commission on Employment Policy in their report entitled "Training Hispanics" and in their recommendation to the States that they seek ways to reduce documentation and requirements.

So, Madam Chairman, this amendment would permit, for 25 percent of the funding of youth funding only, up to 25 percent of the money to be made eligible to high school dropouts who are otherwise eligible for JTPA who are both dropouts and have another significant barrier in their lives; pregnancy, substance abuse, illiteracy, to allow 5 percent of those students to be eligible for JTPA even though they may not be able to verify their parents' income.

It is an amendment that will help recover these high school dropouts, and I commend it to my colleagues' attention.

Mr. MARTINEZ. Madam Chairman, it appears I have no more speakers, however, before I yield back the balance of my time, there is just the one problem that I have with the amendment that the gentleman from Texas will be offering. It is the fact of income eligibility.

As my colleagues know, this individual who might be a dropout could come from a very wealthy family, someone who hardly lacks through his family the resources to address his problems. As my colleagues know, I can understand what the gentleman is trying to do to expand to those people who are dropouts, students who have language problems, but who might necessarily not be of wealthy parents. However, let us take the middle income where today anymore middle-income parents are having a hard time making ends meet anyway, and many of those middle income are just barely above the poverty level, and, if they have a number of people in the family, they are going to be the kind of people that the gentleman from Texas would like to reach.

However, Madam Chairman, what I am concerned about, with no confirmation of income eligiblity, that there are people that might get into this program where a very limited amount of money exists and take it away from those who actually need it.

Mr. BARTLETT. Madam Chairman, will the gentleman yield?

Mr. MARTINEZ. I yield to the gentleman from Texas.

Mr. BARTLETT. Madam Chairman, I would comment to the gentleman from California [Mr. MARTINEZ] that conceptually, theoretically, that is possible. It is not likely, and it has never happened.

I would just inquire of the gentleman as to how he would, without this amendment, how he would respond to that 16-year-old high school dropout who is pregnant and a former substance abuser who wants to get her GED and whose father will not fill out the forms. How would he provide some kind of recovery program for that student using JTPA?

Mr. MARTINEZ. Madam Chairman, I would think that we would possibly arrange the bill so that in that particular kind of an instance there need to be some verifications. The problem is the way in which the bill is written where there is no verification of income eligibility, and, if there were some way to definitely prove the situation as described, I think that person should be entitled. But I feel there needs to be some way for that to be verified.

Mr. BARTLETT. Madam Chairman, will the gentleman yield?

Mr. MARTINEZ. I yield to the gentleman from Texas.

Mr. BARTLETT. Madam Chairman, under the bill that is before us, without this amendment that student would be denied. No eligibility at all without any exceptions. I have redrafted it from the committee, and I commend it to the attention of the

gentleman from Texas [Mr. MARTINEZ]. The way I have drafted it now may meet the gentleman's objection because we require one additional barrier, pregnant, substance abuser, and it is only a 25-percent window. So, these dropout recovery programs will, in fact, look toward income eligibility every chance they get.

Madam Chairman, these are kids that need help, and we ought to be setting out to help them.

Mr. MARTINEZ. Madam Chairman, here again my concern is the way it is written. There is still the potential, as the gentleman from Texas [Mr. BARTLETT] admits, for someone who does not really truly need it to be eligible for it under the language as it is written now, and that really takes away from those that absolutely need it, and the program intentionally was designed to target the most needy.

□ 1220

Mr. WASHINGTON. Madam Chairman, will the gentleman yield?

Mr. MARTINEZ. I yield to the gentleman from Texas.

Mr. WASHINGTON. Madam Chairman, I thank the gentleman for yielding.

Following on what my colleague, the gentleman from Texas, said, I think our concern is the same as that of the chairman of the subcommittee. None of us wants the funds abused. We want them to get to the people that need them.

Our concern, however, is with a person whose family income may be $5 over the limit or who may be disabled in some way and is kept out of the program altogether. It seems to me we ought to find ways to include people rather than find ways to exclude people, and I would hope that during the debate on the amendment, when it is offered, we can arrive at some accommodation by which we can get what the chairman wants to do and reach the accord my colleague, the gentleman from Texas, and I want. We want to close the loopholes so that the fraudulent applicant is turned down or is even dissuaded from applying. At the same time we recognize that a hardship may occur, and we think we have met that with the additional barrier that is put in.

I know the gentleman is going to look at this, and maybe we can persuade him to be favorably disposed toward some accommodation between where we are now and then. But I believe the bill without that amendment will fall short of its mark in terms of reaching the people who need it.

Mr. MARTINEZ. Madam Chairman, let me assure both gentlemen from Texas that I have an open mind on this. There is a consideration by the chairman also, and he had wanted to address this matter. He will address it between now and the time the amendment is offered. Between now and then, maybe there is some compromise that we can work out.

Mr. WASHINGTON. Madam Chairman, I thank the gentleman from California.

Mr. MARTINEZ. Madam Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Madam Chairman, I rise in favor of this legislation, and I take the well briefly just to thank all those who have worked so very, very hard on the bill. I thank the subcommittee chairman for guiding it through the subcommittee, as well as the gentleman from Wisconsin [Mr. GUNDERSON], the gentleman from Pennsylvania [Mr. GOODLING], and the committee chairman, the gentleman from California [Mr. HAWKINS], all of whom have brought a great deal of sensitivity and urgency to this matter. They recognize quite franky how this affects all of us in this Nation and why it is so very crucial that we move forward on it. that type and that level of leadership, I think, is to be commended, and certainly it makes this a much better body.

Madam Chairman, I am privileged to stand here in support of the legislation.

Mr. GOODLING. Madam Chairman, I yield myself 1 minute.

Madam Chairman, I merely want to indicate that I believe the gentleman from Texas [Mr. BARTLETT] and the gentleman from Texas [Mr. WASHINGTON] have now drawn their amendment tightly enough that I will not have an objection to it. I want everything to be targeted as much as possible.

However, yesterday I was visited by representatives of the Hispanic community, and they have a concern with this. Without the amendment, their concern is that if we do not have that one other barrier, which in their case in most instances will be limited English proficiency, and then the dropout rate being the other, without this opening of the window, their fear is that they will not be able to participate as they feel they should be able to. So I will be supporting that amendment.

Mr. WILLIAMS. Madam Chairman, I would like to congratulate Chairmen HAWKINS and MARTINEZ for developing this legislation before us today.

This legislation incorporates my Jop Corps amendments, H.R. 2665, of last year which more than 100 of my colleagues cosponsored. These amendments: First, clarify the authority to permit concurrent or subsequent participation in Job Corps and JTPA for the benefit of the individual; second, increase the limitation on nonresidential participation in Job Corps from 10 percent to 20 percent nationally; third, provide alcohol and drug abuse counseling; fourth, increase the age limit to 25; and, fifth, protect the Civilian Conservation Corps Job Corps centers on public lands.

It includes my language to establish a national and several regional training institutes to improve the quality of service delivery at the local level. It also reforms the administration of Indian programs under this act.

In addition, it includes the legislation I authored with Chairman HAWKINS, H.R. 3517, the disaster relief employment act. This legislation is designed to create permanent authority to continue to allow the Secretary to respond to disasters as she has under section 323(b(and 324 of current law.

It also contains my bill (H.R. 4120) to extend the Job Corps to homeless families. This amendment is designed to provide services and facilities to eligible homeless individuals and their families who have not attained the age of 25 at the time of enrollment.

These services and facilities shall be provided under a project agreement with one or more State of local agencies that: First, requires such State and local agencies to provide not less than 50 percent of the costs; second, contains provisions to ensure that enrollees and their families are effectively assisted in obtaining all necessary health, education and social services provided by existing Federal State and local programs; and, third, requires State and local agencies to provide transitional assistance, including housing, necessary to effect successful job placements for enrollees.

This legislation contains my compromise formula for allocating youth funds. The original bill heavily weighted data on economically disadvantaged youth, a far more unreliable data base that is far less often updated than unemployment. When this committee has reported youth employment and training legislation in the past, it has chosen to emphasize unemployment. In 1980, when this committee reported H.R. 6711, sponsored by Chairman PERKINS, and Representatives GOODLING, FORD, KILDEE, BUCHANAN, SIMON, and JEFFORDS, we allocated 75 percent of the funds based on unemployment. In 1984, when this committee reported H.R. 5017, two-thirds of the funds, as in current law, were allocated based on unemployment. I mention this to note the prior precedent of this Committee. The reported bill in the Senate, which has been stalled since last year because of the formula, allocated 75 percent of the funds on economically disadvantaged youth while the original House bill allocates two-thirds of the funds using that criterion.

Ms. SNOWE. Madam Chairman, I rise to express my support for H.R. 2039, legislation making improvements in the Job Training Partnership Act [JTPA] of 1982. I commend my colleagues on the Education and Labor Committee for making changes in this program which will better prepare its participants for the future.

As America stands on the brink of the 21st century, there is a great deal of work to be done to ensure our continued growth and prosperity. Advances in technology, increasing competitiveness on the international market, and the shrinking work force caused by the aging of the baby boom are only a few of the challenges we must be prepared to meet.

JTPA, by providing education and training to our disadvantaged youth, plays an increasingly key role in ensuring America is ready for tomorrow.

The basic skills learned through the Job Corps or the summer youth program will allow these young people to prepare themselves for the challenges ahead of them. The local input of the members of the Private Industry Council while also ensure that the skills learned will meet the needs of the local economy.

I am particularly pleased that the committee has included provisions to help single parents. By increasing the limitations from 10 to 20 percent for nonresidential participants in the Job Corps, and by requiring the Department of Labor, to provide child care at Job Corps centers where feasible, the committee is reaching out to a large population of young, single parents who have been unable to take advantage of the program because they did not have access to child care.

The ability to compete in our work force increasingly depends on one's education. Those young people who have not finished high school are eager to compete, but need the help of JTPA's programs in order to do so. A helping hand today through JTPA provides a skilled worker for tomorrow's work force.

Mr. SERRANO. Madam Chairman, I rise in strong support of the Job Training Partnership Act Amendments, H.R. 2039.

This legislation is badly needed as part of the rescue mission of our youth from the destructive forces lurking in society. The JTPA provide our economically disadvantaged and dislocated teenagers, who are not prepared for today's sophisticated job market, a chance to compete for better skills and way to improve their standard of living.

During the last several years, there has been an enormous effort to reform our current system of public assistance, to lessen the dependence of public assistance and motivate public assistance recipients to becoming gainfully employed. But what good does it do to encourage people to become employed if their occupation does not provide some satisfaction and gratification. What good does it do to encourage people to become gainfully employed if they will earn more by remaining on public assistance than by having a job?

Madam Chairman how can we encourage people to take advantage of this initiative if they are not properly prepared to enter the job market. The legislation before us today is one of several job training programs that ensures that citizens of this country are given the opportunity to learn marketable skills.

JTPA is the primary source of funding for New York City's employment and training programs. Despite job growth and a decline in unemployment in New York City and many areas of the country, there are still large numbers of adults and youth who lack basic and occupational skills. The city Department of Employment made fundamental changes in its JTPA programs. These included targeting services to the city's least job-ready populations, including individuals deficient in basic skills, public assistance recipients, high school dropouts, teenage parents, and others facing multiple barriers to employment.

The New York City Department of Employment also mandated that its occupational training programs be integrated with basic skills instruction, as well as counseling and other support services. The city's challenge, and ours, is to ensure that adults and youth are well prepared for jobs that offer career development and financial stability.

I wholeheartedly support H.R. 2039 and I urge my colleagues to support its final passage.

Mr. CONTE. Mr. Chairman, I rise today in support of H.R. 2039. As a longtime supporter of the JTPA programs I am pleased with the bill the committee has brought to the floor because it improves an already solid piece of legislation. Let me highlight a few of the changes.

JTPA will be able to better target services because the basic grant program is divided into separate youth and adult parts, with the expanded adult services going to adults who have not graduated from high school, lack basic skills, receive AFDC, or are unemployed for longer than 6 months.

The bill also provides for assessment of participant's skills, continuing counseling and supportive services after participants exit the program, and estabishing linkages across education agencies.

For youth services the percentage of out-of-school youth will be at least 50 percent and could include youth who are pregnant parenting, who lack basic skills, or have limited English language proficiency. Targeting has long been a JTPA weakness. Under this bill that weakness has been vaporized.

The summer youth program has a $900 million authorization and a new formula giving 60 percent of the money to the unemployed, 20 percent to the economically disadvantaged, and 20 percent to AFDC recipients. While that is good news to nearly everyone, the 15 percent limitation on administrative costs may need more scrutiny. Hopefully that will happen in the Senate and Conference.

For Job Corps there are several terrific changes, such as raising the percentage of non-residential slots from 10 to 20 percent giving priority to single parents with children, and requirements to help participants overcome their drug problems.

Madam Chairman, the list goes on, but the facts are simple—this is a good bill which I urge everyone to support.

Mr. GAYDOS. Madam Chairman, I rise in strong support of H.R. 2039, the Job Training Partnership Act Amendments.

These amendments to the JTPA Program are vital if we are going to streamline the program and ensure that dollars spent go more toward training workers than to administrative operations of training agencies.

Under the present structure of the program, JTPA funds are distributed to each State according to a specific formula and are then further distributed to service delivery areas within each State by the Governor.

There is a problem with JTPA, however. Unfortunately, instead of using dollars to train unskilled workers who need the most help or those displaced workers who will be harder to retrain and place in jobs, too many of those workers in the program are those most likely to get the jobs, even without this assistance.

Furthermore, companies are hiring and training unskilled workers with JTPA funds, even though the companies themselves admit they would have hired and trained these workers anyway, and at the companies' own expense.

These amendments attempt to target JTPA dollars to those unskilled and displaced workers who are most in need—returning the emphasis to the original intent of the program.

Additionally, this package of amendments to JTPA focuses more attention on helping youth, both those who are no longer in school and those who are seeking summer programs.

Madam Chairman, as many in this Chamber know, I have been and still am a strong supporter of the career training schools in this country. But those schools cannot serve everyone, as much as they try.

The attempt in this legislation to recommit the program to helping our youth achieve skills for work as well as for leadership is a necessary element.

JTPA came into existence about the same time as the steel industry in my congressional district entered its decline, a decline which strangled employment in Allegheny County.

JTPA was, and continues to be, a shot in the arm for the area, leading to the placement of more than 30,000 displaced workers in new jobs in Allegheny County since 1983.

But the program has done more than just place people in jobs, in some cases it has served to restore their dignity and confidence in themselves.

Let me tell you about a McKeesport man, one of those 30,000 faceless steel workers who suffered when the steel industry, battered by increasing foreign imports, shut doors to the mills and permanently laid off its workers.

This man worked for Bucyrus-Erie Steel in Glassport. When the mill closed, he lost his job—and much, much more. Ultimately, he lost his home—his family—and, as I mentioned, his dignity.

JTPA gave this man the opportunity to build a new life—and he took it.

This man was one of several recent graduates of the program and spoke at a special ceremony honoring JTPA in the Pittsburgh area. Today, he said, he's back on track, working through a county program and rebuilding his life—and regaining his dignity.

I know there are some who oppose this bill because it sets real limits on how much of the funds can be used for administrative purposes. I realize that there are times when unexpected costs arise, but I am convinced that the dollars assigned to this program should be used to help people like my constituent.

That is what it is all about—helping our young people to have a future, helping displaced workers develop new job skills so that they can again support their families and regain their self-confidence.

I support H.R 2039, and I urge all of my colleagues to vote for its passage today.

Mr. RAHALL. Madam Chairman, I rise in strong support of H.R. 2039, a bill amending the Job Training Partnership Act.

Madam Chairman, all JTPA programs serve West Virginia, and are most beneficial to my southern congressional district due to our con-

tinuing struggle to make a full economic recovery.

Throughout its existence, our State economy has been profoundly affected by its geography. The rugged terrain and the bountiful deposits of coal, oil, salt, limestone, and clay shaped the nature of the State's economic development early on, and has remained so until today. Yet economies based on the extraction of minerals are generally slower to evolve into mature economies than are more broadly based ones. Much of West Virginia's growth retardation stems from the damage caused by the widely gyrating boom and bust cycles common to our basic commodity market—mostly that of the coal industry.

By having never quite achieved an even leval of growth, our State's infrastructure, labor market, and distribution systems seldom match the needs of the resident populations.

While West Virginia has not made a full economic recovery from the recessions and economic downturns of the decade of the 1980's, West Virginia is winning its struggle to acheive stability. Nonetheless, our State still has high incidences of unemployment due to plant closings and the closure of coal mining operations, and these facts bring to the forefront West Virginia's continuing need for job training and retraining programs, for older workers who worked long and hard in jobs suddenly lost, and for our young people who either need to enter the work force right out of high school, or who have dropped out of school and are in need of basic skills training.

I am pleased to have this bill before us today, and I commend our distinguished chairman of the Education and Labor Committee, and its ranking member, for giving us this opportunity to adopt H.R. 2039 for the good of the Nation's job training needs. The JTPA Program has as its concept a partnership between elected officials and the local employer community who plan, administer, and evaluate local programs to benefit local individuals.

JTPA is designed to increase the relevance of skills taught and the quality of skill levels achieved, in order to improve the placement and retention of trainees in unsubsidized jobs.

H.R. 2039 now before us for our consideration, provides the following new and revised JTPA programs for the States and localities:

Title II-A, a program for adult and older workers, establishes a separate program for adults over the age of 22, and older workers, age 55 and older, and requires that not less than 50 percent of participants in a service delivery area must fall in one or more of the following categories: First, basic skills deficient; second, school dropouts; third, Aid to Families with Dependent Children recipients; and fourth, unemployed for the previous 6 months or longer. More important, the bill retains the allocation formula in current law, with two-thirds based on unemployment, and one-third based on economically disadvantaged.

Service delivery areas [SDA's] are required to set aside 6 percent of title II-A funds to operate job training programs for older individuals. The bill makes organizations representing older workers eligible for membership on State job training coordinating councils and private industry councils. Further, the bill extends community based organization status to older worker organizations.

There are currently 452,359 persons over the age of 55 in West Virginia, with 98,434 between the age of 55 and 59, and 96,734 between the age of 60 and 64. Even the remaining 257,191 persons over the age of 65 who are interested in jobs, could benefit from the bill we are passing today, if they are otherwise qualified.

The summer youth title is retained, and is authorized at $900 million in fiscal year 1991 and such sums thereafter. In the future, SDA's will be required to provide assessments to participants in the summer youth program.

A new program, under title II-C, known as the Year-Round Youth Program, is authorized to be funded at $1 billion, and will serve youths aged 14 to 21. Under this new program, 50 percent of all participants must be out-of-school youth, with jobs allocated on a priority basis for school dropouts. All remaining funds must be spent on in-school, but at-risk youth.

The youth allocation formula has been revised so that funds under the title II-B and II-C programs will be distributed as follows:

Sixty percent allocated on the basis of relative number of unemployed, 20 percent allocated on the basis of relative numbers of economically disadvantaged youth, and 20 percent on the basis of the relative number of recipients of AFDC.

In West Virginia today, there are 147,169 youths between the ages of 15 and 19, and 136,920 between the ages of 20 and 24 years of age. These youths will also have a chance to benefit from this JTPA bill.

State setasides are required under titles II-A and II-C. Eight percent must be used for education coordination, 3 percent for incentive grants for serving the targeted least job ready, and 5 percent for State administration. The bill establishes an annual $450,000 floor to ensure adequate funding of administration for small States.

Of immense interest to me, Madam Chairman, is the proviso in the bill encouraging SDA's and service providers to also provide child care to JTPA participants. In fact, in the selection of service providers under JTPA, special consideration will be given to those who do offer appropriate support services, including child care. As evidenced by our ongoing efforts to enact child care legislation so that all people, but particularly those trying hard to get training and find jobs in order to move off welfare rolls, need affordable, safe places to leave their children while away from home during the day. This will go far to provide that critical support service until Congress enacts the child care bill now pending in conference.

Under the bill, at least 80 percent of an SDA's allocation is to be expended on training, training related services, and participant support services, with a limitation of not more than 20 percent for administrative costs.

The bill further prohibits single unit charging, except for tuition costs or off-the-shelf commercial training packages.

Madam Chairman, H.R. 2039 also expands the age limit for eligible participants up to age 25, and increases the nonresidential limit in current law from 10 to 20 percent, under the Job Corps provisions. Further, the bill provides priority for single parents with dependent children for nonresidential training opportunities, and requires Job Corps centers to provide drug and alcohol abuse counseling. Child care, if feasible, is also to be offered to Job Corps participants, and clarifies that Job Corps participants may transfer to and from JTPA title II programs. The bill also prohibits nongovernmental entities from operating civilian conservation centers of the Job Corps on public lands.

Job Corps centers can also provide services to the homeless when State and/or local agencies agree to pay at least half of the costs and to provide transitional assistance to participants.

H.R. 2039 authorizes $50 million in fiscal year 1991 for a comprehensive intervention program for youth residing in high-poverty areas in urban and rural areas. This provision will be especially beneficial to West Virginia and to my district, because of its 63-percent rural population.

Finally, Madam Chairman, the bill provides grants to the States to develop demonstration and exemplary programs to train and place women in nontraditional jobs.

Madam Chairman, I strongly recommend H.R. 2039 to my colleagues for their support and passage.

Mr. HUGHES. Madam Chairman, I rise in strong support of this bill which I believe will help the Job Training Partnership Act better respond to a changing economy, and I wish to particularly emphasize the importance and success of the program's older worker set-aside.

Testimony before my Subcommittee on Retirement Income and Employment reveals that workers age 55 and over stay unemployed longer than any other age group. What is worse, these older workers are considerably more likely than younger workers to end a period of unemployment by leaving the labor force altogether rather than finding a job.

Many lack the skills or access to training programs in the private sector which might make them more marketable. This situation is both tragic and costly. For persons over the age of 50 or 60, unemployment means the loss of health benefits and savings at a time when these individuals have a higher incidence of health problems. We can and must help these individuals learn the skills which are necessary to return them to the labor force.

We have such a program right now, the older worker program under the Job Training Partnership Act. In my home State of New Jersey this program is working wonderfully. In one innovative program, for example, JTPA funding is used to train older workers to be day care providers. The intergenerational assistance I have seen provided in this program is truly outstanding.

I simply don't buy the argument that there aren't enough older workers who would benefit from the assistance provided by the JTPA to justify a special set-aside. Many are in need of the assistance. The problem is that efforts to include older workers in JTPA programs, particularly in the earlier stages of the program, often didn't take into account the fact that methods to locate and train younger

workers are not necessarily going to work for older workers.

As we have begun to target these programs more to the needs and characteristics of workers 55 and over in New Jersey and many other States, the results have been very positive. Pulling back from the older worker set-aside program would be like admitting defeat. We know there are workers who need assistance, but because we don't have all the answers, some would have us just give up.

But that would be costly and just plain wrong. I urge my colleagues who believe in the value of older workers to support this important bill.

Mrs. LOWEY of New York. Madam Chairman, I rise in strong support of the Job Training Partnership Act amendments.

The economic warning signs are clearly increasing in recent months. As growth slows and the likelihood of a recession increases, it has become increasingly important for our Nation to devise and implement a comprehensive policy designed to revitalize our economy and enhance our competitiveness in the world marketplace.

The bill before us today, the Job Training Partnership Act amendments, is one important part of such a strategy, and it deserves the strong support of the House of Representatives.

Of course, the ongoing Federal budget deficit continues to be a major obstacle to growth, and we must arrive at an equitable agreement to reduce the deficit substantially. This must continue to be a top priority of Congress and the President. We must also take steps designed to improve research and development, expand foreign trade, and encourage savings and investment.

But if we are to fully meet the enormous economic challenges that we currently face, we are also going to have to make major improvements in our Nation's education and training programs. If we hope to remain competitive in the 21st century, we must ensure that our Nation's workforce is properly educated and properly trained.

The Job Training Partnership Act is designed to help us meet the economic challenges that we face. It is aimed at ensuring that economically disadvantaged adults and youth receive the training that they need to become fully productive members of our society. This program brings together private industry, educational agencies, organized labor, community-based organizations, and government in a partnership that has proven to be uniquely successful in meeting the needs of our disadvantaged citizens. And as our economy increasingly demands workers with higher skill levels, the importance of the Job Training Partnership Act is growing.

The bill before us today makes several important changes designed to ensure that those with the greatest need receive the services that they require to succeed in the workplace. It will improve the delivery of services to hard-to-serve youths and adults. It will help our Nation meet the rapidly changing demands of an increasingly complex workplace. And it will help our Nation respond to the economic difficulties in which we now find ourselves.

We must recognize that the economic future of our Nation is at risk. Unless we respond now to the economic challenges we face, and unless we respond in a comprehensive and energetic fashion, we will be left behind in the world marketplace, and the economic future of our Nation will be compromised.

Today, we have the opportunity to enact one portion of such a comprehensive strategy—a bill that will help ensure that our work force is prepared to meet the challenges of the coming century. In the interests of our economic security and the well-being of all American families, which are threatened by the potential economic turmoil that may occur in the absence of comprehensive action, I urge the swift adoption of this very important bill.

Mr. GOODLING. Madam Chairman, I yield back the balance of my time.

Mr. MARTINEZ. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment, in the nature of a substitute now printed in the reported bill shall be considered by sections as an original bill for the purpose of amendment, and each section is considered as read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 2039

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Job Training Partnership Act Amendments of 1990".

(b) REFERENCES.—References in this Act to "the Act" are references to the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(c) Table of Contents.—

Sec. 1. Short title; references; table of contents.
Sec. 2. Authorization of appropriations.
Sec. 3. Definitions.
Sec. 4. Amendments to part A of title I: service delivery system.
Sec. 5. Amendments to part B of title I: additional State responsibilities.
Sec. 6. Amendments to part C of title I: program requirements for service delivery systems.
Sec. 7. Amendments to part D of title I: Federal and fiscal administrative provisions.
Sec. 8. Amendments to title II: improved delivery of services to adults and youth.
Sec. 9. Amendments to part A of title IV: employment and training programs for Native Americans and migrant and seasonal farmworkers.
Sec. 10. Amendments to part B of title IV: Job Corps.
Sec. 11. Amendments to part D of title IV: national activities.
Sec. 12. Amendments to part E of title IV: labor market information.
Sec. 13. Establishment of new part H of title IV: training institutes.
Sec. 14. Establishment of new part I of title IV: Youth Opportunities Unlimited program.
Sec. 15. Establishment of a new part J of title IV: disaster relief.
Sec. 16. Nontraditional employment.
Sec. 17. Uniform reporting requirements.
Sec. 18. Effective date; transition.

The CHAIRMAN. Are there any amendments to section 1?

The Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 3 of the Act is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) TITLE II AUTHORIZATIONS.—

"(1) PART A.—There are authorized to be appropriated to carry out part A of title II $1,100,000,000 for fiscal year 1991 and such sums as may be necessary for each succeeding fiscal year.

"(2) PART B.—There are authorized to be appropriated to carry out part B of title II $900,000,000 for fiscal year 1991 and such sums as may be necessary for each succeeding fiscal year.

"(3) PART C.—There are authorized to be appropriated to carry out part C of title II $1,000,000,000 for fiscal year 1991 and such sums as may be necessary for each succeeding fiscal year.";

(2) by redesignating subsection (c) as subsection (b); and

(3) by inserting after such subsection (b) the following:

"(c) TITLE IV AUTHORIZATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out parts C, D, E, F, G, and H of title IV for fiscal year 1991 and each succeeding fiscal year an amount equal to 7 percent of the amount appropriated for parts A and C of title II for such fiscal year.

"(2) NATIVE AMERICAN AND MIGRANT PROGRAMS.—There are authorized to be appropriated—

"(A) $70,000,000 for fiscal year 1991 and such sums as may be necessary for each succeeding fiscal year for the purpose of carrying out section 401;

"(B) $70,000,000 for fiscal year 1991 and such sums as may be necessary for each succeeding fiscal year for the purpose of carrying out section 402.

"(3) YOU PROGRAM.—There are authorized to be appropriated $50,000,000 for fiscal year 1991 and such sums as may be necessary for each succeeding fiscal year for the purpose of carrying out part I of title IV.

"(4) RESERVATIONS.—The Secretary shall reserve from the amount appropriated under paragraph (1) for any fiscal year—

"(A) an amount equal to 5 percent of the amount appropriated under paragraph (1) to carry out part C of title IV;

"(B) $2,000,000 to carry out part F of title IV;

"(C) an amount equal to 0.30 percent of the amounts available for parts A and C of title II, for purposes of carrying out part H of title IV.".

(b) CONFORMING AMENDMENTS.—(1) Section 3(e)(2) of the Act is amended by striking "part A" and inserting "parts A and C".

(2) Section 302(a) of the Act is amended by striking "section 3(c)" and inserting "section 3(b)".

(3) Section 401 of the Act is amended by striking subsection (j).

(4) Section 402 of the Act is amended by striking subsection (f).

The CHAIRMAN. Are there any amendments to section 2?

The Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. DEFINITIONS.

Section 4 of the Act is amended—

(1) by striking paragraph (3) and inserting the following:

"(3) The term 'basic skills deficient' means reading or computing skills at or below the 8th grade level on a generally accepted standard test or equivalent score on a criterion referenced test.";

(2) by inserting "the Association of Farmworker Opportunity Programs, the Center for Employment Training, organizations serving older workers," after "Jobs for Youth," in paragraph (5);

(3) in paragraph (8)—

(A) by striking "level determined in accordance with criteria established by the Director of the Office of Management and Budget" and inserting in lieu thereof "income guidelines promulgated each year by the Secretary of Health and Human Services";

(B) by inserting "(or has been determined to be eligible to receive)" after "is receiving" in subparagraph (C); and

(C) by inserting "subsections (a) and (c) of" in subparagraph (D) after "under";

(4) in paragraph (10) by striking "handicapped individual" and inserting in lieu thereof "individual with disabilities";

(5) in paragraph (22) by striking "Trust Territory of the Pacific Islands" and inserting in lieu thereof "Freely Associated States, the Republic of Palau, and the Commonwealth of the Northern Marianas";

(6) in paragraph (24) by inserting "drug and alcohol abuse counseling and referral, individual and family counseling", after "health care,";

(7) by amending paragraph (29) to read as follows:

"(29) The term 'displaced homemaker' means an individual who has been providing unpaid services to family members in the home and who—

"(A) has been dependent either—

"(i) on public assistance and whose youngest child is within 2 years of losing eligibility under part A of title IV of the Social Security Act, or

"(ii) on the income of another family member but is no longer supported by that income, and

"(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.";

(8) by adding at the end thereof the following new paragraphs:

"(30) The term 'enrollment' means that an individual is determined eligible for participation in programs authorized and funded under this Act. The date of enrollment in the program shall be the first date, following intake, on which the participant started receiving subsidized employment, training, or services funded under this Act.

"(31) The term 'participant' means an individual who has been determined to be eligible to participate in the program and who is enrolled in and is receiving services funded and authorized by this Act.

"(32) The term 'termination' means the separation of an individual who was determined eligible for participation in an activity authorized and funded by this Act and who did, in fact, enroll in and receive services authorized and funded by this Act.

"(33) The term 'school dropout' means an individual who is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

"(34) The term 'JOBS' means the Job Opportunities and Basic Skills Training Program authorized under part F of title IV of the Social Security Act.

"(35) The term 'program income' means income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, and from the sale of commodities or items fabricated under a grant agreement (as such terms as defined by the Office of Management and Budget Circulars or the Common Rules, or both).

"(36) The term 'interest income' means interest earned by grantees and subgrantees on grants funds, in their possession (as such terms are defined by the Office of Management and Budget Circulars or the Common Rules, or both).

"(37) The term 'profit' means funds under this Act received in excess of costs incurred.".

AMENDMENT OFFERED BY MR. CONDIT

Mr. CONDIT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONDIT:

Page 6, line 3, strike out "and", and after line 5 insert the following:

(D) by striking "or" at the end of subparagraph (E); and

(E) by inserting before the period at the end of subparagraph (F) the following: "; or (G) is a migrant or seasonal farmworker who either meets the requirements of clause (B) or whose total family income for any consecutive 12-month period within the 24 month period prior to application for the program involved meets the requirements of clause (B)";

Mr. CONDIT (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CONDIT. Madam Chairman, first of all, I would like to thank and commend the chairman of the committee, the gentleman from California [Mr. HAWKINS] and the staff for the fine work they have done on this bill and for assisting me in drafting this amendment.

Madam Chairman, I am here today to offer this amendment which would revise JTPA eligibility requirements for migrant and seasonal farmworkers. Specifically, this amendment would provide that income calculations for determining "economically disadvantaged" account for the family income for 12 consecutive months within a 24 month period, rather than 6 months, preceeding the person's application.

The 6-month requirement under current law operates to adversely impact seasonal farmworkers, and their children, who are in need of job training services. This impact is most dramatically demonstrated in JTPA youth programs which operate concurrently with the school year.

Specifically, youth in dropout prevention programs generally enroll in September through November, at the tail-end of the farming season. Current law requires consideration of family income for 6 months preceeding the application. This 6-month period generally incorporates the spring and summer months, a period of continuous employment for farmworkers. Unfortunately, this timeframe fails to account for long periods of unemployment during the preceeding winter months. As a result, at least 30 percent of the seasonal workers in my district who would otherwise be eligible for JTPA are deemed ineligible.

This amendment, in requiring consideration of a consecutive 12 months within 24 months prior to the application will provide for a more accurate assessment of the family's economic situation. This needed change is in keeping with the spirit of JTPA by providing job training services to those who are in need.

I urge the Members of this body to support this amendment.

Mr. MARTINEZ. Madam Chairman, I rise in support of the amendment.

Given the seasonal nature of migrant farmworker wage earnings, it is difficult to determine their eligibility for JTPA programs because the preview of their prior income is limited to 6 months. The Condit amendment would provide a more realistic appraisal of income by extending the review period to the prior 12 months. I urge my colleagues to support this amendment.

Mr. GOODLING. Madam Chairman, I move to strike the last word, and I rise in support of the amendment.

Madam Chairman, the gentleman from California [Mr. CONDIT] is making a necessary correction to what is already in the regulations under the current legislation. But above all, probably the most needy in this country as far as this legislation is concerned are the children of migrant workers, so this is a very important addition to the bill, and I commend the gentleman for offering the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. CONDIT].

The amendment was agreed to.

Mr. MARTINEZ. Madam Chairman, I ask unanimous consent that the balance of the committee amendment in the nature of a substitute be open to amendment at any point and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the balance of the committee amendment in the nature of a substitute is as follows:

SEC. 4. AMENDMENTS TO PART A OF TITLE I: SERVICE DELIVERY SYSTEM.

(a) PRIVATE INDUSTRY COUNCIL.—Section 102(a)(2) of the Act is amended by inserting

after "rehabilitation agencies," the following: "local welfare agencies, organizations representing older workers,".

(b) ALTERATION OF PERFORMANCE STANDARDS TO PROMOTE DELIVERY OF SERVICES TO THE HARD-TO-SERVE.—Section 106 of the Act is amended to read as follows:

"PERFORMANCE STANDARD

"SEC. 106. (a) FINDINGS.—The Congress recognizes that job training is an investment in human capital and not an expense. In order to determine whether that investment has been productive, the Congress finds that—

"(1) it is essential that criteria for measuring the return on this investment be developed; and

"(2) the basic return on the investment is to be measured by increased employment and earnings of participants, the reductions in welfare dependency, and increased education attainment and occupational skills.

"(b) PERFORMANCE STANDARDS.—

"(1) SERVICE AND OUTCOME OBJECTIVE.—In prescribing performance standards for parts A and C of title II, the Secretary shall assure that States and service delivery areas will make efforts to increase services to and positive outcomes for hard-to-serve individuals.

"(2) EMPLOYMENT, EARNINGS, AND WELFARE DEPENDENCE.—The basic measure of performance for adult training programs under part A of title II is the increase in employment and earnings and the reductions in welfare dependency resulting from participation in the program. Such basic measure shall provide additional credit for participation in the program that produces an increase in basic education and occupational skills, when such increase is in combination with an increase in employment and earnings or a decrease in welfare dependency. In order to determine whether these basic measures are achieved, the Secretary, in consultation with the Secretaries of Education and Health and Human Services (as appropriate), shall prescribe standards on the basis of appropriate factors which may include—

"(A) placement in unsubsidized employment,

"(B) retention in unsubsidized employment,

"(C) the increase in earnings, including hourly wages,

"(D) reduction in the number of individuals and families receiving cash welfare payments and the amounts of such payments, and

"(E) the attainment of basic education (such as acquisition of a high school diploma or a general equivalency diploma, significant gains in reading or math, or the attainment of English language proficiency) or workplace competencies necessary for successful retention in the labor market.

"(3) YOUTH PROGRAM STANDARDS.—In prescribing standards for training programs under part C of title II, the Secretary shall also designate factors for evaluating the performance of youth programs which, in addition to appropriate utilization of the factors described in paragraph (2), shall be—

"(A) attainment of education and employability competencies, as determined by the private industry council, in consultation with local educational agencies, where appropriate, and subject to standards prescribed by the Secretary (by regulation),

"(B) secondary and postsecondary school completion, or the equivalent thereof, and

"(C) enrollment in other education, training, or employment programs or apprenticeships, or enlistment in the Armed Forces.

"(4) ADDITIONAL PROVISIONS.—The standards shall include provisions governing—

"(A) the base period prior to program participation that will be used;

"(B) a representative period after termination from the program that is a reasonable indicator of postprogram earnings and cash welfare payment reductions; and

"(C) cost-effective methods for obtaining such data as is necessary to carry out this section, which, notwithstanding any other provision of law, may include access to earnings records, State employment security records, Federal Insurance Contributions Act records, State aid to families with dependent children records, statistical sampling techniques, and similar records or measures.

"(5) TITLE V STANDARDS.—The Secretary shall prescribe performance standards under this section for programs authorized by title V, relating to the placement of individuals eligible under such title, in accordance with the criteria specified in section 511(c).

"(c) BIENNIAL REPORTS.—The Secretary shall biennially prepare and submit a report to the Congress containing the performance standards established under this section, together with an analysis of the manner in which the performance standards contribute to the achievement of the goals set forth in subsection (b)(2), including the relative importance of each standard to the accomplishment of such goals. Such report shall contain the recommendations of performance standards technical work groups convened by the Department.

"(d) VARIATIONS IN AND MODIFICATIONS OF PERFORMANCE STANDARDS.—

"(1) VARIATIONS.—The Secretary shall prescribe variations in performance standards for special populations to be served, including Native Americans, migrant and seasonal farmworkers, disabled and Vietnam era veterans, including veterans who served in the Indochina Theater between August 5, 1964, and May 7, 1975, offenders, individuals with disabilities, and older workers, taking into account their special circumstances.

"(2) MODIFICATIONS.—(A) The Secretary may modify the performance standards under this subsection not more often than once every two program years, and such modifications shall not be retroactive.

"(B) The Secretary shall prepare and submit a report to the Congress containing any modifications established under subparagraph (A), and the reasons for such modifications. If appropriate, such report may be made a part of the report submitted under subsection (c).

"(e) STATE PERFORMANCE STANDARDS.—

"(1) GOVERNOR'S AUTHORITY.—Each Governor shall prescribe, within parameters established by the Secretary, variations in the standards under subsections (b) and (g) based upon specific economic, geographic, and demographic factors (such as age and disability) in the State and in substate areas and in service delivery areas within the State, the characteristics of the population to be served, and the type of services to be provided.

"(2) ADDITIONAL STANDARDS.—Each Governor may prescribe performance standards for programs under titles II and III that are in addition to those standards established by the Secretary under subsections (b) and (g).

"(3) SECRETARY'S RESPONSIBILITY.—The Secretary shall—

"(A) provide improved information and technical assistance on performance standards variations;

"(B) collect data that better specifies hard-to-serve individuals and long-term welfare dependency;

"(C) provide guidance on setting performance standards at the service provider level that encourages increased service to the hard-to-serve, particularly long-term welfare recipients, including title IV of the Social Security Act, relating to aid to families with dependent children, and title XVI of such Act, relating to supplemental security income; and

"(D) review performance standards to ensure that such standards provide maximum flexibility in serving the hard-to-serve, particularly long-term welfare recipients, including title IV of the Social Security Act, relating to aid to families with dependent children, and title XVI of such Act, relating to supplemental security income.

"(f) ADVICE FROM THE NATIONAL COMMISSION ON EMPLOYMENT POLICY.—The National Commission for Employment Policy shall (1) advise the Secretary in the development of performance standards under this section for measuring results of participation in job training and in the development of parameters for variations of such standards referred to in subsection (e), (2) evaluate the usefulness of such standards as measures of desired performance, and (3) evaluate the impacts of such standards (intended or otherwise) on the choice of who is served, what services are provided, and the cost of such services in service delivery areas.

"(g) TITLE III STANDARDS.—

"(1) IN GENERAL.—The Secretary shall prescribe performance standards for programs under title III based on placement and retention in unsubsidized employment.

"(2) ALLOWANCE FOR COST DIFFERENCES.—Any performance standard that may be prescribed under paragraph (1) of this subsection shall make appropriate allowance for the difference in cost resulting from serving workers receiving needs-related payments under section 314(e).

"(h) COMPLIANCE.—

"(1) TECHNICAL ASSISTANCE; PERFORMANCE IMPROVEMENT STRATEGY.—The Governor shall provide technical assistance to service delivery areas within the State that fail to meet performance standards for any given program year. As part of the technical assistance, the Governor, with the service delivery area, shall develop a performance improvement strategy as a modification to its job training plan.

"(2) ASSUMPTION OF ADMINISTRATIVE RESPONSIBILITIES.—If the failure to meet performance standards persists for two consecutive years, the Governor shall assume administrative responsibilities for such service delivery area until alternative arrangements can be implemented to correct the failure, including restructuring the private industry council, prohibiting the use of selected service providers, or selecting an alternative administrative entity.

"(3) INCORPORATION.—If such alternative arrangements do not result in improved performance within 12 months after implementation, the Governor shall, in consultation with the State job training coordinating council, and without recourse, incorporate such service delivery area into another contiguous service delivery area.

"(4) SECRETARY TO ENFORCE.—If the Governor, for any reason, fails to implement the provisions of this subsection, the Secretary, after notification of the Governor, shall take corrective actions required by paragraph (3).

"(i) DEFINITION OF PLACEMENT.—The Secretary of Labor shall establish a universal definition of placement to be used in the development of performance standards. Such definition shall give credit for employment obtained, to the extent practicable, in job areas related to the training and training related services received by the participant.".

(c) CHILD CARE.—Section 107(a) of the Act is amended by adding at the end thereof the following: "In addition, consideration shall be given to provision of appropriate supportive services, including child care.".

(d) IMPROVED DELIVERY OF SUPPORT SERVICES.—Section 108 of the Act is amended to read as follows:

"LIMITATION ON CERTAIN COSTS

"SEC. 108. (a) APPLICABILITY.—The cost limitations contained in this section shall apply separately to (1) the funds expended for programs under part A of title II, and (2) the funds expended for programs under part C of such title.

"(b) GENERAL ADMINISTRATIVE COST LIMITATION.—Not more than 20 percent of the funds expended by a service delivery area for any fiscal year for programs under either part A or C of title II may be expended for the cost of administration. For purposes of this subsection, administrative costs are those direct, indirect, and overhead costs associated with the management and supervision of the program which do not directly and immediately affect participants. Costs as may be attributable to the development of training described in section 205(1)(A)(xv) shall not be counted as a part of the cost of administration.

"(c) COMBINED COST LIMITATIONS.—

"(1) LIMITATIONS.—Not more than 40 percent of the funds expended by a service delivery area for any fiscal year for programs under either part A or C of title II may be expended for administrative costs (as defined under subsection (b)) and costs specified in paragraph (2).

"(2) COST COMBINATIONS.—(A) For purposes of paragraph (1), the costs specified in this paragraph are—

"(i) 50 percent of any work experience expenditures which meet the requirements of paragraph (3);

"(ii) 100 percent of the cost of any work experience program expenditures which do not meet the requirements of paragraph (3); and

"(iii) participant support services as described in section 205(2).

"(B) For purposes of paragraph (1), the costs specified in subparagraph (A) of this paragraph do not include expenditures for tryout employment which meet the requirements of section 277(d)(3)(B).

"(3) COST REQUIREMENTS.—For purposes of paragraph (2), a work experience expenditure meets the requirements of this paragraph if—

"(A) the work experience is of not more than 6 months' duration and is combined (concurrently or consecutively) with a classroom or other training program;

"(B) an individual participant is prohibited from participating in any other work experience program following participation in a program meeting the requirements of this paragraph;

"(C) the classroom or other training program component is specified in a preemployment contract or meets established academic standards; and

"(D) wages paid in the work experience program do not exceed the prevailing entry-level wage for the same occupation in the same labor market area.

"(d) LIMITATION ON TRAINING RELATED SERVICES.—Of the remainder of the funds expended for programs under either part A or C of title II (after deduction of the amounts expended for purposes described in subsections (b) and (c)), not more than 15 percent may be expended for training related services described in section 205(1)(B).

"(e) DUPLICATIVE SERVICES PROHIBITED.—Participant support services (as described in section 205(2)) provided under the job training plan shall not duplicate services provided by any other public or private sources that are available to participants without cost.

"(f) LIMITATIONS ON GOVERNOR'S AUTHORITY TO DISAPPROVE.—The Governor shall not disapprove any plan (or modification thereof) on the basis of costs in the job training plan if such plan or modification meets the requirements of this subsection.

"(g) RURAL CEP'S.—The provisions of this section do not apply to any service delivery area designated pursuant to section 101(a)(4)(A)(iii).

"(h) NO EXEMPTION FROM PERFORMANCE STANDARDS.—This section shall not be construed to exempt programs under an approved plan from the performance standards established under section 106.

"(i) CHARGING TO COST CATEGORIES REQUIRED.—Except as provided in section 141(d)(3), expenditures of programs under this Act shall be charged to appropriate cost categories.".

SEC. 5. AMENDMENTS TO PART B OF TITLE I: ADDITIONAL STATE RESPONSIBILITIES.

(a) GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.—Section 121(b) of the Act is amended—

(1) by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (3), (5), (6), and (7), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) The plan may describe the State's criteria for acceptable verification and documentation of participant eligibility including that of other related programs not authorized under this Act. If such criteria are approved by the Secretary, they shall be deemed to meet the requirements of sections 203(a) and 273.".

(b) GOVERNOR'S AUTHORITY.—Section 121 of the Act is amended by adding at the end thereof the following new subsection:

"(e) In providing for preservice and inservice training for planning, management, and program staffs of administrative entities and private industry councils, as well as contractors for State supported programs, as provided by subsection (c)(9), the Governor shall take into account the training available under part H of title IV and shall have authority to adopt, consistent with the provisions of this Act, professional training curricula and administrative competency standards, which reflect the laws, regulations, guidelines, and policies adopted by the State, providing for implementation of the programs under this Act.".

(c) STATE JOB TRAINING COORDINATING COUNCIL.—Section 122(a)(3)(B)(i) of the Act is amended by inserting after "agencies or equivalent," the following: "State agencies primarily responsible for administration of programs for older workers,".

(d) STATE LABOR MARKET INFORMATION PROGRAMS.—Section 125(a) of the Act is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) provide training and technical assistance to support comprehensive career guidance and participant outcome activities for local programs assisted under this Act.".

(e) IDENTIFICATION OF STATE IMPOSED REQUIREMENTS.—Part B of title I of the Act is amended by adding at the end thereof the following new section:

"IDENTIFICATION OF STATE REQUIREMENTS

"SEC. 128. The imposition of any State rule, regulation, policy, or performance standard relating to the administration and operation of programs funded by this Act (including those based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.".

SEC. 6. AMENDMENTS TO PART C OF TITLE I: PROGRAM REQUIREMENTS FOR SERVICE DELIVERY SYSTEMS.

(a) RESTRICTIONS ON SINGLE UNIT CHARGING.—Section 141(d)(3) of the Act is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by inserting the following new subparagraph:

"(B) Tuition charges for training or education provided by an institution of higher education or postsecondary institution which are not more than the charges for such training or education made available to the general public do not require a breakdown of cost components.".

(b) AUTHORITY FOR COUNTIES AND CITIES TO PROVIDE MUTUAL SERVICES.—Section 141(e) of the Job Training Partnership Act is amended by inserting before the period at the end thereof the following: ", and services by a services delivery area that is a city or county to individuals who are residents of either that city or that county if the city is located within the county's boundaries and is a separate service delivery area.".

(c) LIMITATION ON DURATION OF ON-THE-JOB TRAINING.—Section 141(g) of the Act is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) inserting the following new paragraphs (2) and (3):

"(2) On-the-job training authorized under the Act shall be limited in duration to a period not in excess of that generally required for acquisition of skills needed for the position within a particular occupation, but in no event shall exceed 6 months. In making this determination, consideration shall be given to recognized reference material (such as the Dictionary of Occupational Titles), the content of the participant's training, and the participant's service strategy.

"(3)(A) Each on-the-job training contract must—

"(i) specify the types and duration of on-the-job training to be developed and other services to be performed so that proposed costs can be fairly analyzed; and

"(ii) comply with the requirements of section 164.

"(B) Each on-the-job training contract that is not directly contracted by a service delivery area with an employer but instead is contracted through an intermediary brokering contractor must, in addition to the requirements of subparagraph (A), specify the outreach, recruitment, participant training, counseling, placement, monitoring, followup, or other services the brokering contractor agrees to provide within its own or-

ganization, what will be provided by the employers actually conducting the on-the-job training, and what planned services may be provided with or without cost by other agencies and subcontractors.

"(C) Whenever a brokering contractor enters into a contract with a subcontractor to provide training or other services, the brokering contractor shall ensure, through on-site monitoring, compliance with subcontract terms prior to making payment to the subcontractor.".

(d) MINIMUM WAGE.—Paragraphs (2) and (3) of section 142(a) of the Job Training Partnership Act (29 U.S.C. 1552(a)) are each amended by striking out "6(a)(1)" and inserting in lieu thereof "6".

SEC. 7. AMENDMENTS TO PART D OF TITLE I: FEDERAL AND FISCAL ADMINISTRATIVE PROVISIONS.

(a) ADVANCE PAYMENT.—Section 162 of the Act is amended by adding at the end the following new subsection:

"(f) When contracting with nonprofit organizations of demonstrated effectiveness, the Secretary, States, and service delivery areas may use advance payment method systems, except that such advance payments shall be based on financial need of such organization and shall not exceed 20 percent of the total contract amount.".

(b) FISCAL ACCOUNTABILITY.—Section 164 of the Act is amended—

(1) in subsection (d)—

(A) by inserting "(1)" after "(d)"; and

(B) by adding at the end of such subsection the following new paragraphs:

"(2) When a recipient is determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, and mitigating circumstances exist, as described in paragraph (3), the administrative law judge shall reduce such amount by an amount that is proportionate to the extent the mitigating circumstances caused the violation. Furthermore, the judge is authorized to determine that no recovery is justified when mitigating circumstances warrant. The burden of demonstrating the existence of mitigating circumstances shall be upon the recipient.

"(3) For the purpose of paragraph (2), mitigating circumstances may be found to exist when it would be unjust to compel the recovery of funds because the recipient—

"(A) actually and reasonably relied upon erroneous written guidance provided by the Department;

"(B) made an expenditure or engaged in a practice after—

"(i) the recipient submitted to the Secretary, in good faith, a written request for guidance with respect to the expenditure or practice at issue, and

"(ii) a Department official did not respond within 90 days of receipt by the Department of such request; or

"(C) actually and reasonably relied upon a judicial decree issued to the recipient."; and

(2) by adding at the end thereof the following new subsections:

"(i) Each recipient, subrecipient, and service provider receiving funds under this Act shall follow the directives of the applicable Office of Management and Budget Circulars or the Common Rules governing uniform administrative requirements and cost principles for governmental, nonprofits, and private for profit entities, or both, except that subrecipients of States and their subrecipients shall follow the detailed procurement requirements of the Circulars or the Common Rules, or both, when procuring property and services under a grant and shall follow the same requirements, as applicable, in the award of financial assistance to subgrantees.

"(j)(1) Interest income, as defined in section 4, shall be retained by the service delivery area to defray expenditures for allowable and appropriate activities under this Act. Expenditures of interest income shall be in accordance with cost limitations in this Act.

"(2) Ordinarily, interest income shall be deducted from total allowable expenditures to determine the net allowable expenditures. Interest income shall be used for current expenditures, unless the Secretary authorizes otherwise. Interest income which the recipient did not anticipate at the time of the award shall be used to reduce the Department's and recipient's contributions rather than to increase the funds committed to the authorized activities.

"(k) Funds provided under this Act may not be used for any fee or profit to governmental units, and grantees and subgrantees as defined by the Office of Management and Budget Circulars or the Common Rules, or both. Funds provided under this Act may be used for a reasonable fee or profit to private for profit entities and cost-type administrative service contractors.

"(l) The Governor of each State shall submit to the Secretary a semiannual report that, in accordance with regulations prescribed by the Secretary, specifies the amount of expenditures by each service delivery area under title II of this Act from the appropriations for particular fiscal years. Such specification shall continue to be reported until the appropriation has been entirely expended or until the authority to expend funds from the appropriation has expired. The semiannual report next following any such entire expenditure or expiration shall specify the total expenditures made under title II from that appropriation.

"(m) The Secretary shall establish procedures to permit grantees to utilize current year grant funds for reasonable and necessary staff and accounting costs associated with audit resolutions of prior year grants in any departmental proceeding when insufficient funds for this purpose remain available to the grantee from such prior year grants.".

(c) BYPASS AUTHORITY.—Section 164(b) of the Act is amended—

(1) by striking the period at the end of the first sentence of paragraph (1) and inserting the following: "unless (A) the service delivery area corrects the failure, (B) the service delivery area submits an acceptable modification to its plan pursuant to section 104(c), or (C) a new service delivery area is designated under section 101.";

(2) by striking the second sentence of paragraph (1); and

(3) by adding at the end thereof the following new paragraph:

"(3) If the Governor, for any reason, fails to implement the provisions of this subsection, the Secretary, after notification of the Governor, shall take corrective actions required by paragraph (1).".

(d) REPORTING REQUIREMENTS.—Section 165 of the Act is amended—

(1) by striking paragraph (1) of subsection (c) and inserting the following:

"(1) make such annual reports concerning its operations and expenditures as shall be prescribed by the Secretary, and"; and

(2) by adding at the end thereof the following new subsections:

"(d) The reports required in subsection (c) shall include (but not be limited to) information pertaining to—

"(1) the demographic characteristics, including the prior work history, earnings, welfare history, and other related information about enrollees and participants;

"(2) the activities in which participants are enrolled, and the length of time that participants are engaged in such activities;

"(3) program outcomes for participants; and

"(4) specified program costs.

"(e) The Secretary shall ensure that all elements required for the reports described in subsection (d) are defined and reported consistently, to the maximum extent feasible.

"(f) Each recipient, subrecipient, and service provider shall maintain records of revenues and expenditures for at least 3 years following the expiration of the grant period.".

SEC. 8. AMENDMENT TO TITLE II: IMPROVED DELIVERY OF SERVICES TO ADULTS AND YOUTH.

(a) REVISION OF TITLE II.—Title II of the Act is amended to read as follows:

"TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

"PART A—ADULT AND OLDER WORKER PROGRAMS

"SEC. 201. ALLOTMENT.

"(a) TERRITORIAL ALLOTMENT.—Not more than $2,500,000 of the amount appropriated pursuant to section 3(a)(1) for each fiscal year and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the freely associated states, the Republic of Palau, and the Commonwealth of the Northern Marianas.

"(b) STATE ALLOTMENTS.—

"(1) IN GENERAL.—Subject to the provisions of paragraph (2), of the remainder of the amount available for this part for each fiscal year—

"(A) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each State as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in all the States;

"(B) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States; and

"(C) 33⅓ percent shall be allotted on the basis of the relative number of economically disadvantaged individuals within the State compared to the total number of economically disadvantaged individuals in all States, except that, for the allotment for any State in which there is any service delivery area described in section 101(a)(4)(A)(iii), the allotment shall be based on the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged individuals in such area.

"(2) MINIMUM STATE ALLOTMENTS.—(A) No State shall receive less than one-quarter of 1 percent of the amounts available for allotment under this subsection for each such fiscal year.

"(B) No State shall be allotted less than 90 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made. For the purpose of this subparagraph, the allotment percentage for each State for the fiscal year 1982 is the percent that each State received in 1982, pursuant to the formula allocations made under the Comprehensive Employment and Training Act, of the total such for-

mula allocations for all States made under that Act in fiscal year 1982. For each succeeding fiscal year, the allotment percentage of a State shall be the percentage which the State received of all allotments pursuant to this subsection.

"(3) DEFINITIONS.—For purposes of paragraph (1)—

"(A) the term 'excess number' means the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State, or the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State; and

"(B) the term 'economically disadvantaged' means an individual who has, or is a member of a family which has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty income guidelines promulgated each year by the Secretary of Health and Human Services, or (ii) 70 percent of the lower living standard income level.

"SEC. 202. WITHIN STATE ALLOCATION.

"(a) SERVICE DELIVERY AREA ALLOCATIONS.—

"(1) AMOUNT FOR ALLOCATION.—The Governor shall, in accordance with section 162, allocate 84 percent of the allotment of the State (under section 201(b)) for such fiscal year among service delivery areas within the State in accordance with paragraph (2).

"(2) ALLOCATION FORMULA.—Subject to the provisions of paragraph (3), of the amount allocated under this subsection—

"(A) 33⅓ percent shall be allocated on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each service delivery area as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in the State;

"(B) 33⅓ percent shall be allocated on the basis of the relative excess number of unemployed individuals who reside in each service delivery area as compared to the total excess number of unemployed individuals in all service delivery areas in the State; and

"(C) 33⅓ percent shall be allocated on the basis of the relative number of economically disadvantaged individuals within each service delivery area compared to the total number of economically disadvantaged individuals in the State, except that the allocation for any service delivery area described in section 101(a)(4)(A)(iii) shall be based on the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged individuals in such area.

"(3) HOLD-HARMLESS REQUIREMENT.—For fiscal years beginning after September 30, 1986, no service delivery area within any State shall be allocated an amount equal to less than 90 percent of the average of its allocation percentage for the two preceding fiscal years preceding the fiscal year for which the determination is made. The allocation percentage for a service delivery area is the percentage which the service delivery area received of the total amount allocated pursuant to this subsection to all service delivery areas within the State for each such preceding fiscal year. If the amounts appropriated pursuant to section 3(a)(1) are not sufficient to provide an amount equal to at least 90 percent of such allocation percentages to each such area, the amounts allocated to each area shall be ratably reduced.

"(4) DEFINITIONS.—For the purpose of this section—

"(A) the term 'excess number' means the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the service delivery area, or the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such service delivery area; and

"(B) the term 'economically disadvantaged' means an individual who has, or is a member of a family which has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty income guidelines promulgated each year by the Secretary of Health and Human Services, or (ii) 70 percent of the lower living standard income level.

"(b) STATE SET-ASIDES.—

"(1) EDUCATION.—Eight percent of the allotment of each State (under section 201(b)) for each fiscal year shall be available to carry out section 123, relating to State education programs under this Act.

"(2) PERFORMANCE INCENTIVES.—

"(A) Three percent of such allotment of each State for each fiscal year shall be available to carry out subparagraph (B) of this paragraph.

"(B) The amount reserved under subparagraph (A) of this paragraph shall be used by the Governor to provide incentive grants for programs that exceed applicable performance standards (except for performance standards relating to costs) and serve more than the minimum percentage of individuals required by section 203(a)(2). The incentive grants made under this subparagraph shall be distributed among service delivery areas within the State in an equitable proportion based on the degree by which the service delivery areas exceed the applicable performance standards and the requirements of section 203(a)(2). If the full amount reserved under subparagraph (A) of this paragraph is not needed to make incentive grants under this subparagraph, the Governor shall use the amount not so needed for technical assistance to service delivery areas in the State.

"(3) AUDITING AND ADMINISTRATION.—Five percent of such allotment of the State for each fiscal year shall be available to the Governor of the State to be used for the cost of auditing activities, for administrative activities, and for other activities under sections 121 and 122. The total amount which shall be available for such purposes under this paragraph and section 272(b)(3) shall not be less than $450,000, notwithstanding subsection (a)(1) of this section.

"SEC. 203. ELIGIBILITY FOR SERVICES.

"(a) GENERAL REQUIREMENTS.—

"(1) ECONOMIC DISADVANTAGE.—Except as provided in paragraph (3), an individual shall be eligible to participate in programs receiving assistance under this part only if such individual is an adult who is economically disadvantaged. An individual who is employed is eligible to participate in programs receiving assistance under this part, including basic skills training, literacy training, and English proficiency instruction, if such individual meets the requirements of this paragraph.

"(2) ADDITIONAL REQUIREMENTS FOR ONE-HALF OF PARTICIPANTS.—Not less than 50 percent of the participants in the program under this part in each service delivery area shall be individuals who, in addition to meeting requirements of paragraph (1), are included in one or more of the following categories:

"(A) basic skills deficient;

"(B) school dropouts;

"(C) recipients of aid to families with dependent children who either meet the requirements of section 403(l)(2)(B) of the Social Security Act or have been provided an employability plan in accordance with section 482(b) of the Social Security Act; or

"(D) unemployed for the previous 6 months or longer.

"(3) BARRIERS TO EMPLOYMENT.—Up to 10 percent of the participants in programs in a service delivery area receiving assistance under this part may be individuals who are not economically disadvantaged if such individuals have encountered barriers to employment. Such individuals may include, but are not limited to, individuals who have limited English-language proficiency, or are displaced homemakers, school dropouts, disabled, older workers, veterans, offenders, substance abusers, alcoholics, or homeless.

"(b) ADDITIONAL SERVICE REQUIREMENTS.—

"(1) SERVICE TO OLDER WORKERS.—(A) Each service delivery area shall make special efforts to identify and serve eligible individuals 55 years of age or older. Not less than 6 percent of the funds available to each service delivery area under this part shall be expended to provide services to such individuals.

"(B) In providing the services required by subparagraph (A) of this paragraph, the State job training coordinating council and the service delivery area shall make efforts to coordinate the delivery of such services with the delivery of services pursuant to title V of the Older Americans Act of 1965.

"(C) In the selection of service providers to serve older individuals, the service delivery area shall give priority to those national, State, and local agencies and organizations that have a record of demonstrated effectiveness in providing training and employment services to such older individuals.

"(2) RATIO OF PUBLIC TO PRIVATE SECTOR POSITIONS.—In each service delivery area the ratio of participants in on-the-job training assisted under this title in the public sector to participants in such training in the private sector shall not exceed the ratio between civilian governmental employment and nongovernmental employment in such area.

"(3) CHILD CARE.—Each State job training coordinating council and service delivery area shall make reasonable efforts to encourage job training providers to provide child care services to the children of individuals participating in training programs under this title, at minimal cost to such participants.

"(c) DEFINITIONS.—

"(1) ADULT.—As used in this part, the term 'adult' means an individual who is 22 years of age or older.

"(2) ELIGIBILITY DETERMINATIONS.—For purposes of subsection (a)(2)—

"(A) determinations of a participant's eligibility under subparagraph (A) of such subsection shall be made by means of such tests as may be designated in the plan submitted pursuant to section 104, subject to standards prescribed by the Secretary; and

"(B) determinations of a participant's eligibility under subparagraph (B), (C), or (D) of subsection (a)(2) shall be made in accordance with guidance provided by the Secretary.

"SEC. 204. PROGRAM DESIGN.

"(a) ASSESSMENTS, STRATEGIES, AND SERVICES.—The program under this part shall include—

"(1) an assessment of the participants' skill levels and service needs, which may include such factors as basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that such assessment, or factor thereof, is not required if the program uses recent assessments conducted pursuant to another education or training program (such as the JOBS program);

"(2) development of service strategies which shall identify the employment goal (including, where appropriate, nontraditional employment), appropriate achievement objectives, and appropriate services for participants taking into account the assessments conducted pursuant to paragraph (1);

"(3) a review of each participant's progress in meeting the objectives of the service strategy; and

"(4) the following services, to be made available to a participant where the assessment and the service strategy indicate such services are appropriate—

"(A) basic skills training, including language skills training; and

"(B) occupational skills training.

"(b) COMBINATIONS OF SERVICES.—

"(1) REQUIRED COMBINATIONS.—Except as provided in paragraph (2), job search, job search skills training, job club, and work experience authorized under this part shall be accompanied by other services designed to increase a participant's basic education or occupational skills.

"(2) EXCEPTIONS.—The program under this part may provide job search, job search skills training and job club activities to a participant without the additional services described in paragraph (1) only if—

"(A) the participant's assessment and service strategy indicate that the additional services are not appropriate; and

"(B) the activities are not available to the participant through the Employment Service or other public agencies.

"(c) CONTINUATION OF COUNSELING AND SUPPORTIVE SERVICES.—Counseling and supportive services authorized under this part may be provided to a participant for a period up to one year after termination from the program.

"SEC. 205. USE OF FUNDS.

"Services which may be made available with funds provided under this title may include (but need not be limited to)—

"(1) TRAINING.—

"(A) DIRECT TRAINING SERVICES.—

"(i) Remedial education and basic skills training.

"(ii) Institutional skill training.

"(iii) On-the-job training.

"(iv) Programs of advanced career training which provide a formal combination of on-the-job and institutional training and internship assignments which prepare individuals for career employment.

"(v) Training programs operated by the private sector, including those operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply.

"(vi) Upgrading and retraining.

"(vii) Literacy training.

"(viii) Bilingual training.

"(ix) School-to-work transition activities;

"(x) Work experience, subject to limitations under section 108 of this Act.

"(xi) Vocational exploration.

"(xii) Attainment of certificates of high school equivalency.

"(xiii) Preapprenticeship programs.

"(xiv) Onsite industry-specific training programs supportive of industrial and economic development.

"(xv) Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of that training.

"(xvi) Use of advanced learning technology for education, job preparation and skills training.

"(B) TRAINING RELATED SERVICES.—

"(i) Assessment of participant's skill levels and service needs.

"(ii) Job search assistance.

"(iii) Job counseling.

"(iv) Outreach to make individuals aware of, and encourage the use of, employment and training services.

"(v) Outreach, to develop awareness of, and encourage participation in, education, training services, and work experience programs to assist women in obtaining nontraditional employment, and to facilitate the retention of women in nontraditional employment, including services at the site of training or employment.

"(vi) Specialized surveys not available through other labor market information sources.

"(vii) Programs to develop work habits and other services to individuals to help them obtain and retain employment.

"(viii) Job development.

"(ix) Disseminating information on program activities to employers.

"(x) Development of job openings.

"(xi) Coordinated programs with other Federal employment-related activities.

"(2) PARTICIPANT SUPPORT SERVICES.—

"(A) Supportive services, as defined in section 4(24) of this Act, necessary to enable individuals to participate in the program, and to assist them, for not to exceed 12 months following completion of training, to retain employment.

"(B) Needs-based payments necessary to participation in accordance with a locally developed formula or procedure.

"(C) Follow-up services with participants placed in unsubsidized employment.

"PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

"SEC. 251. PURPOSE.

"The purpose of programs assisted under this part is—

"(1) to enhance the basic educational skills of youth;

"(2) to encourage school completion, or enrollment in supplementary or alternative school programs; and

"(3) to provide eligible youth with exposure to the world of work.

"SEC. 252. AUTHORIZATION OF APPROPRIATIONS; ALLOTMENT AND ALLOCATION.

"(a) TERRITORIAL AND NATIVE AMERICAN ALLOCATION.—From the funds appropriated under section 3(a)(2), the Secretary shall first allocate to Guam, the Virgin Islands, American Samoa, the freely associated states, the Republic of Palau, the Commonwealth of the Northern Marianas, and entities eligible under section 401 the same percentage of funds as were available to such areas and entities for the summer youth program in the fiscal year preceding the fiscal year for which the determination is made.

"(b) USE OF PART C FORMULA FOR ALLOTMENT AND ALLOCATION.—The remainder of sums appropriated pursuant to section 3(a)(2) shall be allotted among States in accordance with section 271(b) and allocated among service delivery areas within States in accordance with section 272(a) (2), (3), and (4).

"SEC. 253. USE OF FUNDS.

"(a) IN GENERAL.—Funds available under this part may be used for—

"(1) basic and remedial education, institutional and on-the-job training, work experience programs, employment counseling, occupational training, preparation for work, outreach and enrollment activities, employability assessment, job referral and placement, job search and job club activities, and any other employment or job training activity designed to give employment to eligible individuals or prepare them for, and place them in, employment;

"(2) supportive services necessary to enable such individuals to participate in the program; and

"(3) administrative costs, not to exceed 15 percent of the funds available under this part.

Notwithstanding the 15 percent limitation in paragraph (3), up to 20 percent may be expended for administrative costs if a recipient receives less than $200,000 in grant funds for each program year.

"(b) BASIC AND REMEDIAL EDUCATION.—A service delivery area shall expend funds (from this Act or otherwise available to the service delivery area, or both) for basic and remedial education as described in the job training plan under section 104.

"(c) ASSESSMENT.—Each participant under this part shall be provided with an assessment of their skill levels and service needs, which may include such factors as basic skills, occupational skills, prior work experience, employability, interests, aptitudes, and supportive service needs, except that such assessment, or factor thereof, is not required if the program uses recent assessments conducted pursuant to another education or training program (such as the JOBS program). It shall be the responsibility of the service delivery area to develop a service strategy for participants which shall identify achievement objectives, appropriate employment goals, and appropriate services for participants, taking into account the assessments conducted under this subsection or under such other education or training program.

"(d) FOLLOWUP SERVICES.—Followup services shall be made available for participants for whom a service strategy is developed in accordance with this section.

"SEC. 254. LIMITATIONS.

"(a) USE DURING SUMMER MONTHS OR EQUIVALENT VACATION PERIOD.—Programs under this part shall be conducted during the summer months, except that a service delivery area may, within the jurisdiction of any local educational agency that operates its schools on a year-round, full-time basis, offer the programs under this part to participants during a vacation period treated as the equivalent of a summer vacation.

"(b) ELIGIBLE PARTICIPANTS.—Individuals eligible under this part shall be economically disadvantaged youth.

"(c) YOUTH.—As used in this part, the term 'youth' means an individual who is aged 14 through 21.

"SEC. 255. APPLICABLE PROVISIONS.

"(a) COMPARABLE FUNCTIONS OF AGENCIES AND OFFICIALS.—Private industry councils established under title I, chief elected officials, State job training coordinating councils,

and Governors shall have the same authority, duties, and responsibilities with respect to planning and administration of funds available under this part as private industry councils, chief elected officials, State job training coordinating councils, and Governors have for funds available under parts A and C of title II.

"(b) PROGRAM GOALS AND OBJECTIVES.—In accordance with the provisions of subsection (a), each service delivery area shall establish written program goals and objectives which shall be used for evaluating the effectiveness of programs conducted under this part. Such goals and objectives may include—

"(1) improvement in school retention and completion;

"(2) improvement in academic performance, including mathematics and reading comprehension;

"(3) improvement in employability skills; and

"(4) demonstrated coordination with other community service organizations such as local educational agencies, law enforcement agencies, and drug and alcohol abuse prevention and treatment programs.

"PART C—YEAR-ROUND YOUTH SERVICES

"SEC. 271. ALLOTMENT.

"(a) TERRITORIAL ALLOTMENT.—Not more than $2,500,000 of the amount appropriated pursuant to section 3(a)(3) for each fiscal year and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the freely associated states, the Republic of Palau, and the Commonwealth of the Northern Marianas.

"(b) STATE ALLOTMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), of the remainder of the amount available for this part for each fiscal year—

"(A) 60 percent shall be allotted on the basis of the relative number of unemployed individuals who reside within the State who are 16 years of age or older as compared to the total number of such individuals in all the States;

"(B) 20 percent shall be allotted on the basis of the relative number of economically disadvantaged youth residing in each State as compared to the total number of such youth in all the States; and

"(C) 20 percent shall be allotted on the basis of the relative number of recipients of Aid to Families with Dependent Children who reside in each State as compared to the total number of recipients of Aid to Families with Dependent Children in all the States, except that the Secretary shall first allot to the Commonwealth of Puerto Rico a share of such 20 percent equal to the share that such Commonwealth receives under subparagraph (B).

"(2) MINIMUM STATE ALLOTMENTS.—(A) No State shall receive less than one-quarter of 1 percent of the amounts available for allotment under this subsection for each such fiscal year.

"(B) No State shall be allotted less than 90 percent, or more than 110 percent, of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made. For the purpose of this subparagraph, the allotment percentage of a State shall be the percentage which the State received of all allotments pursuant to this subsection.

"(3) DEFINITIONS.—For purposes of paragraph (1), the term 'economically disadvantaged' has the meaning given such term in section 201(b)(3)(B).

"SEC. 272. WITHIN STATE ALLOCATION.

"(a) SERVICE DELIVERY AREA ALLOCATIONS.—

"(1) AMOUNT FOR ALLOCATION.—The Governor shall, in accordance with section 162, allocate 84 percent of the allotment of the State (under section 271(b)) for such fiscal year among service delivery areas within the State in accordance with paragraph (2).

"(2) ALLOCATION FORMULA.—Subject to the provisions of paragraph (3), of the amount allocated under this subsection—

"(A) 60 percent shall be allocated on the basis of the relative number of unemployed individuals who reside within the service delivery area who are 16 years of age or older as compared to the total number of such individuals in all the service delivery areas within the State;

"(B) 20 percent shall be allocated on the basis of the relative number of economically disadvantaged youth residing in the service delivery area as compared to the total number of such youth residing in all the service delivery areas within the State; and

"(C) 20 percent shall be allocated on the basis of the relative number of recipients of Aid to Families with Dependent Children who reside in the service delivery area as compared to the total number of recipients of Aid to Families with Dependent Children in all the service delivery areas within the State.

"(3) HOLD-HARMLESS REQUIREMENT.—No service delivery area within any State shall be allocated an amount equal to less than 90 percent, or more than 110 percent, of the average of its allocation percentage for the two preceding fiscal years preceding the fiscal year for which the determination is made. The allocation percentage for a service delivery area is the percentage which the service delivery area received of the total amount allocated pursuant to this subsection to all service delivery areas within the State for each such preceding fiscal year. If the amounts appropriated pursuant to section 3(a)(3) are not sufficient to provide an amount equal to at least 90 percent of such allocation percentages to each such area, the amounts allocated to each area shall be ratably reduced.

"(4) DEFINITIONS.—For purposes of this section, the term 'economically disadvantaged' have the meanings given such terms in sections 271(b)(3).

"(b) STATE SET-ASIDE.—

"(1) EDUCATION.—Eight percent of the allotment of each State (under section 271(b)) for each fiscal year shall be available to carry out section 123, relating to State education programs under this Act.

"(2) PERFORMANCE INCENTIVES.—

"(A) Three percent of such allotment of each State for each fiscal year shall be available to carry out subparagraph (B).

"(B) The amount reserved under subparagraph (A) shall be used by the Governor to provide incentive grants for programs that exceed applicable performance standards (except for performance standards relating to costs) and serve more than the minimum percentage of out-of school youth required by section 273(b). The incentive grants made under this subparagraph shall be distributed among service delivery areas within the State in an equitable proportion based on the degree by which the service delivery areas exceed the applicable performance standards and the requirements of section 273(b) and (c). If the full amount reserved under subparagraph (A) is not needed to make incentive grants under this subparagraph, the Governor shall use the amount not so needed for technical assistance to service delivery areas in the State.

"(3) AUDITING AND ADMINISTRATION ACTIVITIES.—Five percent of such allotment of the State for each fiscal year shall be available to the Governor of the State to be used for the cost of auditing activities, for administrative activities and for other activities under sections 121 and 122. The total amount which shall be available for such purposes under this paragraph and section 202(b)(3) shall not be less than $450,000, notwithstanding subsection (a)(1) of this section.

"SEC. 273. ELIGIBILITY FOR SERVICES.

"(a) ECONOMIC DISADVANTAGE.—Except as provided in subsection (d), an individual shall be eligible to participate in programs receiving assistance under this part if such individual is an economically disadvantaged youth, or is receiving (or has been determined to be eligible to receive) a free lunch under the National School Lunch Act. For purposes of this part the term 'youth' means an individual who is aged 14 through 21.

"(b) ADDITIONAL REQUIREMENT FOR ½ OF PARTICIPANTS.—Not less than 50 percent of the participants in a service delivery area shall be out-of-school youth, with priority given to school dropouts. Of such out-of-school youth, not less than 50 percent shall be youth who are included in one or more of the following categories:

"(1) basic skills deficient;

"(2) school dropout; or

"(3) pregnant or parenting.

"(c) IN-SCHOOL YOUTH.—Of the remaining percentage of participants, not less than 50 percent of the participants shall be youth—

"(1) who are basic skills deficient;

"(2) who have poor academic records which, for purposes of this paragraph, means performing at least one year below the grade level appropriate to that individual's age;

"(3) who are pregnant or parenting; or

"(4) who have limited English-language proficiency.

"(d) BARRIERS TO EMPLOYMENT.—Up to 10 percent of the participants in programs in a service delivery area receiving assistance under this part may be individuals who are not economically disadvantaged, if there are potential barriers to the employment of such individuals. Such individuals may include, but are not limited to, individuals who have limited English-language proficiency, or who are school dropouts, parents, disabled, offenders, substance abusers, alcoholics, or homeless.

"SEC. 274. PROGRAM DESIGN.

"(a) YEAR ROUND PROGRAMS.—The program under this part shall be conducted on a year-round basis.

"(b) ASSESSMENTS, STRATEGIES, AND SERVICES.—The program under this part shall include—

"(1) an assessment of participants' skill levels and service needs which may include such factors as basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that such assessment, or factor thereof, is not required if the program uses recent assessments conducted pursuant to another education or training program (such as the JOBS program);

"(2) development of service strategies which shall identify achievement objectives, appropriate employment goals (including interests and aptitudes for nontraditional jobs), and appropriate services for partici-

pants taking into account the assessments conducted pursuant to paragraph (1);

"(3) a review of such participant's progress in meeting the objectives of the service strategy; and

"(4) the following services, to be available to a participant where the assessment and service strategy indicate such services are appropriate:

"(A) basic skills training, including language skills training;

"(B) occupational skills training;

"(C) pre-employment and work maturity skills training;

"(D) work experience combined with skills training; and

"(E) supportive services.

"(c) COMBINATIONS OF SERVICES.—Work experience, job search, job search skills training, and job club activities authorized by this part shall be accompanied by additional services designed to increase a participant's basic education or occupational skills. The additional services may be provided, sequentially or concurrently, under other education and training programs, including the Job Corps and the JOBS program.

"(d) CONTINUATION OF COUNSELING AND SUPPORTIVE SERVICES.—Counseling and supportive services authorized under this part may be provided to a participant for a period of up to one year after termination from the program.

"(e) LINKAGES.—In conducting a program under this part, service delivery areas shall establish linkages with the appropriate educational agencies responsible for service to participants. Such linkages shall include (but are not limited to)—

"(1) formal agreements with local educational agencies that will identify—

"(A) the procedures for referring and serving in-school youth;

"(B) the methods of and procedures for assessment of in-school youth; and

"(C) procedures for notifying the program when a youth drops out of the school system;

"(2) arrangements to ensure that the program under this part supplements existing programs provided by local educational agencies to in-school youth;

"(3) arrangements to ensure that the program under this part utilizes, to the extent possible, existing services provided by local educational agencies to out-of-school youth; and

"(4) arrangements to ensure that for in-school participants there is a regular exchange of information between the program and the educational agency relating to participant progress, problems, and needs, including where appropriate, interim assessment results.

"SEC. 275. USE OF FUNDS.

"(a) GENERAL TITLE II SERVICES.—Services which may be made available to youth with funds provided under this part may include, but need not be limited to, services described in section 205.

"(b) ADDITIONAL SERVICES.—Services which may be made available to youth with funds made available under parts B and C of this title may include training or education that is combined with meaningful and constructive community and youth service opportunities in public agencies, nonprofit agencies, and other appropriate agencies, institutions, and organizations.

"SEC. 276. EXEMPLARY YOUTH PROGRAMS.

"(a) AUTHORITY TO CONDUCT PROGRAMS.—In addition to the services for youth which may be available in accordance with section 275, the job training plan may, at the option of those responsible for its preparation, elect to include one or more of the exemplary youth programs described in subsections (b) through (e), each of which may be modified by the plan to accommodate local conditions.

"(b) EDUCATION FOR EMPLOYMENT PROGRAM.—

"(1) IN GENERAL.—The job training plan may provide for the conduct of an 'education for employment program' for eligible youth who have not attained a high school diploma or who have educational deficiencies despite the attainment of a diploma, with priority given to high school dropouts.

"(2) LEARNING CENTERS.—The education for employment programs may provide for the maintenance of a network of learning centers offering individualized or group instruction in convenient locations, such as schools, neighborhood organizations, libraries, and other sites, including mobile vans in rural areas.

"(3) CURRICULA DESIGN.—The curricula provided by such network shall be designed to prepare the student to meet State and locally determined general education diploma and basic education competency requirements.

"(4) PRIORITY TO COST-EFFECTIVE, SUCCESSFUL PROGRAMS.—For purposes of this section priority shall be given in the selection of service providers to previously funded in-school and community based organization projects which are both cost-effective and of demonstrated success, and which otherwise meet criteria under this Act.

"(c) PREEMPLOYMENT SKILLS TRAINING PROGRAM.—

"(1) IN GENERAL.—The job training plan may provide for the conduct of a 'preemployment skills training program' for youth, with priority being given to those individuals who do not meet established levels of academic achievement and who plan to enter the full-time labor market upon leaving school.

"(2) UP TO 200 HOURS OF INSTRUCTION AND ACTIVITIES.—The preemployment skills training program may provide youth up to 200 hours of instruction and activities.

"(3) PERMISSIBLE ACTIVITIES.—The instruction and activities may include—

"(A) assessment, testing, and counseling;

"(B) occupational career and vocational exploration;

"(C) job search assistance;

"(D) job holding and survival skills training;

"(E) basic life skills training;

"(F) remedial education;

"(G) labor market information; and

"(H) job-seeking skills training.

"(d) ENTRY EMPLOYMENT EXPERIENCE PROGRAM.—

"(1) IN GENERAL.—The job training plan may provide for the conduct of an 'entry employment experience program' for youth who—

"(A) have completed preemployment skills training or its equivalent;

"(B) have not recently held a regular part-time or summer job for more than 250 hours of paid employment, except that this paragraph may be waived in accordance with criteria established in the job training plan; and

"(C) are enrolled, or will (at the time of program participation) be enrolled, in a secondary school or an institution offering a certified high school equivalency program and are meeting or have met the minimum academic and attendance requirements of that school or education program during the current or most recent term,

with priority given to youth who do not plan to continue on to post-secondary education.

"(2) MAXIMUM NUMBER OF HOURS.—Entry employment experiences may be up to 20 hours weekly during the school year or full time during the summer and holidays, for a total of not to exceed 500 hours of entry employment experience for any individual. Such experiences shall be appropriately supervised, including the maintenance of standards of attendance and worksite performance.

"(3) PERMISSIBLE EMPLOYMENT EXPENSES.—Entry employment experiences may be one of the following types:

"(A) Full-time employment opportunities in public and private nonprofit agencies during the summer and on a part-time basis in combination with education and training activities. These jobs shall provide community improvement services that complement local expenditures.

"(B) Tryout employment at private for-profit worksites, or at public and private nonprofit worksites when private for-profit worksites are not available. Compensation in lieu of wages for tryout employment shall be paid by the grant recipient, but the length of any assignment to a single tryout employment position shall not exceed 250 hours. Tryout employment positions shall be ones for which participants would not usually be hired (because of lack of experience or other barriers to employment), and may not be refilled if the previous participant completed the tryout employment but was not hired by the employer.

"(C) Cooperative education programs to coordinate educational programs with work in the private sector.

"(e) SCHOOL-TO-WORK TRANSITION ASSISTANCE PROGRAM.—

"(1) IN GENERAL.—The job training plan may provide for the conduct of a 'school-to-work transition assistance program' for youth who are—

"(A) high school seniors who plan to enter the full-time labor market upon graduation, with priority to seniors in high schools having a predominance of students from families with incomes below 70 percent of the lower living standard income level; and

"(B) dropouts, with followup as immediately as possible after leaving school.

"(2) TRANSITION SERVICES.—Transition services include—

"(A) provision of occupational information;

"(B) short-duration job search assistance;

"(C) job clubs;

"(D) placement and job development; and

"(E) followup.

"(3) INFORMATION AND REFERRALS.—Seniors and dropouts who are eligible for and in need of training activities may be provided information and, where appropriate, referred to—

"(A) preemployment skills training, entry employment experience, and remedial education; and

"(B) other training activities under this Act, including the Job Corps.

"(f) INTERPROGRAM REFERRALS.—The job training plan should provide for referrals of youth between programs funded under parts B and C. Such efforts shall result in maximizing available resources to enhance the provision of services to disadvantaged youth.".

(b) CONFORMING AMENDMENTS.—

(1) NONTRADITIONAL EMPLOYMENT OPPORTUNITIES.—Section 104(b) of the Act is amended—

(A) by striking "and" at the end of paragraph (10);

(B) by striking the period at the end of paragraph (11) and inserting a semicolon; and

(C) by adding at the end thereof the following new paragraph:

"(12) a description of plans for—

"(A) training in nontraditional employment; and

"(B) training-related placement in nontraditional employment and apprenticeships.".

(2) OLDER WORKERS.—Part B of title I of the Act is amended by striking section 124.

(c) CLERICAL AMENDMENTS.—(1) The table of contents of the Act is amended—

(A) by striking the portion pertaining to title II and inserting the following:

"TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

"PART A—ADULT AND OLDER WORKER PROGRAMS

"Sec. 201. Allotment.
"Sec. 202. Within State allocation.
"Sec. 203. Eligibility for services.
"Sec. 204. Program design.
"Sec. 205. Use of funds.

"PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

"Sec. 251. Purpose.
"Sec. 252. Authorization of appropriations; allotment and allocation.
"Sec. 253. Use of funds.
"Sec. 254. Limitations.
"Sec. 255. Applicable provisions.

"PART C—YEAR-ROUND YOUTH SERVICES

"Sec. 271. Allotment.
"Sec. 272. Within State allocation.
"Sec. 273. Eligibility for services.
"Sec. 274. Program design.
"Sec. 275. Use of funds.
"Sec. 276. Exemplary youth programs."; and

(B) by striking the item pertaining to section 124.

(2) Section 122(a)(1) of the Act is amended by striking "section 202(b)(4)" and inserting "sections 202(b)(3) and 272(b)(3)".

(3) Section 123(a) of the Act is amended by striking "section 202(b)(1)" and inserting "sections 202(b)(1) and 272(b)(1)".

(4) Section 125(a) of the Act is amended by striking "section 202(b)(4)" and inserting "sections 202(b)(3) and 272(b)(3)".

SEC. 9. AMENDMENTS TO PART A OF TITLE IV: EMPLOYMENT AND TRAINING PROGRAMS FOR NATIVE AMERICAN AND MIGRANT AND SEASONAL FARMWORKERS.

(a) ADMINISTRATION OF NATIVE AMERICAN PROGRAMS.—

(1) PERSONNEL.—Section 401 of the Act is amended by adding at the end thereof the following new subsection:

"(k)(1) There shall be in the Department of Labor a Division of Indian and Native American Programs which shall be responsible for administering Native American employment and training programs.

"(2) The Chief of such Division shall have experience with the operation of Native American employment and training programs. Prior to selection of the Chief, and pursuant to merit selection procedures, the Secretary shall provide a list of qualified candidates for such position to the Native American Human Investment Council, allowing adequate time for review and recommendation. The Secretary shall appoint the Chief of such division from a list of recommendations by the council of qualified candidates.

"(3) The Chief of such Division shall—

"(A) administer the provisions of this section, including (i) making recommendations on the selection of the recipients of funds, consistent with practices of other divisions within the Department, and (ii) the monitoring of programs authorized;

"(B) develop programmatic policies and procedures related to the implementation of such programs;

"(C) coordinate the policies and procedures for employment and training programs of the division with other related Federal programs and services for Native Americans within the Department.

"(4)(A) In the hiring of professional staff of the Division, special consideration shall be given to (i) individuals who have field experience in the daily operation of service and training programs for Native Americans, and (ii) individuals who are Indians or Native Alaskans. Such consideration under clause (ii) shall be implemented in the same fashion as that given to veterans in subparagraph (A), (B), or (C) of section 2108(3) of title 5, United States Code. The Secretary shall take such additional actions as may be necessary to promote recruitment and outreach of Indians, Native Alaskans, and Native Hawaiians to positions in the Division.

"(B) The provisions of this paragraph shall apply to personnel actions taken after the date of enactment of this subsection.

"(C) The Secretary shall provide a one-time special consideration (as defined in paragraph (4)) for individuals who are not Indians or Native Alaskans and are serving within such Division on the date of enactment of this subparagraph and who desire to take another position for which they are qualified within the Department and for which there is a vacancy.".

(2) CONSULTATION.—Section 401 of the Act is further amended—

(A) in subsection (h)(1), by inserting "the Native American Human Investment Council and" before "representatives of Indians and other Native Americans"; and

(B) by adding at the end thereof the following new subsection:

"(l)(1) There is hereby established a Native American Human Investment Council (hereinafter in this subsection referred to as the 'Council') which shall consist of not less than 17 Indians, Native Alaskans, and Native Hawaiians appointed by the Secretary from among individuals nominated by Indian tribes or Indian, Native Alaskan, and Native Hawaiian organizations. The Council's membership shall represent diverse geographic areas and include representatives of tribal governments and of nonreservation Native American organizations who are service providers under this Act with experience in operating job training programs. A majority of the members of the advisory committee shall have field experience in the operation of the program authorized under this section.

"(2) The Council shall be chaired by a Council member elected by a majority of the Council's membership. The Council shall meet not less than twice each program year.

"(3) Members of the Indian and Native American Advisory Council which existed before the enactment of this paragraph—

"(A) shall serve as members of the Council until successors are appointed; and

"(B) may be appointed as members of the new Council.

"(4) The term of office for members of the Council shall be two years, except that—

"(A) the Secretary shall designate one-half of the initial appointments of members of the Council for terms of one year;

"(B) any vacancy shall be filled in the same manner as the original appointment;

"(C) any member appointed to such a vacancy shall serve for the remainder of the term for which his predecessor was appointed; and

"(D) members may be reappointed.

"(5) The membership of the Council shall be appointed by the beginning of program year 1991.

"(6) The Council shall—

"(A) solicit the views of a wide variety of tribes and Native American groups, including those operating employment and training programs funded under this section, on issues affecting the operation and administration of such programs;

"(B) advise and make recommendations to the Secretary with respect to rules, regulations, policies, and practices concerning programs under this section and other programs providing services to Native American youth and adults under this Act;

"(C) advise and make recommendations to the Secretary with respect to the design and implementation of performance standards, and any proposed variations thereto, developed under subsection (h) of this section;

"(D) review and make recommendations to the Secretary on the list of nominees for the position of Chief of the Division of Indian and Native American Programs whenever a vacancy in such position occurs; and

"(E) report directly to the Secretary and the Congress no later than January 1 of each even numbered year on the progress of Native American job training programs and make recommendations for improving their administration and effectiveness.

"(7) Members of the Council shall serve without compensation but shall be entitled to reimbursement for their expenses in the performance of their duties. The Secretary shall provide the Council with such administrative support as may be necessary to the performance of its functions.".

(b) COMPETITION FOR SECTION 402 GRANTS.—Section 402 of the Act is amended by adding at the end thereof the following new subsection:

"(f) The competition for grants under this section shall be conducted every two years, except that when a grantee has performed satisfactorily under the terms of an existing grant agreement, the Secretary may waive the requirement for such competition upon receipt from the grantee of a satisfactory two-year program plan for the succeeding two-year grant period.".

SEC. 10. AMENDMENTS TO PART B OF TITLE IV: JOB CORPS.

(a) JOB CORPS PARTICIPATION.—Section 423(1) of the Act is amended—

(1) by striking "age 22" and inserting "age 25"; and

(2) by striking "except that" and all that follows through "handicapped individual".

(b) CLARIFICATION OF AUTHORITY TO TRANSFER PARTICIPANTS TO AND FROM PROGRAMS UNDER TITLE II.—Section 426 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Nothing in this Act shall be construed to prohibit an individual who has been a participant in the Job Corps from concurrently or subsequently participating in programs under title II of this Act, or to prohibit an individual who has been a participant in programs under title II of this Act from concurrently or subsequently participating in the Job Corps.".

(c) INCREASING LIMITATION ON NONRESIDENTIAL PARTICIPANTS.—Section 427(a)(2) of the Act is amended—

(1) by striking "10 percent" and inserting "20 percent"; and

(2) by adding at the end of paragraph (2) the following new sentence: "In enrolling individuals who are to be nonresidential participants, priority shall be given to those eligible individuals who are single parents with dependent children.".

(d) CONSERVATION CENTERS.—Section 427 of the Act is amended by adding at the end thereof the following new subsection:

"(d) No funds appropriated to the Department of Labor for any fiscal year may be used to execute or carry out any contract with a nongovernmental entity to administer or manage a Civilian Conservation Center of the Job Corps on public land.".

(e) ADDITIONAL SUPPORT SERVICES REQUIRED.—Section 428 of the Act is amended by adding at the end thereof the following new subsections:

"(e) The Secretary shall, to the extent practicable, provide child care at or near Job Corps centers, for individuals who require child care for their children in order to participate in the Job Corps.

"(f) Each Job Corps center shall provide to enrollees who are dependent on, or who have a history of abuse of, alcohol or drugs with counseling and referral to related services necessary to prevent the continuance or recurrence of such dependency or abuse.".

(f) JOB CORPS CENTERS FOR HOMELESS FAMILIES.—Part B of title IV of the Job Training Partnership Act (29 U.S.C. 1691 et seq.) is amended by inserting after section 433 the following new section:

"JOB CORPS CENTERS FOR HOMELESS FAMILIES

"SEC. 433A. (a) Subject to the availability of appropriations therefor, the Secretary is authorized to, in accordance with section 427, provide services and facilities in accordance with this section to eligible homeless individuals and their families at Job Corps centers. Job Corps centers serving homeless individuals and their families shall—

"(1) be residential;

"(2) be operated under a project agreement with one or more State or local agencies that complies with subsection (b) of this section;

"(3) provide room and board for enrollees and their dependents and child care, to the extent practicable, for dependent children of enrollees; and

"(4) provide enrollees—

"(A) program activities that include both activities to sustain the operation of the center and regular Job Corps activities required under section 428; and

"(B) the benefits and services given to any other enrollee under this part.

"(b) Each Job Corps center providing services and facilities to homeless individuals under this section shall provide such services and facilities under a project agreement with one or more State or local agencies that—

"(1) requires such State and local agencies to provide, in the aggregate, not less than 50 percent of the cost of such services and facilities;

"(2) contains provisions to ensure that enrollees and their families are effectively assisted in obtaining all necessary health, education, and social services provided by existing Federal, State, and local programs in such State or locality;

"(3) require such State and local agencies to provide such transitional assistance, including housing, necessary to effect successful job placements for enrollees; and

"(4) contains or is accompanied by such other information and assurances as the Secretary may require.

"(c) To become an enrollee in the Job Corps at a center established providing services and facilities to homeless individuals under this section, an individual—

"(1) shall qualify as a homeless individual under section 103 of the Stewart B. McKinney Homeless Assistance Act;

"(2) may be over the maximum age permitted by section 423(1), but shall have not attained the age of 25 at the time of enrollment; and

"(3) shall meet the requirements of paragraphs (2) through (5) of section 423.

"(d) The Secretary shall prescribe special screening standards under sections 424 and 425 to identify and select enrollees for purposes of this section.

"(e) The Secretary shall, pursuant to section 454, conduct evaluations of the centers providing services and facilities to homeless individuals under this section. The Secretary shall submit to the Congress a report on the results of such evaluations, together with the Secretary's recommendations concerning such centers, not later than 3 years after the date of enactment of this section.".

(g) MANAGEMENT FEES.—Section 437 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding the provisions of section 164(k)(1), the Secretary shall provide all nonprofit Job Corps contractors with an equitable and negotiated management fee of not less than one percent of the contract amount.".

SEC. 11. AMENDMENTS TO PART D OF TITLE IV: NATIONAL ACTIVITIES.

(a) OFFENDER DEMONSTRATION PROJECTS.—Section 452 of the Act is amended by adding at the end thereof the following new subsection:

"(c) OFFENDER DEMONSTRATION PROJECTS.—

"(1) AWARD.—The Secretary shall award not more than 10 grants to service delivery areas under this title for the establishment and operation of juvenile offender demonstration projects.

"(2) PRIORITY TO AREAS WITH HIGH PROPORTION OF JUVENILE OFFENDERS.—In awarding funds under this subsection, the Secretary shall give priority to service delivery areas serving demonstration target areas with high proportions of juvenile offenders.

"(3) COUNSELING AND SUPERVISION.—Any demonstration program funded under this subsection shall—

"(A) incorporate an alcohol and drug abuse counseling program; and

"(B) provide close supervision and counseling and followup to each participant by qualified personnel from the time of the participant's enrollment until 6 months after the participant's enrollment has ended.

"(4) MINIMUM DURATION.—Any demonstration program funded under this subsection should provide no fewer than 6 months of service to participants.

"(5) ELIGIBILITY FOR SERVICES.—Enrollment in projects under this subsection shall be made available to youth who have been referred to service providers by schools, youth commissions, the courts (preadjudication), and after care programs (post detention).

"(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out this subsection, $1,000,000 for each of the fiscal years 1991 and 1992.".

(b) GUIDANCE.—Section 455 of the Act is amended by adding at the end thereof the following new subsection:

"(c)(1) The Secretary shall provide guidance and technical assistance to States and service delivery areas relating to the documentation required to verify the eligibility of participants under parts A, B, and C of title II of this Act as amended by the Job Training Partnership Amendments of 1990.

"(2) The guidance provided pursuant to paragraph (1), while maintaining program integrity, shall—

"(A) limit the documentation burden to the minimum necessary to adequately verify eligibility, and

"(B) ensure, to the extent practicable, that the documentation requirements shall not discourage the participation of eligible individuals.

"(3) The guidance described in paragraph (1) shall be provided not later than July 1, 1991.".

SEC. 12. AMENDMENTS TO PART E OF TITLE IV: LABOR MARKET INFORMATION.

(a) COOPERATIVE LABOR MARKET INFORMATION.—Section 462 of the Act is amended by adding at the end thereof the following new subsection:

"(g)(1) The Bureau of Labor Statistics shall engage in research, demonstration, or other activities, including those which might be carried out by States, designed to determine the feasibility of various methods of organizing and making accessible nationwide information on the quarterly earnings, establishment and industry affiliation, and geographic location of employment for all individuals for whom such information is collected by the States, and/or to demonstrate the policy research and program evaluation applications of such information.

"(2) In cooperation with the States, the Bureau shall determine appropriate procedures for establishing and maintaining such information in a longitudinal manner and appropriate policies for making such information available for policy research or program evaluation purposes or both, while ensuring the confidentiality of information and the privacy of individuals.

"(3) The Secretary of Labor shall make a report to Congress not later than 12 months after the enactment of this Act which shall describe the costs and benefits, including savings on program followup surveys, of such a database and the steps that have been taken and the schedule for any remaining steps necessary to implement the provisions of this section.".

(b) SPECIAL FEDERAL RESPONSIBILITIES.—Section 463 of the Act is amended—

(1) in subsection (a), by inserting "the Secretary of Health and Human Services," after "the Secretary of Education,"; and

(2) by adding at the end thereof the following new subsection:

"(d) The Secretary, acting through the National Occupational Information Coordinating Committee, shall report to Congress no later than 24 months after the date of enactment of this subsection, and biennially thereafter, listing recommended common and complementary data elements and their definitions, containing an analysis of the benefits of their adoption and the implications for State and local purposes, and identifying plans and schedules for developing and maintaining this common core of data. The Secretary shall consult with experts and practitioners at the Federal, State, and local levels in the various program areas in fulfilling the requirements of this subsection.".

(c) NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE.—Section 464 of the Act is amended—

(1) in subsection (a)(1) by striking "more than $5,000,000 is authorized to be reserved"

and inserting "less than $6,000,000 will be available";

(2) in subsection (a)(2) by striking "for Manpower, Reserve Affairs, and Logistics" and inserting "Force Management and Personnel";

(3) in subsection (b)(2) by inserting after "give special attention to" the following: "career development and"; and

(4) in subsection (b)(5) by inserting after "any aspect of occupational and career information systems" the following: "and coordination and compatibility of human resources data systems operated by Federal agencies or the States or both, including systems to assist economic development activities and where appropriate provide support to States in the implementation of such system enhancements.".

SEC. 13. ESTABLISHMENT OF NEW PART H OF TITLE IV: TRAINING INSTITUTES.

(a) AMENDMENT.—Title IV of the Act is amended by adding at the end thereof the following new part:

"PART H—TRAINING INSTITUTES

"INSTITUTES AUTHORIZED

"SEC. 486. (a) ESTABLISHMENT.—The Secretary shall establish, before July 1, 1991, a national training institute which develops a network of a minimum of two regional training institutes in order to strengthen the caliber of services provided through and management of the various Federal, State, and local employment and training programs including programs not authorized under this Act. To initiate and maintain this network, the Secretary may, on a competitive basis, award a grant or contract for a national training institute to a college or university, private nonprofit organization, community based organization, or another organization with current and specialized employment and training expertise. The Secretary shall ensure that this national institute and network of regional institutes shall—

"(1) develop curricula and provide appropriate training, technical assistance, staff development, and other activities at the national and regional institutes and at other locations which will—

"(A) enhance the skills, knowledge, and expertise of the personnel who staff employment and training and other closely related human service systems, including service providers, and

"(B) improve the quality of services provided to individuals served under this Act and other Federal employment and training programs and encourage integrated service delivery from multiple Acts using, where possible, cross trained teams;

"(C) improve the planning, procurement and contracting practices pursuant to this Act;

"(D) provide broad human services policy and planning training to private industry council volunteers and members of State human investment coordinating councils;

"(2) prepare and disseminate training curricula and materials for employment and training professionals and support staff which focus on enhancing staff competencies and professionalism, including instruction on the administrative requirements of this Act, such as procurement and contracting standards and regulations;

"(3) disseminate innovative and successful models, materials, methods, and program information and provide training in the techniques learned from those sources to foster improved program quality and professional growth among managers, service delivery providers and administrators involved in the delivery of employment and training services; and

"(4) establish an institute board of directors which shall be broadly representative of the employment and training and other related human service systems and which shall establish institute policy and priorities, review institute performance, enhance the effectiveness and efficiency of institute operations and identify those human service strategies which require further research and demonstration and make recommendations to the Secretary for annual research and demonstration activities.

"(b) CHARGES.—The training institutes established pursuant to subsection (a) may charge appropriate tuition or fees to offset the costs of various institute training, materials acquisition, or information dissemination.

"(c) ASSISTANCE.—The Secretary shall provide guidance, technical assistance, and direction to the training institute network to ensure that training institutes respond to employment and training staff needs, furnish high quality training and materials, meet program objectives without duplication, and encourage the use of the latest technologies for training and program management.

"(d) CLEARINGHOUSE.—The Secretary is authorized to designate the National Training Institute as the clearinghouse to regularly identify, develop, and disseminate innovative materials which enhance the knowledge and quality of performance of employment and training personnel and which will—

"(1) facilitate effective communications and coordination among employment and training personnel;

"(2) establish a computer communications network to share information among employment and training personnel and institutions; and

"(3) establish linkages with existing human resources clearinghouses, including (but not limited to) the Education Research Information Centers and the National Network for Curriculum Coordination in Vocational and Technical Education.

"(e) CONSULTATION.—The Secretary shall consult with the Secretaries of Education and Health and Human Services, as appropriate, to coordinate the activities of the network of training institutes with other relevant institutes, centers, laboratories, clearinghouses, or dissemination networks.".

(b) CONFORMING AMENDMENT.—Section 455 of the Act is amended—

(1) by striking subsection (b);

(2) by redesignating subsection (c) (as added by section 11(b) of this Act) as subsection (b).

(c) CLERICAL AMENDMENT.—The table of contents of the Act is amended by inserting after the item pertaining to section 481 the following:

"PART H—TRAINING INSTITUTES

"Sec. 486. Institutes authorized.".

SEC. 14. ESTABLISHMENT OF NEW PART I OF TITLE IV: YOUTH OPPORTUNITIES UNLIMITED PROGRAM.

(a) AMENDMENT.—Title IV of the Act is amended by adding at the end thereof the following new part:

"PART I—YOUTH OPPORTUNITIES UNLIMITED PROGRAM

"STATEMENT OF PURPOSE

"SEC. 491. The purposes of the Youth Opportunities Unlimited program under this part are—

"(1) to guarantee access to education and job training assistance for youth residing in high-poverty areas of urban and rural communities;

"(2) to provide a comprehensive range of education, training, and employment services to disadvantaged youth who are not currently served or are underserved by Federal education and job training programs;

"(3) to enable communities with high concentrations of poverty to establish and meet goals for improving the opportunities available to youth within those communities; and

"(4) to facilitate the coordination of comprehensive services to disadvantaged youth in such communities.

"PROGRAM AUTHORIZED

"SEC. 492. (a) PROGRAM ESTABLISHED.—The Secretary is authorized to establish a national program of Youth Opportunities Unlimited grants to pay the Federal share of providing comprehensive services to youth living in high poverty areas in the Nation's urban and rural communities.

"(b) AWARDS.—(1) The Secretary may only award grants under this part to the service delivery area (on behalf of the participating community) in which the target area is located, to the grantee designated under section 401 if the target area is located on an Indian reservation or Alaskan native village, or to the grantee designated under section 402 if the target area is located in a farmworker community.

"(2) In awarding grants under this part, the Secretary shall, to the extent practicable, assure that there is an equitable distribution of grants between urban and rural communities.

"(3) The Secretary may award not more than 25 grants in the first year after the program is in effect.

"(4) The Secretary shall award annually at least 1, but not more than 3, grants under this part (A) among grantees designated under section 401 representing Indian reservations and Alaskan native villages, and (B) among grantees designated under section 402 representing farmworkers.

"(c) GRANT TERM.—Grants awarded under this part shall be for a 3-year period, with funding for the second and third fiscal years in this period conditioned upon a determination by the Secretary that the grant recipient has complied with conditions of the grant during the previous fiscal year.

"(d) AWARD CRITERIA.—In awarding grants under this part, the Secretary shall consider the likelihood of successful implementation, the extent to which other Federal and non-Federal funds available for similar purposes in the community will be utilized as part of the project, and the extent to which new State, local, or private resources will be made available to carry out the project. The Secretary shall give priority to applications which designate target areas with the highest rates of poverty.

"PROGRAM REQUIREMENTS

"SEC. 493. (a) PROGRAM OF COMPREHENSIVE SERVICES.—A participating community shall use a grant awarded under this part for a program of comprehensive services for youth that meets the requirements of this section.

"(b) TARGET AREA.—A target area shall be designated which shall have a population of not more than 25,000, except that in the event that the population of an area within a single school district exceeds this limit the target area may encompass the entire district.

"(c) ALL YOUTH TO BE ELIGIBLE.—All youth who have attained age 14 but not attained age 22 at the time of enrollment and who

reside in the target area shall be eligible to participate in programs and activities assisted under this part.

"(d) INTEGRATED SERVICE DELIVERY SYSTEM.—Each participating community shall develop an integrated service delivery system in each target area which shall include, at a minimum—

"(1) a system of common intake, individualized assessment, and case management;

"(2) educational activities (combined with training as needed) to meet the needs of participants, which may include—

"(A) basic skills instruction and remedial education;

"(B) bilingual education for individuals with limited English proficiency; and

"(C) secondary educational activities designed to lead to the attainment of a high school diploma or its equivalent;

"(3) job skills training;

"(4) job readiness activities to help prepare participants for work;

"(5) job development and job placement; and

"(6) support services necessary for successful participation by eligible youths, including but not limited to child care, transportation, and assistance in resolving personal or family crises such as those related to substance abuse, homelessness, migration, and family violence.

"(e) EDUCATION REQUIRED.—Except in the event that an individual already has obtained a high school diploma or its equivalent and the basic academic skills necessary for successful participation in the labor market, programs assisted under this part shall include educational services as one component of the activities in which a participating youth is enrolled.

"(f) OUTREACH AND RECRUITMENT.—Each community shall undertake outreach and recruitment efforts in the target area to encourage, to the maximum extent possible, participation by those disadvantaged youth who are currently unserved or underserved by education and training programs. Such efforts shall include targeted measures specifically designed to enlist the participation of young minority males and youth under the jurisdiction of the child welfare, juvenile justice, and criminal justice systems.

"(g) YOUTH PROGRAM MODELS.—Each community shall offer education, training, and supportive activities selected from a set of youth program models designated by the Secretary or from alternative models described in the application and approved by the Secretary, such as—

"(1) nonresidential learning centers,

"(2) alternative schools,

"(3) combined summer remediation, work experience and work readiness training, and school-to-work/apprenticeship/ postsecondary education programs,

"(4) teen parent programs,

"(5) special programs run by community colleges,

"(6) youth centers,

"(7) initiatives aimed at increasing rural student enrollment in postsecondary institutions,

"(8) public-private collaborations to assure private sector employment and continued learning opportunities for youth; and

"(9) initiatives that combine community and youth service opportunities with education and training activities.

"(h) MEASURABLE GOALS AND OUTCOMES.—Each community shall establish measurable goals and outcomes for activities assisted under this part which shall include, at a minimum, increasing—

"(1) the proportion of eligible youth participating in education, training, and employment services;

"(2) the basic skill levels of participating youth;

"(3) the proportion of participating youth completing high school or its equivalent;

"(4) the proportion of participating youth enrolled in postsecondary institutions, apprenticeships, or other advanced training programs; and

"(5) the proportion of participating youth who obtain employment.

"(i) FISCAL REQUIREMENTS.—(1) Each community shall maintain State and local resources for education, training, and related support services in the target area at levels not less than those available for such purposes prior to the receipt of a grant under this part.

"(2) Funds received under this part shall be used by each community only to supplement and not to supplant funds provided from other Federal and non-Federal sources for education, training, and related support services available to youth in the target area.

"(j) LIMITATIONS.—(1) No funds provided under this part shall be used for tuition and fees related to enrollment in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education.

"(2) Nothing in this subsection shall be interpreted to prohibit programs receiving assistance under this part from assisting youth in identifying sources of student financial assistance, disseminating information about such assistance, otherwise encouraging and facilitating enrollment by youth in the target area at institutions of higher education, or providing necessary support services to youth in the target area who are enrolled at such institutions.

"(3) No funds provided under this part shall be used to support paid work experience programs unless such programs are combined with other education and training activities.

"APPLICATION

"SEC. 494. Each participating community desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) include a comprehensive plan for meeting the goals and requirements of this part;

"(2) describe the resources available in the participating community from private, local government, State and Federal sources which will be utilized in providing services to participating youth;

"(3) provide assurances that such resources will be utilized to the maximum extent feasible to meet the needs of participating youth, and that funds provided under this part will be used only to pay the costs of services not otherwise available within the community;

"(4) set forth an estimate of the number of youth expected to participate and the funds required to provide appropriate education, training, and supportive services to them; and

"(5) provide evidence of support for accomplishing the stated goals of the participating community (through a memorandum of understanding, establishment of an advisory council, or through other means) from—

"(A) local elected officials,

"(B) the local school board,

"(C) applicable private industry council,

"(D) local community leaders,

"(E) business,

"(F) labor organizations, and

"(G) other appropriate organizations.

"PAYMENT; FEDERAL SHARE

"SEC. 495. (a) PAYMENTS.—The Secretary shall pay to each participating community the Federal share of the costs of the activities described in the application.

"(b) FEDERAL SHARE.—The Federal share for each fiscal year a participating community receives assistance under this part shall be 50 percent.

"(c) LOCAL SHARE.—Each participating community may provide its share of the costs from private, local, State, or Federal sources other than funds received pursuant to this part.

"FEDERAL RESPONSIBILITIES

"SEC. 496. (a) TECHNICAL ASSISTANCE.—(1) The Secretary shall provide technical assistance to participating communities to help them develop and deliver comprehensive services in an effective manner and to otherwise meet the requirements of this part.

"(2) The Secretary may also provide technical assistance to communities to help them prepare applications for grants under this part when such assistance is necessary to ensure that those communities with the highest concentrations of poverty are able to participate in the program established under this part.

"(3) The Secretary may reserve 5 percent of the amount appropriated under this part to carry out the provisions of this subsection.

"(b) REPORTING.—The Secretary is authorized to establish such reporting procedures as may be necessary to carry out the purposes of this part.

"(c) INDEPENDENT EVALUATION.—The Secretary shall provide for a thorough, independent evaluation of the activities assisted under this part. Such evaluation shall include an assessment of—

"(1) the impact on youth residing in target areas, including (but not limited to) their rates of school completion, enrollment in advanced education or training, and employment;

"(2) the extent to which participating communities fulfilled the goal of guaranteeing access to appropriate education, training, and supportive services to all eligible youth residing in target areas who seek to participate;

"(3) the effectiveness of guaranteed access to comprehensive services combined with outreach and recruitment efforts in enlisting the participation of previously unserved or underserved youth residing in target areas; and

"(4) the effectiveness of efforts to integrate service delivery in target areas, including (but not limited to) systems of common intake, assessment, and case management.

"(d) EVALUATION REPORT.—The Secretary shall develop a report detailing the results of the independent evaluation and submit such report to the President and the Congress no later than March 31, 1995, along with an analysis of expenditures made, results achieved, and problems in the operations and coordination of programs funded under this part. Such report should summarize findings concerning—

"(1) whether, if a combination of education, training, career guidance, counseling, and other support services were made to youth living in designated geographic target

areas, the rates of student enrollment, retention, and completion would increase;

"(2) the extent to which current programs are sufficient in number, variety, and quality to meet demand; and

"(3) the feasibility of extending access to comprehensive education, training and support services and programs required under this part to all areas of the Nation, including possible approaches to the incremental extension of such access over time.

"DEFINITIONS

"SEC. 497. For the purposes of this part:

"(1) The term 'participating community' means the city or cities in a Metropolitan Statistical Area, the contiguous nonmetropolitan counties in any rural area, an Indian reservation or Alaskan native village, or farmworker community that includes the target area for the Youth Opportunities Unlimited program.

"(2) The term 'high poverty area' means an urban census tract, a nonmetropolitan county, an Indian reservation, an Alaskan native village, or a farmworker community with a poverty rate of 30 percent or more as determined by the Bureau of the Census.

"(3) The term 'target area' means a high poverty area or set of contiguous poverty areas that will be the focus of the program in each participating community.".

(b) TECHNICAL AMENDMENT.—The table of contents of the Act is amended by inserting after the item pertaining to section 486 the following:

"PART I—YOUTH OPPORTUNITIES UNLIMITED PROGRAM

"Sec. 491. Statement of purpose.
"Sec. 492. Program authorized.
"Sec. 493. Program requirements.
"Sec. 494. Application.
"Sec. 495. Payment; federal share.
"Sec. 496. Federal responsibilities.
"Sec. 497. Definitions.".

SEC. 15. ESTABLISHMENT OF A NEW PART J OF TITLE IV: DISASTER RELIEF.

(a) AUTHORIZATION OF PROGRAM.—Title IV of the Job Training Partnership Act is amended by inserting after section 481 (29 U.S.C. 1781) the following new part:

"PART J—DISASTER RELIEF EMPLOYMENT ASSISTANCE

"SEC. 499A. GENERAL AUTHORITY.

"(a) QUALIFICATION FOR FUNDS.—Funds available under this part shall be allocated in a timely manner by the Secretary to the Governor of any State within which is located an area which has suffered a major disaster as defined in section 102 (1) and (2) of the Disaster Relief Act of 1974 (42 U.S.C. 5122 (1) and (2)), referred in this part as the 'disaster area'.

"(b) SUBSTATE ALLOCATION.—Not less than 80 percent of the funds made available to any Governor under subsection (a) shall be allocated by the Governor to units of general local government located, in whole or in part, within such disaster areas. The remainder of such funds may be reserved by the Governor for use, in concert with State agencies, in cleanup, rescue, repair, renovation, and rebuilding associated with such major disaster.

"(c) COORDINATION—Funds made available under this part to Governors and units of general local government shall be expended in consultation with—

"(1) agencies administering programs for disaster relief provided under the Disaster Relief Act of 1974; and

"(2) the administrative entity and the private industry council under this Act in each service delivery area within which disaster employment programs will be conducted under this part.

"SEC. 499B. USE OF FUNDS.

"(a) PROJECTS RESTRICTED TO DISASTER AREAS.—Funds made available under this part to any unit of general local government—

"(1) shall be used exclusively to provide employment on projects to provide food, clothing, shelter, and other humanitarian assistance for disaster victims and on projects of demolition, cleanup, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within the disaster areas; and

"(2) may be expended through public and private agencies and organizations engaged in such projects.

"(b) ELIGIBLE PARTICIPANTS.—An individual shall be eligible to be offered disaster employment under this part if such individual is—

"(1) eligible to participate or enroll, or is a participant or enrolled, under title III of this Act, other than an individual who is actively engaged in a training program; and

"(2) unemployed as a consequence of the disaster.

"(c) LIMITATIONS ON DISASTER RELIEF EMPLOYMENT.—No individual shall be employed under this part for more than 6 months for work related to recovery from a single natural disaster.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to protect the Federal fiscal interest in funds made available under this part.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 3(d) of the Job Training Partnership Act (29 U.S.C. 1502(d)) is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) There are authorized to be appropriated to carry out part J of title IV, $15,000,000 for fiscal year 1991 and such sums as may be necessary for each succeeding fiscal year. Funds appropriated pursuant to this paragraph are authorized to remain available for such part J until expended.".

(c) CLERICAL AMENDMENTS.—The table of contents of the Act is amended by inserting after the item pertaining to section 497 the following:

"PART J—DISASTER RELIEF EMPLOYMENT ASSISTANCE

"Sec. 499A. General authority.
"Sec. 499B. Use of funds.".

SEC. 16. NONTRADITIONAL EMPLOYMENT.

(a) FINDINGS.—The Congress finds that—

(1) over 7,000,000 families in the United States live in poverty, and over half of those families are single parent households headed by women;

(2) women stand to improve their economic security and independence through the training and other services offered under the Job Training Partnership Act;

(3) women participating under the Job Training Partnership Act tend to be enrolled in programs for traditionally female occupations;

(4) many of the Job Training Partnership Act programs that have low female enrollment levels are in fields of work that are nontraditional for women;

(5) employment in traditionally male occupations leads to higher wages, improved job security, and better long-range opportunities than employment in traditionally female-dominated fields;

(6) the long-term economic security of women is served by increasing nontraditional employment opportunities for women; and

(7) older women reentering the workforce may have special needs in obtaining training and placement in occupations providing economic security.

(b) STATEMENT OF PURPOSE.—The purposes of this section are—

(1) to encourage efforts by the Federal, State, and local levels of government aimed at providing a wider range of opportunities for women under the Job Training Partnership Act;

(2) to provide incentives to establish programs that will train, place, and retain women in nontraditional fields; and

(3) to facilitate coordination between the Job Training Partnership Act and the Carl D. Perkins Vocational Education Act to maximize the effectiveness of resources available for training and placing women in nontraditional employment.

(c) DEFINITION.—Section 4 of the Job Training Partnership Act (hereinafter referred to as the "Act") is amended by adding at the end thereof the following new paragraph:

"(38) The term 'nontraditional employment' as applied to women refers to occupations or fields of work where women comprise less than 25 percent of the individuals employed in such occupation or field of work.".

(d) SERVICE DELIVERY AREA JOB TRAINING PLAN.—Section 104(b) of the Act is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), (9), (10), (11), and (12) as paragraphs (6), (7), (8), (9), (10), (11), (12), and (13), respectively;

(2) by inserting after paragraph (4) the following new paragraph:

"(5) goals for—

"(A) the training of women in nontraditional employment; and

"(B) the training-related placement of women in nontraditional employment and apprenticeships;

and a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities;"; and

(3) in paragraph (12), as redesignated by paragraph (1), by—

(A) striking "and" at the end of subparagraph (B);

(B) adding after subparagraph (C) the following new subparagraphs:

"(D) the extent to which the service delivery area has met its goals for the training and training-related placement of women in nontraditional employment and apprenticeships; and

"(E) a statistical breakdown of women trained and placed in nontraditional occupations, including—

"(i) the type of training received, by occupation;

"(ii) whether the participant was placed in a job or apprenticeship, and, if so, the occupation and the wage at placement;

"(iii) the participant's age;

"(iv) the participant's race; and

"(v) information on retention of the participant in nontraditional employment; and".

(e) GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.—

(1) IN GENERAL.—Section 121(b) of the Act is amended by inserting after paragraph (3) (as redesignated by section 5(a)(1) of this Act) the following new paragraph:

"(4) The plan shall include goals for—

"(A) the training of women in nontraditional employment through funds available

under the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, and other sources of Federal and State support;

"(B) the training-related placement of women in nontraditional employment and apprenticeships;

"(C) a description of efforts to be undertaken to accomplish such goals, including efforts to increase awareness of such training and placement opportunities; and

"(D) a description of efforts to coordinate activities provided pursuant to the Job Training Partnership Act and the Carl D. Perkins Vocational Education Act to train and place women in nontraditional employment.".

(2) SPECIAL PROGRAMS.—Section 121(c) of the Act is amended by—

(A) redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively; and

(B) inserting after paragraph (8) the following new paragraph:

"(9) providing programs and related services to encourage the recruitment of women for training, placement, and retention in nontraditional employment;".

(f) STATE JOB TRAINING COORDINATING COUNCIL.—Section 122(b) of the Act is amended by—

(1) redesignating paragraphs (5), (6), (7), and (8) as paragraphs (9), (10), (11), and (12), respectively; and

(2) inserting after paragraph (4) the following new paragraphs:

"(5) review the reports made pursuant to subparagraphs (D) and (E) of section 104(b)(12) and make recommendations for technical assistance and corrective action, based on the results of such reports;

"(6) prepare a summary of the reports made pursuant to subparagraphs (D) and (E) of section 104(b)(12) detailing promising service delivery approaches developed in each service delivery area for the training and placement of women in nontraditional occupations, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(7) review the activities of the Governor to train, place, and retain women in nontraditional employment, including activities under section 123, prepare a summary of activities and an analysis of results, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;

"(8) consult with the sex equity coordinator established under section 111(b) of the Carl D. Perkins Vocational Education Act, obtain from the sex equity coordinator a summary of activities and an analysis of results in training women in nontraditional employment under the Carl D. Perkins Vocational Education Act, and disseminate annually such summary to service delivery areas, service providers throughout the State, and the Secretary;".

(g) STATE EDUCATION COORDINATION AND GRANTS.—

(1) STATE EDUCATION COORDINATION AND GRANTS.—Section 123(a) of the Act is amended by—

(A) striking "and" at the end of paragraph (2);

(B) striking the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and "and"; and

(C) inserting the following new paragraph at the end thereof:

"(4) to provide statewide coordinated approaches, including model programs, to train, place, and retain women in nontraditional employment.".

(2) USE OF FUNDS.—Section 123(c) is amended—

(A) in paragraph (2)(B) by striking "(1) and (3)" and inserting in lieu thereof "(1), (3), and (4)"; and

(B) in paragraph (3) by striking "(1) and (3)" and inserting in lieu thereof "(1), (3), and (4)".

(h) DEMONSTRATION PROGRAMS.—Part D of title IV of the Act is amended by adding at the end thereof the following new section:

"DEMONSTRATION PROGRAMS

"SEC. 457. (a)(1) From funds available under this part for each of the fiscal years 1990, 1991, 1992, and 1993, the Secretary shall use $1,500,000 in each such fiscal year to make grants to States to develop demonstration and exemplary programs to train and place women in nontraditional employment.

"(2) The Secretary may award no more than 6 grants in each fiscal year.

"(b) In awarding grants pursuant to subsection (a), the Secretary shall consider—

"(1) the level of coordination between the Job Training Partnership Act and other resources available for training women in nontraditional employment;

"(2) the extent of private sector involvement in the development and implementation of training programs under the Job Training Partnership Act;

"(3) the extent to which the initiatives proposed by a State supplement or build upon existing efforts in a State to train and place women in nontraditional employment;

"(4) whether the proposed grant amount is sufficient to accomplish measurable goals;

"(5) the extent to which a State is prepared to disseminate information on its demonstration training programs; and

"(6) the extent to which a State is prepared to produce materials that allow for replication of such State's demonstration training programs.

"(c)(1) Each State receiving financial assistance pursuant to this section may use such funds to—

"(A) award grants to service providers in the State to train and otherwise prepare women for nontraditional employment;

"(B) award grants to service delivery areas that plan and demonstrate the ability to train, place, and retain women in nontraditional employment; and

"(C) award grants to service delivery areas on the basis of exceptional performance in training, placing, and retaining women in nontraditional employment.

"(2) Each State receiving financial assistance pursuant to subsection (c)(1)(A) may only award grants to—

"(A) community based organizations,

"(B) educational institutions, or

"(C) other service providers,

that have demonstrated success in occupational skills training.

"(3) Each State receiving financial assistance under this section shall ensure, to the extent possible, that grants are awarded for training, placing, and retaining women in growth occupations with increased wage potential.

"(4) Each State receiving financial assistance pursuant to subsection (c)(1)(B) or (c)(1)(C) may only award grants to service delivery areas that have demonstrated ability or exceptional performance in training, placing, and retaining women in nontraditional employment that is not attributable or related to the activities of any service provider awarded funds under subsection (c)(1)(A).

"(d) In any fiscal year in which a State receives a grant pursuant to this section such State may retain an amount not to exceed 10 percent of such grant to—

"(1) pay administrative costs,

"(2) facilitate the coordination of statewide approaches to training and placing women in nontraditional employment, or

"(3) provide technical assistance to service providers.

"(e) The Secretary shall provide for evaluation of the demonstration programs carried out pursuant to this section, including evaluation of the demonstration programs' effectiveness in—

"(1) preparing women for nontraditional employment, and

"(2) developing and replicating approaches to train and place women in nontraditional employment.".

(i) REPORT AND RECOMMENDATIONS.—

(1) REPORT.—The Secretary of Labor shall report to the Congress within 5 years of the date of enactment of this Act on—

(A) the extent to which States and service delivery areas have succeeded in training, placing, and retaining women in nontraditional employment, together with a description of the efforts made and the results of such efforts; and

(B) the effectiveness of the demonstration programs established by section 457 of the Job Training Partnership Act in developing and replicating approaches to train and place women in nontraditional employment, including a summary of activities performed by grant recipients under the demonstration program authorized by section 457 of the Job Training Partnership Act.

(2) RECOMMENDATIONS.—The report described in subsection (a) shall include recommendations on the need to continue, expand, or modify the demonstration programs established by section 457 of the Job Training Partnership Act, as well as recommendations for legislative and administrative changes necessary to increase nontraditional employment opportunities for women under the Job Training Partnership Act.

(j) DISCRIMINATION.—

(1) For purposes of this legislation, nothing in this Act shall be construed to mean that Congress is taking a position on the issue of comparable worth.

(2) Nothing in this Act shall be construed to require, sanction or authorize discrimination in violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age. No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in any program under this Act because of race, color, religion, sex, national origin, age, handicap, political affiliation or belief. Failure to meet the goals in the Act shall not itself constitute a violation of title VII of the Civil Rights Act of 1964 or any other Federal law prohibiting discrimination on the basis of race, color, religion, sex, national origin, handicap, or age.

(k) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect upon the date of enactment of this Act, except that the requirements imposed by subsections (d), (e), and (f) of this section shall apply to the plan or report filed or reviewed for program years beginning on or after July 1, 1991.

SEC. 17. UNIFORM REPORTING REQUIREMENTS.

(a) FINDING.—The Congress finds that closer coordination and more effective use of resources among a variety of employment and training programs can be facilitated if these programs had common data elements and definitions.

(b) DATA ELEMENTS.—Under the leadership of the Secretary of Labor, the Secretaries of Education, Health and Human Services, and such other departments as the Secretary of Labor deems useful and appropriate, shall identify a core set of consistently defined data elements for employment and training programs, including (but not limited to) those funded under titles II, III, and IV of the Act, the Wagner-Peyser Act, the Carl D. Perkins Vocational Education Act, title II of the Family Support Act, and title V of the Older Americans Act.

(c) REPORT.—The Secretary shall report to the Congress no later than January 1, 1992, listing recommended data elements and their definitions, and containing an analysis of the benefits of their adoption.

(d) CONSULTATION.—The Secretary shall consult with experts and practitioners at the Federal, State, and local levels, in the various program areas, in fulfilling the requirements of this subsection.

SEC. 18. EFFECTIVE DATE; TRANSITION.

(a) EFFECTIVE DATE.—The amendments made by this Act shall take effect for the program years beginning on or after July 1, 1991.

(b) TRANSITION.—

(1) RULES AND PROCEDURES.—The Secretary shall promulgate such rules and procedures (including interim rules and procedures) as may be necessary to provide for an orderly transition to and implementation of the amendments made by this Act. The Secretary shall promulgate interim rules and procedures no later than three months prior to the beginning of program year 1991. The Secretary shall publish final regulations in the Federal Register for the implementation of such amendments no later than October 1, 1991. Such final regulations shall not be applicable to the period of time during which interim rules and procedures are in effect.

(2) MANDATORY SUBJECTS OF RULES AND PROCEDURES.—Such rules and procedures shall address (but shall not be limited to) treatment of obligated but unexpended funds; treatment of other funds unexpended at the end of program year 1990; provision of services to participants enrolled in and not terminated from the program prior to July 1, 1991; and conduct of activities authorized under grants and contracts in effect both prior to and after the date of enactment.

AMENDMENT OFFERED BY MR. GOODLING

Mr. GOODLING. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOODLING: Page 30, after line 17, insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

(1) by adding at the end of subsection (a) the following new paragraph:

"(3) In order to allow for the preparation of national estimates necessary to meet the requirements of subsections (c) and (d), recipients shall maintain and provide to the Secretary standardized records of a sufficient number of individual participants to provide an adequate sample size.";

Mr. GOODLING. Madam Chairman, this amendment is a clarification of a provision in H.R. 2039 that would require the collection of data on characteristics and activities of participants in JTPA programs.

Specifically the amendment would allow the Secretary of Labor to collect, on a sample basis, valuable information on individual participants.

I believe this amendment would significantly enhance the integrity of JTPA by providing higher quality information than is currently available to us on JTPA. By looking at the many dimensions of participants in the JTPA title II and III the Department of Labor would have an increased capability to analyze activities and trends in the JTPA system.

JTPA's current administrative data source does not provide the capability to develop a through picture of the program such as determining the program activities that various participant groups are involved in, to see which groups are most likely to participate in which activities, and to see the differences in outcomes from the various activities.

This amendment which would enable the Department of Labor to obtain detailed employment history, demographic and in-program activities of participants that can then be cross tabulated. It should not be a burden to local service delivery areas.

A sampling of information that SDA's are already collecting would be adequate. Each SDA would only have to report, on average, approximately 25 participants per year.

The costs of this new requirement would ultimately be less than the current survey process on individual participants.

The return on this investment of collecting additional participant information will allow the Department of Labor to be more responsive to congressional requests and to other interested parties for insightful information on the JTPA program.

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Mr. MARTINEZ. Madam Chairman, I rise in support of the amendment. I believe this amendment would improve the data sampling at the service delivery area. By offering this amendment, the gentleman from Pennsylvania [Mr. GOODLING], the ranking minority member, enhances the data collection portion of H.R. 2039, and I support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BARTLETT

Mr. BARTLETT. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARTLETT: Page 58, strike out line 23 and all that follows through line 6 on page 59 and insert the following:

"(d) EXCEPTIONS TO ECONOMIC DISADVANTAGE REQUIREMENT.—

"(1) BARRIERS TO EMPLOYMENT.—Notwithstanding subsection (a)—

"(A) up to 10 percent of the participants in programs in a service delivery area receiving assistance under this part may be individuals who are not economically disadvantaged, if each such individual has a barrier to his or her employment; and

"(B) up to an additional 15 percent of such participants may be individuals who are not economically disadvantaged, if each such individual is a high school dropout who has an additional barrier to his or her employment.

"(2) DEFINITION OF BARRIERS.—For purposes of this subsection, individuals who have barriers to their employment include, but are not limited to, individuals who have limited English-language proficiency, and individuals who are school dropouts, parents, disabled, offenders, substance abusers, alcoholics, and homeless.

Mr. BARTLETT. Madam Chairman, this amendment has been discussed a bit during the general debate. I want to go over some of the points of this amendment again.

First, the purpose of this amendment is to solve a real problem, a real problem for tens of thousands, indeed perhaps hundreds of thousands of young people who have dropped out of school and who are therefore in dramatic need of job training types of assistance in order to prevent them from becoming or staying chronically unemployed.

There is a real problem in the sense that many, not all, but many of these young people, who are also very poor and very impoverished, in addition are unable to verify the income of their family because their family is dysfunctional, or because they are not speaking to their family, or because sometimes they have been thrown out of their homes.

Indeed, I would suggest that any high school droput is in fact income eligible by nature of being a high school dropout, because that high school dropout is per se poor, himself or herself, and is only technically ineligible based on income because of the family's income. These high school students in many cases do not have access to family income.

Second, I would note that we have changed the amendment from committee rather dramatically to provide that the only window we are providing for this group of students, this group of young kids who would not have to verify their income, is a 25-percent window, and we are saying in addition to that that group would have to have an additional barrier, in addition to being a high school dropout. We would include additional barriers such as those who are limited English proficient, those who are disabled, those who are substance abusers, those whose parents are dropouts, those who are alcoholics, or who are homeless, or who are pregnant or who are parents.

I would suggest that this is a modest amendment.

It is one that is dramatically needed. Without this amendment in the bill, high school dropouts will continue to be largely ineligible for Job Training Partnership Act funds.

Mr. MARTINEZ. Madam Chairman, I rise in support of the amendment.

The Bartlett amendment would expand the cap on the eligibility exemption from 10 percent to 25 percent for youth that do not meet the income guidelines, but face other barriers to employment. A similar version of this amendment was defeated in committee because it would dilute efforts to target the hardest-to-serve youth in the new title II-C Year-Round Youth Program. Let me remind my colleagues, that the primary intent of H.R. 2039 is to ensure that the least job ready be targeted for job training services.

While this amendment's expansion of the eligibility exemption requires youth to have at least two barriers to employment, it continues to dilute our primary goal of targeting hard-to-serve youth. I urge my colleagues to oppose this amendment.

Mr. GOODLING. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in support of the amendment. It is properly drawn at the present time.

Mr. DOWNEY. Mr. Chairman, as the chairman of the House Select Committee on Aging's Subcommittee on Human Services, I am very pleased that H.R. 2039, the Job Training Partnership Act has passed. I am especially happy that the set-aside for older workers has been restored. I would like to commend the distinguished chairman of the Subcommittee on Employment Opportunities, MATT MARTINEZ for the leadership he has shown in ensuring that older workers receive the recognition they deserve.

Business and labor leaders have for several years been forecasting that there will be millions more jobs than there will be qualified workers during the 1990's and the early 21st century. The number of entry level workers is decreasing. By the year 2000, workers aged 16 to 34 will represent 38 percent of the work force—down from 50 percent in 1985. However, by the year 2020, 25 percent of our Nation's work force will be elderly. Currently, more than 32 million persons above the age of 45 are in the work force, and nearly 15 million of those are aged 55 or older. Older workers are vital to our Nation's stability and productivity. Their contributions are substantial and significant, and the passage of H.R. 2039 proves that the value of this precious resource has been acknowledged.

One of the key Federal programs we have in this Nation that allows for and promotes the employment of older workers is the Job Training Partnership Act. JTPA funding for employment and training services to older workers is provided primarily under title IIA of the act. Seventy-eight percent of annual funding to States under this title is currently provided to local service delivery area [SDA's] for job training services to eligible individuals, including older workers. Currently, 3 percent of the State title IIA allocation is set-aside specifically for services to economically disadvantaged older workers. In Program Year 1988, the 3 percent set-aside served about 50,000 older workers.

H.R. 2039 requires that SDA's (Service Delivery Areas) operating Job Training Partnership Act programs allocate 6 percent of their title II-A funds to programs for individuals 55 years of age over. Under H.R. 2039, the percentage of funds to the local service delivery areas will be increased from the current 78 percent to 84 percent. This is accomplished by reducing the State set-asides which are at the Governor's discretion. Because the majority of unspent funds in JTPA arise in programs funded through the State setasides, there has been administration support for the elimination or reduction of the setasides. This would affect thousands of older workers who are willing and able to work.

According to a General Accounting Office study done in January 1990 at the request of Senator DAVID PRYOR, chairman of the Special Committee on Aging, this underexpenditure of 3 percent set-aside funds has been attributed to a slow start in developing services for older workers. This resulted in large carryover balances, which, in turn, contributed to the underspending problem in later years. However, expenditures have increased since the start of the program. During transition year 1984, about 28 percent of the older workers set-aside funds were spent. In program year 1988, the expenditure rate increased to about 70 percent of total funds available. According to testimony given by the National Council on Aging before the Subcommittee on Employment Opportunities in September of 1989, the rate of spending and the rate of program effectiveness has accelerated to the extent that the 3 percent set-aside program is currently spending at the annual estimated rate of 134 percent.

The proposed 6 percent set-aside out of 84 percent of funds to local service delivery areas will mean approximately $55 million for older workers programs. That is 10 percent less money the current 3 percent. Supporters of this legislation, however, feel that even though this amount is less, it will provide a minimum national program base on which the States and the Service Delivery Areas can build as the workforce continues the universally projected aging process.

H.R. 2039 has many other provisions that will benefit older workers. These include a provision that will include older workers in the current "widow", under which 10 percent of enrollees may quality because they have significant employment barriers, such as disability or age discrimination, even through they are not low income. Another provision of note is that H.R. 2039 will include State agencies on aging in the same job training coordinating councils and make older worker organizations eligible to serve on local private industry councils. In addition, H.R. 2039 requires the coordination of reporting requirements with title V, the Senior Community Service Employment Program under the Older Americans Act.

The passage of H.R. 2039 signals the culmination of many months of hard work and negotiations on the part of the Members of both the House Education and Labor Committee and the Labor and Human Resources Committee in the other body. During that time period, I have been approached by representatives of many aging organizations, asking my support for a final product that would reflect the special needs of older workers. I believe that H.R. 2039 does just that, and I am happy to support it.

Mr. FORD of Michigan. Madam Chairman, I rise in opposition to the Bartlett amendment. It runs directly contrary to the goal of this legislation, which is to target resources in a way to maximize the return on the taxpayers investment.

For this program to have its maximum impact, it has to serve people who don't have the resources to get training or an education on their own.

Mr. BARTLETT wants to spend as much as a quarter of the title II-C funds without regard to the recipients' income. I have no objection to helping any young person get a better education, but when resources are desperately scarce it makes more sense to target funds on those who we can be certain will otherwise get no help.

Mr. BARTLETT says he is not trying to divert funds to the upper middle class; he wants to help kids who are poor but can't prove it. A better solution, it seems to me, would be to change the documentation required to prove poverty. To my knowledge, Mr. BARTLETT has never asked the Department of Labor to look into such a change.

Finally, other than the informal findings of two or three local programs, there has been no evidence presented to the committee to support the need for the Bartlett amendment. Neither the Secretary's very distinguished JTPA Review Committee, nor the GAO has recommended an expansion of the 10 percent window. I think it would be unwise to change a national program based on unscientific evidence from a tiny minority of service providers.

I urge the defeat of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BARTLETT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Madam Chairman, I offer an amendment

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: at the end of the bill add the following:

SEC. . SENSE OF CONGRESS

It is the sense of the Congress that a recipient (including a nation, individual, group, or organization) of any form of grant or other Federal assistance under this Act should, in expending that assistance, purchase American-made equipment and products.

SEC. . NOTICE.

The Secretary of Labor shall provide procedures to inform such recipients of the Sense of the Congress under the above section.

Mr. TRAFICANT (during the reading). Madam Chairman, I ask unanimous consent that the amendment be

considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Madam Chairman, this Monday we face shutting our Government down and laying off massive numbers of Federal workers. We have been, through our procurement policies, buying goods all over the world, and that is fine. My amendment simply states a sense-of-the-Congress resolution, since these are basically grants, that the Secretary shall give notice to any recipient of this grant, be it a nation, individual, group, or organization, that it is the intent of Congress to encourage all recipients to purchase American-made goods.

Specifically, the American worker is both the American consumer and the American taxpayer. If they are not working, they do not pay any taxes, and they certainly do not do much buying.

Madam Chairman, I think this is a reasonable approach. It at least lets the country know and reinforces the position that we encourage those recipients to purchase American-made goods and products. I think that is the least we can do. It is a moderate measure, and I appreciate the fact that it will be supported by the committee.

Mr. MARTINEZ. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from California.

Mr. MARTINEZ. Madam Chairman, the committee has examined the amendment and has no problem with it. We accept the amendment.

Mr. GOODLING. Madam Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Madam Chairman, we have examined the amendment. We have no problem. I am embarrassed that after 5 months, 535 Members of Congress are going to cause furloughs. If 535 Members cannot get on the ball and do something, we can protect those from outside influence in this country.

Madam Chairman, I accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. STUDDS) having assumed the chair, Ms. SLAUGHTER of New York, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2039) to amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve adults and to youth and for other purposes, pursuant to House Resolution 478, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MARTINEZ. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 416, nays 1, not voting 15, as follows:

[Roll No. 389]

YEAS—416

Ackerman	Bosco	Combest	Dwyer	Kennelly	Penny
Alexander	Boucher	Condit	Dymally	Kildee	Perkins
Anderson	Boxer	Conte	Dyson	Kleczka	Petri
Andrews	Brennan	Cooper	Early	Kolbe	Pickett
Annunzio	Brooks	Costello	Eckart	Kolter	Pickle
Anthony	Broomfield	Coughlin	Edwards (CA)	Kostmayer	Porter
Applegate	Browder	Courter	Edwards (OK)	Kyl	Poshard
Archer	Brown (CA)	Cox	Emerson	LaFalce	Price
Armey	Brown (CO)	Coyne	Engel	Lagomarsino	Pursell
Aspin	Bruce	Craig	English	Lancaster	Quillen
Atkins	Bryant	Crockett	Erdreich	Laughlin	Rahall
AuCoin	Buechner	Dannemeyer	Espy	Leach (IA)	Rangel
Baker	Bunning	Darden	Evans	Leath (TX)	Ravenel
Ballenger	Burton	Davis	Fascell	Lehman (CA)	Regula
Barnard	Bustamante	de la Garza	Fawell	Lehman (FL)	Rhodes
Bartlett	Byron	DeFazio	Fazio	Lent	Richardson
Barton	Callahan	DeLay	Feighan	Levin (MI)	Ridge
Bateman	Campbell (CA)	Dellums	Fields	Levine (CA)	Rinaldo
Bates	Campbell (CO)	Derrick	Fish	Lewis (CA)	Ritter
Beilenson	Cardin	DeWine	Flake	Lewis (FL)	Roberts
Bennett	Carper	Dickinson	Flippo	Lewis (GA)	Roe
Bentley	Carr	Dicks	Foglietta	Lightfoot	Rogers
Bereuter	Chandler	Dingell	Ford (MI)	Lipinski	Rohrabacher
Berman	Chapman	Dixon	Frank	Livingston	Ros-Lehtinen
Bevill	Clarke	Donnelly	Frenzel	Lloyd	Rose
Bilbray	Clay	Dorgan (ND)	Frost	Long	Roth
Bilirakis	Clement	Dornan (CA)	Gallegly	Lowery (CA)	Roukema
Bliley	Clinger	Douglas	Gallo	Lowey (NY)	Rowland (GA)
Boehlert	Coble	Downey	Gaydos	Luken, Thomas	Roybal
Boggs	Coleman (MO)	Dreier	Gejdenson	Lukens, Donald	Russo
Bonior	Coleman (TX)	Duncan	Gekas	Machtley	Sabo
Borski	Collins	Durbin	Gephardt	Madigan	Saiki
			Geren	Markey	Sangmeister
			Gibbons	Marlenee	Sarpalius
			Gillmor	Martin (IL)	Savage
			Gilman	Martinez	Sawyer
			Gingrich	Matsui	Saxton
			Glickman	Mavroules	Schaefer
			Gonzalez	Mazzoli	Scheuer
			Goodling	McCandless	Schiff
			Gordon	McCloskey	Schneider
			Goss	McCollum	Schroeder
			Gradison	McCrery	Schulze
			Grandy	McCurdy	Schumer
			Grant	McDade	Sensenbrenner
			Gray	McDermott	Serrano
			Green	McEwen	Sharp
			Guarini	McHugh	Shaw
			Gunderson	McMillan (NC)	Shays
			Hall (OH)	McMillen (MD)	Shumway
			Hall (TX)	McNulty	Shuster
			Hamilton	Meyers	Sikorski
			Hammerschmidt	Mfume	Sisisky
			Hancock	Michel	Skaggs
			Hansen	Miller (CA)	Skeen
			Harris	Miller (OH)	Skelton
			Hastert	Miller (WA)	Slattery
			Hatcher	Mineta	Slaughter (NY)
			Hawkins	Moakley	Slaughter (VA)
			Hayes (IL)	Molinari	Smith (FL)
			Hayes (LA)	Mollohan	Smith (IA)
			Hefley	Moody	Smith (NE)
			Hefner	Moorhead	Smith (NJ)
			Henry	Morella	Smith (TX)
			Herger	Morrison (CT)	Smith (VT)
			Hertel	Morrison (WA)	Smith, Denny (OR)
			Hiler	Mrazek	
			Hoagland	Murphy	Smith, Robert (NH)
			Hochbrueckner	Murtha	
			Holloway	Myers	Smith, Robert (OR)
			Hopkins	Nagle	
			Horton	Natcher	Snowe
			Houghton	Neal (MA)	Solarz
			Hoyer	Neal (NC)	Solomon
			Hubbard	Nelson	Spence
			Huckaby	Nielson	Spratt
			Hughes	Nowak	Stallings
			Hunter	Oakar	Stangeland
			Hutto	Oberstar	Stark
			Hyde	Obey	Stearns
			Inhofe	Olin	Stenholm
			Ireland	Ortiz	Stokes
			Jacobs	Owens (NY)	Studds
			James	Owens (UT)	Stump
			Jenkins	Oxley	Sundquist
			Johnson (CT)	Packard	Synar
			Johnson (SD)	Pallone	Tallon
			Johnston	Panetta	Tanner
			Jones (GA)	Parker	Tauke
			Jones (NC)	Pashayan	Tauzin
			Jontz	Patterson	Taylor
			Kanjorski	Paxon	Thomas (CA)
			Kaptur	Payne (NJ)	Thomas (GA)
			Kasich	Payne (VA)	Thomas (WY)
			Kastenmeier	Pease	Torres
			Kennedy	Pelosi	Torricelli

Towns	Walgren	Williams
Traficant	Walker	Wilson
Traxler	Walsh	Wise
Udall	Washington	Wolf
Unsoeld	Watkins	Wolpe
Upton	Waxman	Wyden
Valentine	Weber	Wylie
Vander Jagt	Weiss	Yates
Vento	Weldon	Yatron
Visclosky	Wheat	Young (AK)
Volkmer	Whittaker	Young (FL)
Vucanovich	Whitten	

NAYS—1

Crane

NOT VOTING—15

Conyers	McGrath	Rostenkowski
Ford (TN)	Montgomery	Rowland (CT)
Lantos	Parris	Schuette
Manton	Ray	Staggers
Martin (NY)	Robinson	Swift

□ 1258

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2039, JOB TRAINING PARTNERSHIP ACT AMENDMENTS OF 1990

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill H.R. 2039, the Clerk be authorized to make corrections in section numbers, punctuation, citations, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore (Mr. BRUCE). Is there objection to the request of the gentleman from California?

There was no objection.

□ 1300

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 2039, the bill just passed.

The SPEAKER pro tempore (Mr. BRUCE). Is there objection to the request of the gentleman from California?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested.

S. 2588. An act to amend section 5948 of title 5, United States Code, to reauthorize physicians comparability allowances; and

S. 2846. An act to authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the resolution (S.J. Res. 57), "Joint resolution to establish a national policy on permanent papers."

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES ON SEPTEMBER 27, 1990

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 479 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 479

Resolved, That it shall be in order for the Speaker to entertain motions to suspend the rules on Thursday, September 27, 1990.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON] and, pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 479 makes it in order for the Speaker to entertain motions to suspend the rules today, September 27, 1990.

Mr. Speaker, the purpose of the rule is to allow the House to consider today the 21 measures that had been scheduled to be on the Suspension Calendar this past Monday. The rule does not waive the requirement for ordering a second.

Mr. Speaker, this is a fair rule. It simply allows the House to take up those measures that had been scheduled for consideration earlier in the week. I urge adoption of the rule.

Mr. SOLOMON. Mr. Speaker, I shall not ask Members to oppose this one sentence rule that we have here. It would have been my preference to proceed with much more substantive legislation on this floor, like the missing crime bill, with full debate on the Hyde amendment and the Wylie amendment. But since that determination has been made by the Speaker, I shall not object to proceeding with the rule so that the House can at least take care of some legislative business today.

Mr. Speaker, I would note that the rule before us permits Members to demand a second on each suspension. Mr. Speaker, we have been assured that only those suspensions, 21 of them or so that were left over from earlier in the week that are already on this list, which we did not get to the other day, will be brought up here today. So I will not oppose the rule, and I hope the process can go forward.

However, I would ask the chairman of the Committee on Rules if he might just engage in a little colloquy. I have had a lot of requests from Members on both sides of the aisle who want to know when we may possibly take up the crime bill on the floor of this House. There were, if I may call it to the attention of the chairman, 80 good Democrats who voted to kill that rule so that we could bring the bill back here with the Hyde amendment on habeas corpus and the Wylie amendment, that will go after those S&L thieves, being made in order. We are prepared to take up that bill now. If the good chairman would, and I have a great deal of respect for the gentleman, just enlighten Members, where is that bill?

Mr. MOAKLEY. If the gentleman will yield, it is my understanding that it will be before the Committee on Rules earlier next week. It is my understanding it will be before our committee, the Committee on Rules, earlier next week for action.

Mr. SOLOMON. Early next week?

Mr. MOAKLEY. Right. We will expect to have it on the floor next week.

Mr. SOLOMON. Has the gentleman had any indication from their leadership what will happen to the Hyde habeas corpus amendment, or the Wylie amendment?

Mr. MOAKLEY. I have not seen the content of the bill at all up to this time.

Mr. SOLOMON. Will the gentleman just answer one more question while he is on his feet. What about the CR, on which we have a rule pending?

Mr. MOAKLEY As the gentleman knows, we reported the CR out, and it is up to the Speaker to schedule it. We have done our job on the Committee on Rules, and now it is up to the Speaker to schedule it. I do not know when that will be scheduled. It is my understanding, it is hoped we would have it Sunday at the latest.

Mr. SOLOMON. Sunday at the latest?

Mr. MOAKLEY. Yes.

Mr. SOLOMON. I thank the gentleman for his time.

Mr. MOAKLEY. I am giving the gentleman all the information I have at the present time.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, this is an interesting rule to have before the body, to create a new suspension day and thereby give Members an opportunity to act upon about 21 pieces of legislation. My only concern is that it does put the House in the posture of appearing somewhat unsympathetic to the crisis that this Nation faces, both

in terms of the economics of the country, and also with the crime that is sweeping every metropolitan area in the United States.

With regard to the first, while we spend time here today doing 21 suspension bills, the fact is that we are delaying the time that we have to get to the continuing resolution. I am concerned about what the gentleman from Massachusetts just told the House. We could be as late as Sunday getting to the continuing resolution. If we wait until Sunday to get to the continuing resolution, and it is in the kind of form that it is in right now, the fact is that the President of the United States will be up against a deadline of a possible sequester, and all kinds of ramifications for this country as the result of the congressional inaction. That is a very, very bad way to do our business.

Once again, it shows how high the level of incompetence has risen in the House of Representatives when we cannot get our work done, and penalize the country as a result of our inability to do our work.

The question that I would also have is the one that the gentleman from New York asks, and that is why we are, today, proceeding with this kind of a rule when what we ought to have is the rule that the House demanded on the crime bill. The House made very clear what it wants in a crime bill. The only debate is over the Hyde amendment and the Wylie amendment.

There is no doubt in my view that if we brought a rule back down here that was similar to the one we had the other day, and added the Hyde and Wylie amendments to it, it would pass this House by an overwhelming margin. That is known to the Committee on Rules. It is known to the leadership. Yet, we are faced with a situation where we are not proceeding with that kind of rule and proceeding with the crime bill, but rather are doing 21 suspensions, some of which may have merit, but many of which certainly are not dire emergencies for the country, the way the crime bill is a dire emergency, and the way the budget is a dire emergency.

I would ask the gentleman from New York, was the idea of bringing up the crime business discussed at all at the Committee on Rules when they were meeting yesterday and proceeding with the rule?

Mr. SOLOMON. If the gentleman will yield, I discussed it with the chairman, and the chairman said it was under consideration, that there were those who were requesting to have it sent back to the Committee on the Judiciary where it possibly would never see the light of day again. There were others on that side of the aisle, legitimately so, pushing to have the bill brought before the House, because they know that the real issue is capital punishment. The whole issue is drugs, crime, and capital punishment.

We saw what happened out in California on television today, where a killer is holding hostages, has already killed one person, eight others are injured. And yet this Congress is pictured as being soft on crime and against capital punishment, when the truth is that the vast majority of the Members on both sides of this House are for capital punishment for killers who would kill American citizens.

Mr. WALKER. Mr. Speaker, I thank the gentleman for his explanation, and I am very disappointed that we do not have a rule back out here to deal with the crime bill. I am encouraged by the fact that the gentleman from Massachusetts tells Members that the crime bill will be up next week, and I certainly hope that that schedule will be met. We have certainly seen a pattern in recent days of schedules being formed, and them being retracted, and then being reformed, and then being retracted again. I hope that that schedule holds up, that early next week we will have the crime bill before Members. It is getting very late in the session to get everything worked out, and put a crime bill and a bill to do something about drug dealers on the President's desk.

□ 1310

Mr. McCOLLUM. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Speaker, I echo that, having been the vice chairman of the Crime Subcommittee and having been out here on the floor expecting to get that bill right back after the rule was defeated on the floor the other day. I am encouraged that the chairman of the Rules Committee says that we are going to see that bill maybe next week, or at least his committee is, but we are talking about having gone through 2 or 3 days when we easily could have been on the floor doing this bill, a bill that would have restored and would if we passed it restore the death penalty for Federal crimes, a bill that would have given a change in the rules of evidence to allow more contraband in and get more convictions in drug convictions that law enforcement has been asking us for, a bill that would allow the death penalty for drug kingpins who traffic in very large quantities of narcotics, and hopefully with the Hyde amendment a bill that would have allowed us the opportunity to put an end to these appeals that have been going on forever from people who get death sentences sitting on death row.

In addition, if we get the Wylie amendment, we would have an opportunity to breach the bankruptcy laws of these States and allow the Federal Government to be able to get at the profits and assets of the big S&L crooks who have palatial mansions out there.

I think these are extremely important and I think the gentleman's point is well made.

I am, too, very disappointed that we are spending this time on 19 or so bills today under suspension, that while I would not say they are not important, they do not rise to the importance of getting this crime bill out, especially considering we will have to go to conference with the Senate on the crime bill, and time left in this session is so short. Every time we put it off, it makes you wonder whether somebody really wants to delay this thing so that we do not have a tough crime bill this year.

Mr. WALKER. Well, I certainly agree with the gentleman. He will recall that we started talking about the need for the crime bill back at the beginning of the summer, and suggested that that was the time to move it.

Here we are late in the session. We still are not there because of the kind of rule that the leadership brought forward because of some of its fatal flaws.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has again expired.

Mr. SOLOMON. Mr. Speaker, I yield another 2 minutes to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding this additional time.

I just wanted to say because of some of the fatal flaws that are in the bill itself, the gentleman from New York has made reference to the fact that there was an attempt to undermine the ability to use capital punishment as one of the options for a jury in the case of heinous crimes.

We think there are reasons to at least have the House vote on those matters, and hopefully to move a tough crime bill. I am disappointed we are not doing it today.

I would hope that at some point in the very near future that we are going to see that action and see it quickly, and I certainly want to thank the gentleman from New York for yielding me this time.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BROOKS], the chairman of the Judiciary Committee.

Mr. BROOKS. Mr. Speaker, to my distinguished friends, if you wanted a crime bill we would have had one a couple days ago if you had not beat the rule.

I do not like any allegations that there are not plenty of death penalties there. We have death penalties for nearly everything you can think of, almost. I just do not want to be stand-

ing here and have you all say that we did not have a crime bill. We worked 30 days on the bill, in days of hearings in all the subcommittees. The bill is a comprehensive bill. It is a good bill and you will vote for it when it finally gets to the floor. We are going to consider it and you will be for it. You will like it. It is almost mean enough to suit you.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, before I yield to the gentleman, I would just say this to my good friend, the gentleman from Texas [Mr. BROOKS], a former marine, one of the people I deeply admire and respect in this House: Let me just read a little letter to my good friend over there from the National District Attorneys Association. I just happen to have it in my pocket, left over from the debate of the other day. It says:

NATIONAL DISTRICT
ATTORNEYS ASSOCIATION,
Alexandria, VA, September 25, 1990.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: The National District Attorneys Association strongly opposes the Butler/Derrick substitute amendment to Title XIII of H.R. 5269. This particular amendment does nothing to cure the major flaws in Title XIII of H.R. 5269 to which the NDAA vigorously objected in a recent letter sent to you.

The Derrick substitute amendment does not address the abuse of habeas corpus, that has virtually nullified the death penalty laws of the states. Rather, it grossly increases the opportunities for prisoners under sentence of death and all other convicted offenders to abuse the judicial process and thwart justice.

Several procedural rules relative to collateral review which have been established by certain decisions of the U.S. Supreme Court would be legislatively overruled if this amendment is passed. This would dramatically increase the opportunity for delay, abuse and repetitive litigation in habeas corpus proceedings.

The nation's prosecutors will be hampered in their efforts to uphold and enforce the law if H.R. 5269 is enacted with or without the Butler/Derrick substitute amendment.

Yours very truly,

RICHARD P. IEYOUB,
President.

Mr. Speaker, this speaks for itself. It comes from all the district attorneys across this Nation, experts in the field.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am glad to yield to my good friend, the gentleman from Texas.

Mr. BROOKS. Experts in the field differ, they really do, Mr. Speaker.

I must say, I do not want to get into this argument. We will handle that later.

But really, did you ever see the ax man with his black hood on that did not want to chop heads off? You have to think about that. They just do not discuss whether they should or they should not between the time they pick up the ax and let it fall on that neck. It just does not occur to them.

We can go into all the ramifications of that. I am fully prepared to discuss habeas at great length and look forward to it, but this is not really the time to do it for the House. I would hope that we could go on with the rule.

Mr. SOLOMON. Mr. Speaker, if I might just reclaim my time, I would just say this to the gentleman from Texas. I do not know how they pick district attorneys in Texas. I know how we pick them in New York State. They are the cream of the crop. They are citizens of the community and they are not out there to chop anybody's head off. They are there to see that justice is carried out.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

I am sure the chairman of the Judiciary Committee is speaking from the standpoint of this caucus when he says that he has a tough crime bill, but one of our concerns was that, for instance, in that bill that someone who blew up an airplane that contained 300 people would not be eligible for the death penalty. That would not be an option allowed to the jury under Federal law in the bill that he brought forward to us. We regard that as maybe being not quite tough enough.

There are concerns that we have that the business of applying racial quotas to a death penalty consideration that is in the gentleman's bill. There are many people who feel that racial quota portion will, in fact, negate the ability of juries to deal meaningfully with death penalty decisions. So there are a number of provisions in that bill which very definitely weaken the bill, and we think probably it was a crime bill much too weak for any kind of hope that we would bring up.

I simply would say that we have to have a rule on the House floor that allows us to get real votes on some of these meaningful issues.

POINT OF ORDER

Mr. HAYES of Illinois. Mr. Speaker, a point of order.

The SPEAKER pro tempore (Mr. BRUCE). The gentleman will state his point of order.

Mr. HAYES of Illinois. Mr. Speaker, I thought that we were discussing the rule on the suspensions. Now we have got into discussing the content of the crime bill. I think it is completely out of order.

The SPEAKER pro tempore. The gentleman is correct. The debate should proceed on the matter before the House, and that is the rule proposed by the gentleman from Massachusetts on the suspensions.

Mr. SOLOMON. Mr. Speaker, I yield such time as he might consume to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I want to focus on this rule. The problem with this rule is that it brings up 19 suspensions today. Now, there is not one person in this Congress who does not understand that suspensions tend to be noncontroversial bills that are not subject to amendments and that have to pass by a two-thirds vote.

Now, we are going to bring all these up today, but listening to this discussion we have just had, we know full well that the crime bill is controversial and we know it is complex.

The Senate has passed a crime bill. Are we going to get a bill passed in this House and sent to the Senate so we can have a conference committee and we can have a conference report on crime that can be dealt with yet this session, or are we going to say we passed a crime bill, the Senate passed a crime bill, and, oh, guess what, we did not have time to go to conference. We were not really serious about it.

This rule is relevant to crime because every one of these 19 suspensions should be up next Tuesday, and today we should be debating the crime bill so we can get to conference and get something passed before the end of the session.

Mr. McCOLLUM. Mr. Speaker, will the gentleman yield?

Mr. GUNDERSON. I am happy to yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Speaker, I thank the gentleman for yielding to me.

I totally agree with the gentleman. The issue is this rule. The issue is on the question of the consideration of all these suspensions today, instead of considering the crime bill, instead of considering something that could have been out here much earlier than it is apparently going to be, not the substance of the work of the gentleman from Texas.

POINT OF ORDER

Mr. WASHINGTON. Mr. Speaker, a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. WASHINGTON. Mr. Speaker, I raise a point of order that the gentleman is not discussing the matter up for discussion on the floor.

The SPEAKER pro tempore. The Chair will advise the Members, that in the Chair's opinion discussing the priority of business is probably within the confines of the resolution called up by the gentleman from Massachusetts, but when debate ranges into the merits of the relative bills not yet before the House, the Chair would admonish the Members that that probably goes beyond the resolution of-

fered by the gentleman from Massachusetts.

Mr. SOLOMON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman from Wisconsin has the time.

Mr. GUNDERSON. Mr. Speaker, I yield back the balance of my time.

PARLIAMENTARY INQUIRIES

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SOLOMON. Mr. Speaker, if I might just propose an inquiry, I want to question the Speaker's last statement, just for clarification.

This rule that we are considering right now is a one-sentence rule. Let me again read it to the Chair. It says:

Resolved, That it shall be in order for the Speaker to entertain motions to suspend the rules on Thursday, September 27, 1990.

□ 1320

This is what we are debating right now. Whether or not we are going to suspend the rules which allows for these innocuous bills to be debated or whether we shall take up substantive legislation.

I would ask the Speaker if he would discuss that with the Parliamentarian because we intend to make a point that this kind of legislation should not be on this floor right now.

You know, the President of the United States of American is going to veto the defense authorization bill. We need to clean our calendar so we can take up those terribly important issues so that we can deal with Desert Shield and other issues coming next week when we are rushing to get out of here.

I yield to the gentleman from Texas——

The SPEAKER pro tempore (Mr. BRUCE). If the gentleman would suspend, the Chair has ruled that it is certainly within the debate rules of this House to debate whether or not this rule ought to be adopted or another procedure ought to be adopted by the House.

The Chair's admonition to the Members is that when the House gets into the content of the legislation not before the House for example, the crime bill, debate has probably gone beyond the resolution offered by the gentleman from Massachusetts.

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, since we are suspending all of the rules of the House at the Speaker's discretion under this bill, is it not appropriate to discuss matters that the Speaker might decide to suspend the rules on this day? That is what the rule before us says. And I think our discussion here indicates that we think there are some matters that are not about to come to the House that could. And the crime bill is one of those.

Is the Speaker ruling that we cannot discuss matters that might come before the House under this rule?

The SPEAKER pro tempore. The Chair has ruled that it is certainly within the province of this body to debate the content of the rule before the House. The Chair's admonition to the body is that once the House gets into debating the content of the legislation that might be brought before the House, the Chair would admonish Members they have gone beyond the confines of the motion made by the gentleman from Massachusetts.

This rule has not been adopted, the rules have not been suspended. That is the matter before the House.

Mr. WALKER. I have a further parliamentary inquiry, Mr. Speaker. That is exactly the point of the gentleman from New York and myself, that in discussing suspending all of the rules of the House at the Speaker's whim for the rest of this day, it seems to us there are matters of content involved. Is the Chair suggesting we cannot discuss matters of content of things that might be suspended under the rules?

The SPEAKER pro tempore. The Chair would admonish the Members that they are not allowed to discuss the merits of matters not pending before the House where that point of order is made. The pending business before the House is the resolution offered by the gentleman from Massachusetts, to adopt the rule reported by the Committee on Rules.

That is what is before the House.

Mr. WALKER. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. I thank the Chair. That is our impression of what we were discussing. We are giving the Speaker the broadest powers that this House can possibly grant to the Speaker, to suspend virtually all of the rules that we have adopted and bring matters to the attention of the House.

In discussing matters that are on our calendar and therefore could be put on this calendar, we are in fact discussing a matter before the House. And I am somewhat surprised by the suspending of a point of order that suggested that that was out of order to do.

The SPEAKER pro tempore. The Chair would remind the Members that the matter before the House is the resolution offered by the gentleman from Massachusetts.

The rules have not been suspended. We are operating under the current rules of the House.

The gentleman from Texas is recognized.

Mr. WASHINGTON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WASHINGTON. Mr. Speaker, is the crime bill eligible for consideration? Has a rule been reported from the Committee on Rules that would make it eligible for consideration after dispensation of these matters now pending?

The SPEAKER pro tempore. The only pending matter before the House is the resolution called up by the gentleman from Massachusetts.

Mr. WASHINGTON. Mr. Speaker, would the Chair recognize an amendment to suspend all rules in order that the crime bill may be brought up today?

The SPEAKER pro tempore. Not without the leadership's direction.

Mr. WASHINGTON. All right. In that event, I have one further parliamentary inquiry: How could it be possible to debate the merits of whether a bill, which is not eligible for consideration and for which he would not recognize one to suspend the rules, be germane to the discussion of the matter pending on the floor right now?

Mr. WALKER. Mr. Speaker, I have a further parliamentary inquiry.

Mr. WASHINGTON. The Chair has not answered mine yet?

Mr. WALKER. I have a further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Pennsylvania will state it.

Mr. WALKER. Mr. Speaker, the fact is that if this rule is adopted, the Speaker would have the right under this rule during the course of the day today to entertain a motion to bring the crime bill to the floor, is that not correct?

The SPEAKER pro tempore. If the Chair may have the attention of the membership, the matter before the House, the Chair would say to the gentleman from Pennsylvania [Mr. WALKER], is the question of whether to adopt that rule. The Chair has no knowledge of what may occur after that, and the only matter before the House is the resolution called up by the gentleman from Massachusetts.

Mr. WALKER. As a further parliamentary inquiry, the Chair did not answer my specific question.

My specific question was: If this rule is adopted can the Chair entertain a motion to bring the crime bill to the floor under this rule?

The SPEAKER pro tempore. If the rule were adopted, the Chair would be happy to entertain such a parliamentary inquiry after the rule is adopted, and that would be up to the presiding officer at that time.

Mr. MOAKLEY. Mr. Speaker I yield 2 minutes to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. I thank the gentleman for yielding.

Mr. Speaker, I resent the minority party considering the bills coming before us on suspension today as immaterial, noncontroversial, nonimportant bills. We have bills today that create new judgeships to fight the war on crime and drugs.

We also have a Radiation Exposure Compensation Act for thousands of victims of cancer that are dying because of exposure to radiation during atomic testing in the 1950's.

These people have been waiting for years and years and years to have compensation. This was taken off calendar earlier in the week because of parliamentary maneuvers. These are important bills.

While we are here fighting this out day by day to help our constitutents, people in Utah, Nevada, Arizona, and Colorado, the President of the United States is running around the country raising money for Republican candidates.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consumer to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I thank the gentleman for his nice little speech about the President of the United States traveling. I hope that the next time that we cancel the business of the Congress in order to have a celebrity golf tournament, we also will have the gentleman on the floor making the similar speech.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. I thank the gentleman for yielding.

I will not need all the time.

I simply want to say that my friend from Pennsylvania [Mr. WALKER] alleged a moment ago that the House is incompetent. He has been talking about his desire to have the House begin its work and work its will and do its business.

However, I would observe, as every other Member on the floor would, I think, that we have traipsed over here for record vote, after record vote, after record vote, day after day, because my friend from Pennsylvania and others have demanded record votes on seconds and dozens of parliamentary procedures. They have done so in a way that effectively thwarts the will of the House and that prevent us from doing our business.

Vote after vote after vote, you and your friends have attempted to thwart the work of the House. It is a little disingenuous, I think, for you to suggest somehow this institution is incompetent. We have not been able to do the work that we should have done in the last few days. Because of all of those nonsensical procedural votes which you demanded.

Mr. SOLOMON. Mr. Speaker, before I yield to another speaker, let me just say that the gentleman from Nevada stated that these bills on the Suspension Calendar are not innocuous, not unimportant. He said they were controversial. If I might just propose this to the Speaker: It is my understanding that controversial bills are never to appear on the Suspension Calendar. I thought that was the rules of the House.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. I thank the gentleman for yielding. Mr. Speaker, I do rise to address the rule before the House and would make two points.

First, the proposed rule, the resolution before us, is without limitation. That is to say it would make it in order for the Speaker to entertain motions to suspend the rules on this day without any limitation as to the suspensions that have previously been announced and on the list. I think it would be important to have an understanding that only the 19 suspensions that have been published would be considered under suspension today.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. I thank the gentleman for yielding.

Mr. Speaker, although the rule does not say it, there has been an agreement that the suspensions will be only on the matters on this list today.

Mr. BARTLETT. I thank the gentleman for his clarification.

The second point as to the merits of passing this rule or not, I would note of the suspensions that are listed today they are neither essential nor in many cases do they achieve substantial progress for the United States of America and in all cases none are in the same league of importance as the other legislation that the House could and should be discussing and debating at the end of the session.

□ 1330

Some names, the titles of some bills, were cited a moment ago. I would cite the titles of other bills which seem to be substantially less essential or less important to the United States, such as: conveying lands to the Rouge Community College District, or the preservation of Arcadian culture, or the national policy to rebuild—a sense-of-Congress for a national policy to rebuild infrastructure, or the National Environmental Education Act, or the Capitol Police Retirement Act.

It does seem to many of us that the House needs to get on with the business at hand and not with the business of these 21 suspensions which are substantially less than essential to the progress of America.

Mr. WASHINGTON. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Texas.

Mr. WASHINGTON. Mr. Speaker, if we follow the logic of the gentleman from Texas [Mr. BARTLETT], my friend, to its logical conclusion, then we should start with the most important bill pending before the Congress and never consider any other bill until it is disposed of, take them in sequential, regular order until they are disposed of; is that correct?

Mr. BARTLETT. Mr. Speaker, will the gentleman yield 1 minute so that I can respond to the gentleman from Texas [Mr. WASHINGTON]?

Mr. SOLOMON. I yield 1 minute to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding.

Actually I am referring to the end of the session that we are in now.

Mr. WASHINGTON. I see.

Mr. BARTLETT. We were otherwise scheduled to target adjournment on next Monday. We have failed to complete most of the major business of the House, including civil rights, the Clean Air Act, and other items, and it does not seem to me that in the last few days of the session that now is the time to be taking up legislation that takes up time from much more important legislation.

Mr. WASHINGTON. Mr. Speaker, will the gentleman yield?

Mr. BARTLETT. I yield to the gentleman from Texas.

Mr. WASHINGTON. The bill that the gentleman and I just had some involvement in, JTPA, is not as important as some of the bills that we have not taken up; is that correct?

Mr. BARTLETT. The gentleman from Texas [Mr. WASHINGTON] is correct.

Mr. WASHINGTON. I thank the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. However, Mr. Speaker, it was a bill that will dramatically impact and improve the lives of large numbers of persons, unlike many of the bills on the Suspension Calendar.

Mr. WASHINGTON. Mr. Speaker, as always, beauty is in the eyes of the beholder; is it not?

Mr. BARTLETT. Mr. Speaker, I thank the gentleman from Texas [Mr. WASHINGTON] for his understanding.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL], a gentleman we are going to miss dearly around here. We are going to miss his intelligent

vote, and we are going to miss him personally.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman from New York for yielding time to me. I did not recognize myself from the introduction, and I was unready.

. Mr. Speaker, I rise in opposition to House Resolution 479. We have been talking here this morning, this afternoon, about what the Congress should do, and whether the Congress is doing its job, and whether the Congress is competent or not. I suspect the public would like to answer that last question after seeing us fiddling for 5 months in trying to get a budget agreement. But I think that most Members, if given the secret ballot on the opinion, would concur that many of the suspensions which were scheduled for earlier in the week and were not able to be completed are not matters of enormous importance immediately. If I go through a list, I can find a few reelection bills, I can find a few House bills that are never going to be heard in the Senate, I can find some bills that are pretty trivial, and, yes, there may be an important bill or two. Those can be handled under the original rules, if they assume that importance.

One of the Members suggested that, if we only did the most important things, we would never get anything else done. That was probably an appropriate comment 5 or 6 months ago, but we are now down to the time when we ought to be thinking about adjournment. We have not completed our budget resolution, we have not completed our deficit reduction agreement. Everything else should be set aside except matters of the highest import, such as the crime bill and the need to deal with the problems in the Persian Gulf, items of that ilk.

However, Mr. Speaker, I think that people watching us would be swift to conclude that the Congress in incompetent, having floundered on its inability to come to a conclusion on the budget agreement. I do not see how Americans can draw any other conclusion, and we are trivializing the process by going back to the time-wasting device of dealing with a few Members' bills so they will feel a little bit better about the process.

The people are not fooled. The Congress is incompetent and is a failure until it reaches its budget agreement. It ought to be working on it.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MOAKLEY] for yielding.

It is interesting that they only pick out one side to be incompetent; is it not? Yet John Sununu sits over there and says, "No, no," to every proposal. It seems only right, I think, that a lot of us understand also that the gentleman from Minnesota [Mr. FRENZEL] refers to the American people making decisions about what is going on, and yet he talks about, "It's getting time for adjournment; we better get out of here."

Mr. Speaker, I want to tell my Republican friends on that side of the aisle that most Americans work all year round, and so the gentleman from Minnesota [Mr. FRENZEL] would worry about when we get out of here a lot less if he starts worrying about getting his job done. We do not have to rush. We can work up until the Christmas vacation, like everybody else in America does.

So, let us not worry about adjournment so quickly. I think it is high time that the people, the Republicans on that side of the aisle, quit worrying about the adjournment issue and start worrying about whether or not we can deal with the problems of America.

I think it is time we also start talking about a budget agreement, and that is a very important, a very difficult, thing to do.

POINTS OF ORDER

Mr. SOLOMON. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore (Mr. BRUCE). The gentleman will state his point of order.

Mr. SOLOMON. Mr. Speaker, I do not like to interrupt the gentleman from Texas [Mr. COLEMAN], my good friend, but I would just like to admonish the Chair a little bit about his previous ruling.

Mr. Speaker, is the gentleman from Texas [Mr. COLEMAN] speaking on this rule?

The SPEAKER pro tempore. Within the general confines, the Chair has allowed the membership to speak relatively widely on the topic of the matters before the House.

The Chair would remind the Members again that the matter before the House is the resolution offered by the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. COLEMAN of Texas. That is right, and this rule permits us to consider a number of pieces of legislation that may prevent us from adjourning as early as the gentleman from Minnesota [Mr. FRENZEL] would like.

Mr. Speaker, the truth of the matter is that that is what this Congress ought to be about, and let us, after all, ask the President of the United States to come on back to Washington, where he says the problem is, instead of being out there with those $25,000 a plate fundraising dinners for a bunch of Republicans.

Mr. SOLOMON. Mr. Speaker, I think the point has been well made that we really ought to be taking up serious legislation which is legitimately before this House, like the continuing resolution, the pocket veto, the assault gun bill, and others, but the point has been made.

Mr. Speaker, I want to urge all Members to vote for this rule unanimously.

Mr. Speaker, I yield the balance of our time to the gentleman from Georgia [Mr. GINGRICH], our illustrious whip.

Mr. GINGRICH. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. GINGRICH. Mr. Speaker, I am not going to use up all 7½ minutes, but I am going to inquire a little bit here.

Mr. Speaker, I do not understand the ground rules that are apparently being set here on what is debatable and what is not. So, maybe the Chair could explain for a second. Under this rule, what is debatable? Is there a limitation here, I would ask the Chair?

The SPEAKER pro tempore. The debate in the House is limited to the matter before the House. The Chair will cite the House rules and manual, section 752:

> It has always been held, and generally quite strictly, that in the House a Member must confine himself to the subject under debate. "For example, "On a motion to amend the debate is confined to the amendment and may not include the general merits of the bill.

Mr. GINGRICH. So, I have two questions then.

First of all, I just happen to hear on C-SPAN, in the context of this, a Democratic Member discussing the President of the United States being at fundraising dinners. Now did the Chair gavel that Member down, or was that within the rules, or what? What relevance does that have to this rule?

The SPEAKER pro tempore. When a point of order was made, the Chair admonished Members that the matter before the House was a resolution called up by the gentleman from Massachusetts [Mr. MOAKLEY] and that Members should confine their comments to that resolution.

Mr. GINGRICH. So did the Democratic Member then, having carefully listened to the Chair, as I am sure he did, he was talking about the President of the United States being at fund-raising dinners, and was that within the context of that admonition? Does that in any way fit? Is there anything in this rule that relates to that?

The SPEAKER pro tempore. That may have come before the admonition of the Chair.

Mr. GINGRICH. No, it came after the admonition. That is why I came up here. I was so astonished to see that a member of the Democratic Party had failed to understand the Chair.

Now let me just ask: "*Resolved*, that it shall be in order for the Speaker to entertain motions to suspend the rules on Thursday, September 27, 1990," a

rule, by the way, which I am going to vote for, which I would agree with the gentleman from Illinois [Mr. MICHEL] we should be making in order.

Would this allow the Speaker, if he wanted to, to bring up the crime bill?

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Massachusetts, the distinguished chairman.

Mr. MOAKLEY. Mr. Speaker, before we came to the floor, we agreed that the rules does not state it, but by agreement the Speaker was only going to bring up the suspensions that appeared on the sheet of paper, and the crime bill was not one of them.

□ 1340

Mr. GINGRICH. Fair enough, then. On the list that is on the sheet of paper, is there a single bill, I would ask the distinguished chairman of the committee, not to put him on the spot because he may not wish to answer—this may be rhetorical, but if he wishes to answer, he may—is there a single bill on suspension that is mutually agreed to or on a piece of paper as agreed to which relates to the President of the United States traveling?

Mr. Speaker, I would be pleased to yield to the gentleman if he cares to comment.

Mr. MOAKLEY. I have not seen it.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, the President happens to be in Cleveland, OH, in my district today on a fundraiser. Do you deny that? This is not a big deal. This is America. Can we not speak from the floor?

Mr. GINGRICH. I thought we could, but the Chair seemed to wish to restrict what we speak about.

Ms. OAKAR. But I mean he happens to be there. I am not saying that he should be there or he should not be there. The fact is he is in downtown Cleveland. I happen to represent that district. He is at a huge fundraiser.

What is the big deal? Are we not allowed to speak on the floor so that the American people will know what the problems are in this country?

Mr. GINGRICH. I say to my friend from Ohio——

Ms. OAKAR. And you are my friend.

Mr. GINGRICH. And in fact you are my aunt's Representative.

You and I are in entire agreement, and I would think the Chair for the rest of the day would want to accept the fact that in a free country people often talk very widely about a wide range of issues.

Ms. OAKAR. That is right. We do that all the time.

Mr. GINGRICH. And all I wanted to make the point about was that if the Chair is to admonish the Republican side because it might interpret broadly the topic under discussion, then certainly our friends on the Democratic side would want either to find some kind of self-censorship or to relax and let America be America. This is a country where the people have a wide range of subject matters on which they express themselves.

Ms. OAKAR. Mr. Speaker, will the gentleman yield further?

Mr. GINGRICH. I am glad to yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, I think the gentleman from New York made a very important point when he said, "Look, we're talking about the rule. Let's get out and vote for the rule."

Honestly and truly, there are important suspensions. They may not be important to some people, but you and I have worked on some. My friend, the gentleman from Kansas [Mr. ROBERTS], on the gentleman's side of the aisle, has worked on having equity for the Capitol Police. I do not think that is a minor thing. That is one of the suspensions. I think we want to vote on those kinds of things, and I think you would want fairness to all the police who are here, including the minorities.

Mr. GINGRICH. Yes, I do. Let me just say before I yield to the gentleman from Texas that I think it is good to bring these suspensions up, and as I said, the gentleman from Illinois [Mr. MICHEL] and I discussed it earlier, and I was in full agreement with his understanding with the Speaker, and I am going to urge every Republican to vote yes on this rule.

I think most of the suspensions will pass. Maybe all of them will pass, perhaps with a little bit of time taken out for other things. But we also think that freedom of debate and freedom of speech are not only important when burning the flag, which is the case that was made here, but they are even important on the floor of the House.

Mr. WASHINGTON. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am glad to yield to the gentleman from Texas.

Mr. WASHINGTON. Mr. Speaker, I would like to apologize on behalf of my colleague and me from Texas. We are a little backward down in Texas, and sometimes we are a little slow in understanding. We did hear the Speaker's ruling, and we thought it was germane to the quesiton of Federal judgeships, because generally the people who give $25,000 contributions are those who become Republican Federal judges.

Mr. GINGRICH. Oh, you know about Mr. Souter, for example—let me just say this to the gentleman——

Mr. WASHINGTON. I mean not Supreme Court judges. We thought the President was out looking for Federal district judges in Ohio, and that is one of the bills on the calendar.

Mr. GINGRICH. I know that information does not always penetrate all the parts of Texas.

Mr. WASHINGTON. Oh, we are slow.

Mr. GINGRICH. Let me say this to the gentleman—I am not in any way going to suggest that to the gentleman because I know full well he is very fast.

Mr. WASHINGTON. No, sir, I am just trying to learn.

Mr. GINGRICH. If you look at the most recent Supreme Court appointee, my sense is that he is sufficiently frugal, that if contributions were a function of his nomination, he would have indeed been very far down on the list. Apparently in the case of the gentleman from New Hampshire, the President chose a Supreme Court nominee whose primary virtue is that he is intelligent, informed, and experienced, and that transcended any immediate party activity.

Mr. Speaker, let me just say in closing that I hope all the Members vote for this rule, and I hope for the rest of the day the Chair, in the spirit of good humor, will tolerate a certain level of freedom of speech to reflect the nature of the House at its best.

The SPEAKER pro tempore (Mr. BRUCE). The Chair would like to indicate that in the opinion of the Chair, the Chair has in fact allowed a large amount of debate. It has gone far beyond the confines of the resolution called up by the gentleman from Massachusetts, and at every opportunity where the question has been raised by a Member, the Chair has tried to keep the House on the matter before the House, and at no time has the Chair recommended or attempted to cut off debate.

Mr. MOAKLEY. Mr. Speaker, would the Chair inform both sides as to how much time we have remaining?

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] has 22 minutes remaining, and the gentleman from New York [Mr. SOLOMON] has 1 minute remaining.

LEGISLATIVE PROGRAM

Mr. SOLOMON. Mr. Speaker, if the gentleman has no further speakers, before I yield back the balance of my time, may I ask this of the Chair:

We have had some inquiries about how the suspension votes will take place. Are they going to be postponed and stacked at the end, or what is the intention of the Speaker?

Mr. MOAKLEY. Mr. Speaker, I do not know. Let me suggest that the gentleman direct that question to the gentleman from Maryland [Mr. HOYER].

Mr. SOLOMON. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

It is our intention to group these votes and try to have them at approximately 5 o'clock.

Mr. SOLOMON. So we would group them at the end and have 5-minute votes at the end of the suspensions?

Mr. HOYER. On those on which votes are requested. Hopefully that will take place at approximately 5 o'clock.

Mr. SOLOMON. Mr. Speaker, I think that is fair of the gentleman. We would appreciate that.

Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4, of rule XV.

Such rollcall votes, if postponed, will be taken after debate is concluded on all motions to suspend the rules.

FEDERAL DEBT COLLECTION PROCEDURES ACT OF 1990

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5640) to amend title 28, United States Code, to provide Federal debt collection civil procedures, as amended.

The Clerk read as follows:

H.R. 5640

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Federal Debt Collection Procedures Act of 1990".

TITLE I—DEBT COLLECTION PROCEDURES

SEC. 101. Title 28 of the United States Code is amended by inserting after chapter 175 the following:

"CHAPTER 176—FEDERAL DEBT COLLECTION PROCEDURE

"Subchapter
"A. Definitions and general provisions 3001
"B. Prejudgment remedies 3101
"C. Postjudgments remedies 3201
"D. Fraudulent transfers 3301

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"Sec.
"3001. Applicability of chapter.
"3002. Definitions.
"3003. Rules of construction.
"3004. Service of process.
"3005. Applicability of statutes of limitations to actions under this chapter.
"3006. Affidavit requirements.
"3007. Perishable personal property.
"3008. Proceedings before United States magistrates.
"3009. United States marshals' authority to designate keeper.
"3010. Co-owned property.
"3011. Assessment of surcharge on a debt.
"3012. Joinder of additional defendant.
"3013. Modification or protective order; supervision of enforcement.
"3014. Exempt property.

"§ 3001. Applicability of chapter

"(a) IN GENERAL.—Except as provided in subsection (b), the chapter provides the exclusive civil procedures for the United States—

"(1) to recover a debt; or

"(2) to obtain, before judgment on a claim for a debt, a remedy in connection with such claim.

"(b) LIMITATION.—To the extent that another Federal law specifies procedures for recovering on a claim or a judgment for a debt arising under such law, those procedures shall apply to such claim or judgment to the extent those procedures are inconsistent with this chapter.

"§ 3002. Definitions

"As used in this chapter:

"(1) 'Counsel for the United States' means—

"(A) a United States attorney, an assistant United States attorney designated to act on behalf of the United States attorney, or an attorney with the United States Department of Justice or with a Federal agency who has litigation authority; and

"(B) any private attorney authorized by contract made in accordance with section 3718 of title 31 to conduct litigation for collection of debts on behalf of the United States.

"(2) 'Court' means any court created by the Congress of the United States, excluding the United States Tax Court.

"(3) 'Debt' means—

"(A) an amount owing to the United States on account of a direct loan, or loan insured or guaranteed, by the United States; or

"(B) an amount originally due the United States on account of a fee, duty, lease, rent, service, sale of real or personal property, overpayment, fine, assessment, penalty, restitution, damages, interest, tax, bail bond forfeiture, reimbursement, or recovery of a cost incurred by the United States;

and includes any amount due the United States for the benefit of an Indian tribe or individual Indian, but excludes any amount to which the United States is entitled under section 3011.

"(4) 'Debtor' means a person who is liable for a debt or against whom there is a claim for a debt.

"(5) 'Disposable earnings' means that part of earnings remaining after all deductions required by law have been withheld.

"(6) 'Earnings' means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

"(7) 'Garnishee' means a person—

"(A) who employs a debtor;

"(B) who has, or is reasonably thought to have, possession, custody or control of earnings, whether due or yet to become due, of a debtor; and

"(C) against whom a garnishment is issued by a court.

"(8) 'Judgment' means a judgment, order, or decree entered in favor of the United States in a court and arising from a civil or criminal proceeding regarding a debt.

"(9) 'Nonexempt disposable earnings' means 25 percent of disposable earnings, subject to section 303 of the Consumer Credit Protection Act.

"(10) 'Person' includes a natural person (including an individual Indian), a corporation, a partnership, an unincorporated association, a trust, or an estate, or any other public or private entity, including a local government or an Indian tribe.

"(11) 'Prejudgment remedy' means the remedy of attachment, receivership, or both authorized by this chapter to be granted before judgment on the merits of a claim for a debt.

"(12) 'Property' includes any present or future interest, whether legal or equitable, in real, personal (including choses in action), or mixed property, tangible or intangible, vested or contingent, wherever located and however held (including community property and property held in trust (including spendthrift and pension trusts)), but excludes—

"(A) property held in trust by the United States for the benefit of an Indian tribe or individual Indian; and

"(B) Indian lands subject to restrictions against alienation imposed by the United States.

"(13) 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, or any territory or possession of the United States.

"(14) 'United States' means—

"(A) a Federal corporation;

"(B) an agency, department, commission, board, or other entity of the United States; or

"(C) an instrumentality of the United States.

"(15) 'United States marshal' means a United States marshal, a deputy marshal, or an official of the United States Marshals Service designated under section 564.

"§ 3003. Rules of construction

"(a) TERMS.—For purposes of this chapter—

"(1) the terms 'includes' and 'including' are not limiting;

"(2) the term 'or' is not exclusive; and

"(3) the singular includes the plural.

"(b) EFFECT ON RIGHTS OF THE UNITED STATES.—This chapter shall not be construed to curtail or limit the right of the United States under any other Federal law—

"(1) to collect taxes or to collect any other amount collectible in the same manner as a tax;

"(2) to collect any fine, penalty, assessment, restitution, or forfeiture arising in a criminal case; or

"(3) to appoint or seek the appointment of a receiver.

"(c) EFFECT ON OTHER LAWS.—This chapter shall not be construed to supersede or modify the operation of—

"(1) title 11;

"(2) admiralty law;

"(3) section 3713 of title 31;

"(4) section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673);

"(5) a statute of limitation applicable to a criminal proceeding;

"(6) the common law or statutory rights to set-off or recoupment;

"(7) any Federal law authorizing injunctive relief;

"(8) any law specifically applicable to a security agreement, as defined in section 101(44) of title 11; or

"(9) the authority of a court—

"(A) to impose sanctions under the Federal Rules of Civil Procedure; or

"(B) to exercise the power of contempt under any Federal law.

"(d) PREEMPTION.—This chapter shall preempt State law to the extent such law is inconsistent with the operation of this chapter.

"(e) EFFECT ON RIGHTS OF THE UNITED STATES UNDER FOREIGN AND INTERNATIONAL LAW.—This chapter shall not be construed to curtail or limit the rights of the United States under foreign law, under a treaty or an international agreement, or otherwise under international law.

"§ 3004. Service of process

"(a) MANNER OF SERVICE.—A complaint, notice, writ, or other process required to be served in an action under this chapter shall be served in accordance with the Federal Rules of Civil Procedure unless otherwise provided in this chapter.

"(b) NATIONWIDE SERVICE.—A notice, writ, or other process in an action under this chapter may be served in any judicial district of the United States.

"§ 3005. Application of statutes of limitations to actions under this chapter

"(a) PREJUDGMENT REMEDIES.—With respect to a claim for a debt, an action under subchapter B may be commenced at any time before judgment on such claim.

"(b) POSTJUDGMENT REMEDIES.—With respect to a judgment on a debt, an action may be commenced under subchapter C not later than 10 years after the date of such judgment.

"§ 3006. Affidavit requirements

"Any affidavit required of the United States by this chapter may be made on information and belief, if reliable and reasonably necessary, establishing with particularity, to the court's satisfaction, facts supporting the claim of the United States.

"§ 3007. Perishable personal property

"(a) AUTHORITY TO SELL.—If at any time during any proceeding under this chapter, the court determines on its own initiative or upon motion of any party, that any seized or detained personal property is likely to perish, waste, or be destroyed, or otherwise significantly depreciate in value during the pendency of the proceedings, the court shall order a commercially reasonable sale of such property.

"(b) DEPOSIT OF SALE PROCEEDS.—Within 5 days after such sale, the proceeds shall be deposited with the clerk of the court, accompanied by a statement in writing and signed by the United States marshal, to be filed in the action, stating the time and place of sale, the name of the purchaser, the amount received, and an itemized account of expenses.

"(c) PRESUMPTION.—For purposes of liability on the part of the United States, there shall be a presumption that the price paid at a sale under subsection (a) is the fair market value of the property or portion.

"§ 3008. Proceedings before United States magistrates

"A district court of the United States may assign its duties in proceedings under this chapter to a United States magistrate to the extent not inconsistent with the Constitution and laws of the United States.

"§ 3009. United States marshals' authority to designate keeper

"Whenever a United States marshal is authorized to seize property pursuant to this chapter, the United States marshal may designate another person or Federal agency to hold for safekeeping such property seized.

"§ 3010. Co-owned property

"(a) LIMITATION.—The remedies available to the United States under this chapter may be enforced against property which is co-owned by a debtor and any other person only to the extent allowed by the law of the State where the property is located. This section shall not be construed to limit the rights or interest of an individual other than the debtor in a retirement system for Federal military or civilian personnel established by the United States or any agency thereof or in a qualified retirement arrangement.

"(b) DEFINITIONS.—For purposes of subsection (a)—

"(1) the term 'retirement system for Federal military or civilian personnel' means a pension or annuity system for Federal military or civilian personnel of more than one agency, or for some or all of such personnel of a single agency, established by statute or by regulation pursuant to statutory authority; and

"(2) the term 'qualified retirement arrangement' means a plan qualified under section 401(a), 403(a), or 409 of the Internal Revenue Code of 1986 or a plan that is subject to the requirements of section 205 of the Employee Retirement Income Security Act of 1974.

"§ 3011. Assessment of surcharge on a debt

"(a) SURCHARGE AUTHORIZED.—Subject to subsection (b), the United States is entitled to receive a surcharge of 10 percent of the amount of the debt, to cover the cost of processing and handling the litigation and enforcement under this chapter of the claim for such debt.

"(b) LIMITATION.—Subsection (a) shall not apply if—

"(1) the United States receives an attorney's fee in connection with the enforcement of the claim; or

"(2) the law pursuant to which the action on the claim is based provides any other amount to cover such costs.

"§ 3012. Joinder of additional defendant

"The United States or the debtor may join as an additional defendant in an action under this chapter any person reasonably believed to owe money (including money owed on account of a requirement to provide goods or services pursuant to a loan or loan guarantee extended under Federal law) to the debtor arising out of the transaction or occurrence giving rise to a debt.

"§ 3013. Modification or protective order; supervision of enforcement

"The court may at any time on its own initiative or the motion of any interested person, and after such notice as it may require, make an order denying, limiting, conditioning, regulating, extending, or modifying the use of any enforcement procedure under this chapter.

"§ 3014. Exempt property

"(a) TYPE AND VALUE.—Except as provided in subsection (b), the following property of a natural person shall not be subject to the procedures under this chapter, and, notwithstanding any other provision of this chapter, may be retained in the full custody, control, and ownership of such person:

"(1) Either—

"(A) the debtor's interest in real property that is used as the debtor's primary residence if such real property has a value of less than $100,000; or

"(B) the proceeds, but not to exceed $70,000, of the sale of the debtor's interest in real property that is used as the debtor's primary residence if such real property has a value of $100,000 or more.

"(2) The debtor's interest, not to exceed an aggregate $30,000 in value, in—

"(A) a burial plot for the debtor or a dependent of the debtor;

"(B) one motor vehicle;

"(C) household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor;

"(D) wedding and heirloom jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor;

"(E) implements, professional books, or tools of the trade of the debtor or the trade of a dependent of the debtor; and

"(F) other property, not to exceed an aggregate $2000 in value.

"(3) Any life insurance policy in force for more than 2 years, other than a credit life insurance contract, to the extent that a dependent of the debtor is named as a beneficiary of the policy.

"(4) Professionally prescribed health aids for the debtor or a dependent of the debtor.

"(5) The debtor's right to receive, or currency or intangible personal property traceable to such right to receive—

"(A) a social security benefit, unemployment compensation or benefit, a local public assistance benefit, or aid to families with dependent children;

"(B) a veterans' benefit;

"(C) a disability or illness benefit (including Medicaid and Medicare);

"(D) an award under a crime victim's reparation law;

"(E) a payment on account of the wrongful death of an individual of whom the debtor was a dependent;

"(F) compensation for pecuniary loss, or a payment for pain and suffering, on account of personal bodily injury of the debtor or an individual of whom the debtor is a dependent; or

"(G) child support, paid or received.

"(6) The debtor's right to receive, or currency or intangible personal property that is traceable to such right to receive—

"(A) earnings that would not be subject to garnishment under section 3205;

"(B) alimony, spousal support, or separate maintenance, paid or received;

"(C) a payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service unless—

"(i) such plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under such plan or contract arose;

"(ii) such payment is on account of age or length of service; and

"(iii) such plan or contract does not qualify under section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1986 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409).

"(D) the proceeds from any life insurance policy with respect to which the insured is deceased, to the extent that the debtor or a dependent of the debtor is named as a beneficiary of the policy; or

"(E) a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent;

to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

(b) LIMITATIONS ON EXEMPT PROPERTY.—

"(1) STATEMENT.—A court may order the debtor to file a statement with regard to any claimed exemption. A copy of such statement shall be served on counsel for the United States. Such statement shall be under oath and shall describe each item of property for which exemption is claimed, the value and the basis for such valuation, and the nature of the debtor's ownership interest.

"(2) HEARING.—The United States, by application to the court in which an action under this chapter is pending, may request a hearing on the applicability of any exemption claimed by the debtor. The court shall determine the extent (if any) to which the exemption applies. Unless it is reasonably evident that the exemption applies, the debtor shall bear the burden of persuasion.

"(3) STAY OF LEVY.—Assertion of an exemption shall prevent the United States from levying on the property for which such exemption is claimed unless the court determines that the debtor has a significant nonexempt interest in such property. The United States may not levy on, sell, or otherwise enjoin the debtor's use of any exempt interest in property.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"Sec.
"3101. Prejudgment remedies.
"3102. Attachment.
"3103. Receivership.

"§ 3101. Prejudgment remedies

"(a) APPLICATION.—(1) The United States may, in conjunction with the complaint or at any time after the filing of a civil action on a claim for a debt, make application under oath to a court to issue any prejudgment remedy.

"(2) Such application shall be filed with the court and shall set forth the factual and legal basis for each prejudgment remedy sought have been satisfied.

"(3) Such application shall—

"(A) state that the debtor against whom the prejudgment remedy is sought shall be afforded an opportunity for a hearing; and

"(B) set forth with particularity that all statutory requirements under this chapter for the issuance of the prejudgment remedy sought.

"(b) GROUNDS.—Subject to section 3102 or 3103, a prejudgment remedy may be granted by any court, with or without prior notice to the debtor against whom such remedy is sought, if the United States shows reasonable cause to believe that—

"(1) the debtor—

"(A) is about to leave the jurisdiction of the United States with the effect of hindering, delaying, or defrauding the United States in its effort to recover a debt;

"(B) has or is about to assign, dispose, remove, or conceal, ill treat, waste, or destroy property with the effect of hindering, delaying, or defrauding the United States;

"(C) has or is about to convert or has converted the debtor's property into money, securities, or evidence of debt in a manner prejudicial to the United States; or

"(D) has evaded service of process by concealing himself or has temporarily withdrawn from the jurisdiction of the United States; or

"(2) a prejudgment remedy is required to obtain jurisdiction within the United States and the prejudgment remedy sought will result in obtaining such jurisdiction.

"(c) AFFIDAVIT.—(1) The application under subsection (a), shall include an affidavit establishing with particularity to the court's satisfaction facts supporting the probable validity of the claim for a debt and the right of the United States to recover what is demanded in the application.

"(2) The affidavit shall state—

"(A) specifically the amount of the debt claimed by the United States and any interest or costs attributable to such debt;

"(B) one or more of the grounds specified in subsection (b); and

"(C) the requirements of section 3102(b) or 3103(a), as the case may be.

"(3) No bond is required of the United States.

"(d) NOTICE AND HEARING.—(1) On filing an application by the United States as provided in this section, the clerk shall issue a notice to the counsel for the United States for service on the debtor against whom the prejudgment remedy is sought and on any other person whom the United States reasonably believes, after exercising due diligence, has possession, custody, or control of property affected by such remedy. Three copies of the notice shall be served on each such person. The notice shall be in substantially the following form:

"'NOTICE

"'You are hereby notified that your [property] is being taken away from you by the United States Government ("the Government"), which says that you owe it a debt of $[amount] for [reason for debt] and has filed a lawsuit against you to collect this debt. The Government says it must take your property at this time because [recite the pertinent ground or grounds from section 3101(b)]. The Government wants to make sure you will pay if the court determines that you owe this money.

"'In addition, you are hereby notified that there are exemptions under Federal law which may protect some of your property from being taken by the Government if you can show that the exemptions apply to you. Below is a summary of the major exemptions which apply in most situations:

"'* your home if its fair market value is less than $100,000, or up to $70,000 in equity in your home if its fair market value is $100,000 or more;

"'* up to a total of $30,000 value in household furnishings and goods, appliances, clothes, wedding and heirloom jewelry, books, musical instruments, animals, crops, one motor vehicle, and one family burial plot;

"'* any life insurance policy which names a member of your family as the beneficiary;

"'* up to a total of $1,500 value in tools, professional books, and other implements used in your job or business, or a member of your family's job or business;

"'* professionally prescribed health aids for you or a member of your family;

"'* any social security, public assistance, child support, veterans disability, illness, and unemployment benefit;

"'* any alimony, spousal support, pension payment, payment to compensate you for loss of future earnings, and life insurance proceeds you receive as a beneficiary under someone else's policy, and three-fourths or more of your take-home pay, but only to the extent you reasonably need them to support yourself and your family;

"'* any restitution award you receive as a crime victim and any court award to compensate you for personal bodily injury or wrongful death.

"'If you disagree with the reason the Government gives for taking your property now, or if you think you do not owe the money to the Government that it says you do, or if you think the property the Government is taking qualifies under one of the above exemptions, you have a right to ask the court to return your property to you.

"'If you want a hearing, you must promptly notify the court. You must make your request in writing, and either mail it or deliver it in person to the clerk of the court at [address]. If you wish, you may use this notice to request the hearing by checking the box below and mailing this notice to the court clerk. You must also send a copy of your request to the Government at [address], so the Government will know you want a hearing. The hearing will take place within 5 days after the clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible.

"'At the hearing you may explain to the judge why you think you do not owe the money to the Government, why you disagree with the reason the Government says it must take your property at this time, or why you believe the property the Government has taken is exempt. You may make any or all of these explanations as you see fit.

"'Be sure to keep a copy of this notice for your own records. If you have any questions about your rights or about this procedure, you should contact a lawyer, an office of public legal assistance, or the clerk of the court.'.

"(2) By requesting, at any time before judgment on the claim for a debt, the court to hold a hearing, the debtor may move to quash the order granting such remedy. The court shall hold a hearing on such motion as soon as practicable, or, if requested by the debtor, within 5 days after receiving the request for a hearing or as soon thereafter as possible. The issues at such hearing shall be limited to—

"(A) the probable validity of the claim for the debt for which such remedy was granted and of any defense or claim of exemption asserted by such person;

"(B) compliance with any statutory requirement for the issuance of the prejudgment remedy granted;

"(C) the existence of any ground set forth in subsection (b); and

"(D) the inadequacy of alternative remedies (if any) to protect the interests of the United States.

"(e) ISSUANCE OF WRIT.—On the court's determination that the requirements of subsections (a), (b), and (c) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"(f) SERVICE.—Not later than the time a prejudgment remedy is put into effect, counsel for the United States shall exercise reasonable diligence to serve on the debtor and any person who the United States be-

lieves, after exercising due diligence, has possession, custody, or control of the property, a copy of the application, the order granting such remedy, and the notice required by subsection (d).

"§ 3102. Attachment

"(a) PROPERTY SUBJECT TO ATTACHMENT.—(1) Any property in which the debtor has a significant nonexempt interest, except earnings, may be attached pursuant to a writ of attachment in an action against a debtor on a claim for a debt and may be held as security to satisfy such judgment, and interest and costs, as the United States may recover on such claim.

"(2) The value of property attached shall not exceed the amount by which the sum of the amount of the debt claimed by the United States and the amount of interest and costs reasonably likely to be assessed against the debtor by the court exceeds the aggregate value of the nonexempt interest of the debtor in any—

"(A) property securing the debt; and

"(B) property in receivership under this subchapter.

"(b) AVAILABILITY OF ATTACHMENT.—If the requirements of section 3101 are satisfied, a court shall issue a writ authorizing the United States to attach property in which the debtor has a significant nonexempt interest, as security for such judgment (and interest and costs) as the United States may recover on a claim for a debt—

"(1) in an action on a contract, express or implied, against the debtor for payment of money, only if the United States shows reasonable cause to believe that—

"(A) the contract is not fully secured by real or personal property; or

"(B) the value of the original security is substantially diminished, without any act of the United States or the person to whom the security was given, below the amount of the debt;

"(2) in an action against the debtor for damages in tort;

"(3) if the debtor resides outside the jurisdiction of the United States; or

"(4) in an action to recover a fine, penalty, or tax.

"(c) ISSUANCE OF WRIT; CONTENTS.—(1) Subject to subsections (a) and (b), a writ of attachment shall be issued by the court directing the United States marshal of the district where property described in subsection (a) is located to attach the property.

"(2) Several writs of attachment may be issued at the same time, or in succession, and sent to different judicial districts until sufficient property is attached.

"(3) The writ of attachment shall contain—

"(A) the date of the issuance of the writ;

"(B) the identity of the court, the docket number of the action, and the identity of the cause of action;

"(C) the name and last known address of the debtor;

"(D) the amount to be secured by the attachment; and

"(E) a reasonable description of the property to be attached.

"(d) LEVY OF ATTACHMENT.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property specified for attachment if found within the district. The marshal may not sell property unless ordered by the court.

"(2) In performing the levy, the United States marshal may enter any property owned, occupied, or controlled by the debtor, except that the marshal may not enter a residence or other building unless the writ expressly authorizes the marshal to do so or upon specific order of the court.

"(3) Levy on real property is made by entering the property and posting the writ and notice of levy in a conspicuous place upon the property.

"(4) Levy on personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense may be made by affixing a copy of the writ and notice of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied on.

"(5) The United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3201(a)(1). The United States marshal shall serve a copy of the writ and notice of levy on—

"(A) the debtor against whom the writ is issued; and

"(B) the person who has possession of the property subject to the writ;

in the same manner that a summons is served in a civil action and make the return thereof.

"(e) RETURN OF WRIT; DUTIES OF MARSHAL; FURTHER RETURN.—(1) A United States marshal executing a writ of attachment shall return the writ with the marshal's action endorsed thereon or attached thereto and signed by the marshal, to the court from which it was issued, within 5 days after the date of the levy.

"(2) The return shall describe the property attached with sufficient certainty to identify it and state the location where it was attached, the date and time it was attached, and the disposition made of the property. If no property was attached, the return shall so state.

"(3) If the property levied on is claimed, replevied under subsection (j)(2), or sold under section 3007 after the return, the United States marshal shall immediately make a further return to the clerk of the court showing the disposition of the property.

"(4) If personal property is replevied, the United States marshal shall deliver the replevin bond to the clerk of the court to be filed in the action.

"(f) LEVY OF ATTACHMENT AS LIEN ON PROPERTY; SATISFACTION OF LIEN.—(1) A levy on property under a writ of attachment under this section creates a lien in favor of the United States on the property or, in the case of perishable property sold under section 3007, on the proceeds of the sale.

"(2) Such lien shall be ranked ahead of any other security interests perfected after the later of the time of levy and the time a copy of the notice of levy is filed under subsection (d)(5).

"(3) Such lien shall arise from the time of levy and shall continue until a judgment in the action is obtained or denied, or the action is otherwise dismissed. The death of the debtor whose property is attached does not terminate the attachment lien. Upon issuance of a judgment in the action and registration under this chapter, the judgment lien so created relates back to the time of levy.

"(g) REDUCTION OR DISSOLUTION OF ATTACHMENT.—(1) If an excessive or unreasonable attachment is made, the debtor may submit a motion to the court for a reduction of the amount of the attachment or its dissolution. Notice of such motion shall be served on the United States.

"(2) The court shall order a part of the property to be released, if after a hearing the court finds that the amount of the attachment is excessive or unreasonable or if the attachment is for an amount larger than the sum of the liquidated or ascertainable amount of the debt and the amount of interest and costs likely to be taxed.

"(3) The court shall dissolve the attachment if the amount of the debt is unliquidated and unascertainable by calculation.

"(4) If any property claimed to be exempt is levied on, the debtor may, at any time after such levy, request that the court vacate such levy. If it appears to the court that the property so levied upon is exempt, the court shall order the levy vacated and the property returned to the debtor.

"(h) REPLEVIN OF ATTACHED PROPERTY BY DEBTOR; BOND.—If attached property is not sold before judgment, the debtor may replevy such property or any part thereof by giving a bond approved by counsel for the United States or the court and payable to the United States in double the reasonable value of the property to be replevied.

"(i) PRESERVATION OF PERSONAL PROPERTY UNDER ATTACHMENT.—If personal property in custody of the United States marshal under a writ of attachment is not replevied, claimed, or sold, the court may make such order for its preservation or use as appears to be in the interest of the parties.

"(j) JUDGMENT AND DISPOSITION OF ATTACHED PROPERTY.—

"(1) JUDGMENT FOR THE UNITED STATES.—On entry of judgment for the United States, the court shall order the proceeds of the personal property sold pursuant to section 3007 to be applied to the satisfaction of the judgment, and shall order the sale of any remaining personal property and any real property levied on to the extent necessary to satisfy the judgment.

"(2) JUDGMENT FOR THE UNITED STATES WHEN PERSONAL PROPERTY REPLEVIED.—With respect to personal property under attachment that is replevied, the judgment which may be entered shall be against the debtor against whom the writ attachment is issued and also against the sureties on the debtor's replevin bond for the value of the property.

"(3) RESTORATION OF PROPERTY AND EXONERATION OF REPLEVIN BOND.—If the attachment is vacated or if the judgment on the claim for the debt is for the person against whom the writ attachment is issued, the court shall order the property, or proceeds of perishable property sold under section 3007, restored to the debtor and shall exonerate any replevin bond.

"§ 3103. Receivership

"(a) APPOINTMENT OF A RECEIVER.—If the requirements of section 3101 are satisfied, a court may appoint a receiver for property in which the debtor has a substantial nonexempt interest only if the United States shows reasonable cause to believe that there is a substantial danger that the property will be removed from the jurisdiction of the court, lost, materially injured or damaged, or mismanaged.

"(b) POWERS OF RECEIVER.—(1) The appointing court may authorize a receiver—

"(A) to take possession of real and personal property and sue for, collect, and sell obligations upon such conditions and for such purposes as the court shall direct; and

"(B) to administer, collect, improve, lease, repair or sell pursuant to section 3007 such

real and personal property as the court shall direct.

A receiver appointed to manage residential or commercial property shall have demonstrable expertise in the management of these types of property.

"(2) Unless expressly authorized by order of the court, a receiver shall have no power to employ attorneys, accountants, appraisers, auctioneers, or other professional persons.

"(c) DURATION OF RECEIVERSHIP.—A receivership shall not continue past the entry of judgment unless the court orders it continued under section 3203(e) or unless the court otherwise directs its continuation.

"(d) ACCOUNTS; REQUIREMENT TO REPORT.—A receiver shall keep written accounts itemizing receipts and expenditures, describing the property and naming the depository of receivership funds. The receiver's accounts shall be open to inspection by any person having an apparent interest in the property. The receiver shall file reports at regular intervals as directed by the court and shall serve the debtor and the United States with a copy thereof.

"(e) MODIFICATION OF POWERS; REMOVAL.—On motion of the receiver or on its own initiative, the court which appointed the receiver may remove the receiver or modify the receiver's powers at any time.

"(f) PRIORITY.—If more than one court appoints a receiver for particular property, the receiver first qualifying under law shall be entitled to take possession, control, or custody of the property.

"(g) COMPENSATION OF RECEIVERS.—(1) A receiver is entitled to such commissions, not exceeding 5 percent of the sums received and disbursed by him, as the court allows unless the court otherwise directs.

"(2) If, at the termination of a receivership, there are no funds in the hands of a receiver, the court may fix the compensation of the receiver in accordance with the services rendered and may direct the party who moved for the appointment of the receiver to pay such compensation in addition to the necessary expenditures incurred by the receiver which remain unpaid.

"(3) At the termination of a receivership, the receiver shall file a final accounting of the receipts and disbursements and apply for compensation setting forth the amount sought and the services rendered by the receiver.

"SUBCHAPTER C—POSTJUDGMENT REMEDIES

"Sec.
"3201. Judgment liens.
"3202. Enforcement of judgments.
"3203. Execution.
"3204. Installment payment order.
"3205. Garnishment.
"3206. Discharge.
"3207. Postjudgment discovery.

"§ 3201. Judgment liens

"(a) Creation.—A judgment in a civil action shall create a lien on all real property of a judgment debtor on filing a certified copy of the abstract of the judgment in the manner in which a notice of tax lien would be filed under paragraphs (1) and (2) of section 6323(f) of the Internal Revenue Code of 1986. A lien created under this paragraph is for the amount necessary to satisfy the judgment, including costs and interest.

"(b) PRIORITY OF LIEN.—A lien created under subsection (a)(1) shall have priority over any other lien or encumbrance which is perfected later in time.

"(c) DURATION OF LIEN; RENEWAL.—A lien created under subsection (a) is effective, unless satisfied, for a period of 20 years or such longer period as the debtor and the United States may agree to.

"(d) RELEASE OF JUDGMENT LIEN.—A judgment lien shall be released on the filing of a satisfaction of judgment or release of lien in the same manner as the judgment is filed to obtain the lien.

"(e) EFFECT OF LIEN ON ELIGIBILITY FOR FEDERAL GRANTS, LOANS OR PROGRAMS.—A debtor who has a judgment lien against the debtor's property for a debt to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed, or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied. The agency of the United States that is responsible for such grants and loans may promulgate regulations to allow for waiver of this restriction on eligibility for such grants, loans, and funds.

"(f) SALE OF PROPERTY SUBJECT TO JUDGMENT LIEN.—(1) On proper application to a court, the court may order the United States to sell, in accordance with sections 2001 and 2002, any real property subject to a judgment lien in effect under this section.

"(2) This subsection shall not preclude the United States from using an execution sale pursuant to section 3203(g) to sell real property subject to a judgment lien.

"§ 3202. Enforcement of judgments

"(a) ENFORCEMENT REMEDIES.—A judgment may be enforced by any of the remedies set forth in this subchapter. A court may issue other writs pursuant to section 1651 of title 28, United States Code, as necessary to support such remedies, subject to rule 81(b) of the Federal Rules of Civil Procedure.

"(b) NOTICE.—On the commencement by the United States of an action under this subchapter to obtain a remedy, the clerk of the court shall issue to the counsel for the United States a notice in substantially the following form:

"'NOTICE

"'You are hereby notified that your [property] is being taken away from you by the United States Government, which has a court judgment in [case docket number and jurisdiction of court] of $[amount] for [reason of debt].

"'In addition, you are hereby notified that there are exemptions under Federal law which may protect some of your property from being taken by the United States Government if you can show that the exemptions apply to you. Below is a summary of the major exemptions which apply in most situations:

"'* your home if its fair market value is less than $100,000, or up to $70,000 in equity in your home if its fair market value is $100,000 or more;

"'* up to a total of $30,000 value in household furnishings and goods, appliances, clothes, wedding and heirloom jewelry, books, musical instruments, animals, crops, one motor vehicle, and one family burial plot;

"'* any life insurance policy which names a member of your family as the beneficiary;

"'* up to a total of $1,500 value in tools, professional books, and other implements used in your job or business, or a member of your family's job or business;

"'* professionally prescribed health aids for you or a member of your family;

"'* any social security, public assistance, child support, veterans, disability, illness, and unemployment benefit;

"'* any alimony, spousal support, pension payment, payment to compensate you for loss of future earnings, life insurance proceeds you receive as a beneficiary under someone else's policy, and three-fourths or more of your take-home pay, but only to the extent you reasonably need them to support yourself and your family;

"'* any restitution award you receive as a crime victim and any court award to compensate you for personal bodily injury or wrongful death.

"'You have a right to ask the court to return your property to you if you think the property the Government is taking qualifies under one of the above exemptions [For a default judgment:] or if you think you do not owe the money to the United States Government that it says you do.

"' If you want a hearing, you must notify the court within 30 days after you receive this notice. You must make your request in writing, and either mail it or deliver it in person to the clerk of the court at [address]. If you wish, you may use this notice to request the hearing by checking the box below and mailing this notice to the court clerk. You must also send a copy of your request to the Government at [address], so the Government will know you want a hearing. The hearing will take place within 5 days after the clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible.

"'At the hearing you may explain to the judge why you believe the property the Government has taken is exempt [For a default judgment:] why you think you do not owe the money to the Government. [For a writ of execution:] If you do not request a hearing within 30 days of receiving this notice, your [property] may be sold at public auction and the payment used toward the money you owe the Government.'.

"(c) SERVICE.—A copy of the notice and a copy of the application for granting a remedy under this subchapter shall be served by counsel for the United States on the debtor against whom such remedy is sought and on each person whom the United States, after diligent inquiry, has reasonable cause to believe has an interest in property to which the remedy is directed.

"(d) HEARING.—By requesting, within 30 days after receiving the notice described in section 3202(b), the court to hold a hearing, the debtor may move to quash the order granting such remedy. The court that issued such order shall hold a hearing on such motion as soon as practicable, or, if so requested by the debtor, within 5 days after receiving the request or as soon thereafter as possible. The issues at such hearing shall be limited to—

"(1) the probable validity of any claim of exemption by the debtor;

"(2) compliance with any statutory requirement for the issuance of the postjudgment remedy granted; and

"(3) if the judgment is by default, to the extent that the Constitution and laws of the United States otherwise provide a right to a hearing on the issue, the probable validity of the claim for the debt which is merged in the judgment, and of the existence of good cause for setting aside such judgment.

"(d) SALE OF PROPERTY.—The property of a judgment debtor which is subject to sale to satisfy the judgment may be sold by judicial sale, pursuant to sections 2001, 2002, and 2004 or by execution sale pursuant to sec-

tion 3203(g). If a hearing is requested pursuant to subsection (d), property with respect to which the request relates shall not be sold before such hearing.

"§ 3203. Execution

"(a) PROPERTY SUBJECT TO EXECUTION.—All property in which the judgment debtor has a significant nonexempt interest shall be subject to levy pursuant to a writ of execution. The debtor's earnings shall not be subject to execution while in the possession, custody, or control of the debtor's employer. Co-owned property shall be subject to execution to the extent such property is subject to execution under the law of the State in which it is located.

"(b) CREATION OF EXECUTION LIEN.—A lien shall be created in favor of the United States on all property levied on under a writ of execution and shall date from the time of the levy. Such lien shall have priority over all subsequent liens and shall be for the aggregate amount of the judgment, costs, and interest. The execution lien on any real property as to which the United States has a judgment lien, the execution lien shall relate back to the judgment lien date.

"(c) WRIT OF EXECUTION.—

"(1) ISSUANCE.—On written application of counsel for the United States, the court may issue a writ of execution. Multiple writs may issue simultaneously, and successive writs may issue before the return date of a writ previously issued.

"(2) FORM OF WRIT.—

"(A) GENERAL CONTENTS.— A writ of execution shall specify the date that the judgment is entered, the court in which it is entered, the amount of the judgment if for money, the amount of the costs, the amount of interest due, the sum due as of the date the writ is issued, the rate of postjudgment interest, the name of the judgment debtor, and the judgment debtor's last known address.

"(B) ADDITIONAL CONTENTS.—(i) Except as provided in clauses (ii) and (iii), the writ shall direct the United States marshal to satisfy the judgment by levying on and selling property in which the judgment debtor has a significant nonexempt interest, but not to exceed property reasonably equivalent in value to the aggregate amount of the judgment, costs, and interest.

"(ii) A writ of execution issued on a judgment for the delivery to the United States of the possession of personal property, or for the delivery of the possession of real property, shall particularly describe the property, and shall require the marshal to deliver the possession of the property to the United States.

"(iii) A writ of execution on a judgment for the recovery of personal property or its value shall direct the marshal, in case a delivery of the specific property cannot be had, to levy and collect such value out of any property in which the judgment debtor has a significant nonexempt interest.

"(d) LEVY OF EXECUTION.—

"(1) IN GENERAL.—Levy on property pursuant to a writ of execution issued under this section shall be made in the same manner as levy on property is made pursuant to a writ of attachment issued under section 3102(d).

"(2) DEATH OF JUDGMENT DEBTOR.—The death of the judgment debtor after a writ of execution is issued stays the execution proceedings, but any lien acquired by levy of the writ shall be recognized and enforced by the court for the district in which the estate of the deceased is located. The execution lien may be enforced—

"(A) against the executor, administrator, or personal representative of the estate of the deceased; or

"(B) if there be none, against the deceased's property coming to the heirs or devisees or at their option against cash in their possession, but only to the extent of the value of the property coming to them.

"(3) RECORDS OF UNITED STATES MARSHAL.—(A) A United States marshal receiving a writ of execution shall endorse thereon the exact hour and date of receipt.

"(B) The United States marshal shall make a written record of every levy, specify the property on which levy is made, the date on which levy is made, and the marshal's costs, expenses, and fees

"(C) The United States marshal shall make a written return to the court on each writ of execution stating concisely what is done pursuant to the writ and shall deliver a copy to counsel for the United States who requests the writ. The writ shall be returned not more than—

"(i) 90 days after the date of issuance if levy is not made; or

"(ii) 10 days after the date of levy on property.

"(e) APPOINTMENT OF RECEIVER.—Pending the levy of execution, the court may appoint a receiver to manage property described in such writ if there is a substantial danger that the property will be removed from the jurisdiction of the court, lost, materially injured or damaged, or mismanaged.

"(f) REPLEVY; REDEMPTION.—

"(1) BEFORE EXECUTION SALE.—(A) Before execution sale, the United States marshal may return property to the judgment debtor any personal property taken in execution, on—

"(i) satisfaction of the judgment, interest, and costs, and any costs incurred in connection with scheduling the sale; or

"(ii) receipt from the judgment debtor of a bond—

"(I) payable to the United States, with 2 or more good and sufficient sureties to be approved by the marshal, conditioned on the delivery of the property to the marshal at the time and place named in the bond to be sold under subsection (g); or

"(II) for the payment to the marshal of a fair value thereof which shall be stated in the bond.

"(B) A judgment debtor who sells or disposes of property replevied under subparagraph (A) shall pay the United States marshal the stipulated value of such property.

"(C) If the judgment debtor fails to deliver such property to the United States marshal pursuant to the terms of the delivery described in subparagraph (A)(ii)(I) and fails to pay the United States marshal the stipulated value of such property, the United States marshal shall endorse the bond 'forfeited' and return it to the court from which the writ of execution issued. If the judgment is not fully satisfied, the court shall issue a writ of execution against the judgment debtor and the sureties on the bond for the amount due, not exceeding the stipulated value of the property, on which execution no delivery bond shall be taken, which instruction shall be endorsed on the writ.

"(2) AFTER EXECUTION SALE.—The judgment debtor shall not be entitled to redeem the property after the execution sale.

"(g) EXECUTION SALE.—

"(1) GENERAL PROCEDURES.—An execution sale under this section shall be conducted in a commercially reasonable manner.

"(A) SALE OF REAL PROPERTY.—

"(i) IN GENERAL.—(I) Except as provided in clause (ii), real property, or any interest therein, shall be sold, after the expiration of the 90-day period beginning on the date of levy under subsection (d), for cash at public auction at the courthouse of the county, parish, or city in which the greater part of the property is located or on the premises or some parcel thereof.

"(II) The court may order the sale of any real property after the expiration of the 30-day period beginning on the date of levy under subsection (d) if the court determines that such property is likely to perish, waste, be destroyed, or otherwise significantly depreciate in value during the 90-day period beginning on the date of levy.

"(III) The time and place of sale of real property, or any interest therein, under execution shall be advertised by the United States marshal, by publication of notice, once a week for at least 3 weeks prior to the sale, in at least one newspaper of general circulation in the county or parish where the property is located. The first publication shall appear not less than 25 days preceding the day of sale. The notice shall contain a statement of the authority by which the sale is to be made, the time of levy, the time and place of sale, and a brief description of the property to be sold, sufficient to identify the property (such as a street address for urban property and the survey identification and location for rural property), but it shall not be necessary for the notice to contain field notes. Such property shall be open for inspection and appraisal for a reasonable period before the day of sale.

"(IV) The United States marshal shall serve written notice of public sale by personal delivery, or certified or registered mail, to each person whom the marshal has reasonable cause to believe, after a title search is conducted by the United States, has an interest in property under execution, including lienholders, co-owners, and tenants, at least 25 days before the day of sale, to the last known address of each such person.

"(ii) SALE OF CITY LOTS.—If the real property consists of several lots, tracts, or parcels in a city or town, each lot, tract, or parcel shall be offered for sale separately, unless not susceptible to separate sale because of the character of improvements.

"(iii) SALE OF RURAL PROPERTY.—If the real property is not located in a city or town, the judgment debtor may—

"(I) divide the property into lots of not less than 50 acres or in such greater or lesser amounts as ordered by the court;

"(II) furnish a survey of such prepared by a registered surveyor; and

"(III) designate the order in which those lots shall be sold.

When a sufficient number of lots are sold to satisfy the amount of the execution and costs of sale, the marshal shall stop the sale.

"(B) SALE OF PERSONAL PROPERTY.—(i) Personal property levied on shall be offered for sale on the premises where it is located at the time of levy, or at the courthouse of the county, parish or city wherein it is located. Personal property susceptible of being exhibited shall not be sold unless it is present and subject to the view of those attending the sale unless—

"(I) the property consists of shares of stock in corporations;

"(II) by reason of the nature of the property, it is impractical to exhibit it; or

"(III) the debtor's interest in the property does not include the right to the exclusive possession.

"(ii) Notice of the time and place of the sale of personal property shall be given by the United States marshal by posting notice thereof for not less than 10 days successively immediately before the day of sale at the courthouse of any county, parish, or city, and at the place where the sale is to be made.

"(iii) The United States marshal shall serve written notice of public sale by personal delivery, or registered or certified mail at their last known addresses, on the judgment debtor and other persons who the marshal has reasonable cause to believe, after diligent inquiry, have a significant interest in the property.

"(2) POSTPONEMENT OF SALE.—The United States marshal may postpone an execution sale from time to time by continuing the required posting or publication of notice until the date to which the sale is postponed, and appending, at the foot of each such notice of a current copy of the following:

" 'The above sale is postponed until the _____ day of _____, 19___, at _____ o'clock ___ .M., _____, United States Marshal for the District of _____, by _____, Deputy, dated _____.'.

"(3) SALE PROCEDURES.—

"(A) BIDDING REQUIREMENTS.—A bidder at an execution sale of property, may be required by the United States marshal to make a cash deposit of as much as 20 percent of the sale price proposed before the bid is accepted.

"(B) RESALE OF PROPERTY.—If the terms of the sale are not complied with by the successful bidder, the United States marshal shall proceed to sell the property again on the same day if there is sufficient time. If there is insufficient time, the marshal shall schedule and notice a subsequent sale of the property as provided in paragraphs (1) and (2).

(4) RIGHTS AND LIABILITIES OF PURCHASERS.—

"(A) TRANSFER OF TITLE AFTER SALE.—

"(i) If property is sold under this subsection and the successful bidder complies with the terms of the sale, the United States marshal shall execute and deliver all documents necessary to transfer to the successful bidder, without warranty, all the rights, titles, interests, and claims of the judgment debtor in the property.

"(ii) If the successful bidder dies before execution and delivery of the documents needed to transfer ownership, the United States marshal shall execute and deliver them to the successful bidder's estate. Such delivery to the estate shall have the same effect as if accomplished during the lifetime of the purchaser.

"(B) PURCHASER CONSIDERED INNOCENT PURCHASER WITHOUT NOTICE.—The purchaser of property sold under execution shall be deemed to be an innocent purchaser without notice if the purchaser would have been considered an innocent purchaser without notice had the sale been made voluntarily and in person by the judgment debtor.

"(C) LIABILITY OF SUCCESSFUL BIDDER WHO FAILS TO COMPLY.—A successful bidder at an execution sale who fails to comply with the terms of the sale shall forfeit to the United States the cash deposit or, at the election of the United States, shall be liable to the United States, on a subsequent sale of the the property, for all net losses incurred by the United States as a result of such failure.

"(h) DISPOSITION OF PROCEEDS; FURTHER LEVY.—

"(1) DISTRIBUTION OF SALE PROCEEDS.—(A) The United States marshal shall first deliver to the judgment debtor such amounts to which the judgment debtor is entitled from the sale of partially exempt property.

"(B) The United States marshal shall next deduct from the proceeds of an execution sale of property an amount equal to the reasonable expenses incurred in making the levy of execution and in keeping and maintaining the property.

"(C) Except as provided in subparagraph (D), the United States marshal shall deliver the balance of the proceeds to the counsel for the United States as soon as practicable.

"(D) If more proceeds are received from the execution sale than is necessary to satisfy the executions held by the United States marshal, the marshal shall pay the surplus to the judgment debtor.

"(2) FURTHER LEVY IF EXECUTION NOT SATISFIED.—If the proceeds of the execution sale of the property levied on are insufficient to satisfy the execution, the United States marshal shall proceed on the same writ of execution to levy other property of the judgment debtor.

"§ 3204. Installment payment order

"(a) AUTHORITY TO ISSUE ORDER.—Subject to subsection (c), if it is shown that the judgment debtor is receiving or will receive earnings from any source, upon motion of the United States and notice to the judgment debtor, the court may, if appropriate, order that the judgment debtor make specified installment payments to the United States. Notice of the motion shall be served on the judgment debtor in the same manner as a summons or by registered or certified mail, return receipt requested. In fixing the amount of the payments, the court shall take into consideration after a hearing, the income, resources, and reasonable requirements of the judgment debtor, any other payments to be made in satisfaction of judgments against the judgment debtor, and the amount due on the judgment in favor of the United States.

"(b) MODIFICATION OF ORDER.—On motion of the United States or the judgment debtor, and upon a showing that the judgment debtor's financial circumstances have changed or that assets not previously disclosed by the judgment debtor have been discovered, the court may modify the amount of payments, alter their frequency, or require full payment.

"(c) LIMITATION.—An order may not be issued under subsection (a), and if so issued shall have no force or effect, against a judgment debtor with respect to whom there is in effect a writ of garnishment issued under this chapter and based on the same debt.

"§ 3205. Garnishment

"(a) IN GENERAL.—A court may issue a writ of garnishment against the nonexempt disposable earnings of a judgment debtor which are in the possession, custody, or control of an employer of the debtor, in order to satisfy the judgment against the judgment debtor. Co-owned property shall be subject to garnishment to the same extent as co-owned property is subject to garnishment under the law of the State in which such property is located. A court may issue simultaneous separate writs of garnishment to several garnishees. A writ of garnishment issued under this subsection shall be continuing and shall terminate only as provided in subsection (c)(10).

"(b) WRIT.—

"(1) GENERAL REQUIREMENTS.—The United States shall include in its application for a writ of garnishment—

"(A) the judgment debtor's name, social security number (if known), and last known address;

"(B) the nature and amount of the debt alleged to be owed and the facts that not less than 30 days has elapsed since demand on the debtor for payment of the debt was made and the judgment debtor has not paid the amount due; and

"(C) that the garnishee is believed to have possession of nonexempt disposable earnings of the debtor.

"(2) PROPER GARNISHEE FOR PARTICULAR PROPERTY.—

"(A) If the earnings consist of a right to or share in the stock of an association or corporation, or interests or profits therein, for which a certificate of stock or other negotiable instrument is not outstanding, the corporation, or the president or treasurer of the association, shall be the garnishee.

"(B) If the earnings consist of an interest in a partnership interest, any partner other than the debtor, shall be the garnishee on behalf of the partnership.

"(C) If the earnings or a debt is evidenced by a negotiable instrument for the payment of money, a negotiable document of title or a certificate of stock of an association or corporation, the instrument, document, or certificate shall be treated as property capable of delivery and the person holding it shall be the garnishee, except that—

"(i) subject to clause (ii) in the case of a security which is transferable in the manner set forth in State law, the entity that carries on its books an account in the name of the debtor in which is reflected such security shall be the garnishee; and

"(ii) notwithstanding clause (i), the pledgee shall be the garnishee if such security is pledged.

"(c) PROCEDURES APPLICABLE TO WRIT.—

"(1) COURT DETERMINATION.—If the court determines that the requirements of this section are satisfied, the court shall issue an appropriate writ of garnishment.

"(2) FORM OF WRIT.—The writ shall state—

"(A) The nature and amount of the debt, and any cost and interest owed with respect to the debt.

"(B) The name and address of the garnishee.

"(C) The name and address of counsel for the United States.

"(D) The last known address of the judgment debtor.

"(E) That the garnishee shall answer the writ within 10 days of service of the writ.

"(F) That the garnishee shall withhold and retain any nonexempt disposable earnings for which the garnishee is or may become indebted to the judgment debtor pending further order of the court.

"(3) SERVICE OF WRIT.—The United States shall serve the garnishee and the judgment debtor with a copy of the writ of garnishment and shall certify to the court that this service was made. The writ shall be accompanied by—

"(A) an instruction explaining the requirement that the garnishee submit a written answer to the writ; and

"(B) instructions to the judgment debtor for objecting to the answer of the garnishee and for obtaining a hearing on the objections.

"(4) ANSWER OF THE GARNISHEE.—In its written answer to the writ of garnishment, the garnishee shall state under oath—

"(A) whether the garnishee has custody, control or possession of the judgment debtor's earnings;

"(B) a description of the earnings and the amount;

"(C) a description of any previous garnishments to which such earnings are subject and the extent to which any remaining earnings are not exempt; and

"(D) the amount of earnings the garnishee anticipates owing to the judgment debtor in the future, and, if so, the amount and whether the pay period will be weekly or another specified period.

The garnishee shall file the original answer with the court issuing the writ and serve a copy on the debtor and counsel for the United States.

"(5) OBJECTIONS TO ANSWER.—Within 20 days after receipt of the answer, the judgment debtor or the United States may file a written objection to the answer and request a hearing. The party objecting shall state the grounds for the objection and bear the burden of proving such grounds. A copy of the objection and request for a hearing shall be served on the garnishee and all other parties. The court shall hold a hearing within 10 days after the date the request is received by the court, or as soon thereafter as is practicable, and give notice of the hearing date to all the parties.

"(6) GARNISHEE'S FAILURE TO ANSWER OR PAY.—If a garnishee fails to answer the writ of garnishment or to withhold nonexempt earnings in accordance with the writ, the United States may petition the court for an order requiring the garnishee to appear before the court to answer the writ and to so withhold earnings before the appearance date. If the garnishee fails to appear, or appears and fails to show good cause why the garnishee failed to comply with the writ, the court shall enter judgment against the garnishee for the amount of the judgment debtor's nonexempt disposable earnings. The court may award a reasonable attorney's fee to the United States and against the garnishee if the writ is not answered within the time specified therein and a petition requiring the garnishee to appear is filed as provided in this section.

"(7) DISPOSITION ORDER.—After the garnishee files an answer and if no hearing is requested within the required time period, the court shall promptly enter an order directing the garnishee as to the disposition of the judgment debtor's earnings. If a hearing is timely requested, the order shall be entered within 5 days after the hearing, or as soon thereafter as is practicable.

"(8) PRIORITIES.—Judicial orders and garnishments for the support of a person shall have priority over a writ of garnishment issued under this section. As to any other writ of garnishment or levy, a garnishment issued under this section shall have priority over writs which are issued later in time.

"(9) ACCOUNTING.—(A) While a writ of garnishment is in effect under this section, the United States shall give an annual accounting on the garnishment to the judgment debtor and the garnishee.

"(B) Within 10 days after the garnishment terminates, the United States shall give a cumulative written accounting to the judgment debtor and garnishee of all earnings it receives under a writ of garnishment. Within 10 days after such accounting is received, the judgment debtor or garnishee may file a written objection to the accounting and a request for hearing. The party objecting shall state grounds for the objection. The court shall hold a hearing on the objection within 10 days after the court receives the request for a hearing, or as soon thereafter as is practicable.

"(10) TERMINATION OF GARNISHMENT.—A garnishment under this chapter is terminated only by—

"(A) a court order quashing the writ of garnishment;

"(B) exhaustion of no exempt disposable earnings of the judgment debtor in the possession, custody, or control of the garnishee, unless the garnishee reinstates or reemploys the judgment debtor within 90 days after the judgment debtor's dismissal or resignation; or

"(C) satisfaction of the debt with respect to which the writ is issued.

"§ 3206. Discharge

"A person who pursuant to an execution or order issued under this chapter by a court pays or delivers to the United States, a United States marshal, or a receiver, money or other personal property in which a judgment debtor has or will have an interest, or so pays a debt such person owes the judgment debtor, is discharged from such debt to the judgment debtor to the extent of the payment or delivery.

"§ 3207. Postjudgment discovery

"In an action under this chapter on a judgment for a debt, the United States may have discovery regarding the financial condition of the judgment debtor in the manner in which discovery is authorized by the Federal Rules of Civil Procedure in an action on a claim for a debt.

"SUBCHAPTER D—FRAUDULENT TRANSFERS INVOLVING DEBTS

"Sec.
"3301. Definitions.
"3302. Insolvency.
"3303. Value for a transfer or obligation.
"3304. Transfer fraudulent as to a debt to the United States.
"3305. When transfer is made or obligation is incurred.
"3306. Remedies of the United States.
"3307. Defenses, liability and protection of transferee.
"3308. Supplementary provision.

"§ 3301. Definitions

"As used in this subchapter:

"(1) 'Affiliate' means—

"(A) a person who directly or indirectly owns, controls, or holds with power to vote 20 percent or more of the outstanding voting securities of the judgment debtor other than a person who holds the securities—

"(i) as a fiduciary or agent without sole discretionary power to vote the securities; or

"(ii) solely to secure a debt, if the person has not exercised the power to vote;

"(B) a corporation 20 percent or more of whose voting securities are directly or indirectly owned, controlled, or held with power to vote, by the judgment debtor or a person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the judgment debtor, other than the person who holds securities—

"(i) as a fiduciary or agent without sole power to vote the securities; or

"(ii) solely to secure a debt, if the person has not in fact exercised the power to vote;

"(C) a person whose business is operated by the judgment debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the judgment debtor; or

"(D) a person who operates the judgment debtor's business under a lease or other agreement or controls substantially all of the judgment debtor's assets.

"(2) 'Asset' means property of a debtor, but does not include—

"(A) property to the extent it is encumbered by a valid lien; or

"(B) property to the extent it is exempt.

"(3) 'Insider' includes—

"(A) if the judgment debtor is an individual—

"(i) a relative of the judgment debtor or of a general partner of the judgment debtor;

"(ii) a partnership in which the judgment debtor is a general partner;

"(iii) a general partner in a partnership described in clause (ii); or

"(iv) a corporation of which the judgment debtor is a director, officer, or person in control;

"(B) if the judgment debtor is a corporation—

"(i) a director of the judgment debtor;

"(ii) an officer of the judgment debtor;

"(iii) a person in control of the judgment debtor;

"(iv) a partnership in which the judgment debtor is a general partner;

"(v) a general partner in a partnership described in clause (iv); or

"(vi) a relative of a general partner, director, officer, or person in control of the judgment debtor;

"(C) if the judgment debtor is a partnership—

"(i) a general partner in the judgment debtor;

"(ii) a relative of a general partner in, or a person in control of, the judgment debtor;

"(iii) another partnership in which the judgment debtor is a general partner;

"(iv) a general partner in a partnership described in clause (iii); or

"(v) a person in control of the judgment debtor.

"(D) an affiliate of the judgment debtor or an insider of an affiliate of the judgment debtor; and

"(E) a managing agent of the judgment debtor.

"(4) 'Lien' means a charge against or an interest in property to secure payment of a debt and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceeding, a common law lien, and a statutory lien.

"(5) 'Relative' means an individual related, by consanguinity or adoption, within the third degree as determined by the common law, a spouse, or an individual so related to a spouse within the third degree as so determined;

"(6) 'Transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

"(7) 'Valid lien' means a lien that is effective against the holder of a judicial lien subsequently obtained in legal or equitable proceeding.

"§ 3302. Insolvency

"(a) IN GENERAL.—Except as provided in subsection (c), a debtor is insolvent if the sum of the judgment debtor's debts is greater than all of the judgment debtor's assets at a fair valuation.

"(b) PRESUMPTION.—A debtor who is generally not paying his debts as they become due is presumed to be insolvent.

"(c) CALCULATION.—A partnership is insolvent under subsection (a) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of—

"(1) all of the partnership's assets; and

"(2) the sum of the excess of the value of each general partner's non-partnership assets over the partner's non-partnership debts.

"(d) ASSETS.—For purposes of this section, assets do not include property that is transferred, concealed, or removed with intent to hinder, delay, or defraud the United States or that has been transferred in a manner making the transfer voidable under this subchapter.

"(e) DEBTS.—For purposes of this section, debts do not include an obligation to the extent such obligation is secured by a valid lien on property of the judgment debtor not included as an asset.

"§ 3303. Value for transfer or obligation

"(a) TRANSACTION.—Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the judgment debtor or another person.

"(b) REASONABLY EQUIVALENT VALUE.—For the purposes of sections 3304 and 3307, a person gives a reasonably equivalent value if the person acquires an interest of the judgment debtor in an asset pursuant to a regularly conducted, non-collusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the judgment debtor upon default under a mortgage, deed of trust, or security agreement.

"(c) PRESENT VALUE.—A transfer is made for present value if the exchange between the judgment debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

"§ 3304. Transfer fraudulent as to a debt to the United States

"(a) POSTJUDGMENT TRANSFERS.—Except as provided in section 3307, a transfer made or obligation incurred by a debtor is fraudulent as to a judgment on a debt to the United States which arises before the transfer is made or the obligation is incurred if—

"(1)(A) the judgment debtor makes the transfer or incurs the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation; and

"(B) the judgment debtor is insolvent at the time or the judgment debtor becomes insolvent as a result of the transfer or obligation; or

"(2)(A) the transfer was made to an insider for an antecedent debt, the judgment debtor was insolvent at the time; and

"(B) the insider had reasonable cause to believe that the judgment debtor was insolvent.

"(b) TRANSFERS WITHOUT REGARD TO DATE OF JUDGMENT.—Except as provided in section 3307, a transfer made or obligation incurred by a debtor is fraudulent as to a judgment on a debt to the United States, whether such debt arises before or after the transfer is made or the obligation is incurred, if the judgment debtor makes the transfer or incurs the obligation—

"(1) with actual intent to hinder, delay, or defraud the United States; or

"(2) without receiving a reasonably equivalent value in exchange for the transfer or obligation if the judgment debtor—

"(A) was engaged or was about to engage in a business or a transaction for which the remaining assets of the judgment debtor were unreasonably small in relation to the business or transaction; or

"(B) intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

"§ 3305. When transfer is made or obligation is incurred

"For the purposes of this subchapter:

"(1) A transfer is made—

"(A) with respect to an asset that is real property (other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset), when the transfer is so far perfected that a good-faith purchaser of the asset from the judgment debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and

"(B) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that the United States on a simple contract cannot acquire, without regard to this subchapter, a judicial lien that is superior to the interest of the transferee.

"(2) If applicable law permits the transfer to be perfected as approved in paragraph (1) and the transfer is not so perfected before the commencement of an action for relief under this subchapter, the transfer is deemed made immediately before the commencement of the action.

"(3) If applicable law does not permit the transfer to be perfected as provided in paragraph (1), the transfer is made when it becomes effective between the judgment debtor and the transferee.

"(4) A transfer is not made until the judgment debtor has acquired rights in the asset transferred.

"(5) An obligation is incurred—

"(A) if oral, when it becomes effective between the parties; or

"(B) if evidenced by a writing executed by the obligor, when the writing is delivered to or for the benefit of the obligee.

"§ 3306. Remedies of the United States

"(a) IN GENERAL.—In an action under this subchapter for relief against a transfer or obligation, the United States, subject to section 3307 and to applicable principles of equity and in accordance with the Federal Rules of Civil Procedure, may obtain—

"(1) avoidance of the transfer or obligation to the extent necessary to satisfy the debt to the United States; or

"(2) a remedy under this chapter against the asset transferred or other property of the transferee.

"(b) LIMITATION.—In an action under this subchapter, relief may be granted only against a transfer or obligation occurring not more than 4 years before the commencement of the action on the claim merged in the judgment on a debt.

"§ 3307. Defenses, liability, and protection of transferee

"(a) GOOD FAITH TRANSFER.—A transfer or obligation is not fraudulent under section 3304(a) with respect to a person who took in good faith and for a reasonably equivalent value or against any transferee or obligee subsequent to such person.

"(b) LIMITATION.—Except provided in subsection (d), to the extent a transfer is voidable in an action by the United States under section 3306(a)(1), the United States may recover judgment for the value of the asset transferred, but not to exceed the judgment on a debt. The judgment may be entered against—

"(1) the first transferee of the asset or the person for whose benefit the transfer was made; or

"(2) any subsequent transferee, other than a good faith transferee who took for value or any subsequent transferee to such good-faith transferee.

"(c) VALUE OF ASSET.—For purposes of subsection (b), the value of the asset is the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

"(d) RIGHTS OF GOOD FAITH TRANSFEREES AND OBLIGEES.—Notwithstanding voidability of a transfer or an obligation under this subchapter, a good-faith transferee or obligee is entitled, to the extent of the value given the judgment debtor for the transfer or obligation, to—

"(1) a lien on or a right to retain any interest in the asset transferred;

"(2) enforcement of any obligation incurred; or

"(3) a reduction in the amount of the liability on the judgment.

"(e) EXCEPTIONS.—A transfer is not fraudulent under section 3304(a) or section 3304(b)(2) if the transfer results from—

"(1) termination of a lease upon default by the judgment debtor when the termination is pursuant to the lease and applicable law; or

"(2) enforcement of a security interest in compliance with article 9 of the Uniform Commercial Code or its equivalent in effect in the State where the property is located.

"(f) LIMITATION OF VOIDABILITY.—A transfer is not voidable under section 3304(a)(2)—

"(1) to the extent the insider gave new value to or for the benefit of the judgment debtor after the transfer was made unless the new value was secured by a valid lien;

"(2) if made in the ordinary course of business or financial affairs of the judgment debtor and the insider; or

"(3) if made pursuant to a good-faith effort to rehabilitate the judgment debtor and the transfer secured present value given for that purpose, as well as an antecedent debt of the judgment debtor.

"§ 3308. Supplementary provision

"Except as provided in this subchapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause shall apply to actions under this subchapter.".

TITLE II—AMENDMENTS TO OTHER PROVISIONS OF LAW

SEC. 201. Section 523(a)(8) of title 11, United States Code, is amended—

(1) by striking "for an educational" and all that follows through "unless", and inserting the following:

"for an educational benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend, unless"; and

(2) by amending subparagraph (A) to read as follows:

"(A) such loan, benefit, scholarship, or stipend overpayment or loan first became due more than 7 years (exclusive of any applicable suspension of the repayment period)

before the date of the filing of the petition; or".

SEC. 202. Section 3142(c)(1)(B)(xi) of title 18, United States Code, is amended to read as follows:

"(xi) execute an agreement to forfeit upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to assure the appearance of the person as required, and shall provide the court with proof of ownership and the value of the property along with information regarding existing encumbrances as the judicial office may require;".

SEC. 203. Section 3142(c)(1)(B)(xii) of title 18, United States Code, is amended to read as follows:

"(xii) execute a bail bond with solvent sureties; who will execute an agreement to forfeit in such amount as is reasonably necessary to assure appearance of the person as required and shall provide the court with information regarding the value of the assets and liabilities of the surety if other than an approved surety and the nature and extent of encumbrances against the surety's property; such surety shall have a net worth which shall have sufficient unencumbered value to pay the amount of the bail bond;".

SEC. 204. Section 3142(g)(4) of title 18, United States Code, is amended by—

(1) striking out "(c)(2)(K)" and inserting in lieu therefof "(c)(1)(B)(xi)"; and

(2) striking out "(c)(2)(L)" and inserting in lieu thereof "(c)(1)(B)(xii)".

SEC. 205. Section 3552(d) of title 18, United States Code, is amended by adding at the end the following: "The court shall provide a copy of the presentence report to the attorney for the Government to use in collecting an assessment, criminal fine, forfeiture or restitution imposed.".

SEC. 206. (a) Section 550 of title 28, United States Code, is amended—

(1) in the heading by striking "and messengers" and inserting ", messengers, and private process servers"; and

(2) by striking "and messengers on" and inserting ", messengers, and private process servers on".

(b) The table of sections of chapter 35 of title 28, United States Code, is amended by striking the item relating to section 550 and inserting the following:

"550. Clerical assistants, messengers, and private process servers.".

SEC. 207. Section 1962 of title 28, United States Code, is amended by inserting after the first sentence the following: "This section does not apply to judgments entered in favor of the United States.".

SEC. 208. Section 1963 of title 28, United States Code, is amended by inserting after the first sentence the following: "Such a judgment entered in favor of the United States may be so registered any time after judgment is entered.".

SEC. 209. (a) Chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following:

"§ 2044. Payment of fine with bond money

"On motion of the United States attorney, the court shall order any money belonging to and deposited by the defendant with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution, or penalty imposed upon the defendant. The court shall not release any money deposited for bond purposes after a plea or a verdict of the defendant's guilt has been entered and before sentencing except upon a showing that an assessment, fine, restitution or penalty cannot be imposed for the offense the defendant committed or that the defendant would suffer an undue hardship. This section shall not apply to any third party surety.".

(b) The table of sections for chapter 29 of title 28, United States Code, is amended by adding at the end thereof the following:

"2044. Payment of fine with bond money.".

SEC. 210. Section 2410(c) of title 28, United States Code, is amended by adding at the end the following: "In any case where the United States is a bidder at the judicial sale, it may credit the amount determined to be due it against the amount it bids at such sales.".

SEC. 211. Section 3711(a) of title 31, United States Code, is amended in the matter preceding paragraph (1) by inserting "(including an agency in the Department of Agriculture)" after "legislative agency".

SEC. 212. (a) Subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end the following:

"§ 3720B. Sale of debts

"(a) Notwithstanding any other provision of law, the head of an executive or legislative agency may—

"(1) sell debts owed to the United States to any private debt collection agency;

"(2) hire private debt collection agencies and law firms to collect such debts, without regard to the value of any debt; and

"(3) assign attorneys in such agency to participate in the collection of such debts.

"(b) Subsection (a) shall not be construed to modify or affect section 3002(1) of title 28 (relating to the definition of Counsel for the United States).".

(b) The table of sections at the beginning of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720A the following:

"3720B. Sale of debts.".

TITLE III—MISCELLANEOUS

SEC. 301. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

(b)(1) The amendments made by title I of this Act shall apply with respect to actions pending on the effective date of this Act in any court on—

(A) a claim for a debt; or

(B) a judgment for a debt.

(2) All notices, writs, orders, and judgments in effect in such actions shall continue in effect until superseded or modified in an action under chapter 176 of title 28 of the United States Code, as added by title I of this Act.

(3) For purposes of this subsection—

(A) the term "court" means a Federal, State, or local court, and

(B) the term "debt" has the meaning given such term in section and 3002(3) of such chapter.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. I demand a second, Mr. Speaker.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, H.R. 5640 is based on a proposal from the U.S. attorneys to assist them in collecting debts owed the United States more efficiently and effectively. Under the current system, Federal loans are governed by uniform standards set by Federal law. The standards and procedures for collecting debts related to those loans, however, are determined by State law. And, as you can imagine, the patchwork of differing and overlapping State laws makes the task of debt collection a difficult one, to say the least.

On June 14 of this year, the Subcommittee on Economic and Commercial Law, held a hearing on this subject. During that hearing, the U.S. attorneys made a strong case for a uniform Federal law and procedure in this area. At the same time, other expert witnesses urged the subcommittee not to overlook the important protections given debtors and other creditors under State law in the drive for uniformity.

We have attempted to be responsive to both points of view. The bill before us today represents a balanced approach which preserves the thrust of the U.S. attorneys' proposal while showing appropriate regard for basic fairness to debtors, their dependents, and other creditors.

In addition, the act was carefully crafted not to supersede existing Federal laws that specify other procedures applicable with respect to the recovery of claims or judgments involved in those statutes. The bill thus provides a uniform procedure for U.S. attorneys to enforce judgments and recover other debts owed the United States in Federal Court and under Federal law.

Significantly, the bill would allow U.S. attorneys to reach all pending claims for debts owed to the U.S. Government, as well as any judgment on the books going back 10 years. In other words, we are including in the scope of the act all debts owing to the Government that span the go-go decade of the 1980's when many wheelers and dealers threw prudence and sound business judgment to the winds in their vain quest for instant wealth.

At the beginning of this fiscal year, the Office of Management and Budget estimated that the total debts owed the Federal Government had reached $99 billion. And that figure is certain to increase in the next few years; the S&L crisis itself will produce hundreds of billions in new debts before it is completely resolved. At a time of overwhelming Federal deficits, there is simply no justification for leaving such a large roster of delinquent debts unrecovered. This bill should be an im-

portant tool in collecting those debts, and I urge the House to approve it.

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Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

H.R. 5640, the Federal Debt Collection Procedures Act of 1990, is important legislation designed to facilitate the Federal Government's efforts to recover amounts owed the United States. When financial obligations to the United States remain uncollected, the American taxpayer carries a heavier burden. The extent of the problem is documented in testimony before the Subcommittee on Economic and Commercial Law. United States Attorney Bob Wortham—from the Eastern District of Texas—citing a treasury report, points out that [a]s of the end of fiscal year 1989, $99 billion in outstanding delinquent debt has been reported by Federal agencies to the Office of Management and Budget.

Today the Federal Government is hampered in its debt collection efforts by the absence of a uniform nationwide Federal debt collection law. U.S. attorneys today are relegated to utilizing the diverse debt collection procedures available in the 50 States. The result is that geography often determines whether the Federal Government succeeds or fails to collect on overdue obligations.

Persons who owe money to the United States must not receive preferred treatment because they live in—or choose to relocate to—jurisdictions with very limited collection remedies. Principles of fair play require that individuals with comparable debts to the United States receive similar treatment throughout our country. The States, of course, retain the authority to balance the rights of debtors and private creditors—and remain free to provide more effective mechanisms for obtaining payments for private creditors.

U.S. attorneys from districts all over the country are unanimous in seeking a uniform, nationwide Federal debt collection law. They deserve great credit for pointing out deficiencies in current debt collection practices. The expertise of these public servants—who are involved so directly in litigating on behalf of the United States—is an invaluable resource to members of the Judiciary Committee.

By acting favorably today on H.R. 5640, we can look forward to presenting Federal debt collection legislation to the President before the 101st Congress adjourns. In my view, the differences between H.R. 5640 and S. 84, which has passed in the other body, can be resolved without undue difficulty in the next few weeks. Both bills incorporate a recognition of the need for procedural unformity. The House version includes an amendment—offered by my colleague from California [Mr. CAMPBELL]—that permits greater utilization of private sector services in Federal debt collection efforts. I commend that provision to my colleagues in the other body.

This legislation hopefully will represent a significant contribution to deficit reduction efforts in the years ahead. I urge my colleagues to join me in voting for passage of H.R. 5640.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from New York.

Mr. FISH. Mr. Speaker, I thank the gentleman from California [Mr. MOORHEAD] for his kind words and for yielding.

Mr. Speaker, I welcome the opportunity to speak in support of H.R. 5640, the Federal Debt Collection Procedures Act of 1990.

In view of the huge national debt, it is essential for the United States to take all reasonable steps to collect on overdue obligations. When millions of dollars in obligations to the Federal Government are lost to the Treasury, the American people pay a heavy price.

U.S. attorneys deserve special commendation for developing an earlier version of legislation incorporating uniform Federal debt collection procedures—and for providing assistance to the Committee on the Judiciary in its efforts to address this issue. They have been in a unique position to identify debt collection related problems because they have been actively involved on a daily basis in litigating cases on behalf of the Federal Government.

Uniform Federal debt collection legislation is needed to respond to a major inequity in the debt collection process today. Persons with similar obligations to the United States receive very different treatment because Federal courts rely on State laws governing collection remedies.

Our objective has been to adopt procedures that not only will enhance the Government's debt collection efforts but also accord fair treatment to debtors and other creditors.

I urge my colleagues to join me in voting for passage of H.R. 5640. It is important to move this legislation at this time because we are approaching the end of the 101st Congress.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 5640, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 84) to amend title 28, United States Code, to provide Federal debt collection procedures, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 84

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Debt Collection Procedures Act of 1989".

TITLE I—DEBT COLLECTION PROCEDURES

SEC. 101. Title 28 of the United States Code is amended by inserting immediately after chapter 175 the following:

"CHAPTER 176—FEDERAL DEBT COLLECTION PROCEDURE

"Subchapter

"A. Definitions and General Provisions 3001
"B. Prejudgment Remedies 3101
"C. Judgments; Liens 3201
"D. Postjudgment Remedies 3301
"E. Exempt Property 3401
"F. Fraudulent Transfers 3501
"G. Partition 3601
"H. Foreclosure of Security Interests 3701

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"Sec.

"3001. Definitions.
"3002. Rules of construction.
"3003. Nationwide enforcement.
"3004. Priority of claims of the United States.
"3005. Claims of United States not barred by State statute of limitations.
"3006. Right of set-off or recoupment.
"3007. Discovery.
"3008. Affidavit requirements.
"3009. Perishable property.
"3010. Immunity.
"3011. Proceedings before United States magistrates.
"3012. United States marshals' authority to designate keeper.
"3013. Co-owned property.
"3014. Assessment of charges on a claim.
"3015. Funding.
"3016. Investigative authority.
"3017. Subrogation.
"3018. Effective Date.

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"§ 3001. Definitions

"As used in this chapter—

"(a) 'claim' means amounts owing on account of direct loans or loans insured or guaranteed by the United States and all

other amounts due the United States from or on account of fees, duties, leases, rents, services, sales of real or personal property, overpayments, fines, assessments, penalties, restitution, damages, interest, taxes, bail bond forfeitures, reimbursements and recovery of costs incurred and other sources of indebtedness. This definition includes amounts due the United States for the benefit of an Indian tribe or individual Indian.

"(b) 'Counsel for the United States' shall include for the purposes of this chapter, a United States attorney, an assistant United States attorney designated to act on behalf of the United States attorney, an attorney with the United States Department of Justice or other Federal agency having litigation authority and any private attorney authorized by contract to conduct litigation for collection of debts on behalf of the United States.

"(c) 'Court' means any court created by the Congress of the United States exclusive of the United States Tax Court.

"(d) 'Debt' means liability to the United States on a claim.

"(e) 'Debtor' means a person who is liable to the United States on a claim.

"(f) 'Debt collection personnel' means personnel employed by any agency of the Federal government whose primary duties are the collection of the debts owed to the United States.

"(g) 'Disposable earnings' means that part of the earnings remaining after all deductions required by law have been withheld and 'nonexempt disposable earnings' means 25 percent of disposable earnings.

"(h) 'Earnings' means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise, and includes periodic payments pursuant to a pension or retirement program.

"(i) 'Garnishee' means a person other than the debtor who has, or is thought to have, possession, custody or control of any property of the debtor, including obligations owed to the debtor whether such obligations are past due or have yet to become due, against whom a garnishment has been issued by the clerk of the court.

"(j) 'Judgment' means a judgment, order or decree entered in favor of the United States in any court whether arising from a civil or criminal proceeding regarding a claim.

"(k) 'Judgment creditor' means the United States in situations in which the United States has judgments in its favor, whenever referred to in this chapter.

"(l) 'Judgment debtor' means a person against whom the United States holds a judgment on a debt.

"(m) 'Person' includes a natural person, including individual Indians, a corporation, a partnership, an unincorporated association, a trust or an estate or other entity, public or private, including local governments and Indian tribes.

"(n) 'Prejudgment remedy' means the remedies of attachment, garnishment, replevin, receivership, sequestration, injunction or a combination of any of the foregoing that are sought prior to judgment.

"(o) 'Property' includes any present or future interest in real, personal (including, but not limited to, earnings, goods and choses in action), or mixed property, whether legal or equitable, tangible or intangible, vested or contingent, and wherever located and however held, whether held as a tenancy in common, joint tenancy, tenancy by the entirety, community property, in partnership, or in trust (including spendthrift and pension trusts), and excludes any property held in trust by the United States for the benefit of any Indian tribe or individual Indian or any Indian lands subject to restrictions against alienation imposed by the United States.

"(p) 'Service' under the provisions of this chapter shall be in accordance with the Federal Rules of Civil Procedure.

"(q) 'State' includes the several states, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Marianas and any of the territories and possessions of the United States.

"(r) 'United States' includes an officer or agency thereof, a Federal corporation, Federal instrumentality, department, commission, board or other Federal entity.

"(s) 'United States marshal' means the United States marshal, his designee or contractor.

"§ 3002. Rules of construction

"In this title—

"(a) 'includes' and 'including' are not limiting;

"(b) 'or' is not exclusive;

"(c) the singular includes the plural;

"(d) the provisions are general and intended as a unified coverage of the subject matter;

"(e) if any provision or amendment made by this chapter or application thereof to any person is held invalid, the provisions of every other part and their application shall not be affected thereby;

"(f) the cases arising under the provisions herein shall not affect cases arising under admiralty jurisdiction;

"(g) the provisions of this chapter do not and should not be construed to curtail or limit any rights the United States has to collect taxes under any other provision of Federal law;

"(h) the provisions of this chapter do not, and should not be construed to, curtail or limit any rights the United States has under any other provision of Federal law to collect any fine, penalty, assessment, restitution, or forfeiture arising in a criminal case; and

"(i) the provisions of this chapter do not, and should not be construed to, curtail or limit the rights the United States has under any other provision of Federal law to appoint receivers.

"§ 3003. Nationwide enforcement

"Notwithstanding any other provision of law, any writ, order, judgment, or other process, including a summons and complaint, filed under this chapter may be served in any State and may be enforced by the court issuing the writ, order, or process, regardless of where the person is served with the writ, order, or process.

"§ 3004. Priority of claims of the United States

"The priorities established by the various provisions of this chapter shall be superseded by the provisions of section 3713 of title 31, United States Code, when the debtor or, if deceased, his estate is insolvent as determined under that section and the priority of the United States shall be in accordance therewith.

"§ 3005. Claims of the United States not barred by State statute of limitations

"The United States shall not be barred by the statute of limitations of any State in the enforcement of any of its claims.

"§ 3006. Right of set-off or recoupment

"Except as specifically provided for in this chapter, nothing in this chapter shall be construed to affect the common law or statutory rights to set-off or recoupment.

"§ 3007. Discovery

"(a) The United States may have discovery from any person including the debtor regarding the financial condition of the debtor in any case in which the United States seeks to enforce a claim. Such discovery may be before judgment or after judgment is entered in the case and in the manner in which discovery is provided for in the Federal Rules of Civil Procedure.

"(b) After judgment, the United States may also subpoena the judgment debtor or a third party to appear before the court at a location consistent with the Federal Rules of Civil Procedure with all records, books and other documents and to answer under oath questions regarding the debtor's financial condition and ability to satisfy the judgment.

"(c) The court shall impose appropriate sanctions as provided by the Federal Rules of Civil Procedure or the court's contempt power, including arrest of the offending person or debtor, for failure to comply with these discovery procedures.

"§ 3008. Affidavit requirements

"Any affidavit required of the United States by this chapter may be made upon information and belief, where reliable and reasonably necessary, establishing with particularity, to the court's satisfaction, facts supporting the claim of the United States.

"§ 3009. Perishable property

"At any time during any proceedings, other than those under section 3103(a), the court may determine on its own initiative or upon motion of any party, that any seized or detained property, or any portion thereof, is likely to perish, waste, or be destroyed, or otherwise depreciate in value during the pendency of the proceedings. The court shall order the sale of the property or portion thereof and require the proceeds to be deposited with the clerk of the court. For purposes of liability on the part of the United States, the price paid at any such sale shall be conclusively presumed to be the fair market value.

"§ 3010. Immunity

"Counsel for the United States, but excluding any private attorneys authorized by contract to conduct litigation for collection of debts on behalf of the United States, and non-attorney debt collection personnel shall have absolute immunity in their individual and official capacities from any liability arising from errors, omissions or negligence in performance of their official debt collection duties.

"§ 3011. Proceedings before United States magistrates

"A district court of the United States may assign its duties in proceedings under this chapter to a United States magistrate to the extent not inconsistent with the Constitution and laws of the United States. A district court may adopt appropriate rules to carry out any such assignment.

"§ 3012. United States marshals' authority to designate keeper

"Whenever the United States marshal is authorized to seize property pursuant to the provisions of this chapter, the United States marshal shall be authorized to designate another person or Federal agency to hold for safekeeping such property seized.

"§ 3013. Co-owned property

"The remedies available to the United States under this chapter shall be enforced against property which is co-owned by a debtor and others to the extent allowed by the law of the State where the property is located.

"For the purposes of this section, 'property' does not include the rights or interest of an individual other than the debtor in a retirement system for Federal military or civilian personnel established by the United States or any agency thereof. A 'retirement system for Federal military or civilian personnel' means a pension or annuity system for Federal military or civilian personnel of more than one agency, or for some or all of such personnel of a single agency, established by statute or regulation pursuant to statutory authority.

"§ 3014. Assessment of charges on a claim

"The United States may assess on a claim a charge of 10 percent of the amount of the claim to cover the cost of processing and handling the litigation and judicial enforcement of the claim.

"§ 3015. Funding

"It is hereby authorized that such sums be appropriated as may be necessary to carry out the provisions of this chapter. Appropriations authorized under this section shall remain available for obligations necessary to implement this chapter for 1 year.

"§ 3016. Investigative authority

"When the United States has reason to believe that an activity in violation of legal standards threatens to deprive it of a claim, the appropriate United States Attorney may commence a proceeding against named or unknown parties for the purpose of determining whether a claim for relief should be asserted under applicable law, and all discovery proceedings available under the Federal Rules of Civil Procedures shall be available in such proceeding.

"§ 3017. Subrogation

"When the United States asserts a claim against a debtor for sums alleged to be due the United States, the United States may name as an additional defendant then or by way of amendment of its complaint, any party reasonably believed to owe sums to the debtor arising out of the transaction or occurrence giving rise to the obligation to the United States, including but not limited to obligations on account of requirements to provide goods or services pursuant to a loan or loan guarantee extended pursuant to Federal law. If such party pays or is found liable, any amounts paid to the United States shall be credited to the account of the debtor.

"§ 3018. Effective date

"This Act and the amendments made by this Act shall take effect 180 days after the date of enactment and shall apply to all claims and debts owed to the United States and judgments in favor of the United States.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"Sec.
"3101. Prejudgment remedies with prior notice.
"3102. Prejudgment remedies without prior notice.
"3103. Attachment.
"3104. Garnishment.
"3105. Injunctions.
"3106. Sequestration.
"3107. Replevin.
"3108. Receivership.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"§ 3101. Prejudgment remedies with prior notice

"(a) APPLICATION.—(1) The United States may in conjunction with the complaint or at any time after the filing of a civil action, make application, under oath, to the court to issue any prejudgment remedy allowed by law.

"(2) Such application shall be filed with the court and shall set forth the factual and legal basis for each prejudgment remedy sought.

"(3) Such application shall state that the party against whom any prejudgment remedy is sought shall be afforded an opportunity for a hearing.

"(b) GROUNDS.—Any prejudgment remedy may be issued in favor of the United States by any court of the United States on application before judgment when—

"(1) the application sets forth with particularity, that all statutory requirements for the issuance of such prejudgment remedy sought under this chapter have been complied with by the United States; and

"(2) the court finds that the United States has shown the probable success of its claim.

"(c) NOTICE; FORM OF NOTICE.—Upon the filing of an application, the clerk of the court shall issue a notice directed to any person against whom any prejudgment remedy would operate, substantially in the following form—

"NOTICE

"You are hereby notified that your [property] may be taken away from you by the United States, which says that you owe the United States a debt of $[amount]. The United States wants to take your property so that it can be sure you will pay if the court decides that you owe this money.

"If you do not want to have your property taken away, you may ask for a hearing before this court. You may ask for the hearing anytime within 20 days from the date that this notice was mailed as indicated below. The hearing, if you so demand, will take place within five working days after you notify the court, or as soon thereafter as is practicable. You may ask for the hearing by checking the box at the bottom of this notice and filing it with the court at the following address: [address of court]. You must also send a copy to counsel for the United States at [address], so that the United States knows that you want the hearing.

"At the hearing, the court will decide whether the claim against you is probably valid and whether other legal requirements have been met. In addition, there are certain exemptions under Federal law which you may be entitled to claim with respect to the property.

"If you do not check the box requesting a date for a hearing and take this notice to the court within twenty days, the court will automatically assume you do not want a hearing and you will lose your right to a hearing before the United States may take your property with the court's permission.

"If you have any questions concerning your rights or this procedure, you should consult an attorney.

"DATE OF MAILING: _____

"(d) SERVICE OF NOTICE AND APPLICATION.—(1) A copy of the notice and a copy of the application for issuance of any prejudgment remedy shall be served by counsel for the United States by first class mail on each party against whom any remedy is sought. If such service is not possible, then service may be made under rule 4 of the Federal Rules of Civil Procedure, as appropriate.

"(2) Proof of service by mail may be made by affidavit or certification of mailing and shall set forth the actual date of mailing.

"(e) TIME TO REQUEST HEARING DATE; FORM OF REQUEST.—(1) Each person served with a copy of the notice set forth above and the application for any prejudgment remedy may request a date be set for the hearing on such application by filing with the clerk of the court within 20 days after service of the notice a written request for hearing date. The request for hearing shall be made by using the form provided or in some other writing. A copy of the request for hearing date shall be mailed by the person requesting the hearing to counsel for the United States.

"(2) The clerk of the court shall apprise counsel for the United States and the person requesting the hearing of the date of hearing.

"(f) WAIVER OF HEARING.—(1) If no request for hearing date is filed within the required time, counsel for the United States shall file an affidavit of default setting forth that service was made, that no request for hearing date was filed and that the party against whom any prejudgment remedy is sought has apparently waived any hearing. Counsel for the United States shall also file a proposed form of the written order requested. Upon filing of such affidavit, the clerk shall enter the order of waiver of record and any party so defaulted loses his right to a hearing prior to the issuance of the prejudgment remedy sought.

"(2) Upon entry of the order of waiver, the clerk shall immediately deliver the court file to the judge to whom the matter is assigned.

"(g) JUDICIAL REVIEW APPLICATION; ISSUANCE OF PREJUDGMENT REMEDIES WITH NOTICE.—(1) The court shall, within 5 days after hearing or the entry of the order of waiver, or as soon thereafter as is practical, review and examine all pleadings, evidence, affidavits and documents filed in the action to determine the following:

"(A) that evidence of service has been filed together with the original of the application and copy of notice;

"(B) where an order of waiver has been entered, that the affidavit of default has been filed and the order entered by the clerk;

"(C) that the claim or claims of the United States are based on facts established by the evidence or stated in the affidavit are sufficient to show that such claim or claims are probably valid; and

"(D) that any statutory requirement of this chapter for the issuance of any prejudgment remedy has been shown.

"(2) Upon the court's determination that the requirements of subsection (g)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"§ 3102. Prejudgment remedies without prior notice

"(a) GROUNDS.—Any prejudgment remedy may be issued by any court without prior notice to the person against whom it will operate when the United States has a reasonable cause to believe that—

"(1) the person against whom the prejudgment remedy is sought is about to leave the jurisdiction of the United States with the intent to hinder, delay, or defraud the United States and has refused to secure that debt, or is a fugitive from justice;

"(2) such person has secreted or is about to secrete property;

"(3) such person has or is about to assign, dispose, remove, or secrete property, wholly or in part, or that such person is about to assign or dispose of property with the effect of hindering, delaying, or defrauding creditors;

"(4) the United States is the owner, lessor or otherwise is lawfully entitled to the immediate possession of the property claimed and is seeking a prejudgment remedy in the nature of replevin, receivership or sequestration;

"(5) a prejudgment remedy is required to obtain jurisdiction within the United States;

"(6) a constructive or resulting trust should be impressed on the property in favor of the United States if such person is likely to put the property beyond the reach of the United States;

"(7) the person against whom the prejudgment remedy is sought is converting, is about to convert or has converted his property of whatever kind, or some part thereof, into money, securities, or evidence of debt in a manner prejudicial to creditors;

"(8) the person against whom the prejudgment remedy is sought has evaded service of process by concealing himself or has temporarily withdrawn from the jurisdiction of the United States; or

"(9) the debt is due for property obtained illegally or by fraud.

"(b) APPLICATION; AFFIDAVIT; BOND; ISSUANCE OF WRIT.—(1) Contemporaneously with or at any time after the filing of a civil action, the United States shall file an application supported by an affidavit made upon information and belief, where reliable and reasonably necessary, establishing with particularity to the court's satisfaction facts supporting the probable validity of the claim and the right of the United States to recover what is demanded in the application. The application shall state the amount of the debt owed the United States, including principal, interest, and costs, if any, and one or more of the grounds set forth in section 3102(a) and the specific requirements of the specific remedy sought.

"(2) No bond is required of the United States.

"(3) Upon the court's determination that the requirements of subsection (b)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"(c) NOTICE AND HEARING; WAIVER OF HEARING.—(1) Upon filing of an application as provided in this section, the clerk shall issue notice in substantially the following form to the counsel for the United States for service upon the party against whom any prejudgment remedy is sought in accordance with subsection (3) of this section—

"NOTICE

"You are hereby notified that your [property] is being taken away from you by the United States, who says that you owe it a debt of $[amount]. The United States is taking your property because it says

[Insert one or more of the specific grounds set forth in section 3102(a).]

"In addition, you are hereby notified that there are certain exemptions under Federal law which you may be entitled to claim with respect to your property.

"If you disagree and think you do not owe the United States, or that you have not done what is stated above, then you can ask this court to hear your side of the story and give your property back to you. If you want such a hearing, it will be given to you within five working days if you so demand after you notify the court that you want one. To do so, check the box at the bottom of this notice or prepare your request in writing and mail it or take it to the clerk of the court at the following address: [address]. You must also send a copy to counsel for the United States at [address], so that the United States will know you want a hearing.

"If you do not request a hearing within thirty days from [date of issue] your property may be disposed of without further notice.

"You should consult a lawyer if you have any questions about your rights about this procedure.

"(2) When a prejudgment remedy is issued under this section, the person against whom it is sought may immediately move to quash such order and the court shall on the request of the debtor hear such motion within 5 days from the date the request was filed. The issues at such hearing shall be limited to—

"(A) the probable validity of the claim or claims of the United States and any defenses and claims of exemptions of the party against whom such prejudgment remedy will operate; and

"(B) the existence of any statutory requirement for the issuance of any prejudgment remedy sought, plus the existence of any ground set forth in section 3102(a) of this chapter.

"(3) Counsel for the United States shall, at the time of the seizure, attachment or garnishment, or within 3 days thereafter, exercise reasonable diligence to serve the person against whom a prejudgment remedy is sought with an application, order and prescribed notice of the seizure, impoundment or such other act ordered by the court and of said person's right to an immediate hearing contesting the same.

"(4) If no request for a hearing is filed with the clerk within 30 days after the notice of seizure is issued by the clerk, the United States may dispose of the property as provided for in this subchapter.

"§ 3103. Attachment

"(a) PROPERTY SUBJECT TO ATTACHMENT.—(1) All property of the debtor or garnishee, except earnings and property exempt under the provisions of this chapter, may be attached pursuant to a writ of attachment in any action in which a debt or damages are recoverable and may be held as security to satisfy such judgment and costs as the United States may recover.

"(2) The amount to be secured by an attachment shall be determined as follows—

"(A) the amount of the debt owed to the United States by the defendant; and

"(B) the estimated amount of interest and costs likely to be taxed by the court.

"(3) In any action or suit for an amount which is liquidated or ascertainable by calculation, no attachment shall be made for a larger sum than the amount of the debt and such additional amount as is reasonably necessary to provide for interest thereon and costs likely to be taxed in the action.

"(b) AVAILABILITY OF ATTACHMENT.—The United States after complying with the provisions of section 3101 or 3102 may, in the following cases, have the property of the defendant attached as security for satisfaction of any judgment which may be recovered by the United States—

"(1) in an action upon a contract, express or implied, for payment of money which is not fully secured by real or personal property, or, if originally so secured, the value of such security may, without any act of the United States or the person to whom the security was given, be substantially diminished below the amount of the debt;

"(2) when an action is pending for damages in tort and the defendant is about to dispose of or remove his property beyond the jurisdiction of the United States;

"(3) in an action for damages or upon contract, express or implied, against a defendant not residing within the jurisdiction of the United States; or

"(4) in an action to recover fines, penalties, or taxes.

"(c) ISSUANCE OF WRIT; CONTENTS.—(1) A writ of attachment shall be issued by the court directing the United States marshal of the district where the property is located to attach so much of the defendant's property as will be sufficient or is available to satisfy the debt of the United States.

"(2) Several writs of attachment may, at the option of the United States, be issued at the same time, or in succession, and sent to different districts until sufficient property is attached to satisfy the debt.

"(3) The writ of attachment shall contain—

"(A) the date of the issuance of the writ;

"(B) the court title and the docket number and name of the cause of action;

"(C) the name and last known address of the defendant;

"(D) the amount to be secured by the attachment; and

"(E) a reasonable description of the property to the extent available.

"(d) LEVY OF ATTACHMENT.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the defendant found within his district, unless otherwise directed by counsel for the United States. The marshal shall not sell property unless ordered by the court.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the defendant. In cases where the writ is issued pursuant to section 3101, the marshal shall not enter into a residence or other building except upon specific order of the court.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the defendant in the same manner that a summons is served in a civil action and make his return thereof. If the United States marshal is unable to serve the writ upon the defendant, he shall post the writ and notice of levy in a conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and notice of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the defendant in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(e) RETURN OF WRIT; DUTIES OF MARSHAL; FURTHER RETURN.—(1) A United States marshal executing a writ of attachment shall return the writ with his action endorsed thereon or attached thereto and signed by him, to the court from which it was issued within 30 days after the date of the levy.

"(2) The return shall describe the property attached with sufficient certainty to identify it, state the location where it was attached, when it was attached and the disposition made of the property. If no property was attached, the return shall so state.

"(3) When personal property has been replevied as authorized by section 3103(j), the United States marshal shall deliver the replevin bond to the clerk of the court to be filed in the action.

"(4) When the property levied on is claimed, replevied or sold after the return, the United States marshal shall immediately make a further return to the clerk of the court showing the disposition of the property.

"(f) LEVY OF ATTACHMENT AS LIEN ON PROPERTY; SATISFACTION OF LIEN.—(1) A levy on property under a writ of attachment creates a lien on the property in favor of the United States.

"(2) The levy of the writ of attachment upon any property of defendant subject thereto is a lien from the date of the levy on the real property and on such personal property as remains in the custody of the attaching United States marshal and on the proceeds of such personal property as is sold.

"(3) The lien in favor of the United States marshal shall be ranked ahead of any other security interests perfected after the time of levy and filing of a copy of the notice of levy pursuant to subsection (d)(3) of this section.

"(4) The lien shall arise from the time of levy and continue until a judgment in the case is obtained or denied, or the action is otherwise dismissed. The death of the defendant whose property is attached does not terminate the attachment lien. Upon issuance of a judgment in the action and registration under this chapter, the judgment lien so created relates back to the time of levy.

"(5) Upon entry of judgment for the United States, the court shall order the proceeds of the personal property, if any has been sold, to be applied to the satisfaction of the judgment, and also order the sale of any remaining personal property and the sale of any real property levied on to satisfy the judgment.

"(g) ATTACHMENT OF PERISHABLE PROPERTY; SALE; PROCEDURE.—(1) When personal property that has been attached is not replevied, the court may order it to be sold when it appears that the property is in danger of serious and immediate waste or decay, or that keeping it until trial will result in such expense or deterioration in value as substantially will lessen the amount likely to be realized therefrom.

"(2) In ascertaining whether the property is in danger of serious and immediate waste or decay or that keeping of the property until trial will result in such expense or deterioration in value as will substantially lessen the amount likely to be realized therefrom, the court may require or dispense with notice to the parties and may act upon such information provided by affidavit, certificate of the United States marshal or other proof, as appears sufficient to protect the interest of the parties.

"(h) DISPOSITION OF PROCEEDS OF SALE OF PERISHABLE PROPERTY; REPORT OF SALE.—Within 5 days after sale, the proceeds of the sale as provided in subsection 3103(g) after deduction of the United States marshal's expenses therefrom shall be paid by the United States marshal making the sale to the clerk of the court. The proceeds shall be accompanied by a statement in writing and signed by the United States marshal, to be filed in the action, stating the time and place of sale, the name of the purchaser and the amount received with an itemized account of expenses.

"(i) PRESERVATION OF PERSONAL PROPERTY UNDER ATTACHMENT.—If personal property in custody of the United States marshal under a writ of attachment is not replevied, claimed or sold, the court may make such order for its preservation or use as appears to be to the interest of the parties.

"(j) REPLEVIN OF ATTACHED PROPERTY BY DEFENDANT; BOND.—At any time before judgment, if the property has not previously been sold, defendant may replevy the property or any part thereof by giving a bond approved by counsel for the United States or the court and payable to the United States in double the amount of the debt.

"(k) JUDGMENT WHERE PERSONAL PROPERTY REPLEVIED.—When personal property under attachment has been replevied, the judgment which may be entered shall be against defendant and also against the sureties on his replevin bond for the amount of the judgment, interest and costs.

"(l) RESTORATION OF PROPERTY OR EXONERATION OF BOND; LEVY ON EXEMPT PROPERTY.—(1) If the attachment is vacated or if the judgment is for defendant, the court shall order the property or proceeds thereof restored to defendant or exonerate the replevin bond. The court may determine under what circumstances the defendant is entitled to receive the proceeds rather than the attached property.

"(2) When any property claimed to be exempt is levied upon, defendant may, at any time after such levy, apply to the court for vacation of such levy. If it appears to the court that the property so levied upon is exempt, the court shall order the levy vacated and the property returned to defendant.

"(m) REDUCTION OR DISCHARGE OF ATTACHMENT.—(1) If an excessive or unreasonable attachment is made, the defendant or person whose property has been attached may submit a written motion to the court which issued the writ for a reduction of the amount of the attachment or its discharge. Notice of such motion shall be served upon the United States in accordance with the Federal Rules of Civil Procedure. The defendant may move for reduction or dissolution of attachment as appropriate.

"(2) The court shall order a part of the property to be released, if upon hearing the court finds that the amount of the attachment is excessive or unreasonable or where the attachment is for a sum larger than the liquidated or ascertainable amount of the debt plus an amount necessary to include interest and costs likely to be taxed.

"(3) The court shall dissolve the attachment if the amount of the debt is unliquidated and unascertainable by calculation.

"§ 3104. Garnishment

"(a) All prejudgment garnishments shall meet the requirements of sections 3101 and 3102.

"(b) All prejudgment garnishments as authorized by the court hereunder shall be issued and answered in the same manner and to the same extent as set forth in section 3306 with the following exceptions—

"(1) The writ shall specify the date that the order authorizing prejudgment garnishment was entered.

"(2) The writ shall specify the amount claimed by the United States.

"§ 3105. Injunctions

"Whether or not there are other remedies available to the United States under this chapter, nothing in this chapter shall be construed to preclude or otherwise limit the United States or any other party from obtaining injunctive relief under the Federal Rules of Civil Procedure in actions for debts owed the United States.

"§ 3106. Sequestration

"(a) APPLICATION FOR WRIT OF SEQUESTRATION AND ORDER.—If the United States claims in its complaint the right to title or possession of property or seeks to enforce a lien or security interest in such property, the United States may file an affidavit showing—

"(1) a description of the property sufficient to identify it;

"(2) the approximate value of the property;

"(3) the location of the real property, or in the case of personal property, the last known and likely locations of the property;

"(4) the availability of sequestration.

"(b) AVAILABILITY OF SEQUESTRATION.—The United States after complying with, or in addition to, the provisions of sections 3101 or 3102 may have property sequestered—

"(1) upon a showing that there exists an immediate danger that the debtor or garnishee of such property will ill treat, waste, destroy or convert to his own use the property, which includes, but is not limited to, crops, timber, rents, perishable goods, livestock or the revenues therefrom; or

"(2) upon a showing that title to or possession of such property has been secured by the debtor or other defendant or the party in possession by surreptitious means, trick, scheme, fraud, force, violence, claim of adverse possession or such other claims or any means adverse to the claim in title or possession, or both, of the United States.

"(c) ISSUANCE OF WRIT.—A writ of sequestration shall be issued by the court directing the debtor or other defendant or party in possession to sequester the property and deliver it to the United States.

"(d) Unless inconsistent, the provisions governing section 3103 (g) through (l) shall be applicable to this section.

"(e) These writs shall be served in accordance with the Federal Rules of Civil Procedure.

"§ 3107. Replevin

"(a) APPLICATION FOR WRIT.—If the United States claims in its complaint the right to possession of specific personal property, the United States may, at any time after complying with the provisions of section 3101 or 3102, file an affidavit showing—

"(1) that the United States is the owner of the property claimed, or is lawfully entitled to its immediate possession;

"(2) a description of the property;

"(3) that the property is wrongfully detained by the defendant;

"(4) the approximate value of the property.

"(b) SEIZURE.—If the court determines the United States has met the above requirements, it shall order that the United States marshal take possession of the specified property and deliver it to the United States.

"(c) REDELIVERY OF POSSESSION TO DEFENDANT.—The defendant may obtain redelivery of the property or any part thereof by giving bond as set forth in section 3103(j).

"§ 3108. Receivership

"(a) APPOINTMENT OF A RECEIVER.—The United States may apply for the appoint-

ment of a receiver for property in which it has an interest and which is or is to be the subject of an action in court. The application may be filed at any time prior to judgment or during the pendency of an appeal if there is a danger that the property will be removed from the jurisdiction of the court, lost, materially injured or damaged, mismanaged or the United States has otherwise established grounds for such relief under section 3101(a) or 3102(a). However when the security agreement so provides, a receiver shall be appointed without notice or without regard to adequacy of security. An application made by the United States when it is not already a party to the action constitutes an appearance in the action and the United States shall be joined as a party.

"(b) POWERS OF RECEIVER; EMPLOYMENT OF COUNSEL.—The court appointing a receiver may authorize him to take possession of real and personal property and sue for, collect and sell obligations upon such conditions and for such purposes as the court shall direct and to administer, collect, improve, lease, repair or sell such real and personal property, as the court shall direct. A receiver appointed to manage residential or commercial property shall have demonstrable expertise in the management of these types of property. Unless expressly authorized by order of the court, a receiver shall have no power to employ attorneys, accountants, appraisers, auctioneers or other professional persons. Upon motion of the receiver or a party, powers granted to a receiver may be expanded or limited. A receiver appointed under the terms of a security agreement shall be entitled to recover the rents and profits of the property covered by the security agreement as additional security and to pay them over to the United States in payment of any amount due arising from a default by the debtor.

"(c) UNITED STATES AS SECURED PARTY.—In the event of any default or defaults in paying the principal, interest, taxes, water, rents, or premiums of insurance required by the security instrument or in the event of a nonfinanced default or defaults, the United States in any action to foreclose the security interest shall be entitled, without notice and without regard to adequacy of any security for the debt, to the appointment of a receiver of the rents and profits of the premises covered by the security interest, and the rents and profits of the premises are assigned to the United States as further security for the payment of the debts.

"(d) DURATION OF RECEIVERSHIP.—In an action to foreclose a security interest, the receivership shall terminate when the purchaser at the foreclosure sale takes lawful possession of the property unless the court directs otherwise. In all other actions, the receivership shall not continue past the entry of judgment unless the court orders it continued under section 3302(b) or unless the court otherwise directs its continuation.

"(e) ACCOUNTS; REQUIREMENT TO REPORT.—A receiver shall keep written accounts itemizing receipts and expenditures, describing the property and naming the depository of receivership funds and his accounts shall be open to inspection by any person having an apparent interest in the property. The receiver shall file reports at regular intervals as directed by the court and shall serve the United States with a copy thereof.

"(f) REMOVAL.—Upon motion of any party or upon its own initiative, the court which appointed the receiver may remove him at any time with or without cause.

"(g) PRIORITY.—If more than one court appoints a receiver, the receiver first qualifying under law shall be entitled to take possession, control or custody of the property.

"(h) COMMISSIONS OF RECEIVERS.—

"(1) GENERALLY.—A receiver is entitled to such commissions not exceeding 5 percent of the sums received and disbursed by him as the court allows unless the court otherwise directs.

"(2) ALLOWANCE WHERE FUNDS DEPLETED.—If, at the termination of a receivership, there are no funds in the hands of a receiver, the court may fix the compensation of the receiver in accordance with the services rendered and may direct the party who moved for the appointment of the receiver to pay such compensation in addition to the necessary expenditures incurred by the receiver which remained unpaid.

"(3) PROCEDURE.—At the termination of a receivership, the receiver shall file a final accounting of the receipts and disbursements and apply for compensation setting forth the amount sought and the services rendered by him.

"SUBCHAPTER C—JUDGMENTS; LIENS

"Sec.
"3201. Judgment by confession.
"3202. Judgment lien.
"3203. Sale of property subject to judgment lien.
"3204. Interest on judgments.

"SUBCHAPTER C—JUDGMENTS; LIENS

"§ 3201. Judgment by confession

"(a) GENERAL PROVISION.—On application, a court may enter a judgment by confession in favor of the United States without the filing of a civil action for money due and owing.

"(b) VENUE.—The confession of judgment shall be filed in the district in which one or more of the defendants reside, can be found, are doing business at the time of the application, or in cases proceeding by in rem or quasi in rem jurisdiction where the property sought to be adjudicated is located.

"(c) STATEMENT BY DEFENDANT; CONTENTS.—Before a judgment by confession shall be entered, a sworn statement in writing shall be made and signed by the defendant after default and subsequent notice by the United States and filed with the court along with the application, stating—

"(1) the amount for which judgment may be entered and authorizing the entry of judgment;

"(2) the facts out of which the debt arose and that the amount confessed is justly due; and

"(3) that the person signing the statement understands that a judgment by confession allows the entry of judgment without further proceedings and authorizes enforced collection of the judgment.

"(d) ENTRY OF JUDGMENT.—The confession of judgment may be filed with the clerk of the court. The clerk shall enter a judgment for the amount confessed.

"(e) CONFESSION BY JOINT DEBTORS.—One or more joint debtors may confess a judgment for a joint debt due. Where all the joint debtors do not join in the confession, the judgment shall be entered and enforced against only those who confessed it. A confessed judgment against some of the joint debtors is not a bar to an action against the other joint debtors.

"(f) ENFORCEMENT OF JUDGMENT BY CONFESSION.—Judgments by confession shall be enforced in the same manner as other judgments.

"§ 3202. Judgment lien

"(a) CREATION OF LIEN GENERALLY.—A judgment shall be a lien upon all real property of a judgment debtor upon filing a certified copy of the abstract of the judgment in the manner in which a notice of tax lien would be filed under section 6323(f) (1) and (2) of the Internal Revenue Code of 1986.

"(b) IN CRIMINAL CASES.—A judgment obtained by the United States in a criminal case shall create a lien as provided in sections 3565 and 3613 of the Internal Revenue Code of 1986.

"(c) IN TAX CASES.—A judgment obtained by the United States in a tax case shall create a lien co-extensive with any lien created prior to judgment under section 6321 of the Internal Revenue Code of 1986; if no lien was so created prior to the judgment, then the procedure in subsection (a) shall be followed.

"(d) AMOUNT OF LIEN.—A lien created hereunder is for the amount necessary to satisfy the judgment, including costs and interest.

"(e) PRIORITY OF LIEN.—A lien created hereunder shall have priority over any other lien or encumbrance which is perfected later in time. However, liens created under sections 3565 and 3613 of the Internal Revenue Code of 1986, regarding criminal judgments or under section 6321 of the Internal Revenue Code of 1986, regarding tax judgments shall have priority as otherwise provided by law.

"(f) DURATION OF LIEN; RENEWAL.—(1) A lien created hereunder is effective, unless satisfied, for a period of 20 years.

"(2) The lien may be renewed for one additional period of 20 years upon filing a notice of renewal in the same manner as the judgment was filed and shall relate back to the date the judgment was filed. The notice of renewal must be filed before the expiration of the first 20-year period to prevent the expiration of the lien.

"(3) The duration and renewal of a lien created under sections 3565 and 3613 of title 18, United States Code, regarding criminal judgments, or a lien created under section 6321 of the Internal Revenue Code of 1986, regarding tax judgments shall be as otherwise provided by law.

"(g) RELEASE OF JUDGMENT LIEN.—A judgment lien shall be released upon the filing of a satisfaction of judgment or release of lien in the same manner as the judgment was filed to obtain the lien.

"(h) EFFECT OF LIEN UPON ELIGIBILITY FOR FEDERAL GRANTS, LOANS OR PROGRAMS.—Any person who has a judgment lien against his property for any debt to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which such person is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied. The agency responsible for such grants and loans may promulgate regulations to allow for waiver of this restriction on eligibility for such grants and loans.

"§ 3203. Sale of property subject to judgment lien

"Upon application to the court, the court may order the United States to sell pursuant to the provisions of sections 2001 and 2002 of title 28, United States Code, any real property subject to its judgment lien. This provision shall not preclude the United States from using an execution sale to sell real property subject to a judgment lien.

"§ 3204. Interest on judgments

"(a) Judgments for money, other than criminal or tax judgments, shall bear interest at the greater of—

"(1) the rate in an express contract or negotiable instrument, if the action was brought for the recovery of an amount due on the contract or negotiable instrument; or

"(2) the rate established by statute or regulation applicable to the debt owed;

"(3) the judgment interest rate established in accordance with this section.

"(b) The judgment interest rate, where applicable, shall be calculated from the date of the entry of the judgment, at a rate equal to 150 percent of the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of 52-week United States Treasury bills settled immediately prior to the date of the judgment. The Director of the Administrative Office of the United States Courts shall distribute notice of that rate and any changes in it to all Federal Courts.

"(c) Interest on judgments shall accrue daily from the date of entry of the judgment at the rate determined herein and shall be compounded annually to the date of payment.

"(d) Interest on tax judgments obtained under the Internal Revenue Code shall be allowed under section 6621 of such Code.

"(e) Interest on criminal judgments shall be allowed as provided in title 18, United States Code.

"(f) Nothing in this section shall preclude the assessment of prejudgment interest that is otherwise allowable by law.

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"Sec.
"3301. Enforcement of judgments.
"3302. Orders in aid of execution.
"3303. Restraining notice.
"3304. Execution.
"3305. Installment payment order.
"3306. Garnishment.
"3307. Modification of protective order; supervision of enforcement.
"3308. Power of court to punish for contempt.
"3309. Arrest of judgment debtor.
"3310. Discharge.

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"§ 3301. Enforcement of judgments

"(a) A judgment may be enforced by any of the remedies set forth in this subchapter, and the court may issue other writs pursuant to section 1651 of title 28, United States Code, as necessary to supplement these remedies, subject to the provision of rule 81(b) of the Federal Rules of Civil Procedure.

"(b) The property of a judgment debtor which is subject to sale to satisfy the judgment may be sold by judicial sale, pursuant to sections 2001, 2002, and 2004 of title 28, United States Code, or by execution sale pursuant to section 3304(g) of this subchapter.

"§ 3302. Orders in aid of execution

"Where the judgment debtor has an ownership interest of any kind in property which is not exempt and cannot readily be attached or levied on by ordinary legal process, the United States is entitled to aid from the court by injunction or other appropriate order to reach the property to satisfy the judgment whether the property is located in the same district or other districts.

"(a) ORDER.—The court may order the property, together with all documents or records related to the property, that is in or subject to the possession or control of the judgment debtor or another person, to be turned over to the United States for execution or otherwise applied toward the satisfaction of the judgment. Where the judgment debtor or other person refuses to turn over the property, the court may enforce the order by proceedings for contempt or other appropriate order provided the judgment debtor or other person, as appropriate, is served with a copy of the order or has actual notice of the order.

"(b) RECEIVER.—The court may appoint a receiver of property where appropriate in accordance with section 3108 of this chapter.

"(c) SAME OR INDEPENDENT SUIT.—These proceedings may be brought by the United States in the same suit in which the judgment is rendered or in a new and independent suit.

"(d) COSTS.—Upon request, in a proceeding under this section, the United States shall recover from the judgment debtor 10 percent of the reasonable costs. This provision shall apply to the extent that recovery of costs by the United States is not provided for under other applicable provisions of Federal law.

"§ 3303. Restraining notice

"(a) ISSUANCE; ON WHOM SERVED; FORM; SERVICE.—A restraining notice may be issued by the clerk of the court or counsel for the United States as officer of the court. It may be served upon any person, except the employer of a judgment debtor where the property sought to be restrained consists of earnings due or to become due to the judgment debtor. It shall be served personally in the same manner as a summons. It shall specify all of the parties to the action, the social security number of the judgment debtor, if known, the date the judgment was entered, the court in which it was entered, the amount of the judgment and the amount when due thereon, and the names of all parties against whom the judgment was entered. It shall set forth the requirements of subsection (b) below and shall state that disobedience is punishable as a contempt of court.

"(b) EFFECT OF RESTRAINT; PROHIBITION OF TRANSFER; DURATION.—(1) A judgment debtor who is served with a restraining notice shall not sell, assign, transfer or hypothecate any property, except as may be reasonably necessary for the maintenance or support of the debtor or a dependent of the debtor and if the debtor is engaged in business, as may be reasonably necessary for the payment of expenditures for the continuation, preservation, and operation of such business.

"(2) A person other than the judgment debtor who is served with restraining notice shall not—

"(A) repay any obligation to the judgment debtor;

"(B) return any property to the judgment debtor; or

"(C) sell, assign, transfer or hypothecate any property—

"(i) specifically described in the restraining notice;

"(ii) that the other person knows to be owned by the judgment debtor; or

"(iii) in which the other person could have reason to believe by the exercise of due diligence that the judgment debtor has an ownership interest.

"(3) The restraining notice shall remain in effect for 1 year from the date the notice is served, or until the judgment is satisfied or the restraining notice is vacated by order of the court, whichever occurs first.

"(c) DISCLOSURE.—The person upon whom a restraining notice is served, other than the judgment debtor, shall disclose to the counsel for the United States, in writing under oath within 10 days after receipt of the restraining notice, the type or nature and value of such property of the judgment debtor as may be in his possession or custody. Upon such person receiving or acquiring property of the judgment debtor after receipt of a restraining notice, that person shall disclose to counsel for the United States, in writing under oath within 7 days of receipt of the property, the type or nature and value of such property of the judgment debtor as may be in his possession or custody.

"(d) DISCOVERY.—Any discovery request under the Federal Rules of Civil Procedure which accompanies this restraining notice and which seeks the disclosure of the type, nature and value of property of the judgment debtor must be responded to within 10 days of service of the notice and discovery request or within 10 days after property of the judgment debtor comes into the possession of the person served. Upon request, a reasonable extension may be granted.

"(e) SUBSEQUENT NOTICE.—Leave of court is required to serve more than one restraining notice upon the same person, other than the judgment debtor, with respect to the same judgment.

"(f) NOTICE TO JUDGMENT DEBTOR.—A copy of the restraining notice shall be mailed by first class mail by counsel for the United States to the judgment debtor within 4 days after the time of service of the restraining notice on a person other than the judgment debtor.

"§ 3304. Execution

"(a) PROPERTY SUBJECT TO EXECUTION.—All property which the judgment debtor possesses and in which the judgment debtor has an interest shall be subject to levy pursuant to a writ of execution; co-owned property shall be subject to execution to the same extent as it is under the law of the State in which it is located. The judgment debtor must identify any property claimed to be exempt under the provisions of subchapter E.

"(b) EXECUTION LIEN.—A lien shall be created in favor of the United States on all property levied upon under a writ of execution and shall date from the time of the levy. This lien shall have priority over all subsequent liens and shall be for the amount due on the judgment. If the United States has a judgment lien, the execution lien shall relate back to the judgment lien date.

"(c) FORM OF WRIT OF EXECUTION.—

"(1) GENERAL REQUIREMENTS.—An execution writ shall specify the date that the judgment was entered, the court in which it was entered, the amount of the judgment if for money, the amount of the costs, and the sum actually due when the writ is issued, the amount of interest due, the rate of postjudgment interest, and the name of the party against whom the judgment was entered. The writ shall direct the United States marshal to satisfy the judgment out of all property, real and personal, of the judgment debtor not otherwise exempt pursuant to this chapter. An execution writ shall direct that only the property in which a named judgment debtor, who is not deceased, has an interest be levied upon or

sold thereunder, and shall state the last known address of that judgment debtor.

"(2) EXCEPTION.—There shall be no requirement that personal property be levied upon and sold prior to levy and sale of real property of the judgment debtor.

"(3) EXECUTION FOR DELIVERY OF CERTAIN PROPERTY.—An execution issued upon a judgment for the delivery to the United States of the possession of personal property, or for the delivery of the possession of real property, shall particularly describe the property, and shall require the marshal to deliver the possession of the property to the United States.

"(4) EXECUTION FOR POSSESSION OR VALUE OF PERSONAL PROPERTY.—If the judgment is for the recovery of personal property or its value, the writ shall command the marshal, in case a delivery thereof cannot be had, to levy and collect the value thereof for which the judgment was recovered, to be specified therein, out of any property of the party against whom judgment was rendered, liable to execution.

"(d) ISSUANCE.—(1) The clerk of any court where a judgment is docketed, entered or registered, upon written application of counsel for the United States, shall, and without other or further order of a judge of that court, forthwith issue writs of execution. The writs shall be addressed to "Any United States Marshal," and may be served and executed in any judicial district of the United States, but shall be returnable to the issuing court. The writ shall be signed by the clerk of the court issuing the writ.

"(2) Multiple writs may issue simultaneously, and successive writs may issue before the return date of a writ previously issued.

"(e) RECORDS OF UNITED STATES MARSHAL.—(1) The United States marshal receiving the execution shall endorse thereon the exact hour and day when he received it. If he receives more than one on the same day against the same person, he shall number them as received.

"(2) The United States marshal shall make a memorandum in writing of the date of every levy and specify the property upon which the levy has been made on the process or in an attached schedule. The memorandum or schedule shall also set forth the marshal's costs, expenses and fees.

"(f) LEVY OF EXECUTION.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the debtor found within his district, unless otherwise directed by counsel for the United States.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the debtor.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the debtor in the same manner that a summons is served in a civil action and so make his return thereof. If the United States marshal is unable to serve the writ upon the debtor, he shall post the writ and notice of levy in a conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and motion of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the debtor in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(5)(A) Real property subject to a security interest or conveyed in trust as security for any debt or contract may be levied upon and sold on execution against the interest of the judgment debtor, subject to such mortgage, and the terms and conditions thereof.

"(B) Personal property pledged, assigned or security for any debt or contract, may be levied upon and sold on complying with the conditions of the pledge, assignment or security interest.

"(g) EXECUTION SALE PROCEDURES.—

"(1) SALE OF REAL PROPERTY.—

"(A) Real property, or any interest therein, shall be sold for cash at public auction at the courthouse of the county, parish or city in which the greater part of the property is located or upon the premises or some parcel thereof.

"(B) The time and place of sale of real property, or any interest therein, under execution shall be advertised by the United States marshal, by publication of notice, once a week for at least 3 weeks prior to the sale, in at least one newspaper of general circulation in the county or parish where the property is located. The first of these publications shall appear not less than 25 days immediately preceding the day of sale. The notice shall contain a statement of the authority by which the sale is to be made, the time of levy, and the time and place of sale; it shall also contain a brief description of the property to be sold, sufficient to identify the property, such as a street address the urban property, and the survey identification and location for rural property, but it shall not be necessary for it to contain field notes.

"(C) The United States marshal shall give written notice of public sale by personal delivery, or certified or registered mail, to persons and parties known to him to claim an interest in property under execution, including lienholders, co-owners and tenants, at least 25 days prior to the day of sale, to the last known address of such persons or parties.

"(2) SALE OF CITY LOTS.—If the real property consists of several lots, tracts, or parcels in a city or town, each lot, tract, or parcel must be offered for sale separately, unless not susceptible to separate sale because of the character of improvements.

"(3) SALE OF RURAL PROPERTY.—If the real property is not located in a city or town, the debtor may divide the property into lots of not less than 50 acres or in such greater or lesser amounts as ordered by the court, furnish a survey of such prepared by a registered surveyor, and designate the order in which those lots shall be sold. When a sufficient number of lots are sold to satisfy the amount of the execution and costs of sale, the marshal shall stop the sale.

"(4) SALE OF PERSONAL PROPERTY.—

"(A) Personal property levied on shall be offered for sale on the premises where it is located at the time of levy, or at the courthouse of the county, parish or city wherein it is located, or at some other place if, owing to the nature of the property, it is more convenient to exhibit it to purchasers at such place. Personal property susceptible of being exhibited shall not be sold unless it is present and subject to the view of those attending the sale, except shares of stock in corporations, and in cases, when by reason of the type or nature of the property, it is impractical to exhibit it, or where the debtor has merely an interest without the right to the exclusive possession, in which case the interest of the debtor may be sold and transferred without the presence of the property.

"(B) Notice of the time and place of the sales of personal property shall be given by posting notice thereof for 10 days successively immediately prior to the day of sale at the courthouse of any county, parish, or city, and at the place where the sale is to be made, and by mailing a copy by registered or certified mail to the judgment debtor at his last known address, or by personal delivery.

"(5) POSTPONEMENT OF SALE.—The United States marshal may postpone an execution sale from time to time continuing the posting of notice and/or publication of the notice until the date to which the sale is postponed, and appending, at the foot of such notice of each successive postponement the following:

"The above sale is postponed until the _____ day of _____, 19___, at _____ o'clock ___ .M., _____, United States Marshal for the District of _____, by _____, Deputy, dated _____.

"(6) BIDDING REQUIREMENTS; LIABILITY OF BIDDER; RESALE.—

"(A) The United States marshal may require of any bidder at any sale a cash deposit of as much as 20 percent of the sale price before the bid is received.

"(B) The cash deposit of any successful bidder at an execution sale shall be forfeited to the United States if he fails to comply with the terms of the sale; in addition, he shall be liable to the United States for all losses incurred by the United States at a subsequent sale of the same property. The liability for losses shall be limited to the difference between the amount of the deposit which was forfeited and the amount accepted by the United States as the highest bid by the defaulting bidder at the defaulted sale plus the costs of the defaulted sale. This liability shall be reduced by the amount the United States realizes from the subsequent sale, if any.

"(7) RESALE OF PROPERTY.—When the terms of the sale are not complied with by the bidder, the United States marshal shall proceed to sell the property again on the same day, if there is sufficient time; but if not, he shall readvertise and sell the property.

"(8) TRANSFER OF TITLE AFTER SALE.—

"(A) When the sale has been made and its terms complied with, the United States marshal shall execute and deliver any and all documents necessary to transfer ownership to the purchaser, without warranty, all the rights, titles, interest, and claims that the judgment debtor had in the property sold to the purchaser.

"(B) If the purchaser dies before execution and delivery of the documents needed to transfer ownership, the United States marshal shall execute and deliver them to the estate of the purchaser, and it shall have the same effect as if accomplished during the lifetime of the purchaser.

"(9) PURCHASER CONSIDERED INNOCENT PURCHASER WITHOUT NOTICE.—The purchaser of

property sold under execution is considered to be an innocent purchaser without notice if the purchaser would have been considered an innocent purchaser without notice had the sale been made voluntarily and in person by the defendant.

"(10) NO RIGHT OF REDEMPTION.—The judgment debtor shall not be entitled to redeem the property after the execution sale.

"(11) DISTRIBUTION OF SALE PROCEEDS.—

"(A) The United States marshal shall first deliver to the judgment debtor, or his agent or attorney, such amounts to which he is entitled from the sale of partially exempt property as set forth in subchapter E of this chapter.

"(B) The United States marshal shall retain from the proceeds of a sale of property an amount equal to the reasonable expenses incurred in making the levy and keeping and maintaining the property.

"(C) The United States marshal shall deliver the balance of the money collected on execution to the counsel for the United States at the earliest opportunity.

"(D) If more money is received from the sale of the property than is sufficient to satisfy the executions held by the United States marshal, he shall pay forthwith the surplus to the judgment debtor or his agent or attorney.

"(h) REPLEVY.—(1) Any personal property taken in execution may be returned to the defendant by the United States marshal upon the delivery by the defendant to him of a bond or upon satisfaction of the judgment and any costs incurred in connection with scheduling the sale prior to the execution sale, payable to the United States, with two or more good and sufficient sureties, to be approved by the United States marshal, conditioned upon the delivery of the property to the United States marshal at the time and place named in the bond, to be sold according to law, or for the payment to the United States marshal of a fair value thereof, which shall be stated in the bond.

"(2) Where property has been replevied, as provided above, the judgment debtor may sell or dispose of the property paying the United States marshal the stipulated value thereof.

"(3) In the case of the non-delivery of the property according to the terms of the delivery bond, and non-payment of the value thereof, the United States marshal shall forthwith endorse the bond 'Forfeited' and return it to the clerk of the court from which the execution issued; whereupon, if the judgment remains unsatisfied in whole or in part, the clerk shall issue execution against the principal judgment debtor and the sureties on the bond for the amount due, not exceeding the stipulated value of the property, upon which execution no delivery bond shall be taken, which instruction shall be endorsed by the clerk on the execution.

"(i) DEATH OF JUDGMENT DEBTOR.—The death of the judgment debtor after a writ of execution is issued stays the execution proceedings, but any lien acquired by levy of the writ must be recognized and enforced by the court having jurisdiction over the estate of the deceased. The execution lien may be enforced against the executor, administrator, or personal representative of the estate of the deceased; or if there be none, against the heirs or devisees of the property of the deceased receiving same, but only to the extent of the value of the property coming to them.

"(j) WHEN EXECUTION NOT SATISFIED.—When the property levied upon does not sell for enough to satisfy the execution, the United States marshal shall proceed on the same writ of execution as to other property of the judgment debtor.

"(k) RETURN ON EXECUTION.—(1) The United States marshal shall make a written return on each writ of execution to the court from which the writ was issued and deliver a copy to counsel for the United States who requested the writ. It shall be returnable 90 days from the date of issuance unless counsel for the United States has specified an earlier date. The return shall be filed by the clerk of the court from which the writ was issued.

"(2) The United States marshal shall state concisely what was done in pursuance of the requirements of the writ.

"(3) The return shall be made forthwith if satisfied by the collection of the money, or if ordered by counsel for the United States, which order shall be noted on the return.

"§ 3305. Installment payment order

"Where it is shown that the judgment debtor is receiving or will receive money from any source or is attempting to impede the United States by rendering services without adequate compensation, upon motion of the United States and notice to the judgment debtor, the court may, if appropriate, order that the judgment debtor make specified installment payments to the United States. Notice of the motion shall be served on the judgment debtor in the same manner as a summons or by registered or certified mail, return receipt requested. In fixing the amount of the payments, the court shall take into consideration the reasonable requirements of the judgment debtor, any payments required to be made by the judgment debtor or deducted from the money he would otherwise receive in satisfaction of other judgments, the amount due on the judgment, and the amount being or to be received, or, if the judgment debtor is attempting to impede the United States by rendering services without adequate compensation, the reasonable value of the services rendered.

"Upon motion of the United States, and upon a showing that the debtor's financial circumstances have changed or that assets not previously disclosed by the debtor have been discovered, the court may increase the amount of payments or alter their frequency or require full payment.

"§ 3306. Garnishment

"(a) GENERAL.—A court may issue writs of garnishment, either prejudgment or postjudgment against the property of a debtor which is in the possession, custody or control of a third person in order to satisfy a judgment against the debtor; co-owned property shall be subject to garnishment to the same extent as it is under the law of the States in which it is located. The United States may request and a court shall issue simultaneous separate writs of garnishment to several garnishees. All writs of garnishment issued pursuant to these provisions shall be continuing and shall terminate only as provided herein.

"(b) WRIT.—

"(1) GENERAL REQUIREMENTS.—The United States shall include in its application for a writ of garnishment, the following:

"(A) any matters required by section 3104 when seeking prejudgment garnishment;

"(B) the debtor's name, social security number, if known, and the debtor's last known address;

"(C) the nature and amount of the debt alleged to be owed and that demand on the debtor for payment of the debt has been made, but the debtor has not paid the amount due. A money judgment must be alleged for postjudgment garnishment; and

"(D) that the garnishee is believed to be indebted to the debtor or have possession of property of the debtor.

"(2) PROPER GARNISHEE FOR PARTICULAR PROPERTY.—

"(A) Where property consists of a right to or share in the stock of an association or corporation, or interests or profits therein, for which a certificate of stock or other negotiable instrument is not outstanding, the corporation, or the president or treasurer of the association, shall be the garnishee.

"(B) Where property consists of a right to or interest in a decedent's estate or any other property or fund held or controlled by a personal representative or fiduciary, the personal representative or fiduciary shall be the garnishee.

"(C) Where property consists of an interest in a partnership, any partner other than the debtor, shall be the garnishee on behalf of the partnership.

"(D) Where property or a debt is evidenced by a negotiable instrument for the payment of money, a negotiable document of title or a certificate of stock of an association or corporation, the instrument, document or certificate shall be treated as property capable of delivery and the person holding it shall be the garnishee; except that in the case of a security which is transferable in the manner set forth in State law, the firm or corporation which carries on its books an account in the name of the debtor in which is reflected such security, shall be the garnishee; *Provided, however,* That if such security has been pledged, the pledgee shall be the garnishee.

"(c) ISSUANCE OF WRIT.—

"(1) CLERK'S REVIEW.—The clerk or the court shall review the application for postjudgment writs of garnishment and if it meets the requirements set forth herein, shall issue an appropriate writ. The clerk shall issue prejudgment writs of garnishment as authorized by the court.

"(2) FORM OF WRIT.—

"(A) GENERAL PROVISIONS.—The writ shall state—

"(i) The nature and amount of the debt. If interest is accruing, the rate of accrual thereafter shall be stated. If a judgment is involved, the amount of any costs included in the judgment should be stated.

"(ii) The name and address of the garnishee.

"(iii) The name and address of counsel for the United States.

"(iv) The last known mailing address of the debtor.

"(v) That the garnishee shall answer the writ within 10 days of service of the writ.

"(B) EARNINGS GARNISHMENT.—The United States may apply for garnishment of the nonexempt disposable earnings of a natural person. The writ for the garnishment of earnings shall direct the garnishee to withhold and retain the nonexempt earnings for which the garnishee is indebted to the debtor at the time of receipt of the writ and may thereafter become indebted to the debtor pending further order of the court.

"(C) GARNISHMENT OF OTHER PROPERTY.—As to all non-earnings property of a debtor who is a natural person and all property of other debtors in the possession, custody and control of the garnishee at the time the writ is received by the garnishee and anytime thereafter, the writ shall direct the garnishee to retain possession, custody and control

of and not to transfer or return the property pending further order of the court.

"(D) SERVICE OF WRIT.—The United States may serve the garnishee with a copy of the writ by first class mail or by delivery by the United States marshal as provided by rule 4 of the Federal Rules of Civil Procedure. The United States shall, at the same time, serve the debtor with a copy of the writ by first class mail to the debtor's last known address; counsel for the United States shall certify to the court that this service was made. The writ of garnishment shall be accompanied by instruction explaining the requirement that the garnishee submit a written answer to the writ of garnishment and instructions to the debtor for objecting to the answer of the garnishee and for obtaining a hearing on the objebtions.

"(E) ANSWER OF THE GARNISHEE.—In its written answer to the writ of garnishment, the garnishee shall state under oath whether it is indebted to the debtor or has custody, control or possession of the debtor's property; a description of the indebtedness or property; whether the indebtedness or property is subject to any prior garnishments or levies and a description of any such claim; and whether the indebtedness or property is subject to any exemptions from garnishment. In addition, if the writ of garnishment is against the earnings of the debtor, the garnishee shall state whether the debtor was employed at the time the writ was received, and, if so, how much was owed at the time; and whether the garnishee anticipates owing earnings to the debtor in the future, and, if so, the amount and whether the pay period will be weekly or another specified period. In all cases, the garnishee shall file the original answer with the court issuing the writ and serve a copy on the debtor and counsel for the United States. Any garnishee, including a corporation, may file an answer without the representation of an attorney.

"(F) OBJECTIONS TO ANSWER.—Within 20 days after receipt of the answer, the debtor and the United States may file a written objection to the answer and request a hearing on the objection. The party objecting must state the grounds for the objection and bears the burden of proving them. A copy of the objection and request for hearing shall be served on the garnishee and the other party. The court shall set a hearing within 10 days after the date the request was received by the court, or as soon thereafter as is practicable, and give notice of the date to all parties.

"(G) GARNISHEE'S FAILURE TO ANSWER OR PAY.—If a garnishee fails to answer or pay within the time specified, the United States may petition the court for an order requiring the garnishee to appear before the court to answer the writ or pay by the appearance date. If the garnishee fails to appear or does appear and fails to show good cause why he failed to comply with the garnishment writ, the court shall enter judgment against the garnishee for the full amount of the past debt owed by the debtor. The court shall award reasonable attorney's fees to the United States and against the garnishee if the writ has not been answered within the time specified therein and a petition requiring the garnishee to appear was filed as provided in this section. Failure to answer or pay within the time specified in the writ may also be punished as a contempt of the court.

"(H) DISPOSITION ORDER.—After the garnishee files its answer and if no hearing is required, the court shall promptly enter an order directing the garnishee as to the disposition of the debtor's property. If a hearing is required, the order shall be entered within 5 days of the hearing, or as soon thereafter as is practicable.

"(I) PRIORITIES.—Court orders and garnishments for the support of a person shall have priority over a writ of garnishment issued pursuant to these provisions. As to any other garnishment or levy, a garnishment issued pursuant to these provisions shall have priority over those which are later in time and shall be satisfied in the order in which the writs are served upon the garnishee.

"(J) ACCOUNTING.—The debtor or garnishee may request an accounting on a garnishment within 10 days after the garnishment terminates. The United States shall give a written accounting to the debtor and garnishee of all earnings and property it receives under a writ of garnishment within 20 days after it receives the request of the debtor or garnishee. Within 10 days after the accounting is received, the debtor or garnishee may file a written objection to the accounting and a request for hearing. The party objecting must state grounds for the objection. The court shall set a hearing on the objection within 10 days after the court receives the request for a hearing, or as soon thereafter as is practicable.

"(K) DISCHARGE OF GARNISHEE'S OBLIGATION.—A garnishee shall be discharged as set forth in section 3311 of this subchapter.

"(L) TERMINATION OF GARNISHMENT.—A garnishment proceeding hereunder can be terminated by—

"(i) the court quashing the writ of garnishment;

"(ii) exhaustion of earnings or property in the possession, custody or control of the garnishee, unless the garnishee reinstates or reemploys the debtor within 90 days of dismissal or resignation; or

"(iii) satisfaction of the debtor's obligation to the United States.

"§ 3307. Modification or protective order; supervision of enforcement

"Within the provisions of this chapter, the court may at any time on its own initiative or the motion of any interested person, and upon such notice as it may require, make an order denying, limiting, conditioning, regulating, extending or modifying the use of any enforcement procedure.

"§ 3308. Power of court to punish for contempt

"A court shall have power to punish a civil or criminal contempt committed with respect to an enforcement procedure or order under this chapter.

"§ 3309. Arrest of judgment debtor

"Upon motion of the judgment creditor without notice, where it is shown by affidavit or otherwise that the judgment debtor is about to depart from the jurisdiction of the United States, or keeps himself concealed therein with intent to hinder, delay or defraud the judgment creditor, and that there is reason to believe that the judgment debtor has in his possession or custody nonexempt property in which he has an interest, the court may issue a warrant directed to the United States marshal to arrest the judgment debtor forthwith and bring him before the court. The United States marshal shall serve upon the judgment debtor a copy of the warrant and supporting documents at the time of arrest. When the judgment debtor is brought before the court, the court may order that he give a bond or undertaking in a sum to be fixed by the court, that he will appear before the court for examination and that he will obey the terms of a restraining notice contained in the order.

"§ 3310. Discharge

"A person who pursuant to an execution or order pays or delivers to the United States, a United States marshal or receiver, money or other personal property in which a judgment debtor has or will have an interest, or so pays a debt he owes the judgment debtor, is discharged from his obligation to the judgment debtor to the extent of the payment or delivery.

"SUBCHAPTER E—EXEMPT PROPERTY

"Sec.

"3401. Exempt property.

"3402. Limitation on exempt property.

"SUBCHAPTER E—EXEMPT PROPERTY

"§ 3401. Exempt property

"Except as provided under section 3402, the following property of natural persons shall be exempted from the enforcement procedures under the provisions of this chapter as to debts owed the United States—

"(a) the debtor's aggregate interest, not to exceed $7,500 in value in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor;

"(b) the debtor's interest, not to exceed $1,200 in value, in one motor vehicle;

"(c) the debtor's interest, not to exceed $200 in value in any particular item or $4,000 in aggregate value, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(d) the debtor's aggregate interest, not to exceed $500 in value, in jewelry held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(e) the debtor's aggregate interest in any property, not to exceed in value $400 plus up to $3,750 of any unused amount of the exemption provided under subsection (a) of this subsection;

"(f) any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract;

"(g) the debtor's aggregate interest, not to exceed in value $4,000 less any amount of property of the estate transferred in the manner specified in section 542(d) of title 11, in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent;

"(h) the debtor's aggregate interest, not to exceed $750 in value in any implements, professional books or tools of the trade of the debtor or the trade of a dependent of the debtor;

"(i) professionally prescribed health aids for the debtor or a dependent of the debtor;

"(j) the debtor's right to receive—

"(1) a social security benefit, unemployment compensation, or a local public assistance benefit;

"(2) a veterans' benefit;

"(3) a disability, illness including Medicaid and Medicare, or unemployment benefit, and AFDC benefits;

"(4) alimony, child and spousal support or separate maintenance paid or received, to the extent reasonably necessary for the sup-

port of the debtor and any dependent of the debtor;

"(5) a payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless—

"(A) such plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under such plan or contract arose;

"(B) such payment is on account of age or length of service; and

"(C) such plan or contract does not qualify under section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1986 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409).

"(k) the debtor's right to receive, or property that is traceable to—

"(1) an award under a crime victim's reparation law;

"(2) a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(3) a payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of such individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(4) a payment, not to exceed $7,500, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or

"(5) a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

"§ 3402. Limitations on exempt property

"(a) Property upon which a judgment debtor has voluntarily granted a lien, shall not be exempt to the extent of the balance due on the debt secured thereby.

"(b) If, within 90 days prior to judgment or thereafter, the debtor has transferred non-exempt property and as a result acquires, improves or increases in value exempt property, his interest shall not be exempt to the extent of the increased value.

"(c) The United States may require the judgment debtor to file a statement with regard to each claimed exemption; the original shall be filed with the court in which the enforcement proceeding is pending, and a copy served upon counsel for the United States. The statement shall be under oath and shall describe each item of property for which exemption is claimed, the value and the basis for such valuation, and the nature of the judgment debtor's ownership interest.

"(d) The United States, by application to the court where an enforcement proceeding is pending, may request a hearing on the applicability of any exemption claimed by the judgment debtor. The court shall determine whether the judgment debtor is entitled to the exemption claimed and the value of the property with respect to which the exemption is claimed; unless the court finds that it is reasonably evident that the exemption applies, the judgment debtor shall bear the burden of going forward with evidence and of persuasion.

"(e) Assertion of an exemption shall not prevent seizure and sale of the property to which such exemption applies. However, where an exemption has been validly and properly asserted, the sale proceeds for that item of property must be applied first to satisfy the dollar value of the exemption and then to the balance of the judgment. Any excess remaining after payment of judgment shall be paid to the judgment debtor.

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"Sec.
"3501. Definitions.
"3502. Insolvency.
"3503. Value.
"3504. Transfer fraudulent as to the United States on present and future claims.
"3505. Transfer fraudulent as to the United States on a present claim.
"3506. When transfer is made or obligation is incurred.
"3507. Remedies of the United States.
"3508. Defenses, liability and protection of transferee.
"3509. Supplementary provision.

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"§ 3501. Definitions

"As used in this subchapter—

"(a) 'Affiliate' means—

"(1) a person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor other than a person who holds the securities—

"(A) as a fiduciary or agent without sole discretionary power to vote the securities; or

"(B) solely to secure a debt, if the person has not exercised the power to vote;

"(2) a corporation 20 percent or more of whose voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds, with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than the person who holds a securities—

"(A) as a fiduciary or agent without sole power to vote the securities;

"(B) solely to secure a debt, if the person has not in fact exercised the power to vote;

"(C) a person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

"(D) a person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

"(b) 'Asset' means property of a debtor, but does not include—

"(1) property to the extent it is encumbered by a valid lien; or

"(2) property to the extent it is exempt under subchapter E of this chapter.

"(c) 'Insider' includes—

"(1) if the debtor is an individual—

"(A) a relative of the debtor or of a general partner of the debtor;

"(B) a partnership in which the debtor is a general partner;

"(C) a general partner in a partnership described in subsection (c)(1)(B); or

"(D) a corporation of which the debtor is a director, officer, or person in control.

"(2) if the debtor is a corporation—

"(A) a director of the debtor;

"(B) an officer of the debtor;

"(C) a person in control of the debtor;

"(D) a partnership in which the debtor is a general partner;

"(E) a general partner in a partnership described in subsection (c)(2)(D); or

"(F) a relative of a general partner, director, officer, or person in control of the debtor.

"(3) if the debtor is a partnership—

"(A) a general partner in the debtor;

"(B) a relative of a general partner in, a general partner of, or a person in control of the debtor;

"(C) another partnership in which the debtor is a general partner;

"(D) a general partner in a partnership described in subsection (c)(3)(C); or

"(E) a person in control of the debtor.

"(4) an affiliate, or an insider of an affiliate as if the affiliate were the debtor; and

"(5) a managing agent of the debtor.

"(d) 'Lien' means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceeding, a common law lien, or a statutory lien.

"(e) 'Relative' means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

"(f) 'Transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

"(g) 'Valid lien' means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

"§ 3502. Insolvency

"(a) A debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets at a fair valuation.

"(b) A debtor who is generally not paying his debts as they become due is presumed to be insolvent.

"(c) A partnership is insolvent under subsection (a) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets and the sum of the excess of the value of each general partner's non-partnership assets over the partner's non-partnership debts.

"(d) Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this subchapter.

"(e) Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

"§ 3503. Value

"(a) Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

"(b) For the purposes of sections 3504(a)(2) and 3507, a person gives a reasonably equivalent value if the person acquires

an interest of the debtor in an asset pursuant to a regularly conducted, non-collusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement.

"(c) A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

"§ 3504. Transfer fraudulent as to the United States on present and future claims

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States, whether its claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation—

"(1) with actual intent to hinder, delay, or defraud the United States or any other creditor of the debtor; or

"(2) without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor—

"(A) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

"(B) intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

"(b) In determining actual intent under subsection (a)(1), consideration may be given, among other factors, to whether—

"(1) the transfer or obligation was to an insider;

"(2) the debtor retained possession or control of the property transferred after the transfer;

"(3) the transfer or obligation was disclosed or concealed;

"(4) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;

"(5) the transfer was of substantially all of the debtor's assets;

"(6) the debtor absconded;

"(7) the debtor removed or concealed assets;

"(8) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

"(9) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

"(10) the transfer occurred shortly before or shortly after a substantial debt was incurred; and

"(11) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

"§ 3505. Transfer fraudulent as to the United States on a present claim

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States on its claims which arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at the time or the debtor became insolvent as a result of the transfer or obligation.

"(b) A transfer made by a debtor is fraudulent as to the United States on its claim which arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at the time, and the insider had reasonable cause to believe that the debtor was insolvent.

"§ 3506. When transfer is made or obligation is incurred

"For the purposes of this subchapter—

"(a) a transfer is made—

"(1) with respect to an asset that is real property, other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and

"(2) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that the United States on a simple contract cannot acquire a judicial lien otherwise than under this subchapter that is superior to the interest of the transferee.

"(b) If applicable law permits the transfer to be perfected as approved in subsection (a) and the transfer is not so perfected before the commencement of an action for relief under this subchapter, the transfer is deemed made immediately before the commencement of the action.

"(c) If applicable law does not permit the transfer to be perfected as provided in subsection (a), the transfer is made when it becomes effective between the debtor and the transferee.

"(d) A transfer is not made until the debtor has acquired rights in the asset transferred.

"(e) An obligation is incurred—

"(1) if oral, when it becomes effective between the parties; or

"(2) if evidenced by a writing, when the writing was executed by the obligor is delivered to or for the benefit of the obligee.

"§ 3507. Remedies of the United States

"(a) In an action for relief against a transfer or obligation under this subchapter, the United States, subject to the limitations in section 3508, may obtain, subject to applicable principles of equity and in accordance with the Federal Rules of Civil Procedure—

"(1) avoidance of the transfer or obligation to the extent necessary to satisfy the claim of the United States;

"(2) an attachment or other remedy against the asset transferred or other property of the transferee in accordance with the procedure described by this chapter.

"(b) If the United States has obtained a judgment on a claim against the debtor, if the court so orders, it may levy execution on the asset transferred or its proceeds.

"§ 3508. Defenses, liability and protection of transferee

"(a) A transfer or obligation is not voidable under section 3504(a) against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

"(b) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by the United States under section 3507(a)(1), it may recover judgment for the value of the asset transferred, as adjusted under subsection (c), or the amount necessary to satisfy its claim, whichever is less. The judgment may be entered against—

"(1) the first transferee of the asset or the person for whose benefit the transfer was made; or

"(2) any subsequent transferee other than a good faith transferee who took for value or from any subsequent transferee.

"(c) If the judgment under subsection (b) is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

"(d) Notwithstanding voidability of a transfer or an obligation under this subchapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to—

"(1) a lien on or a right to retain any interest in the asset transferred;

"(2) enforcement of any obligation incurred; or

"(3) a reduction in the amount of the liability on the judgment.

"(e) A transfer is not voidable under section 3504(a)(2) or section 3505 if the transfer results from—

"(1) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or

"(2) enforcement of a security interest in compliance with article 9 of the Uniform Commercial Code or its equivalent in effect in the jurisdiction where the property is located.

"(f) A transfer is not voidable under section 3505(b)—

"(1) to the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien;

"(2) if made in the ordinary course of business or financial affairs of the debtor and the insider, or

"(3) if made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose, as well as an antecedent debt of the debtor.

"§ 3509. Supplementary provision

"Unless displaced by the provisions of this subchapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, supplement its provisions.

"SUBCHAPTER G—PARTITION

"Sec.
"3601. Action by United States for partition.
"3602. Service of process in partition action.
"3603. Trial; commissioners; decree of partition.
"3604. Partition by sale.
"3605. Costs.

"SUBCHAPTER G—PARTITION

"§ 3601. Action by United States for partition

"(a) The United States, as co-owner or claimant of real or personal property, or an interest therein, may compel a partition of the property among the co-owners and tenants.

"(b) The district court shall have original jurisdiction of any civil action brought by the United States for the partition of property. The action for partition shall be filed in the judicial district in which the property, or a part thereof, is located. An action in a State court in which the United States is a defendant and in which the United States seeks partition may be removed to the district court.

"(c) The United States shall file a complaint stating—

"(1) the name and residence, if known, of each co-owner or claimant to such property;

"(2) the share of interest, if known, of each coowner or claimant in such property;

"(3) a description of the property sought to be partitioned; and

"(4) the estimated value of the property for which partition is sought.

"§ 3602. Service of process in partition action

"(a) Personal service of summonses and complaints and other process shall be made in accordance with rules 4 (c) and (d) of the Federal Rules of Civil Procedure upon a defendant who resides within the United States or its territories or insular possessions and whose residence is known.

"(b) Upon the filing of a certificate by counsel for the United States stating that it is believed that a defendant cannot be personally served, because after diligent inquiry within the State in which the complaint is fiied his place of residence cannot be ascertained by the United States or, if ascertained, that it is beyond the territorial limits of personal service as provided in rules 4 (c) and (d) of the Federal Rules of Civil Procedure, service of Notice of Summons and Complaint shall be made on that defendant by publication in a newspaper published in the county where the property is located, or if there is no such newspaper, then in a newspaper having a general circulation in the State where the property is located, once a week for 3 successive weeks. Prior to the last publication, a copy of the notice shall also be mailed to a defendant who cannot be personally served as provided in this rule but whose place of residence is then known. Unknown owners may be served by publication in like manner by a notice addressed to 'Unknown Others.' Service by publication is complete upon the date of the last publication. Proof of publication and mailing shall be made by certificate of counsel for the United States, to which shall be attached a printed copy of the published notice with the name and dates of the newspaper marked thereon.

"§ 3603. Trial; commissioner; decree of partition

"(a) All questions of law or equity affecting the title of the property which may arise, and the determination of the share or interest of each of the co-owners or claimants shall be tried by the court without a jury.

"(b) The court shall determine whether the property, or any part thereof, is susceptible of partition. If the court determines that the whole, or any part of the property is susceptible of partition, then the court shall enter a decree directing the partition of the property which is held to be susceptible of partition, describing it and specifying the share or interest to which each party is entitled. The court shall then appoint three or more competent and disinterested persons as commissioners to make the partition in accordance with the court's decree, the majority of the commissioners may act.

"(c) The court may appoint a surveyor to assist the commissioners in making a partition of real estate. The commissioners may cause the real estate to be surveyed and partitioned into several tracts or parcels.

"(d) The court may appoint an appraiser or appraisers to value the property and file an appraisal report with the court and the commissioners, as the court directs.

"(e) The commissioners shall divide the property into as many shares as there are persons entitled thereto, as determined by the court, having due regard in the division of the property to the situation, quantity, and advantage of each share, so that the shares may be equal in value, as nearly as may be, in the proportion to the respective shares or interests of the parties entitled thereto.

"(f) The commissioners shall report in writing to the court; and the report shall be determined by a majority of the commissioners and the contents shall be governed by the provisions of rules 53(e) (1) and (2) of the Federal Rules of Civil Procedure. The report shall also contain the following—

"(1) The several tracts, units, or parcels into which the property was divided (describing each particularly);

"(2) the number of shares and the estimated value of each share;

"(3) the allotment of each share; and

"(4) field notes and maps as to each estate, as may be necessary.

"The findings and reports of the commissioners shall have the effect, and be dealt with by the court in accordance with the practice prescribed in rule 53(e)(2).

"(g) The decree of the court confirming the report of commissioners in a partition of property gives a recipient of an interest in the property a title equivalent to a conveyance of the interest by warranty deed as in the case of real property or by bill of sale as to personal property, from the other parties in the action.

"(h) All conditions, restrictive covenants, and encumbrances against the property that applied to the property prior to the partition shall remain against the property as partitioned unless those restrictions, covenants and encumbrances have been included and are subject to the partition action.

"§ 3604. Partition by sale

"Should the court determine that a fair and equitable division of the property, or any part thereof, cannot be made, the court shall order a sale of that part which is incapable of partition, which sale shall be for cash, or upon such other terms as the court may direct, and shall be made as provided by title 28, United States Code, chapter 127, or through a receiver, as the court so orders. The proceeds of such sale shall be paid into the court and partitioned among the persons and parties entitled thereto according to their respective interests.

"§ 3605. Costs

"Costs shall be taxed against each party to whom a share has been allotted in proportion to the value of such share.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"Sec.
"3701. United States foreclosures governed by Federal law.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"§ 3701. United States foreclosures governed by Federal law

"Unless the documents specifically adopt State law, any action by the United States to foreclose security interests in real property shall be governed by the Federal statutes and applicable regulations, provisions set forth in the transaction documents and by Federal common law where there is no governing statute, applicable regulation or provision, and not by the State law where the real property is located. This shall include, but not be limited to, questions regarding redemption rights and deficiency judgments.

"§ 3702. Deficiency rights on federally guaranteed or insured loans

"Unless the documents specifically adopt State law, the right of the United States to collect a deficiency following the foreclosure of a loan guaranteed or insured by the United States or any agency thereof shall be governed by Federal statutes, applicable regulations, and the provisions set forth in the transaction documents. The rights of the United States under this section shall apply notwithstanding the provisions of any State law and without regard to the method used by the loan holder to foreclose the loan.".

TITLE II—AMENDMENTS TO OTHER PROVISIONS OF LAW

SEC. 201. Section 505 of title 11, United States Code, is amended by adding at the end thereof the following subsection:

"(d) Payments of taxes under this title to a governmental unit may be applied by the governmental unit in a manner that preserves alternative sources of collection, if any.".

SEC. 202. Section 523(a) of title 11, United States Code, is amended as follows:

(a) by deleting the word "or" at the end of section 523(a)(9); and

(b) by deleting "." at the end of section 523(a)(10) and adding "; and" in lieu thereof; and

(c) by adding the following subsections at the end of section 523(a):

"(11) to the extent that such debt arises from a violation by the debtor of a civil or criminal statute, or a regulation, rule, or order issued pursuant thereto, enforceable by an action by a governmental unit to recover restitution, damages, civil penalties, attorney fees, costs, or any other relief, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit of the United States Government; or

"(12) to the extent such debt arises from a criminal appearance bond.".

SEC. 203. Section 523(a) of title 11, United States Code, is amended to read as follows:

(a) subsection (8) is amended to read as follows:

"(8) for an educational benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend, unless—".

(b) subsection (8)(A) is amended to read as follows:

"(A) such loan, benefit, scholarship or stipend overpayment or loan first became due 7 years (exclusive of any applicable suspension of the repayment period) before the date of the filing of the petition; or".

SEC. 204. (a) Section 1129(a)(9)(C) of title 11, United States Code, is amended to read as follows:

"(C) with respect to a claim of a kind specified in section 507(a)(7) of this title, the holder of such claim will receive on account of such claim deferred cash payments, over a period not exceeding 6 years after the date of assessment of such claim or 6 years after confirmation for such claims that have not been assessed, of a value as of the effective date of the plan, equal to the allowed amount of such claim.".

(b) Section 1129 of title 11, United States Code, is amended by adding at the end thereof the following:

"(e) For purposes of determining the value of deferred cash payments under a plan with respect to a secured or unsecured tax claim, the appropriate interest rate

shall be the statutory rate applicable to unpaid taxes owing to the governmental unit holding the claim.".

SEC. 205. Section 3142(c)(1)(B)(xi) of title 18, United States Code, is amended to read as follows:

"(xi) execute an agreement to forfeit upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to assure the appearance of the person as required, and shall provide the court with proof of ownership and the value of the property along with information regarding existing encumbrances as the judicial office may require.".

SEC. 206. Section 3142(c)(1)(B)(xii) of title 18, United States Code, is amended to read as follows:

"(xii) execute a bail bond with solvent sureties; who will execute an agreement to forfeit in such amount as is reasonably necessary to assure appearance of the person as required and shall provide the court with information regarding the value of the assets and liabilities of the surety if other than an approved surety and the nature and extent of encumbrances against the surety's property; such surety shall have a net worth which shall have sufficient unencumbered value to pay the amount of the bail bond.".

SEC. 207. Section 3142(g)(4) of title 18, United States Code, is amended by—

(a) striking out "(c)(2)(k)" and inserting in lieu thererof "(c)(1)(B)(xi)"; and

(b) striking out "(c)(2)(L)" and inserting in lieu thereof "(c)(1)(B)(xii)".

SEC. 208. (a) Section 3552(d) of title 18, United States Code, is amended by adding at the end thereof the following:

"The court shall provide a copy of the presentence report to the attorney for the Government to use in collecting an assessment, criminal fine, forfeiture or restitution imposed.".

(b) The amendment made by subsection (a) shall take effect as if enacted on the date of the taking effect of section 3552(d) of title 18, United States Code.

SEC. 209. Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking out "by execution against the property of the defendant"; and

(2) in paragraph (1) by striking out "civil cases." and inserting in lieu thereof "accordance with chapter 176 of title 28. The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case."; and

(3) in paragraph (4), by deleting the word "Salaries" and inserting in lieu thereof the following:

"Notwithstanding any contrary provision in chapter 176 of title 28, United States Code, salaries."; and

(4) in paragraph (5), the second sentence should be deleted.

SEC. 210. Section 3579(f)(4) of title 18, United States Code, is amended by—

(a) striking out the "." at the end thereof; and

(b) adding at the end thereof the following: "only if they are in fear of contact with the defendant.".

SEC. 211. (a) Section 3613 of title 18, United States Code, is amended—

(1) in subsection (d), as added by section 212(a) of the Comprehensive Crime Control Act of 1984, by striking out the second sentence; and

(2) in subsection (e), as added by section 212(a) of the Comprehensive Crime Control Act of 1984 by—

(A) striking out "by execution against the property of the person fined";

(B) striking out "civil cases," and inserting in lieu thereof "accordance with chapter 176 of title 28,"; and

(C) adding at the end thereof "The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case.".

(b) The amendments made by this section shall take effect as if enacted on the date of the taking effect of such section 3613.

SEC. 212. Section 3663(f)(4) of title 18, United States Code, is amended by inserting before the period at the end thereof the following: "only if they are in fear of contact with the defendant.".

SEC. 213. Section 524 of title 28, United States Code, is amended by adding at the end thereof the following:

"(d)(1) There shall be established in the United States Treasury a special fund to be known as the Department of Justice Debt Collection Fund (hereinafter in this subsection referred to as 'fund') which shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in appropriation Acts for the purposes set forth herein.

"(2) There shall be deposited in the fund 5 percent of all net amounts realized from the debts collected by the divisions of the Department of Justice and all United States attorney's offices. Deposits to the fund shall begin the day after the date of enactment, from all amounts collected on and after that date.

"(3) The fund may be used for the following purposes of the Department of Justice:

"(A) the training of personnel of the Department of Justice in debt collection;

"(B) services pertinent to debt collection, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations related to locating debtors and their property; and

"(C) expenses of costs of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs;

"(4) Amounts in the fund which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by the United States.

"(5) For fiscal years 1990, 1991, 1992, and 1993 there are authorized to be appropriated such sums as may be necessary for the purposes described in subsection (3). At the end of each fiscal year, any amount in the fund in excess of the amount appropriated, shall be deposited in the general fund of the Treasury of the United States, except that an amount not to exceed $5,000,000 may be carried forward and be available in the next fiscal year.

"(6) For the purposes of these subsections, amounts from debt collection efforts of the Department of Justice shall include amounts realized from actions brought by or judgments enforced by Department of Justice personnel, including those in all United States attorneys' offices, whether civil or criminal, and whether involving tax or non-tax debts owed to the United States, except as deposit of such amounts into other special funds is required by law.".

SEC. 214. Section 550 of title 28, United States Code, is amended by striking out "assistants and messengers" and inserting in lieu thereof "assistants, messengers, and private process servers.".

SEC. 215. Section 1961(c)(1) of title 28, United States Code, is amended to read as follows:

"(c)(1) The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 216. Section 1962 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 217. Section 1963 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "Such a judgment entered in favor of the United States may be registered as specified any time after judgment is entered.".

SEC. 218. (a) Chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following section:

"§ 2044. Payment of fine with bond money

"Upon motion of the United States attorney, the court shall order any money belonging to and deposited by the defendant with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution or penalty imposed upon the defendants. The court shall not release any money deposited for bond purposes after a plea or a verdict of the defendant's guilt has been entered and before sentencing, except upon a showing that an assessment, fine, restitution or penalty cannot be imposed for the offense the defendant committed or that the defendant would suffer an undue hardship. This does not apply to any third party sureties.".

(b) The table of sections for chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"2044. Payment of fine with bond money.".

SEC. 219. Section 2410(c) of title 28, United States Code, is amended by adding at the end thereof the following: "In any case where the United States is a bidder at the judicial sale, it may credit the amount determined to be due it against the amount it bids at such sales.".

SEC. 220. Section 2413 of title 28, United States Code, and the item relating to section 2413 in the table of sections for chapter 161, are repealed.

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike out all after the enacting clause of the Senate bill, S. 84, and to insert in lieu thereof the provisions of the bill, H.R. 5640, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5640) was laid on the table.

FEDERAL COURTS STUDY COMMITTEE IMPLEMENTATION ACT OF 1990

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5381) to implement certain proposals of the Federal Courts Study Committee, and for other purposes; as amended.

The Clerk read as follows:

H.R. 5381

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,

TITLE I—FEDERAL COURTS STUDY COMMITTEE IMPLEMENTATION

SECTION 101. SHORT TITLE.

This title may be cited as the "Federal Courts Study Committee Implementation Act of 1990".

SEC. 102. STUDIES OF INTERCIRCUIT CONFLICTS AND APPELLATE STRUCTURE.

(a) INTERCIRCUIT CONFLICTS.—The Board of the Federal Judicial Center is requested to conduct and submit to the Congress, within 12 months after the date of the enactment of this Act, a study on—

(1) the number and frequency of conflicts among the judicial circuits in interpreting the law that remain unresolved because they are not heard by the Supreme Court; and

(2) how many of such conflicts are "intolerable" based on factors such as whether the conflict—

(A) imposes economic costs or other harm on persons engaging in interstate commerce;

(B) encourages forum shopping among circuits;

(C) creates unfairness to litigants in different circuits, as in allowing Federal benefits in one circuit that are denied in other circuits; or

(D) encourages nonacquiescence by Federal agencies in the holdings of the courts of appeals for different circuits,

but are unlikely to be resolved by the Supreme Court.

(b) STRUCTURAL ALTERNATIVES FOR THE COURTS OF APPEALS.—The Board of the Federal Judicial Center is requested to study the full range of structural alternatives for the Federal Courts of Appeals and to submit to the Congress and the Judicial Conference of the United States, not later than 2 years after the date of the enactment of this Act, a report on such study.

SEC. 103. APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR OF THE ADMINISTRATIVE OFFICE.

Section 601 of title 28, United States Code, is amended in the second sentence by striking "Supreme Court" and inserting "Chief Justice of the United States, in consultation with the Judicial Conference".

SEC. 104. POWER OF SUPREME COURT TO DEFINE FINAL DECISION FOR PURPOSES OF SECTION 1291.

Section 2072 of title 28, United States Code, is amended by adding at the end the following:

"(c) Such rules shall define when a ruling of a district court is final for the purposes of appeal under section 1291 of this title.".

SEC. 105. STUDY OF CRIMINAL JUSTICE ACT PROGRAM.

(a) STUDY REQUIRED.—The Judicial Conference of the United States shall establish a special committee to conduct a study of the Federal defender program established under section 3006A of title 18, United States Code, including its implementation and administration.

(b) ASSESSMENT OF PROGRAM.—In conducting the study under subsection (a), the special committee shall assess the effectiveness of the Federal defender program under section 3006A of title 18, United States Code, including the following:

(1) The impact of judicial involvement in the selection and compensation of the Federal public defenders and the independence of Federal defender organizations, including the establishment and termination of Federal defender organizations and the Federal public defender and the community defender options.

(2) Equal employment and affirmative action procedures in the various Federal defender programs.

(3) Judicial involvement in the appointment and compensation of panel attorneys and experts.

(4) Adequacy of compensation for legal services provided under section 3006A of title 18, United States Code.

(5) The quality of representation under such section.

(6) The adequacy of administrative support for defender services programs.

(7) Maximum amounts of compensation for attorneys with regard to appeals of habeas corpus proceedings.

(8) Contempt, sanctions, and malpractice representation of panel attorneys.

(9) Appointment of counsel in multidefendant cases.

(10) Early appointment of counsel in general, and before the pretrial services interview in particular.

(11) The method and source of payment of the fees and expenses of fact witnesses for defendants with limited funds.

(12) The provisions of services or funds to financially eligible persons who have been arrested but not convicted, for noncustodial transportation and subsistence expenses, including food and lodging, both before and during judicial proceedings.

(c) REPORT.—Not later than September 30, 1992, the special committee shall transmit to the Judicial Conference and to the Committees on the Judiciary of the Senate and the House of Representatives a report on the results of the study required under subsection (a). The report shall include—

(1) any recommendations for legislation that the special committee finds appropriate;

(2) a proposed formula for compensation of counsel appointed pursuant to section 3006A of title 18, United States Code, that includes an amount to cover reasonable overhead and a reasonable hourly fee; and

(3) a discussion of any procedural or operational changes that the special committee finds appropriate for implementation by the courts of the United States.

SEC. 106. EFFECT OF APPOINTMENT OF JUDGE AS DIRECTOR OF CERTAIN JUDICIAL BRANCH AGENCIES.

Section 133 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The President"; and

(2) by adding at the end the following:

"(b)(1) In any case in which a judge of the United States (other than a senior judge) assumes the duties of a full-time office of Federal judicial administration, the President shall appoint, by and with the advice and consent of the Senate, an additional judge for the court on which such judge serves. If the judge who assumes the duties of such full-time office leaves that office and resumes the duties as an active judge of the court, then the President shall not appoint a judge to fill the first vacancy which occurs thereafter in that court.

"(2) For purposes of paragraph (1), the term 'office of Federal judicial administration' means a position as Director of the Federal Judicial Center, Director of the Administrative Office of the United States Courts, or administrative assistant to the Chief Justice.".

SEC. 107. WITNESS AND JUROR FEES.

(a) WITNESS FEES.—Section 1821(b) of title 28, United States Code, is amended by striking "$30" and inserting "$40".

(b) JUROR FEES.—Section 1871(b) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking "$30" and inserting "$40";

(2) in paragraph (2) by striking "$5" and inserting "$10"; and

(3) in paragraph (3) by striking "$5" and inserting "$10".

SEC. 108. PRISONER REVIEW AND SUPERVISION.

(a) IN GENERAL.—(1) Title 18, United States Code, is amended by inserting before chapter 313 the following:

"CHAPTER 312—PRISONER REVIEW AND SUPERVISION

"Sec.
"4220. Federal Offender Review Board; members.
"4221. Authority and jurisdiction of the Board.
"4222. Powers and duties of the Chairman.
"4223. Decisions of the Board.

"§ 4220. Federal Offender Review Board

"There is established as an independent agency in the Department of Justice a Federal Offender Review Board, which shall consist of 5 members appointed by the President, by and with the advice and consent of the Senate. The term of office of each member appointed to the Board shall expire on November 1, 1997. A member who is appointed to fill a vacant but unexpired term shall be appointed for the remainder of the vacant term. The President shall designate one member of the Board to serve as Chairman. The Chairman of the Board shall be compensated at the rate now or hereafter prescribed for Executive Level IV and the members of the Board shall be compensated at the rate now or hereafter prescribed for Executive Level V.

"§ 4221. Authority and jurisdiction of the Board

"The Board shall have the independence of, be subject to the statutory procedures governing, and have and exercise the powers, duties, and jurisdiction vested in, the former United States Parole Commission by statutes of the United States and the District of Columbia in effect, or saved as to particular offenders, on October 31, 1992.

"§ 4222. Powers and duties of the Chairman

"The Chairman of the Board shall have and exercise the powers and duties vested in the Chairman of the United States Parole Commission by section 4204 of chapter 311 of this title as such section existed immediately before the repeal of that section took effect.

"§ 4223. Decisions of the Board

"The Board shall be empowered to render and reconsider decisions in the case of any individual within the Board's jurisdiction, to prescribe regulations and guidelines to carry out the Board's responsibilities, and to delegate authority to hearing examiners. The decisions of the Board shall be considered

actions committed to agency discretion for the purpose of section 701(a)(2) of title 5.".

(2) The table of chapters at the beginning of part III of title 18, United States Code, is amended by inserting before the item relating to chapter 313 the following new item:

"312. Prisoner review and supervision.....4220".

(b) TRANSFER OF PERSONNEL.—There are transferred to the Federal Offender Review Board all personnel (except the Commissioners), liabilities, contracts, property and records, as are employed, held, used, arising from, or available to, the United States Parole Commission on October 31, 1992. This transfer shall be governed by section 3503(b) of title 5, United States Code.

(c) REPEAL OF OLD RULE RELATING TO CONTINUATION IN EFFECT OF PREVIOUS LAW.—Section 235(b)(4) of the Comprehensive Crime Control Act of 1984 is repealed.

(d) NEW RULE RELATING TO CONTINUATION IN EFFECT OF PREVIOUS LAW.—

(1) Chapter 311 continuation.—Section 235(b)(1) of the Comprehensive Crime Control Act of 1984 is amended to read as follows:

"(b)(1) Chapter 311 of title 18, United States Code, shall remain in effect for 5 years after the effective date as to an individual who committed an offense or an act of juvenile delinquency before the effective date, and as to a term of imprisonment described in subsection (a)(1)(B).".

(2) CONTINUATION OF CRIMINAL PENALTIES AS TO INDIVIDUAL OFFENDERS.—Section 235(b)(3) of the Comprehensive Crime Control Act of 1984 is amended to read as follows:

"(3) All laws in effect on the day before an effective date set forth in subsection (a)(1) of this section, and which are applicable to a person who committed an offense or an act of juvenile delinquency before such effective date, shall remain in effect as to such person until the expiration of such person's sentence.".

(e) CONFORMING AMENDMENTS.—

(1) SECTION 4106.—Section 4106 of title 18, United States Code, is amended—

(A) by striking "United States Parole Commission" each place it appears and inserting "Federal Offender Review Board";

(B) in subsection (b) by striking "Commission" and inserting "Board";

(C) in subsection (c) by striking "Parole Commission" and inserting "Federal Offender Review Board"; and

(D) in subsection (d)—

(i) by striking "and the Parole Commission's performance of its responsibilities under this section shall be subject to section 235 of the Comprehensive Crime Control Act of 1984"; and

(ii) by striking the comma after "November 1, 1987".

(2) SECTION 4106A.—Section 4106A of title 18, United States Code, is amended—

(A) in the section caption by striking "**parole offenders**" and inserting "**parole of offenders**";

(B) by striking "United States Parole Commission" each place it appears and inserting "Federal Offender Review Board";

(C) in subsection (b)(1)(C) by adding a period at the end; and

(D) in subsection (b)(2)(A) by striking "Commission" and inserting "Board".

(3) SECTION 3522.—Section 3522(c) of title 18, United States Code, is amended by striking "United States Parole Commission" and "Commission" and inserting "Federal Offender Review Board" and "Board", respectively.

(f) TRANSFER OF FUNCTIONS IN 1997.—

(1) IN GENERAL.—(A)(i) Effective November 1, 1997, the functions of the Federal Offender Review Board are transferred to 3 Federal Offender Review Commissioners.

(ii) Each such Federal Offender Review Commissioner shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The President shall designate one of those appointed as Chief Commissioner.

(B) A Commissioner may be reappointed at the expiration of that Commissioner's term. A Commissioner who is appointed to fill a vacancy shall be appointed for the remainder of the vacant term.

(C) Each Commissioner shall be compensated at the highest rate now or hereafter prescribed for Executive Level V, except that the Chief Commissioner shall be compensated at the highest rate now or hereafter prescribed for Executive Level IV.

(D) If the President determines that the anticipated caseload for the Federal Offender Review Commissioners is unlikely to equal or exceed the per capita caseload experienced by the Commissioners during the 12-month period ending October 31, 2002, the President may set the number of Commissioners at 1 rather than 3 as of November 1, 2002.

(2) INDEPENDENCE.—The Commissioners shall be independent adjudicators within the Department of Justice, and a decision of the Commissioners shall be considered an action committed to agency discretion for the purpose of section 701(a)(2) of title 5, United States Code.

(3) RELATED TRANSFERS.—Effective November 1, 1997, all liabilities, contracts, property and records, as are employed, held, used, arising from, or available to, the Federal Offender Review Board are transferred to the Department of Justice. The Department of Justice shall thereafter provide such administrative support, including the employment of hearing examiners, as may be required by the Commissioners to fulfill the Commissioners' functions.

SEC. 109. REMOVAL OF SEPARATE AND INDEPENDENT CLAIMS.

Section 1441(c) of title 28, United States Code, is amended—

(1) by striking ", which would be removable if sued upon alone," and inserting "within the jurisdiction conferred by section 1331 of this title"; and

(2) by striking "remand all matters not otherwise within its original jurisdiction" and inserting "may remand all matters in which State law predominates".

SEC. 110. VENUE.

Section 1391 of title 28, United States Code, is amended—

(1) in subsection (a), by striking "the judicial district" and all that follows through "arose" and inserting the following: "(1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which the defendants are subject to personal jurisdiction at the time the action is commenced";

(2) in subsection (b), by striking "may be brought" and all that follows through "law" and inserting the following: "may, except as otherwise provided by law, be brought only in (1 a judicial district where any defendant resides, if all defendants reside in the same State, (2 a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought";

(3) in subsection (e), by striking "or (2)" and all that follows through "(4)" and inserting "(2) a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3)".

SEC. 111. STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following:

"**§ 1658. Time limitations on the commencement of civil actions arising under Acts of Congress**

"Except as otherwise provided by law, a civil action arising under an Act of Congress enacted after the date of the enactment of this section may not be commenced later than 4 years after the cause of action accrues.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 111 of title 28, United States Code, is amended by adding at the end the following new item:

"1658. Time limitations on the commencement of civil actions arising under Acts of Congress.".

SEC. 112. RETIREMENT PROGRAM FOR CLAIMS COURT JUDGES.

(a) NEW RETIREMENT SYSTEM.—

(1) IN GENERAL.—Chapter 7 of title 28, United States Code, is amended by adding at the end the following new section:

"**§ 178. Retirement of judges of the Claims Court**

"(a) RETIREMENT BASED ON AGE AND YEARS OF SERVICE.—A judge of the United States Claims Court who retires from office after attaining the age and meeting the service requirements, whether continuously or otherwise, of this subsection shall, subject to subsection (f), be entitled to receive, during the remainder of the judge's lifetime, an annuity equal to the salary payable to Claims Court judges in regular active service. The age and service requirements for retirement under this subsection are as follows:

"Attained Age:	Years of Service:
"65	15
"66	14
"67	13
"68	12
"69	11
"70	10.

"(b) RETIREMENT UPON FAILURE OF REAPPOINTMENT.—A judge of the Claims Court who is not reappointed following the expiration of the term of office of such judge, and who retires upon the completion of such term shall, subject to subsection (f), be entitled to receive, during the remainder of such judge's lifetime, an annuity equal to the salary payable to Claims Court judges in regular active service, if—

"(1) such judge has served at least 1 full term as judge of the Claims Court, and

"(2) not earlier than 9 months before the date on which the term of office of such judge expired, and not later than 6 months before such date, such judge advised the President in writing that such judge was willing to accept reappointment as a judge of the Claims Court.

"(c) RETIREMENT FOR DISABILITY.—A judge of the Claims Court who has served at least 5 years, whether continuously or otherwise, as such a judge, and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder of the judge's lifetime—

"(1) an annuity equal to 50 percent of the salary payable to Claims Court judges in regular active service, if before retirement such judge served less than 10 years, or

"(2) an annuity equal to the salary payable to Claims Court judges in regular active service, if before retirement such judge served at least 10 years.

"(d) RECALLING OF RETIRED JUDGES.—A judge who retires under subsection (a) or (b), may, at or after such retirement, be called upon by the chief judge of the Claims Court to perform such judicial duties with the Claims Court as may be requested of the retired judge for any period or periods specified by the chief judge, except that in the case of any such judge—

"(1) the aggregate of such periods in any one calendar year shall not (without his or her consent) exceed 90 calendar days; and

"(2) he or she shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a Claims Court judge in regular active service. Any individual performing judicial duties pursuant to this subsection shall receive the allowances for official travel and other expenses of a judge in regular active service.

"(e) DESIGNATION AND ALLOCATION OF RETIRED JUDGES.—

"(1) DESIGNATION.—Any judge who retires under the provisions of subsection (a) or (b) shall be designated 'senior judge'.

"(2) ALLOCATION OF REGULAR ACTIVE JUDGES.—Any judge who retires under this section shall not be counted as a judge of the Claims Court for purposes of the number of judgeships authorized by section 171 of this title.

"(f) ELECTION; ANNUITY IN LIEU OF CIVIL SERVICE ANNUITY.—

"(1) ELECTION.—A judge shall be entitled to an annuity under this section if the judge elects an annuity under this section by notifying the Director of the Administrative Office of the United States Courts in writing. Such an election—

"(A) may be made only while an individual is a judge of the Claims Court (except that in the case of an individual who fails to be reappointed as judge at the expiration of a term of office, such election may be made at any time before the day after the day on which his or her successor takes office); and

"(B) once made, shall, subject to subsection (k), be irrevocable.

"(2) ANNUITY IN LIEU OF CIVIL SERVICE ANNUITY.—A judge who elects to receive an annuity under this section shall not be entitled to receive—

"(A) any annuity to which such judge would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84, of title 5, for service performed as a judge or otherwise;

"(B) an annuity or salary in senior status or retirement under section 371 or 372 of this title;

"(C) retired pay under section 7447 of the Internal Revenue Code of 1986; or

"(D) retired pay under section 4096 of title 38.

"(g) CALCULATION OF SERVICE.—(1) For purposes of calculating the years of service of an individual under subsections (a) and (c), only those years of service as a judge of the Claims Court or a commissioner of the United States Court of Claims shall be credited, and that portion of the aggregate number of years of such service that is a fractional part of 1 year shall not be credited if it is less than 6 months, and shall be credited if it is 6 months or more.

"(h) TIME AND MANNER OF ANNUITY PAYMENTS.—An annuity under this section shall be payable at the times and in the same manner as the salary of a Claims Court judge in regular active service. Such annuity shall begin to accrue on the day following the day on which the annuitant's salary as a judge in regular active service ceases to accrue.

"(i) PAYMENTS PURSUANT TO COURT DECREES.—(1) Payments under this section which would otherwise be made to a judge of the Claims Court based upon his or her service shall be paid (in whole or in part) by the Director of the Administrative Office of the United States Courts to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

"(2) Paragraph (1) shall apply only to payments made by the Director of the Administrative Office of the United States Courts after the date of receipt by the Director of written notice of such decree, order, or agreement, and such additional information as the Director may prescribe.

"(3) As used in this subsection, the term 'court' means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian tribal court or court of Indian offense.

"(j) ANNUITY AFFECTED IN CERTAIN CASES.—

"(1) FORFEITURE OF ANNUITY.—Any judge of the Claims Court who retires under this section and who thereafter in the practice of law represents (or supervises or directs the representation of) a client in making any civil claim against the United States or any agency thereof shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which he or she so practices law.

"(2) TEMPORARY FORFEITURE IN CERTAIN CASES.—If a judge of the Claims Court who retires under this section fails during any calendar year to perform judicial duties required of such judge by subsection (d), such judge shall forfeit all rights to an annuity under this section for the 1-year period which begins on the first day on which he or she so fails to perform such duties.

"(3) SUSPENSION OF ANNUITY DURING PERIOD OF COMPENSATED GOVERNMENT SERVICE.—If a judge of the Claims Court who retires under this section accepts compensation for civil office or employment under the Government of the United States (other than the performance of judicial duties under subsection (d)), such judge shall forfeit all rights to an annuity under this section for the period for which such compensation is received.

"(4) FORFEITURE NOT TO APPLY WHERE INDIVIDUAL ELECTS TO FREEZE AMOUNT OF ANNUITY.—(A) If a judge makes an election under this paragraph—

"(i) paragraphs (1) and (2) (and subsection (d)) shall not apply to such judge beginning on the date such election takes effect, and

"(ii) the annuity payable under this section to such judge, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such judge is entitled on the day before such effective date.

"(B) An election under subparagraph (A)—

"(i) may be made by a judge only if such judge meets the age and service requirements for retirement under subsection (a),

"(ii) may be made only during the period during which such judge may make an election to receive an annuity under this section or while the judge is receiving an annuity under this section, and

"(iii) shall be filed with the Director of the Administrative Office of the United States Courts.

Such an election, once it takes effect, shall be irrevocable.

"(C) Any election under this paragraph shall take effect on the first day of the first month following the month in which the election is made.

"(k) REVOCATION OF ELECTION TO RECEIVE ANNUITY.—

"(1) IN GENERAL.—Notwithstanding subsection (f)(1)(B), an individual who has filed an election under subsection (f) to receive an annuity may revoke such election at any time before the first day on which such annuity would (but for such revocation) begin to accrue with respect to such individual.

"(2) MANNER OF REVOKING.—Any revocation under this subsection shall be made by filing a notice thereof in writing with the Director of Administrative Office of the United States Courts.

"(3) EFFECT OF REVOCATION.—In the case of any revocation under this subsection—

"(A) for purposes of this section, the individual shall be treated as not having filed an election under subsection (f) to receive an annuity,

"(B) for purposes of section 376 of this title—

"(i) the individual shall be treated as not having filed an election under section 376(a)(1), and

"(ii) section 376(g) shall not apply, and the amount credited to such individual's account (together with interest at 3 percent per annum, compounded on December 31 of each year to the date on which the revocation is filed) shall be returned to such individual,

"(C) no credit shall be allowed for any service as a judge of the Claims Court or as a commissioner of the United States Court of Claims unless with respect to such service either there has been deducted and withheld the amount required by chapter 83 or 84 (as the case may be) of title 5 or there has been deposited in the Civil Service Retirement and Disability Fund an amount equal to the amount so required, with interest,

"(D) the Claims Court shall deposit in the Civil Service Retirement and Disability Fund an amount equal to the additional amount it would have contributed to such Fund but for the election under subsection (f), and

"(E) if subparagraph (D) is complied with, service on the Claims Court or as a commissioner of the United States Court of Claims shall be treated as service with respect to which deductions and contributions had been made during the period of service.

"(l) JUDICIAL OFFICERS RETIREMENT FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury a fund which shall be known as the 'Claims Court Judges Retirement Fund'. The Fund is appropriated for the payment of annuities and other payments under this section.

"(2) INVESTMENT OF FUND.—The Secretary of the Treasury shall invest, in interest bearing securities of the United States, such currently available portions of the Claims Court Judges Retirement Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

"(3) UNFUNDED LIABILITY.—(A) There are authorized to be appropriated to the Claims Court Judges Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund.

"(B) For purposes of subparagraph (A), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, of the present value of all benefits payable from the Claims Court Judges Retirement Fund, over the balance in the Fund as of the date the unfunded liability is determined. In making any determination under this subparagraph, the Comptroller General shall use the applicable information contained in the reports filed pursuant to section 9503 of title 31, with respect to the retirement annuities provided for in this section.

"(C) There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 7 of title 28, United States Code, is amended by adding at the end the following new item:

"178. Retirement of judges of the Claims Court.".

(b) JUDICIAL SURVIVORS' ANNUITIES.—

(1) ANNUITIES FOR SURVIVORS OF JUDGES RETIRING UNDER NEW SYSTEM.—Section 376 of title 28, United States Code, is amended as follows:

(A) Subsection (a)(1) is amended—

(i) by striking "or" at the end of subparagraph (E);

(ii) by adding "or" at the end of subparagraph (F);

(iii) by inserting after subparagraph (F) the following:

"(G) a judge of the United States Claims Court;";

(iv) by striking ", or (v)" and inserting "(v)"; and

(v) by inserting before the semicolon at the end the following: ", or (vi) the date of the enactment of the Federal Courts Study Committee Implementation Act of 1990, in the case of a full-time judge of the Claims Court in active service on that date".

(B) Subsection (a)(2) is amended—

(i) by striking "and" at the end of subparagraph (E);

(ii) by adding "and" at the end of subparagraph (F); and

(iii) by adding at the end the following:

"(G) in the case of a judge of the United States Claims Court, an annuity paid under section 178 of this title;".

(C) Subsection (b) is amended in the last sentence by striking "section 377" each place it appears and inserting "section 178 or 377".

(c) CONFORMING AMENDMENTS.—

(1) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—

(A) Section 402(a)(1) of the Judicial Improvements and Access to Justice Act (102 Stat. 4650) is amended by striking "redesignating paragraph (18)" and inserting "redesignating paragraph (19)".

(B) Section 604(a) of title 28, United States Code, (relating to the duties of the Director of the Administrative Office of the United States Courts), as amended pursuant to the amendment made by subparagraph (A) of this paragraph, is amended—

(i) in paragraph (7) by inserting "judges of the United States Claims Court," after "judges of the United States,";

(ii) by redesignating paragraph (23) as paragraph (24); and

(iii) by inserting after paragraph (22) the following:

"(23) Regulate and pay annuities to judges of the United States Claims Court in accordance with section 178 of this title; and".

(2) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8334(i) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(6) Notwithstanding any other provision of law, a judge of the United States Claims Court who is covered by section 178 of title 28 shall not be subject to deductions and contributions to the Fund if the judge notifies the Director of the Administrative Office of the United States Courts of an election of a retirement annuity under such section. Upon such an election, the judge shall be entitled to a lump-sum credit under section 8342(a) of this title.".

(3) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8402 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) A judge of the United States Claims Court who is covered by section 178 of title 28 shall be excluded from the operation of this chapter, other than subchapters III and VII of such chapter, if the judge notifies the Director of the Administrative office of the United States Courts of an election of a retirement annuity under such section. Upon such election, the judge shall be entitled to a lump-sum credit under section 8424 of this title.".

(d) THRIFT SAVINGS PLAN.—

(1) PARTICIPATION IN THE PLAN.—Subchapter III of chapter 84 of title 5, United States Code, is amended by adding at the end the following:

"§ 8440c. Claims court judges

"(a)(1) A judge of the United States Claims Court who is covered by section 178 of title 28 may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund.

"(2) An election may be made under paragraph (1) only during a period provided under section 8432(b) for individuals subject to this chapter.

"(b)(1) Except as otherwise provided in this subsection, the provisions of this subchapter and subchapter VII shall apply with respect to Claims Court judges who make contributions to the Thrift Savings Fund under subsection (a) of this section.

"(2) The amount contributed by a Claims Court judge for any pay period shall not exceed 5 percent of basic pay for such pay period.

"(3) No contributions shall be made under section 8432(c) of this title for the benefit of a Claims Court judge making contributions under subsection (a) of this section.

"(4)(A) Section 8433(b) of this title applies to a Claims Court judge who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and who retires entitled to an annuity under section 178 of title 28 (including a disability annuity under subsection (c) of such section).

"(B) Section 8433(d) of this title applies to any Claims Court judge who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and who retires before becoming entitled to an annuity under section 178 of title 28.

"(5) With respect to Claims Court judges to whom this section applies, retirement under section 178 of title 28 is a separation from service for purposes of this subchapter and subchapter VII.

"(6) For purposes of this section, the terms 'retirement' and 'retire' include removal from office under section 178(c) of title 28 on the sole ground of mental or physical disability.

"(7) Sums contributed pursuant to this section by Claims Court judges, as well as all previous contributions to the Thrift Savings Fund by those judges, and earnings attributable to such sums and contributions, may be invested and reinvested only in the Government Securities Investment Fund established under section 8438(b)(1)(A) of this title.

"(8) In the case of a Claims Court judge who receives a distribution from the Thrift Savings Plan and who later receives an annuity under section 178 of title 28, that annuity shall be offset by an amount equal to the amount which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—(A) The section 8440a of title 5, United States Code, that is entitled "Justices and Judges" is amended in paragraphs (1) and (4) of subsection (b) by striking "subchapters III and VII of chapter 84 of this title" and inserting "this subchapter and subchapter VII".

(B) The section 8440a of title 5, United States Code, that is entitled "Bankruptcy judges and magistrates" is amended by redesignating such section as section 8440b.

(C) The table of sections at the beginning of chapter 84 of title 5, United States Code, is amended by striking

"8440a. Bankruptcy judges and magistrates."

and inserting

"8440b. Bankruptcy judges and magistrates."

"8440c. Claims Court judges.".

(e) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) DEFINITIONS.—Section 8331 of title 5, United States Code, is amended—

(A) by striking "and" at the end of paragraph (24);

(B) by striking the period at the end of paragraph (25) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(26) 'Claims Court judge' means a judge of the United States Claims Court who is appointed under chapter 7 of title 28 or who has served under section 167 of the Federal Courts Improvement Act of 1982.".

(2) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, is amended—

(A) in subsection (a)(1), by inserting "a Claims Court judge," after "Member,"; and

(B) in subsection (c), by inserting at the end of the table the following:

"Claims Court Judge:	
2½	August 1, 1920, to June 30, 1926.
3½	July 1, 1926, to June 30, 1942.
5	July 1, 1942, to June 30, 1948.
6	July 1, 1948, to October 31, 1956.
6½	November 1, 1956, to December 31, 1969.
7	January 1, 1970, to September 30, 1988.
8	After September 30, 1988.".

(3) IMMEDIATE RETIREMENT.—Section 8336(k) of title 5, United States Code, is amended to read as follows:

"(k) A bankruptcy judge, United States magistrate, or Claims Court judge who is separated from service, except by removal, after becoming 62 years of age and completing 5 years of civilian service, or after becoming 60 years of age and completing 10 years of service as a bankruptcy judge, United States magistrate, or Claims Court judge, is entitled to an annuity.".

(4) COMPUTATION OF ANNUITY.—Section 8339(n) of title 5, United States Code, is amended to read as follows:

"(n) The annuity of an employee who is a Claims Court judge, bankruptcy judge, or United States magistrate is computed, with respect to service as a Claims Court judge, as a commissioner of the Court of Claims, as a referee in bankruptcy, as a bankruptcy judge, as a United States magistrate, and as a United States commissioner and with respect to the military service of any such individual (not exceeding 5 years) creditable under section 8332 of this title, by multiplying 2 1/2 percent of the individual's average pay by the years of that service.".

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to judges of, and senior judges in active service with, the United States Claims Court on or after the date of the enactment of this Act.

SEC. 113. MAGISTRATES.

(a) CONSENT TO TRIAL IN CIVIL ACTIONS.—Section 636(c)(2) of title 28, United States Code, is amended—

(1) in the first sentence, by striking "their right to consent to the exercise of" and inserting "the availability of a magistrate to exercise"; and

(2) by striking the third sentence and inserting the following: "Thereafter, either the district court judge or the magistrate may again advise the parties of the availability of the magistrate, but in so doing, shall also advise the parties that they are free to withhold consent without adverse substantive consequences.".

(b) EXTENSION OF TERMS OF OFFICE OF MAGISTRATES.—Section 631(f) of title 28, United States Code, is amended by striking "60" and inserting "180".

SEC. 114. SUPPLEMENTAL JURISDICTION.

(a) GRANT OF JURISDICTION.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following:

"§1367. Supplemental jurisdiction

"(a) IN GENERAL.—Except as provided in subsections (b) and (c) or as expressly provided otherwise by Federal statute, in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. Such supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties.

"(b) DIVERSITY CASES.—In any civil action of which the district courts have original jurisdiction founded solely on section 1332 of this title, the district courts shall not have supplemental jurisdiction under subsection (a) over claims by plaintiffs against persons made parties under Rule 14, 19, 20, or 24 of the Federal Rules of Civil Procedure, or over claims by persons proposed to be joined as plaintiffs under Rule 19 of such rules, or seeking to intervene as plaintiffs under Rule 24 of such rules, when exercising supplemental jurisdiction over such claims would be inconsistent with the jurisdictional requirements of section 1332.

"(c) AUTHORITY OF COURTS TO DECLINE SUPPLEMENTAL JURISDICTION.—The district courts may decline to exercise supplemental jurisdiction over a claim under subsection (a) if—

"(1) the claim raises a novel or complex issue of State law,

"(2) the claim substantially predominates over the claim or claims over which the district court has original jurisdiction,

"(3) the district court has dismissed all claims over which it has original jurisdiction, or

"(4) in exceptional circumstances, there are other compelling reasons for declining jurisdiction.

"(d) TOLLING OF TIME LIMITATIONS.—The period of limitations for any claim asserted under subsection (a), and for any other claim in the same action that is voluntarily dismissed at the same time as or after the dismissal of the claim under subsection (a), shall be tolled while the claim is pending and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period.

"(e) DEFINITION.—As used in this section, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 85 of title 28, United States Code, is amended by adding at the end the following new item:

"1367. Supplemental jurisdiction.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to civil actions commenced on or after the date of the enactment of this Act.

TITLE II—MISCELLANEOUS PROVISIONS AND TECHNICAL AMENDMENTS

SEC. 201. PLACE OF HOLDING COURT.

Section 112(a) of title 28, United States Code, is amended by striking "and Utica" in the last sentence and inserting "Utica, and Watertown".

SEC. 202. BIENNIAL CIRCUIT JUDICIAL CONFERENCE.

The first paragraph of section 333 of title 28, United States Code, is amended—

(1) in the first sentence, by striking "annually" and inserting "biennially, and may summon annually,"; and

(2) in the last sentence—

(A) by striking "the United States District Court for the District of the Canal Zone,"; and

(B) by striking "and the District Court of the Virgin Islands shall also be summoned annually" and inserting "the District Court of the Virgin Islands, and the District Court of the Northern Mariana Islands shall also be summoned biennially, and may be summoned annually,".

SEC. 203. RETIREMENT AGE OF CERTAIN FEDERAL JUDGES.

(a) JUSTICES AND JUDGES OF THE UNITED STATES.—Section 371(c) of title 28, United States Code, is amended by inserting before:

"65 ..... 15"

the following:

"62 to 64 ..... 25".

(b) JUDGES IN TERRITORIES AND POSSESSIONS.—Section 373(b) of title 28, United States Code, is amended by inserting before:

"65 ..... 15"

the following:

"62 to 64 ..... 25".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any justice or judge who retires on or after the date of the enactment of this Act.

SEC. 204. CHANGE OF NAME OF UNITED STATES MAGISTRATES.

After the enactment of this Act, each United States magistrate appointed under section 631 of title 28, United States Code, shall be known as a United States magistrate judge, and any reference to any United States magistrate or magistrate that is contained in title 28, United States Code, in any other Federal statute, or in any regulation of any department or agency of the United States in the executive branch that was issued before the enactment of this Act, shall be deemed to refer to a United States magistrate judge appointed under section 631 of title 28, United States Code.

SEC. 205. LENGTH OF SERVICE REQUIRED FOR ELIGIBILITY UNDER THE JUDICIAL SURVIVORS' ANNUITIES ACT.

(a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINATION.—Section 376(h)(1) of title 28, United States Code, is amended—

(1) in the matter preceding subparagraph (A)—

(A) by inserting "(A)" before "after having completed"; and

(B) by inserting after "have actually been made" the following: ", or (B) if the death of such judicial official was by assassination, before having satisfied the requirements of clause (A) if, for the period of such service, the deductions provided by subsection (b) or, in lieu thereof, the deposits required by subsection (d) have actually been made";

(2) by redesignating existing subparagraph (A) as clause (i);

(3) in existing subparagraph (B)—

(A) by striking "(B)" and inserting "(ii)";

(B) by striking "(i)" and inserting "(I)"; and

(C) by striking "(ii)" and inserting "(II)";

(4) in existing subparagraph (C)—

(A) by striking "(C)" and inserting "(iii)";

(B) in clause (i)—

(i) by striking "(i)" and inserting "(I)";

(ii) by striking "subparagraph (1)(A) of this subsection" and inserting "clause (i) of this paragraph";

(iii) by striking "(ii)" and inserting "(II)"; and

(iv) by striking "(iii)" and inserting "(III)"; and

(5) by adding at the end of subsection (h) the following:

"(6) In the case of the survivor or survivors of a judicial official to whom paragraph (1)(B) applies, there shall be deducted from the annuities otherwise payable under this section an amount equal to the amount of salary deductions that would have been made if such deductions had been made for 18 months prior to the judicial official's death.".

(b) DEFINITION OF ASSASSINATION.—Section 376(a) of title 28, United States Code, is amended—

(1) in paragraph (5)(C) by striking "and" after the semicolon;

(2) in paragraph (6) by striking the period and inserting "; and"; and

(3) by inserting at the end the following new paragraph:

"(7) 'assassinated' and 'assassination' mean the killing of a judicial official described in paragraph (1) (A), (B), (F), or (G) of this section that is motivated by the performance by that judicial official of his or her official duties.".

(c) DETERMINATION OF ASSASSINATION BY DIRECTOR.—Section 376(i) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(i)"; and

(2) by adding at the end the following:

"(2) The Director of the Administrative Office of the United States Courts shall determine whether the killing of a judicial official was an assassination, subject to review only by the Judicial Conference of the United States. The head of any Federal agency that investigates the killing of a judicial official shall provide information to the Director that would assist the Director in making such determination.".

(d) COMPUTATION OF WIDOW'S AND WIDOWER'S ANNUITY.—Section 376(l)(1)(ii) of title 28, United States Code, is amended by striking "but more than eighteen months,".

(e) REFUND OF CONTRIBUTIONS TO FUND.—Section 376(o) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(o)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) in subparagraph (A) as so redesignated, by inserting "subject to paragraph (2) of this subsection," before "before having completed"; and

(4) by adding at the end the following new paragraph:

"(2) In cases in which a judicial official dies as a result of assassination and leaves a survivor or survivors who are entitled to receive the annuity benefits provided by subsection (h) or (t) of this section, paragraph (1)(A) of this subsection shall not apply.".

(f) OTHER BENEFITS.—Section 376 of title 28, United States Code, is amended by adding at the end the following:

"(u) In the case of a judicial official who is assassinated, an annuity shall be paid under this section notwithstanding a survivor's eligibility for or receipt of benefits under chapter 81 of title 5, except that the annuity for which a surviving spouse is eligible under this section shall be reduced to the extent that the total benefits paid under this section and chapter 81 of title 5 for any year would exceed the current salary for that year of the office of the judicial official.".

(g) EFFECTIVE DATE AND TRANSITION.—

(1) EFFECTIVE DATE.—Subject to paragraph (2), the amendments made by this Act shall apply to all judicial officials assassinated on or after May 28, 1979.

(2) RULES FOR RETROACTIVE APPLICATION.—(A) In the case of a judicial official who was assassinated on or after May 28, 1979, and before the date of the enactment of this Act, if the salary deductions provided by subsection (b) of section 376 of title 28, United States Code, or the deposits required by subsection (d) of such section, have been withdrawn pursuant to subsection (o) of such section, there shall be deducted from the annuities otherwise payable to the survivor or survivors of such judicial official, and the payment authorized by subparagraph (C) of this paragraph, an amount equal to the amount so withdrawn, with interest on the amount withdrawn at 3 percent per annum compounded on December 31 of each year.

(B) In the case of the survivor or survivors of a judicial official to whom this paragraph applies who had less than 18 months of service before being assassinated, there shall be deducted from the annuities otherwise payable to the survivor or survivors of such judicial official, and the payment authorized by subparagraph (C) of this paragraph, an amount equal to the amount of salary deductions that would have been made if such deductions had been made for 18 months before the judicial official's death, plus interest as described in subparagraph (A).

(C) Subject to subparagraphs (A) and (B), the survivor or survivors of a judicial official to whom this paragraph applies shall be entitled to the payment of annuities they would have received under section 376 of title 28, United States Code, for the period beginning on the date such judicial official was assassinated and ending the date of the enactment of this Act. The Secretary of the Treasury shall pay into the Judicial Survivors' Annuities fund, out of any money in the Treasury not otherwise appropriated, the amount of the annuities to which the survivor or survivors are entitled under this subparagraph.

(3) DEFINITION.—For purposes of this subsection, the term—

(A) "assassinated" and "assassination" have the meanings given those terms in section 376(a)(7) of title 28, United States Code, as added by this section; and

(B) "judicial official" has the meaning given that term in section 376(a)(1) (A) and (B) of title 28, United States Code.

(h) CONFORMING AMENDMENTS.—Section 376 of title 28, United States Code, is amended as follows:

(1) Subsection (h) is amended—

(A) in paragraph (2) by striking "subparagraphs (1)(A) or (1)(B)" and inserting "clause (i) or (ii) of paragraph (1)";

(B) in paragraph (3) by striking "subparagraph" each place it appears and inserting "paragraph";

(C) in paragraph (4)—

(i) by striking "subparagraph (1)(B)" each place it appears and inserting "paragraph (1)(ii)"; and

(ii) by striking "subparagraph (1)(C)" and inserting "paragraph (1)(iii)".

(2) Subsection (a)(5)(C) is amended by striking "subparagraph" and inserting "paragraph".

SEC. 206. COMPOSITION OF JUDICIAL COUNCILS.

(a) COMPOSITION OF COUNCILS.—Section 332(a)(1) of title 28, United States Code, is amended to read as follows:

"(a)(1) The chief judge of each judicial circuit shall call, at least twice in each year and at such places as he or she may designate, a meeting of the judicial council of the circuit, consisting of the chief judge of the circuit, who shall preside, and an equal number of circuit judges and district judges of the circuit, as such number is determined by majority vote of all such judges of the circuit in regular active services.".

(b) CONFORMING AMENDMENT.—Section 332(a) of title 28, United States Code, is amended by striking paragraph (3) and redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

SEC. 207. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a) TITLE 9, UNITED STATES CODE.—

(1) The section 15 of title 9, United States Code, that is designated "Appeals" is amended by redesignating such section as section 16.

(2) The table of sections at the beginning of chapter 1 of title 9, United States Code, is amended by striking "15. Appeals."

and inserting

"15. Inapplicability of the Act of State doctrine.

"16. Appeals.".

(b) TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended as follows:

(1) Section 332(f)(1) is amended by striking "(5 U.S.C. 5316)" and inserting "under section 5315 of title 5".

(2) Section 375(a)(1) is amended by striking "377 of title" and inserting "377 of this title".

(3) Section 377 is amended—

(A) in subsection (f) by striking "any annuity to which" and all that follows through the end of the subsection and inserting the following:

"(1) any annuity to which such judge or magistrate would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84, of title 5, for service performed as such a judge or magistrate or otherwise;

"(2) an annuity or salary in senior status or retirement under section 371 or 372 of this title;

"(3) retired pay under section 7447 of the Internal Revenue Code of 1986; or

"(4) retired pay under section 4096 of title 38."; and

(B) in subsection (h) by striking "in or after" and inserting "on or after".

(4) Section 602(b) is amended by striking "604(a)(15)(B)" and inserting "604(a)(16)(B)".

(5) Section 995(a)(22) is amended by striking "and" after the semicolon.

(6) Section 996(b) is amended by striking "89 (Health Insurance), and 91 (Conflicts of Interest)" and inserting "and 89 (Health Insurance)".

(7) Section 1499 is amended by inserting "and Safety" after "Hours".

(8 Section 1605(a)(6) is amended by striking "State" and inserting "state".

(9) Section 1610 is amended—

(A) in subsection (a)(6) by striking "State" and inserting "state"; and

(B) in subsection (e) by striking "State" and inserting "state".

(c) OTHER PROVISIONS OF LAW.—

(1) Section 1011 of the Judicial Improvements and Access to Justice Act (102 Stat. 4668) is amended—

(A) by striking "inserting a comma in lieu of the semicolon at the end thereof and adding thereafter" and inserting "adding at the end"; and

(B) in the text of section 604(a)(7) of title 28, United States Code, that is inserted by such section 1011, by striking ": *Provided*, That" and inserting ", except that".

(2) Section 204(b)(5)(A)(ii) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (102 Stat. 2201) is amended by striking "whichever, occurs later," and inserting

"whichever occurs later,".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker over the course of the past several years, the problems confronting the Federal courts have increased dramatically. The so-called wars that the legislative and executive branches of government have waged on drugs and crime have taken their toll on the judiciary. As the courts have been called upon to devote more and more of their time to their burgeoning criminal caseload, the less and less time remains available to decide civil cases. In an effort to gain a fresh and independent perspective on how best to cope with this increase in caseload and commensurate decline in access to justice, the Congress passed the Federal Courts Study Act of 1988, as part of the Judicial Improvements and Access to Justice Act. The Federal Courts Study Committee Act called for the creation of a 15 member committee to study the problems of the Federal courts for a period of 15 months, and report its results to the Congress, among others.

That report was issued on April 2 of this year. Mr. MOORHEAD and I had the privilege of serving on the Study Committee. H.R. 5381, the Federal Courts Study Committee Implementation Act, was introduced by Mr. MOORHEAD and myself, as a means to implement some of the noncontroversial recommendations of the Federal Courts Study Committee.

The House Judiciary Committee's Subcommittee on Courts, Intellectual Property, and the Administration of Justice, which I chair, held a hearing on this bill on September 6. In light of comments received by the subcommittee, a number of deletions and revisions were made to the bill which were incorporated into an amendment in the nature of a substitute that Mr. MOORHEAD and I developed. That amendment addressed the primary concerns raised by the Department of Justice, the Judicial Conference and the American Bar Association. The substitute amendment was reported favorably by my subcommittee and the full committee without objection, and the result is a bill that—consistent with our original intentions—remains essentially noncontroversial.

The recommendations implemented in this legislation touch upon a wide range of issues, that include: The study of intercircuit conflicts and appellate structure; appointment procedures for the Director and Deputy Director of the Administrative Office of the U.S. Courts; the power of the Supreme Court to define the scope of final decisions from which appeals may be taken; the study of the Federal Defender Program; the procedure for filling vacancies created by the appointment of Federal judges to head certain judicial branch agencies; creating a successor entity to the Parole Commission; removal of separate and independent claims; venue; statutes of limitations; the retirement program for claims court judges; procedures for obtaining parties' consent to civil trials before magistrates; supplemental jurisdiction; Watertown, NY, as a place of holding court; authorization for biennial circuit judicial conferences; adjusting the retirement age for certain Federal judges; and the eligibility for benefits under the Judicial Survivors' Annuities act.

At the request of the Judicial Conference, a section has been added that did not appear in the bill as reported by the Committee on the Judiciary. That section modifies the membership on circuit judicial councils, so that an equal number of district and circuit judges participate. Under current law, the membership of circuit judicial councils is weighted in favor of the circuit judges. The purpose of the new section is to equalize the voice of the circuit and district judges in administration of the circuit's business. It should be noted, however, that because the section provides that the council is to consist of the chief judge of the circuit together with an equal number of district and circuit judges, the net effect is that there will still be one more circuit judge than district judge on each judicial council.

I would like to commend the gentleman from California [Mr. MOORHEAD] for his assistance and cooperation in developing this piece of legislation, which I believe will make a number of important improvements in the operation of the Federal courts. I urge your support for H.R. 5381.

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Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

The Speaker, I want to commend the gentleman from Wisconsin [Mr. KASTENMEIER] and our staff members, Mike Remington, Charles Geyh, Tom Mooney, and Joe Wolf for all of the work done on this legislation.

We spent many months working on the study committee to come up with these changes. As pointed out earlier, most of the problems that the Department of Justice had with the original bill have been deleted or modified.

These proposals are not controversial. This legislation deals with institutional rather than substantive changes. This legislation, along with H.R. 3898, civil justice reform, and H.R. 5316, creating additional Federal judgeships, are directed at fine tuning our Federal court system in order to secure a just, speedy, and inexpensive determination of every action. Our Fedeal judiciary has problems in all three of these areas, delay, caused by rising caseloads and insufficient support services; spiraling costs, caused by litigation expenses and attorney fees; and inconsistent decisions, caused by the pressures placed on judges who must cope with the torrent of litigation.

In a modest way, this legislation will go a long way in helping to correct these problems and by so doing improve the delivery of justice in our Federal courts.

Other bills will follow which we will try to bring before this body with other recommendations of the Federal Court Study Committee. I welcome and applaud the expeditious manner in which the gentleman from Wisconsin has brought this legislation to the floor, and I urge support of H.R. 5381.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH], our ranking member of the committee.

Mr. FISH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of H.R. 5381 and I would like to commend our courts subcommittee chairman KASTENMEIER and ranking member, CARLOS MOORHEAD, for their diligent efforts as members of the Federal Courts Study Committee.

The study committee's recommendations provide us with a useful, comprehensive list of key problems—both substantive and procedural—currently facing the Federal judiciary. Their recommendations deal with topics ranging from mandatory minimum sentences to civil rights suits to intercircuit conflicts to the resource needs of the Federal courts.

House Judiciary Committee members know first hand about court congestion, delay, and the ever-escalating cost of litigation. H.R. 5381 would, in part, implement the recommendations of the Federal Courts Study Committee so as to deal with these problems.

I urge an "aye" vote on H.R. 5381.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I would also like to commend the gentleman from New York [Mr. FISH], as a member of the subcommittee, for his contributions, as well as my other colleagues and the other members of the subcommittee.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. MCNULTY). The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 5381, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5381, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CIVIL JUSTICE REFORM ACT OF 1990

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3898) to require certain procedural changes in U.S. district courts in order to promote the just, speedy, and inexpensive determination of civil actions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3898

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Justice Reform Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the problems of cost and delay in civil litigation in any United States district court must be addressed in the context of the full range of demands made on the district court's resources by both civil and criminal matters;

(2) the courts, the litigants, the litigants' attorneys, and the Congress and the executive branch, share responsibility for cost and delay in civil litigation and its impact on access to the courts, adjudication of cases on the merits, and the ability of the civil justice system to provide proper and timely judicial relief for aggrieved parties;

(3) the solutions to problems of cost and delay must include significant contributions by the courts, the litigants, the litigants' attorneys, and by the Congress and the executive branch;

(4) in identifying, developing, and implementing solutions to problems of cost and delay in civil litigation, it is necessary to achieve a method of consultation so that individual judicial officers, litigants, and litigants' attorneys who have developed techniques for litigation management and cost and delay reduction can effectively and promptly communicate those techniques to all participants in the civil justice system;

(5) evidence suggests that an effective litigation management and cost and delay reduction program should incorporate several interrelated principles, including—

(A) the differential treatment of cases that provides for individualized and specific management according to their needs, complexity, duration, and probable litigation careers;

(B) early involvement of a judicial officer in planning the progress of a case, controlling the discovery process, and scheduling hearings, trials, and other litigation events;

(C) regular communication between a judicial officer and attorneys during the pretrial process;

(D) utilization of alternative dispute resolution programs in appropriate cases; and

(6) because the increasing volume and complexity of civil and criminal cases imposes increasingly heavy workload burdens on judicial officers, clerks of court, and other court personnel, it is necessary to create an effective administrative structure to ensure ongoing consultation and communication regarding effective litigation management and cost and delay reduction principles and techniques.

SEC. 3. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS.—Title 28, United States Code, is amended by inserting after chapter 21 the following new chapter:

"CHAPTER 23—CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS

"Sec.
"471. Requirement for a district court civil justice expense and delay reduction plan.
"472. Development and implementation of a civil justice expense and delay reduction plan.
"473. Content of civil justice expense and delay reduction plans.
"474. Review of district court action.
"475. Periodic district court assessment.
"476. Enhancement of judicial information dissemination.
"477. Model civil justice expense and delay reduction plan.
"478. Advisory groups.
"479. Information on litigation management and cost and delay reduction.
"480. Training programs.
"481. Automated case information.
"482. Definitions.

"§ 471. Requirement for a district court civil justice expense and delay reduction plan

"There shall be implemented by each United States district court, in accordance with this chapter, a civil justice expense and delay reduction plan. The plan may be a plan developed by such district court or a model plan developed by the Judicial Conference of the United States. The purposes of each plan are to facilitate deliberate adjudication of civil cases on the merits, monitor discovery, improve litigation management, and ensure just, speedy, and inexpensive resolutions of civil disputes.

"§ 472. Development and implementation of a civil justice expense and delay reduction plan

"(a) The civil justice expense and delay reduction plan implemented by a district court shall be developed or selected, as the case may be, after consideration of the recommendations of an advisory group appointed in accordance with section 478.

"(b) The advisory group of a United States district court shall submit to the court a report, which shall be made available to the public and which shall include—

"(1) an assessment of the matters referred to in subsection (c)(1);

"(2) the basis for its recommendation that the district court develop a plan or select a model plan;

"(3) recommended measures, rules and programs; and

"(4) an explanation of the manner in which the recommended plan complies with section 473.

"(c)(1) In developing its recommendations, the advisory group of a district court shall promptly complete a thorough assessment of the state of the court's civil and criminal dockets. In performing the assessment for a district court, the advisory group shall—

"(A) determine the condition of the civil and criminal dockets;

"(B) identify trends in case filings and in the demands being placed on the court's resources; and

"(C) identify the principal causes of cost and delay in civil litigation, giving consideration to such potential causes as court procedures and the ways in which litigants and their attorneys approach and conduct litigation.

"(2) In developing its recommendations, the advisory group of a district court shall take into account the particular needs and circumstances of the district court, litigants in such court, and the litigants' attorneys.

"(3) The advisory group of a district court shall ensure that its recommended actions include significant contributions to be made by the court, the litigants, and the litigants' attorneys toward reducing cost and delay and thereby facilitating access to the courts.

"(d) The chief judge of the district court shall transmit a copy of the plan implemented in accordance with subsection (a) and the report prepared in accordance with subsection (b) to—

"(1) the Director of the Administrative Office of the United States Courts;

"(2) the judicial council of the circuit in which the district court is located; and

"(3) the chief judge of each of the other United States district courts located in such circuit.

"§ 473. Content of civil justice expense and delay reduction plans

"(a) A civil justice expense and delay reduction plan developed and implemented under this chapter may include provisions applying the following principles and guidelines of litigation management and cost and delay reduction:

"(1) systematic, differential treatment of civil cases that tailors the level of individualized and case specific management to such criteria as case complexity, the amount of time reasonably needed to prepare the case for trial, and the judicial and other resources required and available for the preparation and disposition of the case;

"(2) early and ongoing control of the pretrial process through involvement of a judicial officer in—

"(A) assessing and planning the progress of a case;

"(B) setting early, firm trial dates, such that the trial is scheduled to occur within 18 months after the filing of the complaint, unless a judicial officer certifies that—

"(i) the demands of the case and its complexity make such a trial date incompatible with serving the ends of justice; or

"(ii) the trial cannot reasonably be held within such time because of the complexity of the case or the number or complexity of pending criminal cases;

"(C) controlling the extent of discovery and the time for completion of discovery, and ensuring compliance with appropriate requested discovery in a timely fashion; and

"(D) setting at the earliest practical time deadlines for filing motions and a time framework for their disposition;

"(3) for all cases that the court or an individual judicial officer determines are complex and any other appropriate cases, careful and deliberate monitoring through a discovery-case management conference or a series of such conferences at which the presiding judicial officer—

"(A) explores the parties' receptivity to, and the propriety of, settlement or proceeding with the litigation;

"(B) identifies or formulates the principal issues in contention and, in appropriate cases, provides for the staged resolution or bifurcation of issues for trial consistent with Rule 42(b) of the Federal Rules of Civil Procedure;

"(C) prepares a discovery schedule and plan consistent with any presumptive time limits that a district court may set for the completion of discovery and with any procedures a district court may develop to—

"(i) identify and limit the volume of discovery available to avoid unnecessary or unduly burdensome or expensive discovery; and

"(ii) phase discovery into two or more stages; and

"(D) sets the earliest practicable time deadlines for filing motions and a time framework for their disposition;

"(4) encouragement of cost-effective discovery through voluntary exchange of information among litigants and their attorneys and through the use of cooperative discovery devices;

"(5) conservation of judicial resources by prohibiting the consideration of discovery motions unless accompanied by a certification that the moving party has made a reasonable and good faith effort to reach agreement with opposing counsel on the matters set forth in the motion; and

"(6) authorization to refer appropriate cases to alternative dispute resolution programs that—

"(A) have been designated for use in a district court; or

"(B) the court may make available, including mediation, minitrial, and summary jury trial.

"(b) In formulating the provisions of its civil justice expense and delay reduction plan, each United States district court, in consultation with an advisory group appointed under section 478, shall consider adopting the following litigation management and cost and delay reduction techniques:

"(1) a requirement that counsel for each party to a case jointly present a discovery-case management plan for the case at the initial pretrial conference, or explain the reasons for their failure to do so;

"(2) a requirement that each party be represented at each pretrial conference by an attorney who has the authority to bind that party regarding all matters previously identified by the court for discussion at the conference and all reasonably related matters;

"(3) a requirement that all requests for extensions of deadlines for completion of discovery or for postponement of the trial be signed by the attorney and the party making the request;

"(4) a neutral evaluation program for the presentation of the legal and factual basis of a case to a neutral court representative selected by the court at a nonbinding conference conducted early in the litigation;

"(5) a requirement that, upon notice by the court, representatives of the parties with authority to bind them in settlement discussions be present or available by telephone during any settlement conference; and

"(6) such other features as the district court considers appropriate after considering the recommendations of the advisory group referred to in section 472(a).

"(c) Nothing in a district plan prescribed under this section shall alter or conflict with the authority of the Attorney General to conduct litigation on behalf of the United States, or any delegation of the Attorney General.

"§ 474. Review of district court action

"(a)(1) The chief judges of each district court in a circuit and the chief judge of the court of appeals for such circuit shall, as a committee—

"(A) review each plan and report submitted pursuant to section 472(d); and

"(B) make such suggestions for additional actions or modified actions of that district court as the committee considers appropriate for reducing cost and delay in civil litigation in the district court.

"(2) The chief judge of a court of appeals and the chief judge of a district court may designate another judge of such court to perform the chief judge's responsibilities under paragraph (1).

"(b) The Judicial Conference of the United States—

"(1) shall review each plan and report submitted by a district court pursuant to section 472(d); and

"(2) may request the district court to take additional action if the Judicial Conference determines that such court has not adequately responded to the conditions relevant to the civil and criminal dockets of the court or to the recommendations of the district court's advisory group.

"§ 475. Periodic district court assessment

"After developing or selecting a civil justice expense and delay reduction plan, each United States district court shall assess annually the condition of the court's civil and criminal dockets with a view to determining appropriate additional actions that may be taken by the court to reduce cost and delay in civil litigation and to improve the litigation management practices of the court. In performing such assessment, the court shall consult with an advisory group appointed in accordance with section 478.

"§ 476. Enhancement of judicial information dissemination

"(a) The Director of the Administrative Office of the United States Courts shall prepare a semiannual report, available to the public, that discloses for each judicial officer—

"(1) the number of motions that have been pending for more than 6 months and the name of each case in which such motion has been pending;

"(2) the number of bench trials that have been submitted for more than 6 months and the name of each case in which such trials are under submission; and

"(3) the number and names of cases that have not been terminated within 3 years of filing.

"(b) To ensure uniformity of reporting, the standards for categorization or characterization of judicial actions to be prescribed in accordance with section 481 shall apply to the semiannual report prepared under subsection (a).

"§ 477. Model civil justice expense and delay reduction plan

"(a)(1) Based on the plans developed and implemented by the United States district courts designated as Early Implementation District Courts pursuant to section 103(c) of the Civil Justice Reform Act of 1990, the Judicial Conference of the United States may develop one or more model civil justice and expense delay reduction plans. Any such model plan shall be accompanied by a report explaining the manner in which the plan complies with section 473.

"(2) The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts may make recommendations to the Judicial Conference regarding the development of any model civil justice expense and delay reduction plan.

"(b) The Director of the Administrative Office of the United States Courts shall transmit to the United States district courts and to the Committees on the Judiciary of the Senate and the House of Representatives copies of any model plan and accompanying report.

"§ 478. Advisory groups

"(a) Within 90 days after the date of the enactment of this chapter, the advisory group required in each United States district court in accordance with section 472 shall be appointed by the chief judge of each district court, after consultation with the other judges of such court.

"(b) The advisory group of a district court shall be balanced and include attorneys and other persons who are representative of major categories of litigants in such court, as determined by the chief judge of such court.

"(c) Subject to subsection (d), in no event shall any member of the advisory group serve longer than 4 years.

"(d) Notwithstanding subsection (c), the United States Attorney for a judicial district, or his or her designee, shall be a permanent member of the advisory group for that district court.

"(e) The chief judge of a United States district court may designate a reporter for each advisory group, who may be compensated in accordance with guidelines established by the Judicial Conference of the United States.

"(f) The members of an advisory group of a United States district court and any person designated as a reporter for such group shall be considered as independent contractors of such court when in the performance of official duties of the advisory group and may not, solely by reason of service on or for the advisory group, be prohibited from practicing law before such court.

"§ 479. Information on litigation management and cost and delay reduction

"(a) Within 4 years after the date of the enactment of this chapter, the Judicial Conference of the United States Courts shall

prepare a comprehensive report on all plans received pursuant to section 472(d). The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts may make recommendations regarding such report to the Judicial Conference during the preparation of the report. The Judicial Conference shall transmit copies of the report to the United States district courts and to the Committees on the Judiciary of the Senate and the House of Representatives.

"(b) The Judicial Conference of the United States shall, on a continuing basis—

"(1) study ways to improve litigation management and dispute resolution services in the district courts; and

"(2) make recommendations to the district courts on ways to improve such services.

"(c)(1) The Judicial Conference of the United States shall prepare, periodically revise, and transmit to the United States district courts a Manual for Litigation Management and Cost and Delay Reduction. The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts may make recommendations regarding the preparation of and any subsequent revisions to the Manual.

"(2) The Manual shall be developed after careful evaluation of the plans implemented under section 472 and the demonstration program conducted under section 4 of the Civil Justice Reform Act of 1990.

"(3) The Manual shall contain a description and analysis of the litigation management, cost and delay reduction principles and techniques, and alternative dispute resolution programs considered most effective by the Judicial Conference, the Director of the Federal Judicial Center, and the Director of the Administrative Office of the United States Courts.

"§ 480. Training programs

"The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts shall develop and conduct comprehensive education and training programs to ensure that all judicial officers, clerks of court, courtroom deputies, and other appropriate court personnel are thoroughly familiar with the most recent available information and analyses about litigation management and other techniques for reducing cost and expediting the resolution of civil litigation. The curriculum of such training programs shall be periodically revised to reflect such information and analyses.

"§ 481. Automated case information

"(a) The Director of the Administrative Office of the United States Courts shall ensure that each United States district court has the automated capability readily to retrieve information about the status of each case in such court.

"(b)(1) In carrying out subsection (a), the Director shall prescribe—

"(A) the information to be recorded in district court automated systems; and

"(B) standards for uniform categorization or characterization of judicial actions for the purpose of recording information on judicial actions in the district court automated systems.

"(2) The uniform standards prescribed under paragraph (1)(B) shall include a definition of what constitutes a dismissal of a case and standards for measuring the period for which a motion has been pending.

"(c) Each United States district court shall record information as prescribed under subsection (b).

"§ 482. Definitions

"As used in this chapter, the term 'judicial officer' means a United States district court judge or a United States magistrate.".

(b) IMPLEMENTATION.—(1) Within 3 years after the date of the enactment of this Act, each United States district court shall implement a civil justice expense and delay reduction plan under section 471 of title 28, United States Code, as added by subsection (a) of this section.

(2) The requirements set forth in sections 471 through 478 of title 28, United States Code, as added by subsection (a) of this section, shall remain in effect for 7 years after the date of the enactment of this Act.

(c) EARLY IMPLEMENTATION DISTRICT COURTS.—

(1) Any United States district court that, not earlier than 6 months and not later than 12 months after the date of the enactment of this Act, develops and implements a civil justice expense and delay reduction plan under chapter 23 of title 28, United States Code, as added by subsection (a) of this section, shall be designated by the Judicial Conference of the United States as an Early Implementation District Court.

(2) The chief judge of a district court so designated may apply to the Judicial Conference for additional resources, including technological and personnel support and information systems, necessary to implement its civil justice expense and delay reduction plan. The Judicial Conference may provide such resources out of funds appropriated pursuant to section 5(a).

(3) Within 18 months after the date of the enactment of this Act, the Judicial Conference shall prepare a report on the plans developed and implemented by the Early Implementation District Courts.

(4) The Director of the Administrative Office of the United States Courts shall transmit to the United States district courts and to the Committees on the Judiciary of the Senate and House of Representatives—

(A) copies of the plans developed and implemented by the Early Implementation District Courts;

(B) the reports submitted by such districts pursuant to section 472(d) of title 28, United States Code, as added by subsection (a) of this section; and

(C) the report prepared under paragraph (3) of this subsection.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part I of title 28, United States Code, is amended by adding at the end thereof the following:

"23. Civil justice expense and delay reduction plans ..... 471".

SEC. 4. DEMONSTRATION PROGRAM.

(a) IN GENERAL.—(1) During the 4-year period beginning on January 1, 1991, the Judicial Conference of the United States shall conduct a demonstration program in accordance with subsection (b).

(2) A district court participating in the demonstration program may also be an Early Implementation District Court under section 3(c).

(b) PROGRAM REQUIREMENT.—(1) The United States District Court for the Western District of Michigan and the United States District Court for the Northern District of Ohio shall experiment with systems of differentiated case management that provide specifically for the assignment of cases to appropriate processing tracks that operate under distinct and explicit rules, procedures, and timeframes for the completion of discovery and for trial.

(2) The United States District Court for the Northern District of California, the United States District Court for the Northern District of West Virginia, and the United States District Court for the Western District of Missouri shall experiment with various methods of reducing cost and delay in civil litigation, including alternative dispute resolution, that such district courts and the Judicial Conference of the United States shall select.

(c) STUDY OF RESULTS.—The Judicial Conference of the United States, in consultation with the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall study the experience of the district courts under the demonstration program.

(d) REPORT.—Not later than March 31, 1995, the Judicial Conference of the United States shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report of the results of the demonstration program.

SEC. 5. AUTHORIZATION.

(a) EARLY IMPLEMENTATION DISTRICT COURTS.—There is authorized to be appropriated not more than $15,000,000 for fiscal year 1991 to carry out the resource and planning needs necessary for the implementation of section 3(c).

(b) IMPLEMENTATION OF CHAPTER 23.—There is authorized to be appropriated not more than $5,000,000 for fiscal year 1991 to implement chapter 23 of title 28, United States Code.

(c) DEMONSTRATION PROGRAM.—There is authorized to be appropriated not more than $5,000,000 for fiscal year 1991 to carry out the provisions of section 4.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3898, the Civil Justice Reform Act, is an initiative of Senator BIDEN's, that was introduced in the House by Mr. BROOKS, Mr. FISH, Mr. MOORHEAD, and myself at Senator BIDEN's request. The House Judiciary Committee's Subcommittee on Courts, Intellectual Property, and the Administration of Justice, which I chair, held hearings on the bill on September 6, 1990. On September 14, it reported favorably an amendment in the nature of a substitute, and on September 18, the substitute amendment was reported favorably by the full committee.

The Civil Justice Reform Act is designed to reduce some of the cost and delay associated with civil litigation. It does so principally through the creation of advisory groups, which together with the district courts are to develop expense and delay reduction plans as a means to streamline civil case management. The bill also calls for periodic reporting by the judiciary

of cases that have had motions or trials pending longer than a specified period of time. Finally, it provides for experimentation with various case management techniques, as well as collection and dissemination of information concerning developments in case management.

There is no disagreement as to the important role that case management plays in allocating scarce judicial resources. As the judiciary becomes flooded with a steadily increasing volume of criminal cases, precious little time remains to adjudicate civil cases. It is thus critical that what time is available be managed effectively. There is likewise no disagreement as to the importance of reducing unnecessary litigation costs. To the extent that excessive discovery costs, attorneys fees, and related costs make litigation an option available only to the very wealthy, access to justice has, in a very real sense, been denied.

As originally introduced, this legislation met with considerable resistance from the judiciary. The bill was opposed by the Judicial Conference and the Federal Judges Association, and I have received numerous letters from individual judges and members of this body writing on behalf of judges in their districts, expressing deep reservations with the legislation introduced in the House and with companion legislation reported out of the Senate Committee on the Judiciary. While the judiciary is prepared to accept the responsibility of formulating expense and delay reduction plans in coordination with local advisory groups, it has opposed a section of the bill requiring each plan to include six specific components. In the judges' view, such a requirement would constitute micromanagement, and they urged that the contents of the expense and delay reduction plans be made discretionary. These same concerns with the bill have been echoed by the American Bar Association.

I respect the effort that Senator BIDEN has made in developing this legislation, and am optimistic that the fruit of his labors will be enacted into law. At the same time, I am sympathetic to the concerns of the judiciary, and was reluctant to require that district courts implement specific case management guidelines which the judges believe are overly restrictive and sometimes unnecessary.

Accordingly, at subcommittee, I offered an amendment in the nature of a substitute to H.R. 3898, that preserved the essential features of Senator BIDEN's legislation, but was at the same time unobjectionable to the judicial conference. The amendment that I offered retained the six components of expense and delay reduction plans but made their inclusion discretionary with the district courts. The result is a bill which satisfies the concerns raised by the federal judiciary and the American Bar Association, and is deserving of your support.

In closing, I would like to thank the gentleman from California [Mr. MOORHEAD] for his unflagging cooperation in processing this bill. I urge your support for H.R. 3498.

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Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3898 and would like to commend the gentleman from Wisconsin [Mr. KASTENMEIER] on bringing the text of a Civil Justice Reform Act before this House of Representatives. The time constraints and various pressures that he and the committee have operated under have been considerable and to bring this important issue to the House reflects highly on his deep concerns for civil justice.

Last January the gentleman from Wisconsin and I joined as cosponsors on H.R. 3898, the Civil Justice Reform Act introduced by our chairman, the gentleman from Texas [Mr. BROOKS] and the gentleman from New York [Mr. FISH] which was the counterpart to a bill introduced in the other body. Since that time an enormous amount of discussion has occurred in the legal community over nearly every aspect of that bill. Nobody challenges the goals of the bill; namely, to cut cost and delay in civil litigation. However, the bill has engendered strong feelings from bench and bar as to whether some of the provisions of the bill are needed and whether the bill has unduly intruded into the procedural workings that should uniquely be within the domain of the judiciary.

Through very productive negotiations between the other body and the judicial branch the bill has been improved. Despite these improvements, the Judicial Conference at our hearings on September 6, 1990 through testimony delivered by Judge Robert Peckham of the northern district of California, still felt that it could not endorse the legislation. What his testimony all boiled down to was that this was good legislation but to impose every aspect of it on the judicial branch simply could not work. The Department of Justice also expressed some constitutional concerns about the separation of powers. The committee's substitute will take away the mandatory nature of those provisions of the bill, which will also remove the opposition of our Federal judges and the Judicial Conference. This is important legislation and I urge its adoption.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, as an original cosponsor of H.R. 3898, I have followed its progress with considerable interest. Given the pressures that a litigious society continues to place on the administration of justice in the Federal courts, it is important that Congress recognizes the pressing need for procedural reform. We need an expedited discovery process, firm trial dates and the expanded use of alternative dispute resolution mechanisms.

But, the basic issue boils down to whether the provisions contained in H.R. 3898 should be made mandatory for each judiciary district. I know that many of our colleagues in the other body feel strongly that, to be effective, H.R. 3898 must be made mandatory. They may well be right. I think the subcommittee chairman and the ranking Republican have made the right decision in opting to keep the legislation alive, rather than forcing a confrontation with the Federal judiciary on this matter. This is important legislation and hopefully we can work out our differences with the other body in conference. I urge the adoption of H.R. 3898.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 3898, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3898, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

COPYRIGHT AMENDMENTS ACT OF 1990

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5498) to amend title 17, United States Code, relating to computer software, fair use, and architectural works, as amended.

The Clerk read as follows:

H.R. 5498

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Amendments Act of 1990".

TITLE I—COMPUTER SOFTWARE

SEC. 101. SHORT TITLE.

This title may be cited as the "Computer Software Rental Amendments Act of 1990".

SEC. 102. RENTAL OF COMPUTER PROGRAMS.

Section 109(b) of title 17, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by striking paragraph (1) and inserting the following:

"(b)(1)(A) Notwithstanding the provisions of subsection (a), unless authorized by the owners of copyright in the sound recording or the owner of copyright in a computer program (including any tape, disk, or other medium embodying such program), and in the case of a sound recording in the musical works embodied therein, neither the owner of a particular phonorecord nor any person in possession of a particular copy of a computer program (including any tape, disk, or other medium embodying such program), may, for the purposes of direct or indirect commercial advantage, dispose of, or authorize the disposal of, the possession of that phonorecord or computer program (including any tape, disk, or other medium embodying such program) by rental, lease, or lending, or by any other act or practice in the nature of rental, lease, or lending. Nothing in the preceding sentence shall apply to the rental, lease, or lending of a phonorecord for nonprofit purposes by a nonprofit library or nonprofit educational institution. The transfer of possession of a lawfully made copy of a computer program by a nonprofit educational institution to another nonprofit educational institution or to faculty, staff, and students does not constitute rental, lease, or lending for direct or indirect commercial purposes under this subsection.

"(B) This subsection does not apply to—

"(i) a computer program which is embodied in a machine or product and which cannot be copied during the ordinary operation or use of the machine or product; or

"(ii) a computer program embodied in or used in conjunction with a limited purpose computer that is designed for playing video games and may be designed for other purposes.

"(C) Nothing in this subsection affects any provision of chapter 9 of this title.

"(2)(A) Nothing in this subsection shall apply to the lending of a computer program for nonprofit purposes by a nonprofit library, if each copy of a computer program which is lent by such library has affixed to the packaging containing the program a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

"(B) Not later than three years after the date of the enactment of the Computer Software Rental Amendments Act of 1990, and at such times thereafter as the Register of Copyright considers appropriate, the Register of Copyrights, after consultation with representatives of copyright owners and librarians, shall submit to the Congress a report stating whether this paragraph has achieved its intended purpose of maintaining the integrity of the copyright system while providing nonprofit libraries the capability to fulfill their function. Such report shall advise the Congress as to any information or recommendations that the Register of Copyrights considers necessary to carry out the purposes of this subsection."; and

(3) by striking paragraph (4), as redesignated by paragraph (1) of this section, and inserting the following:

"(4) Any person who distributes a phonorecord or a copy of a computer program (including any tape, disk, or other medium embodying such program) in violation of paragraph (1) is an infringer of copyright under section 501 of this title and is subject to the remedies set forth in sections 502, 503, 504, 505, and 509. Such violation shall not be a criminal offense under section 506 or cause such person to be subject to the criminal penalties set forth in section 2319 of title 18.".

SEC. 103. PUBLIC DISPLAY OF ELECTRONIC VIDEO GAMES.

Section 109 of title 17, United States Code, is amended by adding at the end the following:

"(e) Notwithstanding the provisions of sections 106(4) and 106(5), in the case of an electronic audiovisual game intended for use in coin-operated equipment, the owner of a particular copy of such a game lawfully made under this title, is entitled, without the authority of the copyright owner of the game, to publicly perform or display that game in coin-operated equipment, except that this subsection shall not apply to any work of authorship embodied in the audiovisual game if the copyright owner of the electronic audiovisual game is not also the copyright owner of the work of authorship.".

SEC. 104. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) PROSPECTIVE APPLICATION.—Section 109(b) of title 17, United States Code, as amended by section 102 of this Act, shall not affect the right of a person in possession of a particular copy of a computer program, who acquired such copy before the date of the enactment of this Act, to dispose of the possession of that copy on or after such date of enactment in any manner permitted by section 109 of title 17, United States Code, as in effect on the day before such date of enactment.

(c) TERMINATION.—The amendments made by section 102 shall not apply to rentals, leasings, or lendings (or acts or practices in the nature of rentals, leasings, or lendings) occurring on or after October 1, 1997.

SEC. 105. RECORDATION OF SHAREWARE.

(a) IN GENERAL.—The Register of Copyrights is authorized, upon receipt of any document designated as pertaining to computer shareware and the fee prescribed by section 708 of title 17, United States Code, to record the document and return it with a certificate of recordation.

(b) MAINTENANCE OF RECORDS; PUBLICATION OF INFORMATION.—The Register of Copyrights is authorized to maintain current, separate records relating to the recordation of documents under subsection (a), and to compile and publish at periodic intervals information relating to such recordations. Such publications shall be offered for sale to the public at prices based on the cost of reproduction and distribution.

(c) DEPOSIT OF COPIES IN LIBRARY OF CONGRESS.—In the case of public domain computer shareware, at the election of the person recording a document under subsection (a), 2 complete copies of the best edition (as defined in section 101 of title 17, United States Code) of the computer shareware as embodied in machine-readable form may be deposited for the benefit of the Machine-Readable Collections Reading Room of the Library of Congress.

(d) REGULATIONS.—The Register of Copyrights is authorized to establish regulations not inconsistent with law for the administration of the functions of the Register under this section. All regulations established by the Register are subject to the approval of the Librarian of Congress.

TITLE II—ARCHITECTURAL WORKS

SEC. 201. SHORT TITLE.

This title may be cited as the "Architectural Works Copyright Protection Act".

SEC. 202. DEFINITIONS.

(a) ARCHITECTURAL WORKS.—Section 101 of title 17, United States Code, is amended by inserting after the definition of "anonymous work" the following:

"An 'architectural work' is the design of a building as embodied in any tangible medium of expression, including a building, architectural plans, or drawings. The work includes the overall form as well as the arrangement and composition of spaces and elements in the design, but does not include individual standard features.".

(b) BERNE CONVENTION WORK.—Section 101 of title 17, United States Code, is amended in the definition of "Berne Convention work"—

(1) in paragraph (3)(B) by striking "or" after the semicolon;

(2) in paragraph (4) by striking the period and inserting "; or"; and

(3) by inserting after paragraph (4) the following:

"(5) in the case of an architectural work embodied in a building, such building is erected in a country adhering to the Berne Convention.".

SEC. 203. SUBJECT MATTER OF COPYRIGHT.

Section 102(a) of title 17, United States Code, is amended—

(1) in paragraph (6) by striking "and" after the semicolon;

(2) in paragraph (7) by striking the period and inserting "; and"; and

(3) by adding after paragraph (7) the following:

"(8) architectural works.".

SEC. 204. SCOPE OF EXCLUSIVE RIGHTS IN ARCHITECTURAL WORKS.

(a) IN GENERAL.—Chapter 1 of title 17, United States Code, is amended by adding at the end the following:

"§ 120. Scope of exclusive rights in architectural works

"(a) PICTORIAL REPRESENTATIONS PERMITTED.—The copyright in an architectural work that has been constructed does not include the right to prevent the making, distributing, or public display of pictures, paintings, photographs, or other pictorial representations of the work, if the building in which the work is embodied is located in or ordinarily visible from a public place.

"(b) ALTERATIONS TO AND DESTRUCTION OF BUILDINGS.—Notwithstanding the provisions of section 106(2), the owners of a building embodying an architectural work may, without the consent of the author or copyright owner of the architectural work, make or authorize the making of alterations to such building, and destroy or authorize the destruction of such building.".

(b) CONFORMING AMENDMENTS.—(1) The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by adding at the end the following:

"120. Scope of exclusive rights in architectural works.".

(2) Section 106 of title 17, United States Code, is amended by striking "119" and inserting "120".

SEC. 205. PREEMPTION.

Section 301(b) of title 17, United States Code, is amended—

(1) in paragraph (2) by striking "or" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; or"; and

(3) by adding after paragraph (3) the following:

"(4) State and local landmarks, historic preservation, zoning, or building codes, relating to architectural works protected under section 102(a)(8).".

SEC. 206. EFFECTIVE DATE.

The amendments made by this title apply to—

(1) any architectural work created on or after the date of the enactment of this Act; and

(2) any architectural work that, on the date of the enactment of this Act, is unconstructed and embodied in unpublished plans or drawings, except that protection for such architectural work under title 17, United States Code, by virtue of the amendments made by this title, shall terminate on December 31, 2002, unless the work is constructed by that date.

TITLE III—VISUAL ARTISTS RIGHTS

SECTION 301. SHORT TITLE.

This Title may be cited as the "Visual Artists Rights Act of 1990".

SEC. 302. WORK OF VISUAL ART DEFINED.

Section 101 of title 17, United States Code, is amended by inserting after the paragraph defining "widow" the following:

"A 'work of visual art' is—

"(1) a painting, drawing, print, or sculpture, existing in a single copy, in a limited edition of 200 copies or fewer that are signed and consecutively numbered by the author, or, in the case of a sculpture, in multiple cast, carved, or fabricated sculptures of two hundred or fewer that are consecutively numbered by the author and bear the signature or other identifying mark of the author; or

"(2) a still photographic image produced for exhibition purposes only, existing in a single copy that is signed by the author, or in a limited edition of 200 copies or fewer that are signed and consecutively numbered by the author.

A work of visual art does not include—

"(A)(i) any poster, map, globe, chart, technical drawing, diagram, model, applied art, motion picture or other audiovisual work, book, magazine, newspaper, periodical, data base, electronic information service, electronic publication, or similar publication;

"(ii) any merchandising item or advertising, promotional, descriptive, covering, or packaging material or container;

"(iii) any portion or part of any item described in clause (i) or (ii);

"(B) any work made for hire; or

"(C) any work not subject to copyright protection under this title.".

SEC. 303. RIGHTS OF ATTRIBUTION AND INTEGRITY.

(a) RIGHTS OF ATTRIBUTION AND INTEGRITY.— Chapter 1 of title 17, United States Code, is amended by inserting after section 106 the following new section:

"§ 106A. Rights of certain authors to attribution and integrity

"(a) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Subject to section 107 and independent of the exclusive rights provided in section 106, the author of a work of visual art—

"(1) shall have the right—

"(A) to claim authorship of that work, and

"(B) to prevent the use of his or her name as the author of any work of visual art which he or she did not create;

"(2) shall have the right to prevent the use of his or her name as the author of the work of visual art in the event of a distortion, mutilation, or other modification of the work as described in paragraph (3); and

"(3) subject to the limitations set forth in section 113(d), shall have the right to prevent any destruction, distortion, mutilation, or other modification of that work which would be prejudicial to his or her honor or reputation, and which is the result of an intentional or negligent act or omission with respect to that work, and any such destruction, distortion, mutilation, or modification of that work is a violation of that right.

"(b) SCOPE AND EXERCISE OF RIGHTS.—Only the author of a work of visual art has the rights conferred by subsection (a) in that work, whether or not the author is the copyright owner. The authors of a joint work of visual art are coowners of the rights conferred by subsection (a) in that work.

"(c) EXCEPTIONS.—(1) The modification of a work of visual art which is a result of the passage of time or the inherent nature of the materials is not a destruction, distortion, mutilation, or other modification described in subsection (a)(3) unless the modification was the result of gross negligence in maintaining or protecting the work.

"(2) The modification of a work of visual art which is the result of conservation, or of the presentation, including lighting and placement, of the work is not a destruction, distortion, mutilation, or other modification described in subsection (a)(3) unless the modification is caused by gross negligence.

"(3) The rights described in paragraphs (1) and (2) of subsection (a) shall not apply to any reproduction, depiction, portrayal, or other use of a work in, upon, or in any connection with any item described in subparagraph (A) or (B) of the definition of 'work of visual art' in section 101, and any such reproduction, depiction, portrayal, or other use of a work is not a destruction, distortion, mutilation, or other modification described in paragraph (3) of subsection (a).

"(d) DURATION OF RIGHTS.—(1) With respect to works of visual art created on or after the effective date set forth in section 9(a) of the Visual Artists Rights Act of 1990, the rights conferred by subsection (a) shall endure for a term consisting of the life of the author and fifty years after the author's death.

"(2) With respect to works of visual art created before the effective date set forth in section 9(a) of the Visual Artists Rights Act of 1990, but copyright in which has not, as of such effective date, been transferred from the author or, if the author is deceased, from the person or persons to whom copyright in such work passes by bequest of the author or by the applicable laws of interstate succession, the rights conferred by subsection (a) shall be coextensive with, and shall expire at the same time as, the rights conferred by section 106.

"(3) In the case of a joint work prepared by two or more authors, the rights conferred by subsection (a) shall endure for a term consisting of the life of the last surviving author and fifty years after such last surviving author's death.

"(4) All terms of the rights conferred by subsection (a) run to the end of the calendar year in which they would otherwise expire.

"(e) TRANSFER AND WAIVER.—(1) Except as provided in paragraph (2), the rights conferred by subsection (a) may not be transferred, but those rights may be waived if the author expressly agrees to such waiver in a written instrument signed by the author. Such instrument shall specifically identify the work, and uses of that work, to which the waiver applies, and the waiver shall apply only to the work and uses so identified. In the case of a joint work prepared by two or more authors, a waiver of rights under this paragraph made by one such author waives such rights for all such authors.

"(2) After the death of an author, the rights conferred by subsection (a) on the author, and the authority of the author to waive those rights under paragraph (1) of this subsection, shall vest in the person to whom such rights pass by bequest of the author or by the applicable laws of interstate succession.

"(3) Ownership of the rights conferred by subsection (a) with respect to a work of visual art is distinct from ownership of any copy of that work, or of a copyright or any exclusive right under a copyright in that work. Transfer of ownership of any copy of a work of visual art, or of a copyright or any exclusive right under a copyright, shall not constitute a waiver of the rights conferred by subsection (a). Except as may otherwise be agreed by the author in a written instrument signed by the author, a waiver of the rights conferred by subsection (a) with respect to a work of visual art shall not constitute a transfer of ownership of any copy of that work, or of ownership of a copyright or of any exclusive right under a copyright in that work.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by inserting after the item relating to section 106 the following new item:

"106A. Rights of certain authors to attribution and integrity.".

SEC. 304. REMOVAL OF WORKS OF VISUAL ART FROM BUILDINGS.

Section 113 of title 17, United States Code, is amended by adding at the end thereof the following:

"(d)(1) In a case in which—

"(A) a work of visual art has been incorporated in or made part of a building in such a way that removing the work from the building will cause the destruction, distortion, mutilation, or other modification of the work as described in section 106A(a)(3), and

"(B) the author or, if the author is deceased, the person described in section 106A(e)(2), consented to the installation of the work in the building either before the effective date set forth in section 9(a) of the Visual Artists Rights Act of 1990, or in a written instrument executed on or after such effective date that is signed by the owner of the building and the author or such person and that specifies that installation of the work may subject the work to destruction, distortion, mutilation, or other modification, by reason of its removal,

then the rights conferred by paragraphs (2) and (3) of section 106A(a) shall not apply.

"(2) If the owner of a building wishes to remove a work of visual art which is a part of such building and which can be removed from the building without the destruction, distortion, mutilation, or other modification of the work as described in section

106A(a)(3), the author's rights under paragraphs (2) and (3) of section 106A(a) shall apply unless—

"(A) the owner has made a diligent, good faith attempt without success to notify the author or, if the author is deceased, the person described in section 106A(e)(2), of the owner's intended action affecting the work of visual art, or

"(B) the owner did provide such notice in writing and the person so notified failed, within 90 days after receiving such notice, either to remove the work or to pay for its removal.

For purposes of subparagraph (A), an owner shall be presumed to have made a diligent, good faith attempt to send notice if the owner sent such notice by registered mail to the author or, if the author is deceased, to the person described in section 106A(e)(2), at the most recent address, of the author or such person, that was recorded with the Register of Copyrights pursuant to paragraph (3). If the work is removed at the expense of the author or the person described in section 106A(e)(2), title to that copy of the work shall be deemed to be in the author or such person, as the case may be.

"(3) The Register of Copyrights shall establish a system of records whereby any author of a work of visual art that has been incorporated in or made part of a building, or the person described in section 106A(e)(2) with respect to that work, may record their identities and addresses with the Copyright Office. The Register shall also establish procedures under which any such author or person may update the information so recorded, and procedures under which owners of buildings may record with the Copyright Office evidence of their efforts to comply with this subsection.".

SEC. 305. PREEMPTION.

Section 301 of title 17, United States Code, is amended by adding at the end the following:

"(f)(1) On or after the effective date set forth in section 9(a) of the Visual Artists Rights Act of 1990, all legal or equitable rights that are equivalent to any of the rights conferred by section 106A with respect to works of visual art to which the rights conferred by section 106A apply are governed exclusively by section 106A and section 113(d) and the provisions of this title relating to such sections. Thereafter, no person is entitled to any such right or equivalent right in any work of visual art under the common law or statutes of any State.

"(2) Nothing in paragraph (1) annuls or limits any rights or remedies under the common law or statutes of any State with respect to—

"(A) any cause of action from undertakings commenced before the effective date set forth in section 9(a) of the Visual Artists Rights Act of 1990; or

"(B) activities violating legal or equitable rights that are not equivalent to any of the rights conferred by section 106A with respect to works of visual art.".

SEC. 306. INFRINGEMENT ACTIONS.

(a) IN GENERAL.—Section 501(a) of title 17, United States Code, is amended—

(1) by inserting after "118" the following: "or of the author as provided in section 106A(a)"; and

(2) by striking out "copyright." and inserting in lieu thereof "copyright or right of the author, as the case may be. For purposes of this chapter (other than section 506), any reference to copyright shall be deemed to include the rights conferred by section 106A(a).".

(b) EXCLUSION OF CRIMINAL PENALTIES.—Section 506 of title 17, United States Code, is amended by adding at the end thereof the following:

"(f) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Nothing in this section applies to infringement of the rights conferred by section 106A(a).".

(c) REGISTRATION NOT A PREREQUISITE TO SUIT AND CERTAIN REMEDIES.—(1) Section 411(a) of title 17, United States Code, is amended in the first sentence by inserting after "United States" the following: "and an action brought for a violation of the rights of the author under section 106A(a)".

(2) Section 412 of title 17, United States Code, is amended by inserting "an action brought for a violation of the rights of the author under section 106A(a) or" after "other than".

SEC. 307. FAIR USE.

Section 107 of title 17, United States Code, is amended by striking out "section 106" and inserting in lieu thereof "sections 106 and 106A".

SEC. 308. STUDIES BY COPYRIGHT OFFICE.

(a) STUDY ON WAIVER OF RIGHTS PROVISION.—

(1) STUDY.—The Register of Copyrights shall conduct a study on the extent to which rights conferred by subsection (a) of section 106A of title 17, United States Code, have been waived under subsection (e)(1) of such section.

(2) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Register of Copyrights shall submit to the Congress a report on the progress of the study conducted under paragraph (1). Not later than 5 years after such date of enactment, the Register of Copyrights shall submit to the Congress a final report on the results of the study conducted under paragraph (1), and any recommendations that the Register may have as a result of the study.

(b) STUDY ON RESALE ROYALTIES.—

(1) NATURE OF STUDY.—The Register of Copyrights, in consultation with the Chair of the National Endowment for the Arts, shall conduct a study on the feasibility of implementing—

(A) a requirement that, after the first sale of a work of art, a royalty on any resale of the work, consisting of a percentage of the price, be paid to the author of the work; and

(B) other possible requirements that would achieve the objective of allowing an author of a work of art to share monetarily in the enhanced value of that work.

(2) GROUPS TO BE CONSULTED.—The study under paragraph (1) shall be conducted in consultation with other appropriate departments and agencies of the United States, foreign governments, and groups involved in the creation, exhibition, dissemination, and preservation of works of art, including artists, art dealers, collectors of fine art, and curators of art museums.

(3) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Register of Copyrights shall submit to the Congress a report containing the results of the study conducted under this subsection.

SEC. 309. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b) and except as provided in subsection (c), this Act and the amendments made by this Act take effect 6 months after the date of the enactment of this Act.

(b) APPLICABILITY.—The rights created by section 106A of title 17, United States Code, shall apply to—

(1) works created before the effective date set forth in subsection (a) but copyright in which has not, as of such effective date, been transferred from the author or, if the author is deceased, from the person or persons to whom copyright in such work passes by bequest of the author or by the applicable laws of intestate succession, and

(2) works created on or after such effective date,

but shall not apply to any destruction, distortion, mutilation, or other modification (as described in section 106A(a)(3) of such title) of any work which occurred before such effective date.

(c) SECTION 8.—Section 8 takes effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, this afternoon I bring before the House the bill, H.R. 5498, the Copyright Amendments Act of 1990, for purposes of passage. This omnibus copyright reform measure includes two titles, both of which were fully considered by my subcommittee: the Subcommittee on Courts, Intellectual Property, and the Administration of Justice. All in all, H.R. 5498 is a significant piece of intellectual property legislation. A copy of the House report, which explains the bill in great detail, has been made available to the Members.

At the outset, I would like to express appreciation to the members of my subcommittee, particularly the ranking minority member, Mr. MOORHEAD, Mr. SYNAR for his work on computer software rental, and the ranking minority member of the full committee, Mr. FISH.

Let me briefly describe the bill.

Title I relates to computer software rental and owes its genesis to a bill, H.R. 2740, originally introduced by Mr. SYNAR.

Computers have become commonplace in government, our homes and offices, and business enterprises. Software—the technology that makes computers work—is of pivotal importance to the United States, which is the world's leader in this unique form of creativity.

We do not write on a clean legal slate. In 1980 Congress—through efforts of my subcommittee—amended the copyright law to provide a definition of computer program, while at the same time adding certain limita-

tions on computer program copyright owners' rights to protect the public interest. In 1984 we passed legislation crafted by this subcommittee that created a freestanding, or sui generis, protection of 10 years' duration for mask works. As a result of the reciprocity provisions in section 914 of this legislation, the U.S. law became the model for semiconductor chip laws throughout the world. Additionally, in 1984, in response to evidence that the record industry was threatened by rental of phonorecords, we prohibited the direct or indirect commercial rental of phonorecords, while preserving the rights of nonprofit libraries to lend phonorecords to the public.

Last Congress, the United States took a giant step forward in its international intellectual property relations by adhering to the Berne Convention for the Protection of Literary and Artistic Works, the world's premier copyright convention. Adherence was made possible by implementing legislation carefully drafted by my subcommittee after 2 years of hearings.

Earlier this Congress my subcommittee held 2 days of oversight hearings on computers and intellectual property. On July 30, 1990, we had a legislative hearing on computer software and first sale reform. The record of these hearings and the proposed legislation reveal that computer software is not readily pigeonholed as certain literary works—novels and short stories, for example—in our copyright law. Indeed, H.R. 5498 proceeds on the assumption that for purposes of rental software is more analogous to sound recordings. Whatever the analogy—and there are many false ones floating around—my subcommittee will continue during the next Congress to examine the questions that are raging internationally and domestically about intellectual property protection for computer programs.

In short, the work of my subcommittee over the past decade has been intense, focusing on both international considerations, and domestic problems resulting from the continuing introduction of new technologies. Title I of H.R. 5498, like the 1984 Record Rental Amendment, is directed toward a particular domestic problem: the effect that rental of copyright computer programs has on the sales market for such programs. Section 109 of the Copyright Act, which codifies the so-called first sale doctrine, forms the legal basis for resolving the problem.

The first sale doctrine is one of the most important limitations on copyright owners' exclusive rights. Under this doctrine, the owner of a lawfully made copy of a copyrighted work is entitled to sell or otherwise dispose of that copy and to display the copy publicly without the copyright owner's permission. It is this provision in the copyright law that permits a student who purchases an anthology of poetry for a literature class to sell that anthology to a secondhand bookstore, which may in turn sell the copy to the public. A grocery store may purchase copies of video cassettes and rent those copies to its customers. A museum may display a painting it purchases from an art dealer.

Legislation to reform the first sale doctrine frequently arises from a collision course between intellectual property law and technological change, and computer programs are found on this path.

My subcommittee worked hard to reduce definitional uncertainties in the bill and to make other improvements. A substitute amendment was approved to narrow the scope of the proposed legislation, to protect educational activities, establish a shareware recordation system in the Copyright Office, and clarify the right to play video games in public places. The rental reform is subjected to a 7-year legislative sunset.

Title I is supported by the administration, the Copyright Office, and the Software Publishers Association.

The purpose of title II is to amend the Copyright Act in order to protect works of architecture, thereby placing the United States in full compliance with its multilateral treaty obligations as specified in the Berne Convention for the Protection of Literary and Artistic Works. This is accomplished by creating a new category of copyright subject matter for the constructed design of buildings. Title II has received the strong support of the administration, the Copyright Office, the Frank Lloyd Wright Foundation, and the American Institute of Architects.

Title II—which finds its roots in a bill that I introduced (H.R. 3990) with Mr. MOORHEAD—reflects the testimony of witnesses at the hearing held on March 14, 1990 by the subcommittee. It is a consensus piece of legislation without known opposition. Among the many important provisions in title II are those included by the subcommittee to protect the interests of homeowners and the real estate industry. For example, the bill permits owners of buildings embodying a copyrighted architectural work to alter the building in any way, including destroy it. Similarly, the bill ensures that State and local zoning and landmark laws are not preempted. I am pleased to announce that architects, in a spirit of cooperation, agreed to both of these amendments.

Architecture plays a central role in our daily lives, not only as a form of shelter or investment, but also as a work of art. Title II pays appropriate homage to this important art form, and I urge your support of it.

I do want to mention former title II of H.R. 5498, as introduced, which sought to reform the "fair use" doctrine, codified in section 107 of the Copyright Act, as regards unpublished works. By amendment in subcommittee, I deleted title II from the bill as not having adequately jelled. I had hoped that an agreement could be reached between interested parties—authors, publishers and the computer industry—but unfortunately this did not occur. This is an issue of great concern, not only to me, but to authors and publishers as well. Although there are indications that the Federal courts are evolving their approach to the use of unpublished material, this remains an important policy issue for the Congress.

We have added a new title to H.R. 5498. I am pleased to have my colleagues' support on adding the Visual Artists Rights Act. The Visual Artists' Rights Act of 1990 has already passed the House, and we are now adding it to the copyright bill before us. The language of this title is exactly the same as the bill that has previously passed the House and has sent to the Senate.

In conclusion, H.R. 5498 is worthy of your undivided support. I urge an affirmative vote.

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Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I would like to commend the gentleman from Wisconsin. [Mr. KASTENMEIER] and the gentleman from Oklahoma [Mr. SYNAR] for their leadership in bringing H.R. 5498 to the floor.

Intellectual property accounts for a very large share of American exports. But because these works are inadequately protected in many parts of the world, the U.S. international trade commission estimates that copyright holders lose almost $25 billion a year in income. Losses suffered by writers, artists, computer software creators, and others are important not only to those individuals but to the country as well, because they affect the balance of trade. Royalties paid to the U.S. film and video industry alone, for example, account for a net $1 billion surplus in the balance.

The potential loss to the U.S. economy should the rental of software become anymore widespread can be seen clearly when we look to the losses suffered by the U.S. software developers by virtue of their inability to restrict commericial copying of their products in many foreign market. The office of the U.S. Trade Representative has estimated losses to U.S. software developers due to inadequate copyright protecton to be approximately $4.1 billion a year.

Section 103 of title I is very narrowly drawn to apply only to the videogames

that are sold exclusively for use in arcades. The committee by amendment made clear that it would not apply to other copyrighted works, for example, motion pictures, records, or books.

I also want to commend the gentleman from Wisconsin for his support on title II, a design protection bill. I believe that given the opportunity, we can make a strong case for limited protection of certain other types of design.

Architectural design is an important area where I think Congress needs to make a statement to bring this more in line with the Berne Treaty. This legislation has been carefully crafted to ensure that title II, in no way, incorporates directly or indirectly, so-called moral or noneconomic rights into the Copyright Act.

I believe that at a minimum we should provide the equivalent kind of protection to our American designers and architects as is provided to their counterparts in foreign countries.

At the same time this legislation is sensitive to long established practices and traditions among architects and others in the building industry.

I urge support for H.R. 5498.

Mr. Speaker, I yield such time as he may consume to our ranking member, the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, I would like to commend the gentleman from Wisconsin and the gentleman from California for their work on this legislation—which is intended to provide much needed protection for the computer software industry and the designers of architectural works.

The explosion in the development and use of computers and computer programs has given rise to legitimate concerns about protecting the intellectual property rights of the software creators and manufacturers. Widespread illegal copying of programs, facilitated through inexpensive rentals, will seriously damage software producers' revenue base and reduce the financial incentive to create new programs. It is important to note that the United States currently holds 70 percent of the world market in software sales. So, there is a significant balance of trade aspect to this problem as well.

In the wake of the Berne adherence legislation of the last Congress, we asked the Copyright Office to conduct a study of the architectural works protection issue. In response, the Register of Copyrights concluded that while architectural blueprints, plans, drawings, and models are adequately protected by U.S. copyright law, the adequacy of protection under Berne convention standards for the constructed design of architectural structures remains in doubt. Title II of H.R. 5498 places the United States unequivocally in compliance with its Berne obligations.

Mr. Speaker, this is needed legislation and we are acting quickly here today to prevent what could become a serious problem for the computer and architectural design industries.

I urge support for H.R. 5498.

Mr. KASTENMEIER. Mr. Speaker, I yield 3 minutes to the author of the original software computer rental provisions, the gentleman from Oklahoma [Mr. SYNAR], a member of the committee.

Mr. SYNAR. Mr. Speaker, the impetus for changes in copyright law occur primarily because of economic and technological change. Restricting consumer access to copyrighted materials should be done only in cases where the testimony and documentation establishes a number of cumulative facts which mandate the change. With respect to the computer software covered by this bill, however, I have been persuaded that the case has been made for these restrictions.

Having been around for the debate both on audio and video works, I am conscious of the need for careful consideration and for the need of an adequate record which justifies such a change. The software industry is faced with a threat similar to that faced by the record industry 5 years ago. Copying of software packages is even more easily accomplished than that of records and could seriously damage the computer industry and reduce innovation in this critical industry.

This bill addresses this problem while taking into account the needs of the educational and library community to have access to these materials. I urge you to support H.R. 5498.

Mr. MARKEY. Mr. Speaker, the bill before us today, H.R. 5498, includes a title that incorporates H.R. 2690, the Visual Artists' Rights Act of 1990. This is a new milestone for American artists which has reached the House floor only through the hard work of many people. As the original sponsor of H.R. 2690, I would particularly like to commend the gentleman from Wisconsin, Chairman KASTENMEIER, for his assiduous work on the legislation as well as the ranking minority member of the subcommittee, Representative MOORHEAD. I am proud to have both Chairman KASTENMEIER and Representative MOORHEAD as cosponsors of the legislation.

I first introduced the Visual Artists' Rights Act in the 100th Congress in order to fill a gap in copyright law by recognizing that artists who work in painting, drawing, and sculpture are intellectual authors who deserve protection for their works, just as do authors of novels, plays, and songs. This was the House companion to S. 1619, introduced by Senator KENNEDY.

The issue of visual artists' rights has come of age in America. As the art historian Helen Gardner said:

> A work of art * * * is a form created by the artist out of human experience. At the same time it has a cultural context. It exists in time, and its form reflects the forces of that time—social, economic, political, and religious.

Or, more concisely, Harold Clurman once stated:

> Man is in this world to do more than pay taxes and brush his teeth—and that is where the arts come in * * *.

There is an unfortunate problem, however, in that too often a work is treated simply as a physical piece of property, rather than as an intellectual work, like a novel. But artworks are intellectual expressions, not just physical property. It is time that visual artists receive the fundamental copyright protection for the integrity of their work already provided to authors.

Indeed, it is paramount to the very integrity of our culture that we preserve the integrity of our art works as expressions of the creativity of the artist. This bill recognizes that title to the soul of an art work does not pass with the sale of the art work itself.

The Visual Artists' Rights Act would give artists the right to claim authorship of their works; to disclaim authorship of a distorted or mutilated work; and to bring a civil copyright claim for willful destruction or mutilation of their works. This bill precisely defines the types of art works that will be covered, extending legal protections to include limited editions of 200 copies or fewer of paintings, drawings, prints, scultures, and still photographs. Furthermore, this bill explicitly excludes from coverage any motion picture, video or other audio-visual work, poster, periodical, book, electronic publication, advertising item, or any work made for hire.

The bill now differs from the one that I introduced in the 100th Congress in one significant respect in that it calls for a feasibility study of resale royalties for certain works of art instead of a resale royalty provision. This represents a compromise to meet previous objections and permits this artists rights legislation to proceed without controversy. The House passed H.R. 2690 earlier this year on suspension, and is being offered again today in the hope that we may expedite Senate consideration of this legislation in the few days remaining in this Congress.

In 1987, at the time I first offered the bill, an example of irretrievable and irreparable damage had recently occurred—damage which passage of the bill we are discussing today will protect against.

Two mail-order entrepreneurs bought a Picasso print entitled "Three Women." They cut this Picasso into 500 pieces, each 1-inch square, to be sold at $135 apiece, complete with a certificate of authenticity and a 30-day money back guarantee. They placed newspaper ads which read:

> Yes, your very own beautiful framed Picasso piece, in the most original and exciting offer * * * and you can own a piece of the work yourself.

One of these entrepreneurs was quoted as saying:

> If this thing takes off, we may buy other masters as well and give them the chop.

We don't want profiteers roaming the world giving artistic masterpieces the chop.

Unquestionably, none of us would like to see our name attached to intellectual works presented to the public in an altered or muti-

lated form. This is the moral standard that H.R. 2690 upholds.

The legislation addresses this gap in copyright law by recognizing that, as original expressions of the artists' creativity, works of visual fine art embody intellectual property which can and should be protected by copyright law.

A work of art is not a utilitarian object like a toaster. It is an intellectual work like a song, a novel or a poem. We must not permit the connection between the artist and his or her work to be severed the first time the work is sold.

It is important to realize that moral rights laws already have been enacted in several States, including California, New York, Massachusetts, and others, thereby already affecting the major art markets of New York, Boston, and Los Angeles.

However, copyright protection is properly a matter for the Federal Government, and Federal law on moral rights would be far preferable to a hodge-podge of State statutes.

In fact, as of March 1, 1989, the United States joined the Berne Convention for the protection of literary and artistic works. As a result, copyright in the works of U.S. authors are now protected automatically in all member nations of the Berne union. Similarly, works of foreign authors who are nationals of a Berne union country and works first published in a Berne union country are automatically protected in the United States.

Because our adherence to the Berne Convention does not specifically incorporate visual artists rights, I believe it is all the more appropriate and timely to enact Federal legislation establishing these rights for visual artists.

It is also important to recognize that this legislation is limited to a class of copyrighted works that is unique and clearly distinguishable from every other class of copyrighted material. The specific language of the bill addresses only works of which there is no multiplicity. Thus, the bill is not applicable to forms such as video tapes, for the damage to one tape ruins only that particular copy.

In the last part of the 20th century, the United States has become the financial, political, and intellectual capital of the world. We also have become the arts capital of the world. With that leading status comes the responsibility for fostering, protecting and encouraging the arts. As Hugh Trevor Roper said:

Art and literature are the true witness of all history that is worth preserving: they are the spiritual deposit which reminds us that we are the heirs of a living civilization.

I believe that the bill before you is a solid step in that direction, and I urge your support.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER] that the House suspend the rules and pass the bill (H.R. 5498), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 198), to amend title 17, United States Code, the Copyright Act to protect certain computer programs.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 198

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Computer Software Rental Amendments Act of 1989".

SEC. 2. Section 109(b) of title 17, United States Code, is amended by—

(1) amending paragraph (1) to read as follows:

"(b)(1)(A) Notwithstanding the provisions of subsection (a), unless authorized by the owners of copyright in the sound recording or the owner of copyright in a computer program (including any tape, disk, or other medium embodying such program), and in the case of a sound recording in the musical works embodied therein, neither the owner of a particular phonorecord nor any program any person in possession of a particular copy of a computer program (including any tape, disk, or other medium embodying such program), may, for the purposes of direct or indirect commercial advantage, dispose of, or authorize the disposal of, the possession of that phonorecord or computer program (including any tape, disk, or other medium embodying such program) by rental, lease, or lending, or by any other act or practice in the natural of rental, lease, or lending. Nothing in the preceding sentence shall apply to the rental, lease, or lending of a phonorecord for nonprofit purposes, by a nonprofit library or nonprofit educational institution. The transfer of possession of a lawfully made copy of a computer program by a nonprofit educational institution to another nonprofit educational institution or to faculty, staff and students does not constitute rental, lease or lending for direct or indirect commercial purposes under this Act.

"(B) The term 'computer program', for purposes of this subsection, does not include any computer program embodied in electronic circuitry which is contained in, or used in conjuction with, a limited purpose computer designed primarily for playing home video games.";

(2) redesignating paragraphs (2) and (3), as paragraph (3) and (4), respectively;

(3) inserting between paragraph (1) and paragraph (3), as redesignated herein, the following:

"(2)(A) Nothing in this subsection shall apply to the lending of a computer program by a nonprofit library, providing that each copy of a copyrighted computer program which is lent by such library shall have affixed to the packaging containing the program the following notice:

"WARNING: THIS COMPUTER PROGRAM IS PROTECTED UNDER THE COPYRIGHT LAW. MAKING A COPY OF THIS PROGRAM WITHOUT PERMISSION OF THE COPYRIGHT OWNER IS PROHIBITED. ANYONE COPYING THIS PROGRAM WITHOUT PERMISSION OF THE COPYRIGHT OWNER MAY BE SUBJECT TO PAYMENT OF UP TO $100,000 DAMAGES AND, IN SOME CASES, IMPRISONMENT FOR UP TO ONE YEAR.

"(B) Three years after the effective date of this paragraph, and at such times subsequently as he or she may deem appropriate, the Register of Copyrights, after consultation with representatives of copyright owners and librarians, shall submit to the Congress a report stating whether the provisions of this paragraph have achieved the intended purpose of maintaining the integrity of the copyright system while providing nonprofit libraries the capability to fulfill their function. Such report shall advise the Congress as to any information or recommendations the Register of Copyrights shall deem necessary to effectuate the purposes of this Act."; and

(4) amending paragraph (4) to read as follows:

"(4) Any person who distributes a phonorecord or a copy of a computer program (including any tape, disk, or other medium embodying such program) in violation of clause (1) is an infringer of copyright under section 501 of this title and is subject to the remedies set forth in sections 502, 503, 504, 505, and 509. Such violation shall not be a criminal offense under section 506 or cause such person to be subject to the criminal penalties set forth in section 2319 of title 18.".

MOTION OFFERED BY MR. KASTENMEIER

Mr. KASTENMEIER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. KASTENMEIER moves to strike out all after the enacting clause of the Senate bill, S. 198, and to insert in lieu thereof the text of H.R. 5498, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend title 17, United States Code, relating to computer software, fair use, and architectural works."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5498) was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5498 and S. 198, the bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

RADIATION EXPOSURE COMPENSATION ACT

Mr. FRANK. Mr. Speaker, I move to suspend the rules and concur in the

Senate amendment to the bill (H.R. 2372) to provide jurisdiction and procedures for claims for compassionate payments for injuries due to exposure to radiation from nuclear testing.

The Clerk read as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radiation Exposure Compensation Act".

SEC. 2. FINDINGS, PURPOSE, AND APOLOGY.

(a) FINDINGS.—The Congress finds that—

(1) fallout emitted during the Government's above-ground nuclear tests in Nevada exposed individuals who lived in the downwind affected area in Nevada, Utah, and Arizona to radiation that is presumed to have generated an excess of cancers among these individuals;

(2) the health of the individuals who were unwitting participants in these tests was put at risk to serve the national security interests of the United States;

(3) radiation released in underground uranium mines that were providing uranium for the primary use and benefit of the nuclear weapons program of the United States Government exposed miners to large doses of radiation and other airborne hazards in the mine environment that together are presumed to have produced an increased incidence of lung cancer and respiratory diseases among these miners;

(4) the United States should recognize and assume responsibility for the harm done to these individuals; and

(5) the Congress recognizes that the lives and health of uranium miners and of innocent individuals who lived downwind from the Nevada tests were involuntarily subjected to increased risk of injury and disease to serve the national security interests of the United States.

(b) PURPOSE.—It is the purpose of this Act to establish a procedure to make partial restitution to the individuals described in subsection (a) for the burdens they have borne for the Nation as a whole.

(c) APOLOGY.—The Congress apologizes on behalf of the Nation to the individuals described in subsection (a) and their families for the hardships they have endured.

SEC. 3. TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States, a trust fund to be known as the "Radiation Exposure Compensation Trust Fund" (hereinafter in this Act referred to as the "Fund"), which shall be administered by the Secretary of the Treasury.

(b) INVESTMENT OF AMOUNTS IN THE FUND.—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from any such investment shall be credited to and become a part of the Fund.

(c) AVAILABILITY OF THE FUND.—Amounts in the Fund shall be available only for disbursement by the Attorney General under section 6.

(d) TERMINATION.—The Fund shall terminate not later than the earlier of the date on which an amount has been expended from the Fund which is equal to the amount authorized to be appropriated to the Fund by subsection (e), and any income earned on such amount, or 22 years after the date of the enactment of this Act. If all of the amounts in the Fund have not been expended by the end of that 22-year period, investments of amounts in the Fund shall be liquidated and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund $100,000,000. Any amounts appropriated pursuant to this section are authorized to remain available until expended.

SEC. 4. CLAIMS RELATING TO OPEN AIR NUCLEAR TESTING.

(a)(1) CLAIMS RELATING TO CHILDHOOD LEUKEMIA.—Any individual who was physically present in the affected area for a period of at least 1 year during the period beginning on January 21, 1951, and ending on October 31, 1958, or was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962, and who submits written medical documentation that he or she, after such period of physical presence and between 2 and 30 years of first exposure to the fallout, contracted leukemia (other than chronic lymphocytic leukemia), shall receive $50,000 if—

(A) initial exposure occurred prior to age 21,

(B) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

(C) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

(2) CLAIMS RELATING TO SPECIFIED DISEASES.—Any individual who was physically present in the affected area for a period of at least 2 years during the period beginning on January 21, 1951, and ending on October 31, 1958, or was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962, and who submits written medical documentation that he or she, after such period of physical presence, contracted a specified disease, shall receive $50,000 if—

(A) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

(B) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

Payments under this section may be made only in accordance with section 6.

(b) DEFINITIONS.—For purposes of this section, the term—

(1) "affected area" means—

(A) in the State of Utah, the counties of Washington, Iron, Kane, Garfield, Sevier, Beaver, Millard, and Piute;

(B) in the State of Nevada, the counties of White Pine, Nye, Lander, Lincoln, Eureka, and that portion of Clark County that consists of townships 13 through 16 at ranges 63 through 71; and

(C) that part of Arizona that is north of the Grand Canyon and west of the Colorado River; and

(2) "specified disease" means leukemia (other than chronic lymphocytic leukemia), provided that initial exposure occurred after the age of 20 and the onset of the disease was between 2 and 30 years of first exposure, and the following diseases, provided onset was at least 5 years after first exposure: multiple myeloma, lymphomas (other than Hodgkin's disease), and primary cancer of: the thyroid (provided initial exposure occurred by the age of 20), female breast (provided initial exposure occurred prior to age 40), esophagus (provided low alcohol consumption and not a heavy smoker), stomach (provided initial exposure occurred before age 30), pharynx (provided not a heavy smoker), small intestine, pancreas (provided not a heavy smoker and low coffee consumption), bile ducts, gall bladder, or liver (except if cirrhosis or hepatitis B is indicated).

SEC. 5. CLAIMS RELATING TO URANIUM MINING.

(a) ELIGIBILITY OF INDIVIDUALS.—Any individual who was employed in a uranium mine located in Colorado, New Mexico, Arizona, Wyoming, or Utah at any time during the period beginning on January 1, 1947, and ending on December 31, 1971, and who, in the course of such employment—

(1)(a) if a nonsmoker, was exposed to 200 or more working level months of radiation and submits written medical documentation that he or she, after such exposure, developed lung cancer, or

(b) if a smoker, was exposed to 300 or more working level months of radiation and cancer incidence occurred before age 45 or was exposed to 500 or more working level months of radiation, regardless of age of cancer incidence, and submits written medical documentation that he or she, after such exposure, developed lung cancer; or

(2)(a) if a nonsmoker, was exposed to 200 or more working level months of radiation and submits written medical documentation that he or she, after such exposure, developed a nonmalignant respiratory disease, or

(b) if a smoker, was exposed to 300 or more working level months of radiation and the nonmalignant respiratory disease developed before age 45 or was exposed to 500 or more working level months of radiation, regardless of age of disease incidence, and submits written medical documentation that he or she, after such exposure, developed a nonmalignant respiratory disease,

shall receive $100,000, if—

(A) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

(B) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

Payments under this section may be made only in accordance with section 6.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "working level month of radiation" means radiation exposure at the level of one working level every work day for a month, or an equivalent exposure over a greater or lesser amount of time;

(2) the term "working level" means the concentration of the short half-life daughters of radon that will release (1.3×10^5) million electron volts of alpha energy per liter of air;

(3) the term "nonmalignant respiratory disease" means fibrosis of the lung, pulmonary fibrosis, and corpulmonale related to fibrosis of the lung; and if the claimant, whether Indian or non-Indian, worked in an uranium mine located on or within an Indian Reservation, the term shall also include moderate or severe silicosis or pneumoconiosis; and

(4) the term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, that is recognized as eligible for special programs and services provided by the United States to Indian tribes because of their status as Indians.

SEC. 6. DETERMINATION AND PAYMENT OF CLAIMS.

(a) ESTABLISHMENT OF FILING PROCEDURES.—The Attorney General shall establish procedures whereby individuals may submit claims for payments under this Act.

(b) DETERMINATION OF CLAIMS.—

(1) IN GENERAL.—The Attorney General shall, in accordance with this subsection, determine whether each claim filed under this Act meets the requirements of this Act.

(2) CONSULTATION.—The Attorney General shall—

(A) in consultation with the Surgeon General, establish guidelines for determining what constitutes written medical documentation that an individual contracted a specified disease under section 4 or other disease specified in section 5; and

(B) in consultation with the Director of the National Institute for Occupational Safety and Health, establish guidelines for determining what constitutes documentation that an individual was exposed to the working level months of radiation under section 5.

The Attorney General may consult with the Surgeon General with respect to making determinations pursuant to the guidelines issued under subparagraph (A), and with the Director of the National Institute for Occupational Safety and Health with respect to making determinations pursuant to the guidelines issued under subparagraph (B).

(c) PAYMENT OF CLAIMS.—

(1) IN GENERAL.—The Attorney General shall pay, from amounts available in the Fund, claims filed under this Act which the Attorney General determines meet the requirements of this Act.

(2) OFFSET FOR CERTAIN PAYMENTS.—A payment to an individual, or to a survivor of that individual, under this section on a claim under section 4 or 5 shall be offset by the amount of any payment made pursuant to a final award or settlement on a claim (other than a claim for worker's compensation), against any person, that is based on injuries incurred by that individual on account of—

(A) exposure to radiation, from open air nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during any period specified in section 4(a), or

(B) exposure to radiation in a uranium mine at any time during the period described in section 5(a).

(3) RIGHT OF SUBROGATION.—Upon payment of a claim under this section, the United States Government is subrogated for the amount of the payment to a right or claim that the individual to whom the payment was made may have against any person on account of injuries referred to in paragraph (2).

(4) PAYMENTS IN THE CASE OF DECEASED PERSONS.—

(A) IN GENERAL.—In the case of an individual who is deceased at the time of payment under this section, such payment may be made only as follows:

(i) If the individual is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

(ii) If there is no surviving spouse described in clause (i), such payment shall be made in equal shares to all children of the individual who are living at the time of payment.

(iii) If there is no surviving spouse described in clause (i) and if there are no children described in clause (ii), such payment shall be made in equal shares to the parents of the individual who are living at the time of payment.

(iv) If there is no surviving spouse described in clause (i), and if there are no children described in clause (ii) or parents described in clause (iii), such payment shall be made in equal shares to all grandchildren of the individual who are living at the time of payment.

(v) If there is no surviving spouse described in clause (i), and if there are no children described in clause (ii), parents described in clause (iii), or grandchildren described in clause (iv), then such payment shall be made in equal shares to the grandparents of the individual who are living at the time of payment.

(B) INDIVIDUALS WHO ARE SURVIVORS.—If an individual eligible for payment under section 4 or 5 dies before filing a claim under this Act, a survivor of that individual who may receive payment under subparagraph (A) may file a claim for such payment under this Act.

(C) DEFINITIONS.—For purposes of this paragraph—

(i) the "spouse" of an individual means a wife or husband of that individual who was married to that individual for at least one year immediately before the death of that individual;

(ii) a "child" includes a recognized natural child, a stepchild who lived with an individual in a regular parent-child relationship, and an adopted child;

(iii) a "parent" includes fathers and mothers through adoption;

(iv) a "grandchild" of an individual is a child of a child of that individual; and

(v) a "grandparent" of an individual is a parent of a parent of that individual.

(d) ACTION ON CLAIMS.—The Attorney General shall complete the determination on each claim filed in accordance with the procedures established under subsection (a) not later than twelve months after the claim is so filed.

(e) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—The acceptance of payment by an individual under this section shall be in full satisfaction of all claims of or on behalf of that individual against the United States, or against any person with respect to that person's performance of a contract with the United States, that arise out of exposure to radiation, from open air nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during any period described in section 4(a), or exposure to radiation in a uranium mine at any time during the period described in section 5(a).

(f) ADMINISTRATIVE COSTS NOT PAID FROM THE FUND.—No costs incurred by the Attorney General in carrying out this section shall be paid from the Fund or set off against, or otherwise deducted from, any payment under this section to any individual.

(g) TERMINATION OF DUTIES OF ATTORNEY GENERAL.—The duties of the Attorney General under this section shall cease when the Fund terminates.

(h) CERTIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.—Amounts paid to an individual under this section—

(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

(i) USE OF EXISTING RESOURCES.—The Attorney General should use funds and resources available to the Attorney General to carry out his or her functions under this Act.

(j) REGULATORY AUTHORITY.—The Attorney General may issue such regulations as are necessary to carry out this Act.

(k) ISSUANCE OF REGULATIONS, GUIDELINES, AND PROCEDURES.—Regulations, guidelines, and procedures to carry out this Act shall be issued not later than 180 days after the date of the enactment of this Act.

SEC. 7. CLAIMS NOT ASSIGNABLE OR TRANSFERABLE; CHOICE OF REMEDIES.

(a) CLAIMS NOT ASSIGNABLE OR TRANSFERABLE.—No claim cognizable under this Act shall be assignable or transferable.

(b) CHOICE OF REMEDIES.—No individual may receive payment under both sections 4 and 5 of this Act.

SEC. 8. LIMITATIONS ON CLAIMS.

A claim to which this Act applies shall be barred unless the claim is filed within 20 years after the date of the enactment of this Act.

SEC. 9. ATTORNEY FEES.

Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the claim of an individual under this Act, more than 10 per centum of a payment made under this Act on such claim. Any such representative who violates this section shall be fined not more than $5,000.

SEC. 10. CERTAIN CLAIMS NOT AFFECTED BY AWARDS OF DAMAGES.

A payment made under this Act shall not be considered as any form of compensation or reimbursement for a loss for purposes of imposing liability on any individual receiving such payment, on the basis of such receipt, to repay any insurance carrier for insurance payments, or to repay any person on account of worker's compensation payments; and a payment under this Act shall not affect any claim against an insurance carrier with respect to insurance or against any person with respect to worker's compensation.

SEC. 11. BUDGET ACT.

No authority under this Act to enter into contracts or to make payments shall be effective in any fiscal year except to such extent or in such amounts as are provided in advance in appropriations Acts.

SEC. 12. REPORT.

(a) The Secretary of Health and Human Services shall submit a report on the incidence of radiation related moderate or severe silicosis and pneumoconiosis in uranium miners employed in the uranium mines that are defined in section 5 and are located off of Indian reservations.

(b) Such report shall be completed not later than September 30, 1992.

The SPEAKER pro tempore. Is a second demanded?

Mr. JAMES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Florida [Mr. JAMES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

We are revisiting this bill. The House passed it earlier this year. The Senate took it up, made some changes,

and it is now back from the Senate. The Senate version was a compromise involving several Members in the Senate. It is the judgment of those who care strongly about this bill that given the inherent difficulty of passing anything through the U.S. Senate, it would be well for Members to concur and not send it back. That is what we propose to do. The differences are not major. The principles remain the same.

This first came to my attention at a conversation I had with the gentleman from Utah [Mr. OWENS], who sits here and who will be speaking, and who has been on this side and I believe in the Congress as a whole, the major proponent of this bill. He was the one who called my attention to it, and marshaled the evidence that convinced all Members that an injustice had been done. Not out of intent, but an injustice had been done, to two groups of people.

□ 1430

One group was miners who provided uranium when this country very much needed it for its national security from 1947 to 1971. They were sent into the mines without even the slightest protection against the material they were being forced to mine—not forced, they were there voluntarily to earn a living, but that they were being asked to mine.

Second, we have people who lived in areas very close to nuclear testsites. We now know that nuclear radiation can be dangerous. Earlier we did not know. At some point we probably knew and were not acting on the information in sufficient time, American citizens going about their business of living, working, raising families, were exposed to radiation in degress that we would not allow now.

I should point out that in both cases we are dealing with groups of people who would not by today's standards be treated anything like this.

This is an example of what we do from time to time, and I think it is something of which we should be proud. We admit mistakes. We are a great Nation, a Nation that is the envy of most of the rest of the world, and justly so, but we are not a perfect society and from time to time we make mistakes.

We are here saying that as a Nation in the dangerous and difficult postwar period confronted with a brandnew technology, feeling very much threatened, needing that technology, we felt, I think accurately for our defense, we acted hastily. We acted with insufficient knowledge, and as a result many of our fellow citizens became ill. That was not a malign act on the part of anybody, but it is an act which we as a just and gracious society ought to try to remedy the best that we can. Obviously we can never restore people's health that was lost.

This legislation, after careful discussion and negotiation, essentially says if you can show that you were in the mines, if you can show that you were downwind from the radiation and you now have certain illnesses, we are prepared to compensate you.

There are details, not everyone is happy entirely with it, I have had conversations with the administration that indicate that while they preferred in some ways what we did, are prepared to accept this. A number of Members participated. A number of Members called it to our attention. I think it was the gentleman from Wyoming who first called to our attention the justice of including this own State. We were pleased when he pointed that out to concur. That is one of the amendments the Senate made, to include Wyoming. We have done that.

This is a bill that I think speaks to the essential fairness of this society. It recognizes that we made mistakes 40 years ago or more in our haste and in our sense of insecurity dealing with a new technology, and we are doing what I think is a compassionate thing.

We should note that among those who were most heavily impacted by this in the mining areas, particularly the Navajo Indians, they very patriotically responded to this Nation's need and we think it is only fair that today we recognize what they have done.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2372, the Radiation Exposure Compensation Act. Although the version of the bill before us today varies slightly from that which was passed by the House on June 5, I believe that it represents an effective compromise. Therefore, I intend to continue suit and support this legislation here today as I have in the past.

Mr. Speaker, I realize that this bill, as amended by the Senate, does include additional requirements for compensation. In this light, I would like to commend our colleagues in the Senate for their attempt to address the lack of a requirement for proof of causation in the original House-passed bill. As many of you know, I, too, had some difficulty with the vagueness in the House-passed bill for this very reason. And while the amended version seeks to include new eligibility requirements for coverage, as well as additional specific requirements for six of the diseases, I do not believe that it fails to recognize those individuals who were sacrificed in the name of our national security. Mr. Speaker, H.R. 2372 as amended continues to represent a compassionate response from our Government.

I firmly believe that the time has come for our Government to recompense those who were affected by the nuclear testing in the West as well as those who were affected by working in the uranium mines to provide this Nation with uranium for its defense efforts. While this legislation cannot undo the damage, I believe that H.R. 2372 is a step in the right direction. Therefore, I will support this bill and look forward to its speedy enactment.

Mr. FRANK. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. OWENS], who has been not only the main sponsor of this bill, but its most faithful and skillful advocate.

Mr. OWENS of Utah. Mr. Speaker, I am very grateful that this moment has arrived and very grateful to the committee chairman, the gentleman from Massachusetts [Mr. FRANK] who undertook to complete this bill, when he first came to understand the gross inequities and injustices that it addresses, and to Chairman BROOKS as well and to the gentleman from Florida [Mr. JAMES], I express my genuine appreciation.

I have prepared remarks which I will insert in the RECORD.

I undertook 12 years ago as an attorney to represent the people whose wrongs are addressed in this bill. It has been an amazing experience to win a case in court at the district level and then be turned down on appeal because the Government does not deal with these kinds of injustices, so the court said, under the Federal Tort Claims Act.

We inherited, of course, sovereign immunity from England, from Great Britain, and this is one of the oddities still in the law, that here we find causation by negligence of the Federal Government, but here we find that although justice cries out for redress, there is an inability under the law to provide it.

The courts in turning this case down said that there is justice needed and deserved here, but it is for the Congress to address it, rather than the courts.

So when I came to Congress 4 years ago, returned to Congress, I resigned obviously as counsel for the good people and became their advocate.

So it has been a great rewarding experience to have been able to enlist people like the gentleman from Massachusetts [Mr. FRANK] and the gentleman from Texas [Mr. BROOKS] and many others in this cause and work closely with the junior Senator of my State, Senator HATCH, in working in legislative language which could be accepted across the board and which today with this vote we send to the President for his signature.

It has been an emotional experience, because here were the good people, the victims of the cold war. It seems so appropriate, Mr. Speaker, that as we have watched in wonder over the last

12 to 15 months at the demise of the cold war that now we come and compensate the American victims of the cold war who were the downwinders from the atomic testing and the miners who mined the uranium to fuel those bombs that were being produced. They did so willingly. The fervor of the early fifties was such that we were racing against the Soviet Union for preeminence in the atomic and nuclear fields, and these good people in southern Utah, Arizona, and Nevada, really felt that they were making a contribution, a sacrifice which was assisting their Government and they felt very patriotic about it.

I was a high school student in this area and watched these early morning blasts. I know how patriotic and helpful that the citizens felt; but the Government knew, Mr. Speaker, that these people were being poisoned by nuclear fallout. The evidence is very clear, and as the gentleman from Massachusetts has said, the increased incidence of cancer has affected the downwind victims.

Amazingly, no bomb test before we went to underground testing in 1963 and no bomb test since we went underground in 1953 has been fired when the wind was blowing anywhere except to Utah and to northern Nevada and Arizona. Whenever the wind was blowing toward California and Las Vegas, the tests were not conducted, and that principle remains in practice today. The decision was made that there are fewer people who live in this direction. Therefore, the bombs shall be in essence aimed at them.

So in very real fact, Mr. Speaker, the Federal Government made the decision to bomb the people to whom this bill makes an apology today and a compensatory payment of a small amount.

□ 1440

So it is a great experience to have been so long and so deeply involved in this legislation and to see it being passed today and to send it to the White House with an apology to these good people and with this payment, which is a compassionate payment only.

Mr. Speaker, I express again deep appreciation to the gentleman from Massachusetts [Mr. FRANK] for carrying this banner

Mr. Speaker, by all accounts, the cold war is over. But the victims of that national struggle continue to suffer. The cold war did not take lives on the steppes of Russia but it did take casualties in the deserts and uranium mines of the American West. And its combatants died and continue to die of cancers inflicted on that western battlefield.

For 11 years, from 1951 to 1962, the desert wind that swept across the mesas of Nevada, Arizona, and Utah carried with it the fallout from open air atomic testing, sowing seeds of sickness and death which were often not manifest for many years. Between 1947 and 1971, uranium miners in Utah, New Mexico, Arizona, Wyoming, and Colorado raced with patriotic fervor against the Soviet nuclear program, unknowingly working in conditions that were sure to shorten their lives. In our haste to prepare ourselves for the war no one wanted, we made involuntary sacrifices of our own people, downwinders and miners alike.

Open air atomic tests would not be conducted unless the wind was blowing away from Los Angeles and Las Vegas and that practice continues to this day with underground nuclear tests. Instead, tests are held until winds blow toward "low-use segments of the population," a dehumanizing and callous euphemism used by the Government to describe the very real people of Utah, Arizona, and Nevada. Despite the Government's repeated assurances that the radioactive cloud was harmless, certain cancers associated with radiation arose at a rate up to four times the national average.

Below the ground, absolute proof shows that uranium miners were exposed to radiation levels so high that the Federal Government knew—but did not reveal—that the radiation would cause almost certain death and disease. The Government which could have mitigated these dangerous conditions did not do so, and the predictable outcome occurred. As an Arizona Federal district court concluded:

The weight of the evidence leaves no doubt that the respiratory tract and lung cancers were caused by excessive exposure to radon in the underground uranium mines.

The House, of course has already passed this bill and already endorsed the justice of this attempt to apologize and compensate these people of the West who suffered and died as a result of our cold war mobilization. The bill that we will vote on today, as amended and passed by the Senate, deserves our complete support. I will briefly discuss the amendments the Senate made to the bill as passed by the House. The first change involves the inclusion in the bill of uranium miners from Wyoming as eligible claimants. When the bill was first introduced, only uranium miners from New Mexico, Utah, Arizona, and Colorado were included. But it recently came to our attention that there were also mines in Wyoming which supplied the Government with uranium for its nuclear programs. Other changes were made in the House version to ensure that the lung cancers and respiratory diseases for which compensation is provided are those which are most likely to have been caused by the radiation in the mines. Distinctions have been made with respect to exposure levels and whether or not the miners were smokers. Similar changes have also been included with respect to the downwinders to take into account factors such as age, duration of the exposure, and personal habits which may have influenced the onset of the disease.

Another Senate amendment changes the life of the trust fund from 6 years to 22 years, which more realistically takes into account the latency periods of some of the diseases which are covered by this legislation. Finally, the Senate has included two additional uranium-related diseases for which compensation will be available, if the miners worked in uranium mines on or within an Indian reservation. Many of these uranium miners were native Americans. Given the special trust responsibility of our Government over the activities of tribal members, it is only fair that we include compensation for these diseases. These mines were some of the earliest and most contaminated mines, not subject to any form of State regulation.

The Senate amendments make this a tighter, fairer bill, and I endorse them without reservation. Passage of this bill today will allow us to consummate this national apology with the signature of the President. A great nation must make apologies and recompense when it has wronged its people. I ask for your support as we send the Radiation Exposure Compensation Act to the White House.

Mr. JAMES. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Speaker, I rise in support of H.R. 2372, a bill to provide compensation for the radiation-related injuries suffered by individuals who were engaged in uranium mining in the southwestern United States from the early 1940's to the late 1970's. I understand when the Senate passed H.R. 2372, it amended certain provisions to strengthen what I already considered to be a good bill.

The Senate amended the bill to allow native American uranium miners to receive compensation for a couple of additional respiratory diseases—moderate or severe silicosis and pneumoconiosis. The Senate deliberation on this point is replete with the reasons justifying the provision, and I would like to take a minute to recap the essence of the Senate's justification.

The United States has a unique political relationship with American Indians that is often described also as a trust relationship. Based on Federal treaties and statutes, the United States exercises responsibility for management of mineral resources and mine safety on Indian reservations and since the early 19th century has assumed responsibility for providing health care to American Indians.

It is widely recognized that with regard to uranium mines on Indian reservations in the Southwest, the United States placed the national security interests above the health of the miners, both Indian and non-Indian. In doing so, the United States also did virtually nothing to warn them of and protect them from the harmful health hazards of employment in the mines. Further, very little was done to ensure that effective mine safety standards were developed and implemented.

The situation was aggravated by several factors. American Indian miners spoke almost no English, and had no understanding of the dangers presented by their employment. Most of these

people were and are completely dependent upon the Indian Health Service for their health care. Many of these Indian miners live in very remote areas of Arizona, New Mexico, and Utah and have trouble getting to the Indian Health Service facilities for diagnosis and treatment for illnesses that may have been caused by the mining conditions. For those that could reach the Indian Health Service facilities, pulmonary specialists were largely not available and therefore diagnoses contained in their medical records are often ambiguous.

Given the totality of the circumstances surrounding the need for this legislation, I concur with the many eloquent statements of my colleagues in the Senate who share the belief that the Federal trust relationship to native Americans, and the Federal Government's actions and inactions reflected in this bill, compel the compensation provided in the bill. These circumstances justify further that the claims of native American miners should be reviewed liberally, and that if there are any gray areas, the claims should be reviewed in favor of granting rather than denying compensation.

If I had to use one word to describe the essence of this legislation, that word would be "compassionate". It is with compassion that I support H.R. 2372 as amended by the Senate, and I urge my colleagues to do the same.

Mr. Speaker, there is an individual who is not a Member of the House of Representatives who deserves to be commended for his actions on behalf of those who will benefit from this legislation. That gentleman is a former Member of the House and former Secretary of the Interior, the brother of the current chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona, Mr. UDALL; I refer to Stewart Udall.

It was Stewart's efforts which first really brought this situation to the public eye, into the minds and consciences of the people of this country and which ultimately led us to being here on the floor earlier this year and then again today.

I just think it would be appropriate for the record, during consideration of this bill, to include recognition of the efforts of Stewart L. Udall on behalf of those who will benefit from this legislation.

Mr. FRANK. Mr. Speaker, I yield myself 30 seconds in order to thank the gentleman from Arizona for those very gracious remarks.

That was an omission on my part. I appreciate his being helpful.

Stewart Udall has been a zealot on behalf of justice here. The gentleman from Arizona was quite correct in bringing that out.

Mr. Speaker, I yield 4 minutes to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, I wholeheartedly support the bill, H.R. 2372, the Radiation Exposure Compensation Act. I commend all the efforts of my respected colleague from Utah, Mr. OWENS for introducing this act which establishes a trust fund for claims for injuries and death due to exposure to radiation during certain time periods. The sources of exposure result from nuclear testing in Utah, Nevada, and Arizona; or uranium mining in Colorado, New Mexico, Arizona, or Utah.

As a life-long resident and Representative of the First District of Nevada, I am well aware of the history of the U.S. atomic weapons testing program. The Nevada test site is located a mere 65 miles from Las Vegas, and the vast majority of the more than nine thousand test site workers have their permanent resident in southern Nevada.

Unfortunately, the history of the Nevada test site has been a troubled history, particularly during the atmospheric testing program between the years 1951 to 1963. During this period, approximately 235 above-ground atomic tests were conducted in Nevada and in the Pacific Ocean, exposing hundreds of thousands of civilians and military personnel to unhealthy levels of ionizing radiation.

In testimony before Congress in 1982, Mrs. Gloria Gregerson of Bunkerville, NV, recalled here own experiences:

> The radioactive cloud, as it came over, was really distinct. It would usually come over our school campus between 9 and 10 in the morning * * *. Later the Government officials would come to our school to talk to us in assemblies, but they never came until after several blasts had already been shot off * * *. They would preface their remarks saying: "There is nothing to be alarmed about. There is nothing to hurt you, so don't worry, but wash your cars everday; wash your clothes twice before you wear them; don't eat the plants and the vegetables; don't drink the local milk," yet that is the only way we had to get milk, through our cows. I remember playing under the oleander trees * * * and the fallout was so thick it was like snow * * *. We liked to play under the trees and shake this fallout onto our heads and our bodies, thinking that we were playing in the snow * * *. Then I would go home and eat. If my mother caught me as a young child, I would wash my hands; if not, then I would eat with the fallout on my hands.

Mrs. Gregerson developed ovarian cancer at the age of 17, which later spread to her intestines and stomach and involved 13 major surgeries. After years of struggling ad many more surgeries, Mrs. Gregerson died the year following her congressional testimony, at the age of 42.

Mr. Chairman, it is time for our Government to own up to the pain and suffering it has inflicted upon its own citizens. If we are able to provide hundreds of millions of dollars to Panama and Eastern Europe, then surely it is our moral duty to provide for our own citizens who are actually victims of the only war waged on American soil this century. The downwinders, as they are called, are no different than the veterans of World War II, Korea, or Vietnam. They are the veterans of the cold war. For years their Government misled, concealed, covered up, and outright lied to them about the dangers of atomic testing. Now is the time for their Government to apologize and to make amends for their negligence and deceit.

Mr. JAMES. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today in support of H.R. 2372, the Radiation Exposure Compensation Act.

I am very pleased the legislation has been amended to include Wyoming uranium miners affected by radiation. In the late 1940's underground uranium miners often worked in unventilated conditions and were exposed to high levels of radon gas. Because the Federal Government was the primary purchaser of this uranium, intended for the country's nuclear weapons program, it seems to me the Federal Government has an obligation to those miners who were exposed and unprotected to cancer-causing gas. The miners and their families have suffered greatly. This bill is necessary and must include Wyoming.

Wyoming has been one of the highest producing States of uranium in this country and we have found that there are some Wyoming citizens whose health may have been affected due to their employment as uranium miners in the time period recognized. I now feel confident that qualifying individuals from Wyoming will be covered and compensated. I particularly thank Mr. FRANK, and Mr. OWENS for their consideration of the needs in Wyoming for their willingness to work with the Wyoming delegation on this extremely important issue.

Mr. FRANK. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. I thank the gentleman for yielding.

Mr. Speaker, I would like to engage my colleague, the gentleman from Massachusetts [Mr. FRANK], the chairman of the subcommittee which considered this legislation, in a brief colloquy, if I may, concerning the administration of the Radiation Exposure Compensation Act by the Department of Justice.

The bill establishes the radiation exposure compensation trust fund and

authorizes the appropriation of $100,000,000 to the fund. The Attorney General shall pay, from amounts available in the fund, claims which the Attorney General determines meet the requirements of this act. Administrative costs, however, shall not be paid from the fund. The Attorney General shall establish procedures whereby individuals may submit claims for payments under this act, and regulations to carry out this act shall be issued not later than 180 days after the date of the enactment of this act.

As sponsor and author of H.R. 2372, it was my intention that, notwithstanding the lack of appropriations to the fund, the Attorney General should use funds and resources presently available to the Attorney General to establish procedures for submission and review of claims. And notwithstanding the lack of appropriations to the fund, the Attorney General should adjudicate claims. I would just like to confirm that this is the gentleman's understanding as well.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. OWENS of Utah. I yield to the chairman of the subcommittee, the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. I thank the gentleman for yielding.

Mr. Speaker, I agree with the gentleman from Utah. Obviously, the actual payout would be subject to appropriation, but we from time to time give the Department of Justice tasks to carry out and we do not regularly, specifically appropriate funds for this or that administrative task. This is an obligation now of the Federal Government, a compassionate one, not one that further obligates us; but it would be legal to pay these people.

Yes, I do believe it certainly is my intention that the Justice Department would begin the administrative process with funds on hand as they do in other areas.

□ 1450

The payments will be subject to appropriation, but I do not think the processes are, and I would add that the one reason for doing that, of course, is that we are dealing here with people who may be dying. We are dealing here with a population of people that goes back 43 years, some of whom are ill. I would hope that they would do that.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume to comment in regard to the colloquy.

As I read the statute, there has been no money budgeted for the purposes of the Attorney General investigating this, and it would cut into the S&L investigation, et cetera. I do not know how that would be handled. We may wish and express our desire that, if funds are available for the purposes of proceeding in the manner that was suggested in the colloquy, it would be desirable, and hopefully that can be accomplished. But I do not see how we can suggest it is a mandate upon the Attorney General to do it until there is an appropriation because for all he would know there may never be an appropriation until this Congress acts, and we better move swiftly and quickly to make sure there is an appropriate appropriation because otherwise it does not seem that we have any leverage under the specific language we have inclusive in this statute to tell the Attorney General to do anything. Hopefully he might, but I do not want to engage in wishful thinking to suggest to the American public that there is anything included in that bill that will give us any leverage in regard to the Attorney General to litigate matters that have not yet, or to adjudicate; not litigate, but to adjudicate, matters that have not yet been the subject matter of appropriation.

Mr. FRANK. Mr. Speaker, I yield myself 2 minutes to respond by saying, first, we are not talking about litigation. We are talking here about a payout of claims that we have agreed, out of compassion, we ought to pay.

Second, it is not my sense that every time we, as a Congress, pass a law and the President signs it, which creates a task for the Justice Department, that a separate appropriation is necessary. It is not a separate appropriation for everything the Justice Department does. They get an appropriation, and they get a list of tasks. The specific payout is subject to appropriation, but getting ready for it does not do that, and I do not think anything in our prior practice suggests that they do not begin to go to work until they get a specific appropriation for each administrative task.

Mr. OWENS of Utah. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Utah.

Mr. OWENS of Utah. The legislation, if I may suggest to the gentleman from Florida [Mr. JAMES], does not provide, in fact intend, that administrative costs not be borne by the $100 million in any case and that in fact the administrative costs be covered by the regular payment for expenses which the Attorney General receives. Our concern was that the Attorney General not wait until the funds are appropriated to pay out the claims before starting this process. These people have waited now, for some of them, 30 years for this compensation. They are dying on a monthly basis, and the hope is that that administrative task can be undertaken immediately.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume in order to respond.

That is that I agree with the gentleman, that I would like to see the claims adjudicated, and I would hope that that could occur. But none of us can suspect there has been a budget item for the Attorney General to accomplish this specific purpose, and they may take the position that because there has not yet been an appropriation, that until there is that will be an act of futility until there is an appropriation. I would hope they would not take that position, and I admit, and I realize, and I am delighted, that the funds are appropriated specifically to be used for compensatory purposes in the adjudication process, and it is very clear in our bill that in no way should the administrative costs be taken out of those funds.

However, Mr. Speaker, I can imagine and could respect the Attorney General if they took the position that, "Look, we're not going through an adjudication process until such point in time, until Congress specifically appropriates funds so that our acts of adjudication will not be a waste of funds or time," and then I can also respect their demand that they have something included in their budget for that purpose, and, barring their willingness to proceed now, and I hope they do, we better move quickly to take care of those matters to make sure there is an appropriation and that we get the matter resolved, for those people have indeed waited far too long.

But I just want to point out that the task is not complete for those who may be sitting here watching us on C-Span expecting something immediate to happen.

Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, we have an opportunity today to compensate for one of the great wrongs our Government committed against our own American citizens earlier this century. I rise in support of H.R. 2372, the Radiation Exposure Compensation Act.

This legislation is only necessary because the Federal Government failed to provide adequate warning of the dangers of radiation exposure to individuals downwind from the Nevada test site during the course of the Federal Atmospheric Weapons Testing Program. It is necessary because the Government failed to take steps to protect uranium miners from exposure.

The compensation provided under the bill won't bring back loved ones who have already passed on, or even compensate adequately for the suffering victims are enduring today. But, it will ensure some measure of justice for these victims.

Mr. Speaker, this is a good and fair bill. The one flaw I did find in the House version of the measure has now been corrected by the Senate. That flaw related to diseases that may have brought on by an individual's own con-

duct—conduct such as tobacco or alcohol abuse. It is not our aim here to provide compensation haphazardly. We don't have the money to do that. We have to be sure that the Government's misconduct, not the individual's, is the cause. H.R. 2372 as amended by the Senate will do that.

I urge my colleagues to support these amendments and ensure that justice is finally provided to the many Americans whom the Federal Government failed to protect.

Mr. FRANK. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON] who has been another diligent supporter here, particularly with reference to Navajo Indians, but also those involved in the mining situation.

Mr. RICHARDSON. Mr. Speaker, as an original cosponsor of H.R. 2372, the Radiation Exposure Compensation Act, I rise in strong support. Many of the victims that this legislation seeks to help are from New Mexico. Many of the victims are native Americans—a large constituency in the congressional district I represent.

The Federal Government, knowledgeable about the hazards involved, sent uranium miners from New Mexico, Colorado, Arizona, and Utah into inadequately ventilated mines to dig for ore for the Government's nuclear arsenal and never informed them of any radiation dangers. As a result, many of these miners suffered or died from high radiation exposure.

H.R. 2372 would provide compensation for both downwind victims and uranium miners by establishing a $100 million trust fund from which damages would be paid. Upon a decision by the Department of Justice that the claim requirements of H.R. 2372 have been met, a one-time $100,000 compassionate award will be made to miners and $50,000 to downwind victims.

I am pleased to see that the Senate amended the bill to add a provision that I supported during this body's deliberations. The failure of the Federal Government to fulfill its trust responsibilities with respect to ensuring mine safety standards on trust lands is now recognized in section 5(b)(3). Since the Navajo Nation is within my congressional district, I am glad to see that the Congress is now recognizing its failure to ensure mine safety standards in mines on these lands.

I also believe that the Federal Government should recognize it breached its trust obligations to the native American miners to protect and provide for their health care. The Federal Government has an even greater responsibility to the native American miners to alert them to the dangers because through treaties, Executive orders, and various acts of the Congress, the Federal Government has assumed fiduciary duties for Indian health care.

Unfortunately, health care delivery to the miners has been inadequate primarily due to undermanned facilities, insufficient services, and an inability of patients to gain access to services due to remote residences. As a result, I am concerned that many native American miners will have difficulty in proving their claims because their records may be ambiguous, and in some cases non-existent. It is my hope that when the Department of Justice evaluates these claims, it will review them liberally and take note of the difficulty Indian claimants will have in proving their claims.

Mr. Speaker, this legislation provides modest compensation to the many victims who suffered at the hands of the Federal Government. I urge my colleagues' support.

Mr. FRANK. Mr. Speaker, I yield 30 seconds to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I want to associate myself with the remarks of the gentleman from Arizona [Mr. RHODES] who spoke so movingly of Stewart Udall, former Member of this House. It was Stewart Udall and Dale Harrison, an attorney from Tucson, to whom these people first came, and they associated me with this case some 12 years ago. Stewart has been the guiding light, the spiritual leader, of this great crusade, and I want to commend my colleague, the gentleman from Arizona [Mr. RHODES] for pointing this out. It was in my notes, but I did not speak it.

Mr. JAMES. Speaker, I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

I have cause for just one more statement, and I appreciated the very conciliatory remarks of the gentleman from Florida [Mr. JAMES] about his interest in seeing this bill carried out, and I appreciate that he was urging the Justice Department to do it, and I appreciate that. Let me just take the example of the Justice Department. There is obviously no way an injunction is going to issue to make them go right to work, but for them to take the position that when they are given a general appropriation for administrative purposes, and Congress then lays out administrative purposes, that they are not going to go forward with that until there is a specific itemized appropriation is to invite a degree of micromanagement which I would not think they would want.

□ 1500

In other words, it has never been my understanding that we would be the ones to tell them how to spend their administrative budget. We do from time to time, if we think there is some problem, but I would hope the general procedure would be that they would get a general appropriation within broad categories, and as the Congress decided and the President agreed to add tests, those tests would be assumed to be within the general administrative budget. The alternative is that I think from that standpoint there would be a degree of micromanagement in which we would say x would be spent to administer this and x-plus would be spent to administer that, and I do not think that would be a good idea.

Mr. Speaker, I yield to my friend, the gentleman from Florida, if he wants to comment.

Mr. JAMES. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, my comment is this: Of course, the way the act is written, it is quite clear that they would have to put in their budget a proper request for an appropriation for their administrative costs. There is no question about that. The question is, as a matter of precedent, as a matter of propriety, are they even authorized to do it until there is an appropriation?

We can express our wish or our desire but I assume there is precedent that they indeed would follow, and it would seem odd to me that we would proceed with an administrative procedure ordinarily until there was an appropriation to adjudicate a claim. Perhaps the gentleman has some other precedent.

The SPEAKER pro tempore (Mr. MCNULTY). All time of the gentleman from Massachusetts [Mr. FRANK] has expired. However, the gentleman from Florida still has time, and he reclaim his time and yield to the gentleman from Massachusetts if he so wishes.

Mr. JAMES. Mr. Speaker, I reclaim my time. I yield myself such time as I may consume, and I yield to the gentleman from Massachusetts [Mr. FRANK].

The SPEAKER pro tempore. Without objection, the gentleman from Florida [Mr. JAMES] reclaims his time.

There was no objection.

Mr. FRANK. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I would say I do not understand what precedent the gentleman is referring to. What we are talking about here is this: We are talking about a general authorization that they get to administer the department. We are adding a test. The gentleman said before that he agreed they should start administering this.

Mr. JAMES. I do, Mr. Speaker. Reclaiming my time, let me say I hope the administration can proceed, the same as you do. I only question whether or not we have gone far enough, if we expect that to happen, because it is not specifically mentioned in the statute.

I am concerned because it is very clear that there has not yet been an appropriation. I question the proprie-

ty of the expenditure in the budget of an item for something we have not gotten appropriated. So let us get it appropriated, for fear that the Attorney General would not move with the alacrity and the speed we all wish to see.

Mr. FRANK. Mr. Speaker, will the gentleman yield further?

Mr. JAMES. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, there is an appropriation according to the payout of the claims, but when the President signs this bill, the law says these claims should be dealt with, and I do not understand the notion that before they carry out the test of beginning the process, they need a specific appropriation. I think a mountain is being made here of a rather small hill.

Mr. JAMES. Reclaiming my time, Mr. Speaker, would the gentleman give me an example of where the Attorney General has proceeded to adjudicate claims prior to an appropriation? I am not familiar with one, and the gentleman may well be. If that be the case, I hope there is precedent so that may occur. I ask the gentleman to give me one example here that that has occurred. I cannot think of one; maybe the gentleman can. I hope that it happens that way.

Mr. FRANK. Mr. Speaker, if the gentleman will yield further, in the first place, we are not talking simply about the adjudication of the claim but the creation of a mechanism for the submission of that. I think by the time it comes to adjudication, that will happen. What we are saying is that having established this policy, they ought to go ahead and start getting the information and setting up a mechanism for the submission of the claim.

Mr. JAMES. Mr. Speaker, reclaiming my time, the gentleman, I think, will admit and concede that it will take an attorney's expenses and time and a budget to proceed the way we would wish him to proceed. It was my understanding during our colloquy that the gentleman wanted a full adjudication of the claim, if possible, but whether the gentleman is talking about just starting or beginning or setting up the administrative proceeding to allow claims to be filed, we are still talking about expenditures of money. I am only asking for a precedent. If you have none, say so. I am merely asking the question. I know of no example——

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. JAMES. No, I will not yield until I finish my sentence. I will finish my sentence, and then I will yield.

I know of no example, although you might, where, absent an appropriation, the Attorney General moves in that procedure. The gentleman may well know of a precedent. If so, let me know, and we can use that to encourage the administration to move now, although they may otherwise be hesitant.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. JAMES. I yield to the gentleman from Massachusetts.

Mr. FRANK. First, I will say with regard to the Japanese claims that we did tell them prior to the appropriation to begin to collect the information and start getting the recordkeeping done. I do not know of too many precedents for this kind of Government payment of a compassionate sort.

On the Japanese-American one where I worked, we did do that.

Second, I would say to the gentleman that I think he has allowed the Justice Department to get him excessively riled up. All we are asking them to do is to start enforcing the law once it is passed. I am sorry that that has been the cause of such agitation.

Mr. JAMES. Mr. Speaker, I am pointing out to the gentleman that I agree with him, and I hope they do, but let us not create unreasonable expectations with the public if they do not.

Mr. Speaker, I yield 2½ minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I stand in the well of this Chamber in strong support of H.R. 2372, the Radiation Exposure Compensation Act, of which I am an original cosponsor. I am especially pleased to see the unfortunate burden of radiation related diseases slightly eased for those military and civilian personnel who were involved in the Atomic Testing Program.

I commend Mr. OWENS and the Judiciary Committee for their hard work bringing H.R. 2372 to the floor, and I thank the other body for its support in making this long awaited compensation a reality.

Mr. Speaker, for too long, the Federal Government has ignored and even evaded responsibility to workers, miners, and families, who are suffering various radiation associated sicknesses begat at the hands of the Federal Government.

In recent years, many military and civilian personnel who were involved in the Atomic Testing Program have suffered various long-term medical injuries, primarily leukemia and other forms of cancer, due to their participation in these tests.

The victims generally fall into two classes. They are either Southwest uranium miners and families who were unwittingly exposed to extraordinary levels of radiation in underground uranium mines, where ore for the Government's weapons industry was mined during the 1950's; or they are fallout victims from the Government's nuclear weapons testing in my district during this same era.

Both types of victims have presented their cases to the judicial system. In both cases, Federal court opinions were issued that the deaths and injuries were caused by radiation exposures generated by activities of the Federal Government, and that Government officials knew of the risks but failed to act.

However, because the courts also found that the Federal decision to conduct weapons testing and mine uranium were discretionary and within the scope of the function of the Federal Government, Federal sovereign immunity laws could be applied to bar radiation victims' claims, thus allowing no means of recourse.

These radiation victims have not been compensated because their deaths and injuries were the result of a policy decision. Their health, Mr. Speaker, was seen as secondary to the national security interest of our country, the same security interest which seeks to protect Americans.

Unlike other war victims, these victims of the cold war could have chosen to live or work elsewhere, had they been informed. Both the 9th and 10th Circuit Courts of Appeal agreed that these cases cry out for redress, but that unfairly restrictive sovereign immunity laws precluded the courts from providing an equitable judgment. Mr. Speaker, H.R. 2372 begins that redress.

This legislation, Mr. Speaker, offers a long overdue Federal apology and provides a modest compassionate payment to the victims and the families of those who have suffered pain and bodily harm in the name of national security.

Legislation and money can never right the wrong, restore lost family members, take the pain from these innocent victims, or make these victims victimless; however, it can help make life a little easier.

Mr. Speaker, once again I stand here to urge my colleagues to support this measure and support the closing of an unfair and unfortunate chapter in the history of our Nation.

Mr. JAMES. Mr. Speaker, may I inquire, how much time do I have left?

The SPEAKER pro tempore. The gentleman from Florida [Mr. JAMES] has 90 seconds remaining.

Mr. JAMES. Mr. Speaker, I yield myself the balance of my time.

I want to make one comment on this issue. I want to make it perfectly clear that I hope we move with great speed to resolve all matters, including the adjudication of these claims. I hope we can get all assistance needed to have a speedy adjudication of these claims in light of the clear mandate of the statute that the Attorney General have and is provided funds for his own ex-

penses. I hope that be the case. This statute is a little different, though, because there is not a specific pocket of funds provided for that specific purpose.

□ 1510

Most statutes have that. This one does not for the administrative process. Because of that, we are depending upon them out of their general budget to proceed quickly. I think it is mandated that it be budgeted there, but I am only mentioning this so we speed up the appropriations part of it to get that going in case there is otherwise any kind of delay perceived or feared by any of us. We need to do that anyway.

So that is what I hope we do as quickly as possible.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and concur in the Senate amendment to H.R. 2372.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the Senate amendment to H.R. 2372.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

SENSE OF CONGRESS ON STATUTORY PRESUMPTION IN DETERMINING CHILD CUSTODY

Mr. FRANK. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 172) expressing the sense of the Congress that, for purposes of determining child custody, evidence of spousal abuse should create a statutory presumption that it is detrimental to the child to be placed in the custody of an abusive parent, as amended.

The Clerk read as follows:

H. RES. 172

Whereas State courts have often failed to recognize the determinental effects of having as a custodial parent an individual who physically abuses his or her spouse, insofar as the courts do not hear or weigh evidence of domestic violence in child custody litigation;

Whereas there is an alarming bias against battered spouses in comtemporary child custody trends such as joint custody and mandatory mediation;

Whereas joint custody guarantees the batterer continued access and control over the battered spouse's life through their children;

Whereas joint custody forced upon hostile parents can create a dangerous psychological environment for a child;

Whereas a batterer's violence toward an estranged spouse often escalates during or after a divorce, placing both the abused spouse and children at risk through shared custody arrangements and unsupervised visitation;

Whereas physical abuse of a spouse is relevant to child abuse in child custody disputes;

Whereas the effects of physical abuse of a spouse on children include actual and potential emotional and physical harm, the negative effects of exposure to an inappropriate role model, and the potential for future harm where contact with the batterer continues;

Whereas children are emotionally traumatized by witnessing physical abuse of a parent;

Whereas children often become targets of physical abuse themselves or are injured when they attempt to intervene on behalf of a parent;

Whereas even children who do not directly witness spousal abuse are affected by the climate of violence in their homes and experience shock, fear, guilt, long lasting impairment of self-esteem, and impairment of developmental and socialization skills;

Whereas research into the intergenerational aspects of domestic violence reveals that violent tendencies may be passed on from one generation to the next;

Whereas witnessing an aggressive parent as a role model may communicate to children that violence is an acceptable tool for resolving marital conflict; and

Whereas few States have recognized the interrelated nature of child custody and battering and have enacted legislation that allows or requires courts to consider evidence of physical abuse of a spouse in child custody cases: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. It is the sense of the Congress that, for purposes of determining child custody, credible evidence of physical abuse of a spouse should create a statutory presumption that it is deterimental to the child to be placed in the custody of the abusive spouse.

SEC. 2. This resolution is not intended to encourage States to prohibit supervised visitation.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Florida [Mr. JAMES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me reassure Members that this resolution calls on the Justice Department to do nothing whatsoever and is unlikely to be at all controversial or time consuming. It is a matter that was brought to our attention by the gentlewoman from Maryland [Mrs. MORELLA]. She has been very much concerned with the matter of equity and been concerned with the problem of violence, particularly against women, but obviously not exclusively.

The gentlewoman brought this to our subcommittee as an important concern. We had a long hearing in a session in which the gentleman from New Hampshire [Mr. DOUGLAS] took a very important role. We certainly have cast this in a way that I think makes a contribution to the consideration of an important issue. It is a recommendation by the House of Representatives to State judges. It has no binding force, but it is a very thoughtful recommendation, and one that will reflect a very important public policy, particularly that those who commit violence in any context, family or otherwise, ought to be required to bear the consequences of that violence.

Mr. Speaker, there has been historically in our Nation a tendency to treat somewhat more lightly violence that might have occurred in a family setting. That is a wholly unjustified attitude, and this resolution is one further confirmation of that fact.

Mr. Speaker, I reserve the balance of my time.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 172 as amended. I would like to compliment the subcommittee chairman, Mr. FRANK, for convening the hearings on this legislation. I would also like to commend Mr. FRANK and Mr. DOUGLAS for their efforts to address the concerns we shared with a number of our colleagues over the original legislation. The resulting bill before us today is a good one that will address legitimate concerns in child custody cases.

Mr. Speaker, domestic violence has reached epidemic proportions in this Nation. Statistics reflect that between 12 to 15 million adult women have been the victims of physical assault by an adult intimate. According to testimony given before the subcommittee by our distinguished colleague from Maryland, the Honorable CONSTANCE MORELLA, nearly one-third of these women are killed each year by their husbands or partners. It is clear that the devastating effects of such abuse extend far into the future, not only for the abused spouse, but also for the children living in such an atmosphere of violence.

The bill before us today clearly recognizes the detrimental effects that domestic violence has on the welfare of children. House Concurrent Resolution 172 as amended, expressed the sense of Congress that, for purposes of determining child custody, credible

evidence of spousal abuse should create a statutory presumption that it is detrimental to the child to be placed in the custody of the abusive parent.

I do understand the concerns of those individuals who contend that spousal abuse and child abuse are two, unrelated actions focused on two, different targets. However, I firmly believe that both actions reflect brutal crimes and are detrimental to the welfare of the children exposed to such violent behavior. While there is no guarantee that a battering spouse will become a battering parent, I would prefer to err on the side of the child rather than on the side of a parent who practices violent behavior.

Again, I would like to express my support for this measure and I hope that the policy reflected in this legislation will be implemented by the States.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I want to commend the gentleman from Massachusetts [Mr. FRANK] for his commitment to ending the silent crisis of domestic violence. He has worked to move this bill from the hearing stage through the full committee, and I thank him for his cooperation and for the conscientious work of his staff, especially David Naimon. I also appreciate the assistance of Chairman BROOKS, and the ranking minority member of the subcommittee, Mr. DOUGLAS.

Mr. Speaker, 6 years ago in Illinois, James Lutgen strangled his wife, Carole, in front of their two daughters, ages 6 and 8. He was arrested and, after plea bargaining, was charged with voluntary manslaughter. Upon his release less than 2 years later, he sought custody of his children, who had been placed in the care of his sister-in-law. Over their aunt's protests, the judge returned the children to James Lutgen because he was their natural father and because until he killed Carole, he had a good record.

If a parent's alcohol or drug abuse is a bona fide area of inquiry by the courts in custody issues, why is a parent's violent behavior irrelevant? Why is violence committed against another human being in the privacy of the home acceptable behavior? Surely, it is relevant to a determination of character, fitness, and ability to care for a child.

Domestic violence or battering is a means of establishing control over another person through fear and intimidation. Generally, battering is physical, but it also includes emotional, economic, and sexual abuse, and the kind of isolation experienced by hostages or prisoners of war.

Domestic violence is a brutal criminal act, mostly but not always committed by men against women. The shocking reality is that every 15 seconds, a woman is beaten in her home. An estimated 3 to 4 million American women are assaulted every year by their husbands or partners. Often their children watch.

Why does battering occur and why can't we stop it? There are many theories about batterers and why they resort to violence. These include career and economic stress, violence on TV and in the movies, poor socialization, and sexism in our society.

Whatever the causes, the real reason battering continues is that too many people look the other way, and our judicial system has done little to remedy the situation. For many victims of domestic violence, the courts, in fact, have become their adversaries, not their allies.

The most blatant examples of judicial indifference and negligence, however, are to be found in child custody cases. In most States, judges, who have broad discretionary powers in custody disputes, are not required to even consider evidence of spousal abuse when determining custody.

Dr. Lenore E. Walker has argued in her book, "The Battered Woman," that spousal abuse is child abuse. Dr. Walker reports that 53 percent of men who abuse their wives also abuse their children. Even if physical abuse is not present, these children live in an atmosphere of emotional trauma with longlasting effects. Such children are more prone to anxiety, depression, learning disabilities, and delinquency problems. And some learn that battering is OK.

In testimony before the House Subcommittee on Administrative Law and Governmental Relations, several witnesses underscored the terrible consequences of domestic violence on children. The bill we are considering today would put Congress on record as supporting the concept that for the purposes of determining custody, credible evidence of physical abuse of one's spouse should create a statutory presumption that it is detrimental to a child to be placed in the custody of the abusive parent.

Lorraine Chase, a social worker from the YMCA Women's Center in Annapolis, stated:

> When children are raised in homes where violence occurs, they learn two basic ways of coping with life: Aggressive behavior or passive indifference * * * passive indifference is evidenced in behaviors such as alcohol and drug abuse, teen pregnancy, and teen suicide. Aggressive behaviors are evidenced by increasing violence in our schools, truancy, and crime.

And, unfortunately, spouse abuse—and its effects on children—does not end with divorce. In fact, the abuse may increase. Custody litigation or the threat of it becomes another weapon for the batterer. Shared or joint custody, when there is a history of abuse, sets the stage for continued access to the victim and the children.

Marcia Shields of Silver Spring, MD, testifying on behalf of this bill, told an all-too-familiar tale to the subcommittee. Terrified that her abusive husband would carry out his threats to quit his job and disappear with their children—he had already announced plans to leave the area and left airplane tickets where she could find them—Shields agreed to his demands for joint custody. She soon realized her mistake.

After an incident involving the physical abuse of one of Shield's sons, Montgomery County Protective Services reprimanded her husband. When her husband was reported a second time for abusing her daughter, protective services refused to intervene because Shields and her husband were about to go to court for a custody trial in which Shields planned to ask for full custody. "Let the courts handle it," she was told.

To her shock and disbelief, the courts handled it by upholding the original joint custody agreement. Evidence of spousal abuse was deemed not pertinent to the issue of custody. "A person may be violent and vindictive towards a spouse and yet be the best, most loving parent in the world," the judge told her.

Last year, when her ex-husband came to pick up the children for an unscheduled visit, Shields refused. He assaulted her in front of their children. Found guilty of battery and assault and sentenced to 2 years of probation, he still has joint custody of the children. The criminal court judge, however, ordered that a third party pick up and deliver the children for the duration of his probation.

Many woman are not as lucky as Marcia Shields. Carole Lutgen was one of the more than 4,000 women in the United States who are killed each year by their spouses or intimate partners. Closer to home, in 1989, more than 120 women were killed by their husbands or boyfriends in the District of Columbia, Maryland, and in Virginia.

And what about the children? How many of our children are learning from their first and best teachers, their parents, that violence is the expected, accepted, and most expedient way to solve life's problems?

Today, only a handful of States and the District of Columbia require judges to consider evidence of spousal abuse in determining child custody. By enacting House Concurrent Resolution 172, Congress will focus national attention on domestic violence and its terrible toll on our society. By approving this resolution, Congress has the opportunity to provide the leadership and direction needed for the remaining States to revise custody statutes that for too long have failed to recog-

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nize the tragic consequences of family violence.

Mr. Speaker, our families and children deserve no less.

Mr. MILLER of California. Mr. Speaker, I rise in support of House Concurrent Resolution 172, which expresses the sense of the Congress that, for purposes of determining child custody, evidence of spousal abuse should create a statutory presumption that it is detrimental to children to be placed in the custody of an abusive parent.

I want to thank my colleague from Maryland [Mrs. MORELLA] for her leadership on this issue and her hard work on the resolution. I would also like to thank the members of the Judiciary Committee for their efforts on its behalf.

This resolution is an outgrowth of the work of the Select Committee on Children, Youth, and Families on violence against women and children. Many witnesses who have come before the committee have testified about the fear and violence that have permeated their lives. This resolution is designed to focus national attention on one of the most traumatic problems that far too many families in America live with on a daily basis: Domestic violence. Ninety-five percent of the victims of domestic violence are women; more than 2 million are battered each year by their husbands or partners. Domestic violence affects all cultural and socioeconomic groups in our society.

We have been slow to respond to this problem in local communities throughout the country. Police and the courts often do not take incidents of domestic violence seriously, and even when abusing spouses are incarcerated, they frequently return on their families upon their release from jail.

Abused spouses, 95 percent of whom are women, often have difficulty in separating from their abuser because of the tremendous insecurity that such abuse fosters and a lack of financial resources to leave the family home. Moreover, many women fear that if they seek a divorce, they will lose custody of their children. Shelters for abused women and their children exist in many, but not all communities, and they often are forced to turn away those seeking shelter because of a lack of resources.

This resolution will encourage States to help the victims of domestic violence escape from it.

We know that in approximately one-half of the situations where spouse abuse exists, child abuse is present as well. Some of this abuse happens when children attempt to protect their parents from abuse. Even in those instances where the children are not physically harmed, their emotional well-being is jeopardized by witnessing such abuse against their parent.

Domestic violence is an ugly consequence of the violent nature of our society. Its impact on children is severe and longlasting. Children who experience violence in their homes, are more likely to turn to violent behavior when they are parents. Given its physical and emotional consequences, it is inexcusable that in only a handful of States, family courts take evidence of domestic violence into account when determining custody.

Opposition to this resolution comes primarily from organizations whose members believe that unfounded allegations of spouse abuse will hinder the ability of fathers to obtain custody of their children. Language added to the resolution by the subcommittee addresses this concern by making it clear that credible evidence of physical abuse must be present to trigger the statutory presumption.

This resolution sends a clear, basic message to spouse abusers: No longer will you be able to hold an untenable marriage together because of your threats to take custody of the children. This resolution provides an opportunity for Congress to lead the way in saying that spouse abusers will not be rewarded for their behavior.

This resolution will not cost the Federal Government any money to implement. It will not cost the States any money to enact legislation based on this resolution. The only cost of this resolution is to batterers, who will no longer be able to stand in court on equal footing with the spouse that they have abused, and seek custody of their children.

I ask you to vote with me in favor of House Congressional Resolution 172 and show your commitment to America's children. Tell our children that you don't want them to have to live in fear of violence in their own homes. Adoption of this resolution will encourage States to take action. It is the least we can do to protect America's children.

Mr. JAMES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 172, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title of the House concurrent resolution was amended so as to read:

Concurrent resolution expressing the sense of the Congress that, for purposes of determining child custody, credible evidence of physical abuse of one's spouse should create a statutory presumption that it is detrimental to the child to be placed in the custody of the abusive spouse.

A motion to reconsider was laid on the table.

□ 1520

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 172, the concurrent resolution just agreed to.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FEDERAL JUDGESHIP ACT OF 1990

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5316) to provide for the appointment of additional Federal circuit and district judges, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5316

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Judgeship Act of 1990".

SEC. 2. CIRCUIT JUDGES FOR THE CIRUCIT COURT OF APPEALS.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(1) 2 additional circuit judges for the third circuit court of appeals;

(2) 2 additional circuit judges for the fourth circuit court of appeals;

(3) 1 additional circuit judge for the fifth circuit court of appeals;

(4) 1 additional circuit judge for the sixth circuit court of appeals;

(5) 1 additional circuit judge for the eighth circuit court of appeals; and

(6) 2 additional circuit judges for the tenth circuit court of appeals.

(b) TABLES.—In order that the table contained in section 44(a) of title 28, United States Code, will, with respect to each judicial circuit, reflect the changes in the total number of permanent circuit judgeships authorized as a result of subsection (a) of this section, such table is amended to read as follows:

"Circuit	Number of Judges
District of Columbia	12
First	6
Second	13
Third	14
Fourth	13
Fifth	17
Sixth	16
Seventh	11
Eighth	11
Ninth	28
Tenth	12
Eleventh	12
Federal	12.".

SEC. 3. DISTRICT JUDGES FOR THE DISTRICT COURTS.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(1) 2 additional district judges for the northern district of California;

(2) 5 additional district judges for the central district of California;

(3) 1 additional district judge for the district of Connecticut;

(4) 1 additional district judge for the middle district of Florida;

(5) 1 additional district judge for the southern district of Florida;

(6) 1 additional district judge for the northern district of Illinois;

(7) 1 additional district judge for the southern district of Iowa;

(8) 1 additional district judge for the southern district of Mississippi;
(9) 1 additional district judge for the eastern district of Missouri;
(10) 3 additional district judges for the district of New Jersey;
(11) 3 additional district judges for the eastern district of New York;
(12) 1 additional district judge for the southern district of New York;
(13) 1 additional district judge for the southern district of Ohio;
(14) 1 additional district judge for the district of Oregon;
(15) 3 additional district judges for the eastern district of Pennsylvania;
(16) 1 additional district judge for the eastern district of Tennessee;
(17) 2 additional district judges for the northern district of Texas;
(18) 1 additional district judge for the eastern district of Texas;
(19) 5 additional district judges for the southern district of Texas; and district of Texas; and
(20) 3 additional district judges for the western district of Texas; and
(21) 1 additional district judge for the eastern district of Washington.

(b) EXISTING JUDGESHIPS.—(1) The existing district judgeships for the western district of Arkansas, the northern district of Illinois, the district of Massachusetts, the western district of New York, the northern district of Ohio, and the western district of Washington authorized by section 202(b) of the Bankruptcy Amendments and Federal Judgeship Act of 1984 (Public Law 98-353; 98 Stat. 347-348) shall, as of the effective date of this Act, be authorized under section 133 of title 28, United States Code, and the incumbents in those offices shall hold the office under section 133 of title 28, United States Code, as amended by this Act.

(2)(A) The existing two district judgeships for the eastern and western districts of Arkansas (provided by section 133 of title 28, United States Code, as in effect on the day before the effective date of this Act) shall be district judgeships for the eastern district of Arkansas only, and the incumbents of such judgeships shall hold the offices under section 133 of title 28, United States Code, as amended by this Act.

(B) The existing district judgeship for the northern and southern districts of Iowa (provided by section 133 of title 28, United States Code, as in effect on the day before the effective date of this Act) shall be a district judgeship for the northern district of Iowa only, and the incumbent of such judgeship shall hold the office under section 133 of title 28, United States Code, as amended by this Act.

(C) The existing district judgeship for the northern, eastern, and western districts of Oklahoma (provided by section 133 of title 28, United States Code, as in effect on the day before the effective date of this Act), the occupant of which has his or her official duty station at Oklahoma City on the date of enactment of this Act, shall be a district judgeship for the western district of Oklahoma only, and the incumbent of such judgeship shall hold the office under section 133 of title 28, United States Code, as amended by this Act.

(c) TEMPORARY JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate—
(1) 1 additional district judge for the middle district of Florida;
(2) 1 additional district judge for the central district of Illinois;
(3) 1 additional district judge for the western district of Michigan;
(4) 1 additional district judge for the district of Nebraska;
(5) 1 additional district judge for the district of New Mexico;
(6) 1 additional district judge for the northern district of New York;
(7) 1 additional district judge for the northern district of Oklahoma;
(8) 1 additional district judge for the western district of Oklahoma
(9) 1 additional district judge for the eastern district of Pennsylvania;
(10) 1 additional district judge for the middle district of Tennessee;
(11) 1 additional district judge for the eastern district of Virginia;
(12) 1 additional district judge for the southern district of West Virginia; and
(13) 1 additional district judge for the northern district of West Virginia.

The first vacancy in the office of district judge in each of the judicial districts named in this subsection, occurring 5 years or more after the effective date of this Act, shall not be filled.

(d) TABLES.—In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent district judgeships authorized as a result of subsections (a) and (b) of this section, such table is amended to read as follows:

"Districts	Judges
"Alabama:	
"Northern	7
"Middle	3
"Southern	3
"Alaska	3
"Arizona	8
"Arkansas:	
"Eastern	5
"Western	2
"California:	
"Northern	14
"Eastern	6
"Central	27
"Southern	7
"Colorado	7
"Connecticut	7
"Delaware	4
"District of Columbia	15
"Florida:	
"Northern	3
"Middle	10
"Southern	16
"Georgia:	
"Northern	11
"Middle	3
"Southern	3
"Hawaii	3
"Idaho	2
"Illinois:	
"Northern	22
"Central	3
"Southern	3
"Indiana:	
"Northern	4
"Southern	5
"Iowa:	
"Northern	2
"Southern	3
"Kansas	5
"Kentucky:	
"Eastern	4
"Western	4
"Eastern and Western	1
"Louisiana:	
"Eastern	13
"Middle	2
"Western	6
"Maine	2
"Maryland	10
"Massachusetts	12
"Michigan:	
"Eastern	15
"Western	4
"Minnesota	7
"Mississippi:	
"Northern	3
"Southern	6
"Missouri:	
"Eastern	6
"Western	5
"Eastern and Western	2
"Montana	3
"Nebraska	3
"Nevada	4
"New Hampshire	2
"New Jersey	17
"New Mexico	4
"New York:	
"Northern	4
"Southern	28
"Eastern	15
"Western	4
"North Carolina	
"Eastern	3
"Middle	3
"Western	3
"North Dakota	2
"Ohio:	
"Northern	11
"Southern	8
"Oklahoma:	
"Northern	2
"Eastern	1
"Western	5
"Northern, Eastern, and Western	1
"Oregon	6
"Pennsylvania:	
"Eastern	22
"Middle	5
"Western	10
"Puerto Rico	7
"Rhode Island	3
"South Carolina	8
"South Dakota	3
"Tennessee:	
"Eastern	5
"Middle	3
"Western	4
"Texas:	
"Northern	12
"Eastern	7
"Southern	18
"Western	10
"Utah	4
"Vermont	2
"Virginia:	
"Eastern	9
"Western	4
"Washington:	
"Eastern	4
"Western	7
"West Virginia:	
"Northern	2
"Southern	4
"Wisconsin:	
"Eastern	4
"Western	2
"Wyoming	2".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, including such sums as may be necessary to provide appropriate space and facilities for the judicial positions created by this Act.

SEC. 5. STUDY BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—The Comptroller General of the United States shall review the policies, procedures, and methodologies used by the Judicial Conference of the United States in recommending to the Congress the creation of additional Federal judgeships. In conducting such review the Comptroller General shall, at a minimum, determine the extent to which such policies, procedures, and methodologies—

(1) provide an accurate measure of the workload of existing judges;

(2) are applied consistently to the various circuit courts of appeals and district courts; and

(3) provide an accurate indicator of the need for additional judgeships.

(b) REPORT TO CONGRESS.—The Comptroller General shall, not later than 18 months after the date of the enactment of this Act, report the results of the review conducted under subsection (a) to the Committees on the Judiciary of the House of Representatives and the Senate. The report shall include such recommendations as the Comptroller General considers appropriate for revisions of the policies, procedures, and methodologies used by the Judicial Conference that were reviewed in the report.

SEC. 6. EFFECTIVE DATE.

This Act shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield to myself such time as I may need.

Mr. Speaker, H.R. 5316, the Federal Judgeship Act of 1990, is a bill to provide badly needed additional resources to the Federal judiciary. The bill creates 9 new judgeships for the circuit courts of appeals and 52 for the district courts. It also converts to permanent status six district court judgeships currently classified as temporary. In addition, the bill requires the General Accounting Office to review the process used by the Judicial Conference of the United States in developing its periodic recommendations to Congress for the creation of new judgeships. The principal purpose of this study provision is to help the Conference improve its methodologies to more accurately reflect the need for additional judicial resources.

In developing this legislation, the Judiciary Committee has carefully analyzed recent trends in Federal court caseloads. Contrary to what the casual observer might believe from reading the newspaper or watching the evening news, there has not been an across-the-board explosion in the number of cases. In fact, according to statistics compiled by the U.S. Judicial Conference, the total number of cases filed annually in Federal district courts actully declined between 1985 and 1989.

At the same time, however, some district courts—particularly those in border and coastal States with a large number of drug prosecutions—have experienced a tremendous increase in their caseloads. This increase in drug caseloads has also had the unfortunate effect of backing up the civil docket in these districts as well.

H.R. 5316 will provide much needed assistance for courts overrun by criminal cases as they perform their vital role in the war on drugs. While the bill includes a smaller number of new judgeships than recommended by the Judicial Conference, it targets these new positions to the circuits and districts most in need of help.

I must also point out—as I have on numerous occasions over the past several months—that creating new judgeships is just one part of the solution to court overcrowding. The other necessary component is decisive action by the President to fill vacancies among existing judgeships. As of September 1, there were 42 vacant district and appellate judgeships—including one that has been vacant for over 3½ years. For 30 of these positions, the President has not even submitted a nomination. It is clear that neither this bill nor any other judgeship proposal will do much to ease the courts' caseload burden unless the President acts promptly to fill both the new positions and these current vacancies.

The committee has produced a solid piece of legislation that addresses the critical problem of court ovecrowding in a fair and equitable manner, and I urge my colleagues to support this bill.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the Federal Judgeship Act of 1990—H.R. 5316—legislation which would authorize additional Federal district court and Federal circuit court judgeships.

While this bill does not go as far as the Bush administration and Judicial Conference hoped it would, it is nevertheless a significant step toward dealing with the serious caseload problem faced in our Federal courts. The bill before the House of Representatives today would establish a total of 61 Federal judgeships—9 U.S. courts of appeals judges and 52 new district court judgeships—39 permanent and 13 temporary. H.R. 5316 also converts six temporary judgeships, created in 1984, to permanent status. Again, while the Judicial Conference recommendations were higher, these new additional judgeships will go a long way toward providing the additional resources so badly needed in the judiciary.

Mr. Speaker, it has been over 6 years since additional judgeships were last authorized for the Federal courts. During that time we have seen tremendous changes in both the volume and the complexity of the workload of the Federal courts. Numerous pieces of legislation in recent years have had a major impact on the workload of our courts. The implementation of the sentencing guidelines, new initiatives to fight the war on drugs, and the advent of mandatory minimum sentences, have all resulted in substantial additional work for the courts, and all have the potential to increase the burdens even more in the coming years.

Since the last judgeships were authorized in 1984, the number of criminal cases filed in the district courts has grown by nearly 30 percent. Drug cases alone have increased by nearly 130 percent and now represent approximately 30 percent of all criminal cases. In the courts of appeals, the situation is similar to that of the district courts. New filings have grown by nearly 30 percent since 1984 and by 13 percent in just the last 2 years.

On June 6, 1990, the Judicial Conference approved recommendations for 96 additional judgeships, 20 for the courts of appeals, and 76 for the district courts. The Judicial Conference recommendations are predicated on past filings, but also implicitly anticipate prosecutorial priorities such as the war on drugs, financial institutions, fraud and defense procurement fraud. The legislation before the House today reflects that the Federal courts most in need of additional resources are in the South, the Southwest, and in my own State of California. I am pleased to note that during the markup of H.R. 5316 in the Subcommittee on Economic and Commercial Law, I sponsored an amendment to add an additional district court judgeship for the central district of California. The legislation introduced by Chairman BROOKS had called for four additional judges in the central district, but as a result of my amendment, there will now be five. This Moorhead amendment was agreed to in subcommittee.

The Attorney General has stated many times that the justice system is a pipeline—investigators need prosecutors to bring cases and prosecutors need judges to try the cases. The new judgeships provided for in H.R. 5316 are badly needed and overdue resources. Congress must recognize that the war on drugs and the S&L prosecutions necessitate these on-going commitments. I urge the adoption of this legislation.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentle-

man from California [Mr. EDWARDS], a subcommittee chairman.

Mr. EDWARDS of California. Mr. Speaker, the people of northern California are grateful to the chairman of our committee, the gentleman from Texas [Mr. BROOKS] for taking into consideration the very real problem we have in the northern district of California where we have an enormous backlog and where the trials are particularly difficult, with 20 of the cases recently taking more than 10 days and 11 of which, extended civil cases, took over 20 days.

□ 1530

We needed two judges. Originally it was intended that we would only get one, but through the kindness of the gentleman from Texas [Mr. BROOKS], our chairman, and with the cooperation of the ranking Republican, my friend and colleague, the gentleman from California [Mr. MOORHEAD], we were able to add the extra judge to the bill for which we are enormously grateful.

I urge that this bill be enacted. It is really very important so that these cases can be handled.

Sometimes we are waiting years to try civil cases in the Federal courts. That is justice being denied. This is a very important bill.

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH], the ranking member of the subcommittee and of the full committee.

Mr. FISH. Mr. Speaker, I am pleased that we are considering legislation authorizing additional Federal judgeships. An evaluation of current information relating to the capacities of Federal courts to handle their caseloads leads to the inescapable conclusion that relief is urgently needed for U.S. district courts and U.S. courts of appeals.

During our markup in the Subcommittee on Economic and Commercial Law, I offered an amendment providing a third new district court judgeship for the eastern district of New York and converting a new temporary judgeship for the southern district of New York into a permanent position. I was pleased that the subcommittee, in recognition of caseload demands in these districts, approved my amendment.

Congress last acted 6 years ago to increase article III judicial positions for the district courts and the courts of appeals. We now must respond to the realities of caseloads today—including an upsurge in time-consuming drug-related criminal cases, referred to by Chairman BROOKS, by providing the judiciary with the necessary positions to handle adjudications expeditiously.

Long delays in judicial dispositions leave disputes unresolved and undermine the administration of justice. Improvements in case management techniques, in some situations, may provide the key to increases in judicial productivity—but new judgeships become essential when other mechanisms for addressing caseload pressures prove inadequate.

The Judicial Conference assessment of judgeship needs—based on detailed study of caseload factors—is helpful. The legislation before us incorporates many of the Judicial Conference's recommendations.

I urge my colleagues to join me in voting for passage of H.R. 5316.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, I would like to take this opportunity to commend the distinguished chairman of the Committee on the Judiciary, Mr. BROOKS, for his efforts on H.R. 5316, the Federal Judgeship Act of 1990. This bill would create 9 new judgeships for the courts of appeal and 50 new district court judgeships. These new judgeships are critical if this Nation is going to win the war against drugs and have, at the same time, enough judges to manage the civil caseloads which our courts face.

Although I support the bill, I must point out that I believe it lacks one extremely important judgeship and that is a temporary judgeship for the district of Nevada. The statistics support my contention. In 1989, the workload in the district of Nevada rose to 492 total filings, 462 weighted filings, and 551 pending cases per judgeship. The 551 pending cases is well above the national average of 468 and the 492 total filings exceeds the national average of 459 by 33 filings. The district court itself requested one additional permanent judgeship based on the level of weighted filings, the number of triable pending defendants, and the burdens associated with serving several places of holding court. In particular, 19 percent of the Las Vegas caseload must be assigned to the judge stationed in Reno. This requires him to make the 480-mile, one-way trip between the two cities frequently.

One additional judgeship would reduce 1989 workload levels to 393 filings, 370 weighted filings, and 441 pending cases per judgeship. When the weighted caseload is considered in conjunction with the high criminal caseload, the large pending caseload, and the regular travel requirements that now exist, the court is clearly in need of one position. Based on the above statistical and geographic data in its Biennial Judgeship Survey, the Judicial Conference of the United States has made a recommendation for one additional temporary judgeship and I urge the chairman to accept that recommendation.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing, I want to especially thank the chairman of the committee, the gentleman from Texas [Mr. BROOKS]. He really worked hard on this bill. He was very generous with handing out the judgeships as he determined where they were needed. I think he worked very carefully on the legislation, and I think he has done a remarkably good job on it. I want to commend him for his work and his efforts.

I want to thank the gentleman from New York, the ranking Republican on the subcommittee and on the full committee, for his efforts in helping us get this bill out.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my beloved friends, the gentleman from California [Mr. MOORHEAD] and the gentleman from New York [Mr. FISH], and say that whatever we do is based on the outstanding work of an illustrious and dedicated staff.

Mr. MORRISON of Connecticut. Mr. Speaker, I rise today to support H.R. 5316, the Federal Judgeship Act of 1990, which will create a new judgeship for the Federal District of Connecticut. I also want to offer my thanks to my friend and colleague, Representative JACK BROOKS, the chairman of the Judiciary Committee, for his customary outstanding work on this bill.

The citizens of Connecticut know what we need to do to take on drug crime. We need to lock up drug dealers. We need to go after drug buyers. We need to seize property used in drug transactions. We need to make sure that anyone convicted of a drug-related murder is thrown in prison and will never threaten the general public again. To realize any of these goals, we need to use the courts. We need to use them a lot.

During this year alone, the number of criminal and civil suits filed in Federal court in Connecticut has increased by 7 percent. At the same time, the number of cases handled by the District's senior judges has declined appreciably. Thus, although the average number of trials completed by Connecticut's six Federal judges ranks the district in the top quarter of all Federal courts, we also have one of the largest backlogs. The six judges now on the court cannot keep up with the trial load. Connecticut simply needs more judges.

This growing backlog threatens our ability to deal swiftly with criminal cases that come before the courts. Research demonstrates that speedy resolution of criminal cases is a substantial factor in deterring crime. Moreover, the right to speedy trial is guaranteed by the sixth amendment of the U.S. Constitution.

The Judicial Conference of the United States has recommended two new judges for Connecticut, and the Senate counterpart to this bill follows that recommendation. Frankly,

I hope that the Senate position prevails on this point. However, regardless of the outcome of this question, I am proud to support H.R. 5316. I hope that my colleagues will do the same.

Mr. SMITH of Texas. Mr. Speaker, without enough Federal judges, our legal system is limited in its ability to stop crime. It is one thing to catch a wanted criminal, but unless this criminal is convicted in court and sentenced, future crime will continue unabated—the criminal will be right back on public streets, free to repeat the offense.

Supporting H.R. 5316, the Federal Judgeship Act of 1990, will stop crime by strengthening a weak link in the criminal justice system.

Crime is a national problem. By adding 38 new Federal judgeships across the Nation, approximately 3,000 more drug related criminal cases can be tried per year.

Since 1984, the number of criminal case filings has grown by 30 percent, while drug cases have increased by 130 percent, and now represent almost 30 percent of all criminal cases. Despite this growing workload of the courts, Congress has not created any new Federal judgeships since 1984.

The lack of Federal judgeships has reached crisis levels in many parts of the country. For example, the Federal judges in the western district of Texas, bear the burden of a criminal caseload 300 percent above the national average.

The backlog in Texas Federal courts is so severe that at least five U.S. district judges can no longer attend any civil cases currently pending on their dockets.

The Federal Judgeship Act of 1990, would help solve this problem by adding 11 additional judgeships for the State of Texas. These judges will provide welcome relief for the currently overloaded judges, while improving our criminal justice system as a whole.

I urge my colleagues to support this bill. Let's get tough on crime.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong support of H.R. 5316, the Federal Judgeship Act and commend the chairman and members of the House Committee on the Judiciary for bringing this measure to the floor today. As an early supporter of this bill, I am very pleased to know that it will be approved by the House of Representatives today.

My particular interest in this bill is rooted in the severe understaffing in the Federal judiciary in my home State of Connecticut. According to the Judicial Conference of the United States, Connecticut's Federal courts are straining under the weight of increased caseloads and have relied on the valuable services of senior judges to carry the load. Thousands of cases await review in our courts and this bill will help provide the manpower to meet the growing demand exacerbated by the recent loss of one of our senior judges.

Though this bill provides for one additional judgeship in the district of Connecticut, I am pleased to note that a similar Senate bill includes two judgeships for my State. Since this more accurately reflects the needs of the Connecticut judiciary. I hope the House managers of the bill will acknowledge this fact and agree to accept the Senate language regarding Connecticut's needs.

On behalf of the hard-working men and women of the Connecticut district, I would like to thank my colleagues, especially Chairman BROOKS and ranking member FISH, for their diligence in bringing this important legislation to the floor.

Mr. LIVINGSTON. Mr. Speaker, today in an attempt to finish our business we have a suspension calendar consisting of 21 bills. Most of us have a good working knowledge about only a few of these bills. The rest have been rushed to the floor so quickly that we are essentially voting on legislation that we know little about. We are trusting the leadership to include only noncontroversial measures.

Mr. Speaker, the inclusion of H.R. 5316, the Federal Judgeship Act of 1990, on this fast-track list of supposedly noncontroversial measures is perplexing to me. This bill authorizes 59 new Federal judgeships. Its Senate counterpart authorizes 77 new judgeships. It has been 6 years since this body last created new Federal judgeships and we have done so only twice in the last 12 years.

Yet we are here ready to pass this legislation without serious debate. There is no doubt that our great country needs new judgeships. And there is no doubt that we should move quickly to provide means by which our justice system can put criminals behind bars. My complaint, rather, is with the distribution of these judgeships. My State, Louisiana, inexplicably gains no judgeship. This is so despite the recommendation of the Judicial Conference that Louisiana receive a judgeship and despite the fact that the Senate bill contains a judgeship for Louisiana.

I do not plan to oppose this legislation because I think it imperative to provide these judgeships as soon as possible. I am disgruntled, though, that such an important piece of legislation would be rushed to the floor and placed on the suspension calendar with little opportunity for meaningful debate. Lastly, I want to ask Chairman BROOKS to instruct the conferees to include in the conference report a Federal district court judgeship for the western district of Louisiana.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore [Mr. MCNULTY]. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 5316, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BROOKS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5316, the bill just under consideration, and on S. 84, the Senate bill considered previously today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CAPITOL POLICE RETIREMENT ACT

Ms. OAKAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5641) to amend title 5, United States Code, with respect to retirement of members of the Capitol Police.

The Clerk read as follows:

H.R. 5641

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Capitol Police Retirement Act".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 5, United States Code.

SEC. 2. AMENDMENTS TO CHAPTER 83.

(a) IMMEDIATE RETIREMENT.—Section 8336 is amended by redesignating subsection (m) as subsection (n) and inserting after subsection (l) the following new subsection:

"(m) A member of the Capitol Police who is separated from the service after becoming 50 years of age and completing 20 years of service as a member of the Capitol Police or as a law enforcement officer, or any combination of such service totaling at least 20 years, is entitled to an annuity.".

(b) MANDATORY SEPARATION.—(1)(A) Section 8335 is amended by redesignating subsection (d) as subsection (e) and inserting after subsectio the following new subsection:

"(d) A member of the Capitol Police who is otherwise eligible for immediate retirement under section 8336(m) shall be separated from the service on the last day of the month in which such member becomes 55 years of age or completes 20 years of service if then over that age. The Capitol Police Board, when in its judgment the public interest so requires, may exempt such a member from automatic separation under this subsection until that member becomes 60 years of age. The Board shall notify the member in writing of the date of separation at least 60 days in advance thereof. Action to separate the member is not effective, without the consent of the member, until the last day of the month in which the 60-day notice expires.".

(B) The amendment made by subparagraph (A) shall take effect 2 years after the date of enactment of this Act.

(2) Section 8335(e), as so redesignated by paragraph (1)(A), is amended by inserting "(Other than a member of the Capitol Police)" after "employee".

(c) COMPUTATION.—(1) Section 8339 is amended by adding at the end the following new subsection:

"(q) The annuity of a member of the Capitol Police, or former member of the Capitol Police, retiring under this subchapter is computed in accordance with subsection (b), except that, in the case of a member who retires under section 8335(d) or 8336(m), and who meets the requirements of subsection (b)(2), the annuity of such member is—

"(1) 2½ percent of the member's average pay multiplied by so much of such member's total service as does not exceed 20 years; plus

"(2) 2 percent of the member's average pay multiplied by so much of such member's total service as exceeds 20 years.".

(2)(A) The amendment made by paragraph (1) shall take effect 4 years after the date of enactment of this Act, and shall apply with respect to any annuity, entitlement to which is based on a separation occurring on or after that effective date, subject to subparagraph (B).

(B) Nothing in this subsection or in the amendment made by this subsection shall, with respect to any service performed before the effective date of such amendment, have the effect of reducing the percentage applicable in computing any portion of an annuity based on such service below the percentage which would otherwise apply if this Act has not been enacted.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 8337(a) is amended in the last sentence by striking "8339(a)-(e) or (n)" and inserting "8339(a)-(e) or (n)" and inserting "8339(a)-(e), (n), or (q)".

(2) Subsections (f) and (m) of section 8339 are each amended by striking "(a)-(e) and (n)" and inserting "(a)-(e), (n), and (q)".

(3) Section 8339(g) is amended—

(A) in paragraph (2), by striking "(a)-(c) or (n)" and inserting "(a)-(c), (n), or (q)"; and

(B) in the matter following paragraph (2), by striking "(c), or (n)" each place it appears and inserting "(c), (n), or (q)".

(4) Section 8339(i) is amended by striking "(a)-(h) and (n)" and inserting "(a)-(h), (n), and (q)".

(5) Section 8339(j), 8339(k)(1), and 8343a are each amended by striking "(a)-(i) and (n)" each place it appears and inserting "(a)-(i), (n), and (q)".

(6) Section 8339(l) is amended by striking "(a)-(k) and (n)" and inserting "(a)-(k), (n), and (q)".

(7) Subsections (b)(1) and (d) of section 8341 are each amended by striking "(n), and (o)" and inserting "(n), (o), and (q)".

(8) Section 8344(a)(A) is amended by striking "(i), and (n)" and inserting "(i), (n), and (q)".

SEC. 3. AMENDMENTS TO CHAPTER 84.

(a) IMMEDIATE RETIREMENT.—Section 8412(d) is amended by striking "officer" each place it appears and inserting "officer, member of the Capitol Police,".

(b) MANDATORY SEPARATION.—(1)(A) Section 8425(b) is amended by striking "office" each place it appears and inserting "officer, member of the Capitol Police,".

(B) Nothing in section 8425(b) of title 5, United States Code, as amended by subparagraph (A) shall require the automatic separation of any member of the Capitol Police before the end of the 2-year period beginning on the date of enactment of this Act.

(2) Section 8425(c) is amended by inserting "(other than a member of the Capitol Police)" after "employee".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentlewoman from Ohio [Ms. OAKAR] will be recognized for 20 minutes, and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5641 was introduced by myself, my good friend and ranking minority member of the Subcommittee on Personnel and Police, Mr. ROBERTS, our distinguished committee chairman, FRANK ANNUNZIO, and our colleague, GARY ACKERMAN, chairman of the Subcommittee on Compensation and Employee Benefits. Our goal was to place the U.S. Capitol Police Force on a level playing field with other Federal law enforcement agencies.

I would like to thank the Committee on Post Office and Civil Service for its swift approval of this legislation and agreement with our committee that this bill should be enacted at once.

Mr. Speaker, allow me to take this opportunity to say that the men and women who constitute the U.S. Capitol Police are highly skilled, competent, and accomplished individuals. They are charged with the important task of protecting the Capitol of the United States, Members of Congress and their staff, foreign dignitaries, and millions of tourists who visit the Capitol every year.

In March of this year, the Subcommittee on Personnel and Police conducted a hearing to address several issues which merited serious consideration. The subcommittee received testimony from the Capitol Police Board, the chief of police, and over 400 members of the U.S. Capitol Police Force.

After many months of review, the subcommittee introduced a reform package, which, among other items, included two pieces of legislation.

Today, we are to consider the final component of the reform package—the Capitol Police Retirement Act. Upon enactment, the computation of retirement for the U.S. Capitol Police Force will be changed from its current application pertaining to years of service.

Mr. Speaker, H.R. 5641 will accomplish several things:

First, with reference to immediate retirement, an employee who is separated from the service after becoming 50 years of age and completing 20 years of service as a member of the Capitol Police, or a combination of other Federal law enforcement service, will be entitled to an annuity;

Second, regarding mandatory separation, a member of the Capitol Police who is otherwise eligible for immediate retirement, shall be separated from the service on the last day of the month in which the employee becomes 55 years of age or completes 20 years of service if then over that age. The Capitol Police Board will be able to exempt a member from automatic separation until the employee becomes 60 years of age, if retaining the employee is to the benefit of the public interest. However, mandatory separation will not take effect until 2 years after enactment of this legislation;

Third, in 4 years, the computation rate will change so that Capitol Police officers will have their annuities computed identical to that of other Federal law enforcement agencies.

Mr. Speaker, the reform package also includes legislation to create a civilian position entitled "Director of Employment Practices." This legislation was adopted in June, and the search for an individual to fill this position is now underway. The application deadline is October 3, 1990.

Mr. Speaker, I would like to inform the House of the other reforms that the subcommittee has been implementing. The internal grievance procedure has been modified and enhanced in order to address the officers' concerns; the addition of the position of Director of Employment Practices will ensure an expedited grievance process; all special technician positions are now competitive; and educational assistance seminars will be instituted.

Finally, Mr. Speaker, we would not have reached this point without the constant support and assistance of the subcommittee's ranking minority member, the Honorable PAT ROBERTS. Without his personal interest, diligence, and perseverance, this reform package, in its most complete form, would never have been instituted and implemented.

Mr. Speaker, upon enactment, the computation of retirement for the U.S. Capitol Police force will be changed from its current application pertaining to years of service.

Regarding immediate retirement, an employee who is separated from the service after becoming 50 years of age and completing 20 years of service as a member of the Capitol Police, or a combination of other Federal law enforcement service, is entitled to an annuity.

Regarding mandatory separation, a member of the Capitol Police who is otherwise eligible for immediate retirement, shall be separated from the service on the last day of the month in which the employee becomes 55 years of age or completes 20 years of service if then over that age. The Capitol Police Board may exempt a member from automatic separation until the employee becomes 60 years of age. Mandatory separation does not take effect for 2 years after enactment of this legislation.

In 4 years, the computation rate will change so that Capitol Police officers will have their annuities computated identical to that of Federal law enforcement agencies.

COMMITTEE ON POST OFFICE
AND CIVIL SERVICE,
Washington, DC, September 19, 1990.

Hon. FRANK ANNUNZIO,
Chairman, Committee on House Administration, U.S. House of Representatives, Washington, DC.

Dear Mr. Chairman: This refers to your letter of today concerning H.R. 5641 (Capitol Police Retirement Act of 1990) which has been jointly referred to our Committees.

I understand that H.R. 5641 was ordered reported today by the Committee on House Administration and that you desire to request consideration of the bill by the House under suspension of the rules on Monday, September 24.

We have carefully considered the provisions of H.R. 5641 and fully concur in the substance of those provisions. Therefore, in the interest of expediting the business of the House, the Committee on Post Office and Civil Service will interpose no objection to the consideration of the bill by the House, provided such consideration will not imperil or in any other manner affect the jurisdiction of this Committee as established by House Rule X, clause 1(o).

With kind regards,

Sincerely,

WILLIAM D. FORD,
Chairman.

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 13, 1990.

Hon. MARY ROSE OAKAR,
Chair, Subcommittee on Personnel and Police, Committee on House Administration, U.S. House of Representatives, Washington, DC.

DEAR MADAM CHAIR: The Congressional Budget Office has prepared the attached cost estimate of the amendment to H.R. 5109, the Capitol Police Amendments Act of 1990, as introduced and referred jointly to the Committees on House Administration and Post Office and Civil Service on June 21, 1990.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, SEPTEMBER 13, 1990

1. Bill number: None.

2. Bill Title: Capitol Police Retirement Act of 1990.

3. Bill status: An amendment in the nature of a substitute to H.R. 5109, as introduced and referred jointly to the Committees on House Administration and Post Office and Civil Service on June 21, 1990.

4. Bill purpose: The purpose of this bill is to amend title 5, United States Code, with respect to retirement of members of the Capitol Police.

5. Estimated changes to CBO baseline:

[By fiscal years, in millions of dollars]

	1991	1992	1993	1994	1995
Direct spending:					
Estimated budget authority	0	0	0	0	0
Estimated outlays	1	1	2	3	4

The spending effects of this bill fall in Function 600.

BASIS OF ESTIMATE

This bill would change the retirement requirements and benefit computation for members of the Capitol Police. Under current law, Capitol Police must be 55 years old with 30 years of combined military and Capitol Police service, 60 with 20 years of combined service, or 62 with 5 years of combined service to retire with full benefits. Under the provisions of this bill, Capitol Police would be eligible to retire at the age of 50 with 20 years of combined law enforcement and Capitol Police service. In addition, Capitol Police would be mandatorily separated from service on the last day of the month in which they turned 55 years of age or completed 20 years of service if over that age. The mandatory retirement provision would be come effective 2 years after the date of enactment of the bill, assumed to be October 1, 1990.

On average, approximately 18 members of the Capitol Police retire each year. The Capitol Police provided information on the number of employees who would be eligible to retire in each fiscal year under the relaxed retirement requirements specified in the bill. Based on information provided by the Office of Personnel Management on the percentage of eligible employees that retire each year, this estimate assumes there would be approximately 145 extra retirees over the 5-year projection period. Approximately 85 percent of the extra retirees are estimated to elect a lump-sum payment of approximately $33,000. Under current law, beginning in fiscal year 1991, retirees may withdraw 100 percent of their contributions to the retirement system in the year they retire. Lump-sum payments would account for approximately $5 million of the estimated $11 million in direct federal spending over the projection period.

In addition, the annuity computation for Capitol Police would be changed from 2½ percent of high 3-year salary for all years of service to 2½ percent of high 3-year salary for up to 20 years of service and 2 percent of high 3-salary for all years of service over 20. The change would go into effect 4 years after the date of enactment of this bill. The change in the annuity formula would only affect service over 20 years that is performed after the effective date. Therefore, over the projection period, there would be an insignificant change in the average retiree's annuity.

5. Estimated cost to State and local governments: None.

6. Estmate comparison: H.R. 5109.

7. Previous CBO estimate: None.

8. Estimate prepared by: Cathy Ellman (226-2820)

9. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

AUGUST 29, 1990.

Hon. MARY ROSE OAKAR,
Chair, House Administration Subcommittee on Personnel and Police, Washington, DC.

DEAR MADAM CHAIR: The concern of the Members of the Subcommittee on Personnel and Police for the welfare of the United States Capitol Police Officers is greatly appreciated. We consider it a privilege to serve our country by serving the Congressional Community. It is an honor not lightly esteemed.

We support the efforts of the Subcommittee to provide the Capitol Police with a much needed retirement package, one that would be comparable with local law enforcement jurisdictions. Concerning this matter, it is our fervent hope that you would succeed in your endeavor.

Sincerely,

(Signed by Capt. R. F. Reginaldi and 653 others.)

□ 1540

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join Chairman OAKAR and my colleagues from the House Administration Committee in bringing H.R. 5641 to the floor for consideration.

As the ranking Republican member of the House Administration Subcommittee on Police and Personnel, I am most pleased that after years of work, hearings, and legislative effort, the House is acting on legislation to reform the retirement program available to members of the Capitol Hill Police. This change is certain to add credibility and professionalism to this law enforcement agency.

When I began my service on the House Committee on Administration 8 years ago, I was placed on the Subcommittee on Police and Personnel. During my first months, I began working with then-chairman, Congressman LEON PANETTA, on reviewing the Capitol Hill Police to develop reforms in an effort to enable this force to become more professional.

Last year, Congressman PANETTA relinquished his chairmanship of this subcommittee without completing many reforms that we advocated. However, Chairwoman OAKAR deserves great credit for bringing many of these ideas into reality.

I wish to thank both Congresswoman OAKAR and Congressman PANETTA for their efforts.

Congresswoman OAKAR's personal interest, dedication, and leadership were critical in bringing H.R. 5641 to the House floor today. We have worked closely together, and with members of the Capitol Hill Police, the Capitol Hill Police Board, and the Sergeant At Arms when drafting this bill.

As many in the House can personally attest, the individuals serving in the Capitol Hill Police Force are skilled, competent, and dedicated people. They are responsible for the safety of Members of Congress, Federal officials, Capitol Hill staff, and the thousands of visitors that come to the Nation's Capitol every day. This is an enormous and important task.

The retirement reform package contained in H.R. 5641 was developed with careful study and a public hearing was held in which more than 400 police officers provided testimony.

This bill is an effort to provide a retirement system to Capitol Hill Police officers that is comparable to retirement packages offered by law enforcement agencies in the surrounding Washington metropolitan area. It was developed after studying the retire-

ment packages provided by 10 other law enforcement agencies and it intended to bring parity to the Capitol Hill Police.

Chairwoman OAKAR has briefly explained the bill and the parameters in the retirement system that we are offering to change. I would urge my colleagues to support H.R. 5641. This reform is needed and long overdue.

Ms. OAKAR. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. ACKERMAN].

Mr. ACKERMAN. Mr. Speaker, I rise in strong support of H.R. 5641, the Capitol Police Retirement Act of 1990. The Subcommittee on Compensation and Employee Benefits, which I am privileged to chair, has worked very closely with the gentlewoman from Ohio [Ms. OAKAR], the distinguished and forceful chairman of the Subcommittee on Personnel and Police, and I believe that we have produced a bill that provides retirement benefits comparable to those available to police departments in surrounding jurisdictions.

H.R. 5641 allows Capitol Police officers covered by the civil service retirement system to retire at age 50 with 20 years of Capitol Police service. Those officers covered by the Federal employee retirement system may retire at age 50 with 20 years of Capitol Police service, or at any age at 25 years of Capitol Police service. The benefits provided by the bill are similar to those offered to other Federal law enforcement officers.

Mr. Speaker, the members of the U.S. Capitol Police are responsible for protecting the Capitol, Members of Congress and their staffs, foreign dignitaries, as well as the millions of tourists who visit our country each and every year. Because of these responsibilities, the Capitol Police must undergo the same vigorous training that other Federal law enforcement officers endure. This training costs the taxpayer about $40,000 per recruit and makes the Capitol Police among the best trained forces in the country, and a very valuable asset to the U.S. Capitol. After receiving such training, many officers have left the force for the better pay and benefits offered by other police departments. The Capitol Police Retirement Act will help the Capitol Police attract and retain the best qualified and most dedicated employees.

Speaking of dedicated employees, Mr. Speaker, I would just like to reference by an anecdote, the dedication of some of these men and women. In June of this year, 2 members of the Capitol Police that most Members know very, very well, and I will refer to them only as Bobby and Freddie, were on duty on one of the blocks outside this building when a call came over the air that said something like, "Male, black, found dead in a van." They responded immediately. In that van they found a gentleman with a sleeve rolled up and a hypodermic needle stuck in his arm. They sensed he might still be alive. They pulled him out of the van, and on the ground they proceeded immediately, without hesitation, to beat on his chest, to breathe into his mouth, and to attempt to bring him back to life. The ambulance rushed him to the hospital, and in the emergency room the doctors worked on the man and came out and told Freddie and Bobby the good news and the bad news. The good news was that the man was alive and that their selfless act had indeed saved him. The bad news was that the gentleman was an intravenous drug user. The doctors in the hospital tried to persuade the man in question to undergo an AIDS test. He refused, as I suppose is his constitutional right, leaving these two dedicated employees of the Capitol Police, under the tremendous pain and anguish as to whether or not their act had indeed had a price that they had not intended to pay. I am happy to report that they have been tested several times, and everything seems to be OK with them. We pray that that will continue.

However, I spoke to them about a day or two afterward, and I said:

Why did you do that, if the guy had a hypodermic needle sticking in his arm? Why did you put your face to his and breathe into his mouth with that kind of a risk?

and they said to me:

That's our job. He might have just been a visitor to the Capitol who suffered from diabetes and went into insulin shock. It is our responsibility to make sure that we do the things that we were trained to do.

That is the kind of people that we have working for our Capitol Police Force, Mr. Speaker.

□ 1550

I want to thank both my colleagues, the gentlewoman from Ohio, the chairman of the Subcommitte on Personnel and Police of the Committee on House Administration, as well as the gentleman from Kansas, the ranking Republican of the subcommittee, for their work on H.R. 5641.

This bill is an unbelieveably important attempt to attract and retain those dedicated people to the Capitol Police Force, and I urge my colleagues to support the bill.

Ms. OAKAR. Mr. Speaker, I am happy to yield 2 minutes to the distinguished gentleman from Illinois [Mr. ANNUNZIO], the chairman of the House Administration Committee, without whose support this bill and the other reforms would not be possible.

Mr. ANNUNZIO. Mr. Speaker, I want to thank the gentlewoman from Ohio [Ms. OAKAR], the distinguished chair of the Subcommittee on Personnel and Police, for bringing this excellent piece of legislation to the floor, and I want to thank the gentleman from Kansas [Mr. ROBERTS], the distinguished ranking minority party member of the subcommittee, for his continuing contribution to the excellent work of the subcommittee and the full committee.

The bill, at long last, provides a well deserved recognition that each Capitol Police officer is at risk every day. The bill acknowledges that each officer is "on the line," whether he or she is inspecting packages, operating a dog team, engaging in an undercover operation, or performing some other law enforcement activity. Of course the Capitol Police officers also perform routine activities such as helping visitors to the Capitol, and controlling auto and pedestrian traffic. But no matter what duty an officer is performing today, he or she may be assigned to hazardous duty at any time, which places the officer at risk to life and limb. This bill finally recognizes that fact, by making the retirement coverage for the Capitol Police essentially equivalent to other Federal law enforcement bodies. I support the objectives of the bill, and urge each of my colleagues to vote in favor of this bill.

Ms. OAKAR. Mr. Speaker, I just want to conclude by thanking all the individuals responsible for these reforms, including our staff on both sides of the aisle.

I think with my minority leader, the gentleman from Kansas [Mr. ROBERTS] and I have worked so closely together, we never had any dissension, and I think it is a way that we do operate. I am very, very happy that this is coming about, so I want to thank our staff.

I want to thank the Sergeant at Arms and the Speaker's staff as well who really have been very, very helpful.

Mr. ROBERTS. Mr. Speaker, I yield back the balance of my time.

Ms. OAKAR. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore [Mr. MCNULTY]. The question is on the motion offered by the gentlewoman from Ohio [Ms. OAKAR] that the House suspend the rules and pass the bill, H.R. 5641.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TEMPORARY EXTENSION OF DEFENSE PRODUCTION ACT OF 1950

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further

consideration of the bill—H.R. 5725—to extend the expiration date of the Defense Production Act of 1950, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. WYLIE. Reserving the right to object, Mr. Speaker, and I do not intend to object, I yield to the gentlewoman from Ohio to explain the purpose of her bringing H.R. 5725 to the floor at this moment.

Ms. OAKAR. Mr. Speaker, I thank the gentleman for reserving the right to object and yielding to me so I can explain the legislation.

Mr. Speaker, the Defense Production Act [DPA] is scheduled to expire on September 30, which is this coming Sunday.

On September 24, the House passed its DPA reauthorization bill—H.R. 486—by a strong bipartisan vote of 295 to 119. The vote was consistent with the spirit of bipartisanship in the development of this bill, for the most part, during 3 years of hearings, research, consultations and drafting.

At full committee, an Oakar-Shumway amendment was adopted to perfect the bill, and the 39-to-8 vote to report the bill included a majority of Members of both parties in attendance.

During suspension proceedings, a further Shumway amendment was accepted and majority and minority counsels of the Judiciary Committee collaborated closely with Banking Committee staff to perfect two sections of H.R. 486 sought by the Energy Department that would make it possible to call up oil and gas industry executives for service in the National Defense Executive Reserve. Yesterday's action by President Bush, with respect to the strategic petroleum reserve, vividly underscores the need to enact these provisions.

This cooperative spirit was best exemplified by the ranking Republican member of the House Banking Committee, the gentleman from Ohio [Mr. WYLIE] whose strength, patriotism, and legislative skills are assets to his party, his State, and our country. I salute Mr. WYLIE for his role in the House passage of H.R. 486. Since the Senate has not completed its work on its counterpart Defense Production Act bill, S. 1379, the bill before the House today—H.R. 5725—would extend Defense Production Act until October 20, 1990. This should allow time for Senate action, and for the House, Senate, and the administration to reconcile the differences. Our intent is to enact substantive amendments to DPA for the first time since 1984. Legislative counsel informs us that the bill is in proper form to authorize continued expenditure of appropriations during the interim period.

This extension is sponsored by the chairman and ranking minority member of the full Banking Committee, Mr. GONZALEZ and Mr. WYLIE, and the Chair and ranking minority member of the Subcommittee on Economic Stabilization, myself, and Mr. SHUMWAY.

There is, I believe, complete unanimity that the authorities of the Defense Production Act should not be allowed to expire. Contract priorities under title I of DPA directly support production of such frontline weapons systems as armored personnel carriers, patriot air defense missiles, and chemical protective gear—all crucial for Operation Desert Shield.

Expiration of these authorities would imperil lives of U.S. fighting forces in the field. Also, industrial firms producing these items would be subject to adverse legal action for giving priority to military requirements over preexisting contracts.

For all of these reasons, I ask that this bill to extend the Defense Production Act until October 20 be adopted at this time.

Mr. WYLIE. Further reserving the right to object, Mr. Speaker, I strongly support this reauthorization.

As the gentlewoman has said, the House has already acted by passing H.R. 486. Unfortunately, the Senate has not been able to act so far, so it becomes necessary for us to pass this temporary short-term extension until October 20, 1990.

As we mentioned when the other bill was brought to the floor, this act is vital to our military operations in the Middle East. There are weapons being used there right now which are being purchased through this act. If the act expires, both our troops and defense contractors will be put at risk.

I would like to say that I appreciate the hard work and the conscientious effort and persistence which the gentlewoman from Ohio has put into bringing this bill here today. It has been a pleasure for me to work with the gentlewomen to solve this problem.

Missile shipping containers: The military services do not have enough containers to shop tactical missiles to U.S. forces in the Mid-East. The container manufacturer is experiencing a shortage of materials needed for their fabrication. Commerce is using its title I priorities and allocations authority under the DPA to require five suppliers to expedite deliveries of these materials.

Radio and amplifier systems for satellite communications: Expedited deliveries of special satellite communications systems, including amplifiers to boost signal strength, are required by the Air Force. Commerce is using its title I priorities and allocations authority under the DPA to direct the manufacturer to surge production and to divert deliveries to meet Air Force requirements.

Tempested lap top computers for battlefield use: Tempested lap top computers for communications that can withstand the harsh desert environment are urgently required. Commerce is using its title I priorities and allocations authority under the DPA to surge production of these computers and to divert deliveries to meet the most urgent military requirements.

Defense electronic countermeasure pods for Navy and USAF aircraft: Added countermeasure capability is required for both Navy and Air Force aircraft deployed to the Mid-East. There is a shortage of materials needed to made the modifications. Commerce is using its title I priorities and allocations authority under the DPA to surge production of these materials by suppliers and to provide the pod manufacturer with additional production equipment needed to increase output.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, I just would like to thank the gentleman from Ohio. It is always a pleasure to work with someone from my own State. I am very proud the gentleman is the minority leader of the full committee. I thank the gentleman so much for his cooperation.

Mr. WYLIE. Mr. Speaker, I acknowledge and appreciate the compliment.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5725

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXTENSION OF THE DEFENSE PRODUCTION ACT OF 1950.

The 1st sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "September 30, 1990" and inserting "October 20, 1990".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

INDIAN ARTS AND CRAFTS ACT OF 1990

Mr. FALEOMAVAEGA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2006) to expand the powers of the Indian Arts and Crafts Board, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Arts and Crafts Act of 1990".

SEC. 2. POWERS OF INDIAN ARTS AND CRAFTS BOARD.

Section 2 of the Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305a) is amended—

(1) in the first sentence—

(A) by striking "the Board" and inserting "the Secretary of the Interior through the Board"; and

(B) by striking "the Indian wards of the Government" and inserting "Indian individuals";

(2) by amending clause (g) to read as follows:

"(g)(1) to create for the Board, or for an individual Indian or Indian tribe or tribal organization, trademarks of genuineness and quality for Indian products and the products of an individual Indian or particular Indian tribe or tribal organization; (2) to establish standards and regulations for the use of Government-owned trademarks by corporations, associations, or individuals, and to charge for such use under such licenses; (3) to register any such trademark owned by the Government in the United States Patent and Trademark Office without charge and assign it and the goodwill associated with it to an individual Indian or Indian tribe or group without charge; and (4) to pursue or defend in the courts any appeal or proceeding with respect to any final determination of that office;"; and

(3) by adding at the end the following new sentence: "For the purposes of this section, the term 'tribal organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes.".

SEC. 3. REFERRAL FOR CRIMINAL AND CIVIL VIOLATIONS.

The Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) is amended by adding at the end the following:

"SEC. 5. (a) The Board may receive complaints of violations of section 1159 of title 18, United States Code, and refer complaints of such violations to the Federal Bureau of Investigation for appropriate investigation. After reviewing the investigation report, the Board may recommend to the Attorney General of the United States that criminal proceedings be instituted under that section.

"(b) The Board may recommend that the Secretary of the Interior refer the matter to the Attorney General for civil action under section 6.".

SEC. 4. CRIMINAL PENALTY FOR MISREPRESENTATION OF INDIAN PRODUCED GOODS AND PRODUCTS.

(a) IN GENERAL.—Section 1159 of title 18, United States Code, is amended to read as follows:

"§ 1159. Misrepresentation of Indian produced goods and products

"(a) It is unlawful to offer or display for sale or sell any good, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or tribal organization, resident within the United States.

"(b) Whoever knowingly violates subsection (a) shall—

"(1) in the case of a first violation, if an individual, be fined not more than $250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than $1,000,000; and

"(2) in the case of subsequent violations, if an individual, be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other than an individual, be fined not more than $5,000,000.

"(c) As used in this section—

"(1) the term 'Indian' means any individual who is a member of an Indian tribe, or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

"(2) the terms 'Indian product' and 'product of a particular Indian tribe or tribal organization' have the meaning given such terms in regulations which may be promulgated by the Secretary of the Interior;

"(3) the term 'Indian tribe' means—

"(A) any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(B) any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority; and

"(4) the term 'tribal organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes.

"(d) In the event that any provision of this section is held invalid, it is the intent of Congress that the remaining provisions of this section shall continue in full force and effect.".

(b) CONFORMING AMENDMENT.—The item relating to section 1159 in the table of sections for chapter 53 of title 18, United States Code, is amended to read as follows:

"1159. Misrepresentation of Indian produced goods and products.".

SEC. 5. CAUSE OF ACTION FOR MISREPRESENTATION OF INDIAN PRODUCED GOODS AND PRODUCTS.

The Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) (as amended by section 3) is further amended by adding at the end the following:

"SEC. 6. (a) A person specified in subsection (c) may, in a civil action in a court of competent jurisdiction, bring an action against a person who offers or displays for sale or sells a good, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or tribal organization, resident within the United States, to—

"(1) obtain injunctive or other equitable relief; and

"(2) recover the greater of—

"(A) treble damages;

"(B) in the case of each aggrieved purchaser, liquidated damages of not less than $1,000 for each occurrence of any such offer, display, or sale; or

"(C) in the case of each aggrieved individual Indian, Indian tribe or tribal organization, or competing producer, supplier, or retailer, not less than $1,000 for each day on which the offer or display for sale or sale continues.

"(b) In addition to the relief specified in subsection (a), the court may award punitive damages and the costs of suit and a reasonable attorney's fee.

"(c)(1) A civil action under subsection (a) may be commenced—

"(A) by the Attorney General of the United States upon request of the Secretary of the Interior on behalf of an Indian who is a member of an Indian tribe or on behalf of an Indian tribe or tribal organization;

"(B) by an Indian tribe on behalf of itself, an Indian who is a member of the tribe, or on behalf of a tribal organization; and

"(C) by any person aggrieved by any such offer, display, or sale.

"(2) Any amount recovered pursuant to this section shall be paid to the individual Indian, Indian tribe or tribal organization, or person concerned, except that—

"(A) in the case of paragraph (1)(A), the Attorney General may deduct from the amount recovered the amount for the costs of suit and reasonable attorney's fees awarded pursuant to subsection (b) and deposit the amount of such costs and fees as a reimbursement credited to appropriations currently available to the Attorney General at the time of receipt of the amount recovered; and

"(B) in the case of paragraph (1)(B), the amount recovered for the costs of suit and reasonable attorney's fees pursuant to subsection (b) may be deducted from the total amount awarded under subsection (a)(2).

"(d) As used in this section—

"(1) the term 'Indian' means any individual who is a member of an Indian tribe; or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

"(2) the terms 'Indian product' and 'product of a particular Indian tribe or tribal organization' have the meaning given such terms in regulations which may be promulgated by the Secretary of the Interior;

"(3) the term 'Indian tribe' means—

"(A) any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(B) any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority; and

"(4) the term 'tribal organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes.

"(e) In the event that any provision of this section is held invalid, it is the intent of Congress that the remaining provisions of this section shall continue in full force and effect.".

SEC. 6. PENALTY FOR COUNTERFEITING INDIAN ARTS AND CRAFTS BOARD TRADEMARK.

Section 1158 of title 18, United States Code, is amended by striking "be fined not more than $500 or imprisoned not more than six months, or both; and" and inserting "(1) in the case of a first violation, if an individual, be fined not more than $250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than $1,000,000; and (2) in the case of subsequent violations, if an individual, be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other

than an individual, be fined not more than $5,000,000; and (3)".

SEC. 7. CERTIFICATION OF INDIAN ARTISANS.

For the purposes of section 1159 of title 18, United States Code, and section 6 of the Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) an Indian tribe may not impose a fee in certifying an individual as an Indian artisan. For the purposes of this section, the term "Indian tribe" has the same meaning given such term in section 1159(c)(3) of title 18, United States Code.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from American Samoa [Mr. FALEOMAVAEGA] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from American Samoa [Mr. FALEOMAVAEGA].

GENERAL LEAVE

Mr. FALEOMAVAEGA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material on H.R. 2006, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from American Samoa?

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with the distinguished gentleman from Arizona [Mr. RHODES], my good friend, especially also the very distinguished gentleman from Arizona [Mr. KYL] and the gentleman from Colorado [Mr. CAMPBELL], who have been the chief sponsors of H.R. 2006. I am pleased to bring before the House this bill to expand the powers of the Indian Arts and Crafts Board.

The purpose of this bill is to protect Indian artists from unfair and fraudulent competition from counterfeit arts and crafts products. The bill amends and strengthens current law as established under 25 U.S.C. 305A which creates and sets forth the powers and duties of the Indian Arts and Crafts Board. In addition, it increases penalties for counterfeiting and misrepresentation.

This bill is needed for several reasons. First, we need to protect the existing market against imports which are undermining and threatening the livelihood of thousands of Indian artists. In a 1985 report to Congress, the Commerce Department estimated that unmarked imported imitations of Indian arts and crafts are siphoning off anywhere from 10 to 20 percent of the market for genuine handicrafts produced domestically by American Indian artists. The industry's value has been estimated at $400 to $800 million annually. This means that Indian artisans are losing an estimated $40 to $80 million a year.

Second, Mr. Speaker, in order to discourage further fraudulent sales to unsuspecting customers, we need to assure that steps are taken to provide meaningful deterrents to those individuals who are knowingly misrepresenting themselves in the market.

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Mr. Speaker, this bill was jointly referred to the Interior and Judiciary Committees. Mr. Speaker, let me briefly summarize the amendment of the Judiciary Committee which is now before you. H.R. 2006 allows the Secretary of the Interior through the Indian Arts and Crafts Board to register trademarks with the U.S. Patent Office on behalf of an Indian tribe, Indian organization or Indian individual. The bill also broadens the authority of the Board to receive complaints and refer alleged violations to the FBI and the U.S. attorney. In addition, at the suggestion of the Department of Justice, the bill amends title 18 sections 1158 and 1159 to make the penalties for counterfeiting and misrepresentation of Indian arts and crafts comparable to similar penalties in the United States Code. Finally, the bill amends title 25 to establish a civil cause of action against persons who display for sale or sell goods which falsely claim to be Indian made. This action can be brought by the U.S. attorney, a tribe, or any aggrieved person.

Mr. Speaker, this bill has bipartisan support and I urge passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2006, a bill to expand the powers of the Indian Arts and Crafts Board. H.R. 2006 is the product of the combined efforts of the House Interior Committee and the House Judiciary Committee, and provides increased protection to Indian artisans from counterfeit arts and crafts.

Other Members will elaborate more specifically on the positive and beneficial features this bill has for American Indian artisans. I would like to focus my remarks on the relevance this bill has within the framework of current Federal Indian policy.

Both the Nixon and Reagan administrations issued major Indian policy statements. The Nixon Indian policy statement articulates a policy of self-determination for Indians and Indian tribes. The Reagan Indian policy statement reaffirmed the policy of self-determination, but augmented it with the policy of economic self-sufficiency for Indians and tribes. The Bush administration has indicated these worthwhile policies remain intact in the current administration. Congress' endorsement of these policies is reflected in the multitude of legislative actions we've taken during this and previous Congresses with regard to American Indians.

I would like to explain why I believe H.R. 2006 particularly exemplifies the Federal Indian policy of economic self-sufficiency.

The Commerce Department issued a report in 1985 estimating that unmarked import imitations of Indian arts and crafts are siphoning off 10 to 20 percent of the market for genuine handicrafts produced domestically. The industry for genuine Indian arts and crafts has been estimated at $400 to $800 million annually. Accordingly, the marketplace competition of imitation native American handicrafts siphon an estimated $40 to $80 million from genuine American Indian artisans.

Using the 1985 commerce report as the backdrop, H.R. 2006 was shaped by the two committees to address the economic impact that results from the infusion into the domestic marketplace of imitation Indian arts and crafts. Specifically, the bill expands the criminal penalties for misrepresentation of a product as Indian produced, and improves the civil remedies available to aggrieved Indian artisans. In addition, the bill enhances the ability of the Indian Arts and Crafts Board to register trademarks on behalf of Indian artisans and to pursue or defend violations of such trademarks.

There is one final point I feel compelled to make. H.R. 2006, as reported by the House Interior Committee, would have preempted States from enacting and enforcing their own laws with respect to imitation Indian arts and crafts. At the time, it was felt that a uniform, national standard was the best approach. Upon further reflection, and based on correspondence received from concerned State legislators, it became apparent that many States are ahead of the Congress with regard to enacting legislation designed to protect genuine Indian arts and crafts. Accordingly, the section in the bill that would have preempted State legislative actions in this field has been deleted. I am pleased that many State legislatures, including the Arizona State legislature, have felt it important to help protect local Indian commerce from fraudulent competition coming from foreign and domestic sources. I am optimistic that the provisions of H.R. 2006, along with complementary State legislative initiatives, will go a long way toward providing the proper level of economic protection to the very beautiful and valuable handiwork of our American Indian artisans.

For all of the reasons I have described, I urge my colleagues to support the enactment of H.R. 2006.

Mr. Speaker, I want to congratulate the gentleman from Colorado [Mr. CAMPBELL] and the gentleman from Arizona [Mr. KYL] for producing this legislation.

Mr. Speaker, like so many things that happen in this House, it started out simple and got complicated, but they were persistent, patient, and their handiwork has paid off.

Mr. Speaker, I am pleased to advise that the minority on the Committee on the Judiciary joins with the Committee on Interior and Insular Affairs in favor of the reporting out of this bill.

Mr. Speaker, I yield such time as he may consume to the my friend and colleague, the gentleman from Arizona [Mr. KYL].

Mr. KYL. I thank the gentleman for yielding.

Mr. Speaker, I thank the gentleman from Arizona [Mr. RHODES] for his comments.

Mr. Speaker, I rise in support of H.R. 2006, the Indian Arts and Crafts Act of 1990.

This legislation, which I introduced last year with my friend from Colorado, Congressman BEN NIGHTHORSE CAMPBELL, will strengthen current law to better protect Indian arts and crafts from counterfeiting and misrepresentation in the marketplace.

Misrepresenting products as genuine Indian is not only an unfair marketing practice that shortchanges consumers; it is a threat to the historical and cultural traditions that are entailed in the manufacture of Indian arts and crafts.

For example, if Indian artisans have to increase productivity at the expense of time-honored manufacturing techniques and traditions in order to compete with cheaper representations, an important part of Indian heritage will be compromised and lost.

Mr. Speaker, there are two main components to this legislation. First, the bill will enhance the ability of the Indian Arts and Crafts Board at the Department of the Interior to obtain trademarks for Indian artisans and thus help them distinguish their works in the marketplace. The expanded use of trademarks will assist consumers in determining what is genuine Indian and what is not.

Second, the bill gives some teeth to enforcement against misrepresentation and counterfeiting. It strengthens criminal penalties for violations. And, it provides new civil remedies by which aggrieved persons can obtain injunctive relief and monetary damages.

The most difficult issue we have struggled with as this legislation moved through the Interior and Judiciary Committees was the question, "Who is Indian?" for purposes of the act.

It was important for us to deal very carefully with this question for two reasons. First, consumers will make decisions about authenticity based, in part, upon the provisions of this act. Second, and more importantly, how we define the term can and will affect the livelihoods of many artisans.

The definitions in the bill were derived after lengthy consultations with the Interior and Justice Departments, Congressman CHARLIE ROSE and HOWARD COBLE, and members of the arts community, to name a few.

The bill before us today defines "Indian" as a member of a federally recognized tribe, or a tribe recognized by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority.

Recognizing that some persons may not be members of such tribes for one reason or another, but that they are still Indian, the bill also allows tribes to certify individuals as Indian artisans for purposes of the act. Establishing criteria for such certification is rightly left with the tribes. If an individual is claiming descendancy from the Hopi Tribe, for example, but is not a member of the tribe, the tribe ought to have the opportunity to review the circumstances and decide whether or not the claims are valid.

This certification authority is made available to the tribes to deal with special circumstances. If they ignore the authority and leave people who have legitimate claims hanging, I won't hesitate to revisit this issue in the future.

Before concluding, I want to thank Chairman UDALL, Chairman BROOKS, and Mr. KASTENMEIER for their support and assistance in bringing this legislation to the floor.

I also want to thank our colleagues, CHARLIE ROSE and HOWARD KOBLE for their help and contributions especially on the definition question and also Bob Hart and Geoff Stamm of the Indian Arts and Crafts Board of the Department of the Interior and my father, John Kyl, a former Representative from Iowa, the Fourth District, for his ideas and inspiration for this legislation.

Mr. Speaker, this legislation will go a long way to enhance confidence in the authenticity of Indian arts and crafts and will protect native American artisans from unfair competition from counterfeits and misleading marketing practices.

Mr. Speaker, I urge my colleagues' support.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in conclusion, let me simply observe that the Office of Management and Budget has issued an administration policy in support of this legislation. The estimated cost to the Federal Government is in the neighborhood of $100,000 per year with no cost to the State and local governments.

I urge my colleagues to support the bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank both the distinguished gentleman from Arizona for their eloquent remarks in support of this legislation. Mr. KYL is one of the chief sponsors of this bill.

I would be remiss if I did not recognize the tremendous work that has been done by the staff on both sides, Tim Glazewski, Tadd Johnson, Frank Ducheneaux, and Cathy Wilson, for the tremendous work that they have done in putting the proper language and history and for a study that they have conducted to bring this piece of legislation successfully to the floor.

Mr. KASTENMEIER. Mr. Speaker, I rise in support of H.R. 2006, the Indian Arts and Crafts Act. This legislation will improve the ability of American Indians to protect their arts and crafts against frauds and counterfeits. It will do so in three ways: first, by facilitating the development and registration of trademarks for Indian arts and crafts; second, by providing criminal penalties for misrepresenting Indian goods or counterfeiting Indian trademarks; and third, by providing a civil action enforceable by the Attorney General or the aggrieved artisan or his tribe, against persons who represent goods as Indian made when they are not.

This bill was jointly referred to the Committee on Interior and Insular Affairs and the Committee on the Judiciary. The House Judiciary Committee's Subcommittee on Courts, Intellectual Property, and the Administration of Justice, which I chair, made a limited number of changes to the bill in response to suggestions from the Departments of Commerce, Justice, and Interior, among others. Those changes were made with the complete cooperation and assistance of the Interior Committee, and the result is a sound, essentially noncontroversial piece of legislation.

I am pleased to have played a small part in moving this bill through the House. It is, however, the bill's sponsors—the gentleman from Arizona [Mr. KYL] and the gentleman from Colorado [Mr. CAMPBELL]—together with the chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona [Mr. UDALL], who deserve the credit for this initiative. This bill is the culmination of a truly bipartisan effort that will provide much needed support and protection for an irreplaceable part of American culture, and a valuable national resource: native American arts and crafts. I enthusiastically support H.R. 2006.

Mr. FALEOMAVAEGA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from American Samoa [Mr. FALEOMAVAEGA] that the House suspend the rules and pass the bill, H.R. 2006, as amended.

The question was taken; and (two thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1610

VICKSBURG NATIONAL MILITARY PARK EXPANSION

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2437) to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, and for other purposes, as amended.

The Clerk read as follows:

S. 2437

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—VICKSBURG NATIONAL MILITARY PARK

SEC. 101. ADDITION OF LANDS TO VICKSBURG NATIONAL MILITARY PARK.

(a) GRANT'S CANAL, LOUISIANA.—The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized to acquire by donation, exchange, or purchase with donated or appropriated funds, approximately two and five-tenths acres of land in Madison Parish, Louisiana, known generally as the Grant's Canal property.

(b) WARREN COUNTY, MISSISSIPPI.—(1) The Secretary is authorized to acquire by donation approximately two and eighty-two one-hundredths acres of land adjacent to the entrance of Vicksburg National Military Park owned by Warren County, Mississippi.

(2) The Secretary may contribute, in cash or services, to the relocation and construction of a maintenance facility to replace the facility located on the land to be donated, all in accordance with an agreement between the Secretary and the Board of Supervisors.

(3) The Secretary is authorized to restore and landscape the property acquired pursuant to this subsection.

(c) BOUNDARY REVISION.—Upon acquisition of the properties referred to in subsections (a) and (b), the Secretary shall, after the publication of notice in the Federal Register, revise the boundary of Vicksburg National Military Park (hereinafter in this title referred to as the "park") to reflect the inclusion of such properties within the park.

SEC. 102. EXCLUSION OF LANDS FROM PARK.

(a) EXCLUSION OF CERTAIN LANDS.—The park boundary is hereby revised to exclude those lands depicted as "Proposed Deletions" on the map entitled "Vicksburg National Military Park" numbered 306-80,007 and dated May 1990, which map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Exclusive jurisdiction over the lands excluded from the park is hereby retroceded to the State of Mississippi.

(b) TRANSFER TO ADJACENT OWNERS.—(1) For a period ending four years after the date of enactment of this title and subject to the provisions of paragraph (2), the Secretary is authorized to convey title to all or part of the lands referred to in subsection (a) to an owner of property adjacent to such lands, upon the application of such owner.

(2) No property shall be conveyed unless the application referred to in paragraph (1) is accompanied by a payment in an amount equal to—

(A) the fair market value of the land to be conveyed; and

(B) the administrative costs of such transfer incurred by the Secretary, including the costs of surveys, appraisals, and filing and recording fees.

(c) EXCESS PROPERTY.—Any lands not conveyed pursuant to subsection (b) shall be reported to the Administrator of General Services as excess to the needs of the Department of the Interior and shall be subject to transfer or disposition in accordance with the Federal Property and Administrative Services Act of 1949, as amended.

SEC. 103. PARK INTERPRETATION.

In administering Vicksburg National Military Park, the Secretary shall interpret the campaign and seige of Vicksburg from April 1862 to July 4, 1863, and the history of Vicksburg under Union occupation during the Civil War and Reconstruction.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE II—MINNESOTA PUBLIC LANDS

SECTION 201. SHORT TITLE.

This title may be cited as the "Minnesota Public Lands Improvement Act of 1990".

SEC. 202. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress hereby finds and declares that—

(1) within the State of Minnesota there are a number of small scattered islands and upland tracts that are in Federal ownership and under the jurisdiction of the Bureau of Land Management;

(2) the public interest would be best served if these Federal islands and upland tracts continue to be managed for public recreation; preservation of open space; and for the protection of their fish, wildlife, and plants and their scientific, historic, cultural, geologic, and other resources and values;

(3) many such islands and upland tracts are not suitable for inclusion in the National Park System, National Forest System, National Wildlife Refuge System, or other Federal conservation system or for efficient management by the Bureau of Land Management;

(4) the State of Minnesota is prepared and willing to undertake to manage such islands and upland tracts for such purposes and subject to appropriate conditions, but existing mechanisms for enabling the State to undertake such management are cumbersome and inefficient as applied to such small, scattered islands and tracts;

(5) elsewhere in Minnesota there are unpatented lands which for many years have been in the possession of parties other than the United States but the title to which is clouded because of claims arising under public land laws or otherwise involving possible Federal residual interests;

(6) existing authorities for Federal resolution of such conflicts, and for removal of such clouds on title, are often not well suited for efficient, expeditious action that appropriately protects the interests of all parties, including the United States; and

(7) legislation to facilitate appropriate management by the State of Minnesota of such islands and upland tracts and to facilitate resolution of such claims and removal of such clouds would be in the public interest.

(b) PURPOSES.—This title is intended to provide for better management of public lands located in the State of Minnesota by—

(1) transferring certain specified unclaimed islands and uplands and certain other public lands to such State for purposes of public recreation, protection of fish, wildlife, and plants, and the protection of resources and values; and

(2) authorizing the Secretary of the Interior to resolve claims to certain other public lands in Minnesota and to transfer such lands to claimants thereof on terms that recognize the equities of such claimants in such lands.

SEC. 203. DEFINITIONS.

As used in this title—

(a) the term "listed uplands and islands" means those public lands located in the State of Minnesota which are specified in the list containing the legal description of such lands and entitled "Minnesota Uplands and Islands Appropriate for State Management" dated July 16, 1990, on file in the Office of the Secretary of the Interior, except for any lands to which Indian title has not been extinguished;

(b) the term "public lands" means federally owned lands or interests therein managed by the Bureau of Land Management;

(c) the term "claim" means a good faith assertion by a party other than the United States that—

(1) such party has title to a parcel or tract of land, or

(2) a parcel or tract of land is held in trust by the United States for the benefit of an Indian tribe or an individual member of an Indian tribe;

(d) the term "Recreation and Public Purposes Act" means the Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.);

(e) the term "Secretary" means the Secretary of the Interior; and

(f) the term "State" means the State of Minnesota.

SEC. 204. GRANT TO STATE.

(a) UNCLAIMED AREAS.—Effective one year after the date of enactment of this Act and subject to its terms and conditions, the right, title and interest of the United States in and to all listed uplands and islands, surveyed and unsurveyed, in Lake Superior, inland lakes and rivers, and other bodies of water within the State which as of one hundred and eighty days after the date of enactment of this Act were not subject to any claim identified on the records of, or filed with the Bureau of Land Management, are hereby granted to the State.

(b) CLAIMED AREAS.—Any listed uplands and islands which were subject to a claim identified on the records of, or filed with the Bureau of Land Management as of one hundred and eighty days after the date of enactment of this Act, may be sold by the Secretary to the claimant or claimants thereof under section 205 of this Act. No later than one year after the date of enactment of this Act, the Secretary shall notify such claimant or claimants concerning the Secretary's authority for such sales. The right, title, and interest of the United States in and to any such listed uplands and islands not purchased by such claimant or

claimants within ten years after the date of enactment of this Act shall be transferred by the Secretary to the State under and subject to this Act at the end of such ten years, and any claim to any such listed uplands and islands by any party other than the State shall not thereafter be enforceable in any court of the United States, subject to the following exceptions:

(1) The ten-year period shall be tolled during pendency of any administrative appellate review of a decision by the Bureau of Land Management or of any judicial review of a final decision by the Secretary; and

(2) The Secretary may transfer lands to the State earlier than ten years after the date of enactment if a claim for said lands has been rejected or disallowed for any reason, or forfeited by the claimant.

(c) PRIOR TRANSFERS.—

(1) Title to the surface estate in all public land which on the date of enactment of this Act was subject to leases issued under the authority of the Recreation and Public Purposes Act to the State, its departments, agencies, and bureaus, shall be deemed to have been granted to and vested in the State under this title on such date and shall thereafter be exempt from the requirements of the regulations of the Department of the Interior governing leases under the Recreation and Public Purposes Act, but shall be subject to the provisions of this title.

(2) Upon reversion and acceptance of public land in Minnesota which prior to the date of enactment of this Act was leased or patented under the Recreation and Public Purposes Act to entities other than the State, its departments, agencies and bureaus, and upon request of the State, the surface estate in such lands shall be transferred by the Secretary to the State pursuant to and subject to the provisions of this title.

(3) If, in order to bring lands under the provisions of this title, the State notifies the Secretary that the State desires to relinquish to the United States the right, title, and interest of the State in and to any lands which prior to the date of enactment of this Act were patented to the State (or to any department, agency, or bureau of the State) under the authority of the Recreation and Public Purposes Act, the Secretary shall accept such relinquishment and shall transfer such relinquished lands to the State under and subject to the provisions of this title. Such transfer shall be effective at the same time that the State's relinquishment is effective.

SEC. 205. RESOLUTION OF CLAIMS.

(a) SALES.—In accordance with the provisions of this section, the Secretary is authorized to sell and issue a patent to a tract of public land located in Minnesota to an applicant for such sale where the Secretary determines that—

(1) such tract does not exceed one thousand five hundred acres and, because of its location or other characteristics, is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency, and

(2) such sale would not be inconsistent with land use plans, if any, developed in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(b) PRICE ADJUSTMENTS.—Notwithstanding any other provision of law, following adjudication of any claims the Secretary may, at the Secretary's discretion, convey land pursuant to this section at fair market value, less equities presented by an applicant for such conveyance and less the value of any improvements that the applicant or the applicant's predecessors in interest have placed on the land. Such equities may include (but are not limited to)—

(1) the amount paid for the land by the applicant;

(2) longevity of applicant's claim;

(3) taxes paid on the land; and

(4) other equities as the Secretary may determine relevant.

(c) DESCRIPTIONS.—Any tract of public land conveyed pursuant to this section shall be described in accordance with the Public Land Survey System as reflected on the approved Federal plat of survey. Where a tract does not conform to an existing survey plat, the Secretary may either—

(1) convey title to a trustee, qualified under the laws of the State to act as a trustee and acceptable to the Secretary, acting on behalf of more than one applicant to whom such trustee shall be required to transfer such tract, in order to conform the legal description to such plat; or

(2) require an applicant to reimburse the United States for the cost of preparing a plat of survey. No cost incurred by a trustee in implementing this subsection shall be borne by the United States.

(d) APPLICABILITY AND PROCEDURES.—

(1) This section shall apply only to tracts specified in subsection 204(b) of this Act, and only if the Secretary has determined such claims to be sufficiently meritorious as to be appropriate for exercise of the Secretary's discretionary authority under this section.

(2) No sale under this section shall take place before thirty days after the Secretary has published in a newspaper of general circulation in the country where a tract proposed for sale is located a notice of the Secretary's determination that such tract is eligible for sale under this section and that the Secretary intends to offer such tract for sale. Such notice shall indicate the size and general location of the tract and the name or names of the claimant or claimants to whom the Secretary intends to sell such tract.

SEC. 206. RESERVATIONS AND CONDITIONS.

(a) MINERAL RESERVATION.—All lands granted by, and any patent or document of conveyance or other transfer issued pursuant to, this title shall be subject to the reservation to the United States of all minerals in the lands granted, conveyed, or otherwise transferred, together with the right to prospect for, mine and remove the minerals under applicable law and such regulations as the Secretary may prescribe, except that in the case of sales under section 205 of this title the Secretary may convey the minerals together with the surface in accordance with section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719).

(b) OTHER CONDITIONS.—

(1) The lands granted or otherwise transferred to the State under this title shall not be conveyed or otherwise transferred by the State to any person or entity other than the United States or a political subdivision of the State.

(2) The lands granted or otherwise transferred to the State under this title shall be used only for purposes of—

(A) public recreation;

(B) protection of fish and wildlife (including habitat) and plants; or

(C) the protection of the scenic, scientific, historic, cultural, geologic, and other resources and values of such lands.

(3)(A) If the State attempts to convey or otherwise transfer title to any part of the lands granted or otherwise transferred to the State under this title to any person or entity other than the United States or a political subdivision of the State, all right, title, and interest in and to all such lands so granted or otherwise transferred to the State, together with all improvements thereon, shall revert to the United States.

(B) If any political subdivision of the State attempts to convey or otherwise transfer title to any part of any lands granted or otherwise transferred to the State under this title (and conveyed or otherwise transferred to such subdivision by the State) to any person or entity other than the State, all right, title, and interest in and to all such lands so conveyed or otherwise transferred to such subdivision, together with all improvements thereon, shall revert to the United States.

(4)(A) If any part of the lands granted or otherwise transferred to the State under this title (and not further conveyed or otherwise transferred by the State to a political subdivision thereof) are used for any purpose incompatible with the purposes specified in paragraph (2) of this subsection, all right, title, and interest in and to all such lands in the ownership of the State, together with all improvements thereon, shall revert to the United States.

(B) If any of the lands granted or otherwise transferred to the State under this title are conveyed or otherwise transferred by the State to a political subdivision of the State, use of part of any such lands for any purpose incompatible with the purposes specified in paragraph (2) of this subsection shall cause all right, title, and interest in and to all such lands so conveyed or otherwise transferred to such political subdivision, together with all improvements thereon, to revert to the United States.

(5)(A) If any land, or portion thereof, granted or otherwise conveyed to the State or political subdivision of the State shall become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601), or if such land, or portion thereof, has been used for purposes that the Secretary finds may result in the disposal, placement or release of any hazardous substance, such land shall not, under any circumstances, revert to the United States.

(B) In the event lands granted or conveyed to the State or political subdivision of the State shall be used for purposes that the Secretary finds: (1) inconsistent with the purposes of this Act, and (2) which may result in the disposal, placement or release of any hazardous substance, the State or political subdivision of the State shall be liable to pay to the Secretary, on behalf of the United States, the fair market value of the land, including the value of any improvements thereon, as of the date of conversion of the land to the nonconforming purpose. All amounts received by the Secretary pursuant to this subparagraph shall be retained by the Secretary and used, subject to appropriations, for the management of public lands and shall remain available until expended.

SEC. 207. NOTICE AND ENFORCEMENT

(a) PUBLIC NOTICE.—

(1) As soon as practicable after the date of enactment of this Act, the Secretary, in consultation with appropriate officials of the State, shall take steps to notify residents of the State as to the nature and location of the listed uplands and islands to be granted or otherwise transferred to the State under this title.

(2)(A) The State, or a political subdivision thereof, shall provide notice in writing to the Secretary with regard to any conveyance or other transfer by the State to a political subdivision thereof of any of the lands granted or otherwise transferred to the State under this title. In the event that such notice is not received within one year after any such conveyance or transfer, such conveyance or transfer by the State shall be void ab initio and all right, title, and interest in and to the land covered by such attempted conveyance or transfer shall revert to the United States.

(B) No later than five years after the date of enactment of this Act, and every five years thereafter, the State shall submit to the Secretary a report as to the present ownership, management, and use of the lands granted or otherwise transferred to the State pursuant to this title.

(3) The Secretary shall maintain in the appropriate office of the Bureau of Land Management a current listing of the lands granted or otherwise transferred to the State under this title, including a record of which, if any, of such lands have been conveyed or otherwise transferred by the State to a political subdivision thereof.

(b) ENFORCEMENT.—

(1) Any person may submit to the Secretary a complaint alleging that the State or a political subdivision thereof has failed to comply with the requirements of this title or that actions have occurred which have had the effect of causing the reversion to the United States of some of all of the lands granted or otherwise transferred to the State under this title.

(2) In the event that the Secretary determines that a complaint received under this subsection is supported by evidence sufficient to warrant further investigation, the Secretary shall investigate the matter.

(3) If, as a result of an investigation under paragraph (2) or for any other reason, the Secretary determines that title to some or all of the lands granted or otherwise transferred to the State under this title has reverted to the United States pursuant to this title, the Secretary shall take all necessary steps to enforce such reversion and to stop use of any part of such lands for any purpose incompatible with the purposes specified in section 206(b)(2) of this title.

(4) Any lands which may revert to the United States under this title shall be retained and managed by the Secretary for the purposes specified in section 206(b)(2) of this title .

SEC. 208. HUNTING AND FISHING.

Nothing in this title shall be construed as affecting the jurisdiction or responsibilities of the State of Minnesota with respect to fish and wildlife (including the regulation of hunting, fishing, and trapping) in any lands granted or otherwise transferred to the State under this title, or as increasing or diminishing any rights with respect to hunting, gathering, or fishing on such lands arising under any Treaty or other agreement between the United States and any Indian tribe or individual.

SEC. 209. CONFORMING AMENDMENT.

(a) Subsection 3(d) of the Michigan Public Lands Improvement Act of 1988 (Public Law 100-537) is hereby amended by striking the period at the end of paragraph (1) of such subsection and by inserting in lieu thereof, ", and only if the Secretary has determined such claims to be sufficiently meritorious as to be appropriate for exercise of the Secretary's discretionary authority under this section.".

(b) Subsection 4(b) of the Michigan Public Lands Improvement Act of 1988 (Public Law 100-537) is amended—

(1) by inserting "the United States or" after "any person or entity other than" in paragraph (1); and

(2) by inserting "the United States or" after "any person or entity other than" in subparagraph (3)(A).

TITLE III—FLORENCE BROWN RELIEF ACT

SECTION 301. LAND TRANSFER.

The Secretary of Agriculture shall transfer, without consideration, to Florence F. Brown of Goleta, California, all right, title, and interest of the United States in and to the parcel of land located in the Los Padres National Forest which is comprised of approximately 40 acres and more particularly described as T. 5 N., R. 30 W., S.B.M., Section 18, NE ¼ SW¼.

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the campaign and siege of Vicksburg were critical to the Union securing control of the Mississippi River, thereby cutting the Confederacy in half. As part of that effort, General Grant tried to divert the mighty Mississippi so that the Confederate artillery of Vicksburg couldn't fire on the Union Navy. That effort, now known as Grant's Canal, while ultimately unsuccessful, shows the tenacity of the Union in securing Vicksburg and the river. The Confederates finally surrendered on July 4, 1863—the same day as their defeat at Gettysburg. The Union occupied Vicksburg for the rest of the war, and during reconstruction as well.

S. 2437 authorizes the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park. It also authorizes the deletion of some 10 acres and provides for the Park Service's assistance in relocation of a maintenance facility. The committee adopted an amendment in the nature of a substitute that directs the National Park Service to interpret more broadly Vicksburg's history in the Civil War and reconstruction. The history of reconstruction—an important period in American history—has been inadequately included in the National Park System. Vicksburg provides an excellent location for helping to interpret that part of our past.

The amendment also added a new title, title II, consisting of provisions essentially identical to those in H.R. 2783, the Minnesota Public Lands Improvement Act, as passed by the House last year. That bill was cosponsored by the entire Minnesota delegation, on a bipartisan basis. It would provide for transfer to the State the management of a number of scattered parcels of public land in Minnesota, and would give the Secretary of the Interior additional authority to resolve title problems affecting a number of parties in the State. The bill was not controversial, but has been held up because the Senate added an unrelated amendment dealing with changes in the licensing of certain nuclear reprocessing facilities. I had hoped that disagreements about that Senate provision could have been worked out so as to allow us to complete action on the bill, but that has not occurred, and so I am proposing to expedite matters by including the noncontroversial Minnesota proposals in this bill.

Finally, Mr. Speaker, the committee included in the bill provisions identical to those of H.R. 1330, by the gentleman from California [Mr. LAGOMARSINO]. That bill has been separately reported by our committee, but its inclusion in this bill should expedite its final approval. This part of the bill before us, title III, is noncontroversial. It would provide for clearing the title of a tract of about 40 acres near Goleta, CA, by the quitclaiming to its occupant of all right, title, and interest of the United States. The lands have evidently never been regarded by the United States as anything but private property, but that status has been questioned through recent actions by the Forest Service. This will resolve the situation, in a way that is acceptable to all concerned.

Mr. Speaker, this is a sound, worthwhile bill that deserves approval. I urge its passage by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2437, a bill which would expand Vicksburg National Military Park, improve management of public lands in the

State of Minnesota and provide for the relief of Mrs. Florence Brown.

Mr. VENTO has already adequately described the first two titles of this measure and I would only add one further comment. I am concerned that with this bill we are breaking a long-standing tradition and purchasing lands already in the public domain for addition to a National Park Service area. While this bill provides for such compensation in an indirect manner, by compensating a county government in terms of cash and services for lands to be donated, the effect is the same. Not only does this reverse past acquisition practices, but I fear it will establish expectations on behalf of the county that it will be compensated soon. It is not clear that funds will be made available in the near future to enable the National Park Service to accept donation of lands which the agency states have no particular historical significance.

Title III of this bill provides relief for Mrs. Florence Brown of Goleta, CA. Mrs. Brown was informed in 1982 that land she had owned, improved and occupied for 40 years was suddenly being claimed by the Forest Service. The circumstances giving rise to this title problem originate from the 1897 In Lieu Selection Act, under which the Forest Service was attempting to consolidate its land holdings. Private parties were encouraged to relinquish their lands within newly created forest reserves and select other Federal lands in lieu thereof. However, for a variety of reasons, many of these selections were never consummated and the private persons ended up retaining their original lands.

Mrs. Brown's lands were offered for such a trade in about 1905. However, when that trade was not consummated, the original owner retained and continued to use his original lands. Mrs. Brown subsequently purchased those lands in 1945. In 1982, as the Forest Service was reviewing its land records, it determined that Mrs. Brown's lands, which had been conditionally relinquished to the Federal Government in 1985, were not claimed in ownership by the Federal Government under the Sisk Act of 1960.

The administration recognizes that these lands belong in equity to Mrs. Brown, however, absent authority provided under this act, the Forest Service cannot clear her title. This same problem exists for several hundred landowners across 11 western States and the current remedy is to pass private legislation to address each case. I have introduced additional legislation which would address the problem generically, which I hope to bring before this body in the near future.

I urge my colleagues to join me in supporting this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Speaker, the Vicksburg National Military Park was established by Congress in 1899 "to commemorate the campaign, siege, and defense of Vicksburg" during the American Civil War. Of course, the Civil War is now the subject of a very important documentary, on public television. Vicksburg's location on the Mississippi River made it strategically important during the Civil War. Gen. Ulysses S. Grant began his campaign against Vicksburg by advancing down the west bank of the Mississippi River, with plans to cross the river below Vicksburg and capture the city from the east. Grant's plan was successful. The Confederate soldiers were completely cut off from food supplies and reinforcements, and they were suffering mounting casualties and sickness. On July 4, 1863, the bloody Battle of Vicksburg had been won by the Union army; and for the rest of the war, the Union forces had the upper hand.

The history of Grant's Canal, one of the properties to be acquired by the Vicksburg National Military Park, is one of the Civil War's most famous stories. Grant's Canal was dug in an effort to change the course of the Mississippi River to allow by-passing the Confederate batteries at Vicksburg.

Mr. Speaker, the Vicksburg National Military Park is vital to the understanding of the role that Vicksburg played in the Civil War. During my youth, the nearby national military park was an unsurpassed source of education of the bloody battle that was a critical turning point in the war—to touch the cannons that actually fired, to see the monuments to the men who died so violently, to witness history. It is fitting that the Congress should now act to expand this historic resource and I urge passage of the bill, S. 2437, to authorize the expansion.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 2437, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, to improve the management of certain public lands in the State of Minnesota, and for other purposes.

A motion to reconsider was laid on the table.

CONVEYING CERTAIN LANDS IN OREGON TO THE ROGUE COMMUNITY COLLEGE DISTRICT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1738) to convey certain Oregon and California Railroad Grant Lands in Josephine County, OR, to the Rogue Community College District, and for other purposes.

The Clerk read as follows:

S. 1738

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF LAND.

(a) CONVEYANCE.—Subject to section 2, the Secretary of the Interior shall convey, without consideration, all right, title, and interest of the United States in and to land described in subsection (b) to the Rogue Community College District in Josephine County, Oregon (hereafter in this Act referred to as the "District").

(b) LAND DESCRIPTION.—The land referred to in subsection (a) is land in Josephine County, Oregon, described as Township 36 South, Range 6 West, W.M., Section 27, southwest ¼, northeast ¼.

SEC. 2. LIMITATIONS ON CONVEYANCE.

The conveyance authorized by section 1(a) is subject to the following limitations:

(a) ENCUMBRANCES.—Such conveyance shall be subject to all encumbrances on the land existing as of the date of enactment of this Act.

(b) MINERAL RIGHTS.—Such conveyance shall reserve to the United States all minerals in the land, including geothermal rights, together with the right to prospect for, mine, and remove the minerals and geothermal resources.

(c) RIGHT OF WAY FOR DITCHES AND CANALS.—Such conveyance shall be subject to the proviso in the fourth undesignated paragraph under the caption entitled "United States Geological Survey" in the first section of the Act of August 30, 1890 (26 Stat. 371, 391) (43 U.S.C. 945).

(d) REVERSIONARY INTEREST.—Such conveyance shall be subject to a reversionary interest in the land described in section 1(b) to be held by the United States. If such land ceases to be used for educational purposes, all right, title, and interest in and to such land shall revert to the United States and shall be identified, classified, and managed as Oregon and California Railroad Grant Lands.

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a noncontroversial Senate-passed bill. It deals with about 40 acres of Federal lands, in western Oregon, now occupied by a local community college.

These lands were formerly a Job Corps site. For a number of years, they have been leased by the Bureau of Land Management [BLM] to the community college. The college would like to own the lands, but BLM does not have the authority to convey or otherwise transfer title.

The bill would direct that title to the lands be transferred to the college, without consideration, subject to reversion to the United States if the lands cease to be used for educational purposes. The United States would reserve all the minerals in the lands.

Mr. Speaker, I believe that this bill merits approval. I know of no opposition or controversy connected with it, and I urge its passage by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to be recognized on S. 1738, a bill to transfer approximately 40 acres of Bureau of Land Management land to Rogue Community College. This bill would allow an existing community college, that has been leasing this land since 1970, to acquire the title to the land as long as it remained as a college or for educational purposes.

This legislation is needed because these lands are a part of the Oregon and California railroad grant lands, which are prohibited from being sold. All mineral rights would be reserved to the United States.

The administration supports the purposes of this bill. The Rogue Community College has been successfully involved in creating this center of learning, utilizing existing structures once occupied by the Job Corps, and given to the college in 1971.

I support this transfer of land to a successful operation of a local community college.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH].

Mr. ROBERT F. (BOB) SMITH. Mr. Speaker, I thank the chairman and the ranking member for bringing forth this legislation. It is a little bill with a big heart, and it ought to be passed. It passed the Senate, so let us get on with it. It is good for Oregon and good for the country.

Mr. Speaker, I want to express my support for legislation to convey a small parcel of Oregon and California grant land to the Rogue Community College in Josephine County, OR.

S. 1738, which is virtually identical to legislation I introduced in the House, would convey to the college a 40-acre parcel of O&C land presently administered by the Bureau of Land Management. While Rogue Community College owns a number of buildings located on the parcel, the land itself is leased to them by the Federal Government. In order for the college to justify major investments in new facilities, it needs the certainty that comes from owning the land it occupies.

It was originally thought that this transfer could occur through the provisions of the Federal Property and Administrative Services Act. Under these provisions, the property would be transferred to the General Services Administration, deemed surplus, and sold to the college.

While this scenario was supported by the BLM, the GSA was unable to implement the transfer sale due to the property's special designation as O&C land. Because O&C lands are required public domain lands, they cannot be disposed of under current law. Therefore, conveying title to the land occupied by the college requires the legislation we are considering today.

Many of our colleagues are aware that the primary use of O&C land is timber management. However the land now occupied by the Rogue Community College is identified as incapable of reforestation. Accordingly, its transfer to the college would in no way diminish the productivity of O&C lands.

In fact, I think just the opposite would occur. Educating young people is an enormous priority and I can think of no better use for a parcel of public land which is unsuitable for any land use. The college needs this land to make long-term plans and commitment to future growth and expansion—I urge my colleagues to support this legislation.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1738.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

MAINE ACADIAN CULTURE PRESERVATION ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1756) to provide for the preservation and interpretation of sites associated with Acadian culture in the State of Maine, as amended.

The Clerk read as follows:

S. 1756

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Maine Acadian Culture Preservation Act".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) recognize an important contribution made to American culture and history by the Acadian immigrants from France who settled in Nova Scotia and, following expulsion by the British in 1755, resettled in various North American colonies, including the territory that eventually became the State of Maine;

(2) assist local and State governments and other public and private entities in the State of Maine in interpreting the story of the State's Acadian settlers and their descendants as well as preserving Acadian music, arts, crafts, and folklore; and

(3) assist in identifying, gathering, and preserving sites, historical data, artifacts, and objects associated with the Acadians in Maine for the benefit and education of the public.

SEC. 3. MAINE ACADIAN CULTURE PRESERVATION COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Maine Acadian Culture Preservation Commission (hereafter in this Act referred to as the "Commission"), which shall consist of 11 members appointed by the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") not later than 6 months after the date of enactment of this Act, as follows:

(1) One member, who shall serve as Chair, appointed from among recommendations submitted by the Governor of the State of Maine.

(2) One member appointed from among recommendations submitted by the Speaker of the House of Representatives of the State of Maine.

(3) One member appointed from among recommendations submitted by the President of the Senate of the State of Maine.

(4) One member appointed from among recommendations submitted by the Chancellor of the University of Maine System.

(5) Three members appointed from among recommendations submitted by State and local historic, cultural or historic preservation organizations.

(6) Four members who are nationally recognized experts in fields of history, anthropology, and folklore, appointed by the Secretary.

(b) TERMS—(1) Members of the Commission shall be appointed for terms not to exceed 3 years.

(2) The Secretary may stagger the terms of initial appointments to the Commission in order to assure continuity in operation.

(3) Any member of the Commission may serve after the expiration of his or her term until a successor is appointed. A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) VOTING.—The Commission shall act and advise by affirmative vote of a majority of its members.

(d) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission, but while

away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(e) EXEMPTION FROM CHARTER RENEWAL REQUIREMENTS.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(f) TERMINATION.—The Commission shall terminate 10 years from the date of enactment of this Act.

(g) SUPPORT.—The Director of the National Park Service is authorized to provide such staff support and technical services as may be necessary to carry out the functions of the Commission.

SEC. 4. DUTIES OF THE COMMISSION.

The Commission shall advise the Secretary with respect to—

(1) the selection of sites for interpretation and preservation by means of cooperative agreements pursuant to section 6; and

(2) the development and implementation of an interpretive program of the Acadian culture in the State of Maine pursuant to section 7(d).

SEC. 5. STUDY.

Within 1 year after the date of enactment of this Act, the Secretary, in consultation with the Commission, shall prepare and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a comprehensive study of Acadian culture in Maine.

SEC. 6. COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—In furtherance of the purposes of this Act, the Secretary is authorized, after consultation with the Commission, to enter into cooperative agreements with the owners of properties of natural, historical, or cultural significance associated with the Acadian people in the State of Maine, pursuant to which agreements the Secretary may mark, interpret, restore, and provide technical assistance for the preservation of such properties and pursuant to which the Secretary may provide assistance, including management services and program implementation.

(b) RIGHT OF ACCESS.—Each cooperative agreement shall provide that the Secretary, through the National Park Service, shall have the right of access at all reasonable times to all public portions of the property covered by the agreement for the purpose of conducting visitors through such properties and interpreting them to the public.

(c) ALTERATION OF PROPERTIES.—Each cooperative agreement shall provide that no changes or alterations shall be made in the property covered by the agreement except by mutual agreement between the Secretary and the other party to the agreement.

SEC. 7. ACADIAN CULTURAL CENTER.

(a) IN GENERAL.—The Secretary is authorized, after completion of the study required by section 5, to establish a center for the preservation and interpretation of Acadian culture within the State of Maine.

(b) ACQUISITION OF LAND.—The Secretary is authorized to acquire lands and interests therein, not to exceed 20 acres in total, by donation, purchase with donated or appropriated funds, or exchange and to develop and operate facilities and programs at the center in furtherance of the purposes of this Act.

(c) OPERATION.—The Secretary may contract with public and private entities for the operation of the center in accordance with program standards approved by the Secretary.

(d) INTERPRETIVE PROGRAM.—In coordination with the Commission, the Secretary shall develop an interpretive program of the Acadian culture in the State of Maine.

(e) STATUTORY AUTHORITY.—The Secretary shall administer properties acquired and cooperative agreements entered into pursuant to this Act in accordance with the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.) and other statutory authority for the conservation and management of natural, historical, and cultural resources.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—For the purposes of carrying out the functions of the Commission, there are authorized to be appropriated such sums as may be necessary, not to exceed $250,000.

(b) OTHER PURPOSES.—(1) To carry out the other purposes of this Act, there are authorized to be appropriated such sums as may be necessary, subject to the limitations of paragraph (2).

(2) With respect to cooperative agreements entered into pursuant to section 6, and the provisions dealing with the Acadian Cultural Center in subsections 7(a) through (c), the Secretary is authorized to expend not more than 50 percent of the aggregate cost of performing those functions. The remainder of such cost shall be paid by non-Federal funds.

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

□ 1620

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

The Acadians, as the French inhabitants of the area now New Brunswick, Canada, were known, were expelled from their homes by the British in 1755, and transported elsewhere. From 1755 to 1763, 14,000 people were removed. Acadians were moved to Louisiana, Quebec, other parts of Atlantic Canada, France, England, and other American colonies including Maryland, Virginia, Massachusetts, and present-day Maine. Thirty years after their original removal, some Acadians returned northward and settled in Maine and New Brunswick along the St. John River in the area known as Madawaska. We have all heard of the Acadians who, forced from their homes in Canada, ended up in Louisiana. We know much less about the Acadians who settled in present-day Maine. Amazingly enough, they have kept much of their original culture, a culture that enriches our Nation's diversity. This legislation directs the National Park Service to assist in the preservation and interpretation of that culture.

The committee adopted an amendment in the nature of a substitute that makes several changes to the bill. It adds three members with national perspective to the Commission, directs the Secretary to prepare and transmit a study of Acadian culture, and deletes the word "perpetuate" because that places a responsibility on the National Park Service it cannot fulfill. These changes provide greater guidance to the National Park Service in fulfilling its responsibilities under this legislation. They will help ensure the protection of Acadian culture and better allow the rest of us non-Acadians to understand that heritage. Mr. Speaker, I endorse S. 1756 and urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to be recognized on S. 1756, a bill to establish the Acadian Culture Center in the State of Maine. As described by the chairman, this bill would establish a center for interpretation of the Acadian culture and authorize the Secretary of the Interior to enter into cooperative agreements to assist in the preservation of sites associated with the Acadian culture.

The administration strongly opposes this measure because it would establish a new unit of the National Park System which has not been the subject of any study. Before we establish a new unit of the National Park System, there are two basic questions to be answered. The first question concerns the national significance and condition of the resources. In this case, the administration has testified that they have no information regarding the resources to be incorporated within this area. The second question concerns the management framework to be applied at the site. To be successful, this management framework must be developed after a site-specific analysis of the resources, not simply adopted from another park unit.

Finally, I note that the bill contains no limitation on the amount of Federal funds to be authorized. Typically, Congress establishes ceilings for both land acquisition and development at park units. While the provision for 50-

50 cost-sharing at this site, will mitigate cost impacts to some extent, further justification appears to be warranted.

Based on my review of this bill, the administration opposition appears to be well-justified.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Speaker, I'm pleased to be able to join in voicing my support for passage of the Maine Acadian Culture Preservation Act. It affords us the opportunity to help preserve—not embalm—an integral part of our State's heritage and present.

Traditional cultures, Mr. Speaker, face substantial pressures in modern day America. Mass communications, mass media, increased individual mobility—all of these facets of our society make the very survival of traditional cultures difficult.

Yet it is these very ethnic cultures which have given to this country the richness and diversity that makes America unique among nations. And it is the Acadian culture which, for three centuries now, has enriched, and helped shape the character of, my own State of Maine.

Maine's Acadians can look back proudly at the history of their culture in the St. John Valley. French settlers first started arriving in this area more than 200 years ago. These proud and resourceful people forged a living from the bounty of the land, prospering in the face of adversities that had forced other settlers to leave.

The Acadians of the St. John Valley faced adversities of a different sort. Beginning in the mid-1700's, Acadian settlers were forced to swear allegiance to the King of England or face deportation. Proudly refusing to renounce their heritage, thousands of Acadians were forced to leave the homes and communities they had built and relocated—many went back to Europe, while others started settlements elsewhere in the New World.

Fortunately, some Acadians remained in the area, and from these courageous few Maine's Acadian heritage has grown. A visitor in this region today can still hear the dialect of the Acadians almost as it existed back in the 1700's. Proud ancestors continued to hand down the stories, songs and legends that have been told for generations.

But the cultural forces of modern America, of which I spoke at the outset, imperil this vital legacy. And if we allow the Acadian heritage to be lost, we Mainers lose a part of ourselves as well. We should not permit that to happen.

S. 1756 takes an important step toward ensuring that the unique character of the Acadian culture is not lost. It provides for the creation of a commission to advise the Secretary of the Interior on conducting activities to interpret the story of the Acadians. It provides for cooperative agreements between the Interior Department and owners of significant Acadian properties and artifacts to ensure that these are not lost to the flood of development and change that marks today's society. Finally, S. 1756 would establish a Maine Acadian Culture Center for the purpose of educating the public about the Acadian culture.

Mr. Speaker, 2 years ago, the Congress established three Acadian Culture Centers in Louisiana. Those centers, though, can only address the end of the Acadians' journey; we should not overlook the contributions and experience of those who remained in northern Maine.

Today, we are not seeking a comparable three centers in Maine, but instead we are asking that an integral part of what makes Maine a special place to live be preserved. This legislation is a useful way of doing so, and I ask my colleagues for their support.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in my opening statement I made an error. I just want to point out to Members that I am not trying to rewrite history. I understand that the French were actually in this instance forced by Britain in the New World to move around.

Mr. BRENNAN. Mr. Speaker, I rise today to express my strong support for the Maine Acadian Culture Preservation Act.

The Acadians were French settlers who first settled in the Canadian maritime provinces. During the 1750's they were forced out by the British; they resettled in Maine, a good many of them in the St. John Valley of northern Maine.

Since that time, Acadian culture and the Acadian people have been a unique part of Maine's historical heritage.

This bill will create a Maine Acadian Culture Preservation Commission, which will in turn establish a Maine Acadian Cultural Center, with the goal of preserving, perpetuating, and honoring Maine's Acadian culture.

The United States is, and always has been, a nation of immigrants. Each new citizen, each new culture, has broadened our perspective, and enriched our Nation.

This legislation will help preserve part of immigrant tradition that has made Maine, and the United States, a place where all can feel welcome.

By preserving Acadian culture, we in turn honor all cultures, and all those who have contributed to the development of our Nation.

I therefore strongly urge my colleagues to support the Acadian Culture Preservation Act.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1756, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING EXCHANGE OF LANDS IN SOUTH DAKOTA AND COLORADO

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4567) to authorize an exchange of lands in South Dakota and Colorado; as amended.

The Clerk read as follows:

H.R. 4567

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) certain lands located within or adjacent to the Black Hills National Forest in Lawrence and Meade Counties, South Dakota, are currently in private ownership;

(2) these lands, which are owned by Homestake Mining Company of California (hereinafter referred to as "Homestake"), are intermingled with National Forest lands and comprise potential valuable additions to the Black Hills National Forest to serve important public values and objectives, including but not limited to—

(A) public access and opportunities for hunting, fishing and other outdoor recreation;

(B) fish and wildlife habitat protection (including Blue Ribbon trout habitat in Spearfish Creek);

(C) the preservation of scenic beauty;

(D) public access to, and the enhancement of the outstanding scenic, natural and recreational values of Spearfish Canyon and other canyons within the Black Hills;

(E) protection of the scenic backdrop to the Spearfish Canyon National Forest Scenic Byway; and

(F) more efficient National Forest land management;

(3) such lands, if not acquired for addition to the Black Hills National Forest, maybe sold and developed for purposes which may be incompatible with the above mentioned objectives;

(4) Homestake has offered to convey such lands, which total approximately twelve thousand two hundred and seventy-four acres, to the United States by sale or exchange so that they may be managed for National Forest and land conservation purposes;

(5) Homestake has identified national forest lands in Summit County, Colorado, that—

(A) Homestake or local government units would like to acquire;

(B) are intermingled with or adjacent to privately owned and developed lands;

(C) are currently developed, permitted for ski area or local government purposes, or adjacent to developed or permitted areas or communities;

(D) are not necessary for retention in government ownership to serve the public in-

terest or objectives; and (E) are therefore suitable for disposal through a land exchange; and

(6) given the relative environmental and other values of the lands proposed for exchange in this Act, the land exchange set forth herein is clearly in the public interest and represents the land acquisition strategy that best meets dual public objectives of acquiring the Spearfish Canyon and other South Dakota properties, while at the same time minimizing or eliminating cash outlays by the United States to achieve such objectives.

(b) PURPOSE.—It is the purpose of this Act to authorize, direct, and expedite the consummation of the interstate land exchange and transfer set forth herein in order to further the public interest by acquiring lands in South Dakota with important values for permanent public management and protection and to transfer certain lands to non-Federal ownership in Summit County, Colorado.

SECTION 2. SOUTH DAKOTA-COLORADO LAND EXCHANGE.

(a) IN GENERAL.—If Homestake enters into an exchange agreement with the Secretary of Agriculture, the Secretary shall exchange lands with Homestake as set forth in this Act.

(b) CONVEYANCE BY HOMESTAKE.—Except as otherwise provided in this subsection, Homestake shall convey to the Secretary of Agriculture all right, title and interest of Homestake in certain lands in Lawrence and Meade Counties, South Dakota, that comprise approximately twelve thousand two hundred and seventy four acres. Such lands include approximately 1,250 acres of riparian lands in Spearfish Canyon that encompass some 20 miles of stream frontage on Spearfish Creek, and are generally depicted on maps entitled "Forest Service-Homestake Land Exchange—South Dakota Lands to Forest Service", numbered A-H, and dated February, 1990. In making such conveyance Homestake shall retain:

(1) All mineral rights in the above described lands owned, held or controlled by Homestake as of the date of enactment of this Act, except that—

(A) any future exercise of such mineral rights shall be subject to the provisions of 36 CFR 251-15 in effect on the date of enactment of this Act pertaining to surface and other use of lands conveyed to the Secretary of Agriculture where mineral rights are reserved; and

(B) that with respect to mineral rights retained in the approximately 1,250 acres of riparian lands within the watershed of Spearfish Canyon, any exploration and development of such rights shall be limited to methods and activities that do not disturb the surface of such lands. If such rights are ever proposed for exploration and development, the Secretary shall provide Homestake with such access or permits on, through, or under National Forest lands including, but not limited to permits for drilling, tunnels, air shafts, surface vents and other activities incidental to exploration or underground mining operations adjacent to such riparian lands as will reasonably permit exploration and development of the mineral rights without surface disturbance of such riparian lands or impairment of the values of Spearfish Canyon as set forth in this Act.

(2) All water rights within the watershed of Spearfish Creek and its tributaries owned, held or controlled by Homestake as of the date of enactment of this Act and shall exercise such rights in accordance with applicable Federal, State, and local law and in accordance with any subsequent cooperative agreements or undertakings entered into between Homestake, the Secretary, and the State of South Dakota for the protection and enhancement of the values of Spearfish Canyon as set forth in this Act.

(3) Cabin sites as indicated on the map numbered "A" referenced in this subsection within the watershed of Spearfish Creek and its tributaries that are intermingled with the lands to be conveyed to the Secretary of Agriculture but that are owned and permitted by Homestake to private parties and such sites will continue to remain in private ownership.

(c) CONVEYANCE BY UNITED STATES. —Upon receipt of title to the lands identified in subsection (a) the Secretary shall simultaneously convey to Homestake all right, title, and interest of the United States, except for mineral rights, subject to valid existing rights and existing National Forest improvements, in and to the following:

(1) Approximately eight hundred and sixty-eight acres of lands located in Summit County, Colorado, as generally depicted on maps entitled "Forest Service-Homestake Land Exchange—Lands to Homestake", numbered 1-3 and dated May 1990, and numbered 4-6 and dated March 1990, except that the lands identified on Map number 5 and generally known as the South Frisco Bay parcel shall not be patented to Homestake unless and until the Town of Frisco and Summit County, Colorado jointly agree to a land use plan for such parcel that emphasizes the use of such parcel for open space and recreation. If the South Frisco Bay parcel is not patented to Homestake within eighteen months after the date of enactment of this Act, the Secretary shall in lieu thereof either pay Homestake cash equalization moneys without regard to the 25% limitation contained in subsection 3(a) of this Act or offer Homestake monetary credits pursuant to that subsection, as the Secretary may find preferable.

(2) Not to exceed forty acres of lands located in Lawrence County, South Dakota, which currently comprise National Forest cabin permit sites, as generally depicted on a map entitled "Forest Service-Homestake Land Exchange—Spearfish Cabin Sites to Homestake", dated February 1990, that shall be sold to the current cabin permittees by Homestake at the value of such lands as determined by an appraisal done pursuant to section 3(b) plus any surveying, platting or other administrative costs incurred by Homestake to prepare and sell such lands, upon application by the permittees or their successors in interest. The transfer of any particular cabin site to Homestake pursuant to this subparagraph shall be contingent on the permittee's request of such a transfer. If such a request is not made, the site shall continue to be permitted by the Secretary in accordance with existing rules, regulations, and procedures.

(3) Mineral rights in the lands identified in this subsection shall not be conveyed to Homestake and, subject to valid existing rights, shall be withdrawn from further appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(d) RESERVATIONS.—Patents issued by the Secretary of the Interior for the lands conveyed pursuant to section 2(c)(1) shall reserve to the public, for administration by the Secretary of Agriculture or by such State or local units or agencies of government, or by private non-profit organizations, as the Secretary of Agriculture in consultation with local planning authorities determines appropriate and qualified to fulfill the purposes of the reservation—

(1) the right of access for fishing use along all streambeds (up to the ordinary high water mark) on streams which flow through the lands conveyed;

(2) a right-of-way for the Colorado Trail along its existing routes through the lands identified on Map 3 of the lands referred to in subsection (c) or along relocated routes as may be identified by the Secretary of Agriculture in consultation with local planning authorities;

(3) a right-of-way for relocation of the existing bicycle path through the lands identified on Map 2 of the lands referred to in subsection (c) to a new route as may be identified by the Secretary of Agriculture in consultation with local planning authorities.

SEC. 3. TERMS AND CONDITIONS OF EXCHANGE.

(a) EQUALIZATION OF VALUES.—The values of the lands to be exchanged pursuant to this Act shall be equal as determined by the Secretary of Agriculture, or if they are not equal, shall be equalized by the payment of money to Homestake or to the Secretary subject to the 25 percentum cash equalization limitation of section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716). The Secretary shall try to reduce the amount of cash equalization to as small an amount as possible. In lieu of any cash equalization payments which may be due Homestake pursuant to this Act, the Secretary may elect to offer Homestake monetary credits, which shall be considered "moneys received" within the meaning of the Act of May 23, 1908, against any moneys owed the Secretary by Homestake or its agents for timber sales within the Black Hills National Forest. Any cash equalization moneys received by the United States pursuant to this Act shall be considered money received and deposited pursuant to the Act of December 4, 1967, as amended (Public Law 90-171, 16 U.S.C. 484a), commonly known as the Sisk Act. The value of the surface development rights relinquished by Homestake on the 1,250 acres within Spearfish Canyon pursuant to section 2(b)(1)(B) shall be considered for all purposes of law a donation by Homestake to the United States and shall not be required to be appraised for purposes of value equalization or other provisions of this Act.

(b) APPRAISALS.—In order to expedite the consummation of the exchange directed by this Act, Homestake shall arrange and pay for appraisals by a qualified appraiser or appraisers mutually acceptable to Homestake and the Secretary of all lands and interests therein to be included in the exchange for which appraisals are required for purposes of this Act. Such appraisals shall be completed and submitted to the Secretary for approval within sixty days after the enactment of this Act. In the event the Secretary and Homestake are unable to agree to the appraised value of a certain tract or tracts of land to be included in the exchange within the one hundred and twenty days after the date of enactment of this Act, the appraisals, or appraisal issues in dispute shall be resolved through a process of bargaining or submitted for arbitration according to Section 3 of the Federal Land Exchange Facilitation Act of 1988 (Public Law 100-409, 43 U.S.C. 1716(d)). Appraisals of lands in Colorado identified in section 2(c) of this Act for conveyance to Homestake

shall not reflect any diminution in value attributable to any conversion of existing ski area permits into ski area permits pursuant to the National Forest Ski Area Permit Act of 1986 (Public Law 99-522).

(c) EXCHANGE AGREEMENTS.—The Secretary shall attempt, within 60 days after the completion of appraisals under this section, to enter into an exchange agreement with Homestake to consummate the exchange of the specific tracts of land identified in Section 2 of this Act. Unless otherwise specified in the exchange agreement, the tracts shall be exchanged at the earliest possible date after the exchange agreement is signed. It is the intent of Congress that the exchange be completed no later than two hundred and seventy days after the date of enactment of this Act.

(d) ADDITION TO BLACK HILLS NATIONAL FOREST.—Lands acquired by the United States within or adjacent to the exterior boundaries of the Black Hills National Forest shall be added to and administered as part of the Black Hills National Forest. The Secretary of Agriculture is hereby authorized to modify such boundaries to incorporate such lands upon their acquisition by the United States. Upon their inclusion in the National Forest System such lands shall be managed in accordance with the laws, rules and regulations generally applicable to the National Forest System, unless otherwise specifically provided by this Act.

(e) DEFINITION.—As used in this Act, the term "Homestake" shall mean the Homestake Mining Company of California or its successors or assigns.

SEC. 4. CONVEYANCE TO SUMMIT COUNTY, COLORADO.

(a) IN GENERAL.—Upon payment by Summit County to the Secretary of the sum of $25,000 and execution of an agreement between the County and the United States as specified in paragraph (4), the Secretary of Agriculture shall convey to Summit, Colorado, all right, title and interest of the United States in approximately four hundred and seventy seven acres of land as generally depicted on a map numbered 7 and entitled "Summit County Landfill", dated July 1990. Such conveyance shall be subject to the following conditions:

(1) The lands conveyed shall continue to be used for solid waste disposal, expansion of the Summit County landfill, or other authorized purposes of Summit County government.

(2) In the event Summit County ever sells, exchanges or otherwise disposes of all or a portion of the lands acquired pursuant to this section, all proceeds of such sale, exchange, or disposal shall accrue to the United States, or the Secretary of Agriculture may elect to reacquire, without compensation to Summit County, any or all portions of such lands that have not been used for solid waste disposal, as the Secretary determines appropriate prior to their sale, exchange, or disposal by the County.

(3) The patent issued by the Secretary of the Interior pursuant to this section shall not contain a reverter provision and under no circumstances shall lands used for solid waste disposal be eligible for reversion to the United States by operation of law after the issuance of such patent.

(4) A conveyance pursuant to this section shall be contingent upon the County executing an agreement with the United States prior to such conveyance, the terms of which are acceptable to the Secretary of Agriculture, and that permanently holds the United States harmless for liability and indemnifies the United States against all costs arising from the United States' ownership or any and all activities, operations (including the storing, handling, and dumping of hazardous materials or substances), or other acts conducted by Summit County or its licensees, employees, agents, successors or assigns on the four hundred seventy-seven acres transferred pursuant to this Act, whether such activities, operations, or other acts occurred prior to, on, or after the date of enactment of this Act. Such agreement shall be incorporated in the patent issued by the Secretary of the Interior for the land conveyed.

(b) INCORPORATION OF CONDITIONS.—The Secretary of the Interior shall incorporate the conditions specified in subsection (a) of this section in any patent conveying lands to Summit County pursuant to this section.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 4567, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4567 is a bill sponsored by our Interior Committee colleagues from South Dakota and Colorado, Mr. JOHNSON and Mr. CAMPBELL.

It would provide for an exchange of lands in which the United States would acquire about 12,274 acres of land in South Dakota now owned by the Homestake Mining Co., in exchange for about 868 acres of national forest lands in Summit County, CO. The South Dakota lands would be added to the Black Hills National Forest. The Colorado lands would be sold by Homestake to their current occupants, including ski resorts and the county government, who now use the lands under permits from the Forest Service.

In addition, the bill would provide for conveyance to Summit County, CO, of a tract of about 447 acres that encompasses lands the county now uses for its landfill, under a special-use permit.

Mr. Speaker, the South Dakota lands that would be acquired by the United States include lands in the Spearfish Canyon area as well as the largest single inholding in the Black Hills National Forest. Both are areas the Forest Service prizes highly.

The bill would leave out of the exchange the mineral estate in both the South Dakota and Colorado lands. However, under the bill there would be a prohibition on any mineral exploration or development in the Spearfish Canyon Area in any way that involved surface disturbance. The Spearfish Canyon lands that would be acquired by the United States under the exchange are the most environmentally sensitive lands involved in the exchange, and protection of such lands from adverse effects of mineral development was a primary goal of the Forest Service in its recommendations for improvements in this bill. It is my understanding that the Forest Service's concerns about this have been fully resolved by the terms of the bill now before us.

The bill also includes provisions designed to assure that Homestake would not be able to make windfall profits from resale of some 40 acres now covered by Forest Service cabin permits that would be transferred to the company in the exchange, as well as other provisions intended to protect the public interest.

With regard to the landfill site that could be conveyed to Summit County, under the bill the county would be required both to pay $25,000 to the United States for the 477 acres involved and also to enter into a binding agreement to hold the United States harmless against any costs arising from liability based on use of these lands for landfill purposes. In addition, the county's use of the lands would be restricted. Taken together, I believe that these provisions appropriately protect the United States and the public in connection with the desirable outcome of transferring this landfill site to the ownership of the local government.

In short, Mr. Speaker, I believe that the bill as reported appropriately resolves the various concerns that have been raised about the bill, and will ensure that the exchange will both enhance the resources and values of the Black Hills National Forest and also properly recognize and protect the interests of the public with regard to all the lands involved.

Mr. Speaker, I commend Mr. JOHNSON and Mr. CAMPBELL for their leadership and their hard work in connection with this bill, and I urge its approval by the House.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4567, which was introduced by the gentleman from South Dakota [Mr. JOHNSON] and my colleague from Colorado [Mr. CAMPBELL]. Both of these gentlemen are also members of the Subcommittee on National Parks and Public Lands.

H.R. 4567 would facilitate an interstate land exchange between Colorado and South Dakota. Under this bill, the Forest Service would acquire about 12,274 acres to be added to the Black Hills National Forest in exchange for about 868 acres of national forest land in Summit County, CO. The Forest Service would also sell about 477 acres to Summit County. This acreage, which includes an existing landfill and proposed expansion area, will continue to be used as a landfill.

This legislation is supported by both major landowners involved—Homestake Mining Co. and the Forest Service. At the subcommittee's hearings on H.R. 4567, the Forest Service outlined several changes that would improve the bill in its opinion. It is my understanding that these changes have been incorporated in the final version of the bill before us today.

Mr. Speaker, I urge my colleagues to support H.R. 4567.

Mr. VENTO. Mr. Speaker, I yield 2 minutes to the gentleman from South Dakota [Mr. JOHNSON], a valuable member of our committee and subcommittee.

Mr. JOHNSON of South Dakota. Mr. Speaker, under this exchange, the Forest Service acquires 12,274 acres of the Black Hills of South Dakota in exchange for 868 acres that are no longer suitable for management by the Forest Service near Keystone, CO.

This exchange includes 1,250 acres along almost 20 miles of the beautiful, scenic Spearfish Creek in Spearfish Canyon in the northern Black Hills, as well as over 8,000 acres of prime elk, deer, and wildlife winter range near Piedmont, SD, in the central Black Hills. The Piedmont section also contains significant scenic values, while Spearfish Creek is a blue-ribbon mountain trout stream.

The exchange has wide support, include the Forest Service, local environmental organizations, the mayors of surrounding cities, and local citizens.

It is important to protect these scenic areas and the vital habitat for the future. While the Homestake Mining Co. has done an admiral job of managing the resources over the past 100 years, the Forest Service is in a better position to manage these lands for the public good in perpetuity. Spearfish Canyon in particular is under significant development pressure on both ends of the canyon, and it is imperative that we act now to save this area for future generations.

□ 1630

The areas to be acquired in the Black Hills are key additions to the National Forest System.

Mr. Speaker, I want to thank the gentleman from Minnesota [Mr. VENTO], chairman of the committee, the gentleman from California [Mr. LAGOMARSINO], the ranking member, as well as Chairman VOLKMER of the Agriculture Committee's Forests Subcommittee for their important help in moving this legislation along, as well as the staff of the Interior and Insular Affairs Committee and the Agriculture Committee for their help.

I want to thank as well the very progressive and enlightened attitude taken by the Homestake Mining Co. in their management of this land over the past 100 years and their willingness to work through some complications to carry this exchange to fruition. It will be of enormous benefit to future generations of South Dakotans and future generations of Americans.

Mr. VENTO. Mr. Speaker, I thank the gentleman for his cooperation and work. He really did a good job working with the various groups involved in this, and I thank also our colleagues on the other committees that had an interest in this matter.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of H.R. 4567. This legislation authorizes and directs an interstate exchange of land between the Homestake Mining Co., of California and the U.S. Department of Agriculture. H.R. 4567 is necessary because existing law does not authorize USDA to carry out exchanges involving lands in more than one State.

What H.R. 4567 does is quite simple.

The bill basically proposes that the Forest Service of the U.S. Department of Agriculture acquire approximately 12,274 acres of scenic land in and adjacent to the Black Hills National Forest in South Dakota that is currently owned by the Homestake Mining Co.

In exchange, the bill proposes that USDA convey to Homestake approximately 868 acres of National Forest land in Summit County, CO, along with approximately 40 acres of cabin sites in South Dakota. The bill also authorizes the Secretary of Agriculture to sell an existing landfill site, also in Summit County, CO, totaling 477 acres to the county government for continued use as a landfill.

Mr. Speaker, acquisition of the Homestake-owned land in South Dakota by the Forest Service will achieve a major land consolidation that will, according to the Forest Service, significantly enhance the management of the Black Hills National Forest and serve the public interest.

The proposed acquisition will include Spearfish Canyon, a well-known scenic and recreational area in the Black Hills which has a significant trout stream. Acquisition of Spearfish Canyon will provide permanent, unrestricted public access to over 20 miles of stream bottom for fishing, hiking, and other recreational uses.

In addition, the exchange will allow the Forest Service to acquire more than 8,000 acres in the so-called Piedmont region, near Rapid City, SD. The Piedmont is a tract of forested lands and canyons containing dramatic cliffs, caves, springs, and other interesting geological features. Because this land has been in private ownership for over a century, the area has been largely undisturbed by humans and is known for its interesting variety of plant species and a microclimate in the canyon bottoms.

Mr. Speaker, the Homestake Mining Co. originally wanted to sell these holdings to the Forest Service at fair market value. However, despite the Forest Service desire to acquire these areas for public use, the constraints of the Federal budget precluded this from happening in the foreseeable future. The logical alternative pursued by the Forest Service and Homestake was the negotiation of this proposed land exchange.

The two parties identified some 868 acres of National Forest land consisting of six parcels of land in Summit County, CO, that was judged suitable for transfer to Homestake. These parcels include lands in and around the Keystone and Copper Mountain ski areas, as well as portions of other Forest Service lands in Summit County. In authorizing this land conveyance to Homestake, the bill expressly and permanently reserves public rights of access for fishing, bicycle paths, and hiking on the Colorado Trail.

As with all exchanges, H.R. 4567 mandates that the lands exchanged be of equal dollar value as determined by standard appraisal practices.

Although the Committee on Agriculture would have preferred the acquisition of Homestake's entire estate—surface and minerals—in South Dakota, mineral rights will not be acquired. This concession will permanently protect the area's outstanding scenic and riparian values while allowing Homestake to engage in underground mining if minerals are ever discovered.

The bill also provides a sense of Congress statement that the exchange be completed within 270 days of enactment of H.R. 4567 and seeks to facilitate this process by expediting the appraisal process and the execution of a final exchange agreement.

I would like to thank the sponsors of this bill, Representatives TIM JOHNSON of South Dakota and BEN NIGHTHORSE CAMPBELL of Colorado, both of whom serve on the Committee on Agriculture, for their leadership in developing and moving this legislation.

Mr. Speaker, I urge my colleagues to support H.R. 4567.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4567, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

VANCOUVER NATIONAL HISTORICAL RESERVE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5144) to establish the Vancouver National Historical Reserve in the

State of Washington, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STATEMENT OF FINDINGS.

The Congress finds that—

(1) the city of Vancouver, Washington, has a unique array of contiguous historical sites which chronicle important steps in the settlement and development of the Northwest, including—

(A) Fort Vancouver National Historic Site, the site of the Hudson's Bay Company trading post established in 1825;

(B) Vancouver Barracks, an active military installation since 1849;

(C) Officers' Row National Register Historic District, 21 adaptively rehabilitated military officers' quarters;

(D) Pearson Airpark, an early United States Army airfield and one of the oldest operating airports in the country; and

(E) the Columbia River, an early Northwest exploration and settlement corridor, including the route of the Lewis and Clark expedition, center of Indian trade, shipbuilding, and fishing;

(2) these historical assets are owned and managed by several governmental entities, including the National Park Service, city of Vancouver, and United States Army;

(3) sites within the Vancouver historical area are in a state of transition and are the focus of various proposals and initiatives;

(4) there is a lack of formal coordination of management or planning among the various entities; and

(5) failure to coordinate the planning and management within the Area may result in lost opportunities to preserve and enhance irreplaceable historical sites and open space.

SEC. 2. VANCOUVER HISTORICAL STUDY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a Vancouver Historical Study Commission which shall study and make recommendations regarding—

(1) the preservation, protection, enhancement, enjoyment, and utilization of the historic, cultural, natural, and recreational resources of the Area; and

(2) the feasibility of establishing a Vancouver National Historical Reserve.

(b) MEMBERSHIP.—The Commission shall consist of the following 5 members:

(1) The Director of the National Park Service, or his designee.

(2) One individual appointed by the Secretary of the Interior from recommendations submitted by the Mayor of Vancouver to represent the city of Vancouver.

(3) The Secretary of the Army, or his designee.

(4) One individual appointed by the Secretary of the Interior from recommendations submitted by the Governor of Washington to represent the State Historic Preservation Office.

(5) One individual appointed by the Secretary of the Interior to represent the general public.

Members shall be appointed within 60 days after the date of enactment of this Act.

(c) VACANCY.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) COMPENSATION.—Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(e) CHAIRPERSON.—The Chairperson of the Commission shall be appointed by the Secretary.

(f) QUORUM.—Three members of the Commission shall constitute a quorum.

(g) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of its members.

(h) STAFF.—The Secretary shall provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commission to carry out its duties. Upon request of the Secretary any Federal agency may provide to the Commission on a reimbursable basis information, personnel, property, and services to assist in carrying out its duties under this Act. The Secretary may accept the services of personnel detailed from the State of Washington or any political subdivision of the State and may reimburse the State or such political subdivision for such services. The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(i) TERMINATION OF COMMISSION.—The Commission shall terminate upon submission of the study report as provided in section 3.

SEC. 3. DUTIES OF THE COMMISSION.

(a) REPORT.—(1) The Commission shall prepare a report—

(A) specifying the results of the study required by section 2(a); and

(B) containing—

(i) an inventory and assessment of the historic, cultural, natural, and recreational resources located within the Area;

(ii) specific preservation and interpretation goals; and

(iii) proposed alternative management strategies whereby the funds, data, personnel, and authorities of public and private entities may be coordinated; and

(iv) recommendations concerning the continued operation of Pearson Airpark in a manner that will preserve and promote historic aviation and interpretation of the Area, compatible with other historic and cultural resources of the Area, including Fort Vancouver National Historic Site.

(2) In making recommendations under paragraph (1)(B)(iv), the Commission shall assess—

(A) the impact of current airport operations on the preservation, use, and interpretation of historic and cultural resources in the Area; and

(B) future operation of the airport undertaking such mitigation measures as may be necessary to minimize the intrusion on adjacent historic and cultural resources.

(b) DEVELOPMENT OF STUDY.—

(1) In undertaking the study under section 2(a), the Commission shall consult on a regular basis with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the Area.

(2) In undertaking the study under section 2(a), the Commission shall consult with interested conservation, business, professional and citizen organizations.

(3) In undertaking the study under section 2(a), the Commission shall conduct public hearings within the Area, and at such other places as may be appropriate, for the purpose of providing interested persons with the opportunity to testify with respect to matters to be addressed by the study.

(c) TRANSMITTAL OF STUDY REPORT.—Not later than 18 months after the date of enactment of this Act, the Commission shall submit the report required under subsection (a) to the Secretary of the Interior and the Secretary of the Army. The Secretary of the Interior shall submit the report along with any comments or recommendations that the Secretary may wish to make to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within 30 days after receipt of such report from the Commission.

SEC. 4. DETERMINATION OF SUITABILITY OF CERTAIN REAL PROPERTY.

(a) NOTIFICATION OF SECRETARY OF THE INTERIOR.—The Secretary of Defense shall notify the Secretary of the Interior upon any determination by the Secretary of Defense that any real property located at Vancouver Barracks is excess property of the Department of Defense.

(b) REVIEW OF PROPERTY BY SECRETARY OF THE INTERIOR.—Not later than 90 days after receiving notification from the Secretary of Defense under subsection (a), the Secretary of the Interior shall—

(1) review the property that is the subject of the notification with respect to the suitability of all or part of the property for administration by the Secretary of the Interior or the State of Washington or its political subdivisions; and

(2) report to the Congress the findings of that review and recommendations for any legislation.

SEC. 5. RESTRICTION ON DISPOSAL OR USE OF PROPERTY.

Notwithstanding any other provision of law, any real property located at Vancouver Barracks that is determined by the Secretary of Defense to be excess property of the Department of Defense may not be disposed of or used by any Federal agency before the end of the one-year period following submission of a report to the Congress regarding that property under section 4(b).

SEC. 6. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the Area shall—

(1) consult with the Secretary and the Commission with repect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner consistent with the provisions of this Act.

SEC. 7. DEFINITIONS.

As used in this Act—

(1) the term "Area" means the area which incorporates those resources listed in section (1);

(2) the term "Commission" means the Vancouver Historical Study Commission established by section 2; and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5144, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5144 was introduced by our colleague, Representative JOLENE UNSOELD. The bill, as reported from the Committee on Interior and Insular Affairs, provides for the establishment of a Vancouver Historical Study Commission to review certain historical and cultural resources located in the city of Vancouver, WA.

Because of Vancouver's location along the Columbia River, the area was important in the early exploration, settlement, and commerce of the Pacific Northwest. A significant aspect of that early history is represented at the existing Fort Vancouver National Historic Site which interprets the early trading period of the region. Several varied sites of historical interest adjoin the fort, including an airpark and a U.S. Army post that has been in continuous operation since 1849.

H.R. 5144 as introduced would have provided for establishment of a Vancouver national historical reserve. The committee held a hearing on this proposal and reviewed matters relating to the significance and integrity of the area, as well as the opportunities for joint or cooperative management of the resources found there. While we gained from the hearing a better understanding and appreciation of the historic and cultural resources of the Vancouver area, there remain questions as to the feasibility and suitability of the management and interpretive concepts proposed by H.R. 5144. Because of these questions the bill has been rewritten as a study to provide an inventory and assessment of the various resources proposed to be included in the reserve, as well as potential management strategies for the area. This study process will be facilitated by a five-member study commission made up of Federal, State, and local representatives who will prepare a study report within 18 months of the date of enactment. Significant attention in the committee hearing was focused on the present and future operation of Pearson Airpark. As part of this study the question of the airpark's operation will be reviewed to see what opportunities are available that would be compatible with the mission of the Fort Vancouver National Historic Site and the other resource values of the area. Finally, the substitute sets up a review process in the event that U.S. Army lands in the area are declared excess at some future date. This will permit an assessment of these land's resource values and their possible administration, without irreversible decisions being made in the meantime.

Mr. Speaker, the sponsor of H.R. 5144, Representative UNSOELD, has made a good case as to the interesting and varied nature of some of the resources located in her district. There is a good amount of local and State interest in this matter that I believe can be put to good use here. The study authorized by this legislation will provide us with a more complete assessment of these resources and their related management, so that we may have information on which to make some judgments on the feasibility and suitability of an additional designation for the area. I support H.R. 5144, as amended and recommend its adoption by the House.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5144, a bill to direct the preparation of a study of alternatives for coordinated management and preservation of resources in the vicinity of Fort Vancouver National Historical Site. The bill before us represents a significant revision of the introduced bill, which was opposed by the administration.

While the existing master plan for the park already calls for cooperation with other governmental agencies, it is clear that this bill would take that cooperation a step further. Conversion of the original, instant designation bill to a study bill as proposed is appropriate. As testified to by the administration, information on the historical significance and management feasibility for this proposed site is lacking.

Establishment of a new unit of the national park service is a significant action. It is an action which means essentially a permanent obligation on behalf of the Federal Government. Therefore, we must be certain that such designations are preceded by thorough management and cost analyses. Too often this committee takes action on such designation without adequate information.

The study directed under this bill should help to provide for improved governmental operations and coordination, regardless of whether the National Park Service area is expanded, and therefore it is a sound approach.

I urge my colleagues to join me in supporting this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD], the sponsor of this measure.

Mrs. UNSOELD. Mr. Speaker, my thanks to Chairman VENTO and his staff for helping us perfect this bill. It is much better than it was when we first introduced it. My thanks to my colleagues.

Mr. Speaker, much of the Vancouver, WA, I knew as a child is gone—old downtown, the shipyards, my high school. But today, we have a chance to help save some of the most historically significant sites in the Northwest.

This legislation, H.R. 5144, will begin a process to establish a Federal-State-local partnership to protect and coordinate the management of these sites by creating a commission to inventory the area and come back to Congress with legislative recommendations for a Vancouver national historical reserve.

Vancouver, which is located just across the Columbia River from Portland, OR, was at the center of the settlement and development of the Northwest during the nineteenth and twentieth centuries. In one 300-acre reserve, five historic gems chronicle the sweep of Northwest history since Lewis and Clark explored the area between 1805 and 1806.

Native Americans built a rich culture and trading center along the banks of the Columbia River; early English and American settlements and military forces were headquartered in Vancouver; and the area is home to Pearson Airpark, arguably the oldest continuously operating airport in the country. Each of these chapters in the colorful history of the Northwest—and many more—are represented in Vancouver's historic area.

Fortunately, the area, which is part of the original 640-acre military reserve established in 1849, is still public ownership. Unfortunately, there is little formal coordination among the public owners of the area. If we do not act in a timely fashion, important pieces of the remaining historic area will be lost forever.

Five principal sites make up the historic area:

Fort Vancouver. The regional headquarters for the Hudson's Bay Co. and the center of British-American competition in the Northwest. Fort Vancouver is a national historic site owned

and managed by the National Park Service.

Vancouver Barracks. Originally established to counter British influence, the barracks have been continuously operated by the U.S. Army since the 1840's but may soon be declared excess.

Officers Row. Recently acquired and restored by the city, the 21 elegant houses on the row were part of the barracks and for over 100 years housed some of our Nation's greatest military leaders.

Pearson Airpark. Managed by the city and partially owned by the Park Service, Pearson is one of the oldest operating airports in the country. It was an early Army airfield and the site of several aviation firsts, including the landing of Valeri Chkalov, the "Soviet Lindberg," after his 1937 transpolar flight. Pearson is the site of a popular new aviation museum.

Columbia River Waterfront. The site of early Indian activity, landings by explorers and settlers, and shipbuilding, the Columbia waterfront provides unique opportunities for public access to the river as well as natural and historic interpretation. The area is owned by the Park Service and managed by the city.

Each of the sites has either been placed on the National Register of Historic Places, has been determined to be eligible, is in the process of being nominated, or is a documented archaeological site.

To preserve, restore, and coordinate the management of the historic area, we need a partnership among the public owners. We also need to keep the area in public ownership for the public benefit. A Federal-State-local partnership can help protect and enhance nationally significant historic and natural resources without the need for large Federal expenditures.

The first step in the process is to establish a commission to inventory the historic and natural assets in the area, develop mechanisms for coordinated management and planning, and make legislative recommendations to Congress. This legislation would call for the appointment of a five-member Vancouver Historical Study Commission with representatives from the National Park Service, the city of Vancouver, the U.S. Army, the Washington State Office of Historic Preservation, and the general public.

Although the original version of H.R. 5144 would have immediately established a Vancouver national historical reserve and given a coordinating commission authority to develop a cooperative management plan, this bill would require that the commission report its recommendations to Congress for final action. I believe this change is helpful. Within 18 months of enactment, Congress will receive the commission's recommendations and make important decisions relating to the designation.

Among the more important issues to be addressed by the commission will be the fate of historic Pearson Airpark. The commission is required by the legislation to make a recommendation concerning the continued operation of Pearson Airpark in a manner that will preserve and promote historic aviation and interpretation of the area, compatible with other historic and cultural resources. Furthermore, the bill calls for an assessment of mitigation measures that could minimize the impact of the continued operation of the airport on other resources.

It should be pointed out that the increasingly popular aviation museum, the historic airfield itself, and the open space afforded by the portion of the airfield now owned by the city of Vancouver could be lost to industrial or commercial development if the field is closed when the current use agreement expires in 2002. A fairly valued mitigation plan—including the relocation of hangars, restoration of the original wooden hangars, landscape screening, limitations on the type and number of aircraft at the field, and support for the aviation museum—could provide near- and long-term benefits for the entire historic area.

Mr. Speaker, this legislation makes possible the first step toward a public partnership that will preserve, in one location and with minimal expenditure of scarce Federal funds, several layers of the Northwest's most important history. The bill has broad bipartisan support and was cosponsored by every member of the Washington and Oregon congressional delegations. I urge its passage.

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Speaker, I rise in favor of this bill. I think that a study is very well warranted.

The gentlewoman from Washington is correct, there are some great nuggets of potential historical sites here that should be coordinated and run as a unit by the National Park Service. One area that I am very concerned with is the continuation of Pearson Airpark, which is one of the oldest if not the oldest operating airport in the entire country. As we know, aviation only started in the early part of this century, but we have here in fact a strip that has been in existence for most of that period of time. We also have, as an interesting part of it, the officers' row which has been restored and the historic site which the National Park Service has now with the Fort Vancouver national historic site. The difficulty we have for Vancouver is that it is a restoration, not the original, but it is located on the same location. I think it is important that we show the historic aviation activity here.

So this study is very important in trying to resolve what we could do with these five sites in tying them together.

Mr. LIGHTFOOT. Mr. Speaker, I rise in support of H.R. 5144. As you know, Mr. Speaker, this legislation, introduced by my colleague from Washington, would authorize a study to take an inventory of the historical, cultural, and recreational resources within the Vancouver historical area in Vancouver, WA. Also, this study must also issue recommendations concerning the continued operation of Pearson Airpark which is part of the historical area. My experience in aviation sparked my interest in this bill. Pearson Airpark is one of the oldest operating airports in this country and this airpark continues to be used today. With Pearson, we have a unique chance to preserve history that has been made and as it continues to be made. I understand there have been some reservations expressed about the preservation of Pearson, among them being noise generated at the airpark. I am confident this study commission will look at every possible alternative to ensure we can preserve the living history of Pearson Airpark without creating disruption in the lives of local residents. I support the enactment of H.R. 5144 and urge my colleagues to do the same.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5144, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to provide for the study of certain historical and cultural resources located in the city of Vancouver, Washington, and for other purposes.".

A motion to reconsider was laid on the table.

CALL OF THE HOUSE

Mr. VENTO. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 390]

Ackerman	Ballenger	Berman
Anderson	Barnard	Bevill
Annunzio	Bartlett	Bilbray
Anthony	Barton	Bilirakis
Applegate	Bateman	Bliley
Armey	Bates	Boehlert
Atkins	Bennett	Boggs
AuCoin	Bentley	Bonior
Baker	Bereuter	Borski

Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fawell
Fazio
Feighan
Flake
Flippo
Foglietta
Ford (MI)
Frenzel
Gallegly
Gallo
Gejdenson
Gekas
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Lukens, Donald
Madigan
Manton
Markey
Marlenee
Martin (IL)
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Purselli
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schneider
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)

□ 1658

The SPEAKER. On this rollcall, 377 Members have recorded their presence by electronic device, a quorum. Under the rule, further proceedings under the call were dispensed with.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC, *September 26, 1990.*
Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the unofficial results received from the Honorable Benjamin J. Cayetano, Lieutenant Governor, State of Hawaii, certifying that, according to the unofficial returns of the Special Election held on September 22, 1990, the Honorable PATSY T. MINK was elected to the Office of Representative in Congress, from the Second Congressional District, State of Hawaii.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

OFFICE OF THE
LIEUTENANT GOVERNOR,
STATE CAPITOL,
Honolulu, HI, September 24, 1990.

Mr. DONNALD K. ANDERSON,
Clerk, U.S. of Representatives, Office of the Clerk, H105, The Capitol, Washington, DC.

DEAR MR. ANDERSON: This is to certify that on September 22, 1990 a Special Election was held in the State of Hawaii for the Second Congressional District of the U.S. House of Representatives. The unofficial results of the Special Election Election are as follows:

Mink, Patsy Takemoto (D)	51,841
Hanneman, Mufi Francis (D)	50,164
Menor, Ron (D)	23,629
Poepoe, Andy (R)	8,872
Monsef, Stanley (R)	2,264
Black, A. Duane (D)	1,242
Mallan, Lloyd Jeffrey (L)	791
Blank votes	9,928
Over votes	1,195

The contest period for a special election in the State of Hawaii is 20 days. A certificate of election will be issued to Patsy Takemoto Mink after the contest period expires on October 12, 1990.

Aloha,
BENJAMIN J. CAYETANO,
Lieutenant Governor.

□ 1700

SWEARING IN OF HON. PATSY T. MINK AS A MEMBER OF THE HOUSE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that the gentlewoman from Hawaii, Mrs. PATSY T. MINK, be permitted to take the oath of office today. Her certificate of election has not arrived, but there is no contest, and no question has been raised with regard to her election.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. Will the gentlewoman from Hawaii [Mrs. MINK] the Member-elect, come forward.

Mrs. MINK appeared at the bar of the House and took the oath of office.

The SPEAKER. Congratulations. You are again a Member of the House of Representatives.

HON. PATSY T. MINK

(Mrs. MINK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MINK. Mr. Speaker, I cannot begin to tell you how thrilled and honored I am today to take the oath of office once again and to be able to join this very distinguished body as it meets the numerous problems that confront our Nation and the world.

It is almost an unbelievable experience today that my constituents made it possible for me to return. I have had a wonderful few minutes here greeting Members that I knew when I served here for six terms previously and I look forward to some very interesting last few days of this session.

Some people have been saying I should have postponed this ceremony until at least Monday, but I could not resist the temptation to come back here and engage you all in what is perhaps the most historic debate that is to ensue in the next few days. I am truly honored to be back here amongst you and to be able to call you all my colleagues once again.

Thank you very, very much for this honor.

FEDERAL JUDGESHIP ACT OF 1990

The SPEAKER. The pending business is the question of suspending the rules and passing the bill, H.R. 5316, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 5316, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 387, nays 18, answered "present" 1, not voting 27, as follows:

[Roll No. 391]

YEAS—387

Ackerman	Dicks	Hunter
Anderson	Dingell	Hutto
Andrews	Dixon	Hyde
Annunzio	Donnelly	Inhofe
Anthony	Dornan (CA)	Ireland
Applegate	Douglas	James
Archer	Downey	Jenkins
Aspin	Dreier	Johnson (CT)
Atkins	Durbin	Johnson (SD)
AuCoin	Dwyer	Johnston
Baker	Dymally	Jones (GA)
Barnard	Dyson	Jones (NC)
Bartlett	Early	Kanjorski
Barton	Eckart	Kaptur
Bateman	Edwards (CA)	Kasich
Bates	Edwards (OK)	Kastenmeier
Bennett	Emerson	Kennedy
Bentley	Engel	Kennelly
Bereuter	English	Kildee
Berman	Erdreich	Kleczka
Bevill	Espy	Kolbe
Bilbray	Evans	Kolter
Bilirakis	Fascell	Kostmayer
Bliley	Fawell	Kyl
Boehlert	Fazio	LaFalce
Boggs	Feighan	Lagomarsino
Bonior	Fields	Lancaster
Borski	Fish	Lantos
Bosco	Flake	Laughlin
Boucher	Flippo	Leach (IA)
Boxer	Foglietta	Leath (TX)
Brennan	Ford (MI)	Lehman (CA)
Brooks	Frank	Lehman (FL)
Broomfield	Frenzel	Lent
Browder	Frost	Levin (MI)
Brown (CA)	Gallegly	Levine (CA)
Brown (CO)	Gallo	Lewis (FL)
Bruce	Gaydos	Lewis (GA)
Bryant	Gejdenson	Lightfoot
Buechner	Gephardt	Lipinski
Bunning	Geren	Lloyd
Burton	Gibbons	Long
Bustamante	Gillmor	Lowery (CA)
Byron	Gilman	Lowey (NY)
Callahan	Gonzalez	Lukens, Donald
Campbell (CA)	Goodling	Madigan
Campbell (CO)	Gordon	Manton
Cardin	Goss	Markey
Carper	Gradison	Marlenee
Carr	Grandy	Martin (IL)
Chandler	Grant	Martin (NY)
Chapman	Gray	Matsui
Clarke	Green	Mavroules
Clement	Guarini	Mazzoli
Clinger	Gunderson	McCloskey
Coleman (MO)	Hall (TX)	McCollum
Coleman (TX)	Hamilton	McCurdy
Collins	Hansen	McDade
Combest	Harris	McDermott
Condit	Hastert	McEwen
Conte	Hatcher	McHugh
Cooper	Hawkins	McMillan (NC)
Costello	Hayes (IL)	McMillen (MD)
Coughlin	Hayes (LA)	McNulty
Courter	Hefley	Meyers
Cox	Hefner	Mfume
Coyne	Henry	Michel
Craig	Herger	Miller (CA)
Crane	Hertel	Miller (OH)
Dannemeyer	Hiler	Miller (WA)
Darden	Hoagland	Mineta
Davis	Holloway	Mink
de la Garza	Hopkins	Moakley
DeFazio	Horton	Molinari
DeLay	Houghton	Mollohan
Dellums	Hoyer	Montgomery
Derrick	Hubbard	Moody
DeWine	Huckaby	Moorhead
Dickinson	Hughes	Morella
Morrison (WA)	Rose	Stangeland
Mrazek	Roth	Stark
Murtha	Roukema	Stearns
Myers	Rowland (GA)	Stenholm
Nagle	Roybal	Stokes
Natcher	Russo	Studds
Neal (MA)	Sabo	Stump
Neal (NC)	Saiki	Swift
Nielson	Sangmeister	Synar
Nowak	Sarpalius	Tallon
Oakar	Savage	Tanner
Oberstar	Sawyer	Tauke
Olin	Saxton	Tauzin
Ortiz	Scheuer	Taylor
Owens (NY)	Schiff	Thomas (CA)
Owens (UT)	Schneider	Thomas (GA)
Oxley	Schroeder	Thomas (WY)
Packard	Schulze	Torres
Pallone	Schumer	Torricelli
Panetta	Serrano	Traficant
Parris	Sharp	Traxler
Pashayan	Shaw	Unsoeld
Patterson	Shays	Upton
Paxon	Shumway	Valentine
Payne (NJ)	Shuster	Vander Jagt
Payne (VA)	Sikorski	Vento
Pease	Sisisky	Volkmer
Pelosi	Skaggs	Vucanovich
Perkins	Skeen	Walgren
Pickett	Skelton	Walker
Pickle	Slattery	Walsh
Porter	Slaughter (NY)	Washington
Poshard	Slaughter (VA)	Watkins
Price	Smith (IA)	Waxman
Pursell	Smith (NE)	Weber
Quillen	Smith (NJ)	Weiss
Rahall	Smith (TX)	Weldon
Rangel	Smith (VT)	Wheat
Ravenel	Smith, Denny (OR)	Whittaker
Ray	Smith, Robert (NH)	Whitten
Regula	Smith, Robert (OR)	Williams
Rhodes	Snowe	Wilson
Richardson	Solarz	Wise
Ridge	Solomon	Wolf
Rinaldo	Spence	Wolpe
Ritter	Spratt	Wyden
Roberts	Staggers	Wylie
Roe	Stallings	Yates
Rogers		Yatron
Rohrabacher		Young (AK)
Ros-Lehtinen		Young (FL)

NAYS—18

Armey	Glickman	Obey
Ballenger	Hancock	Penny
Coble	Jacobs	Petri
Dorgan (ND)	Jontz	Sensenbrenner
Duncan	Livingston	Sundquist
Gekas	Murphy	Visclosky

ANSWERED "PRESENT"—1

Udall

NOT VOTING—27

Alexander	Hochbrueckner	Nelson
Beilenson	Lewis (CA)	Parker
Clay	Luken, Thomas	Robinson
Conyers	Machtley	Rostenkowski
Crockett	Martinez	Rowland (CT)
Ford (TN)	McCandless	Schaefer
Gingrich	McCrery	Schuette
Hall (OH)	McGrath	Smith (FL)
Hammerschmidt	Morrison (CT)	Towns

□ 1722

Mr. JONTZ changed his vote from "yea" to "nay".

So (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall No. 391.

REQUEST FOR APPOINTMENT OF CONFEREES ON S. 1430, NATIONAL AND COMMUNITY SERVICE ACT OF 1990

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1430) to enhance national and community service, and for other purposes, with House amendments thereto, insist on the House amendments and request a conference with the Senate thereon.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Speaker, reserving the right to object, on our side we do not know anything about this bill coming up. We do not have any clearance from our people on the Committee on Education and Labor. We do not have any Committee on Education and Labor people from the leadership here on the floor. We are a little confused about what we are doing and would appreciate an explanation.

The SPEAKER. It is for the purpose of going to conference.

Mr. WALKER. It is a motion to go to conference?

The SPEAKER. Yes.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, may I ask the gentleman from California [Mr. HAWKINS] whether or not this has been cleared by the minority?

Mr. HAWKINS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Speaker, the bill under consideration is the National and Community Service Act of 1990. I have discussed it with the ranking minority member, the gentleman from Pennsylvania [Mr. GOODLING], who agrees with going to conference.

Mr. WALKER. Mr. Speaker, until we have a chance to consult with the ranking member on our side, we would appreciate the gentleman from California [Mr. HAWKINS] withdrawing the motion at the moment so we do not have to object.

Mr. HAWKINS. Mr. Speaker, the gentleman desires to leave. I have an urgent appointment. I have cleared it with everyone. Nobody has objected.

The SPEAKER. The Chair would suggest that the gentleman from California [Mr. HAWKINS] proceed with the matter of the conferees on H.R. 4653. The Chair hopes that the minority would be able to clear the consideration of the request of the gentleman from California in a few minutes, if that is possible. The Chair has received recommendations from the minority on the appointment of conferees.

Is there objection?

Mr. PORTER. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

EXPORT FACILITATION ACT OF 1990

Mr. FASCELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4653) to reauthorize the Export Administration Act of 1979, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Florida? The Chair hears none, and appoints the following conferees and without objection reserves the right to appoint additional conferees:

From the Committee on Foreign Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Messrs. FASCELL, GEJDENSON, LEVINE, FEIGHAN, JOHNSTON of Florida, ENGEL, BERMAN, BROOMFIELD, GILMAN, ROTH, and BEREUTER.

From the Committee on Ways and Means, for consideration of section 120 of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, JENKINS, DOWNEY, PEASE, RUSSO, GUARINI, ARCHER, VANDER JAGT, CRANE, and FRENZEL.

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 205 through 209 and 302 of the Senate amendment, and modifications committed to conference: Messrs. FAUNTROY, NEAL of North Carolina, LAFALCE, and KLECZKA, Ms. PELOSI, and Messrs. FLAKE, MCDERMOTT, LEACH, BEREUTER, SHUMWAY and MCCANDLESS.

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5649, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION MULTIYEAR AUTHORIZATION ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 100-765) on the resolution (H. Res. 480) providing for the consideration of the bill (H.R. 5649) National Aeronautics and Space Administration Multiyear Authorization Act of 1990, which was referred to the House Calendar and ordered to be printed.

APPOINTMENT OF CONFEREES ON H.R. 3045, COPYRIGHT REMEDY CLARIFICATION ACT

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3045) to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of copyright and infringement of exclusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities, with a Senate amendment thereto, disagree to the Senate amendment and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, I would simply ask the gentleman from Texas if this has been cleared by the minority.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, it is my understanding that the chief counsel for the Republican Party on the Committee on the Judiciary and the minority staff have said that it was.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees: Messrs. KASTENMEIER, CROCKETT, BERMAN, MOORHEAD, and COBLE.

□ 1730

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I asked for this time for the purpose of inquiring of the distinguished majority leader the program for the balance of this day and the weekend.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding. The schedule is that at the end of today, we will meet again tomorrow at 10 a.m. We will be taking up the NASA authorization bill, the rule, and general debate. We are still trying to determine if there is the intent to try to finish the bill. I doubt that we will, because we have some suspensions that we would like to finish tomorrow, and they will come after the NASA authorization. We will rise by 1 p.m., no later than 2 p.m.

On Sunday, we will return. There will be no votes before 2 p.m. on Sunday. We will have under consideration Sunday the continuing resolution.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, I had a number of Members come up to me today because of the colloquy earlier in the week regarding Sunday. They asked, because of their religious services on Sunday, if it might be possible to delay this until 3 or 3:30 p.m., because some of their services are in areas of close proximity to here, and they want to get back. I do not know if it is possible, but I thought I would at least raise the subject.

Mr. GEPHARDT. If the gentleman will yield further, it is likely that there will not be a vote on the continuing resolution until 3 or 3:30 p.m. The reason we want to come in in the afternoon to get started on the continuing resolution is that we need to get it over to the Senate by 4 or 5 o'clock so they can consider it and act on it.

Mr. BURTON of Indiana. If the gentleman will continue to yield, Members could have some confidence that we will not have a vote until after about 3:30?

Mr. GEPHARDT. If the gentleman would yield, the House will go in at 2 p.m. on Sunday. There will be some time at the start of the proceeding. We then have to debate the continuing resolution. So I would not think there could be a vote on it until 3:30 p.m., or even later.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding.

Mr. BATEMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Virginia.

Mr. BATEMAN. I thank the gentleman for yielding. Having changed my schedule for tomorrow twice today with the understanding we would not be here with votes, it is possible that we might defer any votes that are called for tomorrow until after the vote on the continuing resolution on Sunday? Then we would know what our schedule could be.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will continue to yield, I apologize to Members for the inconvenience of not knowing when the schedule was changed. It is because of the difficulty of the lateness of the session. We cannot roll votes until Sunday. We need to take action here tomorrow, so there will be a few votes tomorrow.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would just say to the Members, the rule that will be taken up at 10 o'clock

tomorrow morning on NASA is an open rule. As far as I know, there will be no requests on this side of the aisle to ask for a vote, if that is the only vote there is going to be.

Mr. MILLER of Washington. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I will be happy to yield to the gentleman from Washington.

Mr. MILLER of Washington. Mr. Speaker, some Members who live on the west coast and want to get back by sundown for Yom Kippur tomorrow evening are going to have to leave here by noon tomorrow. Is there any chance that the votes that the distinguished majority leader is talking about tomorrow could be held before noon?

Mr. GEPHARDT. I would say to the gentleman from Washington [Mr. MILLER] that there is, I think, a better than even chance that we can avoid votes on suspensions, but I cannot guarantee that. I think by 1 o'clock you will be clear and safe, that there would be no more votes.

Mr. MICHEL. If I might inquire of the distinguished majority leader the program for the balance of tonight, if any?

Mr. GEPHARDT. If the gentleman will yield, it is my understanding that we have two merchant marine bills that have been cleared with the minority, and there could be one or two other public works bills that have been cleared. There may or may not be votes on them. I cannot estimate right now how long it will take, but I think that would complete the program for the day. Relatively soon I think we should be finished.

Mr. BATEMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Virginia.

Mr. BATEMAN. If I might renew my inquiry about rolling votes over until a time on Sunday, could that be done by unanimous consent? If it could be, I would be glad to ask for unanimous consent.

Mr. GEPHARDT. If the gentleman would yield, one of the reasons we feel it is necessary to have a schedule tomorrow and ask Members to be here is that we are still working in this summit trying to produce an agreement. If that happens, and I do not know whether it will or not, but if it does, we want to be in a position to be able to explain to the Members in a caucus on our side, and I am sure you would want to do the same on the other side, what the result of that agreement is. If there is not an agreement, we would like Members to know where we are and what is happening.

I would not prefer to have Members reading about what is happening in the summit in the newspaper when you are at home.

In addition, there may be the need to be in the Committee on Rules with matters, and we need to have the Committee on Rules present. It is for those reasons. We certainly do not schedule votes to inconvenience Members and change the schedule incessantly. I apologize for any inconvenience the Members may have.

Mr. Speaker, I would like to inform Members that the decision has been made, because there is the possibility that votes would be called tonight on suspensions, that we will not bring up any more suspensions tonight. So the business of the day will be finished. We will take those up tomorrow.

Mr. MICHEL. Mr. Speaker, that concludes the questions we have on our side, and I yield back the balance of my time.

PERMISSION FOR THE SPEAKER TO ENTERTAIN MOTIONS TO SUSPEND THE RULES ON FRIDAY, SEPTEMBER 28, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to recognize Members for motions to suspend the rules on Friday, September 28, 1990.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Missouri?

There was no objection.

ADJOURNMENT FROM FRIDAY SEPTEMBER 28, 1990, TO SUNDAY, SEPTEMBER 30, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Friday, September 28, 1990, it adjourn to meet at 2 p.m. on Sunday, September 30, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SWIFT (at his own request) on account of illness in the family.

Mr. PARKER (at the request of Mr. GEPHARDT) for today after 4:30 p.m. on account of illness in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. SUNDQUIST) to revise and extend his remarks and include extraneous material:)

Mr. LEWIS of California, for 60 minutes, on October 4.

(The following Members (at the request of Mr. DARDEN) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GAYDOS, for 60 minutes each day, on October 1, 2, and 3.

Mr. MAZZOLI, for 60 minutes, on October 9.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DORNAN of California, for 60 minutes, on September 30.

EXTENSION OF REMARKS

By unanimous consent, leave of absence was granted to:

(The following Members (at the request of Mr. SUNDQUIST) and to include extraneous matter:)

Mr. CONTE in two instances.
Mr. COUGHLIN.
Mr. PURSELL.
Mr. GREEN of New York.
Mr. MCDADE.
Mr. ARCHER.
Mr. BALLENGER.
Mr. WALSH.
Mr. MACHTLEY in 14 instances.
Mr. DOUGLAS.
Mr. MICHEL.
Mr. LIGHTFOOT.
Mrs. JOHNSON of Connecticut.
Mr. MOORHEAD.
Mr. MORRISON of Washington.

(The following Members (at the request of Mr. DARDEN) and to include extraneous matter:)

Mr. JOHNSON of South Dakota.
Mr. HOCHBRUECKNER.
Mr. RANGEL.
Mr. BONIOR.
Mrs. KENNELLY.
Mr. MRAZEK.
Mr. MONTGOMERY.
Mr. DINGELL.
Mr. SKELTON.
Mr. MCNULTY.
Mr. VENTO.
Mr. DELUGO.
Mr. MAZZOLI.
Mr. PELOSI.
Mr. ROE.
Mr. RICHARDSON.
Mr. MILLER of California in two instances.
Mr. THOMAS of Georgia.
Mr. LLOYD.
Mr. MAVROULES.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 677. An act to amend the Arctic Research and Policy Act of 1984 to improve and clarify its provisions; to the Committee on Science and Technology.

S. 2588. An act to amend section 5948 of title 5, United States Code, to reauthorize

physicians comparability allowances; to the Committee on Post Office and Civil Service.

S. 2846. An act to authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States, and for other purposes; to the Committee on Interior and Insular Affairs.

BILL PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that the committee did on this day present to the President, for his approval a bill of the House of the following title:

On September 26, 1990:

H.R. 4773. An act to authorize the President to call and conduct a National White House Conference on Small Business.

ADJOURNMENT

Mr. DORNAN of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Friday, September 28, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3948. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles estimated to cost $50 million or more (Transmittal No. 90-74), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3949. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles estimated to cost $50 million or more (Transmittal No. 90-93), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3950. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles estimated to cost $50 million or more (Transmittal No. 90-78), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3951. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles estimated to cost $50 million or more (Transmittal No. 90-82), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3952. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles estimated to cost $50 million or more (Transmittal No. 90-80), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3953. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles estimated to cost $50 million or more (Transmittal No. 90-92), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

3954. A letter from the Secretary of Education, transmitting a letter expressing the Department's views on H.R. 5040, a bill to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act; to the Committee on Education and Labor.

3955. A letter from the Department of Energy transmitting notification of a meeting of the Industry Advisory Board [IAB] to the International Energy Agency [IEA] will be held on Tuesday, September 24, 1990, at the offices of the Organization for Economic Cooperation and Development [OECD], Paris, France, pursuant to 42 U.S.C. 6272(c)(1)(A)(i); to the Committee on Energy and Commerce.

3956. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 90-82), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3957. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 90-77), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3958. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 90-74), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3959. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 90-71), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3960. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Bahrain for defense articles and services (Transmittal No. 90-72), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3961. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 90-92), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3962. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 90-78), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3963. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 90-93), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3964. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter(s) of offer and acceptance [LOA] to Saudi Arabia for defense articles and services (Transmittal No. 90-80), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3960. A bill to increase the amounts authorized to be appropriated for the Colorado River Storage Project, and for other purposes; with an amendment (Rep. 101-764, Pt. 1). Ordered to be printed.

Mr. FROST: Committee on Rules. House Resolution 480. Resolution providing for the consideration of H.R. 5649, a bill entitled "National Aeronautics and Space Administration Multiyear Authorization Act of 1990" (Rep. 101-765). Referred to the House Calendar.

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 3139. A bill to amend title 5, United States Code, to authorize portability of benefits for employees of nonappropriated fund instrumentalities of the Department of Defense when such employees convert to the civil service system, and for other purposes; with an amendment (Rep. 101-766). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4267. A bill to require new televisions to have built-in decoder circuitry; with an amendment (Rep. 161-767). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. H.R. 5450. A bill to amend title 5, United States Code, to ensure adequate verification of computer matching information that affects individuals' eligibility for Federal benefits; with an amendment (Rep. 101-768). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WYLIE:

H.R. 5730. A bill to award a congressional gold medal in recognition of Edward Vernon ("Eddie") Rickenbacker in the centenary

year of his birth; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SHARP (for himself, Mr. DINGELL, Mr. LENT, Mr. MOORHEAD, Mr. MARKEY, Mr. TAUZIN, Mr. FIELDS, Mr. DANNEMEYER, Mr. ROWLAND of Georgia, Mr. BRUCE, and Mr. SYNAR):

H.R. 5731. A bill to increase the amount of petroleum products that may be withdrawn from the strategic petroleum reserve under a certain provision of the Energy Policy and Conservation Act; to the Committee on Energy and Commerce.

By Mr. OBERSTAR (for himself, Mr. HAMMERSCHMIDT, Mr. FASCELL, Mr. BROOMFIELD, Mr. ANDERSON, Mr. CLINGER, Mr. HAMILTON, Mr. YATRON, Mr. SOLARZ, Mr. WOLPE, Mr. GEJDENSON, Mr. DYMALLY, Mr. LANTOS, Mr. KOSTMAYER, Mr. TORRICELLI, Mr. SMITH of Florida, Mr. BERMAN, Mr. FEIGHAN, Mr. WEISS, Mr. CLARKE, Mr. OWENS of Utah, Mr. JOHNSTON of Florida, Mr. ENGEL, Mr. FALEOMAVAEGA, Mr. GILMAN, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Ms. SNOWE, Mr. BEREUTER, Mr. SMITH of New Jersey, Mr. BURTON of Indiana, Mr. MILLER of Washington, Mr. DONALD E. LUKENS, Mr. BLAZ, Mr. GALLEGLY, Mr. HOUGHTON, Mr. GOSS, Ms. ROS-LEHTINEN, Mr. HUGHES, Mr. FAUNTROY, Mr. GUARINI, Mr. BEVILL, Mr. MCNULTY, Mr. SCHUETTE, Mr. GALLO, Mr. SAXTON, and Mrs. ROUKEMA):

H.R. 5732. A bill to promote and strengthen aviation security, and for other purposes; jointly, to the Committees on Public Works and Transportation and Foreign Affairs.

By Mr. ARCHER:

H.R. 5733. A bill to amend the Internal Revenue Code of 1986 to clarify the Internal Revenue Service's obligation to notify a person before proceeding to levy on such person's salary, etc.; to the Committee on Ways and Means.

By Mr. CONTE:

H.R. 5734. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on windfall profits derived from crude oil, and for other purposes; jointly, to the Committees on Ways and Means, Education and Labor, and Energy and Commerce.

By Mr. LENT (for himself, Mr. MOORHEAD, Mr. MADIGAN, Mr. DANNEMEYER, Mr. WHITTAKER, Mr. RITTER, Mr. BLILEY, Mr. FIELDS, Mr. OXLEY, Mr. NIELSON of Utah, Mr. SCHAEFER, Mr. BARTON of Texas, Mr. CALLAHAN, Mr. MCMILLAN of North Carolina, Mr. YOUNG of Alaska, and Mr. HANSEN):

H.R. 5735. A bill to encourage cost-effective energy conservation and energy efficiency, and to permit the exploration, development, production, purchase, and sale of domestic energy resources to the maximum extent practicable and in a manner consistent with, and in furtherance of, environmental values, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and Means, Interior and Insular Affairs, Merchant Marine and Fisheries, Science, Space, and Technology, Public Works and Transportation, and Rules.

By Mrs. LLOYD (for herself, Mr. RICHARDSON, Ms. OAKAR, Mr. ROYBAL, Mr. TOWNS, Mr. SYNAR, Mr. MCDERMOTT, Mr. SMITH of New Jersey, Mr. COOPER, Mr. HERTEL, Mr. HUGHES, Mr. PALLONE, Mr. MANTON, and Mr. WHITTAKER):

H.R. 5736. A bill to amend title XVIII of the Social Security Act to clarify coverage of eyeglasses provided with intraoccular lenses following cataract surgery; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mrs. LOWEY of New York:

H.R. 5737. A bill to authorize the construction of a monument in the District of Columbia to honor Thomas Paine, and for other purposes; to the Committee on House Administration.

By Mr. McGRATH:

H.R. 5738. A bill to amend the Harmonized Tariff Schedule of the United States to clarify the classification of linear alkybenzene sulfonic acid; to the Committee on Ways and Means.

By Mr. McNULTY:

H.R. 5739. A bill to redesignate the Department of Veterans Affairs medical center located at 113 Holland Avenue in Albany, NY, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center"; to the Committee on Veterans' Affairs.

By Mr. MONTGOMERY (for himself and Mr. HAMMERSCHMIDT):

H.R. 5740. A bill to amend title 38, United States Code, to make improvements in veterans' health-care programs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SAWYER (for himself, Mr. HOYER, Mr. FAZIO, Mr. FORD of Michigan, Mr. DINGELL, Mr. BROOMFIELD, Mr. DYMALLY, Ms. SLAUGHTER of New York, Mr. FROST, Mr. PAYNE of Virginia, Mr. SMITH of Florida, Mr. ESPY, Mr. TOWNS, Mr. RICHARDSON, Mr. OWENS of New York, Mr. ACKERMAN, Mr. WASHINGTON, Mr. MANTON, Mr. SCHEUER, Ms. MOLINARI, Ms. OAKAR, Mr. SERRANO, Mr. LAFALCE, Mr. HAYES of New York, Mr. ROYBAL, Mr. WEISS, Mr. MINETA, Mr. COLEMAN of Texas, Mr. RANGEL, Mr. MATSUI, Mr. STOKES, Mr. GUARINI, and Mr. TORRES):

H.R. 5741. A bill to amend title 13, United States Code, to ensure that the population counts derived from the decennial census are as accurate as possible before they are transmitted to the States, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. VENTO (for himself, Mr. LEHMAN of California, Mr. ANNUNZIO, Ms. OAKAR, Mr. KANJORSKI, Mr. KLECZKA, and Ms. PELOSI):

H.R. 5742. A bill to amend the Electronic Fund Transfer Act to provide that the endorsement, deposit, transfer, or other form of negotiation of a check by any consumer may not constitute the authorization of the consumer to make any preauthorized electronic fund transfer from the consumer's account, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WISE (for himself and Mr. ACKERMAN):

H.R. 5743. A bill to require that the U.S. Postal Service rescind changes recently implemented relating to standards for the delivery of mail; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Alaska:

H.R. 5744. A bill to authorize modifications of the boundaries of the Alaska Maritime National Wildlife Refuge; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. FASCELL (for himself, Mr. BROOMFIELD, Mr. GEPHARDT, Mr. MICHEL, Mr. HAMILTON, Mr. YATRON, Mr. SOLARZ, Mr. WOLPE, Mr. DYMALLY, Mr. SMITH of Florida, Mr. BERMAN, Mr. LEVINE of California, Mr. FEIGHAN, Mr. ACKERMAN, Mr. CLARKE, Mr. OWENS of Utah, Mr. JOHNSTON of Florida, Mr. FALEOMAVAEGA, Mr. BOSCO, Mr. PAYNE of New Jersey, Mr. GILMAN, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Ms. SNOWE, Mr. BEREUTER, Mr. SMITH of New Jersey, Mr. MILLER of Washington, Mr. DONALD E. LUKENS, Mr. BLAZ, Mr. GALLEGLY, Mr. HOUGHTON, Mr. GOSS, Ms. ROS-LEHTINEN, Mr. UDALL, Mrs. MEYERS of Kansas, Mr. FUSTER, and Mr. BURTON of Indiana):

H.J. Res. 658. Joint resolution to support actions the President has taken with respect to Iraqi aggression against Kuwait and to demonstrate United States resolve; to the Committee on Foreign Affairs.

By Mr. MARLENEE:

H. Res. 481. Resolution to provide that, if sequestration occurs under the Balanced Budget and Emergency Deficit Control Act of 1985, the Speaker of the House of Representatives shall devise a plan under which Members would be affected in a manner similar to Federal employees; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mrs. SMITH of Nebraska introduced a bill (H.R. 5745) for the relief of Nebraska Aluminum Castings, Inc., which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 118: Mr. GUARINI.

H.R. 720: Mr. DELLUMS.

H.R. 937: Ms. ROS-LEHTINEN, Mr. BUECHNER, Mr. LANCASTER, Mr. LEVINE of California, Mr. MCNULTY, Ms. KAPTUR, Mr. WALGREN, Mrs. SCHROEDER, Mr. GILMAN, Mr. DYSON, and Mr. FRANK.

H.R. 2395: Mr. MACHTLEY.

H.R. 2578: Mrs. UNSOELD.

H.R. 2589: Mr. BROWN of Colorado.

H.R. 3256: Mr. FISH and Mr. JOHNSTON of Florida.

H.R. 3355: Mr. HERTEL.

H.R. 3751: Mr. JONTZ, Mr. VALENTINE, Mr. SCHUMER, Mr. YATES, and Mr. MOODY.

H.R. 3776: Mr. BATES.

H.R. 3923: Mr. SUNDQUIST.

H.R. 3936: Mr. BRENNAN.

H.R. 3970: Mr. WOLPE.

H.R. 4040: Mr. SIKORSKI.

H.R. 4224: Mrs. BOXER, Mr. BERMAN, Mr. DICKINSON, Mrs. LOWEY of New York, Mr. RANGEL, and Mr. RINALDO.

H.R. 4268: Mr. ROE, Mr. SIKORSKI, and Mr. ATKINS.

H.R. 4408: Mr. MCMILLAN of North Carolina, Mr. ALEXANDER, Mr. TANNER, Ms. ROS-LEHTINEN, Mr. ENGLISH, Mr. ERDREICH, Mr. BROWDER, Mr. OWENS of New York, Mr. BARNARD, Mr. MCHUGH, Mr. TRAFICANT, Mr. INHOFE, Mr. HOLLOWAY, Mr. CALLAHAN, Mr. BAKER, Mr. TAUZIN, Mr. DICKS, Mr. HUCKABY, Mr. GILMAN, Mr. STAGGERS, Mr. NEAL of Massachusetts, Mr. WOLPE, Mr. AUCOIN, Mr. GOODLING, Mr. DARDEN, Mr. JOHNSON of South Dakota, Mr. ROWLAND of Georgia, Mrs. BYRON, Mr. STALLINGS, Mrs. LOWEY of New York, Mr. KILDEE, Mr. GRANDY, Mr.

FASCELL, Mr. WHITTEN, Mr. SMITH of New Hampshire, Mr. MCCURDY, Mr. SPRATT, Mr. LIVINGSTON, Mr. MRAZEK, Mr. GOSS, Mr. WELDON, Mr. COURTER, Mr. DERRICK, Ms. KAPTUR, Mr. YATRON, Mr. MARKEY, Mr. UDALL, Ms. SNOWE, Mr. STEARNS, Mr. EDWARDS of Oklahoma, Mr. LEWIS of Georgia, and Mr. SYNAR.

H.R. 4431: Mr. GUARINI.

H.R. 4483: Mr. MCNULTY, Mr. GUNDERSON, Mr. MCHUGH, Mr. KOLTER, Mr. LEWIS of Georgia, Mr. BARNARD, Mr. ROTH, Mr. CARPER, Mr. SHUMWAY, and Mr. WEISS.

H.R. 4485: Mr. FISH and Mr. PURSELL.

H.R. 4499: Mr. MCCANDLESS.

H.R. 4548: Mr. WAXMAN.

H.R. 4675: Mr. HUBBARD and Mr. FISH.

H.R. 4700: Mr. FOGLIETTA.

H.R. 4741: Mr. BURTON of Indiana, Mr. HAYES of Louisiana, Mr. HOCHBRUECKNER, Mr. SIKORSKI, and Mr. FAZIO.

H.R. 4753: Mr. JACOBS.

H.R. 4840: Mr. CONYERS and Mr. DYSON.

H.R. 4942: Mr. JONTZ.

H.R. 4997: Mr. COMBEST.

H.R. 5200: Mr. HUGHES, Mr. FAUNTROY, Mr. SCHUETTE, Mr. GALLO, and Mr. GUARINI.

H.R. 5235: Mr. JENKINS, Mr. EVANS, Mr. FORD of Tennessee, Mr. DIXON, Mr. GILLMOR, Mr. BLILEY, and Mr. ECKART.

H.R. 5237: Mr. SCHEUER.

H.R. 5246: Mr. FISH.

H.R. 5326: Mr. BROWN of California.

H.R. 5359: Mrs. COLLINS and Mr. MACHTLEY.

H.R. 5373: Mr. ROTH, Mr. WOLF, and Mr. DORGAN of North Dakota.

H.R. 5416: Mr. WALGREN and Mr. SMITH of Vermont.

H.R. 5458: Mr. MCGRATH.

H.R. 5484: Mr. LENT, Mr. DYSON, Mr. MONTGOMERY, Mr. SUNDQUIST, Mr. COBLE, Mr. ERDREICH, Mr. LEHMAN of Florida, Mr. CALLAHAN, Mr. PETRI, Ms. SNOWE, Mr. WILSON, Mr. DEWINE, Mr. PORTER, Mr. DONNELLY, and Mr. ROBERT F. SMITH.

H.R. 5491: Mr. ACKERMAN, Mrs. BOXER, Mr. FISH, Mr. MADIGAN, and Mr. PALLONE.

H.R. 5505: Mr. STARK, Mr. DELLUMS, Ms. LONG, Mr. HERTEL, Mr. DURBIN, Mr. PENNY, Mr. ECKART, Mr. SLATTERY, and Mr. KLECZKA.

H.R. 5551: Mr. WALGREN and Mr. HERTEL.

H.R. 5553: Mr. CONTE and Mr. ECKART.

H.R. 5560: Mr. MCDERMOTT, Mr. PALLONE, Mrs. JOHNSON of Connecticut, Mr. UDALL, Mr. EVANS, Mr. MOODY, Mr. FASCELL, Mr. BATES, Mr. SKAGGS, Mr. KOSTMAYER, Mr. BEILENSON, Mr. STOKES, Mr. BROWN of California, Mr. CAMPBELL of Colorado, Mr. ATKINS, Mr. RUSSO, Mr. EDWARDS of California, Mr. KLECZKA, Mr. MORRISON of Connecticut, Mr. DELLUMS, Mr. PENNY, Mr. DURBIN, Mrs. SCHROEDER, Mrs. COLLINS, Mr. STUDDS, Mr. LEVINE of California, Mr. YATES, Mr. SLATTERY, Mr. SIKORSKI, and Mr. FOGLIETTA.

H.R. 5582: Mr. BRUCE, Mr. MAVROULES, Mrs. PATTERSON, Mr. RAHALL, Mr. RUSSO, Mr. POSHARD, Mr. BATES, Mr. SOLOMON, Mr. MFUME, Mr. FOGLIETTA, Mr. SMITH of Vermont, Mr. HOCHBRUECKNER, Mr. DEFAZIO, Mr. WHEAT, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mr. GLICKMAN, Mr. WOLPE, Mr. SANGMEISTER, Ms. PELOSI, Ms. SCHNEIDER, Mrs. MORELLA, Mr. MCNULTY, and Mr. CONYERS.

H.R. 5596: Mr. MOODY.

H.R. 5601: Mr. FROST.

H.R. 5616: Mr. BLAZ and Mrs. LLOYD.

H.R. 5625: Mr. LIPINSKI, Mr. SCHEUER, Mr. RINALDO, Mr. COLEMAN of Missouri, Mr. ENGEL, Mr. SAVAGE, Mr. PENNY, Mr. TORRES, Mr. EVANS, Mr. ANNUNZIO, Mr. MADIGAN, Mr. FRANK, Mr. JONTZ, and Ms. KAPTUR.

H.R. 5666: Mrs. BOXER, Mr. EDWARDS of California, Mr. FOGLIETTA, Mr. GEJDENSON, Mr. HERTEL, Mr. JONTZ, Ms. KAPTUR, Mr. LAFALCE, Mr. MCDERMOTT, Mr. MATUSI, Mr. MORRISON of Connecticut, Mr. MRAZEK, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. POSHARD, and Mr. TOWNS.

H.R. 5677: Mr. HERTEL and Mr. MACHTLEY.

H.R. 5722: Mr. CLINGER, Mr. PETRI, Mr. COLEMAN of Missouri, Mr. LIVINGSTON, Mr. MILLER of Ohio, Mr. ROGERS, Mr. BILIRAKIS, Mr. GALLEGLY, Mr. DORNAN of California, Mr. COURTER, Mr. LIGHTFOOT, Mr. SCHAEFER, Mr. HANCOCK, Mr. COX, Mr. DONALD E. LUKENS, Mr. NIELSON of Utah, and Mr. EMERSON.

H.J. Res. 411: Mr. CARDIN, Mr. WILSON, Mr. FAZIO, Mr. MORRISON of Connecticut, Mr. HOYER, Mr. BEILENSON, and Mr. YOUNG of Alaska.

H.J. Res. 486: Mr. CHANDLER and Mr. SMITH of Texas.

H.J. Res. 492: Mr. QUILLEN, Mr. CRAIG, Mr. HAMILTON, Mr. DERRICK, and Mr. SMITH of New Hampshire.

H.J. Res. 509: Mr. HILER, Mr. HAYES of Illinois, Mr. WOLPE, Mr. DEFAZIO, Mr. HOAGLAND, Mr. ATKINS, Mr. CARDIN, Mr. OBERSTAR, Mr. SANGMEISTER, Mr. STOKES, Mr. BRUCE, Mr. EVANS, Mr. HUTTO, Mr. MCCOLLUM, Mr. MCHUGH, Mr. CALLAHAN, Mr. DELAY, Mr. JACOBS, Mr. EARLY, Mr. BUNNING, Mr. GEREN of Texas, Mr. MILLER of Ohio, Mr. GUARINI, Mr. PICKLE, Mrs. UNSOELD, Mr. RAY, Mrs. PATTERSON, and Mr. BARNARD.

H.J. Res. 595: Mr. OXLEY, Mrs. MARTIN of Illinois, Mr. CLINGER, Mr. SCHEUER, Mr. SKELTON, Mr. STALLINGS, Mr. TAUZIN, Mr. TRAFICANT, Mr. HEFLEY, Mrs. LOWEY of New York, and Mr. ROWLAND of Connecticut.

H.J. Res. 612: Mr. CLARKE, Mr. HALL of Texas, Mr. OLIN, and Mr. SPENCE.

H.J. Res. 636: Mr. PARRIS, Mr. CONYERS, Mr. NEAL of North Carolina, and Mr. CRANE.

H.J. Res. 642: Mr. PAYNE of New Jersey, Mr. NOWAK, Mr. COBLE, Mr. GALLO, Mr. SLATTERY, Mr. HANSEN, and Mr. BLILEY.

H.J. Res. 643: Mr. HAYES of Louisiana, Mr. HARRIS, Mr. MONTGOMERY, Mr. NELSON of Florida, Mr. HAMILTON, and Mr. MCNULTY.

H.J. Res. 656: Mr. EVANS, Mr. POSHARD, and Mr. TRAXLER.

H. Con. Res. 288: Mr. LIPINSKI and Mr. SWIFT.

H. Con. Res. 304: Mr. OWENS of Utah and Mr. VISCLOSKY.

H. Con. Res. 369: Mr. MCDERMOTT, Mr. PORTER, Mr. PEASE, Mr. WOLPE, and Mr. CARDIN.

H. Con. Res. 374: Mrs. BYRON, Mr. KYL, and Mr. CLINGER.

H. Res. 383: Mr. SCHAEFER.

H. Res. 467: Mr. BERMAN, Mr. FUSTER, Mrs. JOHNSON of Connecticut, Mrs. COLLINS, Mr. SCHEUER, Mr. HORTON, Ms. PELOSI, Mr. RANGEL, Mr. HAWKINS, Mr. MOODY, Mr. HAYES of Illinois, Mr. MOAKLEY, Mr. EVANS, Mr. BONIOR, Mr. LAFALCE, Mr. MATSUI, Mr. MORRISON of Connecticut, Mr. SCHNEIDER, and Mr. JOHNSON of South Dakota.

SENATE—*Thursday, September 27, 1990*

(Legislative day of Monday, September 10, 1990)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

But he that is greatest among you shall be your servant. And whosoever shall exalt himself shall be abased; and he that shall humble himself shall be exalted.—Matthew 23:11, 12.

Gracious Father in Heaven, our prayer this morning is for those who labor so faithfully and tirelessly to make it possible for the Senate to do its work. Many must be in this Chamber before the Senate opens, and their work is not finished until long after the Senate recesses. We praise and thank Thee for dedicated ones who work in the Chamber and around it; for those responsible for maintenance, food service, security; the hard-working pages; committee staffs and directors; committed office staffs. Let Thy blessing rest upon these hard-working, faithful men and women who serve so effectively and without whom the Senate could not function.

Dear Father, we commend to Thy loving care all in this large family who are hurting. For those who grieve, who are ill, incapacitated, frustrated. Especially, Father, we pray for Mary Sybeldon, mother of Senator KASTEN's personal secretary, and for Sean Hart. We join Paul Hill, who serves in the dining room, as he grieves for the loss of his dear wife last week. May all experience the comfort of the God of all comfort. We pray in the name of the great Physician. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 27, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. AKAKA thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Washington [Mr. ADAMS] is recognized.

RESERVATION OF LEADER TIME

Mr. ADAMS. Mr. President, I ask unanimous consent that the time set aside for the two leaders be reserved until later in the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized in morning business for not to exceed 5 minutes.

OPPOSING THE SOUTER NOMINATION

Mr. ADAMS. Mr. President, over the last several days, I have had the privilege of working with the chairman of the Labor and Human Resources Committee, Senator KENNEDY, in managing S. 110, legislation extending the authorizations for the Federal family planning program authorized under title X of the Public Health Services Act. This is a very important piece of legislation, particularly for the nearly 5 million low-income women who receive family planning information and services each year under title X.

It is, of course, inevitable that a discussion of the subject of family planning, human sexuality and pregnancy brings us back again to the topic of abortion. So during the course of that we always face a series of amendments and listen again to Senator after Senator expressing their opinions on the subject of abortion, the circumstances under which abortions might be performed, the propriety of Federal funding of abortion, whether information about abortion should be made available to women, whether parental consent should be approved, the list goes on and on. Incidentally, I hear many of the same arguments and deal with many of the same amendments every time I try to bring the District of Columbia appropriations bill to the floor for a vote.

The greatest irony I find in this institution's never-ending discussion on the reproductive rights of women is that 98 percent of the Senators involved in this most serious subject have never, and will never, experience the implications of the policies we set. In the long history of this overwhelmingly male institution, I wonder how many of my colleagues have asked themselves, "What right have I to define the limits of the reproductive rights of women?" And yet we continue to blunder onward, denying the District of Columbia the right to spend its own money to allow some of the poorest women in this country the right to make their own decisions about whether or not to bear a child. And on the title X reauthorization, we spend hour after hour setting limits on the type of services available, the amount of information that can be received, whose permission must be sought. Ninety-eight men telling the women of this Nation what will be available to them in making decisions about their own lives, and their own bodies.

Mr. President, I am grateful that here in what was up to very recent years described as "the world's most exclusive men's club," we are about to take up the nomination of David Souter to serve on the Supreme Court of the United States, an institution that only recently seated our Nation's first woman justice. Very little was known about David Souter's views on the basic principles of constitutional jurisprudence before he was nominated by President George Bush. The President has, however, expressed his own view that the most important issue affecting the rights of women in our society, the right to privacy in making personal decisions in the matter of their own reproductive rights, should be overturned by our Supreme Court.

For the 98 men in this institution who must exercise the constitutional advise and consent authority under the Constitution on this nomination, and the 7 other male members of the Supreme Court that Judge Souter would hope to join, and the male occupant of the White House who hopes to see Roe versus Wade overturned, the issue of women's reproductive rights, their right to privacy, is too often ours to debate, discuss, and decide. In every instance, the impact of those decisions

rests solely with women. Is there any wonder why so many women oppose this nomination, and resent our continued meddling in a topic that is really none of our business? An excellent commentary on this aspect of the Souter nomination recently appeared in the Washington Post, written by Judy Mann, appropriately entitled "Outdated Patriarchy Supports Souter." I ask unanimous consent that the article appear in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 21, 1990]

OUTDATED PATRIARCHY SUPPORTS SOUTER

(By Judy Mann)

Molly Yard, president of the National Organization for Women, gave one of the most compelling testimonies of her long career before the Senate Judiciary Committee Tuesday afternoon. She was pleading—you might say begging—for the men on that committee to understand the impact of abortion rights on women's lives.

What she got in return for her eloquence was a patronizing lecture from Sen. Alan Simpson (R-Wyo.), who was more concerned with senatorial courtesy than the fact that women will die if abortion—until 1973 the leading cause of maternal death—is made illegal again.

The confirmation hearings for David H. Souter were a striking display of how outdated the make-up of both the Senate and the Supreme Court have become. Despite the enormous implications this court nomination has for women's health, women have had no say in the matter on the Judiciary Committee or in the White House.

Nowhere in the entire power structure that influenced the selection of the nominee were there any women or blacks, the two groups struggling to become full partners in this society and whose progress has been most severely set back by the Supreme Court in the last three years. What we are witnessing here is a patriarchal power structure protecting itself—but perhaps for the last time.

Political savants are reading the results of the primaries as the beginnings of a nationwide rebellion against entrenched power structures. They cite Sharon Pratt Dixon's upset victory in the Democratic mayoral primary in the District. Her clean-house theme was successfully echoed in Massachusetts by Boston University President John Silber, who won the Democratic gubernatorial race. In Oklahoma, voters approved a constitutional amendment to limit the service of state legislatures to 12 years. Similar measures have been proposed in more than a dozen other states and both conservative and women's organizations have shown keen interest in efforts to limit terms of members of Congress, who enjoy a 98 percent reelection rate.

Signs of extreme voter unrest are all around us. And no one should overlook the fact that more than half of all voters are women, and women are running and holding office now more than any time since they won the right to vote 70 years ago. "I think there's a sense that it's been in the hands of men now for so long, and it's sort of a mess," is the way Dixon has put it. "Give women a chance."

It is no coincidence that opposition to Souter stems from uncertainty over his beliefs about the rights to individual privacy and about civil rights. For these are the two areas of law that have done so much to emancipate women and blacks, both of whom are threatening the power structure as never before. Reproductive rights, particularly, go to the very core of a woman's ability to control her own destiny. In his testimony, Souter made it clear that he believes that *Roe v. Wade*, the 1973 decision that legalized abortion across the country, is open for reconsideration.

"When abortion became legal in our country in 1973," said Yard, testifying against his nomination, "women in the United States became free because they could now control their reproductive lives. If one cannot decide for herself when or whether to have children, she surely has no freedom—no freedom to control her life, to plan her life, to decide what to do with her life. Any goal she sets can be completely disrupted by an unplanned pregnancy, and if she cannot end it, then her life is being controlled, not by herself but by some law enacted by men which forces her to carry the pregnancy to term, and then be responsible for the child borne, whether or not she has the emotional or financial resources to bear that burden.

"For 17 years women have had this freedom, but by your consideration of David Souter for appointment to the Supreme Court, you are really considering ending freedom for women in this country. We believe from Judge Souter's record that he will be the fifth vote to overturn *Roe v. Wade*." Further, she said, NOW was troubled by his testimony about cases that legalized birth control.

The American Association of University Women, the Fund for the Feminist Majority, and the National Abortion Rights Action League have all opposed the Souter nomination on similar grounds.

All the polls are showing that the American people consider birth control and abortion as matters of right, prompting antiabortion politicians across the land to scurry for a middle ground. The country is far, far ahead of the politicians on civil rights and on women's rights. And the country is showing all the signs of being ready to rock the establishment, instead of pleading with it.

Mr. ADAMS. Presumably, President Bush hopes that a Justice Souter would deliver the crucial vote in favor of turning back the clock on the basic right of privacy that has allowed American women to make deeply personal decisions without risking their lives to the back-alley abortionists who thrived in the years preceding the Roe versus Wade decision. The U.S. Senate, in reviewing this nomination, must give a particularly high degree of scrutiny to this issue. Should we not have a right to know?

Quite frankly, several of Judge Souter's previous efforts as Attorney General of New Hampshire troubled me, particularly his work to require literacy tests for citizens who want to vote. In confirmation hearings before the Senate Judiciary Committee, Judge Souter expressed his opinion on a wide range of constitutional issues. For example, we know where he stands on the constitutionality of the dealth penalty. I do not know why more than 2,000 criminals under sentence of death in this country should be allowed to know Judge Souter's views on the constitutionality of the dealth penalty, and the millions of law-abiding women of America should be told "wait and see" on an issue that will come before the court, and might result in terminating the constitutional protection they have enjoyed for these last 17 years.

Although the majority of his professional career has been in the State court system of New Hampshire, it is clear that Judge Souter possesses the personal integrity and intellectual skills to serve as a judge in our Federal system. His recent confirmation to a seat on the First Circuit Court of Appeals demonstrates our confidence in his abilities as a Federal jurist. However, a seat on the U.S. Supreme Court requires different tests, which include close scrutiny of a nominee's views on basic constitutional values.

Mr. President, I will oppose the confirmation of David Souter for the U.S. Supreme Court because he has failed, indeed he has refused, to allow the citizens of this Nation, and their elected representatives in the U.S. Senate to learn his views on the fundamental constitutional right of privacy under which women's reproductive rights are protected from the intrusion of government.

If David Souter is confirmed by the Senate, and proves to be sensitive to the constitutional protection that women enjoy under Roe versus Wade, I will be most pleasantly surprised and relieved, and I will return to the Senate floor and express my personal gratitude that my concerns were misplaced.

But if I were to vote to confirm Judge Souter, and if he voted as President Bush hopes he will vote on the topic of the constitutionally protected privacy rights now enjoyed by women in our society, I know I would not be able to answer the question that would surely come from my two daughters, "Dad, what did you see in his background or in his testimony that led you to believe he really understood how important the right to privacy is to us?"

Because I can find no basic commitment to preserving the right to privacy, and the right of women to make their own decisions in the area of reproductive rights, I find myself unable to vote to confirm him. Judge Souter is an intellectually brilliant individual, a student of history, and a man whose life has been dedicated to the law. However the future course of constitutionally protected individual rights to privacy set forth in existing should be constitutional law as defined by the court in the 1970's entrusted to a nominee with a clearly stated and unequivocal commitment to the preserva-

tion of these very base rights. Regrettably, we cannot say today, on the basis of the record before us, that David Souter is that person.

Mr. ROTH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Delaware is recognized.

THE ROTH ALTERNATIVE

Mr. ROTH. Mr. President, with less than 1 week before the beginning of the fiscal year, the time has come to meet our responsibility to the American people. Across our Nation we are seeing a legitimate concern over Government efficiency, even the effectiveness of this body to administer its most rudimentary responsibility: that of balancing the Federal budget. The summit between Congress and the administration raised hopes only months ago, but this, too, has evaporated into cynical suspicion that is being manifiest in opinion polls and the voting booths. Few people care which party is at fault. For Americans, concerned about their economy and global competitiveness, the issue of good government has gone beyond politics.

After the longest peacetime economic expansion in our history, the recent news regarding the GNP should be warning enough that the time has come for responsible action. The second quarter's 0.4 percent increase in real GNP growth is one of the slowest increases since the economic recovery began in 1982. Warning signs point to a recession, and confidence in the economy is waning. Frankly, I am not surprised. The budget summit has been meeting for 4 months. We are within a week of the fiscal year, and Americans still have no idea where the summit is headed.

For this reason, I believe it is time to set politics aside and cut the finger pointing. It is time for us to initiate real reform that will address the needs our Nation has today. It is time for Congress to promote policies for growth. And, Mr. President, I cannot overemphasize how important growth is—especially as we move more and more into the emerging global economic community. Countries that compete abroad—countries that provide opportunities for their citizens at home—will be the countries that promote policies that encourage growth. Strong national economies will be those that reward hardwork, risktaking and thrift—it is the law of the harvest. And it represents the objectives we should focus on as we initiate legislation on this floor.

I have a program that will allow us to meet these growth objectives. It is a program that will enable us to meet our financial responsibilities with policies beneficial to our economy. My program is an alternative to the stalmated budget summit. It is straight forward and easy to understand. The summit, to it is credit, has drawn together both the administration and the Congress. It is has established the issues where there is relative agreement, and I believe we should immediately build upon this foundation. On those issues where there is no agreement—let us save them for another day.

And that is what this Roth alternative proposes:

First, I abandon the budget negotiations' proposed tax increases. Warning signs point toward a recession, and a tax increase would throw the Nation into it headfirst.

Second, I lay aside the proposed cut in the capital gains.

Third, I cut the Federal deficit by $400 billion over 5 years, a significant cut, but one that will not have damaging effects in an already weakened U.S. economy. This would be accomplished by:

Reducing defense spending by $6 billion in the first year and $176 billion over the next 5 years;

Reducing entitlement spending $6 billion in the first year and $56 billion over 5 years; and,

Reducing nondefense discretionary spending by $12 billion in the first year and $70 billion over 5 years.

The fourth step includes pro-growth policies, many of which will contribute to the $400 billion deficit reduction. These include expanding individual retirement accounts to enhance savings incentives as well as raising $11.5 billion in new user fees—modeled after proposals in both Republican and Democratic budget packages. In addition, the R&D credit is made permanent and education incentives are broadened to keep our industries competitive and our employment base strong. Combined, these would raise additional revenues of $29 billion—the most significant part of which would be provided by the IRA rollover.

This alternative will work, Mr. President. It will allow Congress and the administration to break the budget gridlock. And it is a productive response to meeting fiscal necessities given the current economic climate. It will not require the furloughing of Federal employees who provide needed services, and it will not require tax increases on Americans.

Now, when the economy is slowing down, is no time to raise taxes. It is no time to shut down the Government. But it is time for us to take a good long look at spending practices and to ask the simple question: Is Congress spending too much, or are Americans being taxed too little?

Frankly, I do not think anyone would be surprised by how the voter would answer. Tne American people have had enough. They are tired of excuses. They are tired of tax increases. They are tired of excessive Federal spending. Revenues from taxes are higher today than ever before in our Nation's history. Still, Congress has been unable to balance the budget, and to add insult to injury, some of our colleagues persist in using this fiscal irresponsibility as an excuse to raise more taxes.

This has to stop; it has to stop now! Failed policies of tax and spend have to be replaced by policies for growth—policies that spark the economy, create incentives for the taxpayers, and force Congress to balance the budget and government to confront the reality of finite resources.

Like I said, Mr. President, this plan is simple. It's workable. And it will be an important first step in getting our deficit under control, and meeting our commitment to Americans. Frankly, these last few years have been exciting for America. Within a relatively short period of history, we witnessed the longest peacetime economic expansion America has ever known; we witnessed the end of the cold war, and even an alliance between former adversaries; and we have watched our free market principles and democratic ideals being embraced by nations throughout the world that are stepping from beneath the shadow of totalitarian regimes.

We have every reason to share in the celebration of these successes. But in the end, leaders lead, and our responsibility is to keep the momentum alive. We need to advance internal reforms that strengthen our economy here at home, expand our markets abroad, and enable us to meet our responsibilities in the emerging global community. And, Mr. President, should we be unable to implement even these simple measures to correct the budget debacle, let me be the first to say: Do not furlough the people; furlough the Congress.

Mr. President, I ask unanimous consent to print two tables in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

SENATOR WILLIAM V. ROTH, JR., SEPT. 26, 1990, OUTLINE

Item	Fiscal year—					
	1991	1992	1993	1994	1995	1991–95
Revenue items:						
IRA (w/rollover)	$1.50	$3.40	$3.30	$3.30	$3.30	$14.80
Extension of current law tax provisions	1.85	3.04	2.97	2.90	2.81	13.57
Retiree health benefits rollover	.20	.40	.20			.80
Subtotal of increases	3.55	6.84	6.47	6.20	6.11	29.17
Spending cuts:						
Defense	6.00	17.00	34.00	50.00	69.00	176.00
Nondefense discretionary ($12,000,000,000 off final appropriation)	12.00	13.00	14.00	15.00	16.00	70.00
Entitlement changes	6.30	9.11	10.54	13.43	16.89	56.27
User fees	5.49	1.45	1.55	1.36	1.65	11.50
Net interest	1.60	5.60	10.50	16.00	23.40	57.10

SENATOR WILLIAM V. ROTH, JR., SEPT. 26, 1990, OUTLINE—Continued

Item	Fiscal year—					
	1991	1992	1993	1994	1995	1991–95
Subtotal of cuts	31.39	46.16	70.59	95.79	126.94	370.87

SENATOR WILLIAM V. ROTH, JR., SEPT. 26, 1990, OUTLINE—Continued

Item	Fiscal year—					
	1991	1992	1993	1994	1995	1991–95
Total	34.94	53.00	77.06	101.99	133.05	400.04

SENATOR WM. V. ROTH, JR., PLAN, SEPT. 26, 1990, DETAIL OUTLINE

Item	Fiscal Year—					
	1991	1992	1993	1994	1995	1991–95
Revenue Items:						
IRA (w/rollover)	$1.50	$3.40	$3.30	$3.30	$3.30	$14.80
Extension of expiring provisions:						
(a) Permanent research and development credit	(0.50)	(.90)	(1.10)	(1.30)	(1.60)	(5.40)
(b) Educational Assistance Act	(.23)	(.33)	(.35)	(.36)	(.37)	(1.63)
(c) Health insurance for self-employed	(.25)	(.31)	(.36)	(.41)	(.46)	(1.79)
(d) Foreign allocation of R & D	(.50)	(.71)	(.77)	(.84)	(.90)	(3.72)
(e) Mortgage revenue bonds and credit certificate	(.01)	(.05)	(.14)	(.24)	(.33)	(.77)
(f) Airport and airway trust fund taxes	.88	1.56	1.67	1.81	1.99	7.91
(g) IRS user fees	.06	.06	.06	.06	.06	.30
(h) Administrative expense limits of private foundations						
(i) Tax on deep seabed hard minerals						
(j) Telephone excise tax extension	1.50	2.50	2.70	2.90	3.10	12.70
(k) FUTA 2 percent surtax extension	.77	1.09	1.12	1.15	1.18	5.31
(l) Extension of leaking underground storage tax	.13	.13	.13	.13	.14	.66
Retiree health benefits	.20	.40	.20	.00		.80
Subtotal of increases	3.55	6.84	6.47	6.20	6.11	29.17
Spending cuts:						
Defense	6.00	17.00	34.00	50.00	69.00	176.00
Nondefense discretionary ($12,000,000,000 off final appropriation)	12.00	13.00	14.00	15.00	16.00	70.00
Agriculture subsidies:						
(a) Reduce price supports	1.50	2.10	2.40	3.00	3.50	12.50
(b) Reduce REA loan subsidies	.07	.19	.33	.43	.50	1.52
Medicare:						
(a) Secondary payer reform	.31	1.27	1.63	1.98	2.33	7.52
(b) Part B premium floor 25 percent		.67	1.75	3.13	4.81	10.36
(c) Rural hospital capital at 85 percent	.17	.21	.23	.25	.27	1.13
(d) Urban hospital capital at 75 percent	1.36	1.72	1.88	2.05	2.22	9.23
(e) Overvalued procedures	.11	.18	.21	.24	.26	1.00
(f) Durable medical equipment	.11	.20	.22	.25	.27	1.05
Medicaid:						
(a) Eliminate Federal Medicare match	.61	.66	.71	.76	.81	3.55
(b) Pay employee premium if cost effective	.18	.22	.26	.31	.97	1.94
General Government and Postal Service:						
(a) Federal retirement lump sum	.96	.72	(.06)	(.07)	(.07)	1.48
(b) Federal Employee Health Program	.32	.37	.38	.50	.42	1.99
(c) Postal Service indirect subsidy	.60	.60	.60	.60	.60	3.00
User fees:						
(a) Customs	.81	.82	.84	.86	.88	4.21
(b) Nuclear Regulatory Commission	.30	.32	.33	.34	.36	1.65
(c) Naval petroleum reserve	1.00	(.09)	(.03)	(.27)	(.03)	.58
(d) Food and Drug Administration	.16	.16	.16	.17	.17	.82
(e) Strategic petroleum reserve	3.00					3.00
(f) Additional user fees	.22	.24	.25	.26	.27	1.24
Net interest	1.60	5.60	10.50	16.00	23.40	57.10
Subtotal of cuts	31.39	46.16	70.59	95.79	126.94	370.87
Total	34.94	53.00	77.06	101.99	133.05	400.04

Note.—Estimates based on CBO, OMB and JCT figures.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair.

USE OF THE STRATEGIC PETROLEUM RESERVE

Mr. LIEBERMAN. Mr. President, for the last several weeks, in fact since the Iraqi invasion of Kuwait, I have been urging President Bush to use the one quickest weapon he has in hand to fight back against the oil speculators, profiteers and price gougers who have been taking advantage of the Iraqi invasion of Kuwait, and that is the strategic petroleum reserve.

Yesterday, I made an attempt in the Senate to offer a resolution that would have put the Senate on record urging the President to do that. Unfortunately, for procedural reasons, it did not make it to a direct vote. But I am pleased to note to my colleagues in the Chamber today that last night President Bush did announce that he is going to begin to use the 600 million barrels of oil that we, the American taxpayers, have put into those salt containers off the Gulf Coast to stabilize oil prices in our country.

Even a limited test drawdown of the reserves such as the one President Bush announced last night should have an immediate, positive impact on the oil markets. In fact, I understand that oil prices opened today on the European markets more than a dollar below the price at which they were being sold yesterday.

I hope the main impact of the President's action will be to send a signal to the profiteers and the speculators and the gougers that the Government of the United States is simply not going to lay back and let them exploit every consumer, every businessman, and, indeed, wreak havoc on the American economy itself; that we are beginning to fight back; that this is the first step in that effort.

The fact is that there is no logic behind increases in the price of crude oil, gasoline, and heating oil since Iraq's invasion of Kuwait, no logic save the desire of the people in the oil business to make more money at our expense. Profiteering has now combined with panic-driven speculation to raise oil prices to unprecedented levels. In fact, yesterday, news reports indicate that wild, truly unfounded rumors were rushing across these trading markets and were responsible for even further increases in the oil futures market. All of this continues to happen while we know there is an

ample supply of oil here in the United States and, indeed, still on world markets.

The fact is that oil is the lifeblood of the American economy. High prices are restricting its flow and are weakening the economy. As we attempt to strangle Iraq with sanctions, we simply cannot allow the oil industry to strangle us with profiteering and speculation. That is why I think judicious tapping of the strategic petroleum reserve is the first way to put a damper on price hikes. I hope the President will continue to use it if prices do not stabilize.

I also hope that this administration will instruct our representatives to the International Energy Agency, which is meeting in Paris tomorrow, to urge our allies, particularly the West Germans and the Japanese, who together have approximately 400 million barrels of oil in reserve themselves, to begin reaching into those reserve and to move them into world markets to further damp down this speculation.

Mr. President, in expressing pleasure at the President's action, there are members of this Senate who deserve a lot of credit for their vision years ago in working to establish this strategic petroleum reserve. I note particularly our colleagues, Senators BENNETT JOHNSTON, JAMES MCCLURE, BILL BRADLEY, and the late Senator Henry "Scoop" Jackson. These people masterminded the legislation that created the SPR and worked hard to make sure it was filled with adequate stocks. I think today all of us in America will be enjoying the benefits of their farsightedness in using this reserve.

Mr. President, President Bush, in taking this action last night, again explicitly acknowledged that there is speculation and profiteering going on in the oil industry in America today and said that he was prepared to take further steps to stop it. I again applaud the President for doing that, and I ask him to take those steps soon.

One of the best next steps he could take is to embrace the legislation that more than 20 of my colleagues and I have introduced which would stop price gouging so we can prevent profiteering before it happens. In fact, this legislation during a national energy emergency such as the one we are now in would put gougers in jail for taking advantage of us individually and as an economy.

Mr. President, I hope the Senate can take quick action on this legislation. I also believe that we need a full investigation into what happened in the oil industry after the Iraqi invasion of Kuwait because this industry's actions have resulted in tremendous hardships for all of the American people, which I continue to believe were absolutely unnecessary because there is enough oil today. As we begin to approach the home heating oil season in the Northeast, and we worry about the price of oil that people, particularly those on limited incomes such as the elderly are going to have to pay to heat their dwellings, the fact is that supplies, even the American Petroleum Institute tells us, are higher today than they were a year ago at this time, and yet the price of that home heating oil is dramatically more than it was a year ago. It is time for further action to protect the people of America, their businesses, and our economy.

I thank the Chair. I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Tennessee.

COACH MAJORS CENSUS WOES

Mr. GORE. Mr. President, our attention this morning is quite properly focused on the two major problems we are confronting as a nation: the need to resolve the impasse in the budget negotiations and the need to make very careful and wise choices as the confrontation with Saddam Hussein, and Iraq continues.

I invite my colleagues during this period of morning business to take just a few minutes to think about another problem, and that is the problems with getting an accurate census. I have spoken on this before because it has very large implications for communities in my home State of Tennessee, and I know that other States are affected by the poor count which has come out of the census.

Let me draw the attention of the Senate to a new aspect of this problem. Millions of football fans across Tennessee and across the United States are now focusing attention on a nationally ranked University of Tennessee football team. We are very proud of that team in Tennessee.

There is a big game this weekend against Auburn, and we are going to be rooting for them very strongly. But the U.S. Census Bureau apparently has not been paying much attention. We have all seen and heard reports of the Census Bureau overlooking entire apartment buildings or complete neighborhoods. In Tennessee, they overlooked an institution, the University of Tennessee head football coach, Johnny Majors. He did not get his census form, and unlike a lot of other people he took the initiative to contact the Census Bureau and ask them, "Why did I not get a form? I want to be counted." They said, "Coach Majors, we will send you one in the mail." Well, he waited a long time and no form came. So he called them back again and said "I still did not get my form." They said, "We will send it to you in the mail."

As it ended up, he gave them the information over the telephone because the deadline for mailing it in had already passed.

Mr. President, it is really not that hard to find the Tennessee Volunteers. In fact, if you look at the current list of the best football teams in America, you only have to count to five. That is their ranking this week. After this game Saturday, which I predict they will win, you will only have to count to number two, and by the end of the season we are hoping you will only have to count to one, because we are hoping that is the kind of year it is going to be for Tennessee football.

But if Tennessee football is not worth counting, what is? If you miss Coach Majors in the census, what do you miss? It is like missing a straight touchdown pass thrown in an open field.

I am going to put his letter in the RECORD after my remarks here. But let me just read one section. He said:

> Considering the importance of having a correct count, I feel that the Census Bureau was extremely inept in their handling of this matter. How many other citizens have not been counted?

I agree with Coach Majors, and I do not know anyone in Tennessee who would not count John Majors in any game or on any field. And given their record this year, it seems only the Census Bureau missed it.

That letter provides a vivid illustration of the problems we have all heard about in every one of our States. Earlier this month, reports I received from my constituents in Tennessee prompted me to ask Commerce Secretary Robert Mosbacher for a thorough and critical review of census procedures.

Since that time I have heard much more. I received scores of calls and letters from Tennesseans telling stories similar to Coach Majors' story—people who are providing examples of questionable and outright inaccurate work by the census this year at this time. Officials and citizens from across the State of Tennessee have contacted me offering examples of Census Bureau miscounts which must be corrected.

From one end of Tennessee to another, there are problems with the count in communities where residential building permits and local counts showed dramatic increases, and the Census Bureau reports population reductions. It just does not make sense.

It is not just Tennessee. The number of cities nationwide challenging the census is now unprecedented. In 1980, about 2,500 cities challenged the numbers, and already this year twice as many cities have raised such questions and many more are expected to soon follow.

Missing Coach Majors, for Tennesseans, is just the ultimate insult by the census. This is a guy who in 1976 won a national championship at the University of Pittsburgh. So maybe we ought to make sure the Census Bureau counters are in front of their televi-

sion sets on Saturday in time for the game.

Mr. President, the Census Bureau may be able to ignore the University of Tennessee head football coach, but the people of Tennessee will not.

Mr. President, I was going to suggest the absence of a quorum. But I will not do so because my colleague from North Carolina is here.

I yield the floor, and I ask unanimous consent that the letter, dated September 20, 1990, from Coach Majors be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 20, 1990.

SENATOR ALBERT GORE, Jr.
Knoxville, TN.

DEAR SENATOR GORE: I am writing to you to advise you of the problems I encountered with the Census Bureau. I did not receive a questionnaire, and consequently called the Office of this Census Bureau, here in Knoxville. I was assured that a questionnaire would be sent to me. However, after several weeks, I again called the Census Bureau, and was told that a questionnaire would be mailed.

After a considerable time lapse, I asked my secretary to call the Census Bureau again. She was told that it was too late to mail the questionnaire, fill it out and return it in time for it to be counted. She then proceeded to give the information over the phone.

Considering the importance of having a correct count, I feel that the Census Bureau was extremely inept in their handling of this matter. How many other citizens have not been counted? I wanted to call this to your attention so that, in the future, problems like this can be avoided.

Sincerely,

JOHN MAJORS,
Head Football Coach,
Assistant Athletic Director.

Mr. SANFORD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

Mr. SANFORD. Mr. President, the Senator from Tennessee is apparently overlooking a very determined effort made by Father Hesburgh and President Bill Friday and others to deemphasize football. A great many people think it is getting the upperhand, and I am glad to see the Census Bureau in on our act.

Mr. GORE. If the Senator will yield, Mr. President, the mention of Father Hesburgh reminds me that early in the month of November, the University of Tennessee, which by then I predict will be ranked at least No. 2, will confront Notre Dame on the football field, and if they are still ranked No. 1 at that time, that could be the real showdown of the year. So we really are looking forward to that one.

If the Census Bureau has not taken note by that time, we will make sure that they do that Saturday.

Mr. SANFORD. I do not want to deter them from their pursuit of academic excellence in our university.

THE MIDDLE EAST CRISIS

Mr. SANFORD. Mr. President, I seek recognition to once again point to the need, I think, for very careful decisionmaking in the Pentagon, and the White House.

I read a day or two ago a Broder column, and I think certainly David Broder is one of the most thoughtful journalists in the country. He had been to the Middle East. He talked about the situation. He said in his column that it seems to him that there is a steady slide toward war.

I hope there is not a slide toward war because I do not believe that this is a war that needs to be fought. We have a better way, a better objective, and a better mission. Certainly, we do not want to be in the position of appeasing Iraq and its leader, Saddam Hussein. We certainly know from history that appeasement never pays off.

We saw the dreadful record of appeasement in the way that we and our European allies dealt with Germany when Hitler was in command. First, one country was given up, and then Prime Minister Chamberlain made yet another concession, and then another concession. Then it was too late to stop Adolf Hitler without one of the most bloody wars in the history of the world.

So we are not talking about a program of appeasement. Appeasement would indeed be a tragic way to carry on now the great desire of the people of the world to live in peace.

So what is it that we are doing that is clearly not appeasement? What is it that we should do as our policy toward the Middle East situation? What is it that should be our policy toward Iraq?

Certainly, the fundamental thing that we want to guard against is future aggression by Iraq. There are all kinds of hints that Saddam Hussein intended to keep moving, and to keep expanding his territory. There is not any question if the President had not sent over the 82d Airborne, the Marines, the fighter pilots, and the other Armed Forces to position them in Saudi Arabia that, had he so desired, Saddem Hussein could have kept marching to Riyadh, and certainly could have taken over control of Saudi Arabia.

Whether he intended to or not, he did not get a chance because the United States immediately put a strong military bloc in his way. That was a proper use of the military.

We say that the military is primarily established and maintained, supported to keep the peace, and not to fight the war except as a last resort. There is no better example in keeping the peace than sending that military force immediately to Saudi Arabia to stop any possible aggression, and continuation of aggression.

So we have used the military effectively. That was never done in the case of Hitler. We did not stop his move into Poland, into Czechoslovakia, but we have stopped the move into Saudi Arabia if indeed it were intended.

Where do we go from there? That is the question. There are a great many people who are saying go get him; go in and take Saddam Hussein out; that he is an evil man, a dangerous man, and we cannot afford to let him continue to exist.

Well, that is not a very thoughtful solution, Mr. President. The cost of that is probably beyond measure. Certainly it is beyond any price that we should pay. The cost of that would be the lives of young Americans, and other nationals. It would be the devastation of the country, and maybe worst of all, it would set up a situation of turmoil, strife, and conflict in the Middle East that would take generations to calm down and cleanup.

So there has to be a better way of stopping that aggression, and teaching that aggressor a lesson. A way of making certain that Saddam Hussein does not pull out of Kuwait now only to wait and rise in the future with even more fury.

So we need to take the steps to stop the aggression, but they do not need to be steps of appeasement. They need to be very forceful steps.

I would not waste very much time negotiating right now with Saddam Hussein. We have made the necessary initial negotiating efforts. The U.N. Secretary General has been there and endeavored to talk about it and endeavored to obtain a withdrawal by Iraq from Kuwait. But the time has come for very firm action.

On the one hand, the people are saying to the President: One action is military that will teach him a lesson, that will wrap this matter up, that will end it quickly; let us go get him.

Well, I am not quite sure what that means. If it means moving him out of Kuwait, it is pretty obvious that the only way with military means that we could save and redeem and recall and recover Kuwait would be to destroy it; to meet his heavily armed troops on the border of Kuwait; to bomb, as necessary, in support of ground troops, if we use them, would simply destroy that country. That is not a very satisfactory way to save it. So that certainly is not the answer.

We can talk about bombing strategic positions, including the capital buildings in Baghdad. We can talk about knocking out their oil production. We have that cut off anyhow. We can certainly knock out, places where nuclear chemical, or biological weapons are being held and manufactured.

But we could not have taken out the leader of Iraq if we did that; we simply would have created havoc. We might have damaged a good many of their resources. But there has never yet

been a war that has been won without an occupation. And if we have to occupy that country, how do we take out the leader without occupying the country? It would be an extremely costly, bloody battle. I do not think that is a reasonable alternative.

I do think that we have some very strong alternatives, far from appeasement, forceful steps never before taken because never before have we had an organization worldwide that was strong enough or well positioned enough to take this kind of action. But we do now, we have the United Nations.

Initially, people were inclined to say the United Nations really is powerless; they never have been able to accomplish much. Well, it has accomplished some things. But the United Nations never has been able to fulfill its mission, because the two great powers were at odds, and each of the two great powers had the veto.

The United Nations has not been able to function until just now. This indeed is the first great test, the first great opportunity for the United Nations to show that it can do what it was hoped that it could do, when people of great hope came from all around the world to create it.

Look what it is doing. Already it has quickly, promptly, forcefully, and virtually unanimously put into place the most stringent sanctions ever put in place against any country. What are those sanctions? Well, those sanctions require certain action but, primarily, we are saying to Iraq: you cannot sell any of your products, you cannot sell any oil; not only can you not sell the oil that you took from Kuwait but, as a penalty for taking it, you cannot sell any of your own oil.

So we are saying to that country in effect: We have cut you off from any income; you are not going to have any income until you meet the conditions that the United Nations has set down or has yet to set down.

That is strong, forceful action, Mr. President; that is not appeasement. That is anything but appeasement. It is far a superior strategy—to a shooting war with all of its costs, the bloodletting and ultimate disorder that will come out of that.

We need to set very clear objectives and say to Iraq: Here is what we expect of you, here in what we require of you, here is the penalty we have imposed because of your illegal and unwarranted aggression; here is what you are going to have to do.

It is a penalty, in effect, that the United Nations has imposed, as the representative of all the people of the world.

Now we have said: You must get out of Kuwait and return it to its legitimate rulers. We have said, through the United Nations: You must release the hostages. Certainly, that message is clear.

We have not quite yet rounded out what our ultimate objective should be. It has been said, but we have never quite put it in firm terms, and I think we should; I think the President should. Because what we do not like most of all is a dictator with evil weapons, poision gas and biological materials, and nuclear weapons, possibly, and certainly the desire to gain them, if he does not already have them; a dictator with those kinds of weapons and with the kind of ambition of aggression and conquest that he has exhibited, that is what we want to stop. Nobody has quite yet set that goal, beyond saying, "get him with military power."

I hope the United Nations now will look at the next step of requiring one more goal. I have looked at the charter, and I think it is clearly within the power of the United Nations to say to Iraq: You are going to have to destroy all of these evil weapons, and once you have destroyed them, you are going to have to give the United Nations the right of on-site verification.

If we do that, then we have laid out what it is we want: We want you out of Kuwait, we want hostages out of Iraq, and we want you out of the business of aggression.

How do we enforce it? And how long can we enforce it? The question is, Can we hang in there and can we keep at it long enough, tight enough, so that it is effective?

Why shouldn't we just go on in with the military power, because ultimately sanctions will just peter out, and people will lose interest and look for loopholes?

I see no reason for that kind of a conclusion at all, Mr. President. We have cut out all their income from oil, and we could ultimately sit there until they were reduced to an agrarian economy, if they wanted to play the game that way. So I think that the embargo on the export of oil and of the import of any kind of military weapons will absolutely work. And we do not need to worry about how long we can be patient; we can be patient longer, by far, than Iraq can be patient.

We do not need to keep all of our military forces sitting over there in the desert in order to make that work. We need to keep an adequate force, but if we are not going to fight a battle over there, we can begin to bring some of the people home.

I can tell you right now that the families of the 82d Airborne, the 18th Airborne Corps, and the Marines stationed in North Carolina would like them to be home by Christmas. And we could bring them home and maybe strengthen, psychologically, our position, because we have put the United Nations in a position to be the dominant spokesman, the dominant voice, the dominant staying power in that part of the world.

So I hope we can take this opportunity to demonstrate we can stop aggression in this matter, and I think it has one more great value to it. This will not be the last little tinhorn dictator who has grand plans for conquest. This will not be the last aggression. This will not be the last time that we need to contain some overambitious power.

It is a great opportunity for the United Nations to set the precedent, to set the pattern, to say to would-be dictators everywhere in future years, "Nothing doing. We will dry you up. We will isolate you from the rest of the world. We will cut you off. We simply are not going to put up with this kind of illegal international conduct any longer."

The time has arrived in the history of the world when the United Nations, when the nations of the world united, can exercise the kind of strength that will keep the stability and the peace of the world. I think if we have now reached the opportunity of showing how the United Nations can be effective in stopping aggression without military action, it would be another great tragedy if we did not take the opportunity to prove it.

So, Mr. President, I hope that President Bush, who so far has not given any indications that I can see that he is going to take the advice of the people and say, "Send in the military today," I hope that President Bush will see this as his opportunity to be the President of the United States who made the United Nations work for all of the rest of the world. That is his choice and that is his opportunity, a great opportunity and responsibility that has now been thrust upon him.

I have confidence that as the President and his advisers examine the alternatives, the strong sanctions of the United Nations, that the full utility of the United Nations is the proper decision for us to make.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, I rise and have actually come to the floor as a consequence of the request of the Senator from North Carolina to engage in a colloquy of sorts of this particular issue.

Mr. President, I ask unanimous consent to print in the RECORD two articles, one that appeared in the New York Times on September 23, a transcript of a meeting between the United States Ambassador to Iraq, and President Saddam Hussein, a week before the invasion that took place in Baghdad.

I also ask unanimous consent to print in the RECORD another article, a

report on Secretary of State Baker's rejection of criticism of State Department action toward Iraq before the invasion, from an appearance he made on national television on Meet the Press.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 23, 1990]

EXCERPTS FROM IRAQI TRANSCRIPT OF MEETING WITH U.S. ENVOY

(WASHINGTON, Sept. 22.—On July 25, President Saddam Hussein of Iraq summoned the United States Ambassador to Baghdad, April Glaspie, to his office in the last high-level contact between the two Governments before the Iraqi invasion of Kuwait on Aug. 2. Here are excerpts from a document described by Iraqi Government officials as a transcript of the meeting, which also included the Iraqi Foreign Minister, Turiq Aziz. A copy was provided to The New York Times by ABC News, which translated it from the Arabic. The State Department has declined to comment on its accuracy.)

SADDAM HUSSEIN: I have summoned you today to hold comprehensive political discussions with you. This is a message to President Bush.

You know that we did not have relations with the U.S. until 1984 and you know the circumstances and reasons which caused them to be severed. The decision to establish relations with the U.S. were taken in 1980 during the two months prior to the war between us and Iran.

When the war started, and to avoid misinterpretation, we postponed the establishment of relations hoping that the war would end soon.

But because the war lasted for a long time, and to emphasize the fact that we are a non-aligned country, it was important to re-establish relations with the U.S. And we choose to do this in 1984.

It is natural to say that the U.S. is not like Britain, for example, with the latter's historic relations with Middle Eastern countries, including Iraq. In addition, there were no relations between Iraq and the U.S. between 1967 and 1984. One can conclude it would be difficult for the U.S. to have a full understanding of many matters in Iraq. When relations were re-established we hoped for a better understanding and for better cooperation because we too do not understand the background of many American decisions.

We dealt with each other during the war and we had dealings on various levels. The most important of those levels were with the foreign ministers.

U.S.-IRAQ RIFTS

We had hoped for a better common understanding and a better chance of cooperation to benefit both our peoples and the rest of the Arab nations.

But these better relations have suffered from various rifts. The worst of these was in 1986, only two years after establishing relations, with what was known as Irangate, which happened during the year that Iran occupied the Fao peninsula.

It was natural then to say that old relations and complexity of interests could absorb many mistakes. But when interests are limited and relations are not that old, then there isn't a deep understanding and mistakes could leave a negative effect. Sometimes the effect of an error can be larger than the error itself.

Despite all of that, we accepted the apology, via his envoy, of the American President regarding Irangate, and we wiped the slate clean. And we shouldn't unearth the past except when new events remind us that old mistakes were not just a matter of coincidence.

Our suspicious increased after we liberated the Fao peninsula. The media began to involve itself in our politics. And our suspicions began to surface anew, because we began to question whether the U.S. felt uneasy with the outcome of the war when we liberated our land.

It was clear to us that certain parties in the United States—and I don't say the President himself—but certain parties who had links with the intelligence community and with the State Department—and I don't say the Secretary of State himself—I say that these parties did not like the fact that we liberated our land. Some parties began to prepare studies entited, "Who will succeed Saddam Hussein?" They began to contact gulf states to make them fear Iraq, to persuade them not to give Iraq economic aid. And we have evidence of these activities.

IRAQI POLICY ON OIL

Iraq came out of the war burdened with $40 billion debts, excluding the aid given by Arab states, some of whom consider that too to be a debt although they knew—and you knew too—that without Iraq they would not have had these sums and the future of the region would have been entirely different.

We began to face the policy of the drop in the price of oil. Then we saw the United States, which always talks of democracy but which has no time for the other point of view. Then the media campaign against Saddam Hussein was started by the official American media. The United States thought that the situation in Iraq was like Poland, Romania or Czechoslovakia. We were disturbed by this campaign but we were not disturbed too much because we had hoped that, in a few months, those who are decision makers in America would have a chance to find the facts and see whether this media campaign had had any effect on the lives of Iraqis. We had hoped that soon the American authorities would make the correct decision regarding their relations with Iraq. Those with good relations can sometimes afford to disagree.

But when planned and deliberate policy forces the price of oil down without good commercial reasons, then that means another war against Iraq. Because military war kills people by bleeding them, and economic war kills their humanity by depriving them of their chance to have a good standard of living. As you know, we gave rivers of blood in a war that lasted eight years, but we did not lose our humanity. Iraqis have a right to live proudly. We do not accept that anyone could injure Iraqi pride or the Iraqi right to have high standards of living.

Kuwait and the U.A.E., were at the front of this policy aimed at lowering Iraq's position and depriving its people of higher economic standards. And you know that our relations with the Emirates and Kuwait had been good. On top of all that, while we were busy at war, the state of Kuwait began to expand at the expense of our territory.

You may say this is propaganda, but I would direct you to one document, the Military Patrol Line, which is the borderline endorsed by the Arab League in 1961 for military patrols not to cross the Iraq-Kuwait border.

But go and look for yourselves. You will see the Kuwait border patrols, the Kuwait farms, the Kuwaiti oil installations—all built as closely as possible to this line to establish that land as Kuwaiti territory.

CONFLICTING INTERESTS

Since then, the Kuwaiti Government has been stable while the Iraqi Government has undergone many changes. Even after 1968 and for 10 years afterwards, we were too busy with our own problems. First in the north then the 1973 war, and other problems. Then came the war with Iran which started 10 years ago.

We believe that the United States must understand that people who live in luxury and economic security can reach an understanding with the United States on what are legitimate joint interests. But the starved and the economically deprived cannot reach the same understanding.

We do not accept threats from anyone because we do not threaten anyone. But we say clearly that we hope that the U.S. will not entertain too many illusions and will seek new friends rather than increase the number of its enemies.

I have read the American statements speaking of friends in the area. Of course, it is the right of everyone to choose their friends. We can have no objections. But you know you are not the ones who protected your friends during the war with Iran. I assure you, had the Iranians overrun the region, the American troops would not have stopped them, except by the use of nuclear weapons.

I do not belittle you. But I hold this view by looking at the geography and nature of American society into account. Yours is a society which cannot accept 10,000 dead in one battle.

You know that Iran agreed to the ceasefire not because the United States had bombed one of the oil platforms after the liberation of the Fao. Is this Iraq's reward for its role in securing the stability of the region and for protecting it from an unknown flood?

PROTECTING THE OIL FLOW

So what can it mean when America says it will now protect its friends? It can only mean prejudice against Iraq. This stance plus maneuvers and statements which have been made has encouraged the U.A.E. and Kuwait to disregard Iraqi rights.

I say to you clearly that Iraq's rights which are mentioned in the memorandum, we will take one by one. That might not happen now or after a month or after one year, but we will take it all. We are not the kind of people who will relinquish their rights. There is no historic right, or legitimacy, or need, for the U.A.E. and Kuwait to deprive us of our rights. If they are needy, we too are needy.

The United States must have a better understanding of the situation and declare who it wants to have relations with and who its enemies are. But it should not make enemies simply because others have different points of view regarding the Arab-Israeli conflict.

We clearly understand America's statement that it wants an easy flow of oil. We understand America saying that it seeks friendship with the states in the region, and to encourage their joint interest. But we cannot understand the attempt to encourage some parties to harm Iraq's interests.

The United States wants to secure the flow of oil. This is understandable and known. But it must not deploy methods

which the United States says it disapproves of—flexing muscles and pressure.

If you use pressure, we will deploy pressure and force. We know that you can harm us although we do not threaten you. But we too can harm you. Everyone can cause harm according to their ability and their size. We cannot come all the way to you in the United States, but individual Arabs may reach you.

WAR AND FRIENDSHIP

You can come to Iraq with aircraft and missiles but do not push us to the point where we cease to care. And when we feel that you want to injure our pride and take away the Iraqis' chance of a high standard of living, then we will cease to care and death will be the choice for us. Then we would not care if you fired 100 missiles for each missile we fired. Because without pride life would have no value.

It is not reasonable to ask our people to bleed rivers of blood for eight years then to tell them, "Now you have to accept aggression from Kuwait, the U.A.E. or from the U.S. or from Israel."

We do not put all these countries in the same boat. First, we are hurt and upset that such disagreement is taking place between us and Kuwait and the U.A.E. The solution must be found with an Arab framework and through direct bilateral relations. We do not place America among the enemies. We place it where we want our friends to be and we try to be friends. But repeated American statements last year made it apparent that America did not regard us as friends. Well the Americans are free.

When we seek friendship we want pride, liberty and our right to choose.

We want to deal according to our status as we deal with the others according to their statues.

We consider the others' interests while we look after our own. And we expect the others to consider our interests while they are dealing with their own. What does it mean when the Zionist war minister is summoned to the United States now? What do they mean, these fiery statements coming out of Israel during the past few days and the talk of war being expected now more than at any other time?

I do not believe that anyone would lose by making friends with Iraq. In my opinion, the American President has not made mistakes regarding the Arabs, although his decision to freeze dialogue with the P.L.O. was wrong. But it appears that this decision was made to appease the Zionist lobby or as a piece of strategy to cool the Zionist anger, before trying again. I hope that our latter conclusion is the correct one. But we will carry on saying it was the wrong decision.

You are appeasing the usurper in so many ways—economically, politically and militarily as well as in the media. When will the time come when, for every three appeasements to the usurper, you praise the Arabs just one?

APRIL GLASPIE: I thank you, Mr. President, and it is a great pleasure for a diplomat to meet and talk directly with the President. I clearly understand your message. We studied history at a school. They taught us to say freedom or death. I think you know well that we as a people have our experience with the colonialists.

Mr. President, you mentioned many things during this meeting which I cannot comment on on behalf of my Government. But with your permission, I will comment on two points. You spoke of friendship and I believe it was clear from the letters sent by our President to you on the occasion of your National Day that he emphasizes——

HUSSEIN. He was kind and his expressions met with our regard and respect.

DIRECTIVE ON RELATIONS

GLASPIE. As you know, he directed the United States Administration to reject the suggestion of implementing trade sanctions.

HUSSEIN. There is nothing left for us to buy from America. Only wheat. Because every time we want to buy something, they say it is forbidden. I am afraid that one day you will say, "You are going to make gunpowder out of wheat."

GLASPIE. I have a direct instruction from the President to seek better relations with Iraq.

HUSSEIN. But how? We too have this desire. But matters are running contrary to this desire.

GLASPIE. This is less likely to happen the more we talk. For example, you mentioned the issue of the article published by the American Information Agency and that was sad. And a formal apology was presented.

HUSSEIN. Your stance is generous. We are Arabs. It is enough for us that someone says, "I am sorry, I made a mistake." Then we carry on. But the media campaign continued. And it is full of stories. If the stories were true, no one would get upset. But we understand from its continuation that there is a determination.

GLASPIE: I saw the Diane Sawyer program on ABC. And what happened in that program was cheap and unjust. And this is a real picture of what happens in the American media—even to American politicians themselves. These are the methods the Western media employs. I am pleased that you add your voice to the diplomats who stand up to the media. Because your appearance in the media, even for five minutes, would help us to make the American people understand Iraq. This would increase mutual understanding. If the American President had control of the media, his job would be much easier.

Mr. President, not only do I want to say that President Bush wanted better and deeper relations with Iraq, but he also wants an Iraqi contribution to peace and prosperity in the Middle East. President Bush is an intelligent man. He is not going to declare an economic war against Iraq.

You are right. It is true what you say that we do not want higher prices for oil. But I would ask you to examine the possibility of not charging too high a price for oil.

HUSSEIN: We do not want too high prices for oil. And I remind you that in 1974 I gave Tariq Aziz the idea for an article he wrote which criticized the policy of keeping oil prices high. It was the first Arab article which expressed this view.

SHIFTING PRICE OF OIL

TARIQ AZIZ: Our policy in OPEC opposes sudden jumps in oil prices.

HUSSEIN: Twenty-five dollars a barrel is not a high price.

GLASPIE: We have many Americans who would like to see the price go above $25 because they come from oil-producing states.

HUSSEIN: The price at one stage had dropped to $12 a barrel and a reduction in the modest Iraqi budget of $6 billion to $7 billion is a disaster.

GLASPIE: I think I understand this. I have lived here for years. I admire your extraordinary efforts to rebuild your country. I know you need funds. We understand that and our opinion is that you should have the opportunity to rebuild your country. But we have no opinion on the Arab-Arab conflicts, like your border disagreement with Kuwait.

I was in the American Embassy in Kuwait during the late 60's. The instruction we had during this period was that we should express no opinion on this issue and that the issue is not associated with America. James Baker has directed our official spokesmen to emphasize this instruction. We hope you can solve this problem using any suitable methods via Klibi or via President Mubarak. All that we hope is that these issues are solved quickly. With regard to all of this, can I ask you to see how the issue appears to us?

My assessment after 25 years' service in this area is that your objective must have strong backing from your Arab brothers. I now speak of oil. But you, Mr. President, have fought through a horrific and painful war. Frankly, we can only see that you have deployed massive people in the south. Normally that would not be any of our business. But when this happens in the context of what you said on your national day, then when we read the details in the two letters of the Foreign Minister, then when we see the Iraqi point of view that the measures taken by the U.A.E. and Kuwait is, in the final analysis, parallel to military aggression against Iraq, then it would be reasonable for me to be concerned. And for this reason, I received an instruction to ask you, in the spirit of friendship—not in the spirit of confrontation—regarding your intentions.

I simply describe the concern of my Government. And I do not mean that the situation is a simple situation. But our concern is a simple one.

HUSSEIN: We do not ask people not to be concerned when peace is at issue. This is a noble human feeling which is natural for you as a superpower to be concerned. But what we ask is not to express your concern in a way that would make an aggressor believe that he is getting support for his aggression. We want to find a just solution which will give us our rights but at the same time, we want the others to know that our patience is running out regarding their action, which is harming even the milk our children drink, and the pensions of the widow who lost her husband during the war, and the pensions of the orphans who lost their parents.

As a country, we have the right to prosper. We lost so many opportunities, and the others should value the Iraqi role in their protection. Event this Iraqi [the President points to the interpreter] feels bitter like all other Iraqis. We are not aggressors but we do not accept aggression either. We sent them envoys and handwritten letters. We tried everything. We asked the Servant of the Two Shrines—King Fahd—to hold a four-member summit, but he suggested a meeting between the Oil Ministers. We agreed. And as you know, the meeting took place in Jidda. They reached an agreement which did not express what we wanted, but we agreed.

Only two days after the meeting, the Kuwaiti Oil Minister made a statement that contradicted the agreement. We also discussed the issue during the Baghdad summit. I told the Arab Kings and Presidents that some brothers are fighting an economic war against us. And that not all wars use weapons and we regard this kind of war as a military action against us. Because if the capability of our army is lowered then, if Iran renewed the war, it could achieve goals which it could not achieve before. And if we lowered the standard of

our defenses, then this could encourage Israel to attack us. I said that before the Arab Kings and Presidents. Only I did not mention Kuwait and U.A.E. by name, because they were my guests.

Before this, I had sent them envoys reminding them that our war had included their defense. Therefore the aid they gave us should not be regarded as a debt. We did no more than the United States would have done against someone who attacked its interests.

I talked about the same thing with a number of other Arab states. I explained the situation to brother King Fahd a few times, by sending envoys and on the telephone. I talked with brother King Hussein and with Sheik Zaid after the conclusion of the summit. I walked with the Sheik to the plane when he was leaving Mosul. He told me: "Just wait until I get home." But after he had reached his destination, the statements that came from there were very bad—not from him, but from his Minister of Oil.

Also after the Jidda agreement, we received some intelligence that they were talking of sticking to the agreement for two months only. Then they would change their policy. Now tell us, if the American President found himself in this situation, what would he do? I say it was very difficult for me to talk about these issues in public. But we must tell the Iraqi people who face economic difficulties who was responsible for that.

TALKS WITH MUBARAK

GLASPIE: I spent four beautiful years in Egypt.

HUSSEIN: The Egyptian people are kind and good and ancient. The oil people are supposed to help the Egyptian people, but they are mean beyond belief. It is painful to admit it, but some of them are disliked by Arabs because of their greed.

GLASPIE: Mr. President, it would be helpful if you could give us an assessment of the effort made by your Arab brothers and whether they have achieved anything.

HUSSEIN: On this subject, we agreed with President Mubarak that the Prime Minister of Kuwait would meet with the deputy chairman of the Revolution Command Council in Saudi Arabia, because the Saudis initiated contact with us, aided by President Mubarak's efforts. He just telephoned me a short while ago to say the Kuwaitis have agreed to that suggestion.

GLASPIE: Congratulations.

HUSSEIN: A protocol meeting will be held in Saudi Arabia. Then the meeting will be transferred to Baghdad for deeper discussion directly between Kuwait and Iraq. We hope we will reach some result. We hope that the long-term view and the real interests will overcome Kuwaiti greed.

GLASPIE: May I ask you when you expect Sheik Saad to come to Baghdad?

HUSSEIN: I suppose it would be on Saturday or Monday at the latest. I told brother Mubarak that the agreement should be in Baghdad Saturday or Sunday. You know that brother Mubarak's visits have always been a good omen.

GLASPIE: This is good news. Congratulations.

Brother President Mubarak told me they were scared. They said troops were only 20 kilometers north of the Arab League line. I said to him that regardless of what is there, whether they are police, border guards or army, and regardless of how many are there, and what they are doing, assure the Kuwaitis and give them our word that we are not going to do anything until we meet with them. When we meet and when we see that there is hope, then nothing will happen. But if we are unable to find a solution, then it will be natural that Iraq will not accept death, even though wisdom is above everything else. There you have good news.

AZIZ: This is a journalistic exclusive.

GLASPIE: I am planning to go to the United States next Monday. I hope I will meet with President Bush in Washington next week. I thought to postpone my trip because of the difficulties we are facing. But now I will fly on Monday.

[From the Washington Post, Sept. 24, 1990]

BAKER REJECTS CRITICISM OF STATE DEPT. ACTIONS TOWARD IRAQ BEFORE INVASION

(By David Hoffman)

Secretary of State James A. Baker III yesterday dismissed as "absolutely ludicrous" criticism from Congress that signals from the State Department led Iraqi President Saddam Hussein to think the United States would not object to the invasion of Kuwait.

Baker was questioned in a television interview about statements made to Saddam in Baghdad July 25 by U.S. Ambassador April C. Glaspie. According to an Iraqi transcript of the conversation made public recently, the authenticity of which has not been challenged by the U.S. government, Glaspie said President Bush wanted better relations with Saddam and that the United States had no opinion on Saddam's dispute over borders with Kuwait.

At the same time, similar statements were made in Washington by John Kelly, assistant secretary of state for Near Eastern and South Asian affairs. Saddam invaded Kuwait Aug. 2.

Baker said he agreed with a newspaper columnist who called the criticism of these statements "retrospective scapegoating," and "shameful." Baker added, "So we've got some 20-20 hindsight going on that's been highly critical, frankly, of some very fine career public servants."

Responding to questions about his specific directives to the ambassador, Baker suggested he had not sent her explicit instructions. "I'm not going to deny . . . what the policy was," he said. "But I'm going to say to you that there are probably 312,000 cables or so that go out under my name as secretary of state from the Department of State."

Pressed on why the United States refused to take sides in the dispute between Iraq and Kuwait, Baker said, "That had to do with taking sides on a border dispute, not taking sides on the question of unprovoked aggression." He said, "There are border disputes going on all over the world . . . and we take positions on some and we don't take positions on others."

Baker, interviewed on NBC's "Meet the Press," repeated an earlier statement by Bush that "the suggestion that somehow the United States contributed to Saddam Hussein's unprovoked aggression against this small country is ludicrous, absolutely ludicrous." But Baker also said he agreed with Bush that "in hindsight, maybe there were some things we should have done differently."

The secretary cited three "signals" he claimed were "sent to Saddam Hussein before this happened," and he complained that these actions "are not mentioned" in news reports about U.S. policy and actions before the invasion.

The first, he said, was "to slap foreign policy export controls on exports to Iraq." A request to the Commerce Department to begin controls formally was announced by the State Department on July 27, just days before the invasion and hours before the Senate voted stiffer sanctions against Baghdad. The administration said that day, and again the following week, that it opposed the kind of sanctions on Iraq that Congress was considering.

The second signal to Saddam, Baker said, was to suspend Commodity Credit Corp. loan guarantees to Iraq. However, Agriculture Under Secretary Richard T. Crowder announced last April 14 that it was suspending the program because of possible financial irregularities. Kelly reiterated this to the Senate Foreign Relations Committee June 15.

The third signal, Baker said, "was to prohibit the export of a number of items that we and some of our allies thought might be useful in terms of missile or nuclear proliferation." He was not specific but has previously cited the decision to halt export of high-temperature furnaces to Iraq that could be used to make nuclear weapons. However, the furnaces were stopped only at the last minute after the sale had been pushed for 18 months by the Commerce Department.

Baker said it would be a "serious mistake" to reward Saddam by compromising on the U.N. Security Council resolutions, and he reiterated the U.S. demand for complete, unconditional withdrawal from Kuwait and restoration of Kuwait's legitimate government. After that, he said, there could be negotiations on Iraq's grievances against Kuwait.

Mr. KERREY. Mr. President, I know the Senator from North Carolina, listening to his statements not just today but previously on this issue, above all else wants to make certain that Americans support those men and women who we have asked to go to the Saudi Arabia peninsula to defend United States interests in that region. They have gone into harm's way.

Mr. SANFORD. Mr. President, I think it a remarkable demonstration of how quickly the military could be deployed; how ready they were. The 82d Airborne was there within 3 days; the Marines were there a day or two later, with all their heavy equipment. It is a remarkable show of how quickly we could defend any part of the world, it seems to me.

I have nothing but great pride in the military. But I do not want to doom the military to a needlessly war just because they are good, they are ready, and they are strong.

Mr. KERREY. I guess, as well, I hear the distinguished Senator from North Carolina saying that we in this country need to make certain that we understand why the military is there, and that we are fully supporting their actions on our behalf to protect our interests.

Mr. SANFORD. There is not any question, and it should not be misunderstood, that failure to fight a war is not appeasement. You simply look at what happened when Hitler was appeased. That is not what we are doing.

Mr. KERREY. I would call attention again, and the Senator from North Carolina and I have talked about this previously, but I find the transcript of this meeting between the U.S. Ambassador to Iraq and President Saddam Hussein a week before the invasion to be a remarkable revelation.

I know the Secretary of State was saying we should not engage in 20-20 hindsight as to perhaps mistakes that had been made. But this is not 20-20 hindsight. This is a revelation of what United States policy was toward Iraq prior to the invasion.

I believe it is important because I heard a strong assertion that one of the reasons we are deploying so quickly is not only that Saudi Arabia is in danger, which I think is a legitimate reason, but also that Saddam Hussein is comparable to Adolf Hitler.

I would suggest if that is the case, it is remarkable what our attitude was, what the United States policy was toward what Iraq was doing on the 25th of July, and that is amassing troops along the Kuwait-Iraq border. Our policy was that we do not get involved in border disputes. That was the pledge that was delivered to the President of Iraq, Saddam Hussein.

I say it again: We delivered a pledge to Saddam Hussein. We would call our Ambassador in and say, "We want to deliver a pledge from President Bush." Our policy was we do not get involved in border disputes.

Mr. SANFORD. We can understand maybe how the Iraqi high command is a little bit surprised that we did not find that as a border dispute. In any event, it is a very bad message for us to have given. The Senator's point, I think, is that if he were Hitler, why did we not know it?

Mr. KERREY. In addition, I say to the distinguished Senator from North Carolina, my point is not just to go back and examine U.S. policy on the 25th of July for the purpose of saying it was wrong and gaining some sort of political advantage. Again, I emphasize that we have 150,000 troops now in harm's way. I do not want those troops to feel like I do not support them, because I do. I am prepared to pay whatever price is needed to support those men and women who are there. But it is important, it seems to me, for the United States of America, as we evaluate now what our policy is going to be.

The President in joint session said that we are a new world order. If that is the case, I suspect that part of the old world order is what went on between our Ambassador and the President of Iraq, which was a clear message that we thought it might be OK if he took a little bit of Kuwait, but not all of it.

In fact Ambassador Glaspie, in a followup interview, said we were surprised that Saddam Hussein invaded and took all of Kuwait, implying that maybe a little bit would be OK.

It is clear that all of us are going to have to recognize that in the face of this kind of a dictator, in the face of someone who had previously threatened to destory half of Israel, who had used gas on his own people, who had built a military force beyond what was necessary, who in fact had invaded Iran earlier, all these sorts of things we had been tolerant of previously, we no longer are when it comes to Saddam Hussein.

And I think it is important for us to recognize that we cannot be tolerant, as the distinguished Senator from North Carolina said, of other tinhorn dictators who similarly threaten their neighbors with aggression.

Mr. SANFORD. Does the Senator not agree that even if this man is as mean and evil as Adolf Hitler, that he does not have anything like the potential that Hitler had? With the German economic power, the German industrial power, certainly Hitler was poised and in a position to build on that and to sustain a war effort for a long, long time. There is no comparison, really in that respect.

Mr. KERREY. I quite agree with the Senator's analysis. In fact, I find it regrettable that permission was granted in this particular case—although I do not think it has done permanent damage—but permission was granted from the American people under the representation that Saddam Hussein was comparable to Adolf Hitler, particularly given U.S. policy toward Saddam Hussein a week before the invasion.

Mr. SANFORD. The danger of that, of course, is we keep building up the sentiment that this is an evil man, that somehow no price is too great to pay to remove him from office. That is a very dangerous thought, and it might not accomplish very much if we removed him.

Mr. KERREY. I quite agree with the Senator. I guess I will go further and say that as to what the Senator from North Carolina referred to here earlier, his great pride in watching the speed with which we were able to deploy forces, I think most of us now recognize that in the environment where there has been a lot of references to declining power of the United States of America, that the United States of America was the only nation prepared both militarily and diplomatically, and I emphasize both of those because I believe only the United States of America was prepared to lead the remarkable effort that has occurred now to isolate Saddam Hussein, again something that is very unique. This did not occur with Adolf Hitler.

Saddam Hussein now is completely isolated in the world community with an economic and diplomatic embargo. Shevardnadze's speech to the United Nations made it clear the Soviet Union is even willing to participate in a joint United Nations effort to support forces, if necessary, to get Saddam Hussein to withdraw.

I believe, nonetheless, if that is the case, and I believe it is, that the United States is uniquely positioned and I believe it is important for us to act like a superpower and to consider that there are diplomatic alternatives. We are going to have to be aggressive. It is not appeasement to consider an option that would have Secretary of State Baker and Foreign Minister Shevardnadze and perhaps other Western European leaders going directly to Baghdad and giving Saddam Hussein their positions directly. This is not appeasement for us to do that.

We do not have to offer any negotiated deal at all, simply a recognition that we, in fact, are in a very unique situation here with the entire world community opposed. We are now trying to build upon the principles that we now see as being important. We are not going to be tolerant of Saddam Hussein or other people who build a chemical weapons capability or the potential for nuclear weapons capability or who are aggressive in their behavior toward their neighbors as we had previously and in particular in this regard toward Iraq.

I think there is a possibility for great good to come out of this if we continue to act like a superpower, as we, I believe, for the most part have acted in this case.

The ACTING PRESIDENT pro tempore. The time for both Senators has expired.

Mr. SANFORD. Mr. President, I ask unanimous consent to have 2 more minutes.

The ACTING PRESIDENT pro tempore. Is there objection? The Senators have 2 minutes.

Mr. SANFORD. The Senator from Nebraska made the point of the weapons and the danger that a dictator can bring about. It seems to me that we have not yet defined getting rid of those weapons as one of our goals. It seems to me that maybe we ought to be more explicit in saying that destruction of those weapons and onsite verification are important.

Mr. KERREY. I quite agree. In fact, the administration's indication of willingness to sell 21 billion dollars' worth of weapons to Saudi Arabia, $7.5 billion in one installment, another $12 or $14 billion starting in January, I think is a mistake for precisely that reason. It is a continuation of the old policies of the past where you attempted to balance one would-be military power against another. It has been proven in case after case it does not work. I think we have to go forward and learn from the mistakes of the past.

Mr. SANFORD. I like, too, what the Senator from Nebraska said, Mr. President, about acting like a world power. I came over here primarily today to state a message that I hoped would be a message to the President of the United States, the same message that I sent with several other Senators the day after the invasion of Kuwait, that President Bush has the opportunity to become, in history, a truly significant President, who is the first President of the United States to make the United Nations work, which is certainly the function of the strongest Nation in the world. We have that opportunity for the first time in history. The opportunity in history falls on President Bush, and I hope he takes it.

Mr. KERREY. Again, I thank the Senator from North Carolina for his leadership on this issue and particularly appreciate the opportunity to engage in a colloquy with him.

Mr. SANFORD. I thank the Chair and I yield the floor.

(Mr. SHELBY assumed the chair.)

STRATEGIC PETROLEUM RESERVE

Mr. MURKOWSKI. Mr. President, I would like to address a significant event that occurred today when our President announced that he was, in effect, opening SPR to allow 5 million barrels of oil to flow in the marketplace. I think it is important to recognize a few facts, however.

The authorization to increase SPR from 750 million to 1 billion barrels passed the Senate only a short time ago. The reality is that up until the time of the Iraqi crisis, the daily rate of purchase was about 50,000 barrels per day, up until the Iraqi crisis, at which time purchases for SPR were discontinued. Obviously, there is no point on one hand filing SPR when you are taking it out on the other.

The total capacity of SPR currently is about 595 million barrels. Five million barrels is a very insignificant amount to put on the market. It is my understanding that it will be marketed out to the highest bidder on a competitive bid proposal.

It is important to note that in the authorizing legislation by the Congress, we required the President to do a one-time test of SPR. Make no mistake about it, Mr. President, that is what this consists of, a one-time test of SPR, or at least an initial test of SPR as the case may be.

I want my colleagues to recognize that SPR is not the answer to our energy problems. We are going to have a test. It will take some time, probably over a period of a month, to get that 5 million barrels into the marketplace. I would also ask you to note, Mr. President, that 5 million barrels represents approximately one-third of our daily usage, which is about 16 million barrels a day. So we should not reply on SPR for relief. SPR currently has somewhere in the area of a 35-day supply for this Nation, not at all a secure and adequate reserve in view of the crisis in the Mideast.

That brings me to the point that I want to draw to the attention of my colleagues. Prior to the recess, I introduced an amendment to the Defense authorization bill. It was called the National Energy Security Act of 1990. It is kind of interesting, Mr. President, to note that it passed the Senate unanimously. It is now pending in conference and the conferees are about to address the Defense authorization bill and the particular amendment which I offered.

I think that amendment deserves some examination, Mr. President, because it is the only vehicle that has passed this body, the U.S. Senate, which addresses a methodology or provides a vehicle to make the hard choices necessary at a time when our country is in peril. And we are in peril, Mr. President, because we are currently importing about 8 million barrels of oil a day, or about half of our consumption. As a matter of fact, Mr. President, 54 percent of the total crude oil utilized today is imported.

We have heard our President say that we must reduce our dependence on Mideast oil; we must look for other alernatives. Well, Mr. President, there is no magic. This has to occur through some means. And that means was the National Energy Security Act of 1990, which passed this body and, again, is pending in the conference.

It is rather revealing to note that currently there is a Dear Colleague letter being circulated. I might add that an extraordinary number of my colleagues on the other side of the aisle supported it. It suggests that somehow this is an attempt to open up America's wilderness areas, America's OCS areas, and therefore is an environmental issue.

Mr. President, I can assure you that the crisis that our Nation faces as a consequence of being dependent on foreign oil is the reason that we have our troops, our men and women, in Saudi Arabia, increasing in number each day to somewhere well over 125,000, perhaps 200,000, by the end of another 30-day period.

They are not over there, Mr. President, for any reason other than to keep a foreign aggressor, Saddam Hussein, from entering Saudi Arabia. They are there, Mr. President, to keep an aggressor from coming into a foreign country so we, the Western World, can depend on foreign oil imports.

This charade offered in this letter that my colleagues are circulating deserves a little examination, because it suggests that by the action taken in this body in endorsing and voting out the National Energy Security Act of 1990, we are making an attack on America's wilderness areas.

Mr. President, they either did not read the letter, did not believe what they read, or are entirely misled. That particular action by the Senate allows consideration of many alternatives: Energy savings, CAFE standards, alternative energy, nuclear energy, stripper wells—all measures that would be considered including an oil import tax, tax incentives, wind power—whatever it takes, with the theory being that it is going to take a combination of many of the above.

We can no longer rely on cheap foreign oil. First of all, it is not cheap any more. And second, the price we have to pay is not just a matter of an environmental concern about opening up frontier areas, it is the necessity of looking at all our domestic sources of energy.

Mr. President, seldom do my colleagues reflect on the cost of imported oil. It is somewhere in the area of $90 billion. If we expended $90 billion in our own domestic energy industry in the United States, how many jobs would that provide? How much broader would our tax base be for generating revenue that is so sorely needed by the Federal Government? If we look at a time when we have an economic softness in this country, imagine what a concentrated effort to develop our own energy resources would mean to this country; to stimulate our economy, stimulate our tax base stimulate employment. Mr. President, we have to look at that, but we are not looking at that, and that is an important factor.

What we have done here in passing the National Energy Security Act of 1990 is provide the vehicle for the consideration of all the alternatives necessary to relieve our dependence on Mideast oil. The President supports that. His administration supports that. It is appropriate, Mr. President, that our colleagues who are looking at this issue today with a jaundiced eye, that somehow the purpose of the amendment is directed at opening up wilderness areas, recognize that this is not the purpose.

As we look at this vehicle, let us recognize what it says. It says that if, during any 6-month period out of a 12-month period, our imports of oil exceed 50 percent—and they are at 54 percent now—then the President must come up with an action plan. That action plan would include all the alternatives available. He must prioritize them, and bring them back to the Congress; bring them back so we can make the decisions. It includes all the alternatives. And this letter that is going around suggests that this should be stripped from the conference, that it is an attack on America's wilderness

areas. Mr. President, that is absolutely poppycock.

We need to make the hard decisions and we are afraid to make them. Some of my colleagues, I am absolutely convinced, are afraid of adopting an energy policy in this country because that will force them to make some hard decisions that they do not want to make. But, Mr. President, there is a new dimension here. It is not just a matter of a concern over the clean air as the only consideration. It is not a matter of concern over opening up ANWR in Alaska or opening up OCS areas.

I know the Senator from Florida is concerned about OCS off the coast of Florida, and I know the Senator from California is concerned. The President has suggested that those areas go way down on the priority list. But there are other viable alternatives, Mr. President, that are available to us.

Certainly ANWR is one. Our geologists tell us it is the most likely area in North America where a major oil recovery could take place in the sense of magnitude. It has been estimated by the Department of Interior it could be the third largest field ever found, next to Prudhoe Bay, and east Texas. But we do not know. Others say it is going to leave a footprint and the footprint is so great we cannot consider it.

Mr. President, you and I know any time we initiate any resource development we leave a footprint. But I think we have to look at the footprint in comparison with the realities and our advanced technology. There are 19 million acres, Mr. President, in the ANWR area; 8 million acres have been set aside in perpetuity under wilderness. They will never be touched. There are approximately 7.5 million acres that are exempt from any oil and gas exploration. They are part of the fish and wildlife habitat. Congress has been authorized to set aside 1½ million acres for 10 years to determine if the Nation needs that as an energy reserve.

Mr. President, it has been estimated by the engineers that if ANWR is developed and they do find oil—I might add you usually do not find oil when you look like it and in Alaska you better find a lot or you cannot afford to bring it out—the reality is that you are looking at opening up an area not larger than 12,500 acres that would be developed. That is the size of a good Texas farm or, better yet for my colleagues who could visualize a comparative ratio in this area, take the State of Virginia and assume it was a wilderness and the only development in it was the Dulles International Airport. That is the comparison you are looking at, in reality, to the footprint of ANWR, 12,500 acres if you are lucky enough to find it and if, Mr. President, the Congress of the United States considers the merits of the potential reserves there.

Somebody says it is only a 200-day supply. A 200-day supply, Mr. President, would be the third largest oil field ever found in the United States. Mr. President, Prudhoe Bay is a 600-day supply. It has been supplying this Nation with 24 percent of the total crude oil for the last 17 years through a 4-foot pipeline. Mr. President, it was authorized in this body. It was a tie vote, Vice President Agnew had to break the tie. That is how close we came to not having Prudhoe Bay and not having that pipeline. This Senate broke the stalemate on the issue which authorized the permitting so the pipeline could come. But we almost did not have it.

Where would we be today without that reserve that supplies 24 percent of the total crude oil in this country?

So, as we look at where we are today, Mr. President, I think we have to be realistic. There is a new dimension, and the new dimension is the men and women who are prepared to make the ultimate sacrifice in Saudi Arabia and in the Mideast, to keep our dependence on crude oil coming from that part of the world.

We have to make the hard choices. The hard choices should be made in this body, and that is why I get a little excited sometimes with my colleagues who suggest that somehow this is just an attack to open up the wilderness areas that have been closed. We have to make the decisions. Are we afraid of making the decisions? Are we afraid of the President proposing, as an executive officer, the alternatives that we have and have to seek to relieve our dependence on Mideast oil? We are not doing our job if we think that way.

The President should be authorized by the Congress to come up with the fix, come up with the rationale, come up with the priorities so we can relieve our dependence on Mideast oil and this body should address them.

Look at France. France, several years ago, make a commitment that they would no longer be held hostage by the Mideast. France is generating 70 percent of their energy by nuclear energy. They make a conscious decision. What else is France doing? France is reprocessing their nuclear waste. They are recovering it in plutonium, reinjecting it into their reactors with enriched uranium.

We have a law that precludes us from doing that. We put it back and store it, like an ostrich with his head in the sand. It is absolutely ridiculous.

Here we are with a "Dear Colleague" letter floating around these Chambers stating:

Stop the National Energy Security Act of 1990. Make sure that you get the word to the conferees that somehow this is an attack upon America's wilderness area; that somehow the junior Senator from Alaska has some objective here that is less than honorable.

Mr. President, the reality is we have before us the responsibility of the Congress of the United States to relieve a situation that is absolutely deplorable, a reality that we are held hostage to the Mideast, that we are committed with our men and women who are prepared to make the ultimate sacrifice to keep foreign oil flowing into the markets of the world, and we must address alternatives.

That is what the National Energy Security Act of 1990 is. It simply provides the vehicle or the boat to consider or prioritize all the alternatives and to bring that back to the Congress of the United States to make the hard decisions, and I challenge my colleagues who suggest that this is something else; that they, indeed, are afraid; afraid to adopt an energy policy that forces them to make the hard decisions.

Again, Mr. President, I will mention one other thing that I have touched on, and that is the recognition that $90 billion goes out to acquire foreign oil. That is $90 billion that we are expending in foreign countries. If we made a conscientious effort to expend half of that in stimulating our own domestic energy production capabilities, whether it be coal, natural gas, alternative energy, nuclear, what kind of an effect would that have on the economy of the United States? That is what we are talking about here, Mr. President.

So I urge my colleagues, as they reflect on the actions and alternatives we have before us in the few days left in this session, that we stand up to the reality that we are elected in this body to make hard decisions, not avoid hard decisions.

I ask unanimous consent that a response to the Dear Colleague letter circulating at this time be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DRAFT PRESS RESPONSE TO GRAHAM LETTER:

Whoever prepared the letter for my colleague from Florida abut the Murkowski national security act amendment to the defense authorization act did a horrible job of comprehending what the legislation is all about.

The mischaracterization of the purpose of legislation apparently prompted a number of other senators to lend their name to this communication to the chairman and ranking member of the Armed Services Committee.

For the record, the purpose of the national energy security act (cosponsored by the way by 16 members of the Senate from both sides of the aisle) is to put a ceiling on the level of imported oil into the United States. The purpose of the legislation is to give teeth to a national energy policy. To force the President and the Congress to make the

hard decisions about national energy supply.

It directs the president to recommend to Congress a specific plan of action to reduce imports below the 50% mark, and to choose among the available actions on a priority basis. On the advise of his Secretary of Energy, the President under this legislation submits to Congress his plan of action for conservation, development of alternative energy sources, and development of new domestic oil and gas reserves.

Then Congress gets the opportunity to review and revise the President's action plan. In the wisdom of this body, members can change the President's plan if we deem it necessary—just as long as we achieve the same results of lessening dependence on foreign oil to a level below 50%.

This "Dear Colleague" letter issued by Senator Graham of Florida and cosigned by a number of other senators is an outright falsification of the purpose and intent of the national security act. I urge my colleagues to brief themselves about this—to talk to me directly about it. I'm confident that it is the right idea for the right time.

We have asked thousands of our military personnel to make tremendous sacrifices for their country in order to help a foreign national defend itself against a foreign aggressor in order to protect a foreign supply of oil for a good portion of the world.

The least we can do in this time of crisis, is to get our own energy house in order. The national energy security act is the way to do it, and I ask the Senate for its support.

Mr. MURKOWSKI. Mr. President, as I indicated earlier, there is a Dear Colleague letter that is floating among my colleagues relative to the issue of the National Defense Authorization Act and an amendment which I offered entitled the National Energy Security Act of 1990 which was adopted by unanimous consent in this body shortly before our recess.

Mr. President, the Dear Colleague letter suggests that the amendment would compel the President to consider leasing offshore and onshore Federal lands that are currently off limits to oil and gas leasing in order of their potential for oil and gas discovery without regard for why those lands were placed off limits.

Further, Mr. President, the letter suggests that the amendment will allow oil and gas leasing in wilderness and other environmentally sensitive areas now provided exempt from intrusion, and it specifically states the Arctic National Wildlife Refuge, the Florida Keys, the National Marine Sanctuaries off California, and the suggestion is that this means that, notwithstanding the regulations of important environmental protection statutes such as the National Environmental Policy Act and the Coastal Zone Management Act, these lands somehow would be jeopardized.

Mr. President, whoever prepared the letter for my colleagues about the Murkowski National Security Act amendment to the Defense Authorization Act did a very poor and inadequate job of comprehending the legislation. One could conclude that they simply did not read it. The mischaracterization of the purpose of the legislation apparently has prompted some of my colleagues to lend their name to this communication to the chairman and ranking member of the Armed Services Committee.

Mr. President, for the record, the purpose of the National Energy Security Act, cosponsored, by the way, by 16 other Members of the Senate from both sides of the aisle, is to put a ceiling on the level of imported oil into the United States. The purpose of the legislation is to give teeth—teeth, Mr. President—to a national energy policy that we have been frustrated at the lack thereof.

Mr. President, to force the President and the Congress to make the hard decisions about national energy supply is certainly appropriate in light of our troops in the Mideast.

The amendment directs the President to recommend to Congress a specific plan of action to reduce imports below the 50-percent mark and to choose among the available actions on a priority basis.

On the advice of his Secretary of Energy, the President under this legislation submits to Congress his own plan of action for conservation, development of alternative energy sources, and development of new domestic oil, and gas reserves.

The Congress then gets the opportunity to review and revise the President's action plan. In the wisdom of this body, Members can change the President's plan if we deem it necessary just as long as we achieve the same results of lessening dependence on foreign oil to a level below 50 percent.

Mr. President, this Dear Colleague letter issued by my friend, Senator GRAHAM, of the State of Florida and cosigned by a number of Senators, is an outright falsification of the purpose and intent of the National Security Act.

I urge my colleagues to have their staffs brief them about this. I would be pleased to talk to any of my colleagues directly about it. I am confident it is the right idea at the right time and it is the only vehicle that has come forth during this crisis.

Mr. President, in conclusion, we have asked thousands of our military personnel to make tremendous sacrifices for their country in order to help a foreign nation defend itself against a foreign aggressor in order to protect foreign supplies of oil for a good portion of the Western World. The least we can do in this time of crisis is to get our own energy house in order. The National Energy Security Act is the way to do it. I ask the Senate for its support.

I thank the Chair.

CONFIRMATION OF JUDGE DAVID SOUTER

Mr. MURKOWSKI. Mr. President, I rise today to support the confirmation of Judge David Souter to be Associate Justice of the U.S. Supreme Court.

Mr. President, by now I think we are all familiar with the background and credentials of Judge Souter. Nobody questions his intellect, character, or qualifications. Judge Souter has graduated Phi Beta Kappa from Harvard University, was a Rhodes scholar at Oxford, and a graduate of Harvard Law School. Following this distinguished academic career, Judge Souter has spent the last 22 years of his life dedicated to the practice of law and service to the public. During this time, he has served as attorney general of the State of New Hampshire, associate justice of the Supreme Court of the State of New Hampshire, and, most recently, as a judge on the U.S. Court of Appeals.

Mr. President, I do not happen to be a lawyer and do not serve on the Judiciary Committee, but it is hard to imagine that this body has ever been asked to confirm a candidate perhaps more qualified than David Souter to sit on the U.S. Supreme Court. Judge Souter's entire life evidences a rare combination of intellectual capability and the human characteristics of thoughtfulness and compassion.

Mr. President, as public servants ourselves, we know the demands that can be made on our time. No matter how hard we try there are always more good causes that deserve our attention than time to devote to them. I think we all agree in an age where quick fixes perhaps from time to time are more prevalent than thoughtful solutions, and hasty decisions have become the norm, Judge Souter lives a life that is dedicated to an introspective thought, well-reasoned solutions, and personal humility, which I think was evident to those of us who watched his confirmation. Perhaps we would all do better if more people like David Souter were willing to devote themselves to public service.

There is some opposition, and one might ask why special interest would oppose that nomination. Mr. President, it is the feeling of the Senator from Alaska that with these kinds of qualifications, one wants to know why these special interest groups are speaking out in opposition to Judge Souter's confirmation. What ax do they have to grind with this well-respected jurist from New Hampshire?

Mr. President, in the opinion of the Senator from Alaska, this is simple: David Souter did not pass the special interest litmus test. It seems that for some in this town, and regrettably for some in this body, qualifications and experience and compassion simply do not matter. All that matters is how a

candidate will vote on one special interest issue. If you disagree with the folks on this one issue, or, worse yet, you tell them that your decision will depend on the facts—the facts, can my colleagues imagine that; a Justice on the Supreme Court will depend his decision on the facts of a particular case—then you are unworthy of support. I do not buy that argument, Mr. President. I do not think a majority of my colleagues will.

This is not a practical, realistic, or certainly a fair approach. The type of approach that these groups advocate with respect to our advice and consent responsibility is degrading to the U.S. Senate and should be rejected by each and every one of my colleagues.

Mr. President, after listening to the complaints of certain special interest groups, it is hard not to call on a general terminology that there might be some degree of hypocritical atmosphere or certainly attitude in this regard. On the one hand, the caution of any nominee that is subject to the administration litmus test must be rejected out of hand, while at the same time they insist that a nominee pass a litmus test of their own. That is a little bit of a hit and miss, Mr. President. Political posturing and litmus tests only serve to cloud the real issue, and that is competence; that is dedication. Judge Souter has repeatedly proven he has the confidence and dedication necessary to serve with distinction on the U.S. Supreme Court. Because of these qualifications, this Senator will not take part in the hypocrisy of a single-issue litmus test.

Mr. President, we are all subjected to that, and we all respond in the same way, except when it is convenient to do otherwise, and that is what some are doing in this case.

As this body wraps up the confirmation process with respect to Judge Souter, I ask my colleagues to reflect briefly on the type of precedent that certain special interest groups are asking us to establish. By asking us to apply a single-issue litmus test to a candidate to sit on the U.S. Supreme Court, these groups are asking us to undermine one of the cornerstones of our constitutional system, the presence of an independent judiciary.

Only voting to confirm a candidate that happens to share similar views on a particular issue of the day is, in effect, saying that we should expand the Supreme Court, maybe, from, what, 9 to 109 Members. Mr. President, I think we have plenty to do while we are here without moving over there. I think this is a dangerous precedent, and I ask my colleagues not to endorse it.

Mr. President, the question each Member of this body needs to ask himself or herself when casting this vote on confirmation is whether Judge David Souter is qualified to serve on the U.S. Supreme Court. An examination of Judge Souter's record, along with his thoughtful answers to the questions of our colleagues during the committee hearings, I think indicates that there is only one reasonable answer to this question. Of course, David Souter is qualified. For this reason, I ask my colleagues to join me in voting in favor of his confirmation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

NOMINATION OF DAVID SOUTER

Mr. BOND. Mr. President, it is my pleasure today to rise to announce my support for Judge David Souter for appointment to the position of Associate Justice of the Supreme Court.

Throughout his legal career, Judge Souter has shown himself to be an outstanding jurist. In last week's hearings before the Senate Judiciary Committee, he made it clear that he intends to uphold the Constitution, not to expand it to fit his political philosophy.

Throughout his career as a State attorney general, a justice of the State supreme court, and a Federal appeals judge, David Souter has demonstrated that he has the keen intellect, the willingness to put in long hours, and the understanding of the concept of judicial restraint that a member of the Supreme Court should have. His strength of character and his devotion to his friends, family, and community are, unfortunately, too seldom seen these days.

Some of my colleagues have criticized Judge Souter and announced opposition to his nomination because of his refusal to be tied down to a specified position on issues that may come before the Court, particularly the very difficult issue of abortion. I believe, however, that Judge Souter should be commended for maintaining his independence and for not knuckling under to those who would have him lay out in detail, to prejudge, to predecide the cases before him on the basis of political or personal views.

As Justice Stevens has stated, for Senators to pin down a nominee in advance on specific issues on future votes would discourage openmindedness on the part of the judge, give an appearance of impropriety, and threaten an independent judiciary. It is not our business to tell judges how they will decide cases. The Supreme Court has the Constitution and precedents before it, and I believe Judge Souter will do an able job of interpreting that Constitution in the light of those precedents.

On Monday, the Supreme Court will open its next session. There are many important issues to be decided by the Court this year, many of them scheduled for argument in the early days of the session. There is no reason this body cannot act on Judge Souter's nomination in time for him to join his colleagues in the first session of oral arguments next week.

The President acted in an extremely timely manner to send the Senate a nominee who is well qualified. The Judiciary Committee moved quickly to hold hearings.

I urge the majority leader to schedule a vote this week and allow Senators to send this very qualified nominee to the Supreme Court.

VOTER REGISTRATION

Mr. FORD. Mr. President, last evening, this body in its wisdom voted not to allow us to go forward in our effort to attempt to register more Americans. The distinguished Presiding Officer was one of those who was very interested in seeing that every American had access to the polls.

Mr. President, I am not going to get into all of the objections that we heard. Most of them could have been worked out. But we want to give every American, almost without exception, the opportunity to be registered and to vote. The problems could have, I think, been worked out. Whatever the objections to the bill, and they were minor, I think could have been negotiated.

I want to just draw one conclusion here. A political race is an event. It is an event that people begin to want to watch. Take for example—how many Members of the U.S. Senate watch a baseball game, professional baseball game every night? They may look at the paper in the morning, scan down, and see who won the night before, or who lost. But wait until you get close to the World Series. The viewing public increases. The interest reaches a crescendo in the World Series. But, Mr. President, when you want to go to the World Series to see the game, you cannot find a ticket. That is similar in my opinion to the political process.

People are not real interested. They are not listening to everything that goes on, read every article, every accusation, every claim, every issue until closer to election time. If you are not registered to vote, you do not have a ticket to go to the voting booth.

How many people watch professional football games every time one is on television? Not many. All of us will watch a ball game on occasion if you are home on Sunday afternoon or Monday night. You watch a ball game. But you become very, very interested as it nears Super Bowl time. You get down to the cream of the crop. Then you want to go to the Super Bowl, and

you do not have tickets. You start scrambling for tickets.

Basketball, NCAA championships; think about the Kentucky Derby, the Triple Crown, the Preakness, the Belmont. They are all events. It is difficult to get good tickets sometimes.

So last night, almost without exception, one party in this Chamber voted not to allow us to proceed to work out a piece of legislation that would allow the American people to buy a ticket to vote.

You say this is fraud, the possibility of fraud? There has been a proposal made on the other side that allows them to study voting by phone. If that is not susceptible to wrongdoing, I do not know what is.

Mr. President, I am highly disappointed. One of the problems that we complain about: we do not have a good job, we are in chaos, we are in the hole, we ought to stop digging. There are some people here that have not seen a shovel they did not like.

The American people want to participate. They are like we are. We could get a ticket to Super Bowl if we picked up the phone and called the Senator from that State. We could probably get a ticket for the Kentucky Derby if you called the Senators from Kentucky. You could probably get a ticket to the World Series. But the general public cannot.

So in our statement last evening we said we like it the way it is. So we do not let the Americans have an opportunity to go to the polls. And we fuss every year after an election about the reduction in the number or percentage of Americans that do not go to the polls, or 25 percent of those eligible to vote to elect the President of the United States. We ought to have 51 percent. We ought to have a large turnout.

I know the Electoral College is one thing, but, if a majority of those eligible to vote had an opportunity to vote, I promise you that we would have an increase in the turnout.

So, Mr. President, that is not the last time this Chamber is going to see that bill. They are going to see it time and time and time again until we give all Americans an opportunity to get a ticket to the voting booth.

I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

ASPEN INSTITUTE CONFERENCE ON EASTERN EUROPEAN RELATIONS AT PRAGUE, CZECHOSLOVAKIA, AND OTHER EUROPEAN TRAVEL

Mr. SPECTER. Mr. President, during the August recess, I attended the Apen Institute Conference on Eastern European Relations in Prague, Czechoslovakia. I believe this conference will be of interest to my colleagues because it deals with key U.S. interests on the economic and political development of the emerging democracies in Eastern Europe. Those in attendance included seven other Members of the Senate, eight Members of the House, and parliamentarians from Italy, The Netherlands, Romania, Great Britain, Czechoslovakia, Hungary, Bulgaria, Poland, German Democratic Republic, and Yugoslavia.

The discussion focused on moving Eastern European nations toward free market societies on the economic front and toward parliamentary democracies on the political front.

Refreshingly, there was relatively little emphasis upon economic aid from the United States as a key ingredient in this process. President Vaclav Havel of Czechoslovakia, in a speech at the opening reception and later in private conversation, explicitly downplayed borrowing money from the West. As he put it, he did not want to end up like Poland or Nicaragua which are deeply in debt. Instead, when asked specifically as to what assistance President Havel would like from the United States, he replied that he wanted expert advice on how to move Czechoslovakia's economy ahead.

On the subject of most-favored-nation status, President Havel responded that it was very important to Czechoslovakia both economically and politically. He emphasized the political aspect because it would demonstrate to the people of Czechoslovakia that the United States was supportive of their effort. We were advised that only technical difficulties remain for acquiring favored nation status for Czechoslovakia; and that is action which the United States ought to take promptly.

In other discussions with President Havel on what other assistance the United States might render, he commented that Czechoslovakia could use assistance on technical lines like telecommunications and computers. He commented that his country had only two television channels and noted that the United States was abandoning a television channel at a relatively nearby military base. He added that it would be very helpful to his country to have access to another TV channel.

On the issue of Czechoslovakia as a debtor country, President Havel advised that his country owes $7 billion but in return is owned approximately an equal sum of $7 billion by countries such as Iraq and Syria. We had heard that Czechoslovakia had rejected a trade delegation from Iraq in adherence to the U.N. resoloution for economic sanctions. It was reported that the Iraqi trade delegation had wanted to reduce its debt to Czechoslovakia by $720 million in oil which Czechoslovakia badly needed; but Czechoslovakia had declined in order to adhere to the U.N. economic sanctions.

Another key factor which emerged in discussions with President Havel related to the need for reserves for currency exchange. He expressed optimism that such assistance would come from the European community. The need for solid currency exchange for Eastern European nations arose continuously as to other countries as a prerequisite for solid trade relations.

The value of the United States granting most-favored-nation status was also emphasized by Bulgarian officials. Bulgarian Prime Minister Andrey Lukanov spoke at length at the Aspen Institute Conference about his country's difficulties in moving from a collective state-planned economy to a free-market economy.

Digressing briefly from the Aspen Institute discussions because of its relevancy at this point, we conferred with government officials in Sofia, Bulgaria immediately after leaving Prague. I accompanied Mr. Douglas Smith, political economic officer of the U.S. Embassy, in a meeting with Mr. Konstantin Glavanakov, Deputy Minister for Economic Relations. In advance of the meeting, Mr. Smith advised that he had just been informed by Washington that an invitation should be extended to Bulgaria for trade talks in October with the objective of Bulgaria's obtaining most-favored-nation status. When Mr. Smith extended that invitation to Mr. Glavanakov, the Bulgarian economic official was all smiles, commenting that it was an historical moment for the development of Bulgaria's economy.

Returning to the discussions at the Aspen Institute, considerable attention was directed at the modality of moving to a market economy. When the theme was advanced that "good citizens need square meals," there was widespread discussion about the accuracy of that statement. There was significant thought expressed that the emerging European democracies were more hungry for political freedom than for economic advances. While no one denied the very basic and elementary position that their economies would have to support the people, the improved political atmosphere emerged as a more important objective than economic success.

The mechanics of moving to a market economy commanded substantial attention in light of the 40-year tenure of the planned socialist systems. A variety of approaches was discussed as possible models for distributing state-owned property to individual citizens and various models such as the United States, Germany, and Japan were considered. But there was no clear approach for an easy transition from state-planned economies to free-market societies.

In this relatively brief floor statement, I am seeking to give the flavor of the conference. Comprehensive reports will be issued by the Aspen Institute and those details may be of interest to my colleagues for a fuller picture of the conference.

On the political side, considerable discussion was directed to the deep ethnic divisions which impede political unification. As to Czechoslovakia itself, there were continuing deep differences between the Czechs and the Slovaks. When Vasil Tupurkovski, member of the Presidency of the Socialist Federal Republic of Yugoslavia spoke, he commented about the deep ethnic divisions in his country, noting that there are some 200 political parties in Yugoslavia.

The absence of shared values in Eastern European countries made it difficult to establish a majority view leading to the curious result that the various competing minorities would not accept a majority determination. Along with the difficulty of a majority consensus emerging which would be accepted by so many splinter or minority groups, there was at the same time the difficulty of having the majority, when established, respect minority rights.

In the face of enormous achievements in Poland and Hungary in the past year, it was noted that political apathy was already developing in those countries. The view was expressed that it was necessary to plunge ahead with more radical changes. When Mr. Oleg Bogomolov of Soviet study group raised the prospect of the grant of emergency powers to a chief of state, there was general rejection of that concept because of fear of excess executive control given the background of dictatorships in those countries.

The problem of anti-Semitism received significant attention. Anti-Semitism had been held in check to some extent by the authoritarian governments but in the wake of free political expression, the latent anti-Semitism of preceding decades and centuries was noted to be reemerging in a virulent form.

An important conversation evolved when Sorin Bottez, a Romanian parliamentarian, blandly asserted that there was and had been no anti-Semitism in Romania. I challenged Mr. Bottez, stating that his assertions were a direct variance with the facts but he continued to deny Romanian anti-Semitism in the group meeting. Later in private conversations, he conceded the presence of anti-Semitism in Romania although he continued to minimize its extent or impact.

There were extensive discussions on how to deal with current political leaders who had been in top positions in prior Communist governments, engaging in widespread repressive conduct. It was noted that there was considerable public sentiment that such people should be ousted, prosecuted, and jailed for their prior reprehensible conduct. Others noted the difficulty of organizing any government at all if political retribution was to be the order of the day. There was agreement that there was no easy answer to this vexing problem. President Havel had made the interesting observation that he favored "calculated magnanimity" to leave ex-Communists alone so that the governments could function and people could move ahead with their lives.

There was considerable attention to environmental concerns. As Eastern European nations were striving to develop an industrial base, there had been very little regard for the environment. Western European parliamentarians were especially concerned that emerging industrial nations in Eastern Europe would put so much pollution into the air that Western Europe would be severely injured. Consideration was given to the possibility of a regional approach for the environment with Western European subsidies because of the immediate impact on Western Europe's environment.

Enroute to the Aspen Institute Conference in Prague, we made intermediate stops to explore other key issues. In Rabat, Morocco, we met with Prime Minister Azzedine Laraki and Foreign Minister Abdellatif Filali. These discussions, coming less than 3 weeks after Iraq's invasion of Kuwait, were exceptionally instructive on the attitude of a cooperating Arab government.

Prime Minister Laraki stated that Morocco had acted promptly to send troops to Saudi Arabia in support of the United States' effort because of Morocco's respect for international law. The Prime Minister noted that Morocco's economic relations with Iraq were much more important than Morocco's economic relations with Kuwait. Prime Minister Laraki made the interesting observation that Morocco will follow Mitterand's declaration that the logic of war had taken over. Notwithstanding Mitterand's statement, we discussed a variety of alternatives to secure Iraq's withdrawal from Kuwait without military action.

The Prime Minister and I had an extended, and at times heated discussion, about United States policy toward Israel. Prime Minister Laraki said that it was inconceivable to him that the Congress of the United States would vote to recognize Jerusalem as the capital of Israel when Jerusalem had been taken by force. I respond that Jerusalem had been taken by force many times and that Israel had a very solid historical claim to Jerusalem.

That led to my bringing up remarks which King Hassan reportedly had made during the course of a press interview on August 16. In response to a question on whether statements by President Hussein of Iraq could turn the confrontation into one between the Arab masses and the United States and Israel, King Hassan lamented the close ties of the United States and Israel commenting that the United States Congress has always been "sickeningly" systematic in favor of Mr. Shamir's extreme rightwing government and against all the Arab countries irrespective of their leanings or colors. The Prime Minister declined to comment on the King's statement or to amplify objections to congressional policy.

On the subject of Israeli-Arab relations, I asked the Prime Minister why a moderate, progressive nation like Morocco did not formally establish peace with Israel and undertake a de jure recognition of Israel's right to exist. Prime Minister Laraki responded that such action could not be taken in isolation but was part of the overall issue on the settlement of Mideast issues including the Palestinian question.

Our meeting with Foreign Minister Filali occurred on the morning of August 22 when the Foreign Minister had been up until 2 a.m. that morning in meetings with the Chairman and President from Libya and Chad, respectively. When we arrived in Rabat on the afternoon of August 21, we noted the red carpets on the runway and were told that the leaders of Libya, Mu'ammar Qadhafi, and Chad, Hissein Habre, would arrive in a few moments for meetings with the King of Morocco.

When we inquired of Foreign Minister Filali about his meetings with the leaders of Chad and Libya, he expressed some optimism that the Libya-Chad controversy might be taken to the Security Council of the United Nations.

On the subject of Iraq, Foreign Minister Filali advised that he had met on a number of occasions with the Iraqi President Saddam Hussein on the subject of Libya in connection with the Gulf of Sidon states' request for Italy, Egypt, and Morocco to try to work out the problems in Libya. Foreign Minister Filali stated that Saddam Hussein's Baath philosophy was very abstract, not realistic, and that President Saddam Hussein did not understand the Western World.

Prime Minister Filali noted Saddam Hussein's philosophy to unify the Arab world, but noted that Saddam Hussein did not understand that he could not do it by force. Foreign Minister Filali said that the United States needed to pay more attention to the Arab world because the United States had shown little understanding of it. On the subject of possible recognition by Morocco of Israel, Foreign Minister

Filali said that it was not possible to consider such an issue with the current gulf crisis.

We heard interesting views from the United States Embassy staff in Morocco where the key officials had extensive experience in a variety of Arab countries. The prevailing view was that the United States had a "cultural insensitivity" to Arab values. The consensus was that President Saddam Hussein was not a madman but had been isolated from any extensive contacts with Western values. He stayed with ideas which had been formulated when he was a paid assassin at an early age and continued to think that force would be rewarded. It was further noted that Iraq had always been intensely suspicious of the United States because of United States support for the Kurd rebellion of 1975 and its secret contacts and weapons sales to Iran when the United States was supposedly helping Iraq in the Iran-Iraq conflict.

We made a brief stop in Lisbon for a briefing by Portuguese officials who were mediating the dispute in Angola. Our briefing preceded by only 1 day the meeting between Angolan governmental officials and UNITA which was the first face-to-face meeting since the end of June.

Acting Foreign Minister Durao Barroso of Portugal was optimistic that the contesting parties were close to agreement. The Government of Angola was insisting on a cease-fire as a first step forward negotiations with its central committee indicating its willingness to accept a multiparty system and recognition of UNITA.

UNITA was demanding recognition prior to a cease-fire. Minister Barroso noted some fighting continued in northern Angola and that sabotage was suspected recently relating to a water facility in Ruanda. Minister Barroso also said that there was considerable momentum for nation reconciliation with the parties being very close to an agreement which would lead to a cease-fire and formal recognition.

He also advised that the MLPA was of the opinion that the U.S. Government wanted to destroy them, while the United States insisted that our sole interest is for a fair national reconciliation. It was reported that if there was to be a cease-fire, then President Bush would consider receiving the President of Angola.

The discussions were complicated, according to Minister Barroso, because UNITA had imposed a new condition insisting on a specific date for the first election. Our Thursday meeting on August 23 was to be followed by the Monday meeting between UNITA and MLPA. Unfortunately, the results of those meetings were less than productive with the Government of Angola proving most inflexible on the issue of extending recognition of UNITA prior to a cease-fire. Currently, informal direct talks are in progress in Lisbon between representatives of the Government of Angola and UNITA.

Shifting subjects to the Persian Gulf, Minister Barroso advised that Portugal was the second country to respond in supporting the United States because of Iraq's unconscionable conduct and the fundamental violation of international law. He further advised that Portugal was considering some assistance and I responded that what was really needed was a demonstration of support by sending troops. Minister Barroso responded that he considered that unlikely under all the circumstances.

Before proceeding to Prague for the Aspen Institute in Prague, we stopped in Geneva for briefings on the status of the START and Defense and Space Treaty negotiations, the Nuclear Nonproliferation Treaty which was undergoing its 5-year review and the Conference on Disarmament negotiations to ban the use of chemical weapons.

Ambassador Richard Burt and his staff advised that they are on the verge of concluding the most complex treaty in history. Given the cooperation and motivation of the Soviets for this treaty and agreement on most major points, he appeared optimistic that the START negotiations can be concluded by the end of this year. However, Ambassador Burt also commented that the events in the Persian Gulf might demand so much attention from top United States and U.S.S.R. officials that there might be insufficient time to focus on the outstanding issues. He added that the United States and U.S.S.R. negotiators in Geneva were doing their utmost to meet the end-of-year deadline established by Presidents Bush and Gorbachev.

Among the major outstanding issues to be submitted to Secretary of State Baker and Foreign Minister Shevardnadze for resolution are: Third country basing, the Backfire bomber, missile destruction rates, perimeter portal monitoring, missile tagging, throw weight, data denial and reentry vehicle [RV] counting for new missiles.

On the difficult issue of verification, which was a major source of controversy on the INF Treaty, Ambassador Burt expressed optimism. In his view, a combination of cooperative onsite inspections, continuous monitoring and a ban on the denial of telemetry will make "none of our National Technical Means indispensable to verification.

As to the impact on the ABM Treaty, United States and Soviet negotiators have agreed to disagree on that subject with negotiations on START proceeding independently of what ultimately would be done with the Anti-Ballistic Missile Treaty. The Soviets are stating they will retain the right to withdraw from the START Treaty if the United States insists on a reinterpretation of the AMB Treaty.

This issue became clearer during our briefings on the Defense and Space Treaty negotiations by Ambassador David Smith. These negotiations, in my view, are now in a gray area pending the outcome of SDI developments and congressional funding.

In spite of the Soviet decision at the September 1989 Wyoming ministerial meeting to drop their demand on a period of withdrawal from the ABM Treaty and also to drop their demand that signing and implementing a START Treaty be contingent on reaching a new agreement on the defense and space issues, it is clear that the Soviets are still clinging to the ABM Treaty as the cornerstone of their stability. According to our negotiators, the Soviet Union opposes any transition to strategic defenses beyond those permitted by the ABM Treaty and has failed to respond constructively to United States proposals to clarify ABM Treaty rights.

These talks have a long way to go. Needed is the further development of mutual confidence building measures—termed "predictability measures" wherein both sides exchange data and visits on their SDI research programs. For this forward step, Soviet scientists have visited two United States laboratories conducting SDI research and now accept the concept of mutual visits to labs as a predictability measure.

Negotiations for a convention to ban globally the production, stockpiling, and use of chemical weapons were also in progress during our Geneva visit. This is the Conference on Disarmament. Last year the United States concluded a bilateral agreement with the Soviet Union on chemical weapons, but achieving a similar universal agreement through the Conference on Disarmament will be extremely difficult in the near term.

There are 40 member countries and 35 observer countries to the Conference. Second, the Conference is a negotiating body which works by consensus; there is no voting. Third, many of the Middle East countries consider chemical weapons as their cheap nuclear weapon.

Therefore, without linkage to a ban on nuclear weapons, these countries will pose a major obstacle to any universal convention. This is particularly true in light of the current crisis in the Persian Gulf. In the long run, in my review, a convention on nuclear, chemical, and biological weapons, particularly in the Middle East, has a real prospect of success because of the sheer necessity of survival.

Even the bilateral chemical weapons agreement between the United States and U.S.S.R. has linkage to a multilateral agreement. While both sides have

agreed to destroy 80 percent of their stockpiles, the decision to destroy the remaining 20 percent at the 8-year point will hinge on the number of countries who have signed up to a multilateral agreement to eliminate chemical weapons.

Ambassador Brad Gordon briefed us on the current 5-year review of the Nuclear Non-Proliferation Treaty—called the NPT—in progress in Geneva. This treaty which took effect in March 1970, is a major international nuclear arms control agreement intended to prevent the further spread of nuclear weapons. We were attending the fourth of these 5-year review conferences. In 1995, a conference will be convened to decide whether the treaty shall continue in force indefinitely, or be extended for an additional fixed period or periods.

U.S. administrations have done an exceptionally fine job in ensuring near-universal adherence to the treaty's provisions. Nonetheless, with the expanding list of countries which are developing or in possession of nuclear weapons, I expressed concern about the adequacy of the treaty's provisions regarding the transfer of nuclear technology and materials and the adequacy of inspection regimes. The International Atomic Energy Agency—the IAEA—which has the responsibility of inspecting nuclear materials and facilities to ensure they are used only for peaceful purposes, falls short of what is required to achieve the levels of mutual confidence fundamental to assuring security. In 25 years of safeguard experience, the IAEA has reportedly not confirmed a single diversion of nuclear material from peaceful to military use. Clearly needed are more safeguards on the export of nuclear materials and a much stronger inspection regime, including onsite challenge inspections.

While the NPT review conference concluded in mid-September without issuance of a final document, there was apparent consensus on the need to reaffirm the treaty and to extend it in 1995.

The concern for weapons proliferation especially in the volatile Middle East and the need for arms control was strongly expressed to me in Geneva by both the Egyptian and Israeli representatives to the United Nations.

Egypt's Ambassador Nabil El Araby outined for us Egypt's April 1990 United Nations proposal to establish a zone free from all weapons of mass destruction in the Middle East. Previous Egyptian proposals have been limited to a nuclear free zone, but Ambassador El Araby is deeply concerned that the development and proliferation of nuclear, chemical, and biological weapons and missiles in the Middle East will serve as the basis for unwanted warfare and senseless mass destruction and deaths.

Ambassador El Araby also stated support for an international criminal court and that such a court will be very useful particularly for international drug trafficking. In his view, the world is not prepared for the future on growing international crimes.

In a separate meeting, Israeli Ambassador Itznak Lior also voiced his concern on the proliferation of weapons and indicated that Israel was also in favor of a Middle East zone free of all weapons of mass destruction. Fundamental to the success of such a proposal is the need for bilateral agreements and face-to-face negotiating between Israel and Arab States. In addition, he indicated that there must be a stringent verification system as a confidence building measure. He pointed out that the IAEA—the International Atomic Energy Agency—has not inspected Iran for 2 years and is fearful of inspecting Iraq.

Our final meetings with country officials occurred in Sofia, Bulgaria which had experienced only 4 days before a major incident with several hundred rioters storming and burning the headquarters of Bulgaria's Socialist Party. Approximately 200 rioters burned the main party headquarters and an adjacent building while thousands of sympathizers gathered at the main square.

When we walked through the main square 4 days later, there were still large crowds milling around giving us the sense that more disturbances could occur at any moment. A few days earlier at the Aspen Institute's meeting in Prague, we heard a luncheon speech by Bulgarian Prime Minister Andrey Lukanov who cut short his visit to return to the problems in Sofia.

Prime Minister Lukanov recounted Bulgaria's efforts to reform the Communist Party into a Socialist Party and stated that another name for "democracy" was "surprise." The Prime Minister noted that the opposing party had more than one-third of the seats of parliament and the new government was working hard to achieve parliamentary consensus. He noted that in Bulgaria no single party or political entity could lead the country through the period of sacrifice and social tension necessary to change political structure and effect economic reforms.

Prime Minister Lukanov advised that the No. 1 priority was economic reform, insisting that Bulgaria truly wanted a market economy. He pointed out that since 1985 his country had undertaken $7 billion in extra debt, reversing the reductions in foreign debt which had been made from 1979 to 1984.

Prime Minister Lukanov stated that Bulgaria would like an association with the European Economic Community but realized it was not realistic to join the European Economic Community. He stressed Bulgaria's interest in better relations with the United States and noted that, except for Albania, Bulgaria had the least relations with the United States.

In addition to the meeting with Deputy Minister Konstantin Glavanakov, previously noted, we met with First Deputy Foreign Minister Stephen Staikov. Minister Staikov advised that Bulgaria was in the initial stage of building a democratic society. He noted that the path was irreversible and that there would be no switching back to dictatorship.

The first Deputy Foreign Minister emphasized Bulgaria's commitment to a free press and to a multiparty system although he conceded that it would take some time to develop such institutions. He expressed concern about the radical trend of the young people and noted that while they were in the minority, they had the support of the mass media and the intellectuals. He freely acknowledged the failures of Stalinism which led to alienation of party members as well as subjugating individual initiative for collective enterprises. He also noted that the rigid central planning had failed and stated that there was a recommendation within the Socialist Party that economic advances could be made only by recognizing individual freedom.

We then met with Mr. Phillip Dimitrov, Vice Chairman of the United Democratic Forces. The headquarters of the UDF was a beehive of activity with rumors abounding that some on the premises might be arrested for the riots of the previous weekend.

Mr. Dimitrov advised that there was much concern about rights of minorities, especially the Turks. The leaders of the United Democratic Forces were negotiating in the parliament on legislation to depoliticize the police, prosecutors, and the courts in an effort to strip away the power of the old guard Communist Party which had simply changed masks and renamed itself the Socialist Party.

While our stay in Bulgaria was a brief one, it was unmistakable that additional changes toward democracy and ouster of the Communist/Socialist parties were inevitable if not imminent. The governmental leaders did not know quite how to deal with the riots of the previous weekend. It appeared that they were afraid to prosecute even those who could be positively identified because it might provoke still further protests and violence.

The United States is in a good position to assert meaningful pressure on Bulgaria to recognize human rights in consideration of most-favored-nation status. Our Embassy team headed by

Chargé William Montgomery, awaiting the arrival of a new ambassador, seemed well informed and poised to effectively represent United States interests in Bulgaria.

IMPACT OF $106 BILLION SEQUESTER ON NEW MEXICO

Mr. BINGAMAN. Mr. President, today is September 27 and because of the Gramm-Rudman law I am sure everybody is aware that we are facing massive sequester or cuts in Federal spending starting this Sunday night at midnight. I had my office prepare a description of the impact it would have on my home State of New Mexico. I would like to give my colleagues a little of that information here because it is very dramatic.

Based on the estimates we have been able to identify, where we are talking about a $106 billion cut across the board, we talk about a 43.6 percent cut in defense. That would exempt the military personnel accounts. And we talk about a 40.7 percent cut in nondefense programs.

When you look at my State, we are talking about a massive layoff of personnel if we do not act responsibly, not just in the Congress, but in the administration, and come to an agreement on what needs to be done. We would see cuts of over 3,000 civilian jobs at our Los Alamos Laboratory, nearly that at Sandia National Laboratory. These are if the cuts took effect and remained in effect for the full year.

Obviously I do not believe that will occur. But I am not so sure that some cuts will not occur as a result of the failure of the administration and the leadership of Congress to get together on a budget agreement by the end of this weekend.

Mr. President, I would also like to make four obvious points about the impasse that we seem to be in.

This is not an impasse that results from the inability of people in Congress, Democrats and Republicans, to get together and agree. This is an impasse that is a result of the position that the President and his representatives have taken in the negotiations.

These are not negotiations between Democrats and Republicans only in the Congress. They are really negotiations between the Congress and the administration. It's because of the position that the administration has taken in some of these respects, which leading Members of the Republican Party have indicated they do not necessarily agree with, that we are in the impasse we are in today.

The main sticking point, I firmly believe, based on all I can determine from press accounts and otherwise, the main sticking point is the insistence which has been there by the President on his capital gains tax cut. An obvious point that needs to be made is that tax cuts should not even be part of this discussion. We are talking about deficit reduction, not deficit enhancement.

In order to reduce the deficit, you do not cut taxes; you have to raise taxes. That is a painful fact. It is not one that I embrace readily, but it is a fact which I believe all mainstream economists in this country would have to agree with. Not only do you raise taxes; you also cut spending. They are very difficult decisions, and I know there has been a genuine effort on the part of Democrat and Republican Members of the Congress to reconcile their differences and come up with something that makes sense. I hope that can be done in the next day or two.

I also want to make a point that I think should be obvious to everybody, which is that the President needs to be involved in these discussions. The President needs to be in these meetings.

I am somewhat amazed to see on the television in the evening, when I go home, that the President is out around the country campaigning and attacking Congress for not working. I saw yesterday his schedule had him in Akron, OH, at 9 in the morning, and Chicago at noon, and Minneapolis last evening. And as I understand it, also in Minnesota for a breakfast this morning.

All of these are political campaign stops. These are not stops or appearances he is required to make by virtue of the responsibilities of the Presidency. These are campaign stops, like all of us engage in. But we are not engaging in them now, as this very important deadline approaches. Today he is in Cleveland, OH. He is in Detroit, MI, this afternoon. And he will be back late tonight in Washington, DC.

The obvious point I am trying to make is that the President needs to sit in on these negotiations. The President himself should be there if he feels that they are not going properly. That is a much more constructive approach to the situation than flying around the country on campaign stops, criticizing the Congress.

I believe firmly that the President needs to return to Washington, to himself sit down and talk with the leadership of the Congress about what changes need to be made in the existing package that they are discussing, and reconcile it. The people of my State expect nothing less. The people of my State, I believe, deserve nothing less, both from those of us in Congress and from the President.

I believe there is a genuine effort by the majority leader and the minority leader, and by various others in Congress, to reconcile this situation and avoid this set of unprecedented cuts, which will be scheduled to begin on Monday.

I hope that the President will himself begin to participate in those discussions, and that we can get a resolution and avoid the sequesters and furloughs that would otherwise occur.

Mr. President, I yield the floor.

Mr. SIMPSON. Mr. President, I rise today in full support of the confirmation of Judge David Hackett Souter as the next Associate Justice of the U.S. Supreme Court. I do not support Judge Souter simply because he was nominated by a Republican President or because I know now how he would vote on any particular issue. It is not that which I am especially concerned about.

I support this nomination—and confirmation—because I had the fascinating opportunity to hear this fine man respond to questions; questions which not only probed his judicial philosophy, but which told us about the man's heart and intellect.

There was a great deal of hoo-rah generated in anticipation of the confirmation hearings—during those hearings—and afterward—on the question of whether or not Judge Souter would or would not be a deciding vote to overturn Roe versus Wade. There was an attempt to turn these hearings into a referendum on that issue. I was pleased that my colleagues were able to inquire into this issue without demanding a specific answer on how Judge Souter will vote when this issue is presented to the Court in the coming term. We know that the Code of Judicial Conduct—the canons of ethics—prohibited Judge Souter, a sitting Federal judge, from answering in detail on certain questions.

All of my colleagues on the Judiciary Committee are to be commended for respecting this limitation. I want to especially commend our able chairman, Senator BIDEN, for his leadership and fairness and ultimate patience when the questioning crossed over into areas that could not, ethically, be delved into in greater detail. Despite our sometimes spirited debates and disagreement on some issues, our chairman is—above all—fair and courteous and I do commend him for that.

Personally, and everyone well knows, I am pro-choice. However, I personally do not know how the judge will vote as this issue is raised over the coming years. I do know that, like the Senator from Delaware, he will listen—and he will be fair—and he will resolve those questions according to the law, not according to his own beliefs, whatever they may be, or some private political agenda.

It has always been my personal belief that a Justice should be a person of integrity, rectitude, intelligence, superior legal scholarship, and proper judicial temperament. He

should also have proper and deep respect for the laws and the legislative process, the Constitution, and he or she should uphold that Constitution but never—never—consciously legislate from the bench. After many long days of the most grueling of questioning, Judge David Souter has convinced me that he possesses those very important qualities. He will make a very, very fine addition to the Supreme Court.

Judge Souter possesses another trait that does not get much copy—I suppose it is not glamorous—but Judge Souter has a fine sense of humanity—and he excludes kindness. I do not use those words lightly in describing him. Those qualities of "humanity" and kindness encompass real world experiences and a degree of compassion for his fellow being, male and female, alike that is all too rare in modern society. He is a self-described "listener" and is always mindful that any decision he makes as a Justice will—and hear this, for these are his words, not mine—any decision Justice Souter would make "directly affects the life of a human being." That's real compassion. That is what warms the sometimes cold world of interpreting the naked law. That realization in a Judge is what breathes vibrant life into the law and into our Constitution.

Long before the hearings in the Judiciary Committee began, we all knew that Judge Souter met the intellectual requirements of a Justice on the Supreme Court. His academic record is impeccable. His professional record and reputation is unblemished. He received the American Bar Association's highest rating. We knew all of that.

But after the hearings, we also know David Souter "the man." And I can share with my colleagues not on the Judiciary Committee that I know of no one else at this point in our Nation's history that I would rather see entrusted with the awesome responsibility of protecting our constitutional form of government and the rights guaranteed to us all under that Constitution.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

THE BUDGET

Mr. LOTT. Mr. President, I just happened to be passing through the Senate Chamber a few minutes ago, and I enjoyed listening to the remarks—frankly, in astonishment—of the Senator from Kentucky and the Senator from New Mexico that, "Well, now, of course it is the President's fault we do not have a budget agreement." That is about the most ludicrous idea I have heard this whole year, although the Congress has been trying to perpetrate that idea the whole time.

The deficit of this country is the fault of the President? Ask former President Carter about that. Ask former Presidents Ford and Reagan, and President Bush. The problem is the Congress. Under the Constitution, we are the people who pass all these appropriations bills that exceed every other year's appropriations.

The suggestion is made that the President should stay in Washington and help us get things done. What would help would be for Congress to do its job and get out of this town and go out and listen to the American people. They might be surprised at what they are hearing.

The Congress is in town working? Who are we kidding? What is the agenda in the Senate today? Nothing. This is work? Budget negotiators are doing their job? Who are they kidding? They have been dipping around for 4 months. I want to talk a little bit more about that in a minute.

Let me correct the record. Congress is not working. The Senate did not do anything yesterday, when you look at what happened when the smoke cleared. Look at the House of Representatives. They had 37 so-called noncontroversial bills they were going to take up on Tuesday, many not noncontroversial. They wound up taking up only 10, because the Members insisted on talking about them. Then they brought up a rule in the other body that would not even allow Members to offer amendments on a criminal law package. The rule was defeated.

I think the leadership in both parties had better check with their Members a little bit, because the Members are getting it stuffed in their ear regularly around here.

The President is doing his job. I think the Congress had better get busy about doing its job. There is this great fear and anguish and gnashing of teeth about sequester. At least with a sequester, the people would not be taxed again; we would have real, genuine spending cuts. I do not know what the word is in New Mexico or in Kentucky, but in Mississippi the working people say, "Hey, do not tax me again."

Congress will say it is all because of the capital gains. Well, why is it in the budget negotiations, they are talking about gasoline tax increases? Why is it in the budget negotiations they are talking about taxing Social Security benefits of people who are retired? That is the most ridiculous idea I have heard all year.

The problem with the budget negotiations is that Congress always, for some reason I will never understand, wants to find a way to raise more taxes so we can spend more money. This year—the next fiscal year—the budget is projected to be $1.1 trillion plus. The problem is, we are spending too much money in every area. So what does the Congress want to do? Raise taxes.

I think the President is partially to blame, because he had not held Congress' feet to the fire earlier. He offered a budget at the beginning of the year. We rejected it and did not even talk about it. He came along and said everything is on the table, including taxes. That was a mistake on his part. It hurt him; it hurt him with me. But he did it in good faith.

Then he came back again in July and put another budget on the table, in effect. Again, Congress laughed. The liberals in Congress are having a blast. They feel, why should we offer anything; the President is killing himself one slash at a time. But he continued to do it.

Now we say: OK, if you guys do not like capital gains cuts, that is negotiable. Now the discussion is, well, if you need a little income tax bracket increase, well, that is negotiable.

The President's mistake is he has given in too much. OK, I am willing to talk about not having tax cuts. How about talking about not having tax increases? That is not even being talked about around here anymore.

I have said a few things here already that are critical of the President, but for the Congress to say it is the President's fault, is it? If Congress does not want to negotiate any further, let us pass a budget. That is not a bad idea anyway. Forget these summits; adjourn the summit. Let us reconvene the Congress; how about that? That is a novel idea. Let us vote on a budget. See if we can get the votes for some of this dumb stuff being discussed in these negotiations in here.

Let me go to another subject, going back to what the Senator from Kentucky was talking about. I have always been interested in and attracted to some of the anomalies of the Senate as a legislative body. There is civility regarding party, region. We respect each other and each other's States; yet, yesterday I saw Senators objecting to other Senators wanting to speak on a subject. Civility was thrown out the window.

One of the reasons both of the cloture motions were defeated yesterday is because we got ugly and out of order with each other. Are we ready to junk civility? I cannot believe a Senator would get up and object to another Senator's commenting on something that was going on here. That is a fundamental right, I thought, in this body. So I caution colleagues on both sides, once this goes on on one side or with one Senator, it can go on with 100.

The other interesting thing in the Senate is this novel thing of cloture where we cut off debate or cut off nongermane amendments. I thought one of the basic principles in the

Senate is that Senators will be heard, and all amendments to be offered will be considered. And, yet, the leadership on the other side of the aisle has been coming in here for the past several days bringing up a bill and immediately trying to invoke cloture, trying to cut off debate, and trying to cut off amendments.

It happened last week on the so-called CAFE bill which would have required that automobiles achieve 40 percent greater fuel economy. It happened this week on the title X bill, the bill Senator KENNEDY had on the floor yesterday. And it also happened on the motor-voter registration bill—cut back on debate and knock off amendments.

Finally, in a bipartisan vote, Senators rose up and said, "No, we are not buying that." In fact, the Senator from Kentucky, I believe the RECORD will show, was one of the Senators who voted against invoking cloture yesterday on title X.

I say to the leadership on both sides of the aisle, before they start agreeding further by unanimous consent to start invoking cloture immediately when a bill is laid down, they had better think twice. There was a message yesterday: There are not going to be any more cloture votes this year. We ought to be talking about budgets and appropriations instead of dickering around on some of these bills that ought to be handled at the local level anyway, like motor-voter registration. What is this stuff about not being able to get a ticket to the Super Bowl? They do not mail you a ticket to the Super Bowl unsolicited; you have to try to get it. I mean, is it asking too much of the people to go register for the right to vote?

You know, I think in my State of Mississippi, the secretary of state does a pretty good job. The local circuit clerks go to all kinds of extremes to make sure people are able to register to vote.

So I do not know what the Senator from Kentucky is talking about. He can bring it up again and again if he wants to, we are going to debate it and amend it, and we are not going to have cloture invoked.

I urge my colleagues in the Senate in this last week or 2 weeks or 3 weeks, let us try to be civil with each other; let everybody be heard. And, number two, to the leadership, forget this cloture stuff; we are not going to be cutting off any more debate in the U.S. Senate this year.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. WALLOP. Mr. President, I rise to make note of the President's remarks of yesterday which I think, frankly, were long overdue. A negotiation is, in effect, an effort by two parties to achieve a certain goal. When one party to that negotiation is more interested in a goal that is political than in a goal that is related to the budget, you have the kind of event that has taken place. In fact, what has been offered to the Republican side of the budget negotiations is a $200 billion tax increase with no cuts in spending.

Americans, I think, are quite willing to pay taxes for needed public expenditures, priorities in the public area. But one of the great myths around is that somehow or another there are reduced revenues when, in fact, Mr. President, there is an increase in revenues of 4.2 percent.

Where we in the Congress have fallen down, is that we have exceeded in spending this year the levels of last year by 14.8 percent. And it is not possible to achieve a discipline in budget, or any other kinds of ways to deal with distressing issues of America, without facing the fact that it is the Congress which is profligate.

The President of the United States does not spend money. The President of the United States cannot spend any money that is not authorized and appropriated by the two bodies of the Congress. And so when Americans look at whose choices are really on the table, they see that it is we in the Congress who must come to some kind of an arrangement in order to put the budget problems of America to rest.

The President of the United States went a very long mile, Mr. President, when he talked back from the campaign pledge of no new taxes. He has walked several other miles that were as long, since these negotiations began. Yet we find ourselves in today's impasse primarily because those with whom he and our side have been negotiating have been more interested in the political achievements, political gains, political currency that could be developed out of these negotiations, than they were in the real issues facing America.

A $200 billion tax increase is not acceptable to either party. It cannot be acceptable to Americans. But it is the proposition with which the President and his side is basically faced today.

So it was right and appropriate to frame the argument in the manner and terms in which he framed it yesterday. It is my hope, now that the word is out, that since those remarks were made, more progress will be made than has been made in the preceding 2 months. It is time to set aside those partisan differences.

It is particularly time to come to some kind of an agreement. It is a given that there will be new taxes. It is not acceptable, it is not comfortable, but it is a given. But it is absolutely just as true a given that there is not going to be $200 billion worth of new taxes and no deficit cuts; no reductions in expenditures. Because that, Mr. President, is not fair to the people of America, and that is precisely what the President of the United States was saying yesterday.

With all of that I also take note of the fact that in recent months Congress, and perhaps both parts of the Congress, have seemed to be operating in the vacuum of history, in the vacuum of current events, as though there were no relation between our presence and the requirement of that presence in the Middle East to the defense budget authorization.

We had cuts in conventional capability. We had cuts in strategic capability. While it is true that the Soviet Union's conventional requirements are diminishing, there is absolutely no indication at all, Mr. President, of the slightest diminution in their strategic efforts. Indeed, there is all manner of intelligence to say that it is increasing. And, in the face of that, both Houses of Congress severely knocked back the strategic modernization capability of the United States.

In the face of the known requirements demonstrated in the Middle East we cut back on fast sealift, heavy airlift, and conventional capabilities. The Department of Defense budget has become America's cash cow. Everybody says cut defense and give me a little more housing. Cut defense and give me a little more health. Cut defense and give me a little more child care. Cut defense and do this, cut defense and do that, and there is not the slightest look at the nature of the world in which the United States must operate from this day forward; or at the nature of the capabilities we will need in the future. Let us drop, for the moment, the word "threat." For reasons that are fairly obvious the word "threat" has diminished as a credible word, in terms of these modern discussions. Because the pronounced intentions and the ascribed intentions of the Soviet Union do not seem to offer the threat they once posed.

But the Soviet Union, like all the rest of the world, is led and peopled by mortals. Mortals can change their minds; people often change their minds. And mortals die and are replaced by other peoples of different minds.

What this country must be required to come to grips with is not the pronounced intentions of people but the particular capability that can be ar-

rayed by somebody who changes his intentions or restates those intentions.

Any prudent country in the world, Mr. President, would take out an insurance policy and store some fire equipment in the shed next door. It is not a question of ascribing bad motives to the current Soviet leadership or any one else. It is a question of recognizing the reality of what could happen to this country.

One of the things we see is a large and a genuine fear on the part of Americans as to what happens to American service men and women deployed in the Middle East if Saddam Hussein uses the chemical weapons and the intermediate range ballistic missiles he possesses. There is absolutely no reason in the world why those troops should be threatened by such armaments except for the fact that this Congress, both parties, both Houses, have in their fear of getting too far forward on SDI, simply downgraded the technical capability of missilery that could be today deployed in protection of those troops.

That is not a statement of fantasy, Mr. President. That is a statement of fact. Our failure to protect the troops in Saudi Arabia and the Middle East from Iraqi missiles and chemical weapons is a failure of will of these two Houses of Congress and of the Department of Defense who, so worried that a capability against a tactical ballistic missile might be ascribed an antiballistic missile capability, have each time we have achieved a milestone downgraded the tactical missile capability and separated them, keeping them at opposite poles.

What was the first weapon system that the military deployed in the Middle East, and sent for in as many numbers as they could get? Mr. President, it is the Patriot air-defense missile which also have some limited antitactical ballistic missile capability. Why is its antitactical ballistic missile capability so limited? Because as a matter of policy we separated out its ATBM capability and downgraded it lest we be accused of violating the ABM Treaty. There was no other reason.

That is what I mean when I say that for some reason or another this Congress operates in a vacuum of reality. On the one hand people argue against upgrading our capability through SDI, because it is destabilizing. On the other hand we have people wringing their hands, Mr. President, about the possibility that our troops will be subjected to chemical attack by Iraqi missiles. Wring their hands they well ought to, but shake their fists they should, too—shake them at the Congress of the United States, at the treaty compliance officers in the Pentagon and the others who have taken our skills and our technical abilities away from us.

One last thing, Mr. President. One notes in the House, in their DOD authorization, a large amount of Japan-bashing and other kinds of irresponsible behavior. One Member said that unless the Japanese are willing to pay for 100 percent of American troop presence in Japan we are going to start pulling our troops out.

There is no logic whatsoever behind a posture like that except a domestic political logic that has nothing to do with American interests abroad. If America has no interest in the Pacific rim worthy of a presence over there, no amount of money paid by the Japanese will sustain that presence in a democracy that has to vote on such things: None. What those who voted for that are saying is that America has no interest, no business outside the borders of the United States, except that we have had, as well we should have had, strong bipartisan support for the United States presence in the Middle East, given the nature of the threat that has been mounted by Iraq.

Mr. President, burden sharing is one thing. But the presence of troops of the United States abroad is also representative of an interest that the United States has in being abroad. And, if we have no such interest and can define no such interest then I say bring them home and do not worry about burden sharing.

But I say we have such an interest. Because every time the United States has withdrawn its presence from the world in this century, every single time the people of the United States have paid lots and lots of their treasure to redress that absence, they have also paid with lots and lots of their blood.

For us to abandon the idea that the United States has an interest in the stability of the world, in the stability of friends, in our trade positions, in access to strategic materials and strategic metals, and in the positions and the safety of friends in less capable countries than our own—if we have no such interest, Mr. President, then we have no interest in a defense budget at all. If we have such an interest then the defense budget must at least reflect the foreign policy of the United States and must be able to address it, must be able to project it, must be able to protect it.

It is my hope in these closing days of Congress and in the new Congress that comes back, that issues of direct national concern receive a consideration that is broader than just the moment in time, as to whether or not a particular piece of defense spending is a good hometown domestic economy booster.

The defense budget is not the defense of local economies. The defense budget is the defense and projection of the interests of the United States. In other areas where the United States has interests, I hope that before we act intemperately from moments of political opportunism we can find some means of acting temperately in behalf of our country and its interests, a country and its interests which we all love, respect and hope to have respected.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DODD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. I ask unanimous consent that I be allowed to proceed as in morning business.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

AMERICA SHOULD LEARN FROM HISTORY

Mr. EXON. Mr. President, I listened with great interest to my friend and colleague and neighbor from the State of Wyoming. He is a valuable member of the Armed Services Committee on which I serve and former important member of the Intelligence Committee. I think all should listen and hear and digest the words that he just spoken.

Certainly during these next few hours when we are in very desperate straits with regard to straightening out the fiscal mess or trying to straighten out the fiscal mess of America, I do not know whether that is going to be accomplished or not. The fact that we are here at a little after 1:30 in the afternoon awaiting for some figures to come back indicates that something might be going on to begin to resolve this question.

I simply say that if we have to stay here all through the weekend, then we better stay here and try to come to some agreement where we can get the required number of votes to do something constructive about the deficit fiasco that faces this Nation.

Primarily, I just want to stand and thank the Senator from Wyoming for his remarks and I, too, think the United States of America should learn something by history. We fought World War I, which was a war to end all wars, and then 20 years later we were back in World War II for the same good and worthy cause. We thought that would put it to rest. Seven years after that, we were involved in Korea, and 10 to 12 years after that, we were involved in Vietnam. We have been through an extensive period of a cold war that we hope has been permanently cooled as we move forward with seemingly better

agreements and understanding with the Soviet Union.

But to assume that all is well and we need to dismantle our defense of these United States is foolhardy, indeed, if we will just take a look at history. Yes, we are involved in a very serious undertaking today, and we all hope and pray it will work out without wholesale bloodshed. But there is a very high degree of danger here, cheri, to use an old French expression.

I simply say we do not know what is going to happen, nor do we know what is going to happen in the future. Let us look beyond. One way or the other, the difficulties in Saudi Arabia are going to be, hopefully, solved to our advantage. But let us look beyond that. That is what those of us on the Armed Services Committee have continually tried to do.

Yes, I for one think we can make some reduction in the amount of money that we are spending on defense without doing serious disruption to the future security interests of the United States. My only concern, Mr. President, is that at this time, we are looking at this in a very shortsighted, very narrow approach: What is good for the United States of America and its defense for the next few hours, or the next few days or the next few weeks or the next few months. Obviously, wiser heads have to prevail, and we have to look at that for the years up ahead.

The attention that is focused on some of our programs today, particularly the B-52 bomber, indicates, I think, a lack of concern and thought we need to project into the future.

Yesterday, I had an opportunity, when he called, to talk to the new general of the Air Force who will be on the Joint Chiefs. We talked about a lot of things and about the security interests of the United States. As Senator WALLOP alluded to, we seem to be losing strength around the world. It is pretty obvious at this time those two anchor military bases we have had, the Air Force base at Clark in the Philippines and the Navy at the Subic facility in the Philippines, are on their way out. I think it is going to seriously cripple the influence and the projection of forces necessary to carry out our foreign policy in that part of the world.

We see retrenchment all over the place; some of it good and some of it bad. I simply say if Americans think we have some guarantee of living in peace and tranquility without any chance of real hostility, then they better stop, look, and listen to the history that I just cited and also who would have thought 6 months ago that we would have been deployed as we are today in the desert of Saudi Arabia on the Desert Shield project.

Getting back to the B-52, I simply hope that the media would do a little better job than I think the media generally has done with regard to making the B-52 program a lightning rod for everyone to point to and say, "Isn't that a terrible waste to build a new airplane that is going to cost more than any other airplane we ever built?"

I said this before on this floor in debate and I am distraught about the fact that the House of Representatives zeroed out the B-2 program. We will be going into conference next week with the House of Representatives on the DOD authorization bill to try and make some sense out of it.

I just want to say that I hope the people will realize and recognize that it is politically popular and, therefore, convenient for people to cave in today to the popular conception that somehow all of our financial problems will disappear if we will just not build the B-2 bomber.

In the first place, our fiscal problems would not disappear. Second, looking forward and not short term, as a senior member of the Armed Services Committee and the chairman of the Strategic and Nuclear Deterrent Forces Subcommittee thereunder, I simply sound the alarm once again that if the B-2 does not pass the test that we in the Armed Services Committee have set for it, we have not agreed to any amount of buy at this time—this month to the end of the year is a critical period for testing that aircraft as to whether or not it has the stealthy characteristics to radar that we think it has—we can make a much better decision on that next year. But if, for whatever reason, the B-2 does not live up to what it is supposed to do, then we in the Armed Services Committee would not recommend going ahead with it any further.

If it does, then I suggest to my colleagues that we have an obligation to look to the future and recognize as key fact which the general and I discussed yesterday. If the B-2, for whatever reason, does not live up to its promise and the test, or Congress, in its wisdom or lack thereof, decides to cancel that program, where are we going to be with the air breathing leg of our triad 10, 20, or 30 years from now?

We have had adequate testimony in the Armed Services Committee, expert after expert, of the fact that with the heart and soul of our strategic bomber force today tied up in the aging B-2, not one B-2 has been manufactured and delivered to the Government for the last 25 years, a quarter of a century. That is the plane we are relying on.

How many people traveling on airlines today would feel safe and secure, traveling on a 25-year-old aircraft? The B-2 is still a good system, and it can last for a while longer. But if we, for whatever reason, do away with the B-2 program, then we are going to be facing the new century with a dilapidated, if not nonexistent, ineffective leg of the triad. I guess all know what the triad is: a third in our ICBM forces, land-based ICBM, a third in the air-breathing leg of that triad—in other words, airplanes and bombers—and, of course, a third with our Trident and other submarines at sea.

You could argue as to whether or not in the dangerous world of today we can get by with two legs of that triad rather than the three-legged triad.

The triad has served us well over the years and in my view is the main reason we have been successful in bringing about a better understanding between the two superpowers, as is evident with the many activities that are ongoing today.

If for any reason, though, the B-2 does not make the grade, then we are going to have dire consequences if we want to maintain that strong three-legged triad.

I hope we can put aside these continued statements that we hear. The other day someone asked me a question: "Senator, why are you for the B-2 program when it has already been proven that the airplane does not fly?"

I told the inquirer he did not have an understanding of the situation. There were a lot of people who said the B-2 would not fly. We have now proven beyond a doubt that the system will fly and fly very well. The only remaining question on the B-2, which we hope to be able to verify without question by the end of this calendar year, is its stealthy characteristics, which are equally important as its ability to fly, as we see what role that will play in future deterrence and therefore defense of the United States of America.

I thank my friend from Wyoming for his cogent comments on where we are going. The B-2 program is not just another airplane. In my view, if the B-2 system, as I like to call it—because it is not just an airplane—works as indicated, then it will be a most quantum leap forward in protecting the interests of the United States as far down the road as we can see, because anybody with any kind of an infrastructure for making war against the United States would have to think twice or three times or four times or five times or more about daring to attack the United States of America with a system which would provide the deterrence to an aggressor that the B-2 in my view would certainly provide.

I hope these kinds of statements will give some pause for thought as we address this very serious problem of how we are going to make reductions in the defense budget along with all the other expenditures we must reduce if

we are going to get our deficit under control. It is absolutely critical that we make these reductions on a selected basis and have a clear understanding of what we do in each and every instance.

I thank the Chair. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF JUDGE DAVID SOUTER

Mr. DANFORTH. Mr. President, I rise today to endorse wholeheartedly the nomination of Judge David Souter to the Supreme Court. When I head of Justice Brennan's retirement, I was genuinely worried about the nominations process that would follow. I was worried about what we had created in the demeaning process employed to mischaracterize Judge Robert Bork. I was worried about what methods would be used to misrepresent the next nominee. How would prior writings be misused, be taken out of context, be employed for a purpose never intended? How would a person's personality and character be twisted and turned? How would the Senate and the interest groups comport themselves this time around?

Well, Mr. President, I still regret the treatment of my former professor, Judge Bork. I feel for him each time I read about events at the Supreme Court. He should be there. He deserved it. But I am slightly heartened. The unfair attacks on Judge Robert Bork have not given rise to my worst fears. They have not led to the nomination of a mediocre candidate. They have not led to the nomination of a candidate without significant experience. Most importantly, they may not have permanently infected the process of choosing our Supreme Court Justices.

I believe that President Bush has nominated a stellar candidate to the Highest Court in the land. In all of the areas appropriate for examination by the Senate: integrity, intelligence, legal scholarship, and judicial temperament, Judge Souter has proved beyond a reasonable doubt that he deserves a unanimous vote of approval by this body.

The man has a résumé about which most people can only dream. He attended Harvard College, graduating magna cum laude. He received a Rhodes scholarship and then went on to Harvard Law School. He worked in private practice for 2 years and then began his long and distinguished career in public service. In 1968, he became an assistant attorney general for the State of New Hampshire. He then was appointed deputy attorney general under our colleague, WARREN RUDMAN, and 5 years later, he succeeded his former boss and became the highest law enforcement officer in the State of New Hampshire. He was appointed to the State bench in 1978 where he served as a trial judge for 5 years. Judge Souter was promoted to the State Supreme Court of New Hampshire in 1983. He was recently appointed to the Court of Appeals for the First Circuit.

As for legal qualifications, Judge Souter has distinguished himself at the bar and on the bench. Senator HATCH properly dismissed his supposed lack of a paper trail as nonsense. David Souter wrote 221 opinions as a justice of New Hampshire Supreme Court. This does not include his memorandum decisions as a trial judge, and all of the oral decisions he made from the bench. I am told that these decisions are reasoned, clear, and well written. According to John Broderick, the New Hampshire Bar Association president:

> [Souter has] the finest legal mind I have ever encountered. He gets to the bottom line faster than anybody I've ever seen." "He's a judge's judge, extraordinarily talented and impeccably fair. * * * He will not cast his lot with conservatives on the court merely because they're conservatives. He's fiercely independent in his legal reasoning. * * *

There can be no doubt. Judge Souter has the legal acumen and ability to be a great Supreme Court Justice.

More than these qualifications, as outstanding as they are, Judge Souter has demonstrated throughout this process that he has the requisite judicial temperament. As Senator RUDMAN stated:

> On the New Hampshire Supreme Court, Judge Souter demonstrated that he is a classic conservative. Judge Souter respects precedent, applies the law to the facts before him, without predefined conclusions. He is committed to the application of the traditional rules of statutory construction and constitutional interpretation, and recognizes the proper role of judges in upholding the democratic choices of the people through their elected representatives.

I believe that this description speaks volumes about Judge Souter's judicial temperament. He understands the limits on his office. Judges are selected to decide cases and controversies brought before them. They should do only that. They need not reach out for other issues not properly raised. They need not read their own views into precedents or legislative history in deciding a case. Everything that I have heard about Judge Souter and everything that he said at his confirmation hearings convinces me that he respects the institutional limits on the judiciary.

There is one last issue that has been raised in the meticulous and exhaustive examination of the life of this judge from New Hampshire. It's his humanity or experience or sensitivity. Well, Mr. President, I never doubted him on this issue, but I must say that what I have learned since his appointment has given rise to a sincere affection for this person who I have only met a couple of times in my life. I have no doubt that he has seen the full range of human endeavors. As the attorney general of New Hampshire, he probably saw more suffering and tragedy than any of us wish to see. I know from experience as a State attorney general that one gets all the life experiences one wishes as the attorney general for a State.

With respect to his humanity or sensitivity, Judge Souter showed us all that we need to know in his confirmation hearings. His experience as a proctor on the board of freshman advisers at Harvard reveals his sympathy and empathy for those in need of support. He spoke to a young woman in great pain for 2 hours about a decision that would effect her life forever. He understands the pain of those who would be impacted by his decisions. This revelation showed us a side of Judge Souter that only his close friends, like Senator RUDMAN, knew before. Now he has let all of us see this side of him. His response on civil rights, when being pressed about positions he took as the Governor's lawyer, show his sensitivity in that arena. Judge Souter said the following:

> I hope one thing will be clear, and this is maybe the time to make it clear, and that is that with respect to the societal problems of the United States today there is none which, in my judgment, is more tragic or more demanding of the efforts of every American in the Congress and out of the Congress than the removal of societal discrimination in matters of race. * * *

In his opening statement, Judge Souter talked about his beginnings in a small New Hampshire town, about the people he knew there from every class and every ethnic origin. He spoke of his pro bono work at his law firm, about a case in which he represented a poor woman who had lost custody of her children. He told us of two lessons learned from being a judge. The first was that his decisions impact the lives of real people. The second is that this impact on humanity forced him to do everything he can to get the decisions right. The last indication of his humanity which gave me a great insight into this man is the comments of the parents of his godchild. They described how Judge Souter took his responsibilities toward his godchild seriously. This concern for those in his charge impresses me. For all of these reasons, I will give my endorsement to this nominee.

Certain Senators have stated their intention to vote against the nomination of Judge David Souter. None that I have heard has based that vote on the criteria that I have used in may analysis. All of these Senators have found him professionally competent and of the highest integrity. Instead, these opponents to the nomination have based their opposition on the judge's refusal to answer hypotheticals regarding the extension or restriction of Roe versus Wade. They claim that he was not consistent in his examination of different issues. He gave short shrift to the right to privacy while going into detail on other issues. I disagree.

Judge Souter did not stonewall the committee. He answered questions about his views on the underlying principles of decision in every area of interest to the committee. With respect to the right to privacy, Judge Souter stated the following: "I believe that the due process clause of the 14th amendment does recognize and does protect an unenumerated right to privacy." He said that as an interpretivist, he was confident that the ninth amendment issured the recognition of privacy rights which were already recognized by the State prior to the signing of the Constitution. It is true that as a sitting judge, Judge Souter refused to answer the specific question of whether this right extended to abortion or to the right of an unmarried couple's use of contraception. Mr. President, these are questions about specific cases that may very well come before the Court. An attempt to overrule Roe versus Wade will almost certainly come before the court in the next few terms. Yet, even on this sensitive issue, Judge Souter stated that he recognized the principle that must be applied one way or the other in a case regarding abortion: the right to privacy. He simply would not say whether the woman's right to privacy outweight the interest in life of the unborn child. He would not apply the relevant principle to the facts of a specific case.

Judge Souter used this methodology in every area of interest to the committee. He discussed the principles that would generally guide his decisions, but he would not apply those principles to specific cases. He discussed the merits of the tests used in specific areas, but he would not apply these tests to facts or cases that might come before him. With respect to the first amendment, he was willing to talk about the principles that would generally guide his examination of the establishment clause and the free exercise clause but stated specifically that he could not talk about their application in specific cases. With the respect to the death penalty, he stated that the Constitution expressly contemplates it, but he would not discuss whether it should apply in certain cases.

Judge Souter dealt fairly with the Judiciary Committee. It is true that he did not state his position on specific cases, but he is constrained by judicial ethics and common sense not to do so. What he said about these issues was that he had not prejudged any case and would listen carefully to the arguments presented. That, Mr. President, is all that we can ask.

Mr. President, this nominee comes with the highest recommendation from a man that all of us deeply respect: our colleague from New Hampshire, Senator RUDMAN. That recommendation means a lot to me. I believe that Judge David Souter has the integrity, intelligence, legal scholarship, judicial temperament and, most importantly, the heart, to be a great Supreme Court Justice. I will support him.

Mr. AKAKA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I ask unanimous consent to proceed as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Hawaii is recognized.

Mr. AKAKA. I thank the Chair.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 3119 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. AKAKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRYAN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DODD. Mr. President, I am about to ask the Chair to consider passage of a piece of legislation that has emerged from the Securities Subcommittee of the Banking Commiittee. It has been cleared on both sides. Senator HEINZ, my colleague and ranking minority member of the subcommittee, will be here shortly to be representing his views on the legislation.

SECURITIES ENFORCEMENT AND PENNY STOCK REFORM ACT

Mr. DODD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 647.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 647) entitled "An Act to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; EFFECTIVE DATE.

(a) SHORT TITLE.—This Act may be cited as the "Securities Enforcement and Penny Stock Reform Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; effective date.

TITLE I—AMENDMENTS TO THE SECURITIES ACT OF 1933

Sec. 101. Authority of a court to impose money penalties and to prohibit persons from serving as officers and directors.

Sec. 102. Cease-and-desist authority.

TITLE II—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

Sec. 201. Enforcement of title.

Sec. 202. Civil remedies in administrative proceedings.

Sec. 203. Cease-and-desist authority.

Sec. 204. Procedural rules for cease-and-desist proceedings.

Sec. 205. Conforming amendments to section 15B.

TITLE III—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

Sec. 301. Civil remedies in administrative proceedings.

Sec. 302. Money penalties in civil actions.

TITLE IV—AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940

Sec. 401. Civil remedies in administrative proceedings.

Sec. 402. Money penalties in civil actions.

Sec. 403. Conforming amendment to section 214.

TITLE V—PENNY STOCK REFORM

Sec. 501. Short title.

Sec. 502. Findings.

Sec. 503. Definition of penny stock.

Sec. 504. Exclusion of sanctioned persons from participating in distributions of penny stock.

Sec. 505. Requirements for brokers and dealers of penny stocks.

Sec. 506. Development of automated quotation systems for penny stocks.

Sec. 507. Review of regulatory structures and procedures.

Sec. 508. Voidability of contracts in violation of section 15(c)(2).

Sec. 509. Restrictions on blank check offerings.

Sec. 510. Broker/dealer disciplinary history.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2) and title V of this Act, the amendments made by this Act shall be effective upon enactment.

(2) CIVIL PENALTIES.—No civil penalty may be imposed pursuant to the amendments made by this Act on the basis of conduct occurring before the date of enactment of this Act.

(3) ACCOUNTING AND DISGORGEMENT.—Paragraph (2) shall not operate to preclude the Securities and Exchange Commission from ordering an accounting or disgorgement pursuant to the amendments made by this Act.

TITLE I—AMENDMENTS TO THE SECURITIES ACT OF 1933

SEC. 101. AUTHORITY OF A COURT TO IMPOSE MONEY PENALTIES AND TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.

Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end thereof the following new subsections:

"(d) MONEY PENALTIES IN CIVIL ACTIONS.—

"(1) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 8A of this title, other than by committing a violation subject to a penalty pursuant to section 21A of the Securities Exchange Act of 1934, the Commission may bring an action in the United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(2) AMOUNT OF PENALTY.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (A) $100,000 for an individual or $500,000 for any other person, or (B) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(3) PROCEDURES FOR COLLECTION.—

"(A) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(B) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(C) REMEDY NOT EXCLUSIVE.—The actions authorized by this subsection may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(D) JURISDICTION AND VENUE.—For purposes of section 22 of this title, actions under this section shall be actions to enforce a liability or a duty created by this title.

"(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 8A, each separate violation of such an order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with such an order, each day of the failure to comply with the order shall be deemed a separate offense.

"(e) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any proceeding under subsection (b), the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of such Act if the person's conduct demonstrates substantial unfitness to serve as an officer or director of any such issuer.".

SEC. 102. CEASE-AND-DESIST AUTHORITY.

The Securities Act of 1933 (15 U.S.C. 77 et seq.) is amended by inserting after section 8 the following:

"CEASE-AND-DESIST PROCEEDINGS

"SEC. 8A. (a) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission such other person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person.

"(b) HEARING.—The notice instituting proceedings pursuant to subsection (a) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(c) TEMPORARY ORDER.—

"(1) IN GENERAL.—Whenever the Commission determines that the violation or threatened violation specified in the notice instituting proceedings pursuant to subsection (a), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceedings, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceeding. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(2) APPLICABILITY.—This subsection shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of any of the foregoing.

"(d) REVIEW OF TEMPORARY ORDERS.—

"(1) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to subsection (c), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(2) JUDICIAL REVIEW.—Within—

"(A) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(B) 10 days after the Commission renders a decision on an application and hearing under paragraph (1), with respect to any temporary cease-and-desist order entered without a prior Commission hearing,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not make application to the court for a hearing except after hearing and decision by the Commission on the respondent's application under paragraph (1) of this subsection.

"(3) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under paragraph (2) of this subsection shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(4) EXCLUSIVE REVIEW.—Section 9(a) of this title shall not apply to a temporary order entered pursuant to this section.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (a), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

TITLE II—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 201. ENFORCEMENT OF TITLE.

Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended—

(1) by redesignating subsection (d) as subsection (d)(1);

(2) by inserting after subsection (d)(1) the following new paragraphs:

"(2) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any proceeding under paragraph (1) of this subsection, the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to subsection (d) of section 15 of this title if the person's conduct demonstrates substantial unfitness to serve as an officer or director of any such issuer.

"(3) MONEY PENALTIES IN CIVIL ACTIONS.—

"(A) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 21C of this title, other than by committing a violation subject to a penalty pursuant to section 21A, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(B) AMOUNT OF PENALTY.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (i) $100,000 for a natural person or $500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(C) PROCEDURES FOR COLLECTION.—

"(i) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(ii) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(iii) REMEDY NOT EXCLUSIVE.—The actions authorized by this paragraph may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(iv) JURISDICTION AND VENUE.—For purposes of section 27 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.

"(D) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 21C, each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with the order, each day of the failure to comply shall be deemed a separate offense.".

SEC. 202. CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS.

(a) The Securities Exchange Act of 1934 is amended by inserting after section 21A (15 U.S.C. 78u–1) the following:

"CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS

"SEC. 21B. (a) COMMISSION AUTHORITY TO ASSESS MONEY PENALTIES.—In any proceeding instituted pursuant to sections 15(b)(4), 15(b)(6), 15B, 15C, or 17A of this title against any person, the Commission or the appropriate regulatory agency may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(1) has willfully violated any provision of the Securities Act of 1933, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or this title, or the rules or regulations thereunder, or the rules of the Municipal Securities Rulemaking Board;

"(2) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person;

"(3) has willfully made or caused to be made in any application for registration or report required to be filed with the Commission or with any other appropriate regulatory agency under this title, or in any proceeding before the Commission with respect to registration, any statement which was, at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein; or

"(4) has failed reasonably to supervise, within the meaning of section 15(b)(4)(E) of this title, with a view to preventing violations of the provisions of such statutes, rules and regulations, another person who commits such a violation, if such other person is subject to his supervision;

and that such penalty is in the public interest.

"(b) MAXIMUM AMOUNT OF PENALTY.—The maximum amount of penalty for each such act or omission described in subsection (a) shall be $100,000 for a natural person or $500,000 for any other person.

"(c) DETERMINATION OF PUBLIC INTEREST.—In considering under this section whether a penalty is in the public interest, the Commission or the appropriate regulatory agency may consider—

"(1) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(2) the harm to other persons resulting either directly or indirectly from such act or omission;

"(3) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(4) whether such person previously has been found by the Commission, another appropriate regulatory agency, or a self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, has been enjoined by a court of competent jurisdiction from violations of such laws or rules, or has been convicted by a court of competent jurisdiction of violations of such laws or of any felony or misdemeanor described in section 15(b)(4)(B) of this title;

"(5) the need to deter such person and other persons from committing such acts or omissions; and

"(6) such other matters as justice may require.

"(d) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission or the appropriate regulatory agency may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission or the appropriate regulatory agency may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any proceeding in which the Commission or the appropriate regulatory agency may impose a penalty under this section, the Commission or the appropriate regulatory agency may enter an order requiring accounting and a disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

(b) CONFORMING AMENDMENT.—The heading of section 21A of this title (15 U.S.C. 78u–1) is amended to read as follows:

"CIVIL PENALTIES FOR INSIDER TRADING"

SEC. 203. CEASE-AND-DESIST AUTHORITY.

The Securities and Exchange Act of 1934 is amended by adding after section 21B (as added by section 202 of this Act) the following new section:

"CEASE-AND-DESIST PROCEEDINGS

"SEC. 21C. (a) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a causing of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person.

"(b) HEARING.—The notice instituting proceedings pursuant to subsection (a) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(c) TEMPORARY ORDER.—

"(1) IN GENERAL.—Whenever the Commission determines that the violation or threatened violation specified in the notice instituting proceedings pursuant to subsection (a), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceedings, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(2) APPLICABILITY.—This subsection shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of any of the foregoing.

"(d) REVIEW OF TEMPORARY ORDERS.—

"(1) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to subsection (c), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(2) JUDICIAL REVIEW.—Within—

"(A) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(B) with respect to any temporary cease-and-desist order entered without a prior Commission hearing, 10 days after the Commission renders a decision on an application and hearing under paragraph (1),

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not make application to the court for a hearing except after hearing and decision by the Commission on the respondent's application under paragraph (1) of this subsection.

"(3) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under paragraph (2) of this subsection shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(4) EXCLUSIVE REVIEW.—Section 25 of this title shall not apply to temporary order entered pursuant to this section.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (a), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

SEC. 204. PROCEDURAL RULES FOR CEASE-AND-DESIST PROCEEDINGS.

Section 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78w) is amended by adding at the end thereof the following new subsection:

"(d) CEASE-AND-DESIST PROCEDURES.—Within 1 year after the date of enactment of this subsection, the Commission shall establish regulations providing for the expeditious conduct of hearings and rendering of decisions under section 21C of this title, section 8A of the Securities Act of 1933, section 9(f) of the Investment Company Act of 1940, and section 203(k) of the Investment Advisers Act of 1940.".

SEC. 205. CONFORMING AMENDMENTS TO SECTION 15B.

Section 15B(c)(6)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(6)(A)) is amended—

(1) by striking "and the nature" and inserting ", the nature"; and

(2) by striking "proposed action and" and inserting "proposed action, and whether the Commission is seeking a monetary penalty against such municipal securities dealer or such associated person pursuant to section 21B of this title; and ".

TITLE III—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

SEC. 301. CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS.

Section 9 of the Investment Company Act of 1940 (15 U.S.C. 80a-9) is amended—

(1) by redesignating subsection (d) as subsection (g);

(2) by inserting after subsection (c) the following new subsections:

"(d) MONEY PENALTIES IN ADMINISTRATIVE PROCEEDINGS.—

"(1) COMMISSION AUTHORITY.—In any proceeding instituted pursuant to subsection (b) against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(A) has willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, or this title, or the rules or regulations thereunder;

"(B) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person; or

"(C) has willfully made or caused to be made in any registration statement, application, or report required to be filed with the Commission under this title, any statement which was, at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such registration statement, application, or report any material fact which was required to be stated therein;

and that such penalty is in the public interest.

"(2) MAXIMUM AMOUNT OF PENALTY.—The maximum amount of the penalty for each such act or omission described in paragraph (1) shall be $100,000 for a natural person or $500,000 for any other person.

"(3) DETERMINATION OF PUBLIC INTEREST.—In considering under this section whether a penalty is in the public interest, the Commission may consider—

"(A) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(B) the harm to other persons resulting either directly or indirectly from such act or omission;

"(C) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(D) whether such person previously has been found by the Commission, another appropriate regulatory agency, or a self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, has been enjoined by a court of competent jurisdiction from violations of such laws or rules, or has been convicted by a court of competent jurisdiction of violations of such laws or of any felony or misdemeanor described in section 203(e)(2) of the Investment Advisers Act of 1940;

"(E) the need to deter such person and other persons from committing such acts or omissions; and

"(F) such other matters as justice may require.

"(4) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission may assess a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business, and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any proceeding in which the Commission may impose a penalty under this section, the Commission may enter an order requiring accounting and a disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, and such other matters as it deems appropriate to implement this subsection.

"(f) CEASE-AND-DESIST PROCEEDINGS.—

"(1) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and for such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person.

"(2) HEARING.—The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(3) TEMPORARY ORDER.—

"(A) Whenever the Commission determines that the violation or threatened violation specified in the notice instituting proceedings pursuant to paragraph (1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceeding, the Commission may enter a temporary order requiring

the respondent to cease and desist from the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission, notwithstanding section 40(a) of this title, determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(B) This paragraph shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of any of the foregoing.

"(4) REVIEW OF TEMPORARY ORDERS.—

"(A) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to paragraph (3), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(B) JUDICIAL REVIEW.—Within—

"(i) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(ii) with respect to any temporary cease-and-desist order entered without a prior Commission hearing, 10 days after the Commission renders a decision on an application and hearing under subparagraph (A),

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not make application to the court for a hearing except after hearing and decision by the Commission on the respondent's application under subparagraph (A) of this paragraph.

"(C) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under subparagraph (B) of this paragraph shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(D) EXCLUSIVE REVIEW.—Section 43 of this title shall not apply to a temporary order entered pursuant to this section.

"(5) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (f)(1), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems necessary to implement this subsection."; and

(3) in redesignated subsection (g), by striking "subsections (a) through (c) of".

SEC. 302. MONEY PENALTIES IN CIVIL ACTIONS.

Section 42 of the Investment Company Act of 1940 (15 U.S.C. 80a-41) is amended by adding at the end thereof the following new subsection:

"(e) MONEY PENALTIES IN CIVIL ACTIONS.—

"(1) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title or the rules or regulations thereunder, or a cease-and-desist order entered pursuant to section 9(f) of this title, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(2) AMOUNT OF PENALTY.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (A) $100,000 for a natural person or $500,000 for any other person, or (B) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(3) PROCEDURES FOR COLLECTION.—

"(A) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(B) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(C) REMEDY NOT EXCLUSIVE.—The actions authorized by this subsection may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(D) JURISDICTION AND VENUE.—For purposes of section 44 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.

"(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 9(f), each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with such order each day of the failure to comply shall be deemed a separate offense.".

TITLE IV—AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940

SEC. 401. CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS.

Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended by adding at the end thereof the following new subsections:

"(i) MONEY PENALTIES IN ADMINISTRATIVE PROCEEDINGS.—

"(1) AUTHORITY OF COMMISSION.—In any proceeding instituted pursuant to subsection (e) or (f) against any person, the Commission may impose a civil penalty if it finds, upon the record after notice and opportunity for hearing, that such person—

"(A) has willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, or this title, or the rules or regulations thereunder;

"(B) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person;

"(C) has willfully made or caused to be made in any application for registration or report required to be filed with the Commission under this title, or in any proceeding before the Commission with respect to registration, any statement which was, at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such registration statement, application, or report any material fact which was required to be stated therein; or

"(D) has failed reasonably to supervise, within the meaning of section 203(e)(5) of this title, with a view to preventing violations of the provisions of this title and such rules and regulations, another person who commits such a violation, if such other person is subject to his supervision;

and that such penalty is in the public interest.

"(2) MAXIMUM AMOUNT OF PENALTY.—The maximum amount of the penalty for each act or omission described in paragraph (1) shall be $100,000 for a natural person or $500,000 for any other person.

"(3) DETERMINATION OF PUBLIC INTEREST.—In considering under this section whether a penalty is in the public interest, the Commission may consider—

"(A) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(B) the harm to other persons resulting either directly or indirectly from such act or omission;

"(C) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(D) whether such person previously has been found by the Commission, another appropriate regulatory agency, or a self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, has been enjoined by a court of competent jurisdiction from violations of such laws or rules, or has been convicted by a court of competent jurisdiction of violations of such laws or of any felony or misdemeanor described in section 203(e)(2) of this title;

"(E) the need to deter such person and other persons from committing such acts or omissions; and

"(F) such other matters as justice may require.

"(4) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.

"(j) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any proceeding in which the Commission may impose a penalty under this section, the Commission may enter an order requir-

ing accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual and such other matters as it deems appropriate to implement this subsection.

"(k) CEASE-AND-DESIST PROCEEDINGS.—

"(1) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person.

"(2) HEARING.—The notice instituting proceedings pursuant to subsection (k)(1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(3) TEMPORARY ORDER.—

"(A) IN GENERAL.—Whenever the Commission determines that the violation or threatened violation specified in the notice instituting proceedings pursuant to subsection (k)(1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceedings, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission, notwithstanding section 211(c) of this title, determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(B) APPLICABILITY.—This paragraph shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of any of the foregoing.

"(4) REVIEW OF TEMPORARY ORDERS.—

"(A) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to paragraph (3), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(B) JUDICIAL REVIEW.—Within—

"(i) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(ii) with respect to any temporary cease-and-desist order entered without a prior Commission hearing, 10 days after the Commission renders a decision on an application and hearing under subparagraph (A),

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not make application to the court for a hearing except after hearing and decision by the Commission on the respondent's application under subparagraph (A) of this paragraph.

"(C) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under subparagraph (B) of this paragraph shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(D) EXCLUSIVE REVIEW.—Section 213 of this title shall not apply to a temporary order entered pursuant to this section.

"(5) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (k)(1), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

SEC. 402. MONEY PENALTIES IN CIVIL ACTIONS.

Section 209 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9) is amended by adding at the end thereof the following new subsection:

"(e) MONEY PENALTIES IN CIVIL ACTIONS.—

"(1) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title or the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 203(k) of this title, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(2) AMOUNT OF PENALTY.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (A) $100,000 for a natural person or $500,000 for any other person, or (B) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(3) PROCEDURES FOR COLLECTION.—

"(A) PAYMENT OF PENALTY TO TREASURY—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(B) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(C) REMEDY NOT EXCLUSIVE.—The actions authorized by this subsection may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(D) JURISDICTION AND VENUE.—For purposes of section 214 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.

"(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 203(k), each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with the order, each day of the failure to comply shall be deemed a separate offense.".

SEC. 403. CONFORMING AMENDMENT TO SECTION 214.

Section 214 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-14) is amended—

(1) by inserting after "all suits in equity" the following: "and actions at law brought to enforce any liability or duty created by, or"; and

(2) by inserting after "Any suit or action" the following: "to enforce any liability or duty created by, or".

TITLE V—PENNY STOCK REFORM

SEC. 501. SHORT TITLE.

This Act may be cited as the "Penny Stock Reform Act of 1990".

SEC. 502. FINDINGS.

The Congress finds the following:

(1) The maintenance of an honest and healthy primary and secondary market for securities offerings is essential to enhancing long-term capital formation and economic growth and providing legitimate investment opportunities for individuals and institutions.

(2) Protecting investors in new securities is a critical component in the maintenance of an honest and healthy market for such securities.

(3) Protecting issuers of new securities and promoting the capital formation process on behalf of small companies are fundamental concerns in maintaining a strong economy and viable trading markets.

(4) Unscrupulous market practices and market participants have pervaded the "penny stock" market with an overwhelming amount of fraud and abuse.

(5) Although the Securities and Exchange Commission, State securities regulators, and securities self-regulators have made efforts to curb these abusive and harmful practices, the penny stock market still lacks an ade-

quate and sufficient regulatory structure, particularly in comparison to the structure for overseeing trading in exchange-traded and national market system securities.

(6) Investors in the penny stock market suffer from a serious lack of adequate information concerning price and volume of penny stock transactions, the nature of this market, and the specific securities in which they are investing.

(7) Current practices do not adequately regulate the role of "promoters" and "consultants" in the penny stock market, and many professionals who have been banned from the securities markets have ended up in promoter and consultant roles, contributing substantially to fraudulent and abusive schemes.

(8) The present regulatory environment has permitted the ascendancy of the use of particular market practices, such as "reverse mergers" with shell corporations and "blank check" offerings, which are used to facilitate manipulation schemes and harm investors.

(9) In light of the substantial and continuing problems in the penny stock markets, additional legislative measures are necessary and appropriate.

SEC. 503. DEFINITION OF PENNY STOCK.

(a) AMENDMENT.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end thereof the following new paragraph:

"(51)(A) The term 'penny stock' means any equity security other than a security that is—

"(i) registered or approved for registration and traded on a national securities exchange that meets such criteria as the Commission shall prescribe by rule or regulation for purposes of this paragraph;

"(ii) authorized for quotation on an automated quotation system sponsored by a registered securities association, if such system (I) was established and in operation before January 1, 1990, and (II) meets such criteria as the Commission shall prescribe by rule or regulation for purposes of this paragraph;

"(iii) issued by an investment company registered under the Investment Company Act of 1940;

"(iv) excluded, on the basis of exceeding a minimum price, net tangible assets of the issuer, or other relevant criteria, from the definition of such term by rule or regulation which the Commission shall prescribe for purposes of this paragraph; or

"(v) exempted, in whole or in part, conditionally or unconditionally, from the definition of such term by rule, regulation, or order prescribed by the Commission.

"(B) Notwithstanding clause (i) or (ii) of subparagraph (A), the Commission may, by rule, regulation, or order, designate any security or class of securities described in such clauses as within the meaning of the term 'penny stock' if such securities or class of securities are traded otherwise than on a national securities exchange or through an automated quotation system described in clause (ii) of subparagraph (A).

"(C) In exercising its authority under this paragraph to prescribe rules, regulations, and orders, the Commission shall determine that such rule, regulation, or order is consistent with the public interest and the protection of investors.".

(b) SCHEDULE FOR REGULATIONS.—The Commission shall prescribe rules or regulations to implement the amendment made by subsection (a) of this section within one year after the date of enactment of this Act.

SEC. 504. EXCLUSION OF SANCTIONED PERSONS FROM PARTICIPATING IN DISTRIBUTIONS OF PENNY STOCK.

(a) AMENDMENT.—Section 15(b) of the Securities Exchange Act (15 U.S.C. 78o(b)) is amended by striking paragraph (6) thereof and inserting the following:

"(6)(A) The Commission, by order, shall censure or place limitations on the activities or functions of any person associated, seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated with a broker or dealer, or suspend for a period not exceeding 12 months or bar any such person from being associated with a broker or dealer, or from participating in a distribution of any penny stock, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of this subsection, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4). It shall be unlawful for any person as to whom such an order suspending or barring him from being associated with a broker or dealer or from participating in a distribution of any penny stock is in effect, without the consent of the Commission, willfully to become, or to be, associated with a broker or dealer, or to participate in a distribution of any penny stock. It shall be unlawful for any broker or dealer to permit such a person, without the consent of the Commission, to become, or remain, a person associated with him, and for any broker or dealer to participate in a distribution of any penny stock in which such a person is participating if such broker or dealer knew, or in the exercise of reasonable care should have known, of such order.

"(B) For purposes of this paragraph, the term 'participating in a distribution of any penny stock' includes acting as any promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer, or issuer for purposes of the issuance of or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock. The Commission may, by rule or regulation define such term to include other activities, and may by rule, regulation, or order exempt any person or class of persons, in whole or in part, conditionally or unconditionally, from such term.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall be effective on the earlier of one year after the date of enactment of the Act or the effective date of rules or regulations prescribed by the Commission to implement section 3(a)(51) of the Securities Exchange Act of 1934, as added by this Act.

SEC. 505. REQUIREMENTS FOR BROKERS AND DEALERS OF PENNY STOCKS.

(a) AMENDMENT.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end thereof the following new subsection:

"(g) REQUIREMENTS FOR TRANSACTIONS IN PENNY STOCKS.—

"(1) IN GENERAL.—No broker or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any penny stock by any customer except in accordance with the requirements of this subsection and the rules and regulations prescribed under this subsection.

"(2) RISK DISCLOSURE WITH RESPECT TO PENNY STOCKS.—Prior to effecting any transaction in any penny stock, a broker or dealer shall give the customer a risk disclosure document that—

"(A) contains a description of the nature and level of risk inherent in the market for penny stocks in both public offerings and secondary trading;

"(B) contains a description of the broker's or dealer's duties to the customer and of the rights and remedies available to the customer with respect to violations of such duties or other requirements of Federal securities laws;

"(C) contains a brief, clear description of a dealer market, including 'bid' and 'ask' prices for penny stocks and the significance of the spread between the bid and ask prices;

"(D) contains the toll free telephone number for inquiries on disciplinary actions established pursuant to section 15A(i) of this title;

"(E) defines significant terms used in the disclosure document or in the conduct of trading in penny stocks; and

"(F) contains such other information, and is in such form (including language, type size, and format), as the Commission shall require by rule or regulation.

"(3) COMMISSION RULES RELATING TO DISCLOSURE.—The Commission, by rule or regulation, shall adopt within one year after the date of enactment of this subsection additional standards for the disclosure by brokers and dealers to customers of information concerning transactions in penny stocks. Such rules—

"(A) shall require brokers and dealers to disclose to each customer, prior to effecting any transaction in, and at the time of confirming any transaction with respect to any penny stock, in accordance with such procedures and methods as the Commission may require consistent with the public interest and the protection of investors—

"(i) the bid and ask prices for such penny stock, or such other comparable information as the Commission may, by rule, require relating to the price of such stock, if bid and ask prices are not available;

"(ii) the number of shares to which such bid and ask prices apply, or such other comparable information as the Commission may, by rule, require relating to the depth and liquidity of the market for such stock; and

"(iii) the amount of any commission, and a description of any additional compensation, that the broker or dealer or associated person thereof will receive or has received in such transaction;

"(B) shall require brokers and dealers to provide, to each customer whose account with the broker or dealer contains penny stocks, a monthly statement indicating the market value of the penny stocks in that account or indicating that the market value of such stock cannot be determined because of the unavailability of firm quotes; and

"(C) may, as the Commission finds necessary or appropriate in the public interest or for the protection of investors, require brokers and dealers to disclose to customers such additional information concerning transactions in penny stocks as the Commission may require.

"(4) EXEMPTIONS.—The Commission, as it determines consistent with the public interest and the protection of investors, may by

rule, regulation, or order exempt in whole or in part, conditionally or unconditionally, any person or class of persons, or any transaction or class of transactions, from the requirements of this subsection. Such exemptions shall include an exemption for brokers and dealers based on the minimal percentage of the broker's or dealer's commissions, commission-equivalents, and markups received from transactions in penny stocks.

"(5) REGULATIONS.—It shall be unlawful for any person to violate such rules and regulations as the Commission shall prescribe in the public interest or for the protection of investors or to maintain fair and orderly markets—

"(A) as necessary or appropriate to carry out this subsection; or

"(B) as reasonably designed to prevent fraudulent, deceptive, or manipulative acts and practices with respect to penny stocks.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall be effective on and after one year after the date of enactment of this Act, except that the Commission shall prescribe rules or regulations to carry out such amendment within one year after the date of enactment of this Act.

SEC. 506. DEVELOPMENT OF AUTOMATED QUOTATION SYSTEMS FOR PENNY STOCKS.

The Securities Exchange Act of 1934 is amended by inserting after section 17A the following new section:

"AUTOMATED QUOTATION SYSTEMS FOR PENNY STOCKS

"SEC. 17B. (a) FINDINGS.—The Congress finds that—

"(1) the market for penny stocks suffers from a lack of reliable and accurate quotation and last sale information available to investors and regulators;

"(2) it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to improve significantly the information available to brokers, dealers, investors, and regulators with respect to quotations for and transactions in penny stocks; and

"(3) a fully implemented automated quotation system for penny stocks would meet the information needs of investors and market participants and would add visibility and regulatory and surveillance data to that market.

"(b) MANDATE TO FACILITATE THE ESTABLISHMENT OF AUTOMATED QUOTATION SYSTEMS.—

"(1) IN GENERAL.—The Commission is authorized and directed, therefore, having due regard for the public interest, the protection of investors, and the maintenance of fair and orderly markets, to facilitate the widespread dissemination of reliable and accurate last sale and quotation information with respect to penny stocks in accordance with the findings set forth in subsection (a), with a view toward establishing, at the earliest feasible time, one or more automated quotation systems that will collect and disseminate information regarding all penny stocks.

"(2) CHARACTERISTICS OF SYSTEMS.—Each such automated quotation system shall—

"(A) be operated by a registered securities association or a national securities exchange in accordance with such rules as the Commission and these entities shall prescribe;

"(B) collect and disseminate quotation and transaction information;

"(C) except as provided in subsection (c), provide bid and ask quotations of participating brokers or dealers, or comparably accurate and reliable pricing information, which shall constitute firm bids or offers for at least such minimum numbers of shares or minimum dollar amounts as the Commission and the registered securities association or national securities exchange shall require; and

"(D) provide for the reporting of the volume of penny stock transactions, including last sale reporting, when the volume reaches appropriate levels that the Commission shall specify by rule or order.

"(c) EXEMPTIVE AUTHORITY.—The Commission may, by rule or order, grant such exemptions, in whole or in part, conditionally or unconditionally, to any class or classes of penny stocks from the requirements of paragraph (1) or (2)(C) of subsection (b) as the Commission determines to be consistent with the public interest, the protection of investors, and the maintenance of fair and orderly markets.

"(d) COMMISSION REPORTING REQUIREMENTS.—The Commission shall, in each of the first 5 annual reports (under section 23(b)(1)) submitted more than 12 months after the date of enactment of this section, include a description of the status of the penny stock automated quotation system or systems required by subsection (b). Such description shall include—

"(1) a review of the development, implementation, and progress of the project, including achievement of significant milestones and current project schedule; and

"(2) a review of the activities of registered securities associations and national securities exchanges in the development of the system.".

SEC. 507. REVIEW OF REGULATORY STRUCTURES AND PROCEDURES.

(a) REVIEW REQUIRED.—The Securities and Exchange Commission shall conduct a review of the rules, procedures, facilities, and oversight and enforcement activities of self-regulatory organizations under the Securities Exchange Act of 1934 with respect to penny stocks (within the meaning of section 3(a)(51) of such Act). Such review shall include an analysis of—

(1) the resources devoted by self-regulatory organizations to the detection, investigation, prosecution, and correction of fraud and abuse in the trading of such penny stocks;

(2) the methods and techniques used, and alternative methods which may be used, in those oversight and enforcement activities, including methods and techniques involving coordinated oversight and enforcement activities with other Federal and State authorities;

(3) the adequacy of the rules, procedures, and facilities of such self-regulatory organizations for the prevention of excessive spreads and markups, unscrupulous sales practices, and other conduct inconsistent with high standards of commercial honor and just and equitable principles of trade;

(4) any obstacles to or limitations on the authority of self-regulatory organizations that impair the conduct of those oversight and enforcement activities;

(5) the adequacy of current listing and maintenance requirements and procedures and the potential for erosion of such requirements and procedures due to issuer avoidance of penny stock designation and regulation; and

(6) such other matters as the Commission considers necessary or appropriate.

(b) REPORT.—Within one year after the date of enactment of this Act, the Commission shall submit a report on the review required by subsection (a). Such report shall include, in addition to a statement of findings with respect to each matter described in paragraphs (1) through (6) of such subsection, such recommendations as the Commission considers appropriate with respect to legislative or administrative changes.

SEC. 508. VOIDABILITY OF CONTRACTS IN VIOLATION OF SECTION 15(c)(2).

Section 29(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78cc(b)) is amended—

(1) in clause (A), by striking "paragraph (2) or (3)" and inserting "paragraph (3)";

(2) in clause (B), by striking "paragraph (1)" and inserting "paragraph (1) or (2)"; and

(3) by adding at the end thereof the following new sentence: "The Commission may, in a rule or regulation prescribed pursuant to such paragraph (2) of such section 15(c), designate such rule or regulation, or portion thereof, as a rule or regulation, or portion thereof, a contract in violation of which shall not be void by reason of this subsection.".

SEC. 509. RESTRICTIONS ON BLANK CHECK OFFERINGS.

(a) AMENDMENTS.—Section 7 of the Securities Act of 1933 (15 U.S.C. 77g) is amended—

(1) by inserting "(a)" after "Sec. 7."; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) The Commission shall prescribe special rules with respect to registration statements filed by any issuer that is a blank check company. Such rules may, as the Commission determines necessary or appropriate in the public interest or for the protection of investors—

"(A) require such issuers to provide timely disclosure, either prior to or after such statement becomes effective under section 8, of (i) information regarding the company to be acquired and the specific application of the proceeds of the offering, or (ii) additional information necessary to prevent such statement from being misleading;

"(B) place limitations on the use of such proceeds and the distribution of securities by such issuer until the disclosures required under subparagraph (A) have been made; and

"(C) provide a right of rescission to shareholders of such securities.

"(2) The Commission may, as it determines consistent with the public interest and the protection of investors, exempt any issuer or class of issuers from the rules prescribed under paragraph (1).

"(3) For purposes of paragraph (1) of this subsection, the term 'blank check company' means any development stage company that is issuing a penny stock (within the meaning of section 3(a)(51) of the Securities Exchange Act of 1934) and that—

"(A) has no specific business plan or purpose; or

"(B) has indicated that its business plan is to merge with an unidentified company or companies.".

(b) SCHEDULE FOR RULES.—The Commission shall prescribe rules to implement the amendment made by subsection (a) of this section within one year after the date of enactment of this Act.

SEC. 510. BROKER/DEALER DISCIPLINARY HISTORY.

Section 15A of the Securities Exchange Act 1934 (15 U.S.C. 78o-3) is amended by adding at the end the following:

"(i) A registered securities association shall (1) establish and maintain a toll-free telephone listing to receive inquiries from investors and the public regarding disciplinary actions involving its members and

their associated persons, and (2) promptly respond to such inquiries in writing. Such association may charge persons, other than individual investors, reasonable fees for written responses to such inquiries. Such an association shall not have any liability to any person for any actions taken or omitted in good faith under this paragraph.".

Amend the title so as to read:

An Act to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws and to eliminate abuses in transactions in penny stocks, and for other purposes.

Mr. DODD. Mr. President, I move that the Senate concur in the amendments of the House with an amendment which I send to the desk on behalf of myself, Senator HEINZ, Senator RIEGLE, and Senator GARN.

AMENDMENT NO. 2915

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. HEINZ, Mr. RIEGLE, and Mr. GARN, proposes an amendment numbered 2915.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. DODD. I move to reconsider the vote.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, this amendment, which I have offered on behalf of myself and Senators HEINZ, RIEGLE, and GARN, represents a compromise between provisions of S. 647, the Securities Law Enforcement Remedies Act passed by the Senate on July 18, 1990, and H.R. 5325, the Securities Enforcement and Penny Stock Reform Act passed by the House on July 23, 1990. These measures in large part were based on a legislative proposal by the Securities and Exchange Commission. I introduced S. 647 with Senator HEINZ on March 17, 1989.

This legislation will add new weapons to the arsenal of the Securities Exchange Commission to combat illegal activity in our securities markets. In recent years, the tremendous growth in the securities markets has been accompanied by increases in stock manipulation, financial fraud and other unlawful activity. In 1989, the SEC received almost 45,000 complaints and inquiries from investors, an increase of more than 260 percent since 1982. However, in the decade of the 1980's, the SEC had only a slight increase in the number of staff to handle the monumental increase in the agency's workload.

We all know that the SEC, with its limited staff and other resources, cannot put a cop on every street corner. To be effective, its enforcement program must have a strong, deterrent effect. Potential law violators must understand that their activity may lead to swift enforcement action and significant penalties, so they will think twice before taking action in violation of the Federal securities law. This legislation provides those penalties and will have that strong, deterrent effect.

The compromise amendment was developed over the past month by members of the Senate Banking Committee and the House Energy and Commerce Committee. The amendment has four major provisions.

First of all, Mr. President, it strengthens and broadens the SEC's enforcement powers by authorizing new civil money penalties for a range of securities violations. These fines will deter unlawful conduct by making securities law violators, in effect, pay for their acts. As part of the compromise amendment, the House was willing to accept the Senate's provisions relating to the tiering of penalties, with maximum penalties of $100,000 for each violation by a natural person and $500,000 for violations by others.

The penalties from that point are scaled down depending upon the nature of the violations.

Second, the amendment gives the SEC both temporary and permanent cease-and-desist authority. This new authority strengthens the SEC's ability to protect investor funds, and it permits the SEC to use its administrative procedures to curb a wider range of securities violations. As part of the compromise amendment, we have added language from the House bill, clarifying the steps to be taken in cease-and-desist prceedings.

Third, the bill expressly authorizes the courts to bar certain individuals who have engaged in fraudulent activity from serving as officers or directors of public companies. We believe this will protect investors from those whose past unlawful conduct demonstrates their unfitness to serve as an officer or director.

Finally, the compromise amendment adopts the penny stock reform provisions of H.R. 5325. Earlier this year the Securities Subcommittee held hearings on penny stock fraud. It is ironic, but appropriate, that the Presiding Officer of the Senate, Senator BRYAN, is the person singly responsible for those hearings and for the development of the Senate's position on this portion of the legislation.

There was a great deal of interest in this issue on the part of many of our colleagues, but particularly on the part of Senator RICHARD BRYAN of Nevada, and I thank him for his interest and for making that significant contribution to this legislation.

House Members, particularly Chairman MARKEY of Massachusetts, worked hard to develop and pass a Penny Stock Reform Act, and, as this amendment reflects, we have accepted it with only minor modifications.

I note, Mr. President, that in view of the similarities of the House and Senate enforcement remedies bills, the Senate report on S. 647 and the House reports on H.R. 5325 will constitute the legislative history of the compromise amendment.

Mr. President, this legislation was the product of more than a year of very hard work by a number of Senators and House Members. I would like to take a moment to recognize their efforts.

My colleague, Senator HEINZ of Pennsylvania, who is the ranking minority member of the Securities Subcommittee, cosponsored S. 647 with me in March of last year. We worked closely together, and I might say, he worked particularly diligently in the hearings and in preparing the legislation for committee markup, as well as in recent weeks, as we worked toward an agreement with the House. He has served, as he has on all matters that come before that subcommittee, with great distinction and cooperation and, frankly, without his support, we would not be in the position we are today with this legislation.

Chairman RIEGLE has long been an advocate of greater enforcement authority for SEC. He has been a strong supporter of the subcommittee's efforts on the legislation and has been extraordinarily helpful in developing a compromise measure that can be passed by both the Senate and the House.

I appreciate, as well, Senator GARN's efforts and his longstanding support—in fact Mr. President, his support for this legislation goes back as long as anyone's—and for his cooperation on this measure and cosponsorship of the amendment.

In addition, Chairman MARKEY deserves credit for his persistence in developing the penny stock measure on the House side, as Senator BRYAN undertook his efforts on the Senate side. Chairman MARKEY and Chairman DINGELL moved this measure and the broader enforcement remedies bill through the House and worked diligently with us to reach the compromise represented by this amendment.

As I said earlier, this legislation is based in large part on a proposal sent to the Congress by the SEC. It was submitted under the chairmanship of Chairman Ruder. Chairman Breeden developed new proposals in a number of areas, and he has been a strong and

important advocate on behalf of this legislation.

I thank Richard Breeden and his very hard-working staff at SEC for all the help they have given the subcommittee and full committee, as we moved through the hearings and markup of the legislation this spring and as we prepared the measure for final action today. I know they will use the new authority aggressively, but fairly and for the purposes for which it was intended. They will use it wisely, I am confident, as well.

Let me also, of course, take a moment to thank the staff who has worked so hard on this legislation. As I mentioned a few days ago when we dealt with the market reform legislation, the Members, of course, are involved to a great extent, in trying to move this product along, but members of the staff really do the trench work that makes it possible for legislation to achieve its final goal of passage.

Certainly, the staff director, Marti Cochran of my staff, along with Michael Stein, once again demonstrated thoughtfulness and ability to move the legislative product and worked with the other legislative staff members of the minority, as well as the staff of the other body. I also want to take a moment to thank Ira Paull and Brad Belt, who worked with Senators HEINZ and GARN on the subcommittee and have been tremendous supporters, actively involved in seeing the legislation move along. Let me also thank Sharon Heaton, who worked with Senator RIEGLE; Pat Lawler, the Banking Committee's chief economist, who has worked on all of the securities legislation we have moved this year; and Ray Natter, the chief counsel for the minority who also has played a major role in the securities legislation that we have considered in this Congress.

Let me close saying the American investing public needs and deserves the protection afforded by this legislation. It is not going to solve all of our problems, but I believe that, with respect to the essential element of investor confidence, this legislation should increase that dramatically as a result of the improved enforcement measures the SEC will now have.

I expect the House to pass the measure soon after we act in this body, and I hope the President will sign the legislation without delay.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. HEINZ].

Mr. HEINZ. Mr. President, this is the second bill that the Securities Subcommittee has brought to the Senate floor in just 3 days, the other being the Market Reform Act, H.R. 3657. It is, therefore, a double pleasure to be here with the chairman of the Securities Subcommittee, Senator DODD to bring this measure before our colleagues.

The legislation before us represents a tremendous amount of work by our chairman and the subcommittee. The Securities Subcommittee has a very excellent legislative record for this Congress that would not have been possible without Senator DODD's commitment, diligence, and leadership to those important issues affecting our Nation's securities markets.

I am pleased to be here with him to bring this legislation, S. 647, the Securities Enforcement Remedies and Penny Stock Reform Act, to the floor today.

As Senator DODD mentioned, the amendment to S. 647 incorporates the best provisions of measures previously passed by both the Senate and the House. The Senator from Connecticut deserves an enormous amount of credit for working with the House Energy and Commerce Committee, to craft and to advance to the point of passage and completion here today, this important legislation.

The legislation provides the Securities and Exchange Commission with the necessary tools to strengthen enforcement of the Federal securities laws. The securities markets have grown dramatically over the past decade, but so have the opportunities for fraud. With the exception of insider trading remedies, however, the SEC's arsenal of weapons to combat securities law violations simply has not kept pace.

This bill provides the SEC with authority to impose civil monetary penalties when necessary to take the profit out of crime. That is important because currently, the most severe penalty imposed for most violations of Federal securities laws is simply disgorgement of ill-gotten gains.

In other words, under current law, those who violate our securities laws, and are caught, are simply left in the same financial position they were before committing the illegal act. Civil monetary penalties will up the ante and force those who consider disgorgement just a price of doing business, in Las Vegas, to recompute their cost/benefit analysis.

Our legislation also gives the SEC cease and desist authority that has long been available to many other regulatory agencies. Through the use of temporary cease and desist orders, the SEC will have the ability to immediately stop unlawful conduct where there is imminent harm either to the securities markets or to investors. Cease and desist authority will also provide the SEC with a broader opportunity, where appropriate, to enforce the laws through administrative proceedings.

In addition, this legislation clarifies the court's authority to bar or suspend those who commit securities fraud from serving as an officer or director of a public company. Officers and directors serve in positions of public trust. Courts should have the authority to protect investors and shareholders from those who, by their conduct, demonstrate that they are not fit to assume such an important position of trust.

I am glad that the Senator from Connecticut singled out the important contribution of the Chair, Senator BRYAN from Nevada. This bill includes good measures, important measures to combat penny stock fraud.

The penny stock fraud con artist preys on the small innocent investors—those who most need the protection of the security laws. These crooks—and that is the only right name for them—not only steal the savings of small investors, but they also rob this Nation of an important market for legitimate startup companies who enter the securities market for much needed capital. In short, cleaning up the penny stock market will benefit investors and companies alike. The SEC has focused a great deal of attention on this problem. This bill will give them the additional tools they need to get that job done.

Mr. President, strong enforcement is critical to the success of our capital markets. Maintaining the integrity of our markets is the best way to promote investor confidence and capital formation. We will not, however, have large, efficient, and liquid markets unless we have safe markets as well. This legislation addresses those goals. It does the job.

Mr. President, I want to conclude by once again recognizing and congratulating and most of all thanking Senator DODD for his leadership on the Securities Subcommittee during this Congress. I must tell you these are sometimes very tough, very contentious issues, and it takes not only knowing what is right but the courage to do what is right. So I want to congratulate and commend Senator DODD for his having shown courage throughout the legislative process and I think the work product demonstrates the success that we really do attribute to him.

I also want to join him in thanking our able staff. On the Republican side, my securities counsel, Ira Paull and subcommittee counsel, Brad Belt, as well as Raymond Nather, the minority general counsel, who have been enormously involved in making sure that we kept on schedule, that negotiations were aggressively pursued, nothing fell through the cracks, that the legislation was technically correct, that people who had input were listened to, and their views fully accommodated in making the legislation a better product. Senator DODD has already acknowledged the tremendous contribu-

tions and hard work by Marti Cochran and Michael Stein. They have all worked as an outstanding team and I must say it has been a personal pleasure for this Senator to engage not only with the chairman and the members of our subcommittee but his staff and that of the full committee. I also join him in recognizing the assistance of Sharon Heaton and the other members of the majority staff who have been much in evidence and a tremendous resource to the subcommittee as well.

Mr. President, the goal of this legislation is to promote investor confidence and capital formation. That is what free and open securities markets have to be about.

We will not be able to overcome the competitive challenges that this country faces without the ability of the private sector to go to the market to raise the money it needs to grow, to modernize, to meet the challenges of technology in worldwide competition. This legislation is an important step in making sure that our markets operate and operate safely for the benefit of those people who keep this country an engine of productivity and a force for progress.

Mr. President, I yield the floor.

Mr. RIEGLE. Mr. President, among the highest priorities I set for the Banking Committee this year was passage of vital securities legislation. Earlier this week, we passed the Market Reform Act, which improves regulatory oversight over the financial markets and market participants and promotes coordination among the financial regulators. I believe the House will act favorably on the Market Reform Act this week. With this background, I am especially pleased that today we have before us the compromise version of the Securities Law Enforcement Remedies Act and the Penny Stock Reform Act.

I want to commend Senator DODD, chairman of the Securities Subcommittee, and Senator HEINZ, ranking Republican of that subcommittee, for their excellent work on the Securities Subcommittee. The enactment of these two important securities bills, particularly in light of the passage of the Market Reform Act, is a direct tribute to Senator DODD's leadership of the Securities Subcommittee.

The Securities Law Enforcement Remedies Act is designed to strengthen the enforcement authority of the Securities and Exchange Commission and provide the SEC with a broader range of remedies in cases of securities law violations. The act authorizes the SEC and the courts to impose new civil money penalties for a range of securities law violations and gives the SEC both temporary and permanent cease-and-desist authority to enforce the provisions of the securities laws. The Remedies Act expressly affirms the authority of courts to bar persons who are found to have violated the antifraud provisions of the securities laws from serving as an officer or director of a publicly held company.

Since the House and the Senate passed similar versions of this legislation, the legislative history of this bill is comprised of the material from both the House and the Senate.

One difference between the earlier House and Senate bills is that the Senate bill contained a provision that allowed a court, on motion by an attorney for the Government, to direct disclosure of grand jury material developed in an investigation of conduct that may constitute a violation of the securities laws. The House contained no such provision and was unable to agree to the Senate provision at this time. I think the disclosure of grand jury information to the SEC for the purpose of investigating violations of the securities laws is a sound proposal and plan to work with the Securities Subcommittee to get such a provision enacted. Last year, in the Financial Institutions Reform, Recovery and Enforcement Act, we adopted a similar provision which allowed a court to disclose grand jury information to the appropriate banking agencies. Disclosure of such information, in appropriate circumstances, grants the financial regulators to tools they need to ensure that our insured financial institutions and participants in the securities markets comply with Federal law or will be penalized for their failure to do so.

In addition, the bill before us today contains the Penny Stock Reform Act, which is designed to eliminate abuses in the penny stock market. Senator BRYAN, a member of the Banking Committee, introduced penny stock legislation in the Congress and has been a strong advocate of reform in this area. He believes, as do I, that enactment of the Penny Stock Reform Act is an important step toward ensuring that investors can trade low-priced securities with confidence in the integrity of this market. I want to congratulate Senator BRYAN for diligently pursuing reform in this area.

Enactment of the Securities Law Enforcement Remedies Act and the Penny Stock Reform Act will aid in the elimination of fraud and misconduct in the securities markets and serve to bolster public confidence in this Nation's capital markets. Vigorous securities law enforcement is critical to maintaining public confidence in the integrity, fairness, and efficiency of this Nation's securities markets. The Securities Law Enforcement Remedies Act and the Penny Stock Reform Act is a sound piece of legislation. I strongly urge its passage.

Mr. GARN. Mr. President, yesterday the Senate passed an amended version of the Market Reform Act of 1990, a very important piece of legislation which is intended to enhance the Securities and Exchange Commission's ability to properly exercise its oversight of our Nation's securities markets. As ranking member of the Banking Committee, I am pleased to join with Senators DODD, HEINZ, and RIEGLE in today supporting passage of amended versions of the Securities Law Enforcement Remedies Act of 1990 and the Penny Stock Reform Act of 1990 (S. 647)—legislation which is designed to enhance the SEC's ability to crack down on those who violate the Federal securities laws.

The legislation we are considering today reconciles differences between the House and Senate versions of the enforcement remedies bill and also includes, with changes, the House-passed penny stock bill. This consolidated bill actually improves the bills passed in each House. Taken together, these two measures, along with the market reform bill, will significantly enhance the ability of the Securities and Exchange Commission to monitor the operation of the securities markets during periods of volatility and crack down on all manner of securities fraud.

As I have stated on previous occasions, that strength of our Nation's capital markets is due not only to their effectiveness as capital raising mechanisms, but also because of their perceived fairness. As a result, investors, both domestic and foreign, have been willing to commit their savings and investment dollars to U.S. institutions and markets. However, recent periods of extraordinary volatility in the securities markets have undermined investor confidence in the safe operation of our markets. In response to such concerns, we passed the Market Reform Act yesterday. Just as importantly, recent incidences of fraud in the markets and financial institutions, and there have been many of them, have also served to undermine the public's confidence in the integrity of the markets. The Securities Law Enforcement Remedies Act and the Penny Stock Reform Act go a long way toward restoring investor faith in the commitment of the Congress and the SEC to ensure effective, efficient, and fair markets.

The Securities Law Enforcement Remedies Act of 1990 adds new authorities to the SEC's arsenal of enforcement remedies. It enables the SEC to: First, fine securities law violators, an authority already possessed by most Federal regulatory agencies; second, issue temporary or permanent cease and desist orders to direct persons to refrain from engaging in conduct or practices which violate the Federal securities laws; and third, seek a court-imposed bar or suspension that prevents certain individuals from serv-

ing as officers or directors of publicly held companies.

Some concern was raised during the consideration of this legislation about the ability of the SEC to issue a temporary cease and desist order without prior notice to the respondent. In response to those concerns, the amended legislation includes procedural protections intended to model those in the Federal rules of civil procedure regarding temporary restraining orders. The officer and director bar provision reflects a congressional view that persons who have demonstrated a blatant disregard for the law should not be put in positions of public trust. Not only are the shareholders of a company at risk, but the integrity of the market as a whole is undermined.

I would also like to comment on an authority which was in the original legislation passed by the Senate but which has been struck from the amended bill we are acting upon today. The original Senate passed bill gave the SEC the authority to obtain otherwise secret grand jury information when so authorized by a court. The provision was intended to reduce costly and time-consuming duplication of efforts on the part of the SEC to gather information already in the possession of Government officials. In granting this authority, the Banking Committee and Senate took care to protect the secrecy of the grand jury process generally. The court could order disclosure of limited information to the SEC only upon a motion of the Federal prosecuting attorney, and upon a finding that the disclosure is in the public interest.

The absence of this authority in the amended bill is not because it lacks substantive merit. Rather, its absence is solely the result of a jurisdictional dispute in the House. I would expect that we will act in some other fashion to give this authority to the SEC. I would note that the ability to use grand jury information is nearly identical to the authority provided to the banking regulations in the Financial Institutions, Reform Recovery and Enforcement Act of 1989.

The remedies bill also amends the Securities Exchange Act of 1934 to clarify the SEC's authority to ensure that all depository institutions are treated equally with respect to signature guarantee services. Discriminatory treatment means that customers of thrifts must use the services of a bank, with whom they may have no prior relationship, in order to effect the transfer of ownership of securities. These practices impose unnecessary burdens on investors and persons facilitating transactions by and on behalf of investors.

The Penny Stock Reform Act of 1990 contains provisions which should enable the SEC and the States to better combat fraud in the Penny Stock market. Unfortunately, the victims of the scams perpetrated by fraud artists in this segment of the securities market tend to be unsophisticated investors especially the elderly, susceptible to high pressure sales tactics, and too-good-to-be-true promises.

The legislation would, among other things: First, provide for more comprehensive disclosure in the penny stock market; second, enable the SEC to place restrictions on often abused blank check offerings; third, make voidable certain contracts made in violation of SEC rules; fourth, facilitate the establishment of an automated quotation system for penny stocks; and fifth, mandate that securities associations establish a toll-free telephone listing to receive customer inquiries concerning the disciplinary history of brokers.

This legislation also expands the SEC's ability to bar individuals from the securities business. It was certainly not the intent of Congress, in granting the SEC the authority to bar persons from associating with brokers and dealers, that such persons be able to continue to indirectly associate themselves with brokerage firms in other capacities, such as promoters, consultants, and advisers. Those individuals who have demonstrated that they cannot comply with the Federal securities laws, particularly recidivist securities law violators, and especially those operating in the penny stock market, should not be allowed to work in the industry.

In closing, the legislation we are passing today will strengthen the Federal securities laws to ensure that the SEC has at its disposal the most flexible and effective means of combating securities fraud. I expect that the SEC will utilize these newly authorized powers judiciously and in keeping with their traditional mandate of protecting investors, while at the same time enhancing the efficient and effective operation of the markets.

I would also like to again commend Senators DODD and HEINZ, and the securities counsels and staffs of the Banking Committee, for their efforts in obtaining passage of important legislation which will certainly enhance this Nation's ability to facilitate capital flows and formation.

Mr. SANFORD. Mr. President, I rise in support of the passage of the Securities Law Enforcement Remedies Act of 1990. I think this is an excellent bill and want to compliment Senators DODD and HEINZ for their leadership in bringing this bill before the Banking Committee and seeing it through to this day of final action. I would also like to thank the fine staff of the Senate Banking Committee for the time and attention they devoted to this bill.

The bill should go a long way toward giving the SEC the tools they need to more appropriately police wrongful activity in our securities markets. Certainly, if our markets are to remain the strongest and most liquid markets in the world, then they must be properly regulated and perceived by all to be fairly and honestly run.

The bill establishes new civil fines for securities law violations and gives the SEC new cease and desist authority to enforce the provisions of the securities laws. This will help ensure that the SEC can quickly and effectively rein in improper activities. It puts some needed teeth into many of our securities laws.

In addition, I want to thank the Members in both the House and the Senate who worked on this bill for accepting the provisions of an amendment I sponsored in the committee regarding who can guarantee a signature when a share of stock is transferred to another party. This is an issue that has been in dispute for a number of years and I am grateful that the dispute can finally come to an end.

The provisions included in bill will permit the SEC to issue regulations that would treat all financial institutions equitably in their ability to guarantee signatures. I hope that the SEC will act expeditiously to issue these regulations, so that certain institutions are no longer treated as second-class citizens when it comes to offering signature guarantee services to their customers.

I thank the distinguished managers of this bill and urge my colleagues to support it.

Mr. BRYAN. Mr. President, I am please the Senate is taking up S. 647, the securities remedies enforcement bill of 1990. The bill will strengthen the Securities and Exchange Commission's [SEC] abilities to combat financial fraud. The bill also contains major provisions from my legislation S. 2058, the Small Investor Protection Act and will significantly enhance the SEC's ability to deter penny stock fraud.

Last year, I chaired a hearing of the Senate Commerce Committee in Las Vegas on the penny stock fraud problem. We heard testimony from a number of penny stock fraud victims. They tend to be small investors who are particularly vulnerable to high pressure, deceptive sales pitches promising high profits. For the most part, the sales pitches involve the promotion of companies with no operating history and few serious prospects for business success.

The committee heard how securities are frequently sold through boiler-room operations, with sales persons making hundreds of cold calls each day. One of our witnesses lost almost $100,000 when he was sold securities over the phone that proved worthless.

The penny stock bill grants the SEC new cease and desist enforcement

powers to rid the penny stock market of unscrupulous brokers who have preyed on unsuspecting investors. The bill also facilitates the development of an electronic bulletin board to implement an automated quotation system, expands disclosure to penny stock customers, and limits the use of penny stock blank check offerings.

I believe this legislation will go a long way toward putting unscrupulous stock brokers out of business and restoring desperately needed public confidence in our securities markets. I commend Senator DODD on his leadership in getting this legislation passed.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HEINZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 5558

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may at any time after 5 p.m. today, notwithstanding the provisions of rule XXII, proceed to H.R. 5558, a bill to provide for the temporary extension of certain housing programs, and that the majority leader may return the bill to the calendar at any time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I want to say for the record that I am authorized by the staff of the distinguished Republican leader to state that this was cleared in advance with the distinguished Republican leader. There is no dispute or controversy over the subject matter of the unanimous-consent request.

It had been my hope that we could move to this earlier today, but I am advised that one of the principal participants cannot be present until 5 p.m. Therefore, it is my intention to take the bill up at 5 p.m. This agreement gives me the authority to do so. So Senators can be advised it is my intention to proceed to this bill at that time.

Further, Mr. President, rollcall votes are possible in relation to this measure, the bill to provide for the temporary extension of certain housing programs. I do not know whether amendments will be offered or whether there will be opposition to the bill itself but that certainly has not been precluded and may occur. Senators should be aware of that in planning their schedules, and there may be other legislative activity during the day as well.

Mr. President, I thank the distinguished Republican leader and his staff for their cooperation. I now yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DIXON). Without objection, it is so ordered.

SAVINGS AND LOAN SIMPLIFICATION ACT OF 1990

Mr. WIRTH. Mr. President, I rise to comment on an issue that has been of deep concern to the occupant of the Chair, the distinguished Presiding Officer and distinguished Senator from Illinois, and others related to the savings and loan crisis.

I am rising to outline a piece of legislation that I introduced yesterday called the Savings and Loan Simplification Act of 1990, legislation designed to streamline the structure of the Federal Government's efforts to address the troubles of the thrift industry.

In recent months, as has the occupant of the Chair and others in this institution, I have been troubled by a number of events related to the effort to resolve the S&L crisis. These include the sluggish pace of resolutions of failed institutions and asset sales; the delay in filling many of the positions related to the S&L bailout; the administration's failure to request adequate funding to investigate and prosecute criminal activity related to thrift failures; and the circumstances surrounding the resignation of Daniel Kearney as chief executive of the Resolution Trust Oversight Board.

These events raise concerns about the level of coordination between the various agencies involved in the S&L rescue operation and the lack of overall guidance from the administration. Too often it seems like no one was in charge or, worse, that several people thought they were, and thus rampant confusion existed surrounding the effort.

I am concerned that the overall structure of the President's S&L rescue operation is too cumbersome and has contributed to the slow progress thus far.

So the legislation which I introduced yesterday, the Savings and Loan Simplification Act of 1990, is designed to streamline this structure and reduce the number of agencies involved in S&L-related issues.

A number of entities under this bill would be abolished and their responsibilities transferred to other already existing agencies. The RTC Oversight Board, the Federal Housing Finance Board, and the Office of Thrift Supervision would all be abolished under my proposal.

While the RTC Oversight Board would cease to exist, the separate RTC Board of Directors would remain in place and continue to direct the Corporation's operations. The SALSA would add two independent members of that Board to be appointed by the President and confirmed by the Senate.

The elimination of the Oversight Board would remove one level of bureaucracy from action. Consolidation of the Oversight Board's policy guidance and RTC Board's responsibility for day-to-day operation is more efficient and would lead to swifter decisionmaking and implementation.

This legislation would also abolish the Office of Thrift Supervision and transfer supervisory authority over savings and loan associations to the Office of the Comptroller of the Currency and Federal Reserve.

In FIRREA, the major S&L bill which was passed last year, the Congress moved with the executive branch to harmonize capital standards and other regulatory requirements for banks and thrifts. This was a welcome trend. We should take a further step in having the same regulators oversee both federally chartered banks and thrifts. This will ensure that both types of institutions receive similar regulatory treatment and compete on a level playing field, thus the move to responsibility to the Office of Comptroller of the Currency and the Federal Reserve.

Third, the legislation would abolish the Federal Housing Finance Board and transfer responsibility for supervising the Federal home loan banks to the Federal Reserve Board. The Affordable Housing Program established by FIRREA would also be administered by HUD.

FIRREA contained a provision to help encourage the sale of environmentally valuable property to appropriate Government agencies and conservation groups, and there is the fourth provision of my legislation. I believe that an important market exists for such properties. Federal taxpayers, taxpayers of the United States, already have this enormous amount of property that came back to them. Much of it has very significant value and ought to be kept within public agencies.

But after several efforts to encourage the RTC to realize this goal, I have been disappointed with the Corporation's efforts to pursue such sales. For this reason, I am proposing new

procedures to guide the disposition of environmentally significant property.

An important provision of the legislation also establishes a Fraud and Enforcement Review Division within the RTC, and this, Mr. President, is the fifth major component of the bill. The division, which is very similar to efforts that have been propounded and advocated by the occupant of the Chair, the distinguished senior Senator from Illinois, this division would help the RTC and other relevant agencies pursue criminal cases, civil claims, and administrative enforcement actions against parties affiliated with institutions taken over by the RTC.

The division would also help the RTC police the many transactions involving its contractors and properties under the Corporation's control. The RTC's function carries with it the potential for fraud and abuse similar to what we saw in HUD during the 1980's. The fraud and enforcement division would help the RTC guard against such problems.

A little bit of prevention seems to me to make a lot of sense. We have learned a lot from the fraud in the S&L scandal. You have spoken about it so eloquently and worked on it so long. We ought to make sure we do some prevention work as well.

Finally, another point. This legislation would further restrict the RTC's ability to borrow so-called working capital. The value of the assets held by the RTC is a moving target and current estimates may prove high. For this reason, allowing the RTC to borrow up to 85 percent of the value of its assets would prove risky.

We may need to allow further borrowing by the RTC, but I am concerned the present process allows the RTC too much leeway to borrow without congressional approval.

In recent weeks both the Congessional Budget Office and the General Accounting Office have issued reports indicating that the bank insurance fund is under stress and that a major bank failure or significant recession might well wipe out this fund.

The FDIC has proposed to increase the insurance premium from the current 12 cents for each $100 in deposits to 19.5 cents, the maximum permitted under current law. This legislation would authorize the FDIC to further increase premiums for both banks and thrifts if necessary.

Senator RIEGLE, the distinguished chairman of the Banking Committee, has recently introduced separate legislation granting this authority. I believe we should act on this particular matter before the close of this Congress.

Finally, the legislation calls for a financial institutions fraud unit, headed by a special counsel to supervise and coordinate investigations and prosecutions within the Department of Justice of criminal activity related to the financial services industry.

Many of the problems that we have seen this year may be attributed to the growing pains that can be expected at the start of any project of this size and scope. Nevertheless, I believe the problems can be attributed in part to the cumbersome structure that we already have.

So the overall streamlining that I am suggesting, Mr. President, it seems to me, gives us the opportunity to get rid of some of this cumbersome structure and to help us to prevent problems in the future. The need for additional capital to rescue S&L's has been discussed very widely, and we must do that.

Mr. President, I hope that we will all take a very careful look at this legislation. I do not suggest, of course, that this is going to pass this year—we have a very short period of time left—but I wanted to put this out as a template for discussion.

We are going to be spending a great deal of time coming back to the S&L crisis. We are learning more about it. As the resolution of the problem works through, other problems are showing up. Certainly, I think the streamlining of the process and the rationalization and the regularization of the regulatory procedure are steps that we ought to be taking next year.

As a final note, I would also thank you, Mr. President, for your help and leadership in helping us to work through so many of these problems, recovering waste, recovering for the taxpayers the ill-gotten gains of people who fundamentally cheated us. You have been a leader in all of that and we appreciate your good work.

Thank you, Mr. President. I yield the floor.

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed for 5 minutes as if in morning business.

The PRESIDING OFFICER. The distinguished Senator from Oklahoma is recognized for 5 minutes.

THE BUDGET

Mr. NICKLES. Mr. President, I rise today and make a couple of comments on the legislation that we have been wrestling with the last couple of days.

I am glad that we are putting aside such issues as CAFE, the corporate average fuel economy bill, that we are putting aside the family planning bill, title X, all of which the President said he would veto. The President said he would veto the CAFE bill. And the President said he would veto the motor voter bill.

So, frankly, having those issues before the Senate: One, we are wasting our time; and, two, we were not doing what we should be doing. At this point in time, with the fiscal year drawing to a close, and with the new fiscal year beginning, with not one appropriation bill passing both Houses and being signed by the President, we are being negligent. We are not doing our job.

Frankly, I would say we are doing a crummy job when it comes to fulfilling our fiscal responsibility of putting a budget together and passing our appropriation bills, a job that we are supposed to do every year. The budget was supposed to be passed months ago and we have not done it. We have people pointing fingers. The Republicans are pointing at the Democrats and the Democrats are pointing at Republicans or maybe pointing at the administration. But the facts are the job is not being done.

I do not know if the American people really care whose fault it is. I do not know that they care if it is the Republicans' fault or the Democrats' fault or the incumbents' fault. What they really care about is results.

I do not think they like the mess we are in. They do not like the fact that we have not been successful at being responsible. We have not been responsible. We have not been financially responsible. We have not met our obligations.

Every Federal agency has no idea what their budget is going to be on October 1. Hospitals are wondering whether or not they are going to be paid. Federal employees wondering whether they should show up or not next Monday.

What did we do all week? We talked about three bills that did not have the slightest chance in the world of becoming law. I am glad that we opposed cloture and got rid of those three items.

Frankly, I think we need to devote all of our time to the budget until we get a budget. And it is important, Mr. President, that we pass a budget. I also believe it is important that we pass a good budget.

I have heard people say, "Well, we are doing a lot. We are negotiating. We are going to have a $50 billion deficit reduction next year. It is going to be tough. Over the next 5 years there is going to be a $500 billion reduction in the deficit. Really tough. Boy, are we not proud of ourselves?"

I almost want to say I am ashamed. Mr. President, I am sure the Presiding Officer knows, but I wonder how many American people know what the deficit was last month? I will admit I was shocked when I found out the deficit last month was $52 billion for 1 month. We spent $52 billion more than we took in. Our deficit for the year to date is $241.7 billion, while last year, at the same time, the deficit was $145.9 billion.

So we have had an astronomical increase in the deficit of $95.5 billion in-

crease in the deficit from this year at this point of time through the month of August as compared to last year. Last year's deficit was just about the same as it was before, about $151 or $152 billion. So we went a couple of years relatively flat, no real deficit reduction, about $150 billion deficit. But this year we are going to hit $250 billion. We are already at $241 billion. Astronomical.

Last month alone, a $52 billion budget deficit. Yet people are talking about how we are going to make courageous decisions, we are going to cut the deficit next year by $50 billion. We did not tell them it went up last month alone by $52 billion.

I am a little disgusted. I am a little put out about people talking about being courageous around here. I will admit that everyone in this body, I am sure, realizes the deficit is too large. I am sure everyone in this body, and probably in the House as well, would think we need to reduce the deficit. But I will tell you there is a big disagreement on how we should do it. There are a lot of people clamoring, "Well, we need a tax increase. We need to raise corporate rates. We need to raise somebody's rates on beer or cigarettes. We need to raise gasoline taxes. We need more revenue. We need to fuel this engine called Government because revenues are not growing enough."

Mr. President, revenues this year compared to last year have grown by 4.2 percent.

I grant that is not as much as anticipated, because for the last several years revenues have been growing at 8 or 9 percent, or 10, or 11 percent. This year, because the economy is much slower, revenues are growing at about 4.2 percent.

But why is the deficit growing? Because expenditures are growing much more rapidly. Expenditures this year compared to the year before have grown 12.8 percent. That is the problem. The problem is not that we are undertaxed; the problem is we are overspent. The problem is we do not have a handle or control on the total amount of Federal spending.

The facts are, spending this year is $133 billion through the month of August more than it was last year, $133 billion. That is 12.8 percent more than last year. That is about two or three times the inflation rate.

Some of my colleagues say "What we need to do is cut defense." Defense has not been growing. Defense is not part of that problem. Where is it? I will include for the RECORD where the spending increases are. They are in a variety of areas but, frankly, Mr. President, the point is that outlays are out of control. Spending is out of control, and we in Congress need to put it in control. We need to take control of the total amount of money that we spend and we have not done it.

We have programs that go on automatic pilot, that are increased automatically. They have automatic eligibility or they have very loose eligibility. We have programs that grow and should not be growing. We have a lot of programs that probably should be reduced. We have a lot of programs that probably should be frozen.

Yet we have in our appropriations process and budget process base lines for everything, and everything is assumed to grow with inflation. So it does. It grows with inflation, plus we increase it in a lot of areas, so we see a lot of pressure for spending to grow and grow. And it has grown out of control.

Mr. President, I will be submitting three tables for the RECORD. If we look at the tables we will see that the deficit and outlays have been growing rapidly. It started out the first part of the year not much different than the year before. But, bingo, when we really get into the last 6 or 7 months, outlays have grown dramatically, again two or three times the rate of inflation. Revenues have been growing about the rate of inflation. So we see a real widening.

Last year we had a deficit of $151 billion for the year. This year we are already at $241.7 billion. So expenditures are growing. Our revenues this year compared to last year have grown to $37 billion. So we had already that much more to spend than last year. That is not enough, because expenditures have already grown $133 billion over last year.

Where? Some people say it is that darned S&L crisis. The RTC has spent $34.5 billion that is included in these figures. I agree with many that we need to put some money in and take care of insolvent institutions and take care of assets. If we move those assets from one institution to another, the result is not all loss. That $34.5 already put into RTC has a lot of assets behind it so maybe we should exclude it. But I mentioned the total outlays have grown by $133 billion. So even if we take RTC out, this year to date we have already spent $99 billion more than we did last year.

Still if we look at that we are talking about a growth rate of 9 or 10 percent. Expenditures are still going through the roof.

I have the pleasure of serving with my friend and colleague on committees, and we work on appropriations bills. Frankly, if we look at appropriations bills, most of the appropriations bills we pass this year have been growing at 9, 10, 11, 12 percent. I think we just passed the Department of Agriculture bill; it grew at 10 percent. I think the budget authority was a much larger increase than that, and we do it rather routinely. It is usually said, "Well, it is within the budget allocation."

Nobody pays much attention to it, but the facts are spending is out of control, both in our discretionary spending and in our nondiscretionary spending and in entitlements. Entitlements are funded by law. Congress passes those laws entitling people to receive those benefits. Maybe Congress should review those laws. Maybe we should not say something is automatically out of control. We should put it under control. We certainly have not done that.

Mr. President, I mentioned RTC was $34.5 billion of the increase. Increased interest on the public debt is $22.9 billion. We have State unemployment benefits which have grown by $3 billion. We have increases under the Department of Health and Human Services of $35.9 billion. That would include Social Security and Medicaid and Medicare, which are all growing at enormous percentages.

Medicaid this year is 19.2 percent over last year. The hospital trust fund is increasing at 16.1 percent compared to last year. The part B trust fund is increasing at 14.4 percent over last year. This just gives some indication of where some of these increases are.

But the net result is spending is growing out of control. So we need to get it under control and we need to do it in a bipartisan way. People are not looking for partisan solutions. They are looking for solutions. They are looking for us to be responsible.

Mr. President, I am hopeful our budget summiteers and negotiators will come up with a realistic package. Looking at these figures, I think it is quite obvious we need to spend most of our time on the spending side of the equation, not on the tax side of the equation.

Looking at the tax part, I will say that individual income taxes are up 4.8 percent. Corporate income taxes are down this year compared to last year, $7.7 billion or about a 9-percent drop. That means the corporations are not making the money they were making. It is quite simple.

Yes, we have a real slowdown in the economy. I do not know how we are going to make that up by trying to increase corporate income taxes. We may just put more people out of work. I am not sure that is a good solution, although I hear a lot of talk about it around the floor.

Some say let's increase individual tax rates, let's have a surcharge, let's increase rates to 35, 37 percent. I know a lot of working people. I am close to a lot of them. I do not think they want to see their personal income taxes raised. I think they have a problem making it now.

I think we should concentrate on the part where spending is growing at 12.8

percent. We have inflation at 4 or 5 or 6 percent. We have Federal spending at 12.8 percent. And that is without any escalations for fuel or anything else.

Federal spending is the problem and, Mr. President, in this Senator's opinion, we will not be successful in our budget unless we really address Federal spending.

It is going to have to touch a lot of areas.

Mr. President, I, for one—and I serve on the Budget Committee and on the Appropriations Committee—I would favor a freeze in discretionary spending. I do not think that is too much to ask. And we get big savings.

If we freeze all discretionary Federal spending not mandated by law in all these accounts, that lowers the amount significantly for the first year and it also lowers it for the next several years. I think that would be a giant step in the right direction. I think we can do it.

I do not think it would hurt anybody if maybe some of the programs would not be able to grow as fast as we would want them to. I think we could survive. Frankly, the private sector has had to. If we look at what the private sector has done in my State where we have had a recession, business has laid people off because they could not afford to continue business as usual. We have not done that on the Federal side.

Because we have not been responsible, I am afraid yes, we are looking at a real impasse. I am afraid we are looking at some serious problems for Federal employees, and this is too bad. Federal employees should not have to go through what they may likely go through on Monday or Tuesday because Congress has been inept getting its fiscal house in order, because Congress cannot put its budget together now when we should have done it months ago. It should have been finished months ago.

Mr. President, I am almost ashamed at the way Congress has handled our fiscal affairs.

These are three tables I have had compiled. My staff has compiled these tables from the monthly Treasury statements. I ask unanimous consent that all three of these be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Agency/Account	Through August 1989	Through August 1990	Change dollars	Change percent
Total receipts to date—August	891,468	928,589	37,121	4.2
Total outlays to date—August	1,037,277	1,170,305	133,028	12.8
Total deficit to date—August	(145,808)	(241,716)	(95,908)	65.8

Agency/Account	Through August 1989	Through August 1990	Change dollars	Change percent
Largest Spending Increases				
Funds appropriated to the President, Foreign military financing	(2,120)	4,165	6,285	296.5
Health & Human Services:				
Grants to States for Medicaid	31,603	37,664	6,061	19.2
Payments to health care trust	29,998	33,708	3,710	12.4
FHI trust fund	53,272	61,831	8,559	16.1
FSMI trust fund	34,792	39,790	4,998	14.4
Department of Labor: State unemployment benefits	12,872	15,976	3,104	24.1
Department of the Treasury: Interest on the public debt	224,580	247,549	22,969	10.2
Resolution Trust Corporation	3,275	37,775	34,500	1,053.4
Subtotal: Largest spending increases			90,186	

MONTHLY TREASURY STATEMENT COMPARISON

[In millions of dollars]

Fiscal year 1989	Receipts	Cumulative	Outlays	Cumulative	Deficit/(surplus)	Cumulative
October	63,582	63,582	90,590	90,590	27,009	27,009
November	64,320	127,902	93,454	184,044	29,134	56,143
December	93,655	221,557	105,097	289,141	11,442	67,585
January	89,306	310,863	86,500	375,641	(2,806)	64,779
February	61,897	372,760	89,769	465,410	27,871	92,650
March	68,205	440,965	103,984	569,394	35,779	128,429
April	128,892	569,857	88,320	657,714	(40,572)	87,857
May	71,025	640,882	96,491	754,205	25,466	113,323
June	108,249	749,131	100,460	854,665	(7,789)	105,534
July	66,191	815,322	84,430	939,095	18,239	123,773
August	76,136	891,458	98,285	1,037,380	22,150	145,923
September	99,233	990,691	105,299	1,142,679	6,066	151,988
Fiscal year 1989 total		990,691		1,142,680		151,988
Fiscal year 1990:						
October	68,426	68,426	94,581	94,581	26,155	26,155
November	71,213	139,639	101,018	195,599	29,805	55,960
December	89,130	228,769	103,906	299,505	14,776	70,736
January	99,538	328,307	91,286	390,791	(8,252)	62,484
February	65,170	393,477	100,437	491,228	35,267	97,751
March	64,819	458,296	118,165	609,393	53,346	151,097
April	139,624	597,920	97,865	707,258	(41,760)	109,337
May	69,212	667,132	111,769	819,027	42,558	151,895
June	110,614	777,746	121,747	940,774	11,133	163,028
July	72,357	850,103	98,291	1,039,065	25,934	188,962
August	78,486	928,589	131,240	1,170,305	52,754	241,716
September						
FY 1990 total						
Fiscal year 1990: [1]						
October	7.6	7.6	4.4	4.4	−3.2	−3.2
November	10.7	9.2	8.1	6.3	2.3	−0.3
December	−4.8	3.3	−1.1	3.6	29.1	4.7
January	11.5	5.6	5.5	4.0	194.1	−3.5
February	5.3	5.6	11.9	5.5	26.5	5.5
March	−5.0	3.9	13.6	7.0	49.1	17.7
April	8.3	4.9	10.8	7.5	2.9	24.4
May	−2.6	4.1	15.8	8.6	67.1	34.0
June	2.2	3.8	21.2	10.1	−242.9	54.5
July	9.3	4.3	16.4	10.6	42.2	52.7
August	3.1	4.2	33.5	12.8	138.2	65.6
September						
Fiscal year 1990 total						

Source: Office of U.S. Senator Don Nickles.

[1] Compared to fiscal year 1989 (in percent).

Agency/account	Through August 1989	Through August 1990	Change dollars	Change percent
Individual Income Taxes	400,665	420,013	19,348	4.8
Corporate Income Taxes	83,862	76,163	(7,699)	−9.2
Social insurance taxes	240,144	257,323	17,179	7.2
Excise taxes	31,958	32,660	702	2.2
Estate and gift taxes	8,114	10,625	2,511	20.9
Customs duties	14,981	15,434	453	3.0
Miscellaneous receipts	21,732	24,656	2,924	13.5
Total receipts to date—August	891,468	928,589	37,121	4.2
Legislative branch	1,949	2,075	126	6.5
The Judiciary	1,317	1,465	148	11.2
Executive Office of the President	116	137	21	18.1
Funds appropriated to the President	3,848	8,649	4,801	124.8
Department of Agriculture	45,242	42,692	(2,550)	−5.6
Department of Commerce	2,362	3,503	1,141	48.3
Department of Defense—Military	267,125	269,233	2,108	0.8
Department of Defense—Civil	21,463	22,831	1,368	6.4
Department of Education	19,868	21,379	1,511	7.6
Department of Energy	11,057	11,414	357	3.2
Health and Human Services	156,923	179,707	35,978	17.3
Social Security	208,261	244,239	307	1.7
Housing and Urban Development	18,095	18,402	314	6.6
Department of the Interior	4,779	5,093	570	10.0
Department of Justice	5,696	6,266	570	10.0
Department of Labor	20,964	23,825	2,861	13.6
Department of State	3,456	3,716	260	7.5
Department of Transportation	24,335	26,083	1,748	7.2
Department of the Treasury	224,580	247,549	22,969	10.2
Department of Veterans Affairs	26,412	27,797	1,385	5.2
Environmental Protection Agency	4,347	4,654	307	7.1
General Services Administration	(596)	(354)	242	−40.6
National Aeronautics and Space Administration	10,034	11,481	1,447	14.4
Office of Personnel Management	26,831	29,215	2,384	8.9
Small Business Administration	73	647	574	786.3
Federal Deposit Insurance Corporation	9,816	10,449	633	6.4
Federal Emergency Management Agency	446	2,016	1,570	352.0
Resolution Trust Corporation	3,275	37,775	34,500	1053.4
Other Independent Agencies	8,028	11,313	3,285	40.9
Undistributed offsetting receipts	(84,332)	(94,383)	(10,051)	11.9
Total outlays to date—August	1,037,277	1,170,305	133,028	12.8

Mr. NICKLES. Mr. President, one final comment. I notice on the desk of Senators that Senator ROTH has submitted a proposal. I have not examined it in every detail. I have reviewed the broad outlines, and it calls for a $400 billion reduction over the next few years, almost all from the spending side.

I congratulate the Senator from Delaware. I wish we had more Senators who would have the guts to say: "Hey, I have an idea; here is the plan. This might be right. I doubt it is perfect, but I think it is a giant step in the right direction."

I compliment my friend from Delaware, and I will be joining him as a cosponsor of that proposal.

I also see my friend from Minnesota is here. I have the pleasure of serving with him on the Budget Committee. He is one of the real stalwarts who understands the budget process. He also understands the growth of expenditures. If we had more Senators of his fiscal experience, I think we could solve this problem in a much shorter period of time.

I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Minnesota.

THE BUDGET PROCESS

Mr. BOSCHWITZ. Mr. President, I thank my friend from Oklahoma for those nice comments. I presume he printed the chart into the RECORD that he gave me a couple of days ago, and that he detailed some of the progress toward just an enormous budget deficit this year, and noted that in this past month of August that was a $52,754,000,000 deficit; a very, very large deficit, obviously, even for a whole year, and this was for a single month.

Mr. President, I understand that some have come to the Senate floor today and have spoken about the President's role in all of this, and that the President is to blame and there the blame must be assessed, rather than onto the Congress. I would like to take up with what my friend from Oklahoma was talking about.

I say, first of all, the President submits a budget in January. After the President submits a budget in January, his job is essentially done. The budget is not like a piece of legislation. The budget is not something that the President has to sign. The budget, therefore, is not something the President can veto. After the President submits his budget in January, which he did, it is up to us to get the budget out in April, which we did not do.

It went on until May. It went on and on during the course of the year. We got out a pro forma budget at one point in order that the Appropriations Commiteee could work. Really, the Congress has not done what it needs to do, and that is to come up with a budget that is going to inspire some confidence in the minds of Americans.

It is not the President's fault. I understand there was even some criticism because the President was out doing some campaigning. I would say to my colleagues that he was out in Minnesota, in my State, and I was with him. The budget does not seem to have moved forward very much at all, even though we were not here; but at no slower pace, certainly, than at the time both of us were here. It is just a shame that we cannot move forward.

Let me also talk about the budget from the standpoint of understanding something, so that the public can have a sense of what we are up to.

Are we really cutting the budget? Are people going to receive less than last year? Absolutely not. None of the talks that are going on here would cut the budget from the standpoint that people are going to receive less benefits than they did last year. They are not going to receive all the benefits that they think they are going to get but, nevertheless, they are not going to be cut.

In the parlance of the Senate, in the parlance of the Congress, the budget, if you spent $100 last year, and this year you expect to spend on this particular program $110 and yet you only spend $109, you are deemed in the Congress to have cut the budget by a dollar, even though you have spent $9 more than you spent last year.

If you go out to the homes of the average Americans or to their businesses, and you say, "You spent $9 more than you did last year, but you cut the budget by a buck," it will take some time to explain all that. But in the arcane vocabulary of the budget, that is what happens; that you can spend more, but yet cut.

I have told people that I have saved billions and billions by spending more, and they seem to be somewhat mystified. They seem to think that their Senator is giving them some kind of explanation that is not in accord with reality. It is true; it is not in accord with reality that you can spend more, but you can cut the budget at the same time.

Congressman BILL FRENZEL from Minnesota, in the House, and I here in the Senate, have offered a bill year after year—it has passed through the Budget Committee, but undoubtedly will die with this Congress—that budgets should be compared in spending; that if you spend $109 this year, you have spent $9 more than last year; that there has been a $9 increase.

If we are ever going to balance the budget, we ought to argue not about cuts. We should not use the word "cuts"; we should argue, instead, about the degree of increase. How much are we going to increase the budget? And then people would have a sense of what we are really doing, and we might even be able to get a little more public awareness and a little more public sympathy for the idea of cutting the budget; in present terms, or in realistic terms, of increasing it a little bit less.

I just explained to a friend of mine who is with me today, let us say that your employer said to you you are going to get a $2,000 a year raise, and then business has not been so good and he comes around to you at the end of the year and he says that you are only going to get a $1,800 a year raise, not $2,000. Under our terminology, you would have taken a cut in pay of $200.

Anybody else would say, well, they got a $1,800 raise instead of a $2,000 raise. But in the terminology of the budget, you would have taken a $200 pay cut, even though you are getting $1,800 more than the year before.

It mystifies people, and it makes the whole business of handling the budget, of bringing the budget into some kind of accord, of bringing the budget into some kind of a balance, all of that harder. And then people come to the floor and blame the President of the United States and say that it is his recalcitrance that is stopping the forward motion on the budget.

Sure, the President is hanging in there and his negotiators are hanging in there. And yes, in order to really bring this whole package about, there is going to have to be new legislation, and the President will have a right to veto that legislation. There is no question about that. I will probably support him if he decides to veto those things.

Nevertheless, it is the Congress that has not come to grips with the budget, and it is the Congress that needs to come to grips with it and needs to make the reductions in expected increases. Reductions in expected increases is really what we are talking about.

Take a look at this year's spending. Spending is rising, and I suppose I was not here on the floor when my friend from Oklahoma, Senator NICKLES, spoke, and I suppose he covered some of this, but spending is rising this year at 12.8 percent. That is a large increase. That is a doubling in less than 6 years.

Income, on the other hand, is rising at 4.2 percent. Boy, when your expenses rise at 12.8 percent and your income rises at 4.2 percent, you are just digging a bigger hole. And that is what is happening. We simply have to squeeze down the increase.

When I came here 12 years ago, within a couple of years, I came up with what I called the fair play budget. The fair play budget was an effort to be across the board. It was an effort to be somewhat arbitrary, to be very frank, Mr. President, and some people do not like to be arbitrary. They think we should value and interpret and measure the programs one at a time.

I like doing that. I think they are right. But once that program starts, once that type of activity starts, it never stops. We simply do not reach a conclusion.

So I came up with a fair play budget. It said that every function of the budget, and I believe there are 17 of them, every function of the budget could rise 3 or 4 percent a year, and that the revenues of the Federal Government, which rise in a normal year 8.6 percent—and that, I might say, is the average increase of Federal revenues in the last 30 years—that if outlays rise only 3 or 4 percent and revenues rise 8.5 percent, we are going to balance the budget. It will take 3 years. It would not be so bad. Though, I must say, the budget deficit is now so high it would take 4, as a matter of fact.

But that is really the only way. If you say some programs are better than others, I agree. If you say that we ought to give some increases and some decreases, I agree with that, too. I know that we are not going to give defense increases around so that we really start off with something of a pot from which to operate.

But, nevertheless, if we are not arbitrary, we do not seem to get it done, even at the very, very last moment. So I still subscribe to that idea of a fair play budget.

I look forward to reading the remarks of my colleague, the Senator from Delaware [Mr. ROTH], who has come up with a budget plan. I heard Senator NICKLES talk about it briefly. He has $370 billion in cuts.

Let me explain, Mr. President, that in the next 5 years—and this is off a 5-year base—we are going to spend $7 trillion. We are going to increase spending during that period about $800 billion. What the Senator from Delaware has done is just cut that increase in half, so there will still be increases.

What those who are negotiating the budget are trying to do is cut $500 billion over a 5-year period, and it really should not be so hard to do. Everybody agrees there are going to be some defense cuts, or, that is, that defense will not rise to the same degree that people anticipated it would rise. That will be a third of that $500 billion. That will be $170 billion. If we save the moneys, there will be $70 billion less in interest, so nobody is going to argue with that. Nobody is arguing about defense, though some on the other side of the aisle would rather cut defense more. We are willing to cut it by $170 billion. Interest will go down by $70 billion. So we are halfway to the $500 billion mark.

Then we are willing to have $130, $140 billion of tax increases. Whether it is taxes or revenues or whatever you want to call it, fees, it still comes out of the taxpayers' pockets. So there are going to be $140 billion increases in taxes.

So now we are down to the last $120 billion, and that is what people are arguing about over there. Of the $7 trillion in the next 5 years, well over $4 trillion, $4,000 billion, is going to be spent in programs that we say we should take $120 billion away from—3 percent, not even half of the increase that those programs will experience, as a matter of fact, less than one-third of the increase that those programs will experience.

So what we are saying is, OK, you can have two-thirds of the increase that you expect to get over the next 5 years. You cannot have all the increase, just two-thirds of the increase. It is not an unreasonable position, Mr. President.

The President of the United States, with whom I flew last evening on Air Force One—quite an experience I might say—takes that position as well. He is not the person who is being recalcitrant. He is not the person who is making the budget negotiations difficult. Quite the contrary. He bit the bullet, and bit the bullet early, and took a pretty good hit for doing it. He said everything was on the table. They said to the President, "That includes taxes?" He said, "Yes, that includes taxes." And the press howled and said, "I thought it was 'read my lips.'" He said it includes taxes; that is the reasonable way to go. If we do not do that, the folks on the other side of the aisle are not going to talk about the deficit at all; they are not going to talk about balancing the budget at all.

So he has made the moves. He has taken the steps that I think are responsible to bring about a balance in this budget. Therefore, I compliment him. I take issue with those who have come to the floor and criticized him for not being a proper player or being away from the capital while this negotiation was occurring.

Mr. President, I remain dedicated to balancing the budget. I came here 12 years ago dedicated to that idea, and I must say that as progress has not been even halting; we have gone backward. When I came here, the deficit was $70 billion, and this year it is going to be probably $250 billion, and the size of the gross national product is not much different. Nevertheless, we should be getting down to zero. We should make the hard votes.

Mr. President, I am ready to make the hard votes. I am ready to cast the votes that probably will be the subject of 30-second ads at some future date. The budget is really the principal economic issue that is facing the Congress. It has been facing the Congress now for many years. It is time that we get on with it. It is time that we make the cuts in the increase. It is time that we restore some fiscal sanity to government.

Mr. President, I yield the floor.

THE BUDGET NEGOTIATIONS

Mr. SIMPSON. Mr. President, we are witnessing an interesting phenomenon pertaining to the progress—or lack of progress—in the ongoing budget talks. You turn on the television or pick up the newspaper and you can find a dozen stories detailing "how that mean, nasty rascal George Bush is holding the whole budget hostage to his crazy tax break for his rich buddies." What is even worse, some here in the Congress are joining in that chorus.

Mr. President, these charges are pure, for lack of a better word, poppycock. In the first place, there are still several sticking points left in these budget negotiations—and every thoughtful soul knows that. The people leveling the charge that capital gains alone is holding up the talks know that as well. We are trying to lop off $500 billion from the Federal budget over the next 5 years, and that is going to cause a terrible lot of pain.

There is no way the negotiators are going to get that done if they have to fear a firestorm whenever they float an idea that might be controversial. So it is not productive to issue press releases detailing the specifics of the proposals coming from the two sides. Most of us here are willing to forgo the chance to blast away at other negotiators in order to help facilitate a resolution of these talks.

Most, but not everyone. We still have some folks out there who are exploiting the process, because they see a way to ram it to the President on one issue which has already been in the public debate—capital gains. While most of us on both sides of the aisle are trying to be good soldiers and not pick apart the budget process, some zealots are having a field day.

That's too bad, we've got folks on our side that are going to be prodded into blasting back, and that's so frighteningly easy to do. Is that what we want here? That's what we'll get. Shall we detail the way that some have proposed to increase nondefense spending in the face of our current deficit crisis? Should we get into the specifics of what is going to have to happen with Medicare, and what some are advocating in income tax rates?

No, we should not do that. Because those things are going to be very painful for some people. The right thing to do is to have everyone on board to shoulder the necessary pain which will be the result of this budget summit and not to point bony fingers at the individuals who had to labor to come up with these painful proposals. The President has dealt in good faith. Increased tax revenues were definitely not his idea but he agreed to put this sacred issue on the table. Because that's what you have to do. Lead. Take risks and we make an agreement—I'll shoulder some of the blame and you shoulder some—and together, we'll get the job done.

Well, apparently some don't want the job done—they're only looking for a way to blast away with at the administration, and they don't care a whit if they unravel that whole ethic of cooperation which is so essential to this critical process. And they have chosen a silly topic—since everyone—everyone on both sides—agrees that a capital gains rate cut would not mean a revenue cut for this budget. Down the road, what will happen in the years to come—there is indeed disagreement. But to charge this administration with

making the deficit reduction process tougher this year is simply dishonest.

So let's look at the reality here—there is an election coming up. To point at one party and shout: "class warfare," while simultaneously protecting themselves by shielding controversial proposals from public scrutiny—well, anyone who thinks they can afford to do that is not familiar with our craft. That is a ticket to political suicide, and no one is going to buy that one. So let's bury this ridiculous charge that there is "one single issue," and one single party, holding up the budget agreement, and let's get back to our work on the one task that so desperately needs to be done.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from Idaho [Mr. SYMMS].

THE BUDGET CRISIS

Mr. SYMMS. Mr. President, I compliment my colleague from Minnesota for his remarks. It was a pleasure being on the floor to hear so much common sense from one Senator. I must say, Mr. President, that I come from a small business, unlike the Senator from Minnesota. Where he has been in the retail business selling wood products and plywood, I come from a small business which grows, packs, markets, and sells produce.

I can tell my colleague from Minnesota, when I go back home and talk to those men who work with their brains and their hands and they ask me about this budget question, they totally agree with what he is saying. They often say to me, how is it, if there are all these cuts in spending taking place, every year the debt keeps going up? Why are we now in debt $3 trillion instead of $2 trillion or $1 trillion, or I can even recall when the national debt was $500 billion. I feel exactly the same frustration as the Senator from Minnesota.

The problem is, No. 1, this foolishness over the so-called current-services budget. There is no business in America that operates on a current-service budget. The only organization that does is the Federal Government, because it has three things: No. 1, it has the power to tax, No. 2, it has the printing press and, No. 3, it can borrow money and roll it off in the future.

The fact is that umpteen billions of dollars is being spent this year—$170 billions plus, I think it is. The figure—just to pay the interest on the national debt. That comes out of the blood, sweat and tears, and that makes up the high standard of living of the working men and women of this country. This Congress is so irresponsible, it is no wonder, I say to my friend from Minnesota, the baby cries when it is born. I am happy to say that Lisa Vold a young women in my office just gave birth to a new baby and I understand that when the baby was slapped on the backside, it cried because it found out it was already some $12,000 to $15,000 in debt through the irresponsibility of this Congress.

When I hear my colleagues in this Chamber talk about the fact it is the President's fault, I invite them to go back and read the Constitution. It is our fault.

I want to tell my colleagues also that I talked to my friends in Sunny Slope yesterday, and they said, "STEVE, disassociate yourself from that Congress. You people are becoming irrelevant in the course of human events, in the course of American policy; people are making a laughingstock out of the Congress because Congress does not have the guts to say no to anybody for anything on any issue."

Mr. President, I compliment those people who have been on the budget negotiating team. I have watched the budget summit meeetings for the past 5 months, and I do not think much has happened. They are trying. Good luck. I hope they do get something done. But every year that we have had budget negotiations, and we have not gone through the process of the Congress doing it, we end up with a bigger deficit. I am becoming very skeptical as to whether we are going to do any better this year.

I personally favor the plan that my good friend and colleague from the State of Montana is going to introduce today, the so-called 4-percent plan, where we would agree that we are going to allow the Government to grow at a rate of 4 percent, and then Congress will have to figure out the priorities.

I will tell you. When I get back to my friends in Sunny Slope, some people may say this is not a simple solution—that a 4-percent plan or a 7-percent plan won't work with such large numbers as the projected 1991 budget of $1.263 trillion deficit reaching $219 billion.

In fiscal year 1980, they had $517 billion in revenue. In fiscal year 1980, the Congress spent $591 billion, with a $71 billion deficit. By 1990, we have made so much progress that we are projecting to spend $1.263 trillion, and a $219 billion deficit.

So, it is like the Senator from Minnesota said. We are going the wrong way. We are going backward? Why? Because Congress is petrified that they might have to say no to somebody out there.

The interesting thing is, the men and women in this country that work, raise their families, pay their taxes, are law-abiding citizens; they look at Congress and think, what in the world is going on in Congress? Why are they so irresponsible? I can tell you after having been on the Budget Committee now for 10 years. In my opinion, the Budget Act and the budget process it created has become less and less relevant to the real problems of overspending and runaway growth in the Federal budget.

Also, the tax foundation published a report last year that showed how budget summit meeting with the President have failed to help with this problem of the budget deficit. The deficit problem actually has gotten worse in the years following budget summits than it did in the years that we followed the process. In my opinion, a logical, responsible, understanding way to a work able process would be to say, as Senator BURNS from Montana's bill will say and which I am a cosponsor of, is to allow the Government to grow at a 4-percent growth rate. We will have to go through the committees. We will have to work out where we are going to spend the money. That is the way the constitutional system works.

People say that is too simple. Some people will dismiss this out of hand. That is to be expected. Yet, this plan simple enough that maybe the American people and Congress and the administration could understand it. We will not have to have RIF's, we will not have to have furloughs, we will not be able to expand things as much as people want, but we would live within our means. It would be a welcome addition to most of the American people to see Congress live within its means and see the American government live within its means.

The budget outlay targets—Gramm-Rudman targets that are readjusted in this plan—if they are not met at the 4-percent level, would then trigger a sequester. I want to go back to the simple part of it again. It is not that complicated a problem. As Federal revenues come into the Federal Treasury, the projected Federal revenues will eventually exceed the 4-percent growth in spending cap.

Anyway, I think we should talk to the American people. These are the same people, the people that everybody in this Congress is afraid of. They are afraid of this 50 percent of the budget, the so-called entitlements. But when you look at this problem, 50 percent of the money coming in is going out for entitlements. Another 17 percent is going for interest on the debt. And then you have some 23 to 25 percent going for defense. As you can see, Mr. President, that composes 90 percent of the budget. In our present way of thinking that only leaves 10 percent of Federal outlays left with which to solve the deficit problem without additional revenues.

The President of the United States, to his credit, is the one that campaigned on the platform of no new taxes. That is one of the reasons he was elected President, in this Senator's view, because he campaigned on the

platform of no new taxes. Because the big spenders who have a majority in the Congress refused to go along with that, he said, OK, I am a pragmatic person. I am practical. I love my country. I realize I have to get along with the Democrat majority that runs the Congress. I will compromise. Where is the Democrat majority coming through with their half of the bargain? I do not see the Democrat majority coming through.

So I compliment my friend from Montana, who is introducing this bill. The reason I think the President was correct when he said we do not need any new taxes is because the record shows that every dollar of revenue raised to reduce the deficit, is actually just one more dollar of outlays that does not have to be controlled. Pretty soon that $1 of outlays that we do not have to control eventually ends up being $1.58 cents. That is why we have a $3 trillion deficit.

I would like to repeat that statistic. For every dollar of revenue the Government receives outlays will grow to $1.58 the following year.

That is what the record says. That is why we are falling behind. That is why we are borrowing more, more, and more. That is why we are not for pursuing the same kind of an economic policy—model—used in Argentina, and Brazil for the last 20 years. You can see where it has gotten them. I see no reason why we in the United States should follow it.

That is why I want to compliment my Senate colleague from Montana who has been a welcome addition to the U.S. Senate in these past 2 years, and is now going to take the bull by the horns and offer a responsible, reasonable budget solution which will solve the problem without raising taxes, which will say we are going to balance the budget by limiting spending.

I want to go back to my friends in Sunny Slope, and all the people out there working, I want to say to them just like they say to me, reduce the amount of spending.

I want to say one other thing. Taxpayers in this country not only get the privilege of paying taxes to pay for Government, but then they get the privilege of trying to pay extra costs to run their businesses to comply with the taxes that are created through all of the regulatory activities of Government. So they not only get hit across the face with the tax bill, and the money taken away from them there, but then they get hit across the back of the head when they have the regulators coming into their offices and demanding this or that, a condition where everybody from the Corps of Engineers to the EPA, that is, the alphabet soup agency, sending out forms. They have to hire more help in the offices of every business in America to just to fill out the forms—to answer, to comply with the U.S. Government.

In my opinion, Mr. President, we would not only do the American people a favor by not raising taxes, but we would do them a favor to not spend, to not allow the Government to grow and spend any more money than the new revenues that are being generated. It would send two signals to the country: One signal would be that we are finally going to be responsible in the Congress of the United States instead of what we have been, and that is—irresponsible.

I would like to think that I have fought against the irresponsible big spending in the Congress, but it is very difficult. It is very, very difficult in this Congress to achieve these things.

It is interesting when Senator BOSCHWITZ was on the floor saying votes that he will cast will probably be the target of a 30-second spot. I would much rather have someone run 30-second spots against this Senator that voted to reduce spending than I would to have them run the 30-second spots that say he stood by idly in the Senate of the United States and watched America pile debt upon debt upon debt upon debt.

It appears to me that we cannot have it both ways. There is an old saying, You cannot suck and blow in the same breath. If you are going to reduce the deficit, then at some point in time we have to be willing to say we cannot allow these agencies of Government to grow at a faster rate. We might have to, include all these things that are sacred cows under Gramm-Rudman items that should all be put back into Gramm-Rudman so everybody can help pull the wagon to reduce the spending. This is a philosophical question. If you want the bureaucratic welfare state to grow and expand, go ahead and vote to raise taxes and the bureaucratic welfare state will expand. But all I would say to my colleagues is, take a look around the world. In the countries where the bureaucratic welfare state has been maximized, in the utopian governments, they are clamoring now to get at what we have enjoyed in the United States where we have had some freedom. We have allowed people an opportunity for to make headway.

So it would appear to me that what we should do is try to hold back the growth in the bureaucratic welfare state in the United States in order to maintain the maximum incentives for people who are out working, those trying to produce goods and services for their fellow Americans.

We need to preserve and encourage our incentive reward system, a formula for economic growth that preserves a strong economy, keeps people working, and keeps the economy growing. We should not bludgeon to death the very tools of economic production by enacting excessive regulation, excessive taxation, and excessive disincentives. The Senator's legislation does exactly that. I am pleased to be a cosponsor, and I compliment my colleague, Senator BURNS, for his 4 percent solution.

I personally believe, Mr. President, that if all else fails—if we do come to a budget summit conclusion where businesses like insurance companies will be taxed out of business, as is rumored or we get stuck with a rotten agreement around town, that if the summit fails we need an alternative to fall back on like the one sponsored by Senator BURNS.

To start talking about taxing Americans, 5, 10, 15, 20 cents a gallon extra on their gasoline, when they have to get to and from work, and on the diesel trucks, use to bring all the farm products and food into the cities of this country, just to pay for deficits of the bureaucratic welfare state, not to pay for the highways they drive on, is a choice that is fundamentally wrong.

If there is a bad solution to the budget problem labeled innocently as a budget agreement maybe this bill of the Senator from Montana—who I know has had the best economists in town working on it—may look better to Senators after they realize what this budget summit will actually do. Senator BURNS' plan is simple, it will not be easy to accomplish, and it will require great concentration and work by the Members of this Congress. But I believe it is doable.

I thank my colleague, and I yield the floor.

Mr. BURNS. Mr. President, might I inquire, are we still in a period of morning business?

The PRESIDING OFFICER. We are.

Mr. BURNS. I ask for 10 more minutes, or whatever it may take.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana is recognized.

Mr. BURNS. I thank the Chair.

(The remarks of Mr. BURNS, Mr. SYMMS, and Mr. BOSCHWITZ pertaining to the introduction of S. 3122 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolution.")

Mr. BOSCHWITZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NDI CALLS FOR DEMOCRATIC DEVELOPMENT ASSISTANCE TO THE U.S.S.R.

Mr. CRANSTON. Mr. President, despite our common preoccupation with events in the Persian Gulf, I believe we must not lose sight of other vital foreign policy concerns, particularly when they are as important as our relations with the Soviet Union.

The news from Moscow in the past few days has not been good. The Soviet leadership appears unable or unwilling to agree on the scope and pace of economic reform. Rumors of military unrest are appearing with alarming frequency. And the specter of shortages of food and other vital commodities promise a very bitter winter indeed.

A few days ago the National Democratic Institute for International Affairs [NDI]—chaired by my friend former Vice President Walter F. Mondale—issued a timely and well-reasoned report calling for urgent Western assistance for Soviet reform efforts.

Based on the findings of an NDI-sponsored survey mission to the Soviet Union last month, the report noted that political factors are as important as economic ones in assuring the success of reform efforts there.

While efforts to reform the (Soviet) economy will go forward, it is less clear whether political reform will endure during the austere and difficult transition to a market system.

If the roots of democratic reform do not gain a foothold in the next few years, there will be a temptation to abandon democracy and to force economic change through authoritarian methods.

The NDI report warns that—

A dangerous rift between the Armed Forces and civil society also appears to be widening. Generals are voicing their dismay at the hostile public attitude toward them. * * * As domestic threats to the union arise, either from economic or political chaos, or from the nationalist movements in various republics, the potential for military intervention in politics increases.

Because of this, the NDI report urges that democratic development assistance begin as soon as possible.

The window of opportunity for the proponents of democratic changes, it notes, "may be narrower than many Westerners now believe, the need for assistance in the techniques of democratic management at all jurisdictional levels in the Soviet Union is urgent."

Mr. President, the hopes and fears found in the NDI report are echoes of the same ones I heard last month when I visited Moscow, Byelorussia, and Leningrad as part of a congressional delegation led by my good friend and colleague Senator LEAHY.

Throughout the trip we heard of the reformers' urgent need for investment, grants, and—just as important—political development assistance. They need, and say they want, information, political training, communications expertise, and managerial talent.

We should listen to NDI. We ought to heed their call for help. We need to help the Soviets understand that democracy can work economically and politically.

Mr. President, I ask unanimous consent for an edited version of the report to appear in the RECORD.

There being no objection, the edited version was ordered to be printed in the RECORD, as follows:

NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS, "REPORT OF THE SURVEY MISSION TO THE SOVIET UNION," JULY 29-AUGUST 3, 1990

CHAPTER 1

Introduction

During the week of July 28, 1990, the National Democratic Institute for International Affairs (NDI) sponsored a five-member survey mission to the Soviet Union. Delegation teams visited the cities of Moscow and Leningrad in the Russian Republic and the city of Kiev in the Ukrainian Republic. The purposes of the mission were to: assess the nature, pace and direction of democratization in the country; identify its most active individual and institutional proponents; establish the pressing requirements for the continuation of democratization in the Soviet Union; and determine what contributions, if any, NDI as a political development institute, might make.

The NDI delegation was led by David Aaron, Member of NDI's Board of Directors, and included NDI President Brian Atwood, William Miller, President of the American Committee on U.S.-Soviet Relations, Robert Litwak, Director of International Studies, the Woodrow Wilson Center for Scholars, and Mahnaz Ispahani, NDI's Director of Research.

The NDI delegation met with a wide array of Soviet political leaders and initiated contacts with politicians at four out of the five administrative subdivisions of the Soviet political system: district, city, republic and union. (It did not meet any *oblast* deputies.) They included leading members of President Mikhail S. Gorbachev's Presidential Council, members of the Communist Party of the Soviet Union (CPSU) Central Committee staff, members of the Supreme Soviet committees, deputies in the Inter-Regional group and in the Russian Soviet Federative Socialist Republic (RSFSR) legislature, leaders of the city soviets and district councils, founders of the new democratic parties, associations of young political leaders, editors and journalists, public opinion researchers, and academicians at the state institutes (State and Law, and U.S.A.-Canada).

The Challenge of Political Development: A Summary

The NDI team returned with a keen recognition of the enormity of the political and economic challenges facing Soviet reformers at the union, republic and city levels—and the pivotal role of reformers, ranging from Gorbachev to Yeltsin down to district council leaders—in securing a peaceful transition to pluralism and a market economy. The urgency of the reformers' tasks is matched by the urgency of their needs: for information, political training, managerial expertise, and communication—both with other groups in the Soviet Union and with those abroad. The sharing of democratic experiences is greatly needed: in every office, in every group, in every community, it seemed as if the wheel of democracy was, in isolation, being invented.

At every level of Soviet politics the current debate addresses the precise nature of the dynamic between the processes of economic and political reform. This report makes three interrelated arguments.

First, it is clear that political factors as much as economic ones will determine the future of the Soviet Union. A failing political system cannot reinvigorate a failed economy. Without a resolution of the systemic political crisis, the desired economic perestroika may not occur peacefully, if at all. Which institutions hold power, which processes command legitimacy, which groups can enact and implement effective legislation, and which leader can hold the union together—or restructure it? These are questions that must be resolved before any successful transition towards a functioning market economy is possible.

Second, the basic economic crisis in the Soviet Union has emerged from the overcentralization of the command economy. The decentralization of the economy, however, cannot take place without the decentralization of the political system. Economic reform depends for its success on the free flow of information. While substantial progress has been made in promoting glasnost, the struggle to make vital economic information available to all who require it continues. It is a political question of the first order.

Third, the NDI delegation believes that while efforts to reform the economy will go forward, it is less clear whether political reform will endure during the austere and difficult transition to a market system. If the roots of democratic reform do not gain a foothold in the next few years, there will be a temptation to abandon democratization and to force economic change through authoritarian methods. Some Soviets talk openly of the need for a period of "democratura"—authoritarianism designed to achieve a market economy. Such an approach is bound to fail. Only freely elected, trusted and popular political leaders at all levels can succeed in the massive task of reforming an economic system whose political legitimacy has been destroyed. The delegation's report strongly supports this conclusion.

CHAPTER 2

Power Decentralized: Democratization and the Union Treaty Negotiations

The central issues of Soviet politics in the autumn of 1990 are certain to be the pace and locus of democratization, the status of perestroika, and the renegotiation of the terms of co-existence among the 15 Soviet republics. These issues all involve a struggle over the extent to which power is being decentralized, de facto in the Soviet Union.

The principal protagonists in both struggles are Gorbachev's hard-line communist opponents (represented in the past by Yegor Ligachev and by the Communist Party apparat), the communist reformers who support his policies of glasnost and perestroika, members of the Democratic Platform movement who stayed in the CPSU, but frequently oppose Gorbachev's policies, and those reformers who either never belonged to the CPSU or abandoned it after the 28th Party Congress. Many of these democrats are to be found in city governments and in the legislatures of the republics. Their leader is Boris N. Yeltsin, Presi-

dent of the Russian Soviet Federative Socialist Republic (RSFSR).

The union and the Party leadership still control the state's resources, but Gorbachev's control of power in the Soviet Union is being challenged. A multiplicity of contenders vie for political authority. This competition is immediately evident in Moscow, where Yeltsin's RSFSR flag flies high along with Gorbachev's union colors. it is also apparent in the plethora of presidential decrees, laws, administrative decisions and declarations being issued each day by rival centers of authority, by the struggle for control of assets and resources among the different levels of state power, and by the decision-making struggle at each level between new democratic reformers and old Communist Party elites.

A. The Union

From 1985, when he first took command, Gorbachev initiated reforms that opened a Pandora's box of troubles for the communist leadership. He continues to be a key player in the Soviet Union's search for a new "ideology" to hold the union together, to recast the CPSU in a more progressive light, and to sever the linkages between the CPSU and the institutions of the state. Increasingly, however, the line Gorbachev walks in growing more fine, and he appears as a man fighting both for and against himself. One Soviet described Gorbachev as a leader "whose actions do not live up to the very ideas he has promoted" in Soviet politics. He faces opposition to his policies from both the communist hard-liners and the democratic reformers.

Soviets differ sharply about Gorbachev's continued political efficacy. In general, Gorbachev is fast losing the support of the democratic reform group. They now see his policies as being "too little, too late." In democratic reform circles Gorbachev is widely accused of belatedly adopting half-measures. He is accorded only grudging credit for his role in initiating the very reforms that have made such public criticism possible. Gorbachev's decision to remain as secretary general of the CPSU and his strategy for negotiating the union treaty—a 1922 treaty that seeks to reformulate the relationship between the Soviet central government and the 15 republics—has been challenged by many of his former supporters who have transferred their allegiance to the government and policies of Yeltsin. Soviet democrats complain that in the current, crucial period of transition, when the Soviet Union requires his leadership of the reform movement, Gorbachev acts as the leader of a center that has lost its power to control the republics and as a reluctant reformer seeking a compromise between two irreconcilable positions.

Gorbachev loyalists suggest, however, that his decision to remain at the helm of both the CPSU and the government is based on his calculation that the CPSU is still too powerful an organ to abandon to his opponents—the hard-line communists—and that it might still be reformed from within (though this is looking more difficult with each passing day). According to this view, Gorbachev is making an heroic personal and political sacrifice for the nation, restraining the communist stalwarts while the democratic reformers proceed with their work. The CPSU, this argument suggests, still commands the loyalty of a union-wide apparat, especially in the rural areas. It also controls the KGB and the military. Still, even members of the Democratic Platform who have stayed within the ranks of the CPSU, retain few illusions about the long-term prospects for the Party. As one Gorbachev reformer predicted: "there will be no Party in five years."

One of Gorbachev's key decisions during the 28th Party Congress was to reduce the formal ties between the Party and the state. Key Soviet officials relinquished their Party positions and now concentrate on their ministerial responsibilities. The Politburo has been filled with Party first secretaries from the republics, making it difficult for the group to meet quickly and curtailing its ability to make policy decisions. Gorbachev is also concentrating policy-making powers in his newly-appointed Presidential Council.

Still, the problems confronting Gorbachev's government are myriad. As economic conditions steadily worsen, the legitimacy of his governing institutions is under challenge, and his political authority is fragmenting. The two main goals of the union leadership are now the maintenance of public order and the acquisition of foreign economic aid. The centrifugal pressures emerging from the sovereign claims of various republics and the reported increase in all kinds of crime, ranging from the petty to the political, have made the union government highly sensitive to the threat of anarchy. Gorbachev's goal now is to avoid the use of force, and to engineer the transition to a pluralist policy and a freer market without dissolving the union, undermining the dominant role of the CPSU.

Both Gorbachev and Yeltsin expect that a draft of the union treaty will be ready by the end of 1990. The President's conception of the new union is that of a voluntary association in which the republics would yield certain key functions (e.g., foreign policy and defense) to the central government. The legitimacy of his union would be derived from consensus, the center's offer of a real democratic alternative, and economic self-interest. Each republic will be offered an agreement tailored to its specific needs. Even secession, if it occurs "according to law" (and the current law contains many restrictive provisions), will be considered. From the perspective of Gorbachev's reformers, the risks of failure are enormous: anarchy, a military takeover, economic collapse. They insist, too, that as part of any union treaty, compensation must be paid to those miniorities (frequently they are Russians) living in the republics whose rights may be disturbed by the new arrangements, and who themselves, in some cases, are seeking autonomy. Gorbachev's advisors see largescale foreign economic support as essential to the preservation of the union, arguing that a strong economy will provide incentives for the republics to remain.

Virtually no one outside the circle of Gorbachev's reformers believes that Gorbachev's proposal for a new union will satisfy even the minimum demands of the republics for meaningful sovereignty. Some critics went so far as to suggest that any new union treaty will emerge from agreements negotiated among independent republics, led by the Russian Republic. A loose association of republics might result. "All the republics will be closer to each other than with the center," is how one analyst described the new relationship. Since Yeltsin declared the sovereignty of the Russian Republic, talk of confederation and "commonwealth" has become popular even in Moscow. Yeltsin's government independently has negotiated relationships with other republics and intends to define this "association" in its own terms.

B. The Russian Republic (RSFSR)

According to democratic reformers, the driving force for democratization is no longer the USSR but the individual republics. Under Yeltsin, who was elected President of the Russian Republic in May 1990, the republic (which has a population of 150 million) declared its sovereignty in June 1990. Along with the city soviets (see below), the legislature of the RSFSR is at the forefront of political reform. Yeltsin's chief role, at present, seems to be to goad Gorbachev's union leadership into accepting the need for more substantial and more rapid change. His preferred strategy is described as a "democratic breakthrough," which drawns attention to a particular problem, forces the union government to act, and thereby accelerates the process of change.

Yeltsin's popularity and opposition to the central government has drawn the democratic reformers who have left the CPSU to his side. They view him as an essential, catalytic force in this historic transition from communism. While the Russian Communist Party is dominated by aging conservatives, Yeltsin is surrounded by young, highly competent economic and judicial reformers. He appears destined to remain Gorbachev's nemesis, continually straining to draw institutional powers away from the union and towards the Russian Republic, and personal political legitimacy away from Gorbachev and towards himself. In the words of one Soviet editor, "Yeltsin was like a small child, but one who grew up with great speed. He has great power as President of the Russian Republic while Gorbachev is only President of the 'so-called' Soviet Union."

The negotiations between Gorbachev and Yeltsin over Yeltsin's 500-day economic plan, based on a blueprint for economic stabilization and a transition to a free market proposed by Yeltsin's advisors, is an indication both of the growing political cooperation and the tension between the two politicians. Gorbachev's economic advisors, particularly Prime Minister Nikolai I. Ryzhkov, disagreed with Yeltsin on key questions, such as the degree to which planning should be decentralized, freeing of prices, privatization (or de-statization) of property, and the protective measures required during the period of economic transition. Now, however, Yeltsin has won Gorbachev's support for his measures, while Ryzhkov has become the odd man out. The 500-day program, which advocates radical privatization measures, has increased support for Yeltsin's group and reduced support for Gorbachev's advisors. Yeltsin also continues to quarrel with Gorbachev over the RSFSR's recent resolution claiming control over Russia's ample natural resources, including oil, gold and diamonds. After Gorbachev declared the resolution "illegal," Yeltsin warned Gorbachev "not to quarrel with Russia, where 150 million people live."

The NDI delegation was told a number of times that deputies in the city soviets and the RSFSR legislature would not wait another four years for scheduled elections. The pressing troubles of their times would not permit such a long wait. One electoral possibility that was raised centered on the initiation of a movement to engineer direct, popular presidential elections in the RSFSR. (Yeltsin's current mandate emerged from a vote of the Russian parliament.) Yeltsin's supporters argue that if he were to win a popular mandate, the election

would further & challenge the legitimacy of Gorbachev's leadership.)

Like other democratic reformers, however, Yeltsin may have only a limited period of time in which to deliver substantial economic results. The NDI team was told that he may have only a year or so in which to respond to public demands. One Soviet editor argued that if Yeltsin did not succeed in his economic reforms, he too would lose power. Thus, the success of the 500-day economic program will be critical to Yeltsin's political future. While one cannot predict the identity of Yeltsin's successors if he were to fail, the advocates of "democratura" may well be waiting in the wings, ready to initiate their authoritarian experiment.

C. The City Soviets

The decentralization of Soviet power is most evident in the actions and newly-acquired authority of local governments, or city soviets. It is here, and in some district councils, that political (and economic) reform is proceeding most rapidly. The council members (deputies) in Leningrad and Moscow are in the vanguard of this movement. Both city soviets include a large proportion of reformers, led by prominent, highly-regarded public figures such as Anatolii Sobchak and Aleksandr Shchelkanov in Leningrad, and Gavriil Popov and Sergei Stankevich in Moscow.

Deputies in the Moscow and Leningrad city soviets (commonly known as Mossoviet and Lensoviet) insist that if political reforms are to survive, the move towards the market must be made more quickly and more vigorously than is being proposed by Gorbachev. They are highly critical of Gorbachev for his failure to successfully promote perestroika. These deputies insist that there is no alternative to radical, fast-paced political and economic reforms. If the Soviet leadership continues the current slow pace of reform, the Soviet people will be awash in economic anxieties, and a new totalitarian order could emerge. The deputies, who are pessimistic about the prospects for significant reforms being initiated by the Soviet Union's leadership, assert that successful political and economic change at the local and republic level will spur more rapid reform measures at the union level.

Mossoviet deputies (whose constituents number nearly nine million) argued that Gorbachev could still lead a united front of democratic forces if he made a Churchillian declaration about the need for Soviet "sweat and blood," and took the political plunge towards a market economy. However, as one Soviet legal expert said, "Gorbachev cannot transcend Lenin. He has reached his own political limit." The deputies say that it is the republic leaders and city deputies who have made the democratic leap of faith required to achieve genuine political and economic transformation of the Soviet Union.

There appears to be judicial chaos in the Soviet Union today. As various jurisdictions attempt to assert their authority, the country is filled with multiple, often contradictory laws and declarations. While the union's Supreme Soviet has been working on drafts of a law on political parties and other organizations (initiated nearly a decade ago), the city soviets and local councils, like that of the October District in Moscow, are registering political parties under an old Stalinist law of the 1930s. Local democrats are also trying to provide rooms and offices for these new organizations. More and more, the struggle over buildings and local property rights, is becoming the arena in which old Communist stalwarts and new reformers are fighting for control.

In Leningrad, a leading deputy noted that the Lensoviet's decision to declare the city a free economic zone had not yet been approved at the republic level. The relationship between the city soviets and the republic governments consists of both cooperation and competition. There is enormous pressure on deputies to focus on local concerns. Many deputies in the Lensoviet, for example, prefer that Mayor Sobchak concentrate on local rather than republic or union affairs, while officials at the Mossoviet seemed to be concerned that Yeltsin may enhance his power at their expense. There does not appear to be a sufficient exchange of information about new political or economic initiatives between the Mossoviet and the Lensoviet. Relations between the two city soviets are also colored by political competition and the belief in Leningrad that all things Muscovite are traditionally "oppressive" and "totalitarian."

Still, in their efforts to transform the city soviets from "ritualistic" systems-where local power was vested in Communist Party boses—into effective, powerful institutions, the democratic reformers of these cities face similar challenges.

First, they need to find ways to control local funds. Initiatives are planned to levy taxes, charge rents and dispose of property. The democratic reformers in the city soviets are convinced that the development of truly autonomous self-government and the rupture of the symbiosis between governing institutions and the CPSU, hinge upon the development of an independent financial base and the redistribution of the CPSU's vast holdings. The NDI group was told that because of mounting public pressure, the Supreme Soviet would have to address the issue of redistributing CPSU property by the end of 1990.

Various strategies for privatizing property, particularly apartments, are under consideration. (The Mossoviet deputies are more optimistic about the likelihood of implementing housing reform without giving rise to financial inequalities and social dislocation than are the Lensoviet deputies.) In the view of local deputies, individual freedom, workers rights and labor mobility are restricted by the present system of state-owned factory-controlled housing.

An ironic situation prevails in Leningrad, which arguably houses the Soviet Union's most radical democratic city soviet. Early in their tenure the Lensoviet deputies asserted the right to raise taxes locally; however, 85 percent of the city's industries are defense-related and part of the military-industrial complex under the control of the union government. Leningrad's hard-currency income from tourism is also sent directly to Moscow, which then returns a specified sum to the city.

A second issue concerns the absence of information, communication and coordination among the different city soviets. Leading deputies in Moscow are seeking to establish relationship with city soviets wherever they contain democratic reform elements. (One deputy estimated that there may be as many as 50 cities in the Soviet Union which have democratic majorities.) A major impediment to this effort is the lack of information on the identity of city leaders in the vast majority of cities. Deputies also lack information on the nature of decisions undertaken in these soviets. In addition, Mossoviet and Lensoviet deputies expressed concern about the dearth of experience and organization in their local councils, welcoming the introduction of new ideas about the administration of democratic institutions.

A third issue that was raised relates to the need to learn negotiating skills. Given that city soviets increasingly include both old Communist Party representatives—who are sometimes required to adjust to the unfamiliar role of a minority in the assembly—and new democratic reformers, there is a need to develop strategies for political negotiation and compromise.

The unwieldy size of the city soviets and district councils is notable. Moscow is comprised of more than 30 districts, each of which maintains a council of 130 to 150 members. The city soviets were described to the NDI delegation by a deputy as "miniparliaments", sometimes containing more than 500 members, and making them rather ponderous policy-making bodies. Restructuring the soviets and the relationships between the deputies and their constituents are both subjects worthy of further exploration.

City soviet leaders spoke of the need to coalesce all democratic forces into a "Civil Forum" style umbrella organization. In their view, this would enable various new political groups to pool their resources and compete more effectively with established authorities. The establishment of a broad coalition is seen as especially relevant now because there are few ideological differences that separate the emerging democratic parties.

D. New Parties

Since the amendment of Article Six of the Soviet constitution, which removed the CPSU's leading role in society, informal political groups or "parties" have emerged. There is as yet no union law on political parties. Still, city soviets and district councils are "registering" parties. Members of the NDI delegation met with representatives of these groups in the RSFSR, including the Democratic Party, Constitutional Democrats, Russian Christian Democrats (there are already three Christian Democratic parties), Liberal Democrats and Social Democrats. The CPSU remains the only all-union party. All the others are organized along republic and/or ethnic lines.

At present, the fledgling political parties are playing a very limited role in the process of moving democratization forward, though individual leaders are playing key roles in other capacities. Parties that are establishing themselves on the basis of a socio-political and economic philosophy have negligible support. They are formed around personalities, have a few thousand supporters each, possess no infrastructure or equipment, and maintain no organization. One of the main obstacles they face is the prohibition on their right to organize in enterprises and factories. While some deputies in the city soviets and republic legislatures have links to the new parties, the parties themselves remain weak. Most of the RSFSR's parties united in the Democratic Russia coalition during the spring 1990 elections.

The Democratic Party in the Russian Republic has created the most well-developed organization. Its members are divided almost equally between those who formerly belonged to the CPSU and those who possess no prior party affilitation. It claims about 60,000 members, has limited sources of funding, and plans its first convention, or congress, in October.

The group of Christian Democrats with which NDI met describes itself as having

close ties with the Baltic republics. It pointed out the success of Christian Democrats in removing dictators across Latin America. The Christian Democrats believe that the Soviet "empire" should collapse, but peacefully.

The Constitutional Democrats, who call themselves "liberals," are an historical party, banned since 1918. The ideology of their party was revived through the informal group "Civil Dignity", founded in Moscow. The party supports the republics' freedom of choice in the forthcoming union negotiations as well as such other traditionally "liberal" principles as freedom for the individual and the market economy.

The Social Democrats are another one of the larger new parties. Leading members of the party are prominent in the RSFSR legislature.

E. The CPSU

The CPSU remains a formidable force in the Soviet Union, but its powers are waning. Statistics on those people who have left the CPSU range from 130,000 to 1.2 million. In Moscow alone, more than 50,000 persons have left the party. There is little apparent resentment among the reformers who have abandoned the CPSU towards those who have chosen to remain: many are sensitive to the psychological difficulties faced by men and women who are unable to devalue the "best years of their lives" which were spent as CPSU members. They also recognize that some members of the CPSU wish to remain in its ranks in order to fight from within the upcoming battles on issues such as political reform and the dispersal of CPSU property.

According to a CPSU representative, Gorbachev's effort to reduce the Party's formal links to state institutions has provided it with new flexibility and freedom. Perestroika inside the CPSU is inevitable, the delegation was told. The CPSU spokesman emphasized that the principal rift in Soviet society today exists between those who support pluralism and those who oppose it—whether or not they are in the CPSU. He claimed that the CPSU remained the chief representative of the interests of the working class and the institution most concerned with protecting workers' interests during the transition to a market economy.

The union treaty negotiations have placed the CPSU in a difficult situation. The CPSU is an all-union party whose structure, its members argue, need not parallel any of the new, looser, arrangements that might result from the union talks. Its supporters say that as a "voluntary union of people with common ideas," the CPSU can still unite the country. Like Gorbachev's aides, the CPSU representative expressed particular concern for minorities (frequently Russian) who are scattered across the Soviet Union; he advocated a democratic resolution to the union talks.

CPSU leaders worry that abandonment of the Marxist-Leninist ideology has left the nation and the Party without a cohesive unitary force. Ironically, one substitute for the loss of ideology has been a conscious effort, encouraged by the government and the Party, to rediscover religion. Cooperation with the Russian Orthodox Church, a longstanding phenomenon even during the years of state atheism, has increased, and includes religious training on national television and sympathy for the Church's desire to have an institutional role in national political structures.

If their last party congresses were any indication, the leaders of RSFSR Communist Party continue to be far more conservative than Gorbachev's reformers. CPSU representatives maintain that this situation would change dramatically in the fall of 1990 when new party conferences are to be held.

The CPSU remains an especially formidable force outside the cities and at the grassroots level. The NDI delegation was told by a number of democratic reformers that the emergence of democratic politicians in the countryside is still rare because of the leverage exercised by local communist bureaucrats.

The CPSU's long and intimate association with the policies of the Soviets state has left a deep scar: progress towards democratization may be impeded by the strong strain of "anti-partyism" that now exists among the new political elites. The most prominent democratic reformers, including Popov, the Mayor of Moscow and Sobchak, the Mayor of Leningrad, believe that high government officials should not belong to any party. Administrative efficiency at the union, republic, city and district levels is considered more relevant to the progress of democratization than party-based loyalties. Skepticism about the future of the Party is so great, one high-level Party official flatly predicted that "in five years there will be no Communist Party."

F. Cities

1. Leningard

William Miller, Robert Litwak and Mahnaz Ispahani visited Leningrad between August 1-3. The NDI group met with leading deputies of the Lensoviet as well as public opinion researchers at the Institute of Socio-Economic Research.

The Lensoviet currently comprises 380 deputies and more than 28 commissions. Twenty vacant seats are to be contested in October. Each deputy represents approximately 10,000 constituents.

The Lensoviet recently declared Leningrad a free economic zone, and it has established a commission that registers political parties. Leningrad, say its deputies, is on its way to becoming a multi-party society. The Greens are among its most active parties. The city seeks to establish direct contacts with foreigners and to establish joint ventures. It is also trying to tax local industries and issue its own credit cards. The RSFSR legislature is popular in Leningrad, say its deputies, because it is striving to meet the city's needs.

The Lensoviet leaders identified a number of governance concerns similar to those voiced in Moscow, including the need to develop negotiating skills and strategies to improve the dialogue between communists and democrats; to remedy the inexperience of the city's new managers; and to gain control over city funds (i.e., hard currency earnings from tourism and tax receipts). Their task is two-fold: to create a new policy-making role for the city soviet and to gain expertise in managing the city's affairs.

Tensions persist here between the communist old guard and the democratic deputies. Day-to-day political life is a virtual guerrilla war between the democrats in the city soviet and the Leningrad Communist Party based at the Smolny Institute. Deputies complain that government officials sometimes still provide Boris Gidaspov, the Communist Party leader in Leningrad, with information, before they report to Sobchak, leader of the city soviet. The deputies emphasized the difficulties of working in a situation in which the old system has broken down and the new one is not yet in place. Real power in Leningrad remains with the communists but, predicted one deputy, the Communist Party's days are numbered. Effective authority is slowly shifting to the soviets as the Communist Party grows increasingly absorbed with deflecting attacks against it.

In response to questions by the NDI group about the spread of anti-Semitism, several deputies pointed to the poor showing of prominent nationalists (some would say bigots) during the spring 1990 elections. The NDI group was also told that the incidence of threats against Jews had declined. (Soviet officials expressed growing concern about the scale of the migration of Soviet Jews. *Pravda* recently published an article discussing anti-Semitism in the Soviet Union, and in Moscow, members of Pamyat—a Russian nationalist movement that is openly hostile to those it terms "nonnatives, i.e., non-Russians, especially Jews—are currently facing trial.)

A prominent Lensoviet deputy voiced special concerns about the situtation of workers. Saying that they were "enslaved" in their factories, he urged that workers develop" an independent organization to defend their interests," and to challenge the monopoly of the CPSU in the factories. The deputy told the NDI group that housing is linked to tenure in the factory, and that if a worker presses an unpalatable demand upon the factory manager he risks explusion not only from his place of work, but also from his apartment, and perhaps even from the town.

Leningrad maintains close working relations with the Baltic states. A member of the Leningrad Green Party credited the environmentalists with leading the movements for democratic reform in both the Baltic republics and in Leningrad. Unlike other Russians, residents of Leningrad have been welcomed in the Baltic republics in recent years. The future geopolitical orientation of Leningrad is likely to be towards the northwest rather than towards Moscow. In fact, antipathy towards Moscow—the union government and the city soviet—was notable among the Lensoviet deputies.

Members of the Lensoviet argued that the institution needs to be extraordinarily flexible and adaptable in this time of rapid change. Like others who are in the forefront of political reform, they are acutely aware of the limited time available to the reformers to effect fundamental changes. The people, said one Lensoviet official, want their new deputies to produce "paradise" immediately, an impossible task given that the communists have "destroyed Soviet culture and the economy." Economic uncertainty is great, for example, is not being offered for more than six months—popular discontent is rising to uncontrollable levels, and political changes are occurring rapidly. As one official put it, "We are living 10 years in one month."

2. Kiev

David Aaron and Brian Atwood travelled to Kiev July 31-August 2, 1990. During their visit, the Chairman of the Foreign Affairs Committee of the Ukrainian Supreme Soviet and the Ukrainian Foreign Minister held a joint press conference presenting the outlines of an independent Ukrainian foreign policy. (Shortly after World War II, the Ukraine was granted its own ambassador to the United Nations as part of Stalin's effort to maximize Soviet representation.) The Ukraine will negotiate relationships with other republics and is particularly

intent on developing relations with neighboring Czechoslovakia, Hungary, Austria, and Germany.

In Kiev, opposition leaders from the Popular Movement of the Ukraine for Restructuring (RUKH), have joined forces with reform communists in the legislature to announce their independence from Moscow by "declaring" the Ukraine a nuclear free zone (Kiev is only 40 miles from Chernobyl) and prohibiting the construction of nuclear power plants. The RUKH is the leading force for Ukrainian national independence and for democracy. It includes the Democratic, Republican, Peasant, National and Christian Union parties.

The NDI group met with a prominent Ukranian politican who serves as a leader of the Democratic Party, a founder of RUKH, and the Chairman of the Supreme Soviet (Ukraine) Committee on Foreign Relations. According to him, the Ukrainian Democratic and Republican parties are the strongest opposition parties, distinguished from each other principally by their attitudes towards communists. The Democratic Party accepts former CPSU members readily while the Republican Party is staunchly anti-communist and applies more stringent requirements for membership. More and more members of the legislature are joining the Democratic or Republican parties. The Democratic Party plans regional organizational meetings in September and a party congress later in the fall. (NDI has been invited to send a representative to this congress.)

The Ukrainian legislators, having declared their republic sovereign, are pursuing an independent course in the union treaty negotiations. The Ukraine, says the RUKH founder, demands the fulfillment of specific requirements before it considers a union treaty with Moscow. It demands "equal power in Europe" and intends to delay treaty talks until it has strengthened its independent institutions. It will try to open direct relations with the states of Europe. The RUKH would like the CSCE nations to recognize the Ukraine as an independent nation.

The RUKH founder emphasized his movement's commitment to democratic pluralism. He said that minority groups would be given equal status in the Ukrainian Republic and that the RUKH council now includes representatives of the various minorities: Jews, Gypies, Poles and Russians. He said that stories about anti-Semitism were greatly exaggerated and that they were being circulated by the KGB to defame the RUKH movement.

The NDI group also met with a representative of the Ukrainian Communist Party who is responsible, in his words, "for contacts with new political organizations." He portrayed Gorbachev as the earliest supporter of democracy through perestroika. He pointed out that several Communist Party members are also members of RUKH and that the Ukrainian Communist Party also voted for independence for the Ukraine. In fact, he stated that the resolution could not have passed without Communist Party support. He criticized the RUKH, calling it a movement of idealists. He also accused the opposition parties of appealing to nationalism rather than to hard work in order to garner support. Responding to a query on the property owned by the Communist Party, he replied that all party property had been bought with dues and receipts from publications; it has no intention of forfeiting any funds or infrastructure.

G. Public Opinion, The Press, and Research Centers

At this stage in the evolution of *glasnost* and *Perestroika* one of the main problems in the Soviet Union is the lack of free information, expertise, and communication among various groups of reformers. These issues were raised not only by the deputies in the city soviets and in the Inter-Regional group but by public opinion researchers, journalists, and members of the new political parties.

NDI delegation members met with public opinion researchers (the first generation since the 1960s) in Moscow and Leningrad was well as with editors and journalists at *Moscow News, Argumenti i Fakti, Ogonyok,* and other leading publications that have begun to commission and publish polls. Thus far, surveys have been taken on topics ranging from public attitudes towards deputies, to free economic zones, to relations with the Baltic republics. Certain polls conclude that the Soviet population would rather be poor and stable than face the uncertainties of change and the danger of stimulating inequalities.

Soviet public opinion researchers want to improve their methodology and strategies for analysis. Attitudes towards the publication of poll results also require modification. For example, one paper commissioned a poll, disliked its conclusions, and refused to print the results.

Researchers in Leningrad expressed methodological concerns similar to those voiced in Moscow. A poll on the public attitudes of Leningraders towards the Lithuanian crisis yielded some provocative results. At a time when Gorbachev was trying to rally public support for his policies, the following question was posed: should measures be taken to keep the Baltic republics in the union? In 1989 and 1990 nearly two-thirds of the population said "No."

Many independent, democratic research initiatives are under consideration. USSR Supreme Soviet People's Deputy and RSFSR Democratic Party leader Nicolai Travkin is in the process of developing a new faculty at Moscow State University designed to train political activists. (He has requested both a printing press and the assistance of Western political experts.) Members of the Democratic Platform who have left the CPSU mentioned the likely creation of a foundation to support democratization of the city soviets. About a year ago, Yuri Afanasyev, Rector of the Moscow Historical Archives, began a "Peoples Archives," which has become a clearing house for all documents relating to the activities of informal groups and parties. In the October District, Ilya Zaslavsky is establishing a group called "Foundation Future." At the Institute of State and Law, too, researchers are examining the data from polls, analyzing the 1990 electoral campaigns, and studying the electoral code.

The newly-formed INDEM group, which acted as the NDI delegation's host during the visit, has already gathered materials on the voting patterns of members of the Supreme Soviet. During NDI's visit, *Moscow News* printed an article by INDEM director Yuri Satarov, classifying the voting behavior of deputies in ideological terms, complete with a chart reflecting the left-right spectrum on issues ranging from economic reform and decentralization to democratization. INDEM intends to collect information on democratic politicians from all sections of the country at the city and republic levels.

CHAPTER 3

NDI assessment

A. Obstacles to Democratization

A Soviet editor echoed a common theme when he told the NDI delegation that "a country with rockets but without bread and freedom is a very dangerous country." As the union begins to fragment, this danger increases. The central political issue in the Soviet Union today is whether the union will cohere or collapse, and if it collapses, what the resulting political union will be. Centralized control is under challenge in every sphere, including the military: the Ukraine, as noted earlier, has declared its intention to become a nuclear free zone and Armenia wants to raise its own armed forces. Still, the territories of the Soviet Union are highly integrated, economically and militarily. These threads could ultimately provide the basis for an interwoven coexistence among the republics, but only if far-reaching political reforms are carried out.

Because of the significance of the union treaty negotiations, and the search underway for independence, freedom and some form of practical integration, NDI plans to invite Soviet observers to attend its conference on "Democratic Governance in Mulit-Ethnic States," to be held in Dubrovnic, Yugoslavia in October 1990. This conference takes no position on the question of the breakdown of either the Soviet or the Yugoslav "union". Instead, it is intended to serve as a forum which encourages methods of governing that are democratically efficient and respect the rights of minorities.

Political as well as economic factors will determine the Soviet Union's future configuration; political changes have already created the necessity for a new framework of economic reform. Continued political uncertainty or precipitate actions equally could plunge the Soviet Union into economic chaos. Democracy is by no means assured in the Soviet Union or in its republics. Many strong forces are arrayed against the democratic reformers; importantly, peasants and workers are suspicious of them. Concerted industrial action by miners or railroad workers could threaten both perestroika and democratization; conversely, they are necessary for the success of reform. There are also Communist Party stalwarts, military men, and an assortment of religious nationalists who view democracy as alien to the Russian "soul."

Among the democratic reformers themselves there are those who support democracy for purely utilitarian reasons: either they believe that it can contribute to economic growth, or merely that it is fashionable. Still others view democracy as the vehicle of change but do not appreciate the need to institutionalize it with strong procedures, a rule of law or political parties.

A more insidious argument against democracy, which finds expression in the Soviet Union, links political authoritarianism to successful economic reform. Advocates of this view speak enthusiastically about "democratura," a vaguely defined authoritarian approach that suggests that growth cannot occur without the centralization of political power whether at the union or republic level. The East Asian model is cited and applauded.

There is a real danger here that the telling lessons of Soviet history are going to be ignored. First, a principal cause of the Soviet Union's catastrophic decline has been the centralization of power, political and

economic. Second, absent genuine political reform—without accountability, responsive administration and most importantly, the legitimacy of governing institutions—it is uncertain whether any genuine economic transformation can occur. The communist ideology that resulted in a system described by one democratic reformer as "they pretend to pay us and we pretend to work," is dead. An ideology based on efficiency alone will not likely restore the will to work.

The dangerous rift between the armed forces and civilian society also appears to be widening. Generals are voicing their dismay at the hostile public attitude towards them. Soviet forces are especially distressed by civilian attacks upon them in the aftermath of the war in Afghanistan. Recent indicators of this hostility include the criticism levelled against their actions in Tblisi by a civilian investigating commission. (One of the commission's prominent members was Anatolii Sobchak.) In addition, the press has spawned numerous negative articles about the army. (The horrors of serving in the Soviet Army are becoming better known: recently it was made public that 14,000 Soviet soldiers are maimed or killed each year as noncombatants, through lack of discipline, brutality, and suicides.) As domestic threats to the union arise, either from economic or political chaos, or from the nationalist movements in various republics, the potential for a military intervention in politics increases. NDI plans, therefore, to raise the issue of civil-military relations in its future program work in the Soviet Union.

A resolution of the political struggles in the Soviet Union is essential, since the deteriorating economic situation threatens both democratization and public order and promotes extremism. Public confidence in the ruble has collapsed; a surplus of rubles is chasing a scarcity of goods. Inflationary pressures are high. Despite a bountiful harvest, the agricultural system is incapable of guaranteeing supplies of food. Concern is widespread that shortages in gas and equipment, combined with an inefficient distribution system will lead to major losses from the harvest. Activists have also begun to disrupt the economy in order to force political change. Recently, Georgian nationalists seized a rail juncture and disrupted transport throughout the Caucasus.

B. Possible NDI Programs

While Gorbachev continues to hold the communist right at bay and to permit the political and economic policy-making of the democratic reformers, democratization is occurring most rapidly and with the greatest commitment in some of the republics (especially the RSFSR) and the city soviets. The delegation believes, therefore, that NDI's programs should address the broad concerns of democrats at every level of Soviet politics while focusing these concerns in the context of concrete, local and republic-level issues.

At present, the predominance of the CPSU, the plethora of tiny, personality-based parties (which have not yet been registered legally by the union government), and the strong strain of anti-partyism that exists, suggests, too, that, initially, NDI should direct its efforts towards the institutions which are spearheading democratic reform—the city soviets and the republics of Russia and the Ukraine. The current political situation is one in which the CPSU is losing popularity and new parties have not yet acquired influence.

There may be an NDI role in party development at a later date. In the long run, the antipathy towards parties is not healthy. Neither is the frequent use of plebiscites, referendums, presidential decrees and the like; they undermine the institutionalization of democracy at all levels. Major electoral campaigns, which serve to mobilize parties and coalitions, and reduce the number of small parties, are not planned for four years, though reformers continue to pressure for earlier elections at the republic level.

NDI's initial focus on city government appears especially appropriate since democratic reformers are having greater difficulty in establishing a base in the countryside. Rural areas trail cities in their receptivity to democratic practices. Moreover, the city soviets house deputies with close links to the new political parties and in many cases also serve as deputies at the republic or Supreme Soviet level.

The city deputies requested assistance from NDI in developing centers with modern technical equipment and communication technologies, providing professional training on laws and adminstratiton, holding seminars on city government, improving the quality of polls, and coordinating the meeting of young political leaders within the Soviet Union and abroad. They sought the redress of a specific deficiency: the lack of information about the identity and policies of democrats in city soviets across country. NDI has the expertise and experience to make a positive contribution in a number of these areas.

The delegation is also concerned about the limited time that might be available to the democratic reformers in the city soviets and the republics to deliver concrete results. Since their windows of opportunity may be narrower than many Westerners now believe, the need for urgent assistance in the techniques of democratic management at all jurisdictional levels in the Soviet Union is urgent.

In conclusion, while the process of democratization is proceeding apace in the Soviet Union, the democratic reformers continue to work in isolated jurisdictional "islands." There exists a vital need to share democratic experiences. It is the delegation's view that NDI and similar Western organizations should offer immediate, practical advice to aid the political reformers. The military and authoritarian alternatives to these new leaders are real and frightening.

WORLD MARITIME DAY 1990

Mr. HOLLINGS. Mr. President, I rise to inform my colleagues that today, September 27, is designated World Maritime Day 1990 by the International Maritime Organization. The theme for this year's observance is "Cleaner Oceans: The Role of IMO in the 1990's." From its very beginning in 1958, as the first international body devoted exclusively to maritime matters, the improvement of maritime safety, and the prevention of marine pollution have been IMO's most important objectives. The organization has 134 member states and two associate members.

In order to achieve its objectives, in the last 30 years IMO has promoted the adoption of some 30 conventions and protocols, and adopted well over 500 codes and recommendations concerning maritime safety, the prevention of pollution, and related matters. IMO is a technical organization, and most of its work is carried out in a number of committees and subcommittees. The U.S. Coast Guard is the primary representative of the United States at these meeting.

As we all know, Mr. President, the U.S. Coast Guard is vitally interested in our Nation's continuing efforts to be a global leader in maritime safety and marine environmental protection, and stands as a partner of the IMO in fostering these initiatives worldwide. I ask unanimous consent that the message from the Secretary General of IMO, Mr. W.A. O'Neil, marking the observance of World Maritime Day 1990 be printed in the RECORD.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

WORLD MARITIME DAY 1990: CLEANER OCEANS: THE ROLE OF IMO IN THE 1990'S

(Mr. W.A. O'Neil)

It is indeed a pleasure, in my first year of office as Secretary-General of the International Maritime Organization, to extend my greetings to all members of the world maritime community on the occasion of World Maritime Day 1990, which is dedicated to the theme of "Cleaner Oceans: the Role of IMO in the 1990s."

During the first thirty years of its existence, IMO had two major objectives: the promotion of the safety of international shipping and the prevention of pollution from ships. Maritime safety, and especially the safety of life at sea, has rightly been regarded as the more important of the two. Appropriately enough, the title of the most important treaty adopted under the auspices of IMO is the International Convention for the Safety of Life at Sea, commonly referred to as SOLAS.

But although maritime safety remains the principal objective of IMO, the Organization has from its very inception placed increasing emphasis on the prevention of environmental pollution. Even before concern with the conditon of the global environment became widespread, IMO had undertaken modest but practical steps to eliminate or at least reduce pollution of the seas by substances carried in ships.

Along with other agencies and bodies of the United Nations system, IMO is now fully involved in the international campaign to halt, and, if possible, reverse the degradation of the environment and the global ecology. The Organization and its Member States recognize the extreme seriousness of the problem and the urgency of radical remedial action.

Every week it seems that new evidence emerges about acid rain, the diminishing of the ozone layer, the greenhouse effect and other threats. They are now very real and not simply the over-dramatic forecasts of the professional prophets of doom.

The evidence also indicates that so much damage has already been done that sustained recovery can only be made through international action on a virtually unprecedented scale. Much of this effort will be coordinated through the United Nations—the United Nations Conference on Environment and Development in 1992 will be a major event—but specialized agencies such as IMO also have a very important part to play.

Figures issued earlier this year in a United Nations report on the state of the marine environment indicate that about 12% of marine pollution results from maritime transportation and a further 10% from the dumping by ships of land-generated wastes. These are the two areas in which IMO has responsibility, and in which it has achieved a measure of success. The two main treaties dealing with marine pollution—MARPOL 73/78, which controls pollution from ships, and the London Dumping Convention, which regulates dumping into the sea of material derived from land-based operations—have both had a significant impact.

Studies carried out in the United States indicate that some 1.5 million tonnes of oil gets into the sea each year as a result of shipping operations. But without IMO that figure would have been a great deal worse. The United Nations report to which I referred earlier estimates that the measures taken in IMO have prevented as much as 10 million tonnes of oil being disposed of into the sea each year from tank-cleaning and ballasting operations.

The London Dumping Convention has also been very effective. The United Nations report states that the dumping into the sea of various wastes such as sewage sludge has decreased since the convention entered into force and the dumping of other substances is being subjected to increasingly rigorous controls. It is perhaps worth mentioning that MARPOL and the London Dumping Convention are the only conventions now in force which deal with environmental protection on a global scale.

These successes are encouraging, because they show that, if the incentives are there and a spirit of goodwill and compromise prevails, a great deal can be achieved. It is true that much more still needs to be done to restore the oceans to health but, despite the difficulties involved, I believe that the omens for success are good.

In the first place, the world political climate is more relaxed than it has been for many years. Many of the old political groupings have disappeared and with them the suspicions that had hindered progress in the past. Instead of division and discord the trend is towards unity and co-operation.

In the second place, nobody now is in any doubt that the environmental threat is a real one. There is also general acceptance that the likely consequences of inaction would be catastrophic and this must provide a powerful incentive for really serious action by Governments and individuals alike.

IMO is already playing a significant part in this world-wide effort. The use on ships of certain gases that damage the ozone layer has been banned, and the Organization is looking at ways of reducing still further the pollution of the atmosphere from shipping operations. Incineration at sea—a controversial way of disposing of particularly harmful substances—could be ended within a few years. Further improvements have been made to the MARPOL Convention. In November, IMO will convene a diplomatic conference to adopt a new convention on oil pollution preparedness and response. The purpose of this new treaty will be to increase the ability of the countries of the world to deal with major pollution incidents through the sharing of information, expertise and equipment.

To ensure that these and other measures developed over the years are implemented as widely as possible, IMO has this year initiated a global programme for the protection of the marine environment. Its primary purpose is to enhance the capacity of developing countries to fight marine pollution from ships and control the disposal at sea of wastes. The programme will initially run for three years and will make a major contribution to international efforts to protect the oceans.

These and other measures will enhance the ability of IMO and its Member States in all regions of the world to prevent marine pollution. But nobody is under any illusion that the future will be easy. The shipping industry is undergoing great changes now and change always creates uncertainty. IMO and the world maritime community must be ready and willing to adopt new measures which may be necessary to cope with the changes which may occur. Furthermore the measures already adopted need to be enforced rigorously if they are to be effective. More effort needs to be devoted to this aspect. For example, there is still concern about the lack of reception facilities for wastes in many ports. If this is not remedied, it will be difficult to implement MARPOL effectively. Finally, the world tanker fleet is ageing, and older ships are more liable to accidents and breakdowns than new ones. It is important that the retention in service of older ships does not lead to an increase of pollution incidents in the future.

These concerns should be borne in mind—but the lesson of recent years remains one of optimism. Through genuine international co-operation and partnership much has been achieved so far in the fight for the health of the oceans. I am convinced that even more can be accomplished in the future, and I am determined that IMO shall play its full role in promoting co-operation in the areas of its competence and interest.

THE GREATER LEHIGH VALLEY AIDS AWARENESS MONTH

Mr. SPECTER. Mr. President, I am pleased to support the citizens of Pennsylvania's Greater Lehigh Valley in their designation of September 1990 as the "Greater Lehigh Valley AIDS Awareness Month." This effort by citizens living in the Lehigh Valley has brought together government, industry, schools, hospitals, the religious community, service agencies, and the media in a meaningful partnership whose goal is to educate the community on AIDS related issues and contribute to improving care while reducing the spread of this disease in the Greater Lehigh Valley.

According to Philip L. Deitch of Easton, PA, chairman of "AIDS Awareness Month," the type of effort that the Greater Lehigh Valley has initiated is unique; not just in Pennsylvania but in the United States. During the month of September, the Lehigh Valley will host a number of events to be held in schools, at work, at churches and temples, through door-to-door campaigns, at special conferences, seminars and buddy training sessions, through speakers at service clubs, and at special events. The campaign will culminate on Thursday, September 27, by asking area churches and temples to ring their bells at noon and for individuals to drive that day with their headlights on. The campaign will be followed by a long-range planning study on regional AIDS services which is being sponsored by the United Way.

As sponsor of S. 896, the Pediatric AIDS Resource Centers Act and as an original cosponsor of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, I am very pleased that this issue is receiving the attention it warrants.

Reports from the Centers for Disease Control at the Department of Health and Human Services indicate that the number of AIDS cases reported from September 1988 through August 1990 total 142,426, 2,379 of which are children under the age 13 years old. Reports further state that by 1991, AIDS will far exceed all other causes of death for people ages 25 to 44. Health experts project that another 50,000 individuals are expected to be diagnosed in 1990 alone and that 1 of every 10 pediatric hospital beds will be occupied by a child stricken with AIDS. My own State, Pennsylvania, currently ranks seventh in the number of persons with AIDS.

Mr. President, these staggering statistics reflect the immediacy with which we must confront this national health crisis. Education is an essential component in the effort to reduce the spread of AIDS. The heightened awareness that an event such as the "Greater Lehigh Valley AIDS Awareness Month" brings to local communities is crucial if we are to ensure successful prevention of the spread of this deadly disease. I commend the Greater Lehigh Valley for generously giving their time, support, and attention to create such a communitywide event which can serve as an example of what one community is capable of accomplishing in expanding and deepening public awareness of AIDS.

FAMILY PLANNING AMENDMENTS

Mr. CHAFEE. Mr. President, I want to address an issue which arose yesterday with respect to the cloture vote on S. 110, the family planning amendments. I support S. 110. I am an original cosponsor of the bill because I believe that federally funded family planning is critical for the millions of poor women in this country who would otherwise not be able to afford such services. My amendment to reverse 1988 HHS regulations prohibiting title X clinics from counseling pregnant women on all their options including abortion was adopted by the Senate 62 to 36. So, Mr. President, I support this bill and I want it to pass.

Nonetheless, yesterday, I joined 38 Republicans and 8 Democrats in voting against a motion to invoke cloture on the bill. After cloture failed,

the bill was pulled from the floor, which means for the sixth year in a row, the Title X Program may not be formally reauthorized. This is unfortunate and I am distressed that this was the result. There have been all sorts of charges that the Republicans were responsible for killing this important legislation. But, Mr. President, why did the majority pull the bill? Some of us who voted against cloture were very willing to continue debate. If the majority Members were as committed to title X as they say, they could have continued. There is plenty of time. We haven't done a thing in the Senate today. Failure to invoke cloture does not mean the bill cannot continue to be debated, nor does it mean that cloture could not be invoked after further debate. It simply means that the bill remains open for amendment. There have been other times when the Senate has been unable to invoke cloture on a bill and has continued to debate the bill. Let me cite a few recent examples:

In May of this year, when we were debating the omnibus crime bill, two motions to invoke cloture failed. This forced both sides to sit down and negotiate. A basic agreement was reached, which served as a vehicle for further amendment and debate, and eventual passage of the bill.

In October 1989, the Senate failed to invoke cloture on a bill to provide assistance for elections in Nicaragua. Several days later, however, cloture was invoked, and the bill was passed by the Senate that same day.

In 1987, during debate on campaign finance reform, there were eight cloture votes. Even though cloture was never invoked, the Senate continued to debate the bill.

So, Mr. President, as you can see, we could have continued to debate this bill today. It is possible, that if Republicans were given a fair chance to offer their amendments to S. 110, we may have been able to invoke cloture at a later time, and eventually to pass the bill. The idea that 15 hours of debate on a controversial piece of legislation is all that can be allowed, seems rather strange to me. And, while I realize that we are nearing the end of the session, and thus are short on time, this bill was introduced on January 25, 1989, and was reported from the Senate Labor and Human Resources Committee and came to the full Senate on June 14, 1989. There has been ample time, indeed more than a year, for the majority to bring this matter before the Senate. Knowing how controversial this bill is, the Democratic leadership should not have waited until the Senate is nearing adjournment.

It is my belief that the purpose of cloture has been completely distorted. Cloture should be invoked only as a last resort, to put some reasonable parameters on the scope of the debate. Cloture should not be used to shut out minority views, and that is exactly what was attempted with S. 110. I do not agree with the minority views on this bill, but I am not afraid to let those views be heard. This Nation, and this body, stand for the principle of free and full debate.

Certainly, debate can and should be brought to a close when it is no longer productive. We did not reach that point on this bill.

RESEARCH ON ALZHEIMER'S DISEASE AND INDEPENDENCE FOR OLDER AMERICANS ACT

Mr. PRESSLER. Mr. President, I commend the Senate Labor Committee for its favorable action yesterday on the Research on Alzheimer's Disease and Independence for Older Americans Act. Many provisions similar to those included in the bill sponsored and introduced on July 14, 1990, have been included in the substitute version of the Comprehensive Alzheimer's Assistance, Research and Education Act.

The revised legislation would expand the existing Alzheimer's disease research centers by creating grants to university medical centers for Alzheimer's research. It would also reauthorize the State Alzheimer's disease programs that provide services to families and caregivers of Alzheimer's victims.

I urge the Senate to pass this legislation as quickly as possible. It is essential that we address the growing needs of those who are victimized by Alzheimer's disease. An estimated 4 million Americans currently are affected by Alzheimer's disease, and it is the fourth leading cause of death for adults.

It is our duty to provide financial assistance to the victims of Alzheimer's disease and their caregivers, as well as to find a cure for this terrible disease before we are faced with a national epidemic.

TRIBUTE TO COL. EDWARD W. SHAW, CHIEF, ARMY SENATE LIAISON, UPON HIS RETIREMENT FROM ACTIVE SERVICE

Mr. THURMOND. Mr. President, I rise today to recognize Col. Edward "Win" Shaw for 29 years of distinguished service to our Nation. During the past 4 years, Colonel Shaw, who is retiring from active service this month, served as Chief of the Army Senate Liaison Office, where he provided exemplary support to both the Army and the Senate.

Colonel Shaw was commissioned through the Army Reserve Officer Training Program from Norwich University in 1961. He entered active duty as an armor officer the same year and has served in armored units at all levels, both in peace and war.

He served as the executive officer and operations officer of the 3d Squadron, 11th Armored Cavalry Regiment in Vietnam, and as the commander of the 1st Battalion, 72d Armor in Korea. During his two tours of Vietnam, Colonel Shaw's bravery and leadership earned him both the Silver Star and the Bronze Star for valor.

Although Colonel Shaw's first love was serving with soldiers, he also distinguished himself in the halls of the Pentagon. He served as chief of the congressional activity team, Office of the Army Chief of Staff, and later as chief of the Plans and Operations Division in the Office of the Chief of Legislative Liaison.

In the former position, he was responsible for the Chief of Staff's appearances before the Congress. In the latter, he coordinated and planned the Army's liaison with the congressional oversight committees. Colonel Shaw's extensive knowledge of both the Army and the Congress, plus his personal diplomacy, earned him the respect of the Army leadership and the members and staffs of the committees. In recognition of his serivces, he has twice been award the Legion of Merit.

We all know Colonel Shaw for his leadership of the Army's Senate Liaison Office. He has provided valuable service to our constituents and made the arrangements for countless trips over the past 4 years. Colonel Shaw was always ready to assist regardless of the request, and I know all the Members of the Senate agree that he will be missed.

Colonel Shaw is married to the former Sally Matthews Sawyer, and they have two daughters, Wendy Mitchell Havens and Elizabeth Winslow Shaw. I wish him and his family all the best in his retirement.

Mr. President, I am pleased to salute Col. Edward Shaw for his many years of outstanding service to the U.S. Army and our Nation.

Thank you, Mr. President.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,021st day that Terry Anderson has been held captive in Beirut.

In 1957 when John F. Kennedy was a Member of this body, he declared:

> The most powerful single force in the world today is neither communism nor capitalism, neither the H-bomb nor the guided missile—It is man's eternal desire to be free and independent.

Since 1957, our containment policy has waxed and waned and weapons have become far more sophisticated, but the essence of his message re-

mains. "The most powerful force in the world * * * is man's eternal desire to be free and independent." For 2,021 days Terry Anderson has struggled with this desire. I rise today on his behalf and on the behalf of all those held hostage, that they know they do not struggle alone.

STATE OF SOUTH DAKOTA VIEWS ON S. 874

Mr. PRESSLER. Mr. President, I received an informative letter from the South Dakota Secretary of State outlining several concerns the State of South Dakota has expressed concerning S. 874, the National Voter Registration Act of 1990. I would like to share with my colleagues the views of South Dakota's chief election officer. Therefore I ask unanimous consent that this letter be printed in full immediately following my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF STATE,
South Dakota, July 13, 1989.

Senator LARRY PRESSLER,
Hart Senate Office Bldg.,
Washington, DC.

DEAR SENATOR PRESSLER: There are currently two bills being proposed in Congress which would require South Dakota to drastically change its voter registration laws and would move control of voter registration from the states to the federal government. H.R. 2190 and S. 874 contain a number of provisions which concern me as the state's designated election official and which will greatly increase the workload and expense for each county auditor's office.

In South Dakota 86.5 percent of the voting age population is registered to vote compared to 70.5 nationally giving us the fifth best registration in the country. The mandates of the two mentioned bills will involve expenses and duplication of efforts which, because of our already high registration, will not prove beneficial.

Currently registration takes place in the county auditor's office, city finance office, and by notaries public trained by an auditor. The federal bills would require that voter registration take place on drivers license applications and that registration cards be available in many public offices including the register of deeds and county treasurer's offices (note duplication with auditor's office in the courthouse). Registration cards must also be widely distributed for mail-in registration.

The bill requires a biennial mailing to every registered voter to verify their address and their existence at that address. This mailing will be costly and the thought of updating these addresses violates the intent of the South Dakota Constitution which in Article 7 Section 3 allows a voter to maintain a voting residence even though he physically moves his residence.

In addition to mandating these additional means of registration, the bills also contain language requiring states to develop a state statute which would allow voting even if someone were not on the registration list.

While I do see some merit in the notary-free registration application proposed by the bill, I am opposed to both of these bills because of unworkable procedures, expense/labor required, and the loss of state control in the election area.

Any assistance you can give to contribute to the defeat of these bills would be appreciated. Please let me know your position on these bills. if you have any questions about the bills, please call me at 773-3537.

Thank you for your help.

Sincerely,

JOYCE HAZELTINE,
Secretary of State.

DEJA VU ALL OVER AGAIN

Mr. KERRY. Mr. President, I rise today to express my grave concerns with the failure of the budget summit to produce a discernible product after months of negotiations.

I know that reaching an agreement is difficult. I understand that some parties, for some mysterious political reasons, are not anxious to bring it to a conclusion. But speaking as one Senator, let me make it very clear: I am.

Let us immediately conclude this summit.

Let us bring to the floor what can be agreed on and vote immediately on it. Then let us agree to vote up or down—no filibustering, no shenanigans—on the items that are in disagreement. And then let us go home and face the voters and answer for exactly what we have done or failed to do.

That is the way the Founding Fathers intended we do our work. That is what our citizens have a right to expect. That is exactly what we should do.

The big stall has gone on long enough. It is about to become a big chill—with a sequester cutting critical services and sending Federal workers home—and continued paralysis from a Government that is supposed to provide leadership.

Sequestration was created to force us to take action, not to be a substitute for our failure to act. Sequestration is a political sin of omission that is every bit as damning as any sin of budgetary commission that this body could commit. And, it is an act of political cowardice that defames this institution. We must face up to our responsibilities and act. Now.

Sequestration will not only wreak havoc on the normal functioning of government: It will damage our faltering economy; it will prevent an urgently needed reduction in interest rates; it will mindlessly slash activities that are critical to millions of our people—critical programs such as the Low Income Home Energy Program, the Toxic Waste Superfund, crime prevention programs, education assistance to our schools and much, much more—and undermine our national security; and it will send a terrible message to Wall Street, to Main Street, and to the international financial markets. We must not let this occur.

I ask the President and I ask the budget negotiators to go to the leadership and say we are ready to go to the Senate floor, to do what we were sent here to do—propose, consider, and vote our conscience on matters of great importance to our people. When we have acted, when we see what we have produced, we can then decide where we go from there, by vote as a body of equals under the Constitution. But let us not delay or postpone, or hope for a breakthrough that may not be possible.

No one knows what the product of such action will be. We will look at each item, and vote our region, our priorities, our notion of equity, our values—what we consider to be the national interest. And, we will all be held to account by our constituents for each decision that we make. That is how the Congress was designed to work; it has done so for over 200 years, and the Nation has benefited from it.

Mr. President, the current budget stalemate is beginning to remind me of the recent budgetary fiasco that has plagued the State house in my own State of Massachusetts. Our State legislature and Governor endlessly debated and delayed at great cost to my State. As Yogi Berra might have said, "It is deja vu all over again." Budgetary stalemate in Massachusetts has exacted a terrible price—to public confidence in government, to essential services to the citizens of the Commonwealth, to the pocketbooks of every man, woman, and child—and listen well—to every elected official on Beacon Hill who was a participant in this sad chapter in the proud history of the Commonwealth. We dare not let this happen here, and I will do everything one Senator can do to prevent it.

Cutting capital gains taxes, even to Republican congressional leaders who favor it, is not the kind of goal that is important enough to justify shutting down the entire Government—the Justice Department's war on drugs; the Social Security Administration's processing of Social Security checks; the Defense Department's preparations to defend us against Iraq; and to stop student loans and child nutrition and throw tens of thousands of Federal employees out on the street.

Let me be clear: I am ready to cut the budget deficit. We can save billions we are now throwing away on star wars and the B-2 bomber. We can save billions we are now throwing away on the MX-missile rail garrison. We can save billions we are now throwing away on agriculture subsidies to farmers earning more than $500,000 a year. We can save billions we are now throwing away on S&L profiteers by going back after the 1988 deals the Reagan administration cut in its final days, and by going after the money that has been stolen.

If the President wants to move his lips and raise revenues, we can do that.

But not by raising taxes on the middle class, Mr. President. Their burden is already big enough. If we need to raise taxes, why not restore the windfall profits tax on big oil companies that some in this body voted to eliminate a few years back. I opposed eliminating the windfall profits tax. And what do we see now? Right now, as we speak, U.S. oil companies are again going to reap obscene profits out of the sudden increase in the value of their oil caused by Saddam Hussein. We should be taxing those profits, Mr. President, if we need taxes to reduce the deficit—not taxing people who work for a living.

So let us get about the business we were sent here to conduct. Let us cast our yeas and nays as we see fit, and let us move on to confront the many challenges this Nation faces at home and in the deserts of the Middle East. Let us not argue to delay the process of deciding for one more day, or week, or month or year. The decisions will not go away. They will only get more difficult as we have so plainly and painfully seen with the passage of time. And let us not point fingers or try to take partisan advantage from delay. Let us give each other the benefit of the doubt. Let us assume that we have given negotiations our all but came up short. And let us vote now.

The people know it is time for us to act. As so often is the case, they are way ahead of us and the pundits and the pollsters. They know that as a nation we have lived beyond our means. They know we have spent too much on things we do not need and too little on things we must have. They know that the debt we have piled up is a house of cards, unstable and dangerous. And they know that election year promises regarding taxes are just that. The people recognize that it is time to get our house in order. It may not be the best time to do so but tomorrow and next week will be worse times. All they ask is that the burden and the pain be wisely and fairly apportioned. Our job is to exercise that judgment, as best we can, and in the interest of the people of our States and of the Nation. Some of our constituents will agree with our judgments and some will not. But they will know the judgments that we made, and they will be able to hold us accountable for them.

Mr. President, I want a chance to vote on a budget. I want the budget brought up, and I want the ability to make choices on behalf of the people I represent. The stalemate has gone on for too long. It is time to let the Senate decide.

Let me just say—I am not going to belabor this particular point at this moment—but I want to say a word about the budget. It seems to me that same anxiety, that same sense of failure, that same unwillingness of this institution to respond to people's needs is gripping this country right now at a time when more than ever before we ought to be responding. We have kids on the ground, in the desert in Saudi Arabia. We have the world watching this Nation to see how we are going to pull our own act together. We have countries all over the world struggling to be like us who are trying to model their governments after us, and here we are in the greatest gridlock in the history of this Nation at the moment when this country most needs leadership and most needs to be addressing these needs. And it is a disgrace.

We have been going along in this process for recent months now waiting for the so-called budget summit. I think we ought to bring it to the floor of the Senate. We ought to stay every night, vote up or down; we ought to have an agreement that we have no shenanigans, have no filibuster, and let the will of the Senate work its will, let the will of the Congress work its will, let people go back to their homes and States and explain why they voted for something or why they did not vote for something. But I think we have to make the decisions that we were sent here to make.

But I certainly speak of a strong sense of impatience and frustration that I know is shared by many of our colleagues. I voted for Gramm-Rudman, and I think I was the third Democrat behind FRITZ HOLLINGS and Ed Zorinski to sign up for Gramm-Rudman-Hollings. I did it because I sensed the urgency of this place coming to cloture in these choices.

For 2 years, we actually had decent budgets; we actually reduced the deficit until games started to be played with the snapshots, the trust funds, everything else. We have an obligation, and it is a fundamental obligation, and we better start to fulfill it. I hope in the next couple of days we are going to do just that.

EXTENSION OF CERTAIN HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

Mr. CRANSTON. Mr. President, on behalf of the majority leader, pursuant to a previous order entered, I ask that the Senate now proceed to the consideration of H.R. 5558.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5558) to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

The Senate proceeded to consider the bill.

Mr. CRANSTON. Mr. President, the bill that is now before the Senate may seem like a small measure. It will simply give Congress the 30 additional days that will be necessary to achieve conference agreement and final enactment on the National Affordable Housing Act, which passed the Senate with an overwhelming bipartisan vote of 96 to 1.

This legislation is of intense importance—intense importance—to local communities across the country and to countless families. This coming Sunday, September 30, an important provision in law is set to expire and many owners of federally assisted housing would suddenly be free to prepay their federally insured mortgages and evict their low-income tenants. Many owners will move to end the affordability restrictions on over 20,000 apartments where more than 60,000 people are now living in those apartments. They will face substantial increases in rents on these apartments, and within a short time, a great many of them will face the alternative, if they cannot meet that rent, of eviction.

If the Senate stands by and allows the law to expire, we will inflict needless suffering on low-income and moderate-income families all across the country. Many of them are elderly people who are least able to withstand that kind of a blow. These families will be thrown into a nightmare that has gripped all too many Americans in recent years: the hopeless search for affordable housing that simply is not available.

Affordable housing in the communities that will be affected has become an "endangered species," in the words of one recent report. If we do not act, many families will be forced to double up with relatives; others will be forced to pay huge proportions of their income for rent, leaving them not enough for food, health care, and other necessities. Still others will be forced to join the growing ranks of the homeless. We have enough homeless now. Why create a situation where we will have still more?

The displacement of those low-income tenants from federally assisted housing is not something the Congress can easily fix next week or next month. Tenants would be affected before any protections could be put in place. Housing itself, a precious resource in so many communities, might well be lost forever. Any congressional act to right the wrong by retroactive legislation would lead to endless and costly litigation.

The measure now before us, H.R. 5558, would do nothing more than extend the 1987 emergency law until October 30, just another 30 days. That extension will give House and Senate conferees an opportunity to reconcile differences and to agree on major housing legislation. Most important, it will give the conferees an opportunity to devise a permanent solution to the prepayment issue; that is, a solution

that will be fair to tenants and fair to owners. We cannot ignore the just concerns of either tenants or owners.

Failure to pass the extender would give the owners everything they want but would be a disaster for the tenants, giving them nothing that they want. Both bills contain preservation provisions, both of the housing bills that have passed, one in the Senate, one the House, that have been developed over the course of the past 3 years through an open and enormously extensive legislative process. Independent task forces, numerous studies, extensive hearings have been part of that process. To allow owners a window to prepay at this late date in this process would serve no discernible purpose, at least no discernible public purpose. It would send a surge of rancor throughout the Nation that would undermine the conferees' ability to adopt a prudent approach in the days immediately before us when it is their intention to do exactly that.

The House bill was received on September 2, more than 2 weeks ago. Since that time, the subcommittee has spent each day consulting and working with others to get this measure enacted and to send to the President a measure for his immediate signature. Yet, day after day, that was not to be. What should have been a routine measure has been delayed by the Senator from Colorado, for reasons which have only become apparent in the past few days. I refer to Senator ARMSTRONG of Colorado.

The time for delay is over, Mr. President. The Sunday deadline is right upon us, like the even more significant budget deadline. I urge my colleagues to vote for the House extender. That will protect the thousands of low-income tenants who are at risk, and it will allow the housing conferees to reach a final, responsible decision on the prepayment issue.

Mr. President, we await the arrival on the Senate floor of Senator ARMSTRONG of Colorado. Pending his arrival, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LAUTENBERG). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I rise in support of the pending legislation. I think it is extremely important that we move ahead. This is simply calling for a 30-day moratorium so that the conference that our distinguished colleague from California, Mr. CRANSTON, and others are involved in can work this thing out.

My understanding is that the conference is working this out so that we are not going to deprive owners of income. It is being worked out in an equitable way, but worked out in a way so we do not force people into the streets. This is not a substitute for moving ahead and having more public housing, getting interest rates down, getting more private housing. In the city of Chicago alone, 2,063 units will be eligible as of Monday, should the extension not go through. My guess is that means 4,000, 5,000, 6,000 people who could be put out on the streets if we do not get this worked out.

My hope is that we will move quickly and get this passed for another 30 days—a 30-day moratorium, no more, while the conference committee works its will. I think it makes eminent good sense.

NOMINATION OF JUDGE SOUTER

Mr. SIMPSON. Mr. President, I wish to comment on the Souter proceedings. We had a very productive hearing in Judiciary this morning, with all of the members, of course, present and presenting their reasons for support of this remarkable candidate—nominee. This is a political year. I must get the nomenclature correct—the nominee, and he passed the Judiciary Committee by vote of 13 to 1.

The American people are well aware of Judge Souter through the hearing process. I commend the chairman, Senator JOE BIDEN, who did a superb job. He was very steady, very patient, very sensitive to the sometimes spirited debate that went on, very accommodating to the witnesses, and he deserves the commendation certainly not just of the members of the Judiciary Committee but the entire Senate. It took a tremendous amount of staff work. His very capable chief of staff, Diana Huffman did a marvelous job. It was well done.

Of course, I supported Judge Souter. My remarks are entered in the record of the committee and I will not belabor that.

I thought that we saw a procedure which really presented to us one of the most extraordinary men to be presented to sit upon the Supreme Court that I have seen in my 12 years in the Senate. There was a brief attempt to set things on a referendum of where he would be on the issue of Roe versus Wade. There was an attempt, which did not prevail, to turn those hearings into a referendum on that single issue. I am very pleased that my colleagues were able to inquire into that issue without requiring a specific answer on how Judge Souter would vote when presented with that issue. I thought he handled it beautifully.

We have moved very swiftly on this nomination. The President moved very swiftly to nominate a successor to William Brennan, who is irreplaceable. I have come to know the man and I have already made my remarks about that splendid gentleman. But Chairman BIDEN was equally expeditious, and now the committee has done its work. Our job, of course, was made easier by the quality of the nominee. But I think we need speedy action now.

It is up to the Senate to give similar consideration to the need for very swift action because the eight Judges, the eight sitting members of the Supreme Court undertook the job of acting upon 1,000 petitions of certiorari which had accumulated during the summer.

It was unfortunate, but unavoidable that Judge Souter did not participate in that process. There is nothing that could have been done to stimulate that. However, the Supreme Court begins its oral arguments on Monday, October 1, 1990. Unless a Justice participates in the oral argument of a case, he is precluded by Court tradition from participating in a decision on that case. The oral argument is one of the most important aspects of the appeals process.

The Supreme Court traditionally hears oral argument on four cases per day. So if we do not take action upon the nominee until the middle of next week, there would be as many as a dozen cases in which this new Justice could not participate. I do not think that needs to happen because we can, with a waiver of certain rules regarding committee reports, take floor action on the nomination tomorrow or Sunday, if we do happen to be in session, or Monday, at the very latest, in the morning, in time for the nominee to participate in the oral arguments on that day.

In many cases it might not be wise to waive the 3-day rule on filing reports, but in this case the hearings were so widely broadcast in newspapers, magazines, on televison, I do not think we need to have the usual need of a committee report to bring us up to speed on what transpired in the hearing. With the vote of 13 to 1 in the hearing this morning, I think that is ever more evident.

Several Members have taken to the floor and made statements on their position on the Souter nomination. I suggest simply, in conclusion, that it is time, with our image, if you will, of a great deliberative body, we could bring credit by moving expeditiously to assist the third branch of Government by placing this splendid man on the Court Monday of next week, because there is no reason why we should doom certain cases to the prospect of a 4-4 tie vote and thus no decision on issues that have been demanding resolution for years. Litigants in the Supreme Court cases which are going to be argued beginning Monday, as well

as the American public, will be grateful, if we can take action now for the new Justice to sit with the rest of the Court on Monday, October 1, 1990.

I encourage the Senate to act on Judge Souter before Monday.

EXTENSION OF CERTAIN HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

The Senate continued with the consideration of the bill.

Mr. ARMSTRONG. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is H.R. 5558.

Mr. ARMSTRONG. Mr. President, I understand that a few minutes ago the Senator from California [Mr. CRANSTON] called up a bill, and I am not clear of the extent of the opening statement he made. It may be that he may which to make a statement in explanation of the bill before I say any more. I understand he did say that I would be holding up the bill. I will comment on that in due course. I would be glad to let him proceed.

Mr. CRANSTON. If the Senator will yield, I already made an opening statement to get the ball rolling. I would just as soon wait now.

Mr. ARMSTRONG. Mr. President, let me start by clarifying the record of whether or not I have been holding this bill up. Let me tell my friend from California if I were trying to hold up this bill we would not be debating it right now. I do not know what we would be doing. Probably if I were trying to hold this bill up, I would likely now or at some previous occasion would have said the seven magic words. "I suggest the absence of a quorum."

Mr. President, if I were trying to hold up this bill, which I believe the Senator told the Senate and which I believe the Senator told the press on yesterday, I would not have agreed to the unanimous-consent request on the motion to proceed to this bill.

Mr. CRANSTON. Mr. President, if the Senator will yield, I am delighted that he is willing to let us proceed with the bill now. He is not now holding up the bill. I have been trying to get it up for some days. The Senator was concerned about the bill and I am simply concerned about time running out on a very important matter. We have a deadline that must be met very soon.

Mr. ARMSTRONG. Mr. President, I do not want to be argumentative, I do not want to be touchy. I do not know how many days he has been trying to get it up, but as far as I know this bill was received officially by the Senate on September 26. That was yesterday. I gather the bill was floating around here for a while before then. It had sort of drifted over on a strong west wind from the House of Representatives and sort of wafted into the Chamber. But it was never officially received until yesterday.

On yesterday the Senator from California asked, Was I willing to take up the bill? What did I want? Did I have amendments? What was my desire? I said all I want is a chance to explain what I think of this bill and maybe offer a few carefully thought out amendments.

But I just wanted to tell my friend from California that, because it hurts my feelings a little to have someone think that I was trying to prevent the consideration of this bill or delay the consideration of this bill and then have it come up so easily. If I wanted to delay or prevent the consideration of this bill, there would be a lot more aggravation and ruckus than we have had or than, in fact, I expected to have. I have no particular interest in delaying action on this bill. I have absolutely no interest whatsoever in inconveniencing my friend from California.

So with that in mind, I wish somebody could just explain to me what the big hurry is about this bill. Here is what I understand this legislation to be all about, and I will confess that there is just about everything that I do not know about housing. There was a time when I was somewhat knowledgeable on housing legislation. In fact, there was a time a few years ago, when I was a member of a committee of the Senate that had jurisdiction over housing legislation, but when I left the committee I sort of pulled the plug. Like water running out of a bathtub, everything I then knew about it sort of drained out of my brain leaving like a ring around the bathtub, just sort of a residue of sort of odd bits and facts.

There used to be a great political leader, still is a great political leader from the State of California, who used to have facts that he carried around on 3 by 5 cards. That is what I am doing on this. I have sort of collected facts, some of which may or may not be accurate. So if I stray off on to something not entirely accurate in the knowledge of the Senator from California who is an authority on this matter, I hope he will straighten me out.

Some of the details I am a little hazy on, I will be frank to say. I hope other Senators will come to the floor and enlighten us all. But I am pretty clear on two issues that I think ought to be considered by the Senate before we rush to pass this bill. The first is a wholesome all-American notion that a deal is a deal, that honorable people do not welsh on deals. Even if they subsequently decide they made a bad deal once they make it, by gosh, they stick to it.

What I understand to be at stake here is this: Somewhere along about 22 years ago the U.S. Government entered into some deals with some people to build subsidized housing. The details I do not know. I am willing to be corrected if I am in error on these facts. I am here to learn. I am a seeker after truth here today.

But it is my understanding that in the contracts which were entered into between the providers of this subsidized housing and the Federal Government were provisions which gave to the provider an option after 20 years to prepay the mortgage, a prepayment clause. After having done so, the providers of the housing, that is the home builder, the home provider, would be entitled to use that property in the ordinary and normal way that any citizen who owns real estate can use it, but that prior to that time, the owner of the property would be required to use the property only for the purpose of the subsidized housing program. Or to put it more simply, as long as this mortgage existed on housing they had to make it available for low-income tenants to rent.

I would like to just pause here because if I am mistaken in the basic facts, I would like somebody to straighten me out before I go completely off the track.

May I ask the Senator from California if I have accurately stated the essence of those contracts? Twenty years firm, right to prepay the mortgage, when you prepay the mortgage, you recapture the right to use the property? Is that pretty much the case? I would have looked this up in the committee report but as far as I know there is not one.

Mr. CRANSTON. Mr. President, there was language in the contract to allow for the prepayment. It was not a bargain for term. Owners did not pay consideration to get that in the contract. In fact, no reference was made to prepayment in the statute. It was an administrative decision.

But plainly we have to take into account equity for the owners. We also have to take into account equity for the tenants when there is a major public purpose, making sure that we do not have more homeless people, making sure that the people who cannot afford to pay these rents not face eviction and/or the problem of having even more of this slender income required for housing leaving less for food and clothing and other needs. This is a public purpose we have to take into account. Our endeavor is to work that out in a fair and equitable way. There is one Senate version. There is one House version. It is my belief that given time we will get when this measure passes, we can work it out. We are willing to negotiate very intimately and closely with

the House to find a fair and equitable way.

Mr. ARMSTRONG. I appreciate the explanation of the Senator from California. He did not respond directly to one aspect of it. I guess we do understand that there was a provision which he describes as a boilerplate provision providing for prepayment. But am I correct that prior to the fulfullment of the mortgage, either by prepayment or in some other way, the owner of the house was precluded from using it for his own purposes and had to make it available for low-income housing and that once the mortgage was paid, whether by prepayment or in some other way, then the owner of the house was liberated to do whatever they wanted, to convert it to an office building or other kinds of housing, or tear it down, make a parking lot or whatever it was? That is my understanding of the essence of the problem.

I do not dispute the points he was making about the need to consider the equities and all that. I wanted to be sure I understood the elements of the original deal, that there was a mortgage, and as long as that mortgage was in existence the owners were precluded from changing it to some other purpose.

Mr. CRANSTON. That is correct. But let me go on to say that the question is not a legal one, in my view. There is a long line of Supreme Court precedent upholding the authority of the Congress to adjust the burdens and benefits of economic life, what I was referring to a moment ago, and to specifically alter the instrument of the parties who contracted with the Federal Government. Despite all the predictions that the 1987 emergency law was unconstitutional on its face and would never survive a court challenge, the law has survived and, indeed, it has thrived.

The one court who spoke directly on the constitutional issue, a Federal district court in Illinois, upheld the constitutionality of these provisions and did change the situation. That court cited in its opinion the same judicial opinions that the Senate relied upon in developing the 1987 emergency law.

Now we are trying to get a more definitive and fair solution to the problem. So the Senator's question, as I see it, is not a legal one but an issue of fairness. Are we being fair to the owners? I say the answer is a resounding yes.

For the past 20 years, these orders have existed in a regulatory cocoon, insulated from the vagaries of the marketplace and economic risk under the umbrella of a private-public benefit; they have benefited from the actions of the Federal Government.

I can spell that out, it the Senator wishes. We endeavor also to be fair to the tenants. If we do not pass this extender, we are fair, 100 percent to the owners. We are not fair—zero percent—to the tenants.

Mr. ARMSTRONG. Mr. President, I do not want to bog down on the discussion of legal issues, because I was not seeking to make it a legal issue. I am intrigued by one point. He referred to a case that tested the 1987 act. Since I have already admitted that I do not consider myself an authority, I am shameless enough to just ask, Was that an opinion of the circuit court of appeals?

Mr. CRANSTON. It was a Federal district court.

Mr. ARMSTRONG. Federal district court. I really think the Senator is correct in saying what we are dealing with here is first and foremost a matter of fairness.

I guess my instinct is that if this were taken to a circuit court, it might well get a different outcome, or if it were taken to the U.S. Supreme Court. If there is a taking of private property here—which is one of the issues that I hope to develop while we discuss this—I think that is unfair. I also happen to think that is unconstitutional. Even under a lot of different theories, the Supreme Court has been quite touching about taking away people's property. I think the right to use and dispose of that property is part of the right. When you curtail that, particularly when it is a contract right with a sovereign, it might well be that some court, a circuit court or the Supreme Court might find that to be unconstitutional.

That is not the argument I am particularly interested in making, but neither am I particularly persuaded that the legal issue is resolved.

Mr. CRANSTON. Let me add one point, which I already stated, but I will state it again. In addition to the Federal district court decision in Illinois, there is a long line of Supreme Court precedent upholding the authority of the Congress to adjust the burdens and benefits of economic life and specifically to alter the expectations of parties who make a contract with the Federal Government, if it appears as a great public interest in making some adjustment.

Mr. ARMSTRONG. I did her that point. I thank the Senator for emphasizing it. In fact, I not only heard it, I wrote it down. I wrote down the phrase, "adjust the burdens of economic life." I am well aware of the fact that Congress likes to do that. Of course, it is well-known to everybody that reads the paper, from time to time, the courts have upheld legislation which adjusts the burdens of economic life.

It is not so clear to me that in this case the Supreme Court would think that a taking—if this is a taking, and I believe it to be—is within the line of cases they have previously cited. But I learned a long time ago that I do not know what the Supreme Court is going to do, or the circuit court, or the district court, in real life.

I am a businessman and I, from time to time, employ lawyers to advise me on such matters. I have even discovered they do not know either. So I am going to tell you what I think is fair, which is the point the Senator from California wanted to make anyway, that this is a matter of fairness.

I did not want to let the matter go by without at least pointing out that I do not think the legal issues are settled. The Illinois case is under appeal at the present time. Who knows, we may have another decision and it may support the point that the Senator from California made, or my point, or it may not. I do not know. Whichever way it goes, that may also be a view.

I do want to now say—having established what I think the situation is—about 22 years ago, or a little more, some contracts were entered into between providers of housing, people who were not obligated to provide housing, but who freely chose to do so, to buy or build—I do not know which; I do not think it is germane at this point—to provide housing to the Government for the use of low-income persons, and they entered into these contracts, and one feature of which was a mortgage.

One provision, which the Senator from California characterizes as boilerplate, said they could not use the property as they would otherwise be lawfully entitled to do. They could only use it for low-income housing. That was the only purpose for which it was intended and for which it can be used, so long as that mortgage remained unpaid.

Now then, there is a provision, as I understand, that after 2 years, they would have the right to prepay this mortgage, thereby relieving themselves of the obligation that they had under the other parts of the contract.

So the questions that we have before us are, first, is that fair to the people who own the property? That is an important question, though I am going to suggest to you that it is not the supremely important question here.

Second is the question of whether or not it is good public policy. Another important, though in my view not a question of supreme importance.

The third, and in my view, extraordinarily important and indeed the paramount question of public policy here is, is it good for housing? Does it tend to make more housing available for low-income people and other people?

Mr. President, I want to develop each of these points and themes carefully and thoughtfully. It will take me a few minutes to do so, though I will not take a long time.

I notice that our colleague from Alabama is here. If it is his desire to speak, I will yield. Having outlined the points I want to make, I will yield to let him make his statement, and I will be happy to pick up at this point.

Mr. HEFLIN. I will speak very briefly.

Mr. President, I rise today to address an issue which I feel is of the utmost importance: that is the obligation of the U.S. Government to fulfill contractual agreements into which it enters, or, at a minimum, to justly compensate those parties whose contractual rights it abrogates.

In 1961, Congress enacted the 221(d)(3) program to encourage private development of low- and moderate-income housing under which the Government offered project owners federally insured, 40-year loans at the Federal borrowing rate. In exchange, the Government required that project owners pass the interest benefits to the tenants through lower rents. The owners undertook the risk of building and operating the housing in addition to accepting limitations on the use of their property and distribution of earnings. This was balanced by the unrestricted right to prepay these mortgages and use the property freely after 20 years.

In 1987, in order to address the possibility that owners would prepay and remove their projects from the low-income inventory, Congress placed a 2-year moratorium on the right to prepay at a time when neither States nor the Federal Government were able to dedicate funds to new construction of low-income housing. That moratorium was extended and expires on September 30 of this year.

Mr. President, the very notion of unilaterally abrogating a contract, which has been adhered to by one party for 20 years, flies in the face of the law. I am opposed to it, except in the most extreme circumstances. And when such circumstances arise, that party whose rights are denied must be fully compensated.

I am aware that in a recent court case, Orrego versus HUD, it was held that Congress may be able to abrogate commercial contracts through subsequent legislation in certain situations. While I do not dispute the underlying logic behind that decision, I do not believe that situations involving the 221(d)(3) program are extreme enough to warrant such action. I do not think Congress intended to abrogate these contracts, and I am afraid of the precedent which is being set.

Having said this, let me state that if my opinion regarding the total abrogation of 221(d)(3) contracts is incorrect, then at least the aggrieved party should be compensated.

The housing bill which is currently in conference will soon address this issue of compensation. The House-passed version contains a fair, equitable compensation clause which received broad bipartisan support. If, and only if, it is deemed necessary to abrogate these contracts—and I reiterate my opposition to so doing—I urge adoption of the House-passed prepayment provisions.

In closing Mr. President, let me point out the necessity that our Government retain the confidence of our people. Were the situation reversed, and we were abrogating contracts to tenants by eliminating anticipated subsidies, there would be a public outcry. Providers of low-income housing deserve the same consideration and rights as do the tenants.

I yield the floor.

Mr. BREAUX. Mr. President, I rise today to join my colleagues in expressing concern for contract rights. I do not wish to kill the housing bill. Nor do I wish to see low-income tenants displaced. But I do believe that it is important that providers of low-income housing retain their confidence in the Government with which they do business. Unilateral abrogation of 20-year-old contracts is not the way to build confidence. Nor is unequitable reimbursement the answer. Quite simply we must find a way to come as close as possible to meeting the terms of these contracts without violating the tenants' rights or aggravating the Nation's affordable housing crisis. While this may seem to be a difficult task, it is not. Our colleagues in the House have developed a fair and simple solution to this problem. Their version of the Housing bill contains provisions which, I believe, should be incorporated into the final version.

Mr. President, it has been argued that the House provisions dealing with this issue of repayment will result in a loss of low-income housing. Quite the contrary. The House bill provisons will retain the confidence of the providers of low-income housing while causing minimal disruption to the tenants. In the long run, this will mean a continued supply of much needed private-sector-provided low-income housing.

Mr. ARMSTRONG. Mr. President, I did not know when I began to speak a few minutes ago that the Senator from Alabama was going to come to the floor at that instant and comment on the precise legal issue which I had been discussing. But for those who are following this proceeding, I just think it is interesting.

My prediction was that maybe the legal issue had not been resolved. And now Judge Heflin, himself a distinguished jurist long before coming to the Senate, has said that in fact he shares the same concerns that I expressed. He has couched his arguments in precise legal terms, as is his custom, and I am grateful to him for doing it.

I say to my friend from Alabama that I just think it is unfair. I think it is a rotten deal and bad public policy and discourages the development of low-income housing. I wish I had preceded my remarks with the kind of scholarly remarks he has just made, and I thank him for them.

Mr. CRANSTON. Mr. President, will the Senator yield to give me an opportunity to make two brief comments?

Mr. ARMSTRONG. Yes.

Mr. CRANSTON. That is while the Senator from Alabama is on the floor.

Mr. ARMSTRONG. Yes.

Mr. CRANSTON. Mr. President, first I want to speak about the issue of fair compensation, which concerns me. There are owners in California who talked to the membership at length about this, and I know there are owners in other States who are concerned, as well as tenants, probably virtually in every State of the Union.

The Senate bill would provide fair compensation to owners who agree either to maintain the housing for low-income tenants or agree to transfer it to qualified organizations, including tenant organizations that agree to do so. The bill would establish a standard, easily administered method for calculating a preservation value for each property. The preservation value would equal the appraised fair market value of the housing as multifamily rental housing. Both HUD and the owners will know up front what value an owner should receive.

May I add one point relevant to that, that the House version we are dealing with in conference does even more for the owners than the Senate version. We are going to have to work out some accommodation between the two bills.

There is another point I would like to make if I could have the attention of the Senator from Colorado on this particular point.

Mr. ARMSTRONG. Yes.

Mr. CRANSTON. The contracts have already been, in effect, changed in ways that benefit the owners, as well as meet some needs of tenants, but specifically have helped the owners.

Under the umbrella of a public-private partnership the owners have repeatedly benefited from actions of the Federal Government over the life of these properties. First, they received the package of incentives in exchange for participation in the program. That was at the outset. Insured loans, interest rates, subsidies, and favorable tax treatment that was to give them the incentive to get in the program. But when utility costs——

Mr. ARMSTRONG. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. ARMSTRONG. Those arrangements were made before the contracts were signed.

Mr. CRANSTON. Yes. And I am getting to things done subsequently.

When utilities shot skyward in the 1970's, threatening the financial health of many projects, they were cushioned with new subsidies never envisioned when the program started, and when projects fell into disrepair in the 1980's additional expenditures and tax programs were created to finance the needed improvements.

Certainly those improvements helped the tenants, but they also were done not at the insistence of the owners at a time when the owners needed some additional help. The very nature of a public-private partnership is give and take, and for the past 20 years of these contracts the Government has been giving.

As the subsidy discussion demonstrates, the Government has always responded when the owners found themselves in dire financial circumstances, even though those circumstances were unanticipated when the original agreements were made and there was no provision for covering them. Now the tables have turned.

Now, for the first time in 20 years, we are asking the private side of the public-private partnership simply to be reasonable, to assist the Federal Government in responding to a national housing crisis totally unanticipated 20 years ago. I know from talking to them that most owners are willing to engage in such a joint venture and to make some accommodations. They do understandably want assurances on a number of fronts, an easily administered process, fair return, sufficient funding. That is exactly what the Senate provision provides. And the House provision provides even more.

Given the complicated history of this program, it seems to me that upholds our end of the bargain.

That is the point I wish to make, and I appreciate the Senator from Colorado giving me the opportunity at this moment to make that statement.

Mr. ARMSTRONG. Mr. President, I appreciate the point the Senator has made. I just want to respond briefly by reminding him, if I may have the Senator's attention, I want to remind the Senator——

Mr. CRANSTON. Will the Senator withhold 1 minute for me to talk on another matter just a second to the Senator from Alabama?

Mr. ARMSTRONG. Of course. A brief moment of quiet on the floor of the Senate is not unwelcome.

Mr. President, I just want to say for the Senator from California that the fact that it was changed previously in some way that may or may not have been just—and I probably did not think those changes were just either—does not mean that we should do it again if it is not just and right to do so. But to put it simply: two wrongs do not make a right.

I do not dispute things have been done for the benefit of the owners. In fact, you would not have to go back very far in the record and annals of the Senate to find me recorded as railing against the overgenerous benefits that have been given to various providers of housing.

The truth of the matter is that these programs have been scandalously abused in a number of cases and are subject to investigations, criminal actions, extensive newspaper stories; many of these programs are rotten to the core. That does not mean that the Federal Government ought to go around breaking its contracts, in my opinion.

I just did not want to leave the implication that somehow it was right and proper to have special consideration given to the owners. That may or may not have been right and proper, depending on the circumstances, and it may or may not have been the right thing to do. In due course, I do hope to make arguments in support of the point made earlier.

Mr. MACK. Mr. President, will the Senator yield?

Mr. ARMSTRONG. I yield the floor so the Senator can seek recognition.

Mr. MACK. Mr. President, I want to ask a question. I was listening to the discussion a little earlier, the indication that there were additional subsidies during that 20-year term which clearly was required, whether it was energy or maintenance for the housing units.

Again I think it is important, at least from my perspective, to note that the owner had entered into a contract relationship with the Government which I think limited the amount that that owner could charge for rent, fixing a ceiling there in other sources because of the contractual relationship that they entered into with the Government to provide for these additional costs as a result of the energy increase, and it was the responsibility, the obligation if you will, of the Federal Government to do that.

So I am not sure that one can make the argument that these additional subsidies in fact were somehow compensation for denying the individual the right to prepay that mortgage at the end of the 20 years.

Mr. ARMSTRONG. It does not justify welching on the deal, either. That is what we are talking about here. We are talking about welshing on the deal. They entered ino a contract.

As the distinguished Senator from Alabama, who spent a lifetime studying the law and equities and justice of such matters, put it so well, the providers of housing honored the contract for 20 years. For 20 years, they stood by the conditions of the contract.

Now, the Government is coming back—the Government, for heaven's sake; it would be bad enough if it were private parties—but the Government is coming back saying, "Well, we changed our mind. We are going to welsh on the deal." I do not think that is good public policy.

I do yield the floor. I see other Senators want to speak, and I am not trying to monopolize the discussion.

Mr. D'AMATO. Mr. President, I commend the Senator from Colorado for addressing this significant issue of prepayment. Those of us on the Housing Subcommittee have been spending a great deal of time trying to understand and trying to act upon the complexities of this issue.

If I might have the time, I know there were some others who might be seeking the floor, but if you would bear with me, I would like to recite a little history on this issue.

About 20 years ago, private owners of apartment buildings entered into contracts with HUD. In exchange for mortgage subsidies, the owners consented to make their housing affordable to low-income persons for a 20-year period. At the end of that 20-year period of time, the owner's obligation was fulfilled, and the owner could prepay the remaining amount of the mortgage and use the property in whatever way he chose.

Three years ago, we began to see the first mortgage contracts come due. In other words, the 20-year period was coming to an end. Many owners were interested in "renewing the contract," meaning that they were willing to continue to make the housing affordable for low-income persons in exchange for financial incentives. A few owners of property, whose properties had appreciated drastically or dramatically over that 20 years, wanted to prepay the remaining amount of the mortgage and convert that property then into another use, whether it be commercial office use, whether it be offices, or whether it be condominiums. Obviously, that was their right.

The key issue in assessing this problem is what effect prepayment could have on the tenants living in these properties. No one wants tenants kicked out onto the street, and no one wants to add to our homeless problem. So the solution in the House and Senate housing bills have tried to balance these concerns—by honoring contract rights and protecting tenants. The question that Senator ARMSTRONG is raising is, what is a fair balance in dealing with these two important issues?

On the owners' side, private owners of these properties want two things. They want to be assured of getting a fair market value for their property if they choose to sell the property. Second, they want the ability volun-

tarily to prepay the mortgage without taking a major financial hit.

Well, what about the tenants? That is the other side, and a side that we are concerned about. The tenants want to be sure that they have affordable housing, that they have a decent place to live, and that their rents are not doubled or tripled.

While the Senate bill addresses these issues, many believe that the Senate prepayment provision contained in the housing bill may lean so far in the direction of tenant protection that, ultimately, the Federal Government is not honoring its contractual agreement with owners. This is the issue that Senator ARMSTRONG is raising. And, in all candor, I think we have to agree with him. This Senator commends him, because we need to have a balanced approach to prepayment. Without a balanced approach, tenants are going to be in the streets, or the issue will be locked in the courts for years, giving them no assurance, no protection.

Some people say that as many as 250,000 families could be affected by the prepayment problem.

Because we need a balanced approach, I support the contention that my friend from Colorado, Senator ARMSTRONG, has brought up. He is raising a legitimate concern about a serious problem. I welcome his interest and his involvement. We do not want the situation stuck in the courts for the next 4 or 5 years.

That does not help the tenants. It creates uncertainty; it creates a burden. And it is not fair to the owners. They may not constitute as much in the way of public sentiment, but theirs is a legitimate right that has to be of concern. Contract rights are too important so that the Congress should not act in a manner that dismisses legitimate contractual obligations.

As we enter the conference, I am going to keep in mind the concerns that Senator ARMSTRONG has raised, because ultimately his concerns are aimed at keeping this problem out of the courts. Again, no one, no one, whether it be tenant or owner, is going to benefit, if this matter is in the courts.

I agree with the Senator. We cannot solve the problem by tying them up in litigation. That is something that will be too costly to the tenants, and it would be too costly to the owners.

I believe that we do have a formula in which we can deal with these problems. I commend the Senator for raising this issue.

Mr. President, I yield the floor.

Mr. CRANSTON. Will the Senator yield for a moment?

Mr. D'AMATO. Yes.

Mr. CRANSTON. I worked together with the Senator from New York for a long, long time on this issue and others relating to it. I share the concerns of the Senator from New York about the owners, as I have stated earlier in this discussion, and as I have demonstrated by my actions on housing legislation.

I also share the concern that the Senator from New York expressed about the tenants. What we need is an extension of the time running on this matter so that, in the conference, the Senator from New York and I can work with others for a solution that is fair to both the owners and the tenants.

The Senator from New York and I have the opportunity, as key players in that conference, to do that. We wrote together a measure that we felt was as equitable as we could make it for all parties concerned. The House happens to have a version that leans a little bit more toward the owners and a little bit less toward the tenants, and in the give and take of a conference, we will have to work things out with the House.

But what I beseech the Senator from Colorado to do, after we have discussed this and established the facts as best we can and opinions as best we can express them, is that he give us an opportunity to go to the conference, where the Senator from New York and I will work for the best possible solution. That will come back to the Senate in the next few weeks, I trust, and the Senator from Colorado can take a look at that solution and see if it is equitable and fair. If it is not, he can object to that solution.

Mr. ARMSTRONG. Mr. President, if the Senator will yield to me, let me just say that I have no objection to the Senator from California and the Senator from New York going to conference on this now.

In fact, why does the Senator not go take care of that, and I will keep working on this bill. That way, there will be a productive use of time. While you are talking about going to that conference, let me express a couple of doubts and concerns.

First of all, it is a fact that the House provision is a little more balanced with respect to the rights of the owners. It is quite a little more balanced. Specifically, the House bill provides that owners get full compensation for their property.

As I understand it, the Senate bill does not contain any such provision, and in fact says, on the one hand, they cannot get out of the low-income housing business unless it does not "materially affect the availability of comparable low-income housing."

So, on the one hand, they are probably locked into low-income housing, and then, on the other hand, it precludes the kind of procedures that would give full value to the owners. So that is concern No. 1.

Concern No. 2, and I say this cautiously because I am really now saying more than I am really fully sure of, but I am led to believe that many of the senior people in the House who backed the more probalanced point of view, who are otherwise logical conferees, were passed over in the appointment of the conferees.

So you get a Senate bill which is unfriendly to the interests of the property owners, or at least less friendly than the House version, you get a relatively more friendly House bill, but with conferees that have been, to put it charitably, selectively chosen, and I am concerned about it. In fact, the guys who I would have thought were the logical conferees did not get picked. I do not know why. I used to be a Member of the other body, and, frankly, I could not figure out why they picked the people they picked all the time even then. I cannot figure it out, let me say.

Mr. SARBANES. Will the Senator yield?

Mr. ARMSTRONG. Let me finish the point because I am going to sit down. I cannot figure out why it is when the House of Representatives instructs its conferees, sometimes by heavy margins, that the conferees thumb their noses at the House. Frankly, I do not think that is good legislative practice or reflects very well on the democratic process.

I have no objections to the conference, but I also am concerned about what the outcome of that conference is going to be and whether we are really going to get fair play. I do thank my friend from New York for his observations and expressions of encouragement, but I want to see a fair deal, not only for the property owners but, as I will explain in due course, to the end that we do have an adequate supply of housing for low-income persons. My instinct, my impulse, very strongly is that when you break contracts of this kind you discourage rather than encourage the provision of low-income housing.

I thank my friend for yelding.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. SARBANES. Will the Senator from Florida yield so I can make a point directly pertinent to what the Senator just said?

Mr. MACK. I yield, reserving my right to the floor.

Mr. SARBANES. I say to the Senator from Colorado it is my understanding—if I could have the attention of the Senator from Colorado.

Mr. ARMSTRONG. Will my colleague bear with us for just a half a minute? I thank the Senator.

Mr. SARBANES. I say to my friend from Colorado, it is my understanding

that, in fact, in selecting the conferees in the House, they went over some senior people to get down to some more junior people in order to place on the conference members of the House committees that were in fact in support of the very provisions that the Senator is addressing here.

Mr. ARMSTRONG. Mr. President, I am not carrying the water for any particular people in the House. It would be far removed from what I want to do to tell the House how to appoint conferees. In fact, if I had the option of telling the House things, they would be different than what conferees to appoint.

But the answer to the Senator's question is that the Democratic sponsors, the chief sponsor of the House provision on this subject, who is a very senior member of the committee, was passed over in the appointment of conferees for a more junior member. There may be some reason for that I do not know, but that is what happened.

Mr. SARBANES. My understanding is that, in fact, an effort was made to appoint members who were supportive of these provisions on the conference committee. I know one of the major proponents is a House conferee.

Mr. ARMSTRONG. Mr. President, It appears the opposite is the case. In other words, I do not represent that I know the intent of the appointing authority. Trying to read the motives of people is way beyond what I want to do. But just to look at the list of conferees, it would seem that the opposite was the effect, and I presume that this was not done carelessly, that it was done with some reason. There may be some reason why the more senior members, who favored this, were passed over in favor of junior members who did not, but I do not know what that is. That, again, is not the main issue before us. That is just a point in passing that came up in response to the remarks of the Senator from New York.

Mr. SARBANES. I understand that, but I want to address that very point because it suggests that some manipulation was done, and it is my understanding that that is not the case as it relates to this issue. I gather there were other reasons for trying to select conferees involving a whole range of provisions that are in conference.

Mr. ARMSTRONG. That could very well be.

Mr. SARBANES. So I am just questioning the assertion of the Senator in that regard with respect to the selection of conferees.

Mr. ARMSTRONG. There is no need for the Senator to question any assertion like that because I do not make any such assertion. What happened, when the Senator came on the floor, is that the Senator from New York was talking about the conference and the Senator from New York was suggesting this would all be hunky-dory if we just let the conference work it out. I just said maybe, maybe not. We have a relatively more balanced House bill, a relatively unbalanced Senate bill, in my view, and you have a bunch of conferees from the House who by the way they voted on this issue when it came before the House, do not seem to be as friendly to a balanced point of view as I wish they were. I am not telling the Senator that there is anything malicious about it, and I understand there may be other provisions in the bill that cause the appointment of conferees. Maybe someone who is entitled to be appointed as a conferee asked not to be, asked to be excused, had to be out of town, lost interest, had an illness in the family—I do not konw.

All I know is the people I would have thought were the logical ones to handle this for the House side and who voted with the majority of the House for a more balanced point of view did not show up on the conference.

I already have confessed, let me say to my friend from Maryland, I am here as an inquirer, as a seeker after truth. I did not come here telling anybody that I knew a lot of the facts. I have a couple of facts in mind, and one of them is you do not welsh on deals. When you enter into a contract, you do not go back on it. I have a couple of other thoughts, but I do not know what happened.

Mr. MACK. Mr. President, if I could retain——

Mr. SARBANES. I appreciate the courtesy of the Senator.

The PRESIDING OFFICER. The Senator from Florida has the floor.

Mr. MACK. Mr. President, I want to compliment, frankly, both of the Senators who have been debating this issue. I share the concerns of Senator CRANSTON. My intentions are not to try to hold up this legislation at all, but I think that Senator ARMSTRONG has clearly raised an issue of deep concern to a number of us.

Mr. CRANSTON. I am glad of that.

Mr. MACK. I find myself pulled between two very important points, two very important principles, and some strong emotion. On the one hand, I have always believed in the importance and the strength of free markets and the concept of contractural relationships. I am concerned the activity that has occurred over the last 3 or 4 years or so has acted as a disincentive to people who want to enter into contracts with the Federal Government. I am concerned the people who were involved for 20 years or so providing low-income housing in the country now find themselves almost trapped in a situation where they cannot exercise what they thought their rights were. Depending on what figure you look at, you see between 60,000 and 250,000 families that could be disrupted over a period of time if a solution is not reached with respect to this. So, again I say, I have some very strong feelings pulling in two different directions. I want to see us come up with a balanced approach.

Again, I have had the opportunity during this past year and a half to work with Senator CRANSTON. I am sure he will work toward a balanced approach, and I want to make my strong feelings known as to how we should be proceeding. I want to see us protect those contractual rights that the owners entered into some 20 years ago.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I thank the Senator from Florida for his remarks. We worked effectively together thus far in this whole housing bill, and, I trust, in resolving this particular issue we will likewise do so. I am grateful to him for his statement that he is not suggesting that we delay the extension so we can work on this in the conference.

I would like to say to the Senator from Colorado, two points. First, I would be delighted to be able to take his suggestion that AL D'AMATO and I go over and engage in the conference right now. Unfortunately, we cannot do that. We had two sessions of the conference this week, the next one is scheduled Tuesday, and there is no opportunity to convene it right now.

Beyond that, I want to stay here on the floor while the Senator is dealing with this issue so I can keep track of what develops in this matter.

I do want to add this fact. We are discussing this issue, Senator to House Member, and I think the first discussion we have had gives some indication that on some aspects of this we will move toward the House position, particularly in the matter of the fairest and most equitable compensation to the owners, if changes are made at this stage.

If I may ask the Senator what his intentions are in regard to the bill that is now before us, because time is running out, and I hope that we will be able to pass it at some point so that we can get to the matter of trying to work out a fair and equitable solution to the problem which will still be subject to approval by the Senate when it comes back from Congress.

Mr. ARMSTRONG. Mr. President, I can assure the Senator it is not my intention to delay. I see some other Senators who want to speak. I still have some things I want to say about it, but I promise the Senator we are not stalling him. And if we were, he would know it.

Mr. PRESSLER addressed the Chair.

Mr. SARBANES. Will the Senator yield for a question?

The PRESIDING OFFICER (Mr. HARKIN). Did the Senator yield the floor?

Mr. ARMSTRONG. I did yield the floor. I think the Senator from Maryland is seeking the attention of the Senator from California.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CRANSTON. I yield for a question.

Mr. SARBANES. I thought the Senator from California had the floor; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. SARBANES. If the Senator will yield for a question, as I understand it, this extender covers not only the prepayment issue, which we have been discussing here, which would involve, as the Senator from Florida said, two very important concerns that we will be trying to address in the conference, but it also involves an extender of the FHA mortgage limits; Unless that take place, contracts for the purchase of homes that are about to be entered into all across the country will come to a halt?

Mr. ARMSTRONG. Could the Senator restate that proposition?

Mr. SARBANES. This legislation also extends the FHA mortgage limit. It extends the current limits for another month. If we do not pass this legislation, all of the activity involving the sale of homes related to those limits will come to a halt. Is that not correct?

Mr. CRANSTON. Yes; that is correct.

Mr. ARMSTRONG. Mr. President, let us be sure that really is correct, because I would think that would be a consideration that would be of interest to many Senators. I had focused my attention on section 1 of the bill. There are two other sections of the bill that I was going to get to presently. I am not so sure that is correct. Perhaps we can verify that.

Mr. CRANSTON. I will be glad to give further evidence that it is correct in a moment.

Mr. ARMSTRONG. Then could we restate the proposition that on September 30 the authority for FHA loans would expire?

Mr. SARBANES. Not for all loans. The increased limits which exist in the law now would no longer be applicable and, therefore, a number of FHA contracts would otherwise be carried out could not be carried out.

Mr. ARMSTRONG. Is the Senator saying that if this legislation did not pass, that the maximum loan level would automatically decline from $125,000 to $101,000?

Mr. CRANSTON. Yes; that is correct.

Mr. ARMSTRONG. Let us be sure that all Senators understand that, because I anticipate they will want to take that into consideration as they decide how they vote on this.

Is it the Senator's point that if this bill does not pass, that the loan limit under FHA goes from $125,000 back to the old limit of, I believe, $101,000?

Mr. SARBANES. Yes. I think we ought to state very frankly what this bill does. It does extend that limit. We debated that issue on the floor of the Senate last year. A decision was made. As a consequence of the decision made by the Senate, a whole host of activities in the private sector are now related to that activity. If the Senator wants, in effect, to throw a monkey wrench into the functioning of the private sector in this fashion, that is, of course, something the Senator can choose to do. We are in conference——

Mr. ARMSTRONG. We can——

Mr. SARBANES. If the Senator will let me finish.

Mr. ARMSTRONG. Sure.

Mr. SARBANES. We are in conference now trying to resolve all of these issues. It seems to me the conference ought to be given an opportunity to try to do its job. The Senator can, in effect, seek to negate that operation of the private market. He can also seek to have the 60,000 to 250,000, depending on what estimate you use, of low-income tenants placed in jeopardy of losing their housing by holding up a piece of legislation which simply extends these provisions for 1 month to give the conference an opportunity to do its work.

Mr. ARMSTRONG. Mr. President, will the Senator yield for a question on that?

Mr. SARBANES. Sure. Mr. President, I seek recognition in my own right.

Mr. ARMSTRONG. I think the Senator has the floor.

The PRESIDING OFFICER. The Senator from California yielded the floor. The Senator from Maryland has the floor.

Mr. SARBANES. I yield for a question.

Mr. ARMSTRONG. I was asking if he will yield for a question.

Mr. SARBANES. Yes, I will. I did not know I had it. I do have it.

Mr. ARMSTRONG. I thank my friend for yielding. The Senator has proceeded to a different point.

If I may comment briefly on the preceding points, some Senators might wonder why I was surprised to learn of that provision in the bill. I would like to explain that, and later I will comment on it more extensively.

The reason I was surprised is because I had not seen the bill. As I mentioned earlier, the bill had not been before us. There were no printed copies of the bill, and after I mentioned I had not seen the bill, someone has now provided me with a xerox copy of the bill. That was not something I at least heard discussed as a provision of the bill earlier. So that is why it took me by surprise that it was in there. It changes somewhat my own outlook on the bill. It does not change my concern about the first title or the first section of the bill, which is addressed in the point that the Senator from Maryland is making right now. I think his point is, if we fail to extend this legislation, that some low-income people might get thrown out of their housing; is that the Senator's point?

Mr. SARBANES. That is right.

Mr. ARMSTRONG. I do not think that is true. It is my understanding—and I am willing to be corrected; I have already confided I am a learner here. I believe that the fact is, in order to evict somebody, you have to give 30 days notice. If they gave the 30-days notice, that would be the same length of time as the 30-day extender. I think the practical effect is, no one will be evicted as a result of failure to pass this legislation, assuming that subsequent legislation were enacted to overlap it.

Mr. CRANSTON. Will the Senator yield?

Mr. ARMSTRONG. Yes.

Mr. CRANSTON. That is not quite the way it would work. The owners would prepay instantly if we did not get this extension passed. They could do it Monday and the tenants would lose those protections.

Mr. ARMSTRONG. You are saying that if there is a gap in the statutes——

Mr. CRANSTON. Yes.

Mr. ARMSTRONG. That they might escape and be able to exercise their rights under the contract.

Mr. CRANSTON. That is right. They could prepay, and if there was any effort to readjust afterwards, retroactively, that would obviously lead to the sort of lawsuits, even worse in their dimensions and their probable length in resolving them, than what we have been talking about in an earlier context.

Mr. ARMSTRONG. So if Senators think it is desirable to let the property owners have those rights, that would be a desirable outcome. But if they think on the contrary, we want to keep these property owners dangling while we adjust it beyond their control and do not have to pay them compensation for it, then they would want the two bills to overlap.

Mr. SARBANES. No; that is not the case. If Senators think that the conference can work out some reasonable arrangement that will address both the issue of the property owners' concerns and the concern over housing for low-income tenants, then they would support this legislation in order to provide an opportunity to do that.

If Senators are of the mind that they absolutely know that they want the tenants to be moved out of this housing without setting up alternative ways of continuing to make housing available, then they would oppose this legislation. Owners I have talked with who are involved in this business would welcome provisions that assure alternative housing is available.

So the choice is not the choice that the Senator set out, because there is clearly a quite wide area of opportunity here for the conference to be able to work out a resolution of this issue in a way that both addresses the concerns of property owners, at least most property owners—there may be a few who remain dissatisfied—and the question of having housing available for low-income tenants. That is what we are seeking by asking for this 1-month extender, which would then give the conference an opportunity to do its job.

I do not pretend this is an easy issue. I know the Senator tends to see it that way because he has a very clear position on the merits of one party, the property owners. There are certainly merits to the case the property owners are making, but there are also merits on behalf of the low-income tenants who face a very real problem. The question is can we work out a solution of that in the conference which does a good job of addressing in effect two meritorious assertions on behalf of two parties to this situation.

Mr. ARMSTRONG. Will the Senator yield?

Mr. SARBANES. Yes.

Mr. ARMSTRONG. The Senator is absolutely correct; I have some sympathy for the owners of these properties, but he is mistaken if he thinks that is my paramount concern. In fact, earlier, I think before he arrived on the floor, I mentioned that there were two concerns: first, justice for the property owners, which I think is an important but not supreme concern; second, the public policy question and how it affects the supply of low-income housing. I think that is also an important question and in fact in my mind is the more important of the two questions that I see here.

So I believe I am in agreement with the Senator from Maryland that the more important issue—we have to be fair to the property owners, but the more important issue is a public policy question with respect to low-income housing.

Mr. SARBANES. Mr. President, I hope the Senate can move forward and pass this legislation this evening. This is not legislation that is going to decide any of these issues over the long term. They remain to be decided in the conference, which has now been established and which has begun to meet, has had both an organizational meeting and a follow-up meeting this week, and has meetings projected for next week.

But we are up against a deadline, and I submit that failure to do this is going to present us with a chaotic and very difficult situation, which in fact I think will, aside from how it affects the substance of the issues out in the country, which of course is a paramount concern, exacerbate and make more difficult the efforts in the conference to try to resolve these matters and to reach some reasonable solution to many of the issues that have been raised on the floor of the Senate. So I very much hope that we will be able to move forward on this housing extender legislation.

It came over from the House where it passed, without controversy. There it was clearly a general view in the House on both sides of the aisle that it was necessary. I hope we can take this temporary extenders forward this evening and be able to conclude this matter.

I yield the floor.

AMENDMENT NO. 2916

(Purpose: To reduce the pay of Members of Congress and certain executive officers and employees corresponding to the percentage reduction of the pay of Federal employees who are furloughed or otherwise have a reduction of pay resulting from a sequestration order)

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER], for himself, Mr. MCCAIN, Mr. DOLE, Mr. HELMS, Mr. COHEN, Mr. DOMENICI, Mr. GRASSLEY, Mr. HUMPHREY, Mr. DASCHLE and Mr. WARNER, proposes an amendment numbered 2916.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following new section:

SEC. . REDUCTION OF PAY OF MEMBERS OF CONGRESS.

(a) REDUCTION IN PAY.—For each month during fiscal year 1991 in which, by reason of a furlough or other employment action necessitated by a sequestration order under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902), the total amount of the pay paid to any Federal employee is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law, the rate of pay payable to a Member of Congress shall be reduced to the rate of pay established for such Member pursuant to law.

(b) COMPUTATION OF REDUCED PAY.—The rate of pay payable to a Member of Congress for any month referred to in subsection (a) shall be equal to the amount determined by multiplying the rate of pay established for such Member pursuant to law by the percentage reported to Congress for such month under subsection (c)(1)(D).

(c) DETERMINATION OF PERCENTAGE FOR COMPUTATION OF REDUCED PAY.—(1) No later than the first day of each month in fiscal year 1991, the Director of the Office of Management and Budget shall—

(A) determine whether, for a reason described in subsection (a), the total amount of the pay paid to any Federal employee in that month is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law;

(B) estimate the average of the percentage that would result by dividing the monthly equivalent of the annual rate of pay established for each such Federal employee pursuant to law into the total amount projected to be paid such Federal employee for such month;

(C) aggregate the percentages determined under subparagraph (B) for Federal employees for each agency and determine the highest average percentage for any agency; and

(D) transmit to Congress a written report containing the average computed under subparagraph (C).

(2) The Office of Management and Budget may use a statistical sampling method to make the estimates and determinations under paragraph (1).

(3) For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code.

(d) APPLICATION TO OTHER FEDERAL LAWS.—For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposed any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(e) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this section and shall apply to the first applicable pay period of members of Congress or Executive officers and employees occurring on or after October 1, 1990. If the date of enactment of this section is after October 1, 1990, and the provisions of this section become applicable in the reduction of pay of members of Congress or Executive officers and employees, all reductions which would have occurred if this section had been enacted as provided in subsection (b) and the amount of such reduction shall be recovered for the remaining pay periods for fiscal year 1991.

(f) APPLICATION TO EXECUTIVE OFFICERS.—The provisions of this section and the computations as they apply to the reduction under subsection (c) shall apply to the rate of pay for the Vice President, and any executive officer at a position level V or above of the Executive Schedule under sections 5311 through 5317 of title 5, United States Code, any executive officer or employee in the Executive Office of the President who on the date of the enactment of this section is paid at a pay rate equal to or above the pay rate for a position at level V or above of the Executive Schedule under sections 5311 through 5317 of title 5, United States Code.

Mr. PRESSLER. Mr. President, this is the identical amendment the Senate passed yesterday by a vote of 96 to 1. It was attached to a piece of legisla-

tion that is not expected to be signed into law in time for it to become law effective October 1 if there is a sequester.

As I said yesterday on the floor, I would attempt to attach this amendment to the first piece of must-pass legislation. I think that the House of Representatives is considering a very similar amendment. My amendment passed the Senate almost unanimously. It would not be my intent to seek another rollcall vote on this amendment. The debate has been held.

I know there is a question of whether or not this amendment will delay this piece of legislation, and I see no reason it should because the House and Senate can still act by the required time. Also, this is expected to be signed into law if passed this evening by the Senate in time to be effective.

The overwhelming will of the Senate yesterday was 96 to 1. As I said in my speech on the floor, I gave the Senate notice I would be attempting to attach this to must-pass legislation that will become law by October 1.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SARBANES. Mr. President, I suggest the absence of a quorum. I withhold the motion.

The PRESIDING OFFICER. The Senator withholds his request. The Senator from New York.

Mr. D'AMATO. Mr. President, I would like to ask my colleague from South Dakota if he could not explain to me the impact of this amendment. I see it says, "This rate of pay payable to a Member of Congress for any month referred to in subsection (a) shall be equal to the amount determined by multiplying the rate of pay established for such Member pursuant to law." Will the Senator explain to me how this is going to work?

Mr. PRESSLER. This amendment would put Members of Congress and certain officer and employees of the executive branch under the same rules of sequester as civil servants. The sense of the Senate was that if there was a sequester, Members of Congress and top members of administration should be affected. It would work the same way for Members of Congress as it works for civil servants. This was debated at length on the floor 2 nights ago and again yesterday.

Mr. D'AMATO. Will the Senator touch for just moment on the computation of reduced pay, how that is determined? In other words, the basis for that computation. Do we take an average of all of the people in the Federal workforce, what percentage they lost?

Mr. PRESSLER. The Office of Management and Budget may use a statistical sampling method to make the estimates and determinations under paragraph 1. But basically it would work the same way as it does for all the other civil servants who have received letters of furlough in the Federal Government.

Mr. D'AMATO. Here is what I am concerned with, to be quite candid. I have heard, for example, in certain applications—and I want to assure my friend and colleague that I am not attempting to do anything other than to elicit some information as to how you determine what rate of reduced compensation will apply.

Mr. PRESSLER. "Section (b), Computation of Reduced Pay. The rate of pay payable to a Member of Congress for any month referred to in subsection (a) shall be equal to the amount determined by multiplying the rate of pay established for such Member pursuant to law by the percentage reported to Congress for such month under subsection (c)(1)(D).

"(c) Determination of Percentage for Computation of Reduced Pay." Then it goes on to explain how. But it is exactly the same language as is used to apply to civil servants who have received letters of furlough. The language ensures that Members of Congress and senior members of the executive branch and the Vice President receive the same treatment as do civil servants.

Mr. D'AMATO. So that we are saying that the intent of this amendment will be to put us on the same percentage, if you want, of loss of pay. What I am concerned about is that I have heard—and I do not know if it is true or not, but I have heard, for example, in certain cases where one employee is going to lose 350-some-odd days because of the competition where that person works, et cetera, and is furloughed off just for 1 day but it goes into effect for that whole period of time. I am just wondering if this language was structured in a way that we meet the most maximum of the test. Do we forfeit 354 days of pay? There may be a lot of taxpayers who say that is good.

Mr. PRESSLER. For many civil servants there is a a certain number of days each will be furloughed. The uniform percentage rate applied is 32.4 percent. The uniform percentage rate is estimated by the Office of Management and Budget.

Mr. D'AMATO. That is 32.4.

Mr. PRESSLER. That means that many Government agencies—can select furloughs or reductions in pay so there is some flexibility. Indeed, I suppose our leadership might decide how we are going to divide up the furloughs around here.

Mr. D'AMATO. They can decide to furlough different people.

Mr. PRESSLER. They might put me on a long furlough.

Mr. D'AMATO. I think as we get into this we should have a little bit of understanding as it relates to that 32.4 percent.

Mr. PRESSLER. If my friend will yield, I guess the question is how we select whether Federal civil servants receive letters of furlough.

I think our questions illustrate how civil servants must feel at this moment. It is my strongest feeling that we should be under the same rules, and perhaps, being under the same rules, the Congress would be much more likely to reach an agreement on the budget, and we will not have a sequester.

Mr. D'AMATO. I wanted to raise, if I might, to try to understand better the application as it relates to this sequestration if it were to come about or furlough were it to come about, to try to get some idea of what the impact may or may not be. Obviously, there are many, many Federal workers who are pondering and asking the same question.

I would suspect most of them have a better understanding because they already have gone through the procedure as to how it would impact. But I am told in certain cases the impact is literally loss of pay for a whole year. That is what I have been told as it relates—maybe it is a very small percentage. Again maybe the American taxpayer would say that is good for these turkeys. That should be the case. But I do not know about that.

Mr. PRESSLER. The Senate did vote favorably yesterday 96 to 1.

Mr. D'AMATO. So this is the exact same legislation.

I yield the floor.

Mr. CRANSTON. Is this identical to the measure that was passed yesterday?

Mr. PRESSLER. Yes. It is.

Mr. CRANSTON. The Senate has already acted in this regard.

Mr. PRESSLER. Yes.

Mr. CRANSTON. I am in a quandary as to what to do about the Senator's amendment. If we go to a rollcall, it might well be adopted since it was adopted yesterday. The problem is we have between now and either tomorrow night or Sunday night to resolve this matter.

If this amendment is added, we cannot then have it automatically go through the House. The House would have to consider the matter, or we would have to go to a conference and deal with it.

I just want to make very plain that if this amendment hangs up this bill and prevents us from passing this extender, the consequences will be that in 42 States projects where people are now tenants could before we remedy the situation be prepaid, and the owners would then have the possibility and the full freedom to raise the rents as they see fit.

That would then face many families who are now in low-cost housing with the huge increase in their rents. That would mean many of them would be unable to meet those payments and would be evicted.

Others might make sacrifices to meet these higher rents. Then they would be shortchanging their families, their children, senior citizens, whatever, involving the family on food, clothing, transportation, heat or cooling or whatever, depending on the weather circumstances.

In my State, there are 4,181 actual units that would be at risk. In the Senator's State, there are 184 properties that would be at risk.

If this amendment seeks the extender, the Senator may very well be responsible for those consequences.

Mr. PRESSLER. I say to my friend that it is my strongest feeling that need not happen if Congress acted responsibly.

Mr. CRANSTON. It may not need to happen, but it could happen.

Mr. PRESSLER. A lot of things could happen. But as I said yesterday on the floor, this is a piece of legislation that the Senate feels very strongly about, and passed it 96 to 1. That series of events need not happen, and will not happen again.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I point out though to the Senator from South Dakota that 96 Senators supported his amendment yesterday. So I do not have a problem here with the substance of his amendment.

But I listened very carefully to what he said. I just simply make this observation. The responsibility for what may subsequently flow if we do not succeed in passing this extender because of the addition of this amendment will rest on the Senator from South Dakota.

I think it is fair to say that if the addition of this amendment complicates enactment of this legislation so that we do not meet the deadline and we are then confronted with the consequences that would come from failing to enact the extender the responsibility ought to be placed where it seems to me it would then rightly belong, and that is on the amendment.

We are dealing with a very serious issue here in terms of the availability of this housing. It is a matter of critical importance. I understand the Senator's concern with respect to his amendment. As I indicated, I have no quarrel with the substance of his amendment. But I really would ask him to think again, or think twice, whether this vehicle ought to be used for it, because of the consequences that would flow if we are unable to enact the extender.

Mr. PRESSLER addressed the Chair.

Mr. AMSTRONG. Mr. President, I wonder if the Senator from South Dakota would be willing that I be recognized for a moment before he is recognized.

Mr. President, I had no intention of speaking on this amendment. I voted with the 96 to 1 majority yesterday. But I am just not prepared to stand by and have it left, that somehow, the Senator from South Dakota is at fault for raising this amendment. He is to be complimented for raising this amendment.

The fact of the matter is, the Senate decided yesterday it wanted to pass this amendment. It happened to do so on a bill later for reasons having nothing whatever to do with the amendment of the Senator from South Dakota. It was withdrawn.

The Senator from South Dakota did not take down the bill yesterday. The majority leader did. He did so because the bill failed to get cloture as is his right. Then that happened. The Senator said I am going to find a place to put it. I think this is important. The Senator from South Dakota did not say so. But I will say so.

I think what he has proposed is just as important and maybe in the opinion of a lot of people more important than the underlying question of this bill. I do not dismiss the underlying issue in this bill as being trivial. It is important. That is why I come over to spend a couple of hours trying to learn about it, and think about it. I have some more things I want to say about it.

But frankly, I want to say to the Senator from South Dakota, he is on the right track, and if our colleagues in the House for some reason, would turn down this bill as a result of his amendment, the onus is on them. The disgrace is on them. The condemnation of the country to whatever extent the country is tuned in is on them, and it is not his fault and it is not the Senate's fault.

I do not care whether you adopt by a voice vote, rollcall, or what you do. I just think it is, well, I am not prepared to have it left—the impression in some way, that he is doing something that is wrong. He is doing his job around here, and in fact, while I am on my feet speaking about this, I remember that, not yesterday, but the day before, he tried to get this measure up on another occasion. He was told no, you cannot do that, you cannot have a rollcall vote, and so on and so on. In fact, I thought he was forced pretty badly on that particular occasion, while it was all within the rules. It was hardly within the spirit of the accomodation and fair play for an amendment which as it turned out, was not even controversial, expressed by a 96-to-1 majority the will of the Senate.

So I think, if anything, the Senator from South Dakota deserves to be congratulated for his tenacity and for doing his job.

Mr. PRESSLER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. CRANSTON. May I ask the Senator, first, before we go to the yeas and nays—could I have the attention of the Senator?

Since this was adopted yesterday by a 96-to-1 vote, I think probably we are willing to accept it on a voice vote, not cause Senators to vote it as yesterday and have to be rounded up, and come back and vote with us again.

I would like to discuss with my colleague from New York and a couple of others whether that is an acceptable procedure, if that is OK. We could probably adopt the amendment without having to go to a rollcall.

Mr. PRESSLER. If there is an agreement to adopt on a voice vote, I will accept that offer.

Mr. ARMSTRONG. Mr. President, I will, too, if we can have some expression from the Senator from California that he does not share the view of the Senator from Maryland, that somehow, if this should hang up the bill, that it is the fault of the Senator from South Dakota or the Senator from New York or the Senator from Colorado, or some other Senator that might be in favor of this amendment.

If the Senator is willing to accept it, he is accepting it. If he is not, if he thinks it is a bad idea, if it might hang up the bill, if he thinks our colleague in the other Chamber might not like it, he ought to ask for a rollcall. I do not care. I thought it was going to be a voice vote and a 1-minute discussion. If there is a problem, let us have it out and decide it.

Mr. CRANSTON. We have had a rollcall, so the will of the Senate need not be repeated. We had a rollcall. All Senators are reported; only one was in opposition. We do not need that as a demonstration of the Senate's will on the matter.

I want to make plain, in response to the Senator from Colorado, that I am not condemning the Senator from South Dakota on the merits of the amendment that he has offered. I am concerned about the fact that it may well hang up a bill; conceivably, it would cause us not to get the extension done. That is beyond my control, beyond the Senator's control. I simply state that that may happen and, if it happens, it will happen because of the amendment offered by the Senator from South Dakota.

Mr. PRESSLER. Will my friend yield for a question?

Mr. CRANSTON. Yes.

Mr. PRESSLER. Mr. President, I have a very high regard for my friend from California. It would not be fair to suggest that the burden of this bill faltering is on my shoulders. I would like to have a rollcall vote. I think we will find that 96 other Senators would be glad to share that burden for this piece of legislation. Is not my logic correct?

Mr. CRANSTON. It has already been demonstrated by a vote of 96 to 1. I think that would not be changed now. I would vote the same way.

Mr. PRESSLER. Would it not be a logical extension that if he feels that the Senators supporting this amendment are holding up this bill, we will have the rollcall vote, and all 96 would be responsible? So I would hope he would join me in agreeing that the burden is not on my shoulders. It would be on everybody's shoulders.

Mr. CRANSTON. I am not willing to express a view contrary to the facts of life. The facts of life are, if this amendment causes this extender not to get through this time, it is because the amendment was offered by the Senator from South Dakota.

Mr. PRESSLER. Then I shall seek a rollcall vote on it.

Mr. CRANSTON. If that is the Senator's wish, he can have a rollcall vote on it.

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. CRANSTON. I yield the floor.

Mr. PRESSLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I offer to the managers of this bill that I am really not set upon having a rollcall vote, if we can get the amendment adopted.

If there is a single Senator in the Chamber or Senator listening to this debate—and we can debate it for a while—who does not want this amendment adopted without a vote, who feels strongly about this, we will have a vote.

I do not want it suggested that the burden is on me or on any particular Senator. Indeed, the burden is on the House of Representatives to deal with this.

I would very much like to have a vote. I know some Senators are here and there, and it would probably take a half hour to collect everybody together. If there is a single Senator listening who feels otherwise, they can call in, and we can have a rollcall vote.

Mr. ARMSTRONG. Will the Senator yield for a question? I want to be sure I understand the Senator's point. He is saying he is willing to have a voice vote. He is not seeking a rollcall, but he is also not trying to foreclose that.

Mr. PRESSLER. That is correct.

Mr. ARMSTRONG. As I understand the Senator's point, if there is a Senator that disagrees with this amendment on its merits, or feels that for some reason it is inopportune to attach this amendment to this particular bill, the Senator is willing to have a rollcall vote, so every Senator can express their view.

Mr. PRESSLER. That is correct.

Mr. ARMSTRONG. That applies to any Senator who might be in the Chamber at the moment, who thinks it is inopportune to do so. Does that apply to Senators who might be following these proceedings in their offices?

Mr. PRESSLER. That is correct.

Mr. ARMSTRONG. Has the Senator made arrangements to have that question propounded on the hotlines of the two cloakrooms, so every Senator will know if they want a rollcall vote, and they can vote? He is not seeking it, but if they want it, he is not objecting.

Mr. PRESSLER. Mr. President, I would agree to have that done on the hotlines.

Mr. ARMSTRONG. I hope the Republican cloakroom will honor the request. I see that they are acting on it now. If somebody wants a rollcall vote on this, it is fine with me, as it is with the Senator from South Dakota. I do not think we need one, but it is OK with me either way. I do not want anybody to come back and take a dog-in-the-manger attitude and say, oh, my gosh, this fouled up the works. I have not even decided how I might vote on the bill yet.

I do not think it is the end of the world, whether it passes or not. If this amendment happens to derail it, as far as I am concerned, I am not going to lose a minute's sleep on it. It is not even the last minute. If this were 15 minutes before the end of the fiscal year, it would be different. We have lots of time.

I think the Senator has come up with a very valid approach to it. So whatever he wants to do is OK with me. I want to get back talking about the underlying bill.

Let me ask the Senator, does he intend to leave the issue open a few minutes to see if any Senator wants a vote?

Mr. PRESSLER. Yes.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I want to address the issue. I listened carefully to the colloquy. I say to the Senator from South Dakota I am not seeking a rollcall vote. I think it ought to be done by voice vote. If we have a rollcall vote, I will vote for it, as I voted for it yesterday. I support the merits of the amendment.

However, in response to a point made by the Senator from Colorado, I do not regard this as opportune. I think the Senator's question is, Is there anyone who either disagrees on the merit, or considers it inopportune. I simply say to the Senator, I do consider it inopportune, because I think it does raise some risk in terms of losing the housing extender legislation.

If the Senator wants a rollcall vote in order to draw me into this area of responsibility of having offered the amendment, I want to indicate now if and when that rollcall vote comes, I will vote for the amendment. To that extent, I will be drawn into some degree of responsibility for supporting the amendment which the Senator has offered, which carries with it the risk, of jeopardizing the extender, and therefore bringing about the consequences that will come from a failure to enact the extender.

But if the Senator wants a rollcall vote, I am perfectly happy to do it. I will vote with the Senator because I support the merits of it. I do not think it is opportune. If the question had been up to me, I would myself not have offered this amendment to this bill, although I am in sympathy with the Senator's effort to get the substance of his amendment enacted.

I want that position put on the record, and in response to the colloquy that was held.

Mr. ARMSTRONG. Mr. President, I am grateful to the Senator from Maryland for his explanation. What we know now is the Senator from Maryland would vote for the amendment if it were put to a rollcall. The Senator from California would; the Senator from South Dakota would; and the Senator from Colorado would.

Mr. D'AMATO. What about the Senator from New York?

Mr. ARMSTRONG. The Senator from New York would do so.

There is some difference of opinion where is the best place, when it comes down to it. If we vote on it by rollcall, we would vote for it.

I beg the Senator's pardon. Have I mischaracterized?

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. ARMSTRONG. I yield

Mr. CRANSTON. I say to the Senator, I am not drawn into the web; I will vote against it. There probably will only be two votes against it. I favor the concept of the amendment. I do not favor it on this bill. I do not want to have thousands of American families thrown out on the streets and added to the homeless.

For that reason, I will vote against this amendment.

Mr. ARMSTRONG. Does the Senator want a rollcall to give other Senators a chance?

Mr. CRANSTON. I do not care whether it is a rollcall or not. Either way.

Mr. ARMSTRONG. I thank the Senator.

Mr. PRESSLER. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2916) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. Mr. President, I rise to express my support for H.R. 5558, a measure to extend for 30 days the preservation of federally assisted Housing Program for low- and moderate-income families.

The preservation issue is only one of many controversial features in the National Affordable Housing Act, S. 566, which is currently pending in the Housing conference committee.

You may remember, on June 27, 1990, the Senate overwhelmingly approved S. 566 by a vote of 96 to 1. On August 1, 1990, the House overwhelmingly approved the Community Housing Partnership Act, H.R. 1180, by a vote of 378 to 43. As approved, each of these housing reauthorization bills includes a different approach to a permanent solution designed to prevent the displacement of thousands of low- and moderate-income families.

Mr. President, I am not here today to argue the merits for or against the Preservation Program. Instead, I am here to request that the program be extended for 30 days. This should give the conferees enough time to permanently resolve the issue. The Preservation Program, like all other provisions in the housing bills, will be thoroughly debated in conference.

As a conferee on S. 566, I intend to continue to hear all sides on the various issues before us, and to diligently work with my colleagues to get a fair housing bill this year, which will include a preservation solution.

Without the approval of H.R. 5558 at this time, thousands of poor families, including many elderly persons, who can not afford market rents, could be displaced beginning September 30, 1990. This concerns me greatly. It could be devastating.

Mr. President, I urge my colleagues to support H.R. 5558. This appears to me to be the only equitable legislative thing to do.

Mr. RIEGLE. Mr. President, as chairman of the Committee on Banking, Housing, and Urban Affairs, I wholeheartedly support the passage of H.R. 5558. The bill extends until October 30, 1990 certain provisions restricting prepayment of mortgages in federally assisted low income housing. The present restrictions are scheduled to expire on September 30, 1990. If we allow these restrictions to expire we could be displacing over 60,000 low-income tenants.

The impact of such an action would be explosive. Half of the endangered tenants are elderly. These are very poor people. Seventy percent of them have incomes 50 percent or below the area median. These tenants would be forced to pay large rent increases or join the ranks of the millions of homeless Americans.

Senator ARMSTRONG has raised concerns about continuing existing law for 1 additional month. The House has already passed a short-term extended bill. Our failure in the Senate to extend the prepayment restrictions until we complete the work in the conference would severely hamper the efforts of the conferees to solve the preservation issue. This one month extension is imperative so that we may complete our work in the conference.

The housing conference is considering the Senate and House permanent solutions to the preservation problem. The Senate provision passed on the Senate floor 96 to 1. It provides a long-term solution to the preservation issue. We are working with our colleagues in the House to craft a fair and just provision which protects the low-income tenants at risk.

The passage of H.R. 5558 is vitally important to protect the homes of the thousands of low-income tenants who are threatened with living on the streets. Further, the extender bill must be passed in order to allow the conferees an opportunity to finalize a permanent solution to the preservation issue.

Mr. LEAHY. Mr. President, I want to express my strong support for H.R. 5558, which includes a 30-day extension of the provisions of the Emergency Low Income Housing Preservation Act of 1987.

Although it is only a 30-day extension of existing law, this bill is extremely important to protect the right of up to 60,000 of this nation's poorest citizens. In fact, although it is only a brief extender, it might be properly called the "Homelessness Prevention Act of 1990."

The impact of not extending the 1987 law, although the opponents of this measure want to obscure it, is simple. If the Low Income Housing Preservation Act is allowd to lapse before the conferees who are now working on new housing legislation are able to renew or replace it, then possibly as many as 60,000 low income tenants could lose their homes this fall. Such displacement would be the direct result of the Congress allowing owners of up to 20,000 units of federally assisted apartments to prepay their mortgages, and then raise rents or convert the units to apartments or condominiums that are affordable only to the few.

But that is just what we are contemplating, if we are considering voting against this measure. Anyone who speaks against this measure, in the name of the property and contract rights of owners, is purposely avoiding the central issue.

The central issue is that thousands of our least powerful, most economically vulnerable citizens—the low-income elderly and disabled, the working poor and female-led households—stand to quickly lose their affordable homes if this important extension of law does not pass. Homelessness has increased dramatically over the past 8 years, as we all know, and so has the rate of poverty. If this measure does not pass, Mr. President, I can assure you that we will see more of both, and quickly. And the people who would be forcing this displacement would be, by and large, well-heeled real estate developers for whom these affordable apartment complexes are but a small part of extensive, multistate financial holdings.

I know all of this from first hand experience, Mr. President. For the past 3 years, I have been working with low-income tenants and nonprofit housing developers on preserving some 650 affordable housing apartments—home to more than 3,000 people—around my small home State, helping them gain access to Federal housing benefits for which they are eligible. I quickly learned that without the provisions of the Emergency Low Income Housing Preservation Act of 1987, these tenants would be virtually without protection from displacement. And they never would have been able to accomplish what they have worked for so hard—the right to purchase and rehabilitate their homes, and keep them permanently affordable.

In the process of working with these groups I also learned that, over the next 5 years, over 300,000 of their fellow tenants nationwide will face the same situation that they did—certain displacement and possible homelessness—unless the Emergency Low Income Housing Preservation Act of 1987 or something like it remains in place. We must see that it does remain in place, Mr. President, and a vote for H.R. 5558 today would be a first step toward that important outcome.

Mr. ARMSTRONG. Mr. President, I congratulate the Senator from South Dakota for his faithfulness in following up on this. You know one of the

easiest things to do in public life is to make a gesture and promise, to say, "By gosh, here is where I stand, I am for this principle," and then to introduce an amendment and vote for it under circumstances where it does not count.

But the Senator from South Dakota has shown he is not only going to endorse it at night; he is going to endorse it in the daytime, put it on this bill, and put it on whatever comes along until finally it is enacted into law.

I think that is a good demonstration of what a Senator ought to be doing. I compliment him. I am glad to get back to the underlying question of the bill.

Mr. President, we have established the following facts as I understand the situation: That in the 1960's, about——

Mr. CRANSTON. Will the Senator yield before he proceeds?

Mr. ARMSTRONG. I am happy to yield.

Mr. CRANSTON. I ask the Senator if he is willing to let us pass the bill now, and then continue the discussion, build whatever record he may wish to. I am afraid someone else will come in with some other amendment that will put us in double jeopardy.

Mr. ARMSTRONG. No. I am going to make my little speech before we act on the bill. I do not expect I am going to occupy a lot of time and attention of the Senate, and I know of no other likely amendments.

Mr. CRANSTON. Mr. President, I beseech the Senator to do it before there is some bright idea from some staff watching this, and someone runs to the floor with an amendment that might truly sink this amendment.

(Mr. KERREY assumed the chair.)

Mr. ARMSTRONG. Mr. President, I hope the Senator has not given anybody ideas by his statement. That thought has not occurred to me. This is really serious busines, because we are talking here about both public policy and justice to a certain particular group of property owners and a certain particular group of people who live in these low-income housing projects.

To sum up, 20-some years ago, the Department of Housing and Urban Development began entering into contracts with owners and developers where in exchange for an interest rate subsidy, the property owners agreed to hold hundreds of thousands of units open as low-income housing units.

Under the terms of the contracts, the owners were allowed after 20 years to prepay the mortgages, and at that point to opt out of the HUD programs. When these contracts began to reach their 20-year maturity, somebody got nervous. In fact, it appears they got so nervous that they just could not stand the idea that maybe somebody would actually opt out of the contracts, and that therefore it would be a good idea to enact a moratorium on the right of the owners to prepay their mortgages.

In fact, that is exactly what happened in the Low-Income Housing Preservation Act of 1987. There are many of us in this Chamber and elsewhere who have doubts as to the advisability of that and the constitutionality of that.

Judge HEFLIN, our distinguished colleague from Alabama, spoke with eloquence and precision on some of the legal issues which he sees in this question, so I am not going to elaborate on this. I do want to discuss, however, the question of fundamental justice, and I think it is implicitly the admission of both the House and Senate that the present situation is not just.

The unacceptability of the current treatment of prepayment is borne out by the fact that some version of prepayment reform is included both in the Senate version of this legislation and in the House version of the bill. And yet we are heading down to the deadline, September 30.

We are in a conference committee, and as I understand it—and I am ready to be corrected, because I am not a conferee—but as I understand it, the one item that they have said they will not discuss this week prior to the deadline is this matter. There are conferees on the floor, and if one of them wishes to enlighten us about that, that will be fine.

But I am concerned that they would deliberately say they are not going to discuss this item. I am concerned about the fact that the Senate bill lacks the balance and fair treatment to the property owners. I am concerned that the people who sponsored the more balanced treatment amendment which was adopted by the House—it was adopted by the House; it is the position of the House—but I am concerned that the people who sponsored that provision in the bill were not appointed to the conference, and I have already admitted I do not know why, and there may be valid reasons. But still, the outlook is not promising for a just and equitable revision of this provision.

Mr. President, now let me talk about the two main issues. First of all is the question of justice to the property owners. That is an important issue. It is not the main issue, in my opinion, but it is an important issue.

I think people who do business with the Government are entitled to get a fair deal. I think they are entitled, when they bargain with the Federal Government, to assumes that the Government will be at least as honorable in its dealings with persons with whom it comes in contact as we ordinarily expect private persons and private corporations to be.

That means people who enter into contracts with the Federal Government—whether they are handshake contracts or written contracts or boilerplate contracts; whatever they are—if they are real contracts, if there is a meeting of the minds over a legal document, then it appears to me they have every right to think that they are not going to get double-shuffled 10 years later. They have every right to expect that the contracting party, in this case the Government, is not going to welsh on the deal.

Senators know I am from out West, and one of the worst things you can do out West is welsh on a deal. And yet that is exactly what the Government is doing in this case.

Mr. President, I think that is unconstitutional for the reasons that Senator HEFLIN has said. I am convinced it is unfair just on the face of it. To change the deal unilaterally is not right; it was wrong. It is unjust. It is unfair. That is the case I want to make on behalf of the people who own these properties.

I do not know who these property owners are. In a lot of cases, they may even be people I do not approve of. And frankly the program itself I think has been scandalously and extravagantly abused. The payments, in many cases, to owners have been unjustly enriching to them.

I am told some people made a fortune on this. In fact, I am told that in these programs, in many cases, the chief beneficiaries seem to be the owners. And I just tell you that because I am not sticking up for the owners because I think they are entitled to it. I am sticking up for the owners because in our country, justice applies to everybody, whether they are entitled to it or not. Justice applies to everybody, even though they may have gotten rich on the deal.

I know some people not only made a fortune on it; they made two fortunes. I know a handful, at least, made fortune after fortune after fortune.

Some of these programs frankly ought to be abolished. That is not the question here. The question here is the sanctity of a contract and the Government trying to welsh on the deal.

Now point No. 2, and the more important point in my opinion.

What is the effect, if we again extend these contracts unilaterally, what is the effect then on low-income persons who need public housing? It is bad for them. Will Senators please think about this? What I am about to say at some level is counterintuitive.

Undoubtedly, if we let these people prepay their mortgages, some will do so, and they will convert these buildings to some other use than low-cost housing. They may convert them to high-cost housing, condominiums, to marinas, to parking lots, to airports. I do not have any idea what they are going to convert them to. Some probably, not many, but some units, will be

converted and therefore the instant effect is to marginally reduce the supply of low-cost housing. But if we again extend this moratorium, what are we saying to the providers of low-cost housing? We are saying that this is a program that, once you get into it, it can be changed against your will.

Responsible businessmen and women will not enter into that kind of a deal. We will chase away from low-income housing programs exactly the people we want to attract for the long term. So, in order to prevent the loss of a handful of units, perhaps dozens or maybe hundreds, in a very short period of time, we are going to again say to the providers, "This is a marked deck. The dice are loaded. The wheel is rigged. The fix is in. No matter what we have said in a contract, if we do not like it later, we are going to change the deal." People will not do business on that basis unless they are enticed to do so by an exorbitant price.

So exactly what is going to happen is, first, people will be less willing to provide low-cost housing for low-income persons and, second, they will bid up the price at which that will be provided because of the extra risk that the Government will welsh on its contracts. Now this is not speculation. This is an observable phenomenon.

Let us take a look at what happened in New York City or, for that matter, right here in the Nation's Capital with low-cost housing provided under rent control. The City Council of New York City and of Washington, DC, said, "Boy, this is great. We have all this housing stock. Now, if we can just keep the price of rents down, it will be wonderful. We will have extra low-cost housing units for which the price, the rent, would otherwise rise and therefore low-income persons would not be able to rent this housing."

Well, how has it worked out? We do not have to guess about this; we know how it is has worked out. The result has been a disaster. Buildings have been abandoned. Low- and middle-income housing has turned into slums. Slums have turned into vacant buildings, in some cases into crack houses. Some of the areas we are talking about that have been under rent control, some of them for decades, look worse than areas of Berlin after the bombing. They look like they have been bombed. They are areas of lawlessness, they are crack houses, they are places that are not safe for anybody. They are truly the most desperate places in our urban areas. It is not coincidence that these are the rent-controlled areas. This is caused by rent control.

What we are talking about here, if we extend this moratorium, if we again abrogate the rights of these property owners, what we are talking about is a form of rent control. Only it is worse. It is more insidious than rent control. Because at least if you are foolish enough today to buy rental income housing units in New York City or Washington, DC, or any place else where they have rent control, you know what you are getting into. These poor devils that entered into these contracts 22 or 23 years ago probably had the mistaken notion that the Federal Government was going to honor its word. They probably thought it was not only the law, which I think it is and I think in the end the Supreme Court will probably say that it is, they probably thought that that was the honor of the U.S. Government at stake, that a deal is a deal and the Government does not welsh on its deals anymore than private parties are expected to do so.

So the effect of this is to make less low-cost housing available in the future and to raise the price at which providers are willing to step up and make this housing available because they are going to take into account and in fact discount for the extra risk.

Mr. President, I want to give you one more example. That is the debacle we have in savings and loans. You know we made some deals early in the game when this savings and loan disaster started becoming apparent. The Government made some deals with private persons to come in and rescue some of these savings and loans. At the time they seemed like pretty good deals. Afterward, they seemed a little too generous to some people and in some cases the regulators went back and said, "You know, this is just a little too generous. We are not going to honor the terms of our contract."

I think of one example. I cannot cite the name of the savings and loan association involved. It is in northern California. I read about it in the Wall Street Journal or the American Banker or one of those trade publications. But the facts are very clear.

In my recollection, the facts are these: The Government made a contract and came in later and tried to change the contract. The owners said, "Wait a minute; you can't do that. We put $27 million of our money into this deal and we did it on the enticement of this contract. We did it in bargaining for this contract. You can't break your contract." And they took the Government to court and won.

That has happened in at least two cases with essentially identical facts to what I have just outlined. So the Government got their ears pinned back in those two cases just as, in the long run, I fully expect the Government will lose on these preemption cases that are addressed in this bill.

But what is the practical effect? Did the Government's action encourage more people to step up to the plate and get interested in making investments in the savings and loan industry to help the Government bail this situation out? Absolutely not. In fact, the opposite. It is generally thought among bankers that you have to be crazy to enter into one of those deals today. And if you would look at the auctions that they are having around the country of savings and loan properties that are being put on the block by the RTC, the Resolution Trust Corporation, what you are finding is that the prices they are able to get for the assets they are trying to sell to the private sector are ridiculously low and, in a lot of cases, they are not even able to attract bids.

Out in my home State, we had a $500 million association, the assets of which were sold to an out-of-State buyer for several hundred thousand dollars. Just a pittance, an amazingly low amount. I think of another an association headquartered in Parker, CO, that I think had assets of $235 million. They could not even attract a bid on that particular association. And over and over again they put out for bid savings and loan associations where they could not even get one responsible buyer to step up to the plate and say, "Yes, I would like to put some money in this proposition."

Why is that? It is precisely because of the fear, the supposition, the belief that the regulators, either on their own volition or on the insistence of Congress, are going to come back and change favorable deals. In other words, you are a businessman and go in and bargain for something and make a deal that you think is good and it turns out bad, you are stuck with it. If it turns out to be a good deal, the regulators are going to come around later and try to change it. Now, that is exactly the issue that is at stake here.

As we think about this problem, worry about the poor property owner but do not be mostly concerned about them. Be mostly concerned about low-income persons who need a place to live and for whom a housing will be less available and with higher prices to the Government or to the residents, precisely because we are trying to welsh on these deals. That is the issue. That is the issue in this bill. That is the issue in this conference.

A couple of hours ago when we came to the floor the Senator from California asserted that I had been trying to hold this thing up. I am not trying to hold this up. I am about to sit down and as far as I know I do not have any amendments to offer. I do not expect to say anything more unless I hear something more that seems worthy of comment, and I do not plan to ask for a rollcall vote. I just want to lay this issue out so all Senators can think about it, so the conferees can think about it.

I am not saying I may not seek a rollcall vote. I might even seek to

delay the passage of the conference report if it comes back with a unsatisfactory solution to this problem. I will explain what constitutes a satisfactory solution. A satisfactory solution is to say either that those property owners are entitled to whatever benefit they can get from the terms of the contract they entered into, and if that is to be denied to them, they are entitled to just compensation. I think that is what the Constitution of the United States says, anyway.

But this attempt to get around that, to avoid the meaning and purpose of that clause of the Constitution is reprehensible. It is wrong for Congress to do it. It is wrong for HUD to do it. It is unfair to the property owners and it is ruining the market for this kind of housing. It is going to make less low-income housing available in the future than we have had in the past. So that is a satisfactory solution.

Some dark night when they bring back this conference report, late at night against a deadline, when everybody is eager to adjourn and when there will not even be a quorum of Senators present, because a lot of times that is when these conference reports come back, I do not want anybody, the Senator from California or the Senator from New York or the Senator from Maryland or anybody to come back here shedding a lot of crocodile tears if I stand up and object to it, and at that point I may try to delay it.

I told the Senator from California earlier I am not trying to delay this and if I had been he would know it. If I try to delay the conference report, he and other Senators will know that, too. I cannot delay it indefinitely. I cannot delay it for a month or 2 weeks or a week, 3 or 4 days, but I can delay it long enough maybe to make it impossible to pass under the circumstances that will exist. Maybe I will do that and I probably will. And probably some other Senators will join me.

I heard some similar expressions of concern from other Senators, some who have been on the floor and others of whom have not. If they come back with a deal that resolves this question with a one-sided, welsh-on-the-contract deal, my guess is somehow it is going to be very difficult to pass the conference report, and I do not want to hear anybody coming back and saying, well there is FHA extenders in there too, or it is part of a package, or—I do not care what else it is. Senators should be on notice, it is not my fault they did not get this bill to the floor until September 27. If they do not get the conference report back until the very last minute, maybe on the last day, maybe even late in the afternoon or in the evening on the last day and if by then all Senators are not here and some Senators have taken planes home and gone home to campaign, that is tough. That is their problem. They have known all this time this legislation was expiring. The fact they could could not get their act together does not justify extending it on dishonorable terms.

Mr. President, I thank all Senators. I am glad to have had my say about this. I feel strongly about it. I explained my purpose. If anybody else wants to talk that is fine. If not, I urge Senators to think about it, because if it is not settled on satisfactory terms, there might be a rollcall vote on the conference report when it comes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I would like to take a moment, if I may, to join with colleagues who have expressed support for the passage of a short-term extension. It is my understanding, Mr. President, that there is now attached to this an amendment, an amendment which I voted for the other day, which has now once again come back here on the floor, which means that this is now going to go into the old ping-pong game, back and forth, House to House.

I really hope, Mr. President, we are not going to allow various short-term political goals to obstruct the reality of what is at stake here in this issue. If the Senate does not act, and if we do not act jointly, the current moratorium is going to expire this Sunday. I do not think anybody at this moment in time could possibly be oblivious to the growing perception in this country that this institution is failing to fulfill its obligations. It would be very hard to ignore the results of a recent election in the State of Massachusetts, not to mention a feeling that has been expressed all across this country in the course of the last few years and that is growing. Part of that is being expressed in the stalemate of the budget process which I will have a word about at the end of my comments. But if we allow this moratorium to expire, the consequences of that action are going to be tragic in terms of human life. Although the extension is written simply in terms of 30 days, what it translates into is a Government failure, an unwillingness to respond to the real needs of people who depend on us to try to resolve these kinds of choices.

We are talking about elderly citizens who are attempting to live out twilight years in peace with a sense of security and a sense of confidence that the Government is not going to continue to fool around with their lives. We are talking about single mothers who are trying to make ends meet for themselves and for children, who are often in situations of difficulty. We are talking about innocent tenants, all of whom would face a sudden uncertain future in terms of their housing if we allow the moratorium to expire.

This is simply a temporary extension. It is hard to believe that grown people with serious intent and purpose in their hearts and minds cannot come together to step over some of the smaller political goals that seem to intrude so consistently around here.

All of us know the conference committee, which the Senator from Colorado has referred to, is currently deliberating, and hopefully we can come up with an agreement that is fair. I, personally, sympathize with the comments of the Senator from Colorado when he talks about the Government having made an arrangement and an agreement. I, personally, believe we have an obligation to people whom we have permitted to enter into contracts, in order to not suddenly disrupt that process.

But we have a similar obligation, recognizing the fate of housing in this country, to guarantee that those who depend on some kind of subsidies in order to be able to make ends meet, are not suddenly going to find themselves thrown out in the street. That is an equal obligation.

It seems to me, again, fair and reasonable minds ought to be able to come together to do this. Obviously I have heard from both sides of the matter in Massachusetts. I have been working on this issue for a number of years. I think it is vital that we begin to make these choices here rather than allowing people to so consistently be subject to the inability of this process to bring closure in the decision-making process. I have heard from residents of Boston and Springfield, Worcester and Lowell, New Bedford, Fall River, all across the State of Massachusetts, who are desperate, who sense an urgency that somehow this place is not responding to.

So I think it is absolutely essential that some 2,000 units that are at stake in my State, and some thousands more families that are affected by it, human beings, have some sense of where we are going.

If we fail to enact a permanent resolution of this, we stand to lose over 360,000 federally assisted low- and moderate-income housing units as those use restrictions that have been imposed on them for 20 years begin to expire. I repeat, I think the Government earns a lousy name for promising people certain things and then reversing it.

I personally, voted against the changes in the IRA's, and the changes in the passive investment rules and against the concept of retroactivity, because I think it is unconscionable that the Government says to people, here is the way we are telling you to behave, and then not only does the Government, a very short time later, come along and change the rules, but

actually winds up punishing people for playing by the rules that it set up.

If there is anything calculated to create distrust and a sense of cynicism about this process, it is that kind of behavior. So I do not think we have a right to arbitrarily say contracts that were entered into in good faith years ago, which drew people into an arrangement which allowed them to put their private capital on the table and suggested to them sometime as a consequence of that they would be able to make a profit—all of a sudden we would be willing to say sorry, we are changing the rules. I think there has to be a balance between the ability of people to be able to fulfill that contract, and the Government to fulfill its obligation to those people.

That is exactly what we are struggling to accomplish. I thought the Senate bill went just about as far as you could go. I think there are a few changes I might have made personally, but it was a step in that direction. It is my hope we are going to resolve this issue.

Mr. ARMSTRONG. Mr. President, I wonder if the Senator from Massachusetts would remain on the floor for a moment for a question? I want to compliment him on his statement, particularly his very direct and forceful discussion of what happens when you make contracts and then change them after one party has performed. I thought he said that very well. I appreciate his saying so.

I also share his sense of the urgency of somehow working out something that is fair. Perhaps before the Senator was on the floor, I made the point that there seemed to be two issues: one is justice for the property owners, which is an important question. The other, and in my view the more important question is what about the people who need low-income housing, not only those who live in these units, but all people who are affected by this decision?

I do think because of the fact today is the 27th or 28th of September and this thing has drawn out far too long that the sense of impatience that he expresses is very well justified.

The question I wanted to ask the Senator is this: Is the Senator aware that in the conference committee that the conferees decided explicitly not to take up this matter this week; that, in fact, they seem to be putting it off to be the last item to be settled, or at least among the last items to be settled? I do not think the Senator from Massachusetts is a conferee, nor am I, of course, and I am wondering if the Senator was aware of that?

Mr. SARBANES. Will the Senator yield? When he says we are not going to take up which matter, this coming week?

Mr. ARMSTRONG. My understanding is, and I will be glad to be corrected, is the Senator from Maryland a conferee?

Mr. SARBANES. I am.

Mr. ARMSTRONG. It would be helpful if we understand that. Earlier I was making the point I am concerned about the fact we have a bill which is pretty good in some ways from the House but conferees who do not support that position.

Mr. SARBANES. We have some difference over that very issue, you may recall. When the Senator makes that assertion, I disagree with that, nevertheless.

Mr. ARMSTRONG. That is noted, and the Senator is entitled to his position and the record historically may prove he is correct. That is not my view at the moment, but we will see how it turns out.

The question I was getting to, particularly in the light of the sense of urgency which the Senator from Massachusetts expressed, and I also feel, is there is a report circulating that the conferees have decided not to deal with this particular issue, that is, the prepayment of mortgages issue, this week; to deal with it later as one of the last items of the conference to be settled.

Mr. SARBANES. When the Senator uses the phrase "this week," to what week is he referring?

Mr. ARMSTRONG. This week. Next week, I guess. I do not know. I was told they would put it off until the end.

Mr. SARBANES. All substantive issues involved in the conference have been scheduled, assuming we can meet the schedule, to be considered this coming week. In other words, the week running this coming Monday through Friday. The conference has had two meetings this week, but none of them really got to major substantive issues.

Mr. ARMSTRONG. Why not? If this is such an urgent matter, why did they not? Why not?

Mr. SARBANES. We had to organize, to begin with, and then we had a followup organizational meeting and sought to dispose of a lot of noncontroversial items, some of which the Department of Housing and Urban Development raised some questions about and they were deferred. All of the major substantive matters involved in the bill to be conferenced have been scheduled to be considered this coming week.

Mr. ARMSTRONG. Was the understanding that I was given that this item was scheduled to be among the last to be taken up correct?

Mr. SARBANES. I do not have that schedule in front of me. It is to be taken up next week. There was an earlier schedule that had some substantive items to be considered in the following week.

Mr. ARMSTRONG. I see.

Mr. SARBANES. Perhaps that is the schedule that the Senator is referring to. I do not have that in front of me.

Mr. ARMSTRONG. It could be.

Mr. SARBANES. But all substantive items have now been scheduled to be dealt with this coming week. And all of the issues are now under discussion by staff and others in an effort to try to work out some positive and constructive approaches.

Mr. ARMSTRONG. Let me ask, Mr. President, if, in fact, the schedule of the conference committee is not as follows: That all major issues are to be resolved by next Tuesday, except FHA and the prepayment question, and then the FHA issue it to be taken up after that and the prepayment issue is to be taken up last.

Mr. SARBANES. I do not think it is correct that all issues, other than just FHA and prepayment, are to be resolved by Tuesday. In any event, the schedule we set up and we tried to intensify from an earlier schedule was to complete all substantive issues next week and give the staff that next weekend to try to complete the conference report so we could then report it back. I do not follow the Senator's point. We could deal with this issue on Monday. Maybe it is being dealt with on Thursday. But, in any event, all of the issues have to be dealt with before we finish the conference, and we have intensified the conference schedule.

Mr. ARMSTRONG. I will be glad to explain my point more fully.

The point is this: That there is some concern that the conference is stacked; that the matter is urgent and people of have different opinions about the outcome agree it is urgent and yet it has been put off to the last item. I am just emphasizing the point that if at the last minute on the last day or near the very end a solution comes back that is not satisfactory, I just do not want to hear any crocodile tears from somebody coming in and saying, it is awfully late, it is the end of the session, and we cannot do anything about it because it got to be so late by the deliberate decision of the people who are managing the bill.

I am not on the committee. I am not on the conference. I am just telling you I am an interested Senator, and I want some time to look at this and for Senators to consider it at a time when there are Senators present. That is all I am saying.

Mr. SARBANES. It is preposterous of the Senator to make this assertion when one of the decisions the conference made last week was to intensify the schedule and to provide for the disposition of all substantive issues this coming week whereas a previous schedule that had been proposed provided for the consideration of substantive issues on the following week.

What the conference has done is tried to intensify the schedule and to move more quickly so we would be in a position to bring back a piece of legislation to the bodies not next week but the following week. The previous schedule had substantive issues to be considered in that following week, which then raised the prospect of not being able to come back until the week after that.

Mr. ARMSTRONG. Would the Senator like to have the last word?

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. ARMSTRONG. I am not trying to get the last word.

Mr. CRANSTON. I wish somebody would have the last word.

Mr. ARMSTRONG. Mr. President, I think I struck a nerve. I think the reality is that this may be a more significant issue than I thought. I was just mentioning it in passing because the Senator from Massachusetts made the case so eloquently that this was a very urgent matter.

Just to resolve the issue, I do send to the desk and ask unanimous consent that we print in the RECORD following my remarks, the agenda for the housing conference dated September 26, 1990. Everybody can draw their own conclusions. I am not trying to get in the last word. All I am saying is do not bring this thing back in the dark of night when a lot of Senators are not here and expect it is going to sail through.

I think I said this earlier when the Senator from California was off the floor. He wondered aloud if I was trying to delay the passage of this bill. It is evident I am not. I am not even asking for a rollcall vote on the bill. I have some reservations about it. I have some problems with it. I just do not want to get into that situation on the final resolution of it, and if we do, the Senator from Maryland and other Senators should know that we might not be as accommodating.

I send to the desk in the keeping of the Senator from Maryland the schedule, and I do ask unanimous consent it be printed in the RECORD when he is finished.

There being no objection, the agenda was ordered to be printed in the RECORD, as follows:

AGENDA FOR HOUSING CONFERENCE, SEPTEMBER 26, 1990

1. Discussion and action on staff agreements.

2. Proposed Timetable for member resolution of conference items:

Tuesday, October 2, at 9:30 a.m.:

Consideration of Staff agreements on the following issues: Congregate Housing Services/Project Retrofit; Family Self-Sufficiency; Family Support Centers/Project Independence; HOPE for Vacant Public Housing Units; AIDS; CLAP Formula; Drugs; Manufactured Housing; miscellaneous housing provisions.

Members discussion of HOP/Housing Production/Miscellaneous programs (REACH, In Rem, Weatherization, Home Repair), National Housing Trust, and Homeless provisions.

Thursday, October 4, at 9:30 a.m.:

Consideration of staff agreements on HOP/Housing production, National Housing Trust, Homeless provisions and HOPE.

Consideration of staff proposal (or proposals) on FHA issues.

Friday, October 5, at 9:30 a.m.:

Consideration of staff proposal (or proposals) on preservation/prepayment and authorization levels.

Consideration of any remaining issues and nonhousing provisions.

Tuesday, October 9, 9:00 a.m.:

Reserve Meeting.

Mr. SARBANES. Mr. President, I ask unanimous consent, in view of what has been said, that immediately following this schedule, which represents the schedule which the conference has agreed to follow, there be printed in the RECORD the schedule that was proposed for which the schedule sent to the desk by the Senator from Colorado took its place in order to make it very clear to the membership that the conferees have sought to intensify the pace of the conference and to bring the legislation back at an earlier time rather than a later time.

There being no objection, the agenda was ordered to be printed in the RECORD, as follows:

AGENDA FOR HOUSING CONFERENCE, SEPTEMBER 26, 1990

1. Discussion and action on staff agreements.

2. Proposed timetable for member resolution of Conference items:

Tuesday, Oct. 2, at 9:30 a.m.—Manufactured Housing.

Thursday, Oct. 4, at 9:30 a.m.—Consideration of staff agreements presented on Oct. 1, HOP/Housing Production/Misc Programs (REACH, In Rem, Weatherization, Home Repair).

Friday, Oct. 5, 9:30 a.m.—FHA issues.

Tuesday, Oct. 9, 2:00 p.m.—Preservation/Prepayment.

Wednesday, Oct. 10, 9:30 a.m.—Consideration of staff agreements presented on Oct. 9, Miscellaneous issues, Nonhousing provisions.

3. Staff schedule for resolution of other issues:

Oct. 1: Remaining issues, Section 202, Congregate Housing Services, Family Self-sufficiency, Family Support Centers/Project Independence, National Housing trust, HOPE for Vacant Public Housing Units.

Oct. 8: HOPE, Homeless provisions, nonhousing issues, miscellaneous issues.

Mr. ARMSTRONG. The Senator had the last word.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 5558), as amended, was passed.

Mr. CRANSTON. I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I move that the Senate insist on its amendment and request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer [Mr. KERREY] appointed Mr. RIEGLE, Mr. CRANSTON, Mr. SARBANES, Mr. DODD, Mr. DIXON, Mr. HEINZ, Mr. D'AMATO, Mr. BOND, and Mr. MACK conferees on the part of the Senate.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I ask unanimous consent that I might be permitted to proceed for no longer than 15 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NEED OF ADDITIONAL POLICE OFFICERS FOR THE CITY OF NEW YORK

Mr. D'AMATO. Mr. President, on September 27, I proposed a plan of action to meet a pressing problem, one of critical importance, one that might be considered an emergency to the great city of New York and its environs. It concerned the crime epidemic and the crime wave sweeping across our city—daily accounts of muggings, robberies, innocent children, babies, infants in their own beds, in their own apartments being shot. Of course, the catalyst was the tragic killing of a young man, Brian Watkins, who came to the aid of his mother while his family was in New York City to view the national tennis championships, and as they were waiting for a subway some people attacked them and led to Brian's death.

Since I made my proposal to hire thousands of desperately needed additional police utilizing money from the West Side Highway and from noncritical transit construction projects,

many New Yorkers have contacted my office with calls of support.

These, Mr. President, are the people who live in fear. They live in fear behind locked doors. They are afraid to ride on our subways or to take a walk in the park. They are afraid to leave their homes.

Mr. President, they question Government's commitment to provide for their personal safety. I believe they are right. I believe that Government's first responsibility is to provide for the safety of its citizens.

While the tragic killing in the subway station of a young man from Utah, Brian Watkins, makes local and national headlines, the fact is that the good and decent people of our region have been victimized on a daily basis, if not hourly, by violent crime fueled by drugs and drug trafficking. How can it be that a society which serves as the beacon of freedom abroad fails to secure freedom from crime for its citizens at home?

Mr. President, there are now 5,000 fewer police officers in New York City than there were in 1970, and yet the murder rate has almost doubled. What do we do? Everyone says we need more police; we need more security. The question is how do we pay for it?

To help pay for the additional police New York needs, I suggested giving the city an option, an opportunity of using up to $540 million, that belongs to it, by way of trading funds they have for the Westway Highway and an additional $250 million Federal transit construction funds. You see, Mr. President, they receive about $350 million annually. They already have on reserve $2.1 billion that came by way of a State bond issue.

Mr. President, I am not an opponent of transit funding. In fact, my efforts on behalf of transit capital funding include writing a 1982 Federal law which has brought an additional $3 billion to New York City for transit capital projects. So this is a Senator who recognizes the necessity of capital for mass transit.

I succeeded in allocating $1.725 billion for the Westway trade-in. Five years later we see no activity on the West Side Highway replacement project; $606 million is still unspent. Meanwhile, New York City is desperately searching for the resources to deal with the crime epidemic. Why should not the city of New York be allowed to use this money designated for a highway project which many oppose and may never be completed to hire the desperately needed police?

In a perfect world, there are unlimited resources to do everything, but in the real world, one in which hoodlums rob, rape, and murder, we must make choices. To me and the millions of New Yorkers who live in fear, the choice is clear: New York needs more police.

In an attempt to attack my proposal certain individuals have painted the bleakest of pictures of falling bridges and highways and of massive collapse of the subway system. My proposal, Mr. President, would not curtail the funding of critical projects. Under my proposal, the MTA would still have $2.2 billion in the bank for capital projects. Additionally, hundreds of millions of Federal money would continue to come available every day, every year for other transit and highway capital projects.

Despite these facts, Mr. President, the MTA in knee jerk fashion has opposed my plan. I would expect no less from an organization which brought us the famous $800 million fiasco known as the 63d Street subway "Tunnel to Nowhere." The MTA could have provided limousines and drivers for each of the tunnel's current riders and saved the taxpayers hundreds of millions of dollars.

Now, that same crew who brought us the "Tunnel to Nowhere" is planning an express/local connector to it, and that express/local connector is estimated to cost $588 million.

Mr. President, we do not need this new tunnel. In all likelihood it will take 20 years to complete. The same turkeys built a tunnel costing $800 million. They estimate that it carries 7,000 riders a day.

There are many, many more MTA fiascos, including a $446 million—you know, we mention these sums, $446 million, $800 million, and a $558 million connector that they are now planning; they cannot come up with sufficient capital to keep the subways in decent repair or to keep them safe.

Mr. President, if we are alarmed to see ceilings collapsing at the Nevins Street IRT Station in Brooklyn, we should ask why is it that the MTA did not use their capital moneys—they have ample funds—to take care of this? Instead they have taken up a host of capital projects that have doubtful value.

If, according to MTA, security on the subway is the No. 1 goal, why they have failed so miserably at providing security?

In 1974 the Senate Transportation Appropriations Committee heard testimony that the transit authority's communication equipment often does not work to summon help for crime victims.

In 1990, 6 years later, we hear the exact same testimony from transit police and employees' unions. Still the MTA took 3 years to obligate just $10 million in Federal capital funds to provide silent and voice alarms. The project is only 24 percent complete. And it has failed to act on an antenna system to enable the police radios to work.

This is the great group that says they are concerned about safety for their riders.

Mr. President, the Federal Government has provided that $3 billion that I speak about. I would suggest that we have an absolute obligation to see to it that it is spent correctly.

More immediately, as it relates to the people of that great city, unless we get more police, there will not be any subway overcrowding problem to worry about because people are afraid to ride the system. If we do not get more police on the streets, any future need for a superhighway on the west side will only be to make it possible for the people who are looking to flee the city of New York.

Thank you, Mr. President. I thank the majority leader for his courtesy. I yield the floor.

NOMINATION OF DAVID L. SOUTER TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, as if in executive session, I ask unanimous consent that the Senate proceed to the consideration of the nomination of David L. Souter, to be an Associate Justice of the Supreme Court of the United States, at 2:30 p.m. on Tuesday, October 2.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, for the information of Senators, the committee today reported the nomination favorably. I am advised by the chairman of the committee that the report will be available to Senators first thing Monday morning. This will give Senators about a day and a half within which to read the report, to review the matter, and then be in position to discuss and debate it thoroughly beginning at 2:30 p.m. on Tuesday, October 2.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the further information of Senators, there will be no rollcall votes this evening. I thank my colleagues for permitting a vote on housing provisions extension without the necessity of a rollcall vote.

THE CABLE TELEVISION BILL

Mr. MITCHELL. Mr. President, earlier today I made an effort to have the Senate proceed you to S. 1880, a bill to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other pro-

gramming, and for other purposes. This is popularly known as the cable television bill.

I believe it to be an important bill. I have been trying to get the bill to the Senate floor for consideration and decision by the Senate. Unfortunately, I have been unable to do so. I have been distressed to learn that some have suggested that I have impeded action on the bill. Of course, the reality is to the contrary. I am advised that there are objections to our bringing up the bill.

I now state for the information of all Senators that tomorrow morning I will attempt to proceed to the bill. So if any Senator has an objection to the Senate doing so, that Senator should be present on the Senate floor to state that objection.

I repeat: I want the Senate to proceed to debate and decide this bill. I think it is an important bill. However, each Senator, of course, has rights with respect to the manner in which we proceed. And so if any Senator desires to object to such proceeding, that Senator should be personally present on the floor tomorrow morning, at which time I will attempt to bring the measure before the Senate for consideration.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL POW/MIA RECOGNITION DAY

Mr. RIEGLE. Mr. President, I rise in recognition of a very special group of Americans. When the United States finally left Vietnam in 1975, these Americans were left behind. Although some recent progress has been made in the effort to gain information about those who are missing in action, too many remain unaccounted.

As a cosponsor of the bill which declared Friday, September 21, National POW-MIA Recognition Day, I am outraged that more than 2,000 American soldiers are still officially missing in action more than 15 years after the United States departed Indochina. On this day, however, my thoughts are with the families and friends of MIA's. I join in heart and spirit with those who care about Americans missing in action and share their sorrow, while retaining the hope that one day we will be able to find all of them.

The United States must remain dedicated to improving international cooperation and scientific technologies to identify and return all possible MIA's. At the same time, we must also remember those who have made such a meaningful contribution to protecting the freedoms we enjoy in our democratic society.

In an effort to afford well-deserved recognition to the over 2,000 POW-MIA's, I have been working with various veterans organizations in Michigan to request that the U.S. Department of Veterans Affairs allow the POW-MIA flag to be flown on a regular basis at the Fort Custer National Cemetery in Battle Creek. This practice was unchallenged until earlier this year, when the DVA ordered that daily flying of the POW-MIA flag be discontinued in favor of a policy of flying the flag only on certain days. I am hopeful that the DVA will respect the wishes of Michigan veterans and will reconsider this decision.

I ask unanimous consent that the text of a letter from the Fort Custer National Cemetery Advisory Committee be published in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 12, 1990.

Senator DONALD RIEGLE,
Grand Rapids, MI.

DEAR SIR: The Fort Custer National Cemetery Advisory Committee, Inc. requests your assistance in obtaining permission from the Department of Veterans Affairs National Cemetery System to fly the POW-MIA flag on the main flagpole at Fort Custer National Cemetery.

There are currently more than 2,000 American soldiers still listed as missing-in-action. Because these MIA's have sacrificed so greatly in defense of the freedom we now enjoy, the United States must clearly acknowledge their courageous contribution to our society. We feel strongly that by flying the POW-MIA flag at the Fort Custer National Cemetery, Michigan would be affording its MIA's the recognition they deserve.

Thank you for your assistance in this matter.

Sincerely,

CHARLES M. COOK,
Chairman, Fort Custer National Cemetery Advisory Committee, Inc.

Mr. RIEGLE. To the friends and families of those who are still missing—my heart is with you. Those who sacrificed to defend the United States are entitled to our continued perseverance in efforts to acquire information on their whereabouts and to secure their ultimate return to loved ones. As always, I am committed to a full accounting of Americans missing in action in Southeast Asia and I will continue to be vigilant in pursuit of this goal.

MESSAGE FROM THE HOUSE

At 2:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4487) to amend the Public Health Service Act to revise and extend the program for the National Health Service Corps, and to establish certain programs of grants to the States for improving health services in the States; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. SCHEUER, Mr. WAXMAN, Mr. TOWNS, Mr. RICHARDSON, Mr. ROWLAND of Georgia, Mr. SYNAR, Mr. SLATTERY, Mr. COOPER, Mr. LENT, Mr. MADIGAN, Mr. DANNEMEYER, Mr. TAUKE, Mr. BLILEY, and Mr. BILIRAKIS as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5400) to amend the Federal Election Campaign Act of 1971 and certain related laws to clarify such provisions with respect to Federal elections, to reduce costs in House of Representatives elections, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. SWIFT, Mr. ANTHONY, Mr. BROOKS, Mr. MCHUGH, Mr. ANNUNZIO, Mr. SABO, Mr. SYNAR, Mr. FROST, Mr. OBEY, Mr. GLICKMAN, Mr. FAZIO, Mr. BERMAN, Mr. MILLER of California, Mr. RUSSO, Mr. DINGELL, Mr. FORD of Michigan, Mr. ECKART, Mr. THOMAS of California, Mr. VANDER JAGT, Mr. ARCHER, Mr. BUECHNER, Mr. FRENZEL, Mr. GUNDERSON, Mr. HORTON, Mr. OXLEY, Mr. ROBERTS, Mr. SUNDQUIST, and Mr. RHODES as managers of the conference on the part of the House.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 1243) to require the Secretary of Energy to establish three Centers for Metal Casting Competitiveness Research; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4019. An act to designate certain rivers in the State of Michigan as components of the National Wild and Scenic Rivers System, and for other purposes.

H.R. 4323. An act to amend the Federal Water Pollution Control Act relating to water quality in the Great Lakes;

H.R. 4450. An act to improve management of the coastal zone and enhance environmental protection of coastal zone resources, by reauthorizing and amending the Coastal Zone Management Act of 1972, and for other purposes;

H.R. 4559. An act to establish the Red Rock Canyon National Conservation Area; and

H.R. 5482. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of District of Columbia revenue bonds.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4019. An act to designate certain rivers in the State of Michigan as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4559. An act to establish the Red Rock Canyon National Censervation Area; to the Committee on Energy and Natural Resources.

H.R. 5482. An act to waive the period of congressional review for certain District of Columbia acts authorizing the issuance of District of Columbia revenue bonds; to the Committee on Governmental Affairs.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4450. An act to improve management of the coastal zone and enhance environmental protection of coastal zone resources, by reauthorizing and amending the Coastal Zone Management Act of 1972, and for other purposes.

ENROLLED BILL SIGNED

The PRESIDENT pro tempore [Mr. BYRD] announced that on today, September 27, 1990, he had approved and signed the following enrolled bill which had previously been signed by the Speaker of the House:

H.R. 4328. An act to provide for orderly imports of textiles, apparel, and footwear.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 27, 1990, he had presented to the President of the United States the following enrolled bills:

S. 535. An act to increase civil monetary penalties based on the effects of inflation; and

S. 2075. An act to authorize grants to improve the capability of Indian tribal governments to regulate environmental quality.

REPORTS TO COMMITTEES

The following reports of committees were submitted:

By Mr. SASSER, from the Committee on the Budget, without amendment:

S. 3121. An original bill to amend title 31 of the United States Code to restrict the use of appropriations amounts available for definite periods (Rept. No. 101-475).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2649. A bill to provide for improved drug abuse treatment and prevention (Rept. No. 101-476).

By Mr. SASSER, from the Committee on Budget, without amendment:

S. 447. A bill to require the Congress and the President to use the spending levels for the current fiscal year (without adjustment for inflation) in the preparation of the budget for each new fiscal year in order to clearly identify spending increases from one fiscal year to the next fiscal year (Rept. No. 101-477).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

H.R. 3007. A bill to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorization for appropriations.

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

H.R. 5064. A bill to amend the Drug-Free Schools and Communities Act of 1986 to provide for a program of grants to local educational agencies for drug abuse resistance education programs.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

H.J. Res. 469. Joint resolution to designate October 6, 1990, as "German-American Day."

H.J. Res. 603. Joint resolution to designate the month of October 1990 as "Country Music Month."

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 1657. A bill for the relief of Trevor Henderson.

S. 2981. A bill to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys & Girls Clubs of America.

S. 3016. A bill for the relief of Janice and Leslie Sedore and Ruth Hillman.

S. 3091. A bill to amend the act incorporating the American Legion as to redefine eligibility for membership therein.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 270. Joint resolution to designate the period commencing February 17, 1991, and ending February 23, 1991, as "National Visiting Nurse Associations Week."

S.J. Res. 277. Joint resolution designating October 6, 1990, as "German-American Day."

S.J. Res. 293. Joint resolution to designate November 6, 1990, as "National Philanthropy Day."

S.J. Res. 307. Joint resolution designating November 11 through November 17, 1990, as "National Women Veterans Recognition Week."

S.J. Res. 323. Joint resolution designating November 11 through 17, 1990, as "Geography Awareness Week."

S.J. Res. 340. Joint resolution designating the week beginning November 11, 1990, as "National Disabled Veterans Week."

S.J. Res. 342. Joint resolution designating October 1990 as "Ending Hunger Month."

S.J. Res. 347. Joint resolution designating April 7 through 13, 1991, as "National County Government Week."

S.J. Res. 349. Joint resolution designating October 1990, as "Italian-American Heritage and Culture Month."

S.J. Res. 353. Joint resolution to designate September of 1991 as "National Rice Month."

S.J. Res. 358. Joint resolution to designate February 7, 1991, as "National Women and Girls in Sports Day."

S.J. Res. 362. Joint resolution to designate the period commencing on November 18, 1990, and ending on November 24, 1990, as "National Adoption Week."

S.J. Res. 365. Joint resolution to designate the month of October 1990 as "Country Music Month."

S.J. Res. 366. Joint resolution to designate March 30, 1991, as "National Doctors Day."

S.J. Res. 367. Joint resolution to designate the week of November 11 through 17, 1990, as "Gaucher's Disease Awareness Week."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Richard Y. Roberts, of Virginia, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 1995.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Joel F. Dubina, of Alabama, to be U.S. circuit judge for the Eleventh Circuit;

William B. Shubb, of California, to be U.S. district judge for the Eastern District of California;

Gary L. Taylor, of California, to be U.S. district judge for the Central District of California;

James Ware, of California, to be U.S. district judge for the Northern District of California;

Jean C. Hamilton, of Missouri, to be U.S. district judge for the Eastern District of Missouri;

Charles W. Pickering, Sr., of Mississippi, to be U.S. district judge for the Southern District of Mississippi;

David F. Levi, of California, to be U.S. district judge for the Eastern District of California;

Samuel B. Kent, of Texas, to be U.S. district judge for the Southern District of Texas;

Linda A. Akers, of Arizona, to be U.S. attorney for the District of Arizona for the term of 4 years; and

Kenneth W. Sukhia, of Florida, to be U.S. attorney for the Northern District of Florida for the term of 4 years.

By Mr. BIDEN, from the Committee on the Judiciary:

W. Lee Rawls, of Maryland, to be an Assistant Attorney General;

J. Michael Luttig, of Virginia, to be an Assistant Attorney General;

Robert S. Mueller III, of Massachusetts, to be an Assistant Attorney General; and

Charles B. DeWitt, of the District of Columbia, to be Director of the National Institute of Justice.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second time by unanimous consent, and referred as indicated.:

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 3119. A bill to prohibit the Secretary of Defense from transporting chemical munitions to Johnston Atoll for the demilitarizaton or storage of such munitions; to the Committee on Armed Services.

By Mr. METZENBAUM (for himself, Mr. D'AMATO, Mr. KENNEDY, Mr. COATS, Mr. ADAMS, Mr. LUGAR, Mr. BURDICK, Mr. KERRY, and Mr. SHELBY):

S. 3120. A bill to provide participants in private pension plans which were terminated before September 1, 1974, the nonforfeitable pension benefits which were lost by reason of the termination, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SASSER, from the Committee on the Budget:

S. 3121. An original bill to amend title 31 of the United States Code to restrict the use of appropriations amounts available for definite periods; to the Committee on Governmental Affairs, pursuant to the order of August 4, 1977, for a period not to exceed 30 days.

By Mr. BURNS (for himself, Mr. SYMMS, Mr. MCCONNELL, Mr. KASTEN, Mr. NICKLES, Mr. COATS, Mr. HELMS, Mr. WALLOP, and Mr. BOSCHWITZ):

S. 3122. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to limit increases in outlays to 4 percent per year, to provide for midyear sequesters in order to assure that deficit and outlay targets are achieved, and to amend the Congressional Budget Act of 1974 to extend the deficit targets; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be discharged.

By Mr. LEVIN (for himself, Mr. COHEN, and Mr. PRYOR):

S. 3123. A bill to amend title 31, the United States Code, and the Federal Property and Administrative Services Act of 1949 with respect to certain bid protest procedures; to the Committee on Governmental Affairs.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 3124. A bill to recognize the organization known as the 29th Division Association, Incorporated; to the Committee on the Judicary.

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 3125. A bill to amend the Federal Aviation Act of 1958; to the Committee on Commerce, Science, and Transportation.

By Mr. PELL:

S. 3126. A bill to provide for full statutory wage adjustments for prevailing rate employees, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 3127. A bill to designate the Department of Veterans Affairs Medical Center in Albany, NY, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center"; considered and passed.

By Mr. WIRTH (for himself and Mr. DOMENICI):

S. 3128. A bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PRYOR (for himself, Mr. HEINZ, Mr. ADAMS, Mr. AKAKA, Mr. BRADLEY, Mr. BRYAN, Mr. BURDICK, Mr. CHAFEE, Mr. COATS, Mr. DURENBERGER, Mr. GLENN, Mr. GRAHAM, Mr. HEFLIN, Mr. INOUYE, Mr. JEFFORDS, Mr. LAUTENBERG, Mr. LEVIN, Mr. LUGAR, Mr. MCCLURE, Ms. MIKULSKI, Mr. MITCHELL, Mr. REID, Mr. RIEGLE, Mr. SHELBY, Mr. WARNER, and Mr. WILSON):

S.J. Res. 371. Joint resolution to recognize the week of October 1-7, as "National Nursing Home Residents' Rights Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon) as indicated:

By Mr. DASCHLE (for himself, Mr. BURDICK, and Mr. CONRAD):

S. Res. 329. Resolution expressing the sense of the Senate regarding the effect of a sequestration order on conservation reserve contracts; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 3119. A bill to prohibit the Secretary of Defense from transporting chemical munitions to Johnston Atoll for the demilitarization or storage of such munitions; to the Committee on Armed Services.

CHEMICAL DISPOSAL PROGRAM AT JOHNSTON ISLAND

Mr. AKAKA. Mr. President, I am introducing legislation concerning the transport and disposal of chemical munitions at Johnston Island. The decision to ship chemical weapons to Johnston has raised more anxiety, more fear, and more anger in the Pacific than any other issue in recent memory.

The bill I have introduced today will protect the ecosystem of the Pacific and the many people who call this vast area their home by limiting chemical weapons disposal. I want to make it clear that I am not against the destruction of chemical munitions.

Chemical weapons are the most inhumane weapons ever devised by man. We have a legal, and a moral responsibility, to destroy these deadly weapons and to ensure that they will never be used again. Saddam Hussein has made the need for these steps abundantly clear.

But I am against the Pacific becoming the world's chemical dumping ground. And I intend to safeguard the Pacific from attempts to burden our people with this formidable task. Two years ago, the Army completed a state-of-the-art chemical arms disposal facility. It's called the Johnston Atoll Chemical Agent Disposal System, or JACADS for short. JACADS was designed to dispose of only those munitions already stored on Johnston Island.

But last year, President Bush agreed with West German Chancellor Helmut Kohl to remove United States chemical weapons from Germany by the end of 1990 and transport them to Johnston Island for disposal. The law requires that the Johnston facility and its equipment must be dismantled, once the chemical munitions at the island have been destroyed. But I want to point out that JACADS is the Army's first—and only—chemical disposal facility operating in the United States. The Army speaks of plans to build similar facilities at its eight storage sites on the mainland. However, many people in Hawaii are skeptical. We fear that the U.S. Army will not tear down its newly built, high technology, multimillion-dollar facility and that Johnston Island will become the disposal site for all chemical weapons.

Many believe that the DOD will transport all of its chemical munitions to Johnston Island—not just the small percent in Germany. In an era of shrinking defense budgets, there are strong reasons to expect that the DOD will decide to keep the Johnston plant open.

The bill I have introduced today is considerably stronger than other legislative proposals on Johnston Island. First, my bill would not give President Bush blanket authority to waive the prohibition against chemical weapons disposal at Johnston Island. The administration created this problem, and once this prohibition is in place, I see no reason why they should be given carte blanche to waive it. My legislation only allows the moratorium to be suspended in the event the United States is at war. It does not give the President authority to override the prohibition by determining that additional shipments are in the interests of national security, nor would a national emergency or threat of hostilities be adequate justification.

Second, the decision of the Defense Department to ship chemical weapons to Johnston Island is now under court appeal. While I am very concerned about the proposed destruction of these weapons on Johnston Island, the courts have not reached a final decision in this case.

My bill makes it clear that the pending case should go forward and that those who oppose this shipment should have their day in court. It would not supersede the court's authority and specifically grants the court the discretion to reach a decision on the merits of an appeal.

Recent press reports indicate that there is ample reason to be concerned about the operation of the facility on

Johnston, and the island has also been described as a toxic wasteland. I see no reason to add to its environmental woes.

The best solution is to foreclose future shipments of these weapons. Mr. President, the U.S. Government has a duty to protect the health of the people of the Pacific. It is unfair to expect the Pacific alone to shoulder the entire burden of disposal. It is only reasonable and just that the rest of the Nation share in this responsibility as well. That is all we ask. Nothing more. And that is the simple but urgent purpose of my bill. Johnston Island must not become the dumping ground for the world's chemical weapons.

Mr. President, I urge my colleagues to join me in support of this legislation and ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION.

(a) IN GENERAL.—The Secreary of Defense may not transport or provide for the transportation of chemical munitions to the Johnston Atoll for the purpose of storing or demilitarizing such munitions.

(b) INAPPLICABILITY TO CERTAIN CHEMICAL MUNITIONS.—The prohibition in subsection (a) shall not apply to—

(1) any chemical munition withdrawn from the Federal Republic of Germany under a European retrograde program; or

(2) any obsolete World War II chemical munitions of the United States found in the World War II Pacific Theater of Operations.

(c) STATUTORY CONSTRUCTION.—The provisions of subsection (b)(1) shall not be construed to supersede or otherwise affect the decision of any court relating to the authority of the President or the Secretary of Defense under any other law to transport chemical munitions to Johnston Atoll for demilitarization or to store or use Johnston Atoll for the demilitarization or storage of chemical munitions withdrawn from the Republic of Germany under a European retrograde program.

(d) SUSPENSION AUTHORITY.—The President may suspend the application of subsection (a) during a periood of war in which the United States is a party.

By Mr. METZENBAUM (for himself, Mr. D'AMATO, Mr. KENNEDY, Mr. COATS, Mr. ADAMS, Mr. LUGAR, Mr. BURDICK, Mr. KERRY, and Mr. SHELBY):

S. 3120. A bill to provide participants in private pension plane which were terminated before September 1, 1974, the nonforfeitable pension benefits which were lost by reason of the termination, and for other purposes; to the Committee on Labor and Human Resources.

PENSION RESTORATION ACT

● Mr. METZENBAUM. Mr. President, I am introducing today a bill to partially compensate an estimated 65,000 individuals who lost vested pension benefits when their plans terminated with insufficient funds prior to the enactment of the Employee Retirement Income Security Act of 1974. These are the people whose losses resulted in the passage of ERISA and the establishment of a Federal private pension insurance program. The Pension Restoration Act of 1990 would right the wrong done to these people 16 years ago when they were left out of the protection of ERISA.

Prior to ERISA, the obligations of employers to pay earned pension benefits was limited to the assets in a pension plan. If the assets were insufficient to pay promised benefits at the time a plan terminated, there was no recourse. Thousands of retirees lost all of the benefits they had worked a lifetime to earn. A Labor Department study found that 13,000 plans terminated between 1942 and 1974, and that 6,000 of these plans did not have sufficient funds to pay vested benefits.

Starting in 1974, ERISA's pension insurance program assured pension plan participants that their basic benefits would be paid by the Pension Benefit Guaranty Corporation should the plan collapse. 40 million people are now protected by the PBGC program, but that program does not protect the very people whose tragic loss of vested benefits motivated Congress to enact ERISA and create the PBGC.

These people included the 500 retirees at the Studebaker plant in South Bend, IN, who reported to work on December 9, 1963 only to discover that they had lost not only their jobs but their pensions. Most of these people had worked a lifetime for Studebaker counting on their pension benefits. As Odell Newburn, the president of UAW Local No. 5 has testified, "suddenly their world dropped from under them."

Other pension losers were robbed of their hard earned retirement dollars after years of work for such companies as Tandy Hickock in New York, White House Department Stores in California, American Cynamid Explosive Co. in Pennsylvania, Shoe Company of America in Wisconsin and Sterling Aluminum Produce Company in Missouri.

In 1974, there were 115,000 pre-ERISA "pension losers" who had lost vested benefits. Today, only a little more than half survive. Most are very old, and very poor. Mr. President, I believe that these surviving pre-ERISA pension losers deserve some modest compensation 16 years after they were left out of the law which they caused to be enacted.

Mr. President, 65,000 of the original 115,000 pre-ERISA vested pension losers are alive today to benefit from this legislation which would provide them a modest $75 a year for each year that they worked under a pension plan. A retiree who worked 20 years under a plan would receive $1,500 a year. His surviving widow would receive half that amount. Payments would be made once a year beginning with the effective date of the legislation.

The cost of the program would be less than $50 million in 1990 to compensate an estimated 26,674 retirees and 14,392 widows and widowers. This cost would decrease over time. In 1999 there would be 34,000 beneficiaries at a cost of $41.5 million.

The program would be paid for entirely by PBGC premiums. No increase in current premium levels would be necessary. The PBGC would administer the program.

Mr. President, the Pension Restoration Act of 1990 is long overdue. Most of the pension losers are now very old, many are desperately poor. Like Hazel Sharp, now nearly 90 years old and in a nursing home, they have "stretched all the stretch" out of their meager social security payments. This bill should be enacted as a matter of fairness and justice. I urge my colleagues to support S. 3120.

I ask that by unanimous consent the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3120

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pension Restoration Act of 1990".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) STATE; UNITED STATES.—The terms "State" and "United States" have the meanings set forth in paragraph (10) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(2) EMPLOYER; PARTICIPANT; BENEFICIARY; NONFORFEITABLE; DEFINED BENEFIT PLAN.—The terms "employer", "participant", "beneficiary", "nonforfeitable", and "defined benefit plan" have the meanings set forth in paragraphs (5), (7), (8), (19), and (35), respectively, of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(3) EARLY TERMINATED PLAN.—The term "early terminated plan" means a defined benefit plan—

(A) which is described in subsection (a) of section 4 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1003) and is not described in subsection (b) of that section, and

(B) the termination date of which (as determined by the Corporation) was before September 1, 1974.

(4) QUALIFIED PARTICIPANT.—The term "qualified participant" means an individual who—

(A) was a participant in an early terminated plan maintained by an employer of such individual, and

(B) as of immediately before the termination of the plan had a nonforfeitable right to benefits under the plan.

(5) QUALIFIED SPOUSE.—The term "qualified spouse" means an individual who is the widow (within the meaning of section 216(c) of the Social Security Act (42 U.S.C. 416(c)) or the widower (within the meaning of section 216(g) of such Act (42 U.S.C. 416(g)) of a qualified participant.

(6) CORPORATION.—The term "Corporation" means the Pension Benefit Guaranty Corporation.

SEC. 3. ENTITLEMENT TO ANNUITY.

(a) ENTITLEMENT OF QUALIFIED PARTICIPANT.—

(1) IN GENERAL.—Subject to subsection (c), a qualified participant is entitled, upon approval under this Act of an application therefor, to an annuity computed under section 4(a).

(2) COMMENCEMENT.—The annuity of a qualified participant commences on the day after the later of—

(A) the effective date set forth in section 12, or

(B) the date on which the qualified participant attains 65 years of age.

(3) TERMINATION.—The annuity of a qualified participant and the right thereto terminate at the end of the last calendar month preceding the date of the qualified participant's death.

(b) ENTITLEMENT OF QUALIFIED SPOUSE.—

(1) IN GENERAL.—Subject to subsection (c), a qualified spouse is entitled, upon approval under this Act of an application therefor, to an annuity computed under section 4(b).

(2) COMMENCEMENT.—The annuity of a qualified spouse of a qualified participant commences on the latest of—

(A) the effective date set forth in section 12,

(B) the first day of the month in which the qualified participant dies, or

(C) if the qualified participant dies before attaining 65 years of age, the first day of the month in which the qualified participant would have attained such age but for the qualified participant's death.

(3) TERMINATION.—The annuity of a qualified spouse and the right thereto terminate at the end of the last calendar month preceding the date of the qualified spouse's death.

SEC. 4. COMPUTATION OF ANNUITY.

(a) QUALIFIED PARTICIPANT'S ANNUITY.—The annuity computed under this subsection (relating to a qualified participant) in connection with any early terminated plan is equal to the excess (if any) of—

(1) the product derived by multiplying $75 by the number of years of service of the qualified participant under the plan, over

(2) the annual amount which would be necessary to amortize in level amounts over 10 years the sum of—

(A) any lump sums paid to the qualified participant from the plan in connection with the termination, and

(B) the actuarial present value (determined, as of the effective date set forth in section 12, under the assumptions used by the Corporation for purposes of section 4044 of the Employee Retirement Income Security Act of 1974) of pension benefits under the plan (if any) to which the qualified participant retains a nonforfeitable right under the plan.

(b) QUALIFIED SPOUSE'S ANNUITY.—The annuity computed under this subsection (relating to the qualified spouse of a qualified participant) in connection with an early terminated plan is equal to the excess (if any) of—

(1) 50 per centum of the amount determined under paragraph (1) of subsection (a) in connection with such qualified participant, over

(2) the annual amount which would be necessary to amortize in level amounts over 10 years the sum of—

(A) any lump sums paid to the qualified spouse from the plan in connection with the termination, and

(B) the actuarial present value (determined, as of the effective date set forth in section 12, under the assumptions used by the Corporation for purposes of section 4044 of the Employee Retirement Income Security Act of 1974) of pension benefits under the plan (if any) to which the qualified spouse retains a nonforfeitable right under the plan.

SEC. 5. APPLICATIONS.

(a) REQUIREMENTS.—An application for an annuity under this Act in connection with an early terminated plan shall be approved if—

(1) the application includes evidence sufficient to establish that the applicant is a qualified participant or qualified spouse in connection with such plan, or

(2) the evidence included in the application, together with such evidence as the applicant may request the Corporation to consider pursuant to subsection (c), establishes that the applicant is a qualified participant or a qualified spouse in connection with such plan.

(b) APPLICATION FORMS.—The Corporation may by regulation prescribe application forms which may be used by applicants for purposes of subsection (a). Any such forms prescribed by the Corporation shall be made available to the public by the Corporation.

(c) SPECIFIC MATTERS.—In considering applications for annuities under this Act, the Corporation shall consider, on the request of an applicant or the applicant's representative, in addition to any other relevant evidence—

(1) a comparison of employment and payroll records which were maintained under chapter 21 of the Internal Revenue Code of 1986 (relating to Federal Insurance Contributions Act) or under the Social Security Act (42 U.S.C. 301 et seq.) with records maintained by the Internal Revenue Service relating to the qualification status of trusts forming part of a stock bonus, pension, or profit-sharing plan under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to pension, profit sharing, stock bonus plans, etc.), and

(2) records maintained under the Welfare and Pension Plans Disclosure Act of 1958.

(d) PROCEDURES FOR INITIAL DETERMINATIONS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, in making initial determinations regarding applications for annuities under this Act, the Corporation shall follow the procedures prescribed by the Corporation for—

(A) initial determinations of benefit entitlement of participants and beneficiaries under plans to which section 4021 of the Employee Retirement Income Security Act of 1974 applies, and

(B) determinations of the amount of guaranteed benefits of such participants and beneficiaries under title IV of such Act.

(2) NOTICES OF DENIAL.—The Corporation shall send any individual whose application under this Act is denied by the Corporation pursuant to an initial determination a written notice of the denial. Such notice shall include the reason for the denial and shall set forth the procedures required to be followed in order to obtain review under this Act.

SEC. 6. ADMINISTRATIVE APPEALS.

(a) IN GENERAL.—Any individual whose application for an annuity under this Act is denied pursuant to an initial determination by the Corporation is entitled to—

(1) a reasonable time, but not less than 60 days after receipt of the written notice of denial described in section 5(d)(2), to request a review by the Corporation and to furnish affidavits and other documentary evidence in support of the request, and

(2) a written decision and the specific reasons therefor at the earliest practicable date.

(b) PROCEDURES.—Except as otherwise provided in subsection (a), in reviewing initial determinations regarding applications for annuities under this Act, the Corporation shall follow the procedures prescribed by the Corporation for requesting and obtaining administrative review by the Corporation of determinations described in subparagraphs (A) and (B) of section 5(d)(1).

SEC. 7. JUDICIAL REVIEW.

(a) IN GENERAL.—Any individual, after any final decision made under section 6, irrespective of the amount in controversy, may obtain judicial review of the decision by a civil action commenced under this section within 180 days after the mailing to the individual of notice of such decision or within such further time as the Corporation may allow.

(b) VENUE.—Any action commenced under this section shall be brought in the district court of the United States for the judicial district in which the plaintiff resides or in the United States District Court for the District of Columbia.

(c) RECORD.—As part of any answer by the Corporation, the Corporation shall file a certified copy of the transcript of the record, including the evidence upon which the findings and decision complained of are based.

(d) JUDGMENT.—The court shall enter, upon the pleadings and transcript of the record a judgment affirming, modifying, or reversing the decision, with or without remanding the case for a rehearing.

(e) REMANDED CASES.—

(1) AUTHORITY TO REMAND TO THE CORPORATION.—The court shall, on the motion of the Corporation made before the Corporation files its answer, remand the case to the Corporation for further action by the Corporation. The court may, at any time, on good cause shown, order additional evidence to be taken before the Corporation.

(2) RECONSIDERATION ON REMAND.—The Corporation shall, after the case is remanded, and after hearing such additional evidence if so ordered—

(A) modify or affirm the earlier findings of fact or decision, or both, under section 6, and

(B) file with the court any such additional and modified findings of fact and decision, and a transcript of the additional record and testimony upon which the Corporation's action in modifying or affirming was based.

(f) FINAL JUDGMENT.—The judgment of the court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions.

SEC. 8. PAYMENT OF ANNUITIES.

(a) FORMS OF PAYMENT.—

(1) YEARLY PAYMENTS.—Each annuity payable under this Act shall be payable as an annual amount.

(2) RETROACTIVE LUMP-SUM PAYMENTS.—Any individual whose claim for an annuity under this Act is approved after the date on which the annuity commences under subsection (a)(2) or (b)(2) of section 3 shall be paid the total amount of the annuity payments for periods before the date on which the claim is approved in the form of a lump-sum payment.

(b) CASES OF INCOMPETENCY.—Payment due an individual mentally incompetent or under other legal disability may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or the claimant's estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the claimant, payment may be made to any person who is responsible for the care of the claimant, and the payment bars recovery by any other person.

(c) DIVORCES, ETC.—

(1) ALTERNATIVE PAYEES.—Payments under this Act which would otherwise be made to a person under this Act shall be made (in whole or in part) to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

(2) NOTIFICATION REQUIREMENTS.—Paragraph (1) shall only apply to payments made by the Corporation under this Act after the date of receipt by the Corporation of written notification of such decree, order, or agreement, and such additional information and documentation as the Corporation may prescribe.

(3) COURT.—As used in this subsection, the term "court" means any court of any State.

(f) INALIENABILITY.—Amounts payable under this Act are not assignable, either in law or equity, or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal law.

(g) FORGIVENESS.—Recovery of payments under this Act may not be made from an individual in any case in which the Corporation determines that the individual is without fault and recovery would be against equity and good conscience.

SEC. 9. INTERAGENCY COORDINATION AND COOPERATION.

(a) IN GENERAL.—The Corporation may make such arrangements or agreements with other departments, agencies, or establishments of the United States for cooperation or mutual assistance in the performance of their respective functions under this Act as are necessary and appropriate to avoid unnecessary expense and duplication of functions.

(b) USE OF FACILITIES.—The Corporation may use, as appropriate, on a reimbursable or other basis, the facilities or services of any department, agency, or establishment of the United States or of any State or political subdivision thereof, including the services of any of its employees, with the lawful consent of such department, agency, or establishment.

(c) COOPERATION.—

(1) IN GENERAL.—Each department, agency, or establishment of the United States shall cooperate with the Corporation and, to the extent necessary and appropriate, provide such information and facilities as the Corporation may request for its assistance in the performance of the Corporation's functions under this Act.

(2) AVAILABILITY OF RECORDS FROM THE SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services shall provide the Corporation with such records, determined by the Corporation to be necessary to carry out the purposes of this Act, as the Corporation may request.

(3) AVAILABILITY OF CONFIDENTIAL TAX RETURNS AND RETURN INFORMATION.—Section 6103(l) of the Internal Revenue Code of 1986 (relating to use of returns and return information for purposes other than tax administration) is amended by adding at the end of paragraph (2) the following new sentence: "Returns and return information shall be open to inspection by or disclosure to officers and employees of the Corporation whose official duties require such inspection or disclosure for the purpose of, but only to the extent necessary in, considering such returns and return information pursuant to section 5(c)(1) of the Pension Restoration Act of 1990, except that such inspection or disclosure shall be permitted only upon written request which sets forth the specific reason or reasons why such inspection or disclosure is necessary and which is signed by the head of the bureau or office of the Corporation requesting the inspection or disclosure.".

SEC. 10. REGULATIONS.

The Corporation shall, before the effective date set forth in section 12, prescribe the initial regulations necessary to carry out the provisions of this Act. Regulations under this Act shall be prescribed by the Corporation in consultation, as appropriate, with the Secretary of the Treasury and the Secretary of Health and Human Services.

SEC. 11. PROGRAM FUNDING.

The Corporation shall use the funds established under section 4005 of the Employee Retirement Income Security Act of 1974 in carrying out its functions under this Act.

SEC. 12. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), the provisions of this Act shall take effect 60 days after the date of the enactment of this Act.

(b) SPECIAL RULE.—The provisions of sections 10 and 11 shall take effect on the date of the enactment of this Act.●

● Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of legislation that will compensate a small, and seemingly forgotten group of older Americans. I am referring to those 46,000 individuals nationwide who, through no fault of their own, had their pensions terminated between the years 1942 and 1974. Unfortunately, these older Americans were not covered under the Employee Retirement Income Security Act of 1974 [ERISA] and thus have not been able to collect any of their vested pension benefits. The bill that Senator METZENBAUM and I are introducing will once and for all correct this inequity.

As we all know, until ERISA, an employee essentially gambled that upon retirement, his or her benefits would be available. However, when a pension fund became insolvent, the worker was the one to lose. Since ERISA was enacted in 1974, workers have had their basic benefits guaranteed by the Pension Benefit Guaranty Corporation. Tragically, the very people that touched off the battle to establish ERISA are not covered by its umbrella. This is wrong.

The bill we are introducing today is virtually the same bill that I introduced in the 97th, 98th, and 99th Congresses. It is about time that we offer some semblance of financial security to the remaining pre-1974 pension losers—most of whom are very old, and with little money. Our bill would compensate each individual $75 a year for each year worked under a pension plan. Thus, a retiree with 10 years would receive $750 a year; 20 years would get $1,500 a year. Any surviving spouse would receive half the amount. All would be made in one lump-sum payment per year. Also, the PBGC would administer and pay for the program without an increase in premiums. This is expected to cost less than $50 million and will only decrease over the coming years.

I cannot stress enough the urgency of this legislation. These "pension losers" need not suffer anymore than they already have. For all of these people we must enact this legislation as a measure of fairness to them. I urge my colleagues to join us in supporting this bill.●

Mr. KENNEDY. Mr. President, I am pleased to be a cosponsor of the Pension Restoration Act of 1990, a bill offered by the chairman of the Labor Subcommittee to require the Pension Benefit Guaranty Corporation [PBGC] to provide modest pension benefits of up to $1,500 a year to workers who never received the pension benefits they were promised by their employers because their pension plans were terminated prior to the enactment of the Employee Retirement Income Security Act [ERISA].

Since the enactment of ERISA in 1974, pension plan sponsors have been required to pay premiums to the PBGC to insure the benefits promised to their employees; consequently, if an employer today is unable to meet its pension obligations, PBGC takes over the obligations and pays the benefits out of that fund. Because, however, the ERISA provisions creating the PBGC were made retroactive only to July 1, 1974, workers whose plans were terminated prior to that date—and whose plight was what led to the enactment of the statute—were out of luck.

A Department of Labor study conducted in 1979 put the number of pre-

ERISA pension losers at about 67,000. As these workers and their surviving spouses have died, the pool has shrunk to about 41,000 and will continue to dwindle as the years go by. These elderly retirees and their spouses are not looking for a handout—they are only asking for some of the pension money they were promised for years of hard work.

Under the bill, an estimated 27,000 retirees who were eligible for benefits at the time their plans were terminated would receive $75 a year for every year they worked under their companys's plan, to a maximum of $1,500 a year. In addition, an estimated 14,000 surviving spouses of eligible workers would receive half that amount. There is no provision for payment of retroactive benefits—these modest benefits will not recoup the significant benefits already lost; only pay a modicum of what the pension losers would be receiving today had their plans not been terminated.

The cost estimate of the Pension Restoration Act of 1990 is $50 million for the first year and less each year thereafter—a small price to pay to give a dwindling number of elderly workers the pension benefits they worked long and hard for and which they have for so long been denied. I commend Senator METZENBAUM for his continued commitment to America's working people and look forward to working with him on this measure.

● Mr. LUGAR. Mr. President, I rise today in support of the Pension Restoration Act of 1990. This bill seeks to correct an inequity which occurred prior to the passage of the Employee Retirement Income Security Act [ERISA] in 1974. ERISA was enacted to protect private pension plans and avert the hardship incurred by workers and retirees whose former employers had once been able to avoid obligations for retirement security.

Many Hoosiers felt the sting of unfulfilled pension promises prior to passage of ERISA. One such situation occurred in South Bend, IN in 1963 when the Studebaker Co. shut down. Studebaker, which manufactured automobiles and employed 11,000 people, had no legal obligation to meet its pension obligations. The shutdown created many hardships for the community. While most of these workers eventually found new jobs and slowly put their lives back in order, the one thing they could not replace was the time to save and contribute into a new pension.

This is the exact problem ERISA was created to solve. Unfortunately, Congress in 1974 made ERISA's insurance fund retroactive only to July 1974. By a twist of legislative fate, Congress had no answer to the call for justice from the hundreds of thousands of workers deprived of the retirement benefits for which they planned and worked.

The Pension Restoration Act acts to rectify this inequity by making limited payments from the Pension Benefit Guaranty Corporation's fund to qualified workers deprived of their pre-ERISA pensions. Total cost for this effort is $49.8 million in 1991 declining to $41.9 million by 1999. Knowledgeable sources both inside and outside government agree that the PBGC's insurance fund can afford these sums. In these days of severe fiscal austerity no sum is insignificant, but the economic situation does not relieve us of our duty to react to inequities in the law where we find them.

We in Congress spend much effort urging people to plan for the future. We encourage employers to provide pension plans for their employees. These workers did what we ask—they planned for the future. They are now simply seeking the fruits of their foresight, and relying on our sense of fairness.

Finally, Mr. President, I would like to take a moment to pay tribute to a fellow Hoosier who worked tirelessly on behalf of his fellow former Studebaker employees to get Congress to act as we are proposing today. His name is Odel Newburn, a former president of UAW local No. 5. The fact that this legislation is before us today is largely a testimony to Mr. Newburn's dedication, hard work, and determination.●

By Mr. BURNS (for himself, Mr. SYMMS, Mr. MCCONNELL, Mr. KASTEN, Mr. NICKLES, Mr. COATS, Mr. HELMS, Mr. WALLOP, and Mr. BOSCHWITZ):

S. 3122. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to limit increases in outlays to 4 percent per year, to provide for midyear sequesters in order to assure that deficit and outlay targets are achieved, and to amend the Congressional Budget Act of 1974 to extend the deficit targets; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

FOUR-PERCENT SOLUTION BUDGET ACT

Mr. BURNS. Mr. President, I listened with great interest to the words of my distinguished colleague from Idaho, Senator SYMMS. I just talked to a good friend of mine. I used to serve with him in county government. That is where I come from, county government. These are not new processes for this Senator, even though I may be a new Senator in this body. We go through this every year.

We went through a time in the 1980's when we looked at a tax base that was declining because agriculture, energy, and everything else that affected the Midwest and our State of Montana, we could see a decline in revenue coming into the county. We could not go back to the people, because in the State of Montana they got tired of taxes, too, and they passed an initiative called 105. It told us that we could not raise taxes or property taxes, which the county is run on, and school taxes. We could not raise them any more.

So we had to find other ways of getting by and operating our government to serve our people. I think this problem is like in a family, where a fella came home one night and says, I got this thing in the mail that says you are overdrawn. She says, we are not overdrawn, we are underdeposited.

That is where we focused so far on this debate, on the underdeposited side. We should be talking about the spending side. That is what is giving us problems. We do not have a revenue problem. We have a spending problem.

I rise today to offer a way out of this dilemma, to assure that we will reduce the deficit without raising taxes. The legislation I am introducing today I offer with cosponsors Senators SYMMS from Idaho, MCCONNELL from Kentucky, KASTEN of Wisconsin, NICKLES of Oklahoma, COATS of Indiana, HELMS of North Carolina, WALLOP of Wyoming, and BOSCHWITZ of Minnesota. It is called the 4-Percent Solution Budget Act. It is a proposal which deserves the Senate's consideration, whether or not the summiteers are able to fashion an agreement. It can be a viable alternative, or an important enhancement to any summit agreement.

Some time between now and October 1—and that is not very far off; that is the sequester deadline—the budget summiteers are going to come out from behind closed doors and proclaim a budget agreement has been reached. Good news. We will all be asked to vote for it, because there is no alternative, and then we will head back home and maybe tell some folks either we liked it or did not; but I think, probably, we will say that we did not like it, but we saved the Federal Government.

Let me give you a hint. The folks back home will not be impressed when they see the details. What I am offering today is an alternative to more taxes and increasing deficits. I certainly mean no disrespect toward the President and his top advisers, the majority and minority leaders of both Houses, or and of my colleagues who have been a part of these budget negotiations.

These are trying times. I have been through them myself, only at a lower level. The work they have done there, you cannot imagine, the hours and agony you have to go through to reach some type of consensus. I know they have been working hard. However, I believe that what this process and the

results, if any, will produce will not meet the expectations of the American people.

My goodness, we all go home and listen to folks at home. Some will say we are taxed to death, and they are right. But we miss one premise. We come out and say, "tax the big corporations, the companies, tax everybody, but do not tax me." Make it fair. We forget about the fact that companies and corporations do not pay taxes; people pay taxes. It is all passed on to us in our fuel bills, energy bills, food bills; whatever bills we pay, we have paid the taxes that day.

The 4-percent solution brings the deficit under control by limiting the growth of Federal spending to 4 percent over the previous year. We can actually allow the Federal Government to spend 4 more percent in actual outlays than they did the previous years and still have no tax increase, and we would balance the budget, showing no deficit by 1997.

That target is moved back a little bit, I will have to admit. But in the first year, the 4-percent solution achieves a $42 billion savings off of a projected baseline spending, and over a 5-year total savings of $294 billion. They say, here we go throwing those figures around again. Basically, we are talking about baseline spending. I firmly believe that the key to the deficit reduction is spending restraint and not increasing tax.

A 1987 study by a team of economists found that every $1 we taxed the American public we spent $1.58. If you look at that figure—and it is a real figure, folks—have we been fiscally responsible?

Somebody is not taking care of the Treasury. Our past failure to balance the deficit by erasing new revenues illustrates the value of this financing.

I will ask unanimous consent to have printed in the RECORD an article from the July 30, 1990, Insight magazine, "Critics of the 'Budget Summit' Decry the Fiscal Shell Game," following my statement. The article shows the fiscal years which were not preceded by budget summits produced more deficit reductions than summit years. Budget deficits created revenue increases and spending reductions resulted in higher deficits rather than lower.

However, we now find ourselves on the verge of a 1990 summit agreement. Not only are we being asked to swallow another summit which had been soured by previous failures but we are also being asked to swallow substantial tax increases.

This is a 4-percent solution, to reform the budget process and strengthening Gramm-Rudman to restrain Federal spending and to ensure that any new revenues go toward deficit reduction.

Let us face it it is based on growth. If we go over that, we apply it to the debt. If we are going to tell the American people that we are raising taxes on them for that purpose, a premise that I disagree with, we should at least ensure that we kept our promises. We have not done that in the past.

I can remember when administrations and Congresses have come to us and said, if we just have a little surtax here, we will take care of the deficit. They did not do it. We taxed them a dollar, and we spent $1.58. So the 4-percent solution to Gramm-Rudman by adding outlay targets to the already established deficit targets, these outlay targets are set at 4 percent above previous year spending levels. Exceeding either the outlay targets or the deficit targets will trigger a sequester.

This is further enforced by the following budget reforms included in the 4-percent solution. It eliminates current services budget. It puts in place a second midyear sequester. In other words, it is going to ensure that we are going to stay within it. It establishes a pay-as-you-go clause in the budget process, which is very important.

The 4-percent solution enforced by these budget process reforms will bring the deficit under control by 1997 and will help reignite a strong economic growth. I predict that this budget summit will be no different than past summits unless we bring spending under control and enforce spending cuts. Any budget agreement is bound to fail.

This time next fall, we will all get to go through this same exercise again unless we enact into law the 4-percent solution.

I would also like to put a footnote here. This is not a new idea. It has come up before. It was sort of just passed along and never dealt with. The main reason was that people who did not want to show some fiscal responsibility were afraid of this process, afraid of it because they could not fund their little private giveaway, vote-getting programs.

The majority of the American people want this Government to be responsible, and if we have to enact a law to make us responsible, then I say it is time now to do it.

Mr. President, I ask unanimous consent that the article to which I referred be printed in the RECORD at the end of my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Insight, July 30, 1990]

CRITICS OF THE "BUDGET SUMMIT" DECRY THE FISCAL SHELL GAME

Throughout Washington, you can hear the heavy breathing of the insiders. The Bush administration and the congressional leadership have retreated together behind closed doors for another round of deficit reduction negotiations, which may stretch on till the fall elections or beyond.

For the insiders, this is high drama. For the rest of the country, however, "budget summits" are as suspense-filled as an inflight safety demonstration. To critics of the summits, this is the problem: Taxpayers nod off just when they should be readying their life jackets and reaching for the oxygen masks.

The naysayers indict budget summits on several counts, starting with their poor track record. The current summit is the sixth in the past nine years. It was preceded by budget summits in 1982, 1984, 1985, 1987 and 1989, each of which failed to reach the deficit reduction targets that it negotiated. Most not only missed their targets, they apparently missed the whole point: They resulted in larger deficits.

These summits have produced "the Triple Crown effect—higher taxes, higher spending and higher deficits," charges Paul G. Merski, director of fiscal affairs, at the Tax Foundation. "You have immediate tax hikes written into the tax code, with the promise of future spending restraint over the next year or so," he explains. "Once enacted into the code, the taxes are collected. But any long-term spending cuts require long-term discipline, which we haven't had."

In 1984, for example, negotiators from the Reagan administration and Congress agreed on the Rose Garden Plan too trim the deficit by about $150 billion over three years. The plan called for $49 billion in revenue increases and $110 billion in spending cuts and established a deficit target of $181 billion for fiscal 1985. Some new revenues were collected, but Congress could not hold spending down for one year, much less three. Instead of beginning its planned three-year downward glide, the deficit floated up out of the Rose Garden and out of sight of the summiteers until it reached $212 billion in the target year.

Budget summitry has fared little better since the 1985 enactment of the Gramm-Rudman-Hollings law, which mandated automatic spending cuts whenever political action failed to produce progressively small deficits. In 1987, the specter of those across-the-board cuts combined with the Oct. 19 stock market plunge spooked the administration and Congress into another summit. The two sides huddled and agreed to raise taxes and cut spending to slice $76 billion from the defict over two years. But the targets proved as phantomlike as ever: The defict grew $5.4 billion in fiscal 1988, and the 1989 defict came in $11 billion over the target, though it did inch down $3 billion from the previous year's red ink. The fiscal 1990 six-month defict is around $150 billion, already about $50 billion higher than the full-year target negotiated at the 1989 summit.

To the response that without the summits the deficit would be up there with the Hubble telescope, critics point to the two years in recent memory that were not preceded by summits, fiscal 1984 and 1987. In both cases, the deficit fell substantially—$23 billion in 1984, when spending growth was held to half the rate of revenue growth, and $71.5 billion in 1987, when spending grew by only 1.4 percent.

Alan L. Keyes, president of Citizens Against Government Waste, and other critics consider terms like "budget summit" and "deficit reduction summit" at best euphemisms. At worst, they are bits of cheese in a mousetrap. And the taxpayers are the mice. "They are not budget summits, they are tax summits," says Keyes, an unsucessful Maryland Republican candidate for the Senate in

1988. "These summits only do one thing: They legitimize tax increases. That's what they are for. On the other side of the ledger, the supposed spending cuts and limitations have never materialized."

In the view of Keyes and other critics, this is no accident. "Many of the policymakers want higher taxes—and the reason they do is not to reduce the deficit," says Christopher Frenze, a Republican congressional staff economist. "This whole deficit reduction summit is a charade: The real reason we are going to raise taxes is to fund additional spending." With coauthors Richard Vedder and Lawell Galaway, Frenze wrote a 1987 study analyzing the relationship between federal tax increases and the federal deficit in the postwar era. Their conclusion: Higher taxes had consistently led to higher deficits. For every dollar raised in additional taxes, the government spent $1.58.

Keyes fears that now that President Bush has abandoned his pledge not to raise taxes, the pattern is about to repeat itself: The palpable prospect of new revenues has broken the spending restraint mentality and a torrent of new spending will soon follow. "I hope people have noticed that there are a lot of spending bills piled up behind the dam," he says. "If, with this idea that we have now raised taxes, the dam breaks, then they have got all kinds of bills—ranging from the day-care bill to aid to the Soviet Union—sitting on the table waiting for a new tax increase."

Keyes has been referring to the secret budget negotiations as the "star-chamber summit," an allusion to the English court not famous for due process. "They are going behind closed doors to make decisions and pass judgment on the pocketbooks of the American people," he says, "and then they'll come out with a fait accompli which we will take or leave without ever having seen the record. It seems to me the purpose of having an elected Congress that publishes its debates and proceedings and in which members are constitutionally protected from the consequences of speaking their minds was so that voters would be able to make judgments not just about the end result but about the arguments and the debates that go into that end result."

While secrecy deprives the voter of relevant information, colletive responsibility deprives a voter unhappy with the results of the opportunity to vote for a candidate representing an alternative. The defining decision-making principle of these summits is consensus: Democrats and Republicans, Congress and the executive share responsibility for the outcome of the talks.

"If the summit brings out a product that the parties then stand behind with some kind of collective responsibility, how can voters hold their individual representatives responsible?" asks Keyes. "If you've got Republicans out there who are not running hard against increased taxes because some deal has been made, and Democrats who are refusing to criticize the president for breaking his [no new taxes] pledge because some deal has been made, then voters are deprived of choice." This, he argues, is no mere theoretical danger: "We are not talking academics here. They've done it before—on the pay raise." Before giving itself a pay raise last year, the congressional leadership of both parties agreed not to make it a campaign issue.

While incumbents may be bound by such deals, nonincumbent challengers presumably would be free to oppose them. But after the pay raise deal, notes Keyes, the party committees threatened to withhold support from challengers who opposed it. And the same tactics could be used to silence would-be critics of a tax deal this fall. "They have prewired the summit so that Republican incumbents will have to run on this deal. And they may be able to co-opt the party committees like they did with the pay raise. It could have a dampening effect on what challengers around the country in both parties are willing to do in the way of speaking honestly to the American people."

Though Bush has apparently endorsed the need for new taxes, Republicans, especially in the House, have been balky and could run against a tax deal in November. But part of the beauty of the summit mechanism is that it is circular. Senate Majority Leader George J. Mitchell of Maine has already said that unless a deal has the support of Republican majorities in both houses, there will not be any deal.

The critics also accuse summiteers of bait and switch tactics—or, as Frenze's study put it, "justifying additional taxation for a relatively popular purpose, though revenues will be diverted by government to other purposes deemed less popular. For example, tax increases may be justified as a means of deficit reduction, whereas the actual result will be to stimulate additional spending on programs favored by influential special interest groups."

This time around, the administration, led by Office of Management and Budget Director Richard G. Darman, and Congress have invoked the huge costs of the savings and loan bailout. Not that the bailout won't cost real bucks. It will. It just won't count for purposes of the deal. "The savings and loan thing is going to be taken off budget and funded through government debt, not through new taxes," notes Frenze.

In sealing themselves off from the electoral repercussions of unpopular decisions through mechanisms like pay raise commissions and budget summits, the administration and Congress undermine "what is supposed to be the competitive nature of the political system," charges Keyes. "If they do it on an issue as fundamental to freedom as taxes, they've gone a long way toward defeating the system," he warns. "After all, the country got started on a tax issue. In a certain sense, the basic principle of constitutionalism is that you have to involve the people, because the money comes from them. That's when parliament began—when the kings had to go and ask for money."

What's a poor taxpayer to do? Well, you could call up your congressman and let them have it. On second thought, forget it. Your congressman isn't taking any calls just now. He's tied up indefinitely in the deficit reduction talks.—DANIEL WATTENBERG.

Mr. BURNS. Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Four Percent Solution Budget Act".

TITLE I—THE FOUR PERCENT SOLUTION

SEC. 101. FOUR PERCENT CAP ON INCREASES IN OUTLAYS.

(a) ESTIMATES AND DETERMINATIONS.—Section 251(a)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(a)(1)(B)) is amended by striking "(zero in the case of fiscal year 1993')" and inserting "(zero in the case of fiscal year 1997) and whether the total outlays for such fiscal year will exceed the outlay target for such fiscal year,".

(b) REPORTS.—Section 251(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(a)(2)(A)) is amended by striking "deficit excess for such fiscal year, stating whether such excess" and inserting "outlay excesses for such fiscal year, identifying the amount of any deficit excess for such fiscal year, stating whether such outlay excess and such deficit excess".

(c) DISSEMINATION OF REDUCTIONS.—Section 251(a)(3)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(a)(3)(A)(i)) is amended—

(1) in subclause (II) by striking "or" at the end thereof;

(2) in subclause (III) by—

(A) striking "1991, 1992, or 1993"; and

(B) striking the period at the end thereof and inserting "; and"; and

(3) by adding at the end thereof the following new subclause:

"(IV) for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, and 1997, the higher of—

"(aa) the maximum deficit amount for the fiscal year; or

"(bb) the outlay target for the fiscal year.".

(d) BUDGET BASELINE.—Section 251(a)(6)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(a)(6)(A)) is amended by inserting before the semicolon ", except that the projected funding shall not exceed the outlay target for that fiscal year.".

(e) BUDGET RESOLUTION.—Section 301(a)(1) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)(1)) is amended by striking "budget outlays" and inserting "budget outlays (which shall not be in an amount that exceeds the applicable outlay target)".

(f) DEFINITIONS.—Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 907) is amended by adding at the end thereof the following new paragraphs:

"(15) The term 'outlay excess' means the amount by which the amount of outlays provided for a fiscal year exceeds by more than 4 percent the amount of outlays in the preceding fiscal year.

"(16) The term 'outlay target' means—

"(A) for fiscal year 1991, $1,256,000,000,000;

"(B) for fiscal year 1992, $1,306,000,000,000;

"(C) for fiscal year 1993, $1,358,000,000,000;

"(D) for fiscal year 1994, $1,413,000,000,000;

"(E) for fiscal year 1995, $1,469,000,000,000;

"(F) for fiscal year 1996, $1,528,000,000,000; and

"(G) for fiscal year 1997, $1,589,000,000,000.".

(g) EXPIRATION DATE.—Section 275(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking "1993" and inserting "1997".

SEC. 102. EXCLUSION OF RECEIPTS AND DISBURSEMENTS OF THE RESOLUTION TRUST CORPORATION WHEN CALCULATING DEFICIT AMOUNTS.

With respect to fiscal years beginning after September 30, 1990, the receipts and disbursements of the Resolution Trust Corporation shall not be included in the budget deficit or any other totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

SEC. 103. ADJUSTMENT OF DEFICIT TARGETS.

Section 3(7) of the Congressional Budget Act of 1974 (2 U.S.C. 622(7)) is amended by striking subparagraphs (A) through (H) and inserting the following:

"(A) with respect to fiscal year 1986, $171,900,000,000;

"(B) with respect to fiscal year 1987, $144,000,000,000;

"(C) with respect to fiscal year 1988, $144,000,000,000;

"(D) with respect to fiscal year 1989, $136,000,000,000;

"(E) with respect to fiscal year 1990, $100,000,000,000;

"(F) with respect to fiscal year 1991, $134,000,000,000;

"(G) with respect to fiscal year 1992, $112,000,000,000;

"(H) with respect to fiscal year 1993, $80,000,000,000;

"(I) with respect to fiscal year 1994, $50,000,000,000;

"(J) with respect to fiscal year 1995, $28,000,000,000;

"(K) with respect to fiscal year 1996, $8,000,000,000; and

"(L) with respect to fiscal year 1997, zero.".

SEC. 104. MIDYEAR SEQUESTER.

(a) Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) is amended by adding at the end thereof the following new subsection:

"(h) MIDYEAR SEQUESTER.—

"(1) IN GENERAL.—In accordance with the provisions of this part with respect to the issuance of the final sequestration order on October 15 and this section, the President shall issue a sequestration order making all reductions and sequestrations necessary to meet deficit targets and outlay targets as specified in this section on March 15 (which shall take effect April 15).

"(2) REPORTS.—

"(A) REPORT BY CBO.—In accordance with the requirements, specifications, definitions, and calculations required by this part, the Director of CBO shall issue a report to the Director of OMB and to the Congress 10 days before the date of the order required by paragraph (1) identifying the amount of any deficit excess for the current fiscal year, stating whether such excess if greater than $10,000,000,000, identifying the amount of any outlay excess for the current fiscal year, estimating the aggregate amount of required outlay reductions, and specifying, by account for nondefense programs and by account for defense programs the budget baseline from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year in order to make the reductions required by this part.

"(B) REPORT BY OMB.—The Director of OMB shall issue a report to the President and the Congress 5 days before the date of the order required by paragraph (1) containing the same information required in subparagraph (A) and the information described in section 251(a)(2)(B) subject to the limitations provided in this part.

"(3) ECONOMIC AND TECHNICAL ASSUMPTIONS.—The economic and technical assumptions used by the Director of CBO and the Director of OMB to calculate the unachieved deficit reduction under section 251 shall also be used under this section.".

TITLE II—PREPARATION OF THE BUDGET

SEC. 201. THE PRESIDENT'S BUDGET.

Section 1105(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) except as provided in subsection (b) of this section—

"(A) estimated expenditures and proposed appropriations for each function and subfunction in the current fiscal year;

"(B) estimated expenditures and proposed appropriations the President decides are necessary to support the Government for each function and subfunction in the fiscal year for which the budget is submitted; and

"(C) a comparison of levels of estimated expenditures and proposed appropriations for each function and subfunction in the current fiscal year and the fiscal year for which the budget is submitted, along with the proposed increase or decrease of spending in percentage terms for each function and subfunction;".

SEC. 202. CONGRESSIONAL BUDGET.

Section 301(e) of the Congressional Budget Act of 1974 (2 U.S.C. 632(e)) is amended by—

(1) inserting after the second sentence the following: "The starting point for any deliberations in the Committee on the Budget of each House on the concurrent resolution on the budget for the next fiscal year shall be the estimated level of outlays for the current year in each function and subfunction. Any increases or decreases in the congressional budget for the next fiscal year shall be from those estimated levels.";

(2) striking paragraphs (2) and (3) and inserting the following:

"(2) a comparison of levels for the current fiscal year with proposed spending for the subsequent fiscal years along with the proposed increase or decrease of spending in percentage terms for each function and subfunction;

"(3) information, data, and comparisons indicating the manner in which and the basis on which the committee determined each of the matters set forth in the concurrent resolution, including information on outlays for the current fiscal year and the decisions reached to set funding for the subsequent fiscal years;";

(3) striking paragraph (8);

(4) redesignating paragraph (9) as paragraph (8) and adding "and" at the end thereof; and

(5) redesignating paragraph (10) as paragraph (9).

SEC. 203. CONGRESSIONAL BUDGET OFFICE REPORT TO COMMITTEES.

The first sentence of section 202(f)(1) of the Congressional Budget Act of 1974 (2 U.S.C. 602(f)(1)) is amended to read as follows: "On or before February 15 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report, for the fiscal year commencing on October 1 of that year, with respect to fiscal policy, including—

"(A) estimated budget outlays in all functions and subfunctions for appropriated accounts for the current fiscal year and estimated budget outlays under current law for all entitlement programs for the next fiscal year;

"(B) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits); and

"(C) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in those levels based on proposals in the budget submitted by the President for that fiscal year.".

TITLE III—PAY-AS-YOU-GO BUDGET

SEC. 301. POINT OF ORDER.

The Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.) is amended by inserting after section 310 the following new section:

"POINT OF ORDER RELATING TO BUDGET OUTLAYS

"SEC. 310A. (a) POINT OF ORDER.—

"(1) TOTAL OUTLAYS.—Notwithstanding any other law, it shall not be in order in the Senate or the House of Representatives to consider a concurrent resolution on the budget for a fiscal year beginning after September 30, 1991, or an amendment thereto or conference report thereon, if—

"(A) the adoption of the concurrent resolution as reported;

"(B) the adoption of the amendment; or

"(C) the adoption of the concurrent resolution in the form recommended in the conference report,

would cause—

"(i) the appropriate level of total budget outlays (excluding outlays of the Resolution Trust Corporation) set forth in the concurrent resolution for that fiscal year to exceed the outlay target for that fiscal year;

"(ii) the recommended level of Federal revenues set forth in the concurrent resolution for that fiscal year (excluding revenues of the Resolution Trust Corporation) to be less than the recommended level of Federal revenues for the preceding fiscal year set forth in the most recently agreed to concurrent resolution on the budget for the preceding fiscal year (excluding revenues of the Resolution Trust Corporation).

"(2) OUTLAYS IN A FUNCTIONAL CATEGORY.—A concurrent resolution on the budget for a fiscal year shall not—

"(A) include provision for an outlay excess in a functional category unless the concurrent resolution—

"(i) provides for a decrease in budget outlays in another functional category for that fiscal year that is not less than the amount of such excess outlay; and

"(ii) identifies the source of the decreased amount of outlays and proposes changes in law to achieve the decrease; or

"(B) provide for a reduction in the recommended level of Federal revenues for that fiscal year below the recommended level of Federal revenues set forth in the most recently agreed to concurrent resolution on the budget for the preceding fiscal year unless the concurrent resolution—

"(i) provides for a reduction in budget outlays for the fiscal year below the appropriate level of total budget outlays set forth in the most recently agreed to concurrent resolution on the budget for the preceding fiscal year in an amount not less than the amount of the reduction in revenues for that fiscal year; and

"(ii) identifies the program or activity in which the reduction in budget outlays is to be made and proposes changes in law to accomplish the reduction.

"(3) ADDITIONAL REVENUES.—Any additional amount of revenues provided for in a concurrent resolution on the budget pursuant to paragraph (2)(A)(i) shall include provision for only such additional revenues as will result from proposed changes in law. Any reduction in budget outlays contained in a concurrent resolution on the budget pursuant to paragraph (2)(B)(i) shall include provision for only such reductions in budget outlays as will result from proposed changes in law.

"(b) WAIVER.—Subsection (a) may be waived by a three-fifths vote of the Members of each House of Congress, duly chosen and sworn.

"(c) PURPOSE OF EXCESS REVENUES.—Notwithstanding any other law, it shall not be in order in the Senate or the House of Representatives to consider a concurrent resolution on the budget for a fiscal year that sets forth a recommended level of revenues for the fiscal year that exceeds the appropriate level of total budget outlays for that fiscal year unless the concurrent resolution specifies the purposes for which the excess revenues are to be allocated.

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'outlay excess' has the meaning stated in section 257(15) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(2) the term 'outlay target' has the meaning stated in section 257(16) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(3) the term 'outlays of the Resolution Trust Corporation' means disbursements of the Resolution Trust Corporation; and

"(4) the term 'revenues of the Resolution Trust Corporation' means receipts of the Resolution Trust Corporation.".

SEC. 302. THE PRESIDENT'S BUDGET.

Section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g)(1) Notwithstanding any other law, the budget transmitted pursuant to subsection (a) for the following fiscal year shall not contain—

"(A) an estimate of total budget outlays (excluding outlays of the Resolution Trust Corporation) for that fiscal year that exceeds the outlay target for that fiscal year; or

"(B) an estimate of total revenues for that fiscal year (excluding revenues of the Resolution Trust Corporation) that is less than the recommended level of revenues for the preceding fiscal year set forth in the most recently agreed to concurrent resolution on the budget (excluding revenues of the Resolution Trust Corporation).

"(2) The budget transmitted pursuant to subsection (a) for the following fiscal year shall not—

"(A) contain an estimate of budget outlays in a functional category for the following fiscal year that includes an outlay excess unless the budget—

"(i) contains an estimate of a decrease in budget outlays in another functional category for that fiscal year that is not less than the amount of such outlay excess; and

"(ii) identifies the source of the decreased amount of outlays and proposes changes in law to achieve the decrease; or

"(B) contain an estimate of a reduction in revenues for that fiscal year below the recommended level of Federal revenues for the preceding fiscal year set forth in the most recently agreed to concurrent resolution on the budget for the preceding fiscal year unless the budget—

"(i) contains an estimate of a reduction in budget outlays for the fiscal year below the appropriate level of total budget outlays for the preceding fiscal year set forth in the most recently agreed to concurrent resolution on the budget for the preceding fiscal year in an amount not less than the amount of the reduction in revenues for that fiscal year; and

"(ii) identifies the program or activity for which the estimated reduction in budget outlays is proposed and proposes changes in law to achieve the estimated reduction.

"(3) For the purposes of this subsection—

"(A) the term 'outlay excess' has the meaning stated in section 257(15) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(B) the term 'outlay target' has the meaning stated in section 257(16) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(C) the term 'outlays of the Resolution Trust Corporation' means disbursements of the Resolution Trust Corporation; and

"(D) the term 'revenues of the Resolution Trust Corporation' means receipts of the Resolution Trust Corporation.".

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. SYMMS. Mr. President, I compliment my colleague from Montana for his effort and work on this bill. I emphasize that I think the single most important point about this process of the 4-percent solution will be that it will refocus to the American people that in all this talk about all these cuts in the budget, we are spending more money every year. That is why we have to borrow more money every year. The 4-percent solution will focus the attention.

If the American people figured out the budget process in Washington, they would either get their Congressmen to get the budget balanced or they would throw them out of office. The way it is, somehow they think their Congressman is not responsible for the deficit. It is all those other 434 Congressmen, but it is not their one.

The fact of the matter is the part of the reason it is so complicated is the current services budget where you project outlays you are going to spend next year and then the cuts then come off from that. It is like the Senator from Minnesota said, you can think that the people talk about it, it is in the news how billions of dollars are being cut from the budget from spending and yet the reality is we are spending more money for every single area of spending then we did before.

So the 4-percent solution will bring it to that. I probably like it better, I say to my friend from Montana, if it is a 3-percent solution. But be that as it may, it would be nice to start somewhere and start basing this on the philosophical grounds that we are going to do this within the basis of revenue that comes to the Federal Treasury and not going to do it with some big cop out of some big tax increase, because even if you did have the cap on the spending, then the tax increase might be another matter, whether you want to pay for it now or borrow it or how you want to work it out, because the Government can pay for things by either taxing, printing, or borrowing. They can do it any way and it all comes out of the private sector development.

But the point I want to make is that we have to refocus this budget issue because the way it is going on now, there is no visible support in the country, it seems, for what it is that some of us are trying to do to bring about a sensible solution to this, and the end-all solution is that the end of it they just want to go automatic and raise some more taxes. That is what is really happening. So bureaucratic it is a welfare state and continues to grow and all the special interests and others in there can reach in and get their shares of next year's projects or whatever it happens to be, or next year's program.

I think it is critical, and I want to emphasize again that it just could be. When I was home in Idaho during the last break, I saw some examples of Government interference with small business that absolutely turned your stomach, and the Senator from Minnesota being from a lumber background will appreciate this. This is a small saw mill in Cocolalla, ID, that does about $4 billion in business a year and exports $1 billion finished lumber offshore to the Pacific rim. We tell people we want to do that. Some people came out from the Corps of Engineers and said, you have the logs stacked on the wetlands.

It is not wetlands. It is an old mill tailing pond. He said, "I will mitigate this. I have 10 acres of ground. I will sort the logs and stack them out there." He said, "I will mitigate that." He told the Federal bureaucrat, "I will dam up my water and make 20 acres of wetlands to offset the 10 acres."

He did not want to get in an argument with him. Finally, the fellow said: "No. I am going to turn this over to the EPA."

And then five more people came from the EPA and they tell him you cannot stack logs on this piece of ground he rents from the people who own it. He said, "You cannot stack the logs on there. That is going to make the old lead in the ground from the old mill tailings acid and the lead will leach up and get in the water."

I called up and said: "Look. All you have to do is buy a few dollars worth of lime and dump it on the 10 acres. It will not have an impact. It will keep it, and there is no problem. Lime is cheap, easy to buy. It is used all the time to change acidity of soil."

I knew that as a farmer.

We have so much Government and what they are going to do is break this man from the lumber company, they are going to break him and run him out of business, and that is what his tax dollars paid for. He paid to have the Government come out and break him and run him out of business.

He is doing absolutely nothing wrong. I invite all my colleagues to come out and look. He is not hurting the environment. He is providing jobs for the 30 people and providing export market for our products. And he also provides timber for the major underground work in the Coeur d'Alene Mining District.

If he is run out of business, that is what his tax dollars paid for.

So in my opinion the way for Congress to reassert itself is grab hold of some agencies and run them instead of starting new programs and spending more money. Why do we not get hold of the agencies we now have and contain them a little bit? There is one way to contain them which is through the purse strings. We have forgotten about that.

This Congress is so far off the Constitution and so irresponsible. I have to tell the American people I for the life of me do not know why the American people are not outraged enough that they come down here and throw the Congress out and get a whole new bunch. That is what you would do if you ran a business. The Presiding Officer was in the retail grocery business. If he ran his business the way Congress runs the U.S. fiscal policy he would not be sitting up in that chair. He would be in the poor house somewhere. That is where he would be.

I mean, this is a matter of fact. It is inexcusable how irresponsible this Congress has been and then they try to blame the President.

Mr. BURNS. Mr. President, will the Senator yield just for a comment?

Mr. SYMMS. I am happy to yield.

Mr. BURNS. Mr. President, while we are talking about the process, you know, I want to go on record and support the President in what he is trying to do. He has put everything on the table to jump start these talks and to come to some kind of agreement on this budget. You cannot fault a man like that. You just cannot. Because it seems like every time he puts something on the table, they move away, or the opposition moves away, the spenders move away from him instead of coming toward him. So it is pretty tough to deal under that kind of circumstance. I compliment the President on trying to do this. But I feel that this is an answer.

I appreciate the support of the distinguished Senator from Idaho on this. We will see what we can get done for the American people. I think we are duty bound to do it.

Mr. SYMMS. I thank my colleague from Montana for those comments. I would also say I think the President has probably been the most responsible of anybody in this town. If you want to look at the House of Representatives, has he been more responsible than them? Has he been more responsible than the U.S. Senate? I think, in my opinion, yes, he has.

He is the one that went out and went against what he had said in his own campaign because he is willing to compromise, because he is practical, because he is pragmatic. He wants to solve the process and have the process work. But does the Congress want to? Absolutely not.

If there is any reason I would criticize the President it is that he has been too nice to the majority leader of the Senate and too nice to the Speaker of the House and too nice to the minority leader of the Senate and too nice to the minority leader of the House; that he has not taken his gloves off and started kicking the Congress around and saying that this Congress better grow up and read the Constitution and come in with a fiscally responsible budget, which is what we take the oath of office that we will do. We have not done it.

Like I said—and my colleague from Minnesota will appreciate it—when you go back and talk to the men that you worked with all your life, they say, "STEVE, for crying out loud, disassociate yourself from Congress. They are so irresponsible. They are the laughingstock of America. We are laughing at the Congress."

Well, I have not seen them voting people out of office yet, but it will be interesting to see if the American people wake up and realize that it is this Congress that has taxed and spent and taxed and spent and taxed and spent, and they have been doing it for a century, or a half century, and they have been getting away with it.

I think the time is coming where we are about ready to kill the goose that lays the golden egg. What pays for things in this country is people's hard work, the incentives, the incentive reward system, people out there working, making things happen in the free enterprise system. That is what makes America the great country that it is. It is not some bureaucratic welfare state.

They have one of those over in the Soviet Union and the enlightened people over there are trying to get rid of it.

I think some of those people in Congress who so worship the cradle of Government for the solution of everything, if they were involved in the Politburo, they would be fighting perestroika. They would say we cannot give up this government program and that government program.

It is the free enterprise and the hard work of the individual that makes America great. The core, driving force of human progress is freedom. Government is force and it does not help solve the problem in too many cases.

I yield the floor.

Mr. BOSCHWITZ. Mr. President, I just want to rise and compliment not only my colleague from Idaho for his remarks but also my colleague from Montana who has introduced the 4-percent solution as an alternative budget proposal, and I am proud to be a cosponsor of that.

The distinguished Senator from Montana is a new Senator here on the floor who has already taken a very active role not only in budgetary matters but in many matters that come before us. So that while it takes some many years to become particularly active, the Senator from Montana has moved very quickly, and I compliment him for his actions on the budget.

The 4-percent solution is reminiscent of a story about Sherlock Holmes who had a 7-percent solution. His 7-percent solution was not about the budget.

But, nevertheless, the Senator from Montana is correct that we do have to adopt a somewhat arbitrary proposal, that you just have to set a limit and you just have to say we are not going to spend any more than that. And you apply those limits to each function of the budget. You can apply it to the bottom line. You can take some parts out if you wish. But it is important that the bottom line be adhered to and that spending should not rise too rapidly.

He points out that it will take until 1997 to eliminate the budget deficit. I would say that there are ways that we can increase revenues and that we could thereby bring the budget into balance more quickly and at that time decide how we will proceed from there.

But I compliment the Senator from Montana. I am proud to be a cosponsor.

By Mr. LEVIN (for himself, Mr. COHEN, and Mr. PRYOR):

S. 3123. A bill to amend title 31 of the United States Code and the Federal Property and Administrative Services Act of 1949 with respect to certain bid protest procedures; to the Committee on Governmental Affairs.

BID PROTEST PROCEDURES

● Mr. LEVIN. Mr. President, I am introducing today, with my colleagues Senator COHEN and Senator PRYOR, legislation designed to correct certain problems identified by the General Accounting Office in the bid protest settlement process. Bid protests are the mechanism through which dissatisfied vendors object to perceived unfairness in the Federal procurement process.

In a 1988 report, the GAO found that the Bureau of the Census had settled a bid protest on a major com-

puter procurement by paying the protestors more than a million dollars, simply because the Bureau believed it could not afford the time required to litigate the issue. At that time, it was alleged in the press that this case was symptomatic of a broader problem—that many Federal agencies had responded to a proliferation of bid protests by paying contractors to withdraw their cases, without regard to the merits.

Last year, Senator PRYOR expressed concern about the potential wastefulness of such cash settlements and asked the General Accounting Office to take a more systematic look at the issue. The GAO studied bid protests over a 6-month period, and identified eight specific instances in which agencies settled such cases by making cash payments. The GAO report concluded that, because many settlements are not disclosed, the problem could be larger than it appeared from the data collected.

According to the GAO, cash settlements are appropriate when the agency has concluded that it is likely to be held responsible for bid protest costs and is unable to correct the problem. However, such payments are questionable when made solely for the purpose of avoiding operational delays. According to agency officials interviewed by the GAO, cash settlements have been used for both purposes.

The GAO report recommends that this problem be addressed by requiring the public disclosure of bid protest settlements. Such disclosure, the GAO concluded, would assure more responsible settlements by making the settlement process visible and accountable. The report states:

> To help reduce the possibility that inappropriate settlements will be made and assure full accountability and visibility over the procurement process, GAO concluded that the terms of all agreements should be disclosed in the motion to dismiss Board protests that are settled. Disclosure could also assist Congress in monitoring the extent and costs of settlements. * * *
>
> Although the settlement of disputes outside of formal adjudication is not unusual and should be encouraged, we believe that those settlements reached after a CICA bid protest has been filed should be disclosed to the public to keep the procurement process visible and accountable. A vast majority of the officials in the private sector and Federal agencies we contacted agreed that settlement terms should be disclosed. * * *

In addition, the GAO report recommended a minor modification to the bid protest statutes to clear up an inconsistency in the treatment of bid protest costs by the General Accounting Office and the General Services Board of Contract Appeals.

Mr. President, the bill that we are introducing today would address the problems raised in the GAO report by requiring the disclosure of all bid protest settlements and ensuring the consistent treatment of bid protest costs. I anticipate that we will take up this legislation in the Governmental Affairs Committee after we have had an opportunity to circulate it to appropriate executive branch agencies for comment. I am grateful for the cosponsorship of Senators COHEN and PRYOR, and I look forward to working with them on this issue.●

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 3124. A bill to recognize the organization known as the 29th Division Association, Incorporated; to the Committee on the Judiciary.

29TH DIVISION ASSOCIATION, INCORPORATED

● Mr. SARBANES. Mr. President, I am introducing legislation today with my colleague from Maryland, Senator BARBARA MIKULSKI, which provides recognition to the 29th Division Association, Incorporated and grants the Association a Federal charter. Although there is little likelihood that this legislation will be considered in this Congress, I wanted to introduce the bill this year to bring the history of this distinguished military organization to the attention of all my colleagues. I plan to reintroduce the bill at the beginning of the 102d Congress. The 29th Division has a long and remarkable history and a close assocation with the citizens of Maryland. I am proud to introduce this bill recognizing one of our Nation's most notable military organizations.

The 29th Division Association, Inc. is a nonprofit corporation organized under the laws of the State of New Jersey. Its objects and purposes as expressed in its articles of incorporation include: First, the promotion of fellowship among its members; second, the perpetuation of the record of the 29th Division, U.S. Army, in the World Wars; third, the promotion of the welfare of its members; fourth, the consideration of questions concerning the military policy of the United States; and fifth, to uphold and defend the Constitution of the United States. The 29th Division Association was organized in 1921 by veterans of World War I who served with the 29th Division in Europe. It now has a membership of 3,500 including veterans from World War I and World War II as well as young men and women now serving in the 29th Division.

The 29th Infantry Division was organized at Camp McClellan, Alabama in August 1917 during World War I. Comprised of National Guard units of citizen soldiers from Maryland, Delaware, Virginia, the District of Columbia, and New Jersey, the Division consisted of two brigades with two infantry regiments, an artillery brigade and supporting units. The Division arrived in France in June 1918 and fought in the Alsace and Meuse-Argonne campaigns suffering over 5,700 casualties.

In World War II, the 29th Division was mobilized in February 1941 at Fort George C. Meade, MD. This time it included soldiers from Maryland, Virginia, the District of Columbia, and Pennsylvania. The Division sailed for England in 1942 after stateside training. Further training ensued in England. On D Day, June 6, 1944, the 29th Infantry Division stormed ashore on Omaha Beach to win a beachhead taking heavy casualties in the process. The Division then participated in four major campaigns including Normandy, Northern France, Rhineland, and Central Europe suffering 19,814 killed, wounded and missing. It compiled one of the most distinguished war records of any of our infantry divisions.

In 1985 the Division was again reactivated as the 29th Infantry Division (Light) with citizen soldiers from Maryland and Virginia. It is continuing the proud tradition established by the 29th in two world wars.

The 29th Infantry Division has played a key role in the defense of this country and is still doing so. It is my hope that this legislation to grant the 29th Infantry Division Association a Federal charter will be approved, and I urge my colleagues to join in this effort to honor this distinguished military unit.●

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. 3125. A bill to amend the Federal Aviation Act of 1958; to the Committee on Commerce, Science, and Transportation.

AIRCRAFT NOISE REDUCTION ACT

● Mr. LAUTENBERG. Mr. President, today I am introducing a bill that would reduce the number of people in the United States impacted by aircraft noise by two-thirds. I am pleased to be joined in introducing this legislation by my distinguished colleague from New Jersey, Senator BRADLEY.

The problem of aircraft noise is a serious one in my State, and in communities throughout this country. Since the FAA implemented the expanded east coast plan, significantly changing air routes over New Jersey, many of my constituents have been impacted by aircraft noise. Senator BRADLEY and I have proposed a five-point plan to help provide relief to these New Jerseyans. A key part of this plan is the elimination of noisy stage 2 aircraft from the commercial fleet by the end of the decade.

The benefits of a phaseout of stage 2 aircraft would be tremendous. On average, older, noisier stage 2 aircraft are twice as loud as newer, quieter, stage 3 planes. Unfortunately, at Newark International Airport, my State's principal airport, the loud stage 2 planes make up more than half of the fleet providing service. This contributes greatly to the problems

experienced in New Jersey communities. It's why it's important to work toward an all stage 3 fleet.

Over the years, the Federal Government has taken a number of steps to promote quieter, more efficient aircraft. In 1969, standards were set for stage 2 aircraft. In 1973, all new aircraft were required to meet those standards. In 1977, new planes were required to meet the tougher standards of the stage 3 classification. And, in 1985, all stage 1 commercial jets were taken out of service.

Mr. President, it's time to take the next step. Our legislation would require that, after December 31, 1999, all aircraft in excess of 75,000 pounds would be required to meet the stage 3 standards.

Some may say that this would impose economic hardships on the airlines. But, we have to recognize that noise is pollution. And controlling pollution can cost money. We must weigh that against the societal costs of not controlling the pollution. That balance comes out in favor of acting.

We also need to look at the economic consequences of continuing to operate the stage 2 planes. On average, they consume 30 percent more fuel than stage 3 jets. For an airline, that represents significant costs. For the Nation, it represents a tremendous drain on our energy resources. As we see our young men and women toiling in the Saudi Arabian deserts to protect oilfields, the costs of continuing to operate fuel inefficient planes looms even larger.

Mr. President, this bill is an important part of efforts to control aircraft noise, and reduce our consumption of oil. I believe that it represents a significant step forward, and I urge my colleagues to support the legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aircraft Noise Reduction Act of 1990".

SEC. 2. REGULATION.

Title XI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301, et seq.) is amended by adding at the end thereof the following:

"STAGE 3 MANDATE

"SEC. 1119. Not later than 270 days after the date of enactment of this section, the Administrator shall require that all aircraft in excess of 75,000 pounds maximum gross weight operating within the United States after December 31, 1999, meet stage 3 standards, as defined in part 36 of the Federal Aviation Regulations on the date of the enactment of this section.".●

● Mr. BRADLEY. Mr. President, I am pleased to join with my colleague from New Jersey, Senator LAUTENBERG, in sponsoring this bill which will phase out stage 2 aircraft by 1999.

For too long now, communities across the country have had to deal with aircraft noise. Part of the problem has been the constant roar from old, noisy planes. It has been estimated that a stage 2 aircraft is twice as noisy as newer stage 3 aircraft.

This is a simple bill that gets the industry moving toward the goal of an all stage 3 fleet. Some critics of a phaseout may say that the industry needs more time and that it is not possible. But the European Community has outlawed noisy stage 2 aircraft. If this law is not in place, and we do not act quickly, then our skies will be polluted with the noise from loud, outdated stage 2 aircraft that the European Community does not want. I do not want the United States to be a dumping ground for the European Community's discards.

The phasing out of stage 2 aircraft is not only a transportation issue; it's an environmental and energy issue. Stage 3 aircraft are more fuel efficient than older aircraft. In these critical times, we must do a better job of conserving fuel. And we have to do better at combating noise pollution. The bill we submit today could go a long way in addressing both environmental and energy problems.●

By Mr. PELL:

S. 3126. A bill to provide for full statutory wage adjustments for prevailing rate employees, and for other purposes; to the Committee on Governmental Affairs.

PREVAILING WAGE RATE ADJUSTMENT REFORM ACT

Mr. PELL. Mr. President, I am today introducing legislation to correct an injustice affecting thousands of Federal Government workers who are paid under the so-called prevailing wage rate system. This legislation, the Prevailing Wage Rate Adjustment Reform Act of 1990 will give Federal blue-collar workers in the Federal Wage System full adjustments to their pay based on the annual local wage survey of private industries in each wage grade area.

This legislation is necessary because in every year since 1979 an appropriations pay cap has been placed on the annual adjustments to FWS pay, limiting the percentage increase to that received by General Schedule [GS] employees.

The intent of the Congress in establishing the FWS was to pay Federal blue collar workers according to the private sector wages in each of the 135 geographic wage grade areas across the country. Due to the imposition of this pay cap, pay for FWS workers in many areas no longer reflects the local prevailing rate paid to employees in similar jobs in private industry.

Federal wage system worker salaries now lag an average of 10.35 percent behind those paid in the private sector. In some areas the situation is far more severe because private sector wages have risen far more sharply. In the Narragansett Bay Wage Grade Area in Rhode Island FWS worker salaries in June 1990 were more than 18 percent below private sectors. And in some areas of the Nation, FWS wages lag as much as 28 percent behind private sector wages.

The result is not only an injustice to Federal workers, but severe recruitment and retention problems for Federal Government agencies. The FWS system provides for special exceptions to be made in determining wages in cases in which there are recruitment and retention problems. But the continued application of pay caps over 10 years has created a problem which can not be remedied by special exceptions. Indeed, special pay alternatives that do exist are now being used as a substitute for adequate comprehensive pay adjustments instead of for the intended purpose of dealing with unusual and limited recruitment and retention problems.

The recruitment and retention problems being experienced in the blue collar pay system are similar to those being experienced in many areas of the country in the General Schedule [GS] pay system.

Because of those GS pay problems, the Senate recently enacted a Federal pay reform proposal under which GS pay levels will be determined on a regional instead of a national basis, taking into account living costs and wage levels in each region. I fully support and applaud this reform of the GS pay system. The legislation, however, makes no specific provision that would bring the FWS system up to date.

The bill I am introducing fills that gap by requiring that upon passage Federal wage system employees must be paid the full prevailing wage rate in each area as determined by wage surveys.

The legislation would provide a fair rate of pay to Federal wage system workers and would make it possible for Federal agencies to recruit and retain the skilled workers required for them to provide services to the public efficiently and effectively.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3126

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Prevailing Wage Rate Adjustment Reform Act of 1990".

SEC. 2. Without regard to any other provision of law limiting the amounts payable—

(1) to a prevailing rate employee defined under section 5342(a)(2) of title 5, United States Code;

(2) to an employee covered by section 5348 of such title; or

(3) to any other employee subject to section 612 of the Treasury, Postal Service and General Government Appropriations Act 1990, Public Law 101-136, 103 State. 818;

such employees shall be paid, beginning on the effective date of each annual wage survey adjustment in the region after the date of the enactment of this Act, wages as determined and established in accordance with the provisions of subchapter IV of chapter 53, title 5, United States Code.

By Mr. WIRTH (for himself and Mr. DOMENICI):

S. 3128. A bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes; to the Committee on Energy and Natural Resources.

INCREASE IN PAYMENTS FOR ENTITLEMENT LANDS

● Mr. WIRTH Mr. President, today I am introducing S. 3128, a bill to increase the authorization for the Department of the Interior's Payments-in-Lieu-of-Taxes [PILT] Program and to index the PILT Program for inflation. This action is long overdue.

This bill amends the Payments-in-Lieu-of-Taxes Act of 1976 which helps to compensate local governments for the presence of tax exempt Federal lands within their boundaries. More than 1,700 countries in 49 States benefit from this program. This bill proposes the first increase in PILT payments since the program was enacted. For 14 years, PILT has been authorized at the same level of funding, resulting in payments that in constant dollars are worth less than half of what they were when the program was originally enacted.

Most of the counties receiving PILT are in rural, nonmetropolitan areas. They are the jurisdictions within which the vast system of national parks, national forests, national wildlife refuges and lands administered by the Bureau of Land Management are located.

The PILT payments enable these counties, whose tax base is limited by the presence of nontaxable Federal lands, to meet the real and growing needs of their citizens for education, transportation, health care, police protection, and all the other essential services local governments provide.

PILT also helps reimburse local governments for services that they provide to all of the users of public lands. Those services include law enforcement, road maintenance, search and rescue, fire protection, health and hospital services, and other local services needed by everyone who uses Federal lands, whether they are local residents or travelers from afar.

The issue is simple and straightforward. Inflation has caused the cost of providing government services to the citizens who live in public land areas and those who visit, to rise dramatically. But PILT payments have not. PILT is not an entitlement program and I am not proposing to make it one. But in the interests of equity and in meeting a vital concern of our locally elected officials, I am proposing to authorize additional funding so that the value of the program is restored to the level originally contained in the 1976 legislation.

Local governments rely heavily on property taxes to raise revenues. For the counties affected by the PILT Program, the presence of tax exempt Federal land in their jurisdictions has put them into a box.

Many of these counties in the West, and some in the East, have a majority of their land base in Federal land ownership. They have increased their taxes on private lands—but these public land counties don't have the taxable base they need to keep up with growing demand for services. In addition, more and more Americans are coming to our public lands for recreation, placing an additional burden on already stressed local governments.

These counties now face a new and even more important challenge. In the past, they could count on revenues from the extraction of resources from our public lands. The Federal Government shares timber receipts, mineral leasing receipts, and other natural resource development revenues, with local jurisdictions. But the days of unlimited development of those resources are passing. We can no longer count on frontier economies which rely on our continuing to reap our resources forever at the same rate we have in the past.

Heightened environmental awareness by the general public and the growing importance of recreation uses of our public lands are leading to an emphasis on the protection of our natural resources. That trend, along with the consequences of past overexploitation of public resources and tough international competition in resource markets, are leading to new limits on traditional economic uses of public lands which have provided jobs and revenue sharing payments to rural counties. Logging, mining, and other resources development activities are in decline in many of these areas.

There is growth in tourism and recreation which is transforming the economies of many of these counties, providing new jobs and new opportunities. Many communities are using their setting in the public lands as an asset to attract new businesses and residents. These communities are seeing a shift from economies of extraction, to economies based on attraction.

That's good, but its very different from the past, and the transformations that are entailed in such a switch can be difficult ones.

In the past, counties could count on the Federal Government sharing substantial revenues from timber sales and mineral leasing. Now, those industries are decreasing in their economic importance in many areas, and the revenues associated with them are declining. An increased PILT Program is needed to establish a stable source of income for these countries from public lands, to enable them to meet the increased demands for the services they provide, and to help them successfully make the economic transformations they are facing.

Mr. President, the elected officials who run our county and local governments are as aware of, and concerned about the Federal deficit as we are. In fact, in the Federal budget crunch of the last 5 years, it has been the policy of the National Association of Counties not to seek an expansion of this program despite the recognition that it was being eroded by inflation. Why? Because they as elected officials representing their constituents were acting responsibly, trying to do their part not to add to the deficit. But the growing costs of providing necessary services has caught up with them.

Now, in the face of increasing deficits and dramatically changing policies in the management of the Nation's public lands, they are asking the Federal Government to increase in this relatively modest program which currently represents less than 1 percent of the Bureau of Land Management's budget for fiscal year 1991.

I want to thank my colleague, Senator DOMENICI of New Mexico, for joining me in this effort, and I hope that all my colleagues will join us in supporting this legislation. I also want to thank Peter Kenney, a county commissioner from Clear Creek County, CO, who as chairman of the National Association of Counties' Public Lands Steering Committee, has been instrumental in bringing this issue forward and putting together the proposal I am introducing today.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN PAYMENTS FOR ENTITLEMENT LANDS.

(a) INCREASE BASED ON CONSUMER PRICE INDEX.—Section 6903(b)(1) of title 31, United States Code, is amended—

(1) by striking "75 cents for each acre of entitlement land" and inserting "$1.65 for each acre of entitlement land"; and

(2) by striking "10 cents for each acre of entitlement land" and inserting "22 cents for each acre of entitlement land".

(b) INCREASE IN POPULATION CAP.—Section 6903(c)(1) of title 31, United States Code, is amended—

(1) by striking "$50 times the population" and inserting "$110 times the population"; and

(2) by amending the table at the end thereof to read as follows:

If population equals—	*the limitation is equal to the population times—*
5,000	110.00
6,000	103.00
7,000	97.00
8,000	90.00
9,000	84.00
10,000	77.00
11,000	75.00
12,000	73.00
13,000	70.00
14,000	68.00
15,000	66.00
16,000	65.00
17,000	64.00
18,000	63.00
19,000	62.00
20,000	61.00
21,000	60.00
22,000	59.00
23,000	59.00
24,000	58.00
25,000	57.00
26,000	56.00
27,000	56.00
28,000	56.00
29,000	55.00
30,000	55.00
31,000	54.00
32,000	54.00
33,000	53.00
34,000	53.00
35,000	52.00
36,000	52.00
37,000	51.00
38,000	51.00
39,000	50.00
40,000	50.00
41,000	49.00
42,000	48.00
43,000	48.00
44,000	47.00
45,000	47.00
46,000	46.00
47,000	46.00
48,000	45.00
49,000	45.00
50,000	44.00

SEC. 2. INDEXING OF PILT PAYMENTS FOR INFLATION.

Section 6903 of title 31, United States Code, is amended by adding at the end thereof the following new subsection.

"(e) For each fiscal year beginning after the date of enactment of this subsection, the Secretary of the Interior shall, not later than July 1 of that year, adjust the amount of payments made under subsection (b) (1) or (2) to reflect changes in the rate of inflation as measured by the Consumer Price Index".●

By Mr. PRYOR (for himself, Mr. HEINZ, Mr. ADAMS, Mr. AKAKA, Mr. BRADLEY, Mr. BRYAN, Mr. BURDICK, Mr. CHAFEE, Mr. COATS, Mr. DURENBERGER, Mr. GLENN, Mr. GRAHAM, Mr. HEFLIN, Mr. INOUYE, Mr. JEFFORDS, Mr. LAUTENBERG, Mr. LEVIN, Mr. LUGAR, Mr. MCCLURE, Ms. MIKULSKI, Mr. MITCHELL, Mr. REID, Mr. RIEGLE, Mr. SHELBY, Mr. WARNER, and Mr. WILSON):

S.J. Res. 371. Joint resolution to recognize the week of October 1-7, 1990, as "National Nursing Home Residents' Rights Week"; to the Committee on the Judiciary.

NATIONAL NURSING HOME RESIDENTS' RIGHTS WEEK

● Mr. PRYOR. Mr. President, I am pleased to be joined by 26 Members of the U.S. Senate, including several members of the Aging Committee—Senators HEINZ, BRADLEY, BURDICK, GLENN, GRAHAM, REID, SHELBY, WARNER, and WILSON—in cosponsoring a joint resolution recognizing the week of October 1-7 as "National Nursing Home Residents' Rights Week." This declaration serves to recognize residents, ombudsmen, providers, citizen advocacy groups, Federal and State surveyors, and caregivers in their efforts to create an improved environment for the 1.5 million persons living in our Nation's 18,000 nursing homes.

In recent years, Congress has taken some crucial steps to improve the quality of life for all nursing home residents. October 1, 1990, marks the long-awaited date of implementation of the Nursing Home Reform Amendments of Omnibus Budget Reconciliation Act 1987. These reforms include provisions that significantly strengthen residents' rights, as well as requirements for a comprehensive resident assessment, for nurse aide training, and increased nurse staffing requirements, to name but a few. In sum, the OBRA 1987 nursing home reform provisions will do much to improve the quality of care in nursing facilities.

This year, in conjunction with the implementation of OBRA, we are recognizing National Nursing Home Residents' Rights Week, with a special emphasis on the new statutory protections to the rights of persons living in nursing homes. The celebration will provide a focal point for public education efforts to make sure consumers know what new protections they are entitled to under the law, and where they can turn for assistance.

I urge my colleagues to join us in cosponsoring this commemorative resolution that recognizes the nursing home reform amendments of OBRA 1987, and the people who are committed to improving the lives of nursing home residents.●

ADDITIONAL COSPONSORS

S. 34

At the request of Mr. HUMPHREY, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 34, a bill to amend title 28 of the United States Code to clarify the remedial jurisdiction of inferior Federal courts.

S. 416

At the request of Mr. DOMENICI, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 416, a bill to provide that all Federal civilian and military retirees shall receive the full cost of living adjustment in annuities payable under Federal retirement systems for fiscal years 1990 and 1991, and for other purposes.

S. 1198

At the request of Mr. KENNEDY, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1198, a bill to amend title 17, United States Code, to provide certain rights of attribution and integrity to authors of works of visual art.

S. 1912

At the request of Mr. CRANSTON, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1912, a bill to protect the reproductive rights of women, and for other purposes.

S. 2111

At the request of Mr. SIMON, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maryland [Mr. SARBANES], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 2111, a bill designating the month of May as "Asian/Pacific American Heritage Month."

S. 2112

At the request of Mr. METZENBAUM, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 2112, a bill to amend the National Labor Relations Act to prevent discrimination based on participation in labor disputes.

S. 2602

At the request of Mr. METZENBAUM, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2602, a bill to amend the Public Health Service Act to provide assistance for biomedical and health services research, treatment programs, and for other purposes relating to Alzheimer's disease and related disorders.

S. 2637

At the request of Mr. REID, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2637, a bill to amend the Toxic Substances Act to reduce the levels of lead in the environment, and for other purposes.

S. 2664

At the request of Mr. BENTSEN, the name of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Iowa [Mr. HARKIN], and the Senator from North Carolina [Mr. SANFORD]

were added as cosponsors of S. 2664, a bill to provide disaster assistance for agricultural producers, and for other purposes.

S. 2762

At the request of Mr. HATFIELD, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2762, a bill to facilitate the implementation of National Forest land and resource management plans and for other purposes.

S. 2782

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2782, a bill to amend the Coastal Zone Management Act of 1972 to authorize appropriations for fiscal years 1991 through 1995 and to require State coastal zone management agencies to prepare and submit for the approval of the Secretary of Commerce programs for the improvement of coastal zone water quality, and for other purposes.

S. 2796

At the request of Mr. COHEN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2796, a bill to amend title IV of the Higher Education Act of 1965 to allow resident physicians to defer repayment of their title IV student loans while completing a resident training program accredited by the Accreditation Council for Graduate Medical Education or the Accrediting Committee of the American Osteopathic Association.

S. 2798

At the request of Mr. BUMPERS, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 2798, a bill to amend section 1244 of the Internal Revenue Code of 1986 to create a new seed capital industry by providing an incentive for high-risk, long-term, growth-oriented capital investments in small business ventures, and for other purposes.

S. 2901

At the request of Mr. PRYOR, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2901, a bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes.

S. 2903

At the request of Mr. BOND, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2903, a bill to establish a National Commission on Financial Institution Reform, Recovery, and Enforcement.

S. 2993

At the request of Mr. DASCHLE, the names of the Senator from Washington [Mr. ADAMS] and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 2993, a bill to amend the Internal Revenue Code of 1986 to extend the solar, geothermal, ocean thermal energy tax credits through 1995.

S. 3021

At the request of Mr. DOLE, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 3021, a bill to establish national voter registration procedures for Presidential and congressional elections, and for other purposes.

S. 3025

At the request of Mr. GLENN, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 3025, a bill to amend titles 10 and 37, United States Code, to make members of the Armed Forces involved in Operation Desert Shield or similar operations eligible for certain benefits and to make members of the reserve components of the Armed Forces and retired members of the Armed Forces eligible for certain benefits when ordered to active duty in connection with a mobilization; and for other purposes.

S. 3041

At the request of Mr. SANFORD, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from Virginia [Mr. WARNER], the Senator from Illinois [Mr. SIMON], the Senator from Virginia [Mr. ROBB], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 3041, a bill to set forth United States policy toward Central America and to assist the economic recovery and development of that region.

S. 3066

At the request of Mr. SHELBY, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 3066, a bill to amend the Internal Revenue Code of 1986 to provide that certain deductions of members of the National Guard or Reserve units of the Armed Forces will be allowable in computing adjusted gross income.

S. 3071

At the request of Mr. DODD, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 3071, a bill to amend section 3071 of the Internal Revenue Code of 1986 to extend the nonrecognition of gain to certain sales which effectuate or implement the policies of the Federal Communications Commission.

S. 3092

At the request of Mr. GORTON, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 3092, a bill to authorize a certificate of documentation for the vessel *Syringa*.

SENATE JOINT RESOLUTION 263

At the request of Mr. HELMS, the names of the Senator from Louisiana [Mr. BREAUX] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 263, a joint resolution to designate October 11, 1990, as "National Society of the Daughters of the American Revolution Centennial Day."

SENATE JOINT RESOLUTION 291

At the request of Mr. HATCH, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Joint Resolution 291, a joint resolution designating the week of October 14, 1990, as "National Standards Week."

SENATE JOINT RESOLUTION 350

At the request of Mr. BYRD, the names of the Senator from Georgia [Mr. FOWLER] and the Senator from Utah [Mr. GARN] were added as cosponsors of Senate Joint Resolution 350, a joint resolution to designate October 18, 1990, as "National Hardwood Day."

SENATE JOINT RESOLUTION 351

At the request of Mr. PRESSLER, the names of the Senator from Florida [Mr. MACK], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Missouri [Mr. BOND], the Senator from Vermont [Mr. JEFFORDS], the Senator from Virginia [Mr. ROBB], the Senator from Georgia [Mr. NUNN], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Joint Resolution 351, a joint resolution to designate the month of May 1991, as "National Trauma Awareness Month."

SENATE JOINT RESOLUTION 358

At the request of Mr. PACKWOOD, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Joint Resolution 358, a joint resolution to designate February 7, 1991, as "National Women and Girls in Sports Day."

SENATE JOINT RESOLUTION 364

At the request of Mr. REID, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Illinois [Mr. DIXON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Tennessee [Mr. GORE], the Senator from California [Mr. WILSON], the Senator from Idaho [Mr. SYMMS], the Senator from Idaho [Mr. MCCLURE], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Joint Resolution 364, a joint resolution to designate the third week of February 1991, as "National Parents and Teachers Association Week."

SENATE JOINT RESOLUTION 365

At the request of Mr. SASSER, the names of the Senator from West Virginia [Mr. BYRD], the Senator from South Dakota [Mr. DASCHLE], the Sen-

ator from Ohio [Mr. METZENBAUM], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Utah [Mr. GARN] were added as cosponsors of Senate Joint Resolution 365, a joint resolution to designate the month of October 1990 as "Country Music Month."

SENATE CONCURRENT RESOLUTION 81

At the request of Mr. SYMMS, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of Senate Concurrent Resolution 81, a concurrent resolution expressing the sense of the Congress that it should be the policy of the United States to encourage an acceleration of growth in selected Third World nations in order to create new markets for advanced-country products and services.

AMENDMENT NO. 2516

At the request of Mr. MURKOWSKI, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of amendment No. 2516 proposed to S. 2884, an original bill to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

SENATE RESOLUTION 329—RELATIVE TO THE EFFECT OF SEQUESTRATION ON CONSERVATION RESERVE CONTRACTS

Mr. DASCHLE (for himself, Mr. BURDICK, and Mr. CONRAD) submitted the following resolution; which was referred to the Committee on Governmental Affairs:

S. RES. 329

Resolved, That it is the sense of the Senate that, notwithstanding any other provision of law, no order issued for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902), should affect any contract entered into under the conservation reserve program authorized under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831).

● Mr. DASCHLE. Mr. President, Congress should make clear to the administration that Conservation Reserve Program payments should not be affected in the event of a sequester under the Gramm-Rudman law.

Farmers receive these payments under a contract with the Federal Government. The contract requires certain obligations of the farmer for 10 years; the farmer likewise, expects and deserves certain obligations of the Federal Government among them, an undisturbed stream of payments.

In the past, prior contracts have been exempt from sequestration. That should be the case this year, as well. I hope we avoid a sequester, but in the event we do not, the sequester should not affect payments under CRP contracts.

Moreover, South Dakota has a particular concern that these contracts be honored. South Dakota has offered CRP participants an opportunity to borrow from the State against their future CRP payments. The payments are then assigned to the State, which uses the payments to retire bonds that finance the lending program. If the payments are cut by any amount, but particularly by the 31.9 percent figure I have seen in news accounts, the State will be harmed.

Today, Senators BURDICK, CONRAD, and I, along with Representatives JOHNSON and DORGAN, sent a letter to the farm bill conferees urging that they agree to the House provision to exempt CRP contracts from sequestration. This action would send a clear signal to the administration that Congress intends that these contracts be honored.

I also urge that the Senate pass the resolution I introduce today, along with Senators BURDICK and CONRAD. My office has been flooded with calls by farmers who are outraged that the Federal Government would shirk on its obligations under these contracts. This is another example in which the Federal Government is not abiding by the same rules it enforces on the public. If CRP participants fail to meet their contract obligations, the Federal Government will stop their payments. The Federal Government should keep its commitments, too. CRP contract payments should not be affected by a Gramm-Rudman sequester. I urge that we take up this resolution at the earliest moment.●

AMENDMENTS SUBMITTED

SECURITIES ENFORCEMENT AND PENNY STOCK REFORM ACT

DODD (AND OTHERS) AMENDMENT NO. 2915

Mr. DODD (for himself, Mr. HEINZ, Mr. RIEGLE, and Mr. GARN) proposed an amendment to the amendment of the House to the bill (S. 647) to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; EFFECTIVE DATE.

(a) SHORT TITLE.—This Act may be cited as the "Securities Enforcement Remedies and Penny Stock Reform Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; effective date.

TITLE I—AMENDMENTS TO THE SECURITIES ACT OF 1933

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(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this Act shall be effective upon enactment.

(2) CIVIL PENALTIES.—

(A) IN GENERAL.—No civil penalty may be imposed pursuant to the amendments made by this Act on the basis of conduct occurring before the date of enactment of this Act.

(B) ACCOUNTING AND DISGORGEMENT.—Subparagraph (A) shall not operate to preclude the Securities and Exchange Commission from ordering an accounting or disgorgement pursuant to the amendments made by this Act.

(3) SPECIAL RULES FOR TITLE V.—

(A) SECTIONS 503 AND 504.—Except as provided in subparagraph (C), sections 503 and 504 shall be effective 12 months after the date of enactment of this Act or upon the issuance of final regulations initially implementing such section, whichever is earlier.

(B) SECTIONS 505 AND 508.—Except as provided in subparagraph (C), sections 505 and 508 shall be effective 18 months after the date of enactment of this Act or upon the issuance of final regulations initially implementing such sections, whichever is earlier.

(C) COMMENCEMENT OF RULEMAKING.—Not later than 180 days after the date of enact-

ment of this Act, the Commission shall commence rulemaking proceedings to implement sections 503, 505, and 508.

TITLE I—AMENDMENTS TO THE SECURITIES ACT OF 1933

SEC. 101. AUTHORITY OF A COURT TO IMPOSE MONEY PENALTIES AND TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.

Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end thereof the following new subsections:

"(d) MONEY PENALTIES IN CIVIL ACTIONS.—

"(1) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 8A of this title, other than by committing a violation subject to a penalty pursuant to section 21A of the Securities Exchange Act of 1934, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(2) AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (i) $5,000 for a natural person or $50,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the amount of penalty for each such violation shall not exceed the greater of (i) $50,000 for a natural person or $250,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the amount of penalty for each such violation shall not exceed the greater of (i) $100,000 for a natural person or $500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(I) the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(II) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(3) PROCEDURES FOR COLLECTION.—

"(A) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(B) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(C) REMEDY NOT EXCLUSIVE.—The actions authorized by this subsection may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(D) JURISDICTION AND VENUE.—For purposes of section 22 of this title, actions under this section shall be actions to enforce a liability or a duty created by this title.

"(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 8A, each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with such an order, each day of the failure to comply with the order shall be deemed a separate offense.

"(e) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any proceeding under subsection (b), the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of such Act if the person's conduct demonstrates substantial unfitness to serve as an officer or director of any such issuer.".

SEC. 102. CEASE-AND-DESIST AUTHORITY.

The Securities Act of 1933 (15 U.S.C. 77 et seq.) is amended by inserting after section 8 the following:

"CEASE-AND-DESIST PROCEEDINGS

"SEC. 8A. (a) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person.

"(b) HEARING.—The notice instituting proceedings pursuant to subsection (a) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(c) TEMPORARY ORDER.—

"(1) IN GENERAL.—Whenever the Commission determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to subsection (a), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceedings, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceeding. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(2) APPLICABILITY.—This subsection shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of, or a person seeking to become associated with, any of the foregoing.

"(d) REVIEW OF TEMPORARY ORDERS.—

"(1) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to subsection (c), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(2) JUDICIAL REVIEW.—Within—

"(A) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(B) 10 days after the Commission renders a decision on an application and hearing under paragraph (1), with respect to any temporary cease-and-desist order entered without a prior Commission hearing, the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not apply to the court except after hearing and decision by the Commission on the respondent's application under paragraph (1) of this subsection.

"(3) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under paragraph (2) of this subsection shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(4) EXCLUSIVE REVIEW.—Section 9(a) of this title shall not apply to a temporary order entered pursuant to this section.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (a), the Commission may

enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

TITLE II—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 201. ENFORCEMENT OF TITLE.

Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended—

(1) by redesignating subsection (d) as subsection (d)(1);

(2) by inserting after subsection (d)(1) the following new paragraphs:

"(2) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any proceeding under paragraph (1) of this subsection, the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of this title if the person's conduct demonstrates substantial unfitness to serve as an officer or director of any such issuer.

"(3) MONEY PENALTIES IN CIVIL ACTIONS.—

"(A) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 21C of this title, other than by committing a violation subject to a penalty pursuant to section 21A, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(B) AMOUNT OF PENALTY.—

"(i) FIRST TIER.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (I) $5,000 for a natural person or $50,000 for any other person, or (II) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(ii) SECOND TIER.—Notwithstanding clause (i), the amount of penalty for each such violation shall not exceed the greater of (I) $50,000 for a natural person or $250,000 for any other person, or (II) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in subparagraph (A) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(iii) THIRD TIER.—Notwithstanding clauses (i) and (ii), the amount of penalty for each such violation shall not exceed the greater of (I) $100,000 for a natural person or $500,000 for any other person, or (II) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(aa) the violation described in subparagraph (A) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(bb) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(C) PROCEDURES FOR COLLECTION.—

"(i) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(ii) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(iii) REMEDY NOT EXCLUSIVE.—The actions authorized by this paragraph may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(iv) JURISDICTION AND VENUE.—For purposes of section 27 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.

"(D) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 21C, each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with the order, each day of the failure to comply shall be deemed a separate offense.".

SEC. 202. CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS.

(a) The Securities Exchange Act of 1934 is amended by inserting after section 21A (15 U.S.C. 78u-1) the following:

"CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS

"SEC. 21B. (a) COMMISSION AUTHORITY TO ASSESS MONEY PENALTIES.—In any proceeding instituted pursuant to sections 15(b)(4), 15(b)(6), 15B, 15C, or 17A of this title against any person, the Commission or the appropriate regulatory agency may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(1) has willfully violated any provision of the Securities Act of 1933, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or this title, or the rules or regulations thereunder, or the rules of the Municipal Securities Rulemaking Board;

"(2) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person;

"(3) has willfully made or caused to be made in any application for registration or report required to be filed with the Commission or with any other appropriate regulatory agency under this title, or in any proceeding before the Commission with respect to registration, any statement which was, at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein; or

"(4) has failed reasonably to supervise, within the meaning of section 15(b)(4)(E) of this title, with a view to preventing violations of the provisions of such statutes, rules and regulations, another person who commits such a violation, if such other person is subject to his supervision;

and that such penalty is in the public interest.

"(b) MAXIMUM AMOUNT OF PENALTY.—

"(1) FIRST TIER.—The maximum amount of penalty for each act or omission described in subsection (a) shall be $5,000 for a natural person or $50,000 for any other person.

"(2) SECOND TIER.—Notwithstanding paragraph (1), the maximum amount of penalty for each such act or omission shall be $50,000 for a natural person or $250,000 for any other person if the act or omission described in subsection (a) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), the maximum amount of penalty for each such act or omission shall be $100,000 for a natural person or $500,000 for any other person if—

"(A) the act or omission described in subsection (a) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(B) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

"(c) DETERMINATION OF PUBLIC INTEREST.—In considering under this section whether a penalty is in the public interest, the Commission or the appropriate regulatory agency may consider—

"(1) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(2) the harm to other persons resulting either directly or indirectly from such act or omission;

"(3) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(4) whether such person previously has been found by the Commission, another appropriate regulatory agency, or a self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, has been enjoined by a court of competent jurisdiction from violations of such laws or rules, or has been convicted by a court of competent jurisdiction of violations of such laws or of any felony or misdemeanor described in section 15(b)(4)(B) of this title;

"(5) the need to deter such person and other persons from committing such acts or omissions; and

"(6) such other matters as justice may require.

"(d) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission or the appropriate regulatory agency may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission or the appropriate regulatory agency may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any proceeding in which the Commission or the appropriate regulatory agency may impose a penalty under this section, the Commission or the appropriate regulatory agency may enter an order requiring accounting and disgorgement, in-

cluding reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

(b) CONFORMING AMENDMENT.—The heading of section 21A of this title (15 U.S.C. 78u-1) is amended to read as follows:

"CIVIL PENALTIES FOR INSIDER TRADING"

SEC. 203. CEASE-AND-DESIST AUTHORITY.

The Securities and Exchange Act of 1934 is amended by adding after section 21B (as added by section 202 of this Act) the following new section:

"CEASE-AND-DESIST PROCEEDINGS

"SEC. 21C. (a) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person.

"(b) HEARING.—The notice instituting proceedings pursuant to subsection (a) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(c) TEMPORARY ORDER.—

"(1) IN GENERAL.—Whenever the Commission determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to subsection (a), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceedings, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(2) APPLICABILITY.—This subsection shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of, or a person seeking to become associated with, any of the foregoing.

"(d) REVIEW OF TEMPORARY ORDERS.—

"(1) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to subsection (c), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(2) JUDICIAL REVIEW.—Within—

"(A) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(B) 10 days after the Commission renders a decision on an application and hearing under paragraph (1), with respect to any temporary cease-and-desist order entered without a prior Commission hearing,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not apply to the court except after hearing and decision by the Commission on the respondent's application under paragraph (1) of this subsection.

"(3) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under paragraph (2) of this subsection shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(4) EXCLUSIVE REVIEW.—Section 25 of this title shall not apply to a temporary order entered pursuant to this section.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (a), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

SEC. 204. PROCEDURAL RULES FOR CEASE-AND-DESIST PROCEEDINGS.

Section 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78w) is amended by adding at the end thereof the following new subsection:

"(d) CEASE-AND-DESIST PROCEDURES.—Within 1 year after the date of enactment of this subsection, the Commission shall establish regulations providing for the expeditious conduct of hearings and rendering of decisions under section 21C of this title, section 8A of the Securities Act of 1933, section 9(f) of the Investment Company Act of 1940, and section 203(k) of the Investment Advisers Act of 1940.".

SEC. 205. CONFORMING AMENDMENTS TO SECTION 15B.

Section 15B(c)(6)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(6)(A)) is amended—

(1) by striking "and the nature" and inserting ", the nature"; and

(2) by striking "proposed action and" and inserting "proposed action, and whether the Commission is seeking a monetary penalty against such municipal securities dealer or such associated person pursuant to section 21B of this title; and ".

SEC. 206. SIGNATURE GUARANTEES.

Section 17A(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78q-9(d)(4)) is amended by adding at the end the following:

"(5) A registered transfer agent may not, directly or indirectly, engage in any activity in connection with the guarantee of a signature of an endorser of a security, including the acceptance or rejection of such guarantee, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest, for the protection of investors, to facilitate the equitable treatment of financial institutions which issue such guarantees, or otherwise in furtherance of the purposes of this title.".

TITLE III—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

SEC. 301. CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS.

Section 9 of the Investment Company Act of 1940 (15 U.S.C. 80a-9) is amended—

(1) by redesignating subsection (d) as subsection (g);

(2) by inserting after subsection (c) the following new subsections:

"(d) MONEY PENALTIES IN ADMINISTRATIVE PROCEEDINGS.—

"(1) AUTHORITY OF COMMISSION.—In any proceeding instituted pursuant to subsection (b) against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(A) has willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, or this title, or the rules or regulations thereunder;

"(B) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person; or

"(C) has willfully made or caused to be made in any registration statement, application, or report required to be filed with the Commission under this title, any statement which was, at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such registration statement, application, or report any material fact which was required to be stated therein;

and that such penalty is in the public interest.

"(2) MAXIMUM AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $5,000 for a natural person or $50,000 for any other person.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of

penalty for each such act or omission shall be $50,000 for a natural person or $250,000 for any other person if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each such act or omission shall be $100,000 for a natural person or $500,000 for any other person if—

"(i) the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

"(3) DETERMINATION OF PUBLIC INTEREST.—In considering under this section whether a penalty is in the public interest, the Commission may consider—

"(A) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(B) the harm to other persons resulting either directly or indirectly from such act or omission;

"(C) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(D) whether such person previously has been found by the Commission, another appropriate regulatory agency, or a self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, has been enjoined by a court of competent jurisdiction from violations of such laws or rules, or has been convicted by a court of competent jurisdiction of violations of such laws or of any felony or misdemeanor described in section 203(e)(2) of the Investment Advisers Act of 1940;

"(E) the need to deter such person and other persons from committing such acts or omissions; and

"(F) such other matters as justice may require.

"(4) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any proceeding in which the Commission may impose a penalty under this section, the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.

"(f) CEASE-AND-DESIST PROCEEDINGS.—

"(1) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person.

"(2) HEARING.—The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(3) TEMPORARY ORDER.—

"(A) IN GENERAL.—Whenever the Commission determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to paragraph (1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceeding, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission, notwithstanding section 40(a) of this title, determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(B) APPLICABILITY.—This paragraph shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of, or a person seeking to become associated with, any of the foregoing.

"(4) REVIEW OF TEMPORARY ORDERS.—

"(A) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to paragraph (3), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(B) JUDICIAL REVIEW.—Within—

"(i) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(ii) 10 days after the Commission renders a decision on an application and hearing under subparagraph (A), with respect to any temporary cease-and-desist order entered without a prior Commission hearing,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not apply to the court except after hearing and decision by the Commission on the respondent's application under subparagraph (A) of this paragraph.

"(C) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under subparagraph (B) of this paragraph shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(D) EXCLUSIVE REVIEW.—Section 43 of this title shall not apply to a temporary order entered pursuant to this section.

"(5) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (f)(1), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems necessary to implement this subsection."; and

(3) in redesignated subsection (g), by striking "subsections (a) through (c) of".

SEC. 302. MONEY PENALTIES IN CIVIL ACTIONS.

Section 42 of the Investment Company Act of 1940 (15 U.S.C. 80a-41) is amended by adding at the end thereof the following new subsection:

"(e) MONEY PENALTIES IN CIVIL ACTIONS.—

"(1) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title, the rules or regulations thereunder, or a cease-and-desist order entered pursuant to section 9(f) of this title, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(2) AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (i) $5,000 for a natural person or $50,000 for any other

person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the amount of penalty for each such violation shall not exceed the greater of (i) $50,000 for a natural person or $250,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the amount of penalty for each such violation shall not exceed the greater of (i) $100,000 for a natural person or $500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(I) the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(II) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(3) PROCEDURES FOR COLLECTION.—

"(A) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(B) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(C) REMEDY NOT EXCLUSIVE.—The actions authorized by this subsection may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(D) JURISDICTION AND VENUE.—For purposes of section 44 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.

"(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 9(f), each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with the order, each day of the failure to comply shall be deemed a separate offense.".

TITLE IV—AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940

SEC. 401. CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS.

Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended by adding at the end thereof the following new subsections:

"(i) MONEY PENALTIES IN ADMINISTRATIVE PROCEEDINGS.—

"(1) AUTHORITY OF COMMISSION.—In any proceeding instituted pursuant to subsection (e) or (f) against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(A) has willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, or this title, or the rules or regulations thereunder;

"(B) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person;

"(C) has willfully made or caused to be made in any application for registration or report required to be filed with the Commission under this title, or in any proceeding before the Commission with respect to registration, any statement which was, at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which was required to be stated therein; or

"(D) has failed reasonably to supervise, within the meaning of section 203(e)(5) of this title, with a view to preventing violations of the provisions of this title and the rules and regulations thereunder, another person who commits such a violation, if such other person is subject to his supervision;

and that such penalty is in the public interest.

"(2) MAXIMUM AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $5,000 for a natural person or $50,000 for any other person.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for each such act or omission shall be $50,000 for a natural person or $250,000 for any other person if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each such act or omission shall be $100,000 for a natural person or $500,000 for any other person if—

"(i) the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

"(3) DETERMINATION OF PUBLIC INTEREST.—In considering under this section whether a penalty is in the public interest, the Commission may consider—

"(A) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(B) the harm to other persons resulting either directly or indirectly from such act or omission;

"(C) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(D) whether such person previously has been found by the Commission, another appropriate regulatory agency, or a self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, has been enjoined by a court of competent jurisdiction from violations of such laws or rules, or has been convicted by a court of competent jurisdiction of violations of such laws or of any felony or misdemeanor described in section 203(e)(2) of this title;

"(E) the need to deter such person and other persons from committing such acts or omissions; and

"(F) such other matters as justice may require.

"(4) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.

"(j) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any proceeding in which the Commission may impose a penalty under this section, the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.

"(k) CEASE-AND-DESIST PROCEEDINGS.—

"(1) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person.

"(2) HEARING.—The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(3) TEMPORARY ORDER.—

"(A) IN GENERAL.—Whenever the Commission determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to paragraph (1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceedings, the Commission may enter a temporary order requiring the respondent to cease

and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission, notwithstanding section 211(c) of this title, determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(B) APPLICABILITY.—This paragraph shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of, or a person seeking to become associated with, any of the foregoing.

"(4) REVIEW OF TEMPORARY ORDERS.—

"(A) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to paragraph (3), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(B) JUDICIAL REVIEW.—Within—

"(i) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(ii) 10 days after the Commission renders a decision on an application and hearing under subparagraph (A), with respect to any temporary cease-and-desist order entered without a prior Commission hearing,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not apply to the court except after hearing and decision by the Commission on the respondent's application under subparagraph (A) of this paragraph.

"(C) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under subparagraph (B) of this paragraph shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(D) EXCLUSIVE REVIEW.—Section 213 of this title shall not apply to a temporary order entered pursuant to this section.

"(5) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under paragraph (1), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

SEC. 402. MONEY PENALTIES IN CIVIL ACTIONS.

Section 209 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9) is amended by adding at the end thereof the following new subsection:

"(e) MONEY PENALTIES IN CIVIL ACTIONS.—

"(1) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 203(k) of this title, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(2) AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (i) $5,000 for a natural person or $50,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the amount of penalty for each such violation shall not exceed the greater of (i) $50,000 for a natural person or $250,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the amount of penalty for each such violation shall not exceed the greater of (i) $100,000 for a natural person or $500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(I) the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(II) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(3) PROCEDURES FOR COLLECTION.—

"(A) PAYMENT OF PENALTY TO TREASURY—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(B) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(C) REMEDY NOT EXCLUSIVE.—The actions authorized by this subsection may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(D) JURISDICTION AND VENUE.—For purposes of section 214 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.

"(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 203(k), each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with the order, each day of the failure to comply shall be deemed a separate offense.".

SEC. 403. CONFORMING AMENDMENT TO SECTION 214.

Section 214 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-14) is amended—

(1) by inserting after "all suits in equity" the following: "and actions at law brought to enforce any liability or duty created by, or"; and

(2) by inserting after "Any suit or action" the following: "to enforce any liability or duty created by, or".

TITLE V—PENNY STOCK REFORM

SEC. 501. SHORT TITLE.

This title may be cited as the "Penny Stock Reform Act of 1990".

SEC. 502. FINDINGS.

The Congress finds the following:

(1) The maintenance of an honest and healthy primary and secondary market for securities offerings is essential to enhancing long-term capital formation and economic growth and providing legitimate investment opportunities for individuals and institutions.

(2) Protecting investors in new securities is a critical component in the maintenance of an honest and healthy market for such securities.

(3) Protecting issuers of new securities and promoting the capital formation process on behalf of small companies are fundamental concerns in maintaining a strong economy and viable trading markets.

(4) Unscrupulous market practices and market participants have pervaded the "penny stock" market with an overwhelming amount of fraud and abuse.

(5) Although the Securities and Exchange Commission, State securities regulators, and securities self-regulators have made efforts to curb these abusive and harmful practices, the penny stock market still lacks an adequate and sufficient regulatory structure, particularly in comparison to the structure for overseeing trading in National Market System securities.

(6) Investors in the penny stock market suffer from a serious lack of adequate information concerning price and volume of penny stock transactions, the nature of this market, and the specific securities in which they are investing.

(7) Current practices do not adequately regulate the role of "promoters" and "consultants" in the penny stock market, and many professionals who have been banned from the securities markets have ended up in promoter and consultant roles, contributing substantially to fraudulent and abusive schemes.

(8) The present regulatory environment has permitted the ascendancy of the use of particular market practices, such as "reverse mergers" with shell corporations and "blank check" offerings, which are used to facilitate manipulation schemes and harm investors.

(9) In light of the substantial and continuing problems in the penny stock markets, additional legislative measures are necessary and appropriate.

SEC. 503. DEFINITION OF PENNY STOCK.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end thereof the following new paragraph:

"(51)(A) The term 'penny stock' means any equity security other than a security that is—

"(i) registered or approved for registration and traded on a national securities exchange that meets such criteria as the Commission shall prescribe by rule or regulation for purposes of this paragraph;

"(ii) authorized for quotation on an automated quotation system sponsored by a registered securities association, if such system (I) was established and in operation before January 1, 1990, and (II) meets such criteria as the Commission shall prescribe by rule or regulation for purposes of this paragraph;

"(iii) issued by an investment company registered under the Investment Company Act of 1940;

"(iv) excluded, on the basis of exceeding a minimum price, net tangible assets of the issuer, or other relevant criteria, from the definition of such term by rule or regulation which the Commission shall prescribe for purposes of this paragraph; or

"(v) exempted, in whole or in part, conditionally or unconditionally, from the definition of such term by rule, regulation, or order prescribed by the Commission.

"(B) The Commission may, by rule, regulation, or order, designate any equity security or class of equity securities described in clause (i) or (ii) of subparagraph (A) as within the meaning of the term 'penny stock' if such security or class of securities is traded other than on a national securities exchange or through an automated quotation system described in clause (ii) of subparagraph (A).

"(C) In exercising its authority under this paragraph to prescribe rules, regulations, and orders, the Commission shall determine that such rule, regulation, or order is consistent with the public interest and the protection of investors.".

SEC. 504. EXPANSION OF SECTION 15(B) SANCTION AUTHORITY WITH RESPECT TO PENNY STOCKS.

(a) AMENDMENT.—Section 15(b)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(6)) is amended to read as follows:

"(6)(A) With respect to any person who is associated, who is seeking to become associated, or, at the time of the alleged misconduct, who was associated or was seeking to become associated with a broker or dealer, or any person participating, or, at the time of the alleged misconduct, who was participating, in an offering of any penny stock, the Commission, by order, shall censure, place limitations on the activities or functions of such person, or suspend for a period not exceeding 12 months, or bar such person from being associated with a broker or dealer, or from participating in an offering of penny stock, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person—

"(i) has committed or omitted any act or ommission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of this subsection;

"(ii) has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph; or

"(iii) is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

"(B) It shall be unlawful—

"(i) for any person as to whom an order under subparagraph (A) is in effect, without the consent of the Commission, willfully to become, or to be, associated with a broker or dealer in contravention of such order, or to participate in an offering of penny stock in contravention of such order;

"(ii) for any broker or dealer to permit such a person, without the consent of the Commission, to become or remain, a person associated with the broker or dealer in contravention of such order, if such broker or dealer knew, or in the exercise of reasonable care should have known, of such order; or

"(iii) for any broker or dealer to permit such a person, without the consent of the Commission, to participate in an offering of penny stock in contravention of such order, if such broker or dealer knew, or in the exercise of reasonable care should have known, of such order and of such participation.

"(C) For purposes of this paragraph, the term 'person participating in an offering of penny stock' includes any person acting as any promoter, finder, consultant, agent, or other person who engages in activities with a broker, dealer, or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock. The Commission may, by rule or regulation, define such term to include other activities, and may, by rule, regulation, or order, exempt any person or class of persons, in whole or in part, conditionally or unconditionally, from such term.".

(b) RECOMMENDATIONS.—Within 6 months after the date of enactment of this Act, the Securities and Exchange Commission shall submit to each House of the Congress such recommendations as the Commission considers appropriate with respect to further revision of section 15(b)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(6)). In preparing such recommendations, the Commission shall consider the desirability and effect of expanding the applicability of such section to any promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer, or issuer for purposes of the issuance of or trading in, or inducing or attempting to induce the purchase or sale of, any security (and not just penny stock).

SEC. 505. REQUIREMENTS FOR BROKERS AND DEALERS OF PENNY STOCKS.

Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end thereof the following new subsection:

"(g) REQUIREMENTS FOR TRANSACTIONS IN PENNY STOCKS.—

"(1) IN GENERAL.—No broker or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any penny stock by any customer except in accordance with the requirements of this subsection and the rules and regulations prescribed under this subsection.

"(2) RISK DISCLOSURE WITH RESPECT TO PENNY STOCKS.—Prior to effecting any transaction in any penny stock, a broker or dealer shall give the customer a risk disclosure document that—

"(A) contains a description of the nature and level of risk in the market for penny stocks in both public offerings and secondary trading;

"(B) contains a description of the broker's or dealer's duties to the customer and of the rights and remedies available to the customer with respect to violations of such duties or other requirements of Federal securities laws;

"(C) contains a brief, clear, narrative description of a dealer market, including 'bid' and 'ask' prices for penny stocks and the significance of the spread between the bid and ask prices;

"(D) contains the toll free telephone number for inquiries on disciplinary actions established pursuant to section 15A(i) of this title;

"(E) defines significant terms used in the disclosure document or in the conduct of trading in penny stocks; and

"(F) contains such other information, and is in such form (including language, type size, and format), as the Commission shall require by rule or regulation.

"(3) COMMISSION RULES RELATING TO DISCLOSURE.—The Commission shall adopt rules setting forth additional standards for the disclosure by brokers and dealers to customers of information concerning transactions in penny stocks. Such rules—

"(A) shall require brokers and dealers to disclose to each customer, prior to effecting any transaction in, and at the time of confirming any transaction with respect to any penny stock, in accordance with such procedures and methods as the Commission may require consistent with the public interest and the protection of investors—

"(i) the bid and ask prices for penny stock, or such other information as the Commission may, by rule, require to provide customers with more useful and reliable information relating to the price of such stock;

"(ii) the number of shares to which such bid and ask prices apply, or other comparable information relating to the depth and liquidity of the market for such stock; and

"(iii) the amount and a description of any compensation that the broker or dealer and the associated person thereof will receive or has received in connection with such transaction;

"(B) shall require brokers and dealers to provide, to each customer whose account with the broker or dealer contains penny stocks, a monthly statement indicating the market value of the penny stocks in that account or indicating that the market value of such stock cannot be determined because of the unavailability of firm quotes; and

"(C) may, as the Commission finds necessary or appropriate in the public interest or for the protection of investors, require brokers and dealers to disclose to customers additional information concerning transactions in penny stocks.

"(4) EXEMPTIONS.—The Commission, as it determines consistent with the public interest and the protection of investors, may by rule, regulation, or order exempt in whole or in part, conditionally or unconditionally, any person or class of persons, or any transaction or class of transactions, from the requirements of this subsection. Such exemptions shall include an exemption for brokers and dealers based on the minimal percentage of the broker's or dealer's commissions, commission-equivalents, and markups received from transactions in penny stocks.

"(5) REGULATIONS.—It shall be unlawful for any person to violate such rules and regulations as the Commission shall prescribe in the public interest or for the protection

of investors or to maintain fair and orderly markets—

"(A) as necessary or appropriate to carry out this subsection; or

"(B) as reasonably designed to prevent fraudulent, deceptive, or manipulative acts and practices with respect to penny stocks.".

SEC. 506. DEVELOPMENT OF AUTOMATED QUOTATION SYSTEMS FOR PENNY STOCKS.

The Securities Exchange Act of 1934 is amended by inserting after section 17A the following new section:

"AUTOMATED QUOTATION SYSTEMS FOR PENNY STOCKS

"SEC. 17B. (a) FINDINGS.—The Congress finds that—

"(1) the market for penny stocks suffers from a lack of reliable and accurate quotation and last sale information available to investors and regulators;

"(2) it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to improve significantly the information available to brokers, dealers, investors, and regulators with respect to quotations for and transactions in penny stocks; and

"(3) a fully implemented automated quotation system for penny stocks would meet the information needs of investors and market participants and would add visibility and regulatory and surveillance data to that market.

"(b) MANDATE TO FACILITATE THE ESTABLISHMENT OF AUTOMATED QUOTATION SYSTEMS.—

"(1) IN GENERAL.—The Commission shall facilitate the widespread dissemination of reliable and accurate last sale and quotation information with respect to penny stocks in accordance with the findings set forth in subsection (a), with a view toward establishing, at the earliest feasible time, one or more automated quotation systems that will collect and disseminate information regarding all penny stocks.

"(2) CHARACTERISTICS OF SYSTEMS.—Each such automated quotation system shall—

"(A) be operated by a registered securities association or a national securities exchange in accordance with such rules as the Commission and these entities shall prescribe;

"(B) collect and disseminate quotation and transaction information;

"(C) except as provided in subsection (c), provide bid and ask quotations of participating brokers or dealers, or comparably accurate and reliable pricing information, which shall constitute firm bids or offers for at least such minimum numbers of shares or minimum dollar amounts as the Commission and the registered securities association or national securities exchange shall require; and

"(D) provide for the reporting of the volume of penny stock transactions, including last sale reporting, when the volume reaches appropriate levels that the Commission shall specify by rule or order.

"(c) EXEMPTIVE AUTHORITY.—The Commission may, by rule or order, grant such exemptions, in whole or in part, conditionally or unconditionally, to any penny stock or class of penny stocks from the requirements of subsection (b) as the Commission determines to be consistent with the public interest, the protection of investors, and the maintenance of fair and orderly markets.

"(d) COMMISSION REPORTING REQUIREMENTS.—The Commission shall, in each of the first 5 annual reports (under section 23(b)(1) of this title) submitted more than 12 months after the date of enactment of this section, include a description of the status of the penny stock automated quotation system or systems required by subsection (b). Such description shall include—

"(1) a review of the development, implementation, and progress of the project, including achievement of significant milestones and current project schedule; and

"(2) a review of the activities of registered securities associations and national securities exchanges in the development of the system.".

SEC. 507. VOIDABILITY OF CONTRACTS IN VIOLATION OF SECTION 15(c)(2).

Section 29(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78cc(b)) is amended—

(1) in clause (A), by striking "paragraph (2) or (3)" and inserting "paragraph (3)";

(2) in clause (B), by striking "paragraph (1)" and inserting "paragraph (1) or (2)"; and

(3) by adding at the end thereof the following new sentence: "The Commission may, in a rule or regulation prescribed pursuant to such paragraph (2) of such section 15(c), designate such rule or regulation, or portion thereof, as a rule or regulation, or portion thereof, a contract in violation of which shall not be void by reason of this subsection.".

SEC. 508. RESTRICTIONS ON BLANK CHECK OFFERINGS.

Section 7 of the Securities Act of 1933 (15 U.S.C. 77g) is amended—

(1) by inserting "(a)" after "Sec. 7."; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) The Commission shall prescribe special rules with respect to registration statements filed by any issuer that is a blank check company. Such rules may, as the Commission determines necessary or appropriate in the public interest or for the protection of investors—

"(A) require such issuers to provide timely disclosure, prior to or after such statement becomes effective under section 8, of (i) information regarding the company to be acquired and the specific application of the proceeds of the offering, or (ii) additional information necessary to prevent such statement from being misleading;

"(B) place limitations on the use of such proceeds and the distribution of securities by such issuer until the disclosures required under subparagraph (A) have been made; and

"(C) provide a right of rescission to shareholders of such securities.

"(2) The Commission may, as it determines consistent with the public interest and the protection of investors, by rule or order exempt any issuer or class of issuers from the rules prescribed under paragraph (1).

"(3) For purposes of paragraph (1) of this subsection, the term 'blank check company' means any development stage company that is issuing a penny stock (within the meaning of section 3(a)(51) of the Securities Exchange Act of 1934) and that—

"(A) has no specific business plan or purpose; or

"(B) has indicated that its business plan is to merge with an unidentified company or companies.".

SEC. 509. BROKER/DEALER DISCIPLINARY HISTORY.

Section 15A of the Securities Exchange Act 1934 (15 U.S.C. 78o-3) is amended by adding at the end the following:

"(i) A registered securities association shall, within one year from the date of enactment of this section, (1) establish and maintain a toll-free telephone listing to receive inquiries regarding disciplinary actions involving its members and their associated persons, and (2) promptly respond to such inquiries in writing. Such association may charge persons, other than individual investors, reasonable fees for written responses to such inquiries. Such an association shall not have any liability to any person for any actions taken or omitted in good faith under this paragraph.".

SEC. 510. REVIEW OF REGULATORY STRUCTURES AND PROCEDURES.

(a) REVIEW REQUIRED.—The Comptroller General, in consultation with the Securities and Exchange Commission, shall conduct a review of the rules, procedures, facilities, and oversight and enforcement activities of self-regulatory organizations under the Securities Exchange Act of 1934 with respect to penny stocks (within the meaning of section 3(a)(51) of such Act). Such review shall include an analysis of—

(1) the resources devoted by self-regulatory organizations to the detection, investigation, prosecution, and correction of fraud and abuse in the trading of such penny stocks;

(2) the methods and techniques used, and alternative methods which may be used, in those oversight and enforcement activities, including methods and techniques involving coordinated oversight and enforcement activities with other Federal and State authorities;

(3) the adequacy of the rules, procedures, and facilities of such self-regulatory organizations for the prevention of excessive spreads and markups, unscrupulous sales practices, and other conduct inconsistent with high standards of commercial honor and just and equitable principles of trade;

(4) any obstacles to or limitations on the authority of self-regulatory organizations that impair the conduct of those oversight and enforcement activities;

(5) the adequacy of current listing and maintenance requirements and procedures and the potential for erosion of such requirements and procedures due to issuer avoidance of penny stock designation and regulation; and

(6) such other matters as the Comptroller General considers necessary or appropriate.

(b) REPORT.—Within one year after the date of enactment of this Act, the Comptroller General shall submit a report on the review required by subsection (a). Such report shall include, in addition to a statement of findings with respect to each matter described in paragraphs (1) through (6) of such subsection, such recommendations as the Comptroller General considers appropriate with respect to legislative or administrative changes.

EXTENSION OF CERTAIN HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

PRESSLER (AND OTHERS) AMENDMENT NO. 2916

Mr. PRESSLER (for himself, Mr. MCCAIN, Mr. DOLE, Mr. HELMS, Mr. COHEN, Mr. DOMENICI, Mr. GRASSLEY, Mr. HUMPHREY, Mr. WARNER, Mr. DASCHLE, and Mr. D'AMATO) proposed an amendment to the bill (H.R. 5558) to provide for the temporary extension of certain programs relating to

housing and community development, and for other purposes, as follows:

At the appropriate place in the bill add the following new section:

SEC. . REDUCTION OF PAY OF MEMBERS OF CONGRESS.

(a) REDUCTION IN PAY.—For each month during fiscal year 1991 in which, by reason of a furlough or other employment action necessitated by a sequestration order under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902), the total amount of the pay paid to any Federal employee is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law, the rate of pay payable to a Member of Congress shall be reduced to the rate of pay established for such Member pursuant to law.

(b) COMPUTATION OF REDUCED PAY.—The rate of pay payable to a Member of Congress for any month referred to in subsection (a) shall be equal to the amount determined by multiplying the rate of pay established for such Member pursuant to law by the percentage reported to Congress for such month under subsection (c)(1)(D).

(c) DETERMINATION OF PERCENTAGE FOR COMPUTATION OF REDUCED PAY.—(1) No later than the first day of each month in fiscal year 1991, the Director of the Office of Management and Budget shall—

(A) determine whether, for a reason described in subsection (a), the total amount of the pay paid to any Federal employee in that month is projected to be less than the monthly equivalent of the annual rate of pay established for such Federal employee pursuant to law;

(B) estimate the average of the percentage that would result by dividing the monthly equivalent of the annual rate of pay established for each such Federal employee pursuant to law into the total amount projected to be paid such Federal employee for such month;

(C) aggregate the percentages determined under subparagraph (B) for Federal employees for each agency and determine the highest average percentage for any agency; and

(D) transmit to Congress a written report containing the average computed under subparagraph (C).

(2) The Office of Management and Budget may use a statistical sampling method to make the estimates and determinations under paragraph (1).

(3) For purposes of this section, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code.

(d) APPLICATION TO OTHER FEDERAL LAWS.—For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposed any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(e) EFFECTIVE DATE.—The provisions of this section shall take effect on the date of the enactment of this section and shall apply to the first applicable pay period of members of Congress or Executive officers and employees occurring on or after October 1, 1990. If the date of enactment of this section is after October 1, 1990, and the provisions of this section become applicable in the reduction of pay of members of Congress or Executive officers and employees, all reductions which would have occurred if this section had been enacted as provided in subsection (b) and the amount of such reduction shall be recovered for the remaining pay periods for fiscal year 1991.

(f) APPLICATION TO EXECUTIVE OFFICERS.—The provisions of this section and the computations as they apply to the reduction under subsection (c) shall apply to the rate of pay for the Vice President, and any executive officer at a position level V or above of the Executive Schedule under sections 5311 through 5317 of title 5, United States Code, any executive officer or employee in the Executive Office of the President who on the date of the enactment of this section is paid at a pay rate equal to or above the pay rate for a position at level V or above of the Executive Schedule under sections 5311 through 5317 of title 5, United States Code.

CONSENT OF CONGRESS TO AMENDMENTS TO WASHINGTON METROPOLITAN AREA TRANSIT REGULATION COMPACT

BIDEN AMENDMENT NO. 2917

Mr. MITCHELL (for Mr. BIDEN) proposed an amendment to the joint resolution (H.J. Res. 520) granting the consent of Congress to amendments to the Washington Metropolitan Area Transit Regulation Compact, as follows:

On page 2, at the beginning of line 3, insert the following:

SECTION 1. CONGRESSIONAL CONSENT.—

On page 33, immediately after line 10, add the following:

SEC. 2. Notwithstanding the first section of this joint resolution, the consent and approval of Congress set forth in such first section is given on the express condition that Section 1 of Article VIII shall not be exercised, and no amendment to the compact following the date this joint resolution becomes law shall be effective, unless Congress has first consented to and approved such amendment by a law or resolution adopted or enacted after such date.

SEC. 3. The right to alter, amend or repeal this resolution is hereby expressly reserved.

PERMANENT ENDOWMENT FOR THE EISENHOWER EXCHANGE FELLOWSHIP PROGRAM

DOLE AMENDMENT NO. 2918

Mr. D'AMATO (for Mr. DOLE) proposed an amendment to the bill (S. 2017) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program, as follows:

In lieu of the language proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Eisenhower Exchange Fellowship Act of 1990".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

(2) to honor Dwight D. Eisenhower for his character, courage, and patriotism, and for his leadership based on moral integrity and trust;

(3) to pay tribute to President Eisenhower's leadership in war and peace, through his diverse understanding of history, practical affairs, and the hearts of humankind;

(4) to address America's need for the best possible higher education of its young talent for a competitive world which shares a common and endangered environment;

(5) to advance the network of friendship and trust already established in President Eisenhower's name, so that it may continue to grow to the imminent challenges of the 21st century;

(6) to complete Dwight David Eisenhower's crusade to liberate the people's of Europe from oppression;

(7) to deepen and expand relationships with European nations developing democracy and self-determination; and

(8) to honor President Dwight D. Eisenhower on the occasion of the centennial of his birth through permanent endowment of an established fellowship program, the Eisenhower Exchange Fellowships, to increase educatinal opportunities for young leaders in preparation for and enhancement of their professional careers, and advancement of peace through international understanding.

SEC. 3. EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be know as the Eisenhower Exchange Fellowship Program Trust Fund (hereinafter in this Act referred to as the "fund"). The fund shall consist of amounts authorized to be appropriated under section 5 of this Act.

(b) INVESTMENT IN INTEREST BEARING OBLIGATIONS.—It shall be the duty of the Secretary of the Treasury to invest in full amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that when such average rate is not a multiple of one-eight of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) SALE AND REDEMPTION OF OBLIGATIONS.—Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary of the Treasury at the market price, and such

special obligations may be redeemed at par plus accrued interest.

(d) CREDIT TO THE FUND OF INTEREST AND PROCEEDS OF SALE OR REDEMPTION.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

SEC. 4. EXPENDITURE AND AUDIT OF TRUST FUND.

(a) AUTHORIZATION OF FUNDING.—For each fiscal year, there is authorized to be appropriated from the fund to Eisenhower Exchange Fellowships, Incorporated, the interest and earnings of the fund.

(b) ACCESS TO BOOKS, RECORDS, ETC. BY GENERAL ACCOUNTING OFFICE.—The activities of Eisenhower Exchange Fellowships, Incorporated, may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by Eisenhower Exchange Fellowships, Incorporated, pertaining to such activities and necessary to facilitate the audit.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

To provide a permanent endowment for the Eisenhower Exchange Fellowship Program, there are authorized to be appropriated to the Eisenhower Exchange Fellowships Program Trust Fund—

(1) $5,000,000; and

(2) the lesser of—

(A) $2,500,000, or

(B) an amount equal to contributions to Eisenhower Exchange Fellowships, Incorporated, from private sector sources during the 4-year period beginning on the date of enactment of this Act.

SEC. 6. USE OF INCOME ON THE ENDOWMENT.

(a) REQUIREMENT FOR FUNDING OF UNITED STATES FELLOWS IN EMERGING EUROPEAN DEMOCRACIES.—For any fiscal year, not less than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be available only to assist United States fellows in traveling to and studying in emerging European democracies.

(b) LIMITATION ON STUDY IN UNITED STATES.—For any fiscal year, not more than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be available to assist foreign fellows in traveling to and studying in the United States.

(c) AGRICULTURAL EXCHANGE PROGRAM.—For any fiscal year, as may be determined by Eisenhower Exchange Fellowships, Incorporated, a portion of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be used to provide fellowships for agricultural exchange programs for farmers from the United States and foreign countries.

(d) PARTICIPATION BY UNITED STATES MINORITY POPULATIONS.—In order to ensure that United States fellows participating in programs of the Eisenhower Exchange Fellowships, Incorporated, are representative of the cultural, ethnic, and racial diversity of the American people, of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) which are obligated and expended for United States fellowship programs, not less than 10 percent shall be available only for participation by individuals who are representative of United States minority populations.

SEC. 7. REPORT TO CONGRESS.

For any fiscal year for which Eisenhower Exchange Fellowships, Incorporated, receives funds pursuant to section 4(a) of this Act, Eisenhower Exchange Fellowships, Incorporated, shall prepare and transmit to the President and the Congress a report of its activities for such fiscal year.

SEC. 8. EXTENSION OF AU PAIR PROGRAMS.

The United States Information Agency shall continue to implement the au pair programs designated by the Director of United States Information Agency as of July 10, 1990, until such au pair programs are authorized and implemented by another agency of the United States Government.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. BRYAN. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 2 p.m., Thursday, September 27, 1990, for a hearing to receive testimony concerning S. 2882 and H.R. 3209, to modify the boundaries of the Indiana Dunes National Lakeshore; and S. 3048, to amend the Illinois and Michigan Canal National Heritage Corridor Act of 1984 to extend the boundaries of the corridor, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on September 27, 1990, at 10 a.m. on foreign influence in the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, September 27, 1990, at 10:30 a.m. to conduct an oversight on the condition of the thrift industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS, AND ALCOHOLISM

Mr. BRYAN. Mr. President, I ask unanimous consent that the Subcommittee on Children, Family, Drugs, and Alcoholism of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, September 27, at 10 a.m., for a hearing on "child abuse and neglect."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on September 27, 1990, at 10 a.m. to hold a hearing on the nonimation of Jeanne S. Archibald, to be general counsel for the Department of Treasury and to consider the nominations of Jeanne S. Archibald; Steven B. Kelmar, to be an Assistant Secretary of Health and Human Services, and Jerome H. Powell, to be an Assistant Secretary of Treasury. The committee will also consider a section 332 study by the International Trade Commission on the economic effects of a free trade agreement with Mexico and to approve recommendations by the International Trade Commission in connection with a section 332 study on the competitiveness of advanced technology manufacturing industries.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. BRYAN. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate at 10 a.m., Thursday, September 27, 1990, for a hearing to receive testimony on S. 2657, the Reclamation Wastewater and Groundwater Study Act, and title XIII of H.R. 2567, McGee Creek contract adjustment.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in closed session during the session of the Senate on Thursday, September 27, 1990, at 3 p.m. to mark up certain legislative measures relating to Operation Desert Shield, including S. 3025, S. 3026, as well as original bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOLAR AND GEOTHERMAL POWER PRODUCTION INCENTIVES ACT OF 1990

The text of S. 2415, a bill to encourage solar and geothermal power production by removing size limitations contained in the Public Utility Regulatory Act of 1978, as passed by the Senate on September 26, 1990, is as follows:

S. 2415

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 110. SHORT TITLE.—This title may be cited as the "Uranium Enrichment Act of 1990".

SEC. 111. DELETION OF SECTION 161 v.—Subsection 161 v. of the Atomic Energy Act of 1954, as amended, is deleted and the remaining subsections are relettered accordingly.

SEC. 112. REDIRECTION OF THE URANIUM ENRICHMENT ENTERPRISE OF THE UNITED STATES.—The Atomic Energy Act of 1954, as amended (42 U.S.C. 2011-2296) is further amended by—

a. inserting at the commencement thereof after the words "ATOMIC ENERGY ACT OF 1954":

"TITLE I—ATOMIC ENERGY";

and

b. adding at the end thereof the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 21. FINDINGS

"SEC. 1101. FINDINGS.—The Congress of the United States finds that:

"a. The enrichment of uranium is essential to the national security and energy security of the United States.

"b. A competitive, well-managed and efficient enrichment enterprise provides important economic benefits to the United States and contributes to a highly favorable foreign trade balance.

"c. A strong United States enrichment enterprise promotes United States nonproliferation policies by requiring accountability for United States enriched uranium.

"d. The operation of uranium enrichment facilities must meet high standards for environmental health and safety.

"e. The operation and management of a uranium enrichment enterprise requires a commercial business orientation in order to engender customer support and confidence, and customers, rather than the taxpayers at large, should bear the costs of commercial uranium enrichment services.

"f. The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

"g. Flexibility is essential to adapt business operations to a competitive marketplace.

"h. The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the Government's uranium enrichment enterprise.

"i. The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demand placed upon it by market forces, while continuing to meet the paramount objective of ensuring the Nation's common defense and security.

"CHAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION AND PURPOSES

"SEC. 1201. DEFINITIONS.—For the purpose of this title:

"a. The term 'Secretary' means the Secretary of Energy.

"b. The term 'Department' means the Department of Energy of the United States.

"c. The term 'Administrator' means the chief executive officer of the United States Enrichment Corporation.

"d. The term 'Corporation' means the United States Enrichment Corporation.

"e. The term 'Corporate Board' means the appointed members of the official advisory panel appointed by the President pursuant to section 1503 of this title.

"f. The term 'uranium enrichment' means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

"g. The term 'remedial action' has the same meaning as defined in section 120(24) of the Comprehensive Environmental Response, Compensation and Liability Act.

"h. The term 'decontamination and decommissioning' means those activities undertaken to decontaminate and decommission inactive facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination.

"SEC. 1202. ESTABLISHMENT OF THE CORPORATION:

"a. There is hereby created a body corporate to be known as the 'United States Enrichment Corporation'.

"b. The Corporation shall—

"(1) be established as a wholly owned Government corporation subject to the Government Corporation Control Act, as amended (31 U.S.C. 9101-9109), except as otherwise provided herein; and

"(2) be an agency and instrumentality of the United States.

"SEC. 1203. PURPOSES.—The Corporation is created for the following purposes—

"(1) to acquire feed material for uranium enrichment, enriched uranium, the Department's uranium previously set aside for commercial purposes, and the Department's uranium enrichment and related facilities;

"(2) to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

"(3) to market and sell enriched uranium and uranium enrichment and related services to—

"(A) the Department for governmental purposes; and

"(B) qualified domestic and foreign persons;

"(4) to conduct research and development as required to meet corporate objectives for the purpose of identifying, evaluating, improving and testing processes for uranium enrichment;

"(5) to operate, as a commercial enterprise, on a profitable and efficient basis; in order to maximize the long term economic value of the Corporation to the United States Government including the payment of dividends to the Treasury as a return on the United States Government investment;

"(6) to conduct the business as a self-financing corporation and eliminate the need for appropriations or other sources of Government financing after enactment of this title;

"(7) to maintain a reliable and economical domestic source of enrichment services;

"(8) to conduct its activities in a manner consistent with the health and safety of the public;

"(9) to continue to meet the paramount objectives of ensuring the Nation's common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

"(10) to take all other lawful action in furtherance of the foregoing purposes.

"CHAPTER 23. CORPORATE OFFICES

"SEC. 1301. CORPORATE OFFICES.—The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"CHAPTER 24. POWER AND DUTIES OF THE CORPORATION

"SEC. 1401. SPECIFIC CORPORATE POWERS AND DUTIES.—The Corporation—

"a. shall perform uranium enrichment or provide for uranium to be enriched by others at facilities of the Corporation; contracts in existence as of the date of enactment of this title between the Department and persons under contract to perform uranium enrichment and related services at facilities of the Department shall continue in effect as if the Corporation, rather than the Department, had executed these contracts;

"b. shall conduct, or provide for the conduct of, research and development activities related to the isotopic separation of uranium as the Corporation deems necessary or advisable for purposes of maintaining the Corporation as a continuing, commercial enterprise operating on a profitable and efficient basis;

"c. may acquire or distribute enriched uranium, feed material for uranium enrichment or depleted uranium in transactions with—

"(1) persons licensed under sections 53, 63, 103, or 104 of title I in accordance with the licenses held by such persons;

"(2) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I; or

"(3) as otherwise authorized by law;

"d. may—

"(1) enter into contracts with persons licensed under section 53, 63, 103, or 104 of title I for such periods of time as the Corporation may deem necessary or desirable, to provide uranium or uranium enrichment and related services; and

"(2) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I or as otherwise authorized by law;

"e. shall sell to the Department as provided in this title, and without regard to section 57 e. of title I or the provisions of section 1535 of title 31, United States Code, such amounts of uranium or uranium enrichment and related services as the Department may determine from time to time are required: (1) for the Department to carry out Presidential direction and authorizations pursuant to section 91 of title I; and (2) for the conduct of other Department programs;

"f. may grant licenses, both exclusive and nonexclusive, for the use of patent and patent applications owned by the Corporation, and establish and collect charges, in the form of royalties or otherwise, for utilization of Corporation-owned facilities, equipment, patents, and technical information of a proprietary nature pertaining to the Corporation's activities.

"SEC. 1402. GENERAL POWERS OF THE CORPORATION.—In order to accomplish the purposes of this title, the Corporation—

"a. shall have perpetual succession unless dissolved by Act of Congress;

"b. may adopt, alter, and use a corporate seal, which shall be judicially noticed;

"c. may sue and be sued in its corporate name and be represented by its own attor-

neys in all judicial and administrative proceedings;

"d. may indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses incurred in connection with their corporate activities;

"e. may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the power granted to it by law may be exercised and enjoyed;

"f. (1) may acquire, purchase, lease, and hold real and personal property including patents and proprietary data, as it deems necessary in the transaction of its business, and sell, lease, grant, and dispose of such real and personal property, as it deems necessary to effectuate the purposes of this title and without regard to the Federal Property and the Administrative Services Act of 1949, as amended;

"(2) Purchases, contracts for the construction, maintenance, or management and operation of facilities and contracts for supplies or services, except personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition: *Provided*, That advertising shall not be required when the Corporation determines that the making of any such purchase or contract without advertising is necessary in the interest of furthering the purposes of this title, or that advertising is not reasonably practicable;

"g. with the consent of the agency or government concerned, may utilize or employ the services or personnel of any Federal Government agency, or any State or local government, or voluntary or uncompensated personnel to perform such functions on its behalf as may appear desirable;

"h. may enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation;

"i. may determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and other provisions of law specifically applicable to wholly owned Government corporations;

"j. notwithstanding any other provision of law, and without need for further appropriation, may use monies, unexpended appropriations, revenues and receipts from operations, amounts received from obligations issued and other assets of the Corporation in accordance with section 1505, without fiscal year limitation, for the payment of expenses and other obligations incurred by the Corporation in carrying out its functions under, and within the requirements of, this title; and shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code;

"k. may settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation;

"l. may exercise, in the name of the United States, the power of eminent domain for the furtherance of the official purposes of the Corporation;

"m. shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"n. may define appropriate information as 'Government Commercial Information' and exempt such information from mandatory release pursuant to section 552(b)(3) of title 5, United States Code, when it is determined by the Administrator that such information if publicly released would harm the Corporation's legitimate commercial interests or those of a third party;

"o. may request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States;

"p. may accept gifts or donations of services, or of property, real, personal, mixed, tangible or intangible, in aid of any purposes herein authorized; and

"q. may execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers.

"r. shall pay any settlement or judgment entered against it from the Corporation's own funds and not from the judgment fund (31 U.S.C. 1304). The provisions of the Federal Tort Claims Act (28 U.S.C. 1346(b) and 2671 et seq.) shall not apply to any claims arising from the activities of the Corporation after the effective date of this statute: *Provided*, That this subsection shall not apply to liability or claims arising from a nuclear incident, if such incident occurs prior to the licensing of the Corporation's existing Gaseous Diffusion Facilities under section 1601 of this title.

"SEC. 1403. CONTINUATION OF CONTRACTS, ORDERS, PROCEEDINGS, AND REGULATIONS:

"a. Except as provided elsewhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that have been afforded to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts, power purchase contracts, and the December 18, 1987, settlement agreement with the Tennessee Valley Authority regarding payment of capacity charges under the Department's two power contracts with the Tennessee Valley Authority, shall continue in effect as if the Corporation had executed such contracts, agreements, or leases or had been afforded such licenses and privileges.

"b. As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations and privileges of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, set aside or revoked by the Corporation, by any court of competent jurisdiction, or by operation of law unless otherwise specifically provided in this title.

"c. Except as provided elsewhere in this title, the transfer of functions related to and vested in the Corporation by this title shall not affect proceedings judicial or otherwise, relating to such functions which are pending at the time this title takes effect, and such proceedings shall be continued with the Corporation, as appropriate.

"SEC. 1404. LIABILITIES.—Except as provided elsewhere in this title, all liabilities attributable to operation of the uranium enrichment enterprise prior to the date of the enactment of this title shall remain direct liabilities of the Government of the United States; with regard to any claim seeking to impose such liability, section 1403 shall not be applicable and the United States shall be represented by the Department of Justice.

"CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

"SEC. 1501. ADMINISTRATOR:

"a. The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation. The Administrator shall be a person who, by reason of professional background and experience is specially qualified to manage the Corporation: *Provided, however*, That upon enactment of this title, the President shall appoint an existing officer or employee of the United States to act as Administrator until the office is filled.

"b. The Administrator—

"(1) shall be the chief executive officer of the Corporation and shall be responsible for the management and direction of the Corporation. The Administrator shall establish the offices, appoint the officers and employees of the Corporation (including attorneys), and define their responsibilities and duties. The Administrator shall appoint other officers and employees as may be required to conduct the Corporation's business;

"(2) shall serve a term of six years but may be reappointed;

"(3) shall, before taking office, take an oath to faithfully discharge the duties thereof;

"(4) shall have compensation determined by the President based upon the recommendation of the Secretary and the Corporate Board as provided in section 1503(c), except that in the absence of such determination compensation shall be set at Executive Level I, as prescribed in section 5312 of title 5, United States Code;

"(5) shall be a citizen of the United States;

"(6) shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Administrator in the event of absence or incapacity; and

"(7) may be removed from office only by the President and only for neglect of duty or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress at least thirty days prior to the effective date of such removal.

"c. (1) The Secretary shall exercise general supervision over the Administrator only with respect to the activities of the Corporation involving—

"(A) the Nation's common defense and security; and

"(B) health, safety and the environment.

"(2) The Administrator shall be solely responsible for the exercise of all powers and responsibilities that are committed to the Administrator under this title and that are not reserved to the Secretary under paragraph (1), and, notwithstanding the provisions of section 9104(a)(4) of title 31, United States Code, including the setting of the appropriate amount of, and paying, any dividend under section 1506(c) and all other fiscal matters.

"SEC. 1502. DELEGATION.—The Administrator may delegate to other officers or employees powers and duties assigned to the Corporation in order to achieve the purposes of this title.

"SEC. 1503. CORPORATE BOARD.—There is hereby established a Corporate Board appointed by the President which shall consist

of five members, one of whom shall be designated as chairman. Members of the Corporate Board shall be individuals possessing high integrity, demonstrated accomplishment and broad experience in management and shall have strong backgrounds in science, engineering, business or finance. At least one member of the Corporate Board shall be, or previously have been, employed on a full-time basis in managing an electric utility:

"a. (1) The specific responsibilities of the Corporate Board shall be to—

"(A) review the Corporation's policies and performance and advise the Administrator and the Secretary on these matters; and

"(B) advise the Administrator and the Secretary on any other such matters concerning the Corporation as may be referred to the Corporate Board.

"(2) The Board shall have the right to recommend removal of the Administrator. In the event such recommendation is made, it shall be transmitted to the President by the Secretary, together with the Secretary's own recommendation on removal of the Administrator.

"b. Members of the Board shall be provided access to all significant reports, memoranda, or other written communications generated or received by the Corporation. At the request of the Board, the Corporation shall make available to the Board all financial records, reports, files, papers, and memoranda of, or in use by, the Corporation.

"c. When appropriate, the Corporate Board may make recommendations to the Secretary concerning the compensation to be received by the Administrator and up to ten officers of the Corporation who may receive compensation in excess of Executive Level II as provided in section 1504(a). The Secretary shall transmit such recommendations to the President together with the Secretary's own recommendations concerning compensation. In the event that less than three members of the Corporate Board are in office, recommendations concerning compensation may be made by the Secretary alone. The President shall have the power to enter into binding agreements concerning compensation to be received by the Administrator during his term of office and by the ten officers described in section 1504(a) during their term of employment, regardless of any recommendations received or not received under this title.

"d. Except for initial appointments, members of the Corporate Board shall serve five-year terms. Each member of the Corporate Board shall be a citizen of the United States. No more than three members of the Board shall be members of any one political party. Of those first appointed, the chairman shall serve for the full five-year term; one member shall serve for a term of four years; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve for a term of one year.

"e. Upon expiration of the initial term, each Corporate Board member appointed thereafter shall serve a term of five years. Upon the occurance of a vacancy on the Board, the President shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon expiration of a term, a Board member may continue to serve up to a maximum of one year or until a successor shall have been appointed and assumed office, whichever occurs first.

"f. The members of the Corporate Board in executing their duties shall be governed by the laws and regulations regarding conflicts of interest, but exempted from other provisions and authority prescribed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2).

"g. The Corporate Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. The Administrator or his representative shall attend all meetings of the Corporate Board.

"h. The Corporation shall compensate members of the Corporate Board at a per diem rate equivalent to Executive Level III, as defined in section 5314 of title 5, United States Code, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Corporate Board. Any Corporate Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement for reasonable expenses incurred while attending official meetings of the Corporation.

"i. (1) The Corporate Board shall report at least annually to the Administrator on the performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Administrator. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate and to the Speaker of the House of Representatives.

"(2) Within ninety days after the receipt of any report under this subsection the Administrator shall respond in writing to such report and provide an analysis of such recommendations of the Board contained in the report. Such response shall include plans for implementation of each recommendation or a justification for not implementing such recommendation. A copy of any response under this subsection shall be transmitted promptly to the President, the Secretary, the Committee on Energy and Natural Resources and to the Speaker of the House of Representatives.

"SEC. 1504. EMPLOYEES OF THE CORPORATION.—Officers and employees of the Corporation shall be officers and employees of the United States:

"a. The Administrator shall appoint all officers, employees and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of section 5301 of title 5, United States Code, with compensation levels not to exceed Executive Level II, as defined in section 5313 of title 5, United States Code: *Provided,* That the Administrator may, upon recommendation by the Secretary and the Corporate Board as provided in section 1503(c) and approval by the President, appoint up to ten officers whose compensation shall not exceed an amount which is 20 per centum less than the compensation received by the Administrator, but not less than Executive Level II. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

"b. Any Federal employee hired before January 1, 1984, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (subchapter III of chapter 83 of title 5, United States Code) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service Retirement System, the Corporation shall withhold pay and shall pay into the Civil Service Retirement and Disability Fund the amounts specified in chapter 83 of title 5, United States Code. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of subchapter III of chapter 83 of title 5, United States Code. Any employee of the Corporation who is not within the coverage of the Federal Civil Service Retirement System shall be subject to the Federal Employees' Retirement System (chapter 84 of title 5, United States Code). The Corporation shall withhold pay and make such payments as are required under that retirement system. Further:

"(1) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under section 5551 title 5, United States Code, but shall be credited by the Corporation with the unused annual leave at the time of transfer.

"(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by the employee for the Department.

"c. This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicap conditions.

"d. Officers and employees of the Corporation shall be covered by chapter 73 of title 5, United States Code, relating to suitability, security and conduct.

"e. Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation in accordance with the provisions of this title.

"f. The provisions of sections 3323(a) and 8344 of title 5, United States Code, or any

other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retired pay or annuities, shall not apply to officers and employees of the Corporation who have retired from or ceased previous government service prior to April 28, 1987.

"SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION.—In order to enable the Corporation to exercise the powers and duties vested in it by this title:

"a. The Secretary, as requested by the Administrator, is authorized and directed to transfer without charge to the Corporation all of the Department's right, title, or interest in and to, real or personal properties owned by the Department, or by the United States but under control or custody of the Department, which are related to and materially useful in the performance of the functions transferred by this title, including but not limited to the following—

"(1) production facilities for uranium enrichment inclusive of real estate, buildings and other improvements at production sites and their related and supporting equipment: *Provided,* That facilities, real estate, improvements and equipment related to the Oak Ridge Gaseous Diffusion Plant in Oak Ridge, Tennessee, and to the gas centrifuge enrichment program shall not transfer under this paragraph except for diffusion cascades and related equipment needed by the Corporation for replacement parts: *Provided further,* That any enrichment facilities retained by the Department shall not be used to enrich uranium in competition with the Corporation. This paragraph shall not prejudice consideration of any site as a candidate site for future expansion or replacement of uranium enrichment capacity;

"(2) at such time subsequent to the year 2000 as the Secretary determines that the Oak Ridge Gaseous Diffusion Plant should be decommissioned or decontaminated, or both, the Secretary shall convey without charge equipment and facilities relating to the Oak Ridge Gaseous Diffusion Plant not transferred in paragraph (1) to the Corporation;

"(3) facilities, equipment, and materials for research and development activities related to the isotopic separation of uranium by the gaseous diffusion technology;

"(4) the Department's stocks of preproduced enriched uranium, but excluding stocks of highly enriched uranium: *Provided,* That approximately two metric tons of the Department's highly enriched uranium shall be loaned to the Corporation as required for working inventory;

"(5) the Department's stocks of feed materials for uranium enrichment except for the quantities allocated to the national defense activities of the Department as of the date of enactment;

"(A) the Department's stockpile of enrichment tails existing as of the date of enactment, shall remain with the Department; and

"(B) stocks of feed materials which remain the property of the Department under paragraph (5) shall remain in place at the enrichment plant sites. The Corporation shall have access to and use of these feed materials provided such quantities as are used are replaced, or credit given, if use by the Department is subsequently needed.

"(6) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporation's functions and activities, except those items required for programs and activities of the Department and those items specifically excluded by this subsection.

The transfer authorized by this section is not subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act.

"b. The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the Atomic Vapor Laser Isotope Separation, hereinafter referred to as 'AVLIS', technology and to provide on a reimbursable basis and at the request of the Corporation, the necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies in a manner consistent with the intent of this title.

"c. The Secretary is authorized and directed to grant the Corporation without charge, to the extent necessary or appropriate for the conduct of the Corporation's activities, licenses to practice or have practiced any inventions or discoveries (whether patented or unpatented) together with the right to use or have used any processes and technical information owned or controlled by the Department.

"d. The Secretary is directed, without need of further appropriation, to transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

"e. The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

"f. Title to depleted uranium resulting from the enrichment services provided to the Department by the Corporation shall remain with the Department.

"SEC. 1506. CAPITAL STRUCTURE OF THE CORPORATION:

"a. Upon commencement of operations of the Corporation, all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation.

"b. (1) The Corporation shall issue capital stock representing an equity investment equal to the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual Report for fiscal year 1987, modified to reflect continued depreciation and other usual changes that occur up to date of transfer. The Secretary of the Treasury shall hold such stock for the United States: *Provided,* That all rights and duties pertaining to management of the Corporation shall remain vested in the Administrator as specified in section 1501.

"(2) The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States unless such disposition is specifically authorized by Federal law enacted after enactment of this title.

"c. The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. The Corporation shall pay such dividends out of earnings, unless there is an overriding need to retain these funds in furtherance of other corporate functions including but not limited to research and development, capital investments and establishment of cash reserves.

"d. The Corporation shall repay within a twenty-year period the amount of $364,000,000 into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on twenty-year Government obligations as determined by the Secretary of the Treasury on the date of enactment of this title. The money required to be repaid under this subsection is hereinafter referred to as the 'Initial Debt'.

"e. Receipt by the United States of the stock issued by the Corporation (including all rights appurtenant thereto) together with repayment of the Initial Debt shall constitute the sole recovery by the United States of previously unrecovered costs that have been incurred by the United States of uranium enrichment activities prior to enactment of this title.

"SEC. 1507. BORROWING:

"a. (1) The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as 'bonds') in an amount not exceeding $2,500,000,000 outstanding at any one time to assist in financing its activities and to refund such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.

"(2) Notwithstanding any other provision of law, the Corporation may pledge and use its revenues for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidential thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable.

"(3) Notwithstanding any other provision of law, the Corporation is authorized to enter into binding covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

"(4) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payments of the principal thereof or interest thereon be guaranteed by, the United States.

"b. Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years from their respective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claim on the Corporation's revenues with respect to principal and

interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: *Provided*, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent establishment of the United States for purposes of the provisions of section 78c(c) of title 15, United States Code.

"c. Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section: *Provided*, That the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1508. PRICING:

"a. For purposes of maximizing the long-term economic value of the Corporation to the United States Government, the Corporation shall establish prices for its products, materials and services provided to customers other than the Department on a basis that will, over the long term, allow it to recover its costs for providing the products, materials and services; repay the Initial Debt; recover costs of decontamination, decommissioning and remedial action; and attain the normal business objectives of a profitmaking Corporation.

"b. The Corporation shall establish prices for low assay enrichment services and other products, materials, and services provided the Department on a basis that will allow it to recover its costs on a yearly basis for providing such low assay enrichment services, products, materials, and services, including depreciation and the cost of decontamination, decommissioning and remedial action, but excluding repayment of the Initial Debt and profit. In establishing such prices, the base charge paid by the Department in any given year shall not exceed the average base charge paid by customers other than the Department: *Provided, however*, That if the imposition of such average base charges as a limitation on the base charge paid by the Department in a given year does not permit the Corporation to fully recover its costs for providing such products, materials and services to the Department then, in subsequent years, the Corporation shall include such unrecovered costs in its prices charged the Department. Base charge shall mean the amount paid by a customer per separative work unit for low assay enrichment services during a given year (exclusive of any credits received under a voluntary overfeeding program), less the portion of such amount which represents the cost of decontamination and decommissioning and remedial action. The average base charge paid by customers other than the Department shall be determined by dividing the estimated total dollar amount of low assay enrichment services sales to customers other than the Department during a given year by the estimated amount of separative work units sold to customers other than the Department during that year. Adjustments between estimated and actual amounts shall be made upon receipt of actual sales data.

"c. The Corporation shall establish prices to the Department for high assay enrichment services on a basis that will allow it to recover its costs, on a yearly basis, for providing the products, materials or services, including depreciation and the costs of decontamination, decommissioning, and remedial action concerning enrichment property, but excluding repayment of the Initial Debt and profit. If the Department does not request any enrichment services in a given year, the Department shall reimburse the Corporation for costs required to maintain the minimum level of operation of the high assay production facility.

"d. (1) In accordance with the cost responsibilities defined in paragraphs (3) and (4), the Corporation shall recover from its customers in the prices and charges established in accordance with subsection (a), amounts that will be sufficient to pay for the costs of decommissioning, decontamination and remedial action for the various property of the Corporation, including property transferred under section 1505(a) at any time. Such costs shall be based on the point in time that such decommissioning, decontamination and remedial action are to be undertaken and accomplished: *Provided*, That by the year 2000 the Corporation shall have recovered and deposited in the Uranium Enrichment Decontamination and Decommissioning Fund 50 per centum of the estimated total costs of decontamination and decommissioning of all property transferred or to be transferred to the Corporation under section 1505, including the Oak Ridge Gaseous Diffusion Plant.

"(2) In order to meet the objective defined in paragraph (1), the Corporation shall periodically estimate the anticipated or actual costs of decommissioning and decontamination. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including, but not limited to, any changes in applicable environmental requirements. Such estimates shall be reviewed at least every two years.

"(3) For purposes of enabling the Corporation to meet the objective defined in paragraph (1) with respect to the Oak Ridge Gaseous Diffusion Plant, the Secretary shall periodically estimate the anticipated costs of decontamination and decommissioning and the time at which such decontamination and decommissioning is to be accomplished. Such estimates shall reflect any changes in assumptions or expectations relevant to meeting such objective, including but not limited to, any changes in applicable environmental requirements. The Secretary shall review such estimates every two years and convey this information to the Corporation.

"(4) With respect to property that has been used in the production of low-assay separative work,

"(A) The costs of decommissioning, decontamination and remedial action that shall be recoverable from customers other than the Department in prices and charges shall be in the same ratio to the total costs of decommissioning, decontamination and remedial action for the property in question as the production of separative work over the life of such property for commercial customers bears to the total production of separative work over the life of such property.

"(B) All other costs of decommissioning, decontamination and remedial action for such property shall be recovered in prices and charges to the Department.

"(5) With respect to property that has been used solely in the production of high-assay separative work, all costs of decommissioning, decontamination and remedial action shall be recovered in prices and charges to the Department.

"SEC. 1509. AUDITS.—In fiscal years during which an audit is not performed by the Comptroller General in accordance with the provisions of section 9105 of title 31, United States Code, the financial transactions of the Corporation shall be audited by an independent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards appropriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, reports, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons authorized to conduct audits in accordance with the provisions of this section.

"SEC. 1510. REPORTS:

"a. The Corporation shall prepare an annual report of its activities. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends; and

"(3) copies of audit reports prepared in conformance with section 1509 of this title and the provisions of the Government Corporation Control Act, as amended.

"b. A copy of the annual report shall be provided to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives. Such reports shall be completed not later than ninety days following the close of each fiscal year and shall accurately reflect the financial position of the Corporation at fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

"SEC. 1511. CONTROL OF INFORMATION:

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 141 and subsections a. and b. of section 142 of title I.

"b. No contracts or arrangements shall be made, nor any contract continued in effect, under section 1401, 1402, 1403, or 1404, unless the person with whom such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing not to permit any individual to have access to Restricted Data, as defined in section 11 y. of title I, until the Office of Personnel Management shall have made an investigation and report to the Corporation on the character, associations, and loyalty of such individual, and the Corporation shall have determined that permitting such person to have access to restricted data will not endanger the common defense and security.

"c. The restrictions detailed in subsections b., c., d., e., f., g., and h., of section 145 of title I shall be deemed to apply to the Corporation where they refer to the Commission or a majority of the members of the Commission, and to the Administrator where they refer to the General Manager.

"d. The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Corporation's activities. To the extent consistent with the other provisions of this section, the Corporation shall make available to any of such committees all books, financial records, reports, files, papers, memoranda, or other information possessed by the Corporation upon receiving a request for such information from the chairman of such committee.

"e. Whenever the Corporation submits to the President, or the Office of Management and Budget, any budget, legislative recommendation, testimony, or comments on legislation, prepared for submission to the Congress, the Corporation shall concurrently transmit a copy thereof to the appropriate committees of Congress.

"f. The Corporation shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

"SEC. 1512. PATENTS AND INVENTIONS:

"a. The term 'Commission' shall be deemed to include the Corporation wherever such term appears in section 152, 153b. (1), and 158 of title I. The Corporation shall pay such royalty fees for patents licensed to it under section 153 b. (1) of title I as are paid by the Department under that provision. Nothing in title I or this title shall affect the right of the Corporation to require that patents granted on inventions, that have been conceived or first reduced to practice during the course of research or operations of, or financed by the Corporation, be assigned to the Corporation.

"b. The Department shall notify the Corporation of all reports heretofore or hereafter filed with it under subsection 151 c. of title I and all applications for patents heretofore or hereafter filed with the Commissioner of Patents of which the Department has notice under subsection 151 d. of title I or otherwise, whenever such reports or applications involve matters pertaining to the functions or responsibilities of the Corporation in accordance with this title. The Department shall make all such reports available to the Corporation, and the Commissioner of Patents shall provide the Corporation access to all such applications. All reports and applications to which access is so provided shall be kept in confidence by the Corporation, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress.

"c. The Corporation, without regard for any of the conditions specified in paragraph 153 c. (1), (2), (3), or (4) of title I, may at any time make application to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when such patent has not been declared to be affected with the public interest under subsection 153 b. (1) of title I and when use of such patent is within the Corporation's authority. Any such application shall constitute an application under subsection 153 c. of title I subject, except as specified above, to all the provisions of subsections 153 c., d., e., f., g., and h., of title I.

"d. With respect to the Corporation's functions under this title, section 158 of title I shall be deemed to include the Corporation within the phrase, 'any other licensee' in the first sentence thereof and within the phrase 'such licensee' in the second sentence thereof.

"e. The Corporation shall not be liable directly or indirectly for any damages or financial responsibility with respect to secrecy orders imposed under section 181 of title 35, United States Code, through 187.

"f. The Corporation shall not be liable or responsible for any payments made or awards under subsection 157 b.(3) of title I, or any settlements or judgments involving claims for alleged patent infringement except to the extent that any such awards, settlements or judgments are attributable to activities of the Corporation after the effective date of this title.

"g. The Corporation shall keep currently informed as to matters affecting its rights and responsibilities under chapter 13 of title I as modified by this section and shall take all appropriate action to avail itself of such rights and satisfy such responsibilities. The Department in discharging its responsibilities under chapter 13 of title I shall exercise diligence in informing the Corporation of matters affecting the responsibilities and jurisdiction of the Corporation and seeking and following as appropriate the advice and recommendation of the Corporation in such matters.

"CHAPTER 26. LICENSING, TAXATION, AND MISCELLANEOUS PROVISIONS

"SEC. 1601. LICENSING:

"a. Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the isotopic separation of uranium by the gaseous diffusion technology at facilities in existence as of the date of enactment of this title, the Corporation and its contractors are hereby exempted from the licensing requirements and prohibitions of sections 57, 62, 81 and other provisions of title I, to the same extent as the Department and its contractors are exempt in regard to the Department's own functions and activities. Such exemption shall remain in effect unless and until the Corporation and its contractors receive all necessary licenses for such facilities, equipment and materials as are required under title I.

"b. Within two years of the enactment of this title, the Commission shall promulgate regulations or issue other regulatory guidance under title I for the licensing of facilities described in subsection (a) that employ the gaseous diffusion technology.

"c. Within one year after the promulgation of regulations or the issuance of other regulatory guidance under subsection (b), the Corporation and its contractors shall make necessary applications for and otherwise seek to obtain such licenses as will remove the exemption provided under subsection (a). As part of its application, the Corporation shall submit an Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act. The Commission shall adopt this statement to the extent practicable under the National Environmental Policy Act. In preparing such statement, the Corporation, and in making any licensing decision, the Commission, shall not consider the need for such facilities, alternatives to such facilities, or the costs compared to the benefits of such facilities. The Commission shall act on licensing requests by the Corporation in a timely manner.

"d. The Corporation shall not transfer or deliver any source, special nuclear or byproduct materials or production or utilization facilities, as defined in title I, to any person who is not properly qualified or licensed under the provisions of title I.

"e. The Corporation shall be subject to the regulatory jurisdiction of the Commission and the Department of Transportation with respect to the packaging and transportation of source, special nuclear and byproduct materials.

"SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES:

"a. In order to render financial assistance to those States and localities in which the facilities of the Corporation are located, the Corporation is authorized and directed to make payments to State and local governments as provided in this section. Such payments shall be in lieu of any and all State and local taxes on the real and personal property, activities, and income of the Corporation. All property of the Corporation its activities and income are expressly exempted from taxation in any manner or form by any State, county, or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate, and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts and such income shall not be exempt from taxation.

"b. The Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the State and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

"(1) Amounts paid shall not exceed the tax payments that would be made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location: *Provided, however,* That there shall be excluded any amount that would be payable as a tax on net income.

"(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

"(4) In no event shall the payment made to any taxing authority for any period be less than the payments which would have been made to such taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1505 and which would have been attributable to the ownership, management operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately to the enactment of this title.

"c. Payments shall be made by the Corporation at the time when payments of taxes

by taxpayers to each taxing authority are due and payable: *Provided,* That no payment shall be made to the extent that the tax would apply to a period prior to the enactment of this title.

"d. The determination by the Corporation of the amounts due hereunder shall be final and conclusive.

"SEC. 1603. MISCELLANEOUS APPLICABILITY OF TITLE I:

"a. Any references to the term 'Commission' or to the Department in sections 105 b., 110 a., 161 c., 161 k., 161 q., 165 a., 221 a., 229, 230, and 232 of title I shall be deemed to include the Corporation.

"b. Section 188 of title I shall apply to licensed facilities of the Corporation. For purposes of applying such section to facilities of the Corporation:

"(1) The term 'Commission' shall be deemed to refer to the Secretary;

"(2) There shall be no requirement for payment of just compensation to the Corporation, and receipts from operation of the facility in question shall continue to accrue to the benefit of the Corporation; and

"(3) The Secretary shall have the discretion to determine how and by whom the facility in question will be operated.

"SEC. 1604. COOPERATION WITH OTHER AGENCIES.—The Corporation is empowered to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of State, territorial, municipal or other local agencies.

"SEC. 1605. APPLICABILITY OF ANTITRUST LAWS:

"a. The Corporation shall conduct its activities in a manner consistent with the policies expressed in the antitrust laws, except as required by the public interest.

"b. As used in this subsection, the term 'antitrust laws' means:

"(1) The Act entitled: 'An Act to protect trade and commerce against unlawful restraints and monopolies,' approved July 2, 1890 (15 U.S.C. 1-7), as amended;

"(2) The Act entitled, 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (15 U.S.C. 12-27), as amended;

"(3) Sections 73 and 74 of the Act entitled, 'An Act to reduce taxation, to provide revenue for the Government, and for other purposes,' approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

"(4) The Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

"SEC. 1606. NUCLEAR HAZARD INDEMNIFICATION.—The Administrator shall have the same authority to indemnify the contractors of the Corporation as the Secretary has to indemnify contractors under section 170 d. of title I. Except that with respect to any licenses issued to the Corporation by the Commission, the Commission shall treat the Corporation and its contractors as its licensees for the purposes of section 170 of this Act.

"SEC. 1607. INTENT.—It is hereby declared to be the intent of this title to aid the Corporation in discharging its responsibilities under this title by providing it with adequate authority and administrative flexibility to obtain necessary funds with which to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

"SEC. 1608. REPORT:

"a. Three years after enactment of this title or January, 1993, whichever is later, the Administrator shall submit to the President and to Congress an interim report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. Five years after enactment of this title, the Administrator shall submit to the President and the Congress a final report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties, and assets of the Corporation to private ownership. If the Administrator, in the final report, recommends such transfers, the report shall include a plan for implementation of the transfers.

"b. Within one hundred and eighty days after receipt of the final report under subsection (a), the President shall transmit to Congress his recommendations regarding the report, including a plan for implementation of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers.

"CHAPTER 27. DECONTAMINATION AND DECOMMISSIONING

"SEC. 1701. ESTABLISHMENT:

"a. ESTABLISHMENT OF FUND.—(1) There is hereby established in the Treasury of the United States an account of the Corporation to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (hereinafter referred to in this chapter as the 'Fund'). In accordance with section 1402 (j), such account and any funds deposited therein, shall be available to the Corporation for the exclusive purpose of carrying out the purposes of this chapter.

"(2) The Fund shall consist of:

"(A) Amounts paid into it by the Corporation in accordance with section 1702; and

"(B) Any interest earned under subsection (b)(2).

"b. ADMINISTRATION OF FUND.—(1) The Secretary of the Treasury shall hold the Fund and, after consultation with the Corporation, annually report to the Congress or the financial condition and operations of the Fund during the preceding fiscal year.

"(2) At the direction of the Corporation, the Secretary of the Treasury shall invest amounts contained within such Fund in obligations of the United States:

"(A) Having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Fund, as determined by the Corporation; and

"(B) Bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to such obligations.

"(3) At the request of the Corporation, the Secretary of the Treasury shall sell such obligations and credit the proceeds to the Fund.

"SEC. 1702. DEPOSITS.—Within sixty days of the end of each fiscal year, the Corporation shall make a payment into the Fund in an amount equal to the costs of decontamination and decommissioning that have been recovered during such fiscal year by the Corporation in its prices and charges established in accordance with section 1508 for products, materials, and services.

"SEC. 1703. PERFORMANCE AND DISBURSEMENTS:

"a. When the Corporation determines that particular property should be decommissioned or decontaminated, or both, or with respect to the Oak Ridge Gaseous Diffusion Plant at such time as the plant is conveyed to the Corporation, the Corporation shall enter into a contract for the performance of such decommissioning and decontamination.

"b. The Corporation shall pay for the costs of such decommissioning and decontamination out of amounts contained within the Fund.".

SEC. 113. TREATMENT OF THE CORPORATION AS BEING PRIVATELY-OWNED FOR PURPOSES OF THE APPLICABILITY OF ENVIRONMENTAL AND OCCUPATIONAL SAFETY LAWS.—The United States Enrichment Corporation shall be subject to Federal, State and local environmental laws and the Occupational Safety and Health Act (29 U.S.C. 651-678) to the same extent as is the Department of Energy as of the date of enactment. After four years from the date of enactment of this title, the United States Enrichment Corporation shall become subject to such laws to the same extent as a privately-owned corporation, unless the President determines that additional time is necessary to achieve the purposes of title II of the Atomic Energy Act of 1954, as amended.

SEC. 114. MISCELLANEOUS PROVISIONS.—(a) Section 9101(3) of title 31, United States Code (relating to the definition of "wholly-owned Government corporation") is amended by adding at the end of the following: "(N) United States Enrichment Corporation.".

(b) In subsection 41 a. of the Atomic Energy Act of 1954, as amended, the word "or" appearing before the numeral "(2)" is deleted, a semicolon is substituted for a period at the end of the subsection and the following new paragraph is added: "or (3) are owned by the United States Enrichment Corporation.".

(c) In subsection 53 c. (1) of the Atomic Energy Act of 1954, as amended, the word "or" is inserted before the word "grant" and the phrase "or through the provision of production or enrichment services" is deleted in both places where it appears in such subsection.

(d) The Atomic Energy Act of 1954, as amended, is further amended:

(1) By adding before the period at the end of the definition of the term "production facility" in section 11 v. a colon and the following: "*Provided, however,* That as the term is used in chapters 10 and 16 of this Act, other than with respect to export of a uranium enrichment production facility, it shall not include any equipment or device, or important component part especially designed therefor, capable of separating the isotopes of uranium or enriching uranium in the isotope 235";

(2) By striking the period at the end of section 161 b. and adding the following: "; in addition, the Commission shall prescribe such regulations or orders as may be necessary or desirable to promote the Nation's common defense and security with regard to control, ownership or possession of any equipment or device, or important component part especially designed therefor, capable of separating the isotopes of uranium or enriching uranium in the isotope 235;";

(3) By striking the phrase "section 103 or 104" in section 41 a. (2) and inserting in lieu thereof "this title"; and

(4) In section 236 by striking the word "or" following paragraph (2) and adding after paragraph (3) "or (4) any uranium enrichment facility licensed by the Commission;".

(5) In section 318(1) by striking the period after "activities" and by adding the following:

"(D) any facility owned by the United States Enrichment Corporation.".

(e) Subsection 905(g)(1) of title II, United States Code, is amended to include "United States Enrichment Corporation" at the end thereof.

(f) Section 306 of title III of the Energy and Water Development Appropriations Act, 1988, Public Law 100-202, is repealed.

SEC. 115. LIMITATION ON EXPENDITURES.—For fiscal year 1991, total expenditures of the United States Enrichment Corporation shall not exceed total receipts.

SEC. 116. SEVERABILITY.—In any provision of this title, or the application of any provisions to any entity, person or circumstance, shall for any reason be adjudged by a court of component jurisdiction to be invalid, the remainder of this act, or the application of the same shall not be thereby affected.

SEC. 117. EFFECTIVE DATE.—Except as otherwise provided, all provisions of this title shall take effect on the day following the end of the first full fiscal year quarter following the enactment of this act; *Provided, however,* That the Administrator or Acting Administrator of the United States Enrichment Corporation may immediately exercise the management responsibilities and powers of subsection 1501 (a) of the Atomic Energy Act of 1954, as amended by this Act and previous Acts.

TITLE II—URANIUM

Subtitle A—Short Title, Findings and Purpose, Definitions

This title may be cited as the "Uranium Security and Tailings Reclamation Act of 1989".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds for purposes of this title that—

(1) the United States uranium industry has long been recognized as vital to United States energy independence and as essential to United States national security, but has suffered a drastic economic setback, including a 90 per centum reduction in employment, closure of almost all mines and mills, more than a 75 percent drop in production, and a permanent loss of uranium reserves;

(2) during the remainder of this century approximately 20 per centum of United States electricity is expected to be produced from uranium fueled powerplants owned by domestic electric utilities;

(3) the United States has been the leading uranium producing nation and holds extensive proven reserves of natural uranium that offer the potential for secure sources of future supply;

(4) a variety of economic factors, policies of foreign governments, foreign export practices, the discovery and development of low cost foreign reserves, new Federal regulatory requirements, and cancellation of nuclear powerplants have caused most United States producers to close or suspend operations over the past six years and have resulted in the domestic uranium industry being found "not viable" by the Secretary under provisions of the Atomic Energy Act of 1954, as amended;

(5) providing assistance to the domestic uranium industry is essential to—

(A) preclude an undue threat from foreign supply disruptions that could hinder the Nation's common defense and security,

(B) assure an adequate long-term supply of domestic uranium for the Nation's nuclear power program to preclude an undue threat from foreign supply disruptions or price controls, and

(C) aid in the Nation's balance-of-trade payments through foreign sales;

(6) the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901-7942);

(A) was enacted to provide for the reclamation and regulation of uranium and thorium mill tailings; and

(B) did not provide for a Federal contribution for the reclamation of tailings at uranium and thorium processing sites which were generated pursuant to Federal defense contracts;

(7) the owners of licensees of active uranium and thorium sites and the Federal Government have each benefited from uranium and thorium produced at the active sites, and it is equitable that they share in the costs of reclamation, decommissioning and other remedial actions at the commingled sites; and

(B) the creation of an assured system of financing will greatly facilitate and expedite reclamation and remedial actions at active uranium and thorium processing sites.

(b) PURPOSE.—It is the purpose of subtitles B and C of this title to—

(1) ensure an adequate long-term supply of domestic uranium for the Nation's common defense and security and for the Nation's nuclear power program;

(2) provide assistance to the domestic uranium industry; and

(3) establish, facilitate, and expedite a comprehensive system for financing reclamation and other remedial action at active uranium and thorium processing sites.

SEC. 203. DEFINITIONS.

For purposes of this title—

(1) the term "active site" means—

(A) any uranium or thorium processing site, including the mill, containing by-product material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, as amended, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Commission to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual by-product material;

(2) the term "byproduct material" has the meaning given such term in section 11 e. (2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2));

(3) the term "civilian nuclear power reactor" means any civilian nuclear powerplant required to be licensed under section 103 or section 104 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2133);

(4) the term "Corporation" means the United States Enrichment Corporation established under section 1202 of title II of the Atomic Energy Act of 1954, as amended;

(5) the term "Department" means the Department of Energy;

(6) the term "domestic uranium" means any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States;

(7) the term "domestic uranium producer" means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having jurisdiction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment;

(8) the term "enrichment tails" means uranium in which the quantity of the U-235 isotope has been depleted in the enrichment process;

(9) the term "reclamation, decommissioning, and other remedial action" includes work, including but not limited to disposal work, accomplished in order to comply with all applicable requirements, including but not limited to those established pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, as amended, or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021). The term shall also include work at an active site prior to the date of enactment of this act accomplished in order to comply with the foregoing requirements;

(10) the term "Secretary" means the Secretary of Energy;

(11) the terms "source material" and "special nuclear material" have the meaning given such terms in section 11 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014); and

(12) the term "tailings" means the wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

Subtitle B—Uranium Revitalization

SEC. 210. VOLUNTARY OVERFEED PROGRAM.

(a) The Corporation shall establish, for a period of not less than five years commencing at the beginning of fiscal year 1991, a voluntary overfeeding program which shall be made available to the Corporation's enrichment services customers. The term "overfeeding" means the use of uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(b) The Corporation shall encourage its enrichment services customers to participate in the voluntary overfeeding program as provided in this section. Uranium supplied by the enrichment customer shall be used by the Corporation for voluntary overfeeding in the enrichment process to reduce the amount of power required to produce the enriched uranium ordered by the enrichment services customer. The dollar savings resulting from the reduced power requirements shall be credited to the enrichment services customer.

(c) In the event an enrichment services customer does not elect to provide uranium for voluntary overfeeding to be used to process its enrichment order, the Corporation shall establish a method for such uranium to be voluntarily supplied by other enrichment services customer(s) which have expressed to the Corporation an interest in

participating in such a program and the Corporation shall credit the resulting dollar savings realized from the reduced power requirements to the enrichment services customer(s) providing the uranium.

(d) An enrichment services customer providing uranium for voluntary overfeeding shall certify to the Corporation that such uranium is domestic uranium which has been actually produced by a domestic uranium producer after the enactment of this Act or domestic uranium actually produced by a domestic uranium producer before the enactment of this Act and held by it without sale, transfer or redesignation of the origin of such uranium on a DOE/NRC form 741.

(e) Within ninety days of the date of enactment of this Act, the Corporation shall establish procedures to implement this program. Such procedures shall include, but not be limited to, delivery reporting and certification requirements, and provisions for failure to comply with the requirements of the voluntary overfeeding program. The determination of the voluntary overfeeding credit and sufficient data to support such determination shall be available to the Corporation's enrichment services customers and to qualified domestic producers.

SEC. 211. NATIONAL STRATEGIC URANIUM RESERVE.

There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of 50,000,000 pounds of natural uranium contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on the date of enactment of this Act, use of the Reserve shall be retricted to military purposes and Government research. Use of the Department's stockpile of enrichment tails existing on the date of enactment of this Act shall be restricted to military purposes.

SEC. 212. RESPONSIBILITY FOR THE INDUSTRY.

(a) The Secretary shall have a continuing responsibility for the domestic uranium industry, and shall take any action, which he determines to be appropriate under existing law, to encourage the use of domestic uranium; *Provided, however,* That the Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to paragraph (b) of this section.

(b) ENCOURAGE EXPORT.—The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within one hundred and eighty days of the date of enactment of this Act the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

SEC. 213. GOVERNMENT URANIUM PURCHASES.

(a) After the date of enactment of this Act, the United States of America, its agencies and instrumentalities, shall only have the authority to enter into contracts or orders for the purchase of uranium which is (1) of domestic origin and (2) is purchased from domestic uranium producers: *Provided,* That this section shall not affect purchases under a contract for delivery of a fixed amount of uranium entered into before the date of enactment of this Act.

(b) Subsection (a) shall not apply to the Tennessee Valley Authority.

SEC. 214. SECRETARY'S AUTHORITY TO MAKE REGULATIONS.

The Secretary shall issue appropriate regulations to implement the purposes of this title.

Subtitle C—Remedial Action for Active Processing Sites

SEC. 220. REMEDIAL ACTION PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), the costs of decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the reclamation, decommissioning and other remedial action costs described in such subsection as are—

(A) determined by the Secretary to be attributable to tailings generated as an incident of sales to the United States; and

(B) incurred by such licensee not later than December 31, 2002.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 221 and shall not exceed an amount equal to $4.50 multiplied by the dry short tons of tailings located at the site as of the effective date of this title and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $30,000,000.

(D) INFLATION ESCALATION INDEX.—The amounts in subsections (A), (B), and (C) of this section shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT.—Provided however, (i) the Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated in section 222, when considered with the $4.50 per dry short ton limit on reimbursement, exceeds the total cost reimbursable to the licensees of active sites for reclamation, decommissioning and other remedial action; and (ii) if the Secretary determines there is an excess, the Secretary may allow reimbursement in excess of $4.50 per dry short ton on a prorated basis at such sites that reclamation, decommissioning and other remedial action costs for tailings generated as an incident of sales to the United States exceed the $4.50 per dry short ton limitation.

SEC. 221. REGULATIONS.

The Secretary shall issue regulations governing reimbursement under section 220. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a statement for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such statement for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 220.

SEC. 222. AUTHORIZATION.

There is authorized to be appropriated for purposes of this subtitle not more than $300,000,000 increased annually as provided in section 220 based upon an inflation index as determined by the Secretary.

TITLE III—REMOVAL OF PURPA SIZE LIMITATIONS

SEC. 301. This title may be cited as "The Solar, Wind, Waste and Geothermal Power Production Incentives Act of 1990.

SEC. 302. PURPA AMENDMENT.—Section 210(e)(2) of the Public Utility Regulatory Policies Act of 1978 is amended by inserting "(other than a qualifying small power production facility which is an eligible solar, wind, waste or geothermal facility as defined in section 3(17)(E) of the Federal Power Act)" after "facility" where it first appears.

SEC. 303. FEDERAL POWER ACT AMENDMENTS.

(a) Section 3(17)(A) of the Federal Power Act is amended by inserting "a facility which is an eligible solar, wind, waste or goethermal facility, or" after " 'small power production facility' means".

(b) Section 3(17) of such Act is further amended by inserting at the end thereof the following new subparagraph:

"(E) 'eligible solar, wind, waste or geothermal facility means a facility which produces electric energy solely by the use, as a primary energy source, of solar energy, wind energy, waste resources or geothermal resources and which would otherwise not qualify as a small power production facility because of the power production capacity limitation contained in subparagraph (A)(ii) of this section 3(17); but only if—

"(i) either of the following is submitted to the Commission not later than December 31, 1992:

"(I) an application for certification of the facility as a qualifying small power production facility; or

"(II) notice that the facility meets the requirements for qualification; and

"(ii) construction of such facility commences not later than December 31, 1997 or, it not, reasonable diligence is exercised towards the completion of such facility taking into account all factors relevant to construction of the facility.".

SEC. 304. FERC REGULATIONS.

Unless the Federal Energy Regulatory Commission otherwise specifies, by rule after the enactment of this Act, any eligible solar, wind, waste or geothermal facility (as defined in section 3(17)(E) of the Federal Power Act as amended by this Act), which is a qualifying small power production facility (as defined in subparagraph (C) of section 3(17) of the Federal Power Act as amended by this Act)—

(a) shall be considered a qualifying small power production facility for purposes of part 292 of title 18, Code of Federal Regulations, notwithstanding any size limitations contained in such part, and

(b) shall not be subject to the size limitation contained in section 292.601(b) of such part.

ADDITIONAL STATEMENTS

GEORGE HEARST—BLACK HILLS HISTORY AT ITS BEST

● Mr. DASCHLE. Mr. President, the Black Hills of South Dakota are known for rich history, legendary stories, and stunning beauty. Much of our history and the stories which have created it come from the fact that these hills may be the richest in gold anywhere in North America. Gold miners of virtually every character description rushed by the thousands to stake their claims in Dakota territory when the news of gold discovery became known. It has not been the same since.

One of those who came and whose family stayed was George Hearst. The founder of the Homestake Mining Co., Hearst and his family have made an indelible mark in the pages of Dakota history. Homestake still operates one of the largest gold mines in the northern hemisphere right in the middle of the Black Hills.

In addition to mining, Hearst created an extraordinary store which became the center of retail activity for all who came to make their fortunes. The story of the Hearst Merchantile is an excellent example of Black Hills history at its best. For 63 years it was the epitome of the company store and the virtual center of business activity for miners and those who served them.

Steven Kinsella has written a superb account of the store and the family who owned it. It is entitled, "Company Store: The Hearst Mercantile, 1879-1942" and appears in the publication, South Dakota History. I ask that it be made part of the RECORD.

COMPANY STORE: THE HEARST MERCANTILE, 1879-1942

(By Steven R. Kinsella)

In 1877, one year after George A. Custer was defeated on the bluffs above the Little Bighorn River, George Hearst, a mining venturer from San Francisco, traveled to the Black Hills of Dakota Territory. Tall and lanky, with a chest-long beard, the man literally had the ability to smell out gold and silver deposits, or so his fellow miners and speculators whispered. He was making this trip, however, because he had not always relied on those well-known instincts. Trusting the advice of others several years before, he had lost nearly his entire fortune and had been forced to sell even his wife's carriage and horses. This time he would be shrewder with his investments, checking them out himself.[1]

With Custer's reports of gold in 1874, the Black Hills had come alive with panners and sluice boxes. In 1876, an associate had excitedly wired Hearst about a mine high in a gorge. A year later when Hearst reached the small mine that had been chiseled into a wall of quartzite and supported by roughly cut timbers, the sight interested him so much that he immediately made arrangements to purchase the claim for himself and his partners.[2] The mine became known as the Homestake, and, due greatly to its success, George Hearst and his family would never have to worry about money again. The Homestake Mining Company, operating what would eventually become the largest gold mine in the Americas, made Hearst a rich man and his family's name a household word. It also produced one of the most famed company stores of the period.

Because of the Homestake's isolated location, Hearst immediately had difficulties getting the equipment needed to operate the mine and equip his miners. To make matters worse, the mining camp of Lead (pronounced Leed), which had sprung up around the mine, had no retail outlets to speak of. The Black Hills, still a distant region of the country, were accessible only by a few trails that led to the gold-rich mountains from the more populated regions of the country. For example, eighty ore-crushing mill stamps, weighing seven hundred fifty pounds apiece, had to be hauled by ox team from the nearest railhead, which at that time was in Sidney, Nebraska—nearly three hundred miles away. For the mine to operate at peak efficiency, a solution had to be found. In 1879, two years after Hearst first visited the Homestake, he directed the construction of a store that would put an end to shortages. Two years later, he authorized the creation of a company railroad.[3]

The store, when it opened for business in April of 1879, was not a typical western retail outlet or, for that matter, a late nineteenth century company store. Unlike the wooden-frame structures of the mining towns of the West, the store was made of brick, like the buildings of Hearst's San Francisco. Built not only to last but also to make an impression on the new town of Lead, the store would furnish the Homestake and its miners with anything and everything. In typical Hearst fashion, nothing was too big—not even a brick mining store in a shanty town in the middle of practically nowhere. The original dimensions of the store—fifty feet by one hundred feet—were huge by the standards of the day. With a basement and two stories above ground, it was the largest building of its kind in the area. To the people of Lead, who watched its construction from the firing of the first bricks next to the building site to its opening, it became known as the "Brick Store."[4]

Carrying practically everything a person could want and more, the store provided an oasis for the rugged miners and their families. Boots, dynamite, dry goods, groceries, hats, shoes, ladies clothing, toys, furniture, carpets, draperies, and even buggies were part of the inventory. Its magnitude allowed it to act as a wholesaler to smaller retail outlets that began springing up as the area became settled.[5] An 1894 store advertisement on the front page of a local paper stated the situation simply, "Everything at the Big Brick Store."[6]

Operated by a Hearst representative named Thomas James, the store originally carried his name, but the watchful eye of the Homestake manager was also upon it. After a booming immediate success, the store began to falter financially in the mid-1880's, and Homestake manager Samuel McMaster wrote Hearst, asking that he investigate its finances. The problem could not be a lack of business at the Brick Store. After all, it was the only one of its type in the area, and Homestake employees were allowed to charge their goods interest free. James and several of his cronies appeared to be mismanaging the enterprise. Hearst dispatched a representative from San Francisco to investigate the situation. According to one story, a comical example of the pitfalls of management from a distance followed. The hearst investigator arrived in Lead after a long, wearisome journey, whereupon James greeted him with a stiff drink to clear the dust from his throat. One drink led to another and finally to a party, with the representative failing to complete the intended investigation. The scenario repeated itself with several different investigators before Hearst caught on and set a final representative, a teetotaler. James and his associates were tossed out of the store, and it was renamed the Hearst Mercantile.[7]

As the Homestake continued to grow's bringing Hearst millions of dollars, so did the store, eventually expanding in size until it covered nearly an acre. In 1888, Hearst took another giant step. Nine years before, Thomas Edison had invented the incandescent lamp and had just completed the development of a dynamo that would generate electricity for the lamp. The town of Lead lived in darkness every time the sun set, and underground the miners of the Homestake went about their daily work by candlelight. Hearst saw that Edison's lamps would benefit the operation and efficiency of not only the mine but also the town. Although the invention was considered risky at the time, Hearst quickly ordered a dynamo with sixteen lights from Edison and had it placed in the Brick Store. On Christmas Eve, the switch was turned on, and a warm glow lit the inside of the Hearst Mercantile, radiating out through the windows. With the lamps' success, Hearst ordered additional dynamos to light the stamp mills of the Homestake.[8]

Although Homestake and his other mining investments, such as the Anaconda in Montana, were making him a wealthy man, Hearst turned his attention to politics and in 1887 was elected to the United States Senate from California. Prior to his election, Hearst offered his only child managership of the Homestake and the Hearst Mercantile after the young man was kicked out of Harvard for a never-ending series of pranks. William Randolph Hearst, known both affectionately and with revulsion as Willie (depending upon whether you were his mother or his schoolteacher), refused. He wanted to pursue a career in journalism. George Hearst, even though he thought the business unlikely to make any real money, finally capitulated, turning over to Willie the *San Francisco Examiner*, a paper that the elder Hearst had purchased as a political organ. It was a move that launched one of the most famous, although at times questionable, newspaper careers in American history.[9]

The late 1880s and early 1890s were a busy time for the Black Hills. South Dakota achieved statehood in 1889, the Populist party was gaining momentum on the plains amid cries for a silver-backed economy, and Sitting Bull was killed during an arrest attempt in December 1890—triggering the massacre at Wounded Knee two weeks later. Lead and the neighboring mining camp of Deadwood were becoming settled, with wooden-frame houses replacing the tents and miners' shacks of a decade before, and the Hearst Mercantile was building an addition. Six-shooters and knives began to disappear from the streets of the two mining towns, but the restless, rough-and-tumble nature of residents continued.[10]

In March of 1891, after being ill for several months, seventy-year-old George Hearst slipped into death. He turned over his entire fortune, including his holdings in the Homestake and the Hearst Mercantile, to

his young wife. Phoebe Apperson Hearst approached her new independent wealth differently than her late husband had. Except of a continuous stream of loans to her son that ranged in the millions, she spent over $21 million on social causes and issues of interest to her, quickly becoming known throughout the nation as a philandthropist. The Heart Mercantile and the town of Lead became the focal point of much of her interest. A former Missouri schoolteacher, she was especially interested in education."

Knowing that miners of many nationalities lived in Lead and that education and exposure to the world in the isolated town were limited, Hearst wanted to enlarge the knowledge of the community, particularly the children. On Christmas Day 1894, she presented the citizens of Lead with a special gift that is still in use today—a library. In true Hearst fashion, it was not just a library composed of a few classics, which was common in the small towns of that period, but a library of two thousand volumes on every topic imaginable. It was Heart's way of saying thank you to the residents of Lead. Originally located at the miner's union hall, it moved in July 1896 to the Hearst Mercantile, where it became known as the Hearst Free Library. Walls of shelves housed the books, while bulky newspaper and magazine racks competed for space with huge oak library tables and wire-backed chairs. For the isolated citizens of Lead, the library subscribed to eighty-one different magazines and newspapers, many in the native languages of the miners, including Italian, Slavic, Finnish, Swedish, and Lithuanian. The library, like the store, became instantly popular, and residents pored over its contents amid coal stoves and low-wattage Edison light bulbs.[12]

In presenting the library, Hearst made a stipulation, one that may now seem odd but upon closer examination shows her concern for the people of Lead. She required that music recitals be held in the library frequently. Hearst, who loved music, could find no better way to wrap her Christmas gift than with a note or two of the popular music from the period. So, added to the books and newspapers and the dim lights of the upper levels of the Hearst Mercantile were violins and voices in song. All in a community whose population had just reached three thousand.[13]

In 1897, Phoebe Hearst paid twenty-seven thousand dollars for another addition to the Brick Store. The basement and part of the first floor of her expansion held the store. The rest of the ground floor contained the new Lead post office, and the upper level housed the library. A local paper reported tha the post office was doing a larger money-order business than any other post office for a city of that size, with an average of twenty-five orders sent out daily. The library, which had grown to twenty-five hundred volumes, averaged one hundred sixty patrons a day during 1897.[14]

Lead, built of crowded, wooden-frame buildings of sap-drenched spruce and pine, was constantly in danger of fire. Even today, whenever the fire whistle blows, residents shudder with thoughts of previous blazes, the biggest of which occurred on 8 March 1900 and became known as the Great Lead Fire. Swept by mountain winds, the March fire turned Lead's commercial district into an inferno. As the blaze jumped out of control, roaring from building to building, Hearst Mercantile employees formed a ring around the store, dousing and fighting back flames that crept close. While powder stocks from mining supply stores exploded and huge flames caused by the ignition of several saloons lapped into the streets, employees carried the finer merchandise from the Mercantile to the fireproof vaults of the Homestake. The next day, as fires still smoldered, one quarter of Lead's commercial district lay in ash. Shops, saloons, houses, and businesses in a four-block area were obliterated. Amid toppled walls and smoldering beams, the Hearst Mercantile continued to stand, thanks to its employees and the fire department that had moved into the lower level of the store after its expansion. Except for smoke damage, the building was unscathed, and the library's priceless volumes had been saved so that the following year Phoebe Hearst could personally visit her gift to the city of Lead.[15]

In April 1919, Phoebe Hearst succumbed to the great influenza epidemic and died at Hacienda del Pozo de Verona, thirty miles southeast of San Francisco. Lead, the Hearst Mercantile, and the Homestake mine closed to mourn her death. The majority of her interest in the Homestake was put into trusteeship. William Hearst, who by then had built a massive newspaper and magazine empire with the help of loans from his mother, ultimately received ten thousand shares of Homestake stock and the ownership of the Hearst Mercantile.[16] The role of the Hearst family in Lead would soon change and so would the store.

In the early 1920s, much of the business distict, including North Mill Street where the Hearst Mercantile was located, started to settle and was in danger of collapse. The business district had been built near the huge open-cut mine of the Homestake, and the millions of tons of rock that had been removed from the stopes that funneled the ore to the mill had never been replaced. The timbers supporting the stopes and passageways that zigzagged underneath Lead were starting to rot, and the town was beginning to feel the effect. The rapid drop in elevation in the commercial district could literally be measured in feet. Many businesses were closed and torn down, while others were relocated down the hill in Deadwood. The Hearst Mercantile Company decided to build a new store several blocks west of the original site—on a Main Street hill that was safe from slippage. However, one small item stood in the way. The Episcopal church had been built of brick several years before on the site of what was now Homestake Mining Company property. In a prearranged agreement, the Homestake had the church dismantled brick by brick and rebuilt a few blocks farther up the street.[17]

In September 1921, as it neared completion, the new Hearst Mercantile slowly began to open, department by department. In January 1922, as winter chilled the streets of lead and the surrounding mountains, Cecile B. DeMille's movie *The Forbidden Fruit* was playing at the Homestake Opera House, William Hearst was courting the idea of running for governor of New York, and the local paper bounced against the ice-covered doors of Lead, announcing the new departments of the Hearst. A shoe repair shop, a record and phonograph department with a "talking machine booth" where customers could try out the latest releases, a meat department, a bakery, a grocery store, a men's wear department featuring the new six-button Eagle shirts, a ladies' wear and millinery department, hardware and appliance departments, a furniture department, and a watch repair and jewelry department lined the inner walls of the Hearst. The store, which was made of brick like its predecessor, was 160 by 130 feet and consisted of four stories—two above ground and two below the street level—making it the largest department store in South Dakota.[18] However, since there were now other brick stores in Lead, the new Hearst Mercantile became known simply as the Hearst.

Besides being a department store, the Hearst also house the corporate offices of the Homestake Corporation, which were adjacent to the Hearst's accounting department on the street level. On the upper floor, the Homestake law firm of Chambers Kellar was located along the west wall. Kellar, a fervent hunter, had his collection of big game trophies spread throughout the rows of law books and tables with zebra-skin chairs. The lower two levels of the Hearst, which were visible only from the alley that ran behind the store at the bottom of the hill, contained a bakery, a window-making room, cavernous storage rooms, a plumbing shop, and loading docks for delivery trucks. A warehouse directly behind the building held a mountain of coal, which the store sold by the ton.[19]

The new Hearst Mercantile carried goods popular with the ethnic makeup of the mining community. Yearly, the narrow-gauge train that ran between Deadwood and Lead carried up boxcars of zinfandel grapes so that the immigrant miners could make homemade wine, much as they had in Italy or other European homelands. Since wine presses were in short supply, fishing boots were often scrubbed clean and used to stomp the juice from the grapes. Processed in the fall, the wine was ready by Christmas. The narrow gauge discontinued in 1928, and faster, more reliable trucks took over delivery of grapes, as well as other goods.[20]

Built in the spirit of the old Brick Store, the new Hearst added even more goods and services to meet the demands of the American consumer of the 1920s. The only feature missing was the Hearst Free Library. In 1914, the mining company had constructed the Homestake Recreation Building, and the library and its impressive collection had moved into the building's second floor. Had it not moved, the library would have been out of place in the new Hearst Mercantile. Unlike its predecessor, the new building was not designed to be a community center—it was all business.[21] The Hearst was, in certain respects, a forerunner of the modern shopping mall, a true provider of "one-stop shopping." It was more than just a department store in a bustling mining town. As one Lead resident said years later, "It was downtown."[22] However, unlike many of the shopping malls of today, with independent stores lining concrete corridors, the departments of the new Hearst were designed to work together to benefit the whole.

The front of the building consisted of a row of huge, ever-changing display windows that faced the main street. These windows featured items that had been advertised the day before in the local newspaper with encouragements of "see our show room window."[23] At Christmas, the windows contained massive displays of toys. Inside, the watch repair department was across from the men's wear department. To get to the grocery department, you had to pass the cosmetics department. A bank of free telephones stood adjacent to the grocery department and were commonly used by children, who would call their mothers after

school to let them know what they were doing and ask if they needed groceries brought home. Of course, as a child leaned impatiently against the wall of telephones trying to memorize the grocery list, he or she could not help but notice the candy department.[24]

Getting to the ladies' wear department was, in itself, a major battle against the temptation of spontaneous buying. First, one had to pass all of the departments on the street level, including the appliance department with its popular Maytag washers, and climb the wide, squeaky wooden stairway to the top floor. There, a woman could find many of the latest clothing fashions purchased in New York by the Hearst buyers or watch new styles of hats being made by the Hearst's own milliner. If preschool children were in tow, keeping them at one's side was not a worry. The toy department, with enough toys to keep a child's gaze busy for weeks, was directly across from ladies' wear. When the shopping was completed, the child could simply be retrieved from within the stacks of toys, which were located adjacent to the furniture department—a convenient place for a husband to sit and relax while waiting for his wife to finish shopping.[25]

The Hearst's greatest lock on the shopper, though, came through the medium of exchange. If tempted by a new kitchen hutch or an "automatic" washer, a shopper did not have to worry about a dwindling supply of cash or a limited checking-account balance, he or she could simply charge it. In fact, according to Jimmy Cotton, who was the Hearst Mercantile's bookkeeper in the 1930s and early 1940s, ninety percent of the store's business was done on credit. If this method of delayed payment was not already attractive enough, the terms certainly were. All charges at the Hearst were interest free. Cotton said that the terms, combined with the goods the store carried, made the Hearst corporation over a million dollars per year while he was in charge of the accounting department. "They made a lot of money. Good money," Cotton recalled.[26]

The Hearst's business practices were not accomplished without controversy, however. The same system that made the store a financial success often spurred distaste and, at times, hatred. Even today, one of the favorite jukebox hits at a lead restaurant and lounge is "Sixteen Tons." Its chorus of "Saint Peter don't you call me 'cause I can't go—I owe my soul to the company store" is often recalled when residents talk about the Hearst.[27] While the Homestake did not pay its employees in script (a form of cash redeemable only at the company store) as many other mining companies of the period did, a miner could, upon showing his Homestake employment card, walk into the store and charge anything he needed—food and clothing for his family, a few toys for the children, work boots and gloves for the mine, and even a new kitchen appliance for his wife. When payday rolled around, the employee would walk into the Homestake offices in the Hearst building, be shown a balance of what he owed the store—minus his paycheck—and be given twenty dollars cash to pay any other bills he might have around town. The employee could then turn around and walk into the store and charge his food and supplies for the next month, only to have the process repeat itself at the end of the next pay period. Many new miners took advantage of the charge system, only to be "one month behind" for the rest of their lives.[28]

The managers of the Hearst were well aware of the advantage of having the Homestake paymaster a door away in the same building. Big payday sales, advertised in the local paper, would feature such popular items as house dresses and furniture brought back from buying trips to major metroplitan areas.[29] The fact that the charge system was prejudicial added to workers' dislike of the store. If you were in management at Homestake, you did not have the same requirements that were attached to miners. According to Jimmy Cotton, "The big shots didn't have to sign an agreement turning their checks over, just the working people."[30] For those miners who appeared to be overcharging to a point where they would continue to fall deeper into debt instead of maintaining a monthly debit somewhere near the size of their paychecks, the Hearst would tighten the financial reins. A "no charge" ledger, much like the modern day credit-risk list, would be circulated among the store's clerks.[31] To the Hearst, debt was not a problem, just as long as the debt was not too large.

Yet, it was also the Hearst that kept many fatherless families alive in the belief that, someday, a son or two would work in the mine, thus eventually paying off the debt. Richard Furze, who became a Lead city commissioner in 1946 and the community's municipal judge during the 1950s and 1960s, came from one such family. In 1920, his father joined hundreds of other miners in youthful death as the result of silicosis, a disease more commonly known as miner's consumption, caused by breathing in the sharp, dustlike fragments of the shiny quartz that yielded gold. "The people of Lead knew who the fatherless families were, and they took care of them," Furze said. The generosity of the Hearst, however, could be limited in comparison to that of other businesses in the bustling gold town. "When our mother would send one of us to a meat market to ask for a soup bone, they would make sure that there would be meat on the bone. When you went to the Hearst, all you got was the bone," Furze recalled. It took Furze and his family years to pay off the debt they owed to the Hearst, and when the day finally came, "It was like emancipation." Being "a cocky eighteen-year-old", Furze remembered, he walked into the store, down the hall to the Homestake paymaster, and demanded his check instead of going to the Hearst accountings to be shown his balance sheet. The paymaster walked back to the accountants, got him his check, and Furze paid off the final balance himself.[32]

Generally, however, the memories of Furze and others—especially employees—are ones of fondness for the Hearst. Recollections of huge toy displays and trains going round and round in the display windows at Christmas, of listening to records by Fred Waring and Johny Marvin in the record-demonstration booth, and of groceries being delivered twice per day, first by horse and buggy (horse and sleigh in the winter) and later by the fleet of Hearst delivery trucks, rest gently in their consciousnesses.[33] "I guess there is no such thing, as bad memories," said Furze.[34]

Because of the charge system and the price of gold, the Hearst continued to thrive. Unlike much of the rest of the nation, particularly the corn and wheat regions of the Midwest, Lead did not feel the effects of the Great Depression and Dust Bowl of the thirties. Gold became an extremely stable investment amid faltering businesses and a crashing stock market, and Lead continued to prosper through the Homestake, its stock jumping from $5.86 per share in 1928 to $44.00 per share in 1935. People flocked to Lead with the hope of finding a job in the mine. Daily, a pool of the unemployed stood outside the offices of Homestake, waiting to fill the one or two jobs that were occasionally announced. With a Homestake employment card, they could charge food and clothing for their family at the Hearst and make it through the hard times.[35]

Even though Homestake, Lead, and the Hearst Mercantile weathered the depression gracefully, Hearst himself fared poorly. Unlike his father, who was known for his keen mining instincts, and his mother, who was renowned for her generosity, William Randolph Hearst had become known for his excesses. A man who drank little, he was his own vice, buying anything that caught his eye. An admirer of castles since childhood, he maintained estates that dwarfed those of medieval lords. His holdings included the million-acre Mexican ranch of Babicora with its forty-eight thousand cattle; the 135-room Saint Donat's castle in Wales; the beach house at Santa Monica with over $3 million in art and antiques; and the estate of San Simeon with its 239,000 acres, its three guest "mansions," its zoo containing the largest private collection of wild animals in the country, and its ancient furnishings sent back from Hearst's worldwide buying tours. The price tag on San Simeon alone was estimated to be $30 million. Collections of art and antiques and even an entire Spanish monastery were housed in crates in huge Hearst warehouses and never seen again after their initial purchase. Newspapers that lost money, Hollywood productions that went nowhere except to please his companion, actress Marion Davies, and repeated ventures into politics, including bids for Congress, the Senate, the governorship of New York, and even the presidency—all played a role in draining Hearst's fortunes. Like a wolf drags down a weakening bull elk, Hearst's personal excesses finally brought him low. In 1937, his entire publishing empire was turned over to a trust for consolidation and liquidation, much of it piece by piece, in order to cover his staggering debts. Hearst, now a man in his seventies, had his own salary cut from five hundred thousand to one hundred thousand dollars.[36]

Ironically, as the Hearst family fortune finally stabilized and the great machines of America began to turn once again with the dawn of World War II, the future of the Hearst Mercantile began to dim. With the announcement of war, the United States government classified gold production as nonessential, meaning that all new gold production was to be reduced. The miners were to be moved to mining operations of strategic importance to the machines of war, such as copper and iron ore sites. As the war expanded, it became clearer and clearer that gold production would be completely curtailed. With the mine shut down, Lead would take on the appearance of a ghost town, and the Hearst Mercantile would not only be without its Homestake employee checks but without its customers, as well. Files of unpaid charge accounts would be left behind. The situation troubled Hearst managers and clerks who faced the prospect of locked doors and boarded-up display windows. The problem was resolved when fire once again struck Lead.[37]

On 31 August 1942, the *Lead Daily Call* interrupted its front page coverage of Russia's efforts to hold Stalingrad to bring a story of greater magnitude to its readers. "Fire Guts the Hearst Mercantile Building," the headline blared in two-inch letters. The stories that followed recounted a fire just before noon that had started in the basement of the adjacent Seely Drug Store and spread into the lower levels of the Hearst. Martin Osterhaus, a young pharmacist who had come to Lead during the depression, was manager of Seely's and, according to a Hearst employee, had discovered the fire.[38] However, forty-three years later his account was different from the newspaper's on the day of the fire.

Smelling smoke and thinking that it was coming from a soda fountain motor that had previously given him trouble, Osterhaus went to the basement of the drugstore. He could smell smoke but could not see any sign of fire or smoke in the small basement. After he went back upstairs, the smell became stronger, and he returned to the basement again, where, this time, he saw a fire breaking through the wall from the Hearst. Osterhaus's efforts to inform the fire department were slowed when the trap door to the basement closed behind him—its only handle being on the upper side of the door. Luckily, a young boy who swept the floors of the drugstore had not yet left for lunch. Hearing calls for help, he freed Osterhaus, who suffered from smoke inhalation.[39]

The Hearst, with its wooden beams and polished floors, made perfect fire tinder. Its square design gave it the appearance of a firebox, and the elevator, used for goods and produce, acted like a chimney. Fire and smoke spewed into the streets, threatening the commercial district and the adjacent Homestake Recreation Building, which held Phoebe Hearst's opera house and library. Ammunition stocks in the hardware department exploded, sending live rounds spinning into the streets.[40] Jimmy Cotton, who had returned to Lead from a vacation to see a pillar of smoke rising from the Hearst, rushed to the store and climbed through a side window, risking his life to retrieve the financial records and charge ledgers. "They never even said thank you," Cotton said quietly forty-three years later.[41]

When it was over, all that stood of the famous store were three broken walls. Gone were the display windows, the huge stocks of furniture and toys, and the collection of records and their demonstration booth. Except for the bakery oven in its fireproof walls, nothing remained of the Hearst but a charred hole.[42] Ironically, the Lead paper carried a Hearst back-to-school advertisement on the same day it reported the fire. "Dressy shirts" for boys were being sold in the main-floor clothing department for ninety-eight cents. Big Chief tablets were four and eight cents from the school supply department, and ribbons and anklets could be found for twelve cents in the second-floor dry goods department—all in a building without walls or ceilings.[43]

The store was never rebuilt, and the void it left in Lead was never filled. The newspapers reported that wartime shortages prevented the store from being rebuilt or restocked in another location. Other sources suggested that the closing of Homestake during the war made reopening an impossibility. Still others whispered that the Hearst Mercantile had been torched for its insurance value.[44] One Lead resident perhaps summed it up most succinctly when he remarked: "It was a store whose time had come. The era of the company store and the way it was operated was over."[45] Small neighborhood stores took over the grocery business from the Hearst for a time, and people could shop in the few small stores in Lead or travel down the hill to the commercial district of Deadwood for other items. The medium was always cash, however, and the massive displays of nearly everything the customer could want were gone. By the mid-1980s, the situation was similar to the time when George Hearst first rode into the Black Hills—a miner could not find a pair of mine boots or a box of nails in Lead.

The location of the Hearst stayed vacant for years, a reminder of a time that had been. Then, in June of 1957, the local paper announced that a grocery store would be built on the location. The store would represent a different era, with "a new-style pylon, holding aloft the strikingly designed 'Red Owl' [that] will highlight the exterior design of the store"—a building of face brick, cement block, and steel.[46]

FOOTNOTES

[1] Mildred Fielder, *The Treasure of Homestake Gold* (Aberdeen, S.Dak.: North Plains Press, 1970), p. 39; W.A. Swanberg, *Citizen Hearst: A Biography of William Randolph Hearst* (New York: Charles Scribner's Sons, 1961), pp. 12-13; Oliver Carlson and Ernest Sutherland Bates, *Hearst, Lord of San Simeon* (New York: Viking Press, 1936), p. 10; Joseph H. Cash, *Working the Homestake* (Ames: Iowa State University Press, 1973), p. 18.

[2] Fielder, *Treasure of Homestake Gold*, p. 45.

[3] William Bronson and T.H. Watkins, *Homestake: The Centennial History of America's Greatest Gold Mine* (San Francisco: Homestake Mining Co., 1977), pp. 31, 34, 46; Donald Toms, William J. Stone, and Gretchen Motchenbacher, eds., *The Gold Belt Cities: Lead & Homestake: A Photographic History* (Lead, S.Dak.: G.O.L.D. Unlimited, 1988), p. 84; Fielder, *Treasure of Homestake Gold*, pp. 106-7.

[4] *Lead Daily Call*, Special Edition, 17 May 1953; Joseph H. Cash, "A History of Lead, South Dakota, 1876-1900," *South Dakota Historical Collections* 34 (1968): 67-68; *Fielder, Treasure of Homestake Gold*, p. 97.

[5] Cash, *Working the Homestake*, pp. 62-63.

[6] *Lead Evening Call*, 3 Aug. 1894.

[7] Cash, *Working the Homestake*, pp. 62-63; Fielder, *Treasure of Homestake Gold*, pp. 129-30.

[8] Fielder, *Treasure of Homestake Gold*, pp. 145-46.

[9] Carlson and Bates, *Hearst, Lord of San Simeon*, pp. 24-25, 32-33, 43, 47; Swanberg, *Citizen Hearst*, pp. 22, 33-37.

[10] Bob Lee, ed., *Gold, Gals, Guns, Guts* (Deadwood and Lead, S.Dak.: Deadwood-Lead '76 Centennial, Inc., 1976), p. 142. Not until 1979 and 1980 did South Dakota law-enforcement officials forcibly close the Deadwood brothels, the last vestige of the gold rush of the 1870s.

[11] Fielder, *Treasure of Homestake Gold*, p. 152; Swanberg, *Citizen Hearts*, pp. 61-62, 75, 321; *Lead Daily Call*, Souvenir Edition, 1 Jan. 1905. Phoebe Hearst had a special fondness for kindergartens, providing fiancial support for the Hearst Free Kindergarten in Lead as well as kindergartens in Montana and California.

[12] Marion Bedsaul, "History of the Homestake Library," 8 Jan. 1968, pp. 1, 3-4, Phoebe Apperson Hearst Library, Lead, S.Dak. (Bedsaul was librarian from 1967 to 1978); Cash, *Working the Homestake*, p. 71; Toms, Stone, and Motchenbacher, *Gold Belt Cities*, p. 45.

[13] Cash, *Working the Homestake*, pp. 71-72. Hearst supported the library until her death. Later, the Homestake Mining Company provided the necessary funding when the Hearst estate refused to continue its support. *Lead Daily Call*, Special Edition, 17 May 1953.

[14] Lee, *Gold, Gals, Guns, Guts*, p. 166.

[15] *Lead Daily Call*, 5 Mar. 1950; Fielder, *Treasure of Homestake Gold*, pp. 164-65.

[16] Swanberg, *Citizen Hearst*, pp. 75, 321; Bronson and Watkins, *Homestake*, pp. 59, 62; Carlson and Bates, *Hearst, Lord of San Simeon*, p. 297.

[17] Cash, *Working the Homestake*, p. 61; Lee, *Gold, Gals, Guns, Guts*, p. 240; *Black Hills Weekly*, 13 Jan. 1971.

[18] *Lead Daily Call*, 26 Sept. 1921, 23, 31 Jan., 2 Feb. 1922; Swanberg, *Citizen Hearst*, p. 340; Toms, Stone, Motchenbacher, *Gold Belt Cities*, p. 84.

[19] Interview with Richard Furze, 10 Oct. 1985, Spearfish, S.Dak.; interview with Ted Pascoe, 16 Oct. 1985, Lead, S.Dak.

[20] Interview with Pascoe; Fielder, *Treasure of Homestake Gold*, pp. 255, 290.

[21] *Lead and the Homestake Mine, Black Hills, South Dakota* (n.p., n.d.), Vertical Files, s.v. "Lead," State Archives, South Dakota State Historical Society, Pierre, S.Dak.; Bronson and Watkins, *Homestake*, pp. 56-57.

[22] Interview with Elizabeth Lacy, 16 Oct. 1985, Lead, S.Dak.

[23] *Lead Daily Call*, 31 Aug. 1922.

[24] Interview with Richard Furze, 10 Oct. 1985, Spearfish, S.Dak.; interview with Pascoe. Pascoe worked in the hardware and furniture departments of the Hearst, and he sketched for the author a detailed diagram of the store and its departments.

[25] Interview with Lacy; interview with Esther Eklund, 16 Oct. 1985, Lead, S.Dak.; interview with Pascoe. Eklund worked in a variety of departments at the Hearst, including ladies' wear, millinery, and cosmetics.

[26] Interview with Jimmy Cotton, 16 Oct. 1985, Lead, S.Dak.

[27] "Sixteen Tons," Merle Travis, American Music, Inc., 1947.

[28] Bronson and Watkins, *Homestake*, pp. 55-56; interview with Cotton.

[29] Interview with Eklund.

[30] Interview with Cotton.

[31] Interview with Pascoe.

[32] Interview with Furze.

[33] Ibid.; interview with Cotton.

[34] Interview with Furze.

[35] Carlson and Bates, *Hearst, Lord of San Simeon*, p. 283; Cash, *Working the Homestake*, p. 110.

[36] Swanberg, *Citizen Hearst*, pp. 207, 379, 407-8, 413-15, 452-53, 484-85, 493, 508.

[37] Fielder, *Treasure of Homestake Gold*, pp. 330-31; interview with Cotton.

[38] *Lead Daily Call*, 31 Aug. 1942.

[39] Interview with Martin Osterhaus, 30 Nov. 1985, Mitchell, S.Dak. Osterhaus continued his pharmacy practice in Mitchell and later became the community's mayor.

[40] *Lead Daily Call*, 31 Aug. 1942. On 2 April 1984, fire once again struck Lead, gutting the opera house. The majority of the library's books, including Hearst's original contributions, were saved when Lead residents rushed into the building and carried them out.

[41] Interview with Cotton.

[42] Fielder, *Treasure of Homestake Gold*, p. 331; interview with Pascoe.

[43] *Lead Daily Call*, 31 Aug. 1942.

[44] Ibid., Special Edition, 17 May 1953; interviews with Cotton, Eklund, Furze, Lacy, and Osterhaus.

[45] Interview with Furze.

[46] *Lead Daily Call*, 5 June 1957.●

TRIBUTE TO CALVIN KING

● Mr. BUMPERS. Mr. President, recently the MacArthur Foundation of Chicago announced that a farmer from my State, Mr. Calvin R. King, Jr., of Fargo, AR, was among the 36 recipients of that foundation's genius awards. Mr. King's award of $240,000 to be disbursed over a 5-year period is given to an exceptionally gifted individual to enable that person to continue to contribute to society unfettered by financial constraint. I am proud to say that among the wide variety of individuals chosen—including writers, artists, doctors, and community organizer—Calvin King was chosen for his selfless contribution to minority farmers in Arkansas. I would like to take this opportunity to commend him for his outstanding record of contribution to my State and for his selection to receive this coveted award.

Mr. King, with his wife and two children, lives and works on the 200 acres that his father once farmed in one of the poorest counties in the entire country. With his 10 brothers and sisters, he learned at an early age the value of hard work and the importance of owning land. Education, too, was important to King's family, and King left the family farm to pursue a college degree, with no intention of returning to eastern Arkansas to work.

Mr. King obtained his degree in business administration from Philander Smith College in Little Rock in 1976 and had the world at his feet, yet he turned down job offers out of State and the promise of financial gain to return to where he was needed most, the delta. The vast problems of the delta region, as recounted in the Lower Mississippi Delta Development Commission report released this past May, are numerous. According to the report, despite these obstacles:

[T]hese are people who prefer hope to despair. This is a region that, given the right tools and knowledge, can help the nation as a whole strike a new balance of competitiveness in a global economy. This is a land where the right actions can spell a new day. "Realizing the Dream. * * * Fulfilling the Potential," A Report by the Lower Mississippi Delta Development Commission, pp. 6.

Mr. President, Calvin R. King, Jr., embodies this hope for the future of the Mississippi Delta.

In addition to his farming activities, Mr. King serves as executive director of the nonprofit Land and Farm Development Corp. which was formed to stem the loss of black-owned farmland and to stop the decline in farming profits earned by these farmers. It is estimated that the number of minority farmers in Arkansas has declined by 98 perceent during the past 50 years, an alarming figure. In addition to the economic pressures on farmers across this country, minority farmers face the additional obstacles of restrictive property tax and inheritance laws, the migration of rural blacks to the North, schemes to cheat owners and their heirs, the inability to obtain credit, and the need for greater capital investment to keep pace with new technology and farming methods. Since 1977, Mr. King has used the Land and Farm Development Corp. to battle this trend by helping local farmers with debt restructuring, gaining access to credit, and referrals for legal services. He has also developed and now administers training programs to help farmers convert to nontraditional crops and improve their management and farming skills. According to a 1989 interview with Mr. King, one of his favorite phrases is work will win. In a region where many only see proverty, isolation, and hopelessness, Mr. King continues to work for a better future and still sees the potential to make a difference. In an interview in Arkansas Business on March 13, 1989, Mr. King said:

I feel I'm definitely making a contribution * * * and it makes you feel good when you feel you're helping other people * * * that's what it's all about.

Mr. President, that is what Calvin King is all about and that is why he has made a difference in Arkansas. I do not know anyone more deserving of the MacArthur Foundation Award and we are all grateful to Calvin King for the honor and recognition he brings to our State.●

THE NATIONAL MINING HALL OF FAME AND MUSEUM

● Mr. WIRTH. Mr. President, I would like to take a moment to recognize and salute the National Mining Hall of Fame and Museum located in Leadville, CO. I recently returned from a short tour of this museum housed in a century-old Victorian school building. It is a must see for anyone interested in our Nation's mining history. I want to thank Mr. Carl Miller, president and executive director of the museum, and his staff, Ms. Sandy Ley and Mr. John Shannon, for a wonderful tour.

On November 14, 1988, President Ronald Reagan approved, a Senate joint resolution that established a National Charter for the Museum located in one of the most active mining regions of the country. Since then, the Museum is making great strides to become the Nation's foremost showcase of our mining history.

Designed to recognize the important figures in the history of mining and to commemorate our national mining activities, the impetus for this Museum began in 1973 by Mr. Douglas V. Watrous, a Colorado School of Mines graduate involved in the mining industry for four decades. The National Mining Hall of Fame and Museum was founded in 1977 as a Colorado corporation and was originally envisioned as a Hall of Fame honoring mining pioneers and educating the public on mining methods.

In 1984, the Museum initiated efforts to acquire a Federal charter. When plans for the museum's location in Golden, CO, near the Colorado School of Mines were shelved, the Museum Directors began a nationwide search for a new location. From a list of potential candidates, which were chosen because of their special connection to mining history and mining culture, the town of Leadville was selected. When President Reagan signed the bill establishing its charter, the museum became the 50th federally chartered organization.

Leadville is a premier mining center that draws over 1 million visitors annually. The city has a rich mining history which experienced gold and silver rushes in the 1800's and has also produced zinc, lead, and copper. The city is a national historic district because of its vintage opera houses, grand hotels, and Victorian structures. The Climax Molybdenum mine and mill, located in the Leadville region atop Fremont Pass, is the largest mine in Colorado and the world's largest producer of this mineral used to harden steel.

Once Leadville was selected, work began in earnest to renovate the school building to house a number of exhibits and honoraria. The purposes and goals of the museum include honoring and memorializing citizens and mining leaders for their contributions to mining in the United States; to foster and promote a better understanding of the origins and growth of mining; to establish and maintain a library and museum for collecting and preserving mining memorabilia; and to construct informative exhibits to educate visitors on the impacts and activities of the mining industry.

As the work continues to make this into a showcase museum, a number of attractions currently exists providing an enjoyable and informative tour for visitors. The museum directors and membership have inducted 75 honorees, who are enshrined in a refurbished room complete with wood paneling and wall-sized murals. Notable exhibits include a Gold Rush Room, documenting, with artifacts and mineral specimens, the country's gold mining history; 21 dioramas donated by Mr. Hank Gentsch of Englewood, CO, depicting the history of mining in Colorado; a minerals specimen room; and various mining models, mining equipment, and striking mining murals, including a wall-sized mural depicting mining on the Moon.

The National Mining Hall of Fame and Museum is an outstanding tribute to our Nation's mining history. The hard work of its officers and members have established this as our country's most important mining museum and they should be congratulated for their achievement.●

LOOK WHO'S BACK IN BAGHDAD.

● Mr. McCONNELL. Mr. President, as international attention is riveted on the Saudi-Kuwaiti border and the menace of either a conventional or chemical weapons showdown with Saddam Hussein looms, a "most wanted" list of radical, ruthless terrorists has been gathering in Iraq. There are already reports that American and Arab targets are under surveillance for attack. If we are to achieve our goals in the Middle East to protect American lives, to assure both free commerce and access to vital energy resources, and to guarantee regional stability, we must be prepared to respond

to this significant and dangerous threat to our national interests.

The terrorist leaders recently sighted in Baghdad are unprecedented in number and their lethal track records of bombings, assassinations and attacks. These are opportunistic organizations and individuals with deadly expertise and experience in attacking both Western and Arab interests. In 1985, Syrian President Assad unleashed Abu Nidhal's violent forces on Jordanian officials in an intimidating bid to discourage King Hussein's flirtation with the peace process. Adu Nidhal is believed to now be back in Baghdad along with those responsible for the Munich Olympic massacre, the assassinations of the U.S. Ambassador and his deputy in Sudan, the Christmas machinegun attacks on the Vienna and Rome airports, the hijacking and murder of Leon Klinghoffer on the *Achille Lauro* cruise ship and the recent attempted assault on an Israeli tourist beach.

For these terrorists, loyalty and political ideology are shifting like the proverbial desert sands in the face of Saddam Hussein's offer of safe haven, training, and financial support. One of the clearest indications of these changes is the recent report that Ahmed Jibril, a former Syrian military officer, leader of the notorious Popular Front for the Liberation of Palestine-General Command, and longstanding terrorist agent of Syria's choice has pulled up stakes and moved operatives to Syria's sworn enemy, Iraq.

Saddam Hussein has a personal record of skillfully manipulating these shadowy, treacherous organizations to accomplish his goals while maintaining sufficient distance to avoid any public accusation of involvement. In 1982, when Iraq was removed from the State Department's list of nations sponsoring terrorism, Hussein was covertly supporting Abu Nidhal's Black June Organization. More recently, when the United States was in hot pursuit of Abu Abbas following the *Achille Lauro* hijacking, his escape was facilitated by travel on an Iraqi diplomatic passport.

Hussein's reach and influence also extends outside the borders of Iraq. On September 17, a conference of Arab radicals held a meeting in Jordan and its 3,000 participants adopted a resolution to "strike against American interests everywhere, and by all means." The New York Times reported one Libyan delegate urged Palestinians and Arabs to emulate the bombing of the Marine Barracks in Beirut that killed 241 servicemen in 1983.

As patience with events and the expense of our commitment in the gulf wears thin, we must be prepared for Saddam Hussein to use the deadly terrorist force he has assembled. His agenda is to intimidate and provoke, one by one, the withdrawal of each of the more than 25 nations committed to the blockade and Operation Desert Shield. While we should hope for the best—a diplomatic settlement—we must prepare for the worst—a compaign of attacks against officials and possibly civilians of any nation determined to defend our mutual interests in the gulf. In fact, we cannot rule out the prospect of an attack here in the United States.

The gathering terrorist storm in Baghdad should prompt us to take all necessary steps to enhance our counterterrorist security posture, especially at traditional targets of opportunity such as airports. This is not to say as citizens and travelers we should panic. In light of the tragedy of Pan Am 103, the State Department is making a strong commitment to advise the public of any credible threat to overseas American interests and travelers. The public and Congress should work to guarantee the administration keeps that pledge.

To deter this threat, Saddam Hussein must be convinced Iraq will be made to pay a price for any terrorist attack. The American public is not in the mood for a long, exhaustive investigation establishing proof beyond any doubt of Hussein's ties to terrorists; that evidence is already in. Iraq can and should expect swift, decisive military retaliation.

Should Hussein's henchmen attack, our national resolve to finish what we start must not falter. Saddam Hussein will succeed only if the will of the United States as the leader of this new global coalition of nations fails.

Hussein should not be allowed to change our policy through intimidation or terrorism. Alert security and allied agreement that Iraq will pay a high price for a terrorist attack can minimize this threat. By preparing ourselves psychologically, diplomatically, militarily, and politically we, along with our allies, can raise our guard and limit the prospect of Hussein successfully using this deadly weapon against the countries allied against his brutal aggression.●

THE MOTOR VOTER REGISTRATION BILL

Mr. SPECTER. Mr. President, I take this opportunity today to discuss yesterday's vote on the motion to invoke cloture on the motion to proceed to S. 874, the motor voter registration bill. I voted against cloture to cut off debate on the motion because there simply was no discussion at all on the motion to proceed, yesterday or at any time previously.

I had originally cosponsored similar legislation in S. 675, but this bill, S. 874, is enormously different. Most importantly, S. 675 provides criminal penalties against election fraud which are absent in S. 874. This is crucial given the potential for fraud in these new programs, particularly the provision for registration by mail. S. 874 would also impose motor voter registration programs for all States regardless of the State's past success in successfully registering all voting groups. The only exception will be for States which permit registration at the polling place at election time. Thus, S. 874 will impose significant costs on nearly all States. S. 874 will also afford any private party the right to sue States to enforce the act, further increasing costs to the States. S. 675, on the other hand, mandates motor voter registration programs only for those States in which there is a demonstrated history of barriers to voting for certain groups. It is thus narrowly tailored to affect only those States with demonstrated problems in this area. Moreover, it vests the U.S. Attorney General alone with authority to determine which States have discriminatory barriers to voting and to order motor voter registration programs only where appropriate.

While I believe that registration should be broadened to enfranchise as many Americans as possible, I believe that the legislation must be carefully crafted to avoid problems of voter fraud. When I was district attorney in Philadelphia, problems of voter fraud were a major factor in guaranteeing fair election and this problem continues to exist. Moreover, any bill should be narrowly tailored to limit costs to the States as much as possible. I am not convinced at this time that an approach mandating these programs for nearly all States is warranted. This is a very important legislative subject, but I believe it required extensive consideration and debate should not have been closed yesterday in that context.●

GOLDEN JUBILEE FOR REV. WENDELL T. LIGGINS AND ZION BAPTIST CHURCH

● Mr. WIRTH. Mr. President, I am delighted to have this opportunity to recognize the 50th anniversary of Rev. Wendell T. Liggins, pastorship of the Zion Baptist Church in Denver, CO.

Zion Baptist Church is one of the Rocky Mountain West's oldest congregations. It was founded in 1865 by a small group of black pioneers. Since its official incorporation on August 11, 1877, Zion Baptist Church has been at the very center of Denver's spiritual and religious life.

The pastor of this historic church, Rev. Wendell T. Liggins, will be celebrating his 50th anniversary of service this month. Reverend Liggins civic and community service is really too vast to enumerate all of his achievements. He is well known throughout Colorado for

his past position as Chaplain of the Colorado General Assembly. He was the first black Coloradan to be appointed to the regional transportation district board. He was also instrumental in organizing employment programs for returning Colorado Vietnam veterans, and has been appointed several times to the White House Conference on the Elderly.

Since 1941, Reverend Liggins and his wife, Louise, have devoted their lives to Zion Baptist and the people of northeast Denver. Under his stewardship, Zion Baptist has been renovated and improved—with major construction at Bledsoe Hall, a new grand piano, a new pipe organ, a new electric organ, and three buses for transporting members of the congregation—to name but a few projects that have strengthened the church.

Reverend Liggins is particularly well known for his tireless efforts on behalf of the sick and elderly. He has expanded the walls of Zion Baptist to embrace the ill, the elderly and everyone else who seeks spiritual solace no matter what their religious beliefs may be.

I have enormous respect for this man and his work in Colorado. His dedication to the welfare of others, his courage in the face of adversity, his contribution to the history of Colorado and his absolute devotion to his congregation mark him as a religious leader worthy of special recognition. That is why I think his 50th anniversary at Zion Baptist is an appropriate occasion to bring his name to the attention of this Congress.●

SELF-DETERMINATION FOR THE ARMENIANS OF THE NAGORNO-KARABAKH AUTONOMOUS OBLAST

● Mr. SIMON. Mr. President, I would like to draw attention to the violent and disturbing situation in the Nagorno-Karabakh Autonomous Oblast in the Soviet Union [NKAO]. We have seen many positive developments in the Soviet Union over the past year, but clearly, deep problems remain.

NKAO, situated in Azerbaijan, is 80 percent Armenian. Since Armenia's August 24 Declaration of Independence, Armenians in and around NKAO have faced dramatically increased violence from Azerbaijani and Soviet troops. Thousands of Armenians have been forcibly evicted from their homes. In August, following over a year of rail blockades against Armenia and NKAO, Azerbaijan closed the natural gas pipelines to Armenia. Efforts to isolate and demoralize the Armenian people of NKAO continue unchecked.

On September 10, a prominent Armenian member of the U.S.S.R. Supreme Soviet, Zori Blayan, began a hunger strike in protest of Azerbaijani and Soviet practices in NKAO. In his moving appeal to President Gorbachev, he wrote:

> Karabagh perishes in front of our eyes. * * * The honor and dignity of the Armenian population are trampled, elementary human rights are violated, the process of liquidation of the autonomous region proceeds at full speed.

Mr. President, I believe we must take note of this tragic situation. The United States is the champion of democracy and self-determination. This state of affairs in NKAO must end. We ought to support self-detemination for the Armenian majority of NKAO. We cannot let their struggle for peace and freedom die.●

INDOOR AIR QUALITY ACT

● Mr. LAUTENBERG. Mr. President, I rise in support of S. 657, the Indoor Air Quality Act of 1989. And I want to commend Senator MITCHELL for taking this important initiative. This legislation would require EPA to comprehensively address the threat to human health posed by indoor air contamination.

The administration has made action on the Clean Air Act one of its highest priorities. But concern about our air must not stop at our front doorsteps.

A recent EPA report on indoor air pollution clearly demonstrates the problem posed by contaminated indoor air. The report concludes that:

Indoor air pollution represents a major portion of the public's exposure to air pollution and may present serious health risks;

The total costs of indoor air pollution, including medical costs and lost productivity, are in the tens of billions of dollars a year;

We need to expand efforts to mitigate exposure to indoor air pollutants; and,

We need to invest in an expanded research program.

Indoor air pollutants such as radon, asbestos, volatile organic compounds, environmental tobacco smoke, carbon monoxide, biological contaminants, and pesticides, pose a serious threat to the health of our citizens. As early as 1987, EPA identified indoor radon and other indoor air pollutants as areas of relatively high risk but low EPA efforts.

In a more recent EPA study of indoor air quality in 10 large buildings focusing on a class of pollutants known as volatile organic compounds [VOC's], EPA concluded that VOCs are ubiquitous indoors, almost every compound is found at higher levels indoors than out, and in some new buildings, some VOC's were measured at levels 100 times higher than outdoor levels. Similarly, the World Health Organization has determined that up to 30 percent of new or remodeled commercial buildings may have high rates of health or comfort complaints related to indoor air pollutants.

This is of particular concern because people spend approximately 90 percent of their time indoors, making the risk to health from indoor air pollutants potentially greater than air pollution outdoors. And the people most exposed to indoor air pollution, the young, the elderly, and the chronically ill, are often the most susceptible to its adverse effects.

The effects of indoor air pollutants are serious. Radon is estimated to cause up to 20,000 cancer deaths a year. Other indoor air pollutants may be responsible for another 11,000 deaths annually. The Surgeon General has determined that environmental tobacco smoke is a cause of disease, including lung cancer, in nonsmokers. Other long-term effects to exposure of harmful levels of indoor pollutants include respiratory illnesses, central nervous system disorders and reproductive problems. Acute reactions to certain pollutants include headaches, throat skin and eye irritation, fatigue, shortness of breath and nausea. The Consumer Federation of America estimates that the health costs from indoor air pollution approach $100 billion a year.

In addition, an estimated 15 percent of the U.S. population have an increased allergic sensitivity to common chemicals. Many of these people have a predisposition to become allergic to certain chemicals after a sensitizing exposure. Hypersensitivity can occur upon reexposure. Among the more common symptoms are those involving the nervous system including tension and fatigue and the respiratory system.

EPA has been slow to react to the threat posed by indoor air pollutants. That's why the majority leader and I introduced the legislation, which was enacted as title IV of the Superfund Amendments and Reauthorization Act of 1986, requiring EPA to establish a radon and indoor air pollution research program.

The Indoor Air Quality Act of 1989 builds on our prior legislation. It would require EPA to:

Expand and strengthen indoor air research, and establish a technology demonstration program;

Conduct an assessment of indoor air quality in schools;

Develop health advisories on indoor air contaminants which may occur in indoor air at levels which may reasonably be expected to have an adverse impact on human health;

Prepare a response plan using existing regulatory authorities and other specified nonregulatory authorities to reduce exposure to indoor air contaminants; and

Make grants to States to develop and implement indoor air pollution strategies.

The bill also expands the authority of the National Institute of Occupational Safety and Health to conduct assessments of sick buildings.

As chairman of the Senate Subcommittee on Superfund, Ocean and Water Protection, I held hearings on this bill in May 1989 and the subcommittee approved the bill this past November with a number of changes. These changes include requiring EPA to:

Prepare a report on multiple chemical sensitivities and expand its research program to address the effects of indoor air pollutants on all people including those who suffer from multiple chemical sensitivities;

Conduct an assessment of indoor air problems in buildings housing child care facilities;

Conduct research with the Department of Transportation on indoor air pollution in public and private transportation;

Establish a program to address the role of ventilation in protecting the public from indoor air contaminants; and

Provide an assessment of indoor air monitoring and mitigation services provided by private firms.

The amendments also require the National Institute of Occupational Safety and Health to develop an indoor air training course which indoor air quality managers for every Federal building will have to take.

Mr. President, Americans want clean air. And that concern doesn't end when they step into their home, place of employment, school and their house of worship. S. 657 establishes a comprehensive, balanced program to address the public health threat posed by indoor air contamination.

I urge my colleagues to support this bill.●

COMMITTEE ON ENERGY AND NATURAL RESOURCES ACTS ON CERTAIN WAIVERS

● Mr. JOHNSTON. Mr. President, on September 26, 1990, the Committee on Energy and Natural Resources adopted three resolutions—waivers of required waiting periods for the granting of rights-of-way for Kern River Pipeline Co., Mojave Pipeline Co., and WyCal Pipeline Co.; Great Lakes Gas Transmission Co./Great Lakes Gas Transmission Limited Partnership; and Northern Natural Gas Co., a division of Enron Corp. I ask at this time that these three committee resolutions be printed in the RECORD for the information of the public and my colleagues.

The resolutions follow:

RESOLUTION—WAIVER OF REQUIRED WAITING PERIOD FOR NORTHERN NATURAL GAS CO., A DIVISION OF ENRON CORP.

The Committee on Energy and Natural Resources of the United States Senate, in accordance with section 28(w)(2) of the Mineral Leasing Act (30 U.S.C. 185(w)(2)) as amended, hereby waives the waiting period for the granting by the Department of the Army, Corps of Engineers of rights-of-way to Northern Natural Gas Company, a Division of Enron Corp. for the purposes of constructing and operating a 30-inch underground pipeline for the transportation of natural gas across: (1) three tracts of Federal land at the Mississippi River Nine Foot Channel Project, Jo Daviess County, Illinois, and Dubuque County, Iowa; and (2) two tracts of Federal land at the Saylorville Lake Project, Boone County Iowa.

Approved this 26th day of September, 1990.

J. BENNETT JOHNSTON,
Chairman.

RESOLUTION—WAIVER OF REQUIRED WAITING PERIOD FOR KERN RIVER PIPELINE CO., MOJAVE PIPELINE CO. AND WYCAL PIPELINE CO.

The Committee on Energy and Natural Resources of the United States Senate, in accordance with section 28(w)(2) of the Mineral Leasing Act (30 U.S.C. 185(w)(2)) as amended, hereby waives the waiting period for the granting by the Bureau of Land Management of the United States Department of the Interior of rights-of-way to the following pipeline companies for the purposes of constructing and operating pipelines for the transportation of natural gas:

1. Kern River Pipeline Company for a 36-inch diameter pipeline to carry natural gas from near Opal, Wyoming, through Utah and Nevada to a point near Daggett, California;

2. Mojave Pipeline Company for a 30-inch diameter pipeline to carry natural gas from Topock, Arizona, to near Daggett, California, where it will join up with the Kern River pipeline;

3. A joint venture of Kern River Pipeline Company and Mojave Pipeline Company for a 42-inch diameter pipeline from Daggett to Bakersfield, California; and

4. WyCal Pipeline Company for a 30-inch diameter pipeline to carry natural gas from near Opal, Wyoming, through Utah and Nevada to Piute Junction, California, and then on to Bakersfield, California.

Approved this 26th day of September, 1990.

J. BENNETT JOHNSTON,
Chairman.

RESOLUTION—WAIVER OF REQUIRED WAITING PERIOD FOR GREAT LAKES GAS TRANSMISSION CO./GREAT LAKES GAS TRANSMISSION LIMITED PARTNERSHIP

The Committee on Energy and Natural Resources of the United States Senate, in accordance with section 28(w)(2) of the Mineral Leasing Act (30 U.S.C. 185(w)(2)) as amended, hereby waives the waiting period for the granting by the United States Department of Agriculture Forest Service of rights-of-way to Great Lakes Gas Transmission Company/Great Lakes Gas Transmission Limited Partnership for the purposes of constructing and operating a 26-inch pipeline for the transportation of natural gas across the Chippewa, Chequamegon, Ottawa and Hiawatha National Forests.

Approved this 26th day of September, 1990.

J. BENNETT JOHNSTON,
Chairman.●

S. 2886, THE STEWART B. McKINNEY HOMELESS ASSISTANCE ACT AMENDMENTS.

● Mr. ROTH. Mr. President, today I offer an amendment to the Stewart B. McKinney Homeless Assistance Act amendments (S. 2886), to elevate the Under Secretary in four Cabinet departments to the position of Deputy Secretary and to extinguish the position of Under Secretary.

Currently, all Cabinet departments except for Health and Human Services, Interior, Education and Housing and Urban Development use the title of Deputy Secretary when referring to the second in command to the Secretary. For the purpose of imposing consistency in defining the position of second in command, it is appropriate that these 4 departments conform with the other 10. It is the directive of this amendment that the incumbent in the position of Under Secretary of each department will serve as Deputy Secretary at the pleasure of the President after it goes into effect.

This measure of changing the title of the position of Under Secretary in each of the Departments of Health and Human Services, the Interior, Education, and Housing and Urban Development to that of Deputy Secretary, is warranted to create a standard of uniformity in the structure, organization, and management of all departments.

I ask that this amendment be agreed to and acted on immediately.●

SALUTE TO SOUTH ST. PAUL

● Mr. BOSCHWITZ. Mr. President, I rise today to recognize a very special place in Minnesota, the city of South St. Paul.

The city of South St. Paul, its good citizens and its dynamo mayor, the honorable Katherine Trummer, were recently selected as 1 of 10 all-American cities for 1990 by the National Civic League. I am very proud of South St. Paul, and rightfully so.

Among other things, the folks in South St. Paul have worked tirelessly on an urban renewal project along the great Mississippi River at an abandoned industrial sight. This project has attracted national attention and has been a source of great community spirit and pride.

All 10 of the cities selected this year were honored by the President in a Rose Garden ceremony. I ask that, following my remarks, the text of President Bush's speech be included in the CONGRESSIONAL RECORD.

Again, Mr. President, I salute South St. Paul, MN, for all its accomplish-

ments. Its achievements are very worthy of recognition by this fine body. And to Mayor Trummer, members of the city council and citizens of South St. Paul, today, I tip my hat to thee.

The remarks of the President follow:

REMARKS BY THE PRESIDENT DURING PRESENTATION OF ALL-AMERICAN CITIES AWARDS

The PRESIDENT: Thank you very much. Excuse the little delay here. Welcome to the White House. I want to single out an old friend of mine, Henry Cisneros, the Chair of the National Civic League. Wayne Hedien of Allstate. Members of Congress who are here. State Representatives, Mayors and, above all, some friends of the finest cities in America.

It's an honor and, indeed, a pleasure to have you here at the White House. The event is special. It's special because too often it seems the function of the federal government is to make laws and set limits. But the cities and citizens we honor today are reminders that America's potential is truly unlimited.

The all-American Cities are all-American success stories. At a time when so many mourn what's wrong with American cities, you have quitely gone to work to make them right. You've refused to surrender to crime and to drug dealers and to natural disaster, to despair. You refuse to see the problems of the homeless and the jobless as somehow impossible to solve.

Instead, you've set out to unleash the infinitive range of what is possible when Americans really put their minds to it. Along the way, you've reaffirmed the American ideal of empowerment. Empowerment sounds like a new idea, but it's something President Teddy Roosevelt well understood and wanted to promote when he founded the National Civic League back in 1894. "There are many different ways," he once wrote, "in which a man or a woman can work for the higher life of American cities."

Well, the men and women with us are proving Teddy Roosevelt right. So we've gathered to celebrate the spirit of empowerment and the potential of partnerships perhaps unique in America. The spirit that, in an earlier time, could have built a meetinghouse or raised a barn on a windswept field.

Today, the All-America Cities are forming partnership for challenges of every kind, in small industrial towns, in urban canyons—citizens, businesses, government and volunteers are joining forces for the future of their communities.

In some cases, they've mobilized after an accident. Like Flight 232 in Sioux City, Iowa, whose citizens had planned and acted on an outstanding emergency response system. Or, they've responded to a natural disaster the way the people of Charlotte-Mecklenburg, North Carolina did after Hurricane Hugo.

All Americans are uplifted by stories of courage and compassion that emerged during those difficult times. No hand was idle, and certainly, no heart was untouched. But these cities and others have been just as notable, I think, for their courage and creativity in meeting the longer-term challenges.

When the schools of Southgate in Los Angeles faced an enrollment explosion, young kids, many of them immigrant and at-risk in overcrowded classrooms, civic volunteers and local businesses volunteered money and time and talent to turn the tide against drugs and gangs.

The kids, 15,000 of them, got involved in marches and posters and essay contests and assemblies and antigang, antidrug pledges. Test scores improved. Attendance went from among the lowest to among the highest in the Los Angeles school district. And the dropout rate is now the lowest in the L.A. unified school district—an outstanding case study in how to save our schools.

The same vision for a better future has driven the city of South St. Paul as they deal with the challenges and the change. Rather than mourning the loss of a key industry, citizens began to plan a public walkway and trail system on old industrial land along the river. And volunteers work tirelessly at town meetings to convince their neighbors that urban renewal means an improved city, economic growth and new jobs.

Stock certificates for "Mississippi Miles" were sold for $1 each, enlisting even the kids. Now, the center of South St. Paul is coming back to life. One high school senior even told a local historian—"I just have to thank you for giving me back my hometown."

For 41 years the national Civic League has recognized community excellence through these awards. Success stories like these, as in Bakersfield, California and Tampa, Florida, Coeur d'Alene, Idaho; Hamlet, North Carolina; Harrisburg, Pennsylvania; Abilene, Texas all are a hopeful reminder that the success of democracy depends on the resilience and capacity of citizens for self-governance, education, civic responsibility, and economic development.

We single out all 10 of these cities not because they claim to be the best cities in America—I think they're too smart or, in some instances, too modest for that—but because they represent what's best about American cities. Rather than looking for an outside solution or a quick fix, they're looking within for the answers and they're finding them.

By recognizing and unleashing the power and potential of the people themselves, they're proving that big cities can meet enormous challenges. Small towns can do very big things.

So, congratulations to all of you. You've earned the admiration of the nation. Because when people say "It can never be done," you're doing it. And when they say, "You can't get there from here," you've proved that you can. So I'm very grateful, and now if I could ask Henry and Wayne to join me here, we'd like to present this year's awards. Congratulations to all of you.●

SAMUEL S. STRATTON DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3127, a bill to designate the Veterans Affairs Medical Center in Albany, NY, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center," introduced earlier today by Senators MOYNIHAN and D'AMATO; that the bill be considered read three times; that the bill be passed; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 3127

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Department of Veterans Affairs Medical Center in Albany, New York, shall be known and designated as the "Samuel S. Stratton Department of Veterans Affairs Medical Center".

SECTION 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Department of Veterans Affairs Medical Center referred to in section 1 shall be deemed to be a reference to the "Samuel S. Stratton Department of Veterans Affairs Medical Center".

Mr. MOYNIHAN. Mr. President, it is with great sadness that I report to the Senate that one of New York's most venerated public figures of the last half-century has passed away. Samuel S. Stratton represented our State's 23d District for 30 years in the House of Representatives with vigor and honor. He was my colleague and my friend, and he will be deeply missed.

As dean of the New York delegation and chairman of the House Armed Services Procurement and Military Nuclear Systems Subcommittee, Sam watched over the world, the Nation, and his fellow New Yorkers.

Sam's record in both public service and academia are noteworthy. Born in Yonkers, NY, on September 27, 1916, Sam received his primary and secondary education in public and private schools. In 1937, he graduated from the University of Rochester, having been elected Phi Beta Kappa his junior year. He went on to receive a master of arts from Haverford College in 1938 and a master of arts from Harvard University in 1940.

During World War II, Sam served on the personal staff of Gen. Douglas MacArthur. Having been trained at the Japanese Language School in Boulder, CO, Sam spoke fluent Japanese and was the first American to interrogate Gen. Tomoyuki Yamashita, known as the Tiger of Malaya. General Yamashita became the first major World War II criminal executed in either theater. By the end of the war, Sam had received two Bronze Stars.

Sam Stratton was a true patriot, and he answered the call to again enter active duty during the Korean conflict. Sam would not complete his duty until 1976, retiring from the Naval Reserves after 34 years of military service.

Sam's public service began in Schenectady, NY. In 1950 he was elected a city councilman. In 1956 he became mayor of Schenectady, serving until he entered Congress in 1960.

In the early 1960's Sam began a passionate interest in the physical condition of the Capitol. It was greatly Sam's determination that completed the restoration of the West Front of

the Nation's Capitol in 1987. It was $20 million under budget and 9 months ahead of schedule, due in no small part to Sam's characteristic vigilance.

Mr. President, nothing was greater than Sam Stratton's deep and moving concern for our men and women in uniform. He worked mightily so that veterans would receive the care from the nation they had served.

After careful consideration and consultations with Sam's family, friends, and his dear and beloved widow Joan, I rise today to introduce a bill which will name the Department of Veterans Affairs Medical Center, located at 113 Holland Ave., Albany, NY, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center."

Sam was a warrior, but a warrior in search of peace and healing. We shall not see his like again. We have been blessed and graced with his presence. The Albany Veterans' Medical Center is worthy of his name.

Mr. President, I ask unanimous consent that the letters of support from the New York congressional delegation, the Departments of Disabled American Veterans, Veterans of Foreign Wars, and the American Legion be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE NEW YORK STATE
CONGRESSIONAL DELEGATION,
September 24, 1990.

Hon. ALAN CRANSTON,
Chairman, Senate Committee On Veterans Affairs, Washington, DC.

DEAR ALAN: As you know, many of us have been thinking of fitting ways in which to honor the memory of our mutual friend and former colleague, Samuel S. Stratton.

Sam represented New York in the Congress for 30 years. Prior to that, Sam was a City Councilman and Mayor of Schenectady, New York.

During World War II, Sam served as a Naval intelligence officer for General Douglas MacArthur and he was also called up to active duty during the Korean War. Sam Stratton was a true patriot, and throughout his tenure in the U.S. Congress, he always had a deep and special concern for our men and women in uniform. He also worked hard to ensure that our veterans received proper care following their active duty service to our country.

Therefore, the New York Congressional Delegation seeks your support to honor Sam's memory by designating the Department of Veterans' Affairs Medical Center in Albany, New York, as the "Samuel S. Stratton Department of Veterans' Affairs Medical Center."

Senators Moyhihan and D'Amato, along with Rep. Mike McNulty, plan to introduce legislation regarding this matter Tuesday morning. We have contacted our colleagues in the Delegation and have received unanimous support for this proposal.

We intend to formally ratify this effort at the New York Delegation luncheon Wednesday, September 26th. Due to the short time, we would like to move on this Tuesday, prior to the full Delegation luncheon.

We have also contacted several Congressional chartered Veterans' organizations for written support as well, and we will forward their replies to you as we receive them.

Sincerely,

Frank Horton, Chairman; Daniel Patrick Moynihan, Co-Chairman; James H. Scheuer, Vice Chairman; Alfonse M. D'Amato, Co-Chairman; Gary Ackerman; Thomas Downey; Hamilton Fish; Benjamin Gilman; George Hochbrueckner; John LaFalce; Nita M. Lowey; Raymond McGrath; Sherwood Boehlert; Eliot Engel; Floyd Flake.

William Green, Amo Houghton, Norman Lent, Thomas Manton, Matthew McHugh, Michael McNulty, Susan Molinari, Henry Nowak, William Paxon, Jose Serrano, Louise Slaughter, Gerald Solomon, James, Walsh, David Martin, Robert Mrazek, Major Owens, Charles Rangel, Charles Schumer, Stephen Solarz, Edolphus Towns, Ted Weiss.

AMERICAN LEGION
DEPARTMENT OF NEW YORK,
Albany, NY, September 21, 1990.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MOYNIHAN: Please be advised that this office is in concurrence with respect to the thoughtful gesture of changing the name of the Albany Veterans Administration Hospital in memory of Samuel Stratton. He put in many loyal years of service to his country and deserves such a memoriam.

With best regards, I am,

Sincerely yours,

RICHARD M. PEDRO,
Department Adjutant.

VETERANS OF FOREIGN WARS,
DEPARTMENT OF NEW YORK, INC.,
Albany, NY, September 27, 1990.

Senator DANIEL P. MOYNIHAN,
442 Russell Senate Office Building, Washington, DC.

DEAR SENATOR MOYNIHAN: By virtue of his unselfish commitment to veterans, duty and country; the late Hon. Sam Stratton has earned the admiration and respect of all veterans.

Therefore the Veterans of Foreign Wars, Department of New York endorses and supports the proposal that the Albany Veterans Administration Hospital be renamed in honor of Congressman Samuel Stratton.

Respectfully submitted for your consideration.

Sincerely yours,

RAY NOWAK,
State Adjutant.

DISABLED AMERICAN VETERANS,
DEPARTMENT OF NEW YORK,
Albany, NY, September 25, 1990.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MOYNIHAN: On behalf of the over 82,000 men and women of the New York State members of the Disabled American Veterans and the over 12,000 members of the Capital District, we strongly encourage and endorse the naming of the Albany, N.Y., V.A.M.C. in honor of Samuel Stratton.

Sam Stratton lived a life of honor, dedication and compassion. The albany V.A.M.C., in our opinion, is worthy of bearing the name of Sam and thus should become the Samuel Stratton V.A. Medical Center.

Sincerely,

DICK WANNEMACHER, Jr.,
Legislative Chairman, National Service Officer.

Mr. D'AMATO. Mr. President, I am pleased to join my friend and colleague, Senator MOYNIHAN, in introducing a bill to designate the Veterans Administration Medical Center in Albany, NY, as the Samuel S. Stratton Veterans Affairs Medical Center.

Sam Stratton was for many years the dean of the New York State congressional delegation. He was also an outstanding leader in promoting a strong national defense.

We can thank him for his leadership over the years as first a city councilman and later mayor of Schenectady, NY.

Sam Stratton was the embodiment of excellence in public service. I am pleased to support this legislation honoring a fine statesman and gentleman.

Thank you, Mr. President.

CONSENT TO AMENDMENTS TO THE WASHINGTON METROPOLITAN AREA TRANSIT REGULATION COMPACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 789, House Joint Resolution 520, a joint resolution granting the consent of Congress to amendments to the Washington Metropolitan Area Transit Regulation Compact.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 520) granting the consent of Congress to the Washington Metropolitan Area Transit Regulation Compact.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to the consideration of the joint resolution.

AMENDMENT NO. 2917

Mr. MITCHELL. Mr. President, I send an amendment to the desk on behalf of Senator BIDEN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. BIDEN, proposes an amendment numbered 2917.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, at the beginning of line 3, insert the following:

SECTION. 1.—CONGRESSIONAL CONSENT.

On page 33, immediately after line 10, add the following:

SEC. 2. Notwithstanding the first section of this joint resolution, the consent and approval of Congress set forth in such first section is given on the express condition that section 1 of article VIII shall not be exercised, and no amendment to the compact following the date this joint resolution becomes law shall be effective, unless Congress has first consented to and approved such amendment by a law or resolution adopted or enacted after such date.

SEC. 3. The right to alter, amend or repeal this resolution is hereby expressly reserved.

Mr. BIDEN. House Joint Resolution 520 grants congressional consent to amendments to the Washington Metropolitan Area Transit Regulation Compact. The compact amendments have been approved by the District of Columbia City Council, and the State legislatures of Maryland and Virginia. The House has approved the compact changes as has the Senate Judiciary Committee.

The original compact was consented to by Congress in 1960, creating a regional authority to regulate "for hire" transportation in the Washington area. Charter buses account for the majority of the transportation covered by the compact. The Washington subway and regularly-scheduled bus system, Metro, is not regulated or affected by this compact.

Changes to the compact will make it a more workable framework for the regional authority. Competition will be increased along routes in the compact region, and the standard of entry for the market will be changed to allow greater responsiveness to market conditions. Among other changes allowed by the compact amendments are speedier effective dates for tariffs and modified enforcement procedures. The Justice Department has reviewed the compact. I ask that a copy of the Department of Justice's views be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BIDEN. Mr. President, the amendment we are offering to the compact responds to the concerns raised by the Justice Department. The amendment clarifies issues raised during the compact amendment process.

The first portion of the amendment makes clear that amendments to the compact must be consented to affirmatively by Congress. This portion is the result of a confusing provision in the compact, one which also appeared in the 1960 compact, that proposes to allow amendments to be made without congressional approval. The amendment process called for in the compact as passed by the States is clearly a flawed one; compacts should not have practically unlimited authority to reform their basic mission and scope without congressional approval. The amendment to House Joint Resolution 520 states that no amendment to the compact can become effective without congressional approval.

The second portion of the amendment reserves Congress' right to alter, amend or repeal the resolution in the future. This addresses a point raised by the Justice Department. None of the other reservations addressed by earlier congressional action are affected by these amendments.

EXHIBIT 1

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, June 22, 1990.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for the views of the Department of Justice on H.J. Res. 520, a bill to grant the consent of Congress to amendments to the Washington Metropolitan Area Transit Regulation Compact (the "Compact"). In particular you state in your letter that, when Congress originally approved the Compact in 1960, it "consented to the compact with a number of reservations," and inquire whether similar reservations are needed in H.J. Res. 520.

Congress originally approved the Compact in Pub. L. No. 86-794, 74 Stat. 1031 (1960). Certain amendments to the Compact were approved two years later in Pub. L. No. 87-767, 76 Stat. 764 (1962), and four years after that in Pub. L. No. 89-774, 80 Stat. 1324 (1966). In all of these acts, Congress expressly reserved the right to "alter, amend, or repeal" the acts in the future. Pub. L. No. 86-794, § 7(a), 74 Stat. at 1051; Pub. L. No. 87-767, § 3, 76 Stat. at 766; Pub. L. No. 89-744, § 6(a), 80 Stat. at 1353. We assume that these provisions are the "reservations" referred to in your letter.

The only provision in the Constitution that addresses the role of the federal government in relation to a compact between States of the Union is Article I, Section 10, Clause 3, which provides in pertinent part that "No State shall, without the Consent of Congress, . . . enter into any Agreement or Compact with another State." By its terms, the Compact Clause limits the right of a State to become a party to a valid interstate compact, but does not impose any limitation on the role of the federal government in relation to such a compact. Although we are unaware of any authorities that address the issue, we doubt that, as a general matter, the federal government's authority to alter, amend, or repeal its approval of an interstate compact depends on an express reservation of such rights in the terms of the approval itself. *CF. Cuyler* v. *Adams*, 449 U.S. 433, 439-40 (1981) ("By vesting in Congress the power to grant or withhold consent, or to condition consent on the States' compliance with specified conditions the Framers sought to ensure that Congress would maintain ultimate supervisory power over cooperative state action that might otherwise interfere with the full and free exercise of federal authority.").

At least one provision of H.J. Res. 520, however, could raise a question as to whether Congress has statutorily waived its right to alter, amend, or repeal its approval of the Compact. Article VIII states in part that the Compact "may be amended from time to time without the prior consent or approval of the Congress," and that the Compact "shall be terminated at the end of the Commission's next full fiscal year" following receipt of a signatory's notice of withdrawal from the Compact. Based on this provision, it might be argued that Congress does not have the power to unilaterally amend or repeal its approval. In support of such a claim, it could also be argued that, in contrast to its predecessors, H.J. Res. 520 does not contain an express reservation of rights to Congress. Accordingly, to avoid any questions concerning Congress's intent and to reduce the risk of litigation concerning Congress's inherent constitutional authority under the Compact Clause, we recommend that Congress make an express reservation in H.J. Res. 520 of its right to alter, amend, or repeal the legislation.

Finally, we noted two spelling errors in the bill. On page 3, line 23, the word "forh" should be "forth", and on page 30, line 22, the word "provisions" should be "provision".

Sincerely,

BRUCE C. NAVARRO,
Acting Assistant Attorney General.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Delaware.

The amendment (No. 2917) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the joint resolution.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, shall the joint resolution pass?

So the joint resolution (H.J. Res. 520), as amended, was passed.

The preamble was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PERMANENT ENDOWMENT FOR THE EISENHOWER EXCHANGE FELLOWSHIP PROGRAM

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 666, S. 2017, the Eisenhower Fellowship Act.

The PRESIDING OFFICER. Without objection. The Clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2017) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Foreign Relations, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. PURPOSES.

The purposes of this Act are—

(1) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

(2) to honor Dwight D. Eisenhower for his character, courage, and patriotism, and for his leadership based on moral integrity and trust;

(3) to pay tribute to President Eisenhower's leadership in war and peace, through his diverse understanding of history, practical affairs, and the hearts of humankind;

(4) to address America's need for the best possible higher education of its young talent for a competitive world which shares a common and endangered environment;

(5) to advance the network of friendship and trust already established in President Eisenhower's name, so that it may continue to grow to the imminent challenges of the 21st century;

(6) to complete Dwight David Eisenhower's crusade to liberate the people of Europe from oppression;

(7) to deepen and expand relationships with European nations developing democracy and self-determination; and

(8) to honor President Dwight D. Eisenhower on the occasion of the centennial of his birth through permanent endowment of an established fellowship program, the Eisenhower Exchange Fellowships, to increase educational opportunities for young leaders in preparation for and enhancement of their professional careers, and advancement of peace through international understanding.

SEC. 2. EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the Eisenhower Exchange Fellowship Program Trust Fund. The fund shall consist of amounts appropriated to it by section 4 of this Act.

(b) INVESTMENT IN INTEREST BEARING OBLIGATIONS.—It shall be the duty of the Secretary to invest in full the amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purpose for which obligations of the United States may be issued under chapter 31 of title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eight of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) SALE AND REDEMPTION OF OBLIGATIONS.—Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) CREDIT TO THE FUND OF INTEREST AND PROCEEDS OF SALE OR REDEMPTION.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form part of the fund.

SEC. 3. EXPENDITURES AND AUDIT OF TRUST FUND.

(a) AUTHORIZATION OF FUNDING.—The Secretary is authorized to pay on an annual basis to Eisenhower Exchange Fellowships, Incorporated, the interest and earnings of the fund.

(b) ACCESS TO BOOKS, RECORDS, ETC. BY GENERAL ACCOUNTING OFFICE.—The activities of Eisenhower Exchange Fellowships, Incorporated, under this Act, may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by Eisenhower Exchange Fellowships, Incorporated, pertaining to such activities and necessary to facilitate the audit.

SEC. 4. AUTHORIZATION.

To provide a permanent endowment for the Eisenhower Exchange Fellowship Program, there are authorized to be appropriated to the fund—

(1) $5,000,000, plus

(2) the lesser of

(A) $2,500,000; or

(B) an amount that is equal to the amount that is obtained by Eisenhower Exchange Fellowships, Inc., from private sector sources during the 4-year period beginning on the date of enactment of this Act.

SEC. 5. USE OF INCOME ON THE ENDOWMENT.

Not less than 50 percent of the annual income on the permanent endowment provided under this Act shall be available only to assist United States fellows in traveling to and studying in emerging European democracies.

SEC. 6. ANNUAL REPORT.

Following any fiscal year in which Eisenhower Exchange Fellowshps, Inc., receives funds under this Act, it shall submit to the President and to the Congress a report of its operations under this Act.

SEC. 7. EFFECT ON STATUS.

Nothing in this Act affects the status of Eisenhower Exchange Fellowships, Inc., or contributions to Eisenhower Exchange Fellowships, Inc., under the Internal Revenue Code of 1986.

AMENDMENT NO. 2918

Mr. D'AMATO. Mr. President, on behalf of Senator DOLE, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO] for Mr. DOLE, proposes an amendment numbered 2918.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Eisenhower Exchange Fellowship Act of 1990".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

(2) to honor Dwight D. Eisenhower for his character, courage, and patriotism, and for his leadership based on moral integrity and trust;

(3) to pay tribute to President Eisenhower's leadership in war and peace, through his diverse understanding of history, practical affairs, and the hearts of humankind;

(4) to address America's need for the best possible higher education of its young talent for a competitive world which shares a common and endangered environment;

(5) to advance the network of friendship and trust already established in President Eisenhower's name, so that it may continue to grow to the imminent challenges of the 21st century;

(6) to complete Dwight David Eisenhower's crusade to liberate the people's of Europe from oppression;

(7) to deepen and expand relationships with European nations developing democracy and self-determination; and

(8) to honor President Dwight D. Eisenhower on the occasion of the centennial of his birth through permanent endowment of an established fellowship program, the Eisenhower Exchange Fellowships, to increase educational opportunities for young leaders in preparation for and enhancement of their professional careers, and advancement of peace through international understanding.

SEC. 3. EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the Eisenhower Exchange Fellowship Program Trust Fund (hereinafter in this Act referred to as the "fund"). The fund shall consist of amounts authorized to be appropriated under section 5 of this Act.

(b) INVESTMENT IN INTEREST BEARING OBLIGATIONS.—It shall be the duty of the Secretary of the Treasury to invest in full amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States

may be issued under chapter 31 of title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) SALE AND REDEMPTION OF OBLIGATIONS.—Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) CREDIT TO THE FUND OF INTEREST AND PROCEEDS OF SALE OR REDEMPTION.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

SEC. 4. EXPENDITURE AND AUDIT OF TRUST FUND.

(a) AUTHORIZATION OF FUNDING.—For each fiscal year, there is authorized to be appropriated from the fund to Eisenhower Exchange Fellowships, Incorporated, the interest and earnings of the fund.

(b) ACCESS TO BOOKS, RECORDS, ETC. BY GENERAL ACCOUNTING OFFICE.—The activities of Eisenhower Exchange Fellowships, Incorporated, may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by Eisenhower Exchange Fellowships, Incorporated, pertaining to such activities and necessary to facilitate the audit.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

To provide a permanent endowment for the Eisenhower Exchange Fellowship Program, there are authorized to be appropriated to the Eisenhower Exchange Fellowships Program Trust Fund—

(1) $5,000,000; and

(2) the lesser of—

(A) $2,500,000, or

(B) an amount equal to contributions to Eisenhower Exchange Fellowships, Incorporated, from private sector sources during the 4-year period beginning on the date of enactment of this Act.

SEC. 6. USE OF INCOME ON THE ENDOWMENT.

(a) REQUIREMENT FOR FUNDING OF UNITED STATES FELLOWS IN EMERGING EUROPEAN DEMOCRACIES.—For any fiscal year, not less than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be available only to assist United States fellows in traveling to and studying in emerging European democracies.

(b) LIMITATION ON STUDY IN UNITED STATES.—For any fiscal year, not more than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be available to assist foreign fellows in traveling to and studying in the United States.

(c) AGRICULTURAL EXCHANGE PROGRAM.—For any fiscal year, as may be determined by Eisenhower Exchange Fellowships, Incorporated, a portion of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be used to provide fellowships for agricultural exchange programs for farmers from the United States and foreign countries.

(d) PARTICIPATION BY UNITED STATES MINORITY POPULATIONS.—In order to ensure that United States fellows participating in programs of the Eisenhower Exchange Fellowships, Incorporated, are representative of the cultural, ethnic, and racial diversity of the American people, of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) which are obligated and expended for United States fellowship programs, not less than 10 percent shall be available only for participation by individuals who are representative of United States minority populations.

SEC. 7. REPORT TO CONGRESS.

For any fiscal year for which Eisenhower Exchange Fellowships, Incorporated, receives funds pursuant to section 4(a) of this Act, Eisenhower Exchange Fellowships, Incorporated, shall prepare and transmit to the President and the Congress a report of its activities for such fiscal year.

SEC. 8. EXTENSION OF AU PAIR PROGRAMS.

The United States Information Agency shall continue to implement the au pair programs designated by the Director of United States Information Agency as of July 10, 1990, until such au pair programs are authorized and implemented by another agency of the United States Government.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2918) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 2017) as amended, was passed as follows:

S. 2017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Eisenhower Exchange Fellowship Act of 1990".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

(2) to honor Dwight D. Eisenhower for his character, courage, and patriotism, and for his leadership based on moral integrity and trust;

(3) to pay tribute to President Eisenhower's leadership in war and peace, through his diverse understanding of history, practical affairs, and the hearts of humankind;

(4) to address America's need for the best possible higher education of its young talent for a competitive world which shares a common and endangered environment;

(5) to advance the network of friendship and trust already established in President Eisenhower's name, so that it may continue to grow to the imminent challenges of the 21st century;

(6) to complete Dwight David Eisenhower's crusade to liberate the people's of Europe from oppression;

(7) to deepen and expand relationships with European nations developing democracy and self-determination; and

(8) to honor President Dwight D. Eisenhower on the occasion of the centennial of his birth through permanent endowment of an established fellowship program, the Eisenhower Exchange Fellowships, to increase educational opportunities for young leaders in preparation for and enhancement of their professional careers, and advancement of peace through international understanding.

SEC. 3. EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the Eisenhower Exchange Fellowship Program Trust Fund (hereinafter in this Act referred to as the "fund"). The fund shall consist of amounts authorized to be appropriated under section 5 of this Act.

(b) INVESTMENT IN INTEREST BEARING OBLIGATIONS.—It shall be the duty of the Secretary of the Treasury to invest in full amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) SALE AND REDEMPTION OF OBLIGATIONS.—Any obligation acquired by the fund

(except special obligations issued exclusively to the fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) CREDIT TO THE FUND OF INTEREST AND PROCEEDS OF SALE OR REDEMPTION.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

SEC. 4. EXPENDITURE AND AUDIT OF TRUST FUND.

(a) AUTHORIZATION OF FUNDING.—For each fiscal year, there is authorized to be appropriated from the fund to Eisenhower Exchange Fellowships, Incorporated, the interest and earnings of the fund.

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The United States Information Agency shall continue to implement the au pair programs designated by the Director of United States Information Agency as of July 10, 1990, until such au pair programs are authorized and implemented by another agency of the United States Government.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INSPECTOR GENERAL UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, as if in executive session, I ask unanimous consent that nominations to the Offices of Inspector General, excepting the Office of Inspector General for the Central Intelligence Agency, be referred during the 101st Congress in each case to the committee having substantive jurisdiction over the Department, Agency, or entity, and if and when reported in each case, then to the Committee on Governmental Affairs for not to exceed 20 days.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to Executive Session to consider the following nominations:

Calendar 984. Brig. Gen. Paul Y. Chinen, to be a member of the Mississippi River Commission;

Calendar 985. George T. Harding IV, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences;

Calendar 986. Clarence S. Avery, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences;

Calendar 987. Gopal Sivaraj Pal, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences;

Calendar 988. Billie D. Gaines, to be a member of the National Council on the Humanities;

Calendar 989. Bruce D. Benson, to be a member of the National Council on the Humanities;

Calendar 990. Michael T. Bass, to be a member of the National Council on the Humanities;

Calendar 991. Earl R. Mandle, to be a member of the National Council on the Arts;

Calendar 992. Helen G. Crawford, to be a member of the National Council on the Humanities;

Calendar 993. Margaret P. Duckett, to be a member of the National Council on the Humanities;

Calendar 994. Henry H. Higuera, to be a member of the National Council on the Humanities;

Calendar 995. Peter Shaw, to be a member of the National Council on the Humanities;

Calendar 996. Joyce E. Tucker, to be a member of the Equal Employment Opportunity Commission;

Calendar 997. Carol K. DiPrete, to be a member of the National Commission on Libraries and Information Science; and

Calendar 998. Joan R. Challinor, to be a member of the Board of Trustees of the James Madison Memorial Fellowship Foundation.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations confirmed en bloc are as follows:

MISSISSIPPI RIVER COMMISSION

The following-named officer to a member of the Mississippi River Commission, under the provisions of section 2 of an act of Congress, approved 28 June 1879 (21 Stat. 37) (33 U.S.C. 642) to be a member of the Mississippi River Commission: Brig. Gen. Paul Y. Chinen, [redacted]. U.S. Army.

DEPARTMENT OF DEFENSE

The following-named person to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring May 1, 1995: George Tryon Harding, IV, of Ohio (reappointment).

The following-named person to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 1995: Clarence S. Avery, of California.

Gopal Sivaraj Pal, of Virginia, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring June 20, 1995.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Billie Davis Gaines, of Georgia, to be a member of the National Council on the Humanities for a term expiring January 26, 1994.

Bruce D. Benson, of Colorado, to be a member of the National Council on the Humanities for a term expiring January 26, 1996.

Michael T. Bass, of Florida, to be a member of the National Council on the Humanities for a term expiring January 26, 1994.

Earl Roger Mandle, of the District of Columbia, to be a member of the National Council on the Arts for a term expiring September 3, 1994.

Helen Gray Crawford, of Louisiana, to be a member of the National Council on the Humanities for a term expiring January 26, 1996.

Margaret P. Duckett, of Pennsylvania, to be a member of the National Council on the Humanities for a term expiring January 26, 1996.

Henry H. Higuera, of Maryland, to be a member of the National Council on the Humanities for a term expiring January 26, 1996.

Pete Shaw, of New York, to be a member of the National Council on the Humanities for a term expiring January 26, 1996.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Joyce Elaine Tucker, of Illinois, to be a member of the Equal Employment Opportunity Commission for the remainder of the term expiring July 1, 1991.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Carol K. DiPrete, of Rhode Island, to be a member of the National Commission on Libraries and Information Science for the remainder of the term expiring July 19, 1991.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

Joan R. Challinor, of the District of Columbia, to be a member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term of six years (reappointment).

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

Mr. MITCHELL. Mr. President, I thank my colleague, the acting Republican leader, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WIN SHAW RETIRES

Mr. DOLE. Mr. President, one very respected and valued official working here in the Senate complex seems to have taken all this talk about furloughs very seriously.

Col. Edward W. Shaw—Win Shaw to those of us who know him—has decided to furlough himself, permanently, on October 1. Put in pre-Gramm—Rudman terms—Win is retiring, both from his job as head of the Army's Liaison Office, and from the Army itself.

Win has headed the Liaison Office for about 4 years. During that time I have gotten to know him very well.

He has served as military escort officer on seven overseas trips I have taken, covering 36 countries. Invitably on those trips, crises—big and small—pop up. Almost always, Win's advice and cooperation are crucial in resolving the problem. On all those trips, in all those countries, in all those crises—Win Shaw has never let me down.

I must say, I do not relish the thought of having to organize and run one of these complex trips without Win there beside me. I did consider for a while putting into the budget deal we're trying to work out a provision prohibiting Win's retirement.

But if anyone, through long service and good, hard work, has earned his retirement pay—Win Shaw is the one.

In fact, he is not going to just go off fishing and enjoying life. He will be working for a major American company, helping them out with their Government relations. So, hopefully, we will continue to see Win from time to time up here on Capitol Hill.

As he makes this important change, Win Shaw takes with him best wishes from his many, many friends in the Senate; and should take with him, too, the great satisfaction of having done an important job here with great skill and dedication.

So to Win and his wife and family I certainly say thank you and best wishes.

I am happy to yield to the majority leader.

I yield to the distinguished majority leader.

Mr. MITCHELL. Mr. President, I join my friend and colleague, the Republican leader, in paying tribute to Win Shaw. Each Member of the Senate who has had the opportunity and the pleasure to meet and work with Win Shaw, recognizes his extraordinary ability, warm personality, and what I would call rock-like integrity. He has been a friend and someone with whom we have worked closely. He has been enormously helpful to all of us who have been required to participate in foreign travel.

He has been a steady, solid representative of the U.S. Army. As a former Army man myself, as I know the distinguished Republican leader is as well, we are proud of Win's service in the Army and we look forward to working with him in the future. I believe that every Member of the Senate joins me in wishing Win and Sally Shaw the very best of luck in their new lives and in Win's new career.

Mr. DOLE. I thank the distinguished majority leader.

I am happy to yield to the distinguished Senator from Maryland [MR. SARBANES].

Mr. SARBANES. Mr. President, I think I heard the minority leader say that he had considered trying to put a provision in the budget discussions prohibiting Win Shaw's retirement. I might make the observation that it may have been the only noncontroversial item in the budget discussions.

I think every Member of the Senate will miss Win Shaw tremendously. He has been of tremendous assistance to the Members of the Senate. He is a man of great integrity and great ability. He has made a major contribution to the Nation. We are sorry to see him leave.

We understand the reasons that prompt his retirement. We all join in wishing him well in his new life. We are very pleased that he is going to continue to be present in Washington and on the scene, and we will have the benefit of his counsel and friendship from time to time.

Mr. DOLE. I thank my friend from Maryland.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 a.m., tomorrow, Friday, September 28; that following the time for the two leaders there be a period for morning business not to extend beyond 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, as I indicated earlier, at 10:30 I will attempt to proceed to the cable television bill, that is calendar order No. 704, S. 1880. We are also attempting to clear the Senate for action on two other measures with respect to which I will have more to say tomorrow morning.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. MITCHELL. Seeing no other Senators seeking recognition, Mr. President, I now ask unanimous consent the Senate stand in recess as under the previous order until 10 o'clock tomorrow morning.

There being no objection, the Senate, at 8:06 p.m., recessed until tomorrow, Friday, September 28, 1990, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 27, 1990:

MISSISSIPPI RIVER COMMISSION

THE FOLLOWING NAMED OFFICER TO A MEMBER OF THE MISSISSIPPI RIVER COMMISSION, UNDER THE PROVISIONS OF SECTION 2 OF AN ACT OF CONGRESS, APPROVED JUNE 28, 1879 (21 STAT. 37) (33 USC 642):

To be a member of the Mississippi River Commission

BRIG. GEN. PAUL Y. CHINEN, 575-34-7377, U.S. ARMY

DEPARTMENT OF DEFENSE

THE FOLLOWING-NAMED PERSON TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING MAY 1, 1995.

GEORGE TRYON HARDING IV, OF OHIO.

THE FOLLOWING-NAMED PERSON TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 1995:

CLARENCE S. AVERY, OF CALIFORNIA.

GOPAL SIVARAJ PAL, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING JUNE 20, 1995.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

BILLIE DAVIS GAINES, OF GEORGIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1994.

BRUCE D. BENSON, OF COLORADO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1996.

MICHAEL T. BASS, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1994.

EARL ROGER MANDLE, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1994.

HELEN GRAY CRAWFORD, OF LOUISIANA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1996.

MARGARET P. DUCKETT, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1996.

HENRY H. HIGUERA, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1996.

PETER SHAW, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1996.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

JOYCE ELAINE TUCKER, OF ILLINOIS, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JULY 1, 1991.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

CAROL K. DIPRETE, OF RHODE ISLAND, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR THE REMAINDER OF THE TERM EXPIRING JULY 19, 1991.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

JOAN R. CHALLINOR, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM OF 6 YEARS.

EXTENSIONS OF REMARKS

RECOGNIZING ALENE AND CHARLIE MEYERS FOR THEIR SERVICE TO MERCY HIGH SCHOOL

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Ms. PELOSI. Mr. Speaker, I rise today to pay tribute to two people who are very important to San Francisco, as well as to Mercy High School. On Saturday, September 29, 1990, Mercy High School in San Francisco will be honoring Alene and Charlie Meyers for their support of the school.

Charlie and Alene Meyers can always be counted on to get the job done, as Mercy High School well knows. For 19 years, since their first daughter enrolled, they have stood ready to help with any project, any cause, that would enable the Sisters of Mercy to give young women an education grounded in the values of the church.

Alene and Charlie exemplify the service and selflessness that Mercy girls are taught to hold dear. Reaching out is their life. Gentle is their touch.

Alene Aviani Meyers is a Mercy girl herself, in the original sense—born at St. Mary's Hospital, under the tender care of the Mercy Sisters. From St. Anne's School and Lincoln High School, she went on to get her R.N. degree from St. Joseph's Hospital, college of nursing.

One of her earliest jobs was working with mentally disturbed children at the University of California, San Francisco's Langley Porter Clinic. Then came a long period of time helping Charlie during his legislative career. Since 1974, she has worked to develop model nursing care for more than a thousand frail and elderly patients at Laguna Honda Hospital.

Married in 1951, Charlie and Alene have two daughters, Charlene Hansen and Geraldine, and a son, Charles "Chip", Jr. Charlene Hansen, married to David, and Geraldine are both Mercy High School graduates. Charles, Jr. graduated from Saint Ignatius College Preparatory and is married to Linda. Charlie and Alene have three grandchildren: Lisa, Shelly, and Kevin Hansen.

Charlie Meyers is a legend. He was the assemblyman representing San Francisco's 19th District in Sacramento for 20 years. A San Francisco native and a graduate of Sacred Heart High School, he attended the University of San Francisco prior to service in the U.S. Army during World War II. He was 25 when first elected in 1948, the assembly's youngest member. His imprint is upon laws of lasting benefit to the State, the region, and the people of California: To stem bay pollution, to halt filling-in of the tidelands, and to keep local control over highway allocations. He promoted regulation of automotive repair and the elimination of discrimination against older workers.

Upon return to private life, Charlie became more visible than ever in public relations, with Alessandro Baccari & Associates; and as a consultant on local, State and national legislation, he attends countless meetings on issues of community and wider concern. That's when he's not comforting someone beset with problems or consoling the bereaved.

I am proud to salute Alene and Charlie Meyers as they are honored for their continued support and dedication to Mercy High School and to San Francisco.

TRIBUTE TO HON. J. JOSEPH GARRAHY

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate the Honorable J. Joseph Garrahy who is being recognized by the Hospital Association of Rhode Island and will receive their Distinguished Service Award.

Eighteen years ago, the association's Distinguished Service Award was instituted to honor and recognize individuals who have made personal achievements in and/or contributions to health care and the health of the people of Rhode Island. Governor Garrahy has consistently demonstrated exemplary job performance which has had a positive effect on hospital operations.

For 30 years, Governor Garrahy has labored to improve Rhode Island's health care system. Throughout his life, as a public figure and private citizen, Governor Garrahy's commitment has been unwaivering.

The impact that Governor Garrahy has made in the health care field has been very beneficial not only to those within the hospital administration, but to those receiving the health care. The significance of this is far reaching and is deserving of public attention. Rhode Island, as well as the rest of the Nation, will benefit if people look up to J. Joseph Garrahy and the other recipients of the award for hospital excellence. The leadership and talent of these individuals is admirable.

It is with great pleasure that I salute Governor Garrahy for his outstanding achievements. I wish him continued success in the future.

TRIBUTE TO HON. SAMUEL S. STRATTON

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. RANGEL. Mr. Speaker, today would have been the 74th birthday of the late Hon. Samuel S. Stratton, who passed away September 13, 1990. His death is a loss to all Americans. Few individuals can match Mr. Stratton's commitment to preserving the greatness of the United States of America. A 15-term Democratic Congressman from New York, Mr. Stratton represented the Albany, Schenectady, and Troy areas for 30 years and was a longtime member of the House Armed Services Committee.

His extraordinary devotion to the U.S. armed services dates back to World War II. He served in the Southwest Pacific Theater as a combat intelligence officer on Gen. Douglas MacArthur's staff and he was twice awarded the Bronze Star Medal with combat V.

Mr. Stratton's personal experience in the armed services motivated the deep commitment to national defense that he exhibited during his years in the House of Representatives. I would especially like to draw attention to his positive and lasting influence on testable arms control agreements, the strengthening of the NATO Alliance, the preservation of the naval petroleum reserves and the Military Medical School, the modernization of the Guard and Reserve Forces, military compensation and flight pay, military retirement, medical care, and military justice. While I often disagreed with him about military issues, I have the utmost respect for his commitment and dedication to a powerful military and strong defense.

Although Mr. Stratton may be best remembered for his support of a strong military, he was also on the forefront in other areas. Among his most noteworthy efforts was his fight for the admission of women into the Nation's service academies. Despite strong opposition from the Pentagon and other leaders, Mr. Stratton's struggle to admit women resulted in the most historic personnel policy changes at each of the academies since their founding.

Born in Yonkers, NY, Mr. Stratton attended the public schools of Schenectady and Rochester, NY, and Blair Academy, Blairstown, NJ. He graduated from the University of Rochester in 1937 and he held master's degrees in philosophy from Haverford (PA) College and Harvard University.

Mr. Stratton began his political career as a city councilman in Schenectady. In 1955, he was elected mayor and he fulfilled campaign promises by cleaning up the city's corruption and gambling problems. In 1958, he was

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

elected to the House, becoming the only Democrat in 42 years to win what was then the 32d Congressional District. In 1988, he announced that his failing health prevented him from running for his 16th term.

Mr. Stratton served as a model to all aspiring and senior politicians alike. As one of the few Democratic Congressmen from upstate New York during the 1960's, Mr. Stratton's energy and perseverance enabled him to repeatedly thwart the efforts to unseat him. Finally, in January 1979, he became the dean of the New York delegation.

As a public servant, Mr. Stratton served his constituents as a good physician treats his patients. He responded quickly to their needs and his honesty and intelligence won their respect. As my colleague, Mr. MICHAEL MCNULTY of New York said of Mr. Stratton's death, "He wrote the book on constituent service."

Mr. Stratton will be remembered by his colleagues as a man of principle and courage. He argued, sometimes against the entire Congress, for what he believed to be in the best interest of the United States. Democrats and Republicans alike respected his intelligence and integrity.

Although we will miss the energy and knowledge of the Honorable Samuel S. Stratton, his leadership and political prowess will be emulated for years to come.

Mr. Stratton is survived by his wife, Joan, three daughters, Lisa Gonzalez, Debra Stratton Mott, and Kim Petrie, and two sons, Kevin and Brian.

TRIBUTE TO ELLEN D'ABATE

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Ellen D'Abate who is being recognized by the Hospital Association of Rhode Island and will receive their Distinguished Service Award.

Eighteen years ago, the association's Distinguished Service Award was instituted to honor and recognize individuals who have made personal achievements in and/or contributions to health care and the health of the people of Rhode Island. Ellen D'Abate has consistently demonstrated exemplary job performance which has had a positive effect on hospital operations.

Ellen has labored to improve Rhode Island's health care system. As a computer operator, Ellen has patiently calmed computer users in their misunderstanding of the hospital's computer system. Frequently, she will stop what she is doing just to escort a lost and confused patient to his or her destination. Often she will assist other data processing employees when their workloads get beyond them. Her extra efforts have made a difference to those in the environment around her and ultimately improving service to the patients.

The impact that Ellen D'Abate has made in the health care field has been very beneficial not only to those within the hospital administration, but to those receiving the health care. The significance of this is far reaching and is deserving of public attention. Rhode Island, as well as the rest of the Nation, will benefit if people look up to Ellen D'Abate and the other recipients of the award for hospital excellence. The leadership and talent of these individuals is admirable.

It is with great pleasure that I salute Ellen J. D'Abate for her outstanding achievements. I wish her continued success in the future.

WORLD MARITIME DAY OBSERVANCE

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. JONES of North Carolina. Mr. Speaker, today has been deemed "World Maritime Day" by the International Maritime Organization [IMO] and the theme for this year's observance is "Cleaner Oceans: The Role of the IMO in the 1990s."

This year's theme is especially appropriate for the United States as we have just completed a 15-year-long congressional struggle to enact a maritime oil pollution law.

This new law, the Oil Pollution Act, is the latest in what I believe is an impressive record of significant marine environmental protection laws which have been developed in the Merchant Marine and Fisheries Committee and approved by this Congress.

The quest for cleaner oceans has led us to enact laws prohibiting the ocean dumping of sewage sludge and the disposal of plastics and medical wastes at sea. In search of cleaner oceans we have adopted major coastal management initiatives, and are working on new legislation to improve coastal water quality.

But the health of our oceans is not, and cannot be, a purely domestic U.S. concern. The oceans are a global resource and solutions to their problems must be managed on a global level. Thus, we turn to the International Maritime Organization which can serve as the catalyst for identifying and correcting the actions which have brought about the degradation of our oceans.

I applaud the IMO and its dedication to this cause and would like to enter into the RECORD at this point a message from Mr. W.A. O'Neil, the Secretary-General of the IMO, on the occasion of World Maritime Day:

WORLD MARITIME DAY 1990

CLEANER OCEANS: THE ROLE OF IMO IN THE 1990S

(A message from the Secretary-General of the International Maritime Organization, Mr. W.A. O'Neil)

It is indeed a pleasure, in my first year of office as Secretary-General of the International Maritime Organization, to extend my greeting to all members of the world maritime community on the occasion of World Maritime Day 1990, which is dedicated to the theme of "Cleaner Oceans: the Role of IMO in the 1990s."

During the first thirty years of its existence, IMO had two major objectives: the promotion of the safety of international shipping and the prevention of pollution from ships. Maritime safety, and especially the safety of life at sea, has rightly been regarded as the more important of the two. Appropriately enough, the title of the most important treaty adopted under the auspices of IMO is the International Convention for the Safety of Life at Sea, commonly referred to as SOLAS.

But although maritime safety remains the principal objective of IMO, the Organization has from its very inception placed increasing emphasis on the prevention of environmental pollution. Even before concern with the condition of the global environment became widespread, IMO had undertaken modest but practical steps to eliminate or at least reduce pollution of the seas by substances carried in ships.

Along with other agencies and bodies of the United Nations system, IMO is now fully involved in the international campaign to halt, and, if possible, reverse the degradation of the environment and the global ecology. The Organization and its Member States recognize the extreme seriousness of the problem and urgency of radical remedial action.

Every week it seems that new evidence emerges about acid rain, the diminishing of the ozone layer, the greenhouse effect and other threats. They are now very real and not simply the over-dramatic forecasts of the professional prophets of doom.

The evidence also indicates that so much damage has already been done that sustained recovery can only be made through international action on a virtually unpecedented scale. Much of this effort will be coordinated through the United Nations—the United Nations Conference on Environment and Development in 1992 will be a major event—but specialized agencies such as IMO also have a very important part to play.

Figures issued earlier this year in a United Nations report on the state of the marine environment indicate that about 12% of marine pollution results from maritime transportation and a further 10% from the dumping by ship of land-generated wastes. These are the two areas in which IMO has responsibility, and in which it has achieved a measure of success. The two main treaties dealing with marine pollution—MARPOL 73/78, which controls pollution from ships, and London Dumping Convention, which regulates dumping into the sea of material derived from land-based operations—have both had a significant impact.

Studies carried out in the United States indicate that some 1.5 million tonnes of oil gets into the sea each year as a result of shipping operations. But without IMO that figure would have been a great deal worse. The United Nations report to which I referred earlier estimates that the measures taken in IMO have prevented as much as 10 million tons of oil being disposed of into the sea each year from tank-cleaning and ballasting operations.

The London Dumping Convention has also been very effective. The United Nations report states that the dumping into the sea of various wastes such as sewage sludge has decreased since the convention entered into force and the dumping of other substances is being subjected to increasingly rigorous controls. It is perhaps worth mentioning that MARPOL and the London Dumping Convention are the only conventions now in force which deal with environmental protection on a global scale.

These successes are encouraging, because they show that, if the incentives are there and a spirit of goodwill and compromise prevails, a great deal can be achieved. It is true

that much more still needs to be done to restore the oceans to health but, despite the difficulties involved, I believe that the omens for success are good.

In the first place, the world political climate is more relaxed than it has been for many years. Many of the old political groupings have disappeared and with them the suspicions that had hindered progress in the past. Instead of division and discord the trend is towards unity and co-operation.

In the second place, nobody now is in any doubt that the environmental threat is a real one. There is also general acceptance that are likely consequences of inaction would be catastrophic and this must provide a powerful incentive for really serious action by Governments and individuals alike.

IMO is already playing a significant part in this world-wide effort. The use on ships of certain gases that damage the ozone layer has been banned, and the Organization is looking at ways of reducing still further the pollution of the atmosphere from shipping operations. Incineration at sea—a controversial way of disposing of particularly harmful substances—could be ended within a few years. Further improvements have been made to the MARPOL Convention. In November, IMO will convene a diplomatic conference to adopt a new convention on oil pollution preparedness and response. The purpose of this new treaty will be to increase the ability of the countries of the world to deal with major pollution incidents through the sharing of information, expertise and equipment.

To ensure that these and other measures developed over the years are implemented as widely as possible, IMO has this year initiated a global programme for the protection of the marine environment. Its primary purpose is to enhance the capacity of developing countries to fight marine pollution from ships and control the disposal at sea of wastes. The programme will initially run for three years and will make a major contribution to international efforts to protect the oceans.

These and other measures will enhance the ability of IMO and its Member States in all regions of the world to prevent marine pollution. But nobody is under any illusion that the future will be easy. The shipping industry is undergoing great changes now and change always creates uncertainty. IMO and the world maritime community must be ready and willing to adopt new measures which may be necesary to cope with the changes which may occur. Furthermore the measures already adopted need to be enforced rigorously if they are to be effective. More effort needs to be devoted to this aspect. For example, there is still concern about the lack of reception facilities for wastes in many ports. If this is not remedied, it will be difficult to implement MARPOL effectively. Finally, the world tanker fleet is aging, and older ships are more liable to accidents and breakdowns than new ones. It is important that the retention in service of older ships does not lead to an increase of pollution incidents in the future.

These concerns should be borne in mind—but the lesson of recent years remains one of optimism. Through genuine international co-operation and partnership much has been achieved so far in the fight for the health of the oceans. I am convinced that even more can be accomplished in the future, and I am determined that IMO shall play its full role in promoting co-operation in the areas of its competence and interest.

INTRODUCTION OF THE PETROLEUM PRODUCERS BURDEN SHARING ACT OF 1990

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. CONTE. Mr. Speaker, I rise today to introduce the Petroleum Producers Burden Sharing Act of 1990.

The crisis in the Middle East has hit the United States and the world economy hard, and as a result we have asked many individuals in this country and nations around the world to share in the burden this crisis has created. American consumers hit hard at the pump only days after the invasion of Kuwait are paying huge increases in gasoline prices and tremendous jumps in home heating oil prices, even before the cold weather arrives. We have asked hundreds of thousands of families throughout the country to make personal sacrifices by sending their daughters, sons, mothers, and fathers to the Persian Gulf area. Right now, about 150,000 military service personnel are stationed in the region, risking their lives for our national and economic security.

And other nations are sharing in the burden as well. In support of the international military effort to restrain Saddam Hussein, the Egyptians have stationed 5,000 troops in the region; the French pledged to send 13,000 men to the area along with several ships; the British dispatched several thousand soldiers and an air squadron to the gulf; the Italians pledged eight Tornado fighters and a frigate; the Canadians will send a squadron of CF-18 jets, and even Bangladesh—one of the poorest countries in the world—has committed 2,000 troops to this peace effort. And the list of countries goes on and on.

Direct financial assistance is also expected from many sources, including $12 billion from gulf states [Kuwait, Saudi Arabia, and United Arab Emirates]; $4 billion from Japan; $2 billion from Germany; $2 billion from the European Community, and another $2 billion from other sources. The State Department estimates that total pledges to date amount to $22 billion from several countries around the world.

This bill, which I am introducing today, will extend this burden-sharing principle to domestic oil companies, who are enjoying a tremendous windfall from the sharp and dramatic rise in oil prices due to this crisis. Estimates are preliminary, but the Congressional Research Service has predicted that windfalls to domestic oil companies could be as high as $50 billion annually, based on a sustained price increase. That's gravy on the plates of Big Oil at the expense of American consumers. And that's on top of healthy profits in the previous years that amounted to billions and billions of dollars.

The Petroleum Producers Burden Sharing Act of 1990 would impose an excise tax on the windfall profits enjoyed by oil companies. The amount of the tax is 90 percent of the windfall profit on each barrel of crude oil, and that windfall is determined as the excess of the gross profit of the producer or importer from the barrel over the producer's or importer's average gross profit from crude oil during the 4-month period ending July 31, 1990, the period just before the Iraqi invasion. The tax would be in effect for 1 year, with the President given the authority to extend the tax for an additional 6 months. An additional extension of 1 year is authorized if the President determines that a continuing energy price crisis exists in the United States.

This tax is not regressive like a levy on gasoline or home heating oil, and unlike those taxes, it does not get passed through to the consumers. Because the price of oil is determined on the world market, it would not be economical for oil companies to raise the price of domestic oil to recover the tax. They would have no market for their oil in that case.

The revenues from this windfall profits tax would be used primarily to reduce the deficit, to make room for increased defense spending due to Operation Desert Shield and ease the burden on other domestic discretionary programs. In addition, one third of the revenues generated are earmarked for low income energy programs. The bill allocates seven-eighths of the funds for the Low Income Home Energy Assistance Program [LIHEAP], a program that assists low income people pay energy bills, and one-eighth for the Low Income Weatherization Program, an Energy Department program that provides low income families with the resources necessary to improve the energy efficiency of their homes, thereby reducing energy costs.

These programs are absolute necessities for millions and millions of poor people around the country. And sharp increases in energy prices pose a special threat to low-income elderly because they spend four times as much of their income on energy costs as do other households. When energy prices escalate, like they did yesterday when crude oil prices rose to $38 per barrel, these low-income individuals and families, living at edge on fixed incomes are forced to cut back on other needed household expenditures to pay the heating bills. They just have no other choice.

The Petroleum Producers Burden Sharing Act of 1990 would ask the oil companies of this Nation to share in the burden of reducing the deficit, paying for Operation Desert Shield and easing the pain experienced by low income people. It is the least that we can ask these companies, with billion dollar profit margins, to contribute to this crisis. Others are pledging their lives to protect these profits, and we should ask nothing less than a financial contribution from Big Oil.

In our free enterprise system, profits in the regular course of business are expected and encouraged. Windfall profits generated by an international crisis and price gouging at the expense of consumers are intolerable and should be taxed.

Mr. Speaker, I ask all my colleagues to join me in cosponsoring this legislation, and I hope that it is included in any revenue generating measures adopted as part of the deficit reduction agreement.

PETROLEUM PRODUCERS BURDEN SHARING ACT OF 1990

Impose excise tax on windfall profit from crude oil sold by producer or importer.

Amount of tax is 90 percent of windfall profit on each barrel.

Windfall profit determined as the excess of the gross profit of the producer or importer from the barrel over the producer's or importer's average gross profit from the crude oil during the four-month period ending July 31, 1990.

Gross profit is determined by the price at which the crude oil is sold by producer or importer over the cost of production of crude oil (or in case of imported crude oil, the cost of crude oil to importer).

Special rules for person both producer and importer; for person not making significant sales during reference period used to determine average gross profits; and for fraction of barrel.

New "Low Income Energy Support Trust Fund" established to fund Low Income Home Energy Assistance Program (LIHEAP) and the DOE low income weatherization program (LIWP); financed using 33 percent of the revenues generated from imposition of excise tax on windfall profits.

Trust funds allocated, without further appropriation, as follows: ⅞th to LIHEP and ⅛th to LIWP. Trust funds must be used to supplement regular appropriations, not to supplant. No funds available until direct appropriations reach certain statutory level, indexed to inflation.

Effective date: sales made after date of enactment.

Termination date: One year after enactment, with six month extension by the President. Additional one year extension if the President determines an energy price crisis continues to exist.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Petroleum Producers Burden Sharing Act of 1990".

SEC. 2. IMPOSITION OF WINDFALL PROFIT TAX.

(a) GENERAL RULE.—Subtitle D of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by adding at the end the following new chapter:

"CHAPTER 48—WINDFALL PROFIT TAX ON CRUDE OIL

"Sec. 5000A. Imposition of tax.
"Sec. 5000B. Amount of tax.
"Sec. 5000C. Termination of tax.
"Sec. 5000D. Other definitions.

"SEC. 5000A. IMPOSITION OF TAX.

"(a) GENERAL RULE.—An excise tax is hereby imposed on the windfall profit from crude oil sold by the producer or importer thereof during each taxable period.

"(b) TAX PAID BY PRODUCER OR IMPORTER.—The tax imposed by subsection (a) shall be paid by the producer or importer of the crude oil.

"SEC. 5000B. AMOUNT OF TAX.

"(a) GENERAL RULE.—The amount of tax imposed by section 5000A with respect to any barrel of crude oil shall be 90 percent of the windfall profit on such barrel.

"(b) WINDFALL PROFIT.—For purposes of this section—

"(1) IN GENERAL.—The term 'windfall profit' means the excess of—

"(A) the gross profit of the producer or importer from the barrel, over

"(B) the producer's or importer's average gross profit per barrel from crude oil sold during the 4-month period ending on July 31, 1990.

"(2) GROSS PROFIT.—The term 'gross profit' means the excess of—

"(A) the price at which the crude oil is sold by the producer or importer, over

"(B) the cost of the production of the crude oil (or, in the case of imported crude oil, the cost of the crude oil to the importer).

"(3) SALES BETWEEN RELATED PERSONS.—In the case of a sale between related persons (within the meaning of section 144(a)(3)), the price at which the crude oil is sold shall be not less than the fair market value of such oil as determined by the Secretary.

"(4) SPECIAL RULES IN DETERMINING AVERAGE GROSS PROFIT.—

"(A) If any person is both a producer and importer of crude oil, the average gross profit referred to in paragraph (1)(B) of such person shall be determined separately with respect to crude produced by such person and crude oil imported by such person.

"(B) If any person did not make significant sales during the period referred to in paragraph (1)(B) of crude oil produced or imported by such person, the average gross profit referred to in such paragraph shall be the amount determined by the Secretary on the basis of the national average gross profit on crude oil sold by producers or importers (as the case may be) during such period.

"(c) FRACTIONAL PART OF BARREL.—In the case of a fraction of a barrel, the tax imposed by section 5000A shall be the same fraction of the amount of such tax imposed on the whole barrel.

"(d) DEPOSITORY REQUIREMENTS.—Deposits of any person's estimated liability for tax under this chapter shall be made twice a month.

"SEC. 5000C. TERMINATION OF TAX.

"(a) IN GENERAL.—Except as provided in subsection (c), no tax shall be imposed by this chapter with respect to crude oil sold after the termination date.

"(b) TERMINATION DATE.—For purposes of subsection (a), the term 'termination date' means—

"(1) the expiration of the 1st 4 calendar quarters beginning after the date of the enactment of this chapter, or

"(2) the expiration of the 1st 6 such calendar quarters, if the President determines on or before the date set forth in paragraph (1) that a continuing energy price crisis exists in the United States.

"(c) EXCEPTION.—If, at any time following the termination date determined under subsection (b), the President determines that a continuing energy price crisis exists in the United States, the tax imposed by this chapter shall apply to crude oil sold during the 1st 4 calendar quarters beginning after the date of such determination.

"SEC. 5000D. OTHER DEFINITIONS.

"For purposes of this chapter—

"(1) TAXABLE PERIOD.—The term 'taxable period' means each calendar quarter beginning after the date of the enactment of this chapter.

"(2) BARREL.—The term 'barrel' means 42 United States gallons."

(b) CLERICAL AMENDMENT.—The table of chapters for such subtitle D is amended by adding at the end the following new item:

"Chapter 48. Windfall profit tax on crude oil."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales in calendar quarters beginning after the date of the enactment of this Act.

(2) TIME FOR PAYMENT.—The time for the payment of any tax imposed by chapter 48 of the Internal Revenue Code of 1986 (as added by this section) shall not expire before the day 30 days after the date of the enactment of this Act.

SEC. 3. LOW INCOME ENERGY SUPPORT TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9511. LOW INCOME ENERGY SUPPORT TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Low Income Energy Support Trust Fund', consisting of any amount appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Low Income Energy Support Trust Fund amounts equivalent to 33 percent of the taxes received in the Treasury under chapter 48 (relating to windfall profit tax on crude oil). Amounts shall be made available and apportioned to the Trust Fund on a quarterly basis.

"(c) EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—Amounts in the Low Income Energy Support Trust Fund shall be available for—

"(A) the grant program under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.), to be distributed on the same basis as directly appropriated funds, and

"(B) the weatherization program under part A of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6861 et seq.).

"(2) ALLOCATION.—Of the amount appropriated or credited to the Low Income Energy Support Trust Fund for each quarter—

"(A) ⅞ shall be made available, without further appropriation, to the Secretary of Health and Human Services for the program described in paragraph (a)(A), and

"(B) ⅛ shall be made available, without further appropriation, to the Secretary of Energy for the program described in paragraph (1)(B).

"(d) LIMITATIONS.—

"(1) TREATMENT OF FUNDS AS SUPPLEMENTAL.—Any amount made available under subsection (c) shall be used to supplement, and not supplant, funds otherwise available for the programs described in paragraph (1) of such subsection.

"(2) MINIMUM DIRECT APPROPRIATIONS.—

"(A) IN GENERAL.—No amount may be made available from the Low Income Energy Support Trust Fund in any fiscal year unless—

"(i) $1,500,000,000 is directly appropriated for such fiscal year for the program described in subsection (c)(1)(A), and

"(ii) $200,000,000 is directly appropriated for such fiscal year for the program described in subsection (c)(1)(B).

"(B) INFLATION ADJUSTMENT.—

"(i) IN GENERAL.—In the case of fiscal year 1992 and each succeeding fiscal year, each dollar amount contained in subparagraph (A) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the inflation adjustment determined under clause (ii).

"(ii) INFLATION ADJUSTMENT.—For purposes of clause (i), the inflation adjustment of any fiscal year is the percentage by which—

"(I) the implicit price deflator for the gross national product for the preceding fiscal year, exceeds

"(II) such deflator for fiscal year 1990."

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end the following new item:

"Sec. 9511. Low Income Energy Support Trust Fund".

TRIBUTE TO RONALD McMAHON

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Ronald McMahon who is being recognized by the Hospital Association of Rhode Island and will receive their Distinguished Service Award.

Eighteen years ago, the association's Distinguished Service Award was instituted to honor and recognize individuals who have made personal achievements in and/or contributions to health care and the health of the people of Rhode Island. Ronald McMahon has consistently demonstrated exemplary job performance which has had a positive effect on hospital operations.

Ronald has labored to improve Rhode Island's health care system. As chief ultrasound technologist, Ronald has worked diligently to provide physicians with the necessary information for diagnosis. At the same time, he comforts patients who are anxious and concerned about their tests. He is recognized by his colleagues as a truly caring professional.

The impact that Ronald McMahon has made in the health care field has been very beneficial not only to those within the hospital administration, but to those receiving the health care. The significance of this is far reaching and is deserving of public attention. Rhode Island, as well as the rest of the Nation, will benefit if people look up to Ronald McMahon and the other recipients of the award for hospital excellence. The leadership and talent of these individuals is admirable.

It is with great pleasure that I salute Ronald McMahon for his outstanding achievements. I wish him continued success in the future.

IN HONOR OF DR. WILLEM KOLFF

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. OWENS of Utah. Mr. Speaker, I rise today to honor Dr. Willem Kolff, an internationally respected physician at the University of Utah, who was recognized by Life magazine earlier this month as one of the 100 most important Americans of the 20th century. He is one of only 21 that survive. He is also a very close friend of mine and I am happy to say a resident of Salt Lake City.

Many will recall Dr. Kolff as the man who kept Barney Clark alive with an artificial heart for 112 days in 1982. That moment in medical history has captured our imaginations as we watched a man retain his zeal for life, his humor and love of family while a man-made pump circulated blood through his body. This remarkable development in medical technology has given hope to millions around the world who live with congenital defects or heart diseases.

However, what you may not know is that Dr. Kolff has had a long history in developing artificial parts for the human body. Dr. Kolff is the inventor of the first clinically useful artificial kidney, which he developed during the Nazi occupation of the Netherlands. During the war, he was treating a patient whose kidney could no longer filter waste, so he crafted a small electric motor, 65 feet of cellophane tubing, a wooden drum and an enamel tub filled with salt water into the first hemodialysis machine. The artificial kidney saved its first patient in 1945. Today, there are more than 450,000 patients around the world sustained by Dr. Kolff's creation.

And there was more. After moving to the United States, Dr. Kolff invented the intra-aortic balloon pump in 1961. That 30-year-old invention is still being used by 200,000 Americans. In 1967, Dr. Kolff moved to Salt Lake City and became the director of the Institute for Biomedical Engineering at the University of Utah. During the intervening 23 years he has built one of the most prestigious medical research facilities in the world and the leading institution in artificial organ research. Dr. Kolff and his colleagues have also done work with artificial hearing, artificial sight and artificial arms.

Dr. Kolff's awards and honors are numerous. They include the Cameron Prize from the University of Edinburgh, the Harvey Prize of Technion and the Japan Prize. He holds 12 honorary doctorates. But honors are only the result of a life long commitment to making bionics an integral part of everyday life and how we view future medical and technology innovations.

Even today, 4 years after he transferred his directorship of the Institute to his close colleague, Dr. Don Olsen, Dr. Kolff is still hard at work with a cadre of young researchers exploring new techniques on improving the current artificial heart and valve technology.

I ask for unanimous consent to insert into the RECORD an editorial from the Salt Lake City Tribune honoring Dr. Kolff and his contributions to science. Dr. Kolff is also very active politically, aggressively pursuing his ideas for decreased deficit spending and increased concentration on world peace issues. I am very proud to call him my friend. To Dr. Kolff and the Institute, I rise in tribute and gratitude.

WELL DONE, DR. KOLFF

Dr. Willem J. Kolff has devoted much of his life to melding the human body and the machine in the most profound of ways, but the thrust of his work always has been humanity, not mechanics.

When prestigious scientific, academic and humanitarian institutions bestow honors on Dr. Kolff—and he has received honors beyond counting—they do so because the work of this pioneer in the field of artificial human organs has improved the lives of so many.

LIFE magazine is among the latest organizations to call attention to Dr. Kolff's scientific and humanitarian achievements. In naming him one of the 100 most important Americans of the 20th century, the magazine reminded its readers that some 300,000 patients today rely on some version of the artificial kidney Dr. Kolff first developed in the early 1940s.

The good doctor also has had a hand in creating the heart-lung machine, the intra-aortic balloon pump (used to assist in maintaining and restoring heart rhythm) and artificial eyes, ears, skin, arms, blood vessels and hearts.

Though he "retired" in 1986 as director of the Institute for Biomedical Engineering and director of the Division of Artificial Organs at the University of Utah, where he has worked since 1967, Dr. Kolff is hardly inactive today. Just this month the Netherlands Heart Foundation recognized the Kolff Laboratory with a $2,500 scholarship that will help support work on the artificial heart in Utah by Dutch students.

Though he came to the United States from Europe in 1949 and has been an American citizen since 1956, Dr. Kolff must take particular satisfaction in this latest recognition from and association with The Netherlands, the country of his birth.

The doctor has told interviewers that the goal of bionics should be to make life happier, not prolong misery. And, he believes that "if man knows the structure and function of one of the parts of the body, he should be able to build it."

As he has for much of his life, Dr. Kolff continues working to those ends and inspiring others to do the same.

BOYS CLUBS OF AMERICA

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MICHEL. Mr. Speaker, Boys Clubs and Boys and Girls Clubs have been one of the great voluntary efforts in our history. As President Bush has written:

Through its outstanding work over the years, Boys Clubs of America has earned a reputation for excellence. The success stories of young men and women who have participated in the Clubs are as numerous as they are inspirational.

At this point, in order to give some idea of the Boys Clubs' great work, I wish to insert in the RECORD sections of the 1989 annual report: "To Our Volunteers and Contributors" and "Saving Lives and Building Futures."

TO OUR VOLUNTEERS AND CONTRIBUTORS

Boys Clubs of America completed an outstanding year of growth and accomplishment in 1989, as we passed the mid-point of our OUTREACH '91 five-year plan. We continued to lead the Boys & Girls Clubs Movement in this ambitious effort to help more of America's disadvantaged young people benefit from the most relevant and effective programs and services possible.

To foster growth, Boys Clubs of America chartered 83 new Clubs in 1989. Fourteen new Clubs were opened in public housing facilities where the problems of crime and

drug abuse place young people at greatest risk.

Exciting programs attract young people to Clubs and promote the retention of members. BCA's Commitment to Quality program, modeled after quality improvement programs in business and industry, is helping Clubs evaluate their core programs, establish annual improvement objectives and develop action plans. A total of 340 Clubs now are participating in Commitment to Quality.

The pervasive problems of substance abuse, teenage pregnancy and juvenile delinquency continued to be a major focus throughout the year. A total of 875 professionals, parents and youth leaders from 238 Clubs have been trained to implement Smart Moves, BCA's alcohol, drug and pregnancy prevention program. Boys Clubs of America, in a dynamic collaboration with the Federal Bureau of Investigation, trained 58 FBI agents to work with Clubs on a project that will reduce the demand for drugs among young people.

The U.S. Office of Juvenile Justice and Deliquency Prevention provided a major grant to launch a youth-gang prevention and intervention project. BCA's successful Targeted Outreach program is being re-directed toward the development, field-testing and replication of effective strategies to intervene and prevent gang involvement among at-risk youth. Executive directors and Board volunteers from 25 large urban Clubs met with sociologists, psychologists and crime-prevention specialists in Washington, D.C. to discuss urban youth violence and formulate prevention strategies.

At seven Program Institutes, underwritten by Exxon Corporation, 583 program professionals improved their ability to deliver effective program services for young people. Evaluations completed by participants confirmed their enthusiasm and motivation to achieve the youth development mission of the Boys and Girls Club Movement.

SAVING LIVES AND BUILDING FUTURES

Amid peace and prosperity, the lives of millions of America's children are in jeopardy—because of drugs, alcohol, crime, poverty, abuse and neglect. Problems such as teenage pregnancy and school dropouts are robbing young people of their potential. Many boys and girls growing up in crowded or decaying neighborhoods will never know that a brighter world exists beyond their unsupervised playground or tenement.

But there is a way to brighten the lives and future prospects of these young people, because one organization is committed to working with disadvantaged boys and girls. Boys Club of America, through 1,154 neighborhood Boys and Girls Clubs and Boys Clubs, is fighting against substance abuse and the lure of street gangs, and is teaching traditional values of education and achievement.

In 1989, 1.4 million children and young adults participated in the afterschool, evening and weekend activities of Boys and Girls Clubs and Boys Clubs. They participated because the Clubs are dedicated to their happiness and well-being. Each of 11,235 Club staff professionals takes the time to know and care about young people. The boys and girls, in turn, trust the Club staff and seek out and accept their advice and guidance.

At the heart of the Clubs' work is a youth-development philosophy based on developing self-esteem and self-confidence. Boys and girls struggling to perform in school are aided to understand their classwork and the expectations of their teachers. Youngsters feeling isolated or alone are shown that others—both peers and adults—care about them. Through sports, arts and crafts or group activities, they pursue special interests and learn to value their individual abilities.

Most young people attend the Club on a daily basis over a period of years. This ability of the Clubs to steadily work with children between ages six and 18 has a dramatic effect—both short- and long-term. In a 1986 survey of former Club members by Louis Harris and Associates, an overwhelming 96 percent of respondents said their Club experience had a positive impact on their lives.

Boys Clubs of America is dedicated to serving a growing number of boys and girls. We hope that, after reading this Annual Report, you will join in our vital mission to save lives and build futures.

TRIBUTE TO MARY OLIVIERRI

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Mary Olivierri who is being recognized by the Hospital Association of Rhode Island and will receive their Distinguished Service Award.

Eighteen years ago, the association's Distinguished Service Award was instituted to honor and recognize individuals who have made personal achievements in and/or contributions to health care and the health of the people of Rhode Island. Mary Olivierri has consistently demonstrated exemplary job performance which has had a positive effect on hospital operations.

Mary has labored to improve Rhode Island's health care system. During her 49 years at Memorial Hospital of Rhode Island, Mary helped to make food service a special part of many patients' hospital experience. She has always put the patients' needs above all other considerations, and draws on her own creativity and skill to prepare attractive meals. Mary's loyalty and dedication to patient satisfaction have played a significant role in making Memorial Hospital an institution of quality care.

The impact that Mary Olivierri has made in the health care field has been very beneficial not only to those within the hospital administration, but to those receiving the health care. The significance of this is far reaching and is deserving of public attention. Rhode Island, as well as the rest of the Nation, will benefit if people look up to Mary Olivierri and the other recipients of the award for hospital excellence. The leadership and talent of these individuals is admirable.

It is with great pleasure that I salute Mary Olivierri for her outstanding achievements. I wish her continued success in the future.

H.R. 5731

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. SHARP. Mr. Speaker, at a hearing this morning before the Energy and Commerce Committee the Secretary of Energy discussed the decision by the President to conduct a 5-million-barrel test sale of oil from the strategic petroleum reserve. The Secretary also stated that the 5-million-barrel size limitation on a test sale was too small to adequately stress the SPR system capability. Admiral Watkins recommended that the size of the test be enlarged to a size "three times" the current 5-million-barrel limit.

As a result of this recommendation by the Secretary of Energy, Chairman DINGELL, Mr. LENT, Mr. MOORHEAD, other members of the committee, and I are jointly introducing this bill, H.R. 5731, to expand the maximum size of a test sale to 15 million barrels.

The authority to conduct an actual test sale of wet barrels of oil was only recently enacted as part of the Energy Policy and Conservation Act [EPCA] Amendments of 1990. The language contain in this law is written in such a manner that additional consecutive test sales may be conducted. If the Secretary of Energy believes that the 15-million-barrel language is still too restrictive he has authority to conduct additional sequential tests. Each test sale may contain up to 15 million barrels.

The EPCA amendments also contained mini drawdown language to allow the drawdown of SPR oil for shortages of domestic oil. This authority could be used to withdraw additional oil from the SPR. It can be used regardless of the cause of the shortage.

I welcome the Secretary's recommendations and can assure him that the Energy and Power Subcommittee will expeditiously consider this change and any other changes he may propose.

H.R. 5731

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 161(g)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6241(g)(1)) is amended by striking out "5,000,000" and inserting in lieu thereof "15,000,000".

SUPPORT FOR THE FEDERAL JUDGESHIP ACT

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mrs. KENNELLY. Mrs. Speaker, I rise in support of the Federal Judgeship Act. Although my home State of Connecticut has been in dire need of two additional district judges for quite some time, I am pleased that this bill will authorize one additional Federal judge. With the 11th highest caseload in the United States, the six current judges in the district court in Connecticut have an exorbitant amount of work and responsibility.

There are many ways in which caseloads for Federal judges are evaluated. While it is said that all district judges in the United States are overworked, it is extemely notable that Connecticut judges are overworked far beyond the national average. For example, last year it was estimated that district judges in the United States have an unweighted yearly average of 458 cases each. As if this average is not overwhelming enough, Connecticut district judges are responsible for close to 500 cases.

If the cases are weighted in terms of time and energy spent on each, the number of cases in which Connecticut district judges are responsible for is higher still. Because district judges in Connecticut handle more than their share of civil rights, labor, and torts filings, Connecticut district judges can handle as many as 558 cases a year. With a higher percentage of criminal cases consuming their time and energy, it is not surprising that over 600 civil cases have been pending for more than 3 years.

How can adequate time and energy be put into sensitive decisionmaking when caseloads are so overwhelming? Is this an indication of how highly we value our justice system? I think not. This bill will not only add additional judges to help alleviate the exhausing caseload for district judges, it will also help to foster more professional environments in which each judge may come closer to putting in the time and energy each case deserves. With less professional burnout, this should improve the recruitment and retention trap, Connecticut, like other States, suffers. In short, this bill will help retain quality in our judicial systems.

The irony of Connecticut, the Constitution State, not having enough judges to handle its caseload—those very individuals responsible for upholding the Constitution—is a great shame. I urge my colleagues to join me in support for this important bill.

TRIBUTE TO FRANK KEMPF

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Frank Kempf who is being recognized by the Hospital Association of Rhode Island and will receive their Distinguished Service Award.

Eighteen years ago, the association's Distinguished Service Award was instituted to honor and recognize individuals who have made personal achievements in and/or contributions to health care and the health of the people of Rhode Island. Frank Kempf has consistently demonstrated exemplary job performance which has had a positive effect on hospital operations.

Frank has labored to improve Rhode Island's health care system. Frank is known for his enterprising work ethic and ceaseless efficiency. In his position as receiver, Frank keeps all areas of the hospital supplied with all necessary materials, including everything from food stuffs to medical equipment. His responsibilities include receiving, counting, and checking all supplies against purchase orders, as well as shipping outgoing orders.

The impact that Frank Kempf has made in the health care field has been very beneficial not only to those within the hospital administration, but to those receiving the health care. The significance of this is far reaching and is deserving of public attention. Rhode Island, as well as the rest of the Nation, will benefit if people look up to Frank Kempf and the other recipients of the award for hospital excellence. The leadership and talent of these individuals is admirable.

It is with great pleasure that I salute Frank Kempf for his outstanding achievements. I wish him continued success in the future.

SCIENTIFIC REVIEW REVEALS FLAWS IN INDEPENDENT AGENT ORANGE REPORT

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MONTGOMERY. Mr. Speaker, in 1984, the Congress gave the Secretary of Veterans Affairs the authority to compensate veterans with disabilities found by scientists to have a significant link to exposure to agent orange. He may do so on the advice and recommendations of a scientific advisory committee, also established by the Congress. In the past 6 months, the Secretary has exercised this authority twice, giving veterans the benefit of the doubt. Obviously, the mechanism put in place by the Congress is working.

Further, Congress has mandated studies which have cost approximataely $50 million and which have shown no conclusive association between herbicide exposure and long-term health effects. To date, there have been no significant credible data presented to the contrary—either from the Government or independent organizations.

Still, we pursue answers. That is why the leadership of the House and Senate Veterans' Affairs Committees asked the Office of Technology Assessment [OTA] to evaluate the conclusions reached earlier this year by the Agent Orange Scientific Task Force, sponsored by the American Legion, Vietnam Veterans of America, and the National Veterans Legal Serv'ees Project. The task force reviewed scientific literature regarding health effects associated with exposure to herbicides.

The following is OTA's analysis of this review and the task force determinations:

CONGRESS OF THE UNITED STATES,
OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, DC, September 21, 1990.

Hon. G.V. MONTGOMERY,
Chairman, Committee on Veterans' Affairs, U.S. House of Representatives, Washington, DC.

DEAR SONNY: Enclosed is OTA's review of the report "Human Health Effects Associated Wtih Exposure to Herbicides and/or Their Associated Contaminants—Chlorinated Dioxins," which you and your colleagues requested in your letter of May 21. The report was written by the "Agent Orange Scientific Task Force," a group of seven scientists working with the American Legion, the Vietnam Veterans of America, and the National Veterans Legal Services Project. You asked specifically about the "scientific methods, criteria used by the authors * * * as well as the validity of their analysis and conclusions."

The authors of the report give no information about the methods they used to draw their conclusions. They state that the standard used was that of a "statistically significant association," the same used by the Department of Veterans Affairs Advisory Committee on Environmental Hazards, as specified by regulation. Neither group has stated an operational definition of the term, however. In judging any one study, a determination of statistical significance (at some prespecified level, most often, five percent) could be made, but there is no standard method for doing so for a body of literature. Since the Task Force described no such method, it cannot be critiqued.

It would not be appropriate to use the report as a guide to compensating veterans. It might be useful, however, for the Veterans Advisory Committee on Environmental Hazards to review the medical conditions (at least those of clinical significance covered by the Task Force, including all pertinent studies, not only those showing a positive association with exposure to herbicides, as the Task Force did.

I hope you find this review useful to your Committee. Please do not hesitate to call on me if OTA can be of further assistance, or have your staff call Hellen Gelband in the Health Program (at 8-6590), who prepared the enclosed review.

Sincerely,

JOHN H. GIBBONS.

OTA REVIEW OF HUMAN HEALTH EFFECTS ASSOCIATED WITH EXPOSURE TO HERBICIDES AND/OR THEIR ASSOCIATED CONTAMINANTS—CHLORINATED DIOXINS

(Prepared by the Agent Orange Scientific Task Force, April 1990)

The Agent Orange Scientific Task Force consists of seven scientists working with The American Legion, the Vietnam Veterans of America, and the National Veterans Legal Services Project. The report, "Human Health Effects Associated With Exposure to Herbicides and/or Their Associated Contaminants—Chlorinated Dioxins," was prepared because the sponsoring groups "have been dissatified with the efforts of the VA and its Advisory Committee on Environmental Hazards" in their review of scientific literature concerning possible links between exposure to phenoxy herbicides and their contaminants and adverse health effects.

STANDARDS AND METHODOLOGY USED BY THE TASK FORCE

The report states that the standard used by the Task Force was one of "significant statistical association," with no further clarification on how they defined this term operationally. In judging any one study, a determination of statistical significance (presumably at the level of 5 percent) could be made, but the means for doing so for a body of literature is not standard. On this point, the section on "Methodology" states only that they did not follow what they report to be the methodology of the VA Advisory Committee. In referring to the VA Advisory Committee, the report states:

"* * * The Advisory Committee simply classified studies as positive or negative and then tallied them, apparently under the theory that all studies are equal and can be

viewed independently from all other knowledge on the subject."

This is not an accurate representation of what the Advisory Committee did, according to detailed minutes of the Advisory Committee's meetings. (Although the Advisory Committee did not develop a specific plan for synthesizing the evidence from all the studies, they informally gave varying weights to studies based on their overall reliability, potential biases, source of exposure information, etc.) There is no discussion of the method used by the Task Force to synthesize the information and come to a decision about whether a "significant statistical association" existed, so it cannot be critiqued.

The report states that the Task Force reviewed epidemiologic studies, because that is what the Advisory Committee had done, but it also criticizes the Advisory Committee for excluding animal studies from consideration, stating:

"* * * There is an overwhelming scientific consensus that carcinogenicity data derived from well-designed animal studies can be extrapolated with confidence to predict human cancer risk."

This is a misinterpretation of the consensus on the value of animal studies. For regulatory purposes, evidence of carcinogenicity in animals is accepted as evidence of potential carcinogenicity in humans. The regulation of 2,3,7,8-TCDD is based on animal test data. However, only epidemiologic studies can determine whether phenoxy herbicides and dioxin are actually causing cancer in human beings. There is certainly no consensus that quantitative predictions can be drawn from animal data to cancer risks in humans.

REVIEWS OF EVIDENCE FOR POSSIBLE ADVERSE HEALTH EFFECTS

Most of the report consists of discussions of specific diseases and the studies that support an association of phenoxy herbicides and dioxin with each of them. Studies that do not support associations are rarely mentioned. As discussed above, no indication is given of how overall determinations of an association were made.

The report contains considerable criticism of certain individual studies, e.g., CDC's Selected Cancers Study and the Ranch Hand Study, and of the Government's decision to cancel the Agent Orange study. Many specifics of these discussions are incorrect. Example are cited below:

1. Concerning the Selected Cancers Study, the report challenges CDC's interpretation that the study provides no evidence that the observed excess of non-Hodgkins lymphoma (NHL) is related to Agency Orange. The report states: "If the CDC data on veterans in I Corps and III Corps are taken together, they show an increased risk of both non-Hodgkin's lymphoma and soft tissue sarcoma." According to CDC, this is not true. In any case, since the Task Force did not have the raw data from CDC, they could not have made this calculation.

2. The report erroneously reports that the Agent Orange study was cancelled because CDC claimed that "it was not possible to determine exposure to Agent Orange from military records." They state further that CDC "concluded there was no correlation between exposure, as predicted by certain military records, and dioxin levels in tissue and serum samples of certain veterans." TCDD serum levels in the background range in veterans were not unexpected based on the military records, which had suggested strongly that even veterans who served in areas of heavy spraying were not directly exposed to a significant degree.

Some of the studies included in the report, e.g., the Columbia University-American Legion study, are of doubtful validity because of serious flaws in methodology or execution. The validity of other studies, particularly industry-sponsored studies, are called into question.

CONCLUSION

The report of the Task Force presents no new information. Their conclusion—that many adverse health effects, both clinically apparent and subclinical, are associated with exposure to phenoxy herbicides—are given with no explanation of how they were derived. If would not be approrpriate to use this report as a guide to compensating veterans. It might be useful, however, for the Veterans Advisory Committee on Environmental Hazards to review the medical conditions (at least those of clinical significance) covered by the Task Force, including all pertinent studies, not only those showing a positive association with exposure to herbicides.

JUSTICE DEPARTMENT'S FAILURE COSTS U.S. VIRGIN ISLANDS A THIRD FEDERAL JUDGE

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. DE LUGO. Mr. Speaker, with the Federal Judgeship Act of 1990 pending in the House, the U.S. Justice Department's failure to serve the U.S. Virgin Islands is all the more glaring.

The U.S. Judicial Conference recommended a third judge for the Virgin Islands, based on a detailed study of the workload in our courts. But, considering Justice's inexcusable failure to fill the two longstanding judicial vacancies in the Virgin Islands, the House Judiciary Committee put the third judgeship on hold.

I can't argue with the committee's logic. When the Justice Department is failing to fill the two existing vacancies, why create a third judgeship at this time?

The Virgin Islands is far from alone in this dilemma. The House Judiciary Committee finds there are 42 vacancies in the Federal trial and appellate courts and the Bush administration has not even submitted nominations to fill 30 of those positions. The committee has substantially reduced the Judicial Conference's recommendation for new judges around the country from 96 to 59.

Nevertheless, I want to reaffirm the desperate need for a third judge to handle the growing caseload in my district, as provided in the Senate bill.

The Virgin Islands is even more desperate for the Justice Department to fill the two existing vacancies in our Federal courts. One of those seats has been vacant since our former chief judge retired more than 2 years ago, after giving the Department advance notice of his plans 1 year earlier. The second seat has been vacant 9 months, after another judge tragically died after an unsuccessful battle with cancer.

Justice's inaction on these vacancies is a tragic abdication of responsibility to U.S. citizens in the U.S. Virgin Islands. It is inexcusable because we have a talented pool of resident and native attorneys in the Virgin Islands from which Justice can draw nominees.

Mr. Speaker, Justice's failure is consistent with its track record in the Virgin Islands. Since 1987, the Department has been operating with an acting U.S. attorney, who lacks the full authority of permanent status. Further, the Department does not provide enough FBI and drug enforcement agents to combat the growing drug trade that is taking its toll on the islands.

The DEA's special agent in charge of Puerto Rico and the region recognizes this fact. The special agent, who masterminded the seizure of almost 500 pounds of cocaine floating off the island of St. John last Saturday, told the Virgin Islands Daily News that the Virgin Islands and Puerto Rico have become "the hottest drop zone" for airborne drug smugglers trying to get their goods into the United States. According to the DEA agent, drug smuggling in the territory has reached a "feverish pitch" that overwhelms the few boats, planes, and agents the Federal Government provides to patrol the hundreds of coves and bays in the Virgin Islands.

Mr. Speaker, I have detailed Justice's failures before, with little effect. Nevertheless, I have this concluding thought for the Department of Justice: I know you don't want to listen to me, but when your own agent describes the Virgin Islands as one of the Nation's hottest spots for drug smugglers, won't you listen to him and act accordingly?

TRIBUTE TO ARTHUR MERCURIO

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Arthur Mercurio who is being recognized by the Hospital Association of Rhode Island and will receive their Distinguished Service Award.

Eighteen years ago, the association's Distinguished Service Award was instituted to honor and recognize individuals who have made personal achievements in and/or contributions to health care and the health of the people of Rhode Island. Arthur Mercurio has consistently demonstrated exemplary job performance which has a positive effect on hospital operations.

Arthur Mercurio has labored to improve Rhode Island's health care system. Over the years Arthur has helped to build the developmental disabilities unit into one of the most successful programs at the hospital, and has been instrumental in maintaining the staff in the program as a tightly knit family with a remarkable low turnover rate. Arthur has received numerous commendations from parents of patients who have attested the quality of his personal and professional involvement with children and their families.

The impact that Arthur Mercurio has made in the health care field has been very beneficial not only to those within the hospital ad-

ministration, but to those receiving the health care. The significance of this is far reaching and is deserving of public attention. Rhode Island, as well as the rest of the Nation, will benefit if the people look up to Arthur Mercurio and the other recipients of the award for hospital excellence. The leadership and talent of these individuals is admirable.

It is with great pleasure that I salute Arthur Mercurio for his outstanding achievements. I wish him continued success in the future.

LESSONS OF HISTORY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. DINGELL. Mr. Speaker, the volatile situation currently facing the world in the Middle East—and the real prospect for major disruptions in our energy supplies—underscores the fact that our Nation has not yet developed a cogent national energy policy. We have not learned from the lessons of history. The energy shocks of the mid-1970's could be repeated by a similar energy shortfall in the 1990's.

Frank Zarb, who was the senior energy official for energy policy and programs during the Ford administration from 1974 to 1977 and currently chairman and chief executive Officer of Smith Barney, Haris Upham & Co., has written a thought-provoking editorial, published in the September 4 Washington Post, concerning this problem entitled, "Another Failure on Oil." I insert the text of Mr. Zarb's article into the RECORD and commend my colleagues to pay careful attention to Mr. Zarb's insightful thoughts on this matter.

[The article follows:]

ANOTHER FAILURE ON OIL?

(By Frank G. Zarb)

Since the 1970s, the Western nations have faced three major threats to oil supplies. The most recent threat finds us all less vulnerable than we were in 1973, when the Organization of Petroleum Exporting Countries first imposed an oil embargo. Yet we, and particularly the United States, have not since found the will to reduce substantially our oil dependence.

Here we are in 1990 with troops deployed in the Gulf states and oil prices approaching $30 a barrel (at the height of the first embargo, prices reached $40 a barrel). The unpredictable consequences of military action and the very predictable economic consequences of higher oil prices loom large on the horizon.

What is so disturbing about our current fix is the recollection of missed opportunities. In 1975, in his State of the Union address, President Ford proposed to deal with a future embargo. He outlined a massive effort to increase domestic energy supplies of oil, gas, nuclear power and coal, in order to reduce foreign oil imports by as much as 1 million barrels daily. His proposal also focused on a broad range of conservation and emergency supply measures.

Congress listened politely and in the end did move, at snail's pace, to deregulate prices and pass a small number of other energy measures. But with the passing of the crisis, neither Congress nor public opinion could be further stirred to enact the coherent national energy policy we needed then and need more urgently now.

I remember vividly in early 1976 at the end of a particularly frustrating week of dealing with the politics of energy asking for a private meeting with the late senator Henry (Scoop) Jackson, who was chairman of the Senate Energy and Natural Resources Committee. There I was, hat in hand, asking the senator what we could do to reignite national concern about our vulnerability to oil imports. His answer was, simply: "Frank, do you know how to make another energy crisis?"

Do we have another potential energy crisis on our hands? You bet we do.

In the short term, however, the threat to our immediate needs is lessened by our action to protect the remaining oil flowing from the Middle East in addition to the supplies and sources elsewhere in the world. As a nation we are more energy efficient and conscious, using as much energy as we did a decade ago in an economy a third larger. Then there is one of the successes of the Ford program, the Strategic Petroleum Reserve of more than 600 million barrels.

But for the long term, there is continuing potential for crisis. The United States sits on enormous reserves of natural gas and coal and nearly 27 billion barrels of oil reserves. Yet domestic oil production is at its lowest level since the 1960s, while we import more than 50 percent of our oil and, at this rate, could import two-thirds by the year 2000. Nuclear power development is moribund; synthetic fuel production by and large is currently uneconomic. The crisis is not one of available resources. It is more grounded in complacency and lack of consensus needed to support a national energy program for the 21st century and to make the hard choices required to formulate an effective program. The prescription for energy security lies in clearing these hurdles:

Resist the destructive temptation to use government price or supply controls. We learned in the 1970s that price controls contribute to the producers—not to the solution.

Unravel the crazy quilt of restrictions—whether federal, state or local—that stand in the way of increased oil and gas production, particularly for offshore drilling and leasing of federal lands. Investment incentives to production should be encouraged.

Strengthen our ability to fulfill expanding electricity needs. While utility regulations, particularly rate setting, remains the province of the states, at least enact federal legislation to expedite energy facility applications and prevent their nullification by local governments. The promising technologies for coal burning (with nearly 270 billion recoverable tons in the ground, coal is our largest fuel supply and most-used source of electricity by utilities) that meet today's stricter environmental standards also must be encouraged. Unless increasing demand for electricity is satisfied, we will be facing brownouts verging on blackouts with increased frequency by the end of the decade.

Come to grips with the need for a realistic policy to expand nuclear power. In his 1975 message to Congress, President Ford proposed building 200 nuclear power plants by 1985 on a standardized basis, a method used to good effect by, for instance, France. Standard design legislation would overcome many safety questions and speed construction.

Address the very real dangers of energy production and use to the environment in ways that do not cripple growth but encourage new incentives and technologies. It appears to me that there is a growing dialogue and communion of goals between environmentalists and producers that may build a consensus and support for a balanced approach for energy development. But any new national environmental moves must be examined in the light of a sensible, as well as balanced, long-term energy program. Underlying any plan to reduce our energy dependence is the reality that efforts to enhance our energy supply require long lead times—as much as a decade in the case of oil. The program proposed by President Ford for implementation by 1985, after all, was generated in 1975. Had most of it passed, it must be said, we would not be sending troops to the Gulf in 1990.

However we resolve the critical steps toward energy security—and tomorrow is not a day early to begin taking those steps—there is one more salient ingredient in the mix of government, private enterprise and environmental interests directed at the problem. That ingredient is the marketplace, and the best efforts toward reaching our energy goals cannot ignore the power of pricing their value. In the end, the price of development and production will be the best regulator of supply and of conservation as well.

It is, to say the least, unclear how the current crisis in the Gulf will be settled; the universal hope is, of course, a political solution. Much clearer is the solution to energy security in the next century and beyond—more commitment of the national will to energy independence and a swift end to our national complacency.

THE NATURE OF THE NOMINEE: OBSERVATIONS ON JUDGE DAVID HACKETT SOUTER

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. ANDERSON. Mr. Speaker, with the retirement of the eloquent, forceful, and decidedly liberal Supreme Court Associate Justice William Brennan, the political left uttered a cry of despair. In the absence of Justice Brennan, the already diminished liberal side of the Court seems to face virtual certainty of defeat by a more conservative slate of Justices, all appointed by Republican administrations, in the upcoming session. Many have regarded President Bush's first nominee as the potential final vote to roll back the rights of individuals and policy programs established by the Warren court. Are a woman's right to an abortion and the redress of discrimination through affirmative action dead as we know them should the confirmation of Judge David Souter prevail? History has shown that Supreme Court Justices can prove to be very different actors than was originally expected and originally intended by the President who made the nomination. Judge Souter's confirmation testimony indicates that he may be one more in a distinguished line of Justices with unexpected qualities. Certainly his statements at his confirmation hearing before the Senate Judiciary Committee would indicate that he is no conservative ideologue. The New York Times reported,

"his answers to questions on such topics as racial discrimination drew on a vocabulary more often used by judicial liberals than conservatives."

President Bush had said that he would nominate a judge who would exercise judicial restraint and would not legislate from the bench. Yet, Judge Souter had this to say about the man most often accused of the opposite leaning: "Justice Brennan is going to be remembered as one of the most fearlessly principled guardians of the American Constitution that it has ever had and ever will have."

Conservative hopes had been raised that Judge Souter was a proponent of the doctrine of "original intent," a stance by which a judge looks solely to the Constitution and the remarks of the original framers to decide on the document's scope when determining an interpretative question. Judge Souter said, "My approach to interpretation is not a specific-intent approach * * *. It is not confined by reference simply to the specific applications that may have been in the mind * * * of the people who proposed the amendment * * *. When we look for the original meaning, we are looking for meaning and principle. We are not confining ourselves simply to immediately intended application." This statement would seem to reject any notion that Judge Souter will be bound by the "original intent" doctrine.

To complement this statement, Judge Souter remarked that he does not accept the view that the Court should look only to the most specific historical definition of a right when considering the nature of a right. This belief apparently means Judge Souter is not a "strict constructionist," intent on limiting judicial protections to only those rights spelled out in 1789. Instead, he seems to accept that society is very different today and any interpretation must approach the Constitution from an evolutionary angle. Indeed, Judge Souter would appear to be a realist at heart. He stated his ability to accept "pragmatic" rights that he may not originally have voted for. I applaud this approach and hope that he will remain true to his words.

In response to a series of questions regarding the limits of judicial activity posed to him by Senator CHARLES E. GRASSLEY, Republican, of Iowa, Judge Souter remarked that if a "profound social problem" is not dealt with by other branches of Government, and the problem lies within the scope of the Court, then, "ultimately it does and must land before the bench of the judiciary." A great deal of concern has been voiced about Judge Souter's reading of the Constitution with regard to the rights of individuals it may or not contain and protect. Conservatives would have those rights given constitutional protection by the Warren court, such as the right to privacy, overturned because they are not explicitly stated in the Constitution. In response to this issue, Judge Souter responded that, while he does not believe judges should create "new" rights, they bear the responsibility of looking for and "recognizing" rights that are "implicit in the text of the Constitution," though not explicitly stated. Following Judge Souter's reply to Senator GRASSLEY, Senator ARLEN SPECTER, Republican, of Pennsylvania, remarked:

I don't think you'll find a more liberal statement anywhere. It was out of Brennan's left pocket.

Judge Souter's judicial philosophy has special import for the right of a woman to obtain an abortion in the first two trimesters of pregnancy. Before the retirement of Justice Brennan, the Court was effectively split down the middle on the abortion issue, with Justice O'Connor holding the decisive vote. Another conservative Justice would give those opposed to a constitutional right to abortion a clear majority on the Court. In confirmation hearings, Judge Souter has declined to comment extensively on his abortion stance because the issue will soon be visited by the Court. Because Judge Souter has not stated his willingness to support a woman's right to an abortion, several pro-choice groups have come out against Judge Souter. While I certainly understand abortion-rights activist's inability to support a nominee who does not explicitly recognize a right founded in law for more than 20 years, I question whether this anti-Souter stance is appropriate in light of his testimony. Not only may their concerns be unfounded, but we must consider the wisdom of confirming or rejecting a nominee on the basis of a single issue.

Judge Souter has stated that he had no private agenda on abortion and no personal position on the matter of Roe versus Wade. Furthermore Judge Souter has made it very clear that, even if he had a moral position on abortion, his personal view would have no impact on his judicial decision. Certainly, we could not have expected a Republican-nominee to come out in support of Roe versus Wade. But we may, and should, expect any nominee to show a willingness to consider the issue in a fair, impartial manner, divorced from any personal moral crusade. It appears that Judge Souter meets this expectation.

Despite his justifiable reluctance to express his views on abortion, is there anything we can learn from his past record on abortion? In 1973, as a trustee of the Concord Hospital in New Hampshire, Judge Souter voted to allow the hospital to begin performing abortions. In his confirmation hearing Judge Souter responded to a question on this vote by saying:

The reason the hosptial took that position, and the reason I voted for it, was that the Concord Hospital was a community hospital; it was not tied to any sectarian affiliation; it served people of all religious and moral belief; its medical staff represented all religious and moral beliefs, and so did the patients who went through the hospital. We did not believe that it was appropriate for us, whatever might be the moral views of a given trustee, to impose those views upon the hospital when in fact it was the law of the United States that a given procedure was lawful. There was of course further justification * * *. One of the functions which the hospital was giving to the community was the function of the greatest degree of safety in medical care. And if abortions are going to be performed, as by law they could be performed, it was appropriate in a non-sectarian hospital to allow the full range of backup services for the safety of the mother.

I think this statement may provide a clue to how Judge Souter will approach the question of abortion as an Associate Justice of the Supreme Court. He has made it clear that he does not believe in imposing the moral views of one group on women who choose to have an abortion. Additionally, he has a firm regard for the safety of the mother and recognizes that abortions will be performed no matter the legal condition surrounding the procedure.

I understand the concerns expressed over Judge Souter by prochoice groups after his statement that he doesn't know if unmarried people, in contrast to married persons, have a constitutional right to privacy that protects their use of contraceptives. Judge Souter has endorsed an individual's right to privacy, a decidedly nonconservative viewpoint, yet he is obviously unsure about the extent of that right. We may only hope that his concept of privacy leans to the expansive side, as surely did that of his predecessor, Judge Brennan. As it is, both Justices O'Connor and Kennedy have stated the Justice Scalia's narrow approach to the question of privacy, "may be inconsistent with our past decisions." If confirmed, Justice Souter may provide this centrist position with a majority.

A Democratic President has not appointed a Supreme Court Justice for some 20 years. I, too, fear that much of the precedent of the Warren court will be overturned. But as more conservative justices are appointed, we must surely expect some modifications to many of the more controversial Warren decisions. I am hopeful, though, that Judge Souter will be a man firmly guided by the principles embodied in our Constitution, tempered by a realization that a modern society must be shaped by an evolving legal opinion. Judge David Souter proved himself in the confirmation process to be, above all, a brilliant legal mind. I welcome his studied and thoughtful approach to the law.

TRIBUTE TO CLAIRE CASTALDI

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Claire Castaldi who is being recognized by the Hospital Association of Rhode Island and will receive their Distinguished Service Award.

Eighteen years ago, the association's Distinguished Service Award was instituted to honor and recognize individuals who have made personal achievements in and/or contributions to health care and the health of the people of Rhode Island. Claire Castaldi has consistently demonstrated exemplary job performance which has had a positive effect on hospital operations.

Claire Castaldi has labored to improve Rhode Island's health care system. Claire has been employed by the housekeeping department at the Institute of Mental Health. She has been described by her colleagues as an energetic, dedicated, and an exceptionally motivated employee whose housekeeping skills are highly regarded by staff and patients alike. Claire's compassion, kindness, and concern for the well-being of the patients who reside in the hospital goes over and above

what is expected. Frequently, she will bring in homemade pastries and will sit and talk to patients after her working hours.

The impact that Claire Castaldi has made in the health care field has been very beneficial not only to those within the hospital administration, but to those receiving the health care. The significance of this is far reaching and is deserving of public attention. Rhode Island, as well as the rest of the Nation, will benefit if people look up to Claire Castaldi and the other recipients of the award for hospital excellence. The leadership and talent of these individuals are admirable.

It is with great pleasure that I salute Claire Castaldi for her outstanding achievements. I wish her continued success in the future.

INTRODUCTION OF THE COMPREHENSIVE ENERGY SELF-SUFFICIENCY ACT OF 1990

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. RITTER. Mr. Speaker, the current crisis in the Middle East is compelling us to reexamine our policies from a new perspective. For two decades we have been debating the health and safety risks of domestic energy production, be it oil, coal, or nuclear. Now we are forced to recognize that the biggest threat to American health and life and environment would be a global war over oil.

Look at our unhealthy addiction to foreign oil, up from our dangerous dependence in 1979. This situation forces us to focus on our national security, and forge new partnerships with nations whose long-range interests can be quite different from ours. We are reviewing our competitive position in the world, our increasing electricity demands and environmental concerns—including threat of oilspills and pending clean air legislation. The crisis in the gulf highlights the need to incorporate all these concerns into a national energy strategy.

Seventeen years after the 1973 oil shock, we still find ourselves facing all too familiar and unfortunate developments in the energy marketplace as a result of our Nation's overdependence on imported oil—sharply rising prices, disruption of our economy, and the possibility of an oil supply interruption.

The vulnerability of the United States to interruptions in oil imports increases the need to promote the development of domestic energy alternatives to foreign oil. It is readily apparent, that an addition to conservation and more efficient use of our energy, we must increase our reliance on secure domestic sources of energy.

One such alternative is nuclear energy. Nuclear power in America has proven itself as a clean, reliable source of energy and must be included in the future energy mix of this country. One of the utilities that serves my district—Metropolitan Edison Co., an operating electric subsidiary of General Public Utilities—owns a portion of the Three Mile Island plant. While TMI has had its share of problems in the past, the plant and its owners have recovered from the 1979 accident through hard work and dedication to change and improvement.

As someone who sought to bring this particular plant back to service, I am proud.

In fact, TMI Unit 1 was named the world's most efficient nuclear power plant in 1989 by Nucleonics Week, an independently published newsletter by McGraw-Hill. The rating, based on a review of 359 nuclear power plants in 22 nations, includes virtually all the world's plants except those in the East bloc nations. In 1989, TMI-1 recorded a capacity factor of slightly more than 100 percent, compared to the average capacity for world plants of 64 percent. Capacity factor expresses a plant's electrical output for a given period as a percentage of what it could have produced operating constantly at 100 percent power. TMI-1 and other plants can operate above their full power rating when conditions—that is, cool weather—permit especially efficient operations.

In addition, TMI-1 recently received category 1 ratings—the highest of three categories—for all seven areas evaluated by the Nuclear Regulatory Commission [NRC] in its Systematic Assessment of Licensee Performance [SALP] report. A category 1 rating is defined as: "Reduced NRC attention may be appropriate. Licensee management attention and involvement are aggressive and oriented toward nuclear safety; licensee resources are ample and effectively used so that a high level of performance with respect to operational safety is being achieved."

A SALP report is a summary of operational inspections and other events at a nuclear plant during a 15- to 18-month period. The report helps the NRC to determine where Commission resources should be focused at each nuclear power plant.

And in my own district, since beginning commercial operation in the mid-1980's, the two nuclear units at Pennsylvania Power & Light Co.'s Susquehanna plant have performed in a consistently superior fashion. Nearly 87 billion kilowatt hours have been produced at Susquehanna since it came online. That's enough energy to power every home, every business and every factory in my congressional district for 14 years.

Susquehanna and America's other nuclear power plants have displaced 4.3 billion barrels of imported oil since 1973. In 1989, nuclear power saved the United States 740,000 barrels per day and Susquehanna's share of that was roughly 16,000 barrels per day.

Susquehanna Unit 2 was rated the top performing General Electric boiling water reactor in the world in 1987. Unit 2 once logged a continuous run of 314 days while unit 1's longest consecutive run was 205 days—both PP&L records for its powerplants. Both units have achieved capacity factors of better than 90 percent since their last refueling outages ended. Lifetime capacity factors—which include downtime due to refueling outages—are 76.77 percent for unit 2 and 71.05 percent for unit 1—both above the national average of 65.2 percent.

The NRC's SALP reports on Susquehanna consistently have rated the plant among the top performers in the country. The Institute of Nuclear Power Operations, a nuclear industry group, also has regularly given Susquehanna high marks.

Progress is being made in the development of advanced nuclear reactors with standardized designs. Standardization would reduce the complications of 108 customized nuclear plants and would contribute to the basic knowledge of nuclear plant operation; it would promote more efficient use of our research and development dollars, allow the various plants to learn from one another's mistakes and successes. Moreover, standardization would expedite the licensing process and ensure public safety, providing utilities, their ratepayers and contractors with predictability, and eventually, lower rates.

Given the outstanding and excellent record of plants like TMI-1 and Susquehanna, we cannot afford to dismiss nuclear energy from our list of options to meet this country's future electrical demands.

To this end, it is clearer than ever that nuclear energy's potential to contribute more, must not be overlooked and that this homegrown, "Made in America" energy resource must play a major role in our energy future.

But of course, we should never put all of our eggs in one basket, a comprehensive policy must be embraced.

Therefore, today I joined several of my colleagues to introduce the Comprehensive Energy Self Sufficiency Act of 1990. This legislation is intended to provide the United States with a complete strategy for securing our energy independence by encouraging cost-efficient energy conservation and permitting the reasonable exploration, development and production of domestic energy resources to the maximum extent possible, and in a manner that not only complies with, but also promotes strict environmental protections.

It incorporates conservation and energy efficiency, renewable energy, electricity, gas, oil, coal, and nuclear energy.

It is my hope that—along with a successful conclusion to the current confrontation with Iraq—we will emerge from this crisis with the resolve to fashion a consensus for a national energy strategy. One of our principal goals should be to take the reins of U.S. energy policy away from the unstable Middle East and put them back into our hands once and for all.

TRIBUTE TO MR. ED MARCINIAK

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Ms. KAPTUR. Mr. Speaker, I rise today to share with my colleagues in the House of Representatives a glimpse of a man who is a dear friend, a fellow colleague in the field of urban planning, a phenomenal educator, a journalist and writer, and a spiritual leader. I cannot begin to express everything that he has accomplished in his life so far. But let it be said that he is a tireless advocate for urban betterment and an amazing man for whom I hold the deepest respect and admiration. He has distinguished himself as a principle influence in the field of urban planning and

development. His innovative philosophies, teaching style, and pragmatic implementation have benefited his beloved Chicago, and our Nation. Mr. Ed Marciniak has dedicated his life and career to the people and neighborhoods of Chicago. He appreciates and enjoys their cultural and economic diversity. Ed Marciniak's good works are numerous. From theory to practice, his work is original, comprehensive, and significant. He has advanced the field of urban planning and made it more humane and approachable.

Mr. Marciniak began his urban planning career as an instructor in sociology and labor economics at Loyola University of Chicago, while teaching graduate courses, directing curriculum development, and supervising thesis research. It was in 1940 that Ed also started, for the first time at Loyola's Institute of Industrial Relations, conducting courses concerned with interracial issues. In 1943, he became the editor of Work, a monthly magazine published by the Catholic Council on Working Life. In 1949, he became the executive vice president for the Chicago Newspaper Guild. During this time, Ed cofounded the Catholic Social Action Conference, and served as its secretary and treasurer. In 1960, Ed became the Director of the Commission on Human Relations for the city of Chicago and authored the pamphlet, "Toward National Policy for Migrant Labor". From 1967–72, he served as the deputy commissioner for the Department of Development and Planning. During his time as deputy commissioner, Ed contributed to the writing for the book, "The Day I Was Proudest To Be An American" and authored the book, "Tomorrow's Christian."

In 1973, he became the president for the Institute of Urban Life and Adjunct Professor of Urban Studies for Loyola University of Chicago. At this time, he authored four books: "Reviving an Inner City Community"; "Reversing Urban Decline"; "Reclaiming the Inner City"; and "Washburne Trade School, Its Future in the Chicago Metropolitan Labor Market." He also contributed to the books, "Challenge to the Laity," "American & Catholic," "The New Debate," and coauthored, "Non-Profits with Hard Hats: Building Affordable Housing." Already this year he has written two special reports, "Chicago's Private Elementary and Secondary Schools Enrollment Trends," and "Is There A Better Way? Housing Options in Chicago And Its Suburbs For Chicago Housing Authority Tenants."

Ed has also published in national periodicals such as New Republic, America, Commonwealth, Progressive, Christian Science Monitor, Social Thought, and the Journal of Intergroup Relations. He has accomplished much in a short period of time. But he has also participated in many organizations worthy of appellation—ranging across every facet of his community, to serving as past chairman of the board for the National Center for Urban Ethnic Affairs and as past president of the Illinois Humane Society. His labors, particularly in the realm of theory, have provided planners throughout the Nation with excellent ideals as well as practicum in planning a city. His varied and quality work has distinguished him in his field. Many organizations have honored him with awards for his outstanding contributions to urban policy improvement such as the Clarence Darrow Humanitarian Award, Human Service Award, and Human Relations Award.

Mr. Marciniak's past accomplishments have proven substantial, and show superior capabilities in urban planning. But Ed has never limited himself. He has been actively involved in his community through many organizations, like the Mid-America Leadership Foundation, Regional Housing Study and Action Group, Neighborhood Housing Services of Chicago, and advisory council member of friends of downtown.

Tonight in Chicago, the entire city of Chicago is gathering to celebrate his life of accomplishments. At the same time, the community is launching a scholarship program for students residing in public housing. Thus it gives me great pleasure to be able to honor him today. My dear friend, Ed is a mentor and a wise and trusted counselor. Walter Lippmann, an American journalist said it best when he said, "A great society is simply a big and complicated urban society." Ed Marciniak would understand his meaning. May I wish him the heartiest congratulations on a lifetime of achievement.

TRIBUTE TO LORI ANN RUGGIERI

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Lori Ann Ruggieri who is being recognized by the Hospital Association of Rhode Island and will receive their Distinguished Service Award.

Eighteen years ago, the association's Distinguished Service Award was instituted to honor and recognize individuals who have made personal achievements in and/or contributions to health care and the health of the people of Rhode Island. Lori Ann Ruggieri has consistently demonstrated exemplary job performance which has had a positive effect on hospital operations.

Lori Ann has labored to improve Rhode Island's health care system. As medical technologist, Lori Ann runs the histology department of Cranston General Hospital. Lori's most recent accomplishments include setting up the formaldehyde monitoring program in the histology department and assisting the pathologist with implementing several new staining methods.

The impact that Lori Ann has made in the health care field has been very beneficial not only to those within the hospital administration, but to those receiving the health care. The significance of this is far reaching and is deserving of public attention. Rhode Island, as well as the rest of the Nation, will benefit if people look up to Lori Ann and other recipients of the award for hospital excellence. The leadership and talent of these individuals is admirable.

It is with great pleasure that I salute Lori Ann Ruggieri for her outstanding achievements. I wish her continued success in the future.

A PRAYER FOR UNDERSTANDING

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. WALGREN. Mr. Speaker, I want to commend to all in the House of Representatives this prayer offered recently by Father George Wilt of St. Bernard's Parish in Mt. Lebanon, PA which struck us all as expressing a very special spirit and wisdom in human affairs that could mean so much to the world.

FOR A MAGNANIMOUS HEART

Keep us, O God, from all pettiness,
Let us be large in thought, in word, in deed.
Let us be done with faultfinding and leave off all self-seeking.
May we put away all pretense and meet each other face to face, without self-pity and without prejudice.
May we never be hasty in judgment, and always generous.
Let us always take time for all things, and make us grow calm, serene and gentle.
Teach us to put into action our better impulses, to be straighforward and unafraid.
Grant that we may realize that it is the little things of life that create differences, that in the big things of life we are as one.
And, O Lord God, let us not forget to be kind!

INTRODUCTION OF LEGISLATION TO CLARIFY COVERAGE UNDER MEDICARE FOR EYEGLASSES PRESCRIBED AFTER CATARACT SURGERY

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mrs. LLOYD. Mr. Speaker, I am pleased today to introduce legislation that would preserve Medicare coverage for eyeglasses for the 1 million older Americans who undergo cataract surgery every year. My bill would not increase the budget deficit, but it would prevent a cost shift of more than $98 million in additional out-of-pocket costs to the elderly.

Cataracts are a leading cause of vision impairment among older adults. But thanks to today's advanced eye care, sight can usually be improved when the clouded natural lens of the eye is surgically replaced with an artificial intraocular lens. However, to fully restore the vision lost to cataracts, eyeglasses must be prescribed to refine the gross correction achieved with the artificial lens. Since its enactment in 1966, the Medicare Program has paid for cataract eyeglasses as prosthetic devices since they replace the function of the missing natural lens of the eye.

Regrettably, after nearly 25 years, the administration plans to withdraw Medicare coverage for cataract eyeglasses and jeopardize the vision needs of older Americans. They argue that eyeglasses needed after implant surgery serve essentially the same function as

conventional eyeglasses, which are not covered under Medicare. However, their budget driven logic ignores the fundamental difference between cataract glasses and conventional glasses which has been the basis for their coverage since the enactment of Medicare.

Although the nature of cataract surgery has changed over years, and implanted lenses are now used in about 98 percent of all cataract procedures, both an artificial lens and spectacles are required to achieve the best vision results. My bill will clarify the definition of prosthetic devices under Medicare to include the eyeglasses necessary after modern cataract surgery and will require the current policy covering both intraocular lenses and eyeglasses to be continued. It is necessary at this time to clarify the Medicare law regarding coverage for corrective eyeglasses after cataract implant surgery to protect this benefit from the administration's budget cutting.

On several occasions during the 1980's the General Accounting Office [GAO] advised the executive branch and the Congress regarding opportunities to reduce Medicare expenditures by eliminating coverage for eyeglasses prescribed after cataract surgery. In one instance, the Medicare contractor for the State of Washington actually eliminated coverage for cataract eyeglasses for a period of time in 1987. When this action was appealed to Dr. William Roper, then Administrator of the Health Care Financing Administration [HCFA] by the Washington State congressional delegation, benefits were restored and an apology was offered. Moreover, HCFA officials offered assurances that payments for eyeglasses used with intraocular lenses would continue.

Despite the fact that this issue was considered and acted upon in 1987, older Americans again face administrative action to eliminate the Medicare eyeglass benefit. Just 3 years after the Washington State debacle, the Department of Health and Human Services [DHHS] is reneging on their previous commitment to continue payments and is again planning to withdraw coverage for cataract spectacles for patients receiving artificial lenses. This time the scope of their action is broader, and would affect all older health care consumers nationwide.

Older Americans oppose efforts to eliminate traditional Medicare benefits, like the benefit for postsurgical corrective eyeglasses. Senior citizens are grateful for the financial protection they enjoy under the Medicare Program, but they are worried about the widening gaps in coverage. Retirees worked hard to earn this coverage, but now they are uncertain because out-of-pocket costs are growing faster than their incomes. Older people are proud of their ability to pay their fair share, but they are counting on Medicare. In fact, the average beneficiary pays a larger portion—18 percent in 1988—of his or her income for medical care today than when the Medicare Program began 25 years ago—15 percent in 1965.

Mr. Speaker, our current budget problems do not justify dismantling Medicare piece by piece. Although we certainly must continue to strive to control the skyrocketing cost of health care, there are better ways to do this than simply eliminating benefits and shifting the cost of necessary care directly to consumers. I understand that officials at DHHS are already looking at the feasibility of eye care preferred provider organizations [PPO's] which would take advantage of the massive purchasing power of Medicare to negotiate lower fees with interested providers. Utilizing this approach, it may be possible to achieve greater Medicare savings without additional out-of-pocket costs for beneficiaries. Certainly an innovative solution, would be preferred to simply cutting an important part of Medicare's coverage for cataract surgery.

The Leadership Council of Aging Organizations, representing the major advocacy and professional organizations for gerontologists, senior citizens, and health care professionals in the field of aging, opposes withdrawing coverage for eyeglasses, and has written in protest to Secretary Sullivan at the Department of Health and Human Services. More than a score of the council's member organizations endorsed my legislation prior to introduction, including: the American Association for International Aging; the American Association of Homes for the Aging; the American Federation of State, County and Municipal Employees' Retiree Program; the American Society on Aging; the Association for Gerontology in Higher Education; Catholic Golden Age; Families, USA; Gray Panthers; the National Association for Families Caring for their Elders, Inc.; the National Association of Area Agencies on Aging; the National Association of Foster Grandparents Program Directors; the National Association of Older American Volunteer Program Directors; the National Association of RSVP Directors, Inc.; the National Association of Retired Federal Employees; the National Association of Senior Companion Project Directors; the National Association of State Units on Aging; the National Caucus and Center on Black Aged, Inc.; the National Committee to Preserve Social Security and Medicare; the National Council of Senior Citizens; the National Council on the Aging; the National Hispanic Council on Aging; and the Older Women's League.

Mr. Speaker, I urge my colleagues to join me in supporting this legislation which would protect 1 million Medicare beneficiaries who undergo cataract surgery each year from the added burden of paying for the eyeglasses they need to restore their vision to its full potential.

TRIBUTE TO MARION AUBIN

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Marion Aubin who is being recognized by the Hospital Association of Rhode Island and will receive their Distinguished Service Award.

Eighteen years ago, the association's Distinguished Service Award was instituted to honor and recognize individuals who have made personal achievements in and/or contributions to health care and the health of the people of Rhode Island. Marion Aubin has consistently demonstrated exemplary job performance which has had a positive effect on hospital operations.

Marion has labored to improve Rhode Island's health care system. As a housekeeper in such a busy area where room turnover is a priority, Marion is adept at assessing the situation and setting priorities when carrying out her assigned tasks. The conscientious manner in which Marion performs her job contributes to greater contentment and satisfaction, and also helps boost morale. Marion's interpersonal skills are also excellent. Her pleasant demeanor and helpful nature have been instrumental in enhancing positive patient relations.

The impact that Marion Aubin has made in the health care field has been very beneficial not only to those within the hospital administration, but to those receiving the health care. The significance of this is far reaching and is deserving of public attention. Rhode Island, as well as the rest of the Nation, will benefit if people look up to Marion and the other recipients of the award for hospital excellence. The leadership and talent of these individuals is admirable.

It is with great pleasure that I salute Marion Aubin for her outstanding achievements. I wish her continued success in the future.

ARMENIAN HUNGER STRIKERS

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MOORHEAD. Mr. Speaker, we often recognize heroes from this floor—those heroes who have risked or lost their lives to save others during a natural disaster; heroes who defend our streets from violent criminals; heroes who work along our borders to stop drug smuggling; heroes in our classrooms, teaching for this country's future; and, of course, we could never forget those who have served in this country's Armed Forces—each one a hero.

We have our political heroes too, in the form of Washington, Madison, Jefferson, and Lincoln. The first three created the foundation for our freedom, while Lincoln courageously clenched the Presidency, as the concept of freedom for all tore a young nation apart.

There is another young nation—our former adversay—that is in the midst of falling apart at the borders. While the Soviet Union tries desperately to turn to free market economics in order to climb its way out of the abyss of central planning, its 15 republics and more than 100 nationalities are finding that peristroika and glasnost mean sacrifice.

In Armenia and Azerbaijan, a softening of Moscow's iron-fisted rule has meant 2½ years of violence, murder, and barbarism perpetrated against the Armenian people of Nagorno-Karabagh, an overwhelming Armenian enclave in Azerbaijan.

The explanation of how historical injustices led to this current geographic configuration can be saved for another time. For now, let me speak of five political heroes named Balayan, Ambartsumyan, Sargsyan, Grigoryan, and Babayan.

These prominent Armenians—all of them members of the U.S.S.R. People's Congress—are on a hunger strike in Moscow. They are risking their lives for three demands: the reinstitution of civilian rule in Nagarno-Karabagh, the shifting of Soviet troops from the capital city to the border to protect the Armenian population, and the protection of human rights and fundamental freedoms for the people of Nagorno Karabagh.

Many Members of this body and I have sent telegrams to President Gorbachev urging him to meet these demands. This is certainly a time in world history where, with so many changes taking place and the possibility of confrontation in the Persian Gulf, the seemingly lesser among these changes and crises can go virtually unnoticed.

Earlier this century, a distracted world resulted in the blackest page in the history of the Armenian people. We must not allow the world to be distracted or disinterested again.

The demands of these five Armenian heroes can be met by the Soviet Government. If a little political will and human decency can find their way beyond the Kremlin walls, those hunger strikes will cease.

Let us pray that it will not take the deaths of some of the most intelligent and popular Armenian leaders to get action out of Moscow. This is certainly a test of Kremlin compassion simply to do what is right.

FAILURE TO REAUTHORIZE THE FAMILY PLANNING PROGRAM

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MILLER of California. Mr. Speaker, I rise to express my dismay upon hearing that Congress has once again failed to ensure that family planning and other primary health services are available to low-income women. Yesterday, the same day that the House Energy and Commerce Committee favorably reported H.R. 5693, a bill to reauthorize title X of the Public Service Act, the Senate effectively refused to consider reauthorization of our national family planning program.

It is a source of shame that, for the fifth consecutive year, Congress cannot find the courage to support this critical, cost-effective health program. Budget constraints provide no excuse. Title X services save taxpayers at least $4.50 for every program dollar spent. The modest funding increase sought would not even have returned program funding to its 1979 level.

Each year in 4,500 title X clinics across the country, nearly 5 million women are provided with contraceptive services and with treatment or referral for anemia, hypertension, cervical and breast cancer, sexually transmitted diseases, kidney dysfunction, diabetes, and infertility. These services decrease infant mortality, adolescent pregnancy, and the need for abortion, and improve overall maternal and infant health in every State. They have been recognized as a valuable resource in fighting the AIDS epidemic. At current appropriation levels, only two-thirds of eligible women can receive title X clinic care.

In California, an even smaller percentage of eligible women—around 50 per cent—can be served by the $7.7 million the State currently receives from title X. Several hundred thousand Californians received subsidized services from 47 title X grantee agencies in fiscal year 1989. The fact that services are being provided in several languages to meet the needs of recent immigrants is only one example of the laudable efforts made by these facilities to provide affordable care in a supportive environment.

The National Commission to Prevent Infant Mortality has called for support of title X as a key mechanism for reducing our appalling rate of infant deaths. Similar recommendations have been made by the Institute of Medicine, the American College of Obstetricians and Gynecologists, the American Public Health Association, and the American Medical Association, but we continue to ignore the best available medical advice.

Last year, the U.S. Public Health Service Expert Panel on the Content of Prenatal Care recommended that to ensure the health of the woman and the developing fetus, preconception care, including comprehensive family planning services, should be an integral part of prenatal care.

Why do we cower before groundless, ideological charges that title X clinics promote abortion, that minor allocations for new contraceptive research would be spend illegally on studies of abortifacients, and that the availability of contraception is what makes adolescents sexually active? In hearing after hearing, in both houses of Congress, experts have testifed that title X clinics train counsellors to provide balanced options counseling in the case of unwarnted pregnancy, that both Federal law and Department of Health and Human Services policy prohibit research on abortifacient drugs, and that the unfortunate truth is that most adolescents are sexually active for a full year before arranging for reliable contraceptive protection.

The title X programs has proven track record of 20 years duration. At the time when every sector of society recognizes access to medical services as a real public health crisis, it is scandalous that we allow the national family planning program to lose ground. When the new Congress convenes, I urge my colleagues to move quickly to demonstrate their support for this program because it is absolutely vital to material and infant health.

A TRIBUTE TO MICHAEL MAHER

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Michael Maher who is being recognized by the Hospital Association of Rhode Island and will receive their Distinguished Service Award.

Eighteen years ago, the association's Distinguished Service Award was instituted to honor and recognize individuals who have made personal achievements in and/or contributions to health care and the health of the people of Rhode Island. Michael Maher has consistently demonstrated exemplary job performance which has had a positive effect on hospital operations.

Michael has labored to improve Rhode Island's health care system. As an intern for the department of medicine, Michael has maintained a positive attitude toward his job, patients, colleagues, and the hospital. Michael's commitment to his patients is most impressive. He was recently seen enthusiastically ambulating a weak, elderly man in the hallway, a situation in which many overburdened house officers would have delegated the patient's rehabilitation to someone else. Michael is truly a team player.

The impact that Michael Maher has made in the health care field has been very beneficial not only to those within the hospital administration, but to those receiving the health care. The significance of this is far reaching and is deserving of public attention. Rhode Island, as well as the rest of the Nation, will benefit if people look up to Michael and the other recipients of the award for hospital excellence. The leadership and talent of these individuals are admirable.

It is with great pleasure that I salute Michael Maher for his outstanding achievements. I wish him continued success in the future.

THE TEXTILE MACHINERY INDUSTRY AND DEFENSE

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. LANCASTER. Mr. Speaker, textiles and apparel are strategic commodities, considered by the Defense Department as essential to emergency mobilization. To produce these commodities, manufacturers must have reliable machinery, parts and service—preferably, U.S. based.

That is why the U.S. textile machinery industry also is critical in defense planning. And that is just one reason why we should support the industry's effort to close the technology gap by passing H.R. 1461. This bill would help the industry compete against rising imports. It would allocate a modest $10 million out of existing tariff revenues from imported textile machinery to be applied to industry research and development.

A 1983 U.S. Army study noted that no U.S. textile mill could be equipped with all U.S.-made machinery. This situation is not yet a serious threat to mobilization needs. But the study raised concerns about the future composition of the domestic textile machinery industry and ability to service foreign-made machinery.

We can stop the threat from ever becoming real. It already was real in 1983 for one defense-related need—industrial sewing needles. There are no U.S. producers. Even if enough skilled labor could be found, it would take 4 years to start up a new plant.

Now is the time to stop further erosion of our defense-sensitive industrial base. We can start by supporting the U.S. textile machinery industry. We can start by voting for H.R. 1461.

COMPROMISE CAN FULFILL NEEDS OF MAN AND BEAST

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MILLER of California. Mr. Speaker, a number of issues involving conflicts between environmental protection and development pressures have come before the Congress. Some are highly visible and controversial, such as the question of protection of the western ancient forests. Others are less visible issues, but they still involve strongly held views and often complex factual situations. None of these seem to lend themselves to simple solutions.

Because we have all dealt with these conflicts—here and at home, I would like to commend to you a thoughtful article written by Richard Spotts, the western regional representative for Defenders of Wildlife. I have had the pleasure of working with Richard Spotts over the years and I have found that he is an effective advocate for his organization. He is effective because he seeks constructive solutions, not confrontational situations.

His article makes a good case for cooperation between developers and environmentalists. Some—perhaps many—of the conflicts could be resolved at an early stage, before the conflict escalates to the point where either lawsuits or legislative solutions are sought. This article is well worth reading. I hope many take the advice and put it into practice:

COMPROMISE CAN FULFILL NEEDS OF MAN AND BEAST

(By Richard Spotts)

In the midst of debates on development and environmental issues, it is easy to fall into stereotyped labels of "greedy" developers and "radical" environmentalists.

Too often, these debates and attendant media coverage focus more on conflicts than on opportunities for compromise or consensus.

However, the public wants both affordable housing and effective environmental protection, including the prevention of extinctions and the maintenance of bio-diversity. The challenge becomes how to reconcile development and environmental needs.

To explore paths for reconciliation, it is important to understand the political and biological context.

Politically, an overwhelming majority of Californians want better environmental protection programs and effective wildlife preservation measures. This has been shown through polling, market trends and passage of environmental initiatives.

Biologically, California is both blessed and burdened by its bio-diversity.

Blessed, because California possesses more natural communities of species than the rest of North America, north of Mexico, combined. This bio-diversity treasure trove should be considered a major natural asset for California, and indeed the world.

Burdened, because California has already paid a high biological "price" for its rapid population growth and accelerating development.

For example, California has more species listed as endangered and threatened under the federal Endangered Species Act than any other state.

California also has more people than any other state, and gains a new resident every 50 seconds. California reached its first million residents at the turn of this century, and is now hearing its 30 millionth resident.

With this background in mind, California is either entering an era of massive extinctions and loss of bio-diversity or is poised to initiate innovative strategies for reconciling housing and habitat needs.

Consider the following suggestions:

First, it is imperative that we have the will and discipline to shift from traditionally reactive 11th-hour environmental crises to proactive, cooperative environmental programs.

For example, endangered species laws require that the listing of species be based on the best available scientific data. Listing is not a balancing of biological and economic considerations, but rather a reflection of the biological reality for a given species.

However, politics often supersedes biology, and development and other interests have delayed listings that were biologically warranted.

The recent federal listings of the Mojave desert tortoise population, northern spotted owl, and Sacramento River winter run salmon were delayed and eventually prompted by environmental litigation.

During the delays, these species' populations continued to decline. Had the listings occurred expeditiously, as intended by law, there would have been greater flexibility in fashioning recovery measures.

Another major obstacle to cooperation has been the political "gimmick" in the state Capitol, and Gov. Deukmejian's propensity to veto most environmental measures.

Development interests decry environmental initiatives and litigation, but these have generally been the only avenues available to environmentalists.

For example, the State Chamber of Commerce, Farm Bureau and other interests have opposed funding for willing-seller habitat acquisition programs, even though these programs could enhance the recovery of listed species and legitimately reduce future listings.

Enlightened development interests should see that voluntary habitat acquisition programs paid through public funds could tend to reduce land-use conflicts.

Moreover, developers and planners should know that critical habitats for federal- and state-listed species, along with other unique or sensitive habitats, are maintained on both topographic maps and computer data bases in the Department of Fish and Game's natural heritage division.

It is accepted that houses should not be built on earthquake faults, landslide-prone slopes, flood plains or in high-danger fire zones.

Critical habitats should be added to the locations where development is improper. For those landowners affected, the remedies could be either willing-seller acquisitions or development rights transfers by government.

In addition, the California Environmental Quality Act (CEQA), the state's most comprehensive environmental law affecting housing developments, encourages the pursuit of less environmentally damaging alternatives wherever feasible. It also provides mitigation for unavoidable adverse impacts.

But CEQA is activated by a proposed project, rather than by environmental needs. It is a reactive process.

And mitigation is suspiciously viewed as speculative, illusory or experimental. If mitigation "credits" could be combined over a large region—the "mitigation banking" concept—the benefits should be more reliable, comprehensive and effective.

But continued reliance on ad hoc mitigation measures applied on a case-by-case basis will not reverse the overall declines of California's bio-diversity.

THE ACCOUNT FRAUD AND DECEPTION PREVENTION ACT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. VENTO. Mr. Speaker, today, I, Chairman RICK LEHMAN and other members of the Banking Committee are introducing the Account Fraud and Deception Prevention Act. This legislation is in direct response to a fundraising ploy used by the National Republican Senate Campaign Committee. If left unchecked this new bait and hook gimmick will become the scam artist dream of the 1990's.

Under the guise of giving potential donors are baited with a $25 check, the Republican Senate Committee is using the endorsement of the check as an authorization to hook a sizable donation by automatically withdrawing $12.50 each month from the unsuspecting consumer's banking account. The $25 bait is recovered through mandatory withdrawals for the first 2 months and after that the $12.50 will continue to be withdrawn automatically unless the consumer notifies the bank or the committee.

This is no small time operation. The Republican Senate Campaign Committee sent out 700,000 of these checks with this latest letter and mailed out 300,000 checks earlier this year. That's 1 million unsuspecting consumers, who unless they read the fine print will get ripped off. According to news reports, the Campaign Committee's response rate is 2.5 percent. With that type of return, this gimmick could raise $3,750,000 each year.

This issue is not partisan. Frankly, I find this moneymaking scam offensive regardless of who sent the check. The check is clearly made out to the constituent for $25—the print could not be any larger. What is not as obvious is the authorization of an automatic $12.50 withdrawn that is printed on the back of the check.

The letter that accompanied the check follows the same script. The letter glosses over the true intent, focusing instead on "Hi-tech Voter Identification Programs, Hi-tech Voter Registration Programs, and Hi-tech Voter Turn-out Programs." This approach is Hi-tech all right—it is a Hi-tech Consumer Rip-off Program.

The Account Fraud and Deception Prevention Act will close the loophole in the law before every con artist and fly-by-night organization sends checks out to unsuspecting consumers. My legislation will amend the Electronic Fund Transfer Act to ensure that the endorsement, deposit or cashing of any check is not sufficient authorization to act as a conduit for the automatic withdrawal from consumers' accounts.

I am hopeful that Congress will move on this issue yet this session. It is imperative that we close the door before any more bogus checks are foisted on the American people.

A TRIBUTE TO JERRY TARKANIAN

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. BILBRAY. Mr. Speaker, I rise today to Honor Jerry Tarkanian, the head coach of the UNLV Runnin' Rebels basketball team, and his wife Lois Tarkanian, member of the Clark County School Board.

Jerry has a long history of contributions to the Las Vegas community. I must first mention the most apparent—Jerry's tremendous role as the head coach of the UNLV Runnin' Rebels basketball team, the winningest team in the country since Jerry's arrival.

Jerry reached the highest achievement with the Rebels last April, winning the NCAA National Championship. The highest achievement for a coach, and the source of so much pride by Las Vegans. Jerry's success has been anything but temporary. He has visited the NCAA playoffs 11 times since he arrived in Las Vegas—including every one of the last 8 years.

During his tenure as head coach, the Rebels have become the heart and soul of Las Vegas, the source of our civic pride. Jerry has provided Las Vegans with a sense of pride and achievement that has carried over into more mundane matters. The unity crosses social, cultural, and racial lines to bring our city together.

Las Vegas is very much a new city, having grown up since World War II. Speaking for all Las Vegans, I can say that we have a chip on our shoulder. Jerry Tarkanian has put Las Vegas on a more than even basis with the rest of the Nation.

Lois Tarkanian must be acclaimed for her public efforts on behalf of the Las Vegas community. She has served her community with a special emphasis on its children. The final testament to her dedication is her current service on the Clark County Board of Education—trying to get the most education and secure the best future for Clark County's young citizens.

Lois' care for children has extended to the students under the tutelage of her husband. Lois has served as a never flagging strength for the academic success of the Runnin' Rebels students—treating them as her own children.

Lois has been a special advocate for the rights and education of hearing impaired students in Las Vegas. She has been a volunteer tutor and active organizer on their behalf. Lois has also been an active supporter of the developmentally disabled, through her work on the Developmental Disabilities Commission. From my years of observing the dedication and work of Lois Tarkanian, I can rest assured that Lois will come to the aid of the young and disadvantaged wherever and whenever they call.

Mr. Speaker, I ask you to join me and the Clark County Basque Festival in honoring Lois and Jerry Tarkanian for their contributions to Las Vegas. I have many hopes that they will continue to serve Las Vegas, NV, and especially the students of Las Vegas, for many years to come.

TRIBUTE TO MAUREEN CONNERTON

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Maureen Connerton who is being recognized by the Hospital Association of Rhode Island and will receive their distinguished service award.

Eighteen years ago, the association's distinguished service award was instituted to honor and recognize individuals who have made personal achievements in and/or contributions to health care and the health of the people of Rhode Island. Maureen Connerton has consistently demonstrated exemplary job performance which has had a positive effect on hospital operations.

Maureen has labored to improve Rhode Island's health care system. As a unit clerk for the inpatient treatment unit at Butler Hospital, Maureen has consistently provided outstanding performance in scheduling tests and exams that have been requested for the patients, handling phone calls, coordinating meetings for physicians and other unit staff, interacting with patients and visitors, and performing other office tasks.

The impact that Maureen Connerton has made in the health care field has been very beneficial not only to those within the hospital administration, but to those receiving the health care. The significance of this is far reaching and is deserving of public attention. Rhode Island, as well as the rest of the Nation, will benefit if people look up to Maureen and the other recipients of the award for hospital excellence. The leadership and talent of these individuals is admirable.

It is with great pleasure that I salute Maureen Connerton for her outstanding achievements. I wish her continued success in the future.

ERADICATE CHILD TORTURE

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. KENNEDY. Mr. Speaker, on September 29-30, 1990, leaders from over 70 countries will arrive at the United Nations headquarters in New York for the World Summit on Children. This summit will provide a forum where heads of state will gather for the first time to discuss various issues related to the health and welfare of children.

I applaud President Bush's decision to attend this most important event. It is an opportunity for the United States to reaffirm its commitment to the state of the world's children and it is a chance to heighten the global awareness of the various problems affecting this vulnerable population.

This forum however will only be as good as the substance discussed. That is why my colleagues and I, have cosigned a letter to the President urging him to take a particular interest in one of these issues: the torture of children.

Most of the world has been exposed to pervasiveness of human rights violations, yet the reality of child torture has essentially gone unnoticed. In fact, violations of the most basic human rights of minors have reached staggering proportions in recent years. Throughout the world, children are physically tortured, psychologically abused, unjustly imprisoned, disappeared, and murdered, by persons that are usually never held accountable for their actions.

Amnesty International has reported that children are often targeted for human rights abuse because they are perceived to be a social and political threat. In Brazil and Guatemala, where the number of street children has grown dramatically in recent years, children risk their lives by simply being on the streets. They are tortured and executed by police, on duty or in deaths squads, often in the name of street cleaning. In community raids in Peru's emergency zones, the military has singled out young people as a group, suspecting even those not involved in the armed conflict of supporting the violent opposition.

Frequently, children are also used as pawns to get their parents to turn themselves in or to make confessions. One former child detainee from Iraq testified that infants are deprived of milk and kept in a cell next to the mother's side in an effort to use the child's screaming to force a confession out of the mother. In other nations, children are forced into giving false testimony against their own parents. This testimony is later used to elicit confessions from the parents.

Children are often particular victims of conflicts between government forces and armed opposition groups. During the states of emergency in South Africa between 1985 and 1987 for instance, an estimated 10,000 children were detained without charge or trial, some for more than a year. And in Liberia, many children have been among the thousands arbitratrily killed or mutilated by Government forces and their armed opponents.

Finally, the incidence of rape and child slavery has increased. In Turkey, teenagers have often been tortured and raped in detention. In Burma, a 15 year-old girl was arrested in 1986 by an army patrol for trading on the border. She was beaten and raped by an officer. One Burmese woman was released in 1989, after having been imprisoned without charge or trail for 30 years. She was 31 years old at the time of her release. In Ethiopia, Amonissa Issa was released from Addis Ababa prison at the age of 9. His mother was arrested when she was pregnant in 1980 and Amonissa had since spent his life in prison.

Mr. Speaker, America is a recognized leader on human rights generally and of children's rights in particular. As a nation of such

stature, we cannot allow these common practices to continue.

This weekend, President Bush will have a captive audience of almost half of the world's heads of state. It is an opportune time for the United States to air issues that deserve immediate attention, such as child torture.

So I would again urge President Bush to seize this rare opportunity—add child torture to his agenda, and help eradicate this global scourge.

TRIBUTE TO SCOTT W. DEWEY

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Scott W. Dewey who is being recognized by the Hospital Association of Rhode Island and will receive their Distinguished Service Award.

Eighteen years ago, the associations' Distinguished Service Award was instituted to honor and recognize individuals who have made personal achievements in and/or contributions to health care and the health of the people of Rhode Island. Scott Dewey has consistently demonstrated exemplary job performance which has had a positive effect on hospital operations.

Scott has labored to imporve Rhode Island's health care system. As a communications representative, he has demonstrated a deep commitment to providing efficient and courteous assistance to all patients, visitors, and employees at South County Hospital. His cheerful, considerate, and jovial manner helps make patients, families, and visitors feel they are welcome.

The impact that Scott Dewey has made in the health care field has been very beneficial not only to those within the hosptial administration, but to those receiving the health care. The significance of this is far reaching and is deserving of public attention. Rhode Island, as well as the rest of the Nation, will benefit if people look up to Scott and the other recipients of the award for hospital excellence. The leadership and talent of these individuals is admirable.

It is with great pleasure that I salute Scott Dewey for his outstanding achievements. I wish him continued success in the future.

IN HONOR OF HISPANIC HERITAGE MONTH

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Ms. PELOSI. Mr. Speaker, I rise in observance of Hispanic Heritage Month, which began on September 15 and which is being celebrated for a second year. It is my pleasure to honor the Hispanic community of the United States. In my State of California, we have been blessed with a large Hispanic population which has strengthened our society with Hispanic values of family, religion, hard work, and vitality.

Mr. Speaker, Hispanics have been instrumental in helping to build this Nation. Long before the gold of Sutter's Mill attracted the attention of Anglo settlers, my home, the city of San Francisco, was the pueblo of Yerba Buena and home to the great Californios of Spanish and native American descent. As the city of San Francisco changed from a Mexican outpost to an American metropolis, the Hispanic community grew and prospered. Hispanics helped to print the city's newspapers, build the city's skyscrapers, and serve as interpreters for the city's cosmopolitan merchant community. Indeed, by 1900, the Hispanics of San Francisco could not only take credit for helping to build the city of San Francisco, they could triumph in creating and realizing the American dream.

The Hispanic community is a great resource and a powerful part of our national fabric. The Hispanic community has produced numerous standouts in the fields of entertainment, culture, and sports, such as Raul Julia, Jose Feliciano, Diego Rivera, and Roberto Clemente. In the field of commerce, Hispanic-owned businesses are the fastest growing in the country. The chief executive officer [CEO] of one of the largest companies in the United States, Coca-Cola, is Robert Goizueta, a Cuban-American. Hispanics have also demonstrated their talents as legislators. The number of Hispanics in the House of Representatives reached an all-time high in 1989. We are especially proud of two committee chairmen—HENRY B. GONZALEZ, chairman of the House Banking Committee and "KIKA" E DE LA GARZA, chairman of the House Agriculture Committee.

In many ways, the future of California depends on its Hispanic community. In 5 years, Hispanics will make up half the high school population in some major cities, including Los Angeles. Hispanics already comprise close to 12 percent of the population in some major cities, including Los Angeles. Hispanics already comprise close to 12 percent of the population of San Francisco. California will have a distinct advantage over other States by tapping the innovative ideas and resources of a large and growing Hispanic population.

Thus, Mr. Speaker, I believe that Hispanic Heritage Month should be an opportunity to celebrate what Hispanics have done for America and what America can do for Hispanics. As Congress considers legislation relating to housing, education, immigration, and civil rights, I urge my colleagues to make sure that the American dream embraces all Americans and that Hispanics have an opportunity to contribute to the future greatness of our Nation.

Mr. Speaker, Hispanic immigration has invigorated America and America is grateful.

PHALANX SHOP AT NAVAL ORDNANCE STATION, LOUISVILLE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MAZZOLI. Mr. Speaker, I rise today in support of the $5.6 million included in the fiscal year 1991 defense authorization bill, H.R. 4739, for the Phalanx Shop modernization project at Naval Ordnance Station, Louisville [NOSL], which is located in my hometown.

NOSL is the Navy's only ordnance facility which can repair and overhaul the computer-driven, rapid-fire Phalanx antimissile weapons system. Furthermore, NOSL overhauls the Phalanx in a highly cost-effective manner fully competitive with private industry. Modernization of the Phalanx Shop at NOSL as provided in H.R. 4739 would result in even more efficiency and even lower costs.

The fact the NOSL performs this valuable work for the Navy underscores the importance of NOSL to the Navy and to the country. This also indicates that NOSL—which was placed on Secretary Cheney's prospective base closure list this past January—continues to play a vital, indispensable role in America's defense.

Mr. Speaker, I support this project, and I am pleased that it was included in the defense authorization bill passed by the House on September 19.

IN SUPPORT OF MICROENTERPRISE ASSISTANCE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. GILMAN. Mr. Speaker, Flora Lewis of the New York Times wrote an article yesterday entitled, "The Right to Credit." It is a moving piece about how one man, Dr. Muhammad Yunis, developed and pursued an idea that has changed the lives of countless of the poorest of the poor in Bangladesh. Dr. Yunis is the founder and president of the Grameen Bank in Bangladesh, which has over 800,000 borrowers whose average loan is $69 and it proudly claims a 98 percent repayment rate.

Yesterday, the House Foreign Affairs Committee held a hearing concerning a GAO report on the Microenterprise Loans for the Poor Program, a program of the Agency for International Development. The committee asked Dr. Yunis to testify. It was an important hearing.

A number of my colleagues joined with me in requesting the GAO review last October after we had experienced a year of serious difficulty receiving information from AID concerning Microenterprise. In our letter to GAO we quote AID as stating, "* * * (We have) complied with, and indeed, exceeded both the letter and the spirit of the Microenterprise leg-

islation." But the data to substantiate this statement never arrived.

After requesting the GAO study we received from AID its March 30, 1990, report to the Congress entitled, "AID Microenterprise Development Program." However, much of the data seemed questionable.

AID has done some excellent work helping the poor and pioneering Microenterprise. We were therefore dismayed that we could not learn just how closely the agency had geared its program toward women, how large the loans averaged and what economic bracket the recipients represented. It seemed to us to be a serious shortcoming in AID's commendable track record if oversight was impossible because loan recipient data was unknown.

Microenterprise fiscal year 1991 report language (House) stated:

The administer of AID is to target this program to the poorest 50 percent of the population of the poorest AID assisted developing countries and the poorest 20 percent in the other AID-assisted countries. AID is also to target at least 50 percent of all the resources to support productive activities managed by women. Credit and other forms of assistance should be channeled primarily through private community based organizations.

The AID Microenterprise Development Program report to Congress reveals that only one-sixth of the funds used for direct credit in 1989 went toward loans of less than $300. This record is far below the expectations of the committee and will have to be greatly improved to avoid future earmarking. The committee is concerned that too few of the micro-enterprise resources are being channeled to the poorest entrepreneurs in the form of small loans. Therefore, the committee is recommending AID use $20,000,000 of the Microenterprise funds for loans of less than $300.

We have been told by AID officials that the expense of collecting data in the future would be immense and complicated. However, we believe that it is not out of line or too difficult to request the financial intermediaries that receive U.S. funds for the purpose of Microenterprise finance, to collect the data on future loans and make the information available to AID. We know that the Grameen Bank, as a matter of course, has extraordinarily detailed records of its loans and loan recipients.

Yesterday, I was pleased that the subcommittee had the opportunity to hear Dr. Yunis, the president of the Grameen Bank, testify. There have been many questions and much praise heaped upon him and his institution. I had the great honor of introducing Dr. Yunis to the Select Committee on Hunger in 1986 and his testimony at that time led us to introduce Microenterprise legislation.

I remember speaking on several occasions to my late colleague Mickey Leland, the chairman of the Select Committee on Hunger, about the story of a landless, Bangladeshi widow who use to earn the equivalent of one penny a day. Dr. Yunis made her a small loan when a local bank refused to, at his request. This was the beginning of the Grameen Bank.

Dr. Yunis pointed out at the hearing yesterday, that unfortunately it appears that the only way to ensure that AID targets the Microenterprise Program to the poorest of the poor is by legislating a $300 loan cap on the program. A number of my colleagues and myself agree. Accordingly, I will soon be introducing legislation doing just that.

President Bush once said, "The Grameen Bank in Bangladesh represents an encouraging development * * * and I am very interested in and supportive of the concept."

We are proud that our agency for International Development continues to stimulate resources toward the poorest of the poor. And we look forward to its recognition of the longterm impact that institutions as the Grameen Bank has not only on individual lives but as well as on the macroeconomic development of countries.

Mr. Speaker, in order to share her views with my colleagues, I request that the acticle by Flora Lewis, "The Right to Credit," New York Times, September 26, 1990, be printed in full at this point in the RECORD:

[From the New York Times, Sept. 26, 1990]

THE RIGHT TO CREDIT

(By Flora Lewis)

PARIS.—Once in a while somebody comes along with an important, straightforward idea and the dedication and energy to put it to work. Prof. Muhammad Yunus, a soft-voiced, 50-year-old economist, is one of them.

At the moment, the focus is on macroeconomics: oil prices, inflation, the danger of a worldwide recession that would hurt developed countries and devastate the perpetually poor and the struggling ex-Communist states. But even in the last, generally flush decade, the poor were multiplying and seeing no prospects for escape.

Iraq's President, Saddam Hussein, is cynically attempting to appeal for their support, posing his defiance to the world as a crusade against the rich. Iraq is deeply in debt, and dangerous, precisely because Mr. Hussein lavished its oil riches on arms that he now uses to seize more wealth. But that won't benefit the poor anywhere, and when the crisis is ended their plight will still require attention if the world is not to stumble from conflict to conflict.

Dr. Yunus's formula isn't a magic solution. The myth of finding one is the root of many disasters. But his idea is encouraging, visibly effective, and if it works in tiny steps it spreads rapidly. It is based on the simple notion of credit.

He happens to come from Bangladesh, and that is appropriate because if there was ever a country demonstrating the Malthusian cycle, it is his. Its rich, alluvial soil makes it easy for people to multiply to the point where they can't sustain themselves, and the next invariable disaster restores the tragic balance. Most can never get one step ahead.

Dr. Yunus was one of the lucky ones. He won a Fulbright scholarship, studied at Vanderbilt University and went home after his country's independence in 1972 to teach economics at Chittagong University. But, he says, when the 1974 famine struck and he stared at bodies of starved men, women and children in the streets, he asked himself, "Is this what we made a country for, is this what economics is for?"

At that time, someone in his position might have turned to Marxism, but he wasn't tempted. He'd had enough theory, so he went to a nearby village to look for something practical. "I was influenced by American democracy," he says, "and I've always been a nonviolent person."

It occurred to him to lend $6 from his pocket to a basket-woman so she could set up as self-employed. It wasn't charity, and it made all the difference. He found support for offering no-collateral loans in the village, and then in others, founding the Grameen (Bengal for rural) Bank in 1977.

Now the bank has 800,000 loans on its books, hands out $6 million a month, has a 98 percent repayment record, and makes enough profit to sustain itself. The shareholders, 600,000 of them, are successful borrowers whose experience and savings entitle them to buy one share for $3.

The plan has aroused interest in many localities, including Chicago for the urban poor, and Indian communities in Arkansas, North Dakota and Canada. There are firm rules—very small loans, commercial interest rates, small community groups to create peer pressure for repayment, and above all, no collateral.

The "right to credit," which Dr. Yunus espouses, creates the possibility of self-employment, the only kind available to most of the very poor. And it brings responsibility, a sense of dignity and self-worth that poverty so often denies and the most compassionate relief cannot provide.

The U.S. foreign aid budget is $13 billion a year, of which he would like to see $75 million over three years invested in starting up banks based on his principles. It is very small small potatoes and won't remake the world. But he points out that the existing system directed to big projects, infrastructure, budget supports only trickles down, giving point to complaints that current foreign aid winds up as "our poor help your rich." His idea is to help the poor directly.

There are undertones of the "benign neglect" approach once adopted by Senator Daniel P. Moynihan and picked up in President Bush's "thousand points of light." They have only eroded the social fabric in the U.S. and aren't advancing development.

Obviously, the Yunus plan isn't enough. But coming from the third world, it is a refreshing review of how to deal with the problem of haves and have-nots. Wealth is used up all the time. The problem is the capacity to produce new wealth, and the need is to help produce that capacity. It is crucial to show Saddam Hussein's way won't do, and just as crucial to show there is another way for people to help themselves.

TRIBUTE TO IRENE NICHOLS

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Irene Nichols who is being recognized by the Hospital Association of Rhode Island and will receive their Distinguished Service Award.

Eighteen years ago, the association's Distinguished Service Award was instituted to honor and recognize individuals who have made personal achievements in and/or contributions to health care and the health of the people of Rhode Island. Irene Nichols has consistently demonstrated exemplary job performance which has had a positive effect on hospital operations.

Irene has labored to improve Rhode Island's health care system. As secretary to the

hospital administrator, Irene coordinates patient admissions with families and community hospitals, processes all workers compensation paperwork for hospital employees, processes the appropriate documents for hospital licensure and accreditation, handles administrative responsibilities for Medicare reimbursement, and coordinates all activities of the administrator's office. Her colleagues recognize the hard work, knowledge, professionalism, and innovativeness that Irene brings to their office which ultimately improves service to the patients.

The impact that Irene has made in the health care field has been very beneficial not only to those within the hospital administration, but to those receiving the health care. The significance of this is far reaching and is deserving of public attention. Rhode Island, as well as the rest of the Nation, will benefit if people look up to Irene and the other recipients of the award for hospital excellence. The leadership and talent of these individuals is admirable.

It is with great pleasure that I salute Irene Nichols for her outstanding achievements. I wish her continued success in the future.

FORDHAM UNIVERSITY'S SESQUICENTENNIAL CELEBRATON

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. ENGEL. Mr. Speaker, I rise today to bring to the attention of my colleagues that September 30 marks the Inauguration of the Sesquicentennial Celebration of Fordham University. This school is one of New York City's leading educational institutions and is located in my district.

As the third oldest university in New York City, Fordham University has grown to meet the city's educational and communal needs. Founded in 1841 by Archbishop John Hughes, Fordham is an independent university based on the Jesuit tradition of teaching and research, which challenges young men and women to explore the world's knowledge, to examine its ideas, to question its truths, to engage the force of their minds, and to value others.

Fordham University seeks not only to instill knowledge but also encourages its students to use their knowledge in service to the community. For example, more than 800 students volunteer their services through Fordham's Community Service Program—including 300 who act as tutoring mentors in Bronx schools.

Mr. Speaker, this auspicious occasion should be celebrated and I commend Fordham University for the great contributions it has made to the city of New York over the past 150 years.

CHELTENHAM CELEBRATES ITS 300TH ANNIVERSARY

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. COUGHLIN. Mr. Speaker, today, I would like to pay tribute to one of the oldest communities in my district—Cheltenham, PA.

This month, the residents of the Philadelphia suburb are celebrating their community's 300th anniversary.

In 1690, nearly 100 years before the ratification of the U.S. Constitution, a Mr. Dungworth purchased land along what is now the Tookany Creek, a tributary to the mighty Schuylkill River, to build a gristmill. By the time of the American Revolution, the small town—then known as Milltown—north of Philadelphia had grown to support four gristmills.

When the residents of Milltown applied for a U.S. Post Office in 1855, they found that a Milltown, PA, already was recognized further west. After many months of debate, the residents of the community, which had and still has a very diverse ethnic background, chose the name Cheltenham after a similar community in England.

Today, Cheltenham is the home of wonderful working people who, though they are located in Montgomery County and have a strong tie to the city of Philadelphia, still pride themselves as an independent community—Cheltenham, PA.

LIVONIA POLICE DEPARTMENT RETIREMENTS

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. PURSELL. Mr. Speaker, it is with great pride that I bring to your attention the upcoming retirement of six of Livonia, MI's finest. October 27, 1990, will be the day of recognition for the retirement of three from the Livonia Police Department who combined will leave over 80 years of service on the force. Retiring will be Lt. Frederick Benson, 30 years of service; Sgt. Sanford Remer, 30 years of service; and Sgt. Orville Kappen, 23 years of service.

On January 19, 1991, residents of Livonia will recognize the retirement of three more members of the Police Department, including Chief William Crayk, 30 years of service; Deputy Chief Lee Grieve, 32 years of service; and Deputy Chief William Hoff, 33 years of service.

Public safety has always been a critical component in effective government. The community of Livonia, MI, has experienced a wealth of business and residential growth during the past decades. Throughout this period the community has always provided an outstanding environment for economic growth and development, as well as one conducive to raising children who become caring and productive adults with a true sense of patriotism and good citizenship.

To enhance strength for freedom we must all continually renew our spirit of brotherhood, family, and concern for other people. These six officers truly exhibit this spirit that has built and still preserves our freedom, and gives us faith in the America we cherish.

It is my pleasure today to bring national recognition to these six dedicated police officers who have earned the respect and admiration of their friends, colleagues, and the citizens of Michigan. On behalf of the U.S. Congress, I send my special thanks for their devoted service, and hope they will each be blessed with an abundance of happiness in their retirement.

TRIBUTE TO JOSEPH DEGRAIDE

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Joseph DeGraide who is being recognized by the Hospital Association of Rhode Island and will receive their Distinguished Service Award.

Eighteen years ago, the association's Distinguished Service Award was instituted to honor and recognize individuals who have made personal achievements in and/or contributions to health care and the health of the people of Rhode Island. Joseph DeGraide has consistently demonstrated exemplary job performance which has had a positive effect on hospital operations.

Joseph has labored to improve Rhode Island's health care system. As acting supervisor in activities therapy at Rhode Island General Hospital, Joe has been recognized by his colleagues as being productive in his work with patients and coworkers. He has also been very close to the patients he works with. His sincerity for improving the quality of care for patients has made him a group leader.

The impact that Joseph has made in the health care field has been very beneficial not only to those within the hospital administration, but to those receiving the health care. The significance of this is far reaching and is deserving of public attention. Rhode Island, as well as the rest of the Nation, will benefit if people look up to Joseph and the other recipients of the award for hospital excellence. The leadership and talent of these individuals is admirable.

It is with great pleasure that I salute Joseph DeGraide for his outstanding achievements. I wish him continued success in the future.

TRIBUTE TO THOMAS S. WELSH

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a good friend and a distinguished individual, Thomas S. Welsh. Mr.

Welsh is being honored by the Roseville, MI, Democratic committee.

It has been said of Tom that, "he helps make Macomb County a better place to live at a price we can afford." Tom has gifted us with 43 extraordinary years of public service. Few people could have the type of impact on a community that Tom has had on ours. I say that because, very simply, Tom gets the job done.

Tom was born in St. Clair Shores, MI, in 1926. He began his public service career in 1947 when he won a seat on the St. Clair Shores Village Council. Four years later Tom became the youngest mayor St. Clair Shores has ever had. Tom was first elected Macomb County Drain Commissioner in 1960 and has been reelected eight times. This position became known as public works commissioner in 1975, which is the position Tom now holds.

Tom has also represented Macomb County on the Huron-Clinton Metropolitan Authority [HCMA] for the past 29 years. It has been with his assistance and hard work with the HCMA that I have been able to secure funding to build a bike and hike trail linking Metro Beach and Stony Creek Metroparks. Tom has remained one of my closest associates in this endeavor and without him I am sure the trail would not be possible.

More than this, Tom has made it a priority to improve the quality of water in the Clinton River and Lake St. Clair. We have all benefited from these efforts. His advocacy of public recreational opportunities has resulted in the development of three major metroparks in Macomb County. In countless other ways, ways that are not always obvious, Tom has continued to make our community a better place to live.

I commend Tom on his exceptional dedication to our community. I am proud to have worked with a man of his stature. I consider Tom a friend of mine and a friend to all of us in Macomb County.

IMPENDING BUDGET TRAIN WRECK

HON. LINDSAY THOMAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. THOMAS of Georgia. It is time for the President and the budget negotiators to come down from the summit and get their feet on the ground with the rest of the Congress. If they were down at the ground level, they would have to look in the eyes of dedicated Federal employees who are wondering why the President and the Congress can't get their job done and get it done on time.

The summiteers have had a thankless task and a mission impossible. I thank them for their exhaustive efforts and the distance they have come in reaching an agreement, but now the time has come to put the rest of Congress to work.

I am sick of a process that makes Federal employees the helpless hostages of budget gridlock. I invite the President and the summiteers to go visit with the FBI agents in Brunswick, the military employees in Hinesville, the poultry inspectors in Claxton, the air traffic controllers in Savannah, or the Social Security employees in Vidalia who have received furlough notices. Maybe they can explain this mess to those dedicated employees or the taxpayers they serve. I can't.

But I do have two proposals for a solution.

First, for every day of pay that Federal employees lose on average due to furlough, congressional pay ought to be docked twice that amount. If Federal employees lose 3-day's pay, Members of Congress lose 6. Let's see if that payroll laxative will get the budget process moving.

Second, give the summiteers 12 hours to report to the House and Senate floor the areas of major disagreement. Then put the alternative plans to an immediate vote. The people elect the Congress to vote on tough issues, not to sit on their hands while someone else negotiates the tough issues.

If we are going to bring the Government to a halt, I think we ought to take the Congress off the payroll and put it in session 24 hours a day. As it stands now, every Member of the House and Senate who is not a summiteer does not have the slightest influence over the impending budget train wreck. The people elected us to legislate, not to be locked out of the process.

TRIBUTE TO MARIO BACCARI

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Mario Baccari who is being recognized by the Hospital Association of Rhode Island and will receive their Distinguished Service Award.

Eighteen years ago, the association's Distinguished Service Award was instituted to honor and recognize individuals who have made personal achievements in and/or contributions to health care and the health of the people of Rhode Island. Mario Baccari has consistently demonstrated exemplary job performance which has had a positive effect on hospital operations.

Mario has labored to improve Rhode Island's health care system. As a food service manager, Mario has been working diligently to see to it that the dietary area has been upscaled in the Women and Infants Hospital of Rhode Island. His vision and understanding of the patients has allowed him to mold the dietary area towards their needs.

The impact that Mario has made in the health care field has been very beneficial not only to those within the hospital administration, but to those receiving the health care. The significance of this is far reaching and is deserving of public attention. Rhode Island, as well as the rest of the Nation, will benefit if people look up to Mario and the other recipients of the award for hospital excellence. The leadership and talent of these individuals is admirable.

It is with great pleasure that I salute Mario Baccari for his outstanding achievements. I wish him continued success in the future.

CELEBRATING THE SANTA FE TRAIL

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. RICHARDSON. Mr. Speaker, during last month's recess I was privileged to be present at the unveiling of a beautiful and informative tile mural commemorating the Santa Fe Trail. John Barker, the designer of this work of art, carries on his family's fascination with this historic road linking the fortunes of New Mexico with those of the United States.

Barker's grandmother, Ruth Laughlin, wrote extensively about the trail and its impact on Santa Fe and the Southwest. His father, Laughlin Barker, who conceived the project, owns various properties in downtown Santa Fe, including the portal where the mural is displayed. John Barker is currently an art associate of Discover Magazine.

The mural, composed of 84 handpainted ceramic tiles, traces the route of the Santa Fe trail and depicts life along it. Colorful characters and little-known anecdotes are featured alongside the more famous heroes and villains associated with the trail.

Mr. Speaker, I would like to commend the Barker family members for their dedication to sharing the history of this area and for the inventive fashion in which they have done so.

IN HONOR OF IRWIN AND RITA HOCHBERG

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. HOCHBRUECKNER. Mr. Speaker, it gives me great pleasure to honor Irwin and Rita Hochberg. They are a tribute to the New York community and a role model for all.

The Hochbergs are activities par excellence. Irwin Hochberg serves on the board of directors of the United Israel Appeal and is a national vice-chairman of the United Jewish Appeal. He was recently appointed governor of the Jewish Agency for Israel. Mr. Hochberg is also a trustee of the Great Neck Synagogue and was a founder of the Mid-Island Day School in Nassau County, NY. Rita Hochberg is a leading member of the National Jewish Appeal Women's Division-Atlantic Seaboard Region as well as an active member of the American Jewish Congress Commission for Women's Equality. Mrs. Hochberg was also the much deserved recipient of the coveted Eleanor Roosevelt Award while serving as the vice-president of the Eleanor Roosevelt Chapter of American Jewish Congress.

The Hochbergs possess a fervent desire and tireless ability to help others and have given of themselves as few do. Their commitment to charitable organizations have made them leaders in the New York community. I would like to thank them for their outstanding work and congratulate them as they are hon-

ored by the American Friends of the Open University of Israel on their many accomplishments.

TAXPAYER BILL OF RIGHTS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. ARCHER. Mr. Speaker, I am today introducing legislation to clarify an important feature of the taxpayer bill of rights. I want to make it absolutely clear that before the Internal Revenue Service may make a levy against a person's wages, that person is entitled to notice.

In a recent case, Medaris versus United States the IRS made a levy against a Texas woman's wages to satisfy the separate tax liabilities of her husband. The IRS took the position, upheld by the court, that Mrs. Medaris was not entitled to prelevy notice because she was not the person liable for the taxes. That position is, of course, ridiculous in that it gives a delinquent taxpayer greater notice rights than an innocent wage earner against whom a levy is about to be made.

The bill I am introducing would require the IRS to give advance notice to any wage earner against whom it will make a levy, whether or not the wage earner is the person liable for the unpaid taxes. The bill has a January 1, 1991 effective date, but no inference is intended as to whether notice is required under these facts under current law.

H.R. 5314—THE WATER RESOURCES ACT OF 1990

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. WALSH. Mr. Speaker, I rise today in support of the Water Resources Act of 1990 which contains money for the restoration of a vital central New York resource, Onondaga Lake.

I hope many of my colleagues will recognize the name of Onondaga Lake. Senator MOYNIHAN has introduced a bill in the Senate on this issue and I have introduced a similar bill in the House—H.R. 2068, The Onondaga Lake Restoration Act of 1989—we believe that this legislation will bring this body of water back to life after almost a century of industrial abuse in the form of severe pollution and waste materials such as benzene and mercury. Onondaga Lake is one of the most polluted bodies of water in America. It has been declared a toxic waste site.

In central New York we have set a goal, to be able to use the lake again for recreation in our lifetimes. Already, a multi-million dollar retail project is nearing completion. We are making progress. We appreciate this help.

The environmental concerns are great. Since the lake drains into Lake Ontario and the St. Lawrence River, we are especially aware of the negative impact on fish and wildlife as well as the potential harm for human beings.

In addition to thanking all of my colleagues who support this project and this legislation, I would especially like to thank Mr. NOWAK, chairman of the Subcommittee on Water Resources who has been a mentor for me on this project. On March 22 this year, Mr. NOWAK graciously chaired a hearing on Onondaga Lake—allowing the mayor of Syracuse, the Onondaga County executive and other local agencies and spokesmen to build a record on behalf on Onondaga Lake. We look to Mr. NOWAK'S example in cleaning up Lake Erie when we hear disparaging remarks about the supposed impossibility of cleaning up our lake.

In central New York, we have this challenge before us. We appreciate the help of our Federal Government. I personally appreciate the work of the committee people and my colleagues who have done, and will do, much to strike this positive blow for the environment.

THE TOPSFIELD FAIR

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MAVROULES. Mr. Speaker, I am pleased to have the opportunity this weekend to be officially opening the 10-day Topsfield Fair, the oldest county fair in the country. This event, which is located in my district, the Sixth District of Massachusetts, is a celebration of country life in our modern world. This fair was established in 1818 and is conducting its 166th event; the only occasions on which it was not held were the two World Wars.

This agricultural fair, put on by the nonprofit Essex Agricultural Society, features competitions in farm animals, vegetables, flowers, and arts and crafts. It represents an opportunity for the community to recognize the contributions of individuals representing all segments of rural society, from senior citizens to young children.

This year's theme of "Where Memories Are Made" is especially thought provoking, as people can look back to their eariler years and remember the first time they came to the county fair.

I want to congratulate the officers of the Topsfield Fair, the president, Frank J. Babin and general manager, Alvin W. Craig for continuing the fine tradition of Essex County's Topsfield Fair.

MEMBERS OF THE HOUSE AND SEQUESTER

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MARLENEE. Mr. Speaker, the President sent his budget to Congress in January, and yet we are now hours away from our October 1 deadline to avoid the across-the-board cuts of the Gramm-Rudman Deficit Reduction Act. The President then called for a budget summit which began on May 15 and ran for 12 weeks until the August recess. Still no agreement. The meetings then resumed at Andrews Air Force Base on September 7 and ran continuously through September 17. Still no agreement.

And now we face sequester. Many Federal employees are going to face real hardship because of this impasse. Real mortgages payments will not be made, real Government contracts will be broken, and real electric bills will go unpaid, and all because Congress refuses to demonstrate the kind of spending restraint needed.

Today, I have introduced legislation that would direct the Speaker of the House to devise a plan to subject House Members to the effects of a sequester if one, in fact, were to occur. Federal employees are to be furloughed without pay due to the inability of Congress to handle the finances of this country.

The people of this country, during this sad spectacle of impending sequester, should sit up and take notice. This crisis has been long in coming, and some of us have predicted it. This is not rhetoric; it is reality. I urge the people of this country to go to the CONGRESSIONAL RECORD, read the voting records, and see in black and white who caused this crisis, and remember this at voting time. It is often noted that Congress holds the purse strings of the Nation. This Congress has managed to turn those purse strings into the noose of sequestration. The legislation that I have introduced today would bring a measure of equity to an unfair and needless crisis. I urge my colleagues to cosponsor this equity measure.

SUPPORT COLA EQUITY ACT

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in strong opposition to various proposals that are being put forth by the Bush administration and by others which would amount to a full scale attack on Federal employees and retirees. I have always opposed the Reagan and now Bush administration proposals to reduce or eliminate Federal employee and retiree benefits, but the current set of proposals is particularly outrageous.

It is absolutely wrong and inequitable to propose a freeze on retirement COLA's and permanently reducing future COLA's to CPI minus 1 percent, while fully protecting Social Security. Federal retirees should not be singled out for this patently unfair, and discriminatory treatment. I am a proud cosponsor of Representative OAKAR'S COLA Equity Act and that is the direction the White House and this Congress should be taking.

The lump sum payment option was originally promised to Federal and postal employees as a partial compensation for a previous budget cut which eliminated the 3-year recovery rule. Congress and White House should not renege on that deal.

The huge cuts being proposed for the Federal Employees Health Benefit Plan and the

cuts to the U.S. Postal Service which will amount to a stamp tax are also counterproductive and damaging to the interests of Federal employees and ordinary taxpayers alike.

We need a bipartisan budget agreement, and I have no doubt that that agreement will entail sacrifices and some measures that I will personally dislike. Nonetheless, it is critically important that the sacrifices be fairly shared and that Federal budget deficit reduction does not fall disproportionately on the backs of Federal employees and retirees.

PORTRAIT OF THE CIVIL WAR

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. MRAZEK. Mr. Speaker, I rise today to again bring the Nation's attention to several events that occurred on this day, 128 years ago during the Civil War. It was the fall of 1862, a season that witnessed the bloodiest day of the war, the Battle of Antietam at Sharpsburg, MD.

After the battle, Lincoln was seriously concerned about the manner in which Union Major John J. Key and others were shaping the outcome of the war. Key had allegedly said that the object of the Battle of Antietam was "that neither army shall get much advantage of the other; that both shall be kept in the field till they are exhausted, when we will make a compromise and save slavery."

After interrogating Major Key, Lincoln decided to dismiss him from military service. Such views were apparently rife in the Union army and Lincoln was perturbed by McClellan's lack of aggressive action after Antietam.

Also on September 27, the first regiment of free blacks was enlisted in New Orleans as the First Regiment Louisiana Native Guards. The enlistment of free blacks had been authorized by General Butler 1 month earlier.

Events such as these are being portrayed this week on public television stations around the country in an epic documentary series entitled "The Civil War." This series is an example of the value in the Federal investment in educational public television. I applaud local public television stations for helping to bring this valuable portrait of the Civil War into our homes.

TAIWAN CELEBRATES ITS NATIONAL DAY

HON. CHUCK DOUGLAS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. DOUGLAS. Mr. Speaker, the Republic of China on Taiwan, a young and dynamic democracy in the Far East, will be celebrating its National Day on October 10, 1990. I wish to salute that tiny nation and applaud its political and economic achievements.

Politically, under the leadership of Taiwan's President Lee Teng-hui and Vice President Li Yuan-zu, Taiwan is quickly becoming a constitutional democracy and its people enjoy all the privileges and liberties that we enjoy in the West.

Economically, Taiwan has become a major player as our 5th largest trading partner and the 13 largest trading entity in the world. Its foreign exchange reserves are the second highest in the world.

Moreover, Taiwan has been our faithful and loyal friend. It has done everything it can to reduce its trade surpluses with us and it has given the United States all the support during the current Persian Gulf crisis.

Mr. Speaker, as a token of our appreciation of Taiwan, let's support Taiwan's bid to join the international trade community as a major economic player. Taiwan's application for membership in the General Agreement on Tariffs and Trade [GATT] richly deserves our support.

Last but not least, Taiwan's representative in Washington, former Minister Ding Mou-shih, should be recognized and commended for his tireless efforts in making us better understand his country and his people.

A happy 79th National Day to the wonderful Chinese people in the Republic of China on Taiwan.

REPUBLIC OF CHINA'S 79TH BIRTHDAY

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. BALLENGER. Mr. Speaker, I know many of my colleagues in the U.S. Congress join me in offering best wishes and congratulations to the Republic of China on the 79th anniversary of the founding of that nation—October 10, 1990.

The Republic of China is a model nation of 20 million hardworking men and women striving for prosperity, individual freedom and world peace.

President Lee Teng-hui and Representative Ding Mou-shih should be very proud of the accomplishments of their country, and I wish to pledge my continuing affections for the Republic of China on Taiwan.

IN MEMORY OF MARGARETTA BELIN CHAMBERLIN

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. McDADE. Mr. Speaker, I was deeply saddened to hear of the passing on September 20, 1990, of Margaretta Belin Chamberlin, a longtime resident of Waverly, PA. Margaretta was an active civic leader in the city of Scranton and I was honored to be her friend for more than 30 years.

Margaretta Chamberlin was filled with a tireless energy and devotion to the principle of service to others. The Scranton community was privileged to count her among its leading citizens.

Margaretta Chamberlin completed her formal education at the Sorbonne in Paris and Bryn Mawr College. She was appointed to the Keystone Junior College Board of Trustees in 1963 and served for 20 years, including a term as chairman from 1970 to 1973. In 1983, friends and family established the Margaretta Belin Chamberlin Chair for Distinguished Faculty Service, the first endowed chair in Keystone's 120-year history. From 1985 to 1987 Margaretta Chamberlin served as interim president of Keystone Junior College and later as trustee emerita.

Margaretta Chamberlin's civic interest was broad-based. She was a member of the board of Friendship House and past president of the Junior League of Scranton. She had been active in the United Way, the Waverly Community House, the Waverly Woman's Club, the American Red Cross and the Everhart Museum. She was founder and first president of the Lucan Center for the Arts, a board member of the Northeastern Pennsylvania Philharmonic and the Masonic Temple Foundation.

I always knew Margaretta Chamberlin to be a loving, devoted mother. My heart goes out to her surviving son and four daughters, William L. Chamberlin, Jr., Mrs. Kathleen C. Graff, Margery C. Edmundson, Alice Chamberlin, and Ann Kip Chamberlin.

Mr. Speaker, Margaretta Chamberlin will be deeply missed by the citizens of the city of Scranton to whose betterment she dedicated her life, by her steadfast friends and, of course, by her loving family.

TAXATION OF COOPERATIVE HOUSING

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. GREEN of New York. Mr. Speaker, on September 11, 1990, I introduced legislation to amend the Internal Revenue Code of 1986 to exempt cooperative housing corporations from the provisions of section 277 of such Code.

As a Member of Congress who probably has more housing cooperatives in his district than any other Member, I feel that it is necessary to ensure that the intent of Congress regarding the taxation of housing cooperatives is not thwarted by the Internal Revenue Service.

Section 277 was enacted in 1969 to tax revenues derived by membership organizations, such as country clubs and hunting lodges, from services which they provided to nonmembers at a higher fee than members paid. It states that non-member income of membership oganizations cannot be used for tax purposes to offset the cost of providing services to a member. Only the direct costs of that service can be deducted for tax purposes. There is nothing in the history of section 277 which indicates that Congress intended to apply section 277 to housing cooperatives, and the effort of the IRS subsequently to apply that section to them seems to be most inappropriate.

Furthermore, cooperatives are very well regulated without invoking section 277. Section

216 of the Internal Revenue Code sets strict standards for qualification as a cooperative, and affords to qualifying cooperatives the right to pass along to shareholders the deductions for mortgage interest and for real estate taxes. Subchapter T further defines cooperatives by providing for extensive taxation guidelines. Clearly, co-ops are well regulated by existing law, and the application of section 277 is an unwarranted intrusion.

I should like to emphasize that cooperatives are worthy vehicles for providing affordable housing. In the past, the federal government has recognized this fact and given cooperative housing its support and encouragement. The majority of cooperatives are owned by middle-and low-income families. Many were constructed with Government-insured loans and some were federally assisted through housing production programs. In order to preserve cooperatives as providers of affordable housing. I believe that they must be protected from misguided overtaxation under section 277.

I strongly encourage my colleagues to join my efforts to protect housing cooperatives from onerous taxation that would result from the application of section 277. The IRS efforts to impose section 277 taxation on housing cooperatives will no doubt have serious ramifications not only for cooperatives in New York but for those throughout the Nation.

LONGTIME MISSOURI LEADER AND DECORATED WWI MARINE DIES

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 27, 1990

Mr. SKELTON. Mr. Speaker, my high school Latin teacher has died. But he was more than a Latin teacher, he was a friend and an inspiration throughout the years that I knew him.

Col. James McBrayer Sellers, 95, commandant, superintendent and president of Wentworth Military Academy over a span of 70 years, died September 5. Sellers was born in Lexington, MI, where he lived his entire life except for 4 years in college and 3 years in the U.S. Marine Corps during World War I.

As a student at the University of Chicago, Colonel Sellers was a member of Beta Theta Phi and Phi Beta Kappa, graduating in 1917. Colonel Sellers was active in the community of Lexington. He was a Free Mason, having served as grand master of the Masonic Lodge of Missouri. He was also active in the First Presbyterian Church.

Responding to a Marine Corps offer to commission 10 Wentworth graduates, Sellers entered officer training at Quantico, VA, with the first contingent to open the base. He received his commission as a second lieutenant and sailed to France in early 1918 as a platoon leader in the 6th Regiment of the 2d Division. He was seriously wounded in the first American engagement of the war in Belleau Woods on June 6. Returning to the regiment in August as company commander, he participated in major engagements at St. Mihiel, Mont Blanc, and the Argonne. For bravery in action he was decorated with the Distinguished Service Cross, Navy Cross, Silver Star, Purple Heart, World War I Victory Medal with battle stars and the French Croix de Guerre. For a number of years he has been the most highly decorated living Marine veteran of World War I. He retired from the Marine Reserve as a lieutent colonel in 1945.

His wife, Rebekah, died, in 1985 and he is survived by three sons, Stephen Wentworth Sellers, James McBrayer Sellers, Jr., and Fred Evans Sellars; six grandsons; and one granddaughter.

Colonel Sellers was truly a great Missourian. Those who knew him as a student, such as I, had the opportunity to know one of the finest role models in our country. He was my friend, and I will miss him, as will many others whose lives were touched by this outstanding officer and gentleman.

SENATE—*Friday, September 28, 1990*

(Legislative day of Monday, September 10, 1990)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

If my people, which are called by my name, shall humble themselves, and pray, and seek my face, and turn from their wicked ways; then will I hear from heaven, and will forgive their sin, and will heal their land—II Chronicles 7:14.

Baruch Ha Shem. Blessed be the name of the Lord.

God of Abraham, Isaac, and Israel, this evening Yom Kippur begins. We thank Thee, Lord, for Thy love even when we rebel or sin or fail; for Your direction to Moses to set apart the 10th day of the 7th month for a day of atonement.

Gracious Father, as devout Jews everywhere spend this day in repentance, fasting, and prayer, seeking forgiveness, spiritual awakening, and renewal, may all of us who take Thee seriously join them in this significant exercise of faith. And may Thy blessing rest upon every gathering of Thy people. To the glory of God, and the honor of His name, and the blessing of our land. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 28, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KERREY thereupon assumed the chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. In my capacity as a Senator from the State of Nebraska, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE JOURNAL

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the time for the two leaders be reserved for their use later in the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

THE SENATE STANDS MUTE

Mr. MOYNIHAN. Mr. President, in this hour on Monday morning, the beginning of the week's session, I came to the floor to note that we were now in the 7th week of extraordinary events in the Persian Gulf that came about in the aftermath of Iraq's aggression, specifically the Iraq invasion of Kuwait.

In that 7 weeks, the U.S. Senate has not had one word to say about one of the momentous moments in the history of this century: The first crisis of the post-cold-war world, a crisis which has seen the United Nations come to life as it had never previously done, although very much as it was hoped and anticipated that it would do. It has become a setting for deliberation, for debate, for inquiring, and for action.

I ask, is it not extraordinary that the Senate stands mute before these epic events? The President came to us in a joint session and spoke of "a new world order." Since he spoke of a new world order, we have debated the disposal of garbage, the inspection of fish, and the availability of contraceptives. We chose not to consider CAFE standards on automobiles. We came near to something called the motor-voter registration system, but were disinclined to go forward in that direction. What we are to do today, I do not know and do not very much care if we are not going to be doing the one thing which we ought to be doing, which is debating the role the United States has taken in the evolution, if that is to be the case, of what would truly be a new world order.

We are in the aftermath of a solid quarter-century of debate over the Presidential war powers, and we are involved here in kind of a time warp. We think the President has gone to war, but we are not sure and we do not know whether it will work out. Will we win? So as we recline here, our powers slip, and make no mistake, Mr. President, our powers atrophy. We cannot have asserted at full voice the right of the Congress to be involved and to be consulted, to participate and then when the opportunity to consult, to participate, and to advise comes, to say nothing, to divert ourselves, rather, to issues such as the disposal of garbage—literally the disposal of garbage.

In the great decision on the Presidential powers in the Youngstown steel cases, Justice Jackson, reversed, in effect, the earlier decision of Justice which dealt with a question of exports during the Chaco wars, in which the Court had ruled that the President was the "sole organ" of the Nation in the conduct of foreign affairs.

Justice Jackson brought us back in Youngstown Steel to the simple, fruitful, and accurate observation that the Constitution divides power in foreign policy between the executive and the congressional branch.

We have paid great attention to the subject of declarations of war, and we have, of course, a War Powers Resolution with a calendar of events to be followed, rather much as if war were a scheduled offering of securities on the stock market or something such that could be programmed. War does not work that way, Mr. President.

Indeed, the power to declare war may sound as something larger than in fact it is. There are respected and respectable scholars who observe that all a declaration of war does is change legal status of belligerent parties. The real power of the Congress arises from

its control over the appropriations for any forces the President, as Commander in Chief, might commit to the battle or situation of potential belligerence. And that is an arrangement that was suitable to the 18th century world in which our Constitution was devised.

In the interval, however, we have created a new set of institutions, a new world order in the United Nations. The U.N. Charter is a treaty. Treaties are "the supreme law of the land." I do not think we should ever assume that any word in the Constitution is there casually. They could have called treaties part of the law of the land. They called them the supreme law—a two-thirds vote of Members present and voting being required for consent to the ratification of the treaty.

If the U.N. Charter is "the supreme law of the land," then article 25 of the charter is "the supreme law of the land." Article 25 says that member States shall observe and abide by resolutions of the Security Council. That is what has happened. The Soviet Union, in an extraordinary display of a changed disposition, has not only gone along with but amplified the President's views.

Mr. President, I have spoken past the 5 minutes and ask unanimous consent, only one other Senator being present, to speak for another 2 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOYNIHAN. The President's views have been amplified by those of the Soviet Union. Mr. Gorbachev spoke on the subject during their meeting in Helsinki. Mr. Shevardnadze could not have spoken more vigorously in support of collective security actions of the Security Council. They are talking about reviving the military committee which the Security Council was to have at its disposal with forces made available in advance by agreement by member nations.

The United Nations Participation Act of 1945 said that the President could negotiate such an agreement, could make the 82d Airborne Division available for example. And after we had approved that agreement, he would, thereafter, be free to commit American forces to combat under the Security Council resolutions.

We have done all that, but it is out of mind, a long time ago. Suddenly the U.N. system has come to life, and what do we do? We stand mute. If in 6 months' time things are not going well—and they are not necessarily going to go well—the President will regret having no statement of congressional support. Economic sanctions are not a kinder, gentler form of diplomacy. They are brutal acts meant to coerce, and properly so, in the face of Iraqi aggression and coercion. But it is not going to be pretty. It will not go away. If, because we are not sure whether we are going to win or lose, we take no sides, then we declare ourselves to be irrelevant. If we cannot say anything about this subject, we declare ourselves incapable. Our powers sleep and atrophy and nothing is done. If we spend today doing nothing, as we have spent this week doing nothing, while the most solemn responsibility of the U.S. Senate, which is to participate in the formulation and construction of foreign policy, withers, we will come to regret it.

Mr. President, my time has expired. I see the distinguished Senator from Colorado is on the floor. I am happy to yield.

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized.

Mr. WIRTH. Mr. President, I greatly appreciate the attentiveness and courtesy of the Senator from New York. His comments are careful, scholarly, and courteous. The level of discourse is always at its highest by the Senator from New York. I greatly appreciate his courtesy.

CABLE TV

Mr. WIRTH. Mr. President, I believe when we finish morning business, in about 12 or 14 minutes, the majority leader will come on to the floor and will ask unanimous consent to proceed to consideration of S. 1880. I understood from the discussions last night on the floor that that would be the business of the Senate. It is imperative at that point that all Senators agree, the unanimous-consent request being made, and I want to record at this point that I will object to proceeding to the legislation at this time.

We are very close, Mr. President, to arriving at an agreement on a cable bill. I believe we should have a cable bill. As you may know, Mr. President, the city of Denver, CO, is really the cable capital of the country, the cable capital of the world, and this industry is extraordinarily important to my constituency, the State that I represent, to tens of thousands of people in Colorado; but beyond that, Mr. President, to hundreds of thousands of people in the United States. For example, one of the cable companies has directly or indirectly employment for well over 600,000 Americans.

So this legislation is very important to me. It is very important to my constituents. It is very important to my State. But it is also very important to the hundreds of thousands of people in the United States, both employees and, I might add, investors in the cable industry.

The cable industry has been going through some extremely difficult times. Most of the equity is gone from the industry. Because of the dramatic decline in cable stocks, cable prices, the industry has had some very significant problems at a time when the economy is already fragile. It seems to me that we do not want to go further than we have already.

Consequently, Mr. President, I have talked to a lot of people in the industry and have said to them that I believe we ought to have a piece of legislation. There are many in the industry who have not wanted to have a piece of legislation and with others of my colleagues here I believe that most of them have been persuaded. Whether they have been persuaded or not, we are at a time of either fishing or cutting bait. I think we ought to fish and get ourselves a piece of legislation. But it should not, Mr. President, be any piece of legislation.

I do not wish by objecting this morning to prevent the Senate from ultimately considering this proposal. But I have a number of concerns for the legislation as it was reported by the committee. I do not come at this as a novice, Mr. President. I am not just protecting the wishes of my constituency and concerns of the companies in the State of Colorado. I come at this from a very long history dealing with the cable industry. I was on the Telecommunications Subcommittee in the House of Representatives for 12 years, chaired that subcommittee for 6, and authored the cable bill of 1984.

So I think I know that legislation probably as well as anybody on the Hill. At least I would hope so. And I believe that is somewhat correct except that some fine tuning of the cable bill may be in order at this time.

I think it is appropriate and we will, I suspect, have a chance to get into the enormous success of some of the very good things in the cable bill. There has been a lot of cable bashing around. People say maybe rates have gone up too fast. In some cases I think rates may have gone up too fast and there may have been some price gouging. A few apples however should not destroy the whole barrel.

There also has been concern about consumer services. In some places that service has not been good. If you look at what the cable industry has done they have really pulled up their sleeves, and started to address this issue. And every survey of customer satisfaction shows that satisfaction is increasing dramatically.

Those issues are some of the legitimate issues that we ought to address. There are other issues that should not be in this legislation and have absolutely nothing to do with what was originally driving this legislation. This legislation was initially driven by consumer concerns, legitimate consumer concerns about rates and some legitimate consumer concerns about service. But now it has spilled into much more

of a let us carve up the pie, let us get the new guy on the block, let us go after the cable industry, let us see if we can punish this very successful industry and see if we can carve some of it up. There are a variety of other people who have gone around the marketplace for whom cable has been a very real and successful competitor.

This bill is not to take on that issue at all. We certainly should not do it here. There are a number of provisions that go well beyond the scope of the basic rate and customer services issue. I think those are the ones that we should eliminate from this legislation or modify in the legislation. Of greatest concern are the program exclusivity provisions, the ability of the cable industry to sell their product to the people they want to sell it to, and their ability to sell it as anybody else can with very signficant volume discounts. Those issues have somehow gotten into this legislation which was to be a rate and service consumer bill. It is no longer a rate and service consumer bill. We can get a good bill but I do not think we will get that here. I think we want to sit down and work that out.

The distinguished chairman of the Commerce Committee, Mr. HOLLINGS, has been extremely helpful. He and I talked about it only again this morning. I think the remaining handful of issues can be worked out.

The distinguished chairman of the subcommittee, the senior Senator from Hawaii, also has been very forthcoming and helpful. I know he understands the concerns related to rates, and had some concerns related to services. I think those can get addressed. There are concerns related to the structure of the industry.

We may not be able to move as expeditiously as has been suggested. So if we can work on this, we might even be able to sit down as has been suggested. We might work out an agreement that carries us right through and pick up the concerns of the people in the House of Representatives as well. That is ambitious, I know. We do not have very much time left.

It seems to me we ought to try to see if we can get a package that everybody would agree to, solve the rate problem, solve the consumer service problem, that could make sure we are not shackling or endangering an industry at a very, very important time. We should be able to get a piece of legislation that can solve everybody's problems, and that is what I think we ought to try to do rather than come in here to try to confront this or pull something through.

I hope we have a chance to do a little more surgery, and that is my intent and my hope. That is the reason I will object this morning if the unanimous-consent request is made to bring up S. 1880 this morning.

I appreciate your courtesy, Mr. President, and I yield the floor.

Mr. PACKWOOD. Mr. President, are we in morning business?

The ACTING PRESIDENT pro tempore. We are until 10:30.

Mr. PACKWOOD. Mr. President, I am going to join my good friend from Colorado in objecting to bringing up the cable bill. Of all the areas where we have had deregulation, railroads, trucking, communications, cable ranks with the best in terms of achieving the goals we set out to achieve. I am not saying the situation is perfect. I am not saying there are not some things that might be improved. But the bill that will be brought before us today is an overreaction.

If you look back at where we were not 20 years ago, but just 6 years ago, in terms of cable, the vast difference that has come since deregulation is night and day. If you want to go back 20 years, 25 years, for all practical purposes the only television that the bulk of Americans had were the three networks, maybe a local independent station, plus maybe a local public television station, and that was it.

Today more than 80 percent of all U.S. television households have access to cable television, and this is up from 60 percent in 1984, just 6 years ago. Now there are over 90 national and regional cable programming networks as compared programs as provided by those networks has increased substantially and the diversity is amazing.

For a long time in Portland where I live, I had no cable television. Until about a 1½ years ago I did not have access to cable television in my home in the D.C. area. After cable became available to me, I would from time to time play through the channels out of curiosity to see what was on those channels. I am fascinated by the diversity and the quality of the locally produced shows that you would not see on normal or over-the-air television.

I am not saying that cable should be protected from all competition, and they are not. Direct broadcast satellites, and over-the-air broadcasting, are going to provide competition. Any information provider or entertainment provider has ample competition from other broadcasting, movies, videocassette recorders, newspapers, magazines. If there is anything this country is not lacking, it is access to amusement and entertainment or information.

As far as rates are concerned, there is no question, there have been some egregious cases of increases in a few isolated areas. That has not been true in most areas. However, it is understandable that after 1984, when deregulation occurred, there was some catchup in rates because they had been held artificially low by regulation. Some increases were beyond the Consumer Price Index in 1984, 1985, and 1986 because the rates had not been allowed to go up very much in 1978, 1979, 1980, 1981, 1982, 1983, and 1984. But the General Accounting Office itself has said that the average price per basic channel offered by cable systems has not increased significantly since deregulation. I emphasize that again. Although the overall price of basic service has increased, so has the number of channels available on that basic tier. Today you have access to many more basic channels and the cost per channel has not increased significantly since deregulation.

In fairness, part of the increase we have seen in the cost of cable service reflects an increase in programming costs. It costs money to do programming. Prior to deregulation, relatively little of cable was doing its own programming. We have heard time and again from the networks, from Hollywood, what it costs to program. The costs are extraordinary.

And so when cable took to programming—and there is a great diversity of programming, there is no question—they picked up additional costs. Although abuses may have occurred, they can be addressed and corrected without the radical changes made in this bill.

The effective competition language in the 1984 Cable Act, provides a commonsense standard for determining when cable rates should be regulated. That is a good standard. The problems that have arisen under the existing standard exist because of the FCC's definition of effective competition which no longer reflects the current nature of cable service and the competitive state of the video marketplace.

The FCC is currently revising its effective competition standard and, if given a clear signal by Congress, could revise it to reflect more accurately current market conditions. I certainly think that would be preferable to unneeded action by the Congress.

There is substantial, credible evidence in the FCC's proceeding that broadcast signals can furnish effective competition to basic cable service. There is no persuasive evidence that a second multichannel video provider, as required by S. 1880, is necessary, even though it may be preferable, to provide such competition.

S. 1880 would reregulate virtually all cable systems despite the fact that many cable systems were deregulated by State and local agencies even before we passed the 1984 Cable Act.

So for a variety of reasons, which I will dwell on at some length when we get to the motion to proceed, I would hope we do not proceed to this bill. I know the Senator from Colorado and I, the Senator from Louisiana, the Senator from Alaska, have amend-

ments we would like to negotiate with the authors of this bill, or with their staffs. Perhaps this bill could be made workable, if some of the more egregious reregulatory parts of it were taken out. But until that time, until we have a chance to negotiate, I would have to object to the consideration of the bill.

I thank the Chair.

LET'S BRING GLASNOST TO REVENUE ESTIMATES

Mr. KASTEN. Mr. President, yesterday I entered into the RECORD a new economic study which exposes the fallacy of static revenue methods employed by the Joint Committee on Taxation.

Today, I would like to bring to the attention of the Senate an article that I wrote on this subject which appeared in Tax Features earlier this year.

In some of the most important tax policy debates of the last decade and a half, the official revenue estimates by the Joint Committee on Taxation were often misleading, incomplete, and incorrect—leading Congress to enact misguided tax increases and reject much-needed tax cuts.

Bad revenue estimates can create policies that wreck the economy. If we were to listen to the demagogues on capital gains tax cuts—who all rely on the Joint Tax Committee's flawed estimates—we would have no choice but to squelch this essential tax cut, thus abandoning our last weapon against recession.

I ask unanimous consent that my article entitled "Let's bring Glasnost to Revenue Estimates" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LET'S BRING GLASNOST TO REVENUE ESTIMATES

Thanks to the Freedom of Information Act, most of our government's actions are open to public scrutiny. But one major exception remains—the making of U.S. tax law.

The Congressional tax-writing process remains shrouded in secrecy. The fate of proposed tax changes—like cutting the capital gains tax or expanding savings incentives—are often decided behind closed doors by the accountants and economists who make revenue estimates.

For the past 50 years, the revenue estimates prepared by the Joint Committee on Taxation and the Treasury Department played only a minor role in the making of Federal tax policy; the estimates merely provided legislators with helpful reference points for proposed tax changes. But the rising budget deficits and tighter Gramm-Rudman budget procedures have heightened the role of these estimates to the point that they often dictate policy, to the detriment of other important goals like fairness, efficiency and economic growth.

To be sure, the revenue-neutrality test imposed by the Gramm-Rudman process is an important fiscal restraint, and we ought to stick to it. That's why it is essential for Congress to have accurate estimates for proposed tax legislation.

But in some of the most important tax policy debates of the last decade and a half, the official estimates were often misleading, incomplete and incorrect—leading Congress to enact misguided tax increases and reject much-needed tax cuts.

Case in point: Capital gains. In 1978, Treasury and the JCT claimed that cutting the top rate on capital gains from 50 to 28 percent would lose $2 billion in annual revenue. Over the next three years after the tax cut, the stock market boomed and revenues jumped $3.6 billion. The estimators had clearly failed to account for the behavioral response of investors who realized more gains due to the tax cut. (Similarly, the JCT estimates of the 1986 Tax Reform Act failed to predict a $20 billion revenue windfall in 1986 as investors sold assets late in the year to beat the capital gains tax increase in 1987.)

Case in point: 10 percent withholding on dividends and interest. The JCT claimed that the 10 percent withholding provision in the 1982 tax increase bill would raise $4.2 billion in 1983. Sen. Lloyd Bentsen (D-TX, now Chairman of the Senate Finance Committee) argued that withholding would "create an administrative nightmare and impose a substantial new burden and red tape on the private sector—and quite likely yield substantially less tax revenue than projected." Bentsen called the JCT's numbers "suspect" charging that "the net revenue effect of this hastily drawn provision may be zero for all everyone knows."

Case in point: Tax Reform Act of 1986. Supply-siders argued that the JCT estimates should recognize the incentive effects of tax rate cuts (reduced avoidance, evasion, and consumption of untaxed fringe benefits) which mitigate the potential loss of tax revenues. The huge static loss estimates from the personal tax rate cuts resulted in a heavier tax burden on corporations ($140 billion)—thus stifling savings and investment. As a result, tax reform came dangerously close to tipping the economy into a recession, all for the sake of an unnecessary tax hike.

Case in point: Section 89: According to the JCT, the Section 89 uniform-benefits tax law repealed last year would raise $154 million in 1990. In fact, American businesses would have spent over $4 billion in deductible costs to comply with Section 89—resulting in less tax revenue for the government. According to a private sector analysis based on a survey of businesses representing 19 percent of the workforce, Section 89 would have reduced revenues by $800 million in 1990.

In all these cases, the principle of "garbage in—garbage out" applies. Inaccurate statistics can lead to real legislative setbacks, and to an unwise and counterproductive national tax policy. In the Senate, "revenue-losing" tax provisions require 60 out of 100 votes before they can be considered—or else someone's taxes have to be raised.

I think it's high time that we open up the revenue estimating process to public scrutiny—and require JCT to measure the dynamic impact of tax changes on the real economy. In 1988, I introduced a bill called the Tax Policy Information Act to improve the revenue estimating process. The bill would require public disclosure of JCT's assumptions, data, and methodology used to arrive at revenue estimates.

The JCT estimators defend the secrecy of the process by claiming that public disclosure would bias the estimates. I believe that the opposite is true: Full disclosure could only improve the process, by making it responsive to the needs of the real economy. It would facilitate exchange between the JCT and outside economists, which would result in improved techniques, data collection and revenue modeling—all of which would lead to more accurate estimates.

The Congressional Budget Office (CBO) is an excellent example of what happens when you open up the process to the light of day. Their models and methods are well-documented and open to constructive criticism, and the result is integrity and realism in the estimating process.

Another necessary reform is to require dynamic revenue analysis as well as the prevalent—and highly unrealistic—static methods. A dynamic estimate predicts how a tax change will play out in the real world, as opposed to under the green eyeshades. For example: If a $10,000 tax were imposed on red cars, static estimates would multiply $10,000 by the number of red cars produced and predict large revenue gains. A dynamic revenue estimate would predict that most people would buy cars of another color—and thus predict very low revenue gains.

The JCT often chooses to ignore economic reality—and tax policy suffers as a result. In response to one query during the recent capital gains debate, JCT said that a 100 percent tax on incomes over $200,000 would raise between $200 and $300 million a year forever. In the bizarre Disneyland of static revenue estimates, men and women will continue to work in order to send all of their income over $200,000 to the government. Moreover, statics assume that these men and women will not shelter or underreport their income.

Clearly, this kind of static estimate is highly unrealistic. In contrast, dynamic estimates take human behavior and economic reality into account. Even the JCT has moved in the direction of quasi-dynamic estimates in the case of capital gains. But it persists in predicting that cutting the capital gains rate to 15 percent would result in a long-term revenue loss—despite the predictable revenue-increasing effects of such a cut (like higher asset values and increased stock of capital).

While it's true that dynamic analysis is difficult, it is better to be imprecisely correct than precisely wrong.

And this is why the issue of revenue estimation is so important: Bad revenue estimates can create policies that wreck the economy. If we were to listen to the demagogues on capital gains—who all rely on static estimates—we would have no choice but to squelch this essential tax cut, thus yielding the competitive advantage irretrievably to the Japanese and others who know the unhappy truth about static estimates.

It's essential that we build economic policy on the solid ground of realistic estimates. To prevent abuse of the disclosure and dynamic-estimate requirements, we should only apply them to tax changes that result in revenue changes of $100 million or more in a single year; but apply them we must. Revenue estimation isn't a parlor game—it's a matter of life and death for the millions of workers and business people who rely on a healthy economy. Let's implement these changes soon, before we get sidetracked into some awful economic folly we will all live to regret.

LAWRENCE KUDLOW'S ARTICLE ON THE ECONOMY

Mr. KASTEN. Mr. President, I bring to the attention of the Senate an excellent article by Larry Kudlow, chief economist of Bear, Stearns of New York, entitled "Treasury's Malign Neglect of the Dollar."

In his article, Mr. Kudlow argues that the current weakness of the U.S. dollar in foreign exchange markets is due, in part, to high U.S. tax rates which reduce the future rate of return on U.S. assets. Moreover, he argues that high tax rates on both labor and capital have put a brake on risk investment and job creation.

In order to restore the value of the U.S. dollar and reduce the budget deficit, Kudlow argues that we must enact progrowth tax policies to liberate both capital and labor, impose a budget freeze on the spending side, and move toward a market price rule to insure price stability.

Mr. President, I highly recommend Mr. Kudlow's cogent article to my colleagues and I ask unanimous consent that it be printed at this point in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 26, 1990]

TREASURY'S MALIGN NEGLECT OF THE DOLLAR

(By Lawrence Kudlow)

As the IMF and World Bank convene their annual meetings in Washington, it is important to recognize that the outlook for U.S. financial markets largely hinges on the fate of the dollar. This is why the U.S. Treasury Department's policy of malign neglect of the dollar is so disturbing. The Treasury has accepted a silent devaluation of the dollar of nearly 10% on a trade-weighted basis during the spring and summer quarters. Over the past 15 months the dollar's value has dropped 16%. If this ominous trend continues, the world financial system and its underlying economies are likely to suffer enormously, with consequences far more lasting than the Middle East's temporary oil price shock.

Recent history shows clearly that a sinking dollar raises inflation fears, drives up interest rates, undermines economic growth and destabilizes financial markets. Recall the October 1987 stock market crash following that summer's breakdown of international currency cooperation. Recall also the October 1989 mini-crash, following the G-7's decision a month earlier to engage in dollar-bashing.

WEARY FOREIGNERS

Foreign investors have grown weary of the enlarged currency risk associated with the purchase of U.S. financial instruments, including commercial bank liabilities. That is one reason that foreign capital inflows have virtually dried up. Recent Commerce Department data show that on balance net foreign purchases of securities registered an outflow of capital at an $18 billion annual rate so far this year, compared with a $48 billion inflow in 1989.

Domestic investors, who instinctively pull back on the news of foreign withdrawals, also regard weakness in the dollar as a market signal of rising expectations of future inflation. Such expectations are the bane of financial assets. And these concerns are not without merit.

A comparison of internationally traded goods shows that the year-to-year change in producer prices in the U.S. is 5.1%, while Germany registered 1.5% over the past 12 months and Japan's rate was 1.1%. Purchasing power parity models suggest a proper dollar valuation of between 150 to 170 yen and 1.80 and 2.00 marks. So long as the dollar remains below these levels, it is reasonable to assume that the U.S. will continue to inflate more rapidly than its major competitors. In the event, this reduces the expected future value of U.S. financial assets and causes the dollar to depreciate against other currencies.

Regrettably, the U.S. Treasury seems pleased with the steady erosion of the dollar's purchasing power. Treasury Under Secretary David Mulford recently reconfirmed his easy money philosophy by saying that the decline in the dollar has been "orderly" and is of no concern to the Treasury. Mr. Mulford believes that a lower dollar will help reduce the U.S. trade deficit. Every time this head-in-the-sand policy is articulated, it puts downward pressure on the international demand for dollars.

All this leaves the Federal Reserve as the last bastion to protect the dollar. What the central bank must now do is to make public its clear commitment to domestic price stability by protecting the dollar. In recent testimony before the Joint Economic Committee, Fed Chairman Alan Greenspan hinted of this, but the point must be made with greater clarity. In the best of all worlds, this strategy should be pursued with the cooperation of the other G-7 central banks.

Operationally, the Fed must also make it clear that it will use financial and commodity market price indicators to guide the management of money creation and the federal funds rate. Mr. Greenspan also hinted at this in his JEC testimony, when he told Congress that the Fed would be inclined to ease if the bond market reacted positively to a budget deal. This implies the use of a market price rule as a standard of monetary value, but here too the policy would be far more credible if the point were made with greater clarity.

Since mid-June, the weekly average market price of gold has moved from $346 to $400. The first $20 of this upward move occurred *before* the rise of oil prices. Since then, Treasury bond yields have jumped 74 basis points, from 8.42% to 9.16%, while the yield curve has widened from a spread of only 12 basis points in mid-June to 126 basis points recently. While the dollar has steadily weakened, the Dow Jones average has plummeted from 2924 in the week ending June 15th to its current level of around 2450, a drop of roughly 460 points. At the same time, monetary base growth has accelerated to an annual rate of 8%-12% in the past three months.

Under these circumstances, a clear Fed commitment to a market price rule strategy warrants a minor tightening to make money relatively scarce, not an easing. Not a major tightening move, but an increase of perhaps 25 to 50 basis points in the federal funds rate to signal a clear commitment to protect the dollar and reinforce the goal of domestic price stability.

Markets would react immediately by selling gold and buying dollars. With massive dollar short positions reported, a clear message from the Fed would quickly push the dollar up toward purchasing power parity. Long-term rates would fall as investors began to fear inflation less.

While it may appear counter-intuitive, timely Fed action would actually stimulate the economy. Here's the logic. The weakest part of the U.S. economy is housing and real estate. Nearly 64% of Americans own their own homes, and it is the value of those homes—not the value of the stock market (in which only 20% of Americans have direct ownership)—that affects family spending decisions. The slump in real estate and home prices, whose value has dropped nearly $1 trillion in the past two years, has therefore badly damaged consumer confidence, which has plummeted 30% over the past 13 months.

This, in turn, has caused a major cutback in consumer spending. Real consumer purchases have declined in seven of the past 12 months. There are of course many other factors affecting confidence, such as federal, state and local tax threats, regulatory policies, concerns over the financial system, the Middle East situation and so forth. But the real estate-housing slump hurts consumer confidence most.

High-tax fiscal policies also play a major role in determining currency values, though not one in a thousand market gurus seem to understand this. Rising tax burdens lower the future paths of profits, employment, new business formation and economic growth. As such, these supply-side effects reduce the marginal utility of money and the demand for dollars. By making goods scarce, high tax policies render the existing stock of money more inflationary.

The dollar has suffered from market fears that punitive tax increases will weaken the future rate of return on U.S. assets. Threats of a security transfer tax; a higher marginal tax rate on personal income of a stiff surcharge on personal income taxes all erode economic incentives, efficiency and productivity. What's more, schemes to eliminate the mortgage interest deduction and the state and local deduction are being proposed at exactly the wrong moment. While there is considerable merit in eliminating inefficient tax subsidies, these are future tax reform items that should be offset by a drop in the personal income tax rate.

HARD MONEY

If hard money actions were accompanied by a reduction in the capital gains tax rate, a greater rate-of-return and a lower investment hurdle rate would boost the value of all U.S. assets, including real estate, stocks and bonds, and revive risktaking, entrepreneurship and sagging animal spirits throughout the economy. Policymakers should also move toward a reduction in the Social Security tax rate to raise after tax take-home pay and work incentives for middle and lower middle-income families. In addition, officials should recognize that reduced business spending and profitability is partly a function of excessive corporate tax rates and unnecessarily long capital cost recovery periods.

This is the surest path to budget deficit reduction in the 1990's: a comprehensive program that (i) strictly limits the real growth of federal spending through an enforceable budget freeze; (ii) restores economic growth and replenishes revenue flows with a series of tax rate reductions for capital, families and businesses (off-set by the elimination of major tax subsidies); and (iii) substantially lowers interest rates and fed-

eral debt-service costs by announcing and maintaining a market price rule to insure domestic price stability.

VIOLATION OF INTERNATIONAL LAW BY THE GOVERNMENT OF BURMA

Mr. MOYNIHAN. Mr. President, we read in today's New York Times that the Burmese military junta has violated foreign embassy compounds in Rangoon. According to the report, four employees of the United States Embassy in Rangoon were arrested and interrogated by the Burmese authorities.

These are violations of the 1961 Vienna Convention on Diplomatic Relations. In the words of the State Department spokesman: "We regard such harassment as a serious contravention of accepted international behavior and as totally inconsistent with international law." Indeed. The Burmese regime is an outlaw regime. It is contemptible, aggressive, and pathetic. It is vilified by its own people, and now it must be repudiated by the international community.

We understand from the report that 17 nations, the United States, the European Community, Japan, Australia, Sweden, and New Zealand, protested the actions of the regime last Friday in Rangoon. Fine. But not enough.

Protest will not stop the outlaw, or save the lives of innocent Burmese. It is time for action. The Congress voted economic sanctions against Burma in the Customs and Trade Act of 1990. It is now time for the President to impose them.

It is also time for us to take the tragedy of Burma to the United Nations, and to seek collective action. Thus far, the administration has called in the Burmese Ambassador to receive a protest from a Deputy Assistant Secretary of State. Hardly, a sufficient response to a violation of international law. It is time that we asked that the Burmese junta be brought before the world community at the United Nations. Security Council action ought to be initiated. Saddam Hussein is not the only outlaw. General Ne Win must be made to answer.

I ask unanimous consent that the attached article be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BURMESE SAID TO HARASS EMBASSIES

BANGKOK, THAILAND, September 27.—The Burmese Government is harassing foreign diplomats by sending soldiers into the compounds of Western embassies and by rounding up the missions' Burmese employees for interrogation, a diplomat said today.

Troops entered the West German Embassy compound 10 days ago and had previously entered the American and British Embassies several times, the diplomat said here, speaking on the condition that he not be identified.

The State Department confirmed to day that the military Government of Myanmar, formerly known as Burma, had detained and interrogated four Burmese employees of the United States Embassy about mission operations and personnel.

INTERNATIONAL LAW CITED

"We regard such harassment as a "serious contravention of accepted international behavior and as totally inconsistent with international law," a State Department spokesman, Richard A. Boucher, said in Washington.

The diplomat, who spoke at a news conference here, did not say why the troops had entered the embassies.

Western governments have criticized the Burmese military Government for refusing to yield to the nation's democratic movement, which overwhelmingly won elections in May. The Government also has been criticized for human rights abuses.

"The situation on the human rights front is abysmal," the diplomat said. "An increasing number of governments view with horror what is going on in Burma." The diplomat said arrests and intimidation of Burmese disidents were widespread and had increased over the last month.

MILITARY RULE OPPOSED

He said the United States, Japan, the European Community's 12 members, Australia, New Zealand and Sweden had complained to the Burmese Government on Friday about the embassy raids and human rights abuses.

He said the protest, delivered by the Italian Ambassador, had made it clear that the countries did not accept the military junta "as the legitimate government" and "that we are not going to simply look at the Middle East crisis and forget Burma." Mr. Boucher confirmed that the United States had joined the group protest.

The diplomat said that Burmese employees of the United States, British and Australian embassies had been detained for questioning, sometimes for days. He said that this month, one employee of an unidentified embassy was taken from home by military intelligence officers, held in a jail for four days and questioned about the embassy's view of Burmese politics.

The employee reported being held in the cell next door to U Kyi Maung, the 72-year-old acting leader of the opposition National League for Democracy, who was arrested this month on charges of breaking the Official Secrets Act. Arrested with Mr. Kyi Maung were his deputy, U Chit Khaing, and four senior party members in the central city of Mandalay. The party's two main leaders, Daw Aung San Suu Kyi and U Tin Oo, have been detained since July 1989.

Political unrest has grown since the military Government refused to transfer power to the National League after losing the general election in May.

TRIBUTE TO LEON EUGENE SPRATT

Mr. FORD. Mr. President, I rise today to pay tribute and mourn the death of Leon Eugene Spratt, who passed away Wednesday, September 19, 1990. Leon was not just an employee of the U.S. Senate, he was my friend.

Leon was born and raised in Lafayette, TX, served in the U.S. Navy, then he and his family moved to the Washington metropolitan area where he lived and worked the remainder of his life.

Always a smile, always a laugh, Leon loved life and never had a harsh word for anyone, whether it be to a friend or a stranger.

My prayers go out to Leon's widow Mary Eunice, their three daughters and his many relatives and family friends.

We will miss Leon, but we all know that our lives are richer for having known him.

A BUDGET PROPOSAL WHOSE TIME HAS BEEN LONG OVERDUE

Mr. HELMS. Mr. President, I am pleased to be an original cosponsor of S. 3122, introduced yesterday by my distinguished friend from Montana, Senator BURNS.

This bill will accomplish what we here so much talk about: eliminating the Federal deficit—by forcing upon Congress a simple, commonsense budget plan that every family in America already follows. It limits the amount that Congress can increase Federal spending each year in order to ensure that increases in spending do not exceed increases in revenues.

Mr. President, for months, Congress has been trying to find a way to meet the Gramm-Rudman-Hollings deficit target for fiscal year 1991. I must say, however, that I am not optimistic about what is likely to come out of the efforts of our budget negotiators.

We all remember when we were in school, and there was at least one of our friends who never studied and seldom went to class. No matter how often he was warned that he had better buckle down, he always thought he could catch up at the end of the year. Sure enough, the night before the final exam, reality would hit him, and he would stay up all night trying to cram into one day what he should have been studying the entire year. The results were always the same: he flunked.

Mr. President, that is exactly what has happened in Congress for decades. Time after time, some Members of this body have stood on this floor and warned that we cannot continue to create new programs and increase spending. Yet, time after time, this body votes to do just that. Now, on the eve of the final exam, we are forced to try to cram into a few days what we should have been doing for years. And the result will be the same: Congress will flunk.

I know we will flunk because I have not heard a single proposal that does not include massive tax increases. And I am convinced that: First, the Federal Government's budget problems are not the result of too little revenue; and second, a massive tax increase is

the worst thing we can do for the economy.

Mr. President, the Gramm-Rudman law has been useful to a certain degree by imposing some discipline on Congress. But the situation we are facing now demonstrates its shortcoming. If the only measure of progress is the size of the deficit, you can—on paper—reach deficit targets by proposing to raise taxes, even though in reality, raising taxes never works. History has proven that for every dollar that Congress raises in taxes, it spends much more than that.

Mr. President, this is the sixth time Congress has held a so-called budget summit in the past 9 years. Every one of them has resulted in a larger deficit than expected. It is time for a change. We need to consider new options and ideas, since we obviously have not been able to solve the runaway deficit by the budget summit process. It has become obvious to me that the proposal we introduced yesterday is the only approach that will solve our ever-increasing budget crisis.

At the moment, Federal revenues are expected to grow by almost $80 billion next year, and yet Congress has already increased spending more than that. The proposal we introduced—called the "4-percent solution"—will bring the deficit under control by limiting growth in aggregate Federal spending to 4 percent over the previous year. That will allow Congress to spend an additional $45 to $50 billion each year. However, any increase in spending above that will have to be offset by cuts in other areas, reduction in waste, or elimination of unnecessary programs.

The 4-percent solution will also ensure that any increased revenue that comes into the Federal treasury will go toward reducing the deficit, rather than for additional spending. It will encourage Congress to develop policies to keep inflation down, and encourage economic growth.

Mr. President, S. 3122 has four important provisions for budget reform:

First, it eliminates current services budgeting, which has allowed Congress to spend more money on a program while the press portray it as a cut. Under the bill, Congress would start the budgeting process by looking at the previous year's spending and building from there. That way, the American people will know when we are cutting a program and when we are increasing it.

Second, it establishes outlay targets in addition to the deficit targets that are already in place. If Congress exceeds the outlay targets, a sequester would take effect in the same fashion as it does now when we exceed the Gramm-Rudman deficit targets.

Third, it includes a midyear sequester. It would create a budget snapshot on March 15 to see where we are and whether spending is exceeding the new outlay and deficit targets. If so, automatic cuts would take effect April 15 and reduce spending as necessary.

Finally, it establishes a common sense pay-as-you-go requirement in the budget process. With each new spending increase above the 4 percent allowance, Congress will have to find a corresponding spending decrease to fund it. That spending decrease can be in the reduction of another program, the elimination of an unnecessary program, or a reduction of waste.

Best of all, Mr. President, this proposal would include no new taxes.

Mr. President, the only way we are going to reduce the Federal deficit is to bring spending under control. This proposal is simple, but it will not be easy. It is a drastic measure. Unfortunately, we have reached a crisis that requires drastic measures.

SITUATION IN KOSOVA REMAINS GRIM

Mr. PELL. Mr. President, for the last several months, I have been watching closely the situation in Kosova, hoping that the winds of change that have swept through Eastern Europe during the last year will carry to that Province in Yugoslavia.

It has become increasingly apparent, however, that the leaders of Serbia, the largest of Yugoslavia's six republics, have ignored the lessons of history and have chosen a path of repression against Albanians in Kosova. Mass arrests have taken place, killings and beatings have occurred, and the province's autonomous status has been revoked.

As a result of Serbia's actions, Yugoslavia has been in violation of its political obligations under the Helsinki Final Act and under the Universal Declaration of Human Rights. Human, cultural, and political rights must be restored and expanded in Kosova. Yugoslavia is a multiethnic society, where tyranny against one group has broad repercussions for all who live in the federation, including Croations, Slovenes, and Serbs.

The human rights abuses in Kosova have sparked outrage among the international community. In March of this year, Helsinki Watch issued a report that stated: "The current solution of the Serbian government and Yugoslav federal government to pursue a massive purge of ethnic Albanians in Kosova is unacceptable." A Washington Post editorial on July 13, 1990, rightly called attention to the fact that "the [Serbian] party chief, Slobodan Milosevic, playing on its region's economic envy and political ambition, has been seeking to leash the awakened ethnic Albanian majority of 90 percent in Serbian-controlled Kosova."

This summer, the European Parliament issued a declaration on this matter, that among other things, condemned the suspension of the Kosova Parliament and called for the immediate lifting of the state of emergency. We in the United States must also raise our voices and demand an end to repression in Kosova. In this connection, earlier this year, Senator DOLE and I introduced a resolution—Senate Concurrent Resolution 124—condemning the violations of human rights in Kosova and calling on the administration to use its influence to bring an end to these violations. The Foreign Relations Committee reported this resolution in June, and I commend this resolution to my colleagues.

In August, several of my colleagues, including the minority leader, Senator DOLE, traveled to Kosova to observe events there firsthand. Regrettably, they report that the situation in Kosova is worsening, and Senator DOLE spoke on this issue before this body last week. Like him, I believe that the United States must keep the pressure on Yugoslavia to take effective action in support of human rights and reconciliation in Kosova.

Albanians are a fiercely independent people, and they will resist repression with every ounce of their strength. But they need help and encouragement from other free societies. I believe that in passing Senate Concurrent Resolution 124, the Senate would take decisive action in this regard.

NEW CAUSE FOR ALARM IN ARMENIA

Mr. PELL. Mr. President, during the past several weeks, we justifiably have been focussing on the Middle East. In that period, however, events have been occurring in other parts of the world—such as South Africa, Cambodia, Liberia, Germany, and the Soviet Union—that warrant our attention.

Today, I wish to call attention to the situation in Armenia. On August 23, 1990, the Armenian Legislature declared the republic independent from Moscow, and claimed control over its own army, natural resources, foreign policy, and economic system. Armenians have a long history of nationalist pride, and this independence declaration demonstrates the intense desire of Armenians to control their own future. I am pleased to note that the Soviet Government's response to the declaration so far has been measured and reasoned.

The Armenian independence declaration reasserts Armenian control over the region of Nagorno-Karabagh, where the Armenian majority presently is under Azerbaijani control. The issue of Nagorno-Karabagh remains a grave problem, and reports indicate that bloody clashes continue in the enclave as well as elsewhere in the Transcaucus region. Reports from the

region, if accurate, are horrifying. Apparently, Armenians living in Azerbaijan are being assaulted and even murdered. Economic warfare, sabotage, and religious persecution against Armenia continues. The Kazakh pipeline, which carries natural gas from Russia to Armenia has been shut down; an Armenian church was desecrated and the priest evicted; and the waterlines to Stepankert have been contaminated with gas.

On August 29, the Armenian Parliament unanimously declared the Armenian National Army, an armed vigilante group, illegal and demanded its surrender. The Armenian National Army leaders agreed to dissolve their organization and most surrendered their weapons to the Armenian Government. I had been hopeful that the independence declaration and the disbanding of these vigilantes would signal the beginning of a new era for the people of Armenia, and perhaps it will in the long-term. However, it appears that for now, the violence that has wracked Armenia and the neighboring republic of Azerbaijan for the past few years has intensified.

A few days ago, a number of Armenian leaders and intellectuals began hunger strikes to protest the supression of human rights and democratic freedoms in Nagorno-Karabagh. Armenian members of the Congress of People's Deputies are participating in these strikes. Last year, the Senate went on record in support of a peaceful resolution to the conflict in that region by passing a resolution that I introduced on the subject. Senate Joint Resolution 178 among other things, called for an end to the violence and urged Soviet President Gorbachev to restore order to the region. Accordingly, I believe that we should support our legislative colleagues in the Soviet Union who are calling for the restoration of civilian rule and the guarantee of human rights in Nagorno-Karabagh. I would urge President Gorbachev to do what he can toward this end.

CHALLENGES FOLLOWING ARMENIA'S DECLARATION OF INDEPENDENCE

Mr. DOLE. Mr. President, on August 24, 1990, the democratically elected Government of Armenia issued its declaration of independence. Since then, the challenges to the Armenia movement for democracy and self-determination have only grown. For those of us who closely follow events in that part of the world, these developments are deeply troubling.

Eyewitnesses report that Soviet military forces are joining Azeri forces to remove Armenians from the towns and villages around the predominantly Armenian Province of Nagorno-Karabakh [NKAO].

Azerbaijan has imposed an economic blockade on Armenia and NKAO for over a year, and in August this blockade was extended to cut off the natural gas pipelines. The Soviets deny Armenia the right to share with NKAO a part of the economic and humanitarian aid it receives by forbidding road and air traffic from Armenia to NKAO. The few supply flights that make it to NKAO must dodge Azeri fire and then face the Soviet military on the ground.

The Soviets continue to restrict western media coverage of Armenia and Azerbaijan. More importantly, the Soviets totally ban the press from NKAO and the outlaying areas where military force is being applied.

Almost 300,000 refugees have fled from Azerbaijan, and that number continues to increase as efforts to eradicate Armenians from NKAO, Kamo, Azat, Getashen, Shahumian and the rest of the area proceed.

The right of the over 80 percent Armenian majority of NKAO to self-determination continues to be denied. The Soviet military commandant of NKAO, and member of the Azeri Politburo, Gen. V. Safonov, heaps abuse on abuse in implementing a policy which is attempting to eliminate the NKAO issue by simply eliminating the Armenians.

At the same time, Armenia and the Armenians of NKAO have held free elections and expressed their willingness to force peaceful, political solutions. Levon Ter Petrosian, scholar, former Soviet political prisoner, and leader of the democratic All-National movement, has been elected President of the renamed "Republic of Armenia" and is making remarkable progress in addressing the country's domestic situation. He is caring for 500,000 people still homeless as a result of the earthquake, and nearly 300,000 refugees from Azerbaijan. He has ordered and then enforced the order for the largest armed group, the Armenian National Army, to disarm and disband. He is working to reverse the damage the Soviet economy has created. He has guided an admirable declaration of independence to passage, and is extending himself to the limits for peaceful, democratic change in the region.

The successes of the new government have also benefited Soviet President Gorbachev. The economic reforms in Armenia are helping the entire Soviet Union. Stepping up the rebuilding necessary for earthquake victims and refugees takes some of the burden off Gorbachev's shoulders, and by controlling the unregistered self-defense forces the new government has saved Gorbachev and the Soviet military from another bloody confrontation such as Georgia witnessed.

Yet, the Soviet Union has not made positive moves in response. Depopulation of Armenians continue. Denial of self-determination in NKAO continues, and the blockades continue. These blockades, I would note, have also cut off massive amounts of earthquake relief to Armenia, including relief sent from America. These relief goods end up in the Azeri or Soviet hands instead of the earthquake victims'. In addition, the blockades and other violence threatens the lives and work of American and other foreign citizens and organizations.

The main cause of Soviet and Azeri behavior is the Armenian movement for self-determination in NKAO. This Province is geographically, historically, and demographically Armenian, and the Armenians living there have only asked for the right to govern themselves. In August 1987, over 75,000 people in NKAO signed a petition to President Gorbachev asked for that right, a right available under both Soviet and international law. This was not the first such request. Public letters and petitions went from NKAO to Moscow ever since Stalin took the Province away from Armenia then created an artificial six kilometer land corridor between Armenia and NKAO. In fact, before this artificial separation Azerbaijan's Government granted NKAO and other such territories to Armenia on December 1, 1920, but since Stalin took it away no one has been willing to correct the situation.

The Senate has repeatedly gone on record concerning this issue. We have passed resolutions, written letters, and made numerous statements. Yet the peaceful, democratic solutions are rejected, and the level of violence escalates.

Now, several prominent Armenians are on a hunger strike in Moscow. They, too, are asking for democracy in NKAO. My statement today and the statements of others give notice that the United States understands the motivation of these hunger strikers and is keeping a vigilant eye on the denials of human rights that continue. We know that these are not the first challenges Armenians have faced, and in light of Armenia's geography they will not be the last. To see these challenges increase just as democracy take hold in Armenia, however, is the most tragic kind of irony.

I ask unanimous consent that the Republic of Armenia's Declaration of Independence and an article which appeared in Monday's Washington Times be placed in the RECORD at this point and I urge my colleagues to study them.

DECLARATION ON ARMENIA'S INDEPENDENCE

The Armenian SSR Supreme Soviet, expressing the united will of the people of Armenia, aware of its responsibility before the destiny of the Armenian people for the work of realizing the aspirations of all Armenians and of restoring historical justice, arising from the principles of the Universal

Declaration of Human Rights and the universally accepted norms of international law, exercising the right of nations to free self-determination, resting on the December 1, 1989 joint decision of the Armenian SSR Supreme Soviet and the Mountainous Karabagh National Council "on the reunification of the Armenian SSR and Mountainous Karabagh", developing the democratic traditions of the independent Republic of Armenia created on May 28, 1918, putting in issue the creation of a democratic, legal society, declares the beginning of the process of establishing independent statehood.

1. The Armenian SSR is renamed the Republic of Armenia, Armenia for short.

The Republic of Armenia has its flag, coat of arms and anthem.

2. The Republic of Armenia is a self-governing state, imbued with the supremacy of state authority, independence, plenipotentiary power.

The constitution and laws of the Republic of Armenia alone operate throughout the territory of the Republic of Armenia.

3. The bearer of Armenian statehood is the people of the Republic of Armenia, which executes its authority directly and through representative bodies, on the basis of the constitution and laws of the Republic of Armenia.

The right to speak on behalf of the Republic's people belongs exclusively to the Supreme Soviet of the Republic of Armenia.

4. Citizenship of the Republic of Armenia is conferred upon all citizens residing on the territory of the Republic of Armenia.

Armenians residing abroad have the right of citizenship of the Republic of Armenia.

The citizens of the Republic of Armenia are found under its protection and support.

The Republic of Armenia guarantees its citizens' development free and equal under the law, without regard to nationality, racial identity, and creed.

5. The Republic of Armenia, with the goal of guaranteeing its security and the inviolability of its borders, creates its own armed forces, internal troops, bodies of state and public security subject to the Supreme Soviet.

The Republic of Armenia has the right to its share of the USSR military.

The Republic of Armenia itself determines the regulation of military service for its citizens.

The military units of other countries, their strategic bases and constructions can be located on the territory of the Republic of Armenia only upon the decision of its Supreme Soviet.

The armed forces of the Republic of Armenia can be employed only upon the decision of its Supreme Soviet.

6. The Republic of Armenia, as a subject of international law, conducts an independant foreign policy, establishes direct relations with other states, national-state formations of the USSR, participates in the activity of international organizations.

7. The national wealth of the Republic of Armenia, the land, its contents, airspace, water and other natural resources, the economic, intellectual, cultural capabilities are the property of its people. The regulation of their governance, usage and possession is determined by the law of the Republic of Armenia.

The Republic of Armenia has the right to its share of the USSR national wealth, including the supplies of gold and the diamond and hard currency funds.

8. The Republic of Armenia, on the basis of the various forms of property, determines the principles and regulation of its economic operation, creates its own money, national bank, finance-loan system, tax and customs services.

9. The Republic of Armenia guarantees on its territory freedom of speech, press, conscience; separation of legislative, executive and judicial authorities; a multiparty system, legal equality of political parties, depoliticization of law enforcement bodies and armed forces.

10. The Republic of Armenia guarantees the use of Armenian as the state language in all spheres of the republic's life, creates its own system of education, science and culture.

11. The Republic of Armenia stands in support of the international recognition of the 1915 Armenian genocide in Ottoman Turkey and Western Armenia.

12. The instant Declaration serves as a basis for the development of a constitution for the Republic of Armenia, and for the implementation of amendments and additions to the current constitution for the operation of state bodies, for the development of new legislation for the Republic.

Passed in its final form on August 24, 1990, by a vote of 194-0-2.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Sept. 24, 1990]

A TELESCOPE FOCUSED ON ARMENIAN RIGHTS

(By Arnold Beichman)

The crises of Soviet subnationalisms now bubbling to the surface from the Baltic Sea to the Iranian border has no meaner example than the ever-worsening relations between the Azerbaijan Republic and the vulnerable Armenian populace of the Azeri-controlled Nagorno-Karabakh region.

Hundreds have already been killed in internecine and inter-religious battles between the Christian Armenian population and the Moslem Azeris, who are determined to rule the enclave at whatever cost. Some informed observers believe these battles are stimulated by Communist Party leaders as part of the Kremlin's divide-and-rule policies.

And now the Armenian-Azeri dispute has reached the United States. The usually nonpolitical American Astronomical Society has just appealed to Soviet President Mikhail Gorbachev to come to the aid of an internationally renowned 82-year-old Armenian astronomer: Professor Viktor Ambartsumyan, an honorary member of the AAS, the spiritual leader of the Armenian prodemocracy movement, embarked on a weeklong hunger strike to protest what is described as the Kremlin's anti-Armenian policies. He conducted his protest in a room at the Hotel Moscow in the Soviet capital, drinking only distilled water.

Mr. Ambartsumyan's hunger strike is intended to focus attention on the anti-democratic Soviet policies in the Nagorno-Karabakh Autonomous Region, heavily Armenian in population but controlled by the Azerbaijan Republic.

The concern of the AAS was expressed by the society's president, Professor John N. Bahcall of the Institute for Advanced Study at Princeton, N.J. His letter to Mr. Gorbachev described the Armenian scientist as "a distinguished and much-beloved colleague" and warned that continuation of the hunger strike could mean "severe physical consequences for this great leader." Mr. Ambartsumyan, president of the Armenian Academy of Sciences, is regarded as the father of Soviet astronomy.

In a letter of support to the Armenian scientist, Mr. Bahcall wrote that "you are regarded with great affection and admiration by your colleagues in this country."

Mr. Bahcall also sent a letter to President Bush, beseeching his help and the help of "representatives of the United States . . . in resolving this problem." The letter told the president that the AAS membership "is concerned for the welfare" of the Armenian astrophysicist. Mr. Ambartsumyan is the founder and director of the Byurakan Observatory in Armenia, which is equipped with one of the world's largest telescopes.

Solving the nationalities question in the Soviet Union means in some cases redrawing existing boundaries. Boundaries are no problem, for example, for the three Baltic countries—Estonia, Latvia and Lithuania—because they had a national and geographic existence before they were forced in 1941 to join the Soviet Union. For other Soviet constituent republics or autonomous regions, it will not be so easy because subnationalisms produce their own subimperialisms which dislike the irridentist claims of competing nationalities.

Historically victimized by Turkey and then by the Soviet Union, Armenians, it would appear, have a special claim on world opinion. This is especially the case since the Nagorno-Karabakh enclave was handed over to Azerbaijan by Josef Stalin in 1923 in order to curry favor with Turkey without regard for the interests of the Armenian population.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,022d day that Terry Anderson has been held captive in Beirut.

I need not remind anyone that Lebanon is embroiled in a prolonged civil war. I mention this today because the Public Broadcasting System has aired an important series on the American Civil War. Through this series, America is reminded of a time in which the right to liberty was cherished, but not extended to all men.

On September 11, 1858, in an address at Edwardsville, IL, Abraham Lincoln professed:

> Our defense is in the spirit which prized liberty as the heritage of all men, in all lands everywhere. Destroy this spirit and you have planted the seeds of despotism at your own doors. Familiarize yourselves with the chains of bondage and you prepare your own limbs to wear them. Accustomed to trample on the rights of others, you have lost the genius of your own independence and become the fit subjects of the first cunning tyrant who rises among you.

In holding Terry Anderson hostage, his captors prepare the way for relinquishing their own liberty. And they jeopardize the liberty of their fellow countrymen. Their crime is a crime against Terry Anderson, but it is also a crime against Lebanon. And a crime against themselves.

The ACTING PRESIDENT pro tempore. The Chair would advise that we

are at the point where morning business is set to expire.

Mr. MITCHELL addressed the Chair.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

Mr. MITCHELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

CABLE TELEVISION CONSUMER PROTECTION ACT

Mr. MITCHELL. I believe that the Senate should proceed to the consideration of the cable television deregulation bill, and I will, as I indicated last night, momentarily request unanimous consent that the Senate so proceed.

I anticipate considering the statement made previously by the Senator from Oregon that he will object to that request, following which I will ask that there be a further period of morning business to permit supporters of the bill who wish to address the subject to do so. And I will, also, discuss with the interested parties the possibility of moving to proceed to the bill at some time during the day or at some later point in time during the session. That would, of course, be a debatable motion, and the opponents could discuss the matter at greater length at that time. I will not make such a motion at this time, but will consider doing so during today or at some point in the near future, depending upon the Senate schedule.

Accordingly, Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 704, S. 1880, the cable deregulation bill.

Mr. PACKWOOD. I object.

Mr. WIRTH. Reserving the right to object, Mr. President.

As I pointed out in the earlier discussion, I will object. I have laid out what I think are a number of issues that I believe, Mr. President, we can come to agreement on. There are some concentration issues, some exclusivity issues that have to be looked at, and I think we can resolve those and get a piece of legislation. But in its current form, I think the bill goes far beyond what has driven the basic legislation, which are concerns about rates and concerns about customer service. That is how we got here to begin with. We have gone far beyond that, I think, in a way that is damaging to an emerging and very important industry.

Having spoken on my reservation, Mr. President, I will object to the unanimous-consent request.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. MITCHELL. Mr. President, I respect the Senator's view. I regret his objection that does not permit the Senate to take up this important legislation but, obvious, that is his right and the right of every Member of the Senate.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask that there be a period of morning business until the hour of 11:15 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DANFORTH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I simply express my disappointment that there has been an objection to the motion to proceed to this very important legislation. So near, yet so far.

A companion bill has passed the House of Representatives. In the opinion of those of who have worked very hard to get it enacted this year, it would be a fairly simple matter to get S. 1880 passed on the Senate floor.

It was strongly supported in the Senate Commerce Committee. In fact, it was reported out of the Commerce Committee by a vote of 18 to 1, demonstrating the overwhelming support for this legislation.

I want to express my thanks to the chairman of the committee, Senator HOLLINGS, and the chairman of the subcommittee, Senator INOUYE, for their marvelous leadership on this bill. We had substantial hearings in the Commerce Committee. We had a real meeting of the minds.

While there are differences between the Commerce Committee's bill and the House bill, in the judgment of this Senator, the similarities were so much greater than the differences that it would have been possible to work out legislation in conference.

I have had discussions with Representative MARKEY. I know that he was of a mind to work out an agreement in conference. It is not to be, because as every Senator knows, in these last days of a Congress, anybody can object to anything and stop it from happening.

So despite the fact that in a matter of hours, we felt that in 3 or 4 hours on the Senate floor we could get the bill passed, but that is not going to happen because of the objection.

Mr. President, the Consumer Federation of America has called this legislation the most important piece of consumer legislation in this Congress. I do not believe that that is an exaggeration. Certainly, from the standpoint of my constituents, the overreach of cable operators has been the most important consumer issue in their minds.

The people of Jefferson City, MO, and the people of Cape Girardeau, MO, have experienced dramatic run-ups of rates in their cable service. At the same time that their rates have been going up, the quality of the service has been going down.

The people of Jefferson City tell me that they call the cable company to complain about cable service and the phone is off the hook.

But, Mr. President, is this any surprise? In each community the cable company operates as a monopoly, and under the current law the cable company in each community is an unregulated monopoly. It is bridled neither by competition nor by regulation. And, as all of us know, when there is an unregulated monopoly there is the opportunity for price gouging, there is an almost certain deterioration of the quality of service, and the consumer can complain all the consumer wants and nothing is going to be done about it.

The premise of this legislation is very simple. Unregulated monopolies are wrong in this country. We either have competition or we have regulation, but we do not have neither. I prefer competition. This legislation prefers competition. The legislation says that price regulation only kicks in if there is no other multichannel provider.

The legislation says that there should be no discrimination between the producers of cable programming and the providers of cable services so that there can be real competition in the provision of services.

Mr. President, what is wrong with that concept? What is wrong with the concept of competition?

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. DANFORTH. Mr. President, I ask unanimous consent to proceed for 2 additional minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, that was the theory of the legislation. Unregulated monopolies are wrong. Unregulated monopolies yield a 43-percent increase in the cost of cable service over a 3-year period nationally. Unregulated monopolies create 75, 100 percent increases in cable prices in communities such as Jefferson City and Cape Girardeau, MO. Yes, the consumers are outraged, and we have the opportunity to do something about it. And we will do something about it next year, Mr. President.

But as for now the cable companies have won and they get to keep their

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unregulated monopolies and they get to increase the cost of service and allow the quality of the service to deteriorate until the Congress acts.

Mr. President, I now ask unanimous consent to have printed in the RECORD a few of the many letters that I have received supporting this cable reform measure.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CONSUMER FEDERATION OF AMERICA,
Washington, DC, September 26, 1990.

Hon. JOHN C. DANFORTH,
Ranking Member, Commerce Science and Transportation Committee, Russell Senate Office Building, Washington, DC.

DEAR SENATOR DANFORTH: On behalf of the Consumer Federation of America (CFA) I wish to express strong support for S. 1880, the "Cable Television Consumer Protection Act of 1990."

S. 1880 would protect consumers against price gouging by monopoly cable operators and would open the door to increased competition on the video marketplace. In addition, the bill would establish regulatory standards and pricing restrictions for equipment and services essential to receive cable programming (e.g., installation charges, converters, remote contols) while providing favorable channel positioning for local network affiliates and independent television stations.

Although CFA believes the bill's rate regulation and customer service provisions should be strengthened, we heartily endorse S. 1880 as a clear improvement over the 1984 Cable Act. CFA is grateful for your sponsorship of this important consumer legislation and your leadership in protecting consumers against overpriced cable services.

Sincerely,

GENE KIMMELMAN,
Legislative Director.

SATELLITE BROADCASTING AND COMMUNICATIONS ASSOCIATION OF AMERICA,
Alexandria, VA, September 25, 1990.

Hon. JOHN C. DANFORTH,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR DANFORTH: The Senate Commerce Committee made an extraordinary and diligent effort to craft meaningful cable legislation when it reported out S. 1880, the Cable Television Consumer Protection Act of 1990. As the fate of that bill is now being decided, I want to take the opportunity to let you know once more how important the Senate bill is to the future of the satellite broadcast industry.

We commend the Committee for its clear and forceful approach to the issue of nondiscrimination with regard to distribution of video programming to non-cable, multichannel video program distributors. On its face, the concept is basic and efficient. A programmer may not unreasonably refuse to deal with a video program distributor, nor may it discriminate in prices, terms and conditions of sale if it has the effect of impeding retail competition. These provisions help give the satellite broadcast industry the "level playing field" it needs to stimulate competition with cable.

This most effective approach adopted by the Commerce Committee may now be needlessly subject to change. We fear that the House version of nondiscrimination in program access may be viewed as the most expedient way to resolve a complex marketplace issue. We do not think this would accomplish the goals the Committee originally set out for S. 1880.

At issue is the matter of contract exclusivity. While we recognize its role in the video marketplace, we don't believe it should be expressed as a matter of legislative intent. In order for new video delivery systems such as DBS to become viable, and for all entrepreneurs—big and small—to acquire needed systems financing, they must have a fair chance to obtain quality programming available to other technologies. The bill reported out by the Commerce Committee helps safeguard these opportunities. The promulgation by the House bill of mitigating conditions which justify exclusivity places a difficult burden on noncable video distributors to prove heretofore untested standards of business practice.

As a final note, please remember that the cable industry still benefits from a compulsory licensing system originally enacted by the Congress to help get cable off the ground. We are asking for no such subsidy. Our industry wants only the opportunity to acquire programming at a fair, marketplace price.

In sum, the SBCA believes that the bill reported out by the Commerce Committee admirably carries out the public policy intent which underlies the need for cable legislation. It is essential that competing technologies have access to programming. We urge you to maintain the version which you so carefully and diligently adopted.

Sincerely,

CHARLES C. HEWITT,
President.

NATIONAL ASSOCIATION OF BROADCASTERS,
Washington, DC, September 27, 1990.

Hon. JOHN C. DANFORTH,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Dear JACK: I am delighted that you and the other leaders of the Commerce Committee are making progress in bringing S. 1880 to the Senate for final passage. As you know, NAB consistently has endorsed this legislation, which will provide an essential measure of fairness to competition in the video marketplace. Other benefits to American consumers should result from its modest re-regulation of cable, as well. Of particular importance to NAB, of course, are the bill's essential must carry and channel positioning protections for local television broadcasters, which will help ensure that communities continue to receive the local service that our stations provide throughout the nation.

NAB is dismayed, however, that the Administration has threatened to veto virtually any version of cable legislation currently pending before Congress. We strongly disagree with the Administration's analysis of the issues addressed in these bills. We urge the Senate to pass S. 1880 as quickly as possible, and to expeditiously reconcile any differences between that bill and H.R. 5267, which recently passed the House of Representatives. If, as we expect, the final bill retains the essential broadcaster and consumer protections for which we have been working for many months, NAB will urge the President in the strongest terms to allow it to become law. We hope that you and your colleagues will do so, as well.

Thank you again for your hard work and leadership on this important legislation.

Sincerely,

EDWARD O. FRITTS,
President and CEO.

INTV ASSOCIATION OF INDEPENDENT TELEVISION STATIONS, INC.,
Washington, DC, September 20, 1990.

Hon. JOHN C. DANFORTH,
U.S. Senate,
Washington, DC.

Dear SENATOR DANFORTH: I am writing to request that you take quick action and vote for S. 1880, the Cable Consumer Protection Act of 1990. This bill was reported out of the Senate Committee on Commerce, Science and Transportation earlier this year by an 18-1 vote.

This legislation is absolutely essential to promote competition in the television marketplace. Today, cable operators have the ability to deny local broadcast stations access to local cable systems. Such anti-competitive activity has been documented in numerous studies and by the Federal Communications Commission. S. 1880 would prevent this abuse. Without this legislation, our system of universal, free over-the-air broadcasting will be placed in jeopardy.

On behalf of the Independent television stations in Missouri: KBSI-TV Ch. 23 in Cape Girardeau; KMCI-TV Ch. 38, KSHB-TV Ch. 41, KZKC Ch. 62 in Kansas; KPLR-TV Ch. 11, KDNL-TV Ch. 30, WHSL-TV Ch. 46, WCEE-TV Ch. 13 in St. Louis; KDEB-TV Ch. 27 in Springfield, I respectfully request that you support the leadership of the Senate Commerce Committee and vote for S. 1880.

Free television is the information lifeline of our democracy. I urge you to help preserve this essential national resource.

Sincerely,

JAMES B. HEDLUND,
President.

CITY OF FAYETTE,
Fayette, MO, January 9, 1990.

Hon. JOHN C. DANFORTH,
U.S. Senator,
Jefferson City, MO.

DEAR SENATOR DANFORTH: Fayette City Officials would like to commend you for your efforts to restore rate and review authority lost by municipalities under the 1984 Cable Act. Since deregulation in 1984, many small communities like Fayette have seen cable rate go up with no corresponding improvements in service.

As local officials, we have been placed in a position where we are powerless to address the concerns of our citizens with regard to rates and the level of services provided by cable television suppliers. Your proposed amendment to the Cable Communications Policy Act will go a long way toward making cable companies more responsive to the communities they serve.

We wish you continued success in your quest to regain some of the authority lost under the 1984 Cable Act.

Sincerely,

JOHN E. YEAGER,
Assistant to the Mayor.

CITY OF JEFFERSON,
Jefferson City, MO, November 30, 1989.

Hon. JOHN C. DANFORTH,
U.S. Senate, Russell Building,
Washington, DC.

DEAR SENATOR DANFORTH: The Jefferson City Council at its meeting of November 20, 1989, requested that I communicate to you

the Council's appreciation for your introducing legislation that would support the re-regulation of the cable television industry.

Thank you for making arrangements to meet with members of the City Council and the City's Cable Quality Commission on November 29, 1989, to discuss the particulars of your bill. Due to my attendance at the National League of Cities conference in Atlanta, Georgia, I regret that I was not able to meet with you at that time to share with you my personal support for such legislation.

If there is an additional information or assistance which you believe would be helpful in support of your bill, please do not hesitate to call or write this office.

Sincerely,

LOUIS GARDNER,
Mayor.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I have the great privilege of serving as chairman of the Commerce Subcommittee on Communications. This measure that we have just killed and buried was introduced last November. After listening to 75 witnesses, conducting 10 hearings, receiving 2 reports from the GAO, 2 months ago we voted overwhelmingly in support of the consensus bill, 18 to 1, and reported this measure to the Senate. It has been before us for 2 months.

Last night we received the amendment that we have been waiting for from the Senator from Colorado. During those 2 months 16 Senators submitted 45 amendments. Staff and I, together with the Senator from Missouri, worked with all of these 16 Senators and we came to a consensus.

I have a sheet here that has all of the amendments and, with the exception of two, we were prepared to accept them.

Mr. President, the Commerce Committee does not have the reputation of being an irresponsible "dingdong" committee. It is rather conservative. We have been criticized for spending too much time on hearings and legislation, and this one here was carefully, carefully considered.

We worked with the cable industry, with the networks, with private citizens. We listened to 75 official witnesses and over 300 unofficial witnesses. This measure was given the full consideration of the Commerce Committee.

I have no idea what will happen next year, but I would think that those who were concerned and incensed this year would be doubly concerned and incensed next year.

As chairman of this subcommittee I really cannot predict what will happen. I only wish to commend my colleague from Missouri for his leadership in this matter, for his extraordinary patience and his willingness to sit hour upon hour listening to the complaints of many of our citizens, and coming forth with this bill.

Like all measures of this nature, this bill is not perfect. It was never intended to be perfect because perfection in this type of legislation is an impossibility. But I think we came very close to that and we were prepared to spend many hours in conference with the House coming forth with a measure closer to perfection. But now we have been denied that opportunity.

I do not know what will happen to the consumers, but I am just sorry for the consumers. They will have to bear it for a few more months.

Mr. President, S. 1880 is the Cable Television Consumer Protection Act of 1990. This legislation was introduced late last year by the ranking member of the Commerce Committee, Senator DANFORTH, and he deserves much of the credit for moving this important issue forward. In June, the committee, by a vote of 18 to 1, reported a substitute to S. 1880. This substitute was authored by the chairman of the committee, Senator HOLLINGS, along with Senator DANFORTH and myself.

For the past couple of years, Members have been hearing from their constituents about problems they were having with cable operators. Consumers were troubled by excessive rate increases and poor service. Programmers were concerned about the agreements they had to strike with cable operators to obtain carriage. Competitors were frustrated because they believed cable was engaging in anticompetitive acts.

As chairman of the Communications Subcommittee, I knew that we had to address these matters expeditiously, and I immediately began a series of hearings. Over the past year, my subcommittee has held 10 hearings on cable-related issues. We have listened to over 30 hours of testimony with about 75 different witnesses. Out of this exhaustive examination, virtually all members of the committee reached certain conclusions:

First, the 1984 Cable Act has been a success but has been accompanied by problems;

Second, legislation was necessary to correct these problems;

Third, while we would prefer to remedy these problems through greater competition, such competition would not be forthcoming in the near future; and

Fourth, it was necessary to impose greater regulation.

These conclusions are reflected in S. 1880. This legislation addresses the concerns of consumers, programmers, and competitors about the market power of the cable industry. At the same time, it continues to permit the cable industry to grow and bring the American public a new array of programming and other services. The committee has put together a balanced package, and I think the overwhelming committee vote in favor of this bill reflects this fact. It is a bill that we need to enact this year, and it deserves the support of the Members of this body.

For the record, let me now summarize this legislation and go into more detail about the rationale in support of this measure.

SUMMARY OF MAJOR PROVISIONS

Section 5. Rate regulation. The test for determining whether cable systems are subject to effective competition is made more stringent than existing FCC regulations. It requires that there be both a sufficient number of television signals and a multichannel video competitor prior to deregulation. If cable systems are not subject to competition, the FCC shall ensure that rates for basic cable service—the tier with retransmitted television signals—as well as the equipment used for the provision of that service, are reasonable. In addition, the FCC, upon complaint, shall ensure that rates for other—nonbasic and not offered on a per channel or per program basis—cable services are not significantly excessive. Franchising authorities can obtain jurisdiction over basic rate regulation by certifying to the FCC that it will follow the FCC's procedures and standards. If the franchising authority does not follow these FCC requirements, its rate regulation authority will be revoked.

Section 6. Program distribution and exclusivity. National cable programmers affiliated with cable operators cannot unreasonably refuse to deal with cable operators cannot unreasonably refuse to deal with other video distributors. In addition, such programmers cannot discriminate in prices, terms, and conditions in the sale of programming to others if such discrimination would have the effect of impeding retail competition. Further, such a programmer must deal with cable operators and buying agents of cable operators on similar terms, but may take into account cost differentials as well as certain other factors, Cable operators cannot discriminate against unaffiliated cable programmers or require that a programmer give the operator a financial interest in the programmer as a condition of carriage. Finally, cable programmers who encrypt their satellite transmissions (C-Band) must make their programming available to home satellite dish owners.

Section 7. Leased access. The substitute gives the FCC the authority to establish rates, terms, and conditions for access to these channels, including for billing and collection.

Section 8. Limitations on control and utilization. The FCC is required to conduct a rulemaking to prescribe reasonable limitations on: First, the number of subscribers a cable operator can reach nationwide; and second, the number of channels that can be occu-

pied on a cable system by programmers affiliated with a cable operator.

Section 9. Crossownership. A cable operator cannot own a multichannel multipoint distribution service [MMDS] system or a satellite master antenna television [SMATV] system in its franchise area, except that waivers can be granted. When approximately 10 percent of the Nation receives some form of direct satellite video service, the FCC is required to impose (A) limitations on the ownership of such services by cable operators and other persons having media ownership interests, and (B) access requirements for unaffiliated programmers.

Section 10. Customer service. The FCC is required to examine current industry standards to determine whether they sufficiently provide customers with adequate service. If they do not, the FCC shall adopt requirements. Current State laws are grandfathered.

Section 11. Franchise renewal. The substitute makes a series of changes to the procedural requirements in the current act.

Section 12. Requirements for equipment in television sets. The FCC is given the authority—if it demonstrates technical and economic feasibility—to require television set manufacturers to include electronic switches to permit users to change readily among all video distribution media.

Section 13. Limitations on franchising authority liability. If franchising authorities act pursuant to the provisions of this act, they may be subject only to injunctive relief, declaratory relief, or attorneys' fees for claims asserting first amendment rights.

Section 14. Minimum technical standards. The FCC is required to establish minimum technical standards for the operation of cable systems.

Section 15. Requirement to carry local broadcast signals. This provision reinstates the requirements that cable systems carry local broadcast signals.

Section 17. Home wiring. The FCC is required to prescribe rules concerning the disposition of cable-installed wires inside a home when the subcriber terminates service.

THE 1984 CABLE TELECOMMUNICATIONS ACT

The Communications Act of 1934 * * * was enacted well before the advent of cable television. As a result, there has never been a national policy to guide the development of cable * * * [This bill] establishes a national policy that clarifies the current system of local, state and Federal regulation of cable television. * * *

Until the 1984 act, there was no Federal policy for cable television. The FCC had only indirect authority to oversee the cable industry, which it obtained by virtue of its obligation to ensure that broadcasters served the public interest. About a dozen States had laws in effect controlling certain cable activities, and in those States where no law existed, the cities and other local government entities exercised control because cable systems had to pass through public rights of way. As a result, the cable industry was subjected to a crazy quilt of regulation, often to its detriment and to that of the subscriber.

The 1984 act changed this cable landscape significantly. It defined more precisely the roles of each governmental entity. The State or local authorities continued to regulate rates in the absence of effective competition and to control the franchising process but under new constaints. The Federal Government controlled basic rate deregulation and technical standards. The act's major provisions are as follows:

Rates for basic cable service would be regulated by franchising authorities in the absence of effective competition, as defined by the FCC (section 623).

Franchise fees shall not exceed 5 percent of the cable system's gross revenues (section 622).

State or local governmental entities will control the franchising process, including the number of franchises to award (section 621), but are constrained in the obligations that can be imposed on cable operators (sections 624 and 625).

Franchising authorities may require cable systems to set aside channels for public, educational, and governmental use (section 611).

Cable operators are required to set aside a certain number of channels for commercial use by persons unaffiliated with the cable operator (section 612, the so-called leased access provision).

Standards and procedures are established for the franchise renewal process which first require a determination of whether the existing franchise should be renewed prior to considering competing applications (Section 626).

Codifies the FCC's rules prohibiting broadcasters from owning a local cable system and prohibiting telephone companies, except in rural areas, from owning a local cable system (Section 613).

In sum, the 1984 act provided the cable industry with the potential to develop its systems and its programming. Actions by the FCC to implement the act further freed the industry from regulation, giving it the certainty to increase capital expenditures.

The 1984 act has achieved many of its objectives. Over the past 6 years, the cable industry has grown dramatically. Most of America is now wired to receive cable; almost 90 percent of the homes in the country are passed by cable systems, and over 60 percent of these homes subscribe to cable service. System capacity has increased; the average cable system offers about 36 channels, and this number is steadily increasing. Programming choices have also grown about 50 percent since the act was passed, with many more offerings now being planned. Cable television has become our Nation's dominant video distribution medium.

Cable Industry

[Amounts are in millions]

	1989	1988	1987	1986	1985
TV households	90.2	88.6	87.4	85.9	84.9
Homes passed	80.3	77.2	73.1	69.4	64.7
Basic subs	49.4	45.7	42.6	39.7	36.7
Pay units	41.9	38.8	34.8	32.1	30.6

With this growth have come problems. In certain instances, rate increases have been excessive. For many systems, customer service has been abominable. Programmers have argued that they cannot get carried on cable systems without relinquishing control of their product. In addition, competing video distributors allege that these programmers refuse to deal with them. In general, it is argued that the cable industry now possesses undue market power which is used to the detriment of consumers, programmers, and competing video distributors. It is this concern that is addressed in this legislation.

MARKET POWER AND THE CABLE INDUSTRY

The 1984 act provided that rates for basic cable service would be deregulated where there was effective competition to the cable system. This provision took effect immediately for new franchises and 2 years after the date of enactment for existing franchises—December 29, 1986. The FCC was directed to conduct a proceeding to define when effective competition exists.

The Commission completed this proceeding in April, 1985, and it concluded that a cable system is subject to effective competition if its subscribers can receive three over-the-air broadcast signals. The effect of this standard was to deregulate cable rates for 97 percent of all systems. As noted above, this standard took effect at the end of 1986, even though the Commission's decision was taken to court.

The U.S. Court of Appeals—D.C. Circuit—generally upheld the Commission's decisions. However, the court ordered the FCC either to: First, provide additional support for how it was to determine whether these over-the-air signals were generally available; or second, develop a new standard. The Commission chose the first of these options and issued a new decision in March 1988, altering its method for determining when television signals are generally available. The FCC recently opened a proceeding to reconsider this standard.

Subscribers have lived with deregulation for over 3 years. Because of the many claims that the cable industry

has used its market power to abuse this freedom, the chairman of the House Telecommunications Subcommittee, Mr. MARKEY, requested that the General Accounting Office [GAO] survey cable systems to determine how quickly basic cable rates have risen. This report was completed in August 1989.

Because of the large number of cable systems—about 9,000—the GAO was not able to obtain information from every system. It sought data from a representative sample of some 2,000 systems. Of the systems surveyed, about 75 percent responded. From these responses, the GAO found:

[T]hat, from December 1, 1986, through October 1988, monthly rates for the lowest priced basic service increased by 29 percent, from an average of $11.23 to $14.48 per subscriber. This rate was accompanied by an increase in the average number of basic channels offered (from nearly 24 to about 30).

By comparison, monthly rates for the most popular basic cable service [that is, the one to which most people subcribed] increased by 26 percent, from an average per subscriber of $11.70 to $14.77. This increase was accompanied, on average, by an increase in the number of basic cable channels offered (from nearly 27 to about 32) . . .

Average monthly rates, per system, for movie premium services decreased, both for three popular individual channels and for combinations of premium channels.

While the GAO report proved helpful to the committee, we also recognized its limitations. It is for this reason that additional evidence presented at the hearings is important to analyze. The following are statements of several witnesses:

Basic service rates in Newark, in fact, increased by more than 130 percent since FCC deregulation at the end of 1986. (Sharpe James, Mayor, City of Newark, NJ)

Up until early 1988 we were receiving 17 basic channels of service for the price of $14.95. Shortly after Essex was purchased in mid-1988 by a cable group called Multivision, our local cable ratres increased by about 40 percent, and with absolutely no additional channels or improvements to service. (Eddy Patterson, Mayor, City of Henderson, TN)

In the 16 years prior to deregulation, Hawaii's systems enjoyed reasonable profits and a statewide penetration rate in excess of 70 percent, while 99 percent of Hawaii's residents were able to receive the best available cable technology.

Rate deregulation in 1986 upset this balance. Since then, cable rates have risen geometrically for most of Hawaii's consumers and most of Hawaii's systems have been sold to large multiple-system operators. For consumers living in systems which have been churned, sold two or three times in the last three or four years, rates have risen by as much as 99 percent. (Robert A. Alm, Department of Commerce and Consumer Affairs, Honolulu, HI)

Monthly charges for basic service in Jefferson City [Missouri] have risen from $6.55 in 1981 to a cost as of May 1, of $21.45. In the last 3½ years cable rates have increased 186 percent (Allen Garner, City Counselor for Jefferson City, MO)

It is clear from these statements and from other evidence gathered by the committee that: First, for the past several years the average rate across the country has increased several times greater than the rate of inflation, and second, rates in certain locations have increased dramatically, such that subscribers are being gouged by cable operators.

On June 14, a week after the committee ordered this legislation reported, the GAO released its most recent survey of cable rates. The GAO concluded that the rates for the lowest priced, most popular basic services increased by an average of 10 percent in 1989. While this is lower than increases for previous years, it is still twice the rate of inflation. Since deregulation—about 3 years ago—the average monthly rate for basic service has increased by about 40 percent. Thus, cable rates increases, while moderating somewhat, are continuing to rise significantly. The GAO report is based on a survey of 1,971 cable systems constituting about 60 percent of cable's subscribers.

The committee also found other indications that many cable operators possess various degrees of market power. These can be found in the committee's report and can best be summarized by a statement of the Department of Justice:

The information before the Commission [FCC] suggests strongly that neither conventional television broadcast nor any of the alternative technologies presently available are close enough substitutes for basic and pay cable television services to prevent the providers of such cable services from exercising some degree of market power. However, the existence and extent of this market power may vary considerably in local cable markets depending, among other things, on the number and quality of over-the-air television signals available to the community and the number of non-local channels of information and entertainment made available over the cable system. In areas that do not receive clear television signals, the ability to provide clear television signals would, by itself, give the local cable system some degree of market power. Since 1984, however, basic cable tiers have been expanded to carry many channels of non-local programming. Even where consumers get good over-the-air television reception, the ability to provide a relatively large number of non-local signals is likely to give the only provider of such services some degree of market power. That market power may be derived from the local cable system's ability to provide the type of programming currently offered on the basic service tier as well as its ability to provide pay cable services, for there does not appear to be a close substitute for either type of cable services.

It is thus clear to the committee that the current FCC standard for determining whether effective competition exists is out of date. Moreover, the evidence demonstrates that while some number of over-the-air television signals does constrain the market power of cable systems, some further video competition is required. That conclusion is not surprising in light of changes in the video distribution marketplace.

When the commission adopted its effective competition standards, the three television networks—and their local affiliates—had close to 80 percent of the prime time market. Today, they have about 65 percent, and further decreases are likely. In a speech on May 7, 1990, Ted Turner, a major cable programmer, said that he believes the three networks will continue to lose market share and that the cable industry will soon match the networks in providing funding for original programming. Further evidence to support this conclusion can be seen, for example, in the page 1 headline in the March 12, 1990, Multichannel News: "Basic Viewing Passes B'Cast in Total TV Homes." Thus, while over-the-air television may have been effectively competitive with cable in 1985, it has lost a significant amount of market power.

Based on this evidence, many local cable operators possess market power in varying degrees. Operators with a penetration level of less than 30 percent may have no real market power; those with 90 percent penetration are certain to have considerable power. The committee found that the effective competition test needs to be altered to reflect this reality, and that the best test for effective competition is: Whether a sufficient number of over-the-air television signals, and a viable multichannel video competitor exist. Because the committee prefers competition to regulation, and because regulation imposes costs, which may be significant, the committee next explored whether new entry could remedy cable's market power, prior to adopting new regulatory measures.

POTENTIAL FOR COMPETITION TO CABLE OVERBUILDS

There has been much discussion about whether competition to existing cable systems is likely to come from another cable system operating in the same territory—an overbuild. The Chairman of the FCC mentioned this remedy in his testimony on November 17, 1990:

The legal monopolizing of franchise territories may be the root of many of the current problems. Requiring at least two providers would address the cause, not just the symptoms.

This view, however, is not shared by many other witnesses before the committee. John Malone, president and chief executive officer of TCI, stated:

And I believe that is is not economically viable to sustain two wires into the home providing, essentially, equivalent services. Because all you do there is double the capital cost, double the operating expenses, or raise them by 150 percent and split the revenues in half.

The Department of Justice in its April 2, 1990, comments to the FCC supports this view.

Based on the evidence gathered, the committee concluded that overbuilds will not, with rare exception, provide the necessary competition to control cable's market power. According to information submitted to the committee by the cable industry, out of over 9,000 cable systems, there are only 53 communities where there is currently some overbuild. In 36 of these, there is the potential for a total overbuild. Further, there are 132 communities where second franchises have been awarded or are under study. However, in 62 communities where the threat of an overbuild once existed, there have been mergers of the two cable systems. This scarcity of overbuilds is to be expected in light of the strong natural monopoly characteristics of cable systems.

MMDS

Multichannel Multipoint Distribution Service [MMDS] is a service created by the FCC in the early 1980's. It provides line of sight microwave signals carrying video programming, sometimes in combination with other technologies. It is possible in some areas to have up to 33 channels on an MMDS system; however, the number of channels, especially in major cities, may be far less.

Today, MMDS systems are operating in 45 communities and have about 350,000 subscribers. There are limitations—both governmentally imposed and marketplace driven—that will likely inhibit significant growth. First, the number of MMDS channels is limited in many areas. Second, the FCC licensing process is taking much longer than predicted. This means that MMDS operators have to challenge established cable operators, rather than being the first to enter a market. The MMDS operators then allege that cable systems have locked up the best programming and without this programming, their future is in jeopardy. This argument was raised at the committee's hearing by Robert Schmidt, president of the Wireless Cable Association:

Despite this healthy and promising prognosis, Wireless Cable is still frustrated from reaching its full potenital for a very simple reason: Big cable has an ever tightening grip on the programming we need to serve consumers. Unfortunately, Wireless Cable still is generally unable to obtain what I call the four crown jewels of satellite television programming—HBO, Showtime, TNT and ESPN. . . . Without the ability to offer these most desired programs to consumers, many Wireless Cable systems are unable to get the financial backing necessary to become operational.

While the MMDS industry believes it has the potential to compete with cable throughout the country, the generally held view is that it may only be a niche competitor. This view was stated in the comments of the April 20, 1990, comments of the Federal Trade Commission [FTC] to the FCC:

MMDS, for example, is likely to be a poor substitute for a cable system when there are physical obstructions (e.g., hills and tall buildings) that would block the former's signal. Entry by an MMDS might also be affected by regulatory factors. Moreover, because MMDS has a relatively low channel capacity, its attractiveness to consumers as a substitute for cable will depend on the quality (i.e., number and type of channels) offered by the incumbent cable system.

In addition, just a short time ago, the top MMDS operator in the country, Microband, filed for bankruptcy.

MMDS does have the promise in certain markets to become a competitor to cable. However, this success depends upon far too many uncertain factors. It would be unreasonable to rely on MMDS to provide the necessary nationwide competition to cable.

BROADCASTING VIA SATELLITE

There are a variety of ways for video signals to be delivered to the home via satellite. The FCC about a decade ago permitted private homeowners to have "tv receive only" [TVRO] access to satellite transmissions. Today, there are about 2 to 3 million homes that own satellite dishes. Those dishes access primarily C-Band satellite transponders and in some instances access Ku-Band transponders. Viewers with satellite dishes receive the same programs sent to cable systems and broadcasters. If that programming is encrypted or scrambled, the programmer controls whether it can be received.

In addition to satellites operating in the C and Ku-Bands, the FCC has also set aside programming for a Direct Broadcast Satellite [DBS] service. While the Commission adopted this service in the early 1980's and licensed a number of providers, to date there has been no DBS service launched. There are some who believe, however, that this situation may soon change.

Earlier this year, a consortium of Hughes Communications, NBC, News Corporation—Rupert Murdoch, and Cablevision announced that they will enter the DBS market in 3 years with the potential to provide 108 channels nationwide. Unlike the larger satellite dishes needed for C and Ku-Band reception, the DBS signal is higher powered and could be received by 1 foot dishes. The goal of this venture is to serve 15 million homes by 1995.

Another satellite venture also was recently announced. A group of 9 cable operators plan to lease 10 tranponders on a Ku-Band satellite. They plan to offer 10 channels of service initially, which might include the carriage of superstation signals—retransmitted distant broadcast stations—and pay-per-view programming. While a larger dish than for reception of DBS will be required, it should only be 3 feet in diameter.

In addition to these planned ventures, there are new technologies that will be used in the next generation of C and Ku-Band satellites. These include: higher power transmission, which will mean that smaller dishes are required; and four: One compression technology, meaning that each transponder can send four signals. These innovations will certainly increase the attractiveness of satellite reception.

Despite all of these plans and innovations, it is far from clear that satellite service can provide the necessary competition to cable. Support for the view can be found in a recent trade press story about a speech by Ted Turner and in comments to the FCC and the Department of Justice.

Multichannel News.—Turner is not too bullish on the prospects for direct broadcasting satellite service. On the recent DBS announcements, Turner said cable currently enjoys a distinct advantage over DBS, and labeled DBS efforts "too little too late" in terms of attempting to siphon viewers from cable.

If it had started with cable it might have gotten a portion of the cable business, he said.

If and when the DBS projects get off the ground, Turner said, "70 percent of the country will already have cable." . . .

"With cable, you only have one wire and no antennas," he said. "[With] DBS, you have outside antennas, a descrambler . . . and you need a live-in engineer."

Department of Justice.—At the present time considerable uncertainty surrounds both of the recently announced DBS joint ventures. The lack of commercial success of previous efforts to utilize DBS technology precludes one from assuming that either or both of the joint ventures will produce a cost-effective technology that will in fact effectively rival the current cable distribution systems. Even if either or both of these systems are successful from a cost/technology perspective, they will not carry local television stations and initially at least will have smaller channel capacities than most cable systems. Moreover, it is not clear at this moment whether the DBS systems will be deployed as a rival or as a complement to current cable systems.

This last point, raised by the Department of Justice, is important to note. Both joint ventures include cable operators. The K Prime venture will provide programming not carried on cable systems and is seen as a supplement to cable systems and an easier way to increase programming capacity. The Sky Cable venture also plans to have cable operators play a significant role.

Tom Rogers, President, NBC Cable & Business Development, and another Sky Cable partner, said that cable operators would "have a major incentive to be Sky Cable distributors."

While there are "clearly more ways to access Sky Cable than through cable operators," those with infrastructures are the best to distribute Sky Cable, and "those are the operators," said Rogers. And with increasing uncertainty about regulation, said Rogers, operators aren't rushing to invest money," DBS is a way around that, since it's

less expensive for the operator, yet increases channel capacity.

There is certainly potential for direct satellite broadcasts to become significant competitors to cable at some later date. The problem is that there are, as with MMDS, too many unknowns, and this service cannot rely on it today to protect consumers and others from cable's market power.

TELEPHONE

The 1984 act codified the FCC rule prohibiting telephone companies from providing cable service in their franchise areas, except in rural areas. Telephone companies thus clearly cannot control video programming content over their own wires and possibly cannot provide video service over their wires even as a common carrier if they, or their users, do not obtain a franchise. Telephone companies, however, can and do provide the wire over which franchised cable operators provide service. Finally, it should be noted that even if the committee repealed the current prohibition on programming, the modified final judgment [MFJ] in the AT&T antitrust suit still bars the Bell operating companies from controlling information content. This means that about 80 percent of the Nation's population would be unaffected unless the MFJ were changed.

The only service that cannot be transmitted over the current telephone network is multichannel video service. The telephone industry, however, has plans to use optic fiber cable and new generations of switches and transmission equipment to create a broadband telephone network which could transport many video signals. The telephone industry is already investing heavily in optic fiber cable for long distance transmission, major local routes, and in some instances for service to large business. That is because optic fiber cable is economic only where large transmission capacity is required. So far, it is not economic to rip out the existing copper wire into homes and replace it with optic fiber cable. However, some believe that time is not that far off.

The consensus view of the committee is that they would like the telephone industry to construct an optic fiber broadband telephone network provided it is economic. The main issue before the committee is the whether telephone companies should enter this market as common carriers or whether they should be permitted to play an additional role. There is also the question of local franchising authority over telephone entry into the provision of video services, as well as a host of other issues involved in this debate.

At the committee executive session to consider reporting this bill, the committee decided that this matter should be considered separately. The committee will hold a hearing and an executive session prior to the August recess to decide on an approach to this issue.

THE COMMITTEE'S CONCLUSION: REGULATION IS NECESSARY

It has been the longstanding policy of the committee to rely, to the maximum feasible extent, upon greater competition to cure market power problems; however, the evidence demonstrates that there is no certainty such competition to cable operators with market power will appear any time soon. The committee thus had to rely on some greater governmental oversight of the cable industry. Such oversight should be the minimal necessary to rein in this market power. It should also reflect the unique nature of the cable industry and the fact that the extent of this market power varies from locality. While there may be regulatory or structural approaches that might better suit the problems, because these involve changing cable's mode of operation, such approaches are impractical. The committee was not writing on a blank slate. Finally, this oversight should end as soon as cable is subject to effective competition.

The existing statute permits franchising authorities to regulate the rates for basic cable service on those systems not subject to effective competition. The legislation reported by the committee continued this approach of regulating the tier of service containing retransmitted local broadcast signals. The committee also extended this regulation to the equipment used to provide this service. Under the legislation, the FCC shall establish rules to ensure that these rates are reasonable. The rationale for giving the FCC initial jurisdiction over the establishment of rates is that the telecommunications marketplace is global and it is important to establish a national scheme of regulation. In addition, none of cable's current and potential competitors are regulated at the local level. The committee also recognized that franchising authorities have a large stake in the operation of cable systems. The legislation thus permits franchising authorities to retain this authority so long as they abide by the FCC's rules.

The committee believed that regulating just this basic service offering will not adequately address the problem of market power, since people subscribe largely for cable's other program offerings. This fact is supported by the cable industry:

When a viewer subscribes to cable, he's generally not paying for access to the local broadcast stations, because he can get those free without cable. He's paying for the distant signals and nonbroadcast programming that are not available over-the-air (and, possibly, for some enhancement of his reception of local broadcast stations).

Cable operators may simply use this power to charge higher than competitive rates for other service offerings. This view was recently expressed by the FTC:

If it is determined that some form of explicit rate regulation is necessary to constrain the exercise of market power by cable systems, effective regulation would seemingly require that regulatory authorities be empowered either to control the rates charged for all service tiers, or to impose "minimum quality" controls along with rate controls (e.g., stipulate that "basic" service offer certain specified channels). Absent such regulatory authority, it is unclear that cable rate regulation could effectively constrain the exercise of cable systems' market power should such power be found to exist.

The committee believed that the alternative suggested by the FTC—to control what should be offered on the basic tier—is not practical and it at least would raise first amendment concerns. It therefore has included in legislation regulatory oversight of other cable service offerings that are not offered on a per channel or per program basis. The FCC, after receiving a complaint from a franchising authority or a subscriber, is to ensure that rates for these offerings are not significantly excessive.

The committee had no desire to regulate programming. However, because cable operators bundle transmission, equipment and programming, it is impossible to contain a cable operator's market power without oversight of this bundled rate. The committee has tried to make this oversight minimal by: First, not extending regulation to programs offered on a per channel or per program—unbundled—basis, and second, having a standard of oversight that must be triggered by significantly excessive rates.

Where the cable operator has market power derived from its local bottleneck, it can use this power to charge unduly high rates. It can also provide poor quality service for customers, which is another matter addressed by the committee. Aside from concerns about cable's use of market power to harm consumers, the committee had concerns about the use of cable's market power to exact unfair advantages over programmers and competitors.

The committee received much testimony about cable operators exercising their market power derived from their de facto exclusive franchises and lack of local competition. This testimony provided evidence that programmers are sometimes required to give cable operators an exclusive right to carry the programming, a financial interest, or some other added consideration as a condition of carriage on the cable system.

[T]he major cable companies increasingly insist on owning a financial interest in shows and programs they use on their channels, and since in most cities, the cable

system is a local monopoly, they have total control of content, on their terms, both as to the producers and in choices presented to the cable audience.

According to the Wall Street Jounral (May 4, 1988 at 29), "Cable system owners have taken minority equity interest in virtually every new programming channel that has started in the past two years." As a practical matter, it is almost impossible in the present environment to start a new cable system service without surrendering equity to the owners of the monopoly cable conduits.

When cable systems are not subject to effective competition, such an outcome is not surprising. Programmers either deal with operators of such systems on their terms or face the threat of not being carried in that market. The committee believed this disrupts the crucial relationship between the content provider and the consumer.

The committee understood that there are many other factors that affect the bargaining between the programmer and the cable operator. As was stated earlier, the extent of market power in the cable industry varies in each locality. In addition, there are certain major programmers that are more able to fend for themselves. It is difficult to believe a cable system would not carry the sports channel, ESPN, or the news channel, CNN. In addition, the cable operator has an incentive to put on programming that increases subscribership and decreases churn. These factors counterbalance some of the committee's concerns regarding the market power of the cable operator vis-a-vis the programmer. However, the committee continued to believe that the operator in certain instances can abuse his locally derived market power to the detriment of programmers and competitors. The provisions adopted in the legislation reflect that concern, including the highly important must carry provision requiring cable carriage of local broadcast stations and changes to the leased access statute. Moreover, these concerns are exacerbated by the increased vertical integration in the cable industry.

Vertical integration occurs when a single firm owns sequential stages of production. A vertically integrated cable company is a company that owns both the programming and the distribution system. For example, Viacom owns programming services such as MTV, Showtime, and Nickelodeon, and also owns, Viacom Cable Systems; TCI, the largest multiple system operator [MSO], has financial interests in programming services such as American Movie Classics, the Discovery Channel, the Fashion Channel; and QVC Networks, Inc.

Vertical integration in the cable industry raises two concerns. First, the committee received testimony that vertical integration gives cable operators the incentive and ability to favor their affiliated programming services. The cable operator might give its affiliated programmer a more desirable channel position than another programmer, or even refuse to carry other programmers.

Because of the trend toward vertical integration, cable operators now have a clear vested interest in the competitive success of some of the programming services seeking access through their conduit. You don't need a Ph.D. in economics to figure out that the guy who controls a monopoly conduit is in a unique position to control the flow of programming traffic to the *advantage* of the program services in which he has an equity investment and/or in which he is selling advertising availabilities, and to the *disadvantage* of those services, including local Independent broadcasting stations, in which he does *not* have an equity position.

Second, the committee received testimony that vertically integrated cable programmers have the incentive and ability to favor cable operators over other video distribution technologies through more favorable prices and terms. Or these cable programmers may simply refuse to sell to potential competitors. Small cable operators, satellite dishowners, and wireless cable operators complain that they are denied access to, or charged more for, programming than large, vertically integrated cable operators.

Restricted access to programming products by a wholesale programmer which is also a retail competitor, reflects the vertically integrated nature of the market and the basic barrier in the development of a competitive market. Without fair and ready access on a consistent, technology-neutral basis, an independent entity like [the National Rural Telecommunications Cooperative] cannot sustain itself in the market.

The programmers pick and chose those outlets to which they will provide distribution rights. But they have not done so based on the quality of an organization's marketing expertise, the financial integrity of the distributor, the size of the potential market, or the lack of cable access (as in rural areas). . . . Programmers which may not be owned in total or directly controlled by cable companies know where the majority of revenues come from and to protect their place in the valuable cable market, they queue-up.

On the other hand, cable witnesses testified that there are benefits to vertical integration.

Vertical integration can be a good thing or a bad thing, and sometimes can be a good thing and a bad thing at the same time. One of the ways, in fact, the primary way it has been a good thing in the cable industry is that vertical integration has been the means by which we have stimulated the development of programming that was necessary to flesh out the promise of cable, the promise of our medium, when nobody else was really willing to step up and put up the money.

But even some members of the cable industry have expressed concern about vertical integration. John Malone, president and chief executive officer of TCI, for instance, testified that "[w]e, and many others, are concerned about the vertical integration going on, for fear of how it affects us."

One way to address the concerns raised by vertical integration is to prohibit it altogether. The 1974 Cable Report to the President, for instance, recommended a ban on common ownership of content and conduit.

We recommend adoption of a policy that would separate the ownership and control of cable distribution facilities, or the means of communications, from the ownership and control of the programming or other information services carried on the cable channels.

While this approach has appeal, it would result in a fundamental restructuring of the cable industry and the way it does business. Instead, the committee decided to focus on ensuring competitive dealings between programmers and cable operators and between programmers and competing video distributors. The legislation directs the FCC to promulgate regulations limiting the number of channels that can be occupied on a cable system by programmers affiliated with the cable operator. In determining what limitations are reasonable, the FCC should consider the channel capacity of the system as well as consumer interest and the goal of increasing diversity.

To ensure that cable operators do not favor their affiliated programmers over others, the legislation bars cable operators from discriminating against unaffiliated programmers. As a check on the market power of cable operators, the bill also bars operators from requiring a financial interest in a programming service as a condition of carriage.

To address the complaints of small cable operators that cable programmers will not deal with them or unreasonably discriminate against them in the sale of programming, the legislation requires vertically integrated, national cable programmers to make programming available to all cable operators and their buying agents on similar price, terms, and conditions. A requirement of dealing on similar terms is moderate, as even members of the cable industry have acknowledged. John Malone of TCI testified that:

[A] number of small cable operators in the Midwest have banded together in a cooperative to try to gain some of the same economies of scale in their joint purchase of cable programming. The cooperative has enjoyed success with some programmers, but not with others. I fully support their efforts, and I see no reason why all programmers should not accord the cooperative and others like it the benefits of whatever scale economies they can offer.

To encourage competition to cable, the bill bars vertically integrated, national cable programmers from unreasonably refusing to deal with any multichannel video distributor or from discriminating in the price, terms, and

conditions in the sale of programming if such action would have the effect of impeding retail competition. This provision is limited to vertically integrated companies because the incentive to favor cable over other technologies is most evident with them. It is limited to national cable programmers, that is, programmers who license for distribution to more than 15 States, to allow nascent programmers to gain a foothold through exclusive arrangements.

To ensure that cable programming is made available to owners of home satellite dishes, the bill requires any cable programmer who scrambles its C-Band signal to make its programming available for private viewing by receive-only home satellite antenna users.

The legislation also contains other provisions addressing important subjects such as horizontal integration and the liability of franchising authorities. For a greater explanation of all the provisions in the legislation, I direct you to the committee's report. The report also contains an explanation of the constitutionality of the legislation.

In sum, after careful analysis and lengthy debate, the committee has crafted balanced legislation that addresses concerns brought to us by our constituent about the use of market power by the cable industry. It merits the support of the entire Senate, and I urge my colleagues to join me in passing this measure.

I thank you, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. WIRTH. Mr. President, I ask unanimous consent to be recognized in morning business time for 5 minutes.

The ACTING PRESIDENT pro tempore. We are in morning business until 11:15.

Mr. WIRTH. Thank you very much, Mr. President.

Mr. WALLOP. Mr. President, will the Senator from Colorado yield?

Mr. WIRTH. I yield.

Mr. WALLOP. Mr. President, I object to consideration of S. 1880, the Cable Television Consumer Protection Act of 1990, which the majority leader is attempting to lay before the Senate for its consideration. The main thrust of this legislation is to limit the ability of local regulatory authorities to regulate cable television rates—something we curtailed in 1984 with the passage of the Cable Act. While indeed there have been numerous complaints from consumers about price increases and poor service from cable operators which may need to be addressed, I believe this bill is overly broad in both the regulation of rates and service and should not be adopted.

The effective competition language of the 1984 Cable Act provides a commonsense standard for determining when cable rates should be regulated. S. 1880 goes far beyond that by allowing the FCC to regulate rates for basic service—a service defined as the tier with local broadcast channels—including installation fees, converters, remote controls, and other equipment used for the reception of basic channels.

Cable is deemed to face effective competition only where there are both a "significant" number of broadcast stations and at least one other multichannel video provider, or where cable's penetration is less than 30 percent. In essence, Mr. President, we are legislation competition that only exists in about six percent of the country. For that reason, I believe we should be attempting to improve conditions for competition in the cable industry, not mandating ill-conceived policies.

Regulation is a costly, inefficient process and should therefore be applied only in limited circumstances, or as a transitional measure. S. 1880's reimposition or regulation without regard to whether it is really necessary will ultimately disserve consumers.

To enable State and local authorities to regulate basic rates, S. 1880 reguires the FCC to establish to costly and cumersome certification program. According to the Congressional Budget Office, it will cost the FCC $7 to $22 million to implement that program in fiscal year 1991 alone. The FCC abandoned a similiar certification program in the 1970s as unnecessary and too costly.

S. 1880 also does not recognize exclusivity as a legitimate business practice for cable program networks. Indeed, S. 1880 creates a Federal warrant for cable programming which requires cable networks to sell their product to all comers. This violates accepted notions or intellectual property rights and does not comport with the exclusivity rights enjoyed by other media, such as broadcasters which obtain exclusive network affiliations and syndicated exclusivity rules and newspapers which have syndicated columns. This provision raises some obvious questions of basic fairness.

After several years of study by the FCC, NTIA, and others, there is no conclusive evidence that cable programming services owned by cable systems are being withheld unreasonably from alternative distribution media such as home satellite dishes. Individual competitive abuses are best resolved under the antitrust laws, rather than a blanket access to programming provision that will deny cable programmers and cable systems the benefits of vertical integration and exclusive dealing arrangements.

As reported to the Senate, S. 1880 will also effectively rule out volume discounts since it requires programmers to distribute their product to eveyone under similar prices, terms, and conditions. This will work to harm consumers who will lose the benefits of lower wholesale costs. Lower wholesale costs to cable operators mean less upward pressure on the rates which they charge their customers.

In sum, Mr. President, I believe this is a bad piece of legislation and should not be considered by the Senate this year. To do so will destroy the substantial benefits of the cable industry which consumers currently enjoy. Those benefits can best be preserved and enhanced by promoting additional competition rather than seeking to reregulate an industry which is already extremely overburdened by cumbersome regulation.

I thank the Senator from Colorado.

Mr. WIRTH. I thank the distinguished Senator from Wyoming for his help on this issue as well.

Mr. President, again let me state what I believe the issues are, and the issues are not in this piece of legislation. We got into this, as the distinguished Senator from Hawaii has very clearly laid out, because of some problems on pricing.

You know, there were cases, and I believe one of those existed in Hawaii, in which the local cable franchise went beyond what was any kind of reasonable standard and probably went beyond the limits of what it could do in raising rates, and some consumers at that point got gouged. I think the same thing happened in some other franchises. Maybe it happened in a handful of places in Missouri or Tennessee or elsewhere.

The agreement made that this is the most important piece of consumer legislation because rates and rate payers are being badly gouged simply does not stand the test of fact. If we look at the basic—and I will put this date in the RECORD, Mr. President—if we look at basic rates for basic cable from 1982, for example up through 1990, they have lagged behind the Consumer Price Index. If my memory serves me correctly—and I will get those numbers in my office, I was not prepared for that debate at this particular point—it was around $5.35, something around that, $6, basic cable service in 1982.

If you just followed the Consumer Price Index and went up with the inflation, remember, that would be over $16 today, something to that effect. The average rate has not gotten to $16; it is significantly below there. The basic cable remains a significant bargain for those people who are receiving it. That price has not been one of enormous price gouging.

The numbers just do not show this. Because of so-called price gouging, it is the most important piece of consumer legislation going on today. There are some provisions here that deal with

the regulatory side at the FCC. This is not a "totally unregulated monopoly." As has been pointed out, unregulated monopolies are wrong. I do not disagree with that.

If, in fact, this were an unregulated monopoly, I would very aggressively try to make sure there were checks on it. But the cable industry is subject to the provisions of the Cable Act of 1984. I wrote a great number of those provisions that relate to a lot of very important requirements that the cable industry has to meet. When we get to the debate on the bill, I am going to talk about some of those and talk about the pride with which this industry ought to deal with those particular issues, has dealt with those particular issues and requirements.

I can tell you that a number of those were put into that legislation over the very, very heavy objections of the industry, and they were pretty sore for a period of time therafter.

In addition to being subject to the provisions of the Cable Act, this industry is also subject to the effective competition test established by the FCC. The FCC, under the Cable Act, establishes the test for whether there is competition, and if the industry does not meet that test, the FCC has the authority to step in.

Who should regulate the cable industry? The FCC. Who does regulate the industry under the Cable Act? The FCC.

Finally, the local authority has the opportunity to grant a second franchise if they want; not very cost effective. Some of those, for example, were done in Tennessee, and they went broke. I mean, it is very difficult to do that, but the authority is there. We should not suggest that there is not the ability to have a competing system because that can happen. It is not a very cost effective thing to do, but it certainly is there.

Those are some of the points that have to be made, Mr. President. The issues of the bill that originaly drove this were consumer issues related to rates and consumer issues related to service. That is fine. The cable industry recognizes that; I think we all recognize it. Let us deal with those. But to go far beyond that into a whole series of other issues that are very destructive and that we should not do, that is my objection to this.

Let us resolve those issues, and go along and get a good bill. Those issues are absolutely resolvable. Let us go on and do it.

Thank you, Mr. President. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

NATIONAL ENERGY POLICY

Mr. GRAHAM. Mr. President, I am bringing the Senate's attention to a difficult issue for a few moments, and that is the complex issue of a national energy policy. We are paying a heavy price for having deferred this debate. I am pleased that I sense that we are now on the threshold of recommending the question of where our Nation should be in terms of the use of the production of energy.

As an attempt to start this debate, an amendment was offered on August 3 to the defense authorization bill. This amendment, which is entitled The National Energy Security Act of 1990, was adopted by unanimous consent on the defense authorization bill.

This amendment has a provision that establishes a national policy that we should not import more than 50 percent of our oil, and that, at such time as we exceed that limit, the President must develop an action plan to be submitted to the Congress for adoption by a joint resolution.

Mr. President, I have several objections to this legislation. First is the objection that I believe this legislation, as well intended as it was presented, actually has a hidden agenda. And that hidden agenda is to open up, regardless of other national laws and standards, some of our most pristine areas to oil and gas exploration.

Why do I say this? Mr. President, I say it because of the language in the bill itself, which requires the President to list all of the Federal land tracts, on shore and off shore, in the order of their potential for oil and gas discovery, including any Federal land outside national parks, which is currently off limits. Then the President is to give a schedule for leasing the tracts identified in the order of their potential for oil and gas discovery. I say it also because the sponsors of this legislation have so indicated.

Mr. President, I submit for the RECORD an article from the Congressional Quarterly of September 8, 1990, which quotes the sponsor of this amendment as having that as the objective.

I ask unanimous consent that that be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Congressional Quarterly, Sept. 8, 1990]

ANWR MAY BE LATEST HOSTAGE OF MIDDLE EAST OIL CRISIS

(By Phil Kuntz)

The fate of northeast Alaska's pristine frozen tundra—and the oil that may lie beneath it—rests in the scorching heat of Saudi Arabia's desert.

If the near-war in the Middle East gets much hotter, the protection Congress has afforded the ecologically sensitive coastal plain of Alaska's Arctic National Wildlife Refuge (ANWR) could become a casualty. The Bush administration, the oil industry and Alaska's elected representatives want to open that part of the refuge to rigs in search of what may be the United States' biggest remaining untapped oil and gas reserve.

Drilling proponents clearly have a new edge. Few deny that America's increasing dependence on foreign petroleum is the paramount reason 100,000 U.S. troops are now protecting Saudi oil fields, so any proposal to cut imports has new persuasive power.

The administration estimates that there may be enough recoverable crude beneath the plain to produce 600,000 barrels a day for over 15 years—roughly what the United States was importing from Iraq and Kuwait before Saddam Hussein invaded his oil-rich neighbor.

Environmentalists who want to preserve the virtually untouched landscape are suddenly on the defensive as both sides gird for a renewed confrontation in the decadelong struggle.

But failing a military escalation in the Middle East or serious energy shortages at home, the standoff probably will not persuade enough members in this Congress to lift the 10-year-old ban on drilling in the refuge before it adjourns, according to partisans on both sides of the issue.

HOME-FIELD ADVANTAGE

Even some who favor drilling say the long stalemate very well may continue into the 102nd Congress, leaving the wilderness off-limits at least through the next two years. That is because drilling advocates face tough foes with a formidable advantage—stubborn environmentalists who can prevent drilling merely by obstructing any effort to change the status quo.

"We don't see Iraq as an automatic opening of ANWR by any stretch of the imagination," said John O. Ambler, a Texaco Inc. lobbyist who heads an industry task on the issue. "I think the next year may be too soon, too."

That view was echoed by several pro-development officials, including oil-state Rep. W.J. "Billy" Tauzin, D-La., and Jim Hughes, a deputy assistant secretary of the Interior who helps oversee oil leasing issues.

Environmentalists have "the homefield advantage because all they have to do is block us," Hughes said. "Blocking something is always easier than doing something affirmative, so in a 50-50 battle, that certainly could tip the scales in their favor."

Said Tauzin: "The conditions are right for a good ANWR debate, but we're not going to win until Americans are really shocked."

That means something more dramatic than high gasoline prices—like the frustration of long lines or the horror of American casualties. "If we get into a shooting war, all bets are off," said a House aide who favors drilling.

Still, drilling opponents remain confident. "We have enough people in the right positions who think this is the wrong thing to do to block it," said Bob Adler of the Natural Resources Defense Council.

BIG MONEY AT STAKE

Debate over drilling within the refuge's 1.5 million-acre coastal plain (about half the size of Connecticut) has raged since before 1980, when Congress abandoned efforts to settle the issue by ordering the administration to study the question for a while. (1980 Almanac, p. 575)

At the time, Congress was working on legislation (PL 96-487) that enlarged the refuge to 19.3 million acres, roughly South Carolina's size.

Some wanted to include the 100-mile-long coastal plain in the refuge's 8 million-acre

wilderness area, which would have placed it permanently off-limits—a move the House had endorsed twice before. Others wanted to allow oil exploration and development on at least part of the refuge.

In the end, House environmentalists gave in to a Senate compromise during the 1980 lame-duck session when Ronald Reagan's landslide election helped his party take over the Senate, and ANSR-protection forces feared the onset of an anti-environment backlash. The bill passed that year allowed more study, keeping the issue alive but on hold.

When the Reagan administration reported back to Congress in 1987, it proposed opening the coastal plain to oil exploration and development. The White House declared that it was "the nation's best single opportunity to increase significantly domestic oil production over the next 40 years."

The report said there was a roughly 1-in-5 chance of finding a significant amount of economically recoverable oil—pretty good odds by industry standards. Estimates of its potential output range from less than a billion barrels to 9 billion, with a mean estimate of 3.2 billion barrels (roughly 600,000 barrels a day for 15 years).

For oil companies, the oil-dependent state of Alaska and the federal government, that meant big money. At $30 a barrel—the running price of crude oil in the wake of the Iraqi crisis—9 billion barrels would produce revenues of $270 billion.

For that reason, drilling proponents are hoping federal budget negotiators will consider the refuge as a non-tax revenue-raiser as they attempt to cut the deficit. President Bush's latest budget assumes $3.1 billion in lease payments in fiscal 1993-95

Big bucks notwithstanding, the oil likely would do relatively little to reduce the United States' dependence on foreign oil. The mean estimate of 600,000 barrels a day would cover only 3.5 percent of what the nation consumed last year and 8.3 percent of what it imported, according to Energy Department figures. And that oil would not start flowing for years.

Though protecting the plain's surprisingly varied wildlife was a chief concern—thousands of caribou summer there every year for a birthday ritual—the refuge's virtually untouched majestic wilderness itself holds the most powerful sway with many. Members partial to both sides of the issue flock there regularly to inspect it.

"There exists in Alaska a world of natural splendor that sates the soul with its chiseled peaks, immaculate water, clarified air, sweeping tundra and truly wild beautiful fauna," National Geographic said in 1979.

In response to the 1987 Reagan report, committees dominated by pro-industry members—House Merchant Marine and Senate Energy—reported out bills during the 100th Congress to open ANWR to oil exploration. Both bills attempted to safeguard against environmental damage. Proponents also argued that the Trans-Alaska Pipeline System and ongoing oil drilling in the largest active U.S. oil field (Prudhoe Bay, just to the west) had done little damage to the ecosystem.

Nevertheless, attempts to appease drilling opponents failed and the legislation went nowhere. The high hopes oil-drilling proponents held going into the 101st Congress were dashed when the *Exxon Valdez* spilled a huge amount of oil in Alaska's Prince William Sound on March 24, 1989—just eight days after Senate Energy approved its drilling bill (S. 684) and one day after Merchant Marine Chairman Walter B. Jones, D-NC., introduced the House counterpart (HR 1600).

The issue was sidelined indefinitely. Now the Iraqi invasion has again shifted the political landscape.

"The Middle East crisis wiped the *Exxon Valdez* off the ANWR map as quickly as the *Exxon Valdez* wiped ANWR off the legislative map," said one House aide.

"Clearly we lost a lot of ground that was gained after the *Exxon Valdez*," said Adler of the Natural Resources Defense Council. "We're back on the defensive."

SUPPORT FOR BOTH SIDES

In Congress, that leaves the issue where it was 18 months ago.

At that time, Senate drilling proponents felt they could muster a 50-vote-plus majority but were struggling to round up the 60 votes needed to cut off a filibuster. As for the House, everyone involved said the vote would have been close had it gotten to the floor. "We were behind," said an oil lobbyist, "but not by much."

The drilling bill still faced big hurdles in the House. Chief among them: the environmentalist-packed Interior Committee, whose chairman, Morris K. Udall, D-Ariz., sponsored a bill (HR 39) to declare the plain permanently off-limits.

Though the entire House backed that position back in the 1970s, its membership has since changed. Both sides have shown that they can round up scores of supporters. During the 100th Congress, Udall had 115 cosponsors for his wilderness bill, while Don Young, R-Alaska, had 146 cosponsors for his drilling bill.

"There's a huge gray area of maybe 200 votes," one industry lobbyist said.

Many involved in the debate said the industry's chances for success will be enhanced when the administration sends Congress its long-promised "national energy strategy" next year. The package is expected to make sweeping attempts to appease environmentalists with heavy doses of conservation and little in the way of offshore drilling—an option Bush virtually foreclosed earlier this year to stifle a similar controversy.

The White House plan likely will include ANWR drilling, a move Bush has long favored. Packaging it as part of a bigger energy strategy may be the way to put it over the top, some said. "It's very difficult to move ANWR on its own because it becomes such a litmus test for environmentalists," said an oil lobbyist.

"He's trying to trade offshore drilling for ANWR," said Mike Synar, D-Okla., chairman of the Government Operations Subcommittee on Energy.

Just before the August recess, as the Senate was debating the defense authorization bill (S 2884), Alaska GOP Sen. Frank H. Murkowski successfuly offered an amendment that could help to force the issue.

Murkowski's language would require the president to come up with an "action plan" for reducing imports if they exceeded 50 percent of consumption. (U.S. imports are now at about 45 percent.) The action plan, which would be subject to congressional approval, would have to include a schedule for selling drilling rights on high potential public lands.

Murkowski said his aim is to open the refuge to drilling. Congress would have a hard time voting down the president's action plan, he said, because members would have to consider "American boys in a foreign country prepared to make the ulimate sacrifice."

That is a theme pro-drilling members will be hitting frequently in the coming months. Tauzin put it this way: "It's amazing to me how we could put caribou above human lives—our sons and daughters."

Mr. GRAHAM. First, Mr. President, I think that we need to face this issue for what it is and for what its intentions are.

Second, Mr. President, I am concerned about the procedure, the allegations made that we are about to adopt the beginnings of a national energy policy by unanimously consenting to an amendment on a bill of questionable relevance to a national energy policy, the Defense Authorization Act.

The chairman of the Armed Services Committee, at the time this was considered, raised questions about an energy bill being offered to a defense authorization bill.

I believe, Mr. President, that we do need to have a national debate on our energy policy. It needs to be a national debate that takes place in the open; it needs to be a national debate that includes all Americans; it needs to be a national debate that follows the normal procedures by which we arrive at important national decisions.

Finally, is this good policy? Mr. President, I suggest it is not good policy and that this policy has been rejected by the Senate as recently as 1987, when there was a vote on a very similar procedure which failed 55 to 41. It is interesting to note that, at that time, President Reagan and his administration strongly opposed the adoption of a procedure similar to that which is now being suggested.

Mr. President, I believe that we must have a national energy policy and that it should contain some basic elements. One, it has to be shared, fair and undertood. We are going to be asking Americans to sacrifice and change their style of life. If we are going to do that, it should only be done after we are assured that the burden is being justly distributed and that the people have a chance to understand why they are being asked to sacrifice.

Second, the policy must be long-term. Yes, I am interested in what is happening at the gas pumps today. I am also interested in what is going to be happening to our Nation for our children and grandchildren. A policy that infers that the way in which we are going to meet our energy needs is by draining America first by pumping ourselves out of an energy shortage through the immediate and unrestrained exploitation of our domestic resources, I suggest, is fundamentally flawed.

We must have a national policy that includes alternative fuels, that includes conservation, that includes the whole array of items which this

Nation must rally into a consistent national energy policy.

Mr. President, I am convinced that we can do so. I am convinced that we must do so, and that we will. But it has to be a policy which is arrived at through a consensus of the American people, not a policy which is attempted through the measure that was introduced as an amendment to the Defense authorization bill.

Therefore, Mr. President, I urge my colleagues to urge our colleagues on the conference committee to reject this amendment, and that we then get about the business of developing a true national energy policy.

Mr. President, I ask unanimous consent to have printed in the RECORD various supplemental statements and articles which will, I think, fully detail the intent of the original amendment and give greater detail to the direction in which this Nation must move.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: During Senate debate on the National Defense Authorization Act, S. 2884, an amendment offered by Senator Murkowski entitled the "National Energy Security Act of 1990" was adopted by unanimous consent. Among other things, the amendment would compel the President to consider leasing onshore and offshore federal lands that are "currently off-limits to oil and gas leasing . . . in order of their potential for oil and gas discovery," without regard for why those lands were placed off limits.

This amendment would allow oil and gas leasing in wilderness and other environmentally sensitive areas now protected from intrusion, such as the Arctic National Wildlife Refuge, the Florida Keys, and the National Marine Sanctuaries off California, "[n]otwithstanding any other provision of law." That means notwithstanding the requirements of important environmental protection statutes such as the National Environmental Policy Act and the Coastal Zone Management Act.

The amendment was not subject to any hearings by the committees of jurisdiction. We believe it takes the wrong approach to energy policy, and urge in the strongest terms that it be deleted in conference.

The United States needs a national energy policy. One goal of that policy should be the reduction of reliance on imports. Reducing oil imports would improve our trade balance make us less vulnerable to supply disruptions, and reduce the risk of oil pollution from tanker traffic off our coasts.

The proposed amendment makes passing reference to conservation and alternative fuels. Conservation, alternative fuels, demand reduction and environmental protection should be cornerstones of our national energy policy, not just afterthoughts. Energy policy should address multiple goals, and should result from extensive and thoughtful analysis. It should not be merely a hasty response to the crisis of the moment, or a thinly-veiled excuse to abandon measures to protect our environment.

In sum, we encourage the conferees to delete this ill-advised amendment, and allow Congress to work with the Administration to develop a rational and forward-looking national energy policy.

Sincerely,

Bob Graham, John F. Kerry, Tim Wirth, Edward M. Kennedy, Bill Cohen, Dave Durenberger, George Mitchell, Patrick Leahy, J. Lieberman, Alan Cranston, Frank R. Lautenberg, Jeff Bingaman, Wendell Ford, Brock Adams, Jim Jeffords, Richard Bryan, John Chafee, Terry Sanford, Joe Biden, Claiborne Pell, J. Bennett Johnston, Barbara A. Mikulski, Bill Roth, Richard S. Lugar, Herb Kohl, Paul Sarbanes, Al Gore.

U.S. SENATE, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, September 13, 1990.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to urge that amendment number 2516 to S. 2884, which was sponsored by Senator Murkowski and entitled the "National Energy Security Act of 1990," not be included in the conference report on the National Defense Authorization Act.

The amendment by Senator Murkowski requires the President, upon a finding that oil imports exceed 50 percent of U.S. consumption over a six-month period, to submit an "Energy Production and Security Action Plan." In submitting this plan, the President must include a schedule in order of priority for leasing all federal land tracts, both offshore and onshore, that currently are off-limits to oil and gas leasing. Examples of lands off-limits to oil and gas leasing include the Georges Banks, areas offshore of North Carolina, Florida and California, National Wildlife Refuges such as the Arctic National Wildlife Refuge, and Wilderness Areas such as the Bob Marshall in Montana. The Congress and the President agreed to put these tracts off-limits to oil and gas development because they were located in wilderness or environmentally sensitive areas. The amendment, however, requires the President to ignore these substantial interests that are protected under current law and to propose develoment based solely on the potential for oil and gas discovery in the area.

Although the plan required to be submitted by the President could not be implemented without approval by Congress of a joint resolution, the amendment is clearly intended to facilitate leasing of environmentally fragile and highly controversial areas without regard to any other provision of law, including the National Environmental Policy Act, the Endangered Species Act, the Coastal Zone Management Act, the Alaska Lands Act, the Oil Pollution Act of 1990, and wilderness and appropriations acts.

The Congress should not enact an energy policy that would, if implemented, over-ride all existing federal laws that protect our natural resources. Nor should the Congress enact an energy policy that was subject to virtually no public scrutiny. The Committee on Environment and Public Works, which has jurisdiction over management of National Wildlife Refuges and many environmental laws that safeguard our lands and waters from potentially hazardous activities such as oil and gas development, was not even consulted prior to acceptance of Senator Murkowski's amendment.

We know that you support the open and full public discussion by the committees of jurisdiction and by other members of Congress that will be needed to develop a comprehensive, environmentally-sound national energy policy and reduce our dependence on foreign oil. We urge you, therefore, to allow such discussion by dropping the National Energy Security Act amendment in the conference on S. 2884. In that manner, this nation will be better able to forge an energy policy that not only explores alternative means of increasing U.S. oil production, but also establishes priorities in the methods of meeting our energy needs, including conservation and development of alternative sources of energy and alternative vehicles.

Thank you for your consideration of our request.

Sincerely,

JOHN H. CHAFEE.
MAX BAUCUS.

[From the New York Times, Aug. 15, 1990]

BIG OIL'S SNEAK ATTACK ON PUBLIC LANDS

(By Peter A. A. Berle)

Along-cherished goal of the oil industry and its friends in Congress has been in open protected Federal lands for oil and gas development. For decades, they have failed, but now they're trying again—this time under the cover of the Persian Gulf crisis.

Late on the night of Aug. 3, just before the Senate left for its August recess, Senator Frank Murkowski, Democrat of Alaska, slipped an amendment onto the Defense Authorization bill that would require the Federal Government to open protected lands to oil and gas development. In the whirlwind of Congressional concern over Saddam Hussein's intentions, the amendment passed by acclamation without the kind of scrutiny such an outrageous proposal deserves.

Whenever U.S. oil imports in six of the 12 preceding months exceeded 50 percent of the country's total consumption, the Murkowski amendment would require the President to produce an "Energy Production and Security action plan" that would, once approved by Congress, supersede all other Federal and state law.

The action plan, according to Senator Murkowski's bill, must include a "schedule for leasing" Federal land tracts, both on land and off shore, which may contain oil and gas—whether or not these lands are protected from development under any other law or regulation. Only national parks might be exempt (the legislation isn't definitive on that point).

The amendment goes on to require, almost as an afterthought, that the president's plan include such "energy conservation actions" as increased auto fuel efficiency and the development of alternative fuels, but after this brief nod to conservation it returns to listing steps likely to benefit the oil industry, such as an oil import fee, incentives for production and tax breaks for drilling in currently protected lands, such as the Arctic National Wildlife Refuge. The Administration's recent decision to place a 10-year moratorium on drilling in the most sensitive off-shore areas of the lower 48 states would be nullified.

The Murkowski amendment would undo decades of decisions that set aside a small portion of the public's land for something other than oil and gas development—for the protection of wildlife, for the conservation of wetlands watersheds, or forests, and for

the preservation of wilderness. Such lands as the Bob Marshall Wilderness Area in Montana, or the Georges Bank fishery off the Massachusetts coast, have been Congressionally protected through the oil crises of the 1970's, through the troubled reign of President Reagan's prodevelopment Interior Secretary, James Watt, and even through the Vietnam War, when the national need for energy security was certainly as high as it is today.

Do we need to despoil our wilderness and wildlife for energy security? Of course not. Before we panic we should first free oil from our Strategic Petroleum Reserve, which now contains some 600 million barrels. Second, we must recognize that world oil supplies remain plentiful despite Mr. Hussein. Reserves were ample before the current crisis and other countries are increasing production. Third, we can do more to achieve automobile fuel efficiency. The 1990 model cars actually decreased in average fuel efficiency from 1989. This is plainly unacceptable. A bill that would inaugurate a new national effort at fuel efficiency has already been approved by the Senate Commerce Committee.

Instead of repealing 20 years of publiclands protection for a few months of oil, Congress should move in the direction of real long-term energy and environmental security. We can still afford to take deliberate measures. As much as the oil companies would like us to, we don't need to push the panic button.

Mr. PACKWOOD. Mr. President, both Senator MURKOWSKI and Senator MCCLURE are very interested in the subject to which the distinguished Senator from Florida has addressed himself. They are necessarily absent today, but their staffs have asked me to indicate to the Senate that they will be here next week and would like to respond to the Senator on the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

CABLE TELEVISION CONSUMER PROTECTION ACT

Mr. HOLLINGS. Mr. President, I take the floor to help our colleagues on both sides of the aisle who have been working diligently for several years, I noticed in a prepared statement for 2 years.

The fact of the matter is, this legislation has its roots in the controversy that commenced with the dish movement in rural areas some 4 years ago, after we passed the 1984 act deregulating cable. I am the author of the pole attachment bill and have supported cable television development. I believe there is dynamism in the cable industry. I think it has been proved in the market, and, in general terms, the cable industry is doing extremely well.

But there are those who take advantage of an unregulated situation. In recent years, there have been example after example of outrageous rate increases and charges on the one hand, and the sorriest service in the world that we could possibly imagine, on the other hand. I have experienced it myself. I came in, in January of this year, and turned on my cable TV only to learn it was not working. Incidentally, I am one of the privileged in Washington to have cable. Cable is still not available to many in the District. My area is the Nation's Capital.

After a month of trying to get service—you make a call and get a recording and keep getting the recording—Somebody said, "Well, do you know Bob Thompson?" I said, "That cannot be the Bob Thompson that worked with the distinguished Senator from Hawaii and myself on the campaign committee back 20 years ago?"

They said, "Yes, he is now out in Denver, CO with TCI, [Telecommunications Inc.]. You call him. You might get your cable fixed."

So I called Bob Thompson, and, sure enough, it was fixed that afternoon. At least the long distance phones are working, if not cable television, and friendships count, and I appreciate it.

That is just my experience many, many others have had similar problems. There are all kinds of stories around. We have heard time and again about the rates over in Montgomery County and what have you, and news articles early this spring and in summer.

Our Commerce Committee started off years ago, things rocked along, and we held some hearings on cable issues. But last fall just about at this time, our distinguished senior colleague, the ranking member, formerly chairman of the committee, the Senator from Missouri, introduced with several cosponsors, the cable television bill. There were several other bills pending introduced by Members on both sides of the aisle. Using simple arithmetic, you had to realize there was a near majority of my own committee members ready to pass a bill. Over the Christmas holidays early in the year, we started hearing that the market for further cable television expansion more or less leveled off and in some instances became depressed.

This year we held additional hearings under the leadership of our distinguished chairman of the Communications Subcommittee, the Senaor from Hawaii. I asked at the first of the year that this be put at the top of the list so we would address this problem of uncertainty which was causing problems in and help move cable television forward in its dynamic success. At the same time, I hoped that we could once and for all established reasonable basis to regulate rates and service, and that only where no competition was being provided.

I think we have had 10 hearings, at which 75 witnesses testified, but that is just a minimum description of the effort. I have met more nice people in the United States as a result of this bill. The phone rings and we meet. They all come around: Mr. John Malone of TCI in Denver; Barry Diller of Fox; Mr. Bob Wright, of NBC; Mr. Steven Ross of Time Warner; Mr. Michael Eisner, of Disney—you can meet some really famous people if you work on this committee. Some of them put on the best off-Broadway performances I have ever witnessed.

We are here, Mr. President, in all candor, representing the consumers, to make sure they are treated fairly and with reason and to protect them against monopolistic practices. We want to ensure the consumer is afforded the service that they pay for. That is our interest.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator's time has expired.

Mr. HOLLINGS. I ask unanimous consent to continue for another 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I thank the chair.

So we started negotiations, the hearings alone really do not indicate the time and effort spent on this legislation. Intense negotiations went back and forth and, as politicians, we all took some strong positions. "I am not going to go along unless." We spent all spring and summer on jockeying for position. Any number of proposals were thrown at us. I even went to the cable television meeting in Atlanta and talked with their executive committee and the cable operators. We really worked on this legislation.

Our House colleagues have now passed a bill. I think generally it is a very good bill. We are prepared, here at the close of the session to move forward on this legislation, not to make a power play that is what distresses me. I understand my distinguished friend from Colorado has raised an objection to the bill even coming up. Let us not start at the end, after all the power plays we have experienced this past year. Now with limited time let us not fail to act. We are living in the real world. If they think they can prevail here momentarily at the end of this year, we will make sure that market is depressed. We know where the power is coming from. And we can go in the other direction.

We were trying to work it out to give the FCC the authority to adopt judicious regulations. For example, I do not believe those who are interested attaching a specific number to horizontal integration were that adamant. In all fairness, the distinguished Senator from Missouri, gave on that score and has given on many other scores, as the author of the bill and in the spirit of passing the best bill possible.

In response to concerns raised about the establishment of a specific percentage for horizontal integration, thought we would give it to the better minds over at the Federal Communications Commission. We have finally got

an FCC that I think we have confidence in. That and many other issues were worked out and we reported out this bill 18 to 1.

Now, there is no time to start any shenanigans. "I want my amendment agreed to or else you cannot even bring up the bill." I know my distinguished friend from Colorado was the chairman of communications on the House side. I have worked with him over the years. Or maybe it is a political move by Members on the other side of the aisle. I know politics enters in, save the President from a veto. I do not think we want to play that game either. We are going to fix the responsibility here. If we do not succeed today, we will gladly go and make sure we prevail another time. The Senate is a continuing body. We will continue and we will persist, and I am sure, with the leadership of Senator INOUYE and Senator DANFORTH, we can get not only the 18 to 1 vote in committees, we can get a bill up to a vote early on in the session next year. There is clearly a will to more on the House side, so, what we are talking about is delaying action a matter of months and in the meantime making a name for cable television who is standing in an obstructionist fashion, saying after all this work is done do not even bring up the bill unless my amendment can be agreed to—I hope that is not the procedure here this morning. I have just arrived on the floor. I understand my distinguished chairman, Senator INOUYE, said he will just have to wash his hands of it.

I understand that reaction because he has worked over months and months and hours and hours, listening and negotiating and talking with both sides of this aisle, on both sides of the question.

There is one question with respect to the horizontal integration. I have already referred to it. There is another one with respect to the exclusivity. If we can work something out that is between the House and what we have, at least we can get a bill to a conference and, I am confident, get a bill out that will represent the best interests of the viewing public and of the cable television industry.

I understand well that you invest literally millions and millions of dollars to get these programs going.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. WIRTH. I ask unanimous consent the Senator be allowed to continue for 5 additional minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator may proceed.

Mr. HOLLINGS. I thank my distinguished friend from Colorado. Let me conclude there, and answer any question or comment he would make.

Mr. WIRTH. Madam President, I thank the distinguished chairman, who has been helpful on many aspects of this bill. Our long relationship continues to be good. I think we can work this out.

I am sorry the distinguished chairman was not here a little earlier during morning business when I said I would object and what I thought the problem was. We have talked about that as well.

I think the basic thrust and what has driven the bill and what is of concern to the distinguished Senator from Connecticut, and others, is the rate issue that some people have felt was a real problem—the distinguished Senator from South Carolina spoke about that—the service issue that he spoke about, those are the issues driving the bill.

But we have gone far beyond that, and the issues that the distinguished chairman and I have talked about, which I think we can fix and fix expeditiously, relate to program exclusivity. There are some provisions in there that do not have anything to do with competition or services, do not have anything to do with rates. We can fix that.

There is a DBS provision that may or may not make sense. But DBS is somebody's idea on a drawing board. It does not exist yet. I think what we are doing is hurting that potential technology by precluding some groups investing in it.

And, third, the vertical-horizontal issue which we have talked about as well. It seems to me that the House language is language that makes a great deal of sense, the way that they have approached that.

Those are the concerns that I have. They have nothing to do with rates and nothing to do with consumer service. It is these other three issues that really reach into the intricacies of the industry and what they have tried to do, their financial condition, where they are headed, that I think are unfortunate.

I think we can probably come to agreement working today and over the weekend and finish this bill Monday or Tuesday on the floor.

So I thank the distinguished Senator for yielding. I just again wanted to point out what I said this morning. I think we can go ahead and do this. These others issues are really extraneous to the fundamental concerns that started the legislation to begin with.

Mr. HOLLINGS. Madam President, I want to follow the decision of Senator INOUYE and Senator DANFORTH on this score, realizing the pressure is on the leadership to get the legislation moving, to bring it up and let us start working it out right now.

Yes, these other ancillary measures have entered into the bill, as described by the negotiations. Some of these matters have come up because for many years we had an FCC we could work with, as the distinguished former chairman of communications on the House side said.

Many of these issues have pretty well simmered down. With respect to access, the House provision and Senate provision are not that far apart. If we can let the bill come up, we can work out these amendments or at least get a vote on it and find out. I think the Senator from Colorado can get some votes on the House side better than I can. He has his old committee over there, as well as over here. We can really work out a good bill. Why not let it come up at this time?

Mr. WIRTH. Madam President, if the distinguished chairman will yield, I appreciate his willingness about working it out. I think we can do exactly that. The distinguished Senator from South Carolina is very well aware of the fact of what happens when you are dealing with an issue. For example, Consumer Federation of America calls it the most important issue of the year, a little hyperbole at a time when oil prices have gone to $40 a barrel. That this is more of a consumer issue, I cannot see that is the case.

When you get something like this, you get a charge to it. The Senator from Colorado is reluctant to get a flatcar at the end of this legislative session. I have been up here 16 years and have seen flatcars around, and I would just as soon not have one with something as important as this.

I think what we can do is work out these very specific problems that are terribly important to an industry but do not have anything to do with the overall bill. Let us work those out and get a bill. I thank the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Chair advises the Senator from South Carolina his time has expired and the time for morning business has expired.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

EXTENSION OF MORNING BUSINESS

Mr. LIEBERMAN. Madam President, I ask unanimous consent that the time for morning business be extended by 5 minutes and that I be allowed to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut may proceed.

Mr. LIEBERMAN. Thank you, Madam President. I rise to support the expressions by the distinguished chairman, the Senator from South Carolina, and the Senator from Colorado,

my friend and colleague, of a desire to get together in a way that will allow the Senate and the full Congress to act on this cable bill before we adjourn this year.

Madam President, the Consumer Federation of America has been cited as saying this cable bill is the most important consumer issue before the Congress this year. That statement was made before the Iraqi invasion of Kuwait and the enormous increase in the price of oil. I would guess the CFA would amend that to say it is the second most important consumer issue today, but that does not diminish its importance because it is up against a pretty heavyweight obstacle: our economy and the rising oil prices.

The fact is that cable television affects an enormous number of American households. Over 60 percent of American households today are hooked up to cable, and more and more Americans depend on cable television not just for entertainment, but for information that is critical to the way they live. This is particularly true for the elderly population of our country.

I think any of us who have been out, as is our wont as public officials, meeting with seniors, know that they depend on television. So many of them depend on television for what makes their lives more than mere existence. So many of them, isolated in apartments, rarely have the opportunity to go out, and TV is their lifeline to the world, providing a little enjoyment, a little pleasure, a little recreation and the basic information that they need—news, weather, even consumer information. They now even have the opportunity to do some shopping through the cable shopping services that are available.

What we are saying here, those of us who desperately would like to see this bill passed, is that as a result of the implementation of the Cable Act of 1984, we have effectively created unregulated monopolies throughout this country.

We believe in a market economy, and we do not want regulation unless it is absolutely necessary. What we have created here in America with cable television is the worst of all worlds. In 99 percent of the areas in America where there is cable television, there is no competition. And because of the way the FCC implemented the 1984 Cable Act, we not only have one cable system without competition, but we also have no regulation of the cable monopoly.

When the 1984 Cable Act passed and when the FCC subsequently defined effective competition as three over-the-air broadcast signals, I was Attorney General of Connecticut. A lot of us who were State attorneys general or consumer's counsels said, wait a second, if there is a monopoly, no competition, and no regulation, the prices for cable are going to go through the ceiling. What has GAO told us happened in the 3 years since the Cable Act was fully implemented? Prices have gone up 43 percent. Last year alone, they went up 10 percent, which was two times the inflation rate. In most of these years, the cable television component of the service section of the Consumer Price Index has gone up more rapidly than any other single component. So the 1984 Cable Act has had a devastating effect on consumers.

When I arrived here in 1989, one of the first things I did was join with my colleague, the Republican Member of the House of Representatives for Connecticut's Fourth District, CHRIS SHAYS, to introduce our own cable bill. That bill simply would have given the States and localities the opportunity to protect their consumers by overseeing what these cable systems charge and the quality of the customer service they give, both of which have been outrageous in many cases.

To tell the truth, we were not very optimistic about how far this bill was going to go. But as a result of an extraordinary effort by leadership in both Houses of this Congress—and may I say here particularly an enormous effort by the chairman of the committee, Senator HOLLINGS, by the chairman of the subcommittee, Senator INOUYE, and by the ranking Republican on the committee, Senator DANFORTH—we have the opportunity to bring before this Chamber what could be a darned good cable consumer protection bill.

It would be so frustrating to see us come this far and then not be allowed to proceed, because I am confident that if this measure proceeds and comes to a vote on the floor of the Senate, it will pass overwhelmingly. The people will demand it. This is good legislation for the American consumer.

So I truly hope that all the principals involved, particularly the Senator from Colorado, can find a way to work with the chairman, the chairman of the subcommittee, and the ranking Republican, Senator DANFORTH, to find a way to proceed. There is so much troubling going on in our country, there are so many areas in which we have difficulty in providing a remedy and response, that this would be a crescendo with which to end this 2d session of the 101st Congress, to pass a bill to protect the American consumer from the prices being charged for cable television and the quality of the service they provide. I urge my colleagues to do everything they can to bring this bill to a vote before we leave this year.

I thank the Chair.

EXTENSION OF MORNING BUSINESS

Mr. DIXON. Madam President, are we in morning business?

The PRESIDING OFFICER. The Chair advises the Senator from Illinois that the time for morning business has expired.

Mr. DIXON. Madam President, I ask unanimous consent that I may have 2 minutes to proceed as if in morning business.

The PRESIDING OFFICER. Is there objection. Without objection, it is so ordered.

Mr. DIXON. I thank the Chair.

I am proud to say to my good friend, the distinguished Senator from Connecticut, that I am one of the nine votes against the 1984 cable television legislation. I made a principal speech against that bill on the floor at that time and suggested that that legislation was going to rip off the consumers of America, exactly the result that has taken place as a consequence of the passage of this legislation. I am delighted to hear the comments by my friend from Connecticut and other Senator. I am very anxious to pass legislation that will restore supervision over cable television services and cable television charges to appropriate authorities around America. I am delighted to hear those good words from my colleague from Connecticut.

EXTENSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

The Chair wishes to advise the Senator from Tennessee that the time for morning business has expired.

Mr. GORE. I ask unanimous consent that the time for morning business be extended for 10 minutes and that I be recognized for 10 minutes

The PRESIDING OFFICER. Without objection, it is so ordered.

CABLE TELEVISION CONSUMER PROTECTION ACT

Mr. GORE. Madam President, I rise to urge that we move today to the consideration of S. 1880, the Cable Television Consumer Protection Act. I was locked in a conference meeting on another matter this morning when the debate started, but I have been brought up to date on some of the things that have been said. I feel very strongly about this matter. I was proud to have been an original sponsor of S. 1880 and to have introduced with my colleagues, Senators FORD and GORTON, the first comprehensive cable legislation in this Congress leading to the debate we are hearing today.

Senator DANFORTH has done yeoman's work on this bill, and I was extremely pleased to have been an early

contributor to the drafting of his bill. Senator HOLLINGS, of course, chairman of the Commerce Committee, and Senator INOUYE, chairman of the communications subcommittee, have been tireless in scheduling hearings on cable television policy and in using the force of their chairmanships to bring this bill to a vote in the committee and to the floor today. My colleagues who were early advocates of new legislation are deeply appreciative to Senator INOUYE and Senator HOLLINGS for their leadership in this effort.

For several weeks we have had S. 1880 on the Senate Calendar after passing it out of the Commerce Committee on a vote of 18 to 1. Since that time, we have been waiting patiently to hear objections from those who have problems with this legislation. But here it is, only days hopefully before the 101st Congress adjourns, and only this morning do we receive any indication of objection by some of our colleagues.

This is important consumer legislation, perhaps the most important consumer legislation in this Congress. Those who would prevent consideration of this bill are doing nothing more than ensuring that the anticonsumer behavior of cable companies will continue for many more months.

The question is simple. When you have an industry that looks like a monopoly, acts like a monopoly, smells like a monopoly, and charges captive customers like a monopoly, what do we as Federal policymakers do about it?

Early this morning our colleagues from Colorado stated that the only intent of the Senate bill was a limited rate regulation initiative. Madam President, I cannot imagine how my distinguished colleague and friend arrived at such a conclusion. Both my bill and S. 1880 which followed it include comprehensive measures addressing the problems in the marketplace for program distribution. Moreover, there has been extraordinary consensus that this is perhaps the most urgent aspect of the problem—the single most important matter in the entire legislation.

How many of our colleagues have heard from satellite dishowners? How many of our colleagues have heard from consumers who have been victimized by the monoploy practices of the cable industry? How many of us have said on many occasions the real answer is competition? This bill attempts to stimulate competition and remove the impediments to competition.

Those impediments exist in the form of old-fashioned, raw monopoly practices on the part of the cable industry.

The Senator from Colorado noted the concern of the cable industry over the committee bill's approach to the issue of so-called exclusivity. That is not a surprise.

Over the past few years, it has become obvious that the cable industry seeks to use exclusive marketing arrangements as a way to shut out competition from new technologies, not only satellite dishes but wireless cable and new direct broadcast services on the drawing boards, and they might one day become available if the cable industry is not given or allowed to maintain the power to strangle in the crib any competition from any new technology.

The fact is the problem of exclusivity is at the core of the problem in trying to stimulate competition for cable. Competition which can ultimately solve the spiraling rate problem is now out of control in this country.

Only yesterday we received information from one of the very few known cable distributors to the home satellite dish market, the National Rural Telecommunications Cooperative. The NRTC, as it is called, noted that the Discovery channel which now, of course, happens to be owned in part by TCI of Denver, the largest of the cable monopolies, is demanding wholesale rates for home satellite dishowners that are 240 percent higher than the rate they charged for distribution through cable systems.

You know, a couple of years ago when we had a spirited debate on this same subject, the opponents of any kind of cable reform said, well, just look at the national rural co-ops. That is working great. Give that a chance to operate.

Well, they tried and they came before our committee and they threw up their hands. They said we tried to negotiate with these people. They are impossible to negotiate with.

Now we have the evidence. They have the same signal coming down over the satellite for distribution through cable systems that comes down for distribution to the national rural electric co-ops venture in satellite technology; same signal, same cost.

Why did they charge 240 percent more on a wholesale basis for the satellite dish distribution through the co-ops than through the cable industry? Could it possibly have anything to do with the fact that they are owned by the cable industry? Of course, it does. It is an old-fashioned, raw monopoly. And this legislation is designed to address that raw monopoly's particular power.

Anybody who votes to not take up this legislation, to kill this legislation, needs a pretty good answer for the satellite dishowners and the urban apartment dwellers who try to get wireless cable, and people who look forward to the so-called Sky cable, the direct broadcast dish that is going to be so small—when they come and say, wait, a minute. How come the cable industry has scrambled everything, and then charged an arm and a leg for the same thing they are selling at a low rate to the cable companies?

Well, we have a chance to fix that. We have a chance to tell those folks we are in favor of competition of the so-called proverbial level playing field. Break up the monopoly. Let the marketplace work. That is what Senator DANFORTH'S legislation does. That is why we ought to pass this legislation.

It is no secret that programmers like the Discovery channel have a distorted relationship with cable operators causing these grossly discriminatory prices to competitors. So this issue of exclusive contract arrangements is not a small issue. It is one which the Commerce Committee has explored for the past 2 years and one we must address in S. 1880.

What is at stake is not only the fate of consumers of cable television programming, cable satellite dish, wireless cable, et cetera. In fact, the entire mass media communications marketplace is up for grabs. This is the future of the mass communications marketplace right here.

We have been debating these issues since the 1984 Cable Act deregulated cable operators. The distinguished occupant of the chair remembers those days very well in the other body. Look at what has happened since those days. We have given the cable industry legislative Federal protection against any kind of rate regulation by the local governments that grant the franchise. We have given them a federally protected monopoly. We give them Federal protection against competition from a natural competitor like the telephone industry. We make that illegal by Federal law. And we tell the broadcasters which provide the signals that make up about 80 percent of the cable audience that they have to essentially give the raw material to the cable companies for free.

No wonder they have been acting like a monopoly. No wonder they have behaved with the arrogance of power. No wonder they have started skyrocketing rate increases, and no wonder they have been ruthless in choking off all of the potential competitors that they can identify on the horizon. And the principal weapon they use for choking off competition is this so-called exclusivity.

Look at what they did to Rev. Pat Robertson's channel, the Christian Broadcasting Network. He was broadcasting out onto the satellite dishes, and was raising money preaching the gospel, had a lot of motivations for getting the maximum audience, perhaps especially in rural areas. The cable industry came in and said, you had better scramble because if you do

not, we will cut you off of the cable networks you are now on.

Here is a letter which I will put in the RECORD at the appropriate time from the 700 Club in Canada, Christian Broadcasting Associates, Inc. to their subscribers.

The cable companies are forcing the Christian Broadcasting Network and other stations to scramble their signals. They are looking to the future and can see more use of dishes while cuts into their revenue and will ultimately eliminate the need for their existence. So forcing (Do it or you are off our cable network) the stations to scramble their signal, there will be continued use of the cable.

Power, arrogantly used power.

Look at the example, Madam President, of what happened to the mightest of the broadcast networks in the District of Columbia. It had the temerity to announce that it was going to compete with CNN by establishing CNBC to give consumers an alternate source of cable news.

I happen to be a big fan of CNN, but I am also a fan of competition. They announced plans to launch this new Cable News Network. The cable industry said, wait a minute. We have a problem because we own a substantial part of CNN and we get money from CNN. We prefer not to have any competition with this property that is producing money for us.

So we have the spectacle of the executives of the National Broadcasting Corp. going hat in hand to the cable monopolies and saying, please, let us launch a new cable news channel. The cable companies said no, not unless you completely change the format and agree that you will not in any way compete with CNN. They said OK, we will do it. We will make it a financial channel, and we will avoid competing with CNN in any way. Will you then please let us on? They said, well, we have another matter we would like to discuss. We would like $20 million in cold cash, they replied, in return for this worthless property we have been trying to unload for quite some time. They said OK. We will give you the $20 million. And we will change the format so that we do not compete with this cable channel that you partly own—power, arrogantly used power, monopoly power used in a way that is contrary to the public interest.

What is the future of America's mass media communications industry going to be? Will we let this monopoly, growing so rapidly, determine that future for their own private benefit?

They have an important role to play. It is in many ways a magnificent industry, with a lot of good people in the industry, providing an important service. But they need competition, Madam President. That is what this bill will provide.

So anybody who says, well, let us take the antimonopoly provisions out of this bill and just look at rate regulations—talk about an old-fashioned approach.

Madam President, I ask unanimous consent that I be allowed to proceed for 3 additional minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GORE. We have been debating these issues for quite some time, as I said. We now have empirical evidence citing cable rate increases in excess of inflation. Even if you accept the GAO report, which I do not, of 29 percent national average increases over the past 3 years, that is bad enough.

In my State of Tennessee, we have experienced basic rate increases of between 20 and 117 percent over the past 3 years in the 12 largest communities. That does not include what is now recognized as the single-worst abuse of monopoly power and speculative franchise trafficking in the entire country.

That is rural west Tennessee, Madam President.

In that case, Multivision, a Connecticut-based multisystem operator largely financed by junk bonds, took over 22 small rural cable systems, serving customers who primarily used cable to get a clear broadcast signal, because they are in between two big metropolitan areas and do not get a big signal. Multivision then doubled rates, offered no more service, and blamed it on public policy; service declined.

The mayors of these 22 communities and the civic groups contacted them and said: "What is going on here? How can you double our rates overnight and let the service deteriorate?" They could not even get an answer.

I wrote them myself, as a member of the Communications Subcommittee. I could not get an answer. I tried again. Finally, I got a letter that said, "Dear subscriber," and they noted that the rate increases, in their opinion, were caused by recent Federal legislation.

I said, "What Federal legislation?" They could not answer, of course.

But this, again, is power, arrogantly used: Double rates; the community be damned; forget about local leaders, forget about the people; because they do not have to worry about competition, and they do not have to worry about local rate regulation either, or the telephone company, and they do not have to worry about paying for the broadcast signal. All they have to worry about is the possibility that the Government of the United States here in this Chamber might respond to the outrage of the American people and say that enough is enough; we have seen this anticompetitive behavior, and we want it to stop. We want some competition out there. And we want the local governments, which grant the monopoly franchise, to have some means of protecting their constituents.

We do not want to go back to the old days before the 1984 act. Sure, there were problems then, and there were things that did not work with that old regime. We are not proposing that at all.

In any event, this story in west Tennessee almost had a happy ending, because the communities organized and created their own cable systems to compete. You know what happened? Multivision dropped its rates. In one community they got cable television service for free for 3 months. Their cable TV rates were zero.

What happened then? Well, the competition could not stand it; of course not. Because one of the tricks of a monopolist is to cut the prices way down just long enough to drive out any would-be competitor, and as soon as they are gone, they raise the rates back up again. That is only one of the tricks in their book. But we allowed them every trick in the book, because we are not doing anything about it.

This bill will protect consumers. I will tell you, 2 weeks ago, just to finish that story from west Tennessee, they bought out their competition.

The PRESIDING OFFICER. The time of the Senator from Tennessee has expired.

Mr. GORE. I ask unanimous consent to speak for 1 additional minute, Madam President.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GORE. I appreciate the indulgence of my colleagues, Madam President.

The prospect of competition, which can clearly hold rates in check, is an elusive as ever, unless this bill passes. The degree to which this industry has become vertically and horizontally integrated has now reached staggering proportions. The huge multisystem operators get bigger, more powerful, and exercise even more anticompetitive muscle against their competitors.

TCI, for one, is hell-bent toward total domination, as it buys up not only more and more cable systems but major programming services and even movie studios.

We recently heard a prediction from one of the top executives in the industry that the Super Bowl is going to move to pay-per-view cable in the near future. It was a boast on their part. Maybe our real concern should be that TCI might buy the whole NFL, the way they are going.

Madam President, what is going on now is just not fair. I will conclude by saying that consumers are upset about this, and justifiably so. They wonder why the Congress will not act. We have a bill here, and we can act.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT—SENATE CONCURRENT RESOLUTION 147

Mr. MITCHELL. I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 147, a concurrent resolution relating to the situation in the Persian Gulf, sponsored by myself, the Republican leader, and other Senators; that no amendments to the resolution or motions to commit be in order; that there be 30 minutes of debate on the resolution, equally divided, and controlled between the two leaders or their designees; that at the conclusion or yielding back of time, the Senate proceed without any intervening action or debate to vote on the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. Is there a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Madam President, I designate Senator PELL to manage the resolution in my behalf.

The PRESIDING OFFICER. The Clerk will report the resolution.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 147) supporting the actions taken by the President with respect to Iraqi aggression against Kuwait.

Mr. MITCHELL. Madam President, I want to say to the Senator from Tennessee, if he wishes to continue and complete his remarks, I will be pleased to yield for that purpose, providing that time is not charged against the resolution, while we are awaiting the arrival of the manager of the resolution. Would that be the wish of the Senator?

Mr. GORE. I appreciate that offer, and I would like to speak further, if it is not inconvenient for the Senate?

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senator from Tennessee be recognized to address the Senate for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, I ask that the time not be charged against the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee may proceed for 5 additional minutes.

CABLE TELEVISION CONSUMER PROTECTION ACT

Mr. GORE. Madam President, before the majority leader leaves, may I say briefly that, ironically, this bill could be worked out. There are ways to resolve this matter. The industry is presently taking the position "all or nothing," because they have decided they want to kill this legislation. They waited until the last minute to say that. We are ready to reach a compromise and to work this thing out.

Ironically, the cable multisystem operators vigorously oppose any competition by the only entity able to directly challenge their natural monopoly—the telephone companies—citing the ability of the telcos to monopolize the delivery system. If there was ever a case of the pot calling the kettle black, this is it.

Six years after I first raised the issue of unfair progam marketing practices for home satellite dish owners, for example, there still are no noncable distributors with competitive contracts. In fact, the only noncable distributor even offered programming rights—the National Rural Telecommunications Cooperative—has had its marketing hands hopelessly tied by unfair wholesale prices and restrictive access to consumers.

Typical satellite dish programming wholesale rates are 80 to 440 percent higher to noncable distributors than through cable companies.

As has so often been the case as markets evolve, rural consumers get stuck with the bill.

The point of the legislation we are trying to bring up today is to give consumers of cable television services modest relief from skyrocketing rates and the evasive anticompetitive practices within the cable programming industry.

Let me use another example to illustrate this anticompetitive behavior, and it came out of the statement I just made. Several business people have tried to organize businesses to take the wholesale programming signal and then market that signal to satellite dish owners.

Under political pressure from Congress, the programming industry finally agreed that it will lift its prohibition against any distribution to a satellite dish owner, but they kept another prohibition on wholesaling.

Here is the way it works now. The programmer says, "Yes; you can distribute our signal to satellite dish owners. But you have to meet one test first." You know what the test is. In order to be a retailer or distributor, you have to be a cable television company.

In other words, the control over distribution to satellite dishes is given to the one industry that most fears competition from the satellite dishes. So of course they jack the rates up. And of course there is a 440 percent higher wholesale rate charged for a lot of services given to the rural co-op network that distributes to satellite dish owners. It is designed that way by the cable industry.

Madam President, the industry itself had a fairly rough year. They lost a lot of equity in their stock prices, and the reason is uncertainty about what is going to happen in the future of the industry and uncertainty over what the rules are going to be.

The industry, by the actions that they have taken today, seems to have made a decision to kill any cable legislation this year. I hope they will rethink that decision. We are ready to negotiate. We are ready to try to work these problems out, and I believe there are compromises that will meet the needs of both sides.

But if they decide not to try to work it out, if they decide to kill all legislation, then this uncertainty is going to continue.

And as they look to the future of their industry, they really ought to be thinking about the implications of all this uncertainty, because I can guarantee them one thing: We are not going away. The consumers that are upset about these skyrocketing rates are not going away. The satellite dish owners and the other Americans who would like some competition from alternative delivery technologies are not going away. They are mad. They have had enough. They want fairness.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GORE. Madam President, I do not wish in any way to infringe on the time of the Senate. If we are still in the same situation, as the majority leader described earlier, where we are in essence biding our time while these negotiations continue, I ask unanimous consent to proceed for an additional 5 minutes.

I will yield if other Senators come in.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORE. Thank you very much, Madam President. Let me finish that point and then talk about the NRTC issue.

Those of us who advocate a competitive marketplace and a fair shake for cable television customers are not going away, and if the cable industry is intent on killing any legislation this year, I can guarantee you I will be here on the floor of the Senate, the voters of my home State willing. I will be here on the first day of the session next year, introducing this same legislation, speaking on it, pushing it, working for it, building coalitions, and doing my best to get it passed next year.

If the cable industry thinks there was uncertainty this year about what is going to happen to the law and the

rules governing this marketplace, they are kidding themselves if they think that uncertainty is going away by them killing this bill this year, because it is going to come right back and we are going to be stronger than ever.

These rate increases are continuing. A number of people are joining our side. Our way of thinking about this is growing daily. We are going to be back next year with a tougher bill, and they are going to have an even bigger fight on their hands next year.

There is an alternative. They can sit down with us and try to negotiate this. We offered that. They can sit down and try to compromise these issues. We are ready to do that. If they want to draw a line in the sand and say they are going to kill any bill, well, they have that choice. And because of the lateness in the session, maybe they will be able to succeed. I hope not, but if they do, it is going to start up all over again next year.

Let me come back to this issue involving the National Rural Telecommunications Co-Op. As I said earlier, I listened to advocates of the cable point of view, when we last debated this on the floor, hold up the National Rural Telecommunications Co-Op as a premier example of how the industry was going to solve these problems and how we are going to take care of the satellite dishowners.

Here is what Mr. Bob Phillips, the chief executive officer of the NRTC, has to say about their experience with the cable industry:

NRTC has been in the marketplace for more than 3 years and we have demonstrated that we can successfully market, distribute and manage our RURAL TV package. However, despite this proven marketplace track record, obstacles laid before us by cable programmers continue to exist:

Price: NRTC continues to face wholesale prices of more than 460% when campared to a small cable system's wholesale cost. NRTC pays more than $10.00 at wholesale for the RURAL TV basic package, while a small cable system would pay $2.25 for the identical basic program services. This price disparity can only be tied to discrimination against the home satellite dish technology.

Access: NRTC continues to be denied access to desirable cable programming services such as Turner's TNT, Viacom's Showtime, The Movie Channel, and M-TV.

We wholeheartedly support the enactment of legislation that addresses these issues. In particular we endorse S. 1698, the Satellite Television Fair Marketing Act. NRTC also applauds S. 1880, the Cable Television Consumer Protection Act, and the Senate Telecommunications Subcommittee staff draft as these bills, too, recognize the need to address these programming price and access issues.

Madam President, I ask unanimous consent to print this letter in the RECORD and also print in the RECORD a letter from the Canadian branch of the Christian Broadcasting Network, and a letter from the city manager of Maryville, TN, that I will read in a moment.

There being no objection, the letters were ordered to be printed in the RECORD, as follow:

NATIONAL RURAL
TELECOMMUNICATIONS COOPERATIVE,
Washington, DC, April 4, 1990.

Hon. ALBERT GORE,
U.S. Senate, Washington, DC.

DEAR SENATOR GORE: On behalf of the membership of the National Rural Telecommunications Cooperative (NRTC), I want to state our support for legislation that will gain access to cable programming at nondiscriminatory prices, terms and conditions for distributors of cable programming to rural home satellite dish owners.

The NRTC membership of 561 rural electric cooperatives and telephone systems is currently serving more than 44,000 rural homes with its RURAL TV (TM) package of 18 basic signals and various premium programming services.

NRTC has been in the marketplace for more than 3 years and we have demonstrated that we can successfully market, distribute and manage our RURAL TV package. However, despite this proven marketplace track record, obstacles laid before us by cable programmers continue to exist:

Price: NRTC continues to face wholesale prices of more than 460% when compared to a small cable system's wholesale cost. NRTC pays more than $10.00 at wholesale for the Rural TV basic package, while a small cable system would pay $2.25 for the identical basic program services. This price disparity can only be tied to discrimination against the home satellite dish technology.

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We wholeheartedly support the enactment of legislation that addresses these issues. In particular we endorse S. 1698, the Satellite Television Fair Marketing Act. NRTC also applauds S. 1880, the Cable Television Consumer Protection Act, and the Senate Telecommunications Subcommittee staff draft as these bills, too, recognize the need to address these programming price and access issues.

Senator Gore, thank you for your constant support of the rural home satellite dish consumer and the independent distributors that serve them.

Sincerely,

BOB PHILLIPS,
Chief Executive Officer.

CHRISTIAN BROADCASTING
ASSOCIATES INC.,
Scarborough, ON, February 21, 1986.

Mr. & Mrs. JERRY FISHER,
Box 508, Carberry MB, ROK OHO.

DEAR FRIENDS: Thank you for your letter which shared your concerns regarding the scrambling of our signals.

The cable companies are forcing CBN and other stations to scramble their signals. They are looking to the future and can see more use of dishes which cuts into their revenue and will ultimately eliminate the need for their existence. So, by forcing ("do it or you're off our cable network"), the stations to scramble their signal, there will be continued use of the cable.

According to Statistics Canada, there are an estimated 5,600,000 Canadians who subscribe to cable TV, plus the millions in the States. So, if we are to "go in and possess the land", as we feel God has commissioned us to do, we could not take lightly nor presume that the cable companies threats were idle.

We regret that we had to make a decision that would and will effect the ability of some to view the 700 Club. However, the bottom line was—we had no choice and did arrive at this decision to scramble after making it a matter of prayer.

We trust you will understand and continue to pray for this ministry.

God bless you with "all spiritual blessings."

In His service,

TELVA JEAN ATKINSON,
Secretary to the General Manager.

CITY OF MARYVILLE,
OFFICE OF CITY MANAGER,
Maryville, TN, March 19, 1990.

Mr. ROY NEEL,
Chief of Staff, Senator Gore's Office, 393 Russell Senate Office Building, Washington, DC.

DEAR MR. NEEL: Bob Gilbert asked me to pass along the enclosed for your review. I hope it will be helpful.

We sincerely appreciate Senator Gore's efforts to help control the abuses of the cable industry. The buy, sell, raise rates scenario has gotten so bad in Blount County that Maryville and Alcoa are seriously considering building a cable TV system to compete with Cooke Cablevision.

If we can provide additional information please advise.

Sincerely,

GARY H. HENSLEY,
City Manager.

Mr. GORE. This letter is from Gary Hensley, city manager of Maryville, TN. He says:

The buy, sell, raise rates scenario has gotten so bad in Blount County that Maryville and Alcoa are seriously considering building a cable TV system to compete with Cooke Cablevision.

That is a typical letter. These come from all over Tennessee from communities that have experienced these outrageous rate increases.

Here is what happened in that particular community. On September 1, 1984, the basic rate was increased to $7.50 per month.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GORE. Mr. President, I ask unanimous consent for 1 additional minute to finish the thought.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORE. In July 1989, the basic rate increased to $14 a month. I will put in the RECORD these figures for other communities. The rate increases have been up to 117 percent over the last 3 years, and in all of the large communities in Tennessee the rate increases have been just staggering.

I am going to yield the floor, Madam President, because I see other colleagues have arrived. I said in the beginning it is not my intent to delay the Senate.

I will conclude by saying one more time, I hope that the industry will revisit its apparent decision in any legis-

lation this year, because we are ready to negotiate and seek compromises on key parts of this bill.

I think they are accessible. The industry has not come and been willing to talk about it. I hope they will. If they do not, they are just going to kill this. The uncertainty of the stock prices will continue. I think it is in their interest, as well as the consumer interest, to pass this bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I ask unanimous consent that I be permitted to proceed for 5 minutes on the same subject. I understand that we are waiting for the Iraq resolution to come up.

The PRESIDING OFFICER (Mr. ROBB). Is the Senator asking for 5 minutes to proceed as if in morning business?

Mr. STEVENS. I am.

The PRESIDING OFFICER. Is there objection?

Mr. WIRTH. Mr. President, I will not object, but will the Senator yield so I might ask one question of the Senator from Tennessee on the statement that he just made and that the distinguished Senator from Alaska have 6 minutes?

Mr. STEVENS. I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. The statement was made we are going to kill the whole bill, and the hope of the Senator from Tennessee is that we work it out. That is precisely my hope, as well. I was the Senator who objected to the unanimous-consent request that we proceed right now. There is, as the Senator knows, a very important provision related to access and exclusivity and volume discounts, an issue which the Senator, I know, is deeply concerned about. That is the major issue to be worked out. I believe that we can work that out over the weekend.

There is a second issue that relates to some discussion related to the rate regulation package in the Senate bill, in the House bill, and so on, and there is, I believe, a move toward an agreement on that front.

There is a third issue out there that relates to vertical and horizontal integration and what authorities are given to the FCC. I believe we can work that one out as well.

Those are the three issues that have to be worked out. Now I agree with the Senator that we ought to do everything we can to get a piece of legislation this year. Those three issues can be worked out, and I hope that we can.

I just wanted to respond to the idea of killing the whole bill and not being willing to negotiate. Those are the three points that are there.

I thank the distinguished senior Senator from Alaska. I greatly appreciate his taking extra time and so courteously yielding to me.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. GORE. Will the Senator from Alaska yield 1 minute so that I might respond? I ask unanimous consent that his time be extended an additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORE. Mr. President, I appreciate my friend's courtesy.

I accept any offer to sit down and negotiate the issues that were outlined by my friend and colleague from Colorado. I believe that the circumstances of this debate, with opponents of the bill waiting until the 11th hour to register objections and to start the dialog, indicates that opponents of the bill have made a strategic decision to try to kill it. I hope that judgment is in error, and I welcome an opportunity to talk about these matters.

I would just make this point in conclusion. The provisions of the legislation designed to deal with the monopoly abuses and anticompetitive behavior by the industry are, in my opinion, the most important parts of the legislation. We can talk about them. For example, I have no objection to volume discounts if they are nondiscriminatory, just to make that one point. But the raw anticompetitive abuses have to end either in this bill this year or in a tougher bill next year. So anybody who wants to negotiate about them, I am ready to do so. I hope we can resolve it.

Again, I thank my colleague for yielding.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Alaska is now recognized for 5 minutes as if in morning business.

Mr. STEVENS. Thank you, Mr. President.

I think there are many Senators who have worked hard over this Congress to try to move this cable bill. Certainly on our Commerce Committee, Senator DANFORTH, our ranking Republican, and Senator HOLLINGS, the committee chairman, and Senator INOUYE, the chairman of the Communications Subcommittee, have conducted an exhaustive examination into the controversy concerning the conduct of the cable industry.

It has been my opinion, expressed at committee hearings and I think once before here on the floor, that the situation in the cable industry requires a period of certainty, and it would be very helpful, I think, to consumers as well as the industry itself if we could find a way to pass a bill to show that the Congress is prepared to be reasonable and to be moderate and to try to resolve some of these disputes in a manner that will enable the cable industry to continue to expand and, even more than that, to provide incentives for the development of new programming for consumers.

Having supported that approach, I am sad to see that we are not able to work out this bill on the floor now. I hope that we will continue to work off the floor and try to work with one another to realize that there are many points of view involved in this area and that we all should be concerned about trying to get some bill passed this year that would be acceptable to the House and to the President.

It does seem to me that there are many elements of the bill that are of great concern to the senior Senator from Missouri concerning specific problems in his State that I think we ought to address. There are elements of the bill, including the establishment of a regulated basic entry-level service tier and "must carry," that I have been interested in for years. In addition, there are, as I mentioned in the committee, the various aspects of program access which continue to raise troubling problems, and I think they ought to be addressed.

It is my opinion that we could get a period of certainty if we would all moderate our demands and try to get together. As I have said, I think the greatest concern to me is the problem of access. A radical restructuring of programming rights could drastically reduce the incentives that are necessary to develop new programming for consumers.

Mr. President, I delivered to some of the people who are working on this, through by able assistant, Greg Chapados, suggestions for dealing with program access. I ask unanimous consent that it be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. It is now time, I think, when we should all come forward and produce the language in the area of our greatest concern and see if we can work out some of these difficulties. I hope to have the opportunity to work to develop a consensus on this bill. As I said, I think that is the only way for us to get through the Congress with a bill this year. And while I am not in agreement with the administration's opposition as it has been stated, I think it is important for us to remind everybody that we have a statement of administration policy on this bill expressing opposition to its reregulatory aspects.

I ask unanimous consent that the administration's position also be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. STEVENS. Mr. President, I have come to the floor not to try to cause any further aggravation of the differences between us but to urge Senators now to once again commit ourselves to the passage of a bill by this Congress even if it does not attain totally what each one of us seeks, because I believe this is one of the great industries of the country that continues to expand, that continues to provide jobs, continues to provide a great deal of information and entertainment to our people. It certainly is out there in the forefront of developing new technology. I think that technology is tumbling. It is changing so fast now that many of us are hard-pressed to even keep up with it.

The incentives to utilize that new technology and fold it into programming, fold it into service, fold it into the whole concept of reducing costs for the consumer ultimately, I think, ought to be recognized in the bill.

We are all in this to try to make certain the providers of cable service, the broadcast industry, and the overall mass media of our country, have the freedom in an open market to reach out and utilize new technology and new programming for the benefit of all Americans.

That is my goal. I hope the other Senators will join with us in that regard.

EXHIBIT 1

PROGRAM ACCESS—AMENDMENT TO S. 1880 AS REPORTED.

On page 51, strike lines 1 and 2 and insert in lieu thereof:

"PROHIBITION OF UNREASONABLE REFUSALS TO DEAL, NONDISCRIMINATORY CABLE ACCESS TO PROGRAMMING".

Starting on page 51, strike everything through line 10 on page 52 and insert in lieu thereof:

"PROHIBITION OF UNREASONABLE REFUSALS TO DEAL, NONDISCRIMINATORY CABLE ACCESS TO PROGRAMMING

"SEC. 640. (a) Within 180 days of the enactment of the Cable Television Consumer Protection Act of 1990, the Commission shall prescribe regulations to prohibit any integrated video programming vendor from unreasonably refusing to deal with any multichannel video system operator with respect to the provision of nationally-distributed video programming. Entering into or abiding by the terms of an exclusive contract that does not have the effect of significantly impeding competition shall not be considered an unreasonable refusal to deal.

"(b)(1) Within 180 days of the enactment of the Cable Television Consumer Protection Act of 1990, the Commission shall prescribe regulations to require any integrated video programming vendor to make its nationally-distributed video programming available on similar price, terms, and conditions to all cable systems, cable operators, their agents, or their buying groups.

"(2) The Commission shall provide in the regulations prescribed pursuant to paragraph (1) that an integrated video programming vendor may or may continue to—

"(A) impose reasonable requirements for creditworthiness, marketing, delivery, offering of service, and financial stability and liability (including a requirement that a buying group be legally and financially capable of ensuring the performance of the contract it negotiates);

"(B) establish different prices, terms, and conditions that—

"(i) take into account differences in-

"(I) cost in the creation, sale, delivery, or transmission of its video programming; and

"(II) legitimate economic benefits (including, but not limited to, advertising and other promotional activities) received from different purchasers;

"(ii) are established in good faith to meet equally favorable prices, terms, or conditions offered by a competitor; or

"(iii) are attributable to reasonable or legitimate business practices;

"(C) grant bona fide discounts (including, but not limited to, discounts to take into account economies of scale, other cost savings, and legitimate economic benefits reasonably attributable to the number of subscribers served by different purchasers and discounts to encourage purchasers to carry a new video programming service); and

"(D) enter into an exclusive contract for its nationally-distributed video programming with a multichannel video system operator other than cable systems, cable operators, their agents, or their buying groups so long as such a contract does not have the effect of significantly impeding competition.".

In section 6, at the end of new section 640 add:

"(g)(1) The regulations prescribed under subsection (b) shall cease to be effective 5 years after the date of enactment of the Cable Television Consumer Protection Act of 1990. The regulations prescribed under subsection (a) shall cease to be effective 5 years after the date of enactment of the Cable Television Consumer Protection Act of 1990, or on such earlier date as the Commission determines that a competitive national market for the delivery of video programming exists. The regulations prescribed under subsection (a) shall cease to be effective for any local market on such earlier date as the Commission determines that a competitive market for the delivery of such programming exists in such local market.

"(2) No provision of subsections (a) and (b) shall affect any contract (or the renewal or extension of any contract) that grants exclusive distribution rights to any person with respect to video programming and that was entered into on or before June 1, 1990.

"(h) For purposes of this section—

"(1) the term 'integrated video programming vendor'—

"(A) means any person—

"(i) who licenses or otherwise makes available video programming for national distribution by any multichannel video system operator; and

"(ii)(I) who holds an attributable interest in a multichannel video system operator, or

"(II) in whom a multichannel video system operator or any person with an attributable interest in a multichannel video system operator holds an attributable interest;

"(B) includes satellite delivered programming networks and other programming networks and services;

"(C) does not include—

"(i) a network or service distributing video programming intended for broadcast by a television station affiliated with a broadcasting network; and

"(ii) a broadcast television station;

"(2) the term 'multichannel video system operator' includes an operator of any cable system, multichannel multipoint distribution service, direct broadcast satellite distribution service, television receive-only satellite distribution service, or other comparable system for the distribution of video programming; and

"(3) the terms 'cable system' and 'video programming' have the meanings provided by section 602 of this Act.".

EXHIBIT 2

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 28, 1990.

STATEMENT OF ADMINISTRATION POLICY

S. 1880—Cable Television Consumer Protection Act of 1990 (Danforth and 15 others)

The Administration strongly opposes regulation of the cable television industry. If S. 1880 were presented to the President in its current form, his senior advisers would recommend a veto.

The Administration opposes S. 1880 because it imposes a new regime of Federal regulation over the cable industry beyond that established in the Cable Act of 1984. Specifically, the Administration opposes provisions that would establish additional Federal regulation over cable rates. These provisions would hamper the development of new products and services for cable subscribers and slow the expansion of cable service to areas not now served.

The Administration also opposes provisions that restrict the discretion of cable programmers in distributing their product. These provisions ignore the reality that exclusive distributiion arrangements are common in the entertainment industry and encourage the risk-taking needed to develop new programming. Requiring cable operators to make their programming available to competing distributors would establish a different standard for cable than exists for broadcast.

The Administration opposes section 8, which limits the number of channels on which a cable operator can carry its own programs. This provision raises most serious constitutional questions. Section 8 would also require limits on the number of subscribers a cable operator may serve nationwide. This provision is objectionable because current antitrust laws are adequate.

Section 15 of S. 1880 would require cable operators to carry the signals of certain television stations. This would be required regardless of whether the cable operator believes that the stations are appropriate for inclusion in its package of services, and regardless of whether such inclusion reflects the desires and tastes of cable subscribers. The Administration believes that "must carry" requirements would raise most serious constitutional questions under the First Amendment by infringing upon the editorial discretion exercised by cable operators in their selection of programming.

The Administration continues to believe that competition, rather than regulation, creates both the most substantial benefits for consumers and the greatest opportunities for American industry.

Consistent with this principle, the Administration supports removing barriers to entry by new competitors into the video services marketplace. Congress should consider removing the current legislative prohibitions on telephone company entry found in the 1984 Cable Act as an alternative to in-

stituting a burdensome and unnecessary regulatory regime.

Mr. WIRTH. I suggest we close off this issue for the time being. The suggestion was made that somehow at the 11th hour we were bringing items in, as if the surprise was this morning's activity. I do not believe there was any notice to Senators that this legislation was going to come up until yesterday. So the legislation first was known to be coming to the Senate floor yesterday, so the concerns of the Senator from Colorado being reflected on the floor this morning could not have been done before the announcement was made yesterday that this bill was coming up.

Second, the amendment which I have offered is no surprise. We talked to the committee staff. We talked to the distinguished ranking subcommittee chairman and the distinguished full committee chairman about that. I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

Add a new section to read as follows:

SEC. 18. THEFT OF CABLE SERVICE.

Section 633(b)) of the Communications Act of 1934 (47 U.S.C. 533(b)) is amended—

(1) in paragraph (2)—.

(A) by striking "$25,000" and inserting "$50,000";

(B) by striking "1 year" and inserting "2 years";

(C) by striking "$50,000" and inserting "$100,000; and

(D) by striking "2 years" and inserting "5 years"; and

(2) by adding at the end thereof the following new paragraph;

"(3) For purposes of all penalties and remedies established for violations of subsection (a)(1), the prohibited activity established herein as it applies to each such device shall be deemed a separate violation.".

Redesignate sections as necessary.

HORIZONTAL/VERTICAL, CROSSOWNERSHIP

Starting on line 17 of page 54, strike everything through line 13 on page 56 and insert in lieu thereof:

"SEC. 8. (1) The Commission shall conduct a review and study to determine whether it is necessary or appropriate in the public interest to prohibit or constrain acts and practices that may unreasonably restrict diversity and competition in the market for nationally-distributed video programming. In conducting such review and study, the commission shall consider the necessity and appropriateness of—

"(A) imposing limitations on the degree to which multichannel video programming distributors may engage in the creation or production of nationally distributed video programming; and

"(B) imposing limitations on the proportion of the market, at any stage in the distribution of nationally distributed video programming, which may be controlled by any multichannel video programming distributor or other person engaged in such distribution.

"(2) Within 18 months of the date of enactment of this Act, the Commission shall submit a report on the review and study required by paragraph (1) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Thereafter, the Commission will continue to monitor (and summarize in the Commission's annual reports) the status of diversity and competition in the marketplace for video programming.".

Starting on line 11 on page 57, strike everything through line 24.

Page 71, line 3 add a new section to read as follows:

CABLE SERVICES FOR PUBLIC SCHOOLS

Section 18, Part III of title VI of the (Communications Act of 1934 (47 U.S.C. 531 et seq.) is amended by inserting the following new section:

"SEC. 629. (a) A State may require any cable operator within its jurisdiction to provide a cable connection, free of charge, to any public secondary school within the franchise area served by the cable operator for the purpose of providing educational programming and other educational services to such school.

"(b) A State may require any cable operator within its jurisdiction to dedicate one channel for the purpose of providing educational programming and other educational services to public secondary schools within the franchise area served by the cable operator, and may establish requirements for the use of such channel.

"(c) A State may require any cable operator within its jurisdiction to pay a sum not to exceed 1 percent of such operator's gross revenues derived in any 12-month period from the operation of the cable system to any agency designated by the State, to be used for the purchase and maintenance of equipment necessary for the reception and use of educational programming and services which are provided to secondary schools through the cable system: *Provided*, That to the extent such payments, when combined with franchise fees to be paid by the cable operator to a franchise authority, exceed the limitation in section 622(b), the cable operator's obligation to pay franchise fees to the authority shall be reduced by the amount the total exceeds said limitation.

"(d) Unless expressly provided in this section, nothing in subsections (a), (b) or (c) shall be construed to limit the authority of any franchise authority under any other section of this title, or any other provision of law.

"(e) For purposes of this section, the term "State" has the same meaning given it in section 3(v)."

Redesignate sections as necessary.

PROGRAM ACCESS/EXCLUSIVITY

On page 51, strike lines 1 and 2 and insert in lieu thereof:

"PROHIBITION OF UNREASONABLE REFUSALS TO DEAL, NONDISCRIMINATORY CABLE ACCESS TO PROGRAMMING"

Starting on page 51, strike everything through line 10 on page 52 and insert in lieu thereof:

"PROHIBITION OF UNREASONABLE REFUSALS TO DEAL, NONDISCRIMINATORY CABLE ACCESS TO PROGRAMMING

"SEC. 640. (a) Within 180 days of the enactment of the Cable Television Consumer Protection Act of 1990, the Commission shall prescribe regulations to prohibit any integrated video programing vendor from unreasonably refusing to deal with any multichannel video system operator with respect to the provision of nationally-distributed video programming. Entering into or abiding by the terms of an exclusive contract that does not have the effect of significantly impeding competition shall not be considered an unreasonable refusal to deal.

"(b)(1) Within 180 days of the enactment of the Cable Television Consumer Protection Act of 1990, the Commission shall prescribe regulations to require any integrated video programming vendor to make its nationally distributed video programming available on similar price, terms, and conditions to all cable systems, cable operators, their agents, or their buying groups.

"(2) The Commission shall provide in the regulations prescribed pursuant to paragraph (1) that an integrated video programming vendor may or may continue to—

"(A) impose reasonable requirements for credit worthiness, marketing, delivery and offering of service, and financial liability and stability (including a requirement that a buying group be legally and financially capable of ensuring the performance of the contract it negotiates);

"(B) establish different prices, terms, and conditions that—

"(i) take into account differences in—

"(I) cost in the creation, sale, delivery, or transmission of its video programming; or

"(II) legitimate economic benefits (including, but not limited to, advertising and other promotional activities) received from different purchases; or

"(ii) are established in good faith to meet equally favorable prices, terms, or conditions offered by a competitor; or

"(iii) are attributable to reasonable and legitimate business practices."

"(C) grant bona fide discounts (including, but not limited to, discounts to take into account economies of scale, other cost savings, and legitimate economic benefits reasonably attributable to the number of subscribers served by different purchasers and discounts to encourage purchasers to carry a new video programming service); and

"(D) enter into an exclusive contract for its nationally-distributed video programming with a multichannel video system operator other than cable systems, cable operators, their agents, or their buying groups, so long as such a contract does not have the effect of significantly impeding competition.".

CURRENT SENATE PROVISIONS ON CARRIAGE COERCION, PROCEDURES, AND C-BAND TVRO ARE RETAINED

In section 6, at the end of new section 640 add:

"(g)(1) The regulations prescribed under subsection (b) shall cease to be effective 5 years after the date of enactment of the Cable Television Consumer Protection Act of 1990. The regulations prescribed under subsection (a) shall cease to be effective 5 years after the date of enactment of the Cable Television Consumer Protection Act of 1990, or on such earlier date as the Commission determines that a competitive national market for the delivery of video programming exists. The regulations prescribed under subsection (a) shall cease to be effective for any local market on such earlier date as the Commission determines that a competitive market for the delivery of such programming exists in such local market.

"(2) No provision of subsections (a) and (b) shall affect any contract (or the renewal or extension of any contract) that grants exclusive distribution rights to any person with respect to video programming and that was entered into on or before June 1, 1990.

"(h) For purposes of this section—

"(1) the term "integrated video programming vendor"—

"(A) means any person—

"(i) who licenses or otherwise makes available video programming for national distribution by any multichannel video system operator; and

"(ii) (I) who holds an attributable interest in a multichannel video system operator, or

"(II) in whom a multichannel video system operator or any person with an attributable interest in a multichannel video system operator holds an attributable interest;

"(B) includes satellite delivered programming networks and other programming networks and services;

"(C) does not include—

"(i) a network or service distributing video programming intended for broadcast by a television station affiliated with a broadcasting network; and

"(ii) a broadcast television station;

"(2) the term 'multichannel video system operator' includes an operator of any cable system, multichannel multipoint distribution service, director broadcast satellite distribution service, television receive-only satellite distribution service, or other comparable system for the distribution of video programming; and

"(3) the terms 'cable system' and 'video programming' have the meanings provided by section 602 of this Act.".

Mr. WIRTH. Third, I would point out, Mr. President, I believe there are some 20 amendments to this legislation—close to 20—that have been agreed to. The rest of us have not seen any of those amendments. I think it is appropriate we have the opportunity to see those, some of which, I suspect, may be very deleterious to the very fabric of the Cable Act of 1984 which the Senator from Colorado was deeply involved in drafting, as we discussed this morning.

Finally, I think it important, Mr. President, to understand exactly where the administration is coming from on this issue. We can spend a great deal of time attempting to work this out, which I believe we can, with the Senator from South Carolina, the Senator from Missouri and others. But that really does not do any good, does it, if in fact the administration is really held fast and finds other people to object on the floor?

I hope their position becomes absolutely clear on where we are. I wanted to, procedurally, bring those points up, Mr. President. I yield the floor.

The PRESIDING OFFICER. The chair recognizes the Senator from Tennessee [Mr. GORE].

Mr. GORE. I would like to point out to the Senate that this matter has been on the calendar since it was passed by the Commerce Committee in June. The day it passed the Commerce Committee, the cable industry had, most of us on the committee thought, agreed to a compromise draft. Then the morning of the markup they withdrew their agreement to go along with it. That bears a striking similarity to the strategy the industry has chosen to adopt with respect to floor consideration of this bill.

I, for one, have been ready to talk to the industry, sit down and work this out. They have not been willing to do so. I hope they will change that.

I thank my colleagues again for their indulgence.

Mr. BRADLEY. Mr. President, in the past few years, many New Jersey cable TV viewers have voiced their concerns about cable rates and service in the State. New Jersey is the most heavily cabled State in the Nation and I take these concerns very seriously. If we do not act on this bill, we will be doing a disservice to cable viewers around the country.

When the GAO looked at the 3 years after deregulation, they found average price increases of 39 percent for the most popular cable services, and 43 percent for the lowest priced services. For the industry, this translated into a 21-percent increase in revenue per subscriber. New Jersey viewers felt more than their share of these price increases. A quarter of all systems in the State have raised their rates more than 40 percent in the last 3 years. It is no wonder that Wall Street sees the cable industry as a takeover target and a source of easy cash revenue. And its no wonder that cable subscribers have felt abused.

Furthermore, there have been complaints about the service that the cable operators were offering: It took too long for service to be hooked up, the company was slow to respond to complaints, the office was hardly ever open, program offerings were limited, the list goes on.

My response was that two seemingly contradictory measures were necessary to improve cable TV: competition and regulation. The bill reported by the Commerce Committee took significant steps toward both those measures.

First, the FCC will regulate rates for the basic tier of cable service. This is not a perfect solution to the steep rate increases that have taken place, but I believe that it will lead to relief from the most excessive of the abuses. Furthermore, the bill mandates that the FCC regulate other forms of cable service if there are complaints about that service. I have cosponsored an amendment that changes the standard of FCC review from significantly excessive to unreasonable.

Second, in addition to regulating rates, this bill encourages competition in the provision of video programming to the home. It will prevent the exclusive contracts that have not only been a source of monopoly profits, but have slowed the entry of other multichannel video sources into the home. This bill mandates that cable operators carry that programming.

However, I felt that the bill did not address the many complaints I have heard from State regulators in New Jersey, as well as cable subscribers about customer service in this industry. This bill assigns to the FCC the responsibility to determine whether the industry standards are effective and monitor those standards in the future. This was an unacceptably weak solution. Even the FCC has indicated that it does not have the resources or willingness to enforce the minimal rules that would be applied, so this is no solution to questions of service. In New Jersey, by contrast, we have an office of cable television which consolidates the municipal regulations and has shown great concern for the rights of consumers and the responsibilities of the cable operators.

To resolve these matters, I had been working with my colleague from Connecticut to urge modifications to the bill allowing States with unified cable television agencies to continue to set rules on customer service.

Finally, I was concerned about a provision in the bill which would limit how long communities have to review applications for franchise renewal. When a community grants a cable TV franchise, it grants a monopoly in its community. The cable TV provider reaps the benefits of that monopoly and in return promises to provide cable service to certain areas, to abide by rules on customer service and all the laws made by the FCC and the Congress.

If the operator breaches that contract, the community has little recourse except for the window provided by the renewal process. In New Jersey, the process works like this: Three years before the franchise is due to expire, either the community or the operator files for renewal. The community can hold hearings and gather testimony to consider whether the operator has fullfilled the terms of its contract and abided by the rules set by the community, the State and the FCC. In the course of the year before the franchise expires, the community issues a report, holds hearings on that report, and then issues an ordinance either denying or renewing the operator's license.

The input of the community and the people who actually use the cable service is at the heart of this very democratic process. It helps communities to get the cable service they were promised and it helps the cable industry weed out the bad operators that give the industry a bad name.

Mr. President, this bill, coupled with the amendments that strengthen the rights of communities and consumers, is an important step toward the two things that I believe would improve the cable TV industry: competition and regulation. Not considering this bill will be a disservice to cable viewers around the country. I hope that we can resolve any disputes and consider

this bill before the Congress adjourns this year.

Mr. McCAIN. Mr. President, in recent years, I have been deeply concerned over the rise in cable rates and the state of the cable industry. This concern arises out of the increasing number of complaints I have received from my own State of Arizona, and nationwide. These complaints range from the cost of receiving cable service to business practices which have not benefited, and have indeed hurt, the consumer. These concerns prompted me to join Senator DANFORTH in introducing S. 1880, the Cable Television Consumer Protection Act of 1989.

Since 1986 when basic service rate deregulation took effect under the Cable Communications Policy Act, basic cable rates nationwide have increased dramatically. These increases have been reported to be on an average of 29 percent. In Tucson, AZ, for example, rates have risen on an average of 68 percent since deregulation took effect in 1986, and nearly 120 percent since the Cable Act was passed in 1984. Even more dramatically, rates in the city of Mesa, AZ, have risen over 85 percent.

Another disturbing phenomenon that has emerged since deregulation is the growth in the concentration of ownership in the cable television marketplace, the result of which has been a virtual monopoly through unfair competition in the industry. If left unchecked, these anticompetitive practices could lead to the limitation of news and entertainment programs available to consumers. The impact of this limitation cannot be underestimated, nor can the power of television in our society. Reports show that more homes have television than indoor plumbing, and cable television has captured over half of America's 90 million television watching households. That is a very strong signal of the importance of television to Americans and their reliance on cable television for news and information.

Mr. President, the purpose of deregulating cable in the 1984 Cable Act was to promote the diversity of information sources reaching American households. Cable was deregulated with the expectation that competition would flourish with the development of other television technologies. The goal of promoting diversity has been lost as many of the players in the industry have scrambled to monopolize and control the marketplace. The competition intended to benefit consumers has never materialized. The significant increases that we have seen in recent years are the result of this concentration in ownership, and the lack of competition in the marketplace.

The vast majority of the 9,500 cable systems in this country remain local monopolies, all owned by a very small number of companies. A few multiple system operators dominate the marketplace, and ultimately have control over programming. Cable operators control subscriber rates, and determine the consumer's viewing power.

It is well understood that subscribing to cable television is purely optional, as is the purchase of most consumer goods. But the point to remember here is that we have antitrust laws intended to prevent restraint on competition in the sale or distribution of all goods and services, regardless of whether or not they are essential. The inherent shortcoming in the 1984 Cable Act is that Congress unknowingly conferred monopoly status to cable operators with the belief that competition would unfold with deregulation. This never materialized, and consumers have not seen the benefits of a competitive marketplace. It is true that we have seen some expansion of programming, but certainly not to the extent possible in a competitive environment.

Analysts predict that 70 percent of American television-viewing homes will rely on cable by the turn of the century. Some argue that this is only good marketing. But when the number of subscribers appears unaffected by the dramatic increases in rates, one begins to wonder if cable is really just another "optional" consumer good, or if it is a consumer good that is now relied upon by the vast number of television-viewing Americans. The competitive force operating now is the "take it or leave it" philosophy with which the cable industry is exploiting the captive market. Even more significant is the fact that more and more programming that consumers desire, programs which were once offered on free over-the-air television, is now being offered solely on cable.

There have been growing concerns over allegations of the cable industry's abuse of concentrated ownership. At hearings before the Commerce Committee, charges were made that the cable industry has effectively cut off or significantly restricted the supply of desirable programming to competitors. Such activity is a strong barrier against competition. Independent programmers charge that some cable operators control so many millions of subscribers and cover so many of the major markets that they can put a programmer out of business by refusing to carry its programming. Mr. President, cable operators are exerting a great deal of power which can threaten diversity, and can most certainly fend off any real competition which would loosen their control over the sources of information which can become available to the American viewing public.

Mr. President, I believe that the charges leveled against the industry are very serious, and deserve the consideration they are given in this bill. S. 1880 checks the potential for such abuses in three way.

First, it prohibits programmers affiliated with cable operators from unreasonable discrimination against any distributor in the price, terms, conditions or availability of their programming. This provision attempts to remove the incentive and ability of programmers to favor their affiliated cable operators over other distributors of video programming.

Second, the bill caps the size of cable operators to 15 percent of cable subscribers nationwide. This provision aims to encourage diversity and lower the barriers to entry to programmers.

Third, it restores to local officials the authority to regulate basic cable service in the absence of effective competition. Effective competition has been defined as the existence and another multichannel video provider in the cable franchise area.

These solutions are not the only mechanisms that need to be in place in order to allow the development of a healthy marketplace. However, these are important mechanisms which will level the playing field on which competition can develop. My solution preference is competition as a way to correct the flaws in the marketplace. The price discipline of the competitive marketplace is superior to price-setting by Government regulation. Competition would not only lower rates, but also give consumers more choice and would be more likely to bring the public new and different services. The important point to remember is that once competition exists, regulation does not. Nonetheless, this legislation provides a crucial first step toward bringing about a healthy, competitive environment.

Mr. President, it is clear that those that are most greatly affected by these anticompetitive activities are the consumers. One cannot discount the adverse effect on would-be cable operators who are virtually locked out of the cable marketplace. These would-be operators certainly feel the impact of vertical and horizontal concentration of ownership when they find themselves unable to break into the field because of unfair, anticompetitive tactics. Yet, it is the consumer who ultimately suffers the consequences and feels the impact of rising subscription costs, limited program choices, and poor service. Consumers are facing a limited marketplace. They have two choices: They can either subscribe to this kind of cable service, or, as in the case of viewers in rural areas, be totally isolated from information and entertainment services. This legislation would provide an opportunity to change this situation, and come to the assistance of consumers by leveling the playing field for competitors to enter, and offer consumers an alterna-

tive. That is the benefit of competition. It gives the consumer choices, and forces competitors in the marketplace to provide the best service possible.

Mr. President, cable television has vastly improved our ability to disseminate information from a wide variety of sources, and has enhanced the industry's field of video services. This legislation will give consumers the opportunity to benefit from the great things cable television has to offer, but should do so in a competitive environment where the cable industry can thrive, and consumers can ultimately benefit.

Mr. KOHL. Mr. President, earlier today the majority leader attempted to bring up S. 1880, the Cable Television Consumer Protection Act of 1990. He was unable to do so because of objections raised by several Members of this body. That is unfortunate.

Mr. President, over the past year I have heard from constituents, mayors, city councils, and State legislators from Wisconsin, all of whom are concerned about the continued rise in cable rates. I have heard from Wisconsin television stations who are concerned about the lack of access to local cable systems. They want Congress to act on cable legislation. And they want this Congress to act on this issue, Mr. President, not the next Congress.

And act we should. The Commerce Committee has worked hard to report out a bipartisan bill. While I may not support every provision in this bill, I believe it should be brought to the floor and its merits considered. I have concerns of my own that I would also like to see taken care of before a final bill is passed. But this is an honest attempt at a compromise on a difficult and complex issue. The compromise was not put together on a whim, but was drafted carefully and studiously over the course of this entire session. I congratulate the members of the Commerce Committee for their skill in having brought the bill this far. If we could bring the bill to the floor, I suspect we could see some interesting amendments that could have a major impact on the legislation. I would welcome the opportunity to examine and vote on such alternatives. But I think the time has come to act on this legislation.

Mr. President, I would like to commend the majority leader for his attempt today to begin consideration of cable legislation. I am sorry his efforts were thwarted. I urge those Members who have objections to this measure to work in good faith with the majority leader and members of the Commerce Committee to come to some agreement that will allow floor consideration of this bill this year. The House has already recognized the importance of this issue, by passing a comprehensive cable bill. It is time that the Senate did so as well.

SUPPORTING THE ACTIONS TAKEN BY THE PRESIDENT WITH RESPECT TO IRAQI AGGRESSION AGAINST KUWAIT

The PRESIDING OFFICER. Under the previous order, the Senate will now take up Senate Concurrent Resolution 147.

The clerk will state the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 147) supporting the actions taken by the President with respect to Iraqi aggression against Kuwait.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. Time has been equally divided at 30 minutes. The Chair recognizes the Senator from Rhode Island, who controls 15 minutes for the majority side.

Mr. PELL. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator controls 15 minutes.

Mr. PELL. Mr. President, this resolution is designed to express support for what the President has done to date in dealing with Iraq's aggression against Kuwait. The resolution expresses support for the U.S. military deployments under Operation Desert Shield and for the policy objectives outlined by the President on August 3.

It is important to add, however, that this resolution does not—I repeat that—does not constitute authority for the President to initiate unprovoked military action against Iraq. That is a separate question that would have to be addressed after consultation between the President and the Congress.

I would add my own personal approval and delight at the fact that the United Nations is once again coming into its own. In reference to articles 43, 44, and 45 of the charter, for those of us who worked on the charter 45 years ago in San Francisco, it gives us very real pleasure, very real joy to see it come to life at this time after so many years.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Chair recognizes the Senator from Indiana [Mr. LUGAR].

Mr. LUGAR. Mr. President, I yield myself as much time as I require.

The PRESIDING OFFICER. The Senator is recognized accordingly.

Mr. LUGAR. Mr. President, I rise in support of this very important resolution. I rise because I think it is very important that the Senate addresses the resolution promptly. I commend all who have had a part in the drafting of that and especially the distinguished Democratic leader and distinguished Republican leader, Mr. MITCHELL and Mr. DOLE, for their specific leaderhips today.

The concurrent resolution that we address says:

Resolved by the Senate (the House of Representatives concurring), That (a) the Congress strongly approves the leadership of the President in successfully pursuing the passage of United Nations Security Council resolutions * * *.

There are eight of them listed, eight Security Counsel resolutions which call for:

(1) the immediate, complete and unconditional withdrawal of all Iraqi forces from Kuwait;

(2) the retoration of Kuwait's sovereignty, independence, and territorial integritiy;

(3) the release and safe passage of foreign nationals held hostage by Iraq;

(4) the imposition of economic sanctions, including the cessation of airline transport, against Iraq; and

(5) the maintenance of international peace and security in the Persian Gulf region.

These are goals that the President of the United States has addressed to the Congress and the American people through his address to a joint session. They are goals that the President has enumerated on a number of occasions. But, as the distinguished Senator from New York has pointed out, and the distinguished Senator from Rhode Island today, in previous talks on this subject, the United Nations has affirmed these goals. The United Nations has joined together with the United States of America to make certain that the world knows, and the new world security order, that these are our joint goals. It is important we affirm that in this resolution.

It is important that the Congress supports, as this resolution does, in paragraph (b):

The Congress approves the actions taken by the President in support of these goals, including involvement of the United Nations and of the friendly governments. The Congress supports continued action by the President in accordance with the decisions of the United Nations Security Council and in accorance with the United States consitutional and statutory processes, including authorization and appropriation of funds by the Congress, to deter Iraqi aggression and to protect American lives and vital interests in the region.

Mr. President, I cannot emphasize how important these steps are procedurally; likewise, substantively. In this particular situtation, the United States of America has come together as a united people and, likewise, the countries of the world have come together as a United Nations. We are very clear about our objectives and the Congress, by adopting this concurrent resolution, is very clear that it approves the actions taken by the President in support of these goals.

Further, it supports continued action by the President in accordance with the decision of the United Na-

tions Security Council and in accordance with United States constitutional and statutory processes.

This is spelled out, Mr. President, I underline it so the record will clearly show that this debate did underline and affirm these very important principles. I strongly support the adoption of the resolution. I am hopeful it will have unanimous support. It gives a good foundation upon which our Nation moves forward in these very important pursuits.

I yield the floor.

The PRESIDING OFFICER. Who yields time? Who yields time?

Mr. PELL. I yield half a minute to the Senator from Oregon.

Mr. HATFIELD. Mr. President, I want to enter a protest on the matter.

The PRESIDING OFFICER. The Senator is recognized; time chargeable to the Senator from Rhode Island.

Mr. PELL. OK.

Mr. HATFIELD. Mr. President, I just want to enter a protest about a half an hour only being given to this very important subject, which I feel really deserves far more attention than just a half an hour. I would like to ask if we could get an extension of this timeframe to something more reasonable on a subject of this kind.

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. Mr. President, the unanimous request agreement that we originally prepared contemplated 1 hour for debate. It was reduced to 30 minutes at the request of the Republican side.

I am perfectly happy to go back to the 1 hour, or to go beyond that to permit every Senator who wishes to have the opportunity to speak, to do so.

It is not my intent or desire to reduce the time, or to prevent any Senator from speaking. I am perfectly prepared to do that. I know this is an important subject. I want to assure the Senator from Oregon, there is absolutely no intention or desire on my part, to limit the time for debate.

Mr. HATFIELD. If the majority leader will yield, I would like to say I have checked with the staff on the minority side. I am informed there is no particular problem about expanding it, and I request the majority leader, if he would so do, in order that we could have an adequate period of time to debate a very, very significant, profound action that we are about to take here. I would like to think at least 2 hours equally divided would be more reasonable than a half an hour equally divided.

Mr. MITCHELL. I have no objection to that, Mr. President.

Mr. GARN. Has a request been made?

The PRESIDING OFFICER. No request has been made at this time.

Mr. GARN. Mr. President, I would object to other than very brief—and I am not doing it on my own behalf. My plane does not leave until 5:40. I am here, but there are a number of our colleagues on our side who are planning to catch airplanes midafternoon. I am acting as their messenger. So I would not agree to more than a 15-minute expansion of the 30 minutes. I would suggest to my good friend from Oregon that, with all due respect, the outcome will not be changed by debate, and certainly he could speak at whatever length he wanted after the vote.

Mr. PELL. Parliamentary inquiry. On whose time is this being charged?

The PRESIDING OFFICER. The time is being charged to the time available to the Senator from Rhode Island.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time not be charged against the Senator from Rhode Island.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time during the quorum not be charged against either side.

The PRESIDING OFFICER. Without objection, the time will not be charged to either side. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for up to 5 minutes.

Mr. MOYNIHAN. Mr. President, I rise to a large moment in the history of this body. The distinguished chairman of the Committee on Foreign Relations and the former chairman, the Senator from Indiana, have both spoken to the extraordinary tension of events now underway in New York at the United Nations and in the Persian Gulf in consequence.

In 1945, after the cataclysm of the Second World War, American diplomats, with the full support of the Congress, including the incomparable chairman of the Foreign Relations Committee, then working at the Department of State, took the lead in drafting a document called the Charter of the United Nations.

It was signed and submitted to the Senate which gave its consent to its ratification. Recall the words of article VI:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land * * *.

Mr. President, the Charter of the United Nations is not an executive agreement. It is not an Executive order. It is not something dreamed up by the executive branch with no consultation with the Congress. It is the "supreme law of the land."

Article 25 of the Charter states:

> The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

The Security Council can take no action without U.S. support. We can veto any resolution. But when the Security Council has acted, as it has eight times during the present crisis, the United States is bound under a treaty which is the supreme law of the land to lend its assistance to the United Nations in carrying out the resolutions.

The present resolution states that the Congress understands that this is our obligation. It states that the Congress "supports continued action by the President in accordance with the decisions of the United Nations Security Council * * *."

The resolution also adds that the President's actions must be "in accordance with our constitutional and statutory processes, including the authorization and appropriation of funds * * *."

In short, the resolution states that the United States should meet its international obligations under the charter and that this should be accomplished as required by our constitutional framework. The resolution does not give the President a blank check. It simple states that the Congress believes that we should act in accord with the resolutions of the Security Council and our own Constitution.

The President needs this resolution. The economic sanctions that the United Nations has ordered are not kinder, gentler diplomacy. Iraq understand this. That is why Iraq has threatened a preemptive military attack in response to the sanctions. When the sanctions begin to bite and if hostilities occur, the President will need to know that the Congress supports his efforts to make the economic embargo work.

Mr. President, time is so short. I yield back such time as I may have.

The PRESIDING OFFICESenator's time has expired.

Who yields time?

Mr. PELL. How much time do I have?

The PRESIDING OFFICER. The Senator controls 9 minutes 2 seconds.

Mr. PELL. I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington [Mr. ADAMS] is recognized for up to 5 minutes.

Mr. ADAMS. I thank the Senator from Rhode Island very much.

Mr. President, we have been trying for years, a number of us, to be certain that the Congress as well as the President is involved in the warmaking powers of the United States and in the use of troops of the United States when they are going to be involved in imminent hostilities, wherever they are in the world.

We have right now the opportunity for the first time in a new era, with a new President, for the United Nations to begin to operate as it was set up to operate. We have a President who carefully avoided getting us into a situation where the war powers were triggered, and therefore I am pleased that finally we are going to get a concurrent resolution presented to the body so that the Congress of the United States as well as the administration is involved, as it should be under the Constitution, in the conduct of foreign policy involving military forces in a portion of the world—huge military forces, that may well end up in either combat or taking hostilities.

I want to state at this point, as clearly as I can, Mr. President, that this is the first part of a series of resolutions.

I will not do that at this point because we are moving forward with an opportunity here to authorize and to approve actions to date. This is not a Gulf of Tonkin resolution. This does not authorize whatever actions the President may wish to take in the future. It does not authorize acts of war. It does not authorize imminent hostilities. It authorizes protection of our troops. It authorizes protection of Saudi Arabia. I can assure the President, and I want to assure the Members of the Senate, that if we move to that situation, a number of us will be back here as we were in the Persian Gulf before and we will file a 4(a)(1) resolution.

We do not want to have to do that. We would rather have a resolution which would cover future actions, but if that happens we will do so. So I wanted to be certain, in these brief moments before I yield back the floor, that it is made very clear this is the first in a series of step to try to bring the Congress and the administration together in a major foreign policy and what could become a military operation without it being a Gulf of Tonkin resolution.

I believe the majority leader wishes the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ADAMS. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. Mr. President, several Senators have expressed an interest in further debate on this matter. That is understandable and appropriate given the gravity of the matter now before the Senate.

Earlier this morning, both the Republican and Democratic staffs notified all Senate offices that the unanimous-consent request limiting time for debate would be propounded. No objection was heard. Those Senators now suggesting that time ought not to be limited did not express any objection to the request, even though every office was notified of it. They had the opportunity to do so. They did not do so. Accordingly, operating under the impression, which was the fact at the time, that no Senator objected to the limitation of debate, since each office had been notified and no Senator expressed an objection, I propounded the request.

When the request was originally drafted, it set 1 hour for debate on the resolution. At the request of the Republican leader, I reduced that time to 30 minutes but with the explicit understanding that if any Senator came to the floor and wished to debate the matter and there was insufficient time to accommodate that Senator, I would seek consent to so accommodate the Senator, so that no Member of the Senate would be denied the opportunity to express himself or herself fully on this subject.

Now we have had a number of Senators who have suggested that this measure is being rushed through or rammed through or there is insufficient time for debate. That is not the intention. It never has been my intention. I want to make certain that every Senator can stand here and speak for as long as he or she wants on this subject.

Accordingly, Mr. President, I am going to propound now an agreement that proposes that there be unlimited debate on this matter today; each Senator can stay, debate this for as long as he or she wants; that at the conclusion of that debate today the resolution be placed upon the calendar; that the vote on the resolution occur on Monday, at a time to be decided by myself following consultation with the Republican leader and to be announced at a subsequent time.

This will accommodate the interests of all of those Senators who wish to engage in extensive debate—and that is an appropriate, understandable desire—with the interests of those Senators who had made plans based upon the unanimous-consent request which their offices were notified of this morning and which has since been entered.

ORDER OF PROCEDURE

Therefore, Mr. President, I now ask unanimous consent that the time limitation on the debate in the previous order be vitiated; that there be unlimited debate on this resolution today; that at the conclusion of that debate this resolution be placed on the calendar at the close of business today; and that a vote on the resolution occur on Monday at a time to be determined by the majority leader after consultation with the Republican leader.

The PRESIDING OFFICER. Is there objection?

Mr. PELL. Mr. President, I have no intention of objecting. I have one question, though. That is: Will the debate this afternoon be on this subject or can individuals come in and talk on any subject? It seems to me it should be germane.

Mr. MITCHELL. We have not ever sought to prevent a Senator from speaking on any subject if the Senator wished to do so. So I would prefer not to. I anticipate that if the past is any guide, on a Friday afternoon, only those Senators who wish to address themselves to this subject will remain.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Mr. President, if the leader will yield, I want to be very brief to say that I really appreciate the way the leader is handling this issue, and the way he handled it earlier, the fact he has been able to work this out. Sometimes we are critical of the way things run around here. I think he is really being overly fair, and I personally appreciate the way he is doing it. Thank you, Mr. President.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the majority leader? If not, that will be the order of the Senate.

Mr. MITCHELL. Mr. President, accordingly there will be no rollcall votes today. Debate will continue until conclusion, for however long Senators wish to address this subject. Senators who are leaving, though, should be aware that there will be an announcement later today regarding a Sunday schedule. I will consult with the distinguished Republican leader before making any decision and announcing it.

Senators should be aware that a session on Sunday evening is very much a possibility depending upon developments with respect to the budget because, as we all know, the fiscal year expires at midnight on Sunday. The House will be meeting on Sunday afternoon. It appears at this time likely that the Senate will have to be in session to act on a continuing resolution to continue the operation of the Government beyond the deadline of Sunday midnight.

We will make every effort to reach a decision, and make an announcement during the day today. And the respective staffs will be notifying all offices

in addition to any public announcement that is made.

I thank my colleagues for their courtesy. Senators should be aware that a session with votes is possible on Sunday evening and, of course, we will be in session with votes at least on this resolution, and possibly other matters on Monday.

I thank my colleagues.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

Mr. ADAMS. Mr. President, I wanted to inquire of the leader, if I might, Senator PELL, if I might continue with my remarks for an extended period of say 5 to 10 minutes. I know the Senator from Oregon wishes to speak. I want to listen to him.

Mr. PELL. I do not control the time. Time is unlimited.

Mr. ADAMS. I inquire of the Senator from Oregon. I have some remarks that I would like to make. But I do not want to interfere with the schedule.

Mr. HATFIELD. If the Senator will yield, I would like a few minutes before the majority leader leaves the floor to make a response to the action just now taken. Then I would be happy to listen to the Senator from Washington State, and then seek the floor in my own right later.

Will the Senator yield for a minute?

Mr. ADAMS. I yield to the Senator from Oregon for that purpose without yielding the floor, and I will retain the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. I thank the Senator from Washington for yielding.

Mr. President, I would like to express my appreciation to the majority leader for the action he has taken. I want to make certain for the record that this Senator was not one who in any way intimated that the majority leader and the minority leader or either were attempting to rush this resolution through.

I would only like to state for the record that at 11:05 there was a hotline that came out from the Republican Cloakroom, an informational hotline that this resolution or resolution identified as this resolution was going to be taken up. It was not until 11:45, as I am told by the record, that the unanimous consent time agreement as to a half an hour was established.

So this Senator, even though I happened to be at a funeral at the time, came back; it was not a sense of urgency that caused me to come to the floor until I was then informed later that this had been agreed to as a time limit on the floor.

So I want to assure the Senator that I know why he maybe thinks I was attempting to bulldoze my way in at the last minute when I failed to take advantage of the process that had been offered.

I thank the Chair. I thank the Senator from Washington State.

Mr. ADAMS. Mr. President, I take this time today, and I want to express my gratitude to the majority leader, and to the colloquy that he just had with the Senator from Oregon, that we have an opportunity to debate this.

I want to express my gratitude to the majority leader and others that we actually have a resolution before us at this time that will I think be acted upon and voted upon on Monday.

I say that though I do not particularly agree with all of the parts of this concurrent resolution.

I think it is absolutely essential that the Congress of the United States recognize that we have troops in potential jeopardy, that we are carrying out a major military and foreign operation, and in a very vital portion of the world.

We tried nine times, Mr. President, to get this matter debated with a resolution up when we were taking casualties in the Persian Gulf, when we had an Exocet go through one of our ships, when we shot down a civilian airliner, and where we had all kinds of troubles.

So my purpose today in rising and addressing this matter is not to be critical of a President who recognized that this was not the time to trigger the War Powers Act by going into eminent hostilities but has given us an opportunity to go under what is known as 4(A)(2) of the War Powers Resolution which is when you place armed troops in another nation's territory the President is to consult with the Congress. And there is no form of resolution that says you are to bring the troops out within a period of time.

I need to take just a moment, Mr. President, to state what the problem is with the War Powers Act and why we are moving in this fashion. The War Powers Act has been criticized as badly drawn. But it was drawn, and I know you, Mr. President, are familiar with a number of these things, not only having served in the military with great distinction but having had great familiarity with what occurred not only in the Presidency of President Johnson but later in the Presidency of President Nixon—and the War Powers Act was an attempt by the Congress to bring back to the Congress its constitutional powers which had been removed from it.

It was vetoed by President Nixon.

There is a large group of people who hold an opinion, and there is a strain of thought in America, that Presidents of the United States have the right to both wage war and also determine when that war will be waged.

That is not the constitutional system in the United States. The constitutional system in the United States carefully separated the marshaling of forces by declaring war, the raising of armies and navies to put it into the constitutional body, the legislature, to separate it from those who are having to send troops to war, or having to protect people at various points throughout the world who are American citizens.

That was deliberately done to separate the power to wage war as separated from the power to declare war, because the power to declare war has a number of effects in the United States. It has the effect of marshaling the Nation.

In those days, it had the effect of automatically increasing the draft. It had the effect of giving the President certain powers over the Nation that he did not otherwise have. So the war powers was an attempt to modify, to lessen the degree of conflict over what actions could be taken between the President and the Congress. It was a good statute. It is a good statute. It is the law of the land.

I have said to President after President: This is not a hostile act to you; use it. Come over and ask for a resolution. The popularity that Presidents have, and particularly when troops are going overseas, almost assures that a first resolution will go through. But do not just then try to use that resolution to expand it, and expand it so that you in effect create a Presidential war.

I have seen hearts broken of Presidents, and I have seen their Presidencies destroyed by that factor, and I do not want to see that happen again. It is essential that the Congress be brought into it. I have said this publicly, on television, and I say it here, and I will say it again and again: The Congress and the people must be part of it any time that we marshal the forces of the United States to carry out a major overseas militray operation. Otherwise, what happens is it is very popular at first, but as the sand drifts and the heat comes on and the days go by and the accidents occur and casualties begin, you need to have that resolution and that support, when everybody knew what they were getting into.

That is why I, in my previous remarks this morning, said I will put in a concurrent resolution. It will not be part of what will be voted on on Monday, but the concurrent resolution, which does not have to be signed by the President, would set up a consultive body of the leadership of the House and of the Senate, together with some appointees from them, that would say we are in consultation with the President at all times.

This may take security, but it also provides the basis for information coming into the Senate and into the House of Representatives about our major foreign policy options. And for-

eign policy is not solely in the hands of the President. It is a divided power. We may not like that; some people do not. But that is deliberately how it was created here, so we would not have another King George; it was so that we would have a parliamentary democracy operating with an executive branch. It is an unusual system, and it works well.

This is an opportunity in a new era. We have had the superpower confrontation dropped to a lower level, so that now we will be involved for the rest of our lives, and our children's lives, in a series of conflicts of great danger to the United States and to the world, where we may have to send troops, and we may have to send troops for a very long period of time.

This is a perfect example: 150,000 American troops being sustained in Saudi Arabia. I have been there in the Middle East. It is very logistical problem, and it is going to be expensive and unpleasant for those involved.

But what is even more important, Mr. President, for those of us who were in a declared war, World War II, and have sseen undeclared wars since then, is that there be a series of actions now. This concurrent resolution basically says to the President—which I think he is entitled to have from this body, and that we have to stand up and vote yes or no on, even though we may not like parts of it—what you have done to date, the Congress approves of. And it forms the basic for those of us sitting on the Appropriations Committee to say we will appropriate money for people that are there. We will take money from other things. And I think we should. But that now is going to have a basis of debate and passage, so we know where Congress is.

The second thing is that we are going to accept money from other people. I strongly support what Senator BYRD, Senator NUNN, and others did. If there is going to be money coming from other people, we do not want some slush fund operation. The money should come into an account, and we will appropriate money back out for our service needs.

Incidentally, the amount of windfall profits alone on the premium the Saudis will get on the 5.3 million barrels of oil they pump a day, plus the 2 million more that they will pump to help us, are double what they have proposed to give us. They can pay for our whole operation just out of windfall profits.

That is going to be done, and I hope it will be. It should come in and be appropriated and authorized under the regular process of the Constitution and the rules of the House and Senate. That is what this resolution says.

I want to make it very clear, because this worries me. I do not want a President to misunderstand when we say that Congress supports continued action by the President in accordance with decisions of the United States Security Council and in accordance with the United States constitutional and statutory processes—I am putting this parenthetically—that includes appropriation processes, authorizing processes and, yes, provisions of the statute of the War Powers Act which do not apply at this point yet—including authorization and appropriation of funds by the Congress to deter Iraqi aggression and protect American lives and vital interests in the region.

Let us not try to interpret "protect American lives and vital interests in the region" as meaning we can launch a full-scale attack without coming back and talking to the Congress, and without the Nation being braced and ready and prepared to go ahead.

This is not trying to micromanage the war. This is a setting forth of the policy we are trying to accomplish. And it is also setting forth that it is very difficult to marshal the Nation to defend against aggression and put troops into an area to hold off an aggressor and to conduct operations that are offensive and that will involve heavy casualties on both sides.

Mr. President, I probably am making these remarks because of my enormous frustration of what happened in the past 4 years, since I have been here, in trying to make this principle occur; that there be a series of resolutions where the Congress and the President march together in these actions.

I miss my old colleague, Lowell Weicker, who used to sit in that chair in the back and say:

> It is the law. If you do not think it is constitutional, Mr. President, then go to court and have it overturned, but do not block us by refusing to send it up and then sending the word up to your people on Capitol Hill that they are to block any resolution.

That offended me greatly, Mr. President, because when we had body bags coming out of the Persian Gulf with American boys in them, and we could not get a finding, so we could use expedited proceedings, that there were imminent hostilities and we were involved in them, that offended me, because it was a fact.

When we went to the courts—and four times Congress has been to the courts—the court said, and I think properly so, that is a political decision; and if you and the Congress cannot pass a resolution that says you are going to proceed under the War Powers Act, that there are imminent hostilities, the court is not going to do it for you.

I just could not see why we could not find, in the face of what was happening, that there were imminent hostilities. We are not to the point yet in this situation, but I am concerned we are going to get to that point while we are at recess. If we are going to get to that point while we are at recess, I want to be clearly on record here today that I am going to vote for this resolution.

I am so grateful for the majority leader, and apparently the agreement of the minority leader, that we are going to be in the process of uniting the Congress and the Presidency in conducting this operation, which is the biggest operation the United States has conducted since Vietnam, and that we do it differently than Vietnam; and there will be a series of resolutions.

But if he decides there is going to be an invasion and we are going to be involved in a major conflict and we are taking casualties and he does not come up with a resolution, I beg him, I plead with the President and his advisers to send up a resolution because a resolution does not have to say come out automatically in 60 days. The resolution can say that we will remain, this is our policy, and we need authorization for our troops for the accomplishment of these purposes, as opposed to a date, or they can use a date if they want. They should state with it this is what we have to accomplish and state with it this is the amount of money we need appropriated and this is the amount of money we expect to get from someplace else.

We seem to believe that there is some kind of secrecy in the world that protects all kinds of operations in terms of policy. Those of us who have been involved in the military know that there is secrecy involved to a great degree when you are dealing with tactics and soldiers in the field. If policy is developed in terms of enormous secrecy, policy then often collapses, and the problem, as I know the chairman of the committee knows, because he lived through it as I did, is if you do not unite the American people through the institutional processes of the country, the laws we have passed, the Constitution under which we live, then those who suffer under that—and in the case of the Vietnam war it was the draftees and their families and those who could not vote—they will go to the streets because they have no place else to go. Let us do not ever have that happen again in this country. Let us have the country debate on this floor what we will do. Let us have the President tell us what is necessary, and we will approve it or not approve it, and my guess is we will approve most of it because he has a great majority of people in support of him up here. But the Congress has to act and fulfill its sole duties to act as a brake on these matters.

I will just close by saying we should never again pass a Gulf of Tonkin resolution. The Founding Fathers expected more, the people of the United

States deserve more out of it, and that is not what this is.

But I hope and I pray that we will continue to pass resolutions and use the appropriate power and, most important, that we will adopt the consulting resolution which I have referred to in my remarks, which will be available in the RECORD, because there are a lot of people in this Congress who have been through a lot of wars and a lot of experience that can give a great deal of assistance to a small group that often becomes a group that talks within themselves before taking a major action.

As one of the few Members in this body who has served recently in the administration at the Cabinet level, I know what happens there. You get so involved in the details of what you are doing that you pretty soon begin to talk to one another and you more and more convince one another and you more and more shut out the dissenters, particularly if a President wants to go a particular way.

So I am asking the President—I am hopeful that the chairman of the committee, the majority and minority leaders, and the other Members of the body will pass a consultative resolution, both in the House and the Senate, and that that group will continue to meet with the President and call in others as they need them to give better information as to how the United States should go in this myriad of difficult and what will be hostile actions throughout the world during the next century. Our children deserve it. We are over the superpower confrontation, and we are into a very dangerous period.

So I thank the Chair, I thank the chairman of the committee, and I thank my friend from Oregon particularly because we have stood together on a number of these occasions to try to see that our country does the right thing. I appreciate the fact that this will be a long and difficult struggle.

Mr. President, I ask unanimous consent to have printed in the RECORD at the end of my remarks a form of potential resolution that could be used for operating the War Powers Act, which does not provide for a 60-day withdrawal but provides for potentially both approving what has been done to date and sets forth a system for proceeding as to how we might go to the next level of action, if necessary, so that at least the President will know what this Senator felt if he attempts to do something while we are gone for a recess.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATUTORY AUTHORIZATION

(A joint resolution providing statutory authorization for United States participation in multilateral efforts to restore the sovereignty of Kuwait and to deter and, if necessary, defend against further Iraqi aggression)

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the "Collective Security in the Persian Gulf Resolution".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that in response to the act of aggression by Iraq against Kuwait, which began on August 2, 1990, the United States has—

(1) participate in unanimous decisions of the United Nations Security Council, as follows:

(A) United Nations Resolution 660, demanding immediate and unconditional withdrawal of Iraqi forces from Kuwait and restoration of the sovereignty, independence, and territorial integrity of that nation;

(B) United Nations Resolution 661, imposing economic sanctions against Iraq;

(C) United Nations Resolution 662, declaring null and void Iraq's annexation of Kuwait;

(D) United Nations Resolution 664, demanding the release and safe passage of innocent civilians; and

(E) United Nations Resolution 665, authorizing appropriate measures to halt maritime shipping to and from Iraq and Kuwait as necessary to enforce economic sanctions; and

(2) acting in response to the request of threatened nations, deployed United States Armed Forces in Saudi Arabia and elsewhere in the Persian Gulf region, in accordance with the United Nations Charter and in conjunction with military deployments by other United Nations member-states, in order to—

(A) deter and, if necessary, defend against further Iraqi aggression; and

(B) assist in enforcing economic sanctions against Iraq pursuant to United Nations Resolution 665.

(b) PURPOSE.—Congress intends this joint resolution to constitute specific statutory authorization for continued United States military participation in collective security actions in the Persian Gulf region.

SEC. 3. GOALS OF UNITED STATES POLICY.

(a) IMMEDIATE GOALS.—The immediate goals of United States policy in the Persian Gulf region shall be:

(1) unconditional withdrawal of Iraqi forces from Kuwait;

(2) restoration of the sovereignty of Kuwait; and

(3) protection of the lives of American citizens held hostage in Iraq and Kuwait.

(b) LONG-TERM GOALS.—Over the long term, United States policy in the Persian Gulf region shall seek to achieve:

(1) the security and stability of the region; and

(2) by unprecedented and effective use of the mechanisms of collective security action, the promotion of a new world order.

SEC. 4. PRINCIPLES GOVERNING UNITED STATES POLICY.

United States participation in collective security actions relating to the Persian Gulf region shall be governed by the following principles:

(1) COLLECTIVE RESPONSIBILITY.—The United States shall continue to emphasize, and take all necessary steps to secure, adequate sharing, by countries of the region and of the industrialized world, of the responsibilities, including the costs of military deployments and participation in economic sanctions, associated with collective security actions in the Persian Gulf region.

(2) EMPHASIS ON UNITED NATIONS.—The United States shall continue to emphasize and rely upon the procedures and instrumentalities of the United Nations system in order to sustain effective multilateral support for collective security actions in the Persian Gulf region.

(3) ROLE OF REGIONAL AND OTHER FORCES.—The United States, having taken urgent measures to lead a collective security action in the Persian Gulf region, shall seek to promote—

(A) greater participation in ground-force defense by countries of the region; and

(B) adequately-shared responsibilities, among countries with vital interests in the region, for the deployment and support of armed forces needed for regional stability.

(4) COMPLIANCE WITH THE LAW OF NATIONS.—The United States shall seek to achieve substantial compliance by Iraq with the Law of Nations, including:

(A) the United Nations Charter;

(B) the International Covenant on Civil and Political Rights;

(C) the Convention on the Prevention and Punishment of the Crime of Genocide;

(D) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare;

(E) the Treaty on the Non-Proliferation of Nuclear Weapons; and

(F) the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction.

Accordingly, the United States shall seek effective multilateral participation in such restrictions on trade with the current government of Iraq as may be necessary to ensure a cessation of transfers to that regime of military technology and equipment, including all material and technical assistance that could contribute to the development or employment of ballistic missiles and nuclear, biological, and chemical weapons.

SEC. 5. AUTHORIZATION FOR PARTICIPATION IN COLLECTIVE SECURITY ACTIONS.

(a) AUTHORIZATION.—The President is authorized to continue to deploy United States Armed Forces in the Persian Gulf region—

(1) for purposes of United States participation in collective security actions to—

(A) implement United Nations Security Council resolutions intended to restore the sovereignty of Kuwait;

(B) deter and, if necessary, defend against further Iraqi aggression;

(2) to respond as may be necessary, proportionate, and effective to any acts of intended harm to American citizens or nationals.

(b) FURTHER AUTHORIZATION.—

(1) In the event of significant hostilities in the Persian Gulf region which involve or may involve United States Armed Forces, the President shall, in a timely manner, seek a declaration of war or other statutory authorization, including the funds necessary.

(2) In light of evolving developments in and relating to the Persian Gulf, Congress

shall from time to time consider further measures of authorization.

SEC. 6. REPORTS TO CONGRESS.

(a) REPORT ON PRINCIPLES AND GOALS.—Not later than January 31, 1991, and every three months thereafter for so long as United States Armed Forces continue to participate in collective security actions in the Persian Gulf region, the president shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report providing a detailed description of such participation, the circumstances requiring the continuation of such participation, and the results of United States efforts undertaken in accord with the goals and principles set forth in sections 3 and 4.

(b) REPORT ON DEVELOPMENTS IN THE PERSIAN GULF REGION.—In the event of developments in the Persian Gulf region that involve or appear likely to involve the United States Armed Forces in hostilities, the President shall, in accord with the requirements of the War Powers Resolution, report fully and promptly to the Congress on the circumstances and the implications thereof.

SEC. 7. CONGRESSIONAL LEADERSHIP GROUP.

(a) ESTABLISHMENT.—To facilitate congressional deliberation and Executive-Legislative consultation on critical decisions relating to United States participation in collective security actions pursuant to this Resolution, there shall be established in each House of Congress, as an exercise of the rulemaking authority of that House, a Leadership Group which shall be comprised as follows:

(1) in the House of Representatives—

(A) the Speaker, who shall serve as chairman;

(B) the Majority and Minority Leaders;

(C) the chairmen and ranking members of the Committee on Foreign Affairs, the Committee on Armed Services, and the Permanent Select Committee on Intelligence;

(D) such other members as the chairman of the Group may designate; and

(2) in the Senate—

(A) the Majority Leader, who shall serve as chairman;

(B) the President pro tempore and the Minority Leader;

(C) the chairmen and ranking members of the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence; and

(D) such other members as the chairman of the Group may designate.

(b) COMBINED CONGRESSIONAL LEADERSHIP GROUP.—When the chairmen of the two groups deem it appropriate and practical for purposes of congressional deliberation or Executive-Legislative consultation, they shall arrange for the two Groups to assemble as a Combined Congressional Leadership Group, on which the two chairmen shall act as cochairmen.

(c) CONSULTATION REGARDING THE USE OF FORCE.—The President shall, unless urgent circumstances do not permit, consult and seek the advice of the Congressional Leadership Groups or the Combined Congressional Leadership Group designated pursuant to this section, prior to committing United States Armed Forces to hostilities in the Persian Gulf region.

Mr. ADAMS. I yield the floor.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, first, I express my appreciation to the Senator from Washington State for his very thoughtful presentation and for his pointing up very important issues that should be considered in this resolution.

Mr. President, will the chairman of the Senate Foreign Relations Committee yield for some questions?

Mr. PELL. Certainly.

Mr. HATFIELD. I thank the Senator. First, I would like to ask the Senator, has the Foreign Relations Committee considered this resolution?

Mr. PELL. We have discussed it. But it has not been on the agenda.

Mr. HATFIELD. Also, will the Senator indicate whether or not the House resolution that passed, I believe, last night was then considered by the House Foreign Relations Committee?

Mr. PELL. My understanding is that it was.

Mr. HATFIELD. It was?

Mr. PELL. Yes.

Mr. HATFIELD. If the Senator will yield for a further question, has the Senate Foreign Relations Committee considered the War Powers Act as it might apply to the current circumstances in the Mideast?

Mr. PELL. It has not.

Mr. HATFIELD. It has not. Will the Senator indicate perhaps why the Senate Foreign Relations Committee has not considered the War Powers Act or any other resolution relating to this particular situation in the Mideast?

Mr. PELL. Events have moved pretty fast. We have considered the resolutions that came up which we have before us, now, for example, the resolution on the Saudi arm sales. Most of the individuals have been thinking about it. Some of us have even been out in that part of the world looking around. We have not come to a conclusion except along the lines of the resolution that we have put, but we agree with what the President has done to date, but wear raising some questions, waving some flags concerning the future.

Mr. HATFIELD. Does the chairman have any item that he has programmed for the agenda, either in the closing days of this session or early next session, on the War Powers Act or on the Mideast situation?

Mr. PELL. Not on the War Powers Act, per se, but, on the Mideast situation, we have, as I mentioned earlier, coming up the Saudi arm sales amendment. We also have the Iraq sanctions.

As the Senator knows, our committee reported out legislation imposing sanctions on Iraq, and the Senate has four times approved in the last 2 years legislation calling for application of sanctions on Iraq, which very much covered this same subject. I believe if that had passed the Congress and the President had not opposed it, that would have waved a flag of warning on Saddam Hussein which might have avoided the invasion into Kuwait.

Mr. HATFIELD. The chairman recognizes this as the situation we are now discussing on this vehicle. Does the concurrent resolution that embodies the current Middle East situation that we are discussing have any force of law?

Mr. PELL. The force of law, as the Senator well knows, is the expression of the sentiment of the Congress at this time. For many reasons, I would perfer to see a joint resolution which requires, as you know, the signature of the President and does have the force of law.

The problem with that, though, is that then we might want to change the concurrent resolution in the future, if there is some action on the part of the administration which we did not approve, and it would be much more difficult to that if we passed a joint resolution. So that is one of the reasons why it is a concurrent resolution.

Mr. HATFIELD. If the Senator would yield further, I want to emphasize and underscore what the Senator has just said. The current resolution that we are considering is a concurrent resolution.

Mr. PELL. Correct.

Mr. HATFIELD. With no force of law.

I hold here in my hand a copy of the Gulf of Tonkin resolution as it related to the Vietnam war which, as the Senator already indicated, was a joint resolution requiring the signature of the President and therefore it had the full force of law, is that correct?

Mr. PELL. Correct.

Mr. HATFIELD. Does the concurrent resolution put any requirement upon the President or the executive branch of our Government to adhere to the War Powers Act?

Mr. PELL. It does not.

Mr. HATFIELD. It does not.

I thank the Senator. I appreciate the chairman of the Senate Foreign Relations Committee making these responses because, Mr. President, for the record, I want to emphasize the fact that this is September 28, 1990. And on this day, for the first time, the Senate of the United States has a vehicle, a legislative vehicle, known as a concurrent resolution, which merely expresses an opinion, which merely expresses an attitude of the Senate with no force of law. And yet, it provides us with a vehicle to engage in Senatorial discussion, debate, and observation on a crucial and dangerous situation that confronts this country in the Middle East, upon which conditions we have seen fit, through executive order and executive power and executive responsibility, fully and appropriately exercised under the Constitution of the

United States, to dispatch over 100,000 American troops, September 28.

Senator ADAMS, from Washington State, a few moments ago, recited the very brief history of the War Powers Act which followed the longest war in American history, one of the bloodiest wars in American history, which, under the Constitution, never carried with it a declaration of war. At most, it had a joint resolution of support, passed by the Congress with two dissenting votes only in the U.S. Senate on August 10, 1964.

Following the Vietnam war, the Congress pledged itself, no more Vietnams. Never again will Americans be dispatched to conduct military war purely and exclusively under the authority of the Commander in Chief of the armed services—and the President of the United States has that position that he occupies, given to him by the Constitution—without a partnership role of the U.S. Congress, and something more than a blank check that was handed to the President of the United States in the Gulf of Tonkin resolution.

This was a blank check. Why? Because the Congress did not want to assume any definitive responsibilities, responsibilities imposed upon the Congress by the U.S. Constitution. This was a monumental, historical legislative branch dodge. It provided everybody with ample cover. The war at that time seemed to be going reasonably well. Give the President a blank check and we abdicate.

I can remember Members of the Congress later on trying to figure out, how did they ever vote for the Gulf of Tonkin resolution. I am proud to say one of my predecessors from the State of Oregon was one of the two votes against of Tonkin resolution, the late Senator Wayne L. Morse.

But, believe me, all you have to do is go back and read the CONGRESSIONAL RECORD. Every night on television on the news, Senators were crowding in line to be able to say something that would try to disassociate themselves with the Gulf of Tonkin resolution that they had voted for, when things went from bad to worse.

So then the Congress, in its wisdom, said, we will make certain that any future international crisis will not end up making a Presidential war out of it, but we will exercise a partnership role, and we passed the War Powers Act. And what did that War Powers Act say? It said a number of things, but let me just go into one or two points.

It said that if the President of the United States determined there was some emergency to which he should dispatch American troops, he could do so under his constitutional responsibility. Of course, nobody was trying to take away or circumscribe or diminish any power given to the President under our Constitution. But it said within 60 days there had to be some action on the part of the Congress. The President had to, first of all, send a notification, a statement, a letter to the Congress indicating why he sent such troops and the justification for it. Notification, that is all; information. That would trigger the action thereby which the Congress would have to come in and say, "Within this period of time, at the end of this 60 days, you bring those troops home, Mr. President."

Or, the Congress could say, "Mr. President, we authorize that action that you have taken under emergency circumstances," putting the Congress on record in a partnership with the President.

Or the Congress could say, "Mr. President, we extend that time of those troops to be there another 60 days and we will reevaluate, we will reassess the situation with you, in partnership with you, after the end of the extended period of 60 days," as an example.

But it forced the Congress to take that action so that we did not dump on the President with a blank check, which this resolution could well be considered as a further abdication of basic responsibility of the Congress to engage in partnership.

This is not a challenge to the President for which I rise today. This is a challenge to this body, the U.S. Senate, that, as the chairman of the Foreign Relations Committee said, this has no force of law—no force of law. We might as well have typed out our news release and gone down and handed it to the press, for it has no more force of law than a news release that may state our position or our opinion.

Why, why do we avoid our responsibilities that we defined for ourselves and passed, in spite of a President's veto, into law? Our Committee on Foreign Relations has not even considered the War Powers Act. This resolution was not even a product of the Foreign Relations Committee. And now, only a few days before the adjournment sine die of this Congress, we are going to state a public opinion. Then we could go home and say we have approved of the actions under a resolution that has no force of law. In fact, it creates more confusion than it clarifies, in my view.

We can somehow be absolved of any situation that may evolve during the period between this Congress sine die adjustment and the new Congress that does not convene until mid-next January 1991. No congressional role; no check and balance; no review; no assessment; and, let us pray, that we have no war.

It is not the first time the Congress has played the role of The Artful Dodger of its responsibilities. Since 1965, to get just a point of reference, there have been 28 instances of the use of U.S. troops abroad. Only twice in those 28 instances did the Congress take authorizing legislation; only twice. One was when the military personnel were deployed to the multinational force on the Sinai. That was authorized by the Congress in 1982 under Public Law 97-132. And Congress authorized the participation of Marines in a multinational force in Lebanon for 18 months under Public Law 98-119, September 29, 1983.

Of the 28 instances of use, 13 were combat-type situations: Shooting down jets, bombing military facilities, et cetera. Yet we play around with semantics, again, because on the third page of this nonbinding, toothless piece of legislative craftsmanship, it says on line 4:

> The Congress supports continued action by the President in accordance with the decisions of the United Nations Security Council and in accordance with the United States constitutional and statutory processes—

Mr. President, get these words—

> including the authorization and appropriation of funds by the Congress, to deter Iraqi aggression and to protect American lives and vital interests in the region.

What are they authorizing? What are they appropriating? I defy anybody to tell me. What are vital American interests in the region? That would be about a C minus in a English comp course, as far as clarification of writing.

Mr. President, I think it is also very interesting that five times, in five instances, U.S. troops were used abroad in a period of congressional recess. Congress was not in session.

May 1989. American troops were used to bolster the unstable political circumstances in Panama.

December 1, 1989, U.S. fighter planes gave cover to Mrs. Aquino's troops as they successfully fought a coup attempt. There was no Congress authorization given. Congress was out of session at the time.

December 19, 1989, the United States invaded Panama, apprehended General Noriega, and installed a new President who had been elected earlier but had not been allowed to take power. No congressional authorization was given. Congress was out of session at the time.

August 5, 1990, U.S. Marines moved in quickly to rescue Americans being threatened by the Liberian civil war. No congressional authorization was given. Congress was out of session at the time.

August 8, 1990, the President ordered United States troops to Saudi Arabia to defend that country from the threat of invasion by Iraq. This is the largest deployment of the U.S. troops in this time span. No congressional authorization has been given.

The Congresss was out of session when the troops were committed.

That is just a few points of history. There are no conclusions to be drawn from them except to indicate we, the Congress, have found it most convenient and certainly we have almost developed a skill of letting foreign policy move along, independent and with no fingerprints from the Congress, until things may go sour. And, like the Gulf of Tonkin resolution when only two Senators voted against that, and that began to go downhill, how quickly Members of the U.S. Senate tried to dissociate themselves, tried to remove their fingerprints. It was an unpopular war. They did not want anything to do with it—under a joint resolution—in which obviously they had some pretty well defined fingerprints that at least President Johnson could have in the air, to the national labor conventions and to the national businessmens conventions and all of the public appearances that he made, that the Congress supported the Vietnam war.

But, remember again the Congress said never again. Yet 28 times since 1975, when the Congress should at least consider the action being taken by the Chief Executive—what came forward? Not any kind of action of responsibility.

People will say: But the Presidents do not like the War Powers Act. President Nixon vetoed it. We passed it over his veto. Every other President has denounced it because the lawyers that surround the President tell him, "This is an invasion of your rights." I sometimes wish we could get the lawyers at least on a furlough, for just maybe a few days, to see how things might function without that control factor.

I am convinced if the political advisers surrounded the President and said: Mr. President, get the Congress on board early, then they cannot throw rocks at you if it does not work out right—I would think the President of the United States, in conducting this foreign policy—and of course, how can we speculate unless we know, but at least I will identify this as speculation—would feel that it is far better to have the would-be rock throwers inside than outside of a policy.

Nevertheless, the Presidents have not chosen to activate or to trigger the War Powers Act. But, Mr. President, that does not bind the Congress. That does not prohibit the Congress from activating the War Powers Act by some direct force of resolution or vehicle that has force of law. Even if it is votoed by the President.

But we have chosen to ignore it. We are not going to address the War Powers Act. Eight days ago, as I say, I took this floor to raise the War Powers Act. Senator MOYNIHAN has raised the issue. Senator KERREY of Nebraska has raised the issue. Others have raised the issue.

If we choose not to take any action and to continue to dodge our responsibilities, then for God's sake, let us be honest. Let us introduce a resolution or action to repeal the War Powers Act; get it off the statute books. For, as long as it is on the statute books we create hypocrisy. We engage in hypocrisy. We are the embodiment of hypocrisy. Besides bad politics.

I suppose, like many other things that happened in the Senate, maybe we are just as well off talking into a mirror.

But, Mr. President, I know, like many of my colleagues, we have a conscience also that must be talking to us. I would hope that at some point in time, as we are contemplating a concurrent resolution that establishes no responsible role for the Congress, which is a press release for the Senate, that is about all it is; it is a press release—that we go home sine die and face our constituents, if we are candidates or to face our constitutents in our accountability and in our reporting role. I hope that all of us, for many reasons, will just pray and keep our fingers crossed that nothing happens that makes this more serious than what it is, and, believe me, it is so serious today that I think we should have weeks ago taken action that I am calling for again today, something more than this press release because there will again be a big scramble if something happens that triggers action of a military type of, where is the Congress? Where were the representatives of the people? What were they saying?

Oh, I know, many follow the Walter Lippman role by which he said one time in trying to stimulate some action, when everybody is thinking alike, no one is thinking very much. I sort of feel that we have put our thinking process into neutral, as it relates to a thinking process that leads to action in establishing our responsible partnership role with the President in the Persian Gulf.

Mr. President, I have made no comment up to this point on the merits of the case of our presence in the Middle East. I have not raised one word of criticism against President Bush. I think President Bush has been applauded by overwhelming numbers of American people for taking decisive action, and that can be debated whether he sent troops too quickly or whether he took too many troops into the Middle East. That can all be debated on the merits. That is not the issue at this moment in time on this vehicle and on what I am trying to point out. The issue is whether we should take our responsible role.

Mr. President, while there is not great competition here for the floor, I will yield shortly. I see the Senator from Pennsylvania, who I assume is here to take the floor, but I would like to make one additional observation.

I hope that unlike the Vietnam situation where people did not even want to ask questions because they were fearful of having their patriotism attacked, that we are courageous enough to ask questions as to the events and causes that we are there representing today. What is the American interest in the Middle East? What is this high risk that we are taking? What are we defending in the Middle East? What is the real purpose of our presence in the Middle East? Is it to protect and rescue a struggling democracy for the sake of free people? Hardly. Hardly. I dc not think anyone would accuse any of those Middle East States as being democracies or on the road to democracy. They are autocracies—friendly, and certainly not threatening their neighbors, except Iraq's action.

Why are we in the Middle East today? O-i-l; oil. Oil politics, oil dependency. Oil, oil is why we are in the Middle East. President Nixon put the world on a nuclear alert during his administration. Why? To protect our oil supply in the Middle East. Secretary of State Kissinger, under a Republican President, and Secretary of Defense Brown, under Jimmy Carter, a Democratic President, both said publicly under crises of their time in the Middle East, yes, we would consider using tactical nuclear weapons to protect our oil supply.

Let me also remind ourselves that the threshold between tactical nuclear weapons and strategic nuclear weapons begins to fuzz, fuzz that distinction when we have launched our tactical nuclear weapons.

Those are the high risk stakes that are involved, both then and now. Oh, I could go back and recount two. Do my colleagues know what one of the major motivating forces of Pearl Harbor was, what led up to Pearl Harbor? One of the major driving forces of Pearl Harbor was oil. People forget we were a net exporter of oil and that Japan then, as now, could not produce her oil requirements and we were the suppliers of oil for Japan. She had been engaged in a 10-year war with China. She now was in her expansion in Southeast Asia and President Roosevelt said stop the expansion or we will cut off your oil supply.

The military Government of Japan had to look around the globe and the closest oil supply to replace the American oil was Indonesia. We then called it the Dutch East Indies. But there was only one impediment, one obstacle between the Japanese in Japan and that government and that need for oil and the oilfields of Dutch East Indies, and that was American military force in the Philippines. That American ground military force and Air Force

was protected by the naval forces in Pearl Harbor. If they eliminated those military forces in the United States, they had a straight shot to the oilfields of the Dutch East Indies.

That was the high risk that Japan was willing to take pre-World War II of American involvement in order to secure oil.

You can track some of the strategy of Adolf Hitler going west and going south in quest of oil; that military commanders in terms of military science, were not that supportive, but the oil drove these high risks.

I only mention this as relates to the Middle East because we have yet to develop a comprehensive energy program for this country. And when we were then facing the Arab boycott at 37-percent import, today 50-percent import, in other words, our dependency has been increasing and then we had a President of the United States who advocated and recommended the abolition of the Energy Department of the Government, conveying the idea that even the Energy Department was not of significance. And we have yet, under Republican and Democratic administrations, to address the very cause of why we have over 100,000 troops in the Middle East today by not having a comprehensive energy program that would get us off the oil dependency and have tax credits for renewable resources. At the same time, we do not know what our left hand knows what our right hand is doing, for as we face the left hand on the environmental front, our constant policy is not even to explore possibilities of short-term supplies; lock them up, and at the same time failing to move ahead with renewable sources and other kinds of energy.

So I just want to add that as an addendum. For notwithstanding whatever this vehicle may say or not say, we ought to at least start addressing the causes and the reasons that put us into this kind of a military situation in the Middle East, as well as to accept the responsibility we have under statute.

I yield the floor.

Mr. PELL. Mr. President, the administration did submit its own joint resolution a few days ago, but as we looked it over we realized it had been drafted by someone looking at the Gulf of Tonkin resolution. They actually patterned the administration resolution on the original Gulf of Tonkin resolutin which, as we know, was a joint resolution.

The administration draft was not as precise as it might have been. For example, the administration cited U.N. Resolution No. 663 as one of the legal justifications for its deployment in the Persian Gulf. Actually, No. 663 provides for the admission of Liechtenstein into the United Nations.

Our resolution, as we drafted it, was done with great care. Intentionally it is not a joint resolution as originally proposed by the administration. It is very different in form, substance, and words from the Gulf of Tonkin resolution.

I agree there should be specific statutory authorization for our deployment in Saudi Arabia, in the Persian Gulf, and to enforce the United Nations Security Council resolutions. However, there is no consensus on the nature of an authorization at this time. I would hope we could find a consensus. It is very important that we do.

In the interim, though, I think the concurrent resolution that we have drafted has been a useful expression of support for our policy of working through the United Nations.

I would note, too, that our Foreign Relations Committee was intimately involved in the drafting of this concurrent resolution. At the request of the Democratic and Republican leaders, our committees agreed to floor consideration without referral to the committee.

This is a very timely resolution, and I believe the leadership request was a reasonable one.

Mr. HEINZ. Mr. President, while I rise in support of the pending resolution, and will vote for it, I associate myself with the comments of the Senator from Oregon [Mr. HATFIELD] who was one of the original framers of the War Powers Act. I do so because, like a number of my colleagues, I believe that the War Powers Act does apply in this instance; that even if one concluded, based on a different assessment of the facts, that it did not, the spirit of the War Powers Act, given the enormity of our deployments, must surely apply.

Third, it is important for the President to take full advantage of the opportunity presented at this time for thoughtful and informed debate, not inflamed by the passions of the moment either pro or against proceeding under the War Powers Act.

I was 1 of 15 Senators privileged over the Labor Day weekend to visit the Persian Gulf, and in my judgment the conditions in which our sailors, soldiers, marines, and airmen are arrayed meets the test of a combat deployment and meets, most importantly, the condition in the War Powers Act that there be imminent danger.

To be on the deck of the battleship, the U.S.S. *Wisconsin*, and to see posted near the bow of the ship on either side, on the port and starboard side, two sailors, each manning loaded .50-caliber machineguns, eyes intent on the horizon, being warned to be ready to fire on any torpedo boat, any small craft that might be trying to get close enough to launch a torpedo, a rocket, or to blow itself up and attempt thereby to damage this warship, clearly suggests to even the most casual observer that this is not business as usual.

Similarly, to visit, as I was privileged to, our marines at a location about 127 miles away from the Kuwaiti border at an outpost somewhere near Al Jubayl and to see them in the process of laying mines, a variety of mines, antitank mines, antipersonnel mines, and others in a variety of deployments, establishing what are called in the military "kill zones," gives you the sense that this is not a training exercise. This is very much for real. And to know that there were pointed in our general direction a variety of weapons, including ground-to-ground Scud-B missiles, you cannot help but come to the conclusion that the tests of the War Powers Act had been met and therefore it is appropriate for the President to observe it because it is the law, even if one were to disagree with my own personal conclusions, the facts and circumstances, the tests of the War Powers Act being met in effect in and around the Persian Gulf.

As the Senator from Oregon mentioned, this is by far the most rapid and massive deployment of American military power in our Nation's history. That should be and I believe it is enough to suggest that the spirit of the War Powers Act, if not the letter, to those who disagree with the particulars, applies, and that therefore the President should, given the clear mandate of that act, submit to its requirements and ask us to do our duty under it.

I said that the third reason for the President to observe the letter and the spirit of the War Powers Act is to take advantage of what is at this moment—and pray they remain so—a relatively calm period where we can reflect and debate our goals, our objectives, our intentions, those of our adversaries, those of our allies, and their implications, short- and long-term, in the Persian Gulf, and for the world, at a time when there is time to think, to think clearly, to think things through and to avoid, as we did not avoid at the time of the Gulf of Tonkin resolution, the rush to get behind an alarm, an event, the loss of innocents, the attack on our warship, and that this is a moment where we have the luxury of not being influenced by the passions of the moment, whether they are pro or con.

For those reasons, as I say, Mr. President, I wish to associate myself with the remarks of the Senator from Oregon and other Senators who are similarly minded and hope that as we pass this resolution supporting the President, which I do intend to support, the President will take note of the thoughts some of us express and will in no way take the enactment of this resolution supporting his actions

to date as a substitute for compliance with the War Powers Act.

Mr. President, I ask unanimous consent that I might proceed as if in morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. HEINZ pertaining to the introduction of S. 3131 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

CONGRESSIONAL SALARY CUT UNDER A SEQUESTER

Mr. PRESSLER. Mr. President, 2 days ago the Senate passed my amendment by a vote of 96 to 1 to require cuts in the salaries of congressional and certain executive office employees if a budget sequester occurs. However, the underlying bill was laid aside and probably will not be enacted this year.

Last night, the Senate again passed my amendment to the housing bill extenders legislation. Unfortunately, this morning the House of Representatives reversed the Senate's action of last night. The other body has repassed its original housing bill, without my amendment, and sent it back to the Senate. I am extremely disappointed in the failure of the House to face this issue. The Senate had the courage to put itself in the same shoes as those who might be furloughed or lose Government services as a result of the budget sequester.

The House did not have the courage in this instance. In spite of the fact that there are at least three bills in the other body that would accomplish what my Senate-passed amendment would do, the other body's leaders have killed the amendment.

The word is that the leadership over there will use every rule available to stop any effort aimed at reducing the salaries of Members of Congress in the event of a budget sequester that results in furloughs of Government employees.

Mr. President, I do not understand the logic of the other body's action. It is an insult to the taxpayers of this Nation who will lose enormously if a sequester occurs. It is an insult to hardworking civil servants who, together with their families, must receive significant penalties under a sequester. The timing of the other body's objection on the brink of sequestration and budget impasse sends an ominous message to the American voters that Congressmen do not care.

I am glad that the Senate, at least, chose to act twice on this matter. There is no point in the Senate considering the amendment again. We have done so twice. We, in the Senate, have spoken loud and clear.

So, in conclusion, Mr. President, we are facing a budget sequester if an agreement is not reached by October 1. Many elements in our country, our State governments, for example, will be affected by cuts; senior citizens will experience cuts; working-class people will have cuts; and, indeed, many of our civil servants will be furloughed. It will seriously disrupt many industries, such as the airline industry and the meatpacking industry.

It is my strongest feeling that Senators and Congressmen should be under the same rules as anybody else. Many pieces of legislation have passed this body with exemptions for Members of Congress. The National Federation of Independent Business has found that small businesses and their employees live under a different set of rules than does the Congress. I think we all should be under the same rules. That was the purpose of my amendment; that is why the Senate voted 96 to 1.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in the absence of any Senator on the floor seeking recognition on the pending matter, I ask unanimous consent that I may proceed as if in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FILING OF CLOTURE MOTIONS

Mr. SPECTER. Mr. President, I believe it is important for advocates of important legislation to understand that voting against cloture to cut off debate does not necessarily mean opposition to the bill, but rather opposition to limiting amendments or rushing to judgment which may produce bad legislation.

This week the Senate refused to invoke cloture to cut off debate on three important bills related to motor-voter registration, family planning, and motor vehicle fuel standards. An examination of the RECORD demonstrates conclusively that there was insufficient floor time allotted to those bills.

Mr. President, taking up, in the first instance, the motor voter legislation, on that measure a cloture motion, that is a motion to cut off debate, was filed before the measure was even brought to the Senate floor. Look at the history of the motor voter registration bill. It was introduced on May 1, 1989. It was reported out of committee on June 14, 1989, by a 6-to-3 vote. It was not brought to the floor until September 26, 1990, which was last Wednesday, and even before there was any debate, a cloture motion was filed. The motion failed by a vote of 55 to 42.

Mr. President, I had originally cosponsored similar legislation, Senate bill 625, but the bill finally brought to the floor, Senate bill 874, was enormously different. While I believe that voter registration should be broadened to enfranchise as many Americans as possible, I believe that the legislation must be carefully crafted to avoid problems of election fraud.

When I was district attorney of Philadelphia, problems of vote fraud constituted a major factor in virtually eliminating fair and free elections. Before the motor voter bill was brought to the floor, I heard from the distinguished U.S. Attorney for the Eastern District of Pennsylvania, the Honorable Michael Baylson, who had been assistant district attorney in my office and had worked on voter fraud cases. U.S. Attorney Baylson urged me to oppose Senate bill 625 because of the vote fraud potential.

When the matter was brought before the Senate this week without any debate and immediately a motion to cut off debate or motion for cloture was filed, I refused to support that motion because it seemed to this Senator that we needed time to analyze the bill and to work out its potential serious problems.

The question then arises, why was the bill not pursued even after the first cloture vote failed? The Senate was not in session on Wednesday night. We left immediately after votes were taken at 5 and 5:30. Thursday was a day of relative inactivity; our usual late night, we were not in session. Today we almost appear to be looking for work to do.

My point is that there was a serious interest in pursuing the motor voter registration bill and there was ample time to do so even after the first cloture vote failed. And certainly, there remains a serious question as to why this legislation was not brought to the floor from June 14, 1989, until September 26, 1990.

There was also a very important cloture vote on the family planning bill. And again, the history of this legislation is very informative. The bill was introduced on January 25, 1989, which was the first day of the 101st Congress. It was reported out of committee on June 14, 1989, by a voice vote. It was not brought to the floor for action, according to the information presented to me, until September 25.

I cosponsored the family planning legislation and consider it to be very important. I voted in favor of the Chafee amendment which would have added abortion counseling, and I opposed an amendment offered by Senator ARMSTRONG which would have required parental consent.

But because that bill was on the floor for less than 2 days—insufficient time—there were many Senators on my side of the aisle who could not get their amendments heard. Senators NICKLES and HUMPHREY reported difficulty in having amendments heard.

Senator ARMSTRONG was able to get an amendment to the floor only by obtaining the floor with great difficulty and then adding it as a second-degree amendment to another amendment which was pending.

Although I disagreed with Senator ARMSTRONG's amendment, which would have required parental notification, not on the issue of abortion but on the issue of counseling, nonetheless, I felt very strongly that Senator ARMSTRONG and others at least had a right to offer their amendments.

Very frequently, Mr. President, as you know from being an active Senator, cloture motions are opposed routinely by many Senators on their first vote. Why was not the issue pursued after giving all Senators an opportunity to offer amendments and to have debate on the matter?

We were not in session Wednesday evening; we could and should have been. Then we could have taken up the family planning bill, allowed Senators to offer amendments, and to have adequate debate. We could also have taken up the family planing bill yesterday when we were not considering any legislation of significance. We did have a bill in the evening on housing, but it did not even carry a vote.

Mr. President, it is not yet too late to bring back the family planning bill or the motor voter legislation.

There was a third bill on which cloture was not invoked this week, the so-called CAFE Standards Act mandating more miles per gallon for new vehicles. That legislation is extremely complicated, with many very complex issues which require considerable analysis, debate and deliberation. When that bill was brought to the floor on September 14 of this year, I voted in favor of invoking cloture on a motion to proceed because I felt that it was critical legislation which required the attention of the Congress. And when an amendment was filed by Senator DANFORTH regarding incentives for the production of flexible fuel vehicles I supported the environmental groups' position on a very complex matter.

I had not made up my mind about the balance of the bill and wanted time to consider other amendments. Also, I wanted appropriate time to consider other complex factors such as the safety of the smaller cars which would be produced by requiring more miles per gallon. I wanted time to consider the effectiveness of the use of alternative fuels for environmental protection, the impact on the steel and auto industries at a time when there is a struggle for competitiveness in world markets, and the overall feasibility of attaining higher corporate average fuel economy standards. Those are just several of the issues that would have benefited from real analysis.

The Senate has been engaged in many matters of great importance since the so-called CAFE bill first appeared on the Senate calendar in September, including the Souter hearings which has occupied much of the time of this Senator as well as others. When the bill was about to be called up, I received a call from our colleagues, Senator BRYAN from Nevada, asking if I would support cloture on the motion to proceed. I told him that I would because I thought it was important legislation which ought to be considered by the Senate.

Then we began to consider the bill. What I thought was premature, and objectionable, Mr. President, was the filing of a cloture motion on the entire bill. Again Senator BRYAN consulted with this Senator as to whether I would support cloture, and I said I could not because I thought there are too many matters which required more thorough consideration.

Mr. President, I think it is very important for those who are advocates of this kind of important legislation to understand that in the final days, in late September, when the dockets are very heavy, and when the Senate is considering vitally important issues on the budget, that voting against cloture does not state opposition to the bill but does state opposition to curtailing debate, limiting amendments and rushing to judgment on critical legislative matters.

Before yielding the floor, again I note the absence of any Senator on the floor and the absence of any Senate business which would preclude returning to one of those important bills to argue it, to debate it, and to let the Senate work its will.

Noting the absence of any Senator on the floor, I not only suggest the absence of a quorum, I would state emphatically that there is none.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceed to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURDICK). Without objection it is so ordered.

SUPPORTING THE ACTIONS TAKEN BY THE PRESIDENT WITH RESPECT TO IRAQI AGGRESSION AGAINST KUWAIT

The Senate continued with the consideration of the current resolution.

Mr. SANFORD. Mr. President, I am delighted to see that the U.S. Senate is debating now a resolution pertaining to the aggression of Iraq and to our position in the Middle East. I would like to comment on the resolution, and on our situation. I suppose if I had a title for these comments it would be "For the Long Run It Is the United Nations."

I certainly join in the sentiment of the resolution by saying that I, too, approve of the President's action in quickly sending our airborne, Marines, as well as powerful components of the Air Force and the Navy to block any possible continuation of a march by Iraq from Kuwait through Saudi Arabia. That action was precise and efficient and is a tribute to the readiness of our Armed Forces.

Once that immediate mission was accomplished, it became obvious that we would need to take additonal steps; we would need to insist that Kuwait be returned to its preinvasion status and insist that the thousands of foreign nationals in Iraq be permitted to leave the country. Those were goals quickly stated by the President, quickly stated that those were the basic things we would insist upon immediately.

There is another important goal that has not, it seems to me, been explicitly expressed. The problem is future aggression. So we must eliminate Saddam Hussein's capacity to renew his aggression at some other time and place. This means that we must insist that Iraq destroy all weapons and devices and supplies relating to poison gas, to biological and nuclear warfare.

We can try to accomplish these goals by military power and action. A great many people feel that is the quick and proper way. But it is not sound policy to assume that these goals can be reached by air and naval power. Ground war will be required, and that will be a disastrous mistake. This direction will cost countless lives, it will be bloody and expensive, and will create a turmoil in the region that could be difficult to contain.

There is a better way, one we have already begun. We will negotiate from strength, not negotiate today but negotiate from strength. I am not talking about any kind of appeasement. I am talking about putting in place the kind of strength that will bring Saddam Hussein to the negotiating table.

Mr. President, I note with approval the emphasis that this resolution places on the use and the action and, in fact, the commendation that this resolution provided to the U.N. Security Council for such quick and prompt and effective action and a passage now of a number of resolutions laying down what the goals will be and what the devices will be for reaching those goals.

We have said that we will place an embargo, that no oil can be sold, that the fruits of the aggression, the oil from Kuwait, cannot be sold. Neither can any oil from Iraq be sold. So, in effect, we are cutting off all income that they might otherwise expect.

That is a powerful tool. It is one that in time will certainly develop the kind of compelling reasons for Saddam Hussein to negotiate reaching the goals that the United States has established.

So I hope that we can look at this language. If I had been writing it initially, I might have expresssed it with a slightly different emphasis. We approve the action taken by the President in support of these goals, the resolution says. That is truly the way we feel about it. Then it says, including the involvement of the United States and the friendly governments. The Congress supports continued action by the President in accordance with the decisions of the U.N. Security Council.

Mr. President, I would like to suggest, as we look to the future, the emphasis ought to be that we are going to support not just the decisions but the action and the position of the United Nations. I think it is distinctly to our advantage for two reasons: To stand slightly back from center stage and permit the United Nations now, for the first time in its history when it finds itself with the capacity, now that the cold war is behind us, to be an effective peacekeeping organization. I believe we will be much better satisfied 2 months from now and, if it carries on for a length of time, 6 months from now, or a year from now, 2 years from now, if Iraq wants to hold out that long. We will be much better satisfied with our position if we are permitting the United Nations to take the center road. I think it would be to our advantage to permit the spokesmen for the day-to-day activities to speak from the United Nations, not from the White House.

I think it gives us a stronger position to be backing the United Nations, instead of attempting to take the center role in a way that could cause a great many ill feelings in the long run. It is much more difficult for other nations to get upset with the United Nations than it is for them to get upset with the United States. This is especially true in the Middle East.

I think that we could very well, depending on how the United Nations wanted to do it, draw from the five permanent members of the permanent Security Council to serve as the security force, as the spokesmen. I would like to shift the direction from Washington to New York. I do not think we would in any way weaken our position. I think our position would be vastly strengthened, and the longer the time, the greater the strength we gain from relying on the United Nations.

This is not really to suggest that we do anything much differently from how we are doing it, except that we put the emphasis where I think it is to our advantage to put it, and this is a United Nations project. This is something that the United Nations is insisting upon, and the United States is providing the strong backup, including the necessary military backup to enforce the embargo.

I believe if we do this, Mr. President, it will then mean that we have far greater staying power. It will not depend solely on the emotional involvement of the people of this country. We then settle down to something that Hussein understands, that we are going to be there as long at it takes, and we are going to have involved the countries that otherwise would be purchasing oil from that source, involved in participating and backing up the United Nations.

If we are in this for the long run, and we ought to be in it for as long a run as it takes, we will have a much stronger hand if the United Nations is taking the lead with our strong support, instead of our taking the lead with a supporting role for the United Nations. It is a very important distinction. It is very important as time goes on.

I look back at the Iran hostage matter. I thought at that time that for us to take this on a 1-on-1 confrontation with Iran was a great mistake. The United States was an easy target with people in that part of the world. Had we made that a U.N. responsibility, it would have been the United Nations saying that there is a sanctity to the embassies and they cannot be invaded, and this is something that the whole world should be upset about and outraged by and doing something about through the United Nations.

But we did not take that route. So we permitted it to drag on and on, and the longer it dragged on, the less position we had of strength.

I do not want to see that again. I think if we move now, that we have set it in place and let the United Nations take charge—after all, we are a principal member of the United Nations—we will find that we can have the staying power.

I was asked the other day by an officer of the Government, along with other people, how long I thought we could stay in place and how long could we keep this embargo in place. My answer was, if we let the United Nations take charge, we can stay there as long as we need to, a month, a year, 5 years, or 10 years. We can indeed reduce Iraq to an agrarian economy, if necessary, because we keep out military equipment and supplies and keep them from getting the funds they can use to develop a stronger economy.

So I think the best way to do it, safest way, the way that will work, if we are forced to a long engagement, is to let the United Nations now move to the center of the stage. We have set the stage. We certainly have prepared the way. Now is the time to let the United Nations do what it was designated to do.

Mr. President, I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, I ask to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CABLE TELEVISION CONSUMER PROTECTION ACT

Mr. GORTON. Mr. President, earlier today the majority leader was unsuccessful in attempting to persuade the Senate to debate a bill entitled, "the Cable Television Consumer Protection Act of 1990." This Senator was not surprised at his inability to gain unanimous consent to go to so all-encompassing a proposal, but he was nevertheless disappointed.

That legislation has been under study in the Committee on Commerce, Science, and Transportation for an extended period of time and was overwhelmingly recommended by that committee earlier this summer.

Mr. President, there are fundamentally three views expressed toward the questions surrounding cable television: One, represented by a small number of Members of this body, and by the administration, is that nothing is wrong with respect to cable television and the cable television industry, and we simply ought to let it alone.

The second is, generally, it falls under the title of a desire for reregulation. It is based on the proposition that cable television rates have gone up as much as or more than 40 percent, an average of 40 percent, during the course of the last few years, far more rapidly than has the consumer price index, and that consumers across the country are susceptible to continued unreasonable increases in their rates by reason of the monopoly position of most cable television systems.

The third general grouping in this connection is that rather than relying on reregulation of cable television rates, we should do all in our power to encourage competition, alternative forms of technology, which can delivery much of the same programming that cable television does at the present time.

I fall under the latter category, Mr. President. Even so, I have rather strongly supported this bill. Early last year, I joined with the distinguished Senator from Tennessee, Senator GORE, in introducing S. 1068, the Cable Competition Act. As I have already said, my particular interest in this area stems from a longstanding belief that consumers are best served when they have a wide range of choices in the marketplace. Almost 57 percent of American households subscribe to cable television. Yet, in only

a tiny handful of communities is the cable company subject to real competition.

Consumers who are dissatified with either the price of their cable system or the quality of the service which it provides have few, if any, real alternatives under current law. Good public policy should now allow unregulated monopolies to go unchallenged.

It is ironic, Mr. President, that even the present Cable Deregulation Act of 1984 gives lip service to competition and authorizes some form of rate regulation where that competition does not exists, but competition under the 1984 act by law and by regulation is defined as having been met by having a handful of over-the-air television stations available to the viewer. It is not a realistic definition of competition in the present world where the vast majority of the channels which a person on cable can receive cannot be received over the air or by any alternative and readily available technology.

During the course of 1989 and 1990, the Commerce Committee held 10 days of hearing on cable issues. Many of us worked with the distinguished ranking Republican member of the committee, Senator DANFORTH, in his judicious attempt to write the bill which we had hoped would be before the Senate today, a truly consensus cable measure.

It certainly does not include every provision I would have liked to have had included, but it does significantly mobilize our efforts both to protect the consumers and to lay the foundation to encourage new competitors of cable to enter the marketplace.

Many constituents, literally hundreds of constituents who have written or called or spoken to me pesonally during the course of the past few years, would welcome new rate regulation. Some form of regulation is included in this bill. Again, it is regulation which can exist only where there is no effective competition but effective competition is defined much more realistically.

As a consequence, the bill would provide some protection from run away price hikes in the future. While most consumers do not concentrate on the other half of this formula, it is at least equally important to encourage new video programming alternatives. The Commerce Committee's findings suggest that because the cable industry is both horizontally and vertically integrated, it is able to exert undue control and power over potential competitors. To address concerns with horizontal integration. the bill requires the Federal Communications Commission [FCC] to conduct a rulemaking to prescribe reasonable limitations on the number of subscribers a cable operator can reach nationwide and on the number of channels that can be occupied on a cable system by programmers affiliated with a cable operator.

As you know, Mr. President, those programmers are frequently given beneficial channel selection by an affiliated cable provider.

Because of verticle integration, cable operators have both the ability and the incentive to favor their affiliated programming service. In the worst cases, a cable operator simply refuses to carry nonaffiliated programmers. In less extreme and more common cases, the operator simply gives his affiliate a more desirable channel position. The bill addresses these concerns by barring cable operators from discriminating against unaffiliated programmers in terms of carriage, price or conditions. These provisions will help alternative providers, such as satellite or wireless technologies, gain fair access to programming, and it is that fair access to programming which is the key to true competition in this field.

As I have already said, the bill does not contain every provision which I supported during the course of the committee's consideration. The bill does not include, at this point at least, any portion of S. 2800, the proposal of the distinguished junior Senator from Montana [Mr. BURNS] which I cosponsored. S. 2800 would have allowed certain independent telephone companies to even the cable business. The bill included extensive safeguards to guard against fears of cross-subsidies. Nevertheless, that proposal was highly controversial, was divorced from the bill, and then was modified and approved by the Commerce Committee a month or so ago. The modified bill will allow telephone companies simply to act as common carriers and not the originators of programming. At the same time, it would require the Federal Communications Commission to study the present cable telephone cross ownership limitations and report back to Congress on its recommendations within a year.

I regret that we have not been able to debate this bill here today. I also regret that the administration has sent a list of objections to the bill which include at least indirect threat that should it pass and and should it be compromised with the bill which the House of Representatives has already passed then it would be likely to be the subject of a veto. The administration lays out five or six specific objections to the bill but then summarizes by stating that it, the administration: "* * * continues to believe that competition, rather than regulation, creates both the most substantial benefits for consumers and the greatest opportunities for American industry."

That statement on the part of the administration is entirely correct. Unfortunately, the position that it takes encourages the maintenance of monopoly and the absence of competition in cable television.

I believe that it is vitally important that Members of Congress consider carefully consumers' objections and protests about the present system. I am convinced that competition is the greatest and the best cure and thus with truly competitive offerings to people who are now restricted to the use of a single cable entrance in their community almost all of the objections to the present system on the part of consumers would disappear. Competition has been the touchstone to the success of the American economy. Monopoly is something which we abhor and attempt to avoid. When we are faced with the existence and the necessity of a monopoly, however, we do call for governmental rate regulations. This bill is modest and narrow in that respect, and the ability for rate regulation disappears precisely with the advent of true competition.

It is a procompetition bill, Mr. President; it is an important matter for consideration while we wait for a solution to the budget controversy. It is most unfortunate that we have not been permitted to debate it today. I hope that its opponents will reconsider and allow such a debate to take place before the Congress adjourns.

Mr. President, seeing no one seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NOMINATION OF DAVID H. SOUTER

Mr. LEVIN. Mr. President, I rise today relative to the nomination of Judge David Souter. The most significant part of Judge Souter's testimony, to me, was his approach to the law as reflective of life and experience and not just a wooden, logical exercise. His description of his approach to judicial interpretation is significantly different from the rigid ideological agenda which would move us backward in the area of constitutional rights. Some disguise that agenda by claiming that they seek only to divine the original intent of the founders of the Constitution. But Judge Souter's description of his own approach is very different from that.

For instance, Judge Souter said:

When you are speaking of original intent, as I understand it and as I understand what you have just said, you are referring to the original intent in the sense of the specific intent of the drafters to deal with specific problems and, conversely, their provable

intent not to deal with other specific problems by the application of that particular provision of the 14th amendment.

He went on to say:

• • • I do not believe that kind of specific intentionalism is a valid interpretive canon. I believe that is why, as I have said, that is why I have used the terms original meaning and understanding to get away from that sense of specific intentionalism.

In response to Senator KOHL's question, Judge Souter said:

• • • If I am confirmed in this office I want to try the best that I can to exercise that responsibility to give the Constitution a good life in the time that its interpretation will be entrusted to me, to preserve that life and to preserve it for the generations that will be sitting perhaps in this room after you and I are long gone from it.

Judge Souter also spoke with feeling and eloquence about the man whose position he will take, a Justice whose vision has helped spur the growth of rights of American citizens. Judge Souter said the following about Justice Brennan:

Justice Brennan is going to be remembered as one of the most fearlessly principled guardians of the American Constitution that it has ever had and ever will have. No one following Justice Brennan, absolutely no one, could possibly say a word to put himself in the league with Justice Brennan.

I asked Judge Souter the following question for the record:

It's my understanding that you are an admirer of Justice Holmes. Would you give your comments on the aphorism from Holmes' book, "Common Law" "the life of the law has not been logic; it has been experience"?

His response was reassuring about his openmindedness and his view of the law as a growing human institution rather than as a catalog of dry precedent irrelevant to current needs. He said in response to my question:

Holmes's aphorism speaks to a central truth about our law: it is not a closed system of neatly consistent rules, but a set of principles derived from human experience, with claims to legitimacy that may come into conflict with each other. What a theorist might criticize as an objectionable untidiness is in fact the law's reflection of the divergent human needs and aspirations that call it into being.

I also asked him for the record some questions concerning his views of the Constitution's protection of the right to privacy. I had hoped he would be more forthcoming on this issue, both before the Judiciary Committee and in response to my questions.

On the other hand, Judge Souter, while not as forthcoming as I would have liked, seems to be of judicious temperament and open to argument.

Mr. President, we have just survived a decade in which ideological rigidity too often marked nominees who were forwarded to the Senate for confirmation.

Judge Souter's testimony allows us to retain the hope that his quest for a living Constitution that fits a changing society will lead to humane and just decisions that will keep us a nation that searches for a greater degree of justice, a more sensitive protection of privacy, and a higher level of opportunity for our citizens.

I will vote to confirm Judge Souter in the knowledge that none of us, as conscientious as we try to be, can predict the direction in which an intelligent and senstive person will move while sitting on our Highest Court, and with the hope that Judge Souter's qualities of intellect and his good nature will lead him to be a wise and just Associate Member of our Highest Court.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PRYOR). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. CRANSTON. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 999, Calendar No. 1000, and Calendar Nos. 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1012, and 1013.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The nominees, considered and confirmed en bloc are as follows:

SECURITIES AND EXCHANGE COMMISSION

Richard Y. Roberts, of Virginia, to be a member of the Securities and Exchange Commission for the term expiring June 5, 1995.

THE JUDICIARY

Joel F. Dubina, of Alabama, to be U.S. circuit judge for the Eleventh Circuit.

Charles W. Pickering, Sr., of Mississippi, to be U.S. district judge for the Southern District of Mississippi.

William B. Shubb, of California, to be U.S. district judge for the Eastern District of California.

Gary L. Taylor, of California, to be U.S. district judge for the Central District of California.

James Ware, of California, to be U.S. district judge for the Northern District of California.

Jean C. Hamilton, of Missouri, to be U.S. district judge for the Eastern District of Missouri.

David F. Levi, of California, to be U.S. district judge for the Eastern District of California.

Samuel B. Kent, of Texas, to be U.S. district judge for the Southern District of Texas.

DEPARTMENT OF JUSTICE

Linda A. Akers, of Arizona, to be U.S. attorney for the District of Arizona for the term of 4 years.

Kenneth W. Sukhia, of Florida, to be U.S. attorney for the Northern District of Florida for the term of 4 years.

STATEMENT ON THE NOMINATION OF LINDA AKERS

Mr. McCAIN. Mr. President, I am pleased to recommend to you and the Senate Ms. Linda Akers for the position of U.S. attorney for the district of Arizona. Linda Akers has all of the qualities to be an outstanding U.S. attorney. She is experienced with the federal system, serving as assistant U.S. attorney in the Phoenix office. As a top assistant U.S. attorney, she has developed a firsthand understanding of a broad range of difficult issues. Her extensive experience in the areas of drug enforcement, environmental crime, and the issues affecting native Americans are critical elements for an effective U.S. attorney for Arizona. In addition of this, Linda has been active in the development of cooperative law enforcement relations with Mexico which will enhance her ability to forcefully carry out our war on drugs.

Prior to her service as an assistant U.S. attorney, Linda Akers served 5 years as an assistant State attorney general in Arizona. In that capacity, she directed the crime and racketeering division, which involved the organization of Arizona State grand jury investigations and the prosecution of criminal cases involving tax and fraud, and violations of State criminal law involving arson and archaeological resource protection. Through her experience as assistant attorney general, Ms. Akers has a full understanding of the State system, and she will be able to coordinate effectively the State and local law enforcement offices.

In short, Linda Akers is an outstanding person for the job. Her professional record shows her to be an attorney of the highest caliber, and her experience in the State demonstrates a clear understanding of the issues which affect Arizona. I have complete confidence in her abilities to serve as assist-

ant U.S. attorney, and I commend her nomination to my colleagues.

STATEMENT ON THE NOMINATION OF RICHARD YOUNG ROBERTS

Mr. SHELBY. Mr. President, it is a pleasure and an honor to rise today in support of Rick Roberts' nomination to be a member of the Securities and Exchange Commission.

I am very pleased that the President of the United States has demonstrated his confidence in Rick Roberts by nominating him to serve as a member of the Securities and Exchange Commission. This agency is charged with performing one of the most crucial functions of our Federal Government, maintaining free and efficient capital markets. As a Securities and Exchange Commissioner, Rick will be charged with enforcing regulations and laws designed to protect investors and to maintain confidence in the integrity of the market. The Commission's role is vitally important to the capital formation process and subsequently to U.S. competitiveness.

Rick Roberts is well-prepared to contribute to the effective performance of the Commission's responsibilities. As an attorney in private practice in Alabama, Rick gained experience in public finance transactions, acting as counsel for issuers and underwriters. More importantly, however, Rick's experience on Capitol Hill will permit him to add a very important congressional perspective to the Commission.

Rick served as my chief of staff for a total period of 7 years and in these years, I have become well-acquainted with him and his abilities. Rick served as my administrative assistant and legislative director for 4 years while I was in the House of Representatives, overseeing issues under the jurisdiction of the Energy and Commerce Committee, of which I was a member. In this capacity, Rick developed a keen perspective of the dynamics of the Energy and Commerce Committee under its current chairman, the Honorable JOHN DINGELL, as well as a through understanding of the wide spectrum of issues under the committee's purview, including a host of securities and market-related matters.

Rick also served as my administrative assistant and legislative director for more than 3 years of my tenure in the U.S. Senate. In this position, he became familiar with the workings of the Senate and was successful in helping me develop and guide legislation through the committee, floor, and conference processes. In particular, he became very familiar with the diverse range of subjects pertaining to financial institutions and capital markets under the Senate Banking Committee's jurisdiction, including a number of very important securities issues.

Rick's experience as my chief of staff in both the House of Representatives and the U.S. Senate has provided him with a seasoned perspective of the legislative process. I believe that his background will complement the capabilities of the present leadership at the Commission and will be instrumental in assisting the Commission to better accomplish its legislative agenda and ultimately, to provide for the continued improvement in our capital markets.

I have known Rick Roberts for more than 15 years. Over the course of those many years, I have gained great confidence in his intellect and ability. His insight, commitment, and dedication have been extremely helpful to me and to the people of the State of Alabama. Rick Roberts is not one to shirk confrontation with challenge nor place undue emphasis on popular opinion when values or goals he believes correct are in question. It is this determination and persistance that will characterize his efforts to improve the Commission's effectiveness in enforcement and investor protection programs.

Rick Roberts is a man of great integrity whom I hold in the highest personal regard. It is a great pleasure to recommend him to the Senate for its favorable consideration of his nomination.

STATEMENT ON THE NOMINATION OF JUDGE JOEL DUBINA

Mr. HEFLIN. Mr. President, it is with a great deal of pride and satisfaction that I speak today on behalf of U.S. district judge Joel Dubina, who has been nominated by the President for a seat on the 11th Circuit Court of Appeals, to fill the vacancy due to the tragic death of Judge Robert Vance, my long-time, good friend.

Judge Dubina is a graduate of the University of Alabama and the Cumberland School of Law at Samford University. He is married to the former Beth Gordy of Montgomery, and they have three outstanding children, Britton, Martha, and Mitchell. Judge Dubina served as a law clerk to the Honorable Robert Varner, U.S. district judge, and has been a private practitioner, as well as a U.S. magistrate. He has served as a U.S. district judge since 1986, and has earned a reputation as an outstanding judge—evidenced by the American Bar Association rating he received during this current confirmation process of being unanimously well qualified.

That is the American Bar Association's highest rating, and it is, in my judgment, well-deserved. Judge Dubina's nomination was widely supported by a cross section of the community and the bar as well as bench in the central Alabama area. Those who know him best have described Judge Dubina as fair minded, even-handed, a scholar of the law, having integrity beyond reproach, nonideological, and an outstanding young man in the community.

I had the opportunity to Chair Judge Dubina's confirmation hearing and I am proud to support his nomination to the 11th Circuit Court of Appeals. I have no doubt that Judge Dubina will continue to grow as he assumes his new responsibilities, and I am certain our Nation will be well served by him as he fulfills his duties under the U.S. Constitution.

STATEMENT ON THE NOMINATION OF CHARLES PICKERING

Mr. LOTT. Mr. President, it is an honor to ask my colleagues in the Senate to approve Charles Willis Pickering, Sr., to serve as U.S. district judge for the Southern District of Mississippi.

Charles is an outstanding person who I have known for 30 years. We go back to college and law schools days, and I can say with all honesty that there is no other man or woman in the State of Mississippi who is more imminently qualified to serve as a Federal judge.

He is an outstanding individual and a leader in every sense—in his politics, his church, and in the economic development of his community and State.

Charles Pickering graduated first in his class from the University of Mississippi Law School and first in his class at Jones County Junior College. He returned to his home town of Laurel, MS, to serve as county attorney. He served two terms in the Mississippi Senate, was president of the Mississippi Baptist Convention, and led Mississippi Republicans as their State party chairman.

In addition to being a good lawyer, Charles Pickering was a good farmer. He was the first president of the National Catfish Farmers Association and was a leader in catfish farmering before most folks knew what a catfish was or that it would become a multimillion-dollar business.

Charles Pickering has served as chairman of the board of directors of a small computer company and headed up the Jones County Economic Development Authority.

He has a long history of helping his neighbor. I know that he has contributed his advice and counsel to disadvantaged Mississippians, those with disabilities, minorities, women, and others.

I am convinced that the diversity of Charles Pickering—his educational background, his legal practice, his political experience, his legislative experience, his experience as a farmer, as a businessman, active in economic development—is what goes into making a

man or woman the kind of judge we need.

But I would be remiss in not commenting on the heart of Charles Pickering. I know that the Senate, in addition to looking at his academic background, wants to make certain that we have good men and women with the humility as well as the integrity and the intelligence to do this job.

Charles Pickering has a good heart. If I had to use a single word to describe Charles Pickering from my own experience with him, it would be: Peacemaker. In his profession, in his politics, and in his personal life, he is a peacemaker.

My fellow Senators, my fellow Mississippian Charles Pickering will be an outstanding judge. I urge you to confirm him.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:04 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 2372) to provide jurisdiction and procedures for claims for compassionate payments for injuries due to exposure to radiation from nuclear testing.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 486. An act to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes;

H.R. 4793. An act to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes;

H.R. 5641. An act to amend title 5, United States Code, with respect to retirement of members of the Capitol Police; and

H.R. 5725. An act to extend the expiration date of the Defense Production Act of 1950.

At 1:53 p.m., a message from the House of Representatives delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4653) to reauthorize the Export Administration Act of 1979, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Foreign Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Mr. FASCELL, Mr. GEJDENSON, Mr. LEVINE of California, Mr. FEIGHAN, Mr. JOHNSTON of Florida, Mr. ENGEL, Mr. BERMAN, Mr. BROOMFIELD, Mr. GILMAN, Mr. ROTH, and Mr. BEREUTER.

From the Committee on Ways and Means, for consideration of section 120 of the Senate amendment, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. JENKINS, Mr. DOWNEY, Mr. PEASE, Mr. RUSSO, Mr. GUARINI, Mr. ARCHER, Mr. VANDER JAGT, Mr. CRANE, and Mr. FRENZEL.

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 205 through 209 and 302 of the Senate amendment, and modifications committed to conference: Mr. FAUNTROY, Mr. NEAL of North Carolina, Mr. LAFALCE, Mr. KLECZKA, Ms. PELOSI, Mr. FLAKE, Mr. MCDERMOTT, Mr. LEACH, Mr. BEREUTER, Mr. SHUMWAY, and Mr. MCCANDLESS.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3045) to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of exclusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities; it ask a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. KASTENMEIER, Mr. CROCKETT, Mr. BERMAN, Mr. MOORHEAD, and Mr. COBLE as managers of the conference on the part of the House.

The message further announced that the House has passed the following bill, without amendment:

S. 1738. An act to convey certain Oregon and California Railroad Grant Lands in Josephine County, Oregon, to the Rogue Community College District, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5746. An act to extend the Export Administration Act of 1979, and for other purposes.

At 3:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 3657) to amend the Securities Exchance Act of 1934 to provide additional authorities to the Securities and Exchange Commission to prevent disruptions to the Nation's securities markets.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5643. An act to grant a temporary extension on the authority under which the Government may accept the voluntary services of private sector executives; to clarify the status of Federal employees assigned to private sector positions while participating in an executive program; and for other purposes;

H.R. 5731. An act to increase the amount of petroleum products that may be withdrawn from the strategic petroleum reserve under a certain provision of the Energy Policy and Conservation Act; and

H.R. 5747. An act to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5731. An act to increase the amount of petroleum products that may be withdrawn from the strategic petroleum reserve under a certain provision of the Energy Policy and Conservation Act; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 486. An act to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes; and

H.R. 4793. An act to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers reports, and documents which were referred as indicated:

EC-3646. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Army's proposed letter of offer to Saudi Arabia for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-3647. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Army's proposed letter of offer to Saudi Arabia for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-3648. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Army's proposed letter of offer to Saudi Arabia for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-3649. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Army's proposed letter of offer to Saudi Arabia for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-3650. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Army's proposed letter of offer to Saudi Arabia for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-3651. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Army's proposed letter of offer to Saudi Arabia for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources with an amendment in the nature of a substitute and an amendment to the title:

S. 2923. A bill to amend title III of the Energy Policy and Conservation Act to conserve valuable natural resources primarily through energy efficiency, and to clarify the status of materials for energy production under the Public Utilities Regulatory Policy Act and the Federal Power Act (Rept. No. 101-478).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute.

S. 2900. A bill to provide for the settlement of the water rights claims of the Fort McDowell Indian Community in Arizona, and for other purposes (Rept. No. 101-479).

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. 3144. An original bill to authorize supplemental appropriations for fiscal year 1990 for the Department of Defense, to authorize the Secretary of Defense to accept property, services, and supplies for use by the Armed Forces of the United States to provide certain benefits for members of the Armed Forces performing service in connection with Operation Desert Shield, and for other purposes (Rept. No. 101-480).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

H.R. 5124. A bill to expand and improve drug abuse education prevention, and counseling services to provide for positive alternative activities to drug abuse, to provide for certain activities to ensure student safety, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance:

Steven B. Kelmar, of Pennsylvania, to be an Assistant Secretary of Health and Human Services;

Jerome H. Powell, of New York, to be an Assistant Secretary of the Treasury; and

Jeanne S. Archibald, of Virginia, to be General Counsel for the Department of the Treasury.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DIXON (for himself, Mr. SIMON, and Mr. DASCHLE):

S. 3129. A bill to amend the Internal Revenue Code of 1986 to repeal the 30-percent gross income limitation on regulated investment companies; to the Committee on Finance.

By Mr. GORTON:

S. 3130. A bill to amend title 11, United States Code, to clarify certain provisions relating to time periods for time-share plans, and for other purposes; to the Committee on the Judiciary.

By Mr. HEINZ (for himself, Mr. PRYOR, Mr. COHEN, Mr. REIGLE, Mr. BURDICK, Mr. GRAHAM, and Mr. SARBANES):

S. 3131. A bill to amend titles II and XVI of the Social Security Act to improve procedures for the determination of disability for purposes of eligibility under such titles; to the Committee on Finance.

By Mr. DODD (for himself, Mr. COATS, Mr. KENNEDY, and Mr. ADAMS):

S. 3132. A bill to amend the Child Abuse Prevention and Treatment Act to authorize grants to States for the purpose of improving child protective service systems; to the Committee on Labor and Human Resources.

By Mr. DODD (for himself, Mr. KENNEDY, and Mr. ADAMS):

S. 3133. A bill to amend the Higher Education Act of 1965 to provide loan deferments and loan forgiveness for students direct service and supervisory staff in agencies serving high risk children and families from low-income communities; to the Committee on Labor and Human Resources.

By Mr. COATS (for himself and Mr. BIDEN):

S. 3134. A bill to further assist States in their efforts to increase awareness about and prevent family violence and provide immediate shelter and related assistance to battered women and their children; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 3135. A bill to authorize the use of the symbols and emblems of the 1993 Summer World University Games; to the Committee on the Judiciary.

By Mr. BURNS (for himself, Mr. SYMMS, Mr. MCCONNELL, Mr. KASTEN, Mr. NICKLES, Mr. COATS, Mr. HELMS, Mr. WALLOP, and Mr. BOSCHWITZ):

S. 3136. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to limit increases in outlays to 4 percent per year, to provide for midyear sequesters in order to assure that deficit and outlay targets are achieved and to amend the Congressional Budget Act of 1974 to extend the deficit targets; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have thirty days to report or be discharged.

By Mr. LEVIN (for himself and Mr. LIEBERMAN):

S. 3137. A bill to express the sense of the Congress that the President should drawdown the Strategic Petroleum Reserve in an amount necessary to exert significant downward pressure on the price of gasoline and other petroleum products and should seek international cooperation in that effort, and to increase the authority of the Secretary of Energy to conduct tests relative to the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

By Mr. PRESSLER:

S. 3138. A bill to amend the Low-Level Radioactive Waste Policy Act to prescribe that no State may allow low level radioactive waste facility to be constructed within 50 miles of another State's border without the approval of that State's legislature; to the Committee on Energy and Natural Resources.

S. 3139. A bill to allow a host compacting State to construct with another compact for disposal of low-level radioactive waste; to the Committee on Energy and Natural Resources.

S. 3140. A bill to amend the Low Level Radioactive Waste Policy Act to require compact States transporting waste to a compact's disposal facility to use routes within the compact; to the Committee on Energy and Natural Resources.

By Mr. HOLLINGS:

S. 3141. A bill to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOLE (for himself, Mr. BENTSEN, Mr. BURDICK, Mr. DANFORTH, Mr. SHELBY, Mr. HEFLIN, Mr. DASCHLE, Mr. RIEGLE, Mr. BUMPERS, Mrs. KASSEBAUM, Mr. HATFIELD, Mr. PRYOR, Mr. GORE, Mr. BOND, Mr. COCHRAN, Mr. COATS, Mr. SIMON, and Mr. FOWLER):

S. 3142. A bill to provide for recognition of costs of certain nursing and allied health education programs as allowable direct costs reimbursable to a hospital on a reasonable basis for purposes of payment under title XVIII of the Social Security Act, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE:

S. 3143. A bill to provide disaster assistance for agricultural producers and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. NUNN from the Committee on Armed Services:

S. 3144. An original bill to authorize supplemental appropriations for fiscal year 1990 for the Department of Defense, to authorize the Secretary of Defense to accept property, services and supplies for use by the Armed Forces of the United States, to provide certain benefits for members of the Armed Forces performing service in connection with Operation Desert Shield, and for other purposes; placed on the calendar.

By Mr. AKAKA:

S. 3145. A bill to amend the Internal Revenue Code of 1986 to permanently extend qualified mortgage bonds and low-income housing credit, and for other purposes; to the Committee on Finance.

By Mr. THURMOND:

S.J. Res. 372. Joint resolution to recognize and commend the "Bill of Responsibilities" of the Freedoms Foundation at Valley Forge; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRANSTON (for Mr. MITCHELL):

S. Res. 330. Resolution to authorize the Senate Legal Counsel to appear in the name of the Select Committee on Ethics; considered and agreed to.

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. PELL, Mr. NUNN, Mr. WARNER, Mr. BOREN, Mr. MOYNIHAN, and Mr. DECONCINI):

S. Con. Res. 147. Concurrent resolution supporting the actions taken by the President with respect to Iraqi aggression against Kuwait; placed on the calendar.

By Mr. HARKIN:

S. Con. Res. 148. Concurrent resolution in opposition to the President's proposal to forgive the military assistance debt to the United States by the Government of Egypt; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DIXON (for himself, Mr. SIMON, and Mr. DACHLE):

S. 3129. A bill to amend the Internal Revenue Code of 1986 to repeal the 30-percent gross income limitation on regulated investment companies; to the Committee on Finance.

REPEAL OF GROSS INCOME LIMITATION ON REGULATED INVESTMENT COMPANIES

● Mr. DIXON. Mr. President, together with my colleagues, Senators SIMON and DASCHLE, I am today introducing legislation to repeal the "30-percent rule" in section 851(b)(3) of the Internal Revenue Code. This provision, also known as the "short-short rule," restricts the ability of mutual fund managers to utilize conservative risk management strategies that are available to individual investors.

Mutual funds are pass through entities. This means that they distribute their income to their individual investors, and do not pay a corporate tax. The investors are taxed on the income earned by the fund. The short-short rule, however, effectively imposes the corporate income tax on a mutual fund which receives 30 percent or more of its income from gain on the sale of stocks, options and other assets held for less than 3 months. By imposing the corporate tax on a fund, the 30-percent rule creates a double tax burden, and significantly reduces the rates of return which investors receive. Individuals investing directly, instead of through a mutual fund, are not subject to this double tax problem.

When the rule was enacted in 1936, there was no clear statement of its purpose. Perhaps it was intended to prevent mutual fund managers from churning or trading excessively to generate sales commissions. Or perhaps it was designed to prevent mutual fund managers from speculating with their investors' resources.

But whatever the original intention was, the rule no longer reflects the realities of our present day financial markets. In a market as competitive as ours, a fund manager is effectively prevented from churning because commission expenses lessen a fund's profit performance, which in large part determines whether the manager remains employed by the fund. Additionally, the Investment Company Act of 1940 requires the disclosure of proposed investment strategies in a prospectus, which enables the potential investor to choose a fund which meets that investor's desired level of conservative or speculative objectives.

The only real effect of the rule is to restrain a fund manager from using many conservative, but sophisticated, investment strategies solely because those strategies would generate short-term gains. Take, for example, the common practice of hedging investments, which assures that any unrealized gains in one or more stocks held by the fund are not diminished or lost by a market decline. Stock options are purchased, or sold, by fund managers to establish positions which will vary inversely in value with one another. If the stock begins to decline, the value of the options will rise and protect the fund against losses.

Under the 30-percent rule, the problem with this approach is that options, by their very nature, produce short-term gains. A mutual fund, therefore, cannot fully utilize them, regardless of their benefit to the funds' investors, because doing so would run the risk of triggering the short-short rule and result in substantial new costs. So, while conservative hedging strategies are designed to protect mutual funds investors' economic returns, the short-short rule means these strategies would have the opposite effect—significantly reducing investor profits.

Furthermore, because the short-short rule effectively prevents fund managers from utilizing hedging strategies, incentives are created for funds to sell stocks if a market decline is anticipated, even if the long-term outlook for the stock is good.

The problems generated by the 30-percent rule have been encountered all too often in recent years. For example, as was reported in the Wall Street Journal on January 25, 1988, Elaine Garzarelli, a mutual fund manager at Shearson Lehman Brothers, Inc., anticipated the October 1987 crash of the stock market and took action in advance to protect the fund she managed. She invested the fund's assets in cash, in 2-year Treasury bills, and in put options on stocks. The options increased in value when the market fell, thereby generating gains to offset the reduced values of longer-term assets. However, these short-term gains exceeded 30 percent of the fund's gross income for the year. Thus, the fund had to pay a 34-percent tax on all of its income for the year. The end result was a decreased return to its investors, even though the fund's manager took prudent risk-management steps and avoided substantial losses to those average, individual investors.

This is just one example of how the rule impairs effective risk management and harms small investors. There are many others.

There is an exception to the 30-percent rule which seeks to exempt positions which constitute a designated hedge. This provision recognizes the need to allow funds to use risk management strategies. unfortunately, the exception is so limited in its scope and so difficult to administer that it has not been effective.

Financial markets are much more sophisticated than they were 50 years ago. Mutual funds are the means through which the average investor can undertake investment plans which benefit from the quality of advice and management that is otherwise available only to the well-to-do investors. It is time for the 30-percent rule to be repealed.

Mr. President, I ask unanimous consent that a copy of the bill be included at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF 30-PERCENT GROSS INCOME LIMITATION ON REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Subsection (b) of section 851 of the Internal Revenue Code of 1986 (relating to limitations) is amended by inserting "and" at the end of paragraph (2), by striking paragraph (3), and by redesignating paragraph (4) as paragraph (3).

(b) CONFORMING AMENDMENTS.—

(1) The material following paragraph (3) of section 851(b) of the Internal Revenue Code of 1986 (as redesignated by subsection (a)) is amended—

(A) by striking "paragraphs (2) and (3)" and inserting "paragraph (2)" and,

(B) by striking the last sentence thereof.

(2) Subsection (c) of section 851 of such Code is amended by striking "(b)(4)" each place it appears in the text and heading and inserting "(b)(3)".

(3) Subsection (d) of section 851 of such Code is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(4) Paragraph (1) of section 851(e) of such Code is amended by striking "subsection (b)(4)" and inserting "subsection (b)(3)".

(5) Paragraph (4) of section 851(e) of such Code is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(6) Section 851 of such Code is amended by striking subsection (g) and by redesignating subsection (h) as subsection (g).

(7) Subsection (g) of section 851 of such Code (as redesignated by paragraph (6)) is amended by striking paragraph (3).

(8) Section 817(h)(2) of such Code is amended—

(A) by striking "851(b)(4)" in subparagraph (A) and inserting "851(b)(3)", and

(B) by striking "851(b)(4)(A)(i)" in subparagraph (B) and inserting "851(b)(3)(A)(i)".

(9) Section 1092(f)(2) of such Code is amended by striking "Except for purposes of section 851(b)(3), the" and inserting "The".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.●

By Mr. GORTON:

S. 3130. A bill to amend title 11, United States Code, to clarify certain provisions relating to time periods or timeshare plans, and for other purposes; to the Committee on the Judiciary.

TIME PERIODS RELATING TO TIMESHARE PLANS IN BANKRUPTCY PROCEEDINGS

● Mr. GORTON. Mr. President, today I rise to introduce a bill to clarify provisions relating to time periods for timeshares plans under the United States Bankruptcy Code. This bill would include "right to use" interests under the definition of a timeshare plan.

Recently citizens from across the country have contacted me about an egregious national situation, which particularly affects older Americans. These citizens are concerned about their unprotected legal interests in recreational vehicle camping clubs when a camping system either changes hands or declares bankruptcy. These camping clubs often have 20,000 or 30,000 members. In Washington State, for example, members of the American Adventure Camping Club are fighting to hold onto their membership investment in a failing camping system which is facing foreclosure.

Congress' intent, however, was not to leave the interests of these Americans unprotected. When Congress passed the Omnibus Bankruptcy Improvements Act of 1983, 11 United States Code 101(49) was amended to give rights in bankruptcy to "timeshare" interests; it was intended that "right to use" interests, such as those involved in recreational camping systems, would be included. Unfortunately, courts have strictly construed the interpretation of timeshare interests, and in doing so, have not included right to use camping system memberships.

Fortunately, this misinterpretation can be easily, corrected by amending the timeshare code to read that a timeshare is a plan for any period of time, as opposed to a specific period. Right to use members then are protected as timeshare interests under the code—the intent of Congress all along. Such an amended 11 United States Code 101(49) would provide alternative remedies for the campground right to use purchaser if a trustee or debtor in possession rejected their contracts. First, one could elect to receive money damages. Depending upon the particular facts of the case, a holder could fall into as many as three categories of claims: Moneys paid to the debtor prepetition would be 11 United States Code 507(a)(6) priority unsecured claim up to $1,800 per couple—$900 per individual, with any excess beyond $1,800 becoming a general unsecured claim; and moneys paid postpetition would become an administrative expense claim. Second, the holder of a timeshare interest has the right to remain in possession or use the interest subject to the conditions set forth in 11 United States Code 365(h)(2).

Mr. President, at a time when older Americans are losing much of their savings in failing right to use schemes, we must diligently seeks ways to protect them. I ask my colleagues to join me in closing this gaping hole in Federal consumer protection for right to use timeshares.●

By Mr. HEINZ (for himself, Mr. PRYOR, Mr. COHEN, Mr. RIEGLE, Mr. BURDICK, Mr. GRAHAM, and Mr. SARBANES):

S. 3131. A bill to amend titles II and XVI of the Social Security Act to improve procedures for the determination of disability for purposes of eligibility under such titles; to the Committee on Finance.

DISABILITY DETERMINATION FAIRNESS ACT

Mr. HEINZ. Mr. President, I am pleased to introduce today, together with Senators PRYOR, COHEN, RIEGLE, BURDICK, GRAHAM, and SARBANES, a bill to improve the review process for disability benefits under the Social Security and Supplemental Security Income [SSI] programs. The main thrust of our legislation is to shift the weight of evidence from a paper to a people review early on in the process and thus diminish the need for lengthy and potentially demoralizing appeals.

This is not the first time Congress had addressed legislation to assure fair and thorough assessments of disability applicants. In 1983, as Chairman of the Special Committee on Aging, I directed a national investigation of the so-called continuing disability reviews by the Social Security Administration [SSA]. Then, the General Accounting Office [GAO] had documented that hundreds of thousands of disabled workers and their families lost their lifeline of cash and medical support because of capricious and irrational reviews. In 1984, we passed landmark legislation that required SSA to find "significant medical improvement" before discontinuing disability benefits.

It alarms and saddens me, Mr. President, that 6 years later, we see history repeating itself, Yet a November 1989 GAO report prepared at my request shows that problems persist. According to this report, 58 percent of the persons denied disability benefits in 1984 were still unable to work 3 years later. In fact, GAO found that in terms of employment, health and functional capacity, these denied applicants are very similar to those awarded benefits.

It is bad enough that the system makes errors over 50 percent of the time. It is equally egregious that it can take over 2 years for a person to traverse the appeals process seeking a reversal. Mrs. Sleymaker, from Bird-in-Hand, PA, illustrates the frustrations and inequities of a system in chaos. After 3 years of reviews and appeals, Mrs. Sleymaker recently won $16,000 in retroactive benefits. Not only had the administrative law judge [ALJ] who heard her case found her 100 percent disabled, he found her so visibly disabled that he granted her benefits without conducting a full hearing.

Currently, there are three levels of review and appeal in the disability determination process. The first two stages—called initial and reconsideration—are conducted by State disability determination services [DDS]. It takes an average of 78 days to get a decision at this level. The applicant then has 60 days to appeal for reconsideration, and then it takes another 60 days for the DDS to issue a decision.

Most people give up at this point. Two-thirds of applicants never appeal further to an ALJ. Yet this is the first opportunity for a face-to-face evaluation and 60 percent of those who do appeal are granted benefits.

A constituent of mine from Easton, Mrs. Hamilton, offers a distributing insight into the flaws of the current appeals process. She wrote that to make the process work, "One must present oneself as totally useless, losing all dignity and as being a moocher, a malinger whose only intent is to bilk the U.S. Government."

I doubt that Mrs. Hamilton is a malinger, Mr. President, but I do believe

she and millions of other disabled American workers are maligned by a system intended to assist them. According to the November GAO report, many feel an appeal is an expensive exercise in futility. It is a black day indeed when individuals seeking justice are made to feel like dishonest welfare weasels, and give up the cause.

SSA must simply do a better job of developing evidence of disability at the onset, and that is the purpose of our bill. The Disability Determination Fairness Act of 1990 will require SSA to conduct a personal appearance interview for applicants with certain types of disabilities who will potentially be denied at the initial evaluation stage.

These specific categories are mental impairments, cardiovascular, and musculoskeletal—primarily back impairments. If any of these impairments appear in combination with impairments not included in the three categories, the applicant will also be entitled to an interview.

These categories were selected because they are the types of impairments most often reversed at the ALJ level. In addition, studies by GAO and the administrative conference, and preliminary results of SSA's personal appearance demonstration projects [PAD] support the assumption that applicants with these types of impairments would be most helped by face-to-face interviews.

Some parties who have reviewed this bill, have expressed concern that the language would be interpreted to exclude claimants whose impairments do not meet the strict definitions of mental, cardiovascular, or musculoskeletal disabilities in Social Security's listing of impairments. I want to clarify that the definitions in these listings are meant only to be used as guidelines by the State disability determination units, and under no circumstances should an applicant, with any of these three impairments, be denied the opportunity to receive a face-to-face interview, because he or she does not meet the applicable listing(s). Such an interpretation would clearly be contrary to the intent of this legislation.

The bill specifically requires SSA to send a notice to individuals with any of these impairments who are considered to be potentially unfavorable denials. The notice will inform them that they are eligible to receive a personal interview prior to any final determination of eligibility.

If, after the personal interview, the applicant is denied, the first course of appeals would be directly to an ALJ. This would eliminate the reconsideration stage for these particular applicants. Of course, we would expect there to be fewer appeals, since SSA would be doing a more thorough review from the start. This would help off-set the costs of conducting the face-to-face interview.

Mr. President, I would not presume that our bill is a panacea for the illnesses of SSA's disability system. I believe there are other reforms that should be carefully considered, such as more effective use of the applicant's treating physician, and changes in how a person's ability or inability to work is determined. But our bill is another needed step in creating a disability review system that is both equitable and efficient. The efficacy of face-to-face interviews has been studied for over 10 years—it is time that we move off the dime to implementation. The Disability Determination Fairness Act of 1990 is practical and cost-effective, and goes a long way toward making the review process a more just one.

Mr. COHEN. Mr. President, I am pleased to join my colleague, Senator HEINZ, the ranking member of the Special Committee on Aging, in this important initiative, which would introduce face-to-face interviews earlier in the Social Security disability insurance appeals process for individuals with certain kinds of disabilities.

Mr. President, in Health and Wealth, Louis I. Dublin writes that programs which support the elderly—and I would add the needy and disabled—demand "statesmanship and understanding of a high order." Reaching out to the needy American whose disability prevents economic independence requires great sensitivity and caring. This kind of high order sensitivity is not nurtured by complicated forms and harried processing. It is not fostered by computer-generated letters denying benefits. It is not encouraged by an atmosphere clouded by bureaucratic smoke.

Statesmanship and understanding, Mr. President, is a one-on-one, face-to-face business. And it is that one-on-one, face-to-face commitment that my colleague's proposal seeks to make available to the needy and disabled Americans who look to the Social Security Administration for help. Last August, the SSA announced that, due to budget pressures, it might have to postpone administrative law judge hearings until the new fiscal year: another sign that SSA is understaffed and overburdened. Congressional support for the release of contingency funds mitigated this situation, but the deeper problem continues to exist.

Unfortunately, the people who bear the brunt of this continuing problem are those who we want most to protect—the low-income, the blind, and the disabled. The legislation introduced today seeks to offer human contact in a system which has become increasingly impersonal.

Currently 4.2 million people receive Social Security disability insurance [SSDI]. During this year, almost 1.3 million Americans have applied for SSDI, an increase of 8 percent over last year. If the rate of approval remains constant, 37 percent can expect their applications for SSDI to be approved.

The process of appeal from a determination of ineligibility for Social Security disability insurance [SSDI] can be both lengthy and frustrating. The applicant waits an average of 78 days just to find out if he or she is eligible for benefits. Once denied, the applicant must wait, on the average, another 59 days for the reconsideration stage to take place. Mr. President, fewer than half of those who are initially denied asked for reconsideration. And only 15 percent of those who ask for reconsideration find the initial determination is reversed.

But for those who pursue the appeal a second level—and ask for review by an administrative law judge [ALJ]—the contrast is striking. Sixty percent of applicants who come before an ALJ are awarded SSDI, after two determinations that the disability did not meet Social Security criteria for eligibility.

We may well ask ourselves, why this remarkable rate of reversal occurs. My colleagues on the Committee on Aging and I asked that very question last summer when representatives from SSA testified before the committee. The representatives offered a number of possible explanations. During the months between application and a hearing before the ALJ, it was suggested, the applicant's health deteriorates—and he or she is then sufficiently disabled to warrant SSDI.

In addition, the ALJ has broader powers of equity and the knowledge to interpret regulations. Before reaching the ALJ, the initial application and reconsideration use frequently inflexible criteria. A disabled individual whose symptoms do not match a standard formula may well be disabled—and yet denied disability because those symptoms do not fit an approved description.

But finally, Mr. President, those who testified at the hearing agreed that there is one fatal flaw in the application and reconsideration procedures, a flaw not present at the ALJ stage. At both the application and reconsideration stages, the review is simply a review of paperwork. The man or woman asking for help is reduced to medical reports, questionnaires, and government forms. No face-to-face discussion, no thoughtful interview, no human contact takes place in a vast number of these cases. When the applicant for disability comes before the ALJ, it is the first time many have seen the face of the system. Of equal importance, it is the first time the system has seen the man or woman as flesh and blood—and not

simply a set of symptoms on a Government form.

Senator HEINZ' legislation seeks to correct this for the three disabilities which are most susceptible to misunderstanding in this process. For those who apply for disability due to mental, cardiovascular, or skeleto-muscular injuries, the second stage—reconsideration—would be replaced by a face-to-face interview. People who claim benefits on these grounds would be informed of their right to meet with a Social Security disability employee face-to-face—without waiting the weeks and even months for a reconsideration which may be nothing more than a rubber stamp.

There is no doubt in my mind, Mr. President, that we must continue to be alert to the needs of the disabled who are not included in the categories covered by this legislation. However, I view this proposal as a significant step toward bettter serving the needs of the disabled. I am pleased to join Senator HEINZ in this endeavor and I urge my colleagues to join him as well.

COLLOQUY ON DETERMINATION OF INCOME ELIGIBILITY

Mr. RIEGLE. I want to ask my colleague from Pennsylvania a question: Would this legislation require the State disability determination services [DDS] to have any additional responsibilities for determining eligibility based on inocme? It is my understanding that if disability applicants are not eligible for Social Security or supplemental security income [SSI] benefits because of their income and resources, they would not be offered the opportunity for a face-to-face interview.

Mr. HEINZ. That is correct. The existing income and resource eligibility requirements would still be in effect. The local field offices are responsible for screening applicants based on income before claimant files are sent to the State DDS's. This legislation would not put any additional responsibilities on the State DDS units for income determination.

Mr. RIEGLE. I thank the Senator from Pennsylvania for that clarification.

By Mr. DODD (for himself, Mr. COATS, Mr. KENNEDY, and Mr. ADAMS):

S. 3132. A bill to amend the Child Abuse Prevention and Treatment Act to authorize grants to States for the purpose of improving child protective service systems; to the Committee on Labor and Human Resources.

By Mr. DODD (for himself, Mr. KENNEDY, and Mr. ADAMS):

S. 3133. A bill to amend the Higher Education Act of 1965 to provide loan deferments and loan forgiveness for students direct service and supervisory staff in agencies serving high-risk children and families from low-income communities; to the Committee on Labor and Human Resources.

CHILD PROTECTIVE LEGISLATION

● Mr. DODD. Mr. President, I rise today to introduce two bills that address one of the most serious problems our Nation faces—the skyrocketing increase in reports of child abuse and neglect, and the inability of our society to prevent or respond to these tragedies. I am pleased to be joined by Senators COATS, KENNEDY, and ADAMS as cosponsors of the Child Protective Service Systems Improvement Act, and by Senators KENNEDY and ADAMS as cosponsors of the Child and Family Service Staff Enhancement Act.

Yesterday, as chairman of the Subcommittee on Children, Families, Drugs, and Alcoholism, I conducted a hearing on child abuse and neglect. This is an emotional and difficult issue that many Americans pretend does not exist.

The facts are indisputable. The incidence of child abuse and neglect in this country has reached epidemic proportions. Earlier this year the U.S. Advisory Board on Child Abuse and Neglect released a report calling this a "national crisis." Last year alone, there were over 2.4 million reports of child abuse and neglect. And the very system designed to provide children with refuge from abuse—child welfare services—is itself in crisis and complete disarray.

The systems responsible for providing children and families with services—child protective services and foster care—are severely underfunded and have gone beyond their capacity to function effectively. And preventive services, the heart of child welfare policy on paper since 1980, have long been dormant due to the reduced budgets and pressing needs of children in severe, life-threatening situations. The children of this country need and deserve access to services before their lives are put in danger. Child abuse is preventable. Over 50 percent of last year's child abuse and neglect reports—the largest single category—involved needless deprivation of basic and fundamental necessities.

Poverty and substance abuse, like anvil and hammer, have brought these fragile systems to the brink of collapse. The foster care system, once the backbone of child welfare services, is losing foster parents almost as quickly as it receives foster children for placement; 47,000 families have left the foster care system since 1987. The number of children in care increased by almost 30 percent during this same time. The average number of foster children in a single family is three, almost double the number in 1980. At the same time, the foster care system must deal with the tremendous influx of substance exposed infants that need specialized training along with traditional care. As we now know, more than 50 percent of such children require foster care or other out of home placements.

Clearly, the child welfare system has lost sight of its original charge, to limit the need for foster care by strengthening and preserving families at the front end. Fundamental reform is not only desirable, children at risk literally cannot live without it.

Today, I am introducing two pieces of legislation which together take first steps toward reform in the child welfare system. The first measure, the Child Protective Service Systems Improvement Act of 1990, would provide increased funding to strengthen the intake, investigation, and disposition of child abuse and neglect reports.

The second measure, the Child and Family Service Staff Enhancement Act, provides a loan deferment and forgiveness program for direct service and supervisory staff in social service agencies which serve high-risk children and families from low-income communities.

Next year, the subcommittee will reauthorize the Child Abuse Prevention and Treatment Act. These legislative proposals may provide an early focus on this upcoming debate. As we hold hearings and begin to legislate child welfare reform next year, we must focus on the initial charge of the child welfare system—the prevention of child abuse and the preservation of families. Public laws and services must serve to strengthen troubled families, not drive them further apart. Today's families need a continuum of accessible and comprehensive services before they reach points of crisis, before they enter the child welfare system.

At the hearing yesterday, we heard from a distinguished group of witnesses including the Chair of the U.S. Advisory Board, Federal program administrators, as well as families and case workers who see child abuse and neglect on the front lines. Their very compelling testimony underscored the urgent need for a renewed and expanded Federal commitment to improving the lives of abused and neglected children.

Mr. President, I ask unanimous consent that the text of both bills be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Protective Service Systems Improvement Act of 1990".

SECTION 2. GRANT PROGRAM.

(a) IN GENERAL.—Title I of the Child Abuse Prevention and Treatment Act is amended by inserting after section 109 the following new section:

"SEC. 109A. GRANTS TO STATES TO IMPROVE CHILD PROTECTIVE SERVICE SYSTEMS.

"(a) IN GENERAL.—

"(1) GRANTS TO STATES.—The Secretary, acting through the center, shall make grants to the States for the purpose of assisting the States in improving the child protective service system of each State in one or more of the following areas:

"(A) Intake and screeing of reports of abuse and neglect by improving receipt of information, decisionmaking, public awareness, and training of staff.

"(B) Investigation of reports by expediting response time, increased investigations, improved decisionmaking, referral to services, and training of staff; creation and improved use of multidisciplinary teams and interagency protocols to enhance investigations; and improved legal preparation and representation.

"(C) Case management and delivery of services to families by improving response time in service provision, improving training of staff, and increasing the numbers of families to be served.

"(D) General system enhancements by improving assesment tools, automation systems that support the program, information and referral systems, and overall training of staff to meet minimum competencies.

"(2) ALLOTMENT OF FUNDING.—Grants under this section shall be allotted among the States based on the population of children age 18 and under of each State applying for grants under this section.

"(b) ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—In order to qualify for a grant under subsection (a), a State shall submit a plan that specifies the child protective service system area or areas described in subsection (a)(1) that the State intends to address from funds received from the grant. The plan shall describe the State's current system capacity in the relevant area or areas from which to assess progress with grant funds and specify how funds from the State's program will be used to make improvements.

"(2) DATA AND INFORMATION IN PLAN.—In the plan required by this subsection, the following baseline data and information shall be included with respect to each area in which the State intends to use funds from the grant:

"(A) INTAKE AND SCREENING—

"(i) STAFFING.—The number of child protective service workers responsible for intake and screening of reports of abuse and neglect relative to the numbers of reports filed in the previous year.

"(ii) TRAINING.—Types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in report-taking, screening, decisionmaking, and referral to investigation.

"(iii) PUBLIC EDUCATION.—Assessment of the State agency's public education program with respect to—

"(I) what is child abuse and neglect;

"(II) who is obligated to report and who may choose to report; and

"(III) how to report.

"(B) INVESTIGATION OF REPORTS.—

"(i) RESPONSE TIME.—Number of reports of child abuse and neglect filed in the State in the previous year; the agency response time to each with respect to initial investigation; the number of substantiated and unsubstantiated reports; and where appropriate, the response time with respect to the provision of services.

"(ii) STAFFING.—Number of child protective service workers responsible for investigation of child abuse and neglect reports relative to the number of reports investigated in the previous year.

"(iii) MULTIDISCIPLINARY TEAMS.—Description of multidisciplinary investigation teams that exist, including the extent to which they are available statewide, whether protocols or formal policies governing interagency relationships and responsibilities exist, and how such teams are trained.

"(iv) TRAINING.—Types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in such areas as investigation, risk assessment, court preparation, and referral to and provision of services.

"(v) LEGAL REPRESENTATION.—Assessment of the agency's current capacity for legal representation, including how workers are prepared and trained for court preparation and attendance.

"(C) CASE MANAGEMENT AND DELIVERY OF ONGOING FAMILY SERVICES.—For children for whom a report of abuse and neglect has been substantiated and the children remain in their own homes and are not currently at risk of removal the State shall assess the following:

"(i) RESPONSE TIME.—Number of cases opened for services as a result of investigation of child abuse and neglect reports filed in the previous year, including the response time with respect to the provision of services from the time of initial report and investigation.

"(ii) STAFFING.—Number of child protective service workers responsible for providing services to children and their families in their own homes as a result of investigation of reports of child abuse and neglect.

"(iii) TRAINING.—Types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in such areas as risk assessment, court preparation, provision of services, and determination of case disposition, including how such training is evaluated for effectiveness.

"(D) GENERAL SYSTEM ENHANCEMENT.—

"(i) AUTOMATION.—Assessment of capacity of current automated system for tracking reports of child abuse and neglect from intake through disposition and how agency personnel are trained in the use of such system.

"(ii) ASSESSMENT TOOLS.—Description of whether, how, and what risk assessment tools are used for screening reports of abuse and neglect, determining whether child abuse and neglect, determining whether child abuse and neglect has occurred, and assessing the appropriate level of State agency protection and intervention, including the extent to which such tool is used statewide and how workers are trained in its use.

"(iii) INFORMATION AND REFERRAL.—Description and assessment of information and referral systems, including their availability and ability to link families to various child welfare services such as homemakers, intensive family-based services, emergency caretakers, day care and services outside the child welfare system such as housing, nutrition, health care, income support, and emergency resource assistance.

"(iv) STAFF CAPACITY AND COMPETENCE.—Assessment of basic and specialized training needs of all staff and current training provided staff. Assessment of the competencies of staff with respect to minimum knowledge in areas such as child development, cultural and ethnic diversity, functions and relationship of other systems to child protective services and in specific skills such as interviewing, assessment, and decisionmaking relative to the child and family, and the need for training consistent with such minimum competencies.

"(3) DOCUMENTATION REQUIRED FROM STATE RECEIVING GRANT.—As a condition of receiving a grant under this section, a state shall—

"(A) document, with respect to each report of abuse or neglect received by agencies of the State, the nature of the intake report, a description of what action was taken, and, if conducted, a description of the investigation and its disposition;

"(B) if family services are provided by agencies of the State in an individual case, maintain a written plan for each case which identifies—

"(i) the types of services provided by the agency;

"(ii) the role and responsibility of the agency in the delivery of services; and

"(iii) the length of time the agency expects to be involved with the family.

The plan required by subparagraph (B) shall be reviewed by the agency providing services at least once every 6 months to insure the child's continued safety in the home and the appropriateness of the agency's involvement.

"(c) CONTINUED FUNDING.—

"(1) REPORTS FROM STATE.—

"(A) IN GENERAL.—In order for a State to receive an additional grant under this section for more than one year, the State shall submit a report to the Secretary based upon an evaluation of the impact that funds already received under this section have had with respect to improvement in the State's capacity to receive, evaluate, and respond to reports of abuse and neglect or to deliver family-based services in comparison with the previous year.

"(B) COMPARISONS OF DATA.—Comparisons of data required by subparagraph (A) shall be made with the baseline data and information that had been originally collected by the State.

"(2) MAINTAIN FUNDING LEVELS.—In order for a State to continue to receive the funds under this section, the State shall demonstrate that the State and local funding for child protective service systems in the State did not decrease below the level of funding expended in the year previous to which the grant was provided.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out this section $100,000,000 for fiscal year 1991, $150,000,000 for fiscal year 1992, $200,000,000 for fiscal year 1993, and $250,000,000 for fiscal year 1994.".

(b) TABLE OF CONTENTS.—The table of contents for title I of the Child Abuse Prevention and Treatment Act is amended by inserting after the item for section 109 the following:

"109A. Grants to States to improve child protective service systems.".

S. 3133

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child and Family Service Staff Enhancement Act of 1990".

SEC. 2. ELIGIBILITY.

Subparagraph (C) of section 427(a)(2) of the Higher Education Act of 1965 (hereinafter referred to as the "Act") is amended—

(1) by striking "or" at the end of clause (x);

(2) by striking the comma at the end of clause (xi) and inserting a semicolon and "or"; and

(3) by adding at the end thereof the following new clause:

"(xii) not in excess of 3 years during which the borrower is employed full-time by a public or private nonprofit child or family service agency to provide, or supervise the provision of, services to high-risk children who are from low-income communities and the families of such children;".

SEC. 3. LOAN DEFERMENT AUTHORIZED.

(a) SERVICE TO HIGH-RISK CHILDREN AND FAMILIES.—Subparagraph (M) of section 428(b)(1) of this Act is amended—

(1) by striking "and" at the end of clause (x);

(2) by inserting "and" after the semicolon at the end of clause (xi); and

(3) by adding at the end thereof the following new clause:

"(xii) not in excess of 3 years during which the borrower is employed full-time by a public or private nonprofit child or family service agency to provide, or supervise the provision of, services to high-risk children who are from low-income communities and the families of such children;".

SEC. 4. STAFFORD LOAN REPAYMENT AUTHORIZED.

(a) SERVICE TO HIGH-RISK CHILDREN AND FAMILIES.—Section 428 is amended by adding at the end thereof the following new subsection:

"(l) LOAN REPAYMENT.—(1)(A) For the first or second year in which the borrower of any Stafford loan is employed full-time by a public or private nonprofit child or family service agency to provide, or to supervise the provision of, services to high-risk children who are from low-income communities and the families of such children, the Secretary shall assume the obligation to repay 15 percent of the total amount of Stafford loans incurred by the student borrower during such borrower's graduate education or last 2 years of undergraduate education in social work, psychology, child development, or other disciplines related to human services, health, or mental health.

"(B) For the third or fourth year in which the borrower of any Stafford loan is employed full-time by a public or private nonprofit child or family service agency to provide, or supervise the provision of, services to high-risk children who are from low-income communities and the families of such children, the Secretary shall assume the obligation to repay 20 percent of the total amount of Stafford loans incurred by the borrower during the borrower's graduate education or last 2 years of undergraduate education in the disciplines described in subparagrah (A).

"(C) For the fifth year in which the borrower of any Stafford loan is employed full-time by a public or private nonproft child or family service agency to provide, or supervise the provision of, services to high-risk children who are from low-income communities and the families of such children, the Secretary shall assume the obligation to repay 30 percent of the total amount of Stafford loans incurred by the borrower during the borrower's graduate education or last 2 years of undergraduate education in the disciplines described in subparagraph (A).

"(2) The total period for which repayment by the Secretary may be made under this subsection shall not exceed 5 years.

"(3) If a portion of a loan is repaid by the Secretary under this subsection for any year, the proportionate amount of interest on such loan which accrues for such year shall be repaid by the Secretary.

"(4) The Secretary shall pay to each eligible lender or holder for each fiscal year an amount equal to the aggregate amount of Stafford loans which are subject to repayment pursuant to this subsection for such year.

"(5) Each eligible individual desiring repayment under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.".

SEC. 5. PERKINS LOAN DEFERMENT AUTHORIZED.

(a) SERVICE TO HIGH-RISK CHILDREN AND FAMILIES.—Subparagraph (A) of section 464(c)(2) of the Act is amended—

(1) by striking "or" at the end of clause (viii);

(2) by striking the period at the end of clause (ix) and inserting a semicolon and "or"; and

(3) by adding at the end thereof the following new clause:

"(x) is employed full-time by a public or private nonprofit child or family service agency to provide, or supervise the provision of, services to high-risk children who are from low-income communities and the families of such children.".

SEC. 6. LOAN CANCELLATION AUTHORIZED.

(a) SERVICE TO HIGH-RISK CHILDREN AND FAMILIES.—Paragraph (2) of section 465(a) of the Act is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting a semicolon and "or"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) as a full-time employee of a public or private nonprofit child or family service agency who is providing, or supervising the provision of, services to high-risk children who are from low-income communities and the families of such children.".

SEC. 7. DEFINITIONS.

Section 481 of the Act is amended by inserting at the end thereof the following new subsections:

"(f) HIGH-RISK CHILDREN.—For the purposes of this title, the term 'high-risk children' means individuals under the age of 21 who are at risk of abuse or neglect, have been abused or neglected, have serious emotional, mental or behavioral disturbances, reside in placements outside their homes, or are involved in the juvenile justice system.

"(g) LOW-INCOME COMMUNITIES.—For the purpose of this title, the term 'low-income communities' means communities in which there is a high concentration of children eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

SEC. 8 EFFECTIVE DATE.

The amendments made by this Act shall apply only to loans made to cover the costs of instruction for periods of enrollment beginning on or after 30 days after the date of enactment of this Act and to loans originating on or after such date.●

By Mr. COATS (for himself and Mr. BIDEN):

S. 3134. A bill to further assist States in their efforts to increase awareness about and prevent family violence and provide immediate shelter and related assistance to battered women and their children; to the Committee on the Judiciary.

DOMESTIC VIOLENCE PREVENTION ACT

● Mr. COATS. Mr. President, today I am pleased to introduce with Senator JOSEPH BIDEN legislation to assist Federal, State, and local authorities to better deal with the disturbing problem of domestic violence. There are few issues as complex or which cause more mayhem and despair in the homes of Americans. The incidence of reported cases is staggering and even nonexperts recognize that these numbers represent just a small percentage of the actual physical abuse cases which occur in households each year. According to the report by the U.S. Attorney General's Task Force on Family Violence, nearly a third of female homicide victims are killed by their husbands or boyfriends, and almost 20 percent of all murders involve familial relationships. Moreover, a National Crime Survey showed that once a woman has been victimized in a domestic setting, she has approximately a 32 percent chance of being abused again within 6 months of the initial act of violence.

While we cannot tolerate crime in the streets and in our communities, crime by strangers can oftentimes be better understood than domestic violence. It is much more difficult to grasp how it is that family members, whom we naturally trust and love, can be the source of some of the most violent, often repeatedly brutal, behavior in a person's life. Such actions destroy the underpinnings of family bonds and instead produce anguish, guilt, shame, distrust, as well as real endangerment to life and safety.

In the past several months, I have worked to attempt to better understand the problem of family violence generally and spouse abuse specifically. In April, I requested and cochaired a subcommittee hearing on this frightening issue. At that hearing, expert witnesses from various parts of the country described the problem and offered some suggestions on how both government—at the local, State, and Federal levels—and the general population might better approach issues of violence in domestic settings.

In order to obtain a better understanding of the problem from an Indiana perspective, I directed my staff to conduct a survey of State prosecutors and shelter directors to register their reflections and suggestions. Approximately 50 prosecuting attorneys and 30 shelter directors or their staff were surveyed in total. The results of this survey have been published and made

available to as wide an audience as possible.

One common recommendation by these two groups was the need to bring together professionals who deal with the problem at different stages—police officers, prosecuting attorneys, judges, shelter directors, State legislators, parole officers, counselors, battered women, et cetera—so that a dialog could occur between these different representative groups. Thus, this was the genesis for the idea of a forum on spouse abuse which I hosted on May 30, 1990, at the Indiana University Law School in Indianapolis.

Approximately 35 panelists from across the State were asked to address one question each, with a total of between 10 and 12 panelists addressing the same question. Three questions were addressed in each room, those being: First, What is right and wrong with the way the current criminal justice system deals with the problem of spouse abuse? Second, What legislative recommendations would you make to better address the problem of spouse abuse? and third, How do we break the cycle of spouse abuse?

I have attempted to incorporate many of the insights and recommendations offered by these Hoosier experts in the bill I am introducing today, the Domestic Violence Prevention Act of 1990. Many recommendations were suggested by a number of panelists: the need for more consistent reporting practices and policies such as mandatory counseling and arrest, no-drop prosecution policies, mandatory holding periods, the need for earlier education and prevention measures, greater funding for shelter services, etc.

From listening to concerned citizens and officials and reading their many recommendations, I have reached certain preliminary conclusions. First, on the positive side, I am impressed with the activity and commitment which is already present among certain core groups in our communities to stem the prevalence of family violence. Moreover, from what many knowledgeable persons have told me, the awareness and the seriousness on the part of many law enforcement officials is much greater than even a few years ago. Many new State laws have been enacted just in the past 2 years to address domestic violence issues.

Second, the problem is one which is essentially a community and family one. No magic mixture of policies and new ideas from Washington, DC, or the State house is going to suddenly curb the way individuals express their frustration and anger in the form of violence in the household. However, this is not to say that Federal and State Governments can't or shouldn't play an important role in addressing domestic violence issues. It does reaffirm, however, much of what I believe is common sense: violence is behavior that the individual must learn to control; family support is essential, combined with strong support from friends and community; that is shelters, and a willingness by law enforcement officials to address domestic violence as a serious offense. To a large extent, personal will, responsibility, compassion, and resolve, can't be bundled up in a Federal program, but must come from an inner commitment on the part of the individual abuser as well as local involvement and support—to the victim and abuser—from family, friends, and community, that is, law enforcement officials and shelters.

Having shared these thoughts, I am introducing today "The Domestic Violence Prevention Act of 1990," which is primarily intended to assist States in their efforts to increase awareness about and prevent family violence. A further goal is to assist in the provision of immediate shelter and related services to battered women and their children. I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

DOMESTIC VIOLENCE PREVENTION ACT OF 1990—SUMMARY OF LEGISLATION

TITLE I—AMENDMENTS TO FAMILY VIOLENCE PREVENTION AND SERVICES ACT

Expands the purpose of this Act to increase public awareness about and prevention of domestic violence.

Authorizes the Secretary of HHS to make grants for public information campaigns about domestic violence.

Requires States to provide assurances as a condition of receiving Family Violence funds that they will, within one year after receipt of funds, establish a Commission on Domestic Violence to examine a variety of issues including the use of mandatory arrest of accused offenders, the adoption of "no-drop" prosecution policies, the consistency of sentencing practices, and the testifying by victims at postconviction sentencing and release hearings.

Authorizes a minimum grant of $1,000,000 for Family Violence grants to Indian Tribes.

Eliminates the $150,000 cumulative grant limitation for States.

Reduces the match required for grants to entities other than States to 50 percent.

Provides a list of services that should be provided by shelters and safe homes receiving assistance under the Family Violence Act.

Requires that law enforcement training grants go to those with experience in providing training and technical assistance to law enforcement personnel on a national or regional basis.

Establishes one national and five regional Technical Assistance Centers to offer and coordinate resource, policy, and/or training assistance to Federal, State, and local agencies on issues pertaining to Domestic Violence as well as maintain a central resource library. Each center shall specialize in a unique area of domestic violence service, prevention or law.

Increases the overall authorization for Family Violence Prevention grants from $26,000,000 to $50,000,000 for each of the fiscal years 1991, 1992, and 1993.

Requires the Attorney General to complete a study of problems associated with recordkeeping of criminal complaints involving domestic violence. Report is to be completed within 120 days.

Establishes a Model State Leadership Incentive Grant program for domestic violence intervention to improve State leadership in activities that will increase the number of prosecutions for domestic violence crimes, encourage the reporting of incidences of domestic violence, facilitate "mandatory arrests" and "no drop" prosecution policies and encourage States to develop policies requiring prior notification of victims when their assailant is paroled, given early release, or participating in an off campus work release program. Authorizes $25,000,000 for 1991 and then such sums as necessary for fiscal years 1992 and 1993.

Provides that no Family Violence Prevention grant may go to a State which as a matter of law, policy or practice discriminates against victims of domestic violence.

Encourages fair arrest policies by authorizing the Secretary of HHS to make grants for the purpose of implementing proarrest programs and policies in police departments and improving tracking of cases involving spousal abuse, centralizing and coordinating police enforcement, prosecution, and judicial responsibility for spouse abuse cases in one group or unit of police officers, prosecutors, or judges, and educating judges in criminal and other courts about spousal abuse and improving their handling of such cases.

TITLE II—LAW ENFORCEMENT, PROSECUTION GRANTS, AND INTERSTATE ENFORCEMENT (INCORPORATES SECTIONS FROM SENATOR JOE BIDEN'S "VIOLENCE AGAINST WOMEN ACT OF 1990").

Authorizes $20,000,000 for each of the fiscal years 1991 through 1994 for law enforcement and prosecution grants to combat domestic violence. Grants would be used to provide additional personnel, equipment, training, technical assistance, and information systems.

Makes it a Federal crime to travel or cause another to travel across State lines with the intent to injure a spouse or violate a valid protection order.

Provides for victim restitution where injured as a result of the aforementioned illegal acts.

Requires States to give full faith and credit to each others valid protection orders.

Mr. COATS. Mr. President, the April hearing and Indianapolis conference helped me to better understand the disturbing and pervasive problem of family violence; equally important these forums helped bring attention to this issue and provided excellent information for the purposes of drafting the bill I introduce today. I look forward to working with my colleagues as well as representatives from national and local law enforcement and victim assistance organizations to better address the issue of domestic violence. Althouth this legislation deals with a problem that can destroy families, I am heartened by the creative ways that family members and neighbors are reaching out to stem the visible trauma of family abuse and sexual as-

sault. I also want to commend Senator BIDEN for his legislative action in this area and the hearing he held on the issue of violent crimes against women. I believe the Domestic Violence Prevention Act of 1990, along with Senator BIDEN's initiative, will help to curb the incidence and devastation of domestic and other crimes. I urge my colleagues support.●

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 3135. A bill to authorize the use of the symbols and emblems of the 1993 Summer World University Games; to the Committee on the Judiciary.

USE OF WORLD UNIVERSITY GAMES SYMBOLS AND EMBLEMS

● Mr. D'AMATO. Mr. President, the purpose of this legislation is to facilitate the promotion of the summer 1993 World University Games. The International University Sports Federation has designated the United States to host their games which are a major world amateur athletic competition.

The legislation tracks the precedent enacted for the U.S. Olympic Committee in the Amateur Sports Act of 1978. It expedites the granting of trademark protection for symbols and logos of the International University Sports Federation in connection with the World University Games exactly as was done for the symbols and logos of the International Olympic Committee. By granting this trademark protection, the Greater Buffalo Athletic Corp., a nonprofit corporation organizing and sponsoring the games, can proceed expeditiously with its promotion. The legislation describes the trademarks and logos to be protected and allows for their licensing to contributors and suppliers in exactly the same way as the Olympic legislation of 1978.

The principal difference from the 1978 legislation is the provision for a sunset of the trademark protection after 1994. The Olympics protection is permanent.

Enactment of this legislation will enable U.S. amateur athletes to take advantage of this great opportunity to bring renown and prestige to the United States.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF THE WORLD UNIVERSITY GAMES SYMBOLS, EMBLEMS, TRADEMARKS, AND NAMES.

(a) UNAUTHORIZED USE; CIVIL ACTION.—Whoever uses, without the consent of the Greater Buffalo Athletic Corporation (hereinafter in this Act referred to as the "Corporation") for the purpose of trade, to induce the sale of any goods or services, or to promote any theatrical exhibition, athletic performance, or competition—

(1) the symbol of the International University Sports Federation, as described in subsection (d)(1);

(2) the logo of the Corporation, as described in subsection (d)(2);

(3) any trademark, trade name, sign, symbol, logo, or insignia falsely representing association with, or authorization by, the International University Sports Federation or the Corporation; or

(4) the words contained in subsection (d)(3) or any combination or simulation thereof tending to cause confusion, to cause mistake, to deceive, or to falsely suggest a connection with the Corporation or any games activity;

shall be subject to suit in a civil action by the Corporation for the remedies provided in the Act of July 5, 1946 (15 U.S.C. 1051 and following; popularly known as the Trademark Act of 1946).

(b) CONTRIBUTORS AND SUPPLIERS.—The Corporation may authorize contributors and suppliers of goods or services to use the tradename of the Corporation as well as any trade mark, symbol, insignia, logo, or emblem of the International University Sports Federation or of the Corporation in advertising that the contributions, goods, or services were donated, supplied, or furnished to or for the use of, approved, selected, or used by the Corporation.

(c) EXCLUSIVE RIGHT OF CORPORATION.—The Corporation shall have exclusive right to use the name "World University Games", the symbol described in subsection (a)(1), the logo described in subsection (a)(2), and the words described in subsection (a)(3) or any combination thereof.

(d) DESCRIPTIONS.—

(1) SYMBOL.—The symbol of the International University Sports Federation consists of the block letter "U" with 5 stars spaced around the lower portion of the "U", each star being one of the following colors: blue, red, green, yellow, or black, and "FISU" positioned under the stars;

(2) LOGO.—The logo of the Corporation consists of a 5 point star, each point being one of the following colors: blue, red, green, yellow, and black, and "World University Games Buffalo '93" positioned adjacent to the multicolored star; and

(3) NAMES.—The words referred to in subsection (a)(4) are "World University", "World University Games '93", "World University Games Buffalo '93", "Universiade '93", or "Universiade Buffalo '93".

SEC. 2. EFFECTIVE DATES.

This Act shall be effective with respect to uses occurring from the date of its enactment through December 31, 1994.●

By Mr. BURNS (for himself, Mr. SYMMS, Mr. MCCONNELL, Mr. KASTEN, Mr. NICKLES, Mr. COATS, Mr. HELMS, Mr. WALLOP, and Mr. BOSCHWITZ):

S. 3136. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to limit increases in outlays to 4 percent per year, to provide for midyear sequesters in order to assure that deficit and outlay targets are achieved, and to amend the Congressional Budget Act of 1974 to extend the deficit targets; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

FOUR PERCENT SOLUTION BUDGET ACT

● Mr. BURNS. Mr. President, yesterday I introduced a bill along with Senators SYMMS, MCCONNELL, KASTEN, NICKLES, COATS, HELMS, WALLOP, and BOSCHWITZ, the 4 percent solution.

Unfortunately, there was a drafting error in the bill. This bill corrects that error. Its purpose is exactly the same. I ask unanimous consent that this bill be printed in the RECORD and be considered a substitute for S. 3122.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Four Percent Solution Budget Act".

TITLE I—THE FOUR PERCENT SOLUTION

SEC. 101. FOUR PERCENT CAP ON INCREASES IN OUTLAYS.

(a) ESTIMATES AND DETERMINATIONS.—Section 251(a)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(a)(1)(B)) is amended by striking "(zero in the case of fiscal year 1993')" and inserting "(zero in the case of fiscal year 1997) and whether the total outlays for such fiscal year will exceed the outlay target for such fiscal year,".

(b) REPORTS.—Section 251(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(a)(2)(A)) is amended by striking "deficit excess for such fiscal year, stating whether such excess" and inserting "outlay excessess for such fiscal year, identifying the amount of any deficit excess for such fiscal year, stating whether such outlay excess and such deficit excess".

(c) DISSEMINATION OF REDUCTIONS.—Section 251(a)(3)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(a)(3)(A)(i)) is amended—

(1) in subclause (II) by striking "or" at the end thereof;

(2) in subclause (III) by—

(A) striking "1991, 1992, or 1993"; and

(B) striking the period at the end thereof and inserting "; and"; and

(3) by adding at the end thereof the following new subclause:

"(IV) for fiscal years 1991, 1992, 1993, 1994, 1995, 1996, and 1997, the higher of—

"(aa) the deficit excess for the fiscal year, or

"(bb) the outlay excess for the fiscal year.".

(d) BUDGET BASELINE.—Section 251(a)(6)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(a)(6)(A)) is amended by inserting before the semicolon ", except that the projected funding shall not exceed the outlay target for that fiscal year.".

(e) BUDGET RESOLUTION.—Section 301(a)(1) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)(1)) is amended by striking "budget outlays" and inserting "budget outlays (which shall not be in an amount that exceeds the applicable outlay target)".

(f) DEFINITIONS.—Section 257 of the Balanced Budget and Emergency Deficit Con-

trol Act of 1985 (2 U.S.C. 907) is amended by adding at the end thereof the following new paragraphs:

"(15) The term 'outlay excess' means the amount by which the amount of outlays provided for a fiscal year exceeds the outlay target for the fiscal year.

"(16) The term 'outlay target' means—

"(A) for fiscal year 1991, $1,256,000,000,000;

"(B) for fiscal year 1992, $1,306,000,000,000;

"(C) for fiscal year 1993, $1,358,000,000,000;

"(D) for fiscal year 1994, $1,413,000,000,000;

"(E) for fiscal year 1995, $1,469,000,000,000;

"(F) for fiscal year 1996, $1,528,000,000,000;

"(G) for fiscal year 1997, $1,589,000,000,000.".

(g) EXPIRATION DATE.—Section 275(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking "1993" and inserting "1997".

SEC. 102. EXCLUSION OF RECEIPTS AND DISBURSEMENTS OF THE RESOLUTION TRUST CORPORATION WHEN CALCULATING DEFICIT AMOUNTS.

With respect to fiscal years beginning after September 30, 1990, the receipts and disbursements of the Resolution Trust Corporation shall not be included in the budget deficit or any other totals of the budget of the United States Government as submitted by the President or of the congressional budget and shall be exempt from any general budget limitation imposed by statute on expenditures and net lending (budget outlays) of the United States Government.

SEC. 103. ADJUSTMENT OF DEFICIT TARGETS.

Section 3(7) of the Congressional Budget Act of 1974 (2 U.S.C. 622(7)) is amended by striking subparagraphs (A) through (H) and inserting the following:

"(A) with respect to fiscal year 1986, $171,900,000,000;

"(B) with respect to fiscal year 1987, $144,000,000,000;

"(C) with respect to fiscal year 1988, $144,000,000,000;

"(D) with respect to fiscal year 1989, $136,000,000,000;

"(E) with respect to fiscal year 1990, $100,000,000,000;

"(F) with respect to fiscal year 1991, $134,000,000,000;

"(G) with respect to fiscal year 1992, $112,000,000,000;

"(H) with respect to fiscal year 1993, $80,000,000,000;

"(I) with respect to fiscal year 1994, $50,000,000,000;

"(J) with respect to fiscal year 1995, $28,000,000,000;

"(K) with respect to fiscal year 1996, $8,000,000,000;

"(L) with respect to fiscal year 1997, zero.".

SEC. 104. MIDYEAR SEQUESTER.

(a) Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) is amended by adding at the end thereof the following new subsection:

"(h) MIDYEAR SEQUESTER.—

"(1) IN GENERAL.—In accordance with the provisions of this part with respect to the issuance of the final sequestration order on October 15 and this section, the President shall issue a sequestration order making all reductions and sequestrations necessary to meet deficit targets and outlay targets as specified in this section on March 15 (which shall take effect April 15).

"(2) REPORTS.—

"(A) REPORT BY CBO.—In accordance with the requirements, specifications, definitions, and calculations required by this part, the Director of CBO shall issue a report to the Director of OMB and to the Congress 10 days before the date of the order required by paragraph (1) identifying the amount of any deficit excess for the current fiscal year, stating whether such excess if greater than $10,000,000,000, identifying the amount of any outlay excess for the current fiscal year, estimating the aggregate amount of required outlay reductions, and specifying, by account for nondefense programs and by account for defense programs the budget baseline from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year in order to make the reductions required by this part.

"(B) REPORT BY OMB.—The Director of OMB shall issue a report to the President and the Congress 5 days before the date of the order required by paragraph (1) containing the same information required in subparagraph (A) and the information described in section 251(a)(2)(B) subject to the limitations provided in this part.

"(3) ECONOMIC AND TECHNICAL ASSUMPTIONS.—The economic and technical assumptions used by the Director of CBO and the Director of OMB to calculate the unachieved deficit reduction under section 251 shall also be used under this section.".

TITLE II—PREPARATION OF THE BUDGET

SEC. 201. THE PRESIDENT'S BUDGET.

Section 1105(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) except as provided in subsection (b) of this section—

"(A) estimated expenditures and proposed appropriations for each function and subfunction in the current fiscal year;

"(B) estimated expenditures and proposed appropriations the President decides are necessary to support the Government for each function and subfunction in the fiscal year for which the budget is submitted; and

"(C) a comparison of levels of estimated expenditures and proposed appropriations for each function and subfunction in the current fiscal year and the fiscal year for which the budget is submitted, along with the proposed increase or decrease of spending in percentage terms for each function and subfunction;".

SEC. 202. CONGRESSIONAL BUDGET.

Section 301(e) of the Congressional Budget Act of 1974 (2 U.S.C. 632(e)) is amended by—

(1) inserting after the second sentence for the following: "The starting point for any deliberations in the Committee on the Budget of each House on the concurrent resolution on the budget for the next fiscal year shall be the estimated level of outlays for the current year shall be the estimated level of outlays for the current year in each function and subfunction. Any increases or decreases in the congressional budget for the next fiscal year shall be from those estimated levels.";

(2) striking paragraphs (2) and (3) and inserting the following:

"(2) a comparison of levels for the current fiscal year with proposed spending for the subsequent fiscal years along with the proposed increase or decrease of spending in percentage terms for each function and subfunction;

"(3) information, data, and comparisons indicating the manner in which and the basic on which the committee determined each of the matters set forth in the concurrent resolution, including information on outlays for the current fiscal year and the decisions reached to set funding for the subsequent fiscal years;";

(3) striking paragraph (8);

(4) redesignating paragraph (9) as paragraph (8) and adding "and" at the end thereof; and

(5) redesignating paragraph (10) as paragraph (9).

SEC. 203. CONGRESSIONAL BUDGET OFFICE REPORT TO COMMITTEES.

The first sentence of section 202(f)(1) of the Congressional Budget Act of 1974 (2 U.S.C. 602(f)(1)) is amended to read as follows: "On or before February 15 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report, for the fiscal year commencing on October 1 of that year, with respect to fiscal policy, including—

"(A) estimated budget outlays in all functions and subfunctions for appropriated accounts for the current fiscal year and estimated budget outlays under current law for all entitlement programs for the next fiscal year;

"(B) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits); and

"(C) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in those levels based on proposals in the Budget submitted by the President for that fiscal year.".

TITLE III—PAY-AS-YOU-GO BUDGET

SEC. 301. POINT OF ORDER.

The Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.) is amended by inserting after section 310 the following new section:

"POINT OF ORDER RELATING TO BUDGET OUTLAYS

"SEC. 310A. (a) POINT OF ORDER.—

"(1) TOTAL OUTLAYS.—Notwithstanding any other law, it shall not be in order in the Senate or the House of Representatives to consider a concurrent resolution on the budget for a fiscal year beginning after September 30, 1991, or an amendment thereto or conference report thereon, if—

"(A) the adoption of the concurrent resolution as reported;

"(B) the adoption of the amendment; or

"(C) the adoption of the concurrent resolution in the form recommended in the conference report,

would cause—

"(i) the appropriate level of total budget outlays (excluding outlays of the Resolution Trust Corporation) set forth in the concurrent resolution for that fiscal year to exceed the outlay target for that fiscal year;

"(ii) the recommended level of Federal revenues set forth in the concurrent resolution for that fiscal year (excluding revenues of the Resolution Trust Corporation) to be less than the recommended level of Federal revenues for the preceding fiscal year set forth in the most recently agreed to concurrent resolution on the budget for the preceding fiscal year (excluding revenues of the Resolution Trust Corporation).

"(2) OUTLAYS IN A FUNCTIONAL CATEGORY.—A concurrent resolution on the budget for a fiscal year shall not—

"(A) include provision for an outlay excess in a functional category unless the concurrent resolution—

"(i) provides for a decrease in budget outlays in another functional category for that fiscal year that is not less than the amount of such excess outlay; and

"(ii) identifies the source of the decreased amount of outlays and proposes changes in law to achieve the decrease; or

"(B) provide for a reduction in the recommended level of Federal revenues for that fiscal year below the recommended level of Federal revenues set forth in the most recently agreed to concurrent resolution on the budget for the preceding fiscal year unless the concurrent resolution—

"(i) provides for a reduction in budget outlays for the fiscal year below the appropriate level of total budget outlays set forth in the most recently agreed to concurrent resolution on the budget for the preceding fiscal year in an amount not less than the amount of the reduction in revenues for that fiscal year; and

"(ii) identifies the program or activity in which the reduction in budget outlays is to be made and proposes changes in law to accomplish the reduction.

"(3) ADDITIONAL REVENUES.—Any additional amount of revenues provided for in a concurrent resolution on the budget pursuant to paragraph (2)(A)(i) shall include provision for only such additional revenues as will result from proposed changes in law. Any reduction in budget outlays contained in a concurrent resolution on the budget pursuant to paragraph (2)(B)(i) shall include provision for only such reductions in budget outlays as will result from proposed changes in law.

"(b) WAIVER.—Subsection (a) may be waived by a three-fifths vote of the Members of each House of Congress, duly chosen and sworn.

"(c) PURPOSE OF EXCESS REVENUES.—Notwithstanding any other law, it shall not be in order in the Senate or the House of Representatives to consider a concurrent resolution on the budget for a fiscal year that sets forth a recommended level of revenues for the fiscal year that exceeds the appropriate level of total budget outlays for that fiscal year unless the concurrent resolution specifies the purposes for which the excess revenues are to be allocated.

"(d) DEFINITION.—For the purposes of this section—

"(1) the term 'outlay excess' has the meaning stated in section 257(15) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(2) the term 'outlay target' has the meaning stated in section 257(16) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(3) the term 'outlays of the Resolution Trust Corporation' means disbursements of the Resolution Trust Corporation; and

"(4) the term 'revenues of the Resolution Trust Corporation' means receipts of the Resolution Trust Corporation.".

SEC. 302. THE PRESIDENT'S BUDGET.

Section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g)(1) Notwithstanding any other law, the budget transmitted pursuant to subsection (a) for the following fiscal year shall not contain—

"(A) an estimate of total budget outlays (excluding outlays of the Resolution Trust Corporation) for that fiscal year that exceeds the outlay target for that fiscal year; or

"(B) an estimate of total revenues for that fiscal year (excluding revenues of the Resolution Trust Corporation) that is less than the recommended level of revenues for the preceding fiscal year set forth in the most recently agreed to concurrent resolution on the budget (excluding revenues of the Resolution Trust Corporation).

"(2) The budget transmitted pursuant to subsection (a) for the following fiscal year shall not—

"(A) contain an estimate of budget outlays in a functional category for the following fiscal year that includes an outlay excess unless the budget—

"(i) contains an estimate of a decrease in budget outlays in another functional category for that fiscal year that is not less than the amount of such outlay excess; and

"(ii) identifies the source of the decreased amount of outlays and proposes changes in law to achieve the decrease; or

"(B) contain an estimate of a reduction in revenues for that fiscal year below the recommended level of Federal revenues for the preceding fiscal year set forth in the most recently agreed to concurrent resolution on the budget for the preceding fiscal year unless the budget—

"(i) contains an estimate of a reduction in budget outlays for the fiscal year below the appropriate level of total budget outlays for the preceding fiscal year set forth in the most recently agreed to concurrent resolution on the budget for the preceding fiscal year in an amount not less than the amount of the reduction in revenues for that fiscal year; and

"(ii) identifies the program or activity for which the estimated reduction in budget outlays is proposed and proposes changes in law to achieve the estimated reduction.

"(3) For the purposes of this subsection—

"(A) the term 'outlay excess' has the meaning stated in section 257(15) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(B) the term 'outlay traget' has the meaning stated in section 257(16) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(C) the term 'outlays of the Resolution Trust Corporation' means disbursements of the Resolution Trust Corporation; and

"(D) the term 'revenues of the Resolution Trust Corporation' means receipts of the Resolution Trust Corporation.".●

By Mr. LEVIN (for himself and Mr. LIEBERMAN):

S. 3137. A bill to express the sense of the Congress that the President should draw down the strategic petroleum reserve in an amount necessary to exert significant downward pressure on the price of gasoline and other petroleum products and should seek international cooperation in that effort, and to increase the authority of the Secretary of Energy to conduct tests relative to the strategic petroleum reserve; to the Committee on Energy and Natural Resources.

USE OF THE STRATEGIC PETROLEUM RESERVE

Mr. LEVIN. Mr. President, escalating oil prices are having a severely damaging effect on the United States. This economic chaos is being brought upon us by wild speculation in the market. The price of crude oil is hovering near the $40 per barrel mark. The price of No. 2 heating oil has nearly doubled since the invasion.

These huge price increases have brought the general inflation rate up to 5 percent and the inflation rate for energy up to 10 percent. Consumers and markets are fearful of worse things to come, especially as we head into a winter which the National Weather Service has projected will be colder than usual.

The administration assures us that there is sufficient supply to meet the demand of an energy conserving American republic. But the market economy price reflects supply or projected supply. That is what the market is all about. The market is speaking, and it is telling us that supply is going to go down and we should listen.

We must act to calm markets and to provide consumers with some relief. We must act to prevent lasting economic damage by releasing stocks from the strategic petroleum reserve. The President will be able to do that. Until now, many sources within the administration have suggested that the President lacked the authority to draw down the strategic petroleum reserve unless there was a severe supply shortage.

That is no longer the case. The President himself signed into law about 2 weeks ago legislation initiated by the Congress to provide the President with greater flexibility in defining a domestic energy shortage.

With this resolution and with this bill that will be introduced in a few minutes, we call upon the President to exercise that new flexibility and to draw down the strategic petroleum reserve.

We also believe that the International Energy Agency member countries, particularly countries like Japan and Germany which benefit greatly from the American-led multinational force protecting from further Iraqi aggression, should draw down on their emergency reserves in a coordinated fashion immediately. Those countries must share this part of the burden of defending the world's oil supply. Senator LIEBERMAN and I wired the International Energy Administration late last night to that effect.

Mr. President, the President announced a few days ago that he was going to make a small test, that he was going to drawn down 5 million barrels and test the effect. That small drawdown as part of a small test has had no effect at all on world prices. Indeed, it may have had the opposite effect.

The administration has not taken decisive action. The bill which I am introducing today with Senator LIEBERMAN will encourage that decisive action by expressing the Senate's view that

the President should use the broader drawdown authority which we have provided him under current law. That is No. 1, Mr. President. Use your broader authority to drawdown on that reserve.

But there is a second point to the bill which we will be introducing, which is, if the President decides to use the test drawdown approach, then the 15-million-barrel authority, which the Secretary of Energy says he needs for that test approach, would be alternatively provided.

So there is a two-track approach that we are providing in the bill which we will be filing later this afternoon. Track one expresses the determination of the Congress that the President should use existing authority relative to supply shortages and future supply shortages and draw down on the strategic petroleum reserve. Second, this bill will authorize the Secretary of Energy to use 15 million barrels for the test which the President has indicated he wishes to make.

The steeply rising price of oil on the world market has the potential to cripple our economy. We all know that. We in Michigan perhaps know that better than most. Certainly, the White House knows that. With this legislation, we are telling the President that he should act to lower the price of gasoline, to lower the price of heating oil, and to lower the threat of a crippling recession across this Nation. The time has come to use the strategic petroleum reserve as a shield to ward off deep recession and to end the price gouging which has afflicted this country.

Mr. President, I am proud that Senator LIEBERMAN, who has been so active in urging the President to use the strategic petroleum reserve, is cosponsoring this bill. I know he is on the floor, and I congratulate him for the initiative he has taken in this area. I am delighted he is cosponsoring this bill with me.

I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. LIEBERMAN].

Mr. LIEBERMAN. I thank my colleague for his kind words and express to him my pride in joining with him in this ongoing effort to get this administration to use the most handy weapon we have to fight back against the oil gougers and profiteers and speculators who are wreaking havoc on our economy and punishing every consumer and every business in America by these extraordinary and unjustified increases in the price of fuel.

Mr. President, the strategic petroleum reserve is a savings account, if you will. Through the foresight of Members of this body, it was created more than a decade ago. It is where we go when we need a little extra help. We have spent $15 billion worth of taxpayer money to put 600 million barrels of oil in the ground in salt caverns off the gulf coast, saving it all for a rainy day, and this is a rainy day. In fact, I think there would have been a lot of justification for the administration to have gone into this reserve on the day or the day after Iraq invaded Kuwait, because of the obvious impact that action and military action would have on our economy and on the price of fuel in our economy.

The President announced the test the other day, reaching in and using the authority he has under the law for test use of the strategic petroleum reserve, to go up to 5 million barrels a day. It is pretty clear that this legislation we are introducing is necessary to make this test a good test, to make it a fair test. According to the Department of Energy, it will be necessary to draw oil at a rate of 400,000 to 500,000 barrels a day from the reserve to give a good test. And that means going well beyond the 5 million limit that is there now, because 15 million will give us a good solid month of testing.

I think we have to make one point clear, and this is to emphasize the point Senator LEVIN made: If the situation in the gulf or in the oil markets continues to deteriorate, the President must be prepared to declare that an emergency situation exists, as he is authorized to do under law, and to begin a much larger drawdown of the strategic petroleum reserve, because speculation about future shortages is driving the oil futures market sky high. We have to put a stop to that.

Mr. President, I hope we will act quickly to give the President this additional flexibility he needs to tap the reserve and to start to get a handle on the volatility in the oil markets.

I think the President and his administration and the Department of Energy should consider a couple of other factors. First, they should pay attention to the petroleum products that face the most serious supply and price problems, and use the reserve as flexibly as they can to target those problem areas.

For example, the fact is we have more potential problems in the availability of light crude than heavy crude therefore, the Department of Energy should consider drawing from the reserve the crude products that we need most. The Department should also consider using the reserve for swapping with commercial interests light for heavy crude in order to get light crude into the market more quickly.

Second, Mr. President, those of us who represent States that rely on heating oil and propane for winter heating are deeply concerned by the unjustified runup in the price of those products as we approach the winter season.

I urge the Department of Energy to address those concerns as it develops its strategy for tapping into the reserve.

Third, we must act in coordination with the members of the International Energy Agency, who are meeting in Paris today to develop a common strategy. Oil is a global product. I do not want oil to go out of our reserve here in the United States only to benefit Europe if we need it to heat homes here in Connecticut. We should encourage the IEA to plan for simultaneous drawdowns of reserves in Germany, Japan, and the United States. Otherwise, the speculators are going to drive all our economies down the drain.

In the meantime, Mr. President, I think we have to look long and hard at the system that exists in which oil prices can skyrocket so quickly on the basis of no more than speculation, rumors, and uncertainty. That is what happened this week. Wild rumors running across the floor of the Mercantile Exchange: Terrorist attack here, attempted assassination there. It is wreaking havoc with our economy. And that cannot be, particularly with the supplies of oil continuing to be so high around the world. Flights of fancy in the minds of speculators in the oil market should not lead to the reality of outrageously higher oil prices for all of us here in America.

I thank the Chair, and I yield the floor.

By Mr. PRESSLER:

S. 3138. A bill to amend the Low-Level Radioactive Waste Policy Act to prescribe that no State may allow a low-level radioactive waste facility to be constructed within 50 miles of another State's border without the approval of that State's legislature; to the Committee on Energy and Natural Resources.

S. 3139. A bill to allow a host compacting State to contract with another compact for disposal of low-level radioactive waste; to the Committee on Energy and Natural Resources.

S. 3140. A bill to amend the Low-Level Radioactive Waste Policy Act to require compact States transporting waste to a compact's disposal facility to use routes within that compact; to the Committee on Energy and Natural Resources.

LOW-LEVEL RADIOACTIVE WASTE POLICY IMPROVEMENTS ACT

Mr. PRESSLER. Mr. President, I rise today to introduce three bills addressing the disposal of low-level radioactive waste.

In 1980 and again in 1985, Congress passed major legislation laying out a plan for States to dispose of their low-level radioactive waste. These bills encouraged the formation of multistate compacts for the purpose of disposing

of low-level radioactive waste generated within each compact's borders. These compacts are congressionally approved and therefore can exclude waste from other States not part of the compact without violating the interstate commerce clause of the Constitution.

I ask unanimous consent that a listing of the current compacts be printed in the RECORD following my remarks.

In South Dakota we are facing a unique and very serious problem. The Central States low-level radioactive waste compact, comprised of Nebraska, Oklahoma, Louisiana, Arkansas, and Kansas, has selected a site for its compact disposal facility in Boyd County, NE, roughly 5 miles from the South Dakota border. Many South Dakotans will be affected by the placement of the disposal facility virtually on its border, but they have no say in the siting process. This is not fair. In my view, placing a disposal facility on a neighboring State's border flies in the face of the intent of the Low-Level Radioactive Waste Policy Act. Recognizing that the problems South Dakota faces may well be shared by many other States across the country, I am today introducing three bills addressing various aspects of this problem.

My first bill would prohibit a State hosting its compact's disposal facility from placing that facility within 50 miles of another State's border without the approval of that State's legislature. This is simply a question of fairness. The potential effects of a disposal facility don't stop at a State border. My bill ensures that the citizens of border States, like South Dakota, have a voice in siting decisions.

The second bill I am introducing today would allow a compact host State to contract with another compact for disposal of its low-level radioactive waste. There are some who maintain that we will not need as many disposal facilities as are planned currently, with nine multistate compacts and eight unaffiliated States. We should allow the compact host States to enter into an agreement with another compact if they so choose. Obviously, both sides must agree. This is beneficial to all parties.

I have worked closely with the State of South Dakota officials on this issue. I received the original drafts of these two bills from our Governor and commend him for his work on this important matter.

My third bill addresses the transportation aspect of low level radioactive waste. It would amend the Low-Level Radioactive Waste Policy Act to require States, to the greatest extent practicable, to use routes within their own compact when shipping waste to a compact disposal facility. Obviously, some compacts are not contiguous; therefore, my bill would not apply in such cases. However, as a matter of responsibility, whenever safe routes are available within a compact, they should be used. It simply is not right that South Dakota roads could be used to haul the Central States compact's waste to its disposal facility in Nebraska, if safe routes are available within the compact's borders.

Mr. President, I am fully aware of the controversial nature of radioactive waste policy all over the country. Many in Congress would rather not deal with the issue at all. They would rather not reopen this can of worms. But the problems will only get worse if we ignore them. The bills I am introducing today represent an attempt to improve and clarify current law and avoid future misunderstandings. I certainly understand that we must develop responsible ways of disposing of our Nations' low-level radioactive waste. However, when a multistate compact places its disposal facility in its farthest corner, virtually on another State's border, this is a blatant attempt to export the risks associated with it. That is not responsible and should not be allowed without the formal approval of the bordering State.

Mr. President, I urge my colleagues to join me in sponsoring these bills and ask unanimous consent that the text of the bills be printed at this point.

S. 3138

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPROVAL OF REGIONAL DISPOSAL FACILITIES LOCATED NEAR STATE BORDERS.

Section 4 of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d) is amended by adding at the end the following new subsection:

"(e) APPROVAL OF REGIONAL DISPOSAL FACILITIES LOCATED NEAR STATE BORDERS.—No State may, after the date of enactment of this subsection, license a regional disposal facility for low-level radioactive waste to be located within its borders if the facility is to be located within 50 miles of another State's border, until the bordering State's legislature approves the site for the facility.".

S. 3139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTRACTS FOR THE DISPOSAL OF WASTE.

Section 4 of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding the prior congressional approval of any regional compact for disposal of low-level radioactive waste, no compact formed under the authority of subsection (a)(2) shall be construed to restrict the authority of a host State to contract with another compact for the disposal of low-level radioactive waste that the host State is responsible for disposing of during its' tenure as a host State.".

S. 3140

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSPORTATION OF LOW-LEVEL RADIOACTIVE WASTE TO REGIONAL DISPOSAL FACILITIES.

Section 4 of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d) is amended by adding at the end thereof the following new subsection:

"(e) States transporting low-level radioactive waste to a regional disposal facility established and operated under an interstate compact pursuant to this section shall, to the maximum extent practicable, use routes which are within the geographic borders of the States that are party to the compact.".

LOW-LEVEL RADIOACTIVE WASTE COMPACTS

Northeast Compact: New Jersey (H), Connecticut (H).

Appalacian Compact: Pennsylvania (H), Maryland, Delaware, West Virginia.

Southeast Compact: Tennessee, South Carolina, Virginia, North Carolina (H), Alabama, Georgia, Florida, Mississippi.

Midwest Compact: Michigan (H), Ohio, Minnesota, Missouri, Wisconsin, Iowa, Indiana.

Central Midwest Compact: Illinois (H), Kentucky.

Central States Compact: Oklahoma, Louisiana, Nebraska (H), Arkansas, Kansas.

Rocky Mountain Compact: Colorado (H), New Mexico, Nevada, Wyoming.

Northwest Compact: Oregon, Washington (H), Utah, Hawaii, Idaho, Montana, Alaska.

Southwestern Compact: California (H), Arizona, North Dakota, South Dakota.

Unaffiliated States: New York (H), Massachusetts (H), Texas (H), Vermont, Maine (H), Rhode Island, New Hampshire, District of Columbia.

(H)=States planning to host a disposal facility.

By Mr. HOLLINGS:

S. 3141. A bill to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

MARY MCLEOD BETHUNE COUNCIL HOUSE NATIONAL HISTORIC SITE ACQUISITION

● Mr. HOLLINGS. Mr. President, I am introducing legislation today which authorizes the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site.

Mr. President, I cannot begin to detail the contributions Mary McLeod Bethune, a native South Carolinian, made to this country. She was an adviser to Presidents. She was the first black woman to head a Federal agency. And she established the National Council of Negro Women. These are remarkable achievements in their own right, but all the more remarkable given Mary McLeod Bethune's humble beginnings as the child of former slaves. And, it goes almost without saying, she contibuted to the political life of our Nation at a time in

our history when neither blacks nor women were allowed to fully participate in government. She was a great educator whose life to this day stands as a sterling example to Americans of all colors and genders.

The Mary McLeod Bethune Council House National Historic Site, located here in Washington, was the last official residence of Mary McLeod Bethune. The house, which was designated a national historic site in 1982, includes an exhibition of the contributions of African-American women. By honoring and documenting the achievements of African American women of the past, this museum provides inspiration for all Americans today and in the future.

The legislation includes three provisions, Mr. President. First, the Secretary of the Interior can acquire the property either by donation or by purchase with donated or appropriated funds. The Bethune Council House will then become a part of the National Park System. Second, the Park Service is instructed to administer the site along the same guidelines as other sites in the Park Service System. And third, an advisory commission is established to operate and manage this site, and to ensure its standing as a historic and educational landmark for generations to come.●

By Mr. DOLE (for himself, Mr. BENTSEN, Mr. BURDICK, Mr. DANFORTH, Mr. SHELBY, Mr. HEFLIN, Mr. DASCHLE, Mr. RIEGLE, Mr. BUMPERS, Mrs. KASSEBAUM, Mr. HATFIELD, Mr. PRYOR, Mr. GORE, Mr. BOND, Mr. COCHRAN, Mr. COATS, Mr. SIMON, and Mr. FOWLER):

S. 3142. A bill to provide for recognition of cost of certain nursing and allied health educational programs as allowable direct costs reimbursable to a hospital on a reasonable cost basis for purposes of payment under title XVIII of the Social Security Act, and for other purposes; to the Committee on Finance.

Mr. DOLE. Mr. President, today joined by 17 of my colleagues, the Senator from Kansas is introducing a bill to assure continued Medicare financing of the costs of nursing and allied health education.

Unfortunately as a result of actions taken by the Health Care Financing Administration, many hospitals have been denied Medicare payments for the costs of nursing and allied health education programs. As many of my colleagues have come to know, these actions came unexpectedly, as there had been no statutory changes or other events that would have led to a change in payment policy. While attempts were made to recover these funds retroactively, Congress prevented such action in last year's reconciliation bill. At the same time, the administration was directed to publish regulations, clearly indicating under what circumstances these costs would be approved. To date, no regulations have been published.

In an attempt to resolve this issue once and for all, our legislation not only provides forgiveness for those hospitals who have incurred these costs in the past, but also clearly sets forth criteria, under which such costs can be paid in the future.

In summary the bill provides forgiveness for the amounts that HCFA now denies, but were previously paid, as direct costs for hospital-supported nursing and allied health education programs from 1983 through 1990. In addition, beginning fiscal year October 1, 1990, costs incurred for clinical training would be recognized as eligible for the passthrough payment if the following criteria are met:

First, the provider's support is not proportionately greater than it had been in the cost reporting period prior to the cost reporting period beginning on or after September 30, 1990;

Second, the provider is receiving a benefit for the support it furnishes; and

Third, the provider's support is less than the cost the provider would be expected to incur with a program of its own.

And finally, the legislation provides that any disallowance, recoupment, adjustment, or reduction in payments that has occurred to date for certain nursing and allied health education programs, shall be reversed and any necessary refunds or administrative adjustments shall be promptly made.

Mr. President, given the serious manpower shortages being faced by many communities, particularly those in rural areas, we should make every effort to encourage our hospitals to participate in training programs. The recent action by HCFA to deny these costs, place many of these programs at risk.

Our legislation would finally solve this dilemma.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RECOGNITION OF COSTS OF HOSPITAL SUPPORTED NURSING AND ALLIED HEALTH EDUCATIONAL PROGRAMS AS ALLOWABLE REASONABLE COSTS.

IN GENERAL.—(1) Beginning on or after October 1, 1990, all costs related to clinical training on a hospital's premises for a hospital supported education program and which are incurred by a hospital or by an educational institution related to the hospital by common ownership or common control, shall be considered costs incurred for approved educational activities for purposes of section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)). Subject to paragraph (2), such costs shall be allowable to a hospital on a reasonable cost basis and shall be considered to be pass-through costs under title XVIII of such Act. An education program shall be deemed to be hospital supported if the program is—

(A) an approved nursing or allied health education program;

(B) is not a hospital operated program; and

(C) the hospital participates in the program in conjunction with an educational institution.

(2) For purposes of paragraph (1), section 1886(a)(4) of the Social Security Act, and section 1861(v) of such Act, costs relating to a hospital supported education program shall be deemed to be reimbursable—

(A) only to the extent that the proportion of costs claimed by a hospital for a hospital supported education program (which proportion shall be expressed as a ratio, the numerator of which is the dollar amount of support given by the hospital to the school in the specific 12-month period covered by the hospital's cost report and the denominator of which is the total dollar amount of outlays by the school for the same specific period) are not greater than such proportion of costs claimed by such hospital in the cost reporting period prior to the cost reporting period beginning on or after October 1, 1990;

(B) only if the hospital is receiving a benefit for the support it furnishes to such program through the provision of clinical services by nursing or allied health students incidental to their training, or the hospital hires graduates from the hospital supported education program; and

(C) only to the extent that the cost is less than the cost the hospital would be expected to incur were such a hospital to operate its own similar program.

(b) PROHIBITION ON RECOUPMENT OF CERTAIN NURSING AND ALLIED EDUCATIONAL COSTS.—(1) The Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall not disallow, recoup from, or otherwise reduce or adjust payment under title XVIII of the Social Security Act to, hospitals with respect to claims by a hospital on its medicare costs reports for cost reporting periods beginning on or after October 1, 1983 and before October 1, 1990, relating to hospital supported education programs on the grounds that the costs of such programs were not allowable costs or were included in the definition of "operating costs of inpatient services" pursuant to section 1886(a)(4) of such Act, so that no pass-through of such costs was permitted under that section.

(2) The Secretary shall provide that if any disallowance, recoupment, adjustment, or reduction in payments described in paragraph (1) has occurred prior to the date of enactment of this Act, such actions shall be reversed and any necessary refunds or administrative adjustments shall be promptly made.

(c) CONFORMING AMENDMENT.—(1) Section 6205(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "(a)" and the subsection heading.

(2) Section 6205(b) of such Act is hereby repealed.

(d) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed as requiring the Secretary of Health and Human Services to modify those existing regulations or instructions which pertain to the determination of reasonable costs for a hospital-operated education program.

By Mr. DASCHLE:

S. 3143. A bill to provide disaster assistance for agricultural producers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

DISASTER ASSISTANCE ACT

Mr. DASCHLE. Mr. President, I rise today to introduce legislation to reauthorize last year's disaster assistance program for crop farmers who continue to suffer from a third year of natural disasters. There has been far less attention paid this year to the effects of drought in the Midwest and flooding in the South than to the major droughts of the last 2 years. However, for those producers that are unfortunate enough to be in one of the isolated parts of the country suffering from natural disaster this year, the need is as pressing as it was in the last 2 years.

In fact, for those producers that are facing a third year of drought, the situation is more critical than it has ever been. In the north central part of South Dakota much of the crop production has been unharvestable because the yields were so low. The wheats failed because of lack of rain, and much of the corn crop was destroyed by hailstorms, coupled with low moisture.

This legislation will provide needed assistance to those producers situated in counties that have been declared disaster areas by the Federal Government in each of the last 3 years. By targeting the assistance in this way, the overall costs of the program will be contained while ensuring that the assistance gets to the producers that need it most.

Like the 1989 program, this legislation would make available to crop producers in these counties disaster payments equal to 65 percent of the target price of the commodity for losses in excess of 35 percent for program participants and for losses in excess of 50 percent for nonprogram participants. For nonprogram crops disaster payments would be made at 65 percent of the crop price for losses in excess of 35 percent.

This legislation also addresses the problems that repayment of advanced deficiency payments are creating for producers who are suffering from lost production. The bill requires USDA to allow producers in counties that have been declared disaster areas for the third year in a row to pay back their 1988 or 1989 advanced deficiency payments over the next 3 years.

While USDA is to be congratulated for finally implementing this option on a case-by-case basis, it makes far more practical sense to make the option universally available to producers in the worst hit counties. Those producers who are truly able to pay back the payments have done so by now, so it seems ridiculous to require individual applications from producers in these worst hit counties. With 3 years of minimal or no production it is unreasonable to think all these producers will be able to make the total refund payment this year.

Other legislation has been introduced by Senators BENTSEN and HEFLIN that would simply extend the 1989 program to 1990, without restricting assistance to counties affected 3 years running. The legislation has not been acted on because the administration has said it would be too costly.

I have requested that USDA estimate the cost of my more limited approach. At this time in the year, USDA should have a very good idea of the number of counties that are likely to be declared disaster areas for the third year in a row. I would be very surprised if the Congress finds the costs of this bill to be unreasonable. In fact, I would hope that as we debate this issue, the Congress would see fit to approve a comprehensive extension of last year's program. However, if this does appear too costly, I would urge my colleagues to support my more targeted approach.

Mr. AKAKA:

S. 3145. A bill to amend the Internal Revenue Code of 1986 to permanently extend qualified mortgage bonds and low-income housing credit, and for other purposes; to the Committee on Finance.

EXTENSION OF CERTAIN MORTGAGE BONDS AND LOW-INCOME HOUSING CREDIT

Mr. AKAKA. Mr. President, I rise today to introduce legislation that will permanently extend the low-income housing tax credit and mortgage revenue bond programs and improve the effectiveness of both programs in addressing the unique housing crisis facing my State.

The cost of housing in Hawaii has nearly doubled since 1988. Overall, housing prices are up 8.5 percent. Rent has increased 10.2 percent. It is not surprising that the number of homeowners in Hawaii is 22.3 percent below the Nation's average. This disparity is in part due to soaring construction costs and limited availability of land. As a result, many local residents are unable to afford the American Dream.

Mr. President, everyone understands that the lack of affordable housing is a national problem. However, the Bush administration is limiting its response to a single answer—rehabilitation of existing structures. I disagree. Each State has different housing needs. Many States, like Hawaii, must increase their housing stock. Others may find it more equitable to rehabilitate. However, the administration has redirected funds for low-income construction to funds for low-income rental assistance. Because Hawaii does not have a surplus of structures available for rehabilitation, we must rely on new construction.

Last week, a representative of the Hawaii Housing Finance and Development Corp. testified before a housing hearing I cochaired on Hawaii's special housing needs. I was alarmed to learn that not a single application for the low-income housing tax credit which I seek to permanently authorize was filed this year.

Mr. President, I do understand that developers in Hawaii are reluctant to invest in low-income housing. Exorbitant land and construction costs are futher compounded by other market-drive factors. Hawaii's booming tourism industry and surplus of foreign investors provide a steady demand for luxury vacation homes.

Mr. President, developers and their investors want assurances of economic feasibility.

Hawaii's rental market is another housing nightmare. Rental rates in the State exceed the national average by 40 percent, making Honolulu the most expensive city in the Nation for rents.

The Low-Income Housing Tax Credit Program has been the primary source for Federal subsidies to developers of low- and moderate-income units. The loss of the section 8 new construction program has further strained the limited resources available for new construction. Because the Nation needs affordable housing, the low-income housing tax credit must be preserved.

My bill would also provide State housing finance agencies in difficult development areas broader authority to allocate their tax credits in a way that will stimulate development of much needed low-income housing. Under the existing statute, only depreciable property is eligible to qualify for tax credits. My proposal expands the eligibility basis to include land. This move would greatly aid the State of Hawaii.

Mr. President, another provision of my bill would permanently extend the Mortgage Revenue Bond [MRB] Program, a popular and successful alternative for first-time home buyers. The program allows States to direct the proceeds from the sale of tax-exempt bonds for low-interest loans. In Hawaii, this program is known as Hula Mae.

As housing and construction costs in Hawaii continue to rise, the Hula Mae program has displaced the popular Federal Housing Administration's [FHA's] loan program. Over 5,600 first-time home buyers in Hawaii have benefited from the below-market Hula Mae mortgages since its' inception in 1989.

Every family, every individual deserves decent and affordable housing. We must seek ways to make available

affordable housing to all Americans. I urge my colleagues to join me in supporting this legislation.

Mr. CRANSTON. I thank my friend from Hawaii. I appreciate very much his remarks on the all-important matter of housing; not the most important matter in the world but one of the most important.

By Mr. THURMOND:

S.J. Res. 372. Joint resolution to recognize and commend the "Bill of Responsibilities" of the Freedoms Foundation at Valley Forge; to the Committee on the Judiciary.

RECOGNIZING AND COMMENDING THE "BILL OF RESPONSIBILITIES"

● Mr. THURMOND. Mr. President, I rise today to introduce a joint resolution which recognizes and commends the Freedoms Foundation's bill of responsibilities.

Since 1949, Freedoms Foundation at Valley Forge has worked, through a variety of programs and activities, to help Americans learn more about their country—its origins, its history, its guiding principles. In conjunction with the Bicentennial of the Constitution and the Bill of Rights, Freedoms Foundation is expanding and refining its mission in an important way—to help promote a better understanding of the unique nature of American citizenship.

From its inception, the emphasis of the American experiment in self-government has been on individual rights. Because the creation of a society and government with this emphasis was such a radical departure from what had come before, the discussion and writings that accompanied the Declaration of Independence and the Constitution concentrated on these themes. That does not mean, however, that the Founding Fathers did not recognize a corresponding set of citizen responsibilities. They recognized that the long-term success of the American experiment rested on the maintenance of a proper balance of rights and responsibilities.

To help promote a better understanding of the necessary balance between rights and responsibilities in a free society, Freedoms Foundation has developed, as its contribution to the Bicentennial of the Constitution, a bill of responsibilities.

This bill is the result of nearly 2 years effort on the part of scholars from throughout the United States, under the direction of a steering committee composed of members of Freedoms Foundation's board of directors and national council of trustees, including: Dr. Mark W. Cannon, Executive Director of the Commission on the Bicentennial of the Constitution; Morris I. Liebman, attorney; Ursula Meese; Robert W. Miller, president of Freedoms Foundation; the Honorable John J. Rhodes, former minority leader of the House of Representatives; and the Honorable Raymond P. Shafer, former Governor of Pennsylvania.

I urge my colleagues to join with me in recognizing and commending the Freedoms Foundation's bill of responsibilities.

Mr. President, I ask unanimous consent that the text of this joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 372

Whereas the United States of America recently celebrated the two hundredth anniversary of the Presidency and Congress established by the Constitution of the United States; and

Whereas "We the People" did ordain and establish a Constitution and Bill of Rights for the United States of America to secure the blessings of liberty for ourselves and our posterity; and

Whereas the United States of America prepares to commemorate the Bicentennial of the Bill of Rights on December 15, 1991; and

Whereas the Bill of Rights still guarantees our liberties nearly 200 years after its ratification and continues to assure the Constitutional rights of "We the People"; and

Whereas rights and responsibilities are mutual and inseparable; Freedoms Foundation at Valley Forge has offered a "Bill of Responsibilities" to commemorate the Bicentennial of the Bill of Rights and to urge all Americans to accept the following responsibilities in order to secure and expand our freedom as individual members of a free society:

(1) To be fully responsible for our own actions and for the consequences of those actions.

(2) To respect the rights and beliefs of others.

(3) To give sympathy, understanding, and help to others.

(4) To do our best to meet our own and our families' needs.

(5) To respect and obey the laws.

(6) To respect the property of others, both private and public.

(7) To share with others our appreciation of the benefits and obligations of freedom.

(8) To participate constructively in the Nation's political life.

(9) To help freedom survive by assuming personal responsibility for its defense.

(10) To respect the rights and to meet the responsibilities on which our liberty rests and our democracy depends: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress recognizes and commends the "Bill of Responsibilities" of the Freedoms Foundation at Valley Forge and urges the citizens of the United States to embrace these principles as a model of responsible American citizenship.●

ADDITIONAL COSPONSORS

S. 273

At the request of Mr. HEINZ, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 273, a bill to amend title 39, United States Code, to designate as nonmailable matter solicitations of donations which could reasonably be misconstrued as a bill, invoice, or statement of account due, solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes.

S. 1808

At the request of Mr. BREAUX, the names of the Senator from Missouri [Mr. BOND] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 1808, a bill to amend section 468A of the Internal Revenue Code of 1986 with respect to deductions for decommissioning costs of nuclear powerplants.

S. 1893

At the request of Mr. LAUTENBERG, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 1893, a bill to reauthorize the Asbestos School Hazard Abatement Act of 1984.

S. 2112

At the request of Mr. METZENBAUM, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 2112, a bill to amend the National Labor Relations Act to prevent discrimination based on participation in labor disputes.

S. 2645

At the request of Mr. INOUYE, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2645, a bill to improve the health status of the urban Indian population and to enhance the quality and scope of health care services disease prevention activities, and health promotion initiatives targeted at the urban American Indian population.

S. 2729

At the request of Mr. CHAFEE, the names of the Senator from Ohio [Mr. METZENBAUM] and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 2729, a bill to amend the Coastal Barrier Resources Act, and for other purposes.

S. 2780

At the request of Mr. BENTSEN, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 2780, a bill to expand the boundaries of the San Antonio Missions National Historical Park, and for other purposes.

S. 2859

At the request of Mr. BAUCUS, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Nebraska [Mr. KERREY], the Senator from Ohio [Mr. METZENBAUM], the Senator from Arkansas [Mr. BUMP-

ERS], the Senator from Maine [Mr. COHEN], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 2859, a bill to establish a task force on farm safety, to provide grants for research on issues concerning farm safety, and for other purposes.

S. 2972

At the request of Mr. MACK, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 2972, a bill to amend title XVIII of the Social Security Act to provide an additional payment under part A of the medicare program for the operating costs of inpatient hospital services of hospitals with a high proportion of patients who are medicare beneficiaries.

S. 3043

At the request of Mr. EXON, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 3043, a bill for the relief of Nebraska Aluminum Castings, Inc.

S. 3066

At the request of Mr. SHELBY, the names of the Senator from South Carolina [Mr. THURMOND], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of S. 3066, a bill to amend the Internal Revenue Code of 1986 to provide that certain deductions of members of the National Guard or reserve units of the Armed Forces will be allowable in computing adjusted gross income.

S. 3069

At the request of Mr. JEFFORDS, the names of the Senator from Nevada [Mr. BRYAN], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of S. 3069, a bill to provide a method of locating private and Government research on environmental issues by geographic location.

SENATE JOINT RESOLUTION 351

At the request of Mr. BYRD, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of Senate Joint Resolution 351, a joint resolution to designate the month of May 1991, as "National Trauma Awareness Month."

SENATE CONCURRENT RESOLUTION 124

At the request of Mr. PELL, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Concurrent Resolution 124, a concurrent resolution expressing the sense of the Congresss regarding human rights violations against the Albanian ethnic minority in southern Yugoslavia.

SENATE CONCURRENT RESOLUTION 146

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Concurrent Resolution 146, a concurrent resolution expressing the sense of the Congress that the United States should pay its outstanding debt to the United Nations.

SENATE CONCURRENT RESOLUTION 147—SUPPORTING THE PRESIDENT'S ACTIONS WITH RESPECT TO IRAQI AGGRESSION AGAINST KUWAIT

Mr. MITCHELL (for himself, Mr. DOLE, Mr. PELL, Mr. NUNN, Mr. WARNER, Mr. BOREN, Mr. MOYNIHAN, and Mr. DECONCINI) submitted the following concurrent resolution; which was placed on the calendar:

S. CON. RES. 147

Whereas on August 2, 1990, the armed forces of Iraq invaded and occupied the State of Kuwait, took large numbers of innocent hostages, and disregarded the rights of diplomats, all in clear violation of the United Nations Charter and fundamental principles of international law;

Whereas the President condemned Iraq's aggression, imposed comprehensive United States economic sanctions upon Iraq, and froze Iraqi assets in the United States;

Whereas the United Nations Security Council, in a series of five unanimously approved resolutions, condemned Iraq's actions as unlawful, imposed mandatory economic sanctions designed to compel Iraq to withdraw from Kuwait, called on all states to take appropriate measures to ensure the enforcement of sanctions, called for the immediate release of all hostages, and reaffirmed the right of individual and collective self-defense; and

Whereas, in response to requests from governments in the region exercising the right of collective self-defense as provided in Article 51 of the United Nations Charter, the President deployed United States Armed Forces in the Persian Gulf region as part of a multilateral effort: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That (a) the Congress strongly approves the leadership of the President in successfully pursuing the passage of United Nations Security Council Resolutions 660, 661, 662, 664, 665, 666, 667, and 670, which call for—

(1) the immediate, complete, and unconditional withdrawal of all Iraqi forces from Kuwait;

(2) the restoration of Kuwait's sovereignty, independence, and territorial integrity;

(3) the release and safe passage of foreign nationals held hostage by Iraq;

(4) the imposition of economic sanctions, including the cessation of airline transport, against Iraq; and

(5) the maintenance of international peace and security in the Persian Gulf region.

(b) The Congress approves the actions taken by the President in support of these goals, including the involvement of the United Nations and of the friendly governments. The Congress supports continued action by the President in accordance with the decisions of the United Nations Security Council and in accordance with United States constitutional and statutory processes, including the authorization and appropriation of funds by the Congress, to deter Iraqi aggression and to protect American lives and vital interests in the region.

(c) The Congress calls on all nations to strengthen the enforcement of the United Nations imposed sanctions against Iraq, to provide assistance for those adversely affected by enforcement of the sanctions, and to provide assistance to refugees fleeing Kuwait and Iraq.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

SENATE CONCURRENT RESOLUTION 148—OPPOSING THE OFFER TO FORGIVE THE MILITARY ASSISTANCE DEBT OF EGYPT

Mr. HARKIN submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 148

Whereas the United States faces the daunting task of reducing annual Federal budget deficits of well over $200,000,000;

Whereas the growing national debt of over $3,000,000,000,000 levies an unacceptable burden on future generations;

Whereas the forgiveness of military assistance debts owed to the United States by foreign nations would exacerbate our difficulties in reducing the Federal deficit and the public debt;

Whereas the United States has made a massive commitment of troops, weapons, and money to check Iraq's aggression in the Middle East, while many wealthy nations, including Japan and the Federal Republic of Germany, have not yet made timely and adequate contributions to the effort;

Whereas the United States expects all of our allies and other nations to provide appropriate support to the multinational effort to contain Iraq, including proportional contributions of funds, military forces, and other resources;

Whereas Saudi Arabia, which because of the dramatic rise in the price of oil and increased oil production, could earn an additional $40 billion over the next year in oil profits alone; and

Whereas the United States should seek more appropriate ways to ease the impact of the Persian Gulf crisis on the poorer nations that are directly affected by it, including the prompt delivery of assistance to Egypt that has been pledged by our allies in this multilateral effort: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the President shall withdraw his request for authority to forgive the military assistance debts owed to the United States by the Government of Egypt;

(2) if the President fails to withdraw that request, the Congress should reject it;

(3) the President should seek the assistance of other countries, like Saudi Arabia, in providing debt relief for Egypt; and

(4) the President should develop, in consultation with the relevant committees of the Congress, a comprehensive plan for the sharing by other nations of the costs and responsibilities of checking Iraq's aggression.

● Mr. HARKIN. Mr. President, I rise to submit a concurrent resolution which declares that Congress opposes the President's plan to forgive $7.1 billion in military assistance loans to Egypt.

Today, we stand on the brink of the Gramm-Rudman sequester, which

would result in a 32-percent across-the-board cut in the budgets of Federal agencies. The impact will be disastrous for not only the Federal Government and thousands of Federal workers, but also the American economy. Take the meatpacking industry. The Food Safety and Inspection Service, which inspect meat products during processing, has developed plans to furlough nearly 8,000 inspectors for 4 days on October 9.

If these furloughs do occur, the entire meatpacking industry, with 7,000 plants employing 300,000 American workers, would be shut down.

The stakes are very real and very serious. Today, our Federal deficit, if the Social Security trust fund surplus is not used as an offset against the deficit, totals $300 billion. And to begin to reduce the deficit, if Congress and the President remain unable to reach a budget agreement, the American people will be forced to pay a huge cost.

As the President prepares to send out pink slips to America's workers, now is not the time to write off $7 billion in foreign debt. As we search to find the $500 billion to bail out the savings and loan industry, and as we face the prospect of keeping our banking system afloat as well, the United States should spend more time putting its house in order, before helping other countries clean theirs.

American workers and farmers don't get relief. Next week, thousands of Federal workers may suffer pay cuts or job loss, all for the cause of deficit reduction. In the past decade, thousands of American farmers lost their farms because they couldn't pay their debts.

For this administration, when debts come due, Federal workers are furloughed, American farmers are foreclosed, but foreign countries are forgiven.

Egypt certainly deserves credit for providing troops to help us block further Iraqi aggression in the Persian Gulf. President Mubarak has also exercised courageous leadership in the Arab world. Moreover, Egypt is paying a heavy price for its stand against Hussein—a cost which it can ill afford.

Egypt needs support. But the United States footing the bill alone is not the best solution for either us or Egypt.

For one, other countries are better economically prepared to underwrite the costs to Egypt of the gulf crisis. Over the next year, Saudi Arabia, which Egypt is helping defend with 30,000 of its troops, will enjoy a windfall profits of up to $40 billion due to increased oil prices plus increased production. Although the Saudis have already promised $7 billion to help pay for Operation Desert Shield and the economic costs to friendly Arab States, there's still enough left over from windfall oil profits for the Saudis to pay off Egypt's debt to the United States.

But freeing Egypt of its debt to us will not solve its economic problems. Overall, Egypt's debt totals $50 billion—seven times more than the debt the Bush administration is now asking American taxpayers to forgive. The money saved from forgiven United States loans will not address Egypt's underlying economic problems; instead it will likely be used to pay off Egypt's loans to countries like West Germany and Japan. What's needed is a more comprehensive, multilateral approach to Egypt's total debt problem.

The United States going alone to cancel Egypt's debt is not the answer. That option won't solve Egypt's debt crisis, and will only aggravate the seeming unsolvable debt problem at home.

Mr. President, the United States may be acting like the world's policeman in the current gulf crisis, but we can no longer afford to be its banker, too.●

SENATE RESOLUTION 330—AUTHORIZING AN APPEARANCE BY THE SENATE LEGAL COUNSEL

Mr. CRANSTON (for Mr. MITCHELL) submitted the following resolution; which was considered and agreed to:

S. RES. 330

Whereas the Select Committee on Ethics is currently conducting preliminary inquiries on matters within its jurisdiction pursuant to Senate Resolution 338, 88th Congress, as amended;

Whereas in the course of its preliminary inquiries or any subsequent proceedings arising thereform, the select committee may have need to obtain access to evidence obtained in the course of law enforcement investigations conducted by the executive branch or by the States;

Whereas access to evidence obtained in law enforcement investigations may be governed by legal authorities, including rule 6(e) of the Federal Rules of Criminal Procedure and title III of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 18 U.S.C. 2510-2521 (1988);

Whereas in the course of the select committee's efforts to obtain access to such evidence, legal issues may arise under such authorities requiring the select committee to appear in the courts of the United States or of the States;

Whereas pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(c), 288e(a), and 288l(a) (1988), the Senate may direct its counsel to appear as amicus curiae or to intervene in the name of a committee of the Senate in any legal action or proceeding in which the powers and responsibilities of Congress under the Constitution are placed in issue;

Whereas pursuant to section 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(1), the Senate may direct its counsel to defend a committee of the Senate in any civil action in which the committee is made a defendant and in which there is placed in issue the validity of any subpoena issued by the committee;

Whereas pursuant to section 708(c) of the Ethics in Government Act of 1978, 2 U.S.C. 288g(c), the Senate may direct its counsel to perform other duties consistent with the purposes and limitations of title VII of the Act: Now, therefore, be it

Resolved, That the Senate legal counsel is authorized, when directed by the Select Committee on Ethics, or by the chairman and vice chairman, acting jointly, to appear in the name of the select committee as amicus curiae, intervenor, applicant, or respondent in any legal action or proceeding in support of the select committee's access to evidence obtained in the course of law enforcement investigations by the executive branch or the States that the select committee determines is necessary for its current proceedings.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on Tuesday, October 2, 1990, to examine various tax issues and their impact on small business. The hearing will be held in room 428A of the Russell Senate Office Building and will commence at 9:30 a.m. For further information, please call Marja Maddrie at 224-8488, or Mathew Helmerich of Senator BOREN's staff.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in open session during the session of the Senate on Friday, September 28, 1990, at 10 a.m. to consider the nomination of Richard A. Claytor to be Assistant Secretary of Energy for Defense Programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the full Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, September 28, 1990, at 10 a.m. to conduct a hearing on the treaty on the final settlement with respect to Germany.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRANSTON. Mr. President, I ask unanimous consent that the full Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 11 a.m., Friday, September 28, 1990, for a hearing to nominate Branko Terzic to be Commissioner of FERC.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be authorized to meet during the session of the Senate on September 28, 1990, at 10 a.m. to hold a hearing on the implementation of the United States-Canada Free-Trade Agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Special Committee on Aging, be authorized to meet during the session of the Senate on Friday, September 28, 1990, at 9:30 a.m. to hold a hearing entitled "Meeting the Health Care Need of Our Nation's Black Elderly."

The PRESIDING OFFICER. Without objection, it is so ordered.

INDOOR AIR QUALITY ACT

The text of S. 657, a bill to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors, as passed by the Senate on September 26, is as follows:

S. 657

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. TITLE.—(a) This Act, together with the following table of contents, may be cited as the "Indoor Air Quality Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Purpose.
Sec. 4. Definitions.
Sec. 5. Indoor air quality research.
Sec. 6. Management practices and ventilation standards.
Sec. 7. Indoor air contaminant health advisories.
Sec. 8. National indoor air quality response plans.
Sec. 9. Federal building response plan and demonstration program.
Sec. 10. State indoor air quality programs.
Sec. 11. Office of Indoor Air Quality.
Sec. 12. Council on Indoor Air Quality.
Sec. 13. Indoor air quality information clearinghouse.
Sec. 14. Building assessment demonstration.
Sec. 15. State and Federal authority.
Sec. 16. Authorizations.
Sec. 17. Radon in schools.

FINDINGS

SEC. 2. The Congress finds that—

(1) Americans spend up to 90 per centum of a day indoors and, as a result, have a significant potential for exposure to contaminants in the air indoors;

(2) exposure to indoor air contamination occurs in workplaces, schools, public buildings, residences, and transportation vehicles;

(3) recent scientific studies indicate that pollutants in the indoor air include radon, asbestos, volatile organic chemicals (including, formaldehyde and benzene), combustion byproducts (including, carbon monoxide and nitrogen oxides), metals and gases (including, lead, chlorine, and ozone), respirable particles, biological contaminants, micro-organisms, and other contaminants;

(4) a number of contaminants found in both ambient air and indoor air may occur at higher concentrations in indoor air than in outdoor air;

(5) indoor air pollutants pose serious threats to public health (including cancer, respiratory illness, multiple chemical sensitivities, skin and eye irritation, and related effects);

(6) up to 15 per centum of the United States population may have heightened sensitivity to chemicals and related substances found in the air indoors;

(7) radon is among the most harmful indoor air pollutants and is estimated to cause between five thousand and twenty thousand lung cancer deaths each year;

(8) other selected indoor air pollutants are estimated to cause between three thousand five hundred and six thousand five hundred additional cancer cases per year;

(9) indoor air contamination is estimated to cause significant increases in medical costs and declines in work productivity;

(10) as many as 20 per centum of office workers may be exposed to environmental conditions manifested as "sick building syndrome";

(11) sources of indoor air pollution include conventional ambient air pollution sources, building materials, consumer and commercial products, combustion appliances, indoor application of pesticides and other sources;

(12) there is not an adequate effort by Federal agencies to conduct research on the seriousness and extent of indoor air contamination, to identify the health effects of indoor air contamination, and to develop control technologies, education programs, and other methods of reducing human exposure to such contamination;

(13) there is not an adequate effort by Federal agencies to develop response plans to reduce human exposure to indoor air contaminants and there is a need for improved coordination of the activities of these agencies;

(14) there is not an adequate effort by Federal agencies to develop methods, techniques, and protocols for assessment of indoor air contamination in non-residential, non-industrial buildings and to provide guidance on measures to respond to contamination; and

(15) State governments can make significant contributions to the effective reduction of human exposure to indoor air contaminants and the Federal Government should assist States in development of programs to reduce exposures to these contaminants.

PURPOSE

SEC. 3. The purposes of this Act are to—

(1) develop and coordinate through the Environmental Protection Agency and at other departments and agencies of the United States a comprehensive program of research and development concerning the seriousness and extent of indoor air contamination, the human health effects of indoor air contaminants, and the technological and other methods of reducing human exposure to such contaminants;

(2) establish a process whereby the existing authorities of Federal statutes will be directed and focused to assure the full and effective application of these authorities to reduce human exposure to indoor air contaminants where appropriate;

(3) provide support to State governments to demonstrate and develop indoor air quality management strategies, assessments, and response programs; and

(4) to authorize activities to assure the general coordination in indoor air quality-related activity, to provide for reports on indoor air quality to Congress, to provide for assessments of indoor air contamination in specific buildings by the National Institute for Occupational Safety and Health, to assure that data and information on indoor air quality issues is available to interested parties, to provide training, education, information, and technical assistance to the public and private sector, and for other purposes.

DEFINITIONS

SEC. 4. For the purposes of this Act, the term—

(1) "Agency" means the United States Environmental Protection Agency;

(2) "indoor" refers to the enclosed portions of buildings including non-industrial workplaces, public buildings, Federal buildings, schools, commercial buildings, residences, and the occupied portions of vehicles;

(3) "indoor air contaminant" means any solid, liquid, semisolid, dissolved solid, biological organism, aerosol, or gaseous material, including combinations or mixtures of substances in indoor air which may reasonably be anticipated to have an adverse effect on human health;

(4) "Federal agency" or "agency of the United States" means any department, agency or other instrumentality of the Federal Government, including any independent agency or establishment of the Federal Government or government corporation;

(5) "Federal building" means any building which is used primarily as an office building, school, hospital, or residence that is owned, leased, or operated by any Federal agency and is over ten thousand square feet in area and any building occupied by the Library of Congress;

(6) "Administrator" means to the Administrator of the Environmental Protection Agency;

(7) "Administration" means the Occupational Safety and Health Administration;

(8) "Director" means the Director of the National Institute of Occupational Safety and Health;

(9) "local education agency" means any educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381); and

(10) "local air pollution control agency" means any city, county, or other local government authority charged with the responsibility for implementing programs or enforcing ordinances or laws relating to the prevention and control of air pollution including indoor air pollution.

INDOOR AIR QUALITY RESEARCH

SEC. 5. (a) AUTHORITY.—(1) The Administrator shall, in coordination with other appropriate Federal agencies, establish a national research, development, and demonstration program to assure the quality of air indoors and as part of such program shall promote the coordination and acceleration of reserach, investigations, experiments, demonstrations, surveys, and studies relating to the causes, sources, effects, extent, prevention, detection, and correction of contamination of indoor air.

(2) In carrying out the provisions of this section, the Administrator is authorized,

subject to the availability of appropriation to—

(A) collect and make available to the public through publications and other appropriate means, the results of research, development and demonstration activities conducted pursuant to this section;

(B) conduct research, development and demonstration activities and cooperate with other Federal agencies, with State and local government entities, interstate and regional agencies, other public agencies and authorities, nonprofit institutions and organizations and other persons in the preparation and conduct of such research, development and demonstration activities;

(C) make grants to the States or to local government entities, to other public agencies and authorities, to nonprofit institutions and organizations, and to other persons;

(D) enter into contracts or cooperative agreements with public agencies and authorities, nonprofit institutions and organizations, and other persons;

(E) conduct studies, including epidemiological studies, of the effects of indoor air contaminants or potential contaminants on mortality and morbidity and clinical and laboratory studies on the immunologic, biochemical, physiological, and toxicological effects including the carcinogenic, teratogenic, mutagenic, cardiovascular, and neutrotoxic effects of indoor air contaminants or potential contaminants;

(F) develop and disseminate informational documents on indoor air contaminants describing the nature and characteristics of such contaminants in various concentrations;

(G) develop effective and practical processes, protocols, methods, and techniques for the prevention, detection, and correction of indoor air contamination and work with the private sector, other governmental entities, and schools and universities to encourage the development of innovative techniques to improve indoor air quality;

(H) construct such facilities and staff and equip them as may be necessary to carry out the provisions of this section;

(I) call conferences concerning the potential or actual contamination of indoor air giving opportunity for interested persons to be heard and present papers at such conferences;

(J) utilize, on a reimbursable basis, facilities and personnel of existing Federal scientific laboratories and research centers; and

(K) acquire secret processes, technical data, inventions, patent applications, patents, licenses, and an interest in lands, plants, equipment and facilities and other property rights, by purchase, license, lease, or donation. If the Administrator expects or intends that research pursuant to this subsection will primarily affect worker safety and health, he shall consult with the Assistant Secretary of Occupational Safety and Health and the Director.

(b) PROGRAM REQUIREMENTS.—The Administrator, in coodination with other appropriate Federal agencies, shall conduct, assist, or facilitate research, investigations, studies, surveys, or demonstrations with respect to, but not limited to, the following—

(1) the effects on human health of contaminants or combinations of contaminants at various levels whether natural or anthropogenic including additive, cumulative, and synergistic effects on populations both with and without heightened sensitivity that are found or are likely to be found in indoor air;

(2) the exposure of persons to contaminants that are found in indoor air (including exposure to such substances from sources other than indoor air contamination including drinking water, diet, or other exposures);

(3) the identification of populations at increased risk of illness from exposure to indoor air contaminants and assessment of the extent and characteristics of such exposure:

(4) the exposure of persons to contaminants in different building classes or types, and in vehicles, and assessment of the association of particular contaminants and particular building classes or types and vehicles;

(5) identification of building classes or types and design features or characteristics which increase the likelihood of exposure to indoor air contaminants;

(6) identification of the sources of indoor air contaminants including association of contaminants with outdoor sources, building or vehicle design, classes or types of products, building management practices, equipment operation practices, building materials, and related factors:

(7) assessment of relationships between contaminant concentration levels in ambient air and the contaminant concentration levels in the indoor air;

(8) development of methods and techniques for characterizing and modeling indoor air movement and flow within buildings or vehicles, including the transport and dispersion of contaminants in the indoor air;

(9) assessment of the fate, including degradation and transformation, of particular contaminants in indoor air;

(10) development of methods and techniques to characterize the association of contaminants, the levels of contaminants, and the potential for contamination of new construction with climate, building location, seasonal change, soil and geologic formations, and related factors;

(11) assessment of indoor air quality in facilities of local education agencies and buildings housing child care facilities and development of measures and techniques for control of indoor air contamination in such buildings:

(12) development of protocols, methods, techniques and instruments for sampling indoor air to determine the presence and level of contaminants including sample collection and the storage of samples before analysis and development of methods to improve the efficiency and reduce the cost of analysis;

(13) development of air quality sampling methods and instruments which are inexpensive and easy to use and may be used by the general public;

(14) development of control technologies, building design criteria, and management practices to prevent the entrance of contaminants into buildings or vehicles (for example, air intake protection, sealing, and related measures) and to reduce the concentrations of contaminants indoor (for example, control of emissions from internal sources of contamination, improved air exchange and ventilation, filtration, and related measures);

(15) development of materials and products which may be used as alternatives to materials or products which are now in use and which contribute to indoor air contamination;

(16) development of equipment and processes for removal of contaminants from the indoor air;

(17) research, to be carried out principally by the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health, for the purpose of assessing—

(A) the exposure of workers to indoor air contaminants including assessment of resulting health effects; and

(B) the costs of declines in productivity, sick time use, increased use of employer-paid health insurance, and worker compensation claims;

(18) research, to be carried out in conjunction with the Secretary of Housing and Urban Development, and the Secretary of the Department of Energy for the purpose of developing—

(A) methods for assessing the potential for radon contamination of new construction, including (but not limited to) consideration of the moisture content of soil permeability of soil, and radon content of soil; and

(B) design measures to avoid indoor air pollution, and

(19) research, to be carried out in conjunction with the Secretary of Transportation, for the purposes of—

(A) assessing the potential for indoor air contamination in public and private transportation; and

(B) designing measures to avoid such indoor air contamination.

(c) TECHNOLOGY DEMONSTRATION PROGRAM.—(1) The Administrator may enter into cooperative agreements or contracts, or provide financial assistance in the form of grants, to public agencies and authorities, nonprofit institutions and organizations, employee advocate organizations, local educational institutions, or other persons, to demonstrate practices, methods, technologies, or processes which may be effective in controlling sources or potential sources of indoor air contamination, preventing the occurrence of indoor air contamination, and reducing exposures to indoor air contamination.

(2) The Administrator may assist demonstration activities under paragraph (1) of this subsection only if—

(A) such demonstration activity will serve to demonstrate a new or significantly improved practice, method, technology or process or the feasibility and cost effectiveness of an existing, but unproven, practice, method, technology, or process and will not duplicate other Federal, State, local, or commercial efforts to demonstrate such practice, method, technology, or process;

(B) such demonstration activity meets the requirements of this section and serves the purposes of this Act;

(C) the demonstration of such practice, technology or process will comply with all other laws and regulations for the protection of human health, welfare, and the environment; and

(D) in the case of a contract or cooperative agreement, such practice, method, technology, or process would not be adequately demonstrated by State, local, or private persons or in the case of an application for financial assistance by a grant, such practice, method, technology, or process is not likely to receive adequate financial assistance from other sources.

(3) The demonstration program established by this subsection shall include solicitations for demonstration projects, selection of suitable demonstration projects from among those proposed, supervision of such demonstration projects, evaluation and publication of the results of demonstration projects, and dissemination of information on the effectiveness and feasibility of the

practices, methods, technologies and processes which are proven to be effective.

(4) Within one hundred and eighty days after the date of enactment of this Act, and no less often than every twelve months thereafter, the Administrator shall publish a solicitation for proposals to demonstrate, prototype or at full-scale, practices, methods, technologies, and processes which are (or may be) effective in controlling sources or potential sources of indoor air contaminants. The solicitation notice shall prescribe the information to be included in the proposal, including technical and economic information derived from the applicant's own research and development efforts, and other information sufficient to permit the Administrator to assess the potential effectiveness and feasibility of the practice, method, technology, or process proposed to be demonstrated.

(5) Any person and any public or private nonprofit entity may submit an application to the Administrator in response to the solicitation required by paragraph (4) of this section. The application shall contain a proposed demonstration plan setting forth how and when the project is to be carried out and such other information as the Administrator may require.

(6) In selecting practices, methods, technologies or processes to be demonstrated, the Administrator shall fully review the applications submitted and shall evaluate each project according to the following criteria—

(A) the potential for the proposed practice, method, technology, or process to effectively control sources or potential sources of contaminants which present risks to human health;

(B) the consistency of the proposal with the recommendations provided pursuant to paragraph (8) of section 9(d);

(C) the capability of the person or persons proposing the project to successfully complete the demonstration as described in the application;

(D) the likelihood that the demonstrated practice, method, technique, or process could be applied in other locations and circumstances to control sources or potential sources of contaminants, including considerations of cost, effectiveness, and technological feasibility;

(E) the extent of financial support from other persons to accomplish the demonstration as described in the application; and

(F) the capability of the person or persons proposing the project to disseminate the results of the demonstration or otherwise make the benefits of the practice, method, or technology widely available to the public in a timely manner.

(7) The Administrator shall select or refuse to select a project for demonstration under this subsection in an expeditious manner. In the case of a refusal to select a project, the Administrator shall notify the applicant of the reasons for the refusal.

(8) Each demonstration project under this section shall be performed by the applicant, or by a person satisfactory to the applicant, under the supervision of the Administrator. The Administrator shall enter into a written agreement with each applicant granting the Administrator the responsibility and authority for testing procedures, quality control, monitoring, and other measurements necessary to determine and evaluate the results of the demonstration project.

(9) The Administrator shall enter into arrangements, wherever practicable and desirable, to provide for monitoring testing procedures, quality control, and such other measurements necessary to evaluate the results of demonstration projects or facilities intended to control sources or potential sources of contaminants.

(10) Each demonstration project under this section shall be completed within such time as is established in the demonstration plan. The Administrator may extend any deadline established under this subsection by mutual agreement with the applicant concerned.

(11) Total Federal funds for any demonstration project under this section shall not exceed 75 per centum of the total cost of such project. In cases where the Administrator determines that research under this section is of a basic nature which would not otherwise be undertaken, or the applicant is a local educational agency, the Administrator may approve grants under this section with a matching requirement other than that specified in this subsection, including full Federal funding.

(12) The Administrator shall, from time to time, publish general reports describing the findings of demonstration projects conducted pursuant to this section. Such reports shall be provided to the Indoor Air Quality Information Clearinghouse provided for in section 13 of this Act.

(d) ASSESSMENT OF SCHOOLS AND CHILD CARE FACILITIES.—(1) The Administrator shall conduct a national assessment of the seriousness and extent of indoor air contamination in buildings owned by local educational agencies and child care facilities.

(2) The Administrator shall establish an advisory group made up of representatives of school administrators, teachers, child care organizations, parents and service employees and other interested parties, including scientific and technical experts familiar with indoor air pollution exposures, effects, and controls, to provide guidance and direction in the development of the national assessment.

(3) The Administrator shall provide a report to Congress of the results of the national assessment not later than two years after the date of enactment of this Act. The report required by this paragraph shall provide such recommendations for activities or programs to reduce and avoid indoor air contamination in buildings owned by local educational agencies and in child care facilities as the Administrator determines to be appropriate.

(e) REPORT TO CONGRESS.—The Administrator shall, within twenty-four months of the date of enactment of this Act, prepare and submit to the Congress a report reviewing and assessing issues related to chemical sensitivity disorders, including multiple chemical sensitivities. The Advisory Committee established pursuant to subsection 7(c) of this Act shall review and comment on the report prior to submittal to the Congress.

(f) CLARIFICATION OF AUTHORITY.—Title IV of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 7401 note) is repealed.

MANAGEMENT PRACTICES AND VENTILATION STANDARDS

SEC. 6. (a) TECHNOLOGY AND MANAGEMENT PRACTICE ASSESSMENT BULLETINS.—(1) The Administrator shall publish bulletins providing an assessment of technologies and management practices for the control and measurement of contaminants in the air indoors.

(2) Bulletins published pursuant to this subsection shall, at a minimum—

(A) describe the control or measurement technology or practice;

(B) describe the effectiveness of the technology or practice in control or measurement of indoor air contaminants and, to the extent feasible, the resulting reduction in risk to human health;

(C) assess the feasibility of application of the technology or practice in buildings of different types, sizes, ages, and designs;

(D) assess the cost of application of the technology or practice in buildings of different types, sizes, ages, and designs, including capital and operational costs; and

(E) assess any risks to human health that such technology or practice may create.

(3) The Administrator shall establish and utilize a standard format for presentation of the technology and management practice assessment bulletins. The format shall be designed to facilitate assessment of technologies or practices by interested parties, including homeowners and building owners and managers.

(4) The Administrator shall provide that bulletins published pursuant to this subsection shall be published on a schedule consistent with the publication of health advisories pursuant to subsection 7(b) of this Act to the extent practicable.

(5) In development of bulletins pursuant to this subsection, the Administrator shall provide for public review and shall consider public comment prior to publication of bulletins. Where the technology or management practice is expected to have significant implications for worker safety or health, the Administrator shall consult with the Director prior to seeking review and comment.

(6) Bulletins published pursuant to this subsection shall be provided to the Indoor Air Quality Information Clearinghouse provided for in section 13 of this Act and, to the extent practicable, shall be made available to architecture, design, and engineering firms and building owners and managers and to organizations representing such parties.

(b) MODEL BUILDING MANAGEMENT PRACTICES TRAINING.—(1) Within twelve months of the date of enactment of this Act, the Director of the National Institute of Occupational Safety and Health, in consultation with the Administrator of the General Services Administration and the Administrator, shall develop an indoor air training course providing training in—

(A) principles, methods, and techniques related to ventilation system operation and maintenance including applicable ventilation guidelines and standards;

(B) maintenance of records concerning indoor air quality, including maintenance of ventilation systems, complaints of indoor air quality, and actions taken to address indoor air quality problems;

(C) health threats posed by indoor air pollutants, including a knowledge of health advisories published pursuant to this Act and other information concerning contaminant levels;

(D) identification of potential indoor air pollutant sources and options for reducing exposures to contaminants;

(E) special measures which may be necessary to reduce indoor air contaminant exposures in new buildings and in portions of buildings which have been renovated or substantially refurbished within the past six months; and

(F) special measures which may be necessary to reduce exposures to contaminants associated with pesticide applications, installation of products, furnishings, or equipment, and cleaning operations.

(2) Within twenty-four months of the date of enactment of this Act, the Director of the National Institute for Occupational Safety and Health shall provide, or contract for the provision of, training courses pursuant to paragraph (1) of this subsection sufficient, at a minimum, to assure training on a schedule consistent with the requirements of paragraph 9(f)(2).

(3) The Director of the National Institute of Occupational Safety and Health, or firms or organizations operating under contract with such Administrator, are authorized to establish a fee for training pursuant to this subsection. Fees shall be in an amount not to exceed the amount necessary to defray the costs of the training program.

(4) The Director of the National Institute of Occupational Safety and Health, in consultation with the Administrator of the General Services Administration, and the Administrator, shall prepare a report to Congress within forty-eight months of the date of enactment of this subsection assessing the training program pursuant to this subsection and making recommendations concerning the application of training requirements to classes and types of buildings not covered by this subsection.

(c) VENTILATION PROGRAM.—(1) The Administrator, in coordination with other Federal agencies, shall conduct a progam to analyze the adequacy of existing ventilation standards and guidelines to protect the public and workers from indoor air contaminants.

(2) The Administrator shall—

(A) identify and describe ventilation standards adopted by State and local governments and professional organizations, including the American Society of Heating, Refrigerating and Air Conditioning Engineers;

(B) determine the adequacy of the standards for protecting public health and promoting worker productivity;

(C) assess the costs of compliance with such standards;

(D) determine the degree to which such standards are being adopted and enforced;

(E) identify the extent to which buildings are being operated in a manner which achieves the standard; and

(F) assess the potential for such standards to complement controls over specific sources of contaminants in reducing indoor air contamination.

(3) The Administrator shall submit to the Congress, within thirty-six months of the enactment of this Act a report which shall—

(A) describe the ventilation program carried out under this Act; and

(B) make recommendations concerning—

(i) the establishment of ventilation standards which protect public and worker health and take comfort and energy conservation goals into account; and

(ii) ensuring that adequate ventilation standards are being adopted and that buildings are being operated in a manner which achieves the standard.

INDOOR AIR CONTAMINANT HEALTH ADVISORIES

SEC. 7. (a) LIST OF CONTAMINANTS.—(1) Within two hundred and forty days after the date of enactment of this Act, the Administrator shall prepare and publish in the Federal Register a list of the contaminants (hereinafter referred to as listed contaminants) that may occur or are known to occur in indoor air at levels which may reasonably be expected to have an adverse impact on human health. The list may include combinations or mixtures of contaminants and may refer to such combinations or mixtures by a common name.

(2) The Administrator shall from time to time and as necessary to carry out the provisions of this Act, but not less often than biennially, review and revise such list adding other contaminants pursuant to the requirements of this Act.

(3) The list provided for in paragraph (1) of this subsection shall include, at a minimum: benzene, biological contaminants, carbon monoxide, formaldehyde, lead, methylene chloride, nitrogen oxide, particulate matter, asbestos, polycyclic aromatic hydrocarbons (PAHs), and radon.

(4) In development of the list provided for in paragraph (1) of this subsection or in revision of such list pursuant to paragraph (2), the Administrator shall consult with the advisory panel provided for in subsection (c) of this section and provide for public review and shall consider public comment prior to issuance of a final list.

(5) The listing of contaminants under this subsection is not an agency rulemaking. In considering objections raised in any judicial or related action, the Administrator's decision to list a particular contaminant shall be upheld unless the objecting party can demonstrate that the decision was arbitrary or capricious or otherwise not in accordance with the law. The list of contaminants prepared in accordance with this subsection shall not be construed to indicate that those contaminants not listed are safe for human exposure or without adverse health effect.

(6) Upon application of the Governor of a State showing that a contaminant or potential contaminant in the indoor air which is not listed pursuant to paragraph (1) of this subsection may reasonably be anticipated to have an adverse effect on human health as a result of its presence in the indoor air, the Administrator shall, within ninety days, revise the list established by paragraph (1) of this subsection to include such contaminant or publish in the Federal Register the reasons for not making such a revision.

(b) CONTAMINANT HEALTH ADVISORIES.—(1) The Administrator shall, in consultation with the advisory panel, provided for in subsection (c) of this section, and after providing for public review and comment pursuant to paragraph (6), publish advisory materials addressing the adverse human health effects of listed contaminants.

(2) Such advisory materials shall, at a minimum, describe—

(A) the physical, chemical, biological, and radiological properties of the contaminant;

(B) the adverse human health effects of the contaminant in various indoor environments and in various concentrations;

(C) an analysis of the risk posed by the contaminant to human health at the full range of concentration levels, including risk to subpopulations which may be especially sensitive to exposure to the contaminant;

(D) the extent to which the contaminant, or a mixture of contaminants, is associated with a particular substance or material and emissions rates which are expected to result in varying levels of contaminant concentration in indoor air;

(E) any Technology and Management Practice Assessment Bulletin which is applicable to the contaminant and any actions which are identified for the contaminant in the National Indoor Air Quality Response Plan prepared pursuant to this Act; and

(F) any indoor air contaminant standards or related action levels which are in effect under any authority of a Federal statute or regulation, the authority of State statutes or regulations, the authority of any local government, or the authority of another country, including standards or action levels suggested by appropriate international organizations.

(2) Health advisories published pursuant to this section shall in no way limit or restrict the application of requirements or standards established under any other Federal statute.

(3) The Administrator shall establish and utilize a standard format of presentation of indoor air contaminant health advisories. The format shall be designed to facilitate public understanding of the range of risks of exposure to indoor air contaminants and shall include a summary of the research and information concerning the contaminant which is understandable to public health professionals and to those who lack training in toxicology.

(4) The Administrator shall publish health advisories for listed contaminants as expeditiously as possible. At a minimum, the Administrator shall publish not less than six advisories within eighteen months of the date of enactment of this Act and shall publish an additional six advisories within thirty-six months of the date of enactment of this Act.

(5) Health advisories shall be based on the most current available scientific and related findings or information and shall be reviewed, revised, and republished to reflect new scientific and related findings or information on a periodic basis but not less frequently than every five years.

(6) In development and revision of health advisories pursuant to this subsection, the Administrator shall provide for public review and comment, including provision of notice in the Federal Register of the intent to publish a health advisory not less than ninety days prior to publication, and shall consider public comment prior to issuance of an advisory.

(c) ADVISORY PANEL.—The Indoor Air Quality and Total Human Exposure Committee of the Environmental Protection Agency Science Advisory Board shall advise the Administrator with respect to the implementation of this section including, but not limited to, the listing of contaminants, the contaminants for which advisories should be published, the order in which advisories should be published, the content, quality, and format of advisory documents, and the revision of such documents. The Administrator shall provide that a representative of the Agency for Toxic Substances and Disease Registry, the Department of Energy Office of Health and Environmental Research, the National Institute for Occupational Safety and Health, and the National Institute for Environmental Health Sciences shall participate in the work of the Advisory Panel as ex officio members.

NATIONAL INDOOR AIR QUALITY RESPONSE PLAN

SEC. 8. (a) AUTHORITY.—(1) The Administrator shall, in coordination with other appropriate Federal agencies, develop and publish a national indoor air quality response plan.

(2) The response plan shall provide for implementation of a range of response actions identified in subsections (b) and (c) which will result in the reduction of human exposure to indoor air contaminants listed pursuant to section 7(a) of this Act and attainment, to the fullest extent practicable, of indoor air contaminant levels which are protective of human health.

(b) EXISTING AUTHORITY.—The Administrator, in coordination with other appropriate Federal agencies, shall include in the plans provided for in subsection (a) of this section a description of specific response actions to be implemented based on existing statutory authorities provided in—

(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

(2) the Toxic Substances Control Act (15 U.S.C. 201 et seq.);

(3) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

(4) the Safe Drinking Water Act (42 U.S.C. 300 et seq.);

(5) the authorities of the Consumer Product Safety Commission;

(6) the authorities of the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health; and

(7) other regulatory and related authorities provided under any other Federal statute. In implementation of response actions pursuant to paragraph (6) of this subsection the Assistant Secretary for Occupational Safety and Health shall consult with representatives of State and local governments and their employees with respect to States where the Occupational Safety and Health Administration lacks jurisdiction over State and local employees.

(c) SUPPORTING ACTIONS.—The Administrator, in coordination with other appropriate Federal agencies, shall include in the plans provided for in subsection (a) of this section a description of specific supporting actions including, but not limited to—

(1) programs to disseminate technical information to public health, design, and construction professionals concerning the risks of exposure to indoor air contaminants and methods and programs for reducing exposures to such contaminants;

(2) development of guidance documents addressing individual contaminants, groups of contaminants, sources of contaminants, or types of buildings or structures and providing information on measures to reduce exposure to contaminants including—

(A) the estimated cost of such measures;

(B) the technologic feasibility of such measures; and

(C) the effectiveness and efficiency of such measures.

(3) education programs for the general public concerning the health threats posed by indoor air contaminants and appropriate individual response actions;

(4) technical assistance including design and implementation of training seminars for State and local officials, private and professional firms, and labor organizations dealing with indoor air pollution and addressing topics such as monitoring, analysis, mitigation, building management practices, ventilation, health effects, public information and program design;

(5) development of model building codes, including ventilation rates, for various types of buildings designed to reduce levels of indoor air contaminants;

(6) identification of contaminants, or circumstances of contamination for which immediate action to protect public and worker health is necessary and appropriate and a description of the actions needed;

(7) identification of contaminants, or circumstances of contamination, where regulatory or statutory authority is not adequate to address an identified contaminant or circumstance of contamination and recommendation of legislation to provide needed authority;

(8) identification of contaminants, or circumstances of contamination, where continued reduction of contamination requires development of technology or technological mechanisms; and

(9) identification of remedies to "sick building syndrome", including proper design and maintenance of ventilation systems, building construction and remodeling practices, and safe practices for the application of pesticides, herbicides, and disinfectants, and a standardized protocol for investigating and solving indoor air quality problems in sick buildings.

(d) CONTENTS OF PLAN.—In describing specific actions to be taken under subsections (b) and (c) of this section, the Administrator, in coordination with other appropriate Federal agencies, shall—

(1) identify the health effects, and any contaminant or contaminants thought to cause health effects to be addressed by a particular action and to the fullest extent feasible, the relative contribution to indoor air contamination from all sources of contamination;

(2) identify the statutory basis for the action;

(3) identify the schedule and process for implementation of the action;

(4) identify the Federal agency with jurisdiction for the specific action which will implement the action; and

(5) Identify the financial resources needed to implement the specific action and the source of these resources.

(e) SCHEDULE.—Response plans provided for in subsection (a) shall be submitted to Congress within twenty-four months of enactment of this Act and biennially thereafter.

(f) REVIEW.—(1) The Administrator shall provide for public review and comment on the response plan provided for in this section, including provision of notice in the Federal Register for public review and comment not less than three months prior to submission to the Congress. The Administrator shall include in the response plan a summary of public comments.

(2) The Administrator shall provide for the review and comment on the response plan by the Council on Indoor Air Quality provided for under section 12 of this Act.

(g) ASSESSMENT OF MONITORING AND MITIGATION SERVICES.—The Administrator shall include in the first plan published pursuant to this section an assessment of indoor air monitoring and mitigation services provided by private firms and other organizations, including the range of such services, the reliability and accuracy of such services, and the relative costs of such services. The assessment required by this subsection shall include a review and analysis of options for oversight of indoor air monitoring and mitigation firms and organizations, including registration, licensing, and certification of such firms and organizations and options for imposing a user fee on such firms and organizations.

FEDERAL BUILDING RESPONSE PLAN AND DEMONSTRATION PROGRAM

SEC. 9. (a) AUTHORITY.—The Administrator and the Administrator of the General Services Administration shall develop and implement a program to respond to and reduce indoor air contamination in Federal buildings and to demonstrate methods of reducing indoor air contamination in new Federal buildings.

(b) FEDERAL BUILDING RESPONSE PLAN.—The Administrator of the General Services Administration, in consultation with the Administrator, the Assistant Secretary for Occupational Safety and Health Administration, the Director, and affected Federal departments or agencies shall prepare response plans addressing indoor air quality in Federal buildings. The plans shall, to the fullest extent practicable, be developed in conjunction with response plans pursuant to section 8 of this Act.

(2) The response plan shall provide for implementation of a range of response actions which will result in the reduction of human exposure to indoor air contaminants listed pursuant to section 7(a) of this Act, and attainment, to the fullest extent practicable, of indoor air contaminant concentration levels which are protective of public and worker health.

(3) Federal building response plans provided for in paragraph (1) of this subsection shall include—

(A) A list of all Federal buildings;

(B) a description and schedule of general response actions including general building management practices, product purchase guidelines, air quality problem identification practices and methods, personnel training programs, and other actions to be implemented to reduce exposures to indoor air contaminants in those buildings listed in paragraph (A);

(C) a list of individual Federal buildings listed in paragraph (A) for which there is sufficient evidence of indoor air contamination or related employee health effects to warrant assessment of the building pursuant to section 14 of this Act and a schedule for development and submittal of building assessment proposals pursuant to subsection 14(d) of this Act;

(D) a description and schedule of specific response actions to be implemented in each specific building identified in paragraph (C) and assessed pursuant to section 14 of this Act;

(E) an identification of the Federal agency responsible for funding and implementation of each response action identified in paragraphs (B) and (D); and

(F) an identification of the estimated costs of each response action identified in paragraphs (B) and (D) and the source of these resources.

(4) The response plan provided for in this subsection shall address each Federal building identified in paragraph 3(A), except that specific buildings may be exempted from coverage under this subsection. Such buildings may be exempted on the grounds of—

(A) national security;

(B) anticipated demolition or termination of Federal ownership within three years; and

(C) specialized use of a building which precludes necessary actions to reduce indoor air contamination.

(5) The plan provided for in subsection (b) shall be submitted to Congress within twenty-four months of enactment of this Act and biennially thereafter.

(6) The Administrator of the General Services Administration shall provide for public review and comment on the response plan provided for in this section, including provision of notice in the Federal Register not less than three months prior to submission to the Congress.

(7) The response plan shall include a summary of public comments. The Council on Indoor Air Quality, provided for under section 12 of this Act, shall review and comment on the plan.

(c) INDOOR AIR QUALITY RESERVE.—(1) The Administrator of the General Services Ad-

ministration shall reserve 0.5 per centum of any funds used for construction of new Federal buildings for design and construction of measures to reduce indoor air contaminant concentrations within such buildings.

(2) Measures which may be funded with the reserve provided for in this subsection may include, but are not limited to—

(A) development and implementation of general design principles intended to avoid or prevent contamination of indoor air;

(B) design and construction of improved ventilation techniques or equipment;

(C) development and implementation of product purchasing guidelines;

(D) design and construction of contaminant detection and response systems;

(E) development of building management guidelines and practices; and

(F) training in building and systems operations for building management and maintenance personnel.

(3) Upon completion of construction of each Federal building covered by this section, the Administrator of the General Services Administration shall file with the Administrator, with the Clearinghouse established under section 13 of this Act, and with the Council established under section 12 of this Act, a report describing the uses made of the reserve provided for in this subsection. Such report shall be in sufficient detail to provide design and construction professionals with models and general plans of various indoor air contaminant reduction measures adequate to assess the appropriateness of such measures for application in other buildings.

(4) The Administrator of the General Services Administration, with the concurrence of the Administrator, may exempt a planned Federal building from the requirements of this subsection if he finds that such exemption is required on the grounds of national security or that the intended use of the building is not compatible with the authority of this section.

(d) NEW EPA BUILDING.—Any new building constructed for use by the Environmental Protection Agency as headquarters shall be designed, constructed, maintained, and operated as a model to demonstrate principles and practices for protection of indoor air quality.

(e) BUILDING COMMENTS.—(1) The Administrator of the General Services Administration, in consultation with the Administrator, the Assistant Secretary for Occupational Safety and Health Administration, and the Director, shall provide, by regulation, a method and format for filing and responding to comments and complaints concerning indoor air quality in Federal buildings by workers in such buildings and by the public. The procedure for filing and responding to worker complaints shall supplement and not diminish or supplant existing practices or procedures established under the Occupational Safety and Health Act and executive orders pertaining to health and safety for Federal employees.

(2) A listing of each such filing and an analysis of such filings shall be included in each response plan prepared pursuant to this section. Such listing shall preserve the confidentiality of individuals making filings under this section. Such listing shall preserve the confidentiality of the individuals making filings under this section.

(3) Regulations implementing this subsection shall be promulgated at the earliest possible date, but not later than twenty-four months from the date of enactment of this Act.

(f) BUILDING VENTILATION AND MANAGEMENT TRAINING.—(1) Within six months of the date of enactment of this Act the Administrator of the General Services Administration shall designate, or require that a lessee designate, an Indoor Air Quality Coordinator for each Federal building which is owned or leased by the General Services Administration. An Indoor Air Quality Coordinator shall not serve more than one building.

(2) Within forty-eight months of the date of enactment of this Act, each Indoor Air Quality Coordinator shall complete the indoor air training course operated pursuant to section 6(b) of this Act. After thirty-six months from the date of enactment of this Act, each newly designated Indoor Air Quality Coordinator shall complete the indoor air training course within twelve months of designation.

(3) In any case where the Administrator of the General Services Administration finds that a lessee has failed to designate and train an Indoor Air Quality Coordination pursuant to the requirements of this Act, the Administrator of the General Services Administration shall not reestablish a lease for such building.

STATE AND LOCAL INDOOR AIR QUALITY PROGRAMS

SEC. 10. (a) MANAGEMENT AND ASSESSMENT STRATEGY DEMONSTRATION.—(1) The Governor of a State may apply to the Administrator for a grant to support demonstration of the development and implementation of a management strategy and assessment with respect to indoor air quality within such State.

(2) State indoor air quality management strategies shall—

(A) identify a lead agency and provide an institutional framework for protection of indoor air quality;

(B) identify and describe existing programs, controls or related activities concerning indoor air quality within State agencies including regulations, educational programs, assessment programs, or other activities;

(C) identify and describe existing programs, controls, or related activities concerning indoor air quality of local and other sub-State agencies and assure coordination among local, State, and Federal agencies involved in indoor air quality activities in the State; and

(D) assure coordination of indoor air quality programs with ambient air quality programs and related activities.

(3) State indoor air quality assessment programs shall—

(A) identify indoor air contaminants of concern and, to the extent practicable, assess the seriousness and the extent of indoor air contamination by contaminants listed in section 7(a) of this Act;

(B) identify the classes or types of buildings or other indoor environments in which indoor air contaminants pose the most serious threat to human health;

(C) if applicable, identify geographic areas in the State where there is a reasonable likelihood of indoor air contamination as a result of the presence of contaminants in the ambient air or the existence of sources of a contaminant;

(D) identify methods and procedures for indoor air contaminant assessment and monitoring;

(E) provide for periodic assessments of indoor air quality and identification of indoor air quality changes and trends; and

(F) establish methods to provide information concerning indoor air contamination to the public and to educate the public and interested groups, including building owners and design and engineering professionals, about indoor air contamination.

(4) As part of a management strategy and assessment pursuant to this subsection, the applicant may develop contaminant action levels, guidance, or standards and may draw on health advisories developed pursuant to section 7 of this Act.

(5) States which are selected to demonstrate the development of management and assessment strategies shall provide a management strategy and assessment pursuant to subsection (2) and (3) to the Administrator within thirty-six months of selection and shall certify to the Administrator that the strategy and assessment meet the requirements of this Act.

(6) States shall provide for public review and comment on the management strategy and assessment prior to submission of such strategy and assessment to the Administrator.

(b) RESPONSE PROGRAMS.—(1) A Governor of a State or the executive officer of a local air pollution control agency may apply to the Administrator for grant assistance to develop a response program designed to reduce human exposure to an indoor air contaminant or contaminants in the State, or in a specific class or type of building in that State, or in a specific geographic area of that State.

(2) A response program shall—

(A) address a contaminant or contaminants listed pursuant to section 7(a) of this Act;

(B) identify existing data and information concerning the contaminant or contaminants to be addressed, the class or type of building to be addressed, and the specific geograhic area to be addressed;

(C) describe and schedule the specific actions to be taken to reduce human exposure to the identified contaminant or contaminants including the adoption and enforcement of any ventilation standards;

(D) identify the State or local agency or public organization which will implement the response actions;

(E) identify the Federal, State, and local financial resources to be used to implement the response program; and

(F) provide for the assessment of the effectiveness of the response program.

(3) As part of a response program pursuant to this subsection, an applicant may develop contaminant action levels, guidance, or standards based on health advisories developed pursuant to section 7 of this Act.

(4) As part of a response program pursuant to this subsection, an applicant may develop a standard establishing a ventilation rate or rates for a class or classes of buildings including development assessment and compliance programs needed to implement the standard.

(5) As part of the response program pursuant to this subsection, an applicant may develop a response plan addressing indoor air quality in State and local govenment buildings. Such plans shall, to the fullest extent practicable, be consistent with response plans developed pursuant to section 9 of this Act.

(c) GRANT MANAGEMENT.—(1) Grants under subsection (a)(1) of this subsection shall not be less than $75,000 for each fiscal year.

(2) In selecting States for demonstration and implementation of management strategies and assessments under subsection (a)(1) the Administrator shall consider—

(A) the previous experience of the State in addressing indoor air quality issues;

(B) the seriousness of the indoor air quality issues identified by the State; and

(C) the potential for demonstration of innovative management or assessment measures which may be of use to other States.

(3) In selecting States for demonstration of management strategies and assessments under subsection (a)(1), the Administrator shall focus resources to assure that sufficient funds are available to selected States to provide for the development of comprehensive and thorough management strategies and assessments in each selected State and to adequately demonstrate implementation of such strategies and assessments.

(4) Grants under subsection (b)(1) of this section shall not exceed $250,000 per fiscal year and shall be available to the State for a period of not to exceed three years.

(5) In selecting response programs developed under subsection (b) for grant assistance, the Administrator shall consider—

(A) the potential for the response program to bring about reductions in indoor air contaminant levels;

(B) the contaminants to be addressed, giving priority to contaminants for which health advisories have been developed pursuant to section 7 of this Act;

(C) the type of building to be addressed, giving priority to building types in which substantial human exposures to indoor air contaminants occur;

(D) the potential for development of innovative response measures or methods which may be of use to other States or local air pollution control agencies; and

(E) the State indoor air quality management strategy and assessment, giving priority to States with complete indoor air management strategies and assessments.

(6) The Federal share of grants under subsections (a) and (b) of this section shall not exceed 75 per centum of the costs incurred in demonstration and implementation of such activities and shall be made on the condition that the non-Federal share is provided from non-Federal funds.

(7) Funds granted pursuant to subsections (a) and (b) of this section in a fiscal year shall remain available for obligation for the next fiscal year in which obligated and for the next following fiscal year.

(8) No grant shall be made under this section in any fiscal year to a State or local air pollution control agency which in the preceding year received a grant under this section unless the Administrator determines that such agency satisfactorily implemented such grant activities in such preceding fiscal year.

(9) States and air pollution control agencies shall provide such information in applications for grant assistance and pertaining to grant funded activites as the Administrator requires.

OFFICE OF INDOOR AIR QUALITY

SEC. 11. (a) ESTABLISHMENT.—The Administrator shall establish an Office of Indoor Air Quality within the Office of Air and Radiation at the Environment Protection Agency.

(b) RESPONSIBILITIES.—The Office of Indoor Air Quality shall—

(1) list indoor air contaminants and develop health advisories pursuant to section 7 of this Act;

(2) develop national indoor air quality response plans as provided for in section 8 of this Act;

(3) manage Federal grant assistane provided to air pollution control agencies under section 10 of this Act;

(4) assure the coordination of Federal statutes and programs administered by the Agency relating to indoor air quality and reduce duplication or inconsistencies among these programs;

(5) work with other Federal agencies, including the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health, to assure the effective coordination of programs related to indoor air quality; and

(6) work with public interest groups, labor organizations, and the private sector in development of information related to indoor air quality including the health threats of human exposure to indoor air contaiminants, the development of technologies and methods to control such contaminants, and the development of programs to reduce contaminant concentrations.

COUNCIL ON INDOOR AIR QUALITY

SEC. 12. (a) AUTHORITY.—There is established a Council on Indoor Air Quality.

(b) RESPONSIBILITIES.—The Council on Indoor Air Quality shall—

(1) provide for the full and effective coordination of Federal agency activities relating to indoor air quality;

(2) provide a forum for resolution of conflicts or inconsistencies in policies or programs related to indoor air quality;

(3) review and comment on the national indoor air response program developed pursuant to section 8 of this Act and the Federal Building Response Plan developed pursuant to section 9(b); and

(4) prepare a report to Congress pursuant to subsection (d) of this subsection.

(c) ORGANIZATION.—(1) The Council on Indoor Air Quality shall include senior representatives of Federal agencies involved in indoor air quality programs including—

(A) the Environmental Protection Agency;

(B) the Occupational Safety and Health Administration;

(C) the National Institute of Occupational Safety and Health;

(D) the Department of Health and Human Services;

(E) the Department of Housing and Urban Development;

(F) the Department of Energy;

(G) the Department of Transportation;

(H) the Consumer Product Safety Commission; and

(I) the General Services Administration.

(2) The Environmental Protection Agency shall chair the Council in the two years following enactment of this Act. In each subsequent year, members of the Council shall select the chair for that year.

(3) The Council shall be served by a staff to include an Executive Director and not less than three full-time equivalent employees.

(d) REPORT TO CONGRESS.—(1) The Council shall submit to the Congress, within eighteen months of enactment of this Act, and biennially thereafter, a report which shall—

(A) describe and assess the seriousness, extent, and characteristics of indoor air contamination throughout the country;

(B) summarize the major research issues concerning the protection of indoor air quality, describe the research accomplishments of Federal agencies over the previous two years, and provide an agenda of indoor air quality research for individual Federal agencies over a three-year period;

(C) summarized actions taken pursuant to this Act over the previous year, including publication of health advisories, implementation of national and Federal building response plans, and assistance to States;

(D) provide a general description of the activities to be conducted by Federal agencies to address indoor air quality problems over the following three-year period; and

(E) make recommendations for any actions needed to assure the quality of indoor air, including recommendations relating to institutional structures, funding, and legislation.

(2) The Council shall provide for public review and comment on the report required by this subsection.

INDOOR AIR QUALITY INFORMATION CLEARINGHOUSE

SEC. 13. (1) The Administration is authorized and directed to establish a national indoor air quality clearinghouse to be used to disseminate indoor air quality information to other Federal agencies, State, and local governments, and private organizations and individuals.

(2) The clearinghouse shall be a repository for reliable indoor air quality related information to be collected from and made available to government agencies and private organizations and individuals. At a minimum, the clearinghouse established by this section shall make available reports, programs, and materials developed pursuant to the requirements of this Act.

(3) The clearinghouse shall operate a toll-free "hotline" on indoor air quality which shall be available to provide to the public general information about indoor air quality and general guidance concerning response to indoor air quality contamination problems.

(4) The Administrator may provide for the design, development, and implementation of the clearinghouse through a contractual agreement with a nonprofit organization.

BUILDING ASSESSMENT DEMONSTRATION

SEC. 14. AUTHORITY.—(1) The Director of the National Institute for Occupational Safety and Health shall, in consultation with the Administrator, implement a Building Assessment Demonstration Program to support development of methods, techniques, and protocols for assessment of indoor air contamination in nonresidential, nonindustrial buildings and to provide assistance and guidance to building owners and occupants on measures to reduce indoor air contamination.

(2) In implementation of this section, the Director shall have the authority to conduct on-site assessments of individual buildings, including Federal, State, and municipal buildings.

(3) Nothing in this section shall in any way limit or constrain existing authorities pursuant to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651).

(b) ASSESSMENT ELEMENTS.—Assessments of individual buildings conducted pursuant to this section shall, at a minimum, provide—

(A) an identification of suspected contaminants in the air in the building and the level of such contaminants;

(B) an assessment of the probable sources of contaminants in the air in the building;

(C) a review of the nature and extent of health concerns and symptoms identified by building occupants;

(D) an assessment of the probable association of indoor air contaminants with the health and related concerns of building occupants including assessment of occupation-

al and environmental factors which may relate to the health concerns;

(E) identification of appropriate measures to control contaminants in the air in the building, to reduce the concentration levels of contaminants, and to reduce exposure to contaminants; and

(F) evaluation of the effectiveness of response measures in control and reduction of contaminants and contaminant levels, the change in occupant health concerns and symptoms, the approximate costs of such measures, and any additional response measures which may reduce occupant's health concerns.

(c) ASSESSMENT REPORTS.—(1) The Director shall prepare—

(A) a preliminary report of each building assessment which shall document findings concerning assessment elements (A) through (E) of subsection (b); and

(B) a final report which shall provide an overall summary of the building assessment including information on the effectiveness and cost of response measures, and the potential for application of response measures to other buildings.

(2) Preliminary assessment reports shall be prepared not later than one hundred and eighty days after the selection of a building for assessment. Final assessment reports shall be prepared not later than one hundred and eighty days after completion of the preliminary report.

(3) Preliminary and final reports shall be made available to building owners, occupants, and the authorized representatives of occupants.

(d) BUILDING ASSESSMENT PROPOSAL.—(1) The Director shall consider individual buildings for assessment under this section in response to a proposal identifying the building and the building assessment proposals to applicants and the applicable building owner and providing preliminary, background information about the nature of the indoor air contamination, previous reponses to air contamination problems, and the characteristics, occupancy, and uses of the building.

(2) Building assessment proposals may be submitted by a building owner or occupants or the authorized representatives of building occupants, including the authorized representatives of employees working in a building.

(e) BUILDING ASSESSMENT SELECTION.—(1) In selection of buildings to be assessed under this section, the Director shall consider—

(A) the seriousness and extent of apparent indoor air contamination and human health effects of such contamination;

(B) the proposal for a building assessment submitted pursuant to subsection (d) of this section;

(C) the views and comments of the building owners;

(D) the potential for the building assessment to expand knowledge of building assessment methods including identification of contaminants, assessment of sources, and development of response measures; and

(E) the listing of a building pursuant to paragraph (C) of section 9(b)(3).

(2) The Director shall provide a preliminary response and review of building assessment proposals to applicants and the applicable building owner within sixty days of receipt of a proposal and, to the extent practicable, shall provide a final decision concerning selection of a proposal within one hundred and twenty days of submittal.

(f) BUILDING ASSESSMENT SUPPORT.—(1) The Director may enter into agreements with private individuals, firms, State and local governments, or academic institutions for services and related assistance in conduct of assessments under the authority of this section.

(2) The Director may enter into agreements with other Federal agencies for the assignment of Federal employees to a specific building assessment project for periods of up to one hundred and eighty days.

(g) SUMMARY REPORT.—(1) The Director shall provide, on an annual basis, a report on the implementation of this section to the Administrator of the Environmental Protection Agency and to the Council on Indoor Air Quality established pursuant to section 12 of this Act.

(2) The Director shall, from time to time and in consultation with the Administrator, publish general reports containing materials, information, and general conclusions concerning assessments conducted pursuant to this section. Such reports may address concerns related to remediation of indoor air contamination problems, assessment of health related concerns, and prevention of such problems through improved design, materials and product specifications, and management practices.

(3) Reports prepared pursuant to this subsection and subsection (c) of this section shall be provided to the Indoor Air Quality Information Clearinghouse provided for in section 13 of this Act and, to the extent practicable, such reports shall be made available to architectural, design and engineering firms and to organizations representing such firms.

STATE AND FEDERAL AUTHORITY

SEC. 15. (a) GENERAL AUTHORITY.—Nothing in this Act shall be construed, interpreted, or applied to preempt, displace, or supplant any other State or Federal law, whether statutory or common or any local ordinance.

(b) OCCUPATIONAL SAFETY AND HEALTH.—In exercising any authority under this Act, the Administrator shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

AUTHORIZATIONS

SEC. 16. (a)(1) For the purpose of carrying out sections 5, 6, and 7 of this Act there is authorized to be appropriated $20,000,000 for each of the fiscal years ending September 30, 1990, 1991, 1992, 1993, and 1994. Of such sums appropriated, one quarter shall be reserved for implementation of section 7 of this Act and one quarter shall be reserved for implementation of section 5(c) of this Act and $1,000,000 shall be reserved for implementation of section 6(b) of this Act.

(2) For the purpose of carrying out sections 8, 9, 11 and 13 there is authorized to be appropriated $10,000,000 for each of the fiscal years ending September 30, 1990, 1991, 1992, 1993, and 1994. Of such sums appropriated, one-fifth shall be reserved for implementation of section 13 and one-fifth shall be reserved for implementation of section 9.

(3) For the purpose of carrying out section 10 of this Act, there is authorized to be appropriated $12,000,000 for each of the fiscal years ending September 30, 1990, 1991, 1992, 1993, and 1994. Of such sums appropriated, one-third shall be reserved for the purpose of carrying out section 10(b) of this Act.

(4) For the purpose of carrying out section 12 of this Act there is authorized to be appropriated $1,500,000 for each fiscal year ending September 30, 1990, 1991, 1992, 1993, and 1994.

(5) For the purpose of carrying out section 14 of this Act there is authorized to be appropriated $5,000,000 per year for each fiscal year ending September 30, 1990, 1991, 1992, 1993, and 1994.

RADON IN SCHOOLS

SEC. 17. (a) TITLE.—This section may be cited as the "Radon Testing for Safe Schools Act".

(b) FINDINGS.—The Congress finds that—

(1) Exposure to radon gas causes about 20,000 lung cancer deaths each year.

(2) Radon may be especially hazardous to small children who spend a substantial portion of a day in school buildings.

(3) Testing for and remediation of elevated levels of radon is relatively simple and inexpensive.

(4) Studies by the Environmental Protection Agency indicate that 54 per centum of schools tested above have at least one room with elevated levels of radon and that over 20 per centum of all school rooms tested had elevated levels of radon.

(5) On April 20, 1989, the Administrator of the Environmental Protection Agency issued a national advisory recommending that all schools be tested for radon.

(6) There is a need for improved information on proper methods and procedures for testing and remediation of radon in school buildings.

(7) There is a need for the Federal Government to provide financial assistance to States and local educational agencies for implementation of measures to reduce elevated levels of radon.

(c) REQUIREMENT FOR RADON TESTING.—Section 307 of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by adding at the end thereof the following new subsections:

"(c) GUIDELINES.—(1) Within one year of the date of enactment of this subsection, the Administrator shall publish guidelines on testing for and remediating radon in school buildings.

"(2) After the publication of guidelines pursuant to this subsection, testing and remediation carried out pursuant to this section shall be conducted in a manner consistent with such guidelines.

"(3) Any radon testing or remediation of school buildings conducted prior to the publication of guidelines pursuant to this subsection shall be considered to meet the requirements of this section if the testing or remediation is conducted consistent with any interim guidance published by the Administrator or a State where the Administrator determines that such guidelines are substantially consistent with the guidelines published under this subsection.

"(d) REQUIRMENT FOR RADON TESTING.—(1) Within two years after designation by the Administrator of an area as a priority radon area each local educational agency located in whole or in part in such designated area shall conduct tests for radon in each school building owned or operated by the local educational agency.

"(2) The Administrator may extend the schedule for testing for radon pursuant to this subsection to the date two years from the date of publication of testing guidelines pursuant to subsection (c) of this section.

"(3) The Administrator shall, as expeditiously as practicable, designate areas as priority radon areas based on—

"(A) surveys of residences for radon; or

"(B) the survey required by paragraph (4) of subsection (a) of this section; or

"(C) other date, including geological data.

The Administrator shall designate areas pursuant to this paragraph no later than September 30, 1991.

"(4) The results of any tests conducted pursuant to this section by a local educational agency shall be available for public review in the administrative offices of the local educational agency during normal business hours. The local educational agency shall notify parent, teacher, and employee organizations of the availability of such results and shall send the results to the Administrator and the agency of the State implementing radon programs.

"(5) Any radon testing conducted pursuant to this section shall be supervised by a person who has received instruction pursuant to an EPA or equivalent State approved program, as determined by the Administrator and shall use radon measurement devices and methods approved by the radon proficiency program established pursuant to section 305(a)(2) of this title.".

(d) RADON IN SCHOOLS REMEDIATION GRANT ASSISTANCE.—(1) Section 306(j)(1) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by inserting after "1991" the following: "and $15,000,000 for fiscal year 1992".

(2) Section 306(j) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by adding at the end thereof the following new paragraphs:

"(6) Of funds appropriated pursuant to this subsection in fiscal year 1992, not more than one third shall be used to implement radon remediation measures for local educational agencies pursuant to paragraphs (11) and (12) of subsection (c) of this section.

"(7) Of funds appropriated pursuant to this subsection in fiscal year 1992, the Administrator may reserve an amount up to 2 per centum or $200,000, whichever is the greater, for the purposes of making grants to local educational agencies for implementation of measures to reduce radon levels: *Provided*, That any local educational agency is prohibited by State law from receiving grant assistance from the State: *Provided further*, That the local educational agency provides not less than 50 per centum of the cost of implementing such measures from non-Federal sources.

"(8) There is authorized to be appropriated for grant assistance under paragraphs (11) and (12) of subsection (c) of this section an amount not to exceed $5,000,000 for each of fiscal years 1993, 1994, 1995, and 1996.".

(3) Section 306(c) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by adding at the end thereof the following new paragraphs:

"(11) Notwithstanding the limitation in subsection (i)(4), payment, in the form of grants or loans, of costs of implementing remediation measures necessary to prevent levels of radon in school buildings above the appropriate action level identified pursuant to section 303(b)(1) of this title: *Provided*, That such payments are made in consideration of the financial need of the applicant.

"(12) Payment of costs of conducting radon tests required pursuant to section 307(d) of this title: *Provided*, That such payment shall be made only in the case of a local educational agency which received assistance payment to paragraph (11) of this subsection.".

(4) Section 306(g) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by striking "and (6)" and inserting in lieu thereof "(6), (11), and (12)".

(5) Section 306(g) of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2661 et seq.) is amended by inserting after "Governments.—" the following "(1)" and inserting at the end thereof the following new paragraph:

"(2) Any remediation measures for reducing radon in school buildings implemented pursuant to this section shall be supervised by a person who has been approved pursuant to the proficiency program established pursuant to section 305(a)(2) of this title.".

(3) DEFINITION.—Section 302 of the Indoor Radon Abatement Act of 1989 (15 U.S.C. 2601 et seq.) is amended by adding at the end thereof the following new paragraph:

"(5) The term 'priority radon area' means an area or region of the United States in which, in the judgment of the Administrator, there is a reasonable likelihood of indoor radon levels above the appropriate action level identified pursuant to section 303(b)(1) of this title.".

(f) PREEMPTION.—(1) Nothing in this section shall be construed, interpreted, or applied to preempt, displace, or supplant any other State or Federal law, whether statutory or common.

(2) Nothing in this section shall be construed or interpreted to preclude any court from awarding costs and damages associated with the testing or mitigation of radon contamination, or a portion of such costs, at any time.

(3) Nothing in this section shall be construed or interpreted as preempting a State from establishing any liability or more strigent requirements with respect to radon in school buildings within such State.

(4) Nothing in this section creates a cause of action or in any other way increases or diminishes the liability of any person under any other law.

(5) It is not the intent of Congress that this subsection or rules, regulations, or orders issued pursuant to this subsection be interpreted as influencing, in either the plaintiff's or defendant's favor, the disposition of any civil action for damages relating to radon. This subsection does not affect the authority of any court to make a determination in any adjudicatory proceedings under applicable State law with respect to the admission into evidence or any other use of this section or rules, regulations, or orders issued pursuant to this section.

ADDITIONAL STATEMENTS

LUNCHEON HONORING RECIPIENTS OF HENRY M. JACKSON AWARD FOR DISTINGUISHED PUBLIC SERVICE

● Mr. STEVENS. Mr. President, shortly after our good friend and distinguished colleague Senator Henry M. Jackson died in 1983, a group of his friends and colleagues organized the Henry M. Jackson Foundation.

The foundation's purpose is to honor the memory and the spirit of Senator "Scoop" Jackson through programs in four areas: public service; advanced research and education in international affairs; human rights; and the environment, natural resources, and energy.

For public service, this year the foundation recognized two "unsung heroes" whose Federal Government careers span many decades.

The Henry M. Jackson Award for Distinguished Public Service for 1990 went to Mr. George Hartzog, who was with the National Park Service for 27 years, and to Mr. Phillip S. "Sam" Hughes, whose Federal career of 39 years includes the Bureau of the Budget, the Department of Energy, and the Smithsonian Institution.

Mr. President, I ask unanimous consent to print in the RECORD the remarks of Messrs. Hartzog and Hughes made at the time they received their awards, as well as the remarks of former Federal Reserve Chairman Paul A. Volcker, who delivered an address at the time of the presentation.

The material follows:

REMARKS BY GEORGE B. HARTZOG, JR., IN ACCEPTANCE OF THE HENRY M. JACKSON AWARD FOR DISTINGUISHED PUBLIC SERVICE, JUNE 19, 1990, WASHINGTON, DC

Mrs. Jackson, Mr. Van Ness, Mr. Volcker, my friend Sam, distinguished guests all—

I am the luckiest, most grateful man alive—

Forty-three years ago this month I was fortunate to marry the prettiest girl in Massachusetts. Many times I have acknowledged that was the smartest thing I ever did. One of my former N.P.S. colleagues volunteered "it was the only smart thing I ever did." I won't argue with that. We have been pleased with three magnificent children: two are Methodist preachers and the other is in the public service of the Congress.

Politics, the medium in which the people transact their common business, is honorable and indispensable to the survival of democratic government. The practitioners are the elected and appointed leadership of the Republic and the career service. All of them—politicians and bureaucrats—are public servants. They interface on the "fire line" where political policy meets program execution. Each is essential to the success of the other; it is a disaster to the public interest when either believes otherwise.

In the name of the people, they minister to the suffering, defend our freedom, rescue the environment, protect the public health, explore the universe, maintain public order, and perform myriads of other tasks essential to our well-being as a society.

Forty-four years ago I became an employee of the Department of the Interior. There I spent twenty-seven of the happiest, most fulfilling and hardest working years of my life. It was there that my bride, our children and I were privileged to live and work among the most talented, creative and dedicated people I have ever known. It was there that I had "the best job in the world"—Director of the N.P.S. With happy hearts all of us toiled to fulfill the role of government as defined by President Lincoln—doing for the people that which they cannot do for themselves. We tried not only to manage parks better but also to keep them continuously relevant to the changing needs of society. That, to me, is the essence of public service. And, I would gladly do it all again.

I have never known a greater Exemplar of public service than the man whose memory we honor today. Scoop Jackson's dedicated

life in service to others inspired people around the world. He was a towering rock of integrity; a courageous visionary who could challenge you to walk with him along unchartered paths in search of the public interest; and, a companion in whom the wellsprings of friendship and good fellowship never ran dry.

Early in my childhood I read a statement hanging on the wall of a country doctor's office, saying:

"It is well to have money and the things that money can buy, but

"It is well to check up once in a while to see whether you have lost the things that money can't buy."

To young people in search of a career, I recommend the public service. I promise you a lifetime of challenging labor and the assurance that, in the end, you can say with pride and satisfaction—I have the things of life that money can't buy.

This is the happiest day of my life. With humility, I accept this award on behalf of my family and my co-laborers in the National Park Service. Thank you very much.

REMARKS BY PHILLIP S. (SAM) HUGHES IN ACCEPTANCE OF THE HENRY M. JACKSON AWARD FOR DISTINGUISHED PUBLIC SERVICE, JUNE 19, 1990, WASHINGTON, DC

This is pretty heavy stuff for a person my age or maybe for a person of any age. Mrs. Jackson, Jim, George, Paul Volcker, Bill, before even thanking anybody I'd like to relate a little bit different Jackson anecdote going back to—well, I'm not sure if they were golden years or not, Jim—but when I was up for confirmation as Assistant Secretary of the Department of Energy, Jim Schlesinger was the Secretary and as all of you know the presiding Chairman of the Senate Interior Committee was none other than Henry "Scoop" Jackson.

I was not supposed to be controversial as an appointment—I think that was one of my virtues—and I wasn't, but characteristically the Senator was armed with a very powerful and moving statement, lots of encomiums and favorable adjectives in it, perhaps helped by Bill Van Ness or somebody else among his staff who are here. He read it with feeling and with a straight face but, when he got through, he folded up his papers and said, "Well Sam, I guess there is no place to go from there but down." And I have somewhat that feeling about this particular time and this particular luncheon and award: no place to go but down from here. The qualities of realism, humor, wisdom and civility which Scoop possessed in large amounts are in short supply at all times and places.

In any event, Mrs. Jackson and members of the foundation board and all concerned, my profound thanks for this recognition. I agree with George that it should be something of a symbolic recognition on behalf of large numbers of people who worked and enjoyed the work as we did, really throughout the period of my public service—through the golden years whenever they were, and the less golden ones, and sometimes it's rather difficult to tell them apart. George and I in any event are old collaborators, and we had some fun sharing in the work of establishing some of those National Parks. I wish that all who were involved could share with us this opportunity, this honor, and some of the uplift that comes with it.

A special thanks I think in particular to Paul Volcker, both for being here and for his work as chairman of his distinguished committee to help with reestablishing the public service as a professional goal—a worthwhile, highly demanding professional goal for those who wish to serve the public.

I should try and be somewhat profound and inspiring with this sort of a gathering, but on the other hand I think I have primarily an opportunity simply to preach to the choir. I see a lot of familiar faces and a lot of people who are already in one sense or another true believers. But let me give you some of my perspective on the times that I've worked in. It may differ a little bit with Paul but I think not seriously.

Looking back on it I sort of wonder whether the good times, the golden years, were quite as golden as they look through that rosy haze of the past. I remember for example, the grandmother who brought me up, who took me on at age 60, and at the time I told her I was planning to enter the public service, she was just about 80. And it was a shock to her. She thought I was going to be an engineer or a lawyer or something respectable like that. She was a bit naive about lawyers. But in any event when I said I was going to change my major in college and go into the public service, it really took her by surprise and shocked her, and after a period of rather careful thought she said, "Sammy, isn't there really something worthwhile that you would like to do?" I can assure you I remember her words well over these 50 plus years.

And recalling the 50's and 60's, those "golden" Budget Bureau years, we tend to forget the steady parade, the revolving door, of Budget Directors during those years. I served eleven Budget Directors in my twenty years in the Bureau of the Budget, and if it did nothing else for us, it established in those of us in the career service, Paul, a certain sense that we could survive and a certain capacity to deal with transitions. My point is that the good times perhaps weren't quite as good and—although I agree that the past decade or two were no bargain for us public servants—the bad times may prove in the long run not to be as bad as they have seemed.

I think we need to take heart and take perspective from the passage of time and to try and look without benefit of rose colored glasses at what went on in the past. We are going to remain controversial I think, those of us in the public service. That is, it seems to me, primarily because the government tends to be at the cutting edge of things, and it's involved frequently in loosely defined tasks it doesn't quite know how to do. Its reach, in the old phrase, exceeds its grasp, and it's up to those of us in the public service to attempt to extend the grasp to be co-equal with the reach.

So as I stand before you, maybe the best and most tangible inspiration I can offer is a life. After something over 50 years of public service I am unreformed and unrepentant and would encourage younger people, as I have my own family, to get into the act. Because we are at the cutting edge, government is an interesting and challenging place to be. Public service gives us a chance—whether in the model cities program or in the federal reserve—to be at the cutting edge of the problems of our times. Chief Justice Holmes said "life is action and passion and a person must share in the action and passion of his times less he be judged not to have lived."

I have had that opportunity. I've had a lot of good luck. I've made a lot of good friends, and I do take great satisfaction from that armed services recruitment phrase that "It's not just a job, it's your country." I have been encouraged by that thought on dark nights and at low ebbs in my lifetime, and I would urge upon the younger folks here their frequent recollection of it. Finally, may I simply hope that the young people here will all have as much luck, as many friends, and as much support as I have had from a variety of quarters including two wives and two sets of kids (a majority of whom are here). And just remember, it isn't just a job, it is your country. Thank you very much.

ADDRESS BY PAUL VOLCKER, CHAIRMAN, THE NATIONAL COMMISSION ON THE PUBLIC SERVICE

Thank you, Jim. I knew you really thought I did need an introduction, and when we're in private enterprise sometimes we appreciate them.

Mrs. Jackson, Bill Van Ness, honored guests, honorees, it really is a pleasure for me to be with you today to honor both Sam Hughes and George Hartzog. Together, they are the ones that really exemplify the best in the career service. Somehow it seems to be particularly appropriate that this affair at the same time honors the memory of one of America's greatest legislative leaders, Senator Henry "Scoop" Jackson. Together these three men are representative of the strong allegiance and the superb talent that this country at its best is capable of commanding.

It's clear that strong government demands a mixture of skills, political and professional. It also requires the kind of persistence and dedication that all three of these gentlemen have demonstrated. While our honorees can't be aware of it—our paths have crossed many times spiritually, if not physically. When I was first in Washington, in the Treasury, I can't recall how many times I heard Sam Hughes referred to with awe. He was in the old Budget Bureau—Assistant and then Deputy Director of that agency—the Bureau of the Budget was then at the peak of its influence, which was very substantial. Those jobs meant something. And they were held by a trusted career official.

Sam went on from the Bureau of the Budget—I'm not sure on is quite the right verb. What occurs to me is that Japanese phrase used for those who leave the Finance Ministry. It's roughly translated as "descent from heaven." Well, Sam came back to earth as Assistant Secretary of Energy, Director of the Office of Federal Elections during those difficult days of Watergate, and finally, as Undersecretary of the Smithsonian, all the time the living embodiment of high professionalism, dedicated to the public interest.

Let me say here too, something quite important about Sam Hughes which does not occur as frequently as one would like to see it these days. It's characteristic of the man that he's been able to convey his zest and enthusiasm for the public service to his family—to three daughters, a stepdaughter, and a son-in-law, all in state or federal service. I don't know how many of them are here today, Sam, but I am delighted to hear about it.

Now, I just met George Hartzog in person, but I have to tell you I feel a particularly strong kinship to him. Several years ago I was looking for a subject for a speech, and I very urgently wanted something to call attention to the satisfactions of public service in a way that people could understand. About that time somebody handed me a

book by a fellow I'd never heard of, somebody who was Director of the National Park Service. I began reading it and I was fascinated to read about his career. In the introduction there was a little passage that made, it seemed to me, a crucial and relevant point for all of us. And let me just read a couple of paragraphs from that introduction because George told it this way. He said,

"While serving as Director of the National Park Service, I received a telephone call one day from a wealthy industrialist saying he wanted to see me. The appointment was made and he came to my office. Racing day in and day out to do his job, he told me he had not taken a vacation for many years. Finally his wife and children persuaded him to relax and go with them on a trip to the national parks. There he felt he had discovered the joys of his youth and through the eyes of the rangers and the naturalists he saw anew the lode star of life. Not material wealth, but who am I in the web of life. He concluded by saying 'I would gladly trade places with you. You have the best job in all the world.'

" 'I demure,' George said. 'I wouldn't trade because I know I have the best job in the world.'

"The industrialist then said, 'That's why I wanted to meet you. I really had to know if you knew what you had.' "

Well, George and Sam are exceptional, but as people in this room know, they are not alone. The are not alone as dedicated professionals in government doing work that is essential, not always glamorous, not always receiving a lot of public attention: the food inspectors, the air traffic controllers, the health researchers, the teachers, and on and on.

Of course any discussion of heroes or role models in the public service must include the man we are remembering today, Scoop Jackson. His conscientious devotion to his country through more than four decades of public service remains a brilliant example for all of us. "He was everything a great senator should be," a columist wrote. "Energetic, incorruptible, compassionate, a public servant whose motto was, 'Who can we help today.' "

But of course he also knew when to be tough. And I think what's going on in Eastern Europe and the Soviet Union today in some part reflects the fruit of his efforts to keep this country strong over so many years. I think we've fortunate that his legacy lives on the Jackson Foundation, an organization dedicated to the promotion of excellence in public service, that commitment that Senator Jackson exemplified in his whole life.

I am glad that organization exists because, in all frankness, the idea of public service, at least in the form of a committed career, needs help. Contrast the real life experiences of Scoop, and George, and Sam in public service, their dedication and zest for their job, with the attitudes of many young people toward government careers today. When our National Commission on the Public Service surveyed top college graduates several years ago, the message came through loud and clear as they perceived it: public service is neither challenging nor stimulating. Eighty-six percent felt that a federal job would not allow them to use their abilities to the fullest. Roughly half said that most federal jobs are routine and monotonous. Eighty percent said federal civil servants don't have power and opportunity to influence governmental outcomes.

Those perceptions—not necessarily reality, but those perceptions—were at the heart of what the Commission on Public Service considered one of the greatest challenges facing American government and American educators today. I sense most of those in this room, out of your own experience, would have a different perspective than those young people. We know the frustrations, and we know that somehow they seem to get stronger over the years. But we also know something of the exhilaration that can come from devoting our energies not just to a particular client, or to making as much money as one can, but to the greatest client of all—the American people—even if that client doesn't very well.

Let's face it. There are in fact a lot of reasons to be skeptical about government today. Vietnam, Watergate, Irangate, are factors, but at least they had a sense of high drama. The recent fiascoes in Pentagon procurement, the political favoritism in HUD, the politics of Savings & Loan regulation, and corruption in agencies like the Food and Drug Administration, which we once looked to with pride and respect, all things are no great drama: they are simply squalor.

Skepticism about government isn't new. It goes back to our foundations as a nation. But lately it has seemed to get a little pathological. For instance in the last presidential election only about half of the electorate bothered to vote, down from almost two thirds in 1960. In this year's congressional elections, the experts tell us, only about a third of American voters are expected to participate. Now, I may be the only person in this room, maybe in America, not deeply disturbed by the reelection of incumbents to the Congress. But I must say I would like to see that judgement confirmed by a real majority.

I am told tax avoidance is reaching historic levels. The Internal Revenue Service has reported that this year the amount of unpaid taxes will exceed $100 billion for the first time in our history. That's not the kind of record one likes to see. In just the past few weeks, we've seen considerable reluctance to answer the census call— certainly among the most basic of civic responsibilities, one provided for directly in our Constitution.

I could go on and on, but the more relevant question is why aren't we doing more about it. I suppose we should properly begin with education.

In our report the Commission recommended a number of steps to rebuild student interest in the government and to recruit the very best graduates for the public service. In particular, we recommended the establishment of a new fellowship program, borrowing for that purpose some ideas from the military. We thought talented young men and women could compete for full financial support for their undergraduate education in return for a pledge of several years of public service. By injecting high quality talent into the federal service, I suspect such a program could turn out to be an enormous bargain in the end for the American people. Happily, Senator Glenn has informed us that he plans to submit legislation that would include a program along those lines.

Much easier would be to strengthen the Presidential Management Intern Program which already exists. For a long time that program was a single point of light in a rather dismal federal recruiting picture. However, years of relative neglect have seen applications and interest among students falling to the point where many schools and government agencies no longer consider it worthwhile to participate. We instead would like to see a significant expansion of that program. And we expect to see legislation introduced on that point as well shortly.

Certainly, government must also take steps to expand its talent base and productively employ a larger portion of minorities. For society that seems to me a moral imperative. But it's also going to soon become a practical necessity for government and business alike. Blacks and Hispanics will make up a fair larger share of new entrants to the work force in the next decade. It's been estimated that almost fifty percent of the increase in the work force in the 1990's will be minorities. Government should be a model for the private sector in that area.

Of course those measures, and education in general, has a long term payoff. It is a long term process. There is a lot more we can do here and now. Certainly pay is one. There, of course, an important start has been made in the pay and ethics legislation early this year for the Congress, the judiciary, and top executives. I think we on the Commission are delighted to see that change at the top followed by serious consideration of reform of Civil Service pay generally.

Certainly to me and others one of the most important areas for reexamination is the number of political appointments in an administration. We would raise the question whether the number of those appointments—twice what it was some fifteen years ago—doesn't get in the way of effective government rather than facilitate it. When 3,000 political job have to be filled, it is not surprising that a year or two into a new administration many of those jobs remain unfilled, and the search to find the most capable and effective people to fill the jobs is never ending. With that process going on it seems to me difficult to expect that we can attract and retain the Sam Hughes and George Hartzogs of the future, who were willing to make a career of government. If all the prime jobs go to political appointees, experience suggests that in the end the jobs requiring expertise, professionalism and continuity won't be done nearly as well.

Our report is filled with many more detailed proposals but I suspect in the end something less tangible is what will really count. A matter of spirit, a matter of personal challenge. You know for all the glories of private enterprise, and they are substantial, government remains crucial. There are some things it has to do. Many of those things represent the most important and most exciting challenges before society. Sometimes they are more routine, but with rare exceptions, routine or exciting, they must be done well. The fact that they are done well is crucial to our well-being as a nation.

More of us it seems to me, need to learn what a young presidential management intern, who has in fact just begun a career with the federal government in Philadelphia, already knows. She appeared at one of the public service dialogues we've been sponsoring around the country this year.

Yolanda Robertson spoke movingly about her reasons for choosing a career in public service. She recalled that as a child she had seen Robert Kennedy give a speech in her hometown of Mound Bayou, Mississippi. From his speech, she said, "I learned that with the proper leadership the judicial system and the government could be changed for the better.

"I became attracted to the public service as a career because as a child I saw how the system could work for the good of all, and I knew I wanted to be part of that system. I learned never to accept the status quo. Americans have not typically been satisfied with the status quo. We can't afford to do so now, and we can't afford to do with less than the best in serving our government. We need to get that message across. Not just to more of our young people, but to the nation at large."

We at the commission, I know, have only made a dent, at best a start. We have to count on others to carry the torch. And those others carrying the work forward certainly include among others the Council on Excellence in Government: I am delighted to greet the first mid-career fellows on Excellence in Government: I am delighted to greet the first mid-career fellows here today. The younger people being introduced to public service by the Coro Foundation, and by the Patricia Roberts Harris Public Affairs program at Howard University are part of our hope for the future. We need to see programs like those continued and multiplied.

We need more than that.

It seems to me we need an outraged citizenry. A citizenry that will demand higher standards and is willing to do what is necessary to get it. I am delighted to have so many young people here today who are in fact keeping the faith, the faith in our country and what it can do, carrying on in the footsteps of Sam Hughes and George Hartzog into the years ahead.

I trust and believe you can be part of an exciting and never ending challenge of making this country and this world a more humane, a more just place in which to live.

Thank you very much.●

NATIONAL VOTER REGISTRATION BILL

● Mr. FORD. Mr. President, Wednesday, the Senate voted not to invoke cloture on the motion to proceed to consideration of S. 874, the national voter registration bill. In so doing the Senate has put off to the next Congress improvement of our voter registration system.

People all over the world look to this Nation as the model of democracy. But how can we be proud of the example we are setting when only half of our citizens vote? We had an opportunity yesterday to do something about this disgraceful situation. The national voter registration bill would have made possible the broadest registration of citizens. Instead of addressing this matter of great public interest to our Nation, partisan considerations were paramount and dictated the outcome of this vote.

Low voter turnout is not just a matter of national shame because of the poor example it projects to those who look to us for leadership in democratic government. It is a matter of vital interest to the functioning of this Nation. While voter apathy may be tolerated in relatively good times, lack of citizen participation in the governmental process in times of peril and economic struggle, strikes at the very heart of our democratic process.

The most important and effective means of citizen participation is the vote. We cannot afford to maintain a system that restricts its exercise to just some of our people. Those who are left out will not feel any allegiance to the decisions made by people they were excluded from electing.

Surveys indicate that while it may be true that only half of our people of voting age vote, they also show that over 80 percent of those who are registered do vote. Registration, then, is the key to voter turnout.

We also find that lack of interest is a major reason for not voting. The problem with our present system is that if a person's interest is not aroused until close to the end of the race, that person may not vote if not already registered. We are all familiar with the scenario of how people who generally show little interest in sporting events, will be taken up with the excitment of a World Series or Super Bowl. Interest in political races also peaks as election day approaches, but unlike the Super Bowl or the World Series, only those who registered in advance can take part. This bill will assure that almost everyone who is qualified will have a ticket for the championship game on election day.

I am dismayed and saddened that the vote on this issue divided so sharply along partisan lines, with only two Republicans in the majority. Why this sharp break with the Republican Party's proud record of support for the democratic rights of all Americans? Many key voting rights issues have enjoyed broad Republican support on the past. It is unfortunate that partisanship played any role in this issue. It is not a partisan issue—it is a matter of vital importance to our national interest and well-being and deserves the support of all Members.●

DEPOSIT INSURANCE REFORM AND TAXPAYER PROTECTION ACT OF 1990

● Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of S. 3103, the Deposit Insurance Reform and Taxpayer Protection Act of 1990, introduced by the chairman of the Banking Committee, Senator RIEGLE.

The United States is entering a period of pervasive and profound stress on its banks. Bank failures threaten to become as commonplace as failures of Savings and Loan institutions, at least 200 bank failures are expected this year, and I assure my colleagues that the bill for another massive rescue effort cannot and will not easily be paid with the dollars of the American taxpayer.

The slide of U.S. banks has been amply chronicled by witnesses from the banking community, academia, and regulatory agencies testifying during a recent series of hearings in the Banking Committee. In compelling testimony, a represenatative of Standard and Poor's indicated to the Committee that S&P has in the last 6 months lowered its ratings of 36 U.S. bank holding companies, some more than once, and upgraded only 4. This is an unprecedented number of downgrades for Standard and Poor's. A General Accounting Office audit of the bank insurance fund presented to the committee found that "not since the Great Depression has the federal system of deposit insurance faced such a period of danger as it does today."

As the banking situation grows more critical, elements of workable solutions will emerge from plans offered by Congress and the administration. In my view, any remedy must emphasize the principle of individual and institutional liability for financial failure, as well as the protection of the taxpayer from a bailout shakedown.

S. 3103 provides several excellent steps toward greater stability in the Nation's banking community.

First, this bill requires prompt corrective action by regulators before an institution becomes a liability to the deposit insurance funds and the taxpayers. The legislation provides for a graduated series of restrictions that culminate in selling or closing the institution before it becomes insolvent. These restrictions include the holding-in of dividends, the filing of a capital restoration plan, and limits on asset growth, among other prudent measures.

S. 3103 strengthens capital standards to ensure an adequate margin of safety for the deposit insurance funds. Also, regulators will be required to improve the risk-based standards to account for nontraditional banking activity and to control interest rate risk.

Other provisions in the bill restrict risky bank activities and curtail the States' ability to exploit Federal deposit insurance; strengthen the restrictions on brokered deposits included in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989; and curb the practice of treating some banks as "too big to fail."

Included in S. 3103 are deposit insurance premium reforms that give greater flexibility to regulators in setting assessment rates and require the FDIC to achieve the targeted reserve level—$1.25 for each $100 in insured deposits—within a reasonable time. Provisions are included to permit, but not require, the FDIC to implement a system of risk-based premiums and authorize the use of private reinsurance as a basis for setting risk-based premiums.

Additionally, S. 3103 clarifies capital-maintenance commitments, extends unlimited cross-guarantee liabil-

ity to subsidiaries and limited cross-guarantee liability to affiliates, and requires every federally insured depository institution to receive an on-site examination at least once annually.

Other key provisions in the bill direct the SEC to facilitate the development of accounting principles that more accurately reflect the real condition of insured depository institutions; require better disclosure by institutions as to their true condition; and establish a uniform set of rules governing the extension of FDIC coverage to the deposits of banks and thrifts. Uninsured depository institutions will be required to disclose their uninsured status to consumers.

Finally, S. 3103 requires the GAO to both audit implementation of the prompt corrective action requirement and monitor the accuracy of regulatory disclosures.

The savings and loan crisis has taught all of us—the hard way—to anticipate the results of institutions' exotic portfolios, frivolous management, and overexposure in risky classes of assets. The thrift debacle has cost this Nation billions of dollars and much of its traditional confidence in U.S. financial enterprise.

Action now to shore up the Nation's banks will in the long run benefit not only those banks most directly affected by new rules, but depositors and taxpayers as well.

By reviving the insurance mechanism and emphasizing prudent managment and accounting principles, this bill upholds the institutional responsibility that is the foundation of the banking community. S. 3103 is a proper first step toward safer and sounder banks.●

PROPOSALS FOR ACROSS-THE BOARD LIMITATIONS ON ITEMIZED DEDUCTIONS

● Mr. MOYNIHAN. I am greatly disturbed by reports that the budget summit participants continue to consider some form of across-the-board limitation on itemized deductions, most importantly the Federal tax deductions for State and local taxes, charitable contributions, medical expenses, and home mortgage interest.

These deductions represent decades of settled tax policy, and embody a fundamental principle of the Federal tax system: taxes tied to the ability to pay. We give a deduction for charitable contributions because we believe people who give to worthy causes are less able to pay than those with the same income who do not. Likewise for those who suffer extraordinary medical expenses. For those who do not itemize, the standard deduction serves as a rough proxy for the deductions allowed to itemizers.

The deduction for State and local income and property taxes represents both the policy of measuring ability to pay and a principle of federalism. Since the imposition of the first Federal income tax in 1862 during the Civil War, the Federal Government has been mindful of the parallel taxing authority of the States, and sought to minimize double taxation by giving a deduction for taxes paid to the States.

The deduction for home mortgage interest embodies another tenet: The encouragement of home ownership.

Yet another itemized deduction, for investment interest, is essential to measuring income accurately. If a taxpayer borrows money to purchase an income-producing asset, and is taxed on the income from the asset but denied a deduction for the interest expense incurred in purchasing it, then you are no longer taxing income but gross proceeds instead.

Denying itemized deductions, or a portion of them, for higher income taxpayers may indeed raise taxes on the wealthy, but only in the most haphazard and arbitrary way. For example, wealthy taxpayers in States with higher State and local taxes will see their Federal taxes go up much more than equally well-off taxpayers in other States. There are surely more uniform and more rational ways to raise the amount of Federal taxes being paid by the wealthy, if that is the goal.

But beyond the wealthy taxpayers targeted by the limits on itemized deductions, it is imperative that we recognize more important collateral effects of this proposal. Education, for one. When you disrupt the finances of State and local governments, by raising the real cost of taxes to their residents, you disrupt education, the largest single expenditure in State and local government budgets, comprising about one-third of all spending.

The effect of limitations on the charitable deduction upon the countless charitable enterprises in this country would be especially harsh. Unlike the case with mortgage interest, or medical expenses, or State income taxes, you can pretty much control the amount of charitable giving you are going to do in a year. The wealthy will no doubt continue to give, but they will also plan rationally for their taxes, and it is the charitable enterprises, not the rich, that will be the worse off for it. One can begin to sense the impact of the proposal when you consider the following: 81 percent of all contributions to higher education, public and private institutions, comes from those with incomes exceeding $100,000 per year.

This assault on higher education and other nonprofit institutions comes 4 years after the cornerstone of tax incentives for larger, capital gifts, the deduction for gifts of appreciated property, was gutted in the Tax Reform Act of 1986. While on balance I supported the legislation, I fought the elimination of the full deduction for gifts of appreciated property at every step, and will continue to work to reinstate it. That said, to further restrict the charitable deduction at this juncture is just not acceptable.

As for the deduction for home mortgage interest, it would seem that simple prudence calls for proceeding with caution here. Real estate markets are in considerable turmoil at this time, with the Federal Government attempting to sell off a vast inventory of real estate in the wake of the savings and loan calamity. We will not help matters by enacting a provision that will quite clearly impact the value of all residential real estate, and roil the markets futher.

Mr. President, an across-the-board restriction on itemized deductions would have so many undesirable, truly bad, consequences, that it is a surprise to me that the idea could get this far. Yet here it is. Perhaps a testament to how far some will go in an effort to raise taxes while saying one is not doing so.

I am opposed. To the proposal's extremism against settled tax policy, and to its deception.●

NEW JERSEY STATE FEDERATION OF COLORED WOMEN'S CLUBS, INC.

● Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to the New Jersey State Federation of Colored Women's Clubs.

In its 75-year history, the organization has been through many changes. Today, the New Jersey State Federation of Colored Women's Clubs has focused its efforts on battling teen pregnancy, illiteracy, and drugs. The federation raises money for scholarships, sponsors health fairs, and provides training for women who want to learn new skills. Their involvement in New Jersey has touched many lives and sparked new dreams.

Perhaps the reason the numbers of the Federation of Colored Women's Clubs have been able to succeed is because they have banded together with one common goal. These women focus on what can be done. The federation has gained respect through its involvement in education, employment, health and housing legislation.

Mr. President, I take great pride in saluting the New Jersey State Federation Colored Women's Clubs members and hope they will have many more anniversaries.●

ITT EDUCATIONAL SERVICES

● Mr. COATS. Mr. President, the need for reform in education is an issue of national concern. Nowhere is

the need for reform more apparent than in the American work force. Employers are complaining that workers are coming to them without the basic skills they need. U.S. companies are concerned that if this trend continues, our Nation's businesses will not be able to compete in the international market.

The May issue of Career Training, the professional journal of the National Association of Trade and Technical Schools, included an article by Mr. Rene Champagne, president of ITT Educational Services. In his article, Mr. Champagne offers some interesting insights on education and, in particular, the role of career schools in preparing students to meet the needs of America's businesses.

Mr. Champagne, who served as a chief operating officer for a private pharmaceutical firm and as an executive with Colgate-Palmolive, is one of the many corporate executives who is getting involved in education and educational reform by bringing his experience in the business world back to the schools. It is encouraging to see the personal involvement of individuals, such as Mr. Champagne, who are willing to devote their time and efforts to bring their practical business experiences to the improvement of workforce education in the United States. Increased business, community, and parental involvement in education are essential if the United States is to remain competitive in the international market.

Mr. President, I ask that the full text of this article be included in the RECORD.

The article follows:

RENE CHAMPAGNE, PRESIDENT, ITT EDUCATIONAL SERVICES, INDIANAPOLIS, IN

Rene Champagne is a relative newcomer to the private career school sector.

Champagne was chief operating officer for a private pharmaceutical firm and an executive with Colgate Palmolive before joining ITT Educational Services in 1985. He was approached by an executive search firm to join ITT, and admits at first he knew little about private career schools. After talking with ITT management and touring several of the schools, however, Champagne saw "a real opportunity to do community service within the business environment."

"The opportunity was appealing," says Champagne. "In the private career school sector, you can see a direct contribution being made to the students, to the local community and to businesses in general. In a more traditional business, a company rarely gets feedback from a customer about the direct benefit of a product or service. But in private career education, you can see the benefit of our efforts in the success of our students. There is a psychic reward in knowing that you have helped someone succeed in life."

The success of each and every ITT Technical Institute student is a top priority for Champagne, and the education practices adopted by ITT reflect the organization's commitment to its students. ITT Educational Services boasts 38 degree-granting schools nationwide, all of which have restructured their programs to better serve students.

"We found that students do not learn well in a passive lecture environment where the only skill developed is rote memorization of abstract facts," says Champagne. "At ITT, we loaded up the classrooms with different types of technology and broke up the curriculum instruction so that students receive theory 50 percent of classroom time, while the other 50 percent is spent applying the theories and concepts while working with equipment. The students may work in groups, or individually, and the classes are kept small. We have found this participatory applied learning environment keeps their minds active and interest levels high."

In addition to this participatory form of instruction, ITT extends the school year calendar from nine months to a full year, with one week off each quarter, and offers the instruction time in four-hour blocks. "This allows the students to attend classes for four straight hours instead of maybe two hours in the morning and one hour in the afternoon," says Champagne. "This way, students can work at part-time jobs more easily and can take care of personal responsibilities during their free time. It has worked quite well."

The four-hour blocks of instruction also allow the school to run on a continuous 14-hour basis, permitting maximum use of the facilities and faculty.

ITT Technical Institute also integrates a career development program, which is given on a quarter-by-quarter basis to teach students how to find and keep jobs. The program covers resume writing, identfying and contacting potential employers, successful interview techniques, and dress-for-success concepts. Students spend close to 80 hours over a two-year period learning these techniques, and, according to Champagne, have a strong interest in developing these skills.

"Our outcomes reflect the success we have had with this course and our curriculum practices." says Champagne. "ITT's completion and job placement rates are quite significant and, I think, really set us apart from other public and private institutions."

PAST, PRESENT AND FUTURE CHALLENGES

Since joining the private career school sector, Champagne says the biggest change he has witnessed in the last five years involves the question of ethics. "It seems to me that the entire higher education community—and this includes the 'traditional' two- and four-year schools—needs to look at the issue of ethics," he says.

He points to the fact that 50 or more prestigious colleges are being investgigated for tuition price fixing, while another 20 to 25 colleges are being investigated for student athlete recruiting violations and many private career schools are under fire for recruiting fraud and abuse.

"Ethics are seriously being questioned at a time when the country needs all its postsecondary institutions to be of the highest integrity to meet the needs this country has in terms of educated citizens," says Champagne. "It seems most people are worried only about the practices in the private career school sector. But when you look around, the entire higher education community is under suspicion. The charges being leveled at private career schools are not substantially different than the practices being investigated in the traditional college sector. It all has to change; we need reform and improvements in every sector of postsecondary education, across the board."

He believes the market demand the private career sector has enjoyed in the 1980s is a reflection of society's need for a more educated workforce.

"Postsecondary education is no longer a luxury. Today, it is almost a requirement that people be educated beyond high school to accommodate society's vast technological changes," he says. "This requirement for educated, skilled workers has caused a major shift for businesses and society as a whole. Private career schools have been in the right place at the right time to fill the need for skilled workers."

In looking toward the future for education, Champagne believes it is critical that significant improvements be made in the secondary education system. "As a country, we are experiencing far too many dropouts and far too many children who do graduate from high school are unprepared for postsecondary education or the workforce," says Champagne. "The country as a whole is spending over $350 billion on all forms of education, yet, we are experiencing an education deficit. As a nation, we can't tolerate the outcomes our K through 12 system is producing. We have to hold the K through 12 system more accountable for these outcomes by implementing reforms in the classroom to enhance the learning ability of all students."

To improve the system, Champagne suggests that the K through 12 schools examine the learning techniques that private career schools have successfully used to turn out productive students.

"We have to get more technology into the K through 12 classrooms so students can learn by *doing* instead of sitting and listening to lectures," he says, adding that something must be done soon if society wants to enjoy its current standard of living in the year 2000.

As President of ITT Educational Services, Rene Champagne is responsible for the overall management of 38 ITT Technical Institutes with nearly 1,800 employees nationwide. Today, more than 15,000 students attend ITT Technical Institutes, studying such high-tech fields as electronics engineering technology, computer-aided drafting and automated manufacturing technology. These courses lead to bachelor's and associate degrees.●

SEVERE BURDEN OF FOREIGN DEBT

● Mr. SIMON. Mr. President, one of the most pressing things that we have to deal with—and by "we" I mean both the administration and Congress—is the too often ignored problem of Polish debt.

Recently, Deputy Prime Minister and Finance Minister Leszek Balcerowicz had an interview with La Vanguardia of Barcelona, Spain. I will ask that a portion of that interview be placed in the RECORD.

The interview summarizes the situation as adequately as anything I have seen.

Poland is the key to change in the Soviet Union. Unless we recognize that, we will not do what we should be doing for Poland. But even if that were not the case, we owe Poland a

chance to lift themselves after all the courageous decisions they are making.

My hope is that the administration and the Congress will act quickly.

I would add that the best statement I have seen on this comes from our colleague, Congressman DAVID OBEY's committee in the House where they clearly have an understanding of the importance of moving quickly on the Polish debt question.

I hope we can get some leadership on this matter.

The excerpt follows:

SEVERE BURDEN OF FOREIGN DEBT

[La Vanguardia] In your report to parliament on privatization, you hardly mentioned the arrival of foreign capital, and in the short time that you have been a minister, there have been hardly any serious foreign investments in the country. Is this because Poland does not repay its debts?

[Balcerowicz] I do not believe so. On the contrary, I believe that the positive outcome to Poland's request (that creditors forgo 80 percent of the debt) will restore Poland's creditworthiness. I believe that what alarms our future partners is precisely this massive debt which we cannot repay.

[La Vanguardia] Is not what deters potential investors the fact that Poland does not even pay the interest?

[Balcerowicz] It is true that Poland does not pay the interest, but this was agreed by the Paris Club. I repeat that the reduction of the debt will clarify the situation.

[La Vanguardia] I believe that so far Poland has not allowed foreign investors to transfer their profits. Is this not another curb?

[Balcerowicz] We are considering this. We are preparing a new law on the free transfer of profits, but if we are forced to pay all the interest and the debt, we will not have sufficient foreign currency for those transfers of profits.●

REGARDING PASSAGE OF THE COATS AMENDMENT ON INTERSTATE TRANSPORTATION OF WASTE

● Mr. CHAFEE. Mr. President, last week the Senate approved an amendment to the District of Columbia appropriations bill granting States the authority to ban out-of-State shipments of municipal solid waste. I support this amendment because it sends a strong, clear signal: Each State must develop and implement meaningful management plans for dealing with its own municipal solid waste. It is simply not acceptable for one State to shut down its solid waste disposal facilities, and then rely on exporting its trash as a means of solving a statewide capacity shortage—a shortfall that it created.

The interstate waste problem, however, is but a symptom of a much larger problem that is growing increasingly worse. I am referring to the severe shortage of disposal capacity for municipal solid waste. This problem affects virtually every region of the country. No one disputes that the volume of waste we are producing as a nation is increasing at an alarming rate. This trend is gaining momentum as we turn more and more to overpackaged and disposable products. The amount of trash we are producing is staggering, as much as 1 ton per person each and every year.

For thousands of communities across the country, the problem of waste disposal is a real and immediate concern. It is no longer an option simply to burn household waste, and it is not good policy to encourage the dumping of waste in unlined open pits. More environmentally sound disposal methods are required, such as lined, well-managed landfills which protect ground water and waste-to-energy facilities that are equipped with state-of-the-art controls to limit air pollution and toxic ash.

Many landfills, which once provided an inexpensive and relatively simple solution are now closing, either because they are full, or because they fall woefully short of State and Federal environmental protective standards. In the last two decades the number of landfills accepting solid waste has been reduced dramatically, from about 30,000 to 6,000. This trend has sent an enormous amount of waste, over 12 million tons in 1989, across State borders in search of a home. This policy of unregulated interstate waste shipments has led waste haulers to seek the least expensive landfill option which, in many cases, is the least environmentally sound option.

This problem is crying out for a comprehensive solution, one that involves Federal, State, and local participation: The Federal Government must work to create markets for recyclable materials, and establish minimum landfill standards, removing the incentive to long-haul waste to States with lax standards; State governments must develop comprehensive plans that address siting and capacity issues; and local governments must institute aggressive source reduction and recycling programs to reduce the amount of trash produced and to assure a steady supply of recyclable materials.

All of this argues for a comprehensive legislative solution that addresses the underlying causes of excessive interstate waste shipment. For this reason I, along with Senator BAUCUS, introduced the Municipal Solid Waste Source Reduction and Recycling Act (S. 1112). This bill, along with other bills referred to the Committee on Environment and Public Works, will be considered by our committee next year when we take up reauthorization of the Resource Conservation and Recovery Act. Legislation such as ours will provide States with the policy direction, technical support and financial assistance they need to effectively manage municipal solid waste that is generated within their borders.

Comprehensive legislation to deal with this problem will clearly be a high priority of the Environment and Public Works Committee in the next Congress. In the meantime, the amendment offered by my distinguished colleague from Indiana will put States on notice that they must begin the hard work of developing strategies to deal with burgeoning waste streams. Simply exporting the problem is not an acceptable solution.

I would like to point out that the Coats amendment, as approved by the Senate, does not cover hazardous waste, superfund waste, and nonhazardous industrial waste. These waste streams were intentionally excluded. The amendment does not authorize States to impose restrictions or differential fees on imports of these wastes because such restrictions, in my view, would create an unreasonable burden on interstate commerce and would simply be unsound environmental policy.

There are numerous reasons why these restrictions are undesirable when applied to waste streams other than municipal trash. First, no State can manage all its hazardous wastes with one technology. Treating the universe of hazardous wastes generated in this country to comply with the RCRA Land Disposal Restrictions Program requires access to numerous different technologies. Not every State has every technology. Therefore, all States, to a greater or lesser degree, rely on exporting hazardous wastes.

Second, duplicating each necessary technology within each State is economically impractical. A well-designed and operated hazardous waste management facility requires a significant capital investment and sophisticated management and technological expertise. Few, if any, individual States produce sufficient amounts of any particular type of hazardous waste to support a commercially feasible operation of the facilities required to treat and dispose of these wastes.

Third, duplicating each necessary technology within each State would be environmentally ill-advised. The extraordinary range of geologic and climatic conditions within this country offers the promise that environmentally appropriate sites may exist for each necessary hazardous waste technology. The converse is true also, however. There are locations where a particular technology would produce unacceptable risks.

Fourth, the demand for hazardous and industrial waste management technologies is geographically unstable, varying with the initiation of new Superfund remedial actions, the opening of new industrial facilities and the development of new production technologies.

In short, unilateral State action cannot solve the problem of hazardous waste disposal. While some States have perhaps borne more than their fair share of this particular burden in the past, no State can go it alone. Unilateral State action also threatens to leave some generators with no place to send their waste, a situation that would only encourage environmentally unsound disposal practices.

The 1986 amendments to Superfund added what are known as the capacity assurance provisions. I believe the process set in motion by that law has not yet been given a chance to resolve the hazardous waste capacity problems we face. These problems are only exacerbated by State import restrictions. In fact, it is troubling to see that some States are citing the capacity assurance program as purported justification for the imposition of import bans and other restrictions on hazardous wastes. As the Eleventh Circuit Court of Appeals has correctly recognized, however, that was never the intent of the capacity assurance provisions of Superfund. The capacity assurance planning proves, in combination with today's stringent environmental regulations, is designed to eliminate the incentive to impose import restrictions on hazardous, Superfund, and nonhazardous industrial wastes. An open border policy, coupled with sound planning, is our best protection against unsound hazardous wastes disposal practices.

Again, Mr. President, I would like to commend the Senator from Indiana for his determination in securing Senate passage of his amendment addressing the interstate transport of municipal solid waste.●

ROCKY MOUNTAIN NATIONAL PARK'S 75TH ANNIVERSARY

● Mr. WIRTH. Mr. President, it is my great pleasure to announce that September 4, 1990, marks the 75th anniversary of Rocky Mountain National Park. This national park, located along the continental divide in north-central Colorado, is one of the Nation's more popular parks as well as one of the most spectacular.

Consisting of 414 square miles, Rocky Mountain National Park contains some of the most striking mountain scenery of the Rockies. One-third of the park is above tree line where delicate Rocky Mountain tundra ecosystems thrive. The park is home to a large flock of Rocky Mountain bighorn sheep, the official State animal of Colorado, as well as large populations of deer, elk, and a variety of other flora and fauna. There are numerous high mountain lakes and sparkling mountain streams providing refreshing relaxation along their banks.

The park offers a variety of recreational opportunities including hiking, camping, horseback riding, fishing, rock climbing, and backcountry and downhill skiing. Long's Peak, one of Colorado's 54 14,000-foot mountains, is a popular mountain hike with breathtaking views at its summit. Another popular attraction is Trail Ridge Road. This 50-mile scenic roadway is the highest continuous paved road in the Nation. The road climbs from 8,000 to 12,183 feet above sea level, with 11 miles traveling through the world of the alpine tundra.

To commemorate 75 years of providing outdoor enjoyment to millions of visitors worldwide, the park held a rededication celebration on September 3, 1990. The ceremony was held within yards of the original dedication site that opened the park in 1915. The event was marked by the progression of vintage automobiles representing the decades since the park was created.

The park superintendent, Mr. Jim Thompson, was the master of the rededication ceremonies. In attendance at this special event was Mrs. Edna Mills Kiley, daughter of Enos Mills, considered by many to be one of the driving forces behind the creation of the park. Also present was Mr. Ted Matthews, who at 4 years old in 1915 was in attendance at the original park dedication.

This celebration provided an opportunity for us all to reflect on the proud history of our national parks and to assess their future longevity. As awareness of the threats to our environment increases, we all can be thankful that our Nation had the foresight to carve out these scenic wildlands for special protection. National parks, like Rocky Mountain, provide cherished opportunities for our citizens to experience nature in its unspoiled state and to reinvigorate efforts to improve our Nation's environmental quality.

The great numbers of visitors to our national parks stand as a compliment to our early public lands protection policy. Rocky Mountain National Park itself receives 3 million visistors annually. But like so many of our national parks, the popularity of Rocky Mountain National Park ironically detracts from the quality of its outdoor experience. Overuse and development pressures are threatenting to degrade the park's wilderness quality. The activities that occur within and around the Park can have wide-ranging, long-term effects. Consequently, the park and its surrounding environment must be managed to ensure its wilderness quality for future generations.

I would like to take this opportunity to salute Rocky Mountain National Park on its 75th anniversary and its look forward to another rewarding 75 years.●

WILL TURKEY LOOK EAST?

● Mr. SIMON. Mr. President, recently, the National Journal carried an article by David C. Morrison titled simply "Will Turkey Look East?"

The conclusion of the article is that Turkey is likely to look east.

The United States has failed to treat Turkey like one friend should treat another friend. That is to help when help is needed but, to speak candidly.

And so, we have been obsequious to Turkey in matters that relate to Greek-Turkish relations. We have been reluctant to talk candidly about the Armenian massacre.

That does not make for a good, normal relationship between countries.

I think, inevitably, Turkey will look both to the East and to the West for her commerce and her culture.

I want to maintain a good relationship with Turkey.

But, I do not want to do it by turning my back on Greece and Cyprus, and I do not want to do it by pretending that the events that occurred 75 years ago against Armenian people did not occur.

So let us develop a good, healthy, candid relationship with Turkey in which Turkey can talk to us candidly about her concerns, and we can do the same.

I ask that the article by David Morrison be printed in the RECORD.

The article follows:

[From the National Journal, July 7, 1990]

WILL TURKEY LOOK EAST?

(By David C. Morrison)

DIYARBAKIR, TURKEY.—As the world lurches into the post-Cold War era, some frontline states—the two Germanys, say—can look forward to far brighter prospects in the coming brave new world than can others—Turkey, say. Poised on a cusp—between Asia and Europe, between poverty and development, between autocracy and democracy—Turkey shares the longest border with the Soviet Union of any NATO nation, and maintains the second-largest military in the Western alliance, after the United States. Many of the challenges and opportunities confronting Turkey as it moves into the uncertain 1990s are thrown into high relief by this ancient city in southeastern Anatolia.

When not guarding the frontiers with the Soviet Union, Iran and Syria, Turkish conscripts posted in the eastern steppes of Anatolia spend a lot of time decorating the stark hillsides with monumental patriotic slogans spelled out in white stones. A favorite is "Ne Mutlu Türküm Diyene" (What joy to him who says, 'I am a Turk!' "), an adage coined by Kemal Atatürk, the Westernizing father of modern Turkey. Not all of Turkey's 51 million citizens find joy in Turkishess, however. Roughly 10 million Turkish Kurds yearn to use their own language publicly and to express their own culture freely—rights denied by a government that insists on defining the Kurds as ethnically undistinct "Mountain Turks."

"There is a war going on here" a cab driver said as he wended through the

narrow streets of Diyarbakir, a hotbed of Kurdish militancy. That there is—through the carnage is little noted by the U.S. news media. Six years ago, the Kurdish Workers' Party (PKK) renewed a seemingly futile, decades-old armed struggle for an independent Kurdistan. In mid-June, 27 villagers were killed in Čevrimli in nearby Siirt province. The Turkish government blamed the massacre on PKK savagery; from an office in Greek-controlled southern Cyprus, the PKK blamed the deaths on Turkish government bombardment.

It's hard to say for sure exactly what happened. With an estimated 2,500 casualties in this ethnic war since 1984, and 97 this May alone, the government recently barred all reporters from Kurdish provinces. Three local teenagers who paused in Diyarkakir to chat casually with an American thus scattered like mice when five Turkish soldiers approached. Turkey's draconian response to the Kurdish insurgency—and most other forms of dissent—has only exacerbated its already dismal human rights record. "Any person detained in Turkey for a suspected political offense is in danger of being tortured," Amnesty International reported last October. The Turkish government has admitted to isolated abuses. But former President Kenan Evren—who led the 1980 coup, Turkey's third since 1960—contended in 1986 that charges such as Amnesty's are designed "to prevent Turkey [from] taking its place in the European Community, to push her out of Europe."

This past January, the European Community did, in fact, decide to put off indefinitely Turkey's bid for membership. Though human rights played a role in this latest snub, as did continuing controversy over Turkey's 1974 creation of a separate Turkish state in north Cyprus, this country's relative poverty is the real roadblock. And now that Czechoslovakia, Hungary and other East Bloc states are candidates for membership in an economically unified Europe, Turkey's odds of joining the club are all the more remote. At the same time, German unification portends unemployment for West Germany's two million Turkish "guest workers," and a consequent plunge in the vital hard currency that they post home.

Turks also wonder how much longer they can count on American aid as U.S. bases—such as the National Security Agency intelligence facility at Pirinclik Air Base outside of Diyarbakir—dwindle in importance. The House's recent move to cap a planned $545 million in fiscal 1991 Turkish military sales assistance at $430 million was early warning of cuts to come. "Defense will remain a basic and major element of cooperation between us," U.S. Ambassador Morton I. Abramowitz told the Turkish Daily News in mid-June, "but is likely to be less dominant than in the past."

Turkey is hardly a mere passive player as these events unfold. Symbolic of the country's drive for development is the Tigris River, flowing past Diyarbakir's age-old black stone walls. Next year, Turkey will complete the first stage of its $21 billion South Anatolia Project. By damming the Tigris and the Euphrates, Turkey plans to irrigate 8.5 per cent of its land mass and boost electric power production by 70 per cent.

But Turkey's Arab neighbors also crave these waters, which once made the Fertile Crescent flower. Syria is far from satisfied with Turkey's pledge to provide 500 cubic meters of water every second. And a disgruntled Iraq has even been accused by some in Turkey's mounting Moslem fundamentalist ranks of persuading Saudi Arabia to deny visas to 100,000 Turks wanting to make the Hajj pilgrimage to Mecca this year.

If much of the news brought by the need of the Cold War is bad for Turkey, the impending dissolution of the old Russian empire also poses opportunities. Since the demise of the Ottoman Empire seven decades ago, Turkish governments have eschewed nationalistic pan-Turkism. But, former senior CIA analyst Graham E. Fuller noted in the spring 1990 issue of Foreign Policy, the potential independence of 50 million Turkic Moslems in the Soviet Central Asian republics has striking implications. The potential for a vast new marketplace as well as opportunities for cultural leadership excites many Turks, among them a businessman who recalled with enthusiastic amazement hearing a familiar babble of Turkic tongues being spoken at a domestic air terminal in Moscow during a recent trip there.

The drive to wed Turkey culturally and economically to Europe that was Atatürk's enduring legacy now seems a lost cause. So, too, does the Cold War military marriage to Europe seem fated to drift into indifference. And so, Fuller wonders, "Might not Turkey find important compensation in economic and political influence in Turkic Central Asia?"●

SUPPORT OF THE ARMENIAN MAJORITY OF NAGORNO-KARABAKH IN AZERBAIJAN, THE SOVIET UNION

● Mr. BRADLEY. Mr. President, during the past several weeks, thousands of Armenians have been forcibly evicted from towns and villages in Nagorno-Karabakh, an area within the Soviet Republic of Azerbaijan but with an overwhelming majority of Christian Armenians. Azerbaijan opposes the struggle of the Armenian majority of Nagorno-Karabakh for self-determination and incorporation into the Armenian Republic. Azerbaijan has imposed rail blockades for over a year against Armenia and Nagorno Karabakh, and, in August, closed the natural gas pipeline to Armenia.

To protest the situation in Karabakh, Zori Balayan, an Armenian deputy to the Soviet People's Congress, bagan a hunger strike 2 weeks ago. Deputy Balayan was joined by several others, including Viktor Hampartzoumian, a renowned astrophysicist and academician, Sos Sargsyan, Vachagan Grigoryan, and Semyon Babayan. The hunger strikes are appealing to Soviet President Mikhail Gorbachev to restore civilian authority in this are, to deploy troops only along the border, to stop the evacuation of the Armenian population from their homes, to resume the transportation of food, fuel, and other necessities, to put an end to Azerbaijani persecution of the Karabakh Armenians, and to bring about a just resolution of the Karabakh issue, based on the principle of self-determination.

Mr. President, I want to recognize the courage of the Armenian leaders who are on hunger strike to protest conditions in Nagorno-Karabakh. I urge the Soviet authorities to restore civilian rule in the area and guarantee the human rights and democratic freedoms of the Armenian people.

At the same time, I would like to note that the democratically elected President of Armenia, Levon Ter-Petrosian, is currently in the United States. President Ter-Petrosian is a former Soviet political prisoner who has already established a distinguished record of leadership. I urge my colleagues and especially President Bush to meet with Ter-Petrosian to help foster the growth of democracy in the Soviet Union.●

"THE CIVIL WAR" DOCUMENTARY SERIES

● Mr. SIMON. Mr. President, last May I rose on this floor to report that a recent study found two-thirds of American 17-year-olds did not know when the American Civil War occurred. I asked them how we, as a country, can expect to compete in a global economy without an understanding of where we've been and what we've accomplished. I still believe that an understanding of history is essential if we are to comprehend the present and plan for the future. Yet, who will teach these important lessons?

Well, Mr. President, a wonderful lesson about our Nation's history has been viewed recently by more than 10 million Americans, thanks to the good work of the Association for Public Broadcasting and America's Public Television Stations, and the National Endowment for the Humanities. A truly remarkable documentary film series, "The Civil War," produced by Mr. Ken Burns, gives exhaustive coverage to the most improtant formative event in the life of our Nation. It explains, with dignified yet powerful imagery, the beliefs, fears, and hopes that motivated Americans on both sides to engage in the most deadly conflict in our Nation's history.

As Mr. Burns has said, we're still walking around in the shadow of that conflict. In important ways, our political life is shaped even now by our common struggle to complete the unfinished business of that great war. This documentary truly shows what television can do to illuminate and clarify such an important event. It also shows what an important bridge our National Endowments can be in providing the resources and inspiration for Americans to expand their understanding of common experience.

Mr. President, I hope you and our colleagues have been able to see and enjoy at least a part of this series. I

hope you will join me in saluting Ken Burns and his associates for this remarkable achievement. Finally, Mr. President, I hope you will join me in saluting the Association for Public Broadcasting, America's public television stations, and the National Endowment for the Humanities for making this singular production possible.●

AUTHORIZING SENATE LEGAL COUNSEL REPRESENTATION

Mr. CRANSTON. Mr. President, I send to the desk a resolution to authorize the Senate legal counsel to appear in legal proceedings in the name of the Select Committee on Ethics when directed to do so by the committee, to support the committee's access to evidence obtained in law enforcement proceedings, and I ask for the immediate consideration of that resolution.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 330) to authorize the Senate Legal Counsel to appear in the name of the Select Committee on Ethics.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, as the Senate knows, the Select Committee on Ethics is currently involved in preliminary inquiries regarding matters within its jurisdiction under Senate Resolution 338 of the 88th Congress. The committee has identified evidence obtained in law enforcement proceedings that may be pertinent to a matter under inquiry by the committee. The disclosure of some of this evidence may be regulated by statutory or other authorities under the electronic intercept laws, grand jury secrecy rules, or similar provisions. When legal issues have arisen over the right under such legal authorities of investigatory committees of the Senate to obtain evidence needed for matters under their jurisdiction, the Senate has authorized the legal counsel to appear in court proceedings on behalf of the committees to assist the committees in obtaining the necessary materials.

The select committee has informed the leadership that there is a significant probability that the committee may need to make an appearance in court proceedings to obtain access to evidence pertinent to its inquiries, either now or during the Senate's adjournment. In order to facilitate the committee's important work, this resolution would authorize the Senate legal counsel, when directed by the select committee, or by the chairman and vice chairman, acting jointly, to appear in the name of the committee in any legal proceeding in support of the committee's access to evidence from law enforcement investigations needed for its proceedings.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble reads as follows:

S. RES. 330

Whereas, the Select Committee on Ethics is currently conducting preliminary inquiries on matters within its jurisdiction pursuant to Senate Resolution 338, 88th Congress, as amended;

Whereas, in the course of its preliminary inquiries or any subsequent proceedings arising therefrom, the select committee may have need to obtain access to evidence obtained in the course of law enforcement investigations conducted by the executive branch or by the States;

Whereas, access to evidence obtained in law enforcement investigations may be governed by legal authorities, including rule 6(e) of the Federal Rules of Criminal Procedure and title III of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 18 U.S.C. 2510-2521 (1988);

Whereas, in the course of the select committee's efforts to obtain access to such evidence, legal issues may arise under such authorities requiring the select committee to appear in the courts of the United States or of the States;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(c), 288e(a), and 288*l*(a) (1988), the Senate may direct its counsel to appear as amicus curiae or to intervene in the name of a committee of the Senate in any legal action or proceeding in which the powers and responsibilities of Congress under the Constitution are placed in issue;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(1), the Senate may direct its counsel to defend a committee of the Senate in any civil action in which the committee is made a defendant and in which there is placed in issue the validity of any subpoena issued by the committee;

Whereas, pursuant to section 708(c) of the Ethics in Government Act of 1978, 2 U.S.C. 288g(c), the Senate may direct its counsel to perform other duties consistent with the purposes and limitations of title VII of the Act: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized, when directed by the Select Committee on Ethics, or by the chairman and vice chairman, acting jointly, to appear in the name of the select committee as amicus curiae, intervenor, applicant, or respondent in any legal action or proceeding in support of the select committee's access to evidence obtained in the course of law enforcement investigations by the executive branch or the States that the select committee determines is necessary for its current proceedings.

Mr. CRANSTON. I move to reconsider that vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar items numbered 858 through 862; 864 through 868; 870 through 874; and 876 through 880 en bloc; that any amendment reported by the committee be deemed agreed to; that the bills and joint resolutions be deemed to have been read for the third time and passed; the preambles to the joint resolutions agreed to; and the motions to reconsider the above actions en bloc be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIEF OF TREVOR HENDERSON

The bill (S. 1657) for the relief of Trevor Henderson, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1657

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 3702(b)(1) of title 31, United States Code, the Comptroller General shall pay the claim of Trevor Henderson for payment of a Survivor Benefit Plan annuity for the period December 1, 1973 through July 31, 1981.

CHANGE IN CHARTER OF THE BOYS' CLUBS OF AMERICA

The bill (S. 2981) to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys and Girls Clubs of America, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to incorporate the Boys' Clubs of America", approved August 6, 1956 (70 Stat. 1052) is amended—

(1) in the title by striking "Boys' " and inserting "Boys and Girls";

(2) in the first section by striking "successors," and inserting "successors: Gerald W. Blakeley, Jr., Boston, Massachusetts; Roscoe C. Brown, Jr., Bronx, New York; Cees Bruynes, Stamford, Connecticut; Honorable Arnold I. Burns, New York, New York; John L. Burns, Greenwich, Connecticut; Hays Clark, Hobe Sound, Florida; Mrs. Albert L. Cole, Hobe Sound, Florida; Honorable Michael Curb, Burbank, California; Robert W. Fowler, Atlantic Beach, Florida; Thomas G. Garth, New York, New York; Moore Gates, Jr., Princeton, New Jersey; Ronald J. Gidwitz, Chicago, Illinois; John S. Griswold, Greenwich, Connecticut; Claude H. Grizzard, Atlanta, Georgia; George V. Grune, Pleasantville, New York; Peter L. Haynes, New York, New York; James S. Kemper, Northbrook, Illinois; Plato Malozemoff, New York, New York; Edmund O. Martin, Oklahoma City, Oklahoma; Donald E. McNicol, Esq., New York, New York;

Carolyn P. Milbank, Greenwich, Connecticut; Jeremiah Milbank, New York, New York; C.W. Murchison, III, Dallas, Texas; W. Clement Stone, Lake Forest, Illinois,";

(3) in the first section by striking "Boys' " and inserting "Boys and Girls";

(4) in section 3 by striking "boys" and inserting "youth".

RELIEF OF JANICE AND LESLIE SEDORE AND RUTH HILLMAN

The bill (S. 3016) for the relief of Janice and Lesle Sedore and Ruth Hillman was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 3016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Janice Sedore ([redacted]) and Leslie Sedore (social security number [redacted]) of Grand Ledge, Michigan, the sum of $12,143.00 and to Ruth Hillman ([redacted]) of Lansing, Michigan, the sum of $8,512.70, in full satisfaction of all claims such individuals may have against the United States for calendar years 1980 through 1984.

ELIGIBILITY FOR MEMBERSHIP IN THE AMERICAN LEGION

The bill (S. 3091) to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 3091

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act entitled "An Act to incorporate The American Legion," approved September 16, 1919 (41 Stat. 285; 36 U.S.C. 45), is hereby amended to read as follows:

"SEC. 5. No person shall be a member of this corporation unless he has served in the naval or military services of the United States at some time during any of the following periods: April 6, 1917, to November 11, 1918; December 7, 1941, to December 31, 1946; June 25, 1950, to January 31, 1955; December 22, 1961, to May 7, 1975; August 24, 1982, to July 31, 1984; December 20, 1989, to January 31, 1990; all dates inclusive, or who, being a citizen of the United States at the time of entry therein, served in the military or naval service of any governments associated with the United States during said wars or hostilities: *Provided, however,* That such person shall have an honorable discharge or separation from such service or continues to serve honorably after any of the aforesaid terminal dates.".

NATIONAL VISITING NURSES ASSOCIATIONS WEEK

The joint resolution (S.J. Res. 270) to designate the period commencing February 17, 1991, and ending February 23, 1991, as "National Visiting Nurse Association Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 270

Whereas Visiting Nurse Associations have served homebound Americans since 1885;

Whereas such Associations annually provide home care and support services to more than 1,500,000 men, women, children, and infants;

Whereas such Associations serve 464 urban and rural communities in 45 States;

Whereas such Associations adhere to high standards of quality and provide personalized and cost-effective home health care and support regardless of an individual's ability to pay;

Whereas such Associations are voluntary in nature, independently owned, and community-based;

Whereas such Associations ensure the quality of care through oversight provided by professional advisory committees composed of local physicians and nurses;

Whereas such Associations enable hundreds of thousands of Americans to recover from illness and injury in the comfort and security of their homes;

Whereas such Associations ensure that individuals who are chronically ill or who have physical and mental handicaps receive the therapeutic benefits of care and support services provided in the home;

Whereas, in the absence of such Association, thousands of patients with mental or physical handicaps or chronically disabling illnesses would have to be institutionalized;

Whereas such Associations provide a wide range of services, including health care, hospice care, personal care, homemaking occupational, physical, and speech therapy, "friendly visiting services", social services, nutritional counseling, specialized nursing care by registered nurses, and meals on wheels;

Whereas in each community served by such an Association, local volunteers support the Association by serving on the board of directors, raising funds, visiting patients in their homes, assisting patients and nurses at wellness clinics, delivering meals on wheels to patients, running errands for patients, working in the Association's office, and providing tender loving care; and

Whereas the need for home health care for young and old alike continues to grow annually: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing February 17, 1991, and ending February 23, 1991, is designated as "National Visiting Nurse Associations Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

NATIONAL PHILANTHROPY DAY

The joint resolution (S.J. Res. 293) to designate November 16, 1990, as "National Philanthropy Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 293

Whereas there are more than 800,000 nonprofit philanthropic organizations in the United States;

Whereas such organizations employ more than 10,000,000 persons, including approximately 4,500,000 volunteers;

Whereas the people of the United States contributed approximately $104,000,000,000 in 1988 to support such organizations;

Whereas philanthropic organizations are responsible for enhancing the quality of life of people throughout this Nation and the world;

Whereas the people of this Nation owe a great debt to the schools, churches, museums, art and music centers, youth groups, hospitals, research institutions, community service institutions, and organizations that aid and comfort the disadvantaged, sick, and elderly; and

Whereas the people of the United States should demonstrate gratitude and support for philanthropic organizations and for the efforts, skills, and resources of the people who carry out the missions of such organizations; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 16, 1990, is designated as "National Philanthropy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

NATIONAL WOMEN VETERANS RECOGNITION WEEK

The joint resolution (S.J. Res. 307) designating November 11 through November 17, 1990, as "National Women Veterans Recognition Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 307

Whereas there are more than 1,200,000 women veterans in the Nation, representing 4.2 percent of the total veteran population;

Whereas the number of women serving in the Armed Forces and the number of women veterans continue to increase;

Whereas women veterans have contributed greatly to the security of the Nation through honorable military service, which often involved great hardship and danger;

Whereas the contributions and sacrifices of women veterans on behalf of the Nation deserve greater public recognition and appreciation;

Whereas the special needs of women veterans, especially in the area of health care, have often been overlooked or inadequately addressed by the Federal Government;

Whereas the lack of attention to the special needs of women veterans has discouraged or prevented many women veterans from taking full advantage of the benefits and services to which they are entitled;

Whereas women are performing a wider range of task in the Armed Forces of the Nation, as demonstrated recently by the activities of women in the military action in Panama; and

Whereas designating a week to recognize women veterans in November 1990 will help to promote important gains made by women veterans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 11 through November 17, 1990, is designated as "National Women Veterans Recognition Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

GEOGRAPHY AWARENESS WEEK

The joint resolution (S.J. Res. 323) designating November 11 through November 17, 1990, as "Geography Awareness Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 323

Whereas geography is the study of people, their environments, and their resources;

Whereas the United States is a truly unique Nation with diverse landscapes, bountiful resources, a distinctive multiethnic population, and a rich cultural heritage, all of which contribute to the status of the United States as a world power;

Whereas the leadership of the United States in world affairs is threatened by a lack of understanding of the locations and significance of historic changes occurring around the globe;

Whereas a knowledge of geography provides a "Window on a Changing World" and a way in which to understand events and their impact on the United States;

Whereas the United States is a Nation of world wide involvements and influence, the responsibilities of which demand an understanding of the lands, languages, and cultures of the world;

Whereas geography today offers perspectives and information in understanding ourselves, our relationship to the Earth, and our interdependence with other peoples of the world;

Whereas the first federally funded National Assessment of Educational Progress survey revealed a "disturbing geography knowledge gap" among 12th graders in the United States;

Whereas this survey also indicated that many students did not know that the Mississippi River flows into the Gulf of Mexico, or that the Panama Canal shortens sailing time between the east and west coasts of the United States, nor could they identify Jerusalem on a regional map, or name the three oceans moving east around the globe from Africa;

Whereas departments of geography are being eliminated from institutes of higher learning in the United States, thus endangering the discipline of geography in this country;

Whereas, while geography as a distinct discipline has virtually disappeared from the curricula of schools in the United States, it is still being taught as a basic subject in other countries, including the United Kingdom, Canada, Japan, and the Soviet Union.

Whereas an ignorance of geography, foreign languages, and cultures places the United States at a disadvantage with other countries in matters of business, politics, the environment, and global events;

Whereas one-third of adults in the United States cannot name four of the sixteen North Atlantic Treaty Organization member nations, and another one-third cannot name any; and

Whereas national attention must be focused on the integral role that knowledge of world geography plays in preparing citizens of the United States for the future of an increasingly interdependent, interconnected, and rapidly changing world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 11 through 17, 1990, is designated as "Geography Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

NATIONAL DISABLED VETERANS WEEK

The joint resolution (S.J. Res. 340) designating the week beginning November 11, 1990, as "National Disabled Veterans Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution and the preamble, are as follow:

S.J. RES. 340

Whereas there are over two million disabled veterans in the United States;

Whereas disabled veterans have sacrificed their well-being in the service of their country;

Whereas disabled veterans endure severe disabilities, such as loss of limb, paralysis, blindness, deafness, and delayed-stress syndrome;

Whereas these disabled veterans consistently experience inordinately high rates of joblessness; and

Whereas disabled veterans have made important contributions to national welfare: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of the contributions that disabled veterans have made to the welfare of the United States, the week beginning November 11, 1990, is designated "National Disabled Veterans Week." The President is requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe that week with the appropriate programs, ceremonies, and activities.

ENDING HUNGER MONTH

The joint resolution (S.J. Res. 342, designating October 1990 as "Ending Hunger Month," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 342

Whereas hunger affects the lives of 500,000,000 to 1,000,000,000 people in the world and takes the lives of 13,000,000 to 18,000,000 people each year, 75 percent of whom are children under the age of 5;

Whereas, while famines often gain widespread media attention and the subsequent response of the public, little attention is focused on the problem of chronic hunger;

Whereas schools and communities should conduct educational programs that lead to the development of viable methods for alleviating hunger;

Whereas there is a need to promote continuing activities that increase education and heighten public awareness about the extent of hunger, its causes, and consequences;

Whereas a society educated about the pervasiveness of hunger is equipped to respond to the needs of hungry people around the world; and

Whereas the United Nations and the United States Congress have designated October 16, 1990, as World Food Day and have called upon all people to take appropriate actions: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated as "Ending Hunger Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

NATIONAL COUNTY GOVERNMENT WEEK

The joint resolution (S.J. Res. 347, designating April 7 through 13, 1991, as "National County Government Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 347

Whereas county government is the oldest form of local government in the United States;

Whereas 98 percent of the Nation's population reside in counties;

Whereas county governments employed over 1,900,000 people and spent almost $103,000,000,000 last year to provide a wide range of services for the benefit of the people of the United States;

Whereas county governments are often the last available resource for providing emergency and long-term services for the poor, the homeless, immigrants, refugees, the disadvantaged, and other segments of society;

Whereas county governments own and operate 1,000 health care facilities and over 2,000 health departments;

Whereas almost 1,200 counties are now managed by appointed administrators or elected executives;

Whereas over the last 3 years county governments have assumed increasing responsibility for the administration and financing of health, welfare, justice, transportation, housing, and community development program; and

Whereas county governments have also been assigned a greater role in solving area wide problems dealing with air pollution, water pollution, solid waste disposal, airports, transit systems, regional parks, and other issues: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 7 through 13, 1991, is designated as "National County Government Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

ITALIAN-AMERICAN HERITAGE AND CULTURE MONTH

The joint resolution (S.J. Res. 349) designating October 1990 as "Italian-American Heritage and Culture Month," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 349

Whereas Italians and Italian-Americans have made contributions in all areas of life in the United States, including art, science, civil service, military service, athletics, education, law, and politics;

Whereas Italian-Americans make up one of the largest ethnic groups in the United States;

Whereas an annual national observance day has been established in October to recognize the accomplishments of Christopher Columbus, one of the greatest explorers in history and the first to record the discovery of the Americas;

Whereas the phrase "All men are created equal", contained in the Declaration of Independence, was suggested by the Italian patriot and immigrant Philip Mazzei;

Whereas the people of the United States take great pride in the accomplishments of the many outstanding men and women of Italian descent who have enriched our Nation's history, including Fiorello LaGuardia, the beloved mayor of New York City, and Enrico Fermi, winner of the 1938 Nobel Prize for Physics;

Whereas Italy enjoys a rich cultural heritage and has given the world the great works of Dante, the breathtaking art of Giotti and Michelangelo, and the inspirational music of Antonio Vivaldi and Domenico Scarlatti;

Whereas the Americas were named for the Italian explorer Amerigo Vespucci;

Whereas William Paca, an Italian-American, was one of the signers of the Declaration of Independence; and

Whereas during October 1990, special attention will be directed to national, State, and local programs promoting Italian heritage and culture: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated as "Italian-American Heritage and Culture Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

NATIONAL RICE MONTH

The joint resolution (S.J. Res. 353) to designate September of 1991 as "National Rice Month," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 353

Whereas rice is the staple grain for two-thirds of the population of the World, and the significance of rice cannot be over-emphasized;

Whereas 8 out of 10 people in the World depend on rice for 40 percent of their energy needs;

Whereas rice is the fifth most valuable food crop in this Nation, as rice represents a two-billion dollar cash crop, and is vital to the economic stability of rice farmers and millers in Arkansas, California, Louisiana, Texas, Mississippi, Missouri, and Florida;

Whereas intense research and development in rice technology has resulted in approximately 12 percent of the rice production in the World being carried out on only 2 percent of the available acreage for such production by rice farmers in this Nation, making such rice one of the most land-efficient and cost-efficient crops grown;

Whereas the United States is one of the largest exporters of rice, as this Nation exports rice to over 120 countries and supplies about 20 percent of the rice for world trade;

Whereas wild rice, the only cereal grain to be domesticated from a wild crop in the United States, is a growing segment of the rice industry and is important to the communities where it is grown;

Whereas wild rice is gaining popularity among consumers as an individual dish and in combinations with other rices;

Whereas millions of people in this Nation, as well as countless people in other countries, enjoy rice in a variety of forms, including the use of rice as an edible grain, in flour, bran, cooking oil, cereals, rice cakes, and health food snacks;

Whereas the people of this Nation consume an average of approximately 18 pounds of rice per person per year, an amount that represents twice the per capita consumption of rice 30 years ago;

Whereas rice is an important source of nutritional value, as rice provides an excellent source of complex carbohydrates, contains only a trace of fat, and is cholesterol-free and sodium-free;

Whereas scientists are now beginning to uncover the benefits of rice bran and rice bran oil in lowering the levels of cholesterol in humans;

Whereas new knowledge of the nutritional benefits of the rice kernel and the recent health consciousness of the people of this Nation is producing a growing appreciation of rice by such people;

Whereas rice is recognized worldwide as an economical food and an important part of feeding the expanding population in Third World nations;

Whereas rice provides an important contribution to the diet, to the economy of this Nation, and to the nourishment of other countries; and

Whereas the harvest of rice in this Nation is celebrated each September: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September of 1991 is designated as "National Rice Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

NATIONAL WOMEN AND GIRLS IN SPORTS DAY

The joint resolution (S.J. Res. 358) to designate February 7, 1991, as "National Women and Girls in Sports Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 358

Whereas women's athletics is one of the most effective avenues available for women of the United States to develop self-discipline, initiative, confidence, and leadership skills;

Whereas support and fitness activity contributes to emotional and physical well-being;

Whereas women need strong bodies as well as strong minds;

Whereas the history of women in sports is rich and long, but there has been little national recognition of the significance of women's athletic achievements;

Whereas the number of women in leadership positions as coaches, officials, and administrators has declined drastically over the last decade;

Whereas there is a need to restore women to leadership positions in athletics to ensure a fair representation of the abilities of women and to provide role models for young female athletes;

Whereas the bonds built between women through athletics help to break down the social barriers of racism and prejudice;

Whereas the communication and cooperation skills learned through athletic experience play a key role in the contributions of an athlete at home, at work, and to society;

Whereas women's athletics has produced such winners as Flo Hyman, whose spirit, talent, and accomplishments distinguished her above others and exhibited the true meaning of fairness, determination, and team play;

Whereas parents feel that sports are equally important for boys and girls and that sports and fitness activities provide important benefits to girls who participate;

Whereas early motor-skill training and enjoyable experiences of physical activity strongly influence life-long habits of physical fitness;

Whereas the performances of such female athletes as Jackie Joyner-Kersee, Florence Griffith Joyner, Bonnie Blair, Janet Evans, the United States Women's Basketball Team and many others in the 1988 Olympic Games were a source of inspiration and pride to the United States;

Whereas the athletic opportunities for male students at the collegiate and high school level remain significantly greater than those for female students; and

Whereas the number of funded research projects focusing on the specific needs of women athletes is limited and the information provided by these project is impreative to the health and performance of future women athletes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) February 7, 1991, is designated as "National Women and Girls in Sports Day"; and

(2) the President is authorized and requested to issue a proclamation calling on local and State jurisdictions, appropriate

Federal agencies, and the people of the United States to observe the day with appropriate ceremonies and activities.

NATIONAL ADOPTION WEEK

The joint resolution (S.J. Res. 362) to designate the period commencing on November 18, 1990, and ending on November 24, 1990, as "National Adoption Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 362

Whereas Thanksgiving week has been commemorated as "National Adoption Week" for the past 12 years;

Whereas we in Congress recognize the essential value of belonging to a secure, loving permanent family as every child's right;

Whereas the President of the United States has actively promoted the benefits of adoption by implementing a Federal program to encourage Federal employees to consider adoption;

Whereas approximately thirty-six thousand children who have special needs—school age, in sibling groups, members of minorities, or children with physical, mental and emotional handicaps—are now in foster care or institutions financed at public expense and are legally free for adoption;

Whereas the adoption by capable parents of these institutionalized or foster care children into permanent, adoptive homes would ensure the opportunity for their continued happiness and long-range well-being;

Whereas public and private barriers inhibiting the placement of these special needs children must be reviewed and removed where possible to assure these children's adoption;

Whereas the public and prospective parents must be informed of the availability of adoptive children;

Whereas a variety of media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses, and industries will feature publicity and information to heighten community awareness of the crucial needs of waiting children; and

Whereas the recognition of Thanksgiving week as "National Adoption Week" is in the best interest of adoptable children and the public in general: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on November 18, 1990, and ending on November 24, 1990, is designated as "National Adoption Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

NATIONAL DOCTORS DAY

The joint resolution (S.J. Res. 366) to designate March 30, 1991, as "National Doctors Day," was considered, order to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 366

Whereas society owes a debt of gratitude to physicians for the contributions of physicians in enlarging the reservoir of scientific knowledge, increasing the number of scientific tools, and expanding the ability of health professionals to use the knowledge and tools effectively in the never-ending fight against disease; and

Whereas society owes a debt of gratitude to physicians for the sympathy and compassion of physicians in ministering to the sick and in alleviating human suffering: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) March 30, 1991, is designated as "National Doctors Day"; and

(2) the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

GAUCHER'S DISEASE AWARENESS WEEK

The joint resolution (S.J. Res. 367) to designate the week of November 11 through 17, 1990, as "Gaucher's Disease Awareness Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 367

Whereas Gaucher's disease is caused by the failure of the body to produce an essential enzyme;

Whereas the absence of the enzyme causes the body to store abnormal quantities of lipids in the liver and spleen and frequently has an adverse effect on tissue in the body, particularly bone tissue;

Whereas among Jewish persons, Gaucher's disease is the most common inherited disorder affecting the metabolism of lipids, which are one of the principal structural components of living cells;

Whereas there is no known cure for Gaucher's disease and no successful treatment of the symptoms of the disease;

Whereas the increased awareness and understanding of Gaucher's disease by the people of the United States can aid in the development of a treatment and cure for the disease;

Whereas the National Gaucher's Disease Foundation provides funds for research in the United States with respect to the disease; and

Whereas research and clinical programs with respect to Gaucher's disease should be increased: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the week of November 11 through 17, 1990, is designated as "Gaucher's Disease Awareness Week"; and

(2) the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.

Mr. CRANSTON. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONTRACT SERVICES FOR DRUG DEPENDENT FEDERAL OFFENDERS ACT AUTHORIZATION

The bill (H.R. 3007) to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations for appropriations, was considered, ordered to a third reading, read the third time, and passed.

GERMAN-AMERICAN DAY

The joint resolution (H.J. Res. 469) to designate October 6, 1990, as "German-American Day," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

COUNTRY MUSIC MONTH

The joint resolution (H.J. Res. 603) to designate the month of October 1990, as "Country Music Month," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

MEASURES INDEFINITELY POSTPONED

Mr. CRANSTON. Mr. President, I ask unanimous consent that Calendar items No. 863 and No. 875 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—H.R. 4793

Mr. CRANSTON. Mr. President, I ask unanimous consent that H.R. 4793, the small business reauthorization, just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF ENERGY METAL CASTING COMPETITIVENESS RESEARCH ACT

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1243.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1243) entitled "An Act to require the Secretary of Energy to establish three Centers for Metal Casting Competitiveness Research", with the following amendments:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Energy Metal Casting Competitiveness Research Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) metal casting is an important process for manufacturing many items imported into or exported from the United States;

(2) the encouragement and maintenance of a technically advanced United States metal casting industry is essential to the competitiveness of many American industries;

(3) maintaining a viable metal casting industry is vital to the national security and economic well being of the United States;

(4) the promotion of technology competitiveness and energy efficiency in the United States metal casting industry by the Federal Government is necessary to maintain a viable metal casting industry;

(5) many metal casting companies lack the resources to conduct metal casting research alone, placing them at a serious competitive disadvantage;

(6) the support of university-based research in metal casting is important in promoting technology development and providing industry with qualified engineers; and

(7) by combining the resources of the Federal Government, universities, industry, and private organizations, to conduct research and development activities, substantial technology benefits will result to the metal casting industry.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "applicant" means:

(A) an educational institution;

(B) a consortium of educational institutions;

(C) a consortium of an educational institution or educational institutions with one or more of the following: Government-owned laboratories, private research organizations, nonprofit institutions, or private firms;

that is located in a region where the metal casting industry is concentrated;

(2) "census region" means one of the four census regions (Northeast, South, Midwest, and West) that are designated as census regions by the Bureau of the Census as of the date of enactment of this Act;

(3) "Department means the Department of Energy;

(4) "educational institution" means a degree granting institution of at least a baccalaureate level;

(5) "non-Federal source" means the United States metal casting industry, related industries, industry-related associations, individuals, organizations, universities, State agencies, or other entities supporting the metal casting industry;

(6) "metal casting industry" or "industry" means the industries identified by codes numbered 3321, 3322, 3324, 3325, 3363, 3364, 3365, 3366, and 3369, in the Standard Industrial Classification manual published by the Office of Management and Budget in 1987;

(7) "Secretary" means the Secretary of Energy.

SEC. 4. ESTABLISHMENT OF PROGRAM.

The Secretary, acting in accordance with authority provided in the Federal Non-Nuclear Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), except as otherwise provided in this Act, shall establish a Metal Casting Competitiveness Research Program (hereafter in this Act referred to as the "Program") for the purpose of performing and promoting the performance of research and development on issues related to the technology competitiveness and energy efficiency of the United States metal casting industry.

SEC. 5. OPERATION OF PROGRAM.

(a) SOLICITATION OF PROPOSALS.—Within one year after the date of enactment of this Act, the Secretary shall solicit and, subject to available appropriations, select proposals on a competitive basis from applicants to carry out the program under section 4. In order for a proposal to be considered by the Secretary, the applicant shall have in existence at the time the proposal is submitted the following qualifications:

(1) the technical capability to enable it to make use of existing research support and facilities in carrying out its research objectives;

(2) a multidisciplinary research staff experienced in metal casting or other directly related techologies; and

(3) the facilities and equipment capable of conducting at least laboratory scale testing or demonstration of metal casting or related processes.

(b) PROPOSAL CRITERIA.—Each proposal shall—

(1) demonstrate the support of the metal casting industry by describing—

(A) how industry has participated in deciding what research activities will be undertaken;

(B) how industry will participate in the evaluation of the applicant's progress in research and development activities; and

(C) the extent to which industry funds are committed to the applicant's proposal;

(2) have a commitment for matching funds from non-Federal sources, which shall consist of:

(A) cash, or

(B) as determined by the Secretary, the fair market value of equipment, services, materials, appropriate technology transfer activities, and other assets directly related to the proposal's cost;

(3) include a single or multiyear management plan that outlines how the research and development activities will be administered and carried out;

(4) state the annual cost of the proposal and a breakdown of those costs; and

(5) describe the technology transfer mechanisms the applicant will use to make available research results to industry and to other researchers.

(c) CONTENT OF MANAGEMENT PLAN.—The management plan set forth in subsection 5(b)(3) shall—

(1) outline the basic research and development activities expected to be performed;

(2) outline who will conduct those research activites;

(3) establish the time frame over which the research activities will take place; and

(4) define the overall program management and direction by—

(A) identifying managerial, organizational and administrative procedures and responsibilities;

(B) outlining how the coordination of research and development between the individuals and organizations involved will be achieved;

(C) demonstrating how implementation and monitoring of the progress of research projects after receipt of funding from the Secretary will be achieved;

(D) demonstrating how recommendations and implementations on modifications to the plan will be achieved; and

(E) providing sufficient rationale to support the plan's costs.

(d) SELECTION OF PROPOSALS.—From the proposals submitted, the Secretary shall select proposals for funding. The Secretary shall attempt to select at least four proposals. The Secretary shall select the proposals that—

(1) will best result in carrying out needed metal casting research and development in one or more of the following general areas—

(A) solidification and casting technologies;

(B) computational modeling and design;

(C) processing technologies and design for energy efficiency, material conservation, environmental protection, or industrial productivity; and

(D) other areas of research, which in the judgment of the Secretary, after consulting with the Board established in section 7, further the purposes of this Act;

(2) represent research and development in specific areas identified in the "Metal Casting Research Priorities" developed annually by the Board pursuant to subsection 7(b)(1);

(3) to the greatest extent possible and subject to available appropriations, ensure that at least one applicant is selected from each of the four census regions of the country where the metal casting industry is concentrated;

(4) demonstrate strong industry support;

(5) ensure the timely transfer of technology to industry; and

(6) otherwise best carry out the purposes of this Act.

(e) FUNDING OF PROGRAM.—From amounts made available in separate appropriation Act, the Secretary shall provide to each applicant selected the financial and technical assistance and other incentives that are necessary and appropriate to carry out the purposes of this Act.

(f) NATIONAL METAL CASTING RESEARCH INSTITUTE.—Each recipient of financial assistance under subsection (a) shall be known as a "National Metal Casting Research Institute."

SEC. 6. REVIEW.

(a) EVALUATION OF RESEARCH ACTIVITIES.—The Secretary shall regularly monitor and evaluate the research activities of the applicants selected. After considering the reports of the Board provided for in subsection 7(b)(2), the Secretary shall determine whether each applicant selected has complied with the management plan submitted in the original proposal and any modifications made since.

(b) ANNUAL REPORT.—Each selected applicant in the program shall provide an annual report to the Secretary that explains the progress made, compliance with the management plan, whether changes are needed and are being made to the management plan, and what new research is planned.

(c) DISCONTINUATION OF FUNDING.—In the event a selected applicant has substantially failed in the implementation of the management plan and research activities, the Secretary shall discontinue funding.

(d) SOLICITATION OF NEW PROPOSALS.—Upon completion or discontinuance of any research activity authorized in section 5, the Secretary shall, using available funds appropriated pursuant to this Act, solicit new research proposals as set forth under the terms of this Act.

SEC. 7. INDUSTRIAL ADVISORY BOARD.

(a) ESTABLISHMENT OF BOARD.—Within 120 days after the date of the enactment of this Act the Secretary, after consulting with representatives of trade and technical associations of the metal casting industry, shall establish an Industrial Advisory Board (hereafter in this Act referred to as the "Board")

to provide guidance and oversight in implementing the selection criteria and operation of the program. The Board shall be composed of nine members who are selected by the Secretary, a majority of whom shall be individuals from the metal casting industry or individuals affiliated with the industry. At least one member of the Board shall be chosen from each of the four census regions of the country. Each Board member shall serve for a term not to exceed five years, but may be reappointed for successive terms.

(b) REVIEW AND RECOMMENDATIONS.—

(1) Within 180 days after the date of the enactment of this Act and annually thereafter, the Board shall develop from the general research areas identified in section 5(d) and submit to the Secretary a list of Metal Casting Research Priorities. Such list shall, to the greatest extent possible, identify specific areas of research that would be considered of a priority nature to the United States metal casting industry.

(2) On an annual basis the Board shall—

(A) review the Secretary's solicitation and selection of research proposals and make recommendations as to how each such activity can be altered so as to better achieve the purposes of this Act; and

(B) review the research activities of each selected applicant, and the selected applicant's management plan, and report its findings and recommendations to the Secretary.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for carrying out this Act $5,000,000 for each of the fiscal years 1991, 1992, and 1993.

SEC. 9. PROTECTION OF PROPRIETARY RIGHTS.

(a) PROPRIETARY RIGHTS.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a company as a result of activities under this Act shall be disclosed.

(b) COMMERCIAL INFORMATION.—The Secretary, for a period of up to 5 years after the development of information that—

(1) results from research and development activities conducted under this Act; and

(2) would be a trade secret or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, if the information had been obtained from a company,

may provide appropriate protection against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code.

(c) PATENT RIGHTS.—With respect to patent rights, the Institutes shall be treated in the same manner as are nonprofit organizations and small business firms under chapter 18 of title 35, United States Code, notwithstanding any provisions to the contrary contained in that chapter.

SEC. 10. REPORTING.

At the time the President's annual budget request for the Department is submitted, the Secretary shall provide to Congress a detailed review of the progress of the research and development activities authorized under this Act.

Amend the title so as to read: "An Act to require the Secretary of Energy to establish Centers for Metal Casting Competitiveness Research.".

Mr. JOHNSTON. Mr. President, I make this statement on behalf of myself and Senator MCCLURE. The House has returned to the Senate H.R. 1243, the Department of Energy Metal Casting Competitiveness Research Act of 1990. We believe that H.R. 1243 sets out a very fine research program which will help American companies remain competitive in the world marketplace. Better metal casting techniques will also result in substantial energy savings. We need more measures like this to help save energy in today's uncertain world. We congratulate the House for having returned to us this legislation.

We want to thank Senators HEFLIN and SHELBY for having introduced this legislation and for having worked so hard in seeing to its passage. Without their help, the Department of Energy Metal Casting Competitiveness Research Act would never have been passed.

We have worked closely with the House in crafting this language. There are few differences between the bill as reported by the Senate Energy and Natural Resources Committee and passed by the Senate and the bill before us today. While most of the changes that were made reflect stylistic rather than substantive ones, some need a note of explanation.

The Senate passed version required 35 to 50 percent of the cost of any research proposal to be shared by non-Federal sources. The new language requires a dollar-for-dollar match of Federal funds from non-Federal sources. As with the Senate passed version, the matching funds may be cash, or the fair market value of assets, services, or activities directly related to the cost of the project, or a combination of the two.

In section 5(d)(1), the Secretary of Energy is directed to carry out metal casting research in three general areas. The Senate version listed more specific areas of research. Though the Senate language did not limit the areas of research, the language was made broader so as to make clear that no area of needed research will be excluded.

Section 9, dealing with patent rights, has been rewritten. By reference, the Senate version incorporated the provisions of the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988. The intent was for the Secretary of Energy to afford project participants the same protection given under the Steel Act for confidential or financial information or trade secrets. To make clear that this is the intended result, the language of the bill before us today repeats the language used in the Steel Act for the protection of commercial or financial information or trade secrets instead of merely referencing the Steel Act.

Under the Senate version, patent rights were also to be vested in the same manner as they are under the Steel Act. Under the Steel Act, the Secretary of Energy tansfers intellectual property developed under the program to a holding company. Participants in the program receive a paid-up, royalty-free license from the holding company. The holding company is required to make licenses available on reasonable terms to all companies that do not participate in the projects. Though the Steel Act required this procedure, it did not expressly do so.

The Secretary developed this procedure before the Steel Act was passed. This Steel Act required the Secretary to continue vesting patent rights in the same manner employed at the passage of the act by enacting into law the management plan the Secretary had developed. To make clear that the Secretary is to vest patent rights in the same manner, H.R. 1243 would treat the metal casting institutes established in section (5)(f) in the same manner as a nonprofit organization or a small business firm is treated under chapter 18 of title 35 of the United States Code.

With the passage of H.R. 1243 by the Senate, the Department of Energy Metal Casting Competitiveness Research Act of 1990 will be forwarded to the President of the United States for his signature. The Senate and the House have carefully and thoughtfully considered this important legislation. We congratulate both Houses for their work and urge the President to sign this legislation.

Mr. HEFLIN. Mr. President, I am delighted that the U.S. House of Representatives and Senate have finally passed acceptable compromise legislation to establish several national research institutions for advance metal casting technology. It would also help the industry acquire a competitive edge in the international marketplace.

On Monday, September 24, 1990, the U.S. House of Representatives passed a House-Senate agreement on H.R. 1243. Under this compromise, the Secretary of the Department of Energy is to establish a national metal casting research institute in each of the four U.S. census regions where the metal casting industry is most prevalent. With this regional approach, each regional institute can focus on the needs of its region.

This research and development program is for 3 years, with funding of $5 million per year. In my judgment, Mr. President, this is a very small investment in America's future and is absolutely necessary to help revitalize our metal casting industry. It is also necessary to advance U.S. technology in an industry which will lead to lower-cost products and to more efficient uses of our energy resources.

You will recall that metal casting is one of the oldest and most profitable of this Nation's industries. Its demise

has contributed substantially to our trade deficit. It has declined by almost half—from almost 21 million tons in 1966, to about 11.5 million tons today. Almost half of our American foundries have closed since 1971, thereby putting many thousands of American employees out of work.

In my home State of Alabama, over 18,000 employees work in foundries. Of this number, over 10,000 are employed in Jefferson County and produce over $1 billion per year of casting.

The House-Senate agreement calls for the establishment of joint ventures between qualified universities, the Federal Government and the private sector. I believe that this will prove to be a very strong partnership.

Mr. President, I wish to thank the Senate Energy Committee staffers, majority and minority, who worked very diligently and effectively to help Senator SHELBY and me get this agreement passed here in the Senate. Without their help, we would not have accomplished our goal of final passage.

Mr. SHELBY. Mr. President, on September 24, 1990, the House of Representatives voted favorably on H.R. 1243, as amended. The bill has been returned to the Senate. The bill before us is prudent legislation that will greatly assist in energy conservation. Today the obvious is that we must become more energy efficient. I congratulate Congressmen HARRIS and ERDREICH and the other members of the House for returning this important bill to the Senate. Also, I would like to thank Senators HEFLIN, JOHNSTON, and MCCLURE for their assistance in gaining passage of this legislation.

The bill in its current and final form is very similar to the bill that passed the Senate on April 4, 1990. During floor consideration of the bill, the able chairman of the Energy Committee, Senator JOHNSTON, stated that:

> The [energy] committee believes that the investment this legislation makes in the metal casting industry will be repaid many times over. Better metal casting technology will reduce energy consumption, lower costs and improve the quality of casting. This specifically makes the American metal casting industry more competitive and, thus, American industry as a whole more competitive.

I agree with his assessment. This legislation creates an environment where American ingenuity can thrive. The pairing of significant interest by the Federal Government with the substantial interests of academia and private enterprise can remove any economic disparities that currently exist.

It is important to note, Mr. President, that in this bill 50 percent of the cost will come from non-Federal sources. The bill, as amended, is fiscally responsible. It is an economic growth bill. The expressly required dollar-for-dollar match of Federal funds from non-Federal sources illustrates a certain uniqueness on the part of the foundry industry. From the beginning, the industry has been more than willing to meet its financial obligations.

The purpose of this legislation is simple: To promote technology competitiveness and energy efficiency, and to encourage a technically advanced U.S. metal casting industry. Through joint Federal, private, and university endeavors, the U.S. foundry industry can regain its leadership position.

Passage of the legislation is a further initiative on the part of the U.S. Congress to implement progressive and significant legislation that will strengthen our economic postion vis-a-vis our foreign competitors. After prudent negotiations between the Senate and the House, I believe a bill has been crafted that the President can readily sign. I thank my colleagues in both the Senate and the House for their work and strongly urge the President to sign this important bill.

Mr. CRANSTON. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California.

The motion was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. CRANSTON. Mr. President, the Senator from New York intends to speak on just about the most momentous matter before our country, about the gulf, and I am eager to hear his words, as I know others are.

The PRESIDING OFFICER (Mr. BURDICK). The Senator from New York is recognized.

THE GULF

Mr. MOYNIHAN. Mr. President, I thank the acting majority leader, my distinguished and learned friend.

I point out a happy circumstance, namely that the Senate began its deliberations this week early on Monday morning after the Senator from California had made a statement on the Supreme Court nomination that will be before us next week. He and I had a dialog with respect to the importance of the events in the gulf at this point and the need for the Senate to act and to speak to the matter and to participate in the decision.

As the week ends, we have agreed to do so. We have found in our councils agreement on a statement. I think it should be recorded that this was a draft prepared with the assistance of the Committee on Foreign Relations, which the Secretary of State has seen and does approve, as does the majority leader here and the Republican leader on the other side, as I think the Senate will do.

I have a specific purpose in speaking this late in the day on this point, which is twofold. One, we have to explore the question of whether the fact that the U.N. system is functioning and working changes the arrangements by which the United States uses or prepares to use force in world affairs.

The last quarter century has been taken up, as had earlier periods in American life, with an often rancorous and, certainly at one level, unproductive debate over what are known as the war powers.

It was unproductive only in the sense that no agreement was ever reached between the Presidency and the Congress. The War Powers Act was passed in 1973, was vetoed by the then President, was passed over that veto, and became law. No subsequent President has truly allowed that it was constitutional, in his view. President Reagan once agreed with a resolution having to do with the commitment of forces in Lebanon, but we never found grounds for agreement. It seems to me at least possible, as the U.N. system develops, that we may do that. And indeed it may be more than that; it may be what we very much need to do. It is not enough to think of the constitutional arrangements that are appropriate to a nation acting alone. We are now acting in concert. We have the first great test of that possibility, and an extraordinary one, in the gulf today.

That has come about in the aftermath of the cold war and in the context, as Mr. Stephen Rosenfeld writes in the Washington Post this morning, of a decision by the Soviet Union that it can play a more effective role in world affairs in the context of the United Nations than on its own or with a thwarted United Nations basically harassing the West through a coalition of so-called nonaligned countries which were objectively part of a Soviet coalition.

If we are going to do that, we really need to do some thinking. It is good we got this far. I think the Senator from California would agree that on Monday morning there seemed to be very little prospect that we would have an agreement on the concurrent resolution we have. In the executive branch, perhaps. Here, there was kind of a time warp in which we were still arguing events that took place in the 1960's, and thinking in those terms—wholly different events from this present time.

The Committee on Foreign Relations ought to have hearings on this. We have to reconceptualize so much,

or ought to, in the aftermath of the cold war. We have to think of how much our society changed, how much our Government changed in response to events which now no longer obtain.

This morning in the Committee on Foreign Relations we held the first hearing on the German treaty, as we describe it; the treaty that provides for the unification of Germany and the withdrawal of the four powers from any of their rights of occupation, an occupation that has gone on for 45 years—46 years, in some respects.

That came about in the most extraordinary way. If we think of the impact VE day had in this country, and the extraordinary recognition that something big had happened, it was scarcely noticed that the war had finally ended a few weeks ago. It was scarcely noticed.

It was scarcely noticed, the real event in Leipzig in October about not quite 1 year ago when people took to the streets in protest against the Communist government of the German Democratic Republic, clearly intent upon changing it, and Mr. Gorbachev kept his troops in their barracks.

I was in Berlin in 1953, and I know the Senator from California remembers when that struggle began. I remember in 1953, after the German uprising was crushed, walking in Berlin with a British friend and looking up at all those slogans. He said there is nothing here but the handwriting on the wall. And yet that seeming inevitability, finding Marxism come true, communism in an industrial society collapsed in a matter of weeks.

Yet, here we are with 700,000 Americans in West Germany. There is a nice detail: the 15 largest school district in the United States is in West Germany. We have to think our way out of this because with the Russians gone, and the French, and the British, our presence will shortly be anomalous and subject to political misinterpretation, which we would regret. And we will end up finding ourselves forced to leave rather than leaving with all flags flying.

But in this new world, we should take collective security seriously. We have seen and we had as our guest this afternoon the Emir of Kuwait and his entourage, and they take it seriously. I was not sure how seriously they took it until recently, but there you are. I will say not more in that regard.

We have to ask ourselves: Should there be a revival of the military staff committee of the United Nations? The United Nations anticipated that we would make available specific forces available to that committee by agreement. The President would negotiate the agreement and we would agree to it. Whereupon, the U.N. Security Council would have forces at its disposal which could be committed without any further act by the Congress. That was our view of what should happen. Is it our view again or not?

Mr. Shevardnadze made a major speech at the United Nations saying even more strongly what Mr. Gorbachev said in December 1988: that the Soviets are committed to this system. But they would like to see a U.N. military command in the gulf, as it was anticipated there would be. I think we have to act as if it is 1944 again, and we have in CLAIBORNE PELL someone who was present at the creation who could tell us about the expectations of that time.

In the main, those ideas have so far receded from our memory and our experience that they have to be brought back again as a matter of conscious effort, in the Department of State, in the White House and the Senate.

Second, it seems to me that we have to give some very careful thought to how we expect an economic blockade to proceed. Economic sanctions have never worked. They have only intermittently been tried. There were great expectations with them, as I spoke last week. In late 1935, as I recall, or 1936 was it, that the League imposed sanctions for the invasion of Ethopia. The British imposed sanctions against Italy but excluded coal because they exported coal in the middle of the depression and one thing the Italians needed was energy. That is one thing they would give them. Mussolini was given energy, and nothing came of the sanctions. Nothing came of sanctions against Japan. We had sanctions against Rhodesia briefly, but there were major actors in the area of South Africa who were not going to pay attention to them.

Now we have a chance. But sanctions can work in two ways. In some ideal form, a country looks up and finds itself in that situation and makes a rational decision to change. Very little we know about Mr. Saddam Hussein suggests that would be the case. There are 1½ million foreigners there. An Indian ship is just docking with food for Asians, but the basic question we have to ask ourselves is how much starvation will we allow, are we prepared to see take place? Or, under the term humanitarian aid, do we mean that we will continue to feed, see food come in, in which event sanctions will have to take the form of bringing a halt to economic activity, so that machines break down, no imports are allowed, et cetera. You can cause economic chaos, but obviously it will take a much longer time. We know what our friends in the gulf would mainly want. We know what our friends we met with this afternoon would mainly want. They want American force to be used directly. It should be clear—I hope the Senator from California agrees—that in no sense does this concurrent resolution authorize the use of force against Iraq. It congratulates the President. It supports the measures that have been approved by the Security Council.

There is no implied statutory authorization of any kind as would be anticipated by the War Powers Act. Indeed, the resolution does not touch the War Powers Act. The issue is left for another day. If the President was bound by the War Powers Act before this resolution, as we believe, then he is equally bound after it. In the meantime, he is told, the world is told, that the Congress, in this case the Senate—we hope the House will work out some language with us—supports the United States acting in the manner contemplated by the U.N. Charter. We recognize that under article 25 of the Charter a resolution of the Security Council requires our compliance. We have complied. That much we have said in this resolution. No more.

But it remains for us to act, to begin to explore the nature of collective security. It has never happened frankly, it has just been dreamed of. Now we see it before us. And as we do that, it also remains for us to look in a much more urgent manner, to think through what we now see as various scenarios whereby economic sanctions will work and prepare the American people for them, prepare the world for them and give the Iraqi regime reason to understand that the same resolve that put 200,000 more or less men and women and their weaponry in the Arabian desert in a matter of 2 weeks time, is matched by the resolve to keep them there until this purpose has been achieved, we will be joined by others but we have set upon a course which will last longer than we now think. You might almost say, looking back in history, that if this is a long experience, it is likely to prove one of epic importance.

I just wanted to say that while the Senator from California was on the floor listening and taking notes as he always is. I wonder if he had any thoughts on the same subject.

Mr. CRANSTON. Yes, the Senator from California does and is delighted to join in this discussion with his friend, the distinguished Senator from New York.

First, I do most emphatically want to agree that nothing in the resolution that we have passed authorizes the President or the United States to use force against Iraq. We have marshaled forces there for the purpose of deterrence. We have marshaled forces there for the purpose of defense. But we have not marshaled forces there for any offensive.

Mr. MOYNIHAN. If the Senator will yield, for the purpose of maintaining the embargo.

Mr. CRANSTON. That is right. I think it is wonderful that the greatest array of nations in all the annals of

human history have banded together to show that aggression of a Hitler-like nature cannot be countenanced and will not be tolerated in the modern world. Some embargoes have worked to some degree. The Senator gave me a long list of those that failed, starting with Ethopia.

I think the sanctions upon South Africa have been somewhat successful in helping bring about a change to some degree in the abominable practice of apartheid, yet we have a way to go on that front.

It is truly remarkable, as the Senator pointed out, that peace has now come after the end of World War II with Germany, and so little note is taken of that momentous event. Of course, there has not been fighting for a long time, but nonetheless there have been all sorts of weapons, forces massed in and around Germany, partly because of fear of Germany by many nations. The idea of the unity of Germany was at first looked by many with great concerns and fear, most of all by the Soviet Union. But those fears were shared by Americans, by French, by British, by Poles, and by many others. Yet that has now been accepted.

There is another state of war going on right now in a similar technical sense. It is a more dangerous situation, with Saudi Arabia, with whom we are now allied in this effort to deal with Saddam Hussein, a country in the technical state of war with Israel, as are some other Arab nations; Kuwait, Syria, and I believe some others. And not Egypt.

So let us hope that will sort of drift away and no longer be a threat to the peace of the world as to our ally and friend Israel. Let us hope that day will come perhaps with somewhat more notice because it might come sooner than the long years and decades that transpired before the technical end of the war with Germany. But that is a development that we must devoutly hope for.

I think it is most important that the Senator has made his statements stressing the limits of the resolution that the Senate adopted in terms of not authorizing military power. The Senator played a key part in bringing that about; he participated in the meetings where it was drafted.

Beyond that, the most significant thing I think we can perhaps now hope to do together is to stress the development of a U.N. apparatus, and a way of behaving and like circumstances that may develop in the future so that the world, not just the United States, takes the lead when there is an aggressor that has to be dealt with.

Mr. MOYNIHAN. I thank the distinguished Senator.

Mr. President, I yield the floor.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. CRANSTON. I ask unanimous consent that request be nullified. The Senator from Hawaii wants to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Hawaii is recognized.

Mr. AKAKA. I thank the Chair.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 3145 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMISSION TO FILE REPORTED LEGISLATION

Mr. CRANSTON. Mr. President, I ask unanimous consent that Senate committees may file reported legislation until 5:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 712

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Finance Committee be authorized to report the bill S. 712; that the Committee on Agriculture be discharged from further consideration of the bill, and that the bill as reported, be then sequentially referred to the Committee on Agriculture; and that the majority leader, after consultation with the Republican leader, be authorize to order the bill discharged from the Committee on Agriculture at any time.

The PRESIDING OFFICER. Without objection, it is so ordered.

TEMPORARY EXTENSION OF CERTAIN PROGRAMS RELATING TO HOUSING AND COMMUNITY DEVELOPMENT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5747, the temporary housing extension bill, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5747) to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. AKAKA. Mr. President, I would like to join my colleagues in support of H.R. 5558, a bill to extend through October 31, 1990, the moratorium on prepayment of federally subsidized mortgages as provided by the Emergency Low Income Housing Preservation Act of 1987.

The prepayment trap is a time bomb, ticking away, which threatens to displace thousands of individuals in my State and hundreds of thousands nationwide. If the owners of these units are permitted to repay their government subsidized mortgage, their tenants could become the next wave of homeless.

In 3 days, approximately 60,000 tenants will be forced to leave their homes. If we do not act now, we will compromise the livelihood of these residents. H.R. 5558 will safeguard their interests while House and Senate conferees consider more sweeping alternatives.

The Nation is losing affordable housing at an alarming rate: an estimated 1.5 million units a decade. And, cuts in the Federal housing budget and changes in Federal tax law have hampered the production of new units. In addition, there are over 78 million Americans nationwide who are "house poor." In fact, the affordability gap for shelter has outpaced the GNP over the past decade by 20 percent.

Mr. President, Hawaii has one of the tightest housing markets in the Nation. We have a 99-percent occupancy rate and an average rental rate that exceeds the Nation's by 40 percent. We also have two apartment buildings threatened with prepayment. These tenants do not have many alternatives to affordable housing. In addition, many owners throughout the country have already filed notices for intent to prepay. California could lose 54, Indiana 10, and Vermont 2.

H.R. 5558 does not change the existing law, nor does it provide a permanent extension. This bill simply provides a 31 day sunset provision to protect the tenants of older subsidized housing units that are threatened with conversion to market-rate housing through mortgage prepayment. Our failure to act now will subject the families of at least 60,000 homes with rent increases and eviction.

Mr. President, the conferees have a rough and rocky road ahead of them. Yet, I am confident that they will reach an acceptable agreement on prepayment—the Senate's. Only the Senate language provides tenants of low- and moderate-income housing units the protection they justly de-

serve. Although, the language adopted by the House is far superior to the House Banking Committee's proposal, it does not go far enough. Rent subsidies is not enough. Relocation assistance is not enough.

Again, let me reiterate my support of H.R. 5558. It is a fair request which will benefit many and should not be denied.

Mr. CRANSTON. Mr. President, I thank the Senator from Hawaii for his cooperation on this matter.

I also wish to thank all those concerned for the fact that we can now deal with this very important issue. It has been cleared on both sides. I particularly thank Senators PRESSLER and ARMSTRONG for their cooperation in this matter at this stage today.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 5747) was ordered to a third reading, was read the third time, and passed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO VITIATE PERMISSION FOR COMMITTEES TO FILE REPORTED LEGISLATION

Mr. CRANSTON. Mr. President, I ask unanimous consent to vitiate the previous unanimous-consent agreement that committees may file reported legislation until 5:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 6:30 P.M. SUNDAY, SEPTEMBER 30, 1990

Mr. CRANSTON. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 6:30 p.m. Sunday, September 30.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL SUNDAY, SEPTEMBER 30, 1990, AT 6:30 P.M.

Mr. CRANSTON. Mr. President, I believe there is no further business to come before the Senate, so I move that the Senate now stand in recess in accordance with the previous order.

The motion was agreed to, and the Senate, at 5 p.m., recessed until Sunday, September 30, 1990, at 6:30 p.m.

NOMINATIONS

Executive nominations received by the Senate September 28, 1990:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. JOHN T. CHAIN, JR., xxx-xx-xxxx U.S. AIR FORCE

IN THE ARMY

THE U.S. ARMY RESERVE OFFICERS NAMED HEREIN FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES IN THE GRADES INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be major general

BRIG. GEN. MICHAEL M. BERZOWSKI, xxx-xx-xxxx
BRIG. GEN. RAYMOND C. BONNABEAU, JR., xxx-xx-xxxx
BRIG. GEN. KENNETH A. BOULDIN, xxx-xx-xxxx
BRIG. GEN. MICHAEL A. BOYD, xxx-xx-xxxx
BRIG. GEN. JAMES A. BROOKE, xxx-xx-xxxx
BRIG. GEN. JOHN S. GUTHRIE, JR., xxx-xx-xxxx
BRIG. GEN. TERRENCE D. MULCAHY, xxx-xx-xxxx

To be brigadier general

COL. JOHN T. CROWE, xxx-xx-xxxx
COL. JOE M. ERNST, xxx-xx-xxxx
COL. ALAN J. KUNSCHNER, xxx-xx-xxxx
COL. PATRICK E. REA, xxx-xx-xxxx
COL. JOSEPH A. SCHEINKOENIG, xxx-xx-xxxx
COL. JAMES W. WARR, xxx-xx-xxxx

IN THE AIR FORCE

THE FOLLOWING PERSONS FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be lieutenant colonel

MOIRA J. BURKE, xxx-xx-xxxx
CHOOKIERT EMKO, xxx-xx-xxxx

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICERS IDENTIFIED WITH A SINGLE ASTERISK ARE ALSO RECOMMENDED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10 UNITED STATES CODE. THE OFFICERS IDENTIFIED WITH TWO ASTERISKS WERE SELECTED FOR PROMOTION BY THE ARMY BOARD FOR CORRECTION OF MILITARY RECORDS.

JUDGE ADVOCATE GENERAL

To be lieutenant colonel

**DOMINICK A. CREA, xxx-xx-xxxx
**STEVEN R. SCHOLTZ, xxx-xx-xxxx

ARMY

To be major

JOE T. COLEMAN, xxx-xx-xxxx
*LILIBETH F. GOLDSHINE, xxx-xx-xxxx
*LENORA A. IVY, xxx-xx-xxxx

ARMY NURSE CORPS

To be major

*DONNA M. CALACE, xxx-xx-xxxx

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

MEDICAL SERVICE CORPS

To be colonel

TONY G. ARNOLD, xxx-xx-xxxx
DARREL C. BJORNSON, xxx-xx-xxxx
JOHN M. BULL, xxx-xx-xxxx
DAVID G. BURLESON, xxx-xx-xxxx
WILLIAM R. CAHILL, xxx-xx-xxxx
WILLIAM D. CLYDE, xxx-xx-xxxx
TIMOTHY R. COOK, xxx-xx-xxxx
KENNETH C. COULTER, xxx-xx-xxxx
ROBERT M. CRAGHEAD, xxx-xx-xxxx
JOHN W. CUMMINGS, xxx-xx-xxxx
DONALD E. DUNPHY, xxx-xx-xxxx
BERNARD L. GORE, xxx-xx-xxxx
ERNEST L. HEPLER, xxx-xx-xxxx
OWEN E. HILLBERG, xxx-xx-xxxx
RONALD P. HUDAK, xxx-xx-xxxx
STEVEN R. HURSH, xxx-xx-xxxx
JON D. JACKSON, xxx-xx-xxxx
FLEMING H. JONES, xxx-xx-xxxx
GREGORY B. LASKOW, xxx-xx-xxxx
DENNIS J. LEAHY, xxx-xx-xxxx
WILLIAM J. LEARY, xxx-xx-xxxx
EDWARD R. MANN, xxx-xx-xxxx
JAMES A. MARTIN, xxx-xx-xxxx
CLARENCE E. MAXWELL, xxx-xx-xxxx
WILLIAM E. MCATEE, xxx-xx-xxxx
DENNIS E. MEYER, xxx-xx-xxxx
TERRANCE A. MULDOON, xxx-xx-xxxx
PETER H. MYERS, xxx-xx-xxxx
IAN L. NATKIN, xxx-xx-xxxx
BRUCE A. NELSON, xxx-xx-xxxx
JAMES P. NORMILE, xxx-xx-xxxx
GERALD A. PALMER, xxx-xx-xxxx
RICHARD C. PLATTE, xxx-xx-xxxx
ALLEN E. RHODES, xxx-xx-xxxx
ROBERT B. ROMINES, xxx-xx-xxxx
CECIL S. SALTER, xxx-xx-xxxx
GERARD SCHUMEYER, xxx-xx-xxxx
PETER B. SHAW, xxx-xx-xxxx
MICHAEL J. SMITH, xxx-xx-xxxx
DAVID J. SOMA, xxx-xx-xxxx
WILLIAM L. SPEER, xxx-xx-xxxx
KENNETH E. SPENCER, xxx-xx-xxxx
RICHARD STAGLIANO, xxx-xx-xxxx
PETER D. TREMBLAY, xxx-xx-xxxx
HENRY O. TUELL, xxx-xx-xxxx
JOHN E. VIGNA, xxx-xx-xxxx
EUGENE J. VIVALDA, xxx-xx-xxxx
WALTER L. WELLS, xxx-xx-xxxx
JAMES R. WILES, xxx-xx-xxxx
JOHN A. WILLIAMS, xxx-xx-xxxx
ROGER F. WILLIAMS, xxx-xx-xxxx
DONNA C. WILLIAMSON, xxx-xx-xxxx
ANTHONY C. ZOLD, xxx-xx-xxxx

VETERINARY CORPS

To be colonel

GARY L. ANDERSEN, xxx-xx-xxxx
LARRY W. BRUESTLE, xxx-xx-xxxx
EDDIE L. CARLISLE, xxx-xx-xxxx
DAVID R. FRANZ, xxx-xx-xxxx
RICHARD M. GAITHER, xxx-xx-xxxx
ROBERT E. MCCASKILL, xxx-xx-xxxx
COLIN G. MEYER, xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

JAMES L. ADAMS, xxx-xx-xxxx
ANTHONY C. AIKEN, xxx-xx-xxxx
MICHAEL T. ANDERS, xxx-xx-xxxx
LYLE R. ARTZ, xxx-xx-xxxx
JOHN A. BECKER, xxx-xx-xxxx
MICHAEL D. BERNDT, xxx-xx-xxxx
FRANK E. BLAKELY, xxx-xx-xxxx
DAVID J. *. BRAITMAN, xxx-xx-xxxx
GARY M. BRATT, xxx-xx-xxxx
MATTHEW E. BRENCICK, xxx-xx-xxxx
JAMES H. BROOKS, xxx-xx-xxxx
JERRY L. *. BROWN, xxx-xx-xxxx
RONALD H. BURYK, xxx-xx-xxxx
CLYDE D. BYRNE, xxx-xx-xxxx
LARRY E. CAMPBELL, xxx-xx-xxxx
TERRY D. CARROLL, xxx-xx-xxxx
FELIPE CASSO, xxx-xx-xxxx
PETER R. CIMENT, xxx-xx-xxxx
JOHN M. COAKLEY, xxx-xx-xxxx
ROGER A. COOK, xxx-xx-xxxx
EDWARD S. CROSBIE, xxx-xx-xxxx
RICHARD DANIELSON, xxx-xx-xxxx
DAVID L. *. DANLEY, xxx-xx-xxxx
JEFFREY W. DAVIES, xxx-xx-xxxx
CHARLES H. DAVIS, xxx-xx-xxxx
FRANCIS G. FERGUSON, xxx-xx-xxxx
THOMAS E. FLETCHER, xxx-xx-xxxx
ROGER W. FOXHALL, xxx-xx-xxxx
JEFFREY A. *. GERE, xxx-xx-xxxx
MICHEAL *. GILBREATH, xxx-xx-xxxx
CALVIN J. GLAZIER, xxx-xx-xxxx
DAVID B. GORSKI, xxx-xx-xxxx
JAMES R. GREENWOOD, xxx-xx-xxxx
SCOTT T. HAAS, xxx-xx-xxxx
JOHN T. HARRIS, xxx-xx-xxxx
JOHN C. HARTZ, xxx-xx-xxxx
WILLIAM W. HATELY, xxx-xx-xxxx
JOHN A. HATTEN, xxx-xx-xxxx
DORIS H. HENDERSON, xxx-xx-xxxx
JOHN P. HIGHTOWER, xxx-xx-xxxx
JOHN K. HOWES, xxx-xx-xxxx
GARY K. KAGAWA, xxx-xx-xxxx
GEORGE L. KAUFFMAN, xxx-xx-xxxx
RICHARD L. KEAGLE, xxx-xx-xxxx
PAUL V. KIEHL, xxx-xx-xxxx
JAMES M. KING, xxx-xx-xxxx
JONATHAN M. KISSANE, xxx-xx-xxxx
JOHN G. KITSOPOULOS, xxx-xx-xxxx
JAMES C. KOHLER, xxx-xx-xxxx
DAVID A. KOTZIN, xxx-xx-xxxx
RICHARD L. KUSSMAN, xxx-xx-xxxx
ROLAND E. LANGFORD, xxx-xx-xxxx
JAMES M. LANGLOIS, xxx-xx-xxxx
JAMES R. LANTIS, xxx-xx-xxxx
MORRIS R. LATTIMORE, xxx-xx-xxxx

PAUL V. LEMLEY, xxx-xx-xxxx
BRYAN T. LOWE, xxx-xx-xxxx
DANA E. *. MADISON, xxx-xx-xxxx
JOSEPH G. MAKARSKY, xxx-xx-xxxx
RANDALL P. MASCHEK, xxx-xx-xxxx
RONALD L. MCNABB, xxx-xx-xxxx
VINCENT J. MENNITO, xxx-xx-xxxx
DARIO MONTELONGO, xxx-xx-xxxx
STEPHEN E. MORSE, xxx-xx-xxxx
CONSTANTIN MOURTOS, xxx-xx-xxxx
MICHAEL W. MUELLER, xxx-xx-xxxx
PAUL B. NELSON, xxx-xx-xxxx
JOHN F. *. NEPTUNE, xxx-xx-xxxx
EARL S. NEWSOME, xxx-xx-xxxx
VIRGIL J. PATTERSON, xxx-xx-xxxx
DAVID M. PENETAR, xxx-xx-xxxx
GENNADY E. PLATOFF, xxx-xx-xxxx
RICHARD H. *. PURDY, xxx-xx-xxxx
HARRY J. QUEBBEMAN, xxx-xx-xxxx
ROY D. QUICK, JR, xxx-xx-xxxx
SHERMAN L. *. QUINLAN, xxx-xx-xxxx
MARK A. QUINN, xxx-xx-xxxx
NANCY K. RAIHA, xxx-xx-xxxx
JOHN T. ROBERTSON, xxx-xx-xxxx
ALFRED W. ROGERS, xxx-xx-xxxx
ROBERT R. ROLAND, xxx-xx-xxxx
ROBERT S. RYCZAK, xxx-xx-xxxx
CHARLES A. *. SALTER, xxx-xx-xxxx
ARTHUR G. SAMILJAN, xxx-xx-xxxx
JIMMY SANDERS, xxx-xx-xxxx
CHARLES S. SERIO, xxx-xx-xxxx
CARL E. SETTLES, xxx-xx-xxxx
TERRY P. SHANAHAN, xxx-xx-xxxx
VIVIAN I. *. SHELIGA, xxx-xx-xxxx
RICHARD A. SHERMAN, xxx-xx-xxxx
CHERYL L. SILKWOOD, xxx-xx-xxxx
HARVEY G. SOEFER, xxx-xx-xxxx
MARTHA K. *. SPINKS, xxx-xx-xxxx
RONALD G. STAUS, xxx-xx-xxxx
MICHAEL B. STEARNS, xxx-xx-xxxx
CAROL A. STEELE, xxx-xx-xxxx
ROBERT E. STIENEKER, xxx-xx-xxxx
STANFORD K. SUR, xxx-xx-xxxx
DAVID T. SUTTON, xxx-xx-xxxx
KENNETH J. TANNEN, xxx-xx-xxxx
RAY J. TERRILL, xxx-xx-xxxx
ROBERT W. THOMAS, xxx-xx-xxxx
ROY S. THOMASON, xxx-xx-xxxx
ALAN K. THOMPSON, xxx-xx-xxxx
WILLIAM H. THRESHER, xxx-xx-xxxx
GEORGE S. TOLSON, xxx-xx-xxxx
RANDAL L. TREIBER, xxx-xx-xxxx
ERNEST E. VARNER, xxx-xx-xxxx
DAVID J. WALSH, xxx-xx-xxxx
CHRISTOPHER WANZER, xxx-xx-xxxx
SANDRA L. WHITE, xxx-xx-xxxx
PERRY L. WOLF, III, xxx-xx-xxxx
STEVEN L. YOUNT, xxx-xx-xxxx

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

ANN P. *. AMOROSO, xxx-xx-xxxx
ROBERT J. *. BAHR, xxx-xx-xxxx
MARY E. BRINKMANN, xxx-xx-xxxx
JEAN M. BRYAN, xxx-xx-xxxx
ALANA D. CLINE, xxx-xx-xxxx
EDWARD N. COLLIER, xxx-xx-xxxx
BONNIE J. *. DEMARS, xxx-xx-xxxx
ROSENDO GUTIERREZ, xxx-xx-xxxx
JANE T. IMHOLTE, xxx-xx-xxxx
PATRICIA A. KRAUSE, xxx-xx-xxxx
KATHRYN L. NAGEL, xxx-xx-xxxx
GALE L. PARTRICH, xxx-xx-xxxx
NOREEN M. ROSSI, xxx-xx-xxxx
KATHLEEN WESTPHAL, xxx-xx-xxxx

VETERINARY CORPS

To be lieutenant colonel

LYNN J. ANDERSON, xxx-xx-xxxx
WILLIAM H. BAKER, xxx-xx-xxxx
JAMES D. BROGDON, xxx-xx-xxxx
MICHAEL W. *. CARR, xxx-xx-xxxx
RICHARD L. DAISE, xxx-xx-xxxx
NIALL B. FINNEGAN, xxx-xx-xxxx
ROBERT R. GRAHAM, xxx-xx-xxxx
CLYDE B. HOSKINS, xxx-xx-xxxx
WILLIAM INSKEEP, II, xxx-xx-xxxx
CREIGHTON J. TRAHAN, xxx-xx-xxxx
CATHERI WILHELMSEN, xxx-xx-xxxx
PHILIP M. *. ZACK, xxx-xx-xxxx

ARMY NURSE CORPS

To be lieutenant colonel

ROBYN L. ALSPACH, xxx-xx-xxxx
SANDRA A. AMATO, xxx-xx-xxxx
BRIAN A. AUBIN, xxx-xx-xxxx
NIRANJAN *. BALLIRAM, xxx-xx-xxxx
DAVID G. BERRY, xxx-xx-xxxx
ANN M. *. BIANCHI, xxx-xx-xxxx
DAVID T. BOLESH, xxx-xx-xxxx
KATHERINE J. BRETT, xxx-xx-xxxx
DIANE L. BROWN, xxx-xx-xxxx
SHARON BROWNJUDSON, xxx-xx-xxxx
JOAN H. BRUMETT, xxx-xx-xxxx
PHILIP CALDERWOOD, xxx-xx-xxxx
TERENCE J. CALDWELL, xxx-xx-xxxx
FRANCIS L. *. CALVERT, xxx-xx-xxxx
MARGARET M. *. CARTER, xxx-xx-xxxx
PEGGY A. *. CASTRO, xxx-xx-xxxx
ERLINDA D. CONNORS, xxx-xx-xxxx
CONNIE S. *. CRAUN, xxx-xx-xxxx
CAROLINE A. *. DAVIAU, xxx-xx-xxxx
ANGELA M. *. DINGBAUM, xxx-xx-xxxx
ROSEMARIE EDINGER, xxx-xx-xxxx
LENORE S. ENZEL, xxx-xx-xxxx
PAULA M. EPHRAIM, xxx-xx-xxxx
MICHAEL L. FLUHARTY, xxx-xx-xxxx
CAROL A. FLYNN, xxx-xx-xxxx
SUSAN R. FOX, xxx-xx-xxxx
GWENDOLYN *. FRYER, xxx-xx-xxxx
JENNY B. GARVER, xxx-xx-xxxx
LINDA GEORGE, xxx-xx-xxxx
PAM I. GEORGE, xxx-xx-xxxx
PATRICIA M. *. GILL, xxx-xx-xxxx
ANN W. GLYNN, xxx-xx-xxxx
CYNTHIA A. GOLDBERG, xxx-xx-xxxx
LARRY A. *. GRANT, xxx-xx-xxxx
OLLIE B. GRAY, xxx-xx-xxxx
BARBARA A. HAGIE, xxx-xx-xxxx
DEBORA S. *. HALL, xxx-xx-xxxx
WILLIAM M. HARPER, xxx-xx-xxxx
KENNETH I. *. HARTZ, xxx-xx-xxxx
JEANETTE S. HASS, xxx-xx-xxxx
EILEEN A. *. HEMMAN, xxx-xx-xxxx
HENRY HERNANDEZ, xxx-xx-xxxx
CALVIN L. HETZLER, xxx-xx-xxxx
JANIS L. *. HOFMAN, xxx-xx-xxxx
SUSAN J. HOOPER, xxx-xx-xxxx
THERESE M. HOUSING, xxx-xx-xxxx
SUZANNE C. JENNINGS, xxx-xx-xxxx
DANIEL J. JERGENS, xxx-xx-xxxx
SUZANNE E. *. JOHNSON, xxx-xx-xxxx
SUSAN A. *. KAPLAN, xxx-xx-xxxx
KAREN M. KELLER, xxx-xx-xxxx
DIANA C. KIRBY, xxx-xx-xxxx
WILLIAM T. KOEHLER, xxx-xx-xxxx
CHRISTINE KRIMBILL, xxx-xx-xxxx
EVELYN M. *. KUJALA, xxx-xx-xxxx
EDWINA M. *. KUKLA, xxx-xx-xxxx
LONNIE *. LAI, xxx-xx-xxxx
JOHN C. LINCOLN, xxx-xx-xxxx
DAVID R. LONG, xxx-xx-xxxx
MONICA M. LUND, xxx-xx-xxxx
CYNTHIA A. MAROUN, xxx-xx-xxxx
STEPHANIE MARSHALL, xxx-xx-xxxx
DEBORAH S. MARTIN, xxx-xx-xxxx
TERESA A. MASON, xxx-xx-xxxx
GRETCHEN M. MAYES, xxx-xx-xxxx
LINDA W. *. MCKINNEY, xxx-xx-xxxx
REX L. *. MEEKER, xxx-xx-xxxx
JOEL M. MESSING, xxx-xx-xxxx
BARBARA J. MILLARD, xxx-xx-xxxx
HELENA M. *. MONTANO, xxx-xx-xxxx
LYNN E. *. MULERO, xxx-xx-xxxx
VERNA R. *. NEWMAN, xxx-xx-xxxx
LINDA B. NHAMBURE, xxx-xx-xxxx
DEBRA J. NICHOLS, xxx-xx-xxxx
MARY B. NUNNERY, xxx-xx-xxxx
GEORGE F. *. NUSSBAUM, xxx-xx-xxxx
VICKI R. ODEGAARD, xxx-xx-xxxx
PATRICIA L. *. ORourke, xxx-xx-xxxx
DONNA L. *. PATTERSON, xxx-xx-xxxx
MARY C. *. PAUL, xxx-xx-xxxx
JILL S. *. PHILLIPS, xxx-xx-xxxx
GALE S. POLLOCK, xxx-xx-xxxx
JUDY M. *. PRATER, xxx-xx-xxxx
SUSAN C. *. REZNIK, xxx-xx-xxxx
DARLENE ROBERTSON, xxx-xx-xxxx
NANCY J. *. SAFRANEK, xxx-xx-xxxx
BARBARA J. *. SCHERB, xxx-xx-xxxx
CONSTANCE L. *. SCOTT, xxx-xx-xxxx
TIMOTHY J. SCOTT, xxx-xx-xxxx
MAUREEN *. SHEAKIAHA, xxx-xx-xxxx
DEBRA A. *. SNOW, xxx-xx-xxxx
ESTHER L. *. SOSEBEE, xxx-xx-xxxx
ALDEN S. STANLEY, xxx-xx-xxxx
REID M. STEVENSON, xxx-xx-xxxx
WENDY S. SWAN, xxx-xx-xxxx
ANDREA C. TAYLOR, xxx-xx-xxxx
JUDITH C. *. TROTTI, xxx-xx-xxxx
BYRDIA L. *. TURNER, xxx-xx-xxxx
FRANCIS M. WAGNER, xxx-xx-xxxx
HENRY J. WALKER, xxx-xx-xxxx
LINDA S. WALLACE, xxx-xx-xxxx
JOSEPHINE WALTMAN, xxx-xx-xxxx
ESTHER D. WEAVER, xxx-xx-xxxx
LINDA V. *. WEAVER, xxx-xx-xxxx
JENNIFER T. WILBER, xxx-xx-xxxx
KAREN L. *. WILKINS, xxx-xx-xxxx
LARRY E. *. WILSON, xxx-xx-xxxx
SUSAN J. *. WOOD, xxx-xx-xxxx

CONFIRMATIONS

Executive nominations confirmed by the Senate, September 28, 1990:

SECURITIES AND EXCHANGE COMMISSION

RICHARD Y. ROBERTS, OF VIRGINIA, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE TERM EXPIRING JUNE 5, 1995.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

JOEL F. DUBINA, OF ALABAMA, TO BE U.S. CIRCUIT JUDGE FOR THE 11TH CIRCUIT.

CHARLES W. PICKERING, SR., OF MISSISSIPPI, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

WILLIAM B. SHUBB OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA.

GARY L. TAYLOR, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

JAMES WARE, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA.

JEAN C. HAMILTON, OF MISSIOURI, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSIOURI.

DAVID F. LEVI, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA.

SAMUEL B. KENT, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS.

DEPARTMENT OF JUSTICE

LINDA A. AKERS, OF ARIZONA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF ARIZONA FOR THE TERM OF 4 YEARS.

KENNETH W. SUKHIA, OF FLORIDA, TO BE U.S. ATTORNEY FOR THE NORTHERN DISTRICT OF FLORIDA FOR THE TERM OF 4 YEARS.

HOUSE OF REPRESENTATIVES—*Friday, September 28, 1990*

The House met at 10 a.m.

Charles A. Mallon, Permanent Deacon, Holy Family Church, Mitchellville, MD, offered the following prayer:

Vindicate me, O Lord, for I have walked in my integrity, and have trusted in the Lord without wavering. Prove me, O Lord, and try me; test my heart and mind. For thy steadfast love is before my eyes, and I walk in faithfulness to thee.—Psalm 26:1-3.

Father, Scripture tells us that your thoughts are not man's thoughts and Your ways are not man's ways. It is precisely because of this sinful condition that this legislative body must codify man's interests.

Your justice is marked by indiscriminate generosity whereas man's justice is marked by fairness and equity. You insure domestic tranquility with Your peaceful presence whereas man insures domestic tranquility with sworn police officers. You provide for the common defense through Your living word, man provides for the common defense through established military superiority. You promote the general welfare by Your healing presence, man promotes the general welfare by satisfying urgent needs. You secure the blessings of liberty to ourselves and our posterity through the recognition of man's love for You, man secures the blessings of liberty to ourselves and our posterity through the recognition of man's love for his neighbor.

Father, we ask for a better understanding of Your thoughts and Your ways. And we ask this through the intercession of Jesus Christ, the Lion of Juda who is the Prince of Peace and the King of Kings. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

The SENSENBRENNER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

Mr. SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 239, nays 83, not voting 111, as follows:

[Roll No. 392]

YEAS—239

Anderson	Ford (MI)	Michel
Andrews	Frank	Miller (CA)
Annunzio	Frost	Mineta
Applegate	Gejdenson	Mink
Archer	Gephardt	Moakley
Aspin	Geren	Mollohan
Atkins	Gibbons	Moody
AuCoin	Gillmor	Morella
Bateman	Gilman	Morrison (WA)
Bates	Glickman	Mrazek
Beilenson	Gonzalez	Murtha
Bennett	Gordon	Myers
Berman	Gradison	Nagle
Bevill	Grant	Natcher
Bilbray	Guarini	Neal (MA)
Boggs	Gunderson	Neal (NC)
Bonior	Hamilton	Nielson
Borski	Hammerschmidt	Oberstar
Bosco	Hansen	Obey
Boxer	Harris	Olin
Brennan	Hatcher	Ortiz
Brooks	Hayes (IL)	Owens (NY)
Browder	Hayes (LA)	Owens (UT)
Brown (CA)	Hefner	Oxley
Bruce	Hertel	Packard
Byron	Hoagland	Pallone
Campbell (CO)	Hochbrueckner	Panetta
Cardin	Horton	Patterson
Carper	Houghton	Payne (NJ)
Carr	Hoyer	Payne (VA)
Chapman	Hubbard	Pease
Clarke	Huckaby	Penny
Clement	Hughes	Perkins
Clinger	Hutto	Pickett
Coleman (MO)	Jenkins	Pickle
Coleman (TX)	Johnson (CT)	Porter
Collins	Johnson (SD)	Poshard
Combest	Jones (NC)	Pursell
Condit	Jontz	Rahall
Conte	Kanjorski	Ravenel
Cooper	Kaptur	Ray
Costello	Kasich	Rinaldo
Darden	Kastenmeier	Roe
Davis	Kennelly	Rowland (GA)
de la Garza	Kildee	Russo
DeFazio	Kleczka	Sabo
Dellums	Kolter	Sangmeister
Derrick	Kostmayer	Sarpalius
Dicks	Lancaster	Savage
Dingell	Lantos	Sawyer
Dixon	Laughlin	Scheuer
Donnelly	Leath (TX)	Schumer
Dorgan (ND)	Lehman (CA)	Serrano
Downey	Lent	Sharp
Durbin	Levin (MI)	Shaw
Dymally	Levine (CA)	Shuster
Dyson	Lewis (GA)	Sisisky
Edwards (CA)	Livingston	Skaggs
Emerson	Lloyd	Skeen
English	Long	Skelton
Erdreich	Manton	Slattery
Espy	Matsui	Slaughter (NY)
Evans	Mazzoli	Slaughter (VA)
Fascell	McCloskey	Smith (IA)
Fazio	McCurdy	Smith (NE)
Feighan	McDade	Smith (VT)
Fish	McHugh	Snowe
Flake	McMillan (NC)	Solarz
Flippo	McMillen (MD)	Spratt
Foglietta	McNulty	Staggers
Stallings	Torricelli	Waxman
Stark	Towns	Weiss
Stenholm	Traficant	Whitten
Studds	Traxler	Wise
Synar	Unsoeld	Wolpe
Tallon	Valentine	Wyden
Tanner	Vento	Wylie
Taylor	Visclosky	Yates
Thomas (GA)	Walgren	Yatron
Torres	Washington	

NAYS—83

Armey	Hefley	Roukema
Ballenger	Herger	Saxton
Bereuter	Hopkins	Schaefer
Bilirakis	Hunter	Schroeder
Bliley	Inhofe	Sensenbrenner
Boehlert	Ireland	Shays
Buechner	Jacobs	Sikorski
Bunning	James	Smith, Denny (OR)
Burton	Kolbe	
Campbell (CA)	Lagomarsino	Smith, Robert (NH)
Chandler	Leach (IA)	
Coble	Lewis (CA)	Smith, Robert (OR)
Coughlin	Lewis (FL)	
Cox	Lowery (CA)	Solomon
Craig	Lukens, Donald	Spence
Dannemeyer	Machtley	Stearns
DeWine	Madigan	Stump
Dickinson	Meyers	Sundquist
Dreier	Miller (OH)	Thomas (WY)
Duncan	Miller (WA)	Upton
Fawell	Moorhead	Volkmer
Gallo	Murphy	Vucanovich
Gekas	Parris	Walker
Gingrich	Paxon	Weber
Goodling	Petri	Weldon
Goss	Regula	Wolf
Grandy	Rhodes	Young (AK)
Hancock	Rogers	Young (FL)
Hastert	Rohrabacher	

NOT VOTING—111

Ackerman	Hawkins	Price
Alexander	Henry	Quillen
Anthony	Hiler	Rangel
Baker	Holloway	Richardson
Barnard	Hyde	Ridge
Bartlett	Johnston	Ritter
Barton	Jones (GA)	Roberts
Bentley	Kennedy	Robinson
Boucher	Kyl	Ros-Lehtinen
Broomfield	LaFalce	Rose
Brown (CO)	Lehman (FL)	Rostenkowski
Bryant	Lightfoot	Roth
Bustamante	Lipinski	Rowland (CT)
Callahan	Lowey (NY)	Roybal
Clay	Luken, Thomas	Saiki
Conyers	Markey	Schiff
Courter	Marlenee	Schneider
Coyne	Martin (IL)	Schuette
Crane	Martin (NY)	Schulze
Crockett	Martinez	Shumway
DeLay	Mavroules	Smith (FL)
Dornan (CA)	McCandless	Smith (NJ)
Douglas	McCollum	Smith (TX)
Dwyer	McCrery	Stangeland
Early	McDermott	Stokes
Eckart	McEwen	Swift
Edwards (OK)	McGrath	Tauke
Engel	Mfume	Tauzin
Fields	Molinari	Thomas (CA)
Ford (TN)	Montgomery	Udall
Frenzel	Morrison (CT)	Vander Jagt
Gallegly	Nelson	Walsh
Gaydos	Nowak	Watkins
Gray	Oakar	Wheat
Green	Parker	Whittaker
Hall (OH)	Pashayan	Williams
Hall (TX)	Pelosi	Wilson

□ 1029

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall No. 392.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MAZZOLI). Will the gentleman from Flordia [Mr. FASCELL] please lead the House in the Pledge of Allegiance.

Mr. FASCELL led the House in the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4739. An act to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; and

H.R. 5558. An act to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4739) "An act to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. DIXON, Mr. GLENN, Mr. GORE, Mr. WIRTH, Mr. SHELBY, Mr. BYRD, Mr. WARNER, Mr. THURMOND, Mr. COHEN, Mr. WILSON, Mr. MCCAIN, Mr. WALLOP, Mr. GORTON, Mr. LOTT, and Mr. COATS, to be the Conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 5558) "An act to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RIEGLE, Mr. CRANSTON, Mr. SARBANES, Mr. DODD, Mr. DIXON, Mr. HEINZ, Mr. D'AMATO, Mr. BOND, and Mr. MACK, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills on the following titles, in which the concurrence of the House is requested.

S. 2545. An act to amend title 18 of the United States Code, to increase the term of imprisonment for offenses involving driving while intoxicated when a minor is present in the vehicle;

S. 3117. An act to reauthorize the Commission on Interstate Child Support, and for other purposes; and

S. 3127. An act to designate the Department of Veterans Affairs Medical Center in Albany, NY, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center."

□ 1030

BUDGET AGREEMENT SHOULD NOT VICTIMIZE FEDERAL WORKERS

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, the President has great compassion. Today he meets with the Emir of Kuwait. He ran for President as a kinder and gentler President. We would like to see him kinder and gentler for American Federal workers.

We would like to see this President give us assurances that, for high drama at this budget summit, he does not disrupt American workers' lives.

These people provide essential services. They are presently being paid as much as 30 percent less than their counterparts in the private sector.

We ought to keep on negotiating, we ought to keep on working but we should not victimize Federal workers because of this battle we are having with the President over the budget.

We need a progressive solution, not one that puts the burden on poor people and not one that puts the burden on Federal workers.

CONGRESS SHOULD MEET ITS DEADLINES

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, here we go again. It is no longer 4 days to Armageddon, it is now 3.

Think of it, Mr. Speaker, 365 days in a year, 52 weeks, we are now down to the last weekend to see whether or not this Congress can meet its deadlines, keep the Government from chaos and keep the country from the Armageddon of a recession.

You know, I was wrong yesterday. I said something like 946,000 Federal employees would be furloughed if we cannot meet our deadline. I was wrong. It is 1.1 million.

Think of it, the President submitted a budget on January 28 to the Congress. We were supposed to have had a bipartisan agreement by June 15. It is now the last working day of the fiscal year. We are ready to go into the last weekend of the fiscal year to see if we can meet our deadline of doing the one thing we are supposed to do, pass a budget, fund the Government.

CONGRESS SHOULD ACT POSITIVELY ON AN ENERGY POLICY

(Mr. YOUNG of Alaska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, we talked about energy policy of the administration's. I think we ought to talk about energy policy of the Congress.

In 25 years, this Congress has never supported energy production in any legislation; if anything, this Congress passed legislation to impede, deter, or eliminate energy production.

Nuclear power has not been addressed by this Congress in a positive fashion, the mining of coal has not been addressed by this Congress in a positive fashion, the building of hydrosites has not been addressed by this Congress in a positive fashion, the development of gas and oil has not been addressed by this Congress in a positive fashion. This Congress has done nothing but respond to the special interest groups, the green group, to have no production.

That is why we are dependent upon foreign oil, because that is the only source of energy we have available to us today. This is ridiculous.

Until 1960, we were energy independent. But this Congress saw fit to pass laws to make it uprofitable to develop our energy as we should, as a God-given right to all Americans, to offer opportunities to the young and to the impoverished and to those who come to this Nation because we are great. I think Congress should act positively on energy.

INTRODUCTION OF LEGISLATION IMPOSING A WINDFALL PROFIT TAX

(Mr. DONNELLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONNELLY. Mr. Speaker, later today the gentleman from Indiana [Mr. MCCLOSKEY] and I will introduce legislation to impose a windfall profit tax on excess oil prices. This tax is in response to the outrageous price gouging that has occurred since Iraq's invasion of Kuwait on August 1.

Mr. Speaker, from 1980 to 1988, this country had a windfall profit tax. The tax was enacted in 1980 as a response to President Carter's proposal to deregulate oil prices; at the time, there was concern that domestic oil companies would take advantage of consumers. The tax was repealed 2 years ago, and we see what has happened—at the

first chance, oil companies are again taking advantage of consumers. The price of oil yesterday went over $40 per barrel—more than double its level on August 1. This is at a time when there is no shortage of oil, and the day after President Bush released 5 million barrels of oil from the strategic petroleum reserve.

Mr. Speaker, the budget summit is considering ways to raising taxes. As a member of the Committee on Ways and Means, I propose this windfall profit tax, and I plan to offer it as an amendment to any budget agreement that my committee considers this fall.

INCREASE TAXES, CUT SOCIAL SECURITY? SEQUESTRATION MAY BE BETTER

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, the budget summit has already committed one supreme outrage by apparently agreeing to increase taxes on the already overtaxed American people. Now it appears they are about to add to that another supreme outrage—cutting freezing or taxing Social Security.

Mr. Speaker, what are these negotiators thinking of? We have heard virtually nothing from the summit about cutting the large amount of wasteful and unnecessary spending that could be cut. Congress cannot and apparently the budget summitteers cannot either—find the courage to cut subsidies even for rich farmers or dirty art.

So what do our summitteers want to do instead? Increase taxes and cut Social Security, just as the chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, proposed when this process began.

Mr. Speaker, the American people are not going to put up with this. How can we even think about cutting Social Security and raising taxes, when so much unnecessary spending remains untouched? If this is the way it is going to go, even sequestration may be better than a summit agreement.

PROFITEERING BY THE OIL COMPANIES SHOULD BE MADE A FELONY

(Mr. HERTEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERTEL. Mr. Speaker, the day after, the first day after the Iraq invasion, gasoline prices soared by as much as 15 cents a gallon on oil the companies had bought weeks and months before.

This complete ripoff of the consumer in this country should be punished by a bill I am introducing to make it a felony, a felony for profiteering by oil companies.

The executives of these oil companies that are damaging our economy, that are damaging our defense, should be put in jail, and under my bill they will be.

THE POLISH DEMOCRATIC CONSTITUTION

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, on May 3, 1791, the people of Poland adopted a new democratic constitution. The constitution established an elected parliament, recognized that all power in civil society should be derived from the will of the people, and affirmed that the citizens of a free country must have the right to speak, write, and worship as they please. It was a proud and important moment in the history of Poland, of Europe, and of democracy.

The constitutional era lasted only a few years, ending when Poland was partitioned between Germany and Russia. But the Polish Constitution's principles remained an inspiration and a hope throughout the era of partition, and again when Poland fell under Communist domination after World War II.

Poland is now free once again, and the spirit of the Constitution of 1791 is a guide to the Polish people and their elected leaders.

Today I am introducing a concurrent resolution which commemorates the adoption of that constitution, and salutes the people of Poland on its bicentennial. I ask my colleagues to cosponsor and support it.

SUMMIT FOR CHILDREN

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, this weekend, while we are trying to solve a budget mess, there will be a special summit in New York for the children of the world. It is an important event, because it will give the children a voice that they have lacked for quite some time. Now, more than ever, their voices need to be heard.

Many children in developing countries die each year from diseases and malnutrition that could be prevented with some basic care. Closer to home, many American children are homeless and hungry, a situation that is unacceptable for a country as rich and prosperous as this one is. Yesterday, I was involved in efforts here in Congress to provide protection to those children who are abducted in this country, either by an estranged parent or by strangers. The problems are many, but the solutions are there for us to grasp if we want to do so.

Mr. Speaker, I hope that all of our colleagues will join together to find the solutions to the problems of children. I look forward to seeing the results of the world summit on children, and to working toward the implementation of those solutions. The children of the world are our future, and we must do everything possible to make that future a bright one.

□ 1045

NO NEGOTIATING TABLE ON AIR FORCE ONE

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, Air Force One, the most expensive plane in the world, put on a lot of miles this week. The President has been jetting around, raising lots and lots of money for Republican candidates, acting like the chair of the Republican Party rather than the chief executive of a Nation on the brink of disaster.

I concede that it is a lot more fun to jet around on a really neat plane than grind out a budget agreement. This plane has got a bedroom, a lounge, a movie theater, an operating room, maybe even a bowling alley, but there is one thing we know which is not on Air Force One, and that is a negotiating table for the budget summit.

Mr. Speaker, it is time for the President to come home, put aside golf, jetsetting and fishing for just a few days, and negotiate in good faith a fair budget agreement.

DEMOCRATS' DAYS COMING TO AN END

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, the reality is that the American public has figured out that there is not a big enough trough in the United States to accommodate all the snouts that want to feed at taxpayers' expense. They are uncertain as to where or who they can follow to figure out how to drain some of the food out of that trough.

However, Mr. Speaker, let us understand something. The President of the United States' vote is equal to the combined 535 of the Senate and the House. When sequestration comes, and I do not want it, but I prefer that to the other alternative, tax increases, the President will go to the country and say to the American public that it is about time we change those people who, since 1945 in the House of Representatives, have been feeding up at that trough in order that they can ac-

commodate all the snouts that want to feed at public expense.

I say to my Democrat friends, "Your day is coming to an end. You're about to be shown that the emperor has no clothes, and it's not going to be an enticing or a wonderful thing, but it's going to be embarrassing to the country because in the meantime there's liable to be some pain."

DIFFICULT CHOICES MUST BE MADE

(Mrs. BYRON asked and was given permission to address the House for 1 minute.)

Mrs. BYRON. Mr. Speaker, in the 12 years I have served as a Member of this body I cannot recall a time when the tenor of debate has turned so partisan and devisive as to completely obscure the reasons why we are here. But that is exactly the situation we have now in our failure to resolve the budget deadlock.

The debate of the past week has amounted to nothing more than finger pointing and demagoguery on our part, as well as the administration's, and has accomplished anything but instilling confidence in the American public that we, their representatives in Congress, are not up to the jobs they elected us to do. It's no wonder the voters stay away from the polls. We have hardly earned their respect in the way the Congress has conducted itself throughout these budget negotiations.

There is nothing easy about the situation we find ourselves in. The budget deficit is intolerable and choices, very very difficult ones, have to be made. Our job is to make those choices, not hide behind these weeks of rhetoric and electioneering. I, for one, have no intention of voting for a continuing resolution without budget summit resolved, it serves no purpose other than to continue the emotional harassment of our constituents, particulary those who are dependent on Federal services for their livelihood.

None of us have the wisdom of Solomon, but we do have the power of our office and the responsibility to exercise it faithfully on behalf of the people who elected us. It is time for all of us to dispense with these poisonous partisan differences, to weather the hail of criticism, an step up to vote for a tough, realistic deficit reduction package, not to continue to put it off.

WE HAVE A SERIOUS INSTITUTIONAL PROBLEM

(Mr. PURSELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PURSELL. Mr. Speaker, we have a serious institutional problem. I do not think it is appropriate to cast aspersions on the other branch of government when we have not passed our appropriation bill by October 1. The Senate has only passed four. We have passed 10 out of 14, and, therefore, we cannot present a full budget to the President by October 1, which is our sole responsibility as an institution.

I think we have a major institutional crisis here. We have had it for years. The President, regardless of party, has never gotten the appropriation bills to his desk on time in all the years I have served. That is a critical crisis issue, and I do not think we should procrastinate any further by looking at outside solutions, like summit crises, and blaming it on the President of the United States.

Mr. Speaker, let us correct an institutional problem and get our appropriation bills and our budget completed by October 1.

A LOSING COMBINATION

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, as the outlines of the summit agreement, or potential agreement, become clearer and clearer, it is getting very obvious that the other side of the aisle, that the White House, the Republican Party, is going to have lots of questions to answer. Why should we cut COLA's on Social Security, a proposal they have been pushing, when so many people depend on those COLA's; poor people, people who have worked hard their whole lives? Why should we cut Medicaid even more deeply than we have to? And yet it is this party that proposed it.

Mr. Speaker, to add insult to injury, if we have to do those things at the White House's insistence, if we have to cut Social Security, if we have to cut Medicare deeply at the White House's insistence, how are we going to explain to our constituents that there was enough money for a capital gains tax to go to the wealthy?

Mr. Speaker, this just does not wash. It is not going to wash, and I would urge my colleagues, I would urge the President, that they cannot have it both ways. They cannot ask the middle-class people to make tough, difficult cuts and then say, "But there's enough money to give tax cuts to the rich in the form of capital gains."

Mr. Speaker, that combination is a loser. Any proposal brought to the floor that has both of those will not only be voted down by this side of the aisle; I would argue that we will find very few votes on the Republican side to vote for it as well.

ROLLCALL

(Mr. SENSENBRENNER asked and was given permission to address the House and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, for the last 2 days, we have heard from Democrats that the President ought to come back to Washington, and it seems very interesting that some of the people who have been making the complaints apparently have left Washington on this very critical weekend.

Yesterday a gentleman from Ohio said, Mr. Speaker, "George Bush, phone home." That was stated by the gentleman from Ohio [Mr. ECKART]. The Journal rollcall reflects Mr. ECKART was not here.

The gentleman from Florida [Mr. SMITH] complained about the President being irresponsible and being outside of Washington. According to the Journal rollcall, the gentleman from Florida [Mr. SMITH] was not here.

It seems to me that, if we are complaining about people having it both ways, those people on the majority side ought to listen to what the gentleman from Missouri [Mr. GEPHARDT] said yesterday and be here in Washington this weekend working on a budget summit agreement.

THE UNITED STATES MUST LEAD THE FIGHT AGAINST DRIFTNET FISHING

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, imagine the North Pacific Ocean barren of any living creature fatter than 4 inches. That's how tight the mesh of a Japanese driftnet is. And in the North Pacific tonight, the Asian driftnet fleet will let out enough net to encircle our planet.

Last fishing season, we can extrapolate from observer data, that the driftnet fleets of Japan, South Korea, and Taiwan killed more than 52,000 dolphin, 11,000 fur seal, 8,000 Dall's porpoise, a half million seabirds, 1,200 turtles, millions of noncommercial fish that were simply tossed overboard, and more than 4 million tuna.

This profitable carnage should have been enough to jumpstart action in the U.S. Senate and to prompt the administration to play hardball in negotiations that could put the Asian driftnet fleet out of business. No such luck.

The Senate continues to sit on its hands. And the administration continues to oppose my driftnet legislation. We have to prompt that other body to move, not to pass a watered down driftnet bill, but to send to the President tough legislation. The world community needs to ban these curtains of

death. And the United States is the only Nation that can lead the fight.

APOCALYPSE NOW

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, the House better be in order because I am here to sound a warning.

Monday is Armageddon. No, no, no, no, not Gramm-Rudman; we can fix that. Not appropriations; we can fix that. Not the debt ceiling; we can take care of that. But something else happens on Monday we cannot take care of.

Mr. Speaker, I say to my colleagues, "You, and you, and you become subject to the provisions of the Fair Labor Standards Act on Monday."

"Who? Me?

"Yes, you."

How did this happen?

Mr. Speaker, about a year ago my friends, in a fit of self-righteousness, decided that the House of Representatives ought to be subject to the same laws that we impose on every other business person in the country, and on Monday it goes into effect, and on Monday we have got to treat our employees like every other person in this country has to treat their employees.

Mr. Speaker, I say to my colleagues, "Guess what, folks? That ain't Armageddon. For us this is Apocalypse Now."

URGING COMMON SENSE AT THE CLEAN AIR CONFERENCE

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, as a member of the conference committee on Clean Air, I am asking my fellow conferees to take a look at and consider the NAPAP study, which is a National Acid Precipitation Assessment Program. Congress passed that in 1980, with the support of the environmentalists, asking that we find the root cause and effect of acid rain. It took 10 years and spent $600 million to do it with tax dollars, and what does it say? It says that there is no environmental crisis, that the environmentalists are saying the sky is falling, it is not true, that the forests, the crops, and the lakes are not dying.

Yes, there is a problem. But it can be handled, but not to the tune of $50 billion a year, and we are going to close aluminum plants, we are going to close steel plants. People are going to pay $50 billion in utility rates, and, when we turn our lights on we want to cook our food, we want to wash our clothes, we will take a look at our utility bill and find out why this has come to the place that it has.

All I am asking is that we use common sense when we finally reach some conclusion in that clean air conference.

WHERE WERE YOU?

(Mr. PARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARRIS. Mr. Speaker, I listened with some considerable interest to my friend the gentleman from California [Mr. DELLUMS], yesterday when he had some observations to make about the Gramm-Rudman bill. He suggested then that it was a legislative mistake and should be rejected. My question to those colleagues who have gotten up this morning and warned us of the pending Armageddon of sequestration, of the potential and imminent furloughs of hundreds of thousands of Federal employees and the dramatic slashing of the defense budget is, "Where were you on December 11, 1985, 5 years ago when Mr. DELLUMS from California was making the same arguments on the floor about the Gramm-Rudman bill? Why didn't you listen to him? He has been proven by the course of events to have been correct.

Mr. Speaker, I did not vote for Gramm-Rudman. He did not vote for Gramm-Rudman. But somebody did. It passed by a vote of 271 to 154.

I ask my colleagues, "Where were you then, ladies and gentlemen? Did you think the mindless proportional reduction of government operations would never happen? That it was not really a threat? Well, If that was true, why did you vote for it?"

Mr. Speaker, it has come about. The substitute for political courage and the exercise of judgment in regard to government priorities is upon us. I would hope that everybody who monitors political activities in America could review the CONGRESSIONAL RECORD and see how their Congressperson voted on Gramm-Rudman and hold him or her accountable for it and the consequences it has visited upon us.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I not only voted against it, I was on the floor fighting against it. Nobody would listen.

□ 1100

DIFFERENT GALAXIES

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I guess, my colleagues, it is "I told you so time." I voted against Gramm-Rudman also, because I had had a 2-year forced break in service because of an unethical gerrymandering out in California. So I did not come back here in 1985, after having been here for 6 years before that, to suddenly give away my prerogatives as a voting legislator to some automatic 10 percent process that was going to punish with 50 percent of the cuts the military. Twenty-four Republicans voted against that bill. I remember HENRY HYDE, I remember DUNCAN HUNTER. Most of us were worried about the defense cuts.

But that isn't why I got up here today. I got up because I watched Senator SYMMS and Congresswoman BARBARA BOXER last night on "Crossfire." And, you know, it is like we come from two different galaxies, let alone planets here.

This bashing of the rich. I bet I could go into BARBARA BOXER's FEC forms and find so many millionaire limousine liberals pumping money into her campaign. I have never had an opponent who didn't have more $1,000 donations than I do for the coke-snorting, wife-swapping, baby-born-out-of-wedlock, radical Hollywood left.

What are we talking about, soaking the rich? The rich, that is us, the rich pays 77.7 percent of the taxes in the top 40 percent bracket.

Mr. HOYER. Mr. Speaker, the gentleman is way out of line. We ask that the words of the gentleman be taken down.

Mr. DORNAN of California. Not way out of line. You will be ruled against. What about 100 bucks? Soak the rich. Take money from them.

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair does not recognize the gentleman from California.

The gentleman from Maryland [Mr. HOYER] asks that the words of the gentleman be taken down.

PARLIAMENTARY INQUIRY

Mr. BURTON of Indiana. Mr. Speaker, would it be possible to have the words of the gentleman read on the floor so we can see what is offensive to the majority? I would like to hear those.

The SPEAKER pro tempore. The Chair would advise the gentleman from Indiana that is the process which will result from the request of the gentleman from Maryland [Mr. HOYER], that the words be taken down.

□ 1104

Mr. HOYER. Mr. Speaker, I have been advised that apparently in the references, and I was listening with half an ear, that the references apparently were not made directly to the Member. I am, therefore, advised that perhaps the words, in fact, were not out of order technically.

Mr. Speaker, therefore, I will withdraw my request.

The SPEAKER pro tempore. The gentleman withdraws his request that the words of the gentleman from California be taken down.

LET US TREAT ONE ANOTHER CIVILLY

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, let me say on behalf of both sides, obviously we are at a very critical stage.

I happen to represent 65,000 Federal employees who are on the brink of perhaps being furloughed. All of us are concerned about that. We are concerned about our institution's inability.

The gentleman from Michigan mentioned that we have not passed appropriation bills. I happen to think that we ought to.

The fact of the matter is that as we move ahead from this, if the remarks of the gentleman were not technically out of order, and I have withdrawn my remarks, we ought to respect one another on both sides, and that goes for both of us, and we understand.

We are trying to address a very, very difficult problem confronting the country. We have strong feelings on both sides. We have disagreements, philosophically, on both sides. I would hope in the next 48 hours, as we address on Friday, and we are going to take a break for Saturday, we will come back Sunday, that we treat one another civilly, that we state our disagreements as strongly as we want to, but that we certainly not impugn, and I would suggest not only impugn individual Members, and this was said, of course, as to the contributors, and I do not know who the contributors are. Frankly, I will tell the gentleman from California, I have not reviewed the list, but I would hope that on both sides of the aisle, and I stress on both sides of the aisle, that we try to attempt to proceed in an orderly, civil fashion to effect the people's business that we were sent here to do.

WE ARE TALKING LIKE WE ARE FROM DIFFERENT PLANETS

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. BURTON of Indiana. Mr. Speaker, I yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, first of all I thank the gentleman from Indiana for yielding.

First of all, I have high respect and regard for my fellow legislator from California [Mrs. BOXER]. She is an excellent debater. I have recommended her myself many times for "Crossfire"; she is a worthy advocate of her side, and I did not impugn her at all or mean to. I have as much respect for her as I do for the gentleman from Maryland [Mr. HOYER]. He knows that.

What I am saying here is that we are talking like we are from different planets. Is this bashing-the-rich thing indicating that Members on this side hate the poor and are trying to give advantages to rich people? The other Chamber is filled with millionaires. I have never had an opponent who did not have more millionaire donations than I did. And we just cannot keep bashing one another's motives. We cannot keep bashing one another's motives.

The SPEAKER pro tempore. The gentleman will suspend.

The gentleman is not entitled to talk about the other body and its Members.

The time of the gentleman from Indiana [Mr. BURTON] has expired.

VOTE FOR WHAT IS GOOD FOR THE COUNTRY

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, I was impressed by the statement of the gentleman from Maryland, and so I will restrain my normally violent urges to talk about how this House is being managed.

The Committee on Rules will shortly, or maybe now has commenced a hearing on a rule to waive certain of our rules with respect to having a budget resolution on the floor on Sunday.

The Republicans, of course, have no objections to having a budget resolution on the floor on Sunday if it is a negotiated agreement that fits the requirements of the budget summit.

However, the rule is also going to provide for a budget resolution, a Democrat budget resolution, if there is no negotiated agreement. In our judgment, that is simply building an escape hatch. It is preparation for failure to reach a negotiated agreement. In short, the rule is unacceptable.

Mr. Speaker, I think the negotiators ought to be prodded and stirred in every way that we can so that we arrive at a negotiated agreement.

The matter has hung for too long. And here I do accuse, in soft terms, our Democrat leadership of letting it drag out to a point where Members on both sides are ready to attack an agreement whether it is a good one or not.

I hope we all keep our counsel and wait for the agreement to be negotiated, and then vote for it on the basis of whether it is good for the country or not.

COME AND MEET THE MEMBERS OF MY DISTRICT

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, I want to thank the caucus chairman, the gentleman from Maryland [Mr. HOYER] for bringing some peace to this Chamber and to put into perspective the kind of tension that we are under. I am pleased that the gentleman from California stated that he had respect for me. I would hope that he also would respect my constituents.

I have an interesting district, actually, because it goes from the inner city of San Francisco to the beauty of Marin to the farms of Sonoma and to the blue-collar district in Vallejo, where Mare Island Naval Shipyard has operated for over 100 years. These are good, hard-working, wonderful people.

They have supported me, Republicans, Democrats, and Independents.

I get 74 percent of the vote in a district that is about 57 percent Democratic.

So I urge the gentleman to come and meet these good people so that he would no longer say the things that he said about them.

I would like to say that the gentleman was upset because I said on TV last night a fact, a very important fact, that in President Bush's capital gains proposal, 60 percent of that tax cut would go to those earning over $590,000 a year, the very same people whose incomes have risen 90 percent under Reagan and Bush. I said that. It upset the gentleman. I hope he will accept the truth.

I thank you very much for this opportunity to respond.

CAPITAL GAINS TAX CUT BENEFITS AVERAGE CITIZENS

(Mr. LEWIS of California asked and was given permission to address the House for 1 minute.)

Mr. LEWIS of California. Mr. Speaker, it was not my intention to speak out of order, but the gentlewoman from the San Francisco Bay area made a point that I think is very important to me. She spoke of her district including Vallejo, where there are shipworkers' families.

The point that needs to be made to America is that capital gains benefit most those average citizens who make their most important benefit investment in their life to buy a home that grows over time. When they sell it, they make the most important profit they make in their life, and the Democrats want to tax that profit away.

The average small businessman is a person who benefits from this. The vast percentage of numbers are work-

ing people who benefit from lower capital gains, and we ought to get that message out instead of this silly partisan game talking about taxes for the rich.

SPEAKING IN A SPIRIT OF COMITY

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, I take this minute also in the spirit of comity that was spoken about a moment ago to make a critical point.

I hope the negotiations succeed but I hope that Sunday afternoon we will have a summit agreement that will get 218 votes so that we can avoid sequestration and the utter fiscal calamity that that will mean for this country on Monday.

But if we should not get a negotiated settlement, then we on this side will be offering a substitute that will also address the $50 billion-$500 billion.

I hope my colleagues on this side will stop their rhetoric and be prepared to come forward with a substitute that we can vote on, and if yours is better, it will pass. It is time to stop this game we are playing and to realize we are going to find Armageddon 3 days from now.

Let us not be coming in here on Sunday and criticizing us if we do not get a substitute, unless you have one to offer equal with us.

FACTS ABOUT CAPITAL GAINS TAX

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, in the discussion as to whether or not or who benefits from the capital gains tax or who is damaged by the capital gains tax, let us look at the facts.

The fact is that when you eliminate the capital gains from the income tax schedule, you discover that nearly four out of five, more than 75 percent, about 77 percent, of all the people in America who claim capital gains on their income tax forms, if you eliminate the capital gains, you find out that their income is less than $50,000.

What does that mean now? That means that the time that they sold their home, having painted the house and mowed the lawn and repaired the roof for 45 years, and they move from a five-bedroom down to a two-bedroom condominium, when they worked hard running the dry cleaner for 44 years and sell it, and when they sell the farm, and when they do the things that a lifetime of earnings provided, that one particular year, that one particular year they are rich. A lifetime of earnings is moving because they have sold the farm, they have sold what they have put their life's earnings into, and for that one particular year they are rich.

Now, they want to take a third of it in taxes, and this side wants to take 20 percent in taxes. Japan and West Germany take zero.

□ 1115

CAPITAL GAINS

(Mr. SUNDQUIST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SUNDQUIST. Mr. Speaker, I just want to follow up on the very accurate and precise words of my colleague from Ohio and to say to my friend, the gentlewoman from California, that she may be technically right. I do not think the numbers are right.

But the fact is what we have to do when we analyze capital gains, as the gentleman from Ohio says, is we have to separate out ordinary income from what is being sold, and so to her farmers in Sonoma or wherever they are, and to my farmers in west Tennessee it is important that we find out what they make within the year and what they sell that same year. The IRS does not split that out, and if we split that out what is made normally from what is being sold once in a lifetime, we find that 74 percent of the people who qualify for capital gains makes less than $50,000 a year, on a one-time sale, which is their savings, which is what they are going to retire on, it is separate from that.

So let us talk about capital gains as it really is and what is being sold and what is being earned, and then we can talk about the same thing.

This is not rhetoric that is trying to encourage conflict. It is trying to straighten out the facts.

CAPITAL GAINS

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, in 1977 the top 1-percent earner in the United States made in 1990 dollars $280,000. In 1990, the top 1-percent earner in the United States made $550,000 a 92-percent real increase in earnings.

Nobody on our side disparages the rich. We would all like to be rich. We would all like our constituents to be rich.

But if we look further at the statistics, we will find that those same 1-percent earners saw in taxes over income a 23-percent reduction in their tax levy, and the largest portion of income that they claimed, indeed 171-percent increase over that same period, was attributable to capital gains.

It has already been mentioned here over and over and over again that the principal beneficiaries of the people who get capital gains are people who earn more than $100,000. Now it is true that a large number of people who earn under that realize some capital gains. They get the table scraps. It is the rich that do the best, and you want them to do even better.

INCOME TAX AND CAPITAL GAINS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, we just heard a very interesting analysis by the gentleman from New York. He just fails to point out one little minor point, however, that between 1980 and 1990, those who are in the upper 5 percent of income earners in the country moved from paying 33 percent of the total tax burden to paying 46 percent of the tax burden. In other words, during that period of time the wealthiest in this country were forced under the tax provisions that we have to pick up a greater share of the overall tax burden.

I thought that is what we were all about, eliminating the tax burden for the people in the lower incomes and raising the tax burden on the people in the upper incomes. That is exactly what we have done during that period of time, and during that same period of time we have created 22 million new jobs.

That is the problem with the Democrats' proposals, they keep talking about doing something about the rich, and meantime they are talking about proposals that will kill jobs and increase inflation. I think it is time that we start talking in real economic terms that really help the American people, the working American people.

PRESIDENT BUSH SHOULD BE IN TOWN DURING OUR PRESENT CRISIS

(Mr. CARPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARPER. Mr. Speaker, Members in the Chamber who know me know that I am not a highly partisan Member. With regard to this budget deficit, there is more than enough blame to go around for Republicans and for Democrats.

It is going to take not finger pointing and not positioning for partisan advantage to solve this. We are going to have to make some tough, difficult choices. We are both going to have to take some heat, some political hits.

If the Governor of my State, while our State faced a financial and a human calamity, found it appropriate to go outside of the State, travel around the country or around the world doing other things away from the budget crisis that was in my State, we would run him out of this State the first time we had that opportunity. This is not a weekend for the President to be going to Kennebunkport. This is not a weekend for the President to be going to Camp David. This is not a weekend for the President to be on a campaign trail for anybody running for the House or the Senate or for a governorship. This is a weekend for the President to be right here and to engage each of us, Democrats and Republicans, so we can solve this problem once and for all.

THE SUMMIT IS STILL HUNG UP ON CAPITAL GAINS

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, as the debate this morning indicates, the summit is still hung up essentially on the issue of capital gains.

I did not intend to speak, but I could not restrain myself here when I heard the gentleman from Ohio [Mr. MCEWEN] say that the Republicans want to tax capital gains at only 20 percent and the Democrats want to tax it at 33 percent. Is that really what is involved?

If we tax it at only 20 percent, we have to tax someone else to make up the difference. Since the budget summit is really over and the deficit struggle is really over, how do we make up the capital gains? That is a very unfair characterization.

The issue really is not whether or not capital gains takes place, because the Democrats have said that we will put it in, but we want it paid for roughly out of the same set of people who would get the benefit. That is what really is holding up the budget, not capital gains per se, but how to pay for it.

If we pay for it without taxing the people at the top, then we are asking middle Americans to pay for it. Have we not seen enough of that in the last decade? That is really what it is coming down to.

Let us not throw out another smokescreen on this matter.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the gentleman from Maryland is recognized.

There was no objection.

Mr. HOYER. Mr. Speaker, if I might proceed for a minute for the purpose of getting a little amplification on the schedule, at this point in time we hope to do from this point on two unanimous-consent requests, one that deals with the Export-Import Administration that the gentleman from Florida [Mr. FASCELL], I believe has cleared with the minority. The second one we would hope to do, which deals with the banking matters, which is being discussed with the minority, has not been cleared at this point in time, and if it does not get cleared we will not do it, but obviously if it does get cleared we will. Then we will go to the NASA bill and the rule, and then the general debate, only the general debate.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I might just point out to the gentleman that the Rules Committee is due to meet in 6 minutes. I happen to be the only Republican Member in town to attend that meeting upstairs. It is a very important meeting. Members need to catch planes at 12 o'clock sharp.

If you keep putting these things ahead of this rule which we are going to try to rush through, nobody is going to be able to do that. I just call that to the gentleman's attention.

Mr. HOYER. I think this unanimous-consent request is going to take just a few minutes, as I understand it. It is not controversial. It has been cleared on the gentleman's side, and I do not think there is any problem.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I am glad to yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, what does the gentleman propose to do with the votes that come up on everything except the rule? Will they be rolled if there are votes called?

Mr. HOYER. Any suspensions will be rolled until Sunday, except for possibly one. We understand, we are trying to get no votes after 12.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, yesterday, the majority leader, Mr. GEPHARDT, indicated that the votes would be held today. I do not understand why we are changing the rules. A lot of Members stayed in town last night because we wanted to be here to do our job, and now we are hearing that we are going to roll those vote over to Sunday. I do not understand why you are changing it, because if you were going to do that why did you not say it last night? The gentleman from Missouri [Mr. GEPHARDT] was very clear on that point because I asked him about it.

Mr. HOYER. I think, very frankly, and the honest answer is, based upon discussions between both sides, I think there were perhaps some changes in thoughts of what your side wanted to do, and we are trying to accommodate that.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, there are some concerns on our side about the rule that is about to be brought up in the Rules Committee. I think it would be tragic if you held a Rules Committee meeting and our only Member in town was here on the floor doing his job on the rule. Could we get some commitment that the Rules Committee will not meet unless the member from the minority side is present?

Mr. HOYER. I would expect that the gentleman will be going up there right now. He said it was going to meet in 6 minutes. I do not think there is any problem.

Mr. WALKER. The gentleman has to stand here to handle a rule, that is the only problem. He is the only member in town also to handle the rule that is about to come up.

Mr. HOYER. I do not think it will take very long.

I thank the Speaker.

TEMPORARY EXTENSION OF EXPORT ADMINISTRATION ACT OF 1979

Mr. FASCELL. Mr. Speaker, I send to the desk the bill—H.R. 5746—to extend the Export Administration Act of 1979, and for other purposes, and I ask unanimous consent for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. BEREUTER. Mr. Speaker, reserving the right to object, I do so only to give the distinguished chairman of the Foreign Affairs Committee an opportunity to explain to the body the nature of his request.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, the authorities under the Export Administration Act, of course, expire at the end of this month. We are in conference on the new bill, and this legislation simply gives us until October 20 to work that out.

Mr. BEREUTER. I thank the chairman for his explanation. It has been explained to us previously. It is sup-

ported by the distinguished ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD] and this Member.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5746

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF EXPORT ADMINISTRATION ACT OF 1979.

(a) EXTENSION OF AUTHORITY.—Section 20 of the Export Administration Act of 1979 (50 U.S.C. App. 2419) is amended by striking "September 30" and inserting "October 20".

(b) AUTHORIZATION OF APPROPRIATIONS.—Money appropriated to the Department of Commerce to carry out the Export Administration Act of 1979 for fiscal year 1991 may be obligated and expended for the period beginning on October 1, 1990, and ending on October 20, 1990, notwithstanding section 18(a)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2417(a)(1)).

SEC. 2. EXPORT PROMOTION PROGRAMS.

Money appropriated to the Department of Commerce for export promotion programs for fiscal year 1991 may be obligated or expended notwithstanding section 201(a) of the Export Administration Amendments Act of 1985 (15 U.S.C. 4051(a)).

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION MULTIYEAR AUTHORIZATION ACT OF 1990

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 480 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 480

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5649) National Aeronautics and Space Administration Multiyear Authorization Act of 1990, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with the provisions of clause 2(1)(6) of rule XI are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology, the bill shall be considered for amendment under the five-minute rule, by titles instead of sections and each title shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After passage of H.R. 5649, it shall be in order to take from the Speaker's table the bill S. 916 and to consider said bill in the House. It shall then be in order to move to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 5649 as passed by the House. It shall then be in order to move to insist on the House amendment to S. 916 and to request a conference with the Senate thereon.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 480 provides for the consideration of H.R. 5649, the National Aeronautics and Space Administration Multiyear Authorization Act of 1990. It waives all points of order against consideration of the bill for failure to comply with the provisions of clause 2(1)(6) of rule XI, which requires a 3-day layover.

The resolution provides for an open rule with 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Science, Space, and Technology Committee.

After general debate, the bill shall be considered for amendment under the 5-minute rule, by titles instead of sections, and each title shall be considered as having been read. One motion to recommit is provided.

Finally, the resolution makes it in order to take S. 916 from the Speaker's table and consider the bill in the House. It shall be in order to move to strike all after the enacting clause and insert the text of H.R. 5649 as passed by the House. It shall then be in order to move to insist on the House amendment to S. 916 and request a conference with the Senate.

Mr. Speaker, NASA has suffered a number of setbacks recently which have eroded confidence in the agency and have raised questions about its ability to pursue an aggressive space exploration program. However, we must not forget that our Nation's Space Program has also been enormously successful over the years, and has played a major role in America's technological growth.

This resolution will enable us to examine the Space Program, and debate its future direction. I urge its adoption.

□ 1130

Mr. SOLOMON. Mr. Speaker, I am pleased to join with the gentleman from Texas in asking Members to support this open rule. As the gentleman has indicated, the rule is fully open; and it contains a procedure at the end for expediting this bill, the NASA Reauthorization, to conference with the Senate.

I know Members are anxious that today's business be concluded in a timely fashion, and I will not elaborate further on the rule. It is fully open and should be approved.

I note that the bill was reported out of the Committee on Science, Space, and Technology by unanimous vote. I believe that the vast majority of Americans are convinced that America should remain the leader in outer space exploration. The technologies that are developed in pursuit of this exploration really have a multitude of applications in the medical field, the commercial field, the scientific field, and the education field that have proven to be of great benefit to the American people. I urge Members to support the rule.

I would ask the gentleman from Texas [Mr. FROST], is it his understanding that they are going ahead, and will take up the bill after we pass this rule?

Mr. FROST. If the gentleman will yield, that is my understanding.

Mr. SOLOMON. And then it will be on to final disposition of the bill itself today, too?

Mr. FROST. It was my original understanding that it was general debate only. I will have to inquire of the chairman of the committee.

Mr. SOLOMON. If I might inquire of the chairman of the committee, the gentleman from New Jersey [Mr. ROE], an inquiry was being made as to whether or not we are going to proceed with just general debate on your bill, or whether the bill is open for amendment and final disposition. Does the gentleman know what will happen?

Mr. ROE. If the gentleman will yield, I just discussed with the distinguished gentleman from Pennsylvania [Mr. WALKER], our ranking member, and we think we can complete the bill.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 480 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5649.

□ 1133

IN THE COMMITTEE ON THE WHOLE HOUSE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5649) National Aeronautics and Space Administration Multiyear Authorization Act of 1990, with Mr. TORRES in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time. The gentleman from New Jersey [Mr. ROE] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 5649, a multiyear authorization for the National Aeronautics and Space Administration. This bill represents an essential important step in America's commitment to steadfast and safe space development.

Several of my colleagues on the Science, Space, and Technology Committee deserve special recognition for their efforts to bring this bill to the floor. The distinguished gentleman from Florida [Mr. NELSON], chairman of the Subcommittee on Space Science and Applications has provided sustained leadership to our civilian space program leadership over many years. I also want to recognize the important contributions of the gentleman from Wisconsin [Mr. SENSENBRENNER], the ranking Republican member of the Subcommittee on Space Science and Applications.

The chairman of our Transportation, Aviation, and Materials Subcommittee, Mr. TORRICELLI from the great State of New Jersey, and the ranking Republican member of that subcommittee, Mr. LEWIS from Florida, have also played an important role in bringing their expertise to bear on this bill.

Last, but very importantly, I want to recognize the valuable contributions of my colleague from Pennsylvania [Mr. WALKER], the ranking Republican member of the Science, Space, and Technology Committee.

Mr. Chairman, in a few minutes I plan to outline the details of this comprehensive bill for NASA multiyear funding. Right now I want to talk about what this bill is all about.

Ask any kid in America about the space program and you'll get comments filled with excitement and a spirit of adventure and a sense of their country being a leader out there among the stars. Well, the NASA multiyear funding bill is a set of policy directions and programs that will guarantee that those kids are correct in their instincts. But in the adult world, some of the excitement and enthusiasm comes from knowing that the space program brings continuing economic benefits, expanding technological opportunities, and a gateway to worlds unexplored and unknown. Despite this, space development has had its pitfalls and problems too, as one would realistically have to expect.

Mr. Chairman, with your permission, I would like to take a moment to update my colleagues on a few issues that are critical to today's consideration of this bill.

Last week, I met at some length with NASA Administrator Richard Truly to review the overall state of the space program. Based on these discussions, I believe, first, that NASA is doing everything possible to restore our Nation's launch capability.

Admiral Truly has made clear to me that the shuttle fleet is not grounded. Although the launch opportunity for the Astro mission has probably been precluded by the hydrogen leaks that have received extensive news coverage, the *Discovery* and *Atlantis* shuttles are ready to carry out missions critical to our national security and to our scientific advancement such as the pending *Ulysses* flight.

In addition, as these photos dramatically illustrate, the Magellan spacecraft continues to return stunning imagery of the surface of Venus. We are getting our first detailed look at this planetary neighbor. As for the space telescope, to paraphrase Mark Twain, the reports of its death have been greatly exaggerated. These images demonstrate that it is indeed beginning to return data of enormous scientific value.

Mr. Chairman, space exploration and development is a task of formidable proportion, fraught with risk of failure. In the beginning, three decades ago, no one believed it would be either easy or without peril. But over the years, we began to take the achievements for granted and began to forget that space is a hostile and experimental environment.

Right now there are serious questions being asked about NASA's ability to manage and carry out such enormous and complex undertakings. These questions are appropriate. We should ask them and I believe that our space program will benefit from this examination. Nevertheless, I have no doubt that the space program will be a critical part of our national agenda in the coming decades and throughout the 21st century. But in order for this to happen, we cannot and should not falter in our support of the program here and now.

Mr. Chairman, I believe that H.R. 5649 contains budgetary and policy guidance that is absolutely critical to moving NASA forward in preparation for the 21st century.

Now, I would like to briefly describe the major provisions of the bill.

Title I contains an authorization for each of NASA's major activities for fiscal years 1991, 1992, and 1993. The total authorization provided in the bill for these years is $14,009,200,000 for 1991, $14,359,500,000 for 1992, and $16,121,800,000 for 1993. A detailed spread sheet accompanying this statement will be provided for the record.

The bill provides for one major new start, the Earth observing system. Here is a place where our access to space will allow us to understand and alleviate some of our problems on Earth. The Earth observing system will dramatically increase our knowledge of the environment and the implications for our climate in the future.

The bill also includes funding to begin the studies necessary for future human exploration of the Moon and Mars. Finally, the bill provides crucial funding to continue work on the space station and to carry out the shuttle flight program, along with expendable launch vehicles, for important scientific and national security payloads.

Title II contains the substance of the Launch Services Purchase Act and sets forth policy for the procurement of commercial launch services. Let me remind my colleagues that there is intense competition in commercial launch services. America is only one of several nations capable of providing such services.

The bill also contains an extensive array of program initiatives and policy provisions. Let me highlight the major ones in each category.

Program initiatives include:

Full authorization for the administration's funding plan for the space station for fiscal years 1992—$2,907,000,000—and 1993—$3,031,000,000. Adequate funding authorization for fiscal year 1991 was already provided in Public Law 100-685, the 1988 NASA Authorization Act.

Funding for the national aerospace plane [NASP] at the administration's request levels.

There is $10,000,000 for the support of heavy-lift launch vehicle studies.

Authorization to continue the orbital maneuvering vehicle up to the completion of its critical design review.

A new start for the Lifesat Program.

The $5,000,000 for the conduct of an advanced sensor technology demonstration program in support of the Landsat-7 remote sensing satellite.

A new start for the Earth observing system in order to address critical environmental issues.

A $45,000,000 augmentation of the development of key subsonic aeronautical transport technologies and the implementation of NASA's part of the Federal High Performance Computing Program.

Full authorization for the administration's request for the human exploration initiative.

Authorization to initiate a program to develop core propulsion technologies, including those required to enhance the competitiveness of the commercial expendable launch vehicle industry.

An augmentation of $35,000,000 for the needs of the space shuttle orbiter production line, including the purchase of structural spares and the funding of production support activities by key contractors.

Authorization for the creation of an Assured Shuttle Availability Program which would address key safety enhancements for the space shuttle.

Authorization to accelerate the development of an advanced series of tracking and data relay satellites.

Policy provisions include:

A set of reporting requirements for the advanced solid rocket motor to ensure that it stays on track and provides a safe and capable space transportation system in the future.

A space shuttle use policy which ensures that the space shuttle and expendable launch vehicles will be applied to national needs in the most appropriate manner.

A requirement for the development of an agencywide life science plan.

A requirement for the Space Council to conduct a study on international cooperation in planetary exploration.

A policy provision for the management and funding responsibilities for the national aerospace plane.

A requirement for the National Academy of Public Administration to review some of the administrative and organizational problems facing NASA.

A national policy to limit the amount of space debris placed into Earth orbit, including a provision to encourage other nations to adopt a similar policy.

A requirement that NASA utilize solar dynamic power for future growth in space station power needs.

The bill also contains some important provisions for other Federal agencies having roles in the space program under our jurisdiction. They include:

Authorization for the National Space Council in the amount of $1,363,000 for fiscal year 1991.

Establishment of the Office of Space Commerce within the Department of Commerce and a prescribed charter for this Office. In addition, an authorization of $487,000 for fiscal 1991.

Authorization of $4,517,000 for fiscal year 1991 for the Office of Commercial Space Transportation within the Department of Transportation.

Mr. Chairman, I believe that this is a visionary and far-reaching piece of major legislation that sets the new policy and provides new guidelines for an effective space and aeronautics program. I ask my colleagues' strong support for this bill so that we can continue America's national space achievements into the 21st century. I ask for your support to ensure that America remains a leader in space, to ensure that we don't, by limited sights and stingy spirits, slip to become followers in space.

Mr. Chairman, as provided in the rule, our intent is to act on this measure with dispatch. After enactment by the House I will ask to take from the desk the Senate bill, S. 916, and to strike all after the enacting clause and insert in lieu thereof the provisions of this bill. We intend to move quickly to conference and I anticipate that we can reach an expeditious agreement with the other body.

Mr. Chairman, I urge the support of all Members of this important and timely bill.

Mr. WALKER. Mr. Chairman, I yield myself such time as I may consume. I rise in support of H.R. 5649, the Multiyear Authorization Act for NASA for 1990. We were unable to enact an authorization bill last year, and it is important we do not let another year go by without a NASA funding bill.

There are several policy items in here that are very important for the future of the space program. Not only are we assuring that NASA will remain as a vital part of this Nation's space program, but there are a number of initiatives in here that move Members toward a more viable commercial space policy.

My colleague from California, Mr. PACKARD, is to be congratulated for some of the work he did in order to give Members some of these provisions. The gentleman from Wisconsin [Mr. SENSENBRENNER], the ranking Republican on the Subcommittee on Space Science and Applications, also deserves congratulations for the leadership that he showed in putting this particular bill together.

Mr. Chairman, I reserve the balance of my time.

Mr. MINETA. Mr. Chairman, I rise today in strong support of H.R. 5649, the NASA multiyear authorization bill, and I congratulate Mr. ROE on his hard work on this legislation.

Mr. Chairman, space exploration has served as a vehicle for investment in technology, bolstered our economy, enhanced our world competitiveness, and improved our national security.

It is no coincidence that the growth and expansion of our Nation's high-technology industries have paralleled the years of NASA's greatest activity and accomplishment.

One of the hottest and most critical debates now underway in Washington centers about the sum and substance of our space program.

As a strong supporter of the space program, I was disheartened to see central pieces of the program cut by the Senate Appropriations Committee.

I believe that it is incumbent on the legislators who decide the fate of the program to continue to support the program if the U.S. space program is to reach its potential.

It is our duty as drafters of the Nation's space policy to establish a realistic, long-term plan that has the support of the American people.

Mr. Chairman, I believe that we need to renew our commitment today to a long-term space program with clearly defined goals and a sense of national priority.

This bill will bring us a step closer to accomplishing this goal and I strongly believe that we can afford nothing less.

Mr. ROHRABACHER. Mr. Chairman, we meet today to consider an authorization bill for NASA for fiscal year 1991. This bill is the result of a lot of hard work on the part of the leadership and members of the House Committee on Science, Space, and Technology.

This bill has many innovative and farsighted provisions, such as a multyear authorization for the NASA portion of the National Aerospace Plane Program. I'm proud to be known as a strong supporter of this program, and I am even more pleased to see that NASA this past year has started to actively lend its support to the X-30 project. I want to commend Admiral Truly for his leadership on this vital development program, which will keep America as the world's predominant aerospace power.

I also want to single out my colleague from California, RON PACKARD, for his leadership on title II of this bill which enacts into statute what has been the executive policy of this Nation for several years now—that is, NASA should, whenever possible, purchase commercially provided launch services, rather than try to do it all themselves the expensive Government way. This concept will serve our country and its taxpayers and the goal of space commercialization and I want to commend Mr. PACKARD for having offered it.

Another provision of this bill is the authorization of study of heavy lift launch vehicles. In the past this has always meant to NASA one of two things: studying Shuttle C or studying Shuttle Z. Well, there is more to heavy lift than shuttle-derived, Government-designed launch vehicles. There have been at least three commercially proposed heavy lift launch vehicles discussed in the past 3 years—Hughes Aircraft's Jarvis; Martin-Marietta's Titan Five; and McDonnell Douglas' Bubba, also known as Heavy Lift Delta.

Bubba and his brothers would be able to put into low Earth orbit roughly the same payload that Shuttle C could, and for roughly the same per-launch cost, but—and here is the big catch—it would only cost about one-quarter to develop Bubba than it would to develop Shuttle C. And McDonnell Douglas would pay the development cost, if the Government would guarantee that it would buy three—only three—launches.

The specific details of these proposals are unimportant. What is vital is that private enterprise is chomping at the bit to have a go at making a profit in space. As a result of an amendment to this bill which I am proud to have authored, NASA will now be required to examine not just Shuttle C and Shuttle Z when it looks at heavy lift launch vehicles, but also at some of the commercially proposed al-

ternatives such as Bubba. Not only can the private sector develop a heavy lift launch vehicle on its own for much less money, but it comes up with a better name than Shuttle Z, too.

Finally, Mr. Chairman, I would like to take this opportunity to express my sincere and fervent hope that we will be able to conference this bill with the other body, and enact a NASA authorization this year. Congress did not enact a NASA authorization for fiscal year 1990 because the House could not get a conference on its bill. I hope that in the little time left to us this year that we are able to do the right thing and complete this portion of the people's business.

Mr. BROWN of California. Mr. Chairman, I rise in strong support of H.R. 5649, the NASA Multi-Year Administration Act of 1990.

Mr. Chairman, I have been closely following the civilian space program throughout my 26 years in the U.S. Congress. During this time I have been especially interested in the scientific activities of the space agency.

In these two and a half decades, NASA has made major strides in its capabilities and in its demonstrated performance.

Today, these technologies and capabilities have matured to a level that is truly impressive.

The NASA authorization bill we have before us today builds on this base of technological expertise and offers programs and initiatives that will be of great scientific and social merit.

Of major note is the agency's new start on an Earth observing system. Once operating, this program will begin to provide both the scientific community and national policymakers—such as ourselves—answers to the critical environmental issues that are facing not only this country, but the entire world. Additionally, this program is part of a larger international effort. The components of this program, as authorized in this bill, will allow the United States to exercise a major leadership role in this critical environmental area.

In addition to that initiative, this bill moves the development of the advanced communications technology satellite to within 1 year of being ready for launch and operation in Earth orbit. This program will provide the kind of rich technological and experience base that will be required to keep this country first among the world's producers and operators of commercial communications satellites. This is an industry, I might add, that provides billions of dollars to the Nation's economy and hundreds of millions of dollars to the postive side of our international balance of payments.

Other important initiatives in this bill include:

A program to develop advanced sensors which could make the products made by U.S. remote sensing satellites more competitive on world markets. This is particularly important given the large share of this market that we have lost to foreign competitors.

The significance of this provision goes beyond the relatively small dollar amount of the authorization. It moves advanced remote sensor development for commercial and public use back into NASA, where it has belonged all along. Furthermore, it will allow the U.S. commercial system to maintain its technological edge in the next generation of remote sensing satellites. To compete effectively for commercial business and to meet the operational and research needs of scientists and Government agencies, Landsat 7 and its successors must offer improved products and performance. In particular, Landsat 7 sensors should offer enhanced spatial resolution, greater spectral flexibility, and more frequent site revisit capability.

It is ironic that while the administration and Congress have been dedicating substantial new resources to global change research, we have been nickle-and-diming to death the Landsat system, which is a proven and increasingly valuable tool in global change research. A recent report by the National Research Council recommends that Landsat be included in the U.S. Global Change Research Program—even if the data must be purchased from a commercial provider.

Landsat is one of the finest examples of the benefits which the space program can produce for our society. We cannot let such a valuable program expire at a time when we desperately need information about how human activities are affecting the environment.

The development of a series of relatively low-cost spacecraft that will be used in an international program to explore the fundamental nature of comets, asteroids, and the planet Saturn and its moons.

The development of a variety of advanced subsonic aircraft technologies which will make U.S. aircraft safer, quieter, more fuel efficient, and less costly to operate. This will not only benefit the U.S. public, but it will also ensure that the sales of U.S. aircraft continue to be a major positive contributor to our balance of payments.

The initiation of a series of major advancements in high performance computing technologies. These advancements will not only improve the quality of the scientific research conducted within this country, they will also permit the development of advanced computers that will enhance the competitive advantage of U.S. manufacturers on the world market.

And a series of initial activities that will begin to prepare the way for future efforts to reach beyond this planet toward the permanent manned exploration and settlement of the Moon and Mars.

In conclusion Mr. Chairman, I believe that this is a good bill and that it deserves the support of all Members.

Finally Mr. Chairman, I would like to congratulate the chairman of the committee, Mr. ROE, and the ranking Republican member, Mr. WALKER, for their efforts to bring this important piece of legislation to the floor.

Mr. NELSON of Florida. Mr. Chairman, it is with great pleasure that I rise in support of H.R. 5649, the NASA Multi-Year Authorization Act of 1990.

Mr. Chairman, for the past 6 years I have had the honor and distinct privilege of serving as the chairman of the Space Science and Applications Subcommittee.

During the time, I have seen NASA achieve some dazzling successes and experience some devastating failures.

The successes have included such things as:

The stunning photographs that were returned during the Voyager flybys of the planets Uranus and Neptune; the spectacular successes of the Space Shuttle in repairing a failed communications satellite [Syncom], recovering the long duration exposure facility, deploying the space telescope, and conducting challenging spacelab missions, along with many other similar activities; the exciting high-resolution radar images of the previously unseen surface of the planet Venus that are now being returned by the Magellan spacecraft; and, on a personal note, my own highly successful flight on the space shuttle *Columbia* in Janaury 1986.

At the top of the negative side of the ledger is of course the tragic *Challenger* accident. However, now in the aftermath of this devastating event, we can look back and see that a lot of key lessons have been learned and a lot of major operations and activities have been fundamentally changed within NASA so that space flight is now much safer than it had been.

Mr. Chairman, in my years as chairman of the Space Subcommittee, I have also seen a fundamental change in the financial health of the civil space program. Six years ago, it was clear that budgetary levels were inadequate by any measure that one could imagine.

Today, funding is still tight, but it has grown to a level that we can now begin to plan and implement such activities as placing a permanent national research laboratory—the space station—into orbit, initiating a comprehensive program to study the environment, and beginning the initial steps that will once again allow us to place human scientists and explorers on the surface of solar system bodies beyond the Earth.

Mr. Chairman, I think that this is an excellent bill. And I strongly congratulate the efforts of the full committee chairman, Mr. ROE, the ranking Republican member on the committee, Mr. WALKER, and the ranking Republican member on my subcommittee, Mr. SENSENBRENNER, in crafting this legislation.

I encourage all of the Members of this body to support this important bill.

Mr. LEWIS of Florida. Mr. Chairman, the importance of establishing long-range space aeronautical policy is greater now than at any time in the recent past. The changes in the Soviet Union, the Mideast, and a united Europe in 1992 will have a significant impact on all of NASA's programs.

This legislation is crafted with a vision on the future, and will address these changes.

I congratulate the chairman, Mr. ROE, and the ranking minority member, Mr. WALKER, for their leadership in drafting this legislation.

This legislation contains my amendment, passed unanimously in full committee, which is a vital step in the long process of encouraging the commercialization of space.

The primary method of accomplishing this is through allowing State governments in on the game.

This amendment was the product of negotiations between the States, industry, and the staffs of Chairman ROE, Vice Chairman WALKER, and Mr. NELSON.

The amendment will include within the Space Launch Act the establishment and operation of launch sites and related facilities.

Also, it includes State governments and State chartered entities established to facilitate space commerce, and expands the mechanisms to facilitate maximum private sector involvement in space activity, with assistance by State governments.

In addition, it allows the States and industry to negotiate for the use of unused Federal facilities, resulting not only in the advance of commercialization, but in added revenues for the Federal launch facilities.

One of the primary obstacles to commercializing space is the lack of the necessary infrastructure. We take for granted our highway and airway infrastructure, which was built one piece at a time.

We do not have that luxury with a space infrastructure. We must begin to establish an infrastructure before it is too late.

Several States, most notably Hawaii, Florida, Virginia, and California have been active in this process and I am encouraged by their commitment to pursuing an avenue for commercialized space.

We have waited too long to begin a real effort to commercialize space. We all agree that the United States must begin to earnestly compete, but we stand by year after year while other countries pass us by.

This portion of the bill will open the door to an open and lively debate in the coming months and will be a key step toward truly commercializing space.

In addition, as vice chairman of the Transportation, Aviation, and Materials Subcommittee, I am pleased with the committee's commitment to the aeronautical portion of this bill.

Aeronautical sales account for the largest positive balance of trade of any single segment of the U.S. economy. The strength of the aeronautics technology is due, in part, to the long-term, high risk research conducted at NASA.

As the competition changes, we must have a research program to meet those changing needs. The program enjoys the strong support within the administration which it deserves and reflects the support of the committee.

The most visible, and one of the most valuable aeronautics programs is the national aerospace plane, or NASP. I am pleased to say that this bill supports full funding for NASP.

Recently, the Japanese announced details of their space plane program, HOPE. Their research effort, $35 million this year, will double in each year for the next 2 years. Japan plans to fly this Scramjet vehicle in this decade.

Without this NASP funding level, the Japanese could have a flying space plane prototype before the United States does. The hard work by Mr. MCCURDY on the Armed Services Committee, has led to full funding in the House-passed Defense authorization bill.

The aeronautics portion also contains language and funding supporting the 5-year wind tunnel revitalization program. This is one of the most vital portions of the aeronautical research effort and currently NASA leads the world in advanced wind tunnel technology.

There is also increased emphasis on aircraft safety research. NASA is the only agency conducting vital long-term, high risk studies. The U.S. technology advantages will quickly be eroded without this important effort.

I look forward to working with the subcommittee chairman, Mr. TORRICELLI, along with Mr. ROE and Mr. WALKER, in pressing for action from the other body on this important legislation. I urge all my colleagues to support this legislation.

Mr. ROE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WALKER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. HOYER] having assumed the chair, Mr. TORRES, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 5649) National Aeronautics and Space Administration Multiyear Authorization Act of 1990, had come to no resolution thereon.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Sunday, September 30, 1990.

PROVIDING FOR EXTENSION OF CERTAIN PROGRAMS RELATING TO HOUSING AND COMMUNITY DEVELOPMENT

Mr. GONZALEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5747) to provide for the temporary extension of certain programs relating to housing and community development and for other purposes.

The Clerk read as follows:

H.R. 5747

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EMERGENCY LOW INCOME HOUSING PRESERVATION ACT OF 1987.

Section 203(a) of the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715*l* note) is amended by striking "September 30, 1990" and inserting "October 31, 1990".

SEC. 2. INTERAGENCY COUNCIL ON THE HOMELESS.

Section 209 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11319) is amended by striking "October 1, 1990" and inserting "October 31, 1990".

SEC. 3. FHA MORTGAGE LIMIT.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "during fiscal year 1990" and inserting "until October 31, 1990".

The SPEAKER pro tempore. Is a second demanded?

Mr. WALKER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

This is a simple extender. The House had passed the identical bill. This is a simple extender on what we call the prepayment issue, an extension since the expiration date will be Sunday of the existing law, or moratorium. We are asking for an extension until October 31.

This bill has a joinder of the ranking minority leader of the community, the gentleman from Ohio [Mr. WYLIE], and it is our hope that it can be expedited to the Senate, and we would have action before Sunday at midnight, in just extending the provisos of what we call the memorandum or the moratorium on the prepayment issue.

Otherwise, we could have some lapse here, and probably expose several thousand families to expulsion or eviction from their housing. It has no other provision other than just a simple extension.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WALKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will take just a minute. I just want to ask the gentleman one question. This is exactly the same as the bill that passed the House previously, is that not correct?

Mr. GONZALEZ. Exactly.

Mr. WALKER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ] that the House suspend the rules and pass the bill, H.R. 5747.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION MULTIYEAR AUTHORIZATION ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 480 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5649.

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IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5649) National Aeronautics and Space Administration Multiyear Authorization Act of 1990, with Mr. TORRES in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, all time for general debate had expired.

Pursuant to the rule, the bill shall be considered under the 5-minute rule by titles, and each title shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 5649

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Aeronautics and Space Administration Multiyear Authorization Act of 1990".

The CHAIRMAN. If there are no amendments to section 1, the clerk will designate title I.

The text of title I is as follows:

TITLE I—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATIONS.

SEC. 101. FINDINGS.

The Congress finds that—

(1) over the next decade, the United States aeronautics and space program will be directed toward major national priorities of understanding, preserving, and enhancing our global environment, hypersonic transportation, human exploration, and emerging technology commercialization;

(2) the United States aeronautics and space program is supported by an overwhelming majority of the American people;

(3) the United States aeronautics and space program genuinely reflects our Nation's pioneer heritage and demonstrates our quest for leadership, economic growth, and human understanding;

(4) the United States space program is based on a solid record of achievement and continues to promote the objective of international cooperation in the exploration of the planets and the universe;

(5) the United States aeronautics and space program generates critical technology breakthroughs that benefit our economy through new products and processes that significantly improve our standard of living;

(6) the United States aeronautics and space program excites the imagination of every generation and can stimulate the youth of our Nation toward the pursuit of excellence in the fields of science, engineering, and mathematics;

(7) the United States aeronautics and space program contributes to the Nation's technological competitive advantage;

(8) the United States aeronautics and space program requires a sustained commitment of financial and human resources as a share of the Nation's Gross National Product;

(9) the United States space transportation system will depend upon a robust fleet of space shuttle orbiters and expendable and reusable launch vehicles and services;

(10) the United States space program will be advanced with an assured funding stream for the development of a permanently manned space station with research, experimentation, observation, servicing, manufacturing, and staging capabilities for lunar and Mars missions;

(11) the United States aeronautics program has been a key factor in maintaining preeminence in aviation over many decades;

(12) the United States needs to maintain a strong program with respect to transatmospheric research and technology by developing and demonstrating National Aero-Space Plane technology by a mid-decade date certain;

(13) the National Aeronautics and Space Administration is primarily responsible for formulating and implementing policy that supports and encourages civil aeronautics and space activities in the United States; and

(14) commercial activities of the private sector will substantially and increasingly contribute to the strength of both the United States space program and the national economy.

SEC. 102. POLICY.

It is declared to be national policy that the United States should—

(1) rededicate itself to the goal of leadership in critical areas of space science, space exploration, and space commercialization;

(2) increase its commitment of budgetary resources for the space program to reverse the dramatic decline in real spending for such program since the achievements of the Apollo moon program;

(3) ensure that the long-range environmental impact of all activities carried out under this title are fully understood and considered;

(4) promote and support efforts to advance scientific understanding by conducting or otherwise providing for research on environmental problems, including global change, ozone depletion, acid precipitation, deforestation, and smog;

(5) forge a robust national space program that maintains a healthy balance between manned and unmanned space activities and recognizes the mutually reinforcing benefits of both;

(6) maintain an active fleet of space shuttle orbiters, including an adequate provision of structural spare parts, and evolve the orbiter design to improve safety and performance, and reduce operational costs;

(7) sustain a mixed fleet by utilizing commercial expendable launch vehicle services to the fullest extent practicable;

(8) support an aggressive program of research and development designed to enhance the United States preeminence in launch vehicles;

(9) continue and complete on schedule the development and deployment of a permanently manned, fully capable, space station;

(10) establish a dual capability for logistics and resupply of the space station utilizing the space shuttle and expendable launch vehicles, including commercial services if available;

(11) continue to seek opportunities for international cooperation in space and fully support international cooperative agreements;

(12) maintain an aggressive program of aeronautical research and technology development designed to enhance the United States preminence in civil and military aviation and improve the safety and efficiency of the United States air transportation system;

(13) conduct a progam of technology maturation, including flight demonstration in 1997, to prove the feasibility of an air-breathing, hypersonic aerospace plane capable of single-stage-to-orbit operation and hypersonic cruise in the atmosphere;

(14) seek innovative technologies that will make possible advanced human exploration initiatives, such as the establishment of a lunar base and the succeeding mission to Mars, and provide high yield technology advancements for the national economy; and

(15) enhance the human resources of the Nation and the quality of education.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to the National Aeronautics and Space Administration the following amounts:

(1) For "research and development", for the following programs:

(A) United States International Space Station Freedom, $2,907,000,000 for fiscal year 1992, and $3,031,000,000 for fiscal year 1993.

(B) Space transportation capability development, $763,400,000 for fiscal year 1991, $1,151,000,000 for fiscal year 1992, and $1,489,600,000 for fiscal year 1993. Of the funds authorized for fiscal year 1991, $40,000,000 shall be used only for initiating development of the Shuttle-C and $45,400,000 shall be used for the completion of the critical design review of the Orbital Maneuvering Vehicle.

(C) Physics and astronomy, $985,000,000 for fiscal year 1991, $1,177,000,000 for fiscal year 1992, and $1,197,000,000 for fiscal year 1993.

(D) Life sciences, $174,000,000 for fiscal year 1991, $210,000,000 for fiscal year 1992, and $299,000,000 for fiscal year 1993. Of the amounts authorized for such purposes, by this or any other Act, for fiscal year 1991—

(i) $10,000,000 shall be for the initiation of the Lifesat program; and

(ii) not less than $1,000,000 shall be used to establish a specialized center for research and training for bioregenerative life support systems.

(E) Planetary exploration, $337,200,000 for fiscal year 1991, $287,000,000 for fiscal year 1992, and $320,300,000 for fiscal year 1993.

(F) Earth sciences, $529,500,000 for fiscal year 1991, of which $5,000,000 shall be for the conduct of an advanced sensor technology demonstration program in support of the Landsat-7 remote sensing satellites, $917,000,000 for fiscal year 1992, and $1,756,000,000 for fiscal year 1993.

(G) Materials processing in space, $97,300,000 for fiscal year 1991, $114,000,000 for fiscal year 1992, and $140,000,000 for fiscal year 1993.

(H) Communications, $52,800,000 for fiscal year 1991, including not more than $2,000,000 for experimenter ground stations

for the Advanced Communications Technology Satellite, but only if the experimenter receiving funds obtains at least an equal amount of funds from sources other than the National Aeronautics and Space Administration, $32,000,000 for fiscal year 1992, and $28,000,000 for fiscal year 1993.

(I) Information systems, $36,800,000 for fiscal year 1991, $39,000,000 for fiscal year 1992, and $41,000,000 for fiscal year 1993.

(J) Technology utilization, $24,400,000 for fiscal year 1991, $30,000,000 for fiscal year 1992, and $26,000,000 for fiscal year 1993.

(K) Commercial use of space, $76,600,000 for fiscal year 1991, $120,000,000 for fiscal year 1992, and $140,000,000 for fiscal year 1993.

(L) Aeronautical research and technology, $557,000,000 for fiscal year 1991, $634,500,000 for fiscal year 1992, and $685,900,000 for fiscal year 1993. None of the funds authorized under this subparagraph for fiscal year 1991 shall be expended unless at least $119,000,000 are made available for such fiscal year for the National Aero-Space Plane program.

(M) Transatmospheric research and technology, $119,000,000 for fiscal year 1991, $72,000,000 for fiscal year 1992, and $68,000,000 for fiscal year 1993.

(N) Space research and technology, $490,900,000 for fiscal year 1991, $511,000,000 for fiscal year 1992, and $568,000,000 for fiscal year 1993. Of the amounts authorized for the Exploration Technology program, by this or any other Act, for fiscal year 1991, at least 10 percent shall be for university contracts and grants.

(O) Exploration mission studies, $37,000,000 for fiscal year 1991, $45,000,000 for fiscal year 1992, and $45,000,000 for fiscal year 1993.

(P) Human exploration initiative, $444,000,000 for fiscal year 1992, of which at least 30 percent shall be for university contracts and grants, and $649,000,000 for fiscal year 1993. The Administrator shall provide to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, by March 15, 1991, a report setting forth the goals for academic participation and enhancement of the educational infrastructure with regard to the human exploration initiative.

(Q) Safety, reliability, and quality assurance, $33,000,000 for fiscal year 1991, $36,000,000 for fiscal year 1992, and $38,000,000 for fiscal year 1993.

(R) Tracking and data advanced systems, $20,000,000 for fiscal year 1991, $22,000,000 for fiscal year 1992, and $23,000,000 for fiscal year 1993.

(S) University Space Science and Technology Academic Program, $50,100,000 for fiscal year 1991, $59,000,000 for fiscal year 1992, and $60,000,000 for fiscal year 1993.

(T) Comet Rendezvous Asteroid Flyby/Cassini mission, not to exceed $1,600,000,000, for development, launch, and 30 days of operations thereof, to remain available until expended, of which—

(i) $490,000,000 shall be available for obligation after October 1, 1989;

(ii) an additional $370,000,000 shall be available for obligation 30 days after the submission of a report summarizing the results of a preliminary design review to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

(iii) an additional $640,000,000 shall be available for obligation 30 days after the submission of a report summarizing the results of a critical design review to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate; and

(iv) an additional $100,000,000 shall be available for obligation 30 days after the submission of a report summarizing the results of a spacecraft integration and systems test to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

A cost containment plan shall be submitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by January 31, 1991, and updated on July 31 and January 31 of each succeeding year until such funds are expended.

(2) For "space flight, control, and data communications", for the following programs:

(A) Shuttle production and operational capability, $1,364,000,000 for fiscal year 1991, $1,520,000,000 for fiscal year 1992, and $1,572,000,000 for fiscal year 1993. Of such funds, $45,000,000 for fiscal year 1991, $125,000,000 for fiscal year 1992, and $200,000,000 for fiscal year 1993 shall be used only for the following:

(i) For the space shuttle main engine—

(I) improved design and installation of High Pressure Oxygen Turbopump bearings;

(II) installation of the 2-duct hot gas manifold;

(III) development of enlarged throat diameter;

(IV) development of single-crystal turbine blades; and

(V) general redesign to reduce welds and make welds totally inspectable.

(ii) For the solid rocket booster/solid rocket motor—

(I) implementation of the recommendations contained in the report of the National Research Council entitled "Collected Reports of the Panel on Technical Evaluation of NASA's Redesign of the Space Shuttle Solid Rocket Booster", issued in 1988;

(II) development of a locking feature for the nozzle leak check port plugs;

(III) development of one-piece case stiffener rings;

(IV) development of nonasbestos motor insulation;

(V) enhancement of lightning protection for case and nozzle; and

(VI) modification of aft skirt structure.

(iii) For the external tank—

(I) upgrading of liquid hydrogen and oxygen temperature, pressure, and liquid level sensors;

(II) upgrading of thermal insulation on areas where dislodged insulation can affect the orbiter; and

(III) investigation of corrosion prevention methods to preclude structural problems.

(iv) For the orbiter—

(I) modification of structure to eliminate negative margins;

(II) upgrading of the auxiliary power units;

(III) development of a redundant nose wheel steering system (including possible extension of the nose wheel strut);

(IV) elimination of Kapton electrical wire insulation; and

(V) upgrading of valves and regulators to preclude leakage of fuels and oxidizers.

(v) Such other elements of an Assured Shuttle Availability program as the Administrator considers necessary.

By September 30, 1991, the Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a full report on the completion of the safety enhancements specified in this subparagraph.

(B) Shuttle transportation operations, $2,831,400,000 for fiscal year 1991, of which $4,000,000 shall be made available for the provision of launch services for eligible satellites in accordance with section 6 of the Commercial Space Launch Act Amendments of 1988, $3,056,000,000 for fiscal year 1992, and $3,150,000,000 for fiscal year 1993.

(C) Expendable launch vehicle services, $229,200,000 for fiscal year 1991, $291,000,000 for fiscal year 1992, and $296,000,000 for fiscal year 1993.

(D) Space and ground network, communications, and data systems, $868,800,000 for fiscal year 1991, $1,071,000,000 for fiscal year 1992, and $1,185,000,000 for fiscal year 1993. No funds may be obligated pursuant to this Act or any other Act for a Tracking and Data Relay Satellite (TDRS) "F-8" spacecraft, except that funds appropriated before the date of enactment of this Act may be expended for long lead items.

(E) Tracking and data relay satellite system, $1,209,732,000 for fiscal year 1991, which shall be used only for the purpose of reducing all outstanding debt to the Federal Financing Bank.

(3) For "construction of facilities" for fiscal year 1991 as follows:

(A) Construction of Neutral Buoyancy Laboratory, Johnson Space Center, $15,000,000.

(B) Construction of Space Station Processing Facility, Kennedy Space Center, $25,000,000.

(C) Construction of Addition for Flight Training and Operations, Johnson Space Center, $12,000,000.

(D) Rehabilitation of Mission Control Center Power and Control Systems, Johnson Space Center, $8,500,000.

(E) Construction of Transporter/Canister Facility, Kennedy Space Center, $5,500,000.

(F) Construction of Processing Control Center, Kennedy Space Center, $9,400,000.

(G) Replacement of Heating, Ventilating, and Air Conditioning System, Hypergolic Maintenance Facility, Kennedy Space Center, $2,100,000.

(H) Replacement of Operations and Checkout Building, West Cooling Tower, Kennedy Space Center, $1,000,000.

(I) Restoration of Heavy Equipment Area, Kennedy Space Center, $900,000.

(J) Upgrade of Orbiter Processing Facility High Bay Heating, Ventilating, and Air Conditioning System, Kennedy Space Center, $3,300,000.

(K) Upgrade of Yundum International Airport to Full Transoceanic Abort Landing Site, Banjul, The Gambia, $3,400,000.

(L) Repair of Condensate System, Main Manufacturing Building, Michoud Assembly Facility, $900,000.

(M) Construction of Project Engineering Facility, Marshall Space Flight Center, $17,000,000.

(N) Restoration of Information and Electronic Systems Laboratory, Marshall Space Flight Center, $4,000,000.

(O) Rehabilitation of Hydrogen Transfer Facility, Stennis Space Center, $2,700,000.

(P) Restoration of Space Shuttle Main Engine Test Complex "A", Stennis Space Center, $2,800,000.

(Q) Construction of Advanced Solid Rocket Motor Program Facilities, including land acquisition, various locations, $92,000,000.

(R) Construction of Addition to Site Electrical Substation, Johnson Space Center, $11,000,000.

(S) Addition to Administration and Engineering Building, Stennis Space Center, $3,800,000.

(T) Construction of Earth Observing System Data Information System Facility, Goddard Space Flight Center, $8,000,000.

(U) Construction of Detector Development Laboratory, Goddard Space Flight Center, $3,100,000.

(V) Replacement of Chillers, Central Heating/Refrigeration Plant, Goddard Space Flight Center, $4,000,000.

(W) Replacement/Modernization of Electrical Power Feeders, Goddard Space Flight Center, $1,500,000.

(X) Construction of Observational Instruments Laboratory, Jet Propulsion Laboratory, $14,000,000.

(Y) Refurbishment of 25-Foot Space Simulator, Jet Propulsion Laboratory, $13,200,000.

(Z) Restoration of Utilities, Wallops Flight Facility, $5,200,000.

(AA) Modifications to the High Pressure Air System, Langley Research Center, $12,000,000.

(BB) Modifications to Upgrade the 30 × 60-Foot Wind Tunnel, Langley Research Center, $4,000,000.

(CC) Repairs to the Tunnel Shell, Unitary Plan Wind Tunnel, Langley Research Center, $2,700,000.

(DD) Rehabilitation of Central Air System, Lewis Research Center, $7,900,000.

(EE) Rehabilitation of Propulsion Systems Laboratory, Lewis Research Center, $6,000,000.

(FF) Construction of Liquid Hydrogen Structural Test Facility, Dryden Flight Research Facility, $18,800,000.

(GG) Rehabilitation and Modification of the Electrical Distribution System, Dryden Flight Research Facility, $4,000,000.

(HH) Construction of Addition for Light-Alloy Research Laboratory, Langley Research Center, $4,600,000.

(II) Construction of Space Experiments Laboratory, Lewis Research Center, $7,100,000.

(JJ) Refurbishment of Electric Power Laboratory, Lewis Research Center, $8,900,000.

(KK) Construction of 34-Meter Multifrequency Antenna at Goldstone, CA, Jet Propulsion Laboratory, $13,200,000.

(LL) Rehabilitation of 70-Meter Antenna Drive Gear Boxes in Australia, Spain, and Goldstone, CA, Jet Propulsion Laboratory, $4,400,000.

(MM) Repair of facilities at various locations, not to exceed $1,000,000 per project, $30,000,000.

(NN) Rehabilitation and modification of facilities at various locations, not to exceed $1,000,000 per project, $34,000,000.

(OO) Minor construction of new facilities and additions to existing facilities at various locations, not to exceed $750,000 per project, $11,000,000.

(PP) Environmental compliance and restoration, $32,000,000.

(QQ) Facility planning and design not otherwise provided for, $28,000,000.

(4) For "research and program management", for fiscal year 1991, $2,252,900,000.

(5) For "Inspector General", $11,000,000 for fiscal year 1991, $14,000,000 for fiscal year 1992, and $14,000,000 for fiscal year 1993.

(b) LIMITATIONS.—(1)(A) Notwithstanding paragraph (4), appropriations authorized under this section for "research and development" and "space flight, control, and data communications" may be used—

(i) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the National Aeronautics and Space Administration for the performance of research and development contracts; and

(ii) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities.

Title to facilities described in clause (ii) shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant.

(B) None of the funds appropriated for "research and development" and "space flight, control, and data communications" pursuant to this title may be used in accordance with this paragraph for the construction of any facility, the estimated cost of which, including collateral equipment, exceeds $750,000, unless the Administrator has notified the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, of the nature, location, and estimated cost of such facility.

(2) Any amount appropriated pursuant to this title for "research and development", for "space flight, control and data communications", or for "construction of facilities" may remain available until expended. Any amount appropriated pursuant to this title for "research and program management" for maintenance and operation of facilities, and for other services, shall remain available through the next fiscal year after the fiscal year for which such amount is appropriated.

(3) Appropriations made pursuant to subsection (a)(4) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and his determination shall be final and conclusive upon the accounting officers of the Government.

(4)(A) Funds appropriated pursuant to subsection (a) (1), (2), and (4) may be used for the construction of new facilities and additions to, or repair, rehabilitation, or modification of existing facilities, but only if the cost of each such project, including collateral equipment, does not exceed $200,000.

(B) Funds appropriated pursuant to subsection (a) (1) and (2) may be used for unforeseen programmatic facility project needs, but only if the cost of each such project, including collateral equipment, does not exceed $750,000.

(C) Funds appropriated pursuant to subsection (a)(4) may be used for repair, rehabilitation, or modification of facilities controlled by the General Services Administration, but only if the cost of each project, including collateral equipment, does not exceed $500,000.

SEC. 104. CONSTRUCTION OF FACILITIES REPROGRAMMING.

Authorization is hereby granted whereby any of the amounts prescribed in section 103(a)(3) (A) through (QQ)—

(1) may be varied upward 10 percent, in the discretion of the Administrator or the Administrator's designee, or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the circumstances of such, may be varied upward 25 percent to meet unusual cost variations.

The total cost of all work authorized under paragraphs (1) and (2) shall not exceed the total of amounts specified in section 103(a)(3) (A) through (QQ).

SEC. 105. SPECIAL REPROGRAMMING AUTHORITY FOR CONSTRUCTION OF FACILITIES.

Where the Administrator determines that new developments or scientific or engineering changes in the national program of aeronautical and space activities have occurred; and that such changes require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities; the Administrator may transfer not to exceed one-half of 1 percent of the funds appropriated pursuant to section 103(a) (1) or (2) to the "construction of facilities" appropriation for such purposes. The Administrator may also use up to $10,000,000 of the amounts authorized under section 103(a)(3) for such purposes. The funds so made available pursuant to this section may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No such funds may be obligated until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written report describing the nature of the construction, its cost, and the reasons therefor.

SEC. 106. CONSIDERATION BY COMMITTEES.

Notwithstanding any other provision of this title—

(1) no amount appropriated pursuant to this title may be used for any program deleted by the Congress from requests as originally made to either the Committee on Science, Space, and Technology of the House of Representatives or the Committee on Commerce, Science, and Transportation of the Senate;

(2) no amount appropriated pursuant to this title may be used for any program in excess of the amount actually authorized for that particular program by section 103(a) (1), (2), and (4); and

(3) no amount appropriated pursuant to this title may be used for any program which has not been presented to either such committee,

unless a period of 30 days has passed after the receipt by each such committee of notice given by the Administrator containing a full and complete statement of the

action proposed to be taken and the facts and circumstances relied upon in support of such proposed action. The National Aeronautics and Space Administration shall keep the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate fully and currently informed with respect to all activities and responsibilities within the jurisdiction of those committees. Any Federal department, agency, or independent establishment shall furnish any information requested by either committee relating to any such activity or responsibility.

SEC. 107. AMENDMENTS TO THE NATIONAL AERONAUTICS AND SPACE ACT OF 1958.

Section 203(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(a)) is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(3) adding at the end the following new paragraphs:

"(4) seek and encourage, to the maximum extent possible, the fullest commercial use of space; and

"(5) encourage and provide for Federal Government use of commercially provided space services and hardware, consistent with the requirements of the Federal Government.".

SEC. 108. NATIONAL SPACE COUNCIL AUTHORIZATION.

There are authorized to be appropriated to carry out the activities of the National Space Council established by section 501 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (42 U.S.C. 2471), $1,363,000 for fiscal year 1991, of which not more than $1,000 shall be available for official reception and representation expenses. The National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

SEC. 109. GEOGRAPHICAL DISTRIBUTION.

The Administrator shall distribute research and development funds geographically in order to provide the broadest practicable participation in the programs of the National Aeronautics and Space Administration.

SEC. 110. BUY AMERICAN.

(a) GENERAL RULE.—The Administrator shall award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(b) EXCEPTIONS.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States;

(2) the term "foreign firm" means a business entity not described in paragraph (1).

(d) LIMITATION.—This section shall apply only to contracts for which—

(1) amounts are made available pursuant to this title; and

(2) solicitations for bids are issued after the date of enactment of this Act.

(e) REPORT TO CONGRESS.—The Administrator shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal years 1990 and 1991, and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party. The Administrator shall also report to the Congress on the number of contracts covered under this title and awarded based upon the parameters of this section.

SEC. 111. ADVANCED SOLID ROCKET MOTOR.

The Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the following:

(1) A report on the projected cost to complete the design, development, and qualification of the Advanced Solid Rocket Motor. The first report shall be submitted at the end of 6 months after the signing of the Advanced Solid Rocket Motor contract, and thereafter with the National Aeronautics and Space Administration's annual budget request.

(2) An annual report on the projected unit cost of the flight motors.

(3) An annual report on the increase in space shuttle payload capability provided by the Advanced Solid Rocket Motor. The report shall include the original baseline payload capability, adjustments to that baseline capability, and the projected payload capability.

(4) An assessment by the National Research Council by September 1, 1991, of the role of the Advanced Solid Rocket Motor and other potential propulsion system options for space station assembly and operations, including requirements beyond the year 2000.

(5) An assessment by the National Research Council by September 1, 1991, of potential approaches to ensuring the achievement of safety and reliability for the Advanced Solid Rocket Motor.

SEC. 112. SPACE SHUTTLE USE POLICY.

(a)(1) It shall be the policy of the United States to use the Space Shuttle for purposes that (i) require the presence of man, (ii) require the unique capabilities of the Space Shuttle or (iii) when other compelling circumstances exist.

(2) The term "compelling circumstances" includes, but is not limited to, occasions when the Administrator determines, in consultation with the Secretary of Defense and the Secretary of State, that important national security or foreign policy interests would be served by a Shuttle launch.

(3) The policy stated in subsection (a)(1) shall not preclude the use of available cargo space, on a Space Shuttle mission otherwise consistent with the policy described under subsection (a)(1), for the purpose of carrying secondary payloads (as defined by the Administrator) that do not require the presence of man if such payloads are consistent with the requirements of research, development, demonstration, scientific, commercial, and educational programs authorized by the Administrator.

(b) The Administrator shall, within six months after the date of enactment of this Act, submit a report to the Congress setting forth a plan for the implementation of the policy described in subsection (a)(1). Such plan shall include—

(1) details of the implementation plan;

(2) a list of purposes that meet such policy;

(3) a proposed schedule for the implementation of such policy;

(4) an estimate of the costs to the United States of implementing such policy; and

(5) a process for informing the Congress in a timely and regular manner of how the plan is being implemented.

(c) At least annually, the Administrator shall submit to the Congress a report certifying that the payloads scheduled to be launched on the space shuttle for the next four years are consistent with the policy set forth in subsection (a)(1). For each payload scheduled to be launched from the space shuttle, which do not require the presence of man, the Administrator shall, in the certified report to Congress, state the specific circumstances which justified the use of the space shuttle. If, during the period between scheduled reports to the Congress, any additions are made to the list of certified payloads intended to be launched from the Shuttle, the Administrator shall inform the Congress of the additions and the reasons therefor within 45 days of the change.

(d) The report described in subsection (c) shall also include those National Aeronautics and Space Administration payloads designed solely to fly on the space shuttle which have begun the phase C/D of its development cycle.

SEC. 113. LIFE SCIENCES STRATEGIC PLAN.

(a) FINDINGS.—The Congress finds that—

(1) the current knowledge base in life sciences is not compatible with the National Aeronautics and Space Administration's current objectives in space, and the National Aeronautics and Space Administration lacks an adequate strategic plan to acquire a knowledge base;

(2) it is critical to the success of manned missions in space, be they commercial operations of microgravity laboratories or manned missions to Mars, that a realistic appraisal of the influences of the space environment on biological systems is completed and appropriate protective countermeasures developed;

(3) the space station is rapidly approaching design maturity without a corresponding development of the physiological and other human factors knowledge base necessary for long-term manned operations in space; and

(4) space station laboratory hardware specifications are being fixed before fully establishing the objectives and requirements for life sciences research.

(b) STRATEGIC PLAN.—The Administration shall—

(1) review currently proposed manned space flight missions in order to—

(A) identify the physiological and other human factors knowledge base necessary to determine the human capacity to adapt to and perform effectively in the space environment according to mission requirements,

including identifying which life sciences parameters must be measured and which technologies, processes, and procedures must be developed; and

(B) develop a schedule indicating when specific components of information, technologies, processes, or procedures identified under subparagraph (A) will need to be acquired or developed in order to verify that human adaptability requirements of manned space flight missions can be achieved;

(2) develop a strategy plan for life sciences research and technology development sufficient to accomplish the life sciences knowledge base acquisition schedule developed under paragraph (1)(B), including—

(A) a crew certification plan setting acceptable crew conditioning standards for Extended Duration Orbiter operations and verifying countermeasures sufficient to meet those standards before actual Extended Duration Orbiter operations; and

(B) a life sciences implementation plan for the design and development of the space station, to be provided as part of the Preliminary Design Review for the space station, and to include crew adaptability standards; and

(3) verify the physiological and technical feasibility of the life sciences implementation plan developed under paragraph (2)(B), as part of the Critical Design Review for the space station.

SEC. 114. STUDY ON INTERNATIONAL COOPERATION IN PLANETARY EXPLORATION.

(a) FINDINGS.—The Congress finds that—

(1) the President on July 20, 1989, established the long-range goal of establishing a lunar base, followed by manned exploration of Mars in the early twenty-first century;

(2) the United States and the Soviet Union, in cooperation with other countries, are currently planning further unmanned missions to the Moon and to Mars with the possible goal of landing a human on Mars;

(3) a series of international missions to expand human presence beyond Earth orbit would further a spirit of, and follow through on the commitment made in, the 1987 agreement between the Soviet Union and the United States for space cooperation, as well as the successful cooperative agreements the United States has pursued with over one hundred countries since its inception, including the agreement with Japan, Canada, and the European countries for Space Station Freedom;

(4) international manned missions beyond Earth orbit could further encourage a cooperative approach in world affairs unrelated to activities in space;

(5) international manned missions beyond Earth orbit could save the individual nations involved tens of billions of dollars over national missions; and

(6) a multilateral effort for manned missions to establish a lunar colony, a Mars mission, and any other missions that have the goal of establishing human presence beyond Earth's orbit and possibly landing a human on Mars would lead to greater understanding of our universe and greater sensitivity to our own planet.

(b) STUDY.—The National Space Council shall conduct a study on International Cooperation in Planetary Exploration (hereafter in this section referred to as the "study").

(c) PURPOSE OF STUDY.—The purpose of the study is—

(1) to develop an inventory of technologies and intentions of all national space agencies with regard to lunar and planetary exploration, both manned and unmanned;

(2) to seek ways, through direct communication with appropriate officials of other nations or otherwise, to enhance the planning and exchange of information and data among the United States, the Soviet Union, European countries, Canada, Japan, and other interested countries with respect to unmanned projects beyond Earth orbit, in anticipation of later international manned missions to the Moon and to other bodies, including the possible goal of an international manned mission to Mars;

(3) to prepare a detailed proposal that most efficiently uses the resources of the national space agencies in cooperative endeavors to establish human presence beyond Earth orbit;

(4) to develop priority goals that accomplish unmet needs that could not be achieved by any individual country;

(5) to explore the possibilities of international unmanned probes to the Moon and Mars, and the possibilities for international manned missions beyond Earth's orbit; and

(6) to devise strategies for such cooperation that would prevent the unwanted transfer of technology.

(d) REPORT.—The National Space Council shall, within one year after the date of the enactment of this Act, prepare and submit to Congress a report—

(1) outlining a preliminary strategy for cooperation among the United States, the Soviet Union, European countries, Canada, Japan, and other interested countries, based on their respective national strengths, with respect to unmanned projects beyond Earth orbit, in anticipation of later international manned missions to the Moon and to other bodies, including the possible goal of an international manned mission to Mars;

(2) including a conceptual design of a possible international manned mission, in coordination with the preliminary strategy referred to in paragraph (1), with target dates and a breakdown of responsibilities by nation;

(3) containing an inventory of planned and anticipated missions, manned and unmanned, that are being considered by national space agencies; and

(4) containing an inventory of space exploration technologies that either—

(A) are not immediately available in the United States but are available from other nations; or

(B) are available in the United States but are available from other nations in equal or superior form.

SEC. 115. OFFICE OF SPACE COMMERCE.

(a) ESTABLISHMENT.—There is established within the Department of Commerce an Office of Space Commerce.

(b) FUNCTIONS.—The Office of Space Commerce shall be the principal unit for the coordination of space related issues, programs, and initiatives within the Department of Commerce. The Office shall—

(1) promote private sector investment in space activities by collecting, analyzing, and disseminating information on space markets, and conducting workshops and seminars to increase awareness of commercial space opportunities;

(2) assist commercial space companies in their efforts to do business with the United States Government, and act as an industry advocate within the Executive Branch to ensure that the Government meets its space related requirements, to the fullest extent feasible, with commercially available space goods and services;

(3) ensure that the United States Government does not compete with the private sector in the provision of space hardware and services otherwise available from the private sector;

(4) promote the export of space related goods and services;

(5) represent the Department of Commerce in the development of United States policies and in negotiations with foreign countries to ensure free and fair trade internationally in the area of space commerce; and

(6) seek the removal of legal, policy, and institutional impediments to space commerce.

(c) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Commerce for the Office of Space Commerce, $487,000 for fiscal year 1991.

SEC. 116. NATIONAL AERO-SPACE PLANE PROGRAM.

(a) FINDINGS.—The Congress finds that—

(1) if the United States is to maintain preeminence in military and commercial aeronautics into the next century, research into technology development and validation of the National Aero-Space Plane (NASP) is vital;

(2) the new and advanced materials being developed for the NASP have numerous applications in the military and the civilian aviation industry, as well as in other industries utilizing high temperature technologies;

(3) the benefits to the military and civilian aviation programs from the new and innovative technologies developed in connection with the NASP program in propulsions systems, aerodynamics, and control systems could be enormous, especially for high speed aeronautical and space flight; and

(4) military and commerical spin-off applications of NASP technologies include future superior military aircraft, space transportation systems, and commercial hypersonic aircraft.

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense (hereafter in this section referred to as the "Secretary") and the Administrator shall jointly establish a National Aero-Space Plane program whose objective shall be exclusively the development and demonstration, by 1977, of a primarily air breathing single-stage-to-orbit and long range hypersonic cruise research flight vehicle. The program shall be a research program, and to the extent practicable technological information developed shall be transferred to the military and to the domestic civil aviation and other private industries.

(c) RESPONSIBILITIES.—The Secretary shall have responsibility for procurement, experimental flight vehicles, and overall program administration of the program established under subsection (b). The Administrator shall have responsibility for providing technology development and flight test support and shall have an integral role in the overall program. Representatives of both the Secretary and the Administrator shall participate in all aspects of the program.

(d) MANAGEMENT PLAN.—

(1) The Secretary and the Adminstrator shall jointly develop a management plan for the program established under subsection (b), which shall include goals, major tasks, anticipated schedules, organizational structure, funding profiles, details of the respective responsibilities of the Secretary and the Administrator, and resource procurement strategies.

(2) The management plan developed pursuant to paragraph (1) shall be submitted to

the Congress within 120 days after the date of enactment of this Act.

(e) FUNDING.—The Secretary shall be responsible for not less than two-thirds of the funding for the program established under this section, and the administrator shall be responsible for not more than one-third of the funding for such program.

SEC. 117. COMMERCIAL SPACE LAUNCH ACT AUTHORIZATION.

(a) AUTHORIZATION.—Section 24 of the Commercial Space Launch Act (49 U.S.C. App. 2623) is amended by adding at the end thereof the following: "There are authorized to be appropriated to the Secretary to carry out this Act $4,517,000 for fiscal year 1991, of which $250,000 shall be made available for the provision of launch services for eligible satellites in accordance with section 6 of the Commercial Space Launch Act Amendments of 1988.".

(b) DEFINITION OF LAUNCH ACTIVITY.—The Commercial Space Launch Act (49 U.S.C. App. 2601 et seq.) is amended—

(1) in section 4—

(A) by redesignating paragraphs (3) through (12) as paragraphs (4) through (13), respectively; and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) 'launch activity' means any activity of a licensee or its contractors, subcontractors, or customers, at a launch site, in connection with a launch, occurring after entry onto the launch site and before the expiration of 3 years after launch;"; and

(2) in section 6(a)(2), (3)(A), (3)(B)(i), and (3)(B)(ii), by striking "section 4(11)" and inserting in lieu thereof "section 4(13)".

(c) EXCLUDED ACTIVITIES.—Section 6(a) of the Commercial Space Launch Act (49 U.S.C. App. 2605(a)) is amended—

(1) in paragraph (1) by striking "No person" and inserting in lieu thereof "Except as provided in paragraph (4), no person"; and

(2) by adding at the end the following new paragraph:

"(4) A license shall not be required to be issued or transferred under this Act for any launch of a launch vehicle or operation of a launch site if an agency assumes responsibility for such launch or operation. The Secretary of Defense, the Secretary of Transportation, and the Administrator shall jointly develop, and the Secretary of Transportation with the concurrence of the Secretary of Defense and the Administrator shall issue, regulations establishing criteria for such assumption of responsibility, including a requirement for the head of any agency assuming responsibility to make a written determination for each launch or operation.".

(d) ACQUISITION BY STATE GOVERNMENTS.—Section 15(a) of the Commercial Space Launch Act (49 U.S.C. App. 2614(a)) is amended by inserting "and State governments" after "by the private sector".

SEC. 118. MANAGEMENT REVIEW.

The Administrator shall contract with the National Academy of Public Administration for

(1) a review of the organizational and institutional preparedness of the National Aeronautics and Space Administration to undertake major new initiatives in science and human exploration; and

(2) a report to Congress—

(A) estimating the level of human resources required to carry out this title and any initiatives resulting from this title;

(B) describing the organizational structure of the National Aeronautics and Space Administration, including its field centers;

(C) describing the role and relationship of other Federal agencies, Federal laboratories, and the private sector in carrying out the Nation's space program; and

(D) recommending administrative changes that would increase the efficiency and effectiveness of the National Aeronautics and Space Administration, including procurement practices.

SEC. 119. SPACE DEBRIS.

It is the policy of the United States that—

(1) the space related activities of the United States shall be conducted in a manner that does not increase the amount of orbital space debris; and

(2) the United States shall engage other spacefaring Nations to develop an agreement on the conduct of space activities that ensures that the amount of orbital space debris is not increased.

SEC. 120. SUPPORT FOR SPACE SHUTTLE ORBITER PRODUCTION LINE.

The Administrator is authorized to expend excess funds appropriated for orbiter production under section 101(g) of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes" (100 Stat. 3341-242) to maintain the space shuttle orbiter production line and related production lines of orbiter subcontractors.

SEC. 121. INDUSTRIAL APPLICATION CENTERS.

In any agreement entered into by the National Aeronautics and Space Administration for an Industrial Application Center, the center shall be allowed to retain all client income without any deductions from appropriated funds received or to be received by that center.

SEC. 122. REPORT TO CONGRESS ON THE SHUTTLE-C PROGRAM.

The Administrator shall contract with the National Academy of Public Administration to undertake a cost and benefit analysis of the Shuttle-C program. The analysis shall include an assessment of the development costs of the Shuttle-C, the unit cost of Shuttle-C flights relative to space shuttle flights, the number of space shuttle flights that could be eliminated by a Shuttle-C flight during deployment of the Space Station, and a comparison of the total costs of deploying the Space Station by utilizing only the space shuttle versus the total costs of deploying the Space Station utilizing a combination of space shuttle and Shuttle-C flights. The Administrator shall submit a copy of such analysis to the Congress by March 15, 1991.

SEC. 123. AUTOMOTIVE STIRLING ENGINE DEMONSTRATION PROGRAM.

(a) REQUIREMENT.—Any automotive stirling engine demonstration program sponsored by the National Aeronautics and Space Administration shall, to the maximum extent practicable, utilize natural gas, and if not natural gas, then methanol or ethanol.

(b) DEFINITIONS.—As used in this section—

(1) the term "methanol" means a mixture containing at least 85 percent methanol by volume; and

(2) the term "ethanol" means a mixture containing at least 85 percent ethanol by volume.

SEC. 124. DEFINITION.

For purposes of this title, the term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 6, after line 9, insert the following new paragraph:

(10) develop an advanced, high pressure space suit to support extravehicular activity that will be required for Space Station Freedom when Assembly Complete is reached;

Redesignate subsequent paragraphs accordingly.

Page 7, line 22, insert "Such sums as are necessary from funds authorized for the United States International Space Station Freedom for each of the fiscal years 1991, 1992, and 1993 shall be used to initiate a flight test of the solar dynamic power program. No funds authorized to be appropriated under this or any other Act may be obligated for the purpose of expanding the electric power generation capability aboard the United States International Space Station Freedom beyond 75 kilowatts using any method other than solar dynamic power." after "fiscal year 1993.".

Page 8, lines 9 through 15, strike "(B) Space transportation" and all that follows through "development of the Shuttle-C" and insert in lieu thereof "(B) Space transportation capability development, $733,400,000 for fiscal year 1991, $751,000,000 for fiscal year 1992, and $789,600,000 for fiscal year 1993. Of the funds authorized for fiscal year 1991, $10,000,000 shall be used only for supporting heavy-lift launch vehicle studies, which shall include study of commercially developed variants as well as other appropriate concepts, rather than studying Shuttle-derived heavy-lift launch vehicles alone".

Page 21, line 10, strike "(V)" and insert in lieu thereof "(Y)".

Page 29, line 4, insert "by" after "is amended".

Page 32, line 22, and page 33, line 2, strike "September" and insert in lieu thereof "July".

Page 40, after line 4, insert the following:

In developing the inventory under paragraph (1), and in preparing the detailed proposal under paragraph (3), consideration shall be given to the potential contributions of commercial providers of space goods and services.

Page 41, line 3, insert "and commercial providers of space goods and services" after "national space agencies".

Page 45, line 6, strike "AUTHORIZATION" and insert in lieu thereof "AMENDMENTS".

Page 45, line 16, through page 46, line 8, amend subsection (b) to read as follows:

(b) DEFINITIONS.—

(1) AMENDMENTS.—Section 4 of the Commercial Space Launch Act (49 U.S.C. App. 2603) is amended—

(A) by redesignating paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), and (12) as paragraphs (4), (5), (6), (8), (9), (10), (11), (12), (13), and (14), respectively;

(B) by inserting after paragraph (2) the following new paragraph:

"(3) 'launch activity' means any activity of a licensee or its contractors, subcontractors, or customers, at a launch site, in connection with a launch, occurring after entry onto the launch site and before the expiration of 3 years after launch;";

(C) by amending paragraph (4), as redesignated by subparagraph (A) of this paragraph, to read as follows:

"(4) 'launch property' means real or personal property associated with the launch preparation or launch of a launch vehicle, including launch sites, associated equipment, propellants, and launch vehicles and components thereof;"; and

(D) by inserting after paragraph (6), as redesignated by subparagraph (A) of this paragraph, the following new paragraph:

"(7) 'launch site support facilities' means facilities required to support launch site activity, including launch vehicle assembly, payload assembly, payload processing, space-related research, business incubation, and education, laboratories and test facilities, roads and water transportation routes and ports, power generation and transmission facilities, water and sewer systems, waste collection and disposal systems, flood control facilities, public safety and security systems, and communications systems;".

(2) CONFORMING AMENDMENTS.—Section 6(a)(2), (3)(A), (3)(B)(i), and (3)(B)(ii) of the Commercial Space Launch Act are amended by striking "section 4(11)" and inserting in lieu thereof "section 4(14)".

Page 48, line 3, through line 21, strike subsection (c).

Amend page 48, lines 22 through 25, to read as follows:

(c) ACQUISITION BY STATE GOVERNMENTS.—Section 15(a) of the Commercial Space Launch Act (49 U.S.C. App. 2614(a)) is amended—

(1) by inserting "and State governments" after "by the private sector"; and

(2) by inserting "exclusively" after "not needed" each place it appears.

Page 49, after line 7, insert the following new subsections:

(d) CONGRESSIONAL FINDINGS.—Section 2 of the Commercial Space Launch Act (49 U.S.C. App. 2601) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new paragraphs:

"(8) space transportation, inlcuding the establishment and operation of launch sites and complementary facilities, the provision of launch services, the establishment of support facilities, and the provision of support services, is an important element of the Nation's transportation system, and in connection with the commerce of the United States there is a need to develop a strong space transportation infrastructure with significant private sector involvement; and

"(9) the participation of State governments in encouraging and facilitating private sector involvement in space-related activity, particularly through the establishment of space transportation-related infrastructure, including launch sites, complementary facilities, and launch site support facilities, is in the national interest and is of signifiant public benefit.".

(e) CONGRESSIONAL STATEMENT OF PURPOSE.—Section 3 of the Commercial Space Launch Act (49 U.S.C. App. 2602) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by inserting at the end the following new paragraph:

"(4) to facilitate the strengthening and expansion of the United States space transportation infrastructure, including the enhancement of United States launch sites, as well as launch site support facilities, with Federal, State, and private sector involvement, to support the full range of United States space-related activities.".

(f) GENERAL RESPONSIBILITIES OF SECRETARY.—Section 5(a) of the Commercial Space Launch Act (49 U.S.C. App. 2604(a)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and";

(3) by adding at the end the following new paragraph:

"(3) work to facilitate private sector involvement in commercial space transportation activity, and to promote public-private partnerships involving the Federal Government, State governments, and the private sector to build, expand, modernize, or operate space launch infrastructure.".

(g) ACQUISITION AND PAYMENT BY PRIVATE SECTOR.—Section 15(b)(1) of the Commercial Space Launch Act (49 U.S.C. App. 2614(b)(1)) is amended—

(1) by inserting "and the persons seeking to acquire such property or service" after "consultation with the Secretary";

(2) by inserting ", which may be adjusted by the direct or indirect value of any improvement or benefit to the United States Government as a result of the sale or transaction in lieu of sale" after "shall be the fair market value";

(3) by inserting ", which may be adjusted by the direct or indirect value of any improvement or benefit to the United States Government as a result of the acquisition" after "acquisition of such launch property"; and

(4) by inserting ", which may be adjusted by the direct or indirect value of any improvement or benefit to the United States Government as a result of the acquisition. For the purposes of this paragraph, the use of Federal property by a non-Federal entity at a launch site shall be considered an acquisition of launch property" after "acquisition of such launch services".

Page 55, after line 12, insert the following new sections:

SEC. 124. USERS' ADVISORY GROUP.

(a) ESTABLISHMENT.—(1) The National Space Council shall establish a Users' Advisory Group composed of non-Federal representatives of industries and other persons involved in aeronautical and space activities.

(2) The Vice President shall name a chairman of the Users' Advisory Group.

(3) The National Space Council shall from time to time, but not less than once a year, meet with the Users' Advisory Group.

(4) The function of the Users' Advisory Group shall be to ensure that the interests of industries and other non-Federal entities involved in space activities, including in particular commercial entities, are adequately represented in the National Space Council.

(5) The Users' Advisory Group may be assisted by personnel detailed to the National Space Council.

(b) EXEMPTION.—The Users' Advisory Group shall not be subject to section 14(a)(2) of the Federal Advisory Committee Act.

SEC. 125. SCIENTIFIC BALLOON LAUNCH SITE.

The Administrator may purchase approximately 8 acres within section 16, Township 3 North, Range 26 East, N.M.P.M., De Baca County, New Mexico, to use a balloon launching facility.

Redesignate the subsequent section accordingly.

Mr. ROE (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered en bloc, considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

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Mr. ROE. Mr. Chairman, the committee amendments that were agreed to be considered en bloc are, I would say, basically a group of technical amendments, plus some substantive amendments which have been supported fully by the full Committee on Science, Space, and Technology, and I recommend their adoption by the House.

Mr. WALKER. Mr. Chairman, I concur with the gentleman from New Jersey [Mr. ROE] and recommend that the House agree to these amendments.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 11, line 2, strike "$557,000,000" and insert in lieu thereof "$542,000,000".

Mr. WALKER. Mr. Chairman, this amendment brings the bill back in line with the President's figures.

As a result of some of the work the committee did, we ended up slightly over where the President's figures were.

I think it has been the intention of the committee all the way along to stay with those kinds of figures, and that is what this amendment does.

Mr. ROE. Mr. Chairman, will the gentleman from Pennsylvania yield?

Mr. WALKER. I yield to the chairman of the committee, the gentleman from New Jersey.

Mr. ROE. I thank the gentleman for yielding.

Mr. Chairman, the amendment is an excellent amendment. It does bring the bill back into proper perspective and proper levels of funding and we, of course, very strongly support the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

Mr. SENSENBRENNER. Mr. Chairman, I move to strike the last word.

Mr. SENSENBRENNER. Mr. Chairman, I rise in strong support of H.R. 5649 and urge my colleagues to vote in favor of it. This NASA authorization bill deserves strong bipartisan support.

This bill essentially provides full funding for NASA's request in fiscal year 1991. This includes full funding for space station *Freedom*, the Earth observation system, the human exploration initiative, and many other important space science missions. In addition, and perhaps more importantly, the bill authorizes funding for NASA programs in fiscal year 1992 and fiscal year 1993. The House of Representatives overwhelmingly approved such a multiyear NASA authorization last year. It has been a major disappointment that our Senate and Appropriations Committee counterparts have, thus far, not adopted our multiyear funding approach. Nevertheless, it is important that we continue in our attempts to persuade them of the wisdom of multiyear authorizations and appropriations.

The uncertainty accompanying annual budgeting for major space R&D projects complicates program management and ultimately causes cost-overruns. Just yesterday, NASA testified before the Space Science and Applications Subcommittee that the uncertainties looming over the fiscal year 1991 budget and, at that time, the possibility of even a short-term sequestration had already caused a loss of momentum in the Space Station Program, as directives were sent out to contractors to postpone the planned buildup in their space station work force.

Mr. Chairman, over the course of the last year, the Science Committee has carefully reviewed both the progress and the challenges confronting NASA's ongoing programs. We have also scrutinized the proposed new initiatives in the President's budget request. While out committee has earned the reputation as the space program's strongest supporter, we can also be NASA's harshest critic, calling into question many of its operating procedures and programmatic decisions. The Space Subcommittee's aggressive oversight role is reflected in H.R. 5649 and the report accompanying it. They contain several committee initiatives and directives which we believe are needed if our Nation is to achieve the ambitious space goals articulated by President Bush.

As I mentioned earlier, this is a bipartisan bill. These committee policy provisions are bipartisan as well. One of these committee initiatives is a "shuttle-use" policy, which was spearheaded by Representative JACK BUECHNER. The objective of this policy is to ensure the prudent and safe operation of the Space Shuttle Program. Another important committee initiative will reform the method in which NASA procures its launch services. This initiative has been painstakenly pursued by Representative RON PACKARD for well over a year and should help spur our commercial space industry.

Mr. Chairman, the actual funding levels NASA receives in fiscal year 1991 will probably not be influenced by today's bill. However, this legislation contain many policy provisions which will provide for more effective operation and management of NASA and our space program. I urge my colleagues to support it. Finally, as we all know, NASA has received a substantial amount of media coverage and criticism over the past year. Some of this criticism has been deserved, and some has not. Nevertheless, we are sensitive to the fact that large sums of money cannot just be thrown to the space program to do as NASA sees fit. I am confident that the Science Committee will remain vigilant in its oversight responsibilities in the 102d Congress, to ensure that taxpayers' interests are adequately protected in the fulfillment of our space goals.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—LAUNCH SERVICES PURCHASE

SEC. 201. SHORT TITLE.

This title may be cited as the "Launch Services Purchase Act of 1990".

SEC. 202. FINDINGS.

The Congress finds that—

(1) the United States commercial launch industry is technically capable of providing reliable and cost efficient access to space and is an essential component of national efforts to assure access to space for Government and commercial users;

(2) the Federal Government should encourage, facilitate, and promote the United States commercial launch industry, including the development and enhancement of commercial launch facilities, in order to ensure United States economic preeminence in space;

(3) the interests of the United States will be served if the commercial launch industry is competitive in the international marketplace;

(4) commercial vehicles are effective means to challenge foreign competition;

(5) the use by the Federal Government of performance specifically in lieu of detailed specifications relating to vehicle design, construction, and operation will facilitate the efficient operation of the United States commercial launch industry;

(6) the procurement of commercial launch services in a commercially reasonable manner permits a reduced level of Federal Government regulation and oversight and economies of scale which may result in significant cost savings to the commercial launch industry and to the United States.

(7) it is the general policy of the Federal Government to purchase needed goods and services, including launch services, from the private sector to the fullest extent feasible; and

(8) predictable access to National Aeronautics and Space Administration launch markets would encourage continuing United States private sector investment in space and related activities.

SEC. 203. DEFINITIONS.

For the purposes of this title—

(1) the term "commercial provider" means any person providing launch services, but does not include the Federal Government;

(2) the term "launch services" means activities involved in the preparation of a launch vehicle and its payload for space transport and the conduct of transporting a payload;

(3) the term "launch vehicle" means any vehicle constructed for the purpose of operating in, or placing a payload in, outer space, and any suborbital rocket; and

(4) the term "payload" means an object which a person undertakes to place in outer space by means of a launch vehicle, and includes subcomponents of the launch vehicle specifically designed or adapted for that object.

SEC. 204. REQUIREMENT TO PROCURE COMMERCIAL LAUNCH SERVICES.

(a) IN GENERAL.—Except as otherwise provided in this section, the National Aeronautics and Space Administration shall purchase launch services for its primary payloads from commercial providers whenever such services are required in the course of its activities.

(b) EXCEPTIONS.—The National Aeronautics and Space Administration shall not be required to purchase launch services as provided in subsection (a) if, on a case by case basis the Administrator of the National Aeronautics and Space Administration determines that—

(1) the payload requires the unique capabilities of the space shuttle;

(2) cost effective commercial launch services to meet specific mission requirements are not reasonably available and would not be available when required; or

(3) the use of commercial launch services poses an unacceptable risk of loss of a unique scientific opportunity.

Any determination of such circumstances shall be made by the Administrator at Preliminary Design Review and shall not be delegated. Upon any such determination, the Administrator shall, within 30 days, notify in writing the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the determination and its rationale.

(c) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION LAUNCH VEHICLES.—Launch vehicles shall be acquired or owned by the National Aeronautics and Space Administration only—

(1) as required under circumstances described in subsection (b); or

(2) by the National Aeronautics and Space Administration for conducting research and development on, and testing of, launch technology.

(d) PHASE-IN PERIOD.—Subsections (a) and (c) shall not apply to launch services and launch vehicles purchased by the National Aeronautics and Space Administration before the date of enactment of this Act.

(e) HISTORICAL PURPOSES.—This title shall not be interpreted to prohibit the National Aeronautics and Space Administration from acquiring, owning, or maintaining launch vehicles solely for historical display purposes.

SEC. 205. PURCHASE OF LAUNCH SERVICES.

(a) FULL AND OPEN COMPETITION.—(1) Contracts to provide launch services to the National Aeronautics and Space Administration under section 204 shall be awarded on the basis of full, fair, and open competition, consistent with section 2304 of title 10, United States Code, and section 311 of the National Aeronautics and Space Act of 1958.

(2) The National Aeronautics and Space Administration shall limit its requirements for submission of cost or pricing data in support of a bid or proposal to that data which is reasonably required to protect the interests of the United States.

(b) SPECIFICATION SYSTEMS.—Reasonable performance specifications, not detailed Government design or construction specifications, shall be used to the maximum extent feasible to define requirements for a commercial provider bidding to provide launch services. This subsection shall not preclude the National Aeronautics and Space Administration from requiring compliance with applicable safety standards.

SEC. 206. OTHER ACTIVITIES OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

(a) COMMERCIAL PAYLOADS ON THE SPACE SHUTTLE.—Commercial payloads may not be accepted for launch as primary payloads on the space shuttle unless the Administrator of the National Aeronautics and Space Administration determines that—

(1) the payload requires the unique capabilities of the space shuttle; or

(2) launching of the payload on the space shuttle is important for either national security or foreign policy purposes.

(b) REPORT.—By March 15, 1991, the Administrator, in consultation with the Office of Federal Procurement Policy, shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report outlining the minimal requirements for documentation and other administrative data needed to procure launch services in a commercially reasonable manner, including—

(1) the need for data to integrate a payload with a launch vehicle;

(2) the need for data to carry out mission-specific modifications to the launch vehicle;

(3) the need for notification to the National Aeronautics and Space Administration of changes, delays, or difficulties in the construction or preparation of a launch vehicle that may affect the delivery of its payload to its destination at the time and under the conditions provided for under the contract between the United States and its contractors;

(4) the need for data to protect public health and safety; and

(5) the need for cost or pricing data for the fulfillment of a contract.

Mr. PACKARD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I thank the committee chairman for his leadership and for his commitment to construct an authorization bill which is bipartisan and well balanced.

I also thank both the gentleman and Congressman BOB WALKER for continued support of my efforts to facilitate the competitiveness of the U.S. commercial launch industry.

Despite the difficulties encountered by NASA recently, I am still an enthusiastic supporter of the exploration, development, and commercialization of space. I therefore strongly support the NASA authorization bill we are considering today.

However, I am hopeful that the various ongoing NASA reviews will carefully consider the much larger role commercial space industries are ready to—and should—play in the U.S. space program.

One such industry is the commercial launch industry.

The 1990 U.S. transportation policy states, "Commercial space launch services are the newest transportation industry, and one that the Federal Government is committed to promoting. The goal is to extend into space the efficient, diverse transportation capability we have on Earth * * *"

As our space program is now being seriously delayed due to space shuttle problems, the need for a more reliable and flexible space transportation capability is critical.

Unless we have better transportation capabilities than currently exist, Space Station Freedom, Mission to Planet Earth, and the Lunar/Mars initiative will never be a reality.

I believe the answer to our space transportation needs for the entire U.S. space program includes a thriving, commercial launch industry.

Yet, international competition for our launch industry has become fierce. France, China, the Soviet Union, and Japan are all poised to underprice United States launch companies in the mid- to late-1990's. To stay competitive, U.S. companies must streamline their operations and cut costs now.

Three factors have significant impact on the competitiveness of the industry: U.S. Government procurement of launch services; international fair trade principles; and improvements in key technologies.

In June 1989, I introduced H.R. 2674, the Space Transportation Services Purchase Act, to streamline U.S. Government procurement of commercial launch services. H.R. 2674 is the basis for title II of the NASA authorization bill we are considering today.

Title II encourages the emergence of a strong competitive U.S. commercial launch industry. Under its provisions, everyone wins. The U.S. launch industry gets the freedom it needs to compete. The U.S. Government gets launch services at lower costs at a time when tight budgets are threatening space research.

Mr. Chairman, I again thank the chairman of the committee for joining me in support of this critical industry. Its success will be vital to the success of the U.S. space program.

The CHAIRMAN. If there are no further amendments, pursuant to the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HOYER] having assumed the chair, Mr. TORRES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 5649 National Aeronautics and Space Administration Multiyear Authorization Act of 1990, pursuant to House Resolution 480, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. ROE. Mr. Speaker, pursuant to House Resolution 480, I call up from the Speaker's table the Senate bill (S. 916) to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. ROE

Mr. ROE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ROE moves to strike all after the enacting clause of the Senate bill, S. 916, and to insert in lieu thereof the provisions of H.R. 5659, as passed, as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Aeronautics and Space Administration Multiyear Authorization Act of 1990".

TITLE I—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATIONS.

SEC. 101. FINDINGS.

The Congress finds that—

(1) over the next decade, the United States aeronautics and space program will be directed toward major national priorities of understanding, preserving, and enhancing our global environment, hypersonic transportation, human exploration, and emerging technology commercialization;

(2) the United States aeronautics and space program is supported by an overwhelming majority of the American people;

(3) the United States aeronautics and space program genuinely reflects our Nation's pioneer heritage and demonstrates our quest for leadership, economic growth, and human understanding;

(4) the United States space program is based on a solid record of achievement and continues to promote the objective of international cooperation in the exploration of the planets and the universe;

(5) the United States aeronautics and space program generates critical technology breakthroughs that benefit our economy through new products and processes that significantly improve our standard of living;

(6) the United States aeronautics and space program excites the imagination of every generation and can stimulate the youth of our Nation toward the pursuit of excellence in the fields of science, engineering, and mathematics;

(7) the United States aeronautics and space program contributes to the Nation's technological competitive advantage;

(8) the United States aeronautics and space program requires a sustained commitment of financial and human resources as a share of the Nation's Gross National Product;

(9) the United States space transportation system will depend upon a robust fleet of space shuttle orbiters and expendable and reusable launch vehicles and services;

(10) the United States space program will be advanced with an assured funding stream for the development of a permanently manned space station with research, ex-

perimentation, observation, servicing, manufacturing, and staging capabilities for lunar and Mars missions;

(11) the United States aeronautics program has been a key factor in maintaining preeminence in aviation over many decades;

(12) the United States needs to maintain a strong program with respect to transatmospheric research and technology by developing and demonstrating National Aero-Space Plane technology by a mid-decade date certain;

(13) the National Aeronautics and Space Administration is primarily responsible for formulating and implementing policy that supports and encourages civil aeronautics and space activities in the United States; and

(14) commercial activities of the private sector will substantially and increasingly contribute to the strength of both the United States space program and the national economy.

SEC. 102. POLICY.

It is declared to be national policy that the United States should—

(1) rededicate itself to the goal of leadership in critical areas of space science, space exploration, and space commercialization;

(2) increase its commitment of budgetary resources for the space program to reverse the dramatic decline in real spending for such program since the achievements of the Apollo moon program;

(3) ensure that the long-range environmental impact of all activities carried out under this title are fully understood and considered;

(4) promote and support efforts to advance scientific understanding by conducting or otherwise providing for research on environmental problems, including global change, ozone depletion, acid precipitation, deforestation, and smog;

(5) forge a robust national space program that maintains a healthy balance between manned and unmanned space activities and recognizes the mutually reinforcing benefits of both;

(6) maintain an active fleet of space shuttle orbiters, including an adequate provision of structural spare parts, and evolve the orbiter design to improve safety and performance, and reduce operational costs;

(7) sustain a mixed fleet by utilizing commercial expendable launch vehicle services to the fullest extent practicable;

(8) support an aggressive program of research and development designed to enhance the United States preeminence in launch vehicles;

(9) continue and complete on schedule the development and deployment of a permanently manned, fully capable, space station;

(10) develop an advanced, high pressure space suit to support extravehicular activity that will be required for Space Station Freedom when Assembly Complete is reached;

(11) establish a dual capability for logistics and resupply of the space station utilizing the space shuttle and expendable launch vehicles, including commercial services if available;

(12) continue to seek opportunities for international cooperation in space and fully support international cooperative agreements;

(13) maintain an aggressive program of aeronautical research and technology development designed to enhance the United States preminence in civil and military aviation and improve the safety and efficiency of the United States air transportation system;

(14) conduct a program of technology maturation, including flight demonstration in 1997, to prove the feasibility of an air-breathing, hypersonic aerospace plane capable of single-stage-to-orbit operation and hypersonic cruise in the atmosphere;

(15) seek innovative technologies that will make possible advanced human exploration initiatives, such as the establishment of a lunar base and the succeeding mission to Mars, and provide high yield technology advancements for the national economy; and

(16) enhance the human resources of the Nation and the quality of education.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to the National Aeronautics and Space Administration the following amounts:

(1) For "research and development", for the following programs:

(A) United States International Space Station Freedom, $2,907,000,000 for fiscal year 1992, and $3,031,000,000 for fiscal year 1993. Such sums as are necessary from funds authorized for the United States International Space Station Freedom for each of the fiscal years 1991, 1992, and 1993 shall be used to initiate a flight test of the solar dynamic power program. No funds authorized to be appropriated under this or any other Act may be obligated for the purpose of expanding the electric power generation capability aboard the United States International Space Station Freedom beyond 75 kilowatts using any method other than solar dynamic power.

(B) Space transportation capability development, $733,400,000 for fiscal year 1991, $751,000,000 for fiscal year 1992, and $789,600,000 for fiscal year 1993. Of the funds authorized for fiscal year 1991, $10,000,000 shall be used only for supporting heavy-lift launch vehicle studies, which shall include study of commercially developed variants as well as other appropriate concepts, rather than studying Shuttle-derived heavy-lift launch vehicles alone, and $45,400,000 shall be used for the completion of the critical design review of the Orbital Maneuvering Vehicle.

(C) Physics and astronomy, $985,000,000 for fiscal year 1991, $1,177,000,000 for fiscal year 1992, and $1,197,000,000 for fiscal year 1993.

(D) Life sciences, $174,000,000 for fiscal year 1991, $210,000,000 for fiscal year 1992, and $299,000,000 for fiscal year 1993. Of the amounts authorized for such purposes, by this or any other Act, for fiscal year 1991—

(i) $10,000,000 shall be for the initiation of the Lifesat program; and

(ii) not less than $1,000,000 shall be used to establish a specialized center for research and training for bioregenerative life support systems.

(E) Planetary exploration, $337,200,000 for fiscal year 1991, $287,000,000 for fiscal year 1992, and $320,300,000 for fiscal year 1993.

(F) Earth sciences, $529,500,000 for fiscal year 1991, of which $5,000,000 shall be for the conduct of an advanced sensor technology demonstration program in support of the Landsat-7 remote sensing satellites, $917,000,000 for fiscal year 1992, and $1,756,000,000 for fiscal year 1993.

(G) Materials processing in space, $97,300,000 for fiscal year 1991, $114,000,000 for fiscal year 1992, and $140,000,000 for fiscal year 1993.

(H) Communications, $52,800,000 for fiscal year 1991, including not more than $2,000,000 for experimenter ground stations for the Advanced Communications Technology Satellite, but only if the experimenter receiving funds obtains at least an equal amount of funds from sources other than the National Aeronautics and Space Administration, $32,000,000 for fiscal year 1992, and $28,000,000 for fiscal year 1993.

(I) Information systems, $36,800,000 for fiscal year 1991, $39,000,000 for fiscal year 1992, and $41,000,000 for fiscal year 1993.

(J) Technology utilization, $24,400,000 for fiscal year 1991, $30,000,000 for fiscal year 1992, and $26,000,000 for fiscal year 1993.

(K) Commercial use of space, $76,600,000 for fiscal year 1991, $120,000,000 for fiscal year 1992, and $140,000,000 for fiscal year 1993.

(L) Aeronautical research and technology, $542,000,000 for fiscal year 1991, $634,500,000 for fiscal year 1992, and $685,900,000 for fiscal year 1993. None of the funds authorized under this subparagraph for fiscal year 1991 shall be expended unless at least $119,000,000 are made available for such fiscal year for the National Aero-Space Plane program.

(M) Transatmospheric research and technology, $119,000,000 for fiscal year 1991, $72,000,000 for fiscal year 1992, and $68,000,000 for fiscal year 1993.

(N) Space research and technology, $490,900,000 for fiscal year 1991, $511,000,000 for fiscal year 1992, and $568,000,000 for fiscal year 1993. Of the amounts authorized for the Exploration Technology program, by this or any other Act, for fiscal year 1991, at least 10 percent shall be for university contracts and grants.

(O) Exploration mission studies, $37,000,000 for fiscal year 1991, $45,000,000 for fiscal year 1992, and $45,000,000 for fiscal year 1993.

(P) Human exploration initiative, $444,000,000 for fiscal year 1992, of which at least 30 percent shall be for university contracts and grants, and $649,000,000 for fiscal year 1993. The Administrator shall provide to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, by March 15, 1991, a report setting forth the goals for academic participation and enhancement of the educational infrastructure with regard to the human exploration initiative.

(Q) Safety, reliability, and quality assurance, $33,000,000 for fiscal year 1991, $36,000,000 for fiscal year 1992, and $38,000,000 for fiscal year 1993.

(R) Tracking and data advanced systems, $20,000,000 for fiscal year 1991, $22,000,000 for fiscal year 1992, and $23,000,000 for fiscal year 1993.

(S) University Space Science and Technology Academic Program, $50,100,000 for fiscal year 1991, $59,000,000 for fiscal year 1992, and $60,000,000 for fiscal year 1993.

(T) Comet Rendezvous Asteroid Flyby/Cassini mission, not to exceed $1,600,000,000, for development, launch, and 30 days of operations thereof, to remain available until expended, of which—

(i) $490,000,000 shall be available for obligation after October 1, 1989;

(ii) an additional $370,000,000 shall be available for obligation 30 days after the submission of a report summarizing the results of a preliminary design review to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

(iii) an additional $640,000,000 shall be available for obligation 30 days after the submission of a report summarizing the re-

sults of a critical design review to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate; and

(iv) an additional $100,000,000 shall be available for obligation 30 days after the submission of a report summarizing the results of a spacecraft integration and systems test to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

A cost containment plan shall be submitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by January 31, 1991, and updated on July 31 and January 31 of each succeeding year until such funds are expended.

(2) For "space flight, control, and data communications", for the following programs:

(A) Shuttle production and operational capability, $1,364,000,000 for fiscal year 1991, $1,520,000,000 for fiscal year 1992, and $1,572,000,000 for fiscal year 1993. Of such funds, $45,000,000 for fiscal year 1991, $125,000,000 for fiscal year 1992, and $200,000,000 for fiscal year 1993 shall be used only for the following:

(i) For the space shuttle main engine—

(I) improved design and installation of High Pressure Oxygen Turbopump bearings;

(II) installation of the 2-duct hot gas manifold;

(III) development of enlarged throat diameter;

(IV) development of single-crystal turbine blades; and

(V) general redesign to reduce welds and make welds totally inspectable.

(ii) For the solid rocket booster/solid rocket motor—

(I) implementation of the recommendations contained in the report of the National Research Council entitled "Collected Reports of the Panel on Technical Evaluation of NASA's Redesign of the Space Shuttle Solid Rocket Booster", issued in 1988;

(II) development of a locking feature for the nozzle leak check port plugs;

(III) development of one-piece case stiffener rings;

(IV) development of nonasbestos motor insulation;

(V) enhancement of lightning protection for case and nozzle; and

(VI) modification of aft skirt structure.

(iii) For the external tank—

(I) upgrading of liquid hydrogen and oxygen temperature, pressure, and liquid level sensors;

(II) upgrading of thermal insulation on areas where dislodged insulation can affect the orbiter; and

(III) investigation of corrosion prevention methods to preclude structural problems.

(iv) For the orbiter—

(I) modification of structure to eliminate negative margins;

(II) upgrading of the auxiliary power units;

(III) development of a redundant nose wheel steering system (including possible extension of the nose wheel strut);

(IV) elimination of Kapton electrical wire insulation; and

(V) upgrading of valves and regulators to preclude leakage of fuels and oxidizers.

(v) Such other elements of an Assured Shuttle Availability program as the Administrator considers necessary.

By September 30, 1991, the Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a full report on the completion of the safety enhancements specified in this subparagraph.

(B) Shuttle transportation operations, $2,831,400,000 for fiscal year 1991, of which $4,000,000 shall be made available for the provision of launch services for eligible satellites in accordance with section 6 of the Commercial Space Launch Act Amendments of 1988, $3,056,000,000 for fiscal year 1992, and $3,150,000,000 for fiscal year 1993.

(C) Expendable launch vehicle services, $229,200,000 for fiscal year 1991, $291,000,000 for fiscal year 1992, and $296,000,000 for fiscal year 1993.

(D) Space and ground network, communications, and data systems, $868,800,000 for fiscal year 1991, $1,071,000,000 for fiscal year 1992, and $1,185,000,000 for fiscal year 1993. No funds may be obligated pursuant to this Act or any other Act for a Tracking and Data Relay Satellite (TDRS) "F-8" spacecraft, except that funds appropriated before the date of enactment of this Act may be expended for long lead items.

(E) Tracking and data relay satellite system, $1,209,732,000 for fiscal year 1991, which shall be used only for the purpose of reducing all outstanding debt to the Federal Financing Bank.

(3) For "construction of facilities" for fiscal year 1991 as follows:

(A) Construction of Neutral Buoyancy Laboratory, Johnson Space Center, $15,000,000.

(B) Construction of Space Station Processing Facility, Kennedy Space Center, $25,000,000.

(C) Construction of Addition for Flight Training and Operations, Johnson Space Center, $12,000,000.

(D) Rehabilitation of Mission Control Center Power and Control Systems, Johnson Space Center, $8,500,000.

(E) Construction of Transporter/Canister Facility, Kennedy Space Center, $5,500,000.

(F) Construction of Processing Control Center, Kennedy Space Center, $9,400,000.

(G) Replacement of Heating, Ventilating, and Air Conditioning System, Hypergolic Maintenance Facility, Kennedy Space Center, $2,100,000.

(H) Replacement of Operations and Checkout Building, West Cooling Tower, Kennedy Space Center, $1,000,000.

(I) Restoration of Heavy Equipment Area, Kennedy Space Center, $900,000.

(J) Upgrade of Orbiter Processing Facility High Bay Heating, Ventilating, and Air Conditioning System, Kennedy Space Center, $3,300,000.

(K) Upgrade of Yundum International Airport to Full Transoceanic Abort Landing Site, Banjul, The Gambia, $3,400,000.

(L) Repair of Condensate System, Main Manufacturing Building, Michoud Assembly Facility, $900,000.

(M) Construction of Project Engineering Facility, Marshall Space Flight Center, $17,000,000.

(N) Restoration of Information and Electronic Systems Laboratory, Marshall Space Flight Center, $4,000,000.

(O) Rehabilitation of Hydrogen Transfer Facility, Stennis Space Center, $2,700,000.

(P) Restoration of Space Shuttle Main Engine Test Complex "A", Stennis Space Center, $2,800,000.

(Q) Construction of Advanced Solid Rocket Motor Program Facilities, including land acquisition, various locations, $92,000,000.

(R) Construction of Addition to Site Electrical Substation, Johnson Space Center, $11,000,000.

(S) Addition to Administration and Engineering Building, Stennis Space Center, $3,800,000.

(T) Construction of Earth Observing System Data Information System Facility, Goddard Space Flight Center, $8,000,000.

(U) Construction of Detector Development Laboratory, Goddard Space Flight Center, $3,100,000.

(V) Replacement of Chillers, Central Heating/Refrigeration Plant, Goddard Space Flight Center, $4,000,000.

(W) Replacement/Modernization of Electrical Power Feeders, Goddard Space Flight Center, $1,500,000.

(X) Construction of Observational Instruments Laboratory, Jet Propulsion Laboratory, $14,000,000.

(Y) Refurbishment of 25-Foot Space Simulator, Jet Propulsion Laboratory, $13,200,000.

(Z) Restoration of Utilities, Wallops Flight Facility, $5,200,000.

(AA) Modifications to the High Pressure Air System, Langley Research Center, $12,000,000.

(BB) Modifications to Upgrade the 30 × 60-Foot Wind Tunnel, Langley Research Center, $4,000,000.

(CC) Repairs to the Tunnel Shell, Unitary Plan Wind Tunnel, Langley Research Center, $2,700,000.

(DD) Rehabilitation of Central Air System, Lewis Research Center, $7,900,000.

(EE) Rehabilitation of Propulsion Systems Laboratory, Lewis Research Center, $6,000,000.

(FF) Construction of Liquid Hydrogen Structural Test Facility, Dryden Flight Research Facility, $18,800,000.

(GG) Rehabilitation and Modification of the Electrical Distribution System, Dryden Flight Research Facility, $4,000,000.

(HH) Construction of Addition for Light-Alloy Research Laboratory, Langley Research Center, $4,600,000.

(II) Construction of Space Experiments Laboratory, Lewis Research Center, $7,100,000.

(JJ) Refurbishment of Electric Power Laboratory, Lewis Research Center, $8,900,000.

(KK) Construction of 34-Meter Multifrequency Antenna at Goldstone, CA, Jet Propulsion Laboratory, $13,200,000.

(LL) Rehabilitation of 70-Meter Antenna Drive Gear Boxes in Australia, Spain, and Goldstone, CA, Jet Propulsion Laboratory, $4,400,000.

(MM) Repair of facilities at various locations, not to exceed $1,000,000 per project, $30,000,000.

(NN) Rehabilitation and modification of facilities at various locations, not to exceed $1,000,000 per project, $34,000,000.

(OO) Minor construction of new facilities and additions to existing facilities at various locations, not to exceed $750,000 per project, $11,000,000.

(PP) Environmental compliance and restoration, $32,000,000.

(QQ) Facility planning and design not otherwise provided for, $28,000,000.

(4) For "research and program management", for fiscal year 1991, $2,252,900,000.

(5) For "Inspector General", $11,000,000 for fiscal year 1991, $14,000,000 for fiscal year 1992, and $14,000,000 for fiscal year 1993.

(b) LIMITATIONS.—(1)(A) Notwithstanding paragraph (4), appropriations authorized under this section for "research and development" and "space flight, control, and data communications" may be used—

(i) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the National Aeronautics and Space Administration for the performance of research and development contracts; and

(ii) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities.

Title to facilities described in clause (ii) shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant.

(B) None of the funds appropriated for "research and development" and "space flight, control, and data communications" pursuant to this title may be used in accordance with this paragraph for the construction of any facility, the estimated cost of which, including collateral equipment, exceeds $750,000, unless the Administrator has notified the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, of the nature, location, and estimated cost of such facility.

(2) Any amount appropriated pursuant to this title for "research and development", for "space flight, control and data communications", or for "construction of facilities" may remain available until expended. Any amount appropriated pursuant to this title for "research and program management" for maintenance and operation of facilities, and for other services, shall remain available through the next fiscal year after the fiscal year for which such amount is appropriated.

(3) Appropriations made pursuant to subsection (a)(4) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and his determination shall be final and conclusive upon the accounting officers of the Government.

(4)(A) Funds appropriated pursuant to subsection (a) (1), (2), and (4) may be used for the construction of new facilities and additions to, or repair, rehabilitation, or modification of existing facilities, but only if the cost of each such project, including collateral equipment, does not exceed $200,000.

(B) Funds appropriated pursuant to subsection (a) (1) and (2) may be used for unforeseen programmatic facility project needs, but only if the cost of each such project, including collateral equipment, does not exceed $750,000.

(C) Funds appropriated pursuant to subsection (a)(4) may be used for repair, rehabilitation, or modification of facilities controlled by the General Services Administration, but only if the cost of each project, including collateral equipment, does not exceed $500,000.

SEC. 104. CONSTRUCTION OF FACILITIES REPROGRAMMING.

Authorization is hereby granted whereby any of the amounts prescribed in section 103(a)(3) (A) through (QQ)—

(1) may be varied upward 10 percent, in the discretion of the Administrator or the Administrator's designee, or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the circumstances of such, may be varied upward 25 percent to meet unusual cost variations.

The total cost of all work authorized under paragraphs (1, and (2) shall not exceed the total of amounts specified in section 103(a)(3) (A) through (QQ).

SEC. 105. SPECIAL REPROGRAMMING AUTHORITY FOR CONSTRUCTION OF FACILITIES.

Where the Administrator determines that new developments or scientific or engineering changes in the national program of aeronautical and space activities have occurred; and that such changes require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities; the Administrator may transfer not to exceed one-half of 1 percent of the funds appropriated pursuant to section 103(a) (1) or (2) to the "construction of facilities" appropriation for such purposes. The Administrator may also use up to $10,000,000 of the amounts authorized under section 103(a)(3) for such purposes. The funds so made available pursuant to this section may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No such funds may be obligated until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written report describing the nature of the construction, its cost, and the reasons therefor.

SEC. 106. CONSIDERATION BY COMMITTEES.

Notwithstanding any other provision of this title—

(1) no amount appropriated pursuant to this title may be used for any program deleted by the Congress from requests as originally made to either the Committee on Science, Space, and Technology of the House of Representatives or the Committee on Commerce, Science, and Transportation of the Senate;

(2) no amount appropriated pursuant to this title may be used for any program in excess of the amount actually authorized for that particular program by section 103(a) (1), (2), and (4); and

(3) no amount appropriated pursuant to this title may be used for any program which has not been presented to either such committee,

unless a period of 30 days has passed after the receipt by each such committee of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action. The National Aeronautics and Space Administration shall keep the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate fully and currently informed with respect to all activities and responsibilities within the jurisdiction of those committees. Any Federal department, agency, or independent establishment shall furnish any information requested by either committee relating to any such activity or responsibility.

SEC. 107. AMENDMENTS TO THE NATIONAL AERONAUTICS AND SPACE ACT OF 1958.

Section 203(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(a)) is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(3) adding at the end the following new paragraphs:

"(4) seek and encourage, to the maximum extent possible, the fullest commercial use of space; and

"(5) encourage and provide for Federal Government use of commercially provided space services and hardware, consistent with the requirements of the Federal Government.".

SEC. 108. NATIONAL SPACE COUNCIL AUTHORIZATION.

There are authorized to be appropriated to carry out the activities of the National Space Council established by section 501 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (42 U.S.C. 2471), $1,363,000 for fiscal year 1991, of which not more than $1,000 shall be available for official reception and representation expenses. The National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

SEC. 109. GEOGRAPHICAL DISTRIBUTION.

The Administrator shall distribute research and development funds geographically in order to provide the broadest practicable participation in the programs of the National Aeronautics and Space Administration.

SEC. 110. BUY AMERICAN.

(a) GENERAL RULE.—The Administrator shall award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(b) EXCEPTIONS.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "domestic firm" means a business entity that is incorporated in the

United States and that conducts business operations in the United States;

(2) the term "foreign firm" means a business entity not described in paragraph (1).

(d) LIMITATION.—This section shall apply only to contracts for which—

(1) amounts are made available pursuant to this title; and

(2) solicitations for bids are issued after the date of enactment of this Act.

(e) REPORT TO CONGRESS.—The Administrator shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal years 1990 and 1991, and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party. The Administrator shall also report to the Congress on the number of contracts covered under this title and awarded based upon the parameters of this section.

SEC. 111. ADVANCED SOLID ROCKET MOTOR.

The Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the following:

(1) A report on the projected cost to complete the design, development, and qualification of the Advanced Solid Rocket Motor. The first report shall be submitted at the end of 6 months after the signing of the Advanced Solid Rocket Motor contract, and thereafter with the National Aeronautics and Space Administration's annual budget request.

(2) An annual report on the projected unit cost of the flight motors.

(3) An annual report on the increase in space shuttle payload capability provided by the Advanced Solid Rocket Motor. The report shall include the original baseline payload capability, adjustments to that baseline capability, and the projected payload capability.

(4) An assessment by the National Research Council by July 1, 1991, of the role of the Advanced Solid Rocket Motor and other potential propulsion system options for space station assembly and operations, including requirements beyond the year 2000.

(5) An assessment by the National Research Council by July 1, 1991, of potential approaches to ensuring the achievement of safety and reliability for the Advanced Solid Rocket Motor.

SEC. 112. SPACE SHUTTLE USE POLICY.

(a)(1) It shall be the policy of the United States to use the Space Shuttle for purposes that (i) require the presence of man, (ii) require the unique capabilities of the Space Shuttle or (iii) when other compelling circumstances exist.

(2) The term "compelling circumstances" includes, but is not limited to, occasions when the Administrator determines, in consultation with the Secretary of Defense and the Secretary of State, that important national security or foreign policy interests would be served by a Shuttle launch.

(3) The policy stated in subsection (a)(1) shall not preclude the use of available cargo space, on a Space Shuttle mission otherwise consistent with the policy described under subsection (a)(1), for the purpose of carrying secondary payloads (as defined by the Administrator) that do not require the presence of man if such payloads are consistent with the requirements of research, development, demonstration, scientific, commercial, and educational programs authorized by the Administrator.

(b) The Administrator shall, within six months after the date of enactment of this Act, submit a report to the Congress setting forth a plan for the implementation of the policy described in subsection (a)(1). Such plan shall include—

(1) details of the implementation plan;

(2) a list of purposes that meet such policy;

(3) a proposed schedule for the implementation of such policy;

(4) an estimate of the costs to the United States of implementing such policy; and

(5) a process for informing the Congress in a timely and regular manner of how the plan is being implemented.

(c) At least annually, the Administrator shall submit to the Congress a report certifying that the payloads scheduled to be launched on the space shuttle for the next four years are consistent with the policy set forth in subsection (a)(1). For each payload scheduled to be launched from the space shuttle, which do not require the presence of man, the Administrator shall, in the certified report to Congress, state the specific circumstances which justified the use of the space shuttle. If, during the period between scheduled reports to the Congress, any additions are made to the list of certified payloads intended to be launched from the Shuttle, the Administrator shall inform the Congress of the additions and the reasons therefor within 45 days of the change.

(d) The report described in subsection (c) shall also include those National Aeronautics and Space Administration payloads designed solely to fly on the space shuttle which have begun the phase C/D of its development cycle.

SEC. 113. LIFE SCIENCES STRATEGIC PLAN.

(a) FINDINGS.—The Congress finds that—

(1) the current knowledge base in life sciences is not compatible with the National Aeronautics and Space Administration's current objectives in space, and the National Aeronautics and Space Administration lacks an adequate strategic plan to acquire a knowledge base;

(2) it is critical to the success of manned missions in space, be they commercial operations of microgravity laboratories or manned missions to Mars, that a realistic appraisal of the influences of the space environment on biological systems is completed and appropriate protective countermeasures developed;

(3) the space station is rapidly approaching design maturity without a corresponding development of the physiological and other human factors knowledge base necessary for long-term manned operations in space; and

(4) space station laboratory hardware specifications are being fixed before fully establishing the objectives and requirements for life sciences research.

(b) STRATEGIC PLAN.—The Administration shall—

(1) review currently proposed manned space flight missions in order to—

(A) identify the physiological and other human factors knowledge base necessary to determine the human capacity to adapt to and perform effectively in the space environment according to mission requirements, including identifying which life sciences parameters must be measured and which technologies, processes, and procedures must be developed; and

(B) develop a schedule indicating when specific components of information, technologies, processes, or procedures identified under subparagraph (A) will need to be acquired or developed in order to verify that human adaptability requirements of manned space flight missions can be achieved;

(2) develop a strategy plan for life sciences research and technology development sufficient to accomplish the life sciences knowledge base acquisition schedule developed under paragraph (1)(B); including—

(A) a crew certification plan setting acceptable crew conditioning standards for Extended Duration Orbiter operations and verifying countermeasures sufficient to meet those standards before actual Extended Duration Orbiter operations; and

(B) a life sciences implementation plan for the design and development of the space station, to be provided as part of the Preliminary Design Review for the space station, and to include crew adaptability standards; and

(3) verify the physiological and technical feasibility of the life sciences implementation plan developed under paragraph (2)(B), as part of the Critical Design Review for the space station.

SEC. 114. STUDY ON INTERNATIONAL COOPERATION IN PLANETARY EXPLORATION.

(a) FINDINGS.—The Congress finds that—

(1) the President on July 20, 1989, established the long-range goal of establishing a lunar base, followed by manned exploration of Mars in the early twenty-first century;

(2) the United States and the Soviet Union, in cooperation with other countries, are currently planning further unmanned missions to the Moon and to Mars with the possible goal of landing a human on Mars;

(3) a series of international missions to expand human presence beyond Earth orbit would further a spirit of, and follow through on the commitment made in, the 1987 agreement between the Soviet Union and the United States for space cooperation, as well as the successful cooperative agreements the United States has pursued with over one hundred countries since its inception, including the agreement with Japan, Canada, and the European countries for Space Station Freedom;

(4) international manned missions beyond Earth orbit could further encourage a cooperative approach in world affairs unrelated to activities in space;

(5) international manned missions beyond Earth orbit could save the individual nations involved tens of billions of dollars over national missions; and

(6) a multilateral effort for manned missions to establish a lunar colony, a Mars mission, and any other missions that have the goal of establishing human presence beyond Earth's orbit and possibly landing a human on Mars would lead to greater understanding of our universe and greater sensitivity to our own planet.

(b) STUDY.—The National Space Council shall conduct a study on International Cooperation in Planetary Exploration (hereafter in this section referred to as the "study").

(c) PURPOSE OF STUDY.—The purpose of the study is—

(1) to develop an inventory of technologies and intentions of all national space agencies with regard to lunar and planetary exploration, both manned and unmanned;

(2) to seek ways, through direct communication with appropriate officials of other nations or otherwise, to enhance the planning and exchange of information and data among the United States, the Soviet Union, European countries, Canada, Japan, and

other interested countries with respect to unmanned projects beyond Earth orbit, in anticipation of later international manned missions to the Moon and to other bodies, including the possible goal of an international manned mission to Mars;

(3) to prepare a detailed proposal that most efficiently uses the resources of the national space agencies in cooperative endeavors to establish human presence beyond Earth orbit;

(4) to develop priority goals that accomplish unmet needs that could not be achieved by any individual country;

(5) to explore the possibilities of international unmanned probes to the Moon and Mars, and the possibilities for international manned missions beyond Earth's orbit; and

(6) to devise strategies for such cooperation that would prevent the unwanted transfer of technology.

In developing the inventory under paragraph (1), and in preparing the detailed proposal under paragraph (3), consideration shall be given to the potential contributions of commercial providers of space goods and services.

(d) REPORT.—The National Space Council shall, within one year after the date of the enactment of this Act, prepare and submit to Congress a report—

(1) outlining a preliminary strategy for cooperation among the United States, the Soviet Union, European countries, Canada, Japan, and other interested countries, based on their respective national strengths, with respect to unmanned projects beyond Earth orbit, in anticipation of later international manned missions to the Moon and to other bodies, including the possible goal of an international manned mission to Mars;

(2) including a conceptual design of a possible international manned mission, in coordination with the preliminary strategy referred to in paragraph (1), with target dates and a breakdown of responsibilities by nation;

(3) containing an inventory of planned and anticipated missions, manned and unmanned, that are being considered by national space agencies and commercial providers of space goods and services; and

(4) containing an inventory of space exploration technologies that either—

(A) are not immediately available in the United States but are available from other nations; or

(B) are available in the United States but are available from other nations in equal or superior form.

SEC. 115. OFFICE OF SPACE COMMERCE.

(a) ESTABLISHMENT.—There is established within the Department of Commerce an Office of Space Commerce.

(b) FUNCTIONS.—The Office of Space Commerce shall be the principal unit for the coordination of space related issues, programs, and initiatives within the Department of Commerce. The Office shall—

(1) promote private sector investment in space activities by collecting, analyzing, and disseminating information on space markets, and conducting workshops and seminars to increase awareness of commercial space opportunities;

(2) assist commercial space companies in their efforts to do business with the United States Government, and act as an industry advocate within the Executive Branch to ensure that the Government meets its space related requirements, to the fullest extent feasible, with commercially available space goods and services;

(3) ensure that the United States Government does not compete with the private sector in the provision of space hardware and services otherwise available from the private sector;

(4) promote the export of space related goods and services;

(5) represent the Department of Commerce in the development of United States policies and in negotiations with foreign countries to ensure free and fair trade internationally in the area of space commerce; and

(6) seek the removal of legal, policy, and institutional impediments to space commerce.

(c) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Commerce for the Office of Space Commerce, $487,000 for fiscal year 1991.

SEC. 116. NATIONAL AERO-SPACE PLANE PROGRAM.

(a) FINDINGS.—The Congress finds that—

(1) if the United States is to maintain preeminence in military and commercial aeronautics into the next century, research into technology development and validation of the National Aero-Space Plane (NASP) is vital;

(2) the new and advanced materials being developed for the NASP have numerous applications in the military and the civilian aviation industry, as well as in other industries utilizing high temperature technologies;

(3) the benefits to the military and civilian aviation programs from the new and innovative technologies developed in connection with the NASP program in propulsions systems, aerodynamics, and control systems could be enormous, especially for high speed aeronautical and space flight; and

(4) military and commerical spin-off applications of NASP technologies include future superior military aircraft, space transportation systems, and commercial hypersonic aircraft.

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense (hereafter in this section referred to as the "Secretary") and the Administrator shall jointly establish a National Aero-Space Plane program whose objective shall be exclusively the development and demonstration, by 1977, of a primarily air breathing single-stage-to-orbit and long range hypersonic cruise research flight vehicle. The program shall be a research program, and to the extent practicable technological information developed shall be transferred to the military and to the domestic civil aviation and other private industries.

(c) RESPONSIBILITIES.—The Secretary shall have responsibility for procurement, experimental flight vehicles, and overall program administration of the program established under subsection (b). The Administrator shall have responsibility for providing technology development and flight test support and shall have an integral role in the overall program. Representatives of both the Secretary and the Administrator shall participate in all aspects of the program.

(d) MANAGEMENT PLAN.—

(1) The Secretary and the Adminstrator shall jointly develop a management plan for the program established under subsection (b), which shall include goals, major tasks, anticipated schedules, organizational structure, funding profiles, details of the respective responsibilities of the Secretary and the Administrator, and resource procurement strategies.

(2) The management plan developed pursuant to paragraph (1) shall be submitted to the Congress within 120 days after the date of enactment of this Act.

(e) FUNDING.—The Secretary shall be responsible for not less than two-thirds of the funding for the program established under this section, and the administrator shall be responsible for not more than one-third of the funding for such program.

SEC. 117. COMMERCIAL SPACE LAUNCH ACT AMENDMENTS.

(a) AUTHORIZATION.—Section 24 of the Commercial Space Launch Act (49 U.S.C. App. 2623) is amended by adding at the end thereof the following: "There are authorized to be appropriated to the Secretary to carry out this Act $4,517,000 for fiscal year 1991, of which $250,000 shall be made available for the provision of launch services for eligible satellites in accordance with section 6 of the Commercial Space Launch Act Amendments of 1988.".

(b) DEFINITIONS.—

(1) AMENDMENTS.—Section 4 of the Commercial Space Launch Act (49 U.S.C. App. 2603) is amended—

(A) by redesignating paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), and (12) as paragraphs (4), (5), (6), (8), (9), (10), (11), (12), (13), and (14), respectively;

(B) by inserting after paragraph (2) the following new paragraph:

"(3) 'launch activity' means any activity of a licensee or its contractors, subcontractors, or customers, at a launch site, in connection with a launch, occurring after entry onto the launch site and before the expiration of 3 years after launch;";

(C) by amending paragraph (4), as redesignated by subparagraph (A) of this paragraph, to read as follows:

"(4) 'launch property' means real or personal property associated with the launch preparation or launch of a launch vehicle, including launch sites, associated equipment, propellants, and launch vehicles and components thereof;"; and

(D) by inserting after paragraph (6), as redesignated by subparagraph (A) of this paragraph, the following new paragraph:

"(7) 'launch site support facilities' means facilities required to support launch site activity, including launch vehicle assembly, payload assembly, payload processing, space-related research, business incubation, and education, laboratories and test facilities, roads and water transportation routes and ports, power generation and transmission facilities, water and sewer systems, waste collection and disposal systems, flood control facilities, public safety and security systems, and communications systems;".

(2) CONFORMING AMENDMENTS.—Section 6(a)(2), (3)(A), (3)(B)(i), and (3)(B)(ii) of the Commercial Space Launch Act are amended by striking "section 4(11)" and inserting in lieu thereof "section 4(14)".

(c) ACQUISITION BY STATE GOVERNMENTS.—Section 15(a) of the Commercial Space Launch Act (49 U.S.C. App. 2614(a)) is amended—

(1) by inserting "and State governments" after "by the private sector"; and

(2) by inserting "exclusively" after "not needed" each place it appears.

(d) CONGRESSIONAL FINDINGS.—Section 2 of the Commercial Space Launch Act (49 U.S.C. App. 2601) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new paragraphs;

"(8) space transportation, including the establishment and operation of launch sites and complementary facilities, the provision

of launch services, the establishment of support facilities, and the provision of support services, is an important element of the Nation's transportation system, and in connection with the commerce of the United States there is a need to develop a strong space transportation infrastructure with significant private sector involvement; and

"(9) the participation of State governments in encouraging and facilitating private sector involvement in space-related activity, particularly through the establishment of space transportation-related infrastructure, including launch sites, complementary facilities, and launch site support facilities, is in the national interest and is of significant public benefit.".

(e) CONGRESSIONAL STATEMENT OF PURPOSE.—Section 3 of the Commercial Space Launch Act (49 U.S.C. App. 2602) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by inserting at the end the following new paragraph:

"(4) to facilitate the strengthening and expansion of the United States space transportation infrastructure, including the enhancement of United States launch sites, as well as launch site support facilities, with Federal, State, and private sector involvement, to support the full range of United States space-related activities.".

(f) GENERAL RESPONSIBILITIES OF SECRETARY.—Section 5(a) of the Commercial Space Launch Act (49 U.S.C. App. 2604(a)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and";

(3) by adding at the end the following new paragraph:

"(3) work to facilitate private sector involvement in commercial space transportation activity, and to promote public-private partnerships involving the Federal Government, State governments, and the private sector to build, expand, modernize, or operate space launch infrastructure.".

(g) ACQUISITION AND PAYMENT BY PRIVATE SECTOR.—Section 15(b)(1) of the Commercial Space Launch Act (49 U.S.C. App. 2614(b)(1)) is amended—

(1) by inserting "and the persons seeking to acquire such property or service" after "consultation with the Secretary";

(2) by inserting ", which may be adjusted by the direct or indirect value of any improvement or benefit to the United States Government as a result of the sale or transaction in lieu of sale" after "shall be the fair market value";

(3) by inserting ", which may be adjusted by the direct or indirect value of any improvement or benefit to the United States Government as a result of the acquisition" after "acquisition of such luanch property"; and

(4) by inserting ", which may be adjusted by the direct or indirect value of any improvement or benefit to the United States Government as a result of the acquisition. For the purposes of this paragraph, the use of Federal property by a non-Federal entity at a launch site shall be considered an acquisition of launch property" after "acquisition of such launch services".

SEC. 118. MANAGEMENT REVIEW.

The Administrator shall contract with the National Academy of Public Administration for—

(1) a review of the organizational and institutional preparedness of the National Aeronautics and Space Administration to undertake major new initiatives in science and human exploration; and

(2) a report to Congress—

(A) estimating the level of human resources required to carry out this title and any initiatives resulting from this title;

(B) describing the organizational structure of the National Aeronautics and Space Administration, including its field centers;

(C) describing the role and relationship of other Federal agencies, Federal laboratories, and the private sector in carrying out the Nation's space program; and

(D) recommending administrative changes that would increase the efficiency and effectiveness of the National Aeronautics and Space Administration, including procurement practices.

SEC. 119. SPACE DEBRIS.

It is the policy of the United States that—

(1) the space related activities of the United States shall be conducted in a manner that does not increase the amount of orbital space debris; and

(2) the United States shall engage other spacefaring Nations to develop an agreement on the conduct of space activities that ensures that the amount of orbital space debris is not increased.

SEC. 120. SUPPORT FOR SPACE SHUTTLE ORBITER PRODUCTION LINE.

The Administrator is authorized to expend excess funds appropriated for orbiter production under section 101(g) of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes" (100 Stat. 3341-242) to maintain the space shuttle orbiter production line and related production lines of orbiter subcontractors.

SEC. 121. INDUSTRIAL APPLICATION CENTERS.

In any agreement entered into by the National Aeronautics and Space Administration for an Industrial Application Center, the center shall be allowed to retain all client income without any deductions from appropriated funds received or to be received by that center.

SEC. 122. REPORT TO CONGRESS ON THE SHUTTLE-C PROGRAM.

The Administrator shall contract with the National Academy of Public Administration to undertake a cost and benefit analysis of the Shuttle-C program. The analysis shall include an assessment of the development costs of the Shuttle-C, the unit cost of Shuttle-C flights relative to space shuttle flights, the number of space shuttle flights that could be eliminated by a Shuttle-C flight during deployment of the Space Station, and a comparison of the total costs of deploying the Space Station by utilizing only the space shuttle versus the total costs of deploying the Space Station utilizing a combination of space shuttle and Shuttle-C flights. The Administrator shall submit a copy of such analysis to the Congress by March 15, 1991.

SEC. 123. AUTOMOTIVE STIRLING ENGINE DEMONSTRATION PROGRAM.

(a) REQUIREMENT.—Any automotive stirling engine demonstration program sponsored by the National Aeronautics and Space Administration shall, to the maximum extent practicable, utilize natural gas, and if not natural gas, then methanol or ethanol.

(b) DEFINITIONS.—As used in this section—

(1) the term "methanol" means a mixture containing at least 85 percent methanol by volume; and

(2) the term "ethanol" means a mixture containing at least 85 percent ethanol by volume.

SEC. 124. USERS' ADVISORY GROUP.

(a) ESTABLISHMENT.—(1) The National Space Council shall establish a Users' Advisory Group composed of non-Federal representatives of industries and other persons invlved in aeronautical and space activities.

(2) The Vice President shall name a chairman of the Users' Advisory Group.

(3) The National Space Council shall from time to time, but not less than once a year, meet with the Users' Advisory Group.

(4) The function of the Users' Advisory Group shall be to ensure that the interests of industries and other non-Federal entities involved in space activities, including in particular commercial entities, are adequately represented in the National Space Council.

(5) The Users' Advisory Group may be assisted by personnel detailed to the National Space Council.

(b) EXEMPTION.—The Users' Advisory Group shall not be subject to section 14(a)(2) of the Federal Advisory Committee Act.

SEC. 125. SCIENTIFIC BALLOON LAUNCH SITE.

The Administrator may purchase approximately 8 acres within section 16, Township 3 North, Range 26 East, N.M.P.M., De Baca County, New Mexico, to use as a balloon launching facility.

SEC. 126. DEFINITION.

For purposes of this title, the term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

TITLE II—LAUNCH SERVICES PURCHASE

SEC. 201. SHORT TITLE.

This title may be cited as the "Launch Services Purchase Act of 1990".

SEC. 202. FINDINGS.

The Congress finds that—

(1) the United States commercial launch industry is technically capable of providing reliable and cost efficient access to space and is an essential component of national efforts to assure access to space for Government and commercial users;

(2) the Federal Government should encourage, facilitate, and promote the United States commercial launch industry, including the development and enhancement of commercial launch facilities, in order to ensure United States economic preeminence in space;

(3) the interests of the United States will be served if the commercial launch industry is competitive in the international marketplace;

(4) commercial vehicles are effective means to challenge foreign competition;

(5) the use by the Federal Government of performance specifically in lieu of detailed specifications relating to vehicle design, construction, and operation will facilitate the efficient operation of the United States commercial launch industry;

(6) the procurement of commercial launch services in a commercially reasonable manner permits a reduced level of Federal Government regulation and oversight and economies of scale which may result in significant cost savings to the commercial launch industry and to the United States.

(7) it is the general policy of the Federal Government to purchase needed goods and services, including launch services, from the private sector to the fullest extent feasible; and

(8) predictable access to National Aeronautics and Space Administration launch markets would encourage continuing United States private sector investment in space and related activities.

SEC. 203. DEFINITIONS.

For the purposes of this title—

(1) the term "commercial provider" means any person providing launch services, but does not include the Federal Government;

(2) the term "launch services" means activities involved in the preparation of a launch vehicle and its payload for space transport and the conduct of transporting a payload;

(3) the term "launch vehicle" means any vehicle constructed for the purpose of operating in, or placing a payload in, outer space, and any suborbital rocket; and

(4) the term "payload" means an object which a person undertakes to place in outer space by means of a launch vehicle, and includes subcomponents of the launch vehicle specifically designed or adapted for that object.

SEC. 204. REQUIREMENT TO PROCURE COMMERCIAL LAUNCH SERVICES.

(a) IN GENERAL.—Except as otherwise provided in this section, the National Aeronautics and Space Administration shall purchase launch services for its primary payloads from commercial providers whenever such services are required in the course of its activities.

(b) EXCEPTIONS.—The National Aeronautics and Space Administration shall not be required to purchase launch services as provided in subsection (a) if, on a case by case basis the Administrator of the National Aeronautics and Space Administration determines that—

(1) the payload requires the unique capabilities of the space shuttle;

(2) cost effective commercial launch services to meet specific mission requirements are not reasonably available and would not be available when required; or

(3) the use of commercial launch services poses an unacceptable risk of loss of a unique scientific opportunity.

Any determination of such circumstances shall be made by the Administrator at Preliminary Design Review and shall not be delegated. Upon any such determination, the Administrator shall, within 30 days, notify in writing the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the determination and its rationale.

(c) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION LAUNCH VEHICLES.—Launch vehicles shall be acquired or owned by the National Aeronautics and Space Administration only—

(1) as required under circumstances described in subsection (b); or

(2) by the National Aeronautics and Space Administration for conducting research and development on, and testing of, launch technology.

(d) PHASE-IN PERIOD.—Subsections (a) and (c) shall not apply to launch services and launch vehicles purchased by the National Aeronautics and Space Administration before the date of enactment of this Act.

(e) HISTORICAL PURPOSES.—This title shall not be interpreted to prohibit the National Aeronautics and Space Administration from acquiring, owning, or maintaining launch vehicles solely for historical display purposes.

SEC. 205. PURCHASE OF LAUNCH SERVICES.

(a) FULL AND OPEN COMPETITION.—(1) Contracts to provide launch services to the National Aeronautics and Space Administration under section 204 shall be awarded on the basis of full, fair, and open competition, consistent with section 2304 of title 10, United States Code, and section 311 of the National Aeronautics and Space Act of 1958.

(2) The National Aeronautics and Space Administration shall limit its requirements for submission of cost or pricing data in support of a bid or proposal to that data which is reasonably required to protect the interests of the United States.

(b) SPECIFICATION SYSTEMS.—Reasonable performance specifications, not detailed Government design or construction specifications, shall be used to the maximum extent feasible to define requirements for a commercial provider bidding to provide launch services. This subsection shall not preclude the National Aeronautics and Space Administration from requiring compliance with applicable safety standards.

SEC. 206. OTHER ACTIVITIES OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

(a) COMMERCIAL PAYLOADS ON THE SPACE SHUTTLE.—Commercial payloads may not be accepted for launch as primary payloads on the space shuttle unless the Administrator of the National Aeronautics and Space Administration determines that—

(1) the payload requires the unique capabilities of the space shuttle; or

(2) launching of the payload on the space shuttle is important for either national security or foreign policy purposes.

(b) REPORT.—By March 15, 1991, the Administrator, in consultation with the Office of Federal Procurement Policy, shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report outlining the minimal requirements for documentation and other administrative data needed to procure launch services in a commercially reasonable manner, including—

(1) the need for data to integrate a payload with a launch vehicle;

(2) the need for data to carry out mission-specific modifications to the launch vehicle;

(3) the need for notification to the National Aeronautics and Space Administration of changes, delays, or difficulties in the construction or preparation of a launch vehicle that may affect the delivery of its payload to its destination at the time and under the conditions provided for under the contract between the United States and its contractors;

(4) the need for data to protect public health and safety; and

(5) the need for cost or pricing data for the fulfillment of a contract.

Amend the title so as to read: "An Act entitled the National Aeronautics and Space Administration Multiyear Authorization Act of 1990".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 5649) was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 5649

Mr. ROE. Mr. Speaker, pursuant to House Resolution 480, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. ROE moves to insist on the House amendment to the Senate bill, S. 916 and request a conference with the Senate thereon.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ROE].

The motion was agreed to.

The SPEAKER pro tempore. The Speaker will appoint conferees unpon his return to the chair.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter therein, on H.R. 5649, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF S. 916, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION MULTIYEAR AUTHORIZATION ACT OF 1990

Mr. ROE. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, S. 916, the clerk be authorized to make such technical and conforming changes as may be necessary to reflect the actions of the House in passing the bill, S. 916.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now return to motions to suspend the rules.

COASTAL BARRIER IMPROVEMENT ACT OF 1990

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2840), to reauthorize the Coastal Barrier Resources Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2840

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coastal Barrier Improvement Act of 1990".

SEC. 2. DEFINITION AMENDMENTS.

(a) UNDEVELOPED COASTAL BARRIER.—The Coastal Barrier Resources Act is amended in section 3(1)(A) (16 U.S.C. 3502(1)(A))—

(1) by striking clause (i); and

(2) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(b) SYSTEM MAPS; SYSTEM.—

(1) REPEAL AND ADDITION OF DEFINITION.—Section 3(6) of the Coastal Barrier Resources Act (16 U.S.C. 3502(6)) is amended to read as follows:

"(6) The term 'System' means the Coastal Barrier Resources System established by section 4(a).".

(2) CONFORMING AMENDMENT.—Section 5(a) of the Coastal Barrier Resources Act (16 U.S.C. 3504(a)) is amended in the matter preceding paragraph (1) by striking "the Coastal Barrier Resources System" and inserting "the System".

SEC. 3. COASTAL BARRIER RESOURCES SYSTEM, GENERALLY.

Section 4 of the Coastal Barrier Resources Act (16 U.S.C. 3503) is amended to read as follows:

"SEC. 4. ESTABLISHMENT OF COASTAL BARRIER RESOURCES SYSTEM.

"(a) ESTABLISHMENT.—There is established the Coastal Barrier Resources System, which shall consist of those undeveloped coastal barriers and other areas located on the coasts of the United States that are identified and generally depicted on the maps on file with the Secretary entitled 'Coastal Barrier Resources System', dated June 20, 1990, as such maps may be revised by the Secretary under section 4 of the Coastal Barrier Improvement Act of 1990.

"(b) SYSTEM MAPS.—The Secretary shall keep the maps referred to in subsection (a) on file and available for public inspection in the Office of the Director of the United States Fish and Wildlife Service, and in such other offices of that service as the Director considers appropriate.

"(c) BOUNDARY REVIEW AND MODIFICATION.—At least once every 5 years, the Secretary shall review the maps referred to in subsection (a) and shall make, in consultation with the appropriate State, local, and Federal officials, such minor and technical modifications to the boundaries of System units as are necessary solely to reflect changes that have occurred in the size or location of any System unit as a result of natural forces.".

SEC. 4. TECHNICAL REVISION OF MAPS; MODIFICATION OF BOUNDARIES; ADDITIONS TO SYSTEM.

(a) TECHNICAL REVISION OF MAPS AND PROVISION TO STATE AND LOCAL GOVERNMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall—

(1) make such technical revisions to the maps referred to in section 4(a) of the Coastal Barrier Resources Act (as amended by section 3 of this Act) as may be necessary to correct existing clerical and typographical errors in the maps; and

(2) provide copies of the maps, as so revised, to—

(A) each State and each local government in which is located a unit of the System;

(B) the coastal zone management agency of each State—

(i) in which is located a unit of the System; and

(ii) which has a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455); and

(C) appropriate Federal agencies.

(b) RECOMMENDATIONS OF STATE AND LOCAL GOVERNMENTS FOR BOUNDARY MODIFICATIONS.—Not later than 1 year after the date of the enactment of this Act—

(1) a local government in which is located a unit of the System and which is in a State which has a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455); and

(2) the coastal zone management agency of a State in which is located a unit of the System and which has such a program approved;

may each submit to the Secretary recommendations for minor and technical modifications to the boundaries of existing units of the System located in that local government or State, respectively.

(c) ELECTIONS TO ADD TO SYSTEM.—

(1) PROVISION OF MAPS BY SECRETARY.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall provide—

(A) to each local government in which is located an area of qualified coastal barrier and which is in a State which has a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455); and

(B) to the coastal zone management agency of each State in which such an area is located and which has such a program approved;

maps depicting the area of qualified coastal barrier located in that local government or State, respectively.

(2) ELECTIONS.—Not later than 1 year after the date of the enactment of this Act, a local government and a State coastal zone management agency referred to in paragraph (1), and any qualified organization—

(A) may each elect to add to the System, as a new unit or as an addition to an existing unit, any area of qualified coastal barrier (or any portion thereof) which is owned or held by the local government, State, or qualified organization, respectively;

(B) shall notify the Secretary of that election; and

(C) shall submit to the Secretary a map depicting the area, if—

(i) the area (or portion) is not depicted on a map provided by the Secretary under paragraph (1); or

(ii) the local government, State, or qualified organization was not provided maps under paragraph (1).

(3) EFFECTIVE DATE OF ELECTION.—An area elected by a local government, State coastal zone management agency, or qualified organization to be added to the System under this subsection shall be part of the System effective on the date on which the Secretary publishes notice in the Federal Register under subsection (d)(1)(C) with respect to that election.

(d) MODIFICATION OF BOUNDARIES, REVISION OF MAPS, AND PUBLICATION OF NOTICE.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary—

(A) based on recommendations submitted by local governments and State coastal zone management agencies under subsection (b), may make such minor and technical modifications to the boundaries of existing units of the System as are consistent with the purposes of the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.) and are necessary to clarify the boundaries of those units;

(B) shall revise the maps referred to in section 4(a) of the Act (as amended by section 3 of this Act)—

(i) to reflect those modifications; and

(ii) to reflect each election of a local government, State coastal zone management agency, or qualified organization to add an area to the System pursuant to subsection (c); and

(C) shall publish in the Federal Register notice of each such modification or election.

(2) EFFECTIVE DATE OF MODIFICATIONS.—A modification of the boundaries of a unit of the System under paragraph (1)(A) shall take effect on the date on which the Secretary published notice in the Federal Register under paragraph (1)(C) with respect to that modification.

(e) NOTIFICATION REGARDING MODIFICATIONS AND ELECTIONS.—Not less than 30 days before the effective date of any modification of the boundaries of a unit of the System under subsection (d)(1)(A), or of an election of a local government, State coastal zone management agency, or qualified organization to add an area of qualified coastal barrier to the System pursuant to subsection (c), the Secretary shall submit written notice of such modification or election to—

(1) the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate; and

(2) appropriate State and Federal officials.

SEC. 5. EXCEPTIONS TO LIMITATIONS ON FEDERAL EXPENDITURES.

(a) EXCEPTIONS, GENERALLY.—Section 6 of the Coastal Barrier Resources Act (16 U.S.C. 3505) is amended to read as follows:

"SEC. 6. EXCEPTIONS TO LIMITATIONS ON EXPENDITURES.

"(a) IN GENERAL.—Notwithstanding section 5, the appropriate Federal officer, after consultation with the Secretary, may make Federal expenditures and may make financial assistance available within the System for the following:

"(1) Any use or facility necessary for the exploration, extraction, or transportation of energy resources which can be carried out only on, in, or adjacent to a coastal water area because the use or facility requires access to the coastal water body.

"(2) The maintenance or construction of improvements of existing Federal navigation channels (including the Intracoastal Waterway) and related structures (such as jetties), including the disposal of dredge materials related to such maintenance or construction.

"(3) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities that are essential links in a larger network or system.

"(4) Military activities essential to national security.

"(5) The construction, operation, maintenance, and rehabilitation of Coast Guard facilities and access thereto.

"(6) Any of the following actions or projects, if a particular expenditure or the making available of particular assistance for the action or project is consistent with the purposes of this Act:

"(A) Projects for the study, management, protection, and enhancement of fish and wildlife resources and habitats, including acquisition of fish and wildlife habitats and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.

"(B) Establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

"(C) Projects under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 through 11) and the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

"(D) Scientific research, including aeronautical, atmospheric, space, geologic, marine, fish and wildlife, and other research, development, and applications.

"(E) Assistance for emergency actions essential to the saving of lives and the protection of property and the public health and safety, if such actions are performed pursuant to sections 402, 403, and 502 of the Disaster Relief and Emergency Assistance Act and section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) and are limited to actions that are necessary to alleviate the emergency.

"(F) Maintenance, replacement, reconstruction, or repair, but not the expansion (except with respect to United States route 1 in the Florida Keys), of publicly owned or publicly operated roads, structures, and facilities.

"(G) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore a natural stabilization system.

"(b) EXISTING FEDERAL NAVIGATION CHANNELS.—For purposes of subsection (a)(2), a Federal navigation channel or a related structure is an existing channel or structure, respectively, if it was authorized before the date of the enactment of the Coastal Barrier Improvement Act of 1990.

"(c) EXPANSION OF HIGHWAYS IN MICHIGAN.—The limitations on the use of Federal expenditures or financial assistance within the System under subsection (a)(3) shall not apply to a highway—

"(1) located in a unit of the System in Michigan; and

"(2) in existence on the date of the enactment of the Coastal Barrier Improvement Act of 1990.

"(d) SERVICES AND FACILITIES OUTSIDE SYSTEM.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) of this subsection, limitations on the use of Federal expenditures or financial assistance within the System under section 5 shall not apply to expenditures or assistance provided for services or facilities and related infrastructure located outside the boundaries of unit T-11 of the System (as depicted on the maps referred to in section 4(a)) which relate to an activity within that unit.

"(2) PROHIBITION OF FLOOD INSURANCE COVERAGE.—No new flood insurance coverage may be provided under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) for any new construction or substantial improvements relating to services or facilities and related infrastructure located outside the boundaries of unit T-11 of the System that facilitate an activity within that unit that is not consistent with the purposes of this Act.

"(3) PROHIBITION OF HUD ASSISTANCE.—

"(A) IN GENERAL.—No financial assistance for acquisition, construction, or improvement purposes may be provided under any program administered by the Secretary of Housing and Urban Development for any services or facilities and related infrastructure located outside the boundaries of unit T-11 of the System that facilitate an activity within that unit that is not consistent with the purposes of this Act.

"(B) DEFINITION OF FINANCIAL ASSISTANCE.—For purposes of this paragraph, the term 'financial assistance' includes any contract, loan, grant, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan, mortgage, or pool of mortgages.".

(b) CONFORMING AMENDMENT.—Subsection (d) of section 204 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (16 U.S.C. 3505 note) is repealed.

(c) APPLICATION OF EXISTING LOUISIANA EXCEPTION.—Section 5(a)(3) of the Coastal Barrier Resources Act (16 U.S.C. 3504(a)(3)) is amended by inserting "and LA07" after "S01 through S08".

SEC. 6. PACIFIC COASTAL BARRIER PROTECTION STUDY AND MAPS.

(a) IN GENERAL.—

(1) STUDY.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall prepare and submit to the Committee on Merchant Marine and Fisheries of the House of Representative and to the Committee on Environment and Public Works of the Senate a study which examines the need for protecting undeveloped coastal barriers along the Pacific coast of the United States south of 49 degrees north latitude through inclusion in the System. Such study shall examine—

(A) the potential for loss of human life and damage to fish, wildlife, other natural resources, and the potential for the wasteful expenditure of Federal revenues given the geologic differences of the coastal barriers along the Pacific coast as opposed to those found along the Atlantic and Gulf coasts; and

(B) the differences in extreme weather conditions which exist along the Pacific coast as opposed to those found along the Atlantic and Gulf coasts.

(2) PREPARATION AND SUBMISSION OF MAPS.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall prepare and submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committee on Environment and Public Works of the Senate maps identifying the boundaries of those undeveloped coastal barriers (as that term is defined in section 3(1) of the Coastal Barrier Resources Act (16 U.S.C. 3502(1)) along the Pacific coast of the United States south of 49 degrees north latitude which the Secretary considers to be appropriate for inclusion in the System.

(b) CONSULTATION IN PREPARING MAPS.—In preparing maps under subsection (a), the Secretary shall consult with and provide an opportunity for comment by appropriate Federal agencies, agencies (including the coastal zone management agencies) of the States, territories, and possessions of the United States bordering on the Pacific Ocean, and the public.

SEC. 7. SPECIAL UNIT.

(a) DESIGNATION.—The southernmost portion of unit P11 of the System, as depicted on the maps referred to in section 4(a) of the Coastal Barrier Resources Act (as amended by this Act), located on Hutchinson Island north of St. Lucie Inlet in Florida, is designated as the "Frank M. McGilvrey Unit". In revising those maps under section 4(a) of this Act, the Secretary shall so identify that unit.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the unit of the System referred to in subsection (a) is deemed to be a reference to the "Frank M. McGilvrey Unit" of the System.

SEC. 8. REPORT REGARDING COASTAL BARRIER MANAGEMENT.

(a) COASTAL BARRIERS TASK FORCE.—

(1) ESTABLISHMENT.—There is established an interagency task force to be known as the Coastal Barriers Task Force (hereinafter in this section referred to as the "Task Force").

(2) MEMBERSHIP.—The Task Force shall be composed of 11 individuals as follows:

(A) A designee of the Secretary of Agriculture.

(B) A designee of the Secretary of Commerce.

(C) A designee of the Secretary of Defense.

(D) A designee of the Secretary of Energy.

(E) A designee of the Secretary of Housing and Urban Development.

(F) A designee of the Secretary of the Interior.

(G) A designee of the Secretary of Transportation.

(H) A designee of the Secretary of the Treasury, who shall represent the Internal Revenue Service.

(I) A designee of the Administrator of the Environmental Protection Agency.

(J) A designee of the Director of the Federal Emergency Management Agency.

(K) A designee of the Administrator of the Small Business Administration.

(3) CHAIRPERSON.—The chairperson of the Task Force shall be the designee of the Secretary of the Interior.

(b) REPORT.—

(1) IN GENERAL.—Not later than the expiration of the 2-year period beginning on the date of the enactment of this Act, the Task Force shall submit to the Congress a report regarding the Coastal Barrier Resources System.

(2) CONTENTS.—The report required under paragraph (1) shall include the following:

(A) An analysis of the effects of any regulatory activities of the Federal Government on development within units of the System, for the period from 1975 to 1990.

(B) An analysis of the direct and secondary impacts of tax policies of the Federal Government on development (including development of second home and investment properties) within units of the System, for the period from 1975 to 1990.

(C) An estimate and comparison of the costs to the Federal Government with respect to developed coastal barriers on which are located units of the System, for the period from 1975 to 1990, which shall include costs of shore protection activities, beach renourishment activities, evacuation services, disaster assistance, and flood insurance subsidies under the national flood insurance program.

(D) A determination of the number of structures for which flood insurance under the national flood insurance program has been unavailable since the enactment of the National Flood Insurance Act of 1968 because of the prohibition, under section 1321 of such Act, of the provision of insurance for structures located on coastal barriers within the System.

(E) An estimate of the number of existing structures located on coastal barriers that are included within the System because of the expansion of the System under this Act and the amendments made by this Act.

(F) A summary of the opinions and comments expressed pursuant to paragraph (3).

(G) Recommendations for Federal policies and legislative action with respect to developed and undeveloped coastal barriers to promote the protection of coastal barriers

and minimize activities of the Federal Government that contribute to the destruction and degradation of coastal barriers.

(3) HEARINGS.—In carrying out its responsibilities under this subsection, the Task Force shall hold hearings to provide opportunity for State and local governments and members of the public to express their opinions and comment on Federal policy regarding coastal barriers.

(c) TERMINATION.—The Task Force shall terminate 90 days after submission of the report required under subsection (b)(1).

SEC. 9. PROHIBITION OF FLOOD INSURANCE COVERAGE IN CERTAIN COASTAL BARRIERS.

Section 1321 of the National Flood Insurance Act of 1968 (42 U.S.C. 4028) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsection:

"(b) No new flood insurance coverage may be provided under this title after the expiration of the 1-year period beginning on the date of the enactment of the Coastal Barrier Improvement Act of 1990 for any new construction or substantial improvements of structures located in any area identified and depicted on the maps referred to in section 4(a) of the Coastal Barrier Resources Act as an area that is (1) not within the Coastal Barrier Resources System and (2) is otherwise protected. Notwithstanding the preceding sentence, new flood insurance coverage may be provided for structures in such protected areas that are used in a manner consistent with the purpose for which the area is protected.".

SEC. 10. RTC AND FDIC PROPERTIES.

(a) REPORTS.—

(1) SUBMISSION.—The Resolution Trust Corporation and the Federal Deposit Insurance Corporation shall each submit to the Congress for each year a report identifying and describing any property that is covered property of the corporation concerned as of September 30 of such year. The report shall be submitted on or before March 30 of the following year.

(2) CONSULTATION.—In preparing the reports required under this subsection, each corporation concerned may consult with the Secretary of the Interior for purposes of identifying the properties described in paragraph (1).

(b) LIMITATION ON TRANSFER.—

(1) NOTICE.—The Resolution Trust Corporation and the Federal Deposit Insurance Corporation may not sell or otherwise transfer any covered property unless the corporation concerned causes to be published in the Federal Register a notice of the availability of the property for purchase or other transfer that identifies the property and describes the location, characteristics, and size of the property.

(2) EXPRESSION OF SERIOUS INTEREST.—During the 90-day period beginning on the date that notice under paragraph (1) concerning a covered property is first published, any governmental agency or qualified organization may submit to the corporation concerned a written notice of serious interest for the purchase or other transfer of a particular covered property for which notice has been published. The notice of serious interest shall be in such form and include such information as the corporation concerned may prescribe.

(3) PROHIBITION OF TRANSFER.—During the period under paragraph (2), a corporation concerned may not sell or otherwise transfer any covered property for which notice has been published under paragraph (1). Upon the expiration of such period, the corporation concerned may sell or otherwise transfer any covered property for which notice under paragraph (1) has been published if a notice of serious interest under paragraph (2) concerning the property has not been timely submitted.

(4) OFFERS AND PERMITTED TRANSFER.—If a notice of serious interest in a covered property is timely submitted pursuant to paragraph (2), the corporation concerned may not sell or otherwise transfer such covered property during the 90-day period beginning upon the expiration of the period under paragraph (2) except to a governmental agency or qualified organization for use primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes, unless all notices of serious interest under paragraph (2) have been withdrawn.

(c) DEFINITIONS.—For purposes of this section:

(1) CORPORATION CONCERNED.—The term "corporation concerned" means—

(A) the Federal Deposit Insurance Corporation, with respect to matters relating to the Federal Deposit Insurance Corporation; and

(B) the Resolution Trust Corporation, with respect to matters relating to the Resolution Trust Corporation.

(2) COVERED PROPERTY.—The term "covered property" means any property—

(A) to which—

(i) the Resolution Trust Corporation has acquired title in its corporate or receivership capacity; or

(ii) the Federal Deposit Insurance Corporation has acquired title in its corporate capacity or which was acquired by the former Federal Savings and Loan Insurance Corporation in its corporate capacity; and

(B) that—

(i) is located within the Coastal Barrier Resources System; or

(ii) is undeveloped, greater than 50 acres in size, and adjacent to or contiguous with any lands managed by a governmental agency primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

(3) GOVERNMENTAL AGENCY.—The term "governmental agency" means any agency or entity of the Federal Government or a State or local government.

(4) UNDEVELOPED.—The term "undeveloped" means—

(A) containing few manmade structures and having geomorphic and ecological processes that are not significantly impeded by any such structures or human activity; and

(B) having natural, cultural, recreational, or scientific value of special significance.

SEC. 11. ACQUISITION OF PROPERTY BY SECRETARY OF THE INTERIOR.

The Secretary of the Interior may purchase any property within the area added to unit T-12 of the System by this Act, as depicted on the maps referred to in section 4(a) of the Coastal Barrier Resources Act. The Secretary of the Interior shall provide that any property purchased under this section is used and administered in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee).

SEC. 12. DEFINITIONS.

For purposes of this Act—

(1) the term "qualified coastal barrier" means an area that would be an undeveloped coastal barrier under section 3(1) of the Coastal Barrier Resources Act (16 U.S.C. 3502(1)) if it were not included in the boundaries of an area established under Federal, State, or local law, or held by a qualified organization, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes;

(2) the term "qualified organization" means such an organization under section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3));

(3) the term "Secretary" means the Secretary of the Interior; and

(4) the term "System" means the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.), as amended by this Act.

SEC. 13. AUTHORIZATIONS OF APPROPRIATIONS.

(a) COASTAL BARRIER RESOURCES ACT.—Section 12 of the Coastal Barrier Resources Act (16 U.S.C. 3510) is amended to read as follows:

"SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to the Secretary for carrying out this Act not more than $1,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993.".

(b) THIS ACT.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary for carrying out this Act not more than $1,000,000 for each of the fiscal years 1991 and 1992.

(2) PROPERTY ACQUISITION.—In addition to the amounts authorized to be appropriated under paragraph (1), there is authorized to be appropriated to the Secretary of the Interior during fiscal years 1991, 1992, and 1993 an aggregate amount of $15,000,000 to carry out section 11.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2840, the Coastal Barriers Improvement Act of 1990.

The central premise of H.R. 2840, and of the law it amends, is that coastal barriers need and deserve special protection and that the Federal Government ought not to encourage unwise development in them. Coastal barriers are important because they create and maintain the wetlands and estuaries that nourish commercial and recreational fisheries; they provide habitat for migratory waterfowl; and they offer boundless opportunities for recreation. They are also extremely vulnerable to erosion and floods. For these reasons, coastal barriers are risky places to live, expensive places to insure and the wrong places to build.

The coastal barrier resources system, which was created with strong bipartisan support 8 years ago, is a proven winner. Although it does not prohibit the development of coastal barriers, it does require that those who wish to develop previously undeveloped barriers do so at their own risk and with their own money, not that of the Federal taxpayer.

As a result, the system has already saved taxpayers an estimated $1 billion. It has discouraged construction in some of the most flood-prone and hurricane vulnerable areas of the world and, in so doing, almost certainly saved human lives. And it has protected fragile coastal barriers of priceless importance to the ecology of our coasts.

H.R. 2840 would double the size of the system by adding more than 750,000 acres of undeveloped barriers and associated wetlands. Included, for the first time, would be almost 30,000 acres along the shores of the Great Lakes; 48,000 acres in the Florida Keys; 20,000 acres in Puerto Rico; and 3,700 acres in the Virgin Islands. Hundreds of thousands of acres along the Atlantic and gulf coasts would be added, as well.

The bill also: allows for the expansion and construction of improvements to navigation channels in the system, provides a process for State and local governments, and qualified private organizations, to elect to include otherwise protected coastal barriers, prohibits flood insurance for new construction in areas designated as otherwise protected, ensures that the area once owned by U.S. Capitol Corp. at Mobile Point, AL, will remain in the system, and requires the Secretary of the Interior to study areas on the Pacific coast for possible inclusion.

The bill was reported unanimously by the Committee on Merchant Marine and Fisheries after 16 months of meetings, hearings, and site visits to areas affected by the bill. Every attempt was made to accommodate those with concerns about the accuracy of the maps drawn by the Department of the Interior that serve as the basis for the legislation.

The bill before us today also includes amendments proposed by the Committee on Public Works and Transportation and the Committee on Banking, Finance and Urban Affairs. Both committees received a sequential referral of the bill, as was the case in 1982. While the Merchant Marine and Fisheries Committee maintains primary jurisdiction over CBRA, I want to thank Chairman ANDERSON and Chairman GONZALEZ for their constructive amendments and for their help in bringing this important measure to the floor.

Mr. Speaker, it is not often we come up with legislation that protects the environment, protects people, and protects the Federal treasury. But that's what the coastal barrier resources system has been doing for the past 8 years. And, with the support of this House, that's what this bill will help us do even more effectively in the years ahead.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I rise in support of the Coastal Barrier Improvement Act, as further amended by the Banking Committee.

In general, the bill expands the existing coastal barrier system by including barrier islands along the shores of the Great Lakes, Puerto Rico and the Virgin Islands, as well as a portion of the Florida Keys. The Banking Committee requested referral of the measure due to its impact on the National Flood Insurance Program.

The Coastal Barrier Improvement Act, with the Banking Committee's modifications, tracks with the original intent of the 1982 Coastal Barriers Resources Act. In passing the 1982 act, Congress stipulated three objectives: First, reducing the loss of human life; second, decreasing wasteful expenditure of Federal revenues; and third, minimizing damage to fish, wildlife and other natural resources associated with coastal barriers.

Passage of this legislation signals this body's intention to continue transfering the risks associated with development on coastal barriers to those who choose live on and invest in these areas. Congress should continue to respect property rights and allow private development, but it should not provide subsidies to those developers.

I feel that the Banking Committee has strengthened the bill in at least two important respects: First, it would prohibit Federal housing assistance and flood insurance to aid the development of an international destination resort on a portion of South Padre Island, TX—an area that is already part of the coastal barriers resource system; and second, prohibit Federal assistance programs which come under the Banking committee's jurisdiction—for example, housing programs, flood insurance—that would facilitate construction of a wetland area in south Texas, located at the mouth of the Rio Grande River; and

I supported these changes since it addresses potential construction in an extremely hazardous area of south Texas, often referred to as "Hurricane Alley." During this century, the Texas shoreline was struck by a hurricane an average of every 2½ years. South Padre Island, in particular, is known for its high-erosion rate, low elevation and high overwash potential. The island has been washed over more than 60 times during strorms in 1933, in 1967's Hurricane Beulah and the 1980 Hurricane Allen.

I wish to note that through the leadership of Congressman ERDREICH, Chairman of the Banking Subcommittee on Policy Research and Insurance, the subcommittee has conducted an extensive review of the National Flood Insurance Program. In its review, it has seen sufficient evidence of the devastation to life and property that results from overzealous and careless construction of coastal lands. This kind of development is not something the Federal Government should condone through its program.

Finally, I am pleased that the legislation provides for an interagency task force comprised of all agencies—11 total—that have programs pertaining to the coastal barrier lands. The task force, to be chaired by the Interior Department, is directed to develop a long-term Federal policy with respect to the barrier islands and examine the impact of CBRA on the National Flood Insurance Program.

Overall, this legislation seeks to protect coastal barriers, but not at the expense of private property rights. Current law does not prohibit construction of coastal barriers, but states that if development is to occur, it should be done at the developers own expense. I believe that this wise policy and I urge support for the bill.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2840 and urge its adoption by the House.

This bill represents months of work by the members and staff of our committee and the Coastal Barriers Office of the Department of the Interior. Our majority and minority staff should especially be commended for the hours they put in meeting with concerned citizens, conducting onsite examinations, and producing the system maps. I also want to thank the U.S. Navy, who provided logistical support for the site visits.

Mr. Speaker, as my colleague Chairman STUDDS has explained, his bill adds additional acreage to the coastal barrier resources system. The system itself is a sound union of conservation and economics. Undeveloped lands included in the system are generally not eligible for Federal assistance. This provides a strong incentive not to develop fragile coastal barriers, and in addition assures the taxpayers that they will not have to pay again and again for buildings that have Federal flood insurance because they are in hurricane-prone areas.

Provisions are included to protect military installations, Coast Guard facilities, energy facilities, and fish and wildlife conservation and management projects from the limitations imposed

by the act. These exceptions are generally the same as is found in existing law.

Finally, the bill provides limited authority for the Secretary to map areas of the Pacific coast for possible future inclusion in the system. Given the current budget limitations we all must face, we expect the Secretary to closely follow the guidance provided in the committee report.

Mr. Speaker, this is a good bill that has been carefully worked out on both sides of the aisle. I urge its passage.

Mr. DAVIS. Mr. Speaker, H.R. 2840, may well affect the lives of the 2,300 Great Lakes landowners who live in my district. The reason I know this is because I contacted overy one of them to explain the coastal barrier resources system and to ask for their help in our deliberations. Because of this, I would like to thank Chairmen HERTEL and STUDDS for their extraordinary cooperation in seeing that the extension of the coastal barrier resources system to this new geographic area is done as fairly and accurately as possible.

The bill reported by the Merchant Marine and Fisheries Committee will include almost 33,000 acres of Great Lakes shoreline and habitat in the system, of which over 13,000 acres are in my district alone. In fact, my district will have more coastal barrier units—36—than any other in the country, and Michigan will have more new CBRA areas—46—than any other State in the Nation, save Virginia and New York.

The areas which were not included in the bill in many cases were misidentified by the Department of the Interior because of outdated maps, unclear aerial photography, and lack of site visits to verify their eligibility. However, the included areas represent the Great Lakes' most fragile coastal shores which are prone to erosion and flooding caused by severe winter storms and which serve as important fish and wildlife habitat.

Mr. Speaker, I urge my colleagues to support the bill as is, which may do much to protect Federal investments when the Great Lakes rise to record levels again, while preserving a delicate balance for those who live and work there. I will be watching the action of the other body, for any changes made in this balance may topple the entire bill.

Mr. NOWAK. Mr. Speaker, I rise in support of the bill. H.R. 2840, the Coastal Barrier Improvement Act of 1990, expands the coastal barriers resources system by adding additional areas on the Atlantic and gulf coasts and, the first time, adding areas along the shores of the Great Lakes. Also, associated aquatic habitat is added to the existing and new units of the system.

This bill, after being reported by the Committee on Merchant Marine and Fisheries, was sequentially referred to the Committee on Public Works and Transportation. We had some concerns with the bill as it related to the construction and maintenance of Corps of Engineers navigation projects, but we were able to resolve these concerns with the Merchant Marine Committee without the need for formal committee action on our part. I wish to thank that committee and its chairman, the gentleman from North Carolina, for their cooperation in this matter.

H.R. 2840 improves the coastal barriers system by adding new units which will increase the protection of near shore areas which are of great importance to fisheries and wildlife. I am pleased that areas along the shores of the Great Lakes have been added, in order to protect critical resources in the lakes.

I urge passage of the bill.

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 2840, the Coastal Barrier Improvement Act. This legislation amends the Coastal Barrier Resources Act to provide increased protection to our undeveloped coastal barrier islands.

During the 97th Congress, I was pleased to participate in developing legislation to establish the coastal barrier resources system. This statute created a program to protect undeveloped barrier islands from future development by prohibiting Federal assistance, such as flood insurance and other revenues that promote economic growth, within the coastal barrier system.

In addition, the act embodied an important goal: to minimize the loss of human life by discouraging development away from high hazard areas.

Although most of the barrier islands in my district in New Jersey are developed, I support the addition of the area in Stone Harbor, Moores Beach, Kimbles Beach, and south of Pierces Point into the coastal barrier system. The three areas recommended for inclusion into the system along the Delaware Bay are part of the Atlantic Flyway consisting of critical habitat for migratory waterfowl, raptors, and shorebirds.

Coverage under the act would subject these areas to prohibitions against Federal expenditures and financial assistance, including Federal flood insurance, for any new construction or structural improvements within the units. Such improvements as buildings, airports, roads, bridges, causeways, piers, jetties, seawalls, water supply and sewage systems, and lines would be curtailed and VA or FHA loans would be restricted.

Mr. Speaker, once again, I want to express my strong support of H.R. 2840 and I urge my colleagues' support of the legislation.

Mr. JONES of North Carolina. Mr. Speaker, I support H.R. 2840, a bill to reauthorize and amend the Coastal Barrier Resources Act. The bill would expand the coastal barriers resources system along the east and gulf coasts primarily by adding thousands of acres of wetlands and estuarine areas to existing coastal barrier units. It also would for the first time add to the system important areas in Puerto Rico, the Virgin Islands, the Florida Keys, and the Great Lakes.

The Committee on Merchant Marine and Fisheries reported this bill after numerous hearings, a number of site visits, and hundreds of meetings with interested parties and committee staff. It is an excellent bill, due to these efforts and the tireless work of Congressman STUDDS, Congressman YOUNG, and Congressman DAVIS. We also have worked closely with the Committees on Public Works and Transportation and Banking, Finance and Urban Affairs in order to bring this legislation to the floor, and I thank them for their cooperation.

This bill has a direct impact on the districts of many Members that serve on the Merchant Marine and Fisheries Committee. I want to commend the committee members for their assistance and cooperation on H.R. 2840. In particular, I would like to thank Mr. ORTIZ for his perseverance in working with the Banking Committee on issues affecting his district.

Congress passed the original Coastal Barriers Resources Act in 1982 to protect the fragile environments of undeveloped coastal barriers and to trim Federal deficts. Neither current law nor H.R. 2840, as amended, prohibits the development of coastal barriers. It does, however, prohibit Federal expenditures and financial assistance in support of development within the coastal barriers system. Thus, if these barriers are developed, it will be at the risk of the developer, not at the risk of the taxpayer. Nor will the Federal Government be in the business of subsidizing or encouraging unwise, unsafe development on our Nation's few remaining undeveloped coastal barriers.

In particular, I was pleased that H.R. 2840 included a portion of Nags Head woods in the coastal barriers system. Nags Head woods is an irreplaceable maritime forest located in my district on the Outer Banks of North Carolina. Part of this critical maritime forest is now under the control of the Resolution Trust Corporation [RTC].

Many people and a number of organizations have worked for years to protect and conserve Nags Head woods—which is one of the last remaining maritime forests in the Nation. The woods consists of valuable marshlands, pine hammocks, ridge forests, and dunes, which support and extraordinary diversity of life when compared to the usually harsh environment of a coastal barrier. In fact, Congress declared the woods a natural landmark in 1974—a nice title that offered no real protection.

The nature conservancy and the town of Nags Head have had some success in their work to protect the area from development and have set aside more than 700 acres as a nature preserve. In 1987, a 389-acre block of the woods came under the control of a local savings and loan institution which failed before the area could be developed. Subsequently, the savings and loan, and thereby the 389-acre block of the woods, was taken over by RTC. Those involved in trying to conserve this area were concerned that RTC would sell this property for development without considering its unique natural resource valuse. Therefore, the local community contacted my office and requested assistance.

At this point, I along with almost the entire North Carolina delegation requested a briefing from RTC regarding Nags Head wood and subsequently wrote a letter to RTC. The letter expressed our concern about the potential disposition and development of the woods and encouraged RTC to work closely with local and State officials to ensure that opportunities to protect this area are fully realized. We also requested that we be kept informed of the status of RTC's efforts to dispose of the property.

I must say the results of these efforts have been disappointing. Although RTC replied to our letter and promised to keep us informed, it has been extremely difficult to obtain information about the disposition of this property. Of even greater irritation is the fact that RTC's latest inventory of its available properties does not list Nags Head woods as an area containing natural values of special significance. This is despite the significant concern which has been expressed by Federal, State, and local governmental entities, conservation groups, our congressional letter, and an extensive evaluation or the natural resource values of Nags Head woods prepared by the U.S. Fish and Wildlife Service. Given its behavior on this matter, I have to question RTC's commitment to identifying natural areas of special concern as mandated by current law.

Accordingly, I am very happy that this portion of Nags Head woods would be included in the coastal barriers system under H.R. 2840. In addition, this bill will require RTC to prepare a report in consultation with the Department of the Interior regarding any property under RTC's control that is a part of the coastal barriers system. RTC will also be required to publish a notice in the Federal Register of any plans to sell these properties. Furthermore, RTC will be directed to allow Federal or local government agencies and nonprofit groups 90 days to express their interest in purchasing this property for conservation or other public purposes. This is an important step forward in our efforts to conserve a significant part of North Carolina's coastal heritage.

In summary, I strongly advocate the passage of this bill. The Coastal barriers Resource Act is fiscally responsible and benefits the environment at the same time—a rare combination that deserves the support of Congress.

Mr. SAXTON. Mr. Speaker, I rise in support of the Coastal Barrier Improvement Act, H.R. 2840. This will continue a policy of saving lives, saving money and saving the environment.

Coastal Barrier islands serve to protect inland communities as natural barricades against the awesome power of hurricanes like Camile and Hugo. They are risky areas to live, and expensive area for the taxpayers of this country to insure against inevitable disaster. Thus far, it has been estimated that the Coastal Barrier Resources Act has saved the American taxpayer over $1 billion.

Further, these fragile coastal structures are vital to the integrity of the coastal environment. They provide essential habitat for commercial and recreational fish and shellfish species. They provide refuge for threatened and endangered species of migratory birds and water fowl. And they are nature's buffer against the onslaught of erosion.

I was happy to amend this bill to include Cedar Bonnet Island in New Jersey as part of the coastal barrier resource system and encourage my colleagues to support this bill as a responsible, environmental, and fiscally pragmatic action.

Mr. VENTO. Mr. Speaker, I rise in support of the Coastal Barriers Improvement Act as amended and urge my colleagues to support this needed legislation.

The coastal barriers resource system is an extremely valuable Federal program with numerous public benefits including public safety, environmental protection, and the saving of taxpayers dollars. Coastal barriers protect communities against the devastation that can result from hurricanes, storms, and erosion. They also protect coastal wetlands which are vital to commercial and recreational fisheries and are habitat for wildlife including endangered species and millions of waterfowl. All of this environmental and economic protection comes with a price savings to the American taxpayer. Expansion of the coastal barriers system can save the Federal Government billions of dollars in flood insurance, construction subsidies, and disaster relief. Environmental protection, preservation, and tax savings reasons therefore mandate strong support for this bill which will add over 850,000 acres to the coastal barriers resources system. I thank Mr. STUDDS for his leadership on this initiative.

I would also like to thank Mr. GONZALEZ for his work on this bill in the Banking Committee. The bill before us contains a modified version of language adopted in the Banking Committee. These provisions will add additional environmental and economic protection for units T-11 and T-12 located along the south coast of Texas.

The bill before us also modifies the provisions adopted by the Banking Committee which I worked on relating to properties held by the Resolution Trust Corporation and the Federal Deposit Insurance Corporation. Under the bill, the RTC and FDIC will submit a report to Congress each year identifying undeveloped property they hold which is over 50 acres and is adjacent to or contiguous with land managed by a governmental agency for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes. For a 90-day period, only Federal, State, or local government entities and nonprofit organizations properties could submit an offer to buy these properties. The RTC and FDIC could not sell or otherwise transfer a covered property for 90 days following the expression of interest unless the sale or transfer is to a governmental agency or nonprofit organization primarily for various environmental, recreational, or historical purposes.

This provision is a compromise reached with the RTC and FDIC. While I would have preferred a broader provision, this amendment is an important step toward gaining a better understanding of the properties within RTC and FDIC holdings and toward wise governmental stewardship of the lands they hold.

On September 7, the RTC task force which I chair held a hearing on the natural, cultural, and recreational resource policy of the RTC as it relates to the disposition of assets. The good news that came out of this hearing was that the RTC can help protect environmentally sensitive properties without straying from its statutory mandate to maximize the return on the disposal of its assets. The bad news is that the RTC hasn't developed an adequate program to accomplish this yet.

The bill before us will help us get a clearer picture of the what properties are in the RTC and FDIC inventories. It will also give governmental agencies and nonprofit organizations an opportunity of limited duration to buy land with important resources in order to preserve those resources for future generations. It is a good first step and I urge my colleagues to support this important bill.

Mr. ANDERSON. Mr. Speaker, H.R. 2840, the Coastal Barrier Improvement Act of 1990, was sequentially referred to our Committee on Public Works and Transportation after being reported by the Committee on Merchant Marine and Fisheries. The referral was based on its effect on programs within our jurisdiction such as the highway program and the Water Resources Program of the Corps of Engineers.

We were able to resolve our concerns with this legislation with the Merchant Marine Committee without the need for formal committee action on our part. For that, I wish to thank the distinguished chairman of that committee, the gentleman from North Carolina, and the other members of the committee.

H.R. 2840 expands the coastal barrier system and makes other improvements to the basic act establishing the system. Coastal barriers are landforms including barrier islands, barrier spits, and bay barriers. They protect nearby coastal areas such as estuaries and lagoons which serve as nursery grounds for numerous marine species. The coastal barriers resource system was established in 1982, and protects these areas by prohibiting Federal expenditures and financial assistance which encourage development. The 1982 act included areas on the Atlantic and gulf coasts. H.R. 2840 adds areas on these coasts as well as areas in the Great Lakes. It also directs the Secretary of the Interior to study the need for protecting undeveloped coastal barriers on the Pacific coast south of 49 degrees north latitude. I am pleased to support this legislation and urge its passage.

Mr. ORTIZ. Mr. Speaker, I rise in support of the Coastal Barrier Improvement Act, H.R. 2840 and would like to revise and extend my remarks.

I would like to take this opportunity to thank Chairman JONES and Chairman STUDDS for their hard work on this bill.

I appreciate the overtime and special attention given by the staffs of both the Merchant Marine and Fisheries Committee and the Banking, Finance and Urban Affairs Committee.

I would like to take this opportunity to clarify certain provisions in the bill that pertain to two units in my congressional district, T-11 and T-12.

Included in this bill is the prohibition of HUD assistance and Federal flood insurance to areas adjacent to unit T-11.

It is my understanding that the intention of this provision is directed at prohibiting Federal funds from being used in a way that directly facilitates development on unit T-11 which is included in the CBRS.

My concern is that this legislation will not be misinterpreted to penalize communities adjacent to unit T-11 from receiving flood insurance and HUD assistance that they are normally entitled to on the basis that they are geographically located next to unit T-11.

It is my hope we can agree upon more exact language to clarify the intent of certain

provisions which affect citizens in communities adjacent to unit T-11.

With regard to unit T-12, the Department of the Interior is authorized to purchase certain property in that unit that is especially environmentally sensitive.

I believe this is a very fair and reasonable compromise and it responds to the needs of the local community as well as concerns raised by many environmental groups.

Again, I appreciate the many long hours that were spent by Members and staff to ensure that many areas would not be adversely impacted by this legislation.

Mr. DELAY. Mr. Speaker, I rise to commend the Committee on Merchant Marine and Fisheries and their staff for the many hours of hard work that went into the Coastal Barrier Improvement Act of 1990. While I have some definite mixed feelings about the bill, I believe that the committee endeavored to meet all the concerns of those Members' districts that were affected by the measure and were successful at ameliorating most of those worries.

My main concern with the bill is its ever-increasing jurisdiction of the Coastal Barrier Resources Act. When the act was originally tailored in 1982, it was for the sole purpose of protecting many of the weather-stricken coastal barrier islands which surround our coastal mainland. Some people felt economic development occurring on these islands was having a detrimental effect on the surrounding ecosystem. Out of this thinking was born the Coastal Barrier Resources Act which sought to effectively shut off any type of development by withholding much needed Federal flood insurance.

From this start, the act has been expanded to include not only coastal barrier islands, but also coastal mainland, as is the case in my district southwest of Houston. This expansion in the definition of a coastal barrier is clearly inconsistent with the original intent of the act. If we are going to try to save barrier islands then let's get on with the protection of barrier islands, not with shutting off essential inland economic development. Land in Brazoria County, TX, in my district, which was recommended by Interior to be included into H.R. 2840, provides the Port of Freeport with some of the only suitable property by which to carry out critical development.

The State of Texas, and in particular, Brazoria County, have an outstanding record of encouraging wildlife conservation while simultaneously supporting vital development. More than 42,000 acres have been preserved for wildlife conservation. Only in Brazoria County can on find one of the world's largest petrochemical complexes coexisting in harmony with one of our Nation's largest bird sanctuaries.

While supporters of the CBRS report and this legislation may believe that all of the coastal activities which this bill prohibits can be done inland, it is ridiculous to advocate that our ports be built many miles inland when their purpose is to service ships on the water. Ports need to be near the open water. Freeport Harbor has all the natural characteristics to provide the location for a deepwater port which would have the least impact on the surrounding environment.

Freeport, TX, which is in my district, is not a coastal barrier. It is frontal mainland. The islands in this area that are continually identified as barrier islands are not that at all. They are not formed by nature, but only exist because of the Intercoastal Waterway, a manmade canal. Studies have confirmed that if the waterway were not dredged continuously, they would eventually be filled in by the Brazos River and the diversion channel.

Further, the constant change in the definition of a coastal barrier over the past dozen years has made it impossible for responsible authorities to plan responsible development. As a result of the 1982 law and its definition, the Brazos River Harbor Navigation District formed a master plan for the development of the Port of Freeport. The plan was carefully crafted with input not only from the business community, but also civic leaders, elected officials, environmentalists and local citizens.

This plan was designed to properly balance the concerns of all interested parties. Over the past several years, the authority has been acquiring many properties included in the plan for its future use. In fact, the district has already converted some of this property into a wildlife refuge to demonstrate its commitment to environmentally responsible development.

Congress recently concluded that Freeport is important to our Nation's commerce and appropriated $103 million to dredge the harbor. It is ludicrous to invest in this harbor only to restrict severely the taxpayers from realizing the full potential of the port's benefits. Brazoria County has proven to be extremely responsible in managing their coastal resources and need no further interference from the Federal Government regulators.

I strongly object to coming back in the future to carry out any new studies which would effectively expand the jurisdiction of the Coastal Barrier Resources Act. At the present rate of growth, it is conceivable that the act might someday include parts of Missouri, Oklahoma, or maybe even Montana. It's time to stop the growth of the act.

Mr. STANGELAND. Mr. Speaker, I rise to address provisions in H.R. 2840, the Coastal Barrier Improvement Act of 1990. The bill expands the coastal barrier resources system and advances water quality protection and sensitive shoreline development measures.

First, let me commend those who have worked on the bill and briefly describe the involvement of the House Public Works and Transportation Committee. The Merchant Marine and Fisheries Committee has played a lead role in development and passage of the bill. In addition, the Banking, Finance and Urban Affairs and Public Works and Transportation Committees received sequential referrals and provided significant input.

On the whole, H.R. 2840 offers important protections for not only sensitive coastal barriers but also our Federal Treasury. This bill should help to restrict unwise shoreline development, unacceptable coastal degradation, and unjustified Federal expenditures.

For these and other reasons, I urge my colleagues to support H.R. 2840.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 2840, the Coastal Barrier Improvement Act. While I had reservations about the implications that the original proposal would have had on the Florida Keys, I do support the committee-approved version of H.R. 2840. I want to commend our colleague, the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, because he has worked very hard to bring this proposal to the floor and, I believe, we all appreciate his attention to detail and his willingness to address the concerns that many of us had with respect to this legislation.

The coastal barriers study group correctly stated the significance of the many natural resources of the Florida Keys. The protection of this environment has long been the subject of my concern and will continue to be one of my foremost priorities. I am still somewhat wary of the recommended definition change of a coastal barrier to include land formations composed of carbonate-cemented and mangrove shorelines, such as the Florida Keys. When we consider such definition changes which expand the scope of any program, such as the CBRS, we must, as policymakers, do so with caution. Those of you who have been to the Florida Keys know of its sensitive and unique environment, and you know that what is good for Padre Island is not necessarily going to work in the Florida Keys.

I opposed the inclusion of the Florida Keys in the coastal barrier resource system [CBRS] when it was first proposed, but I believe that the agreement reached effectively incorporates the CBRS program in the keys. Like any compromise, some people will want more of the keys included, and others will want none of the keys included. I am satisfied that, after cross referencing of the maps with the Monroe County land use plan was performed, we are indeed protecting undeveloped and unprotected tracts of land.

I think the carefully constructed agreement reached by the Merchant Marine and Fisheries Committee, and supported by the Banking, Finance and Urban Affairs Committee, does apply the CBRS in a manner which will prove to be effective and I urge our colleagues to support H.R. 2840.

Mr. WELDON. Mr. Speaker, today the U.S. Congress is presented with the opportunity to save lives, taxpayers' money, and America's coastal environment. The House should not let this once in a lifetime opportunity slip away, and pass H.R. 2840, the Coastal Barrier Improvement Act, to reauthorize and add to the coastal barrier resources system [CBRS].

Since its inception in 1982, CBRS has saved the U.S. taxpayers almost $1 billion. It also has prevented unwise development on many of our Nation's most environmentally important coastal barriers.

The program has been so successful that portions of the Florida Keys are included in the reauthorizing legislation. So too, portions of the Pacific Coast may soon be incorporated.

As a member of the Merchant Marine and Fisheries Committee, I have been a strong advocate of expanding CBRS. Working with Subcommittee Chairman STUDDS, I helped ensure that H.R. 2840 also contained language that would allow military bases to be incorporated into the system.

Passage of H.R. 2840 will ensure the viability of the coastal barrier resources system

through 1993. I urge my colleagues to support this vital reauthorization.

Ms. SCHNEIDER. Mr. Speaker, I rise in strong support of H.R. 2840, the reauthorization of the Coastal Barrier Resources Act. This act which created the coastal barrier resources system, was first passed in 1982, and has been a sweeping success. I am enthusiastic about reauthorizing this excellent program.

The system is a unique environmental program. It protects our ecologically valuable and sensitive coastal barrier beaches without infringing upon private property rights, and has saved the American taxpayer nearly $1 billion. The expansion of the system contained in this bill could save an additional $10 billion over the next 20 years. That is quite a bargain.

Members of the Merchant Marine and Fisheries Committee have worked long and hard on this legislation, and everyone's efforts are quite evident by the excellent bill that we are considering today. This bill expands and improves the system by bringing in new lands all along the Atlantic and gulf coasts, and for the first time includes lands in the Florida Keys, the Great Lakes, Virgin Islands, and Puerto Rico.

I am especially proud of the inclusion of 8 additional miles of shoreline in Rhode Island to the system, including Easton's Beach in Newport and Middletown. Those of us who are concerned about the diminishing lack of public access to our coastline, and especially to our beaches, applaud the expansion of the system in Rhode Island, and elsewhere around our Nation.

We rarely see legislation that can save the Federal Government billions of dollars, and at the same time protect property and lives, and preserve the Nation's coasts. I urge all of my colleagues to support this excellent bill, and to continue to support this exceptional program.

Mr. GOSS. Mr. Speaker, I would like to congratulate the chairmen and ranking members of the Fish and Wildlife and Oceanography Subcommittees of the Merchant Marine and Fisheries Committee for their efforts to bring coastal barriers legislation before us.

Protection of coastal barriers is sound environmental and fiscal policy, and it is a concept I supported long before entering Congress. Coming from a barrier island myself, I am acutely aware of the unique land management challenges facing local officials in these areas.

Effective coastal barrier legislation plays an important role in wise land management in these areas, but it should not be taken as a be all and end all for local planning. Rather, it is a beneficial component in this process, and for the most part in my district it is viewed as such. For these reasons, I have chosen to cosponsor this legislation, despite my reservations about certain aspects of the legislation.

It is my understanding that the Department of Interior has a process whereby specific units can be modified with the concurrence of Congress. I hope and fully expect that this process is responsive to those who have been included unreasonably in the system. We need a way to respond to those who may have legitimate reasons to believe that minor adjustments to the map can serve the interests of private property owners and the appropriate unit of local government without compromising the spirit and intent of this legislation.

I have heard from a number of constituents who have reservations about the process we have followed and the apparent lack of access interested parties have to comment about local land use concerns. I am supportive of allowing the review and appeal process to function properly. However, I will monitor the process closely and if, in my estimation, the process becomes arbitrary or unresponsive, I may offer corrective legislation in the future that addresses these concerns without destroying the environmental or fiscal benefits of this program.

Mr. ERDREICH. Mr. Speaker, H.R. 2840, reauthorizes the Coastal Barrier Resource System and increases the overall acreage of the Coastal Barrier Resource System to include an additional 700,000 acres of aquatic habitat and fastland. This important legislation reinforces Congress's recognition that undeveloped coastal barriers are physically and economically unsuitable for development. This bill provides protection against the loss of life, conserves the wildlife habitat, reduces wasteful Federal expenditures and preserves the solvency of the National Flood Insurance Fund. The Committee on Banking, Finance and Urban Affairs supports the continuance and expansion of the prohibition of Federal financial assistance within newly defined undeveloped coastal barriers.

The history of this comprehensive legislation is the product of a combination of efforts by the Congress. In 1981, the Committee on Banking, Finance and Urban Affairs was considering the Omnibus Budget Reconciliation Act of 1981 [OBRA]. At that time, the Banking Committee amended the National Flood Insurance Act of 1968 to deny the issuance of Federal flood insurance coverage for new and substantially improved construction on undeveloped coastal barriers. The House and Senate later adopted the reconciliation legislation and compromised on the flood insurance prohibition by deferring the effective date of the prohibition of flood insurance until October 1, 1983.

The Coastal Barrier Resource Act of 1982 built upon the initiatives of the House and Senate Banking Committees in OBRA by establishing the Coastal Barrier Resource System and expanding the limitation of Federal expenditures and financial assistance in undeveloped coastal barriers. The Coastal Barrier Resource System included 186 of undeveloped coastal barriers on the Atlantic and Gulf of Mexico coasts designated by the Department of Interior as directed in OBRA. The Coastal Barrier Resource Act also included a definition of financial assistance incorporating the prohibition of flood insurance in OBRA and including community block grants and Federal Housing Administration housing loans.

In addition, the Coastal Barrier Resource Act required the Department of Interior to recommend changes to the act which were submitted to the Congress in December 1988. The Department of Interior recommended definitional changes and the expansion and deletion of units in the Coastal Barrier Resource System. Most of the recommended changes were incorporated in H.R. 2840, the Coastal Barrier Improvement Act of 1990.

A parcel of land in Mobile Point, AL, however, was deleted from the system. I have worked with my colleagues on the Banking Committee to continue the financial prohibitions on this parcel within the Banking Committee's jurisdiction and I also asked the Merchant Marine and Fisheries Committee to keep this parcel in the system. Today, I am pleased that the Merchant Marine and Fisheries Committee has agreed to keep that parcel in the Coastal Barrier Resource System.

I want to commend my colleagues on the Banking Committee for their thoughtful consideration of this legislation which I believe is stronger as a result. In addition, I want to commend the Merchant Marine and Fisheries Committee, and especially Chairman STUDDS, of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, for their 16 months of tireless effort in bringing this important legislation forward.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 2840, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1200

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2840, the bill just passed.

The SPEAKER pro tempore (Mr. TORRES). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ALASKA MARITIME WILDLIFE REFUGE BOUNDARY MODIFICATION

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5264) to authorize modification of the boundaries of the Alaska Maritime National Wildlife Refuge, as amended.

The Clerk read as follows:

H.R. 5264

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

For the purposes of this Act, the term—

(1) "Koniag" means Koniag, Incorporated, an Alaska Native Corporation established

pursuant to the Alaska Native Claims Settlement Act of 1971 (85 Stat. 688), as amended;

(2) "limited general warranty deed" means a general warranty deed which is, with respect to its warranties, limited to that portion of the chain of title from the moment of conveyance from the United States to Koniag to and including the moment at which such title is validly reconveyed to the United States of America and its assigns; and

(3) "Secretary" means the Secretary of the Interior acting through the Director of the United States Fish and Wildlife Service.

SEC. 2. LANDS TO BE EXCHANGED.

(a) LANDS EXCHANGED TO THE UNITED STATES.—(1) The Secretary is directed to accept from Koniag a conveyance by limited general warranty deed of the surface and subsurface rights to approximately two hundred and nine acres of land on Kodiak Island, Alaska, designated "Koniag Lands" upon a map entitled "Koniag Land Exchange", dated September 4, 1990, and available for inspection in appropriate offices of the United States Fish and Wildlife Service.

(2) The lands described in paragraph (1) shall be included in the Alaska Maritime National Wildlife Refuge as of the date of the acceptance of the conveyance from Koniag.

(b) LANDS EXCHANGED TO KONIAG.—In exchange for the lands conveyed by Koniag under subsection (a)(1), the Secretary shall, subject to valid existing rights and notwithstanding any other provision of law, convey to Koniag, from within those lands designated as Tracts 1, 2 and 3 upon the map identified in subsection (a)(1), the surface and subsurface rights to an amount of land selected by Koniag which has a total value, as determined by the appraisals performed under section 3, equal to the sum of the value of the Koniag lands described in subsection (a)(1), plus one half of the cost of all appraisals performed under section 3 of this Act. Such conveyance shall be by quitclaim deed, based upon a metes and bounds description of the land to be conveyed.

SEC. 3. DETERMINATION OF LAND VALUES.

(a) SELECTION OF APPRAISERS.—Not later than sixty days after the enactment of this Act, the Secretary and Koniag shall each select an appraiser who shall independently perform an appraisal of the fair market value of the lands identified in section 2 of this Act. Each such appraiser shall be a member of or certified by the Appraisal Foundation and shall have a professional designation compatible with the valuation to be performed. Such appraisals shall be performed in conformity with the standards of such Foundation. Any special instruction regarding the performance of the appraisals shall be issued only upon the mutual agreement of the Koniag and the Secretary.

(b) DIFFERENCES IN APPRAISALS.—(1) In the event that the appraisals conducted under the provisions of subsection (a) shall differ by less than 20% in their assignment of value to either the tract identified under section 2(a)(1) or to any of the tracts identified in section 2(b), the value assigned to that tract shall be an amount equal to the lower of the two appraisals, plus one-half of the difference between the two appraisals.

(2) In the event the appraisals delivered under the provisions of subsection (a) shall differ by more than 20% in their assignment of value to either the tract identified under section 2(a)(1) or the tracts identified in section 2(b), the Secretary and Koniag shall jointly select a third appraiser who meets the requirements of this section. Such third appraiser shall review the previously delivered appraisals of the tracts in question, and shall be instructed to reach a determination of value for the tract in question that lies between the values determined for that tract by the previous appraisals. The value determined by such third appraisal shall be binding upon both the Secretary and Koniag.

(3) Koniag shall bear the cost of all such appraisals, but shall be reimbursed in land by the United States for one-half of such costs pursuant to the provisions of section 2(b).

SEC. 4. TIMING.

(a) INITIAL APPRAISALS.—The appraisals required under section 3(a) shall be completed and delivered to the Secretary and to Koniag within one hundred and twenty days of the selection of the appraisers.

(b) REVIEW APPRAISAL.—In the event a review appraisal is required pursuant to the provisions of section 3(b)(2) of this Act, such review appraisal shall be completed and delivered to the Secretary and to Koniag within sixty days of the selection of that appraiser.

(c) CONVEYANCE BY KONIAG.—Koniag shall have one hundred eighty days after the date of the delivery of the appraisals performed under section 3(b)(1) or 3(b)(2), as the case may be, to convey to the Secretary the lands described in section 2(a)(1), and a technically correct description of lands to be conveyed to them under section 2(b). The Secretary may extend such time for good cause.

(d) CONVEYANCE BY THE SECRETARY.—The Secretary shall convey to Koniag the lands identified by them pursuant to section 2(b) within one hundred eighty days after his approval of Koniag's conveyance pursuant to subsection (c). Those lands conveyed to Koniag under this Act shall be excluded from the exterior boundaries of the Alaska Maritime National Wildlife Refuge.

SEC. 5. EFFECT ON TITLE TO TIDAL OR SUBMERGED LANDS.

(a) CLAIMS BY THE STATE OF ALASKA.—No provision of this Act shall be construed to invalidate or validate or in any other way affect the State of Alaska's claim that title to any or all of the tidal or submerged lands conveyed or to be conveyed hereunder vested in the State at statehood nor shall any actions taken pursuant to or in accordance with this section operate under any provision or principle of law to bar the State of Alaska from asserting at any time its claim of title.

(b) OTHER CONSIDERATION.—Should it be determined by a final order, not subject to further appeal and issued by a court of competent jurisdiction, that title to some or all of the lands conveyed or purported to be conveyed under the authority of this section is in the State of Alaska, then within six months after the final order the Secretary shall take all actions necessary to achieve rescission and restitution to establish status quo ante with regard to the exchange authorized in section 2 of this Act unless Koniag and the Secretary mutually agree to the identity of other consideration to be granted to Koniag, which consideration shall have a value equal to the value of those lands, the title to which is in the State of Alaska or mutually agreee to extend the six month period.

SEC. 6. RESTRICTIONS AND LIMITATIONS.

In order to protect the United States Coast Guard Holiday Beach receiver site, the lands to be conveyed to Koniag under subsection 2(b) of this Act shall be subject to the same restrictions and limitations on their use as are the adjacent lands which were conveyed to Koniag subject to the agreement dated December 9, 1977, between the Commandant of the United States Coast Guard and Koniag. Such restrictions and limitations shall be considered in determining the fair market value of the lands under section 3 of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5264 is a bill to modify the boundaries of the Alaska Maritime National Wildlife Refuge by authorizing an exchange of lands between the refuge, which is on Kodiak Island, and Koniag, an Alaskan Native corporation.

There is no question, based on the testimony that we have received from the U.S. Fish and Wildlife Service, that the wildlife values of the lands being acquired by the Service in this exchange far exceed the wildlife values of those being turned over to the corporation. The key issue, then, is whether a fair overall value for the lands can be established. And also whether the State of Alaska might possibly have a claim to some of the lands involved. Through the efforts of the bill's author, Mr. YOUNG, whose wisdom in matters requiring a compromise would put even King Solomon to shame, these issues have been satisfactorily resolved.

This is a good bill. It is supported by the administration. And it will make a small, but significant, contribution to the conservation of fish and wildlife resources for the United States. I hope—and believe—that it will be approved without controversy today.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5264 and urge its adoption.

This bill directs the Secretary of the Interior to accept title to approximately 209 acres of wetlands on Kodiak Island, AK, in exchange for conveying submerged lands of equal value to Koniag, Inc., an Alaska Native corporation.

The bill provides a means of appraising the fair market value of the lands in question and resolving disagreements over values. It protects the right of the State of Alaska to exercise a claim of title to the submerged lands, with a provision for Koniag to be compensated with alternative lands if the title challenge is successful. The bill also ensures that certain restrictions on use of the submerged lands would continue in effect if necessary to avoid interference with Coast Guard communication systems.

Mr. Speaker, this bill expands the Alaska Maritime Wildlife Refuge at no significant cost to the U.S. taxpayers. It has been thoroughly reviewed by all parties affected and they agree that it should be passed.

Finally, Mr. Speaker, I want to thank my colleagues on the majority for their help in expediting approval of this bill, and I want to specially thank the majority and minority staff of this committee who spent hours resolving problems with this small but important land exchange bill.

I urge passage of H.R. 5264.

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just say that it takes an extraordinary person to represent an extraordinary State. The gentleman from Alaska [Mr. YOUNG] has done it in an exemplary fashion, and this is just the most recent example.

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

Mr. SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 5264, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS REGARDING NEED FOR A NATIONAL POLICY TO REBUILD INFRASTRUCTURE

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 362) expressing the sense of Congress concerning the need for a national policy to rebuild the infrastructure of the United States as amended.

The Clerk read as follows:

H. CON. RES. 362

Whereas the United States must invest in the core infrastructure of the Nation (including roads, bridges, public transit, airports, public buildings, and water supply and wastewater treatment facilities) in order to ensure that the quality of life so valued by this generation will be in place for future generations;

Whereas it is widely recognized that the condition of the infrastructure of the United States is at a crisis stage thereby endangering public safety, jeopardizing the economy, and diminishing the overall quality of life in the United States;

Whereas recent economic studies demonstrate a direct link between infrastructure spending and economic growth and productivity;

Whereas capital investment by the United States in public works dropped from 2.3 percent of the gross national product in 1960 to less than 1.1 percent of the gross national product in 1985;

Whereas the United States currently ranks 55th in the world in capital investment in public work;

Whereas Congress has left unspent multibillion dollar balances in transportation trust funds;

Whereas the American Association of State Highway and Transportation Officials estimates that an annual capital investment of $80,000,000,000 to $100,000,000,000 is required to meet future highway transportation needs;

Whereas current annual expenditures by all levels of government for highway transportation needs is $66,000,000,000;

Whereas over 41 percent of the 577,710 bridges listed in the 1988 National Bridge Inventory are either structurally deficient or functionally obsolete and the Federal Highway Administration estimates that, between 1990 and 2005, a $93,000,000,000 investment in bridges will be needed;

Whereas the situation facing the Nation's overburdened airport and airway system is becoming critical;

Whereas according to the Federal Aviation Administration, more than 696,000,000 passengers per year are expected to fly on commercial airlines by 1998;

Whereas this figure represents a 70 percent increase from the 409,000,000 passengers which the Federal Aviation Administration estimates flew on commercial airlines in fiscal year 1986;

Whereas since 1980, there has been, in real terms, a 50 percent reduction of Federal spending in mass transit and the American Public Transit Association reports that doubling Federal investment in mass transit is necessary;

Whereas the Environmental Protection Agency has estimated that over the next 10 years roughly $56,000,000,000 is needed for capital construction to meet water supply needs;

Whereas the Environmental Protection Agency has estimated that 10,835 wastewater facilities have documented water-quality or public health problems and that wastewater treatment plant construction will require an additional investment of $83,500,000,000 to meet the needs of the United States population in 2008;

Whereas the General Services Administration has estimated that more than 12,000,000 square feet of Federal office and court space needs to be built over the next 5 years to meet presently identified needs: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) 1991 should be considered as Rebuild America Year;

(2) a national effort to rebuild the infrastructure of the United States should be undertaken to provide assistance to States and localities in meeting core infrastructure needs;

(3) the multibillion dollar balances in the Highway and Airport Airway Trust Funds should be spent down as part of a national effort to rebuild the infrastructure of the United States;

(4) the President should work with Congress to establish a comprehensive national infrastructure policy and to revitalize and supplement existing programs in order to achieve this goal;

(5) Federal, State, and local governments (including public works agencies), and the private sector should share their expertise and support in formulating and developing a national effort to rebuild the infrastructure of the United States; and

(6) the President and Congress should dedicate appropriate funding, including innovative financing incentives, to implement a coordinated and cooperative national effort to rebuild the infrastructure of the United States.

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from California [Mr. ANDERSON] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this year the Committee on Public Works and Transportation has been working to heighten the awareness of our colleagues and the public on the Nation's infrastructure crisis. We have held hearings here in Washington on infrastructure needs and the impact of infrastructure on our Nation's economy and productivity. We have had a roundtable discussion with a panel of distinguished economists.

In order to get a better handle on local infrastructure needs, we have held 10 field hearings with additional ones scheduled. We have also scheduled for October a technology fair to exhibit emerging infrastructure innovations.

Consistent with these efforts is House Concurrent Resolution 362 which expresses the sense of the Congress concerning the need for a national policy to rebuild the infrastructure of the United States.

Before I address the resolution, I would like to pay special recognition to my good friend and colleague, the gentlelady from California, [Mrs. BOXER], who worked with me very closely in developing this measure and who has been an enthusiastic supporter of the infrastructure cause.

House Concurrent Resolution 362 points out the inadequacies of our existing public facilities and includes estimates of the dollars needed to meet our infrastructure needs.

It expresses the sense of Congress that: 1991 should be considered as re-

build America year; a national effort should be undertaken to help States and localities meet their core infrastructure needs; we should spend down the highway and aviation trust funds and these funds should not be used to reduce the deficit; the President and Congress should work toward establishing a comprehensive national infrastructure policy; Federal, State, and local governments should share their expertise; and the President and Congress should dedicate appropriate funding to rebuild our infrastructure.

Let met tell you why this resolution and our infrastructure is a national priority.

The answer is our economy.

The United States ranks 55th in the world in capital investment; Japan spends five times more than we do on infrastructure; and West Germany's annual productivity rate is three times ours.

Infrastructure is not just potholes; it is productivity.

Infrastructure is not only concrete; it is competitiveness.

Yet what we see today is a system of peril, not pride: 60 percent of our highways and 41 percent of our bridges are in need of work; traffic congestion has increased over 50 percent in the last 10 years. In our Nation's largest urban areas, 2 billion hours of time are lost annually. If you're delayed 20 minutes each day in rush hour, by the end of your career, you will have wasted 2 working years; by the year 2000, traffic delays caused by inadequate roads will cost us $50 billion in lost wages and wasted gasoline; no new airport has been built in this country since 1974; many of our urban water systems are over 100 years old and lose as much water as they move, and countless jobs are being lost.

We face a national problem of alarming dimensions and this resolution says we must do something about it.

Mr. Speaker, I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 362. The evidence is overwhelming that our Nation's infrastructure is in a serious state of deterioration. Study after study has painted a grim picture of crumbling roads and bridges, sewage treatment plants at full capacity, congested airports, aging navigation locks, and inadequate water systems.

In addition, our committee, under the able leadership of Chairman GLENN ANDERSON, has conducted a series of infrastructure hearings here in Washington and across the country. These hearings have confirmed the results of two decades of underinvestment in our basic public facilities.

While turning the situation around is going to be costly, the investment simply must be made if we expect to experience economic growth, compete internationally, and continue the standard of living that we have all come to enjoy and expect.

I want to commend Chairman ANDERSON for introducing this resolution. Establishing the year 1991 as the rebuild America year points us in the right direction. This resolution expresses the sense of Congress that a national effort should be made to rebuild the Nation's infrastructure and to provide assistance to States and localities to meet their core infrastructure needs.

The resolution calls for the sharing of expertise among Federal, State, and local governments and the private sector. As a result of the committee's infrastructure hearings, we now have a much better understanding of the needs and capabilities of those at the State and local level and in the private sector.

The resolution also calls for the dedication of appropriate funding for this national infrastructure effort. However, we will only be able to achieve success if we continue to spend highway and aviation user taxes for highway and aviation improvements, and for no other purpose, including deficit reduction.

Included language to that effect in the resolution during committee consideration, and I hope that those involved in the budget summit will get the message and make certain these user taxes—which do not contribute to the Federal deficit—are not used to reduce the deficit.

We must not break faith with those who paid their gasoline and airline ticket taxes with the assurance that the revenue would be spent on our highway and aviation systems.

Mr. Speaker, this resolution makes a strong and timely statement, and I urge its passage.

□ 1210

Mr. Speaker, I reserve the balance of my time.

Mr. ANDERSON. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. GEREN].

Mr. GEREN of Texas. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to begin by commending the distinguished chairman of the committee, the gentleman from California [Mr. ANDERSON], and our distinguished colleage, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], for the hard work they have put into this and for the leadership they have shown on this issue.

Mr. Speaker, I rise today in support of House Concurrent Resolution 362, expressing the sense of Congress concerning the need for a national policy to rebuild the infrastructure of the United States.

Mr. Speaker, what is it that has changed this country from a series of isolated populations, separated by miles of undeveloped territory? What is it that makes people from the most populated areas willing to settle in the most remote? The answer is our network of roads, bridges, and airways that connect the furthest regions of this vast country. It is our infrastructure.

The word "infrastructure" has a power not many other words in the English language have—the power to make people's eyes glaze-over with a single utterance. Very few people would admit to being overly concerned about our Nation's infrastructure. But most people care a great deal more about it than they realize. And right now, Japan is spending five times as much per capita on infrastructure as we do, and Germany three times as much.

People care very much when a bridge collapses, especially when the cause of the accident is neglect, and they care when floodwaters stand 5 feet deep in their living room. People care when inadequate transportation routes drive economic investment away from their communities. People care when out-dated and over-used water systems collapse, leaving their homes without running water. These are the consequences of our decaying infrastructure, and they touch us every day.

The declining state of our infrastructure has serious consequences for both our local and national economies. Right now, Texas is second only to California in overall transportation volume, and already 11 percent of our urban roads and 5 percent of our rural highway miles are categorized as "deficient." Traffic congestion costs Fort Worth and Dallas drivers $1.5 billion each year in gas and lost time.

Our bridges may be in worse shape. Nearly 45 percent of our Nation's highway bridges are rated deficient. Let's put this in dollars and cents—if a closed bridge causes 2,000 cars and 200 trucks to detour just 5 miles every day, the cost reaches almost $1 million per year.

And what about air transportation? The passenger load at our Nation's airports is expected to more than double by the year 2010. According to the Federal Aviation Administration [FAA], 20 of our largest airports are already operating in excess of their design capacity. This shortage of capacity is costing us billions of dollars in air and ground congestion and delays, but with the exception of the planned expansion at DEW and in Denver, there is no significant expansion on the drawing boards.

Unfortunately, spending on infrastructure has been the orphan child of the U.S. budget crunch for years, losing out to other domestic spending and defense needs. Like all deferred expenses, however, the bills are coming due, and if we do not ante up now, we will pay dearly in the future.

Mr. Speaker, these are the reasons we must pass House Concurrent Resolution 362. This legislation would designate 1991 as "Rebuild America Year," which would usher in a national effort to rebuild this Nation's infrastructure by aiding States and cities in their efforts to meet their needs; and it would call for the highway and airport and airway trust funds to be spent for the purpose they were intended—to improve our national infrastructure—not to deflate budget deficit numbers.

This legislation would call on the President to work with the Congress to establish this policy and use existing but neglected programs to achieve this goal; it also urges Congress and the administration to explore and implement innovative incentives to make the rebuilding of our infrastructure a truly national effort.

Mr. Speaker, there is nothing more important to the long-term economic health of our country than infrastructure investment. A sound infrastructure means job growth, productivity increases, and a rising standard of living. Infrastructure neglect means we are moving backward. A pothole grows larger by the day, airport delays only increase, and an unrepaired bridge only gets weaker.

We enjoy the highest standard of living in the world and the finest quality of life because those who came before us built roads, bridges, dams, airports, and canals. We owe succeeding generations the same commitment to their future.

Mr. Speaker, I urge my colleagues to support House Concurrent Resolution 362.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 3 minutes to the distinguished and able gentleman from Pennsylvania [Mr. CLINGER], the ranking member of the Subcommittee on Aviation.

Mr. CLINGER. Mr. Speaker, I would like to thank the chairman and the ranking member for bringing this resolution to the floor and providing me the opportunity to speak in support of it. We all know the vital role that the infrastructure plays in the performance of our economy, and with the highway reauthorization bill coming before Congress next year, it is entirely appropriate that 1991 be considered a year of renewed attention to the Nation's public facilities.

This country spends a tremendous amount of money on infrastructure—about $132 billion by all levels of government in 1988. Nonetheless, we are uged to spend even more, and it is undoubtedly necessary, for there seems to be a great number of investment opportunities still available in the Nation's infrastructure systems. The trouble is, the current fiscal environment will not allow us to finance all the projects that would seem to deserve it.

That is why I, and a number of my colleagues in the House Wednesday group, have been looking at ways to improve the effectiveness of each dollar that Congress spends in its public works programs. We believe that the country cannot hope to overcome the infrastructure challenge unless we look at issues other than how much we are spending. If attention is limited only to the difference between what we are actually spending, and what some people say we ought to be spending, we will never solve our problems. Quite simply, the task of meeting our infrastructure needs will, in that case, appear too daunting and too expensive even to attempt.

But the attempt must be made. I and my Wednesday group colleagues have identified a number of issues that deserve the attention of Congress and that I thank the Chairman for including in this resolution. Among these issues are the development of innovative financing techniques, the revitalization of public-private partnerships, and the acceleration of technological advances.

In the areas of infrastructure finance, an important goal is to improve the incentives that Federal aid creates on the State and local levels. At present, Federal aid often creates distortions that discourage maximum fiscal effort and contribute to the problem of underinvestment. These distortions can be eliminated only by changing the Federal grant structure. We are developing a proposal that would reward those States that boosted their highway investment on the Federal-aid system. At present, the Federal highway program does not help those that help themselves. We would like to change this.

Also in the area of infrastructure finance, Federal policy should seek to engage the private sector in the effort to meet national needs. This would involve allowing the States to use at least some portion of their Federal aid on facilities built and operated by private firms. Such a policy would not only attract private capital to public purposes, but might also result in projects that took relatively little time and money to complete.

In addition, public toll roads could be given a new lease. Tolls on certain interstates already provide some States with substantial amounts of highway money, but under current law, many of these tolls must be removed in the years ahead. This would be an unnecessary blow to State highway budgets, which are already under great stress. It would be the opposite of rewarding the States for investing in infrastructure, a key goal of the Wednesday group project.

Finally, to shrink the price tag on meeting needs, Congress and the President should consider expanding the budget for infrastructure research and development. Perhaps no aspect of modern life has so escaped the technology boom of the last decades as has the public infrastructure. To a great degree, we are providing facilities and services at the end of the cold war precisely the same way we did at the end of the Second World War.

This can change. New materials and new technologies can reduce the costs of providing infrastructure and can increase the performance of existing facilities. To give you an indication of the benefits to be had from infrastructure R&D, I would point out that the California Department of Transportation has estimated that it realized a return of 280 to 540 percent of its R&D spending. That's the kind of investment this Nation should not be foregoing.

My only caution would be that in supporting infrastructure R&D, we not limit ourselves to the glamour projects. Magnetically-levitated trains are alluring, but it is the mundane projects that will find widest application across the country.

I and my Wednesday group colleagues believe that these kinds of ideas are vital to meeting the challenges that infrastructure poses. We hope that our work will be of interest to everyone in this Chamber, and we think it will because infrastructure has always been a bipartisan issue. Public capital investment is too vital to our future to be an issue for gaining political advantage. Again, I thank the chairman and ranking member for providing me the opportunity to speak in favor of the measure, and I applaud them for focusing attention on this important issue.

Mr. ANDERSON. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I rise in support of this infrastructure resolution, House Concurrent Resolution 362.

What we are talking about are the basic life-support systems that touch the lives of every man, woman and child in our country. Where safe drinking water is involved, we are talking about life itself. Our basic life-support systems are essential to the economic vitality of our communities. Without adequate public facilities, business and industry cannot develop and grow and provide the means for us to improve our standard of living and quality of life.

We can no longer ignore that our infrastructure problems are nearing a crisis stage. The evidence is vast and growing that we cannot continue to delay addressing the Nation's public works needs.

A report on America's public works by the National Council on Public Works improvement entitled "fragile foundations" found convincing evidence that the quality of America's infrastructure is barely adequate to fulfill current requirements and insufficient to meet future economic growth and development.

The Committee on Public Works and Transportation, in a series of hearings at sites throughout the Nation, has received considerable testimony affirming that States and local communities are struggling to cope with inadequate highways, bridges and other facilities that have a direct impact on unemployment and their economies in general. While they are doing their best to meet their problems they desperately need help from the Federal Government to match their infrastructure efforts.

The job of rebuilding America could well be the most expensive challenge we will face in this decade, and for many years to come. But if we don't start to do something about the situation now, our economic strength will weaken, and we could well lose our ability to compete effectively in today's and tomorrow's world markets.

I want to commend Chairman GLENN ANDERSON for taking the initiative at this time to move ahead on this important issue. We must start now to deal with our infrastructure needs and realize that the longer we delay, the more costly the job will be.

I urge my colleagues to vote overwhelmingly for House Concurrent Resolution 362.

□ 1220

Mr. ANDERSON. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I thank the gentleman for yielding. I am very strongly supportive of this resolution, which I was privileged to work on with the gentleman from California [Mr. ANDERSON], the chairman of the committee. I want to take time to pay tribute to the gentleman from California [Mr. ANDERSON], who has worked so hard to explain to this Congress and to the American people, that an investment in our roads, in our highways, in our bridges, in our water systems, in our transit systems, is an investment in our prosperity.

The cold war is over and we find ourselves in a new kind of war. It is an economic war, or an economic competition. We cannot win it if we cannot move our people and we cannot move our goods. We simply cannot win it.

Mr. Speaker, it is long past the time that we rebuild America. In my own State of California we have taken up the challenge to retool our infrastructure to meet the competitive demands of a modern State. The people just voted to increase their gasoline taxes by 9 cents and to put those moneys into the infrastructure, into transit, into highways.

But California and the other 49 States of this country cannot do it alone. Since the founding days of this Republic, infrastructure has been a national concern, and this Congress cannot let this negative continue.

Mr. Speaker, for too long we have paid attention to the defense infrastructure of Western Europe and Japan, while our bridges, our roads, and our airports have sagged from neglect. Now these are our foreign competitors, and today, this very day, we are spending $30 billion a year just on foreign bases, most of that in Europe and Japan.

Our taxpayers today, Mr. Speaker, are paying more to support NATO than all the countries of Europe combined. I say it is time to bring some of those dollars home.

Mr. Speaker, the United States ranks 55th in the world, as the gentleman from California [Mr. ANDERSON] taught us today, in capital investment. We should be first. We should be first. It seems to me that this resolution is the very first step we can take to declare in a bipartisan way that rebuilding our infrastructure is the way we are going to bring prosperity to America.

Mr. Speaker, one more point: Traffic congestion has increased over 50 percent in the past 10 years. Two billion hours of time are lost annually by commuters in our largest cities. By the year 2000, traffic delays caused by inadequate roads and transit systems will cost us $50 billion in lost wages and wasted gasoline.

Mr. Speaker, let us bring prosperity to America. Let us invest in our infrastructure. Let us support this bipartisan resolution and say to America, we are ready to invest right here at home.

Mr. ANDERSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Speaker, I rise in strong support of House Concurrent Resolution 362. In addition to calling for a national infrastructure policy, this bill will ensure highway and aviation user fees will be used to build roads and airports, and will not be used to mask the size of our deficit.

As Congress begins to address the post-interstate system to establish the role the Federal Government will take as far as highways and other transportation modes are concerned, we must continue to develop a comprehensive plan regarding our national goals for transportation. Transportation is an integral part of our economy. Almost 20 percent of our gross national product is dedicated to transportation. An inadequate transportation system increases costs across the board across the country.

Every time we in America fill up our gas tank; every time we purchase an airline ticket. We are paying taxes which are intended to improve our Nation's infrastructure. We have made a commitment that the taxes we pay at the gas pump will be used for highway projects and the 8-percent ticket tax will be used to improve our Nation's airports. However, all of the money being collected is not being used for its intended purposes. At the end of fiscal year 1989, we had an uncommitted balance of more than $5 billion in the highway account and about $7 billion surplus in the aviation trust fund.

What are these funds being used for? During the hearings that the Committee on Public Works and Transportation has held on this matter, it is readily apparent that they are not fully being spent for infrastructure improvements. They are partially being used to mask the size of the Federal deficit.

Such action has already had a serious, detrimental effect on our economy. There is a proven linkage between infrastructure investment and economic development. David Aschauer, a senior economist with the Federal Reserve Bank of Chicago, has testified before the Committee on Public Works and Transportation on the importance of infrastructure to our future. According to his studies, productivity increased at a rate of 2 percent per year between 1950 and 1970. However, from 1971 to 1985, we experienced a 1.2-percent decrease in productivity growth. During the same time periods, our investment in infrastructure mirrored our productivity growth rate. Annual growth rates in infrastructure fell 2.5 percent from a rate of 4.1 percent in the 1950 to 1970 timeframe to 1.6 percent between 1971 to 1985. The United States now ranks 55th in the world in capital investment in infrastructure.

This bill calls for the end of this unfortunate situation. We should not allow our Nation's infrastructure to continue to crumble. We have made a major investment in our roads, airports, and bridges. A solid transportation system is vital to our Nation's growth and economic competitiveness. We should make every effort to ensure that we have a strong, viable transportation system to support economic development and no longer violate the agreement established that taxes collected for transportation purposes will be used for transportation improvement.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding. I really was not planning to talk on the resolution, until I heard the illogical diatribe a couple of minutes ago. It seems to me it is kind of interesting we get juxtaposed out here on this business of capital investment.

I am curious, the chairman of the committee used the figure earlier that we ranked 55th in the world in capital

investment. Can the gentleman from California [Mr. ANDERSON] tell me what that figure is based upon? Is that based upon GNP? Is it based upon per capita? Can someone tell me what that figure comes from or what that figure means?

Mr. ANDERSON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. ANDERSON. Mr. Speaker, that was per capita, and we got it from the Federal Reserve Board.

Mr. WALKER. Reclaiming my time, it is per capita. That is based upon total capital investment per capita. So that includes private investment and public investment, is that correct?

Mr. ANDERSON. Mr. Speaker, if the gentleman will yield further, local, State, and Federal.

Mr. WALKER. Reclaiming my time, it also includes the private investment?

Mr. ANDERSON. Yes.

Mr. WALKER. In other words, we are talking about something here that relates to the totality of the economy on a per capita basis. Well, now, that is fascinating, because all I have heard talked about here as we have discussed the issue is the business of how much the Federal Government ought to be spending out of its money.

The fact is that capital investment also involves substantial amounts of capital flowing from the private sector into what we need to rebuild our factories, to form new businesses, that allows us to have the jobs created in new industries. It involves a lot of different things that have to be done if you are going to invest the capital necessary to keep the country moving.

Yet for days now we have had members of the Democratic Party coming to the floor and just going apoplectic on the floor over the idea that we might lower the capital gains tax. Now, somebody who does not think that lowering the capital gains tax does not fit into the picture of capital investment has not looked at where capital investment is being made in the world. It is being made in places like Germany, Japan, and European countries that have very, very low capital gains taxes, or no capital gains taxes.

What does that mean? It means you get a flow of capital into the economy from the private sector as well as the public sector. Now, I do not think you ought to come to the floor and discuss the fact that we are 55th in capital investment and suggest that somehow doing the shoring up of our tax system is not also a part of that. Yet I have not heard any of that. All I have heard is how much money the Federal Government ought to spend in addition to what it is now spending as the solution to our capital investment problems.

That, my friends, is just plain nonsense. In a $5 trillion economy, we need far more than the billions of dollars that are in trust fund accounts. We need to have also a tax system that encourages capital investment in our future.

Mr. ANDERSON. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would just mention to my friend, the gentleman from Pennsylvania [Mr. WALKER], who was talking about the capital gains tax and how they are trying to cut it back, that money will slowly come into helping infrastructure and all, I can say that the corporate and individual taxes have already come down to the tune of many billions, and billions, and billions of dollars, and what has happened? The trickledown theory did not work, because they did not put it into the structure that should have been fixed, and therefore that is why we are having the trouble we are having.

Mr. Speaker, what I want to say is, I want to thank the gentleman from California [Mr. ANDERSON] and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for bringing this to the floor, because infrastructure is one of the most important issues we are going to have in the 1990's. It is going to be right along there with health, right along there with education, and some other very vital issues.

I know that the aging infrastructure, and I am talking about basically highways, bridges, sewer and water, public transportation, in the Eastern part of the United States has been deteriorating over the years, and particularly in the Eastern part.

Mr. Speaker, I know in Steubenville, OH, when we tore down some old housing to build some new public housing, when they finally got into the ground what they dug into and dug out was old water and sewer lines made of oak and cypress wood. They had been in the ground for a good many years. We need to have those things replaced.

In the mid-1980's, U.S. News & World Report came out with a front page cover that said the infrastructure problem in this country is a $1.5 trillion problem. It is. But today it is over $3 trillion. Deteriorating infrastructure is continuing to increase.

Compounding this is out at Andrews Air Force Base our summiteers are looking at new taxing methods, and one of those is to tax gasoline, adding to it. For many parts of infrastructure, this is the only method of funding, to rebuild highways and bridges and public transportation and providing highway safety. Why are they going to do it?

□ 1230

They are going to do it to balance the budget. Not a penny of it is going to go into infrastructure.

But why should gasoline users have to be blamed for all of that? There is no deficit there. We are running a profit in the highway trust fund. We only spend on the infrastructure and highway trust fund the amount of money that we are taking in.

I think if they are looking back at 25 cents and 50 cents, this would ruin the integrity of the highway trust fund, and people would be shortchanged, and therefore I want to thank the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for the amendment that he had put into this bill which would protect the integrity of the highway trust fund, and say that there will be no additional taxes put on to balance the budget. I think that is a good direction to go.

But if America is to move into the 21st century as a leader of nations, it has to take care of its own infrastructure first, and if we do not do that, we are not going to be able to.

Mr. ANDERSON. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. BORSKI].

Mr. BORSKI. Mr. Speaker, I rise in strong support of House Concurrent Resolution 362, which expresses the sense of Congress concerning the need for a national policy to rebuild the public works infrastructure of the United States. I want to commend the chairman of the Public Works and Transportation Committee, Congressman GLENN ANDERSON for introducing this very important resolution, and for his strong leadership on the issue of revitalizing America's public works infrastructure. This resolution sends a strong and clear message that the condition of America's roads, bridges, airports, and public transit facilities is at a crisis stage, and that we must act now to establish a national program to rebuild and modernize them.

House Concurrent Resolution 362 proclaims 1991 as "Rebuild America Year," and it sounds a call to Federal, State, and local governments, and the private sector, to join together in solving the very serious infrastructure problems facing the country today.

Mr. Speaker, if the United States is going to compete successfully in today's tough global economy, we must have a modern and efficient transportation system which is second to none. Good jobs and prosperity for our people depend upon the Nation's ability to move people, goods, and services swiftly and efficiently.

Nothing less than the future economic security of the country is at stake. Since 1960, U.S. capital investment in public works has dropped from 2.3 percent of GNP to less than 1 percent.

This dramatic decline in capital investment has caused the condition of the Nation's roads, bridges, highways, and public transit to deteriorate significantly. Every day millions of Americans experience transportation gridlock which is destroying the Nation's economic competitiveness and threatening the jobs of American workers.

It is hard to believe, but America currently ranks only 55th in the world in capital investment in public works.

While our Nation's investment in public works has steadily declined, Germany, Japan, and many other countries are investing huge sums on new roads, airports, public transit, and high-speed rail systems.

These nations understand the importance of a strong public works infrastructure to an expanding and productive economy.

Japan is one of the best examples.

That country's capital investment in public works is 17 times that of the United States.

It should come as no surprise to learn that during the last 20 years, Japan's economic productivity has grown at a rate which is five times that of the United States.

Mr. Speaker, the United States can no longer afford policies which neglect the Nation's public works infrastructure.

We cannot afford the hundreds of thousands of obsolete and unsafe highways and bridges.

We cannot afford the huge reductions in Federal spending on public transit.

And we cannot afford the failure to build a single new airport in almost 20 years.

I believe the time has come for America to reclaim its tradition as a nation which invests and builds in its future.

Let us spend down the billions of dollars which are sitting in the highway and aviation trust funds. Let us join together in support of a new national consensus to rebuild the Nation's public works infrastructure.

Mr. ANDERSON. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I appreciate both the full committee chairman, the gentleman from California [Mr. ANDERSON], and the ranking minority member, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], for displaying that teamwork which they have displayed so well throughout the debate on infrastructure and the need to get this kind of resolution to the floor to begin building our country.

I would just say I too rise in strong support of House Concurrent Resolution 362. I want to be involved in building America, and when we talk about infrastructure we are talking about the sewers, the roads, the bridges, the airports, the water systems, the hazardous waste disposal sites, the solid waste facilities, all of which go to make us more competitive.

It is interesting to note that in the past 20 years the percentage going to our infrastructure of the public investment has dropped by one-half in its relation to our gross national product, and correspondingly we have seen decreases in our economic growth. The Federal Reserve Board for the first time has demonstrated clear and unequivocal links that relate infrastructure development with productivity, that is, if you invest more in infrastructure you get more back in productivity. Look at the gains in other nations, those nations which we point to as models, economic engines for development. Those are the nations making public investment in their infrastructure.

So I think it is important that if we are tired of sitting in jammed up airports, if we are tired of sitting it out in traffic jams that seem to go nowhere, if we are tired of winding our way around orange barrels indicating another crumpled road or bridge, then we have to be investing in infrastructure in our country.

From the Budget Committee standpoint, I am urging a capital budgeting perspective that says there is a return on investment we should be accomplishing and which recognizes the dollar that goes into the highway today is repaid many times over in years to come. Americans want to be building, Mr. Speaker, its roads and its bridges. Americans want to build, not simply maintain what they have. Americans want to build, not watch crumble what it has already invested in, and America wants to be building so that we can be competing, and that is what this resolution says. Let us get about the job of building.

Mr. ANDERSON. Mr. Speaker, I yield my remaining 2 minutes to the gentleman from California [Mr. MINETA].

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I want to commend the chairman of our committee, the gentleman from California [Mr. ANDERSON] and the ranking Republican, the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for their leadership not only as it relates to House Concurrent Resolution 362, but on this whole issue of rebuilding America. There is no question that pressing the need to rebuild the Nation's infrastructure is a very important issue. A sound American infrastructure is absolutely essential if the United States is to flourish in the 1990's and enter the 21st century as a leader.

As we have said, a sound American infrastructure will bolster our ability to compete in an international marketplace, and our American infrastructure is going to give the ability to local and State governments to have domestic economic development.

Infrastructure also helps in terms of the environment, in terms of our quality of life, and it helps in terms of improving public safety.

One of the things I think that is important is the issue that the chairman of our committee has brought up, and that is that in terms of investment we are 55th in the world. The reason that this is so important is that investment begets investment, and there has to be a unity between the public sector investment and private sector investment.

I am one of those who have consistently supported the lowering of the capital gains tax because I think it is important that the public sector and private sector work together in terms of investment.

□ 1240

The problem that I see is the fact that in the 1960's and the 1970's, between local, State, and Federal Government, we had on the average in the 1960's and the 1970's a net investment of 2.3 percent in infrastructure. The problem is that in the 1980's that has dropped to 4 tenths of 1 percent, and that is reflected, I think, in terms of the fact that we have had urban congestion increase by 60 percent in the last 10 years, that we have our sewer system crumbling, our road system crumbling, and it is not a question of either-or kind of investment being made. It is a question of how do the public and the private sectors work together.

It is a question of how do we get the public and private sector, given the fact that we are in an international global marketplace now, and so how is the infrastructure going to be able to help our companies in this country to be able to compete in an international marketplace.

There is no question that infrastructure, whether it be the sewer system or the road structure, is important for industry to make their investment in plant and equipment to be able to move goods from place of manufacture to our ports, and I think this is an important part of what we are trying to say in this resolution is that investment does beget investment, and it does require that the public sector be committed to that.

We know that there are limited Federal funds to be able to do this, and that is why, in infrastructure, we are saying, yes, private sector, we need your participation in this effort. I

think, as we rewrite our 1991 legislation, especially as it relates to highways and mass transit, we will be saying, yes, we need more players at the table. We will be involving ourselves probably in financing of toll roads and other kinds of private efforts so that we can get in fact this kind of unity between the public sector and the private sector so that we can make sure that we have the infrastrucutre to take care of us in the 1990's, especially as we enter into the 21st century, to make sure that we are able to compete in an international global marketplace.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

We keep throwing up this figure that we are running 55th in the world. I asked what the nations were that were ahead of us. We do not seem to have a list on the floor of who that may be, that what we have is a reference in some publication here called "America's Infrastructure, Preserving Our Quality of Life," from a group called Rebuild America, that says down in it that the United States now ranks 55th in the world in capital investment in infrastructure.

It would be interesting to know what that figure means, because on up it talks about gross national product, and then it talks about public works investment. I am not just exactly certain what that figure means. If you are talking about the amount of money that goes out of governments into public works kind of projects, my guess is that there may be a lot of nations formerly in the Eastern bloc that might show up very high on a list of capital investment of that kind.

It would be very useful, I think, to know what that list includes and who these people are. I have a hard time understanding that on a per-capita basis in a $5 trillion economy how we could be down that low even if you take the amount of money that our Government spends, and it may not be enough, in a nation as rich as ours, but it is awfully high, and if you include in, as the gentleman from California told me, the States and localities and all these people who are investing in highways, that is a pretty substantial figure. So you have got to be using percentages somewhere along the line here, and if you get to the percentages, my guess is that there are people like the Soviet Union, Romania, East Germany, and folks like that that might end up pretty high on that list.

I will tell the Members that I have seen the infrastructure in some of those countries, and, "It ain't too good," and yet they put an awful lot in their treasury, and they tax the wallopy out of the people and put a lot of money into those projects because all the money flows through the government.

Now, if that is what we are talking about here, then I think we ought to be honest with people what it means.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I think the main thrust of this resolution is to recognize the fact that we do have crumbling basic public facilities all across this land and that there are multibillions being held up in trust funds that were paid in by users, and the users expect us to use those trust funds. Because they are tied up in the unified budget and because through this budget process that we have we put obligational ceilings on the expenditure of those trust funds, it creates us great problems, and this resolution is to help try to bring to public awareness and to the awareness of the Members of this House the great problem we have with out trust funds and also in the broader sector the great need of some $80 billion to $1 trillion in needs in public infrastructure requirements over the next decade.

Mr. RAHALL. Mr. Speaker, our Nation's infrastructure has been neglected for too long. If we do not begin to invest in its core, including roads, bridges, public transit, airports, public buildings, and water supply and wastewater treatment facilities, the quality of life in this country, already at its lowest ebb in more than a decade, will be gone forever.

If we do not act soon and in concert with one another, the quality of life so valued by this generation, will not be in place for future generations.

The infrastructure needs of the United States are in a crisis, one that endangers public safety, and jeopardizes the economy.

Worse, it diminishes our overall quality of life for every person in every walk of life.

Currently, the United States ranks 55th in the world in capital investment in public works. Capital investment has dropped from 2.3 percent of the gross national product in 1960 to less than 1.1 percent of the gross national product in 1985.

If we stand by and do nothing, and just continue to wring our hands in collective despair, our failure to act and act now will fly in the face of evidence that clearly shows that there is a direct link between infrastructure spending and economic growth and productivity.

Our collective failure to act will be remembered by the people of a paralyzed nation unable to move its goods and products along the highways and byways that link us together, that permit us to not merely survive, but to flourish.

Mr. Speaker, I support, and so do many of my colleagues, especially those on the Public Works Committee, taking the Federal highway and aviation trust funds off budget.

Right this minute, there are unspent billions of dollars in transportation trust funds.

We estimate that an annual capital investment of from $80 to $100 billion will be needed to meet future highway and other transportation needs. Yet, compared with current expenditures by all levels of government, Federal, State and local, capital investment stands still at $66 billion, for highway transportation.

We live in a country where bridges are falling down, causing personal injury and death as well as material losses, to our countrymen. Of the 577,710 bridges listed in the 1988 national bridge inventory, 41 percent are either structurally deficient or functionally obsolete, with estimates ranging around $93 billion that will be needed to fix them.

Yes, nearly one-half of our bridges in this country are unsafe, we know they are unsafe, and we stand by wringing our hands and doing nothing.

Since 1980, there has been a 50-percent reduction of Federal spending in mass transit, and yet we are told we need to spend at least double the amount now being spent to bring mass transit into the 21st century.

We are advised, Mr. Speaker, that we will need roughly $56 billion over the next 10 years in capital construction investments to meet water supply needs.

We must do something, besides wringing our hands, to protect the public health and provide for wastewater treatment planning and construction.

In 1986, a mere 409,000 passengers flew by commercial airlines. By 1998, a 70-percent increase is expected, with our airports trying to serve 696 million people, and yet our airports are in a state of grave disrepair and in urgent need of on-the-ground expansion and improvements.

We must reverse the decade or more of neglect of our infrastructure.

Investment in our infrastructure is an investment in our future. We cannot wait much longer, to rebuild America, if we expect the economic growth and productivity necessary to compete in a global economy.

Lets start today to form a national alliance, committed to rebuilding our infrastructure, and lets provide the States and localities the assistance they need in meeting core infrastructure needs.

Do not wring your hands.

Take a stand.

Mr. PACKARD. Mr. Speaker, I rise in strong support of House Concurrent Resolution 362. The resolution expresses the sense of Congress that our Nation's infrastructure is crumbling and something must be done about it.

Our highways are gridlocked, our bridges are in disrepair, our airports are delayed; to make it plain, we simply are not building adequate infrastructure to meet our current and expected needs. In addition, our existing infrastructure is falling apart. This legislation designates 1991 as the year of rebuilding America's infrastructure. I sincerely hope that we do so.

There are, however, troubling rumors emanating from the budget negotiators. A proposed revenue measure would raise the tax on gasoline some 8 cents and use that revenue for deficit reduction. This is a radical departure from current practice. Currently, the gas tax is a true user fee. The revenues collected from highway users are expended to improve our highways. The rate at which the

revenue is expended from the trust fund is certainly matter of some $20 billion worth of debate, yet the concept of a user financed highway program is paramount and should not be tampered with. Any gas tax that is not dedicated for highways is unacceptable and unconscionable. We must preserve the integrity of the highway trust fund and maintain the trust of the highway user.

I strongly oppose any nonhighway use of gas tax revenue and point to a very important provision in the pending legislation that opposes any gas tax for deficit reduction purposes. I commend the distinguished ranking member JOHN PAUL HAMMERSCHMIDT for proposing that specific language opposing gas tax revenue for budget reduction. I also commend the ranking member of the Surface Transportation Subcommittee, BUD SHUSTER for his leadership in fighting any attempt to use gas tax revenue for purposes other than building highways. I strongly urge my colleagues to support House Concurrent Resolution 362, legislation proposed by the Chairman of the Public Works and Transportation Committee, GLENN ANDERSON.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TORRES). The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 362, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 362, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CHRISTOPHER COLUMBUS COIN AND FELLOWSHIP ACT

Mr. LEHMAN of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2754) to require the Secretary of the Treasury to mint coins in commemoration of the quincentenary of the discovery of America by Christopher Columbus and to establish the Christopher Columbus Fellowship Foundation, as amended.

The Clerk read as follows:

H.R. 2754

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Christopher Columbus Coin and Fellowship Act".

TITLE I—CHRISTOPHER COLUMBUS QUINCENTENARY COINS

SEC. 101. SHORT TITLE.

This title may be cited as the "Christopher Columbus Quincentenary Coin Act".

SEC. 102. SPECIFICATIONS OF COINS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereinafter in this title referred to as the "Secretary") shall mint and issue not more than 500,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of the five dollar coins shall, in accordance with section 104, bear a likeness of Christopher Columbus. Each five dollar coin shall bear a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 4,000,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the one dollar coins shall, in accordance with section 104, be emblematic of the quincentenary of the discovery of America. Each one dollar coin shall bear a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) HALF DOLLAR CLAD COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 6,000,000 half dollar coins each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(2) DESIGN.—The design of the half dollar coins shall, in accordance with section 104, be emblematic of the quincentenary of the discovery of America. Each half dollar coin shall bear a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(d) LEGAL TENDER.—The coins minted under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

(e) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this title shall be considered to be numismatic items.

SEC. 103. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this title pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this title only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 104. DESIGN OF COINS.

The design for each coin authorized by this title shall be selected by the Secretary after consultation with the Christopher Columbus Fellowship Foundation and the Commission of Fine Arts.

SEC. 105. ISSUANCE OF COINS.

(a) FIVE DOLLAR COINS.—The five dollar coins minted under this title may be issued in uncirculated and proof qualities and shall be struck at the United States Mint at West Point, New York.

(b) ONE DOLLAR AND HALF DOLLAR COINS.—The one dollar and half dollar coins minted under this title may be issued in uncirculated and proof qualities, except that not more than one facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

(c) PERIOD OF ISSUANCE.—The Secretary may issue the coins minted under this title during the period beginning on January 1, 1992, and ending on June 30, 1993.

SEC. 106. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this title at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this title at a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this title prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this title shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 per coin for the half dollar coins.

SEC. 107. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this title will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this title unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 108. USE OF SURCHARGES.

(a) IN GENERAL.—The surcharges that are received by the Secretary from the sale of coins minted under this title shall be deposited in the Christopher Columbus Fellowship Fund and be available to the Christopher Columbus Fellowship Foundation.

(b) AUDITS.—The Comptroller General shall have the right to examine such books, records, documents, and other data of the Christopher Columbus Fellowship Foundation as may be related to the expenditure of amounts paid under subsection (a).

SEC. 109. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing

procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 110. COINAGE PROFIT FUND.

(a) DEPOSITS.—All amounts received from the sale of coins issued under this title shall be deposited in the coinage profit fund.

(b) PAYMENTS.—The Secretary shall make the deposits of the amounts required under section 108(a) from the coinage profit fund.

(c) EXPENDITURES.—The Secretary shall charge the coinage profit fund with all expenditures under this title.

TITLE II—CHRISTOPHER COLUMBUS FELLOWSHIP FOUNDATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Christopher Columbus Fellowship Act".

SEC. 202. PURPOSE.

The purpose of this title is to establish the Christopher Columbus Fellowship Program to encourage and support research, study, and labor designed to produce new discoveries in all fields of endeavor for the benefit of mankind.

SEC. 203. CHRISTOPHER COLUMBUS FELLOWSHIP FOUNDATION.

(a) ESTABLISHMENT AND PURPOSES.—There is established, as an independent establishment of the executive branch, the Christopher Columbus Fellowship Foundation (hereinafter in this title referred to as the "Foundation").

(b) MEMBERSHIP.—The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be composed of 13 members, as follows:

(1) 2 members appointed by the President pro tempore of the Senate.

(2) 2 members appointed by the Minority Leader of the Senate.

(3) 2 members appointed by the Speaker of the House of Representatives.

(4) 2 members appointed by the Minority Leader of the House of Representatives.

(5) 5 members appointed by the President.

(c) CHAIRMAN AND VICE CHAIRMAN OF THE FOUNDATION.—The President shall designate a Chairman and a Vice Chairman from among the members appointed by the President.

(d) TERMS OF OFFICE; VACANCIES.—Each member of the Board of Trustees appointed under subsection (b) shall serve for a term of 6 years from the expiration of the term of such member's predecessor, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term; and

(2) of the members first appointed—

(A) 4 shall be appointed for a term of 2 years;

(B) 5 shall be appointed for a term of 4 years; and

(C) 4 shall be appointed for a term of 6 years,

as designated by the President.

(e) EXPENSES; NO ADDITIONAL COMPENSATION.—Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

SEC. 204. FELLOWSHIP RECIPIENTS.

(a) AWARD.—The Foundation is authorized to award fellowships to outstanding individuals to encourage new discoveries in all fields of endeavor for the benefit of mankind. Recipients shall be known as "Columbus Scholars".

(b) TERM.—Fellowships shall be granted for such periods as the Foundation may prescribe but not to exceed 2 years.

(c) SELECTION.—The Foundation may provide, directly or by contract, for the conduct of a nationwide competition for the selection of fellowship recipients.

SEC. 205. STIPENDS.

Each person awarded a fellowship under this title shall receive a stipend as determined by the Foundation.

SEC. 206. CHRISTOPHER COLUMBUS FELLOWSHIP FUND.

(a) IN GENERAL.—There is established in the Treasury a fund to be known as the Christopher Columbus Scholarship Fund (hereafter in this title referred to as the "fund"), which shall consist of—

(1) amounts deposited under subsection (d);

(2) obligations obtained under subsection (c);

(3) amounts contributed to the Foundation; and

(4) all surcharges received by the Secretary of the Treasury from the sale of coins minted under the Christopher Columbus Quincentenary Coin Act.

(b) INVESTMENTS.—

(1) DUTY OF SECRETARY TO INVEST.—The Secretary of the Treasury shall invest in full any amount appropriated or contributed to the fund.

(2) AUTHORIZED INVESTMENTS.—Investments pursuant to paragraph (1) may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) SPECIAL OBLIGATIONS.—The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that, if such average rate is not a multiple of ⅛ of 1 percent, the rate of interest of such special obligations shall be the multiple of ⅛ of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue at the market price, is not in the public interest.

(c) SALE OF OBLIGATIONS.—Any obligations acquired by the fund (except special obligations issued exclusively to the fund in accordance with subsection (b)(3)) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) INTEREST.—The interest on, and the proceeds from, the sale or redemption of any obligations held in the fund shall be credited to and form a part of the fund.

(e) AVAILABILITY OF FUND.—

(1) STIPENDS.—The fund shall be available to the Foundation for payment of stipends awarded under section 205.

(2) EXPENSES.—The Secretary of the Treasury is authorized to pay to the Foundation from the interest and earnings of the funds such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provision of this title.

(f) DISBURSEMENTS.—Disbursements from the fund shall be made on vouchers approved by the Foundation and signed by the Chairman.

SEC. 207. AUDITS.

The activities of the Foundation under this title may be audited by the Comptroller General of the United States. The Comptroller General shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

SEC. 208. EXECUTIVE SECRETARY OF FOUNDATION.

(a) DUTIES.—There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board.

(b) COMPENSATION.—The Executive Secretary of the Foundation shall be compensated at the rate of basic pay payable for GS-18 of the General Schedule.

SEC. 209. ADMINISTRATIVE PROVISIONS.

(a) The Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this title, except that in no case shall employees (other than the Executive Secretary) be compensated at a rate in excess of the rate of basic pay payable for GS-15 of the General Schedule;

(2) procure temporary and intermittent services of such experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not in excess of the rate of basic pay payable for GS-18 of the General Schedule;

(3) prescribe such regulations as the Foundation may determine to be necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes;

(7) make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the

provisions of section 529 of title 31, United States Code;

(8) rent office space;

(9) conduct programs in addition to or in conjunction with the Fellowship program which shall further the Foundation's purpose of encouraging new discoveries in all fields of endeavor for the benefit of mankind; and

(10) to make other necessary expenditures.

(b) ANNUAL REPORT.—The Foundation shall submit to the President and to the Congress an annual report of its operations under this title.

The SPEAKER pro tempore. Is a second demanded?

Mr. WYLIE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. LEHMAN] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill, H.R. 2754, was introduced by our colleague, the gentleman from Illinois [Mr. ANNUNZIO] and authorizes the minting of gold, silver, and clad coins to celebrate the 500th anniversary, in 1992, of the discovery of America by Christopher Columbus.

The bill also establishes the Christopher Columbus Fellowship Foundation, which would be funded through surcharges raised from the sales of commemorative coins. The Columbus Foundation shall be subject to the supervision and direction of the 13-member Board of Trustees appointed by the President, the President pro tempore of the Senate, the minority leader of the Senate, the Speaker of the House, and the minority leader of the House. The Foundation shall award fellowships to outstanding individuals to encourage new discoveries in all fields of endeavor for the benefit of mankind.

An amendment in the nature of a substitute to H.R. 2754 was offered by Mr. HILER and myself and adopted without dissent as original text in subcommittee markup on September 12, 1990. The substitute made the following changes: First, the number of gold coins that may be minted has been changed from 1 million to 500,000, and the required number of coin designs has been reduced from six to three. The period from commencement to termination of the coinage program has been changed to an 18-month period beginning January 1, 1992. These changes were made as a result of testimony given by the Mint that the proposed Columbus Program was too large and would compete with other proposed coinage programs.

The amendment also adds a paragraph authorizing the Comptroller General to audit the records of the Columbus Foundation. This audit language is standard in coinage legislation.

The amendment makes one change to the second title of the bill regarding the membership of the Board of Trustees of the Foundation that is created by this act. The amendment allows the minority leaders of the Senate and the House, in addition to the President pro tempore of the Senate and the Speaker of the House, to appoint members to the Board of Trustees.

I believe the changes the amendment would make are real improvements, and I ask the House to pass this bill as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2754, the Christopher Columbus Coin and Fellowship Act.

I want to commend the bill's chief sponsor, former Consumer Affairs and Coinage Subcommittee chairman, the gentleman from Illinois [Mr. ANNUNZIO], for his hard work which he has done on this bill.

□ 1250

It is very important legislation. It has been a real pleasure to work with him over the years, and I am proud to be a cosponsor of this bill. I also want to commend the current subcommittee chairman, the gentleman from California [Mr. LEHMAN] and the ranking member, the gentleman from Indiana [Mr. HILER] for the fine work they have done in bring this bill to the House floor.

The coins we authorize in this legislation commemorate the 500th anniversary of the discovery by Christopher Columbus, one of the most important events in our heritage. Christopher Columbus's epic voyage in 1492 led the way for the development of our Nation. It is an indelible part of our heritage, an event clearly appropriate to be honored through a commemorative coin issue.

Christopher Columbus represents a special figure in America's history to me, and one I believe is truly worth commemorating. I represent and live in Columbus, OH, which is the largest city in the world named for the great explorer. It is a flagship city for the quincentennial celebration in 1992. We are planning the largest horticultural exhibit in the history of America. Already 16 nations have signed on. It is called Ameriflora and we are looking forward to that historic event. Our town, which has a great university, Ohio State, and its other educational institutions, is a place that I feel has captured the spirit of Christopher Columbus.

It seems most appropriate to me that not only does this bill commemorate the 500th anniversary of the discovery of America, but also establishes an educational foundation to promote research designed to produce new discoveries in all fields of endeavor for the benefit of mankind. This idea was important to Christopher Columbus, and it embodies the spirit of my home town and our discoverer's namesake, Columbus, OH.

I am thankful that our great university, Ohio State, will in the near future have several Columbus scholars that will be able to identify both with the explorer and with our city. I am optimistic that the work and discoveries of this new generation of explorers will move our society ahead and have a significant impact, as did the discovery of America 500 years ago.

I would briefly like to outline certain key provisions of the bill. Section 102 specifies that the Treasury may mint up to 500,000 gold coins; 4 million silver coins; and 6 million clad coins. The provisions requires that the designs on the coins be emblematic of Columbus' discovery of America.

Section 104 requires that the designs for the coins be selected by the Secretary of the Treasury after consultation with the Christopher Columbus Fellowship Foundation and the Commission of Fine Arts.

Section 105 sets the time period of issuance of the coins as the 18-month period beginning January 1, 1992.

Section 106 places a surcharge of $35 of each gold coin; $7 on each silver coin; and $1 on each clad coin.

Section 107 states that the coins shall be minted at no net cost to the Government.

Section 108 provides that the surcharges shall be paid over to the Christopher Columbus Fellowship Fund administered by the Christopher Columbus Fellowship Foundation.

Section 203 of the bill establishes the Christopher Columbus Fellowship Foundation. The purpose of the Foundation is to promote research, study, and labor designed to produce new discoveries in all fields of endeavors for the benefit of mankind.

Section 204 establishes a Christopher Columbus Fellowship Program for deserving scholars.

Section 206 establishes the Christopher Columbus Fellowship Fund.

Finally, section 207 provides for periodic GAO audits of the Foundation and Fund.

While supporting this bill, I would like to point out one problem area for the record. The Mint has indicated in the past that it opposes more than one commemorative coin program in any

one year. Last week, the Senate passed the House version of the 1992 Olympic Commemorative Coin Act and sent it to the President. I fully expect the President to sign that bill. Given the fact that the Columbus Coin Program would be in competition with the Olympic Coin Program it is unclear how the administration will eventually treat this legislation.

In closing, I would like to say that I believe that the discovery of America is an event worth commemorating through coins. The moneys obtained from the coin sales will go to the commendable purpose of promoting new discoveries in our world to benefit mankind.

I encourage my colleagues to join me in supporting this bill and I urge its prompt passage.

Mr. Speaker, I reserve the balance of my time.

Mr. LEHMAN of California. Mr. Speaker, I yield such time as he may consume to the original proponent of this legislation, the chairman of the Committee on House Administration, the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, 1992 marks the quincentenary of the discovery of America by Christopher Columbus. H.R. 2754 is a bill that honors the greatest explorer in history. More importantly, it creates a Foundation which will award fellowships to assist modern day explorers in their search for discoveries that can benefit mankind.

I want to thank the chairman of the Coinage Subcommittee [Mr. LEHMAN], and its ranking minority member [Mr. HILER], for their cooperation in bringing this bill before the House.

My thanks extend to the distinguished chairman of the Banking Committee [Mr. GONZALEZ], who arranged for the bill to come to the floor today. He has always been active in coinage matters. I always appreciate his interest and counsel in this area.

I also want to express my appreciation to the ranking Republican member, the gentleman from Ohio [Mr. WYLIE] for the manner in which he has always cooperated to make all of the coin programs that this committee has sponsored in the last 10 years a success.

Most Members are not aware of the fact that in the last 10 years the Treasury Department has made $400 million because of these coinage programs. This is one program where we can keep our head up high and say that the taxpayers are not spending one dime. They are making money.

I also want to thank the chairman of the Education and Labor Committee [Mr. HAWKINS], and the chairman of the Science and Technology Committee [Mr. ROE], for their cooperation in bringing this bill to the floor today. Those committees have jurisdiction over title II of the bill. I thank them for permitting the Banking Committee to place the bill on today's calendar.

The importance of Columbus' discoveries cannot be overstated. It was his discovery which led others to follow in his wake to the west. Until Columbus discovered the New World, the focus in Europe had been to the east. By discovering the New World, and showing that one could return, he changed Europe's focus from east to west.

Our Nation's first commemorative coin was struck in honor of the 400th anniversary of the discovery of America by Columbus. Those coins helped raise money for the 1892 Columbian Exposition, held in my hometown of Chicago. This coin program will leave a broader and enduring legacy. The bill establishes Christopher Columbus fellowships. These fellowships, which will be awarded by the nonpartisan Christopher Columbus Foundation, will provide funding to promising explorers as they seek to better mankind.

The hardest part of Columbus' journey was not the sailing, but arranging the financing. For that, we are grateful for Queen Isabella. The Columbus fellowships will help new explorers in all fields by providing financing to those promising explorers who need it. This will be done at no cost to the taxpayer and at a profit to the Government from the sale of the commemorative coins.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. ANNUNZIO. I yield to the gentlewoman from Colorado [Mrs. SCHROEDER]. I know when I am overcome.

Mrs. SCHROEDER. Mr. Speaker, I want to thank the distinguished gentleman from Illinois [Mr. ANNUNZIO] because I appreciate that Queen Isabella did put up the money. She may not have gone on the voyage, but she had the vision and the courage to put the jewels on the table. I thank the gentleman from Illinois for recognizing that.

I know the women in his State, even 100 years ago at the 400th exposition, put together a whole expedition for Queen Isabella, and focused on that. Therefore, I appreciate the gentleman from Illinois [Mr. ANNUNZIO] pointing that out. I want to say that that shows his enlightenment, and we appreciate that.

Mr. ANNUNZIO. Mr. Speaker, I want to assure the gentlewoman that when the foundation is finally appointed, I will talk to them. With the money they are making, not only for scholarships, but we will try to get a nice painting of Queen Isabella, and find a place for it here in the Capitol of the United States. That should please all of the women.

A sellout of the coins will raise $52.5 million for the Christopher Columbus Fellowship Foundation. The foundation will be guided by a board of directors appointed by the President and the leadership of the House and Senate. The foundation will administer the fellowship program and award fellowships on a basis of merit.

The foundation will also be authorized to accept gifts and donations.

The General Accounting Office will have the authority to audit the activities of the foundation to assure that the funds are being used properly.

We are the most innovative country in the world with the best thinkers and inventors. But the gap between us and the rest of the world is narrowing. I see the Columbus fellowships as a way to maintain our edge. The fellowships will support those individuals whose innovative work may lead to the next great discovery in their field whether it be medicine, electronics, chemistry, or even some new field.

Mr. Speaker, this may well turn out to be the most popular commemorative coin program in the history of our Nation. The coinage publication, "Numismatic News," believes the legislation could well create the largest commemorative issue of coins in history. With 229 House cosponsors, it has received overwhelming support in the House, and I expect that the American people will greet it just as enthusiastically.

Mr. Speaker, I yield back the balance of my time.

Mr. WYLIE. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I rise in support of this bill and urge its adoption. I hope that my colleagues will support it.

Now having spoken about coins, I take the floor of the House this morning to inquire from the chairman of the subcommittee about the status of H.R. 5053, the Korean Veterans War Memorial Act. I would remind the gentleman, and the balance of the House, that that bill has been sponsored by over 300 of my colleagues. It authorizes the minting of 1 million single-issue silver dollars to offset the balance of the estimated construction cost of the Korean Veterans War Memorial.

The memorial was authorized over a year ago. It has been designed. The site has been selected and has been approved; $5 million has been raised through private sources. We need about $6 million more in funds, private or otherwise, to complete the construction.

The bill proposes that the balance would be obtained by issuing a coin, and selling it for about $6 each. This program has been subscribed to by veterans' organizations, including the

American Legion, the Veterans of Foreign Wars, nurses groups, paralyzed veterans, and many others. All have indicated their collective intent to support the issuance of this coin, and indicated the desire to purchase the same by many of their members. In that way we can obtain the balance of the funds necessary to complete the memorial.

To those who have never had to personally face the terror of combat, the everpresent threat of meeting instant death in a violent way, it is very hard to understand. It is even more difficult to explain. Those of us who are privileged to have lived through that, have a heightened realization that all those who are alive, when we stop to think about it, realize that one day we will all die. The thing that makes that knowledge tolerable is we do not know when. In an active combat situation, you sometimes begin to believe that your death will be almost any minute now or even tomorrow, and surely before the week is out. It can be very frightening. You know that everything you have is at risk including your very life and your future. It requires a certain amount of courage to continue with your responsibilities in the defense of your Nation, but thousands of American citizens have done it with dignity. Many have paid the supreme sacrifice.

That is why I say to my colleagues that it is altogether fitting and proper that we honor those men and women who have experienced that situation. They will never forget it, and we should not.

□ 1300

Oliver Wendell Holmes once said:

We who have shared the incommunicable experience of war. We have felt, we still feel, the passion of life to its top—in our youth our hearts were touched with fire.

Mr. Speaker, I would urge the chairman of the subcommittee to report H.R. 5053 to the full House as soon as possible and permit this memorial to be completed before the authorization expires next year.

I know the gentleman supports the bill. The delay is a function of the system and the legislative process

I urge the gentleman to consider that course of action and to inquire, frankly, as to whether or not he can share with us any information as to the status of the matter at the moment.

Mr. LEHMAN of California. Mr. Speaker will the gentleman yield?

Mr. PARRIS. I yield to the gentleman from California.

Mr. LEHMAN of California. I thank the gentleman for yielding.

Mr. Speaker, the Subcommittee on Consumer Affairs and Coinage has discharged the bill to the full committee. I have sent the appropriate letter to the chairman of the full committee. So that bill could come to the floor at any time that the chairman of the full committee desires.

And so at this point there is really nothing else that this Member can do to effectuate success on that issue.

If the gentleman would yield a moment further, I would take this opportunity to let Members of the House know that we on the subcommittee face a very difficult task of sorting out the dozens of good ideas for commemorative coins that invariably get the requisite number of signatures. It is very difficult, and we are going to have to have more discipline in the future.

Mr. PARRIS. Mr. Speaker, I thank the gentleman from California for his comments, and, as I have offered in the past, I would be delighted to join with him in urging the chairman of the commmittee to bring the bill under suspension. We do, after all, have more than 300 sponsors. There is no controversy. It has passed the Senate. It is necessary that we do it in this Congress so that we can get on with the project.

If the gentleman could use his good offices to bring that about on Monday, or Tuesday of next week when I am sure we will have that chance to continue to review these kinds of things on suspension of the rules, I would be personally grateful, and I know the veterans of the United States would be grateful as well.

Mr. LEHMAN of California. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on Science, Space, and Technology, the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I thank the distinguished gentleman from California for yielding time to me. May I extend my high regard to the gentleman from California [Mr. LEHMAN], who is the chairman of our Consumer and Coinage Subcommittee for the excellent job he has been doing and particularly on this legislation. Also I commend the gentleman from Ohio [Mr. WYLIE] for his leadership in the same work that we are doing on this particular piece of legislation.

Mr. Speaker, I rise in support of the Christopher Columbus Coin and Fellowship Act. I congratulate Chairman ANNUNZIO and his colleagues on the Banking Committee for their efforts in advancing this worthy proposal. The Committee on Science, Space, and Technology was pleased to waive further consideration of the bill, at Chairman ANNUNZIO's request, in order for the bill to come before the House expeditiously.

Exploring the unknown 500 years ago, involved setting out in frail boats to find new lands, thereby expanding the known world. It is altogether fitting that the legislation before us seeks to recognize the accomplishment of the intrepid explorer, who opened the New World to European settlement, by creating a program of fellowships for a different kind of explorers.

Today mankind's space frontiers are in the fields of science and technology. Almost daily we learn about, for example, new discovers for treatment of serious illnesses, new materials for making better products more cheaply, and new discoveries which unlock the deepest secrets of the nature of the universe. In short, science and technology are changing our lives and the world in which we live. Our economic well-being is directly linked to our abilities to discover new knowledge and transform this new knowledge into useful products and services to compete in the international marketplace.

The Christopher Columbus Coin and Fellowship Act will provide awards to talented and inventive individuals who have ideas tha will lead to benefits in which all may share. These awards will help to keep alive the spirit of adventure and discovery embodied by Christopher Columbus' great enterprise. I urge my colleagues to support this legislation.

Mr. WYLIE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LEHMAN of California. Mr. Speaker, I yield myself 1 minute.

As the gentleman from Ohio so appropriately pointed out earlier, the voyage of Columbus to the New World is one of the most significant events in our heritage. Every child in school in this country learns about it very early. The date, October 12, is imprinted into our minds at a very early age.

Indeed, it is a national holiday.

We anticipate in 1992 there is going to be a tremendous worldwide celebration on the 500th anniversary of this great voyage.

Mr. Speaker, the minting of this coin and the establishment of this foundation will be a very important and significant part of that celebration.

Mr. Speaker, I thank the gentleman from Ohio [Mr. WYLIE] for his assistance, and the gentleman from Illinois [Mr. ANNUNZIO], I congratulate him for his work and thank also the gentleman from New Jersey [Mr. ROE] and all the rest of our colleagues who have assisted in this effort.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TORRES). The question is on the motion offered by the gentleman from California [Mr. LEHMAN] that the House suspend the rules and pass the bill H.R. 2754, as amended.

The question was taken; and two-thirds having voted in favor thereof

the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEHMAN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2754, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO FILE REPORT ON H.R. 3095, SAFE MEDICAL DEVICES ACT OF 1990

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to have until midnight tonight to file a report on H.R. 3095, Safe Medical Devices Act of 1990.

Mr. Speaker, I understand the minority has checked off on this unanimous-consent request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

COAST GUARD OMNIBUS ACT OF 1990

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4491) to amend the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203), as amended.

The Clerk read as follows:

H.R. 4491

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Omnibus Act of 1990".

SEC. 2. AMENDMENT TO THE VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT OF 1971.

Section 4(a)(1) of the Vessel Bridge-to-Bridge Radiotelephone Act of 1971 (33 U.S.C. 1203) is amended to read as follows:

"(1) every power-driven vessel of twenty meters or over in length while navigating;".

SEC. 3. DESIGNATION OF THE SIDNEY LANIER BRIDGE AS AN OBSTRUCTION TO NAVIGATION.

Notwithstanding another law, the Sidney Lanier Bridge at mile 6.3 on the Brunswick River in Georgia is deemed an unreasonable obstruction to navigation.

SEC. 4. EXEMPTION OF CERTAIN VESSELS USED AS MEMORIALS TO MERCHANT MARINERS FROM PASSENGER SHIP INSPECTION REQUIREMENTS.

(a) Section 3302 of title 46, United States Code, is amended by adding the following new subsection:

"(1)(1) The Secretary may issue a permit exempting the following vessels from the requirements of this part for passenger vessels so long as the vessels are owned by nonprofit organizations and operated as nonprofit memorials to merchant mariners:

"(A) The S.S. JOHN W. BROWN (United States official number 242209), owned by Project Liberty Ship Baltimore, Incorporated, located in Baltimore, Maryland.

"(B) The S.S. LANE VICTORY (United States official number 248094), owned by the United States Merchant Marine Veterans of World War II, located in San Pedro, California.

(C) the S.S. JEREMIAH O'BRIEN (United States official number 243622), owned by the United States Maritime Administration.

"(2) The Secretary may issue a permit for a specific voyage or for not more than one year. The Secretary may impose specific requirements about the number of passengers to be carried, manning, the areas or specific routes over which the vessel may operate, or other similar matters.

"(3) A designated Coast Guard official who has reason to believe that a vessel operating under this subsection is in a condition or is operated in a manner that creates an immediate threat to life or the environment or is operated in a manner that is inconsistent with this section, may direct the master or individual in charge to take immediate and reasonable steps to safeguard life and the environment, including directing the vessel to a port or other refuge.".

SEC. 5. BIENNIAL DESIGNATION OF MEMBERS OF THE COAST GUARD ACADEMY CONGRESSIONAL BOARD OF VISITORS.

Section 194 of title 14, United States Code, is amended to read as follows:

"(a) In addition to the Advisory Committee, a Board of Visitors to the Academy is established to visit the Academy annually and to make recomendations on the operation of the Academy.

"(b) The Board shall be composed of—

"(1) two Senators designated by the Chairman of the Committee on Commerce, Science and Transportation of the Senate;

"(2) three Members of the House of Representatives designated by the Chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives;

"(3) one Senator designated by the President of the Senate;

"(4) two Members of the House of Representatives designated by the Speaker of the House of Representatives; and

"(5) the Chairman of the Committee on Commerce, Science and Transportation of the Senate and the Chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives, as *ex officio* members.

"(c) When a Member is unable to attend the annual meeting another Member may be designated as provided under subsection (b).

"(d) When an *ex officio* Member is unable to attend the annual meeting that Member may designate another Member.

"(e) Members of the Board shall be designated in the First Session and serve for the duration of the Congress.

"(f) The Board Shall visit the Academy annually on the date chosen by the Secretary. Each Member of the Board shall be reimbursed, to the extent permitted by law, by the Coast Guard for actual expenses incurred while engaged in duties as a Member of the Board.".

SEC. 6. SIMPLIFIED MEASUREMENT OF CERTAIN BARGES.

Section 14301(b) of title 46, United States Code, is amended by adding the following:

"(6) a barge (except a barge engaged on a foreign voyage) unless the owner requests.".

SEC. 7. COAST GUARD BONDING REQUIREMENTS.

(a) Chapter 17 of title 14, United States Code, is amended by adding the following new section:

"667. Vessel construction bonding requirements.

"The Secretary or the Commandant may require bid, payment, performance, payment and performance, or completion bonds from contractors for construction, alteration, repair, or maintenance of Coast Guard vessels if—

"(1) the bond is required by law; or

"(2) the Secretary determines after investigation that imposing these bonding requirements would not prevent a responsible bidder or offeror from competing from award of the contract.".

(b) The analysis for chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 666 the following:

"667. Vessel construction bonding requirements.".

SEC. 8. SELF-PROPELLED HOPPER DREDGE EXEMPTION FROM FEDERAL PILOT REQUIREMENT.

Section 8502 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(i) A seagoing, self-propelled hopper dredge is exempt from subsection (a) of this section.".

SEC. 9. HEMPSTEAD, NEW YORK TRANSFER.

Notwithstanding another law, the Secretary of Transportation shall transfer by quitclaim, without consideration, to the Town of Hempstead, Nassau County, New York, all rights, title, and interest of the United States in Coast Guard property and improvements located at Reynolds Channel, Atlantic Beach, New York. The Secretary shall require the property to be surveyed before it is transferred and the transferee shall pay for that survey and all conveyance costs.

SEC. 10. SOUTH HAVEN, MICHIGAN TRANSFER.

(a) Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the City of South Haven, Michigan all rights, title, and interest of the United States in Coast Guard property described in subsection (b). The transferee shall pay for all conveyance costs.

(b) The property is part of block 52 in the original Village (Now City) of South Haven, Van Buren County, Michigan. The property begins at a point found by commencing at the North quarter post of Section 10. Town 1 South, range 17 West, Van Buren County, Michigan; thence with bearings referenced to the Corps of Engineers Harbor Line Survey of 1941. South 89 degrees 34' 36" West along the North line of the Section, 2386.95 feet; thence South 00 degrees 25' 24" East at right angles to said Section Line. 450.64 feet to the place of beginning of this description, said place of beginning being 825.50 feet South 81 degrees 52' 10" West of the East terminus of the Black River Channel entrance; thence south 10 degrees 38' 30" East, 147.00 feet; thence south 81 degrees 52' 10" West, 131.47 feet; thence North 07 degrees 43' 50" West 146.85 feet; thence North 81 degrees 52' 10" East, 124.00 feet to the place of beginning of this description.

SEC. 11. MUSKEGON, MICHIGAN TRANSFER.

(a) Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the Secretary of

Commerce all rights, title, and interest of the United States in Coast Guard property and improvements described in subsection (b).

(b) The property is part of block 739 of Revised Plat of City of Muskegon of part of Section 28, Town 10 North, Range 17 West, City of Muskegon, Muskegon County, Michigan described as beginning at a point distant South 48 degrees 15 minutes 56 seconds East 414.13 feet from Corps of Engineers Disc Guard 2 and distant North 35 degrees 59 minutes 49 seconds West 225.70 feet from Corps of Engineers Monument MUS 34 and distant South 85 degrees 51 minutes 27 seconds West 727.32 feet from the Northwest corner of Block 757 of the Revised Plat of City of Muskegon and proceeding thence North 28 degrees 38 minutes 52 seconds West 230.13 feet; thence South 61 degrees 14 minutes 26 seconds West 14.96 feet; thence North 28 degrees 24 minutes West 128.23 feet; thence South 61 degrees 14 minutes 26 seconds West 150 feet, more or less, to the shore of Lake Michigan; thence Southeasterly 358 feet, more or less, along the shore of Lake Michigan to the intersection with the line bearing South 61 degrees 14 minutes 26 seconds West from the point of beginning; thence North 61 degrees 14 minutes 26 second East 163 feet, more or less, to the point of beginning.

(c) The Secretary of Commerce shall make the property transferred under this section available to the National Oceanic and Atmospheric Administration.

SEC. 12. STRATEGIC PLAN FOR INFORMATION RESOURCES MANAGEMENT.

(a) None of the funds authorized to be appropriated for use by the Coast Guard in Fiscal Year 1992 may be expanded to acquire additional information resources, including information equipment, until the Commandant of the Coast Guard develops and implements a strategic informaiton resources plan to identify long-term information priorities and link the Coast Guard's missions, priorities, and organizational strategies to Coast Guard information resources.

(b) The Commandant shall submit to the Committee on Commmerce, Science, and Transportation in the Senate and to the Committee on Merchant Marine and Fisheries in the House of Representatives quarterly reports during Fiscal Year 1991 concerning the progress toward completion of the strategic information resources plan, and specifically listing any expenditures or obligations made to acquire information resources.

(c) Section 663 of title 14, United States Code, is amended in the first sentence, by striking "and Shore Facilities Plan." and inserting "Shore Facilities Plan, and Information Resources Management Plan.".

SEC. 13. BOATING SAFETY PROGRAM.

Chapter 131 of title 46, United States Code, is amended—

(a) in section 13101(b)(2) by striking "and with the guidelines developed under that Act; and" and inserting "the Federal Aid in Sport Fish Restoration Act of 1950 (16 U.S.C. 777-777k), and with the guidelines developed under those Acts; and";

(b) in section 13102—

(1) in subsection (a)(3) by inserting "State" after the word "general";

(2) in subsection (c)(4) by inserting "or drugs" after the word "alcohol"; and

(3) in subsection (d) striking "the proportionate share" and inserting "a proportionate share";

(c) in sections 13103(a)(3) and 13105(a) by striking "or obligated" each time it appears; and

(d) in section 13108(a)(1) to read as follows: "During the second quarter of a fiscal year and on the basis of computations made under section 13105 of this title and submitted by the States for the preceding fiscal year, the Secretary shall determine the percentage of the amouts available to which each eligible State is entitled for the next fiscal year.".

SEC. 14. DARE COUNTY, NORTH CAROLINA TRANSFER.

Notwithstanding another law, the Secretary of Transportation shall transfer without consideration by quitclaim deed to Dare County, North Carolina all rights, title, and interest of the United States in Coast Guard property and improvements located on the northern end of Pea Island east side of State road 1257, 0.3 miles north of North Carolina Highway 12 in Rodanthe, Dare County, North Carolina. The Secretary shall require the property to be surveyed before it is transferred.

SEC. 15. BAYOU LAFOURCHE, LOUISIANA.

Bayou Lafourche, in the State of Louisiana, between the Percy Brown Road (Hwy 648), city of Thibodaux, parish of Lafourche, and the Southern Pacific Railroad bridge crossing the bayou, city of Thibodaux, parish of Lafourche, is declared to be a navigable waterway of the United States under chapter 11 of title 33, United States Code.

SEC. 16. COLD WATER SURVIVAL TRAINING CENTER.

In addition to any sums authorized to be appropriated for the Coast Guard for Fiscal Year 1992, $6,00,000 is authroized to be appropriated for Fiscal Year 1992 and transferred to the University of Alaska to establish a Cold Water Survival Training Center in Kenai, Alaska.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Louisiana [Mr. TAUZIN] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4491, the Coast Guard Omnibus Act of 1990, introduced by Hon. WALTER B. JONES, of North Carolina and the chairman of the House Committee on Merchant Marine and Fisheries. This legislation covers a number of matters of significance to the members of the Committee on Merchant Marine and Fisheries. This legislation contains measures which affect the ability of the Coast Guard to protect the life and safety of those who navigate on our waters. I have a number of technical and corrective changes to existing law which are needed in order to allow the Coast Guard to administer its programs in a more efficient manner.

I would like to take a moment to briefly describe various provisions contained in the bill. The first provision is a safety measure that insures that large vessels passing in a narrow channel are able to effectively communicate. It requires vessels 20 meters or more to carry bridge-to-bridge radiotelephones. Presently the law requires vessels of 300 gross tons to carry this equipment. In effect, this bill would merely extend the current requirement to reach those few vessels that are over 20 meters and less than 300 gross tons. Between 1981 and 1988 the failure to use radiotelephones was involved in 25 maritime accidents.

Mr. Speaker, each year you appoint Members of the House of Representatives to the Board of Visitors to the U.S. Coast Guard Academy. This bill will simply allow you to make your designation at the beginning of each Congress with the term to continue for the remainder of that Congress. This will serve to provide for the continuity of the Board of Visitors in addition to reducing the work load of the Speaker's office.

The bill contains a provision which exempts self-propelled hopper dredges from the requirement that there be a federally licensed pilot on board at all times. The nature of these types of vessels and the fact that they transport valueless materials makes this requirement unnecessary. Hopper dredges generally operate in a very limited area. They have historically operated without Federal or State pilots and have had a strong safety record. Prior to 1977 the only hopper dredges in use were owned by the Army Corps of Engineers. They still own four of these dredges and the remainder are privately owned but are most frequently used on Federal projects. The present requirement that hopper dredges use Federal pilots could increase the cost of performing Corps of Engineers dredging contracts by 10 to 15 percent. Therefore, this change will help to reduce the cost of Corps of Engineers dredging projects by deleting this unnecessary requirement.

The bill also allows for a simplified method of measuring domestic barges. It will also require the Coast Guard to develop a strategic plan for information resources management and requires the Coast Guard to submit reports on the development of its plan to the Senate Commerce Committee and the House Merchant Marine and Fisheries Committee.

The bill makes several minor, technical changes to the Coast Guard boating safety program and changes the schedule for estimating state grants from the boat safety account. The changes will not affect the amount each State receives but will simply give the States more time for planning and determining the amount necessary to match the Federal grants.

It also establishes a cold water survival training center in Alaska. The committee unanimously agreed that such a training center could save many lives in Alaska and other cold water areas where after a vessel capsizes or sinks, most deaths are from the cold water, not drowning.

This legislation was adopted unanimously by the Subcommittee on Coast Guard and Navigation and by the full Merchant Marine and Fisheries Committee. Much of the legislation is corrective in nature and has been unopposed. It is the work of many of the members of our full committee. I wish to express my thanks to the chairman of the full committee, Mr. JONES for his efforts and to the ranking minority member, Mr. DAVIS for his contributions. Other members such as Mr. LENT, Mr. YOUNG, and Mr. SHAW have also provided assistance in bringing this bill to the floor. I would also like to thank Admiral Kime, the Commandant of the Coast Guard and his fine staff for all their assistance.

Mr. Speaker, I urge passage of H.R. 4491 as amended.

□ 1310

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4491 and urge its adoption.

I especially want to thank the chairman of the subcommittee, the gentleman from Louisiana [Mr. TAUZIN], for his support of my amendment to authorize a cold water survival center in Alaska. My State supports major commercial and recreational fisheries. It also is the site of important offshore oil production facilities in Cook Inlet. Establishment of a cold water survival center in Alaska will make the jobs of those men and women who work on the sea that much safer, including the many members of the U.S. Coast Guard who serve our Nation.

I rise with Chairman TAUZIN in support H.R. 4491. Aside from the necessary provision to correct a lapse in the requirements for communication equipment on large vessels, this bill contains several sections important to the general management of the Coast Guard.

Recent requirements for 100-percent bonds for shipyards bidding on all Coast Guard contracts for construction and repairs of Coast Guard vessels, has placed an unnecessary burden on responsible yards. There has not been a specific incident in recent Coast Guard contracting which has necessitated the imposition of these bonds. These bonds are expensive and difficult for small yards to acquire, resulting in fewer yards bidding on contracts, less competition, and higher costs to the Government.

Under section 7 of H.R. 4491 the Secretary of Transportation will be required to determine that a Coast Guard bonding requirement will not preclude responsible bidders from competing for a contract. Excessive bonds are not needed to protect the Government's interest in most cases, and should not be used when the effect is to exclude small business participation.

Another section of H.R. 4491 requires the Coast Guard to develop a strategic plan for Coast Guard management of information resources before further acquisitions of these resources are made in fiscal year 1992. A major systems acquisition is planned for that year totaling nearly $100 million. The preparation of a strategic plan will maximize the benefits gained from the individual systems being installed and emphasize the need for compatibility and information exchange between the systems. This will give the Coast Guard access to a wide range of information that in the past was difficult or impossible to retrieve. It will also make the Coast Guard better able to meet all of its missions and place it in the forefront of Federal agencies with the management of its information resources.

Mr. Speaker, I understand that the Coast Guard may feel we are singling them out and being overly critical of their IRM program. Nothing could be further from the truth. To the contrary, I am encouraged by the steps the Coast Guard is taking to improve IRM management. The information I have from GAO is that all agencies can use some improvement in the way in which they use computers. The committee included this provision not as a criticism, but as a way to ensure the Coast Guard's program maintains the high standard of service for which the Coast Guard is renowned. I urge my colleagues to join us in passage of H.R. 4491.

Mr. TAUZIN. Mr. Speaker, I yield myself just a few additional moments only to congratulate the gentleman from Alaska [Mr. YOUNG] for the exceptionally fine work he has done and for the forethought to make sure that Alaska does have this cold water training facility. He has been an advocate for a long time for this facility, and his interest in safety and promoting the maritime workers and the fishermen will apply to not only his State, but all our States, and he is to be commended.

Mr. JONES of North Carolina. Mr. Speaker, I rise in support of H.R. 4491.

Earlier this year, I introduced H.R. 4491, legislation to amend the Vessel Bridge-to-Bridge Radiotelephone Act of 1971. This bill's purpose is to reduce the risks of collisions between vessels operating in narrow channels.

During my committee's consideration of this legislation, numerous provisions were added dealing with various unrelated, noncontroversial, yet very important matters that will promote safer navigation, reduce unnecessary regulatory burdens on certain operators, and make the Coast Guard's information management system more efficient. In addition, the bill provides for the transfer of certain Coast Guard property that the service no longer needs.

Although all of the provisions in this bill are significant, I would like to highlight one of these property transfers that is especially significant and important to me and the people of the First District of North Carolina. On May 8 of this year, I introduced H.R. 4749, which directs the Secretary of Transportation to transfer all rights, title, and interest of the United States in the Oregon Inlet Coast Guard Boat Station to Dare County, NC. Section 14 of the bill we are considering today is virtually the same.

The Oregon Inlet Boat Station has a proud history. For over a century, Coast Guard men and women protected the safety of mid-Atlantic mariners, fishermen, and recreational boaters from one of the most treacherous inlets on the Atlantic Coast. Unfortunately, in December 1988, the Coast Guard was forced by the threat of rampant beach erosion to permanently close the station. A new station is being constructed at a nearby site.

The Coast Guard's loss will be Dare County's gain. This bill will allow the county to preserve some measure of the station's history. While firm plans have not been made, Dare County is planning to convert the building to a museum or visitors center, and the grounds to a recreational facility. Mixed with the sadness that the Oregon Inlet Boat Station's time has passed, is the consolation that it will enjoy a rebirth still in public service.

In addition to this important provision, the bill was amended to:

Designate the Sidney Lanier Bridge an obstruction to navigation;

Exempt vessels used as merchant marine memorials from passenger ship inspection requirements;

Provide for the designation of the members of the Coast Guard Academy Board of Visitors to correspond to the terms of Members of Congress;

Provide for simplified measurement of inland barges;

Prohibit the Secretary of Transportation or the commandant from requiring unreasonable bonds from contractors performing work on Coast Guard vessels;

Exempt seagoing self-propelled hopper dredges from the Federal pilot requirement;

Transfer certain Coast Guard properties;

Prohibit the Coast Guard from acquiring additional information resources in fiscal year 1992 until it develops a strategic information plan;

Amend the Boating Safety Program;

Designate Bayou LaFourche a navigable waterway; and

Authorize funds for the establishment of a cold water survival school.

The legislation, as introduced, would promote a safer marine environment. The provi-

sions added by the committee make a number of important changes in existing law and provide the tools to allow the Coast Guard to better perform their vital tasks. I strongly urge my colleagues to support this bill.

Mr. DAVIS. Mr. Speaker, I rise with Chairman TAUZIN in support of H.R. 4491. Aside from the necessary provision to correct a lapse in the requirements for communication equipment on large vessels, this bill contains several sections important to the general management of the Coast Guard.

Recent requirements for 100-percent bonds for shipyards bidding on all Coast Guard contracts for construction and repairs of Coast Guard vessels has placed an unnecessary burden on responsible yards. There has not been a specific incident in recent Coast Guard contracting which has necessitated the imposition of these bonds. These bonds are expensive and difficult for small yards to acquire, resulting in fewer yards bidding on contracts, less competition, and higher costs to the Government.

Section 7 of H.R. 4491 would still allow the Secretary of Transportation to apply the traditional standards of responsibility contained in the Federal Acquisition Regulations. However, the Secretary will now be required to determine that a Coast Guard bonding requirement will not preclude responsible bidders from competing for a contract. Excessive bonds are not needed to protect the Government's interest in most cases, and should not be used when the effect is to exclude small business participation.

The Congressional Budget Office estimate for H.R. 4491 states that section 7 of the bill would limit the circumstances under which the Coast Guard may impose bonding requirements. The estimate also states that if this provision is effective in reducing the number of secured contracts, some Coast Guard maintenance and capital programs would be exposed to greater risk. These statements reflect a misunderstanding of the effect of section 7 of H.R. 4491.

Under section 7, the Coast Guard will be required to make a case-by-case determination that a particular Coast Guard bonding requirement will not preclude responsible bidders from competing for a contract. In making the determination regarding responsibility of potential bidders, the Coast Guard should apply the traditional standards of reasonability contained in the Federal Acquisition Regulations. If the bonding requirement is so high that responsible bidders are excluded from the competition, the Coast Guard may impose a bonding requirement at that level. However, the Coast Guard may adjust the level of the bond so as not to exclude responsible bidders. The case-by-case determination required by this section will not limit the circumstances under which the Coast Guard may impose bonds or reduce the number of secured Coast Guard contracts. What the determination will do is assure that the level of the bond is not so high that responsible small businesses are not able to compete for the contract. This provision does not eliminate bonds but rather regulates the amount of bonds to remove any anticompetitive effect.

I understand that the Coast Guard is still routinely requiring a bond of 100 percent for Coast Guard vessel construction contracts. This practice disappoints me because it is keeping many small businesses from bidding on Coast Guard contracts, either because they cannot afford to purchase bonds or because they do not have the assets to pledge as security for a bond. Not only are bond rates prohibitively expensive for many small shipyards, bonds are becoming increasingly difficult for small shipyards to purchase at any price, because bondsmen are reluctant to accept the nonliquid assets of a shipyard as security.

The Coast Guard is not required by section 7 to forgo reasonable bonding requirements that do not have an anticompetitive impact. In addition, under section 7 the Coast Guard may reject bidders who are unlikely to successfully complete the contract. In these ways, the Government's interest is protected without unreasonably excluding small businesses by requiring unnecessary bonds. Excessively high bonding requirements should not be used as a substitute for effective procurement practices by the Government.

I believe this provision will strike a balance between the Government's need to ensure successful completion of contracts and the public interest in encouraging and supporting small businesses.

Another section of H.R. 4491 requires the Coast Guard to develop a strategic plan for their management of information resources before further acquisitions of these resources are made in fiscal year 1992. A major systems acquisition is planned for that year totaling nearly $100 million. The preparation of a strategic plan will maximize the benefits gained from the individual systems being installed and emphasize the need for compatibility and information exchange between the systems. This will give the Coast Guard access to a wide range of information that in the past was difficult or impossible to retrieve. It will also make the Coast Guard better able to meet all of its missions and place it in the forefront of Federal agencies with the management of its information resources.

Mr. Speaker, I understand that the Coast Guard may feel we are singling them out and being overly critical of their IRM program. Nothing could be further from the truth. To the contrary, I am encouraged by the steps the Coast Guard is taking to improve IRM management. The information I have from GAO is that all agencies can use some improvement in the way in which they use computers. The committee included this provision not as a criticism, but as a way to ensure the Coast Guard's program maintains the high standard of service for which the Coast Guard is renowned.

I urge my colleagues to join us in passage of H.R. 4491.

Mr. TAUZIN. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TORRES). The question is on the motion offered by the gentleman from Louisiana [Mr. TAUZIN] that the House suspend the rules and pass the bill, H.R. 4491, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: "Coast Guard Omnibus Act of 1990".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4491, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

NATIONAL ENVIRONMENTAL EDUCATION ACT

Mr. JONTZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3684) to increase public understanding of the natural environment and to advance and develop environmental education and training as amended.

The Clerk read as follows:

H.R. 3684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Environmental Education Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings and policy.
Sec. 3. Definitions.
Sec. 4. Office of Environmental Education.
Sec. 5. Environmental education and training program.
Sec. 6. Environmental education grants.
Sec. 7. Environmental internships.
Sec. 8. Environmental education awards.
Sec. 9. Environmental Education Advisory Council and Task Force.
Sec. 10. The National Environmental and Training Foundation.
Sec. 11. Authorization.

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) Threats to human health and environmental quality are increasingly complex, involving a wide range of conventional and toxic contaminants in the air and water and on the land.

(2) There is growing evidence of international environmental problems, such as global warming, ocean pollution, and species diversity, and that these problems pose serious threats to human health and the environment on a global scale.

(3) These problems represent as significant a threat to the quality of life and economic vitality of urban areas as they do the natural balance of rural areas.

(4) Effective response to complex environmental problems requires understanding of the natural and built environment and awareness of environmental problems and

their origins, including those in urban areas, and the skills to solve these problems.

(5) Development of effective solutions to environmental problems and effective implementation of environmental programs requires a well educated and trained, professional work force.

(6) Current Federal efforts to inform and educate the public concerning the natural and built environment and environmental problems, and its support for local, State, national and international networks to support environmental education and training, are not adequate.

(7) Existing Federal support for development and training of professionals in environmental fields is not sufficient.

(8) The Federal Government, acting through the Environmental Protection Agency, should work with local education institutions, State education agencies, not-for-profit educational and environmental organizations, noncommercial education broadcasting entities, and private sector interests to support development of curricula, special projects, and other activities, to increase understanding of the natural and built environment and to improve awareness of environmental problems.

(9) The Federal Government, acting through the efforts of its agencies, especially the Environmental Protection Agency, should work with local education institutions, State education institutions, not-for-profit educational organizations, noncommercial education broadcasting entities, and private sector interests to develop programs to provide increased emphasis and financial resources for the purpose of attracting students into environmental engineering and assisting them with financial and other means in pursuing the programs to complete the advanced technical education required to provide effective problem solving capabilities for complex environmental issues.

(b) POLICY.—It is the policy of the United States to establish and support a program of education on the environment, its needs and the choices involving the environment made in daily life, for students and personnel working with students, through activities in schools, institutions of higher education, and related educational activities, and to encourage postsecondary students to pursue careers related to the environment.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "Agency" means the United States Environmental Protection Agency;

(3) "Federal agency" or "agency of the United States" means any department, agency or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation;

(4) "Secretary" means the Secretary of the Department of Education;

(5) "local education agency" means any education agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381);

(6) "not-for-profit" organization means an organization, association, or institution described in section 501(c)(3) of the Internal Revenue Code of 1986, which is exempt from taxation pursuant to the provisions of section 501(a) of such Code;

(7) "environmental engineering" means the discipline within engineering and science concerned with the development and application of scientific and technical solutions to protecting the aquatic and atmospheric environment, including, but not limited to, all phases of water resources planning, water supply, water treatment, air pollution characterization and control, remediation of hazardous substances, environmental transport of contaminants in surface and groundwater and atmosphere, and methods for assessment and control of pollution;

(8) "noncommercial education broadcasting entities" means any noncommercial educational broadcasting station (and/or its legal nonprofit affiliates) as defined and licensed by the Federal Communications Commission;

(9) "tribal education agency" means a school or community college which is controlled by an Indian tribe, band, or nation, including any Alaska native village, which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians and which is not administered by the Bureau of Indian Affairs;

(10) "Foundation" means the National Environmental Education and Training Foundation;

(11) "Board of Directors" means the Board of Directors of the National Environmental Education and Training Foundation; and

(12) "environmental education" and "environmental education and training" mean educational activities and training activities involving elementary, secondary, and postsecondary students, as such terms are defined in the State in which they reside, and environmental education personnel, but does not include technical training activities directed toward environmental management professionals or activities primarily directed toward the support of noneducational research and development.

SEC. 4. OFFICE OF ENVIRONMENTAL EDUCATION.

(a) The Administrator shall establish an Office of Environmental Education within the Environmental Protection Agency.

(b) The Office of Environmental Education shall—

(1) develop and support programs and related efforts to improve understanding of the natural and built environment, and the relationships between humans and their environment, including the global aspects of environmental problems;

(2) support development and the widest possible dissemination of model curricula, educational materials, and training programs for elementary and secondary students and other interested groups, including senior Americans;

(3) develop and disseminate, in cooperation with educational and environmental and other not-for-profit organizations and with noncommercial education broadcasting entities, environmental education publications and audio/visual materials;

(4) develop and support environmental education networks, seminars, teleconferences, training programs, and workshops for environmental professionals, as provided for in section 5 of this Act;

(5) manage Federal grant assistance provided to local education agencies, institutions of higher education, other not-for-profit organizations, and noncommercial education broadcasting entities under section 6 of this Act;

(6) administer the environmental internship program provided for in section 7 of this Act;

(7) administer the environmental awards program provided for in section 8 of this Act;

(8) provide staff support to the Advisory Council and the Environmental Education Task Force provided for in section 9 of this Act;

(9) assess the demand for professional skills and training needed to respond to current and anticipated environmental problems and cooperate with appropriate institutions, organizations, and agencies to develop training programs, curricula, and continuing education programs for teachers, school administrators, and related professionals;

(10) assure the coordination of Federal statutes and programs administered by the Agency relating to environmental education, consistent with the provisions and purposes of those programs, and work to reduce duplication or inconsistencies within the programs;

(11) work with the Department of Education, the Federal Interagency Committee on Education, and with other Federal agencies to assure the effective coordination of programs related to environmental education; and

(12) otherwise provide for the implementation of this Act.

(c) The Office of Environmental Education shall—

(1) be directed by a Director who shall be a member of the Senior Executive Service;

(2) include a headquarters staff of not more than ten full-time equivalent employees; and

(3) be supported by one full-time equivalent employee in each Agency regional office.

SEC. 5. ENVIRONMENTAL EDUCATION AND TRAINING PROGRAM.

(a) There is hereby established an Environmental Education and Training Program. The purpose of the program shall be to train educational professionals in the development and delivery of environmental education and training programs and studies.

(b) The functions and activities of the program shall include, at a minimum—

(1) classroom training in environmental education and studies including environmental sciences and theory, educational methods and practices, and topical environmental issues and problems;

(2) demonstration of the design and conduct of environmental field studies and assessments;

(3) training in development of environmental programs and curriculum;

(4) sponsorship and management of international exchanges of teachers and other educational professionals involved in environmental programs and issues;

(5) maintenance of a library of environmental education materials, information, literature, and technologies, with electronic as well as hard copy accessibility;

(6) evaluation and dissemination of environmental education materials, training methods, and related programs;

(7) sponsorship of conferences, seminars, and related forums for the advancement and development of environmental education and training curricula and materials, including international conferences, seminars, and forums; and

(8) supporting effective partnerships and networks and the use of distant learning technologies of public, private, not-for-profit and governmental organizations in-

volved in environmental education and training.

Special emphasis should be placed on developing environmental education programs, workshops, and training tools which are portable and can be broadly disseminated including development of computer networks.

(c)(1) The Administrator shall make a grant on an annual basis to an institution or institutions of higher education or other research institution(s) which is/are a not-for-profit institution (or consortia of such institutions) to establish and operate the environmental education and training program required by this section.

(2) Any institution of higher education or other research institution (or consortia of such institutions) which is a not-for-profit organization and is interested in receiving a grant under this section may submit to the Administrator an application in such form and containing such information as the Administrator may require.

(3) The Administrator shall award grants under this section on the basis of—

(A) the capability to develop environmental education and training programs;

(B) the capability to deliver training to a range of participants and in a range of settings;

(C) the expertise of the staff in a range of appropriate disciplines;

(D) the relative economic effectiveness of the program in terms of the ratio of overhead costs to direct services;

(E) the results of any evaluation under paragraph (5) of this subsection; and

(F) the capability to make effective use of existing national environmental education resources, programs, and networks, including public telecommunications networks; and

(G) such other factors as the Administrator deems appropriate.

(4) No funds made available to carry out this section shall be used for the acquisition of real property (including buildings) or the construction or substantial modification of any building.

(5) The Administrator shall establish procedures for a careful and detailed review and evaluation of the environmental education and training program or programs to determine whether the quality of the program being operated by the grantee or grantees warrants continued support under this section.

(d)(1) Individuals eligible for participation in the program are teachers, faculty, administrators and related support staff associated with local education agencies, colleges, and universities, employees of State education, environmental protection, and natural resource departments, and employees of not-for-profit organizations involved in environmental education activities and issues.

(2) Environmental education professionals shall be selected for participation in the program based on applications which shall be in such form as the Administrator determines to be appropriate.

(3) In selecting individuals to participate in the program, the Administrator shall provide for a wide geographic representation and a mix of individuals, including minorities, working at primary, secondary, postsecondary levels, and with appropriate other agencies and departments.

(4) Individuals selected for participation in the program may be provided with a stipend to cover travel and accommodations in such amounts as the Administrator determines to be appropriate.

SEC. 6. ENVIRONMENTAL EDUCATION GRANTS.

(a) The Administrator may enter into a cooperative agreement or contract, or provide financial assistance in the form of grants to support projects to design, demonstrate, and disseminate practices, methods, or techniques related to environmental education and training.

(b) Activities eligible for grant support pursuant to this section shall include, but not be limited to, projects to—

(1) design, demonstrate, and disseminate environmental curricula, including development of educational tools and materials;

(2) design and demonstrate field methods, practices, and techniques;

(3) understand and assess a specific environmental issue or a specific environmental problem; and

(4) support training or related education for personnel, including teachers, faculty, or administrative staff.

(c) In making grants pursuant to this section, the Administrator shall give priority to those proposed projects which will develop—

(1) a new or significantly improved environmental education practice, method, or technique;

(2) an environmental education practice, method, or technique which may have wide application;

(3) an environmental education practice, method, or technique which addresses a skill or scientific field identified as a priority in the report developed pursuant to section 9(f) of this Act;

(4) an environmental education practice, method or technique which addresses an environmental issue which, in the judgment of the Administrator, is of a high priority; and

(5) an evaluation of the content and effectiveness of environmental education and training programs and materials.

(d) The program established by this subsection shall include solicitations for projects, selection of suitable projects from among those proposed, supervision of such projects, evaluation of the results of projects, and dissemination of information on the effectiveness and feasibility of the practices, methods, techniques, and processes. Within one year after the date of enactment of this Act, the Administrator shall publish regulations to assure satisfactory implementation of each element of the program authorized by this subsection.

(e) Within 90 days after the date on which amounts are first appropriated for carrying out this Act, the Administrator shall publish a solicitation for environmental education grants. The solicitation notice shall prescribe the information to be included in the proposal and other information sufficient to permit the Administrator to assess the project.

(f) Any local education agency, college or university, State education agency or environmental agency, not-for-profit organization, or noncommercial educational broadcasting entity may submit an application to the Administrator in response to the solicitations required by subsection (e) of this section.

(g) Each project under this section shall be performed by the applicant, or by a person satisfactory to the applicant and the Administrator.

(h) Federal funds for any demonstration project under this section shall not exceed 75 per centum of the total cost of such project. For the purposes of this section, the non-Federal share of project costs may be provided by inkind contributions and other noncash support. In cases where the Administrator determines that a proposed project merits support and cannot be undertaken without a higher rate of Federal support, the Administrator may approve grants under this section with a matching requirement other than that specified in this subsection, including full Federal funding.

(i) Grants under this section shall not exceed $250,000. In addition, 25 per centum of all funds obligated under this section in a fiscal year shall be for grants of not more than $5,000.

SEC. 7. ENVIRONMENTAL INTERNSHIPS.

(a) The Administrator shall, in consultation with the Office of Personnel Management and other appropriate Federal agencies, provide for internships by postsecondary level students with agencies of the Federal Government.

(b) The purpose of internships pursuant to this section shall be to provide college level students with an opportunity to work with professional staff of Federal agencies involved in environmental issues and thereby gain an understanding and appreciation of the skills and abilities appropriate to such professions.

(c) The Administrator shall, to the extent practicable, support not less than one hundred and fifty internships each year.

(d) The internship program shall be managed by the Office of Environmental Education. Interns may serve in appropriate agencies of the Federal Government including, but not limited to, the Environmental Protection Agency, the Department of Energy, the Department of Defense, the Fish and Wildlife Service, and the National Oceanic and Atmospheric Administration, Council on Environmental Quality, Soil Conservation Service, United States Forest Service, National Park Service, and the Bureau of Land Management.

(e) Interns shall be hired on a temporary, full-time basis for not to exceed six months and shall be compensated appropriately. Federal agencies hiring interns shall provide the funds necessary to support salaries and related costs.

(f) Individuals eligible for participation in the internship program are students enrolled at accredited colleges or universities who have successfully completed not less than four courses or the equivalent in environmental sciences or studies, as determined by the Administrator.

(g) Students shall be selected for internships based on applications which shall be in such form as the Administrator considers appropriate.

(h) In selecting individuals for internships, the Administrator shall provide for wide geographic cultural and minority representation.

SEC. 8. ENVIRONMENTAL EDUCATION AWARDS.

(a) The Administrator shall provide for a series of national awards recognizing outstanding contributions to environmental education.

(b) National environmental awards shall include—

(1) the "Theodore Roosevelt Award" to be given in recognition of an outstanding career in environmental education, teaching, or administration;

(2) the "Henry David Thoreau Award" to be given in recognition of an outstanding contribution to literature on the natural environment and environmental pollution problems; and

(3) the "Rachael Carson Award" to be given in recognition of an outstanding con-

tribution in print, film media, or broadcast to public education and information on environmental issues or problems.

(c) The Administrator may also provide for the "President's Environmental Youth Awards" to be given to young people in grades kindergarten through twelfth for an outstanding project to promote local environmental awareness.

(d) Recipients of education awards provided for in subsection (b) shall be nominated by the Environmental Education Advisory Council provided for in section 9 of this Act.

(e) The Regional Administrator of each of the ten regional offices of the Environmental Protection Agency shall, based upon uniform criteria developed by the Administrator and utilized agency-wide, present an "Outstanding Environmental Educator Award" on an annual basis to a teacher or faculty member from a local education agency, college or university, or not-for-profit organization in that region in recognition of a specific, outstanding contribution to environmental education during the past year.

SEC. 9. ENVIRONMENTAL EDUCATION ADVISORY COUNCIL AND TASK FORCE.

(a) There is hereby established a National Environmental Education Advisory Council and a Federal Task Force on Environmental Education.

(b) The Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this Act. With respect to such matters, the Council shall be the exclusive advisory entity for the Administrator. The Council may exchange information with other advisory councils established for the Administrator. The Office shall provide staff support to the Council.

(c) The Council shall consist of eleven members appointed by the Administrator after consultation with the Secretary. Two members shall be appointed to represent primary and secondary education (one of whom shall be a classroom teacher); two members shall be appointed to represent colleges and universities; two members shall be appointed to represent not-for-profit organizations involved in environmental education, two members shall be appointed to represent State departments of education and natural resources; two members shall be appointed to represent business and industry, and one member shall be appointed to represent senior Americans. A representative of the Secretary, Department of Education, shall serve as an ex-officio member of the Council.

(d) The Administrator shall provide that members of the Council represent the various geographic regions of the country, has minority representation, and that the professional backgrounds of the members include scientific, policy, and other appropriate disciplines.

(e) Each member of the Council shall hold office for a term of three years, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(2) the terms of the members first taking office shall expire as follows: four shall expire three years after the date of enactment of this Act, four shall expire two years after such date, and three shall expire one year after such date, as designated by the Administrator at the time of appointment.

(f) The Council shall, after providing for public review and comment, submit to the Congress, within twenty-four months of enactment and biennially thereafter, a report which shall—

(1) describe and assess the extent and quality of environmental education in the Nation's schools, colleges, and universities;

(2) provide a general description of the activities conducted pursuant to this Act and related authorities over the previous two-year period;

(3) summarize major obstacles to improving environmental education and make recommendations for addressing such obstacles;

(4) identify personnel skills, education, and training needed to respond to current and anticipated environmental problems and make recommendations for actions to assure sufficient educational and training opportunities in these professions; and

(5) describe and assess the extent and quality of environmental education available to senior Americans, and make recommendations thereon; describe the various Federal agency programs to further senior environmental education; and evaluate and make recommendations as to how such educational apparatuses could best be coordinated with non-profit senior organizations across the Nation, and environmental education institutions and organizations now in existence.

(g) Members of the Council appointed under this section shall, while attending meetings or conferences of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(h) Section 14(a) of the Federal Advisory Committee Act relating to termination, shall not apply to the Council.

(i)(1) The Federal Task Force on Environmental Education shall advise, consult with and make recommendations to the Administration on matter relating to implementation of this Act and assure the coordination of such implementation activities with related activities of other Federal agencies.

(2) Membership of the Task Force shall include representatives of the—

(A) Department of Education,
(B) Fish and Wildlife Service,
(C) National Park Service,
(D) Forest Service,
(E) Department of Agriculture,
(F) Council on Environmental Quality;
(G) National Science Foundation;
(H) Department of Energy;
(I) Department of Defense; and
(J) Tennessee Valley Authority.

The Administrator of the Environmental Protection Agency shall chair the Task Force. The Federal Task Force on Environmental Education shall review and comment on a draft of the report to Congress.

SEC. 10. THE NATIONAL ENVIRONMENTAL EDUCATION FOUNDATION.

(a) ESTABLISHMENT AND PURPOSES.—

(1) ESTABLISHMENT.—(A) There is hereby established the National Environmental Education and Training Foundation (hereinafter in this chapter referred to as the "Foundation"). The Foundation is established in order to extend the contribution of environmental education and training to meeting critical environmental protection and sustainable development needs, both in this country and internationally; to facilitate the cooperation, coordination and contribution of public and private resources to create an environmentally conscious public and responsible workforce, and an environmentally advanced educational system; and to foster an open and effective partnership among Federal, State, and local government, business, industry, academic institutions, grassroots environmental advocacy groups, international organizations, and individuals dedicated to fostering a new global environmental ethic.

(B) The Foundation is a charitable and nonprofit corporation whose income is exempt from tax, and donations to which are tax deductible to the same extent as those organizations listed pursuant to section 501(c) of the Internal Revenue Code of 1986. The Foundation is not an agency or establishment of the United States.

(2) PURPOSES.—The purposes of the Foundation are—

(A) to encourage, accept, leverage, and administer private gifts for the benefit of, or in connection with, the environmental education and training activities and services of the United States Environmental Protection Agency, and

(B) to undertake and conduct such other environmental education activities as will further the development of an environmentally conscious and responsible public, a well-trained and environmentally literate workforce, and an environmentally advanced educational system, and

(C) to participate with, and otherwise assist, foreign governments, entities, and individuals in undertaking and conducting activities that will further environmental education and training worldwide.

(3) PROGRAMS.—The Foundation will develop, support and/or operate a system of programs and projects to educate and train educational and environmental management professionals, and to assist them in the development and delivery of environmental education and training program and studies. The program will be implemented through a national and international network of environmental education and training centers located within institutions of higher learning, graduate professional schools, not-for-profit environmental, education and/or training organizations, business and/or industry facilities, museums, libraries, and other such institutions which express an interest in and a capability to participate in the programs.

(b) BOARD OF DIRECTORS.—

(1) ESTABLISHMENT AND MEMBERSHIP.—(A) The Foundation shall have a governing Board of Directors (hereinafter referred to in this chapter as the "Board"), which shall consist of 15 Directors, each of whom shall be knowledgeable or experienced in environment, education, and/or training. The membership of the Board, to the extent practicable, shall represent diverse points of view relating to environmental education and training. The Administrator of the Environmental Protection Agency shall appoint a repre-

sentative to be a voting member of the Board. Ex-officio membership shall also be offered to other Federal agencies or departments with an interest and/or experience in environmental education and training. The Board shall also ensure that the activities of the Foundation are consistent with the environmental education goals and policies of the Environmental Protection Agency and with the intents and purposes of this Act. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(B) There shall also be established an executive committee of the Foundation, elected by the Board, which committee shall meet at least twice yearly to conduct the business of the Foundation.

(2) APPOINTMENT AND TERMS.—Within 90 days of the passage of this Act, the Administrator of the Environmental Protection Agency (hereinafter referred to in this chapter as the "Administrator") shall appoint the Directors of the Board. The Directors shall be appointed for terms of six years; except that the Administrator, in making the initial appointments to the Board, shall appoint five Directors to a term of two years, five Directors to a term of four years, and five Directors to a term of six years. A vacancy on the Board shall be filled within 60 days of said vacancy in the manner in which the original appointment was made. No individual may serve more than two consecutive terms as a Director.

(3) CHAIRMAN.—The Chairman shall be elected by the Board from its members for a two-year term.

(4) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(5) MEETINGS.—The Board shall meet at the call of the Chairman at least twice a year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board and that vacancy filled in accordance with subsection (b) of this section.

(6) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(7) GENERAL POWERS.—(A) The Board may complete the organization of the Foundation by:

(i) appointing officers and employees;

(ii) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this section; and

(iii) undertaking of such other acts as may be necessary to carry out the provisions of this section.

(B) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(i) Officers and employees may not be appointed until the Foundation has sufficient funds to pay them for their service. Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 of subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

(ii) The first officer or employee appointed by the Board shall be the Executive Director of the Foundation who (I) shall serve, at the direction of the Board, as the Secretary of the Board and the Foundation's chief executive officer, and (II) shall be knowledgeable and experienced in matters relating to environmental education and training.

(c) RIGHTS AND OBLIGATIONS OF THE FOUNDATION.—

(1) IN GENERAL.—The Foundation:

(A) shall have perpetual succession;

(B) may conduct business throughout the several States, territories, and possessions of the United States and abroad;

(C) shall have its principal offices in the District of Columbia or in the greater metropolitan area; and

(D) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The service of notice to, or service of process upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(2) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(3) POWERS.—To carry out its purposes under section 10(a)(2) of this Act, the Foundation shall have, in addition to the powers otherwise given it under this section, the usual powers of a corporation acting as a trustee, including the power:

(A) to accept, receive, solicit, hold, administer and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(B) to acquire by purchase or exchange any real or personal property or interest therein;

(C) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain or otherwise dispose of any property or income therefrom;

(D) to sue or be sued, and complain and defend itself in any court of competent jurisdiction, except that the Directors of the Board shall not be personally liable, except for gross negligence;

(E) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its function; and

(F) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

For the purposes of this section, a gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

(d) ADMINISTRATIVE SERVICES AND SUPPORT.—

(1) PROVISIONS OF SERVICES.—Subject to the requirements of this subsection, the Administrator may provide personnel, facilities, and other administrative services to the Foundation, including reimbursement of expenses under subsection (b)(6) of this section, not to exceed then current Federal Government per diem rates, for a period of up to four years from the date of enactment of this Act, and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services. With respect to personnel, the Administrator may provide no more than one full-time employee to serve the Foundation in a policy capacity, and may provide clerical and other support staff at a level equivalent to two full-time equivalent employees to the Foundation, for a period not to exceed two years from the date of initial assignment of any personnel for this purpose.

(2) REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(e) VOLUNTEER STATUS.—The Administrator may accept, without regard to the civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the Environmental Protection Agency, as volunteers in the performance of the functions authorized herein, in the manner provided for under this section.

(f) AUDITS, REPORT REQUIREMENTS, AND PETITION OF THE ATTORNEY GENERAL FOR EQUITABLE RELIEF.—

(1) AUDITS.—For purposes of the Act entitled "An Act for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (Public Law 88-504; 36 U.S.C. 1101-1103), the Foundation shall be treated as a private corporation established under Federal law.

(2) REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(g) UNITED STATES RELEASE FROM LIABILITY.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

(h) AMENDMENT AND REPEAL.—The Congress expressly reserves the right to repeal or amend this section at any time.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) There are hereby authorized to be appropriated to the Environmental Protection Agency for the purposes of carrying out this Act, $10,000,000 for each of fiscal years 1992 and 1993, and $12,000,000 for each of fiscal years 1994 and 1995.

(b) Of such sums appropriated in a fiscal year, not more than 30 percent shall be available for the activities of the Office of Environmental Education, not more than 30 percent shall be available for the operation of the environmental education and training program, and not more than 40 percent shall be available for environmental education grants.

(c) There are hereby, also authorized to be appropriated to the Environmental Protection Agency for each of fiscal years 1992 through 1995, inclusive, to remain available until expended, not to exceed $1,500,000 to be made available to the Foundation—

(1) to match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local government agencies;

(2) to provide administrative services under section 10(d) of this Act; and

(3) provided that the Administrator determines that the funds appropriated will be used to carry out the statutory purposes of

the Foundation in a manner consistent with the activities authorized under this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. JONTZ] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. JONTZ].

Mr. JONTZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3684, the National Environmental Education Act, as reported from the Committee on Education and Labor.

H.R. 3684 would establish an Office of Environmental Education within the EPA to administer and coordinate the Federal Government's environmental education contributions.

The bill establishes an environmental education and training program for teacher training in the development and delivery of environmental education programs. The programs would support activities such as international teacher exchanges, conferences and seminars.

The bill also establishes an environmental educational grant program to support activities of local school systems, colleges, State environmental and education agencies, and public broadcasting organizations.

In addition, H.R. 3684 would establish college-level environmental internships in Federal agencies, national and regional awards to recognize excellence in environmental education, a National Environmental Advisory Council to advise EPA on the programs established in the bill, and a Federal Task Force on Environmental Education to coordinate Federal environmental education activities.

The legislation would also establish a National Environmental Education and Training Foundation which, by attracting funds from the private sector to match Federal contributions, will supplement the activities provided for in this bill. The foundation will support a network of environmental education centers at universities and nonprofit environmental and education organizations which would educate and train educational and environmental management professionals.

The bill authorizes $10 million for each of fiscal years 1992 and 1993, and $12 million for each of fiscal years 1994 and 1995 for the EPA for these activities. It also authorizes $1.5 million in each of fiscal years 1992 through 1995 for the National Environmental Education and Training Foundation.

Mr. Speaker, this bill reflects the good work of our colleagues on the Education and Labor Committee and the author of H.R. 3684, GEORGE MILLER, who has constructed a proposal which enjoys support from EPA and from the bipartisan membership of the committee. A similar bill was approved by the Senate on July 18.

On April 19, the Subcommittee on Select Education, under the leadership of Chairman MAJOR OWENS, held a hearing on H.R. 3684 at which EPA Administrator William Reilly, entertainer John Denver, and a number of other distinguished witnesses testified. On July 26, the full Education and Labor Committee reported the bill with a substitute amendment offered by myself on behalf of Chairman OWENS and Congressman MILLER.

Mr. Speaker, I am not the first Hoosier on the Education and Labor Committee who has been involved in efforts to expand environmental education. In 1970, the year of the first Earth Day celebration, our former colleague, John Brademas, was the chairman of the Select Education Subcommittee and was the author of the Environmental Education Act of 1970, which became Public Law 91-516.

Unfortunately, the program authorized in the Brademas legislation was never fully funded and was plagued with administrative problems. Public Law 91-516 was repealed in 1982. Since that time, there has been only limited and indirect Federal involvement in environmental education through agencies such as the Fish and Wildlife Service, the USDA Forest Service, and the Tennessee Valley Authority.

Environmental educators in our local public schools, nonprofit organizations and the private sector have been able to sustain a variety of successful environmental education programs. But these efforts should be expanded in order to reach more of our young people.

Federal grants, training opportunities for environmental educators, internships for college students, and a network of environmental education and training centers, backed by the expertise of Federal agencies, will provide greater opportunities for improvement of existing programs and for the establishment of new ones.

It is appropriate that in 1990, the year we celebrated the 20th anniversary of Earth Day, legislation has again come before the Congress to provide a role for the Federal Government in environmental education.

Mr. Speaker, it is gratifying that several Federal agencies with environmental responsibilities are enthusiastic about participating in the programs included in H.R. 3684. EPA has taken the lead role for the Federal Government on this issue, and several other agencies, such as the Forest Service and the Tennessee Valley Authority, have also requested to be included. Their expertise will be a valuable resource for local educators.

I am confident that we have learned from the earlier problems with the 1970 environmental education law and that we will be able to restore a positive role for the Federal Government in assisting environmental educators across our country.

Mr. Speaker, I want to especially note the great cooperation and support which we have received from the Energy and Commerce Committee. As is noted in an exchange of letters between the chairs of our respective committees, which I will insert in the record as part of my statement, this bill, which involves the EPA, does have provisions which involve the interests of the Energy and Commerce Committee. They have been very helpful and cooperative in working with us to perfect the legislation and to move it to the floor as expeditiously as possible, and I want to extend our thanks to them for their efforts.

Mr. Speaker, there are many events this year which have highlighted the renewed interest of citizens and the Federal Government in ensuring that future generations will be able to enjoy our abundant natural resources, the beauty of our lands, and the security of living in safe and clean neighborhoods.

The 20th anniversary of Earth Day, passage of clean air legislation, passage of the 1990 farm bill recognizing the importance of environmentally sound agricultural production, and reform in the way the Federal Government manages our natural resources owned by the citizens of this country. These are all significant achievements.

Passage of H.R. 3684 will help educate our Nation's young people about the important environmental choices which they will be making and about the challenges our Nation faces in responding to environmental problems.

Mr. Speaker, this proposal enjoys support from EPA, environmental groups and the bipartisan membership of the Education and Labor Committee. Again, I want to commend the work of Congressman MILLER, Chairman OWENS, and the contributions of the EPA and Energy and Commerce Committee. H.R. 3684 deserves the overwhelming approval of the House.

GENERAL LEAVE

Mr. JONTZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. JONTZ. Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering H.R. 3684, the National Environmental Education Act, a bipartisan bill which will increase the public awareness of the importance of protecting our environment. The administration is strongly supporting this bill and has been very instrumental in developing the legislation before us today.

This past April, we celebrated the 20th anniversary of Earth Day, an event which inspired America's environmental consciousness by bringing environmental issues to the national agenda. Much has been accomplished in the last 20 years toward resolving environmental problems but there is still much to be done.

Environmental education can play an essential role in encouraging voluntary changes in individual habits to cut waste and to prevent pollution before it becomes a problem. The more individuals know, the more they understand, the more they benefit, the more active and involved they will be in making a personal contribution to environmental improvement. Heightened public sensitivity to the environmental consequences of individual and collective actions is a benefit of environmental education.

H.R. 3684 accomplishes these goals by creating an Office of Environmental Education within the Environmental Protection Agency [EPA] to develop and support programs to help people improve the understanding of the natural environment and the need to protect it. This bill funds environmental education and training programs to train professionals in environmental education; funds environmental education internships to help young people gain an understanding of environmental education and recognizes outstanding contributions to environmental education through several annual environmental excellence awards. H.R. 3684 authorizes $10 million in fiscal year 1992 and fiscal year 1993 and $12 million in fiscal year 1994 and fiscal year 1995 for these activities.

H.R. 3684 also creates a private/public foundation modeled after the successful Fish and Wildlife Foundation to help fund national and international environmental education and training networks and programs. The purposes of this Foundation are to encourage, accept, and administer private donations for environmental educational activities and raise the public consciousness about the need to protect our environment. To attract funds from the private sector for this Foundation, $1.5 million is authorized in Federal matching funds for this Foundation.

The private sector has been steadily increasing its funding of local, regional, and national environmental projects and I am optimistic that this growth will continue. It is my hope that this Foundation will be successful in raising private sector funds for environmental education so that Federal dollars for this program can be phased out when we reauthorize this legislation in 5 years.

I think H.R. 3684 will provide Federal leadership and assistance in the area of environmental education but ultimately the actions that need to be taken are private actions and this legislation is necessary to cause those private actions to occur. I, therefore, urge my colleagues to support passage of this bill in an effort to educate Americans on the importance of protecting our environment so that future generations can enjoy its beauty.

Mr. Speaker, I yield back the balance of my time.

Mr. JONTZ. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER], the author of the bill.

Mr. MILLER of California. Mr. Speaker, I urge my colleagues to join me in supporting H.R. 3684, the National Environmental Education Act, a bill which I am proud to have introduced. This legislation renews and reestablishes the Federal role in environmental legislation, and is designed to complement existing environmental programs operated by Federal, State, and local agencies and nonprofit organizations. Its purpose is to increase the public understanding of the natural environment and to advance and develop environmental education and training.

The legislation before us today has been carefully crafted with input from members of staff of the Education and Labor and the Energy and Commerce Committees, the Environmental Protection Agency [EPA], and other Federal agencies, whom I wish to thank for their diligent efforts in strengthening this legislation. H.R. 3684 is supported by the administration as well as numerous environmental advocacy and education groups.

As we prepare to enter the 21st century, there is growing realization and concern that the environmental issues we must address are increasingly complex and interrelated. Many environmental issues, including acid rain and global warming, are of international scope. Environmental disasters, such as the *Exxon Valdez* oilspill, the oilspills off the coasts of Rhode Island, Louisiana, and California, and toxic waste dumps are becoming all too common. To address these problems, we need an environmentally educated citizenry.

Based upon my 15 years of experience as a member of the Interior Committee, I strongly believe that the Federal Government should promote and play a more active role in the development of environmental education programs. Establishing a national environmental education program will prepare tomorrow's leaders to respond effectively to increasingly complex national and global environmental problems.

H.R. 3684 creates an Office of Environmental Education within the EPA and establishes programs to prepare teaching materials and train teachers. It will also provide grants to local education agencies, colleges, and universities for the development of environmental education programs, and it will establish awards to recognize excellence in environmental education. It will award internships and fellowships for in-service teachers with Federal agencies.

The Office of Environmental Education must coordinate with environmental education activities already sponsored by other Federal agencies, including the Department of Education, the Department of Defense, the Department of Agriculture, and the Department of Energy. A Federal Advisory Council and a Federal Advisory Council operated through the EPA have been created to ensure that coordination.

The bill also establishes the National Environmental Education Foundation, whose purposes are to develop and support national and international programs to educate and train environmental management professionals and to assist in the delivery of environmental education programs. The programs will be implemented through a network of education and training centers within higher education and graduate schools, not-for-profit environmental organizations, and other institutions. The Foundation is modeled after the successful Fish and Wildlife Foundation, created by Congress. It is our expectation that the National Environmental Education Foundation will exemplify a private sector partnership with the Federal Government.

H.R. 3684 is modest but much needed legislation. The commitment to the future of our existence depends upon our finding workable solutions to these complex environmental problems. The National Environmental Education Act will help ensure that we have an environmentally educated citizenry and professionals we need to accomplish those tasks.

Mr. JONTZ. Mr. Speaker, I have no further requests for time.

In closing, I yield myself such time as I may consume to especially note the great cooperation and support which we have received from the Energy and Commerce Committee. As is noted in an exchange of letters between the Chairs of our respective Committees, which I will insert in the

RECORD as part of my statement, this bill, which involves the Environmental Protection Agency, does have provisions which involve the interests of the Energy and Commerce Committee. They have been very helpful and cooperative in working with us to perfect the legislation and to move it to the floor as expeditiously as possible, and I want to extend our thanks to them for their efforts.

The letters referred to are as follows:

COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, September 18, 1990.
Hon. AUGUSTUS F. HAWKINS,
U.S. House of Representatives,
Washington, DC

DEAR MR. CHAIRMAN: On August 4, 1990 the Committee on Education and Labor submitted its report on H.R. 3684, the National Environmental Education Act (H. Rept. 101-671). By letter dated September 7, 1990 (attached) you kindly acknowledged the jurisdictional interests of the Committee on Energy and Commerce in various provisions of H.R. 3684.

In recognition of your Committee's desire to bring this legislation expeditiously before the House of Representatives, the Committee on Energy and Commerce will not seek sequential referral of this legislation without prejudice to its jurisdiction.

I would request that you place this letter in the record during consideration of H.R. 3684 by the House of Representatives.

Your cooperation and willingness to work together on this matter is appreciated.

With best wishes.

Sincerely,

JOHN D. DINGELL,
Chairman.

COMMITTEE ON EDUCATION AND LABOR,
Washington, DC, September 7, 1990.
Hon. JOHN D. DINGELL,
U.S. House of Representatives,
Washington, DC

DEAR MR. CHAIRMAN: On August 4, the Committee on Education and Labor submitted its report on H.R. 3684, the National Environmental Education Act (H. Rept. 101-671). Similar legislation (S. 1076) passed the Senate on July 18 of this year. Our Committee would like to take H.R. 3684 to the House Floor for consideration under suspension of the rules at the earliest possible time.

We recognize your interest in this legislation's provisions, particularly those aspects relating to the responsibilities of the Environmental Protection Agency. Our Committee staff has engaged in discussions with your staff about specific features with which you are concerned. I appreciate the fact that your Committee did not pursue a request for a sequential referral of the legislation as reported by our Committee.

I hope that you will be able to support early action under suspension of the rules on this legislation, with the modifications our staffs have developed.

I wish to express my thanks for your cooperation and for your staff's helpful assistance, which hopefully will enable us to move forward expeditiously on this bill.

Sincerely,

AUGUSTUS F. HAWKINS,
Chairman.

Mr. SMITH of Vermont. Mr. Speaker, there is an area of environmental education which has not received much attention, and that is environmental education of senior Americans, broadly defined as those over the age of 50. I have supported a number of amendments in this bill on that matter, including the addition of a member on the proposed Environmental Education Advisory Council, who would represent senior Americans. I am pleased to see that even before final passage of this bill, the Environmental Protection Agency and the American Association of Retired Persons have set up a task force to work on senior environmental education.

This matter of the need for senior environmental education was brought to my attention by Dr. John Grupenhoff, who over 20 years ago served as Deputy Assistant Secretary for Legislation in Health and the Environment at the then Department of HEW [Health, Education and Welfare].

I understand he has worked on the concept with a number of people in older American groups, church groups, and environmental organizations, and that there is a high degree of interest.

He developed a well thought-out justification for senior environmental education and a senior environmental corps; I would like to share excerpts of it with my colleagues.

JUSTIFICATION FOR A SENIOR ENVIRONMENT CORPS AND SENIOR ENVIRONMENTAL EDUCATION

(By John T. Grupenhoff, Ph.D.)

SENIOR ENVIRONMENTAL EDUCATION: A SIGNIFICANT OPPORTUNITY

This is a proposal for the development of a nationwide program of senior (over 50 years of age) environmental education which would have four basic thrusts:

Inculcation of an environmental ethic that is, the development of attitudes of environmental stewardship and the development of a protective and nurturing philosophy at the personal level toward the environment;

Systematic education in environmental problems and opportunities for solutions to those problems, based on highly specific situations, prioritized by practical opportunities of accomplishment, largely at the community level;

Education in major planet-threatening problems such as ozone layer depletion, global warming and acid rain, among others, which can be affected most significantly by global governmental action, in order to assist seniors to become more active in working for appropriate public policy to deal with them; and

Education about environmental and pollution insults to individual persons (for example: air pollution on lung, cardiac and nasal passage function; cumulative hearing damage from excessive environmental noise; toxic damage to the nervous system; and damage to skin, and potentially to the immune system, of excessive sun exposure).

SENIOR ENVIRONMENT CORPS

This environmental education program, sufficient and worthy in itself, might also be used as a mechanism to create a national volunteer Senior Environment Corps to assist in protecting and improving the environment. It would be composed of two kinds of people:

First, senior professionals who have had experience relating to aspects of environmental problems, such as educators, especially those who have taught environmental subjects or the sciences; former public health officials and other physicians; professionals in the fields of air pollution control, water pollution control, land protection, fisheries development and protection, veterinary medicine, water sports, and law, among others.

Second, the millions of seniors who have had no systematic education or training in environmental matters, who could be educated by those noted immediately above and by the many individuals, organizations and institutions already in existence which are active in environmental education. (It should be noted that those over the age of 50 have not had the opportunity to be educated systematically about environmental problems; they would have completed their formal education, often through college, prior to 1960, when environmental problems had not yet reached public understanding in a significant way—Rachel Carson's Silent Spring, which alerted many to the problems of pesticides and other pollutants, was not published until 1962, for example.)

This second group would be expected to learn how to live in an environmentally sound way, as consumers, homemakers, businesspersons, gardeners, etc., and to become activists on environmental issues affecting their neighborhoods or communties.

Also, in this second group there are many persons who already possess skills which can be utilized in furthering the educational processes, such as persons with media experience, community organizing backgrounds, craftsmen who could design and build displays—the list of potentially useful skills would be very long, indeed.

Therefore, an enormous, unused human resource already exists within our population to assist in dealing with the problems of the environment—millions of experienced retired, semi-retired or pre-retired men and women concerned about the increasingly polluted environment we are leaving as a legacy to our children and grandchildren, and who want to do something about the problems of the environment, which will only grow worse in the future if not dealt with now.

Simply put, there are three major objectives for the Corps: convincing seniors that there really are serious environmental problems and that they affect everyone, including themselves; getting them to accept responsibility for getting involved and working toward solutions; and helping them find ways of working both individually and with others to conserve resources and to protect our environment.

During the development of a *Senior Environment Corps*, there should be consideration about the depth and seriousness of concern that seniors feel about environmental problems. Do they experience this concern as a generalized worry or anxiety, and only that, or is there a sufficiently explicit set of concerns that will cause people to take responsibility for personal actions, and in what ways? The answers to these questions are vital to the success of a *Senior Environment Corps*; otherwise there may be simply publicity "hype" and not much action, followed shortly after by disillusionment with the concept, leading to a sense of failure by those who have participated in it. A likely additional result, of course, might be that the environmental education field then would consider senior environmental education an impractical concept and lessen, or cease, activity in that area.

This Senior Environment Corps should not be considered as a "program" but as a concept which, if properly led, and national-

ly publicized, could become a *national movement.*

Members of the Corps would be unified nationally by the idea of environmental protection, held together by a dedicated communications structure, and identified to each other and the public by inexpensive external clothing (hats, jackets, etc.) carrying the Corps logo and title.

(In view of the fact that pollution is no respecter of boundaries, if this national program is successful, it may be considered a possible model for an international Senior Environment Corps.)

COOPERATION WITH EXISTING STRUCTURES/ LARGE BUREAUCRACY NOT NECESSARY

It will *not* be necessary to create a massive administrative apparatus to carry this concept forward, nor will it be necessary to create new facilities, curricula, materials, or entire educational systems. Organizations and apparatuses already exist in the field of environmental education and action which likely would be pleased to cooperate in this venture; also, senior and retirement organizations likely would join in the effort, using their own outreach and communications systems. Every effort should be made to cause this to be a *cooperative,* non-threatening, non-"turf" building effort. It *must* be recognized that there have been many people, organizations, institutions, centers and systems for environmental education working very hard over the last several decades, in many cases against great difficulties, including especially lack of significant funding and public, especially governmental, support. These determined and experienced "survivors" deserve every bit of consideration and cooperation as the concept of a Senior Environment Corps moves forward.

The administrative office will exist to develop the appropriate organizational and communications structure; to establish an apparatus of relationships with organizations already involved, or which could be involved, in environmental education; to recruit members into the Senior Environment Corps; to learn of each individual's desired area of participation and to refer them, whenever possible, to existing organizations for education and participation; to provide a program of awards and encouragement; and to promote, through appropriate media, the concept to the public.

WHY SENIOR ENVIRONMENTAL EDUCATION?

Federal agencies, educational programs, and public demonstrations of support for environmental protection (such as the recent Earth Day 1990) have stressed the education of young people, from kindergarten generally through secondary school, with some more specialized education at the college level. Education of this age group is absolutely vital because young people will be inheriting and dealing with a world in more serious difficulty than their predecessors faced. Their major impact will take place in several decades, when they become adult consumers, family heads, and business and political leaders.

As vital and important as this educational effort is, therefore, it should be realized that senior environmental education is also important and likely would produce a significant immediate (within the next decade) effect.

Why?

Many people over the age of 50 now realize that they are partly responsible for the pollution problems, largely out of ignorance, that affect us all. Nearly all of them participate in the intense economic boom that has occurred in the United States since World War II and are the beneficiaries in many ways of that remarkable economic advance. Many who have now reached the 50-year mark have begun to develop a "nurturing spirit" regarding the planet that they are leaving to their children and grandchildren (many people are becoming grandparents at about age 50 or shortly after; this frequently awakens them to their new responsibilities for future generations). In many cases, they also re-evaluate their ethical responsibilities to others, including their community—this re-evaluation might well extend to the developing of an environmental ethic.

Additionally, and very significant, is the fact that this very large population cohort, which now numbers over 60 million, or 25% of our population, can have a very powerful effect on the environment if educated appropriately to the problems that exist. They have enormous buying power, business and political power as described below, and considerable experience and wisdom in coping with problems that have confronted them perviously in their lives, which can be drawn upon to deal with the present environmental difficulties.

Also, these seniors will have an impact for years to come, given their life expectancy:

Age now:	*Additional years of expected life*
50	25.3
55	21.1
60	17.3

Therefore, this proposed program of senior environmental education should be seen as solid, long-term, and potentially enormously effective. Such a program simply does not exist nationwide now and never has, although there are examples of successful training for seniors in various places through the United States.

Mr. OWENS of New York. Mr. Speaker, the 1990's have been declared the Decade of the Environment. This declaration is long overdue. The environment, whether the inner city or the wilderness of Alaska, has become the concern of almost every American. Our Nation pours billions of dollars into environmental cleanup each year, and day-to-day the cost of the cleanup escalates. Our Nation cannot afford the time-honored, continuous practice of first fouling and then fixing the world in which we live. The time is now when people of all walks-of-life must understand the consequences of man's relationship to the environment and the avenues we can take to stop pollution before it starts.

H.R. 3684, the National Environmental Education Act, represents a small beacon of hope that can reverse the Neanderthal attitudes about the environment and set us on a path to nurture those values that can secure our future on this planet.

The bill reflects the concerns raised at the Subcommittee on Select Education hearing during Earth Week in April of this year that we not repeat the troubled history of similar legislation in the 1970's. H.R. 3684 represents a bipartisan bill capable of maintaining a long-term Federal investment in environmental education and training. H.R. 3684, as amended, accomplishes this objective by doing three critical things. First, it establishes a Federal mandate for environmental education within the U.S. Environmental Protection Agency. This leadership action signifies that pollution prevention is as important as command and control in terms of our Government's strategy in dealing with the environment. Second, the bill recognizes that the environmental quality is not just a Government issue. It is a business issue, a health issue, an academic issue, and a moral issue. As a people, our success in meeting the environmental challenge will be measured not by how well the Federal Government or the business community performs, but by how all segments of society, working as an environmental protection partnership, confront these issues. Third, this bill seeks to recognize the diversity of groups and institutions that must be represented. Environmental education should embrace the needs and aspirations of all segments of our community, including minorities whose urban areas face so many environmental challenges.

As we improve our understanding of Earth's fragile ecosystem, and a new generation of leaders makes its contribution toward understanding the consequences of that knowledge, I am sure that they will bear in mind President Kennedy's words:

Never before has man had such a capacity to control his environment, to end thirst and hunger, to conquer poverty and disease, to banish illiteracy and massive human misery. We have the power to make this the best generation of mankind in the history of the world—or make it the last.

I urge your full support for this bill, and commend the work of Mr. MILLER, Mr. JONTZ, and Mr. BARTLETT in bringing this bipartisan bill to the floor today.

Mr. HAWKINS. Mr. Speaker, I rise today to voice my strong support for H.R. 3684, the Environmental Education Act. This bill will once again establish a Federal program for encouraging our young people, and the public in general, to learn about the world we live in. As we have come to realize in the last two decades, every creature on Earth is truly dependent upon every other creature and we must protect this natural home we share.

The bill before us today is a great step in recognizing that education plays a major role in this effort. It creates within the Environmental Protection Agency an office to coordinate and encourage educational efforts for elementary, secondary, and postsecondary students. These include curriculum development, teacher training, dissemination activities and seminars and environmental internships.

The bill also encourages cooperation between the Federal and the private sectors. It establishes a foundation to solicit private support for environmental education and training activities. The foundation, patterned after the Fish and Wildlife Foundation, should increase the resources available to educators and environmentalists, while heightening public awareness.

This bill has the support of both sides of the aisle, the environmental community and the administration. It is truly a bipartisan effort to address a universal concern. I particularly want to commend the gentleman from New York, Chairman MAJOR OWENS, whose Subcommittee on Select Education acted on the legislation, and commend the ranking member of that subcommittee, Mr. BARTLETT, for his assistance in this effort. I also wish to recognize Mr. MILLER, of California, the original

sponsor and prime advocate for this needed legislation.

Finally, I want to commend Mr. JONTZ, the floor manager of the bill and a major spokesperson for environmental concerns within our committee.

Mr. Speaker, this is a bill for today, and for the future. It seeks to protect our children's natural heritage by providing the information they need to understand the basic environmental choices we face every day. I ask all of my colleagues to join me in supporting H.R. 3684.

Mr. JONTZ. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. JONTZ] that the House suspend the rules and pass the bill, H.R. 3684, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1320

TEMPORARY EXTENSION OF THE EXECUTIVE EXCHANGE PROGRAM

Mrs. SCHROEDER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5643) to grant a temporary extension on the authority under which the Government may accept the voluntary services of private-sector executives; to clarify the status of Federal employees assigned to private-sector positions while participating in an executive exchange program; and for other purposes, as amended.

The Clerk read as follows:

H.R. 5643

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PRIVATE-SECTOR EXECUTIVES PERFORMING VOLUNTARY SERVICES FOR THE GOVERNMENT.

(a) IN GENERAL.—Notwithstanding the expiration on September 30, 1990, of the Executive Exchange Program Voluntary Services Act of 1986 (5 U.S.C. 4103 note), any individual who, as of that date, is or was participating in a program established under such Act may continue to perform voluntary services for the Government, and the Government may continue to accept those services, for not more than an additional 90 days beyond that expiration date, to the same extent as if such Act had not expired.

(b) EFFECTIVE DATE.—This section shall be effective as of September 30, 1990.

SEC. 2. STATUS OF GOVERNMENT EXECUTIVES WHILE SERVING IN PRIVATE-SECTOR POSITIONS.

(1) IN GENERAL. (1) Title 5, United States Code, is amended by inserting after section 3341 the following:

§ 3342. Federal participants in executive exchange programs

"(a) For the purpose of this section, the term 'executive exchange program' means any program which is required, by statute or Executive order, to be administered, in whole or in part, by the President's Commission on Executive Exchange (described in Executive Order Numbered 12493, dated December 5, 1984), a successor entity in function, or any officer thereof.

"(b) An employee assigned to a position in the private sector as a participant in an executive exchange program shall, while so assigned, be treated as if on detail to a regular work assignment in such employee's employing agency, except that nothing in section 3341(b) shall limit the period of time for which any such employee may be so assigned.

"(c) An agreement providing for the assignment of an employee to a position in the private sector as a participant in an executive exchange program shall not be effective unless it includes a provision under which the private-sector employer agrees to reimburse the employee's agency for any basic pay which is paid by the agency to such employee, and attributable to the period during which the employee is so assigned. Any reimbursement so made shall be credited to the appropriation, fund, or account used to pay the amount reimbursed.".

(2) The table of sections for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3341 the following:

"3342. Federal participants in executive exchange programs.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of enactment of this Act, and shall apply with respect to any Federal employee who begins an assignment with a private-sector employer as a participant in an executive exchange program beginning on or after that effective date.

The SPEAKER pro tempore (Mr. TORRES). Is a second demanded?

Mrs. MORELLA. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Colorado [Mrs. SCHROEDER] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Colorado [Mrs. SCHROEDER].

GENERAL LEAVE

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous material, on H.R. 5643, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, basically, in a way as we are here in this very crisis crunch looking at the end of the fiscal year, this bill may seem a little silly. But this bill is very important.

This bill does say that the Congress understands how important public service is. The President's Commission on Executive Exchange was created in 1984 by an Executive order, and it was to enable outstanding private and public executives to work in the other sector, fostering cooperation and understanding between the two sectors. This bill affects that Executive Exchange Program in two ways: First, the volunteer executive program, which is administered by the President's Commission, is extended for 90 days in order to allow executives currently participating in the program to complete their term. We think that is very important.

Second, it allows civil servants who participate in the program to receive full benefits, and that we also think is very important.

This bill has been introduced at the request of the Director of the Executive Exchange Program, and the administration is in full support of it.

Mr. Speaker, I think acknowledges how critical we think public service is and how critical it is that the private sector and people of high quality have exchange programs to understand this government. I think that on this weekend, when we are all sitting here with white knuckles, helping this Government to keep going, it is important that we pass this bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to be the original cosponsor of H.R. 5643, a bill introduced by the chairman of the Subcommittee on Civil Service.

The purpose of this bill is to extend, for 90 days, the provisions of the President's Commission on Executive Exchange.

The executive exchange has been a unique program which permits 10 exceptional executives in the public and private sectors to obtain work experience in the other sector. Payment for this employment exchange has been borne by the private sector.

The extension of 90 days is needed, Mr. Speaker, because there are some executives presently in the program who will finish up their assignment within the 90 days. Without this extension, their assignments would be incomplete. These assignments include volunteer services of personnel who work directly with two Ambassadors, in Budapest and Tokyo, another executive from the private sector is on assignment with a United States Embassy and two are serving in domestic assignments, including an employee from IBM, who is working with Dr. Kleber at the Office of National Drug Control Policy, whose assistance has

become invaluable to the programs and mission of that agency.

The administration has no objection to enactment of H.R. 5643.

Mr. Speaker, it has been my privilege and pleasure to work with the distinguished gentleman from Minnesota, the sponsor of this legislation. I commend him for his sensitivity to the needs of Federal employees. He seeks to make the free interchange of ideas between the public and private sectors an experience which is beneficial to employment and programs in both areas. I also want to recognize our distinguished colleague from New York [Mr. HORTON], whose legislation in 1986 was instrumental in removing restrictions which prevented private sector executives from joining the public sector because of salary restrictions. I would also like to commend the ranking minority member of the Post Office and Civil Service Committee, Mr. GILMAN, who has always been an active supporter of Federal employees and programs which enhance Government productivity and creativity.

I urge my colleagues to support H.R. 5643.

Mr. Speaker, I yield such time as he may deem appropriate to the ranking member of the committee, the gentleman from New York [Mr. GILMAN].

Mr. Speaker, I rise in support of H.R. 5643, the Temporary Extension of the Executive Exchange Program. As ranking minority member of the Committee on Post Office and Civil Service, I thank the Chairman of the Subcommittee on Civil Service, the gentleman from Minnesota [Mr. SIKORSKI], and the ranking minority member of the subcommittee, the gentlelady from Maryland [Mrs. MORELLA], for their timely work in fashioning this legislation.

The President's Commission on Executive Exchange was created by a 1969 Executive order to promote understanding and cooperation between the private and public sections. That Commission administers the Executive Exchange Program which permits top executives from the private and public sector to essentially exchange services for approximately 1 year.

Current law provides that the agency to which the employee is assigned to pay the salary of that individual and the agency being reimbursed by the private-sector company. This authority expires on September 30, 1990. The measure before us today extends the program an additional 90 days in order to allow the executives currently participating in the program to complete their term.

In addition, the legislation corrects a deficiency in the current authorization which has denied civil servants who participate in the exchange program full employment benefits. The legislation changes the status of employees participating in the program from "leave-without-pay" to "detail," thereby ensuring full benefits.

Mr. Speaker, the Federal Government and the public at large benefit in innumerable ways from this program. Accordingly, I urge and invite my colleagues to join in support of this legislation.

Mrs. MORELLA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing, I would say that it is a very sad time that we bring this bill to the floor, because as we are looking at impending furloughs if some agreement is not reached, we know that it will do incredible damage to the whole concept of public service.

When I was a young student and I heard people say that you could work for the Federal Government, your toes tingled because you really wanted to participate and do great things. As we look at this weekend and see this all start to shake and rattle, we wonder if we will ever get that kind of excitement again around the concept of civil service and public service.

But this is a very important measure, and let us hope that we get this furlough issue behind us and we get back to focusing on public service and how essential it is that this Government have the best and the brightest serving, and that we treat them with the greatest respect.

Mr. SIKORSKI. Mr. Speaker, the President's Commission on Executive Exchange was created in 1984 by Executive Order 12493 to enable outstanding private and public executives to work in the other sector thereby fostering cooperation and understanding between the two sectors. H.R. 5643 affects the Executive Exchange Program in two ways.

First, the volunteer executive program which is administered by the President's Commission on Executive Exchange, is extended for 90 days.

In 1986, Congress passed H.R. 3002, legislation which encourages private participation in the Executive Exchange Program by allowing the top paid executives to receive salaries above and beyond the General Schedule cap. As a result of this legislation, the agency pays the salary of 10 private executives but is reimbursed by the private-sector company. The authorization for this experimental program expired on September 30, 1989, and H.R. 2847, passed in 1989, extended the program for 1 year. H.R. 5643 will extend the program an additional 90 days in order to allow the executives currently participating in the program to complete their term.

Second, H.R. 5643 allows civil servants who participate in the Executive Exchange Program to receive full benefits. A March 1989 Government Accounting Office [GAO] study indicated that the civil servants that participate in the program under the Executive order are not receiving full benefits while they are at the private-sector company. H.R. 5643 will correct this deficiency in the program by changing the status of the Federal employee while at the private-sector company from "leave-without-pay" to "detail" thereby maintaining all rights and benefits for the Federal employee.

H.R. 5643 was introduced at the request of the Director of the Executive Exchange Program. Additionally the administration is in full support of this measure.

Mr. Speaker, the benefits of the exchange that occur between the public and private sectors as a result of this program go far beyond monetary value. The exchange of ideas and methods promotes professional development and is both stimulating and productive for all concerned. Extension of this program will continue these positive results.

Mrs. SCHROEDER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado [Mrs. SCHROEDER] that the House suspend the rules and pass the bill, H.R. 5643, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1330

WAIVING REQUIREMENT AGAINST CONSIDERATION OF CERTAIN RESOLUTIONS ON SEPTEMBER 30, 1990, AND PROVIDING RECESS AUTHORITY FOR SEPTEMBER 30, 1990, AND OCTOBER 1, 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-771) on the resolution (H. Res. 482) waiving the requirement of clause 4(b), rule XI, against consideration of certain resolutions reported from the Committee on Rules on the legislative day of September 30, 1990, and providing recess authority for the Speaker on September 30, 1990 and October 1, 1990, which was referred to the House Calendar and ordered to be printed.

MARKET REFORM ACT OF 1990

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 3657) to amend the Securities Exchange Act of 1934 to provide additional authorities to the Securities and Exchange Commission to prevent disruptions to the Nation's securities markets.

The Clerk read as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Market Reform Act of 1990".

SEC. 2. EMERGENCY AUTHORITY; TRADING HALTS.

Section 12(k) of the Securities Exchange Act of 1934 (15 U.S.C. 781(k)) is amended to read as follows:

"(k) TRADING SUSPENSIONS; EMERGENCY AUTHORITY.—

"(1) TRADING SUSPENSIONS.—If in its opinion the public interest and the protection of investors so require, the Commission is authorized by order—

"(A) summarily to suspend trading in any security (other than an exempted security) for a period not exceeding 10 business days, and

"(B) summarily to suspend all trading on any national securities exchange or otherwise, in securities other than exempted securities, for a period not exceeding 90 calendar days.

The action described in subparagraph (B) shall not take effect unless the Commission notifies the President of its decision and the President notifies the Commission that the President does not disapprove of such decision.

"(2) EMERGENCY ORDERS.—(A) The Commission, in an emergency, may by order summarily take such action to alter, supplement, suspend, or impose requirements or restrictions with respect to any matter or action subject to regulation by the Commission or a self-regulatory organization under this title, as the Commission determines is necessary in the public interest and for the protection of investors—

"(i) to maintain or restore fair and orderly securities markets (other than markets in exempted securities); or

"(ii) to ensure prompt, accurate, and safe clearance and settlement of transactions in securities (other than exempted securities).

"(B) An order of the Commission under this paragraph (2) shall continue in effect for the period specified by the Commission, and may be extended, except that in no event shall the Commission's action continue in effect for more than 10 business days, including extensions. In exercising its authority under this paragraph, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code, or with the provisions of section 19(c) of this title.

"(3) TERMINATION OF EMERGENCY ACTIONS BY PRESIDENT.—The President may direct that action taken by the Commission under paragraph (1)(B) or paragraph (2) of this subsection shall not continue in effect.

"(4) COMPLIANCE WITH ORDERS.—No member of a national securities exchange, broker, or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any security in contravention of an order of the Commission under this subsection unless such order has been stayed, modified, or set aside as provided in paragraph (5) of this subsection or has ceased to be effective upon direction of the President as provided in paragraph (3).

"(5) LIMITATIONS ON REVIEW OF ORDERS.—An order of the Commission pursuant to this subsection shall be subject to review only as provided in section 25(a) of this title. Review shall be based on an examination of all the information before the Commission at the time such order was issued. The reviewing court shall not enter a stay, writ of mandamus, or similar relief unless the court finds, after notice and hearing before a panel of the court, that the Commission's action is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(6) DEFINITION OF EMERGENCY.—For purposes of this subsection, the term 'emergency' means a major market disturbance characterized by or constituting—

"(A) sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threaten fair and orderly markets, or

"(B) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of securities, or a substantial threat thereof.".

SEC. 3. LARGE TRADER REPORTING.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

"(h) LARGE TRADER REPORTING.—

"(1) IDENTIFICATION REQUIREMENTS FOR LARGE TRADERS.—For the purpose of monitoring the impact on the securities markets of securities transactions involving a substantial volume or a large fair market value or exercise value and for the purpose of otherwise assisting the Commission in the enforcement of this title, each large trader shall—

"(A) provide such information to the Commission as the Commission may by rule or regulation prescribe as necessary or appropriate, identifying such large trader and all accounts in or through which such large trader effects such transactions; and

"(B) identify, in accordance with such rules or regulations as the Commission may prescribe as necessary or appropriate, to any registered broker or dealer by or through whom such large trader directly or indirectly effects securities transactions, such large trader and all accounts directly or indirectly maintained with such broker or dealer by such large trader in or through which such transactions are effected.

"(2) RECORDKEEPING AND REPORTING REQUIREMENTS FOR BROKERS AND DEALERS.—Every registered broker or dealer shall make and keep for prescribed periods such records as the Commission by rule or regulation prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title, with respect to securities transactions that equal or exceed the reporting activity level effected directly or indirectly by or through such registered broker or dealer of or for any person that such broker or dealer knows is a large trader, or any person that such broker or dealer has reason to know is a large trader on the basis of transactions in securities effected by or through such broker or dealer. Such records shall be available for reporting to the Commission, or any self-regulatory organization that the Commission shall designate to receive such reports, on the morning of the day following the day the transactions were effected, and shall be reported to the Commission or a self-regulatory organization designated by the Commission immediately upon request by the Commission or such a self-regulatory organization. Such records and reports shall be in a format and transmitted in a manner prescribed by the Commission (including, but not limited to, machine readable form).

"(3) AGGREGATION RULES.—The Commission may prescribe rules or regulations governing the manner in which transactions and accounts shall be aggregated for the purpose of this subsection, including aggregation on the basis of common ownership or control.

"(4) EXAMINATION OF BROKER AND DEALER RECORDS.—All records required to be made and kept by registered brokers and dealers pursuant to this subsection with respect to transactions effected by large traders are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the Commission as the Commission deems necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.

"(5) FACTORS TO BE CONSIDERED IN COMMISSION ACTIONS.—In exercising its authority under this subsection, the Commission shall take into account—

"(A) existing reporting systems;

"(B) the costs associated with maintaining information with respect to transactions effected by large traders and reporting such information to the Commission or self-regulatory organizations; and

"(C) the relationship between the United States and international securities markets.

"(6) EXEMPTIONS.—The Commission, by rule, regulation, or order, consistent with the purposes of this title, may exempt any person or class of persons or any transaction or class of transactions, either conditionally or upon specified terms and conditions or for stated periods, from the operation of this subsection, and the rules and regulations thereunder.

"(7) AUTHORITY OF COMMISSION TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be kept or reported under this subsection. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'large trader' means every person who, for his own account or an account for which he exercises investment discretion, effects transactions for the purchase or sale of any publicly traded security or securities by use of any means or instrumentality of interstate commerce or of the mails, or of any facility of a national securities exchange, directly or indirectly by or through a registered broker or dealer in an aggregate amount equal to or in excess of the identifying activity level;

"(B) the term 'publicly traded security' means any equity security (including an option on individual equity securities, and an option on a group or index of such securities) listed, or admitted to unlisted trading privileges, on a national securities exchange, or quoted in an automated inter-dealer quotation system;

"(C) the term 'identifying activity level' means transactions in publicly traded securities at or above a level of volume, fair market value, or exercise value as shall be fixed from time to time by the Commission by rule or regulation, specifying the time interval during which such transactions shall be aggregated;

"(D) the term 'reporting activity level' means transactions in publicly traded securities at or above a level of volume, fair market value, or exercise value as shall be fixed from time to time by the Commission

by rule, regulation, or order, specifying the time interval during which such transactions shall be aggregated; and

"(E) the term 'person' has the meaning given in section 3(a)(9) of this title and also includes two or more persons acting as a partnership, limited partnership, syndicate, or other group, but does not include a foreign central bank.".

SEC. 4. RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS.

(a) AMENDMENT.—Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended by adding at the end the following:

"(h) RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS.—

"(1) OBLIGATIONS TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—Every person who is (A) a registered broker or dealer, or (B) a registered municipal securities dealer for which the Commission is the appropriate regulatory agency, shall obtain such information and make and keep such records as the Commission by rule prescribes concerning the registered person's policies, procedures, or systems for monitoring and controlling financial and operational risks to it resulting from the activities of any of its associated persons, other than a natural person. Such records shall describe, in the aggregate, each of the financial and securities activities conducted by, and the customary sources of capital and funding of, those of its associated persons whose business activities are reasonably likely to have a material impact on the financial or operational condition of such registered person, including its net capital, its liquidity, or its ability to conduct or finance its operations. The Commission, by rule, may require summary reports of such information to be filed with the Commission no more frequently than quarterly.

"(2) AUTHORITY TO REQUIRE ADDITIONAL INFORMATION.—If, as a result of adverse market conditions or based on reports provided to the Commission pursuant to paragraph (1) of this subsection or other available information, the Commission reasonably concludes that it has concerns regarding the financial or operational condition of (A) any registered broker or dealer, or (B) any registered municipal securities dealer, government securities broker, or government securities dealer for which the Commission is the appropriate regulatory agency, the Commission may require the registered person to make reports concerning the financial and securities activities of any of such person's associated persons, other than a natural person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of such registered person. The Commission, in requiring reports pursuant to this paragraph, shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the Commission or to a self-regulatory organization with primary responsibility for examining the registered person's financial and operational condition.

"(3) SPECIAL PROVISIONS WITH RESPECT TO ASSOCIATED PERSONS SUBJECT TO FEDERAL BANKING AGENCY REGULATION.—

"(A) COOPERATION IN IMPLEMENTATION.—In developing and implementing reporting requirements pursuant to paragraph (1) of this subsection with respect to associated persons subject to examination by or reporting requirements of a Federal banking agency, the Commission shall consult with and consider the views of each such Federal banking agency. If a Federal banking agency comments in writing on a proposed rule of the Commission under this subsection that has been published for comment, the Commission shall respond in writing to such written comment before adopting the proposed rule. The Commission shall, at the request of the Federal banking agency, publish such comment and response in the Federal Register at the time of publishing the adopted rule.

"(B) USE OF BANKING AGENCY REPORTS.—A registered broker, dealer, or municipal securities dealer shall be in compliance with any recordkeeping or reporting requirement adopted pursuant to paragraph (1) of this subsection concerning an associated person that is subject to examination by or reporting requirements of a Federal banking agency if such broker, dealer, or municipal securities dealer utilizes for such recordkeeping or reporting requirement copies of reports filed by the associated person with the Federal banking agency pursuant to section 5211 of the Revised Statutes, section 9 of the Federal Reserve Act, section 7(a) of the Federal Deposit Insurance Act, section 10(b) of the Home Owners' Loan Act, or section 8 of the Bank Holding Company Act of 1956. The Commission may, however, by rule adopted pursuant to paragraph (1), require any broker, dealer, or municipal securities dealer filing such reports with the Commission to obtain, maintain, or report supplemental information if the Commission makes an explicit finding that such supplemental information is necessary to inform the Commission regarding potential risks to such broker, dealer, or municipal securities dealer. Prior to requiring any such supplemental information, the Commission shall first request the Federal banking agency to expand its reporting requirements to include such information.

"(C) PROCEDURE FOR REQUIRING ADDITIONAL INFORMATION.—Prior to making a request pursuant to paragraph (2) of this subsection for information with respect to an associated person that is subject to examination by or reporting requirements of a Federal banking agency, the Commission shall—

"(i) notify such agency of the information required with respect to such associated person; and

"(ii) consult with such agency to determine whether the information required is available from such agency and for other purposes, unless the Commission determines that any delay resulting from such consultation would be inconsistent with ensuring the financial and operational condition of the broker, dealer, municipal securities dealer, government securities broker, or government securities dealer or the stability or integrity of the securities markets.

"(D) EXCLUSION FOR EXAMINATION REPORTS.—Nothing in this subsection shall be construed to permit the Commission to require any registered broker or dealer, or any registered municipal securities dealer, government securities broker, or government securities dealer for which the Commission is the appropriate regulatory agency, to obtain, maintain, or furnish any examination report of any Federal banking agency or any supervisory recommendations or analysis contained therein.

"(E) CONFIDENTIALITY OF INFORMATION PROVIDED.—No information provided to or obtained by the Commission from any Federal banking agency pursuant to a request by the Commission under subparagraph (C) of this paragraph regarding any associated person which is subject to examination by or reporting requirements of a Federal banking agency may be disclosed to any other person (other than a self-regulatory organization), without the prior written approval of the Federal banking agency. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission.

"(F) NOTICE TO BANKING AGENCIES CONCERNING FINANCIAL AND OPERATIONAL CONDITION CONCERNS.—The Commission shall notify the Federal banking agency of any concerns of the Commission regarding significant financial or operational risks resulting from the activities of any registered broker or dealer, or any registered municipal securities dealer, government securities broker, or government securities dealer for which the Commission is the appropriate regulatory agency, to any associated person thereof which is subject to examination by or reporting requirements of the Federal banking agency.

"(G) DEFINITION.—For purposes of this paragraph, the term 'Federal banking agency' shall have the same meaning as the term 'appropriate Federal bank agency' in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

"(4) EXEMPTIONS.—The Commission by rule or order may exempt any person or class of persons, under such terms and conditions and for such periods as the Commission shall provide in such rule or order, from the provisions of this subsection, and the rules thereunder. In granting such exemptions, the Commission shall consider, among other factors—

"(A) whether information of the type required under this subsection is available from a supervisory agency (as defined in section 1101(6) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(6))), a State insurance commission or similar State agency, the Commodity Futures Trading Commission, or a similar foreign regulator;

"(B) the primary business of any associated person;

"(C) the nature and extent of domestic or foreign regulation of the associated person's activities;

"(D) the nature and extent of the registered person's securities activities; and

"(E) with respect to the registered person and its associated persons, on a consolidated basis, the amount and proportion of assets devoted to, and revenues derived from, activities in the United States securities markets.

"(5) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be reported under this subsection, or any information supplied to the Commission by any domestic or foreign regulatory agency that relates to the financial or operational condition of any associated person of a registered broker, dealer, government securities broker, government securities dealer, or municipal securities dealer. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or

agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552. In prescribing regulations to carry out the requirements of this subsection, the Commission shall designate information described in or obtained pursuant to subparagraph (B) or (C) of paragraph (3) of this subsection as confidential information for purposes of section 24(b)(2) of this title.".

(b) CONFORMING AMENDMENT.—Section 15C(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(b)) is amended—

(1) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS.—

"(A) OBLIGATIONS TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—Every person who is registered as a government securities broker or government securities dealer under this section shall obtain such information and make and keep such records as the Secretary by rule prescribes concerning the registered person's policies, procedures, or systems for monitoring and controlling financial and operational risks to it resulting from the activities of any of its associated persons, other than a natural person. Such records shall describe, in the aggregate, each of the financial and securities activities conducted by, and customary sources of capital and funding of, those of its associated persons whose business activities are reasonably likely to have a material impact on the financial or operational condition of such registered person, including its capital, its liquidity, or its ability to conduct or finance its operations. The Secretary, by rule, may require summary reports of such information to be filed with the registered person's appropriate regulatory agency no more frequently than quarterly.

"(B) AUTHORITY TO REQUIRE ADDITIONAL INFORMATION.—If, as a result of adverse market conditions or based on reports provided pursuant to subparagraph (A) of this paragraph or other available information, the appropriate regulatory agency reasonably concludes that it has concerns regarding the financial or operational condition of any government securities broker or government securities dealer registered under this section, such agency may require the registered person to make reports concerning the financial and securities activities of any of such person's associated persons, other than a natural person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of such registered person. The appropriate regulatory agency, in requiring reports pursuant to this subparagraph, shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the appropriate regulatory agency or to a self-regulatory organization with primary responsibility for examining the registered person's financial and operational condition.

"(C) SPECIAL PROVISIONS WITH RESPECT TO ASSOCIATED PERSONS SUBJECT TO FEDERAL BANKING AGENCY REGULATION.—

"(i) COOPERATION IN IMPLEMENTATION.—In developing and implementing reporting requirements pursuant to subparagraph (A) of this paragraph with respect to associated persons subject to examination by or reporting requirements of a Federal banking agency, the Secretary shall consult with and consider the views of each such Federal banking agency. If a Federal banking agency comments in writing on a proposed rule of the Secretary under this paragraph that has been published for comment, the Secretary shall respond in writing to such written comment before adopting the proposed rule. The Secretary shall, at the request of a Federal banking agency, publish such comment and response in the Federal Register at the time of publishing the adopted rule.

"(ii) USE OF BANKING AGENCY REPORTS.—A registered government securities broker or government securities dealer shall be in compliance with any recordkeeping or reporting requirement adopted pursuant to subparagraph (A) of this paragraph concerning an associated person that is subject to examination by or reporting requirements of a Federal banking agency if such government securities broker or government securities dealer utilizes for such recordkeeping or reporting requirement copies of reports filed by the associated person with the Federal banking agency pursuant to section 5211 of the Revised Statutes, section 9 of the Federal Reserve Act, section 7(a) of the Federal Deposit Insurance Act, section 10(b) of the Home Owners' Loan Act, or section 8 of the Bank Holding Company Act of 1956. The Secretary may, however, by rule adopted pursuant to subparagraph (A), require any registered government securities broker or government securities dealer filing such reports with the appropriate regulatory agency to obtain, maintain, or report supplemental information if the Secretary makes an explicit finding, based on information provided by the appropriate regulatory agency, that such supplemental information is necessary to inform the appropriate regulatory agency regarding potential risks to such government securities broker or government securities dealer. Prior to requiring any such supplemental information, the Secretary shall first request the Federal banking agency to expand its reporting requirements to include such information.

"(iii) PROCEDURE FOR REQUIRING ADDITIONAL INFORMATION.—Prior to making a request pursuant to subparagraph (B) of this paragraph for information with respect to an associated person that is subject to examination by or reporting requirements of a Federal banking agency, the appropriate regulatory agency shall—

"(I) notify such banking agency of the information required with respect to such associated person; and

"(II) consult with such agency to determine whether the information required is available from such agency and for other purposes, unless the appropriate regulatory agency determines that any delay resulting from such consultation would be inconsistent with ensuring the financial and operational condition of the government securities broker or government securities dealer or the stability or integrity of the securities markets.

"(iv) EXCLUSION FOR EXAMINATION REPORTS.—Nothing in this subparagraph shall be construed to permit the Secretary or an appropriate regulatory agency to require any registered government securities broker or government securities dealer to obtain, maintain, or furnish any examination report of any Federal banking agency or any supervisory recommendations or analysis contained therein.

"(v) CONFIDENTIALITY OF INFORMATION PROVIDED.—No information provided to or obtained by an appropriate regulatory agency from any Federal banking agency pursuant to a request under clause (iii) of this subparagraph regarding any associated person which is subject to examination by or reporting requirements of a Federal banking agency may be disclosed to any other person (other than a self-regulatory organization), without the prior written approval of the Federal banking agency. Nothing in this clause shall authorize the Secretary or any appropriate regulatory agency to withhold information from Congress, or prevent the Secretary or any appropriate regulatory agency from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission.

"(vi) NOTICE TO BANKING AGENCIES CONCERNING FINANCIAL AND OPERATIONAL CONDITION CONCERNS.—The Secretary or appropriate regulatory agency shall notify the Federal banking agency of any concerns of the Secretary or the appropriate regulatory agency regarding significant financial or operational risks resulting from the activities of any government securities broker or government securities dealer to any associated person thereof which is subject to examination by or reporting requirements of the Federal banking agency.

"(vii) DEFINITION.—For purposes of this subparagraph, the term 'Federal banking agency' shall have the same meaning as the term 'appropriate Federal banking agency' in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

"(D) EXEMPTIONS.—The Secretary by rule or order may exempt any person or class of persons, under such terms and conditions and for such periods as the Secretary shall provide in such rule or order, from the provisions of this paragraph, and the rules thereunder. In granting such exemptions, the Secretary shall consider, among other factors—

"(i) whether information of the type required under this paragraph is available from a supervisory agency (as defined in section 1101(6) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(6))), a State insurance commission or similar State agency, the Commodity Futures Trading Commission, or a similar foreign regulator;

"(ii) the primary business of any associated person;

"(iii) the nature and extent of domestic or foreign regulation of the associated person's activities;

"(iv) the nature and extent of the registered person's securities transactions; and

"(v) with respect to the registered person and its associated persons, on a consolidated basis, the amount and proportion of assets devoted to, and revenues derived from, activities in the United States securities markets.

"(E) CONFORMITY WITH REQUIREMENTS UNDER SECTION 17(h).—In exercising authority pursuant to subparagraph (A) of this paragraph concerning information with respect to associated persons of government securities brokers and government securities dealers who are also associated persons of registered brokers or dealers reporting to the

Commission pursuant to section 17(h) of this title, the requirements relating to such associated persons shall conform, to the greatest extent practicable, to the requirements under section 17(h).

"(F) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Secretary and any appropriate regulatory agency shall not be compelled to disclose any information required to be reported under this paragraph, or any information supplied to the Secretary or any appropriate regulatory agency by any domestic or foreign regulatory agency that relates to the financial or operational condition of any associated person of a registered government securities broker or a government securities dealer. Nothing in this paragraph shall authorize the Secretary or any appropriate regulatory agency to withhold information from Congress, or prevent the Secretary or any appropriate regulatory agency from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.".

SEC. 5. COORDINATED CLEARING.

(a) AUTHORITY TO FACILITATE COORDINATED CLEARING MECHANISMS.—Section 17A(a)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1) is amended to read as follows:

"(2)(A) The Commission is directed, therefore, having due regard for the public interest, the protection of investors, the safeguarding of securities and funds, and maintenance of fair competition among brokers and dealers, clearing agencies, and transfer agents, to use its authority under this title—

"(i) to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities (other than exempt securities); and

"(ii) to facilitate the establishment of linked or coordinated facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options;

in accordance with the findings and to carry out the objectives set forth in paragraph (1) of this subsection.

"(B) The Commission shall use its authority under this title to assure equal regulation under this title of registered clearing agencies and registered transfer agents. In carrying out its responsibilities set forth in subparagraph (A)(ii) of this paragraph, the Commission shall coordinate with the Commodity Futures Trading Commission and consult with the Board of Governors of the Federal Reserve System.".

(b) TRANSFER AND PLEDGE OF SECURITIES.—Section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1) is amended by adding at the end the following:

"(f)(1) Notwithstanding any provision of State law, except as provided in paragraph (3), if the Commission makes each of the findings described in paragraph (2)(A), the Commission may adopt rules concerning—

"(A) the transfer of certificated or uncertificated securities (other than government securities issued pursuant to chapter 31 of title 31, United States Code, or securities otherwise processed within a book-entry system operated by the Federal Reserve banks pursuant to a Federal book-entry regulation) or limited interests (including security interests) therein; and

"(B) rights and obligations of purchasers, sellers, owners, lenders, borrowers, and financial intermediaries (including brokers, dealers, banks, and clearing agencies) involved in or affected by such transfers, and the rights of third parties whose interests in such securities devolve from such transfers.

"(2)(A) The findings described in this paragraph are findings by the Commission that—

"(i) such rule is necessary or appropriate for the protection of investors or in the public interest and is reasonably designed to promote the prompt, accurate, and safe clearance and settlement of securities transactions;

"(ii) in the absence of a uniform rule, the safe and efficient operation of the national system for clearance and settlement of securities transactions will be, or is, substantially impeded; and

"(iii) to the extent such rule will impair or diminish, directly or indirectly, rights of persons specified in paragraph (1)(B) under State law concerning transfers of securities (or limited interests therein), the benefits of such rule outweigh such impairment or diminution of rights.

"(B) In making the findings described in subparagraph (A), the Commission shall give consideration to the recommendations of the Advisory Committee established under paragraph (4), and it shall consult with and consider the views of the Secretary of the Treasury and the Board of Governors of the Federal Reserve System. If the Secretary of the Treasury objects, in writing, to any proposed rule of the Commission on the basis of the Secretary's view on the issues described in clauses (i), (ii), and (iii) of subparagraph (A), the Commission shall consider all feasible alternatives to the proposed rule, and it shall not adopt any such rule unless the Commission makes an explicit finding that the rule is the most practicable method for achieving safe and efficient operation of the national clearance and settlement system.

"(3) Any State may, prior to the expiration of 2 years after the Commission adopts a rule under this subsection, enact a statute that specifically refers to this subsection and the specific rule thereunder and establishes, prospectively from the date of enactment of the State statute, a provision that differs from that applicable under the Commission's rule.

"(4)(A) Within 90 days after the date of enactment of this subsection, the Commission shall (and at such times thereafter as the Commission may determine, the Commission may), after consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System, establish an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.). The Advisory Committee shall be directed to consider and report to the Commission on such matters as the Commission, after consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System, determines, including the areas, if any, in which State commercial laws and related Federal laws concerning the transfer of certificated or uncertificated securities, limited interests (including security interests) in such securities, or the creation or perfection of security interests in such securities do not provide the necessary certainty, uniformity, and clarity for purchasers, sellers, owners, lenders, borrowers, and financial intermediaries concerning their respective rights and obligations.

"(B) The Advisory Committee shall consist of 15 members, of which—

"(i) 11 shall be designated by the Commission in accordance with the Federal Advisory Committee Act; and

"(ii) 2 each shall be designated by the Board of Governors of the Federal Reserve System and the Secretary of the Treasury.

"(C) The Advisory Committee shall conduct its activities in accordance with the Federal Advisory Committee Act. Within 6 months of its designation, or such longer time as the Commission may designate, the Advisory Committee shall issue a report to the Commission, and shall cause copies of that report to be delivered to the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System.".

SEC. 6. LIMITATION ON PRACTICES WHICH RESULT IN VOLATILITY.

(a) IN GENERAL.—Section 9 of the Securities Exchange Act of 1934 (15 U.S.C. 78i) is amended by adding at the end thereof the following new subsection:

"(h) LIMITATIONS ON PRACTICES THAT AFFECT MARKET VOLATILITY.—It shall be unlawful for any person, by the use of the mails or any means or instrumentality of interstate commerce or of any facility of any national securities exchange, to use or employ any act or practice in connection with the purchase or sale of any equity security in contravention of such rules or regulations as the Commission may adopt, consistent with the public interest, the protection of investors, and the maintenance of fair and orderly markets—

"(1) to prescribe means reasonably designed to prevent manipulation of price levels of the equity securities market or a substantial segment thereof; and

"(2) to prohibit or constrain, during periods of extraordinary market volatility, any trading practice in connection with the purchase or sale of equity securities that the Commission determines (A) has previously contributed significantly to extraordinary levels of volatility that have threatened the maintenance of fair and orderly markets; and (B) is reasonably certain to engender such levels of volatility if not prohibited or constrained.

In adopting rules under paragraph (2), the Commission shall, consistent with the purposes of this subsection, minimize the impact on the normal operations of the market and a natural person's freedom to buy or sell any equity security.".

(b) CONFORMING AMENDMENT.—Section 25(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78y(b)(1)) is amended by inserting "9(h)(2)," after "section 6,".

SEC. 7. NOTIFICATION OF SEC CONCERNING RISKS TO SECURITIES SUBSIDIARY.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 35. COORDINATION OF RISK ANALYSIS BETWEEN SEC AND FEDERAL BANKING AGENCIES.

"Any appropriate Federal banking agency shall notify the Securities and Exchange Commission of any concerns of the agency regarding significant financial or operational risks to any registered broker or dealer, or any registered municipal securities dealer, government securities broker, or government securities dealer for which the Commission is the appropriate regulatory agency (as defined in section 3 of the Securities Exchange Act of 1934), resulting from the activities of any insured depository in-

stitution, any depository institution holding company, or any affiliate of any such institution or company if such broker, dealer, municipal securities dealer, government securities broker, or government securities dealer is an affiliate of any such institution, company, or affiliate.".

SEC. 8. REPORTS TO CONGRESS.

(a) INTERMARKET COORDINATION.—The Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Securities and Exchange Commission, and the Chairman of the Commodity Futures Trading Commission, shall report to the Congress not later than May 31, 1991, and annually thereafter until May 31, 1995, on the following:

(1) the efforts their respective agencies have made relating to the coordination of regulatory activities to ensure the integrity and competitiveness of United States financial markets;

(2) the efforts their respective agencies have made to formulate coordinated mechanisms across marketplaces to protect the payments and market systems during market emergencies;

(3) the views of their respective agencies with respect to the adequacy of margin levels and use of leverage by market participants; and

(4) such other issues and concerns relating to the soundness, stability, and integrity of domestic and international capital markets as may be appropriate.

The agencies shall cooperate in the development of their reports, and prior to submitting its report to Congress, each agency shall provide copies to the other agencies.

(b) CLEARANCE AND SETTLEMENT.—The Securities and Exchange Commission, in consultation with the Commodity Futures Trading Commission, the Board of Governors of the Federal Reserve System, and other relevant regulatory authorities, shall examine progress toward establishing linked or coordinated facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options, and shall submit to the Committees on Energy and Commerce and Agriculture of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Agriculture, Nutrition, and Forestry of the Senate, not later than 2 years from the date of enactment of this section, a report detailing and evaluating such progress.

Amend the title so as to read:

An Act to amend the Securities Exchange Act of 1934 to strengthen regulatory oversight of the United States securities markets, improve supervision of financial market participants, and improve the safety and efficiency of market mechanisms, and for other purposes.

The SPEAKER pro tempore (Mr. TORRES). Is a second demanded?

Mr. RINALDO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill we are considering today, H.R. 3657, the Market Reform Act of 1990, represents the culmination of nearly 3 years of hard work and steady deliberation. When our financial markets came perilously close to total collapse on October 19, 1987, an intense inquiry began as to the causes of that collapse and the need for our regulators to adopt new tools to more effectively monitor and protect our financial markets. With our action today, the House will be sending this bill to the President's desk for signature.

Equally important, we will send a long-awaited message to individual investors across the country: we will do everything in our power to restore your confidence in our financial markets.

Over the last several weeks, members from the Committee on Energy and Commerce and the U.S. Senate's Committee on Banking, Housing and Urban Affairs, in a spirit of cooperation and mutual understanding, reached a consensus on resolving differences between our two versions of market reform legislation. I would like to thank Senator DODD for his persistent leadership in forging a consensus between the House and Senate members. I also owe a debt of gratitude to Senator RIEGLE, Senator HEINZ, and Senator GARN for working with the House to resolve quickly, and reasonably, our differences. I also appreciate Senator GRAMM's efforts to improve and strengthen this bill. In resolving our differences, I believe we have made significant improvements to this legislation and I thank all my Senate and House colleagues for their special efforts to produce this bill.

Most especially, I would like to thank the gentleman from Michigan [Mr. DINGELL] and our minority leader, the gentleman from New York [Mr. LENT], and make special note, as usual, of the efforts of the gentleman from New Jersey [Mr. RINALDO], the ranking minority member of the Subcommittee on Telecommunications and Finance.

Mr. Speaker, this is an historic piece of legislation, a major piece of market reform legislation passing the Congress this year, and is very largely attributable to the efforts of the gentleman from New Jersey [Mr. RINALDO]. I do want to compliment him personally for his commitment.

On June 5, the House of Representatives passed H.R. 3657, which contained the reforms necessitated by the October 19, 1987 crash and the ensuing volatility, which has repeatedly threatened our financial markets and shaken the confidence of the investing public. On September 25, the Senate took up the House-passed bill and amended it with a substitute which reflects the substance of our agreements.

The substitute before us today provides the Commission with the following seven new powers. First, it provides the Commission emergency authority to suspend trading or institute any other emergency measures within its regulatory authority. Second, it provides for the Commission to institute a large trader reporting system, so that the Commission can understand the trading strategies being used in our securities markets, and to monitor our markets closely for any manipulative or abusive activities. Third, it grants the Commission the authority to more fully monitor the financial or operational risks that are posed to SEC-regulated entities by their associated persons. Fourth, it provides the Commission with the ability to facilitate the establishment of a coordinated national system for safe and accurate clearance and settlement. These provisions had been included in a separate House bill, H.R. 3656. Fifth, it authorizes the Commission to place limitations on practices which result in volatility. Sixth, it requires our Federal banking regulators to notify the Commission when they are concerned about the financial or operational risks posed to a SEC-regulated entity. And seventh, at Senator RIEGLE's suggestion, the legislation requires the SEC, the Commodity Futures Trading Commission, the Federal Reserve System, and the Department of Treasury, to report annually to the Congress on efforts to coordinate the regulation of our financial markets.

In brief, I will touch upon the differences between the substitute and H.R. 3657, as passed by the House on June 5, 1990. Regarding the grant of authority to the Securities and Exchange Commission to address market volatility and market manipulation, we agree to uphold the purpose of this section as expressed in the House report on H.R. 3657 and the bill's legislative history, and to make certain statutory modifications which enhance and clarify the purpose of that section. In the first instance, under the Senate substitute, the SEC is granted the authority to prescribe means reasonably designed to prevent manipulation of price levels of the equity securities market, or a substantial segment thereof. In the second instance, the commission, with the greatest deference given to its judgment, is authorized to prohibit or constrain any trading practice which has previously contributed significantly to extraordinary levels of volatility that have threatened the maintenance of fair and orderly markets, and which the commission determines is reasonably certain to engender such levels of

volatility, if not prohibited or constrained.

The House and Senate members, in agreeing to such changes, concur that the commission will not have to make a factual finding in order to determine whether any trading practice meets the standards set forth, and that the greatest deference will be given to the commission's judgment in making such determinations. This degree of deference to the Commission's judgment is necessary, given that trading and execution strategies have become so complex that their surface subtlety belies their ultimate impact on our financial markets. Sophisticated strategies applied with a seemingly light touch, can nonetheless, trigger a series of events which can culminate in extraordinary levels of volatility. Under this provision, the commission is granted the flexibility to fashion rules and regulations with this reality in mind.

As I stated in my floor remarks on the passage of H.R. 3657 by the House on June 5, 1990, the need for this provision stems from the changes which have significantly reshaped our securities markets in the last decade—the swift domination of the stock market by institutions, and the rise of trading by securities firms for their own accounts.

This concentration of greater and greater financial power in the hands of fewer individuals, has led to the birth of a host of new trading strategies and financial instruments which have been specifically tailored for trading the value of the stock market as a whole. The umbrella term for such strategies is program trading, which covers index arbitrage, portfolio insurance, tactical asset allocation, and other strategies. Unfortunately, with the increased dominance of the market by institutions and securities firms, has come the opportunity to profit from manipulative acts or practices, such as intermarket frontrunning or self-frontrunning, or aggressive trading strategies which prey on the existing fragility of our markets. To compound matters, our regulatory scheme, and the imposition of operational safeguards in our markets, have lagged behind these tremendous changes which have altered the nature and behavior of financial markets. In addition, the pace of innovation promises that new products and new trading strategies, unthought of today, may pose similar hazards to our markets in the future. The power we give the Commission today assures that our regulators will be able to deal with such developments, should they arise in the future.

Senator GRAMM expressed a concern that this authority not unduly impinge upon the small individual investor's ability to buy or sell. The language in the substitute directs the Commission to seek to minimize such impacts on the average investor. Certainly, such investors should take great comfort in the fact that one of the underlying purposes of this section is to stem the volatility in our market, which has so damaged the average investor's confidence in our financial markets. And finally, regarding this section, we have added a provision which allows a person adversely affected by the Commission's rulemaking to obtain judicial review of the rule within 60 days after promulgation of the rule.

Additionally, concerning the risk assessment section of the substitute, House Members agreed to delete a provision, which allowed for an exclusion from the requirements of that section for any person whose net worth is less than $25 million and who does not devote a significant amount of their assets to, or obtain a significant amount of their revenues from, activities in the United States. It was agreed that this statutory exemption was unnecessary, given the broad exemptive power of the Commission to allow such exclusions by rule or order.

With respect to the operation of the risk assessment provisions, I also concur with my Senate colleagues in their comments concerning the case of associated persons who are subject to examination or reporting requirements of a Federal banking agency, where the legislation establishes an alternative procedure for broker-dealers to comply with the legislation's recordkeeping and reporting requirements. To use this alternative, a broker-dealer may obtain copies of reports of condition and similar reports filed by the associate person with the appropriate Federal banking agency. However, a broker-dealer is not required, under any circumstances, to obtain copies of examination reports. Moreover, it is not a condition of this procedure that the broker-dealer obtain copies of reports, such as F.R. 2068 filed with the Board of Governors of the Federal Reserve System, that are subject to confidentiality procedures, similar to or more stringent, than those applicable to examination reports.

And finally, concerning the risk assessment section, I would like to correct a typographical error which appears in the House Report No. 101-524 on the Securities Markets Reform Act of 1990. On page 31, the last sentence of the section of the report which follows the heading "Risk Assessment for Holding Company Systems" and is directly before the subheading, "Paragraph (h)(2)—Call Reports", should read: "The committee expects that the Commission will not require that summary reports be prepared on an affiliate-by-affiliate basis, except to the extent of providing consolidating balance sheet information." The word "consolidating" should have appeared in the House report, and replaces the incorrect use of the word "consolidated."

Regarding the section of this substitute which provides for the facilitation of a safe and accurate national system for coordinated clearance and settlement, we have agreed to changes that provide an added measure of protection for States. In granting the SEC the authority to pre-empt State laws which unavoidably interfer with the attainment of a safe and accurate national clearing and settlement system, the concern was raised that a more effective balance needed to be struck between the SEC rulemaking authority and the States in achieving such a system. For that reason, the substitute enables States to specifically override specific SEC rules by passing legislation to that end.

The passage of this bill represents an historic event. It is something which I am quite proud of. The gentlemen from Michigan [Mr. DINGELL] and I have worked together with the subcommittee members over the last 2 years in helping to draft this legislation, working with the minority.

I would like to commend this bill to the President for his signature. We think that it deserves it.

I would like to thank the SEC staff, whose excellent work has greatly assisted our efforts today, to Chairman Breeden of the Securities and Exchange Commission, under whose leadership this bill has reached passage today, to former Chairman Ruder, of the SEC, under whose leadership this process toward reform started, to Consuela Washington, the right arm in security matters for the gentleman from Michigan [Mr. DINGELL], who has worked tirelessly in ensuring that any bill that was produced out of the negotiations with the Senate would fully reflect the goals that the gentleman from Michigan [Mr. DINGELL] has for reforming our markets, to Steve Blumenthal, the committee's minority counsel, who has worked with us in a partnership that has to necessarily be at the heart of any working arrangement between majority and minority on subjects of this complexity.

I would also like to thank Herb Brown, the subcommittee staff director, for his work. Since he has come on board in January of this year, his fine touch for negotiations and for insight into how we can resolve very difficult issues has been absolutely critical in bringing this piece of legislation to this point.

Finally, I would like to thank Nancy Smith from my staff, who has worked over the last 3 years, since October 1987, toward developing a set of policy initiatives that could deal effectively with these issues. Despite the daunt-

ing task, she kept the faith. Despite the naysayers that said it could not be done, at this point she is witnessing the final product of her good work.

Mr. Speaker, I reserve the balance of my time.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the interest of time, I want to associate myself with the remarks of the gentleman from Massachusetts [Mr. MARKEY], the distinguished chairman of the Subcommittee on Telecommunications and Finance. I certainly join him in complimenting the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], for expediting the passage of this piece of legislation and for the work that he and his staff and the staffs of both sides of the aisle did on this piece of legislation.

Mr. Speaker, most of all I would like to commend the gentleman from Massachusetts [Mr. MARKEY] for his very dedicated efforts in helping to craft a bipartisan piece of legislation during a very difficult period of time when there were many people screaming and shouting for tougher and harsher measures that would have actually hindered the economic growth of this country by putting into effect procedures that would slow down what was taking place in our markets. He has done an admirable job. I am proud to be one of the original sponsors of this legislation with the gentleman from Massachusetts [Mr. MARKEY].

Mr. Speaker, I rise in support of H.R. 3657, the Market Reform Act of 1990. I am proud to be an original sponsor of this legislation.

Although born out of the crises of severe and sudden stock market corrections in 1987 and 1989, this legislation is not a quick fix. It is a carefully considered review of new authority the Securities and Exchange Commission must have to ensure the integrity of our capital raising process.

This bill grants authority to the SEC to act in a market crisis, collect information for regulatory and surveillance purposes, and assess risks to holding companies from the activities of broker dealer subsidiaries. This legislation also provides the SEC with needed authority to address trading practices that create extraordinary volatility. This provision in the bill, commonly referred to as the program trading provision, was crafted jointly by myself and my colleague, the chairman of the subcommittee, Mr. MARKEY, after lengthy and detailed negotiation with the SEC, the Department of the Treasury, representatives of the securities industry, and expert legal counsel. In sum, this bill provides the SEC with the tools it needs to regulate the computer-driven markets of the 21st century.

H.R. 3657 also contains the provisions of H.R. 3656, the Coordinated Clearance and Settlement Act. Although clearing and settlement is the technical side of the securities business, its impact on investors is dramatic. This legislation directs the SEC to bring about a linked and coordinated system of clearance and settlement of securities transactions. The balkanized system in place today, in which stock and commodities exchanges have their own independent clearing arms, subject to differing laws and regulations and adopting differing membership requirements, does not provide the desired level of uniformity and clarity that institutional and individual purchasers, sellers, financial intermediaries, and lenders are entitled to have.

One of the most important sections of this bill provides a compromise solution to a problem that will have to be dealt with in the future, perhaps more decisively, if our markets are to compete in the global economy. The question concerns the role of the States in the regulation of financial markets that are already national in scope and increasingly international. Clearance and settlement of securities transactions is a mechanical and clerical process, it is particularly well suited to computerization and an efficient, nationwide system is well within the limits of today's technology. Unfortunately, inconsistent State laws governing secured interests in negotiable securities have played a large role in preventing the development of a national system of settlement.

Recognizing this, H.R. 3657 authorizes the SEC to preempt inconsistent State laws that it finds are interfering with the development of a national clearance and settlement system. In the spirit of legislative compromise, we have accepted a Senate provision that will allow the States, for a limited time, to opt back in to this regulation. It is difficult to believe, however, that this solution could be any kind of model for other areas of securities regulation. The lack of uniformity in regulation imposed by inconsistent State laws unnecessarily elevates the cost of doing business, increases the costs of raising capital, and places our financial markets at a competitive disadvantage to those of a uniting Europe.

The financial markets of our Nation face challenges in the 1990's that have never been seen before. We live in an era when market meltdowns and emergencies, characterized by excessive fluctuations of securities prices threaten fair and orderly markets. Investor confidence in the integrity of the market is dangerously low and, some argue, for good reason. The securities laws of the United States are the model the world uses for regulation of capital markets, but there is broad bipartisan agreement that our laws are in need of fine tuning. H.R. 3657 responds to that need.

Mr. Speaker, H.R. 3657 is an important step in the continuing development of regulation of the American financial markets and I urge my colleagues to support it unanimously.

Mr. DINGELL. Mr. Speaker, I rise in strong support of this bipartisan substitute to resolve the differences between the House and Senate market reform bills.

New York Stock Exchange president Richard Whitney called the market of his day a "perfect institution." In 1937, SEC Chairman William O. Douglas offered a less glowing view, implying that it was a "private club" with "elements of a casino." The Senate Banking and Currency Committee's 1932-34 investigation of stock exchange practices and the 1929 Crash produced the following exchange:

Mr. WIGGIN. I think it was a God-given market.

Mr. PECORA. What is that?

Mr. WIGGIN. I think it was a God-given market.

Senator ADAMS. Are you sure as to the source?

Much has changed since 1929, let alone since 1725 when securities were first traded in New York City. Wall Street has become the symbol of the positive American attributes of free enterprise, initiative, and prosperity. However, the advances in information technology and new products that have brought many benefits also carry great risks—risks often not fully recognized until a market disruption like October 1987 or a firm failure like that of Drexel Burnham brings them into sharp focus.

The compromise legislation which we send to the President today will provide the Securities and Exchange Commission with the necessary information and regulatory tools to safeguard the Nation's capital formation mechanisms and enhance investor protection to make sure that this country's markets continue to provide a fair and efficient center for world securities trading.

By agreement with the Senate, the House and Senate committee reports on H.R. 3657, H.R. 3656, and S. 648 shall constitute the legislative history for the amendment in the nature of a substitute for H.R. 3657 that we pass today. The key components of the compromise have been explained in the floor statements of Senator DODD and Mr. MARKEY so I will not belabor them here. Mr. Speaker, I do, however, want to commend the chairman of the Subcommittee on Telecommunications and Finance, Mr. MARKEY, that subcommittee's ranking Republican, Mr. RINALDO, and the ranking Republican of the full committee, Mr. LENT, for their strong leadership and extraordinary efforts in bringing this important legislation to this point. I also want to thank the leadership of the Committee on Agriculture and of the Committee on Banking, Finance and Urban Affairs for the cooperative spirit in which they have worked with the Committee on Energy and Commerce to facilitate action on this bill. Finally, I must recognize the contributions of Senators RIEGLE, GARN, DODD, HEINZ, and GRAMM for their willingness to work with us to resolve differences and bring an excellent piece of legislation to final passage.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume,

only to conclude by thanking Steve Cope, legislative counsel, who worked with the majority and minority in drafting this legislation, and to all of the members of the committee. This bill is a tribute to them and their patience and dedication to putting on the books laws which can deal with the market volatility characterized in the 1980's.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I am glad to yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, I would ask the gentleman from Massachusetts [Mr. MARKEY], is there any language, explicit or implicit, in this measure, that would in any way enlarge upon the powers of the SEC in its regulatory activities over commercial banks or bank holding companies?

Mr. MARKEY. Mr. Speaker, reclaiming my time, in the risk assessment area of the legislation, which we worked on closely with the Banking Committee to draft and have the acquiescence of the Banking Committee and through your leadership, there has been some extension of such authority. But we have done so in a way that is surgically targeted to restrain the SEC's authority.

□ 1340

Mr. GONZALEZ. It does follow the agreed language?

Mr. MARKEY. That is correct. We have followed the letter of the agreement which has been reached between the Energy and Commerce Committee and the Committee on Banking, Finance and Urban Affairs with regard to the scope of the SEC's authority in this area, and we will maintain the spirit of that agreement throughout its implementation.

Mr. GONZALEZ. I thank the gentleman.

Mr. LENT. Mr. Speaker, I rise in support of H.R. 3657.

H.R. 3657 contains a congressional authorization for timely regulatory responses to conditions in the securities markets that, in the past, have brought about stock market crashes. This comprehensive bill will go a long way toward ensuring the investing public that the Congress and its regulatory agencies are attentive to the problems existing in the financial markets. Increasing investor confidence is, in many ways, the first step in increasing investor protection.

Last November, the Subcommittee on Telecommunications and Finance marked up and unanimously adopted H.R. 3657. In the months that followed, the Energy and Commerce Committee has worked closely with the SEC and representatives of the securities industry to refine the drafting of this bill. The result is legislation that provides the SEC with the tools it needs to adequately address regulatory challenges unprecedented in the history of our Nation.

H.R. 3657 is significant legislation in each of its four parts. First, it grants the SEC emergency authority to act in a market crisis, broadening the Commission's authority to suspend trading. The events of the last few months, in which stock-exchange-imposed circuit breakers are credited with preventing market meltdowns like those experienced in October 1987, show the wisdom of this legislation. Congress cannot, however, rely solely on the good faith efforts of the stock exchanges to protect investors. Accordingly, the SEC is given the authority it needs to monitor the markets and take appropriate action.

Second, the SEC is authorized to establish an information gathering system for monitoring large securities transactions. With upward of 70 percent of trading being done by institutions, clearly a regulator without this information is inadequately informed.

Third, H.R. 3657 provides authority to the SEC to collect broker/dealer risk assessment information from holding companies. The tragic experience of the demise of Drexel Burnham speaks volumes of the need for regulators of this provision.

Finally, the stock market reform portion of this legislation grants the SEC discretionary authority under certain circumstances, and after a deliberative process, to prohibit or constrain acts that contribute to extraordinary levels of market volatility. In the broad powers granted to the SEC in this bill lie the foundations of safer and sounder securities markets.

The remaining provisions of H.R. 3657 are a congressional mandate to the SEC to bring about a linked and coordinated system for the clearance and settlement of securities transactions. Inefficiencies in this area translate directly into less capital being available to trade stocks. These friction costs reduce the depth and liquidity of our stock markets and ultimately it is the investor who pays the price. Anything that Congress can do to eliminate unnecessarily wasting the capital of the financial industry should be undertaken.

It was for just that reason that the House version of this bill, designated H.R. 3656, preempted State laws that are generally recognized as interfering with the development of a uniform, national system for the regulation and operation of clearance and settlement systems. In recognition of State interests that may not, in this case, be consistent with the national interest in developing uniform laws, a provision was added to this bill to provide the States with an opportunity to continue to regulate securities under the applicable sections of the State commercial code. It is well that a series of actions and findings are necessary before a preempted State can return to these activities. The consequences of destroying the rationale behind a national system by opting out six or eight States are so dire that it is hoped our colleagues in the State legislatures will act with their usual levels of responsibility and recognize the preeminent national interest.

Mr. Speaker, I am pleased to say that H.R. 3657 enjoys broad bipartisan support and should be approved unanimously.

Mr. RINALDO. Mr. Speaker, I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TORRES). The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and concur in the Senate amendments to H.R. 3657.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments to H.R. 3657 that were just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

INCREASING WITHDRAWAL AUTHORITY FROM STRATEGIC PETROLEUM RESERVE

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5731) to increase the amount of petroleum products that may be withdrawn from the strategic petroleum reserve under a certain provision of the Energy Policy and Conservation Act.

The Clerk read as follows:

H.R. 5731

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 161(g)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6241(g)(1)) is amended by striking out "5,000,000" and inserting in lieu thereof "15,000,000".

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. TAUZIN] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. TAUZIN].

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

At a hearing yesterday before the Energy and Commerce Committee, the Secretary of Energy discussed the President's decision to conduct a 5-million-barrel test sale of oil from the strategic petroleum reserve. The Secretary, to our surprise, stated that the 5-million-barrel statutory limitation on a test sale was too small to adequately stress the SPR system capability. He said that the 5-million-barrel size was picked because that was the maximum authorized by law, and he recommended that the size of the test be tripled.

As a result of the Secretary's recommendation, Chairman SHARP, Chairman DINGELL, Mr. LENT, Mr. MOORHEAD, and other members of the committee, yesterday introduced H.R. 5731. This bill expands the statutory size of the test sale to a maximum of 15 million barrels—the size recommended by the Secretary.

The authority to conduct the actual test sale of wet barrels of oil was just recently enacted as part of the Energy Policy and Conservation Act [EPCA] Amendments of 1990. The language in this law is written in such a manner that additional consecutive test sales may be conducted. If the Secretary of Energy believes that the 15-million-barrel language is still too restrictive he has authority to conduct additional tests. Each test sale may contain up to 15 million barrels.

I believe it is worth noting that during the conference committee deliberations on the EPCA amendments, Congress considered authorizing test sales of as much as 20 million barrels. Informal consultations with the Department of Energy led us to believe that anything higher than 5 million barrels would be vetoed. The committee is therefore pleased to learn at this point that the Secretary agrees on the need for a test sale large enough to stress the system, and we are pleased to give him the needed authority.

It is also worth noting that the EPCA amendments also contained minidrawdown language. This authority could be used to allow the drawdown of limited amounts of SPR oil for shortages of domestic oil regardless of the cause.

I welcome the Secretary's recommendations and assure him that the House will expeditiously consider this change and any other changes he may propose to manage this crisis and protect the American public.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5731, which raises from 5 million barrels to 15 million barrels the cap on the size of a test of the strategic petroleum reserve under the Energy Policy and Conservation Act.

Just 2 weeks ago, the Congress extended the SPR authorities in EPCA and added a provision making it clear that short of an actual drawdown of the SPR, the Department of Energy can conduct a test of the SPR which includes actually selling some of the oil so that we fully test the SPR drawdown system. The cap on the size of such a test sale was set at 5 million barrels.

Earlier this week, President Bush decided to invoke this new authority and direct the Secretary of Energy, Adm. James Watkins, to conduct a test sale. In testimony yesterday before a joint hearing of two of the subcommittees of the Committee on Energy and Commerce, Secretary Watkins indicated that a 5-million-barrel test sale will not fully test the SPR, much less dampen market speculation which has artificially driven oil prices to twice the level before the Iraqi invasion of Kuwait. In response to questions from the committee, the Secretary stated that a 15-million-barrel test—or 500,000 barrels per day over 30 days—would be needed to conduct a proper test. It is also the minimum level that private analysts have said would help dampen market speculation. The fact that oil prices did not drop in response to the President's decision shows that 5 million barrels is not enough. The President is to be commended for using the limited authority we gave him and the Secretary of Energy is to be commended for his candor in suggesting the benefit of a larger test sale.

This bill was introduced to implement the increase in the size cap recommended by Secretary Watkins. I cosponsored this bill with the chairman and ranking Republican member of the full Committee on Energy and Commerce, and the chairman of the Subcommittee on Energy and Power. This bill must be acted upon with dispatch so that the Secretary will have the authority to conduct a larger test sale of the strategic petroleum reserve. In light of current conditions in oil markets, this is must legislation for which I urge my colleagues' support.

While the strategic petroleum reserve test sale is important, many of us on the Committee on Energy and Commerce continue to believe that a modest drawdown of the reserve, not just a one-time test—as important as that is—should be undertaken in concert with our allies.

Furthermore, the SPR is an insurance policy against oil disruptions, not a substitute for a comprehensive energy policy. President Bush ordered a national energy strategy prepared long before Iraq invaded Kuwait. That strategy will be sent to Congress next year. Yesterday, Energy and Commerce Committee Republicans introduced a comprehensive energy package which addresses both conservation and production of energy resources. I hope we will have an opportunity this year to do more on energy policy beyond the SPR. I urge support for this bill. For the time being, I urge support for this bill to increase the size limit on SPR test sales to 15 million barrels.

□ 1350

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may concume.

Mr. Speaker, let me associate myself with the words of my friend, the gentleman from California [Mr. MOORHEAD].

Indeed, this bill is no substitute for a good energy policy for America, and we have work yet to do, but this bill recognizes one salient fact, and that is the speculators on Wall Street may be greedy but they are not dumb. They watched as the Secretary announced this modest drawdown of 5 million barrels, which is no more than one-third of a day's use of oil in America, and they reacted. The price of oil dropped temporarily, and then they realized that this was just a modest effort. This was just a 1-day announcement. They realized that we have not yet made the firm commitment to use the SPR to stop this awful speculation and to assure the American public there will be no shortages.

This bill is aimed at doing the rest. This bill is aimed at making sure the speculators get the message that America does not allow them to keep earning these outrageous profits with artificial prices not justified in the marketplace.

Mr. Speaker, we commend this bill to the Members of the House.

Mr. Speaker, I yield such time as he may consume to my friend, the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, let me tell the Members what has been wrong over the last 7 weeks with the administration's policy. Right from the get-go, the administration said, the Department of Energy said, the Secretary of Energy said that they will not use the strategic petroleum reserve in order to control prices, and so as prices have escalated from $20 to $25 to $30 to $35 to $40 a barrel, the administration has continued to argue that the strategic petroleum reserve was never intended to be used in a way that will keep prices down.

Until now, what are the consequences? Well, since August 2, $4 billion more in energy costs have been paid by American consumers, going overseas, going to war profiteers than should have. Across the country, there is a $300 million-per-day higher price that American industries, American consumers have to pay. In New England alone, New England, $20 million

each day is going out of our region above and beyond what was going out on August 2 for energy prices. That is a new startup company for New England every single day, $20 million every day going out of our region. We cannot afford to see this continue any longer.

Businesses are being driven into a recession by this head-in-the-sand energy policy which the administration has adopted. Consumers are reeling from this policy. Right now in New England, across the Northeast, home heating oil consumers should expect to pay $500 more this winter than they paid last winter for home heating oil, and that is fine if you are in the upper income brackets, but if you are down in the working class level, $500 out of your discretionary income after taxes is really going to put a pinch in a lot of other things that you might have planned to have done this winter.

For low-income families on the margin, they have been pushed off that margin now. They now go from being vulnerable to being victims. Just to stay even, the low-income energy assistance program now needs an additional $600 million. Those who have said that we should not be concerned about this rise in prices of oil across this country and that we should not use the strategic petroleum reserve in order to control those prices should not now cry their crocodile tears when we come in and say that we are going to have to increase by $600 million the low-income fuel assistance program, because that is all part and parcel. Where do you think the money is going? If you want to put that money into the hands of the oil companies or into the hands of oil speculators, more accurately, and the sheikhs over in the Persian Gulf, well, do not expect the poor people then to be able to pay for their home heating oil bill and cough up the cash to help them out. That is part of what our country should be all about.

So while I do not share any real confidence that this administration is going to engage in that kind of a policy that is now reaching out to help the poor and to help them in a way which they really need, and let us not, as well, in any manner, shape, or form, pretend that this program is going to work.

Secretary Watkins has now said that this is not a drawdown. We are not using this as a drawdown. We are just doing this as a test to enhance our readiness in the event that a drawdown is really necessary, and so if you are out there now wondering why your gasoline prices are skyrocketing, why your home heating oil prices are skyrocketing, just ask youself why, for the last 15 years, that we built a strategic petroleum reserve, why are we not flooding the marketplace with a million barrels of oil a day that the American taxpayer, the American consumer has already paid for in order to depress those worldwide oil prices, and let the world energy merchants know that we mean business?

We are not just going to stand idly by and allow them to capitalize upon the vulnerable position that the United States has placed itself in by injecting itself, I think, nobly into the middle of that Persian Gulf crisis.

I congratulate the genleman from Louisiana for his work on this legislation. He has been pressing this case for the last year, that we have to do more to fill the strategic petroleum reserve. We have to do more to make sure it is ready to go, and now we begin to see some action, but it still is only 10 cents on the dollar of what we are going to need if we are going to be successful.

I also want to compliment the gentleman from Indiana [Mr. SHARP], chairman of the subcommittee, and the gentleman from Michigan [Mr. DINGELL], our chairman, the gentleman from California [Mr. MOORHEAD]. We have worked on this over the last 15 years on a bipartisan basis in the committee, and we have tried hard to put together an energy policy in this country, but it has been almost impossible with the Energy Secretaries that we have been given to work with.

My hope is that this will be the beginning of a new era with Secretary Watkins, and that finally we can do something which is positive, constructive and, in fact, deals with the real issues which are out there.

Mr. TAUZIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I have a question for the gentleman. The gentleman has very well explained the purpose of this bill. Those of us who have been reading the newspapers read a few days ago that the President intended to intervene in the market in order to protect the consumers. What I am asking about is: What would be the plans for replenishing the strategic supply, and if the maintenance of that supply must be at a certain level, at what cost to the Government would it be?

Mr. TAUZIN. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I am happy to yield to the gentleman from Louisiana.

Mr. TAUZIN. There are no such plans on board today other than the fact that about 12 days ago we passed the reauthorization of the strategic petroleum reserve and authorized it up to 1 billion barrels, so that given the right appropriations, we can acquire oil for the strategic petroleum reserve even as we draw it down. That authority now exists for the administration. The funds, however, must be provided as part of the budget agreement.

I can, however, suggest to the gentleman that I have already proffered a plan for refilling the strategic petroleum reserve on the basis of SPR bonds that would be sold to the public, bonds that would yield an interest and a bonus when, in fact, that oil is sold in the marketplace, a plan that would also dedicate domestic wells, that is, new production in America, to help fill the strategic petroleum reserve.

I have offered that plan to the administration and to our chairman, the gentleman from Indiana [Mr. SHARP], and it is under active consideration right now by various members of the administration and the committees on energy.

But right at the moment the only plans to fill the reserve are contained in the legislation that was passed and will be determined by the amount offered in the budget summit conference or the agreement we reach on a CR.

Mr. GONZALEZ. I thank the gentleman. I congratulate him on his proposal that he is asking the administration to consider. The worry I had was that we may lose with one hand what we are trying to achieve with the other, and that is that if we have to resupply that capacity there that we want for the strategic purposes and if it is at a cost that would be at an exorbitant level, then that would offset whatever good we would do on the other hand, because, in effect, the taxpayer is paying the price.

□ 1400

Mr. TAUZIN. The average cost, in answer to the gentleman, the average cost of acquisition of oil to the strategic petroleum reserve today is $27 a barrel. The plan I suggested to the administration would guarantee production in domestic oil wells at $25 a barrel, guaranteed whether the price goes up or down. It makes good sense.

Mr. GONZALEZ. Mr. Speaker, I agree. It does make good sense, and I congratulate the gentleman.

Mr. MOORHEAD. Mr. Speaker, I yield myself 1 minute to say that this is a nonpartisan piece of legislation, and not one on which we should debate our national energy policy. For those who feel there are problems with the shortages we have, this bill will not solve all of our problems. What we need to do is to be able to develop the oil that we have available in our country which has been stopped by politics. We need to go ahead and develop a worthwhile national energy plan which I believe the Republican members of the Committee on Energy and Commerce have introduced this last week. I think we need to go ahead in every single area that will produce to make the United States energy independent, so that this will not

happen in the future. I strongly support the 1-billion-barrel level.

Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I was just interested a moment ago in the fine speech that we heard about how much it is costing the American people to have the energy costs raised as a result of what is happening in the Middle East. It just seems to me that we ought to also recognize that a part of that, that the proposal put on the table by the Democrats, as we were blaming the policy on the administration, the proposals put on the table by the Democrats in the budget summit included gasoline taxes, energy taxes, and a number of other things that are also going to raise those same costs on the American people, so that when their prices go up sometime in the near future, if such a budget plan would pass, they ought to also remember the people who not only added to the costs, but of the situation in the Middle East, but added to the cost of all those products as a result of additional taxes.

Mr. TAUZIN. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I just rise to note that the only difference from the American consumers' perspective is that if they paid an extra penny or two or five in the gasoline tax, they would know that that money was being spent on our troops over in the Persian Gulf. They would know that it is to be spent on health care for the elderly. Right now, as they pay this energy tax, this $4 billion so far, and much more to come, that money is not going into anything that is helping them. That money is going into the hands of war profiteers.

This Government is going to have to recognize that the American public can tell the difference between the taxes that are used for their benefit, and taxes being used for the benefit of those who are attempting to use the spoils from the Middle East crisis.

Mr. MOORHEAD. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, the gentleman from Massachusetts has just given a very interesting idea there. In order to have that happen, as the gentleman just portrayed it, we would have to, in fact, devote the gas taxes to something other than the highway trust fund. In other words, break a compact that we have had for a number of years where all of the money goes into the highway trust fund, where it now is sitting in the fund and not being used.

So the gentleman, in suggesting that the money is going to go toward the kind of things he just talked about, is talking about something that cannot happen under present law. I am rather surprised by the fact that they are evidently going to propose now that not only are the gas taxes going to be raised, but they are now going to be used as a part of a general fund. That would be a real break with everything we have done in the past.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume. I want to point out that not all Democrats support gasoline taxes, and the gentleman knows that. Certainly not this gentleman.

Second, there are others hurting in this crisis, other than those who burn home fuel oils, or gasoline. A good example of those being crushed by the rising cost of fuel, because of the speculators on Wall Street, are the fishermen in my district. When gasoline prices went up 12 cents, diesel prices went up 30 cents. Segments of our society are being crushed now. This bill is designed to help the administration with all the authority it needs to tell those speculators to cut it out, to stop this artificial pricing of fuel, and to get prices down where they ought to be, even considering the crisis in the Middle East.

I would like to also point out that when oil is sold under this, the money derived from the sales goes into a special SPR account. That money can be used if we budget it so, for the purchase of additional oil to refill the strategic petroleum reserve, probably after this crisis is over, hopefully at lower prices. The system can work. The Secretary wants to use his authority.

Finally, so that people not misunderstand that we are suddenly asking the administration to use the security of the SPR too early, we could draw down 500 barrels a day out of the SPR for 1,180 days. We could withdraw from the SPR a million barrels a day if we needed to for 580 days, hopefully much longer than this crisis will last.

The American consumer needs to know that. The SPR, while not a billion barrels, is still a mighty hefty security for America if we want to use it. This authority given the administration hopefully will be used to put the speculators back in line, and to tell them to quit profiting at the expense of shrimpers and fishermen, and those on the highways, and those poor, and those in American society that can ill-afford the kind of increases that artificially are being accounted for in the prices the speculators are driving up on Wall Street.

Mr. SHARP. Mr. Speaker, on Wednesday the President announced a small test sale of oil from the strategic petroleum reserve. It is not the real drawdown that many of us in Congress have recommended as a way to limit the skyrocketing oil prices, but it is useful step.

It is useful for two reasons. First, a successful test will allay any remaining concerns about the ability of the Department of Energy to actually deliver the oil we have stored over the past decade. Congress required a small test—1 million barrels—in 1985, and it was successful, but a larger test in volitile market conditions will be even more meaningful. We are pleased that the Secretary has recognized the need for a 15 million barrel test instead of the announced 5 million barrel test, and we are pleased to give him that authority.

Second, it is useful because it helps to persuade the traders and speculators who are bidding up the price in advance of any shortage that the President may call for a real drawdown of a significant size. In other words, the President's willingness to test the reserve makes its real use a somewhat more credible threat, and that should worry speculators who have discounted the risk of a drawdown.

The news reports of the President's announcement, unfortunately, did not stress the fact that he is only conducting a test, and a very small one. Five million barrels over 30 to 60 days is a fairly insignificant response to an anticipated worldwide crude oil shortage of 1 million barrels per day.

The markets yesterday quickly realized this fact. After an initial drop in the price of oil, due apparently to the news reports of the announcement, prices rose again on the basis of new rumors from the Middle East.

Let no one mistake this reaction for a precursor of what a real drawdown would bring. In the present circumstances, if the United States and its allies in the International Energy Agency, particularly Japan and Germany, were to announce plans to sell a million barrels a day, that would drive oil prices down. The recent price rise is based on a fear of future shortages, and a combined announcement by the IEA nations that they do not intend to let a shortage occur would remove or reduce that fear.

Further bad news from the Middle East could, of course, offset the good news of an announcement of a drawdown, so there is no guarantee of lower prices. But the fear of a bigger crisis in the future should not deter us from trying to mitigate the impact of the present problem. We have hearly 600 million barrels of oil in storage, and drawing down a half million barrels a day for several months will still leave us with the ability to increase the rate if necessary.

Mr. Speaker, I applaud the President's decision to conduct a test, but I renew my call to him to conduct a real drawdown and to persuade Germany and Japan and the other IEA nations to do the same.

Mr. SYNAR. Mr. Speaker, I want to commend my colleague, PHIL SHARP, for his leadership in bringing before the House this legislation to amend EPCA to increase the level of strategic petroleum reserve oil which can be drawn down for purposes of testing the physical integrity and overall readiness of the SPR system. As chairman of the Energy and Power Subcommittee, PHIL has been a leader in the Congress in efforts to enhance the Nation's energy security and our emergency preparedness programs, and I am pleased to join him as a cosponsor of this measure.

Mr. Speaker, a number of hearings by my own Subcommittee on Environment, Energy and Natural Resources revealed some serious

problems with the strategic petroleum reserve system. To its credit, the Department of Energy has made effort to correct these deficiencies and to make needed improvement in the drawdown and distribution capability of the reserve.

Nevertheless, it is just a simple fact of life that any large, physical system of this kind is bound to experience some problems when first cranked up to full capacity. But the time to find and correct those problems is before a crisis, not during a crisis. As a result, I have long believed that the Department should conduct a meaningful test of the entire SPR system, at a drawdown level designed to simulate the stress that would be imposed on the system during an emergency maximum-capacity drawdown. And we should do so purely for the purposes of identifying and correcting any problems with the pumps, valves, pipelines, computer network, distribution capabilities, and other essential components of the system.

Indeed, as recently as last week, I again urged the Department to undertake such a test and I want to commend DOE for making the decision to move forward with a drawdown test at this time.

However, I do not believe that the administration's announced 5 million barrel test is adequate to simulate real life conditions during a significant emergency drawdown. For instance, the Department's announcement of the test indicates that the average drawdown rate during the 5 million barrel test would be only 167,000 barrels a day. Since the reserve is designed to be capable of drawing down 3.5 million barrels a day for several months, it is obvious that a drawdown test of less than 200,000 barrels a day does not constitute the kind of stress to which the system would be subjected during a maximum drawdown. Accordingly, there is a clear need for a higher level drawdown test to be authorized.

I would note that in testimony before the House Energy and Commerce Committee yesterday, the Department stated that it would like to conduct a test of the SPR system at a higher drawdown level, but that it could not do so because Congress had authorized a wet test of only up to 5 million barrels. Mr. Speaker, I find this response somewhat disingenuous on DOE's part, in view of the fact that during the conference negotiations on the most recent EPCA extension, which took place only a few weeks ago, the administration actually opposed authorization of a higher drawdown level for test purposes.

Nevertheless, I am pleased the administration has reconsidered and has now come to recognize the wisdom and prudence of a drawdown test which would actually stress the system in order to get the bugs out.

I strongly urge my colleagues to support the legislation before us today so that the Department may proceed with dispatch in conducting a meaningful test of the strategic petroleum reserve system. Conducting such a test now can reassure both the American people and the markets that the United States is indeed fully prepared to utilize this vital crude reserve, if necessary, to counter a serious supply disruption.

Mrs. KENNELLY. Mr. Speaker, I rise in strong support of H.R. 5731 to allow for the withdrawal of oil from the strategic petroleum reserve in order to calm speculation on the world oil markets.

This legislation, combined with the President's announcement puts producers and dealers on notice that they cannot continue to raise the price of oil. Dealers and producers claim there is a supply problem and that it is growing over time. If that's true, we have the answer in the reserve.

Last December, well before the Iraqi situation, we had a home heating oil crisis in Connecticut. Prices rose out of reach for many low-income energy consumers. This year, before the cold spell hits, let's take every step to ensure our citizens aren't left out in the cold once again. No. 2 home heating oil sold for $0.89 a gallon a year ago yesterday and $1.19 yesterday with even higher prices on the horizon.

Prices for petroleum have continued to spiral upward with October futures reaching over $39 per barrel, a near doubling of the price of oil since the Iraqi invasion of Kuwait.

The impact of higher oil prices is already being felt throughout the economy. Inflation in August was 0.8 percent, which translates to an annual rate of about 10 percent. Economists are predicting significant recession impacts, similar to those seen when oil prices soared in 1980. Higher oil prices also make efforts to reduce the Federal deficit and trade deficits more difficult.

It is for just such circumstances that the strategic petroleum reserve was created, and the recent amendments reflect the widespread view in Congress that the authority should be utilized. Sales should dampen speculation that prices will continue to rise. Current market prices, which are influenced by the futures market, would also be dampened.

A downturn in the reserve is the least intrusive interference in the market. In fact, it is a market-oriented response to an oil disruption. Failure to take this step will certainly give stronger impetus to those who will propose other more intrusive actions.

Double-digit inflation and severe recession are not the inevitable consequences of the disruption of a portion of Middle East oil supplies. The strategic petroleum reserve is our Nation's insurance policy against just such an outcome.

I urge my colleagues to support H.R. 5731.

Mr. TAUZIN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TORRES). The question is on the motion offered by the gentleman from Louisiana [Mr. TAUZIN] that the House suspend the rules and pass the bill, H.R. 5731.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

WE NEED AN ENERGY POLICY

(Mr. TORRES asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. TORRES. Mr. Speaker, I rise today to discuss America's energy policy.

Some people claim that under the Reagan-Bush administration America has not had an energy policy.

But this may not be the case.

An argument can be made that under Reagan/Bush we have had a consistent policy to make America more dependent on foreign oil.

I have here a brilliant article that recently appeared in the Washington Post that illustrates what the position of the administration has been for the last 10 years.

According to the authors of this article, David Freeman and Curtis Moore, the position of the Reagan/Bush administration as articulated by David Stockman, has been that America should: "buy cheap OPEC oil, rely on strategic reserves and rely on strategic forces, to guard against disruptions" of what we consider our God-given right: Cheap oil.

Mr. Speaker, I would like to enter this article into the CONGRESSIONAL RECORD.

And I would implore my colleagues to read this article and think about exactly what our priorities are, and where this policy will put us in the future.

KICKING AMERICA'S OIL HABIT

WE'VE GOT THE TECHNOLOGY—WHAT WE NEED IS THE WILLPOWER

[By Curtis Moore and S. David Freeman]

That racket you hear from the Middle East is opportunity knocking. It's telling us that when it comes to energy policy, the moral equivalent of war is vastly preferable to the real thing.

Before we can capitalize on that opportunity, however, we have to dispel two dangerously common misconceptions. One was voiced last Tuesday night by Rep. Richard Gephardt in delivering the Democratic Party's reply to President Bush's nationwide address. "For a decade," Gephardt said, "America has been left with no real energy policy at all."

Nothing could be farther from the truth. The nation *has* a clear policy, the vigorous and consistent pursuit of which has inexorably impe'led us in the direction of war. Put simply, it calls for the United States to intentionally increase its reliance on Mideast oil and, when necessary, wage war to keep cheap oil flowing. Marines now swelter in the blistering heat of Saudi Arabia in large part because of what may be called "The Stockman Doctrine," after David Stockman, who became Ronald Reagan's first director of the Office of Management and Budget. In the Fall 1978 issue of The Public Interest, Stockman pilloried the energy self-sufficiency proposals of the Nixon-Ford-Carter administrations as "cramped, inward looking" strategies based on "Chicken Little logic," Calling for a strategy of "reliance on

the world market for energy," he dismissed fears of OPEC extortion as "economic mythology." Avoiding dangers, he argued, requires "only two policies—strategic reserves and strategic forces."

To this day, the Stockman cheap-oil strategy remains the nation's real energy policy. For example, President Bush last Tuesday called on Congress to "enact measures to increase . . . energy conservation." Yet his administration continues to oppose a Senate bill to boost the mileage standard for cars (from the current 27.5 mpg to 34 mpg in 1995 and 40 mpg by 2001), a bill which could completely eliminate oil imports from the Persian Gulf by saving 2.8 million barrels of oil per day.

Bush also called for enactment of "fuel switching"—presumably a reference to his widely publicized "clean fuels" proposal of 1989 which would have converted 9 million cars in our dirtiest cities to cleaner fuels such as electricity, ethanol, methanol and natural gas—all available from domestic sources. But in back-room meetings with Senate negotiators over amendments to the federal Clean Air Act, White House aides abandoned the clean fuels program, agreeing instead to continue reliance on "reformulated" gasoline—and the so-called free market in oil.

Therein lies the second dangerous misconception of the current Gulf debate: that the global oil trade is a classic free market. It isn't. About 75 percent of the world's oil is controlled by the OPEC cartel, many of whose members are, at best, uneasy allies of the United States and, at worst, outright enemies. The hand on the pump is not Adam Smith's: It is Saddam Hussein's, Moammar Gadhafi's or Ayatollah Ali Khamenei's.

HOW PETROLEUM MAKES POLICY

The Stockman-free market doctrine has obliged the United States to surrender something vastly more important than money: independence. Moreover, the determined pursuit of our present policy—burn imported oil and fight to get it—effectively dictates many other policies:

National security: Oil imports from the Middle East, which were about 6 percent of our total energy supply in 1973, stood at 12 percent in 1989. Thus we are twice as dependent on Persian Gulf oil (relatively and absolutely) as in 1973. True, the U.S. has 600 million barrels of oil stored in the Strategic Petroleum Reserve—but that's only enough to replace a complete loss of OPEC oil for about 10 months. As a result, massive military might is required to maintain the steady flow of oil. To be sure, there are excellent moral reasons for our military presence in the Gulf. But the fact remains that as long as imported oil remains the lifeblood of U.S. cars and trucks, we will be at grave risk.

National industrialization: Investing in fuels rather than fuel efficiency is implicitly a decision to direct capital and profits towards coal, oil and gas companies rather than to industries that manufacture energy-efficient capital goods. Worse yet, much of the money goes overseas: Cumulative U.S. payments for oil imports between 1970 and 1989 totalled $1.1 trillion in 1989 dollars—roughly three years of U.S. defense spending.

National public works and transportation: A decision to rely on oil and the automobile is a commitment to continued dependence on streets, highways and bridges, rather than rails and rehabilitated housing and neighborhoods. Urban growth and government spending become caught in a vicious cycle: Worn-out highways must be repaired because so many people commute from suburbs that were built around the roads. With no money available to rehabilitate urban housing or construct urban transit, workers have only one way to commute—in a car.

ENERGY AGENDA FOR THE 1990S

If we are ever to free ourselves from the threat of buying foreign oil with American blood, we must set achievable goals and then pursue them with the same conviction we brought to putting a man on moon. In that case, we made the commitment, then we figured out how. In the case of energy, however, we already know what to do.

At the outset, a rational energy policy must acknowledge something that Americans seem to have forgotten: "Government" is not a dirty word. It is, after all, government which is protecting the Mideast oil lifeline; government which fills the Strategic Petroleum Reserves; and government which in the '70s mandated the policies of conservation and fuel efficiency that have (so far) cushioned the impact of the Iraqi invasion.

Whatever the policy, the first two priorities must be cars and power plants. Cars because they burn roughly half the nation's oil, creating about half the air pollution; utilities because they consume about 33 percent of the energy and because they are notably inefficient.

There are those—including President Bush—who say the answer to America's voracious appetite is to feed it more oil by opening reserves in Alaska, California and elsewhere. Such a strategy ignores both reality and recent experience. Nor can it provide for our long-range security. The reason is simple: The world may not be running out of oil, but the United States is.

The federal government collects data on oil already discovered (called "reserves") and oil which might be found ("resources"). According to optimistic estimates of both, we now have a 25-year supply at current rates of consumption—less if the price falls again. Yet even when prices were high, production was steadily declining. Our cheap and easy oil has long since been found and burned; America is punctured by 600,000 wells compared to 6,000 in the Middle East. According to World Oil, a trade magazine, three-fourths of the world's dry holes last year were drilled in the United States. The number in Iraq: zero.

What about Alaska? Between the last oil crisis and this one, most of the North Slope oil was burned. Pressure is mounting to open up the Alaskan wilderness. How much oil is there? No one is sure. The most optimistic estimates put it at 29 billion barrels, through according to the U.S. Geological Survey, there's only a 5-percent chance of resources that large. But even assuming that we have that much—and that is would be economically and environmentally possible to get every last hypothetical drop out of the frigid ground—it could fuel the nation for only five years. A more likely outcome is a six- to 12-month supply (again assuming that prices stay high enough to make drilling cost-effective), after which we'd still have only one place to turn—OPEC.

Thus, the first goal has to be to get off of oil—from any source. The United States should commit itself to a 50-percent reduction in oil consumption by the year 2000. That is roughly the share of U.S. olil that would be imported by the turn of the century. Drastic changes are also needed in our use of coal, the chief producer of greenhouse gases and acid rain and a major factor in smog formation. A sensible target is a 50-percent reduction by 2020—by which time most U.S. power plants will have reached the end of their useful lives and can be replaced with cleaner, more efficient versions. (It is unlikely that Americans will tolerate massive expansion of atomic power with current technologies; and new, supposedly "meltdown-proof" designs could not make a significant contribution before the next century, if even then.)

Does that kind of reduction sound alarmingly drastic? It shouldn't. It's not only possible, but can be accomplished with existing technologies and policies that Americans have already shown themselves willing to accept.

Among the proven options is cogeneration, which involves putting the heat that would otherwise be wasted to some use: warming homes, offices and apartments or even running manufacturing processes. Sweden relies heavily on cogeneration; and Japan has emphasized similar efficiencies, with the result that their firms produce 11 percent more electricity—twice as much steel—per unit of fuel consumed than we do.

Moreover, we have achieved extraordinary energy savings before, thanks to policies implemented during the administrations of Nixon, Ford and especially Carter. Automobile efficiency standards doubled the mileage of new American cars; insulation standards drove down the household consumption of energy; and energy pricing policies and government funding programs spurred development of highly efficient, promising new technologies.

One result was that there is a vast array of energy-saving techniques and new fuels waiting to be deployed. For example, huge trough-like mirrors capture and convert enough solar heat to produce electricity for 300,000 homes in Southern California. Solar-voltaic technology is within reach of competing with coal-, oil- and antural gas-fired plants. What is needed now is not more research, but purchase orders.

Electric cars and vans are ready to hit the street, but they can't compete with gasoline, which is cheaper than bottled water. Ironically, the government put an electric car on the moon, but the Big Three can't put one on the Great American Road. Ethanol can power homes and cars. Light bulbs, refrigerators, furnances—all are now two to 10 times as efficient as they were in 1973.

Having coasted for 10 years on the momentum of these and other efforts, it's time to put the pedal to the metal. Some suggest that we start by taxing crude oil or gasoline, citing studies such as the EPA's recent finding that a $1.24 increase in the pump price of gas would cut consumption roughly 24 percent—yielding a $24-billion annual savings. But taxes are a tool, not a policy. First we need the plans for a new house, then perhaps a hammer to build it.

What could be achieved? Based on a 1988 staff analysis by the Office of Technology Assessment, an aggressive conservation program might resemble the following:

Action: Equip new cars with existing technologies ranging from four-valves-per cylinder to sleeker designs that catch less wind. These could boost average mileage to 43.8 miles per gallon, according to a study conducted by the American Council for an Energy Efficient Economy, a non-profit research group based in Washington. Then mandate other state-of-the-art technologies to boost mileage or require non-polluting

fuels. (General Motors has designed one electric car prototype and begun work on a second.)

Result: Automotive gasoline consumption is cut by 75 percent, oil imports by 50—about $30 billion a year at present prices. As an added bonus, carbon dioxide, the most difficult of pollutants to control, would drop by 50 percent or more.

Action: Put federal limits on carbon dioxide emissions equivalent to a coal-fired powerplant operating at 75-percent efficiency (the current average is about 35 percent). Utilities could switch to cleaner fuels, upgrade to improve efficiency or replace plants with new, cleaner-burning systems. Powerplants in Europe regularly achieve efficiencies of 90 percent by utilizing heat instead of wasting it, and California now generates 17 percent of its electricity from alternate fuels—up 11-fold since 1977.

Result: Utility fuel consumption declines by up to 50 percent.

Action: Require that when furnaces, air conditioners, hot-water heaters or refrigerators are replaced, the new units must be the most efficient available. Many local building codes already require replacement toilets to be water savers—the same could be done for furnaces. Or try the British Columbia approach: The state pays the salesperson a bounty for each high-efficiency applicance sold.

Result: Assuming continued population growth, total household energy consumption is capped at 1985 levels.

PAY NOW OR PAY LATER

Some would say that such a program would be the end of consumer freedom of choice. They confuse change with sacrifice. It was a change to develop a vaccine for polio, and it no doubt had a grievous effect on manfaucturers of iron lungs. But certainly it was no sacrifice. What Americans want isn't a gasoline-fueled car. What they want—and will pay for—is convenient, safe and comfortable travel.

Others will say that such a program would deal a devastating blow to the U.S. economy. Yet somehow the Japanese, German, Swedish and other economies already do quite well using roughly one-half as much energy per capita as the United States. To think that the technological genius of a nation capable of building a warplane invisible to radar and a submarine silent as a winter's night cannot build efficient cars and buildings is an insult to America.

In truth, the war to free America from oil—and Iraq—needn't have been fought in Kuwait. The weapons to win were developed years ago in our laboratories and proving grounds. What we need are leaders with the courage to deploy them.

SEQUESTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. PARRIS] is recognized for 5 minutes.

Mr. PARRIS. Mr. Speaker, there are those in the Congress who are, or at least appear to be, sanguine about the pending sequestration on October 1, because we have been there before, somehow they believe they will avoid the disaster by clever maneuvers at the last minute, and we will pull some card trick out of our hat.

Well, if anyone is one of those who have that view, I think they ought to rethink their position and examine that question once again.

□ 1410

Because of the requirement of the U.S. Constitution for this House to be the body where spending and tax legislation must originate, that circumstance creates some very complex and disconcerting situations.

We are, as has been said by others, playing some very serious cards here, and the stakes are enormous. There will not be selective enforcement of the spending based on categories, at least not constitutionally, and you can rest assured that it will be tested judicially if we try it.

The air transportation system of this Nation will come to a complete standstill, not just a few air traffic controllers who will not be at work, there will not be an operable system in this Nation if sequestration hits.

The safety of whoever does travel, however few or many that may be—and it will not be many—their safety will be threatened. Hundreds of thousands of people will be on the streets concerned about their house payment and their grocery money and the future of their children and their very lives.

The national security interests of America will be threatened and jeopardized. The toleration of a set of circumstances that will permit sequestration is just simply unthinkable.

Regardless of your position on the issue and whether or not you believe we should cut capital gains or whether we should reduce domestic spending or for whatever technical reason you have trouble understanding where we are, regardless of all that and aside from any partisan considerations or advantages, we should, and I hope would, all agree that the President of the United States and the leadership of this House over the next 3 days must in some responsible way attempt to reach some solution to this combination of circumstances in accordance with the satisfaction of our responsibilities.

Mr. Speaker, I wish them well in that endeavor. I believe the future of this Nation literally rests on the outcome.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, this week marks 50 years ago that Sam Rayburn, my fellow Texan, assumed the speakership of the House of Representatives of the United States. That was September 1940.

If there was some way I could evoke that period of time, not too dissimilar in some respects because even though there was talk of peace, there was war. By September 1940, France had been overrun. The phony war from the inception of what turned out to be World War II, September 2, 1939, the invasion of Poland by the Nazi Wehrmacht and Navy in the horrible, horrible invasion in Danzig in which the Poles, in cavalry outfits, were attempting to arrest the course of the German panzer divisions.

They were slaughtered, but they resisted heroically.

Czechoslovakia, Austria, before that, with the Anschluss, it is not dissimilar to what we have right now. It is a phony war.

We have an expeditionary force somewhere around 175,000 of our servicemen, at least, in the sands of Araby.

In my opinion, they are hostage, and it will be more evident, and I pray that I am dead wrong, as the days turn into weeks, as they have since the inception of the buildup of this expeditionary force in Saudi Arabia.

So that Sam Rayburn became Speaker after the first peacetime draft was enacted. In the House of Representatives, obedient to the—I can recall it vividly. I was a student.

Mr. Speaker, I have been blessed, or maybe not so much blessed, with a very good memory, practically total recall. I remember the atmosphere. Some of my colleagues even invited me to leave school and go to Canada and join the Canadian or Royal Air Force. And some did.

The imminency of war, Dunkirk, the distress that we heard over that crackling radio from England as Churchill in that most memorable fashion and voice said, "We will fight on every street, on every corner. We will never surrender." But the outlook was very grim.

President Roosevelt, in effect, had arranged for and provided some intervention actually, but it was not called that, the lend-lease agreement. Our boats were actually patrolling the North Atlantic where U-boats were in droves.

That was the atmosphere for the debate for the consideration of the first peacetime, what we call draft, or universal service.

The only way it was passed was that it was sunsetted; that is, it was to be enacted for 1 year.

The then-Members of the Congress, I think a lot more sensitive and perhaps closer in touch with the whole cross-section of our American constituencies, said, "Hey, wait a while. Who is going to get called in this peacetime? This has not happened since the Civil War."

But even during the Civil War, if an individual, subject to the draft, had $300, he would pay a substitute to go in for him. So they said, "OK, we are

going to protect that little working stiff so that if he is called in, even for a year, when he gets out, he will have a job that he will have to give up in the interim. Or if he has a mortgage he is paying his payments on, that will suspend or at least be tabbed at no more than 6 percent." That became known as the Soldiers and Sailors Relief Act.

Unwittingly, some of the powerful forces that have watered down all of the protection that the American citizen, the little guy, ever had just did not get around to doing that.

So now that we have had the callup of the Reserves, the banks and the others have discovered, "By golly, these individuals are subject to the provisions of the Soldiers and Sailors Relief Act." So if they have a mortgage or a contract or a home they are paying on, they are not going to lose it, and we cannot charge them more than 6 percent anyway. Well, it should never have been more than 6 percent.

For 25 years I have taken this floor and have spoken out against the prime cause of any dismemberment of the very delicate economic and financial environment and structure and framework in our country that resulted subsequent to the cessation of the hot shooting phase of World War II.

□ 1420

But 1940, like 1990, we had massed armies, but no movement up until June 1940, when the Germans took on, and easily evaded and surrounded, the so-called Maginot line, and took France. But up to then, for a whole year, nobody was moving anywhere. Everybody was thinking, "Hey, maybe there won't be a war."

Mr. Speaker, let me assure my colleagues that I deplore the fact that we in the Congress, as a majority; that is, and in the majority, have not had that sense of activity to constitutional responsibilities that we accepted when we sought and were favored with this office in defending the uninhibited, unrestricted, undivided, and exclusive power of the Congress to declare war.

Sam Rayburn, were we to say that he assumed the speakership at that time under different circumstances; because it is now a sort of legend that he amassed the great power, that he was such a powerful Speaker that all he had to do was gavel his order, and it was carried out. That is a terrible mistake. Sam Rayburn acquired that power because it was derived from the consent of the Members of the House of Representatives that elected him Speaker, and then he never abdicated the responsibility of defending the coy polity, the independence and the separateness, of the U.S. House of Representatives as an integral part of the Congress as provided for in our fundamental law, the Constitution.

However, Mr. Speaker, what followed is one of the most glorious achievements and performance of public service in the history and annals of our Congress, and Sam Rayburn was Speaker until the day he died, which was just about 5 or 6 days after my election to the U.S. Congress, in 1961, in November.

Earlier today, we had what we call Suspension Calendars. We had bills, very important bills, but they were brought up under these rules that provide for quick and expeditious consideration. No amendments. Maybe a little discussion.

Also, we heard speeches lamenting the travail, the uncertainty, the tremendous damage done to the morale of the great corps of public servants in the Federal service. Every one of us who has any Federal employees in his district knows what they are going through.

Mr. Speaker, that would not have happened, and in fact it did not happen, in the first 15 years, 16 years, of my service here in the House.

Why? Because the integrity of the processes were not eroded.

I do not recall, since 1961 until about 1966—1967, such a thing as a supplemental or a continuing appropriation. It just did not happen.

Then the Vietnam war, and the first supplemental was requested by the Secretary of Defense, about some $750 million, and of course then, as now, the question was:

> You mean you don't want to vote to support those men who are out there a thousand miles away fighting for you and for me?

Vietnam is a good example of how we have failed to learn, because those were twilight Presidential wars, as was Korea. Korea happened when Speaker Rayburn was still Speaker, 1950 to 1953, when we had what anybody else would call an armistice or a truce, which brings to mind what I have been speaking on here for about 6 months, and that is our failure to address as much as we did before the so-called resurgence of German cohesion, and that is the question of the military mission of the 45,000-plus military we have in Korea.

Mr. Speaker, what is their military mission? Under the treaty it is not the defense of South Korea, and it would be foolish, in light of the reality of the situation and logistics, to say that we are in a position to defend South Korea. The South Korean Government has a greater army, a better air force, better equipped than most of our NATO partners. They have an army of close to 700,000, highly trained, very well equipped air force that has F-16's and what not. And our 45,000 soldiers are there to defend?

But where is this situation now in Korea? My suggestion, as of a couple of years ago, and especially this year, was an appeal to the President to say, "Mission accomplished." We went in under the aegis of the United Nations in 1950. We did not go in there unilaterally, as my colleagues know. We at least had the name of the U.N. with us, and we had, in fact, Turkish troops in that war, and later, in Vietnam, enabled Turkey to become a member of NATO. We had Australians. We had other contingents. But of course the main thrust, and the main burden and the main responsibility in blood and in treasure was America's, as it is now, in the deserts of the Middle East.

Mr. Speaker, the end result, I think, should have proved to us that to the degree that we stray from the basic functions, and policies and mandates of our Constitution, we will flounder, we will fail, we will be at risk as to the future of democracy and self-government in our own country.

If that sounds strong, I cannot tell my colleagues how much I hope that it does.

My inspiration has been, even before I ever dreamed I would be either in politics, much less in the Congress, from men like Sam Rayburn and Wright Patman, my predecessor as chairman of the Committee on Banking, Finance and Urban Affairs, and other Texas stalwarts who served greatly and honorably all through history in the U.S. Congress. Tremendous role models for those of us who later discovered that this in effect, what I call legislative advocacy, was indeed our calling.

□ 1430

So it was 50 years ago this week that Sam Rayburn became Speaker of the U.S. House of Representatives. Now, let us evoke that period in order to benefit from it and have it be of service to us in this period.

In 1964, one morning the headlines read our "Ship in Southeast Asian Waters Attacked by Communists," presumably North Vienamese Communists.

The bells rang. We were summoned to the House. At that time we had about one-tenth the number of rollcalls we have today. So everybody was surprised. We came on, and it was a quorum call. The chairman of the Foreign Affairs Committee, Dr. Morgan of Pennsylvania, was at that table, and then we were told that there was a resolution supporting the President and backing him in any action he would see fit to take in order to defend the national interests.

I read the resolution. It seemed very far-reaching. It seemed to me to be a backdoor declaration of war. So I went to the chairman, Dr. Morgan, and I said, "Doc, you know, this goes beyond our moral support of the President." And he looked at me. He was a very

wonderful man, very patient and very genial.

He smiled and he said, "Henry, do you want to deny President Johnson what we gave President Eisenhower in the case of Lebanon and President Kennedy in the case of the Berlin airlift?"

Well, I assumed it was the same wording, and I said, "Well, no, I guess you're right." And I still hesitated, and I did not vote until after the first two verbal rollcalls or oral rollcalls. Finally, being that I would be the only one voting in any way other than "aye," I succumbed to what I hope I have not since then and hope I will not, and that was fear of ridicule in not supporting a great man from Texas, a neighbor 50 miles away from my district.

But I had great hesitation. I noticed a reporter who was then covering the news for one of the San Antonio papers, and he asked me, "Why were you hesitating? Surely you wouldn't think of voting no?"

I said, "No, I wouldn't vote no, but the language here was far-reaching, and to me it seemed to be a back door declaration of war."

That reporter wrote the story that way and sent it back, and it was printed in the San Antonio paper. Since then, the rest is history, That was, believe it or not, the basis for such an enlargement unilaterally on the part of the United States that it led to the most divisive period in our society since the Civil War.

How could it have been otherwise? What system were we using to impress young men into service? We were using a selective service that was jerry-built, one that never once was reconsidered by the Congress.

When that first draft act that was, as I say, inherited by Speaker Rayburn in the first year, came up for renewal 1 year later, in 1941, in August 1941, it passed by one vote only, and then only when a clause was inserted that said, "Notwithstanding any of the hereinabove, no person subject to the terms of this act shall be compelled against his will to serve outside of the continental United States unless a declaration of war is expressly provided by the Congress." Then it passed by one vote, and that was August 1941.

Pearl Harbor came a few months later, on December 7. A declaration of war came the next day. It was a declaration of war, so the Draft Act was triggered. Then we waged war.

We were the only creditor nation in that war and in World War I. But today we are the biggest debtor nation in the world, and we are going to war, with our dollar suffering a 55-percent loss in value, with a beggar's bowl in the hands of our Deputy Secretary of State and others going around to Germany and France and even Russia and saying, "You're got to help us."

And what are they saying? Chancellor Kohl of Germany said, "Yes, we think we can give half a billion or a billion or so, but we can't send any soldiers."

Why? "Because our constitution prohibits it."

Well, let me tell my colleagues, so does the implicit wording of our Constitution prohibit our President's sending soldiers, and I said so all during Vietnam.

So when the Draft Act came up for extension in August 1967, I took this floor and I offered what was really tautological. It was redundant. I offered the same amendment that was already in the law, and had been since 1941, that said no American shall be compelled to serve unwillingly except under a declaration of war.

Well, what had happened? We concluded that we had won World War II because we finished the shooting phase of it, but that was not reflected unless we decommissioned our Army. We had up to 14 million men in uniform, and by 1948 we had barely over a quarter of a million, and as to the rest, we brought the boys home. But we did not review the Selective Service System, so they built in all kinds of exemptions. If you were in college, if you had "x" or "y" or "z" reasons, you did not have to serve.

Then came Korea, and that is when I realized it could not go for long that way. I had some of my playmates in baseball called up, and they went over and died in Korea. The first man to fall in Korea was from my area, my district. My district had the most volunteers, and it had the greatest number of those who were languishing in Commie jails, in Chinese Commie jails, during Korea. But not a one of them was ever a turncoat. There were some who did, but not any particularly from that great segment of our population that I came from, even despite the fact that they had been discriminated against and could not get employment. When the war came, they volunteered; they did not want to be drafted. We had seven or eight Medal of Honor winners from Texas, from that group alone.

So in proportion to the numbers, they were there. I was the first to bring that out after World War II. I was the first to bring out the statistics in Korea and in Vietnam.

By August 1965, over 45 percent of the men, of our soldiers in the areas likely to see action, were draftees. Where were all the others, the pros? Like in all wars, they were taking care of themselves.

What effect did that have? None. I got up and I offered the same amendment. I could not get three Members to join me so that we could have some kind of a rollcall.

□ 1440

But then came 4 years later, because it was extended for 4 years, 1971, and I got up and offered the same amendment. We got a vote, and we had 151 Members that joined me on that occasion.

Now, on each one of those occasions when I would take the floor during the 1960's, and I would say, "Mr. President, we really ought to revisit who is being called to suffer death or bodily harm. Why not all of us?" And I would get calls from the President's assistants. They would let me know there is displeasure over there.

So what? That is as far as we got. Who feared me, one voice, like a coyote out in the brush would at midnight howling to the Moon?

But today I think it is very sad that I would have to write a letter to the Speaker in August asking him to join the majority leader in the Senate and convene a special session of the Congress so that the President could be asked, "Mr. President, why are you making war? The Congress has not declared war."

I said the same thing to Mr. Reagan. Why were there imminent plans to invade Nicaragua in 1987? Fortunately, though, we have had the glorious element in our military, professional, not political, and some of them spoke and just gave the plain logistics, and some had attempted to before our involvement in that portion of Southeast Asia known as Vietnam. It went unheeded.

I said the same thing in 1982, when President Reagan ordered the Marines to Beirut. I spoke for a year, in fact, longer, until the untimely death of 241. In fact, 3 days before that eventuality I took this floor. It was the last speech of the day, very much like today.

I said, "My colleagues, Mr. President, you are going to leave here. You will have a real nice supper tonight. You will sleep in comfortable quarters. But you got marines that are exposed to death. You have put them in an untenable military situation,"

What was the President saying was the purpose? Well, he finally told a reporter they were there as peacekeepers and intervening on behalf of the Gemayel regime.

Well, you could not have both, because the Gemayel regime was one of four factions fighting to death, as they still are, in Lebanon. So if you intervene on behalf of one, you could hardly be a peacekeeper.

The other was military. Where were they situated? I did not have to be a military expert to know that if you put 2,000 marines in, you set them down in a saucer like in the bottom, and the room is full of hostility, that something can happen. If it does, they are at a disadvantage.

I found out that the President, as Commander in Chief, chose to ignore the unanimous advice of the Joint Chiefs of Staff. Now, these are professional military, upon which our country depends and wants to provide that expertise that we should have if military judgments, if military is going to be invoked. And we did not.

You had a Commander in Chief that willy-nilly, willy-nilly, ignored the unanimous advice of the Joint Chiefs.

I felt in my bones that anybody in any responsible position of military leadership would have plainly seen and would have asked the only question you can ask from time immemorial, since St. Paul said, "If the trumpet gives an uncertain sound, who then shall be prepared to do battle?"

On August 2, we were in session, it was a Thursday. Saddam Hussein invaded what was known as Kuwait, a nation drawn in the sand by British oil colonialists back some years ago.

Iraq has always protested, like Syria today. Syria has never accepted the formation of what we call Lebanon. They still claim that upper third of Lebanon.

But we do not have the perspective to see ourselves as the world sees us, particularly in that part of the world. That part of the world and everywhere else sees us as the country stepping into the shoes of the two departed colonial powers, Great Britain and France. All we like to say is we are in there to protect, what, democracy? There has not been a free election yet in Saudi Arabia. I am not criticizing that society. It is a different way of living, like other parts of the world. But we cannot say that is what we are doing, like we did when we invaded Panama and committed atrocities such as firebombing highly incendiary wooden structures that had been built for the black workers that were imported in 1908 to construct the Panama Canal.

We killed more than 1,000 or 2,000 or 3,000, incinerated them. They were all black or mulatto. Who has given a hoot for them? Who has given a hoot for the hundreds of children who are blind, armless, old men and women in Panama?

As far as I know, nobody. Would that not have been called Hitlerian tactics? Would that not have been called war crimes? So what moral right do we have? What is the moral premise to say that as it was first said in the contradictory statement that the President made to the press when he came back after Camp David on August 3 and 4, where the decision was made to form an expeditionary force, without consultation with the Congress?

I say to you I do not think Sam Rayburn would have accepted this. I think he would have chosen and preferred not to be Speaker under those circumstances.

But then even Franklin Roosevelt consulted, and he had great power but I would say almost a consensus. But he still consulted the congressional leaders, even on a bipartisan basis. Senator Vanderberg was in on every key decision.

But today, what do we face? With no thought given, as no thought was given at the invasion of Panama, as to what is going to happen.

I will tell you, my colleagues, we still have our troops governing and running Panama. We dare not pull them out, I will tell you, because no American will be safe the moment we remove our troops.

We swore in Endara at the time of the invasion at our military post and base, so we could hardly say that he was elected in.

But what about the Middle East? I was very distraught. I was home. We had adjourned. I was distraught to read that the President said that we were there to roll back and see how we could restore Kuwait. Too, and above all, to protect our friends. I presume that meant Saudi Arabia, and oil, so that this tremendous percentage of the world's supply would not fall into the hands of this powerful and cruel leader, judged by our own standards.

But since then we have had a buildup unprecedented. At no time had reserves been called up in 20 years, with no thought to the cost or how to suffer the expenses. So we are going to get commitments from the Japanese.

□ 1450

Well, the Japanese contribute about $4 billon a year to the support of our defense capabilities in Japan. This is a very little noted thing, but they do, $4 billion a year they have been contributing.

Germany of course used to, but now, what are you going to do with 315,000 or 320,000 American troops. Ever since 20 years ago I tried to broach the subject of the eventual German question, as I used the word then. But today we are not going to beggar nor can we commandeer successfully.

What concerns me fundamentally is that the process be observed. It is fine, and who does not want to support our men in arms. But is that true support? Were we supporting the men in arms in Vietnam when we knew that the service under the conditions then were questionable, constitutionally speaking? Are they not now equally questionable? The thing the men who wronged the Constitution feared the most were king-made wars, but today do we have presidents, coequal, not dominant, not greater in power but coequal, independent, and separate from the other two organs of government, or do we have Caesars? To me this is more evocative of the Caesarian period in Roman history, which you recall emerged from a republic. The Caesars were not like we picture a modern director, like Hitler, or something like that. No, they wanted to be popular with the populace. They wanted to play for public opinion. They did not want to be disliked. But they assumed total and complete power, and they first had to overcome what we have called the original Roman way of doing things, our Constitution.

Now there is no other country, including our mother country, England, that has similar apparatus. We are the only country that has the first amendment, for instance. England does not. England has a Ministry of Information and Censorship. So when you had the recent outbreak of hostilities in the Falklands, you had an official guy reading very much like old Goebbels used to in Hitler Germany saying a week ago we engaged the enemy and we defeated him, or then maybe a week later they would say may be we lost, like they did in the case of the Essex, 300 sailors.

We are used to having a reporter there like we did in Vietnam, and like we tried to do here in the beginning in Arabia until not us, but the other polticial entities decided that that was foreign to their customs and practices. We are in an area in which the situation I would say is tenuous, my colleagues. We cannot afford any longer, even though it is a politically charged year, even though we will face reelection in a few weeks, even though it might mean that it is unpopular, and we will be condemned, and maybe we could be voted out. So what. Are we right or are we wrong? Is not the United States now subject to the whims of decisions made elsewhere?

We are in the midst of a worldwide revolt of Islam, it is not just the Middle East, from Pakistan to Jordan. Witness the recent reconciliation between these two warring nations in the cruelest war of all where ever poison gas was used, Iraq and Iran, a non-Arabic nation, are now reconciled. Why? Because of the common bond of the Moslem faith.

We are infidels. Our way is not God's way in those lands. If we are there to defend kings, then it stands to reason that our position is as safe as theirs is in power. How safe is that? Must we forget so soon the Shah of Iran?

I recall my colleagues going to Iran on missions and the announcement of the gift of F-15's and armaments and everything to the good Shah. He was individually a fine man. It just so happened that the people were not for him.

Every day our troops are in Saudi Arabia, the kings announced as of 2 weeks ago that under no circumstances could any attack be launched

by anyone from Saudi Arabian soil. So where does that leave your defense? In the meanwhile, let us face reality, no matter how distasteful. It is kind of sad and horrible to contemplate the fact that this Iraqi, Saddam Hussein, and if you read the history of the tragedy, he comes from an area in the immediacy of Baghdad, in the outlying area. He scratched, fought, betrayed, was loyal to some and others in order to take the power that he has. But he is also in charge of the most powerful radio and TV disseminating voice in the whole Middle East, clear over to Turkey and beyond. And his appeal is on the basis of that solidarity.

We have heard the King of Jordan, also Hussein, say that it is untenable. Every day, every week, does the strength of the kings in Saudi Arabia gain or lessen? I think it is something that should have been pondered. I think it is something that should have been considered.

Are we there then only simply for the purpose of protecting our oil lines of supply? If that is the case, they are the most vulnerable to disruption and probably would be the first victims of any kind of an onslaught. But if that is the case, then do I want my constituents to go and fight and die on behalf of Exxon?

□ 1500

Because we do not have, like those nations do and most of the European nations, government-operated corporations. We have these private enterprises, and I think those of you who heard the little debate we had earlier about the speculators who are gouging our American public and we are paying so much now for gas, that ought to be clear indication that as far as we are concerned we do not have that kind of control. We do not have that form of government, nor do we desire it.

But we have also got to be realistic to the limitations that indicate, so I say, evoking the memory of Sam Rayburn.

Mr. Speaker, at this point, to close out, I incorporate into the RECORD the very eloquent remarks made by our former Speaker, Jim Wright, on the occasion of the Sam Rayburn statue dedication in the Rayburn Library in Bonham, TX. I also wish to insert my letter of August 20, to the Speaker of the U.S. House of Representatives.

REMARKS OF FORMER SPEAKER JIM WRIGHT, SAM RAYBURN STATUE DEDICATION, SEPTEMBER 14, 1990

For a whole generation of Texans with an interest in national political affairs, Sam Rayburn was our model, our mentor and our hero. His influence was pervasive. He set the standard.

By any measurement, Sam Rayburn must rank as the greatest lawmaker in the history our country. There isn't even a close second except perhaps for Henry Clay. More truly significant laws bear the stamp of Rayburn's authorship than that of any other man. He served longer in Congress than any other person in the first 200 years of our nationhood. He presided over the House longer than any other Speaker in history, and twice as long as any predecessor in that office.

Law guided and shaped by Sam Rayburn led the United States out of its worse depression, to victory in World War II and to the pinnacle of power our country achieved in the post war years. Presidents inspired us and occasionally stirred us with their oratory. But a short, bald, unpretentious man from Boham, TX, performed the necessary work. Without him, much of it would not have been done.

The country owes more to Sam Rayburn that most Americans realize. It was his dogged personal insistence that extended the draft in 1941—by a one-vote margin—and saved us from being caught wholly unprepared when the sneak attack at Pearl Harbor plunged us into World War II. It was because Congress trusted him that, upon his word alone it voted the funds for the atom bomb which hastened the end of that war and saved untold millions of lives.

Toward the end of his eventful career Mr. Rayburn once was asked how many presidents he'd served under. "Hun!" snapped the crusty old Speaker. "I haven't served under any. I've served with eight."

He never kowtowed to anyone; he never looked down on anyone; he never forgot where he came from; and he believed that where he came from was as good as any place on earth.

Because of legislation sponsored by Sam Rayburn, the average people in America live more comfortably, eat more wholesomely, work more productively, invest more securely, travel more safely and get to work more conveniently. Because of Sam Rayburn's concern, the good things in life were spread more widely and shared more fully with the humblest and poorest members of the American family.

It was Rayburn laws that made the skies a safer place, and the stock market a more honest place, and public utilities affordable. He opened the way for rural electrification and farm-to-market roads.

People seeing Mr. Rayburn on television once every four years as he presided over the National Democratic Conventions often gained the wrong impression. In his latter years Mr. Rayburn's eyes were bad and the television lights blinded him, make him squint and scowl. Moreover, Mr. Rayburn had a reverence for orderly democratic procedure. He was accustomed to rapping the gavel gently and its being respectfully heeded. Suddenly he would find himself in a weltering sea of humanity whose members neither knew the rules nor cared. Whenever conventioneers were unruly—as they sometimes were at national conventions—it outraged his sense of propriety! Casually observing this, some thought of him as a cross and crotchety and churlish old man. Nothing could be farther from his character.

At heart, Sam Rayburn was a kindly man. Kind and generous and wise. How freely he would give of his time, and what a treasure it was to sit around and listen as he shared his reminiscences of the great and near great with whom he had been thrown in contact. Little vignettes called up out of the rich store of his memory shed light on the personalities of people like Teddy Roosevelt and Woodrow Wilson and Mr. Rayburn's all time personal hero, Joseph Weldon Bailey.

Harry Truman was visiting Sam Rayburn, just the two of them, when they learned of the death of President Franklin D. Roosevelt. Truman's face grew ashen white. "I can't do it, Sam," he stammered. Mr. Rayburn's answer, as always, was brief and to the point: "Mr. President, you've *got* to do it."

He was, in so many ways a simple man. He used plain and simple words. He never traveled but once outside the United States. Until he was almost 70, he never flew in an airplane. The place nearest his heart was Bonham. He loved his home town, he said, "Because people know it and when you're sick and they care when you die."

Sam Rayburn was a man of direct action. He felt impatience and contempt for ceremonious delays. Once when Omar Burleson was chairman of the House Administration Committee he brought to the Speaker a resolution which he wanted to introduce, authorizing a study of the need for a third House office building. "Would authorize a—what?" Rayburn asked. "A *study*, Mr. Speaker," said Burleson. "That's the way its done, you know. We authorize a study, then fund the study, then complete the study, and if worthy we then authorize money for planning and evenutally construct the facility."

"Study, hell!" replied Rayburn impatiently. "Everybody knows they need that building. Don't study it! Build it!" Burleson returned to the drawing board and produced a new resolution authorizing construction.

Sam Rayburn may have been a trifle quaint, and in his own way almost otherworldly. He was a throwback to an age when political contributions were made in cash, appeals for votes were made in person, and a man's word was his bond. A handshake from Sam Rayburn was better than a Wall Street contract.

He lived in a house built for his parents and he never had much money. He was content with a bachelor's life. He was wed to the U.S. Congress as surely as a Roman Catholic priest is wed to the church. He died childless, but his proteges were legion, and his intellectual offspring—those influenced by his uncomplicated traits of honesty, and straightforwardness, absolute dependability, sympathy for the underdog and undeviating love of country—are beyond our capacity to number.

Patriots have died for their country, and such devotion awes us. Sam Rayburn did a less dramatic but even more difficult thing. For the better part of a century, he lived for his country. And no man can do more than that.

HOUSE OF REPRESENTATIVES,
Washington, DC, August 20, 1990.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I urge you in the strongest possible manner to contact Senate Majority Leader George Mitchell immediately and initiate a special session of Congress. In view of the ominous and far-reaching foreign policy decisions being made by the President, and the unilateral actions being taken by him in order to preserve the integrity of its own powers in passing the War Powers Resolutions. The President has committed our country to a full-scale war under the guise of a multinational effort, when anyone who is watching what is happening realizes that it is virtually an exclusive American military operation which is risking only the lives of American soldiers.

Do we or do we not have a Constitution? Will Congress maintain the integrity, or will

it impeach the integrity, of its deliberations and legislative enactments such as the War Powers Resolution. Do we have a President? A Caesar? a monarch? a potentate? What happened to the checks and balances established by the United States Constitution and the constitutional power invested in Congress to declare war?

In the interest of the American people, Congress cannot abdicate its responsibility to assert its constitutional prerogatives as a co-equal, separate, and independent body. We have the responsibility—the constitutional mandate—to declare war when war is the proper course to pursue. If we refuse to accept this burden to act under our constitutional authority, in complete disregard for the oath of office to which we have been sworn, we deserve no longer to be representatives of the people's interests and protectors or the American constitutional system of government.

Mr. Speaker, there can be no greater interest at this time than the lives of our citizens and the protection of our Constitution. I implore you to call Congress back into session to exercise its authority and responsibility in this time of national crisis.

With every good wish, I remain,

Sincerely,

HENRY B. GONZALEZ,
Member of Congress.

THE 50TH ANNIVERSARY OF THE BATTLE OF BRITAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. My colleagues and all those who follow the proceedings of this House carefully, and who are interested in the history of mankind, know that we have been living through the 50th anniversary of a 3-month period of great history. It was the darkest days of World War II, 50 years ago, when Great Britain was standing truly alone and a handful of fighter pilots flying Hurricanes and Spitfires were the thin line between Adolf Hitler having his way with all of Europe and turning the corner where Western civilization would have a chance to avoid what Churchill called a new Dark Age. I am referring, of course, to the Battle of Britain.

I had the honor of being appointed by President George Bush as the Presidential representative to the 50th anniversary of the Battle of Britain earlier this month. I chose to take with me on that trip former American prisoners of war from Hitler's stalag concentration camps, run by the Luftwaffe for captured aviators and air crewmen. I also took with me fighter aces from that conflict, aces that began to turn the tide shooting down Luftwaffe planes in 1939, achieving great success in 1944, finally breaking the back of the Luftwaffe and gaining air superiority over the European theater, the Mediterranean area, France, the lowland countries, and Germany itself.

It also put out a call across this country for eagle squadron members, Americans who with prior experience were commissioned through something called the Clayton Knight Commission. Clayton was a Canadian and a friend of Americans who had flown with Billy Bishop. He gave Americans a commission in the RAF. They had operational training experience in Great Britain and then went right into combat. Some were sent to Canada for training. These young Americans in the earliest year, 1940, lost their citizenship. They were actually threatened by our colleague, JOE KENNEDY's grandfather, who had one of his lapses of good judgment, one of his rare lapses. Ambassador Kennedy had told these young Americans who came to England to fly that Germany was going to win the war, and that they should leave the country, Great Britain, instantly. If they did not he would make sure they lost their citizenship. Many of them did.

One of them who later became a good friend of mine, Jim Goodson, shot down over 30 German aircraft in the air and on the ground. He achieved the rank of full colonel in the U.S. Air Force. He wore his RAF wings over his right chest. He also wore his Air Force wings, five rows of ribbons, the Distinguished Service Medal, Silver Stars, Distinguished Flying Crosses, multiple flying crosses and air medals. When he came home in 1945, he was met at the airport out at Mitchell Field and told that he must, by immigration officers, go to a courtroom in Jamaica, NY, and be sworn in again as an American citizen. He had truly lost his citizenship for flying with the RAF, and later being assigned to one of the three eagle squadrons. I was able to find five eagle squadron members to come on this flight to Great Britain the first week of September.

The most fascinating person on our trip, who is now an American citizen but was not then, was a proud Polish officer. A fighter pilot who had run the Polish pilot training school at Lublin in Poland when it was overrun by Nazi forces in the sneak attack that began World War II on September 1, 1939. This distinguished Polish officer, who was then in his thirties, took 50 of his young Polish air trainee cadets, worked his way out of Poland through Romania, down into Greece, through the Mediterranean, and up to southern France where they sought to fly for the French. Some did briefly before the collapse of France in mid-June 1940. Then most of them made their way to Great Britain.

This man's name is Witold Urbanowicz. He is now 82 years young. It was an unbelievable honor to have him with us as a proud Polish-American to attend the 50th anniversary of the Battle of Britain. And I thought it was amazing that he was not given a special invitation by the British Government because he was the highest ranking living ace from that Battle of Britain period 50 years ago.

The Battle of Britain dates are different for the Luftwaffe than for Great Britain. The Germans' campaign ribbons were awarded to anyone who flew on what they called Eagle Day which started late in the afternoon of August 13, 1940, and lasted until mid-September when Hitler called off the impending invasion of Great Britain, what the Nazis called Operation Sealion. So for the Germans the battle lasted a month. For the British they have set the dates July 10, 1940, until October 31, 1940. So we still have a month and a half of the Battle of Britain memorial period to live through here.

September 27 is a special day. It was the eighth highest day in losses for the Royal Air Force. It was the fourth highest day in aircraft shot down of the Luftwaffe. The Luftwaffe lost 55 airplanes 50 years ago today. The RAF lost 28.

What was particularly special today, and I hope that somebody on my staff has thought to call Colonel Urbanowicz in Glendale, NY, as I would like him to be watching, was that flight leader, then flight lieutenant, Witold Urbanowicz, flew four missions over the skies of southern England. It was a beautiful, clear, early fall day. And on that day 50 years ago, Witold accounted for four German aircraft shot down, a Donier bomber, Messerschmidt 109 fighters, and I believe one Heinkel. Three days from now on what was to be the last major air battle of the Battle of Britain, although the fighting went on through all the month of October, as I just said, Witold Urbanowicz shot down four airplanes. September 30, this coming Sunday, will be the 50th anniversary of that special event.

Those eight victories added to his total of 17 victories in the Battle of Britain. His great Polish squadron, No. 303 Squadron in the RAF, accounted for 126 German aircraft shot down during the Battle of Britain. That is more than double the next closest Royal Air Force squadron, which had less than half of that. That was the excellent 242 Squadron, a group of courageous young RAF fighter pilots.

In the film "Battle of Britain," which was made in 1967-68, released in the United States generally in 1969, they used the heroism and the aggressive fighting spirit of the Polish pilots in an honorable way, but it was also sort of comedy relief in this otherwise excellent film. They used the story where some of these Polish fighter pilots, up on a training mission, with their guns armed, could not stand the lure of battle being so close and broke away from their British training commander and entered combat for the first time. They accounted for some

victories over the invading German Luftwaffe. They also used the fact that in moments of tension in combat the Polish pilots would begin to speak in their native language, Polish, and not use English, so that their English commanders could not understand them. In the film they showed these true incidents where the Polish officers would begin speaking in Polish, and the audiences would laugh. These scenes were in the film for their inherent comedic value. But the people were laughing with the Polish pilots, not against them. But I think that the producers of the film, or the director, missed something in using these excellent and true vignettes as partial comedy relief. They missed the fact that although the Polish pilots and the Czech pilots, because one Czech pilot, Joseph Frantisek, also achieved 17 victories and died in a service-connected crash on October 8, 1940, tying Colonel Urbanowicz' record, I think what they missed was that although these Czech and Polish pilots accounted for less than 10 percent of RAF strength, they accounted for 15 or 16 percent of the aerial victories. They had an aggressive spirit that is common to all fighter pilots. But they had an extra elan, an extra drive, because their homelands Czechoslovakia and Poland, had been devastated by the Nazis.

As one of the great British RAF squadron commanders, later to be a wing commander, Douglas Bader, lost his legs in a peacetime crash in the late 1930's. He went on to fly with artificial prosthetic legs, and became an ace in the Battle of Britain. As he said, when the streams of Nazi bombers started to come over, particularly when they started bombing the Midland cities, Birmingham, Manchester, and Liverpool, and then moved on to pound London itself, killing thousands of innocent women and children, "We began to understand that extra spirit that the Poles and the Czechs had." He said, "We had had enough of these German bully boy tactics, but we had not suffered as deeply as had the people in conquered Europe." He said, "When I finally saw the bomber streams coming over one beautiful day," 50 years ago July, he said, "who the hell do these Huns think they are flying over my country with their bombers with their crosses and swastikas, pounding it, pounding my country?"

But the Czechs and the Polish officers, led by people like Witold Urbanowicz, they already knew it was not just a question of bully boys. They knew the horror, the depth of the horror involved in Adolph Hitler's attempted conquest of all the European area of the world, and they knew that in the offing were the nightmare stories of the concentration camps to come.

Witold Urbanowicz, my young new friend from this great week we spent in England, is a remarkable man. After the Battle of Britain, he went on to command the 303 Squadron himself. This was after the RAF finally realized the skill and the loyalty of these foreign nationals flying with the RAF. Witold then became the commander of a Polish wing flying in the RAF.

He was sent to Washington, DC, as deputy air attaché, and at one of those cocktail parties that we all suffer through he cornered a great American air leader, Gen. Claire Chennault, and he said, "General Chennault, will you save this Polish fighter pilot from wartime service in Washington, DC?" He said, "Can't you use a fighter pilot in China?" By now he was 34 years of age. Chennault did not have to think long and hard. "Yes," Chennault said, "Witold, you come to China with me."

At 35 years of age, colonel, flight lieutenant, squadron leader, and he said the title he likes best is lieutenant, Witold Urbanowicz is back in combat over the skies of China, now against the facism of the war lords of Tojo. He had yet 2 more victories in the air and 11 on the ground for a total of 28.

What a remarkable man. He now calls himself a walking tiger, not a Flying Tiger.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. Mr. Speaker, I gladly yield to my fellow lover of history, a major general, the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think it is of great interest to the Members in talking about the history of the Czechs and the Poles and their flights as aviators.

Several years ago, and I am not sure whether the gentleman was at this reception, the German Luftwaffe aces of World War II came over to the United States, and I was amazed.

Mr. DORNAN of California. I missed that.

Mr. MONTGOMERY. I was amazed at the kills that they had, turning 50, 150 shooting-down of enemy aircraft. How do they build up such large numbers?

I think in our country, our war ace, and the gentleman probably knows, what was the top in World War II?

Mr. DORNAN of California. It is interesting that the gentleman should ask me that, because I just shook the hand of the living German ace with the second highest number of kills, Gunther Raul. He had 275 victories. The only two ahead of him were Gerhardt Barkhorn, who had 301, and the incomparable blond knight of Germany, who had 352 victories, and I will think of his name any second here. Gerhardt Barkhorn, unfortunately, died on the autobahn with his wife in Germany near Bonn just 3 years ago, but their three top leading aces survived.

They had 4 others that had over 200 that also survived. The reason they survived, they will tell people themselves, is that when they were shot down they could turn around and go right back up. And if they survived the early part of the war, every potential major ace in Germany who got shot down in the Battle of Britain went to Arizona, Minnesota, where they became prisoners for the rest of the war in the United States. A few managed to escape. One escaped from Canada, came down through the United States and made it to Mexico City. But the war was over for them as it was for our early men who got shot down. One told me he held up his left hand and said, "the 56th Fighter Group got my left thumb," one of the men I took with me to London this month, was Bob Johnson, the highest ranking ace in Europe when he left. He had 28 victories. He is from South Carolina but was raised in Kansas. Another one I had with me is the incomparable Walker McHuren. He was shot down with 21 victories, the highest ace in Europe at the time on our side. He escaped and evaded, with the help of the French maquis, made it back. He went to the Pacific, and shot down a Japanese plane in that theater. He shot down Migs in Korea. He was badly tortured after he crash landed and was captured.

I had a group of heroes, and they could hardly comprehend the number of German air victories. But the highest ranking ace on our side is supposed to be a Russian named Ivan Cozehdub who got 62. Like the Germans, he could have been shot down six or seven times over Russian territory and kept coming back up.

Mr. MONTGOMERY. Mr. Speaker, if the gentleman will yield, I wonder if they counted the aces like we did? Shoot downs and victories, as we call it, of actually shooting down aircraft? Is that how they counted, or how did the Germans count?

Mr. DORNAN of California. Let me make a comment on that.

Mr. MONTGOMERY. I ask that because to get such a large number, when I think our top was probably less.

Mr. DORNAN of California. In some wings, some of the German wings, they did not count ground kills. In others, they did. Here is what Squadron Leader Urbanowicz told me. He said:

> When I first fought the Germans, I thought they were superb fighter pilots. But then I decided later they were also superb liars.

They found out after the war, that if four Messerschmidts saw one British

Spitfire falling they would all make note of where it crashed, and they all claimed him. When the dust settled, we found out after the war the British claimed twice as many victories as they truly had, but the Germans were claiming three to four times as many victories as they had. Colonel Urbanowicz's 28 victories, including those against the Japanese have all been documented by historians.

For example, Ace Bob Johnson told me that just 4 years ago he was informed that he really did not have 28 victories, that there was one day he supposedly had 2, but he was not even flying that day. They also found one he had not claimed. So now his official record sits at 27, and he says, "That is fine with me. Eddie Rickenbacher got 26. If you pass Eddie Rickenbacher that is excellent."

What they were all saying in Great Britain is the importance of not remembering just aces, but all who flew and who fought, because any one of them realized that they could have been shot down on their first mission, as many young British boys were. Some of these lads had less than 10, 12, 15 hours of combat training in a Hurricane before being sent into battle for the first time. As the gentleman knows, having been in war and sea war, God makes the majority calls, and who knows, maybe the world's greatest ace died on his first mission.

The highest ranking British ace with 38 victories is quick to tell people he did not achieve a single kill or victory in the Battle of Britain. He says, "Most of us were terrible shots, myself included, and the Germans had the advantage with the likes of Adolf Goland and Vernon Molders. Their senior pilot excelled in tactics and worked out the finger formation that the Thunderbirds and Blue Angels fly today. The British were flying Vic formations, three in a V, with either wingman not knowing who was the senior guy. They were losing what they call Tail End Charlie all the time. The Germans had this experience in Spain, with the Condor Legion, when they were really flying for Adolf Hitler. They raped Poland and the Netherlands and Denmark and Belgium, and had destroyed the French Air Force in less than 1 month. So, they had plenty of experience going into the Battle of Britain, and that is what makes this battle so remarkable. At the beginning of the battle, Britain did not have 900 serviceable Hurricanes and Spitfires, and as I am sure the gentleman from Mississippi [Mr. MONTGOMERY] knows. There we had 32 Hurricane squadrons to the 20 Spitfire squadrons. But the Spitfire is such a beautiful airplane, it took all the glory, even to this day. However, the Hurricane shot down most of the airplanes, by a ratio of about 3 to 2 to their number of squadrons.

Mr. MONTGOMERY. If the gentleman will yield, I thank him very much for his information. I have been told that some of these German war aces gained a higher count of the Soviet, the Russian planes that were shot down in the invasion into the Soviet Union, that the Russian aircraft were not good pilots or good planes, and they were easy prey for the Germans.

Mr. DORNAN of California. Mr. Speaker, the gentleman from Mississippi [Mr. MONTGOMERY] is correct. Some of the Russians would go into combat with 4, 5, 6, 7, 8, 10 hours of flying time, and some of these German pilots, like Erik Hartmann, their leading ace with 350 victories, shot down as many as six, seven, eight young Russians a day. They, when the tide turned, and if a Russian pilot could survive all the early conflicts, get shot down, learn deflection shootings from angles, then the Russians could produce someone like Ivan Cozehdub, who would get up to 62 victories. Now the amazing thing in the Battle of Britain was that so many young men were willing to offer their lives. The death figure was 497 of England's finest young men, that's just in the RAF. Dozens of others from other countries. We had one American killed in the conflict that we know of. Many had changed their names or their citizenship to fly with RAF squadrons, so they have not been identified to this day. Many were American, which is tragic.

However, Billy Fisk, who died flying with the 601 Squadron out of Tangier, was recognized by his squadron commander, his squadron leader, was the greatest pilot he had ever met. He died in a Hurricane after shooting down several German airplanes over the southern coast.

Mr. MONTGOMERY. If the gentleman will continue to yield, I know that we will be going to Saudi Arabia, but I had the pleasure, with the majority leader, the privilege of going to Saudi Arabia. We visited our different temporary air bases in Saudi Arabia, and I was terribly impressed. No question in my mind, the United States of America has the finest air force of pilots in the sky, for the Navy, for the Marines, for the Air Force. I saw that not only do we have the good aviators and the good pilots, but the young 26- and 27-year-old crew chiefs, they prided themselves in the planes as well as the weapons systems that are right on the plane, Sidewinders, and other types of missiles. They knew all about it. I was greatly impressed.

Mr. DORNAN of California. Mr. MONTGOMERY, they are the very best. Like Israeli fighter pilots, like the Chinese fighter pilots on the free island of Taiwan. These two leave their pilots in the cockpit their whole career. They could be flying in their thirties, and be at the peak of their flying skills. We take our young men and move them out into other career duties to our own detriment. I think we should leave some people in the cockpit for at least 15 years, if not the full 20 or 25 that the Israelis do.

But I wish, and I do not want us to get overly enthusiastic because the gentleman knows I mean this from my heart, I wish that all of these fighter pilots serve the way I did, in peacetime tearing up targets in the desert, never being called upon to kill another mother's son. They do not want to fly against the F-1 Mirages, or the other Iraqi planes capable of taking on our pilots. Sure, 500 airplanes are mostly old and junk, but they do have Fulcrum Mig-29's and F-1 Mirages, about 100 of them. As ignorant as they are, like some of the young German pilots flying for Adolf Hitler, when they mature, they may one day say, "How could I fly for such a monster and shoot up other people's countryside, and bomb London?" They will do it because they will obey. I hope we do not have to kill any young Iraqi fighter pilots because fighter pilots are the same all over the world. But I know our kids are ready to go, unlike the British pilots 50 years ago, when several young people died on their first mission. Our guys are ready to go.

They have flown the red flag in Las Vegas. The gentleman has been out there and watched that operation. Some of these people have a couple thousand hours in F-15's. Pulling 9 G's to them is like us walking down the stairs of this building, or jogging or something. They are in top physical shape.

Saddam Hussein will think the furies of hell itself have been unleashed on his head if he thinks his Air Force is going to survive more than 24 hours. They will be ripped asunder by these Navy pilots off our three carriers, by these Marine pilots in these Harriers and this excellent F-18 Hornet, these F-16 and F-15 pilots in the Air Force will tear through him like a warm knife through butter.

And for what will it all be? For his ego to have these mothers and fathers in Iraq hear that all their sons have been slaughtered fighting for the right to crush Kuwait, hang 13-year-old little boys in front of their parents and strip that country bear?

We are ready to go, but I hope this jerk Hussein does not bring the furies of God down upon his head.

Let me just finish, Mr. Speaker, and discuss just for a second, I do not want to lose my enthusiasm for these heroes, the point of why I honor Polish-American Witold Urbanowicz and all the heroes that I took with me to England early this month in the name of our President.

I am not a hero worshipper. The word worship should be applied to

God and God alone, the Son of God, but I am a hero respecter. I grew up in a home where the father had been an Army lieutenant colonel in artillery. He had three wound chevrons in World War I. We now call that the Purple Heart. It was reinstituted in the midthirties out of respect for George Washington who inaugurated the first one on the plains of Newburgh, NY, which coincidently is where my dad was born.

Two of my dad's chevrons, or Purple Hearts, were for poison gas. I remember together with my brothers opening up a trunk in the cellar of the apartment building where we lived in New York, on 75 Central Park West, and finding my dad's gas mask with traces of dried vomit still in it. If you got a whiff of gas and you did not know it was coming, you would put on your mask and throw up in your mask. You could not take it off or you would die. He told us that story, and then we saw the evidence.

There were other mementoes that my dad had brought back from the world's first incomprehensible massive killing operation. It was worse on the Somme River, if that is possible, than any of the battles in this phenomenally successful educational series on the Civil War that has been running the last 4 nights and concludes tonight. I think it is going to start running again Saturday.

Warfare is Satan turned loose on the Earth. Individual rape becomes the rape of whole cities. Individual felonious arson becomes the burning of entire cities and counties. First degree murder is wholesale.

No one should ever hunger for war, and we have not really since the early days of World War I when the European societies seemed to be anxious for it. They put on their uniforms and heard the bands play and they all went off to war in colored uniforms, and pretty soon it descended into khaki, mud, gas, tanks, airplanes, and machineguns. The machinegun alone changed warfare in 1914, 1915, and 1916; but when an aggressor forces our young men, and now our young women, to put their lives on the line in the name of human dignity and to stop the terror that is taking place in Kuwait City as we speak at this moment, then we have to call upon young men and women to be heroes in the fight for freedom.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. DORNAN of California. Yes, certainly, I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I wanted to note, Mr. Speaker, that someone watching this debate said that the German ace we were talking about was Erik Hartmann.

Mr. DORNAN of California. Right.

Mr. MONTGOMERY. And he had 352 kills, and that he had taken an oath—the gentleman can explain this better than I can, they had two wingmen and they took an oath that they would have to have 100 kills to become a wingman.

Mr. DORNAN of California. Just to be a wingman.

Mr. MONTGOMERY. Yes.

Mr. DORNAN of California. You know, a sad note about Erik Hartmann is that we turned him over to the Russians. He flew his Fokker 190 at the end of the war over to the Western side. We turned him and all his squadron over to the Soviets. They drew a circle of trucks around all his young enlisted men, his ground crewmen, raped their wives and daughters in front of them, and then tore them apart. One young 10-year-old watched her mother and father killed in front of her, broke away, and made it to an Army truck where our kids put her on the truck and under Soviet fire drove away. She was one of the survivors from the massacre of Erik Hartmann's squadron.

Erik Hartmann served 11 years, almost 11 years in Soviet concentration camps because we betrayed him. He was only 24 or 25 years of age at the end of the war, 24 I believe. He was terribly abused in his early days in Russian captivity, came back after 10½ years, went back in the Air Force. Some of these German officers went on to rise up in the reborn Luftwaffe, keeping Europe free and bringing about the demise of communism as we know it now.

One of the badly burned men, Mackie Steinhoff, went on to be the head of the Luftwaffe. Gunther Raul, who I mentioned, with 275 victories, went on to be a high ranking officer in the new German Luftwaffe under our great Supreme Commanders at NATO. They will be the first ones to tell you that it was a tragedy that they killed so many young men in the prime of their lives and lost so many of their own friends in an ignoble cause. That is why war is so terrible and why we must stop early on, a person like Saddam Hussein who is on such a terrible ego trip. We must stop him before the whole Middle East explodes in warfare.

But I thank the gentleman for mentioning the German ace.

I hope no one watching misunderstands my enthusiasm. I am a man who, only by an accident of birth found himself in pilot training when the Korean war ended. I was never called upon to be anything but become combat ready, which is difficult and honorable, but is a far cry from being in combat. I left the Air Force after 6 years of active duty, going into the Reserves and finding myself serving as a rescue seaplane pilot at March Air Force Base with the 33d Air Rescue Air Force Reserve. Then the Vietnam war started, and I was not called upon to serve in combat in the Vietnam war. I volunteered to go over there but was told I'd been out of the cockpit too long. So I went as a reporter, over eight trips in the decade lasting from the midsixties, to the mid-seventies. I volunteered to fly as an observer on 14 missions; just as dangerous. You can get shot down and end up a prisoner, or you can end up dead. But you are not there in uniform. I was wearing a flying suit with no markings on it as a civilian, observing what the men are doing. And yes, I ended up realizing how grateful I should be to God and those who came before me and after me who put their lives on the line.

The full measure of devotion is, as Lincoln called it in the Civil War, death for a cause, or being in a wheelchair for the rest of their lives, or losing a limb or eyesight.

There is a memorial to all the fighter pilots and air crewmen who died over Europe. It was inaugurated by both allied and German pilots. It is in Germany now. I have seen that memorial. They were on the wrong side, the evil side, the side of death and destruction and cruelty and the Gestapo and nazism and concentration camps and Zyclon B gas and the slaughter of 6 million European Jews, hundreds of thousands of gypsies, priests, ministers. They were murdered like St. Maximillian, Ditrich Bonhaufer, a nightmare unparalled except by what was happening with Stalin at the same time in Russia.

But the RAF pilots, the young Americans in the eagle squadrons who lost their citizenship, saved us from this. Flying in 1942 and 1943 in what they called the rodeos and the circuses and the sweeps across Europe when they were still outnumbered by the Luftwaffe, the young men of the 56th Fighter Group, like Curran and Bob Johnson who I mentioned came with me, the men of the 78th Fighter Group, the 4th Fighter Group, which was born in September 1942 out of the three eagle squadrons, the 71st Squadron, the 121st, and the 133rd, the Mosquito pilots, like Dick Sage who came with us, who flew at night, the Landcaster pilots, the Halifax pilots, the Sterling pilots, and then our incomparable 8th and 9th Air Forces, the B-17 crews, they all saved us from the horrors of totalitarianism.

Imagine 60 B-17's being shot down in 1 day alone in the Schweinfurt raid, with 10 to 11 men on each airplane. We lost over 86,000 American pilots and navigators and bombardiers and air crewmen all over Nazi Germany, many of them rotting for 4 years, 3 years, 2 years, 1 year in those concentration stalag camps. Tough treatment, but not as bad as the poor Jewish people or the Russian prison-

ers just a few miles away, who were being slaughtered by the thousands in their camps. At least in the stalag camps run by the Luftwaffe, less than 1 percent of our Americans died. Thirty-nine percent died in the Japanese prison camps which were run in the most inhumane way. There, American prisoners got to know what it was like to be a plain civilian or a Russian prisoner in a Nazi camp. All of that horror of Nazi Germany was stopped initially by Great Britain alone.

On June 18 Churchill said it best in his absolutely incomparable style, the greatest English writer and speaker and conveyor of thoughts since Arbraham Lincoln in our War Between the States, the Civil War. On June 18, had only reachieved a role of leadership in his country on May 10, when the Nazi forces rolled in a blitzkrieg into the lowland countries of Belgium, Holland, having already hit Denmark and Norway the month before, April. On that day Churchill was back as Prime Minister, the highest position he had ever held in his country. And on June 18 in the House of Commons, Churchill expressed his grave forebodings.

The Battle of France is over. I expect that the Battle of Britain is about to begin. Upon this battle depends the future of Christian civilization. Upon it depends our own British life, and the long continuity of our institutions and our Empire. The whole fury and might of the enemy must very soon be turned on us Hitler knows that he will have to break us in this island or lose the war. If we can stand up to him, all Europe may be free and the life of the world may more forward into broad, sunlit uplands. But if we fail, then the whole world, including the United States, including all that we have known and cared for, will sink into the abyss of a new Dark Age made more sinister, and perhaps more protracted, by the lights of "perverted science." Let us therefore brace outselves to our duties, and so bear ourselves that, if the British Empire and its Commonwealth last for a thousand years, men will still say. "This was their finest hour."

Two months and 2 days later, on August 20, Churchill was speaking to the House of Commons, a routine day, probably about the same number of members as we have on the floor today. He was speaking on other issues of the day. Then he concluded his remarks with no sense of the dramatic, no raise in his voice level. This is how it was described at the time by Churchill's private Secretary, followed by Churchill's words.

August 20, 1940. Although the gallery was crowded I made my way down to the House to hear the P.M. speak. It was less oratory than usual and the point of chief interest to the House was the account of the bargain with America about the lease of air-bases. . . . On the whole, except for bright patches—like that about "the Führer's reputation for veracity," which had a big success—the speech seemed to drag and the House, which is not used to sitting in August, was languid.

The gratitude of every home in our Island, in our Empire, and indeed throughout the world, except in the abodes of the guilty, goes out to the British airmen who, undaunted by odds, unwearied in their constant challenge and mortal danger, are turning the tide of world war by their prowess and by their devotion. Never in the field of human conflict was so much owed by so many to so few.

Men from all over flew in the battle. Not to be forgotten were those in some British squadrons flying obsolete airplanes who were slaughtered. The Bolton Pole, the defiant airplane, the Ferry Battle airplanes, the biplane, the Gloucester Gladiators who were shot out of the skies. But Churchill's remark about the few was not discovered until later on during the battle. And as I said, it went on through today when the Polish flight element leader, Witold Urbanowicz, achieved four victories on this 1 day, September 27, four more on September 30, a few days later, and the final real high-intensity day of the 3 months of air battles.

There were also pilots from Norway, many from Poland and Czechoslovakia, as I said, a handful from France. There were 7 identified Americans flying in the Battle of Britain, but probably many more. Who knows, perhaps 3 dozen were lost in the mists of history because they had to get citizenship from other nations when they went up to Canada to learn to fly against Hitler's onslaught in Europe.

Even one Palestinian flew in the Battle of Britain. Many South Africans. One of the greatest air leaders was "Sailor," Milan. I only found out recently that he died. I learned that talking with President de Klerk of South Africa. There were also Australians, New Zealanders, and Canadians, who took tremendous casualties as they did later in August 1942 in the Dieppe raid.

Jamaica has some pilots flying from the British Commonwealth of Nations. Some from Rhodesia, like Ian Smith who was a Spitfire pilot. He did not fly in the Battle of Britain, I do not believe. A truly great effort. Just a word about our American, Billy Fish, who flew with the 601 Hurricane Squandron out of Tangmere. Billy had worked in Hollywood for a while, helped develop, believe it or not, the Aspen ski resort in its earliest days in the 1930's. He won a medal in the U.S. Olympics for tobogganing in 1936, when he was barely 19 years of age. He went to St. Moritz and broke the speed record on what is the world's most famous toboggan run at Cresta. That record stayed for 15 years after he was dead, until 1955. He was familiar with speed. He already had not only all those Olympic records in one of the most dangerous of all sports at that time, tobogganing, but was himself a private pilot who flew around Great Britain. He married the daughter of an earl. He did not have to fly in England's cause, but volunteered his services. On one mission he crashed on the runway, severely burning his face and hands. Some of his pilot friends pulled him out of the cockpit. He was talking, seemed all right. That night, friends visited him in the hospital. He seemed OK.

Later that night, Billy Fish died of shock.

He is buried in a small British country church gravesite not far from where he died flying with the Royal Air Force against Hitler as a proud American. And I repeat, he was described by his squadron commander as the greatest fighter pilot he had ever known.

Though having lived a privileged life as a young man, he was amiable, loved by all the pilots in that 601 sqaudron. This was a great period of history for the West because England was standing alone and bought us the time for the whole world to come together and form what was then loosely called not only the Allied effort but the United Nations, that term being formally adopted in San Francisco in 1945.

It is a period of history like the Civil War series running on PBS stations all across America. We cannot forget the history of the 1860's or that of 50 years ago over the beautiful English countryside of Kent and Surry. People dying while other people played golf. One British fighter pilot had the misfortune to crash on a golf course where people shook their golf clubs at him because he had ruined their golf game. Another pilot crashed on a golf course with a little better quality of people who took him in with a broken leg, splinted it, put him on one of the pool tables in the golf clubhouse, fed him so many sandwiches and so much liquor that he forgot about the pain of his compound fractured leg.

Some British farmers were doing what they were supposed to do, bring in the August and September harvests while they looked at these contrails in the skies above them, seeing young men on their third or fourth mission that day. Or maybe it was their first mission, on which they would die trying to stop the Lufwaffe's attempt to conquer Great Britain. And probably, since the United States was not in the war, bring about truly what Churchill called a new dark age.

So I hope that we will take the advice of former President Ronald Reagan gave to our Nation and to any freedom-loving nation in his final speech when he said that we must not forget the heroes or our history, the men and women of our past who brought us to where we are today.

So to those seven known Americans, none of whom survived the war; one Havilland seems to have survived, but nobody can find him; to all the Amer-

icn who felt it necessary to hide their nationality so they could fight Adolph Hitler that are lost to the historical records, to all the nations that joined Great Britain, to our 497 young fighter pilots who gave the full measure of devotion, to all of those who suffered those horrible high octane fuel burns that literally took their entire face off and of their fingers, and some of them still survived; I have me them; to all those who fought in World War II, to may eagle squadron friends that I took with me to the highest-scoring American group, the 56th, to Bob Behearn, and Bob Johnson, and those that I took with me on the trip to my desert rats, I call them; the P-40 and P-39 pilots who went from Great Britain down to Operation Torch and fought all the way across North Africa, up to Sicily, through out of Corsica and Sardinia against Italy, and then Italy itself, into Europe itself, where many of them were shot down; I repeat I had five POW's on this trip; to Dick Dickinson, and Colonel Dow, another ace, to our two wheelchair veterans from the 133d Squadron, Dixie Alexander, another ace, and POW George Sperry who was shot down in September of 1942 with the entire 12 planes put in the air that day by 133 Squadron within days of it being the 336th U.S. Air Force Fighter Squadron in that transfer I mentioned; to all of these heroes; I salute you, and to the man that personified best what men and women will do to fight for freedom, to colonel squadron leader, flight lieutenant, Vitold Urbanowicz; I salute you, Vitold. You and men like you have created a fascinating record of history for those that breathe the air of freedom so easily and so effortlessly.

I hope to go to the gulf with 19 of my colleagues from both sides of the aisle here on October 5 and see those young men and women serving in the sand. Our paratroopers, our Minute Men, those that have given their lives in the dark of night, one being hit by a truck which was our first fatality over there. Those ground service personnel, and, yes, our fighter pilots, from the Navy, the Marine Corps, and the Air Force. Our pilots who fly helicopters.

To all of these people that are on the fringes of the world, wherever they are defending freedom, I salute all of you, and I only wish that you would have the opportunity to spend many nights and days traveling to some of the scenes of the "World War II bases across Great Britain, as we did with this American contingent to honor the Royal Air Force and its effort of 50 years ago.

Bell Helicopter was nice enough to give us a couple of helicopters to use for a few hours during the Farnborough Air Show to take some of our aces, Dixie Alexander, George Sperry, in their wheelchairs to view these sites. Well, actually they left their wheelchairs behind, and the British met us with wheelchairs at Manston Air Field, one of the biggest air fields in Great Britain. It is right on the coast near Dover. And we took our helicopters and flew along the white cliffs of Dover, as chalk white as one would expect chalk to be, and we looked at those hills, which was a sign to wounded airmen coming home, that they might just make it. Are one could hear, corny as all of us were, the strains in our heads of Vera Ellen's, "There will be bluebirds over the white cliffs of Dover," and what these young Americans did for us. It will remain in my memory forever.

What some of these pilots have told me brought me to tears. They said it was the greatest trip of their lives. The trip was a great experience for those of us, like young Brigadier General Dula and his wife, Terry, who were with us, and Congressman CARROLL HUBBARD of Kentucky, and the younger F-15 and F-16 pilots, Col. Jerry Woods and Col. Jeffery McChesney who were lucky enough to be on this trip. These pilots, some of whom flew in Vietnam, but some who, like me, are peacetime pilots, and I repeat: May they never have to kill another mother's son, shared a moment with kings and heroes. It was an honor to be with these people earlier this month.

Vitold, I may redo part of this special order on Sunday the second day when you achieved four victories. Oddly enough it looks like we are going to be in the House of Representatives, and there may be a slow moment when we are waiting to work our way through the morass of our budgetary problems here where I can salute Col. Vitold Urbanowicz again on the day of his second incredible triumph in the Battle of Britain, a day on which most of the courageous pilots shot down on German airplanes. To have a man shoot down four on 2 days only 3 days apart in totaling up his 17 victories for freedom is truly a remarkable accomplishment. And how lucky American is that you, Colonel Urbanowicz, chose to become an American citizen with many of your other Polish heroic friends who were unable to go back to Poland because through political stupidity and some treachery we turned over the freedom loving nation of Poland to the horror of communism for half a century. Only in the last year has Colonel Urbanowicz and others been even able to consider the thought of going home to their beloved Poland. To this very day Vitold has never been back to the country that he fought for so valiantly over the skies of Poland, the skies of France, the skies of Great Britain, back to France, China, and then back again for the D-day invasion, fighting to the conclusion of the war over Germany, tearing up more German Luftwaffe planes on the ground. What an incredible career.

As Vitold told my wife, Sally, one night; he said, "The amazing thing is in all of that combat I had only one bullet hole in one aircraft once, and I was never scratched during all of that," and he appreciates fully that that was God's call, having seen so many of his young wingmen shot down on their first mission.

THE INTRA-ARAB CONFLICT IN THE MIDDLE EAST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah [Mr. OWENS] is recognized for 15 minutes.

Mr. OWENS of Utah. Mr. Speaker, I rise to speak today about the intra-Arab conflict in the Middle East.

I visited that area eight times in the last 2½ years in the capacity of my assignment to the European and Middle East Subcommittee, as recently as 2½ weeks ago.

After more than four decades of conflict in that troubled area, the fiercest battles will hopefully no longer be fought in the desert or in the streets but in the political arena between moderates and radicals, between those anxious to explore a cooperative future and those trapped within an outdated ideology of hate and intransigence.

This is the fundamental struggle which underlies the current political conflict. It knows no national identity, no religion, no single piece of land.

For the vast majority of the international community, the gulf crisis is a matter of naked aggression, the unprovoked, unjustified violation of a nation's sovereignty, and continuing human rights abuses.

Moreover, it is a matter of oil security and the economic stability of an increasingly integrated global marketplace. But as the crown prince of Jordan testified yesterday, another gulf crisis with implications just as alarming is the growing gulf between the Arab governments and their populations, a rising tide of anti-American and anti-Western public opinion. Prince Hassan pointed to a vast majority in this country who are overwhelmingly supportive of Iraq's invasion of Kuwait. Palestinians on the West Bank and Gaza rally to Saddam, and yesterday, Algeria's exiled President, Ahmed Ben Bella, returned home to cheering crowds who held aloft his likeness along with that of Iraq's dictator. This, unfortunately, is more the rule than the exception.

Anti-American public opinion is nothing new in that part of the world, and it certainly should not, and I am confident will not, weaken our resolve to roll back the Iraqi occupation of

Kuwait and deter future acts of aggression. It should give us food for thought though beyond this present crisis into a world where high technology and cheap weapons of mass destruction will continue to erode Israel's military edge and increase political instability.

We must search for ways to give the people on the ground a vested interest in peace.

In Iraq's desperate search for allies in this crisis, Saddam Hussein has pulled every emotional chain possible. He tried and failed to raise a cry for pan-Arab unity or for the protection of Muslim holy places from foreign invaders. He did strike a chord, and continues to do so, among the Arab world's disenfranchised, impoverished masses: "Here is the savior of the common man," the feeling goes, "the Arab knight, wreaking vengeance on the unyielding avarice and neglect of the gulf sheikhdoms; the fabulously wealthy kingdoms and sheikhdoms of the Persian Gulf," he claims, "should be overrun and their wealth shared with the poor Arab countries."

This image of Saddam Hussein is an amalgam of Arab nationalism, a history of colonialism and military defeat and, more importantly, a growing sense of frustration born of economic hopelessness. This despair impedes our efforts to effect a resolution to the Persian Gulf crisis and will remain a source of foment and instability in the most volatile region in the world.

If the trend continues as it has, it will fuel the fire of Islamic fundamentalism and harden the hearts of those who should have a longing for peace. The promotion of economic growth, resource-sustainable development, poverty alleviation and political pluralism are the pillars of our foreign aid program. They are the underpinnings of our hopes for long-term national security.

Our priorities at home and our looming deficit of more than $300 billion prevent us from adequately pursuing these goals abroad. The immense cost of Operation Desert Shield alone, estimated at more than $15 billion this year, sets us back even further.

A great deal has already been said about burden-sharing in the gulf, and Saudi Arabia, the principal beneficiary of our efforts there, has committed a contribution of about $7 billion both to support military operations and countries adversely affected by the crisis. But, Mr. Speaker, someone must ask a tasteless question: Cannot Saudi Arabia and other wealthy Persian Gulf countries whose very existence depends on the presence of the international military force, cannot these countries be asked to do more?

In this context, I do not speak just of payment of incremental military costs or compensation to those countries like Egypt and Jordan whose compliance with the embargo place heavy drains on their economies. I speak, rather, of the need to build a large development fund for the undeveloped, poor Arabic nations and, yes, ultimately Israel as well.

If we take a look at oil prices before the Iraqi invasion, they stood at approximately $18 per barrel, with Saudi production, for example, of about 5 million barrels per day. Averaging daily prices since the invasion, oil has averaged about $30 per barrel, an increase of 60 percent. What is more, in order to compensate for a net world oil loss, Saudi Arabia increased production from 5 million to 7 million barrels per day.

In dollars, this translates from more than $32 billion per year in gross sales before the invasion to more than $82 billion per year since the invasion. This is typical, although in smaller numbers, of the other gulf countries.

Clearly, these countries can afford to do more, and in their own enlightened self-interest should be anxious to take this step to undercut the only semilegitimate point which Saddam Hussein is making.

Aside from contributing to the military effort and the immediate desperate needs of countless countries suffering from the crisis, the United States should strongly urge that windfall profits be applied to a fund for long-term development in the Arab world serving the mutual interests of both the United States and the gulf countries.

The United States and others in the international force should insist that these Persian Gulf states now benefiting from huge windfall profits use this unjustified windfall to provide such relief. Development projects and technical assistance will improve the quality of life and economic future of an increasingly radical Arab population. Stability cannot emerge from poverty and blight. There must be a reason to cling to moderation, a vested interest in the present and in the future.

A solution to the present crisis is not enough to ensure peace for future generations. Entire populations seething with hatred cannot pound sword into plowshare until economic promise replaces the hopelessness which prevails today.

The United States, along with other governments in the regions, must attack the root causes of instability, not simply the symptoms, and prepare for the future, and the tools, Mr. Speaker, if we will use them, are available and in our hands.

WHO NEEDS A SEQUESTER? THE CONGRESS DOES!

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. FRENZEL] is recognized for 15 minutes.

Mr. FRENZEL. Mr. Speaker, Congress is rapidly approaching the deadline for a sequester under the Gramm-Rudman-Hollings Act [GRH]. Unless we achieve significant budget reduction by October 1, sequestration will automatically take effect. The projected sequester will cause economic disruption, lost wages and reduced government services.

The administration and Congress have been unsuccessful in their efforts to achieve a budget agreement which would forestall these cuts. After 5 long, frustrating months of summitry, the deficit problem has been pending so long that an agreement, even if supported by congressional leaders, could fail in either House. Only the threat of a sequester is driving Congress toward an agreement in spite of these difficulties.

It is important that the American public understand the reasons why the budget impasse makes a sequester necessary. GRH was constructed on three major premises. The first premise was that the Federal deficit was a serious economic problem with severe negative effects on the long-term performance of the rest of the economy. Almost all economists agree that deficit reduction is the proper remedy.

Second premise of GRH was that Congress is incapable of reducing the structural deficit under normal circumstances. The authors of GRH believed that the natural momentum of Congress favors unending increases in Government spending, immortal programs, and more and more new initiatives. Unless it is forced to deal with the deficit, Congress will always postpone making tough budget cuts.

Finally, GRH makes the fundamental assumption that Congress can impose on itself a mechanism which will force it to deal with deficit reduction. This is the sequester. It is supposed to be so horrible that Congress will do anything, even cut spending, to avoid it.

If the sequester is avoided or deferred, the only effective constraint forcing Congress to achieve savings will be removed. Sequester has never been completely effective, but it has generally been considered the last line of defense against congressional profligacy. If it is waived, the last trace of fiscal sobriety will be gone.

It is vitally important that Congress achieve an agreement this year. The economy is currently in a precarious position. Overall growth is slowing at the same time that inflation is heating up. The Federal Reserve can address one of these problems, but it cannot deal with both.

Any policy which the Fed pursues to alleviate inflation is likely to worsen growth and vice versa. Chairman Greenspan has often said that the Fed cannot risk stimulating growth until Congress tightens up its fiscal policy.

Traditional economic theory says that reducing Government spending or raising taxes is deflationary. For this reason some observers question whether the economy can afford deficit reduction at this time. One of the main reasons for current economic uncertainty is the lack of faith people have in Congress' ability to properly manage the Nation's fiscal policy. By addressing this concern, deficit re-

duction will restore the public's confidence in our economic future.

In the current economic environment, the principal contribution that Congress can make toward raising confidence is a believable signal that real deficit reduction will occur automatically over the next 5 years. The negotiators have led credit markets to expect a reduction of approximately $50 billion this year and $500 billion over the next 5 years. Anything less now, will be viewed as a failure.

Nobody wants the disruption of a sequester. It is only intended to force Congress to do what is right. But unless there is a willingness to endorse the sequester, the Congress will continue to avoid fulfilling its responsibilities. Therefore, unless there is a budget agreement, we must stick to the sequester.

Contrary to some recent reports, capital gains is not the only issue preventing agreement. It is important, but less so than the spending reductions or the enforcement mechanisms. Republicans and Democrats have fundamentally different views on basic issues. Republicans insist on real domestic spending reductions, including reform of entitlement programs, assured enforcement of budget agreements, and features to stimulate growth, like capital gains. Democrats wish to reduce spending less, while taxing more, and have resisted enforcement procedures.

Despite the enormous differences between the negotiating parties, and despite the congressional proclivity to escalate spending, it is still probable that a budget agreement can be reached. If so, the reason for success will not be nobility of spirit. Success is probable only because of the threat of the much despised sequester. Although avoiding the disruption of the sequester is tempting, the American people must recognize the necessity of dealing with the deficit now so that the Nation can resume its normal pattern of growth. GRH offers the only mechanism available for forcing an agreement. Once lost it cannot be replaced.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WALKER) to revise and extend their remarks and include extraneous material:)

Mr. MCEWEN, for 5 minutes, today.

Mr. PARRIS, for 5 minutes, today.

Mr. GINGRICH, for 60 minutes, on October 15, 16, 17, 18, and 19.

Mr. FRENZEL, for 15 minutes, today; 60 minutes on September 30, October 1, 2, and 3.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. CARR, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. OWENS of Utah, for 15 minutes, today.

Mr. FALEOMAVAEGA, for 60 minutes, each day on October 2, 3, and 4.

Mr. GONZALEZ, for 60 minutes, each day on October 4 and 5.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DINGELL following Mr. RINALDO in concurring to Senate amendments to H.R. 3567.

(The following Members (at the request of Mr. WALKER) and to include extraneous material:)

Mr. COBLE.

Mr. SOLOMON in two instances.

Mr. BEREUTER.

Mr. MCDADE.

Mr. RIDGE.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous material:)

Mr. MCHUGH.

Mr. WAXMAN.

Mr. ACKERMAN.

Mr. DOWNEY.

Mr. VENTO.

Mr. TORRICELLI.

Mr. DORGAN of North Dakota.

Mr. KOLTER.

Mr. DURBIN.

Mr. DONNELLY.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2545. An act to amend title 18 of the United States Code, to increase the term of imprisonment for offenses involving driving while intoxicated when a minor is present in the vehicle; to the Committee on the Judiciary.

S. 3127. An act to designate the Department of Veterans Affairs Medical Center in Albany, New York, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center"; to the Committee on Veterans Affairs.

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following titles:

On September 27, 1990:

H.R. 4962. An act to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games, and

H.R. 2761. An act to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United Services Organization.

ADJOURNMENT

Mr. OWENS of Utah. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 10 minutes p.m.), under its previous order, the House adjourned until Sunday, September 30, 1990, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3965. A letter from the Secretary of Defense, transmitting his certification that the current 5-year defense program fully funds the support cost associated with the Bradley Fighting Vehicle Program, pursuant to Public Law 100-180; to the Committee on Armed Services.

3966. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of defense equipment sold commercially to Saudi Arabia (Transmittal No. DTC-37-90), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3967. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of defense equipment sold commercially to Saudi Arabia (Transmittal No. DTC-36-90), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3968. A letter from the Administrator, General Services Administration, transmitting his announcement of the award of two Federal contracts for a limited number of alcohol-powered vehicles; to the Committee on Government Operations.

3969. A letter from the Assistant Secretary for Civil Works, Department of the Army, transmitting a report dated September 15, 1987, from the Chief of Engineers, on Pleasure Island, Port Arthur, TX, together with other pertinent reports; to the Committee on Public Works and Transportation.

3970. A letter from the Assistant Secretary for Civil Works, Department of the Army, transmitting a report dated February 13, 1989, from the Chief of Engineers, on Little Pee Dee and Pee Dee Rivers, North Carolina and South Carolina, together with other pertinent reports; to the Committee on Public Works and Transportation.

3971. A letter from the Assistant Secretary for Civil Works, Department of the Army, transmitting a report dated November 15, 1988, from the Chief of Engineers, on the Northwest Florida Comprehensive Study, together with other pertinent reports; to the Committee on Public Works and Transportation.

3972. A letter from the Assistant Secretary for Civil Works, Department of the Army, transmitting a report dated November 16, 1987, from the Chief of Engineers, on Vermillion River Basin, IL, together with other pertinent reports; to the Committee on Public Works and Transportation.

3973. A letter from the Assistant Secretary for Civil Works, Department of the Army, transmitting a report dated December 22, 1987, from the Chief of Engineers, on Turkey Creek, GA, together with other pertinent reports; to the Committee on Public Works and Transportation.

3974. A letter from the Assistant Secretary for Civil Works, Department of the Army, transmitting a report dated December 12, 1988, from the Chief of Engineers,

on Portland Habor and Fore River, Portland and South Portland, ME, together with other pertinent reports; to the Committee on Public Works and Transportation.

3975. A letter from the Secretary of Health and Human Services, transmitting a report on the cost-effectiveness of providing therapeutic shoes to Medicare beneficiaries with severe diabetic foot disease, pursuant to 42 U.S.C. 1395x nt.; jointly, to the Committees on Energy and Commerce and Ways and Means.

3976. A letter from the Assistant Secretary for Policy, Budget and Administration, Department of the Interior, transmitting the Bureau of Land Management and the Fish and Wildlife Service reports on the implementation of section 318 of the 1990 Department of the Interior and Related Agencies Appropriations Act through August 1, 1990, pursuant to Public Law 101-121, sec. 318(h) (103 Stat. 750); jointly, to the Committees on Agriculture, Appropriations, Interior and Insular Affairs, and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ASPIN: Committee on Armed Services. H.R. 5422. A bill to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; with an amendment (Rept. 101-725, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3613. A bill to establish an Upper Sacramento River fishery resources restoration program; with an amendment (Rept. 101-726, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 2800. A bill to amend titles 10 and 14, United States Code, to permit recordings of military bands to be sold commerically; with an amendment (Rept. 101-769, Pt. 1). Ordered to be printed.

Mr. FORD of Michigan. Committee on Post Office and Civil Service. H.R. 4174. A bill to establish a comprehensive personnel system for employees of the Administrative Office of the United States Courts, and for other purposes; with an amendment (Rept. 101-770, Pt. 1). Ordered to be printed.

Mr. MOAKLEY: Committee on Rules. House Resolution 482. Resolution waiving the requirement of clause 4(b), Rule XI, against consideration of certain resolutions reported from the Committee on Rules on the legislative day of September 30, 1990, and providing recess authority for the Speaker on September 30, 1990 and October 1, 1990 (Rept. 101-771). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FASCELL:

H.R. 5746. A bill to extend the Export Administration Act of 1979, and for other purposes; considered and passed.

By Mr. GONZALEZ (for himself and Mr. WYLIE):

H.R. 5747. A bill to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BURTON of Indiana:

H.R. 5748. A bill to amend the Small Business Act to make small business concerns owned and controlled by special disabled veterans eligible to receive procurement contracts awards under that act; to the Committee on Small Business.

By Mr. DELLUMS:

H.R. 5749. A bill to amend the act entitled "An Act to incorporate the American University," approved February 24, 1893, to clarify the relationship between the board of trustees of the American University and the general board of Higher education and Ministry of the United Methodist church; to the Committee on the District of Columbia.

By Mr. DURBIN (for himself and Mr. MILLER of California):

H.R. 5750. A bill to amend title XIX of the Social Security Act to provide for coverage of alcoholism and drug dependency residential treatment services for pregnant women and certain family members under the Medicaid Program; to the Committee on Energy and Commerce.

By Mr. HUGHES (for himself Ms. OAKAR and Mrs. LLOYD):

H.R. 5751. A bill to amend title II of the Social Security Act to provide for an increase of up to 5 in the number of years disregarded in determining average annual earnings on which benefit amounts are based upon timely showing of preclusion from remunerative work during such years occasioned to neet to provide child care or care to a chronically dependent relative; to the Committee on Ways and Means.

By Mr. MANTON:

H.R. 5752. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide a lump sum payment to public safety officers who become totally and permanently disabled as a result of a catastrophic injury sustained in the line of duty, and for other purposes; to the Committee on the Judiciary.

By Mr. MATSUI:

H.R. 5753. A bill to amend the Internal Revenue Code of 1986 to clarify the application of the passive foreign investment company rules, to repeal the export trade corporation rules, and for other purposes; to the Committee on Ways and Means.

By Mr. RAVENEL (for himself, Mr. DERRICK, Mr. SPRATT, Mr. TALLON, Mr. SPENCE, and Ms. PATTERSON):

H.R. 5754. A bill to designate the Department of Veterans Affairs medical center in Charleston, SC, as the "Ralph H. Johnson Department of Veterans Affairs Medical Center"; to the Committee on Veterans' Affairs.

By Mr. PANETTA:

H.J. Res. 659. Joint resolution to designate the month of October 1990 as "National Seafood Month"; to the Committee on Post Office and Civil Service.

By Mr. CONTE (for himself and Mr. DREIER of California):

H. Con. Res. 376. Concurrent resolution to salute and congratulate the people of Poland as they commemorate the 200th anniversary of the adoption of the Polish Constitution on May 3, 1991; jointly, to the Committees on House Administration and Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 303: Mr. AUCOIN.

H.R. 369: Mr. PETRI.

H.R. 885: Mr. MINETA.

H.R. 2295: Mr. BLAZ.

H.R. 2531: Mr. PERKINS, Mr. POSHARD, Mr. HEFNER, and Mr. NAGLE.

H.R. 2724: Mr. COBLE.

H.R. 2816: Mrs. MORELLA and Mr. LEWIS of Georgia.

H.R. 3415: Mr. LENT.

H.R. 3740: Mr. TALLON.

H.R. 3930: Mr. FISH.

H.R. 3970: Mr. BATES.

H.R. 4818: Mr. GALLO, Mrs. MORELLA, and Mr. PORTER.

H.R. 4864: Mr. MACHTLEY and Mr. MORRISON of Connecticut.

H.R. 4865: Mr. MACHTLEY and Mr. MORRISON of Connecticut.

H.R. 5188: Mrs. BOXER.

H.R. 5259: Mr. LEWIS of Georgia.

H.R. 5471: Mr. COLEMAN of Texas and Mr. JONTZ.

H.R. 5475: Mr. PEASE.

H.R. 5480: Mr. MFUME, Mr. MORRISON of Connecticut, Mr. LIPINSKI, Mrs. BOXER, Mr. PEASE, Mr. HERTEL, and Mr. YATES.

H.R. 5499: Ms. PELOSI, Mr. JOHNSON of South Dakota, and Mr. MOODY.

H.R. 5505: Mr. SOLOMON and Mr. BROWN of California.

H.R. 5511: Mr. MINETA.

H.R. 5585: Mr. MACHTLEY, Mr. BENNETT, Mr. SHAYS, Mr. KOLBE, Mr. LAGOMARSINO, Mr. GRANT, Mr. DEWINE, Mr. STALLINGS, Mr. SHUMWAY, Mr. JOHNSON of South Dakota, Mr. SCHIFF, Mr. RITTER, Mr. KASICH, Mr. MOORHEAD, and Mr. HOLLOWAY.

H.R. 5616: Mr. LENT.

H.R. 5652: Mr. BLAZ, Mr. LANCASTER, Mr. DICKS, Mr. STALLINGS, Mr. SYNAR, Mr. PENNY, Mr. ALEXANDER, Mr. ANNUNZIO, Mr. APPLEGATE, Mr. HUGHES, Mr. DYSON, Mr. BEREUTER, Ms. ROS-LEHTINEN, Mr. PAYNE of Virginia, Mr. RICHARDSON, Mr. HYDE, Mr. ROE, and Mr. HILER.

H.R. 5722: Mr. MYERS of Indiana, Mr. SHAW, Mr. HERGER, Mr. SAXTON, Mr. GEKAS, Mr. MCMILLAN of North Carolina, Mr. DENNY SMITH, Mr. SENSENBRENNER, and Mr. CHANDLER.

H.J. Res. 214: Mr. SCHEUER, Mr. TOWNS, Mr. VALENTINE, Mr. AUCOIN, Mr. PAXON, Mr. MOORHEAD, Mr. RHODES, Mrs. SAIKI, Mr. PURSELL, and Mr. EDWARDS of California.

H.J. Res. 525: Mr. PASHAYAN, Mr. RITTER, Mr. KENNEDY, Mr. MARTIN of New York, Mr. LIPINSKI, Mrs. VUCANOVICH, Mr. DORNAN of California, Mr. STAGGERS, Mr. THOMAS A. LUKEN, Mr. MCCLOSKEY, Mr. MCCOLLUM, Mr. MCDADE, Mr. MCEWEN, Mr. MCHUGH, Mrs. MEYERS of Kansas, Mr. MOODY, Mr. MURPHY, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. PARKER, Mr. FEIGHAN, Mr. GUNDERSON, Mr. HALL of Texas, Mr. DUNCAN, and Mr. LEWIS of Florida.

H.J. Res. 543: Mr. STEARNS.

H.J. Res. 612: Mr. JACOBS, Mr. JONES of North Carolina, and Mr. MCCLOSKEY.

H. Con. Res. 313: Mr. VISCLOSKY, Mrs. VUCANOVICH, Mr. HILER, Mr. POSHARD, Mr. YOUNG of Florida, Mr. LEWIS of Georgia, and Mr. ACKERMAN.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

236. By the SPEAKER: A petition of the American Bar Association, Chicago, IL, relative to H.R. 5336; to the Committee on the Judiciary.

237. Also, petition of the Board of Chosen Freeholders, Paterson, NJ, relative to veterans benefits; to the Committee on Veterans' Affairs.

EXTENSIONS OF REMARKS

LACK OF CONSULTATION AND RESPECT FOR LATIN NATIONS DOOMS U.S. DRUG POLICY

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. KOSTMAYER. Mr. Speaker, the war on drugs cannot be fought without allies—we are rapidly losing ours in the Andes due to a lack of respect for their priorities. Each of the Andean countries has told us repeatedly that military aid is not their first priority; that the narcotics problem has its roots in the economic crises each of them face; that they fear strengthening their militaries will exacerbate human rights and corruption problems and make civilian control over the military impossible.

Unfortunately, as a recent article by Eugene Robinson in the Washington Post points out, we have not listened. And the failure on the part of the United States to consult with the Andean countries has put everyone's overall objective of destroying the drug trade in jeopardy.

Mr. Speaker, I encourage my colleagues to give careful attention to the following article.

[From the Washington Post, Sept. 14, 1990]

U.S. DRUG EFFORT RUNS INTO LATIN RESISTANCE

(By Eugene Robinson)

BUENOS AIRES, September 13.—The Bush administration's strategy to fight cocaine in the Andean drug-producing nations with military aid is running up against the producer nations' reluctance to commit their armed forces to the anti-drug effort and demands that the United States provide more funds for economic development.

On Wednesday night, Peruvian President Alberto Fujimori said his government had decided not to sign a pending agreement to receive $35.9 million in military aid from Washington, indicating that he wants development aid instead.

Since the military aid "is destined only for the fight against drug trafficking," his government does not intend to sign the agreement, Fujimori said, calling the proposed pact "inconvenient for our interests."

Peru grows more than half the world's coca, the plant from which cocaine is processed. U.S. State Department officials were left hoping for an 11th-hour renegotiation of the rejected accord and emphasizing that other anti-drug programs, such as cooperation with the police, are continuing.

In Bolivia, the other major source of coca, frustrated U.S. diplomats are still waiting for the government of President Jaime Paz Zamora to develop acceptable plans for the Bolivian army to spend roughly $40 million in pending military aid.

And in Colombia, where powerful drug cartels refine 80 percent of the world's cocaine, officials have also been unenthusiastic about increasing military involvement in the drug fight. President Cesar Gaviria has made clear that his emphasis is on ending the terrorist violence of the drug barons and that he believes the trafficking industry cannot be eliminated until the United States acts to curb demand.

Officials of the three countries have expressed concern about corruption that might result from bringing the armed forces into closer contact with the drug traffickers whose capacity for bribery and coercion is considered enormous. In Peru and Bolivia, which have seen frequent military takeovers, there is also reluctance to make the armed forces more powerful and independent than they already are.

The standoff over military aid comes amid other signs that the U.S. approach to curbing the cocaine trade in South America remains in conflict on several key points with what Latin leaders see as their nations' interests.

Colombia's Gaviria has offered drug traffickers a chance to give themselves up and avoid extradition to the United States, formerly a cornerstone of the campaign against the cartels. In Peru, an administrative shake-up ordered by the new government has led to the removal of the police general with whom the U.S. officials have coordinated anti-drug efforts for years.

And in all three producer countries, officials have been increasingly critical of the United States for not providing more of the economic aid that they say is necessary to wean hundreds of thousands of their citizens away from dependence on the lucrative business of cocaine.

Getting the Andean military establishments more involved in the anti-narcotics effort was a central component of the strategy President Bush articulated with leaders of the three South American nations at a one-day "drug summit" last February in Cartagena, Colombia. The United States agreed to provide hundreds of millions of dollars in new military aid if the Andean nations would commit their armed forces wholeheartedly to the drug fight.

Until now, primary responsibility for anti-drug activities in Colombia and Peru has rested with national police agencies. Bolivia's air force and navy are already involved to some extent, but the army has been kept out of the fray.

The idea behind the strategy was that involving military forces would dramatically increase the manpower and equipment the Latin governments could bring to bear against drug trafficking. Military units, the argument went, could provide needed support for police operations and carry out other functions like sealing leaky borders.

For example, several months ago the special Bolivian anti-drug police force staged a raid on a drug-processing village, backed up by U.S. Drug Enforcement Administration agents. The townspeople took up arms and resisted. "If you had army involvement, you could do that same raid, but you could have the army surround the town," a U.S. official said.

The Colombian military has conducted some spectacular raids against the cartels, but more than 80 percent of all anti-drug operations have been conducted by the police. Sources close to Gaviria have said that he favors the police as the lead agency and is reluctant to reverse that situation, although he has been more open to the increased military aid than leaders of the other two nations.

In Peru, most of the coca is grown in the remote Upper Huallaga Valley, which is a stronghold of the Shining Path guerrillas, a growing Maoist insurgency. Efforts to attack traffickers' facilities such as airstrips and laboratories, and ultimately to go after the coca fields themselves, are hampered by the guerrillas' effective control of most of the valley.

"Security is the number one issue up there," said a U.S. narcotics expert in Lima, the Peruvian capital. Supplies and personnel must be airlifted to a U.S.-financed police base at Santa Lucia in the heart of the valley because the roads are not safe. Suspected guerrillas attacked the base in April, engaging U.S. pilots in an exchange of fire.

A major thrust of the $35.9 million that Fujimori said he will not accept was to provide training and equipment to the Peruvian army to better combat Shining Path, clearing the way for police and DEA agents to operate more freely.

Former president Alan Garcia refused to take the money, complaining that the United States was reneging on agreements Bush made at Cartagena to provide meaningful economic assistance.

Since taking office July 28, Fujimori had declined to state clearly his intentions regarding the pact, but U.S. officials believed he would sign it. A joint press release had even been drafted announcing the acceptance of the aid.

However, even before his election Fujimori was saying that any solution in the Upper Huallaga Valley had to be based on creating realistic economic options for the tens of thousands of coca growers. Alternative crops must be developed, he has often said, and roads and bridges must be improved so those crops can be brought to market.

"One of the factors is that it is destined only for the fight against drug trafficking," Fujimori said in announcing he would reject the aid. "There are also other conditions that the Peruvian armed forces and my office consider inconvenient for our interests." Fujimori left some room for hope that he might accept an amended agreement, and a U.S. official said the Bush administration believes "it's not over yet. We're going to keep talking to the government down there."

But time is running short. The money is for the current fiscal year, which ends Sept. 30, and if not quickly accepted must be reprogrammed for other use.

Some Bolivian officials have spoken recently of using the army's new anti-drug funds to create environmental protection units that would enforce laws against pollution and deforestation, rather than directly attack the drug trade. Before civilian rule returned to Bolivia in 1982, the army was widely seen as riddled with drug-induced

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

corruption. Governments since then have tried to keep the army away from the drug trade, and some officials see the United States as trying to coerce Bolivia into a return to the past.

TRIBUTE TO ALBERT J. KLIMAN—A DEDICATED CIVIL SERVANT

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. TRAXLER. Mr. Speaker, I rise to pay tribute to Al Kliman, the Director of the Office of Budget at the U.S. Department of Housing and Urban and Development. Al is retiring after 33 years of Federal service.

Al exemplifies the best tradition of the civil service.

Al became budget officer in 1975—the same year that I got on the Appropriations Committee. At the 1990 HUD appropriations hearings—the first year I was chairman after a 14-year apprenticeship—I said,

It would be a lonely day on this side of the table if we didn't see Al's face over there because we know of none who, over the years, has represented the agency in a finer, more honorable fashion—with great integrity and common sense.

Next year will be a lonely year.

In this country it has been fashionable in some quarters over the years to insult the Federal bureaucracy and to suggest that civil servants aren't worthy and that our Government is staffed with incompetents. That's one of the popular myths of this Nation. But if I were asked to pick out a single individual who best represents the civil service and dedication to this Nation and the agency which for many years he or she has served, I would have to pick Al.

He has not been just a good budget officer—he has been a great budget officer. He knows the Department as well as—if not better than—anyone in this town. I have been consistently impressed with his expertise, knowledge, judgment, and advice on appropriations and operations at the Department.

Al's knowledge and testimony at appropriations hearings has been invaluable. He does know all of the answers.

It has been his dedication to work—to the numerous details in Federal budgeting that have been so important. Under his direction, the Department has developed the best justifications that our subcommittee receives. While that may not seem like an important thing to some of you, it has greatly facilitated the subcommittee's work—and reflects the work of a true professional.

I know I speak for every member of our Appropriations Subcommittee, past and present, when I say that Al Kliman is the model public servant. I can think of no higher tribute than quoting the late President Kennedy's remarks on Federal service delivered in his first State of the Union Message.

Let the public service be a proud and lively career and let every man and woman who work in any area of our national government, in any branch, at any level, be able to say with pride and with honor in future years: "I served the United States Government in that hour of our Nation's need."

If that quote applies to anyone it applies to Al Kliman.

Al, we are going to miss you. I wish you and your wife, Phyllis, many years of happiness and good health.

Best of luck to you.

BIOGRAPHY OF ALBERT J. KLIMAN

Albert J. Kliman is the Director of the Office of Budget at the U.S. Department of Housing and Urban Development. He has held this position since 1975. As the Departmental Budget Officer, he is responsible for all phases of budget formulation and execution within the Department. He directs the Departmental Budget Office and provides advice to the Secretary, Under Secretary and other top officials, taking action as necessary to carry out decisions; and maintains liaison with the Congressional Appropriations Committees, the Congressional Budget Office, the Office of Management and Budget, and other Federal agencies.

Mr. Kliman came to HUD in 1966 and has held a number of key positions in the Office of Budget. He began his Federal career in 1957 when he joined the Department of Agriculture's Office of Budget and Finance.

He is a native of Boston, Massachusetts and received his A.B., cum laude in 1955 from Harvard University. In 1960, he was awarded a fellowship to the Harvard Graduate School of Public Administration and received his M.P.A. in 1961.

Mr. Kliman is currently a member of the Board of Directors of the American Association for Budget and Program Analysis (AABPA) and has also served on the Board of Directors of Public Financial Publications, Incorporated. He has also been Chairman of the Budget Officers Conference (BOC), an organization of all Federal Departmental Budget Officers. He is a recipient of the AABPA Distinguished Service Award and has been given the ranks of Meritorious and Distinguished Executive by the President.

Mr. Kliman has been married to his wife, Phyllis for over thirty years. They have two grown children, Iris and Stuart. He is also active in a variety of voluntary organizations.

THE 75TH ANNIVERSARY OF THE CARMEL-BY-THE-SEA VOLUNTEER FIRE DEPARTMENT

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. PANETTA. Mr. Speaker, I rise today to pay tribute to the Carmel-by-the-Sea Volunteer Fire Department on the occasion of the 75th anniversary of its July 16, 1915, founding.

Since its beginning, the volunteer fire department has been serving the residents of Carmel-by-the-Sea with dedication and selflessness, protecting the community against the ravages of fire and disaster.

Established in 1915, 1 year prior to the city of Carmel's incorporation, "Carmel Chemical No. 1" was reorganized as a legal fire department in April 1916. The Carmel-by-the-Sea Volunteer Fire Department has grown from a small volunteer department with little training or equipment to a modern municipal fire department ready for the challenges of the 21st century.

In the 75-year history of the Carmel-by-the-Sea Volunteer Fire Department, there has been a continuity of tradition which is highlighted best in a listing of the department's fire chiefs. Since the founding of "Carmel Chemical No. 1" there have been only nine fire chiefs, and just four of them have been regular paid department heads. The department's last volunteer fire chief, Vincent Torras, was replaced in 1956 by the first paid fire chief, Robert Smith. Subsequent to 1956, the department has operated as a combined paid volunteer force, but the volunteers have continued to be an especially active part of the organization.

Mr. Speaker, I ask my colleagues to join me now in congratulating the Carmel-by-the-Sea Volunteer Fire Department for its 75-year commitment to serving and protecting Carmel and its surrounding area. It is with great pride and respect that I pay tribute to the truly outstanding Carmel-by-the-Sea Volunteer Fire Department on their 75th anniversary.

"THE CIVIL WAR" PBS EPIC

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. SCHEUER. Mr. Speaker, on this last day of the week during which PBS has been airing the epic documentary "The Civil War," I would like to urge my colleagues to reflect on this crucial period of our Nation's history and to highlight some developments which occurred on this day, September 28, 1864.

Like all wars, the Civil War had its relatively quiet days. On September 28, 1864, no major battles were fought, although skirmishes occurred in Mississippi and Tennessee. There were no military exchanges on the principal fronts at Petersburg and Atlanta.

Instead, in an effort to fortify his Confederate forces, President Davis made some alterations in his army's command posts. He sent Lt. Gen. Hardee to command the armies of South Carolina, Georgia, and Florida. Davis also wrote in a letter that he was considering putting Beauregard in charge of an overall Western Department. All of this was an effort by President Davis to fortify the western portion of the Confederacy which had been dangerously penetrated by Union troops.

While I have mentioned just a few of the events and personalities that were part of the Civil War era, collectively, all of the events and individuals of this period helped in some way to shape our Nation as we know it today.

"The Civil War" series, airing this week, has given us an unprecedented opportunity to step back in time and see and hear the terror as well as the courage and sacrifice of individual Americans touched by that war. It is an affirming tribute to the good which public television can do for the Nation and the contribution which it makes to preserving and teaching us about our history as a people.

LETTER CONVEYS DEPTH OF FEELING ABOUT THE AMERICAN FLAG

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. SOLOMON. Mr. Speaker, a constituent recently sent me something that reminds me how out of touch this body often is with the American people.

Mr. Henry W. Haase of Catskill, NY, sent me a letter his sister-in-law wrote to syndicated columnist George Will last summer regarding the flag desecration issue. I've read few more moving letters in my life.

Mrs. Margaret Haase's late husband, Arthur M.F. Haase, was awarded a Purple Heart while still a teenager serving in the European theater of World War II. He was, according to this widow's account, a man who rarely talked about his wartime experiences, but who loved his country very much. And its symbols. When he died, he asked that "Taps" be played and that the Stars and Stripes cover his casket. That flag has an importance to Mrs. Haase deeper than anything words can express. Are we going to ask Mrs. Haase to be consoled by the legalistic reasoning of the five U.S. Supreme Court Justices who ruled that flag-burning is constitutionally protected free speech?

I would hope not. But neither those five judges nor many Members of the Congress seem to have a clue about the emotions stirred by flag desecration. They cannot understand why a healthy society with confidence in its values can and must proscribe certain activities as forbidden.

Mr. Speaker, I am pleased to place in today's RECORD Mrs. Haase's letter. And while I hope many Members will take the time to read it, I'm sure every single Member has in his files many letters just like it.

140-25 DONIZETTI PLACE,
Bronx, NY, June 23, 1989.

Mr. GEORGE F. WILL,
The Daily News,
220 East 42d Street, New York, NY.

DEAR MR. WILL: After reading your column "Flag-Burning OK sears a columnist" in the Daily News today, I feel that I too must protest that the Supreme Court ruling that it is "okay" to burn the American Stars and Stripes in protest is to me quite disgusting and insulting to all the men and women who fought and died for this flag which is the symbol of freedom, peace, understanding and integrity and all things that make up the American way of life we all hold dear. True, freedom of speech is one of the basic laws of our land, but to desecrate a flag to protest whatever it is being brought to the attention of the public (for whatever reason attention and approval is necessary) causes a dark cloud to hover over the country and over the graves of all our men and women in the Armed Forces who served, and are serving, proudly and valiantly in times of peace and war to protect the people and the land we all love and take pride in. The American Flag is a symbol of that love and pride and I and many others still feel a chilling tingle of love and pride when we see it flying, or being carried down a street in a parade or covering a casket as an indication of honor and appreciation to men and women who have served their country well. This does not only apply to the Armed Services, but to all those who serve in offices or work where our American Flag is a part, such as police, firemen, etc.

And what of the men and women, our veterans of wars past, who must read of this ruling in their veterans' hospital beds, or have it read to them, have their efforts to protect all of us gone for naught. I truly hope that the VFW, American Legion and JWV groups will fall into step and endeavor to eliminate this horrendous ruling. My late husband, Arthur M. F. Haase was a soldier who willingly fought for his country as an 18 year old back in 1943 and came away with a Purple Heart of which he was very proud. He was in England, France and Germany, and although he never discussed his wartime memories or nightmares with me, he saw, I would imagine, quite a bit of heartache and hurting and damage to peoples lives. His sense of pride in the Stars and Stripes was very strong, and he respected it as a symbol of all the good he fought for. When he passed away awhile back he had his Stars and Stripes covering his casket, he heard Taps played in the National Cemetery where he rests, this was his wish. He and all the other soldiers, sailors and marines, male and female, must be looking down from the Heavens wondering what the people in this country are doing that they would allow such a ruling to be in existence.

My question now is, What do I do with the American Flag that covered my husband's casket, given to me as his widow? Should I treasure it as he would if he were here, or should I take it out and burn it to bring attention to my protest . . . I think not. Or should I just close my heart and eyes and accept this ruling with no protest? No, I will treasure it and honor it as an American wife who honors her husband's memory, and a woman who loves her country and all it stands for. True, there are some things that need changing, but all in good time.

Sincerely yours,

MARGARET J. HAASE.

TURKEY: A LESSON IN LOYALTY TO THE WEST

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. KOSTMAYER. Mr. Speaker, I rise today to applaud the Republic of Turkey and President Turgut Ozal for their firm stand against the Iraqi invasion of Kuwait. Turkey condemned the invasion within hours of its occurrence and was the first regional state to support the United Nations sanctions.

Turkey quickly took action and promptly shut down the pipelines that carried over one-half of Iraq's oil exports. Turkey froze Iraqi and Kuwait assets and stopped all trade with Iraq. Other countries have taken similar steps to implement the United Nations resolutions, but Turkey's actions are particularly praiseworthy because they will cost Turkey so dearly. By closing the oil pipleines, Turkey not only lost almost $300 million in oil related pipeline fees, but also the source of more than 60 percent of its domestically consumed oil.

Moreover, Turkey is an important Iraqi trading partner with regard to products other than oil. Historically, over 10 percent of Turkish exports have gone to Iraq, ranging from foodstuffs and other consumables to construction materials and petrochemicals. The Turks also supplied such critical items to Iraq as spare parts and tires, and losing the Iraqi export market will cost Turkey nearly $2 billion a year. In addition, Turkey is currently owed large sums by Iraq for goods and services rendered in previous years, and repayment of these sums has been placed in doubt by Turkey's courageous action.

Turkey's support for the United States and the United Nations is not without military risk as well. Turkey shares a border with Iraq, and past relations between the two countries have been difficult. Turkey's Southeast Anatolia Project, consisting of dams and hydroelectric powerplants on the Euphrates and Tigris rivers, has become a source of friction between the two countries. When in 1988 Saddam Hussein used ground assaults, artillery, air bombardments and poison gas against his own people, Turkey gave refuge to more than 100,000 Iraqi Kurds who fled across the border, and many remain in Turkey despite Saddam Hussein's offers of amnesty. When the gulf crisis is resolved and the multinational forces leave the region, Turkey will still have to live with its neighbor Iraq.

Mr. Speaker, the events following Iraq's invasion of Kuwait have shown clearly that Turkey has an important role to play among the world's free nations, among the Western alliance, and as a bulwark against radicalism in the Middle East. The future of our security relations and interests globally depend not just on how we treat our enemies and our adversaries, but also on how we treat our friends and allies. Turkey is just such a friend and ally and is teaching us a lesson in loyalty. I hope that we remember this lesson when we consider issues relating to Turkey in the future.

INTRODUCTION OF A RESOLUTION DESIGNATING OCTOBER AS "NATIONAL SEAFOOD MONTH"

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. PANETTA. Mr. Speaker, I rise today to introduce a House joint resolution designating October 1990, as "National Seafood Month." I am very pleased to introduce this legislation in conjunction with the Morro Bay Harbor Festival which will be held in the small fishing village of Morro Bay, CA, the first weekend in October.

It is my hope and expectation that this resolution will not only help to promote the fishing industry but will serve as a tribute to the dedicated, hard working fishermen of this Nation and particularly to those that have cultivated Morro Bay into one of California's most important fishing centers.

The U.S. fishing industry is an important part of not only our Nation's heritage but also our Nation's commerce. The most recent figures available from the National Marine Fisheries Service show that the commercial fishing

industry contributes more than $16 billion to our Nation's gross national product and employs more than 350,000 workers in the United States.

Furthermore, as the health consciousness of this Nation grows, more and more Americans are turning to seafood to take advantage of the benefits of this delicious nutrient-dense food. The growing popularity of seafood is shown by the fact that the per person consumption of seafood in the United States has been steadily increasing over the past 10 years and reached an alltime high in 1989.

In recognition and celebration of all the good things the seafood industry brings our Nation, the city of Morro Bay, CA, will hold its Ninth Annual Morro Bay Harbor Festival the first weekend in October. The waterfront festival will celebrate Morro Bay as one of the few natural harbors and active fishing villages on the west coast by showcasing the seafood and fishing industry of the local area.

Mr. Speaker, in the city of Morro Bay, fishing is not merely a business, but a way of life. Many of the families who live and work there are descendants of the fishermen who pioneered the Morro Bay fishing industry back in the 1940's, fishing the same waters traveled by their fathers and grandfathers.

This is true of fishing communities across the United States and it is on behalf of these fishermen and in recognition of their dedication to this important industry that I introduce this resolution. I urge my colleagues to join me in this effort by supporting this resolution. A copy of the resolution follows:

H.J. RES. —

Whereas Congress recognizes that seafood is a "nutrient-dense" food offering large quantities of protein and significant amounts of vitamins and minerals, without high levels of fats and calories;

Whereas the per person seafood consumption in 1989 of 15.9 pounds represents an alltime high for the United States and illustrates a steady increase in seafood consumption over the past 10 years;

Whereas the commercial fishing industry employs more than 350,000 workers in the United States;

Whereas the most recent figures show that commercial fishing industry contributed more than 16 billion dollars to the nation's annual gross national product;

Whereas October has been designated as "National Seafood Month" by the National Fisheries Institute;

Whereas the 9th Annual Morro Bay Harbor Festival will be held the first weekend in October to celebrate one of the few natural harbors and active fishing villages on the west coast by showcasing seafood, the fishing industry and the diversity of Morro Bay marine life and coastal lifestyle: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October, 1990, is designated as "National Seafood Month", and the President is authorized and requested to issue a proclamation calling on all Government agencies and the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

AWARD WINNING ESSAY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. SCHEUER. Mr. Speaker, the Pelham Parkway Post No. 769, Jewish War Veterans of America recently sponsored an essay contest on "What the Holocaust Means to Me." The contest was offered to several local high school graduating classes. Mr. Speaker, at this time I would like to submit the outstanding entry offered by Ms. Joi H. Merrill of Christopher Columbus High School, Bronx, NY.

WHAT THE HOLOCAUST MEANS TO ME

(By Joi H. Merrill)

The Holocaust is a term applied to the systematic execution of over six million European Jews by the German Nazi Regime from 1941-1945. That is the brief way that Webster's Encyclopedia describes this monstrous event. However, when the word Holocaust is mentioned to me I cringe because I know of the suffering my people went through. My grandmother painted a very graphic picture of the Holocaust for me, since many of her relatives were killed there. It is her narrations which are the basis of my essay.

My grandmother was born in Europe although the exact country is unknown because of the constantly changing boundaries. She was lucky enough to escape and come here at a very young age. Unfortunately, many of her relatives were not so lucky and remained in Europe. Until World War II, not much was heard from these overseas relatives.

After the war, many relatives were able to "escape" and come to America. Along with these survivors came the horrid stories of the concentration camps, the pain endured by all, and the tragic escapes tried by many of them. When my grandmother speaks of the gas chambers and the numerous experiments done to women and children, her eyes fill up with tears and she grabs on to my hand. She lost so many friends and relatives. Most were killed but some escaped. Others were never heard from again so it is unsure what eventually happened to them.

The Holocaust is something that has stayed in my grandmother's heart for many years and she has passed all that she knows on to me. After hearing the stories and reading many books, I consider it to be one of the most horrible things to ever happen in not only Jewish history but also in world history. Millions of people were killed for the fact that they were not duplicates of what the Nazis considered to be the superior race. If you didn't have blond hair and blue eyes, you didn't deserve to live. The thing that angers me is the stupidity of the people who believed their leader, Adolf Hitler, since he did not fit his own description of the Master Race.

The Holocaust will always be alive in me. Like my grandmother, I will pass my knowledge of it down to my children. It is a good lesson to be taught to show what comes about when there is hatred and prejudice in the world. The Holocaust is a major event in our history not only because of all the deaths it caused, but because it shows what happens when too much power is given to one person.

ALBANY (NY) TIMES-UNION CREDITS RONALD REAGAN FOR END OF COLD WAR

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. SOLOMON. Mr. Speaker, the Times-Union of Albany, NY, largest daily newspaper in the 24th District I represent, has written an editorial that should stand as the historical judgment on former President Ronald Reagan.

It rightly gives Mr. Reagan much of the credit for the collapse of communism and apparent end of the cold war that has dominated postwar international relations.

This editorial is a fitting response to those dedicated to recasting the Reagan years as a veritable Dark Ages we barely survived. With great satisfaction, I enter the editorial in today's RECORD.

[From the Albany (NY) Times Union, Sept. 22, 1990]

MR. REAGAN ABROAD

President Reagan's image, multiplied by the press, was shown wielding a hammer with which he was attempting to remove a small piece of the Berlin Wall.

It was a fitting tribute and a fitting triumph for the man who, more than just about any other, was responsible for bringing that wall down and ending the Cold War. For several days the former president relished that glory as he traveled with his wife through Eastern Europe and Soviet Russia.

There are many who would deny Mr. Reagan this credit. Some insist that this so-called end of the Cold War really shows that the U.S.S.R. was never a threat to our security to begin with. Others contend that President Reagan had nothing to do with the collapse of Soviet communism, that, if anything, his militarism prevented the Soviet Union from embarking on a reformist line long before it did.

Anything, it seems, to deny President Reagan his just place in history.

It might be useful to recall that when Mikhail Gorbachev was first crowned, the furthest thing from his mind was of the jettisoning Marxism and all its handiwork: centralized planning, state monopoly of property, strictly limited freedoms. Mr. Gorbachev's initial approach was to increase worker productivity by outlawing alcoholic beverages. That reform did little more than cause a sugar shortage, as Soviets rushed to buy the necessary ingredients for home brew. On the international scene, far from playing the peacemaker in Afghanistan, his first response was to build up the Soviet armed forces in that beleaguered country to a strength he thought would assure victory.

IN COMMEMORATION OF CHILD HEALTH DAY: LESSONS FROM DEVELOPED NATIONS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. MILLER of California. Mr. Speaker, today is National Child Health Day, a day that

should call up celebrations, balloons and Presidential proclamations, but instead, we face a serious health crisis that is taking its toll on the Nation's children.

For decades, the United States made important progress in reducing infant mortality and in improving access to preventive health care, in eradicating childhood infectious diseases, and in promoting technological advances and medical breakthroughs to improve child health. But technology has taken us as far as we can go.

During the 1980's, improvement in the infant mortality rate came to a virtual standstill. Almost 40,000 infants continue to die each year at a rate significantly higher than most Western industrialized nations. An estimated one-third of pregnant women receive insufficient prenatal care. As a result, the low birthweight rate is stagnating. In 1987, the rate reached 6.9 percent—the highest since 1979—and remained unchanged in 1988.

The situation is compounded by new and complex social conditions. Over 375,000 infants are born exposed to illicit drugs each year including 100,000 infants born addicted to crack cocaine. As the select committee learned, comprehensive drug treatment facilities for drug-addicted pregnant women are virtually nonexistent.

Other indicators of child health send warning signals. As many as 55 percent of preschoolers in inner cities remain unimmunized against common childhood illnesses. More than 7 million children do not have access to preventive, routine health care.

This is not surprising given that 9 to 11 million children in the United States are not covered by health insurance of any kind.

Last week, the U.S. Bipartisan Commission on Comprehensive Health Care, more commonly known as the Pepper Commission released their final report "A Call For Action," which addressed the critical problems of health care access and what to do about it. The recommendations are costly, and given the horrific budget debate we are now engaged in, will probably not see the light of day in this Congress. But if we fail to recognize the financial and human sacrifice of doing nothing, the budget deficit today will seem miniscule compared to the losses this Nation will face in the coming decade as a result of our neglect.

Other countries seem to be able to give priority to maternal and child health and still remain competitive in the world marketplace. Last week, the United Nations sponsored the first World Summit on Children, an important gathering of heads of state from around the globe. The United States has much to learn from its world neighbors and the summit provided that forum. We must now hold Congress and the administration accountable for the promises they made to protect the health of the Nation's children.

This past year, the Select Committee on Children, Youth, and Families sponsored two important activities to compare the economic and health status of U.S. children, with youth in other advanced industrialized countries.

First, the Select Committee released a report, "Children's Well-Being: An International Comparison," prepared by the U.S. Bureau of the Census, which presents the most comparable available international data on children from a wide variety of developed nations. The report dramatically illustrates that the U.S. trails other developed nations in the most important indicators of child health, with higher rates of infant and postneonatal mortality, low birthweight, youth homicide, teenage pregnancy, and poverty.

Among six Western industrialized nations, the United States and Australia have more children and families in poverty even after we've provided tax and transfer benefits. And if you're a poor family in the United States, you are more likely to have lower earnings and less likely to receive any Government aid than poor families in other Western industrialized nations. At least 99 percent of poor families with children in the developed countries studied received Government assistance, compared with only 73 percent in the United States.

Among 11 developed countries with comparable infant mortality data available, only Hungary had a higher infant mortality rate than the United States.

Male youth in the United States are more than five times as likely to be murdered than in those other developed nations studied.

The United States has the highest percentage of teenage women who become pregnant. Among the industrialized countries studied, teenage birth rates are almost twice as high in Hungary and the United States than in the countries with the next highest rates.

In an effort to assess and improve U.S. health policy for children and families, the select committee also held a hearing with international child health experts from four Western European countries, Canada, and the United States. The witnesses, all participants in the American Acadamy of Pediatric's "Conference on Cross-National Comparisions of Child Health," shared evidence that United States preschool children are less likely to be protected against childhood diseases and more likely to die from preventable injuries than children in many Western European countries and Canada.

This is not surprising given that the United States does not have a national health program to provide medical care to all of its population, unlike at least 21 other developed nations. Despite this distinction, the United States spends a higher percentage of its gross domestic product on health care than any other industrialized country.

Testimony documented a variety of successful maternal and child health practices and policies that have resulted in better health outcomes for children. I would like to highlight the findings of our hearing.

Our first witness, Mr. Speaker, was Dr. Birt Harvey, who is the president of the American Academy of Pediatrics and is a clinical professor of pediatrics at Stanford University and the University of California in San Francisco.

Dr. Harvey recently played a leading role in organizing the international conference where approximately 150 leaders in child health, business, public policy, education, and philanthropy, discussed the results of recent research of international comparisons of child health.

For years we have known that the U.S. infant mortality rate places us far behind most other developed nations. One of the objectives of the conference, Dr. Harvey told us, was to learn whether our higher infant mortality rate is an aberration or part of a more generalized trend. Therefore, other indicators of child health status were compared at the AAP conference: immunization rates, because they tell us about preventive care; death rates during the postneonatal period—age 1 month to 1 year—because they tell us about access to care for illness; and rates of unintentional injury, because they tell us about public health policy related to such matters as drowning, burns, firearms and motor vehicles.

Dr. Harvey told the select committee that because our large minority population is often cited as a reason for our comparatively poor child health status, presenters at the conference broke down the U.S. data so that white children, as well as the entire population, could be compared. Where possible they used factors other than race to break down the data further. In many instances, even using U.S. figures for white children only, the United States falls behind other countries in child health indicators.

Another explanation that is cited for the disparity in health status measurements is the relative population density of the European countries compared with the United States. For this reason, Norway was among the nations invited to the conference and to our hearing; its population is more rural and more difficult to reach than that of any of our states, yet Norway maintains an excellent outreach and health care delivery system in rural parts of the country.

The purpose of the conference was not just to compare health status but to learn from the comparisons. Do other nations have child health policies? How do they deliver preventative care and acute illness care? How do they manage children who are at high risk—those who are deaf, paraplegic, or developmentally delayed and those at psychosocial or environmental risk? How do they manage the problems of the teenage years? What public health policies directly affect the health status of their children? How do they administer and finance child health services?

Mr. Speaker, we have learned about some interesting programs and policies which might be applicable in the United States. In his testimony, Dr. Harvey discussed several ways in which the health status of our children is inferior and possible reasons for the difference.

First, although the United States has high immunization rates for children entering school, rates among children under age four for diphtheria, tetanus, and whooping cough average 41 percent higher, and for polio, 67 percent higher in many developed countries than in the United States. For example, the DTP immunization rate is 97 percent in the Netherlands and 80 percent in Norway, while in the United States the overall rate is 65 percent and the rate for white children is 69 percent. Similar data can be presented for polio and measles. Is it any wonder that in the past year we have witnessed measles epidemics resulting in the deaths of 40 children?

What can we learn from other developed nations? Dr. Harvey told us that England and Wales are developing computerized tracking

of immunization status among children. The Netherlands links a surveillance system of children's health to birth records. Shortly after birth, parents are given computer cards with dates and locations for receving necessary immunizations. If they fail to show, they are called. If they still fail to show after two calls, a nurse goes to the home.

Dr. Harvey highlighted the declining ability to reduce postneonatal mortality rates in the United States. In 1950, only two countries had lower postneonatal mortality rates than the United States. By 1986, we had fallen to 16th. If one looks only at the white population, we ranked 10th. Using proxies for socioeconomic status of a comparison of normal birthweight babies from higher and lower groups, Dr. Harvey testified that if children in lower socioeconomic groups were to do as well—economically—as those in the highest income group, a 50-percent reduction in preventable postneonatal deaths would occur.

Mr. Speaker, we know that poor children have less access to health care and have poorer health outcomes. Over the years other developed nations have instituted policies that assure access for all children. That may be the lesson for us. We must, as a nation, guarantee access to comprehensive health care for all of our children.

Dr. Harvey concluded by emphasizing that the United States has no comprehensive policy regarding child health. We respond to crises or to pressure from organizations interested in specific diseases, ages, geographic regions, or economic groups of children. The resultant multiple, categorical, non integrated programs only serve to fragment an inefficient system.

What can we learn from these other nations? Dr. Harvey suggested that in addition to studying the specific programs of other nations, we can gather ideas that may help to improve and to integrate our administrative, delivery, and financing systems. We can learn about improving surveillance and data collection and about removing barriers to access to care for all children. As we adopt new programs, each should be integrated into an overall children's policy.

Mr. Speaker, our second witness was Ms. Shirley Goodwin, the General Secretary of the Health Visitors Association, of London, England. Ms. Goodwin provided us with an overview of the home visiting system in England that provides families with ongoing support and guidance regardless of income.

The health visiting service first came in to existence in England during the second half of the last century in response to high levels of infant morbidity and mortality. Initially established in some northern English cities, by the beginning of this century health visiting was provided in virtually all areas as part of the material and child health services of the local borough and county councils. In 1974, the service moved from the local authorities and became part of the reorganized National Health Service.

According to Ms. Goodwin, health visitors are registered general nurses with additional public health training obtained during a 1-year university or polytechnic-based course. Many also have obstetric or midwifery qualifications.

Health visitors provide health promotion and preventive health care for the residents of each local population. The traditional maternal and child health focus of the service is still reflected in the priority given to families with young children, although preventive work with adult client groups, and particularly elderly people, has become increasingly more significant in recent decades.

Each health visitor has the responsibility for the families living within a particular geographical area or registered with the general practitioner with whom she works in association as a member of the primary health care team. Her workload consists of home visits to, and other individual and group contracts with, the families on her patch, as well as other interventions such as local health education campaigns, the organization of support groups and involvement in community activities.

Statutory notification of every birth to the district health authority ensures that health visitors are informed, usually within 3 or 4 days, of new babies in their areas. They visit every home on or around the 10th day after birth to offer such information, advice, health education and social support as may be necessary and appropriate. Health visitors have no legal right of entry but, according to Ms. Goodwin, few are not welcomed, since the service is well-known, universal and therefore nonstigmatizing.

Subsequently, a program of home visits by the health visitor, and the family's attendance at child health clinics provided in each neighborhood enable educative and supportive contact to be maintained througout the first years of life. Until responsibility for preventive child health care is handed over to the school nurse at 4 to 5 years of age, health visitors make visits on request, on an unsolicited and routine basis, or to undertake specific aspects of the local child health surveillance program, encourage immunization, and offer age-related advice in relation to nutrition, child safety, etc.

Families at increased health or social risk or with special needs, receive extra attention from health visitors. While social workers—employed by the local social services departments—have statutory responsibility for matters such as child care, disability and child protection, it is usually health visitors who maintain the long-term and continuing relationship with families and who often have the most accurate and extensive knowledge of their lifestyles and circumstances.

No charge is made to the users of the health visiting service. It is financed from general allocations made by the Government to health authorities, and each health authority determines the relative level of expenditure on the staffing of the service. Apart from salaries, the major cost of providing the service arises from health visitors' transportation expenses.

Ms. Goodwin told the select committee that because the visiting service has existed for over a century and is available in every area as part of the National Health Service, it has not been possible to mount properly controlled evaluations. However, she told us, some research has been undertaken by manipulating aspects of the service in one area or with a specific group of clients, and then comparing outcomes where clients have continued to receive the usual service. Such studies indicate increased uptake of home safety advice, improved immunization and breastfeeding rates, and reduced hospital admission and injuries to children known to be at increased risk of child abuse.

While the cost-benefit of health visiting may be difficult to show and the service is considered to be a relatively expensive one, there is nevertheless considerable support for the continuation of its peventive child health role. In Ms. Goodwin's opinion, health service managers and public health physicans recognized the value of a home visiting service which not only provides routine supportive contact for young families but which also, through this contact, monitors the health and welfare of children—particularly in those famlies having difficulty coping—and offers general encouragement in the uptake of services, such as immunization.

Pediatricans and general practitioners value the expertise health visitors possess in normal child health, growth, and development and their consequent ability to recognize deviation from the norm and take action. Parents and consumer organizations value access to an advisory and supportive service which is offered to all from the highest to the lowest in the land, the provision of which requires no demonstration of special need or difficulty. While there is no entitlement in law to any part of the National Health Service, people in Britain do seem to regard the health visiting service as something to which they have a right.

Ms. Goodwin testified that unfortunately, health visitors live in constant fear of the profession's imminent abolition, realizing that their service is costly and that its outcome is difficult to demonstrate in cost benefit terms. The increasing financial constraints placed upon health authorities over the past decade threaten low-profile preventive services, such as health visiting, more than high-profile acute care, such as hospital-based services.

Following Ms. Goodwin, Dr. Barry Pless of the Department of Pediatrics and Epidemiology at McGill University, in Montreal, Canada, described the features of what many people believe to be the world's best health care system.

Canada has not yet developed a comprehensive national child health policy, although recently a call for the creation of such policy was made by the Canadian Institute of Child Health, which Dr. Pless chairs. In spite of this serious shortcoming, according to Dr. Pless, Canada's achievements are certainly noteworthy, especially by comparison with those of the United States.

Data compiled by Dr. Pless and based on vital statistics reports from the United States and Canada for the period from 1960, which covers the decade prior to the introduction of health insurance in Canada, to 1986, show that the net improvement in child death rates was 10 percent higher for Canadian children under 1 year of age, than for United States children, and 9 percent better for those 1 to 4 years of age, about 15 percent better for those 5 to 14 years, and nearly 12 percent better for those 15 to 19 years.

Dr. Pless reminded us that when these percentages are translated, they amount to thou-

sands upon thousands of lives that could have been saved. These trends, he added, are not specific for all causes of death, and they're especially marked for deaths due to injuries and, not surprisingly, homicide.

In the face of these figures, and in view of the fact that in most other respects the delivery of medical care, both in terms of quantity and quality is remarkably similar in the United States and Canada, it seems essential, he argues, that we ask why these differences exist.

Dr. Pless told us that as a physician and as a parent, he is convinced that the differences have much to do with Canada's national health insurance program which provide full coverage for all medical and hospital expenses at no direct cost to the patient, or in this case, the family. The program is financed out of general tax revenues at a percentage of the gross national product considerably lower than in the United States.

As a scientist, however, Dr. Pless confessed that he could not prove that Canada's insurance programs are directly responsible for these differences. He admitted that there are many other factors that need to be considered, but testified that the health insurance programs are unquestionably a critical starting point.

Dr. Pless cited two studies from McGill University, one of which he coauthored, which irrefutably demonstrate that one critically important effect following the introduction of medical insurance in Quebec and, no doubt in all of Canada, was to narrow the gap in access to and use of services between the rich and poor.

Dr. Pless told us that whenever he presents these figures to United States audiences, he is reminded that the United States has a larger black population and many people living in poverty, than Canada. His response to these concerns is that although it is certainly true that the proportion of Canadians who are Inuit or status Indians does not approach the proportion of Blacks in the United States the proportion of families who live in poverty is comparable.

Official Canadian Census figures put the proportion of children living in poverty at 20 percent, a figure not too different from our own. Dr. Pless told us that even if he were to concede that the poverty differential was much greater, the argument for comprehensive health insurance for children is strengthened. The more poor a nation has, the more compelling the case for universal health insurance.

Equally compelling, however, are the effects that are being shown for the poor and even the middle class.

Dr. Pless referred to evidence that the Canadian system has resulted in more effective control of medical care costs than in the United States.

Mr. Speaker, as Dr. Pless reminded us, the bottom line is not an economic argument, it is a simple plea based on the test of what anyone of us, would want for our own children, and that is the certainty that they would never be denied access to medical care that could prove critical, whether measured in terms of life and death, the reduction in morbidity, or the prevention of disease. In his view, and the view of most Canadians, no child should be denied the full benefits of what medicine has to offer because of inability of his or her parents to pay for medical care.

Our fourth witness, Mr. Speaker, was Dr. Michel Manciaux who is a professor of Public Health and Social Pediatrics at the University of Nancy, France. Dr. Manciaux spoke to the Select Committee about early schooling and health care in France.

As described by Dr. Manciaux, the French preschool day-care programs are available for infants and young children until the child enters compulsor elementary school at age 6. Day care in France is described as "a blend of child care, education and health services based on free full-day preschool programs, subsidized day-care centers and licensed care in private homes for infants and toddlers."

Dr. Manciaux testified that 90 percent of French children 3 to 5 years old particiapte in state-run preschool programs which offer language, arts, exercise, crafts and play. The system also features intensive training and fair compensation for preschool teachers and others who take care of young children, a free preventive health program for all young children, and attention to the architecture and safety of day-care centers.

Dr. Manciaux described the systematic health care provided for all children who attend preschool. French children receive a health checkup from the Maternal and Child Health [MCH] team—doctor, child nurse, and psychologist—which includes a physical exam, hearing and vision screening, and evaluation of psychomotor and language abilities.

The MCH team discusses the child's adaptation to school, difficulties, and achievements with the school team, and also meets with the child's parents regarding the results of the examination and to address parents' perceptions of their child's health care. Parents are advised to consult a doctor if necessary and the MCH team provides reminders to parents, when needed, to ensure that followup is performed. According to a study cited by Dr. Manciaux, follow up occurs in about 80 percent of all cases.

Once a child enters school, a school health team functions similarly to the preschool MCH team. School health team examinations are primarily aimed at screening for developmental abnormalities that could compromise the school achievements of the child. Like the examination at ages 3–4, this one is free of charge and, when needed, the followup examinations, care, and rehabiltiation are paid by the family and reimbursed through the Social Security system.

Dr. Manciaux concluded by telling the Select Committee that this child-health care system is one which French families are strongly attached to. It partly bridges the gap, far too often observed and possibily detrimental for the child's health and development, between perinatal and neonatal care provided in all developed countries and the school health system. This key period of early childhood deserves our interest and endeavor.

Mr. Speaker, the next witness before the select committee was Dr. Sverre O. Lie, professor of pediatrics at the University Hosptial in Oslo, Norway. Dr. Lie shared with us the history and experiences of Norway's successful locally based rural health care delivery system.

From the beginning, 350 years ago, medicine was socialized in Norway, in the sense that doctors were paid by the Government simply because people could not pay themselves. With the adoption of the national Norwegian Health Act of 1860, Norway confirmed the basic principle that health services should be adapted to the economic and social conditions of the local community and should be, in principle, free to all citizens.

Dr. Lie testified that free access to health care is regarded as a fundamental human right in the Scandinavian countries. A small fee is paid while visiting primary health care and outpatient clinics, but hospital services are otherwise free of charge for every citizen.

Public expenditures on health services account for 6.8 percent of the gross national product in Norway. This figure has been rather stable through the 1980's. The total health budget in 1988 was US $69.2 million.

Public administration in Norway functions today at three levels: Central government services, regional county administration and local government in the communes.

According to Dr. Lie, during the Norwegian health debate during the last decade, there has been a growing commitment to decentralization, with important political decisions decided at the local level and tailored to people's needs. The local municipality, through its elected council is responsible for drawing up commune health plans and for running primary health and social services. The responsibility for the care of elderly and disabled persons belongs to the local commune.

Preventive pediatrics is also a responsibility of the local communities. A law which passed the Norwegian Parliament in 1972, defines access to preventive pediatrics as a fundamental human right comparable to education.

The law emphasizes that there shall be an examination by a physician in the neonatal period, at 6 weeks of age, 6 months, 12 months, 24 months, and 48 months of age. The well-baby clinics are administratively run by a specialized nurse, who sees the children regularly—monthly the first year—monitors growth and development, and gives additional counselling on health promotion, nutrition, and mental hygiene. All vaccinations are given in these clinics. According to Dr. Lie, the attendance rate for these well-baby clinics is more than 90 percent. These clinics are also used for health courses for parents-to-be and other preventive work and health promotion.

The cost of these health stations are the responsibility of the local community, but is relatively minor. In one affluent community outside Oslo with 80,000 inhabitants the total cost in 1988 was US $1.5 million. At the national level, a rough approximation would indicate that the total cost of preventive pediatrics is about $75 million—or $18 per capita per year.

Preventive health services for children are also provided in the schools, free of charge to the families. According to Dr. Lie, however, this service will probably be reoriented toward risk groups and focussed on health education, lifestyle behaviors including smoking, alcohol use, and prevention of sexually transmitted diseases and unwanted pregnancies.

Mr. Speaker, it is of interest to note that in Norway, between 1971 and 1988, child mortality rates from disease and injury have declined for all age groups. Dr. Lie concluded that while it may be difficult to prove that preventive pediatrics plays a role in these trends, the major educational and health promoting activities within the well-baby clinics and school-health services, probably play a major role.

Mr. Speaker, following Dr. Lie, our next guest was Dr. Hans P. Verbrugge, the medical officer of Maternal and Child Health Care in the Department of the Chief Medical Officer in Rijswijk, Netherlands. Dr. Verbrugge described an innovative system of pre- and post-natal care for mothers and children.

Dr. Verbrugge reminded the select committee that health status is not determined by a single factor, but is the result of determinants such as economic status of the population, the attainability of health care, and the people's knowledge of health and health-influencing behaviors.

In every country, the present health status of the population and health care system have to be viewed an historical context. The preventive health care system of the Netherlands started in the beginning of this century, fighting against high infant mortality. Well-baby clinics were organized by pediatricians and private organizations to teach parents about adequate infant feeding, especially at a time when breastfeeding was declining. Mothers were taught how to protect and even improve the individual health of their babies.

In that period, people in the Netherlands also discovered that even in the prenatal period it is possible to improve the health status of the mother and her unborn child. Currently, more than 95 percent of Dutch pregnant women receive 10 to 15 prenatal care visits with the family doctor, the midwife and—when pathology is suspected—the obstetrician.

After the Second World War, well-baby clinics became increasingly popular. The district nurse, informed by the local birth register of the pregnancy, conducts a home visit during the neonatal period. The nurse invites the mother to visit the well-baby clinic, and more than 95 percent of the mothers do so, with an average of 10 visits in the first 15 months. There is no obligation whatsover, nor is there any financial stimulus.

Visiting the well-baby clinics is completely voluntary. Free access and the absence of financial or organizational barriers are considered essential. Nurses and doctors provide free advice. Well-baby clinics are situated in the surroundings near or within local neighborhoods.

Dr. Verbrugge also discussed another major component of the Dutch system, the partnership between well-baby clinics and the immunications program; most of the DTP-polio and MMR immunizations are given in the well-baby clinics. This relationship, argues Dr. Verbrugge, explains the high immunization rate of Dutch children; 94 percent of Dutch babies receive 4 injections of DTP-Polio in the first 15 months. The MMR coverage is also 94 percent at this age. There is no legal obligation to take part in this immunization program. Participation is on a voluntary basis and free of charge.

Preventive health care is fully paid by compulsory national insurance law, covering everyone living in the Netherlands. Access for mothers and babies is free of charge and the total costs are about U.S. $100 million, about $125 per child per year. Additionally, the costs of the immunization program are $17 million per year, or an average of $13 per injection, again free of charge for the parents.

Dr. Verbrugge concluded his testimony with a reminder that free access to the health care system—pre- and post-natal—can be considered an investment, resulting in lower medical costs and improved health of America's children.

Mr. Speaker, the final witness before the select committee was Dr. C. Arden Miller, professor of maternal and child health at the School of Public Health of the University of North Carolina at Chapel Hill. Dr. Miller provided a summary of the AAP Conference on Cross National Comparisons of child health and referred to international data that he and his colleagues have been compiling.

Two years ago, a group at the University of North Carolina conducted a study of 10 Western European countries that had better infant mortality rates than the United States. The purpose of that study was to determine exactly what kinds of supports and services they render. A continuing study of those same countries is underway in order to determine the services and supports available to children, and the status of children's health.

Citing high U.S. infant mortality rates, Dr. Miller identified factors that appear to reduce infant mortality rates in other countries, including: reduced unintended pregnancies; consistent participation of pregnant women in early and continuous prenatal care that is available without financial barriers; linkage of maternity care to comprehensive social and financial benefits that enable pregnant women and new mothers to protect their own well-being and to nurture their infants; and careful monitoring of pregnant women and newborn infants for social or medical problems that require special attention, and easy access to the indicated supports and services.

Dr. Miller testified, however, that while we've given much attention to the high infant mortality rate in the United States, mortality rates are higher for children in every age group through age 19 than in most of the countries under study.

In the age group 1 to 4, the chances of death in the United States are 1.3 to 2 times as great as they are in other Western European countries. United States child mortality rates are highest in the 1 to 4, and 15 to 19 age groups.

Deaths in the 15- to 19-year-old age group are largely associated with violence, largely by firearms. Teenage homicide deaths have increased by 31 percent since 1986. The extent of such violence is unique to the United States.

In the 1 to 4 age group, interestingly enough, the excess deaths also relate primarily to injury. The leading causes of death for these children are burns and automobile-related injuries. According to one study, Dr. Miller testified, 65 percent of child fatalities from burns were associated with a care giver who was absent, inattentive, inebriated, or bedridden. More than half of automobile-related deaths to children ages 1 to 4 occur to pedestrians and cyclists, often in driveways and parking lots, rather than inside the cars.

Dr. Miller told the select committee that 7 to 12 percent of U.S. children have no regular source of medical care. Another 16 to 34 percent identify an institution such as a clinic or hospital emergency room as their primary source of care. These locations, he added, seldom provide comprehensive well-child care including developmental evaluations, immunizations, and anticipatory guidance.

Dr. Miller noted immunization rates are a useful proxy indicator of children's involvement in routine preventive care. U.S. immunization rates for very young children are much lower than in the European countries. Dr. Miller testified that while the data from European countries indicate immunization rates of 90 percent or better, U.S. data reveal that only one-half to two-thirds of our young children are completely immunized.

Based on immunization status, it can be assumed that about one-third to one-half of preschool-age children are participating in some kind of well-child medical supervision. Beyond that, Dr. Miller testified, if they do have a regular source of medical care, it is apt to be in the emergency room or an outpatient department that has no continuing responsibility for children and often does not provide them with adequate services.

Dr. Miller reminded the select committee that accurate immunization data of U.S. children are elusive because national surveys conducted by the Centers for Disease Control were discontinued after 1985. He told us that while nearly all States require evidence of immunization at the time of school entry, preschool-age children and young adults are particularly vulnerable to these diseases.

Dr. Miller went on to discuss the relationship of poverty rates to medical care access. Dr. Miller argued that it would not be hard to get medical experts to agree that if anything could be done to significantly improve children's health, it would be to reduce poverty rates. Poor children with Medicaid coverage are only 4 percent more likely to see a physician than poor children without Medicaid.

Poverty is apt to be more severe in the United States. According to one study cited by Dr. Miller, 3½ times as many U.S. children were in the lowest 75 percentile of poverty, than children in other countries. The differentials were not eliminated by disaggregating data by race; the poverty rate of white children in the United States was higher than the rate for all children in the other European countries studied.

Every country that testified before the select committee has mechanisms for alleviating poverty, according to Dr. Miller. Our mechanisms work only 50 percent as successfully as in the European countries, and are means-tested, rather than universal.

Dr. Miller also noted that other countries more consistently provide readily available programs of care for chronic illness and handicapping conditions than does the United States.

Adolescent pregnancy, abortion, and child bearing rates are also significantly higher in the United States than in most Western nations, in spite of available evidence that shows the age of onset of sexual activity to be about the same in all of those countries.

What are some of the themes that seem to be common in other nations' approaches for improving child health? According to Dr. Miller, no child in these countries needs ever ask where they will get care, or who will pay for it. They are all automatically enrolled, ordinarily in two systems of care, one to assure routine screening, immunization, well-child services, and another for consultation and curative care.

In addition, Mr. Speaker, provision of consistent, equitable, uniform access to health care without means testing and without any payment at the time of delivery of services, are the basic tenets of the health care systems Dr. Miller studied.

According to Dr. Miller, the process of means testing takes much longer than if one were to do a thorough medical examination. Dr. Miller testified that we work very hard to keep people out of our systems of care, while other countries work very hard to incorporate everyone in their systems of care.

Dr. Miller concluded his testimony by reminding us that we still have enormous needs to meet, and that the United States still has not established a national priority to serve the needs of our children.

In conclusion, Mr. Speaker, I want to thank you for this opportunity. I hope that the valuable cross national information presented by the select committee report and hearing will help us to assess and improve our own policies to enhance the social, economic, and health status of U.S. children and families. A complete factsheet from the hearing "Child Health: Lessons from Developed Nations" follows:

CHILD HEALTH: LESSONS FROM DEVELOPED NATIONS

FACT SHEET

Millions of U.S. children lack health insurance and are less healthy

Unlike 21 other developed nations, the United States does not have a national health program which provides medical care to virtually all of its population. (U.S. Department of Health and Human Services, 1987)

In 1987, 37 million non-elderly Americans had no health insurance. Of these, more than 12 million were children, a 14-percent increase since 1981. (Swartz, 1989; American Academy of Pediatrics, 1989)

Babies whose parents have no health insurance are 30 percent more likely than those from insured families to die or be seriously ill at birth, according to a study of more than 100,000 births in the San Francisco Bay area. (Braveman, 1989)

Uninsured low-income children receive 40-50 percent less physician and hospital care than low-income insured children. (Rosenbaum, 1987)

U.S. health system more costly than in comparable nations

In 1984, the U.S. ranked highest in total health expenditures as a percent of gross domestic product (GDP) among 23 OECD countries, including Western Europe, Australia, Canada, and Japan. The United States allocated 10.7 percent of its GDP to health expenses compared with 8.5 percent in Canada and 5.9 percent in the United Kingdom. (Organization for Economic Cooperation and Development [OECD], 1987)

Public expenditures as a percent of total health spending were lower in the U.S. than in any of the same 23 OECD countries. In the United States, 41 percent of total health expenditures were paid by the government, compared with 74 percent in Canada and 72 percent in Japan. (OECD, 1987)

Economic well-being of children more precarious in United States; low-income children have poor health outcomes

In 1979, 17 percent of all children in the United States were living in poverty, a child poverty rate that was nearly 80 percent higher than in Canada (9.6 percent), and more than twice the rate in West Germany (8.2 percent) and Sweden (5.1 percent). (Select Committee on Children, Youth, and Families, U.S. Bureau of the Census data [Census], 1990)

In 1979-1981, at least 99 percent of poor families with children received government assistance in Sweden, West Germany, Australia, Canada, and the United Kingdom, compared with only 73 percent of poor families in the United States. (Census, 1990)

Low-income children in the U.S. are about twice as likely as higher income children to be born at low birthweight, two to three times more likely to experience postneonatal mortality, and three times more likely to have delayed immunizations and lead poisoning. (Starfield and Newacheck, 1986)

Children in poverty are almost 50 percent more likely to have a disability than children from higher income families. (Fox, 1987)

Infant health more favorable in Europe and Canada than in United States

Each year, nearly 40,000 infants die in the United States before their 1st birthday. In 1987, the infant mortality rate was 10.1 deaths per 1,000 live births. The U.S. ranks behind 21 other industrialized nations in its infant mortality rate. (National Center for Health Statistics, 1989; U.S. Public Health Service, 1989)

In 1982, 6.8 percent of infants were born at low birthweight (LBW) in the United States, 60 percent higher than in Norway and Sweden (4.1 percent and 4.2 percent) and also higher than in France, West Germany, Canada, Italy, and the United Kingdom. A low birthweight infant is 40 times more likely to die in the first month of life than normal weight infants. In 1987, the U.S. LBW rate rose to 6.9 percent, the highest level observed since 1979. (Census, 1990; Institute of Medicine, 1985; National Center for Health Statistics, 1989)

In 1986, the U.S. ranked 16th among 20 industrialized nations in deaths to infants under age one who survived the 1st month of life. The U.S. postneonatal mortality rate (3.6 deaths per 1,000 live births) was 28 percent higher than in Canada (2.8) and 20 percent higher than in the Netherlands (3.0). The rate for U.S. blacks (6.3) was twice the U.S. white rate (3.1) and 50 percent higher than in England and Wales (4.3). (Kleinman and Kiely, 1990)

Sudden infant death syndrome (SIDS) was the leading cause of postneonatal mortality in each of five European countries, the U.S. and Canada in 1986. Although the U.S. SIDS rate (131 deaths per 100,000 live births) was lower than in England and Wales (195), Norway (190), and France, (158), the U.S. black rate (215) was higher than in each of these countries and 87 percent higher than the U.S. white rate (115). (Kleinman and Kiely, 1990)

U.S. black infants are at least three times more likely to die from respiratory disease in the postneonatal period than babies in Canada, France, and Norway, and are more than twice as likely to die as a result of perinatal conditions than infants in Canada, France, and the Netherlands. (Kleinman and Kiely, 1990)

Young U.S. children lack protection against childhood diseases

Immunization rates for preschool children against diphtheria, tetanus, and pertussis (DTP) average 41 percent higher in many Western European countries than in the United States, and mean polio immunization rates are 67 percent above U.S. figures. (Williams 1990)

In 1985, 61 percent of U.S. preschool children were immunized against measles. Though this rate was higher than those of West Germany and France (an estimated 50 percent and 55 percent), it was 30-50 percent lower than in Denmark, Norway, and the Netherlands. (Williams, 1990)

Violence/accidents high among U.S. children and youth

Among U.S. children ages 1 to 4, motor vehicle accident mortality rates for males (8.0 per 100,000) range from 36 percent greater to more than three times those reported by France, Canada, England and Wales, Norway, and the Netherlands, (5.9, 4.3, 3.4, 3.2, and 2.4 respectively in 1984 to 1986). (Williams and Kotch, 1990)

In 1986, more than three-fourths of all deaths to youth in the United States, Canada, and Sweden were due to accidents, suicide, homicide, or other violence, with the highest proportion in the United States, 78 percent. (Census, 1990)

Male youth in the United States are more than 5 to 11 times more likely to be victims of homicide than in most other industrial countries. (Census, 1990)

U.S. teen fertility among highest in industrialized world

Among 13 industrialized countries, teenage fertility is highest in Hungary and the United States (52 and 51 births per 1,000 women ages 15-19, respectively), followed by the Soviet Union (44), the United Kingdom (29), Israel (25), and Canada (24), and lowest in Japan (4). (Census, 1990)

In 1982, 10 percent of teenage women (ages 15-19) in the U.S. became pregnant. Among other developed countries, teenage pregnancy rates ranged from 1 percent in Japan to 8 percent in Hungary. (Census, 1990)

THE CONTINUING TRIALS OF JOSEPH P. DOHERTY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. ACKERMAN. Mr. Speaker, I would like to call your attention to a letter written by New York City Mayor David Dinkins to Attorney General Richard Thornburgh detailing the plight of Joseph Doherty.

Mr. Doherty has never committed a crime in the United States. Yet, he has been incarcerated in the Metropolitan Correctional Center

for over 7 years. He is an Irish citizen who entered the United States illegally in 1983. Joseph Doherty is wanted by the British Government in relation to the death of a member of a British commando unit. The British Government's request for extradition was denied by Federal courts in accordance with the United States extradition treaty with Great Britain.

Under U.S. law Doherty merits political asylum. When evaluated within the context of the Anglo-Irish conflict, he merits the political-offense exception.

It appears that Doherty's long-lasting imprisonment is a result of foreign-policy considerations rather than the merits of his individual situation. Seemingly, the law is not being applied as equally to Mr. Doherty as it is to anyone else who comes before our judicial system. These foreign-policy considerations have effectively prevented the release of Joseph Doherty. By behaving in a manner acceptable to our British ally, we have denied Doherty his basic human rights.

The history of Doherty's legal battles is quite complex. However, through his own persistence, Doherty has triumphed in court battles and the Board of Immigration Appeals. But Attorney General Richard Thornburgh overturned an immigration appeals decision which gave Doherty permission to reopen his hearing for political asylum and/or withholding deportation. The Attorney General's decision was overturned by the Court of Appeals for the Second Circuit. Yet Joe Doherty remains incarcerated at the Metropolitan Correctional Center as a prisoner of political expediency.

These proceedings, stretching back over the past 7 years, cast very serious doubts on the Justice Department's commitment to the spirit of our Constitution.

Mayor Dinkins' letter follows:

THE CITY OF NEW YORK,
OFFICE OF THE MAYOR,
New York, NY, August 30, 1990.

Hon. GARY L. ACKERMAN,
Cannon House Office Building,
Washington, DC.

DEAR CONGRESSMAN: I am writing to again express my concern about the continued incarceration of Joseph Patrick Doherty.

In examining Mr. Doherty's case I believe that the most important issue at hand is whether or not the laws of the United States are being applied as equally to him as to anyone who comes before its judicial system.

Mr. Doherty has entered his eighth year of incarceration, without charge, or bail, at the Metropolitan Correctional Center here in New York City.

Recently, the office of the Attorney General arranged bail for Orlando Bosch, a Cuban who had been jailed in Florida. It is widely accepted that Mr. Bosch's release was a direct result of pressure from several Miami-based politicans and activists including Jeb Bush, the President's son.

Joseph Doherty, unlike Mr. Bosch, has been neither convicted of any offense against American law nor has he been denied political asylum.

I ask you to join me in urging the Attorney General to apply the Constitutional rights of due process and equal disposition of justice to Mr. Doherty's case. To avoid further undermining the credibility of our commitment to even-handed justice for all, Mr. Doherty should be released on bail immediately and his hearing for political asylum should be allowed to proceed without further delay.

For your information, I have enclosed a copy of my letter to Mr. Thornburgh on this matter.

Sincerely,

DAVID N. DINKINS,
Mayor.

THE CITY OF NEW YORK,
OFFICE OF THE MAYOR,
New York, NY, August 30, 1990.

Attorney General RICHARD THORNBURGH,
U.S. Department of Justice, Constitution Avenue and 10th Street NW., Washington, DC.

DEAR SIR: I write to urge you to exercise your authority to have Joseph Doherty released on bail immediately, just as The Department of Justice recenlty released Orlando Bosch.

Unlike Mr. Doherty, Mr. Bosch has been denied political asylum in the United States. Unlike Mr. Doherty, who has never been charged with committing any crime in the United States, Mr. Bosch was convicted in 1968 of firing a bazooka at a Polish freighter which was docked in our waters, an action which placed civilian lives at risk. In 1974, while on probation, Mr. Bosch violated his parole and fled the country. He was rearrested for the violation after returning to the United States in 1988.

I am concerned that foreign policy considerations affected the decision to release Mr. Bosch. I am equally concerned that such factors are preventing the release on bail of Mr. Doherty. I request that you apply the Constitutional rights of due process and equal disposition of justice to Mr. Doherty's case.

I appreciate the fact that Mr. Doherty's case is a very complicated one. As you know, The United Kingdom wants him imprisoned for offenses he committed there. However, New York City and the United States of America are out of the jurisdiction of the British Courts and it is American laws which must prevail in this land.

Indeed, implicit in the 1984 ruling by Judge John Sprizzo denying the British Government's request for Mr. Doherty's extradition, was a finding that the decisions of the British courts were in conflict with the principles embodied in our extradition treaty.

In his ruling Judge Sprizzo said that Mr. Doherty's case represented the political offense exception "in its most classic form." Using the most rigorous criteria ever employed in any such case, Judge Sprizzo ruled that Doherty was a political offender, acting as a soldier in a war situation.

Judge Sprizzo arrived at this conclusion having examined the structure of the Provisional IRA, the historical context of the Irish-British conflict and the fact that Doherty's actions were directed at soldiers rather than civilians. Referring to the particular incident for which Mr. Doherty has been convicted in Britain, Judge Sprizzo stated in part:

"The death of Captain Westmacott, while a most tragic event, occurred in the context of an attempted ambush of a British Army patrol. It was the British Army's response to that action which gave rise to Captain Westmacott's death. Had this conduct occurred during the course of more traditional military hostilities there could be little doubt that it would fall within the political offense exception."

I accept that ruling.

So also did the United States District Court Judge Charles Haight, who in 1985 ruled that Judge Sprizzo's order denying extradition was not subject to review. That decision was again affirmed in 1986 by the United States Court of Appeals, which, again ruling in favor of Mr. Doherty in all respects, termed the position of your branch—the executive—"startling." At that point, both the Department of Justice and the British Government conceded that Judge Sprizzo's ruling was unequivocally barred from review and discontinued attempts to have Mr. Doherty extradited.

Since that time, Mr. Doherty has been fighting deportation proceedings initiated by the Department of Justice. In these proceedings, he has also prevailed at every significant juncture, the sole exception being the decision of your predecessor, Edwin Meese, who mandated that, if found deportable, Mr. Doherty must be deported to the United Kingdom and the United Kingdom only.

In 1988, Mr. Doherty was granted leave to reopen his hearing for political asylum and/or withholding of deportation, by the Board of Immigration Appeals. Subsequent to that decision, the case was forwarded to you for action. By overturning the Board's ruling, you denied Mr. Doherty even a hearing on his appeal.

Doherty successfully challenged that decision before the Court of Appeals for the Second Circuit. The Court's decision of June 29, seems to concur with my belief that Doherty's continued presence in jail here is a direct result of our government's foreign policy, rather than the merits of his case. Referring to your position on the case, the Court stated in part:

"* * * Our examination of the asylum statute convinces us that congress intended to prevent such factors [the government's political and foreign policy interests] from influencing asylum cases. In exercising his discretion in this case * * * Thornburgh relief on just such improper factors."

It is my concern, and that of many of my constituents, that Mr. Doherty remains incarcerated here as a prisoner of political expediency. That is why I again felt compelled to write to you about this case.

As you are aware, The Department of Justice has filed a petition for a rehearing before the Second Circuit of the Court of Appeals. Whatever the outcome of that petition, many more years of litigation lie before Mr. Doherty. I am deeply disturbed by the prospect of this man being held, without bail, for any additional length of time. More than seven years of incarceration is long enough. Further incarceration without charge or reasonable bail casts aspersion upon our democracy and indeed our Constitution.

I strongly urge you to allow Mr. Doherty his day in Court on his appeal for political asylum and in the true spirit of equal justice under the law, arrange for his immediate release on bail.

Thank you for taking the time to read this letter. I look forward to an early and favorable reply.

Sincerely,

DAVID N. DINKINS,
Mayor.

THE PRESIDENT ON CAPITAL GAINS

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. McHUGH. Mr. Speaker, an editorial in yesterday's Ithaca Journal, published in Ithaca, NY, provides a succinct summary of the unseemly face-off in which Congress and the President have found themselves in recent weeks, and I would like to take this opportunity to share it with my colleagues.

The President has repeatedly insisted that unless Congress agrees to a cut in the capital gains tax rate—a tax cut to benefit the wealthiest people in our society—he will not only hold hostage all Government programs and spending, but will go around the country and use his bully pulpit to blame Congress and its leadership for thus paralyzing our country and our economy.

Mr. Speaker, I believe the President's stance and his rhetoric have been irresponsible in this regard. I fully concur with those who believe that deficit reduction must not unfairly burden the more vulnerable of our citizens. I am therefore convinced that the stalemate over capital gains has resulted not from a capricious intransigence on the part of Congress, but from the President's "take-it-or-leave-it" willingness to hold the country hostage. I am also grateful for the political courage of Senate Republican Leader DOLE and House Republican Leader MICHEL, whose flexibility and willingness to work toward reasonable compromise have moved us closer to a budget agreement.

[From the Ithaca Journal, Sept. 27, 1990]

BUSH MUST BEND ON CAPITAL GAINS

While the Persian Gulf teeters on the brink of war, President Bush and Congress have been playing brinksmanship on Capitol Hill. The clock is ticking: Unless they agree on a 1991 budget this week, the government will be plunged into mandatory cutbacks.

The sticking point is Bush's insistence on a tax cut for capital gains, which the Democrats resist. Bush has clung to this demand even though some fellow Republicans, including Senate leader Bob Dole and House leader Robert Michel, have said they'd rather abandon the tax cut and settle on a budget.

Does President Bush care that he's toying with chaos? Without a budget by October 1, Gramm-Rudman cuts go into effect, slashing payrolls and programs automatically by $85 billion. The impact varies, but would mean severe cutbacks in air traffic controllers, prison staffs, meat inspectors and other life-protecting jobs.

Cutbacks in some areas may reach 32 percent, and Cornell University officials fear huge losses in research grants and student aid. Other effects may be less visible but worse in human terms: Staff shortages will delay the mailing of Social Security checks, meaning no food on many American tables.

Bush promised a capital gains tax cut during his presidential campaign. But while the cut would increase short-term revenues, as investors cashed in on their gains, it is unlikely to stimulate long-term productive investment. And 80 percent of the tax break would go to persons with incomes of $100,000 of more.

Going to bat this way for the wealthy looks like political suicide. If the budget is slashed in a stalemate, the main blame would fall on Bush. If Congress tries to skirt Gramm-Rudman and Bush vetoes their move, Bush would lose again.

Bush wavered on his campaign promise of "no new taxes," to his deep embarrassment. But he can blame Congress for rejecting his capital gains tax cut. By bending on this issue to avert a crisis, he can claim both political wisdom and statesmanship.

U.N. INTERNATIONAL SUMMIT CONFERENCE

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. WEISS. Mr. Speaker, this weekend, leaders from 70 countries will gather at the United Nations for a summit conference on one of the most critical issues facing the international community—the plight of children worldwide. All too often, the needs of children are overlooked by decisionmakers facing budget constraints and more immediate policy issues. It is time to squarely face this problem.

On the eve of the U.N. summit, we find children barely surviving amidst the ravages of violence, drugs, AIDS, and poverty. According to a report released Wednesday by the U.S. Census Bureau, half of all black children, 40 percent of all Hispanic children and 17 percent of all white children under the age of 6, fall below the poverty level. According to the New York Times, the infant mortality rate in the United States is higher than 17 other countries.

Further, New York Newsday reports this week that every day in New York City, two newborns test positive for the HIV virus and seven will test positive for drugs. Five children under age 1 will die. Fifty-three students will drop out of high school. Thirty-six teenage women will give birth; 242 children are reported abused or neglected, and 6,270 are homeless. Every day.

This weekend, world leaders will call for the immediate ratification of an international Convention on the Rights of the Child. While this treaty has been signed by 109 countries and ratified by 42, President Bush has not yet even asked the Senate to ratify it for the United States. Other disturbing evidence that the White House lacks the political will to act on behalf of children is their failure to publish a Federal report which described how the United States could prevent 10,000 infant deaths each year. The report recommends that we spend an additional $500 million a year on Medicaid, early prenatal care and other assistance. However, current budget reduction negotiations between the White House and Congress will undoubtably jeopardize programs aimed at caring for our most vulnerable citizens.

This Nation now faces the rare opportunity to address and resolve some of these devastating problems. I call on the Bush administration to reverse spending policies which in recent years have slashed social programs, education, job training, and drug treatment. I urge the President to join other world leaders in sharing resources, technology, knowledge, and compassion and in signing the U.N. Convention on the Rights of the Child.

To ignore our children, when we have the chance to save them, would be not only tragic, but unconscionable.

A SPECIAL TRIBUTE BEFORE THE U.S. HOUSE OF REPRESENTATIVES TO THE UNITED MINE WORKERS OF AMERICA ON THE HISTORIC OCCASION OF ITS 100TH ANNIVERSARY AND CELEBRATION IN INDIANA COUNTY, PA, HONORING THE UNEMPLOYMENT ASSISTANCE FUND

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. KOLTER. Mr. Speaker, today I rise before the U.S. House of Representatives to honor and pay very special tribute to the United Mine Workers of America of Indiana County, the local United Mine Workers Unemployment Assistance Fund and the national United Mine Workers of America on this momentous occasion.

The UMWA is celebrating its 100th anniversary this year, a year of both special triumph and extreme hardship.

One hundred years ago in Columbus, OH, on January 25, 1890, the National Progressive Union was reorganized into the United Mine Workers of America and received an industrial union charter from the American Federation of Labor.

The history of this labor group has been both tough and trying. The fight for fair wages, an 8-hour day, even just union recognition, has been a daily struggle with historic victories and setbacks. We of western Pennsylvania know that many, many of the most crucial mine-labor fights, both in the streets and at the bargaining table, have been right here on the streets and at the tables of western Pennsylvania.

Anyone here who has opened an objective history book knows of the successful and rough struggles of the United Mine Workers here in our own backyard. But today, Mr. Speaker, is also a very special day, because today we honor and pay special tribute to the mine workers of Indiana County and their special efforts to help coal miners and their families who have, through no fault of their own, found themselves unemployed—laid off--from gainful employment.

Mr. Speaker, the UMWA Unemployment Assistance Fund of Indiana, PA, has, for 20 months now, been working without pay to help unemployed people devastated by layoffs in this economically depressed area where there are no jobs to replace those lost in the coal fields and coal mines. Currently, through the most generous contributions of local UMWA members, the assistance fund is providing $100 a month assistance to approximately 60 needy families in this area.

In addition, the local assistance fund is providing instructional help to unemployed families concerning procedures for economic assistance, Government help and mortgage assistance. These volunteers are seeking grants to remain in operation, as it does daily from 9 a.m. to 1 p.m. at the fund's office at 625 South 13th Street, Indiana, PA, where volunteers also help provide food and other staples to needy families of the unemployed.

For these around-the-clock volunteer efforts, Mr. Speaker, I commend the officers and officials of the UMWA Unemployment Assistance Fund of Indiana County: President John Lonetti, Vice President John Sacco, Secretary Harvey Yanoschick and Treasurer Ken Shea, Board of Trustees Chairman Randy Thomas, Trustees Secretary Bob Uher, Fund Director Beckie Barna; trustees John Baker, Tony Reid, Vince McNevin, Robert Skultety and Dale Lydic, and board assistant, Dean Coleman.

A special occasion September 30 at the Rustic Lodge in Indiana, PA, is being held by the local assistance fund to raise additional contributions for the unemployed and honor the 100th anniversary of the UMWA.

Mr. Speaker, there will be very special guests and speakers at this event: National United Mine Workers President Richard Trumka, National UMWA Vice President Cecil Roberts, National UMWA Secretary-Treasurer John J. Bovanic, National UMA Director of Organizing Ron Baker, and Pennsylvania State AFL-CIO President William George.

Mr. Trumka and these labor officials have provided strong leadership in these difficult times.

But today, most of all Mr. Speaker, I rise before the U.S. House of Representatives to commend the unselfish efforts of the volunteers of the UMWA Unemployment Assistance Fund who are dedicating their efforts to help their brothers and sisters who are facing very hard times here in the coal-rich regions of western Pennsylvania.

In addition, I rise to commemorate the 100th anniversary of the United Mineworkers of America and all those who have gone before us in this long, difficult and rewarding struggle to provide a decent life and livelihood of American mine workers and their families. Mr. Speaker, no simple tip of the cap would do justice to the unselfish efforts of these union men and women both of today and yesterday. Only by following their truly unselfish example can we pay tribute to the United Mine Workers of America, both nationally and right here in Indiana County and western Pennsylvania.

SOCIAL SECURITY CAREGIVER ACT OF 1990

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. HUGHES. Mr. Speaker, these past 2 weeks the Subcommittee on Retirement Income and Employment of the House Select Committee on Aging, which I chair, has been inundated with letters—letters of indignation from several hundreds of working mothers all across America, from virtually every congressional district. Most American workers consider retirement a distant event, to be considered in the future; Social Security benefit calculations, being complex and technical, are often the furthest things from their minds. Yet, the women who have written to me are greatly concerned by the effects of the "Zero Years" which affect practically every American family. While women often assume the majority of caregiving responsibilities, spending on average, 11½ years out of the work force caring for children or elderly parents, the Social Security Program does not recognize these caregiving years. Rather, it penalizes them by averaging a zero in their benefit computation. While very few realize the impact of the Social Security zero years until it is too late, many women reach retirement or face widowhood with diminished incomes because the years they spent caregiving have significantly decreased their Social Security benefit.

Today, I am introducing the Social Security Caregiver's Act of 1990. This bill will allow any worker, male or female, to drop-out up to 5 years of either zero or low earnings, for their benefit calculation, if that year is devoted to caregiving responsibilities. It also instructs the Social Security Administration to inform the public about these benefit changes. I strongly believe this legislation takes an important step toward addressing some of the inequities and inadequacies of the Social Security Program.

The Social Security Act was passed into law in 1937. It has done an admirable job of keeping millions of elderly and disabled Americans out of poverty. It has enabled millions of older Americans to live independently and with dignity in their retirement years. Social Security is roundly supported by the American public in poll after poll, and it has done so largely because it has been modified to adapt to changing needs. Widow and dependents were added in 1939, disability coverage was added in 1956. It is now time to make some additional changes to adapt to the American family of the 1990's.

When Social Security began, the benefit computation was based on the typical American family, circa 1937, in which the father was typically the sole breadwinner, and the mother served primarily as full-time homemaker. However, the typical American family of 1990 looks a little different. For many families, two incomes are an economic necessity, as well as a personal choice, and many families are headed by a single parent. Yet, the Social Security Program has not responded to these societal changes.

Women have poured into the labor force, contributing to the economy, and contributing millions of dollars into the Social Security trust funds in numbers never before seen. In 1950, only 33.9 percent of women were in the labor force. By the year 2000, over 62 percent of women will be in the labor force with the numbers still projected to grow. Yet, women's Social Security benefits still lag behind men's and many women's worker benefits are completely offset by their spousal benefit. The average Social Security benefit for men is $627 and for women $458. Beyond this obvious benefit disparity is the disturbing fact that currently about 75 percent of the elderly who live in poverty are women. In the year 2020, nearly all of the elderly living in poverty will be women, and their numbers are not expected to shrink.

Women still represent the majority of caregivers in our society, and on average, spend 11½ years out of the work force caring for our children and our elderly parents. These years, according to the Social Security Administration, are the zero years.

How do we acknowledge these unpaid caregivers? The Social Security Administration averages zeroes into their Social Security benefit. That's right. A woman could work 20, 25 years, full-time, taking off a few years to raise her family, or perhaps care for her or her spouses elderly parent. Demographics indicate that more and more women and men will be called upon to be their families caregiver. Unless a change is made, the Social Security Administration will continue to average zeroes into millions of workers benefits, because the program assumes a worker will be in the paid labor force for 35 years. What does this say to American families? It says caring for our children and our parents is worth nothing. Is that the message we want to convey to American families?

This is, understandably, what prompted hundreds of women to write to the subcommittee. Most workers do not know about this facet of the Social Security law, and nothing has been done to inform them of this provision. This is just plain unfair and inequitable.

I urge my colleagues to support this legislation and recognize the working mothers, wives, and daughters across America, who are now victims of the zero years.

TRIBUTE TO JAMES S. TODD

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to extend my heartiest congratulations to Mr. James S. Todd on his most recent achievement—his appointment in June 1990 as executive vice president of the American Medical Association.

James S. Todd must be recognized and commended for his dynamic professional and administrative leadership throughout his career as an esteemed surgeon. He has achieved national prominence in the health care industry by demonstrating both vision and commitment to his profession.

Jim has held leadership positions on many local, State and national health-related committees and boards. He has served as chairman of the Medical Society of New Jersey, chairman of the board of the New Jersey State Medical Underwriters, Inc., chairman of the Ad Hoc Committee to Review the AMA's Principles of Medical Ethics, and is a past president of the New Jersey Physician Insurers Association of America.

Jim has magnanimously served the community through his dedicated efforts and profound interest in the well-being of others. He

has always been willing to address the many complex issues which confront the medical profession, rightfully gaining the respect and admiration of many of the citizens of New Jersey and the Nation.

Mr. Speaker, I am proud to join in paying tribute to this exceptional man and extend my best wishes to him.

SALUTE TO ANTHONY DE SOPO, CRISTOFORO COLOMBO SOCIETY'S 1990 MAN OF THE YEAR

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. ROE. Mr. Speaker, it is with great pleasure that I rise today in tribute to an outstanding community leader in my Eighth Congressional District of New Jersey, Mr. Anthony De Sopo, the Cristoforo Colombo 1990 Man of the Year. Anthony is a tireless worker who gives his time freely to the many charitable organizations with which he is associated. A dinner will be held in his honor celebrating this joyous occasion on Sunday, October 7, at the La Neve Restaurant.

Anthony is very active in the Cristoforo Colombo Society, having served 20 years on the annual Columbus Day Celebration Committee. He is currently the financial secretary of the organization, having been a member since 1958. Anthony spends at least 4 days per week working with various Italian Societies in Passaic County. He is presently the financial secretary of the Federation of Italian Societies of Paterson; since 1969 he has served four as recording secretary and 13 years as president.

Under his leadership, the Federation Groups raised funds to aid the people of Friuli, Italy, after their town suffered from a devastating earthquake. They also came to the aid of those suffering in southern Italy in November 1980, after this area was also hit by an earthquake. For his outstanding record of achievement, Anthony was decorated and knighted as Cavaliere in the order of merit by the Italian Government on December 27, 1987, in Rome, Italy.

Anthony has also been heavily involved in youth athletics, promoting and organizing soccer tournaments with the proceeds being donated to charity. The Old Timers' Athletic Association honored him with the community award, given to the sportsman who does the most to serve the athletic organizations in the area. In addition, he is also a member of the Old Timers' Sport Hall of Fame Committee.

Anthony has been gainfully employed as a barber for over 45 years, beginning the profession in his native Italy. He is a member of the Associated Master Barber/Stylist Chapter 855. He has served as a delegate to the state convention every year since 1974, as secretary treasurer since 1975. His duties have also included serving 6 years as vice president to the State board and 2 years as State president. He now advises the board. In 1976, he received an award for outstanding services rendered to the organization. In 1980 he was named Barber of the Year by chapter 855. This year, on September 23, Anthony was inducted into the prestigious Barbers Hall of Fame.

Anthony's other accomplishments include former financial secretary for the New Jersey Alliance of Italian-American, past president and financial secretary of the Alfano Association, current member of the Paterson Elks Lodge No. 60, third degree member of the Knights of Columbus, Council No. 6574 and Passaic County Coordinator for "a Festa Italiana" held annually at the Garden State Art Center.

Anthony married the former Mary Rose Severi and is the proud father of two sons, James A. and Anthony J. He is presently employed by the county of Passaic.

Mr. Speaker, it is concerned citizens such as Anthony De Sopo who contribute so much to the social fabric of our communities. Our great Nation is a melting pot of various cultures each of whom in their own unique style form the American way of life. Anthony De Sopo's involvement in Italian-American and other charities has enriched the lives of others through his devotion to these activities. His tireless public service is an example of all and I salute him for his efforts.

THE MEDICAID SUBSTANCE ABUSE TREATMENT ACT OF 1990

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. DURBIN. Mr. Speaker, today I am introducing legislation along with my distinguished colleague from California, Mr. MILLER, that will go right to the heart of the so-called crack baby problem in our country by providing Medicaid coverage of drug and alcohol treatment to low-income pregnant women and their families.

As a member of the Select Committee on Children, Youth, and Families, I have participated with the chairman of that committee, Mr. MILLER, in a series of hearings that have graphically demonstrated the problem of substance abuse by pregnant women, its effects, and the steps needed to address that problem.

While the drug epidemic is filling our Nation's hospital nurseries with babies who are born addicted to drugs, pregnant women are currently among the least likely people to be able to obtain comprehensive drug treatment. The overall shortage of drug treatment programs is exacerbated by the fact that many programs will not accept pregnant women.

In addition, pregnant women have a greater need for an approach to treatment that is in short supply—comprehensive treatment in a residential setting that provides child care, room and board, and other services for their children so that they can focus on their own recovery.

Tragically, although many of these women are poor enough to be eligible for Medicaid, Medicaid will not reimburse States for the cost of residential treatment. As a result, many women who desperately need and want assistance to end their addictions have nowhere to turn.

Nationally, less than 11 percent of pregnant women in need of drug treatment are receiving care. In major municipal hospitals around the country, the number of drug-exposed babies being born has skyrocketed since 1985, with more than 1 out of every 10 births involving substance abuse. The hospital costs alone for treatment of these babies is in the billions of dollars, and the subsequent societal costs in child welfare, educational, and health programs is enormous. In addition, the human suffering experienced by these children and their families is tragic.

We cannot afford not to act. Every day that we delay, more substance-abused babies are born, many permanently damaged by the alcohol and drug use of their mothers. We are already seeing the educational effects of this problem as the first generation of cocaine-addicted babies reaches school age and as we become more aware of the long-term effects of fetal alcohol syndrome. These unfortunate children experience developmental delays, emotional disturbances, and other barriers to learning.

The Medicaid Substance Abuse Treatment Act of 1990, which we are introducing today, calls for a concerted Federal and State effort to address this problem. This legislation provides for Medicaid coverage of drug and alcohol abuse residential treatment services for pregnant women and their family members. Beginning July 1, 1991, States will be permitted to offer residential treatment services as a part of their Medicaid Program for pregnant women and caretake parents and their children. Beginning January 1, 1993, States will be required to offer these services to pregnant women and their children.

The bill itemizes the types of service that are known to be important components of a quality drug treatment program, and limits Federal financial participation to facilities that include those components. Services would include counseling and treatment based on an individualized treatment plan; teaching parenting skills: room and board; providing therapeutic child care or counseling for the children of individuals in treatment; and helping the women to obtain access to educational, vocational, health, and other social services that will assist them in achieving successful reentry into society.

Drug treatment experts consider small size to be a key indicator of the likely success of any residential treatment program. In order to provide quality services and personalized attention, eligible facilities would be limited to 40 beds or modular units of no more than 40 beds unless the Secretary of Health and Human Services issued a waiver to a larger facility certifying that its residents will receive services that provide therapeutic benefit equal to or greater than that provided in a smaller facility.

Medicaid coverage of pregnant women for substance abuse treatment and treatment of other conditions that complicate pregnancy would be extended until 1 year after delivery to allow women to complete their treatment.

Mr. Speaker, this legislation calls for an end to the notion that we can address the problem of crack babies and babies with fetal alcohol syndrome without offering their mothers com-

prehensive substance abuse treatment services. Residential treatment is essential.

I urge my colleagues to join us as cosponsors of the Medicaid Substance Abuse Treatment Act of 1990.

WORLD SUMMIT FOR CHILDREN

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. BEREUTER. Mr. Speaker, this weekend, in the midst of many pressing issues at home and abroad, President Bush and more than 75 heads of government around the world will come together at the largest summit meeting ever held. The subject of this summit is not the immediate crisis of the moment, whether in the gulf or at home in our budget process. The subject of this summit is the concrete shape of the future of the world, in its most concrete embodiment—the children of the world. We live in a time when the marvels of technology, communication, and organization have recently made it possible to share the basics of good health, good nutrition, and basic education with everyone in the human family. But this process is not complete, and children are those who are most left out.

About 40,000 preventable deaths still occur every day according to UNICEF—most of them among children under 5 in the poorest countries. At least half of those deaths could easily be prevented by the end of this century at low cost if the leaders and people of the world set this as a real priority and work together to do it. I applaud President Bush's decision to focus on the future by attending the World Summit on Children in New York this weekend. The House of Representatives passed a resolution last year urging the President to lead the world community in proposing concrete actions to achieve the goal of permanent improvement in the survival rates, health, and development of people in all countries by the year 2000, especially children.

Mr. President, please convey to the other leaders of the world this weekend, that the American people and the U.S. Congress want the children of the world to be given the highest priority and that we will work together with them to make this historic summit the beginning of a new historical era for children.

This Member would like to end by quoting from a declaration written by a seventh grade class in the Palms Gifted Magnet Junior High School in west Los Angeles. "We, children of the world, declare peace on the future."

TRIBUTE TO ANN MAYNARD PAYNE

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. COBLE. Mr. Speaker, the American textile industry has a long and proud history for one very simple reason: Its people have always been among the best examples of American ingenuity, spirit, and determination. I wish to honor one such person—Ann Maynard Payne of Greensboro, NC, who is retiring today from Burlington Industries after 44 years of service.

Mrs. Payne's career spans a period of enormous change in the industry—years of exciting and stimulating progress blended with difficult and sometimes disheartening challenges. To her colleagues, Mrs. Payne has been one constant in a changing sea. She has consistently given her associates solid support, sound advice, and warm friendship. Most people will probably never know how much she contributed to the success of her company and her industry, because self-promotion is not her style. But her associates know how much she has done and how much they will miss her unique touch, her humor, and her unflagging spirit.

On behalf of the citizens of the Sixth District of North Carolina, I extend my congratulations to Ann Payne on her retirement from Burlington Industries. We wish her all the best for the future.

SILVER ANNIVERSARY OF THE NEW CRACOW JEWISH HOLOCAUST

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. MRAZEK. Mr. Speaker, I would like to take this opportunity to highlight the achievements of a group that for the past 25 years has promoted the principles of philanthropy and patriotism both here and abroad. The New Cracow Friendship Society was founded in 1965 for the purpose of gathering Jewish Holocaust survivors from Cracow, Poland, under a banner of friendship, and has for 25 years developed means of assisting the indigent here and abroad.

Remembering the martyrs of the Holocaust and the glorious past of Cracow Jewry has played a central role in the society's activities, benefiting Jews both in Cracow and Israel. In addition to providing scholarships to needy Israeli students, the society's fundraising efforts have benefited such Israeli institutions as the Beit Halochem Disabled War Veterans Society, the Akim Rehabilitation Center for Handicapped Children, and the Haifa Medical Center.

At a dinner dance in Great Neck, Long Island, on October 28, 1990, the society will honor its presidents and pay tribute to its founders. Through the publication of a silver anniversary journal, in conjunction with the October 28 event, the society will leave a legacy of Cracow Jewry's past for future generations, and give thanks for the new life and new opportunities that this country has been able to offer to these heroic survivors.

TRIBUTE TO GENERAL CASIMIR PULASKI, FATHER OF THE AMERICAN CAVALRY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. KANJORSKI. Mr. Speaker, on October 11, we will honor a great patriot and hero of the American Revolution that not many read about in the history books. Nevertheless, if it were not for Gen. Casimir Pulaski and his spirit and innovation, a far different version of American history could have been written.

Born in 1747 to a wealthy family near Warka, Poland, Pulaski shunned the aristocratic life and became deeply involved in the resistance to Russian encroachments on Polish independence.

When the effort failed, Pulaski was forced into exile; however, his devotion to freedom and liberty never wavered. In 1777, hearing of America's struggle for independence, Pulaski volunteered his services to Gen. George Washington.

Distinguishing himself at the Battle of Brandywine by saving Washington's life, Pulaski was appointed brigadier general of the cavalry on September 15, 1777. Pulaski transformed the American cavalry from a mounted infantry into the European-style cavalry. The Pulaski Legion was in the thick of many battles, claiming victory in the Battle of New Jersey in 1778 and successfully defending Charleston, SC.

General Pulaski's last act of bravery came during the Battle of Savannah. The British had a stronghold on the city and were firing heavily at the American soldiers. Pulaski volunteered to charge the British line of defense, enter the city and confuse the enemy. It was during this charge General Pulaski was seriously wounded and 2 days later, on October 11, 1779, he died.

Mr. Speaker, it is only fitting that today we honor this great patriot who sacrificed everything in the name of freedom.

A TRIBUTE TO TAIWAN

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. FUSTER. Mr. Speaker, the Republic of China's National Day, the 79th anniversary of the founding of that nation, will occur on Wednesday, October 10. As we observe this happy event, I hope that all my colleagues in the United States Congress will take time to consider our experience with our steadfast ally—the Republic of China—in that part of the world. Throughout its 79 years of history, the Republic of China has always been a true ally and a good example of economic development.

Today, the Republic of China is a young democratic nation, prosperous and forward looking, ready for the challenges of tomorrow and the 21st century.

We trust the Chinese people and leaders will continue to prosper.

HONORING THE BASE PROGRAM FOR SPECIAL EDUCATION

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. ENGEL. Mr. Speaker, in recognition of their commitment to providing high quality education to their students, I honor today the educators, teachers, and parents of the Bronx Alternative Special Education Program [BASE]

BASE is a not-for-profit organization dedicated to the education of students with developmental disabilities. Each person involved in the program knows that in a nurturing and supportive environment every student can reach their full human potential. By combining academic, social, emotional, and physical development programs, BASE helps students develop skills that will make them resourceful members of society.

From its initial class of 10 students, ages 15 to 18, BASE plans to expand its programs to include a wider age range and a growing number of students. By serving inner-city youth in the Bronx, BASE is providing help to families that may have nowhere else to turn. It is the type of quality education we talk about attaining but rarely see.

I congratulate the educators, teachers, and parents of the BASE Program on their commitment to excellence, and I wish them success in all their endeavors.

A TRIBUTE TO PLIMPTON L. GRAUL

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. RIDGE. Mr. Speaker, on Sunday, October 7, 1990, in the great city of Greenville, PA, the community will gather to honor a most respected citizen, Mr. Plimpton L. Graul. The city of Greenville will dedicate its amphitheater in the name of Mr. Graul, for his lifetime role in community service.

Mr. Graul has lived a long and prosperous life. He believes in being patriotic to his Nation, State, and country. Patriotism starts right in his hometown of Greenville. He has seen this northwestern Pennsylvania town grow from the horse and buggy to the car, from oil lights to electric lights, and from corner markets to supermarkets. While others may grow weary with age or take a cynical stance, neither history nor time has diminished Plimpton's pride in or love of his community.

Plimpton and his wife, Mae, are the epitome of community service. It is this lifelong service, more than three-quarters of a century, that Plimpton will be publicly recognized for at the amphitheater dedication ceremonies on Sunday. The first performance in the newly completed amphitheater was a minstrel show. A tumbling act, featuring school gymnasts, performed to "The Man on the Flying Trapeze" sung by none other than Plimpton L. Graul, Sr.

Plimpton does not see his community involvement as a special calling. He admits that once you do get involved, you strive for that feeling you get from service to others.

Once again, it is my honor to extend my best wishes to a gentleman who has taken great pride in his community. Congratulations Plimpton, you truly deserve the title of "Greenville Town Founder."

TRIBUTE TO EDWARD I. PLOTTLE

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. McDADE. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues a remarkable and noteworthy individual who has devised an innovative plan to help correct our Nation's deficit problem. Mr. Edward I. Plottle, a 90-year-old resident of Scranton, PA, has proposed the idea of an "I Love America Day" as one way to reduce national debt.

Ed Plottle founded Edward I. Plottle Co., a novelty advertising business, 68 years ago and has also been active as a composer and writer. Plottle's vitality and love for life is still going strong. He writes a monthly column for a trade magazine, goes to his office every day, and has still found to come up with an "I Love America Day." To commemorate this day, individuals and businesses would be asked to make donations to reduce the national debt. Additionally, Ed Plottle has designed an "I Love America" pin to help promote his unique idea.

I am proud to recognize Mr. Ed Plottle for his effort in promoting patriotism in our country and his willingness to help improve our nation's economy. His selflessness in taking the initiative in devising and promoting this debt reduction effort is certainly a wonderful example of what an upstanding citizen can contribute to our country.

Mr. Speaker, distinguished Members, please join me and the citizens of the 10th Congressional District of Pennsylvania in recognizing Edward I. Plottle for a lifetime of outstanding contributions to our community, his devotion to the service of others and his national spirit in proposing an "I Love America Day."

SALUTING SHIR CHADASH

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. WAXMAN. Mr. Speaker, I ask my colleagues to join me in saluting Shir Chadash—the New Reform Congregation on the occasion of its groundbreaking ceremony on October 7, 1990.

Shir Chadash is a 7-year-old temple in the reform tradition. It has won the admiration of our entire community for its efforts to bridge the gaps and heal the wounds that separate generation from generation, ethnic group from ethnic group and, ultimately, nation from nation.

The theme of Shir Chadash—the New Reform Congregation reflects the vast scope of the congregation's vision and aspirations: "We are the Heirs of Yesterday and the Architects of Tomorrow."

A direct link to the unspeakable horrors of the Holocaust will be made at the ground breaking ceremony. Survivors of the Holocaust will participate in the dedication. A shovel retrieved from the ruins of the Nazi death camp, Auschwitz, will be used—this time to affirm life, rather than to implement diabolical designs for death.

I ask my colleagues to join me in congratulating Rabbi Steven B. Jacobs and President Anita M. Greene for their commencement of the construction of a house of worship, sanctity, and compassion. May its outer beauty reflect the inner beauty of the dedicated souls who have committed themselves to the task of building a true "House of Truth."

STANLEY KOKOSA SELECTED AS REGIONAL FINALIST IN 1990 LITTLE LEAGUE VOLUNTEER OF THE YEAR AWARD

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, September 28, 1990

Mr. GEJDENSON. Mr. Speaker, I rise today to honor Stanley Kokosa, who has been named the eastern region finalist in the 1990 Little League Volunteer of the Year Award. This award is sponsored by the Phoenix Mutual Life Insurance Co. Kokosa, a resident of Willimantic, CT, is one of the four regional winners. For the second consecutive year, a Connecticut volunteer has been named a regional finalist. The eastern region encompasses Connecticut, Delaware, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

Kokosa, a manager in the Willimantic Little League for 15 years, spearheaded efforts to obtain both State and Federal funds to build additional fields and a fieldhouse. He also initiated the Willimantic Girls Senior Softball division as well as Junior and Senior Baseball levels. Internationally, Kokosa has led the campaign to bring little league to Poland, joining forces with little league headquarters to supply equipment and administrative forces abroad.

Phoenix Mutual Life Insurance Co. established this award in 1989 to celebrate the 50th anniversary of Little League Baseball. The award seeks to honor the 750,000 volunteers from across the country who generously give of their time, support, and companionship to America's youth through Little League Baseball.

Mr. Speaker, I ask that you join me and my colleagues today in recognizing the contribu-

tions Stanley Kokosa has made through his dedicated involvement in the little league program. It is only appropriate that we recognize him as he is honored as a regional finalist in the 1990 Little League Volunteer of the Year Award.

SENATE—*Sunday, September 30, 1990*

(Legislative day of Monday, September 10, 1990)

The Senate met at 6:30 p.m., on the expiration of the recess, and was called to order by the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Eternal God, perfect in truth and justice, we thank Thee for the Psalms. Give us grace to heed the transcendant truth—the practical reality of these words from the Lord. Give us ears to hear, minds to understand, hearts to receive, and wills to obey their sublime counsel.

Blessed is the man that walketh not in the counsel of the ungodly, nor standeth in the way of sinners, not sitteth in the seat of the scornful. But his delight is in the law of the Lord; and in His law doth he meditate day and night. And he shall be like a tree planted by the rivers of water, that bringeth forth his fruit in his season; his leaf also shall not wither; and whatsoever he doeth shall prosper.

The ungodly are not so: But are like the chaff which the wind driveth away. Therefore the ungodly shall not stand in the judgment, nor sinners in the congregation of the righteous. For the Lord knoweth the way of the righteous: but the way of the ungodly shall perish.

Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 30, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BRYAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I ask unanimous consent the time for the two leaders be reserved.

The ACTING PRESIDENT pro tempore. Without objection, that is the order.

Mr. MITCHELL. Mr. President, we are now awaiting receipt of final review of the continuing appropriations bill which we hope momentarily to act upon. While we are awaiting the distinguished Republican leader and the other participants, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MAKING CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 1991, SUPPLEMENTAL APPROPRIATIONS FOR OPERATION DESERT SHIELD FOR THE FISCAL YEAR 1990, AND FOR OTHER PURPOSES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 655, the continuing appropriations resolution just received from the House; that no amendments to the resolution be in order; that no motion to commit be in order, that there be no time for debate, and that the resolution be deemed to have been read three times and passed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 655) was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I would like my colleagues to be aware of a provision included in the continuing resolution that would affect the distribution of Medicare payments to hospitals. Under the prospective payment system initiated in 1984, the majority of hospitals are paid on the basis of a national average rate, which varies by the patient's diagnosis-related group [DRG] assignment.

Hospitals in some States, however, have benefited from a provision included in the Omnibus Budget Reconciliation Act of 1987 which provides for additional payments to hospitals located in high-cost regions. Under this so-called regional floor provision, hospitals located in a limited number of States are paid on the basis of a blend of 85 percent of the national average rate and 15 percent of the higher regional average rate. When originally crafted, this provision was financed by new funds provided in the context of the overall budget bill.

The 3-year regional floor provision enacted in 1987 expires today. House Joint Resolution 655, the continuing resolution sent to us from the House, would extend these additional payments—and offset the costs of the extension by reducing reimbursement for hospitals in the rest of the country. Approval of budget neutrality in financing this approach is far more than a simple extension of current law.

The Congressional Budget Office estimates that if the provision included in the continuing resolution were applied to the full fiscal year 1991, it would cost $125 million, almost all of which would go to hospitals in only 11 States. In other words, budget neutral financing would result in losses for hospitals in 39 States.

Extension of the regional floor cannot be justified as good policy. The Medicare Program provides for extra payments to teaching hospitals, charity care hospitals, and hospitals in high-wage areas. During the first few years that the DRG system was in effect, the enacting legislation allowed for regional variation in payments as

well. But that special payment for high-cost regions was to be phased out because there is no analytic justification for its continuation.

As part of the compromise adopted in 1987, the Prospective Payment Assessment Commission was instructed to evaluate the appropriateness of instituting a special payment adjustment for these high-cost regions. That evaluation is now complete, and PROPAC has concluded that the data to evaluate the need for such an adjustment do not exist and therefore the use of an enriched payment rate for certain regions has no demonstrable analytic basis.

In the absence of hard data, I believe it is grossly inequitable to ask hospitals in the rest of the country to finance higher payment rates for facilities in certain regions simply because of a historical anomaly. Year after year through the budget process, Medicare payments to hospitals have been tightened. Budget constraints have taken their toll. In my own State, the Texas Hospital Association reports that 70 percent of the hospitals are losing money on Medicare patients. Nationally, that figure exceeds 50 percent. I cannot endorse a policy that would take money from these facilities to benefit hospitals in certain high-cost areas.

In the interest of expediting passage of the short-term continuing resolution to avert a $100 billion sequester, I have reluctantly agreed not to oppose the provision which would be effective only through October 5. But let me be perfectly clear. Agreeing to a short-term continuation under these extreme circumstances should not be construed as acceptance or support of this policy.

Mr. President, I ask unanimous consent that a list of the States that Congressional Budget Office estimates will benefit and those that will lose from this provision be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IMPACT OF BUDGET NEUTRAL FINANCING OF REGIONAL FLOOR PROVISION

Hospitals in States that would benefit:

Connecticut, Illinois, Indiana, Massachusetts, Maine, Michigan, New Hampshire, Ohio, Rhode Island, Vermont, and Wisconsin.

Hospitals in States that would lose:

Alabama, Alaska, Arkansas, Arizona, California, Colorado, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Washington, and Wyoming.

Mr. MITCHELL. Mr. President, I would like to comment further on the issue raised by the chairman of the Committee on Finance, Senator BENTSEN of Texas, regarding the provision included in the continuing resolution involving the regional floor for Medicare payments to hospitals.

While my own region has benefited from the regional floor provision in effect for the last 3 years, I am mindful of the fact that as incorporated into this resolution, continuing these benefits to hospitals in New England and other States would require contributions from hospitals in other parts of the country at a time when hospitals all over the country are experiencing financial hardship.

It would have been my preference that this provision be considered by the Ways and Means and Finance Committees through the normal conference process. However, given the importance of expediting approval of the continuing resolution I want to thank my colleague Senator BENTSEN for his willingness to agree to this provision on a time-limited basis. But it should be clearly understood that Senate approval of this provision in the continuing resolution does not prejudice the ultimate resolution of this issue between the House and Senate committees of jurisdiction.

Moreover it is further understood that temporary extension of this provision through October 5 does not imply its continuation beyond that date should another continuing resolution be needed.

Mr. BYRD. Mr. President, House Joint Resolution 655 provides temporary, restrictive financing for fiscal year 1991, which begins October 1, 1990. The provisions of this continuing resolution apply until October 5, 1990. In addition, House Joint Resolution 655 provides that implementation of any sequestration order is suspended for the term of the continuing resolution.

So far, the House has passed 10 of the 13 annual appropriation bills. The Senate Appropriations Committee has reported seven of those bills to the Senate, five of which have been passed.

It is critical that the Senate complete action on this continuing resolution today. This resolution is not a budget buster; it does not in any way prejudice the budget agreement. It simply allows for the continuation of the operations of the Federal Government for the period from October 1 through October 5.

This resolution follows the same basic form and concept as have other continuing resolutions in previous years. In summary, the resolution provides restrictive funding for 13 appropriation measures depending on their legislative status as of October 1, 1990, under a formula that specifies that:

First, when the particular appropriations bill has passed both Houses, and the amount as passed by the House is different from that as passed by the Senate, the project or activity is continued under the lesser amount or more restrictive authority.

Second, when provision is made for a program in only one version of a bill as passed by both the House and the Senate, the rate of operations shall not exceed the current rate or the rate provided by the one House, whichever is lower.

Third, when the particular appropriations bill has passed only the House, the rate of operation for a particular program shall not exceed the current rate or the rate provided by the House, whichever is lower.

Fourth, when provision is not made for a particular program in a bill that has passed only the House and that program was funded in fiscal year 1990, the program shall be continued at the current rate.

Fifth, finally, when a bill has not passed either the House or the Senate by October 1, programs under these bills shall be continued at the current rate, except for defense, which is continued at a special rate, consistent with the House 302(b) allocation for defense for fiscal year 1991.

Under the provisions of the resolution, it is expected that the Essential Air Services Program will continue without any service reduction and that the Office of Commercial Space Transportation will continue at the current rate, in view of its important safety responsibilities associated with licensing the commercial space industry.

Mr. President, the continuing resolution also incorporates a provision which suspends any sequester orders for the term of the continuing resolution. It is absolutely imperative that the sequester order be suspended so as to avoid unnecessary disruption of essential governmental services to the public such as veterans medical care, air traffic control operations, inspection of food and drugs, the apprehension and prosecution of violent criminals and those associated with the savings and loan scandal, and other activities related to essential services, especially those related to the protection of the health and safety of human life and property. Without the above-mentioned language, the sequester would be triggered and would result in serious and widespread reductions in Government services.

I ask unanimous consent that an illustrative list of the potentially adverse consequences of the implementation of the sequester order, as reported to the committee by several of the departments and agencies of the Government, be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BYRD. In summary, Mr. President, the timely enactment of this continuing resolution, which incorporates a provision to delay the implementation of the sequester order, is critical to maintaining essential governmental services needed to protect the health and safety and property of our citizens and avoid unnecessary widespread disruption in the provision of governmental services.

In conclusion, I urge the passage of this resolution.

EXHIBIT 1

JUDICIARY

A 30% sequester in the Judicial Branch would cause the release of 46,000 potentially dangerous probationers and parolees from supervision.

JUSTICE DEPARTMENT

Layoffs would cause severe curtailment of criminal litigation and prosecutions under the Violent Crime program and the Finanical Institution Fraud program.

Layoffs in the U.S. Marshals service would result in an increase of more than 3,000 felons at large.

Layoffs would result in a 41 percent decrease in the number of investigations conducted by the Organized Crime Drug Enforcement Task Force and actually cost the Government money because of an estimated $294 million reduction in seizures and forfeitures.

Six thousand FBI personnel would be laid off which will cause curtailment of investigations in the S&L fraud cases, rendering many cases unprosecutable because of the lapse in the Statute of Limitations. Drug and organized crime investigations would be restricted or not investigated at all.

Drug enforcement operations in smaller U.S. cities and rural areas without DEA offices would be severely restricted because of reductions in travel funds.

Cutbacks in the Immigration and Naturalization Service would result in 5,000 fewer drug seizures and a reduction in the apprehension of 8,000 criminal aliens entering the U.S.

AGRICULTURE DEPARTMENT

The nation's 7,800 meat and poultry plants, employing over 400,000 people, and which cannot operate without Federal inspection, would have to be shut down for 137 days while USDA employees are furloughed.

The Forest Service estimates that the reduction in timber sales as a consequence of a sequester would result in a loss of revenue to the Treasury of the $400-$500 million that would otherwise have been paid by the estimate 70-80 thousand timber industry jobs that would be lost due to the reduced timber sales.

FOOD AND DRUG ADMINISTRATION

The safety of the nation's blood supply could no longer be guaranteed. Blood banks would be inspected only once every two years, increasing the risk of AIDS, hepatitis, and other serious diseases transmitted through contaminated blood.

FDA's special programs to improve access for the desperately ill to promising AIDS and other therapies may have to substantially abandoned.

DEPARTMENT OF DEFENSE

A full year sequester would not be manageable without significant damage to national defense. All Defense agencies would be required to furlough personnel. Virtually every defense procurement program would be reduced by about 35% and the Department would have to renegotiate the contract prices and lower the quantities of most equipment it planned to purchase.

DEPARTMENT OF ENERGY

A full year sequester would require the layoff of about 900 DOE personnel and the layoff of a further 52,000 contractor personnel.

DEPARTMENT OF THE INTERIOR

The Washington Monument and other parks and monuments would close 2 days a week. Many National Parks would close during the winter and some park areas would close year-round.

Forest fires of the type which had previously been contained by the Federal Government, would be left to burn freely.

FEDERAL AVIATION ADMINISTRATION

Six thousand flights a day at 40 key airports would be reduced. Research in new weapons and explosives detection equipment would be postponed, along with wind shear research and development.

FEDERAL HIGHWAY ADMINISTRATION

Rehabilitation of over 2,000 bridges and 13,500 miles of Interstate highways would not be conducted with the respective loss of at least 100,000 jobs and increased traffic fatalities.

OTHER TRANSPORTATION

Five hundred thousand commercial vehicles and driver inspections would not be conducted, resulting in an increase in unfit vehicles and drivers on the highway.

Operation of the program which ensures that drunk drivers and criminals with suspended driving licenses do not obtain licenses in other states would be curtailed.

Coast Guard drug interdiction patrols, both on sea and in the air would be greatly curtailed and other marine search, rescue, and law enforcement activities would be limited.

Mass Transportation operating assistance would be curtailed with special adverse impact on medium and small cities, such as Buffalo, Detroit, Phoenix and Kansas City.

The Federal Railroad Administration would be required to terminate its oversight activities for drug testing of railroad employees.

Amtrak would be brought to the brink of bankruptcy, and the maintenance of the Northeast Corridor train lines would be greatly reduced, thus endangering hundreds of thousands of passengers that ride between Boston and Washington, DC every year.

Federal inspections of interstate oil and gas pipelines would be cut by 40%.

DEPARTMENT OF THE TREASURY

Cuts in law enforcement training would result in 18,000 Federal law enforcement officers and agents not being trained for the war on drugs.

Violent Crime task forces, instead of being expanded from eight U.S. cities to sixteen cities, would be completely abandoned.

Over 2,700 repeat armed career criminal suspects would not be prosecuted as a result of staff cutbacks.

Staff reductions at the Bureau of Customs would result in a 50% reduction in arrests, indictments and convictions for narcotics violations.

IRS staff cutbacks would result in 570,000 tax audits not being conducted and a total revenue loss in the range of $10 billion.

POSTAL SERVICE

Preferred mail rates to non-profit organizations such as United Way, the Girl Scouts, etc. would be increased, thus adversely affecting the ability of many voluntary organizations to raise funds for continued existence.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Department's oversight and audit responsibility over the millions of people who deal with the Department would be curtailed, with a resulting increased opportunity for fraud and abuse.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Drug abuse treatment and prevention efforts would be reduced by $648 million.

AIDS funding would be reduced by $475 million.

Medicare claims processing would be curtailed, resulting in a backlog of 261 million claims. Medicare audits would be curtailed, resulting in a loss to the Treasury of $2 billion.

78 million meals to older Americans would be eliminated.

Social Security audit activities would be reduced, increasing erroneous payments by $10-$15 billion.

Biomedical research would be reduced by $3.5 billion.

Head Start would be reduced by over $500 million, eliminating help for 185,000 children.

Childhood immunizations would be eliminated for 1,600,000 children.

The Department of Education would be reduced by $6.5 billion.

Homeless programs would serve 87,500 fewer people.

Black lung clinics would serve 10,600 fewer patients.

CONTRIBUTIONS AND APPROPRIATIONS FOR DESERT SHIELD

Mr. BYRD. Mr. President, I strongly support the provisions in this measure which establish a new statutory scheme to deal with contributions that may be made by foreign governments, international organizations, or individuals to the United States to help pay for Desert Shield. The provision abolishes the present statutory scheme (68 Stat. 566; 50 U.S.C. 1151 et seq.), created in 1954 to handle minor gifts from patriotic citizens to pay for certain defense purposes intended by the donor, and puts into place a mechanism to handle in a constitutionally appropriate way, contributions made by anyone for any defense purpose. This revision was necessary because the administration indicated that it intended to use the 1954 statute to accept large sums of money which we all hope will be coming from abroad to help defray the large expenses we are incurring on behalf of the international community in the gulf, but then expend those sums without reference to Congress. Indeed, the administration expects some tens of billions of dollars to come from abroad for these

purposes, been very energetic in trying to raise such sums, and has my full support for this activity. Their specific use, however, should be through the normal appropriations process of the Congress as provided for in the Constitution.

Mr. President, while we all support sharing the burden with our allies and friends abroad, and one way they can help share is to provide financial resources to defray our large outlays, this should be done in a manner which preserves the constitutional balance of powers in our Government. Clearly, the power of the purse is one of the central powers of the Congress—article I, section 9, clause 7 states that "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; * * *" Therefore, under the revision to the statutory scheme contained in this measure, and which was originally proposed by the distinguished Senator from Georgia [Mr. NUNN] and myself, introduced as a separate piece of legislation in the Senate last week, and reported out of the Armed Services Committee of the Senate as part of legislation S. 3087 just last Thursday, September 27, 1990, such contributions made into the Treasury of the United States would be subject to the further appropriations of the Congress.

In addition, Mr. President, there is the question of how to handle in-kind contributions, such as fuel, food, provisions, and the like to our forces in the gulf theater. The provision allows us to accept such contributions, and to be part to immediate use. It does, however, also provide for detailed quarterly reporting of such in-kind contributions and therefore, the Congress, can take account of such contributions as we proceed in fiscal year 1991 with supplemental appropriations for defense.

I am pleased that the House chose to adopt the scheme that we have proposed, and it would apply to contributions for Desert Shield, and any other contributions that may be made, so that it repairs the statutory invitation to circumvent the constitutional process on which our Government is founded that was inadvertently included in the 1954 law.

Mr. NUNN. Mr. President, I believe that this continuing resolution represents a reasonable approach to the immediate fiscal needs of the Government, pending the development of legislation incorporating the agreements reached in the budget summit, which I will study carefully.

This continuing resolution does provide $1.9 billion in funds to cover the incremental costs of Operation Desert Shield incurred in fiscal year 1990. This is consistent with the amount authorized by the Senate Armed Services Committee last week.

ESTABLISHMENT OF THE DEFENSE COOPERATION ACCOUNT

I am pleased that the continuing resolution also contains a provision, reflecting a bill reported by the Senate Armed Services Committee, to revise the procedures for accepting and using contributions from foreign countries. This provision is based upon S. 3087, a bill that I introduced with Senators BYRD, WARNER, HATFIELD, and EXON.

Secretary Cheney testified before the Armed Services Committee on September 11 that he expected the incremental cost of Operation Desert Shield to the United States in fiscal year 1991, in the absence of hostilities, would be $15 billion on an annual basis. He also testified that the administration was hopeful that about one-half of that cost could be paid for through donations by foreign nations.

Such contributions are appropriate in light of the impact of the Iraqi aggression on the world community, and will hopefully reduce the need for supplemental authorizations and appropriations for fiscal year 1990.

But a contribution of half the anticipated incremental cost of the operation for next year—over $7 billion—would represent a degree of foreign financial participation in a United States military operation unprecedented in modern times.

While such contributions must be encouraged, it is essential that the funds be collected, managed, and accounted for through established financial procedures. The current gift statute, chapter 26 of title 50, United States Code, provides the executive branch with virtually unfettered discretion to place contributed finds in any DOD account, was not designed or intended for a massive military operation, such as Operation Desert Shield.

The legislative history of this statute, which was enacted in 1954, makes it clear that it was intended to permit citizens motivated by "patriotic feeling" to make donations "to support the defense effort." The legislative history notes that "the aggregate amounts of money likely to be received from these sources are relatively small." Experience under the statute bears out the expectations of Congress. In recent years, for example, the balance in the gift fund has not exceeded $300,000.

Use of chapter 26 to channel foreign contributions into military operations would provide the executive branch of Government with the authority to both raise funds and conduct military operations. Such combined authority would be in direct conflict with the intent of the framers of the Constitution, who, in the words of George Mason, determined that "the purse and the sword ought never to get into the same hands, whether legislative or executive."

The revised statute, as set forth in this continuing resolution, would permit DOD to accept and use contributions in a manner that assures accountability.

The revised statute establishes a new provision of law, section 2608 of title 10, United States Code, to establish procedures for accepting, processing, and using contributions of money and property, including contributions from foreign countries.

The new provision would authorize the Secretary of Defense to accept contributions of money or property from any person, foreign government, or international organization. Any money received, along with proceeds from the sale of any property received, would be placed in the defense cooperation account in the Treasury. Money in the defense cooperation account would be available to the Department of Defense only in accordance with standard congressional authorization and appropriation procedures.

The revised statute would permit DOD to use gifts of property, but would require the Department to submit periodic reports on the property received in order to permit congressional assessment of the effect, if any, on current and anticipated funding needs for the Department of Defense.

OTHER INITIATIVES PROPOSED BY THE SENATE ARMED SERVICES COMMITTEE

There are a number of elements of the Department of Defense Supplemental Authorization Act for fiscal year 1990, as reported by the Senate Armed Services Committee which have not been included on this continuing resolution. Because they are not as time-sensitive, I will not press for their inclusion at this time, but I am hopeful for prompt Senate action in the near future.

These items include: discretionary authority for the Secretary of Defense to provide several new personnel benefits for personnel deployed in Operation Desert Shield, including clarification of the free mailing benefit for the troops; a savings program; payments for unused leave, and special authority to make payment of imminent danger pay—$110 per month—retroactive to August 1, 1990. These benefits are based on S. 3026, a bill introduced by Senators GLENN, MCCAIN, and BOREN; authority for DOD to increase the threshold for simplified purchase procedures from $25,000 to $100,000 for purchases outside the United States in connection with Operation Desert Shield; revised authority to make use of host-nation support, including improved accountability provisions; revised authority for reciprocal logistic support agreements, which will permit the United States to make better use of logistical support from cooperating nations in conjunction

with Operation Desert Shield; authority for DOD to use up to $15 billion of amounts contributed by other nations in connection with Operation Desert Shield. These funds would be subject to appropriation, and could only be used in accordance with limitations otherwise provided by current law.

RESERVE CALL-UP AUTHORITY

Mr. President, the continuing resolution, as originally reported by the House Appropriations Committee, contained a provision that would have doubled the length of time that National Guard and Reserve units could be called up under the current call up order. Under current law, the President—even in the absence of an emergency—can order 200,000 reservists to active duty for 90 days, which can be extended for a total of 180 days. The proposal would have authorized call-ups for a total of 360 days. That provision has been deleted in the House, and I agree with that action.

We may need to make adjustment in the reserve call-up authority, but we should do so only after careful consideration of the effect of current law on Operation Desert Shield, the implications of any change on the role of Congress with regard to military actions, and the effect of such a change on the rights and protections of reservists and employers under a call up.

Mr. President, let me give a brief background on this matter. Section 673b of title 10 authorizes the President to call up to 200,000 National Guard and Reserve personnel to active duty for up to 90 days without declaring a national emergency. The President can extend this initial 90-day period for another 90 days.

Current law was specifically designed to be a limited callup authority short of a national emergency. It was developed to permit the President to begin to mobilize military forces as a first step toward a broader declaration of national emergency, or to allow the President to mobilize selected National Guard and Reserve units for limited contingencies short of a national emergency. Doubling the length of time that the President can activate National Guard and Reserve units without declaring a national emergency goes far beyond the original intent of this limited callup authority.

There are a number of difficult questions raised by the proposed increase from 6 months to nearly a year in the authorized duration of any non-emergency callup.

First, would such an increase unnecessarily blur the distinction between the limited callup authority and a declaration of national emergency? Under current law, upon declaration of a national emergency, the President can activate up to 1 million National Guard and Reserve personnel for up to 2 years. If we get to the point in the current Persian Gulf crisis where we have to keep National Guard and Reserve units on active duty for more than 6 months, then we should consider declaring a national emergency—not extending the length of time of the limited callup authority.

Second, what is the basis for the proposal in terms of actual analysis of the requirements for Operation Desert Shield? We have not received either a formal proposal or a clear rationale from the Department of Defense for extending the current 180-day authority. Operation Desert Shield is the first time this authority has been used. Defense officials are reviewing the implementation of this callup authority, but they have not developed any analysis indicating that changes are needed yet.

Third, are there alternatives that can be tried without changing the law? As I understand the concern that has motivated the proposed increase in the authority to 360 days, it is intended to provide for the training of Army Reserve units at the National Training Center before they are deployed. Because of this training requirement, and the movement time to and from the theater, the net effective utilization time of these units in theater would be about 4 months at the maximum under the proposed 360-day callup authority. As an alternative, DOD is currently exploring the possibility of training these units under the current authority to provide for active duty for training, and then activating them under the current 180 day callup authority as a way of getting 6 months of net effective utilization time in theater.

Finally, what would be the impact on the strength of support for the total force concept? In reviewing any proposal to extend the authority from 180 to 360 days, we need to determine whether changing the rules on National Guardsmen and Reservists and employers in the middle of the game would have an adverse effect on the total force concept. This is the first time that the 200,000 callup authority has been exercised. We have not given this authority a chance to work as it was designed. Reservists and employers know the rules now. In attempting to fix a problem that may not exist, we may be creating problems in this area that we do not need.

Mr. President, the questions I have raised about the proposal do not reflect any a lack in confidence in our National Guard and Reserve components. Quite frankly, I am impressed with the performance of our National Guard and Reserve components in Operation Desert Shield. They have proven to be ready and responsive to the callup as I would have expected.

Although the Operation Desert Shield callup does not include the callup of combat units at this time, I believe the callup of Reserve combat units is inevitable and I believe they will prove to be as ready and as responsive as the combat support and combat service support units that have been called up so far. I question why the Secretary of Defense has not yet called up certain combat units and I believe they could be very helpful in this situation as rotating units.

Mr. President, as I indicated earlier in my remarks, there may be some problems associated with the length of predeployment training that National Guard and Reserve combat units have to go through that could reduce the net effective utilization time of these units in Operation Desert Shield because of the current 180 day callup limit under the current order. The Defense Department is obviously aware of this and is working on some options. The Armed Services Committee will be reviewing very carefully the options developed by the Department.

Mr. BURDICK. Mr. President, I want to address one specific issue in regard to this continuing resolution. That is the issue of the Federal Crop Insurance Program. Under this resolution, crop insurance is continued at the lower of the rates provided in the House and Senate appropriations bills for Rural Development, Agriculture, and Related Agencies. The House has funded crop insurance at a level of $264,518,000 and the Senate has funded it at $663,222,000. Therefore, for the duration of the continuing resolution, crop insurance will be funded at the House level.

The House level does not provide for the continuation of the Crop Insurance Program in fiscal year 1991 but, rather, provides funding to pay for those insurance policies which were signed prior to October 1, 1990, and for closedown costs during 1991. The Senate, on the other hand, has provided sufficient funding for a full-fledged Crop Insurance Program for the entire fiscal year 1991.

My concern is that under this resolution the Department of Agriculture would have to begin shutting down the crop insurance program immediately. However, I have been assured that, because of the short duration of the continuing resolution, the crop insurance program will continue. I have been assured that the Department of Agriculture will request a special apportionment of funds made available by the resolution, and I have been assured that the Office of Management and Budget will approve this request, in order to continue the program for the duration of the continuing resolution.

Therefore, crop insurance employees will not be laid off or furloughed, and commissions will continue to be paid to crop insurance agents. It is also my expectation that crop insurance contracts will be signed during the period of the continuing resolution for those

crops and for those policies that are due. Therefore, for the duration of this resolution, crop insurance will continue as it was operated in fiscal year 1990. This arrangement will allow the conference committee on the Rural Development, Agriculture, and Related Agencies appropriations bill and the Congress to work its will with regard to funding for crop insurance in fiscal year 1991.

Mr. KERRY. Mr. President, at the request of the President and the bipartisan leadership of the House and Senate, we will soon agree by unanimous consent to enact a continuing appropriations resolution for 5 days which will expire on October 5, 1990. This measure is, according to the President and the joint leadership, essential in order to keep the Federal Government functioning for the next 5 days. This measure includes, at the President's request and that of the joint leadership, a waiver of the Gramm-Rudman-Hollings bill that will prevent sequestration from occurring for the same 5 days in which the continuing resolution is in effect.

In addition, at the request of the President, we will also pass by unanimous consent a 6-day extension of the Federal debt limit. This we have been told by the White House is necessary to continue essential functions by the Federal Government.

Mr. President, I will express again, as I have in the past, my grave reservations about the process whereby we conduct the critical budgetary business of our Government. The White House and the congressional leadership have debated and delayed action on the budget until this budgetary crisis forced action. I do not believe that such a crisis atmosphere is the appropriate one in which to make wise decisions, difficult decisions, on such critical matters. However, we cannot permit the essential services with Government, to our citizens, to grind to a halt. Therefore, I will very reluctantly, and at the President's request, not object to this unanimous action by the Senate. But, I am very concerned about our functioning in this manner.

Furthermore, Mr. President, while I am pleased that the congressional leadership and the President have reached a multiyear budget agreement, I will want to look at the fine print of their agreement with great care as soon as the details are available.

If such an agreement is to win the support of this Senator, I must be convinced that it meets several important criteria, including the following:

First, it must be fair to the working people of Massachusetts. It must not discriminate against our region of the country. It must not continue or increase the burden on the middle-class families of our State and unfairly benefit those with substantial wealth.

Second, it must be consistent with the expansion of the Massachusetts economy and recovery from the serious recession that we are currently in.

Third, it must be real, substantial, multiyear reductions and abandon the recent practice of phony budgets with rosy economic assumptions and gimmickry short-term measures predominating.

Mr. President, I hope we can pass a budget deficit reduction package this week. But, I will not support a package that adds to the burden of Massachusetts workers and their families or asks them to carry an unfair share of the deficit reduction burden.

Mr. HATFIELD. Mr. President, this is a straightforward measure. Because of the protracted budget negotiations, not a single appropriations bill has been enacted into law. If we do not pass this measure, the Government will have no spending authority tomorrow. Accordingly, this continuing resolution is necessary. It provides spending authority for all Departments and agencies of the Federal Government until October 5, pending further developments in progressing toward a budget agreement.

Pending those developments, this measure also suspends the sequester until October 5.

This resolution also provides supplemental funding for Operation Desert Shield as requested by the administration.

Mr. President, this is a temporary measure to get us through the next few days without shutting down the Federal Government through lack of appropriations or crippling its operations through a sequester. This simply gives us time to digest the details of the budget agreement. We can debate those details when we attempt to enact that agreement. For now, I simply ask for an affirmative vote on this continuing resolution.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TEMPORARY EXTENSION OF THE PUBLIC DEBT LIMIT UNTIL OCTOBER 5, 1990

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5755, a bill to provide for a temporary extension of the public debt limit until October 5, just received from the House, that no amendments or motions to recommit the bill be in order, and that the bill be deemed to have been read three times and passed.

Mr. EXON. Reserving the right to object.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska [Mr. EXON].

Mr. EXON. Could I have some clarification from the majority leader? As I understand it now—tell me if I understand correctly—we have the continuing resolution, temporary continuing resolution which, as I understand it, is a 5-day resolution that the leader has just gotten a unanimous consent on; is that correct?

Mr. MITCHELL. That is correct.

Mr. EXON. Now there is a second bill from the House of Representatives that provides for a temporary increase in the debt ceiling which we understood previously from the administration would not be necessary. Would the leader please enlighten me as to the amount of that extension and for what length of time?

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, over the weekend the distinguished Republican leader and I and the House leaders were advised by the Department of the Treasury that it would not be necessary to act upon a debt limit extension prior to midnight Friday, October 5, which is the time to which the continuing resolution continues the operations of Government. The House leadership was also so informed.

Early this afternoon, while the House was considering the continuing appropriations bill, we were advised that the previous information which we had received and to which I have just referred was incorrect and that action would have to be taken on the debt limit prior to Friday, October 5. There is some question as to whether that would have to occur by Thursday or Wednesday. The administration requested that the matter be resolved today as part of the continuing resolution.

At approximately 4:15, just as the House was about to act on the matter and had received the request, the Speaker called me and asked if I would agree to that procedure. I told him that I wanted, first, to consult with the distinguished Republican leader, but that I had some reservation about doing it in that manner since we had not notified Senators that the debt limit would be acted on, that our prior notification dealt only with the continuing resolution and I did not want to do so, that is, to act upon the debt limit, without the opportunity to notify Senators both through the hotline and through calls to individual Senators by respective staffs.

I spoke with the distinguished Republican leader, and we agreed that the best recommendation would be to separate from the House, to give us the opportunity to notify Members on both sides of what we were intending to do, so that we can still proceed with the continuing resolution, as Senators had been advised we would and to which no objection had been made, and use the intervening hours to notify as many Senators as possible about the debt limit extension in the hopes that there would be no objection to that, although the debt limit extension, by its terms, goes from now until October 5, since the expiration is not now scheduled to occur until sometime later in the week. It is effectively an extension of 1 or 2 days, depending upon when the extension would be necessary, to place it in conformance with the expiration of the continuing resolution.

Mr. EXON. I thank the leader.

Could the leader provide me with the figures as I had requested? The President had requested the debt limit extension for a really brief period of time to be moved from three point what trillion to three point what trillion?

Mr. MITCHELL. I am advised that in response to inquiry in the House, in response to that inquiry, the answer was that this is a date change and not a money change, but I am asking to see a copy of the legislation itself, which is, of course, at the desk and available for any Senator. In its entirety, the legislation reads: "Section 1 of Public Law 101-350 is amended by striking October 2, 1990, and inserting October 6, 1990."

Mr. EXON. Do I understand then, in approving that, we would not be extending the amount of the debt ceiling, but we would be extending the date; is that correct?

Mr. MITCHELL. That is my understanding.

Mr. EXON. I thank the Chair. I assume it is the wish of the leader to pass both of these by voice vote. I will have no objection to that, but I reserve the right to at least indicate my opposition to the debt ceiling portion when it does come to a voice vote, assuming that happens.

Mr. MITCHELL. I thank the Senator very much. Unfortunately, during the occurrence of this colloquy, we have been advised of another Senator calling in with some question, and so we will have to delay that voice vote momentarily until we resolve that. Accordingly, Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOYNIHAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New York [Mr. MOYNIHAN] is recognized.

Mr. MOYNIHAN. Mr. President, we have just learned of the anticipated expiration date for the debt ceiling, which was to have been later this week. For technical reasons, the Treasury tells us that they need an extension this evening, or they would like one this evening. It is known to the majority leader and I believe to the distinguished Republican leader and to other Senators that it had been my intention to offer on the debt ceiling extension of measure to roll back Social Security payroll contributions over a period of years to pay as you go basis, such that we will not be using pension funds as if they were general revenue.

This is a matter that the representatives from this side of the aisle on the National Economic Commission, which reported on March 1, 1989, said would be done if there was no balanced operating budget agreed to in that year. We said we were not going to let this $3 trillion debt—and we connected it specifically to the debt—we said we were not going to let a $3 trillion and then a $4 trillion debt be serviced, have the interest be paid by contributions to pension funds taken out of workers', employees' checks from the first dollar on.

This is the first time that a debt ceiling extension is being offered in the timeframe which I expected to offer this as an amendment. The majority leader has been very cooperative. He has known that this is the intention of the Senator from New York, who is chairman of the Subcommittee on Social Security, and has indicated that, given the unknowns that always obtain on the floor, he would try to accommodate this desire; he has expressed his opinion, I believe, in favor of this proposal, but not necessarily in the context of a budget agreement to which he is kind of a signatory, if that is the acceptable term.

So I rise not for the purpose of objecting but, rather, to inquire whether later in the week—and it will be in a very short period—while he cannot guarantee that I will have the opportunity, he does not anticipate that I will in the ordinary course of events.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I respond to my friend and colleague in the affirmative, that the debt limit extension now before the Senate would go forward only until October 6. Therefore, the expiration would be midnight this coming Friday. Further action with respect to the debt limit will have to be taken at that time and when that occurs the Senator from New York would, of course, be free to offer the amendment to which he has referred, as would every other Senator be free to offer any other amendment. I will expect that there would be vigorous debate on it. As he has correctly indicated, I cannot assure any Senator a vote on any amendment. I hope that the matter could be debated and voted on in the Senate.

As the distinguished Senator from New York indicated in his remarks, I have today joined the President and the other Members of the congressional leadership in announcing a budget agreement. A part of that agreement is that each of us have committed ourselves in opposition to any amendments inconsistent with the agreement or unrelated thereto.

As I have told the Senator from New York many times, I favor the provisions of his proposal; I think it makes sense and would in other circumstances not only vote for it but speak in its behalf and vigorously work for it. Given the circumstance of the agreement now, however, I will not be able to do that will, of course, honor my commitment with respect to the agreement.

But I assure the Senator that it has been my expectation, my understanding, that he would offer the amendment. He has been most forthright in advising me of his intention to do so, and I continue to fully expect that his amendment will be offered, will be debated, and I hope voted on in the Senate, either in connection with the debt limit extension or some other legislation to which the Senator would choose to offer it as an amendment.

Mr. MOYNIHAN. The Senator, of course, knows that what I would prefer would be the debt limit.

Mr. MITCHELL. I understand that.

Mr. MOYNIHAN. If I can, seeing the distinguished Republican leader on the floor, there are members on both sides of the aisle who look forward to such debate, who would like to support such a measure.

In the circumstances, as always, I just wanted to express my thanks to the majority leader and tell him there is going to be one hell of a debate before this week is out. He probably knows that.

Mr. MITCHELL. Oh, I think more than that issue.

Mr. MOYNIHAN. I thank the Chair.

Mr. MITCHELL. I thank the Senator.

Mr. President, I renew my request.

The ACTING PRESIDENT pro tempore. Is there objection? Hearing none,

without objection, the request of the majority leader is agreed to.

So the bill (H.R. 5755) was passed.

Mr. MITCHELL. I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order permitting the majority leader, after consultation with the Republican leader, to set the final adoption vote on Senate Concurrent Resolution 147 dealing with the Persian Gulf for some time Monday be modified so that the vote occur at 2:15 p.m. on Tuesday, and that all other provisions of the previous consent request remain in force.

Mr. MOYNIHAN addressed the Chair.

The ACTING PRESIDENT pro tempore. Is there objection? The Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, reserving the right to object, and I do not think I would object, as someone who has been involved in that debate—I see the Senator from Oregon, the Senator from California—could we ask why.

We were first surprised to learn that debate was to be kept to an hour, then cut to half an hour, as the Senator from Oregon said. There may have been scheduling issues involved. But the British House of Commons came back from recess to debate this subject. The Canadian Parliament in Ottawa spent a whole day on it. Some of us do not have the feeling that this is being given the attention that it certainly deserves. But in any event there is a reason and could I ask why.

Mr. MITCHELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Not to restate in unnecessary detail the events of last Friday, I will attempt to recapitulate the situation with respect to that resolution and my reasons for this request.

On Friday morning, a so-called hotline was issued by the staffs of both parties, a regular practice in the Senate, notifying Senators of the intention of the leadership to seek unanimous consent to bring up the Persian Gulf resolution under a 1-hour time limit. No objection was heard from either side. Every Senator was notified of that—every Senator's office was notified and no objection was heard.

Accordingly, since this is a routine practice in the Senate, acting upon the absence of objection on either side, I came to the floor and sought to obtain that request. At that point I was asked to reduce the request to 30 minutes. I agreed to do so on the explicit condition that if any Senator wanted that time extended, I would insist that it be extended, so that every Senator had the chance to speak for as long as he or she wanted on that subject.

The order was agreed to and, predictably, one or more Senators requested additional time. To accommodate those Senators, and to accommodate other Senators who had other commitments, I suggested and consent was obtained that there be unlimited debate on Friday, that the entire day would be spent on this subject; that Senators could debate it for as long as they wished to do so; and, that the vote would then occur at a time to be set by the majority leader after consultation with the Republican leader on Monday. That is what occurred.

The debate continued until every Senator who wished to speak for as long as he or she wished to speak did so, and it was my intention to have the vote on Monday tomorrow. At that time, because the budget situation was unclear, there was a possibility that we would be involved in the continuing resolution or the budget on Monday.

Since the budget agreement has now been reached, and since there will be no other rollcall votes necessary tomorrow, to accommodate the schedules of as many Senators as possible, I have determined, after consultation with the Republican leader, that it would be most convenient for Senators to have this vote previously scheduled for sometime Monday to occur Tuesday at 2:15, when attendance by Senators is at its peak, so that every Senator would have a chance to vote on it without inconveniencing otherwise his or her schedule.

We will be in session tomorrow to take up other legislation, and I certainly would invite the Senator from New York or any other Senator who wishes to speak further on the Persian Gulf resolution to use the opportunity to do so. This is merely a scheduling change to attempt to make the situation more convenient for the largest number of Senators, and since attendance Tuesday afternoon immediately following the party caucuses usually is the highest, this will give every Senator the opportunity to vote on this important measure at that time.

Mr. MOYNIHAN. Mr. President, I certainly will not object, if the majority leader is still on his feet. It is something of an achievement in the history of this institution after the last 4 months.

I understand now that there will be no votes tomorrow; very well. But the world is at a crossroads in this matter. We have a resolution which states the support of the Senate for the action the President has taken in response to the resolutions of the Security Council.

The point has been made that the resolutions of the Security Council are binding on members of the United Nations. We have said no more than that. The Senator from Oregon and others have spoken. The Senator from North Carolina has spoken with great conviction about the applicability of the war powers resolution. That is a view this Senator does not share, but it is still a very strongly held view.

And the press this weekend is still, with its unmistakble set of leaks—that is the term confidential disclosures—from administration officials saying an all-out war may be necessary shortly now. It is the unmistakble mark of a concerted effort from the administration to say that we are going to have to go beyond the sanctions to a direct confrontation, for which there is no mention that the Security Council will be doing it as an indication of unilateral American action. That is very important.

There is a war party downtown. Their views have filled this weekend's press.

I would have thought in that setting the quicker we had the Senate go on record that we will go as far as the United Nations Security Council goes—I would have thought that was a matter worth having Senators on hand to vote for on a Monday.

But obviously there is no other explanation than that in the context of this agreement. There will be no votes, and the good faith of the majority leader was never an item that I would dream of questioning.

The fact we will have an opportunity to discuss this matter more tomorrow is perhaps not the least valuable, because we will do it in context of this weekend's barrage of war talk from people who are great at having people fight their wars, but are not even prepared to have their own names associated with the difficulty.

I yield the floor.

I thank the majority leader for his patience, which could easily by now have expired with respect to almost any subject, I imagine.

Mr. CRANSTON. Mr. President, I just want to again congratulate the Senator from New York for his persistence and his leadership on this particular issue. His stressing of the United Nations as something we must cooperate with and seek to proceed under their banner, and not totally separately launch an aggressive action without full consultation with the Congress is, I think, a vitally necessary position to be taken at this time.

I applaud his doing so.

Mr. MOYNIHAN. I thank my colleague, the deputy leader.

The ACTING PRESIDENT pro tempore. Without objection, then, the unanimous-consent request propounded by the majority leader is agreed to.

PROGRAM

Mr. MITCHELL. Mr. President, for the information of Senators, with respect to the schedule for the next few days, there will be no rollcall votes this evening. And on tomorrow, there will be no rollcall votes. On tomorrow, it is my intention that the Senate will convene sometime during the afternoon, at which time I hope that we can take up and gain final approval of by voice vote the military constructon appropriations bill. If a vote is necessary, that will be scheduled for Tuesday as well.

I advise the distinguished Republican leader that I also will consider the possibility of moving to proceed to the cable television bill, with respect to which I would not obtain unanimous consent to proceed to on last Friday.

So Senators interested in that issue on either side should be aware of the possibility. I will now be discussing that with several of them on tomorrow.

So that on Tuesday, there will be a vote on the Persian Gulf resolution at 2:15, and then the Senate will proceed to the consideration of the nomination of Judge Souter to the Supreme Court.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Republican leader, the Senator from Kansas [Mr. DOLE] is recognized.

THE BUDGET

Mr. MITCHELL. Mr. President, if I might have the indulgence of the Republican leader for a moment, earlier today, the distinguished Republican leader and I, and other Members of the House and Senate, participated in a meeting with the President which was followed by an announcement of the budget agreement; the continuing resolution, on which we have not acted, which will continue the Government through midnight, October 5, this coming Friday, and under the terms of the agreement both Houses will attempt to act on a budget resolution prior to that time; and for a reconciliation bill implementing the budget agreement by October 19.

I want to first thank personally the distinguished Republican leader for his cooperation during those lengthy discussions, and also to pay tribute to the House majority leader, Congressman GEPHARDT, who chaired the proceedings with great skill, patience and fairness, and to encourage every Member of the Senate, the Democats and Republicans alike, to please take the time to study the agreement, to weigh the gravity of the situation, and the implication of our inability to approve a budget agreement before reaching a final decision in that regard.

I have asked the Democratic Members of the Senate to meet tomorrow to consider it, to go over it, to answer questions, to explain the reasons why various provisions are in or not in the agreement, and I hope that we are going to be able to gain the support of the majority of our colleagues in this important effort.

I, again, thank my friend, the distinguished Republican leader, although he will understand when I say I will not miss seeing him this evening.

Mr. DOLE. Mr. President, let me also thank the distinguished majority leader. The discussions we have had over the past several months were long, difficult, torturous, frustrating, and disappointing at times. I know that many American people wonder why it takes so long, but $500 billion is a large sum of money. To determine how to put a package together over 5 years to reduce the deficit by $500 billion, without a lot of smoke and mirrors, a genuine reduction, is a very difficult task.

I want to urge my colleagues on this side of the aisle, before making a judgment, to give us an opportunity to go over the entire package. Some have already said they are going to vote against it. Well, maybe they know what is in the package. In my view, it is a well-balanced, fair, tough, deficit reduction package.

The easiest course is to find something and say, "I am against it all." But I believe the American people are looking for leadership. This is not a game of hide and seek. If we do not do something, then we have the alternative of about a 32.5-percent cut in many programs. So, hopefully, tomorrow we can start the process of going over this lengthy, voluminous, very complicated process of explaining to our colleagues on both sides of the aisle what precisely is in the package, how much is defense cut, what are revenues, what entitlements were cut and any questions they might have.

I am also advised that maybe by 9 o'clock this evening, there will be additional documents available from the White House, and I assume both Republicans and Democrats will be putting their own packages together for further explanation.

I just besiege my colleagues not to make a judgment until they have taken a look at the package. I recall many of my colleagues saying, "Well, if you leave out Social Security, I will be with you." We left it out. Now I want to see if they are with us. We did not tax benefits or freeze COLA's. We did not raise tax rates. We did not get capital gains. That is frustrating to some on this side and on that side. But this was a deficit reduction effort. There are revenues in it. If you smoke, drive, or drink, you are going to pay a little more. That is in the measure, considerable increases in some of the excise taxes, and considerable reductions in medicare. But for all those who say no—and maybe they are totally justified in saying no, if they do; I hope nobody says no. If it is unanimous, maybe we can do it on a voice vote. I doubt it.

Give us an opportunity to explain it, to address questions, and to have the experts on process reform, Senators DOMENICI and GRAMM on this side, and others on the other side, explain the changes in the process that will ensure and guarantee to the American people, as nearly as we can, from now on it is going to be pay as you go.

We are not going to increase the deficit, have new programs, new entitlements or whatever, unless somebody pays for it. The first test may come from the amendment of the distinguished Senator from New York. This has been an experience I would not want to repeat soon. I hope this 5-year package is a 5-year package. I want to congratulate all my colleagues who participated, Republicans and Democrats, members of the White House staff, and the President of the United States.

Finally, now it is our responsibility. We cannot run any more. We have to say yes or no. It is going to happen in the next 3 weeks. Hopefully, we will have a majority of Republicans and a majority of Democrats who will demonstrate bipartisanship and leadership.

Mr. CRANSTON. Mr. President, I have never before given a blank check during the 22 years I have been in the Senate. I did so privately yesterday to our distinguished majority leader. I now want to do so publicly.

I will support the package, even though I do not know its details. I have great respect for the majority leader and the team that he brought into the negotiations. I am confident that they would not have agreed to any solution to our budget problems that would not be fair and equitable and sound. I also have respect for the Republican leadership team and for the President of the United States and, given the immense dimensions of the budget crisis that we have faced, it seems to me that on both sides of the aisle we have no alternative but to follow the leadership on this matter.

As Senator BYRD, the President pro tempore of the Senate and chairman of the Appropriations Committee, stated yesterday at a meeting on this subject, which I attended, the alternative is really not this agreement—which was not then final yesterday at the time of this meeting—or sequester, as horrible as a sequester would be; the alternative is either this agreement or sequester, plus some other agreement that probably will be far less acceptable and far more unpleasant than this agreement.

So I am supporting it. I urge others to support it. I know some will want to know certain details, but I urge them to look at the broad picture and not at the finite details. I want to assure the leadership on this side, on that side, and the President, that I will do all I can to help see to it that we produce a majority on this side of the aisle for the agreement.

Mr. EXON. Mr. President, if I could ask a question of the majority leader, I want to add my praise for the patience and understanding of the majority leader and the minority leader. This has been 4 months of probably the most difficult package that has ever been put together. I want to take a very close look at it. I think they have done an awful lot of work. I have to have some of the details, and I am not not going to give it my check. I want to take a look at it.

I have on my desk a rather detailed document that supposedly was put out by the White House on what was agreed to, but I understand that at least there are some things in there that somebody might have a little different spin on than others. Do I understand that the majority leader agrees with what the minority leader said, that at 9 o'clock tonight we will have some documents that we can take home and look at tonight to answer some of the questions that we have? As a budgeteer, I have lots of questions to ask. I would not expect them to be answered now. There is a 5 cents a gallon increase in the gas tax. There were conflicting views in the House regarding the alleged facts and the figures they had over there that half of the gasoline tax increase of 5 cents would go to the general fund, and half of it would go into a highway trust fund.

The first question that my friend from New York and I have is that more of the same, putting it in the trust fund and drawing it right back out? I guess I want to know where we are going on these things, and I need to have the numbers. So the quicker people get these numbers, the better we are going to be prepared to make an honest evaluation to answer some questions.

Is it true from the understanding of the majority leader that we will have something in our hands that gives the description that would be generally agreed to by the majority leader and minority leader?

Mr. MITCHELL. Mr. President, the Senator is correct and I thank him for his comments and of course understand his desire to review the matter in detail.

Let me explain that, first, a number of documents already have been made public and I will be pleased to provide those to the Senator immediately. Those are generally tables and a copy of an agreement with respect to the procedure by which the Senate and the House will attempt to complete action on this measure.

Accompanying the tables there were several pages of detailed description of policies which in the aggregate add up to the figures in the tables. Because this involved an all-night process, there was some disagreement over some of the language in the supporting douments. I understand the original supporting documents have been made public. At the same time the staffs are meeting to revise those documents in a way that more accurately reflect the agreements that were reached. It is my understanding that those documents should be available by about 9 o'clock.

So, really, if I might summarize, there are three sets of documents: First, the general tables and the process agreement or the procedure agreement with respect to the handling of it; second, a first run of the supporting detailed documents which are in several respects inaccurate and therefore should not be reviewed. It would be best, really, if they were just simply discarded; and then, finally, shortly a revised version of those detailed documents which we hope will accurately reflect the understanding of the participants.

Mr. EXON. I thank the majority leader.

The ACTING PRESIDENT pro tempore. The Senator from New York [Mr. MOYNIHAN] is recognized.

Mr. MOYNIHAN. Mr. President, may I make just one observation, and in good spirits, but I hope it will not be taken amiss. But I do note that with respect to the budget process this document I was just reading, the White House document, will extend the Gramm-Rudman-Hollings sequester system with new deficit targets for 5 years. There you are.

If ever there has been a mechanism which bound this body to a seeming discipline which never eventuated, it has been that. Last year, last March 1, 1989, a bipartisan group established by the Congress, approved by the President, the National Economic Commission, gave its report to the President and said you have to do something, sir. And we gave him the deficits as we saw them and estimated them and they were not beyond the capacity of a group to do. We said you do not have a $100 billion deficit and you do not have a $200 billion deficit; you have a $300 billion deficit.

For fiscal 1991, we said the deficit would be $289 billion. I read in the White House document that for fiscal 1991, the White House now agrees it will be $289 billion.

We said for fiscal 1992 it would be $293 billion, and I read in the White House document that in 1992 it will be $292 billion.

I make the point. We were exactly on target. It was entirely knowable. We knew it. It was chosen; the executive branch made the decision to ignore the information. But much more importantly, we continued and almost colluded, it was almost an element of collusion in our acting as if the Gramm-Rudman-Hollings targets were being met. They have never once been met. They are wildly below reality.

I hope we are not engaging and we are not asked to engage in another set of systematic delusions. Those who bring this measure to the floor really owe it to themselves, in their own words, to explain to the rest of us who are not involved why this is different; why it is different this time from that one.

The ACTING PRESIDENT pro tempore. Who seeks recognition?

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, it is my understanding that the Senate is now in morning business.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. MITCHELL. Senators are permitted to speak therein.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. MITCHELL. I yield the floor.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,024th day that Terry Anderson has been held captive in Beirut.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina [Mr. SANFORD] is recognized.

THE BUDGET

Mr. SANFORD. Mr. President, the details of the summit budget can be debated forever, but the details are not as important as direction. This Nation is on the brink of a recession. Our housing is the worst in 60 years, our children are neglected and many left in ignorance and exposed to drugs, and our health-care system disregards a quarter of our people.

Prenatal care, Head Start, other early childhood education, and proper-

ly nourished children are abandoned ideals. Our irresponsible management of our fiscal affairs, coverd up by budget tricks that my distinguished colleagues from New York has just alluded to, has put us in hock to the Japanese and European investors and surprised us with the largest debt in our history, indeed the largest debt in the history of the world.

As a response to this sorry state of affairs, the White House has permitted us to consider a budget that is not just inadequate, but a clear fraud. There should have been no pride in the rose garden in the announcement of this budget. This is not a pay-as-we-go plan. It will permit, indeed require us to continue to pile up debt at an unprecedented amount and hidden from the public view.

I want to support our leader. Maybe we have to adopt this budget to keep the Government from closing down. But if we do, we should pledge that we never again will put ourselves in this position of impotence.

This budget pretends to make substantial deficit reductions over the next 5 years. It does no such thing. It will simply lull us to complacency. At the end of 5 years, says the President, we will have reduced the deficit by $500 billion. The truth is, we will add another trillion dollars to our debt and will have done precious little to build a stronger nation.

We cannot wait another 5 years to show our leadership and political courage. I cannot vote to continue to conceal the true deficits. This deceit is leading the Nation to bankruptcy. It is time for honesty in budgeting. This budget continue the deceit. Let us never let this happen again, Mr. President. Let us insist that this will be our last dishonest budget.

Thank you, Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who seek recognition?

The Senator from California [Mr. CRANSTON].

Mr. CRANSTON. Mr. President, I express my support for the sentiments expressed by the Senator from North Carolina. He has done a lot of very creative and very deep thinking on the subject of the budget that is clear to understand and fairer to the people of our country and, I think, fairer also to us in our budgeting work in the Congress and also in the executive branch here in Washington.

The present way of calculating the budget does not reveal the true deficit. It does not sort things out in a way that makes it possible to do more on behalf of the programs that need great support because of the fictions that come to light in the way we budget presently.

I am eager to work with the Senator from North Carolina to achieve the goals that he has expressed before and expressed now very succinctly at this moment. Unfortunately, it is probably difficult to crank this into this present agreement where we are dealing with the immediate budget crisis, but we are going to have more of ongoing budget crises unfold in ways that are not fair to the American people, I believe, until we achieve the goals set forth by the Senator from North Carolina.

Mr. SANFORD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I rise in support of and state my admiration for the remarks of the Senator from North Carolina. Whatever we have here, it is not an agreement to balance the budget; 1 year ago 1½ years now, we said that the cumulative deficits over 5 years would be $1.5 trillion. Now after an immense exercise—prolonged, protracted, needless—we agreed to a $500 billion reduction.

Well, that leaves a trillion. A trillion dollars used to be a large national debt. That is what the national debt was in 1981. And then at the same time we act like we have the Gramm-Rudman sequester arrangement that will guarantee the disappearance of the deficit. Nothing of the kind. At least, after all that pain and suffering, we might have hoped for the candor that comes when all hope is gone. The Senator in my view is absolutely right.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 6:33 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 5755. An act to extend the temporary increase in the public debt limit; and

H.J. Res. 655. Joint resolution making continuing appropriations for the fiscal year 1991, supplemental appropriations for "Operation Desert Shield" for the fiscal year 1990, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

S. 1738. An act to convey certain Oregon and California Railroad Land Grant Lands in Josephine County, OR, to the Rogue Community College District, and for other purposes;

H.R. 5747. An act to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes; and

S.J. Res. 57. Joint resolution to establish a national policy on permanent papers.

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore [Mr. BRYAN].

MEASURES PLACED ON THE CALENDAR

Pursuant to the provisions of the order of August 4, 1977, the Committee on Governmental Affairs was discharged from the further consideration of the following bills, which were placed on the calendar:

S. 2835. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to require the President and Congress to set, on an annual basis, the ratio of defense versus nondefense spending reductions required under sequestration; and

S. 3011. A bill to amend the Congressional Budget Act to create a functional category for gross interest on public debt.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance, with amendments:

S. 712. A bill to provide for a referendum on the political status of Puerto Rico (Rept. No. 101-481).

AMENDMENTS SUBMITTED

DEFENSE PRODUCTION ACT AMENDMENTS

RIEGLE AMENDMENT NO. 2919

Mr. CRANSTON (for Mr. RIEGLE) proposed an amendment to the bill (H.R. 5725) to extend the expiration date of the Defense Production Act of 1950, as follows:

On line 5, strike 20 and insert "5".

AUTHORITY FOR THE COMMITTEE ON THE JUDICIARY TO FILE REPORT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary may file the report to accompany the nomination of Judge David Souter to be an Associate Justice on the Supreme Court at any time after 9 a.m., Monday, October 1.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TEMPORARY EXTENSION OF THE DEFENSE PRODUCTION ACT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5725, a temporary extension of the Defense Production Act, just received from the House.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5725) to extend the expiration date of the Defense Production Act of 1950.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2919

Mr. CRANSTON. Mr. President, on behalf of Senator RIEGLE, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator form California, [Mr. CRANSTON], for Mr. RIEGLE, proposes an amendment numbered 2919.

On line 5, strike 20 and insert "5".

The ACTING PRESIDENT pro tempore. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2919) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 5725), as amended, was passed.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR MONDAY, OCTOBER 1, 1990

Mr. CRANSTON. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 3 p.m., Monday, October 1; that following the prayer, the Journal of proceedings be approved to date; and that, following the time reserved for the two leaders, there be a period for morning business not to extend beyond 3:30 p.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 3 P.M. TOMORROW

Mr. CRANSTON. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess under the previous order until 3 p.m., Monday, October 1.

There being no objection, the Senate, at 7:34 p.m., recessed until Monday, October 1, 1990, at 3 p.m.

HOUSE OF REPRESENTATIVES—*Sunday, September 30, 1990*

The House met at 2 p.m. and was called to order by the Speaker pro tempore [Mr. HOYER].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 30, 1990.

I hereby designate the Honorable STENY H. HOYER to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, as we deal with the problems and opportunities of our time and attempt to be faithful to the responsibility that is ours, may we demonstrate the unity that we have as a people and the bond that brings us together. May our faith in You, O God, cause us to seek justice for each person; may our families and traditions remind us of our heritage as a people; and may our philosophy of respect toward every person encourage us to be the people You would have us be. Bless this day and every day. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York [Mr. SOLOMON] for the purpose of leading the House in the Pledge of Allegiance.

Mr. SOLOMON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 5747. An act to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2863. An act to amend the Stewart B. McKinney Homeless Assistance Act and the Public Health Service Act to reauthorize certain health, education, training, and community services programs, and for other purposes.

PERMISSION FOR THE SPEAKER TO DECLARE RECESSES ON TODAY

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses on this legislative day, subject to the call of the Chair.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, I could not hear what the gentleman was saying. Are we asking unanimous consent to recess just for today?

Mr. MONTGOMERY. Mr. Speaker, if the gentleman will yield, yes, just for today.

Mr. SOLOMON. I certainly have no objection.

The SPEAKER pro tempore. If the gentleman will yield, it gives the Speaker the right to recess from time to time.

Mr. SOLOMON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

RECESS

The Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 4 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1631

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 4 o'clock and 31 minutes p.m.

AUTHORIZING CONSIDERATION OF HOUSE JOINT RESOLUTION 655, CONTINUING APPROPRIATIONS, FISCAL YEAR 1991

Mr. GRAY. Mr. Speaker, I ask unanimous consent that it shall be in order to consider in the House, House Joint Resolution 655, making continuing appropriations for fiscal year 1991; that the joint resolution be debatable for not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; that no amendments be in order except amendments en bloc to be offered by Representative WHITTEN, and said amendments en bloc shall not be subject to amendment or to a demand for a division of the question; that all points of order against consideration of the joint resolution and the amendments en bloc be waived; and that the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, I would ask the gentleman from Pennsylvania if this unanimous-consent request supersedes the rule that is pending before the House? I do not have any objection to that, but I just wonder if the gentleman could basically just tell us what the changes are in the amendment that will be proposed, and then I would withdraw my objection.

Mr. GRAY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Pennsylvania.

Mr. GRAY. Mr. Speaker, there are approximately four changes. First, there is the change of date from October 20 to October 5.

Second, there is a technical provision dealing with the continued availability of funds for the Bone Marrow Program.

Third, there is a modifying and tightening of the Desert Shield gift fund.

Then fourth, there is deletion of the expansion of the 90- to 180-day active duty callup for Desert Shield.

Mr. SOLOMON. Just so the membership understands, there will not be a rule, and it will not be debated, and we will be able to go right into a 1-hour debate, I assume, on the amended continuing resolution?

Mr. GRAY. The gentleman is absolutely correct.

Mr. SOLOMON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONTINUING APPROPRIATIONS, FISCAL YEAR 1991

Mr. WHITTEN. Mr. Speaker, pursuant to the order of the House of today, I call up the joint resolution (H.J. Res. 655) making continuing appropriations for the fiscal year 1991, supplemental appropriations for Operation Desert Shield for the fiscal year 1990, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Pursuant to the order of the House of earlier today, no amendments to the joint resolution are in order except amendments en bloc offered by the gentleman from Mississippi, Mr. WHITTEN. Said amendments en bloc shall not be subject to amendment or to a demand for a divison of the question.

The text of House Joint Resolution 655 is as follows:

H.J. RES. 655

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1991, and for other purposes, namely:

TITLE I—CONTINUING APPROPRIATIONS

SEC. 101. (a) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1990 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991;

The District of Columbia Appropriations Act, 1991;

The Energy and Water Development Appropriations Act, 1991;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1991;

The Military Construction Appropriations Act, 1991;

The Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991;

The Department of Transportation and Related Agencies Appropriations Act, 1991;

The Treasury, Postal Service, and General Government Appropriations Act, 1991; and

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of October 1, 1990, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1990, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided,* That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

(c) Whenever an Act listed in this section has been passed by only the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990: *Provided,* That where an item is funded in applicable appropriations Acts for the fiscal year 1990 and not included in the version passed by the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

SEC. 102. Such amounts as may be necessary to continue existing programs and activities (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 1990, under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990, for which provision was made in the following Acts: The Department of the Interior and Related Agencies Appropriations Act, 1990, and the Legislative Branch Appropriations Act, 1990.

SEC. 103. Such amounts as may be necessary to continue existing programs and activities, which were conducted in fiscal year 1990, for which provision was made in the Department of Defense Appropriations Act, 1990, but such activities shall be funded at not to exceed an annual rate for new obligational authority of $262,969,000,000, and this level shall be distributed on a pro rata basis to each appropriation account utilizing the fiscal year 1991 amended budget request as the base for such distribution and shall be available under the terms and conditions provided for in the applicable appropriations Acts for fiscal year 1990, notwithstanding section 502(a)(1) of the National Security Act of 1947: *Provided,* That no appropriation or funds made available or authority granted pursuant to this section shall be used for new production of items not funded for production in fiscal year 1990 or prior years, for the increase in production rates above those sustained with fiscal year 1990 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1990, except projects, activities, operations, or organizations relating to "Operation Desert Shield": *Provided further,* That no appropriation or funds made available or authority granted pursuant to this section shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later: *Provided further,* That no appropriation or funds made available or authority granted pursuant to this section for procurement and research, development, test, and evaluation, shall be used to fund any program, project, activity, operation, or organization at a rate for operations in excess of the current rate or the rate provided for in the budget estimates for fiscal year 1991, whichever is lower, during fiscal year 1991, except programs, projects, activities, operations, or organizations relating to "Operation Desert Shield".

SEC. 104. Notwithstanding any other provision of this joint resolution, such amounts as may be necessary to continue the Aerostat Program of the United States Customs Service which was conducted in fiscal year 1990 at a rate of operations not exceeding the current rate and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1990.

SEC. 105. Appropriations made by sections 101, 102, 103, and 104 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 106. No appropriation or funds made available or authority granted pursuant to sections 101, 102, 103, and 104 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1990.

SEC. 107. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1990, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 108. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to title I of this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 20, 1990, whichever first occurs.

SEC. 109. Appropriations made and authority granted pursuant to title I of this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for

which funds or authority for such project or activity are available under this joint resolution.

SEC. 110. Expenditures made pursuant to title I of this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 111. No provision in any appropriations Act for the fiscal year 1991 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 108(c) of this joint resolution.

SEC. 112. Appropriations and funds made available by or authority granted pursuant to title I of this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 113. (a) Any order on sequestration for fiscal year 1991 issued before, on, or after the date of enactment of this joint resolution pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is suspended and no action shall be taken to implement any such order.

(b) Subsection (a) shall cease to be effective on the date set forth in section 108(c).

SEC. 114. The provisions of section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, and any comparable provision contained in or incorporated by reference by a joint resolution making continuing appropriations for foreign operations, export financing, and related programs for fiscal year 1991, shall not operate to prohibit the furnishing of assistance for Egypt pursuant to any program for which funds are appropriated under such Acts: *Provided*, That the authority contained in this section to furnish assistance notwithstanding section 518 of such Act, and comparable provisions contained in a subsequent Act for fiscal year 1991, shall expire on December 31, 1990.

EXTENSION OF CERTAIN MEDICARE HOSPITAL PAYMENT PROVISIONS

SEC. 115. (a) EXTENSION OF AREA WAGE INDEX.—For purposes of determining the amount of payment made to a hospital under part A of title XVIII of the Social Security Act for the operating costs of inpatient hospital services for discharges occurring on or after October 1, 1990, and on or before October 20, 1990, the Secretary of Health and Human Services, in adjusting such amount under section 1886(d)(3)(E) of such Act to reflect the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage index, shall apply the area wage index applicable to such hospital as of September 30, 1990.

(b) EXTENSION OF REGIONAL FLOOR ON STANDARDIZED AMOUNTS.—(1) Section 1886(d)(1)(A)(iii) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended by striking "September 30, 1990," and inserting "October 20, 1990,".

(2) The Secretary of Health and Human Services shall make any adjustments resulting from the amendment made by paragraph (1) in the amount of the payments made to hospitals under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services in a manner that ensures that the aggregate payments under such section are not greater or less than those that would have been made in the year without such adjustments.

TITLE II—SUPPLEMENTAL APPROPRIATIONS FOR OPERATION DESERT SHIELD

DEPARTMENT OF DEFENSE

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for fiscal year 1990 for "Military personnel, Army", $123,100,000.

MILITARY PERSONNEL, NAVY

For an additional amount for fiscal year 1990 for "Military personnel, Navy", $44,500,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for fiscal year 1990 for "Military personnel, Marine Corps", $33,700,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for fiscal year 1990 for "Military personnel, Air Force", $77,000,000.

RESERVE PERSONNEL, ARMY

For an additional amount for fiscal year 1990 for "Reserve personnel, Army", $2,700,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for fiscal year 1990 for "Operation and maintenance, Army", $643,963,000, and in addition, $75,037,000 which shall be derived by transfer from "Procurement of Ammunition, Army, 1988/1990".

OPERATION AND MAINTENANCE, NAVY

For an additional amount for fiscal year 1990 for "Operation and maintenance, Navy", $279,400,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for fiscal year 1990 for "Operation and maintenance, Marine Corps", $47,300,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for fiscal year 1990 for "Operation and maintenance, Air Force", $320,300,000.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For an additional amount for fiscal year 1990 for "Operation and maintenance, Defense Agencies", $18,200,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for fiscal year 1990 for "Operation and maintenance, Air Force Reserve", $12,300,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for fiscal year 1990 for "Operation and maintenance, Air National Guard", $6,200,000.

PROCUREMENT

OTHER PROCUREMENT, ARMY

For an additional amount for "Other procurement, Army", $10,000,000, to remain available for obligation until September 30, 1992.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For an additional amount for "Research, development, test, and evaluation, Navy" in support of the unrelated marrow donor program, $9,000,000, to remain available for obligation until September 30, 1991: *Provided*, That not less than $6,500,000 shall be provided as a grant to the National Marrow Donor Program Foundation.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE STOCK FUND

For an additional amount for fiscal year 1990 for "Defense stock fund", $400,000,000.

GENERAL PROVISIONS

SEC. 201. Funds appropriated or otherwise made available by this title are available only for obligation and expenditure to liquidate obligations undertaken pursuant to section 3732 of the Revised Statutes (41 U.S.C. 11).

SEC. 202. (a) During fiscal year 1990 and thereafter, the Secretary of Defense may accept or reject any gift of services, money, personal property, or real property, or the use thereof, from any person, foreign country, or international organization for use by the Department of Defense to finance only the operations in and around the Arabian Peninsula relating to Operation Desert Shield: *Provided*, That any gift of property may be retained and used by the Department of Defense in the form in which it was donated or it may be sold or otherwise disposed of upon such terms and conditions, and in accordance with such procedures, as the Secretary determines appropriate; or such property may be converted into a form in which it will be usable by the Department.

(b) Any gift or money, and the proceeds of any property, which are received under this section, shall be deposited in the Treasury in a trust fund, called "National Defense Gift Fund": *Provided*, That the Secretary of Defense, with the approval of the Office of Management and Budget, shall from time to time transfer amounts credited to such trust fund to appropriations accounts available to the Department of Defense to be merged with and to be available for the same purposes and the same time period as the appropriations to which credited, however, such amounts available to the National Defense Gift Fund for transfer to appropriations accounts shall be transferred and made available to the Department of Defense for obligation and expenditure only to the extent and in the manner provided in subsequent appropriations Acts: *Provided further*, That amounts transferred pursuant to this subsection shall be available only to finance the operations in and around the Arabian Peninsula relating to Operation Desert Shield: *Provided further*, That all funds received under this section shall not, before or after transfer from the fund, be subject to reduction under any other provision of law: *Provided further*, That the Secretary of Defense shall submit to Congress a report each month on the estimated obligations incurred pursuant to the authority granted in this section and each such report shall be provided to, and shall be audited by, the Comptroller General of the United States.

(c) The Act entitled "An Act to authorize the acceptance of conditional gifts to further the defense effort", approved July 27,

1954 (50 U.S.C. 1151 et seq.), heretofore and hereafter shall not apply with respect to any gift to finance any operations in and around the Arabian Peninsula relating to Operation Desert Shield, and no funds may be transferred or made available to any United States Government entity pursuant to such Act to finance such operations.

SEC. 203. In exercising the authority provided the President under section 673b of title 10, United States Code, to authorize the order to active duty of units and members of the Selected Reserve, the President may use that authority in the case of orders to active duty in support of operations in and around the Arabian Peninsula and Operation Desert Shield as if "180 days" were substituted for "90 days" in subsection (a) of that section and "180 additional days" were substituted for "90 additional days" in subsection (i) of that section.

DEPARTMENT OF STATE

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For an additional amount for the "United States Emergency Refugee and Migration Assistance Fund", $10,000,000 to remain available until expended.

The SPEAKER. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 655, and that I may include extraneous and tabular material.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Tuesday the Committee on Appropriations ordered reported House Joint Resolution 655 which makes continuing appropriations for fiscal year 1991, provides supplemental appropriations for Operation Desert Shield for fiscal 1990 and suspends sequestration for the period covered by the resolution, October 1 through October 20. The amendment made in order under a unanimous-consent request by the leadership, will change October 20 to October 5.

Mr. Speaker, sequestration would reduce current operations, programs and projects by an estimated 30 percent, and would be disastrous not only to the Nation's economy, but it would cause a breakdown of Government—air safety, meat inspection, law enforcement, the war on drugs, education, health, housing, veterans, research, and revenue collection. It would have a dangerous impact on a weak economy. Its effect on the Department of Defense during Operation Desert Shield will endanger the whole operation.

Any budget agreement is subject to favorable action by the regular committees of the Congress.

The suspension of sequestration is essential if we are to save the normal operations of Government. Already notices have been given to over 1 million Federal employees that they could be furloughed as early as Monday, as follows:

Air Force	250,000
Treasury	150,000
Health and Human Services	102,000
Agriculture	100,000
Interior	70,000
Transportation	65,000
Justice	60,000
Commerce	39,000

If we had not included the suspension of sequestration the following would occur:

AIR SAFETY

Immediate impacts would occur in activities such as the hours of operation at virtually all airport control towers and, therefore, the number of flights between cities would be reduced.

MEAT INSPECTION

A sequestration would result in the absence of inspection services and the shutting down of meat and poultry slaughter and processing plants for about 140 days.

LAW ENFORCEMENT

A sequestration would prevent ligitation of the crime and financial institution fraud initiatives in 1990 in the U.S. attorneys' offices. Prosecutions of narcotics cases, bankruptcy and procurement fraud cases, abandon 25 percent of all ongoing litigation designed to obtain criminal convictions against violators of substance abuse, immigration and civil rights laws, organized criminal groups, and tax evaders. All ongoing activities for collecting moneys owed to the Government would be limited.

Prosecution of those who have perpetrated savings and loan institutions' fraud programs would be slowed.

A sequester would prevent newly constructed prisons with 3,315 beds from becoming operational.

A sequester would reduce Customs service canine enforcement teams, and money laundering investigations. An estimated $1 billion in revenue would be lost due to lack of adequate processing controls.

Thirty percent of federal defenders' cases and 100 percent of panel attorney cases would be dismissed for failure to provide counsel; funds would not be available for fees of jurors for civil trials.

WAR ON DRUGS

In some cities and rural areas, the Drug Enforcement Administration would simply have no presence. All State and local programs such as task forces, training, and laboratory support would be eliminated.

EDUCATION

In the major discretionary student aid education program, a sequester would eliminate Pell grants to 1.2 million students, at an average grant of $1,000.

MEDICAL AND SOCIAL SERVICES

A sequester would sharply reduce service to the public, including approximately 1 million children who would not be vaccinated for polio, measles, mumps, rubella, haemophilus influenza B, Diphtheria, tetantus, and pertussis. A sequester would lengthen the drug review process, suspend efforts to make experimental therapies available to patients with no therapeutic alternatives, and reduce inspection of foods, drug devices, and imports.

Timely payment of Social Security and supplemental security income benefits to some new applicants could be threatened.

A sequester would result in a reduction of $715 million from the budget for Head Start and a reduction of $163 million from the budget in grants to support meals for the elderly.

VETERANS

A sequester in the area of veterans programs would require significant reductions in purchases of medical and other supplies and equipment; prevent the opening of new facilities; reduce medical care staff years by 15,600 or 8 percent; reduce the number of incidents of care provided to veterans by 2 million; reduce bed levels by 350; and reduce clinical services in all proposed construction and renovation projects for medical centers, regional offices, and cemeteries.

TRANSPORTATION

The announced sequester would have serious negative repercussions for transportation safety, construction, and law enforcement programs.

Important programs like: interstate construction; highway bridge replacement; highway safety research; Coast Guard operations; Coast guard pollution cleanup; mass transit construction; and essential air service subsidies would be reduced by 30 percent or more.

REVENUE LOSSES

A sequester would primarily affect revenue-gathering enforcement activities of the Internal Revenue Service with an estimated revenue loss of 8.5 billion.

If the suspension section of the continuing resolution is stricken, the Congress will take the responsibility for virtually destroying the operations of the Government.

As you know, Mr. Speaker, the total of appropriations bills has been more than $173 billion under Presidents recommendations. The few places where we have exceeded the targets have

been for the San Francisco earthquake, Hurricane Hugo, veterans hospitals, drugs, and the homeless. We are proud of our record.

Mr. Speaker, as you know, I have always said that this Gramm-Rudman provision would be disastrous and would destroy this country if we ever let it become effective. After having studied it and gone through this, I believe it was originally provided for the purpose of attempting to make the Congress do something it did not believe in. I believe that more and more as I study it and listen to those who will support it.

Mr. Speaker, as you know, the total of appropriation bills has been $173 billion under the President's recommendations since 1945. I repeat again, I know when Members think of the debts, you think of the Committee on Appropriations, but that is not the case. Our condition is not the fault of our Committee on Appropriations.

Since 1945, our Committees on Appropriations have held the total of appropriations to $173 billion below the recommendations of the Presidents. The few places where we exceeded the targets have been for the San Francisco earthquake, Hurricane Hugo, veterans' hospitals, drugs and the homeless. We are proud of our record.

Mr. Speaker, this is a good bill.

We prepared a draft house joint resolution suspending all these cutbacks called for by Gramm-Rudman-Hollings on Thursday, September 20, got it approved by the Appropriations Committee by a vote of 32 to 20 on Tuesday, September 25. Those in committee who voted against the resolution counted on us to keep them from reducing the programs which I described in my presentation, in my judgment.

The Rules Committee authorized us to bring it up on that same day.

Since then, the leadership has kept the bill from coming before the House for action—trying to be sure they will have 218 votes to pass it.

I point out again, it has not been our Committee on Appropriations which caused our debt—for we had kept the total of appropriations bills $173 billion below requests of the Presidents.

We have pending House Joint Resolution 655 which I presented on behalf of the Committee on Appropriations on September 25 and which has been held up. It is necessary that this resolution be passed to keep the Federal Government from closing down. This time is necessary in order to give us time to pass the remaining bills, work out conferences with the Senate, pass such conference agreements and obtain the President's signature.

This joint resolution was made necessary because action has not been completed on our appropriations bills which passed the House on the following dates:

Energy & Water Development	June 19
Commerce-Justice-State	June 26
Foreign Operations	June 27
VA-HUD-Independent Agencies	June 28
Transportation	July 12
Treasury-Postal Service	July 13
Rural Development/Agriculture	July 18
Labor-HHS-Education	July 19
District of Columbia	July 26
Military construction	July 30

The Senate has acted on five of these bills. House Joint Resolution 655 as amended, will suspend for 5 days sequestration which, unless held up, would be disastrous.

I presented these facts to the Members of Congress on September 25 in House Report 101-754 beginning on page 2 of the report.

I repeat again, the fault is not with our Committee on Appropriations. Our bills were held up, and furthermore, we have held the total of appropriations bills $173 billion below the recommendations of the Presidents.

So I just want to say again the tremendous debt that we have is because they bypassed our Committee on Appropriations with entitlements and backdoor spending, that is, entering into contracts that we have to pay.

May I say, again, that we bring you this bill at this time because without it, sequestration will occur. We find support for sequestration in the executive branch, we find it on our fringe here, and may I say that I just want the Members to know how dangerous it would be to the country itself.

I could go on and on, but I want to say again that it is necessary that we act now. On Monday, tomorrow, if we do not act, sequestration will take place.

It has been said that the President has a right to make exceptions, but I call attention to the fact that the Constitution says that no money shall be spent from the Treasury except by appropriation acts. That is a flat statement, and it may be that they think they can twist and turn and get by and neglect to apply these cuts, but if they follow the law, these things will be done tomorrow if this continuing resolution is not adopted today.

Mr. Speaker, this is a good bill. It provides for the continued operation of the Government in an orderly manner and provides funds requested by the President for Operation Desert Shield. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the continuing resolution, when and if amended to limit the expiration date of the continuing resolution and of the suspension of sequester from October 20 to October 5.

Mr. Speaker, we are poised on the brink of disaster. Up until today, we had reached no resolution on the Government funding for the fiscal year that starts tomorrow. We were on the verge of demonstrating that this Congress and this White House could not work out a way to get our fiscal house in order. And we were on the verge of catastrophe and chaos, ready to push our Government over the precipice. Unless we take action today, at midnight tonight, we sail right off the end of the Earth.

I hope that we have managed to avert that catastrophe. I hope that the need to govern and to act responsibly as Representatives of the people to put our fiscal house in order has won out.

It is a terrible position to be in, to risk catastrophe to try to put pressure on to reach a budget agreement. But with the economy in danger of slipping, the deficit spiraling out of control, we somehow needed to reach a point where we could move forward on action on the budget. It is the biggest game of chicken I have ever seen.

Now, for all intents and purposes, that agreement has been reached. The continuing resolution will now keep the Government in operation until next Friday to give the House and Senate the opportunity to work their will on the budget agreement.

You do not have to be for the budget summit agreement to vote for this continuing resolution. The plan from here on, as I understand it, is to set forth the terms of the agreement in a budget resolution, which the Congress can then vote on.

This continuing resolution is necessary to give the membership time to look at the agreement, and to give the Budget Committee time to put together a budget resolution that embodies the terms of the agreement.

There would, at this point, be no purpose to bringing the Government to a halt or let the devastating effects of sequester go into effect.

As we all know, either of those alternatives, shutting down the Government, or letting a $100 billion sequester go into effect, are alternatives of last resort. With this budget summit agreement now in place, there is no need to push the Government over the cliff.

Although it has taken 5 months, there is now a sign that Congress and the administration are trying to be responsible to avoid a shutdown and do something about our long fiscal nightmare. I urge the House to do the responsible thing, as well, and vote for this continuing resolution as amended, to keep the Government going through Friday.

Let our Federal workers report for work tomorrow. Let the air traffic system keep operating. Let there be no delay in checks, or undermining our defense at a time of international crisis.

The game of chicken is over. Let's get back to the business of governing. Vote for this short-term continuing resolution.

I would add one thing that might appeal to the Members. If we agree to this short-term continuing resolution, we embark on a very ambitious schedule. Over the next 3 weeks, we will have to pass a budget resolution, a reconciliation bill, and 13 appropriations bills, as well as deal with the debt ceiling. But if we can do it, we can bring this session to a close by October 17. And that is worth fighting for.

Mr. PARRIS. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am happy to yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Speaker, I have read this proposal very carefully, I would say to my friend, the gentleman from Massachusetts, and as we all know, there have been several proposals circulating within the House in the last week or two on short-term continuing resolution, some funded, with or without furloughs. Under this extension that we are voting on today, could the gentleman assure us that the Federal employees will come to work tomorrow, they will be compensated, it will be business as usual during the period of the extension of this agreement?

□ 1650

This proposal is without furloughs, is that correct?

Mr. CONTE. The gentleman from Virginia [Mr. PARRIS] is absolutely right. He has been overly concerned, and rightly so. I know how many times the gentleman has spoken to me worrying about the Federal employees.

When this resolution passes, and it will pass here and pass the Senate tonight, there will be no furloughs, and there will be no layoffs, and the trigger on sequestration is postponed until next Friday. Hopefully by that time we will have everything in place, which I mentioned in my talk, the budget resolution, those are the things I will pass, and we can get another extension, maybe to the 17th, 19th, or 20th. Whatever date the majority picks.

Mr. PARRIS. Mr. Speaker, I thank the gentleman very much.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, I want to point out that this resolution contains three basic items. It is probably one of the cleanest continuing resolutions we have ever had.

First of all, we continue at a very minimum level, each of the Agencies, Departments, and programs in the Government.

Second, we suspend for a period of only 5 days, the 30-percent sequestration which would otherwise have taken place. Third is the money for Desert Shield, which is needed right now.

Now, the need to suspend the 30-percent sequestration as provided for by this continuing resolution does not just affect Government offices. We are affecting the economy of the United States of America, as both the gentleman from Massachusetts and the gentleman from Mississippi said. There are many businesses in this country that cannot operate without inspectors; seaports, airports cannot operate. This affects business all over the United States, not just Government offices. We do not have a 5-percent sequestration as an alternative, as we have had in previous years. Without this continuing resolution we would have a 30-percent sequestration, which is different than we have ever had before. I say that the responsible thing we must do today is to pass this 5-day continuing resolution.

This is not the place to have a fight over some of the other things that people do not like about the budget summit package. The thing to do today is to pass this continuing resolution and get on with it, and next week we will have the disagreements as they may come about, about the budget summit package or sequestration.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from New Jersey.

Mr. HUGHES. When the gentleman says that we will be funding these programs, these Agencies at the minimum, it is my understanding that in the resolution that calls for funding, if both the Senate and the House have passed a particular appropriation bill, at the lesser of the two.

Mr. SMITH of Iowa. There are a number of provisions, but each of them has been in previous continuing resolutions. One provides for continuing operations of Government Agencies and Departments at the present rate unless a lesser amount is in either the Senate or the House bill. Whenever there is an agreement, those amounts will be superseded by the amounts in the agreement.

If an item is not in either the House-passed or Senate-passed bill, then the item would be funded at the present rate.

Mr. HUGHES. If the gentleman will continue to yield, at the amount that we are now spending out at fiscal year 1990?

Mr. SMITH of Iowa. That is right. That will permit the courts to continue to work. Without this provision in the continuing resolution, there possibly could be some jury trials that would not be held. As you know, if criminal defendants are not tried within the time limits prescribed by the Speedy Trial Act, they will go free.

Mr. HUGHES. Mr. Speaker, I thank the gentleman for yielding, and I want to congratulate the gentleman and the Committee on Appropriations for drafting a very narrow, ill-defined promise between now and Friday.

Mr. SMITH of Iowa. I urge the passage of this bill.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, I thank the leader for yielding time to me. I just want to point out that the Interior appropriations portions of this bill for fiscal 1990 include the restrictions on the National Endowment for the Arts, that will be placed in the fiscal 1990 Interior appropriations bill. So those restraints will continue during the period of this continuing resolution.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. I rise in support of passage of this continuing resolution. It is a clean resolution. The resolution does what needs doing.

Continuing resolutions are not the most efficient way of operating the Federal Government. It is regrettable that we are again in the beat-the-deadline game, but that has become a way of life around here for the past few years.

Gramm-Rudman-Hollings has dramatically altered the congressional process, essentially placing the fate of the Nation in the hands of supercrats who have shown themselves unable to make timely decisions on the budget.

The inability to deal with the situation without going to the edge of the cliff has resulted in grand political theater. Unfortunately, it also risks the collapse of the Government.

Such a situation is intolerable. It has caused real people to endure real anxiety and uncertainty beyond that which will come from any final budget agreement.

Federal employees, including those who run farm programs; fight the drug war; enforce the law; inspect meat and poultry; forecast the weather; control air traffic; and provide services to senior citizens, veterans, the disabled, and other Americans and the people who depend on those services should not have to suffer because our system is tied in such a knot that decisionmaking is nearly impossible on such fundamental issue as the budget.

In addition to providing for a straight continuation of Government services, this continuing resolution would prevent the meat-ax budget cutting measures of Gramm-Rudman-

Hollings shutting down the Government.

Strong leadership is needed to prevent a repeat of the deadlock between the President and the Congress. We should never allow the Government to be pushed to the edge of collapse again.

The President and the Congress are going to have to stiffen their backbone, display some real leadership, forego partisan political posturing, get a budget package of serious deficit reduction enacted and keep it in place. The people deserve better than what has been going on in Washington.

I urge passage of this continuing resolution.

More focus and debate on the cause of the budget problem is needed. In the 45 years of the 1945–89 period, the Congress has appropriated $173 billion less than Presidents have asked be appropriated. Moreover, the records show that in each of 39 of those years, Congress appropriated less than the Presidents proposed.

I would like to make a part of the RECORD today a table documenting those facts.

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATION BILLS COMPARISON OF ADMINISTRATION BUDGET REQUESTS AND APPROPRIATIONS ENACTED

Calendar year	Administration budget requests	Appropriations enacted	Difference [under −] [over +]
1945	$62,453,310,868	$61,042,345,331	−$1,410,965,537
1946	30,051,109,870	28,459,502,172	−1,591,607,698
1947	33,367,507,923	30,130,762,141	−3,236,745,782
1948	35,409,550,523	32,699,846,731	−2,709,703,792
1949	39,545,529,108	37,825,026,214	−1,720,502,894
1950	54,316,658,423	52,427,926,629	−1,888,731,794
1951	96,340,781,110	91,059,713,307	−5,281,067,803
1952	83,964,877,176	75,355,434,201	−8,609,442,975
1953	66,568,694,353	54,539,342,491	−12,029,351,862
1954	50,257,490,985	47,642,131,205	−2,615,359,780
1955	55,044,333,729	53,124,821,215	−1,919,512,514
1956	60,892,420,237	60,647,917,590	−244,502,647
1957	64,638,110,610	59,589,731,631	−5,048,378,979
1958	73,272,859,573	72,653,476,248	−619,383,325
1959	74,859,472,045	72,977,957,952	−1,881,514,093
1960	73,845,974,490	73,634,335,992	−211,638,498
1961	91,957,488,053	86,606,487,273	−4,990,960,780
1962	96,803,292,115	92,260,154,659	−4,543,137,456
1963	98,904,155,136	92,432,923,132	−6,471,232,004
1964	98,297,358,556	94,162,918,996	−4,134,439,560
1965	109,448,074,896	107,037,566,896	−2,410,508,000
1966	131,164,926,586	130,281,568,480	−883,358,106
1967	147,804,557,929	141,872,346,664	−5,932,211,265
1968	147,908,612,996	133,339,868,734	−14,568,744,262
1969	142,701,346,215	134,431,463,135	−8,269,883,080
1970	147,765,358,434	144,273,528,504	−3,491,829,930
1971	167,874,624,937	165,225,661,865	−2,648,963,072
1972	185,431,804,552	178,960,106,864	−6,471,697,688
1973	177,959,504,255	174,901,434,304	−3,058,069,951
1974	213,667,190,007	204,012,311,514	−9,654,878,493
1975	267,224,774,434	259,852,322,212	−7,372,452,222
1976	282,142,432,093	282,536,694,665	+394,262,572
1977	364,867,240,174	354,025,780,783	−10,841,459,391
1978	348,506,124,701	337,859,466,730	−10,646,657,971
1979	388,311,676,432	379,244,865,439	−9,066,810,993
1980	446,690,302,845	441,290,587,343	−5,399,715,502
1981	541,827,827,909	544,457,423,541	+2,629,595,632
1982	507,740,133,484	514,832,375,371	+7,092,241,887
1983	542,956,052,209	551,620,505,328	+8,664,453,119
1984	576,343,258,980	559,151,835,986	−17,191,422,994
1985	588,698,503,939	583,446,885,087	−5,251,618,852
1986	590,345,199,494	577,279,102,494	−13,066,097,000
1987	618,268,048,956	614,526,518,150	−3,741,530,806
1988	621,250,663,756	625,967,372,769	+4,716,709,013
1989	652,138,432,359	666,211,680,769	+14,073,248,410
Totals	10,249,467,607,455	10,075,912,028,737	−173,555,578,718

Source: Prepared by House Committee on Appropriations.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from New Hampshire [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Speaker, I rise in opposition to the continuing resolution for two principal reasons. First of all, we knew when we were sworn into this body that October 1 of this year was the beginning of the fiscal year. We are now unable to pass a budget, so we are trying to slip some dates.

The second reason is that the budget we are going to try to pass at the end of the week is the equivalent of the Yalta Summit Agreement after World War II. What it did to Europe, this agreement does to the taxpayers. It sells them out.

Let me get specific; $134 billion tax increase, the biggest in history. We will go up on the gasoline tax by 10 cents a gallon. We will go up on the beer tax, and now we are going to start a national sales tax. Boats, cars, airplanes, furs, jewelry, and electronics about $1,000. That means the American electronics will get taxed, but the Taiwan, the Korean, and the Japanese lower priced will not. We are also going to double the tax by going up on the oil tax, at a time when oil has gone from $20 to $40 a barrel. We will throw a tax on top of that.

This summit agreement is a disaster for the taxpayers because there are no spending cuts. What in this city is called a cut, is a limitation on future increases. Where I come from a cut is a dollar figure that is lower than the one the year before.

Finally, Mr. Speaker, we are going to increase the amount of money the taxpayers pay for Medicare. That is called a cut in Washington, but back home in my State, if a person is on Social Security, that is called a tax increase. So when we add it all up, we have a $200 billion tax increase, and anything that gives Members time to help sell this outrageous agreement is not in the interests of the economy or the people that sent Members here.

Mr. WHITTEN. Mr. Speaker, I yield myself 1 minute. The gentleman has made a speech against the budget summit agreement, while this is a continuing resolution, and his speech has nothing to do with what we have before Members today.

We are trying to keep the Government from caving in, which would destroy our Nation. When we adopted the Gramm-Rudman amendments permitting sequestration to the Budget Act in 1985, we did not intend to make people do what they do not believe in.

I repeat again, we on the Committee on Appropriations have, since 1945, we have appropriated $173 billion less than Presidents have requested. I say again, the speech just made has no connection with the present bill.

□ 1700

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Just a point to correct the record, Mr. Speaker, that is always a problem if you are trying to make a case here without having all the facts at hand.

We took out airplanes. We took out electrical equipment on the luxury tax, so we ought to be talking about what is in and what is out; so until we get all the information probably it would be well for Members to hold their fire until they know specifically what is in the agreement.

Mr. CONTE. Mr. Speaker, I yield myself 1 minute.

I have received a lot of requests for time, and as long as I have been a ranking member I give everyone time.

We are not debating the budget resolution here. We are debating the continuing resolution, and let us be fair. I mean, we have got to have the continuing resolution. If you want the people to be fired tomorrow morning or furloughed, keep talking, keep talking.

Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Speaker, I would like to reiterate, what we are being asked to vote on now is not the so-called summit agreement. This is a continuing resolution to keep the government going for the next five days, but in addition to that it is a small supplemental appropriations bill to provide for the human needs of the men and women who are serving the United States in Operation Desert Shield in Saudi Arabia. That is part of this program.

Some of our colleagues have wondered, they heard it mentioned earlier that this included some funding for the National Bone Marrow Program and wondered how does that fit into this particular legislation. I take this opportunity, Mr. Speaker, that one of the threats that Saddam Hussein presents to us in the Mideast is his use of poison gas. Poison gas, and in his inventory specifically is made up of several components, one of which is a substance called phosgene. The way phosgene works on the human body, it attacks the bone marrow in the body and it destroys the immune system of a person's body; so by expanding the research and development and the recruiting of donors for the bone marrow program, we make it possible to have more marrow donors available in the event, and hopefully the unlikely event, that Saddam Hussein should use poison gas in his attack. That is what we are voting on today, not the summit agreement. We are voting on a short-term continuing resolution and the additional supplemental funding for those involved in the Desert Shield Operation.

I suggest we really ought to vote for it today and make our decision later in the week about the budget summit.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I would like to salute the chairman of the Appropriations Committee for offering this continuing resolution. I believe that when it was offered in the full committee, it was the responsible thing to do, and I am happy that our side of the aisle in that committee, with one stalwart from the Republican side of the aisle, passed the continuing resolution which extended the business of the Federal Government until October 20.

I think it is fundamentally unfair for those of us sitting on Capitol Hil and in the White House, unable to come to closure on a final agreement, to use Federal employees across the United States of America as pawns in this struggle. Those working in veterans' hospitals tending to the medical needs of the men and women who serve this country, those Federal prison guards who have some of the toughest jobs in America, drug prosecutors, air traffic controllers, the list goes on and on; but I will have to tell you that I do have a problem with the extension of this continuing resolution until October 5. What we are doing with this amendment is to say to the Federal employees again, "You have a reprieve. You can go to work tomorrow, but hang on tight. Come Friday night at midnight, you may face this same sword of Damocles.

I believe this approach treats Federal employees of the United States like Saddam Hussein's so-called guests in Iraq.

We have to come to the time when we realize that these people should not suffer because of our lack of decision.

I support the original continuing resolution which extends (until sequestration October 20). Let us take the time we need to get the process wrapped up. Why should we make these Federal employees suffer againand wait to see whether we can reach a final decision.

Mr. CONTE. Mr. Speaker, if the gentleman really felt the way he says he feels on the floor of the House, he should have objected to the unanimous consent request.

Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I rise in support of this continuing resolution. I say that without knowing how I am going to vote on the permanent solution to the budge resolution that we will consider this coming Friday.

I must say at first glance, and I think all of us are only looking at what we have at first glance, I do not see much in there that I am likely to support; but I want the time to be able to examine this and to look at this.

I did not support the continuing resolution that was considered in committee earlier this last week. I did not support it because I said I would not support doing away with sequestration or limiting sequestration or postponing sequestration until we had some kind of agreement.

Whatever we think of the agreement that has come out, we have to say that all of our summit negotiators on both sides of the aisle and on both sides of this Congress have worked heroically with those from the White House to come up with an agreement. We may not support that agreement, but I think it is incumbent upon all of us to give it the time to consider and to look at it, and that is what we need between now and next Friday, and this is the responsible thing to do for five days, to at least allow us all to consider this budget resolution next Friday.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, the crisis that is upon us is one that was created by the Congress. Passage of this resolution before us today simply postpones the crisis for another 5 days. Then we will be back here again creating one and dealing with another crisis, but there is no alternative. We must support the present crisis intervention in the form of this resolution, and I reluctantly do so.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I agree that Federal employees should not be used as pawns in this chess game, but I think the American people deserve to know where we are heading and the kind of problems that may be created by the budget that we are about to pass later on this week.

It is going to cause a major recession for this country, in my opinion. It is going to raise $48 billion in new taxes, in the form of gas tax increases, 10 cents a gallon at a time when gas is already going through the roof because of the problems in the Middle East.

It is going to raise premiums for Medicare by $30.7 billion. It is going to increase the Medicare deductible from $75 to $150.

It is going to increase overall tax revenues, the biggest tax increase in history, by $134 billion.

It is going to increase the alcohol tax $13.6 billion, the cigarette tax 4 cents this year and 4 more cents next year, airline ticket tax increases, a luxury tax, a sales tax on all cars over $30,000, the amount over $30,000; additional luxury taxes on jewelry, on a number of other things.

This is a recessionary budget and the American people ought to scream to high heaven. We ought to get back to the regular budget process where we send 13 appropriation bills to the President. If he does not like them, he vetoes them and sends them back here, but this is disaster for America.

Mr. WHITTEN. Mr. Speaker, I yield myself 1 minute. May I say to my friend, the gentleman from Indiana, he may want to make that same speech when the budget resolution conference agreement comes up. This is a continuing resolution. It has no connection with his speech.

Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Speaker, I rise in support of the continuing resolution.

For those of us who represent Federal employees, I think this is something we have to do. To bring the government down would be a serious mistake.

Mr. Speaker, I want to add my voice as a supporter of this legislation, which is absolutely critical to continue to the rational operation of essential Government services. I also want to express my appreciation to you Mr. Speaker, and the other members on both sides of the aisle who spent countless hours over the last several months developing an agreement to address the very real deficit problems that face this Nation.

I am sure that there is not a single member in this Chamber who agrees with every element of the budget agreement. But given the fundamental disagreements over budgetary priorities that face us today, I can support the agreement as the best that is in the realm of the politically possible.

I am particularly pleased that the agreement avoids major changes in the Social Security program, and has found an alternative means to stimulate the economy than through reduction in capital gains taxes. I do have very real concerns, however, with the impact that the agreement will have on Federal empoloyees both in terms of their retirement and health care programs. In addition, necessary adjustments to return the Federal work force to pay comparability will be difficult under this agreement.

But the alternative is clearly much worse both for the Federal worker and each and every American who depends on the services they provide. The furloughs, reductions in force, curtailed hours, and office closures that would be required by Gramm-Rudman sequestration would not only have a severe impact on those employees who lost pay, or their jobs outright. The far greater loss would be the essential services that would of necessity go undone.

Approval of this short-term continuing resolution, which also delays the implementation of sequestration until the Congress has a chance to implement the budget agreement is a critical first step in the process of getting our fiscal house back in order.

I have no doubt that there will be fights ahead in the next 3 weeks as we pass legislation to implement the agreement, and that is

as it should be. But I want to remind my colleagues not to get so caught up in the specifics of individual issues, even though they are important, that we lose sight of the big picture.

The American people are watching the Congress with a great deal of skepticism. There is an increasing feeling that we are incapable of doing our job. I sincerely hope that we will prove them wrong, and reaffirm the wisdom of the Founding Fathers, that this institution is capable of facing up to difficult choices and making the decisions that are in the ultimate best interests of the Nation, not just one group or interest.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. NELSON].

Mr. NELSON of Florida. Mr. Speaker, I rise in support of the continuing resolution.

I rise in support of this short-term continuing resolution because the alternatives are unpalatable—either to shut down the U.S. Government completely or to sequester funding up to 32 percent for many agencies and including a 35 percent cut for the Defense Department at the very time our U.S. troops are facing a potential war in the Middle East.

Clearly neither Government shutdown nor the sequester of funds is a wise course.

However, this budgetary brinksmanship has forced the administration and the Congress to the negotiation table and produced a deficit reduction package, at this moment the details of which are still unknown to the Members. This is the first time such a face-to-face negotiation between the Congress and the President has concluded successfully on a deficit reduction plan in the last decade.

Thankfully excessive partisanship has been put aside in trying to work out a mutually acceptable agreement. The example set here, of cooperation and bipartisanship, despite the difficulty and disagreements over details, is a lesson that if learned years earlier, the Union would have been the better and the stronger.

Mr. CONTE. Mr. Speaker, I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield back such time I may have left.

AMENDMENTS EN BLOC OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, pursuant to the request of the leadership, I offer amendments.

The Clerk read as follows:

Amendments en bloc offered by Mr. WHITTEN:

On page 8, line 3, strike "October 20" and insert in lieu thereof "October 5".

On page 13, line 24, after "(41 U.S.C. 11)" insert the following: ", however, funds appropriated or otherwise made available by this title for 'Other Procurement, Army' and 'Research, Development, Test, and Evaluation, Navy' shall be exempt from the provisions of this section".

On page 14, strike line 1 and all that follows through line 22 on page 15, and insert in lieu thereof:

"SEC. 202. AUTHORITY TO ACCEPT CONTRIBUTIONS.—(1) Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2608. Acceptance of contributions for defense programs, projects, and activities

"(a) ACCEPTANCE AUTHORITY.—The Secretary of Defense may accept from any person, foreign government, or international organization any contribution of money or real or personal property made by such person, foreign government, or international organization for use by the Department of Defense.

"(b) ESTABLISHMENT OF DEFENSE COOPERATION ACCOUNT.—(1) There is established in the Treasury of the United States a special account to be known as the 'Defense Cooperation Account'.

"(2) Contributions of money and proceeds from the sale of any property accepted by the Secretary of Defense under subsection (a) shall be credited to the Defense Cooperation Account.

"(c) USE OF THE DEFENSE COOPERATION ACCOUNT.—(1) Funds in the Defense Cooperation Account may be appropriated for a function described in section 114 of this title only to the extent that the appropriation of such funds for such purpose is authorized in accordance with that section.

"(2) Funds in the Defense Cooperation Account shall not be made available for obligation or expenditure except to the extent and in the manner provided in subsequent appropriations Acts.

"(d) USES OF PROPERTY.—Any contribution of property received under this section may be—

"(1) retained and used by the Department of Defense in the form in which it was donated;

"(2) sold or otherwise disposed of upon such terms and conditions and in accordance with such procedures as the Secretary determines appropriate; or

"(3) converted into a form usable by the Department of Defense.

"(e) REPORTING REQUIREMENT.—(1) Not later than 30 days after the end of each quarter of each fiscal year, the Secretary of Defense shall submit to Congress a report on contributions of property accepted by the Secretary under this section during the preceding quarter. The Secretary shall include in each such report a description of all property having a value of more than $1,000,000.

"(2) In computing the value of any property referred to in paragraph (1), the Secretary shall aggregate the value of—

"(A) similar items of property accepted by the Secretary during the quarter concerned; and

"(B) components which, if assembled, would comprise all or a substantial part of an item of equipment or a facility.

"(f) AUTHORITY TO USE PROPERTY.—Property accepted under subsection (a) may be used by the Secretary of Defense without specific authorization, except that such property may not be used in connection with any program, project, or activity if the use of such property would result in the violation of any prohibition or limitation otherwise applicable to such program, project, or activity.

"(g) INVESTMENT OF MONEY.—(1) Upon request by the Secretary of Defense, the Secretary of the Treasury may invest money in the Defense Cooperation Account in securities of the United States or in securities guaranteed as to principal and interest by the United States.

"(2) Any interest or other income that accrues from investment in securities referred to in paragraph (1) shall be deposited to the credit of the Defense Cooperation Account.

"(h) NOTIFICATION OF CONDITIONS.—The Secretary of Defense shall notify Congress of any condition imposed by the donor on the use of any contribution accepted by the Secretary under the authority of this section.

"(i) ANNUAL AUDIT BY GAO.—The Comptroller General of the United States shall conduct an annual audit of money and property accepted by the Secretary of Defense under this section and shall submit a copy of the results of each such audit to Congress.

"(j) ITEMS INCLUDED AS CONTRIBUTIONS.—In this Section, the term 'contribution' includes a devise of real property or a bequest of personal property.

"(k) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting at the end the following new item:

"2608. Acceptance of contributions and services for defense programs, projects, and activities.".

(b) CONFORMING REPEAL.—The Act entitled "An Act to authorize the acceptance of conditional gifts to further the defense effort" approved July 27, 1954 (68 Stat. 566; 50 U.S.C. 1151 et seq.), is repealed.

(c) TRANSFER OF FUNDS.—Any money in the special account provided for in section 3 of the Act referred to in subsection (b) on the date of the enactment of this Act shall be credited to the Defense Cooperation Account provided for in section 2608(b) of title 10, United States Code, as added by subsection (a).

On page 15, strike out line 23 and all that follows through line 7 on page 16.

On page 16, after line 7, insert:

"TITLE III—SUPPLEMENTAL APPROPRIATIONS FOR EMERGENCY REFUGEE ASSISTANCE"

Mr. DANNEMEYER. Mr. Speaker, I reserve a point of order on the amendment.

The SPEAKER pro tempore (Mr. STUDDS). The Chair will inform the gentleman that all points of order are waived against the en bloc amendments under the unanimous-consent request agreed to earlier.

□ 1710

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendments en bloc be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. STUDDS). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Pursuant to the unanimous-consent request, the previous question is ordered.

The question is on the amendments en bloc offered by the gentleman from Mississippi [Mr. WHITTEN].

The amendments en bloc were agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 382, nays 41, not voting 10, as follows:

[Roll No. 393]

YEAS—382

Ackerman	Dickinson	Horton
Alexander	Dicks	Houghton
Anderson	Dingell	Hoyer
Andrews	Dixon	Hubbard
Annunzio	Donnelly	Huckaby
Anthony	Dorgan (ND)	Hughes
Applegate	Downey	Hunter
Archer	Duncan	Hutto
Atkins	Durbin	Hyde
AuCoin	Dwyer	Inhofe
Ballenger	Dymally	Ireland
Barnard	Dyson	Jacobs
Bateman	Early	James
Bates	Eckart	Jenkins
Beilenson	Edwards (CA)	Johnson (CT)
Bennett	Edwards (OK)	Johnson (SD)
Bentley	Emerson	Johnston
Bereuter	English	Jones (GA)
Berman	Erdreich	Jontz
Bevill	Espy	Kanjorski
Bilbray	Evans	Kaptur
Bilirakis	Fascell	Kasich
Bliley	Fazio	Kastenmeier
Boehlert	Feighan	Kennedy
Boggs	Fields	Kennelly
Bonior	Fish	Kildee
Borski	Flake	Kleczka
Bosco	Flippo	Kolbe
Boucher	Foglietta	Kolter
Boxer	Ford (MI)	Kostmayer
Brennan	Ford (TN)	Kyl
Brooks	Frank	Lagomarsino
Broomfield	Frost	Lancaster
Browder	Gallegly	Lantos
Brown (CA)	Gallo	Laughlin
Bruce	Gaydos	Leach (IA)
Bryant	Gejdenson	Leath (TX)
Buechner	Gekas	Lehman (CA)
Bunning	Gephardt	Lehman (FL)
Bustamante	Geren	Lent
Byron	Gibbons	Levin (MI)
Callahan	Gillmor	Levine (CA)
Campbell (CA)	Gilman	Lewis (CA)
Campbell (CO)	Gingrich	Lewis (FL)
Cardin	Glickman	Lewis (GA)
Carper	Gonzalez	Lipinski
Carr	Goodling	Livingston
Chandler	Gordon	Lloyd
Chapman	Goss	Long
Clarke	Gradison	Lowery (CA)
Clay	Grandy	Lowey (NY)
Clement	Grant	Luken, Thomas
Clinger	Gray	Lukens, Donald
Coble	Green	Machtley
Coleman (MO)	Guarini	Madigan
Coleman (TX)	Gunderson	Manton
Collins	Hall (OH)	Markey
Combest	Hall (TX)	Martin (NY)
Condit	Hamilton	Matsui
Conte	Hammerschmidt	Mavroules
Conyers	Hansen	Mazzoli
Cooper	Harris	McCandless
Costello	Hastert	McCloskey
Coughlin	Hatcher	McCollum
Courter	Hawkins	McCrery
Coyne	Hayes (IL)	McCurdy
Craig	Hayes (LA)	McDade
Darden	Hefley	McDermott
Davis	Hefner	McEwen
de la Garza	Hertel	McHugh
DeFazio	Hiler	McMillan (NC)
Dellums	Hoagland	McMillen (MD)
Derrick	Hochbrueckner	McNulty
DeWine	Hopkins	Meyers
Mfume	Richardson	Stallings
Michel	Ridge	Stangeland
Miller (CA)	Rinaldo	Stark
Miller (OH)	Ritter	Stearns
Miller (WA)	Roberts	Stenholm
Mineta	Robinson	Stokes
Mink	Roe	Studds
Moakley	Rogers	Sundquist
Molinari	Ros-Lehtinen	Swift
Mollohan	Rose	Synar
Montgomery	Rostenkowski	Tallon
Moody	Roth	Tanner
Moorhead	Roukema	Tauke
Morella	Rowland (GA)	Tauzin
Morrison (WA)	Roybal	Taylor
Mrazek	Russo	Thomas (GA)
Murphy	Sabo	Thomas (WY)
Murtha	Saiki	Torres
Myers	Sarpalius	Torricelli
Nagle	Savage	Towns
Natcher	Sawyer	Traficant
Neal (MA)	Saxton	Traxler
Neal (NC)	Schaefer	Udall
Nelson	Scheuer	Unsoeld
Nowak	Schiff	Valentine
Oakar	Schneider	Vander Jagt
Oberstar	Schroeder	Vento
Obey	Schuette	Visclosky
Olin	Schumer	Volkmer
Ortiz	Serrano	Vucanovich
Owens (NY)	Sharp	Walgren
Owens (UT)	Shaw	Walker
Oxley	Shays	Washington
Pallone	Shuster	Watkins
Panetta	Sikorski	Waxman
Parris	Sisisky	Weber
Pashayan	Skaggs	Weiss
Patterson	Skeen	Weldon
Paxon	Skelton	Wheat
Payne (NJ)	Slattery	Whittaker
Payne (VA)	Slaughter (NY)	Whitten
Pelosi	Slaughter (VA)	Williams
Perkins	Smith (FL)	Wilson
Pickett	Smith (IA)	Wise
Pickle	Smith (NE)	Wolf
Poshard	Smith (NJ)	Wolpe
Price	Smith (TX)	Wyden
Quillen	Smith (VT)	Wylie
Rahall	Snowe	Yates
Rangel	Solarz	Yatron
Ravenel	Solomon	Young (AK)
Ray	Spence	Young (FL)
Regula	Spratt	
Rhodes	Staggers	

NAYS—41

Armey	Hancock	Sangmeister
Baker	Henry	Schulze
Bartlett	Herger	Sensenbrenner
Barton	Holloway	Shumway
Brown (CO)	Lightfoot	Smith, Denny (OR)
Burton	Marlenee	
Cox	Nielson	Smith, Robert (NH)
Crane	Packard	
Dannemeyer	Parker	Smith, Robert (OR)
DeLay	Pease	
Dornan (CA)	Penny	Stump
Douglas	Petri	Thomas (CA)
Dreier	Porter	Upton
Fawell	Pursell	Walsh
Frenzel	Rohrabacher	

NOT VOTING—10

Aspin	LaFalce	Morrison (CT)
Crockett	Martin (IL)	Rowland (CT)
Engel	Martinez	
Jones (NC)	McGrath	

□ 1731

Mr. THOMAS of California changed his vote from "yea" to "nay."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall No. 393, House Joint Resolution 655, making appropriations for the fiscal year 1991 and supplemental appropriations for Operation Desert Shield fo the fiscal year 1990. Had I been here, I would have voted "yea."

HOUR OF MEETING ON OCTOBER 2, 1990

Mr. HOYER. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, October 1, 1990, it adjourn to meet at 10 a.m. on Tuesday, October 2, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. HOYER. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

ANNOUNCEMENT OF CONVENING OF DEMOCRATIC CAUCUS

Mr. HOYER. Mr. Speaker, I would like to announce to the Democrats that we will have a caucus approximately 15 minutes or shortly after we recess this evening. We will have to stay in and wait upon the Senate, so that will not delay us in any event.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have taken this time in order that I might inquire of the distinguished Speaker as to how we intend to proceed for the balance of this evening.

Mr. FOLEY. Mr. Speaker, will the distinguished Republican leader yield to me?

Mr. MICHEL. I yield to the distinguished Speaker.

Mr. FOLEY. Mr. Speaker, in this unusual role for me for the moment, I would say that it is our intention to go into recess a bit later, awaiting the Senate action on the continuing resolution. Prior to that time, it is the intention of the gentleman from Florida [Mr. GIBBONS] to ask unanimous consent for the consideration of a very short-time extension only on the debt ceiling.

This does not involve any increase in debt ceiling authority, but it is required in order to avoid the time problem that will occur by the middle of this coming week. Again I emphasize

that this does not involve any additional debt authority.

Following that, if the authority is given, we will proceed to consider the bill which has been reported by the Committee on Ways and Means to bring that about. In the event that we do not obtain unanimous consent, it will be necessary to convene the Committee on Rules. I hope that that consent will be given. This again is not a matter that involves more than a date change, but it does involve a problem of the operation of certain functions of the Treasury and of the Federal Government which are essential.

At the conclusion, of course, of any indication that the Senate has acted on the continuing resolution without amendment, as I hope it will, that will conclude the business of the House for the evening.

Mr. MICHEL. Further requesting an extension of my time and further reserving the right to object, Mr. Speaker, if I might buttress what the Speaker has said, particularly for Members on my own side, because quite frankly there has been a slip-up in the communication between our own Treasury Department and the Hill—and that happens, let us face it; there have been people involved in negotiations around the clock, and things like that can sometimes happen—let me say, as the Speaker has said very clearly, that it is 5 days, no money, just the authority to do what they would do normally, so just so we have everything on track and synchronized, I would certainly hope that no Member under those circumstances would raise an objection so that we would have to go through the tortuous consideration of things that take place here sometimes for whatever reason.

Mr. Speaker, I yield back the balance of my time.

AUTHORIZING CONSIDERATION OF H.R. 5755, TEMPORARY PUBLIC DEBT LIMIT INCREASE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 5755) to extend the temporary increase in the public debt limit: that the bill be debatable for not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; that all points of order against the bill and against its consideration be waived; and that the previous question be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. STUDDS). Is there objection to the request of the gentleman from Florida?

Mr. ARCHER. Mr. Speaker, reserving the right to object, I do so so that the gentleman from Florida [Mr. GIBBONS] can explain, if he wishes to do so, precisely what is involved in this. I think the Speaker and the minority leader have adequately covered it, but if the chairman of the subcommittee would care to make any other previous comments, I would yield for that purpose.

Mr. GIBBONS. Mr. Speaker, I thank the gentleman for yielding.

I want to say that this is merely a date change. The debt ceiling is due to expire on Tuesday night. The administration has asked us to move the date to October 5. There is no change in the amount of money involved or any of the terms of it. It is necessary to do this in order that the Treasury can proceed in an orderly manner without having to pay excessive costs. It is necessary to do all these things, to publish notices and to make advertisements and notify people of certain actions, and the Treasury must have this time in order to proceed in an orderly fashion.

Mr. ARCHER. Mr. Speaker, further reserving the right to objection, I share the gentleman's view on this and would hope, as our Republican leader has suggested, that we would not bring up an objection to this. The Treasury needs to have an orderly capability for issuing securities, which they intend to do on Tuesday. This will save the Government money to be able to do this in an orderly fashion.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

TEMPORARY PUBLIC DEBT LIMIT INCREASE

Mr. GIBBONS. Mr. Speaker, pursuant to the order of the House, I call up the bill (H.R. 5755) to extend the temporary increase in the public debt limit, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of the bill, H.R. 5755, is as follows:

H.R. 5755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TEMPORARY INCREASE IN PUBLIC DEBT LIMIT.

Section 1 of Public Law 101-350 is amended by striking "October 2, 1990" and inserting "October 6, 1990".

□ 1740

The SPEAKER pro tempore (Mr. STUDDS). The gentleman from Florida [Mr. GIBBONS] is recognized for 1 hour.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill has already been adequately explained.

Mr. ARCHER. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Speaker, I see no point in engaging in lengthy debate. Both the Speaker and the minority leader adequately described what is involved here, and I urge the adoption of this legislation.

Mr. GIBBONS. Mr. Speaker, I yield back the balance of my time.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I would like to remind the Democratic Members of the House of Representatives that we will have a caucus in approximately 5 minutes, at a quarter of 6, in this Chamber.

Mr. Speaker, I want to say to the minority leader, I very much appreciate his consideration. This is an unusual step, in light of the fact the House will be in recess.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, might I inquire of the distinguished chairman of the Democratic caucus, that if we go into recess awaiting the action of the other body, and assuming there are no glitches, but if there were, would it be in order for us to give Members, say, 1 hour's notice that their presence would be required?

Mr. HOYER. Mr. Speaker, reclaiming my time so I may respond to the distinguished minority leader, we will give no less than one-half hour's notice.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of Friday, September 28, 1990, the House will now stand in recess subject to the call of the Chair.

Accordingly (at 5 o'clock and 43 minutes p.m.) the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 7 o'clock and 55 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill and joint

resolution of the House of the following titles:

H.R. 5755. An act to extend the temporary increase in the public debt limit, and

H.J. Res. 655. Joint resolution making continuing appropriations for the fiscal year 1991, supplemental appropriations for "Operation Desert Shield" for the fiscal year 1990, and for other purposes.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ENGEL (at the request of Mr. GEPHARDT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. TAYLOR) to revise and extend their remarks and include extraneous material:)

Mr. DURBIN, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 5747. An act to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and joint resolution of the Senate of the following titles:

S. 1738. An act to convey certain Oregon and California railroad grant lands in Josephine County, Oregon, to the Rogue Community College District, and for other purposes; and

S.J. Res. 57. Joint resolution to establish a national policy on permanent papers.

BILL PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

On September 28, 1990:

H.R. 4328. An act to provide for orderly imports of textiles, apparel, and footwear.

ADJOURNMENT

Mr. TAYLOR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 56 minutes p.m.), the House adjourned until Monday, October 1, 1990, at 12 noon.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI:

H.R. 5755. A bill to extend the temporary increase in the public debt limit; to the Committee on Ways and Means.

By Mr. DINGELL (for himself, Mr. LENT, Mr. MARKEY, and Mr. RINALDO):

H.R. 5756. A bill to amend section 315 of the Communications Act of 1934 with respect to the purchase of broadcasting time by candidates for public office; to the Committee on Energy and Commerce.

By Mr. BEVILL:

H.R. 5757. A bill to authorize the Secretary of Transportation to carry out a highway project to construct Application Highway Corridor X from Appalachian Highway Corridor V near Fulton, MS, to Interstate Route 59 at Birmingham, AL; to the Committee on Public Works and Transportation.

By Mr. DONNELLY (for himself, Mr. BRENNAN, Mr. MCCLOSKEY, and Mr. HERTEL):

H.R. 5758. A bill to amend the International Revenue Code of 1986 to reinstate the windfall profit tax on domestic crude oil, and for other purposes; jointly, to the Committees on Ways and Means, Energy and Commerce, and Education and Labor.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4292: Mr. MACHTLEY, Mr. RHODES Mr. FISH, Mr. PACKARD, and Mr. DOUGLAS.

H.R. 4801: Mr. JOHNSON of South Dakota.

H.R. 5231: Mr. MOODY and Mr. BOEHLERT.

H.R. 5505: Mr. RAHALL, Mr. JONTZ, and Mr. BRYANT.

H.R. 5625: Mr. ACKERMAN, Mr. HOCHBRUECKNER, Mr. MARTINEZ, Mr. KOLTER, Mr. BAKER, Mr. VISCLOSKY, Mr. JOHNSON of South Dakota, Mr. WILSON, Mr. ERDREICH, Mr. BROWN of California, and Mr. LANTOS.

H.J. Res. 583: Mr. GEKAS, Mr. FEIGHAN, Mr. BRENNAN, Mr. STUDDS, Mr. SCHIFF, Mr. OBEY, Mrs. BENTLEY, Mr. MCMILLAN of North Carolina, Mr. SABO, and Mr. LEWIS of California.

H. Res. 481: Mr. HANSEN and Mr. RAVENEL.

EXTENSIONS OF REMARKS

TECHNICAL DESCRIPTION OF LEGISLATION RELATING TO TAXATION OF OIL COMPANIES

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Sunday, September 30, 1990

Mr. DONNELLY. Mr. Speaker, earlier today, I introduced legislation relating to the taxation of oil companies. I would like to submit for the RECORD a technical description of this legislation.

1. REIMPOSITION OF WINDFALL PROFIT TAX

Present Law

The Crude Oil Windfall Profit Tax was repealed by Congress in 1988 as part of the Omnibus Trade and Competitiveness Act of 1988. Prior to its repeal, the tax was imposed on the "windfall profit" from the sale of taxable crude oil removed from the premises after February 29, 1980. The tax was imposed at several different rates depending on the tax base (i.e. the classification of the taxable crude oil); generally, the tax on the windfall profit on "old" (so-called tier 1) oil was 70 percent and the tax on newly-discovered (so-called Tier 3) oil was 30 percent, declining to 15 percent.

The windfall profit was the excess of the removal price of a barrel of oil over the base price of the oil. The base price generally ranged from approximately $13 per barrel for Tier 1 oil (indexed for inflation) to $16.55 for Tier 3 oil.

Explanation of Provision

The bill re-imposes the Crude Oil Windfall Profit Tax as it existed prior to its repeal in 1988. Under the bill, the base price of oil is measured as of the average of the price of a barrel of oil for the 4 month period ending on July 31, 1990.

2. IMPOSITION OF WINDFALL PROFIT TAX ON OIL FUTURES CONTRACTS

Present Law

No provision.

Explanation of Provision

The legislation treats a futures contract on taxable crude oil as tier 1 oil produced by certain independent procedures. Under the bill, the per barrel sales price of the contract is treated as the removal price of each barrel of oil, the seller of the contract is treated as the producer of the crude oil, and the applicable tax rate is 50 percent.

Under the bill, the term "futures contract on taxable crude oil" means any contract which requires the delivery of, or the settlement of which depends on the value of, taxable crude oil.

3. CHANGE IN METHOD OF ACCOUNTING FOR OIL COMPANIES

Present Law

As a general rule, inventories must be used whenever in the opinion of the Secretary their use is necessary to clearly determine the income of the taxpayer. Generally, this is true where the production, purchase or sale of merchandise is an income-producing factor. (*see,* Treas. Regs. 1.471-1).

The last-in, first-out (LIFO) method of inventory assumes that the most recently-purchased merchandise is the first sold. A taxpayer may elect to use the LIFO method of inventories by filing a form with the Secretary; once made, the election applies to all later years unless the Secretary grants permission to change.

Explanation of Provision

The bill requires that when inventorying crude oil, taxpayers may not use the last-in, first out method of inventories and may only use the first-in, first-out (FIFO) method of inventories. The bill presumes a cutoff of the LIFO method after the effective date. Thus, oil sold after the effective date is treated as coming from the old inventory.

4. TREATMENT OF PROCEEDS

Under the bill, one-half of the proceeds from the re-imposition of the Crude Oil Windfall Profit Tax would be transferred to a low income energy support trust fund.

5. EFFECTIVE DATES

The Crude Oil Windfall Profit Tax provisions are effective for taxable years beginning after enactment. The provisions of the bill relating to accounting changes are effective for taxable years beginning after August 1, 1990.

LOYAL ORDER OF MOOSE HONOR BILL EHRISMAN

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Sunday, September 30, 1990

Mr. DYSON. Mr. Speaker, I rise today to pay special tribute to one of the outstanding citizens of Maryland's First Congressional District, Mr. George William Ehrisman. Bill, who lives in Pittsville with his wife Joyce, is a caring and dedicated member of his community who has made a difference in countless lives throughout the region. The Loyal Order of Moose recently honored Bill at a presidential banquet for his outstanding work with the lodge and in the community. I would like to share Bill's outstanding record of service with my colleagues and I also salute him for investing so much of his time in countless efforts to make his community a better place to live and raise a family.

HOW ONE CITIZEN BECAME INVOLVED IN HIS COMMUNITY

The following is a brief history of G. William Ehrisman Sr. and how he has served the people of his Lodge, Fire Department, Community and the State of Maryland.

Bill joined the Loyal Order of Moose in 1974, and became active in helping with the programs of the fraternity. He soon began his climb through the offices of his lodge and was the Governor of Salisbury Maryland Lodge 654 with a membership of 1200 members. At the end of his term as Governor the membership had increased to 1425.

The Lodge during his term of office, supported a Little League team, a sandlot team and also renewed its association with the Boy Scouts of America.

Bill progressed through the Offices of his district and is now a past President of 2 districts.

He holds the Pilgrim Degree of Merit, which was conferred of him at the House of God in Mooseheart Illinois.

He served in all the offices of the Maryland, Delaware, and District of Columbia Moose Association.

While serving on the State Association Board as New Lodge Chairman, he was instrumental in starting a Moose Lodge in Berlin/Ocean City.

While this was going on Bill also served his community as a liaison committee man during the installation of a water and sewer system in the town of Pittsville.

Bill also is active in his local Volunteer Fire Dept. and has held all the offices except Chief. He was on the Board of Directors for 19 years and is now a 26 year member. He was the Treasurer for 10 of those years and is a Past President.

At the present time Bill is 1st Vice President of the Wicomico County Firemens Association.

Bill is a Maryland Certified CRT Paramedic and is working a schedule at the present time with 2 Fire Dept. He is on call many nights and responds to calls from his home with a radio in his vehicle.

At the present time Bill is combining his Moose' Civic Affairs Program and his Fire Department love together. He is working on a program with his Local Lodge to have them furnish a piece of equipment to aid in either life saving or to assist in saving property, to each of the 15 Fire Depts. in Wicomico County. This project is under way and the first presentations should be coming in just a month or so.

Bill was instrumental in obtaining funds to equip a Disaster Trailer, to be used in the case of a multi Trauma disaster. This was presented to the County Fire Chief's Association after Bill approached them with his request.

Bill served on a task force, sent out by the Wicomico County Council, to try to set up a Medic Dash Team, to respond to emergency condition with a CRT or EMT-P Paramedic to assist comunities where these services were not available due to lack of manpower during certain hours of the day.

He was one of the first Paramedics to fly with the Maryland State Police helicopter on the Eastern Shore.

Mr. Speaker, as you can see, Bill would be a model resident of any community in America. I applaud Bill Ehrisman for his achievements and I thank him for providing the caring spirit that has helped to make a difference in the quality of life on Maryland's Eastern Shore.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.